

MINUTES OF THE REGULAR MEETING OF **May 22, 2024**

The regular meeting of the Sussex County Planning and Zoning Commission was held on Wednesday afternoon, **May 22, 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. Also, in attendance were Mr. Vincent Robertson – Assistant County Attorney, Mr. Jamie Whitehouse – Planning & Zoning Director, Ms. Lauren Devore – Planner III, Ms. Ann Lepore – Planner I and Ms. Jessica Iarussi – Recording Secretary.

Mr. Whitehouse reported to the Commission that C/U 2417 White House Beach, Inc. was not included in the agenda for this meeting, and it will be re-advertised for new Public Hearing dates at a future meeting.

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

Motion by Ms. Wingate, seconded by Mr. Collins and carried unanimously to approve the minutes of the April 24, 2024, Planning & Zoning Commission meeting as circulated. Motion carried 4-0.

PUBLIC COMMENT

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

OTHER BUSINESS

C/Z 1958 & 1844 Westridge Shores RPC

Final Site Plan

This is a Final Site Plan for a Residential Planned Community (RPC) to consist of fifty-four (54) single-family lots, private roads, open space, sidewalks, and proposed amenities to include a community pier, a mulched walking path, two (2) kayak racks, two (2) park benches and a gazebo. The property was the subject of two (2) related Change of Zone Applications. The first was the Change of Zone 1844 for a change of zone from an Agricultural Residential (AR-1) District to a General Residential, Residential Planned Community (GR-RPC). This Application was approved by the Sussex County Council at their meeting of Tuesday, March 13th, 2018, through Ordinance No. 2555. The second was the Change of Zone 1958 to re-establish the previously approved and then expired RPC overlay, from a General Residential (GR) District to a General Residential District, Residential Planned Community (GR-RPC). This Application was approved by the Sussex County Council at their meeting of Tuesday, July 12th, 2022, through Ordinance No. 2873. The Preliminary Site Plan was approved by the Commission at their meeting of Thursday, September 28th, 2023. The property is located on the north and northeast sides of Banks Road (S.C.R. 298), approximately 0.49-mile southeast of John J. Williams Highway (Route 24). The

Final Site Plan complies with the Sussex County Zoning and Subdivision Codes and all Conditions of Approval. Zoning: GR-RPC (General Residential District, Residential Planned Community). Tax Parcel: 234-17.00-165.00. Staff are in receipt of all agency approvals.

Motion by Mr. Collins, seconded by Ms. Wingate and carried unanimously to approve the Final Site Plan. Motion carried 4 -0.

S-24-06 Chesapeake SU113 Solar, LLC (F.K.A. TPE DE SU113, LLC)

Final Site Plan

This is a Final Site Plan for the construction of a Solar Farm and related site improvements. Conditional Use No. 2344 to allow for the use of the site as a Solar Farm was approved by the Sussex County Council at their meeting of Tuesday, February 21st, 2023, through Ordinance No. 2906. The Preliminary Site Plan was approved by the Planning and Zoning Commission on February 21, 2024. The property is located on the east side of East Trap Pond Road (S.C.R. 62). The Final Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Zoning: AR-1 (Agricultural Residential District). Tax Parcel: 135-22.00-23.00. The Applicant has added the requested “woven fabric” to the fence detail but requests that the Commission reconsider this request and have included reasons for the Commission’s consideration. Staff are in receipt of all agency approvals.

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

S-24-12 Chesapeake SU94 Solar, LLC (F.K.A. TPE DE SU94, LLC)

Final Site Plan

This is a Final Site Plan for the construction of a Solar Farm and related site improvements. Conditional Use No. 2347 to allow for the use of the site as a Solar Farm was approved by the Sussex County Council at their meeting of Tuesday, June 20th, 2023, through Ordinance No. 2933. The Preliminary Site Plan was approved by the Planning and Zoning Commission on February 21st, 2024. The property is located on the east side of North Old State Road (S.C.R. 213). The Final Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Zoning: AR-1 (Agricultural Residential District). Tax Parcel: 230-12.00-39.00. The Applicant has added the requested “woven fabric” to the fence detail but requests that the Commission reconsider this request and have included reasons for the Commission’s consideration. Staff are in receipt of all agency approvals.

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

S-24-24 Bridgeville Renewable Solar - AKA Rifle Range Road Solar, LLC

Final Site Plan

This is a Preliminary and Final Site Plan for the construction of a Solar Facility and related site improvements. Conditional Use No. 2388 to allow for the use of the site as a community solar array was approved by the Sussex County Council at their meeting of Tuesday, January 23rd, 2024, through Ordinance No. 2973. The property is located on the south side of Rifle Range Road (S.C.R.

545), approximately 1.14 mile east of Sussex Highway (Route 13). The Final Plan complies with the Sussex County Zoning Code and the Conditions of Approval. Zoning: AR-1 (Agricultural Residential District). Tax Parcel: 131-15.00-51.00. Staff are in receipt of all agency approvals therefore the Plan is eligible for both Preliminary and Final Approvals.

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

S-24-18 Iron Horse Ranch (F.K.A. Beaver Dam Enterprises, LLC) (C/U 2350)

Preliminary Site Plan

This is a Preliminary Site Plan for the establishment of for a proposed 2-unit multifamily dwelling structure, parking and other related site improvements. The property was the subject of a previous Conditional Use Application, Conditional Use No. 2350 filed on behalf of Beaver Dam Enterprises, LLC, which was approved by the Sussex County Council at their meeting of Tuesday, December 12th, 2023, and the change was adopted through Ordinance No. 2967. The property was also the subject of a previous Future Land Use Map Amendment (Ord. 23-11) to amend the Future Land Use Map from a Rural Area designation of “Low Density Area” to a Growth Area designation of “Coastal Area.” The Sussex County Council approved the Application at their meeting of Tuesday, December 12th, 2023, and the change was adopted through Ordinance No. 2966. Staff note that a vegetated buffer of 75-ft has been shown on the Plans in accordance with §115-22(G) (1-7) *“utilizing existing trees and other vegetation to the fullest extent with infill planting as needed”* as outlined and required in Condition “H” of the Conditions of Approval. The Preliminary Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Zoning: AR-1 (Agricultural Residential District). Tax Parcel: 234-6.00-6.02. Staff are awaiting receipt of DelDOT’s final approval on the project through the issuance of a Letter of no Contention (LONC). All other agency approvals have been received. 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 to include the submittal of a separate landscape plan which provides further clarity regarding the buffer areas to be preserved and areas to contain these infill plantings.

Motion by Mr. Collins, seconded by Ms. Wingate and carried unanimously to approve the Preliminary Site Plan with final approval to be given by the staff subject to the receipt of all agency approvals and a landscape plan detailing the buffers. Motion carried 4 -0.

S-24-19 West Fenwick Plaza

Preliminary Site Plan

This is a Revised Preliminary Site Plan for the construction of a 4,100 square foot building for use as a bank and a restaurant and other site improvements. The Commission reviewed this Preliminary Site Plan at their meeting of Wednesday, May 8th, 2024, and it was returned to the Applicant to re-design the layout of the loading zone on the Site Plan. The property is located on the north side of Lighthouse Road (Route 54), the west side of West Fenwick Boulevard and the south side of Lion Drive in Selbyville, Delaware. The Preliminary Site Plan complies with the Sussex County Zoning Code. Zoning: B-1 (Neighborhood Business District). Tax Parcels: 533-12.00-80.07. 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 Preliminary Site Plan. Motion carried 4 -0.

2018-13 Anchors Run

Request to Amend Conditions of Approval

On May 1st, 2024, the Planning and Zoning Department received a written request to amend Conditions of Approval for the Anchors Run Subdivision. Anchors Run is a cluster subdivision consisting of two-hundred and sixty-five (265) lots on a 132.71-acre parcel of land, stormwater management, private roads and open space. The Revised Final Subdivision Plan for the Subdivision was last approved by the Planning and Zoning Commission at their meeting of Thursday, February 11th, 2021. Specifically, the request is to amend Condition “K” of the Conditions of Approval which currently requires, “*The developer shall complete all amenities prior to the issuance of the 100th residential building permit*” to now require, “*The developer shall complete all amenities prior to the issuance of the 159th residential building permit.*” The proposed amended language is consistent with current Code requirements, which require all amenities to be completed by the issuance of the residential building permit representing 60% of the total residential building permits for the subdivision. The Applicant has also submitted with the request, a copy of the Revised Plans noting the proposed Condition of Approval and a schedule of construction which notes that, at this time, 109 permits have been issued and 7 are pending. The schedule of construction document further notes that construction on the previously approved pool house is scheduled to begin on June 1st, 2024, with the anticipated completion of the remaining amenities to take place by the end of August of this year. The property is located on the east side of Beaver Dam Road (S.C.R. 23), approximately 0.09-mile south of Hopkins Road (S.C.R. 286) in Lewes, Delaware. Zoning: AR-1 (Agricultural Residential District). Tax Parcels: 234-6.00-19.00 & 20.01.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to approve the Request to Amend Conditions of Approval. Motion carried 4 -0.

2004-52 Holland Mills

Request to Amend Final Subdivision Plan

The Planning and Zoning Department has received a request to amend the Final Subdivision Plan for the Holland Mills Subdivision which received Final Approval from the Planning & Zoning Commission at their meeting of Thursday, July 26th, 2007. Specifically, the Applicant is requesting to amend the Final Subdivision Plan for the removal of the walking path between Lots #125 and #126 as well as the portion of the trail at the far southwest portion of the community. The Applicant has submitted a written request describing the revisions to the path. Additionally, a representative of the community has submitted into the record an accounting of the voting ballots from the residents of Holland Mills in relation to the proposed changes. This previously approved AR-1 cluster subdivision contains (136) single-family lots on 68.29 acres +/- and is located on the south side of Walker Road (S.C.R. 260). Tax Parcel: 235-26.00-8.00. Zoning: AR-1 (Agricultural Residential District).

Motion by Mr. Collins, seconded by Ms. Wingate and carried unanimously to approve the Request to Amend Final Subdivision Plan. Motion carried 4 -0.

Lands of Del Beach & Delnova Properties, LLC

Minor Subdivision Plan off of a proposed 30-ft. Easement

This is a Minor Subdivision Plan for the creation of three (3) lots plus residual lands with access off of a proposed 30-ft wide ingress/egress access easement. Proposed Lot 1 consists of 0.23 acres +/-, proposed Lot 2 consists of 0.23 acres +/-, proposed Lot 3 consists of 0.24 acres +/-, and the residual lands shall consist of 0.25 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 N. Old State Road (S.C.R. 213). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 230-26.00-75.06. 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.

Mr. Whitehouse stated for clarification that there is question as whether the paving is going to extend all the way to the rear of this property to serve the new units; that the final site plan should show where the shared agreement is, but it doesn't show if its going to be paved or not; that the final site plan needs to have the shared agreement not only shown, but whether it will be gravel or paved.

Mr. Robertson stated that for the record it was to be noted that the current dwelling on the site plan is to be removed.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to approve the Minor Subdivision Plan off of a proposed 30-ft. Easement with final approval to be given by the staff subject to the receipt of all agency approvals and final site plan shows the entrance/Right of Way marked and materials used for the shared agreement. Motion carried 4 -0.

Lands of Emily C. McHugh

Minor Subdivision Plan off of a proposed 50-ft Easement

This is a Minor Subdivision Plan for the creation of two (2) lots plus the residual lands off with access off of a proposed 50-ft wide ingress/egress access easement. Proposed Lot 1 (designated on the Plans as "Parcel 1") consists of 1.0023 acres +/-, Proposed Lot 2 (designated on the Plans as "Parcel 2") consists of 1.0096 acres +/- and the residual lands shall consist of 1.00 acre +/- . A shared use maintenance agreement shall be established for the use of the shared access road. The property is located on the south side of Fisher Road (S.C.R. 262). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 334-10.00-69.00. Zoning: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals.

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

Lands of Property Wothers, LLC

Minor Subdivision Plan off of a proposed 30-ft. Easement

This is a Minor Subdivision Plan for the creation of two (2) lots plus the residual lands with access off of a proposed 30-ft wide ingress/egress access easement. Proposed Lot 4 consists of 3.0618 acres +/-, proposed Lot 5 consists of 2.56 acres +/-, and the residual lands shall consist of 10.00 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 Bacons Road (S.C.R. 515). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 432-14.00-9.03. Zoning: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to approve the Preliminary & Final Minor Subdivision Plan off of a proposed 30-ft. Easement. Motion carried 4 -0.

OLD BUSINESS

C/U 2497 Bethany Court Ventures, LLC

An Ordinance to grant a Conditional Use of land in an MR Medium-Density Residential District for multi-family dwellings (6 units) to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 1.28 acres, more or less. The property is lying on the east side of Coastal Highway (Rt. 1), approximately 0.19 mile north of the intersection of Coastal Highway (Rt. 1) and Indian Harbor Villas Drive. 911 Address: N/A. Tax Map Parcel: 134-5.00-4.00.

The Commission discussed this application which has been deferred since May 8, 2024.

Mr. Robertson read Mr. Mears' prepared motion per Mr. Mears' request.

Mr. Collins moved that the Commission recommend approval of Conditional Use # 2497 for Bethany Court Ventures, LLC, for 6 Multi-Family Units in a MR Medium-Density Residential District based on the record made during the public hearing and for the following reasons:

- 1) This application seeks the approval of 6 multi-family structures on approximately 1.28 acres of land. The location was previously approved for 6 multi-family units in 2007 as Conditional Use #1639. That prior approval has since lapsed, and this application seeks to reinstate an approval for a similar 6-unit project.
- 2) Six new multifamily units in this location will not overburden this property and will be similar to the other developments and densities to the south of this site and across Coastal Highway from this site.
- 3) The site is in the Coastal Area according to the Sussex County Comprehensive Plan. This type of development is appropriate in this Area according to the Plan, which states that "a range of housing types" are acceptable here, including medium and high densities when a site is served by central water and sewer, where the use is in keeping with the character of the area and other similar factors. These types of considerations exist with regard to this site.
- 4) The proposed development will not have an adverse impact on the neighboring properties or community.

- 5) The proposed development will not have an adverse impact upon traffic or roadways.
- 6) The development will be served by central sewer provided by Sussex County.
- 7) The development will be served by central water.
- 8) There was no opposition to this conditional use.
- 9) This recommendation is subject to the following conditions:
 - A. The maximum number of residential units shall be 6.
 - B. The developer and then the condominium association shall be responsible for the perpetual maintenance of the project's stormwater management facilities, erosion and sedimentation control facilities, roadways and other common areas.
 - C. All entrance, intersection, roadway and multi-modal improvements shall be completed by the developer as required by DelDOT.
 - D. The trash receptacles shall be standard roll-out residential containers assigned to the 6 units. They shall be stored in an enclosed area on the area of this site where the building is located. No dumpster shall be permitted.
 - E. The project shall be served by Sussex County sewer. The developer shall comply with all Sussex County Engineering Department requirements including any offsite upgrades necessary to provide service to the project.
 - F. The project shall be served by central water to provide drinking water and fire protection.
 - G. Construction activities, including site work and deliveries, shall only occur between 8:00 am and 5:30 pm Monday through Friday, and between 8:00am and 4:00pm on Saturdays. There shall be no construction activities at the site on Sundays. A 24 inch by 36 inch "NOTICE" sign in English and Spanish confirming these hours shall be prominently displayed at all entrances to the site during construction.
 - H. The Final Site Plan shall contain the approval of the Sussex County Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities. The system shall be designed and maintained using best management practices.
 - I. The Final Site Plan shall include a Grading Plan for the site. No building permits shall be issued until an individual lot grading plan has been supplied to and approved by Sussex County. No certificate of occupancy shall be issued until a grading certificate is submitted to the Building Code Department demonstrating general conformity with the individual site grading plan.
 - J. A 10-foot wide landscaped buffer shall be installed along the southern boundary of this property as depicted on the Preliminary Site Plan. A landscape plan showing the landscape throughout this project and including this buffer area shall be included as part of the Final Site Plan.
 - K. A construction fence shall be erected that is high enough to act as a sufficient barrier against blown or discarded construction materials and debris scattering across or impacting the adjacent beach, State land, Coastal Highway or other adjacent properties. In addition, all construction dumpsters shall be covered when not actively in use.
 - L. 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 Ms. Wingate and carried unanimously to recommend approval of C/U 2497 Bethany Court Ventures, LLC. for the reasons and the conditions stated in the motion. Motion carried 4-0.

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

C/U 2514 Bruce Sentman

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for a small engine & lawn mower repair business and sales shop to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 42,961 square feet, more or less. The property is lying on the east side of Sheep Pen Road (S.C.R 328), approximately 250 feet northeast of Godwin School Road (S.C.R. 410). 911 Address: N/A. Tax Map Parcel: 133-16.00-73.03.

The Commission discussed this application which has been deferred since May 8, 2024.

Ms. Wingate moved that the Commission recommend approval of Conditional Use # 2514 for Bruce Sentman to modify his existing conditional use for small engine and lawn mower repairs to permit the sale of golf carts based on the record made during the public hearing and for the following reasons:

1. On September 16, 2014, Sussex County Council Approved Ordinance # 2364 for Conditional Use #1989 to allow this applicant to perform repairs on small engines, generators and lawn mowers.
2. The Applicant has conducted this business successfully at this location and seeks to add the ability to sell golf cars from the location in addition to the repair service.
3. The Applicant intends to continue to keep this business small and without any employees. The Applicant will continue to reside upon the property.
4. This is a limited and reasonable expansion of the Applicant’s business and will not have any adverse impact upon traffic or the neighborhood.
5. There was no opposition to this application.
6. The conditions imposed by Ordinance #2364 and Conditional Use # 1989 shall remain in effect, except that Conditions A and E of that Ordinance shall be modified to allow the retail sales of golf cars (and similarly designed vehicles) from the premises. Provided, however, that (a) the golf cars shall be stored indoors when not displayed; (b) the golf cars shall only be displayed outdoors during daylight hours; and (c) the golf cars shall not be displayed within the property’s setbacks.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to recommend approval of C/U 2514 Bruce Sentman for the reasons and the conditions stated in the motion. Motion carried 4-0.

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

Ord. 24-02 (Accessory Dwelling Units)

AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 110, ARTICLE III, SECTIONS 110-9 AND CHAPTER 115, ARTICLES I, IV, V, VI, VII, VIII, IX AND XXVII SECTIONS 115-4, 115-20, 115-23, 115-29, 115-32, 115-40, 115-48, 115-53, 115-56, 115-64, AND 115-210 REGARDING ACCESSORY DWELLING UNITS.

The Commission discussed this application which has been deferred since May 8, 2024.

Mr. Robertson read Ms. Wingate's prepared motion at the request of Ms. Wingate.

Ms. Wingate moved that the Commission recommend adoption of Ordinance No. 24-02 regarding Accessory Dwelling Units based on the "Whereas" clauses contained within the Ordinance as well as the record made during the public hearing. This recommendation is also subject to several proposed revisions to the Ordinance.

1. There is a need for this Code change, and there is the need for additional housing options in Sussex County. This Ordinance will enable more housing options to become available throughout Sussex County.
2. The current Code provisions are outdated and unduly burdensome. For example, the Code currently refers to "Garage/Studio Apartments" which is term with unnecessary restrictions. "Accessory Dwelling Unit" is a broader and more widely accepted term.
3. This Ordinance eliminates the discretionary review of a potential "Garage/Studio Apartment" that currently exists and makes an Accessory Dwelling Unit a permitted use in all residential zoning districts if the minimum requirements are met.
4. This Ordinance creates greater clarity and certainty with regard to the ability to establish Accessory Dwelling Units in appropriately sized locations.
5. The minimum standards in this Ordinance are appropriate for the following reasons:
 - A. No Accessory Dwelling Unit can exceed 1,000 square feet in size, and it cannot be larger than 50% of the floor area of the primary dwelling on a property. This is necessary to maintain appropriate densities in the residential zoning districts and not overburden existing internal and external roadways, utilities and other factors. Without this reasonable limitation, an Accessory Dwelling Unit could potentially become a full-sized second dwelling or duplex on a property (and therefore potentially double the density of the property or development), which is not the intention of this housing initiative and Ordinance.
 - B. There must be at least one off-street parking space set aside for each Accessory Dwelling Unit. Many subdivisions are at capacity given their roadway and on- and off-street parking designs for the existing homes. They cannot absorb the parking of additional vehicles associated with an Accessory Dwelling Unit. Therefore, requiring one additional off-street parking space for an Accessory Dwelling Unit is appropriate and reasonable.
 - C. A property must be at least 20,000 square feet in size to accommodate an Accessory Dwelling Unit. This ensures that there is sufficient land area available for the primary dwelling, parking and compliance with setbacks. In addition, this

minimum size avoids the special provisions of Ordinance No. 2557 regarding setbacks in small lots.

6. This Ordinance does not impact existing or proposed private restrictive covenants that may regulate the existence, use and/or location of an Accessory Dwelling Unit within a private development.
7. This recommendation is subject to the following recommended changes to the Ordinance:
 - A. At line 70, after “servant quarters”, insert “recreational vehicles (as that term is defined in Title 21, Section 101(60) of the Delaware Code)”. This will ensure that the Accessory Dwelling Units are not merely vehicles or campers and are constructed to be used as dwelling units.
 - B. At lines 105 to 106, delete the sentence, “An accessory dwelling shall not have a lot coverage that is greater than 50%.” This is an unnecessary requirement given the other dimensional requirements of an ADU.
 - C. Delete the proposed new language inserted at Lines 116 through 119 and replace that proposed new language with the following instead: An accessory dwelling unit shall not encroach into the front, side or rear yard setbacks required by this Chapter. On a lot less than three acres in size, a detached accessory dwelling unit shall be located behind the single-family dwelling on the same lot.
 - D. Revise the minimum lot size requirement contained in lines 122 by deleting the reference to “one-half acre in size” and replace it with “20,000 square feet”.

Motion by Ms. Wingate, seconded by Mr. Collins and carried unanimously. Motion carried 4-0. By roll call vote: Ms. Wingate – yay, Mr. Mears – yay, Mr. Collins – yay – and Chairman Wheatley – yay.

Ord. 24-03 (Perimeter Buffers Around Residential Developments)

AN ORDINANCE TO AMEND CHAPTER 99, ARTICLES I, III, IV, V AND VI SECTIONS 99-5, 99-6, 99-23, 99-26, 99-27, 99-30, 99-31 AND 99-32 AND BY ADDING A NEW SECTION 99-21a, AND CHAPTER 115, ARTICLES IV, V, VI, VII, VIII AND XXVIII SECTIONS 115-20, 115-25, 115-29, 115-37, 115-45, 115-53 AND 115-28 REGARDING PERIMETER BUFFERS AROUND RESIDENTIAL DEVELOPMENT. TO CLOSE THE PUBLIC RECORD

The Commission discussed this application which has been deferred since May 8, 2024.

PUBLIC HEARINGS

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

C/U 2431 Play It Safe, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PROFESSIONAL OFFICE TO BE

LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.26 ACRE, MORE OR LESS. The property is lying on the east side of Savannah Road (Rt. 9) at the intersection of Savannah Road (Rt. 9) and Quaker Road, approximately 0.33-mile northeast of Westcoats Road (Rt. 12). 911 Address: 1510 Savannah Road, Lewes. Tax Map Parcel: 335-12.06-10.00.

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the applicant's conceptual site plan, a copy of the DelDOT SLER, a copy of the DelDOT letter of no objection to approval, a copy of a letter received from the state Fire Marshall, a copy of a letter received from the Sussex Conservation District, the applicants proposed conditions of approval and 12 written responses a mixture of support and opposition.

Ms. MacKenzie Pete, Esq., from the law firm of Saul Ewing, spoke on behalf of Dr. Mary Vaughn the applicant/owner of Play It Safe, LLC.; that they are seeking a conditional use of land in an AR-1 district for the operation of a professional office; that Doctor Vaughn is a licensed psychologist who holds a doctorate in clinical psychology, works with children, adolescents, adults, and families in various settings; that her practice focuses on difficulties related to depression, anxiety, relationship issues, anger problems, personality disorders, trauma, grief and behavioral difficulties; that Doctor Vaughn also provides psychological evaluations for the courts and offers services such as parent coordination, reunification, therapeutic visitation and custody evaluation; that the applicant filed its supplemental exhibit booklet, which included its current conditional use plan, 1510 Savannah Rd., outside the City of Lewes, tax map parcel 335-12.06-10.00; that 14 conditional uses have been sought within a one mile radius, 13 of them being approved, nine of those uses are office related, indicating a demand for offices in this area; that this suggests that the site is located in area experiencing growth and development, especially in terms of office space; that currently Dr. Vaughn is operating in an office space at 1518 Savannah Rd and she is in need of an upgraded space to better serve her clients and team; that currently her office serves approximately 1000 patients and hope to continue to support their existing and growing client base; that Dr. Vaughn's use is semipublic and character is consistent with other existing businesses in the area where office type and residential uses coexist along Savannah Rd.; that this use is certainly and can be consistent with zoning district and future land use map, and will offer the residents of Sussex County much needed psychology services; that currently the new office is under renovations, but they are strictly interior renovations that have been permitted as necessary; that the only exterior changes to the building will be primarily landscaping; that access will be provided off of Quaker Rd. into the site and then exit only onto Savannah as dictated by DelDOT; that a letter of no impact was submitted into record; that addressing traffic concerns, we anticipate minimal traffic generated by the office, the Delaware Department of Transportation has already confirmed that Doctor Vaughn's proposal does not create any transportation impacts; that her current practice sees an average of 55 clients a week and an average of 11 clients a day that actually come into the office with a balance of clients taking advantage of telehealth appointments; that the maximum number of clients in the office at one time is generally 4, but more consistent actually with between zero and two clients; that this show that there's very little traffic to and from the site and parking has been considered with 11 spaces being provided, one more than required; that the prior daycare use had overflow parking on Quaker Rd., but I would put neighbors at ease with the on site parking it is intended to address their concern about any overflow parking on Quaker Rd.;

that as more spaces have been provided on site than required by code; that the proposed two spaces in the back are for employee use only; that not a lot of traffic coming in and out of those two spaces particularly as they will only be employees arriving and leaving; that the applicant's also agreeable to installing no parking signs on her property to confirm that patients can't park along Quaker Road or to put a notice on the door to strictly park in the provided spots; that the site is served by a private well and is on county sewer; that the proposed hours of operation are from 7:00AM to 8:00PM Monday through Friday and between 8:00AM and 4:00PM on Saturdays, which is consistent with her current practice hours; that sometimes she sees patients outside of normal business hours to accommodate her patients schedules; that Doctor Vaughn mailed a letter to certain residents that she thought were most impacted; that Mr. David Green, who is located immediately behind the site and is also here today, suggested that the Quaker Rd. residents were the most impacted and in should have also been sent a letter; that there was no intention to exclude, we selected immediately adjacent and one over neighbors; that we have been communicating directly with Mr. Green since July of 2023; that Mr. Green was provided an initial plan on July 24, 2023, our application on July 25, 2023, an amended plan that was shared with him on September 1st, 2023, that showed the parking spaces in the rear, and then finally the plan that was submitted to the county and was posted on the docket on May 10, 2024; that the link to the docket was sent to Mr. Green on Monday, on May 13, 2024; that some concerns have been raised by the neighbors, which include DelDOT's allowance of an entrance off Quaker Rd., parking proposed in the rear yard and on Quaker Rd. and hours of operation; that in response the office is a positive change from the daycare that was there, DelDOT requires access from Quaker Rd. and exit onto Savannah, and signage will be confirmed; that the proposed hours of operation are consistent with the current practice and that of other nearby offices; that the application received positive responses from relevant agencies, DelDOT has issued its letter of no impact, the Sussex Conservation District has confirmed exemption from the Delaware sediment and stormwater regulations and the fire Marshall has also approved the proposal; that there's an existing fence in place to provide some screening along the back of the property; that if the fence was damaged the applicant would replace it to maintain the screening.

Mr. Collins asked what percentage of patients are seen in office after hours?

Dr. Mary Vaughn responded that for the month of April she saw 6 patients after hours out of her 55 appointments, so approximately 10% of her clients.

Ms. Janet Burns, of 1508 Savannah Rd., spoke on behalf of herself in opposition to the application that she lives right next door to the office and is concerned about the hours of operation expanding past what the business website states the hours are; that online it states that hours are Monday through Thursday 9am to 5pm and now they are being told they will be Monday through Friday 7am to 8pm and Saturday 8am to 4pm; that the extension into the late evening is not necessary; that as a person who lives alone, I don't feel comfortable with that and my neighbor on the other side is also a single woman and she doesn't feel comfortable with that; that 8:00pm would be not necessary, if it's an emergency telehealth would be acceptable; that if it's somebody in an extreme emergency meeting in person could be a danger, in my opinion; that the concern is there about living next to a large parking lot from all of the spaces proposed.

Ms. Wingate stated that the parking spots within the site are determined by DelDOT and that is their requirement so the applicant cannot change the number of spaces that they will need to provide.

Mr. David Green, who resides behind the office, spoke on behalf of himself in opposition to the application; that Mr. Green has been in contact with Dr. Mary Vaughn and Ms. Mackenzie Peet, Esq. directly over the past year about his concerns and questions regarding the application; that the biggest issues are the extra hours of operation, the no parking in the side and back yards and no parking along Quaker Rd.; that a request on conditions of approval to consider is the accessory structure in the rear be utilized per code as it is currently being used you can hear people working out there from his property; that clarification on the responsibility of the fence be on the applicant if anything was to happen to the fencing; that under the old business the parking on Quaker Rd. was a major issue and there is concern that it will continue under the new business; that with most of the opposition stemming from parking and traffic along Quaker Rd., that why can't the 2 spots that are designated for the rear of the building be moved up front considering there is enough room; that by allowing the parking in the rear and having an entrance to the lot it will allow for people to use that as a place to turn around if they needed to; that by allowing parking on the side of the building will encourage more people to park along Quaker Rd. making it more problematic for the residents of that area.

Mr. Robertson stated that that the difference between the previous business (the daycare) and the new proposed one is that a daycare goes before the Board of Adjustment and is approved through them; that the Board of Adjustment has the ability to put conditions on an approval, but they typically don't, like Planning & Zoning and County Council do; that the daycare is not under a Conditional Use and if this application get approved there will be an Ordinance that allows for many conditions to be in place and enforced where the daycare was not required to do so; that under a Conditional Use it is more black and white on what can be enforced and the Constable will be the one to do that.

Chairman Wheatley stated that Quaker Rd. is a public road that anyone can drive up and down and park along as long as they are not blocking the flow and traffic and not blocking any driveways; that if there is concern about the ability of people being parked on the road then it would need to be addressed through State of Delaware and they would need to make it a no parking on road, as that is not governed by the County.

Mr. Robertson asked about the parking parallel to Quaker Rd. and the building; that the site plan shows the removal of the existing driveway, but the plan is to put it back?

Ms. Peet responded that the driveway will be removed and replacing it with clamshell material so that they employees can pull through there to the rear and also park parallel to the building; that there is a space along Quaker Rd., there are five that are designated up front, four designated adjacent to Miss Burns property, one running parallel to the property, marked as one, and one space in the back; that we left space between the fence line along Mr. Green's property and the site is so that someone isn't parking in that potential space, most adjacent to Mr. Green's; that

there is two spots in the back of the building, but to try and avoid conflict they chose to utilize only one and one on the side of the building; that DelDOT has requested that there be a break in the fence that runs along Quaker Rd. so that there can be an entrance to that rear parking; that DelDOT's plan is to have three entrance/exits, two of which are on Quaker Rd. and an EXIT ONLY on Savannah Rd.

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 2431 Play It Safe, LLC. Motion by Mr. Collins to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 4 - 0.

C/U 2463 Chickberry Farms Events, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EVENT VENUE TO BE LOCATED ON A 5.0 ACRE PORTION, MORE OR LESS, OF A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 140.12 ACRES, MORE OR LESS. The property is lying on the east side of Jestice Farm Road (S.C.R. 449A), approximately 0.25 mile north of Laurel Road (Rt. 24). 911 Address: 32099 Jestice Farm Road, Laurel. Tax Map Parcel: 232-19.00-45.00 (p/o).

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the applicants conceptual site plan, a copy of a letter received from the Sussex County Engineering Department Utility Planning Division, a copy of the deed for the property, a copy of the DelDOT SLER and zero comments.

Ms. Melinda Bonniwell, owner of Chickberry Farms, spoke on behalf of herself in regard to the application; that she has lived at Chickberry Farms her entire life and bought the business from her family in 2014; that her parents originally had the established farm for strawberry picking and did events such as school tours, birthday parties and reunions; that currently there is no longer the strawberry picking, but they still operate 5 poultry houses on the property; that in 2015 they decided to begin doing larger scale venues such as weddings; that her family are the ones who work the events, her parents doing the trash and maintenance, her brother with the maintenance of the poultry and her husband who is trooper medic helps run the events; that there is plenty of parking available and they have a letter from DelDOT; that there are two street lights on Justice Farm Rd., parking lot lights, a sign for the property and approval was received from the Fire Marshall for the plans and design of the parking; that there are lights all around the property, not just in the parking lot; that the hours of operation are by appointment only in terms of scheduling events, but events are mostly on Saturdays and Sundays, but they want to expand hours to Monday through Thursday 9:00AM – 9:00PM and continue with weekend events as normal running until 11:00PM; that larger scale events normally have an average of 100-130 guests and smaller scale normally run between 30-60 guests, but the Fire Marshall has stated that they could hold up to 205 guests; that she does not intend to have that many guests at any one event as it is more than she can handle; that noise complaints are limited as the closest neighbors are approximately 1/4 acre away

and they are all family; that they are running 4H programs during the week through the business in which they are teaching kids about agriculture, animals and completing projects that get submitted to the Delaware State Fair; that the client must book all outside vendors and have them brought in; that there are 2 restrooms within the facility for the clients to use.

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 2463 Chickberry Farms Events, LLC. Motion by Ms. Wingate to defer action for further consideration, seconded by Mr. Mears and carried unanimously. Motion carried 4 - 0.

Meeting adjourned at 5:00 p.m.

Planning and Zoning Commission meetings can be monitored on the internet at www.sussexcountyde.gov.
