MINUTES OF THE REGULAR MEETING OF NOVEMBER 5, 2025

The regular meeting of the Sussex County Planning and Zoning Commission was held on Wednesday afternoon, November 5, 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 Mears presiding. The following members of the Commission were present: Mr. Bruce Mears, Mr. Scott Collins, Mr. Jeff Allen, and Mr. John Passwaters. Ms. Holly Wingate was absent. Also, in attendance were Mr. Jamie Whitehouse – Director of Planning & Zoning, Mr. Vincent Robertson – Assistant County Attorney, Mr. Michael Lowrey – Planner IV, Ms. Ann Lepore – Planner I, and Ms. Ashley Paugh – Recording Secretary.

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

Motion by Mr. Collins, seconded by Mr. Allen, to approve the Minutes of September 17, 2025 & October 1, 2025, of the Planning and Zoning Commission Meetings as circulated. Motion carried 4-0.

OTHER BUSINESS

2021-24 Fishers Point

Revised Landscape Plan

This is a Revised Landscape Plan for Fishers Point, a standard subdivision consisting of forty-eight (48) single-family lots, perimeter buffers, private roads and open space. The Planning and Zoning Commission approved the Final Subdivision Plan for this subdivision at their meeting of Wednesday, October 26th, 2023. Specifically, changes to the Plan include the approval of a cluster mailbox facility to be placed in the center landscape island area in the front of the subdivision, the addition of an 8-ft by 8-ft (64 square foot) decorative building within the center boulevard at the entrance to house electrical equipment for irrigation controls only, six (6) additional light poles to improve nighttime walkability and additional trees to be planted within the grassed area of Kingfisher Court, Bluegill Court, Stag Run, and the active open space area at the southern end of the site. The property is located on the west side of Revel Road (S.C.R. 410), approximately 0.23-mile north of the intersection of Revel Road (S.C.R. 410) and Lewis Road (S.C.R. 409). Tax Parcels: 133-16.00-81.00 and 81.15. Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, Staff are requesting that final approvals be made subject to Staff upon receipt of all agency approvals.

Motion by Mr. Collins, seconded by Mr. Allen, and carried unanimously to approve the Revised Landscape Plan as a preliminary, with final approval to be provided by the staff, subject to the receipt of all agency approvals. Motion carried 4-0.

S-25-48 John Elsishans

Preliminary Site Plan

This is a Preliminary Site Plan for the development of a 2,400 square foot private garage for personal storage. Conditional Use No. 2474 was approved by the Sussex County Council at their meeting of Tuesday, May 13th, 2025, through Ordinance No. 3091. The Preliminary Site Plan complies with the Sussex County Zoning Code. The property is located on the south side of Butler Boulevard, approximately 195 feet east of the intersection with Muddy Neck Road (S.C.R. 361) in Ocean View, Delaware. Tax Parcel: 134-17.00-6.02. Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, Staff are requesting that preliminary and final approval be made subject to staff upon the receipt of all agency approvals.

Motion by Mr. Collins, seconded by Mr. Allen, and carried unanimously to approve the Preliminary Site Plan with final approval to be provided by the staff, subject to the receipt of all agency approvals. Motion carried 4-0.

Lands of Hilltop Builders, LLC

Minor Subdivision Plan off a proposed 50-ft easement

This is a Minor Subdivision Plan for the creation of four (4) lots plus the residual lands with access off a proposed 50-ft wide ingress/egress access easement. Proposed Lot A will consist of 1.462 acres +/-, proposed Lot B will consist of 2.650 acres +/-, proposed Lot C will consist of 1.262 acres +/-, proposed Lot D will consist of 1.002 acres +/-, and the residual lands will contain 2.022 acres +/-. A shared-use maintenance agreement shall be established for the use of the shared access road. The property is located northwest of South Union Church Road (S.C.R. 42), approximately 0.30 miles southeast of Beach Highway (Route 16). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcels: 230-25.00-32.01 Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, Staff are requesting that final approvals be made subject to Staff upon all agency approvals.

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

Lands of Chad & Paige Cathell

Minor Subdivision Plan off a proposed 50-ft easement

This is a Minor Subdivision Plan for the creation of three (3) lots plus the residual lands with access off a proposed 50-ft wide ingress/egress access easement. Proposed Lot A will consist of

1.62 acres +/-, proposed Lot B will consist of 1.69 acres +/-, proposed Lot C will consist of 1.70 acres +/-, and the residual lands will contain 1.51 acres +/-. A shared-use maintenance agreement shall be established for the use of the shared access road. The property is located on the east side of Russell Road (S.C.R. 592), approximately 770 ft. south of Deer Forest Road (S.C.R. 565). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcels: 430-17.00-14.09 Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, Staff are requesting that final approvals be made subject to Staff upon receipt of all agency approvals.

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

Lands of John C. Driscoll

Minor Subdivision Plan off a proposed 30-ft easement

This is a Minor Subdivision Plan for the creation of one (1) lot plus the residual lands with access off a proposed 30-ft wide ingress/egress access easement. Proposed lot 1 will consist of 2.50-acres +/-and the residual lands will contain 1.371-acres +/-. A shared use maintenance agreement shall be established for the use of the shared access road. The property is located on the east side of North Old State Road (S.C.R. 213), opposite Haflinger Road (S.C.R. 625). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcels: 230-12.00-41.00 Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, Staff are requesting that final approvals be made subject to Staff upon receipt of all agency approvals.

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

Lands of Bayview Estates, LLC

Minor Subdivision Plan off a proposed 30-ft easement

This is a Minor Subdivision Plan for the creation of two (2) lots plus the residual lands with access off a proposed 30-ft wide ingress/egress access easement. Proposed Lot 1 will consist of 1.086 +/-, proposed Lot 2 will consist of 1.077-acres +/-, and the residual lands will contain 92.972-acres +/-. A shared use maintenance agreement shall be established for the use of the shared access road. The property is located on the east side of Bakerfield Road (S.C.R. 220), approximately .012 miles north of Coastal Highway (Route 1). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcels: 230-8.00-13.00 Zoning: AR-1 (Agricultural Residential District) and GR (General Residential District). Staff are in receipt of all agency approvals. Therefore, the Plans are eligible for both preliminary and final approval.

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

Lands of Michael John Lynch
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 A will consist of 1.00-acres +/-and the residual lands will contain 21.30-acres +/-. A shared use maintenance agreement shall be established for the use of the shared access road. The property is located northeast intersection of Lynch Road (S.C.R. 413) and Dennis Lane (S.C.R.416). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcels: 333-7.00-38.00 Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, Staff are requesting that final approvals be made subject to Staff upon receipt of all agency approvals.

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

OLD BUSINESS

2024-03 Tepache Farms
A standard subdivision to divide 24.27 acres +/- into twenty-one (21) single-family lots to be located on a certain parcel of land lying and being in Sussex County. The property is located on the north side of Burton Road (S.C.R. 241), approximately 0.10 mile west of Sand Hill Road (S.C.R. 319). 911 Address: 22187 Burton Road, Milton. Tax Map Parcel: 235-19.00-7.00. Zoning: AR-1 (Agricultural Residential).

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

Per the Commission's request, Mr. Robertson spoke on standard subdivision requirements per the Sussex County Code and Delaware law.

Mr. Passwaters moved that the Commission grant preliminary approval for Subdivision 2024-03 Tepache Farms with conditions and limitations based on the record made during the public hearing and for the following reasons:

1. The Applicant is seeking approval of a standard subdivision on land zoned AR-1 located within the "Low Density" Area of the Comprehensive Plan's Future Land Use Map. The Plan states that residential development of the type and density proposed here is appropriate in this Area.

2. The subdivision will have no more than 21 lots on 24.27 acres of land, resulting in a gross density that is well below what is permitted in the AR-1 Zoning District. All lots will be at least 3/4 of an acre in size.
3. The proposed subdivision meets the purpose and standards of the Subdivision Code, and the Applicant has addressed the requirements of Section 99-9C of the Code.
4. DelDOT has determined that the subdivision will have a "Negligible Impact" upon area roadways and has not objected to the subdivision. DelDOT will also require appropriate entrance, roadway, and intersection improvements that are proportionate to these 21 new lots.
5. The lots in the subdivision will be served by individual on-site wells and septic systems. The suitability for these systems is based upon a DNREC Soils Feasibility Investigation performed by Accent Environmental, LLC, based upon Section 5.2.2 of the Delaware "Regulations Governing the Design, Installation and Operation of Onsite Wastewater Treatment and Disposal Systems". The Soils Feasibility Investigation determined that the proposed lots will handle Full-Depth Standard Gravity Septic Systems, and the conclusions were reviewed by DNREC, with feasibility confirmed. In addition, after Final Site Plan approval, each individual lot will still require another individual soil evaluation with additional soil borings for that lot and approval by DNREC.
6. There are no Resources or Source Water Protection Areas located within the property as those terms are defined in the Sussex County Code.
7. This property was previously the subject of Subdivision Application #2018-32 that was denied by the Commission. However, that application sought approval of a 33-lot clustered subdivision with the applicable "superior design' standards. Among other factors, the Commission found that based upon the record at that time the proposed subdivision was not a superior design. This is a standard subdivision for 12 fewer lots and the record is different. When a standard subdivision plan meets the requirements of the Subdivision and Zoning Codes, Delaware law provides that the Commission must approve it subject only to conditions based upon the record.
8. The low-density standard subdivision meets the purposes and requirements of the Zoning and Subdivision Codes and the Comprehensive Plan.
9. This recommendation is subject to the following conditions:

    a. There shall be no more than 21 lots within the subdivision.
    b. The developer shall establish a Homeowner's Association responsible for maintenance of the streets, buffers, stormwater management facilities, and other common areas.
    c. The stormwater management system shall meet or exceed the requirements of the State and County, and the Final Site Plan shall contain the approval of the Sussex

Conservation District. The system shall be maintained and operated using Best Management Practices.

d. There shall be a forested and/or vegetated buffer strip that is at least 20 feet wide along the perimeter of the subdivision. As proffered by the Applicant, this buffer area shall increase to 30 feet wide along the eastern boundary of the subdivision adjacent to Tax Parcel 235-19.00-10.00. This buffer area shall be planted in accordance with the planting requirements of Section 99-5 of the Subdivision Code and utilize existing forest or similar vegetation where it exists. Where trees currently exist in the buffer area, stump removal or construction activities that disturb the existing grade of the area within the buffer shall be prohibited. All silt fencing shall be located along the interior limit of the buffer area (the edge of the buffer nearest the interior development), and the Final Site Plan shall identify the "Limit of Disturbance" to prevent disturbance of the buffer area.

e. The development shall comply with DelDOT entrance and roadway improvement requirements.

f. Street design shall meet or exceed Sussex County standards.

g. Road naming and addressing shall be subject to the review and approval of the Sussex County Geographical Information Office.

h. The lots in the subdivision shall be served by individual wells and septic systems.

i. Construction, site work, and deliveries shall only occur on the site between the hours of 7:00 a.m. and 6:00 p.m. Monday through Saturday. No Sunday hours are permitted. A 24-inch by 36-inch "NOTICE" sign confirming these hours in English and Spanish shall be prominently displayed at the site entrance during construction.

j. The Applicant shall coordinate with the local school district for a school bus stop within the subdivision. If required by the school district, the location of the bus stop area shall be shown on the Final Site Plan.

k. This property is in the vicinity of lands used for agricultural purposes. Therefore, the Final Site Plan and recorded Restrictive Covenants shall include the Agricultural Use Protection Notice as well as a similar notice stating that hunting activities occur on adjacent and nearby properties.

l. The Final Site Plan shall include a Grading Plan for the site. No building permit shall be issued for individual lots until an individual lot grading plan has been supplied to and approved by Sussex County. No certificate of occupancy shall be issued until a grading certificate is submitted to the Building Code Department demonstrating general conformity with the individual site grading plan.

m. A revised Preliminary Site Plan, either depicting or noting these conditions, must be submitted to the Office of Planning and Zoning.

n. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Passwaters, seconded by Mr. Collins, and carried unanimously to grant preliminary subdivision approval for 2024-03 Tepache Farms, for the reasons and the conditions stated in the motion. Motion carried 4-0.

Vote by roll call: Mr. Passwaters – yea, Mr. Collins – yea, Mr. Allen – yea, Chairman Mears - yea

C/U 2516 Roxana Apartments, LLC

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

The Commission discussed the application, which had been deferred since October 15, 2025.

Mr. Collins moved that the Commission recommend approval of C/U 2516 Roxana Apartments, LLC for 42 Multi-Family Units within the CR-1 Zoning District based upon the record made during the public hearing and for the following reasons:

1. The CR-1 Zoning District permits residential uses at a density of up to 12 units an acre, provided that a Conditional Use is approved for the residential use.
2. The property is in an area that has developed with a variety of uses, including a variety of large and small business, commercial and office uses, and residential development at various densities. There is a wide variety of zoning in the immediate area, including AR-1, MR, GR, C-1, CR-1, and B-1. There is a similar mixture of uses and zoning classifications within the nearby Town of Millville as well. This conditional use is consistent with other zoning and land uses in the area.
3. The proposed use is consistent with the County's Comprehensive Land Use Plan. It is in the Coastal Area according to the Plan, which is a Growth Area. The Plan states that medium and higher densities can be appropriate where, like here, there are features such as central water and sewer and nearby commercial uses and employment centers. The Plan also states that a range of housing types should be permitted in the Coastal Area, including single-family homes, townhouses, and multifamily units.
4. The project has a density of 8.78 units per acre, which is lower than the maximum density that is permitted in the CR-1 Zoning District.
5. There are no Resources or Groundwater Protection Areas located within the property, and the Applicant has provided an Environmental Assessment and Public Facility Evaluation Report.
6. DelDOT has stated that the proposed multi-family conditional use will have a "negligible" impact upon local area roadways.

7. As part of the Final Site Plan approval process, the stormwater management design will be reviewed and approved by the Sussex Conservation District, ensuring that the drainage system will be adequately designed and constructed to protect adjoining developments.
8. The project will be served by central water and sewer systems.
9. The proposed multi-family conditional use meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County in an appropriate location.
10. There is no evidence that this project will adversely affect the neighboring properties, area roadways, or community facilities.
11. No parties appeared in opposition to this Application.
12. This recommendation is subject to the following conditions:

    A. There shall be no more than 42 Units within the development.
    B. All entrances, intersections, roadways, and multimodal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's determination. In addition, the area along the southeastern frontage of Roxana Road shall remain unobstructed so that first responders can access the development in the unlikely event that the main access is blocked. This shall be shown and noted on the Final Site Plan.
    C. Central sewer shall be provided to the development by Sussex County. The developer shall comply with all requirements and specifications of the Sussex County Engineering Department.
    D. The development shall be served by a central water system providing adequate drinking water and fire protection as required by applicable regulations.
    E. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements, and the project shall utilize Best Management Practices to construct and maintain these fixtures. The Final Site Plan shall contain the approval of the Sussex Conservation District.
    F. The tax ditch easements and rights of way, as amended, shall be shown on the Final Site Plan and shall be maintained in a meadow-like manner consistent with DNREC's requirements for tax ditches.
    G. Interior street design shall comply with or exceed Sussex County standards, and sidewalks shall be installed that connect with the multi-modal paths required by DelDOT.
    H. Road naming and addressing shall be subject to the review and approval of the Sussex County Geographical Information Office.
    I. The Applicant shall consult with the local school district's transportation manager to determine if a school bus stop is appropriate. The location of such a bus stop shall be shown on the Final Site Plan.
    J. A six-foot-high vinyl fence shall be installed along the common boundary line with the adjacent Tax Parcel Number 134-11.00-201.00.
    K. Construction, site work, and deliveries shall only occur on the site between the hours of 7:00 a.m. through 6:00 p.m., Monday through Saturday. No Sunday hours are permitted. A 24-inch by 36-inch "NOTICE" sign confirming these hours in

English and Spanish shall be prominently displayed at the site entrance during construction.

L. The Final Site Plan shall include a landscape plan for the development showing the proposed tree and shrub landscape design, including the tax ditch easement meadow.
M. All lighting on the site shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.
N. The Final Site Plan shall state that agricultural activities exist nearby, and it shall include the Agricultural Use Protection Notice.
O. The Final Site Plan shall depict or note these conditions of approval, and it shall be subject to the review and approval of the Sussex Planning & Zoning Commission.

Motion by Mr. Collins, seconded by Mr. Allen, and carried unanimously to recommend approval of C/U 2516 Roxanna Apartments, LLC, for the reasons and the conditions stated in the motion.

Vote by roll call: Mr. Collins – yea, Mr. Passwaters – yea, Mr. Allen – yea, Chairman Mears - yea

C/U 2610 Howard L Repass

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR INDOOR STORAGE OF BUSINESS VEHICLES ASSOCIATED WITH A LIMOSINE BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 3.52 ACRES, MORE OR LESS. The parcel is lying on the west side of Daniels Road (S.C.R. 215A), approximately 160 feet north of Slaughter Neck Road (S.C.R. 215). 911 Address: 9268 & 9274 Daniels Road, Lincoln. Tax Map Parcel: 230-15.00-10.00.

The Commission discussed the application, which had been deferred since October 15, 2025.

Mr. Passwaters moved that the Commission recommend approval of C/U 2610 Howard L. Repass for indoor storage of vehicles associated with a limousine business based upon the record made during the public hearing and for the following reasons:

1. The use is located near Route One, providing convenient access to Sussex County for this type of business. The use will all occur indoors, and the site will not be open to the public. This is an appropriate location for this Conditional Use.
2. With the conditions and stipulations of approval, the use will not have a negative impact on the neighboring properties or area roadways.
3. This site is located in the Existing Development Area according to the Sussex County Comprehensive Plan. Small businesses such as this one are appropriate in this Area according to the Plan.
4. The use provides a service to residents and businesses in Sussex County. This use has a public or semi-public character that will benefit the residents and businesses of the County.

5. The Applicant has stated that vehicles leave the site when needed for transportation, so there is not a lot of activity that occurs on this site.

6. No parties appeared in opposition to this Application.
7. This recommendation is subject to the following conditions:

   A. The use shall be limited to the indoor storage of business vehicles associated with a limousine business.
   B. There shall not be any outside storage associated with the use.
   C. All lighting on the site shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.
   D. Any dumpsters on the site shall be screened from the view of neighboring properties and roadways.
   E. The applicant shall comply with all DelDOT requirements for entrance and roadway improvements.
   F. One lighted sign shall be permitted on the site. It shall not exceed 32 square feet per side.
   G. The parking shall comply with the County Parking Requirements. All vehicles must only be parked within the designated areas.
   H. The Applicant shall comply with all requirements of the Sussex Conservation District regarding stormwater management on the site.
   I. Failure to comply with any of these conditions may be grounds for the termination of the Conditional Use approval.
   J. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Passwaters, seconded by Mr. Allen, and carried unanimously to recommend approval of C/U 2610 Howard L Repass, for the reasons and the conditions stated in the motion. Motion carried 4-0.

Vote by roll call: Mr. Passwaters – yea, Mr. Collins – yea, Mr. Allen – yea, Chairman Mears - yea

PUBLIC HEARINGS

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

C/U 2531 Joshua Levis

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTOMOTIVE REPAIR BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 0.3 ACRES, MORE OR LESS. The parcel is lying on

the east side of Marshall Street (S.C.R. 225), approximately 0.5 mile south of Elks Lodge Road (S.C.R. 211). 911 Address: 6967 Marshall Street, Milford. Tax Map Parcel: 330-11.17-30.00.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Boundary Survey, the Staff Analysis, the DelDOT Service Level Evaluation Response, and a letter received from the Sussex County Engineering Department's Utility Planning Division. Mr. Whitehouse advised the Commission that no public comment was received regarding the Application.

The Commission found that Mr. Joshua Levis spoke on behalf of his application. Mr. Levis stated that he is the sole proprietor of JL Performance, located at 6967 Marshall Street, Milford, Delaware, 19963; that he had owned the property for about nine years; that during that time, he built a pole building to replace an existing garage; that the Sussex County Permit No. is 201705327; that the construction of the pole building was completed in 2019; that he formed his LLC and attained his business license in July 2021; that at this time, he was not aware that he needed a Conditional Use permit; that he took the necessary steps to file a Conditional Use application as soon as he was made aware; that his business is in good standing and his business license is current; that the property is currently zoned AR-1 (Agricultural Residential); that there is a large field located directly behind the property, as well as, several houses and other business located along Marshall Street; that according to DelDOT's survey, there is no impact to local traffic; that if a privacy fence is recommended, he requested consideration of the impact to the existing mature trees and vegetation; that his application requests approval for an automotive repair business; that his current hours of operation are 9:00 am to 5:00 pm, Monday through Friday; that I would like to request permission for the business hours to be 8:00 am to 8:00 pm, as he does occasionally have customer pick up or drop offs outside the normal hours; that he performs both major and minor repairs on gasoline and diesel powered passenger vehicles; that he does not perform work on RV's or over the road trucks, such as 18-wheelers; that all repairs will be performed inside the building to prevent pollution and environmental harm; that fluids from the repairs are recycled using a Delaware State licensed and approved company for the cycling of such waste; that such waste will be stored in approved containers until recycled; that he also recycles as much cardboard and plastic as possible; that no flammable products are currently stored on the site, aside from what be stored in customers vehicles; that if such products are to be stored in the future, it will be done in approved and marked cabinets, with all applicable precautions taken; that trash is disposed of in cans kept inside of the building; that there is no outside dumpster at this time; that parts will be stored inside the building until installed; that scrap metal will also be stored inside until recycled; that no customers are allowed in the building while active repairs are being performed; that most repairs are scheduled by appointment only; that he typically performs work on five to 20 vehicles per month, depending on the type of work being performed; that no more than five customer vehicles will be on the site at a time; that at a time, the vehicle may be at the

site for longer than one week, due to part supply or customer complications; that he was willing to make reasonable accommodations, such as putting a car cover on the vehicle if that was requested; that he requested to have a sign at the front of the property, proposed to be no larger than 32 square feet in size per the Code; that he usually has three vehicles outside, as well as a car trailer, however, these are for personal use only; that there would be no towing business overall; that he desired to continue running his business with improvement of receiving Conditional Use approval; the he is passionate about his work and the quality of service; that he would like to continue providing his knowledge, service and skill to his community; that he performs work on most of his neighbors vehicles, which had allowed him to meet many amazing people in his line of work; that some of his customers have been bringing their vehicles to him for several years; that he believed his customers deserve dealership quality, parts and service, without paying the dealership price; that his business is not intended to be the next Meineke or Firestone; that he wanted to continue doing what he loved, while keeping peoples vehicles safe and roadworthy; that to his knowledge, there had been no official complaints, and he had done his due diligence in order to be prepared to provide concise information for the hearing, but was available for clarification or questions.

Mr. Passwaters questioned whether Mr. Levis currently had any employees and requested confirmation on the number of vehicles to be located on the site.

Mr. Levis stated that he was the only employee, that he had no intention of having employees in the future, and that other than three personal vehicles, there would be no more than five customer vehicles located on the site.

Mr. Collins questioned whether or not Mr. Levis envisioned any employees in the future, in an attempt to avoid the need to reapply for a new Conditional Use in the future.

Mr. Levis stated that currently, he had no intention of having employees in the future, as this would add additional vehicles to the site; that he enjoys being small, and in the future, should he decide to expand, he would envision expanding outside of this property.

Mr. Mears stated that the trash receptacle will be required to be surrounded by a fence to provide screening; that he questioned whether there would be any untagged vehicles, or used vehicles, potentially used for parts, located on the site.

Mr. Levis stated no that he would not have any untagged vehicles, or used vehicles, potentially used for parts, located on the site.

Mr. Whitehouse stated that when the building went through the Sussex County Building Permit process, it was processed as a detached accessory structure to the dwelling, resulting in a residential review; that he questioned if Mr. Levis would be willing to proceed through Sussex County Commercial Plan Review process, as there may be some Code changes as a result of an approved Conditional Use.

Mr. Levis stated that he would proceed through that process if it is required; that he stated that his only concern would be regarding a large financial burden, as he is a one-man-run company; that he is the only one on the site during business hours; that he schedules by appointment only, and that he does not let anyone wait on the site.

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

Ms. Kathleen Schlabach, from Marshall Street, spoke in support of the application, with one request not to permit extended business hours that may disrupt her sleep.

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

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

In relation to C/U 2531 Joshua Levis. Motion by Mr. Passwaters to defer action for further consideration, seconded by Mr. Collins, and carried unanimously. Motion carried 4-0.

C/U 2562 John L. Hnatishion

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

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Conditional Use Site Plan, the Applicant's Boundary Survey, the DelDOT Service Level Evaluation Response letter, a letter from the Sussex County Engineering Department's Utility Planning Division, and the Staff Analysis. Mr. Whitehouse advised the Commission that no comments were received in relation to the Application.

The Commission found that Mr. John L. Hnatishion spoke on behalf of his application. Mr. Hnatishion stated he purchased the property last October, in 2024; that he had been renting the main home on the property, and the initial dwelling that was being rented prior to his purchase of the property; the he began further investigation into the variances that existed, at which time he realized he did not have approval for the second, meaning the third unit on the property, which is a second floor of an accessory dwelling until (ADU) located on the property; that at that time, he began inquiring with the Planning & Zoning Department, obtaining additional details, which led to his submission for the current Conditional Use request.

Mr. Robertson requested additional information regarding the surrounding neighborhood and any additional structures on the property.

Mr. Hnatishion stated that currently the property consists of 2.2 acres; that there is a 30'x30' garage on the site; that there is a house on the property, where the original owner used to live; that there is an accessory dwelling unit, of 800 square feet and cooking facilities; that the second unit is 400 square feet, with cooking facilities, and is located above the 800 square foot unit; that nothing has been changed since he purchased the property, and remains as it was when he purchased the property, and he is hoping to capitalize on the opportunity of obtaining approval for the entire 1,200 square foot building, for the two separate units, with two different cooking facilities.

Mr. Collins questioned whether the units within the accessory dwelling unit were being used for short-term rentals or long-term rentals.

Mr. Hnatishion stated the units within the accessory dwelling unit were being used for short-term rentals.

Mr. Robertson advised the Commission that the request was for three dwelling units, located on 2.2 acres; that it is two units per acres for AR-1 (Agricultural Residential); that the permitted density would be up to four, however, this would require a subdivision, and the difference with the application is, instead of a subdivision, the Commission is being requested to approve three units rather than three lots.

Mr. Collins questioned whether there were rules regarding accessory dwelling units and short-term rentals.

Mr. Whitehouse stated that accessory dwelling units (ADU) can be utilized for short-term rentals, and that trailers/campers/RVs cannot be utilized for short-term rentals.

Mr. Robertson stated that the Accessory Dwelling Unit program was not intended for short-term rentals; that it was intended to provide more housing diversity and more affordable housing within Sussex County, and that his statement had no particular relation to the current application, rather more of a public service announcement.

Mr. Hnatishion stated in an effort to provide more context for the application that the second-floor unit is a one-bedroom unit with one additional parking spot.

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 Mears closed the public hearing.

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

In relation to C/U 2562 John L. Hnatishion. Motion by Mr. Collins to defer action for further consideration, seconded by Mr. Passwaters, and carried unanimously. Motion carried 4-0.

PUBLIC COMMENT

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

ADDITIONAL BUSINESS

The Commission reviewed and discussed the drafted 2026 Planning Commission meeting dates.

EXECUTIVE SESSION

4:03 pm – 4:20 pm

Motion by Mr. Collins, seconded by Mr. Passwaters, and carried unanimously to go into executive session. Motion carried 4-0.

The Commission held an executive session to discuss potential and pending litigation.

Motion by Mr. Collins, seconded by Mr. Passwaters, and carried unanimously to come out of executive session. Motion carried 4-0.

Meeting adjourned at 4:20 p.m.

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

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