

## MINUTES OF THE REGULAR MEETING OF JULY 10, 2024

The regular meeting of the Sussex County Planning and Zoning Commission was held on Wednesday afternoon, July 10, 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, Mr. Brian Butler, and Mr. Scott Collins. Also, in attendance were Mr. Jamie Whitehouse - Planning & Zoning Director, Mr. Vincent Robertson – Assistant County Attorney, Mr. Michael Lowrey – Planner III, Ms. Christin Scott – Planner II, and Ms. Ann Lepore – Planner I.

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

Chairman Wheatley called a five-minute recess.

### ADDITIONAL BUSINESS

Annual Administration of Oaths – Mr. Robertson administered Oaths to the Planning and Zoning Commission Members.

### REORGANIZATION

Chairman Wheatley announced that Mr. Whitehouse, Planning & Zoning Director would act as Chair for the purpose of electing a Chair, Vice-Chair, and electing Officers.

Mr. Whitehouse opened nominations for the Chairperson.

Ms. Wingate nominated Mr. Wheatley as Chairman. There were no other nominations for Chairman. Motion carried 5-0.

Motion by Ms. Wingate to elect Mr. Wheatley as Chairman, seconded by Mr. Mears. Motion carried 5-0.

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

Mr. Whitehouse opened nominations for Vice-Chair.

Mr. Mears nominated Ms. Wingate as Vice-Chair. There were no other nominations for Vice-Chair.

Motion by Mr. Mears, seconded by Mr. Collins, that the nominations for Vice-Chair be closed. Motion carried 5-0.

Motion by Mr. Mears, seconded by Mr. Collins to elect Ms. Wingate as Vice-Chair. Motion carried 5-0.

Vote for Ms. Wingate as Vice-Chair by roll call: Ms. Wingate – yea, Mr. Mears – yea, Mr. Collins – yea, Chairman Wheatley – yea, Mr. Butler – yea

Mr. Whitehouse announced the Chairman designation was handed back to Chairman Wheatley.

Motion by Ms. Wingate to authorize the Planning & Zoning Director, the Director of Planning and Zoning, or the Assistant Director of Planning & Zoning, and his or her designees to sign Record Plans on behalf of the Commission.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to approve the authorized Plan signers as stated in the motion. Motion carried 5-0.

Vote to approve the authorized Plan signers by roll call: Mr. Collins – yea, Ms. Wingate – yea, Mr. Collins – yea, Chairman Wheatley – yea, Mr. Butler – yea

Motion by Mr. Collins, seconded by Ms. Wingate to approve the Minutes of the June 5, 2024, Planning and Zoning Commission meeting as circulated. Motion carried 5-0.

## **PUBLIC COMMENT**

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

## **OTHER BUSINESS**

### **Patriots Glen (Phase 2) Residential Planned Community (RPC) (C/Z 1911)**

#### **Final Site Plan & Landscape Plan**

This is a Final Site Plan and Landscape Plan for the establishment of Phase 2 of the Patriots Glen development to consist of a one-hundred and twenty-eight (128) lot Residential Planned Community (RPC), including private roads, a gazebo, stormwater management and open space. It is noted that the residents of Patriots Glen Phase 2 shall have access to the community active recreation facilities provided within the previously approved Patriots Glen (Phase 1) Residential Planned Community (RPC). At their meeting of Tuesday, the Sussex County Council approved a Change of Zone for the parcel through C/Z 1911 from Commercial Residential District (CR-1) and Medium Density Residential, Residential Planned Community District (MR-RPC) and the change was adopted through Ordinance No. 2770. Staff further note that the Preliminary Site Plan for the proposal was approved by the Planning and Zoning Commission at its meeting of Thursday, May 12<sup>th</sup>, 2022. The property is located on the southeast side of John J. Williams Highway (Route 24), approximately 0.45-mile southwest of Oak Orchard Road with access on the north side of the previously approved and proposed Patriots Glen Residential Planned Community via Constitution

Way. The Final Site Plan complies with the Sussex County Zoning and Subdivision Codes and all Conditions of Approval. Tax Parcel: 234-29.00-67.00. Zoning: MR-RPC (Medium Density Residential, Residential Planned Community District). Staff are in receipt of all agency approvals.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to approve the Final Site Plan and Landscape Plan. Motion carried 5-0.

**2022-08 Estates at Walden (F.K.A. Walden III)**

**Final Subdivision Plan**

This is a Final Subdivision Plan for the Estates at Walden (F.K.A. Walden III) Subdivision which consists of the creation of twenty-one (21) single family lots. Included in the Plan are fully improved streets, stormwater management, a Landscape Plan, and other site improvements. The Preliminary Subdivision Plan was approved by the Sussex County Planning and Zoning Commission at their meeting of Thursday, April 27<sup>th</sup>, 2023. The property is located on the northeast corner of John J. Williams Highway (Route 24) and Sloan Road (S.C.R. 49). This Final Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes as well as all Conditions of Approval. Tax Parcel: 234-17.00-29.00. Zoning: AR-1 (Agricultural Residential District) & MR (Medium Density 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 Plan. Motion carried 5-0.

**One Coastal**

**Revised Preliminary Site Plan**

This is a Revised Preliminary Site Plan for the addition of thirty (30) outdoor seats to remain as a permanent outdoor seating area. The outdoor seating area was previously temporarily approved and utilized according to Governor's orders during COVID-19. The properties are located on the northeast corner of Coastal Highway (Rt.1) and Delaware Avenue in Fenwick Island. The Revised Preliminary Site Plan complies with the Sussex County Zoning Code. Zoning: C-1 (General Commercial District). Tax Parcels: 134-23.20-119.00 & 134.00. Staff are in receipt of all agency approvals; therefore, this project is eligible for both preliminary and final approval.

Motion by Mr. Collins, seconded by Mr. Mears and carried unanimously to approve the Preliminary and Final Subdivision Plan. Motion carried 5-0.

**S-24-22 Ash Property**

**Preliminary Site Plan**

This is a Preliminary Site Plan for the for the construction of an apartment building for 46 units, a 3,000 square foot retail building, a 9,828 square foot flex space building, and other site improvements. The properties are located on the south side of John J. Williams Highway (Route 24), approximately 0.25 mile east of Camp Arrowhead Road (S.C.R.279). The Preliminary Site Plan complies with the Sussex County Zoning Code. Zoning: M (Marine District). Tax Parcels: 234-7.00-111.00 & 112.00. Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, staff are requesting that final approval be made subject to staff upon the receipt of all agency approvals.

Motion by Mr. Collins, seconded by Ms. Wingate and carried unanimously to approve the Preliminary Site Plan with final approval by staff upon receipt of all agency approvals. Motion carried 4-0 with Chairman Wheatley abstaining.

**S-23-44 Concrete Building Systems of Delmar, LLC**

Preliminary Site Plan

This is a Preliminary Site Plan for the construction of two 9,800 square foot buildings for the building and storage of concrete products and other site improvements. The property is located on the north side of Old Racetrack Road (S.C.R. 502). The Preliminary Site Plan complies with the Sussex County Zoning Code. Zoning: HI-1 (Heavy Industrial District). Tax Parcel: 532-20.00-12.01. Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, staff are requesting that final approval be made subject to staff upon the receipt of all agency approvals.

Motion by Mr. Butler, seconded by Ms. Wingate and carried unanimously to approve the Preliminary Site Plan with final approval by staff upon receipt of all agency approvals. Motion carried 5-0.

**S-24-42 Kelly Benson**

Preliminary Site Plan

This is a Preliminary Site Plan for the establishment of a watersport recreational facility and other site improvements. The properties are located on the northeast side of Muddy Neck Road (S.C.R. 361) directly across from the intersection of Muddy Neck Road (S.C.R. 361) and Double Bridges Road (S.C.R. 363). Staff notes that a Conditional Use Application (Conditional Use No. 2488,) approving the use of the property as a watersport recreational facility was approved by the Sussex County Council at their meeting of Tuesday, June 4<sup>th</sup>, 2024, and the change was adopted through Ordinance No. 3020. The Preliminary Site Plan complies with the Sussex County Zoning Code. Zoning: AR-1 (Agricultural Residential District). Tax Parcels: 134-17.00-15.00 & 15.03. 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 Mr. Ms. Wingate, and carried unanimously to approve the Preliminary Site Plan with final approval by staff upon receipt of all agency approvals. Motion carried 5-0.

**2018-17 Tower Hill (F.K.A. Groome Property)**

Request for a Determination of and to Amend Conditions of Approval

The Department of Planning and Zoning has received a request for a determination of and to amend Conditions of Approval for the Tower Hill Subdivision, a two-hundred and ninety-two (292) lot cluster subdivision to include private roads, open space, stormwater management and amenities to include a pool and clubhouse. The Amenities Plan for the amenities on the western side of Lynn Road was approved by the Planning and Zoning Commission at their meeting of Thursday, September 8<sup>th</sup>, 2022.

- Specifically, this request is for a determination that the Applicant's updated Amenities Plan showing the Amenities to be provided on the eastern side of Lynn Road meets the

provisions of Condition “H” of the Conditions of Approval, which requires, “*On-site amenities shall be divided so that equivalent (not necessarily the same) amenities shall be constructed on either side of Lynn Road.*” The Applicant has proposed 2.19 acres of amenities on the eastern side of Lynn Road to include an open activity play field area, tot lot and fitness area, three (3) pocket parks, a little library and nature trail area. The determination before the Commission is whether these improvements are to be construed as “*equivalent but not necessarily the same*” as the 2.80 acres to include the existing clubhouse, outdoor pool and spa, sports courts, outdoor fireplaces, grilling area, and green spaces on the west side of Lynn Road.

- Also included in this request, is a request to Amend Condition “I” which currently states, “*The developer shall complete all amenities prior to the issuance of the 140<sup>th</sup> residential building permit*” and to add the following revised language at the end of existing Condition “I”: “*Except for the gathering area/playfield, tot lot and pocket parks which shall be constructed within one year of the construction of the base paving of the streets on which those areas front.*” Staff have been furnished with a Construction Plan noting the proposed timing of completion of amenities and a Site Map which shows that 109 homes have been sold/settled (representing 37% of the lots within the Subdivision) with the remaining 183 properties (representing 63% of the lots within the Subdivision) currently being developer-owned. The properties are located on the east and west sides of Lynn Road and the northwest side of New Road, approximately 0.58 mile east of Old Orchard Road (S.C.R. 269A). Tax Parcels: 335-8.00-2.00 & 2.02. Zoning: AR-1 (Agricultural Residential District).

Motion by Mr. Collins, seconded by Mr. Butler and carried unanimously to approve the Preliminary Site Plan with final approval by staff upon receipt of all agency approvals. Motion carried 5-0.

### **S-24-30 Budget Mini Storage**

Request for Clarification as to Code Section Applicability (§115-194.1- CHCOZ)

This is a request for clarification of (§115-194.1C(3)) relating to the requirement to provide a “*FORESTED AND/OR LANDSCAPED BUFFER STRIP*” as part of the Planning & Zoning Department’s review of a Preliminary Site Plan submission. The Preliminary Site Plan includes an expansion of the existing (14,400 SQ FT) of commercial storage facility with the addition of (57,000 SQ FT) onto the unimproved neighboring Parcel for a total of (71,400 SQ FT) of commercial storage. The Applicant is requesting clarification on the requirement to provide a “*FORESTED AND/OR LANDSCAPED BUFFER STRIP*” (§99-5 Definitions) along the frontage of Parcel #58.09. The plantings are required under the Combined Highway Corridor Overlay Zone – CHCOZ and the Applicant is requesting exemption as an “existing business” under (§115-194.1C(3)(a)). Staff note that variances relating to requirements within the CHCOZ are required to be considered by the Board of Adjustment per (§115-194.1A). Tax Parcels: 530-10.00-58.08 & 530-10.00-58.09.

Motion by Mr. Butler, seconded by Mr. Collins and carried unanimously to approve the Preliminary Site Plan with final approval by staff upon receipt of all agency approvals. Motion carried 5-0.

**Lands of Jose Antulio Calderon Fuentes & Ana C. Gomez Garcia**

Minor Subdivision Plan off of a proposed 24-ft. easement

This is a Minor Subdivision Plan for the creation of four (4) lots plus the residual lands with access off a proposed 24-ft wide ingress/egress access easement. Proposed Lot 1 will consist of 1.00-acre +/-, proposed Lot 2 will consist of 1.00-acre +/-, proposed Lot 3 will consist of 1.00-acre +/-, Lot 4 will consist of 1.00-acre +/-, and the residual lands will contain 3.113 acres +/- . 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 Dublin Hill Road (S.C.R. 31). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 131-9.00-34.00. 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. Butler, seconded by Mr. Collins and carried unanimously to approve the Preliminary Minor Subdivision with final approval by staff upon receipt of all agency approvals. Motion carried 5-0.

**Lands of John M. Nikolaus & Joseph S. Felus**

Minor Subdivision Plan off of a proposed 40-ft. easement

This is a Minor Subdivision Plan for the creation of one (1) lot plus the residual lands with access off a proposed 40-ft wide ingress/egress access easement. Proposed Lot 1 will consist of 0.4600-acres +/-, and the residual land will contain 0.4851 acres +/- . A shared use maintenance agreement shall be established for the use of the shared access road. The property is located at the east side of Angola Beach Road (S.C.R. 278) and west side of Baylis Drive. The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 234-18.00-18.01. 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 Ms. Wingate and carried unanimously to approve the Preliminary Minor Subdivision with final approval by staff upon receipt of all agency approvals. Motion carried 5-0.

**OLD BUSINESS**

**2022-33 Wilson's Landing**

**A STANDARD SUBDIVISION TO DIVIDE 57.60 ACRES +/- INTO THIRTY-NINE (39) SINGLE-FAMILY LOTS, TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY.** The property is lying on the southeast and southwest corners of the intersection of Peterkin's Road (S.C.R. 317) and Springfield Road (S.C.R. 47), approximately 0.15 mile west of Gravel Hill Road (Rt. 30). 911 Address: N/A. Tax Map Parcel: 234-8.00-38.00. Zoning: AR-1 (Agricultural Residential).

The Commission discussed this application which has been deferred since June 5, 2024.

Ms. Wingate moved that the Commission grant preliminary approval for Subdivision 2022-33 for **WILSON'S LANDING** based on the record made during the public hearing and for the following reasons:

1. The Applicant is seeking approval of a standard subdivision on land zoned AR-1 located within the "Low Density" Area of the 2019 Comprehensive Plan's Future Land Use Map. Residential development of this type and density proposed here is appropriate within the Low Density Area.
2. The subdivision will have no more than 39 lots on 57.60 acres of land resulting in a gross density that is permitted in the AR-1 Zoning District. All lots will be at least 3/4 of an acre in size.
3. The proposed subdivision meets the purpose and standards of the Subdivision Code, and the Applicant has addressed the requirements of Section 99-9C of the Code.
4. DelDOT has determined that the subdivision will have a "Negligible Impact" upon area roadways.
5. The lots in the subdivision will be served by individual on-site wells and septic systems. The Applicant has received septic feasibility approval from DNREC.
6. The subdivision meets the purpose of the Zoning and Subdivision Codes and Comprehensive Plan in that it promotes the orderly growth, convenience, order, prosperity, and welfare of the County as a low-density subdivision.
7. This recommendation is subject to the following conditions:
  - A. There shall be no more than 39 lots within the subdivision.
  - B. The developer shall establish a homeowner's association responsible for maintenance of the streets, buffers, stormwater management facilities, and other common areas.
  - C. The stormwater management system shall meet or exceed the requirements of the State and County and the Final Site Plan shall contain the approval of the Sussex Conservation District. The system shall be maintained and operated using Best Management Practices.
  - D. There shall be a forested and/or vegetated buffer strip that is at least 20 feet wide along the perimeter of the subdivision and in accordance with the planting requirements of Section 99-5 of the Subdivision Ordinance. This buffer shall increase to a width of 30 feet where the site borders existing homes. The buffer shall utilize existing forest or similar vegetation where it exists in the buffer area. Where trees currently exist in the buffer area, stump removal or construction activities that disturb the existing grade of the area within the buffer shall be prohibited. All silt fencing shall be located along the interior limit of the buffer area (the edge of the buffer nearest the interior development) and the Final Site Plan shall identify the "Limit of Disturbance" to prevent disturbance of the buffer area.
  - E. The development shall comply with DelDOT entrance roadway improvement requirements.
  - F. Street design shall meet or exceed Sussex County standards.
  - G. Road naming and addressing shall be subject to the review and approval of the Sussex County Geographical Information Office.
  - H. The lots in the subdivision shall be served by individual wells and septic systems.
  - I. Construction, site work, and deliveries shall only occur on the site between the hours

- of 7:00a.m. and 6:00p.m. Monday through Friday and between 7:00a.m. and 2:00p.m. on Saturdays. No Sunday hours are permitted. A 24 inch by 36 inch “NOTICE” sign confirming these hours in English and Spanish shall be prominently displayed at the site entrance during construction.
- J. The Applicant shall coordinate with the local school district for a school bus stop within the subdivision. If required by the school district, the location of the bus stop area shall be shown on the Final Site Plan. An area for vehicles to wait for school busses shall be established near the bus stop area; or if one is not required, at the entrance to the development where school busses will otherwise pick up or drop off children.
  - K. There was testimony during the public hearing that a private cemetery exists upon the property. The Applicant shall retain the services of an archaeologist to determine the existence, location and boundaries of any cemetery in coordination with the Delaware State Historical Preservation Office. The cemetery area shall be surveyed and marked and it shall be accessible by sidewalk or pathway from the subdivision roadway. The Preliminary Site Plan shall be revised to reflect the location and boundaries of the cemetery; The Director shall determine whether the revisions result in a plan that is “substantially in accordance” with the preliminary site plan presented during the public hearing. If the Director determines that it is not “substantially in accordance” with the preliminary site plan presented during the public hearing, then the revised preliminary site plan shall be placed on an agenda of the Planning and Zoning Commission to determine whether a new public hearing shall be required.
  - L. As part of the redesign to accommodate the cemetery, the plan shall be modified to include unobstructed areas in addition to the main entrances set aside for vehicular access to adjacent roadways in emergency situations. These areas do not need to be improved with paving or stones. Instead, they must be outside of any lots or structures and free from obstructions so that the development is not isolated in the event that a main entrance is impassable.
  - M. The Final Site Plan shall include a Grading Plan for the site. No building permit shall be issued for individual lots 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.
  - N. A revised Preliminary Site Plan either depicting or noting these conditions must be submitted to the Office of Planning and Zoning.
  - O. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to recommend approval of 2022-23 Wilson’s Landing for the reasons and the conditions stated in the motion. Motion carried 5-0.

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

**C/U 2515 Renewable Redevelopment, LLC**



**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A HI-1 HEAVY INDUSTRIAL DISTRICT FOR AN ELECTRIC SUBSTATION AND UTILITY USES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 140.25 ACRES, MORE OR LESS.** The property is lying on the northwest side of Gate A Road, located off Iron Branch Road (S.C.R. 331). 911 Address: N/A. Tax Map Parcel: 233-2.00-2.01.

The Commission discussed this application which has been deferred since June 26, 2024.

Ms. Wingate moved that the Commission recommend approval of C/U 2515 for **RENEWABLE REDEVELOPMENT, LLC** for an electrical substation based on the record and for the following reasons:

1. The proposed substation is located on land that is zoned HI-1 Heavy Industrial. The purpose of the HI-1 District is to provide for a variety of industrial operations as well as uses permitted in the LI-1 and LI-2 zoning districts. This conditional use is appropriate in the HI-1 District.
2. The location of the facility is designated as being in the “Industrial Area” under the Comprehensive Plan’s Future Land Use Map. “Industrial Areas” are areas devoted to concentrations of larger industrial uses including heavy industry.
3. The proposed facility is on land that was part of the Indian River Power Plant (in operation at this location since the 1950s) and it is adjacent to the existing DP&L electrical substations which have been in operation for decades. This conditional use is a reasonable and appropriate extension of the long-established land use at this location.
4. The proposed facility will not result in any significant increase in traffic on area roadways since there will be no full-time employees at the site, only periodic visits for inspections, repair and maintenance of the facility.
5. The proposed site is located a considerable distance from other properties and residences and the facility will be buffered by a significant natural barrier of existing mature trees.
6. The construction and use of an electrical substation on this site will not adversely affect neighboring properties or roadways.
7. No parties appeared in opposition to this application.
8. This Conditional Use is subject to the following conditions:
  - A. The Final Site Plan shall clearly show the limits of the electrical substation conditional use area as well as the remaining acreage.
  - B. The perimeter of the substation shall be fenced.
  - C. Two signs shall be required on the fencing around the property to identify the site and emergency contact information.
  - D. The plot indicates that only 23.59 acres of the 140.25 acre site will be disturbed. Forested areas outside of the disturbed area shall be preserved to the greatest extent possible and shown on the Final Site Plan.
  - E. Any security lighting shall be downward screened.
  - F. All stormwater management and erosion and sedimentation control facilities shall comply with applicable state and county requirements. These facilities shall be operated using Best Management Practices.

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

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to recommend approval of C/U 2515 Renewable Redevelopment, LLC for the reasons and the conditions stated in the motion. Motion carried 5-0.

**C/U 2416 Over the Hill Holdings, LLC**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN INDOOR AND OUTDOOR SHOOTING/ARCHERY RANGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GUMBORO HUNDRED, SUSSEX COUNTY, CONTAINING 10.55 ACRES MORE OR LESS.** The property is lying on the northeast corner of the intersection of Parker Road (S.C.R. 415) and Line Road (S.C.R. 419). 911 Address: 38531 Parker Road, Millsboro. Tax Map Parcel: 333-15.00-20.00.

The Commission discussed this application which has been deferred since June 26, 2024.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to defer C/U 2416 Over the Hill Holdings, LLC for further consideration. Motion carried 5-0.

**C/U 2417 White House Beach, Inc.**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR THE ADDITION OF EIGHT (8) LOTS INTO THE WHITE HOUSE BEACH MANUFACTURED HOME PARK AND BEING ON A 1.04 ACRE PORTION, MORE OR LESS, OF A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 324.18 ACRES MORE OR LESS.** The property is lying on the south side of Long Neck Road (Route 23), approximately 2.53 miles southeast of the intersection of Long Neck Road (Route 23) and School Lane (S.C.R. 298) within the White House Beach Manufactured Home Park. 911 Address: N/A. Tax Map Parcel: 234-30.00-6.00 (p/o).

The Commission discussed this application which has been deferred since June 26, 2024.

Ms. Wingate moved that the Commission recommend approval of C/U #2417 for **WHITE HOUSE BEACH, INC.** for 8 additional lots within the existing manufactured home community based upon the record made during the public hearing and for the following reasons:

1. White House Beach was originally established in 1956 and is a legally nonconforming manufactured home park with the AR-1 Zoning District. The legal existence of the park was first confirmed by Conditional Use #2 in 1971 and there have been several subsequent conditional uses to create additional lots. This application seeks to add 8 additional lots within a formerly undeveloped area of the community.
2. The current layout of the community is generally shown on a plan dated January 24, 2011. However, given the age and evolution of this community there is not a clear record of the number, location and type of lots within it. For this reason, there is a condition of approval

requiring a new “master-plan”-type drawing showing the entire community and showing the general layout and location of the lots and the type of each lot.

3. In addition to the existing lots within White House Beach that surround these 8 new lots, the community is also in an area where C-1 Zoning exists along with townhomes and other manufactured home parks. These 8 lots will be consistent with the existing uses that are in the area.
4. White House Beach is located within the Coastal Area according to the current Sussex County Future Land Use Map. This 8-lot expansion of the White House Beach community is appropriate in this Area according to the Comprehensive Plan and the Future Land Use Map.
5. DelDOT has determined that the traffic impact from these 8 new lots will be “diminutive”.
6. The community and these 8 new lots will be served by central water and connected to the Sussex County sewer system.
7. The additional 8 lots will not adversely affect nearby properties or area roadways.
8. No parties appeared in opposition to this application.
9. This recommendation is subject to the following conditions:
  - A. No more than 8 new lots shall be added to the existing, approved White House Beach Manufactured Home Park.
  - B. The additional 8 lots shall conform to the current requirements for a manufactured home park as set forth in the Sussex County Zoning Code as to size, setbacks, parking and other dimensional requirements.
  - C. The area where the 8 new lots are to be located shall meet or exceed the stormwater management requirements of the State and County and the Final Site Plan shall contain the approval of the Sussex Conservation District.
  - D. The addressing for these 8 new lots shall be established by the Sussex County Geographical Information Office.
  - E. A Final Site Plan depicting the area of these 8 new lots shall be reviewed and approved by the Sussex County Planning & Zoning Commission. This Final Site Plan shall also depict the proximity of any of these 8 lots to the nearest State or Federal Wetlands. In addition, at the same time that a Final Site Plan is submitted for approval, the Applicant shall submit a revised “Master Plan” of the entire White House Beach Community identifying all lot locations by number, and further identifying lots that are set aside for tent camping, RV camping and manufactured homes. This Master Plan does not need to comply with the level of detail required of a Final Site Plan for the entire community; it shall be sufficient, subject to staff’s approval, to generally depict the layout of the community.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to recommend approval of C/U 2417 White House Beach, Inc. for the reasons and the conditions stated in the motion. Motion carried 5-0.

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

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

## PUBLIC HEARINGS

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

### **C/U 2429 Jason Hignutt**

**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 SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 0.69 ACRE, MORE OR LESS.** The property is lying on the west side of Camp Road (S.C.R. 532), approximately 0.19 mile north of Eskridge Road (S.C.R. 531). 911 Address: 20914 Camp Road, Bridgeville. Tax Map Parcel: 331-2.00-17.02.

Mr. Whitehouse advised the Commission that submitted into record were a copy of the Staff Analysis, a copy of the Applicant's Survey Plan, a copy of the Applicant's Conceptual Site Plan with photographs, written comments from the Applicant, a copy of DelDOT's Service Level Evaluation Response, and a copy of a letter from Sussex County Engineering Department Utility Planning Division. There were no comments received from members of the public.

The Commission found that Mrs. Keri Hignutt and Mr. Jason Hignutt spoke on behalf of the Application. Mrs. Hignutt stated that the application is for a landscaping company that provides a range of services such as paver installation, powerwashing, turf care, grass cutting, irrigation installation and maintenance, mulching; and planting; that there is a 32' X 36' pole building on the property that is used for storing materials used for the business; that some piping is stored outside the pole building; that there is an active farm directly across the road from the subject property; that there is a painting business to the rear of the subject property which is also going through the conditional use process, and some more residences.

Mr. Hignutt stated that there is a watermelon distribution center to the north of his property; that there are two landscape businesses and a massage parlor in the immediate area.

Mr. Butler asked if a lighted sign would be requested, what would the hours of operation be, and if there would be chemicals stored at the site.

Mr. Hignutt stated that there would be landscape lighting provided for the sign.

Mrs. Hignutt stated that the hours of operation would be 7:00 am – 3:00 pm – 7:00 pm Monday through Saturday with no Sunday hours. That there is no work performed after dark and mainly snow removal in the winter.

Mr. Hignutt stated that herbicides would be stored in the pole building.

Ms. Wingate asked if there would be grinding performed on site.

Mr. Hignutt stated that there would not be any grinding on site.

Mr. Mears asked if there would be vehicle or equipment maintenance on site and if there would be any retail sales on the site.

Mrs. Hignutt stated that all vehicle maintenance is performed off site. Mrs. Hignutt stated that currently no customers come to the site but what would happen in the future if they wanted to grow the business and have customers come to the site.

Mr. Robertson stated that adding to what is asked for and approved by this Conditional Use could trigger another application in the future.

Ms. Wingate advised the Applicant that if they intend to add additional employees next year, then to include that number in this application.

Chairman Wheatley stated that due to the size of the site, that if the business were to grow, it may require a new location and that if they ask for six employees it gives the Applicant room to grow.

Mr. Robertson asked if there would be mulch or dirt stored at the site.

Mrs. Hignutt stated that mulch and dirt would not be stored at the site.

The Commission found that no one was present who wished to speak in support of or in opposition to the Application.

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 2429 Jason Hignutt. Motion by Mr. Butler to defer action for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 5-0.

**C/U 2428 TN Hitch, LLC**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AMEND THE CONDITIONS OF APPROVAL FOR CONDITIONAL USE NO. 1713 (ORDINANCE NO. 1961) TO ALLOW FOR AN ADDITIONAL BUILDING 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 north side of Roxana Road (Rt. 17) approximately 177 feet southwest of Pyle Center Road (Rt. 20). 911

Address: 35160 Roxana Road, Frankford. Tax Map Parcel: 533-6.00-30.00.

Mr. Whitehouse advised the Commission that submitted into record were a copy of the Staff Analysis, a copy of the Applicant's Conceptual Site Plan, a copy of the Minutes from the Planning and Zoning Commission meeting of December 13, 2007, a copy of the Minutes from the County Council meeting of April 1, 2008, a copy of DelDOT's Service Level Evaluation Response, and a copy of a letter from Sussex County Engineering Department Utility Planning Division. There were no comments received from members of the public.

The Commission found that Mr. Ray Blakeney with Plitko Engineering, spoke on behalf of the Applicant, TN Hitch, LLC; that also present was the Applicant, Mr. Tyler Hitch. Mr. Blakeney stated that Mr. Hitch purchased the property in January 2017; that at the time of the purchase all the existing buildings were present on site; that Mr. Hitch cleaned up the property; that Mr. Hitch was unaware of the Conditions of Approval which prevented additional buildings on the site; that the existing buildings are used by the owner for storage and one building is rented out; that the proposed building would be used by the owner for storage for his expanding business; that the typical traffic on the site is 3 trucks once a day; that there will not be a dramatic change in traffic if the new building is built; that the Applicant is working with Sussex Conservation District regarding stormwater management and drainage; and that there may be minor changes based on comments from the Planning and Zoning Department in addition to Sussex Conservation District which include the removal of some hardscape, a driveway to serve the proposed pole building, landscape plan, etc.

Ms. Wingate asked if there would be grinding performed on site.

Mr. Blakeney stated that there would not be any grinding on site.

Mr. Mears stated that it is a great location, and he is glad to see it back in use.

Mr. Robertson stated that is reviewing the history of the CU 1713, there was no clear indication of why the Conditions of Approval limited the number of buildings to four. Mr. Robertson asked if the Commission want any changes to the other ten Conditions of Approval from CU 1713.

The Commission stated that there are no issues with the other ten Conditions.

Mr. Blakeney asked if the Applicant would require a variance from the Board of Adjustment for the non-conforming buildings.

Mr. Robertson stated that variances would not be required for the non-conforming buildings.

Mr. Hitch stated that the dumpsters are in one central location; that there are two dumpsters, one for trash and one for recycling.

The Commission found that no one was present who wished to speak in support of or in opposition to the Application.

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 moved that we recommend approval of Conditional Use # 2428 for **TN Hitch, LLC** to amend a condition of approval that was included in Conditional Use # 1713 (Ordinance # 1961) to allow an additional building based upon the record made during the public hearing and for the following reasons:

1. A four-building conditional use was approved several years ago. That was in addition to the two legally nonconforming grandfathered buildings that already existed on the site.
2. The site had a history of commercial uses, as referenced in the approval of Conditional Use #1713.
3. Although Conditional Use # 1713 limited the site to 4 additional buildings, there was no opposition to that conditional use and no clear basis for the limitation, other than the fact that only 4 buildings were sought as part of that initial approval.
4. There are a variety of commercial and business uses in this area, and this additional building will be consistent with the surrounding and nearby uses.
5. In the years that Conditional Use #1713 has been in existence, there is no record of any adverse impact of the use on the neighboring properties and roadways. There is nothing in the record to indicate that this expansion will create any adverse issues.
6. This is a reasonable expansion of the existing conditional use that is consistent with the development trends in this area.
7. No parties appeared in opposition to this application.
8. This Conditional Use is subject to the following conditions:
  - a. Condition #1 of Conditional Use #1713 and Ordinance # 1961) shall be amended to allow one additional building as shown on the site plan presented during the public hearing along with one additional dumpster for that building.
  - b. The Final Site Plan shall be subject to the review and approval of the Planning & Zoning Commission.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of C/U 2428 TN Hitch, LLC. for the reasons and the conditions stated in the motion. Motion carried 5-0.

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

**C/U 2432 Simon Fares & Lorne Crawford**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BEAUTY SALON TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.56 ACRE, MORE OR LESS.** The property is lying on the east side of Old Landing Road (S.C.R. 274), approximately

0.28 mile south of Warrington Road (S.C.R. 275). 911 Address: 19747 Old Landing Road, Rehoboth Beach. Tax Map Parcel: 334-12.00-181.03.

Mr. Whitehouse advised the Commission that submitted into record were a copy of the Staff Analysis, a copy of the Applicant's Exhibit Book, a copy of the Applicant's Conceptual Site Plan, a copy of DelDOT's Service Level Evaluation Response, and a copy of a letter from Sussex County Engineering Department Utility Planning Division. There were 38 written comments received from members of the public both in support and opposition to the Application.

The Commission found that Mr. Blake Carey, Esq. with The Smith Firm spoke on behalf of the Applicants, Simon Fares and Lorne Crawford who were also present. Mr. Carey stated that the property is located on the easterly side of Old Landing Road and the address is 19747 Old Landing Road, Rehoboth Beach; that the Applicants acquired this property around June 2020; that they have since spent time between this property and their other home in Pennsylvania; that they have removed a dilapidated sailboat and extensively renovated the exterior and interior of the buildings on the property; that Simon Fares has 33 years of experience in the hair industry around the globe and has been licensed in Pennsylvania for over 11 years; that it is the Applicant's goal to reside in Rehoboth Beach full-time and to continue to provide his services in Delaware; that the Applicant's are respectfully requesting a Conditional Use to allow for a salon at the property in an area which was formerly a garage and is existing on the property; that water for the property is provided by Tidewater and the property is on Sussex County sewer; that the hours of operation would be 9:00 am – 6:00 pm Monday through Saturday with no Sunday hours; that services would be limited to hair services only with limited sales of hair products to patrons in the salon; that the business will be by appointment only with no walk-in appointments; that there would be no outdoor storage relating to the salon and no manufacturing of any kind; that there will be a maximum of five employees including Mr. Fares; that the employee parking will be on the north side of the property and client parking will be on the south side of the property; that there would be no exterior improvements to the property if this Conditional Use is granted with the exception of parking lot stripes and some arrows for directional use; there would be no changes to the rear of the property with backs up to the Landing Association; that setbacks are met and exist within the property; that this use would be minimal compared to other Conditional Uses which surround the property; that if approved the Applicant would require additional approval from the State Department of Health to operate; that the proposed Conditional Use is similar in character to other Conditional Uses on Old Landing Road and within a mile radius which include several medical offices and other businesses including a salon, real estate business, investment office and offices for a cleaning business, self-storage, etc. which are within the AR-1 zoning district and have Conditional Uses; that the proposed use will not have an adverse effect on the surrounding areas or impact property values in the surrounding area; that DelDOT has determined that at Traffic Impact Study (TIS) is not required; that the property will retain its residential look and feel as it looks today; that the property is located in the Coastal Area pursuant to the Sussex County's Comprehensive Plan which is a growth area; that the Plan notes that mixed use development should be allowed and in doing so a careful mixture of homes with light commercial, office and institutional uses can be appropriate to provide for convenience services to allow people to work close to home; that the Applicant's proposal is not an intense use such as auto repair, gasoline sales or even as intense as some of the medical offices; that the proposed use is not large in scale and uses an existing



structures on the property and therefore is permissible according to the Comprehensive Plan; that according the Planning and Zoning Department's Staff Analysis which states based on the analysis of the land use, surrounding zoning and uses, a Conditional Use Application to allow for a salon at the site, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses; that the proposed use will benefit the health, safety and welfare of future residents of Sussex County; that the proposed use of the existing building on the property as a salon benefits the needs of the residents in the immediate area and provide convenient services to neighboring properties on Old Landing Road, so that residents don't have to travel out to Route 1 and Route 24; that the use will increase competition in the Salon Business sector which is beneficial to residents and to the economy; that it is difficult to find commercial properties in the area, which is often very expensive and limiting this type of business to only commercially zoned areas stifles small businesses to operate in Sussex County; that the use will not impact neighboring properties or roadways; that the Applicants have spent significant time and resources improving the property and this benefits surrounding property owners; that the Application is consistent with the proposed requirements for a Conditional Use; that the following conditions of approval would be consistent with the code and Comprehensive Plan:

1. That the use of the existing building on the property shall be limited to the operation for a salon business including an office and salon type equipment within the same.
2. The hours of operation would be 9:00 am – 6:00 pm Monday through Saturday with no Sunday hours.
3. That lighting for the building would be downward screened and not shine on neighboring properties or roadways.
4. That there would be one unlighted sign on the property based on Sussex County size requirements.

Mr. Collins stated that the road is very busy and that some of the public comments stated concerns about people safely entering and exiting the property. Mr. Collins asked if there is room to further expand the driveway.

Mr. Carey stated that, if necessary, the driveway could be expanded, that as it exists currently the engineers who prepared the site plan felt that the driveway is large enough for five cars and K-style turns for exiting the property.

Ms. Wingate stated that based on the size of the building, she was surprised that there would be five employees.

Mr. Mears asked how many customers per day were anticipated.

Mr. Carey stated that he was unsure if that has been determined yet. Mr. Carey stated that there will be three chairs, someone to wash hair, and a receptionist.

The Commission found that Mr. Lorne Crawford spoke on behalf of his Application. Mr. Crawford stated that there would be no more than 20 customers per day and that with three stylists with five clients a day would be 15 but rounding up to 20; that they would never back out onto Old Landing Road and there is room to allow for K-style turns within the driveway.

Chairman Wheatley stated that if the salon is open for eight hours per day, that would be roughly 2.5 trips per hour; and that would not have a great impact on the highway.

Mr. Robertson stated that DelDOT will also have input on the entrances to the property and that the Planning and Zoning Department will require a letter of no objection from DelDOT before Final Site Plan approval.

Ms. Wingate asked to see Conditional Uses within the area on the County Map.

The Commission found that no one was present who wished to speak in support of the Application.

The Commission found that there were three people who wished to speak in opposition to the Application.

Mr. Michael Maybroda spoke in opposition to the Application. Mr. Maybroda asked that if this application is approved, would that allow for others to buy homes and open small businesses; that he is asking because of the congestion on Warrington and Old Landing Road; that there are some businesses on Old Landing Road but that this side is all residential; that if this business gets busy enough it may require a turning lane because the shoulder on Old Landing Road is narrow and too close to the stop sign; that before this is approved the intersection at Warrington and Old Landing road should be improved; and that he has concerns that this area will turn commercial if this application is approved.

Chairman Wheatley stated that anyone can apply for a Conditional Use, but it does not mean that it would be granted; that the road issues would be under DelDOT jurisdiction and if this application is approved by the County, it may not be approved by DelDOT.

Ms. Mary Frances Martin spoke in opposition to the Application. Ms. Martin stated that she has concerns that one part of the property is being used as an AirBnB and the other to be used for the business; will there still be an AirBnB on the property; that she is concerned about the traffic as there is a lot of residential development; that there is a proposal for a church which will create even more traffic on Sundays; that she has concerns that someday she may not be able to get out of her neighborhood.

Mr. Carey stated that the salon would be located on the right side of the property; that there is no AirBnB; that the property is utilized by the owners and their friends and family.

Ms. Kathy Weisbecker spoke in opposition to the Application. Ms. Weisbecker stated that she has concerns about headlights going into the homes that abut the rear of this property in the community that she represents; that there is concern about the removal of some brush from the rear of the property; that Old Landing Road is a no outlet road from the Warrington Road intersection and that there are only residential use on that section of the road with the exception of one property that is going to be a church; that the Conditional Uses in the area are closer to Route 1 and there are side streets to get to salons; that the issue is traffic and opening up a Pandora's Box for commercial uses; that she asked for clarification between a Conditional Use and a Commercial property.

Mr. Robertson stated that a Change of Zone for a commercial zoning would then allow for any use that is a permitted use within that zoning classification, whereas a Conditional Use is very specific to the requested use and the Conditions of Approval set forth by the County Council; that if the Conditions of Approval are violated, then the Conditional Use could be revoked.

Ms. Weisbecker stated that this would be the first commercial use on Old Landing Road between the Warrington Road intersection and the Point at the water.

Mr. Robertson stated that there was a golf course which was commercial and there is currently a landscape business on Old Landing Road, and it is not a commercial corridor.

Ms. Weisbecker stated that she is on the Old Landing Road HOA Coalition and that they were fighting Osprey Point, the proposed DeDOT circle and that they had no input on the Church.

Mr. Robertson stated that churches are a different category and are a permitted use in any zoning classification based on Federal Law and cannot be discriminated against. He stated that he remembers when money was collected from the residential communities to improve the intersection at Warrington and Old Landing Road.

Chairman Wheatley stated that the Commission may place very specific conditions on any approval, in particular to the headlight problem by requiring a fence or screening from neighboring properties; that a site plan would have to be submitted and would have to meet all Sussex County Code requirements; and that DeDOT may place conditions so onerous that the use may not happen.

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 2432 Simon Fares & Lorne Crawford. Motion by Mr. Collins to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 5-0.

**Meeting adjourned at 4:50 p.m.**

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