MINUTES OF THE REGULAR MEETING OF OCTOBER 7, 2026

The regular meeting of the Sussex County Planning and Zoning Commission was held on Wednesday afternoon, October 7, 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, and Mr. David Pettyjohn. Mr. John Passwaters was absent. Also, in attendance were Mr. Jamie Whitehouse – Director of Planning & Zoning, Mr. Vincent Robertson – Assistant County Attorney, Mr. Michael Lowrey – Planner III, Ms. Ann Lepore – Planner I, and Ms. Ashley Paugh – Recording Secretary.

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

Motion by Mr. Collins, seconded by Mr. Pettyjohn, to approve the Minutes of September 16, 2026, of the Planning and Zoning Commission Meetings as circulated. Motion carried 4-0.

OTHER BUSINESS

**S-25-15 Milton DE Solar CSS, LLC (C/U 2550)**
Preliminary & Final Site Plan
This is a Preliminary & Final Site Plan and Landscape Plan for the construction of a solar array facility and other related site improvements. Conditional Use No. 2550 to permit the use of a solar array at the site was approved by the Sussex County Council at their Meeting of Tuesday, June 23rd, 2026, via Ordinance No. 4072. The Plan includes solar arrays, ancillary transformer equipment, landscaped buffers, access roads, fencing with gated access to the site and other site improvements. The Conditional Use area is (14.82) acres +/- with the fenced in area containing the solar arrays occupying (12.86) acres +/- of the Parcel which is comprised of a total of (30.55) acres +/-. The Parcel is located on the west side of Harbeson Road (Route 5), approximately 850 feet south from the intersection of Diamond Farm Road (S.C.R. 257) and Harbeson Road. The Preliminary Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval for (C/U 2550). Tax Parcel: 235-26.00-17.01 Zoning District: AR-1 (Agricultural Residential Zoning District). Staff are in receipt of all agency approvals. A Decommissioning Plan has also been included which addresses the financial security component of the Conditions of Approval; therefore, the Plan is eligible for both Preliminary & Final Approval.

Motion by Mr. Collins, seconded by Mr. Pettyjohn, and carried unanimously to approve the Preliminary & Final Site Plan as a final. Motion carried 4-0.

**S-26-40 St. Jude the Apostle Catholic Church**

Revised Final Site Plan

This is a Revised Final Site Plan for the construction of proposed 8,050 square feet additions to an existing Church and other site improvements to be located on the east and south side of Tulip Drive and the north side of Coastal Highway (Rt. 1). The Revised Final Site Plan complies with the Sussex County Zoning Code. Tax Parcel: 335-11.00-90.00. Zoning: MR (Medium Residential District) and C-1 (General Commercial). Staff are awaiting agency approvals. Should the Commission desire to act favorably upon this proposal, staff are requesting that final approval be made subject to staff upon the receipt of all agency approvals.

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

**S-26-51 State of DE (C/U 2607) - DSP Troop 4 EVOC**

Preliminary Site Plan

This is a Preliminary Site Plan for (≈7.3 acre) Emergency Vehicle Operations Course (EVOC), vehicle parking, vehicle storage, and an adjacent pavilion structure (1,640 square feet) associated with the Delaware State Police (DSP) facility at the site which was permitted via Conditional Use (C/U 2477) (Ord No. 2975) as approved by County Council at their meeting of 1/23/2024. The (EVOC) was subsequently approved via (C/U 2607) (Ord. No. 4040) and approved by County Council at their meeting of 2/10/2026. The property is located on the west side of Patriots Way (S.C.R. 318) at the intersection of Avenue of Honor (S.C.R. 86) and Patriots Way (S.C.R. 318) in Millsboro. The Preliminary Site Plan complies with the Sussex County Zoning Code. Tax Parcel: 133-7.00-8.00. Zoning: AR-1 (Agricultural Residential District.) Staff are in receipt of all agency approvals.

Motion by Mr. Pettyjohn, seconded by Mr. Collins, and carried unanimously to approve the Preliminary Site Plan as a preliminary and final. Motion carried 4-0.

**Lands of Patricia A. Quillen for Life**

Minor Subdivision Plan off a proposed 50-ft easement

This is a Minor Subdivision Plan for the creation of one (1) lot plus residual land. Proposed Lot 1 shall consist of 1.412-acre +/- and the residual land shall contain 1.279-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 Chaplains Chapel Road (S.C.R. 42). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 430-20.00-49.00. Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals; should the Commission desire to act favorably upon 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 approve the Minor Subdivision Plan off a proposed 50-foot easement, as a preliminary, with final approval to be granted by the staff, subject to receipt of all agency approvals. Motion carried 4-0.

**Lands of Investment Builders Inc.**
Minor Subdivision Plan off a proposed 50-ft easement
This is a Minor Subdivision Plan for the creation of four (4) lots plus residual land. Proposed Lot 1 shall consist of 1.136-acre +/-, proposed Lot 2 shall consist of 1.479-acres +/-, proposed Lot 3 shall consist of 1.410-acres +/-, proposed Lot 4 shall consist of 1.315-acres +/-, and the residual land shall contain 1.245-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 Beach Highway (Route 16), approximately 0.27 miles +/- west of Owens Road (S.C.R. 611). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 430-6.00-15.06 Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals; should the Commission desire to act favorably upon this proposal, Staff are requesting that final approval be made subject to Staff upon the receipt of all agency approvals.

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

**Lands of Lisa and Aleisha Cannon**
Minor Subdivision Plan off a proposed 30-ft easement
This is a Minor Subdivision Plan for the creation of two (2) lots plus residual land. Proposed Lot 1 shall consist of 1.000-acre +/-, Lot 2 shall consist of 1.006-acres +/-, and the residual land shall contain 11.746-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 Ponder Road (S.C.R. 232). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 430230-27.00-36.00 Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals; should the Commission desire to act favorably upon this proposal, Staff are requesting that final approval be made subject to Staff upon the receipt of all agency approvals.

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

**Lands of Tammy L. & Michael F. Horn**
Minor Subdivision Plan off an existing 50-ft. easement and a proposed 30-ft. easement
This is a Minor Subdivision Plan for the creation of four (4) lots plus residual land. Proposed Lot 1 shall consist of 1.1784-acres +/-, proposed Lot 2 shall consist of 1.0002-acres +/-, proposed Lot 3 shall consist of 1.002-acres +/-, proposed Lot 4 shall consist of 1.002-acres +/-, and the residual land shall contain 10.1706 acres +/-. A shared-use maintenance agreement shall be established for the use of the shared access road. The property is accessed from the south side of Pepperbox Road

(S.C.R. 66) through an existing 50-ft. and a proposed 30-foot ingress/egress access easement. The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 532-22.00-18.00. Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals. Should the Commission desire to act favorably upon 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. Pettyjohn, and carried unanimously to approve the Minor Subdivision Plan off an existing 50-foot easement and a proposed 30-foot easement, as a preliminary, with final approval to be granted by the staff, subject to receipt of all agency approvals. Motion carried 4-0.

**Lands of Oak Road Rentals, LLC**

Minor Subdivision Plan off a proposed 30-ft. easement

This is a Minor Subdivision Plan for the creation of two (2) lots plus residual land. Proposed Lot 1 shall consist of 0.810-acre +/-, proposed Lot 2 shall consist of 0.790-acre +/-, and the residual land shall contain 0.756 acres+/-. A shared-use maintenance agreement shall be established for the use of the shared access road. The property is accessed from the east side of Old Stage Road (S.C.R. 461) through a proposed 30-foot ingress/egress access easement. The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 332-2.00-77.00. Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals. Should the Commission desire to act favorably upon 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 approve the Minor Subdivision Plan off a proposed 30-foot easement as a preliminary, with final approval to be granted by the staff, subject to receipt of all agency approvals. Motion carried 4-0.

**Lands of Senturk**

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

This is a Minor Subdivision Plan for the creation of four (4) lots plus residual land. Proposed Lot 1 shall consist of 1.105-acre +/-, proposed Lot 2 shall consist of 1.066-acres +/-, proposed Lot 3 shall consist of 0.854-acres +/-, proposed Lot 4 shall consist of 0.843-acres +/-, and the residual land shall contain 1.135-acres +/-. A shared use maintenance agreement shall be established for the use of the shared access road. The property is located on the north side of Stockley Road (S.C.R. 280). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcels: 234-5.00-89.00, 90.00 & 91.00 Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals; should the Commission desire to act favorably upon this proposal, Staff are requesting that final approval be made subject to Staff upon the receipt of all agency approvals.

Motion by Mr. Pettyjohn, seconded by Mr. Collins, and carried unanimously to approve the Minor Subdivision Plan and Lot Line Adjustment off a proposed 30-foot easement as a preliminary, with

final approval to be granted by the staff, subject to receipt of all agency approvals. Motion carried 4-0.

**LG Investments & Farming, LLC**

Consideration of Agricultural Preservation District

This is a request from the Delaware Agricultural Lands Preservation Foundation, acting through Delaware Department of Agriculture, for the creation of a new Agricultural Preservation District, to be known as the LG Investments & Farming, LLC District. The District would have a total area of 812.97 acres. The tract is located on the southeast side of Fleatown Road (S.C.R. 224), and the southeast side of Ponder Road (S.C.R. 232). Tax Parcel: 230-20.00-13.00. Zoning: AR-1 (Agricultural Residential District).

Motion by Mr. Allen, seconded by Mr. Collins, and carried unanimously to approve the Consideration of Agricultural Preservation District. Motion carried 4-0.

OLD BUSINESS

**C/U 2529 Jaime & Darren Hooks**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MECHANIC REPAIR BUSINESS, OFFICE, MATERIAL AND EQUIPMENT STORAGE TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 4.29 ACRES, MORE OR LESS.** The properties are lying on the north side of Airport Road (S.C.R. 494), approximately 600 feet east of Old Hickory Road (S.C.R. 497). 911 Address: 7119 Airport Road, Laurel. Tax Map Parcels: 432-7.00-28.05 & 432-7.00-28.04 (P/O).

The Commission discussed the application which had been deferred since September 2, 2026.

Mr. Allen moved that the Commission recommend approval for Conditional Use No. 2529 for Jaime & Darren Hooks for a Conditional Use for a mechanic repair business office, material and equipment storage based upon the record made during the Public Hearing and for the following reasons:

1. The property where this use is located is zoned AR-1, and it will operate out of an existing building on the site and the adjacent area.
2. This business in this location benefits the health, safety and welfare of Sussex County residents, businesses and the agricultural community.
3. Aside from routine maintenance of the equipment, all operations occur off-site, and no retail or similar uses will occur on-site. As a result, this use will not generate excessive amounts of traffic.

4. The property is surrounded by properties owned by the Applicant and their family.
5. The use will not adversely affect neighboring properties or roadways.
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 a mechanic repair business office, material and equipment storage. No retail sales shall occur from the site.
   B. All equipment and vehicle maintenance shall occur inside of the approved buildings on the property. In addition, there shall not be any outside storage of any chemicals associated with the use.
   C. The Applicant has stated that relatively small amounts of materials on the site are associated with the use. The areas for this material storage shall be shown on the Final Site Plan.
   D. It appears that there are several encroachments onto the adjoining property to the west of this site, including the access driveway and areas where materials and equipment are currently located. The driveway shall either be relocated entirely on the Applicant's property, or the Applicant shall draft and record a shared access and maintenance agreement for the driveway with the owners of Parcel 28.04 along the western boundary. In addition, all materials and equipment associated with the use must be removed from Parcel 28.04. Both of these requirements shall be complied with and verified by staff prior to approval of the Final Site Plan.
   E. The required parking shall be depicted on the Final Site Plan and clearly marked on the site itself along with the parking areas for trucks, vehicles, trailers, and equipment within the site.
   F. All outdoor lighting associated with this use shall be screened and shielded so that it does not shine on neighboring properties or roadways.
   G. One lighted sign shall be permitted. It shall not be any larger than 32 square feet on each side.
   H. The hours of operation shall be between 6:00 a.m. and 6:00 p.m., Monday through Saturday, with additional hours in emergency situations.
   I. Any dumpsters shall be screened from view of neighboring properties and roadways.
   J. The Applicant shall comply with any requirements of the Sussex Conservation District regarding stormwater management and drainage.
   K. The Applicant shall comply with any DelDOT entrance or roadway improvement requirements.
   L. The failure to comply with any of these conditions of approval may be grounds for termination of this Conditional Use.
   M. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Allen, seconded by Mr. Collins, and carried unanimously to recommend approval of C/U 2529 Jaime & Darren Hooks for the reasons and the conditions stated in the motion. Motion

carried 4-0.

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

**ORD 26-06**

**AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP ELEMENT OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 135-11.00-31.00, 135-16.00-17.00 & 70.00.** The properties contain approximately 42.54 acres of land, lying and being within Sussex County. The properties are lying on the north side of Lewes Georgetown Highway (Rt. 9), approximately 0.69 mile west of Gravel Hill Road (Rt. 30). 911 Addresses: 24215, 24217 & 20288 Lewes Georgetown Highway, Georgetown & N/A.

The Commission discussed the application which had been deferred since September 2, 2026.

Mr. Pettyjohn moved that the Commission recommend approval of Ordinance No. 26-06 to amend the Future Land Use Map in the current Sussex County Comprehensive Plan for Parcels 135-11.00-31.00, 135-16.00-17.00, and 70.00, based on the record made during the public hearing and for the following reasons:

1. The parcel is currently designated as the Commercial Area according to the Future Land Use Map. This application seeks to convert the property to the "Developing Area" designation.
2. The Developing Area and Commercial Area are both "Growth Areas" according to the Comprehensive Plan, so this revision does not result in a substantial change to the Future Land Use Map.
3. The parcel has frontage on Route 9 designated by DelDOT as an "Other Principal Arterial" roadway. This is an appropriate location for the Developing Area designation.
4. Chapter 4 of the Comprehensive Plan states that the Plan seeks to "promote" commercial and industrial development in Section 4.6.3 which states as follows:

> 4.6.3 **Promoting Appropriate Commercial and Industrial Development.** The Future Land Use Plan designates areas for future commercial and industrial development. It is important that commercial and industrial development occurs in a scale, intensity, and distance appropriate to adjacent residential neighborhoods.

5. Chapter 9 of the Comprehensive Plan, the Economic Development Chapter, addresses the County's promotion of business parks for commercial and industrial uses. Goal 9.2 and several of its objectives and strategies describe these goals and specifically discuss

rezoning to the LI-2 Light Industrial District as a strategy. Chapter 9 includes the following relevant goals, objectives and strategies:

Goal 9.2: Encourage economic diversity and expansion.

Objective 9.2.2: Identify an adequate supply of vacant, shovel-ready land for commercial and industrial uses, while encouraging development that is environmentally sensitive.

Strategy 9.2.2.1: Review zoning code and the development process to see if there are prohibitive costs to development for industrial park developers.

Strategy 9.2.2.2: Complete the current expansion of the Delaware Coastal Business Park and identify potential areas for additional expansion.

Strategy 9.2.2.3: Explore the potential for public private partnerships for the development of additional industrial parks within the County.

Strategy 9.2.2.4: Identify areas that are served with adequate electricity, natural gas, and fiber optic infrastructure for rezoning to LI-1 and LI-2 uses.

6. This proposed amendment to the Future Land Use Map satisfies the criteria set forth in Section 4.4.2.1 of the Comprehensive Plan for a Growth Area, since:

    a. the property is near the presence of existing public sewer and public water service;
    b. the Property is situated along the US Route 9 corridor;
    c. the Future Land Use Map change will enable development that is in character with what exists or may occur in the Route 9 area;
    d. the Property does not contain any jurisdictional wetlands; and
    e. The Future Land Use Map change will not adversely impact any major preserved lands, water bodies or lands with agricultural and other protected easements.

7. This revision of the Future Land Use Map will not adversely affect neighboring properties, area roadways, or future land-use planning in the area.
8. There is central sewer and water available to the property.
9. No parties appeared in opposition to this Map Amendment.
10. This revision of the Future Land Use Map is appropriate given the particular circumstances involved at this location. When several factors like these exist, the consideration and approval of an amendment to the Future Land Use Map is appropriate.

Motion by Mr. Pettyjohn, seconded by Mr. Collins, and carried unanimously to recommend approval of ORD 26-06 for the reasons stated in the motion. Motion carried 4-0.

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

**C/Z 2063 Millsboro Towne Village, LLC**
**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A C-1 GENERAL COMMERCIAL DISTRICT TO AN LI-2 LIGHT INDUSTRIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 42.54 ACRES, MORE OR LESS.** The properties are lying on the north side of Lewes Georgetown Highway (Rt. 9), approximately 0.69 mile west of Gravel Hill Road (Rt. 30). 911 Addresses: 24215, 24217 & 20288 Lewes Georgetown Highway, Georgetown & N/A. Tax Map Parcels: 135-11.00-31.00, 135-16.00-17.00 & 70.00.

The Commission discussed the application which had been deferred since September 2, 2026.

Mr. Pettyjohn moved that the Commission recommend approval of C/Z 2063 for Millsboro Towne Village, LLC for a change in zone from an AR-1 Agricultural Residential District and C-1 General Commercial District to a LI-2 Light Industrial District based upon the record made at the public hearing and for the following reasons:

1. The Commission has just made a recommendation to Sussex County Council that the County's Future Land Use Map designation for this property should be amended to the "Developing Area" designation. The LI-2 Zoning District is an appropriate zoning designation within the "Developing Area" according to the County's Future Land Use Map and the Comprehensive Plan.
2. The purpose of the LI-2 Light Industrial District is "to provide for a wide variety of light manufacturing, fabricating, processing, wholesale distributing and warehousing

uses appropriately located for access by major thoroughfares or railroads. Commercial uses and open storage of materials are permitted, but new residential development is excluded."

3. The property is located along Route 9, which DelDOT has designated as an "Other Principal Arterial Roadway" and it is between Park Avenue and Route 30, both of which are "Major Collector" roadways. This location is appropriate for LI-2 Zoning.
4. The zoning classifications in the area around the Property include the C-1 General Commercial District, the CR-1 Commercial Residential District, the C-2 Medium Commercial District, the HI-1 Heavy Industrial District, the LI-2 Light Industrial District and the AR-1 Agricultural Residential District. The proposed LI-2 Zoning for this property is consistent with these nearby zoning classifications.
5. There are a number of similar commercial and industrial uses nearby including, but not limited to, the following: an antique store, offices, an auto repair garage, chicken houses, plumbing, HVAC, and electrical contractors, a site contractor, an industrial center with a mixture of commercial and industrial uses, a future concrete plant and recycling center, a paving contractor, a landscaping business, a professional center, a furniture store and other uses. These existing commercial and industrial uses are consistent with the uses permitted in the LI-2 District.
6. The Applicant has stated that a restrictive covenant will be recorded with the Office of the Recorder of Deeds in and for Sussex County and apply to the Property so long as it was zoned LI-2 (Light Industrial District). This restrictive covenant creates a 100-foot restricted area on the northern, western and southern boundaries of the Property with 75 foot of preserved woods and a 25-foot area restricted to drainage and utility usage along with a 50-foot area of preserved woods along the eastern boundary of the Property all as shown on the plans submitted with the application materials. The Applicant has stated that the restrictive covenants will be enforceable by Sussex County and the neighboring and adjacent property owners.
7. The site is served by both central water and central sewer.
8. No parties appeared in opposition to the proposed change in zone.
9. The proposed LI-2 Zoning at this location is consistent with the purposes of that zoning district as stated in the Sussex County Zoning Code.
10. The rezoning will promote the local economy and will create and preserve jobs in the area for Sussex County residents.
11. Any future use and development of the property will be subject to site plan review by the Sussex County Planning and Zoning Commission.

Motion by Mr. Pettyjohn, seconded by Mr. Collins, and carried unanimously to recommend approval of C/Z 2063 Millsboro Towne Village, LLC for the reasons stated in the motion. Motion carried 4-0.

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

**C/U 2597 Lonesome Road Community Energy Initiative, 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 28.64 ACRES, MORE OR LESS**. The parcel is lying on the east side of Lonesome Road (S.C.R. 541), approximately 800 feet south of Woodpecker Road (S.C.R. 80). 911 Address: N/A. Tax Map Parcel: 531-12.00-92.02.

The Commission discussed the application which had been deferred since September 16, 2026.

Mr. Allen moved that the Commission recommend approval of Conditional Use No. 2597 for Lonesome Road Community Energy Initiative, LLC, for a solar energy facility in the AR-1 District based on the record made during the public hearing and for the following reasons:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
2. The solar array will be located on approximately 13.45 fenced-in acres of a larger 28.64-acre tract. The array area complies with all of the Code requirements for separation distances and setbacks from property lines and dwellings.
3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar arrays. There was testimony that this solar array will benefit residential, business, and municipal subscribers with lower power costs.
4. The proposed solar array is to be located on the tilled portion of a larger tract owned by the Applicant's holding company leaving the wooded portions of the property undisturbed.
5. This Application generally complies with Section 115-172.I of the Sussex County Zoning Code regarding solar arrays.
6. The Applicant has obtained expert reports regarding potential noise, glare, and impacts on property values. This evidence in the record confirms that the nearby properties will not be adversely affected by noise, glare, or the solar use in general.

7. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways, and DelDOT has stated that the traffic impact will be "Diminutive". There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
8. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
9. This recommendation is subject to the conditions set forth in Section 115-172.I of the Zoning Code and the following additional conditions:

    A. The use shall be for a ground-mounted solar array with inverters. No other types of electric generation shall be permitted at the site. The inverters shall be relocated to a more centralized location within the site on the Final Site Plan and they shall be surrounded by a ten-foot-tall timber noise barrier also depicted on the Final Site Plan.
    B. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use.
    C. The entire area of the solar array shall be surrounded by a (7) seven-foot-tall fence to comply with the height requirement of the National Electric Code. The fencing shall be a knot-wire agricultural style fencing including an interwoven privacy screening. The privacy screening shall be attached to the fencing with metal fasteners and a tension wire to reduce maintenance. The fence location and type of screening shall be shown on the Final Site Plan. The property screening may be removed after the earliest of ten (10) years from the installation of the solar array or when the surrounding vegetation is uniformly taller than the height of the fence as determined by the Director of Planning and Zoning. The fencing shall remain.
    D. The entire area of the solar array shall be surrounded by a buffer strip of open space a minimum of 100 feet from any street lines and a minimum distance of 50 feet from all property lines and it shall extend from the entrance to the array to the property's frontage with Lonesome Road on its northern boundary line. It shall also be no closer than 200 feet from a dwelling on adjacent property. The landscaped buffer shall be at least 30 feet wide along the perimeter of the Property adjacent to lands of other ownership. This landscaped buffer shall use existing vegetation or shall be planted with 70% evergreen vegetation and 30% deciduous vegetation that serves as a screen while not impeding the use as a solar array facility. The location and types of vegetation used within this buffer area shall be included in a landscape plan provided with the Final Site Plan.
    E. As proffered by the Applicant, if the Applicant is granted permission to access the neighbor's property, the Applicant will plant a single, supplemental row of trees along the rear boundary line of Sussex County Tax Parcel No. 531-12.00-92.07 to provide an additional row of trees for screening as requested by the property owner.

F. As proffered by the Applicant, two pollinator gardens shall be planted outside of the fenced area for the solar array in the southwestern and eastern parts of the site as shown on the Preliminary Conditional Use Plan.
G. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
H. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.
I. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
J. The Final Site Plan shall include a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.
K. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Mr. Allen, seconded by Mr. Collins, and carried unanimously to recommend approval of C/U 2597 Lonesome Road Community Energy Initiative, LLC for the reasons and the conditions stated in the motion. Motion carried 4-0.

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

**C/U 2601 Woodpecker Road Community Energy Initiative, 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 39.281 ACRES, MORE OR LESS.** The parcel is lying on the northwest side of Woodpecker Road (S.C.R. 80), approximately 0.29 mile south of West Stein Highway (Rt. 20). 911 Address: N/A. Tax Map Parcel: 531-12.00-84.01.

The Commission discussed the application which had been deferred since September 16, 2026.

Mr. Collins moved that the Commission recommend approval of Conditional Use No. 2601 for Woodpecker Road Community Energy Initiative, LLC, for a solar energy facility in the AR-1 District based on the record made during the public hearing and for the following reasons:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
2. The solar array will be located on approximately 31.59 fenced-in acres of a larger 39.28-acre tract. The array area complies with all of the Code requirements for separation distances and setbacks from property lines and dwellings.
3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar arrays. There was testimony that this solar array will benefit residential, business, and municipal subscribers with lower power costs.
4. This Application generally complies with Section 115-172.I of the Sussex County Zoning Code regarding solar arrays.
5. The Applicant has obtained expert reports regarding potential noise, glare, and impacts on property values. This evidence in the record confirms that the nearby properties will not be adversely affected by noise, glare, or the solar use in general.
6. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways, and DelDOT has stated that the traffic impact will be "Diminutive". There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
7. The current owner of the property testified about the family's generational ownership of the farm, and the exploration that they did about various potential uses of the property. Ultimately, the family determined that a solar facility avoided a more intensive development of the property that benefited them, since they still live nearby, as well as the other neighboring property owners.
8. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
9. This recommendation is subject to the conditions set forth in Section 115-172.I of the Zoning Code and the following additional conditions:

    A. The use shall be for a ground-mounted solar array with inverters. No other types of electric generation shall be permitted at the site. The inverters shall be located in a centralized location within the site to be shown on the Final Site Plan and they shall be surrounded by a ten-foot-tall timber noise barrier also depicted on the Final Site Plan.
    B. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use.
    C. The entire area of the solar array shall be surrounded by a (7) seven-foot-tall fence to comply with the height requirement of the National Electric Code. The fencing shall be a knot-wire agricultural style fencing including an interwoven privacy screening. The privacy screening shall be attached to the fencing with metal fasteners and a

tension wire to reduce maintenance. The fence location and type of screening shall be shown on the Final Site Plan. The property screening may be removed after the earliest of ten (10) years from the installation of the solar array or when the surrounding vegetation is uniformly taller than the height of the fence as determined by the Director of Planning and Zoning. The fencing shall remain.

D. The entire area of the solar array shall be surrounded by a buffer strip of open space a minimum of 100 feet from any street lines and a minimum distance of 50 feet from all property lines. It shall also be no closer than 200 feet from a dwelling on adjacent property. The landscaped buffer shall be at least 30 feet wide along the perimeter of the Property adjacent to lands of other ownership. This landscaped buffer shall use existing vegetation or shall be planted with 70% evergreen vegetation and 30% deciduous vegetation that serves as a screen while not impeding the use as a solar array facility. The location and types of vegetation used within this buffer area shall be included in a landscape plan provided with the Final Site Plan.
E. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
F. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.
G. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
H. The Final Site Plan shall include a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.
I. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Mr. Collins, seconded by Mr. Pettyjohn, and carried unanimously to recommend approval of C/U 2601 Woodpecker Road Community Energy Initiative, LLC for the reasons and the conditions stated in the motion. Motion carried 4-0.

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

**C/U 2639 Sunrise Solar, Inc.**

**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 47.20 ACRES, MORE OR LESS.** The parcel is lying on the north side of Sycamore Road (S.C.R. 466), approximately 0.27 miles east of Sussex Highway (Route 13). 911 Address: 11279 Sycamore Road, Laurel. Tax Map Parcel: 232-12.00-100.00.

The Commission discussed the application which had been deferred since September 16, 2026.

Mr. Pettyjohn moved that the Commission recommend approval of Conditional Use No. 2639 for Sunrise Solar, Inc. for a solar energy facility in the AR-1 District based on the record made during the public hearing and for the following reasons:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
2. The solar array will be located on a portion of a larger 47.20-acre tract. The array area complies with all of the Code requirements for separation distances and setbacks from property lines and dwellings.
3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar arrays. There was testimony that this solar array will benefit residential, business, and municipal subscribers with lower power costs.
4. This Application generally complies with Section 115-172.I of the Sussex County Zoning Code regarding solar arrays.
5. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways, and DelDOT has stated that the traffic impact will be "Diminutive". There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
6. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
7. There was no opposition to this Application.
8. This recommendation is subject to the conditions set forth in Section 115-172.I of the Zoning Code and the following additional conditions:

    A. The use shall be for a ground-mounted solar array with inverters. No other types of electric generation shall be permitted at the site. The inverters shall be relocated to a more centralized location within the site as shown on the Final Site Plan and they shall be surrounded by a ten-foot-tall timber noise barrier also depicted on the Final Site Plan.
    B. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use.

C. The entire area of the solar array shall be surrounded by a (7) seven-foot-tall fence to comply with the height requirement of the National Electric Code. The fencing shall be a knot-wire agricultural style fencing including an interwoven privacy screening. The privacy screening shall be attached to the fencing with metal fasteners and a tension wire to reduce maintenance. The fence location and type of screening shall be shown on the Final Site Plan. The property screening may be removed after the earliest of ten (10) years from the installation of the solar array or when the surrounding vegetation is uniformly taller than the height of the fence as determined by the Director of Planning and Zoning. The fencing shall remain.
D. The entire area of the solar array shall be surrounded by a buffer strip of open space a minimum of 100 feet from any street lines and a minimum distance of 50 feet from all property lines. It shall also be no closer than 200 feet from a dwelling on adjacent property. The landscaped buffer shall be at least 30 feet wide along the perimeter of the Property adjacent to lands of other ownership. This landscaped buffer shall use existing vegetation or shall be planted with 70% evergreen vegetation and 30% deciduous vegetation that serves as a screen while not impeding the use as a solar array facility. The location and types of vegetation used within this buffer area shall be included in a landscape plan provided with the Final Site Plan.
E. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
F. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.
G. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
H. The Final Site Plan shall include a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.
I. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Mr. Pettyjohn, seconded by Mr. Collins, and carried unanimously to recommend approval of C/U 2639 Sunrise Solar, Inc. for the reasons and the conditions stated in the motion. Motion carried 4-0.

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

**C/U 2652 Sussex CSG3, LLC**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 52.34 ACRES, MORE OR LESS.** The parcel is lying the south side of Old Racetrack Road (S.C.R. 502), approximately 0.25 mile west of the intersection of Old Racetrack Road (S.C.R. 502) and North Second Street. 911 Address: N/A. Tax Map Parcel: 532-20.00-14.00.

The Commission discussed the application which had been deferred since September 16, 2026.

Mr. Allen moved that the Commission recommend approval of Conditional Use No. 2652 for Sussex CSG3, LLC for a solar energy facility in the AR-1 District based on the record made during the public hearing and for the following reasons:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
2. The solar array will be located on approximately 23.58 fenced-in acres of a larger 52.34-acre tract. The array area complies with all of the Code requirements for separation distances and setbacks from property lines and dwellings.
3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar arrays. There was testimony that this solar array will benefit residential, business, and municipal subscribers with lower power costs.
4. The property is currently tilled with some woods and vegetation along the edges. The proposed solar array is to be located largely on the tilled portion of the property.
5. This Application generally complies with Section 115-172.I of the Sussex County Zoning Code regarding solar arrays.
6. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways, and DelDOT has stated that the traffic impact will be "Diminutive". There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
7. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
8. There was no opposition to this Application.
9. This recommendation is subject to the conditions set forth in Section 115-172.I of the Zoning Code and the following additional conditions:

A. The use shall be for a ground-mounted solar array with inverters. No other types of electric generation shall be permitted at the site. The inverters shall be located at a centralized location within the site and shown on the Final Site Plan. They shall be surrounded by a ten-foot-tall timber noise barrier also depicted on the Final Site Plan.
B. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use.
C. The entire area of the solar array shall be surrounded by a (7) seven-foot-tall fence to comply with the height requirement of the National Electric Code. The fencing shall be a knot-wire agricultural style fencing including an interwoven privacy screening. The privacy screening shall be attached to the fencing with metal fasteners and a tension wire to reduce maintenance. The fence location and type of screening shall be shown on the Final Site Plan. The property screening may be removed after the earliest of ten (10) years from the installation of the solar array or when the surrounding vegetation is uniformly taller than the height of the fence as determined by the Director of Planning and Zoning. The fencing shall remain.
D. Consistent with Condition "I" of approved Conditional Use No. 2354 subject to the property, the existing tree line along the northern, eastern, and southern perimeter of the solar array area shall remain to serve as a buffer, with the exception of reasonable trimming to allow the solar arrays to function properly. The remainder of the solar array area shall be surrounded by a buffer strip of open space, a minimum of 100 feet from any street lines and a minimum distance of 50 feet from all property lines. It shall also be no closer than 200 feet from a dwelling on adjacent property. The landscaped buffer shall be at least 30 feet wide along the perimeter of the Property adjacent to lands of other ownership. This landscaped buffer shall use existing vegetation or shall be planted with 70% evergreen vegetation and 30% deciduous vegetation that serves as a screen while not impeding the use as a solar array facility. The location and types of vegetation used within this buffer area shall be included in a landscape plan provided with the Final Site Plan.
E. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
F. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.
G. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
H. The Final Site Plan shall include a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.

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

Motion by Mr. Allen, seconded by Mr. Pettyjohn, and carried unanimously to recommend approval for C/U 2652 Sussex CSG3, LLC, for the reasons and the conditions stated in the motion. Motion carried 4-0.

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

PUBLIC HEARINGS

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

**C/U 2548 Foxlane Homes Delaware, LLC (Hickman)**
**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM-DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (54 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 12.8 ACRES, MORE OR LESS**. The parcel is lying on the south side of Hickman Road (S.C.R. 359), approximately 560 feet east of Cedar Neck Road (S.C.R. 357). 911 Address: 38492 Hickman Road, Ocean View. Tax Map Parcel: 134-9.00-28.00.

Mr. Whitehouse advised the Commission that submitted into the record were the State PLUS comments, the Applicant's Conditional Use Site Plan, the Applicant's Exhibit Booklet and submitted materials, including the Applicant's presentation, as well as the Staff Analysis Report, Technical Advisory Committee Review Letters, including letters received from the Army Corps of Engineers, Delmarva Power, Delaware Electric Cooperative, the State Fire Marshal's Office, the Sussex County Engineering Department's Utility Planning Division, and DNREC's Division of Watershed Stewardship; that also submitted were the Applicant's Cemetery Study, the DelDOT Area Wide Study Fee Memorandum, the Applicant's Resource Buffer Management Plan, and the Applicant's Environmental Assessment. Mr. Whitehouse advised the Commission that 17 written public comments had been received, with one containing an opposition petition, consisting of 865 signatures. Mr. Whitehouse requested that, if present, the remitter of the petition provide the Commission with the signatures and addresses of those that had signed.

The Commission found that Mr. Glenn Mandalas, Esq. with Brockstedt Mandalas Frederico, LLC, spoke on behalf of the Applicant, Foxlane Homes Delaware, LLC; that also present were the Applicants and Developers, Mr. David Hart and Mr. John Murray of Foxlane Homes Delaware,

LLC, Mr. Jason Palkewicz, Professional Civil Engineer with Solutions IPEM, LLC, Mr. Matthew Jennette, Environmental Scientist with Geo-Technology Associates, Inc. (GTA), Mr. William Twupack, Professional Wetland Scientist with Watershed Eco, LLC, and Mr. Braden Garrison, PE, PTOE with Bowman Consulting Group, Ltd.

Mr. Mandalas stated that the application proposed 54 single-family condominium homes, to be located along Hickman Road; that the request was narrow and measurable; that they requested recommended approval for the proposed Conditional Use; that he requested to be clear that the application was for a Conditional Use and not for a traditional subdivision; that Conditional Use applications fall under Zoning Code regulations, where Major Subdivision applications were regulated under Chapter 99; that the site was located within the Ocean View area; that the proposed plan met and/or exceeded all requirements for approval; that Solutions IPEM provided engineering for the project; that Geotechnology Associates (GTA) provided environmental services; that Watershed Eco, LLC provided ecology services, and Bowman Consulting Group, provided traffic study services; that the site was located in an established residential growth corridor with access from Hickman Road; that there were commercial uses at and around the intersection of Hickman Road and Cedar Neck Road; that the site was nestled in an established area near the Indian River Bay and the Atlantic Ocean, being located approximately 0.5 mile to Fresh Pond Trailhead at the Delaware Seashore State Park, providing a nice amenity for future residents of the property; that even closer, the site was bordered by existing residential development to the south and east, with commercial development located to the west of the site; that the proposed project was in character with the neighboring uses, with similar or lower density than other communities within two miles; that the property historically had been used for agricultural purposes, though it had not been used that way in quite some time; that the site contained minimal forest and environmentally sensitive areas; that the environmentally sensitive areas were first identified, and the project was designed to preserve those areas; that a home currently existed on the site; that to the west of the site, being toward Cedar Neck Road, was the location of commercial uses, consisting of Big Fish Grill, Munchies Grill & Pizza, Tom & Terry's Seaford Market, as well as many other; that the property was located to the left of Hickman Road; that a fire hydrant was located to the left of the site, providing evidence that there was water utility under Hickman Road; that to the left side of Hickman Road, the plan proposed a multimodal path that would keep people and bicyclists off Hickman Road, allowing those pedestrians a pathway to those commercial uses; that directly across the street, looking east toward Fresh Pond Tailhead, was the multimodal path, located off Hickman Road, which would terminate at Tidal Wetlands, located within DelDOT's right of way; that on the Preliminary Site Plan, the Resource Protection buffers were reflected in a purple/magenta color, providing buffer protection around the Tidal Wetlands; that the plan provides full resource buffer; that two represented areas each provided a 50 foot resource buffer; that there would be a full 100 foot buffer from the Tidal Wetlands; that the other wetlands on the site were located at the bottom southern portion of the property; that those wetlands were Non-

Tidal wetlands, and were also surrounded by buffers; that each of those Buffer A and Buffer B consisted of 15 feet each, providing a total of 30 feet of buffering around the wetland area; that no further wetlands were located on the site; that south of the Tidal wetlands was an area identified as a good Groundwater Recharge Area, and then an Excellent Groundwater Recharge area; that there; that a Wetland Determination was performed, which concluded that there were no wetlands located within the Groundwater Recharge areas; that the good Groundwater Recharge Area is a low area on the site, being the reasoning why one of the stormwater management ponds was proposed for that location; that located to the south of the site was the Non-Tidal wetlands, with buffering around them, which were represented in green on the plan; that the green was reflected around the border of the property, except for along Hickman Road; that there was a 20 foot vegetated buffering surrounding the entire property; that off the vegetated buffer, the home sites would sit about 10 feet off of the buffer; that it would be about 30 feet off the perimeter itself; that along the northern portion of the site, along Hickman Road, reflected in orange, was the location they would improve Hickman Road to have a turn lane, and being the location of the multimodal path; that in the center of the would be the location of the community mail facility; that there would be a swimming pool and bathhouse located there; that another stormwater management pond was reflected in blue; that to the southern, left portion of the site, was the location of the cemetery; that the cemetery had been marked and delineated; that access had been provided to the cemetery; that the cemetery would be fenced for protection and preservation; that a bus stop area was proposed to be located at the entrance of the site, and Mr. Mandalas requested that Mr. Jason Palkewicz, provide additional information regarding the Site Plan.

The Commission found that Mr. Jason Palkewicz, Professional Civil Engineer with Solutions IPEM, LLC, spoke on behalf of the Applicant. Mr. Palkewicz stated that he had been practicing in Delaware for over 25 years, and that he would be discussing the proposed Site Plan; that the existing cemetery had been brough up through the PLUS process; that they hired Dr. Edward Otter of Edward Otter, Inc. to delineate the cemetery; that they surveyed the cemetery; that the cemetery was shown on the Site Plan with access, fencing and parking provided for it; that the cemetery reduced the number of originally proposed lots from 55 lots to 54 lots; that the area located to the east was originally thought to be wetlands; that the approved JD (Jurisdictional Determination) confirmed that the area did not contain wetlands; that as a result, they chose to use that low area appropriately as a stormwater management facility; that as part of the planning process, they identified area worth of preservation; that for the project, they did the wetlands, and the Excellent Groundwater Recharge areas, along with the trees within them as the areas worthy of preservation; that they have stayed out of these areas, and are providing the necessary buffers; that the Code allowed 35% impervious area within the Excellent Groundwater Recharge Area; that the plan proposed 0%, with no development proposed within that area; that they met with DelDOT, which resulted in the submitted Concept Plan, which proposed 11 foot travel lanes, five foot shoulders, and a multimodal path where they could fit it, while staying out of the wetlands; that they also met

with the Sussex Conservation District (SCD); that there had been concern regarding drainage from Bethany Preserve; that the stormwater management and sediment and erosion controls would meet or exceed Sussex Conservation District's requirements; that the design would take into account the existing developments, specifically the drainage from Bethany Preserve; that there would be no adverse impact on the adjacent properties; that the resultant plan contained 5.8 (43%) acres of open space; that there was a 20 foot buffer proposed around the perimeter of the site, and resource buffers were provided, and the plan was prepared in accordance with Sussex County requirements.

Madam Chair Wingate questioned whether the Tidal wetland area drained back to the fresh pond.

Mr. Palkewicz stated that the Tidal wetland area drained north; that a pipe was located across the road, and the pipe is required to be replaced per the requirements of DelDOT.

Mr. Mandalas stated that the plan proposed 54 single-family detached homes to be located on 13.48 acres, to be under on Condominium Association; that 5.8 acres, being 43% of the site, had been identified as open space; that the Site Plan reflected a pool, bath house, sidewalks, streetlights, a bus stop and central mail facility; that they had prepared a drafted Condominium documents that would be recorded with the Recorder of Deeds Department to establish ownership and maintenance responsibilities; that he presented the Commission with an aerial view, for comparison, of what was being proposed to what existed in the area currently; that the Marlin Chase community, located about a mile north, was also a condominium community with single-family, detached homes; that adjacent to Marlin Cove was a residential development with single family fee simple lots; that it was also adjacent to commercial uses, similar to the application they proposed; that the proposed project was not a new idea for the area, as it was something that already existed; that according to the State's Spending Strategies Map the site was located with Investment Levels 1, 2 and 3; that most of the improvements are proposed within Levels 1 and 2; that they were proposing any homes within the yellow area reflected on the eastern side of the site; that a stormwater management pond would be located within that area; that even Investment Level 1 areas recognize established areas, with infrastructure and Investment Level 2 areas are Growth Areas where the State plans to invest; that the site was located predominantly within Level 1 and 2; that a Traffic Study was conducted by Bowman Consulting Group; that they looked at future conditions in 2030; that they looked at both the frontage of the property, and the intersection at Cedar Neck Road; that they maintained a Level of Service D or better, and Mr. Mandalas requested that Mr. Braden Garrison, provide additional information regarding the Traffic Study.

The Commission found that Mr. Braden Garrison, PE, PTOE with Bowman Consulting Group, spoke on behalf of the Applicant. Mr. Garrison stated that the project warranted a TIS (Traffic Impact Study) based on DelDOT's criteria; that however, due to the lower trip generating characteristics, DelDOT would accept and Area Wide Study Fee (AWF), as stated within the letter

submitted into the record; that where DelDOT was willing to waive a TIS, with the payment of the fee, which is used for area studies and improvements; that Sussex County had Chapter 99-9C, which establishes criteria to confirm that the application does not degrade the level of service; that as stated, Level of Service D and better was generally considered an acceptable level of service, and Level of Service E & F are delayed movements or intersections; that the study followed a DelDOT TIS (Traffic Impact Study) process, aside from the fact that DelDOT was not involved because they waived the Traffic Impact Study requirement; that per DelDOT, they would do traffic counts at intersections that experience around 50 trips; that the only intersection in the area that met that requirement was the intersection of Cedar Neck Road and Hickman Road, which was located directly adjacent; that this also satisfied Sussex County's requirements regarding adjacent intersections; that they did perform traffic counts; that DelDOT required traffic counts to be performed while school was in session; that the area is a very seasonal area, as noted by many public comments; that they complied with DelDOT's requirements by completing traffic counts while schools were in session; that for residential development, DelDOT only required a weekday morning, and a weekday afternoon, during peak hour, which was consistent with their study; that through their performed counts, they also projected to 2030, which included traffic generated by any developments nearby that would add traffic; that they had coordinated with the Planning & Zoning Department; that there were some nearby developments that had been completed; that no other traffic was added as there was no other approved developments at the time their coordination was performed; that they used an accepted Growth Rate that DelDOT publishes; that based on all that, plus the traffic added by the site, they then analyze it using nationally recognized methodologies, the Highway Capacity Manual (HCM) to develop a Level of Service, which was based on seconds of delay, for movements and intersections; that this study was performed off peak; that the operations were Level of Service B, which was considered good for an intersection; that they also performed a Sensitivity Analysis, where they quadrupled the volume on Cedar Neck Road, at which they were still able to maintain a Level of Service D; that he had visited the area, on a Saturday in July, where he traveled down Hickman Road, and made a left on Cedar Neck Road; that he did experience a little more of a delay than that during off-peak seasons, however, it still was not something that he considered unacceptable; that as stated, DelDOT is involved with any project; that DelDOT was requiring frontage improvements, which required them to bring Hickman Road up to functional classification requirements, within the Applicant's property frontage; that these requirements included road widening for travel lanes, widening for shoulders, any drainage improvements noted, and the establishment of a shared use path, which as noted, was to be provided to the maximum extent possible, with consideration of the wetlands; that all the improvements harmonize with an upcoming DelDOT project on Cedar Neck Road, where DelDOT will be constructing a shared used path from the canal up to Hickman Road; that the project bids were received in September; that based on the information that he was afforded, construction may begin by the end of 2026 on that DelDOT project, and the shared use path required for their

frontage will harmonize with the proposed DelDOT improvements, as it will provide a nice connection down to the other trail connections to the south of the canal.

Mr. Collins requested that Mr. Garrison explain to the general public, what a classification of service was, and what Level of Service DelDOT finds acceptable or sought to target.

Mr. Garrison stated that Level of Service D or better was generally considered acceptable.

Mr. Mandalas stated that the plan met or exceeded the Comprehensive Plan and Sussex County Code requirements; that the site was designated as begin within a Coastal Area per the Comprehensive Plan's Future Land Use Map; that the project was a medium residential density project, located within the MR (Medium Density Residential) Zoning District; that there had been some public comments submitted stating that the project was a high-density project; that the project was designated as medium residential, which one could have up to 12 units per acre; that the project proposed four (4) units to the acres; that in so many ways, their project was kind of light for a medium density area; that when looking at the Comprehensive Plan's Future Land Use Map, the yellow reflects areas designated as being within the Coastal Area; that pretty much, everything in the site and the surrounding area is designated as being within the Coastal Area; that when looking at the Zoning Map, much of everything east of Cedar Neck Road was zoned as MR (Medium Density Residential), except for a few red areas, which are designated as commercial use properties as previously discussed; that their project proposed everything that was consistent within the site's location; that he presented to the Commission a Density Map; that the green circle on the map reference a one mile radius from the site, with the site being located within the center, proposed at four (4) units per acres; that to the left was the location of Bethany Marina, providing 7.3 units to the acre; that Martin Cox provided 4.7 units to the acre, Bayside at Bethany Lakes provided 3.7 units to the acre, Cedar Bay provided 11.8 units to the acre, and Bethany Preserve providing 2.8 units to the acre; that the Density Map reflects that the proposed project was someplace in the zone of densities that had been approved in the past, and are well within the permitted density of 12 units to the acre; that Hickman aligned with the Coastal Area framework, as identified and described within the Comprehensive Plan; that multiple public comments stated that there was not adequate infrastructure, despite the fact that the site would be served by central water and Sussex County sewer; that central water would be provided by Sussex Shores, and Sussex County would provide sewer services; that the Sussex County Engineering Department had already reviewed the plan, confirming that there was capacity to serve the site; that the plan preserved the Excellent Recharge Area, as indicated; that no improvements were planned within the Excellent Groundwater Recharge area; that the plan retains open space and addresses stormwater, forest and historic resources; that as a community design, sidewalks, streetlights, landscaping, underground utilities and a defined entrance would be provided to reinforce the neighborhood character; that the plan proposed 5.8 acres of open space; that there were certain

plan commitments for the project; that the plan proposed a 20 foot vegetated perimeter buffer; that there would be no development within the Excellent Groundwater Recharge Area, and the existing cemetery was delineated and protected; that the plan met or exceeded all of the Chapter 99-9C Preliminary Plat Criteria requirements, which are required for Major Subdivisions; that the proposed project was a Conditional Use, and was proceeding under the Zoning Code requirements; that the Chapter 99-9C criteria requirements were not exactly applicable to the proposed plan, they felt it was important that the plan comply with each of the criteria; that they had broken the 16 criteria items into four different categories; that the first four were regarding land and resources; that the next 5 to 9 criteria items were regarding water and infrastructure; that the next 10 through 13 items of criteria relate to community effects; that criteria 14 to 16 related to mobility and compatibility; that they looked at each of those; that the first two delt with terrain, landscape and resources; that the project provided a 20 foot perimeter buffer, with the Excellent Recharge Area preserved, and with the resource protections incorporated; that Criteria No. 3 related to natural and historical features; that a Forest Assessment was completed and the cemetery was delineated and was proposed to be fenced; that Criteria No. 4 related to open space and scenic views; that 43% of the site would be maintained as open space; the Criteria No. 5 and 6 related to water and sewer; that Sussex Shores would provide public water to the site; that along the frontage, there was a water main, with a fire hydrant located along the frontage; that Sussex County Sanitary Sewer would be provided; that Sussex County Engineering had completed a Sanitary Sewer Concept Evaluation, which confirmed capacity to serve the site; that Criteria No. 7 and 8 related to water quality and erosion; that the project was in compliance with Sussex Conservation District's Stormwater and Erosion Control Plan; that construction runoff would be managed through all standard practices; that Criteria No. 9 related to groundwater runoff and flooding, which received a lot of public comment; that the recharge area would be preserved; that runoff would be managed to no adverse impact standards and drainage would be coordinated with Sussex Conservation District; that there had been some initial confusion regarding whether the groundwater recharge areas were wetlands or not wetlands; that this concern first came up within the Sussex County's Drainage Assessment Report; that it was presumed that the area was wetlands, as it showed on the GIS map; that they went ahead and performed the Jurisdictional Determination, which concluded that neither the sump. Being the area where their stormwater management pond would be located, nor the drainage ditch which ran on the eastern border, between the property and Bethany Preserve, were considered Federally regulated wetlands; that Bethany Preserve's stormwater management pond and outfall would be incorporated into the Hickman's stormwater management design; that they obtained the plans used when Bethany Preserve was built out; that they were able to incorporate that into the project; that there would be no adverse impact on Bethany Preserve's stormwater management facilities; that the design would be in accordance with DNREC regulations, and because drainage had been an issue, and area of concern, Mr. Mandalas requested that Mr. Matthew Jennette, and Mr. James McCully, to provide additional information regarding their studies if the related environmental conditions.

The Commission found that Mr. Matthew Jennette, Environmental Scientist with Geo-Technology Associates, Inc. (GTA), spoke on behalf of the Applicant. Mr. Jennette stated that they had performed the Forest Assessment, prepared he Resource Buffer Management Plan, and prepared the Drainage Assessment Report; that the purpose of the Drainage Assessment was to document existing conditions on the property; that they review any drainage way on the site, consisting of streams, ditches, stormwater facilities, and manmade swales; that for the project, there was a Tidal ditch located along Hickman Road; that the ditch was the primary conveyance of water off the site; that there was an existing culvert located beneath Hickman Road, which their Drainage Assessment looked at; that they looked at its size; that water freely goes in and out of the ditch to the Tidal wetlands across the street; that there also was a depression on the site, in a ditch, along the eastern property line; that stormwater from the adjacent property comes onto the their site, collects in the depression, and generally goes into the ditch along the eastern property line, before ultimately filling up, heading north towards Hickman; that on the presented rendering, the resource buffer, located toward the top, was reflected in pink in the location of the Tidal wetland; that the water flowed beneath Hickman Road to the Tidal wetlands north of the property; that drainage from the site generally headed toward the east from their property; that from the adjacent residential community, drainage headed west, along the eastern property line; that water generally pooled in a man-made ephemeral swale on the side, where it would head north towards the depression; that in the post-construction condition, would be the location of the storm water management facility, and currently the site was somewhat poorly drained in that general area; that water collected in the depression, however, post-construction that will be the location of s stormwater facility, which would take the water straight to the drainage ditch located to the north.

Madam Chair Wingate questioned, in Mr. Jennette's opinion, whether the proposed stormwater plan would help the current conditions.

Mr. Jennette stated that the proposed plan should help; that the plan would be designed in accordance with SCD (Sussex Conservation District) conditions; that currently, stormwater comes to the site, and it not managed; that the stormwater management plan would get the water off the site; that there was a jurisdictional wetland located to the very southern corner; that the wetland generally heads south, towards a pond located on the adjacent property; that the plan reflected the resource buffers on the site; that there was no buffer averaging proposed for the project; that full buffers would be retained; that the buffer located to the south was a wooded area; that there was 1.2 acres of existing woodlands currently located on the site; that GTA performed a Forest Assessment, confirming that the woodlands were an early successional forest, primarily consisting of low quality trees, red maples, tulip poplars, and loblolly pines; that the site was really fragmented; that the forest was small, therefore there was a lot of invasive species; that they found the forest to be generally low in quality, and dominated by invasives. Mr. Janette requested to turn over the presentation to Mr. William Twupack to further discuss the wetlands.

The Commission found that Mr. William Twupack, Professional Wetland Scientist with Watershed Eco, LLC, spoke on behalf of the Applicant. Mr. Twupack stated that he had been studying wetlands for over 25 years; that a Wetland Delineation was performed for the project; that at the request of Foxlane, they retrieved an approved Jurisdictional Determination with the U.S. Army Corps of Engineers; that the Army Corps visited the site and assessed everything; that the tidal feature, located in the northeast corner that drains under a pipe located under Hickman Road, then drains to Beach Cove, which was a tributary to Indian River Bay; that there was an ephemeral drainage feature that ran down the back of homes within Bethany Preserve, which was confirmed by the Army Corps that the area in the southeast corner, which drained offsite to the fresh pond, ultimately going into the Indian River Bay; that the area in question was a wet depression, located within the woods, which had no connection to anything; that it was simply a poor drainage area, and the proposed stormwater pond would help that area, as well as the whole area which would be part of the open space.

Mr. Mandalas stated the through the remainder of the criteria under Chapter 99-9C, Criteria No. 10 related to property values; that comparables to nearby residential communities support compatibility and neutral to positive value effects on those property values; that Criteria No. 11 related to adjacent farming; that there currently was no active farmland or tree farming adjacent to the site; that Criteria No. 12 related to the school district; that the Indian River School District had been notified; that Criteria No. 13 related to public facilities; that the Fresh Pond Trailhead was located approximately 0.5 mile east of the site; that there was no anticipated adverse impacts on that facility; that regarding area roadways, Bowman had concluded at the 2030 frontage and studied intersection operations, would remain at a Level of Service D or better; that regarding area land uses, residential uses adjoin the site nearby and commercial uses provide service to the community; that the proposed private roads within the community would meet Sussex County and State Fire Marshal standards, with sidewalks and crossing controls being provided; that Mr. Mandalas requested to speak on the submitted opposition petition; that the opposition petition was an online petition, to which anyone could have access to sign through the internet; that the online petition currently was up to over 900 online signatures, which caused them some concern, initiative them to investigate; that Mr. Mandalas read a quote from the petition which stated, "*this project sits on environmentally fragile wetlands, lacks basic infrastructure, introduces sever public safety hazards, and threatens pristine local wildlife and State protected preserves*"; that he wished to break down the provided statement, as people were relying on the provided statement when they signed the online petition; that the first part of the statement which stated that the project sat on environmentally fragile wetlands; that he had already presented to the Commission that there were only two wetland areas located on the site; that those wetland areas were quite small, and nothing would sit on top of them; that in fact, the Tidal wetland areas were proposed to be protected by a 100 foot buffer; that the non-tidal wetland would be protected by a 30 foot buffer; that nothing was proposed to sit on any of the fragile wetlands; that the petition also stated that the project lacked

basic infrastructure; that both water and wastewater infrastructure were available to the site; that public water would be provided by Sussex Shores; that central sewer would be provided by Sussex County; that the site was located within the Tier 1 Sussex County Sanitary Sewer Area; that the Sussex County Sewer Analysis, which was included within the record, acknowledge that adequate capacity existed for the site; that therefore, the petition's statement was not entirely true; that the petition also stated the project introduced severe public safety hazards; that in fact, the entrance and off-site roadway improvements would be conducted in accordance with State standards, which would better vehicular and pedestrian facilities along their frontage on Hickman Road; that the petition stated that the project threatened pristine local wildlife and State protected preserves; that factually, all the improvements would be performed in accordance with local, State and Federal laws and requirements, therefore State protected preserves were not threatened; that in fact, they were protected in accordance with the applicable laws; that the petition also provided that the project was incompatible with the Sussex County Comprehensive Plan; that they reviewed the Comprehensive Plan; that the site was located within the Coastal Area; that the Comprehensive Plan defined Coastal Areas as one of the seven Growth Areas; that the Coastal Area, according to the Comprehensive Plan, was unique because it was among the most desirable locations in Sussex County for new housing, and was meant for new housing; that the Comprehensive Plan anticipate new housing in Coastal Areas; that the Comprehensive Plan also stated that the area was unique because it contained ecologically important and sensitive characteristics; that consistent with the Comprehensive Plan, the Hickman plan mixed an appropriate housing density, while protecting the limited ecological important and sensitive characteristics on the parcel; that it was unfair to say that the project was inconsistent with the Comprehensive Plan; that the petition stated the project would pave over the wetlands, drastically reduce natural stormwater absorption, triggering severe flooding for existing neighbors, degrade local water tables, and violate State clean water mandates; that the plan never proposed paving over any wetland; that the petition suggested that the project must be heavily scaled down to a low density, single-family layout; that there were may letters submitted calling the project a high-density project; that the project was a medium density, residentially zoned, which permitted up to 12 units to the acre; that instead of proposing the maximum permitted density, they were proposing four (4) units to the acre; that the project was not a high-density project; that there were several comments suggesting that the application sought rezoning and variances; that the plan would be considered through the Conditional Use Site Plan approval; that they plan did not require any variances or special exceptions; that they were not required to rezone the property; that the petition's statement was not truthful or factual; that Mr. Whitehouse had previously mentioned the petitions signatories; that when reviewing the signatories, there were from New York, Arizona, Hawaii, Colorado, New Mexico, Washington, with some international attention from Spain, England, Hungary, Scotland, the Netherlands, France, Chile, and Argentina; that only about 60% of the signatories were actually from Sussex County; that even from that 60%, one needed to ask themselves, what was the signatory relying upon when they signed the petition; that the questioned whether they were relying upon the

statements provided in the petition; that if they were, they were relying upon disingenuous statements; that the petition was not a basis to deny the project; that the mischaracterizations within it contained in the petition, were largely repeated in other submitted letters of opposition; that he requested the Commission give those comments the weight that there were due, and property discount them, as they were inconsistent with the provided record; that there were some questions expressed regarding the type of homes proposed to be constructed; that they had submitted an exhibit which reflected elevations that were demonstrative of what they intended to construct; that the homes were not intended to be located on pilings; that they would be no more than two levels; that they would satisfy the Sussex County Code's Height requirement; that there was a concern expressed that the dwellings would be towering over neighbors properties, casting shadows, however, that would not be the case; that the dwellings would be set at least 30 feet off the boundaries, and Mr. Mandalas presented various models to the Commission of what would be offered should the plan be approved.

Madam Chair Wingate questioned whether any affordable housing would be offered with the project.

Mr. Mandalas stated that all the homes would be offered at market rate.

Mr. Mandalas stated that favorable recommendation or approval would be supported by the plan; that the Applicant respectfully requested a favorable recommendation for C/U 2548 for the proposed use of 54 homes to be located on 13.48 acres; that the plan met or exceeded requirements of the Comprehensive Plan and the Sussex County Code; that Mr. Mandalas requested to submit into the record proposed Conditions of Approval; that Condition P stated that as proffered by Foxlane Homes, a donation of $1,000, per home, would be donated to the Sussex County Land Trust at each closing; that this donation would equate to a total of $54,000; that the donation may not move the needle entirely on land preservation, however, he felt that everyone could acknowledge it was a step in the right direction, and was a commitment that Foxlane Homes had been making on their projects.

Mr. Pettyjohn stated that when reviewing the potential development layout, along with the surrounding neighborhoods, he noticed that there were two dead ends, one provided to serve the entrances to Lots 27 and 28; that he questioned whether consideration was given to interconnectivity with the business park on the other end of the corner.

Mr. Mandalas stated that he understood that interconnectivity was important under the Code; that they had asked this question previously; that he believed there was not an opportunity to provide interconnection, and he requested that Mr. Jason Palkewicz provide additional information regarding interconnectivity to the commercial site.

Mr. Palkewicz stated that he did not believe the Applicant wanted to interconnect with a commercial site; that there was no roadway near the site; that they would be willing to extend the right of way to the property line, should the commercial site ever become residential; that potentially at that time, the properties could interconnect; that they would be happy to provide the necessary easements on the Hickman site to the commercial property, should the commercial property ever become residential and want to interconnect.

Mr. Collins stated that a sign could be placed in that location to notify anyone who may be looking to purchase within the development that there could potentially be future interconnectivity.

Mr. Whitehouse stated that the plan reflected a proximity of where the dwellings would be built and the perimeter buffer being 10 feet to 20 feet distance from the buffer, and he questioned whether the Applicant had given any thought regarding how the buffer may be protected, possibly from potential signage, to mitigate from future residents trimming the buffer in effort to maximize their backyards.

Mr. Mandalas stated that he was aware that Sussex County had required signage markings be placed along the buffer, and the Applicant would not have any issue with placing signage to indicate where the buffer is located, and to notify residents that the buffer was to remain undisturbed.

Mr. Robertson stated that it was a real useful took for what Sussex County was currently dealing with regarding some of the recent State legislation; that it was good real life example of what he wanted the Commission to understand, as well as the members of the public; that the new State legislation, House Bill 450, went into effect very recently over the summer; that it required Sussex County to look at any property that is within State Investment Level 1 and 2, or also located within a Growth Area; that any property existing within those areas had to be rezoned, upzoned or changed to allow for a permitted density of four units per acre, which is permitted with multi-family type housing, single-family housing, townhouses et cetera; that Sussex County will be required to do this as part of the Comprehensive Plan, which was currently getting underway; that this was a real example of what the State legislation was requiring going forward; that the project's site, because it was located within Investment Level 1 and 2, as well as a Growth Area, would become four units per acre, by right, without the requirement of a public hearing by Sussex County; that this would be the new requirement in about a year to two; that this was a requirement to be addressed within the Comprehensive Plan, and would allow for an automatic four units per acre without any requirement for a public hearing; that he felt it was an important lesion in understanding for the Commission to realize as the Future Land Use Map effort kicks off, as part of the Comprehensive Plan, as well as for the members of the public to understand what the State had done in terms of legislation that had been imposed on the local counties and municipalities,

and he requested to be clear that this legislative requirement was being imposed from the State, and had nothing to do with what Sussex County had done.

Mr. Collins stated that he appreciated Mr. Robertson's explanation and questioned whether it was a result of House Bill 450 (HB450) or Senate Bill 23 (SB23), or a combination of the two legislations together.

Mr. Robertson stated that for this project, it would involved more HB450, because HB450 was the legislation that dealt with Traffic Impact Fees, and eliminated the need for Traffic Impact Studies (TIS); that it stated that zoning should be increased to four (4) units per acre; that the two legislations work hand in hand together; that HB450 specifically tied Sussex County's Comprehensive Plan, mapping to Investment Levels 1 and 2, and Growth Areas, allowing the densities and the by-right permitted types of housing units, in addition to SB23, which related to by-right subdivisions.

Mr. Collins questioned for clarification, that under those new legislations, currently being in effect, the project's site was located within a Growth Area; that per the legislation, no public hearing or public comment would be required to be weighed by the Planning Commission for potential development in the future.

Mr. Robertson stated Mr. Collins was correct; that the moral of the story was to encourage everyone to get involved in the Sussex County Comprehensive Plan process, as the State has indicated that would be the time public hearings would occur, and that public hearings would not occur on individual land use applications, as currently being held.

Madam Chair Wingate stated they the Commission recently had a public meeting with DelDOT; that there had been some discussion regarding bus stops within communities, in an effort to help eliminate traffic stoppage on the road frontage; that she believed a bus stop was proposed to be at the entrance of the site; that based on the comments provided by DelDOT, they may require something larger, to be located inside the development to allow a bus to come in and turn around, without holding up the traffic along Hickman Road, and she questioned whether that requirement would be possible.

Mr. Palkewicz stated that DelDOT had not mentioned that to them, but stated that should DelDOT make that requirement, they would work with DelDOT.

The Commission found that there was no one present in support of the application, and twelve (12) people were present in opposition to the application.

Mr. Richard Timmons, adjacent neighbor, spoke in opposition to the application with concerns regarding water runoff, drainage, and flooding issues, as he had already experienced these issues as a result of the development of Bethany Preserve.

Madam Chair Wingate questioned Mr. Palkewicz whether any soil borings had been performed on the site.

Mr. Palkewicz stated that no soil boring had been completed.

Ms. Judy Liebman, resident along Cedar Neck Road, spoke in opposition to the application. Ms. Liebman stated that she was the person who started the petition; that even in only 60% of the signatures were from locals, it would equate to 540 people who reside in Sussex County; that she expressed concerns regarding infrastructure, which was more than just sewer and water service; that she expressed concern regarding emergency vehicles, the James Farm and Fresh Pond, and the wildlife in those areas, and the confusion between the parcel acreage of 12 to 13 acres.

Mr. Isaac Smith, Vice President and General Manager of Murray Estates, spoke in opposition to the application with concern regarding the stormwater runoff; that the water drained to the backside of Bethany Preserves, then come into this ponds; that he had been maintaining the ponds for 20 years; that he had worked with the Sussex Conservation District and DNREC to ensure Murray Estates water flowed correctly; that all runoff from Hickman's drain toward Murray Estates and into his pipes; that the proposed development would pump all water to drain out to the Fresh Pond; that this information had been confirmed to him by both Sussex Conservation District and DNREC's Water Flow Planner, and he was certain the proposed project would impact Murray Estates.

Madam Chair Wingate requested that Mr. Palkewicz address which direction the drainage would flow.

Mr. Palkewicz stated that there was a ditch along Bethany Preserve; that the back two or three drained toward the wetlands; that the rest of them drained north, toward the low sump area previously mentioned, and that the low sump area overflowed into the Tidal Wetlands, into a culvert; that the water had to go north, and the water would not flow in the route Mr. Smith was worried about.

Ms. Denise Vansant, resident of Cedar Landing, spoke in opposition to the application. Ms. Vansant stated that per Chapter 115, Article 24, a Conditional Use under the Sussex County Zoning Code must be carefully evaluated to ensure that it does not adversely affect public safety, infrastructure, or the welfare of the surrounding areas; that she felt the project failed on all counts

and violated the spirit of the current medium density guidelines; that she felt the density calculation was inflated; that she felt the wetland acreage should be subtracted from their calculations; that the project would threaten the local ecosystem; that the wetlands originally located on the site had been illegally filled, which should preclude any exemptions and prohibit further development; that legal technicalities and loopholes were being used to obscure the truth; that she requested the Commission look closely at the infrastructure deficit, and how the developer cannot explicitly prove how they will mitigate the traffic on Hickman Road; that she expressed concern regarding stormwater safety, and stated that a comprehensive traffic and infrastructure analysis, as well as electricity demand projections, detailed water usage data and environmental assessments should be fully vested by the Commission and the public.

Mr. Michael Hayes, resident of Bethany Preserve, spoke in opposition to the application. Mr. Hayes spoke with concerns regarding the delineation of the cemetery survey; that he challenged the count of unmarked potential graves on the site; that he felt buffers may have become more important than bodies; that there were areas where Professor Otter was unable to perform adequate testing, and he requested the Commission verify with certainty that no additional graves were located on the balance of the property.

Mr. Robertson stated that the Commission and Sussex County take these types of cemeteries very seriously; that more often than we realize, skeletal remains are found in agricultural areas; that Sussex County is very protective of cemeteries; the Sussex County does not perform any investigations; that Sussex County relied on the Delaware State Historic Preservation Office; that once the Planning Commission or Sussex County Council become aware of a cemetery, if approved, a Condition of Approval requiring the Applicant to not only rely on Professor Otter's report, but also to coordinate with the Delaware State Historic Preservation Office to ensure that the unmarked graves are delineated, their locations are known, being protected with a fence or other appropriate material; that Sussex County would also ensure that access was provided to the cemetery for visitation and maintenance purposes; that a Archaeological Study would be required as well, and suggested that Mr. Hayes provide his knowledge and photos to the Delaware State Historic Preservation Office.

Mr. Whitehouse requested that Mr. Hayes point out the area of unmarked burials based on his first-hand knowledge and photographic documentation.

Mr. Hayes pointed out the cemetery area, which was located between Lot 18 and Lot 19 on the Site Plan.

Mr. Bernadette Hemingway, resident of Murray Estates, spoke in opposition to the application. Ms. Hemingway stated that the cemetery was located about 10 to 15 feet behind the shed on her

property; that there had been any maintenance along the property line between Murray Estates and the Hickman property; that she believed a bulldozer had went through the cemetery due to the tracks it left behind; that she had pictures of the graves and the flags where graves were located; that she believed that per the Site Plan, Lot 18 would potentially by sitting on top of stone marked graves; that she had concern regarding the 30 foot buffer and the removal of 44% of the trees, as she believed it would impact the cemetery area, and if tree stumps were removed it would risk disinterring the bodies.

Madam Chair Wingate requested Mr. Palkewicz elaborate on how the cemetery study was performed and determined.

Mr. Palkewicz stated that the cemetery study was performed by Mr. Edward Otter; that he was not an archaeologist; that they scraped the site; that they look for discolorations which generally indicate areas where stones are located, and there could be infant stones, or adult stones which generally contain information about the person.

Madam Chair Wingate questioned whether the Applicant's team was certain, to the knowledge that they currently had, that they had covered the entire area where gravestones were located.

Mr. Palkewicz stated that reflected on the Site Plan exhibit, at the location labeled as Cemetery, there were little individual dots; that those dots indicated the locations of gravestones; that the grey line indicated the limits of the cemetery as Dr. Otter was able to excavate; that Dr. Otter informed them to stay out of the high area as well; that the road was not located within the high area, and they had complied with Dr. Otter's recommendation locations to stay out of.

Madam Chair Wingate questioned whether the high area was recommended to be left alone because that area could potentially be the location of other stones that may not have a marker or was it due to the soil type.

Mr. Palkewicz stated that he believed Dr. Otter recommended that for the same reason Ms. Hemingway had stated; that he believed Dr. Otter did not want to start ripping up trees and roots and potentially cause a problem; that was the reasoning for Dr. Otter's recommendation regarding the high area, and they were not proposing to build the road within the high area.

The Commission found that Mr. John Murray, Land Development Manager with Foxlane Homes Delaware, LLC, spoke on behalf of the Applicant. Mr. Murray stated that Foxlane Homes had been intimately familiar with the property for the last years; that they had received a very good education from Professor Otter on the site; that there was a lot of information within the County records; that at the beginning of their application submission, it included a very early Site Plan; that the

application included units located on the southwest end of the property, where the cemetery was now located on the current Site Plan; that initially, there were unaware of the cemetery; that through their PLUS hearing, Historical and Cultural Affairs informed them that they wanted to perform an investigation to find out about the cemetery; that at that point, they enlisted the help of Professor Otter to visit the property to perform an investigation of the cemetery; that Mr. Murray had been physically present when the investigation was performed; that no bulldozers were used to clear the area; that Professor Otter rented a small rubber track wheel bucket excavator; that the bucket was only about 1.5 feet wide; that he used the excavator to pull briars and other brush back, to allow him to access the area; that within the submitted report, there were good photos included of his assistant, who also was present; that the photos show the nature of the clearing; that the additional headstone was found buried in the soil, near the other carved gravestones, and was noted within the report; that the extent the cemetery was shown on the plan, was based on Professor Otter's report, and the areas where he found graves on the site; that Professor Otter also included a hand-drawn map in the report, where he performed additional investigations beyond his findings; that he noted that there were not additional findings found; that Professor Otter recommended that the Site Plan be amended to not include the proposed units within that area, and to not include the road in the upland area; that they complied with Professor Otter's recommendations; that it was also recommended that they provide a minimum boundary survey around the cemetery; that be believed the area to be 70' x 80'; that the area was noted on the Site Plan with a fence provided around the existing cemetery, as was provided in direct correlation with Professor Otter's recommendations of the cemetery; that they wanted to ensure they were in full compliance; that as Mr. Robertson had previously stated, should the application be preliminarily approved, they would be required to provide access for family members to visit the cemetery; that their preference would be to not clear the area at all where the cemetery is located; that should any clearing be required, they would want it to be extremely minimal to allow the family to access the cemetery; that he had e-mail correspondence with one of the Rickards family members, who had obtained his name through the report that they had provided to Historical and Cultural Affairs; that they provided the report to the family member, and Mr. Murray stated he would be happy to provide that email correspondence should the County desire it for the public record.

Mr. Glenn Timmons, adjacent neighbor, spoke in opposition to the application. Mr. Timmons expressed concerns regarding water runoff, the existing poor draining area, and flooding.

Mr. Robert (Bob) Syphard, adjacent neighbor along Hickman Road, spoke in opposition to the application. Mr. Timmons spoke with concerns regarding lack of parking for the project, parking back up occurring in provided travel shoulders, and traffic safety along Hickman Road; that he believed the walking path would lead people directly to the road, just before a curve, creating a dangerous situation; that the wetland area and drainage ditch would cause an engineering issue; that he felt the multimodal pathway should be required to be installed along the entire length of

the property; that if a connection across the Timmons property, down to the Bethany Preserve sidewalk, or to be able to go west to Cedar Neck Road, would be a great benefit; that 30% of units were proposed within the 100 Year Floodplain, which indicated fill would be required; that Sussex County was not part of the NFIP (National Flood Insurance Program); that Sussex County did not partner with the Community Rating System; that the amount of fill would change the floodplain parameters off site and impact other properties; that he requested the Commission require a Hydrologic Study to ensure adjacent properties would not negatively be affected.

Madam Chair Wingate stated that the multimodal pathway requirements and location was regulated by DelDOT, not Sussex County, and that she agreed that many of the pathways start and end to nowhere.

Madam Chair Wingate requested that Mr. Palkewicz comment on what the current conditions of the soils were on the site, and whether he believed there would be a lot of import required, or was the site balanced, to be stripped or replaced.

Mr. Palkewicz stated that they were required to fill the floodplain, and plan to fill that area, and that the fill may be provided by the ponds onsite or brought in from another site or borrow pit.

Ms. Alexis Beryle, adjacent property owner, spoke in opposition to the application. Ms. Beryle stated that her property was located adjacent to the cemetery; that there were wetlands located on the corner of the site; that she would like to see the report from the Army Corp of Engineers; that there were a lot more gravestones in the area, than the area that was cleared; that she believed there were additional gravestones, located within the wetland area; that the petition signatures could have been provided by part-time residents, as Delaware was her second residence; that she was originally from Silver Spring, Maryland; that she did not feel the infrastructure was safe; that she was concerned about increasing traffic congestion, negative impacts to property values and homeowners insurance, the additional stormwater runoff, which will cause negative impact to nearby community ponds; that she was concerned about the lack of public notice provided about the project, as she believed 30% to 40% of their community did not live in Delaware year round.

Mr. Whitehouse stated that the legal requirement for providing public notice was 200 feet from the boundaries of the site, and that the Planning & Zoning Department notice properties located within 210 feet from the boundaries to ensure the requirement is met.

Mr. Robertson stated that there was a sign placed on the property; that notices are placed in the newspapers, as well as the Sussex County Online Application Docket; that the application went through the PLUS process, where notice was sent as well, and there would be an entirely new

public hearing held before the Sussex County Council, where public comments were permitted as well.

Mr. Whitehouse stated that the application's public hearing before the Sussex County Council was scheduled for December 8, 2026, and that the scheduled Planning & Zoning Commission and Sussex County Council public hearings were advertised together for the application.

Mr. Robertson stated that all the application documents were available online; that the meeting audio would be posted online; that the meeting's live broadcast would be available online for a temporary amount of time, and that the approved meeting minutes would be available online in perpetuity.

Ms. Beryle questioned whether a response was ever received by the local school district.

Madam Chair Wingate stated Sussex County notified the Indian River School District and they provided no response.

Ms. Mary Corton, resident of Bethany Preserve, spoke in opposition to the application. Mr. Corton stated that there was a meeting held on June 25, 2026, addressed as the Hickman Drainage Coordination Meeting; that the meeting minutes were very general; that one statement stated that Sussex County expressed concern regarding the Bethany Preserve's adjacent pond out fill discharging into the area; that the proposed project would impact the performance and functionality of the Bethany Preserve pond, and she questioned what were the specific concerns from Sussex County, and whether there were any additional meeting minutes available.

Madam Chair Wingate stated that the Planning & Zoning Commission was not a part of that meeting.

Mr. Whitehouse stated that before the current public hearing, the application proceeded through a whole car wash of staff reviews, prior to the public hearing; that staff reviews were performed by Sussex County engineers who review the Applicant's Drainage Assessment; that the reasoning for this, was to ensure the Applicant's Drainage Assessment would be complete, and to Sussex County's satisfaction in terms of detail; that he believed those were notes provided during initial conversations; that it was very common for staff to express concerns based on the amount of information available, and through the application process, the Applicant is required to submit a formalized Drainage Assessment, which becomes part of their application.

Ms. Corton asked when it would be understood that it was guaranteed that there would be no effect on stormwater, and stated that two weeks prior, Hickman Road was unpassable due to flooding from the nor'easter storm.

Mr. Collins stated that "shall not adversely impact" should be what is anchored on.

Mr. Robertson stated that Sussex County, the Sussex Conservation District, and the Department of Natural Resources (DNREC) would review the plan to ensure there would be no impact on stormwater; that should the project be approved, the plan would be reviewed to ensure the design was built to appropriate standards; that all those things would either occur or would be protected against, and the current flooding was occurring from a completely undeveloped parcel, which had no stormwater management facilities or drainage on it at all.

Ms. Corton stated that the site currently consists of 12.8 acres of permeable land.

Madam Chair Wingate stated that if proper storm drainage is put in place, the drainage issue should improve, and Sussex Conservation District would not approve a plan that proposed to dump water onto another property.

Ms. Lisa Marks, resident of Bethany Preserve, spoke in opposition to the application. Ms. Marks stated that there had been a lot of talk about the cemetery, but not those who are buried within it; that there were headstones for the original owners; that there were over 30 slaves; that the slaves were buried on top of one another; that there was no evidence that sonar searching of the ground was performed; that the developer was not removing three lots for the cemetery; that it was only one lot; that historical sites should provide handicap parking, regular parking, historical sign and access accommodations; that she felt the cemetery had been taken very lightly; that she had concern regarding the ecology of the area; that questioned how the wildlife would live, and how hunting would occur.

Ms. Karen Lynch, resident of Murray Estates, spoke in opposition to the application. Ms. Lynch expressed concern regarding the inconsistent acreage for the property, as previous documents stated 12.86 acres, and the most recent document, being part of the current public hearing's presentation material, which stated the parcel consisted of 13.48 acres; that the Traffic Impact Study provided by Bowman did not address the State park; that the study did not consider the impact of 582 daily vehicle trips would have on State park pedestrian traffic; that she expressed concern regarding the safety of pedestrians along Hickman Road, which had no shoulder, and that she had an issue with the smaller buffer, as Marlin Chase has been approved with a 35 foot buffer on the northern side of the development.

Mr. Palkewicz stated that that boundary of the site consisted of 13.4 acres; that the Tax Maps are notoriously inaccurate when it comes to areas; that the least weight, when performing a Boundary Survey on the area is the legal description and the site marker; that the fact that it was off by an acre was not surprising, and that they did perform a Boundary Survey of the property.

Mr. Robertson stated that Boundary Survey, provided within the Exhibit Book stated that the site was 13.4 acres, however the submitted Site Plan stated the site consisted of 12.8 acres.

Mr. Palkewicz stated that the discrepancy may have been based on a right-of-way dedication; that for the particular property, the property line is the center line of the road, which was common as well; that there was a 25 foot easement that they would be required to dedicate to DelDOT; that when everything would be said and done, they likely would have to dedicate additional right of way beyond that, and the easement, and therefore the acreage would likely get smaller as they dedicate.

Mr. Mandalas spoke as part of his permitted five-minute rebuttal period. Mr. Mandalas stated that he wanted to focus on the discretion the Planning & Zoning Commission had; that he believed the members of public were under the impression that the Commission had broad discretion to recommend denial; that the application sought approval of a Conditional Use that was a permitted Conditional Use under §115-31 of the Sussex County Zoning Code; that there was a case before the Court of Chancery called Gibson, that was against Sussex County Council; that there it provided that where a Conditional Use has been legislatively authorized for a specific zone, as it had been with the current application, as the proposed type of use was specifically authorized in the MR (Medium Density Residential) District; that the Applicant only needed to demonstrate compliance with the specific statutory requirements set out in the Sussex County Code for the requested Conditional Use; that should the Applicant meet those objective standards, a presumption in favor of approval arises; that in the case of the current application, the plan did meet the objective standards of the Code which were applicable when the application was filed; that therefore a presumption of approval arises; that the public's opposition may be considered by the Planning Commission and by Sussex County Council, but it alone is insufficient to support a denial from the same case, being the Gibson case; that a case held "*the County Council's reasoning in denying a Conditional Use must be articulated and must relate to the statutory mandates, where objections from the community do not rationally advance the public health, safety, and welfare, but rather simply seek to deny on property owner the right to do what others in the area are already doing, that opposition does not justify denial of the Conditional Use application*"; that everyone should be reminded that the Planning & Zoning Commission does not pass the legislation that makes up the County Code; that the Commission is handed the legislation, and it is their job to do their best to apply it; that the making of the legislation is the job of the Sussex County Council; that the role of the Planning Commission is to apply the objective standards that are provided, and

are incorporated within the Sussex County Code; that the current plan satisfied those criteria, and the plan should be recommended for approval.

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 2548 Foxlane Homes Delaware, LLC (Hickman). Motion by Mr. Pettyjohn to defer action for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 4-0.

RECESS
6:03 P.M. - 6:08 P.M.

**C/U 2593 Andrew Scrutchfield**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR INDOOR STORAGE UNITS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 0.22 ACRES, MORE OR LESS.** The property is lying on the east side of Stingey Lane (Not a State Maintained Road) approximately 195 feet north of Beaver Dam Road (Rt. 23). 911 Address: 17659 Stingey Lane, Lewes. Tax Map Parcel: 334-5.00-195.00.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Conditional Use Site Plan, the Applicant's exhibits, the Staff Analysis, a property survey, the DelDOT Service Level Evaluation Response Letter, 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 for the application.

Mr. Whitehouse advised the Commission that there had been a question regarding the 911 Address for the property, as Stingey Lane is not a State maintained road, and requested that the Applicant address the issue within the presentation.

The Commission found that Mr. Andrew Scrutchfield, the Applicant and property owner, spoke on behalf of his application. Mr. Scrutchfield stated that he had been born and raised in Lewes; that he currently operated his family's local business, and coached for Cape Henlopen High School; that he was the owner of the property; that he would be solely responsible for the maintenance of the project; that he was attempting to make a practical and responsible use of the property, while working within the reality of costs for land, construction, and real estate within the area; that he had tried to work through the process and address all requirements as they came up; that he felt his

project was appropriate for the property and the surrounding area, and that he appreciated the Commission's consideration of his application.

Mr. Robertson requested additional information regarding what the Conditional Use project proposed for the record.

Mr. Scrutchfield stated that the property would be for his primary residence; that it would consist of a large pole building, which would provide individual garages underneath, which were intended to be rented out as individual storage units; that his proposal was an attempt to offset some of the building costs and the mortgage costs.

Madam Chair Wingate questioned whether there were any other businesses located within the immediate area.

Mr. Scrutchfield stated that Stockley Materials was located north of the site, being across the lane that both sites share; that Stockley Materials currently operated under Conditional Use approval; that Delmarva Power was also located to the west of the site; that his project and Stockley Materials were very similar; that there were multiple other business uses within the surrounding area, including the Redners, and the various other businesses within that development; that Stingey Lane was located between Route 9 (Lewes Georgetown Highway) and Beaver Dam Road, which had seen a large change in the area; that Five Points was located less than a mile away, and that was why he felt the site was an appropriate location for his proposed use.

Mr. Collins questioned whether the Conditional Use was a result of an issued Notice of Violation, as he was well aware that Mr. Scrutchfield was well underway with building, and he questioned the total number of proposed rental units.

Mr. Scrutchfield stated that the application proposed a total of six (6) garages, with one (1) garage being for personal use, and the remaining five (5) garages to be used as rented storage units.

Mr. Collins questioned whether everything located above the storage units would be used for Mr. Scrutchfield's personal residence and whether the residence was intended to stay as one residence, or whether rentals would occur.

Mr. Scrutchfield stated that it would be one residence; that there would be no rentals, and attempting to avoid the need for a roommate was a main factor in his proposed application.

Mr. Collins stated that the State Fire Marshall would review the need for fire alarms, and the potential requirement of fire suppression systems.

Mr. Scrutchfield stated that a fire hydrant was located at the corner of Stingey Lane.

Mr. Collins questioned what hours of operation would be, allowing the units to be open for public access.

Mr. Scrutchfield stated that he had originally requested from 7:00 a.m. until 8:30 p.m., however he could be flexible with the hours; that he was not requesting 24 hour access; that should someone need a 24 hour access, he would require a 24 hour notice be provided to him, if their proposed access was not within the hours of operation window; that he did not want someone accessing the site in the early morning, and he proposed more practical access hours.

Mr. Pettyjohn questioned whether any of the five independent units would possibly be combined or opened in the future, and whether the rental units would be rented to operating businesses or were they strictly proposed for storage only.

Mr. Scrutchfield stated that for one of the units, the shear wall was structurally required; that it would impact two of the five units; that he was building it as he believed there was a square footage issue that he did not wish to engage in; that he chose to keep them under that limit for fire requirements; that it was a larger unit; that the units could be used for client's personal storage; that he had envisioned the units being used for boat, trailer or RV storage, and his units would provide a space a little better than the 8' x 8' box available down the street.

Mr. Allen stated that he noticed there was electricity available to each unit, and he questioned whether water and sewer would be provided for each unit as well.

Mr. Scrutchfield stated that electricity would be provided to each unit for power tools or refrigeration for whatever his clients may be storing, but no water or sewer would be provided to the units; that he would have a water hose located out front for anyone who may need to hose something down before placing it inside the unit, and that each unit will have individual HVAC wall unit, located in the back, should the client need to change outside of normal operating temperatures.

Madam Chair Wingate stated that Stingey Lane was not a State maintained road and questioned whether Mr. Scrutchfield maintained the private lane.

Mr. Scrutchfield stated that the private lane was not currently maintained by anyone, and he had dug into it extensively.

Mr. Robertson stated that, approximately 20 years ago, he recalled Sussex County needed to place sewer in the right-of-way, and at the time it was not a State maintained road; that he recalled the lane being similar to the roads across Route 9, where he believed the Delaware Sand Company was located decades ago; that the property was sold, and the roads were left in place; that the previous corporation no longer exists; that the current issue is, that the private roads are not maintained unless the property owners around them maintain them themselves, and the more land that becomes developed in the area, the better the roads will be maintained.

Mr. Whitehouse advised that Commission that approximately three years ago, DelDOT had contacted the Planning & Zoning Department, specifically requesting all records, including the record for the creation of the site; that DelDOT modified the entrance to the south, to change the way access worked; that he believed DelDOT changed the signage at that time as well; that DelDOT was particularly concerned about public access down the private lane, with it not being a State maintained road; that the Applicant went through the DelDOT Service Level Evaluation process, where DelDOT determined that the proposed use did not warrant a Traffic Impact Study (TIS); that DelDOT did place a note on the bottom of their evaluation response, stating that should the Sussex County approve the application, the Applicant should be reminded that DelDOT requires compliance with State regulations regarding plan approvals and entrance permits, whether or not a Traffic Impact Study (TIS) is required, and Mr. Whitehouse questioned Mr. Scrutchfield whether he had gone through any further discussions with DelDOT.

Mr. Scrutchfield stated that he had no further conversation with DelDOT other than contacting them regarding an entrance permit to this property; that DelDOT stated that an entrance permit was not required, as his property was not located along a State Maintained Road; that he did look into the Stockley Material Conditional Use and Record Plan; that DelDOT did an entrance plan for Stockley Materials onto Stingey Lane; that he believed the plan noted that DelDOT would require them to maintain their entrance onto Stingey Lane and he did not have much more information beyond that.

Mr. Collins questioned what other properties shared access to Stingey Lane.

Mr. Robertsons stated that the property located to the south sort of did, but is accessed off Beaver Dam Road; that the southern property also had access along Stingey Lane; that utility providers accessed the site from Route 9; that it did not appear that Stockley Materials had direct access, as it appeared their main access was from Route 9; that the site was an existing lot; that Mr. Scrutchfield could develop the property with a house and four to give garages, and he likely would not have customers who want to bring their RV to a property that was not maintained.

Mr. Allen questioned whether Stingey Lane was paved.

Mr. Scrutchfield stated that Stingey Lane was currently a graveled road.

Mr. Collins stated that the entrance was not the most inviting when he visited the site.

Mr. Scrutchfield stated that regarding the Stingey Lane Plot, there was a Deed near Route 9 where three parcels had been placed together, and in that it specifically called out that their property was the center line of Stingey Lane in their corner.

Mr. Robertson stated that Ward Avenue was the other road, located on the other side, which was similar to Stingey Lane.

Mr. Pettyjohn questioned whether Stingey Lane had access to Route 9 and Beaver Dam Road, and whether there was anything prohibiting Mr. Scrutchfield from using the other end.

Mr. Scrutchfield stated that Stingey Lane ran through both, and that there was nothing restricting him from being able to utilize the other end.

Mr. Robertson stated that they were plotted, however, the plots were very old.

Mr. Allen questioned the location of the entrance for the site.

Mr. Scrutchfield stated that the entrance would be a similar shape of the lot; that access would be provided straight into each unit; that there currently is 30 feet between the existing garage and Stingey Lane; that clients would simply pull directly into their unit from Stingey Lane, and overnight parking would not be permitted.

Mr. Allen questioned whether the site would be fenced.

Mr. Scrutchfield stated that the front of the site would not be fenced, however he planned to fence the entire back portion of the site.

Madam Chair Wingate questioned whether any outside storage was proposed, or whether everything was proposed to be stored within the building units.

Mr. Scrutchfield stated that all storage would be kept inside.

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, Madam Chair Wingate closed the public hearing.

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

In relation to C/U 2593 Andrew Scrutchfield. Motion by Mr. Collins to defer for further consideration, seconded by Mr. Allen, and carried unanimously. Motion carried 4-0.

**C/U 2609 Walter Gonzalez Diaz**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 13.5 ACRES, MORE OR LESS**. The property is lying on the east side of Vaughn Road (S.C.R. 520), approximately 0.34 mile north of Asbury Road (S.C.R. 446). 911 Address: N/A. Tax Map Parcel: 135-19.00-16.22.

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

The Commission found that Mr. Danny Perez, spoke on behalf of the Applicant, Mr. Walter Gonzalez Diaz, as his agent, and Mr. Gonzalez Diaz was also present. Mr. Perez stated that Mr. Gonzalez Diaz was the property owner and the shop owner of the subject property; that Mr. Gonzalez Diaz was a mechanic and lived on the property; that the had submitted exhibits into the record; that the property was large; that it used to be used for a hen house; that the existing hen house was currently dilapidated; that Mr. Gonzalez Diaz had been using the middle portion of it, being the only salvageable portion of it, for his auto repair shop; that the property consisted of approximately 13.53 acres; that the total of all of Mr. Gonzalez Diaz's property consisted of 16.22 acres; that the submitted exhibits provided a project brief, summarizing what Mr. Gonzalez Diaz would like to do; that it contained a survey, the garage floor plan, the property deed, the DelDOT (SLER) study and review, multiple aerial views of the property, and a Disposal Agreement; that fire protection provider was B&G; that the hen house was built in 1976; that the hen house is no good and must be demolished and removed; that the part proposed for the auto repair shop, was the only portion that was able to be salvaged; that Mr. Gonzalez Diaz currently works in that area; that it had a bathroom and storage area; that the facility had its own water and sewer service; that hen houses are about 200 feet long, and about 60 feet wide; that the DelDOT letter determined that the traffic impact to Vaughn Road would be minimal with about 50 daily vehicle, with about 300 vehicles per week; that DelDOT stated that Mr. Gonzalez Diaz was not required to perform an in-

depth evaluation of the usage of the road or the entrance; that the shop was located approximately 150 to 180 feet from the main road; that the hen house continued even further down; that he provided the Commission with currently photos of the building and he site; that there was a road located behind the shop, where the chicken trailers would come in from the back, turn around and leave the property from the font; that Mr. Gonzalez Diaz had done a good job attempting to keep the property neat; that to the right, there was an existing forested buffer of approximately 60 feet between the site and the adjacent property; that to the left, Mr. Gonzalez Diaz home was located on a little hill; that there is no nearby residences that would be impacted by the auto shop use; that oil disposal services would be provided by Crystal Clean; that a letter from B&G Fire Protection was included into the record, and that Mr. Gonzalez Diaz had fireproofed the entire building.

Mr. Allen stated that from Vaugh Road it appeared that the poultry house would be required to be demolished, as it was currently falling down; that he questioned the proposed hours of operation, whether a sign was requested, whether dumpsters or fencing would be located on the site, and the number of anticipated vehicles to be stored on the site, and he noticed a lot of cars currently located on the site.

Mr. Perez stated that the underbrush had grown up, closing the entrance a bit; that Mr. Gonzalez Diaz had cleaned up the entrance from Vaughn Road going into this property; that the access road was 28 feet wide; that the hen house can be seen from the road; that the hen house is completely useless, and would need to be demolished; that if it were to be demolished, what would he do; that Mr. Gonzalez Diaz did not intend to utilize that portion of the hen house; that Mr. Gonzalez Diaz's portion was located 100 to 160 feet further in, and the hours of operation were proposed as 8:00 a.m. to 6:00 p.m., Monday through Saturday; that on Saturdays he would likely leave early; that he proposed that there would be no operations on Sundays; that no business sign was being requested; that the auto repair service would only be for customers who know him, or who had previous contact with him; that he believe Mr. Gonzalez Diaz was trying to retire, and therefore wished to keep it low key, and that there would be a small dumpster for boxes and miscellaneous items to be removed; that the shop was not intended to be a tire replacement shop; that he did not feel fencing would be needed, as the site provided a 60 foot buffer with trees located on both sides; that when the inspector visited the site, there were quite a few cars; that those vehicles had been removed, and he had suggested that Mr. Gonzalez Diaz have a maximum of three (3) vehicles on the site.

Mr. Collins questioned what a reasonable timeline would be for Mr. Gonzalez Diaz to dismantle and remove the unusable parts of the hen house.

Mr. Perez stated that he felt the removal of the hen house would take longer than 12 months; that the estimated that it would cost the Applicant approximately $150,000 to have the hen house

demolished and removed; that this would be a lot of money for the Applicant; that his ultimate goal was to return to the Commission in the future for permission to provide storage, once everything is cleared and concrete is placed; that it was a huge investment to perform the demolition, and to do everything Mr. Gonzalez Diaz would like to do, it would cost Mr. Gonzalez Diaz approximately $300 to $400,000.

Mr. Collin stated that the Commission would not be able to approve the requested application, without the Site Plan being as it was depicted with the application submission, which indicated that the potion of the hen house was to be removed; that its removal would need to be completed within a reasonable timeframe, and he felt that 12 months was not outside of reasonable.

Mr. Robertson questioned whether the application was a result of a Sussex County Notice of Violation.

Mr. Whitehouse confirmed that the application was related to a Sussex County Notice of Violation.

Mr. Robertson stated that the issue was that the Commission is attempting to remedy a situation, while getting Mr. Gonzalez Diaz in compliance with the law; that in the meantime the Commission does not want to make the time frame so long that it prolongs to operation in violation with the County Code, and the Commission's goal is to get Mr. Gonzalez Diaz in compliance.

Mr. Perez requested that the Commission recommend approval for the requested Conditional Use; that he believed allowing 12 months for demolition and removal would be adequate; that it would require Mr. Gonzalez Diaz to work a bit harder, but he felt that Mr. Gonzalez Diaz could comply with the timeline and that the timeline was adequate.

Mr. Collins stated that at a minimum, he anticipated that Mr. Gonzalez Diaz would want to prioritize the removal of the chicken houses which were visible from the road, so they did not cause objectionable views or become an eyesore.

Mr. Perez stated that the chicken houses could be removed; that there would be no construction; that they would try to get all the use of lumber, and the tin.

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, Madam Chair Wingate closed the public hearing.

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

In relation to C/U 2609 Walter Gonzalez Diaz. Motion by Mr. Allen to defer action for further consideration, seconded by Mr. Pettyjohn, and carried unanimously. Motion carried 4-0.

**C/Z 2051 Arctec Properties, LLC**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 8.99 ACRES, MORE OR LESS.** The properties are lying on the west side of Sussex Highway (Rt. 13), approximately 1.10 miles south of Adams Road (S.C.R. 583). 911 Addresses: 14890, 14906, & 14910 Sussex Highway, Bridgeville. Tax Map Parcels: 530-17.00-9.00 & 10.00.

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

The Commission found that Mr. Edwin Tennefoss, Professional Engineer with Siteworks Engineering, spoke on behalf of the Applicant, Arctec Properties, LLC. Mr. Tennefoss stated that when the owner of Arctec Air approached him, they had just purchased the parcel, being Parcel 10.00, which he currently used for a HVAC business, which operates under a Conditional Use; that the Applicant then purchased the property located to the north, where he wanted to place commercial storage units, which was not permitted within AR-1 (Agricultural Residential) zoning; that the Applicant felt if a Conditional Use was going to be required, that it would be more beneficial to rezone both parcels to create a more uniform look as the site was located adjacent to some industrial use parcels, located to the north; that the Applicant purchased Parcel No. 9.00, which was a residential property; that the Applicant has been utilizing the property as a rental while waiting to proceed through the Change Of Zone application process; that with approval, the Applicant would no longer have the residential unit, and the parcel would be used exclusively for commercial storage; that the submitted packet included a survey of the parcel; that the property was partially located within a Flood Zone area, which was located more in the woods; that there were some wetlands in the woods; that there was no intent to develop into the wetland or floodplain areas; that the development was intended for the land out front; that DelDOT indicated that the proposed use would have a negligible impact to Route 13 (Sussex Highway); that the intent was to use the existing entrance for the HVAC business, creating a shared use access, which was another reason they are both being requested for rezoning together; that the access will go through Parcel No. 10 to access Parcel No. 9.00; that there are no DelDOT entrance improvement requirements anticipated; that the Final Site Plan would be submitted to and coordinated with DelDOT; that from a utility standpoint, there would not be a huge water or sewer demand for the proposed commercial storage units; that the existing HVAC business had its own private well and septic; that there would be well and septic installed for the commercial units; that a normal well

and septic could easily handle the demand for the proposed units; that from a Statewide Strategy standpoint, the existing HVAC parcel was located within State Strategy Level 3; that the residential parcel was located with State Strategy Level 4; that the site is located along a main arterial roadway within western Sussex County; that there were similar uses and business within the nearby area, located along Route 13; that from a practical standpoint, it made less sense for a residence to be located adjacent to an industrial zoned parcel than the proposed commercial zoning; that the application would allow for commercial use with low traffic impact to the community; that residential zoning was located to the north of the site; that they would provide appropriate screening to prevent any negative impact to the northern property; that the site was not currently an active farm, so therefore they would not be converting existing farmland to commercial, and currently, the site was being used for residential, however, was screaming to be more of a commercial use rather than residential.

Madam Chair Wingate questioned whether the proposed building on the Site Plan was intended for storage.

Mr. Tennefoss stated that the building was intended for storage, or for the ability for customers to pull in, or have an office.

Mr. Robertson advised the Commission to keep in mind that the rezoning request was for C-2 (Medium Commercial), and any proposal would still require it to come back before the Commission for Final Site Plan approval.

Mr. Lowrey requested to provide additional context for the Commission stating that the adjacent to the site was the industrial property, being the location of the new Mountaire Feed Mill, which was the result of a Change of Zone application, which as approved by County Council within the last two years, and the Final Site Plan for the Mountaire Feed Mill was stamped approved in July 2026.

Mr. Collins stated that it appeared to be an appropriate location for commercial development.

Mr. Robertson stated that he had pulled the motion from the prior Conditional Use for Parcel No. 10.00; that the property had a history, going back to at least 2007 for a prior Conditional Use for storage, and that the site had a history of commercial being located on it.

The Commission found that no one was present who wished to speak 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/Z 2051 Arctec Properties, LLC. Motion by Mr. Collins to defer action for further consideration, seconded by Mr. Allen, and carried unanimously. Motion carried 4-0.

PUBLIC COMMENT

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

**Meeting adjourned at 6:50 p.m.**

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