

## THE MINUTES OF THE REGULAR MEETING OF JULY 23, 2020

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, July 23, 2020 in the County Council Chamber, Sussex County Administration Office Building, Georgetown, Delaware. Members of the public also attended this meeting by teleconference. The teleconference system was tested during the meeting by staff to confirm connectivity.

The meeting was called to order at 5:30 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Ms. Kim Hoey-Stevenson, Mr. Keller Hopkins, Ms. Holly Wingate, Mr. J. Bruce Mears, with Mr. Vincent Robertson – Assistant County Attorney, Mr. Jamie Whitehouse – Planning & Zoning Director, Ms. Lauren DeVore – Planner III and Mr. Nick Torrance – Planner I.

Mr. Whitehouse stated that Staff request to remove Windswept at Lewes GR-RPC and Coastal Corner (FKA Fred Hudson Properties) (S-19-12) (C/U 2130) from the Other Business section of the Agenda. Motion by Ms. Wingate, seconded by Ms. Stevenson and carried unanimously to approve the revised Agenda. Motion carried 5-0.

### OLD BUSINESS

#### **C/U 2210 – Dewey Beer Company, LLC**

**An Ordinance to grant a Conditional Use of land in a C-1 General Commercial District for a microbrewery to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 5.0 acres, more or less.** The property is lying on the east side of Harbeson Rd. (Rt. 5) approximately 707 ft. north of Lewes-Georgetown Hwy. (Rt. 9). 911 Address: 18499 Harbeson Rd., Harbeson. Tax Parcel: 235-30.00-21.00

The Commission discussed this application which has been deferred since July 9, 2020.

Ms. Stevenson moved that the Commission recommend approval for Conditional Use 2110 Dewey Beer Company, LLC based upon the record made during the Public Hearing and for the following reasons:

1. This is an application for a micro-brewery in a C-1 Commercial Zone. This property has been zoned C-1 for many years. As a result, there is an expectation that it could be developed with any of the permitted uses in the C-1 Zone.
2. In the C-1 Zone, taverns, restaurants with alcoholic beverage services, bars and other commercial uses are permitted by right. This Conditional Use, except for the fact that the applicant is manufacturing the beer on the premises as the primary use, is similar to permitted uses under the C-1 Zone.
3. Aside from the brewing operations, there will be a tasting area associated with the use. Again, this is a similar space for the consumption of alcohol to what would be permitted within a restaurant under the property's C-1 Zoning.
4. The brewing operations will not have an adverse effect on the neighboring properties or the community. The applicants have stated that all the brewery operations will occur within the building, and there are not any sounds or smells that will come from the building during these operations.

5. There is no evidence that the use as a micro-brewery will have an adverse impact on neighboring properties, roadways or communities. Its impact is potentially less than some other permitted uses in the C-1 Zone.
6. This recommendation is subject to the following conditions:
  - a. The applicant must comply with all State and Federal requirements for the brewery and tasting room operations.
  - b. The hours of operation for the micro-brewery shall be between 11:00 a.m. and 11:00 p.m. daily.
  - c. Any outdoor entertainment and music or the use of outdoor speakers shall end at 10:00 p.m. each night. All outdoor entertainment and music or outdoor speakers shall be oriented away from the residential properties to the north and east of the site.
  - d. The signage shall comply with the sign requirements of the underlying C-1 Zone.
  - e. All lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
  - f. There shall not be any outside storage of materials associated with the brewing operation. Any waste or spent materials from the brewing operation shall be stored inside the building until hauled away by appropriate means.
  - g. Any dumpster associated with the use shall be screened from view of neighboring properties and roadways.
  - h. The use shall comply with all parking requirements contained in the Sussex County Zoning Code.
  - i. The failure to abide by these conditions shall result in the termination of the conditional use approval.
  - j. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously to recommend approval for the reasons and conditions stated in the Motion. Motion carried 5-0.

**C/U 2217 – Israel Bravo**

**An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for storage of utilities equipment and vehicles to be located on a certain parcel of land lying and being in Seaford Hundred, Sussex County, containing 6.16 acres, more or less.** The property is lying on east side of Sanfilippo Rd approximately 0.85 mile north of Eskridge Rd (S.C.R. 531). 911 Address: 20871 Sanfilippo Rd., Bridgeville. Tax Parcel: 331-2.00-44.07

The Commission discussed this application which has been deferred since July 9, 2020.

Mr. Hopkins moved that Commission recommend approval for Conditional Use 2217 Israel Bravo based upon the record made during the Public Hearing and for the following reasons:

1. This use is limited in nature. The applicant only seeks to park or store equipment associated with his utility installation company on the site. No construction activities occur on the site.
2. The use as location for parking and storage of equipment will not require extensive deliveries to or from the site, and the use does not generate a significant amount of traffic.
3. With the conditions and limitations placed upon the use, it will not have an adverse impact upon traffic, roadways or area properties.

4. No parties appeared in opposition to the application.
5. This recommendation is subject to the following conditions:
  - a. The use shall be limited to the parking and storage of vehicles, equipment, trailers and conduit reels associated with the utility installation company.
  - b. There shall not be any inoperable vehicles or equipment stored on the site. Also, no unregistered vehicles or trailers shall be stored on the site.
  - c. As confirmed by the Applicant, no sign for the business shall be located on the site.
  - d. All chemicals associated with the use shall be stored indoors and in appropriate containers.
  - e. The parking and storage areas shall be shown on the Final Site Plan, and clearly marked on the site itself.
  - f. The failure to abide by these conditions shall result in the termination of the conditional use approval.
  - g. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Hopkins, seconded by Ms. Stevenson, and carried unanimously to recommend approval for the reasons and with the conditions stated in the Motion. Motion carried 5-0.

**C/Z 1917 – Iacchetta Development Corporation**

**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 Baltimore Hundred, Sussex County, containing 0.504 acres, more or less. The property is lying on the north side of Lighthouse Rd. (Route 54) approximately 293.7 ft. west of West Line Rd. 911 Address: 33175 Lighthouse Road, Selbyville. Tax Parcel: 533-18.00-28.01**

The Commission discussed this application which has been deferred since July 9, 2020.

Ms. Wingate moved that Commission recommend approval for Change of Zone 1917 Iacchetta Development Corporation for a change of 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 currently zoned AR-1, but it is completely surrounded by other properties with commercial zoning. This is an infill zoning request and it is an appropriate location for C-2 zoning.
3. C-2 Zoning at this location will benefit nearby residents of Sussex County by providing a convenient location for expanded small retail and service uses in addition to those that exist on either side of this property.
4. There is no evidence that this rezoning will have an adverse impact on neighboring properties or area roadways.
5. The site is in the “Coastal Area” according to the Sussex County Land Use Plan and Future Land Use Map. This is an appropriate location for C-2 Zoning according to the Plan.
6. The location is served by central sewer, which is appropriate to support C-2 and the permitted uses within that district.

7. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity and welfare of the County.
8. No parties appeared in opposition to the rezoning application.
9. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.

Motion by Ms. Wingate, seconded by Ms. Stevenson, and carried unanimously to recommend approval for the reasons and with the conditions stated in the Motion. Motion carried 5-0.

## PUBLIC HEARINGS

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

### **C/U 2214 Anthony Crivella & Harold E. Dukes, Jr.**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR A FOOD TRUCK TO BE OPERATED FOR A PERIOD EXCEEDING THREE DAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.115 ACRE, MORE OR LESS.** The property is lying on the northeast side of Johnson St. southeast of Central Ave. 911 Address: N/A. Tax Parcel: 334-13.20-25.00

Mr. Whitehouse advised the Commission that they have received a site plan and survey, a staff analysis, the Applicant's exhibits, a copy of the DelDOT service level evaluation response. Also received are two mail returns.

The Commission found that Ms. Mackenzie Peet, Esquire was present on behalf of the applicant, DaNizza Wood Fired Pizza and the owners, Anthony Crivella and Harold E. Dukes, Jr.; that the Applicant is requesting a conditional use to permit, locate and operate a food truck on the subject property for a period to exceed three days to provide food for the patrons of Revelation Brewing Company; that there Revelation Brewing Company received approval for a conditional use to operate a microbrewery on Lot 45 in 2018; that Revelation Brewing Company hired DaNizza Pizza to provide food for Revelation patrons; that DaNizza received a temporary food vendor license and was located along Central Avenue initially; that the license allowed for the food truck to remain in that location from March 15 through November 15, 2019; that a complaint was made regarding the location of the food truck; that the food truck has been moved from the front of Lot 45 now to Lot 49 which is in the rear of the Revelation Brewing Company; that a conditional use application to permit a food truck at this location was filed December 2019; that Lot 49 is a 5,000 sf unimproved lot in a general commercial (C-1) zoning district surrounded by similar commercial properties; that the food truck does meet the setback requirements for the property; that the proposed location of the food truck is compatible with the surrounding uses; that it is low-profile as it sits behind Revelation Brewery on another lot; that the food truck operates on weekends only when Revelation is open; that additional parking is not required for the food truck; that this is a temporary use as Revelation will be moving to an alternative site in the near future; that the hours of operation would be Friday, Saturday and Sunday from 11 am – 9 pm; that the

food truck will remain on the site when not open for business; that a dumpster will be on site; and that the food truck receives its electricity from the Revelation site.

The Commission found that no one spoke in favor of or in opposition to the Application. Upon there being no further questions, Chairman Wheatley closed the public hearing for this application.

At the conclusion of the Public Hearings, the Commission discussed C/U 2214 – Anthony Crivella & Harold E. Dukes, Jr. Motion by Mr. Mears, second by Ms. Wingate, to defer action for further consideration. Motion carried 5-0.

**C/U 2216 Kenneth Dominic Alton Drummond**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR HOME REMODELING AND REPAIR SERVICES, STORAGE REPAIR AND MAINTENANCE, LIGHT BUILDING MATERIAL AND STORAGE AND GENERAL OFFICE FOR QUALITY CARE HOMES AND MANAGERS RESIDENCE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 3.57 ACRES, MORE OR LESS.** The property is lying on the southwest side of Hopkins Rd. approximately 0.58 mile northwest of Beaver Dam Rd. (Rt. 23). 911 Address: 20366 Hopkins Road. Tax Parcel: 234-5.00-46.04 (Part of).

Mr. Whitehouse advised the Commission that they have received an exhibit booklet, a site plan, a staff analysis, and a copy of the DeIDOT service level evaluation response.

The Commission found that Mr. Mark Davidson was present on behalf of the Applicant, Kenneth Dominic Alton Drummond; that also present is the Applicant, Mr. Drummond and Engineer, Mr. Alan Decktor; that the Application is to grant a conditional use of land in the AR-1 zoning district located on 3.57 acres out of the 6.34 acres of the property; that the property is located on the west side of Hopkins Road; that an exhibit booklet has been submitted as part of the Application; that Mr. Drummond is the owner of the subject property and of Quality Care Homes; that the subject property is bordered on the north and west by agricultural fields, on the south by wooded lands, and on the east by Hopkins Road; that Hopkins Road which is a local road with connections to Fisher Road and Beaver Dam Road which will provide easy access to neighboring towns; that since 2015 Quality Care Homes has been a local Delaware company which has been delivering home improvement and general contracting services; that there are two full-time employees and eight subcontractors with plans to grow to 20 full-time employees in the future; that a site plan has been submitted to show how the Applicant plans to use this property for his business; that currently existing on the site is Applicant's residence; that the Applicant has planted approximately 80 trees bordering the property; that the building's parking and storage will begin approximately 1,000 feet back from Hopkins Road; that the conditional use area of the property will be screened from adjacent properties by a vegetative buffer; that stormwater management will be within the conditional use area of the property and will provide for 100% infiltration and ground water recharge and will meet the Sussex Conservation District and DNREC's regulations; that there will be a new onsite waste disposal system and a new onsite domestic well meeting all the requirements for DNREC for the proposed uses; that the entrance for the Application will share the same entrance as the single family home on the property; that upgrades to the entrance required by DeIDOT will be provided by the Applicant; that two additional buildings are being proposed to provide storage for materials, for repairs to vehicles and for the day-to-day office and business operations for Quality Care Homes; that the second story of one of the buildings will be for the general office and for living quarters for the manager that

the Applicant plans to hire; that in the 2019 Sussex County Comprehensive Plan the area for the proposed conditional use is identified to be in a low-density area; that the focus of business uses in low-density areas should be providing services to nearby residences and commercial areas; that the 2015 Strategies for State Policies and Spending identifies the Investment Level 4; that proposed conditions of approval were submitted as part of the exhibit book; and that that the proposed conditional use meets the general purpose of the zoning ordinance being located in an appropriate location meeting the purpose of this district and the Comprehensive Plan by providing sufficient space in appropriate locations for the certain uses which cannot be well-adjusted to their environment in particular locations with full protection offered to the surrounding properties by the rigid application of the district, which is essential and desirable for the general convenience, orderly growth, prosperity and welfare of the County.

Ms. Stevenson asked if the Applicant will continue to live on the property. Mr. Davidson responded that the Applicant and his family will continue to live on the site. Ms. Stevenson asked if outdoor storage is being requested. Mr. Davidson stated that there will be no outside storage. Ms. Stevenson asked if there would be deliveries to the site and what is the number of trucks onsite. Mr. Davidson responded that most deliveries will be made directly to worksites, but leftover material would be brought back to this site and stored in one of the two proposed buildings and that most of the employees now are subcontractors but when the business grows there will be an increase in the number of trucks onsite.

Ms. Stevenson asked if there would be additional requirements for the manager's residence. Mr. Robertson stated that it is part of this Application so there would be no additional requirements.

The Commission found that no one spoke in favor of or in opposition to the Application. Upon there being no further questions, Chairman Wheatley closed the public hearing for this application.

At the conclusion of the Public Hearings, the Commission discussed C/U 2216 – Kenneth Dominic Alton Drummond. Motion by Ms. Stevenson, second by Ms. Wingate, to defer action for further consideration. Motion carried 5-0.

**C/U 2233 Brothers Landscaping, LLC**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 5.00 ACRES MORE OR LESS.** The property is lying on the north side of German Rd. approximately 1.58 miles east of Concord Pond Rd. 911 Address: 24516 German Road, Seaford. Tax Parcel: 231-13.00-190.00.

Mr. Whitehouse advised the Commission that they have received a site plan, a staff analysis, and a copy of the DelDOT service level evaluation response.

The Commission found that Mr. Ismar Chun was present on behalf of the Application, that also present is Amy Pardee. Ms. Pardee said that the proposal is to use the rear of the property for the business' commercial vehicles; that there was a complaint made against the property; that the business currently has eight trucks with trailers and a dump truck; that the dump truck will be stored in the rear of the property; that irrigation lines are stored inside; that one of the owners of the company resides on the property; that there are security cameras; that privacy fencing will be installed to screen from neighbors; and there will be no dumping of landscaping debris on the property

Mr. Chun stated that the business has been in operation for ten years; that there are 28 employees; that they were renting an area in Laurel but purchased this property September 2019; that the company has seven trailers, six bobcats; that a sign is being requested; and that hours of operation would be Monday – Friday from 6:00 am - 8:00 pm, Saturday 6:00 am – 3:00 pm with no Sunday hours.

The Commission found that two people spoke in favor of the Application. Mr. Don Brochette stated that he is the neighbor to the east of the subject property and that he fully supports the request for the conditional use for the property. Mr. Mark Casey stated he is a customer of Brother's Landscaping; that they do quality work; that they keep their place looking good; that they are good people; and that he supports their Application.

The Commission found that no one spoke in opposition to the Application. Upon there being no further questions, Chairman Wheatley closed the public hearing for this application.

At the conclusion of the Public Hearings, the Commission discussed C/U 2233 – Brothers Landscaping, LLC. Motion by Mr. Hopkins, second by Ms. Wingate, to defer action for further consideration. Motion carried 5-0.

**C/Z 1918 Mark A. Casey**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 7.10 ACRES, MORE OR LESS.**

The property is lying on the southeast corner of Warwick Road and Downs Landing Road. 911 Address: 28517 Warwick Road, Millsboro. Tax Parcel: 234-33.00-55.00.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's site plan, a staff analysis, and the DelDOT service level evaluation response.

That the Commission found that Mr. Mark Casey was present on behalf of the Application. Mr. Casey stated that his company is Delaware Cultured Seafood; that approximately eight years ago he began working with Delaware's Center for Inland Bays non-profit on an oyster seeding program and then went on to work with the University of Delaware; that he worked on legislation to have oysters for sale and consumption on the inland bays; that this property is where they would like to import seed; that it would be planted onto the shell; that this would be done so that the inland bays can maintain the root program; that UD has shut down their program; that this would be for consumption for local markets and for the farmers out in Rehoboth Bay.

The Commission found that no one spoke in favor of or in opposition to the Application. Chairman Wheatley announced that the Public hearing for the Application was now closed.

At the conclusion of the Public Hearings, the Commission discussed C/Z 1918 – Mark A. Casey. Motion by Mr. Mears, seconded by Ms. Wingate, to defer action for further consideration. Motion carried unanimously 5-0.

OTHER BUSINESS

**Generations Welding & Contracting LLC (S-20-08)**

Final Site Plan

This is a Final Site Plan for a proposed 2,800 square foot commercial welding fabrication shop and other site improvements on a 1.605 acre +/- parcel located at 14716 Laurel Rd. Conditional Use 2178 was approved by the Planning and Zoning Commission at their meeting of Thursday, June 27, 2019 and approved by the Sussex County Council at their meeting of Tuesday, July 16, 2019. The Preliminary Site Plan was approved by the Planning and Zoning Commission at their meeting of Thursday, March 26, 2020. Staff has approved a site plan to allow for the location of buildings and hard surfacing. The Applicant has submitted a letter requesting relief from interconnectivity with adjacent parcels. The Final Site Plan complies with the Sussex County Zoning Code. Tax Parcel: 232-19.00-30.00. Zoning: AR-1 (Agricultural Residential Zoning District). Staff are in receipt of all agency approvals.

Motion by Mr. Hopkins, seconded by Ms. Wingate, and carried unanimously to approve the Final Site Plan subject to a revision to show an area set aside for future interconnectivity if the adjacent properties are developed. Motion carried 5-0.

**Eco Properties Storage Units (S-20-20)**

Preliminary Site Plan

This is a Preliminary Site Plan for a proposal to construct fourteen (14) 2,480 square foot warehouses and one (1) 256 square foot office building, parking and associated site improvements. Site improvements include a proposed surface ephemeral wetland stormwater facility on the easternmost side of the site. There is also an existing dwelling and garage on the site which were originally placed in the 1960s and as such are considered legally non-conforming. The site is located on the south side of East Redden Road (S.C.R. 565). The Preliminary Site Plan complies with the Sussex County Zoning Code. Tax Parcel: 135-6.00-10.00. Zoning District: CR-1 (Commercial Residential). Staff are awaiting agency approvals.

Motion by Ms. Stevenson, seconded by Ms. Wingate, and carried to approve the Preliminary Site Plan with final approval by staff subject to receipt of all agency approvals. Motion carried 4-0. Mr. Hopkins recused himself.

**Admiral's Chase (S-19-4) (C/U 2134 & C/Z 1851)**

Amenities Plan

This is an Amenities Plan for Admiral's Chase, a development consisting of 24 (14 duplex) units to be located off Gills Neck Road (S.C.R. 267). The Amenities Plan consists of a 160 square foot pool house, 5 parking spaces (including one ADA accessible space), and a 608 square foot pool. As required by the Code, the perimeter of the pool will contain a 3-ft walkway and be enclosed by an aluminum fence which meets the 4-ft minimum height requirement. The site was approved for a Conditional Use (C/U 2134) for the proposed multifamily by County Council at their meeting of Tuesday, August 14, 2018 and adopted through Ordinance No. 2594. The pool complies with C/U 2134 Condition of Approval "P" which requires the swimming pool to be "at least 15 by 30 feet in size." Additionally, the site was approved for a Change of Zone (C/Z 1851) to facilitate a change of zone from an Agricultural Residential (AR-1) Zoning District to a Medium Density Residential (MR) Zoning District by County Council at their meeting of Tuesday, August 14, 2018 and adopted through Ordinance No. 2594. The Amenities Plan complies with the Sussex County Zoning and Subdivision Code and all Conditions of Approval. Tax Parcel: 335-8.00-44.00. Zoning District: MR (Medium Density Residential Zoning District). Staff are in receipt of all agency approvals.



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

**Lands of Coulbourne**

**Minor Subdivision off 30' Easement**

This is a Preliminary Subdivision Plan for a minor subdivision of a 22.55-acre parcel into a 1.0-acre lot off a 30-ft easement over an existing drive. The property is located off N. Oak Grove Road (S.C.R. 549) in Seaford, Delaware. The Preliminary Subdivision Plan complies with the Sussex County Zoning and Subdivision Code. Tax Parcel: 531-8.00-34.00. Zoning: AR-1 (Agricultural Residential Zoning District). Staff are in receipt agency approvals.

Motion by Ms. Wingate, seconded by Mr. Hopkins, and carried unanimously to approve the Minor Subdivision off 30' Easement. Motion carried 5-0.

**ADDITIONAL BUSINESS**

**Meeting adjourned at 6:55 p.m.**

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