

## MINUTES OF THE REGULAR MEETING OF JUNE 18, 2025

The regular meeting of the Sussex County Planning and Zoning Commission was held on Wednesday afternoon, June 18, 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 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. Susan Isaacs – Planner I, and Ms. Ashley Paugh – Recording Secretary.

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

Motion by Ms. Wingate, seconded by Mr. Collins, to approve the Minutes of May 21, 2025, of the Planning and Zoning Commission Meetings as circulated. Motion carried 4-0.

### PUBLIC COMMENT

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

### OTHER BUSINESS

#### **S-25-37 Bayshore Community Church, Inc.**

##### Preliminary Site Plan

This is a Preliminary Site Plan for Bayshore Community Church, Inc. for the establishment of a proposed 12,285 square foot church building, 1,200 square foot shed, parking lot, and other site improvements. The parcels contain 4.13 acres +/- and are located on the west side of Old Landing Road (S.C.R. 274) approximately 1.2 miles south of Warrington Road (S.C.R. 275). The Preliminary Site Plan complies with the Sussex County Zoning Code. Tax Parcels: 334-18.00-78.00 & 78.01. Zoning: AR-1 (Agricultural Residential) District. Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, staff are requesting final approvals to 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 to be given by the staff, subject to the receipt of all agency approvals. Motion carried 4-0.

**S-24-52 Harbeson DEA Solar (F.K.A. RWE/ConEd (C/U 2381)**

**Revised Final Site Plan**

This is a Revised Final Site Plan for the construction of a Solar Facility and related site improvements. Conditional Use No. 2381 to allow for the use as a solar facility at the site was approved by the Sussex County Council at their meeting of Tuesday, February 6<sup>th</sup>, 2024, through Ordinance No. 2980. The Final Site Plan previously received Final Approval from the Planning & Zoning Commission at their meeting of Wednesday, October 9, 2024. This revised plan includes revisions to the location of the solar arrays, buffer strips, transformers, and access road on the site. The property is located on the on the south side of Lewes Georgetown Highway (Rt. 9), approximately 0.46-miles east of the intersection of Harbeson Road (Rt. 5) and Lewes Georgetown Highway. 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 Final Plan complies with the Sussex County Zoning Code and all Conditions of Approval for (C/U 2381). Zoning: AR-1 (Agricultural Residential District). Tax Parcels: 235-30.00-58.06, 58.07, & 61.00. Staff are in receipt of all agency approvals, and the Plan is therefore eligible for both Preliminary and Final Approval.

Motion by Ms. Wingate, seconded by Mr. Mears, and carried unanimously to approve the Revised Final Site Plan as a preliminary and final. Motion carried 4-0.

Chairman Wheatley advised the Commission that the following three solar site plans, all had elements in common, in which Mr. Whitehouse had prepared a report to assist the Commission.

Mr. Whitehouse stated the Applicant submitted a cover letter with the site plans, which explained the background of the plan's submission before the Commission; that within the letter there were references to prior solar applications; that Mr. Lowrey – Planner III had prepared a summary of the referenced applications, and he requested that Mr. Lowrey provide an overview of the prepared document.

Mr. Lowrey stated that all of the applications referenced by the Applicant's engineer were submitted prior to the adoption of the Sussex County Solar ordinance; that as such, there was no specific solar ordinance governing solar improvements at that time; that within the document, he has provided each unique accompanying specific Condition of Approval relating to buffers; that this included the specific planting ratios in terms of the trees; that he noted the imposed conditions of buffers prior to the adoption of the ordinance were very site and application specific; that all the applications have variances to them; that he also included the planting ratios within the document; that with a number of the previous applications, the ratio does not meet the current standard of 15 per 100 linear square foot requirement, as currently spelled out within the perimeter buffer provisioning for subdivisions; that in turn it provides either ten or twelve of trees per 100 linear

square feet; that in some cases, shrubs, at the rate of ten per 100 linear feet were provided in addition to the trees; that the provided plantings do not directly mirror the current buffer requirements with the Code, and currently the Applicant for the next three applications was requesting a waiver from the current buffer requirements, specific to the number of required trees.

Mr. Whitehouse stated that staff have been referring to the only buffer definition currently within Sussex County Code, however, the Commission is permitted to increase or waive the setbacks and/or buffer due to particular site conditions; that the Commission has the authority to modify the site design, and the references provided by the Applicant, were all submitted prior to the current adopted Solar Ordinance.

**S-25-42 Citation 49 Farms Solar Photovoltaic Facility (C/U 2470)**

**Final Site Plan**

This is a Final Site Plan for the construction of a Solar Facility and related site improvements. Conditional Use No. 2470 to allow for the use of the site as a solar farm was approved by the Sussex County Council at their meeting of Tuesday, March 20<sup>th</sup>, 2024, through Ordinance No. 2961. The property is located on the east side of Savannah Road (S.C.R. 246), approximately 0.85-mile(s) south of Rudd Road (S.C.R. 245). Staff note that the Applicant proposes the fencing fabric to be a dark color, gray or black. Staff note that a full buffer meeting the provisions of §99-5 has been shown adjacent to and fronting the area along Savannah Road with a partial buffer around the remainder of the Site to consist of supplemental plantings in existing vegetated areas (consisting of 2 trees and 10 shrubs per 100 linear feet of buffer) as outlined as part of Condition “H” of the Conditions of Approval. Subject to the Commission’s review of the Applicant’s proposed financial security, the Final Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval for (C/U 2470). Zoning: AR-1 (Agricultural Residential District). Tax Parcel: 135-15.00-8.00. Staff are in receipt of all agency approvals and the Plan is eligible for Final Approval.

Motion by Mr. Mears, seconded by Ms. Wingate, and carried unanimously to defer the Final Site Plan for further consideration. Motion carried 4-0.

**S-24-72 Frankford Community Energy Initiative II LLC (C/U 2365)**

**Preliminary Site Plan**

This is a Preliminary Site Plan for the construction of a Solar Facility including fencing with interwoven screening, and related site improvements. Conditional Use No. 2365 to allow for the use as a solar facility at the site was approved by the Sussex County Council at their meeting of Tuesday, April 16<sup>th</sup>, 2024, through Ordinance No. 3000. The property is located on the on the east side of DuPont highway (Rt. 113), approximately 244-feet south of the intersection of Laze Lagoon Road (S.C.R. 380) and DuPont Highway (Rt. 113). Staff note that the Applicant has proposed an

alternative tree planting buffer yard detail which includes a total of 10 trees per 100 linear feet of buffer. The current planting requirement for Perimeter Buffers is a minimum of 15 trees per 100 linear feet of buffer. Additionally, 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 and the proposed Landscape Plan, which includes 5 less trees per 100 linear feet of buffer than current Code requirements under §99-5, the Final Plan complies with the Sussex County Zoning Code and all Conditions of Approval for (C/U 2365). Zoning: C-1 (General Commercial District) & AR-1 (Agricultural Residential District). Tax Parcel: 533-4.00-23.00. Staff are in receipt of all agency approvals, and the Plan is therefore eligible for both Preliminary and Final Approval.

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

**S-25-31 Chaberton Energy (Blue Hen Solar) (C/U 2398)**

**Preliminary Site Plan**

This is a Preliminary Site Plan for a 20.50-acre ground-mounted solar array facility, 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. 2398) for the establishment of a solar facility to be located within an Agricultural Residential (AR-1) District. The Application was approved by the Sussex County Council at their meeting of Tuesday, February 20<sup>th</sup>, 2024, and the use was established through Ordinance No. 2986. Staff note that the Applicant has proposed an alternative tree planting buffer yard detail which includes a total of 10 trees per 100 linear feet of buffer. The current planting requirement for Perimeter Buffers is a minimum of 15 trees per 100 linear feet of buffer. Additionally, 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 and the proposed Landscape Plan, which includes 5 less trees per 100 linear feet of buffer than current Code requirements under §99-5, the Final Plan complies with the Sussex County Zoning Code and all Conditions of Approval for (C/U 2398). Zoning: AR-1 (Agricultural Residential District). Tax Parcel: 533-17.00-187.00. Staff are in receipt of all agency approvals. Therefore, the Plan is eligible for both Preliminary and Final approvals. Staff would also request that approval of any Plan be subject to the Applicant's inclusion of a Planting Schedule into the proposed Landscape Plan for the solar facility.

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

**Lands of Fazal & Saima Kayani**

Minor Subdivision Plan off a proposed 40-ft easement

This is a Minor Subdivision Plan for the creation of four (4) lots plus the residual lands with access off a proposed 40-ft wide ingress/egress access easement. Proposed Lot 1 will consist of 1.00-acre +/-, proposed Lot 2 will consist of 1.00-acre +/-, proposed Lot 3 will consist of 1.12-acres +/-, proposed Lot 4 will consist of 1.00-acre +/-, and the residual lands will contain 19.64-acres +/- . A shared use maintenance agreement shall be established for the use of the shared access road. The property is located south of Old Furnace Road (S.C.R. 46). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 231-13.00-154.04 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. Mears, seconded by Ms. Wingate and carried unanimously to approve the Minor Subdivision Plan off a proposed 40 ft. easement, as a preliminary and final. Motion carried 4-0.

#### **2018-18 Channel Pointe (F.K.A. Bishop's Pointe & Cannon Property) (C/U 2368)**

##### **Installation of Gates Interpretation**

On May 15<sup>th</sup>, 2025, the Planning and Zoning Department received a request to clarify whether the installation of gates at the Channel Pointe Subdivision, approved as part of Subdivision Reference 2018-18, and subsequently added as part of the Townes at Channel Pointe (S-25-06) development, via Conditional Use No. 2368, would require a Public Hearing. Staff have met with the Applicant's attorney to informally advise that Staff believe that such a change would constitute a significant change in the intent of the originally approved Subdivision that was approved by the Planning & Zoning Commission on February 17<sup>th</sup>, 2022, and recorded in the Office of the Recorder of Deeds on April 26<sup>th</sup>, 2022. A copy of the recorded Final Subdivision Plan is included in the Commission's Packet. This Plan does not show gates anywhere on the approved Plans. Additionally, the Director of Planning and Zoning has prepared a Director's Memo further describing the request as well as the status of Building Permits and Certificates of Occupancy issued as of June 11<sup>th</sup>, 2025. The property is lying on the north side of Lighthouse Road (Route 54) and the west side of Bennett Avenue, approximately 200-ft west of Deer Run Road (S.C.R. 388) in Selbyville, Delaware. Zoning: AR-1 (Agricultural Residential District) and MR (Medium Density Residential District). Tax Parcels: p/o 533-20.00-20.00, 533-20.00-22.00 & 20.02.

Mr. Whitehouse stated that staff received a submitted letter on May 15, 2025, requesting a Director's determination; that prior to that staff requesting to bring the request to the Commission, to obtain the Commission's view prior to any response being provided; that Mr. Whitehouse questioned if the request would require a public hearing; that staff have not received a Revised Site Plan; that within the packet, an exhibit was included reflecting the general area of where the gates would be placed, and staff would request the Commission's input on the required process.

Chairman Wheatley stated that he believed the question of requiring a public hearing verses not requiring a public hearing turns to the issue of public interest; that it was his understanding that the entire subdivision is currently under the control of the developer and the builder; that currently

no lots have been sold within the subdivision; that no representations had been made; that no money had been handed over to the developer, and considering the current situation he did not feel a public hearing would be needed.

Mr. Robertson stated that there had been previous public hearings regarding gate issues; that there was a public hearing years ago, which was litigated, for Ocean Way Estates; that the public hearing was a result of the fact that the community was a fully existing and built out subdivision; that there were residents living in the subdivision, who would have been impacted by the gate; that another example would be Showfield Subdivision and the circumstance is different if there is not a third party involved.

Chairman Wheatley stated that at this time, he did not feel the request required a public hearing, and upon further discussion, or if the item is review as an item of Other Business, at that time, the Commission may decide a public hearing is required based on the provided testimony.

Motion by Ms. Wingate, seconded by Mr. Collins, and carried unanimously to not require a public hearing for the proposed Revised Site Plan, rather requiring the revised plan to be reviewed as an item of Other Business at a future Commission meeting. Motion carried 4-0.

## **OLD BUSINESS**

### **C/U 2581 Zion Church Ventures, LLC**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR STORAGE/WAREHOUSE/OFFICE BUILDINGS AND A CAR WASH TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 24.87 ACRES, MORE OR LESS.** The property is lying on the southwest side of Zion Church Road (Route 20), approximately 605 feet northwest of Deer Run Road (S.C.R. 388) and the north side of Deer Run Road (S.C.R. 388), approximately 159 feet southwest of Zion Church Road (Route 20). 911 Address: 36054 Zion Church Road, Frankford. Tax Map Parcel: 533-11.00-23.00.

The Commission discussed this application, which had been deferred since May 21, 2025.

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

Mr. Mears moved that the Commission recommend approval of C/U 2581 Zion Church Ventures, LLC for storage, warehouse, and office buildings and a car wash based upon the record made during the public hearing and for the following reasons:

1. This site was previously approved for a similar use, but without commercial or professional office space, on April 9, 2024, as Conditional Use # 2392. This is a new application for the site, keeping the main uses as indoor storage and warehouses, but adding office space as

an accessory to the warehouse and storage uses. This recommendation allows the addition of office space, with limitations.

2. Like the prior Application, the purpose of this application is also to create climate-controlled storage and workspace areas for individuals with boats, recreational vehicles, motorcycles, cars and collectibles including an area for a car wash to serve the many individuals in the area who do not have room within their home and property to store or work on such items. This Application eliminates the pool and clubhouse amenity that was part of the prior application. It also reduces some of the land area included in the prior application.
3. The site is in the vicinity of several areas that have developed with commercially- and -residentially-zoned properties. This includes property in the area with HR-1 (High Density) Zoning, GR (General Residential) Zoning, AR-1 Zoning and multiple business and commercial Zoning districts. This use is compatible with the surrounding uses and Zoning.
4. Traffic generated by the proposed use will be minimal and will not have a negative impact on the neighboring properties or roadways. DelDOT has stated that the traffic generated by this use will be “minor.”
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. The property is located in the Coastal and Developing Areas, which are both “Growth Areas” according to the Sussex County Comprehensive Plan. The conditional use is consistent with the Plan’s guidelines for these Areas, since it will provide convenient areas for businesses, homeowners, and property owners in this area of Sussex County.
7. The site will be served by central water and sewer.
8. There are wetlands that have been preliminarily delineated on the Property, and a 25-foot buffer is proposed from those wetlands except in two locations, which will be mitigated with approval from the Army Corps of Engineers.
9. With conditions and limitations required as part of this recommendation, the conditional use will not adversely affect the neighboring and adjacent properties.
10. This recommendation is subject to the following conditions:
  - A. This conditional use shall be limited to 180,500 square feet of warehouse/storage area, and a 2,500 square foot car wash area. The car wash shall be for the exclusive use of the owners and their families and guests; it shall not be operated commercially or used by persons not otherwise affiliated with the primary use of this project. No operations that primarily involve or are similar to the following uses shall be permitted: retail; gyms or fitness centers; breweries or brewpubs; or food service.
  - B. No unit or area within the conditional use shall be used as a dwelling or for housing. No overnight accommodation shall be allowed.
  - C. There shall not be any outside storage, including boats, materials, RVs, or equipment, within the site.
  - D. If a unit is used for business purposes, that business may only use the area for climate-controlled storage. The property shall not be used by a business for

manufacturing or industrial purposes, and the office space shall not be isolated or walled off from the remainder of each unit. No unit shall be primarily used as an office. In addition, the property may not be used by a business for meeting customers, as a showroom, or as a “mail-drop” or pick up or delivery location for customers.

- E. An oil and fluid recycling, and disposal facility shall be provided, and its location shall be shown on the Final Site Plan.
- F. An RV sewer cleanout shall be provided on the property, and its location shall be shown on the Final Site Plan.
- G. All lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.
- H. A fence shall be installed along the perimeter of this project. The location and type of fencing shall be shown on the Final Site Plan.
- I. Any dumpsters must be screened from the view of neighboring properties and roadways. The dumpster locations shall be shown on the Final Site Plan.
- J. The applicant shall comply with all DelDOT requirements for entrance and roadway improvements.
- K. There shall be adequate parking as required by Code. The parking areas shall be clearly shown on the Final Site Plan and on the site itself. There shall be no parking within the property’s setbacks.
- L. One unlighted sign, not to exceed 32 square feet per side, shall be permitted along Zion Church Road.
- M. The Applicant shall submit as part of the Final Site Plan a landscape plan showing all “Limits of Disturbance” within the Property. These “Limits of Disturbance” shall be clearly marked on the Property itself.
- N. There shall be an on-site Management Office maintaining the property and the operation of it. It shall be open during regular business hours.
- O. The units shall only have bathrooms with a sink and a toilet. No showers or bathtub-type fixtures or plumbing connections shall be permitted.
- P. Any wetlands will be delineated on the Final Site Plan, and the plan shall also show a 25-foot buffer from those wetlands or a permit from the USACOE for mitigation (fill) in specific locations shown on the Final Site Plan.
- Q. The applicant, its successors and/or assigns, shall cause a condominium association to be formed to be responsible for the maintenance of the roads, parking areas, amenities, stormwater management facilities, and other common areas, and the compliance with these conditions, which shall be incorporated into the condominium documents.
- R. The Final Site Plan shall include the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
- S. Any violation of these conditions may be grounds for termination of this conditional use.



- T. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Mears, seconded by Mr. Collins, and carried unanimously to recommend approval of C/U 2581 Zion Church Ventures, LLC, for the reasons and the conditions stated in the motion. Motion carried 4-0.

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

**C/U 2565 F & N Vazquez Concrete, LLC**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL AND A GR GENERAL RESIDENTIAL DISTRICT FOR A CONCRETE AND MASONRY BUSINESS WITH CONSTRUCTION INDUSTRY RETAIL SALES, GENERAL OFFICE SPACE AND STORAGE FOR THE RECYCLING OF AGGREGATE PRODUCTS, INCLUDING CRUSHING OPERATIONS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 32.95 ACRES, MORE OR LESS.** The property is lying on the west side of Greentop Road (S.C.R. 225), approximately 0.75 mile north of Fleatown Road (S.C.R. 224). 911 Address: N/A Tax Map Parcel: 230-13.00-36.00.

The Commission discussed this application, which had been deferred since May 21, 2025.

In relation to C/U 2565 F & N Vazquez Concrete, LLC. Motion by Mr. Collins to defer action for further consideration, seconded by Ms. Wingate, and carried unanimously. Motion carried 4-0.

**2023-12 Windscape Farms**

A cluster subdivision to divide 26.4 acres +/- into forty-nine (49) single-family lots, to be located on a certain parcel of land lying in Sussex County. The property is lying on the northwest side of Pettyjohn Road (S.C.R. 255) approximately 0.75-mile northeast of Prettyman Road (S.C.R. 254). 911 Address: N/A. Tax Map Parcel: 235-25.00-45.01. Zoning District: AR-1 (Agricultural Residential).

The Commission discussed this application, which had been deferred since June 4, 2025.

In relation to 2023-12 Windscape Farms. Motion by Mr. Collins to defer action for further consideration, seconded by Ms. Wingate, and carried unanimously. Motion carried 4-0.

**2024-12 Symphony Glen**

A cluster subdivision to divide 109.65 acres +/- into two hundred and nineteen (219) single-family lots, to be located on a certain parcel of land lying in Sussex County. The property is lying on the

northwest side of Pettyjohn Road (S.C.R. 255) approximately 0.20-mile northeast of Prettyman Road (S.C.R. 254). 911 Address: N/A. Tax Map Parcel: 235-25.00-44.00. Zoning District: AR-1 (Agricultural Residential).

The Commission discussed this application, which had been deferred since June 4, 2025.

In relation to 2024-12 Symphony Glen. Motion by Mr. Collins to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 4-0.

### **PUBLIC HEARINGS**

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

#### **2025-09 Lands of Fernandez Subdivision**

A standard subdivision to divide 14.07 acres +/- into four (4) single-family lots, to be located on a certain parcel of land lying and being in Sussex County. The property is lying on the southwest side of Frankford School Road (S.C.R. 92), approximately 830 feet northwest of Shockley Town Road (S.C.R. 375). 911 Address: N/A Tax Map Parcel: 533-5.00-7.00 Zoning District: GR (General Residential).

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the Applicant's Preliminary Subdivision Plan, the deed for the property, the Applicant's report addressing their Chapter 99-9C design considerations, a letter from the engineer requesting a waiver from the street design requirements and forested buffer requirements, the Applicant's Site Evaluation Soil's report, agency comments which include Sussex County Engineering Department Utility Planning Division, the U.S. Army Corp of Engineers, Delaware Department of Drinking Water, Sussex Conservation District, DelDOT's Letter of No Objection, and a letter from the State Fire Marshal's office. Mr. Whitehouse advised the Commission that no public comment letters were received for the application.

The Commission found that Mr. Ray Blakeney with Plitko, LLC spoke on behalf of the Applicant. Mr. Blakeney stated the site is located along Frankford School Road, being located within the GR (General Residential) Zoning District; that the total site area consists of 14.07 acres +/-; that there are 6.06 acres +/- of Federal Non-Tidal Wetlands located on the site; that the site is primarily wooded, with 13.49 acres +/- out of the 14.07 acres being wooded, with the exception being the existing residence located on the north portion of the site; that there are portions of the McCray's Tax Ditch prongs located on the east and west sides of the site; that they are requesting a court order change to reduce the width of the maintenance right away on the eastern tax ditch from 80 feet to 40 feet; that the request is currently being processed by the Tax Ditch Segment of DNREC; that the DNREC approval is the only remaining regulatory approval not yet received for the project; that the site is located within Flood Zone X, not being located within the Flood Hazard area; that

the site is not located within an area of Excellent Groundwater Recharge; that the site is not within a Wellhead Protection Area; that they have received an approved Nationwide 18 Permit (NWP 18) to disturb up to 0.10 acre of wetland area; that they have used a portion of that to relocate the site entrance; that they have relocated the site access further west to avoid a large drainage pipe that serves the tax ditch; that this relocation was done in consultation with DelDOT; that the remainder of the 0.10 acre they are using for a wetland crossing located in the rear to access the residual lands to the back of the property; that the project was originally submitted as a Minor Subdivision of three lots and residual lands; that the proposed Lot 1 would encompass the existing residence; that the remaining two lots would be located within the upland area of the property; that the proposed lots would be reached via a 30 foot access easement, which ends in an emergency vehicle turn around at the end of the property; that the Applicant is requesting a waiver from Sussex County's Street Design Standards on the basis that the subdivision is essentially a minor subdivision; that constructing a paved street, to County standards, long enough to serve the two proposed lots and residual lands would be a hardship on the property owner; that the Delaware State Fire Marshal's Office and DelDOT have reviewed and approved the plan; that the two proposed lots are using the irregularly shaped upland area, located on the east side of the property; that Lot 2 is approximately 88,233 square feet; that Lot 3 is approximately 74,186 square feet; that the irregular lot shapes are a result of being bounded by wetlands; that it made sense to incorporate all the upland areas into the lots; that a benefit of the large lots is that when assuming a typical residential house, driveway and garage, the percentage of impervious surface on each lot is proposed to be low, helping to minimize surface area runoff; that there is no proposed Lot 4; that there is a Lot 1, Lot 2, Lot 3 and residual lands located in the back; that the residual lands, designated as Lot 4, is not proposed as a residential lot, only being the residual land of the subdivision; that soils testing had been performed on the two proposed lots and the residual lands; that there is a report stating areas of septic suitability included within the application packet; that clearing of the existing wooded areas would be performed for the proposed access easement, as well as the septic disposal areas on the site; that then selectively for any proposed structures; that a large portion of the existing wooded lands will therefore remain undisturbed; that grading will be site specific for the individual lots; that the Applicant is requesting a waiver from the County's Forested Buffer requirements, on the basis that the majority of the site is wooded, including the tax ditch right of ways located on both sides of the site; that any proposed structures would be set back from the property lines a minimum of 80 feet due to the tax ditch right of way and the access easement, and the plan had received letters of No Objection from the Sussex Conservation District, and the Delaware Office of Drinking Water, as requested by the Planning & Zoning staff.

Mr. Whitehouse advised the Commission that if four lots are reflected on a plan, regardless if they are labeled residual or not; the Planning office still consider the lot as a buildable lot, unless the Commission specifically stated the lot as unbuildable, and that is the reasoning the office advertised the application as proposing four lots.

Chairman Wheatley questioned who will own the wetland areas.

Mr. Blakeney stated that the wetlands would remain under the ownership of the existing property owner, however the wetlands will be areas that the property owner will not be able to access, other than the areas that are being accessed for the nationwide permit.

Mr. Robertson questioned if the Wetland area was included in Lot 1.

Mr. Blakeney stated that the wetland area would be considered open space; that they will not be a part of the lot, and because they are wetlands, they are not permitted to be accessed for any purpose.

Ms. Wingate questioned the location of the ingress/egress easement, and if a shared maintenance agreement will be required.

Mr. Blakeney stated there is an existing access easement on the adjacent property to access the subject parcel; that the driveway is located on the adjacent property; that the access for the proposed two lots will be a new access, being located to the left of the access that currently exists; that the access is not proposed to be paved, assuming the requested waiver is granted approval by the Commission, and that a Shared Use Maintenance Agreement will be required for the subdivision.

Mr. Robertson requested confirmation that the residual land was not proposed to be developed, and if so, why the easement is required to cross the wetlands.

Mr. Blakeney stated that the residual land is not proposed to be developed as a residential lot; that the plan was originally submitted as a Minor Subdivision; that a minor is essentially how they are proposing it currently to the Commission, and the easement is proposed to cross the wetlands in the case the property owner would desire to do something in the future.

Chairman Wheatley questioned if there was septic feasibility for the lands.

Mr. Blakeney stated there is a Soil Feasibility Report included in the application packet for the two proposed lots, as well as the residual lands.

Ms. Wingate requested more information regarding the ingress/egress easement, and why the easement was required to enter into the upland area with the emergency turnaround.

Mr. Blakeney stated that the State Fire Marshal's Office requested the emergency turn around; that they did not want to place the turn around on Lot 2 alone; that they wished to extend the turn around out, with the idea that once the access is deeded on the property, if the property owner should come back in the future with an idea to develop the residual land, the property owner would already have an established access.

Chairman Wheatley stated the residual lands should be considered a lot, as at some point, someone will want to sell it, or someone will want to place a dwelling on it.

Ms. Wingate stated that she did not see the need to place the proposed extension in that area for the Fire Department turnaround, especially if the easement is not proposed to be paved; that she was concerned about the maintenance of the easement.

Chairman Wheatley stated he would be interested to know if the State Fire Marshal knew the easement is proposed to be a dirt road.

Mr. Blakeney stated the plan was present to the State Fire Marshals Office with the easement as a gravel road.

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

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

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

In relation to 2025-09 Lands of Fernandez Subdivision. Motion by Mr. Collins to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 4-0.

**C/U 2578 New Life Bible Fellowship Church**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ON-PREMISE ELECTRONIC MESSAGE CENTER SIGN 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 east side of Cannon Road (S.C.R. 307), 0.94 mile south of Indian Mission Road (Rt. 5). 911 Address: 24771 Cannon Road, Millsboro. Tax Map Parcel: 234-22.00-13.14

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the Applicant's Preliminary Site Plan, a property survey, the DelDOT Service Level Evaluation Response, a sign rendering, a comment letter from the Sussex County Engineering Department Utility Planning Division, the property deed, and the Staff Analysis Report. Mr. Whitehouse advised the Commission that no public comments were submitted for the Application.

The Commission found that Mr. Petrecca, an elder of the church and Treasurer of the incorporation, spoke on behalf of the Applicant, New Life Bible Fellowship Church. Mr. Petrecca stated that they are requesting permission to replaced the existing sign, that is currently deteriorating; that they are currently working with Phillips Sign Company to meet all Sussex County regulations; that DelDOT has already approved their plan, and they now present before the Planning Commission as their next step for approval.

Ms. Wingate stated that she saw the dilapidated sign for herself, and she had no objection to the proposed request.

Mr. Whitehouse stated that recently there have been County wide issues regarding sign brightness, and he questioned whether the proposed sign will have an environmental sensor built in to adjust the brightness of the sign relative to ambient lighting.

Mr. Petrecca stated that they previously discussed this concern with Phillips Sign's; that it is their understanding that the sign will automatically adjust itself; that the sign is an LED sign of new technology, that automatically adjusts its brightness; that at night, the sign will be less bright, as there is less need for brightness; that the current sign is fluorescent lighting, and is very bright; that they have tried to maintain the existing sign for a long time, however the sign is now deteriorating, and must be replaced.

Mr. Robertson questioned if the proposed sign will adversely affect the adjacent properties, neighborhood, and/or area roadways.

Mr. Petrecca stated that he is not aware of any adverse effects the sign may have; that the church has existed prior to many of the developed properties in the area, and there has never been a problem in the past.

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

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

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

Mr. Robertson read Ms. Wingate's motion into the record per Ms. Wingate's request.

Ms. Wingate moved that the Commission recommend approval of C/U 2578 New Life Bible Fellowship Church to allow an on-premises electronic message center sign based on the record made during the public hearing and for the following reasons:

1. This is an application for a Conditional Use to install an on-premises electronic message display sign. This type of application is permitted under Section 115-161.1 A. (3) of the Zoning Code.
2. The sign will be located on the Church's property, and it will be used to display information about the Church and its various activities and events.
3. This sign will replace a prior static-display sign on the site that is on the Church's property.
4. The sign will be required to comply with all of the sign regulations in the Zoning Code, including brightness and motion.

5. The sign will not adversely affect neighboring properties or area roadways and traffic.
6. No parties appeared in opposition to this Application.
7. A final site plan showing the location of the sign on the site shall be submitted to the Sussex County Planning & Zoning Commission for approval.

Motion by Ms. Wingate, seconded by Mr. Collins, and carried unanimously to recommend approval of C/U 2578 New Life Bible Fellowship Church for the reasons and the conditions stated in the motion. Motion carried 4-0.

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

**C/U 2584 Martin Pacheco & Agustin Lee Pacheco-Quillen**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OUTDOOR ATHLETIC FIELD AND CONCESSION TRAILER/FOOD TRUCK TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 8.07 ACRES, MORE OR LESS.** The properties are lying on the west side of Camp Road (S.C.R. 532) approximately 915 ft. north of Eskridge Road (S.C.R. 531). 911 Address: 20924 Camp Road, Bridgeville. Tax Map Parcels: 331-2.00-18.19 & 18.20

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the Applicant's Preliminary Site Plan, the property deed, the DelDOT Service Level Evaluation Response letter, a written response from the Sussex County Engineering Department Utility Planning Division, and the Staff Analysis letter. Mr. Whitehouse advised the Commission that no public comments had been received for the Application.

Mr. Whitehouse advised the Commission that the application was submitted as a result of an issued violation, and should the Commission have any questions, Mr. Mark Rogers, Sussex County Chief Constable, and Mr. Christopher Layton, Sussex County Constable were present.

The Commission found that Ms. Maria Monsanto, spoke on behalf of the property owner, Mr. Raul Alvarez, and the Applicants. Ms. Monsanto stated there is an existing soccer field that is utilized for practices and for seasonal games; that they also inherited a food truck; that this person has a license and all permits required for the food truck to be located on the property; that the food truck would provide light items, such as drinks and chips for the convenience of the players; that there are approximately 50 vehicles in the parking lot at a time, and these vehicles rotate throughout the time, as people are arriving and leaving from games.

Mr. Collins questioned the general number of vehicles that access the site, and proposed parking.

Mrs. Monsanto stated they stated approximately 50 vehicles, however, she believed it to be less than that; that there had been previous claims of 100 vehicles being on the site at one time; that there is no way 100 vehicles were on the site; that vehicles do switch from one particular game to another, which only occurs during a transition period; that the operations are proposed for seasonal use; that there is a period of start and end, and dates were provided of when operations are proposed to occur.

Ms. Wingate stated she saw the 50 parking spaces reflected on the plan; that she questioned if the plan was submitted to DelDOT and requested to hear from the Sussex County Constables that were present.

Ms. Monsanto stated she has all the paperwork for DelDOT, and she had submitted everything DelDOT requested.

The Commission found that Mr. Mark Rogers, Chief Constable, spoke upon the application at Ms. Wingate's request. Mr. Rogers stated the Constable's Department had received a complaint prior to his employment with Sussex County, in January 2024; that at that time, there was a large pole barn where soccer games were being held inside; that once a Constable visited the site, notifying the property owner of the violation, a Conditional Use application was filed; that subsequently, the Conditional Use application was withdrawn once made aware of what went into a Conditional Use application; that approximately two months later, after he was hired by Sussex County, another complaint was filed regarding large soccer games being held on the property; that a constable visited the site, at which time he was able to verify that soccer games were being held on the site on weekends; that it was the constable's understanding at that time, that no games were being held inside the building; that the Applicant and property owner were under the impression they were not permitted to host games inside the building, but were permitted to host games outside of the building; that at that time the Constable was able to make them aware that due to the number of people, the food truck, and the advertising, a Conditional Use approval would be required; that the Ms. Monsanto did attend a meeting with the Constables Department, to discuss the complaints filed, and the required process; that following this meeting, the Applicant agreed to limit the vehicles onsite to a maximum of 50 vehicles; that the department has received a few complaints; that since meeting with Ms. Monsanto in April 2025, they appear to be following the Constables guidelines and there have been arguments regarding the number of cars at the site, however, the event was held on a Sunday, at which time the Constables were unable to visit the site.

Ms. Wingate questioned what type of meetings and events are proposed for the pole building.

Ms. Monsanto stated originally, she had discussions with the Applicant regarding requesting a Conditional Use for the pole barn; that after they began looking into the expenses and permits of the process, they decided it was not affordable at the moment; that this resulted in the withdrawal of the original Conditional Use application; that there was a small room that was used for an inside soccer field; that at the time they did not realize they were in violation of the Code; that once they were made aware, they followed everything they were required to do, and they stopped all



activities that were required to be stopped; that this is what they have continued to do; that they are no longer proposing events; that if it is raining outside, they do hold practices inside; that the use is not commercial, it is all for personal use, and the only commercial use on the site is the food truck.

Mr. Mears questioned staff if the existing building is located over the setback line, shown at 20 feet, and if the Applicant would need approval by the Sussex County Board of Adjustment.

Mr. Whitehouse stated that if the existing building is located within the setback, it will require a variance; that this issue would be a separate matter; that staff will additionally need to resolve permitting for the building, and the thought process was to handle the use first, with everything else flowing from there, and staff will need to circle back on the setback issue.

Mr. Robertson questioned if the proposed use would have a negative impact on the nearby community, what days and hours of operation are proposed, and if the Applicant desires a sign.

Ms. Monsanto stated they are not looking to impact the community, however she felt the community felt a bit more impacted, as there are more retired people within the community; that there is a trucking business located behind the site; that they hear more noise from the trucking company than from their proposed use; that she is at the site at 6:00 am every morning, at which time she hears beeping and multiple other noises; that everyone has their own property; that they are only trying to have fun, by uplifting the community, through participating and enjoying the games; that the Applicant proposes to host games only on Sundays, and there will be practices held throughout the day.

The Commission found that Mr. Martin Pacheco spoke on behalf of his application. Mr. Pacheco stated that they would like to host practices in the afternoons for approximately one to two hours; that it all depends on what time people get off of work; that practices are typically held between 7:00 pm until 9:00 pm; that there are lights on the field that are operated by a generator; that on Sundays operations run from 8:00 am until 7:00 pm; that there are 10 to 15 people coming and going from the site; that there are not a bunch of people who remain at the site all day; that the season runs from October to May; that there has been a previous issue with players arriving at the wrong address, because they do not currently have a sign; that he does not necessarily want to place a sign, and he stated people arriving to the wrong location was only an issue in the beginning.

Ms. Monsanto stated that they do place a notice on Facebook to allow game players to know who will be playing against who.

Mr. Whitehouse questioned the lighting provided by the generator.

Ms. Monsanto stated that lighting is provided by a generator.

Mr. Pacheco stated it is a generator that gets placed on a light pole, and the generator turns the lights on.

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

Mr. William Reynolds spoke in opposition to the application. Mr. Reynolds stated he resides adjacent to the property; that there is traffic coming and going from the site, sometimes up to 3:00 am; that traffic to the site goes through his lane; that he previously complained; that they would not put up a sign to show where the correct entrance was located; that he currently has people on his property at night, at which time he chases them off with his flashlight, and the people do not pay attention; that they play games; that they use bright lights at night; that you can hear them from his property; that he would like them to place a sign for their business; that he believed they were running a business for horses, but he was unsure what they are doing on the property, and that there is traffic to the site seven days a week.

Ms. Wingate questioned whether additional businesses were being performed on the property.

Ms. Monsanto stated that they do have a painting business, known as GJK Painting, from the existing houses, with a small office located next to the houses, and their business provides painting and drywall services.

Chairman Wheatley questioned if the painting business had employees, and if there was an existing Conditional Use for the painting business.

Ms. Monsanto stated the painting business does have employees, and she would assume that there was a Conditional Use approved for the painting business on the property.

Mr. Whitehouse stated there is no Conditional Use approved for Tax Map Parcel No. 331-2.00-18.13, unless the use was in operation prior to 1970.

Mr. Robertson stated that the approval may have been granted as a Home Occupation, and confirmation would require additional research.

Mr. Rogers stated there has not been a violation issued for the painting business, however, it was part of one of the previous complaints; that when the Constable visited the site, there were no work vehicles located on the site, and Ms. Monsanto who often translates for the property owner was not present to translate, therefore, there was no evidence of a business at that time.

Ms. Monsanto stated that with the painting business, one to two contractors will come to the site to retrieve their schedule for the day, and will then leave the site; that the contractors do not drop off anything to the site; that they are sub-contractors, and they have their own work vehicles.

Chairman Wheatley stated the reason the Conditional Use is required is because the zoning of the area is agricultural residential; that there is an expectation that there will not be places of assembly; that there will no be food trucks; that there will not be businesses operating unless they received permission to do so, and that is the reasoning for the Conditional Use process.

The Commission found that Mr. Jason Hignutt and Mrs. Keri Hignutt spoke in opposition to the Application. Mrs. Hignutt stated that they are also neighbors within the community; that if the plan proposes 50 vehicles, potentially allowing four people per vehicle, it would equal to a minimum of 200 potential people at the property; that there was a fire at the residence previously; that they had concerns regarding a fire hydrant; that their home is located in front of the proposed site; that they had concerns regarding potential septic requirements, or are portable toilets proposed; that they would be a proponent for signage; that they have had a number of people in their driveway daily; that they hosted an event the night prior, where vehicles were entering the site at 9:00 pm; that they had previously had State troopers at their property looking for the site; that even the State police have trouble locating the property; that they have three children who love to play outside; that when people are pulling in and not knowing where they are going, turning around in their driveway, it creates a safety concern; that they have also had people previously trespass onto their property, attempting to get into their pole barn on their property; that the lane on the site is not wide enough to provide for two way traffic; that current business hours appear to be seven days a week, all hours of the day; that they are not fans of bright outdoor lighting; that the lights are a current issue on their property; that she questioned if the food trucks will draw crowds or will it be limited to servicing the players only; that they previously had seen septic trucks accessing the property, and if the use is approved, they request that there be guidelines placed.

Mr. Hignutt stated that they have three children who love to play outside; that Camp Road becomes a race track at night, when the site traffic is racing back to Cannon Road; that the loud trucks and Honda Civics need to be respectful for the existing residents of the community; that they are not against the use; that they are going through the same process for their own business; that they would request that the Applicant be held to the same requirements that they are being held to; that the back building is clearly past the required setback; that rules are rules; that there is not a fire hydrant close to the site and there is no public water anywhere near the site.

Mr. Collins questioned if the Hignutts were requesting screening to be placed for the site.

Ms. Hignutt stated that yes, they would appreciate a fence or some type of screening.

Ms. Wingate questioned if portable toilets and trash enclosures are located on the site.

Ms. Monsanto stated there are two portable toilets located on the site; that the toilets are services regularly; that there is one commercial four foot dumpster located to the back of the site; that there are no other businesses, but there is a farm with horses, chickens and goats; that they are not affiliated with any business use; that they are willing to place a fence if it is required; that the lights can be turned away from other properties; that they are willing to do whatever it takes; that for the

benefit of the neighbors, the property owner has a large family; that it is not only people coming for the soccer fields every day; that at times it is the property owners family members; that they are not trying to be rebellious; that they did not know the process and now that they know the process they are willing to do whatever it takes to fix the issues.

Mr. Robertson stated that the property is located right off Rt. 113; that the site is surrounded by C-1 (General Commercial) zoning on two sides, somewhat wrapping around to the front, containing commercial uses.

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 2584 Martin Pacheco & Agustin Lee Pacheco-Quillen. Motion by Mr. Collins to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 4-0.

**Meeting adjourned at 4:25 p.m.**

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