

THE MINUTES OF THE REGULAR MEETING OF JANUARY 24, 2024.

The regular meeting of the Sussex County Planning and Zoning Commission was held on Wednesday afternoon, January 24, 2024, in Council Chambers, Sussex County Administrative Office Building, 2 The Circle, Georgetown, Delaware.

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

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to approve the Agenda as revised. Motion carried 5-0.

Motion by Mr. Mears, seconded by Ms. Wingate to approve the Minutes of the November 30, 2023, Planning and Zoning Commission meeting as circulated. Motion carried 5-0.

PUBLIC COMMENT

The Commission found there were five people present who wished to provide public comment.

Ms. Jill Hicks from Lewes spoke with concerns regarding flooding as a result of the clear-cutting of woodlands for subdivision development.

Ms. Donna Schmid spoke with concerns regarding flooding as a result of the clear-cutting of woodlands for subdivision development.

Ms. Susan Rosenblum from Chapel Green spoke with concerns regarding flooding as a result of the clear-cutting of woodlands for subdivision development.

Ms. Karen Russo spoke with concerns regarding flooding as a result of the clear-cutting of woodlands for subdivision development.

Ms. Janet Le Digabel spoke regarding the ability of the Planning & Zoning Commission to make motions without the fear of being sued by Developers.

OTHER BUSINESS

Habitat for Humanity Restore

Revised Preliminary Site Plan

This is a Revised Preliminary Site Plan for the addition of a 2-story 30,000 square-foot retail/office/storage building. The first story will consist of 20,000 square feet while the second story will consist of 10,000 square feet. Included in this plan is the proposal for a stormwater management facility and parking expansions. The existing entrance from Lewes Georgetown Highway (Route 9) will be utilized. The Revised Preliminary Site Plan complies with the Sussex County Zoning Code. Tax Parcel: 334-4.00-88.00. Zoning: CR-1 (Commercial Residential). Staff are awaiting agency approvals.

Motion by Mr. Collins, seconded by Ms. Wingate and carried unanimously to approve the Revised Preliminary Site Plan as a preliminary with final approval to be given by the staff subject to the receipt of all agency approvals. Motion carried 5-0.

S-24-01 Jose Netto & Karyne Pereira Da Silva

Preliminary and Final Site Plan

This is a Preliminary Site Plan for the use of the property for an Esthetician Business. The structure being used for the business is an existing structure and no new structures are currently proposed. Conditional Use No. 2374 was approved by the Sussex County Council at their meeting of Tuesday, March 21st, 2023, through Ordinance No. 2913. The property is located on the west side of John J. Williams Highway (Route 24), approximately 0.38-mile southwest of Mulberry Knoll Road (S.C.R. 284). The Preliminary Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Zoning: AR-1 (Agricultural Residential District). Tax Parcel: 334-12.00-23.00. Staff are in receipt of all agency approvals. Therefore, the plans are eligible for both preliminary and final approval.

Motion by Mr. Collins, seconded by Ms. Wingate and carried unanimously to approve the Preliminary and Final Site Plan. Motion carried 5-0.

S-23-48 Delaray Foundations Inc.

Revised Preliminary Site Plan & Landscape Plan

This is a Revised Preliminary Site Plan and Landscape Plan for Delaray Foundations Inc. on the Lands of Raynol E. Garcia for the construction of a (4,255) square foot masonry contractor's office, parking, and related improvements. This use was approved for the site via Conditional Use (C/U 2056) approved by Sussex County Council on Tuesday, October 4, 2016. A Preliminary Plan for this project was granted Preliminary Approval by the Planning & Zoning Commission on Thursday, April 20th, 2023. This Revised Preliminary Plan has been re-submitted for review due to design revisions to both the primary office structure as well as the parking and internal drives. The parcel is located on the east side of Marshall Street (S.C.R. 225) approximately (0.5) miles north of Johnson Road (S.C.R. 207). Tax Parcel: 330-15.00-20.01. Zoning: AR-1 (Agriculture Residential District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, staff are requesting final approvals to be made subject to staff upon the receipt of all agency approvals.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to approve the Revised Preliminary Site Plan and Landscape Plan as a preliminary, with final approval to be given by the staff subject to the receipt of all agency approvals. Motion carried 5-0.

Lands of Charlotte A. Parsons

Minor Subdivision Plan off of a 30-ft Easement

This is a Minor Subdivision Plan for the creation of three (3) Lots to be served by a thirty (30) foot wide ingress/egress access easement over an existing private driveway known as Cock a Doo Lane. Proposed Lot 1 will consist of 0.7527 acre +/-, proposed Lot 2 will consist of 0.7501 acres +/-, proposed Lot 3 will consist of 0.7501 acre +/-, and the residual lands consist of 21.8689 acres +/- . A shared-use maintenance agreement is to be established for the use of the shared access road. The Parcel is located on the east side of East Trap Pond Road (S.C.R. 62) and the north side of Samuel Hill Road (S.C.R. 437). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Zoning: AR-1 (Agricultural Residential District). Tax Parcel: 232-20.00-20.15. Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, staff are requesting that final approval be made subject to staff upon the receipt of all agency approvals.

Motion by Mr. Butler, seconded by Mr. Collins and carried unanimously to approve the Minor Subdivision Plan off a 30-ft. easement as a preliminary, with final approval to be given by the staff subject to the receipt of all agency approvals. Motion carried 5-0.

Lands of Rex 1, Inc.

Minor Subdivision Plan off of a 50-ft Easement

This is a Minor Subdivision for the creation of three (3) lots plus residual lands with access for two of the lots to retain access off of an existing 50-ft wide ingress/egress access easement. Proposed Lot 1 consists of 1.001 acres +/- and will front on Avalon Road (S.C.R. 302A), proposed Lot 2 consists of 1.003 acres +/-, proposed Lot 3 consists of 1.002 acres +/- and will have access off the existing 50 ft. easement, and the residual lands shall consist of 2.289 acres +/- . A shared-use maintenance agreement shall be established for the use of the shared access road. The property is located on the northeast side of Avalon Road (S.C.R. 302A), approximately 0.74-mile northwest of Lawson Road (S.C.R. 296). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 234-15.00-17.00. Zoning: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals. Therefore the plans are eligible for both preliminary and final.

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

Lands of Rodolfo Juarez & Lakisha Marie Flores

Minor Subdivision Plan off of a 50-ft Easement

This is a Minor Subdivision Plan for the creation of four (4) Lots to be served by a fifty (50) foot wide ingress/egress access easement. Proposed Lot 1 will consist of 0.94 acres +/-, proposed Lot 2 will consist of 0.93 acres +/-, proposed Lot 3 will consist of 0.75 acres +/- and proposed Lot 4 will consist of 2.06 acres +/- and the residual lands consist of 1.91 acres +/- . A shared-use maintenance agreement is to be established for the use of the shared access road. The Parcel is located on the northeast side of Johnson Road (S.C.R. 434A), approximately 0.28 mile southeast of Phillips Hill Road (S.C.R. 472). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Zoning: AR-1 (Agricultural Residential District). Tax Parcel: 232-21.00-1.09. Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, staff are requesting that final approval be made subject to staff upon the receipt of all agency approvals.

Motion by Mr. Butler, seconded by Ms. Wingate and carried unanimously to approve the Minor Subdivision Plan off a 50-ft. easement as a preliminary, with final approval to be given by the staff subject to the receipt of all agency approvals. Motion carried 5-0.

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

Determination as to the Status of Conditional Use Approval

The Planning & Zoning Department has received a request to provide a determination as to the status of Conditional Use No. 1639 which was approved by the County Council at its meeting of Tuesday, July 25th, 2006. The Ordinance was for six (six) multi-family dwelling units, to be located in a Medium Density Residential Zoning District at Tax Parcel No. 134-5.00-4.00. The acreage of the parcel is 1.2873 acres more or less. Although the approved multi-family dwellings were not constructed on the Parcel, a Site Plan was approved for the dwellings on September 4, 2007. The Commission last reviewed this request at its meeting of Thursday, December 14th, 2023, where it was advised that the matter be deferred for further consideration as two (2) Commissioners were not able to be present at that Meeting, in order to allow for a thorough review of the materials received as well as the record of that Meeting to enable the entire Commission to make a joint determination on the Application. The Applicant has provided a chronology of the improvements constructed at the parcel and is requesting a determination as to whether the Conditional Use approval, approved on July 25, 2006, remains valid. Should a determination be made that the Conditional Use approval is no longer valid, the Applicant will be required to submit a new application for a Conditional Use and pay an additional application fee.

Per Mr. Mears' request, Mr. Robertson read Mr. Mears' prepared motion.

Mr. Butler stated he had watched the broadcast, was familiar with the request, and was prepared to vote on a motion.

Mr. Mears moved that the Commission find that the Conditional Use for C/U 1639 (Ordinance No. 1864) Sunrise Condominiums, originally filed on behalf of Bethany Court, LLC, has been abandoned and that the Conditional Use has expired based on §115-174 of the Sussex County Zoning Code. The property has remained idle or unused, with no construction activity that is actively underway for a continuous period of a lot more than two years. Based upon the Applicant's submission, the last construction activity that was performed on the site occurred in 2009 when the sanitary sewer and water infrastructure was installed with the sewer cleanouts, only roughed in, and the basecoat of paving put down; that no top coat was ever installed on the pavement and no additional work occurred on the site, and no homes were ever built and the site has sat idle since 2009. It is clear that the site has been abandoned for many years at this point, and for that reason, Mr. Mears moved that C/U 1639 has expired under the terms of §115-174 of the Sussex County Zoning Code.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to determine C/U 1639 (Ordinance No. 1864) Sunrise Condominiums, originally filed on behalf of Bethany Court, LLC, had expired under the terms of §115-174 of the Sussex County Zoning Code and a new Conditional Use application would be required. Motion carried 5-0.

OLD BUSINESS

C/U 2447 Elk Development, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 51.83 ACRES, MORE OR LESS. The properties are lying on the east side of River Road (S.C.R. 490), at the intersection of Morgan Branch Road and River Road (S.C.R. 490). 911 Addresses: N/A Tax Map Parcels: 132-1.00-5.00 (p/o) & 132-6.00-78.03.

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

Ms. Wingate moved that the Commission recommend approval of C/U 2447, Elk Development, LLC, for a solar array in the AR-1 District based on the record made during the public hearing and for the following reasons:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
2. The solar array will be located on approximately 40.7 acres of a larger 51-acre tract.
3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar arrays. There was testimony that this solar array will benefit residential, business, and municipal subscribers with lower power costs.
4. The proposed solar array is located on a parcel of land that is partially used for agricultural purposes and partly wooded. It is located at the rear of other land used for agricultural purposes,

including poultry houses. Although there are residential properties to the south of this site, the arrays are at least 225 feet from the closest dwelling and the nearby properties will also be protected by the conditions set forth in the Code and in this recommendation.

5. The land is designated as being within the “Low Density Area” according to Sussex County’s Future Land Use Map; this is an appropriate location for a solar array.
6. This Application generally complies with Ordinance No. 2920 regarding solar arrays.
7. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
8. Based on the record there is no significant noise, glare, dust, or odor that will be generated by the facility.
9. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
10. This recommendation is subject to the conditions set forth in Ordinance No. 2920 and the following additional conditions:
 - A. The use shall be for ground-mounted solar arrays. No other types of electric generation shall be permitted at the site.
 - B. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use.
 - C. All required fencing shall include interwoven screening. The fence location and type of screening shall be shown on the Final Site Plan. In addition, there was opposition from residential property owners immediately adjacent to the southern boundary of this facility about its impact upon the use and enjoyment of their properties and impacts upon their property values. For this reason, the solar arrays shall be separated at least 100 feet from these residential properties, and there shall be a landscaped buffer that is at least 50 feet wide along the common boundary with these residential properties. The landscaping shall include at least fifteen trees within every fifty linear feet of the buffer. Wherever trees exist within the buffer areas, they shall be preserved, and these non-disturbed forested areas shall be shown on the Final Site Plan. The Final Site Plan shall also include a landscape plan confirming these planting requirements.
 - D. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - E. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.
 - F. All transformers or similar equipment or structures shall be centrally located within the solar array, and they shall be shown on the Final Site Plan.
 - 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 using Best Management Practices.
 - H. The Final Site Plan shall include a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.
 - I. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to recommend approval of C/U 2447 Elk Development, LLC for the reasons and the conditions stated in the motion. Motion carried 4-0. Mr. Butler abstained.

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

C/U 2436 Toney & Charletta Floyd

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A BUSINESS FOR THE STORAGE AND HAULING OF DIRT AND GRAVEL, AND THE STORAGE OF WORK EQUIPMENT AND TRUCKS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.31 ACRES MORE OR LESS. The property is lying on the northeast side of Hershel Davis Road, approximately 0.42-mile northeast of Oak Orchard Road (Rt. 5). 911 Address: 32404 Hersel Davis Road, Millsboro. Tax Map Parcel: 234-29.00-274.02.

The Commission discussed the Application which had been deferred since January 3, 2024.

Mr. Mears moved that the Commission recommend denial of C/U 2436 Toney & Charletta Floyd, for the business of storing and hauling dirt and gravel along with the storage of work equipment and trucks based upon the record made during the public hearing and for the following reasons:

1. The Planning and Zoning Commission is generally supportive of small businesses when they are occurring in appropriate locations. The Commission is also supportive of businesses that have existed for a long time, often grandfathered, when residential development has built up around them. When a business existed before nearby homes were built, or before nearby residents moved in, the Commission often determines that the business is entitled to remain. Unfortunately, in this case, this Applicant established its business contrary to the existing zoning just two years ago, and without proper approvals, in an area where homes and residents already exist. While the Commission wants to be supportive of small business owners like these Applicants, it is unable to do so under these circumstances for the reasons stated in this motion.
2. At times, the Commission seeks to approve a pre-existing use with substantial conditions, hoping to bring it into compliance with the County Code. That is also not feasible with this Application. In this case, the Applicant's own testimony about the proposed use does not match the evidence in the record about what is happening on the site. There is more occurring on the site than what is actually requested in the application including industrial-type uses like sorting and shaking of soils and stone materials. The Applicant's existing uses on the site have also spilled over onto properties that are not even part of this Application. As a result, it is difficult, if not impossible to place appropriate conditions on the approval of this Application. Doing so would simply place the Applicants in violation of the approval from day one.
3. This application is for a landscaping business on a 2.31-acre property in an area that includes undeveloped land and residential development, but no other businesses like this one. This is not an appropriate location for the Applicant's intensive use, with heavy equipment, large truck traffic, and the noise and other impacts of the use.
4. The record indicates that the Applicants have been operating this business from this property for approximately two years without the proper approvals.

5. There was opposition to the Application from a large group of neighboring property owners with evidence showing and describing the current condition of the Property, the noise associated with the use, and the environmental impacts from the use.
6. Photographs entered into the record show that the Applicants have cleared not only their own property but also other properties adjacent to theirs. Dirt and other materials have been pushed into the adjacent stream. All of this has happened without any approvals from Sussex County, or more importantly DNREC or the Sussex Conservation District. Under these conditions, it is not appropriate to grant a conditional use on this property.
7. There is evidence in the record that the existing activity on the property and the proposed use and the materials, equipment, and vehicles associated with it, adversely affect the neighboring and adjacent properties.
8. The current condition of the property and the proposed conditional use do not promote the health, safety, and welfare of Sussex County and its residents.
9. The proposed use in this location does not satisfy the purpose of a conditional use under the Sussex County Zoning Code because it is not well-adjusted to its environment with full protection of the neighboring properties, and because the proposed use is not desirable in this location for the general convenience and welfare of Sussex County residents and businesses.
10. For all of these reasons, I move that the Commission recommend a denial of this Conditional Use. However, the type of business proposed by the Applicant is needed in Sussex County, in an appropriate location. For this reason, County Staff should be directed to cooperate with the Applicants if they find a different, more suitable location for their business. If another, more suitable location is found by the Applicants, then any necessary applications should receive expedited scheduling.

Motion by Mr. Mears, seconded by Mr. Butler and carried unanimously to recommend denial of C/U 2436 Toney & Charletta Floyd, for the reasons stated in the motion. Motion carried 5-0.

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

C/Z 1992 Reed Properties, LLC

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 2.99 ACRES, MORE OR LESS.

The property is lying on the west side of Gravel Hill Road (Rt. 30), approximately 300 feet south of Milton Ellendale Highway (Rt.16), and the south side of Milton Ellendale Highway (Rt. 16), approximately 300 ft. west of Gravel Hill Road (Rt. 30). 911 Address: 14742 Gravel Hill Road, Milton. Tax Map Parcel: 235-13.00-29.01.

The Commission discussed the Application which had been deferred since January 3, 2024.

Mr. Robertson read Mr. Butler’s motion into the record per Mr. Butler’s request.

Mr. Butler moved that the Commission recommend approval of C/Z 1992 Reed Properties, LLC for a change in zone from AR-1 Agricultural-Residential zoning to C-2 “Medium Commercial” zoning based upon the record made during the public hearing and for the following reasons:

1. C-2 Medium Commercial Zoning is designed to support retail sales and the performance of consumer services. It is intended to be located near arterial and collector roads.
2. The Applicant's property is 2.99 acres that is currently zoned AR-1 along Route 16 at the intersection with Route 30. Both of these roads are identified as "Major Collector" roads by DelDOT, and Route 30 is designated as a Truck Route by DelDOT. This intersection is an appropriate location for C-2 Zoning.
3. The property is adjacent to property that is zoned C-1 and used in an industrial manner. It is approximately one mile from the Milton town limits. To the east on the opposite side of Route 30, the properties are zoned C-1, HR, and AR-1. Although the Applicant's remaining land to the south is zoned AR-1, beyond that is a large parcel of land with rail service that is zoned HI-1 and contains a bulk-fuel plant, gasoline and diesel sales, and propane storage tanks. Across Route 16 is a 500-acre parcel that serves as part of the wastewater disposal area for Artesian Wastewater Management's Sussex Regional Reclamation Facility. This is an appropriate location for C-2 zoning.
4. The site is served by both central water and central sewer.
5. C-2 Zoning at this location at this intersection will benefit nearby residents of Sussex County by providing a convenient location for the uses permitted in that Zone.
6. There is no evidence that this rezoning will have an adverse impact on neighboring properties or area roadways.
7. The site is in the "Low Density Area" according to the Sussex County Land Use Plan and Future Land Use Map. C-2 Zoning is appropriate in the Low-Density Area according to the Plan.
8. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity, and welfare of the County.
9. No parties appeared in opposition to the rezoning application.
10. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.
11. For all of these reasons, the C-2 Zoning District is appropriate for this location.

Motion by Mr. Butler, seconded by Mr. Collins and carried unanimously to recommend approval of C/Z 1992 Reed Properties, LLC for the reasons stated in the motion. Carried 5-0.

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

C/Z 1993 Ocean One Holdings, LLC

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 64.85 ACRES, MORE OR LESS. The property is lying on the west side of Coastal Highway (Rt. 1), and the southeast side of Broadkill Road (Rt. 16), at the intersection of Coastal Highway (Rt. 1) and Broadkill Road (Rt. 16). 911 Address: N/A. Tax Map Parcel: 235-8.00-39.00 (p/o).

The Commission discussed the Application which had been deferred since January 3, 2024.

Mr. Collins moved that the Commission recommend approval of C/Z 1993 for Ocean One Holdings, LLC for a change in zone from AR-1 to C-3 "Heavy Commercial" based upon the record made during the public hearing and for the following reasons:

1. C-3 Heavy Commercial Zoning is designed to allow auto-oriented retail and service businesses that serve local and regional residents. Permitted Uses include retail uses, restaurants, offices, and vehicle service stations.
2. The site has frontage along Route 1 and Route 16 at the intersection of those two significant roadways. Route One is identified as an “Other Principal Arterial” by DelDOT and a “Major Arterial Roadway” in the Sussex County Code. DelDOT identifies Route 16 as a “Major Collector”. This location is appropriate for C-3 zoning.
3. This site is the location of a grade-separated intersection (or overpass) that is being constructed by DelDOT with on-ramps and off-ramps. DelDOT and this developer have coordinated throughout the intersection design process about the design of this site and its access including an internal service road. This coordination has taken into account the possibility that this property would be rezoned to C-3. For all of these reasons, C-3 Zoning is appropriate for this property.
4. A Traffic Impact Study was required for this site by DelDOT, and DelDOT issued its Review Letter of that study on December 26, 2023. That Review Letter clarified the maintenance of the proposed service road and on- and off-ramps to the site. After taking into account the development of the entire property, DelDOT confirmed the proposed off-site road improvements will include, but not be limited to (1) typical entrance and frontage improvements; (2) design and construction of a service road between Route 16 and the southerly limits of the property; (3) design and construction of a dual-lane roundabout for the property’s access to Route 16 and an on-ramp to Route One; (4) design and construction of an on/off ramp to Route One; (5) construction of an all-way stop intersection where the service road intersects the Route One ramps; (6) traffic signal installation and agreements at two intersections created by the new Route One overpass; (7) closure of medians within Route One near the overpass; and (8) typical bicycle, pedestrian and transit improvements within the property and off-site.
5. The site will be served by central water and sewer.
6. Sussex County has anticipated the development of this particular site based upon the investment that DelDOT is making in the intersection there. According to the current Sussex County Comprehensive Plan, this site is designated as being in the “Developing Area” which is a “Growth Area”. It is one of the few areas in this part of Route One that anticipates a more intensive use while protecting the eastern side of Route One from more intensive development. This planning suggests that development beyond the current AR-1 zoning can occur in this specific location and C-3 zoning is appropriate here.
7. This application received support from several sources, including the Milton Chamber of Commerce, the Kent Sussex Leadership Alliance, Southern Delaware Tourism, the Southern Delaware Economic Development Action Committee, and State Representative Parker Selby. The theme of this support was summarized best by Representative Parker Selby, who stated that this is “a project that looks like smart growth with safety and the economy in mind.”
8. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity, and welfare of the County.
9. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.
10. For all of these reasons, it is appropriate to recommend approval of this Change in Zone from AR-1 to C-3 at this location.

Motion by Mr. Collins, seconded by Ms. Wingate and carried unanimously to recommend approval of C/Z 1993 Ocean One Holdings, LLC for the reasons stated in the motion. Motion carried 5-0.

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

C/Z 1998 Louis, Janet & William Melton

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A B-2 NEIGHBORHOOD COMMUNITY DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.11 ACRES, MORE OR LESS.

The properties are lying on the southwest side of Old Mill Road (S.C.R. 349) and the northwest corner of Railway Road (S.C.R. 350), at the intersection of Railway Road (S.C.R 350) and Old Mill Road (S.C.R. 349). 911 Address: 36294, 36306, & 36328 Old Mill Road, Ocean View & N/A. Tax Map Parcels: 134-12.00-73.00, 73.01, 73.02, & 73.03.

The Commission discussed the Application which had been deferred since January 3, 2024.

Mr. Mears moved that the Commission recommend approval of C/Z 1998 for Louis, Janet & William Melton for a change in zone from GR “General Residential” to B-2 “Business Community” based upon the record made during the public hearing and for the following reasons:

1. B-2 Business Community Zoning is designed to allow office, retail shopping, and personal service uses that serve a relatively small area, including low-density and medium-density neighborhoods.
2. The site is in the Coastal Area according to the current Sussex County Comprehensive Plan. B-2 zoning and the uses permitted in that District are appropriate in the Coastal Area according to the Plan.
3. This location is centrally located in an area that contains a lot of existing and new low- and medium-density residential development. It will provide a convenient location for B-2 uses and will reduce the need for current and future nearby residents to have to travel to Route 26 for shopping and services that can be located on this site. It is an appropriate location for B-2 zoning.
4. The rezoning will not adversely affect area roadways or traffic.
5. The rezoning will also not adversely affect nearby properties or property values.
6. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity, and welfare of the County.
7. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.

Motion by Mr. Mears, seconded by Mr. Collins and carried to recommend approval of C/Z 1998 Louis, Janet & William Melton, for the reasons stated in the motion. Motion carried 4-1.

Ms. Wingate stated nay, for the concerns she had in relation to the small road condition, and stated that she would rather see small businesses on Roxana Rd.

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

PUBLIC HEARINGS

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

C/U 2410 Nicasia Chaves Reves

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A GROCERY STORE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 0.23 ACRES MORE OR LESS. The property is lying on the north side of Garden Circle within the County Seat Gardens Subdivision. 911 Address: 58 Garden Circle, Georgetown. Tax Map Parcel: 135-9.00-122.00.

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the Applicant's Elevation Plan, a copy of the Conceptual Site Plan, a copy of a letter from Sussex County Engineering Department Utility Planning Division, a copy of the Staff Analysis and a copy of the DelDOT Service Level Evaluation Response. Mr. Whitehouse stated no comments were received for the application.

Mr. Whitehouse introduced Ms. Maria Pena who was present for language translation if required.

The Commission found Mr. Danny Perez spoke on behalf of the Applicant who was present in the audience. Mr. Perez stated that the Applicant had been operating a grocery store on this property for some time now and would like to continue to operate as usual; that all surrounding neighbors are in approval of the store operating; that the hours of operation are Monday through Friday 10:00 am – 7:00 pm, Saturday 10:00 am-8:00 pm and Sunday 10:00 am-5:00 pm; that there is sufficient parking available and would not interfere with the flow of street traffic; that the store is only approximately 900 sq. ft., and it is not too large for the area.

Ms. Wingate asked how many employees work at the shop, and if there were any HOA restrictions or any documents limiting the Applicants from running the store.

Mr. Perez stated that only the Applicants ran the store; that they live in the dwelling in front of it; that there is no HOA documentation that limits their ability to run the store, and they could obtain statements from the property owner if needed.

Mr. Collins questioned the hours in which deliveries were made.

Mr. Perez stated that all deliveries were made within the hours of operation of the store and for the most part the Applicants purchase most of their supplies themselves rather than having many deliveries to the store.

Ms. Wingate questioned the Commission if they needed to worry about the HOA of the development.

Mr. Roberston stated that when a conditional use is requested within a subdivision they normally request to know if there are any restrictive covenants so as to not ignore their requests, and to allow the Commission to make an informed decision, and for those reasons he suggests to hold the record open while they look into this and report back to the Commission.

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

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

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

In relation to C/U 2410 Nicasia Chaves Reyes. Motion by Ms. Wingate to defer action for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 5-0.

2022-27 Peck Farm Subdivision

A cluster subdivision to divide 64.0 acres +/- into one hundred and twenty-eight (128) single-family lots, to be located on a certain parcel of land lying and being in Lewes & Rehoboth Hundred, Sussex County. The property is lying on the south side of Martins Farm Road (S.C.R. 291), approximately 0.6 mile east of Harbeson Road (Rt. 5). 911 Address: 27458 Martins Farm Road, Milton. Tax Map Parcel: 334-9.00-4.00. Zoning District: AR-1 (Agricultural Residential).

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the Applicant's Preliminary Subdivision Plan, a copy of the color rendering, a copy of the Applicant's Exhibit Booklets which included the Applicants Chapter 99-9C Response, a copy of the DelDOT Area Wide Study Fee letter, a copy of the PLUS Response from the State and the Applicant's response to the PLUS comments, a copy of comments that been received from the Technical Advisory Committee, including the Department of Agriculture, the Division of Watershed Stewardship, the Division of Public Health and the County's Geographic Information Office. Mr. Whitehouse stated two written comments were received that day for the Application and the comments were placed into the Commission's paperless packet.

The Commission found that Mr. James Fuqua, Esq. with Fuqua, Willard, and Schab spoke on behalf of the Applicant, Ribera Development, LLC; that also present was Mr. Mark Davidson of Pennoni Associates. Mr. Fuqua stated that the Application was for one cluster subdivision of 128 single family homes and a recreational area to be located on the south side of Martins Farm Road; that Martins Farm Road is east of Rt. 5 and the property is just southeast of Harbeson; that the parcel is made up 64 acres and its mostly cleared agricultural land with the southwest corner of the property being primarily woodlands; that the surrounding area is a mixture of single family homes, farmland and woodlands; that the property is zoned AR-1 (Agricultural Residential) and is located in a low density area; that cluster subdivisions are permitted within this low density area as long as it has two lots per acre, public sewer is provided, public water is provided by a public utility company; that Tidewater and Artesian are working to decide who will provide water as they both cover this area, but central sewage is offered by Artesian; that they already have a stormwater management service already in the area and facilities would be constructed in accordance with DNREC's current sediment and stormwater regulations; that a soil study had been completed, a wetland study and the FEMA flood insurance rate had determined the whole site is within the Flood Zone X, which is located outside the 500 year floodplain; that the current site has 12.28 acres of forested area; that the plan is to keep 11.25 acres untouched; that DelDOT indicated that in accordance with its Development Coordination Manual, it would accept an Area Wide Study fee in place of a TIS (Traffic Impact Study); that DelDOT will require a dedication of right away along the site frontage on Martin's farm Rd. which would provide a 30 foot right away from center line and a 15 foot wide permanent easement along the sites right of way of frontage; that the Applicant will also be responsible for improvements to Martin's Farm Rd. along the site frontage to provide 11-foot wide travel lanes with five-foot shoulders as requested by DelDOT; that DelDOT requested that there will be an interconnection easement from the internal streets of the subdivision to Tax Map Parcel 20,

which is a parcel located South of the property; that each lot will vary in size within the subdivision from 7,500 sq. ft. to 11,188 sq. ft.; that the entrance will be from Martins Farm Rd. and designed and constructed in compliance with buildout requirements with large areas of open space on either side of the entrance road; that those areas contain some stormwater ponds and trees and landscaping will be planted along Martins Farm Rd. creating what we think would be an attractive street view for the development; that streets in the development will be private, built to Sussex County Engineering Department specifications with sidewalks on one side of the street at the entrance; that within the development itself there'll be sidewalks on both sides of all development streets that have lots on them, as well as shielded, non-intrusive street lighting; that there will be a centrally located recreational area which at a minimum, will consist of a clubhouse and outdoor swimming pool and deck; that there are also walking and hiking trails that loop around the clubhouse and runs from the cul-de-sac in the northwest corner to the outside of the subdivision and loops around and comes in near the cul-de-sac in the southeast corner; that it is proposed that the recreational center would be completed and open for use prior to the issuance of the 60th Certificate of Occupancy; that the design has a 20 foot wide landscaped or wooded buffer that would be comprised of the existing woods and the buffers along lands to the west; that the south and the east will have a 20 foot planted landscape buffer; that a school bus stop will be determined with the district once a decision has been made as to what school district the development will be; that the development will have a HOA, and will be within the Milton Fire Department service area.

Ms. Wingate questioned the DelDOT improvements, the requirement of a turning lane at the entrance of the development, if they will need to bring a lot of fill onto the site with large truck traffic, and if they proposed to place an emergency access road for the development.

Mr. Davidson stated that a right turn lane will be required for this development and the improvements along the frontage of the property will be 11-foot lanes; that they will have to widen to 11-foot lanes, put five-foot shoulders and clean up all drainage improvements as part of that requirement to expand the roadways in this section; that truck traffic will be at a minimum because the soil study that was done showed there would be little fill needed, and that there was ability to add an emergency access road is feasible as there is room in the front right corner of the development.

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

Mr. John Reimer, spoke in opposition to the Application regarding the use and placement of the water and septic systems for the development, if the neighboring properties would be forced to utilize that water system, the development of shoulders and ditches on Martins Farm Rd., and the decision of the school district before the development is built.

Mr. Davidson stated that the water will come down Martins Farm Rd. and run along the property line of the development and in; that it will head up Martins Farm Rd. to a property adjacent to this lot owned by Delmarva Power for their utility lines; that there is an easement that has been acquired by Artesian to be able to connect into the subdivision just to the north of Martins Farm Rd. on Fisher Rd.; that is the location the water would connect to from Artesian's connection point; that it will be a 10 inch water line going down the road; that for the sanitary sewer, there is a force main out on Rt. 5 and the proposal is to place a sanitary sewer pump station somewhere along northwest corner of the development and then a force main will go all the way down to Harbeson Road (Rt. 5) to be able to connect into their existing force main; that the lots across from the development will not have sewer or water lines running in front

of them; that with the shoulders the plan is to work within the existing right of way and to pull from within the developments property in order to do more improvements; that they will try not to disturb the properties across the road from the entrance and with the 50 ft. easement, plus a 15 ft. multimodal utility easement they will try to fit everything withing that; that DeIDOT will work with them for design deviations; that if the expansion of the road does not allow for the drainage ditch to fit they will pipe it and look to put in infrastructure so that it does not fall on other properties.

Mr. Charles Williams spoke in opposition to the Application regarding the amount of traffic the development would bring to Martins Farm Rd. and how the road is not able to handle it.

Ms. Mary Devine spoke in opposition to the Application regarding the road not being large enough to handle the increase in traffic and that the ditches along the road are not built for the current drainage nonetheless when the development is built.

Mr. Paul Houghton spoke in opposition to the Application regarding the road not being large enough and the current state of it is not able to handle more traffic.

Mr. Mike D'Amico spoke in opposition to the Application regarding the road not being able to handle more traffic and that if they are going to widen it, they need to do the entire road to handle the increased traffic.

Mr. Joseph Harris spoke in opposition to the Application regarding the fact that the development is too large for the road to handle the increased traffic.

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

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

In relation to 2022-27 Peck Farm Subdivision. Motion by Ms. Wingate to defer action for further consideration, seconded by Mr. Mears and carried unanimously. Motion carried 5-0.

C/U 2409 Bryan Stewart

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR A YEAR-ROUND FOOD VENDOR TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.12 ACRES MORE OR LESS. The property is lying on the north side of Coastal Highway (Route 1), approximately 0.15 mile east of Savannah Road (Route 9). 911 Address: 17581 Coastal Highway, Lewes. Tax Map Parcel: 334-6.00-2.00.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Conceptual sketch, a copy of the Confirmation of Lease of the property, a letter from Sussex County Engineering Department Utility Planning Division, and a copy of the Staff Analysis.

The Commission found that Mr. Bryan Stewart spoke on behalf of his Application. Mr. Stewart stated he represents the Crab Connect at 17580 Coastal Hwy, Lewes DE, and is requesting approval to remain open year-round; that the business provides a service of affordable crabs to not only families visiting the beach, but also locals and crab houses, and that his business is keeping 10 crabbers working in the Delaware Bay year-round.

Mr. Robertson stated that the reason for the Conditional Use rather than a food vendor sticker was that the Commission had established a process where applicants can avoid a zoning hearing and get approval through the Conditional Use.

The Commission found one person was present with neutral questions regarding the Application, and no one was present in support of or in opposition to the Application.

Mr. Bill Hines spoke on behalf of GPM Investments, in regard to the Application; that he stated the property management was informed of the hearing and were concerned that there was a building going to be put up.

Chairman Wheatley responded that this Application is just to ensure that his food truck is in compliance with the Code and that nothing else can be done to the property that is not already there without them returning and reapplying under a new application.

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

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

In relation to C/U 2409 Bryan Stewart. Motion by Mr. Collins to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 5-0.

C/Z 1999 Horacio Paxtor

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 1.11 ACRES, MORE OR LESS. The property is lying on the south side of Handy Road (S.C.R. 337), approximately 545 ft. northwest of DuPont Boulevard (Rt. 113). 911 Address: 26614 Handy Road, Millsboro. Tax Map Parcel: 233-5.00-132.00 (p/o).

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the Applicant's survey, a copy of the DelDOT SLER, a copy of the Staff Analysis, and a copy of a letter from the Sussex County Department of Utility Planning Division.

The Commission found that Mr. John Roach, of John B. Roach Engineering, spoke on behalf of the Applicant, Mr. Horacio Paxtor. Mr. Roach stated that the Applicant is requesting a partial rezoning of their property as it currently is a C-1 (General Commercial) and GR (General Residential); that the Applicant would like to change it to C-2 (Medium Commercial) in order to move their current business (Tri-State Manufactured Homes) onto this property and build approximately a 2,000 sq. ft. building; that they have met with PLUS and started that process; that it is private well and septic; that the Fire Marshall only had concerns about the parking which they are willing to change to accommodate the fire department.

The Commission found there was one person present in opposition to the Application.

Mr. Clarence Taylor spoke in opposition to the Application. Mr. Taylor spoke with concern about the current conditions of Handy Road and the potential impact of traffic for the commercial use.

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

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

Mr. Robertson read Ms. Wingate's prepared motion per Ms. Wingate's request.

Ms. Wingate moved that the Commission recommend approval of C/Z1999 Horacio Paxtor for a change in zone from GR General Residential to C-2 Medium Commercial based on the record made during the public hearing and for the following reasons:

1. The property currently has a split zoning with the property's frontage already zoned C-1. The back of the property is zoned GR, which is the subject of this application. This application brings the entire property under commercial zoning.
2. Since the C-1 District is a closed zoning district, it is not possible to rezone this property to be entirely C-1. C-2 zoning is the most consistent zoning.
3. The properties on either side are also partially zoned C-1. This property is also zoned CR-1 to the rear. C-2 zoning is consistent with the surrounding property.
4. This rezoning eliminates split zoning, which creates issues with different setbacks and use requirements. Bringing the property under one zoning classification is beneficial to both the property owner and Sussex County's administration of the property.
5. Any future development of this portion of the property will require a site plan approval from the Sussex County Planning & Zoning Commission.
6. For all of these reasons, the change in zone from GR to C-2 is appropriate in these circumstances.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to recommend approval of C/Z 1999 Horacio Paxtor for the reasons stated in the motion. Motion carried 5-0.

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

C/Z 2000 Budget Holdings, LLC

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND C-1 GENERAL COMMERCIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 6.57 ACRES, MORE OR LESS. The properties are lying on the east side of Sussex Highway (Rt. 13), approximately 0.38 mile south of Beach Highway (Route 16). 911 Address: 12847 Sussex Highway, Greenwood & N/A. Tax Map Parcel: 530-10.00-58.08 & 58.09.

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the Applicant's Conceptual Site Plan, a copy of the Applicant's Exhibit Booklets, a copy of the Applicant's findings of facts, a copy of the Staff Analysis, and a copy of the DelDOT Service Level Evaluation Response. Mr. Whitehouse stated there were no comments submitted for the application.

The Commission found that Mr. Edwin Tennefoss with Site Works Engineering spoke on behalf of the Applicant and Owner, Budget Holdings, LLC. Mr. Tennefoss stated that they are requesting a change

of zone from a C-1 (General Commercial) and AR-1 (Agricultural Residential) to C-2 (Medium Commercial); that currently the Applicant has an existing mini storage on one parcel and they would like to expand the business to the other, however, they are not zoned to allow for it; that currently there is a stormwater pond in front of the parcel and a service road that runs through the two parcels; that DelDOT did their study and it came back as a low traffic use; that they are looking to expand by adding 14, 30'x80' units and six, 15'x160' units, fencing off the area around the units and paving within that area; that by changing to a C-2 zoning will allow for the parcels to remain consistent and will allow for the storage facility to be there.

The Commission found that no one was present in support of or in opposition to the Application.

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

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

Mr. Robertson read Mr. Butler's motion per Mr. Butler's request.

Mr. Butler moved that the Commission recommend approval of C/Z 2000 Budget Holdings, LLC for a change in zone from AR-1 Agricultural Residential and C-1 General Commercial to C-2 Medium Commercial based on the record made during the public hearing and for the following reasons:

1. The property currently has a split zone of AR-1 and C-1. This rezoning of the entire property to C-2 will bring the entire property under one uniform zoning classification.
2. The C-2 zoning classification will allow the applicant to expand its existing storage facility within this property.
3. The properties on either side are also partially zoned C-1. This property is also zoned CR-1 to the rear. C-2 zoning is consistent with the surrounding property.
4. This rezoning eliminates split zoning, which creates issues with different setbacks and use requirements. Bringing the property under one zoning classification is beneficial to both the property owner and Sussex County's administration of the property.
5. There are other commercial uses and zonings in this area. This rezoning to C-2 is consistent with the surrounding zonings and use.
6. Any future development of this portion of the property will require a site plan approval from the Sussex County Planning & Zoning Commission.
7. For all of these reasons, the change in zone from GR to C-2 is appropriate in these circumstances.

Motion by Mr. Butler, seconded by Mr. Collins and carried unanimously to recommend approval of C/Z 2000 Budget Holdings, LLC for the reasons stated in the motion. Motion carried 5-0.

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

Meeting adjourned at 5:30 p.m.

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

Good Afternoon,
Jill Hicks, Chapel Green, Lewes

On January 27, 2022, I, and others, testified in opposition to Coral Lakes, now known as Brentwood. The Planning & Zoning Commission originally denied Coral Lakes, but as you know, we lost our case in subsequent appeals.

Our testimony during the public hearing included a well-researched and valid concern for surface water flooding and groundwater upwelling if the 110 acres of forest were clearcut. It's been a year now since the forest has been removed.

The worst-case scenario has been realized. We all know that recent storms have put the County under water, but this picture and the next are from December 11th, well before the most recent rain events. Only one inch of rain fell on December 11th.

[SLIDE] In this photo I've circled the area where the silt fence continually fails to hold the water back and you can see it flooding onto our properties. From December 11th through January 18th, five weeks, our sump pump in our crawl space cycled every 30 seconds day and night. Why? Because the trees—loblollies and oaks—used to absorb 50-150 gallons of water per tree per day. Never has our sump pump run like this before.

During the Public Hearing, you assured us that the developer cannot legally send water onto our properties.

Sussex Conservation District Inspector, John Barwick, has been to our property no less than two times and confirmed that water from Coral Lakes / Brentwood is running onto our property and needs to be corrected. The developer was cited, and they added straw as their means of remediation. **[SLIDE]** and yet the problem persists. It has become intolerable. Not only does it make our backyards inaccessible by children and pets, but this also creates a high level of anxiety.

[SLIDE] This is in the hands of SCD now. They report that the developer must install perimeter drains now, rather than wait until construction reaches us in Phase 6. And there is no guarantee that drains will work because they will not solve the upwelling.

So, why am I sharing this with you? To let you know that you got it right the first time when you denied this. To reaffirm that when you reach a decision you know is right, please see it through. When you vacate your decisions, you are not avoiding a lawsuit, which despite what you were told, you cannot be held personally libel when serving as an officer of the County. So, when you reverse a decision like this one, you are passing the financial burden and damages onto residents, and no one should be made to live with this.

We are now asking that P&Z and SCD withhold all building permits for Brentwood until this violation of the law is remediated. Please. Thank you.

Jill Hicks
37 Aintree Drive
Chapel Green
Lewes
610-368-0236