

MINUTES OF THE REGULAR MEETING OF **December 4, 2024**

The regular meeting of the Sussex County Planning and Zoning Commission was held on Wednesday afternoon, **December 4, 2024**, in the County Council Chambers, Sussex County Administrative Office Building, 2 The Circle, Georgetown, Delaware.

The meeting was called to order at 3:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Mr. Bruce Mears, Mr. Brian Butler, and Mr. Scott Collins. Ms. Holly Wingate was absent. Also, in attendance were Mr. Jamie Whitehouse – Director of Planning & Zoning, Mr. Vincent Robertson – Assistant County Attorney, Ms. Susan Isaacs – Planner I, Ms. Ann Lepore – Planner I and Ms. Jessica Iarussi – Recording Secretary.

Motion by Mr. Mears, seconded by Mr. Collins, and carried unanimously to approve the Agenda as circulated. Motion carried 4-0.

Motion by Mr. Mears, seconded by Mr. Collins, to approve the Minutes of October 23, 2024, Planning and Zoning Commission Meeting as circulated. Motion carried 4-0.

**PUBLIC COMMENT**

The Commission found that no one was present who wished to provide public comment.

**OTHER BUSINESS**

**S-24-70 Play It Safe, LLC**

Preliminary Site Plan

This is a Preliminary Site Plan for an existing one-story 1,946 square foot building, parking and other site improvements. The Preliminary Site Plans were approved by the Planning and Zoning Commission at their meeting of Thursday, February 11<sup>th</sup>, 2021, with final approvals to be made subject to Staff upon the receipt of all agency approvals. Conditional Use No. 2431 was approved by Sussex County Council at their meeting of Tuesday, August 13, 2024, through Ordinance No. 3034. The Preliminary Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Tax Parcel: 335-12.06-10.00. Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, staff are requesting that final approval be made subject to staff upon the receipt of all agency approvals.

Motion by Mr. Mears, seconded by Mr. Collins and carried unanimously to approve the Preliminary Site Plan with final approval be made subject to staff upon the receipt of all agency approvals. Motion carried 4-0.

**S-20-32 Roxana Apartments**

Revised Site Plan

This is a Revised Site Plan for six (6), 3-story, 41,363 square foot apartment buildings proposed as Buildings #1, 2, 4 and 5 which contain 21 apartment units each and Building #3 containing 20 apartment units for a total of one-hundred and twenty-five (125) apartment units and 248,178 square feet total of apartment buildings. The Preliminary Site Plans were approved by the Planning and Zoning Commission at their meeting of Thursday, February 11<sup>th</sup>, 2021, with final approvals to be made subject to Staff upon the receipt of all agency approvals. Due to unforeseen delays in receipt of required agency approvals for the project, the Preliminary Site Plan lapsed as the three (3) year approval window established in Code lapsed in February of this year (2024). Minor changes to the previously approved Plans include a reduction of the overall square footage of the buildings by 5,640 square feet, a 513 square foot reduction in the community center (clubhouse) from 4,750 square feet to 4,237 square feet, the addition of a small putting green amenity, relocation of the previously-approved dog park, a reduction in the total number of parking spaces by two (2) parking spaces from 274 to 272 parking spaces total, a 371 square foot reduction in the proposed maintenance buildings from 1,416 square feet to 1,045 square feet and the relocation of 1 of the 5 proposed garage buildings from the center of the Site to adjacent to the proposed dog park. It should be noted that the building footprints and proposed community pool remain unchanged from the previously approved Plans. Roxana Apartments was reviewed by State agencies at PLUS on June 24<sup>th</sup>, 2020, and all comments in Staff's Review Letter dated July 23<sup>rd</sup>, 2020, have been addressed. Additionally, an Environmental Assessment and Public Facility Evaluation Report dated August 14<sup>th</sup>, 2024, has been supplied and all documents (to include the previously approved Plan proposal) have been provided in the Commission's Paperless Packet this evening. The Revised Site Plan complies with the Sussex County Zoning Code. Tax Parcel: 134-12.00-330.00. Zoning: C-1 (General Commercial District). Staff are in receipt of all agency approvals.

Motion by Mr. Mears, seconded by Mr. Collins and carried unanimously to approve the Revised Site Plan. Motion carried 4-0.

### **Lands of Bigg Jims Homes LLC**

Minor Subdivision Plan off a proposed 30-ft easement

This is a Minor Subdivision Plan for the creation of three (3) lots plus the residual lands with access off a proposed 30-ft wide ingress/egress access easement. Proposed Lot 1 will consist of 0.751-acres +/-, proposed Lot 2 will consist of 0.879-acres +/-, proposed Lot 3 will consist of 0.752-acres +/-, and the residual land will contain 0.752-acres +/- . A shared use maintenance agreement shall be established for the use of the shared access road. The property is located the south side of Mount Joy Road (S.C.R. 297) and west side of Hollyville Road (S.C.R. 314). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 234-21.00-37.00. Zoning: GR (General Residential District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, staff are requesting that final approval be made subject to staff upon the receipt of all agency approvals.

Motion by Mr. Mears, seconded by Mr. Collins and carried unanimously to approve the Minor Subdivision Plan off a proposed 30-ft easement with final approval be made subject to staff upon the receipt of all agency approvals. Motion carried 4-0.

**Lands of James Grant**

Minor Subdivision Plan off a proposed 30-ft easement

This is a Minor Subdivision Plan for the creation of one (1) lot plus the residual lands with access off a proposed 50-ft wide ingress/egress access easement over a private road known as “Butcher Lane.” Proposed Lot 1 will consist of 0.70-acre +/- and the residual lands will contain 0.70-acre +/- . A shared use maintenance agreement shall be established for the use of the shared access road. The property shall be accessed off the proposed 50 ft. easement on the east side of Beaver Dam Road (Rt. 23). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 234-6.00-20.14. Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, staff are requesting that final approval be made subject to staff upon the receipt of all agency approvals.

Motion by Mr. Mears, seconded by Mr. Butler and carried unanimously to approve the Minor Subdivision Plan off a proposed 30-ft easement with final approval be made subject to staff upon the receipt of all agency approvals. Motion carried 4-0.

**Lands of Hastings Farm**

Minor Subdivision Plan off a proposed 50-ft easement

This is a Minor Subdivision Plan for the creation of four (4) lots plus the residual lands with access off a proposed 50-ft wide ingress/egress access easement. Proposed Lot 5 will consist of 1.0178-acres +/-, proposed Lot 6 will consist of 1.5515-acres +/-, proposed Lot 7 will consist of 1.3435-acres +/-, proposed Lot 8 will consist of 1.5859-acres +/-, and the residual lands will contain 55.7534-acres +/- . A shared use maintenance agreement shall be established for the use of the shared access road. The property is located on the east side of Hastings Farm Road (S.C.R. 526). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 231-9.00-37.00. Zoning: GR (General Residential District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, staff are requesting that final approval be made subject to staff upon the receipt of all agency approvals.

Motion by Mr. Butler, seconded by Mr. Collins and carried unanimously to approve the Minor Subdivision Plan off a proposed 50-ft easement with final approval be made subject to staff upon the receipt of all agency approvals. Motion carried 4-0.

**Lands of Brad & Alyson Hudson**

Minor Subdivision Plan off a 50-ft easement

This is a Minor Subdivision Plan for the creation of one (1) lot plus the residual lands with access off a proposed 50-ft wide ingress/egress access easement. Proposed Lot 1 will consist of 1.00-acre +/- and the residual land will contain 2.407-acres +/- . A shared use maintenance agreement shall be established for the use of the shared access road. The property is located on the north side of Evergreen Terrace, an easement located on the south side of DuPont Boulevard (Rt. 113) in Millsboro, DE. The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 133-16.00-92.00. Zoning: AR-1 (Agricultural Residential District) & C-1 (General Commercial District). Staff are awaiting agency approvals. Should the

Commission desire to act favorably on this proposal, staff are requesting that final approval be made subject to staff upon the receipt of all agency approvals.

Motion by Mr. Mears, seconded by Mr. Collins and carried unanimously to approve the Minor Subdivision Plan off a proposed 50-ft easement with final approval be made subject to staff upon the receipt of all agency approvals. Motion carried 4-0.

### **Lands of Doris Marine**

Minor Subdivision Plan off an existing 50-ft easement

This is a Minor Subdivision Plan for the creation of two (2) lots plus the residual lands with access off an existing 50-ft wide ingress/egress access easement. Proposed Lot 1 will consist of 1.160-acres +/-, proposed Lot 2 will consist of 1.643-acres +/-, and the residual lands will contain 0.80-acre +/- . Proposed lots 1 and 2 shall have single access from Old Sharptown Road (S.C.R. 494). The residual land will have access through the existing 50-ft wide ingress/egress easement. The property is located at the south side of Old Sharptown Road (S.C.R. 494). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 432-5.00-24.00. Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, staff are requesting that final approval be made subject to staff upon the receipt of all agency approvals.

Motion by Mr. Butler, seconded by Mr. Collins and carried unanimously to approve the Minor Subdivision Plan off a proposed 50-ft easement with final approval be made subject to staff upon the receipt of all agency approvals. Motion carried 4-0.

### **Lands of Shortly Pines West Trust**

Minor Subdivision Plan off a proposed 30-ft easement

This is a Minor Subdivision Plan for the creation of four lots (4) lots plus the residual lands with access off a proposed 30-ft wide ingress/egress access easement. Parcels 9.18, 9.19 and 9.20 are to be reconfigured into a single lot (Lot C). Parcels 9.16 (Lot A) and 9.17 (Lot B) will remain unchanged. Proposed Lot C will consist of 3.925-acres +/-, proposed Lot D will consist of 1.332-acres +/-, proposed Lot E, residual lands will consist of 11.285-acres +/-, proposed Lot F will consist of 1.100-acres +/-, and proposed Lot G will consist of 6.092-acres +/- . Lots A, B, C, D and E will have access through the proposed 30-ft wide ingress/egress easement. Lots F and G shall have single access from Shortly Road (S.C.R. 431). A shared use maintenance agreement shall be established for the use of the shared access road. The property is located at east side of Shortly Road (S.C.R. 431). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 133-9.00-9.15. Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, staff are requesting that final approval be made subject to Staff upon the receipt of all agency approvals.

Motion by Mr. Mears, seconded by Mr. Collins and carried unanimously to approve the Minor Subdivision Plan off a proposed 30-ft easement with final approval be made subject to staff upon the receipt of all agency approvals. Motion carried 4-0.

**Lands of Russell & Margie L. Wilson**

Minor Subdivision Plan off a proposed 50-ft easement

This is a Minor Subdivision Plan for the creation of four (4) lots plus the residual lands with access off a proposed 50-ft wide ingress/egress access easement. Proposed Lot 1 will consist of 3.317-acres +/-, proposed Lot 2 will consist of 2.011-acres +/-, proposed Lot 3 will consist of 2.008-acres +/-, proposed Lot 4 will consist of 1.838-acres +/-, and the residual land will contain 8.609-acres +/- . A shared use maintenance agreement shall be established for the use of the shared access road. The property is located on the north side of Seashore Highway (S.C.R. 18). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 430-23.00-2.02. Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, staff are requesting that final approval be made subject to staff upon the receipt of all agency approvals.

Motion by Mr. Butler, seconded by Mr. Collins and carried unanimously to approve the Minor Subdivision Plan off a proposed 50-ft easement with final approval be made subject to staff upon the receipt of all agency approvals. Motion carried 4-0.

**OLD BUSINESS**

**Ord. 24-05 Chapter 99**

**AN ORDINANCE TO AMEND CHAPTER 99, ARTICLE II, SECTIONS 99-9, “PUBLIC HEARING ON PRELIMINARY PLAT APPROVAL OR DISAPPROVAL” OF THE CODE OF SUSSEX COUNTY REGARDING DESIGN CRITERIA FOR ALL SUBDIVISIONS.**

The Commission discussed this application which has been deferred since November 13, 2024.

Mr. Mears requested that Mr. Robertson read the motion on his behalf.

Mr. Mears moved the Commission to recommend approval of **ORD. 24-05 Chapter 99** of the Sussex County Subdivision Code for the following reasons and based upon the public record, but subject to several suggested amendments:

1. Section 99-9C currently contains 17 items that must be “considered” as part of a subdivision review. As currently worded, this does not give clear guidance to the County since there is no clear requirement about what it means to “consider” each item. This amendment is designed to provide more clarity and place the burden upon applicants to specifically show how each of the items has been meaningfully addressed in a subdivision site plan.
2. This revision has been discussed both formally and informally by Commissioners for some time and this Ordinance improves, clarifies and updates the existing requirements.

3. Many of the 17 items have become redundant due to other Code changes. For example, several of them have been overcome by the newer Perimeter Buffer requirements and Resource and Resource Buffering requirements. Through the proposed amendments, these items will be eliminated since they are covered more specifically elsewhere in the County Code.
4. These revisions will require Applicants to more specifically show how a subdivision plan has accommodated the items as part of the public record. This will provide greater information to not only the County in evaluating a particular subdivision, but also the public during the application and public hearing process.
5. By increasing the importance of the items in Section 99-9C of the Subdivision Code, it is anticipated that the subdivision designs presented to Sussex County for approval will be improved.
6. As stated in the introductory paragraphs of the proposed Ordinance, this Ordinance is in accordance with several of the Goals, Objectives and Strategies of the 2019 Sussex County Comprehensive Plan.
7. This recommendation is subject to the following suggested amendments to the Ordinance:
  - a. At Line 47 and 48, replace the word “satisfied” with “incorporated and addressed in the plat” in the first instance, and “incorporated and addressed” in the second instance. There were concerns stated that some of the items in Section 99-9C are too general to be clearly “satisfied”, so a requirement showing where and how they are addressed in a plat more clearly achieves the intended purpose of this ordinance amendment.
  - b. At Line 60, insert “and vegetation and soil removal” after the words “forest fragmentation”. This adds the need to address the minimization of vegetation and soil removal in an appropriate location with other similar criteria. In this same Item at Line 61, replace the term “included” with “shall be provided with” regarding the forest assessment, since the forest assessment is a separate document from the preliminary plat.
  - c. At Lines 68 through 70, delete this Item #5 in its entirety since it is incorporated into #3 with the changes referenced above in Item B of this motion. Renumber the rest of the items in Section 99-9C accordingly.
  - d. At Lines 72 through 74, delete this Item #6 in its entirety since the screening of objectionable features is already addressed through the County’s recent update to the perimeter buffer requirements. Renumber the rest of the items in Section 99-9C accordingly.
  - e. At Line 93, insert the word “anticipated” so that it states that the anticipated methods of dealing with groundwater levels and recharge are provided. This eliminates the requirement that these measures must be fully designed prior to the approval of a subdivision, which is not feasible in every instance.
  - f. At Lines 93 and 94, again regarding groundwater and stormwater, delete the words “there will not be increased rates of runoff or increased risk of flooding onto adjoining properties” and replace it with “adjacent properties will not be adversely affected by flooding or runoff”. This more accurately reflects the legal requirements for handling stormwater.

- g. At Line 104, add the phrase “or tree farming” so that tree farming is clearly included in the reference to active farmland.
- h. At Line 109, replace the phrase “consulted with” with the word “notified”.
- i. At Lines 125 through 126, delete this Item 18 in its entirety regarding the effect of the subdivision on area waterways since this is already addressed through the recently enacted Resource and Resource Buffer requirements. Renumber the rest of the items in Section 99-9C accordingly.
- j. At Line 129, insert the phrase “where appropriate” after the phrase “with interconnectivity” so that interconnectivity is always considered as part of a subdivision’s design and possible approval.

Motion by Mr. Mears, seconded by Mr. Collins and carried unanimously to recommend approval of **Ord. 24-05 Chapter 99** for the reasons and the conditions stated in the motion. Motion carried 4 -0.

Vote by roll call: Mr. Mears – yea, Mr. Collins – yea, Mr. Butler – yea, Chairman Wheatley – yea

#### **Ord. 24-06 Open Space**

**AN ORDINANCE TO AMEND CHAPTER 99, ARTICLES I, III & IV, SECTIONS 99-5 “DEFINITIONS”, 99-21, “PUBLIC SITES AND OPEN SPACES”, §99-23 “PRELIMINARY PLAT REQUIREMENTS” AND CHAPTER 115, ARTICLES I & XXVIII, SECTION 115-4 “DEFINITIONS AND WORD USAGE” AND §115-220 “PRELIMINARY SITE PLAN REQUIREMENTS” OF THE CODE OF SUSSEX COUNTY REGARDING OPEN SPACE.**

The Commission discussed this application which has been deferred since November 13, 2024.

Mr. Mears requested that Mr. Robertson read the motion on his behalf.

Mr. Mears moved the Commission to recommend approval of **Ord. 24-06 Open Space** based upon the record made during the public hearing and subject to the following suggested revisions:

1. The need to update the open space definitions and requirements contained in Chapters 99 and 115 of the Sussex County Code was directed through the current Comprehensive Plan’s Goals, Objectives and Strategies and it was also promoted in prior County Comprehensive Plans. This revision is also one of County Council’s stated and prioritized legislative updates as a result of the current Plan’s directives.
2. This is not a rewrite of the County’s Open Space requirements. Instead, it is an effort to clarify and improve the current requirements. The definition of “Open Space” states that it should be “land in a predominantly undeveloped or natural state”. The amendment takes into account the fact that certain structural amenities such as clubhouses and pools are no more “open” or in an “undeveloped or natural state” than the dwellings in the development. Therefore, they should not logically be considered “open space” and calculated as such.

3. This revision also takes some of the guesswork out of what is to be considered “open space”. For instance, it provides that any pond shall be considered open space, whether or not it has a “demonstrated recreational value” as was previously required.
4. The revision also tightens the method of calculating open space as that term is contemplated in its definition by eliminating the inclusion of medians, parking islands or other slivers of land that are not in an undeveloped natural state or in furtherance of the stated goals of having open space in a development.
5. As stated during the public hearing, these amendments will result in an improved open space design and calculation within residential developments. The land used as open space will not just be “whatever is left over” after the roadways, stormwater management and housing units are designed.
6. This recommendation is subject to the following amendments to the introduced ordinance:
  - a. At Lines 50 and 51 and Lines 180 and 181 for both Chapter 99 and Chapter 115, the words “and undisturbed” should be inserted after the word “natural” so that this phrase in the definition of “Open Space” now states that it is intended to “maintain land in a predominantly undeveloped or natural and undisturbed state....”
  - b. At Lines 66 and 67 and Lines 196 and 197, return the language to what currently exists regarding Resource Buffers and perimeter buffers since this was just recently updated through the Perimeter Buffer Ordinance and not reflected in the introduced Ordinance.
  - c. At Lines 104 and 105 and at Lines 237 and 238 for both Chapter 99 and Chapter 115 regarding the exclusion of medians, boulevards, parking islands and similar structures, add “unless these areas are planted with trees no further than 30 feet from one another that have a minimum height of six feet above ground when planted and will obtain a minimum height of ten feet when fully grown.”
  - d. Based upon testimony during the hearing that areas of land smaller than 21,780 can have an open space benefit for active or passive recreation, at Line 144 and 244, decrease the minimum open space area from 21,780 square feet to 10,000 square feet.
  - e. Finally, to maximize the ability to construct affordable housing through the County’s codified programs, developments including Moderately Priced Housing Units and Affordably Priced Rental Units under Chapter 72 of the Sussex County Code should be excluded from certain open space calculations for multifamily dwellings in Chapter 115. Therefore, insert the phrase “With the exception of Moderately Priced Housing Units and Affordably Priced Rental Units under Chapter 72 herein or projects that will be truly “affordable” as part of an official HUD, DSHA, USDA or similarly recognized housing program,” at the beginning of Line 220 regarding the exclusion of the area around a multifamily dwelling from the open space calculation. Also, and for the same reason, insert “(with the exception of Moderately Priced Housing Units and Affordably Priced Rental Units under Chapter 72 herein or projects that will be truly “affordable” as part of an official HUD, DSHA, USDA or similarly recognized housing program)” at Line 240 after the phrase “residential land development”.



Motion by Mr. Mears, seconded by Mr. Collins and carried unanimously to recommend approval of **Ord. 24-06 Open Space** for the reasons and the conditions stated in the motion. Motion carried 4 -0.

Vote by roll call: Mr. Mears – yea, Mr. Collins – yea, Mr. Butler – yea, Chairman Wheatley – yea

**C/U 2545 J. G. Townsend Jr. & Co.**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR AN AMENDMENT OF CONDITION "H" AND THE AMENDMENT/DELETION OF CONDITION "R" CONTAINED WITHIN CONDITIONAL USE NO. 2359 (ORDINANCE NO. 2964) REGARDING THE REQUIREMENTS FOR LANDSCAPING, AND FOR THE INSTALLATION OF GATES ON STOCKLEY BLVD BETWEEN THE GOVERNORS COMMUNITY AND THE PROPOSED COTTAGES, TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 25.56 ACRES, MORE OR LESS.** The property is lying on the east side of Kings Highway (Rt. 9) and the south side of Gills Neck Road (S.C.R. 267) at the intersection of Kings Highway (Rt. 9) and Gills Neck Road (S.C.R. 267). 911 Address: 16673 Kings Highway, Lewes. Tax Parcel: 335-12.00-3.00 (p/o).

The Commission discussed this application which has been deferred since November 13, 2024.

In relation to **C/U 2545 J.G. Townsend Jr., & Co.** motion by Mr. Collins, to defer action for further consideration, seconded by Mr. Mears and carried unanimously. Motion carried 4-0.

**2023-07 Seaside**

A cluster subdivision to divide 241.239 acres +/- into three-hundred and fifty-nine (359) 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 northeast side of Coastal Highway (Route 1) at the intersection of Cave Neck Road (S.C.R. 88) and Coastal Highway (Route 1). 911 Address: 16039 Coastal Highway, Lewes. Tax Map Parcels: 235-23.00-1.00, 1.03, 1.04, 80.00 & 235-17.00-14.00. Zoning District: AR-1 (Agricultural Residential)

The Commission discussed this application which has been deferred since November 20, 2024.

Motion by Mr. Collins, seconded by Mr. Collins and carried unanimously to close the public record of **2023-07 Seaside**. Motion carried 4-0.

Vote by roll call: Mr. Mears – yea, Mr. Collins – yea, Mr. Butler – yea, Chairman Wheatley – yea

**PUBLIC HEARINGS**

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

**C/U 2469 Rehoboth Family Storage, LLC**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MINI-STORAGE FACILITY WITH OFFICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 6.68 ACRES, MORE OR LESS.** The properties are lying on the west side of John J. Williams Highway (Rt. 24) and the east side of Robinsonville Road (S.C.R. 277), approximately 0.95-mile northeast of the intersection of John J. Williams Highway (Rt. 24) and Robinsonville Road (S.C.R. 277). 911 Address: N/A. Tax Map Parcels: 234-6.00-104.00, 104.02, 104.03, & 104.04.

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the applicants exhibit booklets which includes the applicant's environmental assessment and Public Facilities Evaluation report, a copy of the applicant's conditional use site plan, a copy of a rendering of the site plan, a copy of the applicant submitted photographs, a copy of the Staff Analysis report, a copy of the DelDOT SLER, a copy of a letter received from the Sussex County Engineering Department Utility Planning Division and 15 written comments.

Ms. Mackenzie Peet, Esq., introduced her client, the applicant, to the Commission to give some history on himself and his business.

Mr. Bill Soltesz spoke on behalf of himself that he is the managing member of Rehoboth Family Storage, LLC, and he has been in the self-storage business for 29 years and currently owns six facilities; that the goal is to set a new standard for self-storage facilities by providing exterior colors to match the environment, outstanding landscaping, high tech security and relaxing music within the buildings; that they want to be a "good neighbor" and provide a positive asset to the community; that there will be no 24 hour facilities and all rental offices are closed on Sundays.

Ms. Mackenzie Peet, Esq., of Saul Ewing, spoke on behalf of the Applicant, Mr. Bill Soltesz, principal owner of Rehoboth Family Storage, LLC.; that Mr. Soltesz has successfully developed and currently own six self-storage facilities; that the current project proposes three one story buildings consisting of 891 units each to include a mix of interior, climate controlled units and perimeter drive up non climate controlled units; that there will be no outdoor storage and the total building area will consist of approximately 125,000 square feet, with building one consisting of approximately 28,745 square feet, building two, consisting of approximately 56,600 square feet and building three consisting of 40,125 square feet; that each building is a one story low profile design that seamlessly integrates into the surrounding landscape and the design minimizes the visual impact of the project on nearby land uses, and enhances the overall aesthetics of the area; that extensive buffering from adjacent properties in the form of perimeter trees, which will consist of as many trees as possible while supplementing with additional plantings as needed and each building will have a sprinkler system as required by the Fire Marshal; that the Applicant is seeking three signs, an illuminated wall sign on the front of Building one, an illuminated monument sign located along Route 24 in the landscaping bed and another along Robinsonville Rd.; that the

property is located in an AR-1 zoning district and the proposed use aligns with the character of the surrounding community, which consists of both a mix of residential and commercial properties; that there is a significant demand for self-storage solutions in Sussex County and especially in the Rehoboth Lewes area.

Mr. Edward Launay, a professional wetlands scientist, of Environmental Resource Insights spoke on behalf of the Applicant that the site is a 6.68 acre site and based on the USDA maps it is considered a well drained, sandy soil site; that soils he found on site are well suited to all types of developments with very few development limitations; that the site is not within any DNREC mapped wellhead area protection area or within any special ground water recharge area and the sites not within any 100 year floodplain; that there is no presence of any state or federally regulated wetlands on the site or adjacent to it; that the site is wooded and was clear cut in 2010; that there's a few scattered old growth trees along Robinsonville Rd. and the rest is a relatively young forested area consisting of Tulip Poplar Lava, Early Pine and an occasional Red Maple; that the project proposes to retain 1.62 acres of forest around the perimeter of the site a retention of 24.3% of the entire site.

Ms. Peet stated that the public has noted some concern with the entrance being on Robinsonville Rd, but it should be noted that the developer has no control over the entrance as that is determined by DelDOT and they restricted the access from Route 24; that traffic generated by the facility is characterized as low, stable and predictable due to their operational nature and based on the gate access logs of Mr. Soltesz's other facilities, suggest an average of approximately 30 vehicle trips per day; that the location was selected as to draw traffic away from Route One and was placed within a three mile radius of the nearest storage facility; that the applicant has received an approved site evaluation from DNREC; that this site will be secured with a fence around the perimeter as well as a gate, security cameras will be provided, hours of operation, unlike typical storage facilities in the area, this facility will not offer 24 hour access; that gate access will only be available from 6:00 AM to 10:00 PM seven days a week, additionally, office hours will be from 9:00 AM to 6:00 PM Monday through Saturday, with no Sunday office hours.

Mr. Cliff Mumford, P.E., of Davis, Bowen & Friedel, spoke on behalf of the Applicant, that the correspondence with DelDOT determined that the site's traffic does not warrant and TIS, but it is located within the TID and the applicant is required to pay a fee of \$406,000, based on the square footage of the buildings; that at the May 17, 2023, meeting the applicant proposed to have the entrance on Route 24, but DelDOT's policy states that access be provided from the lower functional classification roadway, which is Robinsonville Rd.; that when meeting with Sussex Conservation District, a stormwater assessment study was done and to be in compliance with their requirements an infiltration pond will be used to control runoff; that the pre-application meeting with the Fire Marshal determined that all buildings will have fire sprinklers and a knox box will be provided on the gate so the fire department will have access into the site; that a fire hydrant flow test was performed by Tidewater Utilities that confirmed sufficient flow for fire suppression, and there's an existing water main and a fire hydrant in front of the site on Robinsonville Rd.

Ms. Mary Sheehan spoke in support of the application as with the growth of Sussex County, many new retirees are downsizing there homes and/or renting out their homes for an extra income and

need to store the belongings somewhere; that there is a large shortage of storage facilities within the County and this one not only provides a needed service, but it is also an aesthetically pleasing building to add to a community.

Mr. Brendan O'Toole spoke in favor of the application that the area needs more storage facilities within a reasonable distance of the area; that his parents recently lost their home to a storm and when they went to find a storage facility for their belongings and the contractor supplies, they were forced to find a facility over 90 minutes away.

Mr. Buddy Webb spoke in opposition to the application that he owns the property adjacent to this proposed site and he wants the area to remain undeveloped for the good of the neighborhood.

Upon there being no further questions Chairman Wheatley closed the public hearing.

At the conclusion of the public hearing, the Commission discussed the Application.

In relation to **C/U 2469 Rehoboth Family Storage, LLC**. Motion by Mr. Collins to defer action for further consideration, holding the record open for documentation from the applicant regarding the meeting with DelDOT, seconded by Mr. Mears and carried unanimously. Motion carried 4-0.

**C/U 2504 Living Hope Fellowship**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CEMETERY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 7.2 ACRES MORE OR LESS.** The parcel is lying on the west side of Staytonville Road (S.C.R. 224), approximately 0.42-mile northwest of Blacksmith Shop Road (S.C.R. 44). 911 Address: 13848 Staytonville Road, Greenwood. Tax Map Parcel: 430-1.00-13.06.

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the applicant's conceptual site plan, a copy of the DelDOT SLER, a copy of the Staff Analysis report, a copy of a letter from the Sussex County Engineering Department Utility Planning Division and zero comments.

Mr. Allan Warfel, Chair of the Church Council for the Living Hope Fellowship, spoke in regards to the application that they are requesting to build a cemetery on their land; that the church has been operating in this location for approximately five years and they are looking to put a cemetery in for the parishioners; that the church has approximately 110-120 people in attendance and they are looking to put in about 200 gravesites; that the access to the cemetery will be through the church entrance and behind the church itself, there will be no need for a sign as the church has one out front already and there will be no storage of any kind.

Mr. Whitehouse stated for the record that there were no known wetlands on this parcel.

Upon there being no further questions Chairman Wheatley closed the public hearing.

Mr. Butler requested that Mr. Robertson read the motion on his behalf.

Mr. Butler moved the Commission to recommend approval of **C/U 2504 LIVING HOPE FELLOWSHIP** based on the record made during the public hearing and for the following reasons:

1. It is appropriate for a church to include a cemetery on its property for its congregation.
2. This property is large enough to accommodate a cemetery in addition to the existing church. The cemetery will have about 200 gravesites and will be limited to people affiliated with the church.
3. The proposed cemetery will not adversely affect traffic, roadways, neighboring properties or neighboring uses.
4. There are no wetlands on the proposed site.
5. No parties appeared in opposition to the application.
6. This recommendation is subject to the following conditions:
  - a. The cemetery area shall be at least 30 feet from all property lines.
  - b. The access road and parking areas for the cemetery area shall be clearly shown on the site plan.
  - c. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Butler, seconded by Mr. Collins and carried unanimously to recommend approval of **C/U 2504 Living Hope Fellowship** for the reasons and the conditions stated in the motion. Motion carried 4 -0.

Vote by roll call: Mr. Mears – yea, Mr. Collins – yea, Mr. Butler – yea, Chairman Wheatley – yea

Chairman Wheatley stated for the record that **C/U 2464** and **C/Z 2041 James Yerkie, II** would be heard as one case for presentation purposes as they are in relation to each other.

**C/Z 2041 James Yerkie, II**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN MR MEDIUM RESIDENTIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.53 ACRES, MORE OR LESS.** The property is lying on the east side of Old Shawnee Road (S.C.R. 619) approximately 0.35-mile northeast of Shawnee Road (Rt. 36). 911 Address: N/A. Tax Map Parcel: 130-3.00-170.04.

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the applicant's conceptual site plan, a copy of the soils evaluation, a copy of the Staff Analysis report, a copy of a letter received from the Sussex County Engineering Department Utility Planning Division, a copy of the DelDOT SLER and one letter of opposition.

Mr. James Yerkie, II, spoke on behalf of himself, the applicant, that this hearing is to allow for storage containers to remain on his vacant lot in a MR (Medium Residential District); that his plan is to eventually build a home on the property, but in the meantime keep storage containers that hold extra vehicles and building materials.

The Commission discussed the application and the complaint that brought about this case and if it was related to the storage containers or the cars on the property.

Mr. Whitehouse stated for the record that this case came in as a complaint to the Constables Office for the storage containers on a vacant property in an MR district; that in order for the applicant to keep those containers on the property until the time in which a home is built he would need to do a Change in Zone downgrade to an AR-1 (Agricultural Residential) district with a Conditional Use.

Mr. Mears stated that with the Conditional Use case that it will clearly state what can and cannot take place on the site and that he needs to make sure that there are no business activities occurring pertaining to his HVAC business unless he states that ahead of time.

Upon there being no further questions Chairman Wheatley closed the public hearing.

At the conclusion of the public hearing, the Commission discussed the Application.

In relation to **C/Z 2041 James Yerkie, II**. Motion by Mr. Butler to defer action for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 4-0.

**C/U 2464 James Yerkie, II**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR OUTDOOR STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.5 ACRES, MORE OR LESS.** The property is lying the east side of Old Shawnee Road (S.C.R. 619) approximately 0.35-mile northeast of Shawnee Road (Rt. 36). 911 Address: N/A. Tax Map Parcel: 130-3.00-170.04.

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the applicant's conceptual site plan, a copy of the soils evaluation, a copy of the Staff Analysis report, a copy of a letter received from the Sussex County Engineering Department Utility Planning Division, a copy of the DeIDOT SLER and one letter of opposition.

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Mr. Mears stated that with the Conditional Use case that it will clearly state what can and cannot take place on the site and that he needs to make sure that there are no business activities occurring pertaining to his HVAC business unless he states that ahead of time.

Upon there being no further questions Chairman Wheatley closed the public hearing.

At the conclusion of the public hearing, the Commission discussed the Application.

In relation to **C/U 2464 James Yerkie, II**. Motion by Mr. Butler to defer action for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 4-0.

**Meeting adjourned at 4:43 p.m.**

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