

## THE MINUTES OF THE REGULAR MEETING OF MAY 23, 2019

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, May 23, 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. J. Bruce Mears, with Mr. Vincent Robertson – Assistant County Attorney, Ms. Janelle Cornwell – Director of Planning & Zoning, Mr. Jamie Whitehouse – Planning & Zoning Manager, and Ms. Samantha Bulkilvish – Planner I.

Motion by Ms. Wingate, seconded by Mr. Hopkins and carried unanimously to approve the Agenda as submitted. Motion carried 4-0.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to approve the Minutes of the April 25, 2019 Planning and Zoning Commission meeting as submitted. Motion carried 4-0.

### OLD BUSINESS

#### **2019-7 Guy Subdivision – Charles H. Guy, IV**

A standard subdivision to divide 38.286 acres +/- into 13 single family lots to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County. The portion of the property that is subject for the subdivision is lying on the south side of Waterview Road, approximately 542 feet east of Camp Arrowhead Road. Tax Parcel: 234-12.00-22.00 (portion of). Zoning District. AR-1 (Agricultural Residential District).

The Planning Commission discussed the application which has been deferred since May 9, 2019.

Mr. Hopkins moved that the Commission grant Preliminary approval of Subdivision 2019-7 for Charles H. Guy, IV, based upon the record and for the following reasons:

1. The proposed subdivision meets the purpose of the Subdivision Code in that it protects the orderly growth of the County. It also meets the requirements of the Subdivision Code, and the items listed in Section 99-9C of the Code have been favorably addressed.
2. The proposed subdivision density is less than the density permitted by the existing AR-1 zoning.
3. The proposed subdivision will not adversely affect nearby uses or property values, and it is consistent with other developments in the area.
4. The proposed subdivision will not adversely impact schools, public buildings, and community facilities or area roadways and public transportation.
5. DNREC has indicated that the site is suitable for individual on-site septic systems.
6. Because this is essentially a “strip-lot” subdivision of only 13 lots without the requirement of a Homeowner’s Association, a waiver from the perimeter buffer requirement is appropriate.

7. This approval is subject to the following conditions:
  - A. There shall be no more than 13 lots within the subdivision. Any further subdivision of these lots shall require another public hearing.
  - B. All entrances shall comply with all of DeIDOT's requirements.
  - C. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Hopkins, seconded by Ms. Wingate and carried unanimously to grant Preliminary approval for the reasons and with the conditions stated in the motion. Motion carried 4-0.

**C/U 2156 Christine and Joseph R. Hudson**

**An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for wellness classes (including yoga, massage meditation, acupuncture, and lectures) to be located on a certain parcel of land lying and being in Broad Kill hundred, Sussex County, containing 3.33 acres, more or less.** The property is lying on the northwest side of Coastal Highway (Route 1), approximately 0.28 mile south of Hudson Road. 911 Address: 14904 Coastal Highway, Milton. Tax Parcels: 235-16.00-75.00 and 77.00.

The Planning Commission discussed the application which has been deferred since May 9, 2019.

Ms. Stevenson moved that the Commission recommend approval of Conditional Use 2156 for Christine and Joseph R. Hudson for wellness classes (including yoga, massage, meditation, acupuncture, and lectures) based upon the record made during the public hearing and for the following reasons:

1. The property is in an AR-1 District, and it has been used for church purposes for many years. Churches are a permitted use in the AR-1 District.
2. The proposed uses are very consistent with the types of uses that occur within a church. But for the fact that this particular use is operated by someone not affiliated with the church for commercial purposes, it would likely be permitted as a church use.
3. The proposed uses are very limited in nature and should not have any impact on neighboring properties or roadways.
4. The use is of a public or semi-public character that will provide a beneficial service for residents and visitors of Sussex County.
5. No parties appeared in opposition to this application.
6. This recommendation is subject to the following limited conditions:
  - A. All of the applicant's uses shall occur within the existing structures or outdoors.
  - B. As long as the uses occur within the existing structures, no site plan approvals shall be required from the Planning & Zoning Commission. Any change or expansion of the existing structures shall require site plan approval, and possibly a new public hearing if the changes are substantial.

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 stated in the motion. Motion carried 4-0.

**C/Z 1876 Robert M. and Debora A. Reed**

**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 6.113 acres, more or less.** The property is lying on the north side of Savannah Road, approximately 152 feet northeast of Parker Run. 911 Address: 1525 Savannah Road, Lewes. Tax Parcel: 335-12.06-1.00.

The Planning Commission discussed the application which has been deferred since May 9, 2019.

Ms. Wingate moved that the Commission recommend approval of Change in Zone 1876 for Robert M. and Debora A. Reed 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 Savannah Road, which has developed with a variety of housing types and large and small businesses. There is MR zoning to the rear of this property and elsewhere in the vicinity. There are also properties with C-1, B-1, and conditional uses for business and office uses. MR zoning is consistent with the ongoing development trends of this area.
2. In this general area, which is near the Five Points commercial area and the Westcoats Corner intersection, there are single-family homes, multi-family homes, townhouses, and a manufactured home community.
3. The site is in the Environmentally Sensitive Developing Area according to the prior Comprehensive Plan and the Coastal Area of the current Sussex 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. The 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 Savannah Road, and it is adjacent to MR zoning and office uses. 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. Wingate, seconded by Mr. Hopkins and carried to forward this application to the Sussex County Council with a recommendation that the application be approved for the reasons and with conditions stated in the motion. Motion carried 3-1 with Ms. Hoey Stevenson voting Nay to the motion.

**C/U 2169 Robert M. and Debora A. Reed**

**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 6.113 acres, more or less.** The property is lying on the north side of Savannah Road, approximately 152 feet northeast of Parker Run. 911 Address: 1525 Savannah Road, Lewes. Tax Parcel: 335-12.06-1.00.

The Planning Commission discussed the application which has been deferred since May 9, 2019.

Ms. Wingate moved that the Commission recommend approval of Conditional Use 2169 for Robert M. and Debora A. Reed for multi-family dwellings in an MR (Medium Density Residential District) based upon the record made during the public hearing and for the following reasons:

1. The application seeks the approval of 24 multi-family structures on approximately 6.113 acres. This density is appropriate within the MR zone, which permits up to 4 units per acre.
2. The property is in an area where a variety of development has occurred. Lands to the north and east of this property are zoned MR with residential developments there. Lands to the south along Savannah Road are mostly developed as offices and small businesses on lands zoned B-1 or as conditional uses. This project is basically an infill development and it is consistent with these nearby uses.
3. The units are set back approximately 220-feet from Savannah Road, which is consistent with the Lewes Byways Plan.
4. The site is in the Environmentally Sensitive Developing Area according to the prior Sussex County Comprehensive Plan and the Coastal Area according to the new 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. Although there was testimony in the record from a neighboring MR development about adverse impacts, there is adequate separation between the two developments and they will have a little if any, difference in appearance.
6. The development will be served by central sewer provided by Sussex County.
7. This development is an appropriate transition from the business uses on Savannah Road to the south and the more intensive uses near Westcoats corner to the north while remaining consistent with adjacent residential development in the area.
8. The development will be served by central water.
9. This recommendation is subject to the following conditions:
  - A. The maximum number of residential units shall be 24.
  - B. The Applicant shall form a homeowners or condominium association responsible for the perpetual maintenance of the development roadway, buffers, stormwater management facilities, erosion, and sedimentation control facilities, and other common areas.
  - C. All entrance, intersection, roadway, and multi-modal improvements shall be completed by the developer in accordance with all DelDOT requirements.
  - D. The project shall be served by Sussex County sewer. The developer shall comply with all Sussex County Engineering Department requirements including any off-site upgrades necessary to provide service to the project.
  - E. The project shall be served by central water to provide drinking water and fire protection.
  - F. There shall be a vegetated or forested buffer of at least 20-feet in width as shown on the Preliminary Plan.
  - G. As stated by the Applicant, there shall be a 30-foot building setback from the rear of the homes designated as Units 8-14 on the Preliminary Plan.
  - H. 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.
- I. Construction and site work on the property, including deliveries of materials to or from the property, shall only occur between 8:00 am and 6:00 pm, Monday through Friday, and between 8:00 am and 6:00 pm, Saturdays between Labor Day and Memorial Day. There shall be no construction activities at the site on Sundays.
  - J. As stated by the Applicant, there shall be a sidewalk along the western and northern side of the development's roadway and in front of the homes identified as Units 20 through 24 on the Preliminary Site Plan.
  - K. Street naming and addressing shall be subject to the review and approval of the County Mapping and Addressing Departments.
  - L. The Final Site Plan shall contain the approval of the Sussex County Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
  - M. There shall be 12 additional off-street parking spaces provided within the site for visitor parking. These spaces shall be shown on the Final Site Plan.
  - N. All streetlights shall be downward screened so that they do not shine on neighboring properties or roadways.
  - O. The streets shall meet or exceed County road standards and design requirements.
  - P. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Following discussion by the Commission, Ms. Wingate revised her motion so that Condition 'I' is revised to require that there be no work or deliveries on Saturdays between Labor Day and Memorial Day and that work on Saturdays outside of this period would only be permitted between 8:00 am and 6:00pm. The revision to the motion was seconded by Mr. Hopkins.

Motion by Ms. Wingate, seconded by Mr. Hopkins 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 conditions stated in the motion. Motion carried 4-0.

## PUBLIC HEARINGS

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

### **2018-32 Tepache Farms – Pheat Farms, LLC**

A cluster subdivision to divide 33.81 acres +/- into 33 single family lot to be located on a certain parcel of land lying and being in Broad Kill Hundred, Sussex County. The property is located on the north side of Burton Road, approximately 0.83 mile west of Sandhill Road. Tax Parcel: 235-19.00-7.00. Zoning District. AR-1 (Agricultural Residential District).

Ms. Cornwell advised the Commission that submitted into the record were comments from the Technical Advisory Committee ("TAC"), comments from the Office of State Fire Marshal, the Department of Agriculture, DNREC, the Sussex Conservation District, the Sussex County

Engineering Department - Public Works Division, the Sussex County Engineering Department - Utility Planning Division, and an exhibit booklet.

The Commission found that Mr. Mark Davidson with Pennoni Associates, James Grant, owner of the property, and Alan Decktor with Pennoni Associates were present on behalf of the application; that Mr. Davidson stated this is an application for a cluster subdivision in the AR-1 zone by dividing 33.81 acres into 33 lots; that the property is located west of the Town of Milton; that the property is bordered on the north side by lands of the Nature Conservancy; that there are farms adjacent to this property to the south and east; that the proposed project is located in a Low-Density area as per the Comprehensive Plan; that the property is located in the State Spending Strategies Level 4; that the proposed project would comply with the Subdivision and Zoning Codes; that the development of the proposed site in an AR-1 District where a cluster option is a permitted use; that the proposed subdivision has a density less than 1 lot per acre and is consistent with the uses permitted in the Low-Density area; that the proposed subdivision is in character with the area and that it would provide ½ acre lots; that the proposed subdivision would comply with all agricultural use regulations, including buffers, setbacks, and the agricultural use restrictions; that the project would provide active and passive recreational uses that consist of 12.32 acres which is approximately 36% open space; that the lots would have individual wells and septic systems; that 3.13 acres of the open space of the proposed site would be planted and preserved as part of the forested landscape buffer; that 8.1 acres is wooded and that the majority of the wooded area would remain; that two thirds of the lots are adjacent to open space; that the proposed project would form a single Homeowners Association for the maintenance of the common areas, open space, amenities, streets, buffers, and stormwater; that a copy of the Covenants and Restrictions were submitted in the exhibit booklet; that the project would comply with Chapter 99-9C of the Subdivision Code; that the smallest lot size would be ½ acre and the largest size would be 1 ½ acre lot; that a 30-foot forested buffer would be provided adjacent to the agricultural fields; that there are no wetlands on the property; that property has existing vegetation around the entire perimeter of the property and by using a cluster subdivision they are able maintain the majority of the trees on the property; that they have off-set the lots from Burton Road; that the property is not in a floodplain; that submitted in the exhibit booklet was an environmental review of the property which showed no wetlands, no endangered species, no historical or cultural items on the site; that the existing wooded buffer around the entire perimeter of this property will stay intact and they are not going to fragment any of the woods adjacent to the Nature Conservancy; that all the lots would have individual wells permitted by DNREC; that there is an approved soil feasibility study by DNREC submitted in the exhibit booklet; that the site is in a good recharge area; that stormwater management would be through infiltration; that there would be no impact to the roads and no impact to property values; that they would coordinate with the local school district and provide a school bus stop by the entrance of the development; that the entrance to the development would be built and approved by DelDOT; that this project would be compatible with the area land uses;

Mr. Hoey Stevenson asked a question about whether the soils in this location are suitable for septic systems. Mr. Davidson outlined that septic systems could be provided in this location.

Mr. Davidson stated that there would be no impact on any waterways because they are going to infiltrate all the stormwater on-site; that that soils would be good for the septic systems; that the roads would be designed with swales on both sides and be built to Sussex County road standards; that the roads would be 24-feet wide from edge of pavement to edge of pavement; that the Right-of-Way would be 50-feet wide; that they are not proposing sidewalks; and that they have to dedicate an easement for a multi-modal path and they do not have to build the multi-modal path.

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

The Commission found that Mr. Robert Payton, Mr. Jacob Fowler, Mr. George Burton, and Mr. Larry Schrock spoke in opposition to the application; that Mr. Payton stated the soil is not adequate for a standard septic system; that the site is a low-lying property and the land is wet; that ditches were necessary and have subsequently been created to drain the site for trees to grow; that these ditches are visible on aerial photos; that Mr. Payton is concerned about potential contamination from the site to adjoining watercourses; that he wants the proposed project to ensure that there would be clean water as he believes that local residents have a right to clean water; that he has concerns with the septic systems; that the proposed project is not consistent with the area; that other developments in the area have sewer and water; that he has concerns with stormwater management; that he has concerns with water quality; that he thinks there should be sidewalks; that he has concerns with infrastructure for the road; that he would like a downstream analysis undertaken; that he has concerns with potential impaction and whether infiltration within the stormwater management areas might not be possible; that he supports the potential future expansion of the sewer district in this area; that 33 wells in this area and 66 extra vehicles would result in potential impacts on the road network and water safety.

Mr. Hopkins asked Mr. Payton about his concerns relating to potential contamination from the site. Mr. Payton outlined his concerns in relation to sediment run-off and potential pesticides/chemicals used for farming; that he used to be able to swim in the water when he was younger; that the clarity of the water reduced around the time that the ditches were added.

Mr. Fowler stated this is a rural area and not a development area; that the road is a tar and chip road; that he has concerns with traffic; that whilst not opposed to development per se, he chose to live in a rural area and did not want to live in a development; that he would not like to see the area be over developed; that Mr. Burton stated there has been water on the property since the land was regularly tilled; that he has concerns with the proposed density of the project; that he has concerns with the cul-de-sac design especially for fire-fighting purposes; that the stormwater pond is not large enough; that he has concerns with the bus stop and buses potentially turning in driveways; that Mr. Schrock stated has concerns with the traffic and that Burton Road is not built to handle more traffic than it currently carries; that he has concerns with the impervious coverage; and that, by show of hands, there were a total of five people in attendance that were in opposition to the application.

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

The Commission held a discussion regarding Subdivision 2018-32 Tepache Farms – Pheat Farms, LLC; that Ms. Stevenson stated she had concerns with the soils; and that Chairman Wheatley stated he had concerns about the proposed 33 additional septic systems and soils. That he wished to look at the information within the record in relation to this.

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

**C/U 2173 Ray Richardson**

**An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for a catering business to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 1.08 acres, more or less.** The property is lying on the west side of Doddtown Road, approximately 511 feet north of Anderson Corner Road. 911 Address: 21170 Doddtown Road, Harbeson. Tax Parcel: 234-9.00-6.02.

Ms. Cornwell advised the Commission that submitted into the record were a Site Plan, 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 Sussex County Engineering Department of Utility Planning Division. One letter was received in support of the application was read by Ms. Cornwell into the record.

The Commission found that Mr. Fred Townsend, Attorney with Hudson, Jones, Jaywork and Fisher and Mr. Ray Richardson, the applicant were present on behalf of the application; that Mr. Townsend stated Mr. Richardson is a well-known chef in the area; that the applicant has a history in the area and in the restaurant business; that this is a limited application for a specific purpose and would not result in incremental expansion if approved; that the applicant is seeking to authorize an on-site catering business in a proposed 20 x 24 building placed behind his existing home; that the structure would not be visible from the road; that there are trees behind the proposed structure; that the applicant has support from the adjoining neighbors; that the proposed new structure would be compatible with the existing house; that the proposed structure would include a kitchen to prepare foods, to be delivered from off-site; that there would be no patron visits to the site; that there would be no sales conducted from the site; that there would be no increase or impact on traffic; that Mr. Townsend stated the applicant’s name is Ray and not Roy; that the applicant may desire to add one or two employees in the future; that Mr. Richardson stated he has been working in the restaurant business for 45 years; that the proposed business would be low key; that he is trying to make a living; that he would go to the client’s house to meet with them and serve the food; that there would be a van to deliver the food; that he does not want a sign; that there would be no deliveries to the site; and that there would be no outside cooking.

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.

Ms. Stevenson moved that the Commission recommend approval of Conditional Use 2173 for Ray Richardson for a catering business based upon the public hearing and for the following reasons:



1. The use will occur in a building located behind the existing residential structure that is on the property.
2. The applicant has a great deal of restaurant and food prep experience.
3. All food prepared on the site will be delivered off-site. No food service will occur on-site, and there will not be any customers on the site.
4. The use will not adversely impact adjacent properties or roadways.
5. No parties appeared in opposition to the application, and the Applicant stated that his neighbors are all in favor of it.
6. This recommendation is subject to the following conditions:
  - A. The site shall only be used for preparing food for off-site catering.
  - B. The catering preparations shall occur within the 20 by 24 square foot building shown on the Preliminary Plan.
  - C. As stated by the Applicant, no signs shall be permitted.
  - D. The applicant shall comply with any DelDOT requirements for entrance approval.
  - E. Any dumpster located on the site shall be screened from view of the neighboring properties or roadways.
  - F. 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 with conditions stated in the motion. Motion carried 4-0.

#### **C/U 2174 Madeline Troescher**

**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 Baltimore Hundred, Sussex County, containing 3.38 acres, more or less.** The property is lying on the southwest side of Dirickson Creek Road, approximately 0.57 mile south of Millers Neck Road. 911 Address: 37428 Dirickson Creek Road, Frankford. Tax Parcel: 134-21.00-20.02.

Ms. Cornwell advised the Commission that submitted into the record were a Site Plan, comments from the Sussex Conservation District, comments from the Sussex County Engineering Department - Utility Planning Division, and the results from the DelDOT Service Level Evaluation request confirming that a Traffic Impact Study ("TIS") was not required.

The Commission found that Ms. Madeline Troescher and Mr. Garth Troescher were present on behalf of the application; that Ms. Troescher stated she is interested in opening her home for events and weddings; that she has 3.4 acres of land on the water; that three sides of her the property does not have neighbors; that the property is located near the end of the road and there is not a lot of traffic; that her property is wide open to the rear with a huge deck on the water; that Ms. Troescher has previously held parties at the property, that she has security cameras at the site; that all the parking would be on the grass of her property; that they can hold 75 people inside their home for the events; that they can provide parking for 60 cars on her property; that porta potties would be brought in the proposed events; that the music would be turned down low after 10:00 pm and if any more lighting is added, it would be downward screened; that she would not like a sign; that

she has an 8,500 square foot home; that she would not be preparing any food and catering would be brought in; that there could potentially be noise on the deck; that the music would be moved inside after 10:00 pm; and that there would be no live bands performing and possibly a DJ.

Mr. Robertson pointed out that the County does not currently have the ability to enforce any specific noise level in terms of measuring in decibels.

The Commission found that Mr. Jacob Madanat spoke in favor of the application; that Mr. Madanat stated this would be a good asset to the community.

The Commission found that Mr. Fred Townsend, attorney with Hudson, Jones, Jaywork, and Fisher, Mr. Joe Smith, Mr. Pat Welch, Mr. Tom Bonzack, Ms. Kimberly Flynn, and Ms. Lydia Luca, spoke in opposition to the application; that Mr. Townsend stated he is representing Mr. Bonzack and he has met with a number of other residents in the community; that Mr. Bonzack had just recently purchased the property adjacent to the application site; that Mr. Bonzack is currently not a Delaware resident and he intends to retire here in a few years; that the Conditional Use application process requires consideration of any potential impacts on the surrounding properties and requires full protection to be offered to the neighbors and welfare of the community; that there are other places, such as country clubs, that could be used for this proposed use; that there is no economic argument in support of the Conditional Use proposed in this location; that the AR-1 Zoning District is designed to protect agricultural land; that there are a number of working farms in the area and low-density single-family detached development in the area; that the proposed use is not an accessory use or a necessary use in this location; that there are some commercial uses in the area; that there is a florist shop and a bed-and-breakfast in the area; that neither of those businesses call for any through traffic; that Dirickson Creek Road is a stub road and it is not a through road; that the road is a tar and chip road with no shoulders and there is no lighting in the area; that it is a dark place at night; that the neighbors believe that the home is a 12,000 square foot home and not 8,500 square feet and could accommodate a very large crowd of people; that the 3.5 acre parcel is large and the neighbors have concerns with the sound; that the home is similar to a country club that it is on a 3.5 acre lot; that there are concerns with parking; that they do not know where the events will be held, either inside or outside; that the neighbors had concerns with the outside events impacting the neighborhood with alcohol use and noise; that the large body of water would amplify the transmission of sound; that this would be heard by neighboring properties; that the applicants may have not have entered into the record that they are proposing to hold 20 events per year; that there are concerns with the porta potties; that there are concerns with the hours of operation; that the roads are not safe and present a public safety concern; that there are signs in the area for horseback riders; that the proposed events would be held on weekends and their very nature involves robust and lively activities which would impact the area; that noise would be emitted beyond the property lines; that the County is unable to regulate specific noise levels; that activities would operate at evenings and at weekends and not just during the daytime; that there are a great number of homes in close proximity; that this type of use is not easily regulated; that there are concerns with trash; that there are no proposals at the moment for traffic or parking management; that unlike a Variance application, the harm is not being weighed; that the main

consideration is whether there is harm or not; that there would be no harm to the applicant if the application is denied; yet this proposed use could cause harm to the neighbors if it were allowed;

Chairman Wheatley asked whether the comments that were made were being made on behalf of one occupier or multiple occupiers, and whether there were other speakers wishing to speak in opposition.

Mr. Smith stated he moved to the area for peace and quiet and not a lot of traffic; that he has concerns with traffic coming and going to the event; that he has concerns with the noise from the street and from vehicles coming and going to events; that he has concerns with the safety of his grandson while playing outside; that drivers leaving a party are a potential risk to pedestrians; that he has concerns with the quality of life that could change; that the road constructions amplifies the sound emitted from passing vehicles; that Mr. Welch stated he has known the Troescher's for a long time and this is not a personal matter; that he does not want a new business in the neighborhood; that he has concerns with property values; that he has concerns with noise; that he has concerns with the increase in traffic if this application gets approved – especially the pre-event traffic; that he has concerns with the deliveries of event supplies and additional trash pickup; that the provision of sidewalks and lighting is inadequate for the proposed application; that he has concerns with the road conditions and the possibly of additional vehicles coming and going to the proposed events; that there is wetlands in the area; that he has concerns with the porta potties being transported up and down the street; that he has concerns with the bed-and-breakfast business in the area and some of the noise and disturbance issues with that use; that he submitted a petition into the record, that the Petition was signed by the neighbors living in the area; that Mr. Bonzack stated the area is a dark and quiet place at night time; that he is going to retire in one year and he and his family would be living here full-time; that the applicant's house is lovely; that the Troescher's are friendly people; that he has concerns with the potential inability to control a wedding party; that when he saw the County's site notice for the proposed event venue Conditional Use application, he thought about not buying the house; that he confirmed that the applicant had indicated to him their aspirations to hold up to 20 events per year; that Ms. Flynn stated the Troescher's are great neighbors; that she wants to keep the area peaceful and serene; that the traffic on the road only relates to residents, and their guests; that Ms. Luca stated she agrees with the others; that she is okay with an occasional big party but she has concerns in relation to when the use of the land turns into a business, as it would feel as if she is attending a wedding every weekend.

Chairman Wheatley asked for a show of hands and noted that there 14 people were in attendance and in opposition to the application.

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

Ms. Cornwell informed the Commission that she had, following the hearing, received a hand-written note from the applicant requesting that the Conditional Use application be withdrawn. Mr. Robertson noted that a withdrawal request could be submitted in this manner.

Motion by Ms. Wingate, seconded by Ms. Stevenson and carried unanimously to accept the request

to withdraw the application. Motion carried 4-0.

**C/U 2175 All Automotive, LLC**

**An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for an automotive repair business to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 0.75 acre, more or less.** The property is lying on the south side of Harmons Hill Road, approximately 0.6 mile east of Hollyville Road. 911 Address: 28858 Harmons Hill Road, Millsboro. Tax Parcel: 234-16.00-27.03.

Ms. Cornwell advised the Commission that submitted into the record were a Site Plan, an exhibit booklet, comments from the Sussex County Engineering Department Utility Planning Division, the results from a DelDOT Service Level Evaluation request and comments from the Sussex Conservation District.

The Commission found that Mr. Dan Honaker and Mr. Tom Honaker were present on behalf of their application; that Mr. Honaker stated the intent is for an automotive repair business for him and his father only; that there is farm land located behind this site; that there are only a few neighbors in the area; that the road is a heavily-travelled road; that there would not be any employees; that the proposed application would not cause any traffic issues; that the hours of operation would be Monday through Friday from 8:00 am to 6:00 pm; that the shop is set up for four bays with lifts and this would limit the amount of work undertaken during the day; that the facility currently has five bays with a total of two automotive lifts; that the intent is to have four automotive lifts and one of the bays to be an open spot for a car overnight for a total of five bays; that there is a cemetery adjacent to the property; that parking would be provided in the front and rear of the property; that there would not be any parking for overnight vehicles in the rear of the property; that the parking lot would be a blue stone crush-and-run; that he has talked to the neighbors prior to purchasing this property and they had no negative comments subject to the understanding that no work would be undertaken at night or on holidays; that there would be no weekend or holiday hours; that there would be Saturday hours by appointment only; that the Saturdays hours of operation would be from 8:00 am to 12:00 pm; that they would like a lighted sign; that there would be no work undertaken outside; that there would be parts delivered for the vehicles via a small car and there would be no big trucks or track trailers; that they would get a waste oil tank for the oils; that the tank would be located outside, at the rear of the property; that there is a garage on the property that everyone thinks is a house, but it is not a house; and that the garage appears to be a house.

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

**C/Z 1879 William (Ulbio) Parraga**

**An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1**

**(Agricultural Residential District) to a B-2 (Business Community District) for a certain parcel of land lying and being in Georgetown Hundred, Sussex County, containing 0.827 acre, more or less.** The property is lying on the west side of DuPont Boulevard (Route 113), approximately 406 feet south of Wilson Hill Road. 911 Address: N/A. Tax Parcel: 135-14.00-12.01.

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

The Commission found that Mr. William Parraga was present on behalf of his application; that Mr. Parraga stated he would like to convert the property from and AR-1 to B-2; that he is proposing to use it as a professional office in the future; that there is a commercial lot adjacent to this property and commercial located across from this property; that the property is located less than ½ mile from the corner of Route 113 and Route 404; and that the property is just located outside of Georgetown.

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 Change of Zone 1879 William (Ulbio) Parraga; that Chairman Wheatley stated that he has concerns about the Applicant not creating a detailed public record for this application when it is incumbent upon the Applicant to do so; that Mr. Robertson explained that in this case the record might speak for itself, based upon the limited information provided by the Applicant.

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

## OTHER BUSINESS

### **Peach Tree Acres**

#### Final Site Plan

Ms. Bulkilvish advised the Commission that this is a Revised Site Plan for a 76-unit assisted living facility for patients with acquired brain trauma/injury to be located off of Lewes-Georgetown Highway. This Site Plan has previously received Preliminary approval from the Planning Commission on December 21, 2017, and Final Site Plan approval by staff on September 11, 2018, but has since removed a building and the interconnectivity to the parcel to the east. Ownership of this project has changed and with it some changes to the site design and the removal of interconnectivity with the intent to possibly include connectivity in the future. After the Planning Commission meeting of May 9, 2019, it was brought to the staff’s attention that the zoning was incorrectly read into the record as CR-1 instead of AR-1. Interconnectivity is not a requirement of two parcels zoned AR-1, however, the parcel owner has agreed to include a blanket cross access easement in the record plat for any future interconnectivity. Tax Parcel: 235-30.00-58.00. Zoning:

AR-1 (Agricultural Residential Zoning District). Staff are in receipt of all agency approvals.

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

### **Americana Bayside Golf Club House Amenities**

#### **Revised Preliminary Amenities Site Plan**

Mr. Whitehouse advised the Commission that this is a Revised Preliminary Amenities Site Plan for the construction of a golf clubhouse, restaurant, golf cart storage, and other site improvements. This plan modifies the Preliminary Site Plan approved by the Planning Commission on September 14, 2017. The changes consisted of creating a golf cart storage building, relocating the clubhouse building, and the parking lot layout. The Revised Preliminary Amenities Plan complies with the Zoning Code. Tax Parcel: 533-19.00-36.01. Zoning: MR-RPC (Medium Density Residential Zoning District-Residential Planned Community). Staff are awaiting agency approvals.

Motion by Mr. Hopkins, seconded by Ms. Stevenson and carried unanimously to approve the Revised Preliminary Amenities Site Plan with final by Planning and Zoning Commission upon receipt of all agency approvals. Motion carried 3-0. Ms. Wingate abstained.

### **S-19-21 Iris Downing**

#### **Preliminary Site Plan**

Ms. Bulkilvish advised the Commission that this is a Preliminary Site Plan for a proposed transitional home in an existing dwelling and other site improvements to be located off of Wild Cherry Street. The Planning Commission approved Conditional Use 2172 on March 14, 2019, and the Sussex County Council approved the use on April 16, 2019. The Site Plan is in compliance with the Sussex County Zoning Code and the conditions of approval. Tax Parcel: 230-26.20-18.00. Zoning: AR-1 (Agricultural Residential Zoning District). Staff are awaiting agency approvals.

Motion by Mr. Hopkins, seconded by Ms. Wingate and carried unanimously to approve the Preliminary Site Plan with final by staff subject to receipt of all agency approvals. Motion carried 4-0.

### **Lands of Gary Chorman**

#### **Minor Subdivision off a 50' easement**

Mr. Whitehouse advised the Commission that this is a Preliminary Subdivision Plan for a minor subdivision off a 50-foot easement over an existing driveway to create one (1) lot measuring 3.09 +/- acres and a residual lot measuring 22.48 +/- acres to be located off of Pickering Drive. Tax Parcel: 235-22.00-23.00. Zoning: AR-1 (Agricultural Residential Zoning District). Staff are awaiting agency approvals.

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

### **Lands of Lewis**

#### **Minor Subdivision off a 50' easement**

Ms. Bulkilvish advised the Commission that this is a Preliminary Subdivision Plan for a minor

subdivision off a 50-foot easement over an existing driveway to create three (3) lots from an existing 10.00 +/- acre parcel located off Armory Road. Lot 3 will contain the existing poultry houses and composter on 5.00 +/- acres. There is a record of permits and certificates of compliance for these farm buildings. Tax Parcel: 233-11.00-207.01. Zoning: AR-1 (Agricultural Residential Zoning District). Staff are awaiting agency approvals.

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

**Lands of Robert Maltese and Brian Stiles**

Minor Subdivision off a 50' easement

Mr. Whitehouse advised the Commission that this is a Preliminary Subdivision Plan for a minor subdivision off a 50-foot easement over an existing driveway to create two (2) lots from an existing 6.1944 +/- acre parcel. The conceptual plan if approved will be reviewed by the Planning and Zoning Department for compliance with the Zoning Code prior to any final approvals. Tax Parcel: 230-22.00-38.00. Zoning: AR-1 (Agricultural Residential Zoning District). Staff are awaiting agency approvals.

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

Meeting adjourned at 8:15 p.m.