

MINUTES OF THE REGULAR MEETING OF APRIL 24, 2024

The regular meeting of the Sussex County Planning and Zoning Commission was held on Wednesday afternoon, April 24, 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. Vincent Robertson – Assistant County Attorney, Mr. Jamie Whitehouse – Planning & Zoning Director, Mr. Michael Lowrey – Planner III and Ms. Ann Lepore – Planner I.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to approve the Agenda as revised. Motion carried 5-0.

Motion by Mr. Collins, seconded by Ms. Wingate and carried unanimously to approve the minutes of the March 20, 2024, Planning & Zoning Commission meeting as revised. Motion carried 5-0.

PUBLIC COMMENT

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

OTHER BUSINESS

**S-24-27 Plantations Medical & Professional Office Center (C/U 1573 & 1855)**

Revised Final Site Plan

This is a Revised Final Site Plan for the construction of an 8,101 square foot +/-, Office Building, with half of the structure to be utilized as a Professional Office and the other half of the structure to be utilized as a Medical Office, stormwater management, associated parking and other related site improvements. Staff note that the Site was the subject of Conditional Use No. 1855, which was approved by the Sussex County Council at their meeting of Tuesday, December 7<sup>th</sup>, 2010, and the change was adopted through Ordinance No. 2165 subject to ten (10) conditions. Staff further note that a Revised Final Site Plan was last reviewed by the Planning and Zoning Commission at their meeting of Thursday, September 10<sup>th</sup>, 2015, to allow for the construction of the existing three (3) professional office buildings. Staff note that the only change from that Plan is to add this fourth and final office building to complete the Conditional Use as originally approved. Additionally, Site Plan elevations have been provided to the Commission to ensure that Condition #5 of the Conditions of Approval is met which requires, *“The Site Plan shall be designed so that the buildings are configured with a residential appearance. As part of the Site Plan review, Front, Side and Rear Elevation Plans shall be submitted to the Commission to confirm the residential appearance and character of the buildings.”* The Applicant has submitted a written request to be waived from the loading space requirements for the fourth building and that request has been included in the Commission’s Packet this afternoon. The property is located on an existing pad

site lying on the south side of Plantations Road (Route 1D), approximately 0.2 mile southeast of the intersection of Plantations Road (Route 1D) and Craig Boulevard in Rehoboth Beach, Delaware. The property is located within the Henlopen Transportation Improvement District and the Applicant shall be responsible for the payment of any related fees and requirements as outlined by DelDOT. The Revised Final Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Zoning: AR-1 (Agricultural Residential District.) Tax Parcel: 334-12.00-53.03. Staff are in receipt of all agency approvals.

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

**S-24-02 Sunrise Solar, LLC (Donna Lee Smith) (C/U 2328)**

**Preliminary & Final Site Plan**

This is a Preliminary and Final Site Plan for the construction of a solar facility and other related site improvements. Conditional Use No. 2328 was approved by the Sussex County Council at their meeting of Tuesday, January 10<sup>th</sup>, 2023, through Ordinance No. 2898. The property is located on the west side of Clendaniel Pond Road (S.C.R. 38). The Revised Preliminary Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Zoning: AR-1 (Agricultural Residential District). Tax Parcel: 230-13.00-121.00. Staff are in receipt of all agency approvals. A Decommissioning Plan has also been included which addresses the financial security component of the Conditions of Approval.

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

**S-24-08 Williamsville Country Village**

**Preliminary Site Plan**

This is a Preliminary Site Plan for the use of property for the construction of a 4,860 square foot liquor store building and other site improvements. The Applicant has submitted a parking waiver request to allow parking to be located within the front yard setback. As the Site is located within an Excellent Groundwater Recharge Area, the Applicant has also submitted a hydrogeological report as required under Section 89-7(A)(2) of the Sussex County Code, ensure that post-development recharge quantity will meet or exceed the existing (predevelopment) recharge quantity. The request letter and hydrogeological report have been included in the Commission's packet this afternoon. The property is located on the north side of Lighthouse Road (Route 54). The Preliminary Site Plan complies with the Sussex County Zoning Code. Zoning: C-1 (General Commercial District) and C-2 (Medium Commercial District). Tax Parcels: 533-18.00-28.00 & 28.01. 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. Mears, seconded by Ms. Wingate and carried unanimously to approve the Preliminary Site Plan, with final approval to be given by the staff subject to the receipt of all agency approvals and a parking request waiver. Motion carried 5 - 0.

**S-24-15 Christiana Excavating Company**

Preliminary Site Plan

This is a Preliminary Site Plan for the construction of thirty-three (33) Flex Unit Spaces each containing 600 square feet of office space, parking and other site improvements. The property is located on the east side of North Old State Road (S.C.R. 213). The Preliminary Site Plan complies with the Sussex County Zoning Code. Zoning: HI-1 (Heavy Industrial District) and AR-1 (Agricultural Residential District). Tax Parcels: 330-14.00-1.00 & 1.01. 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 to be by the staff subject to the receipt of all agency approvals. Motion carried 5 - 0.

**S-24-26 Bethany Blooms Landscaping, LLC**

Preliminary Site Plan

This is a Preliminary Site Plan for the use of the property with existing buildings as a landscaping business and other site improvements. Conditional Use No. 2301 to allow for the use of the site as landscaping business was approved by the Sussex County Council at their meeting of Tuesday, August 23<sup>rd</sup>, 2022, through Ordinance No. 2879. The Applicant is requesting a waiver from the topographic requirement. The property is located on the west side of Roxana Road (Route 17). The Preliminary Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Zoning: AR-1 (Agricultural Residential District). Tax Parcel: 134-15.00-20.04. Staff are in receipt of all agency approvals. Therefore, the Plans are eligible for both preliminary and final approval.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to approve the Preliminary Site Plan as a preliminary and final upon receipt of a topographic waiver. Motion carried 5 - 0.

**2019-29 Scenic Harbor (F.K.A. Scenic Manor & The Estates at Mulberry Knoll)**

Preliminary Amenities Plan

This is a Preliminary Amenities Plan for Scenic Harbor (2019-19) a Coastal Area cluster subdivision consisting of three-hundred and nineteen (319) single-family homes, private roads, stormwater management and open space. The Final Subdivision Plan was approved by the Planning and Zoning Commission at their meeting of Thursday, September 8<sup>th</sup>, 2022. Specifically, the proposal is for the establishment of a 7,000 square foot +/- clubhouse, 3,030 square foot +/- in-ground pool area, 5,250 square foot +/-, pool deck area, 576 square foot +/- tiki bar, 1,030 square foot +/- pool house, bus stop, parking, landscaping, and other site improvements. The property is located on the south side of Scenic Harbor Way within the existing and previously approved Scenic Harbor Subdivision in Lewes, Delaware. The property is located within the Henlopen Transportation Improvement District (TID) and the Applicant shall be responsible for the payment of any related fees and requirements as outlined by DelDOT. The Preliminary Amenities Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Zoning: AR-1

(Agricultural Residential District). Tax Parcel: p/o 334-18.00-43.00. Staff are in receipt of all agency approvals. Therefore, this proposal is eligible for both preliminary and final approval.

Motion by Mr. Collins, seconded by Ms. Wingate and carried unanimously to approve the Preliminary Amenities Plan as a preliminary and final. Motion carried 5 - 0.

**Lands of Cheryl A. Umbel & Donald H. Brittain**

Minor Subdivision Plan off of a proposed 50-ft easement

This is a Minor Subdivision for the creation of one (2) lots plus residual lands with access off of a proposed 50-ft wide ingress/egress access easement. Proposed Lot 1-A consists of 0.8341 acres +/-, Proposed Lot 1-B consists of 0.8102 acres +/- and the residual lands (Lot 1-C) shall consist of 1.0150 acres +/- . A shared use maintenance agreement shall be established for the use of the shared access road. The property is located on the north side of Zoar Road (S.C.R. 48). This plan includes a lot line adjustment between Tax Parcels: 133-7.00-16.00 & 234-20.00-1.00. The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcels: 133-7.00-16.00 & 234-20.00-1.00. 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 50 ft. easement as a preliminary, with final approval to be given by staff upon the receipt of all agency approvals. Motion carried 5 -0.

**Lands of Kevin Collins**

Minor Subdivision Plan off of a proposed 50-ft easement

This is a Minor Subdivision for the creation of one (1) lot plus residual lands with access off of a proposed 50-ft wide ingress/egress access easement. Proposed Lot 1 consists of 1.03 acres +/- and the residual lands shall consist of 3.56 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 Sharptown Road (Route 24). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 432-11.00-35.00. Zoning: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals. Therefore, the Plans are eligible for both preliminary and final approval.

Motion by Mr. Butler, seconded by Mr. Collins and carried unanimously to approve the Minor Subdivision Plan off a proposed 50 ft. easement as a preliminary and final. Motion carried 5 - 0.

**Lands of Debord Properties, LLC**

Minor Subdivision Plan off of a proposed 24-ft easement

This is a Minor Subdivision for the creation of one (1) lot plus residual lands with access off of a proposed 24-ft wide ingress/egress access easement. Proposed Lot 1 consists of 0.7733 acres +/- and the residual lands shall consist of 1.2080 acres +/- . A shared use maintenance agreement shall be established for the use of the shared access road. The property is located on the north side of Delmar Road (Route 54). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 532-19.00-2.02. 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 Minor Subdivision Plan off a proposed 24 ft. easement as a preliminary with final approval to be given by the staff subject to the receipt of all agency approvals. Motion carried 5 - 0.

**Lands of Janet Ellis Jestice & John L. Lynch**

Minor Subdivision Plan off of a proposed 30-ft easement

This is a Minor Subdivision for the creation of one (1) lot plus residual lands with access off of a proposed 30-ft wide ingress/egress access easement. Proposed Lot 4 consists of 1.00 acre +/- and the residual lands shall consist of 36.20 acres +/- . A shared use maintenance agreement shall be established for the use of the shared access road. The property is located on the north side of Laurel Road (Route 24). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 232-18.00-1.00. 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 Ms. Wingate and carried unanimously to approve the Minor Subdivision Plan off a proposed 30 ft. easement as a preliminary with final approval to be given by the staff subject to the receipt of all agency approvals. Motion carried 5 - 0.

**Lands of Harry & Olda Parsons**

Minor Subdivision Plan off of a proposed 50-ft easement

This is a Minor Subdivision for the creation of one (1) lot plus residual lands with access off of a proposed 50-ft wide ingress/egress access easement. Proposed Lot 1 consists of 6.45 acres +/- and the residual lands shall consist of 21.17 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 Lewes Georgetown Highway (Route 9) and the east side of Steiner Road (S.C.R. 320). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 135-16.00-23.00. Zoning: C-1 (General Commercial) and CR-1 (Commercial 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 50 ft. easement as a preliminary, with final approval to be given by the staff subject to the receipt to all agency approvals. Motion carried 5 - 0.

**Lands of Warnock Farms East, LLC**

Minor Subdivision Plan off of a proposed 60-ft easement

This is a Minor Subdivision for the creation of three (3) lots plus the residual lands. Proposed Lot 1 will consist of 1.070-acres +/- and will front on Sapp Road (S.C.R. 208), proposed Lot 2 will

consist of 1.118-acres +/-, proposed Lot 3 will consist of 1.202-acres +/-, and the residual lands will consist of 48.207-acres +/- . Lots 2, 3 and residual lands shall be accessed by a proposed 60-foot ingress/egress access easement on the Parcel. A shared use maintenance agreement shall be established for the use of the shared access road. The property is located on the north side of Sapp Road (S.C.R. 208). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 330-8.00-20.00. 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. Butler, seconded by Mr. Collins and carried unanimously to approve the Minor Subdivision Plan off a proposed 60 ft. easement as a preliminary with final approval to be given by the staff, subject to the receipt of all agency approvals. Motion carried 5 -0.

### **Lands of Raymond E. Williams, III**

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

This is a Minor Subdivision plan for the creation of two (2) lots plus residual lands with access off of a proposed 40-ft wide ingress/egress access easement. Proposed Lot 1 consists of 1.08 acres +/- , Proposed Lot 2 consists of 1.40 acres +/-, and the residual lands shall consist of 3.52 acres +/- . A shared use maintenance agreement shall be established for the use of the shared access road. The property is located on the northwest side of Round Pole Bridge Road (S.C.R. 257). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 235-16.00-74.01. Zoning: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals. Therefore, the Plans are eligible for both preliminary and final approval.

Motion by Mr. Collins, seconded by Mr. Butler and carried unanimously to approve the Minor Subdivision Plan off a proposed 40 ft. easement as preliminary and final. Motion carried 5 - 0.

### OLD BUSINESS

### **2022-32 Herring Run**

A cluster subdivision to divide 14.05 acres +/- into twenty-eight (28) single-family lots, to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County. The property is lying on the northeast side of Honolulu Road (S.C.R. 356), approximately 0.22 mile south of Clayton Avenue (S.C.R. 401). 911 Address: N/A. Tax Map Parcel: 433-6.11-6.00. Zoning: AR-1 (Agricultural Residential).

The Commission discussed this application which has been deferred since March 20, 2024.

Mr. Mears moved that the Commission grant preliminary approval for 2022-32 Herring Run based on the record made during the public hearing and for the following reasons:

1. The Applicant is seeking approval of a cluster subdivision on land zoned AR-1 located within the “Developing” Area of the 2019 Comprehensive Plan’s Future Land Use Map.

2. The subdivision will have no more than 28 lots on 14.05 acres of land resulting in a gross density that is permitted in the AR-1 Zoning District. All lots will be at least 7,500 square feet 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 subdivision will be served by central water and sewer.
6. The subdivision provides for a total environment and design which are superior to that of a standard subdivision including a substantial amount of open space and buffers. It also complies with the design requirements and review procedures for an AR-1 cluster subdivision. For example:
  - a. The cluster design includes approximately 6.24 acres of open space, or about 44% of the site.
  - b. There will be a 30-foot vegetated buffer around the perimeter of the property.
  - c. The open space is focused on the perimeter of the site where the offsite wetlands and environmentally sensitive areas are located; and
  - d. The cluster design will result in less mass grading of the entire property than would occur with a standard subdivision with lots spread across the entire tract.
7. 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.
8. There was no opposition to this proposed subdivision during the public hearing.
9. This recommendation is subject to the following conditions:
  - a. There shall be no more than 28 lots within the subdivision.
  - b. The developer shall establish a homeowner’s association responsible for
  - c. maintenance of the streets, buffers, stormwater management facilities, and other common areas.
  - d. As shown on the Preliminary Site Plan, approximately 6.24 acres or about 44% of the site shall remain as open space.
  - e. 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.
  - f. There shall be a forested and/or vegetated buffer strip that is at least 30 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 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.
- g. The development shall comply with DelDOT entrance roadway improvement requirements.
  - h. Street design shall meet or exceed Sussex County standards.
  - i. Road naming and addressing shall be subject to the review and approval of the Sussex County Geographical Information Office.
  - j. The subdivision shall be served by Central Sewer.
  - k. The subdivision shall be served by a Publicly Regulated Central Water System providing drinking water and fire protection.
  - l. Sidewalks shall be installed on at least one side of all internal streets.
  - m. Construction, site work, and deliveries shall only occur on the site between the hours of 7:00 a.m. and 6:00 p.m. Monday through Friday and between 7:00 a.m. and 2:00 p.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.
  - n. 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.
  - o. There shall be on-site amenities including a children’s playground and walking trails. These amenities shall be completed and open to use as required by Section 99-21E of the Subdivision Code.
  - p. This property is in the vicinity of lands used for agricultural purposes. Therefore, the Agricultural Buffer required by Section 99-6(G)(2) shall be located in the areas adjacent to lands used agriculturally. In addition, the Final Site Plan and recorded Restrictive Covenants shall include the Agricultural Use Protection Notice.
  - q. 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.
  - r. A revised Preliminary Site Plan either depicting or noting these conditions must be submitted to the Office of Planning and Zoning.
  - s. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to grant preliminary approval for 2022-32 Herring Run for the reasons and the conditions stated in the motion.

Motion carried 5 - 0.



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

**C/U 2411 Joshua Zuppo**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A TREE SERVICE BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.94 ACRES, MORE OR LESS.**

The property is lying on the east side of Gravel Hill Road (Rt. 30) approximately 0.35 mile north of the intersection of Gravel Hill Road (Rt. 30) and John J. Williams Highway (Rt. 24) 911 Address: 28121 Gravel Hill Road, Millsboro Tax Map Parcel: 234-32.00-30.00.

The Commission discussed this application which has been deferred since April 10, 2024.

Ms. Wingate moved that the Commission recommend approval of C/U 2411 Joshua Zuppo for a tree service based on the record made during the public hearing and for the following reasons:

1. The property is a 1.94-acre parcel located on Gravel Hill Road. The Applicant testified that many of his neighbors have no objection to the use as a tree service. The approval of this Conditional Use will confirm the existence of the Applicant's tree service, but with conditions that further protect the neighborhood from the impacts of this business.
2. This property is located in the "Developing Area" according to Sussex County's Comprehensive Plan. There are also other small businesses out in this area. This small business will be consistent with those other uses.
3. There will be no retail sales from the property and the proposed use is limited. With the conditions imposed by the County, the use will not adversely affect neighboring properties, roadways, or traffic.
4. This is an agricultural-type use, and it is consistent with the underlying AR-1 zoning of the property.
5. The business provides a service to a wide variety of Sussex County residents, farmers, and businesses. It has a public or semi-public character that will benefit the residents, farmers, and businesses of Sussex County.
6. The Applicant's property contains natural buffers in the form of tree lines that will screen this use from the adjacent properties.
7. The proposed use will have no significant impact upon traffic and DelDOT did not require a TIS.
8. This recommendation is subject to the following conditions:
  - a. This use shall be limited to a tree service business. No other business shall be conducted from the site.
  - b. No retail sales shall be conducted from the site.
  - c. No dyeing of mulch or other materials shall occur on the site.
  - d. A small, lighted sign shall be permitted. It shall not exceed 24 square feet per side.
  - e. The hours of operation shall be limited to 8:00 am through 6:00 pm, Monday through Friday. The use of chainsaws, log splitters, grinders or other power

equipment shall only be used between 9:00 am and 1:00 pm, Monday through Friday. There shall not be any Saturday or Sunday hours of operation except in the very limited case of weather emergencies.

- f. The natural tree buffers shall remain in place along the property's side boundaries to screen the use from the view of neighboring properties.
- g. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.
- h. The applicant shall comply with any DelDOT requirements, including any entrance or roadway improvements.
- i. The Final site plan shall clearly show all areas set aside for the temporary storage of logs, timber, firewood or woodchips. These storage areas shall be no closer than 20 feet to the property's boundaries.
- j. All cars, trucks, trailers, and equipment shall be parked at the rear of the property, behind the improvements. This parking area shall be shown on the Final Site Plan.
- k. All dumpsters shall be screened from the view of neighboring properties and roadways. The location of all dumpsters shall be shown on the Final Site Plan.
- l. Failure to comply with any of these conditions may be grounds for termination of the Conditional Use approval.
- m. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Ms. Wingate, seconded by Mr. Butler and carried unanimously to recommend approval of C/U 2411 Joshua Zuppo for the reasons and conditions stated in the motion. Motion carried 3-2.

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

**C/U 2412 Marco Morales**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PROFESSIONAL OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 0.459 ACRE, MORE OR LESS.** The property is lying on the northeast corner of the intersection of Wilkins Lane and Lewes Georgetown Highway (Rt. 9). 911 Address: 22163 Lewes Georgetown Highway. Tax Map Parcel: 135-15.00-49.00.

The Commission discussed this application which has been deferred since April 10, 2024.

Ms. Wingate moved that the Commission recommend approval of C/U 2412 Marco Morales for a Professional Office based upon the record made during the public hearing and for the following reasons:

1. The property is located along Route 9 on the outskirts of the Town of Georgetown. Route 9 is one of the main cross-county roadways in Sussex County and this area of it has developed with a variety of business and commercial uses including Sports at the

- Beach, contractor facilities, stores and other offices. This location is appropriate for this business use.
2. The Applicant has stated that this site will only be for office purposes. No retail sales, storage or construction activities (aside from construction associated with the site itself) will occur on the premises.
  3. The proposed use will not generate a significant amount of traffic, and it will not have any adverse effect on area roadways.
  4. The proposed use is very limited in nature, and it will not have any adverse impact on neighboring properties or the community.
  5. No parties appeared in opposition to the application.
  6. This recommendation is subject to the following conditions:
    - a. The use shall be limited to use as an office.
    - b. One lighted sign shall be permitted. It shall not exceed 32 square feet per side.
    - c. The applicant shall comply with any DelDOT entrance and roadway improvement requirements.
    - d. Parking areas for all vehicles shall be shown on the Final Site plan and clearly marked on the site itself.
    - e. All outdoor trash receptacles shall be screened from view of neighboring properties and roadways.
    - f. All security lighting shall be directed downward so that it does not shine on neighboring properties or roadways.
    - g. Failure to comply with these conditions may result in the revocation of the Conditional Use approval.
    - h. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to recommend approval of C/U 2412 Marco Morales for the reasons and the conditions stated in the motion. Motion carried 5 -0.

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

**C/Z 2002 Sadie Properties, LLC**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT, A CR-1 COMMERCIAL RESIDENTIAL DISTRICT, AND AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT, A CR-1 COMMERCIAL RESIDENTIAL DISTRICT, AND A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 21.11 ACRES, MORE OR LESS.** The property lying on west side of DuPont Boulevard (Rt. 113) approximately 0.40 mile south of Nine Foot Road (Rt. 26). 911 Address: 32602 Dupont Boulevard, Dagsboro. Tax Map Parcel: 233-16.00-26.00.

The Commission discussed this application which has been deferred since April 10, 2024.

Mr. Mears moved that the Commission recommend approval of C/Z 2002 Sadie Properties, LLC for a change in zone from AR-1 to C-3 (Heavy Commercial) based upon the record made during the public hearing and for the following reasons:

1. The entire property currently has three zoning designations. The area of the property that fronts along Route 113 is zoned C-1 while one portion behind that is zoned CR-1 the remainder of the property is zoned AR-1. The Applicant seeks to convert the AR-1 area to the C-3 Zoning District.
2. The commercially zoned portions of this site are currently used in the Applicant's boat storage, sales and repair business known as "Rudy South". This rezoning will permit the reasonable expansion of the Applicant's business. The C-3 zoning for the rear portion of the property is consistent with the existing use of the property.
3. C-3 Heavy Commercial Zoning is designed to allow auto-oriented retail and service businesses that serve local and regional residents. Permitted Uses include retail uses, restaurants, offices and vehicle service stations. Although a number of uses are permitted, this Applicant intends to use the site for roadside services and auto repair.
4. This property has frontage along Route 113. Route 113 is considered to be a Principle Arterial Roadway according to DelDOT's roadway classification. This is the highest roadway classification issued by DelDOT and it is an appropriate location for C-3 Zoning.
5. The parcel is in an area of Route 113 where there are a variety of zoning districts. This includes HI-1, C-1, CR-1 and GR and AR-1 zoning districts. There is other business, commercial, and industrial uses in the area as well. This rezoning is consistent with the surrounding zoning districts and uses.
6. This property is located in the Commercial Area according to the current Sussex County Land Use Plan. This proposed C-3 Zoning is appropriate in this Area according to the Plan.
7. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity and welfare of the County.
8. No parties appeared in opposition to this rezoning application.
9. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of C/Z 2002 Sadie Properties, LLC for the reasons stated in the motion. Motion carried 5 - 0.

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

**ORD 24-01**

**AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES I, IV, XI, XIA, XIC, XIII, XIV, AND XV, AND XXV, SECTIONS 115-4, 115-**

**20, 115-77, 115-83.2, 115-83.18, 115-83.19A 115-94, 115-102 AND 115-194.6 TO REGULATE MARIJUANA ESTABLISHMENTS IN SUSSEX COUNTY.**

The Commission discussed this application which has been deferred since April 10, 2024.

Ms. Wingate moved that the Commission recommend approval of the Ordinance (Ord. 24-01) proposing to amend Chapter 115 of the Sussex County Code to identify the appropriate standards and locations for Marijuana Establishments in Sussex County based on the record made during the public hearing on this ordinance and for the following reasons:

1. The State legislature enacted legislation that permits the licensure of Marijuana Establishments in the State of Delaware. A “Marijuana Establishment” includes Cultivation Facilities, Manufacturing Facilities, Testing Facilities and Stores. As part of that state legislation, municipalities are able to ban Marijuana Establishments within their jurisdiction. Sussex County cannot ban them, but Sussex County can permit them with certain regulations through zoning.
2. The Ordinance strikes a reasonable balance between allowing these Establishments in appropriate locations under certain circumstances while respecting the decision of many municipalities to prohibit them within their boundaries.
3. The Ordinance also creates reasonable distance and separation requirements between the Establishments and other sensitive existing uses including schools, colleges, churches and rehabilitation facilities. There is also an appropriate separation requirement between Establishments.
4. It is appropriate for Cultivation, Manufacturing and Testing Facilities to be a permitted use within the AR-1, C-1, CR-1, C-3, LI-1 and LI-2 Districts. Based on the evidence presented, including information provided to staff by the Marijuana Commissioner, it is most likely that cultivation, manufacturing and testing will occur entirely indoors because of the purity, testing and security requirements that are in place. These operations will be very similar to greenhouses that are already a permitted use in AR-1 and other zoning districts. Likewise, based on that same information, the Testing and Manufacturing Operations will most likely occur entirely within a commercial or industrial building that is identical to what is permitted in the commercial and industrial districts. And none of these uses are open to the public, so their impact upon neighboring or adjacent properties should be minimal. In fact, one example provided by the Office of the Marijuana Commissioner included the adaptive redevelopment of a derelict manufacturing or industrial facility that improved the property significantly.
5. It is appropriate for Marijuana Stores to be located in the C-3 Heavy Commercial District with a conditional use and subject to separation locations. This use is consistent with the “Purpose” of the C-3 District and it is similar to other uses listed within this District. Also, with a conditional use for Marijuana Stores, the County and the public will be made aware of the proposed use and have an opportunity to comment upon it as part of a public hearing process.
6. After the Ordinance was introduced, the Office of the Marijuana Commissioner commented that an amendment should be made to the hours of operation for Marijuana Stores so that there is not an inconsistency with State Code. Therefore, this recommendation is subject to the further recommendation that Section 115-194.6F be

amended so that it now states, “Retail Marijuana Stores may only operate between the hours established for them by Title 4 of the Delaware Code.” Similarly, Section 115-194F should be amended to state, “Any licensed and approved pre-existing, legally nonconforming Retail Marijuana Store shall be subject to the hours of operation established for them by Title 4 of the Delaware Code.”

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to recommend approval of (Ord 24-01) the Ordinance to amend the Code of Sussex County to regulate marijuana establishments in Sussex County. Motion carried 5 -0.

Vote by roll call: Mr. Mears – yea, Ms. Wingate – 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 2488 Kelly Benson**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A WATERSPORT RECREATIONAL FACILITY TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.13 ACRES, MORE OR LESS.** The properties are lying 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). 911 Address: N/A. Tax Map Parcels: 134-17.00-15.00 & 15.03.

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the staff analysis, a copy of the applicants conceptual site plan, a copy of the DelDOT SLER, a copy of a letter received from DNREC Division of Water, and zero comments.

Mr. Kelly Benson, of 10 N Main St. Northeast Maryland 21901, spoke on behalf of himself in regards to a conditional use permit for an extension of his existing paddle sports business; that they are currently based out of Northeast Maryland, with a business model that is very light in terms of what we actually bring out to any given site; that they are a seasonal business and don't intend to improve the property but are looking to gain access to the Assawoman Bay and Assawoman Wildlife Refuge; that there is currently an existing grassy and gravelly area on the site which they intend to use for parking; that the eventual use would come back and improve those areas with the natural substance of pervious surface or something along those lines in the future; that they would launch the paddle sports equipment onto the McCabe Tax Ditch that would allow access to the water.

Ms. Wingate asked for the record if the CU would be from June through October, that there needs to be certainty from all agencies if they need more than a temporary to get a final and that DENREC has provided responses for the launching area access.

Mr. Benson responded that within his packet there is correspondence between agencies in favor of the temporary permit as long the operation is done within the time frames of June through October as DelDOT's temporary entrance permit is 180 day allowable which is why those months were chosen; that if it was necessary in the future to apply for a full entrance permit then they would do so; that the launching was done along the water's edge at the end of the tree line; that all agencies that regulate the water and the marshes were very favorable of this use because they are not going to be disturbing anything that exists there, but going to be responsibly bringing the public in; that they would ask for a lighted sign for the maximum regulated size that is approved.

Mr. Kenneth Cimino, the Director of Planning, Zoning and Development, the town of Ocean View, spoke on behalf of the Town of Ocean View in favor of the Application in regards to the fact that the Town attempted to do this last year, but couldn't get DENREC to grant access to the tax ditch; that they think it's a wonderful use for the parcel and a great addition to the greater Ocean View area.

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 2488 Kelly Benson. Motion by Mr. Mears to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 5-0.

**C/U 2439 Eric Johnson**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MEDICAL BUILDING FOR OUTPATIENT SERVICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 2.24 ACRES, MORE OR LESS.** The property is lying on the west side of Bridgeville Highway (S.C.R. 13), approximately 0.85 mile southwest of Sussex Highway (Rt. 13A). 911 Address: 22540 Bridgeville Highway, Seaford. Tax Map Parcel: 331-3.00-186.00.

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

Doctor Eric Johnson spoke on behalf of Compass Mental Wellness Services in regards to the application; that they serve a underserved area for mental health, as one of the largest practices in Sussex County; that they are ready to expand after buying a family members house; that they

intend to be like a residential house like setting as to not feel like a medical facility more of a calming facility; that they do psychotherapy, all mental health services and psychiatric of all ages; that the hours of operation will be around 7:00AM – 7:00PM Monday through Thursday and closed or have a half day on Fridays; that once in a while they may have a session on a weekend, but that is no too frequently; that they would ask that the hours be flexible as sometimes emergencies arise and push appointments past their scheduled time; that there is approximately 4 employees, but they utilize contractors so that may vary up to 10 or more if the expansion of the intensive outpatient program comes into effect; that the services would all be outpatient that would require about 25 parking spaces; that they would ask for a sign to be put up and that all lighting for the parking area be non-disruptive to neighboring properties; that there is a fence around the property on the side of the neighboring dwelling.

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 2439 Eric Johnson. Motion by Mr. Butler to defer action for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 5 - 0.

**Executive Session** – Security Update

Motion by Ms. Wingate, seconded by Mr. Collins, to go into Executive Session. Motion carried 5-0.

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

Motion by Ms. Wingate, seconded by Mr. Collins, to come out of Executive Session. Motion carried 5-0.

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

Mr. Robertson asked that for the record there was not anything that was conducted in the Executive Session that requires a vote of the Commission.

Mr. Whitehouse made an announcement to the Commission that he would be resigning as Director of Planning & Zoning towards the middle of May

**Meeting adjourned at 4:32 p.m.**

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