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December 16, 2020

BY EMAIL

The Honorable Members of the
Planning and Zoning Commission
Sussex County
2 The Circle
Georgetown, DE 19947

Re: CZ 1923 Reed Farms, LLC

Dear Members of the Commission:

I represent the Board of Directors of Pemberton Property Owners Association, Inc. (the "Association").

On the agenda for Thursday, December 17, 2020, is an Ordinance to grant a change of zoning for a certain 67.31 acre parcel of land bounded by the west side of Gravel Hill Road and the south side of Milton Ellendale Highway (the "Property") from AR-1 (Agricultural Residential Zoning District) to HI-1 (Heavy Industrial Zoning District).

On behalf of all residential homeowners in Pemberton, the closest neighboring residential community to the Property, the Board of the Association wishes the Commission to know that it must, at this time and based on the circumstances set forth below, oppose this Ordinance, and **respectfully requests that the Planning and Zoning Commission defer consideration of this matter for 30 days, while keeping the record open for additional comments by the public about this project.**

Pemberton is a residential neighborhood consisting of 65 lots, with 59 completed homes, located immediately adjacent to the Property. In fact, Pemberton is the most direct neighborhood to the Property and would be subject to the brunt of the harmful effects of the now prohibited heavy industrial activity that is proposed to take place on the Property if the Ordinance is approved. Indeed, if the plans being offered to you are accurate predictors of the future for this

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property, the entrance way for this heavily industrialized complex is right at the community's doorstep as the entrance/exit for the Property is proposed to line up directly across from the community's entrance on to Gravel Hill Road.

Unfortunately, it appears that the Pemberton homeowners and the Board of the Association are addressing a moving target with respect to the position of the Planning and Zoning Department regarding this application. The Association's Board was caught completely off guard by the change in the Department's staff analysis for this change in zoning application.

Indeed, up until December 7th, Delaware Day, the Board, the homeowners in Pemberton and the public were being told by the Department, through its November 12th Staff Analysis letter, that the change sought by the applicant "could be considered as being consistent with the land use, area zoning and surrounding uses." See Exhibit A. Based on this letter (and prior identical positions on this application by the Department), the Board, after canvassing its Pemberton homeowners, was prepared to make comments based on that finding by the Department's staff.

Yet, on December 8th, the Department issued another Staff Analysis letter, a letter that was only generally available to the public when the Commission's package was posted seven (7) days before the hearing. The staff's analysis changed, in a highly material way, the Department's position which went from stating that the change of zoning "could be considered as being consistent" to "could be considered as having a degree of consistency with the land use, area zoning and surrounding uses." (Emphasis added). See Exhibit B. Further, the Department noted the following:

"However, as the Heavy Industrial Zoning District was not envisaged within areas designated as "Low-Density on the Future Land Use Map of Sussex County, the Change of Zone application is accompanied by a separate request to amend the Future Land Use Map designation to the Developing Area."

So, at this point, the Board of the Association is behind the "eight-ball," without any input from its owners. The Board is also trying to address, on the fly, this material change that reflects the new facts that the proposed rezoning (i) could now only muster a "degree of consistency" with the surrounding area, and (ii) does not even comport with the County's Future Land Use Map for the area surrounding the community. Moreover, and most significantly, the application before the Commission has changed, and the Board now must address not only the pending application for a zoning change, but also a separate request to change the Future Land Use Map for this Property to a "Developing Area." All of this is colored by the fact the proposal before the Commission is completely at odds with what property owners believed to be the future of the area and what this County has already prepared for and said is the future for this area, low density.

The Association, the Pemberton homeowners and the public at large had no warning of these significant changes in the Staff's analysis and have not had the opportunity to adequately or fairly prepare for this hearing based on these changes. The Board, which only became aware of this substantial change in position yesterday, asks that, given the holiday season, the current pandemic crisis and the significance of this change in the Department's staff analysis, that the

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public record remain open for 30 days following this hearing so that the Board can work with its owners and determine what this change means for the community. Indeed, this brief time will allow the community to solidify what final position it wishes to assert before the Commission, and allow it to do so with the clarity, authority and arguments that will best support the position of the community with respect to this change of zoning application (and the proposed Future Land Use Map change) and to do so in a manner that will provide a complete, meaningful and useful record upon which the Commission can base its decision.

The Board thanks the Department and its dedicated staff for their diligence, and for taking the extra time to work through the difficult issues with respect to this unprecedented zoning change application. The community simply asks that it be given the same consideration, a brief amount of extra time, now that it has become aware of the significant change in position of the Department.

Accordingly, the Board of the Association respectfully requests that the Commission defer consideration of this matter for 30 days, while keeping the record open for additional comments by the public about this project.

Should you have any questions concerning the position of the Association, please do not hesitate to contact the undersigned.

Sincerely,

/s/ Robert J. Valihura, Jr.

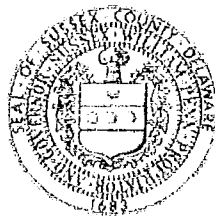
Robert J. Valihura, Jr., Esquire

RJV/es
Enclosures

cc: Board of Directors, Pemberton Property Owners Association, Inc.

EXHIBIT A

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Memorandum

To: Sussex County Planning Commission Members
From: Christin Scott, Planner I
CC: Vince Robertson, Assistant County Attorney and applicant
Date: November 12, 2020
RE: Staff Analysis for CZ 1923 Reed Farms, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1923 Reed Farms, LLC to be reviewed during the November 19, 2020 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Change of Zone for Tax Parcels 235-13.00-29.00, 235-13.00-29.01 and 235-14.00-570.00 to allow for a change of zone from an Agricultural Residential (AR-1) Zoning District to a Heavy Industrial (HI-1) District. The properties are lying on the west side of Gravel Hill Rd. (Rt. 30) and south side of Milton-Ellendale Hwy. (Rt. 16) in Milton DE. The size of the properties are approximately 63.25 acres +/-, 2.99 acres +/- and 1.06 acres +/- respectively.

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map in the plan indicates that the subject properties 235-13.00-29.00, 235-13.00-29.01 & 235-14.00-570.00 have the land use designation of "Low Density." Each property to the north and west also has the "Low Density" designation. Properties to the east are designated "Developing Area". Properties to the south are designated "Industrial". The uses that the Low-Density Area land use designation recognizes are primarily agricultural activities and homes. Business development should be largely confined to businesses addressing the needs of these two uses. Industrial and agribusiness uses that support or depend on agriculture should be permitted. The focus of retail and office uses in Low Density should be providing convenience goods and services to nearby residents. Commercial uses in these residential areas should be limited in their location, size and hours of operation. More intense commercial uses should be avoided in these areas.

The 2018 Sussex County Comprehensive Plan outlines Zoning Districts by their applicability to each Future Land Use category. Under Table 4.5-2 "Zoning Districts Applicable to Future Land Use Categories", the Heavy Industrial (HI-1) Zoning District is not listed as an applicable zoning district the "Low Density" area.

Additionally, the subject property is currently within an Agricultural Residential (AR-1) Zoning District. Parcels to the north and west are also located within an Agricultural Residential (AR-1) Zoning District. Parcels to the north and east are located in a Commercial (C-1) Zoning District and High Density (HR-1) Residential Zoning District. Properties to the south are located in a Light Industrial (LI-2) Zoning District.



COUNTY ADMINISTRATIVE OFFICES
2 THE CIRCLE | PO BOX 417
GEORGETOWN, DELAWARE 19947

Since 2011, there have been no Change of Zone applications within a one-mile radius of the subject properties.

Based on the analysis of the surrounding zoning and uses, a Change of Zone to an Heavy Industrial (HI-1) Zoning District could be considered as being consistent with the land use, area zoning and surrounding uses.

EXHIBIT B

JAMIE WHITEHOUSE, AICP, MRTPI
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Memorandum

To: Sussex County Planning Commission Members
From: Jamie Whitehouse, AICP, Planning & Zoning Director
CC: Vince Robertson, Assistant County Attorney and applicant
Date: December 8, 2020
RE: Staff Analysis for CZ 1923 Reed Farms, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1923 Reed Farms, LLC to be reviewed during the December 17, 2020 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Change of Zone for Tax Parcels 235-13.00-29.00, 235-13.00-29.01 and 235-14.00-570.00 to allow for a change of zone from an Agricultural Residential (AR-1) Zoning District to a Heavy Industrial (HI-1) District. The properties are lying on the west side of Gravel Hill Rd. (Rt. 30) and south side of Milton-Ellendale Hwy. (Rt. 16) in Milton DE. The size of the properties are approximately 63.25 acres +/-, 2.99 acres +/- and 1.06 acres +/- respectively.

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Since 2011, there have been no Change of Zone applications within a one-mile radius of the application site.

Based on the analysis of the surrounding zoning and uses, a Change of Zone to a Heavy Industrial (HI-1) Zoning District could be considered as having a degree of consistency with the land use, area zoning and surrounding uses.

However, as the Heavy Industrial Zoning District was not envisaged within areas designated as Low-Density on the Future Land Use Map of Sussex County, the Change of Zone application is accompanied by a separate request to amend the Future Land Use Map designation from Low-Density to the Developing Area.

GREGG S. RALSTON

HELEN H. RALSTON

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December 11, 2020

Robert C. Wheatley, Chairman
Kim Hoey Stevenson, Vice Chairman
R. Keller Hopkins
J. Bruce Mears
Holly Wingate
Jamie Whitehouse, Director of Planning and Zoning
Sussex County Planning and Zoning Commission
P.O. Box 417
Georgetown, DE 19947

Re: CZ 1923 Reed Farms, LLC Rezoning Application from AR-1 to HI-1

Dear Mr. Wheatley, et al:

We are writing to express our concerns and objections regarding the above referenced application to change the zoning of the parcels of land included in the CZ 1923 Reed Farms LLC from AR-1 Agricultural Residential to HI-1 Heavy Industrial. It is our understanding that the proposed change to HI-1 Heavy Industrial does not adhere to the current Sussex County Comprehensive Plan for "Low Density" areas.

The proposed development is directly across Rte. 30 (Gravel Hill Rd.) from our neighborhood, Pemberton. We can see the land in question from our front door, most of our yard and from the windows on the west end of our home. The plans shows two entrances to the proposed development from Rte. 30, one of which is directly across from the Pemberton entrance (Harvest Run Reach). There is a significant curve in the road for traffic traveling southbound on Rte. 30 from Rte. 16 (Milton-Ellendale Highway) shortly before this entrance and it is already hazardous for anyone turning into Pemberton from southbound Rte. 30.

Heavy industry being built on this land would adversely affect the character of the area, no doubt reducing property values for the homes in Pemberton as well as the other homes on the east side of Rte. 30 and the two homes on the West side of Rte. 30 that abut the parcels that Reed Farms LLC wishes to develop. We believe the proposed development will cause a significant increase in noise and light pollution, as well as traffic, which will be disturbing and result in a significant loss in the pleasure of the use of our and our neighbors' properties.

Insufficient study has been done to the potential impact of the increase in traffic that this proposed development would, no doubt, bring. A Traffic Impact Study has not been performed by the Delaware Department of Transportation and according to the letter dated June 4, 2019 to Ms. Janelle Cornwell, the most recent Vehicle Volume Summary is from 2018. At that time the letter states that average daily traffic volume along the Rte. 30 frontage was approximately 3,778 vehicles per day. According to Constance Holland's letter to Mark Davidson, DelDOT estimates the site would generate an additional 3,739 vehicle trip ends per day and 442 vehicle trip ends per hour during the weekday evening peak hour. This is a significant increase in traffic which, if this plan is allowed to proceed, will primarily be more heavy trucks on an already very busy stretch of Rte. 30 and Rte. 16.

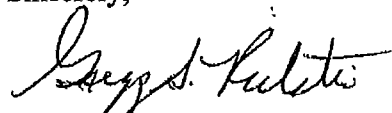
The current speed limit on these roads is 50 mph and most traffic tends to exceed that limit. Trucks traveling northbound on Rte. 30 often use their air brakes as they approach the curve on Rte. 30 before coming to the traffic light at the intersection with Rte. 16. Increased truck traffic will, no doubt, increase the air brake noise as trucks would have to slow significantly to use the proposed development entrances on Rte. 30 and Rte. 16. Furthermore, school busses stop by the entrance to Pemberton and on Rte. 30 several times a day to pick up and drop off school children. Children who reside on the west side of Rte. 30 must cross this busy road when they are let off in the afternoon. The increased truck traffic will create greater hazards for these school children.

The proposed railroad spur that would come across the back edge of the parcel of land would also be another source of noise and light pollution. It would increase rather than decrease truck traffic in the area because it would be the end of the line and therefore a drop-off and pick-up point for trucks and heavy equipment.

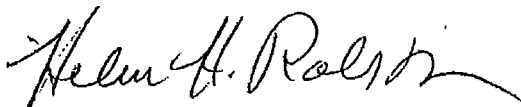
The Heavy Industrial use of this land could also adversely impact the health of the water ways in the area with storm water run-off into the nearby Pemberton Branch and other small streams which empty into the Broadkill River.

We ask the Commission to kindly take into consideration all the issues raised in this letter regarding the proposed development.

Sincerely,



Gregg S. Ralston



Helen H. Ralston

Cc: Constance Holland, AICP, Director, Office of State Planning Coordination
John Chatley, President, Pemberton HOA