

## MINUTES OF THE REGULAR MEETING OF JULY 23, 2025

The regular meeting of the Sussex County Planning and Zoning Commission was held on Wednesday afternoon, July 23, 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, Mr. Brian Butler, and Mr. Scott Collins. Also, in attendance were Mr. Jamie Whitehouse – Director of Planning & Zoning, Mr. Vincent Robertson – Assistant County Attorney, Mr. Michael Lowrey – Planner III, Ms. Ann Lepore – Planner I, and Ms. Ashley Paugh – Recording Secretary.

Motion by Ms. Wingate, seconded by Mr. Butler, and carried unanimously to approve the Agenda as revised. Motion carried 5-0.

### ADDITIONAL BUSINESS

Annual Administration of Oaths – Mr. Robertson administered Oaths to Mr. Butler, as he was absent at the July 2, 2025, Planning and Zoning Commission meeting.

Motion by Ms. Wingate, seconded by Mr. Mears, to approve the Minutes of June 18, 2025, and July 2, 2025, of the Planning and Zoning Commission Meetings as circulated. Motion carried 5-0.

### OTHER BUSINESS

#### **S-25-44 Dave's Hot Chicken**

##### **Preliminary Site Plan**

This is a Preliminary Site Plan for Dave's Hot Chicken for the construction of a tenant fit-out for a 2,200 sq. ft. restaurant located within the existing Seaside Tanger Outlets Suite 1920 and other site improvements. The parcel is located on the northwest corner of Coastal Highway (Route 1) and Holland Glade Road (S.C.R. 271). A parking waiver request letter has been submitted to allow the removal of two parking spaces in order to accommodate a required dumpster. The Preliminary Site Plan complies with the Sussex County Zoning Code. Tax Parcel: 334-13.00-325.06. Zoning: C-1 (General Commercial 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 Preliminary Site Plan as a preliminary, with final approval to be given by the staff subject to the receipt of all agency approvals. Motion carried 5-0.

**S-24-35 36848 Lighthouse Road**

**Preliminary Site Plan**

This is a Preliminary Site Plan for 36848 Lighthouse Road for the construction of a 2,851 square foot commercial office building and other site improvements. The parcel is located southwest of Lighthouse Road (Route 54), approximately 150-feet +/-, northwest of Teaberry Circle. 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: 533-12.00-98.00. Zoning: B-1 (Neighborhood Business District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, staff are requesting that preliminary and final approval be made subject to staff upon the receipt of all agency approvals.

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

**(S-23-51) Route 9 Commercial (Malmaris Spots)**

**Revised Preliminary Site Plan, Minor Subdivision, & Request for Clarification**

This is a Revised Preliminary Site Plan for the construction of a proposed (5,940) square foot gas station, a (3,694) square foot fast food restaurant with vehicular drive-through, an internal road, sidewalks, parking, stormwater management, and ancillary improvements on a Parcel located the southwest corner of the intersection of Lewes Georgetown Highway (Route 9) and Fisher Road (S.C.R. 262). A Preliminary Site Plan for the site was denied by the Planning & Zoning Commission at their meeting of Wednesday, September 25, 2024. The Applicant has submitted two (2) waiver requests with this Revised Preliminary Plan, including a request for a waiver of the requirement to provide an off-street loading zone and a waiver request relating to the provision parking for the proposed improvements to "Parcel B". The Plan's revised design reduces the building footprint of the restaurant on Parcel B, removes the parking previously included within the front yard setback, and provides (23) spaces in lieu of the required thirty-one (31) spaces. Staff are requesting the Planning & Zoning Commission provide guidance relating to both the administrative processing of the waiver requests [ (§115-83.13(A)) & (§115-163(B)) versus (§115-164)] as well as the application of County Code relating to the requirement of planted buffers (§115-83.15(B)(1)) within front yard setbacks in (C-2) Zoning Districts. With the exception to the waiver requests for parking/loading and buffer plantings, the Preliminary Site Plan complies with the Sussex County Zoning Code. Tax Parcel: 235-30.00-51.00 Zoning: C-2 (Medium Commercial 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 Ms. Wingate, seconded by Mr. Mears, and carried unanimously to approve the Revised Preliminary Site Plan, with a waiver from the parking space number requirements, and subject to staff working with the Applicant for a Landscaping Plan, and with final approval to be given by the staff, subject to the receipt of all agency approvals. Motion carried 5-0.

**S-23-07 Lands of Rockswitch Properties, LLC**

**Revised Preliminary Site Plan**

This is a Revised Preliminary Site Plan for the adaptive reuse of an existing (1,210) square foot residential structure as a real estate office, the construction of a (4,550) square foot accessory storage structure, a parking area comprised of seven (7) spaces, sidewalks, and proposed ancillary improvements to vehicle ingress/egress. The use as a Real Estate Services Office on the Parcel was approved by County Council via Conditional Use #2309 at their meeting of Tuesday, August 30, 2022. A Preliminary Plan for the use of the site, without the inclusion of the accessory storage structure, was granted Preliminary approval by the Planning & Zoning Commission at their meeting of February 23, 2023. The parcel is comprised of (1.3802) acres +/- and is located on the northeast side of Coastal Highway (Route 1), approximately 450 feet south of Deep Branch Road (S.C.R. 234). The Preliminary Site Plan complies with the Sussex County Zoning Code. Tax Parcel: 235-8.00-62.00. Zoning: AR-1 (Agricultural-Residential District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, staff are requesting final approvals to be made subject to staff upon the receipt of all agency approvals.

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

**Lands of T.S. Smith & Sons, Inc. – Matthew & Sherri Smith**

**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 1.00-acre +/-, and the residual lands will contain 252.4-acres +/- . A shared use maintenance agreement shall be established for the use of the shared access road. The property is located south of Redden Road (S.C.R. 40), approximately 0.50 miles east of Sussex Highway (Route 13). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 131-11.00-8.00 Zoning: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals. Therefore, the plans are eligible for both preliminary and final approvals.

Motion by Ms. Wingate, seconded by Mr. Collins, and carried unanimously to approve the Minor Subdivision Plan off a proposed 30-ft easement as a preliminary and final. Motion carried 4-0. Mr. Butler abstained.

**Lands of John & Anna Marie Lecates**

Minor Subdivision Plan off a proposed 30-ft easement and Lot Line Adjustment

This is a Minor Subdivision Plan for the creation of one (1) lot with access off a proposed 30-ft wide ingress/egress access easement. This Plan also includes a lot line adjustment to allow for the creation of Proposed Lot D, which will consist of 1.025 acres +/- . Following the adjustment Lot A will consist of 1.307 acres +/- and Lot C will consist of 1.460 acres +/- . The residual lands (Lot B) will contain 1,200 acres +/- . A shared use maintenance agreement shall be established for the use of the shared access road. The property is located south side of Conleys Chapel Road (S.C.R. 280B), approximately 0.24 mile northwest of Robinsonville Road (S.C.R. 277). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcels: 234-11.00-62.05, 62.22, & 62.28. 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 Ms. Wingate, seconded by Mr. Mears, and carried unanimously to approve the Minor Subdivision Plan off a proposed 30-ft easement, and Lot Line Adjustment Plan as a preliminary and final. Motion carried 5-0.

**Lands of Orville & Amy Syvester**

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 1.00-acre +/- and the residual lands will contain 64.374 acres +/- . A shared use maintenance agreement shall be established for the use of the shared access road. The property is located on the south side of Rust Road (S.C.R. 635), approximately 0.43 mile east of North Union Church Road (S.C.R. 42). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 130-6.00-56.00. Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, staff are requesting that final approval be made subject to staff upon the receipt of all agency approvals.

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

**Lands of Route 9 Venture, LLC (Adel Baghouli)**

Minor Subdivision Plan off a proposed 30-ft easement

This is a Minor Subdivision Plan for the creation of one (1) lot plus residual lands with access off a proposed 30-ft wide ingress/egress access easement. Proposed Lot 1 will consist of 0.769-acre +/- and the residual lands (Lot 2) will contain 0.756-acres +/- . A shared-use maintenance agreement shall be established for the use of the shared access road. The property is located on the south side of Lewes Georgetown Highway (Rt. 9), approximately 0.31 mile east of Josephs Road (S.C.R.

281). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcels: 334-10.00-31.05 & 31.06. 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 Ms. Wingate, seconded by Mr. Mears, and carried unanimously to approve the Minor Subdivision Plan off a proposed 30-ft easement as a preliminary, with final approval to be given by the staff, subject to receipt of all agency approvals. Motion carried 5-0.

### **Lands of Robert & Tina Thomas**

Minor Subdivision Plan off a proposed 30-ft easement

This is a Minor Subdivision Plan for the creation of two (2) lots plus residual lands with access off a proposed 30-ft wide ingress/egress access easement. Proposed Lot 2 will consist of 3.321 acres +/-, proposed Lot 3 will consist of 5.873 acres +/-, and the residual lands will contain 10.522 acres +/- . A shared-use maintenance agreement shall be established for the use of the shared access road. The property is located on the west side of Tull Road (S.C.R. 580), approximately 0.40 mile north of Shirleys Road (S.C.R. 578). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 530-12.00-1.01. 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 Ms. Wingate, seconded by Mr. Collins, and carried unanimously to approve the Minor Subdivision Plan off a proposed 30-ft. easement, as a preliminary and final. Motion carried 4-0. Mr. Butler abstained.

## **OLD BUSINESS**

Mr. Butler advised the Commission that although he was not present at the Commission meeting of July 2, 2025, he had listened to the hearings and was prepared to participate in motions.

### **C/U 2395 Breeze-A-Bella Land Group, LLC**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A DISTRIBUTION WAREHOUSE TO BE LOCATED ON A 10.896 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 71.127 ACRES, MORE OR LESS.** The property is lying on the south side of Park Avenue (S.C.R. 318) at the intersection of Park Avenue (S.C.R. 318) and Cedar Lane (S.C.R. 321A). 911 Address: 22318 Cedar Lane, Millsboro. Tax Map Parcel: 135-20.00-81.00.

The Commission discussed the application, which had been deferred since July 2, 2025.

Ms. Wingate moved that the Commission recommend approval of C/U 2395 Breeze-A-Bella Land Group, LLC in a-AR-1 Agricultural Residential District for a distribution warehouse based upon the record made during the public hearing and for the following reasons:

1. The use is situated on 10.896 acres of a much larger 71.127-acre parcel of land. With the conditions and stipulations of approval, the use will not have a negative impact on the neighboring properties or surrounding area.
2. The purpose of this application is to create a centralized location for distribution warehouses with indoor storage. This site will allow the Applicant's business to consolidate at an appropriate location in Sussex County on the outskirts of Georgetown. The Applicant has stated that there is not any other suitable space for the consolidated distribution business in the Georgetown area.
3. The Property is located across Park Avenue from Sussex County's Delaware Coastal Airport & Business Park. The use is consistent with these surrounding uses.
4. The warehouses have been located in an area that is the farthest from any neighboring residential uses while preserving the existing forested areas on the property.
5. A portion of the property will remain to be used for the Applicant's cattle herd, which is permitted within the AR-1 zoning District.
6. No retail sales will occur from the property.
7. DelDOT has stated that the use will have a "negligible" impact upon local area roadways. The applicant has stated that the incoming and outgoing truck traffic is minimized, at approximately 2 or 3 trucks per week. As a result, the use will not have an adverse impact on the traffic or area roadways.
8. This Property is located within the Developing Area according to the Future Land Use Map contained in the Sussex County Comprehensive Plan. The Developing Area is a Growth Area where business and commercial uses such as this can be located.
9. This use promotes the economy of Sussex County at an appropriate location.
10. This recommendation is subject to the following conditions:
  - A. The conditional use shall be limited to a distribution warehouse facility within buildings specifically designated for that purpose as depicted on the Final Site Plan.
  - B. All work and storage shall only occur indoors.
  - C. No retail sales shall occur from the site.
  - D. No outside storage associated with the warehouse distribution business shall be permitted. This prohibition shall not apply to storage associated with the Applicant's other uses that are permitted within the AR-1 Zoning District.
  - E. All lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.
  - F. Any dumpsters on the site must be screened from the view of neighboring properties and roadways.
  - G. The Applicant shall comply with all DelDOT requirements for entrance and

roadway improvements.

- H. The hours of operation shall be Monday through Saturday between 8:00 a.m. until 6:00 p.m. There shall not be any Sunday hours.
- I. One indirectly lit on-premises ground sign shall be permitted on the site. It shall be no larger than 32 square feet per side.
- J. All vehicle parking areas shall be clearly shown on the Final Site Plan and clearly marked on the site itself. All vehicles must be parked within the designated areas.
- K. No junked, inoperable or untitled vehicles shall be located on the site.
- L. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated in a manner that is consistent with Best Management Practices. 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.
- M. Failure to comply with any of these conditions may be grounds for the termination of the Conditional Use approval.
- N. 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 2395 Breeze-A-Bella Land Group, LLC for the reasons and conditions stated in the motion. Motion carried 5-0.

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

**C/U 2511 Paulina Owedyk**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A GENERAL CONTRACTOR AND CONSTRUCTION BUSINESS WITH AN OFFICE, SHOWROOM, AND STORAGE INCLUDING VEHICLES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 0.46 ACRE, MORE OR LESS.** The property is lying the north side of Clay Road (S.C.R. 269), approximately 0.43 mile west of Kings Highway (Rt. 9). 911 Address: 33847 Clay Road, Lewes. Tax Map Parcel: 335-12.06-56.00.

The Commission discussed the application, which had been deferred since July 2, 2025.

Mr. Collins moved that the Commission recommend approval of C/U 2511 Paulina Owedyk an AR-1 District for a general contractor and construction business with an office and storage, based upon the record made during the public hearing and for the following reasons:

1. The use is situated upon a property along Clay Road. The office use will occur within an

existing former residence, and the storage will occur within an existing pole building on the property. With the conditions and stipulations of approval, the use will not have a negative impact on the neighboring properties.

2. There are other commercial and business uses in this area. On Clay Road, there is a property that is zoned B-1 with an accounting office, and there are other conditional uses including offices, storage, a bulk storage propane facility, a yoga and exercise facility, and a hair studio. This site is also near Westcoats Corner and the variety of business and commercial uses that exist near that intersection. This conditional use is appropriate for this location along Clay Road.
3. No retail sales will occur from the property.
4. Most of the work is offsite, so there is not a lot of activity that occurs on this site during the day.
5. DelDOT has stated that the use will have a “Diminutive” impact upon traffic and area roadways. The use will not have an adverse impact on the traffic or area roadways.
6. This area of Sussex County has a need for small, general contracting businesses such as this one. This is an appropriate, convenient location for such a use.
7. A portion of the property is located within a Wellhead Protection Area and will comply with the requirements of Chapter 89 of the Sussex County Code.
8. The site is served by an on-site well and central sewer provided by Sussex County.
9. The record contains six (6) letters in support of the Application from neighboring property owners. No parties appeared in opposition to this application.
10. This recommendation is subject to the following conditions:
  - A. The use shall be limited to a general contractor business with an office and storage associated with that use.
  - B. There shall not be any outside storage of construction materials on the site.
  - C. No retail sales shall occur from the site.
  - D. All lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.
  - E. Any dumpsters on the site must be screened from the view of neighboring properties and roadways.
  - F. The existing fence surrounding the site shall be depicted on the Final Site Plan and it shall be maintained at all times.
  - G. The applicant shall comply with all DelDOT requirements for entrance and roadway improvements.
  - H. The hours of operation shall be Monday through Friday from 6:00 a.m. until 6:00 p.m. and from 7:00 am until 3:00 pm on Saturdays. No Sunday hours shall be permitted.
  - I. One lighted sign shall be permitted on the site along Clay Road. It shall be no larger than 32 square feet per side. One on-premises wall sign shall be permitted on the pole building. It shall not be larger than 150 square feet in size.
  - J. All vehicle parking areas shall be clearly shown on the Final Site Plan and clearly marked on the site itself. All vehicles must only be parked within the designated areas.
  - K. No junked, inoperable, or untitled vehicles or equipment shall be located on the site.

- L. Failure to comply with any of these conditions shall be grounds for the termination of the Conditional Use approval.
- M. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Collins, seconded by Ms. Wingate, and carried unanimously to recommend approval of C/U 2511 Paulina Owedyk for the reasons and conditions stated in the motion. Motion carried 5-0.

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

**C/U 2537 Ryan Brower**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A GENERAL TRADE CONTRACTING BUSINESS WITH OFFICE AND STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 1.73 ACRES, MORE OR LESS.** The property is lying the southeast side of Pettyjohn Road (S.C.R. 255), approximately 0.65 mile northeast of Prettyman Road (S.C.R. 254). 911 Address: 18113 Prettyman Road, Milton. Tax Map Parcel: 235-25.00-45.00.

The Commission discussed the application, which had been deferred since July 2, 2025.

Mr. Robertson read Mr. Butler's motion into the record at Mr. Butler's request.

Mr. Butler moved that the Commission recommend approval of C/U 2537 Ryan Brower for a general trade contracting business with an office and storage on land zoned AR-1 based on the record made during the public hearing and for the following reasons:

1. The applicant operates an HVAC repair business from the site. His business has expanded to the point where a conditional use is now required.
2. The Applicant's family owns the farmland that surrounds the site, and the Applicant and his family reside in the farmhouse on the property.
3. The use will occur within the existing outbuildings on the property.
4. The business use is located at the rear of the Applicant's property, where it will have the least impact on any neighboring properties.
5. DelDOT has stated that the traffic generated by the proposed use will be diminutive and will not have a negative impact on the neighboring roadways.

6. The use as an HVAC sales, service and repair business is of a public or semi-public character that is desirable for the general convenience and welfare of the area and the County.
7. No parties appeared in opposition to the application.
8. This recommendation is subject to the following conditions:
  - A. The property shall be used for a general trade contracting business with an office and storage in addition to the Applicant's residence.
  - B. The use will occur within the existing outbuildings on the site.
  - C. The site shall not be permitted to become a junkyard that requires separate zoning and other approvals. Any used HVAC equipment shall be kept within a fenced and screened area, and none of it shall be permanently stored. The Applicant shall only store HVAC equipment it obtains as part of its repair and installation business.
  - D. One indirectly lighted sign shall be permitted. It shall not be larger than 32 square feet per side.
  - E. The hours of operation shall be between 7:30 am and 5:00 pm, Monday through Friday, and on Saturdays between 8:00 am and 12:00 pm on Saturdays. No Sunday hours shall be permitted.
  - F. Any outdoor lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.
  - G. Any dumpsters on the site shall be screened from the view of neighboring properties and roadways. The dumpster location shall be shown on the Final Site Plan.
  - H. The Applicant shall comply with any DelDOT requirements for entrance and roadway improvements.
  - I. Any violation of these conditions of approval may result in the termination of this Conditional Use.
  - J. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Butler, seconded by Mr. Collins, and carried unanimously to recommend approval of C/U 2537 Ryan Brower for the reasons and conditions stated in the motion. Motion carried 5-0.

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

## PUBLIC HEARINGS

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

### **C/U 2517 High Tide Church, Inc.**

**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 19.30 ACRES, MORE OR LESS.** The property is lying on the south side of Nine Foot Road (Rt. 26), approximately 949 feet southwest of DuPont Boulevard (Rt. 113). 911 Address: 28000 Nine Foot Road, Dagsboro. Tax Map Parcel: 233-10.00-46.00.

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

The Commission found that Mr. Mark Davidson, P.E., with Pennoni spoke on behalf of the Applicant, High Tide Church, Inc.; that also present was Mr. Mason Dyer, who is an elder with High Tide Church. Mr. Davidson stated that the application is requesting a Conditional Use of land in an AR-1 (Agricultural Residential) Zoning District for an on-premises electronic message center sign per §115-161.1A3; that the site is comprised of approximately 19.3 acres, being located along Nine Foot Road; that the site is located approximately 50 feet west of Rt. 113, being just outside of the Town of Dagsboro; that the site is located just south and west of a large track of land already zoned CR-1 (Commercial Residential) and C-1 (General Commercial), which fronts Rt. 113 and Nine Foot Road; that at the front of the property, there are four single-family lots, which are owned by the church; that the property is located within a Developing Area according to the 2045 Future Land Use Map, and is located adjacent to commercial designated area; that the property is currently improved with an existing church, which is comprised of a sanctuary hall, classrooms, existing parking area, and stormwater management area; that the building is set back approximately 600 feet from Nine Foot Road; that the property utilizes an existing well for domestic water, and a separate well and fire suppression storage tank for fire protection; that the property is connected to the Sussex County sanitary sewer system; that Conditional Uses are subject to the provisions of Articles 4 through 24, and Section 115-22; that the purpose of a Conditional Use is to provide for certain uses, which cannot otherwise be well adjusted to their environment, in a particular location with gull protection offered to surrounding properties by rigid application of district regulations; that the High Tide Church has a goal to clearly and accurately present biblical gospel to their generation; that their ambition is to be diligent students of God's word; that their resolve is to do all they can to provide the necessary resources and opportunities; that High Tide Church is

requesting a 32 square foot electronic messaging sign; that the proposed 32 square foot electronic messaging sign will be in addition to a 32 square foot on-premise sign; that the electronic message center sign will be located below the on-premise sign; that the sign placement will exceed the minimum requirements for the AR-1 (Agricultural Residential) Zoning District for sign placement; that the sign will be approximately 200 feet from any adjacent dwellings on other properties; that the electronic messaging sign will follow regulations that apply to all electronic message centers per Section 115-161.1(C)(1)(a-h); that electronic message signs offer a multitude of benefits that traditional signage cannot match, making them popular choices for businesses, organizations, and institutions, who are looking to enhance communications, marketing and safety; that electronic message sign can be update instantly and remotely, allowing churches to adapt to the changing needs, promote services, and announce upcoming events, without the cost and delay of traditional printing; that churches can tailor messages to specific audiences, or adjust content based on factors like time of day, weather or events; that this flexibility ensures that the message is always relevant and impactful; that the proposed electronic message center (EMC) sign will not alter the character of the surrounding area in any manner that would substantially limit, impair or preclude the use of the surrounding properties; that the proposed Conditional Use meets the general purpose of the zoning ordinance, being located in an appropriate location, meeting the purpose of the district and the Comprehensive Plan, by aligning with the underlying goals, and intent of the zoning classification, serving the community and its residents, which is essentially desirable for the general convenience, orderly growth, prosperity and welfare of the County, and the sign will be constructed by Ad Art, Inc. who is aware of the Sussex County Sign rules and regulations.

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 Mr. Mears' motion into the record at Mr. Mears' request.

Mr. Mears moved that the Commission recommend approval of C/U 2517 High Tide Church, Inc. to allow an on-premise 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. The sign will be required to comply with all the sign regulations in the Zoning Code, including brightness and motion.

4. The sign will not adversely affect neighboring properties or area roadways and traffic.
5. No parties appeared in opposition to this Application.
6. 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 Mr. Mears, seconded by Mr. Butler, and carried unanimously to recommend approval of C/U 2517 High Tide Church, Inc. for the reasons and conditions stated in the motion. Motion carried 5-0.

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

**C/U 2493 Rennie Hunt**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO ALLOW FOR SITE DEVELOPMENT BUSINESS WITH OFFICE AND OUTDOOR STORAGE AND PARKING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 0.45 ACRES, MORE OR LESS.** The property is lying on the northwest side of Roxana Road (Route 17), approximately 0.07-mile northeast of Pyle Center Road (Route 20). 911 Address: 35082 Roxana Road, Frankford. Tax Map Parcel: 533-6.00-19.00.

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

Mr. Whitehouse advised the Commission that the Application was related to some history with the Sussex County Constables Department, as there was a complaint made and investigated in August 2023; that a Notice of Violation was served, and the Applicant responded by submitting the Conditional Use application, working with staff to bring the application currently before the Commission.

The Commission found that Mr. Daniel Conway, Esq., with Scott and Shuman, PA, spoke on behalf of the Applicant, Mr. Rennie Hunt, who was also in attendance. Mr. Conway stated that Mr. Hunt purchased the property and began using the property for business purposes; that unintentionally, Mr. Hunt did run afoul of what was required to obtain Conditional Use approval; that Mr. Hunt is a Sussex County native, who has been growing his site development business; that the subject site is utilize primarily for office work; that the site houses and office of which two full-time employees work at during the day; that his other employees that assist with work at various project, utilize the property for parking vehicles, such as their personal vehicles; that they use the site as a gathering space, where they meet and then go to the projects as needed; that the property is also being used

for storage of equipment, and other site development business vehicles such as trucks, vans, bobcats, and skid; that the site also stores equipment attachments needed for paving, concrete work, gravel work, and things of that nature; that Mr. Hunt is requesting a Conditional Use to continue operating and grow his business; that he had previously submitted proposed Conditional Use restrictions to the Commission for consideration; that the proposed use would be limited to the current site development business; that Mr. Hunt is not looking to expand, and no new buildings are proposed; that Mr. Hunt is not proposing to bring in anymore outside equipment or material; that there is an existing six foot tall white privacy fence surrounding the property; that the fence provides a level of both visual and physical separation between this parcel and surrounding parcels; that the business house would be limited to 7:30 am until 6:30 pm; that Mr. Hunt will submit a Final Site Plan that would finalize and reflect area for parking and other storage; that security lighting would be downward screened and directed so not to produce any nuisance or light onto surrounding properties; that Mr. Hunt would like to request permission to have one lighted sign, that shall not exceed 32 square feet in size per side, and Mr. Hunt would conform with any future DelDOT requirements imposed upon regarding entrance to the property.

Ms. Wingate questioned if the proposed business hours were from Monday through Friday.

Mr. Conway stated that Mr. Hunt would request that the business hours be permitted seven days a week.

Mr. Mears requested clarification on how much equipment would be stored on the site, the number of employees accessing the site, and parking at the site, and questioned if there was room on the site to store all the equipment mentioned.

Mr. Conway stated that there are two full-time employees at the site during the day; that at any given time, one could expect 10 to 15 vehicles to be located on the site, and there is enough room on the site to store all the previously mentioned equipment.

Ms. Wingate requested clarification on what Mr. Hunt's site development business entailed.

The Commission found that Mr. Rennie Hunt, Applicant, stated he performs site work on new construction, new developments, and residential as well.

Ms. Wingate stated that when she visited the site, there was an RV on the site with electricity provided to it, and she questioned if someone was residing in the camper.

Mr. Hunt stated that no one currently resides in the RV; that one of his guys placed the RV there, as they needed a place to stay for the weekend, and it was never pulled out, and he is willing to have it removed at any time.

Mr. Butler questioned Mr. Whitehouse as to what triggered the complaint.

Mr. Whitehouse advised the Commission that the violation was issued based on a report of an illegal business being performed on the site.

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 C/U 2493 Rennie Hunt. Motion by Mr. Mears to defer action for further consideration, seconded by Mr. Collins, and carried unanimously. Motion carried 5-0.

**C/U 2494 Rennie Hunt**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO ALLOW FOR A SITE DEVELOPMENT BUSINESS WITH OFFICE AND OUTDOOR STORAGE AND PARKING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 1.38 ACRES, MORE OR LESS.** The property is lying on the north side of Gum Road (S.C.R. 392), approximately 0.12 mile west of Roxana Road (Route 17). 911 Address: 36215 & 36219 Little Creek Lane, Frankford. Tax Map Parcel: 533-10.00-46.02.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Preliminary Site Plan, the property deed, the DelDOT Service Level Evaluation Response letter, the Applicant's Exhibit Book, a comment letter from the Sussex County Engineering Department Utility Planning Division, the Staff Analysis report, and one public comment letter which was included within the Commission's paperless packet.

The Commission found that Mr. Daniel Conway, Esq., with Scott and Shuman, PA, spoke on behalf of the Applicant, Mr. Rennie Hunt, who was also in attendance. Mr. Conway stated that subject property is located at 36215 Little Creek Lane; that the Applicant was requesting a Conditional Use to allow for a site development business to operate from the site; that the site would be utilized for storage purposes of both materials and vehicles that support his business; that the property is surrounded by existing trees; that Mr. Hunt has begun planting trees along the roadway as well; that due to the recent hot weather, some of those planted trees have died; that Mr. Hunt is able and willing to build new screening at the front of the property, along the roadway; that the property would be used solely for the site development business; that proposed Conditions of Approval were submitted for the Commission's consideration; that as part of the submitted conditions, a vegetative buffer around the property, minimizing visibility from both the roadway and surrounding properties was proposed; that the hours of operation are proposed to be limited to 7:30 am until 6:30 pm, to be operated seven days per week; that a Final Site Plan will be submitted, which will reflect the location of a four yard sized dumpster located on the property; that the

dumpster would be screened from any neighboring properties, and all security lighting would be directed downward, to ensure no light is directed onto neighboring properties.

Mr. Mears questioned Mr. Whitehouse if a violation was filed or issued for the property.

Mr. Whitehouse stated that it was his understanding that because this property and its proposed use were connected with the previous application, the Constables looked at both sites simultaneously; however, no Notice of Violation was issued for the subject site.

Mr. Mears stated he did not understand how Mr. Hunt would assume he could have the business operations without Sussex County approval; that the property was a mess; that he understood Mr. Hunt is currently planting shrubs out front, but currently, the site is visually a mess, and he had additional concerns regarding the nearby existing River Soccer Club.

Ms. Wingate stated that she agreed with Mr. Mears, stating that the existing condition of the property looked horrible; that there had been a lot of debris dumped on the site; that there are many types of wood, building materials, and asphalt millings piled up along the left side of the house, and are almost encroaching onto Gum Road, that there is an abandoned car located at the back of the property, which had debris piled up against it; that there was a complaint filed by Ms. Rebecca Mais, who stated the residents of the site allegedly had been accessing the their property belonging to River Soccer Club; that she felt, at minimum, a fence must be placed along the entire back portion of the property, potentially along the entire perimeter of the property; that she did not feel that the site blended with the surrounding area, and felt it was unfortunate to see what had happened to the property.

Mr. Collins stated he concurred with the other Commissioner's comments.

Mr. Butler questioned if Mr. Hunt would be willing to place fencing around the property if a Conditional Use were approved for the property.

Mr. Hunt stated he would be agreeable to the placement of a fence around all four sides if the Commission would require it; that he would remove all the stone, and clean up the site; that the vehicles on the site belonged to the residents that lived there, and he would have those vehicles removed.

Ms. Wingate questioned how often trucks come and go from the site, what type of material is stored on the site, and if trucks are backing out onto Gum Road.

Mr. Hunt stated that currently, he is storing mostly stone on the site; that they purchased a property down the road, and they plan to put a roadway in; that he estimated about three trucks arrive in the morning, load material and leave the site; that the property has a large driveway; that the trucks pull in and around to exist the site.

Mr. Whitehouse questioned if there was a structure located on the property that may be encroaching on the setbacks and/or boundary line.

Mr. Hunt stated that the building was encroaching on the boundary line and had been moved.

Mr. Robertson advised the Commission that the submitted survey was dated June 2024, and the survey reflected a 20-foot encroachment of gravel on the right side of the property.

Mr. Hunt stated that if there was an encroachment of the existing gravel stone, he was willing to have it moved.

Mr. Conway stated that the Final Site Plan will show zero encroachments.

Mr. Robertson stated the property is located within AR-1 (Agricultural Residential) and questioned the history behind the two existing dwellings.

Mr. Hunt stated that he purchased the property with permission to have two dwellings.

Ms. Lepore stated that the property received approval for a Garage Studio Apartment in 2019.

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 C/U 2494 Rennie Hunt. Motion by Mr. Mears to defer action for further consideration, seconded by Ms. Wingate, and carried unanimously. Motion carried 5-0.

**C/Z 2028 Oscar H. Jr. & Thelma M. Warrington Trustee**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 1.529 ACRES, MORE OR LESS.** The property is lying on the west side of Kings Highway (Rt. 9), approximately 0.36 mile northwest of Gills Neck Road (S.C.R. 267). 911 Address: 1006 Kings Highway, Lewes. Tax Map Parcel: 335-8.00-36.06.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Rezoning Survey, the property deed, the DelDOT Service Level Evaluation Response letter, a comment letter from the Sussex County Engineering Department Utility Planning Division, and

the Applicant's Exhibit Book. Mr. Whitehouse advised the Commission that three public comments were submitted for the application, which were placed in the Commission's paperless packet.

The Commission found that Mr. David Hutt, Esq., with Morris James LLP, spoke on behalf of the Applicant, CommDel, LLC; that also present were Mr. Rodney Cunningham, Principal of CommDel, LLC, and Mr. Zac Crouch, P.E., with Davis, Bowen & Friedel, Inc. Mr. Hutt stated that CommDel, LLC is the Applicant and contract purchaser of the property; that the current owners of the property are the successor trustees of the Oscar H. Warrington Junior Trust and the Thelma M. Warrington Trust, and the successor trustees are Oscar H. Warrington, III, Virginia L. Lynch, and Sue Ann Newsham; that the application is a proactive solution, which makes common sense and business sense; that the application seeks to rezone a 1.5 acre portion of the site, which is currently zoned AR-1 (Agricultural Residential); that the application seeks to change the zoning designation to the C-2 (Medium Commercial) Zoning District; that the site is located behind and beside a commercial strip center, being best known for Mr. P's Pizzeria, Pure Bliss Salon & Spa, Hing Wang Chinese restaurant., and PedalTec Electronic Bikes; that The Brush Factory on Kings is located immediately to the north of the site; that First Baptist Church of Lewes and Big Oyster Brewery; that to the west of the site is the Lodge at Historic Lewes; that behind the Lodge at Historic Lewes is Dutchman's Harvest, a workforce housing community currently under construction; that immediately behind the property is now located within the municipal limits of the City of Lewes; that in April of the past year, a town home community was approved for the municipal property, to be known as Overfall Preserve; that the area is well known, with many commercial businesses, institutional and residential uses, existing along the roadway; that it is also an access point off Kings Highway into the Cape Henlopen school; that it is also well known as it is one of the main roadways into the City of Lewes, and a main access road to the Cape May Lewes Ferry and the Cape Henlopen State Park; that there are number of businesses and commercial uses along Rt. 9 and Kings Highway in the area; that also within the surrounding area are the locations of Lane Builders, the real estate offices for Jack Lingo, the Cape Henlopen Medical Center, Kingston Court, and the Cape Professional Campus; that directly across from the Cape Professional Campus is the future Village Center Commercial area, which the Planning Commission has reviewed the site plan for; that the proposed rezoning will seek to solve a future problem, and also will provide a number of other benefits; that the one issue the rezoning seeks to resolve is the taking of property that will occur as DelDOT improves and dualizes Kings Highway in the future; that the future DelDOT improvements will take a significant portion of most of the property owners along Kings Highway, including the strip center where Mr. P's Pizzeria is located; that these property owners will lose their entire first row of parking and some of the drive aisle located in front of the building; that the solution Mr. Cunningham has proposed to address the problem, was to move the commercial back, to allow all the existing businesses to remain in their current locations, by moving behind the building; that Mr. Cunningham also explored the possibility of creating a mixed-use of the property, where commercial would be provided on the first floor and residential would be located above the commercial; that this proposal is currently still being explored; that the property behind the existing commercial strip center is not currently owned by Mr. Cunningham, and is currently zoned AR-1 (Agricultural Residential); that the first

step was to get the property under contract; that the next step was to file for the Sussex County Change of Zone to request an amendment to the County's Zoning Map to create a C-2 (Medium Commercial) district, which would allow for the building to be moved back; that should be application be approved, Mr. Cunningham's primary goal is to be able to construct those new facilities behind the existing building, with the intention of doing that while the existing tenants are in the building located in the front; that this will allow those business to be required to shut down for a very short period of time in the future, as they relocate from the front building to the back; that the proposed rezoning matches and aligns with the land use sense of the property, when looking at the State Strategy Maps, the Comprehensive Plan and the characteristics and purposes of the C-2 (Medium Commercial) Zoning classification; that on the 2020 State Strategies Map promulgated by the Office of State Planning Coordination, the entire area is located within Investment Level 1; that the Investment Level 1 is an area where State investments and policies support and encourage a wide range of uses, including commercial activities; that the application was sent through the PLUS process, which was included into the application's record; that the PLUS letter stated that development within Investment Level 1 was consistent with the 2020 Strategies for State Policies and Spending; that the Office of State Planning Coordination had no objections to the proposed rezoning, provided that it meets the relevant codes and ordinances of the County; that according to the County's 2045 Future Land Use Map of the 2018 Comprehensive Plan, the entire area is located within either the Coastal Area or the Commercial Area, which is are growth areas; that the C-2 (Medium Commercial) classification is an applicable district, pursuant to Table 4.5-2 of the Comprehensive Plan; that within Chapter 4 of the Coastal Area, with respect to purpose and use, as a location where retail and office uses are appropriate; that larger shopping centers and office parks should be confined to selected locations with access along arterial roads, with appropriate mixed-use development should also be allowed; that the proposed application is consistent with all of the requirements; that the site is located along an arterial road; that mixed-use development is currently proposed; that according to the Sussex County and the City of Lewes Zoning Maps, the site is surrounded by a number of different business, commercial, and some residential zoning classification, being Sussex County's C-1 (General Commercial) or C-3 (Heavy Commercial) Zoning, the City of Lewes' R-5 (Mixed Residential Zone), which allows for medium to higher densities, the City of Lewes' Community Facilities Healthcare Zoning, the AR-1 (Agricultural Residential), being the location of First Baptist Church of Lewes, and the City of Lewes' General Commercial District; that also the surrounding area includes commercial areas designated as B-1 (Neighborhood Business); that there are also multiple approved Conditional Uses within the area as well; that the Cape Henlopen Medical Center, being a 39,000 square foot office space, located at the intersection of Gills Neck Road and Kings Highway was approved as Conditional Use No. 2112; that there are no wetlands located on the site; that according to the FEMA Flood Maps, the property is located within Flood Zone X, which is located outside of the 500 year floodplain; that the site is located within a Wellhead Protection Area, and will be subject to the Chapter 89 Source Water Protection requirements; that water and sewer will be provided through the City of Lewes Board of Public Works; that a Service Level Evaluation Request was filed with DelDOT; that DelDOT indicated that the proposed rezoning would have a minor impact on the local area roadways; that the developer may be eligible to pay an Area Wide Study Fee in lieu of doing a Traffic Impact Study; that this requirement would need to be determined, as the site

plan is finalized in coordination and contact with DelDOT, regarding the exact uses and generated traffic; that area traffic has been studied extensively through a number of studies and projects; that there was a Traffic Impact Study performed for the Mitchell's Corner project, which is located directly across Kings Highway; that there was a Traffic Operations Analysis performed as part of the commercial area of the Village Center; that DelDOT has been studying the area for some time as part of DelDOT's dualization of Kings Highway from Dartmouth Drive to Freeman Highway through Contract No. T202212901; that there are basic height, area, and bulk requirements per the Code for the C-2 (Medium Commercial) District; that the property meets those minimum area requirements for the C-2 District is 15,000 square feet; that the property is slightly over 1.5 acres; that the minimum width is 70.5 feet and the minimum depth is 100 feet, all of which are vastly exceeded; that the property can meet all of the C-2 District setback requirements; that there is a 60 foot Front Yard setback, with a five foot Rear and Side Yard setback; that when located adjacent to residential uses, the Side Yard setbacks increases to 20 feet, and the Rear Yard setback increased to 30 feet; that the purpose of the C-2 Zoning District is to support uses that include retail sales and performance of consumer services; that the district permits a variety of retail, professional and service businesses; that the district shall be primarily located near arterial and collector streets; that the district accommodates community commercial uses that do not have outside storage or sales; that DelDOT classifies the site's portion of Kings Highway as another principal arterial, which is referred to as a major arterial roadway per the Sussex County Code; that the property would come out to Rt. 9, right next to the commercial strip center; that the dualization of Rt. 9 will impact all properties along Rt. 9, as DelDOT needs to acquire additional rights of way and permanent easements to construct the improvements to the Kings Highway corridor; that if the rezoning were to be approved, the three parcels that would comprised the project would be both parcels that are part of Mr. P's Pizzeria commercial strip center; that there is a property line that bisects the existing building; that the two parcels would be combined; that the goal would be to construct the new building behind the existing building, while the existing building remains operational; that commercial zonings require a 60 foot Front Yard setback; that if the existing strip center remained, it would not be close to complying with the current Sussex County setback requirements; that if the rezoning were approved, and the parcels become consolidated, the commercial uses could be pushed back, allowing for appropriate parking; that accessibility would be improved with modern buildings and a modern parking lot; that stormwater management would be enhanced with a modern site plan, which will be required to go through the regulatory process; that part of the entranceway and parking for the existing commercial strip center is located on the subject site consisting of 1.5 acres; that this occurs through an easement for ingress, egress and parking; that this is a formalization of the process, which also allows it to extend further into the side and rear of the property; that the businesses being accommodated are long standing businesses for more than 20 years within the Lewes community; that this also tracks with the County's land use process for the two parcels that would form the landmass; that in 1979, Conditional Use No. 549 was approved for a retail shop and office, which was Thelma Warrington's clothing store, which is now known as Pure Bliss Salon & Spa; that in 1982, Conditional Use No. 701 was approved for a grocery store, which is now the current location of Mr. P's and the Chinese restaurant; that in 1985, the County stopped granted Conditional Uses for the properties, and granted a Change of Zone through Ordinance No. 236, for Change of Zone No. 646, which changed the zoning designation

of both properties to the C-1 (General Commercial) District, at which time the third building was constructed for a shoe store, which is the current location of the bicycle shop; that Mr. Cunningham believes that it is important for these businesses to be able to move back, to allow the businesses to stay in place and hopefully survive; that customers that are familiar with the business will still know their location and how to get to the establishments; that he had five letters of support to submit into the record; that the support letters were from all of the immediately adjacent property owners, being the owner of The Lodge at Historic Lewes and Dutchman's Harvest, the contract purchaser and developer of Overfall Preserve, and the property owner for the location of the Brush Factory; that there are also support letters from the business tenants for Mr. P's Pizzeria and Pure Bliss Salon and Spa; that he requested to submit proposed Findings of Fact; that the application is being requested to help support the relocation of local businesses along Kings Highway, as DelDOT proceeds through their improvements; that as noted, the site is an appropriate area according to the State Strategies Map, the County's Comprehensive Plan, and matches the characteristics of the Medium Commercial District of the Sussex County Zoning Code, and for all the stated reasons, the Applicant, as well as the current owners, and the current tenants of the property would request that the Planning & Zoning Commission recommend approval of the Change of Zone application.

Mr. Collins stated that the Commission is unable to impose conditions on Change of Zone applications; that he questioned whether everything described would align with the Lewes Scenic Byway Plan, DelDOT's plans, and the City of Lewes.

Mr. Hutt stated that the proposed rezoning and proposed plans would align; that the review and site plan process will involve speaking and meeting with them to discuss what the frontage of the property will look like; that Mr. Cunningham hopes that he is well ahead of DelDOT on the proposed project, and it will likely fall onto DelDOT to make those requirements.

Mr. Robertson stated that there were a few letters submitted, one being from the City of Lewes, and the other being from the Lewes City Scenic Byway Committee regarding the frontage and interconnectivity; that these issues are addressed during site plan review; that should the application be approved, these things will not be addressed as a Condition of Approval, as the Commission is not permitted to place conditions on rezoning applications; that both of the mentioned issues are areas near and dear to the Commission, and would be addressed during site plan review and approval.

Mr. Hutt stated that the submitted letters from the City of Lewes and the Lewes City Scenic Byway Committee were somewhat dated, being over a year old; that the letters were filed when the Overfall Preserve project was going through the City of Lewes, and there is a pedestrian access point of interconnectivity, which is reflected on the Overfall Preserve Preliminary Site Plan, which received approval in April 2025.

The Commission found that there were two people present who wished to speak on the Application.

Ms. Kim Hoey-Stevenson, resident of Lewes, spoke in support of the Application. Ms. Hoey-Stevenson stated that the proposed rezoning will align with the Comprehensive Plan and requested that the Commission consider interconnectivity between commercial districts during the site plan review process.

Mr. Doug Spellman provided a neutral comment on behalf of the Historic Lewes Byway. Mr. Spellman stated that many of their comments had already been made; that their concern is regarding interconnectivity; that they would like to see the path come all the way to Kings Highway, and they would like to see the developer work with the Lewes Scenic Byway Landscape Committee as well.

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 Mr. Collins' motion into the record, per Mr. Collins' request.

Mr. Collins moved that the Commission recommend approval of C/Z 2028 Oscar H. Jr. and Thelma M. Warrington, Trustee, for a change in zone from AR-1 Agricultural-Residential zoning to C-2 "Medium Commercial" zoning based upon the record made during the public hearing and for the following reasons:

1. C-2 Medium Commercial Zoning is designed to support retail sales and the performance of consumer services. C-2 Zoning is intended to be located near arterial and collector roads, and this site is located along an arterial road, as designated by Sussex County and DelDOT.
2. The Applicant's property is generally located along King's Highway adjacent to the boundaries of the City of Lewes. It is next to a small strip mall, the Brush Factory, and a senior living development, it is across from a brewpub, church, and builder, and it is near an existing medical office building, real estate office, and Cape Henlopen High School. The property to the rear has been approved as a townhouse community by the City of Lewes. There are other business, commercial, and institutional zonings and uses in the immediate area. This is an appropriate location for C-2 zoning. Conversely, AR-1 Agricultural Residential Zoning is no longer the most appropriate zoning category at this particular location.
3. C-2 Zoning at this location along King's Highway will benefit nearby residents of Sussex County and the City of Lewes by providing a convenient location for retail uses or consumer services.
4. The rezoning will allow the redevelopment of the existing strip mall in conjunction with DelDOT's planned improvements to Kings Highway. The Applicant has also stated that it intends to explore mixed-use (commercial over retail) buildings as part of the redevelopment of the site.

5. DelDOT has determined that this change in zone will result in a minor impact on area roadways.
6. The site is located within a Wellhead Protection Area, and the ultimate site plan and future development of the site will be required to comply with Chapter 89 of the Sussex County Code.
7. The site is served by central water and central sewer.
8. There is no evidence that this rezoning will have an adverse impact on neighboring properties or area roadways.
9. The site is in the “Coastal Area” according to the Sussex County Land Use Plan and Future Land Use Map. This is an appropriate location for C-2 Zoning according to the Plan.
10. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order, prosperity, and welfare of the County.
11. There is information in the record from the Lewes Scenic Byways Committee and the City of Lewes regarding the need for interconnectivity to connect Kings Highway with Savannah Road through this property and the adjacent properties that are within the City of Lewes. These are reasonable suggestions that can be implemented if this change in zone is approved. However, the site design and future interconnectivity must be considered and addressed as part of the ultimate site plan design for this property if this C-2 Zoning Change is approved. That process is separate from, and contingent upon, this rezoning to C-2 Medium Commercial.
12. There was no opposition to this rezoning, and there are five letters in support of this Application from adjoining property owners and tenants within the site.
13. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.

Motion by Mr. Collins, seconded by Ms. Wingate, and carried unanimously to recommend approval of C/Z 2028 Oscar H. Jr. & Thelma M. Warrington Trustee for the reasons and conditions stated in the motion. Motion carried 5-0.

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

#### PUBLIC COMMENT

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

#### ADDITIONAL BUSINESS

The Planning & Zoning Commission, staff, and members of the public provided recognition to Chairman Robert C. Wheatley for his years of service on the Sussex County Planning & Zoning Commission.

**Meeting adjourned at 5:27 p.m.**

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