

THE MINUTES OF THE REGULAR MEETING OF JUNE 13, 2019

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, June 13, 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, and Mr. Jamie Whitehouse – Planning & Zoning Manager.

Motion by Ms. Wingate, seconded by Mr. Mears 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 May 9, 2019 Planning and Zoning Commission meeting as amended. Motion carried 5-0.

OLD BUSINESS

Mr. Mears stated he has listened to all the audio for all three cases and is prepared to vote.

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, 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).

The Planning Commission discussed the application which has been deferred since May 20, 2019.

Ms. Stevenson moved that the Commission deny Subdivision 2018-32 for Tepache Farms – Pheat Farms, LLC, based upon the record made during the public hearing and for the following reasons:

1. This application is for 33 lot clustered subdivision. Each lot is proposed to be served by an individual, on-site septic system.
2. I do not believe that the Applicant has favorably addressed the requirements of Section 99-9C of the Subdivision Code, which contains 17 items that must be considered in any subdivision application.
3. I am not satisfied that the Applicant has adequately addressed the provision for sewage disposal as required by Section 99-9C(8) of the Subdivision Code. I am concerned that the Applicant is proposing 33 individual septic systems in a location where the soils are inadequate.
4. According to the record, the USDA Natural Resources Conservation Service determined that the soils on this site are primarily “Ingleside Sandy Loam” with small amounts of “Ingleside Loamy Sand”, “Rosedale Loamy Sand” and “Evesboro Loamy Sand”. The

USDA Report states that each of these types is “*Very Limited*” for septic fields. According to the USDA, “*Very Limited*” means that “*the soil has one or more features that are unfavorable for the specified use*”, that the limitations “*cannot be overcome without soil reclamation, special design or expensive installation procedures*” and that “*poor performance and high maintenance can be expected.*”

5. The Applicant’s engineer confirmed these “*Very Limited*” soil types yet found that the soils are suitable for on-site septic systems based upon limited on-site testing. However, based on the information contained in the record, I am not satisfied that the Applicant has fully reconciled its findings with those provided by the USDA. And further that any on-site systems would not fail in the future based upon the USDA’s statement that “*poor performance and high maintenance can be expected.*”
6. These concerns about the soils and the placement of 33 septic systems on this site were supported by several neighbors who testified that the property is both low-lying and very wet.
7. The property is adjacent to land owned by the Nature Conservancy. For the reasons outlined above about the types of soils that exist on the property and the limitations of them, I am concerned about the environmental impacts of 33 individual septic systems on this pristine Nature Conservancy property.
8. For the same reasons, I am not satisfied that the Applicant has adequately addressed how the subdivision is integrated into the existing terrain and surrounding landscape, including the Nature Conservancy property. This is a requirement of Section 99-9C(1) of the Subdivision Code. Although the property has been farmed in the past, it will need extensive grading for the lots, roadways and stormwater management. Even DNREC’s review of the Septic Feasibility Study recognized that this type of site work could adversely affect the already “*Very Limited*” soil types that exist on the property.
9. I am also not satisfied that the Applicant has addressed the requirements for a cluster subdivision because it does not provide for a total environment that is superior to a standard subdivision. The applicant has proposed 33 lots on 33 acres in a basic grid design with roads ending in three cul-de-sacs. The layout of the subdivision is not unique from a standard subdivision, and the Applicant has not satisfied its burden that the total environment is superior to what could be designed as a standard subdivision.
10. The proposed project also does not meet the purpose of the Subdivision Ordinance because it does not ensure that residential developments are conveniently and properly located.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to deny the application for the reasons stated in the motion. Motion carried 5-0.

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 acres. 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.

The Planning Commission discussed the application which has been deferred since May 20, 2019.

Ms. Wingate moved that the Commission recommend approval of Conditional Use 2175 for All Automotive, LLC for an auto repair shop based upon the record made at the public hearing and for the following reasons:

1. The automobile repair facility is small, and with the conditions and stipulations placed upon it, it will not have an adverse impact on neighboring properties or community.
2. The site is located on Harmons Hill Road, which is a well-traveled roadway. This small business will not have a negative impact on traffic or nearby roadways.
3. The Applicants have stated that the use will occur in an existing garage structure that looks like a house when seen from the roadway. The Applicant intends to keep this residential appearance.
4. The use as an automotive repair facility is of public or semi-public character and is desirable for the general convenience and welfare of the area.
5. The Applicants stated that they spoke to their neighbors prior to purchasing the property and no one objected to their plans. Also, no parties appeared in opposition to this application.
6. This recommendation for approval is subject to the following conditions and stipulations.
 - A. One lighted sign, not to exceed 32 square feet per side, shall be permitted.
 - B. The security lightings shall be downward screened and shall be directed away from neighboring properties and roadways.
 - C. Any dumpsters shall be screened from view of neighbors and roadways. The dumpster locations shall be shown on the Final Site Plan.
 - D. All repairs shall be performed indoors. No automobile parts shall be stored outside.
 - E. No junked, unregistered or permanently inoperable vehicles or trailers shall be stored on the site.
 - F. There shall not be any parking in the front yard setback and the front yard setback area shall be landscaped. This landscaped area shall be shown on the Final Site Plan.
 - G. The parking areas shall be shown on the Final Site Plan and clearly marked on the site itself. Vehicles shall only be parked within these designated areas.
 - H. The perimeter of the Conditional Use area shall be screened from view of neighboring properties with a fence or vegetation. This screening shall be shown on the Final Site Plan.
 - I. As stated by the Applicants, the structure shall retain its residential appearance.
 - J. No cars shall be sold on the property.
 - K. All oils and other fluids shall be properly stored indoors in appropriate containers. The applicant shall also comply with all State and Federal requirements for the disposal of these fluids.
 - L. The site shall be subject to all DeIDOT entrance and roadway requirements.
 - M. The hours of operation shall be 8:00 am through 6:00 pm, Monday through Friday, and 8:00 am until noon on Saturdays. There shall not be any Sunday hours.
 - N. Any violation of these conditions may be grounds for termination of this Conditional Use.
 - O. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

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 the stipulations stated in the motion. Motion carried 5-0.

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. The property is lying on the west side of DuPont Boulevard (Route 113), approximately 406 ft. south of Wilson Hill Road. 911 Address: N/A. Tax Parcel: 135-14.00-12.01.

The Planning Commission discussed the application which has been deferred since May 20, 2019.

Mr. Hopkins moved that the Commission recommend approval of Change in Zone 1879 for William (Ulbio) Parraga for a change in zone from AR-1 to B-2 “Business Community Zoning District” based upon the record made during the public hearing and for the following reasons:

1. The B-2 Business Community Zoning District is designed to allow office, retail shopping, and personal service uses that serve a relatively small area, including low-density, and medium-density neighborhoods.
2. The site is just outside of the Georgetown town limits, with 150-feet of frontage along Route 113.
3. The site is adjacent to property that has C-1 Zoning, and there is C-1 Zoning almost directly across Route 113 from this property.
4. The site is also in proximity to the Route 404 and Route 113 intersection, where a wide variety of business and heavy commercial uses are located, including the Del Tech Campus.
5. For all these reasons, this is an appropriate location for B-2 Zoning.
6. This site, with its frontage along Route 113 and being next to C-1 is no longer viable for AR-1 uses. It is too small to be farmed, and it is not a viable location for a new single-family dwelling because of the traffic and noise of Route 113 and commercial uses that are nearby.
7. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order, prosperity and welfare of the County.
8. No parties appeared in opposition to this application.

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 with conditions stated in the motion. Motion carried 5-0.

PUBLIC HEARINGS

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

2019-9 – Christopher G. & Melissa A. Johnson

A standard subdivision to divide 6.454 acres +/- into 2 single-family lots to be located on a certain parcel of land lying and being in Little Creek, Sussex County. The property is located on the south side of Blackbird Road, approximately 1050 ft. west of Saint George Road. Tax Parcel: 532-13.00-3.10. Zoning District. AR-1 (Agricultural Residential District).

Ms. Cornwell advised the Commission that submitted into the record were a Preliminary Subdivision Plan, comments from the Sussex Conservation District, the Sussex County Engineering Department of Utility Planning Division, and a waiver request from the forested landscape buffer and the street design standards.

The Commission found that Mr. Chris Johnson was present on behalf of his application; that Ms. Stevenson asked what the Applicant's proposals are for the subdivision of the property; that Mr. Johnson stated that he would like to subdivide the property; that the property is currently being farmed by a farmer; that he would like to subdivide the west side of the parcel for future family members; that Ms. Stevenson asked how many lots would the parcel be subdivided into; which Mr. Johnson stated he is requesting one new lot; that there would be two remaining acres to the east and a remaining three acres to the west; and that the remaining parcel would remain as agricultural.

Mr. Wheatley asked Ms. Cornwell to provide an overview of the subdivision process in relation to the proposal. Ms. Cornwell, Director of Planning and Zoning explained that the application was, despite its small number of units, a major subdivision; that each parcel could only be subdivided so many times before triggering a major subdivision; that the original parcel has been subdivided at least 15 times; that there are no minor subdivision left for the property to divide without having to apply for a major subdivision.

Ms. Cornwell asked Mr. Johnson whether there would there be any impact to the roadway; which Mr. Johnson stated that there would be no impact on the roadway; that Ms. Cornwell asked if there would be any impact on the schools; which Mr. Johnson stated that there would be a more people and tax payers; that Ms. Cornwell asked if there are any wetlands, woodlands or any environmentally significant features on the property; which Mr. Johnson stated the property is not located in any wetlands, there are no woodlands located on the property and there are not any environmentally significant features located on the property; that Ms. Cornwell asked if there any historical or cultural items on the property; which Mr. Johnson stated there are no historical or cultural items located on the property; that Ms. Cornwell asked if a Soil Feasibility Study had been completed and if a copy of the Soil Feasibility Study is available; which Mr. Johnson stated a soil feasibility study was completed and he thought that a copy of the study had already been submitted into the record; that the soil feasibility study is still valid from when Mr. Johnson had built his dwelling.

Chairman Wheatley requested a copy of the Soil Feasibility Study for the record; and that Mr. Johnson stated there would be a separate entrance to parcel on the west side of the property.

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

At the conclusion of the public hearing, the Commission discussed this application. Mr. Robertson explained that the Soil Feasibility Study has not yet been provided for this application and suggested that the Commission may wish to defer consideration until this has been received.

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

C/U 2178 Steven and Carrie Coleman

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for a welding and fabrication business to be located on a certain parcel of land lying and being in Broad Creek Hundred, Sussex County, containing 1.605 acres. The property is lying on the south side of Laurel Road (Route 24), approximately 0.46 mile west of Justice Farm Road. 911 Address: 14716 Laurel Road, Laurel. Tax Parcel: 232-19.00-30.00.

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

The Commission found that Mr. Steve Coleman was present on behalf of his application; that Mr. Coleman stated he is looking to expand his business; that he is out-growing the current shop on the parcel and would like to build a larger shop on the adjoining parcel; that he would like to add more employees; that Ms. Wingate asked if the new shop would have indoor bathroom facilities, which Mr. Coleman stated he would continue to use the existing Porta-Johns until he adds more employees; that Ms. Wingate asked how many new employees would be in the new shop, which Mr. Coleman stated that there would be four new employees; that Ms. Wingate asked what are the hours of operation, which Mr. Coleman stated the hours of operation are from 7:00 am to 3:30 pm, Monday through Friday; that they do not work on the weekends and they may work on an occasional Saturday; that Ms. Wingate asked if they would work until noon on Saturday, which Mr. Coleman stated that working until noon on Saturdays would be okay; that Ms. Wingate asked if the applicant would like a sign, which Mr. Coleman stated he would like a sign on the building but not on the road; that Ms. Wingate asked if any lighting would be added to the property, which Mr. Coleman stated he would add a security lighting on the outside of the building; that Ms. Wingate asked if the applicant has a dumpster on the site, which Mr. Coleman stated he does have a dumpster on the site.

Chairman Wheatley explained that the Conditional Use process; that the Commission has the authority to place stipulations on the use; and examples as such as the hours of operation, number employees, screening of dumpsters, and signs.

Mr. Hopkins asked what prompted the applicant to apply for the Conditional Use and whether the existing business has been in operation for a while, which Mr. Coleman stated he has been in business for two years; that he did not know he needed a Conditional Use and he did not know his

business would keep growing; that he had applied for a permit to construct the new building and he was informed that he needed to apply for a Conditional use; that Mr. Hopkins asked if the neighbors had any complaints, which Mr. Coleman stated that there are no known complaints from the adjoining neighbors; that Mr. Hopkins asked how employee vehicles would be parked on the site during the hours of operation, which Mr. Coleman stated that there would be four employees vehicle park at the site during the hours of operation; that he has five personal vehicles and one of the five vehicles is a company work vehicle; that Mr. Hopkins asked if the applicant had any work trailers, which Mr. Coleman stated he has three work trailers; that Mr. Hopkins asked if the applicant had any other work equipment such as a skid steer, backhoe, or tractors would be stored outside, which Mr. Coleman stated he keeps all the other equipment stored indoors; that the fork lift and small crane is also stored indoors; that Mr. Hopkins asked if any of the equipment would be stored outside, which Mr. Coleman stated all the equipment would be stored inside.

Ms. Stevenson asked if any of the work would take place outside of the building, which Mr. Coleman stated all the work would take place undercover and inside the building; that Ms. Stevenson asks if any of the supplies would be stored outside, which Mr. Coleman stated that there would be a steel rack stored outside for external storage of lengths of raw materials.

Ms. Cornwell asked how many employees there would be in growing his business, which Mr. Coleman stated the proposed building would allow for up to two or three additional employees.

Mr. Hopkins asked what the hours of operation are, which Mr. Coleman stated that the hours of operation are from 7:00 am to 5:30 pm, Monday through Friday and 7:00 am to 3:30 pm on Saturdays.

Mr. Robertson asked if the business started as an in-home occupation, which Mr. Coleman stated that the business did start as an in-home occupation with himself and his son; and that they have added employees.

The Commission found that Mr. Lawrence Jestice and Ms. Amy Thomas spoke in favor of the application; that Mr. Jestice stated that Mr. Coleman has spruced up the house and he keeps the place nice and neat; that the small business is needed to be able to fix farm machinery; that Ms. Thomas stated that Steve is honest and he needs the business space to make the business more economical and for the employees to work in a safe environment; that the business is located in the middle of farmland; and that there are farm trucks traveling the road at all times and this business would not have a negative impact on the roadways. Ms. Thomas also stated that there is a need for this type of business in the area.

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

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

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

C/Z 1877 Schiff Land Development Company, LLC

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from a CR-1 (Commercial Residential District) and a MR (Medium Density Residential District) to a MR-RPC (Medium Density Residential District - Residential Planned Community) for a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 49.94 acres. The property is lying on the southeast side of John J. Williams Highway (Route 24), approximately 0.45 mile southwest of Oak Orchard Road. 911 Address: N/A. Tax Parcels: 234-29.00-66.00, 66.01, & 66.02.

Ms. Cornwell advised the Commission that submitted into the record were an exhibit booklet, comments from the State of Delaware Preliminary Land Use Service (“PLUS”) and response to the PLUS comments, comments from the Sussex Conservation District, comments from the Technical Advisory Committee (TAC), comments from DelDOT, comments from the Sussex County Engineering Department Utility Planning Division.

The Commission found that Mr. David Hutt Attorney with Morris, James, LLP, Mr. Phil Tolliver, with Morris and Ritchie Associates, and Mr. TJ Schiff, part owners of the group were present on behalf of the application; that Mr. Hutt stated that in 2005 there were two Change of Zone applications that were filed; that they were Change of Zone 1605 and Change of Zone 1606; that the applications were known as the ‘Nantego applications’ along Route 24; that a prior application changed the zoning from GR (General Residential District) to MR-RPC (Medium Density Residential District – Residential Planned Community); that the other prior application changed the zoning from GR to C-1 (General Commercial District); that 15-acres of C-1 Zoning was approved by the Sussex County Council in 2007; that in 2010 another Change of Zone application was filed for the front portion of the property which include two parcels; that the Sussex County Council approved the Change of Zone from MR-PRC to CR-1 (Commercial Residential District); that the RPC had lapsed and the underlying zoning does remain; that since then the ownership of the land has changed; that the application is comprised of approximately 50-acres and includes three parcels; that the application is proposed to turn the three parcels to the MR-RPC Zoning with fewer dwellings and all single-family units; that public water and sewer would be provided to the site; that the proposed application is for 161 units; that the gross density is 3.22 dwelling units per acre; that the current use of the property is being used for agricultural uses with a small wooded area near the rear of the property; that there are no wetlands on the site; that there are other developments in the area; that there are several commercial uses in the area and other Conditional Uses approved in the area; that the property does have a slight slope to the rear of the property line; that there is a small portion in the northern area of the property that is in the excellent recharge area; that two of the primary objectives in the design and development of the proposed project is to maximize open space and increase the perimeter buffering; that there would be berms to help further separate the community from Route 24; that they are proposing 13.5-acres of open space which includes the clubhouse, community center, and stormwater management and it would comprise 27% of the site area as open space; that the open space is either on the perimeter of the site or centrally located in the community; that the design was to centrally locate the amenities and link all the internal streets; that the proposed lot size would be a minimum of 7,500 square feet; that there would be a minimum forested landscape buffer of 30-feet and would extend to a

maximum of 156-feet; that at the rear of the property, a provision has been made for interconnectivity for future development; that there is no access to the homes on Layton Davis Road; that there would be a multi-purpose building with a pool and a patio area; that the applicant proposes 24 parking spaces for the community center; that there would also be bicycle racks; that the applicant also proposes sidewalks on both of the streets; that the proposed project would have restrictive covenants for the community and a Homeowner's Association would be formed; that proposed project would be constructed in three phases; that the infrastructure would take approximately two years to build out with the rest of the project within the four year range; that the property would be served by Sussex County sewer and a pump station would be provided by the applicant; that the water would be provided by Tidewater Utilities; that the stormwater management per the Sussex Conservation District would be infiltration basin; that natural gas is available through Chesapeake Utilities; that the DelDOT response to this application was submitted into the exhibit booklet; that the response from DelDOT stated there would be a minor impact on the local roadways and the site qualifies for the Applicant to participate in an area wide study fee; that fire protection would be provided by the Indian River Volunteer Fire Company; that it is anticipated that there would be 27 new students added to the school district; that the developer will coordinate a bus stop with the local school district; and that the proposed project is consistent with the Land Use Plan, the MR Zoning District, and the RPC Ordinance.

Mr. Mears asked if the phasing plan includes the construction of the clubhouse in phase one, which Mr. Hutt stated that the construction of the amenities by the 81st building permit.

Ms. Stevenson asked how far back the berm starts from the road and if there an easement given to DelDOT, which Mr. Tolliver stated that there is 15-foot wide multi-modal path that would be dedicated to DelDOT; that within the site they would propose a series of berms; that Ms. Stevenson asked whether there is a place where the highway could be expanded without tearing into someone's property in the future, which Mr. Tolliver stated that DelDOT has outlined its terms as to how wide the right-of-way is in that area; that as the proposed project goes through the engineering process, DelDOT would tell the applicant if they are going to take an additional 10-foot or not; and that if DelDOT does require an additional 10-feet, everything would have to be pushed in further on the property.

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.

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

Mr. Robertson recused himself for the next hearing.

C/Z 1878 Captain's Way Development, LLC
An Ordinance to amend the Comprehensive Zoning Map of Sussex County from a GR-RPC (General Residential District – Residential Planned Community) to a GR-RPC (General

Residential District – Residential Planned Community) to allow for garage studio apartments for Change of Zone No. 1721 (Ordinance No. 2295) for a certain parcel of land lying and being in Broad kill Hundred, Sussex County, containing 154.72 acres. The property is lying on the northeast side of Milton Ellendale Highway (Route 16), approximately 0.34 mile east of Hollytree Road. 911 Address: N/A. Tax Parcels: 235-13.00-2.00, 2.06, 2.07, 2.08 and 235-13.00-32.00 through 332.00.

Ms. Cornwell advised the Commission that submitted into the record were comments from the Sussex Conservation District, comments from the Sussex County Engineering Department Utility Planning Division, and results from a DeIDOT Service Level Evaluation.

Chairman Wheatly asked Ms. Cornwell if the application was confined to garage/studio apartments. Ms. Cornwell explained that the Applicant is looking to amend the RPC (Residential Planned Community) to allow for garage/studio apartments; that garage/studio apartments are typically a Special Use Exception through the Board of Adjustment; and that since this an RPC it would require an amendment to the conditions of approval to allow for the additional dwellings to be considered part of the RPC.

The Commission found that Mr. Preston Dyer, representing the developer, Mr. Mark Davidson with Pennoni Associates, and Mason Dyer, for the developer were present on behalf of the application; that Mr. Dyer stated the process for the garage/studio apartments would be heard and held a Special Use Exception with the Board of Adjustment but because the property is zoned GR-RPC it is an amendment to the RPC approval: that Ordinance 1959 provides for a garage/studio apartment; that the definition states “*a building or use designed and used as a single apartment unit not more than 800 square feet and an accessory to the single-family dwelling*”; that he submitted supporting statements and an example plot plan into the record. Mr. Dyer summarized a number of points contained within a written summary provided to the Commission; that Sussex County Council desires to provide an additional type of affordable housing; that this is an additional means by which people who work in the local area may afford housing near their work place; that Sussex County Council desires to provide homeowners’ with the potential to derive additional income from their residences; that the intention is that the homeowners’ may use income generated from the rental of the garage/studio apartments to pay for upgrades to their residences; that he believes that the expansive nature of the request would allow for income generation and would provide for additional affordable housing; that Section 115-32.C of the Sussex County Code, requires that the garage/studio apartment provide at least one additional parking space for the exclusive use of the tenant and be located on the premises; that the standards for a Special Use Exception is the burden to prove that such exception would not adversely effect the use of the adjacent neighboring properties; that this entire property which is approximately 152-acres has at least a 50-foot border surrounding the property; that if this proposed amendment is approved, they would provide advance notice in the Covenants about the garage/studio apartments; that the current project is an active lifestyle community; that they are seeking to provide moderately priced housing; that they would like to capture the first-time homebuyers and incorporate them into the community; that the project is not age-restricted and it is age-targeted; that they are trying to have an inclusive community with all ages living there; that they would be

offering a lot/home package; that the lots are approved for sale or ground rent; that the target price would be \$199,900; that the Delaware Division of Services for Aging have provided a population projection from 2015 to 2035 that there is an expected increase in people living in Delaware that are aged 85 and over and that this number has increased to 185% in 20 years;. Mr. Dyer outlined that has personally had caregivers in his house for family members; that there is difficulty in the cost for providing care for the elderly; that the current design concept throughout the United States is to foster aging in place in what is known as ‘Universal Design’; that the Applicant’s have provided a list of restrictions that would also be mirrored in the Restrictive Covenants; that if Sussex County grants the requested amendment; that the owner of the individual property would be required to occupy the single-family dwelling unit in order to then be permitted to rent the accessory use, garage/studio apartment; that alternatively, the owner of the property must occupy the accessory use, garage/studio apartment in order to be permitted to rent the single-family dwelling; that the units would be detached from the dwellings; that Mr. Davidson stated and gave an overview of examples of a garage/studio apartments; that there would be only one connection for the water and sewer; and that there would only be one electrical meter for each unit.

Ms. Stevenson asked whether the individual homeowner would have to ask for a garage/studio apartment, which Mr. Dyer stated the garage/studio apartment would be an option for each homeowner. Ms. Stevenson asked whether this would be included in the Restrictive Covenants, which Mr. Dyer stated that it would and that the Restrictive Covenants would be recorded with the Recorder of Deeds.

Ms. Cornwell stated if the request is approved, the Applicant would have to rerecord the record plan, and this would be a condition of approval; that it would be recorded as conditions of approval; that not all the details would have to be included but the overall use would have to be on the plan.

Ms. Stevenson asked if the Covenants could be changed; and that Ms. Cornwell stated the Applicant would have to come back through two public hearings to amend or remove the condition if it is granted.

Mr. Hopkins asked if the owner of the home would live in either the dwelling or the garage/ studio apartment, which Mr. Dyer stated yes that the homeowner would have to live in either the dwelling or the garage/studio apartment.

Ms. Wingate asked if the accessory use studio/apartment shall not include duplexes, tourist homes, servant corridor or guest homes; that the garage/studio apartment would not be an Airbnb type guest home, which Mr. Dyer stated that the only thing that would be permitted would be the garage/studio apartment.

Ms. Cornwell stated that per Code, those require a different policy and process; that unless they make it a Covenants that the Sussex County could enforce; that anyone would do an Airbnb but they would have to go through the proper process; that the duplexes would be prohibited because the RPC would not allow for duplexes; and that the Code allows for a tourist/bed-and-breakfast through a Special Use Exception.

Mr. Mears asked if someone chooses not to provide a garage/studio apartment, would they still off-set the location of the main house, which Mr. Dyer stated it is up to homeowner; that Mr. Mears asked if there would ever be a breeze way or a roof connecting the dwelling and the garage/studio apartment, which Mr. Dyer stated they may not be connected by a breeze way or a roof and that the garage/studio apartment must be physically separate; that Mr. Mears asked how they would regulate the age for the renters, which Mr. Dyer stated that the management company would have the ability to and there would be a requirement to review all the leases; that Mr. Mears asked what would the cost be for the garage/studio apartment, which Mr. Dyer stated the cost of the garage/studio apartment would vary; that they would want to make the accessory complementary to and consistent with the appearance of main dwelling but smaller in size; that Mr. Mears had concerns about the cost of the garage/studio apartment since it could be used and create income to pay for the house, which Mr. Dyer stated the cost would vary if the garage/studio apartment is modularized and the size of the garage/studio apartment.

Ms. Cornwell asked if every one of the landowners does choose to have a garage/studio apartment would sewer and water capacity available for the additional dwelling units, which Mr. Davidson stated there are sewer and water available to cover the units.

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. Ms. Stevenson outlined that she was supportive of the application but would wish to take some additional time to craft a motion.

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

C/Z 1880 Craig Kormanik

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 Indian River Hundred, Sussex County, containing 1.0 acre. The property is lying on the southwest side of Indian Mission Road (Route 5), approximately 785 ft. northwest of John J. Williams Highway (Route 24). 911 Address: 31792 Indian Mission Road, Millsboro. Tax Parcel: 234-23.00-261.00.

Mr. Whitehouse 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 a DelDOT Service Level Evaluation request confirming a Traffic Impact Study (“TIS”) was not required.

The Commission found that Mr. Craig Kormanik was present on behalf of his application; that Mr. Kormanik stated that he and his sister had bought the property five years ago and the area has outgrown the current zoning; that the surrounding area is no longer a residential use; and that the property is surrounded by commercial uses.

Mr. Mears asked whether there was any intended purpose behind the request to Change the Zone, which Mr. Kormanik stated there is an interest in office use; and that he has no interest in using the property as a more intensive commercial use.

Ms. Stevenson asked, as a result of the changes in the local area, whether the property is no longer a good place for AR-1 use, which Mr. Kormanik stated the property is in the center of a shopping center; that there is a bar adjacent to the property, and it is no longer suitable for residential use.

Ms. Cornwell asked if there are other commercial uses in the area, which Mr. Kormanik stated that Taromino Square is located behind the property; and that there is a Rite-aid and Wawa are also in the surrounding area.

Chairman Wheatly explained the main consideration before the Commission, which is whether the zoning that the Applicant is requesting is appropriate for this parcel of land; that the surrounding lands in the area are similar and the Applicant has described the surrounding areas as commercial uses, which Mr. Kormanik agreed that the surrounding properties in the area are commercial uses.

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. Wingate and carried unanimously to defer action for further consideration. Motion carried 5-0.

OTHER BUSINESS

S-19-22 Mt. Calvary Pentecostal Church

Preliminary Site Plan

Mr. Whitehouse advised the Commission that this is a Preliminary Site Plan for a 6,360 square feet church building, vehicle parking and other site improvements to be located off Slaughter Neck Road. This project has previously received Preliminary Site Plan approval by the Planning Commission at its meeting of November 20, 2014. However, Final Site Plan approval was not submitted for approval and the Preliminary Site Plan approval expired as a result. The now-proposed Site Plan is in compliance with the Sussex County Zoning Code. Tax Parcel: 230-14.00-140.00. Zoning: GR (General Residential District). Staff are awaiting agency approvals.

Motion by Ms. Stevenson, 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 5-0.

2016-12 Reddenwood Subdivision – Section II

Request to Revise Conditions of Approval

Mr. Whitehouse advised the Commission that this is a request to revise the conditions of approval for the 41-lot standard subdivision located south-west of the Reddenwood Subdivision, south of Neptune Road approximately 265-feet southwest of White Oak Drive. Preliminary Subdivision

Plan approval was granted by the Commission at its meeting of August 25, 2016, subject to 14 conditions of approval. Condition 'G' requires a 20-foot vegetated buffer to be shown along the boundaries of the subdivision with the exception of the 5 lots bordering onto the Reddenwood. Final Subdivision Plan approval was granted by the Commission at its meeting of October 12, 2017, showing a landscape plan with a 20-foot buffer. The applicant has requested that the 20-foot forested buffer be waived/revised to allow Pond 2 to be located approximately 15-feet from the property line, and for the construction of an outlet structure for Pond 3 within the 20-foot forested buffer. Zoning: AR-1 (Agricultural Residential Zoning District). Tax Parcel: 135-7.00-12.00.

Mr. Robertson had concerns about what is adjoining the site; that Ms. Cornwell stated the Applicants are not able to meet the full 20-foot forest landscape buffer; that the Applicants would place some type of shrubbery and trees in the buffer area; and that the request of the waiver is for where the stormwater management pond is located.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to approve the Request to Revise Conditions of Approval with a Revised Final Landscape Plan with final by staff subject to receipt of all agency approvals. Motion carried 5-0.

2004-50 Longwood Lakes

Request to Revise Conditions of Approval

Mr. Whitehouse advised the Commission that this is a request to revision conditions of approval for the 74-lot cluster subdivision accessed from Country Living Road (Route 433). At its meeting of October 13, 2005, the Commission granted Preliminary Subdivision Plan approval subject to nine (9) conditions of approval. Condition #9 requires that, as stated by the Applicant, forested buffers shall be installed along all property lines. Final Subdivision Plan Approval was granted by the Commission at its meeting of October 17, 2007. On January 23, 2014, the Commission approved a request to delete the condition of approval relating to the provision of sidewalks and walking trails, and the Subdivision Plan was revised and approved by staff accordingly. The Applicant has requested that Condition #9 be revised/deleted to remove the requirement to plant a 30-foot forested buffer along the rear lot lines of the twenty (20) lots adjoining the stormwater management pond within the center of the site. The applicant has submitted a supporting petition, outlining that twelve (12) of the affected occupiers, representing 60%, raise no objection to the removal of the buffer behind the following numbered lots, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71 and 72. Tax Parcel: 133-15.00-20.00. Zoning AR-1 (Agricultural Residential Zoning District).

Motion by Mr. Hopkins, seconded by Ms. Wingate and carried unanimously to approve the Request to Revise Conditions of Approval as stated. Motion carried 5-0.

Lands of M. Gail and Floyd Megee

Minor Subdivision off a 30' easement

Mr. Whitehouse advised the Commission that this is a Preliminary Subdivision Plan is for a minor subdivision off a 30-foot easement over an existing driveway to create two (2) lots from an existing 10.22 acre +/- parcel located off Gravel Hill Road. Lot A will measure 2.1897 acres +/- and have access from Gravel Hill Road the residual lot will gain access from a proposed 30-foot access easement over an existing driveway on Tax Parcel 234-14.00-25.06. Tax Parcel: 234-14.00-25.08. 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 30' easement with final by staff subject to receipt of all agency approvals. Motion carried 5-0.

Lands of Bruce Knee

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 from an existing 5.01 acre +/- parcel located off Hollis Road. The proposed lot will measure 2.00 acres +/- and the residual lot will measure 3.010 acres +/- . Tax Parcel: 135-16.00-43.10. 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 5-0.

Lands of Stephen M. and Evelyn G. Prettyman

Minor Subdivision off a 50' easement

Mr. Whitehouse advised the Commission that this is a Preliminary Subdivision Plan for a minor subdivision off an existing 50-foot easement over an existing driveway to create one (1) lot from an existing 49.86 acre +/- parcel located off Sharps Mill Road. The Planning and Zoning Commission on December 22, 2016, granted approval to create Lot 1. The existing 50-foot easement will be extended over an existing driveway to give access to proposed Lot 2. Any further subdivision off this easement would require a Major Subdivision application. Tax Parcel: 430-11.00-39.00. Zoning: AR-1 (Agricultural Residential Zoning District). Staff area awaiting agency approvals.

Motion by Mr. Hopkins, 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 5-0.

Meeting adjourned at 8:09 p.m.