

THE MINUTES OF THE REGULAR MEETING OF FEBRUARY 25, 2021

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, February 25, 2021 in the County Council Chamber, Sussex County Administration Office Building, Georgetown, Delaware.

The meeting was called to order at 5:00 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 - Absent, Mr. J. Bruce Mears, with Mr. Vincent Robertson – Assistant County Attorney, Mr. James Sharp – Assistant County Attorney, Mr. Jamie Whitehouse – Planning & Zoning Director, and Mr. Chase Phillips – Planner I

Mr. Whitehouse noted that there were no changes to the Agenda. Motion by Ms. Stevenson seconded by Mr. Hopkins and carried unanimously to approve the Agenda. Motion carried 4-0.

Motion by Ms. Stevenson, seconded by Mr. Hopkins to approve the Minutes of the January 21, 2020 Planning and Zoning Commission meeting as circulated. Motion carried 4-0.

OTHER BUSINESS

Estates at Milton Crossing Subdivision (2019-16)

Revised Preliminary Subdivision Plan

This is a Revised Preliminary Subdivision Plan for the Estates at Milton Crossing (2019-16) Subdivision, which is a standard subdivision comprising eighty-seven (87) single family lots within an AR-1 (Agricultural Residential Zoning District). The Preliminary Subdivision Plan was approved by the Planning and Zoning Commission at its meeting of December 12, 2019. The revisions include minor lot adjustments and the revision to Condition “D” that was approved by the Planning Commission on February 13, 2020. Staff notes the Revised Subdivision Plan does show a 30-ft buffer to Coastal Hwy. (Rt. 1). The Revised Preliminary Subdivision Plan complies with the Sussex County Zoning and Subdivision Code and all Conditions of Approval. Tax Parcels: 235-8.00-26.00, 26.03 & 31.00. Zoning District: AR-1 (Agricultural Residential Zoning District.)

Motion by Ms. Stevenson, seconded by Mr. Hopkins, and carried unanimously to approve the Revised Preliminary Subdivision Plan. Motion carried 4-0.

FurnitureLand

Revised Preliminary Site Plan

This is a Revised Preliminary Site Plan for the a 2-phase addition to the existing FurnitureLand. Phase I will consist of 35,000 square foot addition, 14 new parking spaces and other site improvements. Phase II will consist of a new 5,465 square foot building, 5 new parking spaces, and additional site improvements. In total all site improvements will consist of 40,465 square feet of new building space and 19 new parking spaces. The Revised Preliminary Site Plan complies with the Sussex County Zoning Code. Tax Parcel: 532-13.00-63.04. Zoning District: LI-2 (Light Industrial) and within the Combined Highway Corridor Overlay Zone (CHCOZ). Staff are awaiting agency approvals.

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

Windmill Woods Revised Site Plan

Revised Final Site Plan

This is a Revised Final Site Plan for Windmill Woods (CU 1502) residential community. This plan proposes the removal of a berm along and the addition of a swale along Red Cedar Loop, a change in the hiking trail to a sidewalk, and the removal of fencing along the perimeter of the community. Windmill Woods is known as Conditional Use No. 1502 which was approved by the Sussex County Council on December 16, 2003 through Ordinance No. 1647. The Final Site Plan was approved on June 24, 2004 by the Planning and Zoning Commission. Additionally, the Site Plan was revised in 2016. This revision was approved by the Planning and Zoning Commission on September 8, 2016. Sussex Conservation District has submitted an approval letter for the changes associated with the berm and the swale. This Revised Final Site Plan is eligible for preliminary and final approval. Of the 73 current members of the Condominium Owner's Association (COA), 43 approve the proposed changes. This is an approval rate of 59%. The Revised Final Site Plan complies with the Sussex County Zoning Code and all conditions of approval. Tax Parcel: 134-12.00-388.00. Zoning District: MR (Medium Density Residential).

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

Boys and Girls Club of Delaware (S-21-01)

Revised Preliminary Site Plan

This is a Revised Preliminary Site Plan for a proposed 2,269 square foot addition to the existing building that is utilized for the Boys of Girls Club of Delaware. The property is located at 31550 Oak Orchard Road (Route 5) in Millsboro. Staff notes that the Sussex County Board of Adjustment approved two variances for the addition on December 14, 2020 through Case No. 12492. Additionally, Conditional Use No. 1417, which was approved by the Sussex County Council on October 16, 2001, applies to this site. The site is located within a Wellhead Protection Area; however, staff notes the existing structure and many other site improvements were completed before the adoption of Chapter 89. Otherwise, this site plan complies with Sussex County Zoning Code and all conditions of approval. Tax Parcel: 234-29.00-69.06. Zoning: AR-1 (Agricultural Residential Zoning District). Staff are awaiting agency approvals.

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

OLD BUSINESS

Ord. 20-07 - Future Land Use Map

AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 235-13.00-29.00, 29.01 & 235-14.00-570.00

The Commission discussed this application which has been deferred since January 21, 2021.

Ms. Stevenson moved that the Commission recommend approval of Ordinance # 20-07 to amend the Future Land Use Map in the current Sussex County Comprehensive Plan for Parcels 235-13.00-29.00 and 29.01 and 235-14.00-570.00 from a Low Density Area to a Developing Area based on the record made during the public hearing and for the following reasons:

1. The parcel is 67.31 acres of land. The property is currently zoned AR-1.
2. The parcel is designated as being in the Low-Density Area according to the Future Land Use Map.
3. Properties to the east of this Parcel are entirely within the Developing Area. Properties to the south of this Parcel are designated as "Industrial". This revision to a Developing Area on the Future Land Use Map is consistent with the surrounding Map designations.
4. The property has extensive frontage on Route 30, which is designated as a truck route by the State.
5. This revision to the Future Land Use Map will not adversely affect neighboring properties, area roadways or future land-use planning in the area.
6. The Parcel is in close proximity to the intersection of Routes 30 and 16. Given its proximity to this intersection and other properties that have the Developing Area or Industrial classification already, this Map amendment is appropriate.
7. This property has railroad service available to it. This Map amendment promotes the transportation goals in the Sussex County Land Use Plan, which states in Section 13.2.2 that "The County's goods movement (freight) network is an integral component of the transportation network as well as the economy. The main element of the freight network is the roadway system, which carries trucks (motor freight)." The Plan also states that one way of reducing truck impacts on area roadways is to shift more freight to rail, although opportunities to do that are limited. This site presents an opportunity to achieve this goal. This is also supported in the Comprehensive Plan by Goal 13.5, Objective 13.5.1 and the Strategies attached to this Goal and Objective.
8. This revision of the Future Land Use Map is appropriate given the particular circumstances involved at this location. When several factors like these exist, the consideration and approval of an amendment to the Future Land Use Map is appropriate.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously to recommend approval of Ord. 20-07 Future Land Use Map Amendment for the reasons and conditions stated in the motion. Motion carried 4 – 0.

C/Z 1923 Reed Farms, LLC

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a HI-1 Heavy Industrial District for a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 67.31 acres, more or less. The property is lying on the west side of Gravel Hill Rd. (Rt. 30) approximately 309 feet south of Milton-Ellendale Hwy. (Rt. 16). 911 Address: 14888, 14866. & 14742 Gravel Hill Rd., Milton. Tax Parcels: 235-13.00-29.00, 29.01 & 235-14.00-570.00

The Commission discussed this application which has been deferred since December 17, 2020.

Ms. Stevenson moved that the Commission recommend approval of C/Z 1923 for **Reed Farms, LLC** for a change in zone from AR-1 Agricultural Residential District to a HI-1 Heavy Industrial District based upon the record made during the public hearing and for the following reasons:

1. The location is appropriate for HI zoning. With the amendment to the Future Land Use Map in the Comprehensive Plan, the property is in a Developing Area and it is adjacent to an Industrial Area according to the Map.
2. The properties to the north and east of the site are currently zoned C-1 and HR and the property to the south is zoned LI-2.
3. This site is near the intersection of Routes 30 and 16. Route 30 is designated as a Truck Route and Route 16 is a major collector. This is an appropriate location for HI zoning.
4. The site is adjacent to an existing rail line accessing the property. This makes this location appropriate for industrial zoning. The rezoning also promotes the transportation goals in the Sussex County Land Use Plan. The Plan states that truck traffic on area roads can be reduced by shifting more freight to rail, although opportunities to do that are limited. This use of rail service for the movement of freight is supported and encouraged by the Goals, Objectives and Strategies of The Mobility Element of the Comprehensive Plan.
5. HI zoning is appropriate, since the Zoning Code states that the purpose of the district is “to provide for a variety of industrial operations, but to restrict or prohibit those industries which have characteristics likely to produce serious adverse effects within or beyond the limits of the district.”
6. The rezoning will promote the local economy and will create jobs in the area for Sussex County residents.
7. While a HI zone has many possible uses, there are only a limited number of uses that are permissible without a further hearing in front of the County Board of Adjustment.
8. Under the HI zoning, if a possible use is “potentially hazardous” or if there is any doubt as to whether it is potentially hazardous, there will be another public hearing on the particular use before the Board of Adjustment. The Board of Adjustment cannot approve the particular use unless it finds that the public’s health and welfare will be protected and that there are safeguards to protect area waters, property and people.
9. The HI zoning, with the safeguard of having further hearings limiting potential uses, will not adversely affect the neighboring or adjacent properties.
10. 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. Stevenson, seconded by Mr. Hopkins and carried unanimously to recommend approval of C/Z 1923 Reed Farms, LLC for the reasons and conditions stated in the motion. Motion carried 5 – 0.

2019-30 Pelican Point 4-5

A cluster subdivision to divide 109.99 acres +/- into 219 single family lots to be located within Pelican Point 2-5 subdivision on a certain parcel of land lying and being in Indian River Hundred, Sussex County. The property is lying on the south and east sides of Townsend Rd. (S.C.R 303), approximately 750 ft. south of Harmons Hill Rd. (S.C.R. 302) and accessed off of Pelican Point Blvd. approximately 380 ft. west of Cannon Rd. (S.C.R 307). Tax Parcel: 234-16.00-21.03, 21.07, 23.01 and 234-16.00-1509.00 through 1697.00. Zoning District: AR-1 (Agricultural Residential District)

Motion by Mr. Hopkins to defer action for further consideration, seconded by Ms. Stevenson, and carried unanimously. Motion carried 4-0.

C/U 2258 Bioenergy Development Group, LLC

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District to amend Conditional Use No. 1314 (Ordinance No. 1354) (as amended by Conditional Use No. 1691 (Ordinance No. 1865) and Conditional Use No. 1962 (Ordinance No. 2311)) to permit the processing and handling of poultry litter to include nutrient recovery for natural gas and electrical generation, to be located on a certain parcel of land lying and being in Broad Creek hundred, Sussex County, containing 228.88 acres, more or less. The property is lying on the west side of Seaford Rd. (Rt. 13A) approximately 0.2 mile north of Oneals Rd. (S.C.R. 485). 911 Address: 28338 Enviro Way, Seaford. Tax Parcels: 132-6.00-88.01 & 95.00, 132-11.00-41.00 & 41.02.

Motion by Ms. Stevenson to defer action for further consideration, seconded by Mr. Hopkins, and carried unanimously. Motion carried 4-0.

PUBLIC HEARINGS

There were no Public Hearings

ADDITIONAL BUSINESS

Mr. Whitehouse announced that the meeting of February 18, 2021 was cancelled due to inclement weather; that the public hearings which were to be heard at that meeting will be rescheduled and renoticed; that the County Council Public Hearings for these Applications will also be rescheduled and renoticed.

Meeting adjourned at 5:15 p.m.

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