

## **THE MINUTES OF THE REGULAR MEETING OF JULY 28, 2022.**

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, July 28, 2022, in Council Chambers, Sussex County Administrative Office Building, 2 The Circle, Georgetown, Delaware. Members of the public were also able to attend this meeting by teleconference. The teleconference system was tested during the meeting by staff to confirm connectivity.

The meeting was called to order at 5:00 p.m. with Madam Chair Stevenson presiding. The following members of the Commission were present: Ms. Kim Hoey-Stevenson, Mr. Keller Hopkins, Ms. Holly Wingate, and Mr. Bruce Mears. Mr. Robert Wheatley was absent. Also, in attendance were Mr. Vincent Robertson – Assistant County Attorney, Mr. Jamie Whitehouse – Planning & Zoning Director, Mr. Michael Lowrey– Planner III, Mx. Jesse Lindenberg – Planner I, and Ms. Ashley Paugh – Recording Secretary.

Mr. Robertson advised the Commission that before the beginning of the Commission meeting, Ms. Kim Hoey-Stevenson did take the Oath of Office to be a member of the Planning & Zoning Commission for another year; that Ms. Stevenson was absent during the previous meeting of July 14, 2022, where all the other Commissioners performed their Oath of Office and Ms. Stevenson is now duly authorized and under oath to act as a Commissioner for the Sussex County Planning & Zoning Commission.

Mr. Whitehouse advised the Commission that the application for 2022-06 Amelie Sloan Trust and C/U 2307 Ellendale Associates, LLC was not included in the meeting agenda; that notifications for the applications were sent out; that the applications will be readvertised and re-noticed for a future meeting and a request was received for C/U 2306 Amanda Mapp to remove the application from the agenda as it is being withdrawn.

Motion by Mr. Hopkins, seconded by Ms. Wingate and carried unanimously to approve the Agenda as revised. Motion carried 4 - 0.

Motion by Ms. Wingate, seconded by Mr. Mears to approve the Minutes of the June 23, 2022, Planning and Zoning Commission meeting as circulated Motion carried 4 – 0

### **OTHER BUSINESS**

#### **Inland Bays (S-22-28 & C/U 2259)**

##### **Preliminary Site Plan & Landscape Plan**

This is a Preliminary Site Plan and Landscape Plan for the construction of thirty (30) single-family detached condominiums, landscaping, and amenities to include a pool house, inground pool, community mail center, and related site improvements. The improvements are to be located on the north side of Fred Hudson Road (S.C.R. 360), approximately 0.25 mile east of Cedar Neck Road (S.C.R. 357). A Conditional Use (C/U 2259) to allow for multi-family dwelling units was approved by Sussex County Council on December 7, 2021, subject to nineteen (19) Conditions of Approval via Ordinance No. 2817. The Preliminary Site Plan complies with the Sussex County Zoning Codes and all Conditions of Approval. Tax Parcel: 134-13.00-72.02. Zoning: MR (Medium-Density Residential District). Staff are awaiting agency approvals; therefore, this plan can be considered for preliminary approval with final approval to be by staff.

Mr. Whitehouse advised the Commission that when the Application went to County Council there was considerable discussion about the landscape buffer; that the plan does reflect a six-foot-tall white vinyl

privacy fence along the northern section of the boundary, where the utilities are located and there was considerable input provided related to this at the public hearing before County Council.

Motion by Mr. Mears, seconded by Mr. Hopkins and carried unanimously to approve the Preliminary Site Plan and Landscape Plan as preliminary with final approval to be by the staff upon receipt of all agency approvals. Motion carried 3-0. Ms. Wingate abstained.

**Indian River Solar Farm (F.K.A. Broom Solar) (C/U 2288)**

**Preliminary Site Plan**

This is a Preliminary Site Plan for the construction of a solar array farm and other site improvements to be located on the north side of Frankford School Road (S.C.R. 92). The Planning and Zoning Commission at their meeting of February 27, 2022, approved CU 2288. The Preliminary Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Tax Parcel: 533-5.00-47.00. Zoning: AR-1 (Agricultural Residential Zoning District). Staff are awaiting agency approvals.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to approve the Preliminary Site Plan as a preliminary with final approval to be by the staff upon receipt of all agency approvals. Motion carried 4-0.

**Lewes Farmer's Market**

**Revised Final Site Plan**

This is a Revised Final Site Plan for the addition of eight (8) shipping containers to be utilized as retail storage spaces. The revision proposes a reduction of seven (7) parking spaces with one (1) storage unit to be kept on a concrete pad behind the building. With the proposed reduction, the plan remains consistent with the parking requirements of Chapter 115 as parking exceeds the minimum requirement of 81 spaces. 98 remain. The proposal is subject to any applicable approvals from other agencies. The Revised Final Site Plan complies with the Sussex County Zoning Code. Tax Parcel: 334-6.00-497.03. Zoning: C-1 (General Commercial Zoning District). Staff are awaiting agency approvals.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to approve the Revised Final Site Plan as preliminary with final approval to be by the staff upon the receipt of all agency approvals. Motion carried 4-0.

**Lands of Kenneth Schroder & Carolyn Patterson**

**Minor Subdivision off a 50-foot easement and a 20-foot easement**

This is a Preliminary Minor Subdivision Plan for the subdivision of 20.747 acres +/- parcel of land into three (3) lots and residual lands off a 50-foot easement and a 20-foot easement. Proposed Lot 1 consists of 5.006 acres +/-; Proposed Lot 2 consists of 11.317 acres +/-; Proposed Lot 3 consists of 2.262 acres +/-; and the residual lot consists of 2.162 acres +/- . The property is located on the south side of Johnson Lane. The Preliminary Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Zoning: AR-1 (Agricultural Residential District). Tax Parcel: 234-9.00-47.00. Staff are awaiting agency approvals.

Motion by Mr. Hopkins, seconded by Mr. Mears and carried unanimously to approve the minor subdivision off a 50-ft. and 20-ft. easement with final approval to be by the staff upon receipt of all agency approvals. Motion carried 4-0.

**Lands of Yong J. Park, Je Y. Kim & Soon J. Kim**

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

This is a Minor Subdivision Plan for the subdivision of 6.166 acres +/- parcel of land into one (1) lot and residual lands off a 50-foot ingress/egress access easement. Proposed Lot 1 consists of 1.131 acres and the residual lands consist of 5.035 acres +/- . The property is located on the southeast side of Mount Pleasant Road (S.C.R. 493). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Zoning: AR-1 (Agricultural Residential District). Tax Parcel: 432-7.00-2.00. Staff are in receipt of all agency approvals.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to approve the minor subdivision off a 50-ft. easement. Motion carried 4-0.

### OLD BUSINESS

**2021-29 Deer Creek** – A standard subdivision to divide 93.582 acres +/- into 79 single-family lots, to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County. The property is lying on the north side of Staytonville Road (S.C.R. 224), at the northwest corner of the intersection of Staytonville Road (S.C.R. 224) and DuPont Boulevard (Rt. 113). Tax Parcel: 230-19.00-27.00. Zoning: AR-1 (Agricultural Residential District).

The Commission discussed the Application which had been deferred since July 14, 2022.

Mr. Hopkins moved that the Commission grant preliminary approval to 2021-29 Deer Creek based on the record made during the public hearing and for the following reasons:

1. This application seeks approval of a standard subdivision to develop 93.582 acres of land into 79 single-family lots. This land was previously approved for a 79-lot subdivision as Subdivision No. 2005-26 received preliminary site plan approval on August 24, 2006, and Final Site Plan Approval on April 24, 2010.
2. The subdivision meets the purpose of the Subdivision Ordinance and protects the orderly growth of the County. The subdivision has also adequately addressed the elements of Section 99-9C of the Subdivision Ordinance.
3. The site is within the “Low-Density Area” according to the current Sussex County Comprehensive Development Plan. The Plan permits residential development of two units per acre within the Low-Density Area.
4. All of the lots will be at least  $\frac{3}{4}$  acre in size, and the density of the development is less than 1 unit per acre.
5. The subdivision will not adversely impact schools, public buildings, community facilities, or area roadways and public transportation.
6. DNREC has indicated that the site is suitable for individual on-site septic systems. Although the initial soil feasibility study occurred several years ago, the soils were re-tested by Coastal Soil Consultants, Inc. with new soil borings to confirm that the majority of the soils at the site meet the current standards for individual on-site wastewater treatment systems.
7. This preliminary approval is subject to the following conditions:
  - A. The number of lots shall not exceed 79.
  - B. The Applicant shall prepare and record restrictive covenants governing the development and form a homeowner’s association to be responsible for the perpetual maintenance of streets, roads, buffers, stormwater management facilities, erosion and sedimentation control facilities, and other common areas.
  - C. The lots will be served by individual wells.

- D. DeIDOT has determined that the developer must contribute the “Area Wide Study Fee” instead of requiring a Traffic Impact Study. In addition to the payment of this fee, DeIDOT will require the developer to improve Staytonville Road to accommodate the entrance to the development and the traffic generated by it.
- E. The stormwater management system shall meet or exceed the requirements of the State and County.
- F. The Restrictive Covenants shall include the Agricultural Use Protection Notice.
- G. There shall not be any wetlands within any of the lots. In addition, the Restrictive Covenants shall state that non-tidal wetlands exist on the site and the covenants shall include the notice required by Section 99-6H of the Sussex County Code.
- H. A school bus shelter with parking for at least 4 vehicles shall be included near the entrance to the project.
- I. There must be a notice contained in the Restrictive Covenants stating that hunting activities occur on neighboring and adjacent properties.
- J. Street naming shall be subject to the review and approval of the Sussex County Geographic Information Office (F.K.A. Mapping and Addressing Department).
- K. All construction and site work on the property, including deliveries of materials to or from the property, shall only occur between 7:00 a.m. through 6:00 p.m., Monday through Saturday. There shall be no construction activities at the site on Sundays. A 24-inch by 36-inch “NOTICE” sign in English and Spanish confirming these hours shall be prominently displayed at all entrances to the site during construction.
- L. The Final Site Plan shall contain an additional emergency vehicular access between Staytonville Road and White Rail Circle connecting through either Doe Run or Buck Drive.
- M. The vegetated or forested perimeter buffer is permitted to overlap the undisturbed wetlands area along the perimeter of the site. This perimeter buffer shall be increased to 20 feet along Lot 6 and anywhere else where it is less than 20 feet wide. This buffer shall use existing forest and vegetation. Where trees currently exist in this buffer area, stump removal or construction activities that disturb the existing grade of the buffer area shall be prohibited. All silt fencing shall be located on the interior limit of the buffer area or the wetlands line (the edge nearest the interior of the development) and the Final Site Plan shall identify the “Limit of Disturbance” to prevent disturbance of the wetlands and buffer area.
- N. A revised Preliminary Site Plan either depicting or noting these conditions of approval must be submitted to the Office of Planning and Zoning.
- O. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Hopkins, seconded by Ms. Wingate and carried unanimously to grant preliminary approval of 2021-29 Deer Creek for the reasons and conditions stated in the motion. Motion carried 4-0.

The vote by roll call: Mr. Hopkins – yea, Mears – yea, Ms. Wingate – yea, Madam Chair Stevenson – yea

**C/U 2300 MRBP, LLC**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BORROW PIT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 56.93 ACRES MORE OR LESS.** The property is lying on the southwest

side of McCary Road (S.C.R. 385), approximately 857-ft south of Frankford School Road (S.C.R. 92). 911 Address: N/A. Tax Parcels: 533-5.00-38.00 & 41.04.

The Commission discussed the Application which had been deferred since July 14, 2022.

Ms. Wingate recused herself from this Application's public hearing on July 14, 2022.

Mr. Robertson requested the Commission defer the Application as Ms. Wingate had previously recused herself from the public hearing; that Mr. Wheatley was absent for the current meeting; that Ms. Stevenson was absent for the public hearing for the Application; that due to this, only two Commissioners would be eligible to currently vote on the Application; that three votes are required to affirmatively act on any application; that he requested the Application be deferred and be placed on the agenda for the next meeting.

In relation to the Application C/U 2300 MRBP, LLC. Motion by Mr. Hopkins to defer action for further consideration, seconded by Mr. Mears and carried unanimously. Motion carried 3-0. Ms. Wingate abstained.

**C/U 2301 Jason Tedesco**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.00 ACRES, MORE OR LESS.** The property is lying on the west side of Roxana Road (Rt. 17), approximately 0.23 mile south of the intersection of Powell Farm Road (S.C.R. 365) and Peppers Corner Road (S.C.R. 365). 911 Address: 34018 Roxana Road, Frankford. Tax Parcel: 134-15.00-20.04.

The Commission discussed the Application which had been deferred since July 14, 2022.

Ms. Wingate moved that the Commission recommend approval of C/U 2301 Jason Tedesco, for a landscaping business based on the record made during the public hearing and for the following reasons:

1. The property is zoned AR-1 Agricultural Residential. The use of the property as a landscaping business is consistent with the underlying agricultural zoning of the property.
2. The site is located within the Coastal Area according to the Sussex County Comprehensive Plan. This low-impact type of use is appropriate within this Area.
3. The use will not adversely affect area roadways or neighboring properties.
4. The applicant has stated that his landscaping company provides a service to a wide variety of Sussex County residents and businesses. This intended use is of a public or semi-public character that will benefit the residents and businesses of Sussex County.
5. There are other small businesses in the area with approved conditional uses, including another landscaping business and an indoor/outdoor storage facility. This conditional use is consistent with these other existing small businesses.
6. This recommendation is subject to the following conditions:
  - A. This use shall be limited to a landscaping and lawn care business. The area set aside for the landscaping operations shall be shown on the Final Site Plan.
  - B. No manufacturing shall occur on the site. This prohibition includes the shredding or grinding of any materials and the dyeing of mulch or similar materials.
  - C. There shall not be any retail sales occurring from the site.

- D. One lighted sign shall be permitted. It shall not exceed 32 square feet on each side.
- E. The hours of operation shall be limited to 8:00 am through 6:30 pm, Monday through Saturday. There shall not be any Sunday hours. The Applicant shall be able to operate beyond these hours on an as-needed basis for limited situations such as snow removal, storm damage cleanup, and similar events.
- F. There shall not be any dumping of trees, branches, grass, or other debris on the site.
- G. The on-site storage of mulch, stone, topsoil, and similar materials shall be located in bins or enclosures. The location of these storage areas shall be shown on the Final Site Plan.
- H. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.
- I. The applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.
- J. The Final Site Plan shall clearly show all areas for vehicle and equipment storage and parking, and these areas shall be clearly marked on the site itself. There shall not be any parking or storage within the property's setbacks.
- K. Failure to comply with any of these conditions may be grounds for termination of the Conditional Use approval.
- L. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to recommend approval of C/U 2301 Jason Tedesco for the reasons and conditions stated in the motion. Motion carried 3-0. Madam Chair Stevenson abstained.

The vote by roll call: Ms. Wingate – yea, Mr. Mears – yea, Mr. Hopkins – yea.

**C/U 2303 Antonia Lopez Lopez**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FOOD TRUCK BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.238 ACRES, MORE OR LESS.** The property is lying on the northwest side of Jersey Road (S.C.R. 305), approximately 500 feet southwest of the intersection of John J. Williams Highway (Rt. 24) and Hollyville Road (S.C.R. 305). 911 Address: 26719 Jersey Road. Tax Parcel: 234-32.00-55.00

The Commission discussed the Application which had been deferred since July 14, 2022.

Mr. Mears stated the Commission supports entrepreneurship, but in some cases, the Commission cannot.

Mr. Mears moved that Commission recommend denial of C/U 2303 Antonia Lopez Lopez, for a food truck based on the record made during the public hearing and for the following reasons:

1. The Applicant is proposing a permanently or semi-permanently placed food truck on a small .238-acre property that is primarily surrounded by other homes. The record indicates that this would essentially become a restaurant, but without the typical bricks and mortar building for it.
2. The proposed use is not consistent with the uses of the surrounding properties. There was testimony in the record that the proposed use will adversely affect the use and enjoyment of nearby homes as a result of the noise, crowds, smells from a commercial kitchen, commercial dumpsters, the accumulation of trash, and the traffic associated with the use. Commercial

uses such as this are more appropriately located directly along Route 24 or in areas that are already commercial in nature.

3. This site is located along Jersey Road, a small two-lane road that is already overused by vehicles trying to avoid traffic to and from Millsboro on Route 24. There was testimony in the record that this has burdened the residential property owners along Jersey Road and the permanent food truck would only make a bad situation worse.
4. The site is very small and there is not adequate space on the site to safely accommodate the parking required by patrons of the proposed food truck. There was testimony that activities on this site already create parking problems along Jersey Road that have damaged fences and other properties that have frontage on the road. All of this makes this location along Jersey Road inappropriate for this type of use.
5. The application, if approved, would be detrimental to the health, safety, and general welfare of neighboring property owners.
6. The proposed use in this location does not satisfy the purpose of a conditional use under the Sussex County Zoning Code because it is not well-adjusted to its environment with full protection of the neighboring properties and because the proposed use is not desirable in this location for the general convenience and welfare of Sussex County residents and businesses.
7. For all of these reasons, this Conditional Use application should be denied.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend denial of C/U 2303 Antonia Lopez Lopez for the reasons stated in the motion. Motion carried 3-0. Madam Chair Stevenson abstained.

The vote by roll call: Mr. Hopkins – yea, Mr. Mears – yea, Ms. Wingate - yea

**C/Z 1961 Country Lawn Care & Maintenance, LLC**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 7.75 ACRES MORE OR LESS.** The property is lying on the north side of Lewes-Georgetown Highway (Route 9), approximately 0.89 mile east of Steiner Road. 911 Address: 24347 Lewes-Georgetown Highway (Route 9). Tax Parcel: p/o 135-11.00-32.00.

The Commission discussed the Application which had been deferred since July 14, 2022.

Ms. Wingate moved that the Commission recommend approval of C/Z 1961 Country Lawn Care & Maintenance, LLC for a Change in Zone from AR-1 Agricultural-Residential Zoning to C-2 Medium Commercial Zoning based on the record made during the public hearing and for the following reasons:

1. C-2 Medium Commercial Zoning is designed to support retail sales and the performance of consumer services. It is intended to be located near arterial and collector roads.
2. The Applicant’s property is located along Route 9 which is classified as a “Principal Arterial” roadway. The front 3.85 acres of the property is currently zoned C-1. The Applicant seeks to rezone the back 7.75 acres of the property to the C-2 Medium Commercial District so that the entire property is commercially zoned. This is an appropriate location for C-2 zoning.
3. The property is bordered on the east side by a commercially zoned property that has developed as an apartment complex. It is bordered on the north by a property approved for a major subdivision and on the west by another split-zoned property with commercial zoning. This is an appropriate location for C-2 zoning.

4. C-2 Zoning at this location along Route 9 will benefit nearby residents of Sussex County by providing a commercial location for the Applicant's business.
5. There is no evidence that this rezoning will have an adverse impact on neighboring properties and area roadways.
6. The site is in the "Commercial Area" according to the Sussex County Land Use Plan and Future Land Use Map. This is an appropriate location for C-2 Zoning 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 the rezoning application.
9. Any future use of the property will be subject to Site Plan review by the Sussex County Planning & Zoning Commission.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to recommend approval of C/Z 1961 Country Lawn Care & Maintenance, LLC for the reasons and conditions stated in the motion. Motion carried 3-0. Madam Chair Stevenson abstained.

The vote by roll call: Mr. Hopkins – yea, Mr. Mears – yea, Ms. Wingate - yea

#### PUBLIC HEARINGS

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

#### **2022-05 John & Anna LeCates**

A standard subdivision to divide 5.03 acres +/- into three (3) single-family lots, to be located on certain parcels of land lying and being in Indian River Hundred, Sussex County. The property is lying on the southwest side of Conleys Chapel Road (S.C.R. 280-B), approximately 0.09 mile west of Quail Drive. Tax Parcels: 234-11.00-62.05, 62.22. Zoning: AR-1 (Agricultural Residential District).

Mr. Whitehouse advised the Commission that submitted into the record were the Preliminary Subdivision Plan, the Staff Review Letter, the Soil Feasibility Study, a letter from the Sussex County Engineering Department Utility Planning Division, a waiver letter requesting waivers from the Topographic Contour Requirements, the 30-ft. Buffer Requirement and from the Street Construction Design Requirements within Chapter 99-9C, a DelDOT Letter of No Objection and zero comments.

The Commission found that Ms. Melissa Brozefsky spoke on behalf of the of the Application; that she is the Granddaughter of the Applicant, Mr. John LeCates; that the request is for a one lot major subdivision; that there is currently two lots; that the proposal is to make the two lots into three lots; that the subdivision will not alter the existing terrain and surrounding landscape; that there would be no use of wetlands or food plains; that any natural and historical features on the property would not be altered; that each parcel of the subdivision would continue to provide open space and scenic views of land; that there will be minimalization of tree, vegetation and soil removal; that the removal of tree, vegetation and soil is not intended for the subdivision; that objectionable features do not apply to the request, as there is no proposed alteration other than the requested subdivision of property; that there is no proposed change to the current water supply; that there would be no change in sewer disposal and no pollution of surface or groundwater is expected with the subdivision.

Ms. Wingate questioned if there was an agreement in place as to who would maintain the access drive and if all three parties would be responsible for the maintenance.



Ms. Brozefsky stated the properties are owned by family members; that the intention is that all three parties would be responsible for the maintenance of the access road; that she does not have a current agreement in place; that she was agreeable to having an agreement put in place and would supply that at a future date if necessary.

Mr. Whitehouse stated there is a dog pen referenced on the Site Plan; that the dog pen is within the minimum setback for the new property line to be created and on the Site Plan there is a note stating the dog pen is to be relocated.

The Commission found there was no one present in the room or by teleconference who wished to speak in support or opposition to the Application.

Upon there being no further questions, Madam Chair Stevenson closed the public hearing.

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

Mr. Robertson read the prepared motion into the record, as requested by Mr. Mears.

Mr. Mears moved that the Commission grant preliminary approval of 2022-05 John and Anna Lecates, based upon the record and for the following reasons:

1. The proposed subdivision generally meets the purpose of the Subdivision Ordinance in that it protects the orderly growth of the County.
2. The land is zoned AR-1 which permits low-density single-family residential development. The proposed subdivision density of 3 lots on 5.03 acres of land is significantly less than the allowable density.
3. The proposed subdivision will be consistent with the area and will not adversely affect nearby uses or property values.
4. The proposed subdivision will not adversely impact schools, public buildings, and community facilities.
5. The proposed subdivision will not adversely affect traffic on area roadways.
6. The subdivision complies with the requirements of Section 99-9C of the Subdivision Code.
7. Given the relatively small size of this subdivision at only 3 lots, it is appropriate to grant a waiver from the topographic, grading, and buffer requirements of the Subdivision Code.
8. This preliminary approval is subject to the following conditions:
  - A. There shall be no more than 3 lots within the subdivision.
  - B. If required, the stormwater management system shall meet or exceed the requirements of the State and County.
  - C. All entrances shall comply with all of DelDOT's requirements.
  - D. There shall be a shared maintenance agreement established for the common maintenance of the roadway providing access to these lots. This shared maintenance agreement shall be included on the Final Site Plan or recorded as a separate document in the Office of the Recorder of Deeds.
  - E. The Final Site Plan shall be subject to the review and approval of Sussex County.

Motion by Mr. Mears to grant preliminary approval for 2022-05 John & Anna LeCates, seconded by Ms. Wingate and carried unanimously. Motion carried 4-0.

The vote by roll call: Mr. Mears – yea, Ms. Wingate – yea, Mr. Hopkins – yea, Madam Chair Stevenson - yea

**2022-07 Ocean 7 Group (c/o Tauhid Islam)**– A standard subdivision to divide 4.3 acres +/- into two (2) lots to be located on a certain parcel of land lying and being in Lewes & Rehoboth Hundred, Sussex County. The property is lying on the north side of Lexus Lane, approximately 0.05 mile east of John J. Williams Highway (Route 24). Tax Parcel: 334-12.00-127.11. Zoning: CR-1 (Commercial Residential District).

Mr. Whitehouse advised the Commission that submitted into the record were the Preliminary Subdivision Plan, Exhibit Booklet, a letter from Sussex County Engineering Department Utility Planning Division, the Applicant’s Chapter 99-9C Response, and one written comment letter, received on July 26, 2022, which was circulated to the Commission at the meeting.

The Commission found that Mr. Mark Davidson, Principal Land Planner with Pennoni Associates, LLC, spoke on behalf of the Application; that also present were Mr. Ilyas Techman and Mr. Alan Decktor, Engineer; that the request is for a standard subdivision within CR-1 (Commercial Residential) Zoning; that the request is to divide 4.3 acres into two lots; that Parcel A will be divided into 3.66 acres; that Parcel B will be divided into 0.64 acres; that the minimum lot size within the CR-1 Zoning District is 10,000 sq. ft. or 0.23 acres; that the property is located on Lexus Lane and Hood Road; that Lexus Lane is a DelDOT public road; that Hood Road is a private road; that the property is situated approximately 250-ft. east of Rt. 24; that the property is located across the road from Beebe Medical Center and Artisans Bank; that the property is adjacent to Seaglass at Rehoboth Beach; that the property is part of an existing commercial block of properties; that the property is located within the Coastal Area according to the 2019 Future Land Use Map; that the property is located within Investment Level 2 according to the 2020 State Strategies for Spending Map; that the property has been part of multiple subdivisions in the past; that these subdivisions are indicated by two separate Plot Books, being Plot Book 127/85 and Plot Book 301/1; that the property was subject to Final Site Plan approval by the Planning & Zoning Commission on October 13, 2021; that the Final Site Plan approval was recorded in Plot Book 361/34; that the approved Final Site Plan was for two uses, being the Cambria Hotel and a proposed office space, being located at the intersection of Hood Road and Lexus Lane; that the Cambria Hotel is currently under construction; that there is currently a buyer for the office space; that the subject of the current Application, is a request to subdivide off the 0.63 acre property, which is referenced as Parcel B; that the request is for a standard subdivision, with lots exceeding minimum lot requirements within the Code; that there was an Environmental Assessment and Public Facility Report located within the Exhibit Booklet; that Tab 2 and Tab 3 of the Exhibit Booklet, outlines the context and considerations of the requirements of Chapter 99-9C and Section 115 of the Zoning Code; that in order to receive approval for the previous Final Site Plan, they were required to address all other agency comments; that all other agency approvals were obtained and included within the Exhibit Booklet; that the subdivision of Parcel B will keep in character of the surrounding area; that the property is not located within a Flood Zone; that the property does not contain any wetland areas; that there are no historical features found on the property; that open spaces will be provided in the form of enhanced landscaping beds; that the Cambria Hotel does propose open space; that there will be enhanced landscaping throughout the entire site; that a shared access and shared parking spaces are proposed for both parcels; that the accesses have already been approved by DelDOT; that Tidewater Utilities will supply the property with water services; that the property is located within the Tier I for sanitary sewer with Sussex County; that sanitary sewer has already been provided; that stubs have already been installed at the site; that the property is part of a DelDOT Transportation Improvement District (TID); that included in the Exhibit Booklet is documentation on the requirements the property will be subject to due to being located within the DelDOT TID and the Application meets the requirements of the Subdivision Code, Zoning Code and

Comprehensive Plan, by promoting and protecting the health, safety, convenience, orderly growth and welfare of the County, for development and use of land, which is conveniently located within a commercial area.

Mr. Robertson requested confirmation that the office building was already proposed and approved on the Final Site Plan; that he stated the Site Plan is to remain the same; that the request is to subdivide a separate parcel in which the previously proposed office building will be located on; that the Site Plan will not change, that the request is to draw an artificial line on the plan, referencing one party who will own 3.66 acres of Parcel A and the other party who will own 0.64 acres of Parcel B.

Mr. Davidson stated they propose to subdivide and sell Parcel B; that Parcel B will be a total of 0.64 acres and the office building is still proposed to be located on Parcel B.

Madam Chair Stevenson questioned if the subdivision request would change the parking requirements.

Mr. Whitehouse stated the Final Site Plan was already approved; that the request is to cut out Parcel B; that the subdivision would not change the parking numbers; that where the property line is created could potentially create an issue; that interconnectivity is shown between the two parcels; that the subdivision does not generate any new parking issues and there is no new parking proposed within the front yard setback.

Mr. Davidson stated that there is a written agreement stating all parking is to be shared between both properties; that the previously approved Final Site Plan will not change; that storm management, catch basins and pavement will remain the same; that the only proposed change will be to the design of the office building which is currently being discussed for a doctor and the parking for the office building was already planned and provided within the approved Final Site Plan.

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

The Commission found that Ms. Sandra Ware spoke in support of the Application; that she felt it was an ideal use of the property and fits in well with the surrounding area.

Upon there being no further questions, Madam Chair Stevenson closed the public hearing.

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

In relation to Application 2022-07 Ocean 7 Group (c/o Tauhid Islam). Motion by Mr. Mears to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 4-0.

**C/U 2309 Rockswitch Properties, LLC**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A REAL ESTATE OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 1.38 ACRES, MORE OR LESS.** The property is lying on the north side of Coastal Highway (Route 1) approximately 0.14 mile southeast of Deep Branch Road (S.C.R. 234). 911 Address: 12537 Coastal Highway, Milton. Tax Parcel: 235-8.00-62.00

Mr. Whitehouse advised the Commission that submitted into the record were the Staff Analysis, Conceptual Site Plan, Applicant Exhibits, DeIDOT Service Level Evaluation Response, a letter from Sussex County Engineering Department Utility Planning Division and that zero comments had been received.

The Commission found that Ms. Mackenzie Peet, Esq., with Baird Mandalas Brockstedt Federico & Cardea, spoke on behalf of the Application; that also present were Mr. Richard Reed and Ms. Karen Reed, who are representatives of Rockswitch Properties, LLC; that Rockswitch Properties, LLC submitted a Conditional Use application on August 13, 2021, to request the Conditional Use of land for a small office space, located within the AR-1 (Agricultural Residential) Zoning District; that the office space would be located in an existing single-family dwelling currently located on the property; that the office space is proposed for their real estate services, property management and construction business; that adjacent properties to the site are zoned AR-1 (Agricultural Residential) and GR (General Residential); that properties located across the street are zoned C-1 (General Commercial); that these properties, located along the southbound side of Rt. 1 include the Valero Gas Station and an auto repair shop; that there is an existing wooded buffer which is proposed to stay intact; that Exhibit A through Exhibit E were submitted with the initial Application; that Exhibit A detailed the property and deed information; that the deed information, located at Plot Book 3830/243, confirmed Rockswitch Properties, LLC to be the current owner of the property; that the DeIDOT Service Level Evaluation Response stated the traffic impact for the project to be diminutive; that the Applicant anticipates approximately three vehicle trips, which include staff and customers, to the site per day; that Exhibit B includes the property survey and a Site Plan; that the Site Plan shows the property is 1.3802 acres; that the site is served by septic and private well; that no wetlands are located on the site; that there is a one-story dwelling existing on the site; that the site entrance is off of Coastal Hwy.; that there are six proposed parking spaces, with one space being designated for handicap use; that Exhibit C includes a copy of Section 115-22 of County Code which regulates Conditional Uses within the site's Zoning District; that Exhibit D includes aerial maps of the property, which show existing site conditions and surrounding area uses; that the aerials maps also show the AR-1 District overlay, the Future Land Use overlay which identifies the property to be within a low-density area and an overlay of nearby Conditional Uses; that Exhibit E details the site's land use history; that there was a previous Conditional Use granted for the site in 1980; that the use was for marine sale business; that she is unsure if the business ever operated at the site; that the site is located within the low-density area; that all surrounding properties are located within a low-density area; that all properties designated within low-density areas are also within the AR-1 Zoning District; that the Comprehensive Plan provides guidelines for future growth within low-density areas; that the guidelines provide that future development should be related to agricultural and residential uses; that the guidelines also focus on retail and office uses, stating those uses should provide goods and services to nearby residents; that the proposed use will provide needed services to current and future residents; that the proposed use will provide services to uses which are specifically construction and real estate service related; that the proposed use will provide services to current and future residents looking to construct or renovate a home; that the Comprehensive Plan states and commercial use in a low-density area should be limited in location, size and hours of operation; that the proposed use is a permitted Conditional Use within the AR-1 Zoning District when the purposes of the Zoning Chapter are more fully met by issuing the Conditional Use permit; that Section 115-171 of the Code details the purpose of Article XXIV on Conditional Uses; that the permitted Conditional Uses are of public or semipublic character, being essential and desirable for the general convenience and welfare of nearby residents; that because the nature of the use, the importance of the relationship to the Comprehensive Plan and possible impact to neighboring properties and the County, Conditional Uses require the exercise of planning judgement on proposed location and Site Plan review; that the proposed use is of semi-public character, providing services to present and future Sussex County residents; that the proposed use is compatible with other surrounding uses; that the proposed use is less intensive than

uses operating across the street from the site, being a gas station and a auto repair store; that the proposed use will operate entirely out of the existing residential structure, with parking provided onsite; that the use is not anticipated to negatively impact any of the adjacent properties; that the site has a significant existing vegetated buffer which will screen the proposed use from neighboring properties; that the Applicant did make a supplemental submission on July 11, 2022, proffering proposed Conditions of Approval for the requested Conditional Use; that the proposed conditions stated that the property be used as office space for real estate services, property management and construction business; that the use will occur within the existing structure, which will be renovated by the Applicant; that the renovations will be largely cosmetic and providing an area for parking; that the proposed hours of operation will be 7:00 am through 5:00 pm, Monday through Saturday; that there will be no Sunday hours; that all dumpster and trash receptacles will be located to the rear of the property, being screened from view of neighboring properties and roadways; that the Applicant intends to place a sign in conformity of the Zoning Code requirements; that all designated parking areas will be shown on the Final Site Plan; that the Final Site Plan will be subject to the review and approval of the Planning & Zoning Commission; that the Applicant requested the Commission recommend approval for the proposed Conditional Use of an office for Rockswich Properties, LLC's real estate service, property management and construction business.

Mr. Hopkins questioned if the Applicant proposed to build any additional buildings on the site, if the trees are proposed to be maintained, if the Applicant would like a lighted sign on the property; the number of proposed employees, and the traffic impact expected for the Conditional Use.

Mr. Mears stated the Site Plan did reflect the proposal of a few trees being removed to allow for the construction of the parking area; that he questioned if any employees would access the site for the property management and construction business services, if there will be any materials stored onsite and if any business vehicles will be stationed at the site.

Mr. Robertson stated the Application was introduced as a real estate office; that one would assume the proposed use was for a real estate broker or real estate agency; that the Application stated the proposed use was for a real estate service business, which is a broader use; that he wanted to provide clarification on this for the Commission and if the Commission should act favorably for the Application, it needs to be made clear that the recommended approval would be for more than just a real estate office.

Mr. Whitehouse stated Coastal Hwy. is within the DelDOT Corridor Capacity Preservation Program; that he questioned if the Application had been discussed with DelDOT.

Madam Chair Stevenson questioned if the Applicant proposed to have any customer traffic to the site.

Ms. Peet stated the Applicant has no intention of placing additional buildings on the site; that the use is intended to operate entirely out of the existing structure, with minor internal renovations; that all existing trees are to remain on the site; that the trees are proposed on the Site Plan; that the Applicant would like a lighted sign in conformity to the Code requirements; that the Applicant proposes one to two employees; that DelDOT stated the traffic impact for the proposed Conditional Use would be minimal with three vehicle trips per day; that the employees associated with the property management and construction business would not access the site; that only one to two employees are proposed to access the site; that no materials are proposed to be stored on site; that no business vehicles are proposed to be stationed at the site; that the site is proposed for administration purposes only; that she had previously spoken with the Planning & Zoning Department, as well as, had previous conversations with two of the partners within her firm being, Ms. Heidi Gilmore, Esq. and Mr. Glenn Mandalas, Esq. who had also worked with the Application regarding the way the Application was introduced; that she believed there had been

preliminary discussions between the engineer, Mr. John Roach, and DelDOT; that it is expected that the Applicant will be permitted to use the existing entrance, as the vehicle trips to the site are minimal and the proposal of three vehicle trips daily does include employee trips and customer trips.

The Commission found there was no one present in the room or by teleconference who wished to speak in support or opposition to the Application.

Upon there being no further questions, Madam Chair Stevenson closed the public hearing.

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

In relation to Application C/U 2309 Rockswitch Properties, LLC. Motion by Mr. Hopkins to defer action for further consideration, seconded by Mr. Mears and carried unanimously. Motion carried 4-0.

**C/U 2310 Milton Community Food Pantry, Inc.**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A FOOD PANTRY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 0.966 ACRES, MORE OR LESS.** The property is lying on the west side of Union Street Ext. (Rt. 5), approximately 0.24 mile south of Reynolds Pond Road (S.C.R. 231). 911 Address: 12898 Union Street Ext., Milton. Tax Parcel: 235-7.00-18.00.

Mr. Whitehouse advised the Commission that submitted into the record were a video presentation submitted by the Applicant, the Staff Analysis, Exhibit Booklet, Conceptual Site Plan, a letter from the Sussex County Engineering Department Utility Planning Division, the DelDOT Review Letter, the Applicant's proposed Conditions of Approval and Findings of Fact, a letter from the Mayor of the Town of Milton, 19 letters of support, a petition containing 341 signatures in support; that one to two of the support letters may be duplicates and a petition containing 35 signatures in opposition.

The Commission found that Mr. Timothy Willard, Esq. spoke on behalf of the Application; that also present were Ms. Donna Murawski, President, Mr. Lawrence Bivens, Vice President and Ms. Barbara (Bobbi) Hemmings, Treasurer; that the Milton Community Food Pantry, Inc. is a non-profit organization; that their mission is to combat hunger in the northeast area of Milton; that currently the food pantry is busy; that the food pantry provides a vital service to the community; that the Application request is for a Conditional Use; that the property is located within the GR (General Residential) Zoning District; that the request is for a food pantry; that the submitted petition in opposition referred to the proposed use as a soup kitchen, which it is not; that he requested to present a video on behalf of the Milton Food Pantry; that the video stated the mission began after a minister received a request for help from a mother and her children who had not eaten in over a day; that the minister supplied the mother and children food from her own pantry; that the next day the church began a food pantry ministry; that the food pantry helps approximately 1,200 to 1,500 families every year; that in 2021 the pantry provided food for 5,000 individuals and 60,000 meals that year; that funding for the food pantry mainly comes from donations from local residents and local corporations; that the food pantry recently began getting grants to supplement food; that they have been able to purchase extra food and more fresh produce with the extra funding; that the distribution process takes a lot of work and a lot of volunteers; that for the day of distribution the volunteers use a walkie talkie system; that as vehicles arrive, the volunteers relay how many people are in the family; that volunteers in the building bring out bags of food, which were already prepackaged for the family size in need; that the volunteers place the food in the vehicle; that the vehicle then leaves with their food; that the mission of the food pantry is to alleviate hunger in the

Milton and surrounding areas; that the help families in need, regardless if it is for a temporary or permanent status; that the property is located north of Milton along Union St. Extended; that the property is located within the GR General Residential Zoning District; that the GR Zoning District recognizes residential, business, commercial and industrial uses when purposes of the Chapter are more fully met for purposes of a Conditional Use; that the Conditional Use purposes emphasizes the public or semi-public uses for the welfare of the County; that he feels the food pantry is more aligned with this purpose more so than townhouses; that the food pantry use is appropriate; that on the site plan, the existing home is located within the horseshoe area; that the existing home is a small rancher with two bedrooms and a kitchen; that the two accessory buildings to the rear currently existing on the property; that there is a pole barn proposed on the site plan, to be used for food storage; that an entrance only access is proposed at the northern section of the horseshow driveway; that an exit only is proposed for the other entrance to the property; that according to the Comprehensive Plan, the site is located within a Developing Area; that a Developing Area are generally located near municipalities, being suited for a variety of uses, including business and commercial; that the GR (General Residential) Zoning District gives latitude for this Conditional Use specifically; that many letters of support were submitted; that some letters of support were provided by authorities and churches; that a letter of support was provided by the Mayor of the Town of Milton; that there was a petition submitted with 314 signatures in support; that multiple volunteers were present to show support; that the DelDOT Service Level Evaluation (SLE) did not require a Traffic Impact Study (TIS); that DelDOT stated they estimated fewer than 50 vehicle trips per hour for the proposed project; that he was unsure if they would hit 50 vehicle trips in one week; that due to this DelDOT stated the traffic impact is considered negligible; that they propose Mondays to be busier due to distribution; that during the rest of the week a few volunteers may come to the site; that volunteers may not come to the site every day; that the Applicants own the property; that if the Application is not approved, the Applicant will have to make other plans for the property; that the Applicant has supplied DelDOT with a proposed Site Plan; that the Applicant is still working with DelDOT; that the Applicant will make improvements based on DelDOT requirements; that the DelDOT required improvements are to widen the horseshoe driveway and to establish one entrance and one exit with signage; that DelDOT did seem favorable to the proposed project; that he did present photos taken of the complete distribution process for the Commission; that he believes the petition in opposition was submitted by the residents located to the rear of the property; that the petition submitted was in opposition to a soup kitchen; that the Application is not for a soup kitchen; that a soup kitchen is where people would eat at the site; that he believes there was some misunderstanding to the proposed use; that there were safety concerns to the traffic; that there will be increased activity between 9:00 am and 1:00 pm on Mondays; that other than Mondays, during those times, there will not be much activity at all at the site; that he believes the process is very well managed; that clients will not be permitted to make left turns to enter the food pantry during distribution hours; that clients will be directed to make a right-hand turn onto the site; that the Applicants previously enforced the right-hand entrance only process at the their Waters Edge location; that the volunteers were able to mange that process; that volunteers do have a process to stagger arrival times for clients; that the horseshoe driveway can accommodate 10 to 12 vehicles; that on distribution days, there will be volunteers at the entrance and exit of the site to help manage traffic flow; that the Applicant does propose to use the outbuildings for storage purposes; that there is no use of large delivery vehicles; that there will be no night deliveries; that the majority of deliveries are provided by the volunteers; that he submitted proposed conditions; that the proposed conditions stated that the site is to be the home of the Milton Community Food Pantry; that improvements to the property are to be consistent with the Site Plan; that volunteers may work onsite to collect, store and distribute food; that onsite delivery to clients will take place one day weekly, between the hours of 9:00 am to 1:00 pm; that an additional day may be added after six months of operation if merited; that this condition would allow some flexibility if the food pantry needs grew in the future; that during delivery times, all vehicles must be located on site; that the entrance is subject to DelDOT approval; that lighting shall be inward facing; that a lighted 2'x3' sign, located on the building is requested; that the Final Site Plan is subject to the review and approval

of the Planning & Zoning Commission; that proposed Findings of Fact were submitted referencing the requirements of the Comprehensive Plan Developing District, the Zoning Code and the Conditional Use requirements; that the proposed use is appropriate for the area; that the Food Pantry wants to be good neighbors to all surrounding properties; that the proposed use is not an intense use and the proposed use is important to the area.

Ms. Donna Murawski spoke on behalf of the Application; that she is the President and Executive Director of the Milton Community Food Pantry; that in 2014 the food pantry began at Goshen Hall with Goshen United Methodist Church; that the food pantry remained at Goshen Hall until October 2020, when Goshen Church decided to sell Goshen Hall; that they were required to vacate the premises; that while located at Goshen Hall, the 35 to 40 families at a time, would sit at the hall, waiting in line for their food; that with the COVID-19 pandemic, the process was required to change; that the food pantry was forced to begin a drive-thru distribution process; that during the pandemic, they went to the Town of Milton and began distributing within a municipal parking lot, located across from the Milton Library; that at that time, they were able to get an emergency partnership with the Food Bank of Delaware, as they were not able to obtain any food at that point on their own; that all their food rescue resources had dried up; that food was being purchased, but would not consistently come in; that they would obtain food boxes from Food Bank of Delaware; that the volunteers would carry the food boxes from their own homes to the parking lot; that the food boxes were distributed by the volunteers vehicles from the parking lot; that if any food boxes were left over, the volunteers would take the boxes back to their homes until the next distribution date; that the volunteers were able to continue this from April 2020 until October 2020, only missing one distribution day; that they were then able to move back to Goshen Hall, but operated by drive-thru process; that Goshen Hall has no parking; that they used the parking lot at the church; that they used their walkie talkie system to send one to two vehicles at a time to the hall for food pick up; that the families would drive in, register, a volunteer would pack the food in the car and the family would leave; that at that time, they were serving approximately 40 to 50 families; that many families carpool, or one family will pick up for other families; that this created fewer vehicles; that they may serve 50 families, but only total 39 vehicles to the site; that they also deliver to some families who cannot come to the distribution site; that once Goshen decided to sell the hall, they moved to Waters Edge Church, located on the outskirts of Milton, along Rt. 16 and Reynolds Rd.; that Waters Edge Church allowed them to use their facility for packing, storing and distributing; that the Waters Edge Church location had been working very well until Waters Edge decided to demolish the building the food pantry was using; that they are currently permitted to use the parking lot, but they no longer have the buildings to use; that currently they are working and distributing from two storage pods; that they currently store their food within the freezers, refrigerators and homes of the volunteers; that this creates a hardship on distribution days; that all volunteers must transport the stored food to the distribution parking lot; that the volunteers then do all the food packing outdoors from the parking lot; that the packing is mostly done from the storage pod, which has no air conditioning; that the kitchen staff, who pack all fresh and frozen foods, are working from a gazebo with a dirt floor; that everyone working for the project are volunteers; that the food pantry is a 501(c)(3); that on distribution days they have 12 to 13 volunteers; that they have about 24 volunteers in total; that the main existing dwelling is to be used for the preparation and packing of fresh and frozen foods on distribution days; that the dwelling has two bedrooms; that one of the bedrooms will be utilized as an office; that the other bedroom will be utilized for additional storage; that the exterior of the dwelling will remain the same; that the kitchen and bathroom are proposed to be renovated; that they propose to remove the wall between the kitchen and the living area to create an open floor plan; that they still currently receive food boxes from the Food Bank of Delaware; that the volunteers go to the Food Bank of Delaware to obtain the 72 food boxes; that they load the food boxes onto their own trucks and deliver to their storage areas; that the trucks are not big; that the trucks are typically Ford pickup trucks; that if the Application were to be approved, the food bank boxes would be stored in the proposed pole building onsite; that Food Lion donates



discontinued food; that volunteers rescue food from Food Lion, three days weekly; that the volunteers drive SUVs or small cars for those pickups; that typically one to three volunteers arrive to the site, to go through all the donated food; that any produce not used is taken to the Home for the Brave; that she personally shops with other volunteers for all canned goods; that her husband takes his Ford pickup truck, making one to two trips to deliver the canned goods; that they liked the existing horseshoe driveway, as it fit their current drive-thru distribution process; that they performed their own type of traffic study for their process; that they performed the distribution in 15 minute increments; that the most vehicles recorded during those increments were 10 to 12 vehicles at a time; that they believe 10 to 12 vehicles would fit within the horseshoe driveway area; that they plan for Mondays to be the only distribution day; that hours of operations on Mondays are proposed to be 9:00 am until 1:00 pm; that they proposed these times as they felt most people would already be at work and it would not interfere with children coming and going from school; that their clients have learned the food distribution process; that clients now line their vehicles up a certain way; that clients know that no left turns in are permitted and no left turns leaving are permitted; that they have volunteers located at both entrance and exit of their site to help manage traffic flow; that they provide notice of distribution dates and times on their website; that any new clients receive an information sheet for reference; that a volunteer will register all clients on arrival; that clients do not leave their vehicles; that the volunteer places a post-it note on the window stating the number of family members in each family; that at times one vehicle will pick up food for four to five families; that the vehicle then moves up to the next volunteer; that the volunteer places the Food Bank boxes and prepackaged bags in the vehicle; that they have prepacked bags of canned and dry goods, which are packed based on the number of family members; that from registration to departure, the process takes between three to six minutes, depending on the number of families per vehicle; that the kitchen staff prepackage the fresh and frozen foods; that those packages contain meats, dairy, produce and bakery items based on family size; that the fresh and frozen foods are the last to be distributed before the client exits; that they use all terrain carts to help distribute the food; that often times, the volunteers are ready and waiting with the food when the vehicle pulls up; that she presented a photo of the storage pod they are currently storing their food boxes in and the outdoor gazebo where the kitchen volunteers package the fresh and frozen foods and the meats are currently being stored in multiple coolers.

Mr. Mears questioned if the Applicant desires a sign along the road.

Ms. Wingate thanked the volunteers for their services; that she stated the Food Pantry is a wonderful service for the area; that the DelDOT requirements will include the widening of the driveway and that these improvements will only make the driveway better.

Mr. Hopkins stated there is room for the widening of the driveway; that in the case more vehicles arrive to the site, there would be room to accommodate the vehicles; that he questioned what the speed limit was on Union Street Extension; that he questioned if there would be traffic control for the property; that the traffic is a concern coming and going on a 50 mph road versus in town where the traffic speed is lower; that he questioned if there was a shoulder on the road; that he questioned how much of their food is donated versus how much of their food is purchased by them; that he questioned how many non-governmental donations are being received and he questioned if the house was purchased with donated money or if the house was donated to the food pantry.

Madam Chairman Stevenson questioned if clients can be scheduled distribution times.

Mr. Robertson questioned how clients are notified of distribution dates and times.

Mr. Willard stated the only signed requested was for a 2'x3' lighted sign to be located on the building; that the Applicant does not request a sign by the road; that there will be directional signage placed on the property; that the directional signage will include an entrance sign, exit sign, Do Not Enter sign and a No Left Turn sign, as it was required by DelDOT; that DelDOT is requiring the widening of the entranceway; that the speed limit is 50 mph on Union Street Extension; that on distribution days, more people arrive to site; that previously there have been volunteers located at the entrance and exit of the site; that the volunteers are placed there in the case the site were to become too busy; that the volunteers would have to request the clients return at a later time; that this was their process at their Waters Edge site; that there is much more room at the proposed location due to the existing horseshoe driveway; that he had submitted in an exhibit articles from the Cape Gazette, over the past four years, regarding local business and church donations to the Milton Food Pantry; that there are annual donations being made to the food pantry; that the Applicant had a very successful capital campaign and County Bank was very gracious, as the Applicant worked with them through settlement and there is recognition on the building for County Bank.

Ms. Murawski stated they had looked for properties in town for the past year and a half; that they could not locate an affordable property; that they could not find a property large enough for their proposed use; that there are very few commercial properties; that they had looked at the Quillen place, Atlantic Plastics and the old bank on Rt. 16; that those areas were affordable, but the size was not large enough; that the area is very open; that if volunteers stood at the front of the property, they would be able to see if there were any oncoming traffic; that this was the process they had on Rt. 16, exiting Waters Edge Church; that the process worked well with no issues; that there are shoulders; that DelDOT is requiring them to expand the entrances; that they are able to schedule client pick up times; that they currently are distributing twice a month; that they request to distribute once a week; that some clients return every time; that other clients return once a month; that other clients return on an as needed basis; that Waters Edge Church has agreed to still allow them to use their parking lot for any overflow parking; that they would be able to call vehicles to the site, as room became available; that the Food Pantry is open to the public; that they have a personal website, a Facebook and Instagram; that a lot of the information is spread by word of mouth; that they do not limit how many times a client can come; that the canned goods are prepackaged; that the fresh and frozen foods are packaged onsite; that they do anticipate and pack ahead when able; that they spend about \$3,000 with each distribution, which is every two weeks; that prior to inflation, they were spending approximately \$40,000 per year; that approximately the same amount of food is donated; that this year they received a grant for \$40,000 from Christiana Care to be spent on food only; that they have always had enough money for food; that the extra money from Christiana Care will allow her the ability to purchase fresh fruits and vegetables herself; that the donated fruits and vegetables received from Food Lion can be inconsistent; that some weeks they receive 100 dozen eggs; that other weeks they receive no dairy at all; that they receive an emergency box, which is a USDA box, from the Food Bank of Delaware; that the boxes contain canned vegetables, canned fruits, peanut butter, cereal and oatmeal; that the boxes can vary; that the boxes last received contained only half a box of 14 items; that the boxes at times can contain up to 20 items; that they do not pay for the Food Bank boxes, as they are part of the USDA program; that they do have some people who donate to the food pantry consistently every month; that they currently are not receiving any governmental money; that they are applying for the USDA Rural grant; that the house was purchased with money collected since 2014; that they knew in 2017 they were outgrowing Goshen Hall; that some donations received are earmarked for food purchase only; that they did begin a building campaign; that some donations are earmarked for a building; that they did receive some grants toward the building and they were able to pay for the majority of the building.

The Commission found there was no one present in the room who wished to speak in support of the Application, however, there were 13 people in attendance who expressed their support by a show of hands.

The Commission found that Mr. John Starr spoke in opposition to the Application; that to his knowledge the people within the Teal Point subdivision did not know about the Application; that he is not against feeding the poor; that he is present to discuss a request for a zoning change, traffic, the placement of an entity within a residential area; that the request is much like the food truck in a residential area that does not belong there; that he would like to ask the attorney if it is true the Applicant received a 50 million dollar grant from SolDel; that if true, the food pantry purchased the house for \$240,000; that with required improvements, the food pantry would have 25 million dollars left over; that he questioned why the Applicant could not find a country road, like Reynolds Rd., where a church is located; that the church is located approximately 1.5 mile outside of the Town of Milton; that the subject site is only one mile outside of the Town of Milton; that there is no development proposed on the north side of Milton; that the last development constructed was Sunland Ranch; that Sunland Ranch was developed 10 years ago; that he questioned why the Applicant could not take their left over money, purchase an acre or two on a side road for their proposed use; that the Applicant received support letters from people within the Town of Milton; that those people do not live where he lives, being adjacent to a proposed food pantry; that there is only one volunteer who lives three doors north of the proposed site; that all other volunteers do not live in the area of the proposed site; that the volunteers do not have to contend with the additional 10 to 12 vehicles; that the proposed site is not going to hold 10 to 12 vehicles unless the Applicant were to double lane; that if they were to double lane, it will create longer distribution times; that the Applicant proposes a pole building for the storage of food; that he questioned if the Conditional Use is granted, what would stop the Applicant from turning the house into a soup kitchen; that he questioned when conditions would be placed on the Application; that he questioned if a condition would be placed limiting the Applicant to only a food pantry; that he questioned if a condition would be place limiting operation hours and permitted days per week; that he questioned how he would know the conditions would be enforced; that he is concerned about traffic; that the Applicant stated the horseshoe driveway will hold 10 to 12 vehicles; that he does not believe that number to be accurate; that Rt. 5 is a main throughfare to Milton, Harbeson and Longneck; that there is a lot of traffic coming from Rt. 1 and down Rt. 5; that many vehicles speed, doing 60 mph, on Rt. 5; that almost 40 people are in opposition of the Application; that there is no commercial entity in the area; that he questioned why the project had to be proposed in a residential area; that he did not understand why the Applicant could not find one to two acres of property, possibly purchasing from a church member or farmer, outside of any residential areas, where they can place their pole barn and horseshoe driveway; that he does not feel there is anything wrong with the Applicant's mission; that he does not feel their proposed use belongs in the current residential area or any other residential area; that there are many other options for the project to be located; that Reynolds Rd. only averages 50 to 100 vehicles per day; that this would allow the proposed use to be located off to the side, allowing the Applicant substantial area to run vehicles; that the Applicant stated it takes about six minutes for a vehicle to move through; that ten vehicles would equal about 50 minutes; that he questioned what will happen if the Applicant begins to serve more people; that the reason the Applicant proposed a pole building is to allow for additional storage and growth and regardless of how many days the Commission were to approved the use, he felt the use did not belong in his residential area.

The Commission stated the question regarding a grant from SolDel is irrelevant to the Application and will not be answered.

Madam Chairman Stevenson stated a Conditional Use allows the Commission to place conditions on the approval; that these conditions would state what the Applicant would be allowed to do and not

allowed to do; that the Commission has the right to condition hours of operation and permit the use for a food pantry only; that if the Applicant were to violate the conditions of approval, the Conditional Use may be revoked.; that the placement of conditions is provided at the time of approval; that a condition would be placed for the use of only a food pantry based on the information proffered by the Applicant.

Mr. Robertson stated the information proffered by the Applicant would be placed as Conditions of Approval within an Ordinance, which if adopted by Sussex County Council would have the force of law; that no one would know these Conditions of Approval until the Commission was to make a recommendation of approval, listing required conditions; that County Council would be required to approve the recommended conditions and the public, nor the Applicant will know the required conditions until the time the Ordinance is adopted by County Council.

The Commission found that Ms. Teresa Ripley spoke by teleconference in support of the Application; that she and her husband run a partner non-profit organization alongside of the Milton Food Pantry; that they try to help the Milton Food Pantry address the food insecurity issues within Sussex County; that in 2020 when she started her non-profit, the national average of families experiencing food insecurity was one in four families; that she stated she could argue that the number of families experiencing food insecurity is growing within Sussex County daily due to inflation; that her organization has been contributing meals to the Milton Food Pantry since 2020; that they have witnessed the creation of the Milton Food Pantry from Goshen Hall to Waters Edge; that the food pantry require space to be able to continue their mission; that the need for the mission of the food pantry far outweighs any of the inconveniences; that food insecurity is a life-threatening issue; that the community needs local organizations which help address this issue for our community and she implored the Commission to approve the Application.

Mr. Whitehouse advised the Commission that the adjacent properties were provided notice by postcard; that he presented an aerial map showing the notified properties; that a notice board was posted on the physical site; that notice was placed in two newspapers of general circulation; that the postcard notice would have been mailed to the address on record within the Sussex County Property Tax records.

Upon there being no further questions, Chairperson Stevenson closed the public hearing.

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

In relation to Application C/U 2310 Milton Community Food Pantry, Inc. Motion by Ms. Wingate to defer action for further consideration, seconded by Mr. Mears and carried unanimously. Motion carried 4-0.

#### ADDITIONAL BUSINESS

Mr. Robertson advised the Commission that two separate appeals had been submitted for 2021-06 Coral Lakes (F.K.A. Coral Crossing).

**Meeting adjourned at 7:17 p.m.**

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