

## MINUTES OF THE REGULAR MEETING OF NOVEMBER 16, 2017

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, November 16, 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 Ross presiding. The following members of the Commission were present: Mr. Martin Ross, Mr. Doug Hudson, Mr. Keller Hopkins, Ms. Kimberly Hoey-Stevenson, with Mr. Vincent Robertson – Assistant County Attorney, Ms. Janelle Cornwell – Director, Mrs. Jennifer Walls - Planning Manager and Mr. Jamie Whitehouse, Planner III.

Motion by Ms. Stevenson, seconded by Mr. Hudson, and carried unanimously to approve the Agenda. Motion carried 4-0

Motion by Ms. Stevenson, seconded by Mr. Hopkins, and carried unanimously to defer the Minutes for October 26, 2017. Motion carried 4-0.

### OLD BUSINESS

#### **C/Z #1827 Fenwick Commons, LLC**

**An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 (Agricultural Residential District) to a MR (Medium Density Residential District) for a certain parcel of land lying and being in Baltimore Hundred, Sussex County containing 13.33 acres, more or less.** The property is located at the southwest corner of Lighthouse Rd. (Rt. 54) and Sand Cove Rd., and the east side of Sand Cove Rd., approximately 211 ft. south of Lighthouse Rd. (Rt. 54). 911 Address: None Available. Tax Map I.D. 533-19.00-52.00

The Commission discussed this application which has been deferred since October 12, 2017.

Mr. Hudson, moved that the Commission recommend approval of Change of Zone #1827 for Fenwick Commons, LLC for a change in zone from AR-1 to MR based upon the record made during the public hearing and for the following reasons:

1. The project is located in the Environmentally Sensitive Developing Area according to the County Comprehensive Land Use Plan. MR Zoning is appropriate in the area according to the Plan.
2. The proposed MR Zoning meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County in an appropriate location.
3. The property is surrounded by land that is currently zoned MR. In addition, there are other properties in the area that are zoned MR, along with C-1 and B-1 as well as the Bayside project. This rezoning is an infill of MR zoning, and it also consistent with other zoning and land uses in the area.
4. The rezoning to MR will not have an adverse impact on neighboring properties or the community.
5. MR zoning is appropriate for this site because medium density development is appropriate in areas where central water and sewer are available. In this case, 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.

Motion by Mr. Hudson, seconded by Mr. Hopkins, and carried three (3) to one (1) to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons stated. Motion carried 3-1. Ms. Stevenson voted against the motion.

**C/U #2098 Fenwick Commons, LLC**

**An Ordinance to grant a Conditional Use of land in a MR (Medium Density Residential District) for a multi-family (62 duplex units) structure to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 13.33 acres, more or less.** The property is located at the southwest corner of Lighthouse Rd. (Rt. 54) and Sand Cove Rd. and the east side of Sand Cove Rd., approximately 211 ft. south of Lighthouse Rd. (Rt. 54). 911 Address: None Available. Tax Map I.D. 533-19.00-52.00

The Commission discussed this application which has been deferred since October 12, 2017.

Mr. Hudson, moved that the Commission recommend approval for Conditional Use #2098 for Fenwick Commons, LLC for multi-family dwellings in and MR Medium Density Residential District based upon and for the following reasons:

1. This application seeks the approval of 52 family duplex-type structures on 13.1 acres, for density of approximately 3.9 units per acre.
2. The property is in an area where other residential development has occurred, including the large mixed-use Bayside Development and other single family and multi-family developments. This project is consistent with those nearby uses.
3. The site is in the Environmentally Sensitive Developing Area according to the Sussex County Comprehensive Plan. This type of development is appropriate in this Area according to the Plan.
4. The proposed development will not have an adverse impact on the neighboring properties or roadways.
5. The proposed density is within the allowable density in the MR District, and it is less than the density of the nearby Bayside project at 4.8 residential units per acre.
6. The project will have 41% open space, including preservation of 65% of the existing forest. The design also provides protection to the Hudson Family Cemetery on the site.
7. Although this is a Conditional Use, the items set forth in Section 99-9C of the Subdivision Code have also been favorably addressed by the applicant.
8. The development will be served by central sewer provided by Sussex County.
9. This recommendation is subject to the following conditions.
  - A. The maximum number of residential units shall be 52.
  - B. All entrances, intersections, roadway and multi-modal improvements shall be completed by the developer in accordance with all DelDOT requirements.
  - C. The project shall be served by Sussex County sewer. The developer shall comply with all Sussex County Engineering Department requirements including any offsite upgrades necessary to provide service to the project.
  - D. The project shall be served by central water to provide drinking water and fire protection.
  - E. Interior Street design shall meet or exceed the Sussex County street design requirements.

- F. As proffered by the applicant, there shall be sidewalks on both sides of all streets and roadways.
- G. The applicant shall submit as part of the Final Site Plan a landscape plan showing the proposed tree and shrub landscape design, including any buffer areas. The landscape plan shall clearly designate all existing forested areas that will be preserved (65% of the existing forested area, according to the Applicant).
- H. All construction and site work on the property, including deliveries of materials to or from the property, shall only occur between 7 am and 6 pm Monday through Saturday.
- I. Street naming and addressing shall be subject to the review and approval of the County Mapping and Addressing Departments.
- J. The applicant shall form a homeowners' or condominium association responsible for the perpetual maintenance, repair and replacement of the roads, any buffers and landscaping, stormwater management facilities, erosion and sediment control facilities and other common elements.
- K. 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.
- L. The Final Site Plan shall contain the approval of the Sussex County Conservation District for the design and location of all stormwater management areas and erosion sedimentation control facilities.
- M. The developer, and then the HOA or Condo Association shall protect and preserve the Hudson Family Cemetery on the property by installing a perimeter fence around the cemetery made of wrought iron or anodized aluminum. Parking shall also be provided in common with the amenity area parking lot for the Hudson family members wishing to visit the cemetery. Access to the cemetery shall be shown on the Final Site Plan.
- N. The applicant shall coordinate with the Indian River School district to establish a school bus stop area, which shall be shown on the Final Site Plan if required by the District.
- O. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Hudson, seconded by Mr. Hopkins, 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 4-0.

**C/U #2105 Thomas Engel**

**An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for a commercial landscaping business with outdoor parking, storage of vehicles, equipment and other ancillary storage related to the business to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 25.156 acres, more or less.** The property is located on the northwest side of Doddtown Rd., approximately 1,600 ft. southwest of Harbeson Rd. (Rt.5). 911 Address: 20104 Doddtown Rd., Harbeson. Tax Map I.D. 235-30.00-103.09

The Commission discussed this application which has been deferred since October 26, 2017.

Ms. Stevenson, moved that the Commission recommend approval of Conditional Use #2105 for Thomas Engel for a landscape business with vehicle and equipment storage based on the record made during the public hearing and for the following reasons:

1. The Property is a 25-acre parcel on Doddtown Road approximately 1/3 of a mile from Route 5 and 2/3s mile from the Route 5/Route 9 intersection. Only a portion of the property will be used for the Conditional Use.
2. The property is zoned AR-1 Agricultural Residential. The use of the property as a landscaping business with equipment storage is consistent with the underlying agricultural zoning of the property.
3. The activities of the conditional use will be confined to the area around two existing 7,000 square foot pole buildings that are located approximately 1,400 feet back from the property line. They are not visible from Doddtown Road.
4. The applicant has stated that he intends to reside on the property.
5. The applicant has stated that all landscaping work is performed offsite, and that there will not be any dumping on the site.
6. There will be no retail sales from the property, and use is limited in nature. With the conditions and limitations placed upon it, the use will not adversely affect neighboring properties, roadways, or traffic.
7. The applicant has stated that his landscaping company provides a service to a wide 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 landscaping business with vehicle and equipment storage. No other businesses shall be conducted from the site, and no vehicles associated with any other businesses shall be parked on 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. No manufacturing shall occur on the site. This prohibition includes the chipping, shredding or grinding of any materials and also includes the dyeing of mulch or similar materials.
  - D. As stated by the applicant, no sign shall be permitted.
  - E. The hours of operation shall be limited to 6:00 am through 5:00 pm, Monday through Saturday.
  - F. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.
  - G. The applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.
  - H. No trucks with more than two axles shall be permitted on the site, for any use. This includes business vehicles, employee vehicles, and deliveries.
  - I. All stormwater management facilities shall be subject to the review and approval of the Sussex Conservation District. The Final Site Plan shall include the approval of the Sussex Conservation District for the design and location of the stormwater management areas.
  - J. As stated by the applicant, there shall be no dumping on the site, and the single

- dumpster permitted on the site shall be screened from the view of the neighboring properties and roadways.
- K. No more than 10 employee vehicles shall be permitted on the site at any one time, and no more than 12 commercial vehicles, including trailers, shall be permitted on the site at any one time. The Final Site Plan shall clearly show all areas for vehicle and equipment storage and parking, and these areas shall be clearly marked on the site itself. There shall not be any parking or storage within the property's setbacks.
  - L. All equipment and vehicle maintenance and repair shall occur indoors.
  - M. Visual screening in the form of fencing or landscaping shall be installed in any place where the roadway providing access to the conditional use area is within 20 feet of a neighboring property. These areas, along with the method of screening, shall be shown on the Final Site Plan.
  - N. This conditional use is not permitted on the entire 25-acre parcel. It shall be limited to the cleared area immediately adjacent to the existing pole buildings and the roadway providing access to this area. The Final Site Plan shall contain boundaries clearly depicting the Conditional Use area for the review and approval of the Commission.
  - O. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.
  - P. 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 the recommendation that the application be approved for the reasons stated. Motion carried 4-0.

**C /Z #1830 H. Dale Parsons**

**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 Georgetown Hundred, Sussex County containing 24.98 acres, more or less.** The property is located at the southeast corner of Lewes Georgetown Hwy. (Rt. 9) and Steiner Rd. 911 Address: None Available. Tax Map I.D. 135-16.00-23.00

The Commission discussed this application which has been deferred since October 26, 2017.

Mr. Hopkins, moved that the Commission recommend approval of Change of Zone #1830 for H. Dale Parsons for a change in zone from AR-1 to CR-1 based on the record made during the public hearing and for the following reasons:

1. The site is located along Route 9 between that roadway and railroad track running from Lewes to Georgetown.
2. The property currently has a split zoning, with half the parcel along Route 9 being commercial, and the back half being AR-1.
3. This rezoning will make the commercial zoning boundary consistent with the property boundaries. And, it is consistent with the physical boundaries of the property created by Route 9 and the railroad tracks.
4. The rezoning is consistent with the area, which includes commercial zoning on either side of the site and across Route 9. Business and commercial uses in the area include a plumbing/HVAC contractor, a site work contractor and a small contractor/industrial

center.

5. The proposed use will not adversely affect neighboring or adjacent properties or roadways.
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 4-0.

**C /Z #1831 East Gate Farm, Inc.**

**An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 (Agricultural Residential District) to a B-1 (Neighborhood Business District) for a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County containing 16.669 acres, more or less.** The property is located on the South side of Cedar Neck Rd., approximately 900 ft. east of Coastal Hwy. (Rt. 1). 911 Address: None Available. Tax Map I.D. 330-11.00-73.09

Ms. Stevenson, moved that the Commission recommend approval of Change of Zone #1831 for East Gate Farm, Inc. for a change in zone from AR-1 to B-1 based on the record made during the public hearing and for the following reasons:

1. The site is located near the boundary of the City of Milford along Cedar Neck Road close to the intersection with Route 1, which is a principal arterial highway. This is a new grade-separated intersection that provides direct access to the new Bayhealth Campus.
2. According to the County's Comprehensive Land Use Plan, the site is identified as being part of a Town Center Area. B-1 Zoning is appropriate within the Town Center Area.
3. The site is basically surrounded by the City of Milford, but because of roads and other factors is not contiguous to the City. This makes it an appropriate location for B-1 zoning.
4. According to the Zoning Code, B-1 Zoning is appropriate "to provide retail shopping and personal service uses,... to serve the needs of a relatively small area, primarily nearby rural, low density or medium density residential neighborhoods." This application satisfies this purpose of B-1 Zoning.
5. The B-1 District is the most limited commercial zoning district in the County. It is appropriate in this location since it will limit the type and size of the uses that may occur at the site.
6. The rezoning to B-1 will be in character with the developing nature of the area in that it will serve the residents of the greater Milford community by creating an office center in the area of the soon-to-be-completed Health Campus. New medical and general offices on the site will be integrated in this area that is developing with residential and healthcare uses.
7. No parties appeared in opposition to the proposed rezoning.

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 for the reasons stated. Motion carried 4-0.

**C /Z #1833 Eagles Nest Fellowship Church**

**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 Broadkill Hundred, Sussex County containing 2.13 acres, more or less.** The property is located at the northeast corner of Reynolds Rd. and Broadkill Rd. 911 Address: 13275 Reynolds Rd. and 26381 Broadkill Rd., Milton Available. Tax Map I.D. 235-15.00-7.01

The Commission discussed this application which has been deferred since October 26, 2017.

Mr. Hudson, moved that the Commission recommend approval of Change of Zone #1833 for Eagles Nest Fellowship Church for a change in zone from AR-1 to CR-1 based on the record made during the public hearing and for the following reasons:

1. The site is located along Route 16 near the town limits of Milton. It is on a property that has been historically used for commercial purposes, starting as a feed store in the 1940s. Since, then, it has been used as church and for youth group activities.
2. The site is at an intersection where other Commercially zoned properties exist. The CR-1 zoning will be consistent with the area zoning and uses.
3. The site is in a Developing Area according to the Sussex County Comprehensive Plan. CR-1 is appropriate within the Area according to the Plan.
4. The proposed use will not adversely affect neighboring or adjacent properties or roadways.
5. Whenever this property is developed for a particular use, the applicant will be required to meet or exceed all DelDOT requirements. DelDOT will determine where appropriate entrance locations should be.
6. CR-1 Zoning is appropriate, sine 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 major thoroughfares where a general mixture of commercial and service activities now exist. In this case, the rezoning along Route 16 falls within the stated purposes of the CR-1 District.
7. Any development of the site will require preliminary and final site plan review by the Sussex County Planning and Zoning Commission.
8. This recommendation is not an indication that Commercial Zoning is appropriate along Route 16 in general. Route 16 is an important east-west roadway in Sussex County connecting to Route 1. This site is appropriate because it is at an intersection that has already developed commercially. However, the County should proceed carefully with any commercial rezonings along Route 16 to preserve the travel corridor.

Motion by Mr. Hudson, seconded by Mr. Hopkins, and carried three (3) to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons stated. Motion carried 3-0. Ms. Stevenson abstain.

## PUBLIC HEARINGS

Mr. Robertson described how the public hearings are processed.

**C /Z #1834 Colonial East, L.P.**

**An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 (Agricultural Residential District) to a B-1 (Neighborhood Business District) for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County containing 6.98 acres, more or less.** The property is located on the north side of Lewes-Georgetown Hwy. (Rt. 9) approximately 741 ft. east of Minos Conaway Rd. 911 Address: 30769 Lewes-Georgetown Hwy., Lewes. Tax Map I.D. 334-5.00-165.00 (portion of) and 334-5.00-166.00 (portion of)

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, an exhibit booklet, a site plan and two letters of support.

The Commission found that, David Hutt, Attorney with Morris James Halbrook and Bayard LLP, Ken Christenbury, with Axiom Engineering, Steve Class, owner of Colonial East L.P. and D J Hughes, with Davis Bowen and Friedel were present on behalf of the application; that Mr. Hutt stated that the site is located in front of Sussex East and West manufactured home community; that the property currently has three conditional uses for 350 manufactured homes; that it is a 55 plus community and is more than 95% occupied by 55 plus residences; that 80% of the residences are year round; that they would like to change the zone from AR-1 to B-1; that they hope to provide uses for the development and for the area to come; that several buildings will have a neighborhood business feel; that the hope is to alleviate traffic going to Route 1; that Mr. Christenbury stated that the area in the front of this project is intended to be rezoned to neighborhood business; that the existing amenities will remain AR-1; that the ESDA land use allows for a mix of uses that the site is not that far from commercial zoning; that the property is in Level 2 State Strategies; that the area has grown since 1992; that Minos Conaway Rd. has almost built out; that there are no plans for regional uses but could provide neighborhood uses in the area; that this a potential concept plan if approved; that Mr. Hughes stated that a TIS is required and they are working on with DelDOT to finalize the TIS; that off-site improvements at the intersection of Route 9 and Minos Conway Road are included in the TIS review; that this is to help provide some services to the area and developments; that a signal at Minos Conaway has been in the plan for a while and they intend to enter into a signal agreement with two other developments; that they are going to create a dedicated left turn lane, lengthen the right turn lane and include bike lanes; that they do have to dedicate ten feet of right-of-way and provide a 15 foot easement for a bike trail; that Mr. Class idea was developed by the residents; that the communities are 55 and older; that they sent a form out with a survey to the residents; that there are no effect on their rents; that the community wanted a place for coffee and donuts, a general store, village for people to bike or walk to the store; that they want to cut down on vehicle traffic; that it could include a professional medical office or pharmacy; that they are going to have interconnectivity with the bike trail; that Mr. Hutt stated B-1 is for relatively small area and area uses; that the Comprehensive Plan encourages growth in this area; and that the property would not accommodate one large building, but it would accommodate multiple smaller buildings.

The Planning Commission found that Patricia Williams was in favor to the application; that she thinks this is wonderful and great.

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



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

Ms. Stevenson, moved that the Commission recommend approval of Change of Zone #1834 for Colonial East, LP for a change in zone from AR-1 to B-1 based on the record made during the public hearing and for the following reasons:

1. The site is located along Route 9 at the front of a large manufactured home development and it is surrounded by other existing and new residential developments. This makes it an appropriate location for B-1 zoning and it will provide neighborhood business uses in a location that is convenient to many homes. It will also eliminate the current need to travel to Route 1 for all of these needs.
2. According to the County's Comprehensive Land Use Plan, the site is identified as being within the Environmentally Sensitive Developing Area. B-1 Zoning is appropriate within this Area according to the plan.
3. According to the Zoning Code, B-1 Zoning is appropriate "to provide retail shopping and personal service uses, ... to serve the needs of a relatively small area, primarily nearby rural, low density or medium density residential neighborhoods." This application satisfies this purpose of B-1 Zoning.
4. The B-1 District is the most limited commercial zoning district in the County. It is appropriate in this location since it will limit the type and size of the uses that may occur at the site.
5. The rezoning is consistent with the developing character of the area and will not adversely affect the neighboring properties and roadways.
6. The proposed rezoning meets the purpose of the Zoning Ordinance since it promotes the orderly growth, convenience, order, prosperity and welfare of Sussex County and its residents.
7. The site is served by central water and Sussex County will provide wastewater service to the site.
8. Any future development of the site will require site plan approval by the Sussex County Planning & Zoning Commission as well as entrance and roadway improvements from the Department of Transportation.
9. No parties appeared in opposition to the proposed rezoning.

Motion by Ms. Stevenson, seconded by Mr. Hudson, and carried unanimously to forward this application to Sussex County Council with the recommendation that the application be approved for the reasons stated. Motion carried 4-0.

**C /Z #1838 Two Farms, Inc.**

**An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 (Agricultural Residential District) to a B-1 (Neighborhood Business District) for a certain parcel of land lying and being in Georgetown Hundred, Sussex County containing 2.85 acres, more or less.** The property is located at the southeast corner of Lewes-Georgetown Hwy. (Rt. 9) and Gravel Hill Rd. 911 Address: 24616 Lewes-Georgetown Hwy., Georgetown. Tax Map I.D. 135-11.00-78.00

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, an exhibit booklet, a survey, comments from Sussex County Utility Planning Division, results from DelDOT regarding the Service Level Evaluation.

The Commission found that William Scott, Attorney with Scott and Shuman, Mike Riemann Engineer from Becker Morgan Group, Randy Bendler, representing Two Farms, and Mr. Harold and Mr. Dodd, owners of the property were present on behalf of the application; that Mr. Scott stated the application is to rezone the property from AR-1 to B-1; that the property is located southeast corner of Route 9 and Gravel Hill Road; that it currently has two single family homes that are vacant at this time; that Mr. Riemann stated the intent is for a 15,500 square foot of retail space; that this is not intended to be a Royal Farms; that the intent is to develop this property as a retail center; that the intersection has recently been upgraded by DelDOT and this site has provided right-of-way dedication; that the TIS has been completed for this site; that the site would have a right-in and a right-out on Route 9; that full access will be on Route 30; that Artesian will serve sewer; that they will screen the parcel to east and south with a fence and landscaping; that there is quite a bit of commercial zoning in the area; that B-1 is consistent with zoning and other commercial uses in the area; that Mr. Scott stated that the Low Density land use allows for B-1; that it will provide convenience for the neighborhood; that the property is in State Strategies 3 and 4; and that they would be ok with interconnectivity in the future to the south of the property.

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

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

Ms. Stevenson, moved that the Commission recommend approval of Change of Zone #1838 for Two Farms, LLC for a change in zone from AR-1 to B-1 based on the record made during the public hearing and for the following reasons:

1. This site is located at the intersection of Route 9 and Gravel Hill Road. There are other commercially zoned properties at this intersection. This an appropriate location for B-1 Zoning.
2. The Commission previously recommended approval of a change in zone to CR-1 for this property. This recommendation for B-1 Zoning is consistent with that prior motion.
3. According to the Zoning Code, B-1 Zoning is appropriate “to provide retail shopping and personal service uses,...to serve the needs of a relatively small area, primarily nearby rural, low density, or medium density residential neighborhoods.” This application satisfies this purpose of B-1 Zone.
4. The B-1 District is the most limited commercial zoning district in Sussex County. It is appropriate in this location since it will limit the size and type of uses that can occur on the site.
5. The rezoning is consistent with other zoning and uses at the Route 9 and Gravel Hill Road intersection and it will not adversely affect neighboring properties or roadways.
6. The rezoning meets the purpose of the Zoning Ordinance because it promotes the orderly growth, convenience, order, prosperity and welfare of Sussex County and its residents.
7. Any future development of the site will require site plan approval be the Sussex County Planning and Zoning Commission.
8. No parties appeared in opposition to the proposed rezoning.

Motion by Ms. Stevenson, seconded by Mr. Hudson, and carried unanimously to forward this

application to Sussex County Council with the recommendation that the application be approved for the reasons stated. Motion carried 4-0.

**C/U #2107 Galbraith Development Group**

**An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for mini-storage to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 3.21 acres, more or less.** The property is located on the northeast side of Muddy Neck Rd., approximately 980 ft. of Beaver Dam Rd. 911 Address: Not Available. Tax Map I.D. 134-17.00-8.09

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, an exhibit booklet, a site plan, comments from the Sussex County Utility Planning Division, the results from the DelDOT Service Level Evaluation that stated a TIS is not required, a letter from a Realtor and 13 letters in opposition.

The Commission found that David Hutt, Attorney of Morris James Wilson Halbrosk and Bayard, LLP, Ken Christenbury, with Axiom Engineering, and Mark Galbraith, with Galbraith Development Group were present on behalf of the application; that Mr. Hutt stated the property is located along Muddy Neck Road; that the property is zoned AR-1; that they are proposing a 46,000 square foot mini-storage facility; that the applicant owns a home and proposes to live in the area; that the maximum height of the buildings will be 15 feet; that the entrance to the facility will not be barbed wire or a chain link fence; that the facility will not have 24 hour access; that there will be no towering lights; that Mr. Christenbury stated that the Comprehensive Plan identifies this property as a Developing Area; that it is adjacent to the Town of Ocean View; that there is MR and B-1 zoning in the area; that the property is State Strategies Level 3 and is surrounded by Level 2; that there are houses in the area but the only house within a 100 feet of the property; that the site consists of 3.2 acres; that the entrance will be located at the far end of the site for sight distance; that the office hours will be from 7:00 am to 9:00 pm; that the lighting will be motion sensor and downward screened; that they propose one 32 square foot non-illuminated sign; that an ornamental fence will be along the road; that the buildings will be earth tone color; that the site will be significantly landscaped around the perimeter; that there will be a bike path along the front of the property; that DelDOT did not require a TIS; that a Medium Density Residential development would generate more traffic through this area; that Mr. Galbraith stated that he has owned a residence nearby for 13 years and plans to move here within the next four years; that he wants to build something nice to live nearby; that he sees a need in the area for storage; that Mr. Hutt stated the hours will be 6:00 am to 9:00 pm and not 24 hour access; that one pole light will be at the entrance to the site similar to a street light and a landscape plan will be included to alleviate lighting concerns; that lighting will be downward screened; that there will be no chain link fence along the front of the property; that a potential chain link fence would be along the sides and rear but it will be screened from view; that a letter from a Realtor stating other mini-storage facilities have not impacted property values; that the Melson funeral home and the Inlands Bay garden center are in the area; that the applicant is trying to blend in with the other commercial uses in the area; that Mr. Christenbury stated that some of the backs of the buildings would act as buffers with fence between buildings; that there will be a buffered landscaping along the side and rear property lines; that Mr. Galbraith stated there would be an employee there every day from 6:00 am to 9:00 pm; that the property will be paved; and that they could remove some interior buildings to allow for more outdoor storage for

boats etc.

The Planning Commission found that no one spoke in favor of the application.

The Planning Commission found Ron Golden, Thomas Maly, William Anderson, Stephen Shoffner, Damien Golden, Mike Atkins, Bill Clemons, Natalie Reatig, and Russell Ruble spoke in opposition to the application; that Mr. Golden stated that he has a petition signed by other neighbors and other exhibits stating this does not comply with conditional use requirements; that this is not consistent with the area; that this property is two miles from the beach; that a conditional use as warehousing is not in keeping with the AR-1 zoning and not compatible with residential uses; that he has concerns with traffic; that the use is out of character for the area and road classification; that he has concerns with safety; that he has concerns with the lighting and chain link fence; that a similar application was recommended to be denied from the Planning and Zoning Commission and was denied by County Council in 2014; that Mr. Maly stated he is representing Hunters Run and nine members are present; that warehousing is not appropriate for the area and not compatible; that he has concerns with crime and safety; that he has with concerns with impact on property values; that Mr. Anderson stated that this does not fit the area; that one of five things worst thing to go there is mini storage; Mr. Shoffner stated he has concerns with stormwater management and run off; that Ms. Golden stated that he agree with the others; that Mr. Atkins stated he agree with the others; that Mr. Clemons stated that it is his brother-in-law selling the property; that he agrees with the others; that Ms. Reatig stated she is in agreement with the others; that she has concerns with traffic; that Mr. Ruble stated he agree with the others; that if only 15 feet between the buildings that it will read as one massive 15 foot tall building and the fencing is a matter aesthetic; and that the lighting even if it is downward, will reflect up off the buildings.

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

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

### **2017-11 Stonewater Creek Phase 7 - Seven Branch, LLC**

This is a cluster subdivision. The cluster subdivision is for the creation of 100 single family lots with private roads and open space. The property is located west side of Indian Mission Rd. (Rt. 5) across from Cannon Rd. (Rd. 307) Tax Parcel: 234-16.00-19.00, 19.02, 19.04, 19.05, 19.06, & 208.00 thru 277.00 Zoning: AR-1 (Agricultural Residential District).

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, comments from the Sussex Conservation District, results from the DeIDOT Service Level Evaluation that stated a TIS is not required, a survey, and an exhibit book.

The Commission found that Dennis Schrader, Esquire of Morris James Wilson Halbrook and Bayard, LLP, Frank Kea, and Jason Palkowicz with Solutions Integrated Planning, and Randy Mitchell, were present on behalf of the application; that Mr. Kea stated that the project is an AR-1 cluster of 100 lots; that the plan will feature streets with curb, gutters and sidewalks on both sides that it will be connected to the DeIDOT multi-modal system; that there will be streetlights; that there will be a 50 foot buffer from the existing Rapid Infiltration Basins System (RIBS); that

there will be 40% open space previously there was not that amount of open space with the previously approved 70 lots; that they have added a 60 foot buffer between Phase Seven and the remainder of the community; that the original subdivision was approved for 708 homes; that certain phases across Route 5 of were taken out of Stonewater Creek and made a part of Pelican Point so the number of homes with the 30 additional lots, if approved will only be 571 lots in Stonewater Creek; that there are no lots in wetlands and no lots that touch wetlands; that the on-site cemetery is preserved; that there is interconnectivity to the remainder of Stonewater Creek; that there is a second entrance opposite of Cannon Road; that there will be no effect on property values and the values could go up; that the values in Stonewater Creek are \$279,000 to \$382,000 and Pelican Point are \$319,000 to \$374,000 for the same size lot; that Mr. Palkowicz stated that previous approved lots were adjacent to wetlands; that the proposed lots are now 20 ft. to 50 ft. away from the wetlands; that they are going to add more buffers to open space; that they meet with PLUS and Planning and Zoning staff to improve the plan; that now there is a 30 foot buffer between communities; that there will be no disturbance of wetlands; that they saved an additional five acres of woodland; that all the lots are outside of the flood zone; that the 40% open space provided does not include the wastewater treatment facility or the disposal area; that the roads are designed to current County road standards including drainage regulations; that Mr. Schrader stated this is similar to the 2008 plan but now a superior design; that the density is at 1.66 dwelling units; that covenants and restrictions are still in place; that it went from 11 acres to 24 acres open space of a 13 acres; that the 571 lots is what is proposed; that they are not aware of DelDOT putting a light at the intersection and it was not part of the TIS; that the amenities are part of the earlier phases and people would have access to them; that there are 65 houses left to be built in the development; that 400 lots have been sold in the development; that there are 1,000 homes between Pelican Point and Stonewater Creek; that Mr. Mitchell stated there are 537 homes in Stonewater Creek and 443 homes in Pelican Point; that the HOA documents have always allowed the addition of more units; that the net increase is 30 homes; and that there are fewer people using the amenities in Stonewater Creek as Pelican Point has it owns amenities.

The Planning Commission found that no one spoke in favor of the application.

The Commission found Bishop Nowotnik, Richard Crisci, Mike Vitello, Judy Iaquinto, Margaret Patty, Mike Cunningham, Gregory Ryan, Bob McDonald and Milton Pauls spoke in opposition to the application; that Mr. Nowotnik stated that he has concerns with the location of posting of the sign; that he feels like he is being bamboozled; that Pelican Point has smaller lot sizes; that Stonewater Creek has 20,000 square feet lot sizes; that he has concerns with property values; that he is not really impacted by the development because he lives on the other side but he is impacted by smaller lot sizes; that he is ok with the original development; that he had concerns with the calculation of the open spaces; that peoples yards are open space; that he has concerns with the PLUS letter; that he has concerns with traffic; that there was not enough time or notice; that Mr. Crisci stated that he agrees with the Mr. Nowotnik; that he liked the other large lot size; that he was not told the development could change; that he has concerns with the property values; that Pelican Point does not impact value of homes which are across the street; that we do not have or want sidewalks; that Mr. Vitello stated that he had questions about the 30 new lots and the lots at Pelican Point; that there are more houses proposed than before; that Ms. Iaquinto stated that she agrees with many of the comments; that she questioned if the open space will be the responsibly of the HOA and what will it look like; that Ms. Patty stated that she backs up to the new section; that she likes the 60 foot buffer; that she has concerns with the amenities and if

they can accommodate everyone; that why do they need 100 houses vs 75 homes; that Mr. Cunningham stated that he has concerns with the amenities capacity especially regarding the parking; that Mr. Ryan stated that he has concerns with noise; that he has concerns with the roads in the subdivision; that he has concerns with stormwater management and drainage; that the developer does not live up to his promises; that a TIS should be warranted; that he has concerns with traffic coming out of Pelican Point; that Mr. Pauls stated that the numbers do not match; that the sign was placed down by the sewer treatment plant; and that they were not notified properly of the meeting.

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

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

There was a consensus of the Commission to a combined public hearing on C/Z #1832 and C/U #2106, that application of MDI Investment Group, LLC and that each application would be voted on separately.

**C/Z #1832 MDI Investment Group, LLC**

**An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 (Agricultural Residential District) to a MR (Medium Density Residential District) for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County containing 6.86 acres, more or less.** The property is located on the southeast side of Shady Rd., approximately 130 ft. northeast of Plantations Rd. 911 Address: Not Available, Lewes. Tax Map I.D. 334-6.00-511.00 and 334-6.00-512.00

**C/U #2106 MDI Investments Group, LLC**

**An Ordinance to grant a Conditional Use of land in a MR (Medium Density Residential District) for multi-family units (52 townhomes) to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 6.86 acres, more or less.** The property is located on the southeast side of Shady Rd., approximately 130 ft. northeast of Plantations Rd. 911 Address: Not Available, Lewes. Tax Map I.D. 334-6.00-511.00 and 334-6.00-512.00

The applications were consolidated into a single public hearing.

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, comments from the Sussex Engineering Department Utility Planning Department, results from the DelDOT Service Level Evaluation that stated a TIS is not required, and exhibit book.

The Commission found that Harold Dukes, Esquire of Tunnell & Raysor, P.A., Doug Compher, with MDI Investment Group Inc. and John Murry with Kercher Engineering were present on behalf of the application; that Mr. Compher recently acquired the parcels that are zoned AR-1; that the parcels are surrounded by Eagles Point subdivision, the Arbors at Cottagedale, Summerset Green and other residential developments; that they are asking to rezone the parcels to MR and allow for 52 townhome units; that there is MR zoning in the area; that the parcels are located in Level 1 in the State Strategies; that the site is across from the new transit center and

near the Lowe's; that the site is 6.86 ac.; that they are requesting a density of 7.58 for the site; that the Arbors at Cottagedale has a density of 9.29 which is adjacent to the site; that the Arbors at Cottagedale went through a similar process with Change of Zone and Conditional Use applications; that the site went through the PLUS process and they have responded to the PLUS comments; that the Comp Plan identifies that the land use is Environmentally Sensitive Developing Area, Mixed Residential and Highway Commercial; that 60.6% of the land will be open space; that they will have central sewer provided by Sussex County; that water will be provided by Tidewater Utilities; that they are waiting on a Letter of No Objection from DeIDOT; that there will interconnectivity to the wellness center to the west; that the wellness centers entrance will be removed and combined with this sites entrance; that Summerset Green is a townhouse development in the area which is similar to the character of the proposed development; that it is near the new transit center; that it tie into the sidewalk with the wellness center and extend the sidewalk along the road frontage; that the site has good soils for infiltration for stormwater management; that the stormwater management area will be located in the panhandle area of the site; that the site complies with Section 115-194.3 for a development in the ESDDOZ; that they have submitted proposed findings in the exhibit book; that there is a history of other Conditional Uses and Change of Zone applications in the area; that the use is in keeping with the character of the area; that there is infrastructure and transit available; that a TIS is not required; that the maximum number of units is 52; that the wellness center will get more parking with the new interconnectivity and the closing of that entrance; that there are several other potential interconnectivity opportunities on the site; that the one to the Arbors at Cottagedale would go through their existing stormwater management pond and the others into the back of lots that could develop in the future; that the developer is required to construct road improvements along Shady Rd. per DeIDOT; that the intent is for housing for the middle class with a price range in the \$200,000 range; that there are amenities in the area for residents to use instead of them providing amenities on the site; and that there are complexities with trying to connect to the Arbors at Cottagedale as it is a brownfield site.

The Planning Commission found that no one spoke in favor of the application.

The Planning Commission found Marc Collard spoke in opposition to the application; that he had concerns with the number of units for this site and the Summerset Green development; that the townhomes are close to Eagle Point; that it is too much on the site; and that the road is too narrow.

At the conclusion of the public hearings, the Commission discussed this application regarding the interconnectivity to the Arbors at Cottagedale and potential issues sharing the stormwater management area as it is a brownfield site; and discussed the cost of the units.

Motion by Mr. Hopkins, seconded by Mr. Hudson, and carried unanimously to defer action for further consideration for CZ 1832. Motion carried 4-0.

Motion by Mr. Hopkins, seconded by Ms. Stevenson, and carried unanimously to defer action for further consideration for CU 2106. Motion carried 4-0.

OTHER BUSINESS

**The Estates at Enchanted Woods (a.k.a “Sawmill Woods”) (2016-5)**

Final Subdivision Plan

Mr. Whitehouse advised the Commission that this is the final subdivision plan. The plan proposes to subdivide 15.56 acres +/- into 14 single family lots. The property is located on the south side of Huff Rd. approximately 0.78 miles west of Gravel Hill Rd. The Preliminary Subdivision Plan was approved by Planning Commission on October 13, 2017. The property is zoned AR-1 (Agricultural Residential District). The Tax Map is 235-24.00-234.00 – 249.00 and 39.01. A waiver was granted for the elimination of the 20’ Landscape Buffer Requirement. Final Site Plan Approval was previously given for 14 single family lots by Planning & Zoning Commission at its meeting on October 13, 2016. Staff is 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.

**McCabe Mechanical, LLC (CU 1870)**

Revised Site Plan

Mr. Whitehouse advised the Commission that this is a Revised Site Plan for a 5,090 square foot addition to an existing 1-story storage building, the addition of 11 parking spaces, and the relocation of a small office on a 6.45 acre parcel of land accessed from Seashore Highway. The Planning & Zoning Commission held a public hearing for Conditional Use 1870 on November 10, 2010 for sheet metal fabrication and welding for the poultry industry and offices. The additions will continue to comply with this use. The original plan was given final approval by Planning Commission on April 28, 2011. The revised site plan complies with the conditions of approval and County Code. The property is zoned AR-1. The tax parcel is 231-7.00-18.00. The staff are in receipt of all agency approvals.

Motion by Ms. Stevenson, seconded by Mr. Hudson, and carried unanimously to approve the revised site plan as final. Motion carried 5-0.

**Indian River Volunteer Fire Company**

Revised Site Plan

Mr. Whitehouse advised the Commission that this is a Revised Site Plan for the construction of 9,780 square foot building addition and improvements to the Indian River Fire Company Station 80-2 located off Banks Road. Included in the improvements are 24 new parking spaces. The plan complies with the County’s zoning code. The property is zoned GR. The tax parcel is 234-23.00-287.00. The Planning Office is awaiting agency approvals.

Motion by Mr. Hudson, seconded by Ms. Stevenson, and carried unanimously to approve the revised site plan with final site plan approval subject to staff upon receipt of all agency approvals. Motion carried 4-0.

**Oyster Cove (CU 2058) S-17-37**

Preliminary Site Plan

Mrs. Walls advised the Commission that this is a Preliminary Site Plan for the construction of 24 multi-family (duplex) dwelling units on a 9.37 acre lot +/- with site improvements to be located off Old Orchard Rd. The Planning Commission recommended Conditional Use 2058 for approval on October 13, 2016. County Council approved Conditional Use 2058 on October 25,



2016. The property is zoned MR (Medium Density Residential District). The tax parcel is 335-8.00-25.00. The Site Plan complies with County Code. Staff are awaiting agency approvals.

Motion by Ms. Stevenson, seconded by Mr. Hopkins, and carried unanimously to approve the preliminary site plan with final site plan approval subject to staff upon receipt of all agency approvals. Motion carried 4-0.

**Term 2, LLC (CU 2084)**

**Preliminary Site Plan**

Mrs. Walls advised the Commission that this is a Preliminary Site Plan for Phase 2 of Term 2, LLC on an existing parcel off Lowes Road. The Phase 2 plan seeks to construct two new buildings: building No. 2 will be a one story 1,250 square foot building to be used as an office, and building No. 3 will be a two story 3,072 square foot building to be used as a scale house and additional office space. The Planning Commission recommended for approval Conditional Use 2084 on June 22, 2017 for the operation of a recycling center and weight scale. The additions to this site plan will continue to comply with the conditional use. The final plan complies with the County Code. The parcel is zoned AR-1. The tax parcel is 333-14.00-23.00. Staff are awaiting agency approvals.

Motion by Mr. Hudson, seconded by Ms. Stevenson, and carried unanimously to approve the preliminary site plan with final site plan approval subject to staff upon receipt of agency approvals. Motion carried 4-0.

**Peninsula on Indian River Bay a.k.a “Sailside” Phase 1C**

**Preliminary Site Plan**

Mrs. Walls advised the Commission that this is a Preliminary Site Plan for the construction of 60 units comprising 50 single-family condo units and 10 townhouse condo units as part of a Residential Planned Community (RPC). Final Site Plan approval was previously given on December 19, 2007 for an alternative Site Plan as Part of Phase 1C that contained 15 larger multi-family buildings and no townhouses. The phase complies with the Zoning Ordinance. The tax parcel is 234-30.00-316.00. The property is zoned MR-RPC. Staff are awaiting agency approvals.

Motion by Mr. Hudson, seconded by Mr. Hopkins, and carried unanimously to approve the preliminary site plan with final site plan approval by the Planning Commission upon receipt of all agency approvals. Motion carried 4-0.

Meeting adjourned at 9:40 p.m.