

THE MINUTES OF THE REGULAR MEETING OF JULY 18, 2019

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, July 18, 2019, in the County Council Chamber, Sussex County Administration Office Building, Georgetown, Delaware.

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

Motion by Ms. Wingate, seconded by Mr. Hopkins and carried unanimously to approve the Agenda as revised July 11, 2019, at 9:02 p.m. to add Old Business C/U 2179, C/U 2180, C/Z 1884 and Minutes. Motion carried 5-0.

Motion by Ms. Wingate, seconded by Ms. Stevenson and carried unanimously to approve the Minutes of April 11, 2019, June 13, 2019, and June 27, 2019 Planning and Zoning Commission meeting as revised. Motion carried 5-0.

OLD BUSINESS

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 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.

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

Ms. Stevenson moved that we recommend approval of Change in Zone 1878 to amend Ordinance No. 2295 as later amended by Ordinance No. 2636 for the Captain's Way GR-RPC based upon the record made during the public hearing, and for the following reasons:

1. Captain's Way is a GR-RPC development with 301 lots on 154.90 acres. It was first approved as Ordinance # 2295, and it was amended by Ordinance No. 2636.
2. The applicant is seeking to amend these prior approvals to allow a single garage studio apartment to be permitted on each lot.
3. With the additional garage studio apartments, the overall density is still within the permitted density of the GR District.
4. The applicant has stated that the garage studio apartments will offer an additional type of affordable housing within the development.

5. The proposed garage studio apartments promote the purposes of the Residential Planned Community District as set forth in the Zoning Code.
6. There was testimony that there is adequate water and wastewater facilities for the addition of the garage studio apartments.
7. For these reasons, I recommend that Condition A of Ordinance # 2295 be amended to state as follows:
“A. The maximum number of lots shall not exceed 301. *In addition to the main single-family dwelling on each lot, one (1) garage studio apartment shall be permitted. No garage studio apartment shall exceed 800 square feet in size and shall comply with the regulations of the Sussex County Zoning Code. The garage studio apartments shall be owned in common with the main single-family dwelling on the lot, and the owner of the residence shall occupy one of the units on the property.*”

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to forward this application to the Sussex County Council with a recommendation the application be approved. Motion carried 5-0.

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 Road, approximately 0.45 mile and 0.76 mile west of Beaver Dam Road. 911 Address: 30249 Fisher Road, Lewes. Tax Parcels: 334-10.00-53.00 (portion of) and 334-10.00-55.00 (portion of).

The Planning Commission discussed the application which has been deferred since June 27, 2019.

Ms. Stevenson moved that the Commission approval of Condition Use 2177 for Ingrid Hopkins for and event venue based upon the record made during the public hearing and for the following reasons:

1. The site is a 5-acre parcel of land owned by the applicant. It is surrounded by farmland owned by the Applicant’s family. The use will occur within a renovated barn and the surrounding area, including pavilions.
2. This is also the site of a bed and breakfast that was approved by the Sussex County Board of Adjustment. This use is consistent with the prior approval of this agricultural property.
3. The use is an extension of the historical agricultural use of this property and it is consistent with the surrounding farmland.
4. The applicant intends to hold events that include weddings, birthday parties, and similar events.
5. The Delaware Agricultural Lands Preservation Foundation has confirmed that the Agri-Tourism use is an approved use on lands that are in the State Agricultural Preservation Program.
6. The site will have sufficient areas for parking.
7. With the conditions and limitations placed upon the Conditional Use, it will not adversely affect neighboring or adjacent properties or area roadways.

8. This use promotes agricultural activities in Sussex County and is an innovative agritourism destination.
9. No parties appeared in opposition to this application.
10. This recommendation is subject to the following conditions:
 - A. Food and beverage service and music or similar entertainment is permitted.
 - B. All parking areas shall be generally shown on the Final Site Plan. No parking shall be permitted on any nearby County Roads.
 - C. All entrance locations shall be subject to the review and approval of DelDOT.
 - D. All events shall conclude prior to 11:00 at night, with music ending no later than 10:00 p.m.
 - E. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Ms. Stevenson, seconded by 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 1883 OA-BP Marina Bay-Lakeside, LLC

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an MR-RPC Medium Density Residential District - Residential Planned Community to an 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 Road and the south side of Trinity Road. 911 Address: N/A. Tax Parcels: 234-30.00-1.00 through 430.00

The Planning Commission discussed the application which has been deferred since June 27, 2019.

Mr. Mears moved that the Commission recommend approval of Change in Zone 1883 for **OA-BP MARINA BAY-LAKESIDE, LLC**, to adjust the types of units and the total number of units in an MR-RPC as approved by C/Z 1475 (Ordinance No. 1573) for the development known as “The Peninsula” based on the record made during the public hearing and for the following reasons:

1. C/Z 1475, which was identified as Ordinance No. 1573, included a condition identifying the number and types of uses allowed within this MR-RPC as follows:

“The maximum number of units shall not exceed 1,404 units comprised, as follows:

 - 323 Single Family Lots*
 - 378 Single Family Detached Condominiums*
 - 325 Single Family Attached Town Houses*
 - 378 Multi-Family Units”*
2. This MR-RPC was approved in 2002 and is still being built out today.
3. As the master developer of this project, the Applicant has stated that there is no longer a strong demand for townhouse units within this project. Based upon the market, they are seeking to replace certain townhouse units with single-family units and detached

condominium units. This will also result in a reduction in the total number of units that will be built in the MR-RPC.

4. The Peninsula Owners Association representatives testified during the hearing that they do not object to this request, subject to confirmation of the reduced number of units that will be allowed as a result this request.
5. This request will not adversely affect the overall design of the MR-RPC, or the current and future residents of the development.
6. For these reasons, and at the Applicant's request, Condition No. 1 of C/Z 1475 and Ordinance No. 1573 should be amended to state as follows:

“The maximum number of units shall not exceed 1,394 units comprised, as follows:

*358 Single Family Lots
388 Single Family Detached Condominiums
270 Single Family Attached Town Houses
378 Multi-Family Units”*

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

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 an 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. The property is lying on the east side of Coastal Highway (Route 1), approximately 150 ft. north of Old Mill Road and on the north side of Old Mill Road, approximately 708 ft. east of Coastal Highway (Route 1). 911 Address: N/A. Tax Parcels: 334-1.00-15.00 and 334-1.00-15.03.

Ms. Stevenson stated that she has listened to the audio for this case and is prepared to make a motion.

The Planning Commission discussed the application which has been deferred since June 27, 2019.

Ms. Stevenson stated she is generally supportive of affordable housing, but she does have significant concerns with traffic safety in this location.

Ms. Stevenson moved that the Commission recommend denial of Change in Zone 1882 for Nassau DE Acquisition Co., LLC for a change in zone from AR-1 and C-2 Zoning to an HR-RPC based on the record and for the following reasons:

1. The Applicant is seeking a change in the base zoning of this property to HR. That is the highest density Zoning that is available in Sussex County.
2. The proposed rezoning to HR would create a standalone HR zone in an area that has already developed with low-density uses. The high-density, more urban uses permitted in the HR zone is not appropriate given the uses that surround this location.

3. The site is adjacent to single-family development which is incompatible with the High-Density multi-family development that is permitted under the proposed HR zoning. While there is some C-1 zoning next to parts of this site, these properties have developed with small business uses. While there is some MR zoned land in the area, it is across Route 1 from this site and it has developed with single-family dwellings. The same is true for the small area of MR zoning behind this site.
4. The applicant has proposed a height limit of 42-feet for the project, but that is intended to be exclusive of pitched roofs and other rooftop elements which can reach 52-feet or more in the HR zone. The permissible height of 52-feet in the HR zoning is not compatible with the other low-density uses nearby which have a maximum height of only 42-feet.
5. The proposed access onto Old Mill Road is insufficient because the narrow and rural nature of the road makes it incompatible with substantial traffic generated by the higher density that would be permitted under the proposed HR zoning.
6. The site is in the Coastal Area according to the Sussex County Comprehensive Plan. According to the Plan, the base density in the Coastal Area should remain 2 units per acre. While the Plan states that higher densities can be appropriate, the Plan's suggestions for reasons to increase the density are not present here.
 - A. For example, the site is not in the midst of existing commercial or employment centers. Instead, there are just small, individual commercial zones nearby with small businesses, and there are no longer commercial areas between Nassau and Milford. The main commercial corridor of Route 1 is not conveniently located near this site.
 - B. Also, the proposed rezoning to an HR-RPC is not in keeping with the character of the area, which is a factor contemplated by the Plan as a reason to increase density within the Coastal Area.
7. There are no other high-density developments or zoning districts on the north side of Route 1 from the Nassau Bridge through Milford. In prior decisions, the County has noted that given the important environmental and agricultural uses of the land areas east of Route 1 (including preservation districts and state-owned land), these areas should remain predominantly low-density AR-1 land. This is consistent with the Comprehensive Plan, which states that 2 units per acre is the base density of the Coastal Area. HR zoning in this location is inconsistent with the County's prior land-use decisions for land east of Route 1 between Nassau and Milford.
8. The purpose of the RPC District is not satisfied by this application. According to the Zoning Code, an RPC is supposed to "encourage large-scale developments as a means of creating a superior living environment through unified developments and to provide for design ingenuity while protecting existing and future developments...". These goals are not satisfied by this project.
 - A. This is not a large-scale development. Instead, the applicant is seeking to shoehorn a high-density development into a relatively small parcel.
 - B. There is nothing in the record to indicate that this is a "superior living environment" or that it represents "design ingenuity". Instead, it appears to merely seek the maximum density that could be possible under a Sussex County Zoning classification without a design that is superior to a standard multi-family development design. There is nothing unique, superior or ingenious in this design, and the Applicant has failed to satisfy its burden in this regard.
 - C. The development is not unified with its surrounding developments. There is a complete lack of unity with the surroundings. For example, its secondary point of access is via

- a rural roadway that serves low-density single-family homes on individual lots. This is a standalone high-density development that has no uniformity to anything around it.
- D. The proposed HR-RPC does not protect the existing or future developments in the area. Instead, there was evidence in the record that this HR-RPC would adversely affect the existing developments through the substantial increase in traffic, particularly on Old Mill Road, among other factors.
9. Although there was a recommendation for approval from the Commission for a similar project on this site as part of Conditional Use 2147, that application was for 150 units, not 168. I am not satisfied that this property, this neighborhood or the area roadways (including rural Old Mill Road) can handle these additional units.
 10. There is a need for affordable housing in Sussex County, and Sussex County promotes affordable housing initiatives and development as reflected in the Comprehensive Plan. However, Sussex County must also consider whether a proposed development, especially a high-density development, is appropriately located. In this particular case, there are just too many factors that are contrary to a high-density rezoning here, regardless of the housing component of this proposed development.
 11. The proposed high-density zoning, being totally out-of-character with the surrounding area, would not promote the orderly growth, convenience, prosperity and welfare of Sussex County.
 12. For all these reasons, I move that we recommend a denial of the change in zone to an HR-RPC.

Motion by Ms. Stevenson, seconded by Wingate and carried to forward this application to the Sussex County Council with a recommendation that the application be denied.

Mr. Hopkins expressed his concerns that the previous application on this site was unanimously recommended for approval by the Commission and asked Mr. Robertson to summarize the differences between that application and the current application; Mr. Robertson stated the prior application was for a request for a Conditional Use and this application is for proposed Change in Zone to HR; that the most significant change is that the prior application was for 150 units and the this proposed application is for 168 units; that this application is part of the Sussex County Affordable Rental Unit Program under Chapter 72 of the County Code; that the Applicant has submitted for the 21 units to be administered through the Community Development Housing of Sussex County; that the difference is 21 units of Affordable Housing; that Ms. Stevenson stated the County Code, in Chapter 99-15F, states that all major commercial and industrial development or subdivisions along the major arterial roadways of Sussex County shall be prohibited unless the major commercial and industrial development shall provide service roads adjacent to all major arterial roadways; that Ms. Wingate stated during the testimony of this application there was a lot more information provided regarding the traffic and showing the numbers on Old Mill Road and the lack of the service road; that Ms. Stevenson had concerns for the safety of people who would be living in that area, if approved, and about traffic merging onto the already dangerous and congested Rt. 1; that Mr. Hopkins raised his concern that any potential denial could be perceived in a negative way in regard to how the Planning and Zoning Commission reviews the applications; and that Ms. Stevenson stated the Commission just voted to allow accessory housing to another development that did not have issues relating to affordable housing or aging in place.

Chairman Wheatley stated there would be a vote by roll call that a yes vote is to vote for denial of

the application and a no vote is to against the denial.

Vote to deny the application by roll call: Ms. Stevenson-yea, Mr. Hopkins-no, Mr. Mears-no, Ms. Wingate-yes, Chairman Wheatley-no. Motion defeated 3-2.

Mr. Robertson stated that it takes 3 affirmative votes to act; that the application is still open for another action.

Mr. Hopkins moved that the Commission recommend approval for Change in Zone 1882 for Nassau DE Acquisition, LLC from AR-1 and C-2 to an HR-RPC based upon the record made during the public hearing and for the following reasons:

1. This application seeks a change in zone from AR-1 and C-2 to an HR-RPC. The purpose of the HR zone is to provide a variety of housing types in an area where central water and sewer is available, and which are well-located with respect to major thoroughfares, shopping facilities, and centers of employment.
2. The stated purpose of the HR District is satisfied for this site because it is located along Route 1 and central water and sewer are available. There was testimony in the record from a DelDOT representative that Route 1 is being modified with the northbound lanes being converted into a service road. Sewer service will be provided by Sussex County and adequate wastewater capacity is available. Water service will be provided by a publicly regulated water company. There is also shopping nearby on Route 1 and the Five Points and Westcoat's Corner commercial areas are accessible by cars and bicycles.
3. The property is adjacent to properties that have C-1 zoning which permits a wide variety of commercial uses and residential development of 12 units an acre. There is also extensive MR zoning across Route 1 from the site. This rezoning is consistent with other zoning and land uses in the area.
4. The property is in an area near Route 1 commercial corridor and near public transportation as well as multi-modal transportation on the new rail trail through Nassau. This is an appropriate location for HR zoning.
5. The site is in the Coastal Area according to the Sussex County Land Use Plan. The Plan states that a range of housing types are appropriate in this Area, including multi-family uses.
6. The Comprehensive Plan states that higher densities can be supported in the Coastal Area where:
 - (a) There is central water and sewer, both of which are available here.
 - (b) There are sufficient commercial areas and employment centers nearby, which exist here. Route 1 is one of the primary commercial and employment corridors in all of Sussex County.
 - (c) The site is along a main road. This property fronts on Route 1, which will be significantly improved as this site is developed, with the current northbound lanes becoming a service road directly in front of this site.
 - (d) There is an adequate Level of Service. There is nothing in the record to indicate that the Level of Service is insufficient for this project, and the record also indicates that the traffic impact of this development upon Route 1 will be minimal.
 - (e) There are other factors which are relevant to the requested density. Here, it is relevant that the Applicant is seeking an HR-RPC to develop affordable housing as part of the

Sussex County Rental Unit Program.

7. While there has been a stated concern about developing properties on the eastern side of Route 1 north of the Nassau area, this property is the northern limit of the Coastal Zone. So, it does not forecast similar development north of this site on the bay side of Route 1.
8. This application seeks the approval of 168 multi-family apartment units on 15.2-acres, for a density of almost 12 units per acre. This includes 21 units to be maintained as affordable units under Sussex County's Affordable Rental Unit Program administered under Chapter 72 of the Sussex County Code.
9. Because of the high price of homes and rentals in much of eastern Sussex County, housing can be unaffordable for a lot of the workforce in this area of the County. As a result, many of those County residents cannot afford to live near where they work, resulting in long commuting time and increased traffic on County roadways. This project will provide affordable housing to Sussex County residents with low to moderate income levels who are a large part of the workforce in eastern Sussex County.
10. Sussex County Council has declared in Chapter 72 of the Sussex County Code that it is the public policy of the County to:
 - A. Encourage the creation of a full range of housing choices, conveniently located in suitable living environments, for all incomes, ages, and family sizes.
 - B. Encourage the production of affordable rental units to meet the existing and anticipated future employment needs in the County.
 - C. Assure that affordable rental units are dispersed throughout the County consistent with the Comprehensive Plan.
 - D. Encourage developments in Growth Areas as defined within the County's most current Comprehensive Plan and Areas of Opportunity as defined by the Delaware State Housing Authority to include a minimum percentage of affordable rental units on public water and sewer systems.

The proposed development is in accordance with this County Public Policy as set forth in the County Code.

11. The application promotes the Goals, Objectives, and Strategies of the Housing Element of the Sussex County Comprehensive Plan, as follows:
 - It ensures the provision of safe and decent housing for all Sussex County residents (Goal 8.1 of the Housing Element)
 - It ensures that a diversity of housing opportunities are available to meet the needs of residents of different ages and income levels. (Goal 8.2 of the Housing Element)
 - It affirmatively furthers affordable and fair housing opportunities in the County to better accommodate the needs of all residents. (Objective 8.2.1 of the Housing Element)
 - It promotes an increase in affordable rental opportunities through a private developer. (Objective 8.2.2 of the Housing Element)
 - Its facilities and promotes a land-use policy that enables an increase in the supply of affordable housing in areas with adequate infrastructure. (Objective 8.2.3 of the Housing Element)
12. The site is in an "Area of Opportunity" designed by the Delaware State Housing Authority. The Sussex County Comprehensive Plan promotes the expansion of affordable housing

opportunities in these Areas.

13. There was testimony in the record from a DelDOT representative that Route 1 is being modified so that the northbound lanes are going to be converted into a service road. Access to this property will be from this new service road as well as Old Mill Road. Both points of access are onto public road owned and maintained by DelDOT, and DelDOT will require a variety of roadway improvements funded by the developer to serve these entrances.
14. The proposed HR zoning meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County in an appropriate location.
15. The proposed development creates large-scale rental residential housing with a superior living environment for County residents and it achieves the goals of the Comprehensive Plan consistent with the purpose of the RPC District. The RPC design incorporates a separation of 60 to 90 feet between the rear lot line and the project's rear parking area. The homes to the rear also separated by at least 200-feet. The design also includes significant amenities and open space.
16. The development will be served by central sewer provided by Sussex County.
17. The development will have central water provided by a publicly regulated water utility.
18. This recommendation has conditions and stipulations placed upon it that will address many of the concerns raised during the public hearing.
19. This recommendation is subject to the following conditions;
 - A. The maximum number of residential units shall be 168, of which at least 21 shall be maintained as affordable units in accordance with the requirements of the Sussex County Rental Unit Program administered pursuant to Chapter 72 of the Sussex County Code.
 - B. Although the height limit for structures in the HR zone is 52-feet, as proffered by the Applicant, no structures in this project shall exceed 42-feet, exclusive of pitched roofs, chimneys, elevator towers or similar items.
 - C. All entrances, intersections, roadway and multi-modal improvements shall be completed by the developer in accordance with all DelDOT requirements. The entrance to the project from Old Mill Road shall not be gated in any fashion.
 - D. No more than 90 dwelling units shall be constructed until the conversion of the northbound lanes of Route 1 into a service road is completed.
 - E. The project shall be served by Sussex County sewer. The developer shall comply with all Sussex County Engineering Department requirements including any off-site upgrades necessary to provide service to the project.
 - F. The project shall be served by central water to provide drinking water and fire protection.
 - G. Interior street design shall meet or exceed the Sussex County street design requirements.
 - H. With the exception of the time between the Friday of Memorial Day weekend and Labor Day, construction and site work shall only occur on the property between 7:30 am and 7:00 pm, Monday through Friday and 8:00 am to 2:00 pm on Saturdays. To avoid additional truck and construction traffic on this area of Route 1 during the summer season, there shall not be any construction or site work on Saturdays or Sundays between the Friday of Memorial Day weekend and Labor Day.
 - I. Street naming and addressing shall be subject to the review and approval of the County Mapping and Addressing Departments.
 - J. The stormwater management system shall meet or exceed the requirements of the State

- and County. It shall be constructed and maintained using best management practices.
- K. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
 - L. The application shall coordinate with the local School District to establish a school bus stop area, which shall be shown on the Final Site Plan if required by the District.
 - M. The development shall include the following amenities: tennis courts, pickleball courts, bocce ball courts, and a clubhouse with a pool. The Final Site Plan shall contain the dimensions of the clubhouse and pool. These amenities shall be completed prior to the issuance of the building permit for the 4th multi-family building.
 - N. There shall not be any structures located within the 50-feet of the northeast boundary of the property. There shall be a 7-foot tall privacy fence of opaque wood or vinyl installed within the area to screen the project from the Broeder's Drive right-of-way. All existing vegetation in this area shall be maintained as a non-disturbance area, with additional plantings added to comply with the requirements of Section 99-9 of the Subdivision Code as a minimum. There shall not be any walking paths or lighting in this area. The existing and planned vegetation, as well as the fencing in this area, shall be shown in a Landscaping Plan submitted as part of the Final Site Plan.
 - O. The developer shall preserve as many existing trees as possible on the site. These preserved areas shall be clearly shown on the Final Site Plan.
 - P. All lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways. No light pole on the site shall exceed 12-feet in height.
 - Q. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Hopkins, seconded by Mr. Mears and carried to forward this application to the Sussex County Council with a recommendation that the application be approved.

Ms. Stevenson asked questions about whether the affordable housing would genuinely be affordable housing for people that are working in Sussex County; Ms. Stevenson asked if there is a mechanism to prevent potential occupation of the affordable units by people retiring in Sussex County and looking for a cheap place to live at the beach; that Mr. Robertson and Ms. Cornwell stated it is written in the County Code in Chapter 72; that Mr. Robertson stated that there are requirements on median income levels for those people that qualify; that there are requirements on who qualifies, whether the people have been a Sussex County resident for a certain period of time; that all of that is administered/monitored by the Sussex County Department of Community Development and Housing; that there are reports that have to be provided outlining how the units are marketed, who is renting the properties, and when the leases are terminated; that all of the information would be made available to Sussex County Community Development and Housing; that Ms. Cornwell stated that Chapter 72 states that you have to be employed and live in Sussex County for a least one year preceding the application; that Ms. Stevenson stated one of the developers that came in for proposed affordable housing had stated that most of the affordable housing was going to people that are retiring in Sussex County; that Mr. Robertson stated that Sussex County tries to get people to use Chapter 72 of the Sussex County Code and that the Sussex County's moderate price housing unit program which is home ownership and the SCRP under Chapter 72 which is rental.

Motion by Mr. Hopkins, seconded by Mr. Mears and carried to forward this application to the Sussex County Council with a recommendation that the application be approved.

Chairman Wheatley asked for a roll call: Ms. Stevenson-no, Mr. Hopkins-yea, Mr. Mears-yea, Ms. Wingate-no, Chairman Wheatley-yes. Motion passes 3-2.

C/U 2179 Joseph H. Jr. and Patricia Prettyman

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for multi-family (2 dwellings), lawn mower repair business, outdoor storage, leased storage units, and storage building to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 3.71 acres. The property is lying on the southeast side of Robinsonville Road, approximately 211 ft. northwest of Jimtown Road. 911 Address: 18583 Robinsonville Road, Lewes. Tax Parcel: 334-11.00-47.00.

The Planning Commission discussed the application which has been deferred since July 11, 2019.

Ms. Stevenson moved that the Commission recommend approval of Conditional Use # 2179 for a lawnmower and small engine repair business, outdoor storage and leased storage units and storage buildings based on the record made during the public hearing and for the following reasons:

1. The property is a 3.71-acre parcel that is remaining from a much larger farm dating to the 1800s. The uses all occur within former agricultural outbuildings or buildings that were built more than 30 years ago. The uses have also occurred on the property for some time as the property transitioned away from primarily farming operations.
2. The property is zoned AR-1 Agricultural Residential. The use of part of the property for a small engine repair business with storage in outbuildings is consistent with the types of uses that would occur on an AR-1 property. The property also continues to be used for other agricultural purposes.
3. The site is in the Coastal Area according to the Sussex County Comprehensive Plan. Small business uses such as this are appropriate in this Area according to the Plan.
4. The Applicants reside on the property and will have control over how it is used.
5. There will be no retail sales from the property.
6. The use will not adversely affect area roadways or traffic.
7. The small engine repair work and storage serves a variety of Sussex County residents and businesses. This intended use is of a public or semi-public character that will benefit the residents and businesses of Sussex County.
8. The property is served by a well and septic system.
9. This recommendation is subject to the following conditions:
 - A. This use shall be limited to a lawnmower and small engine repair business, outdoor storage and leased storage units and storage buildings. No other businesses shall be conducted from the site. No retail sales shall be conducted from the site.
 - B. There shall not be any Conex-type metal storage containers, metal shipping containers, roll-off containers or dumpsters brought to the site or stored on the site, other than one dumpster to be used for refuse associated with the business.
 - C. One lighted sign shall be permitted. It shall be no larger than 32 square feet per side.

- D. The hours of operation for the lawnmower and small engine repair business shall be from 8:30 am until 5:00. Monday through Friday, with no weekend hours. The storage areas shall be accessible 7 days per week from dawn until dusk.
- E. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.
- F. The applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.
- G. The Final Site Plan shall clearly show all areas for outdoor storage and parking, and these areas shall be clearly marked on the site itself. There shall not be any outdoor storage within the property's setbacks.
- H. All lawnmower and small engine maintenance and repair shall occur indoors. Also, any fluids associated with this use shall be safely stored and disposed of in accordance with all state and federal requirements. No fluids shall be stored outdoors.
- I. The indoor leased storage shall only occur within the existing structures on the site. No additional storage buildings shall be permitted.
- J. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.
- K. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Ms. Stevenson, seconded by 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 stipulations stated in the motion. Motion carried 5-0.

C/U 2180 Robert J. Palmer and Laura M. Hudson

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for a professional office to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 18.11 acres. The property is lying on the west side of Cedar Lane., approximately 0.53 mile north of Governor Stockley Road. 911 Address: 23318 Cedar Lane, Georgetown. Tax Parcels: 133-3.00-1.00 and 1.10.

The Planning Commission discussed the application which has been deferred since July 11, 2019.

Mr. Hopkins moved that the Commission approve Conditional Use 2180 for Robert J. Palmer and Laura M. Hudson for a professional office based upon the record made during the public hearing and for the following reasons:

1. The proposed Conditional Use started as a home occupation within the Applicant's home. Because the business has grown, the Applicant's are seeking to include office space for themselves and employees upon the property.
2. The Applicant's property is 18.11 acres in size. This is large enough to permit the construction of a small office without having an adverse impact on neighboring properties.
3. The Applicants stated that the office space will be used as an engineering office, and that does not generate much traffic other than the few employees who will work there. Meetings with the business clients typically occur off-site.
4. The property is in a "Developing Area" according to the Comprehensive Plan. Office Uses are appropriate in this Area according to the Plan.

5. This recommendation is subject to the following conditions:
 - A. As stated by the applicant, there shall be no more than 1,500 square feet of professional office space.
 - B. As proffered by the Applicant's, the new office space shall be located no closer than 200-feet from the front or rear property line. In addition, all existing perimeter buffers shall be maintained.
 - C. As stated by the Applicant, the hours of operation shall be between 7:00 am and 7:00 pm, Monday through Saturday. This shall not prohibit the Applicants from working in the office at other hours of the day or on weekends.
 - D. One lighted sign, not to exceed 32 square feet per side, shall be permitted. It shall be located so that it does not shine upon the residential lots on either side of the property's entrance road.
 - E. Any dumpsters shall be screened from view of neighboring properties and roadways.
 - F. The applicant shall comply with all DelDOT requirements concerning entrance, traffic and roadway improvements.
 - G. All parking areas for the Conditional Use shall be shown on the Final Site Plan and clearly marked on the site itself.
 - H. The Applicants' shall comply with all DNREC requirements concerning any upgrades that are necessary to the existing septic system as a result of the construction of this new office space.
 - I. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

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

C/Z 1884 ABC STORAGE, LLC

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a C-2 Medium Commercial District for certain parcels of land lying and being in Nanticoke Hundred, Sussex County, containing 2.41 acres. The property is lying on the north side of Seashore Highway (Route 18/404), approximately 0.22 mile east of Wilson Hill Road. 911 Address: 13049 and 13039 Seashore Highway, Georgetown. Tax Parcels: 231-5.00-24.00 (portion of) and 231-6.00-6.00 (portion of).

The Planning Commission discussed the application which has been deferred since July 11, 2019.

Mr. Hopkins moved that the Commission recommend approval of Change in Zone 1884 for ABC Storage for a change in zone from AR-1 Agricultural Residential zoning to C-2 Medium Commercial zoning based upon the record made during the public hearing and for the following reasons:

1. C-2 Medium Commercial zoning is designed to support retail sales and the performance of consumer services. It is intended to be located near arterial and collector roads.
2. The Applicant's property is currently zoned AR-1 and C-1. This application will bring the entire property under commercial zoning. The site also is in an area where other commercial zonings and commercial uses exist.

3. Part of the Applicant's property is currently used as a mini-storage facility and retail building. This rezoning will permit the reasonable expansion of both uses.
4. The Applicant has stated that there is a need for the expanded mini-storage facility since there is currently a waiting list. And, the grocery that is located on the property serves the community in this area of Sussex County and wants to expand on the property. This rezoning will permit both reasonable expansions to occur on this site.
5. The Applicant owns the property to the rear of this site, and the use will not have an adverse impact on properties on either side of the site.
6. The site is located along Route 404, which is an arterial road. This is an appropriate location for C-2 zoning.
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 the rezoning application.
9. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.

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

PUBLIC HEARINGS

None

OTHER BUSINESS

Rehoboth Gateway – Outparcel 6

Revised Site Plan

Ms. Bulkilvish advised the Commission that this is a Revised Site Plan for the construction of a 3,502-square foot building to be used as a bank with a drive-through window and other site improvements to be located off Coastal Highway. The parking for this outparcels has previously been approved as part of the overall Master Plan for Rehoboth Gateway on June 25, 2015, and the 93 spaces shown are still in compliance with the use. The Revised Site Plan is in compliance with the Sussex County Zoning Code. Tax Parcel: 334-13.00-325.51. Zoning: C-1 (General Commercial District). Staff are awaiting agency approvals.

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

S-18-80 Sussex Conservation District

Revised Site Plan

Ms. Bulkilvish advised the Commission that this is a Revised Site Plan for a 5,070-square foot, one and one-half story building, additional parking, a 6,720-square foot garage, 1,962- square foot equipment shed, 3,200-square foot equipment storage canopy and other site improvements to be located off Shortly Road. The Commission has previously given Preliminary approval to this Site plan for the 5,070-square foot one and one-half story building and additional parking only on November 29, 2018. The Preliminary Site Plan is in compliance with the Sussex County Zoning

Code. Tax Parcel: 135-23.00-5.00. Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals.

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

S-19-18 Procino-Wells & Woodland

Preliminary Site Plan

Ms. Bulkilvish advised the Commission that this is a Preliminary Site Plan for an office with parking and other site improvements. Conditional Use 2160 was approved on March 19, 2019. A variance was approved for the side setback to accommodate an external fire escape that was required by the Office of the State Fire Marshal on July 1, 2019. The Preliminary Site Plan is in compliance with the Sussex County Zoning Code. Tax Parcel: 335-12.06-3.00. Zoning: AR-1 (Agricultural 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 approval by staff subject to receipt of all agency approvals. Motion carried 5-0.

S-19-20 Masten Realty

Preliminary Site Plan

Ms. Bulkilvish advised the Commission that this is a Preliminary Site Plan for a 5,100-square foot office and parking. The office will be in an existing dwelling. The parcel has been rezoned from AR-1 to B-2 (Business Community District) and was approved by County Council on March 12, 2019. The Preliminary Site Plan is in compliance with the Sussex County Zoning Code. Tax Parcel: 330-11.00-46.01. Zoning: B-2 (Business Community District). Staff are awaiting agency approvals.

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

Lands of Henderson

Minor Subdivision off an Easement

Ms. Bulkilvish advised the Commission that this is a Preliminary Minor Subdivision off a proposed 19-foot easement over an existing driveway. The subdivision is to create one parcel measuring 0.8546 acres. +/- leaving a residual parcel of 0.7556 acres +/- to be located off Evergreen Lane. Tax Parcel: 130-1.18-14.00. Zoning: MR (Medium Residential District). Staff are awaiting agency approvals.

Motion by Mr. Hopkins seconded by Mr. Mears and carried unanimously to approve the Minor Subdivision off an Easement with final approval by staff subject to receipt of all agency approvals. Motion carried 5-0.

ADDITIONAL BUSINESS

Chairman Wheatley advised the Commission Members there is a need to schedule another special meeting; that they are looking at dates for either September 19, 2019, or October 17, 2019; that the Commission Members agreed to hold the special meeting on October 17, 2019.

Chairman Wheatley asked if anyone would like to meet with LSA before noon on Friday; which Chairman Wheatley stated he would like to meet with them on Friday at 10:30 am and Mr. Hopkins stated he would like to meet with them at the same time.

Meeting adjourned at 6:51 p.m.