

MINUTES OF THE REGULAR MEETING OF FEBRUARY 4, 2026

The regular meeting of the Sussex County Planning and Zoning Commission was held on Wednesday afternoon, February 4, 2026, in the County Council Chambers, Sussex County Administrative Office Building, 2 The Circle, Georgetown, Delaware.

The meeting was called to order at 3:00 p.m. Vice Chair Mears presiding. The following members of the Commission were present: Mr. Bruce Mears, Mr. Scott Collins, Mr. Jeff Allen, and Mr. John Passwaters. Ms. Holly Wingate was absent. Also, in attendance were Mr. Jamie Whitehouse – Director of Planning & Zoning, Mr. Vincent Robertson – Assistant County Attorney, Mr. Michael Lowrey – Planner III, Ms. Ann Lepore – Planner I, and Ms. Ashley Paugh – Recording Secretary.

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

Motion by Mr. Collins, seconded by Mr. Passwaters, to approve the Minutes of January 21, 2026, of the Planning and Zoning Commission Meetings as circulated Motion carried 4-0.

OTHER BUSINESS

2018-18 Channel Pointe (F.K.A. Bishop's Pointe & Cannon Property)

Request to Amend Voluntary Wetlands Buffer

On January 14th, 2026, the Department of Planning & Zoning received a Request to Amend a Voluntary Wetlands Buffer for the Channel Pointe (2018-18) Subdivision. Channel Pointe is a Coastal Area Cluster Subdivision consisting of seventy (70) single-family lots, private roads, stormwater management, open space, sidewalks and amenities to include in-ground pool, hot tub, fire pit, kayak launch, bocce lawn, pickleball resort court, terrace, gardens, boat marina facility with 25 boat slips, bike racks and other improvements. At their meeting of Thursday, February 17th, 2022, the Planning and Zoning Commission approved the Final Subdivision for the development. Specifically, the Applicant notes that the request is to amend a voluntary 20-ft non-tidal wetlands buffer as it relates to Lot 26 to *“accommodate a more consistent and functional building footprint that will allow for the construction of a single-family home that is compatible with the surrounding homes and the established architectural character and aesthetic of the community.”* The Applicant further notes that, *“With the revision, the development team has also increased the voluntary wetland buffer area adjacent to lot 27”* and that the revised configuration adds *“approximately 1,134 square feet to the voluntary non-tidal wetlands buffer, while removing approximately 691 square feet in a separate location [to the rear of Lot 26], resulting in a net increase of 443 square feet of buffer area.”* Staff notes that at the time of the original approval, the Plans met the Wetland Buffer standards established at that time, which included no requirement for a non-tidal wetlands buffer and a 50-ft buffer from the mean high-water line for tidal wetlands and tidal tributary streams. The proposed revision complies with the Sussex County Zoning and Subdivision Codes and all Conditions of Approval for the Subdivision. The Plans further imply

that the revision has been reviewed by a Certified Wetlands Scientist for federally regulated Waters of the United State, federal wetlands governed under Section 404 and Section 10 of the Clean Water Act and state-regulated subaqueous lands and wetlands. The Plan Note also notes that it was examined and approved by the Army Corps of Engineers through a Jurisdictional Determination. Tax Parcels: 533-20.00-169.00, 170.00 & 171.00. Zoning: AR-1 (Agricultural Residential District).

Motion by Mr. Allen to defer action for further consideration, seconded by Mr. Collins, and carried unanimously. Motion carried 4-0.

2023-14 Northstar Property, LLC

Record Plan

This is a Record Plan for the Northstar development project (Northstar Property, LLC). The Applicant has noted that the purpose of the Plan is to *“Provide an interim plan to create separate tracts or parcels in support of the Major Subdivision to be separately recorded in Phases, the Affordable Housing project, the commercial project and the extension of Mulberry Knoll Road and other conveyances to DelDOT. The tracts and corresponding land use approvals are described in the “Tract Approvals” Table on the Plan. This Plan will also be used as the basis for extending Mulberry Knoll Road and the DelDOT Phasing Notes to support the various improvements to be reviewed, approved and constructed according to DelDOT’s requirements.”* On January 20th, 2026, the Department of Planning & Zoning received a Letter of No Objection to Recordation (LONOR) from DelDOT as well as the DelDOT “No Objection to Recordation” stamped Plans. Due to the nature and scope of the request, Staff have provided the Record Plan for the Commission’s review and approval. Tax Parcel: 334-5.00-175.00. Zoning: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals.

Motion by Mr. Collins, seconded by Mr. Allen, and carried unanimously to approve the Record Plan as a final. Motion carried 4-0.

Lands of Mojdehbakhsh and Leonardo

Minor Subdivision Plan off a proposed 30-ft easement

This is a Minor Subdivision Plan for the creation of three (3) lots plus the residual lands with access off a proposed 30-ft wide ingress/egress access easement. A waiver request letter has been submitted to reduce the width of the proposed easement to 27 feet from 30 feet, for a distance of 40 feet, to accommodate the existing garage. Proposed Lot 1 will consist of 0.861-acres +/-, proposed Lot 2 will consist of 0.861-acres +/-, proposed Lot 3 will consist of 0.861-acres +/-, and the residual lands will consist of 1.610 -acres +/- . A shared-use maintenance agreement shall be established for the use of the shared access road. The property is located southwest of Conley’s Chapel Road (S.C.R. 280B), northwest of Quail Drive. The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 234-11.00-62.07. Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals. Should the Commission

desire to act favorably upon this proposal, staff are requesting that preliminary and final approval be made subject to staff upon the receipt of all agency approvals.

Mr. Whitehouse advised the Commission that on the existing Grading Plan, there is quite a drop off from the front of the site to the back of the site; that the lots are proposed to be perpendicular to the grade; that he would suggest, especially with the lots all being under one acre, that approval be contingent on the final grading being confirmed on the final plan, to make sure that there are no significant changes in grading.

Ms. Lepore advised the Commission of the waiver request requesting to reduce the width of the proposed easement to 27 feet from 30 feet, for a distance of 40 feet, to accommodate the existing garage, which would be a three-foot reduction, only being along the 40 feet to accommodate the existing garage.

Mr. Robertson stated he would need to review Sussex County Code to ensure the Commission had the authority to grant such waiver, without the plan going before the Sussex County Board of Adjustment; that the 30 foot requirement is based on the County Code language of Chapter 99; that they may need to obtain a variance, move the garage, or relocate the right of way and suggested that the Commission defer the plan until the next scheduled Commission meeting to allow further investigation.

Motion by Mr. Collins to defer action for further consideration, seconded by Mr. Allen and carried unanimously. Motion carried 4-0.

OLD BUSINESS

C/U 2530 Whitney Price

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SEASONAL BUNGALOWS (2 UNITS) FOR THE PURPOSE OF SHORT-TERM RENTAL TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 0.8 ACRE, MORE OR LESS. The property is located on the east side of Roxanna Road (Rt. 17) and the south side of Lucinda Drive, approximately 600 feet north of Burbage Road (S.C.R. 353). 911 Address: 32293 Roxanna Road, Ocean View. Tax Map Parcel: 134-12.00-379.01.

The Commission discussed the application, which had been deferred since January 7, 2026.

Mr. Robertson stated that the record had been previously held open to obtain additional information through a performed title search, for the purpose of determining what access the Applicant had to Lucinda Drive; that the subject property had its own direct frontage along Roxanna Road; that at some point in the Chain of Title, a prior owner of the property acquired a sliver of land that connected behind the property, next to the Applicant's property, to the Lucinda Drive, being a

private driveway; that there was nothing within the Chain of Title to the property that said the Applicant had the right, nor did it state the extent of the Applicant's rights were to access Lucinda Drive; that Lucinda Drive was clearly created as a private right-of-way to serve the residential lots within the old subdivision from 1970s; that the bottom line is the search was not conclusive about whether the Applicant has the right to use Lucinda Drive at all, assumed based on the nature of the lot; that it was not conclusive that the Applicant would have the right to use Lucinda Drive for essentially what is commercial purposes; that this concern was discussed during the public hearing; that he felt the safest thing to do, if the application were to be approved, to make it that anyone accessing the two units must do so from Roxanna Road, and this will ensure the Commission is not creating any issues with the neighbors or creating any legal issues.

Mr. Mears questioned whether the application's use would be considered as a campground.

Mr. Robertson stated that the campground aspect was reviewed; that he believed the Commission could condition the application to make it work as a campground in the way it was laid out; that the Commission must be conscious of the fact, whether it is two sites or 200 sites, a campground is considered a campground, and every campground must be treated the same, and if the Commission liked the scope of the project and the site, it can be conditioned to work.

Mr. Whitehouse stated that staff had been reviewing the existing structures; that there are now bathrooms within what were effectively domestic sheds; that from a Building Code perspective, if it is theoretically capable of being brought into compliance; that the application is not considered a campground for Planning and Zoning purposes, the Building Code would look at it like a campground; that the application is a bit like a hybrid; that staff believe there is a pathway to bring the structures into compliance; that he recommended, because it would need permitting and the permitting process, that a time limited be placed.

Mr. Robertson requested that the Commission defer action to allow further consideration and the ability to draft a motion with appropriate conditions addressing the access and Building Code issues.

In relation to C/U 2530 Whitney Price. Motion by Mr. Allen to defer action for further consideration, seconded by Mr. Collins, and carried unanimously. Motion carried 4-0.

C/U 2480 DJ Tire Center, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO TIRE CENTER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 1.0 ACRE, MORE OR LESS. The property is lying on the east side of Downs Road (S.C.R. 243), approximately 0.45 mile northeast of Wilson Road (S.C.R. 244). 911 Address: 18651 Downs Road, Georgetown. Tax Map Parcel: 135-9.00-280.00.

The Commission discussed the application, which had been deferred since January 21, 2026.

Mr. Passwaters stated that he was absent at the January 21, 2026, Commission meeting; however, he had watched the broadcast, reviewed the record, and therefore was prepared to vote.

Mr. Passwaters moved that the Commission recommend denial of Conditional Use No. 2480 for DJ Tire Center, LLC, for a tire and auto repair shop based upon the incompatibility with the area, the lack of a sufficient record, and for the following reasons:

1. During the public hearing, the Applicant did not make an adequate record to support this Application. He did not sufficiently address the factors that the Commission must consider when acting upon a conditional use such as this.
2. The Applicant has also not presented sufficient evidence to show that this conditional use application is consistent with the AR-1 Zoning of this property, the area where the use would be located, the Zoning Code, or the County's Comprehensive Land Use Plan.
3. The Applicant has proposed to operate a tire and auto repair shop in an existing pole building. This is a fairly intensive use.
4. This conditional use is not compatible with the properties and land uses in the immediate vicinity. The location is very rural, across from the Redden State Forest and agricultural and residential uses. There are no other permitted compatible business or commercial uses in the immediate vicinity.
5. There was evidence in the record suggesting that vehicles, vehicle parts and tires will be stored outside all around the site. There are few places in Sussex County where such a use may be appropriate, but these are within industrial or heavily commercial areas. Not an extremely rural location like this site.
6. There was substantial opposition in the record from neighboring residents and landowners that this use would not be compatible with the area or its roads; that the roads could not handle the additional truck traffic; that the noise from the use would be objectionable; that their property values would be reduced by the impact of the use and other concerns. I find all of these concerns to be valid, and they support a denial of this Application.
7. According to information in the record, the pole building constructed on their site by the Applicant was not built to commercial standards. This is not compatible with the potential use and the fire hazards associated with automobile repairs.
8. For all of these reasons, I move that the Commission recommend a denial of this Conditional Use Application.

Motion by Mr. Passwaters, seconded by Mr. Collins, and carried unanimously to recommend denial of C/U 2480 DJ Tire Center, LLC, for the lack of a sufficient record, and for the reasons stated in the motion. Motion carried 4-0.

Vote by roll call: Mr. Passwaters – yea, Mr. Collins – yea, Mr. Allen – yea, Mr. Mears – yea

C/U 2534 Hardscapes Jimenez, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A HARDSCAPE BUSINESS WITH AN OFFICE, SHOWROOM, STORAGE, AND PARKING TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 3.14 ACRES, MORE OR LESS. The properties are lying southwest of the intersection of Morris Mill Road (S.C.R. 297) and Zoar Road (S.C.R. 48), approximately 0.6 mile east of Peterkins Road (S.C.R. 371). 911 Address: N/A & 25064 Morris Mill Road, Millsboro. Tax Map Parcel: 234-20.00-9.01 & 11.01.

The Commission discussed the application, which had been deferred since January 21, 2026.

Mr. Allen moved that the Commission recommend approval of Conditional Use No. 2534 for Hardscapes Jimenez, LLC, for a hardscape business with an office, showroom, storage, and parking based upon the record made during the public hearing and for the following reasons:

1. The Applicant is seeking a conditional use for his hardscape business and related uses along Morris Mill Road on a 3.14-acre parcel of land.
2. This use is appropriate for this location, and it will not generate a significant amount of traffic on area roadways. For the most part, it is a staging yard for employees and materials associated with the business. The work associated with the business will largely occur off-site.
3. The property is zoned GR General Residential, and it is within the Existing Development Area according to the Sussex County Comprehensive Plan. This type of small business use is appropriate as a conditional use in this Area according to the Plan.
4. According to the Staff Analysis prepared for this application, there are a variety of other business, commercial, and institutional uses within 1 mile of this location. This application is consistent with those other uses.
5. There is nothing in the record to indicate that this use will adversely affect the neighborhood or area roadways.
6. No parties appeared in opposition to the application.
7. This recommendation is subject to the following conditions:
 - A. The use shall be limited to a hardscape business and the showroom and storage of materials associated with the use. No other types of sales shall occur on the property.
 - B. The parking area for the business vehicles, equipment, and trailers shall be shown on the Final Site Plan and clearly shown on the site itself.

- C. All vehicle and equipment maintenance shall only occur within the existing pole building.
- D. The hours of operation shall be limited to 8:00 am until 5:00 pm, Monday through Friday.
- E. No grinding, shredding, mulching, or dyeing of materials shall occur on the site.
- F. No hardscape materials shall be brought onto the site for dumping. All materials, including crushed concrete, rocks, sand, boulders, clean soils, and similar materials shall be stored in bins on the site. The location of these bins shall be shown on the final site plan. No storage shall be located within the setbacks on the property.
- G. Any outside displays of hardscapes or materials used in the Applicant's business shall not be located in the setbacks on the property. The location of these display areas shall be shown on the Final Site Plan.
- H. Signage shall be limited to one lighted sign along the roadway, not to exceed 32 square feet in size per side.
- I. Any lighting shall be screened so that it does not shine on neighboring properties or roadways.
- J. Prior to the Final Site Plan approval, the Applicant shall confirm with County Staff that all buildings have commercial certificates of occupancy.
- K. There are several storage containers or structures on the site that appear to encroach into the setbacks. These shall be relocated so that they do not encroach into the setbacks, and their conforming location shall be shown on the Final Site Plan.
- L. All parking areas shall be shown on the Final Site Plan and clearly marked on the site itself.
- M. All entrances shall be subject to all DelDOT requirements.
- N. The failure to abide by any of these conditions of approval may be grounds for termination of this Conditional Use.
- O. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Mr. Passwaters stated that he was absent at the January 21, 2026, Commission meeting; however, he had watched the broadcast, reviewed the record, and therefore was prepared to vote.

Motion by Mr. Allen, seconded by Mr. Collins, and carried unanimously to recommend approval of C/U 2534 Hardscapes Jimenez, LLC, for the reasons and the conditions stated in the motion. Motion carried 4-0.

Vote by roll call: Mr. Allen – yea, Mr. Collins – yea, Mr. Passwaters – yea, Mr. Mears – yea

C/U 2538 Jeffrey Baughman

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PROFESSIONAL OFFICE TO BE

LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 10.48 ACRES, MORE OR LESS. The property is lying on the east and west side of September Way, a private lane accessed from the south side of Fitzgeralds Road (S.C.R. 207), approximately 677 feet west of DuPont Boulevard (Route 113). 911 Address: 8848 September Way, Lincoln. Tax Map Parcel: 230-5.00-6.00.

The Commission discussed the application, which had been deferred since January 21, 2026.

Mr. Passwaters stated that he was absent at the January 21, 2026, Commission meeting; however, he had watched the broadcast, reviewed the record, and therefore was prepared to vote.

Mr. Passwaters moved that the Commission recommend approval of Conditional Use No. 2538 for Jeffrey Baughman, a Professional Office, based upon the record made during the public hearing and for the following reasons:

1. This application seeks to allow the conversion of the existing home on the property into a professional office. The site is currently used as a horse farm where the horses are used in equine-assisted psychotherapy. This conditional use is in furtherance of the predominantly agricultural use of the property.
2. The property is located along Fitzgerald's Road near the intersection with Route 113. It is in an area where other business and commercial uses exist, including the large Fitzgerald's Auto Salvage operations. This location is appropriate for this use as a small professional office associated with the equine facility.
3. The Applicant has stated that the office will primarily be used for operations that already occur on the site. This office will simply allow a more organized and efficient operation of the equine facility and the therapy services that occur there.
4. There is no evidence in the record that the use would have any adverse effect on area roadways or neighboring properties.
5. No parties appeared in opposition to the application.
6. This recommendation is subject to the following conditions:
 - A. The use shall be limited to use as a professional office that is ancillary to the agricultural and equine psychotherapy uses of the property.
 - B. One lighted sign shall be permitted. It shall not exceed 32 square feet per side.
 - C. The applicant shall comply with any DelDOT entrance and roadway improvement requirements.
 - D. Parking areas for all vehicles associated with the office use shall be shown on the Final Site plan and clearly marked on the site itself. No parking shall be allowed in the front yard setback.

- E. The hours of operation shall be limited to 9:00 a.m. until 7:00 p.m., Monday through Friday.
- F. Failure to comply with these conditions may result in the revocation of the Conditional Use approval.
- G. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Passwaters, seconded by Mr. Collins and carried unanimously to recommend approval of C/U 2538 Jeffrey Baughman, for the reasons and the conditions stated in the motion. Motion carried 4-0.

Vote by roll call: Mr. Passwaters – yea, Mr. Collins – yea, Mr. Allen – yea, Mr. Mears – yea

C/U 2612 Brian P. Lessard

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT AND AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AMEND CONDITION “A” OF CONDITIONAL USE NO. 2129 (ORDINANCE NO. 2603) AND CONDITIONAL USE NO. 2235 (ORDINANCE NO. 2773) AND FOR THE ADDITION OF 41 RV PARKING SPACES TO THE EXISTING MINI STORAGE FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 11.70 ACRES, MORE OR LESS. The property is lying on the southeast corner of Argos Corner Road (S.C.R. 14E) and Coastal Highway (Route 1). 911 Address: 22692 & 22754 Argos Corner Road, Milford. Tax Map Parcel: 230-7.00-95.00.

The Commission discussed the application, which had been deferred since January 21, 2026.

Mr. Collins moved that the Commission recommend approval of Conditional Use No. 2612 for Brian P. Lessard to amend Conditions “A” of Conditional Use No. 2129 (Ordinance No. 2603) and Conditional Use No. 2235 (Ordinance No. 2773) to allow 41 additional RV parking spaces to the existing mini-storage facility based upon the record made during the public hearing and for the following reasons:

1. Conditions A. previously limited the number of RV parking spaces to 80. This Application seeks to expand that to allow a total of 121 spaces within the existing mini-storage facility.
2. There is a need for the additional spaces, and the Applicant has stated that the existing spaces are at capacity. There are many residential developments in Sussex County that prohibit the storage or parking of RVs within them. This minor expansion of the existing use is an appropriate, convenient location that addresses the need for additional off-site storage of RVs.
3. The minor expansion of the existing use will not have a substantial impact upon area roadways.

4. This minor expansion will not have an adverse impact upon the neighboring properties or community.
5. The use as an RV storage facility is of a public or semi-public character and is desirable for the general convenience and welfare of residents in this area of Sussex County.
6. No parties appeared in opposition to this Application.
7. For all of these reasons, it is appropriate to amend Conditions “A” of Conditional Use No. 2129 (Ordinance No. 2603) and Conditional Use No. 2235 (Ordinance No. 2773) to delete “80” and substitute “121” in its place to allow 41 additional RV parking spaces.

Mr. Passwaters stated that he was absent at the January 21, 2026, Commission meeting; however, he had watched the broadcast, reviewed the record, and therefore was prepared to vote.

Motion by Mr. Collins, seconded by Mr. Allen, and carried unanimously to recommend approval of C/U 2612 Brian P. Lessard, for the reasons and the conditions stated in the motion. Motion carried 4-0.

Vote by roll call: Mr. Collins – yea, Mr. Passwaters – yea, Mr. Allen – yea, Mr. Mears – yea

C/U 2622 Tharros Village (c/o Code Purple at the Cape)

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT TO AMEND CONDITION K OF CONDITIONAL USE NO. 2583 (ORDINANCE NO. 4003) TO ALLOW FOR YEAR-ROUND OUTDOOR STORAGE TO REMAIN ON THE PROPERTY AS PART OF A CAMPGROUND FOR THE UNHOUSED TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 7.16 ACRES, MORE OR LESS. The property is lying on the south side of Coastal Highway (Rt. 1), approximately 0.2 mile northwest of the intersection of Coastal Highway (Rt. 1) and Dartmouth Drive (Rt. 9). 911 Address: 17996 Coastal Highway, Lewes. Tax Map Parcel: 334-6.00-526.01.

The Commission discussed the application, which had been deferred since January 21, 2026.

Mr. Collins moved that the Commission recommend approval of Conditional Use No. 2622 for Tharros Village (c/o Code Purple at the Cape) for an amendment to Condition K of Conditional Use No. 2583 and Ordinance No. 4003 based on the record made during the public hearing and for the following reasons:

1. Tharros Village received approval for a campground for the unhoused on June 17, 2025, as part of Conditional Use No. 2583 that was approved by County Council as Ordinance No. 4003.

2. Tharros Village has satisfied the requirements of Condition O of Ordinance No. 4003 that required a report to be sent to the Commission and County Council in early 2026. That report has been received by the County.
3. As part of that prior approval, and based upon information available at that time, the site used by Tharros Village was to be seasonal, with all items associated with the Conditional Use removed from the property in the colder months so that the State of Delaware could utilize the property for its DelDOT equipment and material storage.
4. Tharros Village has now advised the County that it has reached an agreement with the State of Delaware to allow certain items to remain on the site year-round, even while the camping area is unoccupied. This will enable the more efficient and convenient use of the site by Tharros Village, its volunteers, and the people who utilize the site.
5. For these reasons, it is appropriate to amend Condition K of Conditional Use No. 2583 and Ordinance No. 4003 so that it now states as follows:

“The entire facility may open no earlier than March 1st of each year, and it shall close no later than November 30th of each year. However, during the time that the site is unoccupied, the operators of the facility may store items or materials associated with the use as permitted by the State of Delaware. Any such items or materials shall be securely stored and screened from the view of neighboring properties and roadways. The applicant shall provide The Office of Planning & Zoning with an updated site plan showing where any items or materials associated with the use will be stored.”

Mr. Passwaters stated that he was absent at the January 21, 2026, Commission meeting; however, he had watched the broadcast, reviewed the record, and therefore was prepared to vote.

Motion by Mr. Collins, seconded by Mr. Passwaters, and carried unanimously to recommend approval of C/U 2622 Tharros Village (c/o Code Purple at the Cape), for the reasons and the conditions stated in the motion. Motion carried 4-0.

Vote by roll call: Mr. Collins – yea, Mr. Passwaters – yea, Mr. Allen – yea, Mr. Mears – yea

PUBLIC HEARINGS

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

2025-01 Howard Manor

A standard subdivision to divide a 22,946 square foot lot (Lot 1) within the existing Howard Manor Subdivision into two (2) single-family lots to be located on a certain parcel of land lying and being

in Sussex County. The property is lying on the east side of Diane Road, a private road within the subdivision, lying on the south side of Atlantic Avenue (Rt. 26), approximately 500 feet east of Irons Lane (S.C.R. 348). 911 Address: N/A. Tax Map Parcel: 134-11.00-184.00. Zoning: Medium Density Residential.

Mr. Whitehouse advised the Commission that submitted into the record were the Preliminary Subdivision Plan, the Applicant's Exhibit evidencing 51% of No Objection signatures from existing residents of the subdivision, the property deed, the Staff Review Letter, the Applicant's Response to the Staff Review Letter, a letter received from the Sussex County Engineering Department's Utility Planning Division, the Applicant's Chapter 99-9C Response, a letter received from the Delaware Department of Transportation (DelDOT) as part of their Service Level Evaluation Response (SLER), and a copy of the original Record Plan for the subdivision. Mr. Whitehouse advised the Commission that no public comments were received regarding the Application.

The Commission found that Mr. Roger Gross, P.E. with Merestone, spoke on behalf of the Applicant, Mr. Vincent King. Mr. Gross stated that the subject of the Application was Lot 1 of the Howard Manor subdivision; that Howard Manor was recorded in November 1973; that the parcel is located along Diane Road, which is a private street within the subdivision; that the site is currently vacant; that the Howard Manor subdivision is zoned MR (Medium Density Residential); that initially, when the subdivision was recorded in 1973, the subdivision consisted of 22 single-family lots, with no open space or amenities; that over time, Lot 2 and Lot 3 were consolidated, as well as Lot 4 and Lot 5 were consolidated into two individual lots; that although the subdivision was recorded with 22 lots, currently there are 20 lots existing; that the Applicant proposes to subdivide Lot 1 to create an additional single-family home site; that the proposed Lot 1A and Lot 1B, meet all dimensional requirements of the MR Zoning District; that the application, for all practical purposes is a minor subdivision, creating one additional single-family lot; that Chapter 99-13, which deals with subdivision and alterations to previously recorded plats, requires that the processing of this application be in accordance with Chapter 99-10 and Chapter 99-11, and shall be approved by the Planning Commission; that Howard Manor was recorded November 1973, which predates a significant amount of contemporary ordinances in the Sussex County Code; that the developer provided affidavits from greater than 51% of the existing lot owners within Howard Manor, consenting to the proposed subdivision; that central sewer service is available and provided by Sussex County; that an additional lateral service will be required for the new lot, and would be subject to an approval of a Construction Agreement with Sussex County; that domestic water supply will be on-site wells, subject to DNREC approval; that DelDOT did not require a TIS (Traffic Impact Study), as stated withing the Service Level Evaluation Response (SLER), which, based on creating one lot, made a lot of sense; that the project was submitted as a Minor Subdivision through the PDCA, and had received DelDOT approval, subject to their receipt of a Final Record Plat; that the Record Plan had been reviewed and approved by the State Fire Marshal's Office; that the project was exempt from the stormwater management requirements, and a residential, general building permit, which can be obtained online, can be used for individual house construction.

The Commission found that one person was present in support of the application, one person was present in a neutral position, and two people were present in opposition to the application.

Ms. Shelia McFarland, an existing resident of Howard Manor, spoke in opposition to the application, with concerns regarding access for construction, the current dumping on the site, which her driveway is utilized to do; that she expressed concern regarding the hours of construction, the location of the driveways, the impacts to her existing well water, the number of mature trees located on the boarder of her lot and the site, and she stated that she would like the trees retained.

Vice-Chairman Mears questioned whether Sussex County regulated weekend work hours on residential dwelling construction.

Mr. Robertson stated that Sussex County does not regulate construction hours for residential development within subdivisions; that the lots are oriented as shown on the screens around the room; that DeIDOT will require two entrances to be placed off the private road; that DeIDOT would more than likely not permit an entrance off a State maintained road; that the proposed lots would be served by Sussex County sewer; that regarding the concern of the well, DNREC will issue approval before anything is permitted to be built, ensuring there is a suitable well; that regarding the trees, if the subdivision were created from scratch, Sussex County would require landscape buffers and other things of that nature; that between two residential lots, Sussex County would have no regulation or requirement; that Sussex County does not regulate landscape within individual lots, and therefore Lot 1 would be permitted to remove their trees up to their property line; that it would be considered trespassing for someone to use someone else's property for construction; that trespassing it outside of Sussex County's scope, however, it does not diminish the significance of it; that any trespassing should stop immediately, and should have never started, and should the application be approved, the Commission could also include a Condition regarding this.

Mr. Alan Naujokas, an existing resident of Howard Manor, spoke in opposition to the Application, with concerns regarding when construction would start, how long construction would take, and the noise the construction would create.

Mr. Robertson stated that the Commission would not regulate the construction hours, as they do not regulate residential construction on individual residential properties.

Ms. Janice Collins, an existing resident of Howard Manor, spoke from a neutral position, with questions regarding a deed restriction which required 60% of all existing lot owner's approval when making changes to the development; that she expressed concern regarding an existing drainage problem, which she had already spoke to DNREC about, and she provided Mr. Robertson a copy of the deed restrictions.

Mr. Robertson stated that the 51% existing resident approval is required by Sussex County's Subdivision Code; that Sussex County is not in the business of enforcing private deed restrictions, as they are contractual amongst property owners; that however, the Commission would not want to diminish any recorded deed restrictions; that the Commission would review the restrictions, however, would not be bound by them either.

Mr. Jeff Kemp spoke in support of the application, stating that he had performed a lot of the new construction work for the Applicant for about 10 years; that there is a nice setup with the current existing trees, which provides a buffer for privacy; that he cannot say for 100% certainty, but felt that it was not the Applicant's intention to clear everything; that any trash or debris being dump on the property is not being created by the owner; that they will look into the trash dumping issue to figure out what was going on; that the Applicant is very respectful of other people's properties when building, and he would not anticipate any issues.

Mr. Robertson stated for the benefit of everyone, that he was currently uncertain if the deed restrictions submitted by Mr. Collins were still valid or if they had previously been waived, however, there was a restriction stating that 40% of the existing trees on wooded lots must remain uncut and remain standing, subject to acts of nature, etcetera; that Sussex County would not enforce the deed restriction, and the requirement would need to be worked out amongst the residents.

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

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

In relation to 2025-01 Howard Manor. Motion by Mr. Allen to defer action for further consideration, seconded by Mr. Collins, and carried unanimously. Motion carried 4-0.

C/U 2485 Christopher Hanyok

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FENCE INSTALLATION BUSINESS WITH OUTSIDE STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 5.00 ACRES, MORE OR LESS. The property is and lying on the east side of Rust Road (S.C.R. 292A), approximately 0.27 mile south of Harbeson Road (Rt. 5). 911 Address: 20601 Rust Road, Harbeson. Tax Map Parcel: 234-4.00-10.32.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Property Survey, with buildings shown on the survey, a letter received from the Sussex County Engineering's Utility Planning Division, and a copy of the DelDOT Service Level Evaluation Response Letter. Mr. Whitehouse advised the Commission that no public comment was received regarding the application.

The Commission found that Mr. Christopher Hanyok spoke on behalf of his application. Mr. Hanyok stated he is the current owner of the property; that he purchased the property, and is currently running a business from the property; that the business creates one to two deliveries per week, give or take; that he currently keeps materials on the site for various commercial jobs; that the materials are delivered to the site, are taken to the job site, at which point they are installed; that 90% of the materials are stored outside; that the materials consists of metal, wood, and other fencing material for outside; that currently he has had no issues, and is requesting Conditional Use approval.

Mr. Allen questioned whether the business area was fenced in on the site, whether there was any debris caused by the use, and whether a dumpster was required to be on site.

Mr. Hanyok stated that the materials are not; that there was fencing along some of the boundary lines of the site; that he did have one dumpster on the site, which was reflected on a plan he had submitted into the record; that there is a large pole building to the rear of the property; they when he purchased the property, the pole building existed and was currently running a business from the pole building; that his dwelling is located in the middle of the property; that his driveway is located along the side of his property and is accessed from Rust Road; that there is a smaller building located behind the large pole building, to the northeast corner, which was also used by the prior owners business; that the previous owners did not have much outside storage other than a dumpster; that the dumpster is a small, five-yard dumpster, which sits close to the building at the end of the driveway; that there is a pipe material rack located on the site; that there is a septic on the site which services the pole building; that there is a shed a chicken coops located on the site for personal use; that there is a separate septic which services the dwelling; that the site is surrounded by trees, and that the neighbors have a wooded lot located to the rear of the property.

Mr. Allen stated that when reviewing the documents, it did not appear that the dumpster would be screened.

Mr. Collins requested that Mr. Hanyok provide a description of the materials stored on the site and the location where the materials were being stored.

Mr. Hanyok stated that currently he had a lot of material stored on the site for a large project within Sussex County, being the Georgetown Trail; that he was storing material for the contractor that he was providing work for as a subcontractor; that he anticipated those materials to be removed from the site in about a year to a year and a half, when the trail is nearing completion; that he does store chain-link fence; that he does a lot of fencing for schools, previously for Sussex Central, however, all of that job material had been removed; that he previously stored safety fencing for the Route 113 bypass in Millsboro; that the material for the bypass job remained onsite for about three to four months, and has now been removed; that generally the materials stored onsite consist of a lot of pipe, chain link, some wood from time to time, and vinyl fencing, and generally all the materials are bundled together, and stored for each job.

Mr. Collins questioned where equipment and business vehicles would be stored on the site, whether any vehicles would be stored in garages, and whether maintenance of the vehicles would be performed onsite.

Mr. Hanyok stated that he had a mini excavator, which is stored inside; that he had a small excavator, a small skid steer, and two trailers used to haul the equipment; that the equipment was stored next to the pole barn and in front of the small garage, located in the back corner of the property; that he takes all vehicles to the Ford dealership for service, the trailers to Weller's for service, and the remaining equipment to Fleet Titans, located in Georgetown, for servicing.

Vice Chairman Mears questioned how materials are loaded and unloaded, what equipment is used for the loading process, whether any waste was brought back to the site from jobs, the number of proposed employees, whether the employees arrive at the site before heading to the job site, whether there was adequate parking for employees, and whether customers are met onsite.

Mr. Hanyok stated that he uses a skid steer for loading and unloading; that generally, when they remove waste from a site, it is a lot, and they take the waste straight to DSWA to be unloaded at the waste facilities; that with smaller jobs, they may return with a pile of scrap metal, which he will gather to take to recycling every four months or so; that besides himself and his wife, he had two full-time employees and two part-time employees; that he subcontracts out all of his installation crews; that a lot of the work is done in-house, a lot of estimating and site visits; that the employees will usually come to the site to perform morning work, or sometimes go directly to the job site, returning to the property afterward; that he does not perform much residential construction; that most of his work are commercial jobs; that the commercial jobs are generally performed through email, where a lot of the documents sent are for products that they would be installing for their client, and if material samples were needed, they would take it to the client.

Mr. Robertson requested information regarding the surrounding neighborhood, whether any other businesses were in the area, and whether Mr. Hanyok resided in the dwelling located on the property.

Mr. Hanyok stated that there were not a lot of businesses located nearby; that the surrounding area was a lot of farmland with a lot of wooded trees; that there are not many businesses located along Rust Road, that along the neighboring road, there are quite a few businesses, consisting of landscape and construction companies, and he did currently reside within the dwelling located on the property.

Mr. Collins questioned the business hours of operation and the days of the week the business was proposed to operate.

Mr. Hanyok stated that his crews, depending on the daylight, will arrive around 6:30 AM to 7:00 AM; that his employees usually work from 7:00 AM until 3:00 PM, Monday through Friday; that

he would prefer to begin work at 6:00 AM for the summer months, as his employees prefer to begin early; that he would appreciate the ability to operate past 3:00 PM; that his office employees always leave the site at 3:00 PM, however his employees in the field, occasionally arrive to the site late, and therefore he felt the ability to operate until 5:00 PM would be perfect.

Mr. Whitehouse advised the Commission that he was reviewing the building permit history for the property; that the garage was permitted as a residential accessory structure of more than 400 sq. ft. in 2015; that at that time, the building never went through commercial plan review, and he questioned whether any modifications had been performed to the building, or if the building was still of residential standard.

Mr. Hanyok stated that he had not made any modifications other than the widening of his driveway to allow for trailers and deliveries to come and go more easily.

Mr. Robertson stated that if the application were approved for the proposed commercial use, it would be required to be inspected for commercial use.

The Commission found that there was no one present who wished to speak in support of the application, and two people were present who wished to speak in opposition to the application.

Ms. Nancy Zalick, an adjacent neighbor, spoke in opposition with concerns regarding the noise from the tractor-trailers, the dust, the two gas tanks that appeared on the property, the portable toilet, the lack of privacy, the inconsistent nature of commercial use in a residential area, and the operation of ABC Storage, which she found online and submitted documents for the record.

Ms. Linda Cole, sister of Ms. Zalick, spoke in opposition with concerns regarding the tractor-trailers accessing the property being only 20 feet from Ms. Zalick's bedroom walls, and the hours of which the tractor-trailers arrive at the site; that the tractor-trailers park overnight on the site; that she stated the business owner before Mr. Hanyok was a custom cabinet maker; that he was the only employee; that he would bring wood in on a trailer to make cabinets; that two to three months later the same trailer would pick up the cabinets to deliver to the customer, and the previous business owner did not have any outdoor storage.

Mr. Allen questioned whether the driveway was paved or not.

Ms. Zalick stated yes, the driveway was paved, but only to the end of the garage.

Mr. Collins questioned Mr. Whitehouse whether the application was related to a Notice of Violation or not.

Mr. Whitehouse stated that yes, the application was related to an issued Notice of Violation.

Mr. Mears questioned what the tanks are being used for on the property and their sizes.

Mr. Hanyok stated that currently, he has a diesel fuel tank and a gasoline fuel tank located to the rear of the site, with one being 250 gallons and the other being 350 gallons; that the tanks hold gasoline and diesel needed for the equipment, as well as the business sales trucks; that the tanks sit to the rear of the site; that the tanks were delivered and placed about a month prior to the hearing and they are brand-new, double-walled sealed tanks.

Mr. Robertson questioned who the people were going to the sales.

Mr. Hanyok stated that his sales employees were his two full-time employees.

Mr. Robertson stated the property is zoned AR-1 (Agricultural Residential); that he questioned why Mr. Hanyok would order such large tanks, running a fairly large business, without applying for approvals; that he was in the contracting business, and he felt he should have known the business would not have been permitted by-right.

Mr. Hanyok stated that when he purchased the property, it was already zoned for Conditional Use.

Mr. Whitehouse stated that the application was related to a Notice of Violation, as a result of a filed complaint made in June 2023.

Mr. Robertson stated that the previous Conditional Use was supposedly for a cabinet shop, not the same use proposed by the Applicant, and that the cabinet shop use was operated entirely indoors.

Mr. Hanyok stated that he is new and that he started his business in 2021.

Mr. Robertson stated that the Planning Commission supports small businesses; however, the Planning Commission only supports small businesses when located within appropriate locations, and it is frustrating for the staff and County official level when folks open fairly intensive small businesses without obtaining permits.

Mr. Collins stated that the property does not contain massive acreage, nor does it provide large landscape buffers or fencing to protect adjacent neighbors from the noise and dust; that it appeared that the previous Conditional Use would not be related to the current proposed use, and would therefore be considered abandoned now.

Mr. Roberson stated that he would need time to research the prior Conditional Use information, and that should the application be recommended for approval, it would likely have heavy conditions placed upon it, including the placement of a fence to run along the property boundary line and hours of operation.

Mr. Hanyok stated that he had started placing a screened fence on one side in the back of the property to create a buffer.

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

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

In relation to C/U 2485 Christopher Hanyok. Motion by Mr. Allen to defer action for further consideration and leaving the record open to obtain information regarding the previously approved Conditional Use for the property, seconded by Mr. Collins, and carried unanimously. Motion carried 4-0.

C/U 2625 Greg Mitchell

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AMEND CONDITION E OF CONDITIONS OF APPROVAL FOR CONDITIONAL USE NO. 2270 (ORDINANCE NO. 3070) REGARDING THE HOURS OF OPERATION FOR AN EXISTING OUTDOOR RACETRACK TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 35.00 ACRES, MORE OR LESS. The properties are lying on the northwest side of the intersection of Hastings Farm Road (S.C.R. 526) and Coverdale Road (S.C.R. 252). 911 Addresses: 22372, 22378 & 22382 Coverdale Road, Seaford & N/A. Tax Map Parcels: 231-9.00-4.00, 5.00 & 5.01.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Request Letter, the original Ordinance as it was approved by the County Council, the Applicant's Conditional Use Site Plan, the Applicant's Survey, the DeIDOT Service Level Evaluation Response Letter, a letter received from the Sussex County Engineering Department's Utility Planning Division, and the Applicant's Exhibits and presentation materials. Mr. Whitehouse advised the Commission that two written public comments were received regarding the application.

The Commission found that Mr. Richard Rexrode, the promoter for Middleford Speedway, spoke on behalf of the Applicant, Mr. Greg Mitchell, who was also present for the hearing. Mr. Rexroad stated that the site had previously received a Conditional Use approval last year; that he was elected as a brand new promoter this year; that when reviewing promotion for 2026, they began to see some challenges within the approved Conditional Use language, which had led them to the current request for an amendment; that he had a long history of racing since the 1980s; that he had previously raced at Middleford Speedway when racing was held on Thursday evenings; that he had served in a lot of capacities in the racing industry over the years as a promoter previously when it was Delmarva Motorsports Park; that Mr. Greg Mitchell, as well as the team were present to provide history as well; that the current proposal was heavily vetted by the team; that when they considered things they needed to do in order to promote Middleford Speedway in an effective way, they considered the restrictions they had; that they were required to make some substantial changes in order to move forward with the plans they had; that currently, the operations are limited to racing

on Fridays, Saturdays, and Sundays; that operations run on Fridays from 6:00 pm until 11:30 pm and Sundays from 12:00 pm until 9:00 pm; that racing practice is limited throughout the week; that they are able to race for any time that there is not an event going on from 12:00 pm to 9:00 pm, with only one vehicle; that they hold a practice session, so no racing actually occurs; that the key point is that facility operations already exist and are regulated; that they do follow those regulated operations very strictly; that their team is very cognizant of the Conditional Use that is in place; that they want to ensure that they follow those conditions; that they will continue to follow those conditions should the proposed amendment be approved; that currently, they are requesting an amendment to remove the restriction, limiting racing to evenings only; that one of the challenges they ran into as they went through the 2025 season was realizing the restriction from 6:00 pm until 9:00 pm really placed them in a box, making them unable to start earlier or end later; that they requested the current amendment to provide more flexibility, allowing them to accommodate for things like weather or a traveling series; that this request does not propose an extension or increase of the event's intensity on the site; that they will host the exact same shows currently permitted and held; that they are working hard to ensure their shows are more effective and more efficient, allowing them to get their events completed earlier; that by having the flexibility in their start time opens up opportunities for them to be more effective and efficient in that way; that should they be allowed to have a race begin earlier in the day, they could end the event earlier in the evening; that they felt this would hopefully make the residents in the area a bit happier; that they plan to maintain the same season, running April 1st to November, and are not proposing any amendment to the season; that they plan to keep the same Sunday end time, being 9:00 pm, and the same practice restrictions; that they only request a change regarding the time of day for operations, not a use change; that they are not requesting to do anything more than what was already permitted for the facility; that they are not requesting any increase to the number of events per week for a standard week; that they do have one week that they are proposing to have a bit more usage, which he would discuss shortly; that they are not proposing an increase in the number of races per event; that in fact, they plan to make it more efficient; that they plan to pair back the number of races during the event; that historically, they would have anywhere from six to seven classes racing, which extended their time; that they realized that their customers would prefer to see a more efficient show, and have it end earlier, and this is what they proposed to do; that currently, they are looking at four to five; that there are a couple of shows that may step into six or seven o'clock range; that the majority of their shows are going to be very short, with fewer classes running on the evening; that no change is proposed to the Sunday end time and no change is being proposed to the practice limitations; that the intensity of the use is not shifting at all, per the previously approved Conditions of Approval; that earlier start times improve the event flow; that they are looking to have the flexibility to be able to start the show a little earlier, specifically in colder months; that as it becomes colder, they want to try to accommodate the needs of their participants and all those attending; that this releases late night congestion and delays; that by starting earlier, they can avoid some of those congestion issues; that their request allow flexibility for weather, safety and scheduling; that these are the issues they are trying to address; that as they went into 2026 planning, they realized the limitations did not allow them to open up to have various traveling series come in; that track conditions shift as the seasons change; that as seasons get longer, with warmer weather, they would like to have the flexibility to keep evening hours; that when temperatures

drop, it can become safer for participants; that it also will keep dust down; that their request also provides a way to recover rain-out events; that they will keep the Sunday options; that currently they have not had to host a Sunday event as of yet; that they do not have any plans for this coming season, however, they would still request to keep the flexibility to have Sunday events, in the case they have rain-outs or any other reason to cancel a show; that last year, they lost seven events to rain, which is huge for a track who runs anywhere from 25 to 27 shows a year; that losing that number of events really impacts the operations revenue, not only for the racetrack, but for the community a large; that racing draws in a lot of people who participate; that they utilize the facilities around Sussex County and Seaford in general; that they support touring series; that touring series have reached out to them, requesting to race at their facility; that Mr. Mitchell's Middleford Speedway facility is phenomenal; that it is a beautiful facility, which has the ability to attract a lot of people; that with the current limitations, it does not allow them to open up to those touring series the way that they would like to; that a ton of effort and money have been placed into the facility; that they want to be able to use the facility to its fullest potential; that the current conditions restrict them too much so that they cannot open things up; that many competitors travel from across the Mid-Atlantic region to their facility, opening up economic activity for Sussex County, Seaford, and obviously for the racetrack as well; that they are looking at this through a multi-lens perspective; that they are considering what would be good for the racetrack, what would be good for Sussex County and Seaford, while keeping in mind the citizens in the area; that there are some challenges there as well, and they want to ensure that they address the issues; that by opening up and keeping operations a bit more flexible, they are able to accommodate all of the issues without trying to upset anyone as they go along and race throughout the season; that it will improve participation, without extending operation hours, which is the key point they are trying to accommodate; that some of the traveling series they see are Stage-One Modifieds, Middle-Length, Sprint Series, and USED features; that this may not mean much to some, but to racers and to fans, it is a huge deal that these types of traveling series want to come to Middleford Speedway; that people have seen what they can do there, they understand the show that can put on, and they understand the efficiency and effectiveness of what they can do; that by amending the Conditional Use, they are able to place themselves in a position to accommodate all of those series in a very good way for everyone, being track teams, crews, and fans; that it is all economic development for Sussex County; that the amendment would help Middleford Speedway to remain competitive as a regional venue, which is important; that they do have other tracks in Sussex County, and there have been some competition there, but they were working very well with them to pull from the same crowds; that they are willing to work with other facilities to make sure everyone has a chance to have a show; that they are looking at the Mid-Atlantic region, in general, so that they can pull racers and fans in, not really needing to compete with some of the other tracks in the region; that earlier start times will benefit families; that earlier start times lead to earlier end times, as they are not adding races to their events; that they do not propose to add any events, but it does allow them to be more effective by allowing them to get things done in a shorter period of time; that this allows families and young spectators to attend events without staying late; that they are trying to increase the youth activity at the racetrack; that they are trying to bring younger people into the industry and keep them involved with racing; that what they are proposing is a great way to accomplish this; that the amendment will improve accessibility for local residents with work and school

obligations; that they considered those late night races; that when he was a kid, it was common to stay at the racetrack until midnight or 1:00 am; that things have changed; that they are a competitive market, in a very competitive industry; that they are not just competing with other racers, but also with other forms of entertainment; that they understand that providing an efficient show, by keeping it within a couple hours, helps them be more competitive, while still keeping families involved; that the average attendance is about 650; that the facility has a capacity for about 670 within the grandstands; that they are looking to expand that a bit, as some of the new shows will be bringing new people in; that the attendance will not grow much at all; that Friday attendance is slightly lower than Saturdays; that attendees will arrive and depart throughout the event; that this was a question proposed to them from DeIDOT; that DeIDOT expressed concern regarding attendees arriving and departing all at the same time, as it would create congestion on the roadways; that they understood the concern, however, that is not what generally happens during racing; that typically, attendees will trickle in over time, and as the racing ends throughout the evening, the attendees tend to leave as their particular event they were interested in ends; that traffic congestion has not been an issue; that they have no expectation of attendance increase as a result of the proposed news hours of operation; that they do not anticipate a huge increase in participation; that they hope to increase participation and attendance, but do not expect to see this as a result of the requested amendment; that if the amendment should be approved, they would be able to open up to a wide variety of touring series, creating economic development to hotels, short-term lodging, restaurants and all other similar entities within Sussex County and the Seaford area; that these entities will be positively impacted by this; that they propose to have one show during the week; that touring events, can bring out of County and out of State visitors, which can provide consistent weekend revenue for local businesses, and support seasonal tourism beyond beach-driven activities; that they understand the beaches are a big draw for Sussex County; that they feel racing is one of those events visitors can do while they visit the beach; that these events contribute directly to Sussex County's local economy, which is what they are hoping to address with a more efficient show; that the new request would allow flexibility to host a show during the week; that they have been contacted to host a big show in the past, but had to turn it down due to the imposed conditions; that this was for the Short Track Super Series, which is a huge event, and a huge compliment to Mr. Mitchell, his facility, and to Delaware racing in general; that this series would like to come down on Tuesday evenings, however, with the current restrictions, they were not able to host them; that for this reason, they are requesting the proposed amendment; that the amendment proposes to limit the mid-week events to one event per month, if at all; that currently, they would have one mid-week event proposed for the entire season; that they do not want to limit themselves to only one mid-week event per season, if in the future other opportunities were to come up; that they worked collectively on the schedule for 2026; that they agreed that one mid-week event per month would be a huge boost to not only Middleford Speedway, but to general Delaware racing, and to the community at large; that they have the same crowd base, regardless of the day; that they do not expect to see huge increases in attendance, aside from the Short Track Super Series, at which time they are prepared to accommodate any increased traffic; that there was an expressed concern regarding the facility operating five days per week, running multiple nights per week; that they only propose one event, per week, for a standard week; that during the one week, previously mentioned, currently proposed for Tuesday, August 25th, 2026, in that particular

time frame, they would have two events during that seven-day period, with another event being held that Saturday night; that this would propose three events in an eight-day period; that they understand that it would be more than one per week, but that is not proposed to be the norm during the standard season, at which time they will not be operating more than one per week; that they would request a Sunday attending parameter, providing a rain date option; that they do not want to race on Sundays, as attendance tends to be lower; that they would request that it be allowed as an option, should they need it; that there should be no cumulative increase in weekly activity, other than the special event they are proposing; that currently, the facility can seat approximately 670 attendees; that they hope to grow to about 1,000 seats with the addition of another 300 seats or so; that currently, approximately 100 race rigs can fit into the facility; that currently they see between 60 to 70 race rigs arrive each week; that they can host approximately 300 spectator parking vehicles at this time; that they hope to expand to potentially park a few more spectator vehicles; that they are not proposing to extend the event into an eight to nine hour show; that they are trying to get the event down into the three to four hour range to accommodate the attention span of the spectators; that the length of the show will not change; that this will improve predictability and efficiency; that by having the amendment approved, it will provide flexibility in their hourly time frame, it will allow them to plan a bit better to get people in and out more efficiently and efficiently; that this will support viability without increasing impacts, and aligns with the prior Conditional Use intent; that they understand the previous Conditional Use conditions were placed for a reason; that while planning the scheduled for 2026, the conditions were so stringent that their operational effectiveness was going to decrease; that this led to the reason for their amendment request, and the amendment request allow them to better serve families, support local tourism, and without increasing the number of events or extending operational hours.

Mr. Passwaters questioned whether Middleford Speedway was already approved for 670 spectators.

Mr. Rexrode stated yes that he believed they were already approved for the 670 spectators.

Mr. Robertson stated for clarification, that the current Conditional Use does not regulate the number of spectators; that there may be State Fire Marshal issues or concern; that if the capacity and parking of the facility were to expand, an Amended Site Plan would be required; that this would not require a another public hearing, as it would not change the use; that the current Conditional Use Ordinance stated that the pit areas, and parking areas must be shown on the Final Site Plan, which had previously been approved for the previous Conditional Use, and if the Site Plan were to change, it would require an administrative review and approval of a Revised Site Plan.

Mr. Collins stated he understood that the Applicant was requesting one additional weekday event, per month, be permitted on top of what was already approved for during the scheduled season and questioned what the proposed hours of operation would be for the weekday show.

Mr. Rexrode stated that they are not expecting it to be any more than what they are permitted to do currently; that they feel 6:00 pm to 11:30 pm would be a good time frame; that it would be a week-day show; that people would arrive before that, however, they do not anticipate starting the event early, as they will need to allow attendees time to get off work and to get to the show, and the gates generally would open around 3:00 pm to allow for arrival.

Mr. Allen stated that he attempted to research other racetracks in the area for their hours of operation, however, was unsuccessful, and questioned whether Mr. Rexrode knew the hours of operation for any of the nearby racetracks.

Mr. Rexrode stated he was unsure of the hours of operation for other nearby racetracks; that he believed they were all similar in their hours of operations, and they all are looking toward the same goal, to get people in and out at a reasonable hour, however, he was not completely familiar with other tracks hours.

Mr. Mears questioned whether other nearby racetracks run weekday races.

Mr. Rexrode stated that the Delmar racetrack is running events on some Wednesday evenings; that he believed Georgetown racetrack had previously ran weekday races as well; the Middleford Speedway was the only facility who currently does not host weekday races; that historically, Middleford Speedway used to race on Thursday evenings weekly; that back then, they used to race four days per week at the various racetracks, however, that has since changed due to the shift in the industry; that their hope is to bring a bit of that history back, by bringing Delaware racing back to the level it used to be; that currently, it is a great opportunity to expand, while promoting the tourism piece, along with the enthusiasm around racing in general; that motorsports and auto racing in the country is a huge, multi-billion dollar industry, and they are hoping to take a small piece of that pie if they can.

Mr. Robertson stated for confirmation that the current Conditional Use was requesting one additional weekday event per month to be permitted in addition to the currently approved events for Fridays, Saturdays and Sundays.

Mr. Rexrode stated that Mr. Robertson's understanding and statement was correct, and that within the previous Conditional Use the proposed use was not specified.

Mr. Robertson stated that, to Mr. Collins' point, that the prior Ordinance only limited the actual racing operations; that the Ordinance did not regulate the set-up or arrival of people and requested confirmation on the hours of operation being requested.

Mr. Rexrode stated that they propose to open up to noon and then extending that up to 11:30 pm; that they do not anticipate operating that entire time; that they are only proposing these hours to provide flexibility; that if they would like to have an afternoon show, the amendment would allow them to start at noon, and allow them to finish in the same time frame they are currently finishing

now; that he believed that the hours stated in the proposed language opens up for any time they would race, except for Sundays; that Sunday events would run from noon to 9:00 pm; that they are requesting flexibility be granted for the requested weekday events as well; that that they do not anticipate needing it, however, would rather make the request now in the chance they would require it in the future; that the intensity of the use is not proposed to change, and that they are not proposing to host nine-hour events.

Mr. Collins questioned whether the Applicant was confident one weekday event per month would cover the need, as he assumed the Applicant would not want to return before the Commission to request another amendment.

Mr. Rexrode stated that he did not anticipate the need to do any more than one weekday event per month, as they are not looking to host weekly weekday events, and if the Commission would allow permission for up to two weekday events per month, it may save them from needing to return before the Commission in the future, however, currently there is not a demand for that right now.

The Commission found that four people were present who wished to speak in support of the application, and no one was present who wished to speak in opposition to the application.

Mr. Austin Dean spoke in support of the application. Mr. Dean stated that he was 16 years old, and drives a Big Block Modified; that the most important race to him would be the Tuesday, August 25th, 2026, Short Track Super Series race to compete in; that the Short Track Super Series is a premier traveling series that will attract the best drivers from the United States and Canada, and that this will support the local economy.

Mr. Chris Martinez, Middleford Speedway Race Director, spoke in support of the application. Mr. Martinez stated that he was present at the public hearing for the original Conditional Use; that he supported the need for the Sunday or Tuesday race, as the best drivers from the East Coast will compete; that with social media, it will provide a great boom for the facility; that historically, the facility had always ran seven different classes; that this current year the facility has 17 different classes scheduled to race there, all of which had reached out to them, and stated that the excitement is there for the use.

Mr. Jason Dean spoke in support of the application. Mr. Dean stated that Middleford Speedway is located in western Sussex County, which he believed to be one of the most economically depressed areas of the County; that the facility had provided an opportunity to create ancillary jobs; that the facility helps bring children and families' together; that he felt the facility provided an interest for kids in the involved technology, the cars, and the business, and he felt that this interest helped keep kids out of trouble by providing them something to do.

Mr. John Jones spoke in support of the application. Mr. Jones stated that he used to race at the track in the 1970s; that his daughter and granddaughter have also both raced at the track; that the track

provides a wonderful opportunity to get the youth involved in, and he would like to see the track keep moving forward.

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

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

In relation to C/U 2625 Greg Mitchell. Motion by Mr. Passwaters to defer action for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 4-0.

RECESS

4:47 PM – 4:53 PM

C/Z 2054 1534 Savannah Road, 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 CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 0.5739 ACRES, MORE OR LESS. The property is lying on the southeast side of Savannah Road (Rt. 9), approximately 535 feet north of Wescoats Road (S.C.R. 12). 911 Address: 1534 Savannah Road, Lewes. Tax Map Parcel: 335-12.06-52.00.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Conceptual Site Plan, the Applicant's Exhibit Book and materials, the property deed and property information, a property survey, the Staff Analysis Report, a letter received from the Sussex County Engineering's Utility Planning Division, the PLUS Review comments from the State Planning Office, as well as, the Applicant's responses to the PLUS comments, and the DeIDOT Service Level Evaluation Response. Mr. Whitehouse advised the Commission that no public comments had been received regarding the application.

The Commission found that Mr. Glenn Mandalas, Esq. with Brockstedt Mandalas Federico, LLC, spoke on behalf of the Applicant and property owner, 1534 Savannah Road, LLC; that also present were Dr. James (Jim) Rial, Principal of 1534 Savannah Road, LLC and Mr. Carlton Savage, Professional Engineer with Scaled Engineering. Mr. Mandalas stated that the site consists of 0.57 acres, on the south side of Savannah Road and located outside of the corporate boundaries of the City of Lewes, near the Savannah Road and Wescoats Road intersection; that the parcel is improved with a single structure; that the parcel checks all the boxes, in his estimation, for good planning as far as rezoning goes; that the property is located within the nearby area of the Weis grocery store, the Village of Five Points neighborhood, with Fish On restaurant and other commercial uses, a CVS, Waves Car Wash, Walgreens, Sherman Companies, and medical facilities; that there is a fair amount of commercial uses within the surrounding area; that Old Orchard Road is being rerouted, and currently under construction; that the intersection there is

intended to become a fairly major intersection; that within the last six to eight months, the Planning Commission approved a nearby property to be rezoned from AR-1 (Agricultural Residential) to C-2 (Medium Commercial); that the site is located very close to the property recently approved for that rezoning, and it exactly the same rezoning they are requesting; that when heading into the City of Lewes, there is a yellowish building located to the right which provides commercial and medical services; that this property is zoned C-1 (General Commercial), which historically was the most intensive commercial zoning the County had, and has now become a closed district; that directly across from the property is the Beebe Medical Facility and a professional center; that when heading toward Georgetown and Route 1, Aftercare Mental Health and Atlantic Adult & Pediatric Medicine are located on the left-hand side from the site; that the site is lying within the Coastal Area, according to the Comprehensive Development Plan, where appropriate forms of new development are encouraged; that there are multiple Conditional Uses approved within the surrounding area; that the site's current zoning of AR-1 (Agricultural Residential) sticks out like a sore thumb to the surrounding commercial uses; that there are some nearby properties zoned B-1 (Neighborhood Business); that according to the 2018 Comprehensive Development Plan, the proposed rezoning is consistent with the plan; that the parcel is within the Future Land Use Map designation of a Coastal Area, where appropriate forms of new development are encouraged; that according to the 2020 Strategies for State Policies and Spending, the parcel is located within Investment Level 1, where future redevelopment or infill projects are expected to and encouraged by the State; that the application was subject to the PLUS process; that the Office of State Planning Coordination had no objection to the proposed rezoning; that the Staff Analysis report indicated that the proposed zoning change is consistent with the surrounding land uses, zoning, and the uses, subject to considerations of scale and impact; that the site is consistent with the character of the surrounding area, as the two properties to the west of the parcel are within the C-1 (General Commercial) District; that the three properties immediately to the east of the parcel are subject to Conditional Use approvals for commercial uses; that Sussex County recently approved zoning changes from AR-1 (Agricultural Residential) to C-2 (Medium Commercial) for two properties located across the street from the site; that those applications are known as C/Z 2014 for J&T Properties and C/Z 2023 for Jane Brady; that the proposed use is not a reason for granting approval of the requesting zoning, however, the Applicant did provide a Concept plan for the record; that the Applicant's intention is to develop the site for medical services; that Dr. David Tam, of Beebe Healthcare, had previously spoke a lot about wanting to continue to build out a world-class medical network; that these types of properties are exactly what is needed for that goal; that for all the reasons and information provided, they felt the rezoning would be in the best interest of the safety, health, and welfare of the community, and that they would respectfully request that the Planning Commission recommend approval of the application.

The Commission found that Dr. James Rial spoke on behalf of his application. Dr. Rial stated that he had been a physician in the area for 21 years; that every day, he sees three to five new retirees who are new to Sussex County; that he hears the same comments from them all, expressing concerns regarding the increasing difficulty of finding a physician in the area; that he felt anything that could be done to provide additional space for physicians to do their work would be welcome;

that it appeared to him that the corridor, where the site is located, is already kind of a doctors row in Lewes, and he would like to help put more doctors there.

Mr. Collins stated that the Applicant's presentation covered all points he was concerned about, and stated the surrounding area is becoming increasingly commercial, with a lot of the uses being medical services, which are greatly needed.

The Commission found that there was no one present who wished to speak in support of, or in opposition to the application.

Upon there being no further questions, Chairman Mears 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 Change in Zone No. 2054 for 1534 Savannah Road, LLC for a change in zone from (AR-1) Agricultural-Residential zoning to (C-2) Medium Commercial zoning based upon 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 generally located near the Wescoats Corner intersection along Savannah Road between the City of Lewes and Route One. It is near many other medical offices and there are many other business, commercial and institutional zonings and uses in the immediate area. This is an appropriate location for C-2 zoning.
3. C-2 Zoning for a medical office at this location near will benefit nearby residents of Sussex County by providing a convenient location for retail uses or consumer services.
4. There is no evidence that this rezoning will have an adverse impact on neighboring properties or area roadways.
5. The site is in the "Coastal 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.
6. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, prosperity and welfare of the County.
7. No parties appeared in opposition to this Application.
8. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.

Motion by Mr. Collins, seconded by Mr. Allen, and carried unanimously to recommend approval of C/Z 2054 1534 Savannah Road, LLC, for the reasons stated in the motion. Motion carried 4-0.

Vote by roll call: Mr. Collins – yea, Mr. Passwaters – yea, Mr. Allen – yea, Mr. Mears - yes

PUBLIC COMMENT

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

ADDITIONAL BUSINESS

Mr. Robertson advised the Commission on the proposed amendments to the Planning and Zoning Commission Rules of Procedure and explained the reasoning behind the amendments. Mr. Robertson stated that in Rule No. 1, it was realized that a change was required; that the Order of Business on the agenda is listed in the rules; that the Commission had recently moved the Public Comment session to the end of the meeting; that the proposed amendment will allow the Rules of Procedure to properly reflect that change; that the next proposed amendment is in the way the meetings are handled; that the amendment is specifically to Rule No. 15.3.1; that when meetings were moved to be held on Wednesdays, the 10-day deadline, for submitting documents landed on a weekend; that the amendment is to change the submission deadline to 12 days, which will make it so that it ends on a business day; that the amendment proposed to Rule No. 15.3.2, is what had been discussed at some length to provide an applicant five minutes to have a rebuttal, should they need to provide one, after the Commission has accepted public testimony; that the newly proposed language is inserted into that rule; that the language states that after the public has had an opportunity to speak during a public hearing, the applicant shall have five minutes to provide a rebuttal; that this time shall not be used to restate or summarize the presentation previously provided; that following that, there will be no further testimony, presentation, or submission by the Applicant or any party in support of or in opposition to an application, unless permitted or requested by the Commission; that it will not always be necessary; that the intent is to allow an opportunity to provide a rebuttal if there is information that needs to be clarified, or information stated that was not accurate; that this will allow an applicant to make the clarification or provide accurate information to the Commission; that historically, the Commission has been active in asking questions of the Applicant; that when people speak in favor or in opposition to an application, they provide information that can lead to questions from the Commission, at which time the Commission calls an applicant back up; that the Commission may not necessarily know if there are some inconsistencies stated by someone in the public; that this provides an applicant with an opportunity to answer those; that the purpose of this amendment is for the benefit of the applicants, the public, the opposition and the Commission; that this amendment will allow for the most complete and accurate record as possible; that the last amendment is to add a new rule, being Rule No. 20; that this rule is regarding information technology, and this is an amendment that staff and the County's Information Technology (IT) Department felt strongly about, in an attempt to avoid corruption of the County's technology systems, as well as, relieves the burden of handling IT issues at the last minute. Mr. Robertson read Rule Nos. 20.01, 20.02 and 20.03, which state:

- 20.01. "All electronic media, including, but not limited to flash drive, USB devices, and similar devices, to be used during a presentation by an applicant or the public shall be provided to the Director of the Planning & Zoning or his or her designee

no later than the close of business on the business day prior to the Commission meeting date, so that the media or device can be screened for any corruption, or possible adverse effect upon Sussex County computers, IT, and AV system. The Directors of Planning and Zoning and the Information Technology Departments shall have the right, in their sole discretion, to deny use of such media or device within Sussex County systems, including its AV systems. In the event that the media device is not provided in the required time frame, or its use is denied, it shall not be connected to the County systems, nor utilized during the Commission’s meeting. Note, the preferred method of providing such media in advance of a Commission meeting is by emailing a PDF document to pandz@sussexcountyde.gov in lieu of a flash drive, USB, or similar device.”

- 20.02 “It shall be prohibited to utilize or “click on” any out-of-network links included as part of any electronic media.”
- 20.03 “During the Commission’s meeting, it shall be the responsibility of the person utilizing any electronic media (including approved flash drives, USB devices, information uploaded to the Sussex County Land Use Application Docket, etc.) to navigate or advance/reverse through such media. Sussex County staff will not navigate through any such media on any presenter’s behalf.”

The Commission discussed the proposed amendments to the Planning and Zoning Commission Rules of Procedure.

Motion made by Mr. Collins, seconded by Mr. Passwaters, and carried unanimously to adopt the amended Rules of Procedure for the Planning & Zoning Commission of Sussex County, Delaware. Motion carried 4-0.

Meeting adjourned at 5:15 p.m.

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