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ZONING & PLANNING - DELAWARE

Sussex County Planning & Zoning Commission v. Smokey Hollow, LLC

Supreme Court of Delaware - August 6, 2026 - A.3d - 2026 WL 2273202

Developer of 66-acre parcel petitioned for writ of certiorari, seeking to strike disputed conditions imposed by county planning and zoning commission as part of its approval of developer's application to build 82-lot residential subdivision, which included conditions to eliminate one lot based on environmental concerns and requirement of 25-foot fixed buffer from non-tidal wetlands.

The Superior Court granted certiorari and struck both conditions as unreasonable. Commission appealed.

The Supreme Court held that:

- When commission subjects subdivision plan approval to conditions, conditions must be rationally related to addressing, in public interest, some potential land use impact of particular use or development in question;
- Substantial evidence did not support commission's condition to eliminate one of the lots based on wetlands and flooding concerns; and
- Substantial evidence did not support commission's condition to require 25-foot fixed buffer from non-tidal wetlands.

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