

## THE MINUTES OF THE REGULAR MEETING OF MARCH 28, 2019

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, March 28, 2019, in the County Council Chamber, Sussex County Administration Office Building, Georgetown, Delaware.

The meeting was called to order at 6:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Ms. Kim Hoey-Stevenson, Mr. Keller Hopkins, Ms. Holly Wingate, Mr. Bruce Mears, with Mr. Vincent Robertson – Assistant County Attorney, Ms. Janelle Cornwell – Director of Planning & Zoning, Mr. Jamie Whitehouse – Planning & Zoning Manager - Absent, and Ms. Jennifer Norwood – Planner I.

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

Motion by Ms. Stevenson, seconded by Ms. Wingate, and carried unanimously to approve the Minutes of the February 28, 2019 Planning and Zoning Commission meeting as submitted. Motion carried 5-0.

### OLD BUSINESS

Ms. Wingate stated she has listened to all of the audio, reviewed all the paperwork, and is prepared to vote.

#### **2018-31 Stagg Run – J & J Rocketship, LLC**

A cluster subdivision to divide 26.00 acres +/- into 26 single family lots to be located on a certain parcel of land lying and being in Georgetown Hundred, Sussex County. The property is lying on the south side of Wilson Road, approximately 450 feet southwest of Savannah Road. Tax Parcel: 135-10.00-5.00. Zoning District. AR-1 (Agricultural Residential District).

The Planning Commission discussed the application which has been deferred since March 14, 2019.

Ms. Stevenson moved that the Commission grant Preliminary Approval for Subdivision 2018-31 for Stagg Run – J & J Rocketship, LLC based upon the record made during the public hearing and for the following reasons:

1. This application seeks the approval of 26 single family lots on 26 acres within the AR-1 Zoning District. The proposed density of 1 unit per acre is well below the maximum density permitted in the AR-1 Zone.
2. The proposed subdivision meets the purpose and standards of the Subdivision Code, and the Applicant has addressed the requirements of Section 99-9C of the Code.
3. The proposed development will not have an adverse impact on the neighboring properties or roadways.
4. By utilizing the cluster development option, the project will have 9.6 acres, or approximately 37% of the property, retained as open space.

5. The items set forth in Section 99-9C of the Subdivision Code have been favorably addressed by the Applicant.
6. This is a superior design based upon the low density and the preservation of open space.
7. This preliminary approval is subject to the following conditions:
  - A. The maximum number of residential lots shall be 26.
  - B. All entrances, intersection, roadway, and multi-modal improvements shall be completed by the developer in accordance with all DelDOT requirements.
  - C. The project shall be served by individual wells and septic systems.
  - D. Interior street design shall meet or exceed the Sussex County street design requirements.
  - E. There shall be a 30-foot forested buffer installed along the westerly boundary where the adjacent lands are in agricultural use. The plantings shall follow the requirements of Section 99-5 of the Subdivision Code.
  - F. There shall be a 20-foot wide forested or landscaped buffer installed around the remaining perimeter of the site, with the exception of the areas where there are wetlands and the area adjacent to the easterly terminus of Antler Way.
  - G. The applicant shall submit as part of the Final Site Plan a landscape plan showing the proposed tree and shrub landscape design, including any buffer areas.
  - H. Construction and deliveries to the property shall only occur between 7:00 am and 6:00 pm, Monday through Saturday. There shall not be any construction or deliveries on Sundays.
  - I. No lots shall contain any wetlands.
  - J. Street naming and addressing shall be subject to the review and approval of the County Mapping and Addressing Departments.
  - K. The applicant shall form a homeowners' association responsible for the perpetual maintenance, repair, and replacement of the road, any buffers and landscaping, stormwater management facilities, erosion and sediment control facilities, and other common elements.
  - L. The lots shall be served by on-site septic systems that will be regulated by the Department of Natural Resources and Environmental Control.
  - M. The stormwater management system shall meet or exceed the requirements of the State and County. It shall be constructed and maintained using Best Management Practices.
  - N. The Final Site Plan shall contain the approval of the Sussex Conservation District for design and location of all stormwater management areas and erosion and sedimentation control facilities.
  - O. The applicant shall coordinate with the local school district to establish a school bus stop area, which shall be shown on the Final Site Plan if required by the District.
  - P. The Agricultural Use Protection Notice shall be included in the Restrictive Covenants and on the Final Site Plan.
  - Q. The area between Antler Way and Savannah Road shall be improved so that it can be used for emergency access to and from the development. This emergency access shall be shown on the Final Site Plan and it shall be noted on the site itself.
  - R. A revised Preliminary Site Plan either depicting or noting these conditions must be submitted to the Office of Planning and Zoning.

- S. The Final Site Plan shall be submitted to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously to grant Preliminary Approval for the reasons and with conditions stated in the motion. Motion carried 5-0.

**C/Z 1874 Leanna and Hung Nguyen**

**An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to an MR Medium-Density Residential District for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 1.2 acres, more or less.** The property is lying on the northeast corner of Old Landing Road and Marina Drive. 911 Address: N/A Tax Parcel: 334-19.00-1.06.

The Planning Commission discussed the application which has been deferred since March 14, 2019.

The Commission held a discussion regarding the Change of Zone and the change of use; that Ms. Stevenson stated the Applicants are wanting to build a home for their family so as the children grow, and the children can stay where they are; that is it necessary to change the zoning; that why can't they build a big dwelling and into apartments as one child grows of age; that Ms. Cornwell stated the issue with one big dwelling, is that the dwelling can only have one cooking facility in the dwelling; that per the Zoning Code, if you have more than one cooking facility it is considered a multi-family dwelling; that Ordinance only permits on kitchen per dwelling; Mr. Robertson stated it is not the number of family members living in the dwelling; that it is the concerns with culinary; that Ms. Cornwell stated if the Conditional Use is not substantially underway within three years, the use does expire; that Mr. Robertson stated the surrounding Zoning is MR; that if the Applicant requested for a single-family dwelling, they probably would not have Sussex Conservation District oversight; that the conditions that are part of the Conditional Use would it affect the adjoining neighbors; that Ms. Stevenson has concerns with the drainage; that she does not have any concerns about the style of dwelling that would be built; that the way the application was presented for a family home and all the process the Applicant had to go through and put in a parking lot with handicap parking spaces.

Ms. Stevenson moved that the Commission recommend approval of Change of Zone 1874 for Leanna and Hung Nguyen for a change in zone from AR-1 to MR Medium Density Residential based upon the record made during the public hearing and for the following reasons:

1. The site is along Old Landing Road, which has developed with a variety of housing types, including single-family homes, MR-RPC's, multi-family dwellings and manufactured home communities. MR Zoning is consistent with the development trends of this area.
2. The property to the north and east of this property was recently approved for MR Zoning. This application is a reasonable extension of that existing MR Zoning.
3. The site is in the Environmentally Sensitive Developing Area according to the current Sussex County Comprehensive Plan, which is a Growth Area. MR Zoning is appropriate in this area according to the Plan.

4. The site is served by central sewer provided by Sussex County.
5. This site is served by central water provided by a publicly regulated water system.
6. The Sussex County Zoning Code states that the purpose of MR Zoning is to provide Medium Density Residential development in areas which are, or expect to become, generally urban in character and where central water and sewer are available. Here, the property is one of the last vacant parcels in this area of Old Landing Road, and it is surrounded by MR Zoning on two sides and on the other side by manufactured home communities. It is basically an infill rezoning to MR. This location is appropriate for MR Zoning according to the stated purpose of the District.
7. The change in zone will not adversely affect neighboring properties or roadways.
8. For all of these reasons, my recommendation is to approve the application for a change in zone from AR-1 to MR.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to forward this application to the Sussex County Council with a recommendation that the application be approved for the reasons and with condition stated in the motion. Motion 5-0.

#### **C/U 2164 Leanna and Hung Nguyen**

**An Ordinance to grant a Conditional Use of land in an MR Medium-Density Residential District for multi-family to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 1.2 acres, more or less.** The property is lying on the northeast corner of Old Landing Road and Marina Drive. 911 Address: N/A Tax Parcel: 334-19.00-1.06.

The Planning Commission discussed the application which has been deferred since March 14, 2019.

Ms. Stevenson moved that Commission recommend approval of Conditional Use 2164 for Leanna and Hung Nguyen for multi-family dwellings in an MR (Medium Density Residential District) based upon the record made at the public hearing and for the following reasons:

1. This application seeks the approval of 5 multi-family units on approximately 1.20 acres.
2. The proposed density is approximately 3.85 units per acre. This density is appropriate within the MR Zone, which permits up to 4 units per acre.
3. The property is in an area where other residential development has occurred, including the adjacent Warrington property, which is a density of approximately 3.93 units per acre. The area also includes the Sawgrass MR/RPC with 282 units and other single family and multi-family developments. It is also next to two manufactured home communities. One has 474 units and a density of 3.2 units per acre and the other is 144 units with a total density of 9.87 units per acre. This project is basically an infill development and it is consistent with these nearby uses.
4. The site is in the Environmentally Sensitive Developing 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.

5. The proposed development will not have an adverse impact on the neighboring properties or roadways.
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 5.
  - B. All entrance, intersection, roadway, and multi-modal improvements shall be completed by the developer in accordance with all DelDOT requirements.
  - C. 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.
  - D. The project shall be served by central water to provide drinking water and fire protection.
  - E. The Applicants have proposed a 20-foot wide vegetated buffer in accordance with Section 115-218 of the Zoning Code. There shall be a vegetated or forested buffer of at least 20-feet in width around the entire perimeter of the project, with the exception of entrances area to the project.
  - F. 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.
  - G. Construction and site work on the property, including deliveries of materials to or from the property, shall only occur between 7:00 am and 5:00 pm, Monday through Friday, and between 8:00 am and 2:00 pm on Saturdays. There shall be no construction activities at the site on Sundays.
  - H. Street naming and addressing shall be subject to the review and approval of the County Mapping and Addressing Departments.
  - I. The Applicants have proposed a unique design of the proposed building that includes substantial changes to the current grade of the property. These grade changes will have a significant impact on runoff and stormwater management on the property. The stormwater management system shall be carefully designed in cooperation with the Sussex Conservation District to meet or exceed the requirements of the State and County and shall not permit runoff from this property onto neighboring properties. It shall be constructed and maintained using Best Management Practices.
  - J. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
  - K. This project shall not become a dormitory, boarding house or similar type of use and must comply at all times with the occupancy requirements for multi-family dwellings set forth in the Zoning Code.
  - L. All streetlights shall be downward screened so that they do not shine on neighboring properties or roadways.
  - M. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to forward this

application to the Sussex County Council with a recommendation that the application be approved for the reasons and conditions stated in the motion. Motion carried 5-0.

**C/U 2165 Vanderwende Acres, LLC**

**An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for an event venue to be located on a certain parcel of land lying and being in Seaford Hundred, Sussex County, containing 8.99 acres, more or less.** The property is lying on the southwest corner of Briarhook Road and Atlanta Road also being the northwest corner of Atlanta Road and Owls Nest Road 911 Address: 22304 Atlanta Road, Seaford. Tax Parcel: 531-6.00-72.00 (portion of).

The Planning Commission discussed the application which has been deferred since March 14, 2019.

Mr. Hopkins moved that Commission recommend approval of Conditional Use 2165 for Vanderwende Acres, LLC for an event venue based upon the record made at the public hearing and for the following reasons:

1. The site is an 8.99-acre parcel of land owned by the applicant. It is surrounded by farmland owned by the family that owns the LLC that is the applicant here. This use will occur within a renovated barn and the surrounding area, including pavilions.
2. The use is an extension of the historical agricultural use of this property and it is consistent with the surrounding farmland.
3. The applicant intends to hold events that include weddings, birthday parties, and similar events.
4. The site will have 40 parking spaces, plus plenty of room for overflow 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. This use promotes agricultural activities in Sussex County and is an innovative agritourism destination.
7. No parties appeared in opposition to this application.
8. This recommendation is subject to the following conditions:
  - A. Food and beverage service and music or similar entertainment is permitted.
  - B. All parking areas shall be generally 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. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Hopkins, seconded by Mr. Mears and carried unanimously to forward this application to the Sussex County Council with a recommendation that the application be approved for the reasons and conditions stated in the motion. Motion carried 5-0.

**C/U 2172 Iris Downing**

**An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for a transitional home to be located on a certain parcel of land lying and being in Cedar**

**Creek Hundred, Sussex County, containing 0.3028 acres, more or less.** The property is lying on the south side of Wild Cherry Street, approximately 141 feet west of South Old State Road. 911 Address: 18366 Wild Cherry Street, Ellendale. Tax Parcel: 230-26.20-18.00.

The Planning Commission discussed the application which has been deferred since March 14, 2019.

The Commission held a discussion regarding the Conditional Use; that Mr. Hopkins stated he had concerns with the term of duration the residents can stay; that should there be a limit on the duration of stay and if so, what should the limit be; that Mr. Robertson stated he had talked with the Sussex County Community Division because they interact with transitional housing and homelessness issues; that some of the conditions in the motion reflect the issues; that this be a transitional home and not permanent resident for anyone; that range of housing could be three to six months and up to 12 to 18 months; that the Applicant has partnered with a local organization that is familiar with homelessness and to assist in the qualification, referral, and placement of residents in the home; that this is needed in Sussex County; that there were concerns about signage; that if this is a referral program and there is a waiting list; and that the signage may impact the people also in need of it and has gone through the qualification process.

Mr. Hopkins moved that Commission recommend approval of Conditional Use 2072 for Iris Downing for a transitional home based upon the record made at the public hearing and for the following reasons:

1. The Applicant is proposing a transitional housing facility to provide housing, food, transportation, employment, and counseling assistance to homeless residents of Sussex County. The housing will be on a temporary or a transitional basis until the residents can find more permanent housing.
2. The use is of a public or semi-public character in that it provides a service to homeless residents of Sussex County. This is an important service, and there is a great need for it in Sussex County.
3. The application is for a site that has been approved for a daycare center. This use will be no more intensive than the prior use.
4. There was no evidence that the use will adversely affect neighboring properties.
5. The site will have little or no impact upon traffic or area roadways.
6. No parties appeared in opposition to this application.
7. The use will be served by central sewer provided by Sussex County.
8. This recommendation is subject to the following conditions:
  - A. Transitional housing shall be available on this site to no more than 12 individuals, plus the staff required to operate the facility.
  - B. As proposed by the Applicants, the housing will be on a temporary or transitional basis and it shall not become a long-term boarding house. No residents shall remain in the home for more than 18 months, except for support staff.
  - C. The use shall maintain its residential appearance.

- D. The facility shall be staffed on a 24-hour, 7 day per week basis to control compliance with the occupancy limitations and to ensure that it is operated in a clean and organized manner at all times.
- E. The use shall comply with all Sussex County parking requirements.
- F. The site shall comply with any requirements of the Sussex Conservation District.
- G. No signage shall be permitted.
- H. As stated by the Applicant, staff at the home shall partner with a local organization familiar with homeless to assist in the qualification, referral, and placement of residents to the home.
- I. The operator of the home shall comply with all Federal, State, and local laws governing the operation of the home.
- J. The site shall comply with all requirements of the Delaware Department of Transportation.
- K. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Hopkins, seconded by Ms. Stevenson and carried unanimously to forward this application to the Sussex County Council with a recommendation that the application be approved for the reasons and stipulation stated in the motion. Motion carried 5-0.

#### PUBLIC HEARINGS

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

#### **2019-6 Zinszer Property – Estuary Development, LLC**

A cluster/ESDDOZ subdivision to divide 26.87 acres +/- into 34 single family lots to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County. The property is lying on at the end of Sea Spray Lane in the Estuary Subdivision off of Camp Barnes Road. Tax Parcel: 134-19.00-105.00 (portion of). Zoning District. AR-1 (Agricultural Residential District).

Ms. Wingate recused herself for this application and did not participate in the public hearing.

Ms. Cornwell advised the Commission that submitted into the record were an exhibit booklet, comments from Technical Advisory Committee (“TAC”), Subdivision Plan, comments from the Sussex Conservation District, Sussex County Department of Engineering Utility Planning Division.

The Commission found Mr. Tim Willard, an Attorney with Fuqua, Willard, Stevens, & Schab, Mr. John Galgiani, owner, Mr. Ed Launey, with Environmental Resources, and Mr. Steve Marsh, with George, Miles, and Buhr were present on behalf of the application. Mr. Willard provided an overview of the items/tabs within the exhibit booklet; that the developer still owns over 51% of the development; that there are 631 approved lots as part of the Estuary only and there are 415 lots



that are currently recorded; that there are wetlands on the site and a delineation has been undertaken; that a 15-foot buffer would be provided from the wetlands; that the property is Zoned AR-1; that the proposed application is for an AR-1 cluster subdivision; that the proposed application is for 34 single-family lots; that the density would be 1.27 units per acre; that the average lot size would be 9,600 square feet; that the minimum lot size is 7,500 square feet; that this project would connect to the Estuary; that the density of the Estuary development as it currently exists is 1.47 units per acre right now and that the overall density will therefore be reduced if the application is allowed and implemented; that there is 61% of open space provided which is 16.4 acres; that the road connects through phase 1D of the Estuary development; that there would be 100-feet of road frontage along Sea Spray; that Breasure Branch Tax Ditch would have a culvert and constructed with the required requirements; that sidewalks would be provided on both sides of the streets; that interconnectivity is difficult to provide and the lots to the north of the site are already gone; that interconnectivity is possible close to the branch and the applicant does not want to have to go through the branch and the open space; that there is consideration of allowing a construction entrance to Camp Barnes Road; that there would be no development in the wetlands; that they had received a report delineating the wetlands from the Army Corporation of Engineers; that there would be a 50-foot buffer from the non-tidal perennial stream; that there would be 30-foot buffer around the entire property; that the proposed subdivision would become part of the Estuary Home Owner's Association; that stormwater management would be constructed to Sussex Conservation District's requirements; that central water would be provided by Tidewater Utilities; that central sewer would be provided by Sussex County; that electricity would be provided by Delaware Electric Cooperative; that the amenities are already existing and are substantial; that a multi-modal path and crosswalk are going to be added along Camp Barnes Road; that the amenities have been upgraded with two pickle ball courts, two tennis courts, golf putting green, two bocce ball court, dog park area, and extra equipment has been added to the gym; that the clubhouse would be 9,200 square feet; that the bath house is 50 square feet; that there would be a pavilion of 1,500 square feet; that there would be a pool deck of 21,000 +/- square feet; that the pool is 5,700 square feet and splash pad is 1,000 square feet; that the developer has committed \$100,000 of additional improvements to the clubhouse, pool, outdoor chairs and expanded mail kiosk etc.; that there was a study undertaken for the site and letter was submitted stating there are no known endangered species on the site; that the proposed project is located in the Indian River School District and a school bus stop would be provided at the front entrance of the subdivision; that Mr. Galgiani stated he affirmed the testimony; that the community is all single-family homes and no town homes; that the applicant has met with the owners; that the proposed additions are consistent with the existing development and what existing residents had bought into; that Mr. Marsh stated there would be a 50-foot buffer from Breasure Branch (perennial stream) and 15-foot is voluntary from all non-tidal wetlands; that Mr. Willard stated there a 30-foot buffer from the wooded property in the back; that Mr. Marsh stated there is no tax ditch in the Right-of-Way on the Zinszer side of the ditch; that there is a tax ditch Right-of-Way on the Estuary side; that there is a 40-foot to 50-foot Right-of-Way for the tax ditch on side only; that there would be a 50-foot buffer on the side with the perennial stream; that the lots near the 'antlers' of the layout are already built out; that there would be two separate means of access for emergency vehicles; and that Mr. Laney stated it can take to 18 to 24 months and sometimes a few more months before receiving a letter from Army Corporation of Engineers.

That the Commission found that no one spoke in favor or in opposition to the application.

At the conclusion of the public hearings, the Commission discussed this application.

Motion by Mr. Mears, seconded by Ms. Stevenson and carried unanimously to defer action for further consideration. Motion carried 5-0.

**C/U 2163 William H. McQueen, Jr.**

**An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for an event venue to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 1.6408 acres, more or less.** The property is lying on the north side of Broadkill Road (Route 16), approximately 670 feet west of Reynolds Road. 911 Address: 26285 Broadkill Road, Milton. Tax Parcel: 235-15.00-4.01.

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis comments from the Sussex Conservation District, results from the DelDOT Service Level Evaluation response indicating that a Traffic Impact Study (“TIS”) was not required, site plan.

The Commission found that Mr. William McQueen was present on behalf of his application; that Mr. McQueen stated the proposed application is to be able to provide weddings and have the property Zoned AR-1 with a Conditional Use; that the property has a Special Use Exception to operate a bed-and-breakfast; that the Applicant is proposing a maximum of 100 people at the events; that the proposed parking would be across the road from the site; that the owners of the adjacent property has an agreement with Mr. McQueen to use the property for additional parking; that a letter was submitted into the record, stating the applicant has the necessary approval to be able to use the adjacent property for parking; that there is limited parking on the site; that the site currently has 12 parking spaces on the property and that these 12 spaces can be used as handicapped parking; that the proposed use is for an outdoor venue and they would use a tent; that the tent would not be up all year around; that the Applicant is proposing to have 10 events per year (5 in spring and 5 in fall); that the Applicant has spoken with the adjacent farmer about parking and he is willing to speak with the adjoining landowner again; that porta-potties would be provided for the events; that the events would be no later than 10:00 pm; that the events could be held any day of the week; that the Applicant is looking to build a fence on the right side of the property near Reynolds Road to help control with noise; that there is currently a sign on the premises for the bed-and-breakfast; that they would like to provide advanced off-site directional signage or even bus customers in from parking on a nearby parcel; that there would be people to direct the traffic and would provide signage on the site to address the parking; and that there is a site near this parcel that has a parking lot and they could bus the guests in from off-site.

That the Commission found that no one spoke in favor or in opposition to the application.

At the conclusion of the public hearings, the Commission discussed this application.

The Commission held a discussion regarding Conditional Use 2163; that Mr. Hopkins had concerns with the traffic; that Mr. Wheatley had concerns with parking and people having to cross the road; that the proposed application does not cover the adjacent property; that the two properties need to be combine and then reapply; and that Mr. Robertson recommended for the applicant to apply for a special event permit.

Motion by Mr. Hopkins, seconded by Ms. Stevenson and carried unanimously to defer action for further consideration. Motion carried 5-0.

**C/U 2166 Deborah A. Townsend**

**An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for a professional office and business services and residence to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 1.58 acres, more or less.** The property is lying on the north side of Burbage Road, approximately 347 feet west of Roxana Road. 911 Address: 34745 Burbage Road, Frankford. Tax Parcel: 134-11.00-226.01.

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, comments from the Sussex County Engineering Department of Utility Planning Division, Sussex Conservation District, a Site Plan, and results from the DelDOT Service Level Evaluation response indicating that a Traffic Impact Study (“TIS”) was not required.

The Commission found that Mr. Thomas Carney, an Attorney with Baird, Mandalas, and Brockstedt and Ms. Deborah Townsend were present on behalf of the application; that Mr. Carney stated the proposed application is to rent share office space and to provide professional support service to her clients; that the services would be a virtual use for and in-person office space up to three clients; that this proposed Conditional Use would not change the exterior of the structure nor the interior of the structure; that the proposed use is to allow shared office space; that the property is located between residences and commercial uses; that there is a self-storage facility adjoining this parcel; that the proposed use is in character with the adjoining properties; that there would only be three clients at the property at any one time; that the hours of operation are between the hours of 9:00 am to 5:00 pm, Monday through Friday; that the proposed use would not impact noise or traffic; that there would be no additional lighting; that the Applicant would comply with the parking requirements set forth in the Code; that it does provide one space per 200 square feet of the structure; that it would only 1,000 square feet of the structure that would be used for the on-site business services; that the parking would be in the rear of the structure and would provide 15 to 20 parking spaces; that the parcel has on-site well and septic and there would be no increase or impact; that Ms. Townsend stated the land was all family land; that since the storage units have gone up, the noise has increase and it is not a residential area; that there is a lot of lighting in the area; that Mr. Carney stated there would only be one employee; that Ms. Townsend stated she currently has a feather flag and would like to place a small sign on the structure; that the use is mostly for virtual businesses; that there may be another person on-site once in a while; that there is parking available on the adjacent parcel; and that parking area is not in the way of the septic system.

That the Commission found that no one spoke in favor or in opposition to the application.

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

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to defer action for further consideration. Motion carried 5-0.

**C/Z 1868 Ronald Nanney**

**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 a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 0.5588 acre, more or less.** The property is lying on the west side of Harbeson Road, approximately 0.21 mile north of Lewes-Georgetown Highway (Route 9). 911 Address: 18490 Harbeson Road, Milton. Tax Parcel: 235-30.00-10.02.

Ms. Cornwell advised the Commission that submitted into the record is a survey, staff analysis, comments from the Sussex Conservation District, Site Plan, the results from DelDOT Service Level Evaluation request confirming that a Traffic Impact Study (“TIS”) was not required.

The Commission found that Mr. Ronald Nanney was present on behalf of his application; that Mr. Nanney stated he would like to have the ability to lease the parcel and start a business; that the adjacent parcel is zoned commercial; that he would like to move here and use the site as a business; that commercial uses are in the area; that he may look into selling or leasing part of the site or all of the site; that the property is on its own well and septic system; that he is hoping to lease the property for office space or retail space; that he is not interested in having homes on the property; that he wants to gain income for the family; that he owns the C-1 Zoning adjacent to this site; that his father wanted to work on boats on the C-1 parcel; and that he wants the ability to extend the commercial area.

The Commission found that no one spoke in favor of or in opposition to the application.

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

The Commission held a discussion regarding Change of Zone 1868. Mr. Wheatley pointed out that, in relation to the speculative nature of the zoning request, there is uncertainty as to what use would ultimately be provided in this location; that the site is adjacent to an existing commercially zoned parcel. Ms. Cornwell pointed out that C-2 zoning does allow for retail and office uses, and that the C-2 zoning district is more restrictive than the other commercial zoning districts.

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

**C/Z 1869 WMF Watercraft and Marine**

**An Ordinance to amend the Comprehensive Zoning Map of Sussex County from a GR General Residential District to a C-3 Heavy Commercial District for a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 1.194 acres, more or less.**

The property is lying on the southwest side of Oak Orchard Road, approximately 551 feet north of River Road. 911 Address: 32676 Oak Orchard Road, Millsboro. Tax Parcel: 234-34.08-45.00.

Ms. Cornwell advised the Commission that submitted into the record were an exhibit booklet, staff analysis, comments from the Sussex Conservation District, the results from DelDOT Service Level Evaluation request confirming that a Traffic Impact Study (“TIS”) was not required and comments from the Sussex County Engineering Department of Utility Planning Division.

The Commission found that Mr. Tim Willard, an Attorney with Fuqua, Willard, Stevens, & Schab, Bill Forenski, the applicant and Ring Lardner, with Davis, Bowen, & Friedel were present on behalf of the application: that Mr. Willard stated this is an application to the change the zone from GR to C-3; that the Applicant sells pontoon boats from an existing parcel on Rt. 24 and wishes to expand his business; that the parcel is approximately 1.19 acres; that the property is near the bay; that the site is currently being used as service and boat storage area; that the Applicant is planning to keep the same use; that Commercial Zone helps with financing; that to the north of the parcel is a fire company; that to the south of the parcel is a manufactured home park; that Conditional Use 395 approved for the use of boat sales, service, and storage; that this is a good location for this use; that a Traffic Impact Study (TIS) was not required from DelDOT; that sewer is available; that central water is provided by Tidewater Utility; that Mr. Forenski stated affirmed the testimony; and that the use would stay the same.

The Commission found that no one wished to speak in favor of or in opposition to the application.

At the conclusion of the public hearing, the Commission discussed this application

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to defer consideration for further action. Motion carried 5-0.

**Ord 19-3 (Determination of Uses Ordinance)**

**AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES III AND XXVII, SECTIONS 115-15 AND 115-210 REGARDING A DETERMINATION BY THE SUSSEX COUNTY PLANNING & ZONING COMMISSION AS TO PERMITTED USES.**

Mr. Robertson explained that, in relation permitted uses, if someone would like to provide a specific use, it may not be completely covered in the terminology listed for that Zoning District within the Zoning Code; that the Planning and Zoning staff can say if that use is intended by the words used in the Code; that if a question raises it would often go to the Board of Adjustment for clarification; that if a question is in the L-1 or L-2 Zone, it would come before the Planning and Zoning Commission; that this is impractical because the Planning and Zoning Commission and County Council are the ones that handle land uses and rezoning applications; that the question is if someone applies for a use that is not listed, it would go to Ms. Cornwell and often the question would go to Mr. Robertson; that there often times the questions about permitted uses have put on the Planning and Zoning Commission agenda for clarification; and that the questions of permitted uses would get the clarification from the Planning and Zoning Commission under this Ordinance and not have to go to the Board of Adjustments. Mr. Robertson explained that the Ordinance seeks

to codify the current practice of staff in bringing such questions to the Commission.

The Commission found that no one spoke in favor of or in opposition to the application.

At the conclusion of the public hearings, the Commission discussed this application.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to unanimously forward this application to the Sussex County Council with a recommendation that the Ordinance be approved for the reasons stated in the motion. Motion carried 5-0.

**Ord 19-4 (Assisted Living Ordinance)**

**AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES IV, V, VI, VIII, IX, X, XI, XIA, AND XII, SECTIONS 115-22, 115-23, 115-31, 115-32, 115-39, 115-40, 115-55, 115-56, 115-63, 115-64, 115-71, 115-72, 115-77, 115-80, 115-83.2, 115-83.6, 115-87 AND 115-88 (Assisted Living Ordinance).**

Mr. Robertson stated that this Ordinance is called Assisted Living Ordinance but it is also be Assisted Living Facilities or similar uses; that the old part of the Zoning Code does not have a clear definition for assisted living; that the Code states for convalescent homes, nursing homes, or homes for the aged but no of the terms defined for Assisted Living; that in the past there has been uncertainty and lack of uniformity because of the terms that are used; that should it go to the Board of Adjustment or if it should go through the Planning and Zoning Commission and County Council; that there had been times when the Planning and Zoning Commission and County Council have a land use application that is covered by the Code and tied to an Assisted Living application; that it splits the process, that the Board of Adjustment does not always know what the Planning and Zoning Commission and County Council is doing on the rezoning or conditional use process; that the Planning and Zoning Commission and County Council does not know what the Board of Adjustment is doing about Assisted Living; that there are two separate paths that do not cross without good information; that County Council has expressed a concern and would like it all to go through Planning and Zoning Commission and County Council; that all the new Commercial Zones have definitions created for the type of uses like assisted living facilities, graduate care facilities, extended care facilities, independent care facilities, intermediate care facilities, nursing, and similar care facilities; that they are all defined terms; that this will make all those permitted in the B-1, C-1, CR-1 Districts and would make it a conditional uses in the other Districts; that it makes the applications go through the process through the Planning and Zoning Commission and County Council now; and that they are already permitted in the new Commercial Districts.

The Commission found that no one spoke in favor of or in opposition to the application.

At the conclusion of the public hearings, the Commission discussed this application.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to unanimously forward this application to the Sussex County Council with a recommendation that the Ordinance be approved for the reasons stated in the motion. Motion carried 5-0.

OTHER BUSINESS

### **(2018-12) Sandhill Road Subdivision**

#### Final Subdivision Plan

Ms. Norwood advised the Commission that his is a Final Subdivision Plan for the creation of a major subdivision of 8 single-family lots and related improvements. Preliminary Subdivision Plan approval was granted by the Commission at its meeting of September 13, 2018. The property is located west of Sand Hill Road (Sussex County Road 319). The Final Subdivision Plan is in compliance with the Sussex County Zoning and Subdivision Code. Tax Parcel: 235-19.00-33.00. Zoning: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to approve the Final Subdivision Plan. Motion carried 5-0.

### **EJF Real Estate**

#### Final Site Plan

Ms. Norwood advised the Commission that this is a Final Site Plan for a proposed 7,500 square feet boat sales building, an existing repair shop and parking to be located off Cedar Neck Road. The Preliminary Site Plan was given approval by the Planning and Zoning Commission on August 9, 2018. At that time the Commission asked to see interconnectivity between this site and the neighboring site which is commercially zoned. The applicant has supplied both photos to show why interconnectivity is not feasible at this time and a written intent to provide interconnectivity at the front of the property through a 50' easement if the neighboring property were to ever be redeveloped. This Site Plan is in compliance with the Sussex County Zoning Code. Tax Parcel: 134-9.00-25.00. Zoning District: C-1 (General Commercial District). Staff are in receipt of all agency approvals.

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

### **Americana Bayside MR-RPC – Village C, Phase 2**

#### Revised Site Plan

Ms. Norwood advised the Commission that this is a Revised Site Plan showing the addition of 2 single-family lots into the Americana Bayside Village C, Phase 2 Residential Planned Community (RPC). This Site Plan is in compliance with the Sussex County Zoning and Subdivision Code and all conditions of approval for the Residential Planned Community. Tax Parcel: 533-19.00-301.12. Zoning District: MR (Medium Residential). Staff are in receipt of all agency approvals.

Motion by Mr. Mears, seconded by Ms. Stevenson and carried unanimously to approve the Revised Final Site Plan. Motion carried 4-0. Ms. Wingate abstained.

### **Hickman Beach Plaza West**

#### Revised Site Plan

Ms. Norwood advised the Commission that this is a Revised Site Plan for the replacement of a storage building and the renovation of two retail buildings and the relocation of some parking out of the front yard setback located off Coastal Highway (Route 1). This Site Plan is in compliance with the Sussex County Zoning Code. Tax Parcel: 134-17.00-51.02. Zoning District: C-1 (General Commercial District). Staff are awaiting agency approvals

Motion by Mr. Mears, seconded by Ms. Stevenson and carried unanimously to approve the Revised Site Plan with final approval by staff subject to receipt of all agency approvals. Motion carried 5-0.

### **Captain's Way RPC**

#### Revised Site Plan

Ms. Norwood advised the Commission that this is a Revised Site Plan for Captain's Way Manufactured Home Residential Planned Community to be located off of Milton Ellendale Highway (Route 16). The revisions include the relocation of several lots, the addition of a new road, and the addition of a clubhouse and pool and additional amenities. This Site Plan is in compliance with the Sussex County Zoning and Subdivision Codes. Tax Parcels: 235-13.00-2.00, 2.06, 2.07 & 2.08. Zoning District: GR (General Residential District). Staff are awaiting agency approvals.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously to approve the Revised Site Plan with final approval by the Planning and Zoning Commission upon receipt of all agency approvals. Motion carried 5-0.

### **Pugs Crossing**

#### Revised Preliminary Site Plan

Ms. Norwood advised the Commission that this is a Revised Preliminary Site Plan for four (4) proposed retail buildings and two (2) proposed wholesale buildings and other site improvements to be located off of John J. Williams Highway (Route 24). This Site Plan is in compliance with the Sussex County Zoning Code. Tax Parcel: 234-32.00-36.00. Zoning District: C-1 (General Commercial Zoning District). Staff are awaiting agency approvals. They are asking for a waiver for parking in the front yard setback.

The Commission found that Mr. James Grant and Mr. Bob Rosenberger were present on behalf of the application; that Mr. Rosenberger stated they are cleaning up the parking area by paving the surface and defining the parking spaces; and that the 50% of the building space is preleased.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to approve the Revised Preliminary Site Plan with parking in the front yard setback with final approval by staff subject to receipt of all agency approvals. Motion carried 4-1.

### **Lot 7 Nassau Commons**

#### Revised Preliminary Site Plan

Ms. Norwood advised the Commission that this is a Revised Preliminary Site Plan for a proposed office and auto service building and other site improvements located off of Nassau Commons Boulevard. The Planning Commission approved a Final Site Plan for this site on April 23, 2015, for a proposed office and warehouse that was never constructed. This Site Plan is in compliance with the Sussex County Zoning Code. Tax Parcel: 334-5.00-147.00. Zoning District: C-1 (General Commercial Zoning District). Staff is awaiting all agency approvals.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to approve the Revised Preliminary Site Plan with final approval by staff subject to receipt of all agency



approvals. Motion carried 5-0.

**Windswept at Lewes (FKA Windswept Meadows) RPC**

Revised Preliminary Site Plan

Ms. Norwood advised the Commission that this is a Revised Preliminary Site Plan for the creation of a Residential Planned Community (RPC) to consist of 201 proposed residential lots and amenities to be located on the east side of Angola Beach Road and south of Angola Road (Sussex County Road 277). A change of zone application to change the zoning of a portion of parcel 3.00 from Agricultural Residential (AR-1) to General Residential (GR) and create the additional use as a Residential Planned Community (RPC) was approved by the Planning and Zoning Commission on November 27, 2018, (C/Z 1859). The size of the stormwater management ponds has increased but no changes to the lot or open space layout have been made. The Site Plan is in compliance with the Sussex County Zoning and Subdivision Code and RPC Conditions of Approval. Tax Parcels: 234-12.00-3.00 & 6.00. Zoning District: AR-1 (Agricultural Residential District) with a portion of parcel 3.00 being zoned GR (General Residential District). Staff are awaiting agency approvals.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to approve the Revised Preliminary Site Plan with final approval by the Planning and Zoning Commission upon receipt of all agency approvals. Motion carried 5-0.

**(S-19-04) Admirals Chase**

Preliminary Site Plan

Ms. Norwood advised the Commission that this is a Preliminary Site plan for the creation of 24 (14 duplex units) to be located off Gills Neck Road (Sussex County Road 267). The site also lies within the Environmentally Sensitive Development District Overlay Zone (ESDDOZ). A Change of Cone was approved by the Planning and Zoning Commission on July 12, 2018, (C/Z 1851) through Ordinance No. 2593 to amend the Comprehensive Zoning map from AR-1 to MR (Medium Density Residential). Additionally, Conditional Use of the land for multi-family was approved by the Commission on the same date (C/U 2134) through Ordinance No. 2594. This Site Plan is in compliance with the Sussex County Zoning and Subdivision Code. Tax Parcel: 335-8.00-44.00. Zoning District: MR (Medium-Density Residential District). Staff is awaiting agency approvals.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to approve the Preliminary Site Plan with final approval by staff subject to receipt of all agency approvals. Motion carried 5-0.

**AP-19-1 LFW Delaware Holdings 2015, LLC**

Ms. Norwood advised the Commission that is an application to consider an Agricultural Preservation District in an Agricultural Residential Zoning District in Little Creek Hundred for one (1) parcel of land totaling 467.75 acres, more or less, located on the south side of Russell Road and Whitesville Road for the purpose of a recommendation to the Delaware Agricultural Lands Preservation Foundation. Tax Parcel: 532-23.00-1.00.

Motion by Ms. Wingate, seconded by Ms. Stevenson and carried unanimously to approve the Agricultural Preservation District. Motion carried 5-0.

At the conclusion of the meeting, Ms. Cornwell provided an update on the planned deployment of new IT devices.

Ms. Cornwell advised the Commission that all of the Commissioners will soon be receiving County e-mail addresses to go with the new tablets; that the Planning and Zoning Commission would soon become paperless; that staff would be providing training on the new tablets and how to access to the new paperless packets; and that there would be a discussion about the policies relating to the usage the new Commissioner e-mail addresses.

Mr. Robertson updated the Commission that the County Council recently affirmed the Commission's denial of Stream's Edge major subdivision application.

Meeting adjourned at 8:23 p.m.