

MINUTES OF THE REGULAR MEETING OF APRIL 16, 2025

The regular meeting of the Sussex County Planning and Zoning Commission was held on Wednesday afternoon, April 16, 2025, in the County Council Chambers, Sussex County Administrative Office Building, 2 The Circle, Georgetown, Delaware.

The meeting was called to order at 5:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Ms. Holly Wingate, Mr. Bruce Mears, and Mr. Scott Collins. Mr. Brian Butler 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. Jessica Iarussi – Recording Secretary.

Mr. Whitehouse announced that there are three changes to the agenda under Old Business items; that CZ 2016, CU 2459, and Subdivision 2023-08 be removed from the agenda; that the Applicant has withdrawn them; and that they will be submitted at a future date and new notifications will be sent to the public.

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

Motion by Mr. Mears, seconded by Ms. Wingate, to approve the Minutes of March 5, 2025, of the Planning and Zoning Commission Meetings as CIRCULATED. Motion carried 4-0.

PUBLIC COMMENT

The Commission found that Kevin spoke about being homeless and the need for affordable housing.

OTHER BUSINESS

S-21-36 Mavapple Farm (C/U 2249)

Revised Final Site Plan

This is a Revised Final Site Plan for a revision to a previously approved Conditional Use Site Plan for the construction of forty-one (41) single-family detached condominium units. Specifically, proposed revisions to the Plan include the following: The size of the base units was changed from 36-ft x 48-ft to 36-ft x 60-ft (for an increase in 12-ft of length), the length of the driveways decreased from 20-ft to 18-ft (for a decrease of 2-ft in length), Unit 34 was relocated to be adjacent to Unit 33. To accommodate this change, Units 30 through 33 were reoriented to the west/northwest, the four (4) parking spaces adjacent to Lot 34 were eliminated, Unit 35 was reoriented to front on Seneca Lane instead of Edisto Court as previously approved, Edisto Court was extended eastward into a “T” shape with Seneca Lane and will serve Units 36 through 41, Seneca Lane was shortened in conjunction with the changes to Edisto Court and the locations of

Units 36 through 41 and, the previously approved “kayak pier” was amended to be a “water access area” only. The Preliminary Site Plan was approved by the Planning and Zoning Commission at their meeting of Thursday, June 23rd, 2022, with final approvals made subject to Staff upon the receipt of all required agency approvals. The property is located on the southwest side of Williamsville Road (S.C.R. 395), approximately 0.71-mile east of Lighthouse Road (Route 54) in Selbyville, Delaware. A supplemental Applicant Exhibit has been provided showing the originally approved vs. revised changes to the Plans. The Revised Final Site Plan complies with the Sussex County Zoning and Subdivision Codes and all Conditions of Approval. Tax Parcel: 533-19.00-289.05. Zoning: Agricultural Residential (AR-1) District. Staff are in receipt of all agency approvals to include revised/updated agency approvals from the Office of Drinking Water, Artesian and the Sussex County Engineering Department relating to the previous changes mentioned.

Motion by Mr. Mears, seconded by Mr. Collins and carried to Approve the Revised Final Site Plan. Motion carried 3-0. Ms. Wingate abstained.

S-24-23 Breakwater Fence (F.K.A. Sussex Land Fence) (C/U 2220)

Preliminary Site Plan

This is a Preliminary Site Plan for use of an existing 3,200 square foot metal building to operate a fencing and decking business with outdoor storage, parking and other associated site improvements. The property was previously the subject of a related Conditional Use Application, (Conditional Use No. 2220) filed on behalf of Sussex Land Company (Victor Little) to allow for a fence construction business and for outdoor storage of construction materials to be located within an Agricultural Residential (AR-1) District. The Sussex County Council approved the Application at their meeting of Tuesday, September 29th, 2020, subject to eight (8) conditions and the change was adopted through Ordinance No. 2741. The Preliminary Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval. The property is located on the west side of Holly Tree Road (S.C.R. 226), approximately 0.21 mile south of Fleatown Road (S.C.R. 224) at 11412 Holly Tree Road in Lincoln, Delaware. Tax Parcel: 230-20.00-9.09. Zoning: Agricultural Residential (AR-1) 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. Butler, seconded by Ms. Wingate and carried unanimously to Approve the Preliminary Site Plan with final approval by Staff upon receipt of all agency approvals. Motion carried 4-0.

S-24-84 Even Tide Dodd’s Addition

Preliminary Site Plan

This is a Preliminary Site Plan for Even Tide Dodd’s Addition for the construction of seven (7), 3-story single family detached condominium units and other site improvements. Board of Adjustment Case No. 13038 for a variance of 5-foot from the required 20-foot Combined Highway Corridor Overlay Zone (CHCOZ) buffer requirement and a 3.5-foot variance from the 3.5-foot maximum height requirement for a fence was approved by the Board of Adjustment at their

meeting of Monday, March 10th, 2025. The parcel is located on the northeast corner of Coastal Highway (Route 1) and Robinsons Drive and northwest corner of Coastal Highway (Route 1) and Anna B Street, a through lot within Dodd's Addition. A parking waiver request letter has been submitted to allow parking to be located within the front yard setback. The Preliminary Site Plan complies with the Sussex County Zoning Code. Tax Parcel: 334-20.09-47.00. Zoning: General Commercial (C-1) 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. Collins, seconded by Ms. Wingate and carried unanimously to Approve the Preliminary Site Plan with final approval by Staff upon receipt of all agency approvals. Motion carried 4-0.

S-25-23 TPE DE SU07, LLC (Elks Road) (CU 2342)

Preliminary & Final Site Plan

This is a Preliminary and Final Site Plan for the construction of a solar facility and other related site improvements. Conditional Use No. 2342 to permit the use at the site was approved by the Sussex County Council at their Meeting of Tuesday, of February 21st, 2023, via Ordinance No. 2904. The fenced area containing the solar arrays occupies 25.012 +/- acres of the Parcel which is comprised of a total of 39.45 +/- acres. The Parcel lying on the south side of Elks Road (S.C.R. 46) about 1,300 feet south of the intersection of Elks Road (S.C.R. 46) and Cannon Road (Route 18) and on the west side of Weeping Willow Trail. The Preliminary & Final Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Tax Parcel: 331-1.00-15.01. Zoning District: AR-1 (Agricultural Residential Zoning District). Staff are in receipt of all agency approvals. A Decommissioning Plan has also been included which addresses the financial security component of the Conditions of Approval; therefore, the Plan is eligible for both Preliminary & Final Approval.

Motion by Mr. Collins, seconded by Ms. Wingate and carried unanimously to Approve the Preliminary and Final Site Plan to include the privacy screening as requested by the Commission. Motion carried 4-0.

S-25-27 Verizon Wireless – DOV Oceanmist

Preliminary Site Plan

This is a Preliminary Site Plan for the construction and establishment of a 135-ft tall telecommunications tower (to include a 5-ft lightning rod,) fencing, and other related site improvements. Staff note that subject to the provisions of §115-194.2(A) of the Code which requires the submittal of a Special Use Exception to the Board of Adjustment, the Site was the subject of a previous Application for a Special Use Exception (BOA Case No. 13017), which was approved by the Board of Adjustment at their meeting of Monday, December 9th, 2024. The property is located at 30430 Cedar Neck Road (S.C.R. 357) and is lying on the west side of Cedar Neck Road in Ocean View, Delaware. The Preliminary Site Plan complies with the Sussex County Zoning Code. Zoning: B-1 (Neighborhood Business District) and GR (General Residential

District). Tax Parcel: 134-9.00-67.00. Staff are in receipt of all agency approvals. Therefore, the plans are eligible for both preliminary and final approvals.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to Approve the Preliminary Site Plan. Motion carried 4-0.

Lands of Fernandez Subdivision (F.K.A. Cover Subdivision)

Minor Subdivision Plan off a proposed 30-ft easement

This is a Minor Subdivision Plan for the creation of three (3) lots plus the residual lands with Lot 1 having access from Frankford School Road (S.C.R. 92) and Lots 2, 3 & Residual lands having access off a proposed 30-ft wide ingress/egress access easement. Proposed Lot 1 will consist of 0.75-acres +/-, proposed Lot 2 will consist of 2.03-acres +/-, proposed Lot 3 will consist of 1.70-acres +/-, and the residual lands will contain 3.52-acres +/- . A shared use maintenance agreement shall be established for the use of the shared access road. The property is located southwest of Frankford School Road (S.C.R. 92), approximately 830-feet northwest of Shockley Town Road (S.C.R. 375). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 533-5.00-7.00 Zoning: GR (General Residential District). Staff are in receipt of all agency approvals. Therefore, the plans are eligible for both preliminary and final approvals.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to require a public hearing for this Minor Subdivision Application. Motion carried 4-0.

Lands of Alvin & Lora Hastings

Minor Subdivision Plan off an existing 50-ft easement

This is a Minor Subdivision Plan for the creation of one (1) lot plus the residual lands with access off an existing 50-ft wide ingress/egress access easement. Proposed Lot 1 will consist of 1.91-acres +/-, and the residual lands will contain 1.70-acres +/- . A shared use maintenance agreement shall be established for the use of the shared access road. The property is located on Hastings Road (Private Road) off of Airport Road (S.C.R. 488), approximately 622 feet east of Sussex Highway (Route 13). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 132-2.00-280.02. 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 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 Minor Subdivision Plan off a proposed 50-ft easement with final approval to be made subject to staff upon the receipt of all agency approvals. Motion carried 4-0.

Lands of Brandon L. Walton

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 1 will consist of 2.39-

acres +/-, and the residual lands will contain 2.39-acres +/- . A shared use maintenance agreement shall be established for the use of the shared access road. The property is located on Airport Road (S.C.R. 488), approximately 622 feet east of Sussex Highway (Route 13). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 132-2.00-280.05. 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 final approval be made subject to staff upon the receipt of all agency approvals.

Motion by Mr. Collins, seconded by Ms. Wingate and carried unanimously to Approve the Minor Subdivision Plan off a proposed 30-ft easement with final approval to be made subject to staff upon the receipt of all agency approvals. Motion carried 4-0.

Lands of Bryan and Williams Properties, LLC

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 1 will consist of 0.8403-acres +/-, and the residual lands will contain 1.0750-acres +/- . A shared use maintenance agreement shall be established for the use of the shared access road. The property is located west of Seaford Road (Route 13), approximately .025 miles north of Johnson Road (S.C.R. 488). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 132-6.00-186.01 Zoning: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals. Therefore, the plans are eligible for both preliminary and final approvals.

Motion by Mr. Collins, seconded by Ms. Wingate and carried unanimously to Approve the Minor Subdivision Plan off a proposed 30-ft easement with the condition that the dirt pile be removed from the area of the proposed easement. Motion carried 4-0.

OLD BUSINESS

C/Z 2001 Belmead Farm, 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 LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 39.22 ACRES, MORE OR LESS. The property is lying on the east side of John J. Williams Highway (Route 24) approximately 0.31 miles southwest of Mulberry Knoll Road (S.C.R. 284). 911 Address: 20033 John J. Williams Highway, Lewes. Tax Parcel Nos.: 334-18.00-40.01 & 40.06.

The Commission discussed this application which has been deferred since March 19, 2025.

The record is now closed for the Planning and Zoning Commission.

ORD 24-04

AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 135-11.00-65.00. The Parcel containing approximately 9.623 acres of land, lying and being within Georgetown Hundred, and located on the northeast side of Gravel Hill Road (Route 30), approximately 0.02 miles east of the intersection of Gravel Hill Road (Route 30) and Lewes Georgetown Highway (Route 9).

The Commission discussed this application which has been deferred since March 19, 2025.

Ms. Wingate moved the Commission to recommend a denial of Ordinance # 24-04 to amend the Future Land Use Map from its current designation of being within the Low Density Area to the Commercial Area for the property identified as Sussex County Tax Map and Parcel #135-11.00-65.00 based on the record made during the public hearing and for the following reasons:

1. The property that is the subject of this Application is designated as being within the “Low Density Area” according to the Future Land Use Map in the current Sussex County Comprehensive Plan.
2. The property in question is surrounded by land with a “Low Density Area” designation. It is not adjacent to, or an expansion of, the Commercial Area at this location.
3. The State of Delaware, through its Office of State Planning Coordination, is currently updating its State Strategies Mapping. In addition, Sussex County will soon be embarking on the update to the Comprehensive Plan. The Future Land Use Mapping for this parcel should be reviewed comprehensively as part of both of these initiatives to determine whether it is appropriate to change the mapping designation for this entire area. Under these circumstances, it is not appropriate to change the mapping for this single isolated 9.6-acre parcel of land.
4. Given the Applicant’s stated residential plans for this property, I am not satisfied that the “Commercial Area” is the appropriate designation for the property. According to the Comprehensive Plan, the “Commercial Area” designation is intended to allow uses that primarily “include concentrations of retail and service uses” such as “commercial corridors, shopping centers and other medium and large commercial vicinities geared towards vehicular traffic” and it “would also be the appropriate place to locate hotels, motels, car washes, auto dealerships and other medium and larger scale commercial uses....”.
5. The Applicant has proposed a residential use for the property under the Sussex County SCRPP Program. That is not the primary focus of the Commercial Area designation that the Applicant is seeking. Instead, the SCRPP program can also occur in the Coastal Area and

Developing Areas as well. Again, the appropriate Future Land Use Designation for this property can be achieved as part of the upcoming amendments to the Comprehensive Plan, when all appropriate possibilities and designations can be considered for the area as a whole, and not just this single property.

6. I am not satisfied that there are sufficient reasons to convert this property to a “Commercial I Area” designation on the Future Land Use Map under these circumstances and at this time.
7. For all of these reasons, I am recommending that this amendment to the Future Land Use Map be denied.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to recommend **DENIAL** of **ORD 24-04** for the reasons and the conditions stated in the motion. Motion carried 4-0.

Vote by roll call: Mr. Mears – yea, Ms. Wingate – yea, Mr. Collins – yea, Chairman Wheatley – yea

C/Z 2049 Toney Floyd Trucking, LLC

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN B-2 COMMUNITY BUSINESS DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.95 ACRES, MORE OR LESS. The property is lying on the southeast side of John J. Williams Highway (Rt. 24), approximately 520 feet northeast of Layton Avenue. 911 Address: N/A. Tax Map Parcel: 234-32.00-60.00.

The Commission discussed this application which has been deferred since April 2, 2025.

Ms. Wingate moved the Commission to recommend approval of Change of Zone #2049 for **TONEY FLOYD TRUCKING, LLC** for a change in zone from the B-2 Community Business District to AR-1 Agricultural Residential based on the record made during the public hearing and for the following reasons:

1. This property was recently rezoned from AR-1 to B-2 so that it could be used for business purposes in conjunction with the Applicant’s existing business next door. The purpose of this down-zoning is to allow the Applicant to obtain a conditional use for an appropriate business at this location that is not specifically permitted in the B-2 District.
2. The property is located along Route 24 near the future intersection with the Millsboro Bypass. AR-1 zoning with a conditional use for the Applicant’s business is appropriate at this location.
3. Downzoning this property to AR-1 is consistent with the Sussex County Comprehensive Plan and its Future Land Use Map.
4. The purpose of this downzoning is to enable a conditional use for the Applicant’s business.

There will not be any public access, and the use will not have an adverse impact on the neighborhood.

5. Should the conditional use not be approved, or should it expire, the AR-1 zoning will remain in place, which is a less-intensive zoning district than the B-2 District.
6. The record includes a petition signed by many of the neighboring property owners supporting this rezoning. There was no opposition to this application.
7. For all of these reasons, the rezoning of this property from B-2 to AR-1 is appropriate.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to recommend **APPROVAL** of **C/Z 2049 Toney Floyd Trucking, LLC** for the reasons and the conditions stated in the motion. Motion carried 4-0.

Vote by roll call: Mr. Mears – yea, Ms. Wingate – yea, Mr. Collins – yea, Chairman Wheatley – yea

C/U 2580 Toney Floyd Trucking, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR COMMERCIAL HAULING, GOODS AND MATERIALS DELIVERY SERVICES, AND DRIVEWAY INSTALLATION BUSINESS TOGETHER WITH STORAGE OF VEHICLES, EQUIPMENT, AND MATERIALS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.95 ACRES, MORE OR LESS. The property is lying on the southeast side of John J. Williams Highway (Rt. 24), approximately 520 feet northeast of Layton Avenue. 911 Address: N/A. Tax Map Parcel: 234-32.00-60.00.

The Commission discussed this application which has been deferred since April 2, 2025.

Ms. Wingate moved the Commission to recommend approval of Conditional Use #2580 for **TONEY FLOYD TRUCKING, LLC** for a business that performs commercial hauling, deliveries of goods and materials and driveway installations on land zoned AR-1 based upon the record made during the public hearing and for the following reasons:

1. As a result of a downsizing from B-2, this site will again have an AR-1 zoning. It is in a location where other small businesses exist. It is also located along Route 24 near the future intersection with the new Millsboro Bypass. These circumstances make this property an appropriate location for the Applicant's business.
2. The property is located within the Coastal Area according to the Sussex County Comprehensive Plan. Small business uses like this one are appropriate within this Area according to the Plan.
3. DelDOT has stated that the traffic generated by this use will be "diminutive".

4. The proposed use will not have a negative impact on the neighboring properties or roadways in this location.
5. The use is of a public or semi-public character that is desirable for the general convenience and welfare of the area and the County.
6. One neighbor testified in support of the Application and a petition was submitted in support of the Application signed by several neighbors. No parties appeared in opposition to the application.
7. This recommendation is subject to the following conditions:
 - a. This recommendation is conditioned upon the approval of Change in Zone #2049 to rezone this property from the B-2 District to the AR-1 District.
 - b. The use shall be limited to a business for commercial hauling, goods and materials delivery services, and driveway installation business together with the storage of vehicles, equipment, and materials associated with these uses.
 - c. There shall be no retail sales occurring on the property.
 - d. The hours of operation shall be from 6:30 a.m. through 6:30 p.m., Monday through Friday, and 8:00 a.m. through 3:00 p.m. on Saturdays. Deliveries of materials shall only be made to the site between the hours of 9:00 a.m. through 4:00 p.m., Monday through Friday. There shall be no Sunday hours.
 - e. All materials associated with the driveway installation aspect of the business shall be managed in a manner that prevents accumulation beyond necessary operational needs. The storage area shall be located on a stabilized surface. All materials stored onsite shall only be kept in a neat, clean and orderly condition. Materials shall be stored within designated storage bins that are clearly identified on the Final Site Plan.
 - f. Parking shall be in compliance with Sussex County standards and be constructed with a stabilized surface. The parking areas shall be shown on the Final Site Plan and clearly marked on the site itself.
 - g. No junked, inoperable or unregistered vehicles, trailers, or equipment shall be kept onsite.
 - h. No maintenance of vehicles, trailers, or equipment shall occur onsite except for limited minor maintenance and repairs that can be reasonably conducted onsite, including those performed by mobile servicers. These services may include minor tasks such as battery replacement, tire changes, oil changes, air hose changes, and minor trailer repairs like those for tongues or hitches. Such maintenance services shall not involve extensive equipment that is only typically available at offsite repair shops or maintenance facilities.
 - i. No hazardous materials or fuel shall be stored onsite, except for limited quantities necessary for routine vehicle and equipment maintenance, such as oil changes. All liquids, oils and hazardous materials shall be handled, contained and properly

disposed of in accordance with federal, state and local requirements and industry practices.

- j. One lighted sign shall be permitted. It shall not exceed 32 square feet in size.
- k. There shall be perimeter fencing installed along all sides of the property other than the frontage along Route 24. The fencing shall be solid and with a height of 7 feet to screen this use from neighboring and adjacent properties. The design, height and location of the fence shall be shown on the Final Site Plan.
- l. All lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.
- m. 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.
- n. The Applicant shall comply with all DelDOT requirements for entrance and roadway improvements.
- o. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to recommend **APPROVAL** of **C/U 2580 Toney Floyd Trucking, LLC** for the reasons and the conditions stated in the motion. Motion carried 4-0.

Vote by roll call: Mr. Mears – yea, Ms. Wingate – yea, Mr. Collins – yea, Chairman Wheatley – yea

PUBLIC HEARINGS

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

C/U 2484 Dick Ennis, Inc.

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A BOAT REPAIR FACILITY WITH OUTDOOR BOAT AND RV STORAGE, A LANDSCAPE BUSINESS, AND A CONSTRUCTION BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 5.371 ACRES, MORE OR LESS.

The property is lying on the southwest side of Layton Davis Road (S.C.R. 312-A), approximately 0.82-mile southeast of John J Williams Highway (Rt. 24). 911 Address: N/A. Tax Map Parcel: 234-34.00-53.00.

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the staff analysis, a copy of the DelDOT Service Level Evaluation response letter, and 20 written comments.

The Commission found that Ms. Shannon Carmean Burton, Esq. was present on behalf of the Applicant, Dick Ennis, Inc. who has applied for an ordinance to grand a Conditional Use in a General Residential (GR) District for the purposes of operating a boat repair and sales facility with outdoor boat and RV storage, a landscape business, and a construction business; that also in attendance are Dick Ennis, Chris Ennis, and Ken Christenbury, P.E. with Axiom Engineering, LLC.; that exhibit booklets have been submitted into the record which include an amended deed for the property, the staff analysis showing other approved conditional uses in close proximity to the property, the proposed conditional use site plan, the DelDOT service level evaluation response, and the proposed findings of fact and conditions of approval; that the Applicant has received multiple letters in support of the application which have been submitted into the record; that the property is located on the southwest side of Layton Davis Road approximately .85 miles southeast of John J. Williams Highway; that it contains approximately 5.371 acres and is currently unimproved; that it is owned by Marshall and Geneva Harris who have entered into a contract to sell the property to the Applicant; that the contract is contingent upon the County Council's approval of this Conditional Use Application in addition to all agency approvals of the Conditional Use Site Plan; that the Applicant proposes to develop the property in three phases which is depicted on the Site Plan; that the proposed use of the property is a permitted conditional use under the zoning code, and it is consistent with the purposes and the goals of the comprehensive land use plan; the 2018 Sussex County Comprehensive Plan update future land use map indicates that this property has a land use designation of coastal area; that the coastal area is a growth area and stated that appropriate mixed-use development should be allowed and doing so however, careful mixtures of homes with like commercial office and institutional uses can be appropriate to provide for convenience services and to allow people to work close from home; that the proposed project is appropriate and compatible with the goals and directions of the coastal area of the comprehensive plan, as its purpose is to provide convenient areas for businesses that will serve and address the needs of this rapidly growing area; that there is a need for the uses proposed by the Applicant in this area of Sussex County; that there are many nearby residential developments as well as apartment complexes that prohibit the storage or parking of boats and RV's within the communities; that there is always a need for our lawn care and landscape services as well as construction services; that this property provides an appropriate and convenient location to address all of those needs on one property; that the proposed use is also consistent with the character and the commercial trend of development in this area; that there have been 30 conditional use applications within a one mile radius of this site, including but not limited to one that was recently approved and that conditional use is on Layton Davis Road; that for other uses, such as office storage, multifamily residential recreation and other uses with the conditions and limitations that are being proposed by the Applicant, the proposed uses will not have an adverse impact on neighboring properties or the community; that the proposed uses are of a public or a semipublic care, and it is desirable for the general welfare and convenience of neighboring properties and uses in the area; that the 2020 Delaware Strategies for State Policies and spending identify their property as being located in an investment level 2 area where the state does support growth in the near future and indicates that state investments and policies should support and encourage a wide range of uses and investment level 2 areas; that the proposed conditional use does not require any public funds for the use, and it is consistent with the state policies and spending for this area; that the

proposed use will have no significant impact on traffic and DelDOT did not recommend that a traffic study traffic impact study be performed for the proposed uses; that based on the flood insurance rate map, the entire property is located in an area designated as Zone X, which is an area determined to be outside the 500 year floodplain; that the property will also be served by an on-site well and on-site wastewater treatment disposal system; that the Applicant has also proposed conditions of approval; that the Applicant proposes that the conditional use be limited to the following land uses of lawn care and landscape business repair and maintenance of boats and recreational vehicles, boat and outboard engine sales, outdoor storage of boats and recreational vehicles, Custom Home Builder, office and indoor storage, and one single family detached dwelling is proposed the above land; that the Applicant is proposing 3 phases of development; that building permits shall not be issued until the phase, including the building has received final site plan review and approval from the following agencies. Delaware Department of Transportation Sussex Conservation District, Delaware State Fire, Marshall's office, Delaware Department of Natural Resources and Environmental Control, and the Sussex County Planning and Zoning Commission; that the hours of operation shall be from sunrise to sunset; that all security lighting shall be shielded and downward screened so that it does not shine on neighboring properties; that the storage areas shall be covered with a pervious stabilizing material. The location and type of material shall be shown on the final site plan; that the conditional use shall be subject to all DelDOT requirements regarding the entrance and roadway improvements necessary to provide access to this site; that the entrance drive from Layton Davis Road to the property shall have a paved width of at least 24 feet to accommodate vehicles with boat trailers and RV's, and to allow sufficient space for such vehicles to safely wait to exit the property onto the state road; that any boat, fuel or hazardous materials shall be stored in accordance with all applicable regulations; that one sign shall be permitted on the property and it shall not exceed 32 square feet in size; that the perimeter of the property shall be fenced with a 6-foot high chain link security fence; that there shall be a landscape buffer between the outside of the fence and the perimeter of the property to screen views from adjoining properties and the landscape buffer shall be 20 feet wide; that the final site plan shall indicate the plantings to be provided in the buffer areas; that the final site plan for each phase shall depict or note these conditions and shall be subject to the review and approval of the Sussex County Planning and Zoning Commission; that for the reasons presented tonight and based on the public record, the proposed conditional use is appropriate under the comprehensive plan as it is consistent with the surrounding land uses, the character and the trend of development in this area, the zoning and it does provide a convenient and central location to services that will benefit the present and future inhabitants of our County, it also meets the general purpose of the zoning ordinance as a public or semipublic use essential and desirable for the general convenience, growth, order, prosperity and welfare of our County; and that for these reasons, we respectfully request that the Commission recommend approval of this conditional use application.

Ms. Carmean Burton introduced Mr. Ken Christenbury to provide an overview of the project.

Mr. Christenbury stated that it's an agricultural use; that there are some residential properties in the surrounding area; that the entire area is zoned GR; that it's not an AR property that's being proposed for this conditional use; that the deed is in the application; that the staff analysis indicates

the conditional uses in the area; that the use of conditional use to provide for businesses in rural areas is not uncommon and the growth in this area certainly has increased the need for all kinds of businesses and boat storage certainly is in demand in this part of Sussex County; that the Applicant is proposing a 20-foot forested buffer; that Phase 1 is going to be the boat repair building here, a small rental office, and just inside the perimeter buffer will be a security fence for the outdoor boat storage; that Phase 2 is simply a single family home for a site manager; that Phase 3 would be the home building contractor office; that the boat storage in this area is in high demand; and that there would be about five employees at the end of Phase 1 and ten employees by the end of Phase 3.

Mr. Dick Ennis stated that there will be very little material stored on the property; that there will be a truck and small bobcat to move boats; that there may be some mulch or stone stored on the property; that the hours of operation would be seven days a week; that the hours may vary for snow removal situations; and that there will be a portable fuel tank for trucks.

The Commission found that no one appeared in support of or in opposition to the application.

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

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

In relation to **C/U 2484 Dick Ennis, Inc.** Motion by Mr. Mears to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 4-0.

C/U 2503 Hastings Community Energy Initiative, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR ENERGY FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 33.69 ACRES, MORE OR LESS.

The property is lying on the east side of Normandy Lane, a private lane accessed off E. Seventh Street. 911 Address: N/A. Tax Map Parcel: Tax I.D. No.: 132-1.00-11.00.

Mr. Whitehouse advised the Commission that submitted into the record are the Applicant's conceptual site plan, the Applicants exhibit booklet and exhibits, the Applicant's presentation, the Staff Analysis report, the DelDOT service level evaluation response letter, a letter received from the Sussex County Engineering Department Utility Planning division, and four comments which are included in your paperless packet.

The Commission found that Mr. David Hutt, Esq. was present on behalf of the Applicant, Hasting Community Energy Initiative, LLC.; that also in attendance are Todd Fryult, C.E.O. and founder of EC Solar which is the affiliate of the Applicant, Michael Redding, Director of Civil Engineering, John Falkowski, P.E. with Becker Morgan, and Whitney Pogwist who is a representative of the family ownership group of this property.

Mr. Hutt stated that this application deals with renewable energy, which is a primary focus of national, local, and state governments; that in 2021 Governor Carney signed a law requiring Delaware's renewable standards to increase to 40% by 2035, which basically means that's the percentage of Delaware's energy that must come from renewable energy sources such as solar energy; that as part of the laws that were enacted in 2021 as part of that renewable portfolio standard, a process was established in Delaware for what is designated in that statute as Community owned energy facilities; that this Planning Commission is familiar with these application as there have been many of them over the past year or two; that in addition to the governmental mandates, businesses are making similar pledges and promises; that many Fortune 500 companies have promised to their shareholders and consumers that they're going to decrease their environmental footprint by becoming carbon free energy users by year 2035; that in order for governments, businesses and even individuals to accomplish these goals to convert renewable energy sources like sunlight into energy, applications like this are necessary; that this afternoon's application is for a 3.75 MW facility on approximately 15 1/2 acres of a property that's a little more than 33 acres just south of the town of Blades; and that this application is a Community Energy facility of the kind of the nature I just described from Title 26, Chapter 10 of the Delaware Code/

Mr. Hutt introduced Mr. John Falkowski to provide an overview of the project.

Mr. Falkowski stated that Normandy Lane will not be used for either construction or permanent maintenance access and nothing will be disturbed on that road; that all access will be taken off the highway, through the existing entrance; that it is a paved access that eventually quits and will be extending that road into the site for both construction and permanent access with a 16 foot wide gravel road; that the road will continue down the 40 foot easement to where the property starts; that the property is mostly wooded; that the fenced array area will be fenced and planted with a pollinator Meadow mix to help reduce stormwater runoff; that it will be a typical agricultural fence with four inch openings and it would have the mesh screening, although in this property we would propose that that mesh screening be on the north side and the west side, where it is in close proximity to the neighbors; that the Applicant requests that the south side not receive that mesh screening as it is directly adjacent to wooded property in Morgan's branch; that the woods would be cleared with the area of the array and an area outside the array which will be left stumped and with vegetation to grow back; that there will be a vegetated buffer along the north side approximately 60 foot in width on that north side; that there is 150-foot buffer that is between the subject property and the adjacent neighborhood, so that will remain in place as well, although we do not control it as it is a connective easement; that the Applicant is working with Sussex Conservation District on the proposed stormwater management; that there is no increase in traffic with these types of facilities, typically one to two vehicles a month just to maintain the property; that it is a renewable energy source that does not produce odors, dust, gas, smoke or fumes; that any inverters will be centrally located and very low to no noise coming from those that equipment; that runoff reduction that will be required of the project, whether that's through a pond and a combination of the Meadow grass will be provided; that at the gated access to the facility, there will be a Knox box provided with a turnaround for the fire department for those emergency

provisions to the facility; that there will be decommissioning plan provided for the project; that about 3 weeks ago we had a community meeting with residents from the community and we answered questions for them; and that because there will be clearing of 15 plus acres of woods, ECA and the Applicant is committed to providing a conservation easement on another parcel within the Nanticoke watershed.

Ms. Whitney Hastings Pogwist stated that she is one of the property owners; that the property has been in her family for a long time; that her grandfather planted the trees before 1964; that the considered storage or townhomes; that she was interested in the concept of solar as the property will stay in their ownership and eventually their children would inherit it; and that there are 30 acres but only 15-17 acres will be disturbed; that the solar farm will be contributing to sustainable use in the Community and offering the town of Blades the opportunity for energy credits for their bills; that because of the proposed buffer, the solar farm will not be visible from Little Meadows; and that this is the least invasive way to develop the property.

Mr. Hutt stated that these Community energy solar facilities are a of a public or semi-public character that are desirable for the general convenience and welfare of Sussex County and meets the conditional use standard set forth in section 115-171; that this is consistent with goals 7.3 of the county's comprehensive plan, which encourages the use of renewable energy options like solar arrays and facilities; that because this proposal that is a bit unique proposed findings of fact and conditions are being submitted by the Applicant; that there are the two conditions that are unique to this application; that proposed condition C is that mesh covered screening be on the northern side and the western side which is the closest sides of the solar facility to the residential uses and not on the other sides where there's a larger expanse of woods next to the solar facility; that the Applicant will create a landscape buffer along those areas; that the second condition that I wanted to focus on is condition I and condition I is regarding a conservation easement and the details are there, but the conservation easement that the Applicant would be required to be placed under this proposed condition is an easement for at least 25 year, the projected lifespan of this facility; that this easement be placed on a minimum of 30 acres within the Nanticoke River watershed; that the goal is to have a positive impact on the environment; that condition I states that the final site plan shall identify the property subjected to the conservation easement.

Mr. Michael Redding stated that a few universities have completed studies to try to quantify the carbon release into the atmosphere; that when you compare to shutting down a coal plant, it is roughly for every one acre of solar would be equivalent to planting 10,000 trees and shutting down a natural gas plant it would be equivalent to planting 1,000 trees; that there are no issues with nuclear as far as greenhouse gases; and that the inverters are centrally located to maximize the efficiency of the electricity; and that it is approximately 200 feet away from the nearest dwelling; that studies show that inverters beyond 50 feet are similar to a whisper; and that they sound like a commercial air conditioner.

The Commission found that Mr. Bill Andrew spoke in support of the Application.

Mr. Andrew stated that he is the retired CEO of Delaware Electric Cooperative, where we built several of these type of facilities to serve the COOP members; that he is concerned that people feel that solar energy cost and renewable energy cost so much more, and that is causing electric bills to go up; that is false; that problem that we have is that we live on Peninsula and do not have any local generation support the load we have here; that we import it all in on transmission system from other power plants out of state or in the northern part of New Castle County; that Community Solar offers a 10% reduction in the cost of the energy for those subscribers, but that's not the only benefit that we receive here with respect to the local generation and is going to stay on Delmarva Power customers; that another benefit that we have is you reduce the loads that we have on our system and it gives us the advantage of being able to add additional loads and some growth in the area, but in the same time we reduce the losses associated with that and it precludes the any premature upgrades of these lines because it reduces the transmission; that it also has a positive benefit for congestion when the lines load up; that as a summer peaking area, the solar energy works the best during the summer time because the sun's out longer; and that this is a benefit for the entire community.

The Commission found that Mr. Keith Redmond spoke in support of the Application.

Mr. Redmond stated that he represents the Little Meadow community adjacent to the subject property; that the Community is in favor of this project; and that they are away of the closing of the coal plan and are to get benefit from this project to lower electric bills.

The Commission found that no one appeared in opposition to the application.

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

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

In relation to **C/U 2503 Hastings Community Energy Initiative, LLC**. Motion by Mr. Collins to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 4-0.

C/U 2524 Brian Rowe

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING BUSINESS TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 5.41 ACRES, MORE OR LESS. The properties are lying on the south side of Lynch Road (S.C.R. 387A), approximately 0.18 mile southeast of Lighthouse Road (Rt. 54). 911 Address: 32190 & 32198 Lynch Road, Selbyville. Tax Map Parcels: 533-17.00-164.08 & 164.09.

Mr. Whitehouse advised the Commission that submitted into the record are the Applicant's conceptual site plan, the Staff Analysis report, the Applicant's boundary survey; the DelDOT service level evaluation response letter, a letter received from the Sussex County Engineering Department Utility Planning division, and that there were no comments.

RECESS

6:44 p.m. – 6:51 p.m.

The Commission found that Mr. Brian Rowe and Ms. Caitlin Rowe were present on behalf of their application.

Mr. Rowe stated that he and his wife own and operate Rowe Property Maintenance, LLC, a small family business located on the same property as our residence; that the reason for applying did not arise from any known complaints from our neighbors or community and are simply asking permission to continue operating the business as it has been; that a tremendous amount of time and money was spent in recent years to mitigate any impacts the business has on neighbors and expanding community; that the property was originally an active poultry farm that his parents operated throughout his childhood until about 1998; that his father started the original business as poultry repair and farm maintenance business and it morphed into a landscape maintenance company in the following years until health reasons forced him to take a position with the Sussex County Engineering Department where he worked until his passing; that in his senior year of high school, he decided to restart the landscaping business operating out of a retired manure shed after his father's passing; that his mother subdivided the property, affording him the opportunity to build his house next to the shop; that his mother still resides in the original house; that the company has grown with the recent growth in our area; that he wants to follow all the proper rules and laws which lead to submitting the conditional use application; that he currently operates 12 trucks, 6 trailers and various pieces of equipment with the current staff of 15 employees as shown on our site plan; that there is ample parking for our current employees and business assets in addition with room to expand; that some employees carpool, some take home company vehicles, and on larger commercial projects employees will meet directly at the job site; that the typical hours of operation are 6:30 AM to 6:30 PM Monday through Friday; that they do offer commercial snow removal and also hold contracts with the state, particularly DelDOT that require some night operations; that he would ask for some flexibility within our typical hours of operation since our business is largely dependent on the weather, we work some Saturdays when inclement weather during the week disrupts our schedule; that there is the ability to turn off back alarm backup alarms while in our yard; that there is on site fuel for our vehicles and equipment and the tanks are properly labeled and contained as required; that they perform MPM services on vehicles and equipment in the shop; that all fluids and chemicals are properly stored and a waste management company dispose of, said fluids and chemicals; that palletized and bulk materials are stored on the property to be used in daily operation; that bulk material is stored in concrete landscape bins located at the rear of the property; that most palletized material is stored in our repurposed poultry house; that yard waste that we move from jobs is stored in a separate concrete bin wall enclosure where it is loaded into a roll off dumpster and hauled to a recycling facility as needed; that there is no grinding

or burning of yard waste on site; that there is a properly stabilized topsoil stockpile that we periodically screen and use for projects; that the bulk of the soil is used to create additional landscape berms to better mitigate any impact we may have on our neighbors; that there are several large landscape berms installed to reduce visibility, noise and light pollution; that the barn at the rear of the property and the Northwest property line have been planted with rows of Green Giant arborvitae trees to help further reduce our operations impact on the community; that the existing berm along the road has also been landscaped to provide neighbors with a more aesthetically pleasing view; that if approved, the current building shown on the site plan with no future office will be demolished and a new building will be erected in its place; that they do not currently offer any retail or wholesale sales and do not plan to offer in the future; that the proposed office will be for our employees only, with the occasional client or sales representative meeting; that a single 32 square foot lighted sign meeting the requirements set forth by the Commission is requested; and that the ability to have the family business located on the same property as our home provides the unique opportunity to incorporate our young children into the ins and outs of entrepreneurship, even if it's just a quick lunch break with them before heading out to the next job.

The Commission found that no one appeared in support of or in opposition to the application.

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

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

In relation to **C/U 2524 Brian Rowe**. Motion by Mr. Mears to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 4-0.

C/U 2557 Stockley Materials, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR THE PREPARATION, PROCESSING AND STORAGE OF MATERIAL IN RELATION TO AN EXISTING BORROW PIT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 82.32 ACRES, MORE OR LESS. The property is lying on the east side of Cedar Lane (S.C.R. 318) and the west side of Peterkins Road (S.C.R. 317), approximately 500 feet south of Governor Stockley Road (S.C.R. 432). 911 Addresses: N/A. Tax Map Parcels: 133-3.00-6.00

Mr. Whitehouse advised the Commission that submitted into the record are the Applicant's conceptual site plan, the Applicants exhibit booklet and exhibits, the Staff Analysis report, the DelDOT service level evaluation response letter, a letter received from the Sussex County Engineering Department Utility Planning division, and no comments.

The Commission found that Mr. David Hutt, Esq. was present on behalf of the Applicant, Stockley Materials, LLC, that also in attendance are Mr. Ken Adams, a principal of Stockley Materials and Mr. Mark Davidson, Principal Land Planner with the Pennoni Group.

Mr. Hutt stated that this application is for approximately a six-acre portion of an 82-acre site; that this Conditional Use seeks to allow wood, whether that's in the form of a tree, shrubbery, root mass, similar organics to be brought to this six-acre site to be recycled; that when clearing or site work is done, there is a need for a location to take those materials to be recycled; that there is currently a borrow pit on this property which was approved on April 21, 2009 – CU 1770 and Ordinance No. 2045; that the CU 1770 application was to expand a pre-existing Borrow Pit; that there are special requirements for a Borrow Pit and one is that no material may be brought from off the site for processing, mixing or similar use; that this is a separate application because it proposes to allow materials to be brought to the site for processing and recycling; that the properties that surround this facility are all in the Low Density Area, except the property immediately to the north of that property which is in the Developing Area on the future land use map; that the Georgetown's wastewater treatment plant to the north is within the Developing Area; that this property and all the surrounding properties are zoned AR-1; that the same entrance to the borrow pit would be utilized for this conditional use; that it is approximately six acres back from the entrance; that the Applicant is proposing a 30-ft. wide landscaped buffer including a berm between this six-acre area and the four residential lots on Cedar Lane; that the Applicant proposes to surround the site with a reinforced silt fence to distinguish between the uses and make sure the recycling process stays within the six-acre area; that it is not in a flood zone area; that an on-site porta potty would be provided for employees; that water would be provided; that there is an irrigation system with water from the borrow pit which would be used to keep dust down; that in DelDOT's response to the service level request the impact on traffic would be diminutive, meaning less than 50 trips per day; that there is a screener on the site; that the screener has a volume of 85 decibels at 10 ft. which is about the same as a vacuum cleaner; that the noise diminishes over space and there is over 440 feet to the nearest dwelling; that a grinder is proposed for this conditional use but would be used on a limited basis and would operate less frequently than the screening machine; that this project is of a semi-public or public character because the service that Stockley Materials provides is a necessity; that under Delaware law several years ago, zero waste principles were adopted and then codified within the Delaware Code; that they are found in Title 7 and Chapter 60, and one of those sections is section 6056; that the goal is to keep things out of the landfill and have them processed so that they are reused and recycled; that the Applicant has to file an annual report stating the quantity of materials recycled; that the recycled materials are sold at the Stockley retail facility

The Commission found that there were no people present who spoke in support of the application and there were 28 people present in opposition to the application, with seven people speaking.

The Commission found that Mr. Larry Sheridan spoke in opposition to the Application.

Mr. Sheridan stated that he did not receive notice of this hearing; that he did not see the sign as it was not placed at the entrance to the property; and that he heard about this hearing from a neighbor.

The Commission found that Mr. Dave Rementer spoke in opposition to the Application.

Mr. Rementer stated that his property is adjacent to the Borrow Pit; that he agrees with recycling, but the traffic is unbearable; that there is so much noise and abuse of the roads; and that the dust is bad, and the irrigation system does not work.

The Commission found that Mr. Gary Thompson spoke in opposition to the Application.

Mr. Thompson asked that the Commission not even consider recommending approval; that there were 21 conditions of approval for the original conditional use that the Applicant does not adhere to; that they have blocked the natural drainage from surrounding properties as all the waste from the screener is placed around the edge of the property; that he is concerned that the County allowing this to continue; that the complaints were submitted about this property before this application was submitted; that

The Commission found that Mr. Travis George spoke in opposition to the Application.

Mr. George stated that a traffic assessment should be completed because there are more trucks than you would think; that it will impact the community; that there is a drainage problem, and the road has been washed out; and that he has concerns about the contamination of the water supply.

The Commission found that Mr. John Farrace spoke in opposition to the Application.

Mr. Farrace stated that his home is getting sandblasted; that he has video of his windowsills covered in sand; that you can hear the machines; that its non-stop of the backhoes and now they want to add dump trucks and a grinder; and that there are recycling places in the area, Millville Organics, Blue Hen Organics, and Stockley on the highway.

The Commission found that Ms. Robin Fries spoke in opposition to the Application.

Ms. Fries stated that the Applicant is asking for six acres but that will grow in the future; that the dust storm that came across the neighborhood today was horrendous; that when she moved here nine years ago, it was barely visible from Peterkins Road, now it is becoming an eyesore; that there is no buffer; and that even if they planted trees today it would take 15-20 years for those to mature.

The Commission found that Mr. Bill Nieto spoke in opposition to the Application.

Mr. Nieto stated that he is the president of the Black Creek Cove Homeowners Association; that he is concerned about the dust issue when it is windy; that what is the definition of a buffer zone because it does not exist today; there is not even a fence; that there is a flooding issue; and that until the issues are corrected there should not be further growth of the borrow pit.

The Commission found that Mr. Ken Adams was present and spoke regarding the application.

Mr. Adams stated that they were required to build the buffer in phases as the borrow pit grew and that if they get stone or concrete in the load it is taken to another site to be crushed.

The Commission found that Mr. John Sheridan spoke in opposition to the Application.

Mr. Sheridan stated that the dust is not coming from the farm operations in the area and that the amount of traffic is not safe with school buses and schools in the area.

Mr. Whitehouse stated that 30 postcards were mailed to homes within 200 feet of the subject property; that any returned mail is scanned into the record; that to comply with Title 9, public hearings must be noticed in two newspapers within 15 days of the hearing; and that a large format sign was placed on the property; and that for the record, at no point in any of my telephone conversations with Mr. Thompson have I ever said that I'm going to push the application through for the Applicant..

Mr. Robertson noted that Mr. & Mrs. Sheridan's name was on the mailing list for this application in addition to others on Cedar Lane; that while not diminishing the issues that Mr. Thompson has with the previous ordinance, today's hearing is for the application before the Commission; that the County inspectors go down a checklist and make sure that the ordinance is being complied with; that there may be a condition to make sure that the current ordinance is being complied with before any new operations can happen on the site; that the Commission is being asked to amend or add to the prior conditional use, but there's really two issues; that there's one the enforcement side of the prior conditional use and all those conditions and dealing with not only the county requirements but also Sussex Conservation District; that the Commission has to decide whether it's appropriate to recommend approval of this particular ordinance to County Council because there will be another hearing at County Council;

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

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

In relation to **C/U 2557 Stockley Materials, LLC**. Motion by Ms. Wingate to defer action and leave the record open for County Staff to investigate if the current Conditional Use is in compliance with the conditions set forth and report back to the Commission, seconded by Mr. Collins and carried unanimously. Motion carried 4-0.

C/U 2583 Tharros Village (C/O Code Purple at The Cape)

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR A CAMPGROUND FOR THE UNHOUSED TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 7.16 ACRES, MORE OR LESS. The property is lying the south side of Coastal Highway (Rt. 1), approximately 0.2-mile

northwest of the intersection of Coastal Highway (Rt. 1) and Dartmouth Drive (Rt. 9). 911 Address: 17996 Coastal Highway, Lewes. Tax Map Parcel: 334-6.00-526.01.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicants conceptual site plan, the Applicants revised site plan, the DelDOT Service Level Evaluation Response letter, a letter received from the Sussex County Engineering Department Utility Planning Division, the Staff analysis report, the Applicant's exhibit booklets and the Applicant's PowerPoint presentation, and 23 comments which are included in the paperless packet.

Mr. Robertson stated that initially Staff had a concern that the submitted site plan that was not feasible because as we know this was the former state police barracks area; that is currently being used by DelDOT as a material storage and equipment storage facility with a fence around the asphalt portions of the property; that the site plan that was submitted included access that would have required the access to go through that permanent fenced area and locked gate; that the County reached out to the state of Delaware and specifically the Office of Management and Budget (OMB), which has control over state owned properties; that yesterday they sent a letter to the County saying that they don't approve the site plan that was submitted by the Applicant; that the State provided an alternate plan that could have been used for this site plan: that there's a concern that it was different and was not part of the record or was not the Applicant's plan; that there were also some issues with that site plan in terms of accessibility, the points of ingress and egress or actual roads; that today the OMB and DelDOT have agreed and have taken another look at it and agreed to the original site plan that was submitted by the Applicant; that they will reduce the footprint of their fenced area to just around the immediate location of the storage facility and they do not have any objection to the site plan that was previously submitted; that the letter from the OMB with their alternate site plan should be made part of the docket as it needs to be part of the record; and that Mr. Mandalas, the Applicants attorney, submitted a letter dated today signed by Brian Maxwell, who's the director of the OMB.

The Commission found that Mr. Glenn Mandalas was present on behalf of the Applicant, that also present is Mr. Michael Agnew, President of Tharros Village.

Mr. Mandalas thanked Director Whitehouse and the Planning and Zoning Staff for the extra hours worked to help facilitate this application; that Tharros Village is a low-cost, self-governed village for the unsheltered in Lewes; that it is designed to offer a safe, structured environment for individuals transitioning out of homelessness; that it provides critical public health benefits by partnering with organizations including Beebe Healthcare and First Aid Community Action Agency; that Tharros Village operated at the same location during the 2024 season, and that was without incident or injury; that today the Applicant wishes to continue the operations for the 2025 season, but this time under all the proper permitting and proper approvals; that the issues are with property ownership and emergency access; that in the record is a letter from Director Maxwell, OMB indicating that the State is prepared to move forward with the site plan submitted by the Applicant and not the alternative site plan that OMB had submitted; that the Applicant has received a letter from Transportation Secretary Shante Hastings, stating that DelDOT is willing to relocate

portions of the fence to facilitate access to the site; that the last issue is that the code does require that Tharros village be 400 feet from any existing dwelling on adjacent properties; that it is only about 275 feet from the Savannah West neighborhood and the conditions at the site will not accommodate that as there is a ridge that kind of drops off in the back; that the Applicant cannot move the site further away to meet that 400 foot distance requirement; that the Applicant is committed to resolving that issue whether it be through a Board of Adjustment application or some other mechanism; and that the application does have broad support with 23 comments submitted in support of and none in opposition.

The Commission found that Mr. Michael Agnew spoke about his application.

Mr. Agnew stated that Tharros is rooted in the values, dignity, stability, and community building; that it is not only responsive to local needs but is a responsible use of existing resources and partnerships; that the property is 7.2 acres with roughly two acres of wetlands and it's divided in half, east and west; that the west side is completely covered in trees; that the east side has about three acres that are not covered by canopy around roughly one of those three acres is the frontage on the front of the property; that DelDOT uses approximately one-half acre; that Tharros Village will utilize the other half-acre; that there are 28 tents arranged in rows of seven, like a military camp; that there is a proposed fence to define the perimeter and for safety; that this use will complement the DelDOT use as Tharros Village will be closed in the winter when DelDOT will be using it for salt storage and distribution; that there is an increase in homelessness in Sussex County; that just last winter there was more than a 50% increase in the number at St. Jude the Apostle for men and Lutheran Church of our Savior for women; that moving back into being housed requires some steps; that Bernice Edwards, Executive Director of First State Community Action provides case management for all guests which is a requirement at Tharros Village; that there have been Federal budget cuts which affects homeless programs; that there is a housing shortage in Sussex County; that most of the people in rental units are at extreme low income spending more than 50% of their income on housing; that many of the homeless population is working and usually in minimum wage jobs during the tourist season; that Tharros Village is a fair weather shelter and would close on November 30th; that Code Purple is the indoor shelter that would open on December 1st so Tharros Village guests would be indoors in the winter; that Code Purple would close on March 15th and Tharros Village would open again; that storage became a problem, that Casella provided new trash cans which are stored in a garage and guests have access three days a week; that the guests can keep personal papers and items in storage; that there are now 300 volunteers who help with this program; that this property is over seven acres so there is a large buffer; that it is State owned with a lease for \$1.00 and a Memorandum of Understanding to continue; that the property allows for some limited growth and flexibility; that the natural buffers ensure minimal impact on neighboring communities while maintaining privacy for residents; that it is close to necessary services and employment opportunities; that all the restaurants, shops and accommodation along coastal highway require low income workers,

those workers need to commute long distances from other parts of the state if they could afford to live in those parts, then they need a car, insurance and gas to make that commute; this site is suitable for temporary and semi-permanent structures; that we have partnerships with First Aid Community Action, Beebe Healthcare, Casella Waste Systems who has provided trash services at Tharros Village and half the cost of the Porta Potties; that Sussex County is paying for remainder of the cost of the Porta Potties; that Troop & and Commander, Mary Maguire have been a big part of the program and gives training to all the volunteers; that United Church brings portable showers to the site and the water is brought from St. Jude Church which allows for 20 showers and it is at the site a few times a week; that Beebe has a mobile unit which comes to the site with nurse practitioners and a doctor on board to address wellness and mental health; that there are only 29 guests who are vetted and helped with getting employed and back on their feet; and that there are surveillance cameras in cooperation with Delaware State Police; that there will be screening from the road; that the city of Lewes provided a grant to pay for the fence; that more than 30 groups provide meals for the guests; and that Tharros is the Greek word for courage.

Mr. Mandalas stated that people have been here for a long time this evening; that they recognize the need for the services and are more interested in why this location on coastal highway; that it a sanitary facility; that it is well managed and organized; that it is safe and in the right location for the services that we're trying to provide.

The Commission found that there are 39 people present who are in support of the application.

The Commission found that Mr. Jean Trainor spoke in support of the application.

Mr. Trainor stated that he is a volunteer with Code Purple; that the mature trees do provide a buffer; that this is self-governing community; that where else could you find a paved area with access to Route 1 between Lewes and Rehoboth Beach for \$1 and provide fencing; that he asked the Commission to consider the dignity of the guests and asked them not to put a 12-month time on this so that it becomes a seamless process.

Mr. Robertson stated that it is not a 12-month approval period, but an annual report would be required to know what is happening on the property.

The Commission found that Mr. John Urbanski spoke in support of the application.

Mr. Urbanski stated that he serves on the board for Camp Tharros; that this is something that can grow in Sussex County; and that it could be duplicated elsewhere.

The Commission found that Ms. Sue Early spoke in support of the application.

Ms. Early stated that this is a program that many people would say that they don't want this in their backyard; that there are no neighbors in the backyard; that the location is ideal as it has access to the central corridor between Lewes and Rehoboth Beach; and that public transportation is available giving guests access to the Community Resource Center for meals and a place to stay during inclement weather.

The Commission found that Mr. John McGinty spoke in support of the application.

Mr. McGinty stated that he is a volunteer with Code Purple; that he lives in close proximity to this site; that the tents will not be visible from Route 1; that the goal is to move the homeless into housing; that there have been success stories and that will continue; and that the commitment is total and very professional.

The Commission found that Mr. Tully, the bus driver, spoke in support of the application.

Mr. Tully stated that there are 300 volunteers; that they are people who are concerned about others; and that is what we need in our country.

The Commission found that Ms. Pat Smidt spoke in support of the application.

Ms. Smidt stated that she is a volunteer with Code Purple; that you know that there is a need; that the Route 1 site is convenient for the volunteers and for guests; that it will take a village to get Tharros Village on its feet and sustain its well-being until December 2025; and that we ask for your approval.

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

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

In relation to **C/U 2583 Tharros Village (C/O Code Purple at The Cape)**. Motion by Mr. Collins to defer action for further consideration, seconded by Mr. Mears and carried unanimously. Motion carried 4-0.

Meeting adjourned at 9:30 p.m.

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