

MINUTES OF THE REGULAR MEETING OF JULY 15, 2026

The regular meeting of the Sussex County Planning and Zoning Commission was held on Wednesday afternoon, July 15, 2026, in the County Council Chambers, Sussex County Administrative Office Building, 2 The Circle, Georgetown, Delaware.

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

ADDITIONAL BUSINESS

Annual Administration of Oaths – Mr. Robertson administered Oaths to the Planning and Zoning Commission Members.

REORGANIZATION

Mr. Whitehouse opened nominations for the Chairperson.

Mr. Collins nominated Ms. Wingate as Chairperson. There were no other nominations for Chairman.

Mr. Collins motioned to close nominations for Chairperson, seconded by Mr. Pettyjohn, and carried unanimously. Motion carried 5-0.

Motion by Mr. Collins to elect Ms. Wingate as Chairperson, seconded by Mr. Pettyjohn. Motion carried 5-0.

Vote for Ms. Wingate, as Chairperson by roll call: Mr. Collins – yea, Mr. Passwaters – yea, Mr. Pettyjohn, Mr. Allen – yea, Ms. Wingate - yea

Mr. Whitehouse opened nominations for Vice-Chair.

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

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

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

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

Mr. Whitehouse announced that the Chair designation was handed back to Madam Chair Wingate.

Motion by Madam Chair Wingate to authorize the Planning & Zoning Director, the Director of Planning and Zoning, or the Assistant Director of Planning & Zoning, and his or her designees to sign Record Plans on behalf of the Commission.

Motion by Madam Chair Wingate, seconded by Mr. Collins, and carried unanimously to approve the authorized Plan signers as stated in the motion. Motion carried 5-0.

Vote to approve the authorized Plan signers by roll call: Mr. Collins – yea, Mr. Pettyjohn, Mr. Passwaters – yea, Mr. Allen – yea, Madam Chair Wingate - yea

Mr. Robertson advised the Commission that on Monday, July 13, 2026, Senate Substitute No. 2 for Senate Bill No. 23 was signed into law by the Governor, regarding the affordable housing supply bill; that its amendment related to housing supply and housing affordability; that one of the provisions of that was the creation of Title 29, Section 92-23, which eliminated public hearings for certain types of residential applications; that caught in that provision was Major Subdivisions, which ordinarily would have a public hearing in front of the Sussex County Planning & Zoning Commission; that based upon the new legislation, which went into effect immediately, legal staff and Sussex County staff need time to evaluate the legislation; that it appeared that there no longer would be a requirement for a public hearing for any Major Subdivision within Sussex County; that Sussex County needed time to figure out what the new process would be, as there was no process currently for the new changes; that a process needed to be determined regarding how Major Subdivisions would be handled by staff, what it meant in terms of what the decision would look like, what authority Sussex County had in reviewing something essentially administrative and to what type of scale; that due to the signing of State Bill No. 23 the scheduled public hearings for 2024-10 Windy Acres and 2025-07 Shadowridge were required to be removed from the agenda; that until Sussex County was able to create a process moving forward, all Major Subdivision applications were going to be placed on hold for future consideration.

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

Motion by Mr. Collins, seconded by Mr. Pettyjohn, to approve the Minutes of June 3, 2026, and June 17, 2026, of the Planning and Zoning Commission Meetings as circulated. Motion carried 5-0.

OTHER BUSINESS

2019-08 Azalea Woods – Section 3

Final Subdivision Plan

This is a Final Subdivision Plan for Azalea Woods (2019-08) Section 3 for the creation of a Major Subdivision using the cluster development option to include sixty (60) lots on 44.064 acres +/- as part of a Subdivision to consist of a total of six-hundred and ten (610) single-family lots on a total of 315.33 acres +/- private roads, open space and associated amenities. The Preliminary Subdivision Plan was approved by the Planning and Zoning Commission at their meeting of Thursday, December 19th, 2019, subject to twenty-one (21) conditions for 610 lots. The Applicant is requesting that the subdivision be approved in Phases. In accordance with a previous condition of Commission's approval, a separate Overall Section Plan has been submitted to the Department of Planning and Zoning to assist in the Commission's review of future phases of the subdivision and to ensure compliance with the subdivision's Conditions of Approval. The property is located on the east and southeast sides of Shingle Point Road (Route 249), the north side of Lewes-Georgetown Highway (Route 9) and the west side of Gravel Hill Road (Route 30). Section 2 of the Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes and all Conditions of Approval. Tax Parcels: 135-11.00-32.04, a portion of 48.00, 49.00 & 56.00. Zoning District: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals.

Motion by Mr. Passwaters, seconded by Mr. Allen and carried unanimously to approve the Final Subdivision Plan. Motion carried 5-0.

S-24-36 Lilyvale (C/U 2402)

Revised Preliminary Site Plan & Request for Re-Consideration of Interconnectivity Requirement

This is a Revised Preliminary Site Plan and Request for Re-Consideration of the Interconnectivity Requirement for Lilyvale, a development consisting of 174 multifamily units (172 townhome units and 2 duplex units) to include private streets, open space, stormwater management ponds and proposed amenities to include a clubhouse, in-ground pool, bus stop, walking trail, foot bridge and related landscape buffers. The Preliminary Site Plan was last reviewed and approved by the Commission under the contingency that a Final Site Plan showing paving being extended to property line, that the Final Site Plan be submitted for the Commission's review and with final approval to be provided by the Planning & Zoning Commission, subject to the Final Site Plan demonstrating that the pavement reaches the outer perimeter of the Subdivision for interconnectivity purposes. The Applicant has submitted a request for re-consideration of the interconnectivity requirement and has submitted a formal letter request outlining the various challenges to complete the conditional interconnectivity, to include: that the Milo's Haven Subdivision is fully built out with the interconnection of the adjacent Milo's Haven Subdivision not being constructed to the property line (with the pavement stopping 23-ft short of the property line, that Milo's Haven does not have a road easement to complete paving in the future, that there is no authority for the Lilyvale project to go on the Milo's Haven property to complete any improvements including tying into roadways for grading, that within the area that was not completed is a ditch and wetland that follows the property boundary on the Milo's Haven side, that

wetlands permits would be required for the Milo's Haven HOA to provide the required interconnection, that the Developer was released of their performance bonds and that only a road maintenance bond is in place, and that the property line is located on the top of bank of the ditch and is within the ditch's side slopes in the area of future interconnection. In response to an internal Meeting with the Planning & Zoning Department and Sussex County Engineering Department, the Applicant has added a permanent easement to the Site Plan to allow a future connection to be built by others and the road and storm drain Plans were revised to show the proposed future connection by others. The Applicant has also received a Letter of No Objection from the Sussex County Engineering Department regarding the proposed changes. The Revised Preliminary Site Plan otherwise complies with the Sussex County Zoning and Subdivision Codes and all Conditions of Approval. Tax Parcels: 134-19.00-13.00 & 13.04. Zoning: MR (Medium Density Residential District).

Motion by Mr. Pettyjohn, seconded by Mr. Collins to approved the Revised Preliminary Site Plan and carried unanimously. Motion carried 5-0.

Duvall Agricultural Preservation District

Approval of New Agricultural Preservation District

This is a request from the Delaware Agricultural Lands Preservation Foundation, acting through Delaware Department of Agriculture, for the creation of a new Agricultural Preservation District, to be known as the Duvall District. The district would have a total area of 248.24 acres. Tax Parcel: 333-7.00-1.00. Zoning: AR-1 (Agricultural Residential District.) The tract is located on the west and east sides of Westwoods Road (S.C.R. 426), at the intersection with Pear Tree Road (S.C.R.424).

Motion by Mr. Allen, seconded by Mr. Passwaters and carried unanimously to approve the New Agricultural Preservation District. Motion carried 5-0.

2022-18 Wilhaven (F.K.A. Wil King Station)

Request to Amend Condition F of the Conditions of Approval

On June 3, 2026, the Department of Planning & Zoning received a Request to Amend Condition F for the Wilhaven (2022-18) Subdivision. Wilhaven is a Coastal Area Cluster Subdivision consisting of fifty-eight (58) single-family lots, private roads, stormwater management, open space, walking trail, playground, and other improvements. At their meeting of Thursday, August 24, 2023, the Planning and Zoning Commission approved the Final Subdivision for the development with twenty-two (22) Conditions of Approval. Specifically, the Applicant requests an amendment to Condition "F" of the Conditions of Approval which states, "*As proffered by the applicant, the development shall preserve approximately 7.80-acres of existing forested area. The Final Site Plan shall depict all forested areas that will be preserved*" be amended to state, "*As proffered by the applicant, the development shall preserve approximately 5.58-acres of existing forested area. The Final Site Plan shall depict all forested areas that will be preserved*". Tax Parcels: 234-6.00-26.00- & 59.19 Zoning: AR-1 (Agricultural Residential District) and GR (General Residential District).

Madam Chair Wingate requested that someone on behalf of the Applicant speak to why the calculations were not performed already.

Ms. Katja Kalinski, Project Manager with George, Miles & Buhr spoke on behalf of the Applicant. Ms. Kalinski stated that generally at the time of the original public hearing, none of the engineering is completed; that they had a different Site Plan, which provided an area to be preserved at that time; that one of the Conditions of Approval was to completely redesign the site; that subsequently, they received the condition from the Sussex County Engineering Department to connect sewer through the interior; that this resulted in an additional easement along the property line; that within the redesign, the stormwater changes and the sewer easement, the number of trees to be preserved decreased; that the added easement would be located adjacent to the perimeter buffer, and generally they are connected through exterior streets.

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

2022-03 Wilson's Landing

Determination of Compliance for Conditions "K" & "L" of the Conditions of Approval

This is a Determination of Compliance for Conditions "K" and "L" of the Conditions of Approval for Wilson's Landing; the Conditions are stated as:

"K. There was testimony during the public hearing that a private cemetery exists upon the property. The Applicant shall retain the services of an archaeologist to determine the existence, location and boundaries of any cemetery in coordination with the Delaware State Historical Preservation Office. The cemetery area shall be surveyed and marked, and it shall be accessible by sidewalk or pathway from the subdivision roadway. The Preliminary Site Plan shall be revised to reflect the location and boundaries of the cemetery; The Director shall determine whether the revisions result in a plan that is "substantially in accordance" with the preliminary site plan presented during the public hearing. If the Director determines that it is not "substantially in accordance" with the preliminary site plan presented during the public hearing, then the revised preliminary site plan shall be placed on an agenda of the Planning and Zoning Commission to determine whether a new public hearing shall be required.

L. As part of the redesign to accommodate the cemetery, the plan shall be modified to include unobstructed areas in addition to the main entrances set aside for vehicular access to adjacent roadways in emergency situations. These areas do not need to be improved with paving or stones. Instead, they must be outside of any lots or structures and free from obstructions so that the development is not isolated in the event that a main entrance is impassable."

Specifically, the Applicant is requesting that the Commission determine whether compliance with both Conditions "K" and "L" has been provided. The Applicant has provided a Delineation Report

regarding the existing cemetery as well as a Revised Site Plan showing the cemetery details and emergency access areas.

Motion by Mr. Pettyjohn, seconded by Mr. Allen and carried unanimously to approve the Determination of Compliance for Conditions “K” & “L” of the Conditions of Approval. Motion carried 5-0.

S-26-35 Argos Corner Self-Storage (C/U 2612, 2235 & 2129)

Revised Final Site Plan

This is a Revised Final Site Plan for the addition of striping to create forty-one (41) parking spaces to an existing mini-storage facility and to allow for a total of 121 parking spaces. The Property is the site of three (3) previous Conditional Use Applications. The first Application was for Conditional Use No. 2612 filed on behalf of Brian P. Lessard to amend Condition “A” of Conditional Use No. 2129 (Ordinance No. 2603) and Conditional Use No. 2235 (Ordinance No. 2773) which capped to total number of boats, trailers, campers and RVs stored on the Site to 80 and to add 41 parking spaces. The Sussex County Council approved the Application at its meeting of Tuesday, April 21st, 2026, providing seven (7) reasons supporting the revision. The second Application was for Conditional Use No. 2129 filed on behalf of Brian P. Lessard, Lessard Builders, Inc. to allow for the establishment of mini-storage buildings within a General Residential (GR) District. The Sussex County Council approved the Application at its meeting of Tuesday, October 2nd, 2018, and the change was adopted through Ordinance No. 2603, subject to twenty-one (21) Conditions of Approval. The third Application was Conditional Use No. 2235 filed on behalf of Brian P. Lessard, Lessard Builders, Inc. to allow for an amendment to Condition “K” of the previous Conditional Use (Conditional Use No. 2129) to allow for an Electronic Message Center (EMC) on the Site, which previously required, *“One lighted sign with a maximum area of 32 square feet per side [to be] permitted”* on the site and to amend the language to state, *“Two lighted on-premises signs shall be permitted. One of the signs shall have a maximum area of 32 square feet per side, and the other shall be permitted with a maximum area of 82.75 square feet per side.”* The Sussex County Council approved the Application at its meeting of Tuesday, June 8th, 2021, and the change was adopted through Ordinance No. 2773, subject to one (1) updated Condition of Approval of the original twenty-one (21) Conditions of Approval. The Property is located on the southeast corner of Argos Corner Road (S.C.R. 14E) and Coastal Highway (Route 1) in Milford, Delaware. The Revised Final Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Tax Parcel: 230-7.00-95.00. Zoning: General Residential (GR) District & Agricultural Residential (AR-1) 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. Passwaters and carried unanimously to approve the Revised Final Site Plan, subject to the proposed sign being shown on the Final Site Plan. Motion carried 5-0.

S-25-60 First Baptist Church of Lewes

Revised Final Site Plan

This is a Revised Final Site Plan for the construction of a Church and other site improvements to be located on the east side of Kings Highway (Route 9). The Site Plan for the Church was approved by the Planning and Zoning Commission at their meeting of Wednesday, October 15th, 2025, with Final Approval to be granted by the Commission, subject to the receipt of all agency approvals and a Letter of No Objection (LONO) from the Historic Lewes Byway. The Revised Final Site Plan complies with the Sussex County Zoning Code. Tax Parcel: 335-8.00-40.00. Zoning: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals; therefore, the Plans are eligible for Preliminary and Final approval.

Motion by Mr. Collins, seconded by Mr. Pettyjohn and carried unanimously to approve the Revised Final Site Plan as a preliminary and final. Motion carried 5-0.

S-26-38 Thorogoods Solar A (C/U 2404)

Preliminary & Final Site Plan

This is a Preliminary & Final Site Plan and Landscape Plan for the construction of a solar array facility and other related site improvements. Conditional Use No. 2404 to permit the use of a solar array at the site was approved by the Sussex County Council at their Meeting of Tuesday, February 20th, 2024, via Ordinance No. 2988. The Plan includes solar arrays, related equipment, vegetated perimeter buffers, an access drive, and ancillary improvements. The Conditional Use area is (20.57) +/- acres with the fenced area containing the solar arrays occupying (12.47) +/- acres of the Parcel which is comprised of a total of 20.70 +/- acres. The Parcel is located on the northwest side of Thorogoods Road (S.C.R. 333), approximately 0.5-mile southwest of Iron Branch Road (S.C.R. 331). The Preliminary Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval for (C/U 2404). Tax Parcel: 233-5.00-69.00. Zoning District: GR (General 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.

Mr. Robertson requested that a representative of the application provide information regarding the status of the project's construction with Delmarva Power and the grid.

Mr. Seth Shafer with Pivot Energy stated that Pivot Energy has had four applications overall with Sussex County; that they were submitted in 2024; that all four applications were approved; that two projects are moving forward, with he currently applications being one of them; that two applications were cancelled due to the feedback received from Delmarva Power, and a Sussex County Condition of Approval regarding the cutting of trees; that the other project would be located across the street from this site, and would be operation in Fall 2026, and the current project before the Commission was Pivot Energy's final submission to Sussex County, as they had no future plans for future project submissions.

Motion by Mr. Pettyjohn, seconded by Mr. Collins, and carried unanimously to approve the Preliminary & Final Site Plan. Motion carried 5-0.

S-26-31 Whitney Price (C/U 2530)

Preliminary Site Plan

This is a Preliminary Site Plan proposing a seasonal rental bungalow (1 Unit) with associated parking. This use at the site is permitted via Conditional Use (C/U 2530) and Ordinance No. 4047 which was approved by County Council at their meeting of Tuesday, March 17, 2026, and subject to nine (9) Conditions of Approval. Per Condition “A” of the Conditions of Approval for (CU 2530) the bungalow use on the site allows for the use of (2) bungalow units, but the permitting for wastewater by DNREC as required by “Condition “C” and the County Permitting Office indicates that only one (1) bungalow unit is permitted to be accommodated on the site based on wastewater capacity. The Parcel is located on the east side of Roxanna Road (Route 17) and the south side of Lucinda Drive, approximately 600 feet north of Burbage Road (S.C.R. 353) and comprised of a total of (0.88) acres (34,656 SF) +/- . The Preliminary Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval for (CU 2530). Tax Parcel: 134-12.00-379.01. Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals. Should the Commission desire to act favorably upon this proposal, Staff are requesting that final approval be made subject to Staff upon the receipt of all agency approvals.

Motion by Mr. Pettyjohn, seconded by Mr. Collins, and carried unanimously to approve the Preliminary Site Plan, with final approval to be given by the staff, subject to the receipt of all agency approvals. Motion carried 5-0.

Lands of Wayne & Linda Dykes

Minor Subdivision Plan off a proposed 50-ft easement

This is a Minor Subdivision Plan for the creation of two (2) lots plus residual lands. Proposed Lot 1, Residual lands shall consist of 0.95-acres +/-, Proposed Lot 2 shall consist of 0.77-acres +/-, and Proposed Lot 3 shall contain 0.78-acres +/- . A shared-use maintenance agreement shall be established for the use of the shared access road. The property is located on the north side of Scott Land Road (S.C.R. 434), approximately 0.40 miles +/- south of Shiloh Church Road (S.C.R. 74). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 232-15.00-49.10 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. Allen, seconded by Mr. Passwaters and carried unanimously to approve the Minor Subdivision off a proposed 50 ft. easement as a preliminary, with final approval to be given by the staff, subject to the receipt of all agency approvals. Motion carried 5-0.

Lands of Angela Marie Golub

Minor Subdivision Plan off a proposed 30-ft easement

This is a Minor Subdivision Plan for the creation of one (1) lot plus residual lands. Lot 3 shall consist of 0.396-acres +/-, and the residual lands shall contain 1.121-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 Parker House Road (S.C.R. 362), approximately 0.20 miles south of

Muddy Neck Road (S.C.R. 361). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 134-17.00-17.01 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. Pettyjohn, 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 5-0.

Lands of Grace Malone

Minor Subdivision Plan off a proposed 50-ft easement

This is a Minor Subdivision Plan for the creation of three (3) lots plus residual lands. Proposed Lot 5 shall consist of 1.47-acres +/-, proposed Lot 6 shall consist of 1.45-acres +/-, proposed Lot 7 shall consist of 12.96-acres +/-, and the residual lands shall contain 10.51-acres +/- . A shared-use maintenance agreement shall be established for the use of the shared access road. The property is located on the south side of Pepperbox Road (S.C.R. 66). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 532-9.00-2.03 Zoning: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals; therefore, the Plans are eligible for Preliminary and Final approval.

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

Lands of Marlin Manor

Minor Subdivision Plan off a proposed 30-ft easement

This is a Minor Subdivision Plan for the creation of four (4) lots plus residual land. Proposed Lot 1 shall consist of 1.32-acres +/-, proposed Lot 2 shall consist of 1.233-acres +/-, proposed Lot 3 shall consist of 1.601-acres +/-, proposed Lot 4 shall consist of 1.285-acres +/- and the residual land shall contain 1.196acres +/- . 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 Club House Road (S.C.R. 351). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 134-8.00-66.00 Zoning: MR (Medium Residential District). Staff are awaiting agency approvals; should the Commission desire to act favorably upon this proposal, Staff are requesting that final approval be made subject to Staff upon the receipt of all agency approvals.

Motion by Mr. Pettyjohn, seconded by Mr. Passwaters and carried unanimously to approve the Minor Subdivision Plan off a proposed 30 ft. easement as a preliminary, with final approval to be given by the staff subject to the receipt of all agency approvals. Motion carried 5-0.

Lands of 27377 Martins Farm Road

Minor Subdivision Plan off a proposed 30-ft easement

This is a Minor Subdivision Plan for the creation of four (4) lots plus residual land. Proposed Lot 1 shall consist of 0.9977-acre +/-, proposed Lot 2 shall consist of 0.9977-acre +/-, proposed Lot 3

shall consist of 0.9977-acre +/-, proposed Lot 4 shall consist of 0.9971-acre +/-, and the residual land shall contain 1.0155 acres +/- . A shared-use maintenance agreement shall be established for the use of the shared access road. The property is located on the north side of Martins Farm Road (S.C.R. 291). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 334-9.00-1.05 Zoning: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals; therefore, the Plans are eligible for Preliminary and Final approval.

Motion by Mr. Passwaters, seconded by Mr. Allen, and carried unanimously to approve the Minor Subdivision Plan off a proposed 30 ft. easement as a preliminary and final. Motion carried 5-0.

Lands of William Smack, Jr.

Minor Subdivision Plan off an existing 50-ft easement

This is a Minor Subdivision Plan for the creation of one (1) lot plus residual land. Proposed Lot 1 shall consist of 1.00-acre +/- and the residual land shall contain 4.26 acres +/- . A shared-use maintenance agreement shall be established for the use of the shared access road. The property is located on the north side of Smack Drive off the east side of Coverdale Road (S.C.R. 525). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 231-9.00-37.14 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. Passwaters, seconded by Mr. Pettyjohn and carried unanimously to approve the Minor Subdivision Plan off an existing 50 ft. easement as a preliminary and final. Motion carried 5-0.

Lands of April & Edward Thompson & Christopher Walter

Minor Subdivision Plan off a proposed 30-ft easement

This is a Minor Subdivision Plan for the creation of one (1) lot plus residual lands. Proposed Lot 1 shall consist of 2.00-acres +/-, and the residual lands shall contain 32.6600-acres +/- . A shared-use maintenance agreement shall be established for the use of the shared access road. The property is located on the north side of White Deer Road (S.C.R. 508), east of Walters Road (S.C.R. 508A). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 532-11.00-52.01 p/o 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. Allen, seconded by Mr. Passwaters and carried unanimously to approve the Minor Subdivision Plan off a proposed 30 ft. easement as a preliminary, with final approval to be given by the staff, subject to the receipt of all agency approvals. Motion carried 5-0.

OLD BUSINESS

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.

The Commission discussed the application which had been deferred since June 17, 2026.

Mr. Collins moved that the Commission recommend approval of Conditional Use No. 2576 for Patricia and Frank DiNatale for a coin retail shop based upon the record made at the public hearing and for the following reasons:

1. The use is for a retail coin business located on a small property along Route 24 near a small hair salon business, two schools and a convenience store that is under construction. This is an appropriate location for this small, limited use.
2. The use will occur in the existing home on the property. Although the structure will no longer be used as a dwelling, it will generally maintain its residential appearance.
3. The use is small in nature and is similar to a home occupation that could be permitted on this property if the structure remained a residence.
4. The Applicants stated that the business is mostly conducted by appointments and not walk-in traffic.
5. The use will not adversely affect neighboring properties or roadways.
6. The Applicants stated that there are not many similar businesses in Sussex County. As a result, the use provides a needed service for residents of Sussex County, and the use has a public or semi-public character.
7. No parties appeared in opposition to the application.
8. This recommendation for approval is subject to the following conditions and stipulations:
 - A. The use shall be a retail coin shop.
 - B. The rear boundary of this property adjacent to residential uses shall be fenced with solid six-foot tall fencing. The location and type of fencing shall be shown on the Final Site Plan.
 - C. As stated by the Applicant, the use shall occur within Applicant's existing building on the site.
 - D. One unlighted sign, no larger than 4 feet by 8 feet in size, shall be permitted.
 - E. 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. Passwaters, and carried unanimously to recommend approval of C/U 2576 Patricia and Frank DiNatale for the reasons and the conditions stated in the motion. Motion carried 5-0.

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

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.

The Commission discussed the application which had been deferred since June 17, 2026.

In relation to C/U 2598 TPE DE SU245, LLC. Motion by Mr. Allen to defer action for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 5-0.

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.

The Commission discussed the application which had been deferred since June 17, 2026.

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. Collins and carried unanimously. Motion carried 5-0.

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).

The Commission discussed the application which had been deferred since June 17, 2026.

In relation to CU 2633 TPE DE SU95A, LLC & TPE DE SU95B, LLC. Motion by Mr. Passwaters to defer action for further consideration, seconded by Mr. Allen and carried unanimously. Motion carried 5-0.

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.

The Commission discussed the application which had been deferred since June 17, 2026.

In relation to CU 2640 TPE DE SU646, LLC. Motion by Mr. Passwaters to defer action for further consideration, seconded by Mr. Pettyjohn and carried unanimously. Motion carried 5-0.

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.

The Commission discussed the application which had been deferred since June 17, 2026.

In relation to CU 2642 TPE DE SU94B, LLC. Motion by Mr. Passwaters to defer action for further consideration, seconded by Mr. Allen and carried unanimously. Motion carried 5-0.

PUBLIC HEARINGS

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

C/U 2569 Pivot Energy DEL045, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN GR GENERAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 45.57 ACRES, MORE OR LESS. The parcel is lying on the east and west sides of Norwood Lane, approximately 950 feet southwest of Oak Orchard Road (Route 5). 911 Address: N/A. Tax Map Parcel: 234-29.00-220.00.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Conceptual Site Plan, the Applicant's presentation materials and exhibits, the Applicant's Exhibit Booklet, the Applicant's Revised Exhibit Booklet, a Noise Study, the Staff Analysis Report, the DelDOT Service Level Evaluation Response Letter, and a letter received from the Sussex County Engineering Department's Utility Planning Division. Mr. Whitehouse advised the Commission that 11 public comments had been received regarding the application, which were included in the Paperless Packet.

Mr. John Falkowski, Civil Engineer with Becker Morgan Group, spoke on behalf of the Applicant, DEL045 Norwood East Johnson project; that also present were Mr. Seth Shafer, Pivot Energy Director of Project Development, and Mr. Edward (Ted) Hastings, PMP with Becker Morgan Group. Mr. Falkowski stated that application name on the agenda was the entity LLC, however the project name was DEL045 Norwood East Johnson, and requested that Mr. Shafer provide the Commission with background information regarding Pivot Energy.

Mr. Seth Shafer, Pivot Energy Director of Project Development, provided the Commission with background information regarding Pivot Energy. Mr. Shafer stated that Pivot Energy was before the Commission in 2024 with four solar applications; that they were a national community solar developer based out of Denver, Colorado; that they had a local office in the Baltimore, Maryland area; that they had several projects within Kent County, with some almost done and operating; that Pivot Energy was not only a developer, but were also a long-term owner-operator; that they did all their own subscriptions as it related to residents of the County and getting the residents subscribed; that a little over a month ago, they hosted a community event, coordinating with Sussex County, where notice was provided to everyone within the same radius Sussex County would notice; that they provided background on the project, and answered questions and concerns; that some changes were made as a result of the input received; that they had submitted the application in November

2024; that it had taken them 20 months to come before the Planning Commission; that one of the neighbors had mentioned that the new subdivision home sellers had mentioned that the project would be happening; that it appeared that some of the neighbors knew that the project was coming, and that the community event was held at the local Grottos in Millsboro.

Mr. Falkowski stated that the property was zoned GR (General Residential); that the site took access off the existing private road of Norwood Drive; that the private driveway served a few homes, and led to a dead end; that the surrounding area was mostly residential; that Phase 1 of Patriots Glen was mostly built out; that Phase 2 of Patriots Glen was located directly northwest of the project and had begun construction; that one of the roads had been constructed; that bulk earth work, some pond work and stormwater work had taken place; that they were actively selling and building homes in Phase 2 of Patriots Glen; that the existing use of the property was farmland; that the proposed Conditional Use area consisted of 16.64 acres; that the total parcel consisted of 45.57 acres; that only a portion of the farm was being utilized for the solar project; that the remainder of the property would remain actively farmed; that the solar array area would consist of 15.22 acres; that 15 acres of the total 45 acres would be used for the solar project; that the project would be surrounded by a landscape buffer; that the landscape buffer would be 30 foot wide, consisting of a 70% & 30% deciduous to evergreen mix, along with fencing; that changes were made from the originally submitted Site Plan following the community meeting, based on concerns regarding the locations of the inverters; that they related the inverters to the exact center of the site, being the furthest point away from all now and future residences; that where there were no dwelling units currently, they used the rear restriction line as the buffer, not a home itself, which would have been located a bit further into the lot; that to be more conservative, they used the rear building restriction line to base their 200 feet on; that the buffer went around the entire property; that as noted, they would construct a 16 foot wide gravel road access off Norwood Drive; that the drive would come into the site; that there would be a gate at the main access with a Knox box for fire personnel to gain access to the facility if needed; that the 16 foot wide road would enter the center of the site, where the inverters would be located, along with a turnaround in the center; that the project would be planted with a meadow grass within the landscape buffer and underneath the arrays; that similar to most projects, the meadow mix would be a pollinator grass, which had been widely accepted as an approved practice for solar project by the Sussex Conservation District; that the meadow mix would help reduce runoff and would not affect any of the neighboring properties; that noise was a previously expressed concern; that in addition to moving the inverters, they had a Sound Study performed for the site; that the Sound Study did not take into account the mesh, fencing and arrays; that the studies assume the inverter would be located within the middle of the farm field with nothing blocking it; that the numbers would therefore be even lower than what the study found; that the study found that the decibel rating would be in the mid-20s to low-30s, by the time the sound reached the property line; that the sound would equal to a quiet room; that the noise would only take place during the day, which would be a light hum, while the arrays were fully operational

and at peak sunlight; that the Sound Study was submitted in the packet, as well as within the Revised Exhibit Booklet; that fencing would surround the entire perimeter of the project; that the fence would be a knot wire, agricultural-style fence; that the fence would not be an industrial looking fence; that the proposed fence type was commonly used for farm animal containment; that it was used as an agricultural fence with six inch round wooden posts, and seven foot knot wire fencing; that they had incorporated different passages; that every so often in the fence they would cut smaller passages in the fence to allow for some of the wildlife to pass through; that it would be one foot high to allow for smaller animals, such as foxes, to access through the property; that the front of the gate would have a knock box; that the fence detail would be beefed up to handle the loads from the wind on the fence, so that it does not become a nuisance of flapping mesh or long-term maintenance; that a solar project, recently approved by the County Council, added this as a Condition of Approval; that after the landscaping is established for a period of five to 10 years, the mesh would be able to be removed once the vegetative buffer was established; that this would help avoid long-term maintenance concerns; that it was a 10 year period for the Ameresco Milton project; that at 10 years, Evergreen and deciduous trees would completely fill it in; that the projects were 25 year leases; that from year 10 to year 25, the mesh would not be needed, and may cause maintenance concerns; that the solar arrays would benefit local residential businesses and municipal subscribers, as long as they were a Delmarva Power service customer; that the project would not increase traffic; that there would be periodic maintenance facility visits to maintain the meadow grass; that these visits would happen about once a year; that the facility would not produce any odor, dust, gas, smoke or fumes; that the Noise Study was provided; that the inverter at the property line would be almost inaudible; that the meadow grass would reduce the stormwater for the property; that they were providing a 30 foot wide landscape buffer around the entire perimeter, along with fencing, and decommissioning as required; that the community meeting was held on May 21, 2026; that regarding the Patriots Glen project; that they reflected a 200 foot buffer; that they had a 30 foot wide landscape buffer with fencing shown along the entire boundary line with Patriots Glen; that there were some additional buffered areas, which would just remain planted; that the Patriots Glen Subdivision also provides a 30 foot wide landscape buffer of its own; that Patriots Glen would have a 30 foot landscape buffer, then a 20 foot gap in between the site's 30 foot landscape buffer; that essentially, there would be 80 feet of buffering from Patriots Glen; that much of the lots located along the northern property line would be furthered buffered by a stormwater pond; that the dwellings would be located 200 to 300 feet away, with their own landscape buffer provided; that there would only be a few lots located closer, however, those lots still were in compliance with the buffer requirements of Ordinance No. 2920; that there would be significant buffer provided when combining the requirements for the two projects; that regarding the interconnection process, they were about halfway through the process; that as Mr. Shafer had mentioned, the application had been submitted to Sussex County in 2024; that they received their Interconnection Study and their interconnection cost estimate later that year; that 50% of the required interconnection costs had been paid to date; that they would wait to see whether or not

the project received approval; that additional fees could be paid at that time for construction; that infrastructure could be constructed by Delmarva Power, and should line up with approvals moving forward; that the project was considered a Conditional Use, being a public utility use under the Sussex County Zoning Code; that the project met the purposes of a Conditional Use in that it was a public or semi-public character; that it was essential and desirable for the general convenience and welfare of Sussex County residents; that the solar arrays promoted Goal 7.3 of the Sussex County Comprehensive Plan, which encouraged renewable energy; that the project would not have any adverse impacts on the neighboring properties for the reasons previously stated, the additional buffering, the centrally located inverters, and runoff reductions; that the project would not increase traffic; that the project would not create any noise, dust, or odors, and was compliant with all the restrictions and setbacks set forth in Ordinance No. 2920.

Mr. Collins questioned what was being planted within the triangular area located between the property line and the buffer.

Mr. Falkowski stated that the area would not be farmed, as there was not enough access for farm equipment; that the area would be planted with grass or potentially meadow to mimic the project; that the area was located outside of their lease area and would be maintained by the property owner.

Mr. Allen questioned whether the strip of existing woods would remain.

Mr. Falkowski stated that the existing vegetation within that area was proposed to remain.

Mr. Pettyjohn questioned whether anything located within the solar array area would be dangerous or hazardous to someone who may be able to access the site by climbing over the knot wire fencing.

Mr. Falkowski stated that there would be no exposed wiring that someone could access, and that it was all a closed system and protected.

Mr. Seth Shafer stated that everything within the array would be low voltage; that it would be no different than a car inverter, from the transformer out; that it would be an underground line; that someone would have to physically dig up the line to get to it, and it would be a medium voltage line that would run out to the public road.

Madam Chair Wingate questioned what would happen with the grass if maintenance visits were only proposed once a year.

Mr. Falkowski stated that the grass would grow about shin to knee high; that the grass would be knocked down once or twice per year; that it would be a seed mixture from Ernst Seed called Fuzz & Buzz mix with a wildflower establishment, and it was meadow grass with pollinators.

Mr. Collins questioned whether sheep would be proposed for the purpose of grass maintenance rather than mowing.

Mr. Shafer stated that for some projects they have provided agrivoltaics, such as sheep grazing.

Madam Chair Wingate questioned whether someone was sent to the site to check on the sheep with the agrivoltaics provided.

Mr. Shafer stated the agrivoltaics are always contracted with local farmers with sheep; that it would be seasonal during growing season from spring to fall; that the farmers would be required to bring their own water for the animals, and agrivoltaics are just an alternative to vegetative management.

Mr. Robertson stated that the site was a tract located within GR (General Residential); that Sussex County had been hearing from the State that they need to preserve housing, and place density withing the Growth Areas; that GR (General Residential) permitted four units to the acre; that the land would be lost to a solar farm, taking out the potential for housing production, which is counter to what Sussex County was hearing from the State and the Land Use Reform Working Group, and requested for the record why the solar project was appropriate rather than potential housing.

Mr. Falkowski stated the site was certainly prime real estate for additional housing, however, that would be the choice of the property owner; that he believed property owners weigh their options on what would be more advantageous or better for them and their families; in this case, they property owner wanted to have a use that was less permanent, with a 25 year lease for solar, which could be converted back to farmland in the future, and he was unsure whether the property owner had previously considered other residential uses for the site.

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

Mr. Michael M. McGroerty, P.A., spoke in support of the application. Mr. McGroerty stated that he wanted to respond to the submitted petition in opposition to the application; that the opposition provided to explanation of why the project was too large, or how it was located too close to houses; that the project would not increase heat, but rather reduce heat; that Mr. Falkowski had already addressed the noise concern; that there would be more noise created by Patriots Glen than the solar arrays; that the solar project provided a beneficial environmental impact; that it would not create

traffic, as a residential development would; that there would be less carbon monoxide; that the Patriots Glen development had a much worse impact on wildlife than the solar project; that the project would eliminate fragmentation as the project would encourage animals to be left alone; that there was no explanation given to how the project would negatively impact coastal migratory birds and other neotropical migrants; that the project had been called a power plant, which it was not; that the residents of Patriots Glen have no right to insist that the property owner keep his land farmland because they want to look at farmland; that if the property were developed into high-density housing, the residents would be looking out their window to more housing; that Mr. Johnson wanted to keep the property in his family and was his reasoning for leasing the land; that the submitted petition was signed by people from Spain, Sweden, Hungary, Mexico, France, Italy, Brazil, Philadelphia and Kennett Square, Pennsylvania, and Burlington and Washington Township, New Jersey; that the solar panels would displace carbon-intensive fossil fuels and consume virtually no operational water; that the environmental benefits are emission reduction, minimal water usage, soil and habitat restoration; that the meadow mix would support pollinators and would dramatically increase land biodiversity.

Mr. Quentin Jackson, adjacent neighbor, spoke in support of the application. Mr. Jackson stated that he had no issues with the proposed solar project and supported the project if it helped the property owner.

Mr. Eldridge D. Johnson, current property owner, spoke in support of his application. Mr. Johnson stated that the land had been in his family for several generations, being used for agricultural farmland for soybeans and corn long before the surrounding developments such as River Winds, Oak Meadows and Patriots Glen were constructed; that he had no intention of selling the property; that he wanted to utilize the land with other options; that he had previously considered a pig farm, chicken houses, a storage building, or manufactured home park; that a solar farm was his choice, as it was more beneficial for him and his family to preserve the farmland for future generations; that the solar farm would generate clean solar energy, while creating no noise, no pollution, no glare, no lighting and no harm to the wildlife; that the solar farm process began three years ago before any homes were constructed within Patriots Glen; that the property was previously owned by his family members; that it took a long time to get everything approved, and then took 10 months for the project to come before the Planning Commission; that a lot of the Oak Orchard area was owned by Native Americans, being the Nanticoke Tribe, including his property and family land; that they want to hold the land for future generations, without development, as they do not want to lose their heritage and culture; that the farmland was leased to a local farmer to plant crops yearly; that he was a member of the Farm Bureau; that the opposition petition started by the residents of Patriots Glen was trying to restrict him from developing his farmland properly to help improve its value for the future generations; that solar arrays could preserve and improve agricultural land and soil as its undisturbed ground cover supported a healthy ecosystem; that no

trees were to be cut down and no wild life would be affected; that the solar project would not impact the entire Patriot Glen community, only those within 200 feet of the site's boundary lines, which was about 12 lots; that landscape buffers would be provided for both sites; that if he sold his property, the Patriot Glen residents would not have a view anyway; that Sussex County has complained about losing farmland, as some are sold for developments; that the ones who wish to keep their farmland, receive complaints and petitions from residents, mostly from Pennsylvania and New Jersey, which have only lived in Delaware a few years; that at times it seemed like the new residents and the developments had more say and input than the residents who had been in Sussex County for lifetimes and generations; that last month, Governor Matt Mayer accepted the "Jobs First" initiative for community solar; that he would be considering applying for that program to assist him and Pivot Energy; that with the Commission's recommended approval, the community solar farm would benefit from him, his family and Delmarva Power customers by reducing energy bills of local households within the community.

Ms. Natalie Jackson Foundain spoke in support of the application. Ms. Foundain stated her family owned the property to the south of the site; that her father was the co-owner of the land located southeast of the site; that she spoke on behalf of her father; that her father grew up on the adjacent farm; that her family's connection to the land spanned across generations; that for indigenous people, land has meant more than property; that it was a responsibility; that responsible renewable energy reflected the same principle by preserving resources while meeting today and tomorrow's needs; that the Public Service Commission had a future meeting scheduled to discuss rate increases; that solar energy was the solution to the problem that many faced, while the housing shortage was being addressed; that the energy needs needed to be addressed as well; that Sussex County's growth had been breathtaking; that we needed to leave open land; that solar arrays were a great compromise; that she and her family supported the application; that Sussex County had long respected the right of its homeowners and its agricultural heritage for landowners to make responsible decisions about the use of their property; that the application allowed the land to remain productive, while contributing to Delaware's energy future; that long before Delaware became a state, the indigenous people who lived here, welcomed newcomers to the shores; that in that same spirit, the local community has welcomed many people who have more recently chosen Sussex County as their home, and that she asked that the same respect be shown to the families like theirs, and Mr. Johnson's, whose roots run deep here.

Ms. Tracy Johnson, resident of Patriots Glen, spoke in opposition to the application. Ms. Johnson stated that she had created the opposition petition, which 172 people had signed; that wherever the person was located when signing the petition, was where the petition reflected, and did not mean that they were not real signatures; that she was concerned about the view of 16 acres of 15 foot solar panels with limited buffers; that the buffers would be insufficient; that she was not an engineer, but had ChatGPT design a rendering of what her view would be like; that the buffer

would not work at all and would be useless; that the buffer would likely take 20 years to grow, and at which time the solar arrays would be dismantled; that residents were unsure what type of reflection would be generated from the panels; that approximately 350 homes would be located within Patriots Glen; that child would get into the solar array area; that Patriots Glen did have its own buffer, however they only had 10 feet of backyard; that the landscape buffer was not dense, opaque or wide enough; that the buffer needed more evergreens and shrubs in a variety of sizes; that the solar arrays would be an eyesore; that she had committed to two homes within Patriots Glen; that had she known about the solar arrays beforehand, she would not have purchased within Patriots Glen; that a study performed by Virginia Tech showed that property values within three miles of solar farms drop approximately 4.8%, and the Patriots Glen community requested a better landscape buffer be placed.

Mr. Shafer stated 20-year lease with two 10-year extensions, with a potential lifespan of 40 years.

Mr. Collins stated for clarification that the provided landscape buffer met the Sussex County Ordinance, which was written to address some of the expressed concerns.

Mr. Robertson stated that both landscape buffers met the Sussex County requirements; that the buffer behind the residential subdivision met the requirements of the Code, and as well, the proposed solar project, and stated that the Commission had previously discussed the solar array buffers to contain all evergreens or majority evergreens so that there would be foliage all year round versus the perimeter buffer on a subdivision, which was a mixture of deciduous and evergreen trees.

Mr. Falkowski spoke as a part of the permitted five-minute rebuttal. Mr. Falkowski stated that he believed ChatGPT may have mixed up the order of which the screening would be provided; that the ChatGPT rendering reflected the house, array, and buffer; that in reality it would be the opposite; that it would be the house, the subdivision buffer, the solar project's buffer, the fence and then the arrays; that he believed the perspective was off as well; that their seven foot fence would have a mesh screening on it; that when the arrays were at their maximum height of 15 feet, which would occur mid-day, the top of the arrays would be visible; that otherwise the arrays would not be at their maximum height, and would not be visible; that they would be completely open to doing an evergreen mix of 100% or an inverse mixture of 70% Evergreen and 30% deciduous, which would provide more screening during the winter months.

Mr. Passwaters stated that he believed the Commission had agreed moving forward that solar projects would be required to have the inverted mixture of 70% Evergreen and 30% deciduous per 100 feet.

Mr. Collins stated that it seemed possible that some of the concerns could be addressed by potential tree planting within the area outside of the Conditional Use area, and potentially was something the property owner could consider.

Mr. Falkowski stated that there was a 20-foot maintenance and access easement provided between the Patriots Glen buffer and the site's buffer, to allow the property owner to access the area and for the maintenance of the buffer, and if they filled that area in with plantings it would potentially cut off access.

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 2569 Pivot Energy DEL045, LLC. Motion by Mr. Collins to defer action for further consideration, seconded by Mr. Passwaters, and carried unanimously. Motion carried 5-0.

PUBLIC COMMENT

The Commission found that two people were present who wished to provide public comment.

Mr. Andrew Battin spoke with concerns regarding the completion of amenities to released building permits within his community.

Mr. John Molnar spoke with concerns and questions regarding private road construction requirements and inspections.

Meeting adjourned at 5:17 p.m.

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