

MINUTES OF THE REGULAR MEETING OF OCTOBER 15, 2025

The regular meeting of the Sussex County Planning and Zoning Commission was held on Wednesday afternoon, October 15, 2025, in the County Council Chambers, Sussex County Administrative Office Building, 2 The Circle, Georgetown, Delaware.

The meeting was called to order at 3:00 p.m. with Madam Chair Wingate presiding. The following members of the Commission were present: Ms. Holly Wingate, Mr. Bruce Mears, Mr. Scott Collins, Mr. Jeff Allen, and Mr. John Passwaters. 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. Mears, seconded by Mr. Allen, and carried unanimously to approve the Agenda as revised. Motion carried 5-0.

OTHER BUSINESS

The Plantations (C/Z 673) RPC

Revised Final Site Plan (Addition of Pickleball Courts)

On September 19th, 2025, the Planning and Zoning Department received a request to clarify whether revisions to an existing Site within The Plantations Residential Planned Community (RPC) to include the addition of one (1) proposed 9,216 square feet to house five (5) indoor pickleball courts (for a total of 29,925 square feet of buildings both existing and proposed), five (5) proposed outdoor pickleball courts, 64 existing parking spaces and other related site improvements would constitute a “*substantial change to the intent of the original Plat*” under the provisions of §99-13(B) of the Sussex County Code and necessitate a Public Hearing. The Plantations is a Residential Planned Community that was established through Change of Zone No. 673, which was approved by the Sussex County Council at their meeting of Tuesday, August 27th, 1985, and the change was adopted through Ordinance No. 294. Staff note that the Plans are being revised with the pole building and five (5) outdoor pickleball courts being constructed in place of the previously approved “clubhouse” building and in-ground pool shown on and recorded at Plot Book 187, Page 85. Aerial imagery of the subject site confirms that the existing in-ground pool was removed on or around 2009. The clubhouse building was destroyed in an unexpected fire occurring on or around January of 2024 and was never reconstructed on the Site. Staff note that the original Plans, approved in 1986, show a 4.3-acre Recreation Area, but the Plans did not specify whether this use was intended only for Property Owners within The Plantations RPC or whether it included third-party (public use) of the recreational amenity area. It appears that on or around 2008, the Parcel was purchased by the current Property Owner, Sandie, LLC, previously known as Dave Marshall Properties, LLC, which operates the “Dave Marshall Pickleball & Tennis” facility on the Site. The Code does permit “*Conditional Uses in accord with the procedures, standards and specifications of Article 24 of the Sussex County Code,*” but it does not appear that

a separate Conditional Use to allow for public use of the amenities was ever applied for. The Commission's determination will decide whether a Public Hearing will be required (which also requires the submittal of a Conditional Use Application for the use and potentially a new Change of Zone Application for the RPC) or whether the Revised Final Site Plan may be approved as proposed, subject to the receipt of further approval from the Sussex Conservation District. Approval from the Office of the State Fire Marshal has been included in the Commission's Packet. The Parcel is located on the south side of Plantations Boulevard within The Plantations RPC. Tax Parcel: 334-6.00-553.02. Zoning: MR-RPC (Medium Density Residential, Residential Planned Community District).

Motion by Mr. Collins, seconded by Mr. Mears, and carried unanimously to require the Revised Final Site Plan for the addition of pickleball courts to proceed through the Sussex County public hearing process. Motion carried 5-0.

S-25-61 Pine Haven Campground

Revised Final Site Plan (Pursuant to §115-222(A)) of the Sussex County Code)

On September 19th, 2025, the Department of Planning & Zoning received a Request for Site Plan Review Pursuant to §115-222(A) of the Sussex County Code. This Code Section details, among other procedures, the procedure for the change of the extent of land use for an approved Conditional Use. This Code Section notes that "*minor amendments of an approved Site Plan or of conditions attached to an approved Site Plan may be approved by the Commission after written reports by the Director and without a Public Hearing*" provided that the seven (7) criteria outlined in §115-222(A)(1-7) are fully met through the proposal. Specifically, this is a Revised Final Site Plan in order to revise an existing legally non-conforming campground known as the Pine Haven Campground. Proposed changes to the campground include modifications to a grandfathered RV community which include a reduction in the number of RV sites (from 186 to 154 camp sites) with safety enhancements, environmental upgrades to the water and wastewater systems, enhancements to the existing electric system (converting from above ground to underground), re-construction of the pool area with clubhouse and demo/replacement of dilapidated structures with amenities such as sports courts and a pavilion. The Applicant notes in the request that street layouts will remain intact, with only improvements to the deteriorating surface. A Director's Determination was issued on October 6th, 2025, confirming that repopulating non-conforming Recreational Vehicle ("RV") sites within the campground with "Park Model" RVs is considered to be an in-kind replacement not requiring further Conditional Use. The proposed minor amendment complies with the Sussex County Zoning Code. Tax Parcel: 230-7.00-46.00. Zoning: GR (General Residential District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, Staff are requesting that final approval be made subject to staff upon the receipt of all agency approvals.

Motion by Mr. Passwaters, seconded by Mr. Collins, and carried unanimously to approve the Revised Final Site Plan (pursuant to §115-222(A)) of the Sussex County Code), as a preliminary,

with final approval to be given by the staff, subject to the receipt of all agency approvals. Motion carried 5-0.

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

Request to Amend Conditions of Approval

On September 24th, 2025, the Department of Planning and Zoning received a Request to Amend Conditions of Approval for the Channel Pointe Subdivision, a Coastal Area Cluster Subdivision consisting of seventy (70) single-family lots, private roads, open space, perimeter buffers and associated amenities to include a clubhouse, in-ground pool, kayak launch and boat marina facility. The Final Subdivision Plan was approved by the Planning & Zoning Commission at their meeting of Thursday, February 17th, 2022. Specifically, the request is to amend Condition "I" of the Conditions of Approval, which requires, "*The amenities shall be completed prior to the issuance of the 40th residential building permit.*" The Applicant notes that "overwhelming sales demand has driven a pace of sales beyond their forecasts," which has caused their ability to meet the amenity deadline to be unfeasible. The Applicant requests to amend Condition "I" to state, "*The amenities shall be completed prior to the issuance of the 60th residential building permit.*" Staff note that the Condition of Approval as originally proposed and approved would require the amenities to be completed by 57% buildout of the Subdivision, while this new request would require the amenities to be completed by 86% buildout of the Subdivision which is in excess of the County's "Timing and Completion of Amenities Ordinance," (Ordinance No. 2938) which requires the completion of all amenities by 60% of residential buildout. The Subdivision approval does pre-date that Ordinance, but this request does not. The Ordinance was approved by the Sussex County Council on Tuesday, July 18th, 2023. Staff notes that as per the date this Memo was prepared that 24 Building Permits and 1 Certificate of Occupancy have been issued for the Subdivision, and all Lots are currently still developer owned and controlled. The property is located on the north side of Lighthouse Road (Route 54) in Selbyville, Delaware. Zoning: AR-1 (Agricultural Residential District). Tax Parcels: 533-20.00-20.00, 21.00 & 22.00 & 533-20.19-97.00.

Motion by Mr. Mears, seconded by Mr. Allen, and carried unanimously to approve the request to amend Condition I of the Conditions of approval. Motion carried 5-0.

2022-32 Herring Run

Final Subdivision & Landscape Plan

This is a Final Subdivision Plan for the creation of a cluster subdivision to consist of twenty-eight (28) single-family lots, private roads, stormwater management, open space, wetland resource buffers, perimeter buffers, and amenities to include a walking trail, and playground area. The Preliminary Subdivision Plan was approved by the Planning and Zoning Commission at their meeting of Wednesday, April 24, 2024, subject to eighteen (18) Conditions of Approval. The Final

Subdivision & Landscape Plan complies with the Sussex County Zoning and Subdivision Codes and all Conditions of Approval. Tax Parcel: 433-6.11-6.00. Zoning: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals.

Motion by Mr. Mears, seconded by Mr. Passwaters, and carried unanimously to approve the Final Subdivision Plan and Landscape Plan. Motion carried 5-0.

2022-11 Hunters Creek

Final Subdivision & Landscape Plan

This is a Final Subdivision & Landscape Plan for a cluster subdivision consisting of ninety-three (93) single-family lots, private roads, stormwater management, perimeter buffers, and open space. The Preliminary Subdivision Plan was approved by the Planning and Zoning Commission at their meeting of Thursday, September 8th, 2022, subject to eighteen (18) Conditions of Approval. Additionally, the Sussex County Council approved a 6-month extension request for the Subdivision at their meeting of Tuesday, October 7th, 2025, extending the Plans Final Subdivision approval deadline to March 8th, 2026. The Preliminary Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes and all Conditions of Approval. The property is located on the north side of Omar Road (S.C.R. 54), approximately 0.33 miles west of the intersection of Powell Farm Road (S.C.R. 365). Tax Parcels: 134-11.00-102.00 & 103.00. Zoning: MR (Medium Density Residential (MR) District. Staff are in receipt of all agency approvals.

Motion by Mr. Mears, seconded by Mr. Allen, and carried unanimously to approve the Final Subdivision Plan and Landscape Plan. Motion carried 5-0.

S-25-58 Kings Creek Country Club

Revised Final Site Plan

This is a Revised Final Site Plan for the Kings Creek Country Club for the construction of 1.5-story 2,275 square foot building as a golf maintenance building, parking, and other site improvements. The Kings Creek Country Club Subdivision was approved at the Planning & Zoning Commission Meeting of Thursday, July 10, 1986, and was stamped approved on August 8, 1987. At their meeting of Monday, September 8, 2025, the Board of Adjustment approved the following variances:

- 24.5-ft. from the required 30-ft. front yard setback for the Operations Building.
- 2.7-ft. from the required 15-ft. side yard setback for the Operations Building.
- 17.9-ft. from the required 30-ft. front yard setback for the ESD Wash.
- 15.4-ft. from the required 30-ft. front yard setback for the Fueling Station.

A request for parking to be allowed within the front yard setback has been submitted with this proposal. The parcels are comprised of a total of 186.37 +/- acres and located on the east side of Kings Creek Circle within the Kings Creek Country Club Subdivision, with access from Patriots Way off of Shuttle Road (S.C.R. 273). The Revised Final Site Plan complies with the Sussex

County Zoning Code. Tax Parcel: 334-13.00-1158.00. Zoning: AR-1 (Agricultural Residential Zoning District). Sussex Conservation District (SCD) approval was received on October 15, 2025. Staff are awaiting all other agency approvals. Should the Commission desire to act favorably on this proposal, Staff are requesting that final approval be made subject to staff upon the receipt of all agency approvals.

Motion by Mr. Collins, seconded by Mr. Mears, and carried unanimously to approve the Revised Final Site Plan as a preliminary, with final approval to be given by the staff, subject to the receipt of all agency approvals. Motion carried 5-0.

S-25-60 First Baptist Church of Lewes

Revised Preliminary Site Plan

This is a Revised Preliminary Site Plan for the construction of a proposed church and other site improvements. This Plan was previously granted preliminary approval by the Sussex County Planning & Zoning Commission at their meeting of Thursday, March 9, 2023, which included a waiver granting parking within the front yard setback. The same Preliminary Site Plan was also approved by the Lewes City Council with a number of conditions that resulted in a project that was not affordable for the Church congregation. As a result, the Church abandoned that plan and revised the site layout to limit development to the parcel located in the unincorporated area of Sussex County. The revised design proposes a new 9,992 sf (199 seats) Church building with a 52-space parking lot. The applicant has submitted a request for relief from the requirements for parking in the front yard setback. In addition to the design considerations indicated, Beacon Engineering is working with DelDOT to ensure the current design and right-of-way dedication will harmonize with the planned improvements associated with Kings Highway Realignment project. The Revised Preliminary Site Plan complies with the Sussex County Zoning Code. The property is located on the east side of Kings Highway (Route 9). Tax Parcel: 335-8.00-40.00 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.

Motion by Mr. Collins, seconded by Mr. Mears, and carried unanimously to approve the Revised Preliminary Site Plan as a preliminary, with final approval to be granted by the Commission, subject to the receipt of all agency approvals and a Letter of No Objection from the Historic Lewes Byway. Motion carried 5-0.

S-23-55 J&J Bulkheading

Preliminary Site Plan

This is a Preliminary Site Plan for the development of a marine construction services office to consist of a 2,250 square foot shop and storage building, 715 square feet of office space, and related uses, associated parking, sidewalks, stormwater management, and other site improvements. The Applicant has submitted a formal request to allow parking within the front yard setback for the

Commission's consideration. The Preliminary Site Plan otherwise complies with the Sussex County Zoning Code. The property is located on the west side of Roxana Road (Route 17), approximately 0.20 miles south of the intersection of Atlantic Avenue (Route 26) and Roxana Road (Route 17) in Ocean View, Delaware. Tax Parcel: 134-11.00-805.01. Zoning: CR-1 (Commercial Residential District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, Staff are requesting that preliminary and final approval be made subject to staff upon the receipt of all agency approvals.

Motion by Mr. Mears, seconded by Mr. Passwaters, and carried unanimously to approve the Preliminary Site Plan, with final approval to be given by the staff, subject to the receipt of all agency approvals. Motion carried 5-0.

Lands of Mast, Wilkinson, & Green

Minor Subdivision Plan off a proposed 30-ft easement

This is a Minor Subdivision Plan for the creation of one (1) lot plus the residual lands with access off a proposed 30-ft wide ingress/egress access easement. Proposed Lot 4A will consist of 10.806-acres +/- and Lot 4B/the residual lands will contain 10.806-acres +/- . A shared-use maintenance agreement shall be established for the use of the shared access road. The property is located on the north side of Greenhurst Farm Road (S.C.R. 612A), approximately 0.428-mile east of Woodyard Road (S.C.R. 612). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 430-2.00-2.06. Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, staff are requesting that preliminary and final approval be made subject to staff upon the receipt of all agency approvals.

Motion by Mr. Passwaters, seconded by Mr. Collins, and carried unanimously to approve the Minor Subdivision Plan off a proposed 30-ft easement as a preliminary, with final approval to be given by the staff subject to the receipt of all agency approvals. Motion carried 5-0.

Lands of Judy Family, LLC

Minor Subdivision Plan off a proposed 50-ft easement

This is a Minor Subdivision Plan for the creation of two (2) lots plus the residual lands with access off a proposed 50-ft wide ingress/egress access easement. Proposed Lot 1 will consist of 2.619-acres +/-, proposed Lot 2 will consist of 1.504-acres +/-, and the residual lands will contain 72.137-acres +/- . A shared use maintenance agreement shall be established for the use of the shared access road. The property is located on the north side of Judy Road (S.C.R. 611), at the intersection of Judy Road and Blacksmith Shop Road (S.C.R. 44). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 430-6.00-49.00. Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, staff are requesting that preliminary and final approval be made subject to staff upon the receipt of all agency approvals.

Motion by Mr. Passwaters, seconded by Mr. Collins, and carried unanimously to approve the Minor Subdivision Plan off a proposed 50-ft easement as a preliminary, with final approval to be given by the staff subject to the receipt of all agency approvals. Motion carried 5-0.

Lands of True North Property Partners

Minor Subdivision Plan off a proposed 30-ft easement

This is a Minor Subdivision Plan for the creation of four (4) lots plus the residual lands with access off a proposed 30-ft wide ingress/egress access easement. Proposed Lot 1 will consist of 1.042-acres +/-, proposed Lot 2 will consist of 1.186-acres +/-, proposed Lot 3 will consist of 0.858-acres +/-, Lot 4 will consist of 0.965-acres +/-, and the residual lands will contain 0.949-acres +/- . A shared-use maintenance agreement shall be established for the use of the shared access road. The property is located on the north side of Ellis Mill Road (S.C.R. 538), approximately 300 feet southeast of the Delaware-Maryland State Line. The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 531-17.00-10.05. Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, staff are requesting that preliminary and final approval be made subject to staff upon the receipt of all agency approvals.

Motion by Mr. Allen, seconded by Mr. Mears, and carried unanimously to approve the Minor Subdivision Plan off a proposed 30-ft easement as a preliminary, with final approval to be given by the staff subject to the receipt of all agency approvals. Motion carried 5-0.

Lands of Whispering Pines Estate, LLC

Minor Subdivision Plan off existing and proposed 30-ft easements

This is a Minor Subdivision Plan for the creation of three (3) lots plus the residual lands with access off existing and proposed 30-ft wide ingress/egress access easements. Proposed Lot 1 will consist of 110.35-acres +/-, proposed Lot 2 will consist of 29.1181-acres +/-, proposed Lot 3 will consist of 10.099-acres +/-, and the residual lands will contain 20.6478-acres +/- . Lots 1, 2, and residual land shall be accessed by an existing 30 ft. easement (Saddle Ridge Lane) on the property, and Lot 3 shall be accessed by a proposed 30 ft. easement through property of other ownership (135-5.00-5.00). A shared-use maintenance agreement shall be established for the use of the shared access roads. The property is located on the west side of Maple Branch Road (S.C.R. 209), approximately 0.62 mile northeast of Redden Road (S.C.R. 40). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 430-13.00-28.00. Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, staff are requesting that preliminary and final approval be made subject to staff upon the receipt of all agency approvals.

Motion by Mr. Passwaters, seconded by Mr. Collins, and carried unanimously to approve the Minor Subdivision Plan off an existing and proposed 30-ft. easement as a preliminary, with final approval to be given by the staff, subject to the receipt of all agency approvals. Motion carried 5-0.

OLD BUSINESS

C/U 2510 Henry Villegas-Solis

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR AN AUTO REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 0.61 ACRES, MORE OR LESS. The property is lying on the southwest side of Layton Avenue, north of Jersey Road (S.C.R. 305), approximately 0.06 mile south of John J. Williams Highway (Route 24). 911 Address: 28375 & 28377 Layton Avenue, Millsboro. Tax Map Parcel: 234-32.00-67.00.

The Commission discussed the application, which had been deferred since September 3, 2025.

Mr. Robertson read Mr. Mears' motion into the record per Mr. Mears' request.

Mr. Mears moved that the Commission recommend approval of C/U 2510 Henry Villegas-Solis for an auto repair shop based upon the record made at the public hearing and for the following reasons:

1. This property is already zoned B-1 Neighborhood Business. It has been zoned this way for years. Under the existing B-1 Zoning, a variety of small business uses are permitted, including filling stations. This is a small expansion of what is already permitted on this site.
2. The proposed automobile repair shop is small. With the conditions and stipulations placed upon it, it will not have an adverse impact on the neighboring properties or community. It is also small enough that it will not negatively impact traffic or nearby roadways.
3. The site is located in the Developing Area according to the Sussex County Comprehensive Plan. This type of use is appropriate in this Area according to the Comprehensive Plan.
4. The Applicant lives on the site, and one of the conditions of approval will require that all repairs must occur indoors.
5. The use as an automotive repair shop is of a public or semi-public character and is desirable for the general convenience and welfare of the area.
6. This recommendation for approval is subject to the following conditions and stipulations:
 - A. All repairs shall be performed indoors. All doors to the repair areas shall be closed while automotive work is occurring.
 - B. No automobile parts shall be stored outside, and aside from vehicles with a current registration in the Applicant's name, no more than 5 cars shall be parked on the site.
 - C. The use shall comply with the signage requirements of the B-1 District.
 - D. Any security lighting shall be downward screened and shall be directed away from neighboring properties and roadways.
 - E. No junked, unregistered, or permanently inoperable vehicles or trailers shall be parked or stored on the site.

- F. There shall not be any parking in the front yard setback.
- G. The parking areas shall be shown on the Final Site Plan and clearly marked on the site itself. Vehicles shall only be parked within these designated areas.
- H. No cars shall be sold on the property.
- I. All oils and other fluids shall be properly stored indoors in appropriate containers. The applicant shall also comply with all state and federal requirements for the disposal of these fluids.
- J. The site shall be subject to all DelDOT entrance and roadway requirements.
- K. The hours of operation shall be 8:00 am through 5:00 pm, Monday through Friday. There shall not be any Saturday or Sunday hours.
- L. The applicant shall install fencing with a vegetative screen along all 3 sides of the property with the exception of the frontage. The nature, type and location of the fence and all of the plantings shall be shown on the Final Site Plan, and the Planning & Zoning staff shall ensure that this fencing and vegetation is a sufficient screen.
- M. Any dumpsters or trash containers shall be enclosed and screened from view of surrounding roadways and properties. The location of these dumpsters and trash receptacles shall be shown on the Final Site Plan.
- N. Any violation of these conditions may be grounds for termination of this conditional use.
- O. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Mears, seconded by Mr. Collins, and carried unanimously to recommend approval for C/U 2510 Henry Villegas-Solis for the reasons and the conditions stated in the motion. Motion carried 5-0.

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

Mr. Passwaters voted yea, for the reasons and the conditions stated in the motion.

Mr. Allen voted yea, for the reasons and the conditions stated in the motion.

Mr. Mears voted yea, for the reasons and the conditions stated in the motion.

Mr. Collins voted yea, for the reasons and the conditions stated in the motion.

Madam Chair Wingate voted yea, for the reasons and the conditions stated in the motion.

C/Z 2037 Mulberry Knoll Associates, LLC

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-4

PLANNED COMMERCIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 73.5 ACRES, MORE OR LESS. The properties are lying on the northwest side of John J. Williams Highway (Rt. 24), at the northwest corner of the intersection with Mulberry Knoll Road (SCR 284). 911 Address: N/A. Tax Map Parcel: 334-12.00-46.00 & 47.00.

The Commission discussed the application, which had been deferred since September 17, 2025.

Mr. Collins moved that the Commission recommend approval of C/Z 2037 Mulberry Knoll Associates, LLC for a change in zone from the AR-1 Agricultural Residential District to the C-4 Planned Commercial District based on the record made during the public hearing and for the following reasons:

1. This is an application to rezone a 73.5-acre parcel of land along Route 24 in eastern Sussex County to the C-4 Planned Commercial District. The purpose of the C-4 District is “to encourage carefully planned large-scale commercial, retail, and mixed-use developments as a means of creating a superior shopping, working, and living environment through unified developments, and to provide for the application of design ingenuity while protecting existing and future developments and achieving the goals of the Comprehensive Plan.” This purpose is satisfied with this application.
2. Route 24 is classified by DelDOT as a principal arterial roadway, and this property is within the Henlopen Transportation Improvement District created jointly by DelDOT and Sussex County. This project will have access to Route 24 as well as other adjacent roads. In addition, a TIS was prepared by the Applicant’s traffic engineers and approved by DelDOT. On top of the improvements required by the TIS, the developer’s contributions to roadway improvements within the Henlopen TID are set forth in DelDOT’s TIS Review Letter dated April 30, 2025. It is estimated that these improvements will cost approximately \$10,000,000.00.
3. The site is within the Commercial Area according to the Sussex County Comprehensive Plan and its Future Land Use Map and it has been designated with this classification since the current Plan was adopted in 2018. C-4 Zoning is an appropriate zoning designation within the Map’s Commercial Area. As a result, the County anticipated that large-scale commercial development would occur at this location. Therefore, this is not sprawl or uncontrolled growth. Instead, it follows Sussex County’s long-term planning goals, designating this as an appropriate area for commercial growth and development.
4. The entire site is cleared farmland that has been in agricultural use for more than a century. There are no environmental features or Resources as that term is defined in the Sussex County Code on the site. In furtherance of this, the Applicant has provided an Environmental Assessment and Public Facilities Evaluation as part of the Application.
5. This site is in an area with a variety of existing uses, including two schools, Delaware State Police Troop 7, a Sussex County EMS paramedic station, Beebe Hospital’s medical campus, land approved for a convenience store, and a variety of housing developments.

On the other side of the Beebe medical campus are intensive commercial uses, including a large hotel, bank, car dealership, and an apartment complex. The site is also less than one mile from the Route One commercial corridor. This is an appropriate location for C-4 zoning and the commercial center proposed by the Applicant.

6. The C-4 zoning combines a zoning application with a site plan review, much like a Residential Planned Community zoning. Here, the Applicant has provided a design that includes a wide variety of grocery, retail, restaurant, food service, and other commercial uses in close proximity to many homes. This benefits the residents of this community and other Sussex County residents by reducing the need to travel farther away on area roadways for these uses.
7. There is evidence in the record that the project will have a positive impact on Sussex County's economy. In addition, it will be required to make substantial annual tax payments to the local school district without generating any additional enrollment within that school system.
8. The use will be served by central water and Sussex County sewer.
9. The site is located along a bus transit route operated year-round by DART that serves Millsboro, Long Neck, and Rehoboth Beach, and bus stops will be provided at the site.
10. The recommended conditions of approval require the proposed gas station to be relocated away from the northeast corner of the site to a more internal location. This removes this more intensive use from the existing wellhead protection area and further away from residential properties.
11. With conditions imposed, the proposed C-4 Zoning meets the purpose of the Zoning Code and Comprehensive Plan in that it promotes the orderly growth, convenience, order, prosperity, and welfare of the County and its residents.
12. This recommendation is subject to the following conditions:
 - A. The proposed fuel station shown at the northeast corner of the site shall be moved to a more internal location within the site that is not within a wellhead protection area or adjacent to existing residential properties. This will mitigate any potential harm to the wellhead protection area and will reduce traffic, light pollution, and noise immediately next to homes. In addition, the site shall comply with the applicable requirements of Chapter 89 of the Sussex County Code regarding Source Water and Wellhead Protection.
 - B. All entrances, intersections, roadways, and multimodal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's determination, including specifically the requirements contained in DelDOT's April 30, 2025, TIS Review Letter, along with any additional requirements that DelDOT may impose. These roadway improvements will include off-site roadway improvements and a signalized entrance constructed to provide safe vehicular and pedestrian access to the site. Given the location and size of the project, the developer shall coordinate with DelDOT and provide a phasing schedule that shall establish the timeframe and phasing of the construction of the commercial buildings and the construction of the off-site entrance and roadway improvements that DelDOT will require as a result of this

- development. The phasing schedule shall be coordinated between the applicant and DelDOT, and it shall be presented to the Planning and Zoning Commission for consideration as part of the Final Site Plan.
- C. The developer shall cooperate and coordinate with Sussex County and its Emergency Medical Services team to explore the installation of a controlled-access interconnection between the County's EMS station on Plantations Road and this site.
 - D. There shall not be any truck deliveries to or from this site via Mulberry Knoll Road until that roadway is fully improved and operational between Route 24 and Cedar Grove Road. There shall be signage installed along the site's Mulberry Knoll Road boundary confirming this prohibition. This shall also be noted on the Final Site Plan.
 - E. There shall not be any waivers granted from the required front yard setback for parking or buildings. This area shall be improved with vegetation to create a visual buffer from Route 24. The nature, type, and location of these plantings shall be presented to the Planning & Zoning Commission for consideration as part of the Final Site Plan.
 - F. There shall be vegetation planted along Mulberry Knoll Road to screen this development from that roadway and the homes located on the opposite side of it. The nature, type, and location of these plantings shall be presented to the Planning & Zoning Commission for consideration as part of the Final Site Plan.
 - G. The development shall be connected to the Sussex County sanitary sewer system in accordance with the requirements and specifications of the Sussex County Engineering Department.
 - H. The development shall be served by a central water system providing adequate drinking water and fire protection as required by applicable regulations.
 - I. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements, and the project shall utilize Best Management Practices to construct and maintain these fixtures. The Final Site Plan shall contain the approval of the Sussex Conservation District.
 - J. The Final Site Plan shall include a lighting plan showing the locations of all external luminaries within the site. The Plan shall include a photometric plan with contours to show the cumulative spill of all luminaries to be sited relative to adjoining parcels.
 - K. As voluntarily proffered by the Applicant, the Applicant and/or its successors and assigns shall make a contribution to the Rehoboth Beach Volunteer Fire Company and the Lewes Volunteer Fire Company in the total amount of \$100,000.00. This contribution shall be made on a *pro rata* basis in equal shares to the two Fire Companies at the time any Certificate of Occupancy is issued following the construction of a building within the site, based on the square footage of that building as a percentage of the total project square footage of 663,213. This contribution requirement shall be set forth on the Final Site Plan. A copy of this Ordinance shall also be provided to both Fire Companies as a condition of Final Site Plan approval.
 - L. During sitework and initial construction, all dumpsters, roll-off containers or similar containers for trash and construction debris shall be covered to eliminate trash and construction materials from blowing across this property or onto neighboring and adjacent properties.

- M. There shall be solid green fencing along the northwestern boundary of this site adjacent to the land in Agricultural Preservation. The vegetation along this boundary shall be planted on the outside of this fencing between the fence and the property boundary. These plantings shall be of a size and variety to screen the fencing and the rear of this property, and the nature, type, and location of these plantings shall be presented to the Planning & Zoning Commission for consideration as part of the Final Site Plan.
- N. All dumpsters and trash containers on the site shall be enclosed and screened from the view of neighboring properties and roadways. The location of these enclosures shall be shown on the Final Site Plan.
- O. No structures, buildings, temporary storage containers (including Conex or similar containers), trash compactors, or equipment shall be located within the parking areas or drive aisles to the rear of the site. There shall be signage installed along the rear drive aisle confirming this, with the location of the signage shown on the Final Site Plan. This prohibition shall not apply to enclosed dumpster locations approved as part of the Final Site Plan.
- P. The Final Site Plan shall include the Agricultural Use Protection Notice.
- Q. The Final Site Plan shall depict or note these conditions of approval, and it shall be subject to the review and approval of the Sussex Planning & Zoning Commission.

Motion by Mr. Collins, seconded by Mr. Mears, and carried to recommend approval of C/Z 2037 Mulberry Knoll Associates, LLC for the reasons and the conditions stated in the motion. Motion carried 4-1.

Vote by roll call: Mr. Passwaters – yea, Mr. Allen – yea, Mr. Mears – yea, Mr. Collins – nay, Madam Chair Wingate – yea

Mr. Passwaters voted yea, for the reasons and the conditions stated in the motion.

Mr. Allen voted yea, for the reasons and the conditions stated in the motion.

Mr. Mears voted yea, for the reasons and the conditions stated in the motion.

Mr. Collins voted nay, as he had concerns regarding the traffic considerations and concerns expressed by citizens, and that DelDOT may not be able to make the improvements needed to alleviate their [the citizens] concerns.

Madam Chair Wingate voted yea, for the reasons and the conditions stated in the motion.

2024-03 Tepache Farms

A standard subdivision to divide 24.27 acres +/- into twenty-one (21) single-family lots to be located on a certain parcel of land lying and being in Sussex County. The property is located on the north side of Burton Road (S.C.R. 241), approximately 0.10 mile west of Sand Hill Road

(S.C.R. 319). 911 Address: 22187 Burton Road, Milton. Tax Map Parcel: 235-19.00-7.00. Zoning: AR-1 (Agricultural Residential).

The Commission discussed the application, which had been deferred since October 1, 2025.

In relation to 2024-03 Tepache Farms. Motion by Mr. Passwaters to defer action for further consideration, seconded by Mr. Collins, and carried unanimously. Motion carried 5-0.

C/U 2483 Andrew Lewandowski

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A ROOFING & SIDING CONTRACTOR BUSINESS WITH INDOOR AND OUTDOOR STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 6.92 ACRES, MORE OR LESS. The property is lying the south side of Lewes Georgetown Highway (Rt. 9), approximately 0.32 mile southwest of Park Avenue (S.C.R. 318). 911 Address: 22610 Lewes-Georgetown Highway, Georgetown. Tax Map Parcel: 135-15.00-79.02.

The Commission discussed the application, which had been deferred since October 1, 2025.

Mr. Passwaters moved that the Commission recommend approval of C/U 2483 Andrew Lewandowski for a roofing and siding contractor business with indoor and outdoor storage on land zoned AR-1 based on the record made during the public hearing, and for the following reasons:

1. The applicant operates a roofing and siding contracting business from the site. His business has expanded to the point where a conditional use is required.
2. The Applicant's family owns the land that surrounds the site, and the Applicant's family resides in the home on the property.
3. The business use is primarily located at the rear of the Applicant's property, where it will have the least impact on any neighboring properties and will not be visible from Route 9.
4. DelDOT has stated that the traffic generated by the proposed use will be "diminutive" and will not have a negative impact on the neighboring roadways.
5. There will be little or no customer traffic to the site, and most employees will meet at off-site job locations. Materials are generally delivered to off-site locations as well.
6. The proposed use will not alter the character of the surrounding area in any manner that substantially limits or impairs the use and enjoyment of the surrounding properties. There are also several other commercial and office uses in the vicinity of this site.
7. The use has a public or semi-public character that is desirable for the general convenience and welfare of the area and the County.

8. The property is served by an on-site well and an on-site septic system.
9. No parties appeared in opposition to the application.
10. This recommendation is subject to the following conditions:
 - A. The property shall be used for a roofing and siding contracting business with indoor and outdoor storage in addition to the existing residence on the property.
 - B. All vehicle or equipment repairs shall be conducted inside existing or future buildings located within the site.
 - C. One indirectly lighted sign shall be permitted. It shall not be larger than 32 square feet per side.
 - D. The hours of operation shall be between 6:00 a.m. and 6:00 p.m., Monday through Friday, and on Saturdays between 7:00 a.m. and 3:00 p.m. No Sunday hours shall be permitted.
 - E. Any outdoor lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.
 - F. Any dumpsters on the site shall be screened from the view of neighboring properties and roadways. The dumpster locations shall be shown on the Final Site Plan.
 - G. The Applicant shall comply with any DelDOT requirements for entrance and roadway improvements.
 - H. Any violation of these conditions of approval may result in the termination of this Conditional Use.
 - I. All outside storage of construction materials shall only occur in the areas shown on the Final Site Plan. These locations shall be clearly identified on the site with fencing, bins, enclosures or other designations.
 - J. All vehicular parking areas shall be shown on the Final Site Plan and clearly marked on the site itself.
 - K. 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 for C/U 2483 Andrew Lewandowski for the reasons and the conditions stated in the motion. Motion carried 5-0.

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

Mr. Passwaters voted yea, for the reasons and the conditions stated in the motion.

Mr. Allen voted yea, for the reasons and the conditions stated in the motion.

Mr. Mears voted yea, for the reasons and the conditions stated in the motion.

Mr. Collins voted yea, for the reasons and the conditions stated in the motion.

Madam Chair Wingate voted yea, for the reasons and the conditions stated in the motion.

C/U 2500 Sean Vermillion

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO ALLOW FOR A STORAGE BUSINESS (6 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 1.07 ACRES, MORE OR LESS. The property is lying on the east side of Polly Branch Road (S.C.R. 386), approximately 0.50-mile southeast of the intersection of Roxana Road (Rt. 17). 911 Address: 31459 Polly Branch Road, Selbyville. Tax Map Parcel: 533-17.00-93.03.

The Commission discussed the application, which had been deferred since October 1, 2025.

Mr. Robertson read Mr. Mears' motion into the record, per Mr. Mears' request.

Mr. Mears moved that the Commission recommend an approval of C/U 2500 Sean Vermillion for a six (6) unit storage business within the AR-1 District based upon the record made during the public hearing and for the following reasons:

1. The Applicant seeks to convert two existing structures into 6 storage units. It is anticipated that the units will be used for boat, RV, and vehicle storage.
2. There will not be any outdoor storage permitted on the site.
3. There are several new developments in the vicinity which limit or prohibit storage on lots within the developments. This is an appropriate, convenient location for a storage site within existing buildings.
4. The Applicant has stated that the use will not have a substantial impact upon area roadways.
5. This relatively small storage facility will not have an adverse impact upon the neighboring properties or community.
6. No parties appeared in opposition to this Application.
7. This recommendation for approval is subject to the following conditions:
 - A. The storage facility on this site shall be limited to six storage units within the existing buildings on the site. The property shall not be used for vehicle, equipment, or boat repairs or for manufacturing or industrial purposes. No unit shall be primarily used as an office. In addition, the property may not be used by a business for meeting customers, as a showroom, or as a "mail-drop" or pick up or delivery location for customers.

- B. There shall not be any outside storage permitted on the site.
- C. One unlighted sign shall be permitted. It shall not exceed 32 square feet in size.
- D. No hazardous materials or fuel shall be stored on the property other than what may be in the tanks of vehicles, boats, or watercraft located within the storage units on the site.
- E. The site shall be screened with fencing and/or planting along the common boundaries with the residential properties on the north and south sides of the site.
- F. Any dumpsters on the site shall be screened from the view of neighboring properties and roadways. The dumpster locations shall be shown on the Final Site Plan.
- G. The site shall be subject to all DelDOT entrance and roadway requirements.
- H. Any violation of these conditions may be grounds for termination of this conditional use.
- I. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Mr. Mears, seconded by Mr. Allen, and carried unanimously to recommend approval of C/U 2500 Sean Vermillion for the reasons and the conditions stated in the motion. Motion carried 5-0.

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

Mr. Passwaters voted yea, for the reasons and the conditions stated in the motion.

Mr. Allen voted yea, for the reasons and the conditions stated in the motion.

Mr. Mears voted yea, for the reasons and the conditions stated in the motion.

Mr. Collins voted yea, for the reasons and the conditions stated in the motion.

Madam Chair Wingate voted yea, for the reasons and the conditions stated in the motion.

C/Z 2027 1630 Ventures, LLC

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS. The property is lying on the east side of the private lane, Marges Garden Path, and the south side of Milton-Ellendale Highway (Rt. 16), approximately 0.5 mile east of Gravel Hill Road (Rt. 30). 911 Address: N/A. Tax Map Parcel: 235-14.00-81.00.

The Commission discussed the application, which had been deferred since October 1, 2025.

Mr. Passwaters moved that the Commission recommend approval of C/Z 2027 1630 Ventures, LLC, for a change in zone from AR-1 to C-3 “Heavy Commercial” based upon the record made during the public hearing and for the following reasons:

1. This property was previously owned by the State of Delaware. As a result, while it is still zoned as AR-1, it is completely surrounded by properties that are zoned as C-1 General Commercial and HR-2 High Density Residential. This was all part of the prior Elizabethtown project planned for this site. This rezoning will make this standalone parcel of land consistent with the surrounding zoning now that it is no longer owned by the State.
2. C-3 Heavy Commercial Zoning is designed to allow auto-oriented retail and service businesses that serve local and regional residents. Permitted Uses include retail uses, restaurants, offices, and vehicle service stations. Given the surrounding zoning and the close proximity to the Town of Milton, this is an appropriate zoning for this property.
3. This property has frontage along Route 16, which DelDOT has classified as a major collector road. This is an appropriate location for C-3 Zoning.
4. This property is located in the Developing Area according to the current Sussex County Land Use Plan. This proposed commercial zoning is appropriate in this Area according to the Plan.
5. The site is located along a bus transit route operated year-round by DART. The site is also located near a wide variety of employment opportunities, including general commercial and retail, healthcare, education, institutional, and hospitality uses. The uses permitted within the C-3 zoning at this site are compatible with this area.
6. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order, prosperity, and welfare of the County.
7. No parties appeared in opposition to this rezoning 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. Passwaters, seconded by Mr. Collins, and carried unanimously to recommend approval of C/Z 2027 1630 Ventures, LLC for the reasons stated in the motion. Motion carried 5-0.

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

Mr. Passwaters voted yea, for the reasons and the conditions stated in the motion.

Mr. Allen voted yea, for the reasons and the conditions stated in the motion.

Mr. Mears voted yea, for the reasons and the conditions stated in the motion.

Mr. Collins voted yea, for the reasons and the conditions stated in the motion.

Madam Chair Wingate voted yea, for the reasons and the conditions stated in the motion.

PUBLIC HEARINGS

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

C/U 2506 NGR Sports, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR AN INDOOR AND OUTDOOR MINIATURE GOLF COURSE TO BE LOCATED ON A 0.30 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 1.69 ACRES, MORE OR LESS. The property is lying on the north and south sides of Rehoboth Mall Blvd., and the west side of Old Landing Road (S.C.R. 274), approximately 150 feet northwest of the intersection of Old Landing Road (S.C.R. 274) and Coastal Highway (Route 1). 911 Address: 19068 & 19268 Old Landing Road, Rehoboth. Tax Map Parcel: 334-13.00-132.00 (P/O).

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Conditional Use Site Plan, the DelDOT Service Level Evaluation Response letter, and a letter received from the Sussex County Engineering Department's Utility Planning Division. Mr. Whitehouse advised the Commission that no public comment was received on behalf of the Application.

The Commission found that Mr. Glenn Mandalez, Esq., with Brockstedt Mandalas Federico spoke on behalf of the Applicant, NGR Sports, LLC; that also present was Mr. Nick Geracimas, the Applicant and owner of NGR Sports, LLC. Mr. Mandalez stated that the Applicant currently does business as Nick's Mini Gold; that Mr. Geracimas had grown his mini golf empire to eight locations, stretching from Ocean City up through Bethany Beach and Dewey; that the current application is requesting a Conditional Use approval for a 18 hole indoor and outdoor miniature golf course with a Jurassic Park theme; that 14 holes are played outdoors, and four holes are play indoors; that this site is located outside of Walmart in Rehoboth Beach; that the zoning is C-1 (General Commercial); that the Code permits indoor golf courses as a matter of right, however, the Code does not permit for outdoor miniature golf courses, which is the reasoning for the Conditional Use; that the Sussex County Planning & Zoning Department graciously allowed them to open early, being June 2024; that this allowed them to have been in operation for about 16 months; that there have been no incidents at the site, and no complaints had been filed with Sussex County; that the pad site is approximately 13,300 square feet; that the site is across the street from Atlantic Liquors; that the site is located behind the Wendy's and the relatively new Chase Bank; that Mr. Geracimas leases the pad site from Rehoboth Mall Limited Partnership, who owns the entire 1.6 acres +/- parcel; that the lease is a 15 year lease, with a five year option after the initial

15 year term; that Mr. Geracimas plans to be there for a while; that the proposed application is consistent with the Comprehensive Plan's Future Land Use Map, as the site is identified as a Commercial Area; that the adjacent properties to the north and south and east of the property also have the same Future Land Use Map designation of a Commercial Area; that with being open since June 2024, they have had a good operational track record; that there generally are one to two employees at the site when open; that there is a floating manager, who visits the sites multiple times each day; that the hours of operation are 9:00 am to 11:00 pm during the season; that in the off season the hours drop to 10:00 am to 9:00 pm; that the site is lighted with directional lighting contained on site, and is only lit during operational hours; that there are some themed acoustics at the course which include dinosaur sounds and music, however, the volume is regulated and reasonable; that Mr. Geracimas stated you can hear the Wendy's dive through over the dinosaur sounds; that the concept has been well received by locals and visitors, and for the reasons stated the Applicant would respectfully request that the Planning Commission recommend approval of the application. Mr. Mandalez submitted for the record the Applicant's recommended Findings and Conclusions.

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

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

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

Mr. Collins moved that the Commission recommend approval of C/U 2506 NGR Sports, LLC for a miniature golf course based on the information contained in the public record and for the following reasons:

1. The property is zoned C-1 General Commercial. A miniature golf course is an appropriate use on C-1 property in this location.
2. The Sussex County Comprehensive Plan's Future Land Use Map indicates that this site is within the "Commercial Area" designation. This use is appropriate within that Map designation.
3. The site is located within the existing Rehoboth Mall complex. It includes a building that was previously used as a bank, and that building and its surrounding area have been redeveloped into a mini-golf facility. It has been in operation throughout the past two summer seasons without issue. This use is also no more intensive than the other permitted uses within the C-1 District, including the large-scale retail uses, drive-through restaurants, and other uses on this site.
4. The location is in the resort area of Sussex County along Route One, where a variety of commercial and retail uses exist. The area also includes other mini golf courses located along Route One in other locations. This is an appropriate location for a miniature golf course.

5. The use will provide a family activity for residents and visitors to this area of Sussex County.
6. The use will not generate a significant amount of traffic, and DelDOT has stated that the use will have a “diminutive” impact upon area roadways.
7. There was no evidence that the use would adversely affect neighboring properties, area roadways, or public facilities.
8. No parties appeared in opposition to this application.
9. This recommendation is subject to the following conditions:
 - a. The use shall be limited to a mini golf and uses associated with that activity.
 - b. The signage shall comply with the sign requirements for the underlying C-1 zone.
 - c. The applicant shall comply with all of DelDOT’s Requirements.
 - d. All lighting shall be downward screened and shielded so that it does not shine on neighboring properties or roadways.
 - e. Any dumpsters shall be screened from view from neighboring properties or roadways.
 - f. Failure to comply with any of these conditions may be grounds for the termination 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. Collins, seconded by Mr. Mears, and carried unanimously to recommend approval of C/U 2506 NGR Sports, LLC for the reasons and the considerations stated in the motion. Motion carried 5-0.

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

Mr. Allen voted yea, for the reasons and the conditions stated in the motion.

Mr. Mears voted yea, for the reasons and the conditions stated in the motion.

Mr. Collins voted yea, for the reasons and the conditions stated in the motion.

Mr. Passwaters voted yea, for the reasons and the conditions stated in the motion.

Madam Chair Wingate voted yea, for the reasons and the conditions stated in the motion.

C/U 2610 Howard L Repass

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR INDOOR STORAGE OF BUSINESS VEHICLES ASSOCIATED WITH A LIMOSINE BUSINESS TO BE LOCATED ON A CERTAIN

PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 3.52 ACRES, MORE OR LESS. The parcel is lying on the west side of Daniels Road (S.C.R. 215A), approximately 160 feet north of Slaughter Neck Road (S.C.R. 215). 911 Address: 9268 & 9274 Daniels Road, Lincoln. Tax Map Parcel: 230-15.00-10.00.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Conditional Use Site Plan, the DelDOT Service Level Evaluation Response letter, a letter received from the Sussex County Engineering's Utility Planning Division, and the Staff Analysis. Mr. Whitehouse advised the Commission that no public comment had been received for the Application.

The Commission found that Mr. Justin Brown, General Operations Manager for Atlantic Transportation, spoke on behalf of the Applicant, Mr. David Repass, who was also present. Mr. Brown stated that Atlantic Transportation is a well-established limousine company, which they are trying to get inside; that Mr. Repass acquired ownership approximately nine months ago; that they have professional chauffeurs; that everything will be kept and stored inside; that no clients will access the site; that DelDOT stated there would be no significant impact on traffic; that the Applicant would request approval to utilize the site for the commercial storage of their vehicles, office space and drivers lounge for when the chauffeurs come in and out; that there are usually two or three at a time; that when a driver arrives to the site, they will pull the vehicle into the building, and replace the limousine with their personal vehicle, therefore no vehicles will be kept outside, and there will only be an office manager onsite, Monday through Friday.

Mr. Mears questioned whether vehicle maintenance would be performed on the site.

Mr. Brown stated that all vehicle maintenance is performed by Meineke at an off-site location.

Mr. Robertson questioned whether all vehicles, of every type, were proposed to be stored inside.

Mr. Brown stated yes, that all vehicles, of every type, would be stored inside the building, and the only time a vehicle would be outside would be during the switch out from one to the other, and no vehicles would be parked outside.

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

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

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

In relation to C/U 2516 Roxana Apartment, LLC. Motion by Mr. Passwaters to defer action for further consideration, seconded by Mr. Collins, and carried unanimously. Motion carried 5-0.

C/U 2516 Roxana Apartments, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY (42 UNITS) TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 4.74 ACRES, MORE OR LESS. The properties are lying on the west side of Roxana Road (Rt. 17), approximately 575 feet south of Atlantic Avenue (Rt. 26). 911 Address: 31924, 32014 & 32026 Roxana Road, Ocean View. Tax Map Parcel: 134-11.00-199.00, 200.00 & 200.01.

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the Applicant's Conditional Use Site Plan, the Applicant's Wetland Delineation, the Applicant's Exhibit Booklet, the Applicant's renderings, the DelDOT Service Level Evaluation Response, the PLUS response, a Jurisdictional Determination letter, the Staff Analysis report, a letter from the Sussex County Engineering Department's Utility Planning Division, and Technical Advisory Committee (TAC) comments, including a response from DNREC's Drainage Program. Mr. Whitehouse advised the Commission that no public comments were received in relation to the application.

The Commission found that Mr. David Hutt, Esq. with Morris James, LLP, spoke on behalf of the Applicant, Roxana Apartments, LLC; that also present were Ms. Teresa Rosler on behalf of the Applicant, and Mr. Kenneth Usub, P.E. with Morris & Ritchie Associates, Inc. Mr. Hutt stated that the Conditional Use request is for three parcels, totaling approximately 4.7 acres of land, and seeking to approval to allow 42 multi-family, attached dwelling apartments; that all three properties are zoned CR-1 (Commercial Residential) District; that in the CR-1 District, multi-family dwellings are a Conditional Use, which requires public hearings before the Planning Commission and the Sussex County Council; that Sussex County closed the C-1 (General Commercial) District, and created the CR-1 District in relation to this purpose, to ensure that if residential was proposed, a Conditional Use would be required as part of the process; that the property immediately across the street from the site is zoned C-1 (General Commercial), which has apartments which were approved, but only through the Site Plan Review process, rather than a public hearing; that Sussex County has also closed the CR-1 (Commercial Residential) Zoning District, resulting in not many properties within Sussex County with the CR-1 zoning designation; that the site is located to the south of Atlantic Avenue (Rt. 26), and the west side of Roxana Road (Rt. 17); that located at the corner of the intersection is Creative Concepts; that on the opposite side of Creative Concepts, is the location of Hocker's Super Center, and a McDonald's, which is located within the Hocker's parking lot; that according to the 2020 State Strategies Map, the vast majority of the properties are located within Investment Level 2, with a small portion being located within Investment Level 3; that the Investment Level 2 area, are areas where the State Investment Policy should support a wide range of uses and densities, being areas where the State should encourage departure from the typical single-family dwelling developments to promote a broader mix of housing types; that Investment Level 2 areas are areas where the State expects and encourages growth; that the Planning Commission recently spent a lot of time with the Land Use Reform Working Group; that

one of the emphasis of that group was discussing development in Investment Level 1 and 2 areas, to remain consistent with the Office of State Planning Coordination; that it was specifically and often noted that Level 1 areas are often municipalities, and Level 2 areas are often the area located just outside of municipalities; that this would hold true for the current application; that according to the Sussex County Future Land Use Map, the properties are located within the Coastal Area, being one of the County's Growth Areas; that the site is surrounded by properties also located within the County's Coastal Area, or the municipal growth area for the Town of Millville; that within Chapter 4 of the Comprehensive Plan it speaks to the purpose of the Coastal Area, stating that a range of housing types should be permitted, including single-family homes, townhomes, and multi-family units, making the current application consistent with that purpose; that according to the drafted 2025 State Strategies Map, not much is proposed to change, other than the fact that the entirety of the property would be located within Investment Level 2; that all three properties are located within the CR-1 (Commercial Residential) Zoning District; that the properties immediately north of the site are within the C-1 (General Commercial) District, as are the properties located across the street; that on the southern side of the site is a CR-1 zoned property, which was the subject of a site plan the Commission reviewed for J&J Bulkheading; that the adjacent lands located behind and to the south of the site are located AR-1 (Agricultural Residential); that also located within a one mile vicinity of the site are properties zoned GR (General Residential) and MR (Medium Density Residential); that there are also multiple Conditional Uses for manufactured home parks; that also within a one mile radius are properties zoned C-2 (Medium Commercial and B-1 (Neighborhood Business); that the site is located within the nearby proximity to the Town of Millville, who has similar zoning districts consisting of AR (Agricultural Residential), R (Residential), RPC (Residential and Community), and MPC (Master Plan Community) Districts; that along Atlantic Avenue (Rt. 26), the Town of Millville has properties located under its C-1 (Town Center Commercial) district, which creates a very similar mix of zoning classifications as exists in Sussex County; that pursuant to §115-83.5 what the Zoning Code refers to as "multifamily dwelling structures", are a Conditional Use within the CR-1 Zoning District; that §115-171 of the Code states that Conditional Uses are generally of a public or semi-public character, essential and desirable for the general convenience and welfare, but because of the nature of the use, the importance of the relationship to the Comprehensive Plan and the possible impact, not only to the neighboring properties, but on a large section of the County, the Conditional Use requires the exercise of planning measurement on location and site plan; that the Planning Commission has seen many Conditional Use applications for various residential uses, recognizing that housing is certainly of a public or semi-public character, being essential and desirable for the general welfare; that there are a number of single-family home developments which currently exist in Sussex County; that the current application proposes an alternative and different option from the single-family home dwellings to a multi-family dwelling option; that the application proposes 42 units on the site; that the units will be attached, but separated into two buildings; that the application proposes a density of 8.78 units to the acre, which is below the base density of 12 units to the acre, which is permitted in the CR-1 Zoning District; that the proposed density is consistent or less than the density of some of the other residential projects located within the area; that Millville by the Sea is a large RPC (Residential Planned Community), located immediately south and east of the site, has an overall density of 4.2 units to the acre, it has many areas of high density, as that is the

nature of the Master Plan Community; that Ascend by the Sea, located south of the site, has 7.3 units to the acre; that directly across the street from the site is Roxanna Apartments, which is a future proposed multi-family unit, approved through site plan review, which the Planning Commission completed in December 2024, which proposed 12 units to the acre; that the proposed entrance to the site is located along the Roxanna Road (Rt. 17), almost a crossed from the back entrance of the Hocker's Super Center; that a shared entrance is proposed with the property immediately to the left, which is also owned by the Applicant; that DelDOT was very pleased at the proposal of a joint entrance between the properties for whatever future development may arise; that after one enters from the shared entrance, one would make a left to access two parking areas; that one parking area is located adjacent to the front of the buildings, with the other parking area being located to the side of the buildings; that there are two buildings proposed, one being to the left, and the other to the right; that each building would have 21 units within it; that a stormwater management pond is proposed between the parking area and Rt. 17 (Roxanna Road); that there will be no parking within the Front Yard Setback; that the open space, meaning the area where there are no buildings or pavement, will consist of 2.53 acres, which results in a little over half of the site; that there are no amenities proposed due to the size of the property and the number of proposed units; that there is a single family home located adjacent to the site, and along Roxanna Road; that within the Applicant's proposed Conditions of Approval, a vinyl fence is proposed to run along the property line shared with the single family home, running from Roxanna Road toward the easternmost property line; that the remainder of the property does not have the traditional buffer boundary that the Commission is familiar with, when looking at a residential subdivision; that the reason for this is there is a tax ditch with a 80 foot easement required from the tax ditch right of way; that the Applicant has submitted an application to modify the current 80 foot easement to reduce it to a 25 foot easement from the top of back of the tax ditch; that the DNREC Tax Ditch Program is familiar with those applications; that the easement runs through the middle of the existing structures on the site and the adjacent property; that modifying the easement will clean up the issue of there being physical structures located within the tax ditch easement; that a meadow mix is proposed to be placed within the modified 25 foot easement, which DNREC allows in the areas along tax ditches; that DNREC will require that the trees and such, located within the tax ditch be removed, to allow the ditch to function properly; that once the trees are removed, the meadow mix will be placed within the 25 foot easement; that trees are proposed between the tax ditch easement and the buildings; that there are symbols for the trees and shrubbery landscaping reflected on the Site Plan; that the landscaping and the buffering is a bit inversed where the trees are going to be between the building and the buffer in the meadow area; that within the proposed Conditions of Approval is that a meadow mix be placed within the tax ditch easement area, and a Landscape Plan will be provided to the Planning & Zoning Commission for review; that the goal is not to eliminate trees on the site, however, they are required to comply with the requirements of DNREC for the tax ditch; that according to the FEMA Flood Maps, the site is located within Flood Zone X, which is an area located outside of the 500 Year Floodplain; that public utilities are available to the site through Sussex County's Engineering Department; that within the record is a letter indicating that there is capacity available for the project; that in addition, there is a Willing and Able to Serve letter from Tidewater Utilities, Inc., indicating that there is capacity, and their readiness and willingness to provide central water for both domestic

use and fire protection; that there are no source water protection areas, subject to Chapter 89, meaning the site is not located within a Wellhead Protection Area and the site is not located within an Excellent Groundwater Recharge area; that the site is located within a fair groundwater recharge area; that there are no resources on the site, that will require a resource buffer, as the term is described in §115-4 and §115-193; that there are no wetlands located on the property; that within the record there are reports, where the property was studied, and there was a Jurisdictional Determination letter of no wetlands by the Army Corps of Engineers; that a Service Level Evaluation Request was filed with DelDOT; that DelDOT responded that the traffic impact for the proposed community would be negligible; that per the Sussex County's Memorandum of Understanding with DelDOT, the negligible term means less than 50 vehicle trips in any hour, and less than 500 vehicle trips in total per day; that the Applicant would submit that the proposed density is appropriate within the CR-1 District, which allows up to 12 units to the acres; that the proposed density is also consistent with the Coastal Area and the Comprehensive Plan; that the Comprehensive Plan states that Sussex County's base density of two units per acre is appropriate throughout the classification of the Coastal Area; that medium and higher densities of four to 12 units per acre can be appropriate in certain locations; that medium and higher densities could be supported in areas where there is central water and sewer, near sufficient commercial uses and employment centers, where it is in keeping with the character of the area, where it is along a main road or at or near a major intersection, where there is adequate level of service or where other considerations exist that are relevant to the requested project and density; that the proposed project creates an important additional residential housing option at an appropriate density, being within an Investment Level 2 area per the State Strategies Map in the Coastal Area, near the municipal limits of Millville; that this is an area where central water and sewer are provided; that sewer will be provided by Sussex County, and central water will be provided by Tidewater; that the site is certainly near a significant number of commercial uses and employment centers up and down Rt. 26 and along Rt. 17; that the site is situated along Roxanna Road, which is a major collector road, as identified by DelDOT; that the site is also near a major intersection, as it is located within 600 feet of the intersection of Rt. 26 and Atlantic Avenue; that the project would certainly be in keeping with the character of the area, including the proposed multifamily dwellings that are immediately across the street, and that all of those factors make the project consistent with the underlying CR-1 zoning classification, as well as the Coastal Area designation on the Future Land Use Map; that Mr. Hutt requested to submit into the record, proposed Conditions of Approval; that proposed Condition H states that the tax ditch easements and rights of way, as amended, shall be shown on the Final Site Plan, and shall be maintained in a meadow-like manner, consistent with DNREC's requirements for tax ditches, and that proposed Condition I states that a six-foot-high vinyl fence shall be installed along the common boundary line with the adjacent parcel located within the upper right-hand corner.

Madam Chair Wingate questioned if Mr. Hutt was referring to the St. George's Tax Ditch, and if the Applicant was submitting the application to DNREC requesting the reduction of the right of way to allow part of the proposed structure to encroach on the tax ditch.

Mr. Hutt stated that the current requirement is an 80-foot right of way from the top of the bank of the tax ditch; that the proposal to the Tax Ditch Authority will be to move it so that it is 25 feet from the top of the bank of the tax ditch, allowing the easement to be located on the right hand side of the trees, and that the existing structures are currently located within the 80 foot easement.

Mr. Mears questioned whether the landscaping between the meadow and the buildings would meet the Sussex County Landscape Buffer Ordinance, and he stated that he liked the contemporary design shown in the rendering.

Mr. Hutt stated he did not believe that the proposed landscaping would meet the density of trees and shrubs requirement due to the proximity to the buildings.

Mr. Allen questioned whether the existing tax ditch was dry, wet, or flooded.

Mr. Usub stated that the tax ditch generally has very little water in it; that currently it has not been maintained in a long time; that there is a lot of overgrowth of trees, which they will be removing to help bring the tax ditch to a better condition as required by the Drainage section.

Madam Chair Wingate stated she noticed the Site Plan did reflect interconnectivity, as it is required, and she mentioned it appeared there was an option for a multi-use path, emergency access, should it be needed, to the west side of the project.

Mr. Usub stated that the width of the entrance should provide two routes to travel, going one direction or the other, and they could make the multi-use pathway wide enough to accommodate emergency access.

Mr. Hutt stated that widening the multi-use pathway may limit some of the landscaping between the vinyl fence and the stormwater pond in that area.

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

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

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

In relation to C/U 2516 Roxana Apartments, LLC. Motion by Mr. Mears to defer action for further consideration, seconded by Mr. Collins, and carried unanimously. Motion carried 5-0.

ORD 25-01 – Marijuana Uses Amendments

AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES XIA, XIC AND XXV, SECTIONS 115-83.11 115-83.18, 115-83.19A AND 115-194.7 AND “115 ATTACHMENT 4, SUSSEX COUNTY TABLE IV PERMITTED USES

COMMERCIAL” TO AMEND THE REQUIREMENTS FOR RETAIL MARIJUANA STORES IN SUSSEX COUNTY.

Mr. Vince Robertson advised the Commission that the State of Delaware passed legislation making certain types of marijuana facilities legal in the State of Delaware, regarding marijuana retail stores, particularly retail marijuana stores; that counties could regulate them, and municipalities could prohibit them; that several municipalities within Sussex County prohibited them; that Sussex County regulated the stores originally by stating that they could only be permitted in the C-3 (Heavy Commercial) District with a Conditional Use; that anytime someone wanted to open up a retail marijuana store, they would have to come before the Planning & Zoning Commission and the Sussex County Council; that for a variety of reasons, it has been revisited by County Council and the current proposal is to open the restrictions up to some degree, to allow the use to be a permitted use within the C-3 (Heavy Commercial) District, which is what the current Ordinance proposes; that within the C-3 (Heavy Commercial) and the C-1 (Medium Commercial) Zoning Districts the retail use would no longer require a Conditional Use; that the other change the Ordinance proposes is in regard to the separation distance requirements as they currently exist in Code; that no retail marijuana store is permitted to be located within three miles of any municipal boundary; that the County’s thought process was to have some separation distance between the municipalities that have prohibited retail marijuana stores to avoid someone establishing a marijuana retail store right across the boundary of the town, which would defeat the purpose of the Town’s prohibition; that the proposal of the current Ordinance is to reduce the separation distance requirement from three miles to 0.5 mile; that there was some discussion about changing the separation distance between retail marijuana stores; that the Code currently states “*No retail marijuana store shall be located within three miles of any other retail marijuana store*”; that when originally drafted, Sussex County simply mirrored the rules for liquor stores in Delaware to remain consistent, and avoid coming up with an arbitrary number; that this requirement is not proposed to be changed; that likewise there is a three mile separation distance between marijuana retail stores and churches, schools, colleges or substance abuse treatment facilities; that there is no proposal to change this requirement either, and in summary the only two changes proposed are to make the retail marijuana store permitted within the C-2 and C-3 zoning districts, and to reduce the distance from a retail store to a municipal boundary from three miles to 0.5 mile.

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

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

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

Mr. Robertson read Mr. Mears’ motion into the record per Mr. Mears’ request.

Mr. Mears moved that the Commission recommend approval of Ordinance No. 25-01, being an ordinance to amend the Code of Sussex County, Chapter 115, Articles XIA, XIC, and XXV, Sections

115-83.11, 115-83.18, 115-83.19A, and 115-194.7, and “115 Attachment 4, Sussex County Table IV Permitted Uses Commercial” to amend the requirements for retail marijuana stores in Sussex County, so that they are permitted uses in C-2 (Medium Commercial) and C-3 (Heavy Commercial), and the separation distance between municipal boundaries and retail marijuana stores is reduced to 0.5 mile.

Motion by Mr. Mears, seconded by Mr. Collins, and carried unanimously to recommend approval of ORD 25-01 for Marijuana Uses Amendments for the reasons stated in the public hearing. Motion carried 5-0.

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

Mr. Passwaters voted yea, for the reasons stated during the public hearing.

Mr. Collins voted yea, for the reasons stated during the public hearing.

Mr. Allen voted yea, for the reasons stated during the public hearing.

Mr. Mears voted yea, for the reasons stated during the public hearing.

Madam Chair Wingate voted yea, for the reasons stated during the public hearing.

PUBLIC COMMENT

The Commission found that one person was present who wished to provide public comment.

The Commission found that Mr. Bill Massey of Frankford spoke regarding public safety and traffic concerns within the Town of Frankford.

Meeting adjourned at 4:59 p.m.

Planning and Zoning Commission meetings can be monitored on the internet at www.sussexcountype.gov.
