

## **THE MINUTES OF THE REGULAR MEETING OF JUNE 4, 2025**

The regular meeting of the Sussex County Planning and Zoning Commission was held on Wednesday afternoon, June 4, 2025, in the County Council Chambers, Sussex County Administrative Office Building, 2 The Circle, Georgetown, Delaware.

The meeting was called to order at 3:00 p.m. with Madam Chair Wingate presiding on behalf of Chairman Wheatley. The following members of the Commission were present: Ms. Holly Wingate, Mr. Bruce Mears, Mr. Brian Butler, and Mr. Scott Collins. Mr. Robert Wheatley was absent. Also, in attendance were Mr. Jamie Whitehouse – Director of Planning & Zoning, Mr. Vincent Robertson – Assistant County Attorney, Mr. Michael Lowrey – Planner III, Ms. Susan Isaacs – Planner I, and Ms. Ashley Paugh – Recording Secretary.

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

Motion by Mr. Collins, seconded by Mr. Mears, to approve the Minutes of the April 16, 2025, Planning and Zoning Commission Meetings as circulated. Motion carried 4-0.

## **PUBLIC COMMENT**

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

## **OTHER BUSINESS**

### **Sycamore Chase Expansion (C/Z 1991) RPC**

#### **Preliminary Site Plan & Master Plan**

This is a Preliminary & Final Site Plan for the creation of a Residential Planned Community (RPC) to consist of 86 single-family lots and 90 townhouse units (176 units total) to consist of private roads, open space, stormwater management and amenities to include a proposed clubhouse and walking trail. Staff note that the subject property was the subject of a previous Change of Zone Application (Change of Zone No. 1991). At their meeting of Tuesday, February 7<sup>th</sup>, 2024, the Sussex County Council approved a Change of Zone for the parcel through C/Z 1991 from Agricultural Residential (AR-1) District to a Medium Density Residential, Residential Planned Community District (MR-RPC) and the change was adopted through Ordinance No. 2990. Staff note that this Residential Planned Community (RPC) is adjacent and related to a previous Subdivision Plan (Sycamore Chase 2018-24) for a cluster subdivision to consist of one-hundred and four (104) single-family lots, private roads, open space and associated site amenities of which the Final Subdivision Plan was approved by the Commission at their meeting of Thursday, March 11<sup>th</sup>, 2021. A Master Plan has also been included with the submittal for separate approval by the Commission showing the overall layout of the RPC. The property is lying on the north side of Daisey Road (S.C.R. 370), approximately 0.60-mile west of Bayard Road (S.C.R. 384) in Frankford, Delaware. The Preliminary & Final Site Plan complies with the Sussex County Zoning

and Subdivision Codes and all Conditions of Approval. Tax Parcels: 134-18.00-45.00, 51.00, and p/o 53.00, 54.00 & 54.01. Zoning: MR-RPC (Medium Density Residential, Residential Planned Community District). Staff are in receipt of all agency approvals. Therefore, the Plans are eligible for Preliminary and Final Site Plan approval.

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

### **2022-10 Westlake (F.K.A. Raley Farm) – Section 1**

#### **Final Subdivision Plan & Master Plan**

This is a Final Subdivision Plan for the establishment of a cluster subdivision to consist of six-hundred and forty-six (646) single-family lots on a total of 358.84 acres +/- private roads, a central roundabout, open space and proposed amenities to include a clubhouse, in-ground pool, sports courts, walking trails and a beach amenity. The Preliminary Subdivision Plan for the proposal was approved by the Planning and Zoning Commission at their meeting of Thursday, September 28<sup>th</sup>, 2023, subject to twenty (20) Conditions of Approval. The Applicant is requesting that the subdivision be approved in Phases. Specifically, this proposal is for Section 1 of the Subdivision, which consists of one-hundred and ninety-three (193) lots on 141.54 acres. A Master Plan has also been included with the submittal for separate approval by the Commission showing the overall layout of the Subdivision. The project is located on the south side of Avalon Road (Route 302A) and the north side of Zoar Road (S.C.R. 48), approximately 0.28-mile east of Gravel Hill Road (Route 30). The Final Subdivision Plan for Section 1 complies with the Sussex County Zoning and Subdivision Code and all Conditions of Approval. Tax Parcels: 234-15.00-10.00, 234-15.00-3.20, 3.21, 9.00, 13.00, 14.00, 15.00 & 11.01. Zoning: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals.

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

### **S-25-38 Living Hope Fellowship Cemetery**

#### **Preliminary Site Plan**

This is a Preliminary and Final Site Plan for a proposed Cemetery, overflow parking area and related site improvements. The parcel is located on the west side of Staytonville Road (S.C.R. 224), approximately 0.42-mile northwest of Blacksmith Shop Road (S.C.R. 44). The Preliminary and Final Site Plan complies with the Sussex County Zoning Code. Tax Parcel: 430-1.00-13.06. Zoning: AR-1 (Agricultural Residential District.) Staff are in receipt of all agency approvals. Therefore, the Plans are eligible for Preliminary and Final Site Plan approval.

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

### **S-25-37 Bayshore Community Church, Inc.**

#### **Preliminary Site Plan**

This is a Preliminary Site Plan for Bayshore Community Church, Inc. for the establishment of a proposed 12,285 square foot church building, 1,200 square foot shed, parking lot, and other site improvements. The parcels contain 4.13 acres +/- and are located on the west side of Old Landing Road (S.C.R. 274), approximately 1.2 miles south of Warrington Road (S.C.R. 275). The Preliminary Site Plan complies with the Sussex County Zoning Code. Tax Parcels: 334-18.00-78.00 & 78.01. Zoning: AR-1 (Agricultural Residential) District. Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, staff are requesting final approvals to be made subject to staff upon the receipt of all agency approvals.

In relation to S-25-37 Bayshore Community Church, Inc. Motion by Mr. Collins to defer action for further consideration on the Preliminary Site Plan, seconded by Mr. Butler, and carried unanimously. Motion carried 4-0.

**S-25-34 Freeman Solar, LLC (C/U 2298)**

**Preliminary Site Plan & 6-month Time Extension Request**

This is a Preliminary Site Plan for the installation of a 75-megawatt photovoltaic electric generation facility (solar farm,) transformers, fencing with interwoven screening, a Knox box, and other site improvements. The Site Plan also includes a proposed Landscape Plan. Staff note that the site was the subject of a previous Conditional Use Application (Conditional Use No. 2298) for the establishment of a solar farm to be located within an Agricultural Residential (AR-1) District, General Residential (GR) District and Medium Density Residential (MR) District. The Application was approved by the Sussex County Council at their meeting of Tuesday, June 14th, 2022, and the use was established through Ordinance No. 2864. The property is located on a 350.96-acre parcel of land lying and being located on the east and west sides of Calhoun Road (S.C.R. 261), and South Shawnee Road (Route 36), approximately 1,267 feet south of Shawnee Road (Route 36) in Milford, Delaware. The Preliminary Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Should the Plans not be approved at today's Meeting, the Applicant has submitted a 6-month Time Extension Request to extend the expiration date from June 14<sup>th</sup>, 2025, to December 14<sup>th</sup>, 2025, and outlining how the project achieves the criteria of 99-40 if the Sussex County Code. A copy of the Time Extension Request has been included in the Commission's Packet this evening. Tax Parcels: 130-3.00-246.00, 247.00 & 247.02, 130-6.00-75.00, 76.00, 92.00, 94.00 & 95.00. Zoning: AR-1 (Agricultural Residential District), GR (General Residential District) & MR (Medium Density Residential District). Staff are in 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 Site Plan Approval.

Motion by Ms. Butler, seconded by Mr. Collins, and carried unanimously to approve the Preliminary Site Plan as a preliminary, with final approval to be provided by staff, subject to the receipt of all agency approvals, and to approve the 6-month Time Extension Request based upon the letter submitted into the record for the compliance with the criteria of §99-40 of the Sussex County Code. Motion carried 4-0.

**S-25-29 Chaberton Energy (Biggins Creek) (C/U 2433)**

**Preliminary and Final Site Plan**

This is a Preliminary and Final Site Plan for the construction of a solar facility and other related site improvements. Conditional Use No. 2433 to permit the use at the site was approved by the Sussex County Council at their Meeting of Tuesday, of February 20<sup>th</sup>, 2024, via Ordinance No. 2987. The fenced area containing the solar arrays occupies 35.61 +/- acres of the Parcel which is comprised of a total of 50.50 +/- acres. The Parcel is lying on Marlynn Lane on the south side of Lighthouse Road (Route 54), approximately 0.26-mile(s) west of the intersection of Lighthouse Road and Johnson Road (S.C.R. 390). The Preliminary & Final Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Tax Parcel: 533-18.00-39.00. Zoning District: AR-1 (Agricultural Residential 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 Site Plan approval.

Motion by Mr. Mears, seconded by Mr. Butler, and carried unanimously to approve the Preliminary and Final Site Plan. Motion carried 4-0.

**2021-25 Four Winds Farm**

**Amenities Plan**

This is an Amenities Plan for Four Winds Farm, a cluster subdivision to consist of three-hundred and thirty-six (336) single-family lots, private roads, open space, stormwater management and associated forested/landscape buffers. The Final Subdivision Plan for the proposal was approved by the Planning and Zoning Commission at their meeting of Wednesday, June 26<sup>th</sup>, 2024. The Amenities Plan proposes the establishment of a proposed 2,911 +/- square foot clubhouse, 3,572 +/- square foot in-ground pool, 1,600 +/- square foot tot lot, pickleball courts, a bocce ball/cornhole field, concrete patio with gas fire pit and seating, fireplace, grilling station, pergola, outdoor shower and community cluster mailbox. The improvements are to be located on the east side of Mayapple Drive and the west side of Wisteria Boulevard within the previously approved Four Winds Farm cluster subdivision located in Milton, Delaware. The Amenities Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Tax Parcel: 235-25.00-39.00. Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, staff are requesting that preliminary and final approval be made subject to staff upon the receipt of all agency approvals.

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

**2022-01 Mitchell's Corner**

**Amenities Plan**

This is an Amenities Plan for Mitchell's Corner, a Coastal Area cluster subdivision to consist of two hundred sixty-seven (267) single-family lots, private roads, open space, stormwater

management, and associated forested/landscape buffers. The Final Subdivision Plan for the proposal was approved by the Planning and Zoning Commission at their meeting of Wednesday, August 21, 2024. The Amenities Plan proposes the construction of a 3,248 square foot +/- clubhouse, two (2) pools, pool house, tiki bar, indoor and outdoor pickleball courts, beach volleyball court, playground area, landscaping, parking and other supplementary Site improvements. The property is located on the north corner of Cygnet Street and Black Swan Drive within the existing and previously approved Mitchell's Corner Subdivision in Lewes, Delaware. The Amenities Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Tax Parcel: 335-8.00-37.00. Zoning: MR (Medium Density Residential District) Staff are in receipt of all agency approvals. Therefore, the Plans are eligible for both preliminary and final approval.

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

#### **Lands of Curtis & Darlene B. Carey**

Minor Subdivision Plan off a proposed 30-ft easement

This is a Minor Subdivision Plan for the creation of two (2) lots plus the residual lands with access off a proposed 30-ft wide ingress/egress access easement. Proposed Lot 1 will consist of 1.7457 acres +/-, proposed Lot 2 will consist of 1.7457 acres +/-, and the residual lands will contain 1.50 acres +/- A shared-use maintenance agreement shall be established for the use of the shared access road. The property is located on the east side of S. Union Church Road (S.C.R. 42), approximately 0.28 mile +/- south of Beach Highway (Route 16a). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 230-26.00-76.04 Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, staff are requesting that preliminary and final approval be made subject to staff upon the receipt of all agency approvals.

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

#### **Lands of Helen L. Gabriel**

Minor Subdivision Plan off a proposed 50-ft easement

This is a Minor Subdivision Plan for the creation of four (4) lots plus the residual lands, with access off a proposed 50-ft wide ingress/egress access easement. Proposed Lot 1 will consist of 2.266-acres +/-, proposed Lot 2 will consist of 2.116-acres +/-, proposed Lot 3 will consist of 2.613-acres +/-, and Lot 4 will consist of 2.803-acres +/-, the residual land, includes Lot 5, will contain 2.968-acres +/- A shared use maintenance agreement shall be established for the use of the shared access road. The property is located on the southeast side of Old Meadow Road (S.C.R. 530). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 231-12.00-2.09 Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, staff are requesting

that preliminary and final approval be made subject to staff upon the receipt of all agency approvals.

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

#### **Lands of Alyson & Brad Hudson**

Minor Subdivision Plan off a proposed 42-ft easement

This is a Minor Subdivision Plan for the creation of one (1) lot plus the residual lands with access off a proposed 42-ft wide ingress/egress access easement. Proposed Lot 1 will consist of 1.136-acres +/- and the residual lands will contain 1.346-acres +/- . A shared use maintenance agreement shall be established for the use of the shared access road. The property is located on the southwest side of Dupont Boulevard (Route 113), approximately 0.30 miles southeast of Hardscrabble Road (Route 20). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 133-16.00-72.00. Zoning: C-1 (General Commercial District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, staff are requesting that final approval be made subject to staff upon the receipt of all agency approvals.

Motion by Mr. Mears, seconded by Mr. Collins, and carried unanimously to approve the Minor Subdivision Plan off a proposed 42 ft. easement as a preliminary, with final approval to be given by staff subject to the receipt of all agency approvals. Motion carried 4-0.

#### **Lands of Rhue Family**

Minor Subdivision Plan off an existing 50-ft easement

This is a Minor Subdivision Plan for the creation of two (2) lots plus the residual lands with access off an existing 50-ft wide ingress/egress access easement. Proposed Lot 1 will consist of 2.961 acres +/-, proposed Lot 2 will consist of 2.441 acres +/-, and the residual lands will contain 41.895 acres +/- . A shared-use maintenance agreement shall be established for the use of the shared access road. The property is located on the west side of Coastal Highway (Route 1), approximately 0.54 mile +/- north of Truitt Road (S.C.R. 198). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 230-15.00-28.03 & 28.01 Zoning: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals. Therefore, the plans are eligible for both preliminary and final approvals.

Motion by Mr. Butler, seconded by Mr. Collins and carried unanimously to approve the Minor Subdivision Plan off an existing 50 ft. easement as a preliminary and final. Motion carried 4-0.

#### **S-25-30 Roxana Road Storage – Time Extension Request**

Time Extension Request

On May 27<sup>th</sup>, 2025, the Department of Planning and Zoning received a 6-month time extension request for Roxana Road Storage, for the construction of storage units and outdoor storage for boats and recreational vehicles. The Preliminary Subdivision Plan was approved by the Planning

and Zoning Commission at their meeting of Wednesday, May 21<sup>st</sup>, 2025. Specifically, this time extension request is being made pursuant to Section 99-40 of the Sussex County Code. In accordance with the requirements of this Section of Code, an explanatory Memo, schedule and plan of completed steps and reasons in support of the Applicant's request for a time extension have been provided. The property is located on the west side of Roxana Road (Route 17), approximately 0.68-mile northeast of the intersection of Roxana Road and Daisy Road (S.C.R. 370). Tax Parcel: 134-15.00-20.06. Zoning: AR-1 (Agricultural Residential District).

Motion by Mr. Mears, seconded by Mr. Collins, and carried unanimously to approve the 6-month Time Extension request. Motion carried 3-0. Ms. Wingate abstained.

### **OLD BUSINESS**

Mr. Robertson informed the Commission that the next four applications were related to the same properties and project and therefore could be combined into one motion.

#### **ORD. 23-07**

**AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 334-4.00-34.00, 235-27.00-11.00, 12.00, 13.00 & 14.00.** The properties are lying on the north and south side of Log Cabin Hill Road (S.C.R. 247), the east and west side of Cool Spring Road (S.C.R. 290), the east side of Hudson Road (S.C.R. 258), and the north side of Lewes Georgetown Highway (Rt. 9) at the intersection of Cool Spring Road (S.C.R. 290) and Lewes Georgetown Highway (Rt. 9). 911 Addresses: N/A, 28645 Log Cabin Road, Lewes, & 16915 Hudson Road, Milton. Zoning: AR-1 (Agricultural Residential).

#### **C/Z 2010 CMF Cool Spring, LLC**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR CERTAIN PARCELS OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 637 ACRES, MORE OR LESS.** The properties are lying on the north and south side of Log Cabin Hill Road (S.C.R. 247), the east and west side of Cool Spring Road (S.C.R. 290), the east side of Hudson Road (S.C.R. 258), and the north side of Lewes Georgetown Highway (Rt. 9) at the intersection of Cool Spring Road (S.C.R. 290) and Lewes Georgetown Highway (Rt. 9). 911 Addresses: N/A, 28645 Log Cabin Road, Lewes, & 16915 Hudson Road, Milton. Tax Map Parcels: 235-27.00-11.00, 12.00, 13.00, 14.00 & 334-4.00-34.00.

**C/U 2441 CMF Cool Spring, LLC**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR AN EDUCATIONAL FACILITY TO BE LOCATED ON A 2.65 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 194.17 ACRES, MORE OR LESS.** The property is lying on the south side of Log Cabin Hill Road (S.C.R. 247), the west side of Cool Spring Road (S.C.R. 290) and the north side of Lewes Georgetown Highway (Rt. 9) at the intersection of Cool Spring Road (S.C.R. 290), the east side of Hudson Road (S.C.R. 258), and Lewes Georgetown Highway (Rt. 9). 911 Address: N/A. Tax Map Parcel: 235-27.00-11.00.

**C/U 2442 CMF Cool Spring, LLC**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR AN ASSISTED LIVING FACILITY AND MEDICAL OFFICES TO BE LOCATED ON A 13.86 PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 194.17 ACRES, MORE OR LESS.** The property is lying on the south side of Log Cabin Hill Road (S.C.R. 247), the west side of Cool Spring Road (S.C.R. 290), the east side of Hudson Road (S.C.R. 258), and the north side of Lewes Georgetown Highway (Rt. 9) at the intersection of Cool Spring Road (S.C.R. 290) and Lewes Georgetown Highway (Rt. 9). 911 Address: N/A. Tax Map Parcel: 235-27.00-11.00.

The Commission discussed the Application, which was last heard on May 7, 2025, at which time the record was left open for ten business days to allow for the sole purpose of receiving additional written public comments on the document submitted into the record by the Office of State Planning Coordination.

In relation to Ord. 23-07, C/Z 2010, C/U 2441 and C/U 2442 CMF Cool Spring, Inc., Madam Chair Wingate announced the closure of the records.

**C/U 2571 The Nature Conservancy**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL FOR A FIELD OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 3.80 ACRES, MORE OR LESS.** The property is lying on the north side of Round Pole Bridge Road (S.C.R. 257), approximately 3,910-feet north of Cave Neck Road (S.C.R. 88). 911 Address: 27167 Round Pole Bridge Road, Milton. Tax Map Parcel: 235-15.00-29.00.

The Commission discussed this application, which had been deferred since May 21, 2025.



Mr. Collins moved that the Commission recommend approval of C/U 2571 for The Nature Conservancy, for a Field Office for the Nature Conservancy based upon the record made during the public hearing, and for the following reasons:

1. This land was previously donated to the Nature Conservancy, and it has been maintained as open space ever since.
2. There is an abandoned home that currently exists on the property. This application seeks to allow the renovation of that home into a field office for the managers of Nature Conservancy properties throughout Sussex County.
3. The office will not generate any significant additional traffic on area roadways, and its location on this property will enable better supervision of the public's use and access to this property. This location is appropriate for this use as a field office.
4. There is no evidence in the record that the use would have any adverse effect on area roadways or neighboring properties. And the stewardship of open-space properties in Sussex County by the Nature Conservancy is a benefit to Sussex County and its residents and visitors.
5. This recommendation is subject to the following conditions:
  - A. The use shall be limited to use as a field office by the Nature Conservancy. This use shall be in addition to the existing public access to the property for use and enjoyment as open space.
  - B. One unlighted sign shall be permitted. It shall not exceed 32 square feet per side.
  - C. The applicant shall comply with any DelDOT entrance and roadway improvement requirements.
  - D. Parking areas for all vehicles and equipment associated with this use shall be shown on the Final Site plan and clearly marked on the site itself.
  - E. Any dumpsters shall be screened from the view of neighboring properties and roadways.
  - F. All security lighting shall be directed downward so that it does not shine on neighboring properties or roadways.
  - G. Failure to comply with these conditions may result in the revocation of the Conditional Use approval.
  - H. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Collins, seconded by Mr. Mears, and carried unanimously to recommend approval of C/U 2571 The Nature Conservancy, for the reasons and the conditions stated in the motion. Motion carried 4-0.

Vote by roll call: Mr. Mears – yea, Mr. Butler – yea, Mr. Collins – yea, Ms. Wingate – yea

**C/U 2496 Wade & Jacqueline Hudson**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR LAWN MOWER, YARD, GARDEN EQUIPMENT ENGINE REPAIR SERVICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 3.20 ACRES, MORE OR LESS.** The property is lying on the west side of Pettyjohn Road (S.C.R. 255), approximately 0.66 mile north of Prettyman Road (S.C.R. 254). 911 Address: 18112 Pettyjohn Road, Milton. Tax Map Parcel: 235-25.00-45.02.

The Commission discussed this application, which had been deferred since May 21, 2025.

Mr. Robertson read Mr. Butler's motion into the record, per Mr. Butler's request.

Mr. Butler moved that the Commission recommend approval of C/U 2496 Wade & Jacqueline Hudson for lawn mower, yard, and garden equipment repair services based upon the record made at the public hearing and for the following reasons:

1. The proposed lawn mower, yard, and garden equipment repair services use is small, and with the conditions and stipulations placed upon it, it will not have an adverse impact on the neighboring properties or community. It is also small enough that it will not negatively impact traffic or nearby roadways. DelDOT has also classified the use as having a diminutive impact on traffic.
2. The site is located in the Rural Area according to the Sussex County Comprehensive Plan. This type of use is appropriate in this Area according to the Comprehensive Plan which states that this area can include personal service uses that serve the needs of low-and-medium-density areas.
3. The Applicants live on the site, and the repairs will occur inside of the existing separate buildings on the property. The Applicant intends to keep the residential appearance of the property.
4. The use as a small-engine and equipment repair facility is of a public or semi-public character and is desirable for the general convenience and welfare of the area.
5. No parties appeared in opposition to this application, and a neighbor testified in support of this application.
6. This recommendation for approval is subject to the following conditions and stipulations:
  - A. The use shall be limited to small-engine repairs, including lawn mowers, yard equipment, garden and landscaping equipment, and similar repair services.
  - B. One indirectly lighted sign, not to exceed 32 square feet per side, shall be permitted.
  - C. Any security lighting shall be downward screened and shall be directed away from neighboring properties and roadways.
  - D. All repairs shall be performed inside of the existing outbuildings on the site. No outside storage or repairs shall be permitted.

- E. No junked, unregistered, or permanently inoperable equipment shall be parked or stored on the site.
- F. The parking areas for the use shall be shown on the Final Site Plan and clearly marked on the site itself.
- G. All oils and other fluids shall be properly stored indoors in appropriate containers. The applicant shall also comply with all state and federal requirements for the disposal of these fluids.
- H. The site shall be subject to all DelDOT entrance and roadway requirements.
- I. The hours of operation shall be 8:00 a.m. through 5:00 p.m., Monday through Friday, and between 8:00 a.m. and noon on Saturdays. There shall not be any Sunday hours.
- J. All trash containers and recycling areas shall be screened from view of neighboring properties and roadways. The location and type of screening shall be shown on the Final Site Plan.
- K. Any violation of these conditions may be grounds for termination of this Conditional Use.
- L. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Butler, seconded by Mr. Collins, and carried unanimously to recommend approval of C/U 2496 Wade & Jacqueline Hudson for the reasons and the conditions stated in the motion. Motion carried 4-0.

Vote by roll call: Mr. Mears – yea, Mr. Collins – yea, Mr. Butler – yea, Ms. Wingate – yea

**C/U 2525 Michael Makowski**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AMENDMENT OF CONDITIONS OF APPROVAL FOR CONDITIONAL USE NO. 2290 (ORDINANCE NO. 2849) TO AMEND CONDITION “A” RELATING TO BUILDING SIZE AND USE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 7.12 ACRES, MORE OR LESS.** The property is lying on the west side of the intersection of Lewes Georgetown Highway (Rt. 9) and Prettyman Road (S.C.R. 254). 911 Address: N/A. Tax Map Parcel: 235-30.00-6.21.

The Commission discussed this application, which had been deferred since May 21, 2025.

Mr. Collins moved that the Commission recommend a denial of C/U 2525 Michael Makowski to change Condition A of Conditional Use No. 2290 and Ordinance No. 2849 based on the record made during the public hearing, as well as the prior recommendation and Ordinance, and for the following reasons:

1. The Applicant desires to amend Condition A of Conditional Use No. 2290 and Ordinance No. 2849. Condition A currently states:  
*“The project shall be used for contractor floor space only. “Contractor” shall have the meaning attributed by Title 6, Section 3501(2). Each unit shall consist of office or showroom space in the front and storage in the back. The contractor units shall be located in two buildings, and the total combined square footage of these buildings shall not exceed 46,800 square feet. No businesses that primarily involve or are similar to the following uses shall be permitted: business or professional offices; retail; gyms or fitness centers; breweries or brewpubs; or food service.”*
2. The Applicant seeks to eliminate the prohibition against business or professional offices in the building that fronts upon Route 9 so that those uses can be included there. The Applicant also seeks to revise the condition of approval related to the size and location of the buildings, so that there are five (5) buildings instead of two (2) on the site. The primary reason for adjusting the number and size of the buildings appears to be the elimination of the need to provide sprinkler systems within them.
3. Conditional Use No. 2290 and Ordinance No. 2849 had very specific limitations to avoid overcrowding and more intensive uses from occurring in this location. The prior application was presented with the intended use being limited to contractor floor space as defined by the Delaware Code, with small business office, a showroom-type area, and a place for material storage, with limited vehicle trips to be generated by the proposed use. For example, the Applicant stated that only four (4) spaces were being provided per unit, which is lower than what would be needed for business or professional offices that require adequate spaces for not only staff, but also clientele. Condition A was added by the Commission and County Council to ensure that the use was not too intensive for the site and to prevent an unacceptable impact of the use on area roadways and neighboring properties.
4. Converting the use to allow business or professional office uses within the site is contrary to the limitations previously imposed on the site and would likely generate more traffic to and from the site than was originally contemplated. It would also add congestion within the site due to the inadequate parking on the site. This impact is also made worse by the incomplete buffering that was shown on the site plan presented during the public hearing.
5. That Applicant has stated that the classifications in the ITE Manual used by DelDOT allow for business and professional offices. That has no relevance to the County’s determination of the appropriate use of this property. It does not justify a change to the condition previously imposed on the existing Conditional Use associated with this property.
6. There is no compelling reason provided in the record to adjust the number and size of the buildings within the project. Although the Applicant has stated that smaller buildings could be more efficient and effective, the Applicant has not shown how that is the case. Instead, the primary reason for this change appears to be the avoidance of sprinkler systems in the buildings, which is a life/safety issue.
7. The Applicant purchased the property subject to Conditional Use No. 2290 and Ordinance No. 2849 and stated that he did due diligence on the approvals associated with the property. If the approved concept was not suitable, then the purchase could have been avoided. But

there is no compelling reason given in the record to make the requested change to Condition A.

8. For all of the foregoing reasons, I move that we recommend a denial of this Conditional Use to amend Condition A of Conditional Use No. 2290 and Ordinance No. 2849.

Motion by Mr. Collins, seconded by Mr. Butler, and carried unanimously to recommend denial of C/U 2525 Michael Makowski for the reasons stated in the motion. Motion carried 4-0.

Vote by roll call: Mr. Mears – yea, Mr. Collins – yea, Mr. Butler – yea, Ms. Wingate – yea

**C/U 2581 Zion Church Ventures, LLC**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR STORAGE/WAREHOUSE/OFFICE BUILDINGS AND A CAR WASH TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 24.87 ACRES, MORE OR LESS.** The property is lying on the southwest side of Zion Church Road (Route 20), approximately 605 feet northwest of Deer Run Road (S.C.R. 388) and the north side of Deer Run Road (S.C.R. 388), approximately 159 feet southwest of Zion Church Road (Route 20). 911 Address: 36054 Zion Church Road, Frankford. Tax Map Parcel: 533-11.00-23.00.

The Commission discussed the application, which had been deferred since May 21, 2025.

In relation to C/U 2581 Zion Church Ventures, LLC. Motion by Mr. Mears to defer action, seconded by Mr. Butler, and carried unanimously. Motion carried 4-0.

**C/U 2565 F & N Vazquez Concrete, LLC**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL AND A GR GENERAL RESIDENTIAL DISTRICT FOR A CONCRETE AND MASONRY BUSINESS WITH CONSTRUCTION INDUSTRY RETAIL SALES, GENERAL OFFICE SPACE AND STORAGE FOR THE RECYCLING OF AGGREGATE PRODUCTS, INCLUDING CRUSHING OPERATIONS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 32.95 ACRES, MORE OR LESS.** The property is lying on the west side of Greentop Road (S.C.R. 225), approximately 0.75 mile north of Fleatown Road (S.C.R. 224). 911 Address: N/A Tax Map Parcel: 230-13.00-36.00.

The Commission discussed this application, which has been deferred since May 21, 2025.

The Commission discussed the application, which had last been heard on April 16, 2025, at which time the record was held open for the receipt of a Site Plan, and the adopted Ordinance for the prior borrow pit approval for the site.

In relation to C/U 2565 F & N Vazquez Concrete, LLC. Motion by Mr. Butler to announce the closure of the record, seconded by Mr. Mears and carried unanimously. Motion carried 4-0.

## **PUBLIC HEARINGS**

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

### **2024-11 James Lofland Subdivision**

A standard subdivision to divide 9.03 acres +/- into two (2) single-family lots, to be located on a certain parcel of land lying and being in Sussex County. The property is lying on the north side of Swains Private Road, a private lane that is accessed off of Marshall Street (S.C.R. 225). 911 Address: N/A Tax Map Parcel: 330-11.17-13.00. Zoning District: AR-1 (Agricultural Residential).

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the Applicant's proposed Subdivision Plan, the Soil Evaluation Report, the DelDOT Service Level Evaluation Response, a copy of the Applicant's Chapter 99-9C Response letter, a letter received from the Sussex County Engineering Department, Utility Planning Division, and a general approval letter regarding the Applicant's Soil Evaluation Report. Mr. Whitehouse advised the Commission that no public comment had been received for the application.

The Commission found that Mr. Robert Nash, with Merestone Consultants, Inc., spoke on behalf of the Applicant, Mr. James Lofland, and the application. Mr. Nash stated the application was promoted to a Major Subdivision, from a Minor Subdivision submission; that this was because the maximum allowable subdivided lots, being four lots, had already been met off the private roadway; that historically, the private road had been in existence for decades; that the existing private roadway accesses a heavy industrial property, located to the rear of the subject property, currently owned by Christiana Excavating Company; that the Applicant is trying to create one single-family lot, with residual land to be considered a second lot, for the purpose of sale; that he had submitted design considerations; that the existing terrain and surrounding landscape would not be impacted by a single-family home; that there are no wetlands located on the property; that there are no natural or historic features located on the property; that due to the size of the subdivision, open space was not proposed; that there are no trees currently existing on the property; that nearby properties in the area would not be impacted by the proposed subdivision; that the property has individual, on-site water and septic; that the proposed subdivision had received all required agency approvals; that currently the property is a fallow piece of land; that a construction site is located toward the rear of the property, and the remaining adjacent properties are single-family residential properties.

Mr. Nash provided Mr. Whitehouse with all agency approval letters to be placed into the record.

Mr. Robertson questioned if the proposed subdivision would have any impact on the local school district.

Mr. Nash stated that the proposed subdivision would not have any impact on the local school district or the local fire company.

Director Whitehouse questioned if the property contained any wetlands, and if so, if the wetlands had been delineated.

Mr. Nash stated that there were no wetlands found on the property, and it had been previously used for farming.

Mr. Robertson questioned the staff if a potential approval could be granted as preliminary and final, as the Commission was in receipt of all required agency approvals.

Madam Chair Wingate questioned if a Shared Use Maintenance Agreement was needed to be required for the subdivision off a private roadway.

Mr. Robertson stated the private road had been in existence for 40 years, but questioned if there was any existing maintenance agreement in place for the private road.

Mr. Nash stated he was unable to find an existing private road maintenance agreement; that currently, the construction company is maintaining the road, as they are the roughest use on the roadway.

Mr. Butler questioned if Mr. Nash and the Applicant would be willing to put a maintenance agreement on the road.

Mr. Nash stated that he would be willing to place the requirement for a maintenance agreement to be placed for the private road.

The Commission found that no one was present who wished to speak in support of or in opposition to the Application.

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

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

Mr. Robertson read Mr. Butler's prepared motion into the record per Mr. Butler's request.

Mr. Butler moved that the Commission grant Preliminary and Final Site Plan approval of Subdivision 2024-11 James Lofland Subdivision for a two-lot subdivision based upon the record

and for the following reasons:

1. The proposed subdivision generally meets the purpose of the Subdivision Ordinance in that it protects the orderly growth of the County.
2. The land is zoned AR-1, which permits low-density single-family residential development. This 2-lot subdivision on 9.03 acres results in an overall density that is significantly less than the allowable density in the AR-1 District.
3. The proposed subdivision will be consistent with the area and will not adversely affect nearby uses or property values.
4. The subdivision will be served by an on-site well and on-site septic system.
5. The Applicant has provided all necessary agency approvals for this subdivision. Therefore, it is appropriate to grant both preliminary and final site plan approval.
6. No parties appeared in opposition to this Application.
7. The proposed subdivision will not adversely impact roads, traffic, schools, public buildings, and community facilities, and the items in Section 99-9C of the Subdivision Code are satisfied.
8. A waiver of the buffer and grading requirements is appropriate since this is a small subdivision creating only 2 lots.
9. A waiver from the street design requirements is also appropriate. This lot is proposed for a private roadway that has been in existence and under use for decades.
10. This preliminary and final site plan approval is subject to the following conditions:
  - A. Only two (2) lots shall be permitted being the new one-acre lot and the residual land. Any further subdivision shall require an additional public hearing.
  - B. A maintenance agreement obligation for the shared roadway shall be included as a note on the Final Site Plan.

Motion by Mr. Butler, seconded by Mr. Collins, and carried unanimously to grant Preliminary and Final Subdivision approval for 2024-11 James Lofland Subdivision for the reasons and conditions stated in the motion. Motion carried 4-0.

Vote by roll call: Mr. Mears – yea, Mr. Collins – yea, Mr. Butler – yea, Madam Chair Wingate – yea

### **2023-12 Windscape Farms**

A cluster subdivision to divide 26.4 acres +/- into forty-nine (49) single-family lots, to be located on a certain parcel of land lying in Sussex County. The property is lying on the northwest side of Pettyjohn Road (S.C.R. 255), approximately 0.75-mile northeast of Prettyman Road (S.C.R. 254). 911 Address: N/A. Tax Map Parcel: 235-25.00-45.01. Zoning District: AR-1 (Agricultural Residential).



Mr. Whitehouse advised the Commission that submitted into the record were a copy of the Applicant's Preliminary Subdivision Plan, the Applicant's Exhibits, the Staff Review Letters, the proposed Deed Restrictions, Technical Advisory Comments from the U.S. Department of Soils, the local school district, the Sussex County Engineering Department, the DNREC Office of Drinking Water, State Fire Marshal's Office, an Artesian Water Ready to Serve letter, the DelDOT Service Level Evaluation Response, and the Applicant's Area Wide Study Fee Memorandum. Director Whitehouse advised the Commission that one letter of public comment had been received for the Application.

The Commission found that Mr. James Fuqua, Esq. spoke on behalf of the Applicant, Rivera Development, LLC., that also present were Mr. John Stamato on behalf of the Applicant, Mr. Mark Davidson, Mr. Alan Decktor, and Mr. Eric Wahl with Pennoni Associates. Mr. Fuqua stated that an Exhibit Booklet was submitted for the record, containing relevant information about the application, including the Chapter 99-9C report; that the application proposes and AR-1 (Agricultural Residential) Cluster Subdivision, containing 49 single-family lots to be called, Windscape Farms; that the property is located on the western side of Pettyjohn Road, just east of the Shingle Point Road and Gravel Hill Rd. intersection; that the site contains 26.36 acres of mainly wooded land, with a section of open field located along Pettyjohn Road; that on the north, the site borders a wooded parcel fronting on Pettyjohn Road; that behind that is the Four Winds subdivision, which was also developed by the Applicant and is currently under construction; that the Four Winds subdivision is a 336 lot cluster subdivision, which was approved in January of 2023; that to the west of the property are agricultural lands, and an active, older borrow pit; that to the south of the site are two residences and 109 acre, mainly cleared, agricultural parcel; that the Commission would soon be hearing about the 109 acre parcel shortly as it was the subject of the next pending cluster subdivision application, which was also filed by the Applicant; that the proposed site is zoned AR-1 (Agricultural Residential), and located within the Low Density area according to the 2018 Comprehensive Plan; that the Comprehensive Plan recognizes that agricultural uses and single-family homes are permitted within the Low Density Area; that a cluster option subdivision is permitted in the Low Density Area at a density of two lots per acres, provided that public sewer is utilized and significant open space is set aside; that also the AR-1 Zoning District allows cluster subdivisions as a permitted use, subject to meeting the Superior Design Requirements of the Code; that for the proposed Windscape Farm subdivision, central water for domestic use and fire protection will be provided by Artesian Water Company; that Artesian currently has a 12 inch water main that runs through the property to serve the adjacent Four Winds subdivision; that central sewer will be provided by Artesian Wastewater Management by the way of adjacent Four Winds development; that an Ability to Serve Water and Sewer letter from Artesian is in the record; that the electricity will be provided by Delaware Electric Cooperative; that Stormwater Management Facilities will be designed and constructed in accordance with DNREC's current Sediment and Stormwater regulations, and being reviewed and approved by Sussex Conservation District; that Pennoni Associates performed and on-site investigation that determined there was no Tidal or Non-Tidal wetlands or water courses located on the site; that there is a natural drainage way running to the north, which captures the runoff from the agricultural field to the south, and discharges to the north for a brief period of time, when the volume of runoff

requires; that under the FEMA Flood Insurance Maps, the site is located outside of the flood zone, being located within Flood Zone X; that the site is mostly wooded, containing 22.56 forested acres that approximately 16.22 acres will be impacted by the development; that 5.54 acres of the woodlands will be preserved; that Pennoni also performed a Phase 1 Environmental Site Assessment; that based on that site review of historical documents, photography, interviews and regulatory records determined that there were no environmental conditions or risks associated with the property; that in the memorandum dated September 18, 2024, DelDOT determined that based on the traffic volumes, the proposed development was permitted to pay an Area Wide Study Fee in lieu of doing a Traffic Impact Study; that in addition, the developer is responsible for improvements to Pettyjohn Road, within the limits of the site frontage; that the construction of the entrance to the development shall be in accordance with all DelDOT requirements; that the design of the subdivision occurred as follows: the site was inspected; that the area of the site most appropriate for preservation was identified, which was the natural drainage area bisecting the site to the north approximately in the middle of the property to minimize impact on that portion of the site; that two locations were determined to be appropriate for development, being the areas located to the east and west of the drainage area; that due to the wooded nature of the site, attention was given to only removing trees where needed for the subdivision infrastructure and lot location; that after that was completed, the road, sidewalks, and lots were laid out as shown on the Site Plan; that reflected on the Site Plan, Windscape Farms will contain 49 single-family lots, which would create a density of 1.8 lots per acre in compliance with the AR cluster density of two lots per acre; that the smallest lot would be 77,500 square feet; that the largest lot would be 10,600 square feet; that the entrance to the development will be accessed from Pettyjohn Road; that the entrance will be designed and constructed in compliance with all DelDOT requirements; that the development streets will be private, and built to the Sussex County Engineering Department design standards; that sidewalks will be located on one side of all subdivision streets with street lighting with downward directed illumination; that all lots will front on development streets, including two cul-de-sacs; that as shown on the Site Plan, the front and rear sections of the community area separated by the drainage area; that the drainage area will remain in a natural state, except for the road crossing; that the front section, closest to Pettyjohn Road, will contain 18 single family lots; that in the rear section, the internal streets will be interconnected with the Four Wind subdivision to the north; that to the bottom of the Site Plan, it is also designed to be interconnected with the proposed Symphony Glen subdivision to the south, which is the subject of the next public hearing; that interconnection is designed for the project; that there will be an onsite neighborhood park, with landscaping, a gazebo and benches; that the development will share use of the recreational facilities to be located within the Symphony Glen subdivision, located south of the site; that the internal roads would be connected between the two developments; that the recreational facilities in Symphony Glen would be sized to accommodate the residents of both subdivisions, including a clubhouse with a floor area of at least 1,500 square feet and outdoor swimming pools, deck and tot lot; that there would be one amenity package for both proposed subdivision, should both applications be approved; that the Applicant has been working with the Sussex County Land Trust, regarding the possible creation of a bicycle, pedestrian and multi-use path, connecting the Town of Milton, and a parcel called the Forest of the Broadkill, which is located along Rt. 30, and it owned by the Sussex County Land Trust; that the Forest of Broadkill property is a 294 acre site,

containing a combination of fields and hardwood forest; that the Sussex County Land Trust plans to conserve the forest areas and to develop a public recreation component, featuring a public trail system; that the Applicant has proposed a path to run through the open space area, located adjacent to the drainage area, across the Windscape Farms site; that this proposal could involve removal of a strip of trees, in order to accommodate the path; that the path has only been proposed, and has not yet been determined if the path will be constructed or not; that any alternative, the Applicant has discussed making a monetary contribution to the Sussex County Land Trust, toward the path in lieu of a land dedication; that it is understood that should the subdivision plan be approved, a Revised Site Plan would be required to reflect the location of the path; that as shown on the Site Plan, there is a 30 foot wide buffer around the perimeter of the site; that most of the buffer will consist of the existing woodlands located on the site; that there will be no dwelling located within 50 feet of the boundaries located adjacent to agricultural lands; that all lot lines are located outside of 50 feet of any agricultural lands; that the north and east boundaries border existing woodlands; that the 30 foot buffer proposed in those locations would consist of 20 feet of woodlands and ten feet of grass; that this is due to the location of the Artesian utility easement that runs the water line in; that in these areas the required landscape buffer is only 20 feet, because the boundary is not located adjacent to a residential development; that the development will have a total open space of approximately 13.49 acres, equaling approximately 51% of the site; that this would include the 5.54 acres of existing forest, which is majority located as one large contiguous area across the center of the site where the drainage area is located; that the site is located within the Milton Fire Department service area, and the Cape Henlopen School District; that the location of a school bus stop would be coordinated with the school district; that the community will have a Homeowners Association, comprised of all lot owners, who will be responsible for enforcing the Community Restrictions, collecting assessments, maintaining the development streets, entrance, buffers, landscaping, stormwater facilities and all other community common areas. Mr. Fuqua requested to submit Proposed Findings & Conditions of Approval for the Commission's consideration.

Mr. Butler expressed concerns, which were submitted by written public comment, regarding increased traffic, the ability of the roadway to handle the traffic, and drainage, and he questioned if the proposed project would be subject to any DelDOT Transportation Improvement District (TID) payments.

Mr. Robertson stated that the property is located outside of the TID, and would not be subject to the TID fee requirements; that he believed based on the record, that an Area Wide Study Fee contribution was being made in lieu of the requirement to perform a Traffic Impact Study (TIS), which is presumably the case because there are already existing studies for the area.

Mr. Fuqua stated that with the application proposing only 49 lots, the Applicant did not feel it was a significant impact on traffic, and that he would address the traffic impact for Symphony Glen within the next public hearing.

Mr. Collins questioned if the application for Windscape Farms was approved, was it expected that the project's approval be contingent on the approval of Symphony Glen, as the project share the same amenities.

Mr. Fuqua stated that the time, only one property became under contract; that at that time the first application was filed; that it was sometime later that the other property came into contract; that the applications were filed approximately 13 months apart from one another; that due to this, the projects are two separate pending subdivision applications, that are proposed to have shared use of the recreational facilities.

Madam Chair Wingate questioned that if both applications were approved, that they would ultimately become one subdivision.

Mr. Fuqua stated that the intention is to keep the applications and the subdivisions separate.

Madam Chair Wingate questioned how shared amenities would be achieved for two separate subdivisions.

Mr. Fuqua stated that shared amenities would be achieved through a contractual agreement and that all residents would be treated the same, as far as the use of the facilities.

Mr. Robertson questioned whether both subdivisions would be governed by the same restrictive covenants.

Mr. Fuqua stated that he assumed that the restrictive covenants would be identical to one another.

Mr. Collins questioned if the subdivisions would share the same Homeowners Association (HOA).

Mr. Fuqua stated that the Applicant has not yet gotten that far in terms of the logistics of the HOA and restrictive covenants.

Madam Chair Wingate expressed concern regarding interconnectivity between the two subdivisions; that there could be a potential issue of one subdivision being approved, and the other subdivision not being approved; that the Commission has been adamant about requiring a second access for emergency purposes and without all the information, that requirement may not happen.

Mr. Fuqua stated that is why the applications should be considered together and stated that interconnectivity will be provided anyway.

Mr. Robertson stated that the bigger concern with interconnectivity, as the Commission has lived through, is that if there are three separate subdivisions, and one subdivision states that they do not want other vehicles traveling through their subdivision, the subdivision also returns to be modified.

Mr. Fuqua stated he never supported the idea of interconnectivity because the roads are private; that he was uncertain how that impacts liability, and other things of that nature, and it was the Commission who requires interconnectivity.

Madam Chair Wingate stated that the Commission requires interconnectivity for the purpose of providing access for emergency vehicles and personnel.

Mr. Fuqua stated he understood the reasoning for the Commission's interconnectivity requirement; that however, he felt interconnectivity can become a complicated issue and can create a thoroughfare through a subdivision; that the proposed subdivision proffers interconnectivity, but only because it is a requirement of the Commission, and the proposed interconnectivity is reflected on the plan.

Mr. Collins questioned whether the Applicant had any conversations regarding provisions for voluntary contributions to the local fire company, the emergency medical service, or the local school district as part of this application.

Mr. Fuqua stated no, there was no discussion of voluntary contributions.

Madam Chair Wingate expressed concern regarding the written comment letter submitted by the Cape Henlopen School District.

Mr. Collins expressed concern regarding the proposed intertwining of the proposed amenities; that, looking ahead, when the developer is selling lots in the development, with advertised amenities in another subdivision, he was concerned that residents may not feel the amenities are being delivered in a timely fashion, and he felt the subdivisions should be merged into one.

Mr. Mears stated he agreed that the subdivisions do not need two separate homeowners' associations if shared amenities are proposed.

Mr. Robertson stated that the subdivisions have been submitted as two separate applications; that the Commission will have to act on the applications, and if the Commission were inclined to approve the applications, the issue would be required to be addressed through the imposed Conditions of Approval. Mr. Robertson counterpointed his last statement, stating that there was an element to consider with the current subdivision only being a 40-lot subdivision; that the Commission would need to consider whether it is appropriate, in a subdivision of that size, to have the same amenity package that a larger subdivision would have; that the Commission can also consider if a subdivision of 49 lots need its own amenity package, and he understood the Commission's concern regarding creating an issue in the future.

Mr. Fuqua stated that the Zoning Ordinance now requires that the amenities be completed by a certain point, which he believed to be at 60%; that the Commission have the ability to place a condition on what they feel that percentage should be; that contractually this could all be put

together to allow every resident to use the amenities, under the same circumstance; that he felt the issue was not that complicated; that he did understand the circumstance was unusual; that it would be guaranteed that the amenities would be available to both subdivisions, or building permits could be cut off if the amenities were not built, and that the amenities would most likely be built at the earlier stage of development, as that allows for better sales.

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

Mr. Kevin Jester spoke in opposition to the Application. Mr. Jester stated that he resides across the street from the proposed development; that the Pettyjohn Road is tar and chip; that the developer is only required to pave in front of the development; that the road is barely wide enough for two cars; that the road floods; that the road is not prepared for construction traffic; that he did not agree with the interconnection to the other development; that the property was previously used as a dump for farmers, and a small construction company; that because of this, he does not understand how the Applicant can state that there are no environmental problems; that he has his private well located across the street; that there is junk all over the site from previous owners, and that it did not appear that the Applicant is proposing to place ditching to assist with the current flooding.

Madam Chair Wingate stated that the Applicant will be required to have a Soil Analysis performed on the site.

Mr. Steven Fuchs, resident of Prettyman Road, spoke in opposition to the Application. Mr. Fuchs stated that he was mostly concerned about the ditch; that the ditch runs through his property, his neighbor's property, through the next property, into the center, and continues; that no one from Sussex Conservation District has walked the ditch; that it is a result of Azalea Woods, residents began to complain; that the agency came out to evaluate the ditch, and found three blocked areas; that DNREC placed two 60 inch culverts across Rt. 30 from Azalea Woods, which currently drains down to their properties, flooding his property and his neighbor's property; that due to the way the area is farmed, the drainage goes uphill, before it goes downhill, ending in the island in the middle; that the drainage is supposed to run all down Rt. 30, but the drainage stops in multiple places, flooding all along the way; that at times he could place a boat in his backyard; that the ditch is about 3.5 feet deep; that he has had three inches of water in his driveway; that Pettyjohn Road is a tar and chip, curved road; that traffic is an issue; that with the summer traffic, the back roads have become an issue; that a four way stop was recently placed at the intersection of Prettyman Road and Pettyjohn Road, as a result of all the vehicle accidents, and he had concerns regarding the animals and where they will go.

Ms. Susan Davis-Tyndall, resident of Pettyjohn Road, spoke in opposition to the Application. Ms. Davis-Tyndall stated that she resides across the street from the proposed location of Windscape Farms; that there are already markings down the road for central water, which is proposed through the development back to Shingle Point Road; that she felt the parcel was not purchase by

circumstance, and that the subdivision was planned all along; that there is another portion of land that she felt would be developed to develop a community similar to Millville by the Sea; that Azalea Woods was approved along Rt. 30, consisting of 610 homes; that with the approval of Windscape Farms and Symphony Glen, will create an additional 3,000 people; that the additional people will generate additional traffic; that there is only one grocery store, being a Food Lion, that cannot accommodate all the people; that the current roads cannot accommodate the traffic; that her daughter works for Sussex Consortium, a school for children with disabilities; that Sussex Consortium had to cut full-time students to half days because they do not have the room to accommodate the children; that she would assume the proposed subdivisions will have family homes with children; that the school districts cannot get the referendums passed; that she questioned if projects can return to no longer be phased; that developers are proposing projects, and then phasing the projects out; that phasing began once the market crashed; that phasing was provided as a mean to not negatively impact the developer and the construction workers; that we have gotten through that period, and that period has ended, but we are still allowing projects to be phased out; that the Estuary has approximately 38 to 42 phases for the project; that without phasing, developers will have to come up with things up front; that this will not allow developers the ability to develop three developments at one time; that she requested the Commission to consider the amount of people that are moving to the area in a little amount of time, and she stated that she is not opposed to growth, but felt Sussex County needed to slow down and spread it out a bit.

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 2023-12 Windscape Farms. Motion by Mr. Butler to defer action for further consideration, seconded by Mr. Collins, and carried unanimously. Motion carried 5-0.

#### **2024-12 Symphony Glen**

A cluster subdivision to divide 109.65 acres +/- into two hundred and nineteen (219) single-family lots, to be located on a certain parcel of land lying in Sussex County. The property is lying on the northwest side of Pettyjohn Road (S.C.R. 255), approximately 0.20-mile northeast of Prettyman Road (S.C.R. 254). 911 Address: N/A. Tax Map Parcel: 235-25.00-44.00. Zoning District: AR-1 (Agricultural Residential).

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the Applicant's Preliminary Subdivision Plan, the Applicant's exhibits, the Staff Review letter, a copy of the proposed Restrictive Covenants for the subdivision, the Artesian Willing to Serve letter, the local school district notification letter, the Applicant's Buffer Management Plan, the State PLUS comments and the Applicant's response to the PLUS comments, the DelDOT Service Level Evaluation Response, the Applicant's Traffic Impact Study, and DelDOT's Traffic Impact Study Review letter, the Applicant's Drainage Assessment, comments received from the Technical

Advisory Committee (TAC), including comments from Delaware Department of Transportation, DNREC Drainage Program, Sussex County Engineering Department's Utility Planning Division, the State Fire Marshal Office, Delaware Electric Co-operative, and Delmarva Power. Mr. Whitehouse advised the Commission that one written comment letter was submitted and had been included in the Commission's paperless packet.

The Commission found that Mr. James Fuqua, Esq., spoke on behalf of the Applicant, Ribera Development, Inc., that also present were Mr. John Samato on behalf of the Developer, Mr. Mark Davidson, P.E., Mr. Alan Decktor, P.E., and Mr. Eric Wahl with Pennoni. Mr. Fuqua stated that an exhibit book was submitted for the record, containing the pertinent information about the subdivision, the Chapter 99-9C report, and the PLUS response letter; that this application is for an AR-1 (Agricultural Residential) cluster subdivision, containing 219 single-family lots, to be called Symphony Glen; that the land fronts along the western side of Pettyjohn Road; that there are mainly woodlands, agricultural lands, and a barrow pit located on the south and west sides of the site; that the northern boundary of the is located adjacent to the to two residential parcels, as well as the proposed Windscape Farms subdivision, which was the subject of the previous public hearing; that the reason that the Symphony Glen and Windscape Farms applications are separate, is the result of the two parcels coming under contract different times; that the two applications were filed 13 months apart; that the Windscape Farm application was filed in October 2023; that the Symphony Glen application was filed in November 2024; that because of their location, and the relationship between the two developments, the public hearings were requested to be heart together; that Symphony Glen contains 109.65 acres of mostly cleared farmland; that there are two pockets of Non-Tidal wetlands and woods located on the site; that the entire site is farmland; that the site is zoned AR-1 (Agricultural Residential); that the area is locate within the Low Density Area of the 2018 Comprehensive Plan; that cluster subdivision is a permitted use in the AR-1 Zoning District; that the law allows cluster subdivision as a permitted use; that central water will be provided by Artesian Water Company; that central sewer will be provided by Artesian Wastewater Management; that electricity will be provided by Delaware Electric Cooperative; that Pennoni Associates performed a Wetland Delineation, which determined that there are 1.94 acres of Non-Tidal wetlands located on the site; that one location contains 1.11 acres, and the other contains 1.83 acres of Non-Tidal wetlands; that stormwater management will comply with DNREC's soil conservation design and construction requirements; that there is a natural drainage swale, running south to north across the site, which connects to the two wetland parcels, and then goes on to the Windscape Farms parcel, flowing in a northernly direction; that the drainage way lacks any defined beds or banks because it has been impacted by the farming operation; that the Applicant plans to install pipes for roadway crossings, and to restore the drainage area to a more natural type of drainage; that he could not speak to what happens upstream from the site in terms of drainage; that regarding the site, the Applicant's plans will improve any type of drainage going across the area, and continuing onto the Windscape Farms site; that the site will no longer be a flat farm field; that the site will have natural contour type drainage on it; that the site is located within Zone X according to the FEMA Flood Insurance Maps; that the majority of the site is cleared farmland; that there is approximately 4.76 acres of woodlands; that the woodlands surround the two wetland areas; that the woodlands will remain as they are currently, except for selective



clearing where necessary; that DelDOT reviewed both subdivisions; that do to the size and impact of both subdivisions, a Traffic Impact Study was required; that Pennoni Associates performed a Traffic Impact Study (TIS), which was performed in accordance with DelDOT specifications; that the TIS was reviewed by DelDOT, resulting in the DelDOT TIS Review letter, dated May 22, 2025; that per the DelDOT Review letter, the Applicant is required to improve Pettyjohn Road with the road frontage and design and construct the development entrance to DelDOT's standards; that the entrance will be designed with an approximate 185 foot left turn lane, and a 190 foot right turn lane, that the Applicant will be required to make a monetary contribution for an equitable share of four DelDOT roadway improvement programs, being the realignment of a portion of Pettyjohn Road, north of Rt. 9; that Pettyjohn Road will intersect at a 90-degree angle; that the Applicant's contribution to that project will be \$31,528.00; that the Applicant will contribute to a traffic signal revolving fund for potential future improvement at the Rt. 9 and Harbeson Road intersection; that the Applicant's contribution for that project will be \$6,379.00; that the Applicant will contribute to future improvements to construct a single lane roundabout at the intersection of Harbeson Road, Shingle Point Road, and Chestnut Road; that the Applicant's contribution to that improvement would be \$412,371.00; that the Applicant will contribute to future improvement to construct a single lane roundabout at the intersection of Harbeson Road and Sand Hill Road; that the Applicant's contribution will be \$204,586.00; that based on the TIS, the Applicant's equitable share contributions to these projects will exceed \$650,000.00; that nowhere in either application's DelDOT review was their mention of required improvements to Pettyjohn Road, other than the road frontage of the site; that he felt a multiuse path is standard on required road frontage; that as part of determining the subdivision design, the area most appropriate for preservation was identified, being the two wetland areas and the adjacent woodlands; that the remainder of the property was deemed appropriate for development, roads, and sidewalks; that the lots were laid out based on this analysis; that as shown on the Subdivision Plan, the development will contain 219 single-family lots, equaling a density of 1.99 lots per acre; that the proposed density is in compliance with the permitted cluster subdivision density; that the smallest lot will be 7,500 square feet; that the largest lot will be 15,379 square feet; that the average lot size is 8,421 square feet; that the entrance will be from Pettyjohn Road; that the entrance will comply with all DelDOT design and construction requirements, with separate entrance and exit lanes from Pettyjohn Road; that streets will be private, containing sidewalks on one side of the street, with downward directed street lighting; that all lots front on development streets; that the rear of almost every lot is adjacent to development open space; that there is a road connection in the northwest corner of the property, creating interconnectivity with the proposed Windscape Farms subdivision; that there will be an easement reserved for a possible future connection to lands located west of the site, being the agricultural land and the barrow bit; that the recreational area will consist of a clubhouse, being a minimum square footage of 1,500 square feet, and outdoor swimming pool, deck, tot lot, and walking trail within the development; that there will be 20 parking spaces located at the recreational area; that the recreational facilities would be used by residents of Windscape Farms and Symphony Glen; that the facilities would be sized to accommodate the residents of both developments; that the Applicant had been working with the Sussex County Land Trust to create a multi-use path, which would potentially connect Milton and the Land Trust Forest property on Broadkill; that the multi-use path is currently in the planning stages; that the Applicant has

proposed that the path would cross the Windscape Farms property and the Symphony Glen property; that the path would be located in the area of open space surrounding the two wooded wetland area; that the perimeter of the site will have a 30 foot forested or landscape buffer as shown on the site plan; that there is a 50 foot setback from agricultural lands, as well as a 30 foot resource buffer from the Non-Tidal wetlands; that the development will have a total open space of 52.9 acres, being approximately 48.2% of the site, including over 30% of the open space being a contiguous area surrounding the wetlands and wooded areas; that the site is served by the Milton Fire Company, and located within the Cape Henlopen School District; that the development will have a homeowners association responsible for enforcing the restrictions, maintaining all common area, and community properties; that Mr. Samato has an agreement with the Sussex County Habitat for Humanity, to partially donate nine (9) improved lots to the Habitat for Humanity; that Habitat will pay a half of the development per lot; that if Habitat obtains any waivers or impact fees, the amount would be credited to toward Habitat's contribution; that a finished improved lot in the subdivision will have an estimated value of \$150,000; that Habitat's cost would be approximately \$50,000 for each of the nine lots, equaling a savings of approximately \$100,000 per lot; that the lots will not be located in one area, as they will be spread out throughout the community; that there is a written executed agreement that was provided within the exhibit book, and he requested to submit into the record, proposed Findings & Conditions for the Commission's consideration.

Mr. Alan Decktor, Professional Engineer with Pennoni Associates, spoke on behalf of the Applicant. Mr. Decktor stated the drainage ditch begins at Azalea Woods at Rt. 30, being the upstream end of it; that the drainage moves north through the properties; that there is a small DelDOT pipe under Prettyman Road, being just west of the new four way stop intersection, and just left of the proposed site; that the water does build up, a foot or two, to the south of Prettyman Road; that there are current issues of flooding, possibly on the upstream of it; that in coordination with Sussex Conservation District and DNREC, they are going to restore the area of both sites, which had been flattened by farming activities; that they will have a tiered stormwater facility; that the two ponds are located within the ditch alignment; that the ponds will be factored not the regrading and storage capacity, with positive drainage through the property onto Windscape, down through the properties, ultimately connecting to Round Pole Branch downstream, the flow runs left to right; that he had heard that Azalea Woods will be redoing their drainage, to reroute their run off in a different direction because of the current issues between the proposed site and Rt. 30; that the only piping required for the site is in the location where the roads are crossing; that the ditch would be redefined, and the ponds would be added to create a new drainage way; that DNREC and Sussex Conservation District are very excited about their plans to restore the nature of the area; that if the property is currently causing any impact to the upstream flooding, their plans would resolve with the improvements being proposed for the site; that construction is underway at the Windscape Farms site; that the water for the subdivision, for domestic water and for hydrants, comes through Windscape Farms site and down Pettyjohn Road, connecting at the entrance of Azalea Woods; that this right of way had been established between Artesian and DelDOT, and it currently being installed; that the pump station at Four Winds and the off-site force main, leaves Four Winds subdivision, comes down Shingle Point Road, down Rt. 30 and ties into an existing ports located in that area; that the 49 lots of Windscape Farms was already factored into the design

for Four Winds; that in coordination with Artesian, the hope to make simple changes to make the pump station work for Symphony Glen, and that is how the sewer would be routed there; that the water service is along the site frontage, and would tie into both subdivisions; that Pettyjohn Road is a tar and chip road; that through the process, the frontage would be improved to standard 11 foot travel lanes, and five foot shoulders, with turn lanes as needed; that DelDOT has a process, where they go out to do a core of the roadway, to determine how thick the roadway is; that from there, DelDOT would indicate to them, what to design the proposed improvement too; that DelDOT will dictate what the improvement will be for structural integrity of the proposed traffic for the road; that the Phase 1 Environmental Report includes a site assessment; that then, historical documents are review; that they reach out to different public agencies for information, and then the report is prepared; that in the Environmental Analysis nothing was determined; that Windscape Farms is a very thick underbrush that the Symphony Glen site is wide open; that if something was found within the Phase 1 analysis, a Phase 2 analysis would be required, however nothing was found during the Phase 1 analysis, and if anything was found during site work, than further investigation would be performed.

Mr. Collins questioned if Mr. Fuqua stated if he felt it would be acceptable for a condition to be placed regarding the contribution to Habitat for Humanity, and if any contributions had been discussed regarding fire service, EMS service or to the local school district.

Mr. Fuqua stated that he was agreeable to a condition being placed; that he did not propose a condition, as it was considered a private agreement, he was uncertain if Sussex County wanted to be involved in the agreement and that there was no discussion regarding contributions to fire and EMS services, or to the local school district.

Mr. Robertson questioned whether the mentioned barrow pit was located on the proposed site or the adjacent property; that he questioned if any thought was given to a sidewalk or bike path between the two developments, especially having shared amenities.

Mr. Fuqua stated that the barrow pit was located on the adjacent property to the west; that they had not given any thought to a walkway between the two, but he stated that one could be placed; that if the two developments had two different developers, Windscape Farms would have a small amenity package, as it is a small development; that Windscape Farms will get the benefit of having greater amenities, and he suggested that whatever agreement or binding restriction is placed, that the Commission request to review it at Final Site Plan approval.

Mr. Robertson requested more information regarding the location of the path from Milton to the Land Trust property.

Mr. Fuqua stated that he cannot provide an answer; that they are only focusing on their subject properties, stating that they would contribute by land donation or easement, and the location would be determined by the Land Trust.

Mr. Decktor stated that with all the subdivisions, they felt that, in coordination with the Land Trust, a better pathway through the properties would be the proposed path rather than a pathway straight down the road.

The Commission found that one person was present who wished to speak in support of the Application, and six people were present who wished to speak in opposition.

Mr. Kevin Gilmore, CEO of Sussex County Habitat for Humanity, spoke in support of the Application. Mr. Gilmore stated that Habitat for Humanity supports the project; that they are happy to see a commitment of nine lots to provide accessible, affordable workforce housing in the proposed part of the County, and he felt it was a big step forward in an initiative to provide more accessible housing.

Mr. Steven Fuchs spoke in opposition to the Application. Mr. Fuchs stated that drainage is an issue; that the drainage issue comes from Azalea Woods; that it is common to install retaining ponds with rubber bottoms; that this does not allow the water to drain; that ponds bring animals and bugs; that further up Rt. 30, a water facility was placed; that they have been inundated with bugs; that he understood there would be improvement made to Pettyjohn Road along the frontage of the site, but questioned what would be done with the remainder of the road; that he would like to see where the DelDOT improvements will be located; that this will have a huge impact; that there are no contributions being given to the Milton Fire Department or the school district; that he feels like traffic in the area had doubled, and he is very concerned about the traffic impact the subdivisions will have on the area.

Mr. Kevin Jester spoke in opposition to the Application. Mr. Jester stated that he works for DelDOT; that even if the developer fixes the drainage on their property, there is no drainage pipe to go across the street down Rt. 5; that the water is going to bottleneck at that location, becoming someone else's problem; that \$500,000 is not going to bring a construction company to perform any work; that the average is one million dollars per mile; that the developer does not care about the remainder of Pettyjohn Road; that he did not feel that the developer cared about the local fire company or the local school district; that the development was a bad idea, in a bad location; that there are other locations on Pettyjohn Road that flood; that the thousands of additional people would make it worse; that the local school recently graduated 460 students; that there are 2,000 students in the high school; that the high schools have no room; that the fire companies are begging for a new tax; that no one wants to volunteer anymore, and he felt when a subdivision is completed the residents should be able to look around and agree that the subdivision contributed to the area.

Madam Chair Wingate recommended that Mr. Jester contact Sussex Conservation District regarding the flooding issue to file a formal complaint and stated that the developer's contributions are dictated by DelDOT.

Mr. Robertson stated that DelDOT owns the roads, and that DelDOT dictates what the Developer is required, and allowed to do on their roadways.

Mr. Collins requested confirmation on what the required DelDOT contributions were.

Mr. Fuqua stated that the Applicant is required to build the entrance to DelDOT standards; that the entrance will involve turn lanes; that the Applicant will have to construct the road improvements on both sides of the road for the frontage of the development; that the total required amount for contribution to DelDOT's project is over \$650,000, as stated within the TIS letter; that the monetary contribution is in addition to the frontage improvements; that the Traffic Impact Study (TIS) very specifically states what the developer is required to do and the amount of the required contribution; that Sussex County has a MOU with DelDOT stating how things are to be done; that the MOU states if an application meets a standard, the applicant will be required to perform a TIS; that DelDOT will review the required TIS, and will respond with their improvement and contribution requirements, and that is how the process works.

Ms. Vicki Fuchs spoke in opposition to the Application. Ms. Fuchs questioned if Delaware Electric had approved the application; that they currently experience blackouts very regularly, to the point that they purchased a generator for their home; that she felt an additional 219 home and 49 homes on the other would place a huge burden on the company; that she is very concerned about the water drainage issue, as their driveway has been under water numerous times due to the drainage from Azalea Woods; that Sussex Conservation District and Sussex County Engineers have both visited the area to take soil samples, but no remedy has happened, and she is concerned for the animals and the eagles that live in the trees.

Mr. Whitehouse stated that in the record, there is a letter from Delaware Electric Cooperative's Vice President of Engineering stating that they have facilities in the area to serve the proposed units.

Ms. Christine Fletcher spoke in opposition to the Application. Ms. Fletcher stated that her parents live next to the site; that water standing is an understatement; that they previously lost an entire litter of dogs one year due to flooding; that the field prohibits the drainage to go out of her parents' backyard; that her parents are 80 years old, and she worries about the upkeep issues the drainage brings; that the drainage and standing water attracts mosquitoes; that the flooding Mr. Decktor referred to is minimum compared to what her parents have experienced living at the area; that her parents had contacted Sussex Conservation District, and had gone through all the proper procedures, but they are repeatedly told that there is no issue; that they could run a ducking boat with a motor in the flooding they have had, and the issue has been going on for many years, but has been continual, which can compromise their well and septic.

Ms. Susan Davis-Tyndall spoke in opposition to the Application. Ms. Davis-Tyndall stated that her husband grew up in the area; that everyone who lives in the area, knows that there has been flooding for years; that she felt the developer did not do a lot of due diligence when they decided to develop the area; that after Azalea Woods placed their ponds, they placed two pipes; that one pipe drains down to the proposed site; that the other pipe drains down into the ditch that runs

behind her house; that the ditch is quite wide, however, the ditch floods beyond the ditching; that if the proposed subdivision is approved, it will be mostly concrete; that she questioned where the water will go; that she will contact the State agency to file a complaint with them; that she questioned what nine homes would do for the affordable housing issue, out of the 1,500 homes, between all the developments; that her daughter teaches and her son is in HVAC; that they cannot afford \$600,000 homes; that the location of the path is nowhere near the property; that there is a path in Milton, that is located approximately six miles away; that the property the Applicant is referring to is even further down Rt. 30; that there are eagles; that eagles are no longer protected, but eagle nests are protected; that she hopes someone would confirm if there are eagle nests on the site or not; that she was concerned about the wildlife, and for the current hunting performed in the area; that Pettyjohn Road has four developments located with two miles, and she felt that the growth needed to slow down.

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 2024-12 Symphony Glen. Motion by Mr. Butler to defer action for further consideration, seconded by Mr. Collins, and carried unanimously. Motion carried 5-0.

**Meeting adjourned at 5:34 p.m.**

\*\*\*\*\*

**Planning and Zoning Commission meetings can be monitored on the  
internet at [www.sussexcountyde.gov](http://www.sussexcountyde.gov).**

\*\*\*\*\*