

MINUTES OF THE REGULAR MEETING OF **December 11, 2024**

The regular meeting of the Sussex County Planning and Zoning Commission was held on Wednesday afternoon, **December 11, 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, Ms. Holly Wingate, Mr. Bruce Mears and Mr. Scott Collins. Mr. Butler was excused. Also, in attendance were Mr. Jamie Whitehouse – Director of Planning & Zoning, Mr. Vincent Robertson – Assistant County Attorney, Mr. Michael Lowrey – Planner III, Ms. Ann Lepore – Planner I and Ms. Jessica Iarussi – Recording Secretary.

Motion by Ms. Wingate, seconded by Mr. Mears, and carried unanimously to approve the Agenda as CIRCULATED. Motion carried 4-0.

PUBLIC COMMENT

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

OTHER BUSINESS

2021-12 Miralon

Amenities Plan

This is an Amenities Plan for the construction of a proposed 3,816 square foot in-ground pool and splash pad, 2,737 square foot proposed amenity building, pickleball courts and associated parking to be located on the corner of Otto Drive and Cynthia Lane within the Miralon Subdivision. The Amenities Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Tax Parcel: 234-5.00-37.12. Zoning: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals; therefore, this request is eligible for final approval.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to approve the Amenities Plan. Motion carried 4-0.

The Woods at Angola Beach (A.K.A. Angola Estates) (C/Z 672)

Preliminary Site Plan & Landscape Plan

This is a Preliminary Site Plan and Landscape Plan for a for a Residential Planned Community to consist of (90) single family lots and proposed amenities to include a clubhouse, walking trail, sports courts, a grilling patio, internal roads, stormwater management, perimeter buffers, and ancillary improvements. The Parcel was the subject of a previous Change of Zone Application,

Change of Zone No. 672, which was approved by the Sussex County Council at their meeting of Tuesday, July 2nd, 1985, from Agricultural Residential (AR-1) District to a General Residential, Residential Planned Community District (GR-RPC- Angola Estates), and the change was adopted through Ordinance No. 273. This proposed addition of (90) single family lots to the existing completed portions (230 Lots) resulting in a total of (320 Lots) is within the maximum of (430) lots permitted as part of the Angola Estates GR-RPC. The Preliminary Site Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcels: 234-12.00-7.01 & 234-12.00-7.02. Zoning: GR-RPC (General Residential, Residential Planned Community District.) Should the Commission desire to act favorably on this proposal, staff are requesting final approvals to be made subject to staff upon the receipt of all agency approvals.

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

S-24-66 Millsboro Marshal Arts

Revised Preliminary Site Plan

This is a Revised Preliminary Site Plan for two (2) proposed one-story 5,000 square foot warehouse buildings, two (2) proposed taekwondo studios (one at 4,000 square feet and one at 6,000 square feet), parking and other site improvements. The Applicant has submitted a request for the reduction in parking space requirements for the taekwondo studios. Otherwise, the Preliminary Site Plan complies with the Sussex County Zoning Code. Tax Parcels: 233-16.00-22.00, 24.00, & 25.00. Zoning: C-1 (General Commercial District) & 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 Ms. Wingate and carried unanimously to approve the Revised Preliminary Site Plan with final approval be made subject to staff upon the receipt of all agency approvals. Motion carried 4-0.

S-24-50 Indian River Storage

Revised Preliminary Site Plan

This is a Preliminary Site Plan for 420 RV/Boat Storage spaces, an office, parking and other site improvements. Conditional Use No. 2394 was approved by the Sussex County Council at their meeting of Tuesday, January 23rd, 2024, through Ordinance No. 2974. The Revised Preliminary Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Tax Parcel: 234-34.00-4.01. 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 Ms. Wingate and carried unanimously to approve the Revised Preliminary Site Plan with final approval be made subject to staff upon the receipt of all agency approvals. Motion carried 4-0.

S-24-69 Kent Walston

Revised Preliminary Site Plan

This is a Preliminary Site Plan for five (5) proposed multifamily townhouse units, parking and other site improvements. Conditional Use No. 2400 was approved by the Sussex County Council at their meeting of Tuesday, August 15, 2023, through Ordinance No. 2947. The Revised Preliminary Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Tax Parcel: 134-17.07-173.02. Zoning: MR (Medium Density 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 Ms. Wingate and carried unanimously to approve the Revised Preliminary Site Plan with final approval be made subject to staff upon the receipt of all agency approvals. Motion carried 4-0.

OLD BUSINESS

2024-09 Lorraine Brown

A standard subdivision to divide 4.57 acres +/- into two (2) single-family lots, to be located on a certain parcel of land lying and being in Nanticoke Hundred, Sussex County. The property is lying on the east side of Victory Lane, a private lane that is accessed off of Shawnee Road (Rt. 36). 911 Address: 12559 Victory Lane, Greenwood. Tax Map Parcel: 430-5.00-5.02. Zoning District: AR-1 (Agricultural Residential).

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

In relation to **2024-09 Lorraine Brown**. Motion by Mr. Mears to defer action for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 4-0.

C/U 2270 Gregory Mitchell

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO OPERATE AN OUTDOOR RACETRACK TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 35.00 ACRES, MORE OR LESS. The properties are lying on the northwest side of the intersection of Hastings Farm Road (S.C.R. 526) and Coverdale Road (S.C.R. 525). 911 Addresses: 22372, 22378 & 22382 Coverdale Road, Seaford. Tax Map Parcels: 231-9.00-4.00, 5.00 & 5.01.

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

Mr. Collins moved the Commission to recommend **APPROVAL** of **C/U 2270 GREGORY MITCHELL** for an Outdoor Racetrack based upon the record made during the public hearing and for the following reasons:

1. This is a use that has existed at this location for many years. It was recognized as an existing, legal nonconforming use by a prior Director of Planning & Zoning in 2010 with limitations.
2. This Conditional use further confirms the legal, nonconformity of the use and establishes appropriate conditions upon the use.
3. Dirt-track racing has a long history in Sussex County on this site and at other locations. Several people testified that they have enjoyed the racing events that occur at this site for years if not decades and that it is a family sport. As a result, it has a benefit for Sussex County residents and visitors.
4. With the conditions imposed by this recommendation of approval, any adverse impacts upon traffic, area roadways or the community will be substantially reduced from what currently exists at the location since there are basically no conditions associated with its legal nonconforming status other than engine size.
5. This recommendation is subject to the following conditions:
 - a. The use shall be limited to the existing outdoor dirt racetrack and related facilities as shown on the Preliminary Site Plan.
 - b. All pit areas and parking areas shall be clearly marked on the Final Site Plan and the site itself.
 - c. The applicant shall comply with all DelDOT entrance and roadway improvement requirements.
 - d. One lighted sign shall be permitted along the perimeter of the property. It shall not exceed 32 square feet in size. The location of the sign shall be shown on the Final Site Plan. This prohibition shall not apply to sponsor signs on the interior of the racetrack itself.
 - e. The racetrack shall only be used until 8:00 pm on Mondays through Thursdays for practice. No racing shall occur on these days and no more than two cars shall be on the track for practice laps at any one time. Practice and racing shall be ending no later than 11:00 pm on Friday and Saturday evenings. The racetrack shall not be used on Sundays.
 - f. The property and racetrack may be lighted for nighttime use. All of the lighting shall be screened so that it does not shine onto neighboring properties or roadways.
 - g. All of the racecars using the racetrack shall be operated with mufflers.
 - h. The racetrack shall be operated with appropriate safety and EMS measures in place while racing is underway.
 - i. Any violation of these conditions shall be grounds for termination of the conditional use.
 - j. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Mr. Collins, seconded by Ms. Wingate and carried unanimously to recommend **APPROVAL** of **C/U 2270 Gregory Mitchell** for the reasons and the conditions stated in the motion. Motion carried 4-0.

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

C/U 2520 Twin Branches, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FARM WINERY WITH TASTING ROOM AND EVENTS VENUE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD KILL HUNDRED, SUSSEX COUNTY, CONTAINING 38.66 ACRES, MORE OR LESS. The property is lying on the west side of Twin Branch Road, approximately 0.89 mile south of the intersection of Saw Mill Road (S.C.R. 238) and Twin Branch Road. 911 Address: 14756 Twin Branch Road, Milton. Tax Map Parcels: 235-19.00-11.00 & 11.01.

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

Mr. Collins moved the Commission to recommend **APPROVAL** of **C/U 2520 TWIN BRANCHES, LLC** for a farm winery, tasting room, and events venue based upon the record made during the public hearing and for the following reasons:

1. The use will occur within a 38.66-acre parcel that is used to grow grapes for making wine. The Applicant also owns most of the land that surrounds the parcel that is the subject of this Conditional Use.
2. This use is an extension of ongoing agricultural use of the property and agricultural uses that occur on the surrounding farmland. The use can also be considered as “agritourism” that promotes the agricultural industry in Sussex County. This type of use is appropriate in the Low-Density Area according to the Sussex County Comprehensive Plan.
3. The Applicant intends to hold events that include weddings, birthdays, parties, craft shows, and similar functions with limited hours.
4. The site will have sufficient areas for parking. According to the site plan there are at least 75 parking spaces available.
5. No parties appeared in opposition to this Application.
6. With the conditions and limitations placed upon this Conditional Use, it will not adversely affect neighboring properties or area roadways.
7. This recommendation is subject to the following conditions:
 - a. The area shall be used as a farm winery, tasting room, and events venue.
 - b. The area set aside for conditional use, including all areas to be used for parking, shall be clearly shown on the Final Site Plan.
 - c. The consumption of alcoholic beverages shall be permitted subject to the approval from the Delaware Office of the Alcoholic Beverage Control Commissioner.

- d. The hours of operation for the tasting room and events venue shall be 7 days a week, with hours of operation from noon until 9:00 p.m., with the exception of Sundays which shall be from noon until 6:00 p.m.
- e. All parking areas shall be shown on the Final Site Plan and clearly marked on the site itself. The interior driveways and parking areas shall contain sufficient space for vehicles and shuttle buses to turn around completely on the site.
- f. All activities on the premises shall comply with Fire Marshal, parking capacity and general permitting requirements.
- g. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Mr. Collins seconded by Mr. Mears and carried unanimously to recommend **APPROVAL** of **C/U 2520 Twin Branches, LLC** for the reasons and the conditions stated in the motion. Motion carried 4-0.

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

C/U 2455 James L. Sturgis

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A TIRE AND BRAKE SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 10.96 ACRES, MORE OR LESS.

The property is lying on the east side of Sussex Highway (Rt. 13), approximately 0.36 mile north of Woodyard Road (S.C.R. 612). 911 Address: 11217 Sussex Highway, Greenwood. Tax Map Parcel: 530-5.00-3.02

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

Mr. Collins moved the Commission to recommend a **DENIAL** of **C/U 2455 JAMES L. STURGIS** for a tire and brake shop based upon the lack of a sufficient record and for the following reasons:

1. During the public hearing, the Applicant did not make an adequate record to support this Application. He did not address the factors that the Commission must consider when acting upon a conditional use such as this.
2. The Applicant has also not presented sufficient evidence to show that this conditional use application is consistent with the AR-1 Zoning of this property, the Zoning Code or the County's Comprehensive Land Use Plan.
3. The Applicant has proposed to operate a tire and brake shop in an existing residential garage that is in close proximity to his home and attached to the home by a deck. This is not a safe situation for working on vehicles as part of a commercial operation and the fire and safety hazards that must be accounted for as part of such a business.

4. It is unclear from the record whether this conditional use is compatible with the properties and land uses in the immediate vicinity of this based upon the underlying AR-1 zoning of the area. Without more detail it is impossible to determine whether this proposed use will have an impact on the neighborhood.
5. There was evidence in the record that vehicle parts and tires are located outside all around the site and that this was the subject of a violation issued by the Sussex County Constable. It does not appear that these issues have been corrected, and approving this Conditional Use would likely only make this bad situation worse.
6. There is simply not enough information in the record to justify an approval of this Application or impose reasonable conditions upon it to protect the neighboring properties and roadways.
7. For all of these reasons, I move that we recommend a denial of this application.

Motion by Mr. Collins, seconded by Ms. Wingate and carried unanimously to recommend denial of **C/U 2455 James L. Sturgis** for the reasons and the conditions stated in the motion. Motion carried 4-0.

Vote by roll call: Mr. Mears – yea, Ms. Wingate – yea, Mr. Collins – 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.

Mr. Collins moved the Commission to recommend **APPROVAL** of **C/U 2545 J.G. TOWNSEND JR. & CO.**, 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 cottages approved as part of that prior Conditional Use based upon the record made during the public hearing and for the following reasons:

1. This request seeks to amend two (2) conditions that were attached by County Council to the approval of Conditional Use No. 2359 (Ordinance No. 2964). Condition H concerned the installation of gates on Stockley Blvd. and Condition R required landscaping on an area of land that was not part of the Conditional Use.
2. Conditional Use No. 2359 (Ordinance No. 2964) was the last residential development of land owned by J.G. Townsend, Jr. & Co. along the outside of Gill's Neck Road. This area has developed residentially over many years, and all subject to a master plan prepared by JG. Townsend, Jr. & Co. many years ago. That master plan has always included the form of interconnectivity provided by Governor Stockley Blvd. Sussex County has been regularly criticized for not doing enough master planning as part of its land use. Interconnectivity is an important aspect of master planning. The County should not be asked to delete or limit access to a road that was thoughtfully approved after taking into account all of the circumstances and master planning that occurred. Doing so would be counter to the master planning that is a good land use tool that is beneficial to Sussex County. Retroactively amending an established and well-known master plan to delete interconnectivity would undermine the overall design and the finality of any master planned development throughout all of Sussex County.
3. The Planning & Zoning Commission unanimously approved Conditional Use No. 2359 (Ordinance No. 2964) with a very specific Condition contained in it that Governor Stockley Blvd. shall remain open for interconnectivity at all times. This condition also included specific reasons why it was being imposed. Condition H stated in its entirety:
This project is interconnected with the adjacent commercial areas facing King's Highway as well as the Governor's community which is itself interconnected with the Senator's Community. This interconnection is part of the larger plan for the residential development of King's Highway and Gill's Neck Road. This interconnectivity is important and necessary for safe vehicular and pedestrian movement within the developments to provide a means of access to and from them in addition to use Gill's Neck Road. This interconnectivity has been part of the developer's Master Plan for this entire area, and it has been shown and approved by Sussex County at each stage of development along Gill's Neck Road. Therefore, once construction is completed this interconnectivity must remain open to all vehicular traffic at all times without obstruction.
4. Despite this clear directive that this roadway must "remain open to all vehicular traffic at all times without obstruction", County Council inexplicably added an inconsistent provision at the end of this condition that a gate can be installed on the roadway. This addition was an error, because the roadway cannot "remain open to vehicular traffic at all times without obstruction" at the same time that a gate exists.
5. The record reveals that all homeowners who purchased properties within the adjacent development served by Governor Stockley Boulevard knew, or should have known, that the roadway provided a means of access to and from Kings Highway and Gill's Neck Road. As included in the public record, this was clearly shown on (a) the marketing materials for the adjacent developments, including the website used by the homebuilder to market all of the new homes there; (b) the Public Offering Statement that was provided to every prospective homebuyer in accordance with Delaware's DUCIOA law; (c) the Seller's

Disclosure of Real Property Condition Report that was provided to every prospective homebuyer as required by State Code; and (d) hundreds of different filings in the Sussex County Recorder of Deeds as new units were added to the adjacent projects (which would appear in every title search for homebuyers at the time of their settlement); and other examples.

6. The roadway itself was designed for interconnectivity. It is a boulevard-style roadway with wider lanes and a traffic circle to handle the traffic that may use it. Also, the plans for the development approved by Conditional Use No. 2359 as well as the adjacent development show that the use of this road for interconnectivity was always intended. In this regard, there are no homes with direct access or frontage on Governor Stockley Boulevard included in either plan.
7. While interconnectivity may not always be appropriate in every situation, particularly between otherwise unrelated developments, those circumstances do not exist here, where there is a single landowner and developer for the entire area; it was all master planned with interconnectivity from day one; it was marketed with interconnectivity so any potential purchaser of a home would know that it was expected; and hundreds of recorded documents showed the interconnection of Governor Stockley Boulevard.
8. If Governor Stockley Blvd. is gated at the interior location that is proposed, it will not prevent any traffic from entering from either Kings Highway or Gill's Neck Road. While residents may know about this interior gate, delivery vehicles, visitors, utility vehicles, and emergency services will not necessarily have knowledge of the gate's existence. It is likely that such an interior gate will double the amount of traffic coming in or out of either side. Anyone unaware of the gate would come halfway into the development before hitting the blockage only to be forced to turn around the same way they came in possibly at a high rate of speed to make up for lost time. That is particularly problematic on this boulevard-style roadway where a simple U-Turn is blocked by the median.
9. Our Sussex County Comprehensive Plan promotes interconnectivity like what was required in Conditional Use No. 2359. Section 12.2.3 of the Plan states that the County "should encourage interconnectivity between parcels of land" like the design of Governor Stockley Blvd. This is summarized in Objective 12.1.4 of the Plan, which states that the County should "encourage development design that promotes increased access between developments and community facilities including parks, schools and libraries." More specifically, Strategies 12.1.4.2 and 12.1.4.3 direct the County to implement the interconnectivity required in Conditional Use No. 2359 by "encourage[ing] interconnectivity" and "create[ing] multiple, alternate routes for automobiles....". Amending the approved interconnectivity of Governor Stockley Blvd. would be inconsistent with these directives of our County Comprehensive Plan.
10. Based on the very specific reasons provided by the Commission in 2023 when it included the interconnectivity of Governor Stockley Boulevard and the unanimous vote in favor of that condition, there is no reason to undermine that condition now.
11. Finally, Condition R should be deleted in its entirety. County Council imposed this new condition as part of its approval of Conditional Use. No 2359, despite the fact that it creates

obligations on land that is largely not the subject of the Conditional Use. As a result, the condition cannot be complied with and should be removed.

Motion by Mr. Collins, seconded by Ms. Wingate and carried unanimously to recommend **APPROVAL** of **C/U 2545 J.G. Townsend Jr., & Co.**, for the reasons and the conditions stated in the motion. Motion carried 3-1.

Vote by roll call: Mr. Mears – nay, Ms. Wingate – yea, Mr. Collins – yea, Chairman Wheatley – yea

PUBLIC HEARINGS

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

C/U 2443 Coastal Bay Homes, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY (2 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.138 ACRE, MORE OR LESS. The property is lying on the south side of Admiral Road within the Tower Shores Subdivision. 911 Address: 39578 Admiral Road. Tax Map Parcel: 134-5.00-115.00.

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

Mr. Blake Carey, Esq., of The Smith Firm, spoke on behalf of the applicant; that with respect to the property itself, the applicant acquired this property around April of 2021, and it was sold as a result of a public auction pursuant to a partition action in the Court of Chancery; that currently the property is a very old beach cottage with no central heat air, and is in pretty rough condition; that it cannot be used on a year round basis so the applicant's desire is to remove the currently existing dwelling and construct a multifamily duplex in an effort to enhance the property and improve the look and feel of Admiral Road; that the Applicant is seeking to construct one (1) multifamily dwelling, a duplex on the property consistent with neighboring properties; that the property is serviced by central water and sewer, no commercial activities would take place, the multifamily dwelling would be governed by a condominium association created by the applicant, with its own unique restrictions, in addition to those restrictions of the tower community; that all setbacks per the code will be met with the proposed duplex to be constructed upon the site; that numerous properties within Tower Shores have been granted Conditional Uses to construct multifamily

dwelling on their property and there are several other multifamily dwellings that predated the code that exist within the Tower Shores community; that the Applicant is seeking a duplex with two (2) family dwellings which is less than the four (4) which is allowed; that there are 19 Conditional Use approved applications within a 300 foot radius of this property, all of which are for multifamily dwellings; that the proposed use will have no adverse impact on the character or the surrounding area or property values therein; that DelDOT has determined that a traffic impact study is not necessary, the local environment will not be impacted and the medium density residential parcel is located in a coastal area pursuant to the Sussex County Comprehensive Land Use Plan, which is a growth area; that the Plan outlines that a range of housing types should be permitted in coastal areas, including single family homes, townhouses and multifamily units and that appropriate mixed-use development should be allowed.

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

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

Mr. Mears moved the Commission to recommend approval of **C/U 2443 COASTAL BAY HOMES, LLC**, for a multi-family dwelling structure of two (2) units based upon the record made at the public hearing and for the following reasons:

1. The proposed Conditional Use will have no significant impact upon traffic.
2. There are other, similar 2 Unit Multi Family structures with similar characteristics in the immediate vicinity.
3. The project will not have an adverse impact on the neighboring properties or community.
4. The 2 units will be served by central water and sewer.
5. No parties appeared in opposition to this Application.
6. This recommendation for approval is subject to the following conditions and stipulations:
 - a. Only 2 units shall be constructed upon the property.
 - b. The development shall be served as part of a Sussex County Sanitary Sewer District.
 - c. Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur the hours between 8:00 a.m. and 6:00 p.m.
 - d. The Final Site Plan shall be subject to approval of the Planning and Zoning Commission.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of **C/U 2443 Coastal Bay Homes, LLC** for the reasons and the conditions stated in the motion. Motion carried 4 -0.

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

C/U 2460 Jose Hernandez Perez

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A WAREHOUSE, OFFICE, INDOOR AND OUTDOOR STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.95 ACRES MORE OR LESS.

The property is lying on the west side of Barnacle Boulevard and the northeast side of Layton Davis Road (S.C.R. 312A), approximately 0.28 mile southeast of John J. Williams Highway (Rt. 24). 911 Address: 31235, 31241, & 31247 Barnacle Boulevard. Tax Map Parcel: 234-29.00-57.02, 57.03, & 57.04.

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the applicant's exhibit booklets, which includes a copy of the applicant's conceptual site plan and supporting photographs, a copy of the staff analysis, a copy of a deed for the property, a copy of a letter received as part of the DelDOT SLER, a letter received from Sussex County Engineering Department, Utility Planning Division and zero comments.

Mr. David Hutt, Esq., of Morris James, LLP., spoke on behalf of the applicant; that the application is for an office, shop, warehouse, indoor and outdoor storage on an assemblage of three (3) parcels situated along Barnacle Blvd., which is the shared access road for those parcels and how they access Layton Davis Rd.; that Mr. Hutt discussed how the Applicant came from Mexico and worked his way up from a laborer to a small business owner over the course of 25 years; that in 2009 the Applicant opened Delaware Concrete Foundations and Slabs, LLC, with three (3) employees and today he employs 40 people and opened a second business, Apollo Homes, LLC; that with the growth of his business, came the need to expand his office and storage for those businesses; that there were some notices of violation that were sent related to building permit questions and issues and a violation regarding the use of the property because of the business type that is being conducted on the property; that the notices regarding building permits have been addressed and the proper building permits has been sought; that the last notices of violation revolve around the use of the property, and that brings us here to this public hearing; that there are three (3) tax parcels that are involved with this application that total just under 3 acres of land, all of these three (3) parcels use Barnacle Blvd. which is also owned by the applicant; that the Sussex County Zoning map identifies this property as being zoned GR General Residential and all of the properties that immediately touch this property are also zoned GR, except for the property in the rear, the property that is in the rear is zoned MR with an RPC overlay; that the property is not within a floodplain, as shown on the FEMA flood maps, the property is not located or does not have a well head protection area within its boundaries, nor is it within an excellent groundwater recharge area, as those things are defined in Chapter 89 of the Sussex County Code; that there was an environmental assessment and public facility evaluation report that was provided by Morris & Ritchie Associates, which indicated that there are no wetlands on the property or within a half a mile of the property; that water is provided to the properties by existing wells and sanitary sewer services provided to the property by on site wastewater treatment and disposal systems; that a service level evaluation request was sent to DelDOT and they responded that based upon its Memorandum of Understanding with Sussex County, that the traffic impact of this proposed use

would be diminutive; that the business itself would have about 7-10 employees who would utilize the office building on the property and there would be some material storage here as well; that all materials are neatly stored within designated bins or buildings; that its not intended to be a retail location, so the only traffic coming and going would primarily be the delivery of the materials from vendors; that there are three (3) buildings on the property, the main house up front which will be the businesses offices, the trailer on the second parcel, which will be renovated and rented out and the third trailer on the third parcel which is already being rented out; that the Applicant takes pride in the maintenance of his property and has letters of support from neighbors; that the Applicant has an entrance permit from DelDOT that was granted, the State Fire Marshall has reviewed the plan and approved it with a turning template that was used to show how a truck that was going to make a delivery could enter the site off of Layton Davis Rd. go down Barnacle Blvd., turn around the circle and return back to the road without ever having to back out on Layton Davis Rd. or make any unusual or improper driving maneuvers; that the proposed conditions of approval are as follows:

1. The main building is used strictly for an office/workshop, with remaining buildings used for warehouse and storage as labeled on the Final Site Plan.
2. All work other than storage of materials has to occur inside. The only thing done outside on this site would be storage of materials.
3. The proposed hours of operation are 7:00 AM to 6:00 PM Monday through Friday. 7:00 AM to 3:00 PM on Saturday with no Sunday hours of operation.
4. The perimeter of the property will be fenced, as you saw in the pictures.
5. There is a sign that is 32 square feet, which is standard in the GR district.

Mr. Ken Hughes, of Morris Ritche Associates, stated that the materials that are stored out there are some welded wire mesh mats, insulation that is used for foundations and buildings that are enclosed and neatly stacked with plastic wrap around it; that there is some irrigation piping and foundation drain pipe; that there is forms and formwork type of material stored inside the Quonset Hut structure and there is some other equipment that is parked in the storage areas.

Mr. David Steele, read a letter of support submitted by Mr. Bryan Hayden, which was also submitted into the paper packet.

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 2460 Jose Hernandez Perez**. Motion by Mr. Mears to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 4-0.

C/U 2487 Jose Sandoval

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ELECTRONIC MESSAGE CENTER SIGN TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN LEWES & REHOBOTH

HUNDRED, SUSSEX COUNTY, CONTAINING 0.69 ACRES, MORE OR LESS. The property is lying on the south side of Lewes Georgetown Highway (Rt. 9), approximately 0.27 mile southwest of the intersection of Lewes Georgetown Highway (Rt. 9) and Coastal Highway (Rt. 1). 911 Address: 32454 & 32462 Lewes Georgetown Highway. Tax Map Parcel: 334-5.00-208.00 & 208.01.

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

Mr. Lynn Rogers, of Rogers Sign Company, spoke on behalf of the applicant, Donovan's Painting & Drywall, LLC; that the original Conditional Use #2188 was presented on October 29, 2019 and granted with 12 conditions; that the Applicant wants to modify a request for Condition "G" in reference to the signage; that the current sign is in place and it is only 18 square feet in size and it was intended to originally have a small electronic message center included in Condition "Z" of Conditional Use #2188, but there was miscommunication between the Applicant and the engineer; that the existing sign sits about 30 feet back from the right of way and at the request of DelDOT they asked for additional setbacks as they were widening the road and putting in sidewalks; that since the original sign has already met all of the required setbacks put in place, the request now is to install a four by eight electronic message center directly under the current Donovan's Painting & Drywall sign; that the sign will meet all code requirements and will not have any adverse effects on any surrounding properties.

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

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

Mr. Collins moved the Commission to recommend **APPROVAL** of **C/U 2487 Jose Sandoval** for an Electronic Message Center based upon the record made during the public hearing and for the following reasons:

1. This is the site of a prior Conditional Use permit, which was Conditional Use #2188 that was approved in 2019. This application is to modify Condition "G" of that prior approval to allow an on premises electronic message display sign. This type of application is permitted under section 115-161.1 C of the Zoning Code and the sign will be operated in accordance with Section 115-161.1 C of the Zoning Code.
2. The Sign will be located on the Applicant's property and will be used to display information about the Applicant's on-premises business.
3. The sign will be added to a prior static display sign on the site that is on the Applicant's property.
4. The sign will comply with all of the sign regulations in the Zoning Code, as mentioned, including brightness and motion.

5. The sign will not adversely affect the neighboring properties, area roadways and traffic and it is set back approximately 30 feet from edge of the DelDOT right of way.
6. No parties appeared in opposition to this application.
7. Final site plan showing the location of the sign on the site shall be submitted to the Sussex County Planning & Zoning Commission for approval.

Motion by Mr. Collins, seconded by Ms. Wingate and carried unanimously to recommend approval of C/U 2487 **Jose Sandoval** for the reasons and the conditions stated in the motion. Motion carried 4 -0.

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

Meeting adjourned at 4:30 p.m.

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