

MINUTES OF THE REGULAR MEETING OF JUNE 17, 2026

The regular meeting of the Sussex County Planning and Zoning Commission was held on Wednesday afternoon, June 17, 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. John Passwaters, and Mr. David Pettyjohn. Mr. Jeff Allen was absent. Also, in attendance were Mr. Jamie Whitehouse – Director of Planning & Zoning, Mr. Vincent Robertson – Assistant County Attorney, Ms. Christin Scott – Planner III, Ms. Susan Isaacs – Planner I, and Ms. Ashley Paugh – Recording Secretary.

Mr. Whitehouse advised the Commission that the Agenda was revised to remove C/Z 2032 ELU DeLuca Mid-Atlantic, LLC (Tide Pines), as the application had been acted upon at a previous Planning & Zoning Commission meeting.

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

Motion by Mr. Collins, seconded by Mr. Pettyjohn, to approve the Minutes of May 20, 2026, of the Planning and Zoning Commission Meetings as circulated. Motion carried 4-0.

OTHER BUSINESS

2024-03 Tepache Farms

Final Subdivision Plan & Landscape Plan

This is a Final Subdivision & Landscape Plan for the creation of a standard subdivision to consist of twenty-one (21) single-family lots, private streets, open space, stormwater management facilities, associated perimeter buffers and other site improvements. The Preliminary Subdivision Plan for the development was approved by the Planning and Zoning Commission at their meeting of Wednesday, November 5th, 2025, subject to fourteen (14) Conditions of Approval. The Final Subdivision & Landscape Plan complies with the Sussex County Zoning and Subdivision Codes and all Conditions of Approval. The Parcel is located on the north side of Burton Road (S.C.R. 241), approximately 0.10 miles west of Sandhill Road (S.C.R. 319). Tax Parcel: 235-19.00-7.00. Zoning: AR-1 (Agricultural Residential). Staff are in receipt of all agency approvals.

Motion by Mr. Passwaters, seconded by Mr. Collins, and carried unanimously to approve the Final Subdivision and Landscape Plan. Motion carried 4-0.

2023-12 Windscape Farms

Final Subdivision & Landscape Plan

This is a Final Subdivision & Landscape Plan for Windscape Farms, a cluster subdivision to divide a 26.89-acre Parcel of land into forty-nine (49) single-family lots and to include private roads, open space, sidewalks, stormwater management, perimeter buffers and other site improvements. Staff note that the Preliminary Subdivision Plan was approved by the Planning & Zoning Commission at their meeting of Wednesday, July 2nd, 2025, subject to twenty (20) Conditions of Approval. The Final Subdivision and Landscape Plan comply with the Sussex County Zoning and Subdivision Codes and all Conditions of Approval for the Subdivision. The property is lying on the northwest side of Pettyjohn Road (S.C.R. 255), approximately 0.66-mile northeast of the intersection of Pettyjohn Road (S.C.R. 255) and Prettyman Road (S.C.R. 254) in Milton, Delaware. Tax Parcel: 235-25.00-45.01. Zoning: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals.

Motion by Mr. Passwaters, seconded by Mr. Collins, and carried unanimously to approval the Final Subdivision & Landscape Plan. Motion carried 4-0.

2022-27 Saltwind (F.K.A. Peck Farm)

Final Subdivision Plan & Landscape Plan

This is a Final Subdivision and Landscape Plan for Saltwind (F.K.A. Peck Farm) Subdivision for the creation of a cluster subdivision comprised of one hundred and twenty-eight (128) single-family lots, internal roads, open space, an amenity area including a clubhouse, pool, and perimeter buffers. The Preliminary Subdivision Plan for the development was approved by the Planning and Zoning Commission at their meeting of Thursday, February 7th, 2024, subject to seventeen (17) Conditions of Approval. The Final Subdivision & Landscape Plan complies with the Sussex County Zoning and Subdivision Codes and all Conditions of Approval for (2022-27). The improvements are proposed on a Parcel comprised of (64.0) acres +/- and are located on the south side of Martins Farm Road (S.C.R. 291), approximately 0.6 mile east of Harbeson Road (Rt. 5). Tax Parcel: 334-9.00-4.00. Zoning District: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals.

Motion by Mr. Pettyjohn, seconded by Mr. Collins, and carried unanimously to approve the Final Subdivision Plan and Landscape Plan. Motion carried 4-0.

2004-60 River Oaks

Revised Amenities Plan & Revised Final Subdivision Plan

This is a Revised Amenities Plan and Revised Final Subdivision Plan for River Oaks, a cluster subdivision consisting of eighty-five (85) single-family lots, private roads, open space, stormwater management, and associated improvements. The Final Subdivision Plan for the proposal was

approved by the Planning and Zoning Commission at their meeting of June 20th, 2007. The previously submitted Revised Amenities Plan and Final Subdivision Plan was approved by the Planning & Zoning Commission at their meeting of Wednesday, April 15th, 2026. The Applicant has resubmitted both this Revised Preliminary Amenities Plan, which includes the required paving to the Parcel boundary as required, and has additionally included a Revised Final Subdivision Plan for a new recordation which includes the same paved connections continuing to the Parcel boundary with the (Ballenger (2022-26) Subdivision. Staff note that the Revised Final Subdivision Plan also proposes relocating Lots 73, 74, 75, and 76 to the east end of Hightide Lane, in order to provide ample space for the amenities. Staff also note, the adjacent subdivision (Ballenger (2022-26)) has provided detail as to the grading and road design for the interconnectivity to River Oaks, which has been reviewed with no objections by the Sussex County Engineering Department (SCED). The Revised Final Subdivision Plan & Revised Amenities Plan complies with the Sussex County Zoning and Subdivision Codes and all Conditions of Approval. The property is located on the west side of Phillips Branch Road (S.C.R. 302). Tax Parcels: 234-11.00-99.00, 99.02, 99.03 & 99.04. Zoning: AR-1 (Agricultural Residential District) Staff are awaiting agency approvals, should the Commission desire to act favorably upon this proposal, Staff are requesting that final approval be made subject to Staff upon the receipt of all agency approvals.

Madam Chair Wingate questioned whether the plan met the required open space.

Ms. Scott stated that the plan did achieve the required open spaces as the plan did not propose additional lots, but rather relocating the lots to a different area to provide room for the changes in the amenities.

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

S-25-71 Midway Pickleball Courts

Revised Final Site Plan

This is a Revised Final Site Plan for the establishment of a 79,923 square foot, 2 Phase Indoor Pickleball Court facility to include twenty-four (24) Pickleball Courts, with Phase 1 consisting of a 2 story, 55,027 square foot +/- Indoor Pickleball Court facility (18 Courts) with the first story to contain a retail component to include a commercial kitchen and the second story to be at mezzanine level and Phase 2 consisting of 24,896 square feet +/- Indoor Pickleball Court facility (6 Courts), equipment storage, elimination of 24 parking spaces (to include 3 ADA accessible spaces) for a total of 79,923 square feet +/- of improvements, 989 parking spaces and other site improvements. The new facility will be located adjacent to the existing Midway Fitness Center where the indoor skating rink (Skateworld II) and the bowling alley complex were previously located. The complex

closed on Presidents' Day in 2003. The recreational center was forced to shut down after a severe blizzard caused the roof to cave in. The building size for the indoor skating and bowling alley complex was larger than the proposed pickleball facility. The Applicant also further notes that the Site has previously been “*a mixture of commercial uses containing restaurants, mixed retail, active recreation, self-storage and a theater*” and has submitted a request pursuant to §115-164 of the Sussex County Code to reduce the total number of parking spaces by twenty-four (24) spaces by applying a Shared Parking Model via the *Urban Land Institute, International Council of Shopping Centers & National Parking Association*. The Revised Final Site Plan complies with the Sussex County Zoning Code. The property is located at 34823 Derrickson Drive on the northeast side of Coastal Highway (Route 1) adjacent to the Midway Estates development in Rehoboth Beach, Delaware. Tax Parcel: 334-6.00-138.00. Zoning: C-1 (General Commercial District). Staff are awaiting agency approvals. Should the Commission desire to act favorably upon this proposal, Staff are requesting that final approval be made subject to Staff upon the receipt of all agency approvals.

Mr. Collins expressed concern regarding the building proposed within Phase 2 that would be encroaching the boundary line shared with a residential neighborhood; that he questioned whether the Commission should require the building to be placed further from that boundary line and require plantings to provide a vegetative screening.

Mr. Whitehouse stated that should the Commission wish, the final plan approval could be contingent on the requested design change.

Mr. Robertson advised the Commission that the property was zoned C-1 (General Commercial), which did not require the same building setbacks as other zoning districts.

Mr. Whitehouse stated that the required setback from a commercial property from a residential property was 20 feet; that the plan reflected the required setbacks; that the plan complied with the required setbacks; that there was an eight foot privacy fence reflected on the plan, and staff could work with the Applicant to establish a landscape buffer prior to any final stamping of plans.

Motion by Mr. Collins, seconded by Mr. Passwaters, and carried unanimously to approve the Revised Final Site Plan for Phase 1 only, with the Phase 2 Site Plan to return to the Planning Commission for review and approval. Motion carried 4-0.

S-26-02 BCT Atlas Rehoboth Renovations

Revised Final Site Plan

This is a Revised Final Site Plan for the construction of three (3) building expansions totaling 1,392 square feet +/-, onto an existing 5,078 square foot +/- restaurant as well as access drives,

parking and utility improvements. Staff note that the proposal was the subject of a Board of Adjustment Case (BOA Case No. 13183 for Lands of Bigger Fish, LLC). Specifically, the requested variances were a 12-ft variance from the 60-ft front yard setback to permit a 654 square foot covered outdoor waiting area to encroach upon the front yard setback and a 2-ft 6-inch variance from the 60-ft front yard setback requirement to permit 6 safety bollards to encroach upon the front yard setback. The Board of Adjustment approved these variances at their meeting of Monday, April 27th, 2026. Additionally, the Applicant has provided a letter requesting a waiver from §115-166(C) which discourages parking within the front yard setback to allow for proposed for the demolition and replacement of 8 existing parking spaces within the front yard setback to accommodate proposed utility connections to the existing utility mains along the Site's frontage and within the right-of-way. There are no additional parking spaces being added to the Site as part of this project, with 122 spaces existing and 122 spaces proposed. The Applicant further notes that the existing parking/pavement is located directly on the property line (a 0 ft existing setback), therefore, this existing non-conformity is not exacerbated as a result of the improvements. The Revised Final Site Plan otherwise complies with the Sussex County Zoning Code. Tax Parcel: 334-19.00-159.00. Zoning: C-1 (General Commercial District). Staff are awaiting agency approvals. Should the Commission desire to act favorably upon this proposal, Staff are requesting that final approval be made subject to Staff upon the receipt of all agency approvals.

Mr. Robertson questioned whether the parking spaces were being removed to allow for utilities, and the renovation of the outdoor seating area, and then being replaced.

Ms. Scott stated that Mr. Robertson's understanding was correct.

Madam Chair Wingate questioned whether the parking spaces were being relocated closer to the setback, and asked Mr. Glenn Mandalas, representative of the Applicant, to respond to the question.

The Commission found that Mr. Glenn Mandalas, Esq. with Brockstedt Mandalas Federico, was present on behalf of the Alice Restaurant Group and Bigger Fish, LLC. Mr. Mandalas stated that they will not be moving anything closer to the setback; that the only reason the Applicant was requested to come before the Commission was because they are required to remove the current parking to allow for the needed utility trenching, and they intend to place the parking in the same exact location.

Mr. Robertson questioned what triggered the need for the variances.

Mr. Mandalas stated that the site was the location of the former Arenas Restaurant, next to Big Fish Grill restaurant; that the current concept was for an Italian restaurant; that the outdoor seating, currently located at the front of the building was now proposed to be relocated to the side of the

building; that a new outdoor waiting area; that the outdoor seating area was located within the Front Yard Setback, which required variance approval; that there would only be one outdoor dining area, which would be located to the side of the building; that the additions to the building conform to the Code requirements, and because the existing non-conforming parking was being removed and replaced, staff felt it best to have the Commission review and approve.

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

S-26-30 1528 Savannah Road

Preliminary Site Plan

This is a Preliminary Site Plan proposing the adaptive reuse of the existing structure as a realty office with associated parking. The office use at the site is permitted via Conditional Use (C/U 2313) and Ordinance No. 2885 which was approved by County Council at their meeting of Tuesday, September 20, 2022, and subject to eight (8) Conditions of Approval. The Parcel is located on southeast side of Savannah Road (Route 9 Bus.) approximately (800) feet north of the intersection with Wescoats Road (Route 12) on a Parcel comprised of a total of (0.57) acres +/- . Tax Parcel: 335-12.06-49.00. Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals. Should the Commission desire to act favorably upon this proposal, Staff are requesting that final approval be made subject to Staff upon the receipt of all agency approvals.

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

S-26-33 Ramnath Oneal Solar

Preliminary & Final Site Plan

This is a Preliminary & Final Site Plan and Landscape Plan for the construction of a solar facility and other related site improvements. Conditional Use No. 2458 to permit the use at the site was approved by the Sussex County Council at their Meeting of Tuesday, March 25th, 2025, via Ordinance No. 3081. The Plan includes solar arrays, related equipment, vegetated perimeter buffer, an access drive, and ancillary improvements. The fenced area containing the solar arrays occupies 16.83 +/- acres of the Parcel which is comprised of a total of 50.05 +/- acres. The Parcel is located on the northwest side of Oneals Road (S.C.R. 485), approximately 500 ft. southwest of Sussex Highway (Route 13) in Seaford. The Preliminary Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Tax Parcel: 132-6.00-303.00. Zoning District: AR-1 (Agricultural Residential Zoning District). Staff are in receipt of all agency approvals. A Decommissioning Plan has also been included which addresses the financial security component

of the Conditions of Approval; therefore, the Plan is eligible for both Preliminary & Final Approval.

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

Lands of Barbara F. Cairns

Minor Subdivision Plan off a proposed 30-ft easement

This is a Minor Subdivision Plan for the creation of two lots (2) lots plus the residual lands. Proposed Lot 1 shall consist of 2.67-acres +/-, proposed Lot 2 shall consist of 1.53-acres +/- and the residual lands shall contain 0.97 acre +/- . A shared-use maintenance agreement shall be established for the use of the shared access road. The property is located on the east side of Camp Arrowhead Road (S.C.R. 279). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 234-12.00-85.00 Zoning: GR (General Residential District). Staff are in receipt of all agency approvals; therefore, the Plans are eligible for Preliminary and Final approval.

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

Lands of Timothy Hammon d

Minor Subdivision Plan off a proposed 50-ft easement

This is a Minor Subdivision Plan for the creation of one (1) lot plus the residual lands. Proposed Lot 4 shall consist of 1.012-acres +/-, and the residual lands shall contain 66.989-acres +/- . A shared-use maintenance agreement shall be established for the use of the shared access road. The property is located on the northwest side of Old State Road (S.C.R. 213). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 130-6.00-113.02 Zoning: AR-1 (Agricultural Residential District) Should the Commission desire to act favorably upon this proposal, Staff are requesting that final approval be made subject to Staff upon the receipt of all agency approvals.

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

OLD BUSINESS

C/U 2550 Milton DE Solar CSS, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED

ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 30.55 ACRES, MORE OR LESS. The property is lying on the west side of Harbeson Road (Route 5), approximately 850-feet south from the intersection of Diamond Farm Road (S.C.R. 257) and Harbeson Road (Route 5). 911 Address: N/A. Tax Map Parcel: 235-26.00-17.01.

The Commission discussed the application which had been deferred since May 20, 2026.

Mr. Passwaters moved that the Commission recommend approval of Conditional Use No. 2550 for Milton DE Solar CSS, LLC, for a solar energy facility in the AR-1 District based on the record made during the public hearing and for the following reasons:

1. During the initial public hearing on this Conditional Use, the Applicant presented a site plan that showed the solar array area in fairly close proximity to the neighboring property owned and operated by the Southern Delaware Therapeutic Riding Organization. As the name implies, this organization provides therapeutic horseback riding to mentally and physically vulnerable children and adults. The Organization expressed concerns about this design in both a letter to the Commission and in testimony during the public hearing. As a result, the Commission left the record open so that the Applicant could revisit its design. A more favorable Site Plan has been submitted with the array area located further away from the Riding Organization. With these modifications, it is appropriate to recommend an approval of this solar array application.
2. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
3. The solar array will be located on approximately 14.82 acres of a larger 30.55-acre tract as shown on the revised plan dated June 1, 2026. The array area complies with all of the Code requirements for separation distances and setbacks from property lines and dwellings and the setbacks along the northern boundary with the riding organization have been increased to 220 feet with a 20-foot-wide landscaped buffer.
4. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar arrays.
5. This Application as amended generally complies with Section 115-172.I of the Sussex County Zoning Code regarding solar arrays.
6. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways, and DelDOT has stated that the traffic impact will be “Diminutive”. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.

7. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
8. This recommendation is subject to the conditions set forth in Section 115-172.I of the Zoning Code and the following additional conditions:
 - A. The use shall be for a ground-mounted solar array in the configuration shown on the Applicants Revised Conditional Use Site Plan dated June 1, 2026. No other types of electric generation shall be permitted at the site.
 - B. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use.
 - C. The entire area of the solar array shall be surrounded by a 7-foot-tall fence to comply with the height requirement of the National Electric Code. The fencing shall include interwoven screening. The fence location and type of screening shall be shown on the Final Site Plan.
 - D. The entire area of the solar array shall be surrounded by a 30-foot-wide landscaped buffer strip of open space a minimum of 100 feet from any street lines and a minimum distance of 50 feet from all property lines with the setbacks shown on the Revised Conditional Use Site Plan dated June 1, 2026. This landscaped buffer shall be planted with evergreen vegetation that serves as a screen while not impeding the use as a solar array facility. The location and types of vegetation used within this buffer area shall be included in a landscape plan provided with the Final Site Plan.
 - E. Transformers and similar equipment shall be centrally located on the site as shown on the Revised Conditional Use Site Plan dated June 1, 2026.
 - F. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - G. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.
 - H. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
 - I. The Final Site Plan shall include a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.
 - J. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Mr. Passwaters, seconded by Mr. Collins, and carried unanimously to recommend approval of C/U 2550 Milton DE Solar CSS, LLC for the reasons and the conditions stated in the motion. Motion carried 3-1.

Vote by roll call: Mr. Passwater – yea, Mr. Collins – yea, Mr. Pettyjohn – yea, Madam Chair Wingate – nay

Mr. Passwaters voted yea, for the reasons and the conditions stated in the motion.

Mr. Collins voted yea, for the reasons and the conditions stated in the motion.

Mr. Pettyjohn voted yea, for the reasons and the conditions stated in motion.

Madam Chair Wingate vote nay, for the concern regarding the project's location to the existing Southern Delaware Therapeutic Riding Organization (SDTR), that the organization had provided many wonderful services for Sussex County, and she did not want to see the organization be put at risk.

C/U 2577 Soltage DE DevCo, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 32.94 ACRES, MORE OR LESS. The property is lying on the south side of Millsboro Highway (Route 24), at the intersection of Millsboro Highway (Route 24) and Phillips Hill Road (S.C.R. 472). 911 Address: N/A. Tax Map Parcel: 133-20.00-75.00.

The Commission discussed the application which had been deferred since May 20, 2026.

Mr. Pettyjohn moved that the Commission recommend approval of Conditional Use No. 2577 for Soltage DE DevCo, LLC for a solar energy facility in the AR-1 District based on the record made during the public hearing and for the following reasons:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
2. The solar array will be located on approximately 19.92 acres of a larger 33.59-acre tract. In accordance with a forest assessment prepared by the Applicant, approximately 13.47 acres of woodlands will be preserved along with a proffered donation to the Sussex County Land Trust for addition woodlands planting and preservation. The array area complies with

all of the Code requirements for separation distances and setbacks from property lines and dwellings.

3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar arrays. There was testimony that this solar array will benefit residential, business, and municipal subscribers with lower power costs.
4. The proposed solar array is located on a parcel of land that is surrounded on three sides by land used for agricultural purposes, including poultry houses. The fourth side is wooded.
5. This Application generally complies with Section 115-172.I of the Sussex County Zoning Code regarding solar arrays.
6. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways, and DelDOT has stated that the traffic impact will be “Diminutive”. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
7. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
8. This recommendation is subject to the conditions set forth in Section 115-172I of the Zoning Code and the following additional conditions:
 - A. The use shall be for a ground-mounted solar array. No other types of electric generation shall be permitted at the site.
 - B. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use.
 - C. The entire area of the solar array shall be surrounded by a 7-foot-tall fence to comply with the height requirement of the National Electric Code. The fencing shall include interwoven screening. The fence location and type of screening shall be shown on the Final Site Plan.
 - D. The entire area of the solar array shall be surrounded by a landscaped buffer strip of open space, a minimum of 100 feet from any street lines and a minimum distance of 50 feet from all property lines. The forested buffer shall be at least 30-feet-wide along the perimeter of the Property adjacent to lands of other ownership and Millsboro Highway (Route 24) (except for the access and entryway area and where utility and stormwater infrastructure prevents maintenance of a vegetated or forested buffer). This landscaped buffer shall use existing vegetation or shall be planted with evergreen vegetation that serves as a screen while not impeding the use as a solar array facility. The location and types of vegetation used within this buffer area shall be included in a landscape plan provided with the Final Site Plan.
 - E. As proffered by the Applicant, to offset the impact of woodland clearing, it shall donate to the Sussex County Land Trust (SCLT) funding for reforestation at a ratio of three

- (3) acres reforested for every two (2) acres of forest cleared, at a rate of \$3,000.00 per acre of reforestation, subject to final unappealable site plan approval.
- F. The solar panels and array area shall be located at least 200 feet from any dwelling on neighboring properties, with the nearest dwelling situated 204.8 feet away.
 - G. Transformers and similar equipment shall be centrally located on the site, at least 200 feet from any dwelling on neighboring properties.
 - H. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - I. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.
 - J. There are approximately 4.25 acres of wetlands on the Property that shall remain undisturbed. As proffered by the Applicant, there shall be a wetland buffer that is at least 30-feet-wide from all wetlands within the Property.
 - K. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
 - L. The Final Site Plan shall include a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.
 - M. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Mr. Pettyjohn, seconded by Mr. Collins, and carried unanimously to recommend approval of C/U 2577 Soltage DE DevCo, LLC, for the reasons and the conditions stated in the motion. Motion carried 4-0.

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

C/U 2592 Soltage DE DevCo, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR COMMERCIAL SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 85.3 ACRES, MORE OR LESS. The property is lying on the south side of Radish Road (S.C.R. 338) and on the north and south side of Hickory Hill Road (S.C.R. 82) and Indian Town Road (S.C.R. 408), approximately 940 feet east from Mumford Road (S.C.R. 409). 911 Address: N/A. Tax Map Parcel: 133-20.00-51.00.

The Commission discussed the application which had been deferred since May 20, 2026.

Mr. Pettyjohn moved that the Commission recommend approval of Conditional Use No. 2592 for Soltage DE DevCo, LLC for a solar energy facility in the AR-1 District based on the record made during the public hearing and for the following reasons:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
2. The solar array will be located on approximately 58.45 acres of a larger 85.3-acre tract. The array area complies with all of the Code requirements for separation distances and setbacks from property lines and dwellings.
3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar arrays. There was testimony that this solar array will benefit residential, business, and municipal subscribers with lower power costs.
4. The proposed solar array is located on a parcel of land that is surrounded on three sides by land used for agricultural purposes, including poultry houses. The fourth side is wooded.
5. This Application generally complies with Section 115-172.I of the Sussex County Zoning Code regarding solar arrays.
6. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways, and DelDOT has stated that the traffic impact will be “Diminutive”. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
7. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
8. This recommendation is subject to the conditions set forth in Section 115-172.I of the Zoning Code and the following additional conditions:
 - A. The use shall be for a ground-mounted solar array. No other types of electric generation shall be permitted at the site.
 - B. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use.
 - C. The entire area of the solar array shall be surrounded by a 7-foot-tall fence to comply with the height requirement of the National Electric Code. The fencing shall include interwoven screening. The fence location and type of screening shall be shown on the Final Site Plan.

- D. The entire area of the solar array shall be surrounded by a 30-foot-wide landscaped buffer strip of open space a minimum of 100 feet from any street lines and a minimum distance of 50 feet from all property lines. Furthermore, there shall be a forested buffer planted along the boundary of the parcel adjacent to Hickory Hill Road (except for the access and entryway area and where utility and stormwater infrastructure prevents maintenance of a vegetated or forested buffer), as well as along the portion of the site and the adjacent Parcels 54 and 158, where the existing woodlands are not proposed to be maintained. The buffer shall be 30-foot-wide and consist of 10 evergreen trees per 100 linear feet. Additionally, the existing woodlands located on the Property to the north of the array area and outside the limit of disturbance line shall be maintained to the greatest extent practicable. This landscaped buffer shall use existing vegetation or shall be planted with evergreen vegetation that serves as a screen while not impeding the use as a solar array facility. The location and types of vegetation used within this buffer area shall be included in a landscape plan provided with the Final Site Plan.
- E. As proffered by the Applicant, to offset the impact of woodland clearing, it shall donate to the Sussex County Land Trust (SCLT) funding for reforestation at a ratio of three (3) acres reforested for every two (2) acres of forest cleared, at a rate of \$3,000.00 per acre of reforestation, subject to final unappealable site plan approval.
- F. The solar panels and array area shall be located at least 200 feet from any dwelling on neighboring properties, with the nearest dwelling situated 207.6 feet away.
- G. Transformers and similar equipment shall be centrally located on the site, at least 200 feet from any dwelling on neighboring properties.
- H. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
- I. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.
- J. There are approximately 5.02 acres of wetlands on the Property located on the south side of Hickory Hill Road that shall remain undisturbed.
- K. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
- L. The Final Site Plan shall include a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.
- M. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Mr. Pettyjohn, seconded by Mr. Passwaters, and carried unanimously to recommend approval of C/U 2592 Soltage DE DevCo, LLC for the reasons and the conditions stated in the motion. Motion carried 4-0.

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

ORD 26-05

AN ORDINANCE TO AMEND CHAPTER 99, ARTICLE I, III AND V §99-5 “DEFINITIONS”, §99-21A “PERIMETER BUFFERS” AND §99-26 “INFORMATION TO BE SHOWN” AND CHAPTER 115, ARTICLES I, XXV AND XXVIII §115-4 “DEFINITIONS AND WORD USAGE” AND §115-221 “FINAL SITE PLAN REQUIREMENTS” AND BY ADDING NEW §§115-194.8 “FOREST PRESERVATION’ AND 115-194.9 “TREE PLANTING REQUIREMENTS”.

The Commission discussed the application which had been deferred since June 3, 2026.

Mr. Collins moved that the Sussex County Planning & Zoning Commission recommend approval of Ordinance 26-05 regarding Forest Preservation for the following reasons and with the following recommendations:

1. Sussex County Council commissioned a Land Use Reform Working Group that created multiple recommendations about housing and land use. Among the twenty recommendations from that Group, Recommendation No. 13 concerned Forest Preservation by promoting the retention of existing trees by enacting value-based tree preservation requirements including mitigation requirements and incentives. There was also a recommendation that the existing definition of a “forest” be revised.
2. In furtherance of Recommendation No. 13, this Ordinance proposed to revise the current definition of a “forest”. However, there was testimony from several different commenters during the public hearing that the Ordinance’s definition is too vague and that the definition should be closer to what was contained in the Working Group’s recommendation. Different versions of a new definition were proposed, and Council should consider adopting a more specific definition similar to what the Working Group recommended.
3. Staff advised that the State Forester was involved in evaluating the Working Group’s recommendation and the version of the Ordinance that was introduced. However, the State Forester was not present during the Commission’s hearing to comment on the introduced Ordinance. The State Forester should be present during County Council’s public hearing to provide expert advice on the Ordinance language and collaborate with Council to adopt

the final version of the Ordinance using terms and requirements that are environmentally sound and recognized in forest conservation and in the forestry profession.

4. The introduced Ordinance excludes the perimeter buffer area from the required forest preservation area calculations. Staff stated a concern that allowing the perimeter buffer to be included in the forest calculations could mean that no internal forest area in a subdivision would be preserved in many instances. DNREC's comments on the Ordinance agreed with this assessment and stated that the purposes of a perimeter buffer and forest preservation are different, stating that the perimeter buffer is only a visual screen, while forest preservation provides a more vital environmental role in land development. For these reasons, it is recommended that the Ordinance be adopted as introduced to exclude the perimeter buffer from the forest preservation area calculations.
5. There was a request during the public hearing to add a provision for the option of a payment of a "fee in lieu" of forest preservation. This was not a recommendation of the Working Group. The Commission disagrees with this request and is concerned that it will undermine the basis of the Ordinance, with the result being a shift away from actual, worthy forest preservation to lower cost, lower value forests.
6. With these considerations and others by Council as part of its hearing process, this Ordinance will result in an overall improvement in the design of subdivisions and the preservation of forest areas that are currently being clearcut as part of the development design and construction process.

Motion by Mr. Collins, seconded by Mr. Passwaters, and carried unanimously to recommend approval of ORD 26-05 regarding Forest Preservation, for the reasons and the recommendations stated in the motion. Motion carried 4-0.

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

PUBLIC HEARINGS

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

C/U 2576 Patricia and Frank DiNatale

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COIN RETAIL SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 0.34 ACRE, MORE OR LESS. The property is lying on the north

side of Retz Lane and the west side of John J. Williams Highway (Rt. 24) within the Country Village Subdivision, approximately 437 feet south of Mulberry Knoll Road (S.C.R. 284). 911 Address: 34429 Retz Lane, Lewes. Tax Map Parcel: 334-12.00-35.00.

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the Applicant's Preliminary Site Plan, the property legal description, the Applicant's Septic Survey, the Applicant aerial photos, and the Applicant's presentation materials. Mr. Whitehouse advised the Commission that no comments were received regarding the Application.

The Commission found that Mrs. Patricia DiNatale spoke on behalf of the application; that Mr. Frank DiNatale was also present. Mrs. DiNatale stated that they were requesting a Conditional Use for the existing house located at 34429 Retz Lane, along John J. Williams Highway; that parking was provided in the front and along the side; that they often use the parking along the side; that the site was located right past Mulberry Knoll Road; that there were a lot of different commercial locations and activity in the surrounding area; that the biggest commercial development was the Wawa, currently being constructed across the street; that adjacent to them was the location of Olive & Jules Hair Salon & Spa; that located up the street was Waves Car Wash; that the Beebe Healthcare facility was expanding; that there recently had been a lot of talk regarding what would be constructed on farm located along Mulberry Knoll Road; that they had heard about Costco, but also heard they were presenting other ideas; that Copps Seafood was located around the corner from the site as well; that a condition they were requested to meet was to relocate their sheds to the appropriate setback, as they were not in compliance; that they had moved their sheds to be six feet from the rear property line; that the sheds were already in compliance from the adjacent property to the right; that their submitted plan showed a small gravel parking space in the back, where they often park their car; that there were two parking spaces with a carport located in the front, which they planned to remove; that they had gone through DelDOT to discuss what the appropriate parking would be; that the plan reflected that they could utilize the area in the back, where they had provided a parking lot with three parking spaces; that they would use the front driveway, which was currently uses for owner parking, and would provide one ADA parking spot; that they would have an ADA compliant path, which would lead from the parking area to the door; that they were proposing a coin shop; that they had discussed where the coin shop would be located; that currently they had decided the coin shop would be located within the garage space; that the plan reflected a requested sign, located on the corner, and would not impede line of sight, as they had requested Merestone to ensure the sign was in compliance.

Mr. DiNatale stated that he had been a coin collector his entire life; that he had worked in corporate America for 25 years; that this request was his dream, to open a small, sole proprietor, mom & pop coin shop; that they would offer numismatic items, as well as precious metals; that he and his wife would run the coin shop business, and would be the only employees; that they proposed to have

the coin shop within the single car garage; that question was how would they make it secure; that they did not desire to have a large retail establishment; that they just wanted a place to transact business; that they intended to be open for business four to five days weekly, and the hours of business would be 10:00 AM to 5:00 PM.

Mrs. DiNatale stated that the number of parking spaces, being three spaces for customers, one space for the owner, and one ADA space was compliant with the size of the store, and the expected number of customers.

Mr. DiNatale stated that there really was not a shop similar to what they were proposing that would strictly focus on numismatics; that he had contacts all throughout the Country as he had traveled around for business; that he had worked with other dealers; that it really was about having a good, secure location to conduct business, and provided a place for the public to sell; that they are not proposing a pawn shop, and they would not be selling any other items other than strictly numismatic items and precious metals.

Mrs. DiNatale stated that they had spoken with many other people who had been interested in selling; that they had needed to spend more time on the roads traveling to other locations; that there was a gentleman who has a coin shop in Bethany, but that was 45 minutes away, and he is not open often; that there was a coin shop in Dover, however, most people drive to Wilmington; that the proposed use is needed; that there are a lot more people moving to Sussex County of a certain age that are often receiving these; that they hope to work with the lawyers in their area; that they hope to provide more in-person retail; that rather than sitting at the shop that plan to provide appointments and travel to other locations, and not everything would be conducted at the store itself.

Mr. Collins questioned whether fencing was proposed for the entire property.

Mr. DiNatale stated that they had discussed having fencing around the back of the property but did not intend to provide fencing around the front of the property; that the fencing would terminate around the building, and there would be a walk way provided from the back, around to the front of the building.

Mrs. DiNatale stated that the proposed fencing was also to protect their septic system located at the back of the property.

Mr. Collins stated that the Commission would likely require fencing as a Condition of Approval and would require fencing to be shown on the Final Site Plan should the application be approved.

Mr. Pettyjohn questioned whether secondary parking plan was allowed along Retz Lane, or if there was a secondary parking plan.

Mr. DiNatale stated they did not want to provide parking where people would be turning off John J Williams Highway, as it could be dangerous; that in the event they would need additional parking, they had planned to approach their neighbors across the street at the salon, who have a parking lot with about 14 parking spaces, and they would work out a financial agreement at that time.

Mrs. DiNatale stated that she had hoped to move the parking spaces closer to provide maintenance and additional security for clients; that she wanted customers to feel safe enough to walk to their vehicle with their coins; that this would also provide a benefit to any elderly customers; that she felt there was enough space to enter where they were requested to enter, toward the back of the property, pulling up the parking to be along the side of the house; that this would provide closer parking, and be more user friendly.

Mr. DiNatale stated that his business plan was going to be preferred appointment only, and he did not anticipate a lot of people coming and going.

Mr. Passwaters questioned whether any additional lighting is proposed, possibly around the sidewalks.

Mr. DiNatale stated that they wanted to make sure the site was well lit; that during the wintertime, when it would get dark earlier, they did not want someone to slip or fall; that the site would be well lit and well secured; that it would be their lives on the line, so it was critical that there be a line of sight there, and that the State Police barracks were located around the corner.

Mrs. DiNatale questioned the Commission whether there were particular reasons why the Commissions would require fencing.

Mr. Collins stated that fencing would provide security and would help with any adjacent neighbors concerns regarding customers visiting.

Mr. Robertson questioned whether Mr. & Mrs. DiNatale would reside on the property.

Mr. DiNatale stated that no, they would not reside on the property; that the site would be used for the coin shop and storage, and that it was not a good idea to live at the same location as the shop for safety and security reasons.

Mr. Robertson stated that the use was almost considered a Home Occupation, which would have been a permitted use; that because they were selling things and would not reside on the site, the proposed use fell outside of the Home Occupation approval category.

The Commission found that there was no one present who wished to speak in support or opposition of 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 2576 Patricia and Frank DiNatale. Motion by Mr. Collins to defer action for further consideration, seconded by Mr. Passwaters and carried unanimously. Motion by 4-0.

C/U 2598 TPE DE SU245, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 67.23 ACRES, MORE OR LESS. The property is lying on the southeast side of County Seat Highway (Rt. 9), approximately 0.35 mile southwest from Little Street (S.C.R. 469). 911 Address: 2276 E Trap Pond Road, Georgetown. Tax Map Parcel: 135-19.00-43.00.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's presentation materials, the Exhibit Book, the Applicant's Conditional Use Site Plan, the Staff Analysis Report, a letter received from the Sussex County Engineering Department's Utility Planning Division, the DelDOT Service Level Evaluation Response letter, and the property legal description. Mr. Whitehouse advised the Commission that one written public comment letter had been received for the Application and was included within the Commission's Paperless Packet.

Mr. Robertson advised the Commission that the following applications were all submitted by the same Applicant; that the Applicant planned to give an entire presentation on the general background of solar arrays, as part of the first public hearing; that from there they could incorporate that provided information by reference for the remaining applications, since it was general information and not site specific.

The Commission found that Mr. Jon Falkowski, Civil Engineer with Becker Morgan Group, spoke on behalf of the Applicant, C/U 2598 TPE DE SU245, LLC; that also present were Mr. Jordan Belknap with Turning Point Energy, Mr. John Trace, legal counsel, Ms. Kara Price and Mr. Abe

Bennett, Lead Developers for Turning Point Energy. Mr. Falkowski requested that Mr. Jordan Belknap provide information about Turning Point Energy.

Mr. Jordan Belknap stated that he was the Managing Director of Development for Turning Point Energy; that Turning Point Energy was a renewable energy developer, specializing in community solar projects; that they were active in several markets across the United States; that they were also active in Sussex County with six previously permitted project within Sussex County, including one within the municipality of Georgetown, located next door; that five of the six projects had achieved building permits and were in various stages of construction; that development at Turning Point was a team effort; that Ms. Kara Price and Mr. Abe Bennett were the lead developers on the five previously mentioned projects; that at Turning Point Energy they believed their products should provide economic, environmental and community value; that they did so by providing economic value, by developing community solar projects, which allowed subscribers to sign up and save money on their electric bill; that these projects also represent an increase in the tax revenue to Sussex County; that they provide environmental value, because they were making electricity, with clean renewable energy; that at all of their projects they add pollinator plantings around the perimeter of the solar array, which provides a nice habitat for birds and small animals; that they create community value because an important thing they like to do is contribute to local charities and organizations for all their projects; that this was a rewarding part of the job, to visit people on the ground who were doing good work in the community, and contribute to them; that they were targeting \$3,000,000 of nonprofit donations for Turning Point across the company, by the end of 2026; that community solar was a model where they could build a larger solar farm, and spread out the cost savings; that it was more cost effective than going rooftop to rooftop to get the same amount of generation; that subscribers may sign up to receive a credit on their electric bill; that this enabled homeowners who have houses that were not well suited for solar to still participate in the clean energy economy; that it also enabled low-income households, condominiums, mobile homes, small businesses, and people who might not have a nice infrastructure to place solar panels on their roofs; that they could all sign up without changing their infrastructure; that it was purely an economic model; that community solar provided additional benefits to communities and tax benefits; that community solar provided local jobs, engineering services, construction services, civil contractors, fencing contractors, and electricians; that it would be for distributed energy generation, which also helped with the electric grid; that it would ease the burden of the transmission system, because the energy would be produced closer to the point where it would be consumed; that the energy of the solar arrays back feed; that the electrons go into houses and businesses nearby; that the energy does not have to be transmitted over to the transmission grid; that they would have a pollinator habitat; that they worked with Becker Morgan to put in a nice seed mix to help the quality of the soils as well; that there had previously been some discussion by County Council regarding solar energy projects who had received building permits, but had not yet been constructed; that they had permitted six Conditional Use applications in 2023 within

Sussex County; that five of them had gone to construction; that they had withdrawn one of the building permits due to the Interconnection Study taking longer than anticipated; that when the study came back, the actual cost to connect the facility no longer made the project feasible; that they do their best up front to analyze the grid to ensure they would be placing them in perfect spots; that however, they do not have all the information that utilities have; that they are required to submit a study, have utility study it, at which time they come back, telling them what the costs and upgrades would be necessary for the facility to connect; that five of their projects have building permits, and most of them are mechanically complete; that the one site was operational; that they expected the other sites to complete construction and become operational within 2026; that at times, they are required to wait on Delmarva Power; that they do not want to be too far ahead of them because they do not want to have the infrastructure in the ground before they can flip the switch, having it generate electricity; that for the five applications being currently being presented to the Commission, they had submitted applications for all five applications; that they had received cost letters back for most of the projects, which notifies Turning Point of how much it will cost for the project to connect; that based on the received letter, Turning Point felt confident that all five projects will move forward; that they must run the land use permitting process in parallel with the interconnection process; that this does not make a project connection ready, because the other big component was Delaware Power would need to tell them how much it would cost, and then later tell them how long it would take for construction on Delmarva Powers part; that time duration for construction was the biggest variable with the projects; that two to three years was the general time frame; that Delmarva Power did receive a lot of applications all at once when the community solar program opened; that community solar developers are required to have site control in order to submit an application, and that Delmarva Power is currently attempting to work through the influx of applications.

Mr. Pettyjohn questioned whether Turning Point projects were being impacted by State legislature.

Mr. Robertson stated that the reasons the Commission was asking certain questions was because they had seen an influx of community solar applications; that the Commission was attempting to get a handle on the community solar process, by sorting out what comes first; that the Commission had been approving solar projects which did not appear to be getting constructed; that the Commission are unaware whether the set conditions are appropriate, and that the information being provided had been very helpful for the Commission.

Mr. Belknap stated Turning Point did not desire to permit projects that did not have a high probability of going forward; that they did not want to spend their capital or waste their or the Commission's time; that they make it their business to know as much about the electric grid when applying for projects; that they perform pre-application meetings; that they have engineers who analyze the project; that ultimately, the process requires them to pay Delmarva Power (DP&L) to

perform the study; that Delmarva Power will come back to confirm whether they can connect, and what would be required to connect, and Turning Point wanted to ensure that what would be required would be manageable for the project.

Mr. Robertson questioned whether Delmarva Power would provide them with the connection response, if there was not a land use approval already in place.

Mr. Belknap stated that they needed to have proof of site control to apply for an Interconnection Application; that they needed to request Sussex County for a permit because at some point down the line, Delmarva Power would ask them to provide a large sum of money to connect the facility; that they would not want to provide the money unless they had the land use permit, being the reason they run the two processes in parallel of each other; that they are not required to have land use approval before hand, as they are actually paying and hiring Delmarva Power to perform the study; that first Delmarva Power provides them with an estimate on required costs; that the next step was the Interconnection Agreement, being the signed document that states one can back feed power at a location; that when Delmarva Power produces that, they also provide a construction and timing schedule; that they try to time everything at the same time; that sometimes there are further delays, but in fairness, there is a lot for the power company to do; that they attempt to work with them, but the reality of the situation was that this issue was a big component of why a lot of the permits had not been built; that while their projects are being built, they are actively going out and getting subscribers for the projects; that is was an ongoing process for the Sussex County projects, and currently they had almost 3,000 households and small businesses signed up.

Madam Chair Wingate questioned whether those 3,000 households and small businesses were within Sussex County.

Mr. Belknap stated that they were not all Sussex County residents; that they were all customers of Delmarva Power & Light (DP&L); that only Delmarva Power customers were allowed to participate in the program; that there were a lot of Sussex County residents within that; that 50% of the projects are going to low-income housing as well; that low-income housing get an additional benefit on their electricity bill, and if one mapped in their current savings and projections of what electricity rates are supposed to do, the proposed savings is estimated at 19 million dollars for the projects.

Mr. Jon Falkowski stated that the application for SU245 was located in Georgetown, being between Rt. 9 and East Trap Pond Road; that the parcel was zoned AR-1 (Agricultural Residential); that the parcel was currently utilized for agricultural use; that the Conditional Use area consisted of 25.96 acres; that the fenced area within the Conditional Use area consisted of 19.48 acres; that on the total area of the parcel contained 67.23 acres, which included a wooded area in the back, and

farming activities that were proposed to remain; that the plan showed the area proposed for the solar arrays; that it reflected access from Rt. 9 through a parcel that was controlled by the same property owner; that the gravel access road would come straight down, through the middle of the site, extending the road to the inverters that were centrally located in the solar array field; that the plan reflected a 30 foot landscape buffer; that the buffer would consist of a 70-30 mix, with 70% being deciduous trees, and 30% being evergreen trees; that the buffer would consist of 15 trees per 100 feet, which was the County standard for a subdivision buffer; that on previous applications, a fixed knot wire fence was proposed; that they had developed a detail which would be presented on the Final Site Plans; that fixed knot wire fencing was a 12.5 gauge mesh wires that would be fully taut with tension wires and wooden posts that get driven into the ground; that they have a fabric that they had been working on throughout the years; that it was a mesh fabric that allowed some wind to pass through; that they had found a product that was not solid like one would see at a tennis court, or a baseball outfield; that their fabric was a mix of nylon, providing 70% opacity, but still allowed more wind to pass through the mesh; that previous mesh fencing were being installed by plastic zip ties; that they will be beefing up the straps to a stainless strap, and adding tension wire to the top and bottom; that there would be little oval wind cutouts every 100 feet; that they believe that this would help with high wind events in the farm fields; that he presented to the Commission a rendering of the fencing along with canopy trees; that a typical 100 foot linear foot section would consist of 10 deciduous trees and five evergreens; that in previous applications it was proposed to provide full evergreens or reverse the mix to be 70% evergreen and 30% deciduous, which would provide 10 evergreen trees and five canopy trees; that Turning Point would be open to whichever the Commission would suggest; that they would appreciate consideration to be given to evergreen screening, as they felt it to be a better visual screening in the winter months when the canopy trees would lose their leaves; that they also proposed to have the mesh fence; that at the point when the vegetation was established or when the bond was released, they could remove the mesh; that the idea is that if they have a thicker evergreen buffer of 10 trees, once the landscape buffer is established in five years, they could remove the mesh; that this would avoid any long-term maintenance issues; that within the five years, the operator of the facility would make periodic visits to ensure the mesh was not coming down, and repair when necessary; that they had provided a graphic regarding noise for each application; that they had a tool that could evaluate the decibel level at the property line or at the houses; that they did meet all applicable buffers with the project and all other applications; that they were well in excess of the 200 foot distance requirement on every application; that the closest dwelling for the current application was 275 feet; that they provided a specification sheet on the low noise that the inverters produce; that at the property line the inverters would be at a noise level of 44 decibels, which was as quiet as a library; that the Site Plan would be full reviewed and approved by the Sussex Conservation District; that the pollinator friendly meadow grass was called Fuzz and Buzz from Ernst Seed Company; that the meadow grass would be planted underneath the array, as well as within the buffer area; that it would be maintained yearly, being cut down once to twice a year to

a manageable height; that the pollinators grow in and help with reducing runoff to adjacent areas; that the project would benefit the local residential business and municipality subscribers; that they must be Delmarva Power subscribers; that the solar project would not increase traffic; that there would be a site visit one to two times per month; that a sign would be located at the front of each project that would provide the developer's name and direct contact number; that they were proposing a renewable energy source, which produces no odor, dust, gas, smoke or fumes; that the project would produce little to no noise from the inverters, which was tested at the property line; that the pollinator friendly ground cover plantings would reduce runoff, and the plans would be reviewed and approved by the Sussex Conservation District; that there would be a 30 foot landscape buffer; that the fencing would have a Knox box located at the gate providing emergency access for personnel; that the gravel road access would run the center of the site; that the State Fire Marshal required the road to be a minimum of 14 feet in width, with a turnaround at the end; that they may make the access wider; that the access was only provided for maintenance vehicles; that the projects would be decommissioned at the end of their life; that a security bond would be placed as part of the Conditions; that all five applications had held a community hearing; that the current application's community hearing was held on May 19, 2026, at the Georgetown Library; that plan changes had been made from the input made at those hearings; that the community hearings were advertised by mail using the same mailing list as Sussex County; that the community solar facility was considered a public utility under the Sussex County Zoning Code; that the project met the purposes of a Conditional Use in that it was of a public or semi-public character; that it was essential and desirable for the general convenience and welfare of Sussex County residents; that the proposed facility promoted Goal 7.3 of the Comprehensive Plan, which encourages the use of renewable energy, such as solar arrays; that the project would not adversely impact any of the neighboring or adjacent properties; that the project provides the landscaping and fencing discussed; that the project would not increase traffic to adjacent properties or neighboring roadways; that there would be periodic maintenance on the site for repairs and maintenance; that there would be no noise, dust, or odor generated by the facility; that the project was compliant with the buffers and setbacks set forth in Ordinance 2920; that Interconnection Studies were provided for all applications, aside from one, as it was not required because it was located adjacent to a substation; that the interconnection costs are known for the applications, and that the projects had been economically de-risked to move forward.

Madam Chair Wingate questioned Mr. Passwaters whether he believed five years would be enough time to remove the woven fence screening.

Mr. Passwaters stated that in five years, if the initial installed tree was large enough, he felt that it would be; that he felt anything below eight feet would need to wait a minimum of 10 years; that the trees would not be watered, and therefore nothing would enhance them to grow.

Mr. Pettyjohn questioned Mr. Passwaters about his opinion of the type of trees and their lifespan.

Mr. Passwaters stated that for the proposed 25-to-35-year land leases, he felt that the trees should be fine; that heavy weight to Leland Cypress could cause damage; that he would suggest that the trees be properly staked and tied, as damage to the trees could become a nuisance and an eyesore.

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

Mr. Judson Malone, resident of Georgetown, spoke in support of the application. Mr. Malone stated that he was the Executive Director of Springboard Delaware, a nonprofit organization dedicated to housing stability; that the proposed project would offer benefits to the residents; that many families are making monthly choices to pay electric or purchase groceries; that community solar spoke directly to this pressure and issue; that the project would provide clean locally generated power, providing a 10% reduction in electric bills with no upfront costs, no credit barrier, and no behind the meter expense; that community solar lowered emissions and bills and were good for the climate, the grids and the neighbors. Mr. Malone requested that the Commission consider his statement as support for the following solar applications as well.

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 2598 TPE DE SU245, LLC. Motion by Mr. Passwaters to defer action for further consideration, seconded by Mr. Pettyjohn, and carried unanimously. Motion by 4-0.

Madam Chair Wingate appointed Mr. Collins as acting Chairman and left Council Chambers.

C/U 2623 TPE DE SU300A, LLC, TPE DE SU300B, LLC, TPE DE SU300C, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 498.53 ACRES, MORE OR LESS. The properties are lying on the southwest corner of Zoar Road (S.C.R. 48) and Lawson Road (S.C.R. 296). 911 Address: N/A. Tax Map Parcels: 234-21.00-75.00 & 138.00.

Mr. Robertson advised the Commission that the general information previously provided by the Applicant for solar arrays and Turning Point be incorporated into the current application by reference, as well as the public comment in support previously provided by Mr. Judson Malone.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's presentation materials, the Applicant's Exhibit Book, the Conditional Use Site Plan, the Staff Analysis, a letter received from the Sussex County Engineering Department's Utility Planning Division, the property deed, and the DelDOT Service Level Evaluation Response Letter. Mr. Whitehouse advised the Commission that zero public comments had been received regarding the Application.

The Commission found that Mr. Jon Falkowski, Civil Engineer with Becker Morgan Group, spoke on behalf of the Applicant, C/U 2623 TPE DE SU300A, LLC, TPE DE SU300B, LLC, TPE DE SU300C, LLC; that also present were Mr. Jordan Belknap with Turning Point Energy, Mr. John Trace, legal counsel, Ms. Kara Price and Mr. Abe Bennett, Lead Developers for Turning Point Energy. Mr. Falkowski requested that Mr. Jordan Belknap provide information about Turning Point Energy.

Mr. Falkowski stated that the property was located within Georgetown; that the site was four co-located projects, as a result of a recent change with the Public Service Commission, which allowed co-located community solar projects; that the project would be for four, four megawatt, ground tracking systems, equaling a total of 16 megawatts; that all the Conditional Use areas total up to 213 acres; that Site A consisted of 24.57 acres; that Site B consisted of 28.04 acres; that Site C consisted of 27.98 acres; that Site D consisted of 21.99 acres; that the fenced area would consist of 102.58 acres; that the total parcel contained 498.53 acres; that aerial photos reflected trees in rows; that previously the site was a timber field, which had been harvested in the mid-1900's, being about 30 years ago; that a little time later the site was harvested again, and currently being harvested once more by the property owner; that the site was planned to be harvested regardless whether solar was proposed or not; that property was purchased for timber harvest, and currently being used for such; that there was a gap shown between Site A and Site B; that there was a Delmarva Power high voltage transmission line which ran north to south through the property line, along with a substation; that an Interconnection Study was not required by Delmarva Power, because of the site being in such close proximity, they did not feel it was needed; that the site would have the same typical gravel road, extending north to south, within and utilizing the existing the Delmarva Power easement; that the access would enter the site, and then peel off to access the inverters; that the access would be 14 feet in width, and would provide turnarounds for emergency apparatuses and knox box protection; that they would leave the easement open; that they would not propose to place the landscape buffer or the meadow plantings within the easement; that there should had been an additional letter of support, submitted by Mr. Dustun Thompson of the Sierra Club; that the site will have similar fencing; that whatever was decided for the landscape composition and the fence buffer, the timeline would carry forth for all the applications; that adjacent properties dwellings were located 300 feet and 500 feet away; that this provided very low decibels from the inverters; that the provided decibel ratings did not take into account the proposed

fencing, landscaping and arrays that would further block out noise, and that the community hearing was held at the Georgetown Public Library.

Mr. Robertson questioned whether Delmarva Power had signed off on the use of their access easement.

Mr. Falkowski stated that they had been coordinating with Delmarva Power; that they had not received an approval letter; that however, they had similar situations in the past, where Delmarva Power did consider it a right-of-way, and there was an existing road, of which they would like to peel off of.

The Commission found that one person was present who wished to speak in support of the application; that no one was present in opposition to the application, and with Mr. Judson Malone's previous comments of support being incorporated into the record by reference.

Mr. Mark Baker spoke in support of the Application. Mr. Baker stated that he and his family owned the property, as well as others in the general area; that he and his brother actively farm the site; that they felt the site was ideal, as it was located adjacent to the existing electrical infrastructure; that they plan to increase their row crop acres by converting some of the pine and adding irrigation, alongside of the project; that the project was important to their farming operations; that the project would use a very small percentage of their crop acres and wooded acres of the two parcels; that the project would provide diversification of income during the ups and downs of farm cycles; that they employ two full-time employees for farm help; that the project would help them stabilize the overall operation, allowing them to keep farming, and for the reasons stated he was in support of the application.

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

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

In relation to C/U 2623 TPE DE SU300A, LLC, TPE DE SU300B, LLC, TPE DE SU300C, LLC. Motion by Mr. Pettyjohn to defer action for further consideration, seconded by Mr. Passwaters and carried unanimously. Motion by 3-0.

CU 2633 TPE DE SU95A, LLC & TPE DE SU95B, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 185.96 ACRES, MORE OR LESS. The property is lying on the west

side of North Old State Road (S.C.R. 38A), the east side of DuPont Boulevard (Rt. 113), and the north side of Haflinger Road (S.C.R. 625). 911 Address: 8850 North Old State Road, Lincoln. Tax Map Parcel: 230-12.00-19.00 (P/O).

Mr. Robertson advised the Commission that the general information previously provided by the Applicant for solar arrays and Turning Point be incorporated into the current application by reference, as well as the public comment in support previously provided by Mr. Judson Malone.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's presentation materials, the Applicant's Exhibit Booklet, the Conditional Use Site Plan, the property deed, and the Staff Analysis. Mr. Whitehouse advised the Commission that no public comment had been received regarding the application.

The Commission found that Mr. Jon Falkowski, Civil Engineer with Becker Morgan Group, spoke on behalf of the Applicant, C/U 2633 TPE DE SU95A, LLC & TPE DE SU95B, LLC; that also present were Mr. Jordan Belknap with Turning Point Energy, Mr. John Trace, legal counsel, Ms. Kara Price and Mr. Abe Bennett, Lead Developers for Turning Point Energy. Mr. Falkowski requested that Mr. Jordan Belknap provide information about Turning Point Energy.

Mr. Falkowski stated that the project was another co-located project; that the supplemental presentation, submitted on June 16, 2026, included the updated Site Plan; that the Site Plan revision was a direct result of the community meeting; that the site was zoned AR-1 (Agricultural Residential) and was currently agricultural land; that Array A was located off North Old State Road; that Array B was located off Haflinger Road; that the old Site Plan had each taking access off each respective road; that the arrays would be completely surrounded with the same proposed landscape and fencing, with access by a gravel road leading to the center of the facilities, where the inverters would be located; that as a result of the community meetings, both arrays were shifted significantly further away from the road and the residents across the street; that Array B provided 700 feet, being roughly two football fields, 360 feet a piece in distance; that the project originally met the minimum setbacks, but had now been pushed back even further from the roadway; that as a result, the two separate arrays were located closer together, being more within the interior of the farmland rather than its extremities; that the construction lay down area would shift further away from the neighbors; that any noise during construction would be mitigated; that as shown on the Site Plan, there was a small family cemetery located on the site; that they did not plan to develop that area, and would not be located within the Conditional Use area; that they would leave the area undisturbed, and provide access for the neighbors or family who may want to visit the grave site, which currently did not exist; that the shift in the arrays allowed for some agricultural operations to continue; that there would be no mitigation or impacts to the neighbors; that the project proposed the same fencing and fabric previously presented, along with the same landscape buffer; that the

noise decibel level for both Array A and Array B were 36 and 38 decibels, which was almost dead silence at the proposed distance; that he requested the entire presentation be carried into the record for all the applications; that the only difference with the current application, was that the community outreach meeting was held at the Milford Public Library on May 18, 2026; that the updated lease area for SU95A was 34.01 acres, with a fenced area of 27.38 acres, and the updated lease area for SU95B was 27.38 acres, with a fenced area of 28.37 acres.

The Commission found that there was one person present who wished to speak in support and one person present who wished to speak in opposition to the application, and with Mr. Judson Malone's previous comments of support being incorporated into the record by reference.

Mr. Robert Whitehead spoke in support of the Application. Mr. Whitehead stated that he was a retired Agricultural Specialist for Customs and Border Protection; that the site was his family farm; that their goal was to generate enough income to allow them to restore their original property house, which dated back to the 1700s; that the farm lease barely covered the basic expenses of the property; that they did not wish to sell or develop the property, and wished to keep it in the family as long as possible.

Mr. Jake Carpenter, resident of Lincoln, spoke in opposition to the Application. Mr. Carpenter stated that he was a huge supporter of solar and renewable energy, however, expressed concerns regarding the amount of approved solar arrays approved around his property and the negative impact on property values.

Mr. Falkowski spoke as part of his permitted five-minute rebuttal. Mr. Falkowski stated that there was a property value study performed and included within the exhibit booklet provided.

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

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

In relation to C/U 2633 TPE DE SU95A, LLC & TPE DE SU95B, LLC. Motion by Mr. Passwaters to defer action for further consideration, seconded by Mr. Pettyjohn, and carried unanimously. Motion by 3-0.

CU 2640 TPE DE SU646, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND C-1 GENERAL COMMERCIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 19.74 ACRES, MORE

OR LESS. The property is lying on the west side of the intersection of Sussex Highway (Rt. 13) and Camp Road (S.C.R. 532). 911 Address: N/A. Tax Map Parcel: 131-19.00-3.00.

Mr. Robertson advised the Commission that the general information previously provided by the Applicant for solar arrays and Turning Point be incorporated into the current application by reference, as well as the public comment in support previously provided by Mr. Judson Malone.

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

The Commission found that Mr. Jon Falkowski, Civil Engineer with Becker Morgan Group, spoke on behalf of the Applicant, C/U 2640 TPE DE SU646, LLC; that also present were Mr. Jordan Belknap with Turning Point Energy, Mr. John Trace, legal counsel, Ms. Kara Price and Mr. Abe Bennett, Lead Developers for Turning Point Energy. Mr. Falkowski requested that Mr. Jordan Belknap provide information about Turning Point Energy.

Mr. Falkowski stated that the project was a single project, and was not co-located like the others; that the property was located in Bridgeville along Sussex Highway; that the site was split zoned between AR-1 (Agricultural Residential) and C-1 (General Commercial); that for the current project the Conditional Use was proposed for the entire parcel, consisting of 19.74 acres; that the fenced area consisted of 13.15 acres; that the project would take access from the highway; that access would be centrally located between the two residential uses to the north and south; that they proposed it to be centrally located in an effort to mitigate noise; that the project would have a 30 foot landscape buffer, which would fully surround the perimeter fencing; that the landscape would consist of that previously mentioned; that the community outreach meeting was held on May 19, 2026, at the Georgetown Public Library; that the project proposed a four megawatt AC tracker single system, and the decibel reading at the property line, being 229 feet away, was roughly 46 decibels or as quiet as an office.

Mr. Robertson questioned why the solar arrays were extended into the C-1 (General Commercial) area, as there was not a lot of commercial within that area along the highway.

Ms. Kara Price, Director of Development for Turning Point Energy, spoke on behalf of the application. Ms. Price stated that they had size limitations which impacted the project's viability; that there was no existing commercial development and no further commercial development planned within the area; that currently everything was residential; that they felt they were set back

well from a visual perspective along the roadway, and had no plans to relinquish that area for any other development at the current time.

Mr. Chetan Patel, the landowner of the property, spoke on behalf of the application. Mr. Patel stated that when he purchased the property, he was told that C-1 (General Commercial) property was a rare zoning at the time; that there was not much C-1 Zoned property left; that currently he was uncertain as to what he could do in terms of the commercial aspect of it; that with that said, he felt the solar opportunity presented to him was the best opportunity, as he did not see much else being developed on the property.

The Commission found that one person was in support of the application, one person present with questions regarding the application and with Mr. Judson Malone's previous comments of support being incorporated into the record by reference.

Mr. Jeffery Lui, resident of Bridgeville, spoke with questions regarding the application. Mr. Lui stated that he did not receive notice of the Community Outreach meeting; that he questioned how far the project would be from his home, and how the project would benefit his electric bill.

Mr. Pettyjohn stated that if Mr. Lui had Delmarva Power, he would be eligible for the electric bill savings, and if he had Delaware Electric Cooperative, he would not be eligible for the savings.

Mr. Jon Falkowski spoke as part of his five-minute rebuttal. Mr. Falkowski stated that Mr. Lui was clearly located within 200 feet of the project and should have received a notice mailer; that he did not have the exact distance measurement and would say that Mr. Lui's dwelling was outside of 200 feet from the array itself.

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

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

In relation to C/U 2640 TPE DE SU646, LLC. Motion by Mr. Passwaters to defer action for further consideration, seconded by Mr. Pettyjohn, and carried unanimously. Motion by 3-0.

CU 2642 TPE DE SU94B, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 39.76 ACRES, MORE OR LESS. The property is lying on the east side of North

Old State Road (S.C.R. 213), approximately 600 feet north of Haflinger Road (S.C.R. 625). 911 Address: 9052 Lofland Drive, Lincoln. Tax Map Parcel: 230-12.00-39.00.

Mr. Robertson advised the Commission that the general information previously provided by the Applicant for solar arrays and Turning Point be incorporated into the current application by reference, as well as the public comment in support previously provided by Mr. Judson Malone.

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

The Commission found that Mr. Jon Falkowski, Civil Engineer with Becker Morgan Group, spoke on behalf of the Applicant, C/U 2642 TPE DE SU94B, LLC; that also present were Mr. Jordan Belknap with Turning Point Energy, Mr. John Trace, legal counsel, Ms. Kara Price and Mr. Abe Bennett, Lead Developers for Turning Point Energy. Mr. Falkowski requested that Mr. Jordan Belknap provide information about Turning Point Energy.

Mr. Falkowski stated that the project was located within Lincoln; that the project that was presented earlier for SU94A and SU94B was located southwest of the current application site; that the current site, was also the site for C/U 2347 TPE DE SU94, LLC, which had already been constructed and online; that the current arrays were proposed as Array B; that the arrays for C/U 2347 were a lease area by itself, and would operated independently of the current Conditional Use No. 2642; that the northern half of the parcel was developed into solar arrays as part of C/U 2347; that the current application would be an infill of the rest of the parcel, consisting of 39.33 acres; that the original Conditional Use No. 2347 was granted for the entire property; that the new Conditional Use relates only the additional development, which would be operated by a different operator; that they should be treated as two separate entities; that the current Conditional Use would be subject to some conditions that the first one was not, based on the time of its approval; that the project would intend to fully comply with any imposed conditions; that the project would have a landscape buffer; that the previous conditional use did not require a landscape buffer as it was fully surrounded by additional farmland; that they intend to install the landscape buffer around three sides; that the top would lead into the lease area and fully encompass the three sides, being the north, west and south sides; that there was an existing hedgerow style buffer along the property to the east; that the site had one property owner, however the lease areas were two different entities being TPE DE SU94, LLC and TPE DE SU94B, LLC; that they had considered landscaping being proposed for all four sides; that they felt with the adjacent use and there being another fence line there; that a buffer within two fence lines did not provide great access for maintenance and things of that nature; that

they therefore omitted the buffer between the two uses, both being solar; that the project did provide a separate access to the site; that the original project's access was located 150 foot north of the proposed access; that the proposed access would meet DelDOT's entrance spacing guidelines, and access would run to the inverters with turnaround areas provided.

Mr. Passwaters questioned whether the Commission could request the landscape buffer to be extended since it was a separate Conditional Use.

Mr. Robertson stated that he did not believe the Commission could request for the landscape buffer be extended around the existing solar array, as that area was not part of the current application, and questioned why the inverters were not more centrally located within the site.

Mr. Jordan Belknap with Turning Point Energy spoke on behalf of the application. Mr. Belknap stated that he would have no problem with the condition to have the inverter centrally located; that he too agreed with Mr. Robertson; that he believed they could extend the access road further to place the inverter between the two solar arrays.

Mr. Robertson stated that the prior Conditional Use was approved likely before Solar Ordinance No. 2920 was adopted, and within the Ordinance it spoke to the location of transformers and similar equipment to be centrally located within the site.

Mr. Pettyjohn questioned whether they could use the other access to come into the site and turn or whether separate access was required.

Mr. Belknap stated that he felt using the existing access would be sensible; that he believed they would pursue not combining the access roads; that he wanted to make sure that he permitted the project as a separate, independent, standalone project, as the different projects would have different finance structures; that he wanted to ensure that they could build Array B without the help of Array A, and he felt it was wise to pursue combining the access roads.

The Commission found that there was one person in support, one person in opposition, one person with neutral questions who wished to speak regarding the application, and with Mr. Judson Malone's previous comments of support being incorporated into the record by reference.

Mr. Randy Ennis, resident of Rehoboth Beach, spoke in support of the application. Mr. Ennis stated that was the owner of the property; that the first project was operational; that Turning Point had been a pleasure to work with; that they have done well with site maintenance; that the first phase was a successful operation; that solar was great for the community and for energy saving costs; that he had heard that the Senate would be combining utility solar and DPNL into one bill to allow

it to become more convenient and easier to take advantage of savings; that his goal was to keep the site within the family, as it was his grandfather's land; that the land was in a trust; that it would benefit his grandkids and future generations, and that the proposed solar would have less impact on the roads than a development.

Mr. Jake Carpenter, resident of Lincoln, spoke in opposition to the Application. Mr. Carpenter stated that he was a huge supporter of solar and renewable energy, however, expressed concerns regarding the amount of approved solar arrays approved around his property and the negative impact on property values.

Mr. John Driscoll spoke with questions regarding the application. Mr. Driscoll questioned what the building setback was from North Old State Road to the front fence of the project, as he felt it was tight.

Mr. Jon Falkowski responded as part of the permitted five-minute rebuttal. Mr. Falkowski stated that the setback from the arrays to the road was 100 feet; that within that 100 feet would be a 30-foot landscape buffer, and he stated that there was a 50-foot distance from the fence line to the road.

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

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

In relation to C/U 2642 TPE DE SU94B, LLC. Motion by Mr. Passwaters to defer action for further consideration, seconded by Mr. Pettyjohn, and carried unanimously. Motion by 3-0.

PUBLIC COMMENT

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

Meeting adjourned at 5:43 p.m.

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