

## MINUTES OF THE REGULAR MEETING OF **February 19, 2025**

The regular meeting of the Sussex County Planning and Zoning Commission was held on Wednesday afternoon, **February 19, 2025**, 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, Mr. Brian Butler, and Mr. Scott Collins. Also, in attendance were Mr. Jamie Whitehouse – Director of Planning & Zoning, Mr. Vincent Robertson – Assistant County Attorney, Mr. Michael Lowrey – Planner III, Ms. Christin Scott – Planner III, Ms. Ann Lepore – Planner I and Ms. Jessica Iarussi – Recording Secretary.

Motion by Ms. Wingate, seconded by Mr. Collins, and carried unanimously to approve the Agenda as revised. Motion carried 5-0.

Motion by Ms. Wingate, seconded by Mr. Collins, to bring back the Minutes of January 22, 2025, of the Planning and Zoning Commission Meeting. Motion carried 5-0.

## **PUBLIC COMMENT**

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

## **OTHER BUSINESS**

### **C/Z 1759 & C/Z 1973 Osprey Point**

#### **Revised Final Site Plan**

This is a Revised Final Site Plan for Osprey Point for the reconfiguration of Lots 13-16, the inclusion of the “Beach Amenity” located behind lots 14-16, the addition of a “meandering path,” several easements, and the addition of 37 parking spaces in the open space adjacent to Lot 13. The Final Site Plan was originally approved by the Planning & Zoning Commission at their meeting of Thursday, September 14<sup>th</sup>, 2017. The Revised Final Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Tax Parcels: 334-18.00-83.00, 334-18.00-83.17, 334-18.00-1085.00, 334-18.00-1086.00, 334-18.00-1087, & 334-18.00-1088.00 Zoning District: AR-1 (Agricultural Residential Zoning District). Should the Commission desire to act favorably on this proposal, Staff are requesting that final approvals be made subject to Staff upon the receipt of all agency approvals.

Motion by Mr. Collins, seconded by Ms. Wingate and carried unanimously to defer the Revised Final Site Plan to bring back for a public hearing. Motion carried 5-0.

**2024-01 Michael & Tammy Magaha**

**Final Subdivision Plan**

This is a Final Subdivision Plan for the Lands of Michael & Tammy Magaha Subdivision which consists of the creation of one (1) lot and residual lands. The Preliminary Subdivision Plan approved by the Sussex County Planning and Zoning Commission at their meeting of Wednesday, August 21<sup>st</sup>, 2024. The property is located on the northeast side of Concord Road (Rt. 20). This Final Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes as well as all Conditions of Approval. Tax Parcel: 231-17.00-46.00. Zoning: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals. Therefore, the Plans are eligible for both preliminary and final approval.

Motion by Mr. Butler, seconded by Ms. Wingate and carried unanimously to Approve the Preliminary and Final Subdivision Plan. Motion carried 5-0.

**S-24-59 Leeward Chase (C/U 2369)**

**Revised Preliminary Site Plan**

This is a Preliminary Site Plan for Leeward Chase for the construction of community of multifamily structures consisting of fifty-three (53) duplex structures totaling (106) units, an amenity area including a pool and pool house, stormwater management, and internal roads. Multifamily improvements are permitted at the site via Conditional Use (C/U 2369) which was approved by Sussex County Council at their meeting of Tuesday, June 27<sup>th</sup>, 2023, via Ordinance No. 2936. The Plan is proposed on two Parcels totaling (50.797) acres and located on the south side of Lewes Georgetown Highway (Route 9), approximately (0.4) miles east of the intersection of Sand Hill Road (S.C.R. 319) and Lewes Georgetown Highway (Route 9). The Preliminary Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Tax Parcels: 135-15.00-98.00 & 98.01 Zoning District: AR-1 (Agricultural Residential Zoning District). Should the Commission desire to act favorably on this proposal, Staff are requesting that final approvals be made subject to Staff upon the receipt of all agency approvals.

Motion by Ms. Wingate, seconded by Mr. Mears 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 5-0.

**S-25-01 Sussex CSG 1, LLC (C/U 2354)**

**Preliminary Site Plan**

This is a Preliminary Site Plan for a Solar Facility project for the installation and operation of a 4-megawatt community solar facility consisting of photo-voltaic solar panels affixed to steel racking and associated appurtenances, transformers, fencing with interwoven screening, a knox box and other site improvements to be located on a 23.58-acre portion of a parcel of land containing 49 acres total. Staff note that the site was the subject of a previous Conditional Use Application (Conditional Use No. 2354) for the establishment of a solar farm to be located within an Agricultural Residential (AR-1) District. The Application was approved by the Sussex County

Council at their meeting of Tuesday, October 10<sup>th</sup>, 2023, and the use was established through Ordinance No. 2955. Additionally, Staff further note that the Conditional Use Site Plan was submitted prior to (2/23/2022) the approval of the County's Solar Farm Ordinance (Ordinance No. 2920) which was approved by the Sussex County Council at their meeting of Tuesday, April 25<sup>th</sup>, 2023. Therefore, though not a requirement, Staff continue to encourage the application of the minimum standards required through the Ordinance in §115-172(I)(1-8) of the Sussex County Code in this Plan. The property is located on the south side of Old Racetrack Road (S.C.R. 502), approximately 0.75-mile east of Delmar Road (Route 54) in Delmar, Delaware. The Applicant has provided details of the proposed financial security package for decommissioning, for review by the Commission. Subject to the Commission's review of the Applicant's proposed financial security, the Preliminary Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Tax Parcel: 532-20.00-14.00. Zoning: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals. Therefore, the Plans are eligible for both preliminary and final approval.

Motion by Mr. Butler, seconded by Mr. Collins and carried unanimously to Approve the Preliminary and Final Site Plan. Motion carried 5-0.

#### **S-25-03 Deep Branch Park - City of Milford**

##### **Preliminary Site Plan**

This is a Preliminary Site plan submitted on behalf of the City of Milford for the construction of a public park and ancillary improvements including a utility structure, parking, paved access, and a paved multiuse trail network within the site connecting to an ingress/egress on South Rehoboth Boulevard (Route 14) in Milford. The Parcel is lying on the south side of South Rehoboth Boulevard (Route 14) approximately (600) feet west of the intersection of Windward Boulevard. Tax Parcel: 330-11.00-39.00. Zoning District: AR-1 (Agricultural Residential Zoning District). Staff are awaiting agency approvals. If 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 defer the Preliminary Site Plan. Motion carried 5-0.

#### **S-25-05 Woodland Ferry Road Solar Field (F.K.A. Community Power Group)**

##### **Preliminary & Final Site Plan**

This is a Preliminary and Final Site Plan for the construction of a solar facility and other related site improvements. Conditional Use No. 2336 to permit the use at the site was approved by the Sussex County Council at their Meeting of Tuesday, June 6<sup>th</sup>, 2023, via Ordinance No. 2924. The fenced area containing the solar arrays occupies 25.012 +/- acres of the Parcel which is comprised of a total of 39.45 +/- acres. The Parcel is lying on the north side of Woodland Ferry Road (S.C.R. 78) 0.15 miles east of the intersection of Woodland Ferry Road (SCR 78) and Bethel Road (SCR 493) and on the east side of Bethel Road (SCR 493) 0.2 miles north of the intersection of Woodland Ferry Road (SCR 78) and Bethel Road (SCR 493). The Preliminary & Final Site Plan complies

with the Sussex County Zoning Code and all Conditions of Approval. Tax Parcel: 232-5.00-11.03. Zoning District: AR-1 (Agricultural Residential Zoning District). Staff are in receipt of all agency approvals. A Decommissioning Plan has also been included which addresses the financial security component of the Conditions of Approval, therefore the Plan is eligible for both Preliminary & Final Approval.

Motion by Mr. Wingate, seconded by Mr. Mears and carried unanimously to Approve the Preliminary and Final Site Plan. Motion carried 5-0.

#### **2020-19 Monarch Glen (F.K.A. Twin Lakes)**

##### **Amenities Plan**

This is an Amenities Plan for Monarch Glen, a cluster subdivision consisting of two-hundred and forty-six (246) single-family lots, private roads, open space, stormwater management and associated forested/landscape buffers. The Final Subdivision Plan for the proposal was approved by the Planning and Zoning Commission at their meeting of Thursday, May 25<sup>th</sup>, 2023. The Amenities Plan proposes the creation of a 5,582 square foot +/- clubhouse, 3,271 square foot +/- in-ground pool, 6,138 square foot +/- pool deck area and 733 square foot pool house, 33 parking spaces and other ancillary site improvements. The property is located on the south side of Blossom Lane and the east and southeast side of Silver Beech Drive within the existing and previously approved Monarch Glen AR-1/GR cluster subdivision. The Amenities Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Tax Parcel: p/o 334-10.00-59.00. Zoning: AR-1 (Agricultural Residential District) & GR (General Residential District). Staff are in receipt of all agency approvals. Therefore, the Plans are eligible for both preliminary and final approval.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to Approve the Preliminary and Final Amenities Plan. Motion carried 5-0.

#### **2021-02 The Estuary Phase 4**

##### **Amenities Plan**

This is an Amenities Plan for The Estuary Phase 4, a cluster subdivision consisting of one-hundred and sixteen (116) single-family lots, private roads, open space, stormwater management and associated forested/landscape buffers. The Final Subdivision Plan for the proposal was approved by the Planning and Zoning Commission at their meeting of Thursday, December 15<sup>th</sup>, 2022. The Amenities Plan proposes the construction of a 2,732 square foot +/- clubhouse, 2,500 square foot +/- in-ground pool, 9,600 square feet +/- of concrete decking, 27 parking spaces (to include 2 ADA Accessible Spaces), landscaping, a gazebo, walking trail, crabbing and kayak pier and other related improvements. The property is located on the north side of Pier View Lane within the existing and previously approved Estuary Subdivision (2005-64). The Amenities Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Tax Parcel: p/o 134-21.00-11.00. 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 approvals 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 Amenities Plan with final approval be made subject to staff upon the receipt of all agency approvals. Motion carried 4-0.

Ms. Wingate abstained from the motion.

**2021-04 Autumndale (F.K.A. Autumdale & Fairmont)**

**Amenities Plan**

This is an Amenities Plan for Autumndale (F.K.A. Autumdale & Fairmont), a cluster subdivision to consist of one-hundred and four (104) single-family lots, private roads, open space, stormwater management and associated forested/landscape buffers. The Final Subdivision Plan for the proposal was approved by the Planning and Zoning Commission at their meeting of Thursday, July 27<sup>th</sup>, 2023. The Amenities Plan proposes the construction of a 3,195 square foot +/- pool house amenity building, 2,704 square foot +/- pool area, 3,433 square foot +/- deck area, cluster mailbox, patio, walking trail, parking and other supplementary site improvements. The property is located on the south side of Box Elder Way within the existing and previously approved Autumndale Subdivision in Harbeson, Delaware. The Amenities Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Tax Parcel: p/o 234-10.00-14.00. Staff are in receipt of all agency approvals. Therefore, the Plans are eligible for both preliminary and final approval.

Motion by Ms. Wingate, seconded by Mr. Collins and carried unanimously to Approve the Preliminary and Final Amenities Plan. Motion carried 5-0.

**2021-15 Sandpiper Cove (F.K.A. Cobb Property)**

**Request to Amend Conditions of Approval**

On February 3<sup>rd</sup>, 2025, the Department of Planning and Zoning received a Request to Amend Conditions of Approval for the Sandpiper Cove Subdivision. Sandpiper Cove is a cluster subdivision to consist of sixty-eight (68) single-family lots, private roads, open space and amenities to include a pool and pool house. The Final Subdivision Plan was approved by the Planning and Zoning Commission at their meeting of Thursday, June 22<sup>nd</sup>, 2023. The property is lying on the northeast side of Zion Church Road (S.C.R. 382). Tax Parcels: 533-12.00-21.00 & 21.03. Zoning: AR-1 (Agricultural Residential District.)

The Applicant has stated that Condition “I” of the Conditions of Approval as currently provided, presents a problem for the Applicant.

Condition “I” currently provides, *“Amenities including a pool and pool house shall be constructed and open to use by residents of this development on or before the issuance of the 40<sup>th</sup> residential building permit.”*

The Applicant has proposed Condition “I” be amended to state, “The pool and pool house shall be open for use by the residents of this development by Memorial Day weekend 2025. If a Certificate of Occupancy is not secure for the pool and pool house by this time, no additional building permits shall be issued after Memorial Day 2025 until the pool and pool house are open for use.”

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to Approve the Request to Amend Conditions of Approval. Motion carried 5-0.

**Lands of Jodi L. McElwee**

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 30-ft wide ingress/egress access easement. Proposed Lot 1 will consist of 0.964-acres +/- and the residual land will contain 1.378-acres +/- . A shared use maintenance agreement shall be established for the use of the shared access road. The parcel is located southwest side of Argos Corner Road (Road 14). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 230-7.00-80.00 Zoning: General Residential (GR) 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. Collins, seconded by Ms. Wingate 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 5-0.

**Lands of Robert Shipley & Shirley Miller**

Minor Subdivision Plan off a proposed 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 (14A) will consist of 2.40-acres +/- and the residual land (14B) will contain 2.61-acres +/- . A shared use maintenance agreement shall be established for the use of the shared access road. The parcel is located west side of Deep Branch Road (S.C.R. 315). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 234-14.00-2.15 Zoning: Agricultural Residential (AR-1) District. Staff are in receipt of all agency approvals. Therefore, the Plans are eligible for both preliminary and final approval.

Motion by Ms. Wingate, seconded by Mr. Butler and carried unanimously to approve the Preliminary and Final Minor Subdivision Plan off a proposed 50-ft easement. Motion carried 5-0.

**Lands of Jordan Stack**

BB

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 30-ft wide ingress/egress access easement. Proposed Lot 1 will consist of 0.982-acres +/- and the residual land will contain 4.017-acres +/- . A shared use maintenance agreement

shall be established for the use of the shared access road. The parcel is located south of Portsville Road (S.C.R. 492), approximately 3,465-feet east of South Shell Bridge Road (S.C.R. 492). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 432-7.00-15.05 Zoning: Agricultural Residential (AR-1) 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 30-ft easement with final approval be made subject to staff upon the receipt of all agency approvals. Motion carried 5-0.

### **OLD BUSINESS**

#### **C/Z 2012 Rudder Road, LLC**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 30.57 ACRES, MORE OR LESS.** The properties are lying on the east side of Banks Road (S.C.R. 298), approximately 0.61-mile northeast of Long Neck Road (Rt. 23). 911 Addresses: 25352 Rudder Road, Millsboro, 25071 Banks Road, Millsboro, & N/A. Tax Map Parcels: 234-23.00-276.00, 276.01, & 277.00.

The Commission discussed this application which has been deferred since February 5, 2025.

In relation to **C/Z 2012 Rudder Road, LLC**. Motion by Mr. Collins to defer action for further consideration, seconded by Mr. Butler and carried unanimously. Motion carried 5-0.

#### **C/U 2449 Rudder Road, LLC**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (116 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 30.57 ACRES, MORE OR LESS.** The properties are lying on the east side of Banks Road (S.C.R. 298), approximately 0.61-mile northeast of Long Neck Road (Rt. 23). 911 Address: 25352 Rudder Road, Millsboro, 25071 Banks Road, Millsboro, & N/A. Tax Map Parcels: 234-23.00-276.00, 276.01, & 277.00.

The Commission discussed this application which has been deferred since February 5, 2025.

In relation to **C/U 2449 Rudder Road, LLC**. Motion by Mr. Collins to defer action for further consideration, seconded by Mr. Butler and carried unanimously. Motion carried 5-0.

**C/U 2556 William Melton**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A PROFESSIONAL OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.82 ACRES, MORE OR LESS.** The property is lying on the south side of Old Mill Road (S.C.R. 349), approximately 550 feet west of Railway Road (S.C.R. 350). 911 Address: 36294 Old Mill Road, Ocean View. Tax Map Parcel: 134-12.00-73.02.

The Commission discussed this application which has been deferred since February 5, 2025.

Mr. Mears moved the Commission to recommend approval of **C/U 2556 WILLIAM MELTON** for a professional office based upon the record made during the public hearing and for the following reasons:

1. The site is in the Coastal Area according to the current Sussex County Comprehensive Plan. Small offices are appropriate in the Coastal Area according to the Plan.
2. This location is centrally located in an area that contains a lot of existing and new low- and medium-density residential development. This will be a convenient location a small professional office space and will reduce the need for current and future nearby residents to have to travel to Route 26 for services that can be located on this site.
3. The location is served by central water and sewer.
4. The conditional use will not adversely affect area roadways or traffic.
5. The conditional use will also not adversely affect nearby properties or property values.
6. The proposed conditional use meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity and welfare of the County.
7. This recommendation is subject to the following conditions:
  - a. The use shall be limited to a Professional Office with a total square footage that does not exceed 2,150 square feet. No retail sales or outdoor storage shall occur on the site.
  - b. One lighted sign shall be permitted. It shall not exceed 32 square feet per side.
  - c. The applicant shall comply with any DelDOT entrance and roadway improvement requirements.
  - d. Parking areas shall be shown on the Final Site plan and clearly marked on the site itself. No parking shall be allowed in the front yard setback.
  - e. All dumpsters shall be screened from the view of neighboring properties and roadways.
  - f. All security lighting shall be directed downward so that it does not shine on neighboring properties or roadways.
  - g. Stormwater management shall be constructed in accordance with all applicable state and county requirements.
  - h. Failure to comply with these conditions may result in the revocation of the Conditional Use approval.



- i. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Mears, seconded by Mr. Collins and carried unanimously to recommend **APPROVAL** of **C/U 2556 William Melton** for the reasons and the conditions stated in the motion. Motion carried 4-1.

Vote by roll call: Mr. Mears – yea, Ms. Wingate – no, Mr. Collins – yea, Mr. Butler – yea, Chairman Wheatley – yea

**C/Z 2034 Parkada Investments, LLC**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 5.03 ACRES, MORE OR LESS.** The property is lying on the east side of DuPont Boulevard (Rt. 113), approximately 500 feet south of Woods Branch Road (S.C.R. 321). 911 Address: N/A. Tax Map Parcel: 133-2.00-22.00.

The Commission discussed this application which has been deferred since February 5, 2025.

Ms. Wingate moved the Commission to recommend approval of **C/Z 2034 PARKADA INVESTMENTS, LLC** for a change in zone from AR-1 Agricultural-Residential zoning to C-2 “Medium Commercial” zoning based upon the record made during the public hearing and for the following reasons:

1. C-2 Medium Commercial Zoning is designed to support retail sales and the performance of consumer services. It is intended to be located near arterial and collector roads.
2. The Applicant’s property is 5.03 acres that has frontage along Route 113 just outside of the Georgetown Town Limits. It has the Georgetown Speedway property along its rear boundary. This is an appropriate location for C-2 Zoning.
3. Given the location of this property, it is no longer suitable for agricultural or residential uses under the existing AR-1 designation.
4. The site is served by both central water and central sewer.
5. C-2 Zoning at this location at this location will benefit nearby residents of Sussex County by providing a convenient location for the uses permitted in that Zone.
6. Because this property is bordered by Route 113 and the Georgetown Speedway, there is no evidence that this rezoning will have an adverse impact on neighboring properties or area roadways.
7. The site is in the “Developing Area” according to the Sussex County Land Use Plan and Future Land Use Map. C-2 Zoning is appropriate in the Developing Area according to the Plan.

8. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity and welfare of the County.
9. No parties appeared in opposition to the rezoning application.
10. Any future development or redevelopment of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.
11. For all of these reasons, the C-2 Zoning District is appropriate for this location.

Motion by Ms. Wingate, seconded by Mr. Butler and carried unanimously to recommend **APPROVAL of C/Z 2034 Parkada Investments, LLC** for the reasons and the conditions stated in the motion. Motion carried 5-0.

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

**C/Z 2035 Parkada Investments, LLC**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN LI-1 LIMITED INDUSTRIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 23.10 ACRES, MORE OR LESS.** The property is lying on the east side of DuPont Boulevard (Rt. 113), approximately 500 feet south of Woods Branch Road (S.C.R. 321). 911 Address: N/A. Tax Map Parcel: 133-2.00-20.00 & 24.01.

The Commission discussed this application which has been deferred since February 5, 2025.

Ms. Wingate moved the Commission to recommend approval of **C/Z 2035 PARKADA INVESTMENTS, LLC** for a change in zone from an AR-1 Agricultural Residential District to a LI-1 Limited Industrial District based upon the record made at the public hearing and for the following reasons:

1. The County's Future Land Use Map designation for this property is the "Developing Area" designation. The LI-1 Zoning District is an appropriate zoning designation within the "Developing Area" according to the County's Future Land Use Map and the Comprehensive Plan.
2. The property is also located along Route 113 and next to the Georgetown Speedway property. This location is appropriate for LI-1 Zoning. Conversely, it is no longer viable to use the property for agricultural or residential purposes under the existing AR-1 zoning.
3. The proposed LI-1 Zoning at this location is consistent with the purposes of that zoning district as stated in Section 115-92 of the Sussex County Zoning Code.
4. There is a need for smaller shovel-ready light industrial sites at appropriate locations like what is proposed with this Application. This small LI-1 Industrial Park serves this need in Sussex County.

5. The rezoning will promote the local economy and will create and preserve jobs in the area for Sussex County residents.
6. No parties appeared in opposition to this application.
7. Any future use and development of the property will be subject to site plan review by the Sussex County Planning and Zoning Commission.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to recommend **APPROVAL** of **C/Z 2035 Parkada Investments, LLC** for the reasons and the conditions stated in the motion. Motion carried 5-0.

Vote by roll call: Mr. Mears – yea, Ms. Wingate – 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 2468 Richard H. Bell, III**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MOBILIZATION YARD FOR THE PARK AVENUE RELOCATION PROJECT TO INCLUDE THE STORAGE OF SOIL AND MATERIALS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 5.96 ACRES, MORE OR LESS.** The property is lying on the southeast side of Lewes Georgetown Highway (Rt. 9), approximately 0.23 mile southwest of Park Avenue (S.C.R. 321). 911 Address: 22592 Lewes Georgetown Highway, Georgetown. Tax I.D. No.: 135-15.00-79.03.

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, a copy of the letter received from the Sussex County Engineering Department Utility Planning Division, and zero comments. To provide a brief summary of the background of this application, this is a violations case that came through the Constables office; that there was a prior CU application which was approved for a contracting business with outdoor storage and the crushing of concrete that was Conditional Use 2468, which was approved by Council in August of 2017; that prior to that, the Applicant did submit a site plan and that site plan was approved in February of 2022; that that approved site plan is the basis of your conceptual site plan today; that following the approval of that CU, it was noted that there was a significant storage of soil on the property and that triggered an outreach to the Applicant, which led to the submittal of this application.

Mr. David Hutt, Esq., of Morris James, LLP, spoke on behalf of the Applicant that this is an application for a mobilization yard for a road construction project that is being done through DelDOT; that there is currently a large pile of topsoil with a smaller pile of organic material behind it located on the property; that these materials were brought to the site by the general contractor as part of Phase One of the Park Ave. relocation project, which is specifically DelDOT project number T-2020004601, which is for the relocation of Park Ave. to extend the runways at the Delaware Coastal Airport; that Mr. Allan Myers was the general contractor for the Park Ave. relocation and as they were doing the work they were looking for a location for the soil, shrubbery, tree roots and other organic materials that were being generated by that site work to be stored; that Mr. Bell's property is on Route 9, less than 1/4 mile from its intersection with Park Ave., and his property is fenced and is being used as a contractor's yard for his business, Clean Cut Pavers and Pools; that this was an ideal location to Mr. Allan Myers to begin transporting materials and leaving them there as needed as part of the site work for the relocation of Park Ave.; that as the pile grew the Constables noted and a violation was issued which triggered this application; that there was an existing Conditional Use 2083, Ordinance #2515 for an office, storage building, storage yard and crushing of concrete for a contracting business; that the concrete crushing was for a limited time to get rid of an existing pile of concrete that was on the property; that this is a temporary use that will occur as long as it is permitted by the County during the relocation work for Park Ave.; that Phase One of this project started on Route 113, with the reconstruction of Arrow Safety Rd. starting at Route 113 and leading to a new roundabout that was installed on South Bedford St.; that this phase also included the construction of that new roundabout and the relocation of Park Ave. to connect to the roundabout and head to the southern boundary of the airport, where Phase One of the relocation work ended; that Phase Two will pick up at the southern boundary of the airport and then redo Park Ave. all the way to Route 9 and then some of the greater Route 9 area at the intersection of Park Ave. and Route 9; that Phase Two is still in the bidding stages, so the hope is that Mr. Allan Meyers will get that contract and utilize the Applicant again for the storage of the materials; that that is the reason for the temporary usage request; that the Applicant proposes a time limit that coordinates with the completion of the Park Ave. relocation, specifically that within 180 days of the completion of Phase Two all of the topsoil and other materials that were brought to the site will be removed from the property; and that there are two (2) proposed Conditions from the Applicant, being:

1. The Conditional Use shall allow the property to be used for a temporary mobilization yard for DelDOT's Park Ave. relocation project, Phase One and Phase Two.
2. The time limit is for all the materials as part of the Park Ave. relocation project and shall be removed within 180 days of the conclusion of Phase Two of the project.

That Sussex County can ensure that the use is first of all related to the Park Ave. relocation project and secondly that it is a temporary use that will only occur during the duration of the project; that this application came forward as a result of a violation against the current Conditional Use that was for the storage of the stone and materials for the Applicant's paver company; that the build up of the organic material caused a violation and now the need to have a new Conditional Use for this property; that Mr. Allan Meyers brought in soil and all of the grubbing activities from Phase One

of the project and some of those items have already been redistributed back out, but those that have not are hoped to be used in Phase Two; and that if they do not use it in Phase Two then Mr. Allan Meyers will need to remove it from the Applicant's property at the completion of the project.

Ms. Wingate asked if the wood chips, tree stumps and tree debris would be used for Phase Two of the project?

Mr. Richard Bell, III, the Applicant, stated that the plan is to grind that into a fine mulch and mix it with the topsoil, so they have this bio mix for the next phase.

Mr. Robertson stated that the current Ordinance prohibits any further grinding of any material being brought onto the site or already on the site and now new material has been brought onto the site besides the dirt and there is grinding of that material.

Mr. Hutt stated that if the Commission recommends approval, then a condition can be made for the materials that are grubbed from the Park Ave. project can be grinded and mixed with soil at the site and then removed from as part of Phase Two; that the hours of operation would be consistent with the current Conditional Use which is 7:00AM-5:00PM.

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 2468 Richard H. Bell, III**. Motion by Ms. Wingate to defer action for further consideration, seconded by Mr. Mears and carried unanimously. Motion carried 5-0.

**C/Z 2019 Citation Rentals, LLC**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A 9.99 ACRE PORTION OF CERTAIN PARCELS OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 11.00 ACRES, MORE OR LESS.** The property is lying on the southwest side of DuPont Boulevard (Route 113), approximately 0.33 mile southeast of Governor Stockley Road (S.C.R. 432). 911 Address: 26062 and 26072 DuPont Boulevard, Georgetown. Tax Parcels: 133-6.00-39.00, 41.00 (p/o) & 42.00).

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the applicant's exhibit book, which includes a copy of the applicant's proposed zoning plan, a copy of the staff analysis, a copy of the DelDOT SLER letter and zero comments.

Mr. David Hutt, Esq., of Morris James, LLP, spoke on behalf of the applicant that this is for the land surrounding Stockley Tavern on the Western side of DuPont Blvd.; that the property is

surrounded by commercial zoning up and down DuPont Blvd.; that there is approximately just under ten (10) acres of land that is being sought to be changed to C2 Zoning District to include retail sales and performance of consumer services; that all areas along both sides of DuPont Blvd are long standing commercial zoning classifications which fits right in with what is being proposed here; that the property meets the height area and bulk requirements for a C2 Zoning classification, the zoning code requires a minimum of 15,000 square feet and this is almost ten (10) acres; that the zoning code requires a width of 75 feet of road frontage and this has hundreds of feet of frontage along around Rte. 113; that the required depth is 100 feet, which is again easily met by this site, there are no wetlands located on the property, the property is not within a flood zone as it is in the area that is shown as zone X on FEMA's flood maps; that the site has well drained soils that are suitable for on-site wastewater treatment; that the property soils that are designated as fair with respect to their potential for groundwater recharge; that the Comprehensive Plan describes zoning districts applicable to future land use categories, indicates that the C2 Medium Commercial Zoning district is one of the applicable zoning districts in the low density areas on the 2045 Future Land Use Map; that a Service Level Evaluation Request was sent to DelDOT and DelDOT asked in response that this application be considered without a traffic impact study as the determination of traffic would be made based upon a future submission with respect to a land use development plan, subdivision plan or site plan; and that the Planning Commission and the staff for the Planning and Zoning Office will be checking to make sure the site plan complied with the requirements of the zoning code, parking requirements were met, the State Fire Marshals requirements were met, stormwater management requirements were met and all of the other types of review when a site plan is submitted.

Mr. James Baxter, of 23073 Zoar Rd., spoke in favor of the application that he owns the land west of this property and believes that making this into a commercial property is a great idea and benefit to the County.

Mr. Terry Timmons, who owns the property across the street from the applicant and wants the Commission to know that he is in favor of this property becoming Commercial Zoned.

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 2019 Citation Rentals, LLC**. Motion by Ms. Wingate to defer action for further consideration, seconded by Mr. Mears and carried unanimously. Motion carried 5-0.

**C/U 2473 David A. & Sandra W. Blank**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CAMPGROUND TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 30.76 ACRES, MORE OR LESS. The**

property is lying the north side of Jay Patch Road (S.C.R. 376A) approximately 0.46 mile southeast of Pepper Road (S.C.R. 376). 911 Address: N/A. Tax I.D. No.: 533-9.00-58.00.

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the Applicant's conceptual site plan, a revised copy of that conceptual site plan, a copy of the staff analysis, a copy of the Applicant's exhibits, a copy of the DelDOT SLER letter and we have received 5 comments which are included in your paperless packet; that this case went through a prior application through the Planning and Zoning Commission on November 17, 2022, which was Conditional Use 2325, and it went to County Council on January 24, 2023, and was denied by County Council at its meeting of June 13, 2023.

Sandra and David Blank, the Applicants, spoke on behalf of themselves that they were reapplying for the Conditional Use to have a campground on their property as the original application was denied back in 2023; that they have taken into consideration all of the concerns and compliances that were brought about in the previous hearing and would like to present a new application with the remedied actions; that the Applicants purchased 30.7 acres in Selbyville in hopes of putting a home and a workshop on the property, but finances have limited that from happening; that they have decided to apply for the Conditional Use for a private campground to host family and friends; that this idea has been brought about since they currently spend their daytime hours, seven days a week in a lab in Selbyville; that in the lab, there is water, toilet facilities, food storage and cooking facilities needed for daily life; that for many years they have been only sleeping in the trailer on the land and transporting all of our waste from the trailer to the Williamsville Engine lab for disposal; that the plan is for a private, non-revenue campground with only two 2,000sq foot camp sites and to have a main house with the toilet and shower facilities for those camp sites; that the camp sites are simple in that they are just a cleared area of land with a power box on each one; that they have been working with DNREC to put in a raised septic and working with an engineer to put in the septic as the schematics will be within the residence on the property; that the plan is to keep the one trailer they are using on the camp site and utilize the other for other camping options with a main house to have the bathroom facilities inside; that there is a 30 foot buffer on the front of the property which blocks all camp sites from neighboring properties; that the previous Conditional Use had 13 conditions relative to approval from the Planning and Zoning Commission and all of those have been met for this new application; and that when the County Council denied the previous application, they took the reasons that were listed and made adjustments to this current application to be sure to justify the means of having this campground approved.

Mr. Mears asked for clarification if the campground was going to have only the two (2) sites and if the camper would be there permanently or only until the house was to be built. Also, could there be clarification on the sewage and showers.

Mr. Blank stated that the intent is to keep the camper on the site even after the house was built so that guests would have the option to utilize it and have the other camp site empty to be used with

a camper or tenting; and that the toilets and showers for both camp sites will be located in the house that will be built with a full septic system.

Ms. Wingate asked about the plans for the house that is going to be built and the use of the land and campground once the house is built. There are questions as to why a campground would be needed if the plan is to build a 5-bedroom house on the property.

Mr. Blank stated that the house would be considered a guest house and that people would have the option to either stay in one of the bedrooms in the house or at one of the camp sites; that the requirements for a campground state there must be a managers residence on the property and since that will be built the plan is to have the shower/bathroom facilities within that and have extra space for guests to stay.

Mr. Whitehouse stated for clarification that the dwelling can be built by right anytime once the proper permits are received, and once that happens then the actual campground need is no longer a necessity; that the reason for the campground application is because the applicants are currently living in the trailer on the property and that is not allowed per code. Once the house is built and they move into that then the camp sites are no longer needed, but what has triggered this application is that they are using the property as a camp without a dwelling.

Mr. Blank stated that the reason that they have been living in the trailer is because they could not afford to build the house just yet and the only option that they had was to keep the camper on the property and stay in that until the finances became available to build a home; and that the plan is to get the septic put in and then build the home and then complete the camp sites.

Mr. William Pepper of 35409 Pepper Rd., spoke in opposition to the application that they do not want a campground, but would be ok if they were to build a home; and that they just do not want people coming and going from the property.

Mr. Matt Mitchell, of 30291 Jay Patch Rd., spoke in opposition to the application that the land surrounding the property in this application has been hunted by his family for years and the idea of campers walking around those woods could pose a threat to them and no one obeys the No Trespassing signs that he has up.

Mr. Mark Meckes, who lives directly across the street from the applicant, spoke in opposition because the traffic that would increase on Jay Patch Rd. would be detrimental to it as the road is not built to accommodate anymore cars; that the road is currently not wide enough for large vehicles to be coming and going; and that he stands in his kitchen window and looks directly at the proposed camp sites and he does not want to have to look at people day and night and that this is not what he bought his house to look at.

Mrs. Edith Meckes, spoke in opposition to the application that this campground was only brought about after poor financial planning on the part of the applicant and the fact that they could not



afford to build a home like everyone else; that a campground will negatively impact property values and that their tiny road cannot accommodate traffic of a campground; and that the Applicant appears to be reapplying for a Conditional Use to continuing living in the camper on their property and stalling on actually proceeding with the build.

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 2473 David A. & Sandra W. Blank**. Motion by Mr. Mears to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 5-0.

**RECESS: 5:44PM-5:49PM**

**C/U 2482 Aron and Pamela Osterlund**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A RECREATIONAL VEHICLE AND TENTING AREA TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 4.24 ACRES, MORE OR LESS.** The property is and lying the east and west side of Crepe Myrtle Drive and on the south side of Lotus Lane, approximately 1,200 feet east of John J. Williams Highway (Rt. 24). 911 Address: 33961 Crepe Myrtle Drive, Lewes. Tax I.D. No.: 334-18.00-30.00.

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 the DelDOT SLER letter and one comment.

Mr. Aron Osterlund, the applicant, spoke on behalf of himself that he wants to put in a recreational vehicle and tenting area on his property so that he can have about four (4) to five (5) camp sites for friends and family to come and stay; that he was told that you cannot have people coming and staying in tents or RV's on his property; that his hand drawn plan has twelve (12) camp sites, but in reality it would be more like four (4) to five (5); that he is not sure if he is meeting the requirements necessary for a campground and he may need to review his application; and that if the Commission would allow he would like to go back, reevaluate his application and plans and check all of his requirements for a campground.

Mr. Robertson stated that it would be in the best interest of the applicant to talk to an engineer or surveyor and come up with an actual plan that complies with all the requirements of the Ordinance for Sussex County.

Mr. Wheatley stated that the best idea may be to table this application and come back after reviewing the code and better plans in place.

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 2482 Aron and Pamela Osterlund**. Motion by Mr. Collins to table for further consideration and added to an agenda at a later date once a formal site plan has been supplied seconded by Mr. Mears and carried unanimously. Motion carried 5-0.

**Meeting adjourned at 6:01 p.m.**

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