

MINUTES OF THE REGULAR MEETING OF DECEMBER 21, 2017

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, December 21, 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. Doug Hudson, Mr. Keller Hopkins, Ms. Kimberly Hoey-Stevenson, Mr. Robert Wheatley, with Mr. Vince 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

OLD BUSINESS

C/U #2108 Bella Terra, LLC

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for a landscape business with outdoor storage and a retail garden center to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 39.004 acres, more or less. The property is located on the west side of Spicer Rd., approximately 370 ft. south of Milton-Ellendale Hwy. 911 Address: 13482 Spicer Rd., Ellendale. Tax Map I.D. 230-27.00-70.00

The Planning Commission discussed the application which had been deferred since December 14, 2017.

Mr. Wheatley moved that the Commission recommend approval of Conditional Use # 2108 for Bella Terra, LLC for a landscape business with outdoor storage and a retail garden center based upon the record made during the public hearing and for the following reasons:

1. The property is a large parcel consisting of 30.004 acres more or less and is located in a Low Density Area which designation recognizes that business development should be largely confined to businesses that address the needs of single family residences and agriculture.
2. The property is zoned AR-1 Agricultural Residential. The use of the property as a landscaping business with outdoor storage and a retail garden sales center is consistent with the underlying agricultural zoning.
3. The use will not adversely affect the nature of the area or neighboring properties.
4. The intended use of the property as a material storage and landscaping sales facility is of a public or semi-public character that will benefit the residents and visitors of Sussex County.
5. With the conditions and limitations placed upon the use, it will not have an adverse impact upon traffic, roadways or area properties.
6. This recommendation is subject to the following conditions:
 - A. The use shall be limited to landscaping business with outdoor storage and a retail

- garden sales center. Storage and sale of mulch is permitted.
- B. 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.
 - C. Any security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - D. The Applicant shall comply with all DeDOT requirements, including any entrance or roadway improvements.
 - E. 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.
 - F. Except as otherwise provided, all materials shall be stored in bins on a concrete or hot mix base. All runoff from the bins shall be controlled so that it does not travel to neighboring or adjacent properties, or adversely affect groundwater on the site.
 - G. Any chemicals related to this conditional use shall be stored in a building, shed, or covered structure so that chemicals are not left outside.
 - H. Repairs of any tools, equipment, machinery, vehicles, devices, or any other instruments used in the operation of the business shall be performed in a building, shed, or covered structure.
 - I. One lighted sign, not to exceed 32 square feet per side shall be permitted.
 - J. The area permitted under this conditional use is limited to the front portion of the Property closest to Spicer Road and shall not include the rear portion of the Property where there are existing woodlands. The area of the conditional use must be clearly marked on the Final Site Plan.
 - K. The Applicant shall be permitted to store up to 30 work trucks with trailers.
 - L. The landscape business shall only operate between the hours of 6:00 am until 8:00 pm, Monday through Saturday. The retail garden center shall operate between the hours of 6:00 am until 8:00 pm, Monday through Sunday.
 - M. The parking and storage areas shall be shown on the Final Site Plan, and clearly marked on the site itself.
 - N. The failure to abide by these conditions shall result in the termination of the conditional use approval.
 - O. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Wheatley, 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 stated. Motion carried 4-0.

C/U #2109 Quakertown Wellness Center

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for a holistic treatment center including massage, acupuncture, and chiropractor to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 0.55 acre, more or less. The property is located on the southeast side of Savannah Rd., approximately 0.85 mile east of Wescoats Rd. 911 Address: 1204 Savannah Rd., Lewes. Tax Map I.D. 335-8.14-49.00 and 335-8.00-35.00

The Planning Commission discussed the application which had been deferred since December 14, 2017.

Mr. Wheatley moved that the Commission recommend approval of Conditional Use #2109 for Quakertown Wellness Center for a holistic treatment center including massage, acupuncture, and chiropractor based upon the record made during the public hearing and for the following reasons:

1. The project is located on the southeast side of Savannah Road in an area where there are mixed uses of residences and businesses. The primary uses in the area are offices and residential. There are multiple conditional uses in the area for office uses.
2. With the conditions imposed on this use, this is an appropriate location for the conditional use.
3. The Property is currently zoned AR-1 (Agricultural Residential) and the proposed project meets the purposes and requirements of that District. This application is for a conditional use in an AR-1 district.
4. The proposed project will be served by central water and will have on-site septic in accordance with Federal, State, and County requirements.
5. The property will be used as a holistic treatment center including massage, acupuncture, and chiropractor and will have a minimal impact on the character of the neighborhood.
6. The project, with the conditions and limitations placed upon it, will not have an adverse impact on the neighboring properties or community.
7. The proposed project meets the purposes and standards of the Sussex County Zoning Code and the purposes of the AR-1 district.
8. This recommendation for approval is subject to the following conditions and stipulations:
 - a. The project shall be served by a publicly regulated central water system providing drinking water and fire protection as required by applicable regulations.
 - b. As stated by the applicant, there shall be no more than 3,500 square feet of holistic health and professional office space on the site.
 - c. One lighted sign, not to exceed 32 square feet per side shall be permitted.
 - d. Trash generated by the business shall be managed by residential trash bins in a fashion similar to trash bins for residential usage.
 - e. All entrances, intersections, roadway improvements, and multi-modal facilities required by DelDOT shall be completed by the Applicant as required by DelDOT.
 - f. A fence and a landscape buffer of Leyland Cypress or similar vegetation shall be maintained or planted along the boundaries of the project adjacent to any residential properties so that the facility will be screened from view from any residential properties. The fence and landscape buffer must be located on the project site. The Final Site Plan shall contain a landscape plan showing the planned vegetation within this buffer area.
 - g. Any security lighting shall be low-level lighting on a timer and downward screened so that it does not shine onto neighboring properties or roadways.
 - h. Hours of operation shall be between 7 am and 9 pm, Monday through Saturday with limited Sunday hours by appointment provided that there shall be no appointments after 5 pm on Sundays.
 - i. The failure to abide by these conditions shall result in the termination of the conditional use approval.
 - j. The Final Site Plan shall be subject to the review and approval of the Sussex

County Planning and Zoning Commission.

Motion by Mr. Wheatley, 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 stated. Motion carried 4-0.

C/Z #1835 HKLS, LLC

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 4.484 acres, more or less. The property is located on the southwest corner of Plantations Rd. and Cedar Grove Rd. 911 Address: Not Available, Lewes. Tax Map I.D. 334-12.00-51.00

The Planning Commission discussed the application which had been deferred since December 14, 2017.

Mr. Hopkins moved that the Commission recommend approval of Change in Zone # 1834 for HKLS, LLC, for a change in zone from AR-1 to B-1 based upon the record made during the public hearing and for the following reasons:

1. The site is located on the southern corner of the intersection of Plantations Road and Cedar Grove Road. Existing residential developments are located nearby and preliminary approval for a special use exception for an assisted living facility on an adjacent parcel was recently granted. These uses make the site 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 certain needs.
2. According to the County's Comprehensive Land Use Plan, the site is identified as being within the Environmentally Sensitive Developing Areas and Mixed Residential Areas. B-1 Zoning is appropriate within these Areas 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.
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 is consistent with the developing character of the area and will not adversely affect the neighboring properties and roadways.
7. The proposed zoning meets the purpose of the Zoning Ordinance since it promotes the orderly growth, convenience, order, prosperity and welfare of Sussex County and its residents.
8. The site is served by central water and Sussex County will provide wastewater service to the site.
9. 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.
10. No parties appeared in opposition to the proposed rezoning.

Motion by Mr. Hopkins, 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 stated. Motion carried 4-0

C/Z #1836 Softball World, LLC

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 (Agricultural Residential District) to a CR-1 (Commercial Residential District) for a certain parcel of land lying and being in Georgetown Hundred, Sussex County containing 8.00 acres, more or less. The property is located on the south side of Lewes-Georgetown Hwy. (Rt. 9) approximately 0.79 mile east of Sand Hill Rd. 911 Address: 22518 Lewes-Georgetown Hwy., Georgetown. Tax Map I.D. 135-15.00-82.00 (portion of)

The Planning Commission discussed the application which had been deferred since December 14, 2017.

Mr. Wheatley moved that the Commission recommend approval of Change in Zone # 1836 for Softball World, LLC, for a change in zone from AR-1 to CR-1 based upon the record made during the public hearing and for the following reasons:

1. This Application pertains to a portion of a larger parcel which is used for a commercial baseball / softball park with supporting recreational activity areas. The entire parcel consists of 87.52 acres more or less. The area which is subject of this change of zone is located on the side of the Property near Route 9 and consists of 8 acres more or less.
2. The site is located along Route 9 near the town limits of Georgetown.
3. The site is located near other properties which are zoned C-1 (General Commercial) and B-1 (Neighborhood Business). There are also several conditional uses in the area, including the existing Conditional Use on the Property. The CR-1 zoning will be consistent with the area zoning and uses.
4. According to the Sussex County Comprehensive Plan, the property is designated on the Future Land Use Map as a Developing Area, Highway Commercial Area, and Planned Industrial Area. CR-1 Zoning is appropriate within the Developing Areas and Highway Commercial Areas according to the Plan. The area proposed to be rezoned is not a portion of the property designated as Planned Industrial Areas.
5. The proposed use will not adversely affect neighboring or adjacent properties or roadways.
6. 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.
7. The property will be served by central wastewater from the Town of Georgetown.
8. CR-1 Zoning is appropriate, since the County Zoning Code states that the purpose of such zoning is to provide for a wide variety of commercial and service activities generally serving a wide area, and that such uses should be located along existing major thoroughfares where a general mixture of commercial and service activities now exist. In this case, the rezoning along Route 9 falls within the stated purposes of the CR-1 District.

9. Any development of the site will require site plan review by the Sussex County Planning and Zoning Commission.
10. This recommendation is not an indication that Commercial Zoning is appropriate along Route 9 in general. Route 9 is an important east-west roadway in Sussex County connecting to Route 1. This site is appropriate because it has already developed under its conditional use. However, the County should proceed carefully with any commercial rezonings along Route 9 to preserve the travel corridor.
11. No parties appeared in opposition to the change of zone application.

Motion by Mr. Wheatley, 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 stated. Motion carried 4-0

C/Z #1837 ABC Woodlands, LLC

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 (Agricultural Residential District) and a GR (General Residential District) to a CR-1 (Commercial Residential District) for a certain parcel of land lying and being in Indian River Hundred, Sussex County containing 16.211147 acres, more or less. The property is located on the southwest corner of Long Neck Rd. and School Ln., and also being on the south side of Long Neck Rd., approximately 1,000 ft. west of School Ln. 911 Address: Not Available. Tax Map I.D. 234-23.00-273.01, 234-23.00-273.02, 234-23.00-273.03

The Planning Commission discussed the application which had been deferred since December 14, 2017.

Mr. Hopkins moved that the Commission recommend approval of CZ# 1837 for ABC WOODLANDS, LLC, for a change in zone from AR-1 and GR to CR-1 based upon the record made during the public hearing and for the following reasons:

1. This site is located on the southwest corner of the intersection of Long Neck Road and School Lane where other Commercially zoned properties exist. There are also conditional uses in the area including a conditional use for a school. The CR-1 zoning will be consistent with the area zoning and uses.
2. According to the Sussex County Comprehensive Plan, the property is designated on the Environmentally Sensitive Developing Areas, Mixed Residential Areas, and Highway Commercial Areas. CR-1 Zoning is appropriate within these Areas according to the Plan.
3. The proposed use will not adversely affect neighboring or adjacent properties or roadways.
4. 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.
5. The site will be served by central wastewater from Sussex County.
6. CR-1 Zoning is appropriate, since the County Zoning Code states that the purpose of such zoning is to provide for a wide variety of commercial and service activities generally serving a wide area, and that such uses should be located along the existing major thoroughfares where a general mixture of commercial and service activities now exist. In this case, the rezoning along Route 23 falls within the stated purpose 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 23 in general. Route 23 is an important roadway in Sussex County. This site is appropriate because it is adjacent to other commercially zoned properties. However, the County should proceed carefully with any commercial rezonings along Route 23 to preserve the travel corridor.
 9. No parties appeared in opposition to the change of zone application.

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

PUBLIC HEARINGS

Mr. Robertson described how the public hearings are processed.

2017-13 Lovett's Reserve - Jacklyn M. Lovett and Shannon Lovett

This is a cluster subdivision. The cluster subdivision proposes to subdivide 14.27 acres into thirty-one (31) single family lots with private roads and open space. The property is located on the west side of Camp Arrowhead Rd. (Rd. 279) at Waterview Rd. (Rd. 279A). Zoning: AR-1 (Agricultural Residential District). Tax Map I.D. 234-12.00-18.01

Ms. Cornwell advised the Commission that submitted into the record were a site plan, an exhibit booklet, comments from Department of Agricultural, DNREC Fish and Wildlife, Ground Water Discharge, Division of Public Health, Sussex Conservation District and Sussex County Engineering Department Utility Planning Division.

The Commission found that William Scott, Attorney with Scott and Shuman, Mike Fitzgerald with Haley Development and Tom Ford with Land Design were present on behalf of the application; that Mr. Scott stated that the application is for a cluster subdivision in an Environmentally Sensitive Developing Area with active and passive open space; that the property is currently zoned AR-1 (Agricultural Residential District); that it is cleared agricultural land that is adjacent to Marsh Farm Estates subdivision; that under the County Comprehensive Plan the site is in the Environmentally Sensitive Developing Area, which is a growth area; that it is located in State Strategy Level 3; that Mr. Ford stated that the entrance will be aligned with Waterview Road and there will be no access to Camp Arrowhead Road; that it was not required to go through the PLUS process; that they meet with DelDOT and a TIS was not required; that they will do right-of-way dedication and a pedestrian easement, a multi-use path, and interconnectivity; that will have to widen some shoulders on the project side between the other two subdivisions in the area; that the development will share amenities with Marsh Farm Estates; that the plan addresses the Environmental Assessment and public facility requirements; that it is consistent with the Comprehensive Plan and Zoning; that the streets will meet all new regulations; that the property is not in the floodplain; that infiltration will be used for stormwater management; that they will use an infiltration basin; that there will be a dog park and sitting areas in the open space; that there will be direct access to the multi-modal path and into Marsh

Farm Estates; that they are asking for a landscaping waiver and would like approval of the concept of open space with fencing and some landscaping; that only three lots that will face Camp Arrowhead Road; that there will be almost 200 feet open space from Camp Arrowhead Road to the single family lot; that in the final design, they will detail the type of plants, size of plants and fencing that they intend to utilize for final subdivision approval; that there is 32 percent of open space; that it is walkable to the amenities in Marsh Farm Estates and there are parking spaces and bike racks there; that there will be sidewalks provided along with multi-modal path; that Mapping and Addressing has approved the subdivision and road names; that there will be a bus stop location per the school district; that the Sussex County has approved the sewer concept plan; that Tidewater will provide water; that Delaware Electric Co-op will be providing electric and Verizon will provide other utilities; that it will use an expanded version of the covenants of Marsh Farm Estates and will re-record the covenants to include the additions; that they have submitted draft conditions for consideration; that a multi-modal path be provided; that the streets will be 24 feet wide; that Marsh Farm Estates has been approved for 134 homes and there are 31 proposed for Lovett's Reserve; that the amenities were considered for both developments; that the sidewalks will be built similar to the ones in Marsh Farm Estates; that Ms. Stevenson asked about having interconnectivity with the 100 acres behind the property for emergency access; and that there are agreements ensuring that if Lovett's Reserve were approved that they will be make part of Marsh Farm Estates.

The Commission found no one in support of the application.

The Commission found Steve Kline spoke in opposition to the application: that Mr. Kline borders the property; that he has questions about stormwater management; that he has had water issues in the past; that he has concerns with the buffer to ensure not to see the back of homes and maintain his privacy; and that he has not had the opportunity to connect into the sewer.

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

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

C/Z #1839 Dale Lomas/Seashore Highway Associates, LLC

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 (Agricultural Residential District) to a CR-1 (Commercial Residential District) for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County containing 4.0 acres, more or less. The property is located on the north side of Lewes Georgetown Highway (Route 9), approximately 590 ft. east of Josephs Rd. 911 Address: Not Available, Lewes. Tax Map I.D. 334-4.00-37.04

Mr. Robertson recued himself.

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, exhibit booklet, survey, comments from the Sussex Conservation District, and the results of the DelDOT Service Level Evaluation.

The Commission found that Mark Davidson, Pennoni Associates, and Dale Lomas of Seashore

Highway Associates, LLC were present on behalf of the application; that the request to change the zone from AR-1 (Agricultural Residential District) to CR-1 (Commercial Residential District); that the parcel is approximately 4 ac.; that the property was purchased in 2016, that the property is adjacent to other properties that Seashore Highway Associates owns that are zoned CR-1; that the site has a building supply business on it; that the property was purchased so Mr. Lomas could expand his business on the adjacent parcel; the Land Use classification per the Comprehensive Plan is Low Density; that CR-1 can be considered in the Low Density Areas classification; that there is a railroad to the rear of the property; that there are several commercial properties in the area, including an antique shop and a gun shop; that there are several Conditional Uses in the area; US Rt. 9 is a major collector road; that the Comprehensive Plan states that development should occur on or near a major road; a TIS was not required by DelDOT; however; once a site plan is completed a TIS may be required; that there is an existing entrance on Mr. Lomas' property where his business is and would comply with any requirements of DelDOT; that Mr. Lomas would like to add the 4 ac. to his existing site; that he has owned the adjacent parcel since 2008; that he has made significant improvements to the site; that he purchased the property from the adjacent property owner to the west; that that adjacent property owner did not have any objection to the change in zone; that he submitted proposed finding of fact; that the change in zone meets the general purpose of the Zoning Ordinance; that it is in an appropriate location per the Comprehensive Plan to provide a wide variety of uses along a thoroughfare such as Rt. 9; that it is a general mixture of commercial and residential uses; that it is adjacent to other commercial activity; that it will not diminish or impair property values in the area; and that it is to allow for an expansion of the existing business.

The Commission found no on in support of the application.

The Commission found that Mr. Jim Griffin spoke in opposition to the application; that he owns property across the street from the proposed rezoning; that over the last 20 years the parcel proposed to be rezoned has been used as agricultural use; that the owner purchased the land with the AR-1 zoning and could have put a condition on the sale of the property that he would be purchase it if rezoned; that it is adjacent to a 3.7 ac. parcel that is already zoned CR-1 and does not make it reason to rezone the parcel; that he believes that the expansion of the CR-1 zoning will impair the property value; that it will create more traffic; that the comprehensive plan identifies the area in Low Density; that uses in the Low Density Areas should be focused on uses that are convenient to the neighborhood around it; that the use is not a convenient use to serve the area and is a broader commercial use; that while Rt. 9 is a major collector road the land is not located within a growth area per the comprehensive plan; that this complies with only 1 out of the 8 criteria for development per the comprehensive plan; that the State Strategies map identifies it in Level 4; that the gun shop, antique shop is old C-1 zoning; that the model home across the street was closed and put up for sale; that a slow creep of commercial does not make a good argument for commercial; that if approved there would be commercial across from his parcel; that within 1000 ft. on the north side there are about 21 single family homes and 66 mobile homes and 23 single family homes across Rt. 9; that there are only about 6 commercial zoned uses in the area; that there are traffic concerns, especially during the summer; and that there is a concern with the number of uses that are permitted within the CR-1 zoning district.

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

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

C/Z #1840 Preston and Brenda Brasure

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 Baltimore Hundred, Sussex County containing 2.72 acres, more or less. The property is located on the west side of Roxana Rd., approximately 709 ft. south of Atlantic Ave. 911 Address: 32026 and 32014 Roxana Rd., Ocean View. Tax Map I.D. 134-11.00-200.00 and 134-11.00-200.01

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, exhibit booklet, survey, comments from the Sussex Conservation District, Sussex County Engineering Department Utility Planning Division, the results of the DelDOT Service Level Evaluation, and one letter of support and one letter of opposition.

The Commission found that Shannon Carmean Burton, Attorney with Sergovic, Carmean, Weidman, McCartney and Owens, Steven Hutchins, with Axiom Engineering, LLC, and Preston and Brenda Brasure were present on behalf of the application; that Mrs. Carmean Burton asked Mr. Brasure questions; that he stated that the property has been owned by the family since 1946; that he was raised on the property; that his father built the house that he was raised in; that the area was farms in the area and quiet; that there were chickens on the property at one time; that a family member owned land that is now Millville by the Sea; that they moved in 2005 as traffic got bad and to live in a rural area like where he grew up; that they tried to rent the property as a residential use and it was hectic; that he has no intent to develop the property at this time; that he filled this application because he is in poor health and it could help the family; that it was zoned commercial he would know what is going to go in there and whether he would want to sell the property to them or not; that there are commercial uses in the area; that the proposed commercial zoning is therefore is consistent with the character of surrounding areas and uses; that Mr. Hutchins stated that the application is to rezone two parcels of land totaling 2.72 acres from AR-1 to CR-1; that an aerial shows the parcels are trending toward commercial uses for some time; that Mr. Brasure has lived on the property for most of the last 70 years and has witnessed this trend; that he went over aerial photos from 1937-1968 showing agricultural area with limited residential uses; that the 1992 aerial shows the commercial trend that had begun including the grocery store, boat storage, etc.; that by 1997 the chicken houses were removed from one of the parcels in questions and additional commercial uses grew in the area; that the 2002 aerial there was additional growth to the Hocker site; that the 2012 aerial shows additional commercial uses in the area; that the zoning map shows C-1 and CR-1 zoning in the area; that there have been three CR-1 rezoning in the area since 2006 one of which is adjacent to one of these parcels; that the land use is Highway Commercial Area and is in Level 2 of the State Strategies; that there is commercial zoning across the street; that the properties are in a sewer planning area where Sussex County plans to construct sanity sewer; that the closest sewer is located at the intersection of Route 26 and Route 17; that a TIS was not required at part of this rezoning but may be required as part of the site plan; that Mrs. Carmean Burton stated that there are many commercial uses in the area; that the parcel to the south is zoned AR-1; however, it is owned by 84 Lumber; that the applicants have been unsuccessful using this site as residential use; that the proposed rezoning is in keeping with the character of the area; that the best use of the property would be

for commercial uses; that the property is located in the Highway Commercial Area and Environmentally Sensitive Developing Area land use; that the land use classification changed from the 2003 plan to the 2008 plan; that the proposed zoning is compatible with the area; that the comp plan states commercial uses be allowed and is compatible with the comprehensive plan; that the purpose of the CR-1 zoning district is to provide sufficient space in appropriate locations a wide variety of commercial and miscellaneous service activities generally serving a wide area located particularly along thoroughfares serving a mixture of service and commercial uses exist; that there is no adverse or detrimental impact on neighboring uses in the areas; that water and sewer will be provided in the future; that there are commercial uses in the area on well and septic; and that the change of zone is consistent with the surrounding uses, zonings and comprehensive plan; that Ms. Stevenson asked about the density of the zoning district and Mr. Robertson indicated that residential requires a Conditional Use and an applicant could ask for up to 12 units per acre.

The Commission found that Kelly Jensen spoke in favor to the application; that her parents ran into difficulty taking care of the site; that Bob's Marina, Hockers grocery complex and 84 Lumber are in the area; that it is a question of when it will be rezoned commercial not if it will be rezoned; that this will not change the character of the community; that the area is commercial; and that she wished it could have stayed the agricultural area same but the area has changed.

The Commission found that Brenda Bove spoke in opposition to the application; that property is a small property; that one site has a failing septic system; that until it has access to County sewer it should not be rezoned; and that there are tax ditches in the area.

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

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

C/Z #1841 Lemuel H. Hickman GST Exempt Trust fbo Brenton Archut

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 (Agricultural Residential District) to a B-1 (Neighbor Business District) for a certain parcel of land lying and being in Baltimore Hundred, Sussex County containing 5.29 acres, more or less. The property is located at the southeast corner of Bayard Rd. and Double Bridges Rd. 911 Address: Not Available, Millville. Tax Map I.D. 134-19.00-22.00 (portion of)

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, exhibit booklet, survey, and comments from the Sussex Conservation District and Sussex County Engineering Department Utility Planning Division.

The Commission found that Dennis Schrader, Attorney with Morris James Wilson Halbrook & Bayard, LLP and Brenton Archut were present on behalf of the application; that Mr. Schrader stated that the only a portion of the parcel (5.11 ac. +/-) is requesting a change of zone; that the parcel is currently zoned AR-1 (Agricultural Residential District); that the parcel is currently being used for agricultural purposes; that the proposed classification is for B-1 (Neighborhood Business District); that they would like to do small retail and garden center; that the Land Use classification per the Comprehensive Plan is Environmentally Sensitive Developing Area; that

the parcel is in the Level 2 and 3 with the State Strategy Level; that sewer will soon be available to the parcel through an adjacent subdivision; that the DelDOT Service Level indicated that there will be less than 50 vehicle trips per hour or 500 vehicle trips per day; that a TIS was not required; that there are maps of existing land use, future land use and state strategies in the exhibit book; that proposed findings of fact are included in the exhibit booklet; that Mr. Archut stated that the property has owned been by his family since the late 1930's/early 1940's; that the parcel is approximately 25 ac. in size on both sides of the road; that that area requested to be rezoned is the front half of the portion of the parcel on the north side of the road; that the site is completely surrounded by a subdivision; that there are around 80 homes in that development; that The Estuary subdivision with approximately 800 homes is under construction down the road; that a small subdivision is across the road and several other major subdivisions in the area; that the closest dwelling would be across the street and the several to the rear of the property line; that the proposed entrance will be across from the subdivision across the road; that it was a formerly poultry farm and the chicken houses were removed in the 90's and has been farmed since then; that there is a wooded/wetland area on the adjacent subdivision; that the proposed business is for landscape and garden center, and potentially a small convenience store similar that was in the area in the past; that they do not propose any fuel; that this will be a place where the new 800 homes can come and get something to eat and keep them off the main road; that the closest area to purchase something is along Rt. 54 or in Ocean View; there are no real convenience business in the area; that they are proposing 5 buildings for a total of 7,000 square feet is retail with 3,500 SF to 4,000 SF of greenhouse and landscape use; that there will be adequate space for parking; that there will be a significant space for stormwater management area on the site; that there are no known wetlands on the site; that the two parallel private farm ditches on the property along with another ditch that is a tax ditch with a 25 foot right-of-way; that the road classification is a major collector; that they expect to do road improvements and willing to do them to make the area safer; that they expect to have to make a right-of-way dedication to State of Delaware; that there is water on the property and they have talked to the Sussex County Engineering Department about sewer through the subdivision in the rear; that the proposed rezoning is consistent with the development in the area; that this type of neighborhood business is consistent with the type of growth that has occurred in the area; that the types of uses are needed based on the 800 homes in the area; that the proposed development did not require PLUS review; that the concept plan and if the rezoning is approved they will be back with a preliminary site plan providing more detail; and that Mr. Robertson reminded the Commission that the zoning is what the Commission is to consider.

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

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

Motion by Mr. Hudson, seconded by Mr. Wheatley, and carried unanimously to defer action.
Motion carried 4-0.

C/Z #1842 Carmelita L. Pavlosky and Karl Meek

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 Baltimore Hundred, Sussex County containing 2.4968 acres, more or less. The property is located on the north side of Zion Church Rd.,

approximately 1,115 ft. northwest of Bayard Rd. 911 Address: 36169 Zion Church Rd., Frankford. Tax Map I.D. 533-11.00-82.03

Ms. Cornwell advised the Commission that submitted in to record were a staff analysis, survey, comments from the Sussex Conservation District, DelDOT and Sussex County Engineering Department Utility Planning Division.

The Commission found that Carmen Pavlosky and Karl Meek were present on behalf of the application; that Ms. Pavlosky stated that the previous owner originally had a Conditional Use for a garden center and then he changed it to a BBQ stand; that they decided not to pursue the BBQ stand; that they have been approached by several business wanting to use it as a lawn care facility/garden center or using it as a dance center; that there are two buildings on the property; that she is thinking using the smaller building as refurbishing of furniture and the other building as the garden center; that that B-1 (Neighborhood Business District) gives them opportunity for multiple uses to benefit the community such as a bakery; that there are other commercial uses and buildings in the area; that Mr. Meeks stated that they are planning on improving the building; that they no longer have time to run the BBQ business; that there is a proposed medical center proposed further along Zion Church Rd.; that the zoning would be consistent with the area and zoning surrounding them; that the types of businesses they have been approached by are beneficial to the area; that they submitted photos for the record; that they have owned the property since April 2015; that they are not currently operating a business on site; and that the only house in the area is Ms. Pavlosky's insurance agent and was not opposed to the application.

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

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

Motion by Mr. Wheatley, seconded by Mr. Hopkins, and carried unanimously to defer action. Motion carried 4-0.

AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES I, X, XIA, XX, XXI, XXIII, XXV AND XXVII BY AMENDING SECTIONS 115-4, 115-5, 115-75, 115-83.10, 115-156, 115-195.4, 115-159.5, 115-161.1, 115-170.1, 115-180, 115-194.1, AND 115-218, AND BY CREATING NEW ARTICLES XA, XB, XIB, XIC, XID, XIE, AND XIF AND ADDING NEW SECTIONS 115-75.1 THROUGH 115-75.13 AND 115-83.11 THROUGH 115-83.46 TO CREATE A NEW "B-2 BUSINESS COMMUNITY" DISTRICT; "B-3 BUSINESS RESEARCH" DISTRICT; "C-2 MEDIUM COMMERCIAL" DISTRICT; "C-3 HEAVY COMMERCIAL" DISTRICT; "C-4, PLANNED COMMERCIAL" DISTRICT; "C-5, SERVICE/LIMITED MANUFACTURING" DISTRICT, AND "I-1, INSTITUTIONAL" DISTRICT; TO CLOSE THE CR-1 AND B-1 DISTRICTS; TO AMEND "115 ATTACHMENT 3, SUSSEX COUNTY TABLE III"; TO CREATE "115 ATTACHMENT 4, SUSSEX COUNTY TABLE IV".

Mr. Robertson advised the Commission that the original ordinance was discussed earlier this year; that the County worked with a consultant in trying to make the commercial zoning districts more predictable for both the County and public; that the new zoning districts are more specific with regards to uses; that one of the new districts is a planned commercial district; that the C-4

planned commercial district is similar to a RPC, as it allows a change of zone with site plan review and the ability to impose conditions on the application; that when the original ordinance was introduced the consultant created a table of uses within the new zoning districts; that the table and the text did not align; that they were not major changes that needed to be addressed; that the changes were to address issues where the table stated a use as an accessory use while the text had it as a permitted use and similar issues; that it was also determined that certain uses such as technology centers and other uses were not identified in the new districts; that there was an error in how the new districts addressed temporary removable stands; that the original ordinance referenced fewer than 6 or more than 6 fuel pumps but not 6 fuel pumps; that it combined separate retail uses into one retail use classification; that the re-introduced ordinance addresses these items; that it is the same information as before and districts which were shown in the power point presentations at previous meetings; that it was determined that it would be easier to re-introduce the ordinance which addressed the changes rather than adopt an ordinance with line by line with the changes that were needed; that the ordinance included input from commercial realtors, developers and public and they were in favor of the ordinance; that the planned commercial district will allow for mixed use buildings; that there was discussion that the new districts, especially the planned commercial district are needed; that there was discussion about the definition on line 210 and 211 and consideration of removing the text prohibiting major repairs; that there was discussion on the number of removable vendors; that the number is from the original ordinance and it could be considered in the future; that there was discussion about medical clinics and if it included small doctors' offices; that it was stated that doctor's offices can be classified as professional offices or a home based business and not specifically as a medical clinic; that there was discussion about increasing the building height if more open space is preserved, interconnectivity provided or setbacks increased; and that there is a provision in the districts that will allow the Planning Commission to make a determination of a use similar to the provision in the industrial district.

Mr. Wheatley, moved that the Commission recommend approval of the revised Ordinance for Commercial Zoning Districts with the further recommendation:

1. That County Council should increase the height permissible in the C-2, C-3, C-4, C-5 and I-1 districts upon a showing that the increased height preserves such things as open space, interconnectivity or setbacks, and
2. remove the language "... but not including major repair work such as motor replacement, body and fender repair or spray painting." from lines 210 and 211 of the ordinance.

Motion by Mr. Wheatley, seconded by Mr. Hopkins, and carried unanimously to forward this ordinance to the Sussex County Council with the recommendation that the ordinance be approved with the recommendations. Motion carried 4-0.

OTHER BUSINESS

Ingrams Point (2005-18)

Revised Subdivision Plan

Mr. Whitehouse advised the Commission that this is a revised Subdivision Plan for a 129-lot cluster subdivision within the AR-1 Zoning District. The site is a 150.9 acre lot that is accessed from Sussex County Road (Rd.412). At its meeting of February 23, 2017, the Planning & Zoning

Commission approved a request to amend condition 18 containing a requirement for a multi-modal path to be provided. The Subdivision Plan has been revised to show the removal of the multi-modal path. The positions of street lighting within the subdivision have also been revised. The revisions comply with the Sussex County Code, and no agency approvals are required. The remaining conditions require that the Final Site Plan shall be subject to the review and approval of the Commission. The Tax Parcel ID is 133-19.00-26.01 and 27.01. The Zoning District is AR-1.

Motion by Mr. Wheatley, seconded by Mr. Hudson, and carried unanimously to approve the revised subdivision plan as a final. Motion carried 4-0.

Peach Tree Acres

Revised Site Plan

Mr. Whitehouse advised the Commission that this is a Revised Site Plan for and expansion of an existing assisted living facility. The plan includes two 2-story buildings, one 22,241 SF. and the other 7,780 SF., to be used as a 114-unit assisted living facility on 2 parcels totaling 7.87 acres off Lewes Georgetown Hwy. Conditional Use 1141 for a meeting place was approved by County Council on January 30, 1996, and the Board of Adjustment approved application no. 12008 for a Special Use Exceptions for use as a convalescent home and to allow the use of two mobile homes for temporary offices on August 21, 2017. The revised site plan complies with the County Code. The property is zoned AR-1. The tax parcel numbers are 235-30.00-58.00 & 58.08. The Planning Office is awaiting agency approvals.

Motion by Mr. Hopkins, seconded by Mr. Wheatley, 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.

Love Creek Marina (S-17-43)

Revised Site Plan

Mr. Whitehouse advised the Commission that this is a Revised Site Plan for Love Creek Marina for the creation of 180 multi-family dwelling units, a 5,000 S.F. restaurant, and a 500 S.F. retail area with amenities and site improvements to be located off John J. Williams Highway (Rt. 24). The Planning and Zoning Commission approved the Preliminary Site Plan for 188 units and a waiver to allow parking in the front yard setback on August 24, 2017. The project has been significantly redesigned, eliminating parking in the front setback and providing required loading spaces. The Revised Site Plan complies with County Code. The property is zoned M (Marine) and the use is permitted within the District. The tax parcel is 234-7.00-108.00. Staff is awaiting agency approvals.

Motion by Mr. Hudson, seconded by Mr. Hopkins, 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.

Artesian Northern Sussex Regional Wastewater Recharge Facility (S-17-52/CU 1724)

Revised Site Plan

Ms. Cornwell advised the Commission that this is a revised site plan for the Artesian Wastewater Management wastewater recharge facility located off Isaacs Rd. (Rt. 30) for a reduction in the

capacity of the lagoons. The revised site plan complies with Sussex County Code and an agency approval letter from Sussex Conservation District has been received. The property is zoned AR-1 and the tax parcel is 235-6.00-28.09.

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

Key Properties/Restaurant Development Rt. 1 (S-17-08)

Preliminary Site Plan

Mr. Whitehouse advised the Commission that this is a Preliminary Site Plan for the establishment of a restaurant with a two-story addition on two parcels that are to be consolidated into one 38,316 SF. parcel off Coastal Hwy. There are two existing buildings, one a two-story dwelling that will be used for storage for the proposed restaurant, and the other, a two-story office building which is being proposed as a restaurant with an 1,830 SF. addition. Variance Case No. 11883 was approved by the Board of Adjustment on November 21, 2017 for a reduction to 32.74 ft. for the front yard setback, and a reduction to 10 ft. for the required landscape buffer along Rt. 1. The applicant is requesting a waiver to allow parking within the front setback. The property is zoned C-1. The tax parcel numbers are 334-6.00-74.00 & 75.00. The Planning Office is awaiting agency approvals.

Motion by Mr. Wheatley, seconded by Mr. Hopkins, and carried unanimously to approve the preliminary site plan with the waiver to allow parking in the front yard setback and final approval subject to staff upon receipt of all agency approvals. Motion carried 3-1. Ms. Stevenson voted no.

Lighthouse Annex (S-17-40)

Preliminary Site Plan

Mr. Whitehouse advised the Commission that this is a Preliminary Site Plan for a new 15,125 SF self-storage building and a 7,800 SF office building on Lighthouse Road. The Tax Parcel is 533-17.00-83.00. The Zoning District is General Commercial (C-1). The Preliminary Site Plan complies with the Sussex County Code. Staff is awaiting agency approvals.

Motion by Mr. Hudson, seconded by Mr. Wheatley, 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.

Sequoia Landscaping (S-17-45)

Preliminary Site Plan

Mr. Whitehouse advised the Commission that this is Preliminary Site Plan for four buildings totaling 7,680 SF of office space and warehousing to be located off Lewes-Georgetown Hwy. (Rt. 9). The Preliminary Site Plan complies with the County Zoning Code. The tax parcel is 135-11.00-32.03 and the property is zoned AR-1 and C-1. All of the buildings are to be located on land within the C-1 Zoning District, with a septic area to be provided in the part of the site within the AR-1 Zoning District. Staff is awaiting agency approvals.

Motion by Mr. Hopkins, seconded by Mr. Hudson, and carried unanimously to approve the

preliminary site plan with final site plan approval by the staff upon receipt of all agency approvals. Motion carried 4-0.

Cellco Partnership DOV Pond (S-17-49)

Preliminary Site Plan

Mr. Whitehouse advised the Commission that this is a Preliminary Site Plan for a telecommunications tower including a 150-foot monopole located on an 8.42 acre parcel located off Hitch Pond Rd. Special use exception 11953 was approved by the Board of Adjustment on May 1, 2017. The property is zoned AR-1. The tax parcel number is 332-9.00-4.03. The Planning Office is in receipt of all agency approvals.

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

Lands of Fay and Dewitt

Minor Subdivision off 50 ft. easements

Mr. Whitehouse advised the Commission that this is a minor subdivision for the creation of two lots from a parcel approximately 1.606 acres in size off a 50 ft. easement off of Gill's Neck Rd. The proposed lot is approximately 0.778 acres and would be reached via a 50' easement over an existing driveway. The residual lot is 0.829 acres +/- and contains an existing dwelling and shed. This parcel cannot be further subdivided. The property is zoned Ar-1. The Tax Parcel is 335-9.00-3.00. Staff is awaiting agency approvals.

Motion by Mr. Hopkins, seconded by Mr. Hudson, and carried unanimously to approve the minor subdivision off a 50 ft. easement with final plan approval to staff upon receipt of all agency approvals. Motion carried 4-0.

Lands of Hurley

Minor Subdivision off 50 ft. easements

Mr. Whitehouse advised the Commission that this is a minor subdivision for the creation of one 8.264 acre parcel (A-2) from a residual Parcel A measuring 3.246 acres from a total area of 11.51 acres +/. Access to the new parcel is proposed off an expansion of an existing 50' easement over an existing driving located off Oak Road. One additional parcel can be subdivided off this easement. The property is zoned AR-1. The Tax Parcel is 430-16.00-36.01. Staff is awaiting agency approvals.

Motion by Mr. Wheatley, seconded by Mr. Hudson, and carried unanimously to approve the minor subdivision off 50 ft. easement with final plan approval subject to staff upon receipt of all agency approvals. Motion carried 4-0.

Meeting adjourned at 9:22 p.m.