

THE MINUTES OF THE REGULAR MEETING OF OCTOBER 10, 2019

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, October 10, 2019, in the County Council Chamber, Sussex County Administration Office Building, Georgetown, Delaware.

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

Motion by Ms. Wingate, seconded by Ms. Stevenson and carried unanimously to approve the Agenda as revised to remove the approval of the Minutes for September 12, 2019. Motion carried 5-0.

OLD BUSINESS

C/U 2185 Vincent Kinack

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for multi-family (2 units) to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 3.4516 acres, more or less. The property is lying on the northeast corner of Short Rd. and Anderson Corner Rd. 911 Address: 21167 Short Rd., Harbeson. Tax Parcel: 234-4.00-42.00.

The Planning Commission discussed the application which has been deferred since August 22, 2019.

Ms. Stevenson moved that we recommend approval of Conditional Use #2185 for **VINCENT KINACK** for 2 multi-family dwelling units in an AR-1 District based upon the record and for the following reasons:

1. The applicant is seeking to convert his current dwelling structure into two separate units. He will live in one and rent the other. The outside appearance of the structure as a single-family home will not be changed by this conditional use.
2. This is an opportunity to create a unit of affordable housing in this area and is of a public or semi-public character.
3. No parties appeared in opposition to the use.
4. This conditional use for multi-family structures will comply with the additional requirements of Section 115-22 of the Zoning Code regarding such structures in the AR-1 Zone.
5. The conditional use will not have an adverse impact on area properties or roadways.
6. This recommendation is subject to the following conditions.
 - A. There shall be no more than 2 dwelling units on the property.

- B. Prior to Final Site Plan Approval and occupancy of the second unit, the Applicant shall provide the County with proof of DNREC approval for the on-site septic system serving the two units.
- C. The applicant shall comply with all Zoning Code parking requirements for the two units.
- D. The applicant shall comply with any DelDOT entrance requirements regarding the two units.
- E. As required by Section 115-22 of the Zoning Code for multi-family uses in the AR-1 District, at least 40% of the site must be set aside as open space.
- F. As required by Section 115-22 of the Zoning Code for multi-family uses in the AR-1 District, there shall be a vegetated buffer of at least 75 feet, with the plantings required by Code. The Final Site Plan must contain a landscape plan for the buffer area.
- G. The Final Site Plan shall be approved by the Sussex County Planning & 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/U 2188 Donovan's Painting and Drywall, LLC c/o Jose Sandoval

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for a contractor's office and storage to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 0.69 acres, more or less. The property is lying on the south side of Lewes Georgetown Hwy. (Rt. 9), approximately 187 ft. west of Church St. 911 Address: 32454 Lewes Georgetown Hwy., Lewes. Tax Parcels: 334-5.00-205.01 and 208.00.

The Planning and Commission discussed the application which has been deferred since September 26, 2019.

Ms. Stevenson moved that we recommend approval of **C/U #2188** for **DONOVAN'S PAINTING AND DRYWALL, LLC, c/o JOSE SANDOVAL** for a contracting office with storage based upon the record made during the public hearing and for the following reasons:

1. The use is situated on a 0.69-acre parcel of land. It is located along Route 9, which is classified as a major collector road by DelDOT. There is C-1 General Commercial Zoning across the road along with several conditional uses in the vicinity. These conditional uses include commercial landscaping sales and storage, a landscaping business office and other businesses. This is an appropriate location for this Conditional Use.
2. With the conditions and stipulations of approval, the use will not have a negative impact on the neighboring properties or area roadways.
3. This site is located in the Coastal Area according to the Sussex County Comprehensive Plan. Small businesses such as this one are appropriate in the Coastal Area according to the Plan.

4. The use provides a service to residents and the construction industry in Sussex County. This use has a public or semi-public character that will benefit the residents and businesses of the County.
5. The Applicant has stated that most of the work is offsite, so there is not a lot of activity that occurs on this site during the day.
6. There is a natural forested buffer along most of the sides and rear of the property, which will remain in place to screen the use from neighboring properties.
7. This recommendation is subject to the following conditions:
 - A. The use shall be limited to a contracting office with storage.
 - B. There shall not be any outside storage of paint or other materials associated with the use.
 - C. All lighting on the site shall be fully shielded and downward screened so that it does not shine on neighboring properties or roadways.
 - D. Any dumpsters on the site shall be screened from the view of neighboring properties and roadways.
 - E. The applicant shall comply with all DelDOT requirements for entrance and roadway improvements.
 - F. The hours of operation shall be Monday through Friday from 7:00 a.m. until 7:00 p.m., and from 7:00 am through 1:00 pm on Saturdays. There shall not be any Sunday hours.
 - G. One lighted sign shall be permitted on the site. It shall not exceed 32 square feet per side.
 - H. The parking shall comply with the County Parking Requirements. All vehicle parking and large equipment storage areas shall be clearly shown on the Final Site Plan and clearly marked on the site itself. All vehicles must only be parked within the designated areas.
 - I. The existing vegetation on the sides and rear of the site shall remain in place to act as a screen from neighboring properties. The Final Site Plan shall confirm the existence and location of this vegetation.
 - J. The Applicant shall comply with all requirements of the Sussex Conservation District regarding stormwater management on the site.
 - K. Failure to comply with any of these conditions shall be grounds for the termination of the Conditional Use approval.
 - L. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

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

C/U 2190 Steven and Helene Falcone

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for an office to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 0.26 acre, more or less. The property is lying on the northwest corner of Beaver Dam Rd. and Church St. 911 Address: 17662 Beaver Dam Rd., Lewes. Tax Parcels: 334-5.00-212.00 and 213.00.

The Planning Commission discussed the application which has been deferred since September 26, 2019.

Ms. Stevenson moved that we recommend the denial of **C/U #2190** for **STEVEN AND HELENE FALCONE** for an office based upon the record made during the public hearing and for the following reasons:

1. This site is only one quarter of an acre in size, and it is located at the corner of Church Street and Beaver Dam Road.
2. While the proposed use is appropriate for this general location, the record does not indicate that the use will fit on this small parcel of land.
3. The survey that was submitted shows a building that will not fit within the proposed setbacks without at least 3 separate variances. It also shows parking within several setbacks.
4. The survey that was submitted also indicates that there is a significant boundary line discrepancy of 14 feet along the northwest boundary of the site. This further impacts the setback encroachments of the proposed building and parking.
5. While the use may be appropriate, there are just too many unanswered questions about the lot boundaries and whether the proposed use will fit on this property without a substantial re-design and/or multiple variances. Under these circumstances, it is not appropriate to approve this conditional use at this time.
6. If the Applicant can resolve the boundary line dispute and design a building that fits on this property or obtain the necessary variances to construct an office building on this property, the Applicant shall be permitted to re-apply without having to pay another application fee.

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

C/Z 1899 Harbeson Farm Revex, LLC

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an MR Medium Density Residential District and AR-1 Agricultural Residential District to a B-2 Business Community District for a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 0.8016 acres, more or less. The property is lying on the east side of Harbeson Rd. (Rt. 5), approximately 0.44 miles south of Lewes-Georgetown Hwy. (Rt. 9). 911 Address: 18865 Harbeson Rd., Harbeson. Tax Parcel: 235-30.00-131.01 (portion of).

The Planning Commission discussed the application which has been deferred since October 10, 2019.

Ms. Stevenson moved that we recommend approval of **C/Z 1899 Hudson Farm Revex, LLC** for a Change in Zone from AR-1 (Agricultural Residential District) to B-2 (Business Community District) based upon the record made during the public hearing and for the following reasons:

1. The B-2 Business Community Zoning is designed to allow office, retail shopping and

personal service uses that serve a relatively small area, including low-density and medium-density neighborhoods.

2. The Applicant has stated that the purpose of this rezoning is to allow the United States Post Office serving Harbeson to be relocated to this property. The Post Office was previously discontinued at its prior site due to the redevelopment of that property and the improvements to the Route 9 and Route 5 intersection. B-2 zoning supports this use as a Post Office.
3. The site is located along Route 5 in Harbeson in an area where there is a mix of small businesses and residential uses. There is also a large industrially-zoned property nearby. This location is appropriate for B-2 zoning.
4. The B-2 zoning will not adversely affect the area roadways, public facilities or nearby properties.
5. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity and welfare of the County.
6. No parties appeared in opposition to the application, and several people appeared in favor of it.
7. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.

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

PUBLIC HEARINGS

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

2019-15 LBG Homes, LLC

A standard subdivision to divide 7.975 acres +/- into 4 single-family lots to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County. The property is located on the east side of William Street Rd, approximately 700 ft. south of Maryland Camp Rd. Tax Parcel: 234-28.00-19.00. Zoning District. AR-1 (Agricultural Residential District).

Ms. Cornwell advised the Commission that submitted into the record were comments from the Sussex County Engineering Department Utility Planning Division, a Subdivision Plan, a Letter of No Objection to recordation from DelDOT, comments from the Sussex Conservation District, a Soil Study by a licensed soil scientist. That the Staff would note that even though it is only four lots, the reason they have to come before the Commission for a Major Subdivision is that the parcel has exhausted the number of permitted Minor Subdivisions. That it therefore qualifies for a Major Subdivision.

That the Commission found that Mr. Kevin Smith with The Kercher Group was present on behalf of the application and was representing the Applicant Mr. Steve Connors; that Mr. Smith stated that Miller-Lewis identified with staff that the limit of the number of minor subdivisions had been reached; that the Applicant intended originally to subdivide 4 lots in January of this year; that the

application requires consideration by the Commission; that the existing and proposed zoning is AR-1 (Agricultural Residential District); that the parcel is fully forested; that the proposed parcels would have private wells as there is no access to central water; that the property is located in the low-density area; that the Land Use Classification per the 2007 Comprehensive Plan shows the land is in agricultural and undeveloped lands; that the lots that were already carved off were designated as mixed-use residential; that a letter was submitted into the record regarding Chapter 99-9C; that it is a strip lot Subdivision; that the property is a total of 7.975-acres; that the proposed subdivided lots range from 1 ½ acre to 2 ½ acres.

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

Mr. Mears move that the Commission grant Preliminary and Final Subdivision Plan approval of Subdivision 2019-15 for **LBG HOMES, LLC** based upon the record and for the following reasons:

1. The proposed subdivision generally meets the purpose of the Subdivision Ordinance in that it protects the orderly growth of the County.
2. The land is zoned AR-1 which permits low-density single-family residential development. The proposed subdivision density of 4 lots on 7.975 acres of land is significantly less than the allowable density.
3. The proposed subdivision will be consistent with the area and will not adversely affect nearby uses or property values.
4. The proposed subdivision will not adversely impact schools, public buildings, and community facilities.
5. The proposed subdivision will not adversely affect traffic on area roadways.
6. Because the subdivision proposes large lots without any internal streets, and because this would be considered a minor subdivision but for the number of prior subdivided, a waiver from the perimeter buffer waiver requirement is appropriate.
7. This approval is subject to the following conditions:
 - A. There shall be no more than 4 lots within the subdivision. Any further subdivision shall require another public hearing.
 - B. All entrances shall comply with the applicable DeIDOT requirements.

Motion by Mr. Mears, seconded by Mr. Hopkins and carried unanimously to grant Preliminary and Final Subdivision Plan approval. Motion carried 5-0.

C/U 2186 Mountaire Farms of Delaware, Inc.

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District and GR General Residential District for sludge and wastewater spray irrigation to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 351.86 acres, more or less. The property is lying on both sides of Mount Joy Rd., approximately 52 ft. west of Townsend Rd, and being on both sides of Townsend Rd., approximately 157 ft. south of Mount Joy Rd., and being on the southeast corner of Mount Joy Rd. and Townsend Rd, the northeast corner of Maryland Camp Rd and Townsend Rd, and the southwest corner of Maryland Camp Rd. and William Street Rd. 911 Address: N/A. Tax Parcels:

234-28.00-1.00, 2.00, and 3.00.

Ms. Cornwell advised the Commission that submitted into the record were results from the DelDOT Service Level Evaluation, comments from the Sussex Conservation District, an Exhibit Booklet which includes photographs, comments from the Sussex County Engineering Department Utility Planning Division; that Ms. Cornwell noted that there are seven letters in opposition to the application.

Mr. Robertson stated that he would not participate, and that Mr. Sharp would take his place for this case.

That the Commission found that Ms. Lisa McLaughlin, an Attorney with Phillips Goldman McLaughlin and Hall, Mr. Austin Pajda and Mr. Mike Tirrell, with Mountaire Farms appeared on behalf of the Applicant, that Ms. McLaughlin stated Mountaire Farms of Delaware, Inc. is requesting a Conditional Use; that Mountaire currently spray irrigates its treated poultry processed water on thirteen (13) fields; that there are five (5) fields for land application of sludge which are underutilized; that Mountaire wants to repurpose two (2) of the fields to allow spray irrigation on these fields; that when there is more acreage to spray, it is better for the environment; that Mountaire has no plans to increase production or to increase the amount of treated processed water applied to the fields; that this will be good for the County; and that it will help Mountaire achieve its objectives with the Department of Natural Resources and Environmental Control (DNREC); that Mr. Pajda referred to the map and stated that a Conditional Use is required for all bio solid application sites after May 1990; that the Rust and Thorogood Farms were permitted by DNREC through an agriculture utilization permit that began in June 1990; that Mountaire purchased this property in early 2000s and all active permits transferred with ownership; that the sludge application permits were renewed every five (5) years as required; that to be exempt from going through the Conditional Use process for application of sludge, Mountaire would have to prove that the use was in place and not interrupted for more than a two-year period; that after discussion with the County and DNREC bio solids program, Mountaire made the decision to apply for a Conditional Use to proceed with the renewal of the agricultural utilization permit; that in addition Mountaire is requesting a Conditional Use to use spray irrigation on these lands; that all locations will need to be approved by DNREC; that the spray irrigation is subject to strict regulations which considers nearby homeowners; that Mountaire currently has approximately 920 acres across thirteen (13) fields which are used for spray irrigation; that having the potential to increase the amount of land by thirty 30% would be strides forward to allow for better accommodations for Mountaire's spray irrigation operation; that this is not for the purpose of increasing production; that having more acres to spray with the same amount of water on the additional lands would allow operators to have more flexibility to rotate fields during harvest season; that it would allow fields to receive less water on a year round average, that it would allow crops to uptake nutrients at a more efficient rate; that it would cause overall loading at the site to decrease and that it would decrease the overall percolate for groundwater parameters; that Mr. Tirrell stated that Mountaire Farms employs over 3,000 people in the Millsboro facility and over 5,000 people in the Delmarva area; that 35,000 indirect jobs are provided in the area; that Mountaire purchases services and goods from hundreds of goods from chicken farmers and grain growers; that the payments of wages in 2017 were over \$100 million, payments to farmers and growers were over \$77 million, utility payments over \$60 million and capital improvements over \$50 million; that in 2017,

Mountaire invested over \$300 million into the local economy and donated several million dollars to charities; that approving this conditional use will allow Mountaire to continue with the programs and contributions to the community; and that Mountaire Farms is committed to getting their facility in complete compliance.

Mr. Hopkins asked about the cost of the new wastewater treatment plant; that Mr. Tirrell stated that the state-of-the-art plant will cost approximately \$50 million.

Ms. Wingate asked what sludge is; that Mr. Pajda stated that it is partially solid that has been treated through requirements set by DNREC; that it must go through pathogen reduction and a similar treatment process as the water; that Ms. Wingate asked what is being done with the sludge currently; that Mr. Pajda stated that a contractor is being paid to haul it away.

Mr. Mears asked if there were statistics about how pure the water being sprayed is; that Mr. Pajda stated that he did not have the statistics at this time but that the new plant would be state-of-the-art and will be pristine water; that Ms. Stevenson asked if the water which will be sprayed will all go through the treatment plant; that Mr. Pajda stated yes; and that Mr. Wheatley stated that the State regulates the water treatment process.

Mr. Sharp asked if all the sludge and water will be from Mountaire facilities; that Mr. Pajda stated that is correct; that Mr. Sharp asked if any sludge would be stockpiled on the site; that Mr. Pajda stated that there wouldn't be any stored and would be applied immediately; that Mr. Sharp asked about the hours of operation; that Mr. Pajda stated that DNREC has very strict guidelines about when spray irrigation can be done; that Mr. Sharp asked if there are buffers to neighboring non-Mountaire lands; that Mr. Pajda stated that there will be a 200 ft. buffer to the residential property to the east; that Mr. Sharp asked if this was to help offload spray irrigation that is being done elsewhere; that Mr. Pajda stated that this is correct and that sludge is currently being hauled away.

The Commission found that no one spoke in favor of and six parties spoke in opposition to the application.

Ms. Shelly Cohen, Mr. Ken Haynes, Ms. Cheryl Mathes, Ms. Jymayce Wescott, Mr. and Mrs. Keith Steck, and Ms. Joanne Haynes spoke in opposition to the application. Ms. Cohen read a statement and submitted it into the record. Ms. Cohen stated that the proposal is not an agricultural activity; that if it were agricultural a Conditional Use permit would not be necessary; that it is not business development and that the proposed use does not fall under the listings of Conditional Uses listed in Sussex County Code. Mr. Haynes stated that he is opposed to this application. Ms. Mathes stated that she is opposed to the application; that she has an air filter in her car which registers red when passing fields where spray irrigation is being operated. Ms. Wescott stated that homeowners want to know that spray irrigation and sludge do not affect the community; that information was not provided about how far that water and sludge will travel in the ground; that the community needs to understand exactly what this means for this the area.

Mr. Wheatley asked the representatives from Mountaire could respond to the questions raised by Ms. Wescott. Mr. Pajda stated that the infiltration rate is regulated by DNREC. Ms. Tanya Rogers-Vickers, Director of Environmental Compliance for Mountaire stated that the new wastewater

plant and will meet all requirements set forth by DNREC; that there will be a certain amount of nitrogen and phosphorus in the water to help grow plants.

Mr. Hopkins asked if this plant would be able to more precisely deliver the nitrogen and phosphorous; that Ms. Rogers-Vickers stated that the amount applied to the land will be less than what is needed for crops and therefore all nitrogen and phosphorous will be absorbed by the crops; that Mr. Hopkins asked if Mountaire is willing to have a lesser yield of crop in order for the crop to soak up all the nitrogen and phosphorous; that Ms. Rogers-Vickers stated that this is correct; that Ms. Stevenson asked if the crops are sold; that Ms. Rogers-Vickers stated that corn, wheat, and soy beans are grown for Mountaire's use; that Ms. Stevenson asked how the groundwater levels are reported to DNREC; that Ms. Rogers-Vickers stated that the levels are reported monthly to DNREC in the Spray Monitoring Report (SMR); that Ms. Stevenson asked if DNREC ever perform checks on their own; that Ms. Rogers-Vickers stated yes.

Mr. Steck stated that he opposes the application and that he will submit his written comments into the record; that he had concerns about the online packet provided by the Planning and Zoning Department; that Ms. Cornwell stated that the application was omitted from the package but that all the documents provided were part of the online packet; that Mr. Steck stated that he believes there are inaccuracies in the packet; that he has a number of questions such as are there heavy metals in the sludge, if sanitary waste is co-mingled with processed waste, how do the wastewater and sludge get transported to the site; and that any decision should be put on hold until all documents have been reviewed.

Mr. Wheatley asked the Mountaire team to come forward to respond to the questions; that Ms. Rogers-Vickers stated that the sludge is hauled by truck with 2 – 3 trips transported off-site; that the wastewater is transported by a pipeline from the plant to the fields; that sludge is made when you treat wastewater and you separate the solids from the liquids; that the process does not have any heavy metals associated with it; that DNREC requires Mountaire to test for heavy metals. Ms. Haynes stated that DNREC did not allow Mountaire to spray when it rains; that now Mountaire sprays all the time; and that she is concerned about spraying when it is raining.

Ms. Rogers-Vickers stated that Mountaire does have wet weather fields with the stipulation that if they spray there is no ponding or runoff; and that there are operators on Mountaire staff that monitor this process 365 days a year.

Mr. Sharp asked what amount is being sprayed elsewhere and the amount that is being sprayed; that Ms. Cornwell stated that information is not available as it is not part of this application.

Ms. Stevenson asked if the Commission could ask DNREC about the monitoring process; that Mr. Sharp stated that the Commission could ask the Applicant what permits are required by DNREC; Mr. Wheatley asked the Applicant to address this issue; Ms. Rogers-Vickers stated that Mountaire monitors on a daily basis and submits to DNREC monthly on the SMR; that DNREC conducts visits both announced and unannounced; that Ms. Cornwell stated that DNREC requires monthly, quarterly and annual reports from anyone who holds a spray irrigation permit.

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

Ms. Stevenson asked if the property already sludge had been applied somewhere on the property; that Mr. Hopkins stated he thought the Applicant does have sludge on the property; that Ms. Cornwell stated she is not sure and it is not subject to this Conditional Use application; that the Applicant has been trucking sludge from the facility off to other sites; that the Applicant is proposing to have additional sludge, the property does have wastewater and spray irrigation; that Ms. Stevenson thought the Applicant was taking the sludge somewhere else; that Ms. Cornwell stated the Applicant is currently taking the sludge somewhere else; that Ms. Stevenson asked if it is not on the Sussex County property already put on the land; that Ms. Cornwell stated the Applicant has more than or can go on the property because they have spray irrigation on the rest of the farm; that Mr. Hopkins stated that when Townsend stated the poultry business it was all of Townsend's poultry operation; that they were growing corn, soybeans, and taking the sludge to injecting it and trucking it out; that the sprayer would irrigate the property; that it is the same land they have been using for years and they want to clean-up the water to grow; that the soybeans and corn you have to put some kind of nitrogen down on the site; that the Applicant may want to get rid of their wastewater in an effort to not over saturate the soil and that they are willing to pay the price to have a slightly lessor corn yield; that they are putting in a treatment plant to make sure they can control it; that Ms. Wingate stated that is a different application than the sludge; that Ms. Stevenson stated she would of like someone from DNREC to have attended the public hearing; that DNREC should monitor the site and she would like a letter from DNREC stating they are watching the site; that Mr. Mears stated he asked the question about the purification level of the water just so the people in opposition could hear the statement; that Chairman Wheatley stated that there is a difference between what the Applicant is doing and spray irrigation that is associated with a residential development; that the Applicant would like nitrogen and phosphorous in this water because they are going to grow crops; that in a residential subdivision who's wastewater is being sprayed or irrigated is not an issue; that Ms. Stevenson stated that in the summary it reads that specifics regarding spray irrigation such as rates overall acres, crops need to be discussed with DNREC once approval for Conditional Use is granted and details will be dependent on test results outlined in DNREC regulations; that some of the general protocol which will need to be conducted into determining the above includes soil sampling, installation approval of additional monitoring wells and marking applicable setbacks for appropriate buffer zone; and that Ms. Cornwell stated if the Planning and Zoning Commission so choose to approve the Conditional Use, and the condition of approval that the Commission would have to have a copy of the DNREC permits prior to the approval of the Final Site Plan.

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

OTHER BUSINESS

2018-2 Outer Banks Subdivision

Final Subdivision Plan

Ms. Devore advised the Commission that this is a Final Subdivision Plan for the Outer Banks North & South Subdivision (2018-2) for a major subdivision of 49 single-family dwellings on a 32.677-acre parcel of land using the cluster development option accessed off Jimtown Road (Sussex County Road 285A). The Preliminary Subdivision Plan was approved by the Planning and

Zoning Commission at their meeting of May 10, 2018. The Final Subdivision Plan is in compliance with the Sussex County Zoning and Subdivision Code and all Conditions of Approval. Tax Parcel: 334-11.00-5.02 & 5.03. Zoning: AR-1 (Agricultural Residential Zoning District.) Staff are in receipt of all agency approvals.

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

S-18-56 Frankford Business Park

Preliminary Site Plan

Ms. Devore advised the Commission that this is a Preliminary Site Plan for the construction of four single-story warehouse type buildings totaling 76,600 square feet, 32,800 square feet of office space and 20,000 square feet of conditioned storage space along with two enclosed pipe yards, loading spaces, and additional parking and site improvements. This is a through lot fronting on both DuPont Boulevard and Delaware Avenue. The applicant has included a letter explaining that the parking initially placed along the buildings has been moved into the front setback along Delaware Avenue. in order to provide fire access. The Preliminary Site Plan is in compliance with the Sussex County Zoning Code. Tax Parcel: 433-11.00-21.02. Zoning: C-1 (General Commercial District) and AR-1 (Agricultural Residential District). Staff are awaiting agency approvals.

Ms. Stevenson asked if the parking had existed in the setbacks and why can the Applicant have parking in the setbacks; that there should be no parking in the front yard setback; and that Ms. Cornwell stated that the application is for a through a lot and they have two front yards.

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

Ashburn Homes Sales & Design Center (S-19-41)

Preliminary Site Plan

Mr. Whitehouse advised the Commission that this is a Preliminary Site Plan for the construction of a proposed office, sales center, storage building, and other site improvements located at 20238 Coastal Highway. The site was previously a retail (seafood carryout). The Board of Adjustment amended CHCOZ requirements on September 9, 2019, Case No. 12360. The Preliminary Site Plan complies with the Sussex County Zoning Code and with the amended CHCOZ requirements. Tax Parcel: 334-19.00-156.00. Zoning: C-1 (General Commercial Zoning District). Staff are awaiting agency approvals.

Motion by Ms. Stevenson, seconded by Mr. Hopkins 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 Cheryl Proctor

Minor Subdivision off 50' easement

Mr. Whitehouse advised the Commission that this is a Preliminary Subdivision Plan for a minor subdivision off a 50' easement over an existing driveway to create two (2) lots, Lot 2 measuring

1.456-acres +/- and Lot 3 measuring 2.546-acres +/- from an existing 10-acre +/- parcel. Tax Parcel: 430-21.00-7.01. Zoning: AR-1 (Agricultural Residential Zoning District). Staff are awaiting agency approvals.

Motion by Ms. Hopkins, seconded by Ms. Stevenson and carried unanimously to approve the Minor Subdivision off 50' easement with final by staff subject to receipt of all agency approvals. Motion carried 5-0.

ADDITIONAL BUSINESS

The Commission discussed the draft 2020 Planning and Zoning Commission meeting schedule. Chairman Wheatley asked if any of the Commissioners had any questions or comments regarding the proposed hearing dates for the upcoming year. Upon there being no questions or comments, Chairman Wheatley adjourned the meeting.

Meeting adjourned at 7:39 p.m.