

## THE MINUTES OF THE REGULAR MEETING OF DECEMBER 13, 2018

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, December 13, 2018, in the County Council Chamber, Sussex County Administration Office Building, Georgetown, Delaware.

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

Motion by Ms. Stevenson, seconded by Ms. Wingate, and carried unanimously to approve the Agenda as amended. Motion carried 5-0.

Motion by Ms. Stevenson, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of the November 15, 2018 Planning and Zoning Commission meeting as submitted. Motion carried 5-0.

### OLD BUSINESS

#### **C/Z 1865 Francis C. Warrington, III**

**An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to an MR Medium Density Residential District for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 5.59 acres, more or less.** The property is lying on the east side of Old Landing Road, approximately 155 ft. north of Marina Drive, and on the north side of Marina Drive, approximately 450 ft. east of Old Landing Road. 911 Address: 20873 Old Landing Road, Rehoboth Beach. Tax Parcel: 334-19.00-1.00.

Mr. Hudson recused himself for this application.

The Planning Commission discussed the application which has been deferred since November 29, 2018.

Ms. Wingate moved that the Commission recommend approval of Change of Zone #1865 for Francis C. Warrington, III for a Change in Zone from AR-1 to MR Medium Density Residential District based upon the record made during the public hearing and for the following reasons:

1. The site is along Old Landing Road, which has developed with a variety of housing types, including single family homes, multi-family dwellings and manufactured home communities that predate our County Zoning Code. MR Zoning is consistent with the development trends of this area.
2. The property is nearly adjacent to the Sawgrass MR/RPC. This application is a reasonable extension of that existing MR Zoning.
3. The site is in the Environmentally Sensitive Developing Area according to the current Sussex County Comprehensive Plan, which is a Growth Area. MR Zoning is appropriate

in this area according to the Plan.

4. The site is served by central sewer provided by Sussex County.
5. The site is served by central water provided by a publicly regulated water system.
6. The Sussex County Zoning Code states that the purpose of MR Zoning is to provide Medium Density Residential development in areas which are, or expect to become, generally urban in character and where central water and sewer are available. Here, the property is one of the last vacant parcels in this area of Old Landing Road, and it is surrounded by an MR/RPC on one side and on the other two sides by manufactured home communities of 144 units and 474 units. It is basically an infill rezoning to MR. This location is appropriate for MR Zoning according to the stated purpose of the District.
7. The change in zone will not adversely affect neighboring properties or roadways.
8. For all of these reasons, my recommendation is to approve the application for a change in zone from AR-1 to MR.

Motion by Ms. Wingate, seconded by Mr. Hopkins and carried unanimously to forward this application to the Sussex County Council with a recommendation that the application be approved for the reasons and conditions stated in the motion. Motion carried 4-0. Mr. Hudson abstained.

**C/U 2151 Francis C. Warrington, III**

**An Ordinance to grant a Conditional Use of land in an MR Medium Density Residential District for multi-family (22 units) to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 5.59 acres, more or less.** The property is lying on the east side of Old Landing Road, approximately 155 ft. north of Marina Drive, and on the north side of Marina Drive, approximately 450 ft. east of Old Landing Road. 911 Address: 20873 Old Landing Road, Rehoboth Beach. Tax Parcel: 334-19.00-1.00.

Mr. Hudson recused himself for this application.

The Planning Commission discussed the application which has been deferred since November 29, 2018.

Ms. Wingate moved that the Commission recommend approval for Conditional Use #2151 for Francis C. Warrington, III for multi-family dwellings in an MR Medium Density Residential District based upon the record made during the public hearing and for the following reasons:

1. This application seeks the approval of 22 duplex-type structures on approximately 5.59 acres, for a density of 3.93 units per acre. This density is appropriate within the MR Zone, which permits up to 4 units per acre.
2. The property is in an area where other residential developments has occurred, including the adjacent Sawgrass MR/RPC with 282 units and other single family and multi-family developments. It is also surrounded by two manufactured home communities. One has 474 units and a density of 3.2 units per acre and the other is 144 units with a total density of 9.87 units per acre. This project is basically an infill development and it is consistent with these 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, which states that “a range of housing types” are acceptable here.
4. The proposed development will not have an adverse impact on the neighboring properties or roadways.
5. The project will have 3.62 acres of open space. This includes amenities such as the pool and pool house, as well as the stormwater management areas.
6. The development will be served by central sewer provided by Sussex County.
7. The development will be served by central water.
8. This recommendation is subject to the following conditions:
  - A. The maximum number of residential units shall be 22.
  - B. All entrances, intersection, 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. With the exception of the entrance road there shall be sidewalks on both sides of the roadway. The entrance area may have a sidewalk on just one side of the road.
  - G. Section 115-218 of the Zoning Code allows the County to require a 20-foot forested buffer around multi-family developments. There shall be a vegetated or forested buffer of at least 20-feet in width around the entire perimeter of the project, with the exception of the 50-foot wide entrance road area to the project. There shall be landscaping provided on the north side of this entrance road area to screen it from adjacent properties. To the extent feasible, utilities shall be located within the paved area or the south side of the entrance area to avoid interference with this landscaping.
  - H. The applicant shall submit as part of the Final Site Plan a landscape plan showing the proposed tree and shrub landscape design, including the buffer areas.
  - I. Construction and site work on the property, including deliveries of materials to or from the property, shall only occur between 8:00 am and 5:00 pm, Monday through Friday, and between 8:00 am and 2:00 pm, on Saturdays. There shall be no construction activities at the site on Sundays.
  - J. Street naming and addressing shall be subject to the review and approval of the County Mapping and Addressing Departments.
  - K. The applicant shall form a homeowners’ association responsible for the perpetual maintenance, repair and replacement of the roads, buffers and landscaping, stormwater management facilities, erosion and sediment control facilities and other common elements.
  - L. 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.

- M. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management area and erosion and sedimentation control facilities.
- N. As stated by the applicant, there shall be a swimming pool and small pool house installed on the premises. The swimming pool shall be at least 15-feet by 30-feet in size.
- O. The wetlands area at the northeast corner of the site shall not be disturbed, and there shall not be any buildings located closer than 35-feet to this wetlands area.
- P. All street lights shall be downward screened so that they do not shine on neighboring properties or roadways.
- Q. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

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

#### **2018-17 Tower Hill – Groome Memorial Methodist Church**

An ESDDOZ subdivision to divide 134.29 acres +/- into 293 single family lots to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County. The properties are lying on the northwest side of New Rd. and on both sides of Lynn Rd approximately 351 ft. and 0.58 mile east of Old Orchard Rd. Tax Parcels: 335-8.00-2.00 and 2.02. Zoning District. AR-1 (Agricultural Residential District).

The Planning Commission discussed the application which has been deferred since November 29, 2018.

Ms. Stevenson stated that she had some concerns the in the relation to active hunting area behind this proposed development; Ms. Stevenson stated that she has concerns with the buffer areas and that she also has concerns with the TIS and potential impact of the development on the adjoining roads.

Motion by Ms. Stevenson, seconded by Mr. Hudson and carried unanimously to close the public record for this application. Motion carried 5-0.

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

#### PUBLIC HEARINGS

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

#### **2018-20 Tanager Woods – Joseph A. Street, Nina Street, Jasmyn Street and Andrew Street**

A cluster subdivision to divide 103.321 acres +/- into 173 single family lots to be located on certain parcels of land lying and being in Indian River Hundred, Sussex County. The properties are lying on the east side of Wil King Road, approximately 0.43 miles south of Kendale Road and also being on the side west of Robinsonville Road, approximately 0.47 miles south of Kendale Road. Tax Parcels: 234-6.00-58.00 and 85.00. Zoning Districts: AR-1 (Agricultural Residential District) and GR (General Residential District).

Ms. Cornwell advised the Commission that submitted into the record were an exhibit booklet, preliminary subdivision plan, PLUS response, comments from the Sussex Conservation District, Sussex County Mapping and Addressing Department, numerous Divisions of DNREC, DelDOT, Delaware Electric Cooperative, State Fire Marshal, Public Health Office of Drinking Water, Sussex County Engineering Department Public Works Department, Department of Agriculture, and RCS.

The Commission found that Mr. Jim Fuqua, Attorney with Fuqua, Willard, Stevens and Schab, Dan Smith with Brighton Homes and Jason Palkewicz, with Solutions IPEM were present on behalf of the application; that Mr. Fuqua stated an Environmental Assessment Report, Public Facility Report were included in and submitted into the exhibit booklet; that this is an application for an AR-1 cluster subdivision; that there were some modifications made to the subdivision plan and now they are proposing 168 lots; that the property does contain 103 acres; that it is a combination of two adjacent parcels; that the land consists of farmland, woodlands, non-tidal wetlands; that the site is located on the west side of Robinsonville Road with a small strip on Wil King Road across from Tidewater Landing development; that the minimum lot size would be 7,500 square feet and is a permitted use with water and sewer in the AR-1 District; that central water would be provided by Tidewater Utilities; that development would have central sewer provided by Sussex County and would be annexed into the district; that the proposed project is within the sewer designed consumption; that the stormwater management would be design and constructed in accordance with DNREC and Sussex Conservation District regulations; that all stormwater on site would be drained into ponds using Best Management Practices; that the depth of seasonal groundwater varies from 3-feet to 10-feet below grade and a portion of the site has good infiltration rates; that a wetland delineation was performed; that there are 32.3 acres of non-tidal wetlands located in two areas of the site; that no wetlands would be disturbed; that there would be a minimum buffer of 20-feet from any lot lines; that the property is located in the X floodplain; that there are no known archeological sites or national register listed properties for structures on the property and no threatened or endangered species; that in relation to transportation the Applicant would contribute to an area wide study fee in lieu of doing a TIS and may be required to undertake a TOA; that DelDOT would require the Applicant to contribute to the existing projects in the area; that the Applicant would be required to dedicate an additional Right-of-Way along Robinsonville Road and they would be required to widen the Road to 11-feet for travel lanes with 5-foot shoulders; that they would also have to provide a 15-foot pedestrian easement for multi-modal path and entrance improvements with DelDOT requirements; that the site is located in the Cape Henlopen School District; that the site is located in the Lewes Fire District; that the gross density would be 1.63lots per acre; that there would be no access from Wil King Road due to that part being in the wetlands; that the entrance would be separated by median landscaping; that there is a

required 20-foot forested landscape buffer to adjacent land owners; that there is a required 30-foot forested landscaped buffer adjacent to land in agricultural use; that they would have a minimum 30-foot forest landscape buffer around the entire property; that there is also a 50-foot buffer requirement for any residential structure from land of others in agricultural use; that no lots can contain non-tidal wetlands and there is no buffer requirement from non-tidal wetlands; that the lot sizes range from 8,500 square feet to 12,100 square feet and the average lot size is 9,000 square feet; that there would be a total of 61 acres of open space which is 59% of the site; that the subdivision streets would be private and would be built to Sussex County design standards with curbs and gutters; that there would be sidewalks on both sides of the streets; that they would provide appropriate street lighting; that the streets would be tree lined; that the recreational area would include an outdoor swimming pool with a surrounding deck area, community clubhouse with a minimum of 2,500 square feet of floor area; that there would be a multi-use court and playground; that they recommend the recreational items would need to be completed prior to the issuance of the 80<sup>th</sup> building permit; that the subdivision would have an HOA; that the development would be constructed in five phases; that there would no access to Wil King Road due to wetlands; that the State does not support development in a Level 4 area and that is a standard comment; that there would be a distance of 150-feet from Robinsonville Road to the first lot; and that the lot width is 72.5.

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

The Commission found that Mr. William Spitzig, Mr. Josh Wharton, and Mr. Rictchie Thurman spoke in opposition to the application; that Mr. Spitzig stated he is neither for or against the application; that he has concerns with a specific strip of land that he described to the Commission; that he his driveway is on that strip of land and he owns the land to the south; that he questioned whether the strip intended to be a utility access in any way; that he had concerns with utility vehicles; and that there are really old trees on the strip and would like them to remain.

Mr. Fuqua stated there are no plans and no utilities coming through strip; that they may talk with Mr. Spitzig and may sell that strip to him; that Mr. Wharton stated the proposed development backs up to his property, which is an active airstrip; that there is a 1,400-foot strip; that his brother takes off and lands weekly over the development; that Mr. Fuqua stated the plan would come in over the stormwater pond; that they would insert into the covenants of the proposed lots that there is active airstrip; that they would suggest conditions similar to the Agricultural use protection text as outlined in the Code; that Mr. Thurman stated he had concern with stormwater management and drainage; that the road and fields now flood; that he has concerns with the raising of the lots; that he had questions, such as whether Tidewater Utility are to be installed in the future along Robinsonville Road and whether landowners could connect to this; that the road has been under construction for 18 months; that Mr. Palkewicz stated the water line would be coming down from Robinsonville Road; that the sewer would end at Robinsonville Road or tie into Tidewater; and that they would have drainage in the rear yard to capture the drainage.

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

Mr. Robertson recused himself for the next application.

**2018-21 Carriage Springs – BSP-II Properties, LLC**

A cluster subdivision to divide 10.00 acres +/- into 10 single family lots to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County. The property is lying on the north side of Huff Road, approximately 0.9 miles west of Gravel Hill Road. (Route 30). Tax Parcel: 235-24.00-38.03. Zoning District: AR-1 (Agricultural Residential District).

Ms. Cornwell advised the Commission that submitted into the record were TAC, an exhibit booklet, subdivision plan, comments from the Sussex County Engineering Department, Sussex Conservation District, State Fire Marshal, Delaware Electric Cooperative, numerous Divisions of DNREC, Sussex County Mapping and Addressing Department, and Office of Drinking Water. One letter was received with concerns about the buffers to the application and was entered into the record.

The Commission found that Mr. Pret Dyer, a member of BSP-II, Properties, LLC and Mr. Mark Davidson with Pennoni Associates were present on behalf of the application; that Mr. Dyer stated the request is for a subdivision of 10 acres; that this property was formerly part of a larger subdivision that had expired; that Mr. Davidson stated they did get Final Approval for the Subdivision for 155 lots; that the proposed subdivision would meet the requirements for 99-9C; that they are requesting a waiver to exceed the maximum street length of 1,000 linear feet; that the street length would be at 1,210 linear feet; that the Land Use Classification per the Comprehensive Plan the land is low density area; that the State Spending Strategies identifies this property in the Level 4 area; that this consistent with the Sussex County Ordinance; that the proposed subdivision would comply with Zoning Codes; that the development has a density of 1 unit per acre; that the proposed project is consistent with the single family residential developments in the area; that project would provide active and passive recreational uses; that approximately 3.14 acres or 31% would be open space; that project would have easy access to Georgetown and Milton; that all the lots would have on-site well and septic; that a soil feasibility study was done and DNREC has approved the study; that the roads in the subdivision would be private; that DelDOT requires there to be right-of-way easement for 15-feet for a pedestrian path; that 1.61% of that open space would be for the forested landscape buffer; that there would be 20-foot landscape buffer with a 30-foot buffer along the adjacent agricultural lands; that there would be sidewalks on side of the road; that the first lot would be 150-feet back the road; that the project would have an HOA and an HOA document was submitted in the Exhibit Booklet; that the minimum lot size would be ½ acre; that no lot would have access to any State maintained roads; that dwellings located within 50-feet of existing residential developments shall provide adequate transition in density; that there are no wetlands on the site; that the site in located in X floodplain zone; that there are no known historical or threatened or endangered species on the site; that the site has been a farm field since 1937; that the buffers would help with stormwater management; that there would be stormwater management would be in the form of infiltration ponds; that one would be located at the front site and one at the back of the site; that the entrance would be built to DelDOT's standards; that this project would be a benefit to the schools through the additional property taxes genreated; that there are no effects

on area waterways; that the site would meet the requirements of the Ordinances; and that the project would meet the minimum requirement for a cul-de-sac turning area and the radius would exceed 3-feet to allow for a turnaround.

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

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

### **2018-22 Citation Meadows – Citation Meadows, LLC**

A cluster subdivision to divide 54.40 acres +/- into 49 single family lots to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County. The property is lying on the north side of Phillips Hill Road, approximately 0.42 mile west of Lakeview Road. Tax Parcel: 133-19.00-30.00. Zoning District: AR-1 (Agricultural Residential District).

Ms. Cornwell advised the Commission that submitted into the record is an exhibit booklet, preliminary subdivision plan, TAC comments, comments from the Sussex Conservation District, Delaware Electric Cooperative, Sussex County Engineering Department and Public Works Department, Sussex County Mapping and Addressing Department, Division of Water, and a copy of the Applicant's Soil Feasibility Study for the site.

The Commission found that Mark Davidson with Pennoni Associates, Ken Adams, owner of Citation Meadows, LLC, Howard Fortunato and Alan Decktor with Pennoni Associates; that Mr. Davidson stated this a proposed cluster subdivision to subdivide 54.4 acres into 49 lots; that the project is located on Phillips Hill Road; that the project is just west of the Town of Millsboro; that they are asking for a waiver from the cul-de-sac requirement of a 1,000 linear feet and that the proposed cul-de-sac length is 1,377.75 linear feet; that the streets in the subdivision would be private; that the Land Use Classification per the Comprehensive Plan the land is low-density area; that the State Spending Strategies identifies this property as being in the Level 4 area; that it is consistent with the Comprehensive Plan and with the County Code; that the proposed development would be designed in accordance with 99-9C and 115-25E; that the development has a proposed density of 0.9 units per acre; that the AR-1 Zoning does allow residences; that the development is surrounded on both sides with existing subdivisions; that the project would provide a pavilion and play area adjacent to the stormwater management area; that all single family lots would have individual on-site well and septic; that the soil feasibility study was undertaken and approved by DNREC; that the proposed project is for single family detached homes; that there is approximately 22 acres of open space which includes approximately 2.86 acres of planted forested landscape buffer; that the open space would include 7.12 acre an Agri-amenity and would be in a form of a community garden orchard; that no lots would have direct access to Phillips Hill Road; that there are no wetlands within the property; that additional buffers would be along the boundary of the property to help with stormwater management; that there would be a 30-foot buffer the agricultural fields and the rest would have a 20-foot buffer and they have added an additional 10-foot buffer to manage the stormwater off the back of the lots without disturbing the landscape buffer; that the project would have an HOA; that the minimum lot size of the subdivision would be an ½ an acre;



that the road design would meet the County standards; that the density was calculated by reducing the gross area by 25%; that the project would comply with 99-9C of the Subdivision Code; that the Oakmount Estates has asked for an easement for a drainage swale and for the applicant to dedicate a 50-foot wide easement so they can maintain the drainage easement; that Mr. Adams has no objection to the that as a condition of approval; that a 50-foot wide easement be dedicated to Oakmount subdivision; that with that 50-foot easement and they started the 20-foot forested landscape buffer from that 50-feet; that the property is located in the zone X floodplain; that there were no known historical features on the site; that this property has been an agricultural field since 1937; that 2.86 acres of the site would be forested landscape buffer; that they would provide a walking path around the pond; that there would be 20-foot buffer along Oak Ridge Drive and there would be no impact to the adjacent subdivision road; that the septic systems would comply with DNREC and they would be pretreatment systems; that the stormwater management pond is 6 acres in size which is sufficient and a great amenity for the subdivision; that entrance would be built to DelDOT standards; that they will work with the Indian River School District to determine the type, style and location of the school bus stop; that they have submitted some conditions, the project would not exceed 49 lots, they have no objection to 50-foot maintenance easement dedicated to the Oakmount subdivision and the recreational area shall be completed no later than the issuance of the 25<sup>th</sup> Certificate of Occupancy; that there is a distance of 50-feet from the road to the first lot; that there is no need for a cul-de-sac in front of lot 44; that Mr. Adams stated that Meadow Lane was not sunset and it was an secondary access; Mr. Davidson stated that the HOA from Oakmount Estates stated they would not like for the two subdivisions not to connect; that the HOA would be responsible for the maintenance of the garden orchard and is a work in progress to put the necessary language into the homeowners' documents; that the stormwater management is to be used as an irrigator or a separate well would be drilled.

Ms. Cornwell stated Mr. Ken Christenbury's letter was entered into the record and it does reference the request not to provide interconnectivity and the request for the 50-foot maintenance agreement for the drainage easement in the back of the property.

The Commission found that Mr. Ken Christenbury and Mr. Jake Booth spoke in favor of the application; that Mr. Christenbury stated he was grateful that the applicants have honored the request to provide the 50-foot drainage easement; that his neighbors were happy that there are no cluster houses; that interconnection is not requested; that Mr. Booth stated he is hoping to have the opportunity to build homes in the community and build quality homes.

The Commission found that Mr. David Jacobs, Ms. Cynthia Jenne, and Mr. Patrick Keene spoke in opposition to the application; that Mr. Jacobs stated the field is currently a corn field or soy bean crop and that the subdivision are taking the heart out of Sussex County by putting all these developments in the local area; that he has issues with schools and traffic; that believes that there are developments everywhere; that there are plenty of houses in the area; that there are no trees in Oakmount Estates; that he would have to move; that Ms. Jenne stated she is happy the ditch is being addressed; that Oakmount Estates has been maintaining the ditch for the last 15 years; that DNREC has been undertaking the maintenance of the ditch; that the life of the ditch is usually 20 to 25 years and they are approaching at 15 years; that she wants to know if a ditch survey will be

done or any ditch clean out done during construction; that would the pond drain into the ditch; that she would like clarification if the 50-foot easement be dedicated to Oakmount Estates; that she would like clarification if the ditch is part of Citation Meadows property and the 50-foot easement is on the other side of the ditch; that she would like to know if Oakmount Estates would be maintaining the clean out of the ditch and would that be a provision in the Citation Meadows HOA documents; that Mr. Davidson stated the ditch maintenance can be worked out with the HOA documents; that they do have pre-development discharge into the ditch off the farm field and cannot increase that in post-development; that with the addition of the 6-acre pond, they would be reducing the discharge even more than what post-development allow them; that they would create a right-of-way for maintenance; that Mr. Keene stated he would like to know what the plan is for completion and when the tentative start date would be for the project; that he wanted to know if it would be one builder or would there be multiple builders; that would there be connection between Citation Meadows and Oak Ridge Drive or Pine Run; that he wants to make sure there would be no issues with the wells; that he had concerns with the traffic on Phillips Hill Road; and that he has concerns with stormwater management.

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

**C/U 2159 Elisabeth Burkhardt**

**An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential district for a professional office to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 0.3673 acres, more or less.** The property is lying on the southwest corner of Savannah Road and Woodland Avenue. 911 Address: 1500 Savannah Road, Lewes. Tax Parcel: 335-8.18-28.00.

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis and an exhibit booklet.

The Commission found that Ms. Kristin Collison, Attorney with Hudson, Jones, Jaywork, and Fisher were present on behalf of the application; that Ms. Collison stated the proposed Conditional Use is for a professional office; that there is a request to incorporate the testimony of the last public hearing into this application; that the hours of operation are typically 9:00 am to 5:00 pm with some early or later hours with some Saturday hours; and that they would like a sign similar to the others along the road and unlighted.

The Commission found that no one in favor or 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 Conditional Use #2159 for Elisabeth Ann Burkhardt for a professional office based upon the record made during the public hearing and for the following reasons:

1. The proposed Conditional Use is similar in character to many other offices in this area of

Savannah Road. It is in character with the long history of development of medical and professional office space along Savannah Road.

2. The use as a professional office in this location will benefit the health, safety and welfare of present and future residents of Sussex County residents by providing such a use in a convenient location among other professional and medical offices along Savannah Road.
3. The applicant intends to utilize the existing structure on the property. This is consistent with other business and professional uses along Savannah Road.
4. The use, with the conditions and limitations placed upon it, will not adversely affect neighboring properties or roadways.
5. The use is in a Developing Area according to the Sussex County Comprehensive Land Use Plan. This use is appropriate in that Area according to the Plan.
6. This recommendation is subject to the following conditions:
  - A. The use shall be limited to professional offices.
  - B. As stated by the Applicant, the use shall occur within the existing structure, maintaining its residential appearance from Savannah Road.
  - C. The hours of operation shall be between 8:00 am and 5:30 pm, Monday through Friday. Additional hours shall be emergency appointments only.
  - D. Any dumpsters shall be screened from view of neighboring properties and roadways.
  - E. The applicant shall comply with all DelDOT requirements concerning, traffic and roadway improvements.
  - F. All exterior lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
  - G. All parking shall be located in the rear of the property behind the office.
  - H. One unlighted sign shall be permitted on the property. The sign shall be no larger than 32 square feet per side.
  - I. 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. Hudson and carried unanimously to forward this application to the Sussex County Council with a recommendation that the application be approved for the reasons and stipulations stated in the motion. Motion carried 5-0.

## OTHER BUSINESS

### **2017-13 Lovett's Reserve**

#### Final Subdivision Plan

Mr. Whitehouse advised the Commission that this is a Final Subdivision Plan for a major cluster subdivision of thirty-one (31) single family lots on 14.27 acres with private roads and open space. The property is located on the west side of Camp Arrowhead Rd. (SCR. 279) at Waterview Road (Road 279A). Preliminary Subdivision Plan approval was granted by the Commission at its meeting of January 11, 2018. The Final Subdivision Plan complies with the Zoning and Subdivision Codes, and all conditions of approval. Zoning: AR-1 (Agricultural Residential District). Tax Map I.D. 234-12.00-18.01

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

**Americana Bayside (MR-RPC)**

Revised Master Plan

Mr. Whitehouse advised the Commission that this is a Revised Master Plan for the Americana Bayside Residential Planned Community. The Revised Master Plan has been revised to show the increase in unit numbers associated with the Weidman Property addition to the MR-RPC. The Master Plan shows that the total number of units within Americana Bayside would not exceed the 1,700 units permitted. The parcel is zoned MR-RPC and the Tax Parcel is 533-19.00-39.00.

Motion by Mr. Hudson, seconded by Ms. Stevenson and carried unanimously to approve the Revised Master Plan. Motion carried 4-0. Ms. Wingate abstained.

**Americana Bayside (MR-RPC) – Weidman Property**

Preliminary Site Plan

Mr. Whitehouse advised the Commission that this is a Preliminary Site Plan for the provision of 116 lots as part of the Weidman Property addition to the Americana Bayside Medium Density Residential Planned Community, approved as part of CZ 1846 by County Council at its meeting of June 5, 2018. The Preliminary Site Plan complies with the Zoning and Subdivision Codes, and all conditions of approval for the RPC. Staff are awaiting Agency Approvals. Tax Parcel is 533-19.00-39.00.

Motion by Mr. Hudson, seconded by Ms. Stevenson and carried unanimously to approve the Preliminary Site Plan. Motion carried 4-0. Ms. Wingate abstained.

**APD 2018-01 – Eli Short Farm, LLC**

Ms. Bulkilvish advised the Commission that this is an application to consider an Agricultural Preservation District in an Agricultural Residential Zoning District in Nanticoke Hundred for three (3) parcels of land totaling 280 acres, more or less, located on the south side of Old Saw Mill Road for the purpose of a recommendation to the Delaware Agricultural Lands Preservation Foundation. Tax Parcel: 133-8.00-2.00, 2.01 and 3.00.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to approve the Agricultural Preservation District. Motion carried 5-0.

**APD 2018-02 – Leroy & Allan Collins Trustee**

Ms. Bulkilvish advised the Commission that this is an application to consider an Agricultural Preservation District in an Agricultural Residential Zoning District in Gumboro Hundred for one (1) parcel of land totaling 231 acres, more or less, located on the north side of Daisy Road for the purpose of a recommendation to the Delaware Agricultural Lands Preservation Foundation. Tax Parcel: 333-12.00-3.01.

Motion by Ms. Wingate, seconded by Ms. Stevenson and carried unanimously to approve the Agricultural Preservation District. Motion carried 5-0.

**Lands of Engle**

Minor Subdivision off 50' Easement

Ms. Bulkilvish advised the Commission that this is a request for the subdivision of three (3) lots each measuring 2-acres +/- off an existing 50' easement over an existing driveway located off of

Lawton Lane. The parcels will be accessed from a shared easement agreement between Tax Parcel 234-18.00-55.00 and 51.20. This parcel is zoned AR-1 (Agricultural Residential Zoning District). Tax Parcel: 234-18.00-51.02. Staff are awaiting agency approvals.

Motion by Mr. Hudson, seconded by Ms. Wingate and carried unanimously to approve Minor Subdivision off a 50' easement with final approval to staff upon receipt of all agency approvals. Motion carried 5-0.

### **2007-31 Southpoint Crossing**

#### Request to Revise Condition of Approval

Mr. Whitehouse advised the Commission that this is a request to remove Condition 'D' associated with a 28-lot cluster subdivision located on a 28 Ac. Parcel located north of SCR. 485A and east of U.S. Route 13. The Commission granted preliminary approval for 28 lots on June 11, 2009, with 10 conditions, and on January 12, 2012, the Commission agreed to delete a condition requiring an asphalt walking path throughout the community. Final Subdivision Plan approval was granted on October 24, 2013. It is now proposed to delete Condition 'D' which states: "*All entrances shall comply with all of DelDOT's requirements, and an area for a school bus stop shall be established. The location of the school bus stop shall be coordinated with the local school district.*" The applicant has contacted Seaford School District and concerns have been raised by the school district as to whether a bus stop would be utilized, and whether such a structure would attract rough sleeping activities and other nuisance-related activities. As such, the applicant has requested that Condition 'D' be deleted. Tax Parcel: 132-6.00-230.00. Zoning: AR-1 (Agricultural Residential Zoning District).

The Commission discussed this request and questioned whether the applicant intended to propose that all of the text Condition D be deleted, as there were essentially two parts to the condition.

Motion by Ms. Wingate, seconded by Ms. Stevenson and carried unanimously to approve the request to revise Conditional of Approval Condition D to remove the text to the bus stop only and that Condition D now states all entrances shall comply with all DelDOT requirements. Motion carried 5-0.

Meeting adjourned at 8:26 p.m.