

## **MINUTES OF THE REGULAR MEETING OF JULY 13, 2017**

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, July 13, 2017 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, Mr. Doug Hudson, Mr. Keller Hopkins, Mr. Martin Ross, Ms. Kimberly Hoey-Stevenson, with Mr. Jamie Sharp – Assistant County Attorney, Ms. Janelle Cornwell – Director, and Mrs. Jennifer Walls - Planning Manager.

Motion by Ms. Stevenson, seconded by Mr. Wheatley, and carried unanimously to approve the Agenda as posted. Motion carried 5-0

Motion by Mr. Ross, seconded by Ms. Stevenson, and carried unanimously to approve the Minutes for June 8, 2017 as amended. Motion carried 5-0.

### **ADDITIONAL BUSINESS**

#### **Discussion regarding of the Comprehensive Plan**

Ms. Cornwell advised the Commission that there will be a workshop on Friday July 17, 2017 at 10:00 am to finish up the Community Design Chapter and goals, objectives and strategies for the Transportation chapter.

#### **Opportunity for public comment regarding Comprehensive Plan**

Paul Reiger spoke that he has an issue with the holding the meetings with only 2 Commission members with unexpired term; that 3 of the members terms have expired in June; that Mr. Wheatley spoke that every Commissioner is appointed until and serves until a successor is appointed; that if the County Council does not appoint them in June, that doesn't mean the Commissioner that are here are ineligible are to serve but just means they are serving without reappointment; that the County Council could decide to appoint somebody else or decide to reappoint them but they serve until a new person is appointed.

Dan Kramer spoke that the term is not allowed to go on; that the Commissions last day of term should be June.

### **REORGANIZATION**

Mr. Wheatley appointed Ms. Cornwell as Acting Chairman for the purpose of holding and electing of Officers.

Ms. Cornwell open nominations for Chairman.

Motion by Mr. Hopkins, seconded by Ms. Stevenson, to nominate Mr. Ross as Chairman.

Motion by Ms. Stevenson, seconded by Mr. Ross, that the nominations for Chairman be closed.

Motion carried to nominate Mr. Ross as Chairman. 4-0 Mr. Wheatley abstained.

Vote for Mr. Ross, as Chairman by roll call: Mr. Hopkins-yea, Ms. Stevenson-yea, Mr. Ross-yea, Mr. Hudson-yea.

Ms. Cornwell open and nominations for Vice-Chairman.

Motion by Mr. Ross, seconded by Mr. Hopkins, to nominate Ms. Stevenson as Vice-Chairman.

Motion by Mr. Ross, seconded by Mr. Hopkins, that the nominations for Vice-Chairman be closed.

Motion carried to nominate Ms. Stevenson as Vice-Chairman. 4-0. Ms. Stevenson abstained.

Vote for Ms. Stevenson as Vice-Chairman by roll call: Mr. Ross-yea, Mr. Hopkins-yea, Mr. Hudson-yea, Mr. Wheatley-yea.

Ms. Cornwell turned the meeting over to Mr. Ross.

Mr. Ross appointed Ms. Cornwell as Secretary for the Commission, and authorized Mrs. Norwood, Mrs. Walls, Ms. Cornwell, Mr. Shockley and future planners to sign record plots on behalf of the Commission.

#### OLD BUSINESS

#### **C/U #2079 Clean Bay Renewables, LLC, Sussex II**

**An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for an electrical generation and nutrient recovery facility to be located on a certain parcel of land lying and being in Georgetown Hundred, Sussex County, containing 23.12 acres, more or less.** The property is located on the east side of Sand Hill Rd. and north side of Lewes-Georgetown Hwy. (Rt. 9). 911 Address: 22349 Lewes-Georgetown Hwy., Georgetown. Tax Map I.D. 135-15.00-55.01

The Commission discussed this application which has been deferred since June 8, 2017.

Ms. Stevenson stated that he would move that the Commission recommend a denial of Conditional Use 2080 for Clean Bay Renewables, LLC, Sussex II for an electric generation and nutrient recovery facility based upon the record made during the public hearing and for the following reasons:

1. While the process of recycling chicken litter and waste into electricity may be good for the environment, this location is not appropriate for the proposed use.

2. The proposed use involves large processing systems and tanks and involve generators and flares. It also requires significant amount of truck traffic for delivery and removal of materials used in the process. This basically an industrial-type use. While there are some other conditional uses in the area, they consist primarily of small businesses and baseball fields for children and teenagers. None of them are as intensive as the type of use proposed by the applicant.
3. The proposed use is adjacent to several residential properties. The proposed use is not compatible with the surrounding residential area with the large tanks, truck traffic, noise, dust, flares and other adverse factors that will come from it.
4. While there are other industrial uses in the nearby industrial park, none of them are adjacent to residential properties, and all of the truck traffic from those uses enters directly onto Park Avenue which is a designated truck route. This conditional use, which requires all truck traffic to use Route 9 and Sand Hill Road, is not appropriate location for the proposed use.
5. There was opposition in the record from nearby uses including CHEER, Sussex Academy, and Sports at the Beach about the incompatibility of the proposed industrial use so close to the school, sports complex and senior center. The testimony included objections to noise and odors affecting these existing educational, athletic and senior citizen facilities. They also objected to truck traffic adversely affecting school buses and parent transportation to and from the school at the Route 9/Sand Hill Road Intersection and traffic to and from Sports at the Beach.
6. The Town of Georgetown expressed concerns about the truck traffic generated by the proposed facility, noting that truck traffic through the Town is restricted; that Route 9 is a single-lane roadway with one lane and limited shoulders in each direction; that Sand Hill Road is a minor collector road that is not designed for truck traffic; and that the intersection of Sand Hill Road and Route 9 is in need of significant upgrades and is not suited to handling increased commercial vehicle traffic.
7. Based upon the information in the record about noise, odors, truck traffic, dust and other factors, I am not satisfied that the proposed use will promote the health, safety and welfare of inhabitants of Sussex County, and particularly this neighborhood.
8. I believe that there are other more appropriate locations for this type of use within Sussex County that will not impact so many residential properties, schools, sports facilities, senior centers or inferior roadways.
9. For all these reasons, I recommend a denial of this Conditional Use.

Motion by Ms. Stevenson, seconded by Mr. Hopkins, and carried with four (4) votes to forward this application on to the Sussex County Council with the recommendation that the application be denied for the reasons stated. Motion carried 4-0. Mr. Wheatley did not vote.

**C/U #2080 Clean Bay Renewables, LLC, Sussex I**

**An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for an electrical generation and nutrient recovery facility to be located on a certain parcel of land lying and being in Georgetown Hundred, Sussex County, containing 29.38 acres, more or less.** The property is located on the east side of Sand Hill Rd. and the north side of Lewes-Georgetown Hwy. (Rt. 9). 911 Address: 22349 Lewes-Georgetown Hwy., Georgetown. Tax

Map I.D. 135-15.00-55.01

The Commission discussed this application which has been deferred since June 8, 2017.

Ms. Stevenson stated that he would move that the Commission recommend a denial of Conditional Use 2080 for Clean Bay Renewables, LLC, Sussex I for an electric generation and nutrient recovery facility based upon the record made during the public hearing and for the following reasons:

1. While the process of recycling chicken litter and waste into electricity may be good for the environment, this location is not appropriate for the proposed use.
2. The proposed use involves large processing systems and tanks and involve generators and flares. It also requires significant amount of truck traffic for delivery and removal of materials used in the process. This basically an industrial-type use. While there are some other conditional uses in the area, they consist primarily of small businesses and baseball fields for children and teenagers. None of them are as intensive as the type of use proposed by the applicant.
3. The proposed use is adjacent to several residential properties. The proposed use is not compatible with the surrounding residential area with the large tanks, truck traffic, noise, dust, flares and other adverse factors that will come from it.
4. While there are other industrial uses in the nearby industrial park, none of them are adjacent to residential properties, and all of the truck traffic from those uses enters directly onto Park Avenue which is a designated truck route. This conditional use, which requires all truck traffic to use Route 9 and Sand Hill Road, is not appropriate location for the proposed use.
5. There was opposition in the record from nearby uses including CHEER, Sussex Academy, and Sports at the Beach about the incompatibility of the proposed industrial use so close to the school, sports complex and senior center. The testimony included objections to noise and odors affecting these existing educational, athletic and senior citizen facilities. They also objected to truck traffic adversely affecting school buses and parent transportation to and from the school at the Route 9/Sand Hill Road Intersection and traffic to and from Sports at the Beach.
6. The Town of Georgetown expressed concerns about the truck traffic generated by the proposed facility, noting that truck traffic through the Town is restricted; that Route 9 is a single-lane roadway with one lane and limited shoulders in each direction; that Sand Hill Road is a minor collector road that is not designed for truck traffic; and that the intersection of Sand Hill Road and Route 9 is in need of significant upgrades and is not suited to handling increased commercial vehicle traffic.
7. Based upon the information in the record about noise, odors, truck traffic, dust and other factors, I am not satisfied that the proposed use will promote the health, safety and welfare of inhabitants of Sussex County, and particularly this neighborhood.
8. I believe that there are other more appropriate locations for this type of use within Sussex County that will not impact so many residential properties, schools, sports facilities, senior centers or inferior roadways.
9. For all these reasons, I recommend a denial of this Conditional Use.

Motion by Ms. Stevenson, seconded by Mr. Hopkins, and carried with four (4) votes to forward this application on to the Sussex County Council with the recommendation that the application be denied for the reasons stated. Motion carried 4-0. Mr. Wheatley did not vote.

**C/U #2083 Richard H. Bell III**

**An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for an office, storage building, storage yard and crushing of concrete for a contracting business to be located on a certain parcel of land lying and being in Georgetown Hundred, Sussex County, containing 5.97 acres, more or less.** The property is located on the south side of Lewes-Georgetown Hwy. (Rt. 9), approximately 1,731 ft. west of Park Ave. 911 Address: 22592 Lewes-Georgetown Hwy., Georgetown. Tax Map I.D. 135-15.00-79.03

The Commission discussed this application which has been deferred since June 22, 2017.

Mr. Hopkins stated that he would move that the Commission recommend approval of Conditional Use 2083 Richard H. Bell III. for an office, storage building, storage yard and crushing of concrete for a contracting business based upon the record and the following reasons stated:

1. There are several Conditional Uses in this area and this site was previously approved for a Conditional Use for an office storage building and storage yard for the applicants contracting business. That prior Conditional Use expired.
2. The use for an office storage building and storage yard is consistent with other similar uses in this area of Route 9. These uses will not adversely impact neighboring properties, roadway or the community.
3. The use as a recycling and crushing facility for concrete will benefit the citizens and the environment of Sussex County by recycling and reusing this material. There will be a reduction of materials going to the landfills.
4. With the conditions of approval, the uses of a concrete crushing and recycling facility will not adversely affect the neighboring properties, roadway or the community.
5. This use promotes the goals of the Sussex County Comprehensive Plan by enhancing the environmental quality of Sussex County. It is also a use which has a public or semi-public character that is essential and desirable to the general convenience and welfare of Sussex County residents.
6. The recommendation is subject to the following conditions:
  - a. The recycling and crushing use shall be limited to concrete and the steel that is encased. No other wood or metal chipping or grinding shall occur and no other materials shall be accepted at the site for crushing or recycling.
  - b. Crushing operations shall only occur between the hours of 9am through 4pm Monday through Friday. In addition, the operator shall cooperate with Sports at the Beach so that crushing operations do not unreasonable interfere with events occurring there.
  - c. Materials may be accepted for the crushing and recycling operation between 7am and 5 pm Monday through Friday.
  - d. Landscaping shall be installed to screen the use from adjacent residential

- dwellings. The landscaping shall be shown on the final site plan.
- e. Any security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
  - f. Water shall be available at all times to control dust within the site.
  - g. One lighted sign shall be permitted. It shall not be greater than 32 SF per side.
  - h. The applicant shall comply with all roadway and entrance improvements required by DeIDOT.
  - i. The applicant shall not advertise or display products within the front yard area except in the form of landscaping beds and planters.
  - j. There shall be no parking within the front yard setback.
  - k. The site plan shall be submitted to review and approval of the Planning Commission.

The final site plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Hopkins, seconded by Mr. Hudson, and carried with four (4) votes to forward this application on to the Sussex County Council with the recommendation that the application be approved for the reasons and with the conditions stated. Motion carried 4-1. Mr. Wheatley voted no.

### **C/U #2084 Term 2, LLC**

**An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for a recycle center and weight scale operation to be located on a certain parcel of land lying and being in Gumboro Hundred, Sussex County, containing 30.89 acres, more or less.** The property is located on the north side of Lowes Rd., approximately 63 ft. southwest of Betts Rd. 911 Address: 20139 Lowes Rd., Millsboro. Tax Map I.D. 333-14.00-23.00

The Commission discussed this application which has been deferred since June 22, 2017.

Mr. Hudson stated that he would move that the Commission recommend approval of Conditional Use 2084 Term 2, LLC a recycling center and weight scale operation based upon the record and the following reasons stated:

1. This site has been used for similar operations in the past. It was approved in 1974 as a borrow pit under Conditional Use #187, and has been in operation under that approval ever since. Also, an updated site plan for the borrow pit was approved by the Planning and Zoning Commission last year.
2. The area around the applicant's property is primarily agricultural, with some commercial uses. This is an appropriate location for this use.
3. The use as a recycling facility for materials such as concrete, asphalt and wood will benefit the citizens and the environment of Sussex County. By recycling these materials, there will be a reduction of materials going to the landfills.
4. The use will not adversely affect the neighboring properties, roadways, or the community.

5. This use promotes the goals of the Sussex County Comprehensive Plan by enhancing the environmental quality of Sussex County. It is also a use which has a public or semi-public character that is essential and desirable to the general convenience and welfare of Sussex County and its residents.
6. This recommendation is subject to the following conditions:
  - A. The use shall be limited to a recycling center with a scale for concrete, asphalt, wood, soils and other similar materials. No food products, metals, sanitary wastes or liquids shall be accepted at the site.
  - B. Material acceptance and processing hours shall be limited to 7:00 a.m. through 7:00 p.m., Monday through Saturday.
  - C. There shall be a vegetated buffer of at least 50 feet from all boundaries of the site.
  - D. No material processing shall occur within 100 feet of County Road 427.
  - E. Water truck shall be available to control dust within the site.
  - F. One lighted sign shall be permitted. It shall not be greater than 32 square feet per side.
  - G. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Hudson, Ms. Stevenson, and unanimously to forward this application on to the Sussex County Council with the recommendation that the application be approved based on the record and for the reasons and with the conditions stated. Motion carried 5-0.

**C/Z #1819 MTC Properties, LLC**

**An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 (Agricultural Residential District) to a CR-1 (Commercial Residential District) for a certain parcel of land lying and being in Northwest Fork Hundred, Sussex County containing 13.063 acres, more or less.** The property is located on the east side of Sussex Hwy. (Rt. 13), approximately 1,226 ft. south of Adams Rd. 911 Address: 14485 Sussex Hwy., Bridgeville. Tax Map I.D. 530-14.00-24.00 (portion of)

The Commission discussed this application which has been deferred since June 22, 2017.

Ms. Stevenson stated that she would move that the Commission recommend approval of Change of Zone 1819 for MTC Properties, LLC for a change in zone from AR-1 to CR-1 based upon the record made during the public hearing for the following reasons:

1. The site is located along U.S. Route 13 (Sussex Highway) adjacent to other property owned by the applicant that is currently zoned C-1. This rezoning will allow the reasonable expansion of the applicant's business operations in an area that is appropriate for CR-1 zoning.
2. The site is in an area where other Commercially-zoned properties exist. The CR-1 zoning will be consistent with the area zoning.
3. The proposed use will not adversely affect neighboring or adjacent properties or roadways.
4. The property currently has a commercial entrance.

5. CR-1 Zoning is appropriate, since the County Zoning Code stated that the purpose of such zoning is to provide for a wide variety of commercial and service activities generally serving a wide area, and that such uses should be located along existing major thoroughfares where general mixture of commercial and service activities now exist. In this case, the rezoning along US Route 13 falls within the stated purposes of the CR-1 district.
6. No parties appeared in opposition to this rezoning.

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

**C/Z #1823 WMF Watercraft & Marine, Inc.**

**An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 (Agricultural Residential District) to a CR-1 (Commercial Residential District) for a certain parcel of land lying and being in Indian River Hundred, Sussex County containing 4.4890 acres, more or less.** The property is located on the south side of John J. Williams Hwy. (Rt. 24) and east side of Layton Davis Rd., approximately 208 ft. east of said intersection. 911 Address: 27037 John J. Williams Hwy., Millsboro. Tax Map I.D. 234-29.00-64.00, 64.01. and 65.00

The Commission discussed this application which has been deferred since June 22, 2017.

Mr. Hopkins stated that he would move that the Commission recommend approval of Change of Zone 1823 for WMF Watercraft & Marine, Inc. for a change in zone from AR-1 to CR-1 based upon the record made during the public hearing for the following reasons:

1. The site is located along Route 24 adjacent to another property owned by the applicant that is currently zoned C-1. This rezoning will allow the reasonable expansion of the applicant's business operations in an area that is appropriate for CR-1 zoning.
2. The site is in an area where other Commercially-zoned properties exist along this side of Route 24. The CR-1 zoning will be consistent with the area zoning and it fills in a gap between commercially zoned properties on either side.
3. The proposed use will not adversely affect neighboring or adjacent properties or roadways.
4. With CR-1 zoning for the entire site, the applicant will have to comply with all site plan requirements for any commercial use on the property, and it will have to comply with all DelDOT entrance and roadway requirements associated with the development of the site.
5. CR-1 zoning is appropriate, since the County Zoning Code states that the purpose of such zoning is to provide for a wide variety of commercial and service activities generally serving a wide area, and that such uses should be located along existing roadways where a general mixture of commercial and service activities now exist. In this case, the rezoning along this area of Route 24 fall within the stated purposes of the CR-1 district.



6. No parties appeared in opposition to this rezoning.

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

## PUBLIC HEARINGS

Mr. Sharp described how the public hearings are processed.

### **C/U #2085 Land and Marketing Corporation**

**An Ordinance to grant a Conditional Use of land in a GR (General Residential District) for multi-family structures to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 4.16 acres, more or less.** The property is located on the northeast side of Sandy Cove Rd., approximately 472 ft. north of Cedar Neck Rd and on the northwest side of Cedar Neck Rd., approximately 764 ft. north of Sandy Cove Rd. 911 Address: None Available, Millville. Tax Map I.D. 134-9.00-88.00, 80.06, and 80.01 (portion of).

Ms. Cornwell advised the Commission the submitted into the record as part of the application were the staff analysis, comments from the Sussex County Utility Planning Division, Sussex Conservation District, DelDOT, an exhibit book and one letter in opposition.

The Commission found that Jeff Clark, with Land Tech Planning, and Robert Harris, President of Land and Marketing Corporation were present of behalf of the application; that Mr. Clark stated that there was an exhibit booklet which included an Environmental Assessment, PLUS comments, and response to Chapter 99-9C; that the 4.16 acres includes three parcels; that there are single family dwellings surrounding the site; that there is one existing dwelling and storage building on the site; that the property slopes and drains toward the home across Sandy Cove Road; that there are existing public water mains in the road; that the site is State Strategy Level 3; that a TIS and TOA were not required; that public dedication for the Right-of-Way is required and a permanent sign easement is required; that there are no known archeological sites on the site; that Conditional Use 1752 was approved as a 16 unit multi-family attached dwelling project in 2007 and has lapsed; that the property is in the Environmentally Sensitive Developing Area; that the access will be from Sandy Cove Road; that there will be two stormwater management facilities; that the dwellings will have a 15-foot separation distance and will comply with the 165-foot maximum length requirement; that the homes will be two story homes; that 49 homes are allowed per maximum density but they are only proposing 19 homes; that they will not exceed the setback requirements; that they are proposing a 10-foot wide landscape buffer; that they will try to preserve existing trees; that there will be new trees and landscaping around the homes; that there will be street lights; that the entire community will be condominium ownership; that one of the stormwater management ponds will be designed to be dry and used as open space; that Sussex Shores Water Company will be able to provide water; that the sewer will be using an existing line from Sandy Cove Road with an allowable 15 EDU's and will enter into a use of existing infrastructure agreement and purchase of four additional EDU's; that there no known endangered species or wetlands; that a half acre will be buffer and 57% will be open

space; that all construction will conform to FEMA requirements; that there will be no negligible affect to values of the area; that the existing house will be removed; that it is a well-drained area; that amenities can be a burden for 19 units; that they could entertain an emergency entrance but they are hoping it could be pedestrian access to the County park; that they are no sidewalks; that the roads will be 24 feet wide for cars and could strip five feet for sidewalks; and that the turnarounds meet Fire Marshal regulations.

The Commission found there were no parties in support to this application.

The Commission found that Bruce War, Jean Coggins, and Lee Ann Britten spoke in opposition to the application; that they had concerns with headlights shining in their houses; that would they would like the developer to consider fencing; that they had concerns with flooding; that there is a possibility of looking at connecting a loop between Point Reyes Lane and Preston Lane; that Mr. Clark spoke that there is a proposed landscape buffer per code and it be 10 foot buffer; that how much distance would be between houses; that 10 feet is not a lot of space between units; that the parking was not illustrated; that per DelDOT comments there will be no impact to traffic; that there may be an impact if a traffic study is done in the summer vs winter; that there are a lot of dead end roads in the area; and that there were concerns with traffic.

At the end of the meeting the Commission discussed the application.

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

**C/U #2086 Kristin Bryan**

**An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for a beauty shop (with two chairs and three employees) to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 1.012 acres, more or less.** The property is located on the northwest side of Governor Stockley Rd., approximately 1,308 ft. north of E. Piney Grove Rd. 911 Address: 26330 Governor Stockley Rd., Georgetown. Tax Map I.D. 133-10.00-9.07

Ms. Cornwell advised the Commission the submitted into the record as part of the application were the staff analysis, comments from the Sussex County Utility Planning Division, DelDOT, Sussex Conservation District and a site plan.

The Commission found Corey Bryan was present on behalf the application; that Mr. Bryan spoke that they are asking for addition of one chair and two new employees to provide more services; and that there will be no impact to the area.

The Commission found there were no parties in support or opposition to this application.

At the end of the meeting the Commission discussed the application.

Ms. Stevenson stated that she would move that the Commission recommend approval of Conditional Use 2086 for Kristin Bryan for a beauty shop (with two chairs and three employees)

based upon the record during the public hearing and for the following reasons:

1. The site has been used for a home-based beauty shop with one chair.
2. With the condition of approval, the use of the property for residence with a two-chair beauty shop will not adversely affect the neighboring properties, roadways, or the community.
3. The use has a public or a semipublic character that is desirable to the general convenience and welfare of Sussex County and its residents
4. No parties appeared in opposition to this application.
5. This recommendation is subject to the following conditions:
  - A. There shall be no more than three employees.
  - B. The applicant shall comply with all roadway and entrances improvements required by DelDOT.
  - C. There shall be no more than two chairs in the beauty shop.
  - D. One unlit sign shall be permitted, it shall not be greater than 32 square feet per side.
  - E. The Final Site Plan shall be subject to the review and approval of Planning and Zoning Commission.

Motion by Ms. Stevenson, seconded by Mr. Hudson, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved based on the record and for the reasons and with the conditions stated. Motion carried 5-0.

**C/U #2087 John F. and Brenda L. Fegelein**

**An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for an automotive repair shop to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 1.0218 acres, more or less.** The property is located on the northwest side of Roxana Rd. (Rt. 17), approximately 715 ft. east of Zion Church Rd. 911 Address: None Available, Roxana. Tax Map I.D. 533-6.00-18.01

Ms. Cornwell advised the Commission the submitted into the record as part of the application were the staff analysis, comments from the Sussex County Utility Planning Division, DelDOT, Sussex Conservation District an exhibit book, survey, site plan and 4 letters in support.

The Commission found William Scott, Attorney with Scott and Shuman, P.A., and George Smudin, owner of Roxana Auto Services were present on behalf of the application; that Mr. Scott spoke that this conditional use is to relocate Roxana Auto Services to this site; that the current location is approximately 800 ft. down the road; that the one acre site is not improved; that information in the exhibit book shows other uses in the area, zoning map, and proposed conditions; that Mr. Smudin spoke he opened in 2009 and was told the lease would not be renewed; that it is important for him to stay in the area as most of his customers are in the area; that he operates Monday through Friday from 8:00 am to 4:00 pm; that he is a one person business; that he has talked to the neighbors and they seem not to have a problem; that there will be no junk on the property; that there will be no storage on site; that he does general automotive repair; that all the work is done indoors; that Mr. Scott spoke that the building will be 40' x 60';

that the building will be served by well and septic; that there will be eight parking spaces; that there is no intention for employees; that there is no adverse impact as it is relocation of the business; that there other commercial uses along Route 17; that the fluids will be recycled appropriately; that the use would help the local economy; that the land use designation is Low Density Area which does permit some commercial uses; and that this is the relocation of an existing business down the street.

The Commission found there were no parties in support to this application.

The Commission found Lea Clark spoke in opposition to the application; that she is an adjacent property owner; that she purchased the site zoned AR-1; that she believes in small business but maybe there is a better area; that she feels she is being forced out; that she has concerns that this may reduce the property value; that her son is a customer; that she thinks the applicant is an outstanding man but what will happen if he decides to leave; that she would like to save some trees; that she has concerns that the drainage may drain into the tax ditch; that she would not be opposed if he tried to subdivide his property and placed a home on there to sell; that this property should not be an commercial use in the area; that there are lots of other conditional use in the area; that she has concerns with traffic; and that she is okay with the towing service, and bait and tackle shop in the area.

The Commission found Mr. Scott spoke that screening will be provided.

At the end of the meeting the Commission discussed the application.

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

### **C/Z #1824 Tomark, LLC**

**An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 (Agricultural Residential District) to a CR-1 (Commercial Residential District) for a certain parcel of land lying and being in Indian River Hundred, Sussex County containing 5.38 acres, more or less.** The property is located on the south side of John J. Williams Hwy. (Rt. 24) and on the north side of Jersey Rd., approximately 687 ft. east of Gravel Hill Rd. 911 Address: None Available, Millsboro. Tax Map I.D. 234-32.00-73.00

Ms. Cornwell advised the Commission the submitted into the record as part of the application were the staff analysis, comments from the Sussex Conservation District, DeIDOT, an exhibit book and survey.

The Commission found that Craig de Mariana Aleman, Attorney with Tunnel & Raysor P.A. and John Murray, Project Manager with Kercher Engineering, Inc. were present on behalf of the application; that Mr. Murray stated that the intent for the site is for storage and office space for antiques; that this property is consistent with the Comprehensive Plan; that adjacent to the property is a gas station, restaurant and other commercial zones; that it is adjacent to commercial zoning across the street; that to the northeast are some parcels zoned B-1 and being used as commercial uses; that the gas station was in the area prior to zoning; that property is in a Level 2

State Strategy; that there will be two small buildings; that there will be road improvements with a 10 foot multi-modal path; that there is an electrical substation adjacent to the site; that it is on its own well and septic; that the project did go through DelDOT for approval; that there is no proposed access to Jersey Road because the access is too narrow; that it is only 20 ft. wide and adjacent to residential property; that it could comply with the Fire Marshal access for a one way street; however there is not a lot of room; that it is not preferred as residential is located along Jersey Road; that they are looking for a small office and storage for their existing business not for a lot of traffic; and that about 15% of the this parcel will be developed.

The Commission found Gary Cuppels, spoke in support of the application, that there is a 20-foot corridor and he does not want commercial traffic on Jersey Road; that he is ok with the rezoning which fronts on Route 24; that he wants deed restrictions with the access only on Route 24; that expressed concerns that the application was filed in violation of the Title 24 as the plans were not sealed documents; and that this should be denied for that reason.

The Commission found Robert Sernger, Karen Lessey, William Waples, Patti Turpin, Kevin Betts, Britt Murray, Joan Baback, Dustey Long and Alice Long spoke in opposition to the application; that they has concerns with being it too close to the Indian River, that they would like a fence put up to keep trash off of their sites; that they have traffic concerns; that other places have tried to come in off of Route 24 and were denied by DelDOT; that the light has helped with the traffic and noise; that they do not want access off of Jersey Rd. and that they have concerns with headlights shining in windows.

At the end of the meeting the Commission discussed the application.

Motion by Mr. Hopkins, seconded by Mr. Hudson, and carried unanimously to defer action for further consideration. Motion 5-0.

AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115 (“ZONING”), ARTICLE XXI (“SIGNS”), SECTION 159.5(B)(1).

The Commission found that James Sharp, Assistant County Attorney presented on behalf of the Ordinance Amendment; that the proposed amendment is very narrow in scope; that it is to allow for an on-premises sign to be located within 50 ft. of an off-premise (billboard) sign; that currently the sign regulations prohibit the placement of an on-premises sign within 50 ft. of an off-premises sign; that there are a few instances in which a property owner cannot install an on-premises sign as it would be located within 50 ft. of an existing legal non-conforming off-premises (billboard) sign on a neighboring property; that this will not allow an off-premises (billboard) sign to be located within 50 ft. of an on-premises sign; that this would only effect on-premises signs.

The Commission found that no one appeared in support of or in opposition to the application.

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

Motion by Mr. Stevenson, seconded by Mr. Hudson, and carried unanimously to recommend

approval of the amendment to the ordinance as presented. Motion carried 5-0.

## OTHER BUSINESS

### **2016-20 Donna Smith and Teresa Smith**

#### Final Subdivision Plan

Mrs. Walls advised the Commission that this is a Final Subdivision Plan for the creation of a single lot subdivision. The plan proposes to subdivide 63.64 acres +/- into 1 single family lot (0.90 ac. +/-) with a residual parcel of land. The Planning Commission granted Preliminary Approval on April 20, 2017 and granted waivers from the 20-foot landscape buffer requirements and street design standards. Staff is in receipt of all agency approvals and the Final Site Plan is in compliance with Zoning and Subdivision Code requirements. The property is located on the west side of Clendaniel Pond Rd., the north side of Fleatown Rd. and is approximately 218 ft. northwest of the intersection of said roads. Tax ID: 230-13.00-121.00. Zoning: AR-1 (Agricultural Residential District).

Motion by Mr. Hudson, seconded by Mr. Hopkins and carried unanimously to approve the final subdivision plan. Motion carried 5-0.

### **Lands of Triscuit**

#### Minor Subdivision off 50 ft. easement

Mrs. Walls advised the Commission that this is a minor subdivision for the creation of a new 41,981 SF (0.9638 acre) +/- lot off a 50' wide easement over an existing driveway off Warwick Road (SCR 310A). The residual parcel contains 8.036 acres +/- . The Parcel is zoned AR-1. The Tax Parcel is 234-33.00-26.00. Staff is awaiting agency approvals.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously to approve the minor subdivision off a 50-foot easement with final approval subject to staff upon receipt of all agency approvals. Motion carried 5-0.

### **Lands of Robert C. and Susan K. Elliott**

#### Minor Subdivision off 50 ft. easement

Mrs. Walls advised the Commission that this is a minor subdivision for the creation of a new 1.42-acre lot +/- off a 50' wide easement over an existing driveway off Pepperbox Road (SCR 66). The residual parcel contains 51.54 acres +/- . The Parcel is zoned AR-1. The Tax Parcel is 532-22.00-15.00. Staff is awaiting agency approvals.

Motion by Mr. Hopkins, seconded by Ms. Stevenson and carried unanimously to approve the minor subdivision off a 50-easement with final approval subject to staff upon receipt of all agency approvals. Motion carried 5-0.

### **Lands of Robert T. and Sherry J. Stephens**

#### Minor Subdivision off 50 ft. easement

Mrs. Walls advised the Commission that this is a minor subdivision for the creation of an additional 1.7244-acre lot +/- off a 50' wide easement over an existing driveway off Omar Road (SCR 54). The residual parcel contains 1.5089 acres +/- . Any future subdivision will require major subdivision. The Parcel is zoned AR-1. The Tax Parcel is 134-14.00-11.01. Staff is awaiting agency approvals.

Motion by Mr. Hudson, seconded by Ms. Stevenson and carried unanimously to approve the minor subdivision off a 50-easement with final approval subject to staff upon receipt of all agency approvals and there shall be no further minor subdivision. Motion carried 5-0.

**Lands of Estate of Crist Zook**

Minor Subdivision off 50 ft. easement

Mrs. Walls advised the Commission that this is a minor subdivision for the creation of a new 1.009-acre lot +/- off a 50' wide easement over an existing driveway off Owens Road (SCR 611). The residual parcel contains 1.765 acres +/- . An additional 1.029-acre lot +/- with access from Owens Road will also be created. The Planning and Zoning Commission recommended approval for Conditional Use 1931 on May 31, 2012 and preliminary site plan approval August 23, 2012 for a custom woodworking and cabinet making. Final Approval by staff was given on September 6, 2012. The Parcel is zoned AR-1 (with Conditional Use). The Tax Parcel is 430-9.00-8.00. Staff is awaiting agency approvals.

Motion by Ms. Stevenson, seconded by Mr. Hudson and carried unanimously to approve the minor subdivision off a 50-easement with final approval subject to staff upon of all agency approvals. Motion carried 5-0.

**Lands of William H. and Jill E. Landon**

Minor Subdivision off 50 ft. easement

Mrs. Walls advised the Commission that this is a minor subdivision for the creation of an additional 0.752-acre lot +/- off a 50' wide easement over an existing private road (Landon Road), off Old Mill Road (SCR 265A). The residual parcel contains 4.269 acres +/- . The Parcel is zoned AR-1. The Tax Parcel is 334-1.00-32.00. Staff is in receipt of agency approvals.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously to approve the minor subdivision off a 50-easement with final approval subject to staff upon all agency approvals. Motion carried 5-0.

Meeting adjourned at 8:32 p.m.