

THE MINUTES OF THE REGULAR MEETING OF AUGUST 12, 2021

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, August 12, 2021, in Council Chambers, Sussex County Administrative Office Building, 2 The Circle, Georgetown, Delaware. Members of the public also attended this meeting by teleconference. The teleconference system was tested during the meeting by staff to confirm connectivity.

The meeting was called to order at 5:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Ms. Kim Hoey-Stevenson, Mr. Keller Hopkins - Absent, Ms. Holly Wingate, Mr. J. Bruce Mears, with Mr. Vincent Robertson – Assistant County Attorney, Mr. Jamie Whitehouse – Planning & Zoning Director, and Mr. Chase Phillips – Planner I.

Motion by Ms. Stevenson seconded by Ms. Wingate and carried unanimously to approve the Agenda. Motion carried 4-0.

Motion by Ms. Wingate, seconded by Ms. Stevenson to approve the Minutes of the June 24, 2021 Planning and Zoning Commission meeting as revised. Motion carried 4-0

OLD BUSINESS

Mr. Mears stated that he was absent for the meeting of July 22, 2021; that he has listened to the audio from that meeting; and that he is prepared to vote.

C/U 2248 Gulfstream Development, LLC

An Ordinance to grant a Conditional Use of land in a GR General Residential District for multi-family (19 units) to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 3.93 acres, more or less. The property is lying on the northwest corner of Parker House Rd. (S.C.R 362) and Muddy Neck Rd. (S.C.R 361). 911 Address: N/A. Tax Parcel: 134-16.00-382.00

The Commission discussed this application which has been deferred since July 22, 2021.

Ms. Wingate moved that the Commission recommend approval of **C/U # 2248 for Gulfstream Development, LLC** for multi-family dwelling units (19 Units) in a General Residential District based upon the record made during the public hearing and for the following reasons:

1. This application seeks the approval of 19 multi-family structures on approximately 3.93 acres. Although the units will be condominiums, they will have the appearance of single-family dwellings.
2. The property is in an area where a variety of development has occurred. Lands to the north of this property are zoned HR-RPC with a multi-family residential development. Lands to the west and south are developed under GR Zoning and there is nearby B-1 Zoning and other commercial uses. This project is consistent with these nearby uses.
3. The site is in the Coastal Area according to the Sussex County Comprehensive Plan. This type of development is appropriate in this Area according to the Plan, which states that “a range of housing types” are acceptable here, including medium and high densities when a site is near commercial uses, is served by central water and sewer, where the use is in keeping with the character of the area and other similar factors. These types of considerations exist with regard to this site.

4. The proposed development will not have an adverse impact on the neighboring properties or community.
5. The project will not have an adverse impact upon traffic or roadways. DelDOT has stated that it will generate less than 50 vehicle trips per hour, and less than 500 trips per day, leading that agency to conclude that the traffic impact will be negligible.
6. The development will be served by central sewer provided by Sussex County.
7. The development will be served by central water.
8. This recommendation is subject to the following conditions:
 - a. The maximum number of residential units shall be 19.
 - b. The developer and then the condominium association shall be responsible for the perpetual maintenance of the development roadway, buffers, stormwater management facilities, erosion, and sedimentation control facilities, and other common areas.
 - c. All entrance, intersection, roadway, and multi-modal improvements shall be completed by the developer in accordance with all DelDOT requirements.
 - d. The project shall be served by Sussex County sewer. The developer shall comply with all Sussex County Engineering Department requirements including any offsite upgrades necessary to provide service to the project.
 - e. The project shall be served by central water to provide drinking water and fire protection.
 - f. There shall be a vegetated or forested buffer of at least 20 feet in width along the perimeter of this development. This buffer shall utilize existing forest or similar vegetation if it exists in the buffer area. Where trees currently exist in the buffer area, stump removal or construction activities that disturb the existing grade of the area within the buffer shall be prohibited. All silt fencing shall be located along the interior limit of the buffer area (the edge of the buffer nearest the interior development) and the Final Site Plan shall identify the "Limit of Disturbance" to prevent disturbance of the buffer area.
 - g. As stated by the Applicant, the clearing, disturbance, or altering of existing vegetation shall be limited as needed to accommodate proposed construction and for the removal of dead and dying trees which pose a threat to public safety on adjacent private property. The applicant shall submit as part of the Final Site Plan a landscape plan showing the proposed tree and shrub landscape design, including the buffer areas and the forested areas that will be preserved. This Landscape Plan shall further identify all "Limits of Disturbance" within the site.
 - h. Construction activities, including site work and deliveries, shall only occur between 7:30 am and 7:00 pm Monday through Friday. There shall be no construction activities at the site on Saturdays and Sundays. A 24 inch by 36-inch "NOTICE" sign in English and Spanish confirming these hours shall be prominently displayed at all entrances to the site during construction.
 - i. Street naming and addressing shall be subject to the review and approval of the County Mapping and Addressing Departments.
 - j. The Final Site Plan shall contain the approval of the Sussex County Conversation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
 - k. Any streetlights shall be shielded and downward screened so that they do not shine on neighboring properties or roadways.
 - l. The interior street design shall meet or exceed Sussex County's street design requirements.
 - m. If requested by the local school district, a school bus stop shall be provided. The location of the bus stop shall be shown on the Final Site Plan.
 - n. The Final Site Plan shall include a Grading Plan for the site. No building permits shall be issued until an individual lot grading plan has been supplied to and approved by Sussex

County. No certificate of occupancy shall be issued until a grading certificate is submitted to the Building Code Department demonstrating general conformity with the individual site grading plan.

- o. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.
- p. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

The Commission discussed the recommended conditions.

Motion by Ms. Wingate, seconded by Mr. Mears and carried to recommend approval of C/U 2248 for Gulfstream Development, LLC for the reasons and conditions stated in the motion. Motion carried 3 – 1 with Ms. Stevenson dissenting.

C/U 2253 Chester and Shirley Townsend

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for an events venue to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 6.0 acres, more or less. The property is lying on the north side of Vines Creek Road (Rt. 26), approximately 0.20 mile east of Sandy Landing Road (S.C.R. 342). 911 Address: 32859 & 32805 Vines Creek Road, Dagsboro. Tax Parcels: 134-11.00-2.02 & 3.00

The Commission discussed this application which has been deferred since July 22, 2021.

Ms. Wingate moved that the Commission recommend approval of C/U # 2253 for **Chester and Shirley Townsend** for an events venue based upon the record made during the public hearing and for the following reasons:

- 1. The site is 6.0 acres of land owned by the applicant.
- 2. The property is located along Vines Creek Road, also known as Route 26. This is an appropriate location for this type of limited use.
- 3. The applicants intend to hold events that include weddings, birthday parties, and similar events.
- 4. The site will have sufficient areas for parking.
- 5. With the conditions and limitations placed upon the Conditional Use, it will not adversely affect neighboring or adjacent properties or area roadways.
- 6. No parties appeared in opposition to this application.
- 7. This recommendation is subject to the following conditions:
 - a. Food and beverage service and music or similar entertainment is permitted. As stated by the Applicant, food and beverage service shall be provided by catering services, as there will not be any kitchen facilities on-site.
 - b. All parking areas shall be shown on the Final Site Plan. No parking shall be permitted on any nearby County Roads.
 - c. All entrance locations shall be subject to the review and approval of DelDOT.
 - d. All events shall conclude prior to 10:00 at night.
 - e. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Ms. Wingate, seconded by Ms. Stevenson and carried to recommend approval of C/U 2253 for Chester and Shirley Townsend for the reasons and conditions stated in the motion. Motion carried 4 – 0.

C/U 2256 Jerry Micklejohn, LLC

An Ordinance to grant a Conditional Use of land in a AR-1 Agricultural Residential District for hardscaping, outdoor living construction, and a commercial business to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 6.65 acres, more or less. The property is lying on south side of Frankford School Rd. (S.C.R 92) approximately 0.37 mile east of McCary Road (S.C.R. 385). 911 Address: 32252 Frankford School Road, Frankford. Tax Parcel: 533-5.00-86.00

The Commission discussed this application which has been deferred since July 22, 2021.

Ms. Wingate moved that the Commission recommend approval of C/U # 2256 for **Jerry Micklejohn, LLC** for hardscaping and outdoor living construction business based upon the record made during the public hearing and for the following reasons:

1. The property is located on a 6.65-acre parcel that is zoned AR-1 and it is surrounded by properties that have a similar size. This conditional use will occur within a 1.5-acre portion of the property. This is an appropriate location for this limited type of use.
2. The site is located within the Coastal Area according to the Sussex County Comprehensive Plan. The Coastal Area is a Developing Area according to the Plan. This type of small-business use is appropriate within this Area.
3. The use will not adversely affect area roadways or neighboring properties.
4. The company provides a service to a wide variety of Sussex County residents and businesses. This intended use is of a public or semi-public character that will benefit the residents and businesses of Sussex County.
5. This recommendation is subject to the following conditions:
 - a. The use shall be limited to the hardscaping and outdoor living construction business proposed by the Applicant and the storage of equipment and materials associated with that use.
 - b. No manufacturing shall occur on the site. This prohibition includes the shredding or grinding of any materials and also includes the dyeing of mulch or similar materials.
 - c. As stated by the Applicant, there shall not be any retail sales occurring from the site.
 - d. The hours of operation shall be limited to 7:00 am through 7:00 pm, Monday through Saturday. There shall not be any Sunday hours. The Applicant shall be able to operate beyond these hours on an as-needed basis for limited situations such as snow removal, storm damage cleanup, and similar events.
 - e. The on-site storage of stone, dirt, pavers and similar materials associated with the use shall be in bins or enclosures. The location of these storage areas shall be shown on the Final Site Plan.
 - f. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.
 - g. The applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.
 - h. The Final Site Plan shall clearly show all areas for vehicle and equipment storage and parking, and these areas shall be clearly marked on the site itself. There shall not be any parking or storage within the property's setbacks.
 - i. One lighted sign shall be permitted. It shall be no larger than 32 square feet on each side.
 - j. The dumpster locations shall be shown on the Final Site Plan.

- k. Before Final Site Plan approval occurs, the Applicant shall clean up the property and remove any inoperable trucks, trailers, or vehicles. No junked, unregistered, or permanently inoperable vehicles trucks or trailers shall be stored on the site.
- l. The Applicant shall install a privacy fence around the 1.5-acre portion of the property. The location and type of fencing shall be shown on the Final Site Plan.
- m. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.
- n. The Final Site Plan shall depict the 1.5 acres are of this approved conditional use. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Ms. Wingate, seconded by Mr. Mears and carried to recommend approval of C/U 2256 for Jerry Mieklejohn, LLC for the reasons and conditions stated in the motion. Motion carried 4 – 0.

C/Z 1931 Lands of Lighthipe, LLC

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a MR-RPC Medium Density Residential District – Residential Planned Community and to amend the conditions of approval of CZ 1768 (Ordinance 2411) to increase the gross site area by 5.253 acres and to increase the number of permitted units within the Residential Planned Community for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 56.372 acres, more or less. The property is lying on the north side of Muddy Neck Road (S.C.R. 361), approximately 0.52 mile southeast of Parker House Road (S.C.R. 362). 911 Address: N/A. Tax Parcel: 134-17.00-12.02.

The Commission discussed this application which has been deferred since July 22, 2021.

Ms. Wingate moved that the Commission recommend a limited approval of **C/Z # 1931** for **Lands of Lighthipe, LLC** which seeks to expand and amend the Residential Planned Community that was approved as Ordinance #2411 and Change of Zone #1768 now known as Ocean View Beach Club based upon the record made during the public hearing and for the following reasons:

- 1. This application proposes to remove one single-family lot from the Ocean View Beach Club North and add 21 townhomes on a 5.253-acre parcel of land that is adjacent to but not currently part of the Ocean View Beach Club that was approved as an RPC under Ordinance #2411 and Change of Zone #1768.
- 2. The 5.253-acre parcel that is the subject of this application was not part of the original RPC. At the time of that application, the land was still owned by the Protestant Episcopal Church of the Diocese of Delaware, which was considering the property for use as a Church. The property has since been sold to this applicant.
- 3. It is appropriate to add this 5.253-acre parcel to the RPC approved by Ordinance #2411 and Change of Zone #1768.
- 4. This 5.253-acre expansion area is surrounded by single-family homes, including lots within the adjacent Ocean Way Estates development and the other lots of the RPC.
- 5. The original RPC approved under Ordinance # 2411 and Change of Zone #1768 included 120 single-family dwellings and 44 townhouse units. According to the Findings of Fact from Ordinance #2411, the original RPC was designed so that “single-family homes will be built along the perimeter” of the RPC. The design of the existing RPC places all of the townhomes within

the interior of the RPC and not along its perimeter. There are only single-family lots along the perimeter of the RPC.

6. The “Review Standards” for an RPC as set forth in Section 115-125 of the Sussex County Zoning Code state that “the Commission shall ensure an appropriate relationship between uses of high intensity or height within an RPC District and uses of low intensity or height, existing or future, outside the proposed RPC District...”
7. There was public testimony from residents within the existing Ocean View Beach Club and also adjacent developments that townhomes are not appropriate for this location based on the original design and approval of the RPC and the inconsistency of having townhomes along the perimeter of the RPC when the rest of them are in the interior of the RPC.
8. In accordance with the standards of Section 115-125 of the Sussex County Zoning Code, the Findings of Fact of Ordinance # 2411, and the design of the existing RPC, there shall not be any townhomes within the 5.253-acre parcel that is the subject of this application. Only single-family lots shall be permitted. Single-family lots ensure an appropriate relationship with the existing types of development within this RPC and with the homes outside of the RPC District.
9. The site will be served by central water and sewer.
10. This additional 5.253 acres will become part of the Ocean View Beach Club RPC and community, with access to Muddy Neck Road via the existing streets and roads within the Ocean View Beach Club community.
11. This recommendation is subject to the following conditions:
 - a. This 5.253-acre parcel shall only be developed with single-family lots. No townhomes or multi-family homes shall be permitted in this location.
 - b. Condition A of Ordinance #2411 is hereby removed and the new condition A shall be inserted in its place, as follows: “The maximum number of residential units shall not exceed 164 units, which shall consist of 120 single-family units and 44 townhouse units, plus the single-family lots permitted under Change in Zone #1931 on the 5.253-acre parcel that is added to the Residential Planned Community.”
 - c. The site plan for this additional 5.253 acres shall be designed so that there is a twenty-foot forested buffer set back an additional twenty feet from the perimeter of the site along the common boundary with Ocean Way Estates.
 - d. All roads providing access to the new single-family lots shall be designed and oriented to minimize headlights shining into properties within Ocean Way Estates. If necessary, additional landscaping shall be added and shown on the RPC Master Plan to screen headlights from the Ocean Way Estates subdivision.
 - e. The lots within this additional 5.253 acres shall have access from Muddy Neck Road via the existing streets and roads within the Ocean View Beach Club community.
 - f. All other conditions of the RPC approved as Ordinance # 2411 and Change in Zone #1768 shall remain in effect, and the 5.253-acre parcel that is the subject of this Change in Zone #1931 shall be bound by those existing conditions of approval.
 - g. The developer shall submit a revised Master Plan for the entire RPC, including the single-family lots within the additional 5.253 acres, for review and approval by the Sussex County Planning & Zoning Commission.

Motion by Ms. Wingate, seconded by Mr. Mears and carried to recommend limited approval of C/Z 1931 for Lands of Lighthipe, LLC for the reasons and conditions stated in the motion. Motion carried 3 – 0.

PUBLIC HEARINGS

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

Ms. Wingate recused herself and left chambers.

2021-02– The Estuary (2005-64) (2019-6)

A revision to a previously approved 665-lot major cluster subdivision (Reference 2005-64 and 2019-6) to add three parcels containing 3.67 acres +/- (for a total of 476.47 acres +/-) and to increase the total number of lots by 18 lots (for a total of 683 lots). The properties are lying on the north and south sides of Miller Neck Road (S.C.R. 364A), approximately 0.54 mile southeast of Double Bridges Rd (S.C.R. 363). Tax Parcels: 134-21.00-10.00 & 10.01 and 134-19.00-103.00 through 105.05, and 115.00 through 116.02, 389.00 through 914.00, and 134-21.00-8.00, 8.01, and 11.00 through 11.12, and 45.00 through 161.00. Zoning District: AR-1 (Agricultural Residential District).

Mr. Whitehouse advised the Commission that submitted into the record is a copy of a color rendering from the Applicant and the preliminary subdivision plan, a copy of the staff analysis, a copy of the Applicant's Chapter 99-9C response, a copy of the Applicant's exhibit booklet, a copy of TAC comments, including comments from Delaware Division of Social Services and Division of Public Health, a letter evidencing 51% of no objection to the revision, a copy of the 2005 PLUS response for The Estuary, a copy of a letter from the United States Fish and Wildlife Service, a copy of the Applicant's environmental assessment and public facility evaluation report, a copy of the DelDOT Service Level Evaluation Response, a copy of a letter from the Sussex County Engineering Department Utility Planning Division, one mail return, and no comment letters to date.

The Commission found that Mr. Tim Willard, Esq. was present on behalf of the Applicant, The Estuary; that also present are Mr. Christopher (Chip) Kerpinski to represent The Estuary, Mr. Steve Marsh and Mr. R. Lawton Myrick with GMB; that the Estuary has been around since 2004 and revived in 2010; that in 2014 there was a master plan; that in 2019 the Planning and Zoning Commission approved 34 units for Phase 5 of The Estuary; that Phase 4 of The Estuary has already been approved, but the current request is to amend the approval to add 17 lots off Millers Neck Rd.; that the request comes mainly because two parcels have been purchased along Millers Neck Rd; that proposed is the addition of 17 lots; that all 17 lots will be conforming; that currently there is approval for 665 lots; that the Applicant is requesting an approval for a total of 683 lots; that there is 476 acres of property; that the potential density is over 900; that over the years the Applicant has been improving each phase; that The Estuary has been a rather successful neighborhood; that the other portion of the Application is located on Camp Barnes Rd.; that there was one lot that was previously used as a field office; that the Applicant has already purchased the property and requesting to bring in into the neighborhood as well; that the Applicant request to keep the access to that parcel off Camp Barnes Rd.; that the intention for the future is to possibly use for a model home; that this would be the 18th; that it would be 1D for Phase 3; that the Applicant has removed the original home in this area, and proposes to build a model home with the back adjacent to the cul-de-sac in that phase; that the Applicant feels the Application improves the Miller Neck Rd. appearance from both the neighborhood and Miller Neck Rd.; that it optimizes for the Applicant a product that is already successful there; that the Applicant is proposing some new amenities; that the new amenities include a pool house, an impervious parking lot, an impervious trail leading to a

kayak launch, that the kayak launch is only to be used for nonmotorized vessels; that the other phases of The Estuary have access to the main clubhouse and pool, which will also have added amenities; that the Applicant proposes to add bocce courts, putting green, tennis courts and pickleball courts to be located at the main clubhouse of The Estuary; that Phase 4 will have separate amenities; that the sewer and water will be through Tidewater Utilities, Inc.; that there is a 30-ft. buffer around any agriculture; that there is a 20-ft. landscape buffer around the whole perimeter if necessary; that it will be undisturbed other than where stormwater management would be; that all lots are outside of any wetlands; that all lots included are included under Homeowner Association (HOA) restriction; that there is already a bus stop located at the main entrance on Camp Barnes Rd.; that street lights and sidewalks are proposed; that everyone in The Estuary subdivision took a vote on the proposed Application; that the vote showed approximately 85% of residents were in favor of the Application; that all voting ballots were submitted to Commission on January 15, 2021 and are included in the record; that the proposed seven lots integrate well and are compatible to the surrounding area; that the current forested buffer will be preserved; that there was some concern within preliminary correspondence that there not be any pedestrian crossing withing any intersections; that the Applicant has proposed to work with DelDOT to work on safe crossing signage and street markings; that the lot on the end of the cul-de-sac, near Camp Barnes Rd. will improve the look of the area; that the Applicant presents with a list of proposed conditions; that the lots shall not exceed 115 in Phase 4, as there is already 98 lots there; that the lots will be brought into the HOA and all of the open space will be properly managed and funded.

The Commission found that Mr. Christopher Kerpinski presents on behalf of the Applicant, The Estuary; that he states he agrees with the presentation presented by Mr. Tim Willard, Esq.

Mr. Robertson questioned if the total number of lots was 17 or 18.

Mr. Willard stated the total number of lots proposed is 18; that currently it is 665 lots and the Applicant is proposing 683 lots and on the present map the proposed lots are represented in the color white.

Ms. Stevenson questioned if there was an environmental reason why the two lots were not originally included on the property that was already previously owned.

Mr. Willard stated that according to Mr. Ed Launay and the Army Corp of Engineers' comments there were no environmental issues on the two proposed parcels and that he is unsure why the parcels were not included but suspect that it was just not a great area for the project at that time.

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

Ms. Stevenson made a Motion to reopen the record for Application, 2021-02 The Estuary, Phase 4, seconded by Mr. Mears and carried unanimously to reopen the record to allow teleconference public comments. Motion carried 3-0.

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

Upon there being no further questions or comments, Chairman Wheatley closed the Public Hearing. At the conclusion of the Public Hearing, the Commission discussed the Application.

In relation to Application 2021-02 The Estuary (2005-64) (2019-6), Motion by Mr. Mears to defer action

for further consideration, seconded by Ms. Stevenson, and carried unanimously. Motion carried 3-0.

Ms. Wingate returned to chambers.

C/U 2255 John Sommers

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for the sale, renting, storage, and repair of bicycles and related accessories to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 2.9 acres, more or less. The property is lying on the northwest side of Roxana Road (Rt. 17), approximately 0.55 mile southwest of Burbage Road (S.C.R. 353). 911 Address: 32650 Roxana Road. Tax Parcel: 134-15.00-95.03.

Mr. Whitehouse advised the Commission that submitted into the record is a copy of the DeIDOT Service Level Evaluation Response, a copy of the staff analysis, a copy of a letter received from the Sussex County Engineering Department Utility Planning Division, and one letter of opposition.

The Commission found that Mr. John Sommers was present on behalf of the Applicant, John Sommers; that he is the owner of the Fenwick Island Bicycle Shop and Ocean Cycles of Bethany Beach; that he purchased the proposed property in 2017 for his family for the purpose of gardening and recreational use; that as the market for beach homes has expanded outward from the beach, he noticed his demand for rental bikes increased; that the need for rental bikes often came from the subdivisions of Bear Trap Dunes, Bishops Landing and Millville By the Sea, along with others; that he has noticed an increase in road and casual bicycle traffic on nearly every road in the area; that due to the increase of homes and bicycle traffic it has led him to believe the proposed location would be beneficial to expand his business with another bicycle shop; that by doing so he will create jobs and support a healthy recreational sport and service the needs of an area of expanding population; that there is currently 2,885 homes in Millville By the Sea proposed and/or built; that there is 834 homes in Bishops Landing proposed and/or built and there are 76 homes built in Coventry; that the majority of these subdivision are connected or will be connected by multi-use pathways; that if current trend continues and as additional phases of Millville By the Sea are built, a multi-use path will most likely be built directly across the street from the proposed property; this will allow for safe interconnected bicycle traffic in the area; that the property is listed as being in the Coastal Area within the Comprehensive Plan; that the proposed type of small scale business growth is permitted and promoted in the area; that the proposed property is screened by trees from surrounding properties; that it is located 0.1 mile from Beebe's South Coastal Emergency Department and located directly across from Millville By the Sea's original commercial development that is currently occupied by a credit card processing company; that an adjacent property has a conditional use for offices and warehouses; that 0.6-mile north of the intersection of Burbage Rd. and Rt. 17 there is C-1 Commercial Residential Zoning and Conditional Uses for mini-storage, self-storage and professional offices; that commercial uses and zoning continue to creep south along Rt. 17 and away from Rt. 26 as residential development continues to expand; that as the area grows, business services must continue to grow with the area; that he feels by expanding his business in the proposed location will promote the health, wellness, and financial growth of the county and he is looking forward to creating jobs and expanding a healthy recreation in the area.

Ms. Wingate mentions the letter of opposition received; that the letter proposes placing a buffer of trees along the boundary line between the parcels due to concern of owning farm animals and she questions if the Applicant will be utilizing all of the property, or only the front portion of the proposed property; that she mentions concerns in the letter regarding existing wellheads for field hydrants; that she questions where bike storage will be and if it will be in a contained space and she questions what hours of operation will be.

Mr. Sommers stated his proposed bicycle business would only be run from the front portion of the property and no one would be to the back of the property at all; that there is a current tree line down a part of the back part of the parcel; that in the front they have no trees but do have a fence placed on the north side of the property; that he would be willing to place trees if it is required; that he only uses the field hydrants to water his garden; that the watering only takes place to the front of his property, which should create no runoff onto the adjacent property; that when he bought the property there was a field hydrant that he was not aware of that he will need to disconnect and he will have bike storage in a 30 x 30 pole barn on the property; that all bikes will be stored inside not outside other than a few bikes outside of the storage area for display, and hours of operation are proposed to be 8:00 am to 8:00 pm every day of the week.

Mr. Mears questioned if Mr. Sommers would like a sign.

Mr. Sommers states he would like to have a sign displayed.

Ms. Stevenson questioned that the Application was for bicycle repair, maintenance, and sales; that she questions the amount of traffic the Applicant normally receives, how many employees the Applicant will have and how many parking spaces will be needed; that she questions if the Application will affect any nearby schools or area roadways.

Mr. Sommers confirmed that he would perform repairs, maintenance, and sales on the property; that his other two businesses are in a very condensed area and he stays very busy; that a lot of his business is by foot traffic and not so much with vehicles; that he intends to have 13 employees total, with only three to five employees at the proposed location; that he feels 10 vehicles could park easily without using the back of the property; and he feels the Application will not negatively affect nearby schools or roadways.

Chairman Wheatley questioned if the Applicant sells or performs maintenance on any motorized bicycles.

Mr. Sommers stated he does not sell nor does he perform maintenance on any motorized bicycles and all his bicycles are foot-pedal power only.

The Commission found Mr. Alexander Andrews spoke in opposition to the Application by teleconference requesting a barrier of trees and pedestrian barrier, concerns regarding the well, located on the Applicant's property, that at times runs off onto his adjacent property, and requests more information regarding lighting.

Mr. Sommers stated that he does have security lighting on the pole barn currently; that the lighting is located on the opposite side of the building facing his property; that he does not propose placing any additional lighting other than possibly for a sign which will be located to the front of the property and with the placement of the requested buffer of trees, they should act as an additional shield to any residual light pollution.

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 Application C/U 2255 John Sommers, Motion by Ms. Wingate to defer action for further consideration, seconded by Ms. Stevenson, and carried unanimously. Motion carried 4-0.

C/U 2257 Indian River Volunteer Fire Co., Inc.

An Ordinance to grant a Conditional Use of land in a GR General Residential District for outdoor boat storage and overflow parking to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 1.006 acres, more or less. The property is lying on the northeast corner of the intersection of Oak Orchard Road (Route 5) and Spruce Street. 911 Address: N/A. Tax Parcel: 234-34.08-53.00 (p/o).

Mr. Whitehouse advised the Commission that submitted into the record is a copy of a letter from the Applicant, a copy of the staff analysis, a copy of the Applicant's survey plan, a copy of the letter from DelDOT's Service Level Evaluation Response, a letter from Sussex County Engineering Department Utility Planning Division, and two letters of support.

The Commission found that Mr. Patrick Miller spoke on behalf of the Applicant, Indian River Volunteer Fire Co., Inc.; that he is the President of the Indian River Volunteer Fire Company; that Indian River Volunteer Fire Company has owned both parcels since 1966; that it was originally purchased to build a firehouse as the Fire Company already had a facility across the street; that the proposed piece of property has never been utilized for anything other than community gatherings and overflow parking for the nearby church; that the Fire Company was not aware a variance was needed for those reasons in the past; that the parcel has remained vacant and the Fire Company has maintained the parcel over the years; that a few years ago the Fire Company did sell a section of the parcel to Sussex County to utilize as a pumping station; that across the street, next to WMF Watercraft, there is property also owned by the Indian River Volunteer Fire Company; that the Fire Company has complied with all fencing and lighting requirements; that they are expanding on the opposite side of Old Orchard Rd., where they have purchased the old convenient store; that the proposed property is located between the convenience store and the community church; that WMF Watercraft has approached the Indian River Volunteer Fire Company to see if they would be willing to rent them some facilities to store boats as the boats are arriving to be serviced; that they will not be storing boats for seasons, as they already have a property for this purpose located on John J. Williams Hwy.; that the anticipation is only for storage of the boats waiting to be serviced; that the Indian River Volunteer Fire Company has partnered with the community church, who is not in opposition; that the community church plans to submit a letter of support; that the community church requests to still utilize the proposed parcel for their overflow parking; that the boat storage for WMF Watercraft does not anticipate to use the entire 1.06 acres; that the Indian River Volunteer Fire Company has worked out an arrangement with the community church to transition the ownership of Oak St. from the community church to the Indian River Volunteer Fire Company; that this process has not been finalized due to the death of the attorney who was handling the process; that the Indian River Volunteer Fire Company has made it clear to WMF Watercraft that they would have to comply with any conditions given by the Commission; that WMF Watercraft is already familiar with the fencing, lighting and business hour conditions that are already in place and the business hours are Monday through Friday 8:00 am to 5:00 pm, Saturdays 8:00 am to 3:00 pm and no business hours on Sundays; that these are the current working hours that were already granted to WMF Watercraft previously.

Ms. Wingate questioned if anyone would be working on the boats on the proposed property, or if it was for storage of the boats only.

Mr. Miller stated the proposed property is for boat storage only; that it is listed as a stipulation in WMF Watercraft's lease on the other parcels as well and that they must only do work and maintenance of the boats within their facilities on their property.

Ms. Stevenson questioned if there will be any black-top placed on the proposed property and if lighting

will be needed on the property.

Mr. Miller stated no, he does not see any reason to need a black-top on the property; that lighting would be a stipulation of the agreement; that due to security concerns lighting has been advantageous at the existing facilities for the Fire Company and WMF Watercraft businesses to better utilize the exterior cameras to monitor activity, and there has been undesirable activity on the property in the past.

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

Upon there being no further questions, Chairman Wheatley closed the Public Hearing.

At the conclusion of the Public Hearing, the Commission discussed the Application.

In relation to Application C/U 2257 Indian River Volunteer Fire Company, Motion by Mr. Mears to defer action for further consideration, seconded by Ms. Wingate, and carried unanimously. Motion carried 4-0.

C/U 2261 What Is Your Voice, Inc.

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for storage units and offices to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 0.63 acres, more or less. The property is lying on the southeastern side of Shady Road (Rt. 276), approximately 0.21 mile southwest of Coastal Highway (Route 1). 911 Address: 17583 Shady Road, Lewes. Tax Parcel: 334-6.00-515.00

Mr. Whitehouse advised the Commission that submitted into the record is a copy of the DeIDOT Service Level Evaluation Response, a copy of the staff analysis, a letter from Sussex County Engineering Utility Planning Division, one letter of support, one letter of opposition, and five mail returns.

The Commission found that Ms. Shannon Carmean Burton, Esq. was present on behalf of the Applicant, What Is Your Voice, Inc.; that the Applicant requests a Conditional Use in the AR-1 Agricultural Residential District for maintaining an office in the existing garage and four rental storage units in the existing one-story pole building; that the request is in connection to the Applicant's non-profit organization; that in addition to the proposed uses the Applicant intends to use the existing dwelling on the property for residential purposes as permitted under the Zoning Code under the AR-1 Agricultural Residential District; that Ms. Jacqueline Sterbach is the President and Founder of What Is Your Voice, Inc.; that she is unable to attend the Public Hearing, as she is waiting to undergo emergency surgery; that in her place, her husband, Mr. Walter Sterbach, is present; that Mr. Sterbach is also the Vice President of What Is Your Voice, Inc.; that there are also other Board members in attendance; that exhibit booklets were submitted; that included is a written summary of the Application's compliance with the Sussex County Zoning Code and Comprehensive Plan, as well as proposed Findings of Fact conditions; that What Is Your Voice, Inc. is an established and well respected non-profit 501(c)(3) organization; that it was established in 2013 to combat domestic violence, family violence and teen violence; that it has been recognized as a trailblazer; that the mission is to stop the cycle of violence against women and children within Sussex County and the entire state of Delaware; that the purpose of the requested Conditional Use is to enhance the Applicant's ability to efficiently provide critically needed services to the vulnerable and expanding population of Sussex County; that the proposed property is located at 17583 Shady Rd. Lewes, Delaware; that the property does consist of 0.63 acres; that the Applicant rented the property for a year and a half from the former owner, Point Crossing, LLC, before purchasing the property in May 2019 with all of the existing improvements; that the former landlord previously rented

the pole barn to third parties for storage purposes; that as a result the Applicant was unaware that use was not permitted without a Conditional Use permit; that the Applicant did receive a Notice of Violation from the Sussex County Constable in September 2019; that the Applicant subsequently filed a Conditional Use application to bring the property in compliance with the Zoning Code; that the surrounding properties are mostly zoned CR-1 Commercial Residential or AR-1 Agricultural Residential; that the property is in close proximity to Delaware Rt.1; that the general area is a mixed-used area, which includes residential and commercial uses; that the Conditional Uses allowed within the AR-1 Zoning District include residential, business, commercial, and industrial uses when the purposes of the chapter are fully met by issuing a Conditional Use permit; that upon information and belief there have been more than 20 Conditional Uses within a 0.5 mile radius of the proposed property; that these Conditional Uses range from medical offices and sales centers to auto and boat storage and repair; that the proposed uses for an office and storage units on the property as Conditional Uses are permitted under the Zoning Code and are consistent with the purposes and goals of the Comprehensive Plan; that the property is located within the Coastal Area according to the Comprehensive Plan; that the Coastal Area includes areas around Rehoboth Bay, Indian River Bay and Little Assawoman Bay; that the proposed area is a growth area; that additional consideration should be taken into account in this growth area that may not apply in other growth areas per the Comprehensive Plan; that in addition to residential uses, retail and office uses are appropriate uses within the Coastal Area and mixed-use development should also be allowed; that the Comprehensive Plan also provides that careful mixtures of homes with light commercial office and institutional uses can be appropriate to provide convenient services to allow people to work close to home; that the proposed office and storage uses are appropriate uses within the Coastal Area; that due to the nature of the critical services that are provided by What Is Your Voice, Inc. that the uses are of a public or semi-public character that will benefit the residents of Sussex County; that the proposed uses will not cause any detrimental impact on the surrounding properties or neighborhoods; that the Applicant had received letters of support from neighboring property owners; that there is currently a landscape buffer located around the majority of the perimeter of the property; that there is a privacy fence to the rear of the property to limit any potential impact that the proposed uses could have on the adjoining properties; that there are also audio and video cameras on the property to monitor any activity; that there is security lighting which points downward to lessen the impact to neighboring properties; that there is an existing gravel driveway and a parking area to access the office and storage buildings; that What Is Your Voice, Inc. currently has three employees; that only one employee is located onsite and manages daily operations; that the proposed office will not be open to the public; that business hours are currently 9:00 am to 4:00 pm Monday through Thursday; that most appointments with clients are conducted by online Zoom meetings; however, the Peer Support Advocates may meet with clients only during those business hours; that there will be no signs on the property advertising the uses of the property; that DelDOT has determined the traffic impact for the Application as negligible and therefore did not require a Traffic Impact Study (TIS); that sewer services are provided by Sussex County; that central water services are currently not available; that the property is currently served by a private well; that there are no wetlands on the property and the proposed Conditional Use will help facilitate the ability of What Is Your Voice, Inc. to continue to operate their established non-profit corporation on the property and provided these critically needed services to the residents of Sussex County.

Ms. Stevenson questioned if there will be set business hours for the rented storage units.

Ms. Carmean Burton stated she did not believe there were any set hours proposed for the four rented storage units in the case that the tenants of the storage units would need to access their personal belongings at various hours and only the office use would have set business hours.

Mr. Robertson questioned if there would be any additional outside storage other than the rental storage

facility.

Ms. Carmean Burton stated there would be no additional storage.

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

Upon there being no further questions, Chairman Wheatley closed the Public Hearing.

At the conclusion of the Public Hearing, the Commission discussed the Application.

In relation to Application C/U 2261 What Is Your Voice, Inc., Motion by Ms. Stevenson to defer action for further consideration, seconded by Ms. Wingate, and carried unanimously. Motion carried 4-0.

C/U 2289 Leah Beach

An Ordinance to grant a Conditional Use of land in a C-1 General Commercial District for an outdoor marketplace with similar activities and off-site parking to be located on certain parcels of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 0.247 acres and 0.327 acres, more or less. The property is located on the southwestern side of Canal Crossing Road and Central Avenue, approximately 100 feet east of Hebron Road (Rt. 273) and being on the northeastern corner of Rehoboth Avenue Extended (1A) and Hebron Road (Rt. 273). 911 Addresses: 19897 Hebron Road & 19826 Central Avenue, Rehoboth Beach. Tax Parcels: 334-13.20-21.00 & 334-13.19-79.00 (p/o)

Mr. Whitehouse advised the Commission that submitted into the record is a copy of the staff analysis, a copy of the Applicant's exhibits and photographs, a copy of videos that have been received, a copy of the DelDOT Service Level Evaluation, a letter from Sussex County Engineering Utility Planning Division, and two letters of support.

The Commission found that Ms. Leah Beach was present on behalf of the Applicant, Leah Beach; that she is the Executive Director and Founder of The Developing Artist Collaboration; that The Developing Artist Collaboration is an artist development organization; that the mission of the organization is to support the careers of artists with resources, creation space, peer connection and innovative presentation opportunities; that Creative Market began in 2020 as a response to the pandemic; that this event was held in downtown Rehoboth as a way to allow the public to access the artist in a safe open-air environment to promote culture and commerce; that the organization headquarters is located in west Rehoboth, just outside of downtown Rehoboth; that the organization has committed itself to dedicate as much programming as possible to take place in west Rehoboth; that this is due to the location of the organization's facilities and the priority to honor the culture and rich history of the historic community of color; that Creative Market is located on a lot that is owned by the landlord of another one of the organization's buildings, that the organization has invested its resources and energy into creating a weekly innovative and modern market place that features local and regional artists and handmade business; that the Creative Market also includes live music, food trucks and responsible alcohol service to create a cultural experience for the community while promoting tourism; that public safety and crowd management is a priority of the organization; that the organization has safely maintained 100 local community events since 2015; that the market has roughly 20 artists, two food truck options, 10 staff members, and between 50 to 75 guests at any given time on the lot; that guests are encouraged to park at the Quillen's parking lot and are shuttled in on a small bus that runs during the duration of the event; the Revelation Brewery allows the Creative Market guests to use their restroom facilities; that the live music is offered as only a one-man acoustic set with a very small public address system; that the event ends very promptly at 9:00 pm; that there are no parking signs located outside of Park Shore and Canal

Corkran as a respect to the neighbors; that she would like to share a video that illustrates the vibe of the Creative Market, allowing for a better understanding of the market's atmosphere.

Mr. Mears questioned the business hours and days of the week the Creative Market would take place.

Ms. Beach stated the Creative Market only takes place on Monday evenings from 5:30 pm to 9:00 pm.

Ms. Robertson questioned if this was previously issued as a Special Event.

Mr. Whitehouse confirmed that Creative Market originally came into Sussex County through the Special Event process; that there is a limited number of events that can be approved per Sussex County Code on any given parcel in any given year; that Sussex County was able to approve the first three events, with the plan that it would be followed up with a Conditional Use application and the Applicant has been very cooperative with him and the Planning and Zoning staff.

Ms. Wingate questioned if there were any issues with past events and mentioned she likes the idea of posted no parking signs and the shuttle to transport market guests.

Mr. Whitehouse stated there have been no negative comments received.

Ms. Beach stated she feels that ending by 9:00 pm has been very good for the community; that they have had a lot of dialogue with the Homeowners Associations and making sure the market was accessible and so far has been working out great.

Ms. Stevenson requested confirmation to the location of the no parking signs; that she questioned if there is a written agreement with Quillen's for parking purposes and Revelation Brewery for the use of their portable restrooms; if the organization has obtained a liquor license; and if the Creative Market is only limited to the summer season.

Ms. Beach stated that no parking signs are placed on the corners of Corkran Blvd. and Canal Crossing Rd., as well as a sign at the intersection of Canal Crossing Rd. and Hebron Rd. directing traffic to the designated parking area; that there is also signage located on Central Ave. and Hebron Rd. directing traffic down to the designated Quillen's parking lot and there are four large signs at both entrances of Quillen's parking lot stating "event parking here"; that the shuttle runs throughout the duration of the event, regardless of whether guests are on it or not, so that guests may see; that the shuttle also includes a sign that states it is a free shuttle to free parking; that there is a written agreement with Quillen's to utilize their lot for event parking and also with Revelation Brewery for the use of their portable restrooms; that the organization has obtained a gathering license; that a submission is required for every event held due to being a non-profit organization; that the organization has a very strict policy with no alcohol leaving the front entrance; that all alcohol is kept within the perimeter; that the artist tables and food trucks create a buffer for only one way in and one way out allowing for better monitoring; that the organization works with Revelation in keeping alcohol on the site it is provided; that she requests approval for another year while continuing the market throughout the fall; that they would like to have a holiday market; that in the past the organization had an event called Dewey Sip & Shop, which was an open-air shopping experience during Black Friday weekend; that she feels this experience is important with the pandemic and requests to continue the market into December and days of operation would be the first, second and third Saturday and Sunday in December from 11:00 am until 4:00 pm (weather permitted).

Ms. Stevenson states her biggest concerns with the Application are for the people living on Central Ave.

dealing with increased traffic, debris in their yards and parking, as well as people parking on Central Ave. and the pedestrians that do not wait for a shuttle and decide to walk down Hebron Rd.

Ms. Beach states she understands Ms. Stevenson's concerns; that the organization has a facility located on Central Ave and Malloy St.; that she has not seen the parking issues along Central Ave.; that she states a lot of guests are parking at one of the two sites Revelation has, as well as the Quillen's parking lot; that the organization was recently offered another parcel of land on Hebron Rd., but have not obtained a lease yet; that this additional parcel potentially could be submitted as an additional parking option; that she plans to have a civil engineer come out, designate the property for parking, no longer use Quillen's parking lot and have a crossing guard and volunteers to make sure pedestrians are not walking up and down the street.

Mr. Chase Phillips questioned Mr. Robertson if, while the food vendor trucks fall under the approval of the Conditional Use, would the food vendors still be subject to the permits that the Planning & Zoning Department administratively issues?

Mr. Robertson stated he believes that if the food vendors are approved under the conditions of the Conditional Use and a site plan is submitted showing where the food vendors will be stationed, that additional permits will not be needed, and he will further research and circle back with an answer.

The Commission found that Ms. Brenda Milbourne spoke in support of the Application; that she is the Executive Director of West Side New Beginnings Children and Youth program; that she supports the Creative Art Market; that Ms. Beach has a partnership with the children; that the children will be constructing a legacy mural with Ms. Beach which will represent the past and the future; that she feels the Creative Market application is a good thing; that she attends the events, encouraging friends to come and that the market has been a positive addition to the community.

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

Upon there being no further questions, Chairman Wheatley closed the Public Hearing.

At the conclusion of the Public Hearing, the Commission discussed the Application.

In relation to Application C/U 2289 Leah Beach, Motion by Mr. Mears to defer action for further consideration, seconded by Ms. Stevenson, and carried unanimously. Motion carried 4-0.

C/U 2278 Branson James

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for an events venue to be located on a certain parcel of land lying and being in Nanticoke Hundred, Sussex County, containing 1.902 acres, more or less. The property is lying on the south side of Dusty Road (S.C.R. 443A), approximately 0.48 mile northwest of East Trap Pond Road (S.C.R. 62). 911 Address: 17638 Dusty Road, Georgetown. Tax Parcel: 231-22.00-16.00

Mr. Whitehouse advised the Commission that submitted into the record is a copy of the Applicant's conceptual site plan, a copy of the DelDOT Service Level Evaluation Response, a letter from the Sussex County Engineering Department Utility Planning Division, a copy of the staff analysis, one letter in opposition, one petition in opposition containing 21 signatures, and no mail returns.

The Commission found that Mr. Branson James, was present on behalf of the Applicant, Bransen James;

that he requests a Conditional Use permit for an outdoor event venue; that he would like this not only for music events, but potentially for a wedding venue or outdoor movies; that he feels these types of outdoor venues are lacking in the Georgetown area; that when the pandemic hit he would have small gatherings at his home as a way to bring entertainment during a time of isolation; that he always followed the CDC guidelines in regards to the maximum number of people allowed at a gathering; that he worked hard to provide a space that was safe for friends and family in the outdoor open air; that due to the gatherings, popularity, the events began to grow; that the events were held on his private property and he was not aware he needed a Conditional Use permit to have the gatherings; that once he was made aware of the Conditional Use requirement he began making steps to apply; that recently he held an event under all of the conditions given by Sussex County and Mr. Whitehouse; that these conditions addressed time limits and decibel limits; that they requested signage from DelDOT informing motor traffic that vehicles may be slowing speed to turn and park; that to his knowledge there were no complaints; that there was no police involvement; that there were no issues throughout the evening and the event ended at the designated time; that his wife is an artist; that he is interested in hosting possible art and craft shows; that the proposed Application would provide the area of Georgetown entertainment that it is currently lacking; that there is a strong community that loves him and his wife, and love what they offer; that in less than 24 hours he received 235 signatures in favor of the Application, which he requested to forward by e-mail to Mr. Whitehouse for the record; that the majority of the community in support of the Application come from out-of-state; that because of this he feels his events bring in business to Georgetown in the area of hotels, grocery stores and gas stations; that he is interested in getting more of the local community involved; that he has begun to work with a non-profit organization for the gather license; that the non-profit organization he works with currently supports homeless animals; that the events are located acres away from neighbors; that he does have letters of support from his neighbors, the non-profit organization and the medical staff volunteers that are onsite for the events; that they have performed decibel test and have passed; that the events have been 65 decibels before 10:00 pm and 55 decibels after 10:00 pm; that there have been issues in the past with parking; that he has been working on a way to keep pedestrians off the road and contained to the event location; that he has moved trees and bushes to comply with what is required; that in the past when there was an issue, such as a noise complaint, he has always cooperated with the police so as to not create any further issues; that he believes he has hosted three larger events, other than small gatherings and birthday parties; that the police have been called out a total of three times; that his events have never been shut down by the police; that the police requested that he lower the noise volume, and he complied, which remedied the issue; that no nearby neighbors have spoken to him with any opposition and he has not received any letters of objection; that there was a letter of objection stating that he hosted an event until 5:00 am; that he states this statement is true; that it was not an event, it was a small gathering for his birthday and things got out of hand; that he states that he never intends to exceed time limits again and there is no intention to do anything Sussex County would not allow him to do.

Ms. Stevenson questioned what types of outdoor events are proposed, the frequency that the events are being held, and hours of event operation and she requested an example of how loud 55 decibels would be equivalent to.

Mr. James stated he currently hosts music events with disc jockeys; that he wishes to expand to host live music concerts; that in the past he has hosted events up to two times monthly; that this year he has only hosted two events, one of which was operated under the requirements of Sussex County; that there is no set schedule to the proposed events; that the last event hosted was held from 2:00 pm to 11:30 pm; that at 11:00 pm noise levels were reduced by 20% and noise levels ended at 11:30 pm and according to the application he uses 55 decibels (equivalent to a quiet home).

The Commission found that Ms. Hope James spoke on behalf of the Application; that she stated she has

a video of the music being played at its loudest while showing the decibels while inside their home and outside of their home and that she requested to e-mail the video for submission into the record.

The Commission took a recess to allow the Applicant to submit the online petition signatures and decibel video.

The Commission returned from the recess.

Mr. Whitehouse stated that received into the record is a copy of the online petition and video.

Mr. James stated he would like to submit a copy of his noise management plan; that this plan was followed at the last event held and he had pictures of the property, showing designated parking areas.

Ms. Stevenson questioned if using the property for camping could be included in the proposed Conditional Use, or if it required a separate Conditional Use.

Mr. Robertson stated camping on the property would require a separate Conditional Use and a campground is specifically called out in the Zoning Code requiring specific regulations for campsites and campgrounds.

Ms. Wingate requested clarification on the proposed site plan and parking area and states she is concerned that live bands in open-air would be loud enough to create a disturbance.

Mr. James stated the area listed "to be used for events" is the area designated for a stage; that the stage area is a deck; that the deck is located to the far side of the property; that is located the farthest away from adjacent properties and this designated area is open-air.

Ms. James stated parking is located on the grass; that the vehicles are parked in double lanes while allowing space for vehicles to back up and another parking lane is started and the area can hold eight to 10 rows of vehicles, which is approximately 100 cars, in the designated parking area.

Chairman Wheatley questioned how many people normally attend the events and questioned if the events are held for a profit-making venture.

Ms. James stated 100 people attended the last two events; that she feels the proposed property could easily fit 250 to 300 people; that they would not exceed over 300 people in attendance; that the events began with taking monetary donations; that admission tickets were sold for the past two events; that the admission charge was to help pay for the disc jockeys and flights.

Mr. James stated another reason for tickets rather than donations is to create the ability to manage the number of people attending the event.

Mr. Mears requested more information on the noise complaint involving the police; that he questioned how the parking issues on the street were rectified; that he stated signage needs to be placed on the street stating no parking on the roadway; that he stated the hours and frequency of the events needs to be established and he requested to know how many of the petition signatures in support are local residents.

Ms. James stated the police were called out for two different events; that one police officer stated he could not hear the music around the bend and he was uncertain why he was called out; that the second incident the police officer had commented how nice the venue was and took photos of the venue; that

the last event the police were called out for was on Halloween; that the police were called out twice during that event; that the first call was for noise disturbance and they complied by turning the volume down; that the disc jockey later increased the volume and the police were called out again and shut the event down; that the police requested the hours for the the event be readjusted for the second day and they complied; that there were no complaints on the second day; that in June 2021 they hosted an event under the Special Use Permit and there were no complaints of noise; that during that event they had corrected the parking issue and reduced the hours of the event to no later than 11:30 pm; that they placed a sign on the property stating when the event would be occurring; that she states the noise issue is confusing to her and her husband as the neighbors adjacent to the event stated they cannot hear the music and noise is not an issue; that they rectified the parking issue by clearing more land, allowing more room for rows of parking; that the proposed frequency would be one to two events per month; that typically the events are held on Saturday evenings; that other than the neighbor adjacent and the non-profit organization, none of the on-line signatures in support are from the Georgetown area; that she researched the noise ordinance for the State of Delaware; that the ordinance states that between 10:00 pm and 7:00 am the decibels must be below 55 outside.

Mr. Robertson questioned what was being used for sewer purposes and for how many events was a gathering license obtained.

Ms. James stated they rent portable restrooms and only the last event was held under a gather license.

The Commission found that Mr. Ian Herbert spoke in support of the Application; that he lives about five to seven minutes from the property; that he feels there is not a lot of options for entertainment in the local area; that he feels like most entertainment is geared toward 21 years of age and older or located at the beaches; that there are locals who support the Application and enjoy the music; that a lot of local supporters did not realize how important letters of support would be to the Application; that he does support the Application; that the disc jockeys and staff are always very nice and supportive; that he has never had a bad experience at any of the Applicant's events; that he has never seen underage consumption of alcohol and he has seen the event staff check identifications.

The Commission found that Ms. Candi Hill spoke in support of the Application; that she is the mother of Mr. James; that the music played at the events may not be liked by everyone, but the atmosphere is loving and much like a family; that she attends every event; that the events have provided a resource of comfort and an outlet for her; that the Applicant has worked hard; that they have experienced growing pains and the Applicant has spent a lot of effort and money trying to rectify everything necessary to do things the correct way.

The Commission found that Ms. Robin Parker spoke in opposition of the Application; that she lives 0.25 mile down the road from the Applicant's property; that the road they live on was one of the last roads in Sussex County to be paved; that it used to be a dirt road; that the surrounding area is beautiful, quiet farmland, with some houses; that she does not feel the Applicant's property is a good place for the proposed uses; that she has written down the dates and times in which the Applicant held events; that she believes the events began in July 2020; that the Applicant hosted "A Knight In Wonderland" that lasted until 3:00 am; that on August 29, 2020 the Applicant held an event called "The Abyss" that lasted until 3:00 am; on October 3, 2020 the Applicant hosted his birthday celebration that lasted until 5:00 am; that on October 31, 2020 the Applicant held a two-night event that went into late hours of the night; that May 2021 the Applicant held an event that last until 1:00 am; that the last event held a permit was obtained and it was shut down at 11:30 pm as stated; that she has brought copies of the event advertisements from the Applicant's Facebook page; that the Applicant's Facebook page is a way of notifying people of the event and offers a way to pay for admission from the Facebook page; that the

advertised price is \$45-\$65.00 if an attendee camps; that the Facebook page was accessed from a public view; that the Applicant’s event page is called, “Into The Knight”; that despite what the decibel monitor stated, the noise at her home is so loud it affects her sleep; that the bass in EDM music is very loud; that she explains her home is similar to being next to a vehicle with the bass all the way up; that the petition signed in opposition has signatures from people up to one mile down the road who state they can hear the music; that she has lived at her residence since 1983 and has no intention of leaving; that she has a video of people using profanity and screaming for the music to be louder; that attendees will not want to pay \$45 to not hear the music the way they want to; that she feels that past behavior is the best predictor of future behavior; that the Applicant’s past behavior is horrible; that she disagrees with the statement that the police have only been out a total of three times; that she has called the police several times and Ms. Short has called the police several times; that she has spoken to a single mother with a 16 year old son who lives on Lot 20; that she has stated they both cannot sleep; that the mother has expressed that she is very scared; that the attendees come from Philadelphia and Baltimore and camp out in the yard; that there is alcohol served; that the event advertisements state “BYOB”; that she feels the Applicant did try to comply at the last event, but she feels this is due to the Applicant knowing he was being watched; that she has a petition of 21 signatures in opposition; that she requests to play an audio clip taken from the previous event at Halloween that references the type of music and proof of the residents using profanity while yelling to turn the music up; that this audio clip was not from the event in which the Applicant complied with; that the stage faces her property and home; that the events begin around 2:00 pm; that her grandchildren cannot come over and play outside on the days of the events; and that there was a total of six events, one event was a total of two nights.

The Commission found that Mr. Jerry Dukes spoke in opposition of the Application; that he is the owner of the properties surrounding the Applicant’s property; that he feels he will not be able to sell his property in the future if the Application is approved and he feels the approval of the Application will devalue his property.

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

Upon there being no further questions, Chairman Wheatley closed the Public Hearing.

At the conclusion of the Public Hearing, the Commission discussed the Application.

In relation to Application C/U 2278 Branson James, Motion by Ms. Hopkins to defer action for further consideration, seconded by Ms. Wingate, and carried unanimously. Motion carried 4-0.

ADDITIONAL BUSINESS

Meeting adjourned at 11:11 p.m.

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