

MINUTES OF THE REGULAR MEETING OF APRIL 1, 2026

The regular meeting of the Sussex County Planning and Zoning Commission was held on Wednesday afternoon, April 1, 2026, in the County Council Chambers, Sussex County Administrative Office Building, 2 The Circle, Georgetown, Delaware.

The meeting was called to order at 3:00 p.m. with Madam Chair Wingate presiding. The following members of the Commission were present: Ms. Holly Wingate, Mr. Scott Collins, Mr. Jeff Allen, Mr. John Passwaters, and Mr. David Pettyjohn. Also, in attendance were Mr. Jamie Whitehouse – Director of Planning & Zoning, Mr. Vincent Robertson – Assistant County Attorney, Mr. Michael Lowrey – Planner IV, 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 5-0.

Motion by Mr. Collins, seconded by Mr. Passwaters, to approve the Minutes of March 4, 2026, and March 18, 2026, of the Planning and Zoning Commission Meetings as circulated. Motion carried 5-0.

OLD BUSINESS

2024-05 Rivers Edge

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

The Commission discussed the application which had been deferred since March 4, 2026.

Mr. Whitehouse advised the Commission that at the last Commission meeting staff had circulated a memorandum, which provided an update on wetlands and a wetlands calculation; that the memorandum was entered into the record; that the Commission's motion at that time, as to leave the record open for the receipt of additional public comments; that he confirmed additional public comments were received, following the announcement made at the last Commission meeting; that the additional public comments were entered into the record, and had been included within the Commission's Paperless Packet, and the public hearing automatically closed at the end of the time period specified by the Commission.

In relation to 2024-05 Rivers Edge. Motion by Mr. Collins to defer action for further consideration, seconded by Mr. Allen, and carried unanimously. Motion carried 5-0.

PUBLIC HEARINGS

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

C/U 2541 Hudson Pond, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MINI-STORAGE WITH OUTDOOR BOAT AND RV STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 4.485 ACRES, MORE OR LESS. The properties are lying on the north and south sides of West Hudson Pond Road (S.C.R. 623), approximately 234-feet west of DuPont Boulevard (Rt. 113). 911 Address: N/A. Tax Parcel: 230-19.00-23.03 & 23.00 (P/O).

Mer. Whitehouse advised the Commission that submitted into the record were the Applicant's Conceptual Site Plan, the Staff Analysis Report, 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 one written public comment had been received regarding the application.

The Commission found that Mr. Tim Willard, Esq. with Fuqua, Willard & Schab, P.A. spoke on behalf of the Applicant, Hudson Pond, LLC; that also present were Mr. Mark Pirrizzi, resident of Lewes, and the principal of the Delaware moving company known as, Hopkins Brothers, and Mr. Ken Christenbury, Professional Engineer with Axiom Engineering. Mr. Willard stated that the property is located along Rt. 113, being just north of Ellendale, and just south of Milford; that he site is located between Milford and Georgetown, just north of Rt 16, along the west side of Rt. 113; that the application was for two separate parcels; that the larger parcel, located to the north, is divided by West Hudson Pond Road; that the application is for Parcel No. 23.03, and a portion of Parcel No. 23.00, which is intended to be combined into one parcel; that the remaining part of Parcel No. 23.00, located north of West Hudson Pond Road, is not intended to be part of the Conditional Use application; that the total of the two intended parcel areas equals to about 4.58 acres; that the site is located within the AR-1 (Agricultural Residential) Zoning District; that there are several conditional uses located across the street; that the area is located within the Low Density area according to the Future Land Use Map; that by the nature of the area, being along a major, north and south, highway, there are a lot of things going on along the highway; that this is one of the reasons they believed the site made sense to shoehorn the proposed mini storage facility use; that the storage facility is going to be designed for RVs, as well as boats, which is in high demand in the area; that there is commercial zoning nearby, which is located within Ellendale; that within the nearby area are Wilson's Auction, with an approved Conditional Use for the other lands of Dave Wilson, located just south of the auction; that there was a Sussex County Special Use

Exception (Case No. 11712), granted for a nearby property for the temporary approval to do concrete; that this was approved to help DelDOT when they are building the roads; that the approval for Special Use Exception Case No. 11712 had since expired; that the site is now use more for storage and things of that nature; that on the other side of that site, is a heavy industrial site; that above that area is the location of a preschool, which is located just up the road from the proposed site for the storage facility; that Mr. Willard presented the Commission with photographs of the surrounding area, and businesses within the area; that Sussex County Planning Staff had provided a memorandum indicating that there were multiple properties, on the opposite side of DuPont Boulevard, that were designated Developing Areas; that within the third page of that memorandum, it stated that the proposed use was consistent with the area because of the activity; that the memorandum also provided a list of various activities that are going on around there, that are not simply agricultural or residential; that within the area is a farmer's market, a model homes sale office, the auction, and a fence construction business; that the proposed site is located at least one mile out from those businesses; that the Site Plan proposes buildings which are 50' x 50'; that they chose this size to avoid the unnecessary expense of a sprinkler system; that it also provides flexibility; that any area that is not utilized for storage buildings, or the proposed office, would be designated for RV or boat storage; that this provides more flexibility; that stormwater management is proposed to be located near the front of the site; that the plan provides a 30 foot forested buffer around the property, which will not be removed; that in the bottom, left-hand corner of the plan, they are proposing to plant in that area; that the Site Plan did reflect proposed parking; that the entrance would be located off West Hudson Pond Road, which is a positive feature for the Conditional Use, as it avoids emptying onto Rt. 113; that he requested to submit into the record, proposed Findings and Conditions for the application; that the proposed conditions stated that the use shall be limited to a mini storage center with outdoor boats and RVs; that there shall be no more than 50,000 square feet of mini storage building space in 50' x 50' buildings, and one office building; that no building shall be constructed above a height of 20 feet; that there was one letter submitted in opposition, which expressed concern regarding the height of the proposed buildings; that the entire site would be fenced in, with a secured gate located at the front; that no hazardous materials or fuels would be storage on the site; that the proposed lighting shall be downward screened, so that it does not shine on neighboring properties and roadways; that one lighted sign was requested to be located along the road frontage, and one sign to be located at the entrance; that there was a letter of opposition submitted by Mr. Fred Clark, expressing concern regarding people coming and going from the site; that they are proposing a condition the hours of operation run from 6:00 am until 8:00 pm; that the Applicant will be required to comply with any imposed DelDOT requirements, which would be reflected on the Final Site Plan; that the DelDOT Service Level Response letter concluded that the traffic impact for the proposed use would be negligible; that a Conditional Use allows for uses that are convenient for the people within the area, including Milford, Georgetown, and Ellendale; that the proposed storage facility would serve homeowners and residential uses in the area; that the proposed use is generally considered a public or semi-

public character; that the application was consistent with the purpose and goals of the Comprehensive Plan, specifically Chapter 6, which encourages recreational activities, such as boating, fishing and camping; that there is a whole chapter of the Comprehensive Plan designated to this because of the areas ponds, rivers, lakes, and the proximity to the bay and the ocean; that such recreation requires storage options for boats and RVs; that most homeowners associations (HOAs) prohibit storage of recreational vehicles on residential property, located within the Low Density Area; that stated within the Comprehensive Plan, Chapter 4.2, areas of Low Density, business development should be largely confined to businesses addressing the needs of the homes nearby; that the application was also consistent with the goals of the Comprehensive Plan, because the property is located on a major arterial between Milford and Georgetown; that the Staff Memorandum stated that there are developing areas nearby, where homes are expanding; that the demand for many storage facilities is growing and desirable, and that the proposed use is not out of character with the location.

Mr. Pettyjohn stated 50' x 50' buildings are fairly substantial sized buildings; that he questioned whether the buildings would have a restroom, as he had noticed a septic area reflected on the Site Plan, whether each building would be broken down into smaller storage units, and requested confirmation that the Applicant's intention was not to rent an empty shell, allowing customers to do with it what they wanted.

Mr. Christenbury, P.E. stated that the only building proposed to have plumbing would be the proposed office on the site; that they had constructed similar buildings to the ones proposed; that there often is an interior hallway, where there is a heavier demand for climate control storage; that there would probably be a mix; that some of the buildings would probably be overhead doors, without climate control; that he felt the majority of the units would be climate controlled, because that is what the demand appears to be, and the building shell would not be rented out, and he entire building would be broken into a dozen to two dozen units, providing a range of sizes.

Mr. Passwaters stated that, behind the proposed boat and RV storage area, there currently was existing forest; that he questioned whether the Applicant was proposing to remove the existing forest, and replace the area with a new buffer, and if so, he questioned what the reasoning was behind that proposal.

Mr. Christenbury stated that the State of Delaware owned all the trees located to the front of the site; that within a certain area, the State of Delaware had little to no trees standing; that the Applicant desired to have some highway visibility; that the plan proposes to clear, plant and place a sign along Rt. 113; that in another area, the State of Delaware owned quite a bit of forest; that within that area, they are proposing to pull back the disturbance to the setback line; that they propose to leave 40 foot undisturbed; that there are probably 20 or 30 foot of State-owned land;

that the area will have a pretty good chunk of forest that does not get removed; that they only requested to remove forest in the one area to allow for visibility from the highway, and for the placement of a sign; that the area would be attractively landscaped; that landscaping is required by Code, as this site is located within the Combined Highway Corridor Overlay Zone (CHCOZ); that the Code states that existing coverage may be maintained, or it can be planted, and the remainder of the perimeter would be a 20 foot buffer, where the existing forest would be maintained.

Mr. Allen questioned whether any type of vegetated buffer was proposed to be placed along Hudson Road, and whether there were any future plans for the remaining parcel, located on the other side of West Hudson Pond Road.

Mr. Christenbury stated that there was no thought given to placing a buffer along the Hudson Road frontage; that one of the reasons being that they own the land on the other side of the property; that currently, it is considered the same parcel, but was proposed to be subdivided out; that the stormwater area would likely be a wet pond, based on his prior experience; that the adjacent properties would have that buffer, but the property originally across from West Hudson Pond Road is part of their same parcel; that they had performed subdivisions before, where frontage does not always have a perimeter buffer; that they elected not to show it on the Site Plan; that the Planning Commission and County Council have the authority to mandate that; that there are no specific plans for the remainder of the parcel across West Hudson Pond Road; that they are proposing to subdivide that portion off, and it would not be part of the proposed Conditional Use application.

Mr. Collins questioned what the benefits would be for Sussex County, the citizens, and local community receive from the dividing of the proposed buildings to evade the design requirements for fire protection systems, and questioned whether the proposed outdoor storage area would be visible from the highway.

Mr. Christenbury stated that the site is not located anywhere near central water; that there are no fire hydrants; that the State Fire Marshal allows for 2,500 square foot buildings, without sprinkler systems; that if they site had central water service, it could be one, much larger building of 30,000 square feet, which would all happen under one roof with sprinklers, however, that would not be a good option for the proposed site, as they would have to build a water system to start the project.

Mr. Willard stated that one reason would be cost; that another reason would be flexibility, and flexibility as far as development stages is really a good thing, and that the outdoor storage area should not be visible from the highway due to the proposed buffer.

Madam Chair Wingate requested clarification on the entrance gate; that it appeared to be located in the proximity of the proposed office, and she questioned the footage distance from the gate to the entrance, as she was concerned it may cause vehicles to stack up and out along the roadway.

Mr. Christenbury stated that each building is about 50 square feet; that the gate would be located on the backside of the office, and that from the back of the office, where the gate is located, to the road is approximately 150 feet.

Mr. Pettyjohn questioned whether the office was designed specifically for the storage area, or whether there could be potential retail from the office area, and stated that he felt the proposed hours of operation from 6:00 am until 8:00 pm were good, as the gate system could be locked, making the site non-accessible outside of the hours of operation.

Mr. Willard stated that the office was designed for servicing customers, and if necessary staff; that some storage facilities are so efficient, once customers receive their card, staff is not needed; that the office facility is proposed to service customers, allowing restrooms for customers, and the office may sell boxes, but would not be used for any other type of retail, and should the Conditional Use receive approval, it would be required to proceed through Final Site Plan review and approval, at which time more detail and any imposed conditions would be added to the Site Plan.

Mr. Pitrizzi stated that he agreed that the representation provided by Mr. Willard and Mr. Christenberry were true and correct to the best of his knowledge; that his intent was to make the project feasible for the community, and to make the site look nice; that had been running his main business for 80 years; that he was a fourth generation Delawarean, and he did not want the site to look unnatural, but rather appropriate for the area.

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

Mr. James Grant, resident of Milford, spoke in support of the application. Mr. Grant stated he felt the application would be beneficial to the community; that many Homeowners Association will not allow for outdoor storage or parking on the street; that he felt the application was a benefit from a fire protection stance, by keeping roads clear, allowing emergency vehicles to respond in a timely manner.

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 2541 Hudson Pond, LLC. Motion by Mr. Passwaters to defer for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 5-0.

C/U 2546 James Mershon

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR BOAT STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 3.3 ACRES, MORE OR LESS. The property is lying on the south side of Roxana Road (Rt. 17), approximately 370 feet south of Bennett Road (S.C.R. 371). 911 Address: 35015 & 35011 Roxana Road, Frankford. Tax Parcel: 533-6.00-60.03.

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 Report, and a letter received from the Sussex County Engineering Department's Utility Planning Division. Mr. Whitehouse advised the Commission that no public comment had been received regarding the application.

The Commission found that Mr. James Mershon spoke on behalf of his application. Mr. Mershon stated that he was the current owner of Jim's Bait and Tackle business on the property; that he was requesting a Conditional Use permit to expand, to legally expand into boat storage, to coincide with his current bait and tackle shop; that fishing and boating go hand in hand; that he is requesting a limited amount of spots; that he is not proposing a 24 hour facility; that the boat storage operations will only be open when he is on the premises, and he is open for business; that his proposed hours of operation would be 8:00 am until 6:00 pm, Monday through Friday, and 8:00 am until 8:00 pm on Saturdays, and 8:00 am until 3:00 pm on Sundays; that the months of operation are proposed to run April through the end of October; that he shuts down in the winter, as boats are generally not used after October; that the storage would just be for the winter; that most people do not come down to the area in the wintertime, and that once the boats were placed into storage in October, they would remain.

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

Mr. Mershon stated that next door to him there was a garage and tow service business; that the business is open all the time; that caddy cornered from his property was the location of A&A Heat & Air Company, and there was an automotive place and Kendall Furniture building located within the area as well.

Mr. Allen stated that he seen a type of racetrack on the property, and requested additional information regarding the track.

Mr. Mershon stated that he had a 10-scale, dirt hobby track; that his brother, who had passed away, got him into the hobby; that it had become just a little club that they race at, and a place where they have competitions and things of that nature; that he proposed the track to remain; that his Site Plan reflected boat storage areas in the location of the track, and that if he used this area, it would only be use in the wintertime, should the back areas reach capacity.

Mr. Allen stated that one view of the site reflected parking in that area, and he just wondered what was proposed for that location.

Madam Chair Wingate questioned Mr. Mershon had obtained Conditional Use approval for the existing racetrack.

Mr. Mershon stated that no, he had not obtained Conditional Use approval for the existing racetrack, as it was not needed, because it was just a club.

Mr. Whitehouse advised the Commission that a Home Occupation would allow this type of activity for personal enjoyment; that there were two issues, being the RV type structures located within the Front Yard setback, being forward of the main house; that normally RV and motorhome storage is to be located behind the main house; that if the property is providing group assembly or group instruction, it no longer is permitted as a Home Occupation; a Home Occupation is limited to personal enjoyment, should you have guests over, but as soon as one is providing group instruction and group assembly it would then trigger a Conditional Use approval.

Mr. Mershon stated that Sussex County approached him approximately two years ago; that at that time he was told he was not permitted to place signage promoting the track, and he does not promote the track.

Mr. Collins questioned the number of people who use the track, whether there were any spectators, and if so, the general number of spectators at a time.

Mr. Mershon stated that approximately 20 to 25 people use the track; that occasionally he gets people who stop by, who are interested in it, as it is bound to generate interest when people drive by and see it, and that the track generates approximately two to 10 spectators.

Mr. Robertson stated that he was uncertain what Sussex County had previously told him, but what Mr. Mershon had just described would require a Conditional Use, as the use exceeds what is permitted; that the racetrack use is inconsistent with the submitted Site Plan; that if Mr. Mershon was talking about having 20 people, and 20 vehicles, along with parking spaces and boat storage

spaces, that all will pretty much take up the whole area, and he questioned how Mr. Mershon intended to operate both uses at the same time.

Mr. Mershon stated that the boat storage would be located in the backyard, and is the reasoning why the parking, that did not show in the front, is not for the overflow for the wintertime.

Madam Chair Wingate questioned where parking would be located for the vehicles present for the races, and that she had personally driven by during races, and had seen vehicles stacked up on Roxanna Road.

Mr. Mershon stated that he did not have any cars parking down the road and that he makes sure that everyone is kept on the property.

Mr. Passwaters questioned how often the club gets together to perform the racing.

Mr. Mershon stated that the club gets together once to twice a month; that it is not frequently and it was something that passively grew the more as people expressed interest in it.

Madam Chair Wingate questioned whether the proposal was to locate the parking spaces associated with the storage use to be located next to the track.

Mr. Mershon stated that Madam Chair Wingate was correct being the parking area listed as D-1 through D-8, located inside the fence located in the front yard.

Madam Chair Wingate where spectators would park, when all the spaces are filled with RV and boats.

Mr. Mershon stated that the parking area of D1 through D8 would only be used in the winter, after his racing season ends in mid-October, and racing would not take place there in the winter, and there will be no boats located within the fenced in yard during that time of the year, and parking would be located in the back of the property, so it is out of the way.

Madam Chair Wingate stated there is an RV currently located next to the bait and tackle shop.

Mr. Mershon stated Madam Chair Wingate was correct, and that the RV is currently for sale.

Madam Chair Wingate questioned Mr. Robertson whether there was anything the Commission could act on, with not having confirmed information regarding the existing racetrack; that she questioned whether Mr. Mershon would be required to come back before the Commission, and she

stated that in her opinion, it appeared that there would be a conflict with the storage parking that was being proposed.

Mr. Robertson stated that he was unsure whether the existing racetrack was legal; that the site cannot have two separate uses if there is no Conditional Use Site Plan with parking to support it; that the proposed use is for parked storage, not racing, which may not be permitted, and it was an issue that the staff and constables would need to look into, which complicated things.

Mr. Mershon stated that he would not be opposed to removing the D1 through D9 parking spaces located out front.

Mr. Robertson stated that he did not believe that would solve the problem; that he felt the bigger problem was the unpermitted racetrack, that had 20 spectators and vehicles accessing the site without approval, while being incompatible with the submitted Site Plan for the application.

Mr. Mershon stated that the racetrack was for RC cars, and not for full site, full vehicle racing.

Mr. Robertson stated that he understood but also mentioned that the racetrack was located at the front of the property.

Madam Chair Wingate stated that there were 20 people coming to the site for the racing of those RV cars, she questioned where those people would park on the site.

Mr. Whitehouse stated that any response provided by the Constable would have been based on the response provided to them in the field, and that based on what he had heard at the current public hearing, he would agree that the racetrack use would require approval.

Mr. Mershon stated that a complaint had been filed on him for supposedly running several operations illegally; that the constable had visited the site, at which time he explained what was taking place on the site, and the constable stated it was fine; that the fence located in the front yard use to be five feet in height; that he had to reduce the fence height to three and a half feet because the fence was located within the setback; that he complied with that requirement; that he previously had a sign out front; that he was told he was not permitted to have sign, so he removed it, and that was as far as the previous complaint went.

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

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

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

In relation to C/U 2546 James Mershon. Motion by Mr. Allen to defer for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 5-0.

C/U 2594 Anthony DeGirolano

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO REPAIR AND VEHICLE STORAGE BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 3.07 ACRES, MORE OR LESS. The property is lying on the north side of Long Neck Road (Rt. 23), approximately 800 feet west of Pot Nets Road (S.C.R. 22C). 911 Address: 32909 Long Neck Road, Millsboro. Tax Parcel: 234-24.00-39.05.

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

The Commission found that Mr. Anthony DeGirolano spoke on behalf of application; that also present was Mr. DeGirolano's son, Mr. Victor DeGirolano, the current business owner of Long Neck Auto. Mr. Anthony DeGirolano stated they are working on trying to beautify the site, and intend to place a fence to screen the site from other; that currently, it is his son's business; that the property had been in his family for 150 years, and that they own a lot of the nearby land.

Madam Chair Wingate requested additional information regarding the operation and what was being requested.

Mr. Victor DeGirolano stated that he employs seven full-time employees, all with families; that he helps everyone in the community; that he donates to various charities; that he helps a lot of elderly people, especially when their significant others pass; that he will pick them up and drop them off when needed; that he really enjoys helping people; that he tries to make sure his employees and his customers are taken care of, many of which were present for the hearing; that his dad had been a diesel mechanic is entire life; that his business services cars, light duty diesel, some bigger trucks, and tractors; that the hours of operation would be Monday through Friday from 7:00 am until 5:00 pm, and that no Saturday or Sunday hours are proposed, however, he is usually there making sure everyone's vehicles are fixed correctly

Mr. Collins stated that even the site would not be open to customers on Saturday or Sunday, but work will be performed on a Saturday or Sunday, it should be requested to operate on those days so that the Commission does not place a condition prohibiting that.

Mr. Victor DeGirolano stated that he would request permission to work on Saturdays, but Sundays they would be off, and they would work on Saturdays from 8:00 am until 3:00 pm.

Mr. Collins questioned whether the business was contracted with any company to dispose of and manage waste and oil products, and questioned whether there were any other activities happening on the parcel other than the auto business.

Mr. Victor DeGirolano stated that they burn the waste oil for heat, and Lorco handles all his antifreeze and oil filters; that everything is disposed of properly; that everything is stored properly; that tires are removed by a company out of Virginia, and that the automotive business was the only operation being performed on the site.

Mr. Pettyjohn questioned who lived in the house on the property, and stated that the site is surrounded by other residential dwellings of season or full-time use; that he understood that within that line of work, sometimes one can get behind, where 6:00 pm turns into 10:00 pm or even midnight; that he knows air tools and vehicle testing can be tempting and even required at times, and because of this he felt it was important to discuss the site perimeter.

Mr. Victor DeGirolano stated that he lived in the house on the property; that his cousin and mom live next door to the site; that the Pot Nets community was located on the other side of the site; that he stays on his employees about that type of stuff; that it is very quiet after 5:00 pm to 6:00 pm., and during the day the operations are not that loud.

Madam Chair Wingate requested confirmation on the proposed hours of operation.

Mr. Collins stated that the proposed hours of operation stated were until 3:00 pm on Saturdays, and from 8:00 am until 5:00 pm on Monday through Friday.

Madam Chair Wingate stated that if noise is created beyond 5:00 pm, and the neighbors complain, there would be an issue.

Mr. Victor DeGirolano stated the hours of operation would be 7:00 am until 5:00 pm, however to play it safe he would request until 7:00 pm as that was probably the latest he had ever stayed there, to ensure customers are taken care of, and to ensure everyone got their car back when needed.

Mr. Passwaters stated that from the satellite view, it appeared that several vehicles were located at the rear of the property; that there are seven employees and questioned the number of vehicles staged on the site per week.

Mr. Victor DeGirolano stated that his average turnover, dependent on parts, is approximately three days; that certain cars, who may be getting engines, transmissions, or if he has to deal with aftermarket warranty companies, could take up to weeks to a month; that this happens often when someone else is trying to pay for the work; that it can become time consuming; that currently his biggest problem is obtaining parts; that the dealerships are on back order for months; that he would estimate approximately 30 vehicles, maximum, would be stored on the site in the backyard, and that most of those vehicles would not stay on the site any longer than a month.

Mr. Allen questioned whether the proposed use was for mechanical work only, or was autobody work performed on the site as well, whether there was a dumpster on the site, and whether the dumpster site was fenced in or not.

Mr. Victor DeGirolano stated no; that no autobody work was performed on the site; that there was a dumpster on the site; that the dumpster is not currently fenced in, however, they are working on getting the area fenced in; that they had scrap metal company out of New Jersey, who come down to haul the scrap metal away and rotors, and that they company comes to the site once per month.

Mr. Anthony DeGirolano stated that any material that would not get hauled away, he personally takes to Donovan Salvage Works.

Madam Chair Wingate questioned whether there would be any vehicles stored on the site that would not be tagged, and if so, the number of untagged vehicles that would remain on the site.

Mr. Anthony DeGirolano stated yes; that were untagged and unregistered vehicles on the site; that some of those vehicles were his personal vehicles that he owns, and those vehicles were hobby projects.

Mr. Anthony DeGirolano stated currently there is a row of four to five vehicles on the site.

Mr. Robertson questioned whether the application proposed renting space for vehicle, boat or RV storage, and requested information regarding the surrounding area, and any other businesses located within the area.

Mr. Anthony DeGirolano stated that they were not proposing to rent space for vehicles storage; that there had been times where their customers run into issues; that previously they had a customer

who's husband had passed away; that they ended up having her car for a year after they had fixed it, and they ended up helping her get rid of the vehicle.

Mr. Anthony DeGirolano stated that there was a golf cart business across the street, a strip mall, Poppy's Produce Market, and Paradise restaurant.

Mr. Victor DeGirolano requested to submit into the record a petition of support, which included 369 signatures.

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

Ms. Janet Corliss, resident along Long Neck Road, Millsboro, spoke in support of the application. Ms. Corliss stated that the residents of Pot Nets, White House Beach and numerous other areas all were in need of auto repair services; that her whole family used Long Neck Auto, and that it was nice to have a auto repair place close by.

Ms. Nancy Clansey, local resident, spoke in support of the application. Ms. Clansey stated that she loved the shop, as she is able to walk to it; that she could trust the applicant, and it was nice to have someone that could be trusted, as many of the locals are senior citizens, with many having females as the head of household.

Mr. John Dill, resident of Long Neck for 16 years, spoke in support of the application. Mr. Dill stated that he is the President of the Townhomes of Bayshore Condominium Association, located about 0.75 mile from the site; that within the condominium, there were about 146 owners; that of those, he has about 40 owners who are always looking for a good business to take their automobile to; that they are always looking for a place that is reasonable, trustworthy and guarantee their work; that he had never heard a complaint, and the applicant runs a very professional, family-oriented business, which he would highly recommend to anyone.

Mr. Steven Boyd, resident of White House Beach, spoke in support of the application. Mr. Boyd stated that he felt it was a great local, small business, which he found to be very convenient.

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 2594 Anthony DeGirolano. Motion by Mr. Collins to defer action for further consideration, seconded by Mr. Passwaters and carried unanimously. Motion carried 5-0.

C/U 2602 Sunset Bridge Corporation

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A NON-PROFIT PUBLIC CHARITY PROVIDING RESPITE CARE FACILITY AND USE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 3.64 ACRES, MORE OR LESS. The property is lying on the east side of Charleys Run, approximately, 0.22 mile south of Fred Hudson Road (S.C.R. 360). 911 Address: 31613 Charleys Run, Bethany Beach. Tax Parcel: 134-13.00-84.00.

The Commission found that submitted into the record were the Applicant's Conditional Use Site Plan, the DeIDOT Service Level Evaluation Response Letter, the property deed, the Applicant's exhibits and presentation materials, the Applicant's renderings for the proposed structures on the property, a letter received from the Sussex County Engineering Department's Utility Planning Division, and the Staff Analysis Report. Mr. Whitehouse advise the Commission that 63 written public comments had been received regarding the application.

The Commission found that Mr. John Paradee, Esq. with Baird Mandalas Brockstedt & Federico LLC, spoke on behalf of the Applicant, Sunset Bridge Corporation; that also present were Ms. Terri Sarisky, Founder and Administrator of Sunset Bridge Corporation, Mr. Steve Marsh, Professional Engineer and Vice President of Community Development at Carl M. Freeman Companies and Ms. Katja Kaliski with George, Miles & Buhr, LLC (GMB).

Ms. Sarisky stated that she was a caregiver, and the founder of Sunset Bridge Corporation, located within Bethany Beach, Delaware, where she is also a resident. Ms. Sarisky stated that when there is a terminal diagnosis made for an individual, there typically is a lot of challenge and pandemonium that comes along with it; that often the end of life preparations have not been made in any way, until this challenge in time hits; that it is a topic that is seldom discussed; that about 20% of the population have this discussion before they receive a terminal diagnosis of how to plan for end of life; that the challenge intensifies when there are no longer medical treatment options available; that she personally had been on the receiving end of a bad message for five immediate family members, regarding malignant brain cancer, esophageal cancer, ovarian cancer, kidney failure and most recently, pulmonary fibrosis diagnosis; that when doors are slammed in your face from the people that were helping you, saying that there is nothing else they can do for you, it is an extremely challenging time; it can seem without hope for everyone involved; that their commitment stemmed from their own love and experience; that their mission and goal is to build a retreat home, to be a home where end-of-life guests, and their family can come together to receive help, to enjoy the beauty of a sunrise, and a sunset, and to have time together, free of charge, for one to two weeks, as a transitional stay; that this will allow them to go through the options for end-of-life care; that this will allow caretakers a moment to breathe and give them a chance to

navigate the gap from when traditional medical support is no longer available; that they also want to ensure that they minimize the disparity in treatment options for the underserved population; that if one does not know who to turn to, or what questions to ask, it is often very difficult to find what services are available; that Sunset Bridge was incorporated in Delaware on November 15, 2022; that they applied for their 501C3 Public Charity application on March 24, 2023; that within five days of submitting the application, they received endorsement on March 29, 2023; that she received a personal call from the IRS endorsing what they were doing, and acknowledging the need for the organization, and the services it will provide; that they were grateful for the comments and opinions posted through the Online Application Docket, as they will only make Sunset Bridge a much stronger and better for the community; that from an operations perspective, it was important to note that Sunset Bridge Corporation had already helped 100 people virtually; that their goal was to now build the proposed retreat home, where families can come together, under one roof in a facilitated retreat; that they are proposing a working session, not a vacation; that the project will not be a rental property, allowing keys to be turned over to individuals to enjoy, and have a great time; that they are proposing a facilitated working retreat session; that their goal is to provide people with comfort, peace, renewed strength and reassurance that no one is alone on the journey; that they had found that many folks they had served were alone, or it may be only them and their loved one; that specifically for those who will stay at the retreat home, there would be a very rigorous screening process; that they want to ensure that they are not just receiving a referral from a friend; that the referral must come from a medical professional, and from a professional organization; that they had spent a significant amount of time in discussions with those who, like the Ronald McDonald House, do similar help for the under age 18 population; that their population will be 18 and over; that no one will come to the home that is not 18 years of age as defined by Delaware Code Title 1, Section 302.1; that this is to enable folks to be part of the discussion, planning, and decision-making process; that she previously had discussions with Ms. Pamela Cornforth, the President/CEO of Ronald McDonald House Charities of Greater Delaware; that there are a lot of services available for the under 18 year old population; that when someone is released from the Ronald McDonald House, they do not have any other medical interventions for them, and often services run dry; that many times, people's only option is to enroll in hospice, but many people are not ready to there; that their goal is to help work with folks along the way; that they want to ensure their folks are not undergoing treatment; that they are not a medical facility in any way; that they will not be providing IV chemotherapy, or routine medical care; that when folks have declined or discontinued all treatment options, they will have a formal intake process, as they recognize that no person or journey is exactly the same; that no action plan they place will be the same; that through the intake process, they want to learn about the individual and their family, before that person comes to them; that there will be very thorough background checks; that they do not want someone coming to stay at the property, unless they know who they are, and the folks that are coming with them, for the purpose of their staff and the community; that as part of the day-to-day operations, families come to Sunset Bridge and will work through their framework; that

they have a very rigorous framework that walks through all the different facets of anyone's life; that again, they are proposing a facilitated retreat, not a vacation with back and forth beach trips; that their residents may go out for a walk, or desire to spend an afternoon at the beach; that they will operate all year long; that their work and activities will take place inside the house; that the house will operate 24/7, with at least two staff members present at all times; that meals will be provided; that they have a cook on staff; that food will be brought in once a week; that one of the greatest attributes she remembered at a retreat home was that they provided a cup of tomato soup, and a copy of coffee, which made her feel she had won the lottery; that they want to help nourish people's body and soul; that families are permitted to bring some food; that they will have one kitchen, and one dining area; that they will have a meditation/spiritual room, and one family room; that United Way had done a phenomenal job with their 211 program, however, it does not come with recommendations, past experiences, or what is best for where you live and are; that their program will help folks navigate through what options are available; that their program will provide estate planning by virtually meeting with an estate planner, both an attorney, as well as someone in the banking industry; that they will provide legacy planning, which will include establishing documents that have their loved ones passports, accounts, their loved ones affairs and housing information; that this helps organize their loved ones' digital footprint; that they will identify the resident's wish list or bucket list; that they will meet with social workers and counselors all through a virtual setting; that she is a hospice volunteer; that it is very important that folks are educated on the difference between palliative and hospice care, and the options that are available to them; that they would like for their residents to be assessed or evaluated for hospice or palliative care, so that they can leave their facility with that being part of their action plan ; that it is important to note that they are not a hospice facility; that they complement hospice, but to not provide hospice care; that overall, they engage in active listening, discuss various service options, endeavor to assist in identifying support for everyone involved; that there is a lot of support available in the State of Delaware for caregivers, however, folks may not know about it; that they expect their residents to leave Sunset Bridge Retreat Home with an action plan; that each action plan will look different; that their intake process, at the beginning, will help them in developing those action plans; that prior to them purchasing the property in early 2023, there was an existing home on the property; that the property was mostly trees with nothing else around, which made the property very conducive for them, as they wanted to create a peaceful, serene, and calm environment; that they learned that the existing house had a very large crack in the foundation, in addition to an issue with mold; that because of this, they were unable to use the existing home for their purpose; that when they shared their proposed use during a community meeting, held at the South Coastal Library in October 2025, they originally showed a bigger structure of 12 bedrooms; that because they would be serving residents who would be staying in the home, they felt a bigger space would be preferred, in the case someone would come with two loved ones; that they would have an area for time together, but also separate when needed; that they recognized their folks would be engages in working sessions and spending time together within the home; that their

Board of Directors felt it would be fiscally responsible for them, as a public charity, to have a larger scope to help for families, since they are paying for staff, and allowing them to provide a greater opportunity to those they serve; that based on their experience of helping over 100 people over the past couple years, many of them being one or two who were helping their family, it did not make sense to have 12 bedrooms; that they heard everyone's feedback, and decided to reduce the scope and the size; that they came up with eight Board resolutions; that they will ensure the character of the home fits the style of the surrounding communities, which had always been there intent; that their home footprint includes screened-in patios; that the area, being on the water, has a lot of mosquitoes; that outdoor time will be spent in a screened-in patio; that they want to be able to use those porches throughout the year; that they were intentionally designing the house were one cannot see the front door, and so people cannot see the families come or go; that one family may be there for one week, while another family may be there for two weeks; that they want to respect people's privacy; that there will be no sign posted outside; that all parking will take place on the 3.6 acre, Sunset Bridge Corporation, property; that the majority of parking will be located under the home, as the first floor will be raised on pilings; that there will be no parking in the Bethany Woods cul-de-sac; that all parking, including the two staff members and all residents of the retreat home will be located on their property; that there will be rules placed, which will govern participation; that residents must be 18 years of age or older, no visitors are permitted during the stay, unless it is an extreme exception; that they anticipate eight to 10 people in the house at one time in total, including staff; that there is a limit on the length of stay, the number of people who can come, and a limit on the number of vehicles folks can bring; that they can bring a maximum of two cars if needed; that they agree to have no more than three, simultaneous families present at any given time, as they recognize that a family could be one person; that if they are paying two staff members, but only having two families, one each, that ratio does not quite work out; that they want to be able to have three families, in the case they happen to have three families each of one; that final details for the home are not completely ironed out yet, they are committed to ensuring that the footprint of the home is no more than 3,000 square feet; that they are also committed to ensuring that the Sunset Bridge Corporation Retreat Home has no more than six bedrooms; that they are working with a couple different pro bono architects, for designing two floors; that above the area where the vehicles would be parked, would be two living spaces; that the second floor would be the living space, with the optimal view, the family room, and the kitchen; that they will not request future expansion of the retreat home; that she would love to have a little gazebo, located closer to the wetlands and the water in the future; that they will not expand the size of the home, and will not expand beyond the proposed six bedrooms; that it is their hope that with success, others will embrace their model and replicate it elsewhere; that they do not want to deter or detract in anyway from the beauty of the community which already exists; that it is their desire to ensure the proposed retreat home adds to the beauty, the opportunity, and the overall value of the community; that as a Bethany Beach resident, the best of Sussex County, and Bethany Beach is in her own best interest as well; that she thanked everyone for their opinions and perspectives; that

they continue to ask the community for their involvement and support; that they have a member of the Bethany Woods community, who graciously accepted their offer to be on their Transportation Committee; that they genuinely would like for the project to be a win for not only the people they serve, but also their collective community at large, and she requested to submit into the record, a letter of endorsement from State Representative, Mr. Ronald E. Gray.

Mr. Paradee submitted a written letter of support from Mr. Ronald E. Gray, State Representative of the 38th District.

Mr. Paradee stated it had been unfortunate that there had been a certain amount of misinformation and misunderstanding about what the facility is; that there was a letter of opposition submitted from Mr. William Stout that cited a number of Code provisions and case law; that everything cited in the letter was incorrect; that Mr. Stout cited Section 115-210 a number of times, which is a provision that deals with special exceptions that can be granted by the Board of Adjustment; that these had nothing to do with a Conditional Use request before the Planning & Zoning Commission; that he cited Section 115-194, which talks about Conservation Zones, and really had no application to the proposed application; that he cited Section 115-48, which is Special Use Exceptions within the HR-1 and HR-2 (High Density Residential) Districts, which had nothing to do with the application; that he cited Section 115-20, which are the permitted uses within the AR-1 and AR-2 (Agricultural Residential) Zoning Districts, again having no application to the proposed project; that he cited many cases, including the Kwik-Check Case, which is a landmark Delaware Supreme Court decision, however, had nothing to do with the application; that the Kwik-Check Case, would be a Board of Adjustment decision, and it talked about the standard for area variances; that Mr. Stout cited another Board of Adjustment case in his letter, which he called Miller vs. Board of Adjustment of Sussex County; that there is no such case; that he believed Mr. Stout was citing to Miller vs. Board of Adjustment of the Town of Dewey Beach; that again, it was a Board of Adjustment decision that was actually affirmed on appeal, and had nothing to do with the application; that he cited Tate vs. Miles, which was a Delaware Supreme Court case that basically stated that bodies, such as the Planning Commission, must give reasons for their decisions, but had zero application to the current circumstance; that he cited the Council of Civic Organizations of Brandywine 100, which dealt with a motion to dismiss, that was granted for failure to name an indispensable party, again, not applicable to the application; that he felt there was misinformation presented, as well as some misunderstandings; that one of the opposition comments referenced Conditional Use No. 1244 from 1998, stating that it was a similar application for Conditional Use for the property; that it was not; that it was a Conditional Use for the a nearby property called Slat Pond, and it was approved by Sussex County; that he found it interesting that Conditional Use No. 1244 was for an elderly community in Salt Pond, and it was approved; that because of this, there is some precedent; that they are not proposing a commercial structure; that they are proposing a multi-family residential home; that multi-family uses are permitted as residential uses within the

district; that they are proposing something a little different than what is typically seen; that a typical multi-family conditional use might be apartment buildings, and their application is somewhat similar to that use; that he felt no one really disagrees with the merits of what they were proposing or the need for the services they are offering; that he believed the concerns seem to be from the neighbors regarding the size of the home and the amount of traffic the use would generate; that in 2023, the Bethany Woods Homeowners Association granted an easement to Sunset Bridge Corporation, to allow them to use the subdivision roads; that what is important about the easement agreement is it requires Sunset Bridge to contribute to the maintenance of the road, such that if their traffic caused damage to the roadways, Sunset Bridge would have to pay for it; that DelDOT had indicated that the traffic impact for the proposed use would be diminutive, and they found no problem with the roads being adequate to serve the property; that the Applicant had made a number of concessions to accommodate the concerns which had been expressed by the neighborhood regarding the size and the traffic, by agreeing to limit the size of the facility to 3,000 square foot footprint, while limiting the number of bedrooms down 12 bedrooms to six bedrooms; that the Applicant had spoken to limiting the number of families, limiting parking and so on in an effort to address concerns; that the size and the impact of the facility had been greatly diminished from what was originally proposed; that per Sussex County Code, Section 115-171, the purpose of the article is to provide for certain uses, which cannot be well adjusted to their environment in particular locations, with full protection offered to surrounding properties by rigid application of the District regulations; that the uses are generally of a public or semi public character, and are essential, and desirable for the general convenience of and welfare; that because of the nature of the use, the importance of the relationship to the Comprehensive Plan and the possible impact, not only on neighboring properties, but on a large section of the County, the application requires the exercise of planning judgement in location and site plan; that the Planning Department, in its report, concluded, based on the analysis provided, the Conditional Use to allow for a non-profit public charity for providing respite care, associated parking, and other related site improvements to be constructed on the site location, could be consistent with the surrounding land uses, zoning and general environment given considerations of scale and impact; that he would have Mr. Steve Marsh, P.E. speak to the scale and impact, and how the application is being reduced; that the application satisfied the standard, and they therefore would respectfully request the Planning Commission's favorable consideration.

Mr. Steve Marsh, P.E. stated that the big point was that there was a lot of concern about the size of the project; that they made a commitment to limit the footprint of the building and the number of bedrooms; that he and Ms. Kaliski spent a lot of time developing and designing communities when he was at George, Miles & Buhr, LLC (GMB); that they looked at a few samples of projects in not particularly large homes; that the average was about 2,800 to 3,200 square feet for a footprint, and that those were consistent with homes being built now.

Mr. Collins stated that there were some concerns expressed around what would happen if years down the road, the organization was not found to be successful financially, and he questioned whether the Conditional Use would expire at that time.

Mr. Robertson stated that expiration was not necessarily the case; that the Conditional Use would expire for abandonment or the lack of use; that if the organization were able to transfer it to another similar organization, the use would be able to continue; that the Conditional Use, even under new ownership, would still be subject to all the imposed conditions, and if the conditions were not followed the Conditional Use approval could be revoked.

Mr. Pettyjohn stated that he understood the application was for a respite type of situation, not necessarily ideal for someone to be brought in or taken away by ambulance; that he understood emergencies can happen anywhere at anytime, but questioned whether ambulance transportation was the intent or not.

Mr. Marsh, P.E. stated that the proposed use was not for a nursing facility; that he felt there was no more likelihood of that need more than there would be at any other home; that their residents will not be receiving treatment; that they will not be right at the end of life; that their facility is more a retreat for end of life planning, and there will not be medication driven to the site, or a higher probability of needing emergency medical vehicles.

Ms. Sarisky stated that residents coming to them cannot be bedridden, and that is one of their requirements upon intake; that some people may be in a wheelchair; that their residents will not need to have declined medical treatment; that as part of their Transportation Committee, they will be reviewing the number of times that people are coming and going; that they will not tell people they are not allowed to leave the house, but they are not going to encourage them ; that they will be busy during the day while there; that they will ensure there is not a lot of back and forth because they want to be respectful the community, and no ambulances are anticipated unless there is some unexpected accident that would happen, just like at anyone else's home.

Mr. Collins stated that the property could be sold to a developer, should the Conditional Use not receive a favorable decision from the County Council, and the property potentially could be developed into a beach vacation house or rental units.

Mr. Robertson stated that any of the permitted uses could take place on the property, and as Mr. Marsh had testified, one could build a fairly large home on the site, which could be used for daily or weekly rentals.

Madam Chair Wingate stated there were much larger beach homes already built in the area.

Mr. Allen questioned what the limit of the stay was, and what would happen if the resident declined during their stay and required hospice.

Mr. Sarisky stated that a stay would be limited to one to two weeks; that the stay would depend upon the individual, their situation, and the pre-screening that they would perform; that if someone was closer to potentially end of life, or if they were bedridden, they would not be coming to the retreat; that those people should already be on hospice, and hospice would be their recommendation for them; that they will have palliative care and hospice nurses working with them; that one of them is a member of their Board; that she cannot predict the future, and any one of us could be healthy today, and gone tomorrow, but that is not their intent, and their intent is to help people earlier in their process, when they really need the help to get their life sorted and together.

Mr. Paradee stated for clarification that the application is not for a hospice facility.

Madam Chair Wingate stated that she felt the proposed use is wonderful, and a wonderful opportunity to help our neighbors; that everyone knows someone with cancer, or have gone through any other medical need; that to have a facility, like the one proposed, could help people push through to get to the end because too many times there are no plans made, and because of this, she felt the proposed use was a wonderful opportunity for the community.

Mr. Robertson stated that Ms. Sarisky mentioned resolutions made by the Board; that he had questions regarding a few of the resolutions, regarding the requirement of no visitors, and he questioned what the distinction was between visitors and families.

Ms. Sarisky stated that as part of the intake process, they evaluate the individual with the terminal diagnosis, and determine how many of their loved ones will be coming with them; that for most people it is one or two people; that there may be occasions where a person has four sisters that they are very close to, and would really like all four sisters to be there; that those elected members are not considered visitors; that those members are part of their intake; that they are the caregiver, or also known as the caregiving unit, which consists of the individual with the terminal diagnosis and their loved ones; that it may only be the individual, as many people are alone; that it could be a friend, as they will not require the caregiver to only be a family member; that all members of the caregiving unit will be pre-screened and evaluated before they arrive on the property; that an example of a visitor, would be the individual's mother-in-law, who happened to be down from Baltimore, and decides she wants to drive over; that they would not allow her; that they would be happy to get the mother-in-law on the phone, or to set something up virtually; that they do not want visitors coming in and out of the property; that they want the caregiving unit to be there, focused in a working retreat; that there will be individuals who will not want to come to them,

because they will rather have a week at the beach; that there are other resources to help the individual embrace those opportunities as well, and they want to help people and their caregiving unit, collectively, in a facilitate retreat.

Mr. Pettyjohn questioned the maximum number of beds for people to stay.

Ms. Sarisky stated that they would have a maximum of six bedrooms, with approximately eight to 10 people total within the house, and that this maximum would count the staff.

The Commission found that there were six people present in support of the application, and four people spoke in opposition to the application.

Mr. Pettyjohn questioned whether there was any chance the facility could make a mistake, be overcrowded, and possibly have people residing within tents outside.

Ms. Sarisky stated no, that residing in tents outside the home was not option, and that was the reasoning for their upfront, due diligence through the pre-screening process.

The Commission found that there were six people present who wished to speak in support and four people present who wished to speak in opposition to the application.

Ms. Faye Iudicello, resident of Bethany for 46 years, spoke in support of the application. Ms. Iudicello stated that she had often used the area for refuge; that many people enjoy the coastal area, and locals often forget it is a luxury; that one of the greatest things she learned from the Wounded Warrior Project was that they had gained more from it than they had been impacted; that the noise is no more than hearing kids on the beach, jumping in the waves for the first time, and just as love does not exist until it is given away, community does not exist until you let people in.

Ms. Kathy Dickman, year-round resident of Bethany Beach, spoke in support of the application. Ms. Dickman stated that she had owned her home for 40 years, which she rented in the beginning; that rentals are noisy, as people are coming there to have fun; that the proposed application is a six-bedroom, non-profit retreat, that would fill a need in the county and surrounding areas; that there is a gap in the care of a family that is dealing with end-of-life issues; that she spoke as a retired nurse, nurse practitioner who had hospice patients, and an oncology background; that she had personal experience through her mother's death at age 54 from lung cancer; that the retreat will be quiet; that people will not be having big parties; that she spoke highly of Ms. Terri Sarisky's character, as she was her neighbor and good friend; that Ms. Sarisky could be counted on; that she was reliable, good person, and that she 110% supported her on this project.

Ms. Beth Wong, RN, resident of Milton, spoke in support of the application. Ms. Wong stated that she is currently a nurse for a Sussex County based non-profit, called Nurses & Neighbors; that Nurses & Neighbors is a community partner with Sunset Bridge; that she, and all of their members support the application; that the organization's Board of Directors were in favor of the application; that she was currently a volunteer nurse, that people can contact her 24/7; that many of the local residents live here, with their children living at least two hours away; that a lot of people live alone; that she is a person someone can call regarding those decisions on what to do, or with questions regarding hospice; that by training she was an operating room nurse; that this is the right time for what is being proposed, and it is the right thing to do; that she wanted to give Ms. Terri Sarisky credit on her new model of care; that it would be great to have this new model of care begin in Delaware, specifically Sussex County, and go nationwide; that the application did not propose a bunch of kids; that it is targeting the woman in a crochet group, and to help those types of people make their end-of-life decisions.

Mr. Val Curran, resident of Bethany Beach, spoke in support of the application. Mr. Curran stated that he agreed with all the things the others before him stated; that Ms. Sarisky and her husband were dear friends; that when Ms. Sarisky explained her idea, he thought it was righteous; that everyone has lost someone; that many do not get the family interaction the application would provide; that when Wounded Warrior began 13 years ago, with Operation Seize the Day, it was only for families of the wounded warriors; that to see them interacting on the beach was emotional and unique; that he wished that service was around many years ago, and he is thankful now that the service has been put together.

Mr. Andreas Gresser, resident of Bethany Beach spoke in support of the application. Mr. stated that he resided in close proximity to the site; that 45 years ago, when he began his career, he worked as a nurse; that he appreciated the effort; that his main concern in the beginning was the potential for parking in the cul-de-sac, and the creation of additional traffic; that based on what was presented at the public hearing, the Applicant listened to the concerns, by slimming down the size of the home, which will limit the number of cars and traffic; that he had purchased his home because it was on a cul-de-sac; that there was now six other additions to the south, and the street had become more like a through street, and often used as a parking lot, and if those things could be managed, he would retract his formerly expressed objection to the application.

Mr. Rob Sarisky, husband of Ms. Terri Sarisky, spoke in support of the application. Mr. Sarisky stated that to Ms. Sarisky, every voice matters; that she listens and takes constructive action; that her entire career had been spent in compliance, and she is rule follower; that they heard a lot from the neighbors that their mission had merit; that it takes courage to stand up and voice opposing opinions; that he hoped that people in opposition could come around, and gather a better perspective on what the mission was really about; that Ms. Sarisky is driven by data and facts; that

she makes all decisions collectively as a group based on those two things; that opinions are important to her, but facts and data must underpin all the decisions that she makes; that as a testament to her character, he did not know anyone else like her; that she is a positive individual, who respects every voice, even those that may be opposing; that she spends hours attempting to address issues, while remaining consistent with the mission; that this is the type of person the area will be receiving as a neighbor, and she is a community steward, not just for those she is serving through the retreat, but a community steward for everyone else as well.

Mr. William Stout, resident of Charleys Run (Bethany Woods), Bethany, spoke in opposition to application. Mr. Stout stated that he is not an attorney; that he believed everyone in the community admired the passion, vision and mission that Ms. Sarisky had put forth; that however, they had serious concerns regarding the proposal; that Bethany Woods subdivision was approved in 2008 for 19 lots; that 18 of those lots are located along Jay Bird Street and Charleys Run; that Lot 19 is located within the woods, past the Sunset Bridge property; that the Sunset Bridge property is not considered part of Bethany Woods; that at the end of the cul-de-sac, a driveway was placed to access Lot 19, and also to service the Sunset Bridge property; that it is a 12 foot driveway, which was placed to serve two homes; that beyond the Sunset Bridge property, there is Osprey Watch, which consists of five homes, but is not considered a subdivision; it was approved as two lots, one lot consisting of two homes, and the other lot consisting of three homes; that now the 12 foot driveway will serve Osprey Watch's five homes, Sunset Bridge's respite facility, plus the home on Lot 19, which is part of Bethany Woods; that the 12 foot driveway provides only one ingress and one egress; that the only way out is off of McCoy's Way, which they all had easements agreements with Salt Pond in order to use McCoy's Way; that the bridge is major concern; that if the bridge goes out, there will be no way for 26 homes, plus a respite care facility to have ingress or egress; that in 2023, Bethany Woods did enter into an easement agreement with Sunset Bridge, at which time their mission was shared with the community; that at that time, their vision was to use the existing home on the property, with potentially adding one or two bedrooms, and instead what was filed, was a Conditional Use application for a four unit, three bedroom, massive facility, which became the reason for their concerns.

Madam Chair Wingate questioned whether the Bethany Woods Homeowners Association had a maximum allowable square footage for buildings.

Mr. Stout stated that the Bethany Woods Homeowners Association did not have a maximum but rather had a minimum.

Madam Chair Wingate questioned whether it would be better if Ms. Sarisky chose to build and rent an 8,000 square foot home, with additional traffic, rather than the proposed respite facility.

Mr. Stout stated that he did not know whether the 8,000 square foot home for rent would be better or worse than the proposed respite facility.

Madam Chair Wingate stated that she felt the proposed application is reasonable with what is permitted and wanted to confirm on the record that the square footage being proposed is permissible.

Mr. Stout stated that some of the nearby residents' concerns consisted of a failure to demonstrate compatibility with the surrounding area; that as of the current public hearing they had received new information regarding the size of the facility; that they felt the rendering shared with them demonstrated compatibility as it did not look like a house; that another concern was adverse impact on traffic and public safety; that they are still not clear on how much more traffic will be crossing the bridge or the 12 foot driveway; that only one car can fit on it; that in the event two cars are trying to access it, someone will have to get out of the way or back up; that the safety and welfare of the community are also a concern, especially with residents trying to get out on a 12 foot driveway; that he questioned whether fire and ambulances had gone back there to see how they would service the give homes built within Osprey Watch, and he could not see how those vehicles would operate in and out of the 12 foot driveway.

Madam Chair Wingate stated that the plan would require State Fire Marshal approval, before the Final Site Plan would be permitted to be approved.

Mr. Robertson stated that Charleys Run appeared to be an approximate 30 to 40 foot right of way; that the pavement width may only be 12 feet in width, but the right of way was wider; that the Bethany Woods Property Owners Association granted an easement, which is in the record, to Sunset Bridge Corporation, and it now appears that Mr. Stout was asking the Commission to ignore the easement agreement because he no longer wanted Sunset Bridge to use the roadway.

Mr. Stout stated that was not his intention, and that the intention of his concern was regarding the safety of using a 12-foot-wide driveway.

Mr. Robertson questioned why the easement was granted in the first place; that he felt the safety discussion would have been appropriate to have back when the easement was granted, not at the current public hearing, and he assumed that the Property Association would have to be involved in increasing the roadway as well.

Mr. Stout stated that he did not know how the developer originally negotiated in 2008; that there was no easement agreement with the owners of Sunset Bridge, prior to Sunset Bridge, and he

believed the previous owners were the Eastburn's, at which time they were allowed to come through the community without paying any compensation to Bethany Woods.

Madam Chair Wingate stated that was not the case with Sunset Bridge, and therefore was irrelevant to the current application.

Mr. Robertson stated that the easement agreement was established with Sunset Bridge in 2023, providing them the right to use the road; that he felt the safety conversation should have been had when the easement agreement was being negotiated, and he believed the pavement is a 12 foot width, however the right of way appears to be 30 to 40 feet in width.

Mr. Robert (Bob) Bailey, resident of Charleys Run in Bethany Beach, spoke in opposition to the application. Mr. Bailey stated that all the residents of the community are full-time residents; that he recently had to deal with the planning and passing of a loved one, Mr. Ed Riggan, owner of Ed's Chicken and Crabs, in Dewey Beach; that he questioned who would be against a respite center; that he was against a respite super center; that they had received new information, which maybe had helped some of his fears; that at its origin three years ago, the community was asked to support a noble cause, being the respite center; that the request was easy to support, as it was a charitable initiative, which has great cause and merit; that however, the current plan got bigger; that when the easement agreement was granted three years ago, it was granted for the existing dwelling on the property, which was proposed to become the respite center; that at that time, the intention was to grant an easement, which would become a respite center, but would not substantially be changing; that things had changed; that the rendering looked nice, but it looked more like a small Motel 6; that it was inconsistent with the existing houses in the community; that the existing residents are looking for consistency; that he understood they would be using a similar builder, and that was good news; that to secure support, Bethany Woods community was promised by Sunset Bridge Corporation that they would use the original single-family home that existed on the property; that the existing home had since been torn down; that he understood the facility is not proposed to be a hospice center, which was great, as he did not feel the site was an appropriate place for a hospice center; that he was also concerned about the previously mentioned medical and emergency safety; that he was concerned about the number of cars and traffic the facility would create; that he did not feel the 12 foot wide road could handle the increased traffic; that as Ms. Sarisky stated, this proposed use had never been done before; that the group managing this profoundly needed services, had never managed this service before; that there could be a law of unintended consequences; that they wanted to plan for the worse, not for the best; that they want to work together to get the best; that he felt due consideration had not been given to the transient scale that would be present, including the number of family members, counselors, social workers, palliative nurses, advisors, medical professionals, planners, estate and legacy planners, the full time, on-premises staff and cooks, and that the separate families would be using different sets of

counselors and planners, and they would not all be using the same one; that he was advised that two weeks, following the passing of the family member, the family can come back for a re-visit; that this was written within the document that was presented to them; that he appreciated the reduction of the building; that he still had concern regarding serving more than one family at a time; that the organization had shared their concerns regarding parking and traffic; that Sunset Bridge had dialogue with Hocker's Grocery Store regarding overflow parking at the local grocery store, which was reflective of the law of unintended consequence; and he requested that the information presented at the hearing be memorialized in writing, as he wanted to make it a success, not a failure.

Mr. Collins stated that should the application be approved, there would be conditions placed upon the use, which would be memorialized within an adopted Ordinance; that the application would have a second public hearing before the Sussex County Council, who may place additional conditions, and questioned what size maximum could be developed on the property.

Mr. Robertson stated that the property is located outside of the Bethany Woods Homeowners Association; that he did not believe there were any restrictive covenants, and it would mostly come down to compliance with the building setbacks, and the maximum height of 42 feet.

Madam Chair Wingate stated that the property is approximately three acres, permitting two dwellings per acre.

Mr. Whitehouse stated that theoretically, borrowing no issues of wetlands, setbacks or any other building hardship, the maximum density of the zoning district would permit a maximum of 43 dwellings units.

Mr. Collins stated that he wanted that information to be placed on record, and that 43 dwelling units could be placed on the property, should it be found that the property was not a suitable place for the proposed respite center to be built.

Mr. Robertson stated that he appreciated the information; that however, there would be some guardrails on that, as 43 dwelling units would require a certain number of parking spaces and stormwater management, and there are wetlands on the property which would create additional building setbacks.

Ms. Leslie Knapp, resident of Bethany Woods, spoke in opposition to the application. Ms. Knapp stated that she would like the property to only be used for the proposed purpose, and could not be rented if it were not used for the proposed use, and requested the right for the Bethany Woods property owners to renegotiate the easement agreement, based on the increased usage of the

roadway, as the original agreement was based on the three bedroom home which was existing at that time.

Mr. Robertson stated that the easement agreement is a contractual issue; that Sussex County did not have any authority to require folks to renegotiate contracts; that he looked into the easement agreement to see if it spoke on any limitations of the easement being used for residential versus commercial uses; that the contract was silent in that regard, and that Sussex County cannot enforce restrictive covenants, as they are private contractual obligations for the property owners, homeowners associations et cetera.

Mr. Collins stated that should the Commission place a condition prohibiting the rental of units, the condition would apply to the Conditional Use itself and would not apply should they convert the property or if the property were sold to another party.

Madam Chair Wingate stated that she did not find it fair to the rest of the community; that if someone else wanted to, at some point, rent their property, they would be permitted to do so, and that residents within Bethany Beach rent their properties all the time.

Ms. Knapp stated that Bethany Woods had restrictions within their homeowners' documents that rentals are only allowed under certain circumstances.

Mr. Collins stated that the subject property is not located under the Bethany Woods Homeowners Association.

Mr. Ward Gaisor, resident of Salt Pond, spoke in opposition to the application. Mr. Gaisor stated that in May of 1998, Conditional Use No. 1244 was approved by the Sussex County Council, however, that happened only after the Planning & Zoning Commission had recommended against it, as they did not feel it was an appropriate location for mixed-use density, previous C and that the Conditional Use was abandoned, as no development took place after three years.

Mr. Robertson stated that there had been a lot of discussion of what could be done on the site, should the application not get approved or were to get abandoned; that the MR (Medium Density Residential) Zoning District does not permit multi-family by right; that should the application not be approved, it would only permit for one single-family home; that the single-family could be a large one, as had been seen in North Bethany; that should the current or any future applicant propose a multi-family dwelling, they would be required to come back before the Planning Commission and the County Council through another Conditional Use, and would automatically convert to those suggested types of uses.

Mr. Collins stated that there are examples of similar uses located nearby, which would be favorable to any future application, which was a concern he had.

Mr. Robertson stated that Spinnaker Village was made up of townhomes, and there appeared to be another development off Fred Hudson Road, which had townhomes as well.

Madam Chair Wingate stated there was also Salt Pond, Inland Bays, and several others which were also rented by many of those residents as well.

Mr. Collins stated that he currently has a landscape business located behind his home; that he would rather that business be there than many townhomes; that even though the business may at times create noise, dust, and unpleasant smells, he would rather deal with those than an additional 30 neighbors; that he asked these questions because it is good to know the trade-offs; that if this site is not appropriate for the proposed use of a respite facility, the land will be used for something else, as it is valuable; that he would assume if the Applicant wanted to pursue the mission, they would not hold onto the property, and that they would likely sell it.

Mr. Pettyjohn questioned whether Bethany Woods was granted entrance approval from Salt Pond, with Sunset Bridge trying to gain access through Bethany Woods.

Madam Chair Wingate stated that Mr. Pettyjohn was correct, and Bethany Woods was granted entrance approval from Salt Pond.

Mr. Robertson stated that Sunset Bridge already had obtained approval from Bethany Woods through the easement agreement; that those entrances exist; that the DelDOT entrance was from Fred Hudson Road, and he was unsure where the DelDOT maintenance stopped.

Mr. Whitehouse stated that when the parcels to the south were previously subdivided it went through the review process, which required review by the Commission, and at that time the Commission and staff had looked at Charleys Run, where it connects, and the location of the easements.

Ms. Sarisky stated that they had agreed that initially there services would be gradual; that they intended to start off with one family in one year; that within year two, they would expand to two families in one year, and then maybe increase to three families; that with having a Bethany Woods representative on their Transportation Committee, it will help with monitoring; that she intended to monitor incoming and outgoing traffic; that if there were to be a recommendation made that the traffic is too much, they will address that; that they had proactively approached the Bethany Woods Homeowners Association before they purchased the property to discuss the use of the bridge; that

her daughter, who is a structural civil engineer, who previously worked for DelDOT and bridges, attended the meeting; that at that time they stated that they would evaluate the existing home, and that they wanted to be good neighbors; that their most important discussion was the bridge and its protection, as it had received a significant amount of love since the development of all the houses to the east of the site; that Sunset Bridge paid more money that year to place into reserve funds; that they were contributing to the bridge and the roadways; that if the Transportation Committee stated there was more traffic, than they would contribute more money; that they are respectful; that they love the quiet privacy of the existing 12 foot wide road, and she suspected the people who live down that road would say the same thing; that when you reach the end of the cul-de-sac, which they will not be parking in, there is a little enclave of trees with a beautiful 12 foot roadway, with their property located on the left; that she did not feel it was any different than any other cul-de-sac, with there being one way in and one way out; that they recognize and respect that it is not a wide road, but they had heard people who live there state that they would wait in their driveway for a car to go by; that there are six homes and the Sunset Bridge property; that it is not like 40 homes are trying to exist on a one way road; that they would evaluate and consider that there be a time, either twice a year, one time a year or once a quarter, if they got up to that, where the family would come back for bereavement and counseling; that this time would not be for vacationing; that all consulting and services are virtual, as they currently work in a virtual setting; that they have a banker and a State attorney lawyer who provide all work virtually; that there will be no influx of people coming and going, and there may be staff who come and go after there eight or twelve hour shift ends; that they will have a coordinator on site to help pull stuff together, and keep people focused on outcomes; that residents will have an agenda, and a schedule for the facilitated workshop; that they have a framework that the residents would work through; that the residents will be leaving with an action plan and results after spending their one to two weeks at Sunset Bridge; that after year two, they family will be invited back, if they choose to, for bereavement and counseling; that at that time, the family member will only be there for that specific reason, and there will not be any other families at retreat during that same time; that the family member may stay overnight; that the specific intent is to allow the caregiver to close out the journey where they started; that not everyone will want to come back to them; that they do not have this set in stone yet, but were offering it as a consideration; that they will need to get all their ducks in a row for their opening on year one and year two; that an example would be, if she attended the retreat with her spouse, and he spouse passed away, she would be invited to come back for bereavement and counseling; that this would be subject to the same maximum house limit stated previously; that it would not be open to other friends or family members, and that they have very strict rules and guidelines around how they operate.

Mr. Robertson questioned how Sunset Bridge would schedule or plan for people's passings.

Ms. Sarisky stated that it would be offered once or twice a year, where one week would be blocked off for anyone who had a loved one pass in the past 12 months, they would be invited to come back; that if they find this week is not being used, they will open that week for others; that they find it is a great use for people to be able to come back once a year, and it would be specifically intended for those who had loved ones who passed within the past 12 months.

Ms. Robertson stated he was a bit concerned that this consideration was not presented during the initial part of the public hearing presentation; that the way it was presented initially, Sunset Bridge probably would not have been allowed to have caregivers return to the retreat, as there would have been conditions imposed that would not have allowed folks to come back for bereavement later on; that it would have only been approved for the respite care facility, where people could reside while performing their end-of-life planning; that it would have precluded what is now being described, and he believed the community was concerned as they were told one thing, and heard something different at the public hearing.

Ms. Sarisky apologized for not mentioning the consideration earlier, however, it is part of their submitted application; that she hoped the community did hear something different at the hearing, as they made changes based on their heard voices; that they would agree to eliminate the caregiver bereavement if it was going to cause contention; that there are other ways for people to receive that service, and that their primary goal is to help people as they go through trauma.

Mr. Collins stated that he suspected that Sunset Bridge could offer that service virtually to those who would like to take advantage of the service.

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 2602 Sunset Bridge Corporation. Motion by Mr. Collins, seconded by Mr. Passwaters, and carried unanimously. Motion carried 5-0.

C/U 2636 Antulio Joel Chavez Lopez

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MECHANICAL TRAILER MAINTENANCE BUSINESS AND STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS. The property is lying on the west side of Doddtown Road (S.C.R. 293), approximately 0.36 mile north of Anderson Corner Road (S.C.R. 292). 911 Address: 21032 Doddtown Road, Harbeson. Tax Parcel: 135-17.00-25.00.

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

Mr. Whitehouse advised the Commission that the application did follow the service of a Sussex County Notice of Violation letter, which had been served in September 2025, and the current Conditional Use application was the Applicant response to the issued violation.

The Commission found that Mr. Antulio Joel Chavez Lopez spoke on behalf of this application. Mr. Lopez stated that he operates a six-tractor trailer business; that they do make a lot of noise, as they run on different hours, leaving the site, returning, and going back out again; that that it is not a mechanical trailer maintenance business; that it is only tractor trailers coming and going; that he works for Allen's doing livestock, and that is why he had different hours for different trucks.

Madam Chair Wingate questioned what the hours of operation would be.

Mr. Lopez stated that they begin operations at midnight, at which time the trucks leave and return to the property the next day anytime between 10:00 am until 1:00 pm.

Madam Chair Wingate stated she was confused and questioned exactly what was being performed on the site other than tractor trailers coming and going from the site.

Mr. Lopez stated that he uses his property as a parking lot for the tractor trailers, and that the mechanic work was mentioned because he works on his own trucks on the property; that he is not a public mechanic; that he is a private mechanic for himself; that he owns all six tractor trailers and performs mechanic maintenance on them himself.

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

Mr. Lopez stated that he was unsure, but that there were a lot of neighbors who ran their own businesses from their properties, and that he is requesting to use his land as a parking lot and nothing more.

Mr. Pettyjohn questioned whether Mr. Lopez's trucks were kept on the site currently, or whether they were kept elsewhere, whether there were any other businesses being operated from the property, and mentioned it appeared that firewood was being burned to the rear of the property.

Mr. Lopez stated that all the trucks are stored on his property; that no other businesses were being operated from the site other than his trucking business; that he had began cleaning the rear and side of the property when he moved there, because there was no space, only a driveway, and so he cleaned up the property to make the parking lot.

Mr. Pettyjohn stated that the application had mentioned a bobtail truck and questioned why that had been mentioned.

Mr. Lopez stated that before he moved to the site, he asked a State trooper, and DelDOT if it was okay for him to have his truck there, and they stated that it was okay as long as they were bobtail, not with a trailer.

Mr. Pettyjohn stated that Mr. Lopez has six trucks; that he questioned whether Mr. Lopez operated one of the trucks himself, whether the other five drivers were family, friends or employees, whether Mr. Lopez performed his own tire changes, whether fuel was kept on the site, or purchased on the road, whether there are any inoperable or unregistered vehicles located on the site, and whether Mr. Lopez planned to build on the property in the future.

Mr. Lopez stated that he had five employees, and that he does live haul and haul mulch for different states; that the live haul trailers belong to the chicken plant, but the tractor itself is owned by him; that he does not change his own tires all the time; that he does not perform big mechanical work, only small jobs; that if a bigger mechanical job is required he would take the trailer somewhere else; that they purchase fuel on the road, or it is provided through Alliance; that all vehicles are running; that he had one small car, which he planned to move out soon; that he planned to place a building to the back of the house to fix his trucks; that the house sits horizontally with the septic located beside it; that he did not have a lot of space to make a driveway in the back, and was the reasoning for additional driveway.

Mr. Allen stated that the Site Plan reflected an area which stated, “existing tree line to be trimmed back only as necessary” and questioned whether this was something the Commission would allow.

Mr. Robertson stated that it would be shown on the Final Site Plan, that there is no prohibition regarding someone taking down trees on a Conditional Use, and he would think that one would want to show the trees as part of the Final Site Plan, as they create a buffer and non-disturbance area, by insulating the use from the neighbors.

Madam Chair Wingate questioned what is done for disposal of the oil, hydraulic fluids and tires.

Mr. Lopez stated that he disposed of all oil and hydraulic fluids on Route 5, going through Long Neck/Millsboro; that he did not perform tire changes on the site, and that wherever he would go for the tire change, they would dispose of the old tire.

Mr. Robertson questioned whether Mr. Lopez lived on the property or not.

Mr. Lopez stated that yes, he currently lived on the property; that neighbors may see trucks running back and forth, and that is because he had different hours for different drivers.

Mr. Pettyjohn stated that the operation is difficult within a residential area, because it appeared that Mr. Lopez's operations mostly happen when most people would be sleeping.

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

Mr. James Harbin, adjacent resident to the site, spoke in opposition to the application. Mr. Harmon requested to submit photographs, in relation to his opposition, to be submitted into the record. Mr. Harmon stated that he was 81 years old and had been diagnosed with COPD; that he resided next to the commercial trucking company; that he felt Mr. Lopez was deliberately deceiving the Commission in terms of his application, as he had not fully described what he is doing on the site; that he had lived with this for over a year; that the Sussex County Code's AR-1 (Agricultural Residential) Zoning District was intended for agricultural uses, single-family, residential homes, and the preservation of rural character; that commercial and industrial uses are not intended for the AR-1 District; that permitted uses consist of single-family dwellings, manufactured homes, farms, agricultural activities, accessory structures, such as sheds, barns, and garages; that additional permitted uses could be churches and places of worship, schools, daycare centers, utilities, and certain home-based businesses; that permitted Special Use Exceptions could be professional offices, kennels, animal hospitals, and temporary or seasonal stands; that the AR-1 District does not permit for commercial trucking companies, storage of tractor trailers, commercial trucks, diesel repair, industrial businesses, commercial storage yards, or any business causing noise, fumes, and heavy traffic; that there is constant noise and diesel exhaust odors all hours of the day and night; that that business runs 24/7; that six trucks go out in a day, and return to the site; that six drivers come to the site, and leave their vehicles there; that there is mechanical work being performed on the trucks during the evening hours, late nights and weekends; that there had been disturbances from individuals drinking alcohol, while working on the vehicles; that ATVs are being driven on the property, into the nearby woods and onto the country road; that illegal burning had taken place, in violation of burn ban hours and duration limits; that huge pine trees were cut down, and were being burned 24/7; that DNREC had visited the site a few times; that there had been frequent trespassing of poultry, chickens, ducks, and turkeys from the Lopez's property; that he owns five

dogs that have occasionally killed their chickens; that he had spoken to the Applicant many times; that there had been late night activity, involving flashlights behind his property, which had created additional concerns and discomfort; that there had been storage of waste materials related to the truck maintenance and repairs on the property, which creates raising potential environmental and health concerns; that they had made numerous, polite attempts to communicate with Mr. Lopez, but have felt disrespected and disregarded in terms of their needs and concerns; that Mr. Lopez would make promises to address the issues and never would; that it is nearing summertime; that when he walks outside he can smell wood smoke, diesel, hear trucks idling; that he was told that they needed time for blow the soot from the trucks; that he questioned where the soot was going; that he questioned whether he was breathing the soot in; that they are located within an agricultural area, and that the trucks have no right to be there; that DNREC had been to the property many times; that the State Fire Marshal has been to the property twice; that he submitted a photo of a fire that took place in the back of the woods; that the wind was gusting at 15 to 20 mph that day; that no one was out there; that the fire company had to bring out a pumper truck to put out the fire; that there needs to be some resolution as he has had to deal with these issues for over a year; and that they have the right to protect their property, their property values and their safety.

Ms. Pam Harbin, adjacent resident to the site, spoke in opposition to the application. Ms. Harmon stated that it was very upsetting when Mr. Lopez and his wife moved in; that there used to be many more trees which ran the length of the property line; that Mr. Lopez had cut down a significant portion of those trees, to where they can now see each other; that the noise has become greater because of that; that now they can see all kinds of tires and accumulation of debris when they are working on the vehicles; that they had originally moved to their property because it was private; that they want Mr. Lopez and his family to be able to make a living, and that they cared about them, however the feeling did not seem reciprocated; that having six tractor trailers coming and going was very concerning; that it is upsetting for them, as well as their dogs; that they do have a fence, but occasionally a dog will slip out, which had led to the killing of the chickens, and that their main concern is the environment and the quality of life that they had lost.

Mr. Brian Boyer, a neighbor, spoke in opposition to the application. Mr. Boyer stated that there was a sign located at each end of Doddtown Road, as well as other roads there stating that no more than two axle vehicles are to utilize the roadway; that the State Police do not want trucks on using the road; that they placed a billboard two years ago, stating that no trucks are to use the road; that he was unsure who the Applicant hauls chickens for, but Allen's in Harbeson, allows parking of tractors on their site, if someone is hauling for them; that the believed once they began parking on the site, they also began parking along Gravel Hill Road (Rt. 30) and Rt. 9; that six trucks go out at night, and six trucks return; that there are at least three trucks that will leave at 9:00 am, 10:00 am and 11:00 am and come back again; that the back end of the tractor trailers will jerk and rip up the road; that they weight anywhere from 17,000 to 19,000 pounds; that it was only a matter of

time until the road is ripped up; that he built his home in the residential area nine years ago, and now had to put up with the business use; that he was unsure if tire changing took place on the site; that he stated there was a trailer which held eight tires; that he was unsure whether the tires were new or not, and there also was an air compressor outside which runs and creates noise.

Mr. Lopez stated that it was loud when he is working; that he would see what he could do with it; that he only goes to a mechanic in the daytime, not in the nighttime; that the ambulance and firefighters previously mentioned, were not called for his property; that he was aware there was a sign stating no trucks; that he had seen dump trucks use the road, which he felt was heavier than a bobtail tractor trailer, because the tractor trailer is empty; that he had more than two, but they are not heavy like dump trucks; that he had been working on his property; that he is attempting to place a fence on both sides to help him and his neighbors, and that he was working on it, just had a lack of time.

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 2636 Antulio Joel Chavez Lopez. Motion by Mr. Pettyjohn to defer action for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 5-0.

RECESS

6:00 PM – 6:20 PM

Mr. Robertson stated that he felt it would be helpful to have some initial comment, as the Commission had not been involved in the Ordinance process from the beginning; that the Ordinance were based upon recommendations made by the Land Use Working Group, which has been organized by the Sussex County Council; that there were 10 members within the group, and it was a broad-based membership; that there was a report prepared, which could be located on the Sussex County website, under *Planning Initiatives*, of the Planning & Zoning Department sections; that there were a few separate groupings, community, preservation, and environmental advocacy; that the members included representatives from the Sussex Preservation Coalition, representative in the Center for the Inland Bays, representatives from Residential and Affordable Housing Development, being Mr. Matthew Patrone from Volker, Jack Lingo Asset Management, who handled affordable housing or workforce housing projects, the Delaware State Housing Authority, there were engineering and developer interest from American Council of Engineering Companies, ACEC and also the Home Builders Association of Delaware; that there were agricultural interests on the committee by Mr. Jay Baxter and Mr. RC Willen; that Mr. Jay Baxter was predominantly on there, although Mr. RC Willen was his co-representative for that;

that the last category is other State agencies; that they had the Delaware Department of Transportation (DelDOT), and the Delaware Office of State Planning Coordination (OSPC); that they had two representatives from OSPC present; that it was a rather broad-based group that participated in within the working group; that he would suggest everyone review the Ordinances, as the Ordinances were not developed out of thin area; that there were 20 recommendations that formed the basis of the Ordinances; that the recommendations were not in final ordinance form; that with the input of staff, and the direction of County Council, the first four ordinances being considered were drafted and introduced; that there will be two more ordinances that are waiting in the wings, currently getting finalized, and would be introduced in the near future; that ordinances still awaiting introduction address Forest Preservation, which was probably the most fully close to drafted Ordinance in the Working Group report; that is needed additional work; that they are working with a State Forester to make sure everything is consistent; that the next Ordinance to be introduced will provide some definitions of housing types; that this was a recommendation which included amending multi-family housing; that they have a definition for that now, and it would be an amendment; that the Ordinance would also create definitions for housing types that were currently undefined, such as duplexes, triplexes, stacked flats, and cottage courts; that the thought was it was easy enough to create those definitions now that it is going to be more complex to figure out densities, where they go, and how they should be used, which was really more of a Comprehensive Plan issue; that if they had definitions created, they could backfill later on with those housing types; that several folks lamented that the changes are not all being considered at once, because they were a package deal; that in other words, there were 20 of them, and that Sussex County should not do half of them, and not do the other half, or the more restrictive ones, but not the more expansive ones; that this was discussed at the Land Use Working Group, and was not lost on County Council; that some of the, including the new zoning classifications, the new future land use map classifications, the new densities, and other more complex land use working group recommendations were pulled into the Comprehensive Plan currently kicking off; that they had received responses to the request for proposal in; that they will have a consultant selection in the next month or so; that in the meantime, County Council and staff realized that they had to start somewhere; that they could have waited until after the Comprehensive Plan, but some of the recommendations were more ordinance-based, allowing them to currently get a jumpstart; that this was reasoning why they proceeded with the Ordinances, because they did not directly tie into the Comprehensive Plan; that they have seen substantial comments on just the four current Ordinances, some of the comments being on line by line; that if they attempted to completely rewrite all of Chapter 99 and Section 115 all at once, it would likely get so bogged down that nothing would get done; that it would be hearings that lasted days, weeks and months, and they likely would not get anywhere, while also causing detriment of every other pending application in the meantime; that was the decision, to take the recommendations in manageable chunk, while recognizing that they are part of a larger set of recommendations; that the fact that the four

Ordinances were currently coming through did not suggest the others would not be coming through later on; that County Council is aware of this, and had been clear on this from the very start; that Mr. Jon Horner was present and had previously submitted a question regarding the application of Kent County's Farmers for Fairness cases; that those were cases from 10 or 15 years ago regarding overlay districts; that he appreciated Mr. Horner's comment, as it was something that needed to be kept in mind moving forward; that he did not want there to only be one side of the story in the record; that Sussex County overlays predate the Farmers for Fairness cases; that Sussex County overlays have been in existence for more than 20 years without challenge; that this was established within the 2003 Comprehensive Plan; that it is likely that the stature of repose prohibition to challenging them applies, and he felt Sussex County was in good standing there; that Sussex County also had a long-standing history of different requirements within the Growth Areas versus the Rural Areas on the Future Land Use Map, and the Comprehensive Plans; that for example. Sussex County had, and still had different types of cluster subdivisions, with different standards, depending on where you are, whether you are in a Growth Area, or a Rural Area; that Sussex County had bonus density that is only permitted within Growth Areas, but not in Rural Areas; that Sussex County had the SCRPP within the Growth Areas now as well; that the ongoing practice was consistent with more than 20 years of history of Sussex County dealing with the Growth versus Rural areas, and the different ways of doing business within each of those areas; that Mr. Horner was a participant in the Land Use Working Group process, and represented the Home Builders Association of Delaware in the process; that he had helped in providing Sussex County with a rewrite of Chapter 115; that as a result of that process, which took into account the Growth Areas versus the Rural Areas; that he validly questioned with the Farmers for Fairness cases; that eight to nine of the 20 recommendations in the Land Use Working Group deal with Sussex County overlays, the work provided within the overlays, and looking to expand and/or adjust the overlays; that he appreciated Mr. Horner raising the concern, as it was something Sussex County should have in the back of their mind, but it should not stop Sussex County from moving forward with the recommendations that are stated within the Land Use Working Group Report, and that he would suggest that all recommendations get recorded into each record for each Ordinance, just as a point of order.

ORD 26-01

AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 72, ARTICLE II, SECTION 72-24 AND CHAPTER 115, ARTICLE IV, V, VI, VII AND VIII SECTIONS 115-20, 115-29, 115-37, 115-45 AND 115-53 REGARDING AFFORDABLY PRICED RENTAL UNITS AND THE SUSSEX COUNTY RENTAL UNIT (SCRPP) PROGRAM.

Mr. Robertson stated the Sussex County currently had the SCRCP (Sussex County Rental Program); that it was an affordable housing rental program available within Sussex County; that the Ordinance came directly out of Recommendation No. 10; that he requested to highlight some of the recommendations that are suggested within the Ordinance; that it was to reduce the affordable unit set aside from 25%, which was what Sussex County Code currently required, and reduce it to 15% of the units; that the next recommendation was to revise the AMI (Area Median Income) target from 50% to 80% AMI; that currently 80% was the cap for whether one would qualify for an SCRCP unit or not; that representatives, Ms. Brandy Nauman, and Ms. Tyesia DuPont-Palmer, were present from the Sussex County Community Development and Housing Department; that the next recommendation was to reduce the open space requirement from 50% to 30% because they heard that the projects geometrically were not buildable at 50% open space; that the next recommendation was to align rents with certain established rents; that they have changed the amount of the base rent; that he presented an example of Coastal Tide, a current development in the Sussex County's SCRCP development program; that there were 85 households that are on the waiting list with the SCRCP; that applicants are pre-screened for a minimum income; that the average length of time tenants reside there is nearly three years, with seven of them having been there since 2021; that all the SCRCP units are occupied with no vacancies; that the predominant AMI range for households at the time of application was 40% to 70% AMI, which had remained consistent through the recertification process; that this shows the majority of the SCRCP participants fall within the 40% to 70% range; that currently rent is based on 50% AMI, which equals to \$765 per month for rent, for a one bedroom rental; that because they are hearing that it does not pencil at 50% AMI; that it is not enough rental income and revenue to make the projects worth it; that the Ordinance increased it to 60%, which gets it to \$915 per month in rent, which would be a fixed rental; that if one is at 40% AMI, one is still paying the 60% AMI rent; that the same thing goes with 50%, it is still 60%; that because we all know they have to do budgets, this will allow the developer to know what the rent will be, allowing Sussex County to know whether it pencils or not; that the goal is to make the projects happen, so Sussex County will have more affordable rental units; that there was a request in one of the letters to increase it to 80%; that there were two issues with that; that it was staff's thoughts that 80% gets close to market rate; that at \$1,220 per month, it prices it out of the affordability for the majority of current SCRCP participants, who are at 40, 50, and 60%; that if the rent is fixed at \$1,220, it would become a stretch for someone who could only afford \$915, \$765 or \$610 rent per month; that whereas, if it is kept at 60%, it gets the top end of the people that Sussex County is currently serving, and it is closer to the lower end of the 40% and 50%; that with regard to specific developments, the Ordinance will reduce the number of units, down from 25% to 15%; that it makes a terminology change to reflect Sussex County resources and resource buffers; that it reduces the setbacks from 100 feet to 50 feet; that there was some concern about the way in which setbacks were calculated and whether that was a one-size-fits-all setback that should not be there in the event that development is next to land that is within agricultural preservation,

land that is commercial or land that could be higher density developed; that there is language that was pulled directly from what is in the current Code regarding Sussex County's residential planned communities that stated if the height exceeds 42 feet, and the site is adjacent to land that is or could become developed residentially, the building shall include a setback design above 42 feet, and/or an increased setback to ensure an appropriate relationship between the higher density SCRCP project and uses of flow intensity or height, existing or future, outside the proposed SCRCP project; that this was not pulled from thin air, as it already existed within the Sussex County Code for Residential Planned Communities (RPC), which provide design flexibility, but still protect how an RPC interacts with existing or future development next door; that another major change was decrease of open space from the current requirement of 50% to 30%; that the Ordinance involved several developers; that Mr. Matt Padrone, with Volker, submitted a letter into the record that stated the changes work and enable them; that they had done the Chapel Farm development, and they were in this; that they also worked with Mr. Preston Schell who deal with these types of projects; that when Mr. Schell looked at the Ordinance, he initially had some concerns, but said that the numbers worked; that it is an improvement; that Sussex County want to get these types of units built, and he felt it was a good step forward, while still following the recommendations of the working group .

The Commission found that there were five people present who wished to speak on the Ordinance.

Mr. David Hutt, Esq. with Morris James, LLP provided comment to the Ordinance, provided a presentation, and submitted documents into the record to accompany his comments. Mr. Hutt stated that affordable housing is a difficult topic to discuss; that it is not difficult because there is opposition to the concept of providing affordable housing; that is fairly universally accepted fact that housing should be affordable to as many people as possible; that makes it difficult is that it is sort of a technical, nuanced subject matter with different factors, calculations, and analysis, with many different types of programs out there; that one of the best examples of the difficulty in this is the term affordable housing itself; that he questioned whether they were discussing affordable housing with a lowercase A or an uppercase A; that they are defined terms; that at times, when one refers to affordable housing, they may just be using a generic reference to the word, which references how much a person can spend on a given portion of their lifestyle, including housing; that Mr. Robertson referred to the Ordinance well, as the Ordinance, as it was written, as an improvement; that the reduction from 25% of the required number of units to 15% is significant; that the increased from 50% to 60% certainly is a step in the right direction; that however, he would like to explain how the Sussex County Rental Program could be even better, providing greater opportunities for affordable housing throughout Sussex County; that he questioned why there are not more SCRCP units being built; that he believed this was a question that the Land Use Working Group was trying to answer; that he knew Ms. Brandy Nauman's

office had been working to answer the question; throughout the program, which was created in 2008, Coastal Tide apartments, located off Plantation Road, constructed 32 Sussex County Rental Program units; that currently, Coastal Tide is the only completed project in Sussex County under the Sussex County Rental Program; that Mr. Robertson had referred to the second project being Chapel Branch, which had not yet been completed; that when completed, he believed the project would provide 24 Sussex County Rental Program units; that between the 24 units of Chapel Branch, and the 32 units of Coastal Tide, Sussex County has had 56 units created for the Sussex County Rental Program since 2008; that this had not been from a lack of effort; that Sussex County had hired an outside consultant, being LSA Consulting, who produced a report in 2018 or 2019, which is commonly referred to as the "Home Report" (Housing Opportunities and Market Evaluation; that even that report resulted in changes over time; that in 2022, there were updates and changes to the Sussex County Rental Program; that there was also the creation of a Housing Trust Fund, that resulted from that; that within the very back of that report, the executive summary for the report, the very first strategy from that was to modify the Zoning Code to promote housing affordability in Growth Areas identified within the Comprehensive Plan; that given Sussex County's low base zoning, the County should revise existing ordinances to better incentivize below market rate housing with changes appropriately scaled to meet both housing needs of lower income households, and the economic realities of developing housing in Sussex County; that appropriate scaling and balance of trying to determine the rents to be charged, the percentage to go out, purchase land, undertake the vertical construction and still be able to finance the development or that community is exactly what was mentioned as the first strategy or priority back in the Home Report; that frankly, it is why it is what was discussed during the Land Use Working Group, and why this Ordinance was crafted; that given the 56 units is all that exists, it appeared that the appropriate scaling and balance had not yet been met; that the purpose of the current Ordinance was to try to find that scaling and balance; the based on the current program, the maximum rent that can be charged for a three-bedroom unit is \$1,060, based on 50% AMI; that if one would be at 80% of AMI, the rent would be \$1,690; that this would allow the developer who wanted to build the homes, to go out and be able to obtain financing, indicating that the rental income would satisfy that; that the gap between those two numbers is \$630, which was significant over the expense of a project when you multiply that out by each unit and factor that into the financing; that in 2022, when the Ordinance was changed, he felt it was believed that those changes would be enough; that under the Sussex County Rental Program, there are density bonuses, there is expedition of the review of the application by Mr. Whitehouse and staff; that unfortunately, that appropriate balance or scale had not apparently been met based on the fact that there is only one project that is under construction, being the Chapel Branch community; that this demonstrates that it is still not often possible to finance those projects, without the intervention of other housing programs; that even the Chapel Branch community uses the Sussex County Rental Program, but also uses specialized funding through the Delaware State Housing Authority, to help accomplish the financing of the

project; that he did not say this to diminish the importance of those types of projects; that the Low Income Housing Tax Credit projects are those communities exist throughout Sussex County and have been very successful in developing housing that is affordable to many people; that however the Sussex County Rental Program, was developed so that it could stand alone, that you would not have to stack other types of assistance for financing help through the Delaware State Housing Authority; that there is nothing wrong with using multiple programs, however, the intent, of the Sussex County Rental Program was that it would be used solely to develop a project using those parameters that are found within that; that one should bear in mind, that if a person uses those other types of funding that are available through the Delaware State Housing Authority, they often come with a cap of the maximum amount of AMI that a person can make; that generally speaking, that is 60%; that for most of the Low Income Housing Tax Credit projects that a developer is building, a person's income cannot exceed 60% of AMI; that there is a gap between them and the Sussex County Rental Program, which in order to be eligible, there is a defined term called eligible income; that one would have to equal 80% of AMI; that if a builder were to utilize one of the State programs, such as the Low Income Housing Tax Credit, no one in that community would be able to be in the eligible income above the 60% threshold that exists for the program; that when looking at the charts, the individuals who would fall within the 70% to 80% range are teachers, nurses and individuals who under the Eligible Income Standard for the County are people that the County has indicated that it wanted to assist in that; that to have the Sussex County Rental Program provide as many opportunities as possible within the defined terms, such as eligible income, there are three things that they would propose; that first would be to right-size the number of required units at 15%; that this is within the Ordinance, and therefore that box is checked; that the second, is that they would propose that the Ordinance should be modified so that it is not 25% of 50%, but rather 30% of 80% of AMI; that this would require two changes to the Ordinance; that Line 77 contains both of those numbers, so it would be a matter of striking 25, and inserting 30; that on the same line then striking 50, for what is proposed to be 60, but make it 80 instead; that he would assume one would question why 30%; that largely because other locations have been successful in developing hundreds of affordable units at that 30% threshold; that one example would be Howard County, over a very similar time period to the Sussex County Rental Program, it created more than 800 units within that range and also within a range for AMI of 60 to 80%; that the next question would be why 80%; that the Land Use Reform Working Group's recommendation was 80%; that this number was fairly consistent throughout the opportunity; the Governor created the Affordable Housing Production Task Force when he entered office; that one of the co-chairs of that was local senator, Senator Russell Huxtable; that in the report, where it tried to define who to target for affordable housing, the report stated for the purpose of expediting or incentivizing affordable housing development, the task force recommends defined affordable housing developments as those in which units are prices to be affordable to renter households making up to 80% AMI; that this recommendation was consistent with the Sussex County's Eligible Income up to 80%; that he

believed this was why the Land Use Reform Working Group targeted 80% as well; that the third category was to reduce fees on units in the SCRPs; that all units cost the same to build, whether a developer is constructing units that are market rate units, or they are Sussex County Rental Program units; that they have the same land cost, the same infrastructure cost, the same vertical construction cost; that they propose an additional way to incentivize increasing the number of SCRPs in the County, would be to reduce or waive fees for those SCRPs; that this proposed recommendation is not currently within the proposed Ordinance; that in the past on other ordinances, it might be something that was almost a narrative comment, when the Planning Commission send its recommendation to County Council, that the Commission recommends that in addition to whatever changes are contained in the ordinance itself; that the County look to develop a program to incentivize in other ways, such as the waiver or reduction of fees and costs; that within Howard County, there are reductions in water and sewer connection fees, with exemption from certain impact fees, in addition to density increases for affordable housing; that last year he had circulated a paper to Sussex County, separate and apart from what the Land Use Reform Working Group was doing, which specifically targeted the Sussex County Rental Program, and ways to help make it expand the use of the program to provide more affordable housing units within the County; that as part of that, there was a proposal to reduce the number of required units to 15%, which is something that is now within the current Ordinance; that another proposal was to have a tiered methodology for the percentage of AMI; that his proposed changes related to Line 77, where the number would move from 25 to 30; that for Line 78, instead of 50, which is now proposed to be 60, it would be a tiered approach to AMI for 60%, 70% or 80%; that within his submitted exhibit, it included a chart that reflected a schedule showing eligible income levels and rent as a percentage of AMI for all three categories of 60%, 70%, and 80%; that they could have no more than 5%, and no less than 80%, and no more than or no less than 5% of 60%; that this tries to allow the greatest amount of flexibility within that; that if one were to look on the Sussex County webpage, for its Housing Section, one would find a statement that states as follows, *“in the most recent housing needs assessment from 2023, published by the Delaware State Housing Authority, data shows that Delaware has a shortage of 19,400 affordable rental units for renters with incomes below 50% of AMI. The assessment further outlines that Sussex County has a projected need of 2,643 affordable rental units by 2030”*; that certainly that is a call that the Sussex County Rental Program needs to start being more inclusive, and to allow for a greater number of communities to utilize its tools that include density; that there needs to be units built in order to approach that number; that currently there is only one completed project; that the rents are just simply too low to be able to build SCRPs; that even when reviewing the charts, our teachers, nurses, trades and vocational workers are excluded from the rental program if the rents get too low; that he felt this was one of the important components of the changes currently being proposed; that currently, one would have to pay full fees on the SCRPs units, just like one would do on a market rate unit; that this is not a unique problem to Sussex County; that affordable housing is an issue throughout the United

States and other countries as well; that with the proposed changes, more projects are financially viable; that the rents would be based on more realistic AMI; that with the fees, permits, and costs being adjusted, it would help as well; that he knew the Planning Commission regularly hear about the need for people to be able to work close to where they live, not living in western Sussex County, but needing to drive to eastern Sussex County for their employment; that what he proposed for the Ordinance would allow that to occur, and that this was his plea to the Planning Commission regarding the Sussex County Rental Program.

Mr. Robertson stated that the SCRCP shows up as a permitted use in each zoning district, and therefore that is why the ordinance is longer than what he initially described; that Sussex County does not talk about fees, and if the Commission were inclined to have County Council consider waiving fees for the SCRCP units, it would be more of a general recommendation, as it would be part of the budget process where Council establish fees each year.

Mr. Hutt stated that last year, there were a number of fees, and impact fees, which were increased by the County to cover other costs, which further put the Sussex County Rental Program units out of reach, and that he understood the County's need to collect those monies for its system, but if to incentivize the production or creation of the Sussex County Rental Program units, a reduction or waiver of those fees would be significant.

Mr. Jon Horner, Esq. provided comment to the Ordinance, on behalf of the Home Builders Association of Delaware. Mr. Horner stated that it was the position of many members of the Land Use Reform Working Group, of which he had been a member, that the Ordinance need to move forward as a package; that this was for multiple reasons, part of it was that the incentives, particularly regarding the SCRCP, all needed to go together to make the program work properly; that the other piece was that if things did not move together, there was concern from both sides including the Sussex Preservation Coalition and some of the environmental groups, that if we were to move forward with the SCRCP, increasing density in all the growth zones, and rezoning, but not move forward with some of the recommendations that dealt with tree preservation or sprawl in AR-1, that these issues would fall by the wayside; that conversely, his group, as well as many of the other housing advocacy groups, lamented that if we move forward in this political environment, with the down zoning or anti-development type measures that help to stymie the growth of housing; that the political will would not exist ultimately to follow through with the remaining portions of the recommendation that need to be address the housing affordability and availability crisis; that this would include up-zonings in growth areas, such as the increase of density in certain areas, such as the various missing middle housing types which were identified as needed; that the list goes on and on; that as stated within his submitted letter, their concern is not that they oppose the concepts of the ordinances, but rather that there are number of things they felt needed to be looked at and addressed; that they do oppose the concept

of the ordinances moving forward piecemeal; that he understood that it was complicated; that he understood that some of the issues needed to be addressed as part of the Comprehensive Plan; that there have been several pathways and discussions had about how the process could be done in a manner that protected the interests of all sides; that they welcomed the opportunity to have more discussions related to how the process could be; that he did not come prepared with all of his case law prepared, however, he disagreed with Mr. Robertson's take; that he had submitted into the record why he felt this way, and he felt the Cluster Subdivision Ordinance and the Open Space Ordinance violate the Delaware law.

Mr. Robertson stated that he understood what Mr. Horner was stating; that he knew Mr. Horner was on the Land Use Reform Working Group; that he felt it appeared that Mr. Horner only had one side of the equation, and that he felt Mr. Horner was suggesting that the Cluster Ordinance violates Farmers for Fairness, however, he was agreeable to up-zoning and increasing density within growth areas.

Mr. Jon Horner stated that Mr. Robertson left out something very important in his argument; that within Recommendation No. 2, it very clearly identifies what zoning districts would be permitted in the growth areas, and what zoning districts would be permitted within the non-growth areas; that is the distinction, because it was all supposed to happen as part of the comprehensive rezoning; that the reason why Recommendation No. 2 was to say only these zoning districts in the non-growth area was exactly because of this uniformity requirement; that the uniformity requirement, broadly stated, states that if you have a zoning district, it had to be treated the same; that one could not have an AR-1 zoned property sitting next to another AR-1 zoned property, stating that certain things could be allowed on one property, but would not be allowed on the other property; that this was codified in Delaware Code within Title 9; that the package of recommendations, specifically Recommendation No. 2, dealt with that issue by recommending a comprehensive rezoning; that as part of the comprehensive rezoning, we do not have zoning districts that straddle both the Growth Area and the Preservation Area, and if the zoning district does not straddle both, there is no issue with saying something would be permitted on one property, but not on another property; that this was the reason the issue was not raised, because when the recommendations are taken into account, the issue goes away.

Mr. Robertson stated that he disagreed with Mr. Horner; that for the SCRP, which allowed for AR-1 to be within the Growth Area, but not the Rural Area; that Mr. Horner was instrumental in drafting the Forest Preservation ordinance, which was about to be introduced; that the ordinance will address what tree preservation is within the Growth Area, which is lower than what the tree preservation would be within the Rural Area; that his intention was not to split hairs or point fingers, and he was stating that it was across the board in the recommendations; that to do them

as a whole, they have to be considered as a whole, and he did not want to get hung up on Farmers for Fairness and kill the remainder of the recommendations.

Mr. Horner stated that to his point, the issue with uniformity is the zoning district; that if he had an AR-1 zoned property, located within the Growth Area and a non-growth area, treating those differently violates the uniformity as set forth in Delaware Code; that if he had a tree preservation ordinance that stated in a growth zone there are certain rules, and outside of the growth zone, there were a different set of rules, it would not violate uniformity when the recommendations are taken in tandem; that there would not be, for example, an AR-1 zoned property located within a growth zone, and an AR-1 zone property outside of the growth zone; that this was the important distinction; that when the recommendations are put all together, they do not permit zoning districts in both areas to cross; that this was the reason why there is no overlap in the zoning districts within Recommendation No. 2; that the Statue of Repose is codified in Delaware law; that it states after a rezoning, there is a 60 day period to bring forth a challenge; that if a challenge is not brought, that is the law of the land; that there are plenty of things in codes across the state on zoning codes that if they were timely challenged, would not stand; that Farmers for Fairness is one of a series of five cases; that in a later Farmers for Fairness case, that failed on Statue of Reposed grounds, it was stated very clearly that it would not stand withstand scrutiny; that however, the challenge was filed more than 60 days late; that the overlay districts had existed for a very long time; that however, if they were to change, it would open up a new 60 day Statue of Repose; that in his opinion, that would absolutely open a challenge to the ordinances on that ground; that according to the interpretation of Mr. Robertson, the districts have existed, and therefore, they are there permanently, not being subject to challenge to a logical extreme; that an example of this would be if he were to create a district, where 50% of the county was overlaid with no restrictions; that 60 days pass, and the district is good go; that all of sudden, it is stated that no development could be had within the district at all; that he questioned, within this situation, why he would not have the right to challenge the decision under a 60 day Statute of Repose, and stated that he did not believe the courts would agree with Mr. Robertson's interpretation.

Mr. Robertson stated that no one was stating that development could not take place; that he understood Mr. Horner's statements; that it had struck him, and others, that Mr. Horner was on the Land Use Reform Working Group, as a recommendation of the Home Builders Association; that the recommendations of the Land Use Reform Working Group were a result of a lot of time spent by a lot of people, of which Mr. Horner was involved in; that it boiled down to a smaller group of four people, who were really helpful in getting them done; that there was a draft of the ordinance, and to now raise the issue of Farmers for Fairness cases after all of that, also in light of, trying to move all the recommendations forward seemed confusing.

Mr. Horner stated that Mr. Robertson was misconstruing the situation; that when he had put forth the recommendation, he stated very clearly that Sussex County should not have zoning districts that are in both the growth area, and the non-growth area; that he personally stated this; that he did not take the time in the Land Use Reform Working Group to give a dissertation about the state of the law in the State of Delaware and the uniformity requirements; that instead, he stated how it should be done, because this is the proper way to do it, because in the Farmers for Fairness case, the second paragraph of what he cited was Chancellor Chandler laying out how it should be done properly; that he brought up this issue by putting forth recommendations that would comply; that to Mr. Robertson's point, he disagreed; that regarding the SCRP, he was concerned as history appears to be repeating itself; that within every single iteration of the SCRP, the development community had said it would not work; that they could not build those things; that everyone listened to them for a part in time; that then, the writing comes out, and people think they are doing the right thing with proposing more units and lower rents; that everyone wants to have lower rents for people, and want to provide more units because that is the right thing societally to do; that if Sussex County wants to have more units involved within the SCRP, the ordinance does the exact opposite of what the SCRP is needing to do; that the Ordinance is preventing units from being created because the projects are not financeable; that this is the simple, end of story; that Mr. Preston Schell had submitted the email; that Preston Schell's email stated that the program was great, if Sussex County only wanted him to build it; that Mr. Schell had a \$400 to \$500 home builder back him up, using their sub-contractors, using Schell Brother's sub-contractors, and using Schell Brothers suppliers; that he had vertically integrated with a management company that charged, at most, a 3% fee when market is 6%; that Mr. Schell would state this, and he had talked to him, because he was Mr. Horner's client.

Mr. Robertson stated that the Ordinance was sent; that there was concern about both the number of SCRP units required, and the rent that was going to be charged for the units; that there was some confusion about it being one or the other; that it is both; that at that point, Mr. Schell's comment was that it would work; that Mr. Schell made the comment that he was going to let folks know that it worked; that he understood there was a desire to increase the amount of rent, and decrease the number of units, because it would make the project more viable to build; that at the same time, Sussex County wanted to make sure that they were not giving away the farm on these projects either, and there is always going to be a balance.

Mr. Horner stated that Sussex County had made sure of that twice, and there are no projects; that he wanted to be very clear, and requested to read exactly what Mr. Preston Schell texted him appropriately 15 minutes prior; that Mr. Schell had stated, "*yeah, feel free to say he can do it because he always buys land right and can build for less than anybody else out there, but no one else can do it*"; that "*also I use my own asset management company at a cost of 3%, but that's not market; that market starts at 5% and goes up to 6%, so my operating costs are also*

unusually low.”; that Mr. Schell’s letter was stating that it works for him; that Mr. Schell can do this because he has a vertically integrated company; that if the goal is to only have one developer building the SCRIP projects in Sussex County, than the proposed Ordinance will do that he would be incentivized for this, as he is the general counsel for Mr. Schell’s company; that however, they do not wish to do that; that they desire an SCRIP that actually works, and puts units on the ground; that he questioned what the worse case would be; that maybe Sussex County may build too many units, which potentially could cause market rents to come down; that it might just help affordability across the board; that this would be the worst case outcome; that ultimately, he felt better about 60% because lower rents are just going to be affordable to more people; that rents in apartments that do not exist are not affordable to anyone; that Mr. Matt Pedrone with Volker Development, sat on the mainstream working group; that Volker Development is a low-income, housing tax credit developer, who uses special financing from DSHA; that ultimately, the rents that they are having to charge, by virtue of those programs, are lower than SCRIP; that the financing available, by virtue of those rents, is not something a market rate developer has access to, and frankly, nor should they; that this is intended to be a workforce housing program; that it is intended to be an affordable housing program that is really subsidized by the State; that absolutely, Mr. Pedrone supporting this made all the sense in the world, because for what he does, it would work, but he is not a market rate developer; that if we are going to only rely on using this program with the LIHTC (Low-Income Housing Tax Credit), which is severely underfunded and does not have close to the amount of money to address this, we are not going to get where we need to be; that the working group recommended 80% because that was where they felt projects were financeable, and felt we would get a significant number of projects; that Mr. Hutt identified, that it aligned with the Affordable Housing Production Task Force, of which Mr. Horner sat on a subcommittee; that it aligns with the Governor’s recent Executive Order No. 18, which talked about the Governor’s priority projects being products that included 15% of units at 80% of AMI; that there is all this momentum behind 80%; that the State is saying if you hit this 80%, we are going to move forward; that the Affordable Housing Task Force, the Land Use Reform Working Group, and developers are all saying 80%; that we out with 60%; that within the entire development community, other than one person, and a low-income housing developer saying it does not work; that he would suggest Sussex County go with something that works; that when it was suggested to take the recommendations as a whole, the recommendations included an upzoning; that this was not called out in his submitted letter, but the recommendations included an increase in height and building length; that this would help the project’s viability; that Sussex County is saying 60%, with no increase to height or density, despite these things being super crucial for the projects to move forward; that the recommendations gave a pathway up to 24 units per acre; that this was the reasoning they wanted everything to go as a whole; that Sussex County also needs to take a deep look at buffers; that buffers make sense when abutting residential development; that you will not hear him say that Chapel Branch should not have buffers, as it absolutely should; that infill projects

that are next to commercial or industrial development, or when located next to open space, a 50 foot buffer on either side kills an infill project; that if Sussex County's desire is to see these projects along Route 1, even at a 20 unit project, it would not happen with the required buffers; that he felt there was a way to balance it; that if a SCRCP project was being proposed next to Walmart, he did not feel a need for a 50 foot buffer was appropriate to preserve the views of Walmart; that there is language in the Code being utilized to talk about the buffer going up if it is adjacent to these types of projects; that he felt the buffer should go down to 10 feet when located adjacent to commercial, permanent open space and all those things; that Sussex County needs to maximize the buildable area in the growth areas for these project, to increase viability, particularly if Sussex County is not going to do the upzoning in conjunction with this; that he also suggested raising the height on the SCRCP to 60 feet; that it is in the recommendations to raise the height in the growth areas; that SCRCP projects are growth area projects by nature; that raising the height and adjusting the buffer scaling next to projects related to that; that there had been a lot of talk regarding building length; that the current building length limits the projects, and really hurts affordability; that we have got a 170 foot arbitrary length on buildings, that then requires a minimum separation to the next building; that on the infill projects, this requirement kills them; that these are not suggestions by Jon Horner; that these are placed within the recommendations that could plug into the Ordinance and apply just to the SCRCP, and be really good things; that he encouraged the Commission to take a bold step and understand that if Sussex County is going with a lower percentage of rent it will make the units unable to be built, and that we will be back in the future to address the problem.

Mr. Robertson stated that Mr. Horner made a fair point regarding the height limit, building length and building separation, which was made as a recommendation; that the issue is, that it would be an across-the-board change; that Sussex County was going to look at doing that 100%, by increasing heights, reducing or eliminating the building separation for townhouses and multi-families, and building length; that rather than do that in a one-off thing with the SCRCP, the decision was made to do that as a whole across the board, because it is in every zoning district; that he did not want there to be an impression that it was not happening or that it is not being considered; that it would be something across the board and not limited to the SCRCP, and Sussex County would address heights throughout the Code, which would include the SCRCP.

Mr. Horner stated that there is nothing preventing Sussex County from doing that right now, with the SCRCP amendment to the current Ordinance; that is what he was encouraging, because of all those things; that he was concerned that 60 foot everywhere might suffer to political whims; that Sussex County can do it right now, as it related to the SCRCP, allowing everyone to know the timeline on the Ordinance; that when Sussex County were to address it all later, it would be a matter of striking a couple lines in this section because it will apply everywhere else, and

nothing was stopping Sussex County from doing it right now, to make the SCRIP projects more forward faster within this crisis.

Madam Chair Wingate questioned how many stories a 60-foot height would equate to.

Mr. Whitehouse stated that, depending on the roof construction, five stories could be constructed.

Mr. James Grant, owner of Sun Building Group in Milton, provided verbal and written comments to the Ordinance. Mr. Grant stated that he had been a resident of Delaware for 50 years, and had served in the Marine Corps; that he saw the Not In My Backyard syndrome all the time; that the government is now paying out \$1300 per person to pay for housing; that he questioned if by allowing the changes, by changing the by-right, would affect any other court cases that were already in place, with an example being Ashburn vs. Kent County; that he questioned whether the by-right use would change with the property; that he mentioned this because of the appealable process; that it is actually 60 days from the newspaper posting is appealable, not from when the decision was made; that it is critical that posting to the newspaper be done in a timely manner; that University of Delaware did a study where it was stated that 18,000 affordable workforce housing needs to happen to keep up with the current pace of the houses being built in the area; that we have less land and a higher cost, it will only going to make a higher cost; that Mr. Grant requested to read his letter, which had been submitted into the record and stated that as Sussex County continue to experience significant growth, he was concerned that the increasing number of regulations and development restrictions are driving up infrastructure and construction costs in way that directly undermine our shared goal of providing affordable and workforce housing; that many of the requirements are well intended, the cumulative impact adds substantial cost, time, and uncertainty to house projects across the County; that in Sussex County, affordable and workforce housing already faces unique challenges due to rising land values, infrastructure expansion requirements, transportation improvements, impact fees, and compliance with multi-layers of County regulation and review processes; that these projects operate on very tight financial margins; that each additional mandate, whether related to road utility, stormwater management, design standards, or fees, further reduce feasibility; that when costs increase, they are either passed on through higher housing prices and rents or the project does not move forward at all; that either outcome works against the County's stated goal of providing housing opportunities for teachers, healthcare workers, service employees, and others who are essential to our local economy and community; that limiting housing supply though regulatory cost burdens only intensify affordable challenges; that the success of the County is serious about addressing housing affordability; that it is critical to strike a balance between necessary protections and practical cost-conscious policies; that streamlining review processes, reducing duplicate requirements, allowing flexibility in design an

infrastructure standards, providing targeted relief for affordable workforce housing can help reduce without compromising public safety or quality of the development; that he respectfully encourage County officials, the Planning & Zoning Commission, and the County Council to carefully consider how regulatory decisions impact project visibility and to prioritize policies through support housing affordable rather than intentionally working against it, especially at the time of substance growth, and increased demand; that when he was growing up, a farmer used to always tell him never sign that document to give your rights away; that he was mostly referring to water and sewer rights; that it is happening a lot right now; that essentially, the farmer was trying to say someone will not tell him what to do with his land; that Sussex County needs to do responsible growth; that Sussex County also needs to look at the land rights as a property owner, and questioned who Sussex County was to tell someone they could no longer sell their farm to a developer for what they would have gotten if they had sold a year ago, and wanted to offer these comments as food for thought.

Ms. Jill Hicks, resident of Chapel Green in Lewes, provided comments on the Ordinance. Ms. Hicks stated that she agreed with a lot of what Mr. Hutt had said; that she questioned how many units are needed at 60%, 80%, 100% or even 120% AMI; that even in the chart shown, she questioned how many of those at 50%, how many were rented at 50%, how many were rented at 40% and how many were rented at 60%; that she questioned how many are needed within each of those tiers; that the scenario being discussed reminded her of the phrase, “Ready, Fire, Aim”; that it felt like we are on a fishing expedition and hoping we get a strike; that she also agreed with 30% AMI, rather than 25%; that she felt it was likely a standard that is used a lot nationally; that from what she had read, they are using 30% of wage earner’s income goes towards housing costs, not 25%, and therefore she agreed with Mr. Hutt’s statement, which she felt he made well; that if Sussex County were able to scale things for 60%, 80%, 120% AMI, she questioned if the result would be more feasible units; that she was concerned that Sussex County is jumping from 25% of the units, all the way down to 15% of the units; that if there were a tiered approach, she questioned if Sussex County could go to 20% of the units being part of the SCRP program; that to add to the dilemma; she questioned the ratio of workforce housing to market rate housing; that Sussex County needed to break even, or even dig out of the hole that it is in; that for example, the U.S. Census reports that about 10% of the working population is in public service jobs, such as teachers, emergency services, law enforcement, postal services etc.; that it is sage to say that in Sussex County, we need at least 10% of all new housing to be affordable to the workforce, just to maintain this insufficient level of status quo; that if she build a mixed-use community, comprised of rental apartments, townhomes, and single-family homes, and only 15% of the apartments are required to meet SCRP; that it would be safe to say, that the project will dig the hole deeper; that a hypothetical example would be if she had a project with 2,000 total units consisting of 350 apartments, 750 single-family homes, and 1,000 duplex homes; that 15%, or 52 units, of the apartments are located within the SCRP program; that

unless 200 apartments, which equates to 10% of the total projects, are in the SCRP, the project would dig the hole deeper; that as Sussex County continues to keep adding housing units into the pipeline, the hole becomes deeper; that she questioned what we were aiming for; that she questioned why Sussex County would wait two years to reevaluate; that she recommended that the Planning & Zoning Commission and Sussex County Council has a dashboard, which would show exactly how many housing units are in the pipeline, and how many of them were SCRP; that as time moved on, one could reference the dashboard as it was refreshed; that it is said that we need 7,000 workforce units; that she assured the Commission that number would increase, as Sussex County already had at least 14,000 single-family homes already in the pipeline; that she questioned what AMI is being aimed for; that she questioned if the AMI should be on a sliding scale based on actual needs and what the ratio of market rate that workforce housing we should be striving to for in an effort to close the gap; that the answer was scary when looking at the ratio; that she felt it need to be known, despite it being overwhelming, and that knowing this would give Sussex County better direction, helping to show how intense Sussex County needs to make the program.

Mr. Robertson stated that the review scheduled for January 1, 2028, was in the Code currently; that they had proposed taking it out; that he assumed Ms. Hicks would like that put back in, or made sooner; that at the Council level there are reports regarding when the SCRP projects are being received, how much, and how many units are being constructed and occupied; that Ms. Brandy Nauman's office (Community Development) had the information, and it is something that can be evaluated at any time, however, was proposed to come out as proposed in the current Ordinance.

Ms. Hicks stated that she was suggesting that a dashboard be implemented; that it could refresh every month, or every quarter; that it would be a dashboard that would state exactly where Sussex County was, not only with the SCRP program, but the overall housing in general, regardless of single-family or townhomes; that they had to do a lot of digging to reach the 14,000 single-family homes, and stating that just as the Commission was sitting before her, that they should be able to access a report that reflected the kind of progress or not, Sussex County was making.

Mr. Robertson stated that Sussex County had that information.

Madam Chair Wingate stated that the Commission were talking about that, and in regards to solar farms, and that the Commission had previously had a lot of different conversations regarding trying to stay on top of what is being approved, and what is being developed.

Mr. Collins questioned if the Economic Development Office have anything that would provide leading indicators of where demand might be for these kinds of units, based on job openings or whatever the case may be or where the demand for this workforce housing would be, and how many units might be needed.

Ms. Brandy Nauman, Director of Sussex County Community Development & Housing, stated that it is hard geographically, because the intent of the program is just to make it so that opportunities are made available throughout the County; that employment centers exist all over the County, and that right now, people are traveling to the east side from the west side, because that is where it is more affordable to build or rent.

Mr. Collins stated that it was taking affordable housing units offline in western Sussex County and dedicating them to eastern Sussex County.

Ms. Nauman stated that it would also increase the demand and increase traffic burden of our major roadways, such as Route 9 and Route 24; that she would look into trying to identify specific areas of the County, where the demand is, but she did not have the information off the top of her head, and it is more just, in Sussex County specifically, we need this.

Mr. Robertson stated that Sussex County also had that information, which would be presented at the Council level, as to what the average incomes are for various types of careers; that it was surprising where those average incomes were in relation to the AMI percentages and affordable rent; that they tend to be higher than what Sussex County was talking about; that it was an eye opener, and the discussion generally refers to teachers and nurses, however they are at the affordable rate on rents.

Ms. Nauman stated that oftentimes Sussex County had always used state that they wanted to help nurses and teachers, but really, nurses, physical therapy assistants, and others are on the upper scale of the AMI; that it is not easy, but they can afford market rate rents; that she did not want to go into the details of what had been recommended, but it would change the affordability significantly based on what some of the commentary that was proffered; that she did want that to be a component; that she could not speak on the land use specifics; that currently a three-bedroom at Coastal Tide was rented at \$1,060 based on 25% of 50% AMI; that if the formula were to change to 30% of 80% AMI, it would equate to a \$2,030 rent for a three bedroom unit; that she felt that price was significantly above market rate rents; that she was advocating for the tenants and the applicants that come through, and she understood the need to make viable projects, but recommended to keep in mind that sometimes the numbers, while different percentages are thrown out, they can be very significant.

Ms. Nauman stated that a \$2,000 monthly rent was market rate rent.

Madam Chair Wingate stated that it was not affordable for the people they were trying to reach.

Mr. Horner stated that the monthly rent for a two-bedroom unit at Beach Plum Dunes was currently \$2,200.00.

Mr. Robertson stated that it is a scale; that it comes down to which side does Sussex County want to balance; that he questioned do we want to serve people that are in 40% to 70% at rents that are at 60%, which they can afford, or have more projects; that they are trying to find a balance because Sussex County also does not want to have more projects that freeze out the people who are currently on the wait list.

Madam Chair Wingate stated that she felt like that was what would happen.

Mr. Collins stated that there was always a risk that nothing would be built.

Ms. Nauman stated that she agreed that was the current balance, and that she understood that it was the current position Sussex County was in.

Mr. Collins questioned if depending on where the units were located, a \$2,000 per month rent for a two-bedroom condo in Rehoboth would not currently be unreasonable.

Mr. Collins stated that maybe Sussex County needed a better partnership with Beebe Healthcare, other major medical providers and the school districts to understand what their hiring needs are.

Mr. Joseph Pika, President of the Sussex Preservation Coalition (SPC), provided comment on the Ordinance. Mr. Pika stated that the Sussex Preservation Coalition had a member, being one of the 10 Land Use Reform Working Group members, which was Ms. Jill Hicks; that while Mr. Horner may have dominated the discussion on the issues, Ms. Hicks was there as well; that Ms. Hicks had been actively involved in all of the discussions; that they had prepared a detailed line by line presentation, raising questions and providing comments on all of the Ordinances; that he was a retired faculty member and administrator from the University of Delaware; that Mr. Steve Sinclair, who would be speaking later on Chapter 99, was a retired state forester from Vermont; that the SPC had about 20 to 25 different organizations who are allied with them; that they have 4,300 supports who are on their email list and regularly receive communications from them; that the SPC is countywide; that the track issues very closely; that he, as well as four other SPC members, had attended every session of the Land Use Working Group along with Ms. Hicks; that their members always equaled 80% to 90% of the public attendees of every session,

consisting of approximately 12 people; that they had been working on Chapter 99 for more than two years; that on the third page of his handout, he had highlighted one item, which inserted references in the County Code of the Chapter and Article; that he felt it would be useful throughout all of the Ordinances to reference the relevant sections in the rest of the County Code that could have a bearing on those; that on the fourth page of the handout, it stated Ordinance No. 2601 and at the end of that introductory, it stated that Page 2, under the comments section, he wanted to echo Ms. Hicks and Mr. Hutt's comments; that he had found Mr. Hutt's presentation very thoughtful and helpful; that what had puzzled them is that the terminology was very mushy and very difficult; that they talk about affordable housing with an upper case "A", and a lower case "a" to differentiate the specific definition that the Delaware State Housing Authority uses in reference to affordable housing, which is a capital "A", versus the lowercase "a" which means housing that people can afford; that the DSHA director, in his testimony to the Joint Finance Committee, was asked the question, of the definition by one of the senators; that his response was that he did not want to be nailed down to a definition, and it was whatever somebody's income enabled them to afford; that he believed for Sussex County the question was for people, who are priced out of the market, who could not afford market rates for their housing, which was the scope of what Mr. Hutt had been referring to; that there needed to be a way of coming up with a numerical definition of the size of the problem and how that problem might vary by different income levels; that the other term, which had been bandied about, was workforce housing, by which people think of nurses, technicians, physical therapists, physical therapists assistants, and teachers; that when you look at the salaries of those professionals, and what can be afforded, it was remarkable the difficulty they have in getting into the market; that it was very difficult for them to pay market rates given their salaries; that Dr. Tam, who did a presentation to the County Council earlier in the year, gave an example of four people working in healthcare professions, and who needed to be able to find housing; that of the four, only one of them, a nursing supervisor, was at 80% Area Median Income; that the crisis is real; that DSHA (Delaware State Housing Authority) had stated that Sussex County needed 13,000 housing units by 2030; that of the 13,000 units, 7,000 of those units would need to be affordable units; that this is an enormous lift, particularly when the projects will only have to have 15% affordable units included in them; that the 7,000 affordable units would be a combination of both rentals and purchase units; that Sussex County is trying to formulate a plan of how do they get to the 2,600 units, which Mr. Hutt had referred, to be affordable units; that there needed to be a realistic plan; that the realism is, what will get built, what can people afford to build, and what developers can afford to get financing to build; that at 3%, one would have to build seven times the number of units at 15% to get to the affordable number Sussex County is trying to reach; that the same is true for the other numbers; that the entire county is invested in this, and want to see it work; that he believed Sussex County needed to be very mindful of dimensions, and questioned is Sussex County was nibbling away or trying to find answers that provided real solutions.

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

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

In relation to ORD 26-01. Motion by Mr. Collins to defer action for further consideration, seconded by Mr. Allen and carried unanimously. Motion carried 5-0.

ORD 26-02

AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE IV, §115-25 “HEIGHT, AREA AND BULK REQUIREMENTS” AND ARTICLE XVI §115-120 “SUPERIMPOSED DISTRICT; EFFECT ON OTHER PROVISIONS” OF THE CODE OF SUSSEX COUNTY REGARDING CLUSTER SUBDIVISIONS AND RESIDENTIAL PLANNED COMMUNITY DISTRICTS.

Mr. Robertson stated that the Ordinance was regarding cluster subdivisions; that the Ordinance eliminated cluster subdivisions within the rural area when on central sewer; that this would result in no more 7,500 square foot cluster subdivisions being permitted within the rural area on central sewer; that the Ordinance would not affect cluster subdivisions of 20,000 square feet, when located on septic systems, or three quarter acre lots on septic systems; that the Ordinance had a couple different points of which the recommendations pulled from; that the second recommendation, which was to establish growth in conservation areas; that another recommendation, being one proposed by the Land Use Working Group, recommended strategic density adjustments, regarding what the base density should be; that the Ordinance is modified a bit, as it does not go as low as what is required; that there was an additional requirement of the Ordinance that was not really talked about in the Land Use Reform Working Group recommendations; that it was a good suggestion, recommended by Mr. Horner, which proposed to eliminate RPC's (Residential Planned Communities) from the rural areas; that the reason for that, being if one cannot do a cluster subdivision of 7,500 square feet, it would be a total workaround, if one could construct an RPC in the rural area, allowing the same thing, or potentially more; that regarding the drafting, there was not many changes to the Ordinance; that the proposed Ordinance proposes to change three lines, at Line 73 regarding confirming where the cluster development options goes, and adds five lines stating that one cannot do an RPC outside of the growth area.

The Commission found that there were three people present who wished to provide comment on the Ordinance.

Mr. Jon Horner, Esq. provided comment to the Ordinance, on behalf of the Home Builders Association of Delaware. Mr. Horner stated that he would not repeat his concern regarding Farmers for Fairness; that when discussing the package and the down zoning without a corresponding up zoning, the Ordinance proposed just that; that he believed that the Ordinance was effectively a

down zoning to approximately 0.80 units per acre; that the reason where his math fell on that was if one received 100 acres; that 50% of it would be required to be open space; that this would equate to 50 acres; that if they had 20,000 square foot lots, being close, but not exactly, half acres, it would allow for 100 houses without the installation of roads; that when looking at the Open Space Ordinance, the stormwater management would largely be excluded from the open space as well, other than certain ponds; that he did not know the percentage of the County that was not within a growth area, but his estimate was approximately 60% to 70%; that this would be taking a large portion of the County; that taking it from two units per acre currently for a cluster subdivision, to about 0.80 units per acre; that this is being proposed without a corresponding up zoning within growth areas; that they had already discuss the need for housing production; that Sussex County had a shortage; that it would be a policy decision; that this was why they supported the concept; that the code he had drafted was not meant to in any way be his personal code; that it was meant to take the recommendations provided by the Working Group, placing then in actionable formats, without him providing ad-libbing; that it was meant to give a product that people could start from, so that change could spur within the County; that ultimately, that is why they suggested to remove the RPC's from the low-density area, because it did not make sense in the context of the recommendations; that to be clear, his membership, and him as a representative of the group, as well as Mr. Mike Riemann, P.E. with ACEC (American Council of Engineering Companies of Delaware); that they had voted to support the recommendation that included down zoning; that only one person voted against the votes, which were anonymous; that the only reason why they vote was cast in this way was due to the corresponding upzoning; that it was very politically palatable to downzone, requesting less houses to be built, in the environment today; that it is less politically palatable for someone to say we want more housing to be built in the areas where Sussex County needs it, being the area where people are working, the areas where infrastructure is already there or planned; that their main concern remains that this is what will happen; that the other policy decision that struck him odd, was the Land Use Reform Working Group stated that they wanted to preserve the resources on the site, not necessarily the open space to have open space; that he understood open space was being addressed in another ordinance, but in the context of the cluster subdivisions, with removing the cluster option in favor of large lots, we would not be accomplishing the goals; that the same amount of land is being used for a lot less housing, and that ultimately, he did not feel that the Ordinance helped necessarily to the problem of sprawl.

Mr. Robertson stated regarding clustering, particularly in the rural areas, that did not exist until 2003 within the Comprehensive Plan; that this Ordinance takes it back to what was pre-existing in 2003 within the rural area; that back then, if one was on central sewer, they would get 20,000 square feet; that when located on septic, one was automatically required to have 0.75 acre; that he was not advocating one way or another and only wanted to provide the history of where the Ordinance came from.

Mr. James Grant, owner of Sun Building Group in Milton, provided comments on the Ordinance. Mr. Grant questioned how much open space would be required when sticking with a 0.75-acre lot, when located on septic.

Mr. Robertson stated that the Open Space Ordinance was coming before the Commission later in the evening, and stated that it would depend on where the property was located; that it was a Working Group recommendation that regardless of lot sizes, when located within a growth area, there was a range of open space that was required or requested in the recommendations; that it would increase from 35%, to a range of 35% to 50%; that it would be introduced as 30% for the growth area, and 50% for the rural area; that it should be kept in mind that ultimately there would be higher densities within the growth area, and one would want a lower number of the percentage of open space within those areas.

Mr. Grant stated that he assumed the Working Group probably had looked at the Kent County exercise performed between 2008 and 2010; that he had lunch with a gentleman who resides within a subdivision that provided 50% open space and 93 houses; that the man stated the subdivision spent \$55,000 per year for the stormwater management and grass maintenance; that there is a lot more maintenance; that farmland is trying to be preserved; that if a subdivision is constructed, even at 50% open space, the farmland would still be going away; that it goes back to responsible growth; that farmland is the biggest economic driver within Sussex County; that he knew that Sussex County Engineering and Artesian Engineering, due to all the growth, had placed a lot of money into attempting to get ahead of the game with infrastructure, which is another thing to think about; that if money is placed into putting in infrastructure, but then one can only have 20,000 square foot houses versus 7,500 square foot lots, they would be losing a lot; that there would be less revenue coming in to pay for that infrastructure that had already been placed, and that we should be looking for a balance.

Mr. Whitehouse stated that in terms of open space, currently within the Code, there is not a requirement that open space necessarily be moved; that some homeowners' associations do mow their open spaces; that more often it is coming to Sussex County and Sussex Conservation District into looking into more naturalized maintenance meadows; that this was one of the recommendations that came out of the Working Group; that there were mechanisms to do that now, and there were proposals to do that in a more formalized way.

Mr. Robertson stated that Mr. Grant and Mr. Horner both made a point that was not lost of staff, the Commission or on County Council, regarding the fact that the Ordinance is one side of the bargain; that it will create lower density within the rural areas; that the opposite side of the equation is that it incentivizes growth to be placed where infrastructure is planned to be, including roads

and sewers; that this was the Working Groups point; that that it was part of that bigger conversation, and was not lost on anyone.

Mr. Joseph Pika, President of the Sussex Preservation Coalition (SPC), provided comment on the Ordinance. Mr. Pika stated that he agreed with Mr. Robertson and felt that he had made his point. Upon there being no further questions, Madam Chair Wingate closed the public hearing.

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

In relation to ORD 26-02. Motion by Mr. Collins to defer action for further consideration, seconded by Mr. Allen and carried unanimously. Motion carried 5-0.

ORD 26-03

AN ORDINANCE TO AMEND CHAPTER 99, ARTICLE II, SECTIONS 99-9, “PUBLIC HEARING ON PRELIMINARY PLAT APPROVAL OR DISAPPROVAL” AND CHAPTER 115, ARTICLE IV, §115-25 “HEIGHT, AREA AND BULK REQUIREMENTS” OF THE CODE OF SUSSEX COUNTY REGARDING DESIGN CRITERIA FOR ALL SUBDIVISIONS.

Mr. Robertson stated that Chapter 99-9C had been in the Sussex County Code for at least 30 years; that there were 17 items that had to be considered as part of a subdivision; that a couple years ago, concern was expressed by the Planning & Zoning Commission, as well as the County Council, regarding what the applicant’s responses of “consider” mean; that one can say they considered it, disregard it and move on; that at that point, there was an effort to redo Chapter 99-9C to provide the section to have more teeth, by placing the burden on a developer to speak to all 17 times, and how they were being satisfied within the design of the subdivision; that an applicant can submit it into the record, but is also required to show it, and how they addressed it, not just that they had considered it; that candidly, it got watered down at the last minute; that the more directive language in it was taken out; that there had been some misunderstanding of what was in the Code currently versus the proposed changes; that he did not want people to think the requirements were brand new, because they were not; that the Ordinance places the burden on an applicant to show and demonstrate how the preliminary plan is consistent with the Sussex County Code and the Comprehensive Plan, which they are required to do anyway; that most good presenters already do this; that the applicant would be required to demonstrate that the criteria was satisfied and the manner in which each one was satisfied; that the first one proposed subdivisions integrated into existing terrain and surrounding landscape; that this requirement had been untouched, and had been in the Code for decades; that the second one required that all resources and resource buffers are protected in accordance with Chapter 99 and Chapter 115 herein, which had been unchanged; that was updated because it refers to resources and resource buffers, which Sussex County had taken a lot of time to improve and protect with previously made Code changes; that the next item

required that the cultural landscape, including scenic views and cultural and historical features are identified and protected as appropriate in the preliminary plat; that this one was partially moved up from an existing one that was deleted, which stated that open space and scenic view are preserved; that they had deleted the part about open space because there were requirements for open space elsewhere in the Code already; that there was no need to restate it in Chapter 99-9C; that an existing one that was getting a lot of attention from submitted written comments, was regarding the requirement that the supply of potable water to future residents of the proposed subdivision as safe and adequate for their use; that again, this requirement had been within in the Code forever; that they could change it; that they could take it out; that they could refer to State standards if they wanted to; that for context, this requirement had been in the Code, and had not changed; that it was the same situation for the means and methods of sewage disposal to be adequately addressed; that they knew that sometimes people stand before them, and do not state whether the lots are on wells or on central water; that they do not state what kind of septic is proposed, such a mound system, or what type of sewer is proposed and who the provider would be; that the Ordinance would not require an applicant to show the Commission how they are doing it, as part of the record they are making; that the next one requires that all lots be configured to be completely outside of all wetlands and that the proposed subdivision will not pollute surface water or groundwater; that the requirement to be configured outside of all wetlands is part of the clustered standard subdivision requirements currently; that this went along with the other in the Ordinance, as well as the Open Space Ordinance; that the County Council, in conversations with staff, questioned why we should have a superior design for just cluster subdivisions and why all subdivisions in Sussex County did not have to be a superior design; that the reasoning behind the Ordinance was to pull those cluster subdivision superior design standards up into the requirements for all subdivision; that the next recommendation was to add the recent modifications performed on Chapter 90, regarding erosion and sedimentation control measures and identifications; that this refers to the groundwater levels; that it is existing and unchanged; that the next would be that area property values would not be adversely affected, which had been within the Code since day one; that they had taken out one, and he really wanted people to understand why; that the requirement had stated that any active farmland and tree farming adjacent to the proposed subdivision would be adequately preserved through the design and construction of the proposed subdivision; that the reason that it was taken out was not because it was not important, but because it would be addressed in the future Forest Preservation Ordinance, scheduled to come before the County Council soon; that it did not need to be duplicated if it was going to be located within another portion of the Code; that the next requirement addresses objectionable features, including but not limited to utility infrastructure, parking areas, loading zones, and outdoor storage areas, be screened from the view of neighboring properties and roadways; that this was a design requirement that had been added in; that currently within the Code, it states that the applicant must notified the local school district of where the proposed subdivision will be located; that there was a lot of comment in the information submitted, stating that the requirement does not go far enough; that Sussex County

should get a reply from the school district, which should be part of the record and acted on; that he did not disagree with this statement; that the problem was that the school districts did not always respond; that mainly there were only one to two school districts who provided responses; that if Sussex County required a school district response, but the school district do not respond, then everyone becomes stuck, and become held up; that potentially there is some middle ground by allowing a school district a certain amount of time to respond within the letter that would come out of TAC (Technical Advisory Committee); that this was not included because it was not important, but rather because the school districts do not always respond, which would create an issue; that if that were a requirement, and the school district did not respond, the record would be considered incomplete, but Sussex County does not have the authority to compel the school districts to respond; that the next requires that public buildings and community facilities not be adversely affected; that this was a standard requirement; that the next one was a result of the most recent update regarding whether a subdivision is in a Transportation Improvement District (TID) or the service level remains a certain level; that there had been concerns that had created issues with DelDOT; that they wanted language in the Ordinance that would close the loophole, and he requested that Mr. Whitehouse provide additional information regarding that language.

Madam Chair Wingate questioned that she understood the issue but questioned what would happen to the districts who do provide a response and questioned whether the Commission could consider their responses.

Mr. Robertson stated that if a school district's response was submitted into the record, that 100% the Commission could consider their response.

Mr. Whitehouse that the County Council had updated and add this section of Code in December 2024; that the text reflected in green clarified what had already been placed in the Code; that when the text was added to the Code, the Delaware Department of Transportation (DelDOT) did not participate in the 2024 Ordinance; that staff had made DelDOT aware if the current ordinance as well; that they had been discussing this ordinance with DelDOT; that the confusion is that the intent was to increase the quality of the information before the Planning & Zoning Commission; that the question then arose with the engineering community, in their conversations with DelDOT; that they questioned, in a scenario where one has a subdivision, and DelDOT states that the applicant is permitted to take more part in the Area Wide Study Fee (AWSF); that the applicant would pay a sum of money, and would not be required to perform any site-specific analysis; that he questioned what happens when this standard applies and this is the highest standard; that applicants and DelDOT were saying that all one would have to do is pay the Area Wide Study fee; that yes, one would have to meet the highest standard; that one must give the Commission data, but we would want to clarify that the analysis being requested by the Commission was not necessarily a full Traffic Impact Study (TIS); that a Traffic Impact Study is a very large, complex

document; that they wanted to add specific transportation terminology, which was Segment Analysis; that a segment analysis is an analysis of what is going on in the road, street or intersection immediately adjacent to the development; that a Traffic Impact Study would go out to three or four intersections; that they wanted to clarify the scope of this; that there are cases where this could be a higher standard than what DelDOT requires; that the Area Wide Study fee would be an example; that the language is designed to mitigate that issue; that DelDOT had signed off on the proposed language, and when the Ordinance goes before the County Council, DelDOT will be invited to attend the public hearing.

Mr. Robertson stated that the next one was language about safe and efficient vehicular and pedestrian movement with interconnectivity where appropriate; that they added in compliance with Section 99-17(D) because that gave the Commission discretion for example, if one had interconnectivity with farmland that was in agricultural preservation; that one would not want to run a stub street to that parcel; that Section 99-17(D) also talks about issues previously had with County Engineering regarding ensuring those stub streets actually go to the property line; that there is cross access easements, so that they can be connected from the other side at some point, as well as construction easements; that again, pulled from the cluster subdivision requirements, that sidewalks are required on at least one side of a street, subject to the Planning & Zoning Commission approval; that the thought on that is that we should require them, but provides flexibility to the Commission; that there may be situations in larger lots or more rural developments, where the Commission may not want sidewalks or no one wants to pay for them because no one will use them; that no lot shall have direct access to any State maintained roads, which was taken from the cluster subdivision requirements; that No. 17 and No. 18 talk about the design process for how a preliminary site plan is developed; that generally, it was pulled right from Section 115-25, being the Cluster Subdivision requirements; that currently, when developing a cluster subdivision, the applicant has the burden of showing when the subdivision was designed that it looked at lands to be preserved first, including wetlands, wooded areas, waterways, water bodies, natural drainage area, and other important features, such as tree lines, scenic views, historic buildings, etc.; that following that, developable land should be identified, with the most appropriate locations for development being chosen to minimize impact on the features previously mentioned; that roads and trails are identified third, where a road connecting all the lots could be located; that lot lines are located fourth; that these are the current requirements for cluster subdivisions; that currently applicants will provide the information within the written materials, describing the exercise they went through, or present it at the hearing; that this Ordinance will require applicants to provide this for all subdivisions, not just the cluster subdivisions; that within Section 99-17 for street layout, states Sussex County wants interconnectivity, and that it shall be fully engineered to be compatible with the topography of the adjacent tract; that the Commission had seen situations where people build up elevation, so that it would never be interconnected, or vice versa, or the road may be stubbed out 10 feet from the property line, so one would not be able to interconnect;

that the proposed Ordinance addresses these issues; that the last part deletes the superior design requirements from Section 115-25, as they will now be located within Chapter 99-9C; that there are a lot of moving parts to this Ordinance, and he wanted to go through the history of it, as it did attract a lot of attention.

The Commission found that there were five people present who wished to provide comment on the Ordinance.

Mr. Steve Sinclair, resident of Millsboro, and current member of the Sussex Preservation Coalition and former Director of Forest and State Forester for Vermont, provided comment on the Ordinance. Mr. Sinclair stated that he had previously spoke before the Commission and County Council regarding perimeter buffers in Chapter 99-9C and on open space; that that the Sussex Preservation Coalition had always felt that Chapter 99-9C was a really important element to the County Code as it relates to coming up with criteria that all developments are required to go through in the submission of their final plans; that SPC appreciated that the Commission and Council reviewed these, and recognized that the Working Group identified this as a significant needed to move forward; that they would like to recognize the fact that the opening statement changed to include, demonstrate and satisfy versus the previous wording, which was vague; that now the onus is placed on the developer to demonstrate and/or satisfy that the 18 criteria put forward in Chapter 99-9 are being met; that they mostly had questions regarding some of the existing language, which they felt was still vague and inconsistent; that they propose some changes as well; that under Criteria No. 1, regarding the subdivision being integrated into the existing terrain and surrounding landscape; that they question, what constituted as terrain and landscape; that he questioned if it was referring to topography, elevation changes, vegetation cover, and questioned what was being implied; that they would suggest that it state the subdivision should be incorporated into the existing FLUM (Future Land Use Map); that under Item No. 2, they questioned why floodplains had been removed from the language; that he questioned if this would be addressed somewhere else in the plat approval process; that everyone recognized how important wetlands are in our landscape and the need to preserve the areas by trying to direct growth and development away from those area; that the next language they questioned was the existing language where it talked about protect as appropriate; that they were unsure that requirement would be satisfied or demonstrated by an applicant; that he questioned if perhaps some other language would be better suited in its place; that some of the text was removed from Item No. 3, particularly relating to Forest Assessments; that this will be addressed in future criteria; that in Item No. 4 and Item No. 5 deal with portable water a sewage disposal; that they wanted to reiterate that it was their understanding that the County had a Technical Advisory Committee (TAC) that worked with the County Engineer in reviewing proposals, making recommendations to the Planning & Zoning and County Council in terms of whether the application meets the criteria; that he suggested that inserted language state that these areas had been met as approved by the Technical Advisory Committee; that this would

hold true for both water supply and sewage disposal; that they felt it would be good to codify the role and responsibility of the Technical Review Committee and them identified in the Ordinance; that this will continue to confirm that the conditions have been met; that they questioned if there would be any value to inserting, where appropriate, where these things are also identified in other areas of the County Code's Chapters and Articles; that this would refer back to Chapter 115; that perhaps by having this element, it would provide better clarification that those two are interrelated; that next, they would proposed a word change when talking about affecting improved visibility and screening from the view of neighboring properties and roadways; that their suggestion was to add the work from view of interior and neighboring properties; that it suggests that objectionable features be screened from the neighboring properties; that he questioned what about the view of the homeowners within the subdivision, who have views to those same features; that next they had proposed new language for several criteria dealing with school districts, public buildings, facilities and transportation; that they believed that it was critical for the County to use Chapter 99-9 to address the capacity issues regarding infrastructure; that it was one of the goals of the Land Use Working Group; that except for transportation, it really was never fully addressed; that they feel this Ordinance is a change to do that; that they suggested there be an opening statement that would be applied to both 11, 12, and 13, providing assurances that the area be served by adequate existing and planned infrastructure for new additional upgrades of existing public facilities, including roads, schools, sewers, and emergency services, which are necessary to prevent development from exceeding the existing carrying capacity; that they proposed to removed sewage and add roads; that regarding school districts, they suggested that school districts must certify that it is adequate capacity; that he understood Mr. Robertson's previous comments regarding this, however, questioned that if it were made a requirement in the County Code, would it carry more weight, and therefore creating more responsiveness, and if not, perhaps a second phone call should go out to them.

Mr. Robertson stated that it was surprising, and one would think the school districts would respond.

Madam Chair Wingate stated there was one school district who was very good about responding.

Mr. Joseph Pika, President of the Sussex Preservation Coalition (SPC), provided comment on the Ordinance. Mr. Pika stated that currently, the school districts are informed by notification that a response requirement would provide more clout and certification by giving the districts a role in the process.

Madam Chair Wingate stated that she felt the Commission was already providing the school districts a role; that the Commission is requesting their feedback, yet the Commission is not receiving any feedback, and that there was one school district who was always very good about responding, but there were several others who never respond.

Mr. Whitehouse stated that Delaware Code requires that with any major subdivision, the local school district must be notified; that staff send out notifications to the school district; that within the last year, the Planning department saw three responses to approximately four large-scale applications, and that was it.

Mr. Robertson questioned what was stated in the notifications provided.

Mr. Whitehouse stated that staff summarize that there is a major subdivision being proposed as a public hearing, being held on this application, for this amount of units; that staff provide a link to the application details, which provide the number of units and the location, and staff additionally share the link to the Online Application Docket, the same way they would with the public.

Ms. Paugh stated for the past year, when processing major subdivision applications and notifying the Technical Advisory Committee, notice is also provided to the local school district; that a public hearing date is not provided at that time, as the application would not yet have a date; that the notice includes the number of units, the site plan the application, which is all provided with the short title description; that only one district has every responded to the provided notifications; that the assigned Planner may reach out again with the scheduled public hearing date prior to the public hearing.

Mr. Pettyjohn questioned what the school district's usual responses are, based on the number of units and the potential number of students.

Madam Chair Wingate stated that she felt the school district responses have been very honest; that they have sometimes stated that they are at capacity, and other times have stated that they are reaching capacity.

Mr. Robertson stated that sometimes the responses vary; that more recently responses have been along the lines Madam Chair Wingate expressed; that the responses are only being received from one school district, and other times the responses have been nebulous, thanking staff for the information, and stating that the district could handle whatever they have to handle.

Mr. Pettyjohn stated he felt that public education in a way was like that; that they could not plan ahead; that it was almost like an afterthought, and they would just make things work; that they will be in a mobile office, or do what they can, and the next step that they have is the Board of Education, who serves the whole State, not necessarily Sussex County.

Mr. Robertson stated that he did not understand why the Commission does not receive responses, particularly with all the conversations regarding impacts on school and the development that is occurring in Sussex County; that he feels the Commission was open on how to handle it best, but to require a certification that the Commission may never get based on past performance; that he understood that it may push them into responding, but the requirement would jam everyone up if no one could proceed without the receipt of a certification; that other thing would be a pocket veto for a school district to purposefully not certify it in an effort to hold up the development, and there must be a safety valve as well.

Mr. Collins questioned whether the Commission could make it incumbent on the developer or applicant to acquire a response from the school district and leverage their influence to get what they need.

Mr. Pettyjohn stated that requirement would not affect funding, and that it would be from the State, not from the County.

Madam Chair Wingate stated that she would rather see the Commission's energies spent trying to be an advocate to obtain funding for them, for everything that is being placed before the Commission.

Mr. Sinclair stated that they propose the same thing for EMT, fire and medical services; that they recommended that they also certify the adequacy of current dispatch services and the levels to accommodate anything generated by the proposed residential development; that same thing for properties related to the Transportation Improvement District (TID) and transportation level; that the only thing they added was the last line, which they recommended should state that the County shall impose conditions regarding phasing and timing of building permits, concurrent with the completion of necessary road improvements; that Mr. Pika, as well as many others from SBC, had previously provided testimony on specific developments, with concerns regarding the phasing and capacity issue; that they felt the Ordinance was an opportunity to place the requirement in the Code, and it could be referred to if necessary; that they had a question on No. 14, stating that the subdivision is compatible with other land uses; that it was unclear what the subdivision must be compatible with; that their alternative language would require that it be complementary to the Future Land Use Map; that he was very please to see the additions place in Chapter 99, and now understood that it was taken from the cluster subdivision regulations and transferred; that this was something that the Sussex Preservation Coalition had been talking about; that all too often it seemed with developments that occur, streets are place, then stormwater, then roads, then lots, and whatever was left became open space; that whether is had any natural resource values in it left or not was up for question; that the proposed Ordinance would set up a system that looked at how to make the developments fit in well with the landscape; that previously, the Sussex Preservation

Coalition was referred to as an anti-growth organization; that he stated that was not the case; that the SPC was a smart growth organization, and had never been anti-growth; that the SPC want to make things done better; that the proposed Ordinance was a great example of moving in that direction; that the forest assessment was removed; that the way it is currently worded, is that land should be preserved or identified first; that he questioned how do you identify the lands that are preserved first, if you have not done any mapping; that it is stating that one should identify the areas that we want to map; that the SPC's thought was, why do we not map the entire parcel; that the SPC suggested that the entire parcel be mapped and an assessment of worthy areas, being areas worth of preservation, including wetlands, woodlands, waterways and so on; that if a parcel was mapped first, one could identify those areas through an assessment, those areas that demand conservation and preservation; that as a forester, he knew that not all forest are equal; that some forest are really valuable and beneficial by providing wildlife habitat and water features; that other areas of forest are common; that you want to preserve the good pieces, and maybe not fall on your sword on some of the other pieces; that when mapping takes place, allowing for an assessment of areas to preserve, allowing for a ranking process and then allowing the other steps of considering the development.

Mr. Robertson stated that the Forest Preservation Ordinance would be introduced to County Council on April 14th, 2026; that the County is working with a State Forester on the ordinance; that one of the requirements of the ordinance will be a Forest Stand Delineation, which is a defined term that they had worked on, in conjunction with the State Forester, and would provide a whole site mapping that Mr. Sinclair had referred to.

Mr. Sinclair stated that the SPC had been in consultation with Mr. Kyle Hoyt, Delaware State Forester, and had been providing him their thoughts as well; that the SPC had questions regarding the sequence and process following the identification of and mapping; that there is no mention of areas to be preserved or out of bounds, merely that they be considered and minimized for impact, which is once again not very clear, and that with the language it is hard to know the criteria is being considered or being met.

Mr. Collins questioned what level of specificity the Sussex Preservation Coalition was looking for.

Mr. Sinclair stated that the Sussex Preservation Coalition would like to defer that until they see what the Forest Preservation Ordinance looks like.

Mr. Jon Horner, Esq. with Home Builders Association of Delaware, provided comment on the Ordinance. Mr. Horner stated that his submitted comments largely cover the issues; that the main issue with Ordinance 99-9C had been something that they agree on with the Sussex Preservation Coalition; that there is a lack of clarity, and there are standards that are inconsistent; that when it

states to minimize stormwater runoff, but there is a Code that specifically is required to be conformed to, it creates a situation where we comply with one standard, but one could argue that we do not comply with another; that the public get to state that they do not think the applicant is minimizing stormwater, and that the applicant could do this and that to minimize the stormwater more, and maybe that would meet the technical issue under Chapter 99-9; that currently there is a Code to follow, and it is inconsistent; that they just want consistency; that they want cross-references to Code; that their letter outlines all of those things; that we need smart growth; that smart growth was the whole premise of the Land Use Reform Working Group; that he found it hard to say that the Sussex Preservation Coalition was a smart growth organization, when he could not think of a single project that they had ever supported; that a lot of the language they had just advocated for would not be smart growth; that it would stop all growth dead in its tracks; that if all infrastructure is required to be placed before a project can move forward, the answer is it will not happen; that it would not be smart growth; that it would equal zero growth; that the fundamental flaw in that logic and rationale is all of the things that all of the things that they stated we need the infrastructure from, all of it would be funded by future development; that we know the school impact fees and funding are coming; the State legislature passed it last year; the Sussex County Council is planning to act on it; that the Home Builders Association supports it; that fire impact fees are funded by building permits; that he questioned how all of the things being stated that we need more of would be funded; that there is a funding issue with roads; that he hoped the State would address that, and look for legislation, potentially a statewide impact fee; that there is a chicken and egg problem, which he believed everyone recognized; that if all the infrastructure is required first, nothing will get built; that the only way infrastructure gets built is with funding from development; that when it comes to school capacity, it would be a pocket veto for school districts; that the legislature recognizes the issue when they did the voluntary school assessment; that they are live in New Castle County; that Sussex County had them pass, and then they sunset it; that Sussex County and Kent County would rather do VSA's (Voluntary School Assessment), and they moved in favor of the building permit surcharge; that one of the things being built into the VSA's is, if one has a VSA, and if a builder is required to pay an impact fee for schools, you are not allowed to deny a project for lack of school capacity; that this is the concept of a VSA, and is how we are funding our schools; that it is not candidly built into the Sussex County or Kent County program, but it should have been; that the same concept still applies; that when one looks at the language in the cluster design subdivisions for superior design, he felt it important to point out that a lot of the resources being discussed are already protected, under the wetlands protections of the Code; that there are buffering, wetlands, Statewide wetland protection being introduced potentially within the next two weeks for freshwater wetlands from Senator Hansen, which would additionally protect those resources; that protection for trees would be coming within the next few weeks; that the standards currently provided require them to identify those areas and then move forward; that the language the SPC proposed would basically say, that if you have these on your property, your property is completely worthless from any sort of development potential; that under their proposed

language, if he had a fully wooded parcel, he would have zero development potential; that this would be a constitutional taking in many instances, and his submitted letter provides line by line comments regarding the lack of specificity and things.

Mr. James Grant, owner of Sun Building Group in Milton, provided comments on the Ordinance. Mr. Grant stated that he wanted to discuss the land use breakdown for Sussex County; that there are 625,966 acres in Sussex County; that agricultural and undevelopable land is 523,558 acres (83%); that 35,000 acres was preserved farmland; that 2,428 acres was open space through subdivision approvals; that developed residential land was 79,000 acres (12.62%), consisting of single-family homes, multi-family homes, and mobile home parks; that 72,238 acres was available for potential future growth; that commercial and industrial made up only 7,200 acres (1.15%); that infrastructure and public use made up 16,200 acres (2.59%), being utilities, recreation, and industrial lands; that the Investment Level 1 District is 27,655 acres; that we have 523,558 acres at 83%; that he wished he could write a handout on what it take to do a development, and the process it is required to go through; that it takes 18 to 24 months to get before the Planning & Zoning Commission; that the development then has to receive preliminary approval; that once preliminary approval has been granted, then one must go through all the State agencies; that the amount of work they must do to specify what SCD (Sussex Conservation District) wants, when it came to stormwater management, and DNREC was well beyond; that agency approval was a six to eight month process; that DelDOT just announced that they are going to work on it, and that their field goalpost would not keep moving; that it used to take a year to go through DelDOT's process; that every entrance is a custom entrance; that overall it is a three year process for a developer; that he did not want to see a more burdensome regulation where it is already addressed and potentially not in the Sussex County Code, but rather in the State Code; that the EPA (Environmental Protection Agency) is now getting involved in; that when you do pre-construction meetings with Sussex County, they verbatim tell you what the EPA is requiring; that previously someone had taken a picture of a bald eagle near a subdivision, however there was no bald eagle near the subdivision; that it was a shame people have stooped to that level; that the Milford School District's enrollment had gone down; that they just received a \$2,500 fee for the funding of schools; that they are currently discussing affordable housing, and currently, on average, it takes between \$75,000 to \$100,000 a lot to build a subdivision, however, the Commission was currently discussing affordable housing.

Ms. Jill Hicks, resident of Chapel Green in Lewes, provided comments on the Ordinance. Ms. Hicks stated that this was a golden opportunity for the Planning & Zoning Commission to get what they needed to feel comfortable, providing the confidence in their decisions, regardless if is to approve or deny, or even how many times they have to look at a site plan; that this would eliminate the Commission being forced to make decisions based on the lack of legal foundation to stand on if challenged; that three years ago, previous Commissioner, Ms. Kim Hoey-Stevenson, stepped

down because she became frustrated that she could not make the decisions she felt she needed to make, because she did not have the protections within the Code to do it; that she wrote recommendations, and Chapter 99-9C was one of them, and she urged the Commission to think back on applications that they may have wished they had the ability to change, and how the proposed recommendations could have help them.

Mr. Whitehouse stated that the cultural landscape requirement and recommendation to revisit that wording as appropriate; that the wording is very deliberate and important; that it is because cultural assets and historical features can be very different in the field; that there can be historic features in development that are very significant; that there are some features that may not necessarily require protection; that an example of this would be a historic coin; that yes, they coin has historic features, and should be identified, especially if they are known to the State in development; that if they had the word protected, and do not have the appropriate words afterwards, it automatically means that the land is sterilized and preserved around that coin; that those coins could not be explored by archaeologists because they are protected; that there may be certain types of historic features and artifacts that can be moved or relocated in a site; that coins are a common example of this, and otherwise the land above them would never be touched; that the words “as appropriate” are to allow the Commission to consider specific historic artifacts.

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 ORD 26-03. Motion by Mr. Collins to defer action for further consideration, seconded by Mr. Passwaters and carried unanimously. Motion carried 5-0.

ORD 26-04

AN ORDINANCE TO AMEND CHAPTER 99, ARTICLES I, III & IV, SECTIONS 99-5 “DEFINITIONS”, 99-21, “PUBLIC SITES AND OPEN SPACES”, §99-23 “PRELIMINARY PLAT REQUIREMENTS” AND CHAPTER 115, ARTICLES I & V, §115-4 “DEFINITIONS AND WORD USAGE” AND §115-25 “HEIGHT, AREA AND BULK REQUIREMENTS” OF THE CODE OF SUSSEX COUNTY REGARDING OPEN SPACE.

Mr. Robertson stated that this Ordinance was regarding open space; that the Land Use Reform Working Group’s Recommendation No. 15, requested an increase of the minimum open space requirement to 35% to 50% for any development; that these are proposed percentages, and that County Council could move the numbers around; that the Ordinance realized that, based on a lot of other recommendations, that a one-size-fits-all should not necessarily be the best approach for the rural areas versus the growth areas; that because they were looking at higher density within the growth area, and lower density within the rural areas; that this was one of the fundamental things

of the Working Group; that as proposed, the Ordinance increases the percentage of open space in the growth area to 30%, and 50% within the rural area; that it also adds criteria for how the open space is designed, how it is laid out etc., being another example where that is existing language in Chapter 115-25; that it is language that is currently in the Cluster Subdivision Code; that rather than have that as a standalone open space requirement for clusters, staff all agreed, and County Council signed off on it, that we have the open space requirements all located within one place which focused on open space; that it is not new language, but may be slightly modified; that it is the same as what currently exists within Code, it had just been moved to the Open Space Standards; that stormwater management facilities (aka stormwater management facility area) was allowed to be part of open space; that there is concern that dry ponds, being big square ponds, surrounded by dirt, should not necessarily be considered open space; that the language, previously came from the Sussex Conservation District or the Planning & Zoning staff, and stormwater retention ponds, with suitably designed to emulate natural features by incorporating irregular shapes, gradual slopes, no greater than one to four, and appropriate landscape planning would be approved as open space.

Mr. Whitehouse stated that staff wanted to clarify that first of all, there was a difference between retention and detention, being wet ponds versus dry ponds; that they wanted to clarify that wet ponds could be included in the open space calculations; that there are many subdivisions, that have wet ponds included in their open space; that staff wanted to clarify that just because a pond is a wet pond, it did not mean that it would automatically be counted; that staff wanted to make sure there was some component of that, and that is why it is specifically listed as being included.

Mr. Robertson stated that it had some origin in Recommendation No. 14, which talked about open space being more natural in state, and that was also part of the initiative.

The Commission found that there were four people present who wished to provide comment on the Ordinance.

Mr. James Grant, owner of Sun Building Group in Milton, provided comments on the Ordinance. Mr. Grant stated that SCD (Sussex Conservation District) requires that if it can be an infiltration pond, they want it to be an infiltration pond; that the developer would be permitted to plant wildflowers around the pond; that a lot of ponds are built because it is the most cost-effective way; that if the pond was made in a kidney shape, or a bit more creative with plants or berms, it would be permitted to be counted towards open space; that he felt it was a nice and good balance; that many developers would rather see wet ponds, and would want to put fountains in them, have wildlife and are providing more natural features, and felt that the requirement to make a stormwater management pond more natural was a fair trade off.

Mr. Steve Sinclair, resident of Millsboro, and current member of the Sussex Preservation Coalition and former Director of Forest and State Forester for Vermont, provided comment on the Ordinance. Mr. Sinclair stated that the SPC felt it was a step in the right direction, but the way the language talked about appropriate landscape plantings did not provide a definition, unless the definition is proposed to be found elsewhere within the Code; that their suggestions were to add in accordance with Delaware Stormwater Standards; that then consideration credit for open space be given only when stormwater ponds are not created in previously forested areas, and when sized appropriately for the necessary stormwater storage area only; that all too often the land that was forested prior to pre-development, gets cleared and then a stormwater pond gets put in its place, when the forest could have been providing some of the same infiltration values as that stormwater pond; that the Sussex Conservation Commission had a series of 15 different practices that could be used to meet the stormwater requirements; that developers tend to go toward the stormwater ponds, rather than maintaining forest land and using it as infiltration; that their recommendation is that the Ordinance try to provide credit where it would allow the open space, where they are putting the ponds, where they were not previously forced; that they were unsure if the open space was 30% contiguous, and questioned if the requirement only applied to cluster subdivisions or all subdivisions.

Mr. Robertson stated that it is in Chapter 99 and therefore applied to all subdivisions.

Mr. Jon Horner, Esq. with Home Builders Association of Delaware, provided comment on the Ordinance. Mr. Horner stated that when he talked about down zoning earlier, and Mr. Robertson commented that the Cluster Subdivision Ordinance took us back to 2003; that he did not believe it took us back to 2003; that in 2003, the Standard Subdivision Ordinance did not have an open space requirement; that this had been the whole genesis of the cluster subdivision as a tradeoff; that smaller lots and higher density would be permitted, but one was required to preserve open space; that the Cluster Subdivision Ordinance was tremendously successful at preserving open space; that if Sussex County is going back to 2003, and going to 50% open space, we will get a down zoning to 0.80 units per acre; that when making the change to remove stormwater areas, he thought there was a fundamental misunderstanding of open space and everyone's interpretation of it was different; that everyone needed to understand that it is open space within a community; that he is not going to his adjacent neighborhood to play in their grass field; that they would tell him to get out of their community; that open space for open space is not societally valuable; that open space that is usable is societally valuable, such as a field and things of that nature; that preservation of valuable resources, such as tree preservation and wetlands are all valuable; that setting an arbitrary open space number places areas to be mowed; that he understood that the Code does not require the area to be grass, but generally that is what ends up happening; that homeowners' associations are burdened by it, and costs go up; that homeowners' associations do not want it, and they complain; that he cautioned against it, particularly within the growth areas, when the goal is to maximize the land in those growth areas, so that we could minimize the land outside of it; that we

should want to use the land, located within the growth areas, as efficiently as possible; that oftentimes, arbitrary open space requirements negatively impact the ability to; that when the recommendations came out, it was a sliding scale of range, being the reason it was done the way it was, in his opinion; that regarding stormwater management, Delaware is a flat state; that it requires a robust stormwater management as part of the site design and as required by State law; that the propose Ordinance effectively punishes an applicant for having to comply with State law, because this is de facto increase in open space beyond just that 30% to 50%; that he believed people would agree when someone is only given credit for stormwater retention ponds with this standard, it would not allow for any other sort of green BMP's (Best Management Practices); that with an ephemeral wetland, something that has native plants which function as an environmentally favorable BMP, stormwater management feature; that one would not receive credit for that in open space; that a rain garden would not necessarily receive credit; that there are a few different types of those types of BMPs that are not covered under the stormwater management facility area language, and that he felt this would lead to an unintended consequence.

Ms. Jill Hicks, resident of Chapel Green in Lewes, provided comments on the Ordinance.

Ms. Hicks stated that Sussex County needed a word that better suited the intention of contiguous or parameters around what is required to be considered contiguous; that there needed to be a better outline of the purpose and spatial relationship of the areas required to meet the intended result; that open space is more than scenic views; that it is essential for public health, clean water, and clean air; that she disagreed with Mr. Horner; that it is not just about the neighborhood; that it is about providing ecosystem services for everyone; that it is good for mental health; that it reduced fear, anger, and depression; that it is proven beneficial for children with ADHD and depression; that it increases social connection; that this is important for both physical and mental health; that open spaces increase property values and lowers healthcare costs; that the way contiguous had been manipulated, open space was failing the intent; that she was unsure if open space was providing scenic views, for which the Code at least recognized; that she referenced the previous project of Northstar; that in the case of Northstar, along with many other examples, the cluster subdivision required 30% open space; that Northstar had to provide 114 acres of open space; that Northstar came up with 166 acres; that the 50% was not a burden, and she did not feel anyone was disputing that; that 30% of the 30%, or 34 acres, must be contiguous; that only one area of the site was large enough to do that; that it was then manipulated; that to comply with the 30% of 30% contiguous open space, the applicant took fragmented open spaces and connected them by the buffer, and none of the purposes for open spaces were met.

Mr. Whitehouse advised the Commission, for the purpose of the Commission members who were not present for the original Northstar public hearing, that the Commission's decision on the Preliminary Subdivision Plat required the reconfiguration of the open space, which was the plan that the Commission had reviewed at the last Planning Commission meeting; that at the last

meeting, the Commission saw a revised plan, specifically to reconfigure the open space; that at that time the Commission did not approve the plan and that staff are currently and actively working with the developer on the specific issue.

Ms. Hicks stated that there are other examples of developers doing the same thing because of the way the Ordinance was written, it could be considered open space that was connected through a perimeter buffer; that this was not the intent of contiguous open space; that contiguous open space needed to be better defined; that some jurisdictions require for areas to be considered part of contiguous open space calculations, an area may never be narrower than 100 feet; that the land considered in the calculation is never a narrow strip; that Sussex County is calling for a 15% contiguous open space over the total project, when most jurisdictions require 25% area contiguous open space as defined; that most jurisdictions also exclude area that are dissected by a street; that at the very least, contiguous open space should be substantial and available to all; that another part of the problem is that open space should be available to everyone within that project or in that subdivision; that within the Northstar project, the provided contiguous open space was not really provided to the whole project; that there should be open space, a green area, for people to enjoy for all the reasons she previously stated; that stormwater ponds to be counted as open space, and any part of the calculation, should be accessible to all residents, and that she felt both of these are qualifiers that could be added to the proposed Ordinance.

Mr. Collins stated that he did somewhat agree that it would be helpful to have an explicit number, providing a minimum width that would be acceptable for contiguous open space.

Mr. Pettyjohn stated that he agreed with Mr. Collins' statement, and that it is all about the spirit of the law versus the letter of the law.

Mr. Grant stated that he felt that the Ordinance would take away from Superior Design

Mr. Collins stated that he believed that the developer for the Northstar project was earnestly trying to address the Commission's concerns, he felt it would be easier to do so if it were contained within the Ordinance.

Mr. Whitehouse stated that within the 2024 open space revisions, there were a series of numerical requirements; that small strips of land between the front of a house or on a corner would not count, and that there was already a series of numerical rules in the Code, but they could be added to.

Mr. Robertson stated that change had been made fairly recently, as the Commission was beginning to see the parking lot medians, within multi-family developments, being used within the open space calculations, and that there is a place in Code to add the proposed numerical requirements.

Mr. Pettyjohn stated that he did not feel it was a bad thing to have accessible areas, as Ms. Hicks had spoken to; that if someone lived on a far corner of a development, they should not have to drive to access the green open space.

Mr. Robertson stated that there is always an opposite side; that the issue was that there must be a balance of accessible (active) open space versus the desire for better forest preservation, which is passive; that the Commission did not want to have one, but lose a bunch of forest because there was so much active open space, and it becomes really complicated.

Mr. Collins stated that he felt most people would rather keep the trees than have mowed lawn.

Mr. Pettyjohn stated that he hoped a property owner would have something of their own yard that they would make into an enjoyable space as well.

Mr. Whitehouse stated that there were two ways of looking at the situation; that open space could be concentrated in larger areas for sustainability purposes and ecological purposes, because of the benefit they bring by having that open space connected to another open space; that this would be the adjacent or contiguous side of it; that there is another side of the design principle, which is the series of smaller interconnected pocket parks, and there is a value to having a series of interconnected parks, being serialized vision, where one could walk their dog from one park to the next, instead of having larger open space.

Mr. Collins stated that there may be different kinds of spaces for different projects.

Madam Chair Wingate stated that she felt the Commission should not limit themselves, and any good engineer would be able to get creative and provide them with the total amount in the best way for the subdivision.

Mr. Robertson stated that had been the historical approach of the County, however, he was not stating that it was the right approach or one the County should continue to follow; that there had always been a desire, but questioned whether the Commission should require more active open space versus passive open space, and the problem with that was there was no one-size-fits-all answer ever.

Madam Chair Wingate stated that it would also depend on the target of the people that would be buying within the community.

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 ORD 26-04. Motion by Mr. Collins to defer action for further consideration, seconded by Mr. Pettyjohn and carried unanimously. Motion carried 5-0.

PUBLIC COMMENT

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

Meeting adjourned at 9:30 p.m.

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