

MINUTES OF THE REGULAR MEETING OF SEPTEMBER 17, 2025

The regular meeting of the Sussex County Planning and Zoning Commission was held on Wednesday afternoon, September 17, 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. The following members of the Commission were present: Ms. Holly Wingate, Mr. Jeff Allen, Mr. Scott Collins, Mr. Bruce Mears, and Mr. John Passwaters. Also, in attendance were Mr. Jamie Whitehouse – Director of Planning & Zoning, Mr. Vincent Robertson – Assistant County Attorney, Mr. Michael Lowrey - Planner IV, and Ms. Ashley Paugh – Recording Secretary.

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

OTHER BUSINESS

C/U 2581 Zion Church Ventures, LLC

Request for Interpretation of Conditions of Approval

On Monday, August 25th, 2025, the Department of Planning and Zoning received a Request for Interpretation of Conditions of Approval for Conditional Use No. 2581, Zion Church Ventures, LLC. The Conditional Use Application was to allow for storage/warehouse/office buildings and a car wash to be located within an Agricultural Residential (AR-1) District. At their meeting of Wednesday, June 18th, 2025, the Planning and Zoning Commission recommended approval of the Application subject to twenty (20) Conditions of Approval. Additionally, at their meeting of Tuesday, July 22nd, 2025, the Sussex County Council approved the Application, and the change was adopted through Ordinance No. 4009. Specifically, the Applicant's legal representation is asking for further clarification and the Commission's interpretation of Condition "D" relating to the prohibition against walling off or isolation of office space within individual storage units and Condition "O" relating to the prohibition of showers or other bathtub-type fixtures within individual storage units. The Applicant notes that these restrictions may be problematic and pose hardships for some storage tenants based on specific use needs. Contingent upon the Commission's interpretation of these elements, the Applicant has proposed two possible solutions to still adhere with these Conditions. The first is converting a unit into a space that accommodates an office, bathroom, and/or shower area. Alternatively, Zion Church is considering incorporating a structure to house an office, bathroom, and shower area within or adjacent to the car wash building depicted in the Conditional Use Site Plan. The Applicant would greatly appreciate the Commission's interpretation of these Conditions so that their client may establish a reasonable path forward. The property is located 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) at 36054 Zion Church Road in

Frankford, Delaware. Tax Parcel: 533-11.00-23.00. Zoning: (AR-1) Agricultural Residential District.

Motion by Mr. Mears, seconded by Mr. Collins, and carried unanimously to deny the request to amend the Conditions of Approval. Motion carried 5-0.

2022-11 Hunter's Creek

6-Month Time Extension Request

On Wednesday, August 13th, 2025, the Department of Planning and Zoning received a 6-month time extension request for the Hunter's Creek Subdivision, a cluster subdivision consisting of ninety-three (93) single-family lots, private roads, stormwater management, perimeter buffers, and open space. The Preliminary Subdivision Plan was approved by the Planning and Zoning Commission at their meeting of Thursday, September 8th, 2022, subject to eighteen (18) Conditions of approval. The Commission last reviewed the Revised Preliminary Subdivision Plan at their meeting of Wednesday, August 21st, 2024 where they approved a request to amend Condition "G" of the Conditions of Approval pertaining to the requirement of a secondary emergency entrance along Hickory Manor Road (S.C.R. 346) opting to change the original wording of the Condition to *"There shall be a vehicular entrance via Omar Road and there shall be an unobstructed emergency access via Hickory Manor Road that remains open and available to use by emergency vehicles, but not paved."* Specifically, this time extension request is being made pursuant to §99-40(C)(1)(C) of the Sussex County Code pertaining to Major Subdivisions. In accordance with the requirements of this Section of Code, an explanatory Memo, schedule, and plan of completed steps, agency approval statuses, and reasons in support of the Applicant's request for a time extension have been provided. The property is located on the north side of Omar Road (S.C.R. 54), approximately 0.33-mile west of the intersection of Powell Farm Road (S.C.R. 365). Tax Parcels: 134-11.00-102.00 & 103.00. Zoning: MR (Medium Density Residential (MR) District. The Commission's recommendation will allow the Application to be forwarded to the Sussex County Council for their final decision on the matter, pursuant to the process outlined in §99-40(C)(3) of the Sussex County Code. If approved, this Application's expiration date will be extended 6 months from the original expiration date of September 8th, 2025, to March 8th, 2026.

Motion by Mr. Mears, seconded by Mr. Collins, and carried unanimously to approve the 6-Month Time Extension Request. Motion carried 5-0.

2022-26 Ballenger Subdivision

Amenities Plan & Request to Amend Subdivision Name

This is a name change request and Preliminary Amenities Plan for Ballenger Subdivision, a cluster subdivision to consist of one hundred and six (106) 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

November 2nd, 2024, and is subject to the revision to “Condition C” at the Planning & Zoning Commission’s meeting of May 21st, 2024. The Applicant is requesting to change the name from the existing “Ballenger” to “Ballenger Creek” and has asserted that no lots have been sold within the community. The Amenities Plan proposes the establishment of a proposed 1,756 +/- square foot in-ground pool, 2,056 +/- square foot bath house, 706 +/- square foot tot lot, two pickleball courts, a bocce ball/cornhole field, a concrete patio, fencing, and community cluster mailbox. The improvements are to be located within the Ballenger Subdivision on the south side of Hollymount Road (S.C.R. 48), approximately 0.5-mile west of Beaver Dam Road (Route 23 / S.C.R. 285) in Harbeson, Delaware. Staff request the Commission clarify as to whether the proposed “Bath House” on the plan fully meets “Condition L” of the Condition of Approval for Ballenger (2022-26), which requires a “clubhouse” as follows:

Condition “L” - There shall be on-site active and passive amenities, including a playground, clubhouse, swimming pool, and walking trail. These amenities shall be completed and open to use as required by Section 99-21E of the Subdivision Code.

The Amenities Plan complies with the Sussex County Zoning Code and all Conditions of Approval, subject to the aforementioned request for determination regarding the compliance with “Condition I”. Tax Parcel: 234-11.00-103.00. 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. Collins, seconded by Mr. Mears, and carried unanimously to deny approval of the Amenities Plan, and to approve the request to amend the subdivision’s name. Motion carried 5-0.

S-25-32 Shell We Bounce Expansion

Revised Preliminary Site Plan

This is a Revised Preliminary Site Plan for the construction of a 2-story mixed-use building consisting of 4 units and 6,242 square feet of retail, a proposed 4,000 square foot indoor recreation building expansion, parking, and other site improvements. There is an existing 24,000 square foot indoor recreation building on the property as well. The properties are located on the northwest side of Lewes Georgetown Highway (Route 9). The properties are located within the Henlopen Transportation Improvement District (TID) and shall be subject to payment of any related fees as outlined by the Delaware Department of Transportation (DelDOT). A request for parking to be allowed within the front yard setback has been submitted with this proposal. Otherwise, the Revised Preliminary Site Plan complies with the Sussex County Zoning Code. A revised plan was submitted on September 8th, 2025, providing interconnectivity to the adjacent commercial parcel and relocation of nine (9) parking spots that were located within the front yard setback. Zoning: C-1 (General Commercial District). Tax Parcels: 334-5.00-143.00, 144.00, & 144.02. 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. Collins, seconded by Mr. Mears, and carried unanimously to grant approval of the Revised Preliminary Site Plan with final approval to be given by the staff, subject to the receipt of all agency approvals, contingent upon the removal of parking within the setback, addition of the clear path for interconnectivity, and the addition of vegetative screening to reduce impact from vehicle headlights to neighboring residential developments. Motion carried 5-0.

S-25-46 The Dunes

Preliminary Site Plan

This is a Preliminary Site Plan for The Dunes for the construction of seven (7), 3-story single-family detached condominium units and other site improvements. Board of Adjustment Case No. 13108 for a variance of 7.76 feet from the required 20-foot Combined Highway Corridor Overlay Zone (CHCOZ) buffer requirement and a 3.5-foot variance from the 3.5-foot maximum height requirement for a fence was approved by the Board of Adjustment at their meeting of Monday, August 18th, 2025. The parcel is located on the west side of Coastal Highway (Route 1), approximately 780 ft. south of Old Bay Road. The Preliminary Site Plan complies with the Sussex County Zoning Code. Tax Parcel: 334-20.09-189.00. Zoning: General Commercial (C-1) 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. Collins, seconded by Mr. Mears, 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 Dale Figgs, Inc.

Minor Subdivision Plan off an existing 30-ft easement

This is a Minor Subdivision Plan for the creation of one (1) lot plus the residual lands with access off an existing 30-ft wide ingress/egress access easement. Proposed Lot 1 will consist of 1.811-acres +/- and the residual lands will contain 71.649-acres +/- . A shared use maintenance agreement shall be established for the use of the shared access road. The property is located north of Ball Fard Run, a private lane that is accessed off of Figgs Road (S.C.R. 556). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 531-12.00-121.00 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. Allen, seconded by Mr. Mears, and carried unanimously to approve the Minor Subdivision Plan off an existing 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 2519 Savini Companies

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for a general contracting and home construction business, service & professional offices and storage to be located on a certain parcel of land lying and being in Sussex County, containing 5.57 acres, more or less. The properties are lying on the north and south sides of Old Silo Lane, and on the west side of Shingle Point Road (S.C.R. 249), approximately 0.81 mile north of Gravel Hill Road (Rt. 30). 911 Address: 16902 Shingle Point Road, 8301 Old Silo Lane, Milton & N/A. Tax Map Parcels: 235-25.00-33.00, 33.02 & 33.04.

The Commission discussed the application, which had been deferred since September 3, 2025.

Mr. Passwaters moved that the Commission recommend approval of C/U 2519 Savini Companies for a general contracting business, service, and professional offices and storage on land zoned AR-1 based on the record made during the public hearing and for the following reasons:

1. The applicant operates a general contracting business from the site. His business has expanded to the point where a conditional use is required.
2. The Applicant's family owns the land that surrounds the site, and the Applicant and his family reside in the house on the property.
3. The business use is located at the rear of the Applicant's property, where it will have the least impact on any neighboring properties.
4. DelDOT has stated that the traffic generated by the proposed use will be negligible and will not have a negative impact on the neighboring roadways.
5. The proposed use will not alter the character of the surrounding area in any manner that substantially limits or impairs the use and enjoyment of the surrounding properties.
6. The use as a general contracting and home construction service business generally has a public or semi-public character that is desirable for the general convenience and welfare of the area and the County.
7. No parties appeared in opposition to the application.
8. This recommendation is subject to the following conditions:
 - A. The property shall be used for a general contracting business with an office and storage in addition to the Applicant's residence.
 - B. All business and storage will be conducted inside existing and future buildings located within the parcels.

- C. One indirectly lighted sign shall be permitted. It shall not be larger than 32 square feet per side.
- D. The hours of operation shall be between 7:30 am and 5:00 pm, Monday through Friday, and on Saturdays between 8:00 am and 12:00 pm. No Sunday hours shall be permitted.
- E. Any outdoor lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.
- F. Any dumpsters on the site shall be screened from the view of neighboring properties and roadways. The dumpster location shall be shown on the Final Site Plan.
- G. The Applicant shall comply with any DelDOT requirements for entrance and roadway improvements.
- H. Any violation of these conditions of approval may result in the termination of this Conditional Use.
- I. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Passwaters, seconded by Mr. Collins, and carried unanimously to recommend approval of C/U 2519 Savini Companies for the reasons and the conditions stated in the motion. Motion carried 5-0.

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

C/Z 2021 Crosswinds Landing, LLC

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to an AR-1-RPC Agricultural Residential District - Residential Planned Community (352 dwellings) for certain parcels of land lying and being in Sussex County, containing 183.19 acres, more or less. The properties are lying on the southwest side of Lighthouse Road (Rt. 54), and on the west side of Dickerson Road (S.C.R. 389), approximately 310 feet northwest of the intersection of Lighthouse Road (Rt. 54) and Dickerson Road (S.C.R. 389). 911 Address: 33080 Lighthouse Road & N/A. Tax Map Parcels: 533-18.00-63.00 & 56.00.

The Commission discussed the application, which had been deferred since September 3, 2025, at which time Madam Chair Wingate had recused herself from the Application.

Madam Chair Wingate recused herself and appointed Mr. Mears as acting Chair.

In relation to C/Z 2021 Crosswinds Landing, LLC. Motion by Mr. Collins to defer action for further consideration, seconded by Mr. Passwaters, and carried unanimously. Motion carried 4-0. Madam Chair Wingate abstained.

PUBLIC HEARINGS

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

C/U 2395 Breeze-A-Bella Land Group, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A DISTRIBUTION WAREHOUSE TO BE LOCATED ON A 10.896 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 71.127 ACRES, MORE OR LESS. The property is lying on the south side of Park Avenue (S.C.R. 318) at the intersection of Park Avenue (S.C.R. 318) and Cedar Lane (S.C.R. 321A). 911 Address: 22318 Cedar Lane, Georgetown. Tax Map Parcel: 135-20.00-81.00.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Conditional Use Site Plan, the Applicant's Boundary Survey, the Staff Analysis report, the DelDOT Service Level Evaluation Response letter, and a letter received from the Sussex County Engineering Department Utility Planning Division. Mr. Whitehouse advised the Commission that 10 public comments were received regarding the Application.

Mr. Whitehouse stated that the Commission may have recalled the application, as it had previously already been presented before the Commission, and a recommendation had been made; that prior to the Application being presented before the Sussex County Council, and inconsistency in the address shown in the advertisement notice was found; that out of an abundance of caution, and to ensure the application was properly noticed, it was agreed to restart the noticing and bring the application back before the Planning and Zoning Commission with a new legal advertisement.

Madam Chair Wingate stated that the new Commission members have access to the previously made record for reference.

The Commission found that Mr. Doug Wade, owner of Breeze-A-Bella Land Group, LLC, and the subject property, spoke on behalf of his application. Mr. Wade requested that everything presented at the Planning & Zoning Commission of July 2, 2025, be incorporated into the current record by reference, as nothing had changed; that he owns an e-commerce business in the area; that he currently has a few locations spread throughout the town of Georgetown; that they are attempting to move all there operations to one space, being the subject site, on Park Avenue; that they are proposing warehouses, being just less than 10,000 square feet; that they are planning to construct two warehouses within the initial phase, and potentially four more after the business grows; that it will only be warehousing; that currently he employs 25 people; that the proposed business hours would be from 9:00 am to 5:00 pm, Monday through Saturday; that there would be minimal truck traffic, and they proposed the warehousing to be placed at the furthest possible point away from adjacent residential uses in the area.

Mr. Allen questioned the number of daily truck trips were anticipated and if the employees would park at the site.

Mr. Wade stated he anticipated only one truck trip per day, other than UPS, FedEx, and USPS mail carriers, which come daily; that the employees will park at the site; that the Site Plan accommodated more spaces than the current 25 employees, and would accommodate potentially 50 employees should they expand to the extra four warehouse buildings.

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

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

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

In relation to C/U 2395 Breeze-A-Bella Land Group, LLC. Motion by Mr. Allen to defer action for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 5-0.

C/Z 2055 David Roe

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A GR GENERAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 0.75 ACRES, MORE OR LESS. The property is lying on the south side of Ballast Point Road (S.C.R. 341A), approximately 215 feet west of Sandy Landing Road (S.C.R. 342). 911 Address: N/A. Tax Map Parcel: 134-6.00-175.00.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's property survey, the property deed, the DelDOT Service Level Evaluation Response, a letter received from the Sussex County Engineering Utility Planning Division, and the Staff Analysis. Mr. Whitehouse advised the Commission that no comments had been received for the Application.

The Commission found that Mr. David Roe and Mrs. Carole Roe were present on behalf of their application. Mrs. Roe stated that the property had been in the family for decades, and they wanted to establish a lot where their son could place a single-family residence, which would be located directly behind where they currently reside.

Mr. Mears questioned whether there were any other activities proposed for the site.

Mrs. Roe stated the proposed use is only for a single-family dwelling with normal traffic, and no business operations were proposed on the site.

Mr. Whitehouse advised the Commission that the property was currently zoned as AR-1 (Agricultural Residential), that within AR-1 a single-family dwelling is permitted; that during the Sussex County Building Permit application process for the property, it was discovered that what was being applied for was outside of the permitted uses of the AR-1 Zoning District; that within the AR-1 District, manufactured homes are required to be multi-sectional and no older than 10 years old, that the only way to accommodate the Applicant's proposed home, was to rezone the property to GR (General Residential), as there are no stipulation to the type of manufactured home or its age, and this issue this led to the current application, which was expedited to be presented before the Commission.

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

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

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

In relation to C/Z 2055 David Roe. Motion by Mr. Mears to defer action for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 5-0.

C/Z 2037 Mulberry Knoll Associates, LLC

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-4 PLANNED COMMERCIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 73.5 ACRES, MORE OR LESS. The properties are lying on the northwest side of John J. Williams Highway (Rt. 24), at the northwest corner of the intersection with Mulberry Knoll Road (SCR 284). 911 Address: N/A. Tax Map Parcel: 334-12.00-46.00 & 47.00.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Preliminary Site Plan, Applicant's Exhibits, including architectural sketches, illustrative plans, an Ability to Serve Letters from Delaware Electric Cooperative, Chesapeake Utilities, and Tidewater Utilities; that State's PLUS comments, and the Applicant's responses to the PLUS comments; the Applicant's Traffic Impact Study (TIS), along with the DelDOT response accepting the TIS, the Staff Review Letter, and the Applicant's response to the Staff Review Letter, a letter received from the Sussex County Engineering Department, Utility Planning Division, a letter received from the Applicant in relation to the requirement for a Drainage Assessment, and a letter received from the Applicant requesting a waiver from the front yard parking setback requirement. Mr. Whitehouse advised the Commission that 303 comments were received for the application; however, some comments did appear to be duplicates, and all documents had been included within the Commission's Paperless Packet.

Mr. Robertson advised the Commission, as well as the members of the public, that all documents and public comments submitted for the application could be located online through the Sussex County Online Application Docket.

The Commission found that Mr. James Fuqua, Esq. of Fuqua, Willard & Schab, P.A. spoke on behalf of the Applicant, Mulberry Knoll Associates, LLC; that also present were Mr. Ben Hoskins on behalf of the Applicant, Mr. Jamie Andruzzi and Mr. Steven Furtunato with Bohler Engineering, Ms. Nicole Kline, and Mr. Braden Garrison with Bowman Consulting Group Traffic Engineering. Mr. Fuqua stated that a Project Support Narrative was submitted into the record, along with all the documentation required for the rezoning request; that the application proposes to rezone a parcel of land located on the northwest side of Route 24 from AR-1 (Agricultural Residential) to C-4 (Planned Commercial District); that the C-4 District is relatively new, and rather unique; that it was his understanding that the C-4 District had only been previously requested one time before the Planning & Zoning Commission, with the Change of Zone request for C/Z 2001 Belmead Farm, which was held before the Commission in March 2025, and before the County Council on September 16, 2025; that at that hearing, Mr. Robertson provided information about the C-4 District stating that the C-4 (Planned Commercial) District is similar to a Residential Planned Community (RPC), except that C-4 is predominantly commercial, and an RPC is predominantly residential; that similar to an RPC, a C-4 request requires as part of the application, a detailed Development Site Plan, addressing the site layout, the uses, and also providing information that is listed in the C-4 section of the Zoning Ordinance; that unlike other Change of Zone applications, which cannot be approved subject to conditions, a C-4 rezoning includes Site Plan review, and the ability for the County to place conditions on the approval of the application; that the Code states, the purpose of the C-4 Planned Commercial District, is to encourage carefully planned large-scale commercial retail and mixed-use developments, as a means of creating a superior working and living environment through unified developments; that the current application requests a C-4 Zoning designation for the proposed use of a large scale, superior designed commercial shopping center, to contain approximately 665,000 square feet of floor area, anchored by three prominent national retailers, with other best-in-class brand stores, which are not already located within Sussex County; that the commercial center would be called Atlantic Fields; that the property contains 73.5 acres of cleared farmland; that the property is currently owned by JG Townsend, Jr Company; that the site is located on the northwest side of Route 24; that the site is less than one mile from the Route 24 and Route 1 intersection; that the site has approximately 2,515 feet of frontage along Route 24; that located to the east of the site are several residential homes, a Sussex County EMS paramedic station, the Plantation Medical Office, which is currently under construction, and Plantation Road; that also to the east, on the south side of Route 24, is the Beebe Specialty Surgical Hospital, which is a part of the Beebe Abessinio Health Campus; that across from the site, on the south side of Route 24, is a large parcel of agricultural lands, also owned by JG Townsend Jr. Company; that on the south side of Route 24, located at the Route 24 and Mulberry Road intersection, is a parcel that was previously approved as a Conditional Use for the use of a convenience store and office building;

that the site is currently under development and construction; that to the west of the site, is the location of the Beacon Middle School, and a Tidewater elevated water tower located on the school's property; that the west side of the property borders Mulberry Knoll Road, with 1,280 feet of road frontage; that across Mulberry Knoll Road from the property, there are several homes, Copp's Seafoord, and the Delaware State Police Troop 7 Headquarters; that to the west of the previously mentioned properties is the location of the Love Creek Elementary School and the Four Seasons at Belle Terre subdivision; that to the north or the rear of the site, are agricultural lands that are subject to an Agricultural Preservation easement; that he hoped to focus on three main topics regarding the application, being the applicable lands use regulations, which full support the requested C-4 rezoning and proposed use, the traffic impacts of the proposed use, the improvements and contributions that will be the Applicant's responsibility, and a review of the Atlantic Fields Development Site Plan, the infrastructure, the proposed uses, and the economic impact of; that the application had generated considerable interest, with over 300 comments; that a rezoning application is not a popularity contest, nor is it a political decision; that the courts of Delaware have ruled that public comments should be considered by the County, but ultimately, the County's decision must relate to the statutory mandates applicable to the rezoning request; that the most important consideration of any rezoning request is the relationship of the requested change to the provisions of the County's Comprehensive Plan; that the County is required by law to prepare and adopt a Comprehensive Land Use Plan for the purpose of planning future development and growth in the County; that the Comprehensive Land Use Plan is required to be updated every 10 years; that Sussex County is about to begin the cycle of the update, as the current Comprehensive Plan was last adopted in 2018; that work originally began in 2016 to begin preparing for the 2018 Comprehensive Plan; that the plan was a culmination of over two years of work, which involved dozens of presentations, workshops, and public meetings by the Commission and Council; that the approval of the 2018 Comprehensive Plan was recommended by the Planning & Zoning Commission, and was adopted by the Sussex County Council in December 2018; that subsequently, the plan was certified and signed by the Delaware Governor Carney in March 2019; that there are 13 Chapters in the Comprehensive Plan; that Chapter 4, the Future Land Use Chapter, is the centerpiece of the plan; that stated on Page 4-8, the Future Land Use Plan is the most influential part of the Comprehensive Plan; that the plan further states on Page 4-20, that the County zoning regulations are intended to carry out the future land use plan; that the Future Land Use Plan includes a Future Land Use Map, which designates land in the unincorporated area of Sussex County, as being located in one of the described growth areas, or one of the rural areas; that the map represents the County's vision regarding the future of land development, and land preservation priorities through the year of 2045; that the entire Atlantic Fields site is designated on the Sussex County Future Land Use Map in red; that the red color indicates the Commercial Growth Area of the Future Land Use Map; that the Comprehensive Plan specifically addresses the uses that are envisioned in this commercial area; that the plan states that commercial areas should include concentrations of retail and services uses, that are mainly located along arterials and highways; that commercial areas should include commercial

corridors, shopping centers, and other medium and large commercial of vicinities geared toward vehicular traffic; that the commercial areas are an appropriate place to locate primary shopping destinations and larger scale community uses; that the plan states on Page 4-17, that these more intense uses should be located along main roads or near major intersections; that in addition to the Plan, there is a table, being Table 4.5-2, which lists the zoning districts that are applicable to Future Land Use categories; that the C-4 Planned Commercial District is designated as an applicable zoning district in the Commercial Growth Area; that the County designated this Atlantic Fields site as a Commercial Area on the Future Land Use Map, per the Comprehensive Plan; that the County determined that a Commercial Area is appropriate for a primary shopping destination, such as shopping centers, and larger scale commercial uses, geared toward vehicular traffic; that County determined that more intense uses should be located along a road, such as Route 24, or near a major intersection, such as less than a mile from the Route 24 and Route 1 intersection; that in reality, the Applicant did not choose the site; that the County actually chose the site, and through the Comprehensive Plan directed the Applicant to the location as being an appropriate place for the proposed use; that there were many written comments submitted in opposition to the application; that some people disagreed with the County's vision, as it is currently stated within the Comprehensive Plan; that some members of the public have a different vision of the future development and use of the property; that those member so the public are entitled to their opinion, and the Applicant respects their concerns, however those opinions cannot nullify, modify or change the provisions of the Sussex County Comprehensive Plan; that the Comprehensive Plan states that large-scale commercial uses, such as a primary shopping destination, had been envisioned by the County for the subject 73.5 acre parcel, since the plan was adopted in 2018; that the plan states on Page 1-6, that the Comprehensive Plan is the County's official policy guide for future development related decisions, and that the plan strives to set a foundation for decision-making, by providing the County with a road map; that the State Statute that requires the County to enact a Comprehensive Plan, addresses what the legal status of the plan is; that under Delaware Law, Title 9, Section 6959A it states that the land use map, forming part of the Comprehensive Plan, shall have the force of law; that this means it is more than just a guide or a suggestion; that based on the language of the plan and its designation on the Future Land Use Map, the Atlantic Fields C-4 rezoning request and proposed use for the subject site, is in full compliance in accordance with the Sussex County Comprehensive Plan; that the Delaware's 2020 Strategies for State Policies and Spending, is a State document, however, it is not a land use plan; that the document and its investment level maps indicate that where the State investments will be directed in the future; that under the Strategies Investment Level Maps, the Atlantic Field site is located within Investment Level 2, which is an area where growth is anticipated by local County and State plans in the near future; that it is the State's intent to promote well designed development within Investment Level 2 areas; that associated with the Level 2 designation, the Atlantic Fields rezoning application participated in the PLUS review process in May 2024; that the Office of State Planning Coordination issued its PLUS Review Letter on June 21, 2024, stating that the State had no objection to the proposed project; that

the State had no objection to the proposed C-4 rezoning request, and proposed commercial development; that with all larger land use applications, traffic impacts are always an important, if not the most important consideration; that there is a very specific and detailed process that addresses those concerns; that Sussex County, as required by State law, has an agreement with DelDOT, providing a procedure for determining the traffic impact of any rezoning application; that the Memorandum of Understanding (MOU) between Sussex County and DelDOT requires that any development having a major impact, as defined by the MOU, is required to conduct a Traffic Impact Study (TIS), per DelDOT's specifications and requirements; that the Atlantic Fields site is located within the boundaries of the DelDOT Henlopen Transportation Improvement District (TID); that the TID was created in October 2020; that the TID is a planning concept that seeks to align transportation, infrastructure spending and improvements with land use projections and future development within the TID area; that a land use and transportation plan was prepared by DelDOT for the Henlopen TIS; that any proposed development located within the TID, and is consistent with the TID plan, is required to pay a TID fee, which is established by DelDOT, and is in lieu of performing a Traffic Impact Study (TIS); that the required fee satisfies the obligations for that development; that a proposed development that is determined to not be consistent with the TID, in addition to paying the TID fee, is required to also perform a Traffic Impact Study, to determine if the planned TID improvements are adequate, by considering the vehicle trips that are proposed to be associated with the new proposed use; that DelDOT determined that the Atlantic Fields development warranted a full Traffic Impact Study; that as a result, the Applicant retained Bowman Consulting Group to perform the Traffic Impact Study (TIS), in accordance with the parameters established by DelDOT; that the study involved 28 intersections in the general area of the Atlantic Fields site; that Bowman Consulting Group prepared the study, which was reviewed by DelDOT's traffic engineering consultants; that DelDOT's Traffic Impact Study Review Letter was issued on May 1, 2025, and was included into the record; that all improvements and responsibilities of the developer are listed on Pages 11 – 20 of the DelDOT Review Letter; that there were 16 improvements area, which DelDOT deemed the Applicant's responsibility; that the developer shall improve Route 24 and Mulberry Knoll Road, within the limits of the site's frontage to roadway specifications; that the Applicant will construct a single-lane roundabout at the site entrance 1A, located along Mulberry Knoll Road, per DelDOT's design standards; that the Applicant will construct a single-lane roundabout at Entrance 2, along Mulberry Knoll Road, per DelDOT's design standards; that the Applicant will construct a full movement site entrance at Entrance 3A, along Route 24, with a left and right turn lane, as determined by DelDOT; that Entrance 3A will be the main entrance to Atlantic Fields; that the developer will enter into a Traffic Signal Agreement, to design and construct a traffic signal, with pedestrian crossing at Entrance 3A; that the Applicant will construct a right in, and right out site entrance at Entrance 3B along Route 24, and Entrance 3C; that the Applicant will improve the existing intersection of Plantation Road and Dot Sparrow Drive, by the way of an existing cross access easement, including a single-lane roundabout on Plantation Road; that this was granted at the time of the entrance permit issuance for the medical building; that

the Applicant will enter into a Traffic Signal Agreement to design and construct improvements at the intersection of the Route 24, and Mulberry Knoll Road; that these improvements will include and/or will be in addition to improvements already proposed in the end loop and TID plan; that the concept and improvements within the TID are improvements planned for the future, and are then funded by developers as projects come in; that any additional improvements beyond what is planned, is also the developer's responsibility; that the developer is responsible to design and construct a raised median along Mulberry Knoll Road, between Route 24 and the site entrance, to the specifications necessary as determined by DelDOT; that this would prohibit certain turning on Mulberry Knoll Road; that the Applicant will design and construct a four-foot-high decorative fencing along the Route 24 property frontage to direct pedestrians toward signalized pedestrian crossings; that the location of the decorative fencing would be determined by DelDOT; that the Applicant will design and construct a single-lane roundabout at the Mulberry Knoll Road and Cedar Grove Road intersection, which will be located north of the site; that the developer will prepare for DelDOT review, a Traffic Signal Justification Study for the Robinsonville Road and Kendale Road intersection, located northwest of the site; that the developer will design and construct a single-lane roundabout, with a southbound bypass for Plantation Road and Robinsonville Road; that the Applicant will provide pedestrian and bicycle improvements, with bicycle lanes and symbols, as determined by DelDOT; there will be dedication of a 15 foot permanent easement from the right of way frontage on Route 24 and Mulberry Knoll Road, and construction of a 10 foot wide shared use path with an easement; that there will be internal sidewalks in the development that will connect with the shared use paths; that there will be bus stop pads constructed on both sides of Route 24, just east of Mulberry Knoll Road, as well as, at the main Entrance 3A; that a public bus service is available on Route 24; that all of these improvements will meet federal and State requirements regarding ADA compliance; that per the DelDOT TIS Review Letter, in addition to the items already stated, the Applicant shall pay the Henlopen TID fee again, as provided within the agreement and as determined by DelDOT; that all of the stated improvements and contributions will be completed in compliance with the provisions of the Henlopen Transportation Improvement District (TID); that as stated within the DelDOT TIS Review Letter, all required improvements and contributions will be implemented at the same time as the site construction; that as a result, the Applicant will be responsible for entrance and road improvements with an estimated cost of between three million to four million dollars, with an additional payment to the Henlopen TID, which will be approximately three million dollars; that the proposed development is in full compliance with the requirements of Sussex County and DelDOT, with the terms of the Sussex County and DelDOT Traffic Impact Memorandum, the Henlopen Transportation Improvement District, and the applicant will be responsible for the improvements and contributions as determined and required by DelDOT; that the development will be served with central public water, provided by Tidewater Utilities, for domestic use and fire protection; that Tidewater holds an existing Certificate of Public Convenience and Necessity (CPCN) to serve the property; that the site will be annexed as part of the contiguous Sussex County Unified Sanitary Sewer District; that the Sussex

County Engineering Department indicated that Sussex County is willing and able to serve the site; that the project will require a pump station and a force main to connect the center to Sussex County's system; that electricity will be provided by Delaware Electric Cooperative; that natural gas service is available from Chesapeake Utilities; that the record contains Ability to Serve Letters from all four utility providers; that the entire 73.5 acre site is cleared farmland, which had been used for agricultural purposes for over a century; that the site is located within Flood Zone X per the FEMA Flood Insurance Maps, being located outside of the floodplain; that the Delaware Emergency Management Agency indicated that the property is within an area of minimal flood concern; that the County's Resource Buffer Ordinance is not applicable or relevant to the site or the design of the site, as there are no Tidal Wetlands, Non-Tidal Wetlands, perennial or intermediate streams or woodlands located on the site; that there were some comments in opposition concerned about the need for a Drainage Assessment Report for the site; that the Resource Buffer Ordinance does require such a report when a resource buffer is located adjacent to or the site contains a stream which is not part of a tax ditch; that the site does not contain any streams; that the site does not contain any resource that has been defined in the Ordinance, and therefore the Ordinance is not applicable to the application; that the State Historic Preservation Office (SHPO) indicated that due to the long-standing agricultural use of the property, and the lack of any known occupation, there was low potential for historic archaeological sites on the property; that the lands located across Route 24 from the site are subject to an agricultural preservation easement, located to the rear of the site; that the Atlantic Fields development, design, and operation will comply with all notice and setback requirements for agricultural use protection, as required by Title 3, Chapter 9 of the Delaware Code; that the development's Declaration of Restrictions, as well as all leases and deeds shall contain the agricultural use and activities notice, which is required by the Code; that in addition, the rear boundary of the site, which is adjacent to the agricultural lands, will be screened with a six-foot-high sight tight for the entire length of the rear boundary; that the proposed Atlantic Fields commercial development will comply with all fire protection requirements of the Delaware State Fire Marshal's Office; that the State Fire Marshal indicated in the PLUS letter, that they had no objection to the rezoning request; that the Applicant is agreeing to make a voluntary fire company contribution of \$100,000; that the contribution will be paid at the time that Certificates of Occupancy are issued for a building; that the contribution will be prorated based on the square footage of the building, as a percentage of the entire square footage; that because of the location, the developer is proposing 50% of the fire company contribution will be paid to the Lewes Volunteer Fire Company, and 50% to be paid to the Rehoboth Beach Volunteer Fire Company; that this contribution is a voluntary proffer, and is included as a condition in the proposed Conditions of Approval; that for a rezoning request to a C-4 Planned Commercial District, a detailed Development Plan of the proposed use is required; that the development fronts on Route 24; that there are three entrances from Route 24, being one full entrance with signalization, and two right-in and right-out entrances; that there will be two entrances along Mulberry Knoll Road; that there are seven pad sites, which are to be located along Route 24, however the access to the site will be from an internal

drive; that there will be 17 store buildings situated within the center itself; that Buildings A, B and O will be the location of the three anchor stores; that a fuel filling station, located at the southeast corner of the property will be operated as part of the Building A operation; that Stores C, D, E, F & H, will be located adjacent to one another, and will be located on the northwest portion of the site; that the remaining stores are located between the rear of the pad stores, and the main parking area for the development; that the gross floor area for all of the buildings will be approximately 665,000 square feet; that two of the anchor stores being the largest buildings; that Building A is approximately 172,000 square feet, and Building B is approximately 148,000 square feet; that all buildings will be no more than 42 feet in height, and will comply with all setback provisions of the Zoning Ordinance; that most of the various buildings floor area will be leased, but it is the business policy of some national retail companies to purchase and own their own store sites; that as a result, the development site plan was designed for possible future parcel and building conveyance; that by designating 11 separate parcels within the center, which are reflected on the full Development Plan that was submitted into the record; that the seven pad sites are each parcel; that Parcels 8, 9 & 10 are the anchor stores; that Parcel 11 is the largest parcel, containing about 29 acres, which will include all the remaining buildings, and the land in the center; that the C-4 section of the Zoning Code provides that the land in the C-4 District is not required to be under single ownership; that the C-4 section states that it is the intent of the C-4 District, that development be designed as an integrated and comprehensively planned area, using a common parking area, shared ingress and egress, pedestrian walkways, open space stormwater management areas, and water and wastewater utilities, that provisions for assessments for maintenance, repair and replacement of these shared common facilities will be established in the Centers Declaration of Restrictions; that the easements that will be applicable to all leased or conveyed property; that for the center's vehicular traffic circulation, there will be a dualized drive from the main, signalized, entrance, being Entrance 3A, from Route 24; that the drive will extend from the entrance to a service road, which will be located along the rear of the property; that then connecting to that drive are two drives that run in an east and west orientation across the site; that the east to west drive will connect with Entrance 1A at Mulberry Knoll Road; that there will be a service road to the rear of the property that will connect the second entrance from Mulberry Knoll Road, with the eastern boundary of the site; that this road will continue on to Plantation Road by the way of an existing DelDOT cross access easement, which is being referred to as an ingress egress easement; that there was a letter submitted into the record, from the attorney for the medical center, expressing concern regarding the use of the easement; that the developer has no agreement, nor has had any discussion with the medical center regarding the easement; that DelDOT is requiring the developer to extend the road where the access easement is located; that from records he had obtained, the easement was placed on the plan when the entrance was granted by DelDOT for the medical office building; that the developer is responsible for completing the road and constructing the roundabout; that the easement concern is really between DelDOT and the medical center's property owner; that the developer of Atlantic Fields intends to do what is required by DelDOT, while attempting to make sure everyone is in agreement with what

will be constructed; that parking is shown on the Site Plan; that per the Zoning Code, the proposed shopping center will require 3,317 parking spaces; that 3,405 parking spaces are proposed to be provided, including ADA compliant design spaces; that larger parking lots, such as what is proposed, require landscaped islands spaced within the parking areas; that for the proposed parking area, 136 islands would be required; that the Site Plan provides 242 islands, which considerably exceeds the requirement; that there will be sidewalks located adjacent to, and at minimum, the fronts of all stores, and will be marked; that designated pedestrian crosswalks will be located throughout the center; that there will be stop signs located where appropriate; that loading areas will be provided for all stores as required; that loading areas and trash enclosures will have appropriate landscaping and/or screening/fencing; that stormwater management facilities will be designed and constructed in compliance with DNREC regulations, and will be reviewed and approved by the Sussex Conservation District; that stormwater management and treatment will meet or exceed the current stormwater regulations, including management of water quality and quantity; that the system will be designed to direct all stormwater on the site to catch basins; that from the catch basin, stormwater will be routed to above ground and underground collection facilities by way of an underground closed storm system; that both the above-ground and underground facilities will be designed to infiltrate the collected stormwater up to the 100 Year Storm event; that an emergency outfall pipe will be installed as part of each facility that will be situated above the 100 Year Storm Water Peak Elevation; that it would route stormwater in that type of event to a DelDOT right-of-way; that as shown on the Site Plan, the underground facilities are located in parking lots; that there is a Wellhead Protection Area located in the southeast corner of the site; that this is the proposed location of the fuel station area; that the area will be graded and developed so that all stormwater runoff within the fuel station footprint will be collected and routed to an underground stormwater facility that will be located 300 feet from the Wellhead Protection Area; that there will be no infiltration of stormwater from the fuel station site in the Wellhead Protection Area; that the underground facility will provide quality treatment to that stormwater prior to its infiltration, and would be done at a distance far removed from the Wellhead Protection Area; that the stormwater facilities will meet or exceed DNREC requirements, and will be reviewed and approved by Sussex Conservation District; that the Development Plan, as required by the C-4 District, has a Landscape Plan, which details the landscaping and the types of plantings for the center; that there is a separate Landscaping Plan, as part of the original documents; that reflected on the plan, within the center, and along sections of the perimeter of the site, a total of 262 various types of canopy trees with a height at maturity of 12 to 14 feet, 186 evergreen trees with a maturity height of six to eight feet, 32 ornamental trees with a height of eight to 10 feet, and 929 shrubs, reaching a height of four to five feet in height; that each of the 242 parking lot islands will be mulched, and planted with a canopy tree; that parking areas along Route 24 will have shrubbery screening between the parking spaces and Route 24; that in addition, DelDOT required an ornamental fence between Route 24 and the parking spaces; that the western boundary of the center at Mulberry Knoll Road will have

landscaped areas with evergreen trees, canopy trees and shrubs; that the eastern boundary will be screened by evergreen trees; that the screening will incorporate some existing trees that are located along that boundary; that to the rear of the site, there will be a continuous six-foot-high sight tight fence; that shrubs and canopy trees will be located along the service road; that the responsibility for the maintenance, upkeep and replacement of all the landscaping globally will be established in the center's Declaration of Restrictions; that the key factor in the successful operation of a shopping center is its anchor stores; that anchor stores are typically large, well-known, national retailer grocery stores, which serve as the primary draw for shoppers; that anchor stores attract a high volume of customers, and serve as a magnet for shoppers who most likely will also shop at the surrounding smaller stores in the center; that historically, most of the popular national brand retailers who serve as anchor stores relied on population to determine their new store sites; that previously, the year-round population of Sussex County did not meet the requirements of most of the national stores; that with the recent changes which have occurred in Sussex County, many national companies have reconsidered their location criteria; that Sussex County's year-round population has grown significantly; and is projected by the Delaware Office of State Planning Coordination to continue growing well into the future; that there are other considerations unique to Sussex County; that eastern Sussex County has a significant seasonal population; that the demographics of Sussex County, being income levels and median age, are demographics factors that are very supportive of a successful retail operation; that other considerations are market opportunities, as determined by the stores site access from a major road, which is a major consideration, and community interest; that another factor would be the availability of suitable real estate at a location, which is suitable real estate, at a location that is available through land for sale; that based on those considerations, three national companies have committed to being anchor stores at Atlantic Fields; that Building O will be a Whole Food Grocery Store; that Building B, located in the center, will be a Target; that Building A, being the largest building, will be a Costco; that other retailers have also committed to the center as well, consisting of Ross, Nordstrom Rack, Hobby Lobby, and Dick's Sporting Goods; that there are other popular retailers in discussions with the Applicant, but they have not yet committed; that the economic impact of Atlantic Fields center is a relevant consideration; that one of the purposes of the County's zoning authority is to promote the welfare and prosperity of present and future County residents; that the Applicant retained Sage Policy Group, an economic and policy consulting firm, who's headquarters are located within Baltimore, Maryland, to prepare a report analyzing the economic and fiscal impacts of the proposed development; that the reported is dated August 2025, and was submitted into the record; that the permitting and construction phase of Atlantic Fields will take approximately three years; that the total development cost, including land acquisition, site preparation, infrastructure and building construction, will be approximately \$175 million; that the construction of Atlantic Fields will support approximately 990 jobs in Sussex County, generating approximately \$76,000,000 in labor income during the construction phase; that once fully built and operational, Atlantic Fields will support approximately 1,750

permanent jobs in Sussex County, with an annual labor income of approximately \$79 million, and Atlantic Fields is project to contribute \$370,000 annually in school property taxes to the Cape Henlopen School District, without directly generating any additional pupil enrollment.

Mr. Ben Hoskins, present on behalf of the Applicant, stated that he agreed that the information provided in Mr. Fuqua's presentation was factual, true, and correct.

Ms. Nicole Kline, with Bowman Consulting Group, stated that she agreed that the information provided in Mr. Fuqua's presentation regarding traffic was accurate.

Mr. Jamie Andruzzi and Mr. Steve Fortunato, with Bohler, stated that they agreed that the information provided in Mr. Fuqua's presentation regarding site design, infrastructure, and related matters was accurate.

Mr. Fuqua requested to submit proposed Findings and Conditions into the record for the Commission's consideration.

In conclusion, Mr. Fuqua stated that in his presentation, he discussed three separate topics; that he established for the record that Atlantic Fields requested C-4 rezoning and Development Site Plan fully complies with the C-4 Plan, commercial district design and use provisions; that all requirements regarding traffic impact, as set forth in the Sussex County DelDOT Memorandum of Understanding, the DelDOT Henlopen Traffic Improvement District, and the DelDOT Traffic Impact Study Review Letter had been complied with or would be complied with, and that those improvements would be concurrent with the development construction; that larger scale commercial uses and primary shopping destinations are appropriate in a commercial area, as described in the Comprehensive Plan, and as designated on the Future Land Use Map; that Atlantic Fields requested C-4 rezoning and use are precisely located in total conformity with the Comprehensive Plan, and also with the Delaware State Investment Map, as the plan states on Page 4-8; that the County zoning regulations are intended to carry out the Future Land Use Plan, and based on the record presented, the Applicant requested the Commission's recommendation of approval, subject to conditions that the Commission deem appropriate.

Recess

4:57 pm – 5:02 pm

Mr. Collins questioned whether the Applicant had considered to build a mix of housing; that would be suitable for the workforce; that many members of eastern Sussex County had expressed concerns regarding challenges with affordable workforce housing, especially during summer seasons; that there are already existing challenges with local businesses; that he felt the proposed development would place additional pressure on that workforce; that the questioned this, as he believed a Costco

in Los Angeles built residential housing units above the store, and he felt that providing residential units would be appear like a partial solution to reducing sprawl and improving access to housing for citizens potentially working at the center.

Mr. Fuqua stated that in the context of his client and the proposed development, the proposed use was purely a commercial project; that a commercial project is being proposed and reflected in the design; that the developing commercial projects are the business the Applicant is in, and therefore, there was no consideration to provide workforce housing, as that is not the business the Applicant does; that there is opportunity for workforce housing anywhere that can be appropriate; that the Applicant acknowledges it as a problem, and although the Sussex County population had grown, he did not feel Sussex County has a similar population to Los Angeles.

Mr. Collins stated that he agreed, but the Commission had concerns regarding sprawl and environmental damage from overdevelopment; that he felt there was an opportunity to improve landscaping along Route 24 to ensure the development does not create a strip of highway, similar to what Coastal Highway looks like currently, with no trees or landscaping.

Mr. Fuqua stated that all the details regarding landscaping are included and reflected on the submitted Landscape Plan; that the plan was fairly detailed; that per DelDOT requirements, there will be a decorative, four-foot fence placed along that area, and from a commercial and business point of view, there is an accessibility and view that the Applicant would desire to have.

Mr. Collins stated that Mr. Fuqua had specifically mentioned that the Future Land Use Map indicated that the site would likely be commercial, which did not indicate that the site would necessarily mean the site would become commercial now, and he questioned if other sites were examined for development, which may have been located within a less sensitive area in western Sussex County or along Route 1.

Mr. Fuqua stated that no other properties were examined, as the Sussex County Comprehensive Plan indicated that the subject site was an appropriate location; that according to the plan, the site is required to be located along a major road, and near a major intersection, and the site must be appropriate for C-4 zoning, as well as, be for sale.

Mr. Allen requested more information regarding the DelDOT management area, in regard to the stormwater overflow.

Mr. Fuqua stated that not all stormwater overflows would go to the DelDOT management area, and only stormwater associated with a 100 Year Flood Event would be directed to the DelDOT management area.

Mr. Steve Fortunato, with Bohler Engineering, stated they will connect into an existing DelDOT storm drain system; that the system was placed as part of the Route 24 expansion; that the developer had met and coordinated with DelDOT, who were provided preliminary plans; that they have had multiple meetings with DelDOT who are aware of the development plans, and had no objection, subject to the Applicant completing all DelDOT requirements.

Madam Chair Wingate questioned where the water would be discharged from the underground stormwater system, and if the discharge would be performed through an infiltration of the system.

Mr. Fortunato stated that a very large amount will primarily be infiltrated; that there will be an overflow, where larger storm events will be discharged into the DelDOT storm drain system, and the Applicant will be required to meet the pre-development flows associated; however, there will be a lot of infiltration happening.

Madam Chair Wingate questioned whether there was an area of interconnectivity proposed to the north of the site.

Mr. Fuqua stated that the site is located along Mulberry Knoll Road and Route 24; that there will be access to Plantation Road by way of the access easement to the rear of the property; that there is no interconnectivity shown on the plan; that they could stub something to the parcel of land, but the land is currently agricultural land with an designated agricultural preservation easement, and they would do not want to insult the property by implying that it may be developed.

Madam Chair Wingate questioned whether there were any plans to have a multi-use path in the front, along with the fence, to deter any pedestrians from crossing where they are not supposed to; however, she could see a path being beneficial for bicyclists.

Mr. Fuqua stated there will be a multi-use path along the frontage of Route 24 and Mulberry Knoll Road; that the path will be similar to what is being constructed for many residential developments; that there will be a 15-foot easement, with a five-foot gap between the right of way, and there will be a 10-foot paved shared-use path along both roads of Route 24 and Mulberry Knoll Road, but not the service road.

Madam Chair Wingate questioned what the estimated time of completion was, as she was concerned about the amount of time that would be needed for DelDOT as well.

Mr. Fuqua stated that the only estimated timeline he had was that the project would take approximately three years to construct the development, with some stores coming online along the way.

Mr. Ben Hoskins stated the current projection would be pending approvals, and the entitlements timeline would have a grand opening where the majority of the center would open before the “high season” in 2028; that this timeline is based on the assumption that they would begin groundbreaking sometime in 2026, and that everything is subject to change.

Mr. Robertson questioned whether all the road improvements along the southside of Mulberry Knoll Road would be constructed within the DelDOT right of way, the Applicant’s property, or someone else’s property.

Mr. Fortunato stated that they have designed all the entrance improvements to be constructed within either the DelDOT right of way or the Applicant’s property, and currently, they are not anticipating any right of way or easement acquisition for the construction of the entrances or roundabouts.

Mr. Collins stated electricity prices have been increasing, creating power generation concerns; that residents do not want to place power generation in their backyards; that people do not want to turn existing farms into solar farms; that he questioned whether the Applicant had considered the development of solar arrays for vehicle covering or on rooftops to help with generation of power, and potentially offset market increases which are likely coming in the future.

Mr. Fuqua stated that the project has not reached that level of detail for the project yet, however, he believed the Applicant may have considered the placement of solar arrays, as he believed solar power was becoming the future.

Mr. Whitehouse questioned whether there would be any objection to interconnectivity to the adjoining Sussex County paramedic station.

Mr. Fuqua stated that he believed that the location would be located to the rear of the proposed Costco store; that he did not see why interconnectivity could not be possible, subject to the Planning & Zoning Commission allowing the Applicant to remove the landscape buffer proposed in that area, and the Applicant would have no objection to that interconnectivity requirement.

Mr. Robertson stated for the record that the Commission requested that the DelDOT representatives be present for the Commission’s benefit, as DelDOT is the State regulating agency of the roadways.

The Commission found that Mr. Todd Sammons, Assistant Director of Development Coordination of DelDOT was present, along with Ms. Sarah Coakley, Transportation Improvement District Program Manager, Ms. Sireen Muhtaseb, Traffic Impact Study Group Engineer, and Mr. Tucker Smith, Traffic Engineer with McCormick Taylor, Inc., who is a consultant for DelDOT, and who assisted in the review to develop the Traffic Impact Study letter, in conjunction with the rest of the DelDOT staff.

Mr. Collins requested information regarding what the state of the roads is projected to be like, once the shopping center is developed and open to the public in 2028; that he questioned what the current state of Route 24 and Mulberry Knoll Road was, and what DelDOT improvements were proposed, beyond the road improvements that the Applicant had already previously spoken to.

Mr. Sammons stated that Mr. Collins question was a large question; that the proposed development is large, and will create a large trip generator, with pass-by trips as well; that DelDOT had factored for all of that; that they performed their analysis based off the years when the development would open, which was projected to be in 2028; that they also pushed the analysis out to 2045, which aligns with the TID (Transportation Improvement District) analysis; that from a high level, DelDOT is constantly monitoring all roads, being all major roads, side roads, and intersections; that they have programs that monitor these roadways; that they also have models that they run; that they have projects located within the CTP (Capital Transportation Program) which are ongoing, regardless whether the Atlantic Fields project comes in or not; that those projects are listed in the letter, and listed within the CTP; that there were improvements made to Route 24, from Route 1 just past the elementary school, where Route 24 was dualized, and turn lanes were placed; that there are more phases of Route 24 improvements that are coming, which will be constructed to the west of there and beyond Love Creek; that they will dualize Route 24; that DelDOT also had plans to make the Mulberry Knoll Road connection, which will take you all the way up to Route 9; that as developments come in, they are having developer's put those pieces in place; that some of those pieces are going to be CTP projects, which DelDOT and the federal government will fund; that they are constantly working and evolving to make the infrastructure better; that sometimes the projects do not happen fast enough for people, however, they do their best to stay in front of those issues; that they also attempt to attack infrastructure issues from different directions; that when developers come through the Development Coordination Group, they will have them mitigate their impacts in addition to the other pieces of the CTP project; that DelDOT did look out to 2045 in relation to Route 24; that the capacity, with the dualization of Route 24, even after the proposed development and other committed developments, will not exceed the capacity of the existing and current roadways.

Mr. Robertson questioned whether DelDOT considers and reviews committed developments, including developments that may not necessarily be built, whether there was a plan for lands located within the TID, whether the lands are developments or commercial, and if all of those things were taken into account during DelDOT's reviews.

Mr. Sammons stated that DelDOT considers the buildout year that the project proposes, as well as the future year, because this is a TID; that there are active projects that are currently planned in the TID; that he wanted to stress that 2045 is a long time out, being 20 years out; that everything is subject to change, however, DelDOT is constantly monitoring; that if there are problems as they develop, then there could be other changes and other improvements made; that engineers they like to say that they can fix anything, but he questioned what the ramifications of doing so would be;

that he questioned if Sussex County would desire three travel lanes in each direction; that there are environmental and size impacts; that there are a lot of things that go into the decisions; that there is a balance between quality of life, as well as the transportation infrastructure, and it is a tough balance to strike through.

Mr. Collins questioned what the phasing and timeline would be for the dualization of Route 24, and if it would include the expansion of the bridge over Love Creek.

Mr. Tucker Smith, Traffic Engineer with McCormick Taylor, Inc., stated that there is another Capital Transportation Project proposed that will expand Route 24 to the west, from Love Creek out five miles west of that area; that currently, that project is not scheduled, but it is the next planned project; that he would assume the project would include the expansion of the bridge over Love Creek, as it is located along the same roadway; that the project is included within the scope of the CTP plan, and includes two lanes, each way, along the entire segment.

Mr. Collins questioned whether there were currently any plans to have the dualization of Route 24 completed before the proposed project would be operational, with customers driving in and out, and if the Mulberry Knoll Expansion to Route 9, which he believed to be another important project to deliver, would be finished by the time the proposed development would be built out.

Mr. Sammons stated that Mr. Collins's comments were correct; that the projects would not be completed, and that there is a piece going in with the Northstar project, as one of the conditions put in for Phase 1, which would be built from Route 9, as they are building their first set of homes; that before those homes could obtain a Certificate of Occupancy, they will have the road built from Route 9 down slightly past Route 23; that they are trying to hit the pieces as they go, and if there are other developers that come in, DelDOT will ask them to make those, but if not, there are connections, and if not, then the CTP project will eventually take care of it, but will not be placed by 2028.

Mr. Collins questioned whether DelDOT would anticipate that some of the traffic into and out of the center would also access the service road located behind the stores, and he believed the service road could provide an alternate route in the event there would be an accident on Route 24.

Mr. Sammons stated yes, that DelDOT does anticipate that some of the traffic into and out of the center would also access the service road located behind the stores; that this was the reasoning why there is connectivity over to Plantations; that interconnectivity is something that DelDOT constantly promotes, as long as it makes sense and does not create unintended consequences; that it did not make sense to have all the traffic push out to Route 24 and Mulberry Knoll Road, when there could be a feasible connection over to Plantations, and they wanted to distribute the traffic as much as possible, so it does not unfairly and unduly impact certain areas, and the bigger and more distribution, the better.

Mr. Mears questioned whether DelDOT could provide any further description of the developer's required improvements.

Mr. Sammons stated that he felt the Traffic Impact Study (TIS) letter spoke for itself; that the TIS covers the requirements well, and had been part of the record since May 1, 2025; that there will be significant improvements required to occur for the proposed development; that there are four to five roundabouts required to be constructed, with two being site entrances; that there will be a roundabout located at Cedar Neck Road and Mulberry Knoll Road; that there will be one to two placed at Plantations; that there are significant intersection improvements around the site that are required to occur to help alleviate, and mitigate the site's impact; that there will be a major entrance located along Route 24, which will be signalized, and will have a right in and right out; that the plan has evolved from what the developer initially proposed with regards to the access points that the developer initially proposed; that a right in and right out, when designed safely, is a good relief valve, because it does not affect the traffic going the other way; that no one will need to make a left across Route 24; that it will allow vehicles to access the site better; that it is a balance between what the developer proposed, and what DelDOT feels is a good idea; that is why the developer is collaborating with DelDOT; that things could change and evolve as they go through the design process with DelDOT, when getting into the details of the design from a geometry, operational and safety standpoint; that the TIS is high level with regard to traffic impacts, determining where and how things are going to distribute out; that along Mulberry Knoll Road and Route 24, the developer will need to make improvements to the intersections that are above and beyond what the required TID improvements would be, or the current Route 24 improvements; that specifically, it would be a southbound, double-left out of the site, to mitigate their site traffic and to alleviate the traffic on Mulberry Knoll Road; that those are the types of things that DelDOT looked at to confirm if any further improvements would be required that would be above and beyond what is already planned there, and the Traffic Impact Study for the proposed project was a very complicated one, and DelDOT took it very seriously.

Madam Chair Wingate stated she felt it was fair to say that it appeared to be a sliding target, to see what is happening, and what the developer is proposing, and at the end of the day, DelDOT will make it the best that it can be.

Mr. Sammons stated that DelDOT considered the build-out year, also aligned it with the future projections of the TID, and accounted for all that and the CTP projects, doing the best they could to make sure that the infrastructure works in the area, should the project be approved.

Mr. Allen questioned whether DelDOT considered the difference in the traffic numbers during the summer months versus the non-summer months.

Mr. Sammons stated that DelDOT did consider the traffic numbers during the summer months; that typically, when performing an analysis, there are peak hours for the AM and the PM peak hours;

that then there is a summer Saturday analysis that occurs; that when reviewing the analysis, one can see that sometimes a summer Saturday is bad, however, there will be a decent to good level of service for the AM and PM peak weekday traffic; that in the summer, there is a higher volume and intense traffic of cars, creating an unacceptable level of service or a level of service that is not the best during these times; that DelDOT attempts to account for this, in an attempt to mitigate the issue; that there again, it comes down to a balance of how far it should be taken, and he questioned if Sussex County would want lane roundabouts, or four lane road sections, and this balance must be considered.

Mr. Robertson requested that DelDOT emphasize or further explain the point that DelDOT knows the traffic counts and the impacts of the proposed project, including the existing traffic counts along Route 24 and Mulberry Knoll Road, as well as the future counts, which have been based on performed studies and criteria that DelDOT has.

Mr. Sammons stated Mr. Robertson's statement was an accurate statement; that there are physical counts that are taken in real time; that there are committed developments that are added in; that there are grown out factors that are appropriate, studied, and applied through an engineering analysis and through practical data; that all of this information gets added together, and grown out to when there are seasonal factors; that then they consider the traffic from the site itself, and grow that out to the future; that once this has been completed the analysis is performed; that they then compare to what the existing traffic is versus the projected future numbers; that they then took it another step, by growing it out to what the TID projections would be in 2045, to provide for a better look at the area; that there are a lot of things that go into growing it out, being the reasoning why the numbers get so big; that at times the level of service or future projections will show a Service Level F; that there is so much delay because there was all this traffic pushed into that; that this is what DelDOT based mitigations off of; that they attempt to look at worst-case scenarios; that DelDOT does not want anyone to experience delays, operational or safety concerns, however, the reality of it is, on a Saturday, during the summer months, there will be delays; that there will be some capacity issues because we all live at the beach, being the place that everyone wants to be; that he questioned how should DelDOT mitigate that issue; that he questioned whether DelDOT should design out of it fully, or should they accept some delays on a summer Saturday, but not accept it on a weekday; that this is where engineering judgement come into play; that there were many engineers, and a lot involved with the proposed project; that he believed the TIS speaks for itself to the amount of mitigation, and it also identifies the concerns and the amount of traffic that is in it.

Mr. Collins questioned whether there was any consideration given to autonomous driving and how it may impact requirements in the future.

Mr. Sammons stated that the answer to Mr. Collins' question was beyond the DelDOT representatives present for the meeting; that he did guarantee that DelDOT is looking at it, and that

DelDOT looked at bus stops, mass transportation, such as bicyclists, and pedestrians, which is all incorporated into the recommendations.

Mr. Robertson questioned whether the proposed project would generate a DART bus stop.

Mr. Sammons stated there are four DART bus stops that were made as a recommendation and/or requirement; that there are two stops proposed close to Mulberry Knoll Road, one stop proposed on either side of Route 24, and two proposed close to the entrance there as well; that regarding the shared use path and fencing, it was DelDOT's idea to channelize pedestrians and the low impact bicycle to the safe crossing points at Mulberry Knoll Road, and the main intersection, which will be signalized with the approval of the proposed development; that DelDOT did not want pedestrians running across Route 24 for safety reasons; that the fence and shared use path will be located around the entire site and down Mulberry Knoll Road, and that DelDOT is looking at all forms of transportation when they make recommendations.

Madama Chair Wingate stated the Commission's hope would be that many people would utilize the bus transit, which would eliminate the number of vehicles on the roadways.

The Commission found that there were three people present who wished to speak in support, and 22 people present who wished to speak in opposition to the application. There were 15 people present in support, and 62 people present in opposition, by a show of hands.

Dr. Chris Haffer of Scenic Harbor, Lewes, spoke in support of the application.

Mr. Tom Hinderliter of Pot Nets Bayside spoke in support of the application.

Ms. Cynthia Anderson-Clay of Plantation Lakes spoke in support of the application.

Representative Ms. Claire Snyder-Hall of Rehoboth spoke in opposition to the application.

Mr. Kenneth Suter of Rehoboth spoke in opposition to the application.

Mr. Raymond Gulino of Lewes spoke in opposition to the application.

Ms. Robin Delgado of Lewes spoke in opposition to the application.

Ms. Susan Wattman of Belle Terre in Lewes spoke in opposition to the application.

Mr. David Bower of Lewes spoke in opposition to the application and provided opposition exhibits.

Mr. Robertson requested that more information be provided by the Applicant regarding truck and delivery access to the stores on the site.

Mr. Fortunato stated that the actual turning paths of which uses had not been finally determined; however, all of the accesses are required to be designed to a WB62 in accordance with DelDOT; that the Applicant is required to provide truck turns around every roundabout and every entrance, regardless of whether a tractor-trailer ever turns into the area or not; that regardless of whether an entrance is or is not used for deliveries by anyone, all of them will include truck turning movements in the engineering diagrams for approval.

Ms. Sheri Kastner of Lewes spoke in opposition to the application.

Ms. Amber Day of Belle Terre in Lewes spoke in opposition to the application.

Mr. Gary Vousheim of Lewes spoke in opposition to the application.

Ms. Barbara Bowen of Lewes, on behalf of ROOT Nation Reclamation Trust of Ancestral Lands Restoration, spoke in opposition to the application.

Mr. William Green of Belle Terre in Lewes spoke in opposition to the application.

Ms. Ever Council, on behalf of ROOT Nation Reclamation Trust of Ancestral Lands Restoration, spoke in opposition to the application and submitted opposition exhibits.

Ms. Ann Merkert of Belle Terre in Lewes spoke in opposition to the application.

Recess

6:35 pm – 6:56 pm

Mr. Eric Wattman of Belle Terre in Lewes spoke in opposition to the application.

Ms. Stephanie Sette of Welches Pond spoke in opposition to the application.

Ms. Nicole Kline, with Bowman Consulting Group, stated that the intersection and roundabout that Ms. Sette referred to is a TID improvement, which was planned by DelDOT; that DelDOT had selected certain improvements within the TID that the Applicant will be required to construct as part of their development construction; that this will not fall under the umbrella of DelDOT projects; that when DelDOT requires an applicant to construct a TID improvement, it becomes fully an applicant project; that DelDOT will only review the design, and it would not be completed as a DelDOT funded or State-ran project.

Mr. Robertson questioned if the intersection at Mulberry Knoll Road and Cedar Grove Road is not anywhere near the Applicant's property, and the right-of-way payment is small, how would the Applicant acquire the land to place in the roundabout if there is not sufficient room within the DelDOT right-of-way, with it being a private TID project, being constructed with private money by the developer.

Ms. Kline stated that it would be part of the Applicant's responsibility; that they cannot yet speak to all the details of the off-site improvements; that at this point, DelDOT had said that the Applicant would need to build that off-site improvement; that they have to design it, reviewing all of those details; that if they find that the roads will require widening, it will be on the Applicant during the design process, and at that time they will determine if there is sufficient right of way to accommodate that full design or not.

Ms. Tracy Denton of Belle Terre in Lewes spoke in opposition to the application.

Dr. Lori Bunting Hudson of Welches Pond spoke in opposition to the application.

Mr. Randy Barnhart of Belle Terre in Lewes spoke in opposition to the application.

Mr. Whitehouse stated that for a commercial project within the C-4 Zoning District, the Front Yard Setback requirement is 60 feet; that the Side and Rear Yard Setback requirements are five feet; that the Corner Front Yard Setback requirement is 15 feet; that the C-3 Zoning District permits for mixed-uses, but for strictly commercial uses the setback requirements would remain the same as the C-4 District.

Ms. Denise Krok of Welches Pond spoke in opposition to the application.

Ms. Jennifer Heilman of Belle Terre in Lewes spoke in opposition to the application.

Ms. Judy Rose Seibert of Saddle Ridge in Lewes spoke in opposition to the application.

Ms. Celia McDermott of Belle Terre in Lewes spoke in opposition to the application.

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

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

In relation to C/Z 2037 Mulberry Knoll Associates, LLC. Motion by Mr. Collins to defer action for further consideration, seconded by Mr. Passwaters, and carried unanimously. Motion carried 5-0.

C/Z 2052 Marlin Cove, 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 – RESIDENTIAL PLANNED COMMUNITY DISTRICT (210 UNITS) FOR CERTAIN PARCELS OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 60.84 ACRES, MORE OR LESS. The properties are lying on the west side of New Road (S.C.R. 391), approximately 80 feet north of Lighthouse Road (Rt. 54). 911 Address: N/A. Tax Map Parcel: 533-19.00-7.00, 8.01 & 9.00.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Preliminary Subdivision Plan, the State's PLUS comments, the DelDOT Service Level Evaluation Response, the Applicant's Exhibit Booklet, which included the Applicant's Chapter 99-9C Response, the Environmental Assessment, the Drainage Assessment Report, the DelDOT Traffic Operational Analysis, the proposed Homeowners Association Covenants, the Forest Assessment Report, the Staff Analysis, the Resource Management Plan, the local School District Notification letter, and Technical Advisory Committee comments, including written responses received from the Sussex County Engineering Department, Utility Planning Division. Mr. Whitehouse advised the Commission that no comments were received on behalf of the application.

The Commission found that Mr. Tim Willard, Esq., with Fuqua, Willard & Schab, P.A. on behalf of the Applicant Marlin Cove, LLC; that also present was Mr. Russ Garufi, Mr. Fabian Rodriguez, both Principals of Marlin Cove, LLC, along with Mr. Richard Polk and Mr. Eric Jones, Professional Engineers with Vista Design, Inc., and Mr. Edward Launary, Professional Wetland Scientist with Environmental Resources, Inc. Mr. Willard stated that the application proposed a Change of Zone, for an MR-RPC (Medium Density Residential - Residential Planned Community), that an RPC is a residential planned community that allows flexibility to design different lot sizes, and different housing types, subject to having the underlying zoning; that the current application requests that the underlying zoning be changed from AR-1 (Agricultural Residential) to MR (Medium Density Residential), increasing the permitted density from two units per acre to four units per acre; that the application proposes a change of zone from AR-1 to MR-RPC for 210 residential lots, including 106 single-family detached lots, and 104 semi-detached duplex lots on land comprised of 6.84 acres; that the proposed RPC use meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County in an appropriate location, by utilizing MR Zoning in a Coastal Area, surrounded by similar density; that the project will not adversely affect neighboring properties, area roadways, or community facilities; that the proposed MR-RPC is consistent with the County's Comprehensive Plan; that the site is located within the Coastal Area according to the plan, which is designated as a growth area, where a range of housing types should be permitted, including single-family and multi-family units; that MR zoning may be appropriate in the Coastal Area; that the Comprehensive Plan is important as it is an overview of how the Commission must decide on applications; that the surrounding area is also located within the Coastal Area, where MR (Medium Density Residential) zoning is appropriate; that the purpose

of the MR Zoning is to provide Medium Density Residential developments in area that are expected to become urban or town-like, and where central sewer and water are available, when near sufficient commercial uses and employment centers, when keeping in character of the area, when located along a main road, or near a major intersection, and where there are adequate levels of services; that the proposed MR-RPC is located near the major intersection of Rt. 54 and Rt. 20; that the site frontage is located along New Road, only 100 feet from the intersection of Rt. 54 and 1,300 feet from Rt. 22; that the application consists of three parcels, located within the Coastal Area, and along New Road; that two of the parcels are owned by Marlin Cove, LLC, and the other parcel is owned by Atlantic Associates; that all three parcels are owned by Mr. Garufi and Mr. Rodriguez; that Mr. Garufi resides on a property along New Road; that the site is located .5 mile east of Williamsville, 100 feet north of Lighthouse Road, and 1,300 feet from Zion Road; that the proposed MR-RPC is surrounded by similarly zoned MR residential communities, being Bay Knolls and the Melson Property, which were approved for MR rezoning, by the Planning Commission in 2021; that RPC's must be a minimum of 40 acres in size; that to the north of the site is the Fox Haven community, with units of 10,000 square feet, which is zoned GR (General Residential), which allows for the same density as MR; that Bay Knolls has a density of 3.87, and the Melson Property has a density of 3.67; that the application proposes a density of 3.45; that there were some HR (High Density Residential) properties and commercial properties located closer to Fenwick; that the proposed RPC is located in close proximity to the intersection of Rt. 20 and Rt 54, where a commercial center had been established; that the surrounding area has higher residential density and is served by various commercial businesses; that there are an array of businesses that serve the whole area, which is the purpose of MR zoning having a higher density; that businesses within the area consist of Breasure's Pest Control, Breasure's Carpet Cleaning, Brandywine Fenwick Island by Monarch, Nemours Children's Health, Beebe Health, McDonald's, CVS, the medical center for Jessica Hammonds FN-MSN, Harris Teeter, Shell, Bayside Wine & Spirit, Hometown Creamery, Maximum Hair, PNC Bank, Lucia's Pizza, Capstone Homes, Villas Hair Studio, Royal Farms, Vogue Salon, Lunas Cactus Café, and Coco's Massage Place; that there were multiple documents submitted into the record, including the Environmental Assessment, the conformance with Chapter 99-9C, the conformance with the Comprehensive Plan, the Drainage Assessment Report, the Resource Buffer Management Plan, the Forest Assessment, and the County's Staff Analysis; that multiple maps were submitted along with PLUS comments, and the engineer's responses to the PLUS comments; that there is a eight inch sewer manhole located just north of Zion Road; that there is a water main, and a gas main that runs down New Road; that there is underground electric; that there is a sewer manhole located by the Lighthouse intersection; that central sewer is available to the site; that Parcel No. 9 is required to be annexed into the area, however it is surrounded by a sewer zone area; that all central utilities are available; that submitted into the record was an intensive Forest Assessment Report, which indicates the diameter of all trees over a certain site; that in the forest buffer, they are reflected in there for the purposes of making sure they are preserved; that within the report, it indicates that the area had probably been forested since 1981; that the report indicates that the site consists of approximately 47% of unsalvageable forest; that the application intends to preserve most of the forest and the border, as

that is where the majority of the mature trees are located; that currently Sussex County does not have a Forest Code, so the Applicant utilized New Castle County's Forest Code to create a basis; that there will be a 50 foot setback from active agricultural uses; that there will be a 30 foot retained forest perimeter buffer, where woodlands exist; that there will be 20 foot perimeter buffer where woodlands exist, which will result in a total of a 50 foot setback; that there will be a 30 foot landscape or perimeter buffer where no woodlands exist around the entire subdivision; that there is one area of Federal wetlands, being the area of Roy Creek, which runs through the property; that the buffer for this area results in approximately 1.2 acres +/-; that there is a 15 foot Zone A, located around the entire border of the wetlands; that additionally there is another 15 foot Zone B, which is also required; that there also is an expanded Zone B buffer, and an expanded forest retention around the outside reflected in yellow; that these areas result in 40 to 50 feet of buffer, which will be marked and preserved, and in compliance with the Sussex County Buffer laws; that the proposed subdivision was designed to comply with the intension of the Comprehensive Plan for the MR District, when located within the Coastal Area; that the higher density with townhouses and the duplexes are proposed to be placed closer to the intersection, with the single-family homes located further away; that the total density equals to 3.45; that there are two entrances; that the northern entrance accessed the single-family; that the single-family lots consists of a minimum of 7,500 square feet, with ample room for the parking of four cars on each lot, including a driveway and a garage; that there are buffers proposed all around; that the project will not disturb the wetland area, but will rather be buffering the wetland area; that they will be covering the one area, where it will cross over the creek, which remains dry most of the time; that this will be the area of the southern entrance; that there are locations of stormwater with access for maintenance; that the project will improve some of the flow coming from the fields; that the project does provide community open space; that 30% is the requirement; that the application provides for 18.25 acres of open space, resulting in 36.5% of the site; that this includes the forested buffer, the buffer protection area, the landscape buffer, the other resource buffers, and active and passive open space; that the New Road improvements will be widened to DelDOT standards across the frontage of the site; that there will be two 11 foot bike lanes, with five foot shoulders; that there will be a right turn lane at each subdivision; that there will be a shared-use path all along the entire side; that along Rt. 54 there will be two turn lanes and a separate right turn lane; that there will be a right turn from westbound New Road, and a left turn lane from eastbound Rt. 54; that in the area where no forest is located, the project proposes a three-foot buffer with a fence, located on the other side of the bike path; that amenities are to include a community bathhouse, changing rooms, pool desk, pool, bike racks, flagpole, picnic table area, and parking with EV charging equipment; that there will be a sidewalk located on at least one side of every subdivision road; that the site is not located within a Wellhead Protection Area; that submitted into the record was a Willing to Serve Letter from Artesian; that the majority of the site is located within the Sanitary Sewer District; that one parcel is not located within the Sewer District, however communications have already happened between the Applicant and the Engineering Department regarding annexation, as the infrastructure is located nearby, being down New Road; that the MR-RPC is appropriate, as the area is located within a Coastal Area, being a Growth Area of Sussex County; that sewer and water are available; that commercial

uses are located nearby; that the higher density has been placed closer to Rt. 54; that the purpose of the MR-RPC is to allow flexibility to achieve the purpose of an RPC, which encourages large-scale development as a means of creating a superior living environment, and to provide design ingenuity, while achieving the goals of the Comprehensive Plan; that Marlin Cove offers alternative housing types, locating home sites together on environmentally suitable portions of the site, located outside of the wetland and mature woodland areas; that the project retains 36% of the total site for open space, preserving contiguous forest, and provides resource buffers along the federally regulated Roy Creek, and adjacent wetlands to promote wildlife corridors to and from the nearby adjacent woodlands, creating non-forested open spaces throughout the community for increased passive and active recreational uses; that the project provides a community recreational building, with areas of community events and gathering along with a bathhouse, community pool, and children's play area; the project establishes multiple wet ponds, stormwater management facilities designed to maintain natural drainage patterns to promote health and protection of area groundwater in accordance with State of Delaware water quality standards; that the project will construct pedestrian sidewalks through the community to promote safe pedestrian circulation, which will connect to the shared use path along New Road; that the project proposes preserving 30 feet of forest within the perimeter buffer, where woodland currently exist along the site's perimeter; that where woodlands do not currently exist, the project proposes to establish a 20 foot perimeter buffer protection area along the forest, and establishing a landscape berm, and Mr. Willard requested to submit proposed Findings and Conditions for the Commission's consideration.

Mr. Mears questioned if every proposed stormwater management area is considered as part of the open space.

Mr. Willard stated stormwater management areas can be considered under open space requirements; however, it is not encouraged.

Mr. Polk, with Vista Design, stated that the open space computations reflected on the plan did consider the stormwater management areas, the buffer areas, and the areas located between the homes and the lots located within the duplex area as open space.

Mr. Allen stated that he felt the area of New Road and Route 54 would be a good area for a traffic signal; however, he understood that his concern would be regulated by DelDOT.

Mr. Willard stated that as part of the DelDOT Service Level Evaluation Response, DelDOT required an Area Wide Study Fee to be paid in replace of performing a Traffic Impact Study; that the traffic experts, JMT, provided a through report, which was included within the Exhibit Booklet; that the plan is to widen the road, and construct two turn lanes; that this plan, proposed by JMT, is required to be reviewed and approved by DelDOT, and the developer would be required to pay for all the required changes.

Mr. Polk stated that there was a Traffic Operational Assessment performed at the intersections of New Road, Route 54, and Route 20; that neither one of the turning motions versus the background traffic met the threshold nor the warrants of DelDOT for a turn signal.

Mr. Garufi stated that he agreed with the presentation and statements made by Mr. Willard on his behalf.

Mr. Robertson stated that if the application were to be approved, in the event a pickleball court is not proposed or shown on the approved Final Site Plan, the Applicant should not come back to request the placement of a pickleball court, as historically it has created a lot of complaints.

Mr. Garufi stated he had previously constructed pickleball courts in other communities and had received a lot of complaints.

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

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

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

In relation to C/Z 2052 Marlin Cove, LLC. Motion by Mr. Mears to defer action for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 5-0.

PUBLIC COMMENT

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

Meeting adjourned at 8:03 p.m.

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