

MINUTES OF THE REGULAR MEETING OF MARCH 4, 2026

The regular meeting of the Sussex County Planning and Zoning Commission was held on Wednesday afternoon, March 4, 2026, in the County Council Chambers, Sussex County Administrative Office Building, 2 The Circle, Georgetown, Delaware.

The meeting was called to order at 3:00 p.m. with Madam Chair Wingate presiding. The following members of the Commission were present: Ms. Holly Wingate, Mr. Scott Collins, Mr. Jeff Allen, Mr. John Passwaters, and Mr. David Pettyjohn. Also, in attendance were Mr. Jamie Whitehouse – Director of Planning & Zoning, Mr. Vincent Robertson – Assistant County Attorney, Ms. Ann Lepore – Planner I, Ms. Susan Isaacs – Planner I and Ms. Ashley Paugh – Recording Secretary.

ADDITIONAL BUSINESS

Annual Administration of Oaths – Mr. Robertson administered Oaths to the Mr. David Pettyjohn.

REORGANIZATION

Madam Chair Wingate announced that Mr. Whitehouse, Planning & Zoning Director, would act as Chair for the purpose of electing Vice Chair.

Mr. Whitehouse opened nominations for Vice Chair.

Mr. Allen nominated Mr. Collins as Vice Chair. There were no other nominations for Vice Chair.

Motion by Mr. Allen, seconded by Mr. Passwaters, and carried unanimously that the nominations for Vice-Chair be closed. Motion carried 5-0.

Motion by Mr. Allen, seconded by Mr. Passwaters, to elect Mr. Collins as Vice-Chair. Motion carried 5-0.

Vote for Mr. Collins as Vice-Chair by roll call: Madam Chair Wingate – yea, Mr. Collins – yea, Mr. Passwaters – yea, Mr. Allen – yea, Mr. Pettyjohn - yea

Motion by Mr. Collins, seconded by Mr. Allen, and carried unanimously to approve the Agenda as circulated. Motion carried 5-0.

Motion by Mr. Collins, seconded by Mr. Passwaters, to approve the Minutes of February 4, 2026, of the Planning and Zoning Commission Meetings as circulated. Motion carried 4-0. Mr. Pettyjohn abstained.

OTHER BUSINESS

C/Z 1583 – The Peninsula – Discovery

Revised Final Site Plan & Updated Master Plan

This is a Revised Final Site Plan for the construction of four (4) single-family detached condominiums (Multifamily), parking and other site improvements. Staff note that the subject property was part of a previous Application (Change of Zone No. 1583 Peninsula at Long Neck, LLC) for a Change of Zone from an Agricultural Residential (AR-1) District to a Medium Density Residential, Residential Planned Community (MR-RPC) District for the 1.26-acre Parcel as part of this Site Plan. The Sussex County Council approved the Application at their meeting of Tuesday, January 3rd, 2006, and the change was adopted through Ordinance No. 1815. An updated Master Plan has also been submitted noting that the four (4) single-family detached condominiums do not exceed the threshold established through Ordinance No. 2690, which permits a total of 471 single-family detached condominiums and 467 have been built as of the date of this Site Plan. Therefore, these are the last four (4) single-family detached condominiums allowed within the RPC under the existing Ordinance. The Revised Final Site Plan complies with the Sussex County Zoning and Subdivision Codes, the provisions set forth in Ordinance No. 2690 and all Conditions of Approval for the RPC. The property is located on the northeast corner of Bay Farm Road (S.C.R. 299) and Maintenance Road and at the intersection of Peninsula Esplanade at the entrance of the existing Peninsula Residential Planned Community (RPC) in Millsboro, Delaware. Tax Parcel: 234-29.00-255.00. Zoning: Medium Density Residential, Residential Planned Community (MR-RPC). Staff are awaiting agency approvals. If 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 required agency approvals.

Motion by Mr. Collins, seconded by Mr. Allen, and carried unanimously to approve the Revised Final Site Plan & Updated Master 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-20-14 High Tide Church

Revised Final Site Plan

This is a Revised Final Site Plan for a 5,450-sf addition to the existing church for classroom space, parking, and other site improvements to be located off Nine Foot Road (Rt. 20). The Site Plan for the Church building was approved by the Planning and Zoning Commission at their meeting of Thursday, April 23, 2020. The Revised Final Site Plan complies with the Sussex County Zoning Code. Tax Parcel: 233-10.00-46.00. Zoning: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals; therefore, the Plans are eligible for Preliminary and Final approval.

Motion by Mr. Collins, seconded by Mr. Passwaters, and carried unanimously to approve the Revised Final Site Plan. Motion carried 5-0.

Mountaire – Screw Press Building

Revised Final Site Plan

This is a Revised Final Site Plan for Mountaire for the construction of a 7,968 square foot proposed screw press area, 16,512 square foot trailer canopy and enclosure, 158 square foot electrical building, 400 square foot chemical storage canopy, a 2,911 square foot concrete area, and gravel paving. The parcel is comprised of 2.0 acres +/- and is located on the south side of John J. Williams Highway (Rt. 24) in Millsboro, Delaware. the Revised Final Site Plan complies with the Sussex County Zoning Code. Tax Parcel: 234-32.00-117.00. Zoning: HI-1 (Heavy Industrial District). Staff are in receipt of all agency approvals.

Motion by Mr. Collins, seconded by Mr. Allen, and carried unanimously to approve the Revised Final Site Plan. Motion carried 5-0.

Revelation Craft Brewing Company

Revised Preliminary Site Plan

This is a Revised Preliminary Site Plan for Revelation Craft Brewing Company for an existing site to be used as a craft brewery. The existing building is a nonconforming structure and will be renovated as a tenant fit out, a building at the rear will be razed and additional parking spaces are being added. The Parcel is comprised of 13,316 square feet +/- and is located at the intersection of Rehoboth Avenue Extended (Rt. 1A) and Church Street (S.C.R. 14A). A parking waiver request has been submitted to allow for a reduction in the required parking spaces, otherwise, the Revised Preliminary Site Plan complies with the Sussex County Zoning Code. Tax Parcel: 334-13.20-46.00. Zoning: C-1 (General Commercial District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, Staff are requesting that final approval be made subject to Staff upon the receipt of all agency approvals.

Mr. Collins stated that he felt it was possible for the Commission to approve the plan, however, he had concern regarding the proposed reduced parking situation, and he suggested the Commission condition that no structures be permitted to be erected ever in those parking areas, or any of the throughways, as well as prohibit those spaces to be used by food trucks.

Mr. Robertson stated that within Note 21 on the plan, it spoke to temporary removable vendor stands, by quoting the requirements within the Sussex County Zoning Code; that he would suggest the Commission require that Note 21 be deleted to avoid a potential presumption that one would be approved, given the reduced parking already, and Mr. Collins had previously expressed concern regarding the site's location along Rehoboth Avenue Extension.

Motion by Mr. Collins, seconded by Mr. Passwaters, and carried unanimously to approve the Revised Preliminary Site Plan, with final approval to be given by the staff, subject to the deletion of Note No. 21 in its entirety, to be replaced with a note that states *no temporary removable vendor stands, structures or permanently parked vehicles or trailers shall be permitted within any of the parking spaces or drive isles on the site*, and the receipt of all agency approvals.

Motion carried 5-0.

S-24-33 DuPont Properties

Revised Preliminary Site Plan

This is a Revised Preliminary Site Plan for DuPont Properties for the construction of nine (9) 5,000 square foot warehouses, two (2) 5,000 square foot office buildings, one (1) 3,000 square foot warehouse, parking, and other site improvements. The previously approved Final Site Plan was approved by the Planning and Zoning Commission at their meeting on Wednesday, December 11, 2024. The parcels are comprised of 9.86 acres +/- and are located on the east side of DuPont Highway (Rt. 113) in Dagsboro, Delaware. A parking waiver request has been submitted to allow for parking to be located within the front yard setback. The Revised Preliminary Site Plan otherwise complies with the Sussex County Zoning Code. Tax Parcel: 233-26.00-22.00, 24.00, & 25.00. Zoning: C-1 (General Commercial District) & GR (General 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. Allen, seconded by Mr. Collins, and carried unanimously to deny the Front Yard Setback Waiver request, and to approve the Revised Preliminary Site Plan with the deletion of parking within the Front Yard Setback, with final approval to be given by the staff, subject to the receipt of all agency approvals. Motion carried 5-0.

Lands of Darrell & Gina Banning

Minor Subdivision Plan off a proposed 50-ft easement

This is a Minor Subdivision Plan for the creation of two (2) lot plus residual lands. Proposed Lot 1 shall consist of 4.187 acres +/-, proposed Lot 1 shall consist of 5.575 acres +/-, and the residual land shall contain 13.082 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 Butler Branch Road (S.C.R. 542), approximately 0.44 mile southeast of Woodpecker Road (S.C.R. 80). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 531-12.00-96.05. Zoning: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals. Therefore, the Plans are eligible for Preliminary and Final approval.

Motion by Mr. Allen, seconded by Mr. Passwaters, and carried unanimously to approve the Minor Subdivision Plan off a proposed 50-ft easement as a preliminary and final. Motion carried 5-0.

Lands of Timothy Ramey Construction, Inc.

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. Proposed Lot 1 (Parcel "C") shall consist of 1.045 acres +/-, and the residual land (Parcel "D") shall contain 1.003 acres +/- . A shared-use maintenance agreement shall be established for the use of the shared access road. The easement is 40-ft wide from Atlanta Road until it reaches Tax Parcel 531-10.00-223.02 where it drops to 30-ft wide. The property is located on the east side of Atlanta Road (Rt. 30), approximately 0.54 mile north of West Stein Highway (Rt. 20). The Minor

Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 531-10.00-380.00. Zoning: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals. Therefore, the Plans are eligible for Preliminary and Final approval.

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 and a final. Motion carried 5-0.

Lands of Straight Line Solutions, LLC

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. Proposed Lot 1 will consist of 10.01-acres +/-, and the residual land will contain 45.22-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 Dupont Blvd (Route 113), approximately 500 feet south of Wilson Hill Road (S.C.R. 527). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 135-14.00-32.00. Zoning: AR-1 (Agricultural Residential District) and C1 (General Commercial Zoning District). Should the Commission desire to act favorably upon 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. Passwaters, seconded by Mr. Allen, 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.

OLD BUSINESS

C/U 2533 RWE Clean Energy

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS AND ASSOCIATED UTILITIES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 69.03 ACRES, MORE OR LESS. The property is lying on the south side of Cypress Road (Route 54), approximately 62 feet west of the intersection of Cliff Road (S.C.R. 380A) and Cypress Road (Route 54). 911 Address: N/A. Tax Map Parcel: 533-8.00-10.00.

The Commission discussed the application, which had been deferred since February 18, 2026.

In relation to C/U 2533 RWE Clean Energy. Motion by Mr. Allen to defer the application for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 4-0. Mr. Pettyjohn abstained.

C/U 2614 FFP DE Vines Creek, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 24.97 ACRES, MORE OR LESS. The property is lying on the north side of Vines Creek Road (Rt. 26), approximately 0.31 mile west of Sandy Landing Road (S.C.R. 342). 911 Address: 32507 Vines Creek Road, Dagsboro. Tax Map Parcel: 134-10.00-31.00.

The Commission discussed the application, which had been deferred since February 18, 2026.

In relation to C/U 2614 FFP DE Vines Creek, LLC. Motion by Mr. Allen to defer the application for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 4-0. Mr. Pettyjohn abstained.

PUBLIC HEARINGS

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

2024-05 Rivers Edge

A cluster subdivision to divide 125.13 acres +/- into one hundred and eighty-seven (187) single-family lots to be located on a certain parcel of land and lying and being in Sussex County. The property is lying on the northeast side of Cave Neck Road (S.C.R. 88), approximately 0.72-mile east of Round Pole Bridge Road (S.C.R. 257). 911 Address: 16300 King Cole Drive, Milton. Tax Map Parcel: 235-21.00-171.00. Zoning: AR-1 (Agricultural Residential District).

Mr. Whitehouse advised the Commission that submitted into the record were the Preliminary Subdivision Plan, Exhibit Book, which included several documents including the Applicant's Chapter 99-9C written response, the PLUS comments received from the Office of State Planning, the Drainage Assessment Report, a copy of the drafted Homeowners Association Bylaws for the subdivision, the DelDOT Service Level Evaluation Response letter, the DelDOT Area Wide Study Fee Memorandum Letter, the local School District Notice Letter, written comments, submitted as part of the Technical Advisory Committee (TAC) process including letters from Delaware Electric Cooperative, the Sussex County Engineering Department, the State Department of Historical Affairs, the State Farm Marshals Office, the Division of Watershed Stewardship, and the Staff Analysis Report. Mr. Whitehouse advised the Commission that in total the application had received eight written public comments, which had been included within the Commission's paperless packet.

The Commission found that Mr. Glenn Mandalas, Esq. with Brockstedt Mandalas Federico, spoke on behalf of the Applicant, Mr. Michael Natelli; that also present were several design professionals available to answer any technical questions or concerns regarding the project. Mr. Mandalas stated

that the application was for a 125 acre cluster subdivision, located on the north side of Cave neck Road, and along the Beaver Dam Creek; that the project was thoughtfully designed to comply fully with the Sussex County Code, and the Comprehensive Development Plan; that in many cases the application exceeded the minimum requirements provided in the Code, and within the Comprehensive Plan; that they had submitted an overview with an exhibit book, which comprehensively outlining how the subdivision aligns with all the compliance requirements; that the plan features 187 single-family homes carefully located in areas intended to preserve the environmental features of the site; that 62% of the site, which is approximately 70 acres, will be dedicated to open space, resulting in over double the required amount; that in a cluster subdivision, the goal is to preserve environmental features of the site, which they felt the project did perfectly; that sanitary sewer and water will be provided by Artesian; that in addition to a clubhouse, the amenities include a pool, bocce and pickleball courts, as well as a pier with a kayak launch; that pedestrian connectivity is fostered through walking paths, sidewalks, and lighted streets; that the site is located within the Investment Level 4 according to the State Strategies designation; that he would request that the Commission not be distracted by the designation; that local land use decisions remain with the local jurisdiction; that while the State Strategies Map is a good and useful tool, it is not a reason to deny a project that is compliant with the County Code, and the Comprehensive Plan; that the site is situated within the AR-1 (Agricultural Residential) Zoning District; that the subdivision plan was in accordance with all existing AR-1 District cluster subdivision requirements in place at the time of application submission in May of 2024; that the plan proposes a density of 1.65 homes per acre, being well below the permitted 2.0 homes per acre; that the density results in the placement of 187 homes on 113.5 acres of developable area; that under the County Code they would be permitted to have 227 homes, resulting in a decrease of 40 homes than what is allowable under the Code; that the decreased density was the result of the design team's review of existing site conditions; that clearly Beaver Dam Creek, with its Tidal wetlands and the Non-tidal wetlands, located in the northern portion of the property, as well as the wooded area on the eastern portion of the site were prioritized as the most environmentally sensitive portions of the property; that consequently, these areas were preserved and the homes were clustered on the upland portion of the site, being west of Beaver Dam Creek; that the lower density of 1.65 units per acre is significant in that it is lower than the density of many other communities located within the surrounding area; that within a two-mile radius, there are a number of communities with higher densities; that examples of this are Holland Mills with 1.9 homes per acre, Anthem with 1.99 homes per acre, Twin Masts with 1.99, Compass Point with 2.04, Vincent Overlook with 2.77, and Windstone with a density of 1.99 homes per acre; that the Rivers Edge subdivision only proposed a density of 1.65 units per acre; that the project conforms to all dimensional requirements of the AR-1 (Agricultural Residential) District, including setback and lot size requirements; that the project was not requesting any additional Conditional Use or variance approvals; that the project did not require any special exceptions; that the project was complaint as it was submitted; that regarding compliance with the Subdivision Code and the Chapter 99 requirements, they had submitted an exhibit book, which included statement of compliance, especially with the compliance factors under §99-C; that the project is integrated into the existing terrain through a 30 foot landscape and wooded perimeter buffer; that the provided buffer will help transition the residential uses into the agricultural use surrounding the western

portion of the property, and the wooded area north of the property; that to further integrate the project, they ensured lots are set a minimum of 40 feet from the property boundaries; that no home will be closer than 50 feet to the property boundary; that additionally, integration into the existing terrain is accomplished through exceeding the Resource Protection Buffers required by §115-193; that this section requires that all Tidal wetlands have a 100 foot buffer, split between two, 50 foot buffers; that on the submitted plans, those buffers were designated as Zone A and Zone B; that regarding the Non-tidal wetlands, the Code requires a 30 foot buffer, split between two, 15 foot buffer zones; that the Code allows for buffer averaging in the second, Zone B buffer area; that they had taken advantage of the permitted averaging, which allowed them to provide even additional buffering, more than what was required by the Code; that the first buffer area, being the Zone A area, was required to have 232,882 square feet of buffer, which they have provided; that within the Zone B area, using the permitted buffer averaging, the required buffer area was 256,958 square feet; that the proposed plan provides 274,020 square feet, which is about 17,000 square feet of additional Resource Protection Buffer area; that further, the plan preserves sensitive woodlands located east of Beaver Dam Creek, which minimized forest fragmentation; that the project proposes to retain approximately 54% of the existing trees; that a Forest Assessment was included within the provided materials; that he had reviewed some letters of opposition expressing concern to removal of trees in the Beaver Dam Creek area; that they are proposing to preserve that wooded area; that significant open space was included within the plan, by providing six different open space areas, which were designated as Areas A through F; that given the size of the property, the Code requires that just over 34 acres be maintained as open space, resulting in 30% of the total site acreage; that the plan provides for just over 70 acres (62%) of open space, resulting in open space more than double of what is required by Code; that of the open space, there is a requirement that 30% of it be contiguous; that the plan is required to have 10.23 acres of contiguous open space; that the plan call for over 61 acres of contiguous open space to be found within Open Space Area B; that this far exceeds the requirement of 10.23 acres; that one of the six provided open space areas is larger than the required open space for the entire site; that regarding stormwater management and sediment control, the community would be designed in a manner that would meet or exceed the Stormwater Management and Sediment Control requirements of the Sussex Conservation District and DNREC, with stormwater being treated primarily by wet ponds; that concerning traffic, the plan had been thoroughly reviewed for potential traffic impacts; that DelDOT evaluated the Service Level Evaluation Request and determined that the proposed development would have minor impact on local area roadways; that as a result, DelDOT did not require a Traffic Impact Study (TIS) for the project; that instead, the project has contributed to the Area Wide Study fee in lieu of conducting the Traffic Impact Study; that additionally, DelDOT is requiring that Cave Neck Road meet DelDOT's Functional Classification Criteria, within the limits of the subdivision frontage; that these improvements will include 11 foot travel lanes, turn lanes, and five foot shoulders, be placed along the entrance of the site; that further, Natelli Communities had entered into an agreement with DelDOT to fund an equitable portion of Cave Neck Road, Hudson Road, and Sweet Briar Roads intersection improvements project; that regarding the Comprehensive Development Plan, within their submitted materials, they went chapter by chapter to demonstrate how the plan complies with the Comprehensive Development Plan; that Rivers Edge is located within the Low-Density Area, as defined by the Comprehensive Plan; that the plan

encourages development at an average of two homes per acre; that their plan proposes 1.65 homes to the acre; that the plan, under the cluster option, recommends the preservation of open space; that as previously stated, they are preserving more than twice the amount of open space required under the Code; that the State Strategies Maps indicate a priority for resource conservation at the State planning level; that the State Strategies Map should not be controlling the decision making at the County planning level; that denying a plan that is Code compliant, like Rivers Edge, on the basis of a Investment Level 4 designation would be contrary to well-established law; that in 2025, the Office of State Planning Coordination was required to update the State Strategies Maps; that alongside the new maps, the Office of State Planning issues a State Strategies document that describes the maps and how the maps are supposed to be implemented; that the maps in the document were reviewed and approved by the State Cabinet Committee on State Planning Issues; that Page 9, provides a statement on how the maps should be used and importantly confirms the final decision-making authority on land use decisions resides with the County government and not with the State; that Page 9 states that *“the State Strategies document and map series direct State investments, but they are not a land use plan. In Delaware, the State has delegated land use planning and regulatory authority to the local governments”*; that intergovernmental coordination is extremely important for the success of our current land use efforts; that Delaware’s county and municipal governments have the responsibility and authority to plan for and manage land use, and to institute zoning and other controls required to implement Comprehensive Plans; that the State respects this longstanding tradition of local control over land use; that when there is an Investment Level 4 designation, the Commission’s hands are somewhat tied when approving a project that is compliant with the Code, Zoning requirements and the Comprehensive Plan; that the maps are to be used by the local government to figure those things out and implement Code that is or is not consistent with the State Strategies, depending on what the local government thinks is the best from a land use perspective; that even the State recognizes that the Planning Commission has the authority to make these land use decisions; that there is a little adversity at times, but even the State has recognized that the Planning Commission holds the authority; that in summary, the Rivers Edge subdivision proposal is a model of careful planning for environmental sensitivity, open space preservation, and quality of life; that the plan exceeds the requirements of the Sussex County Code and the Comprehensive Development Plan; that the community design principles in the application advance public health, safety, and welfare, and because of this, they would respectfully request that the Commission grant preliminary plan approval.

Mr. Collins stated that on the record, the application had received objection, not just from the State around Investment Level 4, but they cite some specific concerns beyond just being located within Investment Level 4; that there were also expressed concerns by the local school system, who objected to the development because they do not have capacity, and are concerned about not being able to have adequate facilities for students that may reside in the community; that he believed there were environmental concerns regarding deforestation along an environmentally sensitive area, and requested that those concerns be addressed.

Mr. Mandalas stated that the site did contain environmental features, which was the exact reason why the cluster development was a provided option under the Code; that the cluster development

option specifically intends to preserve environmental features, which their plan has provided; that they provided all of the Resource Protection buffering that was required, and in some cases, in some areas, provided even more than what was required, and that the environmental features are protected.

Mr. Collins stated except for 43 acres of forest which is proposed to be disturbed and eliminated.

Mr. Mandalas stated 43 acres are proposed to be eliminated; however, he would submit that the 57% of forest to be preserved was a pretty valiant effort to maintain forested areas in an otherwise developable property.

Mr. Collins stated that being within Investment Level 4 means that State resources are not planned to be diverted to improve that area or that road; that there was already a lot of traffic issues, accidents that occur at nearby intersections with Route 1; that the road itself was basically a farm path that has been paved over, and is not well suited for large-scale developments; that the Commission had already had a few that were approved, have been constructed, and are beginning to building; that as taxpayers and residents of Sussex County, who care about the quality of our citizens, the Commission need to be concerned about the fact that DelDOT is not going to probably come to the rescue, especially within Investment Level 4 areas, to provide infrastructure improvements that will make future and current residents in the area happy with the quality of life that they will experience once the houses are sold; that those future residents will be part of the mass of people showing up with pitchforks and torches in the Planning Commission meetings for every future application; that he understood that being within Investment Level 4 alone, is not a reason to deny based on Sussex County Code; that he felt it did matter when the Commission is considering infrastructure that is sorely lacking in the County and around roads, and questioned what the solution to that issue would be from Mr. Mandalas' point of view.

Madam Chair Wingate requested that the Applicant's engineer speak on the required improvements and the timeline of those improvements for the record.

Mr. Mandalas requested to first mention that Cave Neck Road is currently developing and will continue to develop; that it was unfortunate that the State had designated the area as Investment Level 4; that in his estimation, the area should not be designated within Level 4, given the development the area had already seen; that as discussed, there are existing projects and subdivisions that are in large part at a higher density than the Rivers Edge plan proposes; that in some respects, their plan is being more responsible than the developments that came before them; that DelDOT had an opportunity to weigh in; that DelDOT is the State, who in many respects, say what will be required in that area; that they are meeting with DelDOT and happy to accommodate every request and every requirement that DelDOT had made of them; that Cave Neck Road is slated to have a Grade Separated Intersection with Route 1; that at times, when going up Route 1, the cars back up to make an effort to make a left onto Cave Neck Road; that this creates a bit of a clumping of traffic; that he believed the Grade Separated Intersection construction to be out about a year and a half; that he predicted approximately four years before the intersection would be

completed; that the build out of the subdivision will take time as well, and he hoped that the Grade Separated Intersection will provide a little relief, or at least thinning of the cars by taking the ramp to move on to Cave Neck Road.

Mr. Mark Cote, P.E. with Rossi Group stated that the Rossi Group performed the traffic analysis for the project; that DelDOT had required a contribution to the construction project at Cave Neck Road, Zoar Road, and Hudson Road; that this requirement had started the advanced utility relocations, and was scheduled to be completed by the end of next year; that the roundabout will be in place and will provide a huge safety benefit, as well as operational benefits, and the developer is contributing to the construction of that project, which is suggested to be completed by the end of 2027.

Madam Chair Wingate stated that on the plan, there are improvements that are to be made in front of the subdivision itself; that she understood there is a Phasing Plan for Phase 1 through Phase 6, and then the amenities, and she questioned when the road improvements to Cave Neck Road are planned to be constructed.

Mr. Jason Palkewicz, P.E. with Solutions IPEM, LLC stated that the developer planned to build the entrance in the first phase of construction; that all the improvements along the frontage would be completed within the first phase, and should the project be approved, he estimated that build out would take between six to seven years.

Mr. Collins stated that he believed there was a 20% contribution to some other area road projects that were being required; that there was another fee being paid as well; that the total cost of those seemed pretty inconsequential compared to the amount of improvements that the State would ultimately fork out to make that road sustainable in the future; that DelDOT may need to do some work around how they assess the cost of these types of projects, and what improvements actually need to be done; that this would allow for a more overall, comprehensive system review, and he questioned what other improvements DelDOT had discussed making, that the Applicant would not directly be accountable for, but would be required to contribute to.

Mr. Mark Cote, P.E. with Rossi Group stated that the State, DelDOT in this case, had a formula for the contribution towards Capital Projects that were located within the CTP program; that the formula Mr. Collins had mentioned is approximately 20% of the cost of the construction value of the contract; that it is overall based upon if there is a fund with federal funds; that it would be 80% federal and 20% state, however, the percentages could vary; that then it is based upon the developer's percentage share of the traffic; that this is an existing problem at the intersection, with safety concerns; that the developer is paying their fair share towards the solution, based upon their percentage of the traffic in the peak hour; that DelDOT performs all those calculations, and provides the cost contribution amount; that the proposed improvements are to make sure that the developer meets the functional classification along the site's frontage of Cave Neck Road; that there will be an entrance with a right-hand turn lane, and a separate left turn lane; that these

improvements are to be installed within Phase 1, and the roundabout will probably be completed before any homes would even be built.

Madam Chair Wingate requested confirmation that the anticipated build-out for all phases would take approximately six years.

Mr. Mandalas stated that was his understanding based on the previously provided testimony; that usually these types of applications take an amount of time to build out; that in a perfect world the State Strategies would provide a different designation, allowing the State to begin putting resources there; that the State has limited resources like all jurisdictions do; that the State can only direct them to certain places; that he really felt that Cave Neck Road should be designated something other than Investment Level 4, as well as a lot of areas along Route 9, and it is a fact of what is happening within Sussex County.

Mr. Whitehouse stated that he was pleased to see the plan provided interconnectivity all the way up to the property boundary, in the event the adjoining lands were ever developed, they would be able to be interconnected; that he questioned whether the Applicant have any objection to providing signage throughout the entire construction process, advising that the area was a point of interconnection, in an effort to notify future residents, so there would be no surprise that the area would be interconnected.

Mr. Mandalas stated that he had seen those signs around other communities, and they would have no objection to that requirement.

The Commission found that no one was present in support of the application, and nine people were present in opposition to the application.

Mr. Johannes Sayer, resident of Lewes, spoke in opposition to the application. Mr. Sayer spoke with concerns regarding the site's location to the Tidal wetlands, its located within the AE Flood Zone; the staff's comments regarding §115-193 which restricts buffer averaging for forest preservation to Non-Tidal wetlands; the State's designation of Investment Level 4 for the site, being outside of any growth area; the opposition expressed within the PLUS Review; the amount of mature forest centered on the Beaver Dam, being part of a larger contiguous forest in the Broadkill River Natural Area and located within the Delaware Ecological Network; the ability for the project to pay a area-wide service fee in lieu of performing a Traffic Impact Study; the failure of addressing road capacity and the balance protection of property right with protection of the public interest.

Mr. Thomas Pepper spoke in opposition to the application. Mr. Pepper, adjoining property owner to the site, spoke with concerns regarding the destruction of the property, the wildlife, local ecosystem, Tidal wetlands and the area infrastructure; that he never received notice of the project, until he found notice through the property posting sign and through the Cape Gazette; that he expressed concern regarding the juncture of Pepper Lane and Cave Neck Road; that the parcel had

been donated to Sussex County for a paramedic garage, and he felt it represented a conflict of interest with the Planning & Zoning Commission; that he had concern to the note on the plan for “access to adjoining farmlands”; that the road is located on his property, and was not a right of way to be used; that he would like a stipulation to be imposed that the Applicant would be required to plant privacy trees to shield the agricultural land from the development

Mr. Robertson stated that there were County Code requirements within Chapter 99, which spelled out, very specifically, what type of plantings, how high, how many and the girth the plants are required to be and that all of the documents and County Code could be found online, through the QR Code provided on the property posting sign.

Madam Chair Wingate requested information on the public notices that were sent out.

Mr. Whitehouse stated that the record provided a list of all properties that were sent a postcard notification; that in addition to the postcard notifications, advertisements were placed in two newspapers, as well as on the site itself; that the property posting contained a QR Code on the sign, that directs the scanner directly to the application’s electronic file; that notification was sent by mailed postcard to properties located to the west of the site; that there were no undelivered, return to sender postcards on record; that at times there can be a problem delivering the postcards due to issues with the mail service or inclement weather, and he was not disputing Mr. Peppers’s statements, however, there was no evidence currently on the record that notification was not provided.

Mr. Robertson stated that Sussex County has the obligation to make sure the members of the public are property notice; that Sussex County has the duty to investigate whether a notice was complied with regard to what is in, not only Title 9 of the State law, but also within the Rules of the County Code; that Mr. Whitehouse explained that it appeared that from every indication that Sussex County had, public notice was provided, and none of those notifications were returned, and the Commission would need to place that on the record to avoid any question to whether notice was provided or not.

Ms. Regina Pepper spoke in opposition to the application. Mrs. Pepper, adjoining property owner to the site, spoke with concern regarding the site location within Investment Level 4, the lack of communication from the developer regarding the project, the unseen negative ramifications of development, the cost of maintaining infrastructure, the proposed removal of 43 acres of forested habitat, the negative impact the forest removal will have on the wildlife, the wildlife habitats and water quality, the potential for flooding, and the impact of future sea level rise, and that the application did not adequately resolve the expressed concerns, including the impacts to waterways and traffic.

Mr. Collins stated for clarification that if land had been donated to Sussex County for some purpose, it would have no bearing on the Commission’s decisions on public hearing applications;

that land donation would be a totally separate matter and would not be considered by the Planning Commission.

Ms. Janet Le Digabel spoke in opposition to the application and read an opposition letter written by Mr. Albert Rizzo. Mr. Le Digabel, resident along Round Pole Bridge Road, spoke with concerns regarding the application attempting to be approved under 2024 regulations; that she stated under February 2025 regulations the 18 lots located along Beaver Dam Creek would be eliminated; that she requested that the 18 lots along Beaver Dam Creek be removed as part of an imposed condition to protect the creek bank from being destroyed; that destruction of the creek bank would cause downstream and possibly upstream flooding; that the parcel is wet, and often floods; that she expressed concern regarding the proposed removal of 43 acres of forest, when one tree can evaporate 200 gallons of water per day; that she compared the project to Coral Lakes, Brentwood and Terrapin Island, and the flooding caused from massive amounts of tree clearing; that she expressed concern to the response provided from Mr. Jason Hale of the Cape Henlopen School District, who stated the district could not sustain any new students; that she suggested imposing a \$10,000 voluntary school assessment on each unit and a contribution of \$5,000 for each unit for emergency fire and paramedics; that she suggested that the Commission find out what the Applicant's contribution to DelDOT would be; that she requested there be no clear cutting; that she believed Mr. Pepper should request a fence be installed along his boundary line at the cost of the developer, and she requested the Commission deny the application as she felt it did not meet a superior design.

Ms. Le Digabel requested to read a letter of opposition written by Mr. Al Rizzo, Certified Professional Soil Scientist & Certified Wildlife Biologist which stated concerns regarding removal of the riparian forest buffers, which would create negative impacts on sedimentation, nutrient runoff, and potential flooding downstream of the development; that the forest are critical wildlife corridors, and although he felt denial of the development was unlikely, the restrictions that maintain the rural character of the area and environment quality are not mutually exclusive.

Mr. Michael Nofi spoke in opposition to the application. Mr. Nofi, resident of Milton, spoke with concerns regarding the sensitivity of the environmental area with forest and wetlands, and the traffic along Cave Neck Road, and he requested buffering be provided around the sensitive environmental areas.

Mr. Uhland Pepper spoke in opposition to the application. Mr. Pepper, being a fifth generation landowner in the community, stated that he had lived, worked, raised his children and had built a life root in agriculture and stewardship on his property; that the proposed site was once a cattle farm and was actively farmed; that agricultural land is not replaceable; that once it is covered in pavement, rooftops and roads it is gone forever; that his greatest concern was regarding impacts to groundwater for drinking water; that agricultural land plays a critical role in groundwater recharge; that a large residential subdivision would dramatically alter the balance; that runoff will carry fertilizer, lawn chemicals, oil residue and other pollutants directly into the soil and nearby waterways; that the creek that runs through the property helps support wildlife and feeds them to

them to the Broadkill watershed; that development near creeks routinely result in increased erosion, sedimentation, alteration of water flow and degraded water quality; that he expressed concern regarding negative impacts to his property value; that he stated growth must be thoughtful and responsible, and he requested that the Commission choose long-term sustainability over short-term expansion, by protecting the farms and water.

Mr. Joaquin Cortez spoke in opposition to the application from the viewpoint of a hedgehog resident of Rivers Edge. Mr. Cortez, resident of Lewes, spoke with concerns regarding wildlife, the 43 acres of forest proposed to be removed, the current infrastructure and the lack of road improvements.

Ms. Jill Hicks spoke in opposition to the application. Ms. Hicks stated that she present with more questions than statements; that she questioned whether resource buffer averaging was permitted when located adjacent to Tidal waters; that Beaver Creek is a Tidal creek, and she questioned whether the buffer was substantial; that she felt that the buffer was not substantial when reviewing the plans; that she believed the buffer averaging took place for Lots 15, 16, 17, 34 and 35, which would be located along the creek; that she believed the averaging took place within the building area, and questioned whether the lots should be built, especially while the County Council were looking to correct sediment control.

Ms. Kelly Pepper spoke in opposition to the application. Ms. Pepper , adjoining property owner to the site, spoke with concerns regarding the proposed interconnectivity area located adjacent to her private lane; that she feared residents and/or construction traffic would believe that they would be permitted to use her lane at their leisure; that she requested, should the subdivision be approved, that notice be clearly provided within the deeds that the adjacent property is used for active farmland, being used for homesteading, which may produce smells, noise and hunting activities; that she expressed concern regarding the removal of the existing trees, and the impact it would have on the wildlife and noise, and she requested that consideration be given to adjacent residents to help protect their land.

Mr. Collins stated that the interconnectivity would only open in the circumstance that Ms. & Mr. Pepper were to sell their land for development, and a subdivision was built there.

Madam Chair Wingate stated that the proposed area would be a dead end; that if a subdivision should be built there, at that point the Commission would require that subdivision to tie into what exists, and the interconnectivity requirement goes back to emergency service access.

Mr. Robertson stated that he believed it to be a perception issue, as the Peppers have a farm lane that appeared to line up more or less with the interconnectivity stop; that the Commission could help address that issue; that there is a statutory Agriculture Use Protection Notice that is placed in the deeds of anyone who would purchase lots within the subdivision, previously the Commission had modified that to include hunting notices to avoid future residents complaining about hunting activities.

Mr. Collins stated that there were previous examples of this within the most recently built subdivisions; that the subdivision provides a kind of carve out, where it appears like a connection could happen in the future; that generally there is a big, locked, gate, or a fence with signage that state the area could be used for proposed future connectivity, and no one would be able to go through that area.

Mr. Robertson stated that there had been a lot of discussion regarding buffering, not the resource protection buffering, but the subdivision perimeter buffering; that there are two things that come into play; that there is a perimeter buffer that runs along the boundary of the property; that additionally there is an Agricultural Preservation setback of 50 feet required between the boundary line and structures; that within the perimeter buffer, there are planning requirements; that Sussex County had recently change the Code, and updated what is required to be planted within that strip of land; that the strip must be a certain width, but also provide a certain number of plantings in a linear fashion, which is clearly spelled out within the Code; that additionally, there is a breakdown requirement between deciduous and evergreen trees, along with height requirements for them; that Sussex County now requires the buffer installation to be front loaded; that there are warranties and guarantees for two years after the last home is built, to make sure the planted buffer survives; that there are bonding requirements in place to make sure the buffer is covered; that these requirements are spelled out within the Sussex County Code; that the Commission have the ability to place conditions on the subdivision, is approved; that on a subdivision like the one proposed, there would be a whole host of conditions, which may impact the design of the subdivision; that he did not want anyone to have any misconceptions regarding the interconnectivity; that interconnectivity is a Sussex County Code requirement; that if one were to take personal property out of it, it would leave Sussex County with individual, isolated subdivisions all over the place, with no interconnectivity; that this would result in only one way in and one way out; that this would impact traffic, which would impact emergency medical services (EMS); that should there ever be an accident at the entrance of a subdivision, the Commission want to provide interconnectivity to adjacent subdivisions, providing other ways to get in and out; that interconnectivity would also diffuse the traffic impact on the roads; that the Commission was not attempting to force interconnection with an adjacent private property; that the Commission was now cognizant of the interconnection location to the private lane on the adjacent property; that the interconnectivity itself in the Code serves an important purpose, and was not something unique to the specific application, and that the Commission would take into account the comments made.

Mr. Collins stated that he had concern regarding the site's location within the Investment Level 4 area.

Mr. Mandalas stated that submitted into the record was a Drainage Assessment Report, which had been prepared by Geotechnology Associates; that Exhibit F provides a good representation of what is being preserved and what is not; that he had heard multiple times, concerns regarding buffer averaging within Tidal areas; that the Applicant's team would check on that concern; that he believed the plan to be compliant, however, if it was not, they would revise the plans to ensure the

plan was in compliance with the buffering requirements; that regarding Mr. & Mrs. Pepper's concerns, they would be happy to share buffer plans to help make them more comfortable with what was proposed to be adjoining their property; that the proposed interconnectivity lane on the plan was located well north of where the Pepper's lane terminates; that the interconnectivity area would not abut their lane, as it would be located north of the Pepper's lane; that there was a concern expressed regarding preserving habitat to the maximum extent possible; that Code requirements often say to preserve to the maximum extent possible; that there must be a balance between private property owner rights, and what one can do with their property; that they certainly tried to preserve the existing habitat to the maximum extent possible, however, that did not mean that the property should not be developed; that the donation to DelDOT is in excess of \$100,000;

Mr. Collins questioned whether any donations were being proffered to emergency medical services or the local school district.

Mr. Mandalas confirmed that the Applicant had not proffered any donations be made to emergency medical services or the local school district, and requested the Commission leave the record open for a day to allow him to submit a cover letter, specifically directing the Commission to the exhibit.

Mr. Collins stated that the Commission may want to request the Applicant's proposed cover letter regarding the exhibit, as well as correspondence regarding the Applicant's compliance with the regulations regarding the buffer.

Mr. Robertson suggested that the Commission request that the record be held open to allow staff to verify the Applicant's compliance with the buffer requirements; that he suggested that the record remain open for 10 business days after that for anybody to comment on the buffer average, allowing the public to provide written comment after receipt of staff's written comments regarding whether the plan is compliant or not.

Upon there being no further questions, Madam Chair Wingate closed the public hearing.

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

Mr. Collins stated that he would suggest to defer, leaving the record open for 10 days after receipt of the information regarding the buffer averaging and the input around the appendix item; that he expressed concern regarding the site's location in an area designated by the State to not be developed, the site's location within environmentally sensitive area, and the existing strain on the infrastructure; that he felt the State was well behind addressing the infrastructure; that if the application were proposing to preserve more forest land, he would feel more enthusiastic; that the State and local school district had expressed that the subdivision was not something that should be approved, and he felt the Commission would want to make significant recommendations around changes.

In relation to 2024-05 Rivers Edge. Motion by Mr. Collins to defer action for further consideration to allow for conformation from staff, regarding the buffer averaging, and the accuracy and correctness of that under County Code, whose receipt would be announced at a future Planning & Zoning meeting, and the record to be held open for 10 business days to allow for written comment on that issue, seconded by Mr. Allen and carried unanimously. Motion carried 5-0.

RECESS

4:45 PM – 4:52 PM

C/U 2424 Oceans Six

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (6 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 0.61 ACRES, MORE OR LESS. The property is lying on the east side of Coastal Highway (Route 1), approximately 278 feet north of Jefferson Bridge Rd. (S.C.R. 361-A). 911 Address: N/A. Tax Map Parcel: 134-17.07-190.00.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Conceptual Site Plan, the Applicant's presentation materials, the Applicant's Exhibit Booklet, the DelDOT Service Level Evaluation Response letter, the DelDOT Entrance Approval Letter, the Applicant's Drainage Assessment, the Staff Analysis Report, and a letter received from the Sussex County Engineering Department's Utility Planning Division. Mr. Whitehouse advised the Commission that no public comment had been received regarding the application.

The Commission found that Mr. David Hutt, Esq. with Morris James, LLP, spoke on behalf of Applicant, Oceans Six; that also present were Mr. William Buchanan, Jr. Principal of Buchanan Corporation, also being the Applicant and owner, and Mr. Michael Kaszyski, Professional Engineer with Atwell, LLC. Mr. Hutt stated that the subject application had two characteristics; that he felt, in every manner possible, that the application fit the characteristic of infill development; that the second characteristic was that this was the third time Sussex County would be considering a land use application for the subject property; that the first Conditional Use was known as C/U 1494, which the County Council adopted as Ordinance No. 1632 on September 16, 2003, approving the property for seven multi-family dwellings under the Sussex County Code §115-74; that the Conditional Use approval expired; that in 2009, on March 17th, the County Council adopted Ordinance No. 2033, which approved Conditional Use No. 1764, again approving a multifamily project of seven units on the property, however, the Conditional Use was never developed; that this resulted in a second expiration for the property; that the only difference between the two previous Conditional Use approvals, and the current Conditional Use application is the number of proposed units have been reduced from seven to six units, and the Conditional Use name has been changed from Oceans Seven to Oceans Six; that approximately 40% of the one mile radius surrounding the site, encompassed the Atlantic Ocean; that the municipal boundary for the Town of Bethany Beach is located north of the site; that the municipal boundary for South

Bethany; that the site is located along Coastal Highway (Route 1), and within proximity to Pennsylvania Avenue; that Sea Pines Village multifamily condominium is located between the subject site, and Pennsylvania Avenue; that across from Pennsylvania Avenue is the location of the Sea Colony tennis courts and buildings associated with Sea Colony; that Sea Pines Village Condominium wraps around along Pennsylvania Avenue and down Jefferson Bridges Road; that on the other side of that road is the Hotel Bethany; that next to Hotel Bethany is Mickey's Family Crab House; that just south of that is the location of Nick's Mini-Golf; that north then, on Route 1, at the corner of the intersection is Perfect Furnishings; that next to that is PepUp, which used to have a Arby's, and is now Pony Donuts; that the next property is the location of the subject Conditional Use; that the next property, being the last property located within Sussex County's jurisdiction is the location of Taggart Professional Center; that the property is a little more than 0.6 acre; that the property has a vacant and somewhat dilapidated home and shed, which is proposed to be removed as part of the application; that when the application was submitted, the 2020 State Strategies Map was in effect; that the 2025 State Strategies Map was just recently adopted in 2026; that the site was located within Investment Level 2, where the State investments and policies in 2020 would support and encourage a wide range of uses; that the site is currently located within Investment Level 1, according to the 2025 State Strategies Map, which had been signed by the Governor a few weeks prior to the current hearing; that in 2020, the Office of State Planning Coordination described Investment Level 1 as reflecting area that are already developed in an urban or suburban fashion, where infrastructure is existing or readily available, and where future redevelopment or infill projects are expected to and encouraged by State projects or policies; that the 2025 State Strategies document does not have the same narrative and paragraph format; that now it contains a chart where it describes each of the levels, along with characteristics of the levels; that there were three characteristics he wished to highlight from within the 2025 characteristics for Investment Level 1; that one characteristic is higher density development with mixed uses; that the second characteristics is a variety of housing and transportation options; that the third characteristics is walkable communities, which again describes the area, being along Route 1, Bethany Beach and South Bethany; that within the chart, promulgated with the State Strategies Map, is a policy focus for the State in Investment Level 1; that the policy focus includes a wide range of uses and densities, and significantly also includes infill and redevelopment, which matches the propose use of the site; that in short, regardless whether it is the 2020 or 2025 version of the State Strategies Map, the site is a location where the State expects and encourages growth to occur; that the site is located within the Coastal Area, according to the 2045 Future Land Use Map found within the Sussex County's 2018 Comprehensive Plan; that the site is located within the MR (Medium-Density Residential) Zoning District of Sussex County; that the site is near four different zoning classifications, being HR-2 (High Density Residential) District of Sussex County, which extends from the ocean over to the Assawoman Canal, additional MR (Medium-Density Residential) zoned properties within Sussex County, the C-1 (General Commercial) District of Sussex County, and the B-1 (Neighborhood Business) District of Sussex County; that the Planning Commission was very familiar with multifamily Conditional Use applications within the MR (Medium-Density Residential) Zoning District; that Conditional Uses, pursuant to §115-219 of the Sussex County Code are uses that are generally of a public or semi-public character, being essential and desirable for the general convenience and welfare; that due to the nature of the proposed use,

the importance of the relationship to the Comprehensive Plan, and the possible impact, not only on neighboring properties, but on a larger section of the County, requires the exercise of planning judgement on location and site plan; that the County Code defines multifamily as a Conditional Use in the MR (Medium-Density Residential) Zoning District; that certainly housing is a public or semi-public character; that there are many Conditional Uses for multifamily dwellings; that the submitted Site Plan proposes six (6) units, and is fairly straightforward; that the plan offers a right-in and right-out entrance off Route 1, just north of the PepUp; that about two-thirds of the way back into the site, is a location for the fire and emergency responders to turn around; that located at the end of the drive aisle, is the location of the dumpsters, which are proposed to be screened from the surrounding properties, and are distant from the roadway itself; that the Sussex County Code requires two (2) parking spaces per dwelling unit; that the plan provides three (3) parking spaces per dwelling unit; that two spaces are provided internal to each home, with one space located on the outside; that per the FEMA mapping, the property is located within Flood Zone X, which is located outside of the 500 Year Floodplain; that there are no wetlands located on the property; that the property is not located within a Source Water Protection Area, Wellhead Protection Areas or Excellent Groundwater Recharge Areas; that the property does not have any resources as the term is defined in §115-4 of the County Code; that when the Sussex County Engineering Department reviewed the Drainage Assessment Report, it requested that there be an easement along the common drainage swale to the south of the property, with the PepUp station; that the most recent Site Plan filed did include the requested easement from the Sussex County Engineering Department; that central water will be provided by the Town of Bethany Beach; that central sewer will be provided by the Sussex County Engineering Department; that a letter was submitted by the Sussex County Engineering Department which indicated that the property is located within the Tier 1 Sewer District Area, and that there was capacity for the proposed six units; that DelDOT responded to the Service Level Evaluation request, which indicated the proposed impact for the six units was diminutive, as that term is described in the Memorandum of Understanding between Sussex County and DelDOT; that the term means 50 vehicle trips or less, per day; that while Ocean Six has been waiting in the queue, it had put its wait to good use; that Atwell have been working with DelDOT; that DelDOT issued a Letter of No Objection to Recordation (LONOR) for the application, should the County Council act favorably on the application; that in the last two weeks, DelDOT approved the entrance reflected on the plan, should the County Council act favorably upon the application; that the property proposes a density of 9.8 units to the acre, which is consistent with the density of the surrounding properties; that the Sea Pines Village Condominium, immediately to the east and south of the project has a density in the nature of 12 units to the acre; that Sea Colony is in the same area of density requirements; that the site is consistent with wit the HR-2 (High Density Residential) Zoning classification that exists between the Atlantic Ocean and the Assawoman Canal in the area; that the Comprehensive Plan provides guidance on when medium and higher densities, things such as four to 12 units to the acres can be appropriate; that there is a list of several considerations, which include locations where central water and sewer are provided, when the property is near a significant number of commercial uses and employment centers, when it is in keeping with the character of the area, and when it is situated along a main road, or at/near a major intersection; that the application checks every one of those boxes; that the site is provided central water and sewer; that many commercial uses and

employment centers exist along Route 1, and along a portion of the Route 1 corridor; that the site is located along the major road of Coastal Highway (Route 1); that the application is truly an infill development, as the term is described; that the property had been granted approval on two separate occasions being in 2003 and 2009; that because of how long all the businesses and development had been in the area, the application was considered infill in 2003, as well as in 2009, and that Mr. Buchanan would request that the Commission agree to those prior two Ordinances and agree that the project continues to be considered infill development, which would reflect the character of the area.

Mr. Hutt requested to submit Proposed Findings of Fact into the record for the application.

Mr. Collins questioned why interconnectivity was not provided in the event of an emergency within the surrounding area, and whether there was potential that the application would return before the Planning Commission again.

Mr. Hutt stated that there was no opportunity for interconnectivity because all surrounding properties had already been developed, and that he hoped the application would not return before the Commission, and the reason the application was changed from Ocean 7 to Ocean 6 was due to changes in regulations requirements for things like stormwater management.

Mr. Allen questioned whether the provided turn-around was large enough for emergency fire apparatuses to turn around.

Mr. Hutt stated that the provided turnaround was located about two-thirds of the way down the property; that on the submitted plan, it appears there are parking spaces within that area, as it appeared that parking bumpers were placed in that area; that parking spaces are not being provided in that area; that the purpose was only to keep the area open; that this will be required by the fire company, and the area is also provided as place for persons to turn around should they accidentally turn, and realize it is a dead-end street.

Mr. Passwaters questioned what the width of the turnaround area was.

Mr. Kaszyski, P.E. stated that the turnaround area had been designed in accordance with the State Fire Marshal's regulations; that the width itself was about 20 feet in width, and the driveway, at the front, was about 24 feet, which was the standard for fire lanes.

Mr. Robertson stated that should the application be approved, the Final Site Plan would still be required to go through State Fire Marshal Office review again to confirm compliance and approval.

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

Upon there being no further questions, Madam Chair Wingate closed the public hearing.

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

In relation to C/U 2424 Oceans Six. Motion by Mr. Collins to defer action for further consideration, seconded by Mr. Passwaters and carried unanimously. Motion carried 5-0.

PUBLIC COMMENT

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

Meeting adjourned at 5:16 p.m.

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