

THE MINUTES OF THE REGULAR MEETING OF JUNE 27, 2019

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, June 27, 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 - absent, 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. Mears and carried unanimously to approve the Agenda as submitted. Motion carried 4-0.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to approve the Minutes of the May 23, 2019 Planning and Zoning Commission meeting as submitted. Motion carried 4-0.

OLD BUSINESS

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, more or less. The property is lying on the south side of Laurel Rd. (Rt. 24), approximately 0.46 mile west of Jestice Farm Rd. 911 Address: 14716 Laurel Rd., Laurel. Tax Parcel: 232-19.00-30.00.

The Planning Commission discussed the application which has been deferred since June 13, 2019.

Ms. Wingate moved that the Commission recommend approval of Conditional Use 2178 for Steven and Carrie Coleman for a welding and fabrication business, based upon the record made at the public hearing and for the following reasons:

1. The use started by the Applicant on this property as a home occupation. The business was successful, and it has added employees which triggered the need for a Conditional Use.
2. The use is needed in this area of Sussex County by farmers. The Applicant performs repairs on all sorts of agricultural equipment.
3. By providing a service to the Sussex County agricultural community this Application meets the purpose of granting a conditional use as set forth in the Sussex County Zoning Code.
4. The proposed use will not adversely affect traffic on area roadways. It will also not adversely affect neighboring or adjacent properties.
5. No parties objected to the use and no parties appeared in opposition to the Application during the public hearing.
6. Several people appeared in favor of this Application and explained that it is needed to support the agricultural economy of western Sussex County.
7. This recommendation is subject to the following conditions:

- A. No outside repair work shall be performed on site.
- B. All used, junked parts, equipment, etc. shall be screened from view of neighboring properties and roadways and shall be appropriately discarded or recycled.
- C. The property shall have security lighting that is downward screened so that it does not project onto neighboring properties or roadways.
- D. If desired by the Applicant one lighted sign not to exceed 32 sf. per side shall be permitted.
- E. The Applicant shall comply with all DelDOT requirements concerning access and roadway improvements.
- F. All dumpsters or trash disposal containers shall be screened from view from neighboring properties, adjacent properties and roadways.
- G. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

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

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, more or less. The property is lying on the southeast side of John J. Williams Hwy. (Rt. 24), approximately 0.45 mile southwest of Oak Orchard Rd. 911 Address: N/A. Tax Parcels: 234-29.00-66.00, 66.01, & 66.02.

The Planning Commission discussed the application which has been deferred since June 13, 2019.

Mr. Mears moved that the Commission recommend approval of Change in Zone 1877 for Schiff Land Development Company, LLC. for a change in zone from CR-1 (Commercial Residential District) and MR (Medium Density Residential District) to a MR-RPC (Medium Density Residential District - Residential Planned Community) based on the information contained in the record and for the following reasons:

1. This Application is for 49.95 acres along Rt. 24 in the vicinity of Oak Orchard. This site has been the subject of several prior zoning decisions including rezoning to GR, CR-1 and MR. It was also part of a MR-RPC where the RPC overlay has lapsed.
2. The rezoning to a MR-RPC which also eliminates the existing CR-1 zoning will allow a better overall design of the property including the open space and perimeter buffers.
3. This Application seeks approval for 161 single-family units for a gross density of 3.22 units per acre which is less than the density that is permitted under the MR zoning of the property.
4. This MR-RPC meets the purpose of the Zoning Ordinance because it promotes the orderly growth of the County. The MR-RPC is also in a developing area as established by the Comprehensive Land Use Plan.
5. The MR-RPC meets the purpose of both the MR and the RPC zoning designations so that it provides for a superior living environment where County sewer and central water are

available. The site also includes about 13.5 acres of open space which represents about 27% of the site.

6. Sewer service will be provided as part of a County operated sanitary sewer district and adequate waste water capacity is available for the project.
7. Central water will be provided to the project.
8. With the conditions placed upon this project the RPC designation is appropriate for this parcel of land and that the purpose of the RPC is to encourage large-scale development as a means to create superior living environments and the use of design ingenuity.
9. The development will be required to comply with all DelDOT requirements including entrance location and road improvements.
10. The Application with the conditions placed upon it is consistent with the surrounding areas which includes a mix of residential and commercial uses.
11. The project meets the purpose of the Zoning Code and the Comprehensive Plan because it promotes the orderly growth, convenience, order, prosperity, and the welfare of Sussex County.
12. This recommendation is subject to the following conditions:
 - A. There shall be no more than 161 residential units within the project.
 - B. The bulk area standards for the 161 units shall be as follows:
 1. Front yard - 25 ft.
 2. Side yard - 10 ft.
 3. Rear yard - 10 ft.
 4. Corner yard - 15 ft.
 5. Minimum lot width - 60 ft.
 6. Minimum lot area - 7,500 sf.
 - C. Site plan review shall be required for each phase of the development.
 - D. All entrances, intersection, interconnection, roadway and multi-modal improvements required by DelDOT shall be completed by the Applicant in accordance with DelDOT's requirements or in accordance with any further modifications required by DelDOT.
 - E. The development shall be served as part of a Sussex County Sanitary Sewer District in accordance with the Sussex County Engineering Department's specifications and regulations.
 - F. The MR-RPC shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.
 - G. Stormwater management and erosion and sediment control facilities shall be constructed in accordance with the applicable State and County requirements. These facilities shall be operated in a manner that is consistent with Best Management Practices (BMPs). The Final Site Plan shall contain the approval of Sussex County's Conservation District.
 - H. The interior street design shall be in accordance with or exceed Sussex County's street design requirements and specifications. The street design shall include sidewalks on both sides of the street.
 - I. There shall be a 30-foot forested landscaped buffer around the entire perimeter of the site.
 - J. The Applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design, including landscaping in all of the buffer areas.

- K. Construction and deliveries shall only occur from Monday through Friday and only between the hours of 6 am and 6 pm.
- L. The Applicant shall form a Homeowner's Association to be responsible for the maintenance of the streets, roads, buffers, open spaces, stormwater management facilities and other common areas.
- M. The Restrictive Covenants and Final Site Plan shall state that agricultural activities exist nearby, and they shall include the Agricultural Use Protection Notice.
- N. The amenities shall include a clubhouse/multi-purpose building, pool and patio area, with at least 24 off-street parking spaces set aside for these areas. These amenities shall be completed and open to use by the residents of the development prior to the issuance of the 81st building permit.
- O. If required by the Indian River School District, a protected school bus shelter with related parking shall be installed at the entrance to the development. Alternatively, the developer shall coordinate with the school district for another location, with a preference for the clubhouse building.
- P. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Mears, seconded by Mr. Hopkins and carried unanimously to recommend approval for the reasons and with the conditions stated in the motion. Motion carried 4-0.

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 Broadkill Hundred, Sussex County, containing 154.72 acres, more or less. The property is lying on the northeast side of Milton Ellendale Hwy. (Rt. 16), approximately 0.34 mile east of Hollytree Rd. 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.

The Planning Commission discussed the application which has been deferred since June 13, 2019.

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

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 acres, more or less. The property is lying on the southwest side of Indian Mission Rd. (Rt. 5), approximately 785 ft. northwest of John J. Williams Hwy. (Rt. 24). 911 Address: 31792 Indian Mission Rd., Millsboro. Tax Parcel: 234-23.00-261.00.

The Planning Commission discussed the application which has been deferred since June 13, 2019.

Mr. Mears moved that the Commission recommend approval of Change in Zone 1880 for Craig Kormanik for a change of zone from AR-1 (Agricultural Residential District) to a C-2 (Medium Commercial District) based on the record from the public hearing and for the following reasons:

1. The applicant is seeking a change in zone to C-2 Medium Commercial. The purpose of this district is to allow retail sales and consumer services. It is intended to be located near arterial and collector streets.
2. This property is located along Route 5 very near the Long Neck intersection at Route 24. This is an appropriate location for the uses that are permitted in the C-2 District.
3. This property is adjacent to properties that are currently zoned C-1 and CR-1. This rezoning is consistent with the adjacent commercial zoning, and C-2 is actually more limited than the types of uses permitted in the C-1 and CR-1 zones.
4. There are a variety of commercial uses in the area, including a Wawa convenience store, a drug store, two shopping centers and an apartment complex. This rezoning is consistent with those surrounding uses.
5. The property can no longer be viably used for either agricultural or residential uses as permitted under the current AR-1 zoning.
6. The rezoning will not have an adverse impact upon neighboring properties or roadways.
7. The property will be served by central water and Sussex County Sewer.
8. Any development that occurs on the property will require site plan review by the Sussex County Planning & Zoning Commission after taking into account all required agency reviews, including DeDOT, State Fire Marshall and the Sussex Conservation District.
9. No parties appeared in opposition to this application.
10. For all these reasons it is appropriate to rezone this property from AR-1 to C-2 Medium Commercial.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval for the reasons and with the 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.

C/U 2177 Ingrid Hopkins

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for an events venue to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 5.0 acres, more or less. The property is lying on the north side of Fisher Rd., approximately 0.45 mile and 0.76 mile west of Beaver Dam Rd. 911 Address: 30249 Fisher Rd., Lewes. Tax Parcels: 334-10.00-53.00 (portion of) and 334-10.00-55.00 (portion of).

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

the Department of Agriculture regarding the use as Agri-tourism as the property is in Agricultural Preservation.

The Commission found that Ms. Ingrid Hopkins was present on behalf of the application; that Ms. Hopkins stated that application is for several different parcels of land which are farmed under one entity that is Green Acres Farm; that parcel 55 is where the ceremonies are held and where the parking is; that the bed and breakfast, known as Covered Bridge Inn began in 2016; with the help of her father, legislation was changed for agriculture preserved lands to have events for more than 50 persons; as the business has grown, so has the number of requests to host weddings on the property; Agri-tourism has been integrated with ice cream production and the provision of weddings into the Hopkins Dairy Farm in order to continue dairy farming; all the processes were following for the Special Use Exception for the bed and breakfast; and finally requesting a Conditional Use to host events on the property.

Mr. Hopkins asked a question about the Special Use Exception for the bed and breakfast. Ms. Cornwell stated that the Special Use Exception is a different process and is heard by the Board of Adjustment. Mr. Hopkins stated that is it a great venue location and asked a question about potential remote-controlled airplanes on the property. Ms. Hopkins stated that the remote-controlled airplane club has had use of the property since the 1970's. Mr. Hopkins asked if the farmhouse is part of the property also. Ms. Hopkins responded that located on the property is the Inn and her father's home; that there are no neighbors in the vicinity; and the Agricultural Preservation District requirements states that all music must end by 10 p.m.

Ms. Wingate asked a question about the time that lights would be turned off. Ms. Hopkins stated that lights would be off by 11 p.m. Ms. Wingate asked if all parking would be on site. Ms. Hopkins affirmed that all parking would be on the property and there would be no parking on the roadway. Ms. Wingate asked if there is a sign on the property at this time and would an additional sign be requested. Ms. Hopkins stated that there is a current sign for the bed and breakfast, there are small directional signs for parking and she did not indicate if an additional sign for the events would be requested.

The Commission found that Ms. Jennifer Cinelli-Miller, Transportation Planner with Delaware Department of Transportation ("DelDOT") was present at the hearing to answer any questions by Commissioners. Ms. Cinelli-Miller stated that the only DelDOT concern would be that there be no parking along the roadway; that in the case where the Applicant has an event with a large number of people that DelDOT's transportation management center be contacted; and that DelDOT offers event planning to help with larger events. Ms. Hopkins stated that buses will be used for large events.

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

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

Motion by Ms. Wingate, seconded by Mr. Hopkins and carried unanimously to defer action for

further consideration. Motion carried 4-0.

C/Z 1883 OA-BP Marina Bay-Lakeside, LLC

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from a MR-RPC Medium Density Residential District - Residential Planned Community to a MR-RPC Medium Density Residential District - Residential Planned Community to amend conditions of approval of Change of Zone no. 1475 (Ordinance no. 1573) for a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 787.787 acres, more or less. The property is lying on the south end of Bay Farm Rd. and the south side of Trinity Rd. 911 Address: N/A. Tax Parcels: 234-30.00-1.00 through 430.00

Ms. Cornwell advised the Commission that submitted into the record were a Site Plan, a staff analysis, comments from the Sussex County Engineering Department – Utility Planning Division, and comments from the Sussex Conservation District. Ms. Cornwell noted that the request is to amend the condition regarding the number of units and the type of number of units. Originally, the condition was that the number of units shall not exceed 1,404 consisting of 323 single-family lots, 378 single-family detached condos, 325 single-family attached townhouses, and 378 multi-family units. The Applicant is requesting that the overall number not to exceed 1,394 units comprised of 358 single-family lots, 388 single-family detached condos, 270 single-family attached townhouses, and 370 multi-family units. The Applicant wishes to reduce the number of townhouses and increase the number of single-family and single-family detached condos.

The Commission found that Mr. Zac Crouch with Davis, Bowen & Friedel, Inc. was present on behalf of the application; that Mr. Crouch stated Ms. Cornwell summed up the request; this Application was from November 2002; the Applicant requests to decrease the townhouses and increase the single-family lots, the total number of units will decrease from 1,404 to 1,394.

Mr. Robertson outlined the changes in the numbers of each unit type, and explained the overall calculation of the revised unit total.

Ms. Cornwell asked the Applicant to confirm that they wanted to lose 10 lots because if it is decided in the future that additional units are needed, it would require a new application before the Planning and Zoning Commission and County Council. Mr. Wheatley clarified that the request could be to change the number and the mix of the units, but the Applicant could request not to decrease the maximum number. Mr. Crouch stated that the Applicant would prefer to keep to their request for the change in the mix of units and to decrease the total number from 1,404 to 1,394.

Ms. Cornwell asked the Applicant if they have verified with the other engineer/builder within the development whether the proposal would impact upon them. Mr. Jon Horner, attorney for Ocean Atlantic Companies stated that this request will not impact anything that is currently approved in the other sections of the community. Mr. Horner stated that the other sections of the community that are owned by other parties already have their approvals, and that the requested change would not affect the approved numbers of those other sections.

Ms. Jennifer Cinelli-Miller from DelDOT did not wish to comment on the proposal, but understood that the request was to reduce the overall number of units within the RPC. Mr. Crouch pointed out that, as the units were being reduced, the overall impact would be less from a Transportation

perspective.

Mr. John Gee stated that he is a member of the Peninsula Homeowners Action Committee and has been a resident for fifteen years; that he supports the Application but he would like clarification as to why the request is for 1,394 units but the submitted map lists 1,336 units; and is requesting more clarity and transparency.

Mr. Crouch stated that the number shown on the submitted masterplan is the total number of homes already built in this development throughout all existing phases; that it does not reflect the current Application which seeks to reduce the number of units from 1,404 to 1,394 with a change in the type of units as stated previously. Mr. Crouch pointed out that the submitted masterplan was prepared when the previous 'Sailside' Phase was previously submitted to the Commission.

Mr. Joseph Andrea-Bronski stated that he has been a resident of the Peninsula for twelve years and supports the Application; that the 'Marina Bay' phase was planned for thirteen buildings, but only two have been built; and he would applaud a lower density in the RPC and greater transparency as to the implementation of the various phases, including 'Marina Bay'.

Chairman Wheatley explained that the decision as to whether individual units are built is not a matter before the Commission, and that the matter before the Commission is the requested change in the housing types.

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

Ms. Suzanne Laws, Sussex County Review Coordinator with DelDOT recommended that the Applicant contact DelDOT regarding the project. Mr. Wheatley stated as the request is for a reduction in units it should reduce the amount of traffic and the Applicant should make the decision if they need to coordinate with DelDOT regarding this Application.

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

C/Z 1882 Nassau DE Acquisition Co., LLC

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District and C-2 Medium Commercial District to a HR-1 High-Density Residential District – Residential Planned Community for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 15.2 acres, more or less. The property is lying on the east side of Coastal Hwy. (Rt. 1), approximately 150 ft. north of Old Mill Rd, and on the north side of Old Mill Rd., approximately 708 ft. east of Coastal Hwy. (Rt. 1). 911 Address: N/A. Tax Parcels: 334-1.00-15.00 and 334-1.00-15.03.

Ms. Cornwell advised the Commission that submitted into the record were a Site Plan, an exhibit booklet, a staff analysis, comments from the Sussex County Engineering Department – Utility Planning Division, comments from the Sussex Conservation District, comments from the DelDOT Service Level Evaluation Request, PLUS comments and the response to PLUS comments, and several letters in opposition.

The Commission found that John Tracey, Attorney with Young, Conaway, Stargatt, and Taylor, Mr. Alan Hill, from Hillcrest Associates, Ms. Nicole Kline-Elsier, Traffic Engineer with McMahon Engineers, were present on behalf of the Application. Mr. Tracey stated that the current Application is a revised plan to the one that the Commission considered in 2018; the current Application is a rezoning with an RPC overlay to give more substance to the conditions discussed in a prior meeting; the combined property has frontage on both Rt. 1 and Old Mill Rd.; it is bordered by commercial uses on Rt. 1 and has a mix of residential classifications in the rear and across Rt. 1 from the property; it is predominantly located in a level 3 investment area with some portions in the rear of the property in a level 4 investment area; under the Comprehensive Plan it lies within the Coastal Area which permits residential uses and densities similar to the type proposed; the property is currently zoned AR-1 and C-2; the Application seeks to combine both parcels into a single lot zoned HR-1 with a RPC overlay to permit the construction of 168 apartment units; this will include 21 units for the County's affordable rental unit program ("SCRP"); the purpose of the HR zoning code is to permit a variety of housing types and to provide residential densities appropriate for areas which are or which will be served by public sewer and water and are located near major thoroughfares, shopping facilities and centers of employment; this property being located on Rt. 1 and will have public water and sewer, it fits the criteria for this type of zoning; that there is a need for affordable housing not only in Sussex County but all over the country; that the need is particularly acute in eastern Sussex County; that there are more renters than homeowners and the need for smaller and more affordable apartments continues to increase; that this is an appropriate location for affordable housing;

Mr. Tracey summarized the overall need for affordable housing within Sussex County based upon the Delaware Housing Needs Assessment 2015-2020; that the SCR program would contribute to meeting this unmet need by providing 21 moderately priced, more affordable units.

Mr Tracey outlined that, based on the previous concerns from the Commission/County Council, a number of revisions have been made to the site design; that the orientation of the buildings has been changed so that the perpendicular end of three of the buildings will face the rear of the property; the buffering to the rear of the property will be enhanced; parking in the rear of the property has been reduced; the buffer will now be 92 ft in depth at the south portion of the property and would go down to 62 ft. at the north portion of the property adjoining the parking lot; the proposal is now comprised of six three-story buildings all adhering to the 42 ft. maximum height requirements; that there will be some garages in the interior of the property for vehicular storage for residents; amenities proposed are clubhouse, pool, tennis, pickleball, bocce ball and a grill area; that two access points are proposed – one on Old Mill Rd. and one on Rt. 1; that the apartments will meet current fire code and will have sprinklers; the site is bordered on three sides by roads or commercial areas; the homes on Broeders Drive are separated from the project by approximately 200 ft.; that existing trees within the site and on adjoining land would be retained; that stormwater management areas would meet all State requirements; and there are nineteen proposed conditions suggested by the Applicant.

Ms. Kline-Elsier stated that there are 30,000 plus vehicles traveling on Rt. 1 each day; that DelDOT has already advised that access on Rt. 1 will be limited to a right-in, right-out which will result in about 200 trips per day (total in and out); that the access on Old Mill Road will have full access and will result in about 700 trips per day; that the expected trips per day is 914, based on national trip data, and this number has been confirmed by DelDOT; that during commuter peak hours the

weekday morning trips are expected to average 57 and the afternoon trips average 73; that the overall increase in traffic for the area would be about 2%; that DelDOT has stated that the Applicant will be required to provide some additional short-term improvements prior to the DelDOT Rt.1 project for this area, which is expected to begin in 2023. Mr. Tracey stated that improvements will be made by the Applicant to Old Mill Rd.; that the proposal is a quality project which complies with the Comprehensive Plan; that it will provide more affordable housing options in the area; and provide amenities for the residents.

Mr. Hopkins asked what hours peak hours are. Ms. Kline-Elsier stated that morning peak hours are between 7 am – 9 am and the afternoon peak hours between 4 pm – 6 pm. Mr. Hopkins asked how the 57 morning trips are calculated. Ms. Kline-Elsier stated that there is an industry standard publication from the Institute of Transportation Engineers which is a trip generation manual; this manual contains several different land uses and for each land use it provides specific trip generation rates that are applied to a number of units in a specific land use.

Ms. Wingate asked if the trip calculations were undertaken for affordable housing versus traditional housing. Ms. Kline-Elsier stated that the trip generation rate does not differentiate between affordable housing and traditional housing, but the studies are based on the actual types of housing unit i.e. single-family, multi-family, etc. Ms. Wingate asked if there is a timeline for DelDOT's improvements to this area. Ms. Kline-Elsier stated that the DelDOT website lists 2023 as the start of the project and expects to complete by 2025. Ms. Wingate asked if there would be an on-site manager to ensure that the property is maintained. Mr. Tracey stated that this has not been decided at this time; but expects that at the least there would be a daytime manager on-site and a 24-hour number listed for after-hours assistance.

Mr. Mears asked if the sales center would be converted to a rental center when the project is complete. Mr. Tracey stated that it would become a leasing center where employees could offer tours to potential renters and an office where renters could complete leasing paperwork. Mr. Tracey said that, as the proposal is for a RPC, this could be a condition of approval. Mr. Mears asked for clarification about the 200 trips from the Rt. 1 access and the 700 trips from Old Mill Road. Ms. Kline-Elsier stated that because of the limitations on the Rt. 1 access until DelDOT complete their project it is expected that most residents will access and leave the site through the Old Mill Road entrance.

Ms. Bulkilvish asked if the Developer has looked at public transportation in this area. Mr. Hill responded that public transportation has not been analyzed for this location.

Mr. Robertson stated that the recommendation made by Ms. Stevenson on the previous application in November 2018, which contained a recommended condition requiring that no more than 90 units could be built until DelDOT completes the service roads on Rt. 1, could be potentially be considered on the current application. Mr. Robertson asked Mr. Tracey if he had any comments regarding a potential 90-unit limit. Mr. Tracey responded that the original project did not have affordable housing; the affordable housing would be spread throughout the development so if these conditions were placed on the project it would likely delay some of the affordable housing units being built; and it would also likely extend construction which would be both a burden on the Applicant but also on the surrounding area.

Ms. Jennifer Cinelli-Miller and Ms. Suzanne Laws, representing DelDOT, gave comments regarding the project. Ms. Cinelli-Miller outlined the Five Points Transportation Study which is currently ongoing; that DelDOT will be addressing the crossovers on Rt. 1; that developers in this area will be expected to meet with DelDOT to discuss how they can help address safety improvements for the crossovers; that in the future it is likely that there will be no crossovers from Old Mill Road on Rt. 1, that it would be right-in, right-out only due to the protected traffic corridor; and the Five Points study has found that the U-turns are generally safer than the crossovers whereby motorists wishing to travel in a southbound direction cross four lanes of traffic.

Ms. Wingate asked if DelDOT has a plan to add an additional lane on Old Mill Road for a right turn only and if DelDOT had enough property on the right-of-way to add this lane. Ms. Laws stated that a 60-foot is required for a local road, but she was unsure how much property exists out there today. Ms. Laws clarified that the 998 trips mentioned by Ms. Kline-Elsier although credible, has not yet been verified by DelDOT; this site does not warrant a Traffic Impact Study according to DelDOT's regulations; and per the PLUS comments a maximum of 200 trips per day would be allowed on the Rt. 1 entrance until DelDOT completes the service lanes in this area.

Mr. Robertson asked if the residents can also exit from Old Mill Road why have a cap on the number exiting from the Rt. 1 entrance. Ms. Laws stated this is one of the reasons to have the exit from Old Mill Road because there is a cap of 200 trips per day on the Rt. 1 entrance. Mr. Robertson asked what the time frame for the commencement of the service road project is. Ms. Laws stated that it is on track to begin Spring 2023 with expected 2-years to completion. Mr. Robertson asked Ms. Laws if everything stated by the Applicant for the road improvements was accurate from DelDOT's perspective. Ms. Laws confirmed that the improvements for the Minos Conaway Capital project as true and correct.

Mr. Hill confirmed that the PLUS DelDOT comments, dated March 15 and distributed on April 28, confirmed 914 trips per day and not 998 as mentioned by Ms. Laws. Ms. Cinelli-Miller asked that the Applicant reach out to DelDOT Planning to discuss public transportation for the site.

The Commission found that Ms. Katie Millard, Mr. Mike Long and Mr. Todd Fisher spoke in favor of the Application. Ms. Millard stated that she is a resident of Lewes and is a renter; she spoke about her difficulty finding a rental unit; she supports this project because there are so few affordable rental units available in the County. Mr. Long stated that he and Mr. Fisher own the land surrounding the proposed development on three sides and that they support the Application. Mr. Fisher stated that there is a lot of commercial zoning in this area and that adding high-density would create a good mix; that the changes made by the Applicant by adding additional buffering is a good idea; and once the service road is completed it will alleviate the traffic problems.

The Commission found that the following people spoke in opposition to the Application:

Mr. Bill Landon stated that he, his brother and his daughter all have homes in Landon Road which is off Old Mill Road; he has kept the zoning as AR-1 (Agricultural Residential); he met with Mr. Brockenbrough, County Coordinator from DelDOT who confirmed that the traffic report is over 4 years old; he has witnessed many accidents at the crossover from Old Mill Road onto Rt. 1; if the property is rezoned it will only be a matter of time before there is a fatality at the crossover; the density should remain low on the east side of Rt. 1 because of the development on New Road

and he quoted Council members who voted to deny this development previously; and development on this property should not begin until the service road project has been completed by DelDOT for the safety of Sussex County residents. Mr. Landon outlined his belief that the proposed density is too high in this location.

Mr. Mark Wright stated that he is a resident of Old Mill Road; that item 16 on the list of suggested conditions talks about the buffer and that the 6-foot privacy fence which would be adjacent to the right-of-way; that the privacy fence must be 10 ft. from the property line; and that there is not 202 ft. from the nearest property; there should be a deceleration lane from Rt. 1 for right turns into Old Mill Road; that the existing lane is insufficient and the deceleration lane is actually an acceleration lane from people leaving Nassau Road and New Road; both a right turn lane and an acceleration lane is needed on Old Mill Road; and DelDOT's counts show that currently there are between 684-816 trips a day from the 68 homes off of Old Mill Road. Mr Wright therefore questioned how is it possible that 168 units would only generate 900 additional trips per day.

Dr. Catherine Murphy stated that she is a nurse, an educator and an environment advocate; that she is a resident of Nassau Acres and is representing herself and her neighbors; that she asks the Commission not to support this proposal as it is a threat to the safety of all, not just the residents of Nassau Acres. Dr. Murphy outlined traffic concerns of this area and showed a video which was taken in October 2018, showing the high volume of traffic on Rt. 1 and how dangerous it is to merge into traffic; that she applauds the effort to increase affordable housing in the area but not at the risk of public safety.

Mr. George Dellinger highlighted a few of the points within his written statement; that this project will likely present dangers because of the high risk of the additional high volume of traffic; that a TOA and a TIS are completely different reports, the TOA (Traffic Operational Analysis) happens after an approval has been granted and a TIS (Traffic Impact Study) must be completed prior to approval.

Mr. Robertson stated that both DelDOT and the Applicant have confirmed that there will be a service road here to help with the traffic issues and asked how this affects the traffic impact objections. Mr. Dellinger stated that the proposals will cause a high-risk public safety danger if construction and residential trip volumes projected by DelDOT are permitted (even in part) before completion and full operation of the New Road – Minos Conaway Connector and northern service road and stated that this is a death trap unless the project is delayed to allow time to implement the highway improvements; that safety issues must be considered by the Commission; that CZ 1882 should be denied and the Applicant invited to reapply after the GSI connector is complete and the service road are in operation so that residents and construction workers will have safe access to Rt. 1.

Ms. Sue Nyden stated that she lives on Roberts Road; she supports her neighbors' comments about traffic; as a social worker she does not consider 21 units of 168 units as affordable housing as it is just over 10% of the entire number of units; and this is a tiny affordable housing project. Mr. Robertson stated that though Ms. Nyden's statements are true, based on Sussex County affordable housing ordinance, this project does comply with the ordinance. Ms. Nyden stated that though the numbers may meet the requirements of the Ordinance, however they do not address the needs of the residents of Sussex County.

Ms. Lisa Bartels stated that she lives on Old Mill Road; there are environmental concerns; the area is serviced by well water which relies on forest and fields for a recharge area; a change in zoning would create a very large impermeable surface with large parking lots planned for this development. Ms. Bartels asked that the Commission undertake due diligence and make sure there are adequate retention ponds and further studies from DNREC prior to approval; she raised concerns about the air quality for current residents during the construction period; she is concerned about the effect on wildlife in the area; it is the Commission's responsibility to also protect current residents when thinking about this Application; and there is a lack of infrastructure in this area, there are no walkways, bike lanes, restaurants, grocery or convenience stores in the area.

Mr. Erwin Villiger stated that he and his family live on Old Mill Road; he is a professor of environmental science and public policy; and asks that the Commission reject this Application as it does not conform to the Comprehensive Plan approved by County Council in December 2019; that the intended use is not in keeping with the residential activities in the area; that the impact on water resources and traffic in the area has not been evaluated; that if the Commission denies the Application then it will not increase the traffic issues already in this area; that this area has been renamed from an environmentally sensitive area to a coastal area which does not evoke the same level of concern that should be shown when evaluating new developments being built in this area; that high density developments are supported in this area with the following conditions:

- water and sewer availability.
- being near commercial areas.
- within level one and level two strategy for State spending.
- and with a similar surrounding density.

Mr. Villiger stated that being near commercial areas is the only condition being met; that infrastructure investment can bring water and sewer and can build road infrastructure; but does not address the other issues and that is that this area falls in a level three low-priority zone for State funding; high-density development in a level three zone are principally encouraged as part of mixed-use development; building high-density next to low-density and commercial does not constitute mixed-use development; that the first objective of goal 4.4 of the Comprehensive Plan is to "*Ensure that the new development complements the character of the existing surrounding communities*", this high-density housing is not appropriate; in a letter from DelDOT dated December 3, 2018, it states: *Per program policy, if a property has reasonable alternative access to a secondary road, no direct access to the corridor will be permitted. All site access must be developed along Old Mill Road, not Rt. 1.*; in an update dated April 3, 2019, DelDOT suggests allowing direct access to Rt. 1, but limiting it to 200 trips a day; a re-zoning to medium density would not be out of character for this area; and if the Applicant wants to develop this property, they should build something that is in keeping with the surrounding density and the surrounding community.

Mr. Vincent Brady stated that he lives on Oak Drive; that he believes that this rezoning petition is one of the worst ever presented to the Planning and Zoning Commission; that Eastern Sussex County is a retirement haven and a resort community; that if retirees see overcrowding in the area they will chose to relocate out-of-state; that as a resort community people visit here to relax, that if factors that make the vacation enjoyable are removed then people will go elsewhere and Sussex

County loses business; that the Applicant has made little provision for family activities and there are no proposed play areas; that DART could service this development, but this would potentially result in pedestrians crossing Rt. 1 in a dangerous manner; that this Application is dependent on the completion of the SR.1/Minos Conaway Grade Separated Interchange which could be delayed, canceled, or modified in scope at will by the State of Delaware; that the density sought is inappropriate in this location. As a result, Mr. Brady urged the Commission to recommend denial of the application.

With no other speakers wishing to speak, Mr. Wheatley closed the public hearing for this application.

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

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

OTHER BUSINESS

2019-7 Guy Subdivision #8

Final Subdivision Plan

Mr. Whitehouse advised the Commission that this is a Final Subdivision Plan for a standard subdivision of 13 single-family lots and site improvements. The site is 38.29 acres located on the south side of Waterview Rd., east of Camp Arrowhead Rd. The Preliminary Subdivision Plan was approved with conditions at the meeting of May 23, 2019. The Final Subdivision Plan complies with the Sussex County Zoning Code, Subdivision Code and all conditions of approval. The Applicant is seeking to split the subdivision into phases while awaiting further DelDOT entrance approval. Phase I will consist of four lots and the residual land. The tax parcel is 234-12.00-22.00, the zoning is AR-1 (Agricultural Residential). Staff are in receipt of all agency approvals for the Phase I portion of the subdivision.

Motion by Mr. Mears, seconded by Mr. Hopkins and carried unanimously to approve the Final Subdivision Plan Phase I. Motion carried 4-0.

2018-7 Wellesley

Final Subdivision Plan

Mr. Whitehouse advised the Commission that this is a Final Subdivision Plan to divide 77.97 acres into 131 single-family lots located on the south side of Warrington Rd. (Rt. 275) and on the south side of John J. Williams Hwy. (Rt. 24) and on the east side of Mulberry Knoll Rd. (Rt. 284). The Preliminary Subdivision Plan was approved with conditions at the meeting of June 28, 2018. The Final Subdivision Plan complies with the Sussex County Zoning Code, Subdivision Code and all conditions of approval. The tax parcel is portions of 334-12.00-46.01, 334-12.00-113.00, and 334-12.00-116.00. Zoning District. AR-1 (Agricultural Residential). Staff are in receipt of all agency approvals.

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

2005-49 The Woodlands Subdivision

Final Amenities Site Plan

Mr. Whitehouse advised the Commission that this is a Final Amenities Site Plan for the construction of two pools, a bathhouse and other site improvements. The Preliminary Amenities Site Plan was approved at the meeting of October 11, 2018. The Final Amenities Site Plan complies with the Sussex County Zoning Code. The tax parcel is 134-19.00-30.00. Zoning District. AR-1 (Agricultural Residential). Staff are in receipt of all agency approvals.

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

Atlantic Concrete – Lewes Plant

Revised Site Plan

Ms. Bulkilvish advised the Commission that this is a Revised Site Plan for the replacement of the Lewes Plant which includes a proposed 3,200 sf. building, new conveyor system, concrete block storage bins for aggregate stock pile, parking and other site improvements. The Revised Site Plan complies with the Sussex County Zoning Code. The tax parcel is 335-11.00-57.00. Zoning District. AR-1 (Agricultural Residential). Staff are awaiting agency approvals.

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

S-19-24 Vanderwende Acres, LLC

Preliminary Site Plan

Ms. Bulkilvish advised the Commission that this is a Preliminary Site Plan for a proposed events venue located 22304 Atlanta Rd. The Planning and Zoning Commission approved Conditional Use 2165 at the meeting of March 28, 2019, and the Sussex County Council approved the use on April 16, 2019. The Site Plan complies with the Sussex County Zoning Code and conditions of approval. The tax parcel is 531-6.00-72.00. Zoning District. AR-1 (Agricultural Residential). 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.

2019-4 Sloan Family Subdivision

Request to Revise Conditions of Approval

Ms. Bulkilvish advised the Commission that this is a request to Revise Conditions of Approval for an eleven (11) lot standard subdivision located on north side of Pinewater Dr. in the Pinewater subdivision. Preliminary Subdivision Plan Approval was granted by the Commission at the meeting dated May 9, 2019. subject to eleven (11) conditions of approval. Condition D requires A forested or landscaped buffer of at least 30-ft in depth shall be installed along the entire perimeter of the project except that no forested or landscaped buffer shall be required along the perimeter of the project where the sewer easement is located. The Applicant requests that the 30-ft forested buffer be reduced to 20 ft. as it was shown on the Preliminary Subdivision Plan and as is required for a standard subdivision. The Applicant has also received variances for the area and width of all eleven (11) proposed lots from the Board of Adjustment on December 17, 2018, if the buffer were

to increase to 30 ft. the Applicant would need to apply for additional variances for the area and lot width of each proposed lot. The Tax Parcels are 234-17.12-5.00, 5.01, and 5.02. Zoning District. AR-1 (Agricultural Residential District).

Ms. Wingate asked if it were noted in the record as to why Condition D required a 30-ft. buffer. Ms. Cornwell stated that there was nothing in the record and that a 20 ft. buffer is the County's requirement for standard subdivisions.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to amend Condition D to reduce the buffer size to 20 ft. and approval of the Request to Revise Conditions of Approval Motion carried 4-0.

Meeting adjourned at 9:27 p.m.