

MINUTES OF THE REGULAR MEETING OF NOVEMBER 19, 2025

The regular meeting of the Sussex County Planning and Zoning Commission was held on Wednesday afternoon, November 19, 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. Scott Collins, Mr. Jeff Allen, and Mr. John Passwaters. Mr. Bruce Mears 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. Christin Scott – Planner III, and Ms. Ashley Paugh – Recording Secretary.

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

Motion by Mr. Collins, seconded by Mr. Allen, to approve the Minutes of October 15, 2025, and November 5, 2025, of the Planning and Zoning Commission Meetings as circulated. Motion carried 4-0.

OTHER BUSINESS

Americana Bayside Village “J” Harris Teeter Bayside Marketplace (C/Z 1393)

Revised Final Site Plan & Updated Master Plan

This is a Revised Final Site Plan for the construction of a proposed 4,608 +/- square foot building to house a maximum of three (3) retail tenants, 1,340 square foot patio/pergola area, 400 square foot secondary patio area, associated parking, landscaping, and other related site improvements. The Parcel currently includes a Harris Teeter grocery store, Bayside Wine & Spirits, Maxim Hair and Nails, PNC Bank, fueling stations, and the Foxes Pizza & Bar Restaurant. The commercial pad as shown on the Plans was shown on the previously approved Harris Teeter Complex (Village “J”) AMBS Plans for approximately 75,526 square feet of commercial uses, which were approved by the Planning and Zoning Commission at their meeting of Thursday, May 17th, 2006. However, the retail building was previously eliminated from the Plans and is proposed to be added back in a slightly different configuration through this proposal. Additionally, Staff are in receipt of the latest Master Plan for Americana Bayside, Master Plan 17 (MP-17), for the Commission’s separate approval through this action. The Revised Final Site Plan complies with the Conditions of Approval for the RPC and the latest Master Plan and does not exceed the 170,000 square feet of commercial space permitted under Condition #3 of Change of Zone No. 1393 of the RPC. The property is located on the south side of an existing retail Parcel located on an 8.63-acre Parcel of land the east side of Americana Parkway and the south side of Lighthouse Road (Route 54) within the Americana Bayside Residential Planned Community (RPC) in Selbyville, Delaware. Tax Parcel: 533-19.00-17.02. Zoning: Medium Density Residential, Residential Planned Community

(MR-RPC). Staff requests that any approval by the Commission be made subject to DelDOT's review and approval. All other required agency approvals have been received by the Department.

Motion by Mr. Collins, seconded by Mr. Passwaters, and carried unanimously to approve the Revised Final Site Plan & Updated Master Plan, as a preliminary, with final approval to be provided by the staff, subject to the receipt of DelDOT's approval. Motion carried 3-0. Madam Chair Wingate abstained.

2023-03 The Estuary Phase 6 (F.K.A. Showell Farm)

Final Subdivision & Landscape Plan

This is a Final Subdivision Plan for the creation of a cluster subdivision to consist of forty-five (45) single-family lots, which incorporates the additional lands and residential lots into the existing Estuary Subdivision (2005-64). The Plan includes private roads, stormwater management, open space, wetland resource buffers, and perimeter buffers. The Preliminary Subdivision Plan was approved by the Planning and Zoning Commission at their meeting of Wednesday, October 23, 2024, subject to sixteen (16) Conditions of Approval. The Final Subdivision & Landscape Plan complies with the Sussex County Zoning and Subdivision Codes and all Conditions of Approval. The property is located on the east side of Honolulu Road (S.C.R. 356), approximately 0.22 mile southeast of the intersection of Clayton Avenue (S.C.R. 401) and Honolulu Road (S.C.R. 356) in Frankford, Delaware. Tax Parcel: 433-6.11-6.00. Zoning: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals.

Motion by Mr. Collins, seconded by Mr. Passwaters, and carried unanimously to approve the Final Subdivision Plan and Landscape Plan. Motion carried 3-0. Madam Chair Wingate abstained.

S-22-03 Steiner Road Industrial Park

Revised Preliminary Site Plan

This is a Revised Final Site Plan for the Lands of Steiner Land LLC and Delstar LLC for the construction of Concrete Central Mixing and Proportioning Plant and a Building Materials Recycling and Sorting Facility. The Plan received Preliminary Site Plan Approval at the Planning & Zoning Commission Meeting of Thursday, August 11th, 2022, and was stamped with Final Approval by Staff on June 6th, 2024. On October 1st, 2025, a Revised Final Site Plan was approved as a Preliminary Plan by the Commission. That revision removed the "Concrete Dome" (120' Diameter / 96' Height) and replaced it with three (3) smaller "Cement Silos" (16' Diameter / 72' Height) along a reconfigured internal concrete access drive. The Applicant has returned to additionally revise the plan to include shifting of the "Conveyor Belt" to a more central location, addition of "20' x 50' WATER TANK", and an increase in the size of "PLANT CONTROL BUILDING" from 360 SQ FT to (1,104) SQ FT. The proposed projects on the two parcels share the same stormwater management facilities, with an existing fifty (50) foot wide Perpetual Cross Access Easement will serve as access for ingress/egress for both parcels. The parcels are comprised of a total of 15.00 +/- acres and located on the east side of Steiner Road (S.C.R. 320) approximately 1,060 feet south of Lewes Georgetown Highway (Route 9) with approximately (486) feet of frontage on Steiner Road. Tax Parcels: 135-16.00-23.05 & 135-16.00-23.06. The Revised Final

Site Plan complies with the Sussex County Zoning Code. Zoning: HI-1 (Heavy Industrial Zoning 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 grant approval of the Revised Preliminary Site Plan, as a preliminary, with final approval to be provided by the staff, subject to the receipt of all agency approvals. Motion carried 4-0.

S-25-52 Glen Cove (C/U 2462)

Preliminary Site Plan

This is a Preliminary Site Plan for Glen Cove for the construction of a community of multifamily structures consisting of forty-six (46) units, an amenity area including a pool and pool house, stormwater management, perimeter and resource buffers, and internal roads. Multifamily improvements are permitted at the site via Conditional Use (C/U 2462), which was approved by Sussex County Council at their meeting of Tuesday, July 15th, 2025, via Ordinance No. 4007. The Plan is proposed on nineteen (19) Parcels totaling (12.32) acres and located on the north side of Burbage Road (S.C.R. 353), approximately 475 ft. west of Windmill Drive (S.C.R. 352). The Preliminary Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Tax Parcels: 134-12.00-374.01, 374.02, 375.00, & 3445.00 through 3460.00 Zoning District: MR (Medium-Density Residential District). Should the Commission desire to act favorably on this proposal, Staff are requesting that final approvals be made subject to Staff upon the receipt of all agency approvals.

Mr. Lowrey advised the Commission that staff had received correspondence from Mr. Elio Battista, Esq. Parkowski Guerke & Swayze, regarding the inclusion of a note on the plan referencing the wetlands which exist on the property, which was not included within the originally drafted HOA Covenants document; that staff had previously requested a 30-foot right of way, designated on the plan for all internal roads to reflect State standards, as the County attorney had directed, and the Applicant had indicated that no internal right of way is required for multi-family condominium plans.

Motion by Mr. Collins, seconded by Mr. Allen, and carried unanimously, to grant approval of the Preliminary Site Plan as a preliminary. Motion carried 4-0.

S-25-47 Royal Farms

Preliminary Site Plan

This is a Preliminary Site Plan for the development of a Royal Farms, including a 5,380 square foot store, fuel pumps and canopy, parking, and other site improvements. The Preliminary Site Plan complies with the Sussex County Zoning Code. The property is located within the Henlopen Transportation Improvement District. The property is located on the northeast corner of Lewes Georgetown Highway (Rt. 9) and Nassau Commons Boulevard in Lewes, Delaware. Tax Parcel: 334-5.00-145.00. Zoning: C-1 (General Commercial 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.

Mr. Robertson advised the Commission that the property is zoned C-1 (General Commercial), which is currently a closed district; that the property was zoned commercial decades ago, and the proposed site plan is for a permitted use within the C-1 (General Commercial) District, and therefore no public hearing was required.

Mr. Collins stated that, for the record, the Commission had no other option but to approve the site plan, subject to the plan complying with all site plan requirements, as it is a permitted use.

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

S-25-04 Crescent Place

Preliminary and Final Site Plan

This is a Preliminary and Final Site Plan for the development of fifty-seven (57) single-family detached condominiums and other site improvements. Conditional Use No. 2339 was approved by the Sussex County Council at their meeting of Tuesday, February 21, 2023, through Ordinance No. 2903. The Preliminary and Final Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval. The property is located on the southeast side of Central Avenue (S.C.R. 84), approximately 397 feet northeast of the intersection with Bayard Road (S.C.R. 35) in Frankford, Delaware. Tax Parcel: 134-19.00-24.00. Zoning: MR (Medium Residential District). Staff are in receipt of all agency approvals.

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

S-25-54 TPE DE SU75, LLC

Preliminary and Final Site Plan

This is a Preliminary Site Plan for a 34.3739-acre ground-mounted solar array farm, transformers, fencing with interwoven screening, a knox box, and other site improvements. Staff note that the site was the subject of a previous Conditional Use Application (Conditional Use No. 2448) for the establishment of a solar farm to be located within an Agricultural Residential (AR-1) District, which was approved by the Sussex County Council at their meeting of Tuesday, November 14th, 2023, and the use was established through Ordinance No. 2960. The property is located on the northeast side of Seashore Highway (Rt. 404), approximately 0.72 miles southeast of the intersection with Sussex Highway (Rt. 13) in Bridgeville, Delaware. The Applicant has provided details of the proposed financial security package for decommissioning for review by the Commission. Subject to the Commission's review of the Applicant's proposed financial security, the Preliminary Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Tax Parcel: 131-15.00-34.00. Zoning: AR-1 (Agricultural Residential District). Staff are

in receipt of all agency approvals. Therefore, the Plans are eligible for both preliminary and final approval.

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

S-25-68 Middleford Speedway – Greg Mitchell

Preliminary and Final Site Plan

This is a Preliminary and Final Site Plan for an existing outdoor racetrack. Conditional Use No. 2270 was approved by the Sussex County Council at their meeting of Tuesday, January 28th, 2025, through Ordinance No. 3070. The Preliminary and Final Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval. The properties are located on the west side of the intersection of Hastings Farm Road (S.C.R. 526) and Coverdale Road (S.C.R. 525) in Seaford, Delaware. Tax Parcels: 231-9.00-4.00, 5.00, & 5.01. Zoning: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals.

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

Lands of Paul & Sharon Anderson

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-foot-wide ingress/egress access easement. Proposed Lot 1 will consist of 1.00 acres +/-, proposed Lot 2 will consist of 1.08 acres +/-, proposed Lot 3 will consist of 1.09 acres +/-, proposed Lot 4 will consist of 1.09 acres +/-, and the residual land will contain 1.27 acres +/-. A shared-use maintenance agreement shall be established for the use of the shared access road. The property is located on the south side of Stockley Road (S.C.R. 280). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcels: 234-5.00-25.00. 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 final approvals be made subject to Staff upon receipt of all agency approvals.

Motion by Mr. Collins, seconded by Mr. Passwaters, and carried unanimously to approve the Minor Subdivision Plan off a proposed 30-ft easement as a preliminary, with final approval to be provided by the staff, subject to the receipt of all agency approvals. Motion carried 4-0.

Lands of Delmartinez, LLC

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 land with access off a proposed 30-ft wide ingress/egress access easement. Proposed Lot 1 will consist of 1.00 acres +/-, proposed Lot 2 will consist of 1.00 acres +/-, proposed Lot 3 will consist of 1.00 acres +/-, proposed Lot 4 will consist of 1.00 acres +/-, and the residual land will contain 1.00-acre +/- . A shared-use maintenance agreement shall be established for the use of the shared access road. The

property is located on the east side of Mount Pleasant Road (S.C.R. 493). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcels: 432-11.00-58.09. 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 final approvals be made subject to Staff upon receipt of all agency approvals.

Motion by Mr. Allen, seconded by Mr. Passwaters, and carried unanimously to approve the Minor Subdivision Plan off a proposed 30-ft easement, as a preliminary, with final approval to be provided by the staff, subject to receipt of all agency approval. Motion carried 4-0.

Lands of George & Nancy Dodd

Minor Subdivision Plan off a proposed 50-ft easement

This is a Minor Subdivision Plan for the creation of four (4) lots plus the residual land with access off a proposed 50-ft wide ingress/egress access easement. Proposed Lot A will consist of 1.07 acres +/-, proposed Lot B will consist of 0.87 acres +/-, proposed Lot C will consist of 1.04 acres +/-, proposed Lot D will consist of 0.78 acres +/-, and the residual land will contain 1.00 acres +/- . A shared-use maintenance agreement shall be established for the use of the shared access road. The property is located with access from Captain's Way within the Captains Grant subdivision. The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcels: 234-29.00-276.00. 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 approvals be made subject to Staff upon receipt of all agency approvals.

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

Lands of Yvonne Grimm

Minor Subdivision Plan off a proposed 50-ft easement

This is a Minor Subdivision Plan for the creation of one (1) lot plus the residual lands with access off a proposed 50-ft wide ingress/egress access easement. Proposed lot A will consist of 33.876 acres +/- and the residual lands will contain 93.534 acres +/- . A shared-use maintenance agreement shall be established for the use of the shared access road. The property is located on the west side of Hunter Cove Road (S.C.R. 317). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcels: 430-9.00-20.00. 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 final approvals be made subject to Staff upon receipt of all agency approvals.

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

Lands of Unique Car Care, LLC

Minor Subdivision Plan off a proposed 40-ft easement

This is a Minor Subdivision Plan for the creation of one (1) lot plus the residual lands with access off a proposed 40-ft wide ingress/egress access easement. Proposed Lot 1, Residual lands will consist of 1.19 +/-, and proposed Lot 2 will consist of 1.00 acres +/- . A shared-use maintenance agreement shall be established for the use of the shared access road. The property is located west of Mount Pleasant Road (S.C.R. 493), approximately 0.52 miles north of Sharptown Road (Route 24). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 432-10.00-8.01 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 final approvals be made subject to Staff upon receipt of all agency approvals.

Motion by Mr. Allen, seconded by Mr. Passwaters, and carried unanimously to approve the Minor Subdivision Plan off a proposed 40-ft easement as a preliminary, with final approval to be provided by the staff, subject to the receipt of all agency approvals. Motion carried 4-0.

Lands of Marsha Middleton

Minor Subdivision Plan off a proposed 50-ft easement

This is a Minor Subdivision Plan for the creation of four (4) lots plus the residual land with access off a proposed 50-ft wide ingress/egress access easement. Proposed Lot 1 will consist of 1.157 acres +/-, proposed Lot 2 will consist of 1.254 acres +/-, proposed Lot 3 will consist of 1.635 acres +/-, proposed Lot 4 will consist of 1.792 acres +/-, and the residual land will contain 8.373 acres +/- . A shared-use maintenance agreement shall be established for the use of the shared access road. The property is located on the south side of Taylor Mill Road (S.C.R. 467B). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcels: 232-7.00-32.11. 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 final approvals be made subject to Staff upon receipt of all agency approvals.

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

OLD BUSINESS

C/U 2531 Joshua Levis

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTOMOTIVE REPAIR BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 0.3 ACRES, MORE OR LESS. The parcel is lying on the east side of Marshall Street (S.C.R. 225), approximately 0.5 mile south of Elks Lodge Road (S.C.R. 211). 911 Address: 6967 Marshall Street, Milford. Tax Map Parcel: 330-11.17-30.00.

The Commission discussed the application, which had been deferred since November 5, 2025.

Madam Chair Wingate stated that she was absent from the November 5, 2025, Planning Commission meeting; however, she had listened to the audio and reviewed the record, and therefore, she was prepared to vote on the application.

Mr. Passwaters moved that the Commission recommend approval of C/U 2531 Joshua Levis for an automobile repair business based upon the record made at the public hearing and for the following reasons:

1. The automobile repair facility is small. With the conditions and stipulations placed upon it, the use will not have an adverse impact on the neighboring properties or community.
2. There are other small businesses in this area, and this use is consistent with those existing businesses. In addition, the site is adjacent to the City of Milford. This is an appropriate location for this small business use.
3. The use as an automotive repair facility is of a public or semi-public character and is desirable for the general convenience and welfare of the area.
4. All repairs will occur indoors, and the Applicant resides on the property. There are no other employees. The Applicant has also stated that he has no intention of expanding the business on this site beyond what has been proposed.
5. No parties appeared in opposition to this Application.
6. This recommendation for approval is subject to the following conditions and stipulations:
 - A. The use shall be limited to a small automobile repair business.
 - B. One lighted sign, not to exceed 32 square feet per side, shall be permitted.
 - C. Security lighting shall be downward screened and shall be directed away from neighboring properties and roadways.
 - D. Because the pole building where this use was located was constructed and inspected for residential use, the Applicant shall seek and receive a Certificate of Occupancy from the County Building Code Department for the Commercial Use. This must occur within three months of the approval of this Conditional Use Ordinance by Sussex County Council.
 - E. Any dumpsters shall be screened from the view of neighbors and roadways. The dumpster locations shall be shown on the Final Site Plan.
 - F. All repairs shall be performed indoors. No automobile parts shall be stored outside.
 - G. No junked, unregistered, or permanently inoperable vehicles or trailers shall be stored on the site.
 - H. As proposed by the Applicant, no more than 5 cars shall be on the site for repairs at any one time. All parking areas shall be shown on the Final Site Plan and clearly marked on the site itself.
 - 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. No cars shall be sold on the property.
- K. The site shall be subject to all DelDOT entrance and roadway requirements.
- L. The hours of operation shall be from 8:00 a.m. through 8:00 p.m., Monday through Saturday.
- M. Any violation of these conditions may be grounds for the termination of this Conditional Use.
- N. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Passwaters, seconded by Mr. Collins, and carried unanimously to recommend approval of C/U 2531 Joshua Levis, 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. Passwater – yea, Madam Chair Wingate - yea

C/U 2562 John L. Hnatishion

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (3 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 2.18 ACRES, MORE OR LESS. The property is lying on the north side of Central Avenue (S.C.R. 84), approximately 0.2 mile south of Beaver Dam Branch Road (S.C.R. 368). 911 Address: 33476 Central Avenue, Frankford. Tax Map Parcel: 134-16.00-35.02.

The Commission discussed the application, which had been deferred since November 5, 2025.

Madam Chair Wingate stated that she was absent from the November 5, 2025, Planning Commission meeting; however, she had listened to the audio and reviewed the record, and therefore, she was prepared to vote on the application.

Mr. Allen moved that the Commission recommend approval of C/U 2562 John L. Hnatishion for three (3) Multi-Family Units in the AR-1 Zoning District based on the record made during the public hearing and for the following reasons:

1. This application seeks the approval of three (3) multi-family structures on approximately 2.18 acres of land.

2. Three multifamily units in this location will not overburden this property and will be similar to what could occur if this property were divided into 3 Lots as part of a minor subdivision.
3. The site is in the Coastal Area according to the Sussex County Comprehensive Plan. This type of development is appropriate in this Area according to the Plan, which states that “a range of housing types” are acceptable here, including medium and high densities when a site is served by central water and sewer, where the use is in keeping with the character of the area and other similar factors. These types of considerations exist with regard to this site.
4. The proposed development will not have an adverse impact on the neighboring properties or community.
5. The proposed development will not have an adverse impact upon traffic or roadways.
6. The development will be served by central sewer provided by Sussex County.
7. No parties appeared in opposition to this Application.
8. This recommendation is subject to the following conditions:
 - a. The maximum number of residential units shall be three (3).
 - b. All entrance, intersection, roadway, and multi-modal improvements shall be completed by the developer as may be required by DelDOT.
 - c. No dumpsters shall be permitted. The trash receptacles shall be standard roll-out residential containers stored in an enclosed area on this site.
 - d. The project shall be served by Sussex County sewer. The developer shall comply with all Sussex County Engineering Department requirements, including any off-site upgrades necessary to provide service to the project.
 - e. The project shall be served by central water to provide drinking water and fire protection.
 - f. If applicable, the Final Site Plan shall contain the approval of the Sussex County Conservation District for the design and location of all required stormwater management areas and erosion and sedimentation control facilities. The system shall be designed and maintained using best management practices.
 - g. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Allen, seconded by Mr. Collins, and carried unanimously to recommend approval of C/U 2562 John L. Hnatishion 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, Madam Chair Wingate – yea

PUBLIC HEARINGS

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

ORD 25-02

AN ORDINANCE TO AMEND CHAPTER 90, §§90-3, 90-6 AND TO ADD NEW §§90-8, 90-9 AND 90-10; TO AMEND CHAPTER 99, ARTICLES I, II, IV, V AND VI, §§99-5, 99-7, 99-9, 99-23, 99-26 AND 99-29; TO AMEND CHAPTER 110, ARTICLES I AND III, §§110-1 AND 110-12; AND TO AMEND CHAPTER 115, ARTICLES I AND XXV, §§115-4 AND 115-193 OF THE CODE OF SUSSEX COUNTY REGARDING SEDIMENT RELEASES AND SEDIMENT CONTROL AND STORMWATER MANAGEMENT.

The Commission found that Mr. Hanz Medlarz, Sussex County Engineering Project Manager, presented on behalf of Ordinance 25-02. Mr. Medlarz stated that some of the proposed ordinances are triggered by Code amendments requested by the County Council; that the storms which occurred in April 2025, triggered aerial photos taken by a drone, which caused some reaction by the County Council; that a presentation, spearheaded by the district representatives from the Sussex Conservation District (SCD) was made before the Council County; that the presentation was presented in May 2025; that following the presentation, the County Council had discussions with the Sussex County Engineering Department; that the first County Council presentation was held on July 15, 2025, and followed by a broad range of topics the Council wanted to consider; that Council discussed those items at the meeting, provided the Engineering department with instructions, and narrowed them down for the County Council meeting of August 19, 2025; that subsequently discussion between the Engineering department, and the previous Council members, further topics were narrowed down further, which were approved to draft an ordinance on; that the same presentation was presented to the Sussex Conservation District at their board meeting; that they initially received a letter of support, and have since received a letter of neutrality, based on the district's comments, which were included within the record; that there was a recent presentation held regarding the ordinance, before the Sussex Conservation Districts Stormwater Advisory Committee, which is a long-standing committee, who assist in giving the board instruction on how to make a decision in support, opposition, or any legislation before the County Council; that when you place all this historical information together, it is the reason he was presenting before the Planning Commission currently; that the slide he presented was the exact presentation that the County Council approved as the basis of the draft for the ordinance; that the ordinance proposes to do an enhanced sediment capture, under certain distinct conditions, based on pre-existing land use, topography, and distances to highly influenced resources; that the County Council drafted something based on that, and then made it such that this practice; that a dry pond would be one of the practices approved under the State law, which is in place and stabilized, before the rest of the project is developed; that the ordinance contains the legal language of what that means, while

carefully staying within Sussex County's legal authority, of what the County can do, review and not review, and actually implement; that it deals with information provided to the County by the developing entity, which would consist of pre-development slope of the site in each catchment area, and how close is the site to Tidal wetlands and/or Tidal marsh areas; that once this information is added into a series of formulas (aka algorithm), they would then develop a trigger value to be considered for enhanced sediment capture, or it is released into the normal regulatory process; that this does not change what practices are, or the design criteria for the practices are; that we, Sussex County, would say, that for this particular site, we would want to see a dry pond as a practice, installed and stabilized prior to construction; that the district would still review everything, and would make all the decisions in the terms of review, comments, implementation and inspection; that comments were received back from the Sussex Conservation District; that there was some desire that Sussex County no interject themselves, as the selecting entity of the practice, but rather make a recommendation to the District, that the practice should be pre-selected, and used as an enhanced sediment; that the County Administrator, the County attorney, and himself, deferred, and after discussing with the Administrator at the District, the following amendment recommended language is being presented to the Planning Commission for consideration; that two things have changed; that they have changed the wording from requirement to recommendation, and may be used at the discretion of the District; that in addition, they received feedback from the engineering community, stating the Sussex County should look at each sub-catchment area individually versus all of them in a conglomerate; that there was some discussion regarding a site distance boundary to the Tidal wetland line versus a catchment area; that this was a good suggestion by the engineering community because a site can have five sub-catchment areas, with one touching the Tidal boundary line, and the remaining four, not touching the Tidal line; that it was a very good technical amendment, and Sussex County was happy to support it; that in conclusion, there was an original presentation to the County Council, who provided authorization to draft the ordinance; that the ordinance currently before the Planning Commission had been modified for the reasons previously stated; that the current ordinance deals with the sediment capture, and the enhanced sediment capture; that Mr. Medlarz provided an example of how the interface looked when they perform an analysis; that he would enter the data points on the top, with different rates assigned; that he had been able to run 20 different projects through this analysis; that three of the projects triggered the criteria, which was the goal, without changing the parameters; that should the ordinance be adopted the algorithm gets locked; that this would mean that no changes can be made without the County Council's review and approval of the changes in determining that criteria; that it is a fully transparent process; that there are a number of people who would like to see the programming behind it; that as soon as the County has a regulatory piece, and once it is published, Sussex County will publish the source code along with it; that this will allow everyone to see what the criteria is, which cannot be changed without proceeding through County Council's regulatory process; that the County Council stated if they have a site with bare earth, while grading is being performed, as per the Bulk Grading Plan, which has significant upstream drainage areas, which

are not open, but they drain into the open bare earth piece; that County Council would like to see that bare earth piece limited so that it is less than 20 acres; that the current State law has a one-size-fits-all of 20 acres; that County Council requested this, and instructed them to come up with something that created some limitation; that their proposed language states, as submitted, if there are slopes, being bulk grading slopes where the dirt is open and bare ground, greater than 3%, or you have a combined upstream drainage area exceeding 20 acres, one should have a limitation; that there is some design flexibility; that the design engineering team can try to avoid that because Sussex County already stated these are the two things, when the development begins to be considered; that if one were to grade their site to 2.9 acres throughout, keeping an upstream acreage to 19.9, the limitation would not be applicable; that they came up with a table of hard formulas; that there is no waiting, and no calculation; that this is why the formulas are included within the document, which would allow them to be codified as a table; that if you had a slope greater than three for more than 100 feet, that the table would apply; that if the slope is less than three, then the upper table would apply; that these are the two criteria; that there was some discussion about properly discharging; that County Council had requested prohibition of property line discharges; that there were a number of complaints related to that, and so County Council wanted to address those complaints; that Council wanted to see them limit the flow in terms of volume, which is in the post development world, going onto adjoining residential lots or their associated buffers; that they had originally proposed the word “onto” parcels, which caused some consternation in the engineering community; that it was the intent to only look at flow, which comes in terms of sheet flow or semi-concentrated across open ground on adjoining parcels; that was the intent, however, people said no, and requested further clarification; that included with the current recommended amended ordinance, they added the words in the form of overland flow; that this means that if there is a tax ditch, stream or Tidal boundary, it does not apply; that it was intended strictly for if the flow comes, in sheet flow form, across the boundary line; that the second change they proposed stated that none of the flow, the offside discharges are directed onto existing residential parcels; that this was addressed in both §90-9 and §99-5; that some of the current stormwater plans have unmanaged flow, which is not part of the calculation process; that if one had a piece of land, which breaks into two directions, the piece is not developed, it drains onto the adjoining property; that in the future would still drain onto the adjoining property because it is not developed, because the grades are not changed, it should continue to be allowed, because it does not change the volume; that they added the word “managed”; that as soon as one starts to manage it, you want to drain it to the adjoining parcel, the 5% over rule would kick in; that the Baylis subdivision is a prime example of a subdivision draining onto an adjoining parcel overland; that the criteria for the approval by the District stated “shall not exceed the downstream elevation”, which means at the property line of point of analysis; that no, they never exceeded it, but instead of one day, the flow continued for three days; that the recipient, which is the owner that owns the sump, it filled up more than it ever did before, and began overflowing; that the proposed ordinance is the driver behind the thoughts of the County Council to address these issues; that if one were to discharge

into a tax ditch or a natural stream channel, the flow rate would be what people perceive as important; that if one were to discharge onto an adjoining parcel, that particular entity perceives volume as the criteria; that they believe that Sussex County has the right to legislate that kind of volume discharge; that Mr. Robertson will have discussion with the colleagues from the Department of Natural Resources (DNREC), regarding whether we do have authority, but he believed that Sussex County does have the authority to do so; that strangely enough, he should have called that when the Chapter 99 revisions were made in 2017, but he did not; that in his current review, he realized that they used an undefined word; that we could have used the word quantity, because it is in the current Code, however, it does not mean anything because it was never defined; that currently it states "increased quantities", however, that is not the case; that they added the word "volume" because the word volume is defined; that the Preliminary Conference is something that has been within the Code for a long time, since the beginning of the Chapter 99 Code; that the section is used, however, probably not to the fullest extent; that they would like to expand the use of it and County Council agreed; that they would like to add storm drainage in the Preliminary Conference section of §99-7; that with that language authorizing Sussex County, they wrote in what they would like to have included; that they would like to have the sewer service in general; that they already have this, however, they would like it listed within the Preliminary Conference, which would reference the Sewer Concept Evaluation in particular, the Resource Buffer averaging, if approved under the proposed Ordinance, an the Sediment Capture selection, which they had initially, but was changed to a recommendation, general storm drainage, and the Drainage Assessment Report, which is already within the Code; that they wanted to make sure that the Applicant knows from the get go, whether that parcel will have an Assessment Report required or not; that all of the items, which are underlined, the Sussex County Engineering Department, would convey to the Applicant, at the preliminary conference; that they already present at the preliminary conference, but now they are suggesting to come with more information for the Applicant, that he did not feel this was a bad thing, and hoped that everyone would be in support of that; that the last item is regarding the buffer zone, which was introduced within the Resource Buffer Ordinance; that the Code currently states that 50% of the buffer can be averaged; that they would like to make this a mandatory requirement; that they would like to perform this by a two-step process; that they calculate the total required area; that there would be no change to that; that it would still be the same area, square foot by square foot; that the Engineering Department wants to have the authority to look at where the flow concentration happens and create the buffer in that flow concentration area; that he had some interactions with the engineering community regarding the drone pictures review during the Spring 2025; that there was one project along Herring Creek, being the Walden project; that the Walden project was a pre-buffer project, so the comparison is not apples to apples; that even so, one could clearly see where the flow concentrated, and the locations of where the washouts occurred; that when one looks at the topography, pre-existing topography, side topography, and buffer zone, that would have been an ideal parcel, and would have been concentrated in that area; that this meant the majority of the sediment, forgetting all of

the other stuff, would have been captured in that buffer before it entered Herring Creek; that it is a common sense type amendment; that there were two groups within the working group for the buffers; the one group was in favor of the concentration of the buffer, and the other group was in favor of the linearization of the buffer; that the linearization group won out; that now they are back, with environmental reasons, to state that the buffer should be concentrated in the sensitive runoff areas; that again in Walden, the stormwater facility was located right next to the Tidal Wetland area; that if there had been a buffer, being the A & B Zone, the facility would have been built in the Zone B buffer; that they do not want the facility that close to the Tidal Wetlands, if they are concentrating the buffer; that this needs to be removed from the Permitted Uses; that these two requirements go together, and are the reason they have been coupled; that once we allow ourselves to concentrate it, we no longer can allow a facility to be built in that area, because it is defeating the purpose; that regarding the schedule, the Sussex County Council hearing is scheduled to proceed on December 9 2025; that the Sussex Conservation District requested more time to review, because their agency will not meet before the current Planning & Zoning Commission meeting; that Sussex Conservation District will meet before the County Council meeting; that the Sussex Conservation District requested that the Planning Commission leave the record open to allow them to enter comments based on the potentially amended ordinance; that he had spoken with four of the County Council members individually; that they expressed support to not act until the Planning Commission had seen the District's comments; that a number of current amendments, especially the recommendation amendment, is an direct outgrowth of the District's and advisory group's comments; that if the ordinance would be adopted, he would still like to have County staff look at having all the projects, not yet in the preliminary conference pipeline, follow the new rules, and he understood that this would be unusual for ordinances, but because the preliminary conference is so early in the land use process, can be easily scheduled, County Council feels that we should not create a rush to have preliminary conferences.

Madam Chair Wingate stated that there is always a sequence of construction noted on the plan, and she questioned whether the Council was suggesting that the contractors are currently not following the sequence of construction, as there is already a sequence of requirements per the Sussex Conservation District.

Mr. Medlarz stated no; that the sequence of construction would just contain one step, which states, as per Sussex County requirement, this practice is required to be installed as number one; that the developer would incorporate the requirement into their sequence of construction; that the majority of the plans submitted currently, already follow the proposed practice, and they want to make sure that if a site came within their target, where they believed it should be a requirement, it will allow Sussex County to be able to impose a requirement that the site has a stabilized practice in place before continuing their sequence of construction requirements.

Madam Chair Wingate stated that the Soil Conservation District inspectors are very good about ensuring the order of sequence is being followed.

Mr. Collins questioned why Sussex County would not make a requirement versus a recommendation.

Mr. Medlarz stated that there was a discussion regarding overlapping regulatory authority, which was the main trigger for the revision; that even so, it was intended that Sussex County would not review that; that they would just say use this practice as is says in the State law; that that as the former County Engineer, he had no horse in the race, and that the County Council requested this ordinance.

Mr. Collins stated that there appeared to be public comments submitted expressing concerns regarding the overlapping of authorities.

Madam Chair Wingate stated that the Planning Commission had always stated to the Applicant's or concerned residents that by law, developers are not allowed to discharge, or cause overflow onto others' property, and she questioned if Mr. Medlarz was suggesting that this was not what was really being done.

Mr. Medlarz suggested not using those terms; that he suggested using the exact language from the regulatory DNREC Code; that a lot of people perceive that as a volume and not a flow rate, and the proposed wording in the Ordinance would address the issue.

Mr. Robertson stated regarding the §99-7 Preliminary Conference, the Ordinance would not add any new requirements; that it would allow information to be front-loaded when the Applicant comes to the Planning & Zoning Department and to the Sussex County Engineering Department to preliminarily discuss a plan.

Mr. Robertson stated that the Commission needed to hear from the pending public comment during the current public hearing; that there was a letter on the online docket from the Sussex Conservation District requesting more time to review; that it was up to the Commission as to whether they would like to defer action currently to allow for receipt of a response from the Sussex Conservation District (SCD), or the Planning Commission take a recommendation action, allowing the Sussex Conservation District to provide a response on the Planning Commission recommendation to the County Council.

Madam Chair Wingate stated that there was a letter submitted from the Sussex Conservation District, which stated that they would not meet until November 25, 2025, and she questioned if the other option would be to leave the record open.

Mr. Robertson stated there was a letter submitted from the Sussex Economic Development Action Committee (SEDAC), which referenced a letter from the American Council of Engineering Companies (ACEC); however, he did not see the submitted letter from the ACEC.

Ms. Paugh confirmed for the Commission that, currently, she had not received a letter from the ACEC.

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

The Commission found that Mr. Mark Davidson, P.E., with Pennoni, and a member of SEDAC, spoke in opposition to the Ordinance. Mr. Davidson stated that he is the chair of the Advocacy Committee for SEDAC; that they did review a letter from ACEC, and wished to support the ACEC letter, and submitted their own letter, supporting the comments of the ACEC letter; that he would like to review the proposed algorithm; that he questioned if there was any scientific based calculation used to prepare the Limits of Disturbance Table, and if the record were left open, it would be preferred that this information be provided to the engineering community.

Mr. Medlarz stated that what was shown on the slide to the Commission was the inner face and had nothing to do with the behind-the-scenes calculation.

The Commission found that Mr. Kenneth Christenbury, P.E., with Axiom Engineering, spoke in opposition to the Ordinance. Mr. Christenbury stated he became very nervous when he saw volume control efforts; that he encouraged extreme caution on any kind of volume control; that DNREC previously lost a lawsuit about a decade ago, when they tried to include that within the 2014 Stormwater Revised Regulations; that he wanted to ensure the new language is correct; that he wanted to understand when volume requirements kick in, because in certain cases it could render a property unbuildable, stripping people of their right to use their land, and if the regulation is specific to sheet slow, and would not apply to defined outfalls, he felt it would not be nearly as bad of a condition.

Mr. Medlarz stated he was quite aware of the case that DNREC was involved in, which was a litigated case where volume control was applied to any and all discharges; that Sussex County's proposed ordinance is subject only to property line discharges "onto"; that based on the comments of their colleagues, they added the words "in the form of overland flow", which means not a

concentrated flow, and not a pipe; that essentially, this only applies to cases where the discharge is overland into a sump, which would overflow; that it is very limited, and he would venture to say, that it had been carefully crafted to withstand any legal challenge.

Mr. Christenbury stated that within the last five years, the Sussex Conservation District had been much more prone to performing Sump Analysis, as to what the standing water levels and ponding elevations around the perimeter of his projects.

Madam Chair Wingate stated that the Sussex Soil Conservation District does a great job, which was the reasoning for her question regarding their enforcement and the sequence of when things must be performed; that she felt that it may be a bit of overreach; that the weather event in May 2025 was an unusual rain event; that Mother Nature will do it is going to do; that regardless of what is in place, if there is an extreme event, we will never be able to be ahead of everything; that she recognized the fact that there are always areas in which we could do better, however, she felt they could not make it unreasonable, and she did not want to make it so limited that they would never be able to comply with the rules that they are making.

The Commission found that Mr. Jim Erikson, P.E., with Solutions IPEM, spoke in opposition to the Ordinance. Mr. Erikson stated that he appreciated Sussex County attempting to add some clarifying language to the Code; however, there were a few items he felt could be potentially problematic with the new language; that he was concerned about the phrase "*that none of the off-site discharges are directed to adjacent residential development lots*"; that "none" is a very absolute word; that in many scenarios, they will have a site that naturally grades down toward an adjacent lot; that they will develop the site, that they will place a swale around the back of the lots, berm up to catch the water, making sure it is conveyed by the back slope of the berm and any connecting slopes associated with the grading; that it will grade off; that it will shed water; that it will be a reduction, but there will be some water; that the word "none" is very hard in that circumstance; that he requested clarification; that he also requested clarification regarding the buffer averaging; that the Ordinance was just adopted in 2022; that they have not had much change to implement those adopted standards to see what they do; that Sussex County is already changing the standards seemed premature; that he believed the intention was not to reduce density, but to have it be net neutral in density, which was the reasoning in providing the flexibility of the buffer averaging; that removing the buffer averaging will impact density on some projects; that any removal of flexibility is going to impact density; that many times impacts on density will impact affordability, which is a very sensitive and hot topic currently; that his other concern was in regard to the timing associated with it and the difficulties that present in land planning; that he questioned how he would create a land plan ahead of time before he can get in front of the County; that it would be very difficult, and would create timing issues; that with revisions, they may be required to return to State agencies, and potentially even PLUS, and if there could be a more structured

approach, providing more clear and codified information, it would allow them to have the information ahead of time.

Mr. Medlarz stated that the last line on the Bulk Grading Plan was a direct result of Mr. Erikson's comments, which he may not have seen, and if there is a natural flow that goes there currently, and continues to go there, it is not an issue.

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 ORD 25-02. Motion by Mr. Collins to defer action, leaving the record open until the close of business on Friday, December 5, 2025, to allow for the receipt of written comment from the Sussex Conservation District, seconded by Mr. Passwaters, and carried unanimously. Motion carried 4-0.

C/U 2586 Preston & Mason Dyer

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AMEND CONDITIONAL USE NO. 705 TO ALLOW FOR AN EXPANSION OF AN EXISTING CAMPGROUND TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN SUSSEX COUNTY CONTAINING 21.93 ACRES, MORE OR LESS. The properties are lying on the southwest side of Coastal Highway (Rt. 1), approximately 0.70 mile north of Broadkill Road (Rt. 16). 911 Address: 12984 Coastal Highway & 13177 Eagles Nest Trail, Milton. Tax Map Parcels: 235-8.00-35.02 & 35.03 (P/O).

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Conditional Use Site Plan, the Applicant's Exhibit Booklet and materials, the Staff Analysis, a letter received from the Sussex County Engineering Department's Utility Planning Division, and a copy of the DelDOT Service Level Evaluation Response letter. Mr. Whitehouse advised the Commission that the application had received two written public comments, which were included within the paperless packet.

The Commission found that Mr. Preston Dyer, a member of Campground Holdings, LLC, spoke on behalf of his Application; that also present were Mr. Mason Dyer, who is involved in the ownership and management of the campground, as well as Mr. Mark Davidson, P.E., with Pennoni. Mr. Preston Dyer stated, as a way of background, they entered into a contract in 2023 to purchase Deep Branch Campground, recognizing that the property consisted of just under 20 acres; that there was a year-to-year lease for the 10-acre parcel to the south; that the Commission should be

familiar with the 10-acre parcel, as there was a preliminary, and now final approval granted for an assisted living facility, on approximately five acres of C-1 (General Commercial) ground; that the clubhouse, pool and office encroached outside the five acres, and onto a portion of the additional five acres, which was zoned AR-1 (Agricultural Residential); that Pastor William Sammons, Sr. previously owned all of the property; that the original Conditional Use for the property dated back to 1982, being C/U 705; that when they entered into contact, they were monitoring the progress of the assisted living project; that at the point where it appeared that project was going to occur, they returned back to Mr. Bill Sammons, Jr., who currently resided in the residence with his wife, and Pastor William Sammons, Sr.; that they added the two acre parcel in anticipation of the loss of the amenities and related uses on the 10 acres; that the lease was extended for one year, and now the lease has not been extended thereby rendering the move to the additional two acres to be fortuitous to them; that they did settle on the property, with the Sammons in 2024; that he requested to go on record saying that as developers, they certainly have no problems whatsoever, and recognize the ability of the adjoining property to construct an assisted living facility on that property; that they have an excellent relationship with the Eagles Nest Church; that they supplied two letters of support, one from the Administrative Pastor, and one from the Head Pastor; that the application seeks to replace and to restore the uses, the structures and the activities that were present on the adjoining 10 acre parcel; that they are seeking to add a two acre parcel, which was originally the Sammon's residential parcel, to C/U 705 for Deep Branch Campground; that the original campground was the starting point for Pastor Sammons and his wife, Mary Jane, to formulate what later became Eagles Nest Church; that it is a well known church, and certainly a dominant church in Sussex County; that the present Delmarva Christian lower school enjoys the campus facility; that the well-known church, Crossroads, was a church plant from Eagles Nest Church; that he had been very blessed to have a relationship over the years with Pastor Sammons, as had Professional Engineer, Mr. Mark Davidson; that they had all master planned the entire property many times; that they have allowed the development, and the acquisition of the campground to seek to honor the legacy of Pastor Bill Sammons, Sr., his wife, Mary Jane, and Mr. Bill Sammons, Jr.; that the plans include a clubhouse, a campground store, snack bar, office and/or residence for management, pool, deck seating, and an open-air pavilion; that they are also adding an additional one-acre parcel, reflected on the Site Plan, and deeded to them by Eagles Nest Church; that the Commission had placed a requirement on the assisted living facility to accommodate the existing on-site septic system for the campground; that in order to protect that, a portion of the system is located on the one acre parcel, and the Eagles Nest Church deeded that to them in satisfaction of the condition that was placed by the Commission; that the campground, as they are seeking to expand, is bordered by Parcel No. 35.09, which belongs to Mr. Tim and Pam Parker; that they will fence that parcel in accordance with the staff's recommendations; that the site also borders Route 1, with the two acre parcel, which will have limited access, which was also in accordance with the staff's recommendations; that there will be a knox box gate provided; that Mr. Mark Davidson, P.E. with Pennoni, would provide additional details; that to the north, the site borders Milton Crossing

subdivision; that he secured the original contract for, and went through with the subdivision; that this was an effort, in Pastor Bill's later years, to consolidate his, and Mr. Bill Sammons, Jr's real estate holdings; that eventually, they purchased the remaining real estate, which is the campground; that they did achieve that prior to Mr. Bill Sammons passing; that there are no vehicular or pedestrian access between the Milton Crossing Subdivision and the campground; that there is the Deep Branch Creek, and a large span of wetlands that prohibits any interconnectivity located on the west of the site; that the campground is bordered by agricultural uses; that on the south, is the location of the assisted living facility; that they recognize the right for them to develop, but the fact that the new building, as proposed, would consist of a 40 foot building and a retaining wall, that will border the campground property; that Mr. Tim and Pam Parker, the owners of Parcel No. 35.09, have managed the campground for many years for the Sammons family; that the Parkers had also been managing the property for them as well; that they plan to have the Parkers continue managing the campground; that Mr. Mason Dyer, his son, is responsible for the interfacing for the management of the campground by Mr. Tim & Pam Parker, and at that time Mr. Dyer requested Mr. Mark Davidson with Pennoni come up to provide additional information on the application.

The Commission found that Mr. Mark Davidson, Professional Engineer with Pennoni, spoke on behalf of the application. Mr. Davidson stated that Conditional Use No. 705 was approved in 1982, as a resolution; that there was a condition placed requiring Pastor William Sammons, Sr. to be able to get a letter from the Department of Interior for a flowage easement, which happened to lie within the property, to allow the campground to have no negative effect on the flowage easement; that there are two letters submitted into the record from the Department of Interior, talking about the flowage easement, and one from the U.S. Army Corps of Engineers talking about the wetlands, and the ability to be able to flow water from the campground naturally into the wetlands; that the Army Corp of Engineers had no objection as well; that Conditional Use No. 705 was approved for 150 campsites for overnight mobile campers, tents, camp trailers, touring vans and the like; that is how the Code specifies campgrounds in §115-172(H); that the campground was improved to have campsites, cabins, central water, wastewater, a camp store, and office, in ground swimming pool, bath houses, playground, maintenance yard, and a chapel; that the campground has been operating for about 43 years; that the addition of the two properties, improved with the existing dwelling and the septic systems will provide for the purpose of the uses intended primarily compatible within an existing campground, and as outlined in §115-172(H); that the house currently is located on Parcel No. 35.02, and is serviced by an existing septic system; that Parcel No. 35.03, as part of a previous Condition stipulation placed on the Eagles Nest assisted living facility, the developer was required to provide for no negative impact to the campground; that because of this, they reviewed the wastewater for the campground fairly heavily; that on the submitted Site Plan, he had indicated what had been relocated, as part of that 10 acres being developed with the assisted living facility; that he had outlined the assisted living facility on the back five acres, which is zoned C-1 (General Commercial); that the front five acres are zoned AR-1 (Agricultural Residential), which is the

location of the one acre piece is; that they had discovered an existing septic system located on the once acre property; that this was the reasoning the one acre was deeded over to the campground by Eagles Nest Ministries; that the existing septic system serves the uses on the campground; that the primary wastewater facility is demarcated on the Site Plan; that the access coming in, has a dump station and a pump station located there; that all the wastewater for the campsites come down to the pump station; that there are some uses that access and use the existing septic system located on the one acre property; that there was a property line that ran through the old campground office, store and community center; that when the property was being planned for the assisted living facility, the building was torn down in 2020; that all that remains on the site is the inground swimming pool, which is to be demolished as part of the assisted living facility development; that the current application is requesting approval to bring in additional acreage; that bringing in the two acre parcel, and the one acre parcel, to provide the ability to relocate the new clubhouse, pool, and pool area; that the campground was part of the ministry that Pastor William (Bill) Sammons started; that the ministry is going to continue; that they are proposing typical campground activities; that it is intended that one parks at the campground, they would maneuver through the campground on foot or by golf cart; that on occasions when the weather is no conducive, they have proposed to add a parking area, where people could access the community building, and the existing house, which is slated to be the manager's office and residence; that previously the managers resided within a mobile home on the property; that the existing house could be used for the manager's house, the office, the business office activities; that the clubhouse and the pool are proposed to be relocated to that particular site; that if the application should be approved, the boundary line would disappear; that the two acre parcel would merge into the adjacent parcel; that per the 2045 Future Land Use Map of the Sussex County Comprehensive Plan, the property is identified as being within the Low Density Area, and Existing Development Area; that the one acre parcel is located within an Existing Developing Area, and the two acre parcel is located within the Low Density Area; that these areas included promote a quiet and private environment, with more space, preserving natural habitats in place, primarily for fostering a close knit social atmosphere among campers, and enhancing privacy for campers; that within the Comprehensive Plan, the Low Density Area and the Developing Area, spell out that those activities are what may be used within those area according to the Comprehensive Plan; that the 2020 Delaware Strategies for State Policies and Spending shows the site within Investment Level 4; that the Dyers are not going to be asking for any State money to develop the project, and intend to fund the entire project themselves; that the proposed Conditional Use is subject to the provisions of Articles IV through Article XXIV, §115 - §22 of the Sussex County Zoning Code; that the purpose of the Conditional Use is to provide for these certain uses, which cannot otherwise be well adjusted to their environment, in particular location with full protection offered to surrounding properties or rigid application and district regulations; that the subject application being submitted to Sussex County is to request the approval to add 3.01 acres +/- to the existing campground; that Conditional Use No. 705, under Article XXIV §115-172(H), which is Parker Campgrounds, for mobile campers, tents, camp

trailers, touring vans, and the like; that it is for the purpose of the residents in our office, for the Park Manager meeting area, small retail businesses, clubhouse, pool, which are intended primarily for the occupants of the campground; that these are similar to uses and appropriate to Conditional Use No. 705; that the area for C/U 705 was approved for 22.5 acres; that over the years, the acreage decreased when three acres were deed over to Mr. William (Bill) Sammons, Jr., being the location he built his house; that the current residents, Mr. & Mrs. Parker, who are currently managing the campground, previously purchased from Mr. William (Bill) Sammons, Jr., and was taken out of the Conditional Use area previously; that with the request to add the three acres back into the Conditional Use, the total Conditional Use area will be 21.93 acres +/-; that the original Conditional Use was approved for an area of 22.5 acres +/-; that the proposed use will not alter the character of the surrounding area in any manner, which would substantially limit, impair or preclude the use of the surrounding properties; that the Conditional Use is compatible with the surrounding low density uses, which include residential, commercial, institutional, agricultural and recreational areas; that through the existing Conditional Use No. 705, which controls factors like the number of campsites, roadways, setbacks, building locations, which preserve the character of the community and prevent interference with existing uses; that adjacent Parcel No. 35.09 is owned by the Parkers, who currently manage the campground; that a comment provided within the Staff Analysis report concerns to ensure privacy and protection of the property of Parcel No. 35.09; that the Dyers will be placing a privacy fence along their respective properties to provide a visual screen and buffer between the adjacent properties and to minimize adverse visual and noise impacts from the adjacent campground; that the properties and the use will have access to the existing campground; that access to Zion Church Road, which is classified as a local road, according to DelDOT's Highway Functional Classification Map; that rights-of-way, dedications and permanent easement dedications have been dedicated; that they were dedicated as part of the assisted living facility process; that the campground has an existing access easement, which had been granted to them over the years, which comes up from Zion Church Road; that this is a recorded deed easement, which is 50 feet wide, and comes up to the back of the property; that this easement will be the primary access for the addition of the two properties for the campground; that the existing access, located off Zion Church Road, will be the primary access for the campground and the associated amenities; that staff had also expressed concern regarding additional traffic trying to access off of Coastal Highway (Rt. 1); that they are proposing to present to DelDOT, is to use the existing driveway as an emergency access, designated for emergency services only; that the emergency access will be gated, with a knox box, to provide an alternate way of leaving the site in the case of an emergency; that the emergency access will be controlled by the management of the campground so that no campers will have access through that access to Coastal Highway (Rt. 1); that all campers and non-emergency traffic will come through the existing entrance along Zion Church Road; that DelDOT felt that the proposed Conditional Use would not adversely affect the congestion of the roads; that they deemed the proposed use to be diminutive in the context of the agreement with Sussex County; that DelDOT did not require a Traffic Impact Study (TIS) for

the application; that there are wetlands located on the property; that a Wetland Delineation is required to be shown along the wetland area; that there is no wetlands on the subject properties that are being added to the existing Conditional Use; that there are no threatened or endangered species on the properties being added; that there is no need for public water for the application; that Parcel No. 35.02 has an existing well, which had been permitted through DNREC, which serves the existing dwelling; that the existing campground currently has an existing commercial well which services the property; that the commercial well is protected by the Wellhead Protection Ordinance that does not encroach within the boundaries of the application; that the Well Head Protection is a 150 foot buffer, which goes around the existing commercial well; that the existing wastewater disposal systems are monitored on a five year basis by a licensed wastewater treatment operator, who submits reports to DNREC on a yearly basis; that every five years the permit gets updated by DNREC for the campground; that the one acre property, being part of Parcel No. 35.03, does not lie within an Excellent Groundwater Recharge Area; that any disturbance within the portion of this property will follow Chapter 89 Source Water Protection Code criteria; that there are no plans to do anything with it right now, except to keep it as a spare area for septic; that there is an existing septic system sitting in the upper corner of the one acre property; that the one acre parcel is located within Flood Zone X, which is located outside of the 500 Year Floodplain; that a Flood Zone AE, with elevation of 8, impacts portions of Parcel No. 35.02 and Parcel No. 35.03; that a Letter of Map Amendment could be requested to bring the parcel out of the Flood Zone AE; that all improvements would be located outside of the 100 Year Floodplain; that the property is located within the Milton Fire Department Service Area; the he had submitted proposed Conditions of Approval for the Commission's consideration; that he had added one extra condition, based on the comment provided within the staff's recommendation; that he added the proposed condition for a permanent opaque fence, of at least six feet in height, shall be erected per the requirements of the current Code and maintained along the property of Parcel No. 35.09 to provide a visual screen and buffer between the adjacent properties; that all of the other conditions match what was previously submitted within the exhibit booklet; that the Conditional Use shall allow the properties to be used for the campground, for mobile campers, tents, campers, camp trailers, touring vans and the like, the residence and office for the park manager, meeting area, small retail businesses, clubhouse, and pool, which are intended primarily for the occupants of the campground; that the parcels will be used for any utilities, as needed and necessary, for safe operation of the campground, and the proposed Conditional Use meets the general purpose of the Zoning Ordinance, being located in an appropriate location, meaning the purpose of this District and the Comprehensive Plan by providing sufficient space and appropriate locations for certain uses, which cannot be well adjusted to their environment in particular locations with full protection for the surrounding properties by rigid application of the District's regulations which is essential, desirable, for the general convenience, orderly growth, prosperity and welfare of the County.

Mr. Collins questioned whether the project would be open year-round and if the majority of the sites were permanent.

Mr. Preston Dyer stated that there is a variation of sites throughout the site.

Mr. Allen questioned whether the existing septic system on the one-acre property was a standard gravity-fed septic system and whether it was approved to be used.

Mr. Davidson stated that the existing septic system was a standard gravity system; that the existing topography happens to flow that way, and the system had been tested and approved for use.

Madam Chair Wingate stated that should the application be recommended for approval, there needed to be a condition added regarding the entrance off Route 1 (Coastal Highway) for emergency use only.

Mr. Robertson stated that Conditional Use No. 705 is approximately 40 years old; that there may be things that apply to it that maybe would not apply to a new application; that he is unsure whether the Commission should add conditions to the existing campground, to avoid any misunderstanding in the future, and questioned if Mr. Davidson had received any feedback from DelDOT regarding the DelDOT entrance to Rt. 1 (Coastal Highway).

Mr. Davidson stated that they were required to perform lot line adjustments to the Parker's property, and Parcel No. 35.02, and a subdivision from the 10-acre parcel; that at no time did DelDOT request the Applicant to abandon their proposal; that DelDOT knew the access was there; that DelDOT knew they were requesting the Conditional Use for the campground, however, they had not had a pre-coordination meeting with DelDOT, and their goal is to get approval for the emergency access.

Mr. Whitehouse stated that DelDOT had published a document in the last 12 months for the entire Capacity Corridor Preservation Program, showing a host of reconfigurations of existing entrances and crossovers being closed, and that the document is available online.

Mr. Davidson stated there is a proposed service road plan that will end at the Parkers' property, as part of the new overpass, which they are placing on Route 16.

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, Madam Chair Wingate closed the public hearing.

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

In relation to C/U 2586 Preston & Mason Dyer. Motion by Mr. Passwaters to defer action for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 4-0.

PUBLIC COMMENT

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

Meeting adjourned at 5:08 p.m.

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