

MINUTES OF THE REGULAR MEETING OF **September 25, 2024**

The regular meeting of the Sussex County Planning and Zoning Commission was held on Wednesday afternoon, **September 25, 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. Christin Scott – Planner III, Ms. Ann Lepore – Planner I and Ms. Jessica Iarussi – Recording Secretary.

Mr. Whitehouse informed the Commission that per staff’s request (**S-19-16**) **Klerlein Enterprises, LLC**, be removed from the Agenda.

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

Motion by Ms. Wingate, seconded by Mr. Collins, to approve the Minutes of August 21, 2024, Planning and Zoning Commission Meeting as **CIRCULATED**. Motion carried 4-0.

PUBLIC COMMENT

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

OTHER BUSINESS

2019-24 Stratus Estates (F.K.A. Cool Spring Meadows)

Final Subdivision & Landscape Plan

This is a Final Subdivision & Landscape Plan for the creation of a cluster subdivision to consist of two-hundred and twenty-six (226) single-family lots, private roads, stormwater management, open space, a 30-ft vegetative buffer and associated amenities to include a proposed in-ground pool, pool house, tot lots and walking trail. The Preliminary Subdivision Plan for the Subdivision was approved by the Planning and Zoning Commission at their meeting of Thursday, April 22nd, 2021, subject to twenty (20) Conditions of Approval. Staff note that this Subdivision was subject to a 6-month time extension, which was approved by the Sussex County Council at their meeting of Tuesday, June 11th, 2024, which extended the Application expiration date from the Subdivision 6-months from the previous deadline of April 22nd, 2024, to October 22nd, 2024. The Final Subdivision & Landscape Plan comply with the Sussex County Zoning and Subdivision Codes and all Conditions of Approval. Tax Parcel: 234-5.00-30.00. Zoning: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals. Staff request that any approval require that the means for providing a safe crossing of Stockley Road be clearly shown on the Plans as part of the Final Subdivision Plan for approval to more clearly meet the provision of Condition “R.”

Motion by Mr. Collins, seconded by Ms. Wingate and carried unanimously to Approve the Final Subdivision & Landscape Plan. Motion carried 4-0.

2023-06 Twin Masts

Final Subdivision & Landscape Plan

This is a Final Subdivision Plan for the creation of a cluster subdivision to consist of two-hundred and forty-nine (249) single-family lots, private roads, stormwater management, open space, perimeter buffers, resource buffers, and amenities to include a proposed in-ground pool, clubhouse, and walking trail. The Preliminary Subdivision Plan for the Subdivision was approved by the Planning and Zoning Commission at their meeting of Thursday, October 26, 2023, subject to twenty-three (23) Conditions of Approval. The Final Subdivision & Landscape Plan complies with the Sussex County Zoning and Subdivision Codes and all Conditions of Approval. Tax Parcels: 235-16.00-68.00 & 235-16.00-69.00. 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 Final Subdivision & Landscape Plan. Motion carried 4-0.

2019-24 Stratus Estates (F.K.A. Cool Spring Meadows)

Amenities Plan

This is an Amenities Plan for the construction of a proposed 1,250 square foot in-ground pool, 2,925 square foot proposed community building, 1,050 square foot tot lot and associated parking to be located on the east side of Blackgum Drive within the Stratus Estates Subdivision. The Applicant has submitted the Amenities Plan as an included Plan Sheet (Sheet R13) as part of the Record Plan for the proposal to provide for a more streamlined approval ahead of the fast approaching 6-month time extension deadline. The Amenities Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Tax Parcel: 234-5.00-30.00. Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals. Staff request that any approval require that any landscaping to be provided in the area of the Amenities be clearly shown as part of the Landscaping Plan and/or Amenities Plan for the Subdivision.

Motion by Mr. Collins, seconded by Ms. Wingate and carried unanimously to Approve the Preliminary Amenities Plan with final approval to be given by the staff subject to the receipt of all agency approvals. Motion carried 4-0.

2018-13 & 2023-01 Anchors Run CHECK AUDIO FOR COMMENT

Revised Amenities Plan

This is a Revised Amenities Plan for the Anchors Run (2018-13 & 2023-01) Subdivision, a cluster Subdivision which currently consists of two-hundred and sixty-five (265) single-family lots, private roads, open space, stormwater management and other ancillary improvements. The Final Subdivision Plan for the existing Subdivision was approved by the Planning and Zoning Commission at their meeting of Thursday, December 19th, 2019. The original Amenities Plan was approved by the Planning and Zoning Commission at their meeting of Thursday, November 4th, 2021. Specifically, this Revised Amenities Plan is to increase the size of the existing pool from 1,500 square feet +/- by 2,205 square feet +/- (for a total pool size of 3,525 square feet +/-) only.

This proposal complies with Condition “J” of the Conditions of Approval for the Subdivision, which require the pool to be “*at least 1,500 square feet in size.*” The two (2) pickleball courts, which were previously discussed are not a part of this proposal and will be part of a future Revised Amenities Plan to be considered on a future Commission Agenda at a later date. The Applicant has also furnished the Department with documentation in the form of a signature petition that a majority of residents consented to this change. The Revised Amenities Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Tax Parcel: 234-6.00-19.00. Zoning: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals.

Mr. Whitehouse clarified for the record that this application is only to expand the size of the swimming pool, which was recently part of the Anchors Run Expansion application and since the pool has been approved, they are in need of changing to current plan to be able to begin work.

Motion by Mr. Collins, seconded by Ms. Wingate and carried unanimously to Approve the Revised Amenities Plan. Motion carried 4-0.

(2021-10) Graywood Spring

Preliminary Amenities Plan

This is a Preliminary Amenities Plan for the Graywood Springs (2021-10) Subdivision, a cluster subdivision to consist of thirty-eight (38) single-family lots with on-site septic to contain private roads, open space, an amenities area, and other ancillary improvements. The Final Subdivision Plan for the Graywood Springs (2021-10) Subdivision was approved by the Planning and Zoning Commission at their meeting of Thursday, April 20th, 2023. The Amenities Plan is comprised of two (2) horseshoe pits, a covered grilling pavilion, and play equipment. The property is located on the east side of Oyster Rocks Road (S.C.R. 264) approximately 0.45-mile northeast of Coastal Highway (Route 1). The Preliminary Amenities Plan complies with the Sussex County Zoning and Subdivision Codes and all Conditions of Approval. Tax Parcel: 235-16.00-40.00. Zoning: AR-1 (Agriculture Residential District). No agency approvals are required; therefore, this request is eligible for Final Approval.

Motion by Mr. Collins, seconded by Mr. Mears and carried unanimously to Approve the Preliminary Amenities Plan. Motion carried 4-0.

(S-23-51) Route 9 Commercial (Malmaris Spots)

Revised Preliminary Site Plan

This is a Revised Preliminary Site Plan for the construction of a proposed (5,940) square foot gas station, a (4,580) square foot fast food with vehicular drive-through, an internal road, sidewalks, parking, stormwater management, and ancillary improvements on a Parcel located the southwest corner of the intersection of Lewes Georgetown Highway (Route 9) and Fisher Road (S.C.R. 262). The Applicant has included two (2) waiver requests with the Plan, a request for waiver of the requirement to provide an off-street loading zone and a waiver request relating to parking along “Parcel B” frontage on Route 9. The Preliminary Site Plan complies with the Sussex County Zoning Code. Tax Parcel: 235-30.00-51.00 Zoning: C-2 (Medium Commercial District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, staff are requesting final approvals to be made subject to staff upon the receipt of all agency approvals.

Motion by Ms. Wingate, seconded by Mr. Collins and carried unanimously to Deny the Revised Preliminary Site Plan. Motion carried 4-0.

S-24-60 West State Street Storage

Preliminary Site Plan

This is a Preliminary Site Plan for the construction of a 5,000 square foot building for the use as a warehouse. The property is located on the southwest side of West State Street (S.C.R. 326A). The Preliminary Site Plan complies with the Sussex County Zoning Code. Zoning: C-1 (General Commercial District). Tax Parcel: 133-16.12-19.00. Staff are in receipt of all agency approvals; therefore, this request is eligible for both preliminary and final approval.

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

Lands of 4 Seasons Park

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. Proposed Parcel 1 will consist of 4.43-acres, and the residual land will contain 7.23-acres +/- . A shared use maintenance agreement shall be established for the use of the shared access road. The property is located north of Lewes Georgetown Highway (Route 9). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 135-11.00-32.00. 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 approval 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 Minor Subdivision Plan off a proposed 30-ft. easement with final approval to be given by the staff subject to the receipt of all agency approvals off a proposed 30-ft. easement. Motion carried 4-0.

Lands of David and Robin Plivelich

Minor Subdivision Plan off 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 a proposed 30-ft wide ingress/egress access. Proposed Lot 1 will consist of 0.769-acres +/-, Proposed Lot 2 will consist of 0.836-acres +/-, and the residual land will contain 1.021-acres +/- . A shared use maintenance agreement shall be established for the use of the shared access road. The property is located at the west side of Harbeson Road (Route 5). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 235-30.00-104.00. Zoning: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals; therefore, this request is eligible for final approval.

Motion by Mr. Collins, seconded by Ms. Wingate and carried unanimously to Approve the Preliminary & Final Minor Subdivision Plan off a proposed 30-ft. easement. Motion carried 4-0.

Lands of James and Gretchen Wharton

Minor Subdivision Plan off an existing 129.4-ft easement

This is a Minor Subdivision Plan for the creation of two (2) lots plus the residual lands with access of an existing 129.4-ft wide ingress/egress access. Proposed Lot 1 will consist of 3.564-acres +/-, proposed Lot 2 will consist of 3.540-acres +/-, and the residual land will contain 14.939-acres +/- . A shared use maintenance agreement shall be established for the use of the shared access road. The property is located east of Jones Church Road (S.C.R. 423). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 333-10.00-20.00. 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 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 Minor Subdivision Plan off an existing 129.4-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 Kenneth and Bonnie Sunnergren

Minor Subdivision Plan off an existing 50-ft. easement

This is a Minor Subdivision Plan of 3 parcels consisting of 16.795 acres +/- into four (4) lots, therefore creating 1 additional lot with access off an existing 50-ft wide ingress/egress access. Proposed Lot A will consist of 7.793-acres +/-, Proposed Lot B will consist of 2.455-acres +/-, Proposed Lot C will consist of 2.066-acres +/-, and Proposed Lot D will consist of 3.056-acres +/- . A shared use maintenance agreement shall be established for the use of the shared access road. The properties are located east of Pettyjohn Road (S.C.R 255) and south of Prettyman Road (S.C.R. 254). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 235-29.00-28.00, 28.12 & 28.13. Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, staff are requesting that final approval be made subject to staff upon the receipt of all agency approvals.

Motion by Mr. Collins, seconded by Mr. Mears and carried unanimously to Approve the Minor Subdivision Plan off an existing 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 Rosehart Properties, LLC

Minor Subdivision Plan off a proposed 50-ft easement

This is a Minor Subdivision Plan for the creation of four (4) lots plus residual lands. Proposed Lot 1 will consist of 2.06 acres +/-, proposed Lot 2 will consist of 2.08 acres +/-, proposed Lot 3 will consist of 2.63 acres +/-, proposed Lot 4 will contain 4.61 acres +/-, and the residual lands will consist of 1.32 acres +/- . A shared use maintenance agreement shall be established for the use of the shared access road. The property is located on the west side of Bethesda Road (S.C.R. 326) The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 133-6.00-149.01. Zoning: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals; therefore, this request is eligible for final approval.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to Approve the Minor Subdivision Plan off a proposed 50-ft. easement. Motion carried 4-0.

OLD BUSINESS

C/U 2406 Monish Malhotra

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR VEHICLE STORAGE, MAINTENANCE, AND REPAIRS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 0.43 ACRES MORE OR LESS. The property is lying on the west side of Collins Street within the Collins Russell Subdivision, accessed from the north side of Milton Ellendale Highway (Rt. 16), approximately 0.5 mile west of Mulberry Street. 911 Address: 14400 Collins Street, Milton. Tax Map Parcel: 235-14.00-43.01.

The Commission discussed this application which has been deferred since August 21, 2024.

Mr. Collins moved the Commission to recommend **DENIAL** of **C/U 2406 MONISH MALHOTRA** for a Conditional Use for vehicle storage, maintenance and repairs based upon the record made during the public hearing and for the following reasons:

1. Although this application seeks approval for vehicle maintenance, storage and repairs and was advertised for that purpose, it was apparent from the testimony during the public hearing that the primary use is intended to be for the operation of a medical transportation business that was not identified as part of the application. The vehicle parking, repairs and storage are associated with that main business.
2. The site is within a residential subdivision that has developed over many years with single family homes. Although there is not a recorded prohibition against commercial uses within the subdivision, there is no evidence that other commercial uses exist in the subdivision other than within lots that have direct frontage along Route 16. This lot is an internal lot that does not have frontage upon Route 16.
3. While there may be other activities in the subdivision that resemble a small business use, these are either home occupations or hobbies. There is nothing in the record to suggest that any other conditional uses have been approved for the internal lots within this subdivision.
4. The Applicant's proposed use would include the storage of vehicles including junked "donor cars" for use in the repairs of operational vehicles used in the Applicant's medical transportation business and parked on the site. This residential subdivision is not an appropriate location for the storage of junked donor cars to be stripped for parts. This subdivision should not become a junkyard.
5. This is not an appropriate location for vehicle repairs to occur as part of a transportation business. This is not the same thing as an individual working on personal cars. Instead, this is a transportation business that involves a fleet of cars in regular in use, and the wear and tear that occurs as a result. This volume of repairs is not suitable for a residential subdivision.

6. I am not satisfied that there is sufficient space on the property for what the Applicant proposes, including the fleet of vehicles in use as part of the transportation business, the donor cars waiting to be stripped for parts, or the applicant's own vehicles.
7. I am not satisfied that there will be an adequate and safe provision for the collection and disposal of fluids associated with the repairs on the operational vehicles and the removal of parts from the donor vehicles. This is an even more of a concern where the proposed use is tucked within an existing residential subdivision.
8. It is not appropriate to approve this conditional use since the underlying medical transportation business that is intended to occur on this site is also neither appropriate nor approved at this location.
9. There are other more appropriate locations for this use that are not within a residential subdivision and where the proposed use would be more consistent with the surrounding area.
10. For all of these reasons, this conditional use application should be denied.

Motion by Mr. Collins, seconded by Mr. Mears and carried unanimously to recommend denial of **C/U 2406 Monish Malhotra** for the reasons and the conditions stated in the motion. Motion carried 4 -0.

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

ORD. 23-08 Future Land Use Map Amendment - John Legg

AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL 135-11.00-82.00. The property is lying on the northeast side of Gravel Hill Road (Rt. 30), approximately 0.14 mile southeast of Lewes Georgetown Highway (Rt. 9). 911 Address: 20093 Gravel Hill Road, Georgetown. Tax Map Parcel: 135-11.00-82.00.

The Commission discussed this Ordinance which has been deferred since September 11, 2024.

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

Mr. Mears moved the Commission to recommend that the County Council **ADOPT ORD. 23-08 Future Land Use Map Amendment – John Legg** in the current Sussex County Comprehensive Plan for Parcels 135-11.00-82.00, based on the record made during the public hearing and for the following reasons:

1. The parcel is currently designated as being within the “Low Density Area” according to the Sussex County Future Land Use Map contained within the Comprehensive Plan. This application seeks to convert the property to the “Industrial Area” designation.
2. The site has been used for heavy commercial and industrial purposes for decades. There was testimony in the record that this type of use relates back as far as World War Two and the buildup of Fort Miles. It was an oversight to omit this property from the Industrial Area

designation within the current Future Land Use Map given the longstanding use of the property. This amendment corrects that oversight.

3. According to the County’s Comprehensive Plan, the “Industrial Area” is intended for “lands devoted to concentrations of larger industrial uses including heavier industry, light industry, warehousing, and flex space. Appropriate development in these areas could take the form of conventional industrial parks or planned business parks with a unified design that incorporate a combination of light industry and other business uses.” The change in the Future Land Use Map to recognize the ongoing use of the property is appropriate.
4. The property is also located along Route 30, in close proximity to the intersection with Route 9. The Industrial Area designation is appropriate at this location.
5. Because this Map Amendment simply reflects the longstanding use of this particular property, 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. 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 Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend County Council **ADOPT ORD. 23-08 Future Land Use Map Amendment - John Legg** for the reasons and the conditions stated in the motion. Motion carried 4 -0.

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

C/Z 1976 John H. Legg

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A LI-1 LIMITED INDUSTRIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 14.426 ACRES, MORE OR LESS. The properties are lying on the northeast side of Gravel Hill Road (Rt. 30), approximately 0.14 mile southeast of Lewes Georgetown Highway (Rt. 9). 911 Address: 20093 Gravel Hill Road, Georgetown. Tax Map Parcel: 135-11.00-82.00.

The Commission discussed this application which has been deferred since September 11, 2024.

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

Mr. Mears moved the Commission to recommend **APPROVAL** of **C/Z 1976 JOHN H. LEGG** 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 Commission has just made a recommendation to Sussex County Council that the County’s Future Land Use Map designation for this property should be corrected to the “Industrial Area” designation to reflect its undisputed historical use for commercial and industrial purposes. The LI-1 Zoning District is an appropriate zoning designation within

the “Industrial Area” according to the County’s Future Land Use Map and the Comprehensive Plan.

2. The property is also located along Route 30 in close proximity to the intersection with Route 9. This location, near two significant Sussex County roadways, is appropriate for LI-1 Zoning.
3. The site is across Route 30 from the State of Delaware Department of Transportation’s Gravel Hill storage and staging facility. This facility utilizes rail and truck access and provides parking for DelDOT equipment and materials used in road maintenance and construction. LI-1 zoning at the Applicant’s property is similar to, and compatible with, the intensive uses at the DelDOT yard across the road.
4. The site has been used for heavy commercial and industrial purposes for decades. There was testimony in the record that this type of use relates back as far as World War Two and the buildup of Fort Miles. Other commercial and industrial uses have continued without interruption on this site since then. This rezoning will bring the property’s zoning into conformity with its longstanding use.
5. 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.
6. The rezoning will promote the local economy and will create and preserve jobs in the area for Sussex County residents.
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 Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of **C/Z 1976 John H. Legg** for the reasons and the conditions stated in the motion. Motion carried 4 -0.

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

The Commission voiced their opinion that they would encourage the property owner to make an effort to clean the property up or encourage the Constable to visit the site if necessary.

PUBLIC HEARINGS

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

C/U 2523 Tayra Trinidad

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A NAIL SALON BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.55 ACRE, MORE OR LESS. The property is lying on the east side of Powell Farm Road (S.C.R. 365), approximately 384 feet north

of Burbage Road (S.C.R. 353). 911 Address: 32379 Powell Farm Road, Frankford. Tax Map Parcel: 134-11.00-219.03. Zoning: AR-1 (Agricultural Residential District).

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

Ms. Tayra Trinidad, the applicant spoke on behalf of herself that she has owned the business at this location for three years now and is looking to expand: that she is looking to add one employee and another manicure/pedicure station; that she is currently under the home occupation classification and needs to apply for the Conditional Use in order to have more than one employee.

Ms. Wingate asked about the parking on the property and the number of clients that would be present at one time. The concern is that on the site plan provided it appeared that there was a disposal field on the area that cars would be parked and that could be an issue down the line.

Ms. Trinidad informed the Commission that they have a septic and well and that the parking would not be on the disposal field.

The Commission asked if she would like a lighted sign and what the hours of operation would be.

Ms. Trinidad stated that she would like a lighted sign, and the hours of operation would be Monday through Friday 9:00AM -7:00PM in the summer, Monday through Friday 9:00AM-6:00PM in the winter and Saturdays 9:00AM – 5:00PM year-round.

Mr. Whitehouse stated for the record that the property does not have County Sewer and is on a septic.

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

At the conclusion of the public hearing, the Commission discussed the Application.

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

Mr. Mears moved the Commission to recommend **APPROVAL** of **C/U 2523 Tayra Trinidad** for a nail salon business based upon the record made at the public hearing and for the following reasons:

1. The site is located within the Coastal Area according to the Sussex County Comprehensive Plan. This small business use is appropriate within this area.
2. This area is zoned AR-1 Agricultural Residential. The use of the property as a small nail salon business that was just the applicant as a home occupation. The Applicant seeks to expand the use to include an additional employee. A conditional use for this relatively inconspicuous business is appropriate at this location.
3. The use will not adversely affect area roadways or neighboring properties with the conditions imposed with this Conditional Use.

4. A small nail salon provides a service at a convenient location to nearby Sussex County residents, and it has a public or semi-public character that will benefit residents of Sussex County.
5. No parties appeared in opposition to this application.
6. This recommendation is subject to the following conditions:
 - a. This use shall be limited to nail salon business.
 - b. There shall be not more than 2 manicure stations and 2 pedicure stations. The Final Site Plan shall depict the area of the existing structure set aside for the business use and this floorplan shall show the locations of the stations.
 - c. There shall only be retail sales occurring from the site that coincide with scheduled appointments of clients, not general retailing.
 - d. There shall be one lighted sign, not to exceed 32 square feet per side.
 - e. The hours of operation shall be limited to 9:00 am through 7:00 pm, Monday through Friday, and 9:00 am through 5:00 pm on Saturdays. There shall be no Sunday hours.
 - f. Any lighting on the site shall be screened so that it does not shine on neighboring properties or roadways.
 - g. The applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.
 - h. The Final Site Plan shall clearly show all areas for employee and customer vehicle parking, and these areas shall be clearly marked on the site itself. There shall not be any parking within the property's setbacks.
 - i. Failure to comply with any of these conditions may be grounds for 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 Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of **C/U 2523 Tayra Trinidad** for the reasons and the conditions stated in the motion. Motion carried 4 -0.

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

C/Z 2018 James Yerkie, II

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN MR MEDIUM RESIDENTIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.53 ACRES, MORE OR LESS. The property is lying on the east side of Old Shawnee Road (S.C.R. 619) approximately 0.35-mile northeast of Shawnee Road (Rt. 36). 911 Address: N/A. Tax Map Parcels: 130-3.00-170.04. Zoning: MR (Medium Density Residential District).

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the staff analysis, a copy of the DeIDOT SLER, a copy of a letter received from the Sussex County Engineering Department Utility Planning Division, and one letter in opposition.

Mr. James Yerkie, II, the applicant, spoke on behalf of himself that he owns a piece of land that he wants to build his home on and also have his heating and air conditioning business location out of; that the land is currently zoned as and MR and he needs to change to AR-1 in order to live on the property and run his business from there; that currently he has 2 storage containers on the property that he is using for storage of materials and cars; that in order to come into compliance with the violations for the storage containers he needs to go through the Change of Zone and then the Conditional Use application.

Mr. Whitehouse informed the Commission that the property is currently zoned MR and he was violated by the Constables for having the storage containers on undeveloped land; that in order to meet compliance with the code, he would need to get a Conditional Use for the property, however that cannot happen until this Change in Zone takes place; that once this application is completed and if its approved, then he will come back before the Commission for his Conditional Use application which will allow for the storage containers to be on the property.

Ms. Patricia Marshall of 6470 Old Shawnee Rd, spoke in opposition to the application that she does not want to live across from a business and she has lived in this area and never had anything but residential properties surrounding her.

Ms. Sally Marshall, spoke in opposition to the application that the applicant is not being clear as to what he is trying to do with the property; that he states he wants to build his forever home on the property, but yet has the storage containers with not only materials for his business but also vehicles in and around the storage containers with for sale signs on them.

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 2018 James Yerkie, II**. Motion by Mr. Mears to defer action for further consideration, leaving the record open pending the completion of the Conditional Use hearing, seconded by Ms. Wingate and carried unanimously. Motion carried 4-0.

ORD. 23-12 Sewer Tier Amendment

AN ORDINANCE TO AMEND THE SUSSEX COUNTY SEWER TIER MAP OF THE COMPREHENSIVE PLAN FROM THE TIER 4 AREA (SYSTEM OPTIONAL AREAS) TO THE TIER 2 (SUSSEX COUNTY PLANNING AREA) IN RELATION TO TAX PARCELS 433-11.00-17.00 and 433-11.00-17.01. The properties are lying on the east side of Dupont Boulevard (Route 113) on the north and south sides of Delaware Avenue (S.C.R. 54A), at the intersection of Dupont Boulevard (Route 113) and Delaware Avenue (S.C.R. 54A). 911

Addresses: 34910 & 33913 Delaware Avenue, Frankford. Tax Map Parcels: 433-11.00-17.00 & 17.01. Zoning: C-1 (General Commercial District).

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the ordinance as it was introduced to County Council on September 17th, a copy of a sewer plan that's been received, a copy of the PLUS comments that have been received in the State Planning Office, a copy of a letter that has been received from the Sussex County Engineering Department Utility Planning Division and zero comments. To provide some background, it's a little bit different in that this is a request to amend an element of the comprehensive plan and it's specifically requesting to just amend the sewer tier map element of the plan. That because of that, it has to be reported to the states PLUS process for PLUS review for the State of Delaware, and we've received those comments, and they are in the packet. This was not initiated by staff, but by a private landowner who then submitted to the county.

The Commission discussed the Ordinance and stated that technically the County is the applicant and a public hearing must be had to inform the public as to what is happening; that the Sewer Tier Map helps with planning for new infrastructure; that the Engineering Department has forecasted what's going to be and where and then provides guidance via the Sewer Tier Map as to what properties will be serviced by County Engineering or private facilities.

Mr. Ray Blakeney of Plitko Engineering, spoke on behalf the property owner Mr. Travis Martin, who owns an existing business since 2006 on the property and currently it has a septic holding tank on site that serves both parcels and he wants to gain access to sewer; that it's better for his business and the environment; that both parcels are adjacent to the Tier 1 Sussex County Unified Sewer District and they're requesting the amendment to change the classification to Tier 2 as part of their efforts to be annexed.

Mr. Wesley Hayes of 34598 Delaware Ave. Frankford, stated that he wants to see the sewer plan that they are trying to implement for clarity as he owns adjacent properties to Mr. Martin and does not understand why they are trying to do what they are saying; that Mr. Martin currently has some buildings that are connected to sewer and he wants to know what the plan is for this case as he doesn't understand the plan; that if they are going to do connections for sewer that he is concerned about the traffic and trucks on Delaware Ave during the construction process; that the road is not wide enough to handle that kind of increase in traffic.

Chairman Wheatley stated that the request today is to take the property into a Tier 2 on the Sewer Tier Map and then to a Tier 1; that there will be multiple public hearings before the final change would be made to ultimately construct the sewer connection; that this is only the first step and once this goes through and if it is approved by County Council, then it will have to come back through the process again to go from Tier 2 to Tier 1; that once it gets through that process then there will be discussion on engineering and construction.

The Commission gave Mr. Hayes a copy of the plan that has been submitted at this time and offered for the Planning & Zoning staff to sit with him so he can understand what it all means.

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

At the conclusion of the public hearing, the Commission discussed the Application.

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

Mr. Mears moved the Commission to recommend County Council **ADOPT Ord. 23-12 Sewer Tier Amendment** based upon the record made at the public hearing and for the following reasons: This is an Ordinance to Amend the County Sewer Tier Map of the Comprehensive Plan from the Tier 4 area, which is system operational areas to the Tier 2 Area, which is Sussex County planning area in relation to tax parcels 433-11.00-17.00 and 433-11.00-17.01. The properties are lying on the east side of DuPont Blvd. (Route 113) and on the North and South side of Delaware Ave., (C.R. 54 A) at the intersection of DuPont Blvd. (Route 113) and Delaware Avenue again, (C.R. 54 A). 911 address is 34910 and 33913 Delaware Ave. Frankford. Tax map parcels are 433-11.00-17.00 and 17.01. The zoning is C1, General Commercial district, and the motion is that the Commission moved to recommend this ordinance based upon the record made during the public hearing and with the concurrence of the County Engineering Department for the map amendment. This will enable the property, which has been used for business purposes, to connect to county sewer. This property is adjacent to Tier 1, and this change to Tier 2 will enable it to be annexed into the Sussex County Sanitary Sewer District, so moved.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend County Council adopt Ord. 23-12 for the reasons and the conditions stated in the motion. Motion carried 4 -0.

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

Meeting adjourned at 4:27 p.m.

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