

## **THE MINUTES OF THE REGULAR MEETING OF NOVEMBER 30, 2023.**

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, November 30, 2023, in 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, Mr. Bruce Mears, Mr. Brian Butler, and Mr. Scott Collins. Ms. Holly Wingate was absent. Also, in attendance were Mr. Vincent Robertson – Assistant County Attorney, Mr. Jamie Whitehouse – Planning & Zoning Director, Ms. Christin Scott– Planner II, and Ms. Ann Lepore – Planner I/Recording Secretary.

Motion by Mr. Collins seconded by Mr. Mears and carried unanimously to approve the Agenda as circulated. Motion carried 4 - 0.

Motion by Mr. Mears, seconded by Mr. Collins to approve the Minutes of the October 26, 2023, Planning and Zoning Commission meeting as circulated. Motion carried 4 - 0.

### **PUBLIC COMMENT**

The Commission found no one wished to provide public comment.

### **OTHER BUSINESS**

#### **S-22-01 Lands of W. Scott Walls & Staci Walls**

##### **Preliminary & Final Site Plan**

This is a Preliminary and Final Site Plan for the use of the property as a boat shrink-wrapping business. All structures being used for the business are existing structures and no new structures are currently proposed. Conditional Use No. 2268 was approved by the Sussex County Council at their meeting of Tuesday, November 9, 2021, through Ordinance No. 2810. The Preliminary and Final Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Zoning: AR-1 (Agricultural Residential District). Tax Parcel: 234-33.00-44.00. 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. Mears and carried unanimously to approve the Preliminary and Final Site Plan. Motion carried 4 - 0.

#### **S-22-26 Seychelles**

##### **Revised Preliminary & Final Site Plan**

This is a Revised Preliminary Site Plan and Final Site Plan for the construction of sixteen (16) multi-family units and other site improvements. Conditional Use No. 2248 was approved by the Sussex County Council at their meeting of Tuesday, October 26, 2021, through Ordinance No. 2805. The Preliminary and Final Site Plan comply with the Sussex County Zoning Code and all Conditions of Approval. Zoning: GR (General Residential District). Tax Parcel: 134-16.00-382.00. Staff are in receipt of all agency approvals.

Motion by Mr. Collins, seconded by Mr. Butler and carried unanimously to approve the Revised Preliminary & Final Site Plan. Motion carried 4 - 0.

**S-23-43 Lands of Greenpath Seaford Landco LLC - (Glenville Hollow Solar)**

**Preliminary Site Plan**

This is a Preliminary Site Plan for Glenville Hollow Community Solar for the construction of a solar facility. Solar arrays are permitted at the site per Conditional Use (C/U 2364) which was approved by Sussex County Council at their meeting of Tuesday, August 29<sup>th</sup>, 2023, through Ordinance No. 2949. This Preliminary Plan includes a solar facility comprised of solar arrays, a transformer, landscaped buffers, access roads, and fencing with gated access to the site. The fenced area containing the arrays occupies 28.40 +/- acres of the Parcel which is comprised of a total of 40.97 +/- acres and is lying on the east side of Conrail Road (S.C.R. 546), approximately (0.71) miles south of Hearn's Pond Road (S.C.R. 544). Tax Parcel: 331-3.00-138.00. The Preliminary Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals. If the Commission desires to act favorably on this proposal, staff are requesting that final approval be made subject to staff upon the receipt of all agency approvals.

Chairman Wheatley asked that the Commission be notified when the Final Site Plan has been approved.

Motion by Mr. Butler, seconded by Mr. Collins 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. Motion carried 4 - 0.

**S-23-50 Lands of Beebe Medical Center Inc - (Long Neck Health Center)**

**Preliminary Site Plan**

This is a Preliminary Site Plan for Beebe Long Neck Medical Center for the construction of a 32,000 square foot +/- medical office building, parking, internal roads, sidewalks, and stormwater management. The property is located on the south side of Long Neck Road (Route 23), approximately (500) feet east of John J Williams Highway (Route 24). The Preliminary Site Plan complies with the Sussex County Zoning Code (Chapter 115). Tax Parcel: 234-23.00-270.01. Zoning: C-1 (General Commercial District). Staff are awaiting agency approvals. If the Commission desires 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. Collins 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. Motion carried 4 - 0.

**Lands of David A. Carpenter**

**Minor Subdivision Plan off a 50-ft Easement.**

This is a Minor Subdivision Plan for the creation of one (1) lot plus residual lands. Proposed Lot 1 will consist of 2.589 acres +/- and the Residual Lands will contain 48.481 acres +/- . The parcel is located on the northeast side of Deep Branch Road (S.C.R 315), approximately 978 ft. northwest of Zoar Road (S.C.R. 48). The proposed lot and the residual lands are to be served by a fifty (50) foot wide ingress/egress easement with a shared maintenance agreement. The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Zoning: AR-1 (Agricultural Residential District). Tax Parcel: 234-14.00-27.00. Staff are awaiting agency approvals. If the Commission desires to act favorably on this proposal, staff are requesting that final approval be made subject to staff upon the receipt of all agency approvals.

Motion by Mr. Collins, seconded by Mr. Mears and carried unanimously to approve the Minor Subdivision Plan off a 50-ft. easement as a preliminary, with final approval to be by the staff subject to the receipt of all agency approvals. Motion carried 4 - 0.

**Lands of M&M Properties, LLC (Hersel Davis Road)**

Minor Subdivision Plan off a 55-ft Easement

This is a Minor Subdivision Plan for the creation of four (4) Lots to be served by a fifty-five (55) foot wide ingress/egress access easement. Proposed Lot 1 will consist of 0.313 acres +/-, proposed Lot 2 will consist of 0.371 acres +/-, proposed Lot 3 will consist of 1.007 acres +/-, and proposed Lot 4 will consist of 1.251 acres +/- . A shared-use maintenance agreement is to be established for the use of the shared drive. The property is lying on the east side of Oak Orchard Road (Route 5) and includes the property located at 32139 Oak Orchard Road in Millsboro. Zoning: GR (General Residential District). Tax Parcel: 234-29.00-270.00. Staff are awaiting agency approvals. If the Commission desires to act favorably on this proposal, staff are requesting that final approval be made subject to staff upon the receipt of all agency approvals to include approval from the Sussex County Engineering Department for the provision of sewer connections to the subject properties.

Motion by Mr. Mears, seconded by Mr. Collins and carried unanimously to approve the Minor Subdivision off a 55 ft. easement as a preliminary, with final approval to be by the staff subject to the receipt of all agency approvals, including approval from the Sussex County Engineering Department for the provision of sewer connections to the subject properties. Motion carried 4 - 0.

**Lands of M&M Properties, LLC (Lincoln Way)**

Minor Subdivision Plan off a 50-ft Easement

This is a Minor Subdivision Plan for the creation of three (3) plus the residual lands. The properties will be served by a fifty (50) foot wide ingress/egress access easement. Proposed Lot 1 will consist of 0.499 acres +/-, proposed Lot 2 will consist of 1.005 acres +/-, proposed Lot 3 will consist of 1.875 acres +/- and the residual lands (annotated on the Plans as Lot 4) will consist of 1.537 acres +/- . As noted, as part of General Note #5 on the Plans, Lots 1 through 4 shall be subject to a Shared Use Maintenance Agreement Plan that is recorded through the Sussex County Recorder of Deeds Office. The property is lying on the northeast side of Oak Orchard Road (Route 5) and includes the property located at 32019 Oak Orchard Road in Millsboro. Zoning: GR (General Residential District). Tax Parcel: 234-29.00-268.00. Staff are awaiting agency approvals. If the Commission desires to act favorably on this proposal, staff are requesting that final approval be made subject to staff upon the receipt of all agency approvals to include approval from the Sussex County Engineering Department for the provision of sewer connections to the subject properties.

Motion by Mr. Mears, seconded by Mr. Collins and carried unanimously to approve the Minor Subdivision off a 50 ft. easement as a preliminary, with final approval to be by the staff subject to the receipt of all agency approvals, including approval from the Sussex County Engineering Department for the provision of sewer connections to the subject properties. Motion carried 4 - 0.

**Lands of Shownee Road Estate, LLC**

Minor Subdivision Plan off a 50-ft. Easement.

This is a Minor Subdivision for the subdivision of a 5.10-acre +/- parcel into five (5) proposed lots including residual lands with access from an existing 50-ft. ingress/egress access easement. Proposed Lot 1 will contain 1.036 acres +/-, proposed Lot 2 will contain 1.019 acres +/-, proposed Lot 3 will contain 0.799 acres +/-, proposed Lot 4 will contain 1.005 acres +/- and the residual lands will contain 1.062 acres +/- . The proposed lots and the residual lands are to be served by a fifty (50) foot wide ingress/egress easement with a shared maintenance agreement. The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. The parcel is located on the east side of Gravel Hill Road (Route 30), approximately 1.17 miles south of the intersection of Gravel Hill Road and Sandhill Road (S.C.R. 319). Tax Parcel: 235-25.00-10.00. Zoning: AR-1 (Agricultural Residential)

District. Staff are awaiting agency approvals. If the Commission desires 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 50 ft. easement as a preliminary, with final approval to be given by the staff subject to the receipt of all agency approvals. Motion 4 - 0.

#### OLD BUSINESS

##### **C/U 2447 Elk Development, LLC**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 51.83 ACRES, MORE OR LESS.** The properties are lying on the east side of River Road (S.C.R. 490), at the intersection of Morgan Branch Road and River Road (S.C.R. 490). 911 Addresses: N/A Tax Map Parcels: 132-1.00-5.00 (p/o) & 132-6.00-78.03.

The Commission discussed the Application which had been deferred since November 9, 2023, at which time the record was left open for the receipt of written information to be provided by the Applicant regarding the safety and operations of the solar array, which was to be provided by November 17, 2023, and subsequently allowing 15 calendar days for additional written public comment.

The Commission acknowledged receipt of additional information. The record is open for 15 days for additional written comments.

#### PUBLIC HEARINGS

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

##### **C/U 2491 St. Michael the Archangel Church**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO ALLOW FOR AN ON-PREMISES ELECTRONIC MESSAGE CENTER SIGN TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 10.94 ACRES, MORE OR LESS.** The property is lying on the north side of Mount Joy Road (S.C.R. 297) and the west side of John J. Williams Highway (Rt. 24), at the intersection of Mount Joy Road (S.C.R. 297) and John J. Williams Highway (Rt. 24). 911 Address: 30839 Mount Joy Road, Millsboro. Tax Map Parcel: 234-29.00-263.06.

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the Applicant's site plan and exhibit (which is on the screen), a copy of the Staff Analysis, the DelDOT Service Level Evaluation Response, and a letter from the Sussex County Engineering Department Utility Planning Division. Mr. Whitehouse stated that there were zero comments.

The Commission found that Ms. Patricia Clark, Business & Finance Manager for St. Michael the Archangel Church was present on behalf of the Application. Ms. Clark stated that the request is for an electronic message center on Agricultural Residential church property located at the intersection of Mount Joy Road and John J. Williams Highway; that as a faith community, there are several events held at the Church such as daily and weekly worship, weddings, funerals, fundraisers, and special events;

that this sign will allow the Church to remotely notify the congregation of upcoming events; that this electronic message center will replace the sign that was originally on the property; that the sign was removed when DelDOT made some safety improvements at the intersection; that the light has a light sensor meter which will allow Church members to regulate the light; that the sign will comply with Sussex County Ordinance; that the sign company is Stewart Company in Florida; that the features on the sign are adjustable by the users and will remain in compliance with the ordinance.

There were no questions from Commission members.

The Commission found that there was no one present who wished to speak in favor of or in opposition to C/U 2491.

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 the Commission recommend approval of C/U 2491 St. Michael the Archangel Church for an on-premises Electronic Message Center based upon the record made during the public hearing and for the following reasons:

1. This is an application for a Conditional Use to install an on-premises Electronic Message Display sign. This type of application is permitted under Section 115-161.1A (3) of the Zoning Code.
2. The Electronic Message Center, or EMC will be located on the Church property and will be utilized for advertising church activities and events.
3. The sign will replace a prior static display sign that was on the Church property but was removed as part of DelDOT's work at the intersection of Route 24 and Mount Joy Road.
4. The sign will be required to comply with the requirements of the Zoning Code including brightness and motion.
5. The proposed sign will not have any adverse impact on neighboring properties, area traffic, or roadways.
6. No parties appeared in opposition to this Application.
7. A Final Site Plan showing the location of the sign on the site shall be submitted to the Sussex County Planning and Zoning Commission for approval.

Motion by Mr. Mears, seconded by Mr. Collins and carried unanimously to recommend approval of C/U 2491 St. Michael the Archangel Church for the reasons and the conditions stated in the motion. Motion carried 4 - 0.

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

#### **C/U 2477 State of Delaware**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A POLICE STATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 44 ACRES, MORE OR LESS.** The property is lying on the east side of Patriots Way (S.C.R. 318), approximately 0.3 mile north of Avenue of Honor (S.C.R. 86). 911 Address: N/A. Tax Map Parcel: 133-7.00-8.00 (p/o).

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's

Preliminary Site Plan, the Applicant's Exhibit Booklet, the DelDOT Service Level Evaluation Response, a letter received from the Sussex County Engineering Department Utility Planning Division, and the PLUS comments for the Application. Mr. Whitehouse stated zero comments had been received for the Application.

The Commission found that Mr. Jonathan Richard, with Becker Morgan Group, Inc. spoke on behalf of the Applicant, The State of Delaware Office of Management and Budget, and the Delaware State Police; that also present was Mr. Brian Fitzpatrick with the Delaware State Police. Mr. Richard stated the site is located on the Stockley campus, located along Avenue of Honor and Patriots Way; that Sussex Central High School and the Howard T. Ennis School are located to the north of the site; that the Stockley campus is located just north of the Conditional Use area; that the Delaware Veterans Cemetery is located just south of the site; that the existing Delaware State Police Troop 4 is located on Rt. 113, on the south end of Georgetown; that currently, they are located in the old Nanticoke building, and are looking for additional room for expansion; that the site chosen is the subject site, which is owned by the State of Delaware; there are other facilities in the surrounding area that are also owned by the State of Delaware; that the leased site area is comprised of 44 acres of the total 830 acreage own by the State of Delaware; that the site is zoned AR-1 (Agricultural Residential); that currently the site is unimproved land, used for agricultural purposes; that they are proposing the site to be used for the State Police barracks; that they actual barracks will be comprised of 46,000 sq. ft., which will house an auditorium for public speaking and training sessions; that in addition to this house , as the State Police call, the SBI (State Bureau of Investigation); that this will be an area where fingerprinting is performed; that to the left of the main building will be a maintenance building for the servicing of vehicles; that this will avoid the State Police needing to take their vehicles to local shops; that there are two additional dwellings, represented in yellow, which are the canine buildings; that these buildings are located near the rear of the site, being adjacent to the pond; that they also propose to have a pavilion and/or outdoor classroom area, which they have identified as the skid pad area; that this area is intended to be a driver training type area for the State Police; that this area will help facilitate cone-avoidance training; that there will also be a gravel impound area located to the rear of the site; that this area will be fenced in and screened from the back of the pond; that public parking will be located toward the front of the site; that to the rear of the site there will be a fenced in, secured area for the State Police; that this area will have an opaque barrier, which is secured with gates, providing limited access; that stormwater management will be provided; that currently they anticipate the management system to be infiltration, and will not have any water located at the bottom of it, unless it is raining; that all stormwater management will comply with the Sussex Conservation District standards; that there will be attractive landscaping provided along the parcel, with certain screening and buffering for the impound yard; that along the rear of the site, is the location of Waples Way, which is a private roadway that the State of Delaware maintains by through the Stockley campus; that Patriots Way is located along the rear, which is a DelDOT public access way; that they are proposing two entrances; that the entrance located to the left will be used as the primary entrance, to be used by the public and the State Police; that the entrance located to the right will be limited access and gated entrance, which is to be controlled from the inside building and monitored by the State Police; that the Conditional Use will be a very public use; that the Delaware State Police Troop 4 is a new police barrack, that will promote the health, safety and welfare of Sussex County, as well as its residents and visitors; that the site is an appropriate for the proposed use, given the other State facilities located in the adjacent area; that the centralized location provides many access ways in Sussex County; that this allows for the relocation of the troop's existing Troop 4 to a larger tract of land that is less than five miles from their currently facility location; that this will allow for the construction of a larger, more modern building and facilities for the troop, as well as provide potential future expansion on the site as well; that the proposed facility is a public safety use under the Sussex County Zoning Code, and meets the purpose of a public or semi-public character that is essential and desirable for the general convenience of and welfare of Sussex County; that the proposed use will not have any adverse

impact on neighboring and adjacent properties, and they will provide attractive landscaping, fencing and restrictive areas for the police barracks.

Mr. Butler questioned if Troop 2 would have access to land on the site.

Mr. Fitzpatrick stated the large area referred to as the “Skid Pad” would allow for Troop 2 to land there; that the pad is large enough that all four birds would be able to land side by side; that the overhang provides them with a classroom setting for students that are waiting to go out onto the skid pad.

Mr. Robertson suggested the State may want to consider rezoning the area in the future.

The Commission found that there was no one present who wished to speak in favor of or in opposition to C/U 2477.

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. Collins moved that the Commission recommend approval of C/U 2477 State of Delaware for a State police barrack based upon the record made during the public hearing and for the following reasons:

1. The State is looking to utilize this location to replace the existing Troop 7 barrack that is outdated and undersized. This is an appropriate nearby location to utilize for a new Troop 7.
2. The location is among existing institutional, and government uses, including public schools, a state hospital, and a veteran’s cemetery. There is also land that is zoned I-1 Institutional nearby. This is an appropriate location for a State Police Barracks with its ancillary uses.
3. This location will include a centralized location for the State Bureau of Investigation and the activities that occur as part of that Bureau. It is also large enough to accommodate space for State Police K9s, maintenance facilities, and vehicle training areas. It is also large enough to accommodate the State Police aviation units as needed.
4. This location as a State Police Barracks with these ancillary uses is centrally and conveniently located within Sussex County.
5. This Conditional Use promotes and serves the health, safety, and welfare of Sussex County residents, visitors, and businesses.
6. This Conditional Use will not have any adverse impact on neighboring properties, the community, or area roadways.
7. No parties appeared in opposition to this application.
8. There are no conditions associated with this recommendation, other than the standard condition that the Final Site Plan shall be subject to the review and approval of the Planning & Zoning Commission.

Motion by Mr. Collins, seconded by Mr. Butler and carried unanimously to recommend approval of C/U 2477 State of Delaware for the reasons and the conditions stated in the motion. Motion carried 4 - 0.

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

**AGRICULTURAL RESIDENTIAL DISTRICT FOR A COMMERCIAL STORAGE FACILITY WITH RV AND BOAT STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 14.34 ACRES, MORE OR LESS.** The property is lying on the southwest side of Gull Point Road (S.C.R. 313), approximately 591 ft. northeast of Downs Landing Road. 911 Address: N/A. Tax Map Parcel: 234-34.00-4.01.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Conceptual Site Plan, the Applicant's Exhibit Booklet, the DelDOT Service Level Evaluation Response, and a letter from the Sussex County Engineering Department Utility Planning Division. Mr. Whitehouse stated that zero comments were received for the Application.

The Commission found that Ms. Mackenzie Peet, Esq. with Saul Ewing, LLP spoke on behalf of the Applicant; that also present were Mr. Brad Absher and Mr. Matt Williams, both members of Wayne Development, LLC. Ms. Peet stated the property is located on the southwest side of Gull Point Rd., and northeast of Downs Landing Rd., being just outside of the Town of Millsboro; that the Applicant is requesting a Conditional Use for the operation of a self-storage facility to include, as shown on the Site Plan, one 2, sq. ft. of self-storage and a 900 sq. ft. office area, together with outdoor RV, boat, vehicle, and trailer storage; that the site is approximately 14 acres and zoned AR-1 (Agricultural Residential); that the site is located within the Coastal Area, a designated growth area; that the site is predominantly located within Investment Level 3, with a small portion of the site being located within Investment Level 2; that on November 16, 2023, the Applicant submitted the Exhibit Booklet, together with the final version of the Conditional Use Plan; that submitted booklet included the required Environmental Assessment and Public Facility Evaluation, along with Exhibits A through Exhibit G; that Exhibit A contains a copy of the deed, which reflects Wayne Development as the property owner; that Exhibit B shows the site's location, being adjacent to residential uses; that the site is also near Rt. 24; that there are some commercial uses in the area as well; that Exhibit C is a copy of the Conditional Use Plan; that the plan reflects the site will be accessed from Gull Point Rd.; that the self-storage units and the office will be located towards the front of the property; that the balance of the site would be for the outdoor storage component; that the use will be screened, buffered and secured, which will be further explained in the proposed Conditions of Approval; that Exhibit D includes several aerial maps; that Exhibit E contains the DelDOT Service Level Evaluation Response; that DelDOT determined the traffic impact to be negligible; that no Traffic Impact Study (TIS) is warranted; that DelDOT has approved the entrance location and proposed configuration as shown on the plan; that Exhibit E contains a letter from the U.S. Fish & Wildlife Service, which confirms that there are no federally listed, threatened species or critical habitats on the site; that there are no wetlands located on the site; that Exhibit G contains finalized correspondence from Tidewater Utilities concerning the placement of a well, which is permitted; that §115-171 states the purpose of a Conditional Use is to provide for certain uses which cannot be well adjusted to their environment in particular locations with full protection offered to surrounding properties by rigid application of the District regulation; that these uses are generally of public or semi-public character and are essential and desirable for the general convenience and welfare; that because of the nature of the use, the importance of the relationship to the Comprehensive Plan and possible impact not only on neighboring properties, but on a large section of the County require the exercise and planning judgement on location and site plan; that the proposed use is of semi-public character as there is significant demand for storage in the area; that many residential communities now offer smaller lot sizes that do not support storage or have extremely limited storage capacity; that many communities prohibit storage of RVs, boats, trailers and certain vehicles on residential lots; that as such, the project will provide an economic benefit to the community by providing residents with a convenient solution for storing those larger vehicles, while meeting the demand for on lot storage and eliminating the need to park these larger vehicles on streets and limited parking spaces or where they are prohibited in residential



communities; that the site will be served by private water and sewer; that Tidewater confirmed the closest connection point to an existing water main is approximately 600 ft. from the site at the intersection of Gull Point Rd. and Rosedale Rd.; that as such, and considering low water demands, with only one bathroom and one employee on site, it is proposed that a well will be installed for water; that septic is also proposed; that the Site Evaluation has been submitted to DNREC and is under review; that the site is a good candidate for infiltration; that there is an infiltration shown on the plan for stormwater management; that DelDOT has confirmed the traffic impact to be negligible; that the last page of the Exhibit Booklet includes a copy of the Applicant's proposed conditions, which limit the use to self-storage and the storage of RVs, boats, vehicles and trailers; that they prohibit the presence of junk, inoperable RVs, boats vehicles or trailers to be kept on the site; that they limit sales or maintenance, except for limited mobile maintenance and repair services that can be reasonably performed on the site and that do not require extensive equipment or facilities only available at a designated repair facility; that they prohibit hazardous materials or fuel to be stored on the site; that fuel may be stored in the tanks of vehicles; that the site will allow for 24 hr. access with a gated and locked entrance together with a perimeter fence for security, with the installation of security that meets industry standards; that the conditions require shielded and downward screened security lighting; that the conditions require a 20 ft. wide landscape buffer between the outside of the fence and the adjacent properties; that this will allow for dumpsters to be screened, and the condition propose a sign that is in compliance with the Code.

The Commission found that there was no one who wished to speak in support of or in opposition to Application C/U 2394 Wayne Development, LLC.

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 2394 Wayne Development, LLC. Motion by Mr. Mears to defer action for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 4 - 0.

#### **C/Z 1991 Sycamore Chase Expansion**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN MR-RPC MEDIUM-DENSITY RESIDENTIAL – RESIDENTIAL PLANNED COMMUNITY DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 73.95 ACRES, MORE OR LESS.** The property is lying on the north side of Daisy Road (S.C.R. 370), approximately 0.6 mile west of Bayard Road (S.C.R. 384). 911 Address: 34665, 34723 & 34771 Daisy Road, Frankford. Tax Map Parcel: 134-18.00-45.00, 51.00 and P/O 53.00, 54.00 & 54.01.

Mr. Whitehouse advised the Commission that submitted into the record were the Staff Analysis, the Applicant's Subdivision Plan, a copy of the PLUS comments and the Applicant's response to the PLUS comments, a copy of the Environmental Assessment and the Public Facilities Evaluation Report, the DelDOT Service Level Evaluation Response, the comments from the Sussex County Engineering Department Utility Planning Division, the Technical Advisory Committee (TAC) comments received from the State Department of Watershed Stewardship, a letter received from Artesian Resources, the Applicant's Exhibit Booklet, and the Applicant's Geotechnical Investigation. Mr. Whitehouse stated that zero comments were received for the Application.

The Commission found that Mr. William Scott, with Scott and Shuman, P.A. spoke on behalf of the Applicant, Beazer Homes, LLC; that also present were Mr. Gavin Robinson with Beazer Homes, LLC,

and Mr. Jason Palkewicz, PE with Solutions IPEM. Mr. Scott stated an Exhibit Booklet was submitted with a summary of the proposed project, as well as the other documents mentioned by Mr. Whitehouse; that additionally, there are various aerial maps, statements regarding compliance with the County Code and the Comprehensive Plan; that there are comments regarding the MR Zoning and the RPC overlay; that the request is to rezone the properties from AR-1 (Agricultural Residential) to MR (Medium Density Residential) with an RPC (Residential Planned Community) overlay; that they are proposing 176 lots, consisting of a mixture of single-family and townhouse lots, with active and passive open space; that the parcel is comprised of 74.14 acres; that the property is located adjacent to the existing Sycamore Chase, along Daisy Rd.; that the site is located south of the Town of Ocean View; that the site is zoned AR-1 (Agricultural Residential) and is located with the Coastal Area according to the Comprehensive Plan; that the current condition of the site is predominantly cleared farmland with a small amount of woodlands; that there is approximately four acres of Federal non-tidal wetlands that are concentrated in the upper left portion of the site; that the property is located south of the Town of Ocean View; that the site is also in the nearby area of Fairway Village, which is a large townhouse development, Bear Trap Dunes, Village of Bear Trap Dunes which has 704 units mixed of townhouses, single-family homes and stacked condominiums; that the site is also located near Forest Landing which is an MR-RPC with townhouses and duplexes, Friendship Creek, which was approved in 2018 as a GR (General Residential) Conditional Use with 133 multifamily homes on about 47 acres of land; that nearby Seaway Community was rezoned from AR-1 to MR in February 2023 as a Conditional Use for 57 multifamily units; that across from that is Milos Haven, which was approved in 2019 for 179 units on 71 acres, also as a mixture of single-family dwellings and townhouses; that across from Friendship Creek is the pending community of Lilyvale, which is proposing 174 townhomes on 51 acres; that the site is adjacent to the existing Sycamore Chase development, which consists of 104 units that were approved on 55 acres; that the proposed project area is located in an area where there has been significant historical and ongoing residential development similar to the character that they propose for the particular project; that the Application did participate in the PLUS process last year; that the PLUS letter and responses from the developer are included in the Exhibit Booklet; that the property is located within Investment Level 3 according to the State Spending Map; that Investment Level 3 areas are designated Growth Areas under the Comprehensive Plan; that the site is located within the Coastal Area, which also is designated a Growth Area and encourages the use of the RPC overlay designation, which allows for a mixture of housing types, as they are proposing; that the purpose of the Comprehensive Plan within the Coastal Area is to encourage the most concentrated forms of new development to be located within Growth Areas; that this includes higher density, residential development; that there are compliance statements included in the Exhibit Booklet, which address each of the components of the Comprehensive Plan; that the Application requests to rezone the site to MR; that the purpose of the MR Zoning District is for medium density residential development to be located in areas which are expected to become generally urban in character, and where sanitary sewers and public water supplies may, or may not, be available at the time of construction; that together with churches, recreational facilities, and accessory uses that may be necessary or normally compatible with residential buildings; that the district seeks to protect existing development of this character and contains vacant land considered appropriate for such development; that the MR Districts permits for a base density of 4.35 units per acre; that there is discussion in the Comprehensive Plan and in the County Code where higher densities could be permitted, where there are central water and sewer available, as there is at the proposed site; that the proposed density for the project is 2.63 units to the acre, which is significantly less than the base density in MR; that MR Zoning would permit as high as 289 units per acre for the site; that the Application request 176 homes; that 96 of which would be townhomes; that 80 of the proposed homes would be single-family detached homes; that the zoning map, located under Exhibit 15, reflects the site being surrounded by other MR and GR (General Residential) properties, along with some C-1 (General Commercial) properties located nearby as well; that the C-1 (General Commercial) District is a closed district, however, would still provide for up to 12 units per acre; that the surrounding areas have been historically

and currently developed with residential development similar to what they are proposing; that there is a statement in the Exhibit Book regarding the compliance with the requirements of the MR Zoning District, and the §99-9C Subdivision requirements; that the Application proposes an RPC (Residential Planned Community) overlay; that the purpose of an RPC is to encourage large scale developments as a means of creating a superior living environment through unified developments and to provide for the application of design and ingenuity, while protecting existing and future developments; that by achieving the goals of the Comprehensive Plan, the proposed design uses superior standards in that great care has been taken to identify the portions of the property that are appropriate to be preserved, keeping development away from those areas and directing development towards the other portions of the property; that it is noted that there is 17.6 acres of woodlands on the site; that the plan proposed that 8.7 acres, roughly being half, of the existing woodlands would be preserved; that there is 4.1 acres of Federal non-tidal wetlands located on the property; that the wetlands would largely remain undisturbed and would only be disturbed if utility or road crossings were required; that they would obtain any required permits and comply with all regulations from the U.S. Army Corp of Engineers; that an RPC is encouraged by the Comprehensive Plan to be located within Growth Areas to provide a mixture of housing types as is being proposed; that the proposed development is designed to be compatible with the existing Sycamore Chase community; that there are two interconnections planned, being located at the north and south of the site; that these interconnections will be with the existing Sycamore Chase community; that the Application was submitted prior to the adoption of the Resource Buffer Ordinance, however, they are proposing a 30 ft. setback buffer from the wetlands; that they propose a 20 ft. landscape buffer, except where the property is located adjacent to the existing community, or where there are larger buffers or wetlands or tax ditches; that there is a 50 ft. buffer proposed from the adjacent existing farmland; that there is 36 acres (48%) of open space; that DelDOT stated the project would have a minor impact on traffic, and therefore no Traffic Impact Study (TIS) is required; that the project thus qualifies for the Area Wide Study Fee rather than the TIS; that they have had meetings with DelDOT, where improvements have been contemplated; that the discussed improvements include moving the frontage of Daisy Rd. along the project's frontage to 11 ft. travel lanes, and five foot shoulders and to improve Daisy Rd. to 11 ft. travel lanes to the extent feasible from Daisy Rd. to Bayard Rd.; that central water and sewer would be provided by Artesian; that Artesian Resources provided an Ability to Serve letter, which was included in the Exhibit Booklet; that stormwater management will be designed in compliance with DENREC and Sussex Conservation District requirements in order to meet or exceed the current regulations; that additionally submitted in the Exhibit Book is a study by Hardin-Knight Associates, Inc., who performed a Subsurface Geotechnical Soils Investigation; that this investigation determined that the proposed project is suitable for the development, including the infrastructure, home construction and stormwater management; that the entrance, which would require approval by DelDOT, is anticipated to be located along Daisy Rd., with two interconnections proposed to the existing Sycamore Chase community; that the lots as shown on the plan are a mixture of single-family lots and townhouse lots, which are encouraged by the Comprehensive Plan; that the proposed density is 2.63 units to the acre; that parking will be provided as required by Sussex County Code for all units; that proposed amenities, at minimum, would be an outdoor pool, clubhouse and walking trail; that the proposed community would become part of the existing Sycamore Chase, so that all owners on either side of the community would have access to each other's amenities; that the streets will be private, and will be maintained by the Homeowners Association; that sidewalks are proposed on one side of the street, which remains compatible with the existing Sycamore Chase community; that the sidewalks would interconnect with the existing Sycamore Chase community; that street lights, if any, would be downward facing and compatible with the street lighting found within the existing Sycamore Chase community; that landscaping will be provided and will be attractive and compatible with the landscaping found in the existing community; that the proposed project is to become part of the existing Sycamore Chase community, therefore the existing Homeowners Association would take care of the streets, stormwater management, open areas and assessment collection; that the existing Sycamore Chase

documents contained a disclosure to all current residents, regarding the possibility of expansion to the proposed property; that the developer has been providing bi-weekly to monthly updates to the HOA regarding the state of development and construction within the existing Sycamore Chase, as well as the proposed expansion; that he requested to provide proposed Findings of Fact and Conditions of Approval, and requested the Commission recommend approval of the Application.

The Commission found that Mr. Gavin Robinson, Vice President of Operations for Beazer Homes, LLC, spoke on behalf of the Application. Mr. Robinson first thanked the Adkins family, who was also in attendance, for allowing them the opportunity to bring the project before the Commission; that Beazer Homes goal is to provide a durable and growing value to their customers; that their goal is to be good stewards of the land and environment; that in 2023, they were named Energy Star Trade Partner of the Year; that they are also named Indoor Air Plus Leader of the Year, which was the first time the award had been provided to a corporate builder; that they are on the pathway to be zero energy ready; that they anticipate being able to build zero energy ready homes by 2025; that they have already begun this effort in Sycamore Chase; that they hope to continue their success in the Sycamore Chase Expansion by delivering quality homes, energy efficient homes, and he thanked the Commission for their time.

Mr. Scott concluded that they believed they had demonstrated that the proposed project meets the requirements of the County Code; that the project is consistent with the trend of residential development in the area and the goals of the Comprehensive Plan, by the projects consistency with the Delaware State Spending Strategies Map; that the proposed density is equal to or less than surrounding communities of similar nature; that they believe the proposed project will promote the health, welfare, convenience and prosperity of the County, and help support its economic development, and requested the Commission to consider recommending the Change of Zone Application and MR-RPC overlay for approval.

Mr. Collins questioned if any part of the project is being proposed for workforce housing.

Mr. Scott stated the project is not part of any County program, however, they hope that the townhome units theoretically being priced lower than single-family homes, may provide a more affordable option.

Mr. Robertson advised the Commission that the proposed project is not an expansion of the existing Sycamore Chase subdivision, and that the Application is to be considered as a separate subdivision.

Mr. Scott stated that the project is a subdivision, and they refer to it as an expansion, as it will be an expansion of the community, and is not an expansion of an existing RPC.

The Commission found that there was no one who wished to speak in support, and three people who wished to speak in opposition to C/Z 191 Sycamore Chase Expansion.

Mr. Charles Parsons spoke in opposition to the Application with concerns regarding State Investment Levels and areas where the State does not support development, the protection and natural and cultural resources and open space, and the promotion of agricultural activities, the negative impact on his view and stated his disappointment with the number of approved developments within Sussex County.

Ms. Sherry Parsons spoke in opposition to the Application with concerns regarding the location of an existing agricultural easement, and the possibility that the easement will cut off their access completely.

Ms. Elaine Parsons spoke in opposition to the Application with concerns regarding the number of approved subdivisions, the impact on the wildlife and wildlife habitats, the nature of the area changing from rural to urban, the proposed density, road improvements, and the negative impacts on schools.

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

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

In relation to C/Z 1991 Sycamore Chase Expansion. Motion by Mr. Mears to defer action for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 4 - 0.

**C/Z 1997 Waste Management of Delaware, Inc.**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.219 ACRES, MORE OR LESS.** The property is lying on the west side of Old Stage Road (S.C.R. 461), at the intersection of Old Stage Road (S.C.R. 461) and Trussum Pond Road (S.C.R. 462). 911 Address: N/A. Tax Map Parcel: 332-2.00-79.01.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Site Plan and survey, the Staff Analysis, the Applicant's Exhibit Booklet, the DelDOT Service Level Evaluation Response, and a copy of the PLUS comments. Mr. Whitehouse stated that zero comments were received for the Application.

The Commission found that Mr. James A. Fuqua, Jr., Esq. with Fuqua, Willard & Schab, P.A. spoke on behalf of the Applicant, Waste Management of Delaware, Inc.; that also present was Mr. Max Dickman, Director of Real Estate for Waste Management. Mr. Fuqua stated there was an Exhibit packet submitted containing information for the Application; that the Application requests a rezoning of a 5.2-acre parcel that is located at the northwest corner of the intersection of Trussum Pond Rd. and Old Stage Rd.; that the Applicant is requesting a rezoning from AR-1 (Agricultural Residential) to C-3 (Heavy Commercial); that the parcel has road frontage on both roads; that the site is located a short distance east of Rt. 13, in the near by area of Johnny Janosik Furniture store; that the parcel is owned by Waste Management; that the site is adjacent to a 12 acre parcel that is also owned by Waste Management, which is located to the left of the chicken house; that the adjacent 12 acre parcel, Parcel 79.00, is zoned C-1 (General Commercial); that the property was purchased by Waste Management in 2018; that after Waste Management purchased Parcel 79.00, the existing commercial buildings on the site were converted into a waste management facility; that it is used for the maintenance and repair of the companies approximate 60 trucks as well as parking and storage of trucks, containers, and employee parking; that in addition, there are two, large self-storage buildings located there; that they are owned by Waste Management and is operated as trusts upon the self-storage; that a few years ago, the company was contacted by the property owner of Parcel 79.01, asking if they were interested in purchasing the property, and Waste Management subsequently purchased the property in October 2021; that company proceeded to remove the dwelling and the chicken houses; that a security fence was erected around the perimeter of the site; that there were no specific plans for the use of the site at that time other than for vehicle and container storage, as well as additional parking; that gradually, over time, the container began to be stored on Parcel 79.01, which created a natural expansion; that the problem was, the use for storage is not a permitted use as Parcel 79.01 is zoned AR-1 (Agricultural Residential); that they became aware of this when they received a Notice of Violation, which was issued on August 2022; that subsequently, the Applicant contacted him; that after reviewing the information he suggested the Applicant request a Change of Zone to C-3 (Heavy Commercial); that the Change of Zone request was filed 13 months ago; that the site is located in the nearby area of several commercial services and storage business uses that currently exist along Trussum Pond Rd, which includes the existing Waste Management facility; that most of the land located on the south side of Trussum Pond Rd. is zoned C-1

(General Commercial); that on the north side all the land, except for the subject parcel, is zoned C-1 (General Commercial) as well; that going through the intersection with Old Stage Rd. the area is zoned commercial; that due to the surrounding area, they believe the request to rezone the parcel to C-3 (Heavy Commercial) is an appropriate and reasonable extension of the existing commercial corridor running from Rt. 13 to Old Stage Rd.; that under the County's Comprehensive Plan, Parcel 79.01 is designated as being within the Developing Area according to the Future Land Use Map; that the Developing Area is one of the growth areas identified in the Comprehensive Plan; that the guidelines for the Developing Area state that commercial uses should be permitted at appropriate locations in the developing area; that the large parcel directly across Trussum Pond Rd. from the site is not zoned commercial; that the parcel is zoned AR-1; that on the Future Land Use Map, that same parcel is designated as being within the Industrial Area; that they believe, according to the plan the site would be an appropriate place for industrial or warehouse type uses; that C-3 zoning is also recognized as an appropriate zoning designation in the developing area on that chart in the land use pan that gives the different zoning designations for that area, located on Page 424; that the Application was reviewed as part of the PLUS process; that the PLUS comments note that Parcel 79.01 is located within the State Investment Level 3, being a level where growth is anticipated; that the parcel is adjacent to commercially zoned land; that the request will be an expansion of an existing business already established in Sussex County; that the County's comments are included within the PLUS response, and confirm that the expansion of the existing Waste Management parking and storage onto Parcel 79.01 is a permitted use by right within the C-3 Zoning District; that the rezoning will permit the expansion of the Waste Management business, providing a service that benefits the general convenience and welfare of the County's residents; that the Applicant would have requested C-1 (General Commercial) zoning to remain consistent with the rest of the area; that as the Commission knows, the C-1 (General Commercial) Zoning District closed many years ago, and can no longer be used for rezoning; that the closest request to C-1 zoning is the now C-3 (Heavy Commercial) Zoning; that they believe the rezoning is appropriate based on the existing uses in the area, and the existing commercial zones in the corridor along Trussum Pond Rd; that the conformity of the C-3 (Heavy Commercial) zoning with the Comprehensive Plan and the Future Land Use Map; and the practical result that the zoning change would allow an existing business to expand; that he did request to submit proposed Findings of Fact and Conditions of Approval; that Waste Management apologizes for placing the cart before the horse and for the reasons stated, request the Commission recommend approval of their rezoning Application.

The Commission found that Mr. Max Dickman spoke on behalf of the Application. Mr. Dickman stated that he would like to echo what Mr. Fuqua had stated; that he apologized for the violations that occurred on the site when it was purchased in 2021; that they knew they would eventually would have to go for a Conditional Use or a Change of Zone in order to achieve some of the things they wanted to do; that he believes the people who operate the site did not realize the difference between placing a few dumpsters would initiate a use they were not permitted to do, whereas if they eventually wanted to add more storage units or formally repave, those were things they believed would trigger the violations and that was their mistake; that it was simply that they did not understand the process; that they felt a Conditional Use would limit them with what they would like to do, which would still put them in the wrong zoning; that because of this, they felt a rezoning would be more appropriate to allow for the right zoning classification for what they are trying to achieve, and he does understand even with rezoning, development will require a permit, and they intend to obtain that.

The Commission found that there was no one who wished to speak in support of or in opposition to Application C/Z 1997 Waste Management of Delaware, Inc.

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

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

In relation to C/Z 1997 Waste Management of Delaware, Inc. Motion by Mr. Mears to defer action for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 4 - 0.

ADDITIONAL BUSINESS

Mr. Whitehouse advised the Commission that an update had been rolled out to the online document management system.

Mr. Robertson advised the Commission that the appeal for 2021-23 Stillwater Harbor to Sussex County Council was subsequently appeal to Superior Court.

Meeting adjourned at 4:56 p.m.

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