

## COUNTY COUNCIL

DOUGLAS B. HUDSON, PRESIDENT  
JOHN L. RIELEY, VICE PRESIDENT  
JANE GRUENEBAUM  
MATT LLOYD  
STEVE C. McCARRON



# Sussex County

DELAWARE  
sussexcountype.gov  
(302) 855-7743

## SUSSEX COUNTY COUNCIL

### A G E N D A

December 9, 2025

10:00 AM

**\*\*\* AMENDED on December 5, 2025 at 9:15 a.m.**

The Sussex County Council will hold its meeting in the morning at the Sussex County Public Safety Complex, 21911 Rudder Lane, Georgetown, DE 19947.

Call to Order

Approval of Agenda

Presentation and discussion with the Office of State Planning Coordination

Recess and return to the County Administrative Offices at 2 The Circle

**1:00 PM**

Approval of Minutes - November 18, 2025

[Draft Minutes 111825](#)

Reading of Correspondence

Public Comments

Consent Agenda

1. Proclamation Request – Cape Henlopen High School Boys' Cross Country State Champions



COUNTY ADMINISTRATIVE OFFICES  
2 THE CIRCLE | PO BOX 589  
GEORGETOWN, DELAWARE 19947

**Todd Lawson, County Administrator**

1. **Administrator's Report**

**John Ashman, Director of Utility Planning & Design Review**

1. **2025 Mass Annexation Request**  
[Mass Annexation Request](#)

**Hans Medlarz, Project Engineer**

1. **Kings Highway from SR 1 to Freeman Highway – Advanced Utility Relocation, S25-46**

**A. Approval of Change Order Nos. 3 and 4**

[Kings Highway CO 3 & 4](#)

**Old Business**

1. [Conditional Use No. 2493 filed on behalf of Rennie Hunt](#)

**“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO ALLOW FOR SITE DEVELOPMENT BUSINESS WITH OFFICE AND OUTDOOR STORAGE AND PARKING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 0.45 ACRES, MORE OR LESS” (property is lying on the northwest side of Roxana Road [Route 17], approximately 0.07-mile northeast of Pyle Center Road [Route 20]) (911 Address: 35082 Roxana Road, Frankford) (Tax Map Parcel: 533-6.00-19.00)**

[Old Business CU2493](#)

2. [Change of Zone No. 2037 filed on behalf of 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” (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) \*\*\* **FOR STAFF TO PROVIDE AN UPDATE ON RESPONSES TO COUNCIL MEMBER QUESTIONS****

[Old Business CZ2037](#)



3. [ORD. 23-07](#)

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

[Old Business Ord 23-07](#)

4. [Change of Zone No. 2010 filed on behalf of CMF Cool Spring, LLC](#)

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

[Old Business CZ2010](#)

5. [Conditional Use No. 2441 filed on behalf of CMF Cool Spring, LLC](#)

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

[Old Business CU2441](#)

6. [Conditional Use No. 2442 filed on behalf of CMF Cool Spring, LLC](#)

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

[Old Business CU2442](#)

**Grant Requests**

1. **Grace-N-Mercy Ministries, Inc. for their Thanksgiving Community Dinner**  
[Grace-N-Mercy Ministries, Inc.](#)
2. **Sussex Central High School Mentoring Program for their Afterschool Program**  
[Sussex Central High School Mentoring Program](#)
3. **Unique Minds Changing Lives, Inc. for their Annual Christmas Giveaway Program**  
[Unique Minds Changing Lives, Inc. 11.2025](#)
4. **Delaware 4-H Association, Inc. for their Christmas Wishes Service project**  
[Delaware 4-H Association, Inc.](#)
5. **Selbyville Historical Society for the Townsend Building repairs**  
[Selbyville Historical Society](#)

**Introduction of Proposed Zoning Ordinances**

[Ord Into CU2607 CU2603 CU2530](#)

**Council Members' Comments**

**Executive Session - Land Acquisition & Pending & Potential Litigation pursuant to 29 Del.C.§10004(b)**

**Possible action on Executive Session Items**

**1:30 p.m. Public Hearings**

1. **“AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$7,243,669 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE LOVE CREEK MOBILE HOME COMMUNITY (“MHC”) PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH”**  
[Public Hearing Love Creek MHC](#)
2. **“AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$344,960.39 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH**

**INCREASED COSTS ASSOCIATED WITH THE TANGLEWOOD-OAK ACRES SEPTIC ELIMINATION PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH”**

[Public Hearing New Marydels Rd-Tanglewood-Oak Acres](#)

3. [\*\*Ordinance No. 25-02\*\*](#)

**“AN ORDINANCE TO AMEND CHAPTER 90, §§90-3, 90-6 AND TO ADD NEW §§90-8, 90-9 AND 90-10; TO AMEND CHAPTER 99, ARTICLES I, II, IV, V AND VI, §§99-5, 99-7, 99-9, 99-23, 99-26 AND 99-29; TO AMEND CHAPTER 110, ARTICLES I AND III, §§110-1 AND 110-12; AND TO AMEND CHAPTER 115, ARTICLES I AND XXV, §§115-4 AND 115-193 OF THE CODE OF SUSSEX COUNTY REGARDING SEDIMENT RELEASES AND SEDIMENT CONTROL AND STORMWATER MANAGEMENT”**

[Public Hearing Ord 25-02](#)

4. [\*\*Conditional Use No. 2610 filed on behalf of Howard L Repass\*\*](#)

**“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR INDOOR STORAGE OF BUSINESS VEHICLES ASSOCIATED WITH A LIMOSINE BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 3.52 ACRES, MORE OR LESS” (parcel is lying on the west side of Daniels Road [S.C.R. 215A], approximately 160 feet north of Slaughter Neck Road [S.C.R. 215]) (911 Address: 9268 & 9274 Daniels Road, Lincoln) (Tax Map Parcel: 230-15.00-10.00)**

[Public Hearing CU2610](#)

5. [Conditional Use No. 2506 filed on behalf of NGR Sports, LLC](#)

**“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR AN INDOOR AND OUTDOOR MINIATURE GOLF COURSE TO BE LOCATED ON A 0.30 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 1.69 ACRES, MORE OR LESS”** (property is lying on the north and south sides of Rehoboth Mall Blvd., and the west side of Old Landing Road [S.C.R. 274], approximately 150 feet northwest of the intersection of Old Landing Road [S.C.R. 274] and Coastal Highway [Route 1]) (911 Address: 19068 & 19268 Old Landing Road, Rehoboth) (Tax Map Parcel: 334-13.00-132.00 [P/O])

[Public Hearing CU2506](#)

6. [Conditional Use No. 2516 filed on behalf of Roxana Apartments, LLC](#)

**“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY (42 UNITS) TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 4.74 ACRES, MORE OR LESS”**(properties are lying on the west side of Roxana Road [Rt. 17], approximately 575 feet south of Atlantic Avenue [Rt. 26]) (911 Address: 31924, 32014 & 32026 Roxana Road, Ocean View) (Tax Map Parcel: 134-11.00-199.00, 200.00 & 200.01)

[Public Hearing CU2516](#)

**Adjourn**

**\*\*\* Per 29 Del. C. §10004 (e) (5) and Attorney General Opinion No. 13-IB02, this agenda was amended to correct verbiage for CZ2037.**

**-MEETING DETAILS-**

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on December 2, 2025 at 3:30 p.m. and at least seven (7) days in advance of the meeting.

This Agenda was prepared by the County Administrator and is subject to change to include the addition or deletion of items, including Executive Sessions, which arise at the time of the meeting.

Agenda items may be considered out of sequence.

The meeting will be streamed live at <https://sussexcountyde.gov/council-chamber-broadcast>.

The County provides a dial-in number for the public to comment during the appropriate time of the meeting. **Note, the on-line stream experiences a 30-second delay.**

Any person who dials in should listen to the teleconference audio to avoid the on-line stream delay.

To join the meeting via telephone, please dial:

**Conference Number: 1-302-394-5036**

**Conference Code: 570176**

Members of the public joining the meeting on the telephone will be provided an opportunity to make comments under the Public Comment section of the meeting and during the respective Public Hearing.

The Council meeting materials, including the “packet”, are electronically accessible on the County’s website at: <https://sussexcountyde.gov/agendas-minutes/county-council>.

*Any person who intends to present a digital presentation or document, including PowerPoint files, for electronic display during County meetings shall submit said file(s) in advance, no later than one (1) business day before the respective public meeting. Files may be sent electronically to [councilpackets@sussexcountyde.gov](mailto:councilpackets@sussexcountyde.gov) or delivered by hand to County Administration, located in the Sussex County Administrative Offices, 2 The Circle, in Georgetown. No external storage devices shall be permitted to connect to County equipment.*

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, NOVEMBER 18, 2025**

**A regularly scheduled meeting of the Sussex County Council was held on Tuesday, November 18, 2025, at 10:00 a.m., in Council Chambers, with the following present:**

<b>Douglas B. Hudson</b>	<b>President</b>
<b>John L. Rieley</b>	<b>Vice President</b>
<b>Jane Gruenebaum</b>	<b>Councilwoman</b>
<b>Matt Lloyd</b>	<b>Councilman</b>
<b>Steve C. McCarron</b>	<b>Councilman</b>
<b>Todd F. Lawson</b>	<b>County Administrator</b>
<b>Gina Jennings</b>	<b>Finance Director</b>
<b>J. Everett Moore, Jr.</b>	<b>County Attorney</b>

<b>Call to Order</b>	<p><b>The Invocation and Pledge of Allegiance were led by Mr. Hudson.</b></p> <p><b>Mr. Hudson called the meeting to order.</b></p>
<b>M 460 25 Approve Agenda</b>	<p><b>A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum, to approve the Agenda as presented.</b></p> <p><b>Motion Adopted: 5 Yeas</b></p> <p><b>Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Yea; Mr. Hudson, Yea</b></p>
<b>Minutes</b>	<p><b>The minutes from November 4, 2025, were approved by consensus.</b></p>
<b>Correspon- dence</b>	<p><b>Mr. Moore reported that a letter was received from Laurel Lions Club Foundation thanking Council for their support.</b></p>
<b>Public Comments</b>	<p><b>Public comments were heard.</b></p> <p><b>Ms. Adele Jones spoke about development in Sussex County.</b></p> <p><b>Ms. Jen Pawloski spoke about renewable energy.</b></p>
<b>M 461 25 Approve Consent Agenda</b>	<p><b>A Motion was made by Mr. Rieley, seconded by Mr. McCarron to approve the following item under the Consent Agenda:</b></p> <p><b>Use of Existing Wastewater Infrastructure Agreement, IUA-1269 Westbury (Toomey Property), Millville Area</b></p> <p><b>Motion Adopted: 5 Yeas</b></p> <p><b>Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;</b></p>

**Mr. Lloyd, Yea; Mr. Rieley, Yea;  
Mr. Hudson, Yea**

**Retirement**      **Dina Monaco was recognized for her upcoming retirement.**

**Appointment**      **Mr. Lawson reported that an appointment was needed for District 1 for the Library Advisory Board.**

**M 462 25**      **A Motion was made by Mr. Lloyd, seconded by Mr. McCarron be it moved that Sussex County Council approves the appointment of Ms. Carol Fitzgerald to the Library Advisory Board effectively immediately until such time expires in November of 2028.**  
**Approve LAB Appointment**

**Motion Adopted:      5 Yeas**

**Vote by Roll Call:      Ms. Gruenebaum, Yea; Mr. McCarron, Yea;  
Mr. Lloyd, Yea; Mr. Rieley, Yea;  
Mr. Hudson, Yea**

**2026 Calendar**      **Mr. Lawson reviewed the proposed Council Meeting schedule and holiday schedule for 2026.**

**M 463 25**      **A Motion was made by Mr. Lloyd, seconded by Ms. Gruenebaum, be it moved that the Sussex County Council approves the 2026 meeting schedule and holiday schedule as presented.**  
**Approve 2026 Calendar**

**Motion Adopted:      5 Yeas**

**Vote by Roll Call:      Ms. Gruenebaum, Yea; Mr. McCarron, Yea;  
Mr. Lloyd, Yea; Mr. Rieley, Yea;  
Mr. Hudson, Yea**

**Administrator's Report**      **Mr. Lawson read the following information in his Administrator's Report:**

**1. Caroling on The Circle**

**A reminder that the annual Caroling on The Circle program will take place on Thursday, December 4th, at 6:00 p.m. in front of the Sussex County Courthouse. This is a free event sponsored by the Sussex County Council each year. Everyone is welcome and encouraged to attend, and to bring a food item for the less fortunate if they can afford to do so. For those wishing to make a monetary donation, the County has partnered again this year with the Food Bank of Delaware. Visit [fbd.org/caroling](http://fbd.org/caroling) to make an online donation. The "Pack the Pod" food drive campaign will**

**Adminis-  
trator's  
Report  
(continued)**

remain in full swing until the end of December. For the night of Caroling on The Circle, we are once again partnering with the Georgetown Chamber of Commerce, which sponsors the Georgetown Christmas parade. Following Caroling on The Circle, the Town will hold its tree lighting before the parade steps off at 7:00 p.m. We invite the public to attend this fun-filled, festive evening.

**2. Projects Receiving Substantial Completion**

Per the attached Engineering Department Fact Sheets, the following projects have received Substantial Completion: Village Center Cottages (AKA Lightkeeper's Village) Phase 1 (Construction Record) effective October 22<sup>nd</sup>, Westridge Shores (Plan Review & Construction Record) effective October 24<sup>th</sup>, Mitchell's Corner (FKA Zwaanendael Farm) Phase 1B (Construction Record) and Walden (FKA Burton's Pond) Phase 5B (Construction Record) effective October 28<sup>th</sup>.

**3. Holiday and Council Meeting Schedule**

Council will not meet on Tuesday, November 25<sup>th</sup>, during the week of Thanksgiving. County offices will be closed on Thursday, November 27<sup>th</sup>, and Friday November 28<sup>th</sup>, for the Thanksgiving holiday and will reopen on Monday, December 1<sup>st</sup>, at 8:30 a.m.

Please also note that Council will not meet on Tuesday, December 2<sup>nd</sup>. The next regularly scheduled Council meeting will be held on Tuesday, December 9<sup>th</sup>.

**4. County Holiday and Employee Appreciation Luncheon**

The County's Holiday and Employee Appreciation Luncheon will take place on Friday, December 5, 2025, at the Crossroad Conference Center. County offices will close at 12:00 p.m. on December 5<sup>th</sup> and will reopen on Monday, December 8<sup>th</sup>, at 8:30 a.m. The public is asked to plan accordingly during this time, and we appreciate the public's understanding.

**5. Leon Collins**

It is with great sadness that we inform you that pensioner Leon Collins passed away on Wednesday, November 5, 2025. Mr. Collins began his career with Sussex County in September 1979 where he worked until July 2006 for a total of 26 years of service. His last



**Adminis-  
trator's  
Report  
(continued)**

position with the County was Director of Utility Billing. We would like to extend our condolences to the Collins family.

**6. June W. Bostick**

It is with great sadness that we inform you that pensioner June W. Bostick passed away on Thursday, November 6, 2025. Mrs. Bostick began her career with Sussex County in March 1984 where she worked until April 1993 for a total of 9 years of service. Her last position with the County was Librarian I at the Greenwood Library. We would like to extend our condolences to the Bostick family.

[Attachments to the Administrator's Report are not attached to the minutes.]

**Fourth  
Quarter  
Employee  
Recognition**

Karen Brewington, Human Resources Director, reported that there were 41 submissions received for the fourth quarter employee recognition award. This quarter's selection was Ashley Paugh from the Planning & Zoning Department.

**FY 2026  
Human  
Service  
Grant  
Recommen-  
dations**

Gina Jennings, Finance Director, presented FY 2026 Human Service Grant recommendation and award for Council's consideration. Mrs. Jennings reviewed the Human Service Grant purpose and process. She then shared the formula used to distribute the fund consisting of \$225,000. Mrs. Jennings reported that there were \$339,285 requests received from 80 qualified organizations including 5 new recipients from last year. This year, the program covers 107,828 Sussex County beneficiaries. The FY 2026 recipients were then shared.

**M 464 25  
Approve  
HSG  
Recommen-  
dations**

A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum, that be it moved that the Sussex County Council, approve the Fiscal Year 2026 Human Service Grant allocation as presented.

**Motion Adopted:     5 Yeas**

**Vote by Roll Call:     Ms. Gruenebaum, Yea; Mr. McCarron, Yea;  
Mr. Lloyd, Yea; Mr. Rieley, Yea;  
Mr. Hudson, Yea**

**Piney Neck  
Phase     II  
Services**

Mike Harmer, County Engineer presented an approval of phase II service costs for Piney Neck Regional Wastewater facility diversion transmission system for Council's consideration.

**M 465 25  
Approve  
Piney Neck**

A Motion was made by Mr. Rieley, seconded by Mr. Lloyd, be it moved based upon the recommendation of the Sussex County Engineering Department, that Garney-GHD design-build team phase II proposal be

**Phase II** approved in the guaranteed medium price of \$11,484,000.00 for construction of the Piney Neck Wastewater facility diversion transmission system, as part of the Piney Neck design-build agreement.

**Motion Adopted:** 5 Yeas

**Vote by Roll Call:** Ms. Gruenebaum, Yea; Mr. McCarron, Yea;  
Mr. Lloyd, Yea; Mr. Rieley, Yea;  
Mr. Hudson, Yea

**Unit Uplift RFP** Robbie Murray, Director of Public Safety presented RFP results for paramedic unit upfit and possible award of contract for Council's consideration.

**M 466 25 Approve Unit Uplift RFP** A Motion was made by Mr. Rieley, seconded by Mr. McCarron that be it moved that the Sussex County Council awards Sussex Upfitters, LLC of Millsboro the contract to upfit 8 paramedic units as described in the 2026 RFP.

**Motion Adopted:** 5 Yeas

**Vote by Roll Call:** Ms. Gruenebaum, Yea; Mr. McCarron, Yea;  
Mr. Lloyd, Yea; Mr. Rieley, Yea;  
Mr. Hudson, Yea

**Proposed Ordinance/ Love Creek Mobile Home** Hans Medlarz, Project Engineer presented an Ordinance entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$7,243,669 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE LOVE CREEK MOBILE HOME COMMUNITY ("MHC") PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH".

Mr. Medlarz reviewed the Ordinance and background of the project.

**Ordinance Introduction** Mr. Rieley introduced an Ordinance entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$7,243,669 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE LOVE CREEK MOBILE HOME COMMUNITY ("MHC") PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH".

**Proposed Ordinance/ Tanglewood** Hans Medlarz, Project Engineer presented an Ordinance entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$344,960.39 OF GENERAL OBLIGATION BOND OF SUSSEX COUNTY IN CONNECTION WITH INCREASED COSTS ASSOCIATED WITH THE TANGLEWOOD-OAK ACRES SEPTIC ELIMINATION PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION

**THEREWITH”.**

**Mr. Medlarz reviewed the Ordinance and background of the project.**

**Ordinance Introduction**      **Mr. Rieley introduced an Ordinance entitled “AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$344,960.39 OF GENERAL OBLIGATION BOND OF SUSSEX COUNTY IN CONNECTION WITH INCREASED COSTS ASSOCIATED WITH THE TANGLEWOOD-OAK ACRES SEPTIC ELIMINATION PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH”.**

**SCWRF Amend 30 & PO**      **Hans Medlarz, Project Manager, presented amendment no. 30 and a purchase order issuance for County request scope items for the SCWRF treatment process upgrade no. 3 for Council’s consideration.**

**M 467 25 Approve Amend No. 30/SCWRF**      **A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum, that be it moved based on the recommendation of the Sussex County Engineering Department that Amendment No. 30 to the base engineering contract with GHD, Inc. be approved in the amount not to exceed \$484,833.00, for construction engineering services, associated with the South Coastal RWF treatment process upgrade no. 3.**

**Motion Adopted:      5 Yeas**

**Vote by Roll Call:      Ms. Gruenebaum, Yea; Mr. McCarron, Yea;  
Mr. Lloyd, Yea; Mr. Rieley, Yea;  
Mr. Hudson, Yea**

**M 468 25 Approve PO Issuance/ SCWRF**      **A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum, that be it moved based on the recommendation of the Sussex County Engineering Department that County Council approve a purchase order to B.W. Electric, Inc. in the amount not to exceed \$220,770.20, to implement RFP’s 125, 127, 128, 130, 131 and 132 with a unit cost deduction of \$1,2500.00 per breaker not replaced.**

**Motion Adopted:      5 Yeas**

**Vote by Roll Call:      Ms. Gruenebaum, Yea; Mr. McCarron, Yea;  
Mr. Lloyd, Yea; Mr. Rieley, Yea;  
Mr. Hudson, Yea**

**Old Business/ CU2510**      **Under Old Business, Mr. Whitehouse presented a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR AN AUTO REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 0.61 ACRES, MORE OR LESS” filed on behalf of Henry Villegas-Solis.**

**Old  
Business/  
CU2510  
(continued)**

A Public Hearing was held by County Council on October 7, 2025, action on the application was then deferred due to no recommendation received from the Planning & Zoning Commission. On October 15, 2025, the Planning and Zoning Commission recommended that the County Council approve the application for the 5 reasons and subject to the 15 recommended conditions of approval as outlined.

**M 469 25  
Adopt  
Ordinance  
No. 4024/  
CU2510**

A Motion was made by Mr. Rieley, seconded by Ms. Gruenbaum to Adopt Ordinance No. 4024 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR AN AUTO REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 0.61 ACRES, MORE OR LESS" for the reasons and conditions given by the Planning & Zoning Commission as follows:

1. This property is already zoned B-1 Neighborhood Business. It has been zoned this way for years. Under the existing B-1 Zoning, a variety of small business uses are permitted, including filling stations. This is a small expansion of what is already permitted on this site.
2. The proposed automobile repair shop is small. With the conditions and stipulations placed upon it, it will not have an adverse impact on the neighboring properties or community. It is also small enough that it will not negatively impact traffic or nearby roadways.
3. The site is located in the Developing Area according to the Sussex County Comprehensive Plan. This type of use is appropriate in this Area according to the Comprehensive Plan.
4. The Applicant lives on the site, and one of the conditions of approval will require that all repairs must occur indoors.
5. The use as an automotive repair shop is of a public or semi-public character and is desirable for the general convenience and welfare of the area.
6. This recommendation for approval is subject to the following conditions and stipulations:
  - a. All repairs shall be performed indoors. All doors to the repair areas shall be closed while automotive work is occurring.
  - b. No automobile parts shall be stored outside, and aside from vehicles with a current registration in the Applicant's name, no more than 5 cars shall be parked on the site.
  - c. The use shall comply with the signage requirements of the B-1 District.
  - d. Any security lighting shall be downward screened and shall be directed away from neighboring properties and roadways.
  - e. No junked, unregistered, or permanently inoperable vehicles or trailers shall be parked or stored on the site.
  - f. There shall not be any parking in the front yard setback.
  - g. The parking areas shall be shown on the Final Site Plan and

**M 469 25  
Adopt  
Ordinance  
No. 4024/  
CU2510  
(continued)**

clearly marked on the site itself. Vehicles shall only be parked within these designated areas.

- h. No cars shall be sold on the property.**
- i. All oils and other fluids shall be properly stored indoors in appropriate containers. The applicant shall also comply with all state and federal requirements for the disposal of these fluids.**
- j. The site shall be subject to all DelDOT entrance and roadway requirements.**
- k. The hours of operation shall be 8:00 a.m. through 5:00 p.m., Monday through Friday. There shall not be any Saturday or Sunday hours.**
- l. The applicant shall install fencing with a vegetative screen along all 3 sides of the property with the exception of the frontage. The nature, type and location of the fence and all of the plantings shall be shown on the Final Site Plan, and the Planning & Zoning staff shall ensure that this fencing and vegetation is a sufficient screen.**
- m. Any dumpsters or trash containers shall be enclosed and screened from view of surrounding roadways and properties. The location of these dumpsters and trash receptacles shall be shown on the Final Site Plan.**
- n. Any violation of these conditions may be grounds for termination of this conditional use.**
- o. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;  
Mr. Lloyd, Yea; Mr. Rieley, Yea;  
Mr. Hudson, Yea**

**Grant  
Requests**

**Mrs. Jennings presented grant requests for Council's consideration.**

**M 470 25  
Town of  
Laurel**

**A Motion was made by Mr. Lloyd, seconded by Mr. Rieley to give \$2,000 (\$2,000 from Mr. Lloyd's Councilmanic Grant Account) to the Town of Laurel for their Laurel Welcome project.**

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;  
Mr. Lloyd, Yea; Mr. Rieley, Yea;  
Mr. Hudson, Yea**

**M 471 25  
First State  
Community**

**A Motion was made by Mr. Rieley, seconded by Mr. McCarron to give \$3,000 (\$1,000 from Mr. Rieley's Councilmanic Grant Account, \$1,000 from Mr. Hudson's Councilmanic Grant Account and \$1,000 from Mr.**

**Action Agency**            **McCarron's Councilmanic Grant Account) to First State Community Action Agency for their 60<sup>th</sup> anniversary celebration.**

**Motion Adopted:        5 Yeas**

**Vote by Roll Call:        Ms. Gruenebaum, Yea; Mr. McCarron, Yea;  
                                     Mr. Lloyd, Yea; Mr. Rieley, Yea;  
                                     Mr. Hudson, Yea**

**M 472 25**            **A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum to give**  
**Delmarva**            **\$1,000 (\$500 from Mr. Rieley's Councilmanic Grant Account and \$500**  
**Community**        **from Ms. Gruenebaum's Councilmanic Grant Account) to The Delmarva**  
**Wellnet**            **Community Wellnet Foundation for their SNAC Garden School Partners.**  
**Foundation**

**Motion Adopted:        5 Yeas**

**Vote by Roll Call:        Ms. Gruenebaum, Yea; Mr. McCarron, Yea;  
                                     Mr. Lloyd, Yea; Mr. Rieley, Yea;  
                                     Mr. Hudson, Yea**

**M 473 25**            **A Motion was made by Mr. Rieley, seconded by Mr. McCarron to give**  
**Delmarva**            **\$5,000 (\$5,000 from Countywide Youth Account) to Delmarva Council Inc.**  
**Council Inc.**        **Boy Scouts of America for their Distinguished Citizen Award Event.**  
**Boy Scouts**  
**of America**

**Motion Adopted:        5 Yeas**

**Vote by Roll Call:        Ms. Gruenebaum, Yea; Mr. McCarron, Yea;  
                                     Mr. Lloyd, Yea; Mr. Rieley, Yea;  
                                     Mr. Hudson, Yea**

**Ordinance**            **Ms. Gruenebaum introduced a Proposed Ordinance entitled "AN**  
**Introduc-**            **ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF**  
**tions**                **SUSSEX COUNTY FROM AN MR-RPC MEDIUM DENSITY**  
**RESIDENTIAL - RESIDENTIAL PLANNED COMMUNITY DISTRICT**  
**TO AN MR-RPC MEDIUM DENSITY RESIDENTIAL - RESIDENTIAL**  
**PLANNED COMMUNITY DISTRICT AND TO AMEND CONDITIONS**  
**OF APPROVAL FOR C/Z 1528 (ORDINANCE NO. 1679) AND FOR C/Z**  
**1753 (ORDINANCE NO. 2361) FOR A CERTAIN PARCEL OF LAND**  
**LYING AND BEING IN SUSSEX COUNTY, CONTAINING 37.97 ACRES,**  
**MORE OR LESS" filed on behalf of Springpoint at Lewes, Inc. c/o Garrett T.**  
**Midgett.**

**Mr. Lloyd reintroduced a Proposed Ordinance entitled "AN ORDINANCE**  
**TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1**  
**AGRICULTURAL RESIDENTIAL DISTRICT FOR THE EXTENSION**  
**OF EMPLOYEE PARKING, SELF-STORAGE, AND CONTAINER**  
**STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND**

<b>Ordinance Introductions (continued)</b>	<b>LYING AND BEING IN SUSSEX COUNTY CONTAINING 5.23 ACRES, MORE OR LESS” filed on behalf of Waste Management of Delaware, Inc.</b> <b>Mr. Rieley reintroduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO TIRE CENTER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 1.0 ACRE, MORE OR LESS” filed on behalf of DJ Tire Center, LLC.</b>
<b>CM Comments</b>	<b>Mr. Lloyd commented about economic impacts that occur with development.</b>
<b>M 474 25 Go Into Executive Session</b>	<b>At 11:02 a.m., a Motion was made by Mr. McCarron, seconded by Mr. Rieley, to enter into an Executive Session for the purpose of discussing matters related to land acquisition and pending &amp; potential litigation.</b> <b>Motion Adopted: 5 Yeas</b> <b>Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Yea; Mr. Hudson, Yea</b>
<b>Executive Session</b>	<b>At 11:10 a.m., an Executive Session was held in the Basement Caucus Room to discuss matters related to land acquisition and pending and potential litigation. The Executive Session concluded at 11:37 a.m.</b>
<b>M 475 25 Reconvene</b>	<b>At 11:39 a.m., a Motion was made by Mr. Lloyd, seconded by Mr. Rieley to reconvene.</b> <b>Motion Adopted: 3 Yeas, 2 Absent</b> <b>Vote by Roll Call: Ms. Gruenebaum, Absent; Mr. McCarron, Absent; Mr. Lloyd, Yea; Mr. Rieley, Yea; Mr. Hudson, Yea</b>
<b>E/S Action</b>	<b>There was no action related to Executive Session matters.</b>
<b>M 476 25 Recess</b>	<b>A Motion was made by Mr. Lloyd, seconded by Mr. Rieley to recess until 1:30 p.m. Public Hearings.</b> <b>Motion Adopted: 3 Yeas, 2 Absent</b> <b>Vote by Roll Call: Ms. Gruenebaum, Absent; Mr. McCarron, Absent; Mr. Lloyd, Yea; Mr. Rieley, Yea; Mr. Hudson, Yea</b>

**M 477 25 Reconvene**      **At 1:30 p.m., a Motion was made by Mr. Lloyd, seconded by Mr. Rieley to come out of the Executive Session and go back into the Regular Session.**

**Motion Adopted:      3 Yeas, 2 Absent**

**Vote by Roll Call:      Ms. Gruenebaum, Absent; Mr. McCarron, Absent;  
Mr. Lloyd, Yea; Mr. Rieley, Yea;  
Mr. Hudson, Yea**

**Public Hearing/  
Irwin  
Properties**      **A Public Hearing was held for the Irwin Properties Annexation into the Sussex County Unified Sanitary Sewer District (Ocean View Area).**

**Mr. Ashman reported that the Engineering Department received a request from Joseph & Kristof Irwin, owners of parcels 134-16.00-26.00 & 26.01 adjacent to the existing Ocean View Area of the SCUSSD. The parcels are located on the northbound side of Windmill Road at the intersection of Central Avenue and within State Planning Level I. The parcels are capable of receiving central sewer service from an existing line at the back of the property and will be responsible for System Connection Charges at the time of connection. To date, there has been no correspondence received in support or opposition to this expansion.**

**There were no public comments.**

**The Public Hearing and public record were closed.**

**M 478 25 Adopt Resolution No. R 023 25/Irwin Properties Annexation into SCUSSD**      **A Motion was made by Mr. Rieley, seconded by Mr. McCarron to Adopt Resolution No. R 023 25 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) OCEAN VIEW AREA, TO INCLUDE IRWIN PROPERTIES (TWO PARCELS) LOCATED IN THE BALTIMORE HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE.**

**Motion Adopted:      5 Yeas**

**Vote by Roll Call:      Ms. Gruenebaum, Yea; Mr. McCarron, Yea;  
Mr. Lloyd, Yea; Mr. Rieley, Yea;  
Mr. Hudson, Yea**

**Public Hearing/  
Marijuana  
Stores  
Amendment**      **A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES XIA, XIC AND XXV, SECTIONS 115-83.11 115-83.18, 115-83.19A AND 115-194.7 AND “115 ATTACHMENT 4, SUSSEX COUNTY TABLE IV PERMITTED USES COMMERCIAL” TO AMEND THE REQUIREMENTS FOR RETAIL MARIJUANA STORES**



**Public Hearing/**  
**Marijuana Stores**  
**Amendment**

**IN SUSSEX COUNTY”.**

The Council found that Mr. Vince Robertson spoke about the Proposed Ordinance; that this is an amendment to an Ordinance that was previously adopted by the Council in 2024; that it was revised so that marijuana stores will be permitted uses in C-2 and C-3; that the distance between retail marijuana stores and municipalities were also shortened; that retail use would no longer require a Conditional Use; that the other change the Ordinance proposes is in regard to the separation distance requirements as they currently exist in Code; that there is a three mile separation distance between marijuana retail stores and churches, schools, colleges or substance abuse treatment facilities; and in summary the only two changes proposed are to make the retail marijuana store permitted within the C-2 and C-3 zoning districts, and to reduce the distance from a retail store to a municipal boundary from three miles to 0.5 mile.

There were no public comments.

The Public Hearing and public record were closed.

**M 479 25**  
**Adopt**  
**Ordinance**  
**No. 4025/**  
**Marijuana**  
**Stores**  
**Amendment**

A Motion was made by Mr. McCarron, seconded by Mr. Lloyd to Adopt Ordinance No. 4025 entitled “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES XIA, XIC AND XXV, SECTIONS 115-83.11 115-83.18, 115-83.19A AND 115-194.7 AND “115 ATTACHMENT 4, SUSSEX COUNTY TABLE IV PERMITTED USES COMMERCIAL” TO AMEND THE REQUIREMENTS FOR RETAIL MARIJUANA STORES IN SUSSEX COUNTY” for the reasons given by the Planning & Zoning Commission.

Motion Adopted: 4 Yeas, 1 Nay

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;  
Mr. Lloyd, Yea; Mr. Rieley, Nay;  
Mr. Hudson, Yea

**Rules**

Mr. Moore read the rules of procedure for zoning matters.

**Public**  
**Hearing/**  
**CU2483**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A ROOFING & SIDING CONTRACTOR BUSINESS WITH INDOOR AND OUTDOOR STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 6.92 ACRES, MORE OR LESS” (property is lying the south side of Lewes Georgetown Highway [Rt. 9], approximately 0.32 mile southwest of Park Avenue [S.C.R. 318]) (911 Address: 22610 Lewes-Georgetown Highway, Georgetown) (Tax Map Parcel: 135-15.00-79.02) filed on behalf of Andrew Lewandowski.

**Public  
Hearing/  
CU2483  
(continued)**

**The Planning & Zoning Commission held a Public Hearing on the application on October 1, 2025. At the meeting on October 15, 2025, the Planning and Zoning Commission recommended that the County Council approve the application for the 9 reasons and subject to the 11 recommended conditions of approval as outlined.**

**The Council found that Mr. David Hutt, Esq. with Morris James, LLP spoke on behalf of the Applicant, Mr. Andrew Lewandowski. Mr. Hutt stated that the Application sought to allow the operation of a roofing and siding contractor construction business, with indoor and outdoor storage; that the business name is Bayside Exteriors; that the property is located at 22610 Lewes Georgetown Highway (Rt. 9); that the property is located just slightly east of Sports at the Beach; that when traveling from the Harbeson area, heading in a westerly direction along Rt. 9, one would come to the traffic signal, located where the Sussex County Association of Realtors is located along Park Avenue; that after that one would pass the antique store named the Tin Roof Trading Post; that just past the antique store, located on the left, would be the subject property; that the Applicant purchased the property in 2018, at which time their parents used the manufactured home located at the front of the property; that the site consists of 6.9 acres; that the family does use the site as a country lot; that there are gardens, an area for goats, a fire pit and several outbuildings for storage on the site; that the nearest intersection to the site is Park Avenue and Rt. 9; that according to the Office of State Planning's State Strategies Map from 2020, the property is located within a Level 2 Investment Area, being a location where investment and policy should support and encourage a wide range of uses; that according to the Future Land Use Map for Sussex County, the site is located within a Developing Area, being one of the seven growth areas in Sussex County; that all along Rt. 9 is designated with a Growth Area, Commercial Area or an Industrial Area; that per the Sussex County Zoning Map, the site is located within the AR-1 (Agricultural Residential) Zoning District, as well as the properties located immediately adjacent to the site; that along Rt. 9 there are many properties located within the CR-1 (Commercial Residential), C-1 (General Commercial), HI-1 (Heavy Industrial), and LI-2 (Light Industrial); that the Staff Memo to the Planning Department states there are seven Conditional Uses located within a one-mile radius of the site; that the Conditional Uses have been approved for a variety of office, business, and residential uses; that there are no wetlands located on the property; that the property is not located within a Wellhead Protection or Excellent Groundwater Recharge area; that there are no resources located on the site, as the term is defined in the County Code; that therefore, there are no Resource Buffer Protection Areas; that the site is located outside of the floodplain, as it is located within Flood Zone X on the FEMA Flood Maps; that water is provided through an on-site well; that sewer is provided through an on-site wastewater and disposal system; that a Service Level Evaluation Request**

**Public  
Hearing/  
CU2483  
(continued)**

was submitted to DelDOT; that the DelDOT Service Level Response indicated that the traffic impact based on the Memorandum of Understanding with Sussex County, would be diminutive, as it would be less than 50 vehicle trips per day; that presently, Bayside Exteriors employs 16 people; that the site is intended to be used for storage of materials and transportation to the job sites; that it is anticipated that there would be one primary person, whose job would be to receive items, and then distribute the items through the County as they are needed; that there could be up to four people working at the site at any one time, to help work through the storage of materials, then distributing it to the various job sites that Bayside Exteriors is working at; that there is no showroom area or client meeting space proposed for the site; that the work is performed at various construction job sites, where they provide roofing and siding services; that as shown on the Site Plan, the entrance is located off Rt. 9; that there is a manufactured home currently existing on the site, along with a barn, an outbuilding, a pole building, a goat pen and fire pit; that the existing buildings are used for storage; that there is an area on the Site Plan for proposed for outside storage; that in that area storage containers are proposed to keep materials from the elements; that the gravel area for outside storage has migrated closer to the property line; that the Applicant has proposed a 20 foot setback from the side property line, and the extended gravel will be pushed back; that Bayside Exteriors is a local, small business that provides roofing and siding services to residents throughout Sussex County; that the Applicant met with his neighbor to the west, Mr. Bell, owner of Clean Cut Pavers and Pools; that Mr. Bell provided a letter of support for the Application; that the other side of the property is currently wooded and unimproved; that pursuant to §115-171, Conditional Uses are generally of a public or semi-public character, being essential and desirable for the general convenience and welfare of the County; that because of their nature of their use, and the importance of the relationship to the Comprehensive Plan, Conditional Uses require the exercise of the Planning Commission and the County Council, regarding their location and Site Plan review; that the proposed use is of public character, being similar to the other commercial uses already approved; that the site, being along Rt. 9, is a good, central location to store materials for Bayside Exteriors, as it is convenient for them to access many areas both east and west, as they perform work for the residents of Sussex County.

**There were no public comments.**

**The Public Hearing and public record were closed.**

**M 480 25  
Adopt  
Ordinance  
No. 4026/**

**A Motion was made by Mr. Rieley, seconded by Mr. McCarron to Adopt Ordinance No. 4026 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A ROOFING & SIDING**

**CU2483  
M 480 25  
Adopt  
Ordinance  
No. 4026/  
CU2483  
(continued)**

**CONTRACTOR BUSINESS WITH INDOOR AND OUTDOOR STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 6.92 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows:**

- 1. The applicant operates a roofing and siding 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’s family resides in the home on the property.**
- 3. The business use is primarily located at the rear of the Applicant’s property, where it will have the least impact on any neighboring properties and will not be visible from Route 9.**
- 4. DelDOT has stated that the traffic generated by the proposed use will be “diminutive” and will not have a negative impact on the neighboring roadways.**
- 5. There will be little or no customer traffic to the site, and most employees will meet at off- site job locations. Materials are generally delivered to off-site locations as well.**
- 6. 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. There are also several other commercial and office uses in the vicinity of this site.**
- 7. The use has a public or semi-public character that is desirable for the general convenience and welfare of the area and the County.**
- 8. The property is served by an on-site well and an on-site septic system.**
- 9. No parties appeared in opposition to the application.**
- 10. This recommendation is subject to the following conditions:**
  - a. The property shall be used for a roofing and siding contracting business with indoor and outdoor storage in addition to the existing residence on the property.**
  - b. All vehicle or equipment repairs shall be conducted inside existing or future buildings located within the site.**
  - 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 6:00 a.m. and 6:00 p.m., Monday through Friday, and on Saturdays between 7:00 a.m. and 3:00 p.m. 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 locations shall be shown on the Final Site Plan.**
  - g. The Applicant shall comply with any DelDOT requirements for entrance and roadway improvements.**

**M 480 25**  
**Adopt**  
**Ordinance**  
**No. 4026/**  
**CU2483**  
**(continued)**

- h. Any violation of these conditions of approval may result in the termination of this Conditional Use.**
- i. All outside storage of construction materials shall only occur in the areas shown on the Final Site Plan. These locations shall be clearly identified on the site with fencing, bins, enclosures or other designations.**
- j. All vehicular parking areas shall be shown on the Final Site Plan and clearly marked on the site itself.**
- k. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;**  
**Mr. Lloyd, Yea; Mr. Rieley, Yea;**  
**Mr. Hudson, Yea**

**Public**  
**Hearing/**  
**CU2500**

**A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO ALLOW FOR A STORAGE BUSINESS (6 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 1.07 ACRES, MORE OR LESS” (property is lying on the east side of Polly Branch Road [S.C.R. 386], approximately 0.50-mile southeast of the intersection of Roxana Road [Rt. 17]) (911 Address: 31459 Polly Branch Road, Selbyville) (Tax Map Parcel: 533-17.00-93.03) filed on behalf of Sean Vermillion.**

**The Planning & Zoning Commission held a Public Hearing on the application on October 1, 2025. At the meeting on October 15, 2025, the Planning and Zoning Commission recommended that the County Council approve the application for the 6 reasons and subject to the 9 recommended conditions of approval as outlined.**

**The Council found that Mr. Sean Vermillion spoke on behalf of his Application. Mr. Vermillion stated that he currently has a storage building on the property; that he has had quite a few people ask if they could pay to store their boats in the building on the site; that he wanted to make sure if he allowed the onsite storage, that he did it the correct way; that he is proposing to building a 100’ x 32’, resulting in a 3,200 square foot building, which would be divided into six different units for lease.**

**There were no public comments.**

**The Public Hearing and public record were closed.**

**M 481 25**

**A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum to Adopt**

**Adopt  
Ordinance  
No. 4027/  
CU2500**

**Ordinance No. 4027 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO ALLOW FOR A STORAGE BUSINESS (6 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 1.07 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows:**

- 1. The Applicant seeks to convert two existing structures into 6 storage units. It is anticipated that the units will be used for boat, RV, and vehicle storage.**
- 2. There will not be any outdoor storage permitted on the site.**
- 3. There are several new developments in the vicinity which limit or prohibit storage on lots within the developments. This is an appropriate, convenient location for a storage site within existing buildings.**
- 4. The Applicant has stated that the use will not have a substantial impact upon area roadways.**
- 5. This relatively small storage facility will not have an adverse impact upon the neighboring properties or community.**
- 6. No parties appeared in opposition to this Application.**
- 7. This recommendation for approval is subject to the following conditions:**
  - a. The storage facility on this site shall be limited to six storage units within the existing buildings on the site. The property shall not be used for vehicles, equipment, or boat repairs or for manufacturing or industrial purposes. No unit shall be primarily used as an office. In addition, the property may not be used by a business for meeting customers, as a showroom, or as a “mail-drop” or pick up or delivery location for customers.**
  - b. There shall not be any outside storage permitted on the site.**
  - c. One unlighted sign shall be permitted. It shall not exceed 32 square feet in size.**
  - d. No hazardous materials or fuel shall be stored on the property other than what may be in the tanks of vehicles, boats, or watercraft located within the storage units on the site.**
  - e. The site shall be screened with fencing and/or planting along the common boundaries with the residential properties on the north and south sides of the site.**
  - f. Any dumpsters on the site shall be screened from the view of neighboring properties and roadways. The dumpster locations shall be shown on the Final Site Plan.**
  - g. The site shall be subject to all DelDOT entrance and roadway requirements.**
  - h. Any violation of these conditions may be grounds for termination of this conditional use.**
  - i. The Final Site Plan shall be subject to the review and approval of**

**the Sussex County Planning & Zoning Commission.**

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;  
Mr. Lloyd, Yea; Mr. Rieley, Yea;  
Mr. Hudson, Yea**

**Public  
Hearing/  
CZ2027**

**A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS” (property is lying on the east side of the private lane, Marges Garden Path, and the south side of Milton-Ellendale Highway [Rt. 16], approximately 0.5 mile east of Gravel Hill Road [Rt. 30]) (911 Address: N/A) (Tax Map Parcel: 235-14.00-81.00) filed on behalf of 1630 Ventures, LLC.**

**The Planning & Zoning Commission held a Public Hearing on the application on October 1, 2025. At the meeting on October 15, 2025, the Planning and Zoning Commission recommended that the County Council approve the application for the 8 reasons of approval as outlined.**

**The Council found that Mr. Michael Riemann with Becker Morgan spoke on behalf of the Applicant, 1630 Ventures, LLC; that also present was Mr. Kevin Disabatino, of 1630 Ventures, LLC, who is the owner of the property, and Ms. Mackenzie Peet, Esq. with Saul Ewing, LLP. Mr. Riemann stated that the request was for a parcel being approximately five acres, located along Rt. 16; that the site is part of a much larger parcel that 1630 Ventures, LLC owns; that part of the larger parcel is currently going through a Master Plan process, which had already been implemented as Milton Village Apartments, which was approved by Sussex County in June 2024; that a Project Book was submitted containing the PLUS Review, the Artesian Willing to Serve Sewer and Water Letter, traffic studies and Findings of Fact; that the adjacent properties on both sides of the site are within the C-1 (General Commercial) Zoning District; that Mr. Disabatino has owned the property for about 20 years; that one point the parcel was owned by the State of Delaware, and was planned to be an armory, however that proposed use was abandoned many years ago; that the site is located along Rt. 16, being within close proximity to Rt. 30 and Milton Proper; that there are a number of commercial businesses located along Rt. 16; that these businesses include Ironworks, Kemps Liquor Store, and the recently constructed Beebe medical facility which is a phase of the planned project, Milton Village; that also within the area the Food Lion shopping center; that the site is located within close proximity to the municipal jurisdiction of the Town of Milton; that the project is consistent with the ongoing theme that development within the County needs to be located**

**Public  
Hearing/  
CZ2027  
(continued)**

closer to towns, closer to infrastructure and existing services; that Artesian has extended water and sewer directly along the property; that the C-1 (General Commercial) Zoning District is located all along the frontage on both sides of the parcel, and across the street; that the C-1 Zoning District is no longer available for rezoning, and is now a closed district; that the Applicant's request is for C-3 (Heavy Commercial) rezoning, as the Applicant felt it was the most comparable zoning to the C-1 District; that when comparing the Tables for both commercial zonings, they are not identical, but are very similar in terms of the permitted uses; that HR-2 (High Density Residential) is also located adjacent to the site; that the site is located within State Investment Level 1, being an area where the State support investment and policy, encouraging a wide range of uses and densities to promote a variety of transportation options, faster, efficient use of existing public and private investment and enhanced community identity integrity; the according to the Comprehensive Plan, the site is located within the Developing Area, which tend to be areas that are located adjacent to municipalities; that it is expected that these areas would be targeted for growth that according to the Comprehensive Plan, the C-3 (Heavy Commercial) Zoning District would be an applicable zoning district for the areas defined as Developing Areas; that the Comprehensive Plan goes on to talk about a range of housing types which are appropriate in Developing Areas, including single-family town homes and multi-family; that in selected areas near appropriate intersections, commercial uses should be allowed, and goes on to mention mixed-use development as well; that ultimately, that is what the project ends up becoming when considering the various parcels, and the mixture of zoning with commercial zoning across the frontage and the high density residential located in the back; that even the AR-1 zoning creates an opportunity to create a mixed-use development for the overall track that the Applicant is planning; that the current rezoning request helps the Applicant complete the piece of the puzzle; that the project is located within the DelDOT Milton Transportation Improvement District (TID), which has not been finalized yet; that there was a traffic study performed for the overall development; that if this parcel was not part of the overall development, it would not have required a traffic study; that they anticipate that the site's piece of the project will consist of likely assisted living or medical offices; that the five acres site, by itself, would not generate enough traffic to warrant a traffic study; that a traffic study was performed, as they are planning for the entire tract; that the traffic study was provided within the submitted packet; that within the study, 23 intersections were studied; that there is a new DelDOT roundabout project planned for the intersections of Rt. 16 and Rt. 30; that the project is in the early stages and has not yet been scheduled; that another DelDOT roundabout is planned at the intersection of Sand Hill Road and Rt. 30; that the Applicant's project would be responsible to contributing to the nearby DelDOT projects; that the site is currently in agricultural use, but is surrounded by a mix of residential, agricultural and commercial development; that the entire site is



**Public  
Hearing/  
CZ2027  
(continued)**

currently agricultural; that the project is located within the future Developing Area, which should anticipate growth and development, including commercial; that the project is located in the developing Milton TID, and a Traffic Study was completed for the project; that the project is located within the State Investment Level 1, where growth is encourage and planned; that there are utilities located directly in front and accessible by the project, and that the project fronts Rt. 16, which is classified as a DelDOT Major Collector road.

There were no public comments.

The Public Hearing and public record were closed.

**M 482 25  
Adopt  
Ordinance  
No. 4028/  
CZ2027**

A Motion was made by Mr. McCarron, seconded by Mr. Rieley to Adopt Ordinance No. 4028 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS" for the reasons given by the Planning & Zoning Commission as follows:

1. This property was previously owned by the State of Delaware. As a result, while it is still zoned as AR-1, it is completely surrounded by properties that are zoned as C-1 General Commercial and HR-2 High Density Residential. This was all part of the prior Elizabethtown project planned for this site. This rezoning will make this standalone parcel of land consistent with the surrounding zone now that it is no longer owned by the State.
2. C-3 Heavy Commercial Zoning is designed to allow auto-oriented retail and service businesses that serve local and regional residents. Permitted Uses include retail uses, restaurants, offices, and vehicle service stations. Given the surrounding zoning and the close proximity to the Town of Milton, this is an appropriate zoning for this property.
3. This property has frontage along Route 16, which DelDOT has classified as a major collector road. This is an appropriate location for C-3 Zoning.
4. This property is located in the Developing Area according to the current Sussex County Land Use Plan. This proposed commercial zoning is appropriate in this Area according to the Plan.
5. The site is located along a bus transit route operated year-round by DART. The site is also located near a wide variety of employment opportunities, including general commercial and retail, healthcare, education, institutional, and hospitality uses. The uses permitted within the C-3 zoning at this site are compatible with this area.
6. The proposed rezoning meets the general purpose of the Zoning Code

**M 482 25**  
**Adopt**  
**Ordinance**  
**No. 4028/**  
**CZ2027**  
**(continued)**

by promoting the orderly growth, convenience, order, prosperity,  
and welfare of the County.

7. No parties appeared in opposition to this rezoning application.

8. Any future use of the property will be subject to Site Plan review by  
the Sussex County Planning and Zoning Commission.

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;**  
**Mr. Lloyd, Yea; Mr. Rieley, Yea;**  
**Mr. Hudson, Yea**

**M 483 25**  
**Adjourn**

A Motion was made by Mr. Rieley, seconded by Mr. McCarron to adjourn  
at 2:19 p.m.

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;**  
**Mr. Lloyd, Yea; Mr. Rieley, Yea;**  
**Mr. Hudson, Yea**

**Respectfully submitted,**

**Tracy N. Torbert**  
**Clerk of the Council**

*{An audio recording of this meeting is available on the County's website.}*

## ENGINEERING DEPARTMENT

JOHN J. ASHMAN  
DIRECTOR OF UTILITY PLANNING & DESIGN REVIEW  
(302) 855-7370 T  
(302) 854-5391 F  
jashman@sussexcountysde.gov



# Sussex County

DELAWARE  
sussexcountysde.gov

MIKE HARMER, P.E.  
SUSSEX COUNTY ENGINEER

## Memorandum

TO: Sussex County Council  
The Honorable Douglas B. Hudson, President  
The Honorable John L. Rieley, Vice President  
The Honorable Jane Gruenebaum  
The Honorable Matthew R. Lloyd  
The Honorable Steven C. McCarron

FROM: John J. Ashman, Director of Utility Planning & Design Review

RE: *Mass Annexation of Individual Parcels*  
*2025 Connections*  
*File: ADM 2.02-A*

DATE: December 9, 2025

Under the direction of the County Engineer and under his authority according to County Code §110-98 & §110-99 the Sussex County Engineering Department has been accepting annexation fees and connecting individual parcels on an as-needed basis. The County Engineer may grant connections to scattered parcels at the equivalent dwelling unit (EDU) density of the abutting property but cannot exceed 12 EDUs per acre. The connection of the scattered parcels must be determined to not overload the capacity in the existing sewer system taking into account the full development capacity of other parcels withing the area.

This is an all-encompassing annexation of those parcels previously requesting annexation, meeting the above requirements and submitting the appropriate annexation fee for the following parcels:

334-12.00-115.00  
234-11.00-61.00  
234-23.00-116.08

All parcels were able to be served by previously installed infrastructure or fairly simple lateral adjustments.



## ENGINEERING DEPARTMENT

J. MARK PARKER, P.E.  
ASSISTANT COUNTY ENGINEER

(302) 855-7370 T  
(302) 854-5391 F  
mark.parker@sussexcountyde.gov



# Sussex County

DELAWARE  
sussexcountyde.gov

TO: Sussex County Council  
The Honorable Douglas B. Hudson, President  
The Honorable John L. Rieley, Vice President  
The Honorable Jane Gruenebaum  
The Honorable Matt R. Lloyd  
The Honorable Steve C. McCarron

FROM: Hans Medlarz, P.E., Project Manager  
J. Mark Parker, P.E., Assistant County Engineer

RE: Kings Highway from SR 1 to Freeman Highway, DelDOT State Contract  
T202512901 – Advanced Utility Relocation

### *A. Approval of Christiana Excavating Co. Change Order Nos. 3 & 4*

DATE: December 9, 2025

On May 14, 2024, County Council awarded a five (5) year base contract for miscellaneous engineering services to Davis, Bowen & Friedel, Inc. (DBF) among others. In January of 2025 the Department requested an Amendment from DBF for the connection of the County's and Artesian's systems along Log Cabin Hill Road for design and permitting services. On January 28, 2025, Council approved Amendment 1 to DBF's 2024 Base Agreement in the not to exceed amount of \$111,000.00.

In January of 2025 the Engineering Department requested Amendment 2 from DBF for the King's Highway Advanced Utility Relocation Project. The project entails routing a new 24-inch forcemain (+/- 8,000 feet) from PS-210 on Wescoats Road to the existing force main near the curve along Gills Neck Road (boundary of Governors and Senators subdivisions) as part of DelDOT's Advanced Utility Relocation in support of the Kings Highway road widening project.

The road improvement plans developed by DelDOT conflict with the County's forcemains throughout the limits of the project, specifically an existing 30-inch forcemain that runs north-south through the project limits. As a result, unavoidable storm drainage conflicts are created at several crossing points with the forcemain.

Section 143, Title 17, Delaware Code states that relocations caused by DelDOT's repair or expansion of a public highway, when the facilities are owned and/or operated by a **public utility**, must be included and funded through the underlying transportation project. The



relocation of the forcemain must occur as one of the first construction phases due to the conflicts between it and the proposed drainage and other improvements associated with the road expansion project.

For the northern initial phase of the DelDOT project it would include rerouting the sewer main around the future traffic circles at Clay Road and Gills Neck Road under the Village Center project using their contractor. However, a reconnection to the existing County infrastructure on the north side of Gills Neck Road is not desirable. Therefore, the Department recommended considering an extension to the bend of Gills Neck Road by eliminating two expensive jack & bore road crossings. Under the final phase a new forcemain will be constructed off-road alignment from pump station 210 to the future traffic circle at Clay Road and Kings Highway, thus eliminating all conflicts with the DelDOT project.

On February 11, 2025, Council approved Amendment 2 to DBF's 2024 Base Agreement in the not to exceed the amount of \$144,500.00 as well as the development of a DelDOT advance relocation agreement and construction agreement with the Village Center developer. Since then, two (2) alignment options with step-by-step scope details were developed by DBF with County input for the relocation of the forcemain from the Clay Road north and presented to DelDOT as well as Christiana Excavating, Co. who is the site contractor for the Village Center project.

With the site construction progress at the Village Center approaching a critical scheduling point, the County had to authorize the initial work before the window of opportunity closed. In discussions with the Finance Department, it was decided that a standard County construction agreement with Christiana Excavating Co. would be the preferred approach for this phase of the relocation. The final phase was priced out by Christiana as well as the County's General Labor & Equipment contractor since no specific private site development coordination was required. That aggregate price was compared to DelDOT's relocation estimate in the determination of the final reimbursement amounts. It was determined that County-obtained pricing was lower than the State's cost estimate.

On April 29, 2025, the Council approved the standard County construction agreement with Christiana Excavating Co. in the amount of \$2,210,880.00 for the initial advanced relocation of County owned infrastructure in direct conflict with DelDOT's King's Highway from SR-1 to Freeman Highway Road Improvement Project. DelDOT issued the Notice to Proceed on August 7, 2025 and the construction is progressing on schedule.

In June, DelDOT completed the evaluation of the cultural resources for phase 1 project area without any findings. Therefore, County Council was able to approve the DelDOT Letter Agreement T202512901 – Kings Highway Sussex County Sewer Relocation, Phase I on June 17, 2025. However, DelDOT's cultural resources evaluation for phase 2 has been delayed due to the Government shutdown and is now not expected to wrap up until mid-2026.

On July 31, 2025, the Engineering Department and DelDOT's Traffic Safety Section discussed the accommodation of pedestrian and bicycle traffic along Gills Neck Road during construction which had not been incorporated in the Christiana Excavating, Co.'s base award. As a result of these discussions, DBF developed a detour plan which was subsequently approved by DelDOT and priced out by Christiana Excavating. On the recommendation of the Engineering Department, on September 16, 2025 Council approved Change Order No. 1 in

the amount of \$33,480.00 to cover the traffic control provisions associated with the approved detour plan.

Subsequently it was discovered that dewatering (i.e., well pointing) would be needed along a portion of the proposed sewer alignment due to the encountered groundwater conditions – well pointing was excluded from the original construction agreement approved on 4/29/25. At the request of the Engineering Department, Christiana Excavating provided a proposal in the amount of \$69,375.00 to implement the required dewatering. The proposal assumes a period of two (2) months for dewatering and includes a monthly pump rental rate for an add or deduct cost if actual pumping is either longer or shorter than the assumed time period. On October 21, 2025, County Council concurred and approved Change Order No. 2, thereby increasing the contract amount by \$69,375.00.

As stated, before the Government shutdown affected the cultural resources evaluation significantly. This will trigger a repricing of the work further delaying the tie-in of the main Pump Station 210. With only the local pump station serving the Governor's subdivision left on the new 24-inch forcemain we had to make another interconnection with the existing 8-inch forcemain. At the request of the Engineering Department, Christiana Excavating provided a proposal in the amount of \$30,500.00 to implement the additional forcemain interconnection.

The interconnection work with live wastewater requires a pumper truck for flow control. The base contract included only one (1) day for the anticipated connection to the 24-inch forcemain. This may into two days based on the volume to be drained. In addition, pumper trucks were needed for the temporary bypass and the additional tie-in to the 8-inch forcemain. Therefore, the Department a unit price Christiana Excavating provided a proposal in the unit truck cost of \$5,350.00 with an estimated unit count of three (3). If more or fewer truck days will be necessary to complete the project the total can be adjusted without additional County Council approval.

In summary, the Engineering Department recommends Council's approval of Change Order No.3 to Christiana Excavating, Co. in the lump sum amount of \$30,500.00 and Change Order No. 4 for the unit cost amount of \$5,350.00 per 10-hour pumper truck day estimated at \$16,050.00, both subject to DelDOT approval.



**SUSSEX COUNTY  
CHANGE ORDER REQUEST**

**A. ADMINISTRATIVE:**

1. Project Name: **Kings Highway Advanced Sewer Relocation**
2. Sussex County Project No. S25-46
3. Change Order No. 3
4. Date Change Order Initiated - 12/9/25
5.
  - a. Original Contract Sum \$2,210,880.00
  - b. Net Change by Previous Change Orders \$ 102,855.00
  - c. Contract Sum Prior to Change Order \$2,313,735.00
  - d. Requested Change \$ 30,500.00
  - e. Net Change (No. of days)
  - f. New Contract Amount \$2,344,235.00
6. Contact Person: Hans Medlarz, P.E.  
Telephone No. (302) 855-7718

**B. REASON FOR CHANGE ORDER (CHECK ONE)**

- ☒ 1. Differing Site Conditions
- ☐ 2. Errors and Omissions in Construction Drawings and Specifications
- ☐ 3. Changes Instituted by Regulatory Requirements
- ☐ 4. Design Change
- ☐ 5. Overrun/Underrun in Quantity



- ☒ 6. Factors Affecting Time of Completion
- ☐ 7. Other (explain below):

**C. BRIEF DESCRIPTION OF CHANGE ORDER:**

Additional forcemain interconnection.

**D. JUSTIFICATION FOR CHANGE ORDER INCLUDED?**

Yes ☒ No ☐

**E. APPROVALS**

1. Christiana Excavating Co., Contractor

  
Signature 12-3-25  
Date

R.J. Andrews

Representative's Name in Block Letters

2. Sussex County Project Manager

  
Signature 12/3/25  
Date

3. Sussex County Council President

\_\_\_\_\_  
Signature Date



# CHRISTIANA EXCAVATING COMPANY

2016 Sunset Lake Road, Newark, DE. 19702  
(Newark) 302-738-8660 (Milford) 302-424-8343 FAX 302-738-3515

November 20, 2025

Sussex County Engineering  
P.O. Box 589  
Georgetown, De 19947

Attn: Hans Medlarz

Re: King's Highway Force Main Relocate

Dear Mr. Medlarz:

Enclosed please find our Change Order #3 on the above-referenced project for the additional scope of work required to tie in the existing 8" force main into the proposed 24" force main per the latest plan revision. This change results in an increase of \$30,500.00 to the original contract.

Please review the enclosed change order, sign it, and return a copy to our office. A summary cost analysis to date including change orders is provided per the following:

Original Proposal Contract Dated 04/30/25	\$ 2,210,880.00
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Change Order Totals:	#1	\$ 33,480.00
	#2	\$69,375.00
	#3	\$30,500.00

Total Change Orders to Date:	\$ 133,355.00
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<b>Revised Project Total:</b>	<b>\$ 2,344,235.00</b>
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Should you have any questions please do not hesitate to call me.

Sincerely,



R.J. Andrews

# CHRISTIANA EXCAVATING COMPANY

2016 Sunset Lake Road, Newark, DE. 19702  
(Newark) 302-738-8660 (Milford) 302-424-8343 FAX 302-738-3515

## CONTRACT CHANGE ORDER

#3

November 20, 2025

Sussex County Engineering  
P.O. Box 589  
Georgetown De 19947

Attn: Hans Medlarz

King's Highway Force Main Relocate  
Lewes, DE

We hereby propose to provide all labor, materials, and equipment necessary to perform the following changed scope of work from our Base Contract:

### Additional Tie In

- Tie in 8" Force Main into Proposed 24" Force Main
  - 2 ea. 8" 45 Bends
  - 1 ea. 12"x8" Reducer
  - 12" PVC & 8" PVC as Required
  - Provide Megs & Kickers w/ All thread fittings
  - Install County Provided 24"x24"x12" Tee
  - Relocate existing 12" valve
  - Provide Traffic Control & Flaggers as Required

NET CHANGE ORDER TOTAL:

\$30,500.00

**NOTE: This Change Order becomes part of and in conformance with the existing Contract dated April 30, 2025.**

Note:

1. Our costs include picking up 24"x24"x12" tee from SCE facility.
2. Scope of work is per the revised plan dated February 2025 & last revised 11-5-2025.

**CONTRACTOR: CHRISTIANA EXCAVATING COMPANY**

AUTHORIZATION: 

DATE: 11-20-25

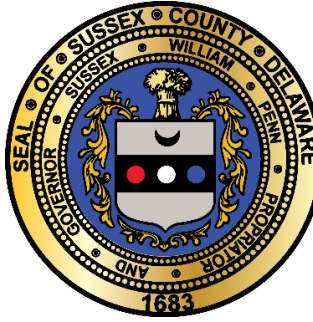
### ACCEPTANCE OF CHANGE ORDER:

The above prices, specifications, and conditions are satisfactory and are hereby fully and unconditionally accepted. Christiana Excavating Company is authorized to do the work as specified.

**ACCEPTANCE: Sussex County Engineering**

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_



***SUSSEX COUNTY  
CHANGE ORDER REQUEST***

**A. ADMINISTRATIVE:**

1. Project Name: **Kings Highway Advanced Sewer Relocation**
2. Sussex County Project No. S25-46
3. Change Order No. 4
4. Date Change Order Initiated - 12/9/25
5.
  - a. Original Contract Sum \$2,210,880.00
  - b. Net Change by Previous Change Orders \$ 133,355.00
  - c. Contract Sum Prior to Change Order \$2,344,235.00
  - d. Requested Change \$ 16,050.00
  - e. Net Change (No. of days)
  - f. New Contract Amount \$2,360,285.00
6. Contact Person: Hans Medlarz, P.E.  
Telephone No. (302) 855-7718

**B. REASON FOR CHANGE ORDER (CHECK ONE)**

- ☒ 1. Differing Site Conditions
- ☐ 2. Errors and Omissions in Construction Drawings and Specifications
- ☐ 3. Changes Instituted by Regulatory Requirements
- ☐ 4. Design Change
- ☐ 5. Overrun/Underrun in Quantity

☒ X 6. Factors Affecting Time of Completion

☐ 7. Other (explain below):

**C. BRIEF DESCRIPTION OF CHANGE ORDER:**

Pumper trucks for drainage while connections are made for an estimated 3-day timeframe.

**D. JUSTIFICATION FOR CHANGE ORDER INCLUDED?**

Yes ☒ X No ☐

**E. APPROVALS**

1. Christiana Excavating Co., Contractor

  
Signature 12-3-25  
Date

R.J. Andrews

Representative's Name in Block Letters

2. Sussex County Project Manager

  
Signature 12/3/25  
Date

3. Sussex County Council President

\_\_\_\_\_  
Signature Date

# CHRISTIANA EXCAVATING COMPANY

2016 Sunset Lake Road, Newark, DE. 19702  
(Newark) 302-738-8660 (Milford) 302-424-8343 FAX 302-738-3515

November 21, 2025

Sussex County Engineering  
P.O. Box 589  
Georgetown, De 19947

Attn: Hans Medlarz

Re: King's Highway Force Main Relocate

Dear Mr. Medlarz:

Enclosed please find our Change Order #4 on the above-referenced project for providing a pump truck for a total of 3 days. This change results in an increase of \$16,050.00 to the original contract.

Please review the enclosed change order, sign it, and return a copy to our office. A summary cost analysis to date including change orders is provided per the following:

Original Proposal Contract Dated 04/30/25	\$ 2,210,880.00
---	-----------------

Change Order Totals:	#1	\$ 33,480.00
	#2	\$69,375.00
	#3	\$30,500.00
	#4	\$16,050.00

Total Change Orders to Date:	\$ 149,405.00
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Revised Project Total:	\$ 2,360,285.00
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Should you have any questions please do not hesitate to call me.

Sincerely,



R.J. Andrews

# CHRISTIANA EXCAVATING COMPANY

2016 Sunset Lake Road, Newark, DE. 19702  
(Newark) 302-738-8660 (Milford) 302-424-8343 FAX 302-738-3515

## CONTRACT CHANGE ORDER

#4

November 21, 2025

Sussex County Engineering  
P.O. Box 589  
Georgetown De 19947

Attn: Hans Medlarz

King's Highway Force Main Relocate  
Lewes, DE

We hereby propose to provide all labor, materials, and equipment necessary to perform the following changed scope of work from our Base Contract:

### Provide Pump Truck on Site

- Provide Pump Truck on Site for Three Days @ \$5,350.00

**NET CHANGE ORDER TOTAL:**

**\$16,050.00**

**NOTE: This Change Order becomes part of and in conformance with the existing Contract dated April 30, 2025.**

Note:

**CONTRACTOR: CHRISTIANA EXCAVATING COMPANY**

**AUTHORIZATION:**



**DATE:**

11-21-25

### **ACCEPTANCE OF CHANGE ORDER:**

The above prices, specifications, and conditions are satisfactory and are hereby fully and unconditionally accepted. Christiana Excavating Company is authorized to do the work as specified.

**ACCEPTANCE: Sussex County Engineering**

**SIGNATURE:**

**DATE:**



## Memorandum

To: Sussex County Council  
The Honorable Douglas B. Hudson  
The Honorable Jane Gruenebaum  
The Honorable Matt Lloyd  
The Honorable Steve McCarron  
The Honorable John L. Rieley

From: Jamie Whitehouse, AICP, Director of Planning & Zoning

CC: Everett Moore, County Attorney

Date: November 26, 2025

RE: County Council Report for C/U 2493 filed on behalf of Rennie Hunt

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The Planning and Zoning Department received an application (C/U 2493 filed on behalf of Rennie Hunt) for a Conditional Use for a site development business with office and outdoor storage, and parking to be located in an AR-1 Agricultural Residential Zoning District at Tax Parcel 533-6.00-19.00. The property is located at 35082 Roxana Road, Frankford. The parcel size is 0.45 ac. +/-

The Planning & Zoning Commission held a Public Hearing on the application on July 23, 2025. At the meeting of August 6, 2025, the Planning & Zoning Commission recommended approval of the application for the 6 reasons of approval and subject to the 14 recommended conditions of approval, as outlined within the motion (copied below).

The County Council held a Public Hearing on the application at the meeting on September 9, 2025. At the conclusion of the public hearing, the Council deferred action on the application for further consideration. Below is a link to the minutes of the September 9, 2025, County Council meeting.

[Link to the Minutes of the September 9, 2025, County Council Meeting](#)

Below are the minutes from the Planning & Zoning Commission meetings on July 23, 2025, and August 6, 2025.

Minutes of the July 23, 2025, Planning & Zoning Commission Meeting

### **C/U 2493 Rennie Hunt**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO ALLOW FOR SITE DEVELOPMENT BUSINESS WITH OFFICE AND OUTDOOR STORAGE AND PARKING TO BE**



**LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 0.45 ACRES, MORE OR LESS.** The property is lying on the northwest side of Roxana Road (Route 17), approximately 0.07-mile northeast of Pyle Center Road (Route 20). 911 Address: 35082 Roxana Road, Frankford. Tax Map Parcel: 533-6.00-19.00.

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

Mr. Whitehouse advised the Commission that the Application was related to some history with the Sussex County Constables Department, as there was a complaint made and investigated in August 2023; that a Notice of Violation was served, and the Applicant responded by submitting the Conditional Use application, working with staff to bring the application currently before the Commission.

The Commission found that Mr. Daniel Conway, Esq., with Scott and Shuman, PA, spoke on behalf of the Applicant, Mr. Rennie Hunt, who was also in attendance. Mr. Conway stated that Mr. Hunt purchased the property and began using the property for business purposes; that unintentionally, Mr. Hunt did run afoul of what was required to obtain Conditional Use approval; that Mr. Hunt is a Sussex County native, who has been growing his site development business; that the subject site is utilize primarily for office work; that the site houses and office of which two full-time employees work at during the day; that his other employees that assist with work at various project, utilize the property for parking vehicles, such as their personal vehicles; that they use the site as a gathering space, where they meet and then go to the projects as needed; that the property is also being used for storage of equipment, and other site development business vehicles such as trucks, vans, bobcats, and skid; that the site also stores equipment attachments needed for paving, concrete work, gravel work, and things of that nature; that Mr. Hunt is requesting a Conditional Use to continue operating and grow his business; that he had previously submitted proposed Conditional Use restrictions to the Commission for consideration; that the proposed use would be limited to the current site development business; that Mr. Hunt is not looking to expand, and no new buildings are proposed; that Mr. Hunt is not proposing to bring in anymore outside equipment or material; that there is an existing six foot tall white privacy fence surrounding the property; that the fence provides a level of both visual and physical separation between this parcel and surrounding parcels; that the business house would be limited to 7:30 am until 6:30 pm; that Mr. Hunt will submit a Final Site Plan that would finalize and reflect area for parking and other storage; that security lighting would be downward screened and directed so not to produce any nuisance or light onto surrounding properties; that Mr. Hunt would like to request permission to have one lighted sign, that shall not exceed 32 square feet in size per side, and Mr. Hunt would conform with any future DelDOT requirements imposed upon regarding entrance to the property.

Ms. Wingate questioned if the proposed business hours were from Monday through Friday.

Mr. Conway stated that Mr. Hunt would request that the business hours be permitted seven days a week.



Mr. Mears requested clarification on how much equipment would be stored on the site, the number of employees accessing the site, and parking at the site, and questioned if there was room on the site to store all the equipment mentioned.

Mr. Conway stated that there are two full-time employees at the site during the day; that at any given time, one could expect 10 to 15 vehicles to be located on the site, and there is enough room on the site to store all the previously mentioned equipment.

Ms. Wingate requested clarification on what Mr. Hunt's site development business entailed.

The Commission found that Mr. Rennie Hunt, Applicant, stated he performs site work on new construction, new developments, and residential as well.

Ms. Wingate stated that when she visited the site, there was an RV on the site with electricity provided to it, and she questioned if someone was residing in the camper.

Mr. Hunt stated that no one currently resides in the RV; that one of his guys placed the RV there, as they needed a place to stay for the weekend, and it was never pulled out, and he is willing to have it removed at any time.

Mr. Butler questioned Mr. Whitehouse as to what triggered the complaint.

Mr. Whitehouse advised the Commission that the violation was issued based on a report of an illegal business being performed on the site.

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, Chairman Wheatley closed the public hearing.

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

In relation to C/U 2493 Rennie Hunt. Motion by Mr. Mears to defer action for further consideration, seconded by Mr. Collins, and carried unanimously. Motion carried 5-0.

#### Minutes of the August 6, 2025, Planning & Zoning Commission Meeting

The Commission discussed this application, which had been deferred since July 23, 2025.

Mr. Robertson read Mr. Mears' motion into the record per Mr. Mears' request.

Mr. Mears moved that the Commission recommend approval of C/U 2493 Rennie Hunt for a site development business based upon the record made during the public hearing and for the following reasons:

1. The property is owned by the Applicant and has been used for the intended purpose for some

time. This Application is the result of a notice of violation, and it has been filed to bring the property into compliance with the zoning code. The Applicant is seeking to continue the existing business with a condition use.

2. The site is located within the Coastal Area according to the Sussex County Comprehensive Plan. This type of use is appropriate within the Coastal Area.
3. The property is zoned AR-1 Agricultural Residential. The property is in an area where other small businesses and similar uses exist. This use, with the conditions imposed upon it, will be consistent with these similar area uses and will not adversely affect any of the adjacent and neighboring properties.
4. DelDOT has determined that the use will only have a diminutive impact upon traffic and area roadways. Therefore, there will not be any adverse impact on traffic or neighboring roadways.
5. This small site development company provides a service to a wide variety of Sussex County residents and businesses, and it has a public or semi-public character that will benefit the residents and businesses of Sussex County.
6. There was no opposition to this application.
7. This recommendation is subject to the following conditions:
  - A. This use shall be limited to a site development business that performs off-site site development.
  - B. No manufacturing shall occur on the site. This prohibition includes the shredding, crushing or grinding of any materials and also includes the dyeing of mulch or similar materials.
  - C. No dirt, stone, sand, mulch, asphalt millings, crushed concrete and/or similar materials shall be stored on the site.
  - D. One lighted sign, not to exceed 32 square feet per side, shall be permitted. Given the location of the existing fencing and other contributing factors on this site, this sign must be located on the existing building.
  - E. The hours of operation shall be limited to 7:30am through 6:00 p.m. Monday through Friday. There shall not be any Saturday or Sunday hours. No materials shall be brought to the site or removed from the site outside of these permitted hours of operation.
  - F. The entire conditional use area shall remain enclosed with a solid fence. There shall not be any access to the adjacent properties. The location of this fencing shall be shown on the Final Site plan.
  - G. The applicant shall comply with all DelDOT requirements, including any entrance or roadway Improvements.
  - H. No fuel, gas, oil or similar liquids shall be stored on the site.
  - I. No junked, inoperable, unregistered or untitled vehicles or equipment shall be stored or parked on the site. No recreational vehicles, campers or tents shall be permitted on the site at any time.
  - J. The Final Site Plan shall clearly show all areas for vehicle and equipment storage and parking, and these areas shall be clearly marked on the site itself. There shall not be any parking or storage within the property's setbacks.
  - K. There is currently a recreational vehicle or trailer at the site. That must be removed within thirty (30) days of the approval of this conditional use.
  - L. No heavy- equipment repairs shall occur on the site.
  - M. Failure to comply with any of these conditions may be grounds for termination of the Conditional Use Approval.

- N. The Final Site Plan shall be submitted to the Sussex County Planning & Zoning Commission for review and approval within three (3) months of approval of this Conditional Use by Sussex County Council. Thereafter, all of the conditions of approval must be completed or complied with on or before six (6) months from the approval of this Conditional Use by Sussex County Council.

Motion by Mr. Mears, seconded by Mr. Collins, and carried to recommend approval of C/U 2493 Rennie Hunt, for the reasons and the conditions stated in the motion. Motion carried 4-0. Mr. Allen abstained.

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



## Memorandum

To: Sussex County Planning and Zoning Commission Members  
From: Ms. Lauren DeVore, AICP, Planner III  
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant  
Date: June 10<sup>th</sup>, 2025  
RE: Staff Analysis for C/U 2493 Rennie Hunt

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The purpose of this memo is to provide background and analysis for the Planning and Zoning Commission to consider as a part of Application C/U 2493 Rennie Hunt to be reviewed during the July 23<sup>rd</sup>, 2025, Planning and Zoning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

**Please note that the following staff analysis is for informational purposes only and does not prejudice any decision that the Sussex County Planning & Zoning Commission or Sussex County Council may wish to make as part of any Application submitted to the Department.**

**Tax Parcel ID:** 533-6.00-19.00

**Proposal:** The request is for a Conditional Use for Tax Parcel: 533-6.00-19.00 to allow for a Site Development Business with Office and Outdoor Storage and Parking. The property is lying on the northwest side of Roxana Road (Route 17), approximately 0.07-mile northeast of Pyle Center Road (Route 20) at 35082 Roxana Road in Frankford, Delaware. The subject property consists of 0.45-acres +/-.

**Zoning:** The Parcel is zoned Agricultural Residential (AR-1) District. The adjacent parcels to the north, east, west, and southeast on the opposite side of Roxana Road (Route 17) are also zoned Agricultural Residential (AR-1) District.

**Future Land Use Map Designation w/in Comprehensive Plan:** Coastal Area

**Applicability to Comprehensive Plan:** The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use Map (FLUM) in the Plan indicates that the subject property is designated as a Growth Area designation of "Coastal Area." The adjacent properties to the north, east, west and southeast on the opposite side of Roxana Road (Route 17) also have a Future Land Use Map designation of "Coastal Area."

As outlined in the 2018 Sussex County Comprehensive Plan, "Coastal Areas" are regions that "contain ecologically important, sensitive characteristics" and are areas where "the County encourages only appropriate forms of concentrated new development," as "environmental features are [often] in play" (Sussex County Comprehensive Plan, 4-9). Furthermore, also noted in the Plan,

“Coastal Areas” are “areas that can accommodate development provided that special environmental concerns are addressed” (Sussex County Comprehensive Plan, 4-15).

The Plan states that in allowing for appropriate mixed-use development, “careful mixture of homes with light commercial, office and institutional uses can be appropriate to provide for convenient services and to allow people to work close to home” (Sussex County Comprehensive Plan, 4-15).

**Further Site Considerations:**

- **Density: N/A**
- **Open Space Provisions: N/A**
- **Agricultural Areas:** Staff note that the Site is within the vicinity of active agricultural lands to include the property to the rear (Parcel 23.00) and also multiple Parcels (91.00, 91.01 and 85.00) to the southeast of the subject property which also appear to be currently farmed.
- **Interconnectivity: N/A**
- **Transportation Improvement District (TID):** The Parcel is not located within any established Transportation Improvement Districts (TIDs). The DelDOT Service Level Evaluation Response (SLER) noted that the anticipated traffic impact of the proposed use would be “diminutive” and generating less than 50 vehicle trips per day.
- **Forested Areas: N/A**
- **Wetlands Buffers/Waterways: N/A**
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** The Property is located within the “Agriculture” Tax Ditch Area and is located within Flood Zone “X” – Areas determined to be outside of the 1% annual chance flood and outside of the 500-year floodplain.

**Existing Conditional Uses within the Vicinity of the Subject Site**

Existing Conditional Uses within the Vicinity of the Subject Site: Since 1970, there have been forty-four (44) Conditional Use applications within a 1-mile radius of the Application site.

The current status of those Applications are outlined below:

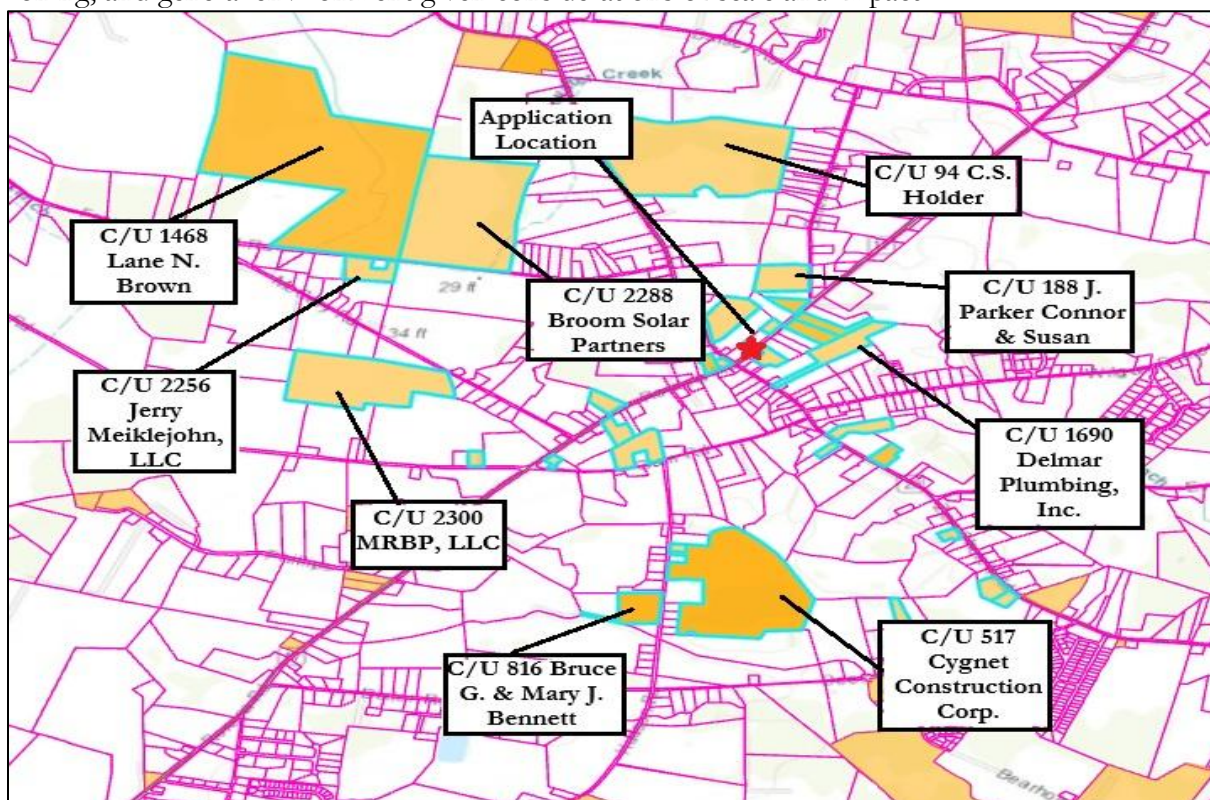
- **Four (4) Applications were Withdrawn.**
- **One (1) Application is Pending (Conditional Use No. 2494 related to this Application with the same Applicant.)**
- **Four (4) Applications were Denied.**
- **Thirty-three (33) Applications were Approved.**

Staff Analysis  
C/U 2493 Rennie Hunt  
Planning and Zoning Commission

Conditional Use Number	APPLICANT	Tax Parcel #	Current Zoning	Proposed Use	CC Decision Date	CC Decision	Ordinance Number
1750	John Gilman	533-6.00-25.01	<Null>	Athletic Fields	10/28/2008	Approved	2002
1735	Richard & Sonya West	134-15.00-142.00	AR-1	Airport/Heliport	6/24/2008	Approved	1981
702	Judy Rogers & Asher	533-10.00-49.01	AR-1	beauty shop	N/A	Withdrawn	N/A
188	J Parker Connor & Susan	533-6.00-16.01	AR-1	radio tower & transmitting bldg	N/A	Approved	N/A
438	Jessie E Bivens	533-10.00-51.00	AR-1	poultry house on less than 5-acres	N/A	Approved	N/A
718	Hazel J. Lynch	533-10.00-54.00	AR-1	antique sales & storage shop	4/12/1983	Approved	N/A
1329	John & Mary Frey	533-11.00-22.01	AR-1	used car sales	4/11/2000	Denied	N/A
1383	Gregory P. Allen & Christopher Allen	533-6.00-16.00	AR-1	heating/air/plumbing/electrical	3/13/2001	Approved	1436
1885	James Mershon	533-6.00-60.03	AR-1	Bait/tackle shop	4/12/2011	Approved	2187
1956	Mark A. Giblin	533-6.00-60.02	AR-1	Towing Service and Landscape Business	3/19/2013	Approved	2297
1804	Wayne Drywall	533-6.00-31.01	AR-1	office/warehousing	1/5/2010	Approved	2093
788	Elizabeth Rogers Atkinson	533-5.00-63.00	AR-1	amend CU 513	N/A	Withdrawn	N/A
141	Edward W Pyle Estate	533-5.00-62.00	AR-1	medical service center	N/A	Approved	N/A
1468	Lane N. Brown	533-5.00-46.00	AR-1	playing area for paintball games	12/10/2002	Approved	1575
916	James W. Ward	533-10.00-78.03	AR-1	multi-family	10/9/1990	Denied	N/A
1153	Mark Beam & Keith Smith	533-6.00-91.02	AR-1	storage	N/A	Withdrawn	N/A
1641	Carroll & Diane Brasure	533-11.00-10.00	AR-1	service vehicles parking	3/28/2006	Approved	1838
818	Cygnnet Construction Corp	533-11.00-31.00	AR-1	borrow pit expansion	5/7/1985	Approved	246
1005	James E. Harrington	533-11.00-50.02	AR-1	Boat & Trailer Storage and Farm Equipment	7/14/1992	Approved	843
426	Ronald Chandler & Kathleen	533-11.00-22.00	AR-1	repair & service all type of motor vehicles	N/A	Approved	N/A
511	Charles & Holly Carmack	533-11.00-17.00	AR-1	drywall contractor, building material sales & warehouse of building materials	N/A	Approved	N/A
1273	Roxana Vol. Fire Company	533-11.00-52.00	AR-1	expansion of fire station	3/30/1999	Approved	1296
173	Janice L. Bunting	533-5.00-81.00	AR-1	beauty shop	N/A	Approved	N/A
1690	Delmar Plumbing, Inc.	533-6.00-86.00	AR-1	Plumbing	8/7/2007	Approved	1917
2087	John F. and Brenda L. Fegelein, Trustees	533-6.00-18.01	AR-1	Auto Repair Shop	8/22/2017	Approved	2517
94	C S Holder	533-5.00-67.00	AR-1	manufactured home park	N/A	Approved	N/A
1713	Keith Smith	533-6.00-30.00	AR-1	Commercial Storage Building	4/1/2008	Approved	1961
2256	Jerry Meiklejohn LLC	533-5.00-86.00	AR-1	Hardscaping, Outdoor Living Construction, and Commerical Business	8/31/2021	Approved	2796
1652	Ken Gillam & Joan Gillam	533-11.00-27.00	AR-1	boat storage	6/5/2006	Withdrawn	N/A
1071	Prettyman Broadcasting Co.	533-6.00-16.00	AR-1	radio station broadcast studio	4/12/1994	Approved	962
156	Roxana Volunteer Fire Co	533-11.00-52.00	AR-1	Equipment Storage	8/21/1973	Approved	N/A
190	Brasford Service Corp	533-5.00-46.00	AR-1	Borrow Pit	3/12/1974	Approved	N/A
304	Blue Willow Gift Shop	533-5.00-63.00	AR-1	shop for sale of gifts, antiques, gard & patio furnishings, flower arrangements & the like	12/9/1975	Approved	N/A

365	Gladys Swann	533-11.00-31.00	AR-1	Manufactured Home Park	9/7/1976	Denied	N/A
513	Elizabeth Rogers Atkinson	533-5.00-63.00	AR-1	Wedding Mall	1/16/1979	Approved	N/A
517	Cygnat Construction Corp.	533-11.00-31.00	AR-1	Borrow Pit	3/17/1981	Approved	N/A
1933	Mark A. Giblin	533-6.00-60.02	AR-1	Towing Service and Landscape Business	12/11/2012	Approved	2283
2288	Broom Solar Partners	533-5.00-47.00	AR-1	Solar Farm	3/22/2022	Approved	2841
2300	MRBP, LLC	533-5.00-38.00	AR-1	Borrow Pit	9/27/2022	Denied	N/A
2389	AWH Properties, LLC	533-11.00-23.02	AR-1	Boat/RV Storage	4/9/2024	Approved	2998
2493	Rennie Hunt	533-6.00-19.00	AR-1	operation of a Site Development business office w/ employees	Pending	Pending	Pending
2494	Rennie Hunt	533-10.00-46.02	AR-1	Storage of work equipment, trucks, associated with site development business	Pending	Pending	Pending
2546	James Mershon	533-6.00-60.03	AR-1	Boat Storage	N/A	N/A	N/A
2428	TN Hitch, LLC	533-6.00-30.00	AR-1	Amendment to CU 1713	8/13/2024	Approved	3035

Based on the analysis provided, the Conditional Use to allow for a Site Development Business with Office and Outdoor Storage and Parking could be consistent with the surrounding land uses, zoning, and general environment given considerations of scale and impact.



Map of Conditional Uses w/in a 1 Mile Radius of the Application Site.








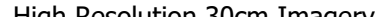




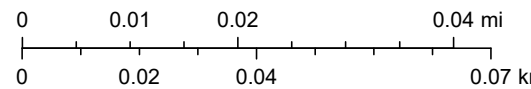


# Letter Landscape Parcel Details



<b>PIN:</b>	<b>533-6.00-19.00</b>
<b>Owner Name</b>	HUNT RENNIE SHAFFER REV TR
<b>Book</b>	5891
<b>Mailing Address</b>	32014 BAYWIND WALK
<b>City</b>	SELBYVILLE
<b>State</b>	DE
<b>Description</b>	
<b>Description 2</b>	
<b>Description 3</b>	
<b>Land Code</b>	

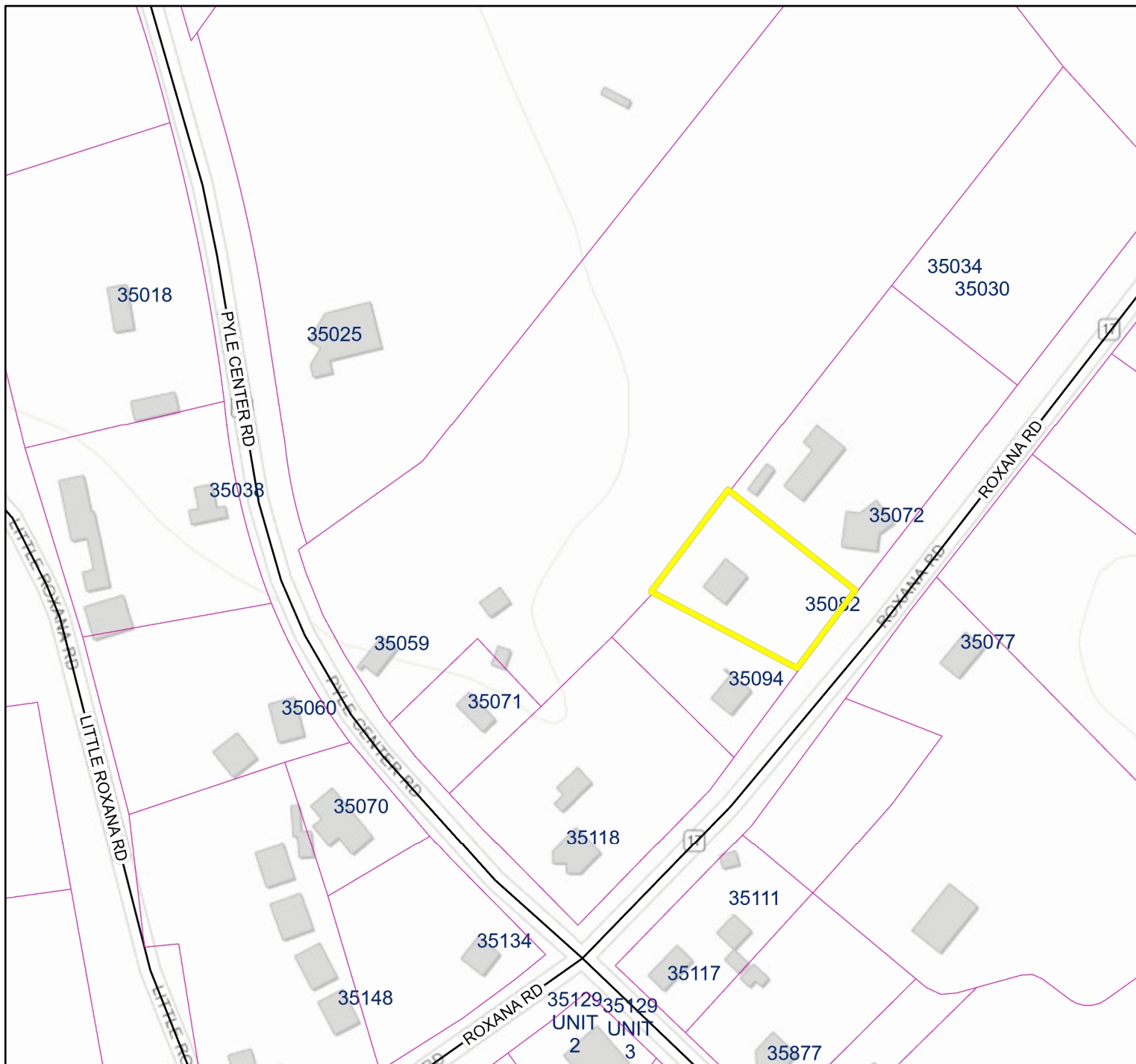
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-  911 Address
-  Streets
-  County Boundaries
-  World Imagery
-  Low Resolution 15m Imagery
-  High Resolution 60cm Imagery
-  High Resolution 30cm Imagery
-  Citations
-  30cm Resolution Metadata





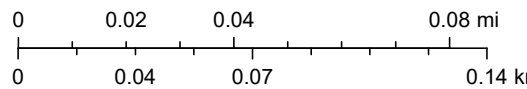


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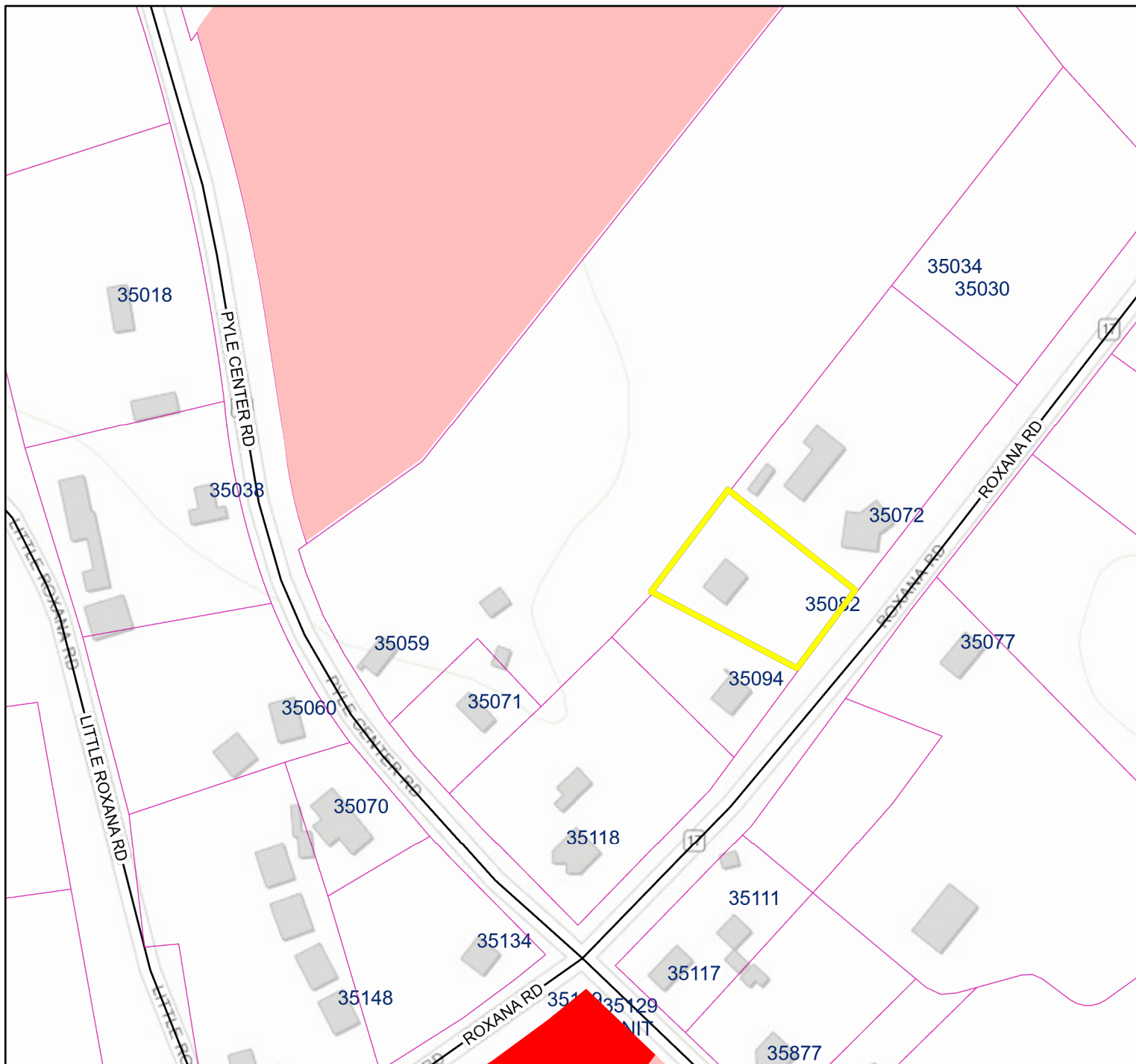
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- Tax Parcels
- 911 Address
- Streets
- County Boundaries
- Citations



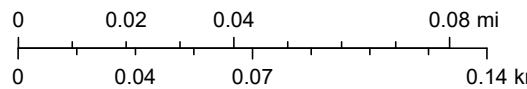


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<b>Description 2</b>	
<b>Description 3</b>	
<b>Land Code</b>	

- Tax Parcels
- 911 Address
- Streets
- County Boundaries
- Citations



**Introduced: 6/17/25**

**Council District 4: Mr. Hudson**

**Tax I.D. No.: 533-6.00-19.00**

**911 Address: 35082 Roxana Road, Frankford**

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO ALLOW FOR A SITE DEVELOPMENT BUSINESS WITH OFFICE AND OUTDOOR STORAGE AND PARKING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 0.45 ACRES, MORE OR LESS**

**WHEREAS, on the 13<sup>th</sup> day of November 2023, a Conditional Use Application, denominated Conditional Use No. 2493 was filed on behalf of Rennie Hunt; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2025, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2493 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2025, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.**

**NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:**

**Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2493 as it applies to the property hereinafter described.**

**Section 2. The subject property is described as follows:**

**ALL that certain tract, piece or parcel of land lying and being situate in Sussex County, Delaware, and lying on the northwest side of Roxana Road (Route 17), approximately 0.07 mile northeast of Pyle Center Road (Route 20) and being more particularly described in the attached legal description prepared by Procino-Wells & Woodland, LLC, said parcel containing 0.45 acre, more or less.**

**This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.**



## Memorandum

To: Sussex County Council  
The Honorable Douglas B. Hudson  
The Honorable Jane Gruenebaum  
The Honorable Matt Lloyd  
The Honorable Steve McCarron  
The Honorable John L. Rieley

From: Jamie Whitehouse, AICP, Director of Planning & Zoning

CC: Everett Moore, County Attorney

Date: November 26, 2025

RE: County Council Report for C/Z 2037 filed on behalf of Mulberry Knoll Associates, LLC

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The Planning and Zoning Department received an application (C/Z 2037 filed on behalf of Mulberry Knoll Associates, LLC) for a Change of Zone from an AR-1 Agricultural Residential Zoning District to a C-4 Planned Commercial Zoning District at Tax Parcels 334-12.00-46.00 & 47.00. The property is located on the northwest side of John J. Williams Highway (Rt. 24), at the northwest corner of the intersection with Mulberry Knoll Road (SCR 284). The parcel size is 73.5 ac. +/-

The Planning & Zoning Commission held a Public Hearing on the application on September 17, 2025. At the meeting of October 1, 2025, the Commission discussed the application and then deferred action on the application for further consideration. At the meeting of October 15, 2025, the Planning & Zoning Commission recommended approval of the application for the 10 reasons of approval and subject to the 17 recommended conditions of approval as outlined within the motion (copied below).

The County Council held a Public Hearing on the application at the meeting on October 21, 2025. At the conclusion of the meeting, Council deferred action on the application, holding the public record open for the limited purpose of obtaining additional information from State Agencies, including DelDOT and DNREC, by close of business on November 18, 2025. Following receipt of the responses, members of the public and the applicant would have an additional 14 calendar days to comment on the responses received from the State Agencies. The Public Record on the application would then automatically close at the end of business on December 2, 2025.

Below is a link to the minutes of the October 21, 2025, County Council meeting.

[Link to the Minutes of the October 21, 2025, County Council Meeting](#)



Below are the minutes from the Planning & Zoning Commission meeting on September 17, 2025, and October 15, 2025

Minutes of the September 17, 2025, Planning & Zoning Commission Meeting

**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 he 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.

#### Minutes of the October 15, 2025, Planning & Zoning Commission Meeting

The Commission discussed the application, which had been deferred since September 17, 2025.

Mr. Collins moved that the Commission recommend approval of C/Z 2037 Mulberry Knoll Associates, LLC for a change in zone from the AR-1 Agricultural Residential District to the C-4 Planned Commercial District based on the record made during the public hearing and for the following reasons:

1. This is an application to rezone a 73.5-acre parcel of land along Route 24 in eastern Sussex County to the C-4 Planned Commercial District. The purpose of the C-4 District is “to encourage carefully planned large-scale commercial, retail, and mixed-use developments as a means of creating a superior shopping, working, and living environment through unified developments, and to provide for the application of design ingenuity while protecting existing and future developments and achieving the goals of the Comprehensive Plan.” This purpose is satisfied with this application.

2. Route 24 is classified by DelDOT as a principal arterial roadway, and this property is within the Henlopen Transportation Improvement District created jointly by DelDOT and Sussex County. This project will have access to Route 24 as well as other adjacent roads. In addition, a TIS was prepared by the Applicant's traffic engineers and approved by DelDOT. On top of the improvements required by the TIS, the developer's contributions to roadway improvements within the Henlopen TID are set forth in DelDOT's TIS Review Letter dated April 30, 2025. It is estimated that these improvements will cost approximately \$10,000,000.00.
3. The site is within the Commercial Area according to the Sussex County Comprehensive Plan and its Future Land Use Map and it has been designated with this classification since the current Plan was adopted in 2018. C-4 Zoning is an appropriate zoning designation within the Map's Commercial Area. As a result, the County anticipated that large-scale commercial development would occur at this location. Therefore, this is not sprawl or uncontrolled growth. Instead, it follows Sussex County's long-term planning goals, designating this as an appropriate area for commercial growth and development.
4. The entire site is cleared farmland that has been in agricultural use for more than a century. There are no environmental features or Resources as that term is defined in the Sussex County Code on the site. In furtherance of this, the Applicant has provided an Environmental Assessment and Public Facilities Evaluation as part of the Application.
5. This site is in an area with a variety of existing uses, including two schools, Delaware State Police Troop 7, a Sussex County EMS paramedic station, Beebe Hospital's medical campus, land approved for a convenience store, and a variety of housing developments. On the other side of the Beebe medical campus are intensive commercial uses, including a large hotel, bank, car dealership, and an apartment complex. The site is also less than one mile from the Route One commercial corridor. This is an appropriate location for C-4 zoning and the commercial center proposed by the Applicant.
6. The C-4 zoning combines a zoning application with a site plan review, much like a Residential Planned Community zoning. Here, the Applicant has provided a design that includes a wide variety of grocery, retail, restaurant, food service, and other commercial uses in close proximity to many homes. This benefits the residents of this community and other Sussex County residents by reducing the need to travel farther away on area roadways for these uses.
7. There is evidence in the record that the project will have a positive impact on Sussex County's economy. In addition, it will be required to make substantial annual tax payments to the local school district without generating any additional enrollment within that school system.
8. The use will be served by central water and Sussex County sewer.
9. The site is located along a bus transit route operated year-round by DART that serves Millsboro, Long Neck, and Rehoboth Beach, and bus stops will be provided at the site.
10. The recommended conditions of approval require the proposed gas station to be relocated away from the northeast corner of the site to a more internal location. This removes this more intensive use from the existing wellhead protection area and further away from residential properties.
11. With conditions imposed, the proposed C-4 Zoning meets the purpose of the Zoning Code and Comprehensive Plan in that it promotes the orderly growth, convenience, order, prosperity, and welfare of the County and its residents.
12. This recommendation is subject to the following conditions:
  - A. The proposed fuel station shown at the northeast corner of the site shall be moved to a more internal location within the site that is not within a wellhead protection area or

adjacent to existing residential properties. This will mitigate any potential harm to the wellhead protection area and will reduce traffic, light pollution, and noise immediately next to homes. In addition, the site shall comply with the applicable requirements of Chapter 89 of the Sussex County Code regarding Source Water and Wellhead Protection.

- B. All entrances, intersections, roadways, and multimodal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's determination, including specifically the requirements contained in DelDOT's April 30, 2025, TIS Review Letter, along with any additional requirements that DelDOT may impose. These roadway improvements will include off-site roadway improvements and a signalized entrance constructed to provide safe vehicular and pedestrian access to the site. Given the location and size of the project, the developer shall coordinate with DelDOT and provide a phasing schedule that shall establish the timeframe and phasing of the construction of the commercial buildings and the construction of the off-site entrance and roadway improvements that DelDOT will require as a result of this development. The phasing schedule shall be coordinated between the applicant and DelDOT, and it shall be presented to the Planning and Zoning Commission for consideration as part of the Final Site Plan.
- C. The developer shall cooperate and coordinate with Sussex County and its Emergency Medical Services team to explore the installation of a controlled-access interconnection between the County's EMS station on Plantations Road and this site.
- D. There shall not be any truck deliveries to or from this site via Mulberry Knoll Road until that roadway is fully improved and operational between Route 24 and Cedar Grove Road. There shall be signage installed along the site's Mulberry Knoll Road boundary confirming this prohibition. This shall also be noted on the Final Site Plan.
- E. There shall not be any waivers granted from the required front yard setback for parking or buildings. This area shall be improved with vegetation to create a visual buffer from Route 24. The nature, type, and location of these plantings shall be presented to the Planning & Zoning Commission for consideration as part of the Final Site Plan.
- F. There shall be vegetation planted along Mulberry Knoll Road to screen this development from that roadway and the homes located on the opposite side of it. The nature, type, and location of these plantings shall be presented to the Planning & Zoning Commission for consideration as part of the Final Site Plan.
- G. The development shall be connected to the Sussex County sanitary sewer system in accordance with the requirements and specifications of the Sussex County Engineering Department.
- H. The development shall be served by a central water system providing adequate drinking water and fire protection as required by applicable regulations.
- I. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements, and the project shall utilize Best Management Practices to construct and maintain these fixtures. The Final Site Plan shall contain the approval of the Sussex Conservation District.
- J. The Final Site Plan shall include a lighting plan showing the locations of all external luminaries within the site. The Plan shall include a photometric plan with contours to show the cumulative spill of all luminaries to be sited relative to adjoining parcels.
- K. As voluntarily proffered by the Applicant, the Applicant and/or its successors and assigns shall make a contribution to the Rehoboth Beach Volunteer Fire Company and the Lewes Volunteer Fire Company in the total amount of \$100,000.00. This contribution shall be made on a *pro rata* basis in equal shares to the two Fire Companies at the time any



Certificate of Occupancy is issued following the construction of a building within the site, based on the square footage of that building as a percentage of the total project square footage of 663,213. This contribution requirement shall be set forth on the Final Site Plan. A copy of this Ordinance shall also be provided to both Fire Companies as a condition of Final Site Plan approval.

- L. During sitework and initial construction, all dumpsters, roll-off containers or similar containers for trash and construction debris shall be covered to eliminate trash and construction materials from blowing across this property or onto neighboring and adjacent properties.
- M. There shall be solid green fencing along the northwestern boundary of this site adjacent to the land in Agricultural Preservation. The vegetation along this boundary shall be planted on the outside of this fencing between the fence and the property boundary. These plantings shall be of a size and variety to screen the fencing and the rear of this property, and the nature, type, and location of these plantings shall be presented to the Planning & Zoning Commission for consideration as part of the Final Site Plan.
- N. All dumpsters and trash containers on the site shall be enclosed and screened from the view of neighboring properties and roadways. The location of these enclosures shall be shown on the Final Site Plan.
- O. No structures, buildings, temporary storage containers (including Conex or similar containers), trash compactors, or equipment shall be located within the parking areas or drive aisles to the rear of the site. There shall be signage installed along the rear drive aisle confirming this, with the location of the signage shown on the Final Site Plan. This prohibition shall not apply to enclosed dumpster locations approved as part of the Final Site Plan.
- P. The Final Site Plan shall include the Agricultural Use Protection Notice.
- Q. The Final Site Plan shall depict or note these conditions of approval, and it shall be subject to the review and approval of the Sussex Planning & Zoning Commission.

Motion by Mr. Collins, seconded by Mr. Mears, and carried to recommend approval of C/Z 2037 Mulberry Knoll Associates, LLC for the reasons and the conditions stated in the motion. Motion carried 4-1.

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

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

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

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

Mr. Collins voted nay, as he had concerns regarding the traffic considerations and concerns expressed by citizens, and that DelDOT may not be able to make the improvements needed to alleviate their [the citizens] concerns.


Madam Chair Wingate voted yea, for the reasons and the conditions stated in the motion.





Exit HERE, Gaithersburg, MD, Maryland

**C/Z 2037 - Mulberry Knoll Associates**  
**Aerial Map**  
**TM# 334-12.00-46.00 & 47.00**

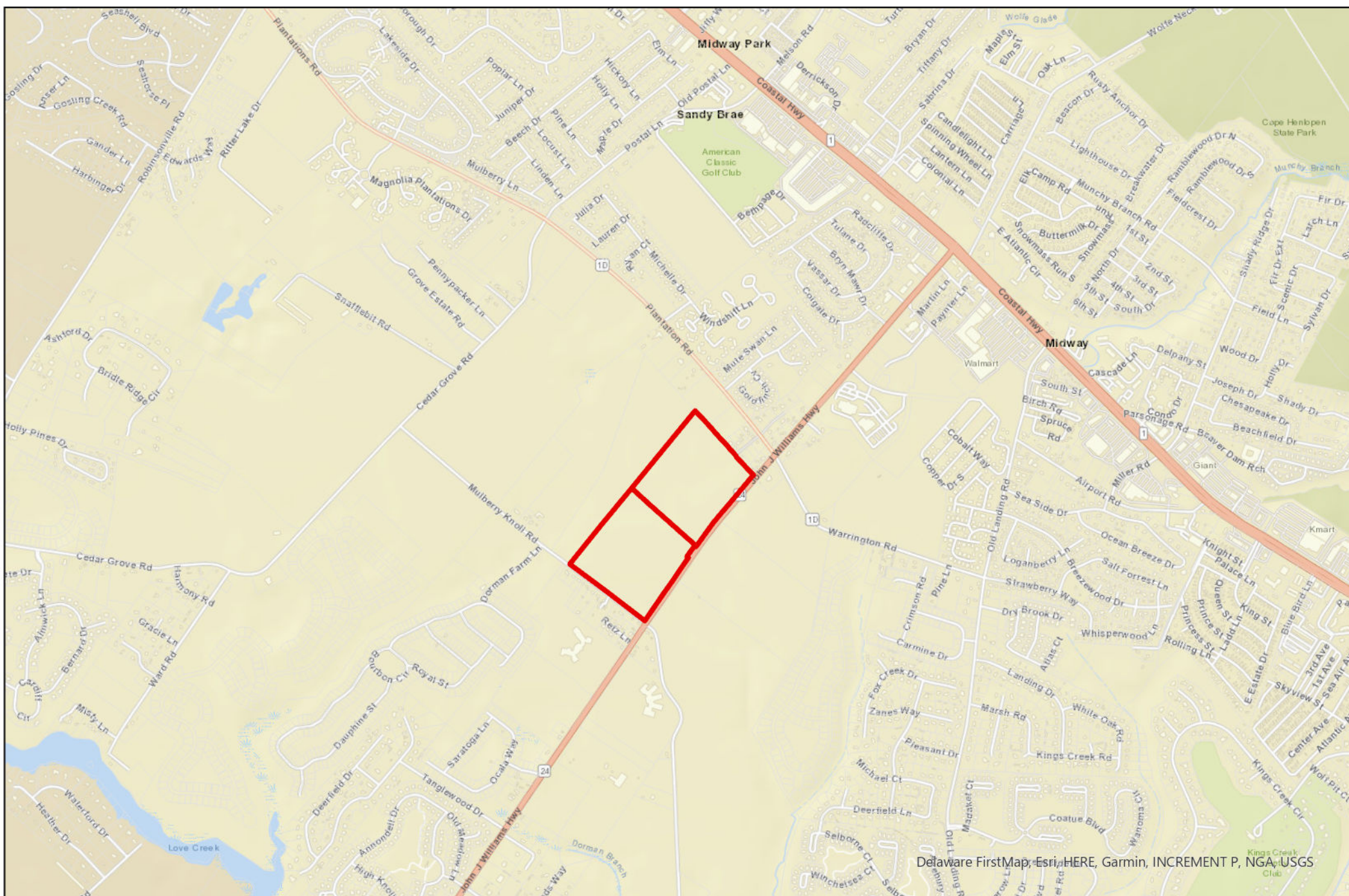
 **CZ 2037 - Mulberry  
Knoll Assoc.**




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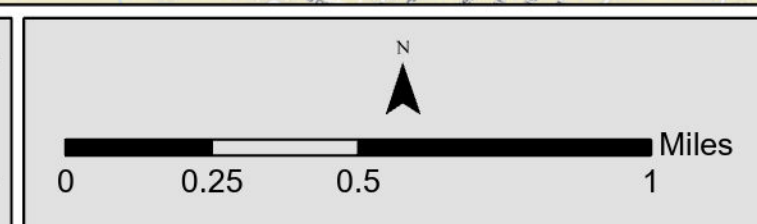




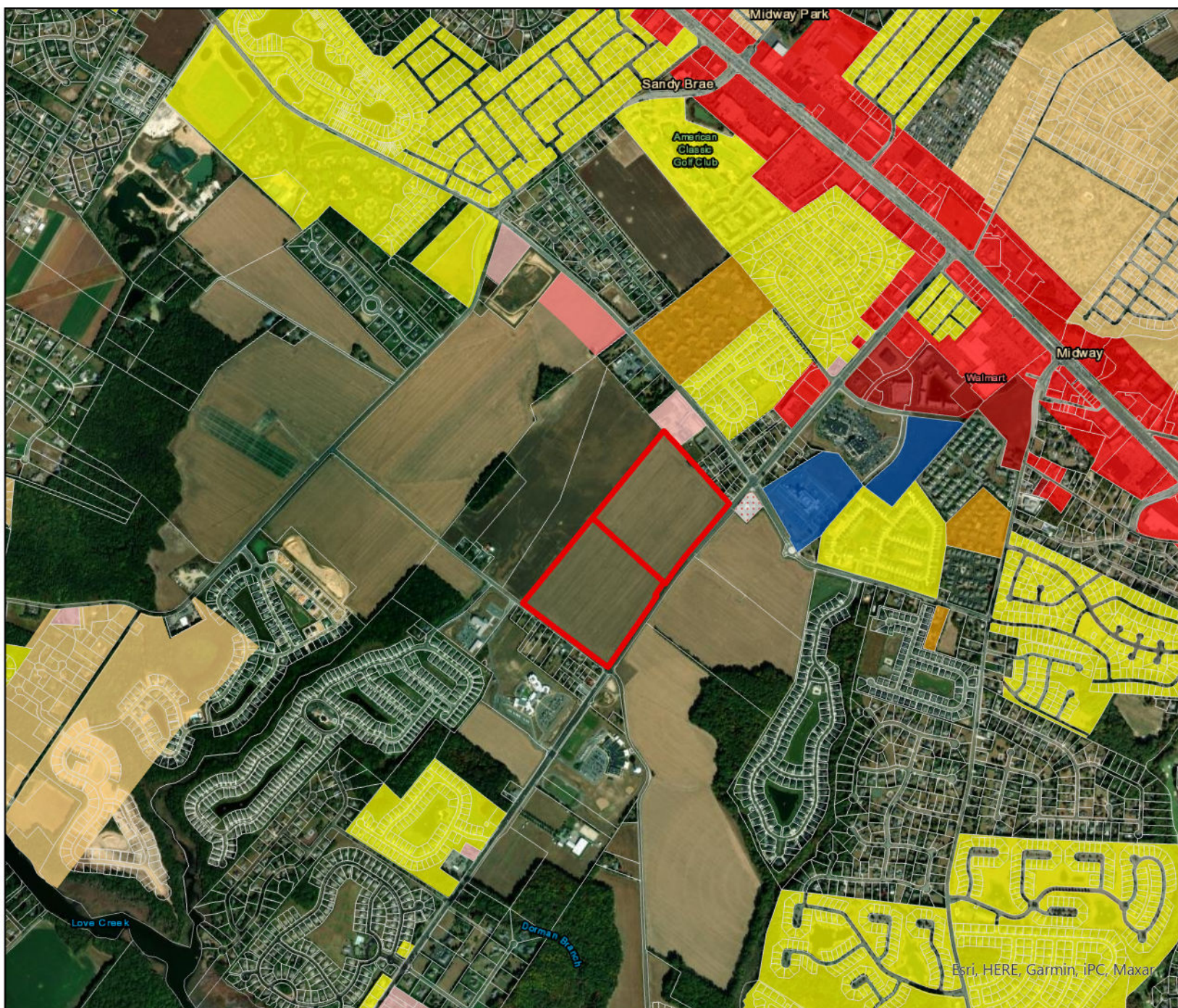
**C/Z 2037 - Mulberry Knoll Assoc.**  
**Streets Map**  
**TM# 334-12.00-46.00 & 47.00**



**CZ 2037 - Mulberry Knoll**





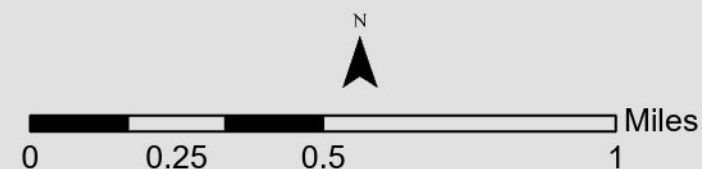


## Zoning

- Agricultural Residential - AR-1
- Agricultural Residential - AR-2
- Medium Residential - MR
- General Residential - GR
- High Density Residential - HR-1
- High Density Residential - HR-2
- Vacation, Retire, Resident - VRP
- Commercial Residential - CR-1
- Institutional - I-1
- Marine - M
- Limited Industrial - LI-1
- Light Industrial - LI-2
- Heavy Industrial - HI-1
- C1: General Commercial
- C2: Medium Commercial
- C3: Heavy Commercial
- C4: Planned Commercial
- C5: Service/Limited Manufacturing
- B-1: Neighborhood Business
- B-2: Business Community District
- B-3: Business Research

**C/Z 2037 - Mulberry Knoll Assoc.  
Zoning Map  
TM# 334-12.00-46.00 & 47.00**

CZ 2037 - Mulberry Knoll





**Introduced: 8/19/25**

**Council District 3: Ms. Gruenebaum  
Tax I.D. No.: 334-12.00-46.00 & 47.00  
911 Address: N/A**

**ORDINANCE NO. \_\_\_\_**

**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**

**WHEREAS, on the 6<sup>th</sup> day of September, 2024, a zoning application, denominated Change of Zone No. 2037, was filed on behalf of Mulberry Knoll Associates, LLC; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2025, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 2037 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2025, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County,**

**NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:**

**Section 1. That Chapter 115, Article II, Subsection 115-7, Code of Sussex County, be amended by deleting from the Comprehensive Zoning Map of Sussex County the zoning classification of [AR-1 Agricultural Residential District] and adding in lieu thereof the designation C-4 Planned Commercial District as it applies to the property hereinafter described.**

**Section 2. The subject property is described as follows:**

**ALL that certain tract, piece or parcel of land, lying and being situate in Sussex County, Delaware, and 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) and being more particularly described in the attached survey prepared by Bohler Engineering, said parcels containing 73.5 acres, more or less.**

**This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.**



## Memorandum

To: Sussex County Council  
The Honorable Douglas B. Hudson  
The Honorable Jane Gruenebaum  
The Honorable Matt Lloyd  
The Honorable Steve McCarron  
The Honorable John L. Rieley

From: Jamie Whitehouse, AICP, Director of Planning & Zoning

CC: Everett Moore, County Attorney

Date: December 4, 2025

RE: County Council Report for Ordinance 23-07 relating to the Future Land Use Map Element of the Comprehensive Plan

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On April 14, 2023, the Planning and Zoning Department received a request to amend the Future Land Map element of the Comprehensive Plan in relation to Tax Parcels 235-27.00-11.00, 12.00, 13.00, 14.00 & 334-4.00-34.00. The properties are lying on the north and south side of Log Cabin Hill Road (S.C.R. 247), the east and west side of Cool Spring Road (S.C.R. 290), the east side of Hudson Road (S.C.R. 258), and the north side of Lewes Georgetown Highway (Rt. 9) at the intersection of Cool Spring Road (S.C.R. 290) and Lewes Georgetown Highway (Rt. 9). 911 Addresses: N/A, 28645 Log Cabin Road, Lewes, & 16915 Hudson Road, Milton. The parcel size is 637 ac. +/-

Specifically, the request was to consider a change from the Low Density area designation to the Coastal Area designation.

The Planning & Zoning Commission held a Public Hearing on the Ordinance on May 7, 2025. At the meeting of July 2, 2025, the Commission recommended approval of the Ordinance for the 16 reasons of approval as outlined within the motion (copied below).

The County Council held a Public Hearing on the Ordinance at the meeting on November 4, 2025. At the conclusion of the meeting, the Council deferred action on the Ordinance, holding the record open for the limited purpose of obtaining responses from State Agencies, including DelDOT and DNREC, to be received by the close of business on December 2, 2025. The responses would then be announced at a County Council meeting, after which members of the Public and the applicant would have a period of 14 calendar days to submit, in writing, any written comments on the responses received from State Agencies.

Below is a link to the minutes of the November 4, 2025, County Council meeting:



[Link to the Minutes of November 4, 2025, County Council Meeting](#)

Below are the minutes from the Planning & Zoning Commission meeting on May 7, 2025, and July 2, 2025

Minutes of the May 7, 2025, Planning & Zoning Commission Meeting

Chairman Wheatley stated that Ord. 23-07, C/Z 2010 CMF Cool Spring, LLC, C/U 2441 CMF Cool Spring, LLC, and C/U 2442 CMF Cool Spring, LLC were all applications for the same properties, with the same Applicant; that due to this, the Commission would allow the Applicant to consolidate the presentation for all four applications into one presentation. Chairman Wheatley

stated that the Commission will consider each application separately when making a motion.

**ORD. 23-07**

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

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the Applicant's 2023 application for the Ordinance, a copy of the Applicant's exhibit booklet and the Applicant's plans and exhibits, a copy of the PLUS comments that were received following that presentation to the State Planning Office, a copy of letters that have been exchanged with the Office of State Planning Coordination following that PLUS hearing, a copy of a letter received from the State Department of Agriculture, comments received from the Sussex County Engineering Department Utility Planning Division, a copy of the Applicant's proposed findings of fact, a copy of the letter received from the local school districts, and we have received 336 responses which are included in the paperless packet.

Chairman Wheatley advised the Commission and the members of the public the order that the presentation and public hearing would proceed.

The Commission found that Mr. James Fuqua, Esq., of Fuqua, Willard & Schab, P.A., spoke on behalf of the Applicants, Carl Freeman Companies and CMF Cool Spring, LLC; that there are four (4) applications being presented to the Commission that involve 637 acres of land that's comprised of five (5) tax map parcels located on the north side of Route 9 at Cool Spring; that the first application is a request to amend the Comprehensive Plans Future Land Use Map; that the 637 acres are currently designated as being in the low density rural area of the Future Land Use Map; that the amendment proposes a change from the existing designation to the coastal area designation, which is one of the planned growth areas; that the second application is for a Change of Zone from AR-1 (Agricultural Residential) to MR (Medium Density) within a RPC (Residential Planned Community) overlay for the entire 637 acres; that the RPC would be called Cool Spring Crossing and it would consist of residential villages with single family and multifamily homes and the commercial Town Center; that the third

application is a Conditional Use for educational facilities to be located in the Town Center; that the final application is for Conditional Use for an assisted living facility and associated medical offices that would be next to the Town Center; that all four (4) applications are interrelated; that these applications propose a significant large scale, single family and multifamily residential community consisting of 1922 residential units and a Town Center comprised of retail, service, educational and recreational uses, as well as an assisted living facility and medical offices; that the demand for residential housing in Sussex County is the reason Freeman filed these applications and the situation can be summarized in four (4) comments:

1. In 2022, 78% of all residential growth in the state of Delaware was in Sussex County.
2. More than 33,000 people have moved to Sussex County from other states over the past four (4) years and this migration is expected to keep rising for the next three (3) decades.
3. Growth is rapid in Sussex County.
4. There is a lack of affordable multifamily housing units to keep pace with the growing population.

That those four (4) comments are the comments made by David Edgell, the Director of the Delaware Office of State Planning Coordination, at a presentation made to the Sussex Preservation Coalition in February of 2024; that in agreement with Director Edgell's comments, on the land use issue in Sussex County, the two (2) issues that arise are a strong demand for residential housing and an even stronger need for affordable housing; that the Applicant is proposing Cool Spring Crossing as a Master Plan, a large scale mixed residential use community and a Town Center with a wide variety of uses; that the development is projected to be constructed in multiple phases over a 20 year build out time frame; that considering the zoning approval, site plan approval and agency permitting for this type of development will probably take two (2) to three (3) years, Cool Spring Crossing is not anticipated to be completed until 2048; that Freeman has an established history of developing large scale communities here in Sussex County and has proven it has the experience, the knowledge and the ability to develop a large scale mixed-use community like Cool Spring Crossing; that the request to amend Comprehensive Plans Future Land Use Map from low density, which is a rural area to a Coastal area which is a growth area under the plan is to ensure that the proposed MR-RPC development would be within compliance; that the Comprehensive Plan states that the proposed MR-RPC is not a zoning district designated as being appropriate in a low density area, but is appropriate within the Coastal area; that the Office of State Planning issued a PLUS review letter objecting and opposing this original request on January 13, 2022; that the current request for amendment brings up the question to the Commission as to whether the area of Cool Spring Crossing is still considered to be a rural area in which it would remain as low density on the Future Land Use Map; that following are the facts and reasons for supporting the Coastal Area change:

1. To the West of the Cool Spring Crossing proposed property is the Bay Health Emergency Center, with an additional land of residential development including approximately twelve (12) different subdivisions.
2. There is the Sussex Consortium, a special needs school, part of the Cape Henlopen School District not far from the proposed property.
3. There is a commercial corridor of land including a variety of businesses West of Fisher Road.
4. The Stephen Hudson Park is being developed on the South side of Route 9 at Cool Spring Road with a connection to the Lewes Georgetown Bike Trail.



5. The frontage of Cool Spring Crossing is along Route 9, which is a major Sussex County road, which is necessary for the Sussex County Zoning Ordinance to be located along a major arterial roadway.
6. The Delaware Transit Corporation operates a DART bus along Route 9 from Georgetown to the Lewes Park and Ride, with East and West stops all along Route 9, with the offer to install new stops near the Cool Spring Crossing development.
7. The Lewes Georgetown Bike Trail is adjacent to the property with a crossover of Route 9 located at Fisher Road and Route 9 where the Hudson Park is planned to be.
8. The proposed Cool Spring development will have a public bike trail going through it, connecting the existing trail to Hudson Road and a future extension to the Town of Milton.
9. Central public sewer is available from Artesian Wastewater Management, Inc. and they hold a Certificate of Public Convenience and Necessity for central water in this area.
10. The Delaware State Housing Authority indicated that the lands comprising Cool Spring Crossing are located within a Delaware State Housing Authority area of opportunity, which are strong, high value markets with close job proximity and economic opportunity, high performing schools, amenities and supportive infrastructure that help households succeed. They also noted that the need for affordable housing, particularly in the Coastal Area, is well documented, especially in the PLUS Review letter 2021-1287 and 2021-1288.
11. The Cool Spring Crossing property is contiguous with an existing Coastal Area on the Future Land Use Map all the way from the Northeast corner all the way to the coast.

All of these reasons support that the area of Cool Spring Crossing is not located within a rural area any longer and can support the amendment of the Future Land Use Map to a Coastal Area for this property; that the Delaware Supreme Court has ruled that the adoption of the a Comprehensive Plan in Sussex County is vested solely with the government of Sussex County; that Supreme Court case was Denmark versus Sussex County; that the Delaware Planning Act, Title 29, §9103 of the Delaware Code, states that as to the adoption of amendment update or revision of a Comprehensive Plan, the final decision is that of the County; that it is an irrefutable fact, that the 2020 Delaware Strategies for State Spending and Investment Level Maps are not a land use plan; that the Strategies document itself states that it is not a land use plan; that the plan states that the land use authority in Delaware has been delegated to the local government; that the decision to amend or not amend the Future Land Use Map is a Sussex County decision; that the Applicant's request to amend the Future Land Use Map is not unique; that County Council has amended the Future Land Use Map ten times since 2020; that the opposition would argue that the previous amendments were for smaller parcels; that this is a case were size is irrelevant; that it is important to look at the underlying facts to support if there is a basis or not for the change; that if there are solid facts supporting the amendment, it should be approved; that he believed that to be the case with the Cool Spring Crossing project; that next year, the Commission will begin its revision of the amendment of the County's Comprehensive Plan and Future Land Use Maps; that this is required to be completed every 10 years, resulting in an updated Comprehensive Plan in 2028; that regardless if the application was not before the Commission today, it is likely the Commission would be considering the very same issue as part of the plan update; that if the facts he presented support an amendment for the plan in three years, that those same facts support the amendment of the plan today; that in order for the MR-RPC development to proceed, the amendment of the Future Land Use Map to the Coastal Area is required; that if the amendment is not approved by the County, the 637 acres will remain designated as a rural, low density area; that this does not mean that the land will remain as farmland, nor does it mean that the land will remain undeveloped; that if the Cool Spring Crossing MR-RPC does not proceed, the land would be developed with single-family homes on individual lots; that the AR-1 (Agricultural Residential) zoned land, located within

the low-density area, is permitted by the Sussex County Zoning Ordinance to be developed as a cluster subdivision; that subject to the design requirements of the Ordinance, a cluster subdivision is permitted to contain two lots per acre; that with a minimum lot size of 7,500 sq. ft., the 637 acres would support a phased cluster subdivision or multiple subdivisions containing 1,274 single-family homes on individual lots; that a subdivision would have none of the numerous benefits of the completed livable community and with these comments, Mr. Fuqua concluded his comments regarding the proposed Future Land Use Map amendment.

In regard to the Cool Spring Crossing, MR-RPC, and the two Conditional Use applications for the educational facility, assisted living facility, and medical offices Mr. Fuqua stated that Cool Spring Crossing is designed as a mixed-use community containing several seven residential villages and a town center that the villages will contain a mixture of housing types being single-family homes, and various types of multi-family dwellings; that the variety of housing types will result in a range of housing options and prices for both purchase and rental; that the homes in the villages will be located on new developed streets, interconnected with existing public roads, with pedestrian and bicycle network of sidewalk and shared use paths, to create a walkable and bikeable community; that a network of recreational uses, parks, and open space area will be interspaced throughout the development; that the Town Center is adjacent and easily accessible from the residential villages; that the Town Center will offer a variety of retail and service businesses, educational facilities and recreational opportunities; that this will reduce the need for vehicle dependency for residents of Cool Spring Crossing; that the project has road frontage along the northside of Rt. 9, the east side of Hudson Road, and along both sides of Cool Spring Road and Log Cabin Road; that the Town Center would front Rt. 9, bordering the western side of Cool Spring Road, and the eastern side of the Bay Health emergency facility; that there are seven distinct residential villages; that three villages, being Village A, B & C are located south of Log Cabin Road; that four villages, being Villages D, E, F & G are similar in nature, as they all contain a mixture of single-family homes, on individual lot, and a variety of multi-family dwellings; that Village C is located to the west, on the west side of Josephs Road; that this village will only contain 34 single-family lots; that it is envisioned as the community of higher end, custom build type homes; that Village A is located to the north of the Town Center; that Village A will contain 700 multi-family dwellings and a mixture of housing type; that there will be 50 patio homes, 144 quadplexes, 30 villas, 188 townhomes, and 288 condominium units; that Village A is planned and designed as the more affordable village and community, with residential units both for sale and for rent; that 175 of the Village 8 units, being 25%, of the 700 units will be made subject to the Sussex County Rental Program (SCRPP) Ordinance; that the Ordinance was enacted by Sussex County Council to encourage the creation of the affordable rental housing, particularly for County workers in the easter part of Sussex County; that the rental program ordinance controls both the eligibility criteria for tenants and the rent schedule for tenants based on the tenant's family income; that as required by the Ordinance, the types of units participating in the rental program must be the same ratio as the different types of units in Village A; that the units must be integrated, not separated from, the other units in Village A; that the units must be the same design and floor layout as the other units of Village A; that Village A would have the same access from Cool Spring Road, Log Cabin Road, and from the main entrance to the Town Center, located off Rt. 9; that Village A will be comprised of approximately 115 acres, of which 61 acres will be open space, including five interior park areas; that the open space; that the open space amounts to approximately 53% of the Village A area; that upon full completion of all of the villages, Cool Spring Crossing will contain 1,922 residential units, made up of 534 single-family homes, and 1,388 multi-family units of various types; that the proposed number of units is less than the maximum number of units that would be permitted within the residential planned community (RPC); that there is a special formula to calculate permitted density of RPC's; that for the project containing 637 acres,

the area was reduced by the streets, resulting in 63.46 acres; that they took a conservative approach when performing the Town Center reductions calculations, by deducting the entire Town Center area, which contains 57.94 acres; that this calculation results in the permitted development area; that when deducting the streets and Town Center acreage from the gross development area, it results in a net area of 515.6 acres; that when one divides the net area of 515.6 acres by 10,000 sq. ft., being the minimum lot size permitted within the MR (Medium-Density Residential) district, the result of permitted density within the RPC would be 2,245 residential units, with a density of 3.52 units per acre; that the project is only proposing 1,922 units, with a density of 3.01 units per acre, being significantly less than the permitted density for the MR-RPC; that their result of the 3.1 units per acre density, was determined solely by using the MR (Medium-Density Residential) density; that they did not use any of the bonus density that is permitted under the Sussex County Rental Program, which would have allowed the density to increase up to 12 units per acre; that regarding the Town Center, the Town Center fronts on Rt. 9, being bordered by Cool Springs Road on the east, and the Bayhealth emergency urgent care center on the west, with Village A being located to the north; that the main entrance to the Town Center is from Rt. 9, with an additional entrance from Cool Spring Rd.; that there are several access streets from Village a that connect to the Town Center; that the center will include a variety of retail, service and educational and recreational uses to serve the Cool Spring residents, as well as the area residents; that the proposed uses will include a grocery store, bank, a convenience store with a gas service, four restaurants, five retail stores, an art & theater facility, which would be the Cultural Center of the community; that it is envisioned to be operated by a local theater group, who would provide live theater workshops and other live performances, as well as painting and similar art classes, workshops and displays; that the Town Center would also include a 100 room hotel, a modern YMCA, or similar type of facility with a full gym, indoor and outdoor pools, indoor and outdoor pickleball, indoor tennis courts, multi-purpose meeting rooms, and an early childhood program for the care and instruction of preschool ages children; that the Town Center would include the two requested Conditional Uses; that the educational facilities would be located in two buildings with classrooms, resources areas, study areas, and administrative offices; that one building would be the college level instruction, potentially with the University of Delaware offering associate degree courses and professional certifications; that the second building would be for adult learning, potentially operated by the University of Delaware's Osher Lifelong Learning Center, which is a volunteer driven educational cooperative for adults aged 50 plus; that this project offers a wide variety of subjects, often taught by experienced retired residents; that the other Conditional Use to be located within the Town Center would be the assisted living facility; that the facility would have a capacity of 100 residents; that it would also have the associated medical office building, focusing on senior healthcare, which could possibly be associated with Bayhealth, who operates the emergency and urgent care center, located adjacent to the Town Center; that at the core of the Town Center, there are two large area of landscape open space, which will consist of a village green, and an event lawn for various community events and activities; that the Town Center would create economic development and employment opportunities, as well as convenient access to shopping and services to both residents of the community and residents in the area; that the Town Center would have a built-in advantage of having customers from the Cool Spring Villages, who would have the opportunity to access the Town Center without the need to drive; that in an RPC, commercial uses is one acre for each 100 dwelling units; that the 1,922 units being requested would equate to 19.22 acres of commercial use; that the planned commercial uses in the Town Center would utilize 18.52 acres of lands, being within the commercial use calculation; that regarding the entire community, and the recreational and social aspects of the development, the project is designed to be a walkable and bikeable community; that the project offers extensive opportunities for recreational activities and residential interaction, with sidewalks on both sides of community streets; that a DelDOT design shared use path will be provided along one side of the site

frontage, along Rt. 9, Cool Spring Road, Hudson Road, Log Cabin Road, and on the extension of Cool Spring Road that comes through the development; that those shared use paths will be interconnected with the Lewes Georgetown Bike trail, which borders the property along Rt. 9; that the Town Center has the village green, the event lawn, and other recreational, educational, and entertainment opportunities for residents; that the main recreational complex is located between Villages D, E, F & G; that this complex will include a clubhouse, with a minimum of 7,500 sq. ft. of floor area, accommodating areas for group fitness exercise, children's play, teen gathering, meeting rooms, casual seating area, staffed offices, restrooms and a refreshment and storage area; that located adjacent to the clubhouse, will be an outdoor, resort style swimming pool, separate kids pool with a splash play area, and a hot tub area, which will be surrounded by an expansive deck with shaded and unshaded areas; that there will be tennis, pickleball, and bocce ball courts; that also in this area will be a green space picnic area, with fire pits, gas tabletop grills, seating and open space for special events and entertainment; that there will be four additional outdoor swimming pools, with bathhouses, to be located in Villages B, D, G and also between Villages E & F; that there are several larger village parks, along with smaller neighborhood parks, with other recreational features, to be determined at a later time, but part of the site plan review approval for each phase of the development as it goes on; that there will be approximately 1.5 mile nature trail that will meander along the western edge of the Martin Branch Conservation area; that all of the homeowners within Cool Spring Crossing, with the exception of the owners located within Village A, will be required to be members of the Recreational Association, with quarterly or annual assessments to cover the expenses of operating and maintaining the recreational facilities; that Village A is planned and designed to be the more affordable village within the development; that in keeping with that goal, the owners of Village A will not be required to be members of the REC Association; that the owners of Village A, will have the option of joining the Recreational Association, subject to the same recreation fee as the other members of the Recreational Association; that the village as five internal open space park areas; that those areas contain 3.3, 2.3, 1.3, 1.2, and .9 acres; that the specific design of the parks has not been finalized; that the spaces would be focused on spaces to gather, to exercise and to play; that the parks will include pavilions, numerous shades areas with benches, a walking loop, a children's bike/scooter loop track, two playgrounds, a yoga lawn area, open play areas, outdoor fitness stations and a possible dog park; that the idea in Village A was to amenities that would not be high in maintenance or high in design; that Cool Spring Crossing will be served by public central sewer by Artesian Wastewater Management Company; that public central water will be provided by Artesian Waster Company; that Artesian has stated they are willing and able to provide sewer and water to the development; that Artesian has been issue a majority of the water and sewer certificates of Public Convenience and Necessity by the Delaware Public Service Commission to serve the area; that Artesian owns two properties that are surrounded by or located adjacent to the Cool Spring Crossing property, being the undeveloped parcel at the southeast intersection of the Cool Spring Road and Log Cabin Hill Road, and the elevated water storage tower, located along Cool Spring Road; that Artesian's Ability to Serve letter, dated April 9, 025, is located within the Applicant's submitted exhibit booklet; that stormwater management facilities, are required and will be designed and constructed to meet or exceed the requirements of DNREC's Sediment and Stormwater Management regulations, and also the Inland Bays Pollution Control Strategies; that the development of Cool Spring Crossing will occur over a 20 year period, in construction phases; that each phase will have its own Sediment and Erosion Control Plan, approved by the Sussex Conservation District, prior to the start of the construction phases; that there are multiple stormwater ponds integrated in the site design; that because the sites well drained sandy soil, and the relatively low water table, bioretention and infiltration practices will be utilized; that the development's stormwater will be directed to treatment ponds, and other management facilities for pretreatment, prior to any infiltration or discharge; that this will create significant improvement compared to the current

condition of unfiltered stormwater runoff from land in agricultural use; that traffic impacts are almost always the main issue involved in any proposed development application; that Sussex County is required by law to have an agreement with DelDOT to provide a procedure to determine the traffic impact of any rezoning application; that in September 2020, Sussex County Council approved and executed an update Memorandum of Understanding (MOU) between the County and DelDOT establishing this agreement; that the Cool Spring Crossing application will have a significant impact on traffic; that provided within the MOU, at the Applicant, at the Applicant's expense, is required to conduct a Traffic Impact Study (TIS); that on Page 7 of the MOU, it states the Sussex County and DelDOT should encourage Master Planning for large scale development on large parcels or groups of parcels located within the Coastal Area; that Century Engineering was retained by Carl Freeman Companies to perform a Traffic Impact Study (TIS), in accordance with the scope and parameters established by DelDOT; that the Century studied reviewed the impact at all proposed access points to the development, and approximately 48 intersections in the surrounding area; that the TIS dated June 30, 2022, was reviewed by DelDOT, and subsequently DelDOT issued there TIS Review letter on January 10<sup>th</sup>, 2023; that subsequent to the issuance of the DelDOT Review letter, the applicant made some changes to the Cool Spring Crossing site design; that those changes reduced the number of proposed dwellings, and reduced the number of access points from ten to six; that those changes resulted in a reduction of the daily and peak hour trips; that as a result of those changes, DelDOT did require an updated review of the TIS, taking into consideration the revision of the land use, and the site entrances; that in additional, DelDOT also required a supplemental Sensitivity Analysis, to identify when improvements, to help mitigate traffic deficiencies should be constructed; that the Sensitivity Analysis was prepared by JMT Engineering, being DelDOT's consulting traffic engineering firm; that the final Revised TIS Review letter was issued by DelDOT on January 14<sup>th</sup>, 2025, and is about 150 pages in length; that both the original and the revised TIS letters are included into the record; that DelDOT's revised letter provides that the Applicant is responsible for 22 specific roadway and intersection improvements, and also monetary contribution to several current DelDOT projects; that the required improvements are listed in detail on Pages 17 through 23 of the Revised TIS Review letter; that the Revised TIS Review letter also discusses the Sensitivity Analysis, and provides a time frame of when required improvements must be constructed; that the majority of the intersection improvements must be constructed at the beginning of the site plan construction; that the Applicant has fully complied with the requirements and provisions of the Sussex County and DelDOT Memorandum of Understanding for land development coordination; that the Applicant will be responsible for all the improvements and contributions as determined by DelDOT; that those applications will be implemented concurrently with the development, as determined by DelDOT's Sensitivity Analysis; that the entire site contains 637 acres; that based on DNREC's Wetlands Maps, there are no State regulated Tidal wetlands located on the property; that there is a single perennial stream, known as Martin Branch, located along the eastern boundary of the property; that as identified on the FEMA Flood Insurance Maps and the National Wetland Inventory Maps, federally regulated Non-Tidal wetlands exist on the low-lying area, adjacent to Martin Branch; that a Wetland Boundary Determination was performed by Mr. Edward Launay, with Environmental Resources, Inc., which found that there were 29.6 acres of stream and Non-Tidal wetlands existing on the site, being Martin Branch and the adjacent area wetlands; that the U.S. Army Corp of Engineers Office confirmed the determination, an issued a Jurisdictional Determination Letter on April 17, 2024; that there are no additional Tidal or Non-Tidal wetlands located on the property; that with the exception of the 29.6 acres containing Martin Branch, and the adjacent wetland, the remainder of the property is uplands, comprised of well drained, sandy soil, with an average elevation between 25 to 35 feet; that the site currently contains 217 wooded acres; that the development plan will result in approximately 103 acres of the existing woodlands to be removed, and 114 acres (53%) of the existing woodlands to be

preserved; that except for a large portion of forested area adjacent to Martin Branch, historical aerial photos and land owner records, indicate that most of the other woodlands have been timbered in the past, being considered mid-succession, containing tree species typical of previously timbered land; that almost all tree clearing being proposed is located in the location of the pre-timbered areas; that the most important, natural and environmentally sensitive portion of the site, is located on the eastern boundary of the site; that this is the location of Martin Branch; that the Applicant recognizes and acknowledges the environmentally sensitive nature of this area, and accepts the responsibility of protecting and preserving the natural feature; that in 2022, the County enacted the Sussex County Resource Buffer Ordinance, which does apply to the Cool Spring Crossing applications; that this Ordinance would require a 50 foot wide resource buffer from Martin Branch; that it would require a 30 foot wide resource buffer from the edge of all Non-Tidal wetlands; that the Cool Spring Crossing development will far exceed the resource buffer requirements, by providing an expansive Martin Branch Conservation Area, consisting of the required resource buffers and additional land voluntarily included in the conservation; that as permitted by the Resource Buffer Ordinance, the Applicant elected to voluntarily expand the resource buffer by an additional 15 foot in width; that the Applicant is not requesting any buffer averaging; that the area would result in a total Non-Tidal Wetland Resource Buffer of 45 feet, which results in a total of 13.73 acres of forested, Non-Tidal wetlands; that the required 50 foot buffer from the perennial stream lies within the wetland area; that the 50 foot buffer is provided, as it overlaps with the wetland and other buffers; that the additional conservation area contains 61.61 acres of forested land, with the exception of 2.6 acres of open field; that the open field will be maintained as a natural meadow; that the meadow will be planted with pollinator wildflower seed mix that is targeted to support the Monarch butterfly during its migration; that the Monarch butterfly is a candidate for listing as a threatened species by the U.S. Fish and Wildlife Service; that the additional conservation area, borders the Non-Tidal wetland resource buffer, resulting in a substantial increase in the width of the buffer from the wetland line; that the buffer varies considerably, but on average the buffer is about 130 feet in width, compared to the required 30 foot wide buffer; that the buffer consisting of the required buffer, the expanded resource buffer, and the 61.61 acres of voluntarily provided conservation area, results in a total buffer of 75.34 acres, resulting in more than eight times the required resource buffer area; that the entire Martin Branch Conservation Area, consisting of Martin Branch, the adjacent Non-Tidal wetlands, the resource buffers, and the voluntary Conservation Area will permanently preserve and protect 104.93 acres of the most natural and environmentally sensitive portion of the site; that this protected area also includes all of the Cool Spring Crossing site that is located within a Flood Hazard Area according to the FEMA Flood Insurance Maps; that all of the area proposed for development is located outside of the floodplain as designated by FEMA's Floodplain maps; that the Martin Branch Conservation Area will also be made subject to a Declaration of Restrictions, permanently preserving it as a natural area, and a Resource Buffer Management Plan, providing the management and stewardship of the protected area; that there are three additional areas, containing an additional 12 acres, that will also be subject to the conservation documents; that those lands are located on the western side of the property, near Hudson Road; that there are three or four trees that will be preserved in that area; that in total, the entire conservation area, including the Hudson Road portion of the forest, will contain approximately 117 acres, being over 18% of the Cool Spring Crossing site; that in addition to the Environmental Protection, the Martin Branch conservation area will also preserve and protect the archaeological integrity of the site; that the State Historical Preservation Office (SHPO) indicated that the majority of the site had low potential for prehistoric archaeological sites, except for a low to moderate potential, located on the eastern side of the site, near Martin Branch; that the Applicant retained Mr. Edward Otter to perform an Archaeological Assessment of the property; that the assessment confirmed that the area of near Martin Branch had the most potential for Native American sites; that all of the areas

identified by SHPO and Mr. Otter, are located the Martin Branch Conservation Area, that will be permanently preserved and protected by the conservation restrictions and the conservation management plan; that Mr. Otter also conducted an archaeological study and delineation of the known cemetery site, located south of Log Cabin Road, just west of Cool Spring Road; that the cemetery area is located on the eastern side of Village A; that the study determined that there were four marked graves, and possibly more members of the Warrington family, who owned the land and passed between 1843 and 1849; that the delineation determined that the cemetery is 30 feet by 30 feet in size; that this area is two feet higher in elevation than the surrounding farm field; that this is due a loss of two feet in elevation, with over a century of rain and plowing; that the delineation excavated soils around the identified cemetery to confirm that no graves or human remains were present outside of the 30 ft. x 30 ft. cemetery area; that markers were placed at the cemetery corners; that the cemetery, as part of the Cool Spring Crossing Development, will be restored; that a fence will be erected, marking the cemetery boundaries; that there will be a 25 foot buffer established from the fence line, and a marker will be placed to provide historical data or information regarding the cemetery; that including the 117 acres in the superior design conservation area, altogether the Cool Spring Crossing development will contain 295 acres of open space, being approximately 46% of the site; that the project will provide positive economic benefits, since one of the purposes of the Sussex County Zoning Authority is to promote the welfare and prosperity of the present and future county; that the Applicant retained Sage Policy Group, Inc., an economic and policy consulting firm out of Baltimore, Maryland, to prepare a report analyzing the economic and fiscal impacts of the proposed development; that Sage was also the firm to perform analysis for the Northstar development; that the report indicates that over the estimated 20 year build out, will result in the following impacts being, the construction phases, consisting of site preparation, infrastructure installation, and residential and non-residential building construction is estimated to cost \$836 million; that the construction phase will support thousands of jobs in Sussex County, the majority of which will be in the construction trades, with an estimated \$475,000,000 in labor income; that after completion, the development will support approximately, 1,500 permanent Sussex County jobs, generating an estimated \$80 million in annual labor income; that transfer taxes from the initial land purchases will generate \$12.5 billion to Sussex County, and \$20.9 million of revenue to the State; that future resales will be sold in additional transfer tax revenue; that the Cape Henlopen School District, as a response to receiving notice about the application, recommended that no additional residential development be approved until such time that a school construction impact fee or voluntary school assessment can be implemented; that it was his understanding, that the District's response was not personal to their application, rather a stronger tact that the District is taking on the issue; that the District had provided similar responses on other applications; that the Applicant believed that funding for future school construction is an important issue that needs resolution; that County Council considered the School Impact Fee issue on January 30, 2024; that County Council unanimously rejected the fee for a number of reasons, but mostly for the reason that future school construction was deemed to be the responsibility of the State government, not the County; that there is no reasonable basis to delay the current applications, because of that issue; that the current applications were filed two years ago; that Sage determined, assuming the demographic of the 1,222 units, being all units except for Village A, that pupil generation from the development on the Cape Henlopen School District, would align with the demographics of Lewes and Milton, based on the U.S. Census Bureau's data; that Village A, being 700 more affordable workforce units, they were assumed to have similar demographics as the entirety of Sussex County; that the report projects, that once the development is at full build, would generate an estimate of 449 public school pupils in the Cape Henlopen School District; that with a 20 year build out, 449 pupils would average to 20 new pupils per year; that the Sage report estimates that the pupils from Cool Spring Crossing would increase the school district's annual expenditure by \$4.1 million; that those

expenditures would be offset by annual property tax revenue in the district of \$4.7 million; that this would generate an annual net surplus of \$550,000 to the district; that regarding fire and emergency services, the closest fire companies to the development are the Milton Fire Department and the Lewes Fire Department; that the Applicant did meet with the fire department representatives; that the Applicant has offered, that rather than the fire departments relying on individual contributions from Cool Spring Crossing homeowners, there would be a provision in the covenants stating upon issuance of the certificate of occupancy for each residential unit, each unit will be responsible for an annual fee of \$100; that the fee will be collected as part of the HOA fees; that the HOA or condo association will pay the fire department; that non-residential uses of the Town Center, will be responsible for an annual fire company fee of \$58,000, that will be correlated as it is built in the percentage of completion, and will progress as the Town Center progresses build out; that at build out the fire company fee would total \$250,000 per year, with half of the fee being paid to the Milton Fire Department and the other half of the fee being paid to the Lewes Fire Department; that this proffer contained on caveat condition that in the event the State or the County enact a fire or EMS fee ordinance in the future, applying to residential units or the Town Center, the condition shall be terminated; that there was a letter of opposition submitted on behalf of SHARP, which is a coalition of HOA's; that the letter opposed the proposed fire company contribution as unjustified and being against the intent of both public policy and homeowners; that the Applicant strongly disagrees; that the proposed fee is a fee restriction; that it is a private matter between the buyer and the seller; that if the potential buyer is offended by the annual \$100 fee, they do not have to buy within the community; that any potential buyer will be well aware that this fee is one of the requirements; that the SHARP letter alleges that the HOA can amend or nullify the fee, by amending the condition or amending the Declaration of Restrictions; that this required fee will be placed as a proposed Conditions of Approval for the project; that the Applicant did receive a letter from the Milton Fire Department, extending its appreciation for the offer and the proactive approach that Carl Freeman Companies is taking, to address the fire departments concerns; that the letter noted that Carl Freeman was the only developer to contact the department regarding the matter; that he submitted to the Commission proposed Findings and Conditions of Approval for all four applications; that the Applicant has the option of proceeding with the development of a cluster subdivision; that the Applicant could have submitted for a cluster subdivision four years ago; that the reason the approval for the MR-RPC continued to be pursued in the Carl Freeman firmly believes that the Cool Spring Crossing MR-RPC is a type of Master Planned Mixed-Use development that is by far in the best interest of both the applicant, and the current and future residents of Sussex County; that the plan is in accordance with the concepts of smart growth; that for example, the 2020 Delaware Strategies for State Policies and Spending documents, advocates the designing and building of what the State refers to as "complete communities" which are described as including integrated pedestrian and bike networks, new streets interconnected with existing streets, intermingling of residential and commercial uses, and the inclusion of parks or open space networks within the development; that the strategy states that this type of development would result in more diverse range of transportation and housing options, with more economical extension of public service utilities; that Cool Spring Crossing will be a complete community; that the Sussex County Comprehensive Plan states that in a Coastal Area, residential planned communities are encouraged to allow for a mix of housing types, to preserve open space and natural areas and resources; that the plan further stated that master planning should be encouraged, especially for large-scale developments on large parcels or groups of parcels, where higher density and mixed use developments are provided flexibility and site design; that Cool Spring Crossing will be a Master Plan Residential Planned Community; that even the Sussex Preservation Coalition endorsed an agenda for what they referred to as livable communities; that the agenda for livable communities includes consideration of open space and protection of wetlands and streams, providing adequate infrastructure for residential



growth, including safe roads, bike lanes, and public transportation, adequate healthcare, educational facilities, and the ability of affordable housing units for young families and local workers; that per the Sussex Preservation Coalitions agenda, Cool Spring Crossing will be a livable community; that the Coalition's opinion is the project is not the right use, at the right place, at the right time; that the Commission's opinion must be based on the facts placed into the record; that the project is the right use, being a mixed-use development, with a variety of housing options, located adjacent to a Town Center; that the project's design is consistent with the criteria of a complete community of a Master Plan community, or a livable community; that for the reasons previously stated regarding the Future Land Use Map amendment, the area is an appropriate place for the proposed project; that the site will have central sewer and water, and located near medical facilities; that the proposed site is possibly the only suitable land in the area for large scale development; that the Applicant has been working on the application for four years; that the Applicant could have requested a cluster subdivision; that this plan cannot wait for the revision of the Comprehensive Plan; that the decision for the application must stand on its own merits; that the Commission's recommendation on the four applications is extremely important, having significant influence on the County Council's decision and he requested that the Commission base their decision on the factual records and the reasons presented into the record.

Ms. Wingate questioned whether it was the developer's intention to construct the phases in alpha order, as they are reflected in the Phasing Plan; that she questioned if an explanation could be provided regarding the traffic impact and traffic numbers for the building out of each phase over the next 20 to 24 years of build-out, and questioned if there were only two entrances to the project, and why the hotel was labeled as non-commercial on the plan.

Mr. Fuqua stated that the plan reflects the names of the villages; that they normally would start in the front and back; that the idea is that Village A would be part of the initial construction; that in the Ordinance for a residential planned community, any permitted use in any residential district, is considered a permitted use; that a hotel is a permitted use in the HR District; that therefore the hotel is a permitted use in an RPC, and is not considered commercial; that within an RPC you can have one acre of commercial use for each 100 units, and what they were designating was that the hotel was not being counted against that one acre, because it is a permitted use.

Mr. Drew Boyce with Century Engineering stated that there is no assessment of per unit or per phase currently; that within the supplemental review letter issued by DelDOT, they commissioned their own consultant to do a high-level phasing analysis to provide an idea of when improvements may be triggered or may require to come online to support the traffic impacts; that there is a single entrance off Rt. 9; that there is an entrance for Village A and B off Cool Spring Road; that there is an entrance to Village D off Log Cabin Hill Road; that the extension of Cool Spring Road provides some additional infrastructure; that this area would be privately maintained, but look similar to the local infrastructure that DelDOT has in the surrounding area; that the entrance off Hudson Road, is considered the fourth leg of the two intersecting roads that come in being Carpenter Road and Walker Road and those are anticipated based on the information in the TIS roundabouts at those locations.

Mr. Whitehouse stated that as a discussion with the Applicant's team as to whether the requirements for an RPC, which has a maximum commercial area that may be proposed, were complied with; that he does concur with Mr. Fuqua's answer, and staff did meet with the Applicant's team chairs.

Ms. Wingate stated she was happy to see the letter from the Milton Fire Department, as our first responders need all the support they can get; that she would like to go on record to state that the

schools need support as well, and she questioned if there was a possibility for all the interior roads to be per DelDOT specifications and maintain budget.

Mr. Fuqua stated that there are five state-maintained roads involved in the application, being Cool Spring Road, Old Cabin Hill Road, Hudson Road, Joseph Road, and Rt. 9; that if you look at all the other interior roads, they are no different than any other subdivision; that the interior roadways would be built to Sussex County standards, and the interior roads will not bear any more traffic than a standard subdivision.

Ms. Wingate stated she would like to see the overhead bridge, similar to that of Baywood, to provide access to the trails, but she understood that it would most likely be up to DelDOT.

Mr. Fuqua stated that the Land Trust was fortunate enough to have the piece come up for sale, which became the source of Hudson Park; that DelDOT had a crossing located at the next light, which is where DelDOT preferred the crossing to be; the Carl Freeman got involved with the Land Trust; that there was preliminary work done; that there are sketches of what is being proposed; that he would be located where the park is located; that it would provide for a much safer crossing across Rt. 9, and the future of that is uncertain, as it is still being proposed.

Ms. Wingate questioned if it was the intention of the developer to complete the buffer strips as the phases are completed, and there have been issues in the past with communities waiting for the entire project to be completed before the buffer strips are placed.

Mr. Fuqua stated that the buffer strips would be completed as each phase is completed.

Mr. Mears stated that the Phasing Plan does not shade the Town Center area, and he questioned if the Town Center build-out will be constructed as part of Village Section A.

Mr. Fuqua stated he would envision those areas on the southernmost portion of the site, being Village A and the Town Center, would progress at the same time; that they do not know this for certain; that the Applicant would have to present that Phasing Plan before the Commission, and they recognize that Village A is top priority for the County.

Mr. Collins questioned whether there are any other alternative locations anywhere in the County, where a similar development could be placed, potentially within closer proximity to Rt.1, or consideration given to redevelopment of existing properties that may be underutilized.

Mr. Fuqua stated that off the top of his head, he absolutely could not think of another area, closer to Rt. 1, for this type of development; that one could renovate any existing property if one could purchase it; that this project was a product of the owners wanting to sell the land, and the vast majority of the land is existing cleared farmland, with little environmental impact, and that with the protections the Applicant is providing for the environmentally sensitive area, the site is an ideal piece.

Mr. Collins stated he was happy to see the voluntary contributions placed into the covenants for the fire and EMS services; that he questioned if there was any consideration given to the placement of residential units above some of the commercial uses; that although some people do not like high density, the higher the density, the less land is required to be used; that land is precious in Sussex County, and the Commission wants to preserve as much land as possible as natural habitat.

Mr. Fuqua stated that he could not say whether consideration was given to the placement of residential use being placed above commercial uses; that he believed the main concept was that not everyone wants to live in a commercial area either; that the 700 units located within Village A, adjacent to the Town Center is a lot of units, and they believed those units served the same purpose.

Mr. Butler questioned if the developer would build the bridge for the crossing of Rt. 9.

Mr. Fuqua stated he felt the bridge was cost-prohibitive; that he would talk to his client about the bridge in the future; that Carl Freeman had spent money to make a good design; that the Applicant has been working with DelDOT; that if the bridge can come to be, there could be some type of arrangement, as it certainly would be beneficial for the project, as well as the public, and that it is an idea that is being pursued.

Mr. Robertson stated that the roads laid out on the site plan do not match the current DelDOT layout, and that it appeared that there may need to be some road abandonment and relocation.

Mr. Fuqua stated that he believed that the one end of Log Cabin Road will be realigned; that the arch that connects to Hudson Road will be a brand new State road.

Mr. Robertson questioned if the fire company donation would be per unit or per fee simple unit, as there will be ownership, rental, and SCRP units with the development.

Mr. Fuqua stated they had discussed if they should exclude the SCRP units from the fee; that he hated to need to go back to the Fire Department stating they were going to exclude units from anything; that he then realized it is not the renters paying the fee, that it will be the owners; that the fee will be paid per unit, and the owner will be paying the fee, not the renting tenant.

Mr. Robertson questioned what the open space for special events and entertainment means or would look like.

Mr. Fuqua stated it is a designated community area for periodic events, such as Fourth of July, Halloween, and potentially for weekly farmers markets, and the area is not proposed to be the new Freeman Stage North.

Ms. Wingate stated she was disappointed to hear it would not be a Freeman State North; that she felt that Bayside has been a wonderful asset to the community; that she questioned if the development roads will be connected to the medical center.

Mr. Fuqua stated that they envisioned a connection there; that they do not know at this point who will have the doctors' offices; that if it were Bayhealth it would make it easier; that they are going to have some type of connection, however interconnection becomes tricky because you do not want to create an unintentional thoroughfare.

## **RECESS**

2:25 pm – 2:35 pm

The Commission found, by a show of hands, that there were 58 people present in support of the applications, and nine people present who wished to speak in support of the applications.

Dr. David Tam, MD, the President of Beebe Healthcare spoke in support of the applications. Dr. Tam requested that the Commission consider not only Beebe Healthcare of overall healthcare in general; that he had previously spoke before the Commission and County Council regarding the current physician shortage and the healthcare workforce housing shortage issues; that Sussex County will need more healthcare workers as more retirees move to the area; that if growth stopped today, the retiree community will continue to require three times more healthcare than non-retirees; that he supported the smart growth proposal by Cool Springs; that the plan provides 700 workforce housing units, with 175 units being rent restricted units; that for every doctor he would bring in, he will also require junior nurses, pharmacy technicians, laboratory technicians and radiology technicians, as well as many others that are required to support healthcare services; that he recently had contacted medical professionals, who stated they would love to work for Beebe Healthcare, but could not afford to live in Sussex County; that the YMCA plan will provide childcare; that the people they are looking to recruit are people with children and families, that will require childcare for their 12 hour work days; that the plan supports community integration; that Blue Zone studies have shown that people who live in congregate housing with multigenerational utilization, such as the ability to walk to places, being able to converse with each other, help improve healthcare outcomes; that he felt the proposed design was a good one, and regardless of what healthcare system is proposed to go in that location, they will all have the same issues with the aging and challenging population, with a workforce that cannot serve that group of people.

Mr. Tim Kriebel spoke in support of the applications. Mr. Kriebel stated that he recently purchased property in close proximity to the site, where he plans to build a part-time retirement home; that he resides full time in Vendor City, New Jersey, where he currently serves as the Mayo, Commissioner of Public Safety, and has sat as a member of their Planning & Zoning Board for nine years; that his support for the project comes from a decade of public service and a 30 year career in Design & Planning; that he has seen the consequences of resisting thoughtful planning and development; that he has seen the development benefits when a community chooses managed growth instead of fearing it; that he experienced a similar proposal in his hometown; that after superstorm Sandy, the project was abandoned; that for the next 10 years the town declined; that there were no investments; that the ratables were in a nine year consecutive decline; that he felt the Master Plan offered walkability, affordability, and infrastructure investment; that the proposed plan was not development sprawl; that the plan offered a balanced, community focused development approach; that the plan offered a rare opportunity to shape growth, and he agreed the project would create increased traffic, but felt the plan provided a smart way to manage growth.

Ms. Linda Risk, Chief Operating Officer of the Delaware State YMCA, spoke in support of the applications. Ms. Risk stated that the YMCA of Delaware has been the cornerstone of the community in Sussex County; that this is achieved by their many programs including, after school care, early childhood education, summer camps, swim lessons, exercise classes, and chronic disease programs; that during the pandemic, they offered emergency child care services and food assistance across the State; that as the Sussex County population grows, so does their program; that the demand for their high quality programs has never been greater; that they support the Cool Springs Master Plan as the development presents a meaningful solution to pressing challenges facing local families; that the plan provides 700 workforce housing units, directly addressing the housing needs for the essential workers in the community; that the diverse housing options support families of all sizes, young professionals,

first time homebuyers, and empty nesters; that the plan will make it easier for people to live where they work, while raising children in a stable, supportive environment; that by integrating a YMCA into the thoughtfully designed, walkable community, they can reduce barriers to access families; that if approved, Cool Spring Crossing would provide a unique opportunity, bringing the YMCA mission to life in a new and impactful way, through arts programming, workforce development, teen programs, college and career readiness programming, and other inclusive initiatives that benefit every age and background; that the projects emphasis on walkability, sustainability, and lifelong learning aligns directly with the YMCA's mission and their promises to Delaware; that ensure youth have a pathway to success, improve the health and wellbeing of individuals and families, and bringing communities together to inspire and serve others, and she respectfully requested the Commission support the forward thinking plan, and the long term benefits the plan would bring to the families of Sussex County.

Ms. Kelly Basile, Chief Operating Officer of the Delaware State Chamber of Commerce, spoke in support of the applications. Ms. Basile stated the most pressing concern the Chamber of Commerce hears from Sussex County members is regarding the lack of affordable and diverse housing; that they recently released a report on the State's demographics and trends that will shape the State's future, which reinforces that between 2025 to 2035, the State's population is projected to increase by 6.4%, while the number of households are expected to rise by only 5.7%; that the supply is not meeting the demand; that house affordability is a key factor; that home prices have surged 56.2% over the past four years, which is outpacing the national average of 51.8%; that Sussex County is the fastest growing county by percentage in the Mid Atlantic; that employees are finding it increasingly more difficult to secure affordable housing near their places of work; that she questioned where the doctors, nurses, teachers, first responders and hospitality workers will live; that entry level wages for these positions do not allow people to live in the current available housing near their workplaces; that this makes people less likely to accept employment opportunities, because they do not want to drive an hour or more to work daily; that to maintain economic strength and competitiveness, Delaware must confront the housing shortages and the cost of living concerns; that the Cool Springs Crossing project directly addresses these issues with a thoughtfully planned mix of homes; that beyond housing, the project brings a significant economic impact; that potential construction activity alone is estimated to generate a one-time economic impact of 1.3 billion statewide and will support approximately 6,400 full-time jobs, that the developer's investment in transportation infrastructure will help ensure that growth is manageable and forward thinking; that the proposed job creation, paired with significant infrastructure improvements is a win, and she requested the Commission approve the Cool Springs Crossing project, which will help to build a more sustainable and inclusive future for Sussex County.

Mr. Jonathan Contant, Land Planning Manager for K Hovanian Homes, spoke in support of the applications. Mr. Contant stated that with the proposed Master Plan, three minutes would be the approximate amount of time it would take someone to get from one end of the project to the other, to access groceries, gas, access to restaurants, doctor's offices, the gym, the YMCA and more; that the currently the closest grocery store to the site, is the Redners on Rt. 9, which would exceed three minute drive to; that it also adds to the traffic along Rt. 9; that the proposed Master Plan community would keep most daily necessities accessible from inside the community without creating additional traffic along the major roadways; that K Hovanian is the builder in Monarch Glen, located across the street; that the proposed plan provides closer access to these services for their buyers as well; that he felt having high density, multi-purpose, mixed-use, multi-price level communities, will help to reduce the traffic; that smart growth is a partnership; that partnership is not only what Sussex County wants, or what DelDOT wants; that the partnership is also what the land owners want to do; that this proposed

development will help expand public water, and public sewer; that there are many DelDOT projects, identified in the Traffic Impact Study (TIS), that the project is proposed to impact by providing DelDOT more funding; that the developer will have to improve intersections rather than just providing a contribution; that he had not taken a look at the Traffic Impact Study, but he was willing to bet that most of the intersections are either currently failing; that the project will provide a partnership between the developer, DelDOT and the County, providing an opportunity to rectify those situations, and improve everyone's level of living and travel in the area; that he agreed with many other points of support that had already been mentioned; that he requested the Commission consider the need for workforce housing, and stated that K Hovanian supports the proposal for additional housing, increased inventory and options for those who are retiring here, as well as those who work here.

Mr. Brian Rashley, Manager of Bayside Golf Club, spoke in support of the applications. Mr. Rashley stated that Sussex County continues to grow, and so does the urgent need for thoughtful and sustainable housing solutions, particularly for the local workforce; that he witnesses this need at Bayside and across the hospitality industry; that many of their employees struggle to find affordable housing; that he currently has associates who travel from Virginia and Pocomoke City to Bayside daily; that the issue is not unique to hospitality, as it impacts the healthcare workers, teachers, first responders and retail employees; that workforce housing is not just a housing issue, it is an economic and community issue; that if the community desires for businesses to thrive, and the communities to stay vibrant, we need employees to work close to where they work; that the Cool Springs Crossing project represents the comprehensive, forward-thinking development that Sussex County needs; that the project does not just check boxes on a site plan; that the plan offers a long-term solution by providing diverse housing options, thoughtfully planned amenities and a stronger foundation for the workforce and local economy, and he stated that by approving the project, the Commission would be voting for balance, inclusivity, and long term sustainability for Sussex County.

Mr. Greg Hurley, resident of Tower Hill within Sussex County, spoke in support of the applications. Mr. Hurley stated he felt the Tower Hill community is the most significant project of Carl Freeman, prior to the proposal of the Cool Spring Crossing project; that he serves as a member of the Tower Hill Property Association Board of Directors; that he had frequently interacted with the developer, Carl Freeman Companies and its team for the past two years; that he has found Carl Freeman Companies to be responsive to the needs of the residents, during the continuing development of Tower Hill; that they have made additions and changes in response to the request of the residents and the association, and based on past performance, he had no reason to change his view regarding Carl Freeman Companies.

Mr. Dave Carey, resident of Lewes, spoke in support of the applications. Mr. Carey stated he is one of the property owners in Cool Springs Crossing; that the property came to his father in 1969; that the decision to sell the property was difficult, and was made based on analyzing many factors, challenges, and risks; that one of his considerations was the ever increasing number of overlays on the property, which he felt served to diminish his private property rights; that water, sewer, three phase electric, and fire protection has been on the property for a decade; that the increasing traffic on Hudson Road, clearly explain the reasoning as to why the property should not be located within Level 4; that his support for Carl Freeman was based on three points, being the project is a mixed-use, smart growth community; that from his research there are at least 5,000 homes located within three miles of the property, that are required to drive to Milton, Long Neck, Rt. 1 or Lewes; that he feels the County needs to provide employment for the working age people, and those just graduating; that construction

activities will generate \$1.3 billion, of which the vast majority of it will stay in Sussex County, and he stated he would prefer to see a smart growth community over another community of single-family homes.

Ms. Patti Grimes, resident of Americana Bayside within Sussex County, spoke in support of the applications. Ms. Grimes stated that Americana Bayside is a completed community that offers similar amenities to the Cool Springs Crossing project; that her family has enjoyed being homeowners in Carl Freeman's communities; that she has been able to enjoy a walkable community for many years as a Bayside resident; that she is able to walk to work; that she is able to walk safely along sidewalks with streetlamps; that she often gets to meet and converse with her neighbors during walks and bike rides; that she is able to walk to the Bayside commercial corridor to the grocery store, pharmacy, restaurants, and bank without leaving the community; that this allows for less traffic on the roads, while still allowing the public to enjoy the benefits of their Master Plan community; that the project protects the environment by reducing the carbon footprint; that there is diversity in the community, allowing people to stay in place as they age; that it is important that we continue to grow Sussex County; that recommending a Master Plan community, with an amenity core, for not only the residents, but the public to enjoy, is very important; that there is quite a difference in the livability for people residing in a subdivision versus a Master Plan community, and she urged the Commission to approve the Cool Springs Crossing project.

Chairman Wheatley advised the Commission and the members of the public that the representatives from DelDOT are not presenting in support of or in opposition to the applications, and that the DelDOT representatives are present as a resource for the Commission only.

The Commission found that Mr. Todd Sammons, Assistant Director with DelDOT's Development Coordination Division, was present at the request of the Commission; that also present were Ms. Pamela Steinebach, former Director of Planning, newly appointed Director of Maintenance and Operations, Ms. Sireen Muhtaseb, Traffic Impact Study Engineer, Ms. Joanne Arellano, Senior Traffic Engineer with JMT Transportation Engineering firm.

Ms. Wingate requested an explanation of the impact the 1,922 units will have on the area, compared to the 1,200 to 1,300 units that would be permitted by right within a standard subdivision, given that the project is projected to be constructed over a 24-year span.

Mr. Sammons stated he was just presented that question that morning; that the Applicant is conducting a traffic analysis based on just single-family use, and that they currently do not have the apple to oranges to compare.

Ms. Muhtaseb stated they just received the preliminary Traffic Impact Analysis, and they are currently reviewing the analysis.

Mr. Sammons stated that if the current project is not approved, the Applicant is moving forward with a separate submission for a major subdivision, for single-family lots based on the by-right density permitted within the zoning district; that DelDOT is currently undertaking that requested analysis, and because they are in the early stages of the analysis, they are not able to provide an apples to oranges response at that time.

Ms. Wingate stated that she realized the amount of time the analysis would take and questioned if four separate people purchased four separate properties, and they all decided to develop at the same time, the impact on the roadways would be very different than what the Commission is currently considering.

Ms. Sammons stated that it could look different; that the analysis was a massive undertaking with having to review 43 intersections, all of the committed developments, collectively painting a broad picture to do serious planning on it from a transportation impact; that if it was broken into small properties, being developed individually, they would have to comply with any warrants for analysis if required; that even if a project does not meet the warrants for a Traffic Impact Study or Traffic Operational Analysis, DelDOT still performs some form of analysis on the project; that if a project were to be piecemealed, it could result in piecemealed improvements to the roadways, creating a less holistic approach, and that it all comes down to timing.

Ms. Wingate questioned whether DelDOT was in support of constructing the walking bridge, which is proposed to be similar to what is at Baywoods and would take traffic off the crosswalks.

Mr. Sammons stated DelDOT has extended the trail down to Hudson Road and Rt. 9; that there is currently a pedestrian crossing there; that bicyclists also cross at this area, rather than the location of Cool Springs Road; that they initially looked at the area, as it was the proposed location for a bridge or tunnel; that these proposal are not technically off the table; that the proposed bridge or tunnel is out of realm of what they do, and at this time is not something the department is planning for.

Ms. Steinebach stated the current crossing is a safe crossing; that DelDOT does not currently have plans to perform a DelDOT funded project for a bridge or a tunnel; that they are completely on board with supporting it potentially with a federal grant, but it will not be funded as a DelDOT Capital Transportation (CPT) Project, as they do have an existing crossing in that location.

Mr. Sammons stated DelDOT has placed a crossing, and DelDOT may consider a bridge or tunnel in the future; that there are challenges with the proposal, which is the reasoning it has not already occurred; that the department took the initiative to build the path farther down to make that at-grade crossing; that people do not like to walk or bike across bridges, and tunnels present different challenges from a homeland security perspective.

Ms. Wingate stated that both bridges and tunnels are very effective and questioned if DelDOT would have any objection to allowing a roadway from the development to the medical center.

Mr. Sammons stated DelDOT fully supports interconnectivity within the department, subject to it being constructed in a sound and safe way; that many times the Planning Commission, County Council, and DelDOT plan for interconnectivity, which is followed up by public opposition from the development community; that interconnectivity must be designed in a proper way, as cut throughs can become unsafe; that there are ways to mitigate that, and without interconnection it defeats the purposed of planned communities.

Mr. Collins questioned what DelDOT's estimate in trip reduction would be for a Residential Planned Community with amenities, employment centers, shopping, etc. built in versus a by-right standard subdivision.



Mr. Sammons stated that DelDOT refers to that as Internal Capture; that if you have a standard single family subdivision, residents will have to leave and return for every amenity; that when a project proposes multiple uses, like Cool Spring Crossing, that DelDOT provides credit to the project, and can calculate what the internal capture will be, which will pull those estimated trips off the roadways; that there is a huge benefit to internal capture; that DelDOT is not present to support the project; that DelDOT remains neutral to the proposed project; that there is a huge benefit to having these types of planned communities, with provided amenities, from a transportation perspective, and overall planned communities reduce vehicular traffic all together, because many people will walk or take a bike.

Ms. Arellano suggested keeping in mind that with internal capture, is the type of uses internal capture is applied to; that primarily it is residential to retail, residential to office or restaurants, and vice versa, and not every proposed land use within the development has an internal capture according to the ITE Trip Generation Manual.

Mr. Robertson requested further explanation of how the Traffic Impact Study (TIS) is facilitated.

Mr. Sammons stated that everything is time sensitive; that to be able to perform the analysis, a certain time and build out must be chosen; that they are dependent on the developer to tell them their schedule; that in the current case it was 2044, realistically now probably adjusted to 2048 for the full build out presented during the presentation; that when the counts are analyzed, it must be performed at a certain time, so that they can begin the analysis process; that they do apply annual growth factors and seasonal adjustment factors depending on when the counts were taken; that growth factors take into account the growth that is going to occur over the years, and committed developments as well; that it takes some time to perform an analysis of this magnitude, and DelDOT attempts to account for all the committed developments, add in growth factors which takes into account build out as well.

Ms. Steinebach stated that DelDOT also maintains nearly 90% of the roads, they do large scale planning; that one of the large scale areas is the coastal corridors; that they have completed the final report for those; that they will continue to analysis as they understand there is a lot of growth in the area; that the Henlopen Transportation Improvement District (TID) is located to the east; that they are not going to stop with that one formalized analysis; that they will continue to perform additional counts and forecasting; that; that they are a monitoring entity, and will have a pulse on all the new developments; that they are trying to hone in on growth factors; that there are many factors that contribute to growth factors, such as population, number of households, and employment areas; that DelDOT is monitoring the coastal corridors, while including input from stakeholders throughout the area and the input includes comments from the County and business owners, who are on the ground, and can voice any current issues or potential issues.

Mr. Robertson stated that there is a Traffic Impact Study (TIS), which is separate from the Coastal Corridor Analysis, and he questioned how those two documents work with one another, how the Coastal Corridor study impacts the project, how the Coastal Corridor study should impact the Commission's consideration of the project, and what the interplay between the two studies are.

Ms. Steinebach stated the Traffic Impact Study (TIS) placed responsibility on the Developer for certain infrastructure that they will be responsible for, to avoid the project negatively impacting the transportation system; that this responsibility is only one cog in all development County-wide, not in one specific area; that this is part of DelDOT's long range planning; that the Coastal Corridors studies

are to provide a regional analysis of impacts to the transportation system, separate from the specific developer requirements for specific projects and the current planning vision takes in account longer forecasting to approximately 2050 and beyond.

Mr. Sammons stated that DelDOT attacks the analysis, admiring the roadways and infrastructure from multiple sections and approaches; that these areas overlap each other; that just like the current letter for Cool Spring Crossing, which mentions the TID, the Coastal Corridor study and the CPT projects; that all these studies are independent of each other, but all overlap each other, while analyzing and attacking the same issues; that the main issue is traffic mitigation with regards to end growth and those types of things; that these individual studies are performed not only by their group, but multiple other groups, and this is the reasoning why it can be so cumbersome to pull these letters together, coordinating with multiple different sections and groups.

Mr. Collins questioned what the project timeline will be for the Lewes Georgetown Highway (Rt. 9) roadway dualization and expressed the voiced concern from the public that the property that may potentially need to be acquired may be developed on.

Ms. Steinebach stated that there are two projects in the DelDOT Capital Transportation Project (CTP); that construction for the project located from Coastal Highway (Rt. 1) to Old Vine Blvd. is projected to begin in FY27; that construction for the Rt. 9 dualization between Old Vine Blvd. to Dairy Farm Rd.; that the preliminary engineering is slated to begin in FY27 – FY28; that currently DelDOT does not have an estimated construction timing for that project; that DelDOT will need to accomplish the professional engineering, acquisition process and utility relocation first; that the Coastal Corridors monitoring is what will indicate when Rt. 9 will require dualization further west; that the intersection creating a lot of constraint is the intersection of Rt. 9 and Rt. 5; that there are many sensitive areas at that location, creating many complex problems, which will be the hardest for them to tackle; that DelDOT is aware of the concerns and growth of the area, but transportation projects take a very long time to get on the ground; that DelDOT has great partnerships with Director Whitehouse and the Sussex County Planning staff; that they are working on the Rt. 9 dualization to the east; that they have a good footprint of what it will be; that it is extremely important that DelDOT's ensure that information is placed in the Traffic Impact Studies; that this helps provide the information to Sussex County, allowing the Commission and County Council to place requirements or stipulations if needed, and the developer has agreed and accepted the reservation.

Mr. Sammons stated that within Item 21 of the Traffic Impact Study states that the developer should enter into an agreement built for right of way reservation along Rt. 9 site frontage, to allow for the potential future U.S. Rt. 9 road widening; that DelDOT may not know at this time how much right away will be required, but as the developer proceeds through the approval process, those are items that will be addressed, and if DelDOT cannot achieve an exact determination, they will project and obtain the reservations as they proceed through the process, ultimately the property would be acquired when the dualization or widening occurs in the future.

## OPPOSITION

The Commission found that, by showing of hands, there were 39 people present who were in opposition to the applications, and 12 people present who wished to speak in opposition to the applications.

The Commission found that representatives of the Sussex Preservation Coalition (SPC) being, Mr. Richard Barasso, Mr. Jim Dick, Mr. Joe Pika, Mr. Johannes Sayre, and Ms. Jill Hicks spoke in opposition to the applications and submitted an 1,800-signature petition in opposition for the records.

Mr. Barasso stated that the Sussex Preservation Coalition (SPC) consists of organizations and individuals who have interest or concerns regarding land use in the county; that their effort is not to unduly delay, interfere or obstruct the process, but rather be part of the process; that the Sussex Preservation Coalition (SPC) represents at least 4,000 people; that the SPC was organized about three years ago; that it was an outgrowth of other organizations including Sussex 2030 and Sussex Alliance Responsible Growth (SARG), which was an organization that he had co-founded; that SPC efforts are to focus on sustainability in the County as it relates to our natural resources, but more importantly, focuses on how best to balance growth, economic growth, and preservation of the roads, schools and emergency services; that he is proud to state that the former president of the Sussex Preservation Coalition now sits as a member of the Sussex County Council; that often land use decisions are focused on the future, and fail to recognize the unintended consequences to the here and now; that he complimented Carl Freeman Company in the presence of their management and organization at the meeting, unlike what the public has experienced from past developers; the SPC designated a team to work on the Cool Spring Crossing project for the past 18 to 20 months; that the team had interactions with hundreds of local residents, state agencies, homeowners associations, including HOAs where Carl Freeman was their developer; that they have spoken with land use professionals, traffic engineers and others; that the current application was the fifth application to come before the Commission for the proposed area, after previous efforts in 2021 and 2023; that if it were an easy decision, a decision would have already been made; that the current issues of concern are design changes, specifically as it relates to housing and housing expectations; that he has no doubt that the land will be developed in 20 to 25 years from now; that SPC wants to ensure that development was completed in the right way, not just for the benefit of the landowner or the developer, but for the people in the surrounding area; that the public understands that the Commission has total discretion on the four applications; that SPC believes currently, all four applications must be denied for the following five reasons; that the subject properties are zoned AR-1 (Agricultural Residential); that according to the current Future Land Use Map the properties are not located within a designated growth area; that based on the scale and scope, any decision on these applications would be premature, neglecting the recent commitment and investment made by the County in formally assigning a Land Use Reform group to analyze land use development in Sussex County, set forth to make recommendations that could result in new ordinance to amend the current County Cod and Comprehensive Plan; that working group consists of ten people; that within seven months, extensive work will begin in casting what will serve as the standard for how development occurs and how land use is governed in Sussex County over the next 20 years; this will be performed through the process of updating the Sussex County Comprehensive Plan; that this plan is essential in updating and establishing land use policies and identifying growth areas; that the plan will also consider various other community concerns, such as affordable housing, agriculture preservation, open space protection, historic preservation, etc.; that Sussex County must learn from other jurisdictions to begin to implement land development plans utilizing carrying capacity, which regulates the maximum intensity of a development based on actual infrastructure capacity; that proposed residential or commercial occupancy needs to be aligned and sequenced with capacity; that capacity is dependent on required road improvements; that although Sussex County does not have responsibility for roads, Sussex County certainly has responsibility for land use decisions for cars on the road; that the SCP's main questions are, is this the right use, is this the right place, and is this the right time; that every development must be sequenced, and must be sequenced relative to the road improvements to provide for the needed capacity

Mr. Jim Dick spoke on behalf of the Sussex Coalition Preservation in opposition of the applications with legal questions, and to provide explanation as to why SCP believes it would be wrong to accept a rewrite of the Future Land Use Map. Mr. Dick stated that according to the Sussex County website, the Sussex County Comprehensive Plan, adopted by Sussex County Council in December 2018, and certified by Governor Carney in March 2019, represented “*the culmination of more than two years’ worth of work with scores of public meetings, workshops, outreach that attracted hundreds of comments, suggestions, and ideas from residents, business owners, government officials and others*”; that the Future Land Use Map is a legally required part of the Comprehensive Land Use Plan, and according to Delaware Code, it “*shall have the force of law, and no development shall be permitted except in conformity with the Land Use Map*”; that the current FLUM divides County land into seven growth areas, where development is encouraged, and two rural restricted growth areas, where growth is not encouraged; that Cool Spring Crossing is located within the Low Density Area, being one of the two restricted growth areas; that the primary uses within the Low Density Area are agricultural uses and single-family homes on individual lots; that this area does not permit for large commercial developments or for multifamily residential buildings; that this is why the Cool Spring Crossing proposal cannot proceed unless the FLUM is amended to change the area from Low Density to a growth designation, such as the adjacent Coastal Area; that they have found only nine instances where County Council has used its authority to amend the current FLUM, since it was adopted about six years ago; that Mr. Fuqua had referred to ten instances, with one of those amendments pertaining to the Sewer Tier Map; that two of the nine instances were to correct technical errors; that one case was to transfer less than 1.5 acres, which had mistakenly been included in the Bethany Beach municipal FLUM to the Coastal Area within Sussex County’s FLUM; that the other case involved restoring a Growth Area designation to land that had been in a growth area under the 2008 plan and map, but was incorrectly designated as Low Density in connection with the 2018 FLUM revision, apparently by a computer software program without any instruction or direction from the Commission or County Council; that he presented a list of seven amendments, excluding the sewer tier amendments, and the two technical amendments; that most of the amendments involved a change from one growth area to another growth area; that only three of the previous amendments involved changing land from Low Density to a growth area; that a FLUM amendment the size of Cool Spring Crossing, being 637 acres, is unprecedented; that the average of the three amendments listed is 19.5 acres; that Cool Spring Crossing would be nearly 33 times as large; that the average of the three low density to growth area amendments is only six acres; that Cool Spring Crossing would be 106 times as large as the average of the low density to growth area amendments that have occurred since 2018 and 2019; that 637 acres is twice the geographic area of Ellendale, and is 30% greater than Greenwood; that the next largest request to change the FLUM involved the 247 acre Seaside application; that FLUM amendment requested a change from the Low Density area to the Coastal Area; that this request was denied in January 2023; that the SCP believes that, at this current time, a development of Cool Spring Crossing’s size and location would have very significant adverse impacts on Sussex County residents, traffic, schools and the delivery of medical, fire and police services; that they believe the project would have a negative impact on the environment, health, safety, and general welfare; that the approval of the project will also have other, less tangible, but very real adverse impacts; that an amendment of this magnitude would undermine the purpose of the Comprehensive Plan and the Future Land Use Map; that the project would be inconsistent with the plans overall objective of focusing growth in designated growth areas, leaving low density areas for low density; that approval of the project would disregard the years of work, scores of public meetings, workshops, citizen involvement, and County efforts; that approval for an amendment of this size would set a dangerous precedent, allowing other developers to look for similar opportunities, claiming entitlement to the same rights as Cool Spring Crossing; that approval of the proposed FLUM would inevitable erode

public confidence in the FLUM as a reliable land use planning tool with the force of law; it would be seen as no more than a toothless suggestion; that it would also preempt any future decision on whether or not to expand the Coastal Area, in the Cool Spring Crossing direction, in connection with the upcoming 2028 Comprehensive Plan and Future Land Use Map revision; that a decision of this magnitude should not be made in isolation before the 2028 revision, and without consideration of the cumulative impact of existing and approved developments, as well as the long range planning objectives for Sussex County as a whole; that the decision should not be made without consideration of the results from the Land Use Reform Working Group, the Rt. 9 Corridor Study, and the other ongoing efforts that would impact the 2028 Comprehensive Plan; that Cool Spring Crossing is also located within Investment Level 4, which is not a designated growth area for the State; that the State tends to limit any investment in Level 4 areas to agricultural preservation and natural resource protection; that large residential developments and commercial activities are discouraged in these areas; that Sussex County has the highest percentage of residential developments located within the Level 4 areas in the State; that all of the residential building permits issued for Level 4 areas from 2019 to 2023, nearly 81% of them were in Sussex County; that less than 20% of building permits were issued in Kent and New Castle counties combined; that nearly ¼ of all the residential building permits issued in Sussex County during that period were located within Investment Level 4 areas; that this information was taken from the 2024 publication from the Delaware Office of State Planning Coordination; that Cool Spring Crossing would add nearly 2,000 new residential units to the Investment Level 4 area, as well as the large commercial project; that this is the reasoning the Office of State Planning Coordination has opposed projects in April 2021, December 2021, January 2023, and December 2023; that the State has a huge financial interest in the way Sussex County is developing; that the State pays for a very significant proportion of our infrastructure and necessary services; that according to the Office of State Planning Coordination's 2024 Annual Report chart for State planning issues, the State funds 90% of the roads in Delaware, including Sussex County; that the State funds 100% of the State Police, 30% of the State's paramedic programs, 90% of the public school's transportation; 60% to 80% of public school's construction and 70% of public school's operations; that the State is not currently planning to make the type of infrastructure investments needed to handle a new development of Cool Spring Crossing's size; that the State is expecting the area to remain largely rural and agricultural; that if the FLUM is amended and the project is approved, the State can legally withhold financial assistance and infrastructure improvements to support the project; that the State has lawful authority to withhold support for any new development with the Office of State Planning determines it is substantially inconsistent with State development policies; that this is the determination the Office of State Planning Coordination has made four times in the past; that legal authority is Delaware Code, Title 9, Section 6958-B; that is the State does agree to invest in a Level 4 area, in order to support a project of the proposed scale and magnitude, the investment will necessarily divert money from planned investments in Levels 1 and 2, slowing down essential projects in more populated areas; that it will disrupt State agencies long term planning and budgeting processes, resulting in inefficient and inflated State spending; that this is happening at a time where any financial help from the Federal Government is uncertain at best; that the SPC request that the Commission recommend denial of the pending huge and unprecedented FLUM amendment sought by Cool Spring Crossing, in order to allay growing public concern of there being no effective constraints on development in Sussex County, that even a planning guide, with the force of law, can be circumvented, and to avoid a fiscally irresponsible decision, that undermines the State's planning and budgeting processes, as well as the State's major role in funding necessary infrastructure improvements in the County.

Mr. Joe Pika spoke on behalf of the Sussex Preservation Coalition, in opposition to the applications, regarding the impact the project would have on the nearby area communities. Mr. Pika stated that he has been involved in public policy issues in Delaware for a long time; that he is a resident of Lewes, a retired faculty member from the University of Delaware, and previously served as President of the State Board of Education; that he wanted to discuss service infrastructure, which is much more than water, sewer, electric, natural gas and broadband services; that service infrastructure includes school, fire, police, and medical service providers, as well as the impact on neighboring towns, who provide many of those services; that the concern of SPC is regarding the new demands Cool Spring Crossing will place on all the previously mentioned services, placing those services under even greater stress than they already are under; that their interpretation is that Sussex County's growth has been so rapid that those services have been unable to keep up; that we have had residential growth on properties in the area, but the growth has not been synchronized with the expansion of those services; that as a result, the demand has exceeded capacity; that there are strains we all experience when trying to get a medical appointment; that the recent examples, seen in the news, is the discussion regarding emergency services, particularly from Lewes, the issues the Cape Henlopen School District has raised, and medical services; that they believe the impact of Cool Spring Crossing go well beyond those that were explored in the economic and physical analysis submitted by the Applicant, which primarily focused on the economic benefits of the development and the tax revenue it will produce; that Cool Spring Crossing is going to cause big ripples; that he believes the project's population will top out at approximately 5,600; that even when allowing for the growth of Laurel and Milton, the project will be within the vicinity of the fourth largest to the sixth largest community within the County; that there are consequences from that; that one of these consequences is the position that the Cape Henlopen School District has taken regarding many proposed developments; that the Cape School District has expressed that they do not want to take on any further students until they can settle on a way to accommodate the students; that he has had previous conversations with Mr. Jason Hale, Cape Henlopen Director of Operations, regarding the current issues with enrollments; that the Cape Henlopen School District's concern is that they are being inundated with students, which must be placed somewhere; that the estimates from the Developer had been inconsistent; that the 2023 estimate was 566 students; that the current estimate in the materials before the Commission, the estimate total is 409 students; that the number of residential units had not changed, rather the methodology changes; that the 2023 estimate was based on a projection, founded on a questionnaire given to the residents of Americana Bayside, questioning how many of those households had school aged children; that the Developer then used that census data to make that projection; that the newest estimate is based solely on the estimate referred to by Mr. Fuqua on the census; that in both cases, Mr. Hale suggested that the estimates were too low; that Mr. Hale believed the census would be higher; that neither estimate takes into account the issues of overcrowded classrooms, how the school district will accommodate, or the disruption to families as a result of the school district being unable to accommodate them; that it will require the school district to redesign the attendance boundaries; that he can confirm that those changes can be tremendously disruptive, as he is a father of three children who went through attendance boundary changes in the past; that the arrangement that they had learned about, only as a result of the Milton Fire Department letter; that there is no other description of this document within the 900 page exhibit book; that within the drafted HOA documents, there is no mention of this obligation, and there is nothing in writing addressing this from the Developer; that they did hear during the presentation how it would operate and that it would also apply to Lewes; that it has been made clear that EMS needs more support; that currently there is a report being performed on the financial status of the volunteer fire departments in the County; that the fire departments are confronted with too few volunteers, moving towards using more professional, resulting in much higher expenses; that Lewes Fire Department have been providing monthly reports, expressing their

higher demands; that according to their February report, only 14% of the Lewes Fire responses happened within city limits; that according to a recently uploaded document, the Cool Spring Crossing project would be served by the Lewes Fire Department; that he believed that providing some compensation to both fire district would be a good idea; that only 23% of emergency responses are located within the city limits; that between February 2024 and February 2025, the fire calls increased by 26%; that EMS calls increased by 15% as an indication of growth in the area; that Lewes' agreement is that growth has exceeded their capacity; that SPC is concerned that the project will place pressure and exceed capacity in all of the service areas; that Lewes has been considering discontinuing ambulance service; that police service, within unincorporated areas, relies on the Delaware State Police; that Town of Milton is adding two officers, resulting in a force of 12 officers; that the Milton Police have a reciprocity arrangement with the State Police; that in the last six months of 2024, the Milton Police responded to an average of 16 calls per month for areas outside of city limits, resulting in about 200 calls per year outside of their city limits; that after conversing with city officials, there is concern that the project will place a burden on the Milton police and fire departments; that Lewes is also adding officers to their police force; that Cool Spring Crossing would be an unincorporated community and would not have either police or fire service; that it was suggested that Cool Spring Crossing be considered a new town, but he was unsure if that suggestion had ever been considered; that growth has impacts on neighboring communities; that Dr. Tam and the Beebe Healthcare staff recently presented a valuable briefing to the County Council; that the briefing pointed out that currently we have a shortage of 336 clinicians, doctors, nurse practitioners, and physicians assistants, resulting in a total shortage of 2,400 medical support staff; that there are about six medical support staff required for every clinician; that this current issue will worsen by 2030; that Dr. Tam estimated that Sussex County will need 11,120 additional clinicians, and 7,800 medical support staff by 2030; that our area has been identified nationally as a shortage area for healthcare professionals, including dentist, and mental health providers; that regarding medical services, Cool Spring Crossing will provide the benefit of 175 affordable housing units to assist with recruitment and retention; that the affordable housing unit rates will be fixed and limited; that the 525 workforce units will be rented at market rates; that the project will provide medical space, to be located next to Bayhealth; that the consequences of the project would be an additional 5,600 new patients creating a new set of demands; that the project must account for both full-time and part-time residents; that part-time residents are staying for nine months now, rather than three months out of the year; that the market rates will place a lot of the support staff outside of the group that will be able to afford to live in the 525 units; that during Dr. Tam's presentation he mentioned three kinds of positions he needed to find housing, being for nurses, care coordinators, and lab technicians; that all of those positions would qualify for Sussex County's Rental Program housing; that none of them would equal at 100% Area Medium Income (AMI), which is presumably where the market rates would be; that the challenge is not being met for the needs of medical service housing; that SPC has sought to mitigate several of its impacts, by providing the financial support to Milton and Lewes Fire Departments, providing the medical office space, the 175 affordable units; that SHARP has raised the question if an HOA payment is the correct way to provide additional money to EMS services; that everything he had mentioned demonstrates the problems of meeting capacity on the service side, exceeds any one developers capacity to mitigate the issues; that the issues require managed growth; that this will require plans to be put into place on how the issues will be addressed; that the required planning will not be achieved by making piece meal decisions; that these plans are derived during the Comprehensive Plan, when all of these issues are on the table at the same time; that SPC is not stating that the Cool Spring Crossing plan is a bad idea, and they acknowledge that the plan offers many desirable things, and that SPC believes that the project is not a good idea at this current time.

Ms. Wingate stated for the record that within the Applicant's proposed Conditions of Approval, the Applicant proposed a fee of \$100,000 to be paid by the applicable homeowners or condominium association fees, being \$100 per house, and that the Applicant appeared committed to that proposal, by their submitted conditions.

Mr. Johannes Sayre, resident of Lewes, spoke on behalf of the Sussex Preservation Coalition on the impact of traffic and what the Traffic Impact Study (TIS) revealed. Mr. Sayre stated that he had reviewed all the information of the TIS, but acknowledged that he was not a traffic professional that the SPC had vetted their observations with Mr. Dennis Hughes, a professional traffic engineer in Delaware, and therefore felt their beliefs were accurate and relevant; that Cool Spring Crossing is proposed to be one of the largest developments in eastern Sussex County to date; that the project could be considered a new community, or a separate town, consisting of 5,000 people in a space of 20 years; that the project is estimated to bring 33,359 added vehicle trips to area roads; that in review the TIS, they noted that DelDOT regulations require a TIS to consider roadways and intersections out two to three intersections, beyond the planned boundaries of the proposed development; that the Cool Spring Crossing TIS goes well beyond that requirement, considering intersections as far away as Rt. 9 and Shingle Point Road, located 4.5 miles west of the site, and planned DelDOT projects on Rt. 1, starting 2.5 miles north at Hudson Road and moving southeast from there; that the TIS is considering a much larger area for traffic impacts of the project, than what the regulations mandate; that they found the analysis of the TIS identified about 20 intersections whose level of service (LOS) will degrade below the standard for failure, unless local roadway improvements are made or planned build out projects are completed; that the TIS identifies remedies like those for most of the mentioned intersections; that recalling that the TIS considers intersections up to four miles away from the project, there are several new developments at that distance or closer, that the TIS did not consider, notably the Northstar development, located about two miles east of the project's perimeter; that there were also developments located between three to four miles north of the site, which were not considered; that they understand the absence of these developments from the TIS is not due to negligence, as these developments were proposed, approved for finished build out after work was in progress on the Cool Spring Crossing proposal; that this does not change the fact that these developments will contribute significantly to the traffic impact within the same area as the Cool Spring Crossing project, within the Rt. 9 corridor; that they found six developments, with a total of 3,132 homes located within four miles of the project, that were not considered within the Cool Spring Crossing TIS; that the Rt. 9 corridor is already a subject of the Coastal Corridor Study, consisting of Rt. 9 and Rt. 16; that as they just heard, there is currently a study being performed specifically to Rt. 9, which just began; that dualization of Rt. 9 is in some stage of planning, west of Five Points to Sweet Briar road, ending about one mile east of the project site; that the TIS performed a segment analysis of the impact of the project traffic contribution to Rt. 9, projecting completion from 2044 to 2048; that the Rt. 9 level of service will fall below the failure threshold; that the TIS does not recommend dualization of Rt. 9, considering the scale of the traffic impact of the Cool Spring Crossing project, as well as other developments within the immediate area; that it appears that no one yet has a whole plan to ensure that Rt. 9 does not fail to bear up under the projected load; that the DelDOT Memorandum of Understanding (MOU) states that DelDOT and Sussex County shall endeavor to maintain a service level of D, also known as Delta, on roads affected by an application; that there are conditions and exceptions on that mentioned within the MOU; that DelDOT's Level of Service Scale runs from A, being the best condition, to F, being the worst condition; that from the point of the MOU, failure means dropping to a Level E or Level F; that the TIS identifies multiple intersections, failing with a level of service less than Level D at different stages of the Cool Spring Crossing build out at 100%, 75% and even only 25% build out; that this creates impacts on access to neighborhoods and congestion conditions on roadways, at



intersections, and area roadways, notably being Rt. 1, Rt. 9, Rt. 5, Cave Neck Road, and Hudson Road; that the TIS identifies local improvements such as added lanes, signalization or planned build out projects that can prevent that failing state from occurring; that completion of those roadway improvements is required in order to prevent failure; that SPC also found cases where failure is predicted, but no improvements are planned; that the presented to the Commission a list of intersections listed within the TIS, where failure conditions levels of service E or F are predicted at some stage of build out; that two of the roads are smaller neighborhood roads, being Joseph Road and Arabian Acres Road; that it does not appear that the TIS suggested improvements to avoid any service level failure; that he presented to the Commission an aerial map of the neighborhood entrances, with the Cool Spring Crossing project being outline in pink; that all of the entrances reflected are located along Rt. 9 and the Cool Spring Crossing area; that reflected within the middle of the map are the Hunters Mill and Beaver Creek developments, which the TIS does propose improvements to prevent service level failures; that further west on the map, there is Prettyman Road and Shingle Point Road; that the TIS proposes improvements to avoid failures at the Prettyman Road location; that at Shingle Point Road and Rt. 9, the DelDOT Park Avenue Relocation project, will address any potential failures in that location; that on the lower left of the map, there was a small red notch, labeled as Hawthorne development, which is one of the six areas found that was not considered in the TIS; that within the reflected class of neighborhoods, where traffic is entering and exiting, the neighborhoods may be impacted and suffer with a failure to their level of service; that the list of area roadways with intersections, where the TIS predicts that service level failures will occur were the intersection of Rt. 1 and Cave Neck Road, and the intersections of Rt. 9, Hudson Road, and Fisher Road; that they counted nine, of which six are listed as depending on planned build out projects avoid failure; that the other three depend on the local improvements, such as added lanes, or signalization; that he presented and referenced an aerial map, which was provided within the TIS; that he stated the areas to take note of are the areas of the red dots, which represent planned DelDOT projects; that these projects include the Rt. 1, Eagle Crest and Oyster Rocks intersection, the Rt. 1 and Cave Neck Road intersection and the DelDOT Grade Separated Intersection project at that location, the Minos Conaway Road and Rt. 1 and another DelDOT Grade Separated Intersection at that location, Dairy Farm Road and Beaver Dam Road, and the DelDOT traffic circle project at that location, and the Rt. 9 and Rt. 30 intersection; that the TIS identified that area of Rt. 30 as requiring dualization to avoid failure; that Rt. 9 and Shingle Point Road intersection, depends on the Park Avenue Relocation project; that the Cave Neck Road, Sweetbriar Road, and Hudson Road intersection, and the DelDOT five-legged traffic circle project planned at that location; that he wanted to references these improvements, as well as all the local ones, as they are required to be completed in order to avoid failing levels of service at the mentioned intersections; that there are six developments, with a total of 3,132 homes, equaling about 1.5 times the size of the Cool Spring Crossing project, located within four miles of the project's perimeter that were not considered within the TIS; that the Villages at Red Mill Pond, with 177 homes, is listed within the TIS, but does not appear to provide any trip generation data; that the remaining developments are not mentioned within the TIS at all; that these developments will be contributing traffic, at their scale, to the roadways where Cool Spring Crossing traffic will also be added to the Rt. 9 corridor; that the Cool Spring Crossing project proposes 1,922 homes; that the Villages of Red Mill Pond has 177 homes; that the approved Northstar development will have 852 homes; that Hawthorne has 254 homes; that the Granary will have 1,350 homes; that Scarlet Oaks will have 163 homes; that Four Winds will have 336 homes; that these are developments, equaling to 3,132 homes within a four mile radius of the Cool Spring Crossing project; that these developments are incrementally changing the area to something other than rural area; that the questions to be asked if we want to accept this process, do we want it to continue and do we want to facilitate it or not; that whatever the reason of why this data was not included in the TIS, these homes will contribute

massively to the area traffic, while Cool Spring Crossing builds out; that SPC urged that for the Cool Spring Crossing proposal to be complete, an analysis of the Cool Spring Crossing traffic impact must include the traffic contributions of the missing developments; that the TIS identifies Rt. 9 as failing at Service Level E by 2044 or 2048, at 100% build out, specifically from Shing Point Road and Sweetbriar Road; that on Page 5 of the TIS, it explicitly states not to recommend Rt. 9 dualization; that the 2024 Coastal Corridor Study projected a failing Service Level E, at the location of the Rt. 9 and Rt. 5 intersection, without the consideration of the Cool Spring Crossing or Northstar projects; that the recommended second study for specifically Rt. 9, had just began; that currently, the daily vehicle trip estimate for Rt. 9 is 17,000 trips, which is close to the threshold of 20,000 trips, where dualization is recommended; that there will be a total of 47,000 additional trips added to area roadways when combining the total trips proposed for Cool Spring Crossing and Northstar; that given the service level failures the TIS predicts on Rt. 9 in the project's area, SPC question why mitigations for that, including dualization are not proposed; that it appears that there is an analysis, which currently anticipates service level failure on a major local roadway, while still missing information and results need to support an accurate review of the proposed project; that the SPC concludes that the road improvements which the TIS identifies as preventing service level failures must be carried out; that otherwise, per the TIS, those failures will occur; that to avoid those failures, the Phasing Plan for the Cool Spring Crossing project must synchronize completion of the roadway improvements with the project build out; that the project must establish concurrency; that the development cannot grow fast than the roadwork is completed; that the Cool Spring Crossing parcels are currently classified within State Investment Level 4, meaning there is no support planned for infrastructure investment; that funding and timing of improvements must be assured; that if this does not happen, per the TIS, there will be failure conditions on the affected roadways; that the TIS is missing information that is required in order for the TIS analysis for Cool Springs Crossing traffic impacts to be complete, and the Rt. 9 and corridor traffic studies, the land use review, State Investment Level review and Sussex County Comprehensive Plan update for 2028 need to be finalized before approving the proposed Cool Spring Crossing project, given the scale of the proposed traffic impact.

Chairman Wheatley requested to ask additional questions of the DelDOT representatives.

Chairman Wheatley questioned if the Delaware Office of State Planning Coordination had any authority over DelDOT's budget or had the ability to provide or take away funding to planned projects.

Ms. Steinebach stated that she was not aware of that being the case; that DelDOT goes through the Capital Transportation Project (CTP) full public process through MPO's and counties; that the projects get prioritized as part of the Delaware Code, and proceed through the Council of Transportation's public process; that as part of the CTP prioritization process, there is a local priority, and if it is located within a Transportation Improvement District (TID); that within the list of nominations DelDOT receives, some of the ranking does receive more points, if a project is endorsed by an agency, and it is a very long process.

Mr. Sammons stated that DelDOT attempts to account for all government and state agencies, and they have the TIS to mitigate the specific impacts of the developments themselves.

The Commission found that Mr. David Edgell, Planning Director with the Delaware Office of State Planning Coordination, was able to provide additional information. Mr. Edgell stated his office does not have the budgetary authority to stop any project at any State agency; that however, all of the State

projects for infrastructure and operating budgets for service, do adhere to the Strategies for State Policies and Spending, which is developed by the Cabinet Committee on State planning issues, which are enacted by the Governor by executive order; that through the capital budgeting process and operating budgeting process, all of the projects are all evaluated based on those metrics and determined; that DelDOT has a very detailed process for Capital Transportation projects; that location, in accordance to the State Strategies, is part of that process; that this is a statewide evaluation, broken down by county; that if they have priorities in any given cycle in Investment Levels 1 and 2, they might outweigh Investment Levels 3 and 4; that projects proceed through an entire matrix of evaluations from DelDOT, and the whole Capital Transportation Project and budgeting process.

Ms. Wingate stated that she understood Mr. Sammon's previous comments testified that DelDOT does take other projects into consideration, and that all projects are factored in, at some point as a whole.

Mr. Sammons stated the Sussex Preservation Coalition has been reviewing the DelDOT analysis since January 2025; that they had only received SPC's presentation earlier that morning; that DelDOT attempts to account for all communities and developments, but as he previously mentioned, there must be a cutoff point; that the Northstar application was submitted after the Cool Spring Crossing application; that at the time, the Northstar project was not considered a committed development; that they can only analyze the information they have at the time; that if there is something significant, the department is willing to review and consider anything, and that the current application has been scrutinized and torn apart multiple times to date.

Ms. Steinebach stated that DelDOT knew how intensive the project would be; that as part of the Development Coordination Manual, DelDOT technically only had to review three intersections; that due to the magnitude of the project, they made the extra effort, going above and beyond, analyzing 46 intersections to review the ripple effects, and to provide a hypothesis of when phasing would be required to be done; that they performed a Segment analysis as well, which the DCM does not require, and DelDOT was sensitive to the impacts, which led to their additional efforts of analysis.

Ms. Jill Hicks, spoke on behalf of the Sussex Preservation Coalition, and presented a petition of opposition containing 1,803 signatures. Ms. Hicks stated the subject area is a rural area, with only pockets of developments around the area; that Mr. Fuqua previously stated that the project size is irrelevant; that she disagreed; that the project and its size will impact the roads, schools, fire and ambulance services, and infrastructure, and therefore is relevant; that the option of building a cluster subdivision, from her understanding, would take an additional two years to proceed through the zoning process; that she believed that Sussex County would be well into the FLUM and the Land Use Reform Work Group would be done with its work; that she does not know if a cluster subdivision proposal would be a viable option; that she questioned if the 515 acres included the Martin Branch area and the resources around it; that the impact to the schools and other infrastructure is one reason that the Land Use Reform Working Group was designed; that she felt between those two issues, it warrants waiting; that the estimation of 23 additional students per year, equals to a classroom per year; that she questioned if the \$100 per unit would be added into the rent figure, whether it be for affordable housing, or the market rate affordable housing; that she was pleased that the Applicant referenced smart growth; that the SPC is about smart growth, but she stated it does have to do with if it is the right time for the project and if the project is the right size; that there is a lot of information being presented for the estimated traffic count; that Mr. Sayre had provided some traffic analysis

information; that she questioned if the Commission would want to hold the record open to the receipt of the traffic count information for the 1,200 unit application; that livable communities is not an internal look; that it is a look at the entire community area of the County; that what makes an area livable is the quality of life, including infrastructure, as well as the environment; that another area of consideration should be that Rt. 9 is a major evacuation route, placing more importance on the traffic analysis; that currently Sussex County is short about 13,400 residential units, based on a study done by Cabinet Committee on State Planning; that 80% of those are required for homeowners, and 20% for renters; that the shortage varies by income; that the shortage is more pronounced in eastern Sussex County; that the project proposes 175 units to participate in the Sussex County Rental program, with the remaining 525 units, being considered workforce housing, that will be subject to market rates affordable house; that she considered this an oxymoron, particularly when located within Sussex County; that the market rate is not affordable to the workforce, thus the reason Sussex County is in the predicament it is in; that affordable relates to what is affordable to a household at 30% of the gross monthly income; that if they are renters, that includes rent and utilities; that if it is a homeowner, it is a mortgage, utilities, property tax and insurance; that in 2023, it was stated that the Area Median Income (AMI) was \$71,200; that she recently saw a report stating it is \$78,000; that affordable housing and workforce housing are used interchangeably; that workforce housing is generally considered housing affordable to persons below 100% AMI, that meets the needs of wage and service industry workers; that when referring to workforce housing units, there needs to be specification given to the workers the unit would be affordable to; that a unit geared toward a teacher, making 100% AMI, is not going to be affordable to a cashier making 50% AMI; that she questioned which workers the housing needs will meet with the Cool Spring Crossing project; that at 100% AMI, a person should be able to afford close to \$1,800; that she questioned if he proffered \$100 would be tacked onto the rent or not; that she is part of a homeowners association; that she felt an HOA is not where the proffered \$100 fee should be handled; that people do not pay their dues; that an HOA will not want to be responsible for paying something that the developer committed to; that she felt the intent was good, but it would be a bad way to administer; that she felt the Commission should wait for the impact fees that the Council is currently working on; that she felt the administration of those monies would have to come through the County, potentially as a County tax; that HOA will change their covenants; that public service people, and some of the people Dr. Tam had mentioned do not come up to 100% AMI; that when considering the market rate affordable housing, the 525 units will not apply; that only the 175 units will apply; that average rents in Sussex County for a one bedroom unit is \$1,800; that for a four bedroom unit, it is \$2,900; that for a unit to be affordable, it requires an income from \$72,000 to \$116,000; that average rent in Lewes, including the outer area, is \$2,800 per month at market rate; that those 525 units are not going to be affordable to the workforce the County is trying to take care of; that examples of this are, at the Vineyards a one bedroom unit cost \$1,669 to \$1,729; that two bedroom units range from \$1,810 to \$2,600; that the Vineyard Mendocino, consisting of two bedrooms and two bathrooms, ranges from \$2,050 to \$2,280; that she questioned if Cool Spring Crossings net contribution of 175 units of workforce housing reduce the County's need; that she questioned if the 175 units would even support the 1,900 units that are being proposed; that based on her research from the U.S. Census Data, for a subdivision, one would need about 6% of the project to be for workforce housing, to be able to handle the rest of the subdivision; that for the Cool Spring Crossing project at 5,600, the project would need 337 workforce people; that she questioned if the 175 units will get the County out of the hole, or will they dig the County deeper; that she questioned if all of the concessions being discussed are worth making; that the proposal appears to be progress, but in reality it is far more modest, and may even create a negative impact; that she advised the Commission to not rush to judgement; that amending the Future Land Use Map at this time, for a project of its magnitude would be irresponsible; that the County needs to lead with the planning

process for the County as a whole, not react piecemeal to developers' site-focused business plans, which has been happening over the past five to eight years; that Sussex County should avoid a fiscally irresponsible decision that undermines the State's planning and budgeting process; that the project will place undue burden on all Delaware taxpayers; that if Sussex County builds 24% of its homes within State Investment Level 4, all of Delaware taxpayers will be paying for that; the Future Land Use Map carries a force of law and should not be easily circumvented; that Sussex County should allay the growing public concern that there are no effective constraints on development in Sussex County; that the way to achieve this is to let the planning process play out; that a decision on the project should not preempt the upcoming 2028 Comprehensive Plan work; that the State Investment Level work should be completed at the end of the year; that the work of the Land Use Reform Working Group and the current Rt. 9 Corridor Study should not be subverted or undermined; that public welfare is at risk; that a project of its magnitude needs construction to be concurrent with all the Traffic Impact Study road improvements, and the dualization of Rt. 9; that the data is incomplete and inconclusive; that the County and State must collaborate to align infrastructure with growth, school space, staffing needs, medical services, and emergency services; that this cannot be another example of let the County build it, and the State will fix it; that SPC supports the County's effort to increase workforce housing; that the County needs metrics to know if proposals, such as the current, are going to help or exacerbate the problem; that the County needs to be more prudent in its expectations; that the County needs to commit to more affordable housing units, priced in line with Area Median Income guidelines, not market rate affordable housing; that smart growth is questioning if a project is the right use, at the right place, at the right time, and the current project is not the right size, at the right time, until we have more answers.

Mr. Collins questioned whether SPC preferred the by-right subdivision application of 1,200 units over the current proposal.

Ms. Hicks stated that the SPC does not prefer one application over the other; that if the Applicant were to come back with a 1,200 unit application, the two applications hearings would be two years apart; that during the two year time period, working will be started on the Comprehensive Plan; that work will be completed for the Land Use Reform Working Group, and the State Investment Level studies should be completed, and she was implying that the County needs to complete the Comprehensive Plan on where they want to see this area go.

Mr. Collins questioned if the Applicant was to resubmit next week, what rules would the application fall under?

Chairman Wheatley stated that if the applicant were to propose any affordable housing component, their application would be expedited.

Ms. Hicks stated in the secondary application, being the 1,200-unit subdivision, she did not see any affordable housing proposed, and again questioned at what point affordable housing would be getting the County out of the hole or even covering its own proposed residents.

Chairman Wheatley stated he felt everyone needed to keep in mind that sewer lines are not built on speculation; that sewer lines are built upon demand; that the idea that the County will catch up, and things will be in equilibrium, will never happen; that he hoped the County could do a better job than what is currently being done; that the County is currently trying to do that; that infrastructure will

always be behind because taxpayers do not want to pay the cost of speculative ventures and there is always going to be an inconvenient period.

Ms. Hicks stated that the Commission needed to consider if they wanted to amend the Future Land Use Map for 637 acres, when every other developer watching will request the same, claiming a precedent had been set.

Mr. Robertson stated he disagreed with Ms. Hicks' statement, as a mentioned development was Seaside, which was quite large, and was denied, and he stated that developers can ask, but it does not mean the request will be granted.

Chairman Wheatley stated that each application must stand on its own; that the subject site has water and sewer services, with development all around, and the area might be currently classified as Level 4, but the area is not rural.

Mr. Collins stated that Level 4 only becomes Level 3 or Level 2, when all the infrastructure is in place.

Mr. David Edgell, Planning Director with the Delaware Office of State Planning Coordination, spoke in opposition to the applications. Mr. Edgell stated that as required by Delaware Code, the Sussex County application submitted the plan amendment for review through the Preliminary Land Use service in December 2021; that the PLUS review determined that the plan amendment was inconsistent with the Strategies for State Policies and Spending; that their PLUS response letter, dated January 13<sup>th</sup>, 2022, identified a number of concerns related to the proposed amendment, notable the location and Investment Level, as well as their environmental, transportation and archaeological concerns due to the large size of the amendment and the potential significant impact on State resources; that the letter was ended stating that the State looked forward to working with the County on a process that will evaluate the application in conjunction with the Coastal Corridors study, and a robust community planning effort led by the County; that it had been three years since the State's initial review; that to date, there had been no robust community planning effort led by the County to consider the plan amendment in relation to its cumulative impact on the area and corridor; that after waiting patiently for over two years, the Office decided to formally object the plan amendment in February 2024; that the objection triggered a 45 day period of negotiations with the County that they hoped would be an opportunity to discuss the amendment, and ways for collaboration, moving forward together to evaluate the impacts; that instead the County's position was that they were unable to discuss the amendment at that time; that they learned from the County, that the current public hearing process, is the way they gather information and data about the plan amendment; that after the 45 day period concluded, he referred the matter to the Cabinet Committee on State Planning Issues; that the committee met with representatives of Sussex County on April 8<sup>th</sup>, 2024; that at the meeting, the County further explained the importance of holding hearings before discussing potential plan amendments with the State; at that meeting, a mutually agreeable course of action was decided upon; that the County would hold hearings before the Planning & Zoning Commission and Sussex County Council, and before action was taken, reengage the 45 day period of negotiations; that another meeting between Sussex County and the Cabinet Committee on State Planning issues will be held during this 45 day period to further discuss the amendment; that he prepared and submitted the letters of correspondence, along with his comments for the Commission; that Comprehensive Plan amendments of the proposed type, are required to go through the Cabinet Committee of State Planning issues, then onto the Governor; that the current process is very unusual, and they are feeling their way through it; that they have worked closely with Mr. Robertson; that they have crafted the

process before the State's DAG, and it was important that he present before the Commission to share what the process was, so that the public was informed.

Mr. Robertson stated that it has been an evolving process working with the State Planning Coordination on map amendments; that they heard two different sides of it; that he supposed the County was somewhere in the middle; that the County had a couple of applications where the County was at the forefront of requesting a map amendment on behalf of the applicant; that an issue was that the County did not have sufficient information to understand why the request may be appropriate or not; that this needed information was not provided until the public hearing process; that Mr. Whitehouse was placed in the awkward position of having to appear at the Office of State Planning Coordination to advocate or explain a map amendment that he had no information on, which would allow him to present a meaningful, background reason, because it had not proceeded through the public hearing process; that through this process, they realized that this was not the best way to proceed; that the best way to proceed in all the matters is to have all the information available to everyone, to allow for an informed decision to be made; that at the time, no one had all the relevant information, and therefore it was the County's opinion that an informed decision could not be made; that there was mention of a delay in getting this application before the Office of State Planning Coordination; that he would disagree, as the County was trying to work out the process to do that; that the County has drafted a Memorandum of Understanding (MOU), with the Office of State Planning Coordination to document the process; that the MOU has not yet been signed by the Office; that they are currently proceeding this way because it enables the County to create a record, and the County is trying to work out the process to allow clear understanding on how to move forward.

Mr. Jack Young, resident of Rehoboth, spoke in opposition to the applications. Mr. Young stated that the Cool Spring Crossing applications failed the primary tests of the Sussex County Code §99-3 and §115-3; that the Sussex County Code §99-3 provides for the orderly growth and welfare of the citizens with proper development; that Sussex County Code §115-3 establishes the purposes of the zoning process; that the zoning process should provide for present and future needs, including lessening congestions, and providing adequate provisions for public requirements, transportation and education opportunities; that the Cool Spring Crossing applications do not and are not supported by sufficient service infrastructure at the current time; that given the Code requirements, more needs to be done to satisfy the Code requirements or adequate provisions of public requirements, transportation and educational opportunities, and more must be done before we can satisfy ourselves of the primary task that the Zoning Code tells us to do in both Chapters 99 and 115.

Mr. John Montanez with SHARP (Sussex Homeowners Advocacy Resource Partnership) spoke in opposition to the applications. Mr. Montanez stated that SHARP has been in existence for approximately three years, and is comprised of 19 volunteer communities, servicing approximately 6,000 households in Lewes and Rehoboth; that SHARP's purpose is to serve the homeowners and residents of Sussex County; that SHARP is in full agreement with the Milton Fire Department; that they have witnessed first-hand all of the exponential growth that has occurred in the area; that they are equally concerned about their ability to meet those growing needs; that where they disagree is the belief that issues can be remedied by an agreement between a developer and HOAs; that they feel it is not justified and not sustainable to ask homeowners to pay an additional fee; that you are asking the residents to pay an additional fee for the same service that everyone in the room is currently receiving; that while the State allows the HOA to levy fees, homeowners can rescind those fees by vote; that this creates the fee to be unsustainable and non-binding; that everyone agrees that they trust the local government to make the services of roads, schools and emergency services provided in a fair and equal

manner; that the idea of having an HOA provide these services is a stopgap measure that undermines the agreement that SHARP is trying to make; that the emergency services are being taxed, requiring a response from the County; that the response should be done through local governance, not through a relationship between the HOA and developer; that SHARP, and its 19 communities, fully support the local schools, emergency services and fire department, but do not agree with the idea that an HOA should be used as a mean of leveraging the proposed fee; that SHARP is not advocating for taxes; that they are suggesting that we need to look at the problem; that for the long-term, it is not going to be achieved by a Band-Aid approach, by having the HOA attempting to fill a void; that his personal opinion is that people will assume that the HOA will be able to make up that money, and they will not have to pay it; that as a taxpayer, this would be a County-wide issue; that by the fee going through the County, it would create a fair and equitable way to ensure all residents bear the burden, and not just the residents of Cool Spring Crossing.

Ms. Wingate stated she has spoken with one of the fire chiefs in the local departments, who stated they have sent out thousands of letters requesting homeowners to contribute to the local fire department, and they receive very few back, and this is the reasoning why, in her opinion, the proposed method would work.

Ms. Carolin Velardi, resident of Hawthorne in Sussex County, spoke in opposition to the applications. Ms. Veladri stated that three years ago, she attended a meet and greet with the House of Representatives; that it was filled with angry EMS workers, teachers, and many people concerned with housing; that at that time, it was told to them that they needed to get involved with local County administration; that the State does not handle those issues, and that the local government does; that it was said that it is not the State; that the State had identified areas of concern, and placed things into progress to address the issues; that the issue was the local government allowing too much growth, which was outpacing the State plans; that she lives in the area; that just because she has a Dollar General store, does not mean that the area is not rural; that within the area there are farms all around; that there are different perceptions of what rural area looks like; that the State has identified the area as rural; that it is up to the Commission to deem whether it is an appropriate area or not; that there are a million reasons why the area is not the appropriate place and she is listening to her State representative, voicing her objection and now it is in the Commission's hands.

Mr. Fuqua stated that he would like to clarify the question regarding the fire company; that the fee has been proposed as a Condition of Approval, but more importantly, will be placed as one of the restrictions, and that the restriction would have a type of provision that it would not be permitted to be deleted, amended or modified, without the consent of the Lewes and Milton Volunteer Fire Departments.

Ms. Alison White, resident of Red Mill in Sussex County, spoke in opposition to the applications and submitted a petition of opposition containing 250 signatures. Ms. White stated that the proposed project will degrade their quality of life, safety and property values; that the project would add a town of 5,600 additional residents in 1,922 residential units with commercial development; that the project would add 33,359 daily vehicle trips to area roadways and remove 108 acres of forest cover on the parcel; that Rt. 9 is near capacity; that the community would triple traffic on Rt. 9 and its surrounding roads; that this will further impair vehicle entry and exit for the Villages of Red Mill Pond and degrade the residents daily driving experience; that there are insufficient plans for corridor expansion to manage additional traffic; that the site was classified by the State as being within Investment Level 4; that DelDOT will not consider, much less implement road improvements on Hudson Road, or Rt. 9



west of Old Vine Blvd until well after 2030; that Rt. 9 is one of the few emergency evacuation route for the Sussex Shore area; that Rt. 9 supports residents of Lewes, Rehoboth, and the growing Rt. 9 corridor; that adding 5,000 residents will make it more unviable than it currently is; that the property is not located within a growth area in the County's land use plans; that because of this, the developer is requesting the parcel to be amended to the Coastal Area, being considered a growth area; that the Coastal Area stretches from roughly Sweet Briar Road to the shore, and is already a scene of rampant overdevelopment; that the request to amend the FLUM violates State strategies, by building within State Investment Level 4, which is an area designated for conservation and preservation; that the massive number of added residents would further strain schools, emergency services, and healthcare facilities; that the amount of forest removal and pavement will endanger environmentally sensitive areas; that she urged the Commission to not recommend the applications for approval; that Red Mill Pond South has 177 homes with one entrance along Rt. 9; that the entrance has already been impacted by current traffic, creating a queue of four to five cars waiting to exit; that there was one occasion where a resident was attempting to get a relative to the hospital, who had to wait six to eight minutes to get onto Rt. 9; that urgently needing medical care can be critical; that there had been discussions regarding signalization at this entrance and about the dualization of Rt. 9; that any such plans are at minimum five years away from being realized; that their entrance is just over one mile west of the future Northstar community and 2.5 miles east of the proposed projects Site Entrance A; that they are located in the middle of the two projects, and considering the two project will add an estimated total of 46,000 additional vehicle trips to area roads, and the unfinished plans for improving Rt. 9, she has grave concerns about the project's impact to her community and their driving safety.

Ms. Alison Monroe, Sussex County resident along Walker Road, spoke in opposition to the applications and submitted two separate petitions of opposition, one containing 760 signatures from the last application in 2024, and 175 signatures for the current application of 2025. Ms. Monroe stated that the primary purpose of the Commission is to protect the interests of the current residents in the area, not the wishes of those who would like to move to the area; that she would argue that every name on the petition carries as much weight, if not more, than any developer, real estate agent or builder, as the individuals will be the ones most impacted; that the opposition rate in the nearby area is 98.3%; that as of May 1<sup>st</sup>, 2025, there were 287 public comments submitted through the County's website, equaling to an opposition rate of 83%; that the other related applications had opposition rates of 73%, 88.9% and 90.1%; that as a native to the immediate area, she had watched her hometown be altered almost past recognition; that she understands when she hears complaints regarding how busy the area has become, or when the newest transplants lament on the explosion of growth; that she believed many of the new residents feel they were sold a bill of goods of a pretty new house, on a quarter acre lot, located in the middle of farmland and forest along quiet country roads; that the realtors and developers sell this dream to one person after another; that this is all done while generational community members, longtime residents and newcomers alike, are left watching feeling helpless as slower, lower Delaware is being sold out of existence; that many natives are heartbroken, but too attached to leave; that she questioned is there a tipping point, to where sacrificing our quality of living is not worth the extra dollar, when it takes an hour to get home, when it used to take 15 minutes, when a person no longer feels safe walking along the road on which they have lived for years, or when the family doctor cannot accept you as an patient, when there are no more turtles in your yard, and no more cows in the field, and no more solitude to be found on the beaches; that she questioned if the extra income will be enough, or will the man-made improvements be enough to replace what the area has lost; that as she watches the farm fields being bulldozed and back country roads becoming thoroughfares, she implored the Commission to make the only correct decision, to

help protect what makes Sussex County a rural gem, and requested the Commission to not recommend the Cool Spring Crossing application for approval.

Ms. Barbara Capuano, resident of Independence in Sussex County, spoke in opposition to the application. Ms. Capuano stated that there has been massive growth over the past four years; that now every one of us sits in traffic, on roads, trying to catch up with the growth; that on the peninsula, we live on the coast; that there could be an emergency or 24 hour mandatory evacuation at any time, like what northern New Jersey, and New York have had; that the area cannot handle the traffic now; that the roads need to be built or corrected before laying plans to place this development; that the roads have not caught up with what is already here; that this issue will cost lives, should anything happen, and she requested the Commission to pause to look at the infrastructure, to figure out ways to handle what had already been approved before moving forward, as it is concerning life and death.

Upon there being no further questions, Chairman Wheatley closed the public hearing for the four applications.

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

In relation to Ord. 23-07. Motion by Ms. Wingate to defer action, holding the record open for ten business days, for the sole purpose of receiving additional written public comments on the document submitted by the Delaware Office of State Planning Coordination, seconded by Mr. Mears, and carried unanimously. Motion carried 5-0.

#### Minutes of the July 2, 2025, Planning & Zoning Commission Meeting

The Commission discussed the application, which had been deferred since May 7<sup>th</sup>, 2025.

Ms. Wingate moved that the Commission recommend approval of Ord. 23-07 to amend the Future Land Use Map within Sussex County's Comprehensive Development Plan based on the record made during the public hearing and for the following reasons:

1. This is an application to amend the Future Land Use Map of the Comprehensive Plan in relation to five tax map parcels containing approximately 637 acres of land with road frontage on Route 9, Cool Spring Road, Log Cabin Hill Road, Josephs Road, and Hudson Road. The properties affected by this request are Sussex County Tax Map and Parcel Numbers 235-27.00-11.00, 12.00, 13.00, 14.00, and 334-4.00-34.00.
2. The subject land is currently designated as a "Low Density Area" on the Future Land Use Map. This application requests that the designation be amended to the "Coastal Area."
3. The area near the subject property contains numerous residential developments and the Route 9 commercial corridor. To the west of the land are the residential developments of Lazy Lake, Shoreview Woods, Hunter's Mill Estates, The Trails of Beaver Creek, and The Meadows of Beaver Creek. To the north are The Communities of Oakridge Acres, Compass Point, Sweet Briar, and The Villages of Red Mill Pond on Sweet Briar Road, and Vincent's Overlook, Overbrook Shores, and other residential developments on Cave Neck Road. In addition, the Sussex Consortium School serving special needs students from all over Sussex County is located on the south side of Sweet Briar Road. To the east, the land is adjacent to the Tall Pines Campground Resort. To the south, the land borders Route 9, the Lewes-Georgetown Bike Trail, and is adjacent to an 18-acre parcel at the northeast corner of Route 9 and Hudson

Road, zoned I-1/Institutional, which is the site of the Bayhealth Emergency and Urgent Care Center. On the south side of Route 9, there is a commercial corridor of land zoned C-1, C-2, and CR-1 with a variety of business, commercial, retail, medical, and office uses. West of Fisher Road on Route 9 is the Cool Spring's Storage facility and an 11-acre parcel zoned C-2, that is proposed to be developed as a 75,000 square foot retail and office complex. On the opposite side of Route 9 is the Stephen Hudson Park being developed by the Sussex County Land Trust as a park with connection to the Lewes-Georgetown Bike Trail. Along Fisher Road are the Cool Spring Farm, Cool Spring Manor, and recently approved Monarch Glen residential developments. All of these nearby uses indicate that this area of Sussex County is more appropriately designated as being within the Coastal Area, a Growth Area, than the current Low Density Area designation. These circumstances also satisfy Objective 4.4.1 of the Comprehensive Plan in that the amendment "Ensures that new development compliments the character of the existing surrounding communities."

4. The subject property's main road frontage is on Route 9. Route 9 is a major Sussex County Road defined in Sections 99-5 and 115-4(B) of the Sussex County Code as the only east/west "Major Arterial Roadway" in eastern Sussex County.
5. This property is serviced by public transportation via a year-round Delaware Transit Corporation DART bus route from Georgetown to the Lewes Park and Ride that connects to the entire DART bus network. This connection into the greater Sussex County public transportation system justifies the map amendment to the Coastal Area.
6. The subject property is served with central public sewer and central public water by Artesian Wastewater Management, Inc.
7. The subject property is adjacent to the location of a Conditional Use granted to Artesian Water Company, Inc. for a one million-gallon, 150 foot tall water tower. The water tower has been constructed and is located on the east side of Cool Springs Road. The subject property surrounds this water facility.
8. The subject property is adjacent to the Bayhealth Emergency and Urgent Care Center located at the intersection of Route 9 and Hudson Road. The Bayhealth facility is designated to serve the greater Milton region, providing a free-standing hybrid Emergency and Urgent Care Center. The center is open 24 hours a day, 7 days a week. The existence of this medical facility at this location is consistent with the Coastal Area designation and the types of uses permitted in that Area.
9. The subject property is within an "Area of Opportunity" as designated by the Delaware State Housing Authority. An "Area of Opportunity" is a strong, high-value market with close job proximity and economic opportunity, high-performing schools, amenities, and supportive infrastructure that help households succeed. DSHA noted that the need for affordable housing, particularly in the Coastal Resort Area, is acute and well-documented. This need for affordable housing is supported in this location, under these circumstances, by the Future Land Use Map amendment to the "Coastal Area." On the other hand, such an "Area of Opportunity" is inconsistent with the current Low Density Area designation, and this change to the Future Land Use Map promotes Goal 8.2 of the Comprehensive Plan by "Ensuring that a diversity of housing opportunities are available to meet the needs of residents of different ages, income levels, abilities, national origins and household configurations."
10. The northeast portion of the land has an extensive, contiguous boundary with land designated as being in the "Coastal Area," and most of the land to the east is in the "Coastal Area." This map amendment is consistent with the "Coastal Area" designation of these adjacent and nearby properties.

11. The land is currently zoned AR-1. With the current “Low Density” designation, a cluster subdivision with a density of two lots per acre could be developed as a permitted use under Section 115-25 of the Zoning Code and Chapter 4 of the County Comprehensive Plan. A cluster subdivision development of this property could currently result in 1,260 single-family residential lots. The amendment to the Coastal Area designation would allow this property to be more appropriately developed as a master-planned, mixed-use development that provides a variety of housing types and uses. This is also in furtherance of Strategy 4.4.1.5 of the Plan because it “encourages master planning for large-scale development of large parcels.”
12. The “Coastal Area” is a “Growth Area” according to the Comprehensive Plan. This proposed Map amendment satisfies the criteria set forth in Section 4.4.2.1 of the Comprehensive Plan for a Growth Area, since: (a) the properties are in proximity to areas where significant commerce and employment exist; (b) the properties will be served by central water and sewer; (c) the properties are adjacent to the Route 9 corridor which is the only “Major Arterial Roadway” running from east to west in eastern Sussex County; (d) the map change will enable development that is in character with what exists or may occur in the area (including the adjacent “Coastal Area”); and (e) the Map change will not adversely impact any major preserved lands.
13. While the Office of State Planning Coordination has stated its objections to this proposed Amendment, the County in its Comprehensive Plan “is signaling that selected new growth areas may be needed to accommodate future development in places the State does not currently view as growth centers according to its ‘Delaware Strategies for State Policies and Spending’ document”. Given all of the circumstances that exist with respect to these properties, and particularly the location along Route 9, this is an appropriate location for the State to recognize that the “Coastal Area” designation is appropriate.
14. By the terms of the Delaware Strategies for State Policies and Spending document, all land use authority remains vested with Sussex County. This is reiterated within the current Sussex County Comprehensive Plan. While the County certainly takes into account the State’s recommendations with regard to a Map amendment, the circumstances that have been presented with this application justify this amendment to the Map.
15. This revision of the Future Land Use Map is appropriate given the particular circumstances involved at this location. When several factors like these exist, the consideration and approval of an amendment to the Future Land Use Map is appropriate.
16. For all of the reasons stated, it is the recommendation of the Sussex County Planning and Zoning Commission that the Future Land Use Map designation of the land (Tax Map Parcel Numbers 235-27.00-11.00, 12.00, 13.00, 14.00, and 334-4.00-34.00) be amended from “Low Density” area to “Coastal Area.”

Motion by Ms. Wingate, seconded by Mr. Mears, and carried unanimously to recommend approval of Ord 23-07 for the reasons stated in the motion. Motion carried 4-0.

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

Mr. Collins motioned yes, for the reasons and conditions stated in the motion.

Ms. Wingate motioned yes, for the reasons and conditions stated in the motion.

Mr. Mears motioned yes, for the reasons and conditions stated in the motion.

Chairman Wheatley motioned yes, for the reasons and conditions stated in the motion.

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO.334-4.00-34.00, 235-27.00-11.00, 12.00, 13.00 & 14.00.**

WHEREAS, on April 13<sup>th</sup>, 2023, the Sussex County Planning and Zoning Office received an application for a requested Comprehensive Plan Amendment to amend the Future Land Use Map element of the Comprehensive Plan to change the Area designation of Sussex County Parcel Nos. 334-4.00-34.00, 235-27.00-11.00, 12.00, 13.00, & 14.00 from the Low Density Area to the Coastal Area; and

WHEREAS, the Parcel comprises 796.26 acres of land, lying and being within Broadkill Hundred, and are located on the north and south sides of Log Cabin Hill Road (S.C.R. 247), the east and west sides of Cool Spring Road (S.C.R. 290), the east side of Hudson Road (S.C.R. 258), and the north side of Lewes Georgetown Highway (Rt. 9), at the intersection of Cool Spring Road (S.C.R. 290) and Lewes Georgetown Highway (Rt. 9).

WHEREAS, The Property is designated as being within the Low Density Area as set forth in the Future Land Use Map identified as Figure 4.5-1 in the 2018 Comprehensive Plan for Sussex County.

WHEREAS, Sussex County Council desires to adopt this Ordinance amending the Future Land Use Map of the Plan with minor amendments; and

WHEREAS, in accordance with the required process for public hearings on ordinances such as this one, both Sussex County Council and the Sussex County Planning & Zoning Commission will hold public hearings on this Ordinance, but limited in scope to this specific proposed amendment to the Future Land Use Map contained in the Plan.

**NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:**

**Section 1.** The Future Land Use Map identified as Figure 4.5-1 of the Sussex County Comprehensive Plan is hereby amended to change the area designation of Sussex County Parcel No. 334-4.00-34.00, 235-27.00-11.00, 12.00, 13.00 & 14.00 from the Low-Density Area to the Coastal Area. The entirety of Sussex County Parcel No. 334-4.00-34.00, 235-27.00-11.00, 12.00, 13.00, & 14.00 so changed as identified in Exhibit A, attached hereto and incorporated herein.

**Section 2.** This Ordinance shall also take effect following its adoption by majority vote of all members of the County Council of Sussex County, Delaware, and upon certification by the State of Delaware.



## Memorandum

To: Sussex County Council  
The Honorable Douglas B. Hudson  
The Honorable Jane Gruenebaum  
The Honorable Matt Lloyd  
The Honorable Steve McCarron  
The Honorable John L. Rieley

From: Jamie Whitehouse, AICP, Director of Planning & Zoning

CC: Everett Moore, County Attorney

Date: November 26, 2025

RE: County Council Report for C/Z 2010 filed on behalf of CMF Cool Spring, LLC

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The Planning and Zoning Department received an application (C/Z 2010 filed on behalf of CMF Cool Spring, LLC) for a Change of Zone from an AR-1 Agricultural Residential Zoning District to a MR-RPC Medium Density Residential Zoning District – Residential Planned Community at Tax Parcels 235-27.00-11.00, 12.00, 13.00, 14.00 & 334-4.00-34.00. The properties are lying on the north and south side of Log Cabin Hill Road (S.C.R. 247), the east and west side of Cool Spring Road (S.C.R. 290), the east side of Hudson Road (S.C.R. 258), and the north side of Lewes Georgetown Highway (Rt. 9) at the intersection of Cool Spring Road (S.C.R. 290) and Lewes Georgetown Highway (Rt. 9). 911 Addresses: N/A, 28645 Log Cabin Road, Lewes, & 16915 Hudson Road, Milton. The parcel size is 637 ac. +/-

The Planning & Zoning Commission held a Public Hearing on the application on May 7, 2025. At the meeting of July 2, 2025, the Commission recommended approval of the application for the 23 reasons of approval and subject to the 26 recommended conditions of approval as outlined within the motion (copied below).

The County Council held a Public Hearing on the application at the meeting on November 4, 2025. At the conclusion of the meeting, the Council deferred action on the application, holding the record open for the limited purpose of obtaining responses from State Agencies, including DelDOT and DNREC, to be received by the close of business on December 2, 2025. The responses would then be announced at a County Council meeting, after which members of the Public and the applicant would have a period of 14 calendar days to submit, in writing, any written comments on the responses received from State Agencies.

Below is a link to the minutes of the November 4, 2025, County Council meeting:



[Link to the Minutes of November 4, 2025, County Council Meeting](#)

Below are the minutes from the Planning & Zoning Commission meeting on May 7, 2025, and July 2, 2025

Minutes of the May 7, 2025, Planning & Zoning Commission Meeting

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

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

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the Applicant's conceptual master plan documents, a copy of the Applicant's exhibit booklets, slides and maps, and additional exhibits which include the Applicant shared parking study, the proposed deed restrictions for the property including the Applicant's Wellhead Protection Map, a copy of the Applicant's Environmental Assessments and Public Facilities Evaluation Reports, a copy of the Applicant's Drainage Assessments, a copy of the Applicant's Chapter 99-9C Reports, a Technical Advisory Committee comments, including responses from the Sussex County Engineering Department, Utility Planning Division, DNREC Department of Drainage, the Delaware Electric Co-op, the State Department of Agriculture and the Forestry Section, a copy of written responses received from DNREC Waste and Hazardous Substances, a response from Delaware Department of Transportation, a copy of comments received from the State Fire Marshall, a letter received from the local school district and the States PLUS comments, and the Applicant's response to the States PLUS comments, a copy of the Staff Review letters and the Applicant's responses to those staff review letters, a copy of the staff suggested conditions document, a copy of the Applicant's TIS which is a traffic impact study and the DelDOT response letter to the Applicant's TIS and we have 237 written responses which are included in your paperless packet.

Chairman Wheatley advised the Commission and the members of the public the order that the presentation and public hearing would proceed.

The Commission found that Mr. James Fuqua, Esq., of Fuqua, Willard & Schab, P.A., spoke on behalf of the Applicants, Carl Freeman Companies and CMF Cool Spring, LLC; that there are four (4) applications being presented to the Commission that involve 637 acres of land that's comprised of five (5) tax map parcels located on the north side of Route 9 at Cool Spring; that the first application is a request to amend the Comprehensive Plans Future Land Use Map; that the 637 acres are currently designated as being in the low density rural area of the Future Land Use Map; that the amendment proposes a change from the existing designation to the coastal area designation, which is one of the



planned growth areas; that the second application is for a Change of Zone from AR-1 (Agricultural Residential) to MR (Medium Density) within a RPC (Residential Planned Community) overlay for the entire 637 acres; that the RPC would be called Cool Spring Crossing and it would consist of residential villages with single family and multifamily homes and the commercial Town Center; that the third application is a Conditional Use for educational facilities to be located in the Town Center; that the final application is for Conditional Use for an assisted living facility and associated medical offices that would be next to the Town Center; that all four (4) applications are interrelated; that these applications propose a significant large scale, single family and multifamily residential community consisting of 1922 residential units and a Town Center comprised of retail, service, educational and recreational uses, as well as an assisted living facility and medical offices; that the demand for residential housing in Sussex County is the reason Freeman filed these applications and the situation can be summarized in four (4) comments:

1. In 2022, 78% of all residential growth in the state of Delaware was in Sussex County.
2. More than 33,000 people have moved to Sussex County from other states over the past four (4) years and this migration is expected to keep rising for the next three (3) decades.
3. Growth is rapid in Sussex County.
4. There is a lack of affordable multifamily housing units to keep pace with the growing population.

That those four (4) comments are the comments made by David Edgell, the Director of the Delaware Office of State Planning Coordination, at a presentation made to the Sussex Preservation Coalition in February of 2024; that in agreement with Director Edgell's comments, on the land use issue in Sussex County, the two (2) issues that arise are a strong demand for residential housing and an even stronger need for affordable housing; that the Applicant is proposing Cool Spring Crossing as a Master Plan, a large scale mixed residential use community and a Town Center with a wide variety of uses; that the development is projected to be constructed in multiple phases over a 20 year build out time frame; that considering the zoning approval, site plan approval and agency permitting for this type of development will probably take two (2) to three (3) years, Cool Spring Crossing is not anticipated to be completed until 2048; that Freeman has an established history of developing large scale communities here in Sussex County and has proven it has the experience, the knowledge and the ability to develop a large scale mixed-use community like Cool Spring Crossing; that the request to amend Comprehensive Plans Future Land Use Map from low density, which is a rural area to a Coastal area which is a growth area under the plan is to ensure that the proposed MR-RPC development would be within compliance; that the Comprehensive Plan states that the proposed MR-RPC is not a zoning district designated as being appropriate in a low density area, but is appropriate within the Coastal area; that the Office of State Planning issued a PLUS review letter objecting and opposing this original request on January 13, 2022; that the current request for amendment brings up the question to the Commission as to whether the area of Cool Spring Crossing is still considered to be a rural area in which it would remain as low density on the Future Land Use Map; that following are the facts and reasons for supporting the Coastal Area change:

1. To the West of the Cool Spring Crossing proposed property is the Bay Health Emergency Center, with an additional land of residential development including approximately twelve (12) different subdivisions.
2. There is the Sussex Consortium, a special needs school, part of the Cape Henlopen School District not far from the proposed property.
3. There is a commercial corridor of land including a variety of businesses West of Fisher Road.

4. The Stephen Hudson Park is being developed on the South side of Route 9 at Cool Spring Road with a connection to the Lewes Georgetown Bike Trail.
5. The frontage of Cool Spring Crossing is along Route 9, which is a major Sussex County road, which is necessary for the Sussex County Zoning Ordinance to be located along a major arterial roadway.
6. The Delaware Transit Corporation operates a DART bus along Route 9 from Georgetown to the Lewes Park and Ride, with East and West stops all along Route 9, with the offer to install new stops near the Cool Spring Crossing development.
7. The Lewes Georgetown Bike Trail is adjacent to the property with a crossover of Route 9 located at Fisher Road and Route 9 where the Hudson Park is planned to be.
8. The proposed Cool Spring development will have a public bike trail going through it, connecting the existing trail to Hudson Road and a future extension to the Town of Milton.
9. Central public sewer is available from Artesian Wastewater Management, Inc. and they hold a Certificate of Public Convenience and Necessity for central water in this area.
10. The Delaware State Housing Authority indicated that the lands comprising Cool Spring Crossing are located within a Delaware State Housing Authority area of opportunity, which are strong, high value markets with close job proximity and economic opportunity, high performing schools, amenities and supportive infrastructure that help households succeed. They also noted that the need for affordable housing, particularly in the Coastal Area, is well documented, especially in the PLUS Review letter 2021-1287 and 2021-1288.
11. The Cool Spring Crossing property is contiguous with an existing Coastal Area on the Future Land Use Map all the way from the Northeast corner all the way to the coast.

All of these reasons support that the area of Cool Spring Crossing is not located within a rural area any longer and can support the amendment of the Future Land Use Map to a Coastal Area for this property; that the Delaware Supreme Court has ruled that the adoption of the a Comprehensive Plan in Sussex County is vested solely with the government of Sussex County; that Supreme Court case was Denmark versus Sussex County; that the Delaware Planning Act, Title 29, §9103 of the Delaware Code, states that as to the adoption of amendment update or revision of a Comprehensive Plan, the final decision is that of the County; that it is an irrefutable fact, that the 2020 Delaware Strategies for State Spending and Investment Level Maps are not a land use plan; that the Strategies document itself states that it is not a land use plan; that the plan states that the land use authority in Delaware has been delegated to the local government; that the decision to amend or not amend the Future Land Use Map is a Sussex County decision; that the Applicant's request to amend the Future Land Use Map is not unique; that County Council has amended the Future Land Use Map ten times since 2020; that the opposition would argue that the previous amendments were for smaller parcels; that this is a case where size is irrelevant; that it is important to look at the underlying facts to support if there is a basis or not for the change; that if there are solid facts supporting the amendment, it should be approved; that he believed that to be the case with the Cool Spring Crossing project; that next year, the Commission will begin its revision of the amendment of the County's Comprehensive Plan and Future Land Use Maps; that this is required to be completed every 10 years, resulting in an updated Comprehensive Plan in 2028; that regardless if the application was not before the Commission today, it is likely the Commission would be considering the very same issue as part of the plan update; that if the facts he presented support an amendment for the plan in three years, that those same facts support the amendment of the plan today; that in order for the MR-RPC development to proceed, the amendment of the Future Land Use Map to the Coastal Area is required; that if the amendment is not approved by the County, the 637 acres will remain designated as a rural, low density area; that this does not mean that the land will remain as farmland, nor does it mean that the land will remain undeveloped;

that if the Cool Spring Crossing MR-RPC does not proceed, the land would be developed with single-family homes on individual lots; that the AR-1 (Agricultural Residential) zoned land, located within the low-density area, is permitted by the Sussex County Zoning Ordinance to be developed as a cluster subdivision; that subject to the design requirements of the Ordinance, a cluster subdivision is permitted to contain two lots per acre; that with a minimum lot size of 7,500 sq. ft., the 637 acres would support a phased cluster subdivision or multiple subdivisions containing 1,274 single-family homes on individual lots; that a subdivision would have none of the numerous benefits of the completed livable community and with these comments, Mr. Fuqua concluded his comments regarding the proposed Future Land Use Map amendment.

In regard to the Cool Spring Crossing, MR-RPC, and the two Conditional Use applications for the educational facility, assisted living facility, and medical offices Mr. Fuqua stated that Cool Spring Crossing is designed as a mixed-use community containing several seven residential villages and a town center that the villages will contain a mixture of housing types being single-family homes, and various types of multi-family dwellings; that the variety of housing types will result in a range of housing options and prices for both purchase and rental; that the homes in the villages will be located on new developed streets, interconnected with existing public roads, with pedestrian and bicycle network of sidewalk and shared use paths, to create a walkable and bikeable community; that a network of recreational uses, parks, and open space area will be interspaced throughout the development; that the Town Center is adjacent and easily accessible from the residential villages; that the Town Center will offer a variety of retail and service businesses, educational facilities and recreational opportunities; that this will reduce the need for vehicle dependency for residents of Cool Spring Crossing; that the project has road frontage along the northside of Rt. 9, the east side of Hudson Road, and along both sides of Cool Spring Road and Log Cabin Road; that the Town Center would front Rt. 9, bordering the western side of Cool Spring Road, and the eastern side of the Bay Health emergency facility; that there are seven distinct residential villages; that three villages, being Village A, B & C are located south of Log Cabin Road; that four villages, being Villages D, E, F & G are similar in nature, as they all contain a mixture of single-family homes, on individual lot, and a variety of multi-family dwellings; that Village C is located to the west, on the west side of Josephs Road; that this village will only contain 34 single-family lots; that it is envisioned as the community of higher end, custom build type homes; that Village A is located to the north of the Town Center; that Village A will contain 700 multi-family dwellings and a mixture of housing type; that there will be 50 patio homes, 144 quadplexes, 30 villas, 188 townhomes, and 288 condominium units; that Village A is planned and designed as the more affordable village and community, with residential units both for sale and for rent; that 175 of the Village 8 units, being 25%, of the 700 units will be made subject to the Sussex County Rental Program (SCRIP) Ordinance; that the Ordinance was enacted by Sussex County Council to encourage the creation of the affordable rental housing, particularly for County workers in the easter part of Sussex County; that the rental program ordinance controls both the eligibility criteria for tenants and the rent schedule for tenants based on the tenant's family income; that as required by the Ordinance, the types of units participating in the rental program must be the same ratio as the different types of units in Village A; that the units must be integrated, not separated from, the other units in Village A; that the units must be the same design and floor layout as the other units of Village A; that Village A would have the same access from Cool Spring Road, Log Cabin Road, and from the main entrance to the Town Center, located off Rt. 9; that Village A will be comprised of approximately 115 acres, of which 61 acres will be open space, including five interior park areas; that the open space; that the open space amounts to approximately 53% of the Village A area; that upon full completion of all of the villages, Cool Spring Crossing will contain 1,922 residential units, made up of 534 single-family homes, and 1,388 multi-family units of various types; that the proposed number of units is less than the maximum

number of units that would be permitted within the residential planned community (RPC); that there is a special formula to calculate permitted density of RPC's; that for the project containing 637 acres, the area was reduced by the streets, resulting in 63.46 acres; that they took a conservative approach when performing the Town Center reductions calculations, by deducting the entire Town Center area, which contains 57.94 acres; that this calculation results in the permitted development area; that when deducting the streets and Town Center acreage from the gross development area, it results in a net area of 515.6 acres; that when one divides the net area of 515.6 acres by 10,000 sq. ft., being the minimum lot size permitted within the MR (Medium-Density Residential) district, the result of permitted density within the RPC would be 2,245 residential units, with a density of 3.52 units per acre; that the project is only proposing 1,922 units, with a density of 3.01 units per acre, being significantly less than the permitted density for the MR-RPC; that their result of the 3.1 units per acre density, was determined solely by using the MR (Medium-Density Residential) density; that they did not use any of the bonus density that is permitted under the Sussex County Rental Program, which would have allowed the density to increase up to 12 units per acre; that regarding the Town Center, the Town Center fronts on Rt. 9, being bordered by Cool Springs Road on the east, and the Bayhealth emergency urgent care center on the west, with Village A being located to the north; that the main entrance to the Town Center is from Rt. 9, with an additional entrance from Cool Spring Rd.; that there are several access streets from Village a that connect to the Town Center; that the center will include a variety of retail, service and educational and recreational uses to serve the Cool Spring residents, as well as the area residents; that the proposed uses will include a grocery store, bank, a convenience store with a gas service, four restaurants, five retail stores, an art & theater facility, which would be the Cultural Center of the community; that it is envisioned to be operated by a local theater group, who would provide live theater workshops and other live performances, as well as painting and similar art classes, workshops and displays; that the Town Center would also include a 100 room hotel, a modern YMCA, or similar type of facility with a full gym, indoor and outdoor pools, indoor and outdoor pickleball, indoor tennis courts, multi-purpose meeting rooms, and an early childhood program for the care and instruction of preschool ages children; that the Town Center would include the two requested Conditional Uses; that the educational facilities would be located in two buildings with classrooms, resources areas, study areas, and administrative offices; that one building would be the college level instruction, potentially with the University of Delaware offering associate degree courses and professional certifications; that the second building would be for adult learning, potentially operated by the University of Delaware's Osher Lifelong Learning Center, which is a volunteer driven educational cooperative for adults aged 50 plus; that this project offers a wide variety of subjects, often taught by experienced retired residents; that the other Conditional Use to be located within the Town Center would be the assisted living facility; that the facility would have a capacity of 100 residents; that it would also have the associated medical office building, focusing on senior healthcare, which could possibly be associated with Bayhealth, who operates the emergency and urgent care center, located adjacent to the Town Center; that at the core of the Town Center, there are two large area of landscape open space, which will consist of a village green, and an event lawn for various community events and activities; that the Town Center would create economic development and employment opportunities, as well as convenient access to shopping and services to both residents of the community and residents in the area; that the Town Center would have a built-in advantage of having customers from the Cool Spring Villages, who would have the opportunity to access the Town Center without the need to drive; that in an RPC, commercial uses is one acre for each 100 dwelling units; that the 1,922 units being requested would equate to 19.22 acres of commercial use; that the planned commercial uses in the Town Center would utilize 18.52 acres of lands, being within the commercial use calculation; that regarding the entire community, and the recreational and social aspects of the development, the project is designed to be a walkable and bikeable community; that the project offers extensive

opportunities for recreational activities and residential interaction, with sidewalks on both sides of community streets; that a DelDOT design shared use path will be provided along one side of the site frontage, along Rt. 9, Cool Spring Road, Hudson Road, Log Cabin Road, and on the extension of Cool Spring Road that comes through the development; that those shared use paths will be interconnected with the Lewes Georgetown Bike trail, which borders the property along Rt. 9; that the Town Center has the village green, the event lawn, and other recreational, educational, and entertainment opportunities for residents; that the main recreational complex is located between Villages D, E, F & G; that this complex will include a clubhouse, with a minimum of 7,500 sq. ft. of floor area, accommodating areas for group fitness exercise, children's play, teen gathering, meeting rooms, casual seating area, staffed offices, restrooms and a refreshment and storage area; that located adjacent to the clubhouse, will be an outdoor, resort style swimming pool, separate kids pool with a splash play area, and a hot tub area, which will be surrounded by an expansive deck with shaded and unshaded areas; that there will be tennis, pickleball, and bocce ball courts; that also in this area will be a green space picnic area, with fire pits, gas tabletop grills, seating and open space for special events and entertainment; that there will be four additional outdoor swimming pools, with bathhouses, to be located in Villages B, D, G and also between Villages E & F; that there are several larger village parks, along with smaller neighborhood parks, with other recreational features, to be determined at a later time, but part of the site plan review approval for each phase of the development as it goes on; that there will be approximately 1.5 mile nature trail that will meander along the western edge of the Martin Branch Conservation area; that all of the homeowners within Cool Spring Crossing, with the exception of the owners located within Village A, will be required to be members of the Recreational Association, with quarterly or annual assessments to cover the expenses of operating and maintaining the recreational facilities; that Village A is planned and designed to be the more affordable village within the development; that in keeping with that goal, the owners of Village A will not be required to be members of the REC Association; that the owners of Village A, will have the option of joining the Recreational Association, subject to the same recreation fee as the other members of the Recreational Association; that the village as five internal open space park areas; that those areas contain 3.3, 2.3, 1.3, 1.2, and .9 acres; that the specific design of the parks has not been finalized; that the spaces would be focused on spaces to gather, to exercise and to play; that the parks will include pavilions, numerous shades areas with benches, a walking loop, a children's bike/scooter loop track, two playgrounds, a yoga lawn area, open play areas, outdoor fitness stations and a possible dog park; that the idea in Village A was to amenities that would not be high in maintenance or high in design; that Cool Spring Crossing will be served by public central sewer by Artesian Wastewater Management Company; that public central water will be provided by Artesian Waster Company; that Artesian has stated they are willing and able to provide sewer and water to the development; that Artesian has been issue a majority of the water and sewer certificates of Public Convenience and Necessity by the Delaware Public Service Commission to serve the area; that Artesian owns two properties that are surrounded by or located adjacent to the Cool Spring Crossing property, being the undeveloped parcel at the southeast intersection of the Cool Spring Road and Log Cabin Hill Road, and the elevated water storage tower, located along Cool Spring Road; that Artesian's Ability to Serve letter, dated April 9, 025, is located within the Applicant's submitted exhibit booklet; that stormwater management facilities, are required and will be designed and constructed to meet or exceed the requirements of DNREC's Sediment and Stormwater Management regulations, and also the Inland Bays Pollution Control Strategies; that the development of Cool Spring Crossing will occur over a 20 year period, in construction phases; that each phase will have its own Sediment and Erosion Control Plan, approved by the Sussex Conservation District, prior to the start of the construction phases; that there are multiple stormwater ponds integrated in the site design; that because the sites well drained sandy soil, and the relatively low water table, bioretention and infiltration practices will be utilized; that the development's stormwater

will be directed to treatment ponds, and other management facilities for pretreatment, prior to any infiltration or discharge; that this will create significant improvement compared to the current condition of unfiltered stormwater runoff from land in agricultural use; that traffic impacts are almost always the main issue involved in any proposed development application; that Sussex County is required by law to have an agreement with DelDOT to provide a procedure to determine the traffic impact of any rezoning application; that in September 2020, Sussex County Council approved and executed an update Memorandum of Understanding (MOU) between the County and DelDOT establishing this agreement; that the Cool Spring Crossing application will have a significant impact on traffic; that provided within the MOU, at the Applicant, at the Applicant's expense, is required to conduct a Traffic Impact Study (TIS); that on Page 7 of the MOU, it states the Sussex County and DelDOT should encourage Master Planning for large scale development on large parcels or groups of parcels located within the Coastal Area; that Century Engineering was retained by Carl Freeman Companies to perform a Traffic Impact Study (TIS), in accordance with the scope and parameters established by DelDOT; that the Century studied reviewed the impact at all proposed access points to the development, and approximately 48 intersections in the surrounding area; that the TIS dated June 30, 2022, was reviewed by DelDOT, and subsequently DelDOT issued there TIS Review letter on January 10<sup>th</sup>, 2023; that subsequent to the issuance of the DelDOT Review letter, the applicant made some changes to the Cool Spring Crossing site design; that those changes reduced the number of proposed dwellings, and reduced the number of access points from ten to six; that those changes resulted in a reduction of the daily and peak hour trips; that as a result of those changes, DelDOT did require an updated review of the TIS, taking into consideration the revision of the land use, and the site entrances; that in additional, DelDOT also required a supplemental Sensitivity Analysis, to identify when improvements, to help mitigate traffic deficiencies should be constructed; that the Sensitivity Analysis was prepared by JMT Engineering, being DelDOT's consulting traffic engineering firm; that the final Revised TIS Review letter was issued by DelDOT on January 14<sup>th</sup>, 2025, and is about 150 pages in length; that both the original and the revised TIS letters are included into the record; that DelDOT's revised letter provides that the Applicant is responsible for 22 specific roadway and intersection improvements, and also monetary contribution to several current DelDOT projects; that the required improvements are listed in detail on Pages 17 through 23 of the Revised TIS Review letter; that the Revised TIS Review letter also discusses the Sensitivity Analysis, and provides a time frame of when required improvements must be constructed; that the majority of the intersection improvements must be constructed at the beginning of the site plan construction; that the Applicant has fully complied with the requirements and provisions of the Sussex County and DelDOT Memorandum of Understanding for land development coordination; that the Applicant will be responsible for all the improvements and contributions as determined by DelDOT; that those applications will be implemented concurrently with the development, as determined by DelDOT's Sensitivity Analysis; that the entire site contains 637 acres; that based on DNREC's Wetlands Maps, there are no State regulated Tidal wetlands located on the property; that there is a single perennial stream, known as Martin Branch, located along the eastern boundary of the property; that as identified on the FEMA Flood Insurance Maps and the National Wetland Inventory Maps, federally regulated Non-Tidal wetlands exist on the low-lying area, adjacent to Martin Branch; that a Wetland Boundary Determination was performed by Mr. Edward Launay, with Environmental Resources, Inc., which found that there were 29.6 acres of stream and Non-Tidal wetlands existing on the site, being Martin Branch and the adjacent area wetlands; that the U.S. Army Corp of Engineers Office confirmed the determination, an issued a Jurisdictional Determination Letter on April 17, 2024; that there are no additional Tidal or Non-Tidal wetlands located on the property; that with the exception of the 29.6 acres containing Martin Branch, and the adjacent wetland, the remainder of the property is uplands, comprised of well drained, sandy soil, with an average elevation between 25 to 35 feet; that the site

currently contains 217 wooded acres; that the development plan will result in approximately 103 acres of the existing woodlands to be removed, and 114 acres (53%) of the existing woodlands to be preserved; that except for a large portion of forested area adjacent to Martin Branch, historical aerial photos and land owner records, indicate that most of the other woodlands have been timbered in the past, being considered mid-succession, containing tree species typical of previously timbered land; that almost all tree clearing being proposed is located in the location of the pre-timbered areas; that the most important, natural and environmentally sensitive portion of the site, is located on the eastern boundary of the site; that this is the location of Martin Branch; that the Applicant recognizes and acknowledges the environmentally sensitive nature of this area, and accepts the responsibility of protecting and preserving the natural feature; that in 2022, the County enacted the Sussex County Resource Buffer Ordinance, which does apply to the Cool Spring Crossing applications; that this Ordinance would require a 50 foot wide resource buffer from Martin Branch; that it would require a 30 foot wide resource buffer from the edge of all Non-Tidal wetlands; that the Cool Spring Crossing development will far exceed the resource buffer requirements, by providing an expansive Martin Branch Conservation Area, consisting of the required resource buffers and additional land voluntarily included in the conservation; that as permitted by the Resource Buffer Ordinance, the Applicant elected to voluntarily expand the resource buffer by an additional 15 foot in width; that the Applicant is not requesting any buffer averaging; that the area would result in a total Non-Tidal Wetland Resource Buffer of 45 feet, which results in a total of 13.73 acres of forested, Non-Tidal wetlands; that the required 50 foot buffer from the perennial stream lies within the wetland area; that the 50 foot buffer is provided, as it overlaps with the wetland and other buffers; that the additional conservation area contains 61.61 acres of forested land, with the exception of 2.6 acres of open field; that the open field will be maintained as a natural meadow; that the meadow will be planted with pollinator wildflower seed mix that is targeted to support the Monarch butterfly during its migration; that the Monarch butterfly is a candidate for listing as a threatened species by the U.S. Fish and Wildlife Service; that the additional conservation area, borders the Non-Tidal wetland resource buffer, resulting in a substantial increase in the width of the buffer from the wetland line; that the buffer varies considerably, but on average the buffer is about 130 feet in width, compared to the required 30 foot wide buffer; that the buffer consisting of the required buffer, the expanded resource buffer, and the 61.61 acres of voluntarily provided conservation area, results in a total buffer of 75.34 acres, resulting in more than eight times the required resource buffer area; that the entire Martin Branch Conservation Area, consisting of Martin Branch, the adjacent Non-Tidal wetlands, the resource buffers, and the voluntary Conservation Area will permanently preserve and protect 104.93 acres of the most natural and environmentally sensitive portion of the site; that this protected area also includes all of the Cool Spring Crossing site that is located within a Flood Hazard Area according to the FEMA Flood Insurance Maps; that all of the area proposed for development is located outside of the floodplain as designated by FEMA's Floodplain maps; that the Martin Branch Conservation Area will also be made subject to a Declaration of Restrictions, permanently preserving it as a natural area, and a Resource Buffer Management Plan, providing the management and stewardship of the protected area; that there are three additional areas, containing an additional 12 acres, that will also be subject to the conservation documents; that those lands are located on the western side of the property, near Hudson Road; that there are three or four trees that will be preserved in that area; that in total, the entire conservation area, including the Hudson Road portion of the forest, will contain approximately 117 acres, being over 18% of the Cool Spring Crossing site; that in addition to the Environmental Protection, the Martin Branch conservation area will also preserve and protect the archaeological integrity of the site; that the State Historical Preservation Office (SHPO) indicated that the majority of the site had low potential for prehistoric archaeological sites, except for a low to moderate potential, located on the eastern side of the site, near Martin Branch; that the Applicant retained Mr. Edward

Otter to perform and Archaeological Assessment of the property; that the assessment confirmed that the area of near Martin Branch had the most potential for Native American sites; that all of the areas identified by SHPO and Mr. Otter, are located the Martin Branch Conservation Area, that will be permanently preserved and protected by the conservation restrictions and the conservation management plan; that Mr. Otter also conducted an archaeological study and delineation of the known cemetery site, located south of Log Cabin Road, just west of Cool Spring Road; that the cemetery area is located on the eastern side of Village A; that the study determined that there were four marked graves, and possibly more members of the Warrington family, who owned the land and passed between 1843 and 1849; that the delineation determined that the cemetery is 30 feet by 30 feet in size; that this area is two feet higher in elevation than the surrounding farm field; that this is due a loss of two feet in elevation, with over a century of rain and plowing; that the delineation excavated soils around the identified cemetery to confirm that no graves or human remains were present outside of the 30 ft. x 30 ft. cemetery area; that markers were placed at the cemetery corners; that the cemetery, as part of the Cool Spring Crossing Development, will be restored; that a fence will be erected, marking the cemetery boundaries; that there will be a 25 foot buffer established from the fence line, and a marker will be placed to provide historical data or information regarding the cemetery; that including the 117 acres in the superior design conservation area, altogether the Cool Spring Crossing development will contain 295 acres of open space, being approximately 46% of the site; that the project will provide positive economic benefits, since one of the purposes of the Sussex County Zoning Authority is to promote the welfare and prosperity of the present and future county; that the Applicant retained Sage Policy Group, Inc., an economic and policy consulting firm out of Baltimore, Maryland, to prepare a report analyzing the economic and fiscal impacts of the proposed development; that Sage was also the firm to perform analysis for the Northstar development; that the report indicates that over the estimated 20 year build out, will result in the following impacts being, the construction phases, consisting of site preparation, infrastructure installation, and residential and non-residential building construction is estimated to cost \$836 million; that the construction phase will support thousands of jobs in Sussex County, the majority of which will be in the construction trades, with an estimated \$475,000,000 in labor income; that after completion, the development will support approximately, 1,500 permanent Sussex County jobs, generating an estimated \$80 million in annual labor income; that transfer taxes from the initial land purchases will generate \$12.5 billion to Sussex County, and \$20.9 million of revenue to the State; that future resales will be sold in additional transfer tax revenue; that the Cape Henlopen School District, as a response to receiving notice about the application, recommended that no additional residential development be approved until such time that a school construction impact fee or voluntary school assessment can be implemented; that it was his understanding, that the District's response was not personal to their application, rather a stronger tact that the District is taking on the issue; that the District had provided similar responses on other applications; that the Applicant believed that funding for future school construction is an important issue that needs resolution; that County Council considered the School Impact Fee issue on January 30, 2024; that County Council unanimously rejected the fee for a number of reasons, but mostly for the reason that future school construction was deemed to be the responsibility of the State government, not the County; that there is no reasonable basis to delay the current applications, because of that issue; that the current applications were filed two years ago; that Sage determined, assuming the demographic of the 1,222 units, being all units except for Village A, that pupil generation from the development on the Cape Henlopen School District, would align with the demographics of Lewes and Milton, based on the U.S. Census Bureau's data; that Village A, being 700 more affordable workforce units, they were assumed to have similar demographics as the entirety of Sussex County; that the report projects, that once the development is at full build, would generate an estimate of 449 public school pupils in the Cape Henlopen School District; that with a 20 year build out, 449 pupils



would average to 20 new pupils per year; that the Sage report estimates that the pupils from Cool Spring Crossing would increase the school district's annual expenditure by \$4.1 million; that those expenditures would be offset by annual property tax revenue in the district of \$4.7 million; that this would generate an annual net surplus of \$550,000 to the district; that regarding fire and emergency services, the closest fire companies to the development are the Milton Fire Department and the Lewes Fire Department; that the Applicant did meet with the fire department representatives; that the Applicant has offered, that rather than the fire departments relying on individual contributions from Cool Spring Crossing homeowners, there would be a provision in the covenants stating upon issuance of the certificate of occupancy for each residential unit, each unit will be responsible for an annual fee of \$100; that the fee will be collected as part of the HOA fees; that the HOA or condo association will pay the fire department; that non-residential uses of the Town Center, will be responsible for an annual fire company fee of \$58,000, that will be correlated as it is built in the percentage of completion, and will progress as the Town Center progresses build out; that at build out the fire company fee would total \$250,000 per year, with half of the fee being paid to the Milton Fire Department and the other half of the fee being paid to the Lewes Fire Department; that this proffer contained on caveat condition that in the even the State or the County enact a fire or EMS fee ordinance in the future, applying to residential units or the Town Center, the condition shall be terminated; that there was a letter of opposition submitted on behalf of SHARP, which is a coalition of HOA's; that the letter opposed the proposed fire company contribution as unjustified and being against the intent of both public policy and homeowners; that the Applicant strongly disagrees; that the proposed fee is a fee restriction; that it is a private matter between the buyer and the seller; that if the potential buyer is offended by the annual \$100 fee, they do not have to buy within the community; that any potential buyer will be well aware that this fee is one of the requirements; that the SHARP letter alleges that the HOA can amend or nullify the fee, by amending the condition or amending the Declaration of Restrictions; that this required fee will be placed as a proposed Conditions of Approval for the project; that the Applicant did receive a letter from the Milton Fire Department, extending its appreciation for the offer and the proactive approach that Carl Freeman Companies is taking, to address the fire departments concerns; that the letter noted that Carl Freeman was the only developer to contact the department regarding the matter; that he submitted to the Commission proposed Findings and Conditions of Approval for all four applications; that the Applicant has the option of proceeding with the development of a cluster subdivision; that the Applicant could have submitted for a cluster subdivision four years ago; that the reason the approval for the MR-RPC continued to be pursued in the Carl Freeman firmly believes that the Cool Spring Crossing MR-RPC is a type of Master Planned Mixed-Use development that is by far in the best interested of both the applicant, and the current and future residents of Sussex County; that the plan is in accordance with the concepts of smart growth; that for example, the 2020 Delaware Strategies for State Policies and Spending documents, advocates the designing and building of what the State refers to as "complete communities" which are described as including integrated pedestrian and bike networks, new streets interconnected with existing streets, intermingling of residential and commercial uses, and the inclusion of parks or open space networks within the development; that the strategy states that this type of development would result in more diverse range of transportation and housing options, with more economical extension of public service utilities; that Cool Spring Crossing will be a complete community; that the Sussex County Comprehensive Plan states that in a Coastal Area, residential planned communities are encouraged to allow for a mix of housing types, to preserve open space and natural areas and resources; that the plan further stated that master planning should be encouraged, especially for large-scale developments on large parcels or groups of parcels, where higher density and mixed use developments are provided flexibility and site design; that Cool Spring Crossing will be a Master Plan Residential Planned Community; that even the Sussex Preservation Coalition endorsed an agenda for what they referred

to as livable communities; that the agenda for livable communities includes consideration of open space and protection of wetlands and streams, providing adequate infrastructure for residential growth, including safe roads, bike lanes, and public transportation, adequate healthcare, educational facilities, and the ability of affordable housing units for young families and local workers; that per the Sussex Preservation Coalitions agenda, Cool Spring Crossing will be a livable community; that the Coalition's opinion is the project is not the right use, at the right place, at the right time; that the Commission's opinion must be based on the facts placed into the record; that the project is the right use, being a mixed-use development, with a variety of housing options, located adjacent to a Town Center; that the project's design is consistent with the criteria of a complete community of a Master Plan community, or a livable community; that for the reasons previously stated regarding the Future Land Use Map amendment, the area is an appropriate place for the proposed project; that the site will have central sewer and water, and located near medical facilities; that the proposed site is possibly the only suitable land in the area for large scale development; that the Applicant has been working on the application for four years; that the Applicant could have requested a cluster subdivision; that this plan cannot wait for the revision of the Comprehensive Plan; that the decision for the application must stand on its own merits; that the Commission's recommendation on the four applications is extremely important, having significant influence on the County Council's decision and he requested that the Commission base their decision on the factual records and the reasons presented into the record.

Ms. Wingate questioned whether it was the developer's intention to construct the phases in alpha order, as they are reflected in the Phasing Plan; that she questioned if an explanation could be provided regarding the traffic impact and traffic numbers for the building out of each phase over the next 20 to 24 years of build-out, and questioned if there were only two entrances to the project, and why the hotel was labeled as non-commercial on the plan.

Mr. Fuqua stated that the plan reflects the names of the villages; that they normally would start in the front and back; that the idea is that Village A would be part of the initial construction; that in the Ordinance for a residential planned community, any permitted use in any residential district, is considered a permitted use; that a hotel is a permitted use in the HR District; that therefore the hotel is a permitted use in an RPC, and is not considered commercial; that within an RPC you can have one acre of commercial use for each 100 units, and what they were designating was that the hotel was not being counted against that one acre, because it is a permitted use.

Mr. Drew Boyce with Century Engineering stated that there is no assessment of per unit or per phase currently; that within the supplemental review letter issued by DelDOT, they commissioned their own consultant to do a high-level phasing analysis to provide an idea of when improvements may be triggered or may require to come online to support the traffic impacts; that there is a single entrance off Rt. 9; that there is an entrance for Village A and B off Cool Spring Road; that there is an entrance to Village D off Log Cabin Hill Road; that the extension of Cool Spring Road provides some additional infrastructure; that this area would be privately maintained, but look similar to the local infrastructure that DelDOT has in the surrounding area; that the entrance off Hudson Road, is considered the fourth leg of the two intersecting roads that come in being Carpenter Road and Walker Road and those are anticipated based on the information in the TIS roundabouts at those locations.

Mr. Whitehouse stated that as a discussion with the Applicant's team as to whether the requirements for an RPC, which has a maximum commercial area that may be proposed, were complied with; that he does concur with Mr. Fuqua's answer, and staff did meet with the Applicant's team chairs.

Ms. Wingate stated she was happy to see the letter from the Milton Fire Department, as our first responders need all the support they can get; that she would like to go on record to state that the schools need support as well, and she questioned if there was a possibility for all the interior roads to be per DelDOT specifications and maintain budget.

Mr. Fuqua stated that there are five state-maintained roads involved in the application, being Cool Spring Road, Old Cabin Hill Road, Hudson Road, Joseph Road, and Rt. 9; that if you look at all the other interior roads, they are no different than any other subdivision; that the interior roadways would be built to Sussex County standards, and the interior roads will not bear any more traffic than a standard subdivision.

Ms. Wingate stated she would like to see the overhead bridge, similar to that of Baywood, to provide access to the trails, but she understood that it would most likely be up to DelDOT.

Mr. Fuqua stated that the Land Trust was fortunate enough to have the piece come up for sale, which became the source of Hudson Park; that DelDOT had a crossing located at the next light, which is where DelDOT preferred the crossing to be; the Carl Freeman got involved with the Land Trust; that there was preliminary work done; that there are sketches of what is being proposed; that he would be located where the park is located; that it would provide for a much safer crossing across Rt. 9, and the future of that is uncertain, as it is still being proposed.

Ms. Wingate questioned if it was the intention of the developer to complete the buffer strips as the phases are completed, and there have been issues in the past with communities waiting for the entire project to be completed before the buffer strips are placed.

Mr. Fuqua stated that the buffer strips would be completed as each phase is completed.

Mr. Mears stated that the Phasing Plan does not shade the Town Center area, and he questioned if the Town Center build-out will be constructed as part of Village Section A.

Mr. Fuqua stated he would envision those areas on the southernmost portion of the site, being Village A and the Town Center, would progress at the same time; that they do not know this for certain; that the Applicant would have to present that Phasing Plan before the Commission, and they recognize that Village A is top priority for the County.

Mr. Collins questioned whether there are any other alternative locations anywhere in the County, where a similar development could be placed, potentially within closer proximity to Rt.1, or consideration given to redevelopment of existing properties that may be underutilized.

Mr. Fuqua stated that off the top of his head, he absolutely could not think of another area, closer to Rt. 1, for this type of development; that one could renovate any existing property if one could purchase it; that this project was a product of the owners wanting to sell the land, and the vast majority of the land is existing cleared farmland, with little environmental impact, and that with the protections the Applicant is providing for the environmentally sensitive area, the site is an ideal piece.

Mr. Collins stated he was happy to see the voluntary contributions placed into the covenants for the fire and EMS services; that he questioned if there was any consideration given to the placement of residential units above some of the commercial uses; that although some people do not like high

density, the higher the density, the less land is required to be used; that land is precious in Sussex County, and the Commission wants to preserve as much land as possible as natural habitat.

Mr. Fuqua stated that he could not say whether consideration was given to the placement of residential use being placed above commercial uses; that he believed the main concept was that not everyone wants to live in a commercial area either; that the 700 units located within Village A, adjacent to the Town Center is a lot of units, and they believed those units served the same purpose.

Mr. Butler questioned if the developer would build the bridge for the crossing of Rt. 9.

Mr. Fuqua stated he felt the bridge was cost-prohibitive; that he would talk to his client about the bridge in the future; that Carl Freeman had spent money to make a good design; that the Applicant has been working with DelDOT; that if the bridge can come to be, there could be some type of arrangement, as it certainly would be beneficial for the project, as well as the public, and that it is an idea that is being pursued.

Mr. Robertson stated that the roads laid out on the site plan do not match the current DelDOT layout, and that it appeared that there may need to be some road abandonment and relocation.

Mr. Fuqua stated that he believed that the one end of Log Cabin Road will be realigned; that the arch that connects to Hudson Road will be a brand new State road.

Mr. Robertson questioned if the fire company donation would be per unit or per fee simple unit, as there will be ownership, rental, and SCRP units with the development.

Mr. Fuqua stated they had discussed if they should exclude the SCRP units from the fee; that he hated to need to go back to the Fire Department stating they were going to exclude units from anything; that he then realized it is not the renters paying the fee, that it will be the owners; that the fee will be paid per unit, and the owner will be paying the fee, not the renting tenant.

Mr. Robertson questioned what the open space for special events and entertainment means or would look like.

Mr. Fuqua stated it is a designated community area for periodic events, such as Fourth of July, Halloween, and potentially for weekly farmers markets, and the area is not proposed to be the new Freeman Stage North.

Ms. Wingate stated she was disappointed to hear it would not be a Freeman State North; that she felt that Bayside has been a wonderful asset to the community; that she questioned if the development roads will be connected to the medical center.

Mr. Fuqua stated that they envisioned a connection there; that they do not know at this point who will have the doctors' offices; that if it were Bayhealth it would make it easier; that they are going to have some type of connection, however interconnection becomes tricky because you do not want to create an unintentional thoroughfare.

## **RECESS**

2:25 pm – 2:35 pm

The Commission found, by a show of hands, that there were 58 people present in support of the applications, and nine people present who wished to speak in support of the applications.

Dr. David Tam, MD, the President of Beebe Healthcare spoke in support of the applications. Dr. Tam requested that the Commission consider not only Beebe Healthcare of overall healthcare in general; that he had previously spoke before the Commission and County Council regarding the current physician shortage and the healthcare workforce housing shortage issues; that Sussex County will need more healthcare workers as more retirees move to the area; that if growth stopped today, the retiree community will continue to require three times more healthcare than non-retirees; that he supported the smart growth proposal by Cool Springs; that the plan provides 700 workforce housing units, with 175 units being rent restricted units; that for every doctor he would bring in, he will also require junior nurses, pharmacy technicians, laboratory technicians and radiology technicians, as well as many others that are required to support healthcare services; that he recently had contacted medical professionals, who stated they would love to work for Beebe Healthcare, but could not afford to live in Sussex County; that the YMCA plan will provide childcare; that the people they are looking to recruit are people with children and families, that will require childcare for their 12 hour work days; that the plan supports community integration; that Blue Zone studies have shown that people who live in congregate housing with multigenerational utilization, such as the ability to walk to places, being able to converse with each other, help improve healthcare outcomes; that he felt the proposed design was a good one, and regardless of what healthcare system is proposed to go in that location, they will all have the same issues with the aging and challenging population, with a workforce that cannot serve that group of people.

Mr. Tim Kriebel spoke in support of the applications. Mr. Kriebel stated that he recently purchased property in close proximity to the site, where he plans to build a part-time retirement home; that he resides full time in Vendor City, New Jersey, where he currently serves as the Mayo, Commissioner of Public Safety, and has sat as a member of their Planning & Zoning Board for nine years; that his support for the project comes from a decade of public service and a 30 year career in Design & Planning; that he has seen the consequences of resisting thoughtful planning and development; that he has seen the development benefits when a community chooses managed growth instead of fearing it; that he experienced a similar proposal in his hometown; that after superstorm Sandy, the project was abandoned; that for the next 10 years the town declined; that there were no investments; that the ratables were in a nine year consecutive decline; that he felt the Master Plan offered walkability, affordability, and infrastructure investment; that the proposed plan was not development sprawl; that the plan offered a balanced, community focused development approach; that the plan offered a rare opportunity to shape growth, and he agreed the project would create increased traffic, but felt the plan provided a smart way to manage growth.

Ms. Linda Risk, Chief Operating Officer of the Delaware State YMCA, spoke in support of the applications. Ms. Risk stated that the YMCA of Delaware has been the cornerstone of the community in Sussex County; that this is achieved by their many programs including, after school care, early childhood education, summer camps, swim lessons, exercise classes, and chronic disease programs; that during the pandemic, they offered emergency child care services and food assistance across the State; that as the Sussex County population grows, so does their program; that the demand for their high quality programs has never been greater; that they support the Cool Springs Master Plan as the development presents a meaningful solution to pressing challenges facing local families; that the plan

provides 700 workforce housing units, directly addressing the housing needs for the essential workers in the community; that the diverse housing options support families of all sizes, young professionals, first time homebuyers, and empty nesters; that the plan will make it easier for people to live where they work, while raising children in a stable, supportive environment; that by integrating a YMCA into the thoughtfully designed, walkable community, they can reduce barriers to access families; that if approved, Cool Spring Crossing would provide a unique opportunity, bringing the YMCA mission to life in a new and impactful way, through arts programming, workforce development, teen programs, college and career readiness programming, and other inclusive initiatives that benefit every age and background; that the projects emphasis on walkability, sustainability, and lifelong learning aligns directly with the YMCA's mission and their promises to Delaware; that ensure youth have a pathway to success, improve the health and wellbeing of individuals and families, and bringing communities together to inspire and serve others, and she respectfully requested the Commission support the forward thinking plan, and the long term benefits the plan would bring to the families of Sussex County.

Ms. Kelly Basile, Chief Operating Officer of the Delaware State Chamber of Commerce, spoke in support of the applications. Ms. Basile stated the most pressing concern the Chamber of Commerce hears from Sussex County members is regarding the lack of affordable and diverse housing; that they recently released a report on the State's demographics and trends that will shape the State's future, which reinforces that between 2025 to 2035, the State's population is projected to increase by 6.4%, while the number of households are expected to rise by only 5.7%; that the supply is not meeting the demand; that house affordability is a key factor; that home prices have surged 56.2% over the past four years, which is outpacing the national average of 51.8%; that Sussex County is the fastest growing county by percentage in the Mid Atlantic; that employees are finding it increasingly more difficult to secure affordable housing near their places of work; that she questioned where the doctors, nurses, teachers, first responders and hospitality workers will live; that entry level wages for these positions do not allow people to live in the current available housing near their workplaces; that this makes people less likely to accept employment opportunities, because they do not want to drive an hour or more to work daily; that to maintain economic strength and competitiveness, Delaware must confront the housing shortages and the cost of living concerns; that the Cool Springs Crossing project directly addresses these issues with a thoughtfully planned mix of homes; that beyond housing, the project brings a significant economic impact; that potential construction activity alone is estimated to generate a one-time economic impact of 1.3 billion statewide and will support approximately 6,400 full-time jobs, that the developer's investment in transportation infrastructure will help ensure that growth is manageable and forward thinking; that the proposed job creation, paired with significant infrastructure improvements is a win, and she requested the Commission approve the Cool Springs Crossing project, which will help to build a more sustainable and inclusive future for Sussex County.

Mr. Jonathan Contant, Land Planning Manager for K Hovanian Homes, spoke in support of the applications. Mr. Contant stated that with the proposed Master Plan, three minutes would be the approximate amount of time it would take someone to get from one end of the project to the other, to access groceries, gas, access to restaurants, doctor's offices, the gym, the YMCA and more; that the currently the closest grocery store to the site, is the Redners on Rt. 9, which would exceed three minute drive to; that it also adds to the traffic along Rt. 9; that the proposed Master Plan community would keep most daily necessities accessible from inside the community without creating additional traffic along the major roadways; that K Hovanian is the builder in Monarch Glen, located across the street; that the proposed plan provides closer access to these services for their buyers as well; that he felt having high density, multi-purpose, mixed-use, multi-price level communities, will help to reduce the

traffic; that smart growth is a partnership; that partnership is not only what Sussex County wants, or what DelDOT wants; that the partnership is also what the land owners want to do; that this proposed development will help expand public water, and public sewer; that there are many DelDOT projects, identified in the Traffic Impact Study (TIS), that the project is proposed to impact by providing DelDOT more funding; that the developer will have to improve intersections rather than just providing a contribution; that he had not taken a look at the Traffic Impact Study, but he was willing to bet that most of the intersections are either currently failing; that the project will provide a partnership between the developer, DelDOT and the County, providing an opportunity to rectify those situations, and improve everyone's level of living and travel in the area; that he agreed with many other points of support that had already been mentioned; that he requested the Commission consider the need for workforce housing, and stated that K Hovarian supports the proposal for additional housing, increased inventory and options for those who are retiring here, as well as those who work here.

Mr. Brian Rashley, Manager of Bayside Golf Club, spoke in support of the applications. Mr. Rashley stated that Sussex County continues to grow, and so does the urgent need for thoughtful and sustainable housing solutions, particularly for the local workforce; that he witnesses this need at Bayside and across the hospitality industry; that many of their employees struggle to find affordable housing; that he currently has associates who travel from Virginia and Pocomoke City to Bayside daily; that the issue is not unique to hospitality, as it impacts the healthcare workers, teachers, first responders and retail employees; that workforce housing is not just a housing issue, it is an economic and community issue; that if the community desires for businesses to thrive, and the communities to stay vibrant, we need employees to work close to where they work; that the Cool Springs Crossing project represents the comprehensive, forward-thinking development that Sussex County needs; that the project does not just check boxes on a site plan; that the plan offers a long-term solution by providing diverse housing options, thoughtfully planned amenities and a stronger foundation for the workforce and local economy, and he stated that by approving the project, the Commission would be voting for balance, inclusivity, and long term sustainability for Sussex County.

Mr. Greg Hurley, resident of Tower Hill within Sussex County, spoke in support of the applications. Mr. Hurley stated he felt the Tower Hill community is the most significant project of Carl Freeman, prior to the proposal of the Cool Spring Crossing project; that he serves as a member of the Tower Hill Property Association Board of Directors; that he had frequently interacted with the developer, Carl Freeman Companies and its team for the past two years; that he has found Carl Freeman Companies to be responsive to the needs of the residents, during the continuing development of Tower Hill; that they have made additions and changes in response to the request of the residents and the association, and based on past performance, he had no reason to change his view regarding Carl Freeman Companies.

Mr. Dave Carey, resident of Lewes, spoke in support of the applications. Mr. Carey stated he is one of the property owners in Cool Springs Crossing; that the property came to his father in 1969; that the decision to sell the property was difficult, and was made based on analyzing many factors, challenges, and risks; that one of his considerations was the ever increasing number of overlays on the property, which he felt served to diminish his private property rights; that water, sewer, three phase electric, and fire protection has been on the property for a decade; that the increasing traffic on Hudson Road, clearly explain the reasoning as to why the property should not be located within Level 4; that his support for Carl Freeman was based on three points, being the project is a mixed-use, smart growth community; that from his research there are at least 5,000 homes located within three miles of

the property, that are required to drive to Milton, Long Neck, Rt. 1 or Lewes; that he feels the County needs to provide employment for the working age people, and those just graduating; that construction activities will generate \$1.3 billion, of which the vast majority of it will stay in Sussex County, and he stated he would prefer to see a smart growth community over another community of single-family homes.

Ms. Patti Grimes, resident of Americana Bayside within Sussex County, spoke in support of the applications. Ms. Grimes stated that Americana Bayside is a completed community that offers similar amenities to the Cool Springs Crossing project; that her family has enjoyed being homeowners in Carl Freeman's communities; that she has been able to enjoy a walkable community for many years as a Bayside resident; that she is able to walk to work; that she is able to walk safely along sidewalks with streetlamps; that she often gets to meet and converse with her neighbors during walks and bike rides; that she is able to walk to the Bayside commercial corridor to the grocery store, pharmacy, restaurants, and bank without leaving the community; that this allows for less traffic on the roads, while still allowing the public to enjoy the benefits of their Master Plan community; that the project protects the environment by reducing the carbon footprint; that there is diversity in the community, allowing people to stay in place as they age; that it is important that we continue to grow Sussex County; that recommending a Master Plan community, with an amenity core, for not only the residents, but the public to enjoy, is very important; that there is quite a difference in the livability for people residing in a subdivision versus a Master Plan community, and she urged the Commission to approve the Cool Springs Crossing project.

Chairman Wheatley advised the Commission and the members of the public that the representatives from DelDOT are not presenting in support of or in opposition to the applications, and that the DelDOT representatives are present as a resource for the Commission only.

The Commission found that Mr. Todd Sammons, Assistant Director with DelDOT's Development Coordination Division, was present at the request of the Commission; that also present were Ms. Pamela Steinebach, former Director of Planning, newly appointed Director of Maintenance and Operations, Ms. Sireen Muhtaseb, Traffic Impact Study Engineer, Ms. Joanne Arellano, Senior Traffic Engineer with JMT Transportation Engineering firm.

Ms. Wingate requested an explanation of the impact the 1,922 units will have on the area, compared to the 1,200 to 1,300 units that would be permitted by right within a standard subdivision, given that the project is projected to be constructed over a 24-year span.

Mr. Sammons stated he was just presented that question that morning; that the Applicant is conducting a traffic analysis based on just single-family use, and that they currently do not have the apple to oranges to compare.

Ms. Muhtaseb stated they just received the preliminary Traffic Impact Analysis, and they are currently reviewing the analysis.

Mr. Sammons stated that if the current project is not approved, the Applicant is moving forward with a separate submission for a major subdivision, for single-family lots based on the by-right density permitted within the zoning district; that DelDOT is currently undertaking that requested analysis, and because they are in the early stages of the analysis, they are not able to provide an apples to oranges response at that time.



Ms. Wingate stated that she realized the amount of time the analysis would take and questioned if four separate people purchased four separate properties, and they all decided to develop at the same time, the impact on the roadways would be very different than what the Commission is currently considering.

Ms. Sammons stated that it could look different; that the analysis was a massive undertaking with having to review 43 intersections, all of the committed developments, collectively painting a broad picture to do serious planning on it from a transportation impact; that if it was broken into small properties, being developed individually, they would have to comply with any warrants for analysis if required; that even if a project does not meet the warrants for a Traffic Impact Study or Traffic Operational Analysis, DelDOT still performs some form of analysis on the project; that if a project were to be piecemealed, it could result in piecemealed improvements to the roadways, creating a less holistic approach, and that it all comes down to timing.

Ms. Wingate questioned whether DelDOT was in support of constructing the walking bridge, which is proposed to be similar to what is at Baywoods and would take traffic off the crosswalks.

Mr. Sammons stated DelDOT has extended the trail down to Hudson Road and Rt. 9; that there is currently a pedestrian crossing there; that bicyclists also cross at this area, rather than the location of Cool Springs Road; that they initially looked at the area, as it was the proposed location for a bridge or tunnel; that these proposal are not technically off the table; that the proposed bridge or tunnel is out of realm of what they do, and at this time is not something the department is planning for.

Ms. Steinebach stated the current crossing is a safe crossing; that DelDOT does not currently have plans to perform a DelDOT funded project for a bridge or a tunnel; that they are completely on board with supporting it potentially with a federal grant, but it will not be funded as a DelDOT Capital Transportation (CPT) Project, as they do have an existing crossing in that location.

Mr. Sammons stated DelDOT has placed a crossing, and DelDOT may consider a bridge or tunnel in the future; that there are challenges with the proposal, which is the reasoning it has not already occurred; that the department took the initiative to build the path farther down to make that at-grade crossing; that people do not like to walk or bike across bridges, and tunnels present different challenges from a homeland security perspective.

Ms. Wingate stated that both bridges and tunnels are very effective and questioned if DelDOT would have any objection to allowing a roadway from the development to the medical center.

Mr. Sammons stated DelDOT fully supports interconnectivity within the department, subject to it being constructed in a sound and safe way; that many times the Planning Commission, County Council, and DelDOT plan for interconnectivity, which is followed up by public opposition from the development community; that interconnectivity must be designed in a proper way, as cut throughs can become unsafe; that there are ways to mitigate that, and without interconnection it defeats the purposed of planned communities.

Mr. Collins questioned what DelDOT's estimate in trip reduction would be for a Residential Planned Community with amenities, employment centers, shopping, etc. built in versus a by-right standard subdivision.

Mr. Sammons stated that DelDOT refers to that as Internal Capture; that if you have a standard single family subdivision, residents will have to leave and return for every amenity; that when a project proposes multiple uses, like Cool Spring Crossing, that DelDOT provides credit to the project, and can calculate what the internal capture will be, which will pull those estimated trips off the roadways; that there is a huge benefit to internal capture; that DelDOT is not present to support the project; that DelDOT remains neutral to the proposed project; that there is a huge benefit to having these types of planned communities, with provided amenities, from a transportation perspective, and overall planned communities reduce vehicular traffic all together, because many people will walk or take a bike.

Ms. Arellano suggested keeping in mind that with internal capture, is the type of uses internal capture is applied to; that primarily it is residential to retail, residential to office or restaurants, and vice versa, and not every proposed land use within the development has an internal capture according to the ITE Trip Generation Manual.

Mr. Robertson requested further explanation of how the Traffic Impact Study (TIS) is facilitated.

Mr. Sammons stated that everything is time sensitive; that to be able to perform the analysis, a certain time and build out must be chosen; that they are dependent on the developer to tell them their schedule; that in the current case it was 2044, realistically now probably adjusted to 2048 for the full build out presented during the presentation; that when the counts are analyzed, it must be performed at a certain time, so that they can begin the analysis process; that they do apply annual growth factors and seasonal adjustment factors depending on when the counts were taken; that growth factors take into account the growth that is going to occur over the years, and committed developments as well; that it takes some time to perform an analysis of this magnitude, and DelDOT attempts to account for all the committed developments, add in growth factors which takes into account build out as well.

Ms. Steinebach stated that DelDOT also maintains nearly 90% of the roads, they do large scale planning; that one of the large scale areas is the coastal corridors; that they have completed the final report for those; that they will continue to analysis as they understand there is a lot of growth in the area; that the Henlopen Transportation Improvement District (TID) is located to the east; that they are not going to stop with that one formalized analysis; that they will continue to perform additional counts and forecasting; that; that they are a monitoring entity, and will have a pulse on all the new developments; that they are trying to hone in on growth factors; that there are many factors that contribute to growth factors, such as population, number of households, and employment areas; that DelDOT is monitoring the coastal corridors, while including input from stakeholders throughout the area and the input includes comments from the County and business owners, who are on the ground, and can voice any current issues or potential issues.

Mr. Robertson stated that there is a Traffic Impact Study (TIS), which is separate from the Coastal Corridor Analysis, and he questioned how those two documents work with one another, how the Coastal Corridor study impacts the project, how the Coastal Corridor study should impact the Commission's consideration of the project, and what the interplay between the two studies are.

Ms. Steinebach stated the Traffic Impact Study (TIS) placed responsibility on the Developer for certain infrastructure that they will be responsible for, to avoid the project negatively impacting the transportation system; that this responsibility is only one cog in all development County-wide, not in

one specific area; that this is part of DelDOT's long range planning; that the Coastal Corridors studies are to provide a regional analysis of impacts to the transportation system, separate from the specific developer requirements for specific projects and the current planning vision takes in account longer forecasting to approximately 2050 and beyond.

Mr. Sammons stated that DelDOT attacks the analysis, admiring the roadways and infrastructure from multiple sections and approaches; that these areas overlap each other; that just like the current letter for Cool Spring Crossing, which mentions the TID, the Coastal Corridor study and the CPT projects; that all these studies are independent of each other, but all overlap each other, while analyzing and attacking the same issues; that the main issue is traffic mitigation with regards to end growth and those types of things; that these individual studies are performed not only by their group, but multiple other groups, and this is the reasoning why it can be so cumbersome to pull these letters together, coordinating with multiple different sections and groups.

Mr. Collins questioned what the project timeline will be for the Lewes Georgetown Highway (Rt. 9) roadway dualization and expressed the voiced concern from the public that the property that may potentially need to be acquired may be developed on.

Ms. Steinebach stated that there are two projects in the DelDOT Capital Transportation Project (CTP); that construction for the project located from Coastal Highway (Rt. 1) to Old Vine Blvd. is projected to begin in FY27; that construction for the Rt. 9 dualization between Old Vine Blvd. to Dairy Farm Rd.; that the preliminary engineering is slated to begin in FY27 – FY28; that currently DelDOT does not have an estimated construction timing for that project; that DelDOT will need to accomplish the professional engineering, acquisition process and utility relocation first; that the Coastal Corridors monitoring is what will indicate when Rt. 9 will require dualization further west; that the intersection creating a lot of constraint is the intersection of Rt. 9 and Rt. 5; that there are many sensitive areas at that location, creating many complex problems, which will be the hardest for them to tackle; that DelDOT is aware of the concerns and growth of the area, but transportation projects take a very long time to get on the ground; that DelDOT has great partnerships with Director Whitehouse and the Sussex County Planning staff; that they are working on the Rt. 9 dualization to the east; that they have a good footprint of what it will be; that it is extremely important that DelDOT's ensure that information is placed in the Traffic Impact Studies; that this helps provide the information to Sussex County, allowing the Commission and County Council to place requirements or stipulations if needed, and the developer has agreed and accepted the reservation.

Mr. Sammons stated that within Item 21 of the Traffic Impact Study states that the developer should enter into an agreement built for right of way reservation along Rt. 9 site frontage, to allow for the potential future U.S. Rt. 9 road widening; that DelDOT may not know at this time how much right away will be required, but as the developer proceeds through the approval process, those are items that will be addressed, and if DelDOT cannot achieve an exact determination, they will project and obtain the reservations as they proceed through the process, ultimately the property would be acquired when the dualization or widening occurs in the future.

## OPPOSITION

The Commission found that, by showing of hands, there were 39 people present who were in opposition to the applications, and 12 people present who wished to speak in opposition to the applications.

The Commission found that representatives of the Sussex Preservation Coalition (SPC) being, Mr. Richard Barasso, Mr. Jim Dick, Mr. Joe Pika, Mr. Johannes Sayre, and Ms. Jill Hicks spoke in opposition to the applications and submitted an 1,800-signature petition in opposition for the records.

Mr. Barasso stated that the Sussex Preservation Coalition (SPC) consists of organizations and individuals who have interest or concerns regarding land use in the county; that their effort is not to unduly delay, interfere or obstruct the process, but rather be part of the process; that the Sussex Preservation Coalition (SPC) represents at least 4,000 people; that the SPC was organized about three years ago; that it was an outgrowth of other organizations including Sussex 2030 and Sussex Alliance Responsible Growth (SARG), which was an organization that he had co-founded; that SPC efforts are to focus on sustainability in the County as it relates to our natural resources, but more importantly, focuses on how best to balance growth, economic growth, and preservation of the roads, schools and emergency services; that he is proud to state that the former president of the Sussex Preservation Coalition now sits as a member of the Sussex County Council; that often land use decisions are focused on the future, and fail to recognize the unintended consequences to the here and now; that he complimented Carl Freeman Company in the presence of their management and organization at the meeting, unlike what the public has experienced from past developers; the SPC designated a team to work on the Cool Spring Crossing project for the past 18 to 20 months; that the team had interactions with hundreds of local residents, state agencies, homeowners associations, including HOAs where Carl Freeman was their developer; that they have spoken with land use professionals, traffic engineers and others; that the current application was the fifth application to come before the Commission for the proposed area, after previous efforts in 2021 and 2023; that if it were an easy decision, a decision would have already been made; that the current issues of concern are design changes, specifically as it relates to housing and housing expectations; that he has no doubt that the land will be developed in 20 to 25 years from now; that SPC wants to ensure that development was completed in the right way, not just for the benefit of the landowner or the developer, but for the people in the surrounding area; that the public understands that the Commission has total discretion on the four applications; that SPC believes currently, all four applications must be denied for the following five reasons; that the subject properties are zoned AR-1 (Agricultural Residential); that according to the current Future Land Use Map the properties are not located within a designated growth area; that based on the scale and scope, any decision on these applications would be premature, neglecting the recent commitment and investment made by the County in formally assigning a Land Use Reform group to analyze land use development in Sussex County, set forth to make recommendations that could result in new ordinance to amend the current County Cod and Comprehensive Plan; that working group consists of ten people; that within seven months, extensive work will begin in casting what will serve as the standard for how development occurs and how land use is governed in Sussex County over the next 20 years; this will be performed through the process of updating the Sussex County Comprehensive Plan; that this plan is essential in updating and establishing land use policies and identifying growth areas; that the plan will also consider various other community concerns, such as affordable housing, agriculture preservation, open space protection, historic preservation, etc.; that Sussex County must learn from other jurisdictions to begin to implement land development plans utilizing carrying capacity, which regulates the maximum intensity of a development based on actual infrastructure capacity; that proposed residential or commercial occupancy needs to be aligned and sequenced with capacity; that capacity is dependent on required road improvements; that although Sussex County does not have responsibility for roads, Sussex County certainly has responsibility for land use decisions for cars on the road; that the SCP's main questions are, is this the right use, is this the right place, and is this the

right time; that every development must be sequenced, and must be sequenced relative to the road improvements to provide for the needed capacity

Mr. Jim Dick spoke on behalf of the Sussex Coalition Preservation in opposition of the applications with legal questions, and to provide explanation as to why SCP believes it would be wrong to accept a rewrite of the Future Land Use Map. Mr. Dick stated that according to the Sussex County website, the Sussex County Comprehensive Plan, adopted by Sussex County Council in December 2018, and certified by Governor Carney in March 2019, represented “*the culmination of more than two years’ worth of work with scores of public meetings, workshops, outreach that attracted hundreds of comments, suggestions, and ideas from residents, business owners, government officials and others*”; that the Future Land Use Map is a legally required part of the Comprehensive Land Use Plan, and according to Delaware Code, it “*shall have the force of law, and no development shall be permitted except in conformity with the Land Use Map*”; that the current FLUM divides County land into seven growth areas, where development is encouraged, and two rural restricted growth areas, where growth is not encouraged; that Cool Spring Crossing is located within the Low Density Area, being one of the two restricted growth areas; that the primary uses within the Low Density Area are agricultural uses and single-family homes on individual lots; that this area does not permit for large commercial developments or for multifamily residential buildings; that this is why the Cool Spring Crossing proposal cannot proceed unless the FLUM is amended to change the area from Low Density to a growth designation, such as the adjacent Coastal Area; that they have found only nine instances where County Council has used its authority to amend the current FLUM, since it was adopted about six years ago; that Mr. Fuqua had referred to ten instances, with one of those amendments pertaining to the Sewer Tier Map; that two of the nine instances were to correct technical errors; that one case was to transfer less than 1.5 acres, which had mistakenly been included in the Bethany Beach municipal FLUM to the Coastal Area within Sussex County’s FLUM; that the other case involved restoring a Growth Area designation to land that had been in a growth area under the 2008 plan and map, but was incorrectly designated as Low Density in connection with the 2018 FLUM revision, apparently by a computer software program without any instruction or direction from the Commission or County Council; that he presented a list of seven amendments, excluding the sewer tier amendments, and the two technical amendments; that most of the amendments involved a change from one growth area to another growth area; that only three of the previous amendments involved changing land from Low Density to a growth area; that a FLUM amendment the size of Cool Spring Crossing, being 637 acres, is unprecedented; that the average of the three amendments listed is 19.5 acres; that Cool Spring Crossing would be nearly 33 times as large; that the average of the three low density to growth area amendments is only six acres; that Cool Spring Crossing would be 106 times as large as the average of the low density to growth area amendments that have occurred since 2018 and 2019; that 637 acres is twice the geographic area of Ellendale, and is 30% greater than Greenwood; that the next largest request to change the FLUM involved the 247 acre Seaside application; that FLUM amendment requested a change from the Low Density area to the Coastal Area; that this request was denied in January 2023; that the SCP believes that, at this current time, a development of Cool Spring Crossing’s size and location would have very significant adverse impacts on Sussex County residents, traffic, schools and the delivery of medical, fire and police services; that they believe the project would have a negative impact on the environment, health, safety, and general welfare; that the approval of the project will also have other, less tangible, but very real adverse impacts; that an amendment of this magnitude would undermine the purpose of the Comprehensive Plan and the Future Land Use Map; that the project would be inconsistent with the plans overall objective of focusing growth in designated growth areas, leaving low density areas for low density; that approval of the project would disregard the years of work, scores of public meetings, workshops, citizen involvement, and County efforts; that approval for an amendment of this size would set a dangerous

precedent, allowing other developers to look for similar opportunities, claiming entitlement to the same rights as Cool Spring Crossing; that approval of the proposed FLUM would inevitable erode public confidence in the FLUM as a reliable land use planning tool with the force of law; it would be seen as no more than a toothless suggestion; that it would also preempt any future decision on whether or not to expand the Coastal Area, in the Cool Spring Crossing direction, in connection with the upcoming 2028 Comprehensive Plan and Future Land Use Map revision; that a decision of this magnitude should not be made in isolation before the 2028 revision, and without consideration of the cumulative impact of existing and approved developments, as well as the long range planning objectives for Sussex County as a whole; that the decision should not be made without consideration of the results from the Land Use Reform Working Group, the Rt. 9 Corridor Study, and the other ongoing efforts that would impact the 2028 Comprehensive Plan; that Cool Spring Crossing is also located within Investment Level 4, which is not a designated growth area for the State; that the State tends to limit any investment in Level 4 areas to agricultural preservation and natural resource protection; that large residential developments and commercial activities are discouraged in these areas; that Sussex County has the highest percentage of residential developments located within the Level 4 areas in the State; that all of the residential building permits issued for Level 4 areas from 2019 to 2023, nearly 81% of them were in Sussex County; that less than 20% of building permits were issued in Kent and New Castle counties combined; that nearly ¼ of all the residential building permits issued in Sussex County during that period were located within Investment Level 4 areas; that this information was taken from the 2024 publication from the Delaware Office of State Planning Coordination; that Cool Spring Crossing would add nearly 2,000 new residential units to the Investment Level 4 area, as well as the large commercial project; that this is the reasoning the Office of State Planning Coordination has opposed projects in April 2021, December 2021, January 2023, and December 2023; that the State has a huge financial interest in the way Sussex County is developing; that the State pays for a very significant proportion of our infrastructure and necessary services; that according to the Office of State Planning Coordination's 2024 Annual Report chart for State planning issues, the State funds 90% of the roads in Delaware, including Sussex County; that the State funds 100% of the State Police, 30% of the State's paramedic programs, 90% of the public school's transportation; 60% to 80% of public school's construction and 70% of public school's operations; that the State is not currently planning to make the type of infrastructure investments needed to handle a new development of Cool Spring Crossing's size; that the State is expecting the area to remain largely rural and agricultural; that if the FLUM is amended and the project is approved, the State can legally withhold financial assistance and infrastructure improvements to support the project; that the State has lawful authority to withhold support for any new development with the Office of State Planning determines it is substantially inconsistent with State development policies; that this is the determination the Office of State Planning Coordination has made four times in the past; that legal authority is Delaware Code, Title 9, Section 6958-B; that is the State does agree to invest in a Level 4 area, in order to support a project of the proposed scale and magnitude, the investment will necessarily divert money from planned investments in Levels 1 and 2, slowing down essential projects in more populated areas; that it will disrupt State agencies long term planning and budgeting processes, resulting in inefficient and inflated State spending; that this is happening at a time where any financial help from the Federal Government is uncertain at best; that the SPC request that the Commission recommend denial of the pending huge and unprecedented FLUM amendment sought by Cool Spring Crossing, in order to allay growing public concern of there being no effective constraints on development in Sussex County, that even a planning guide, with the force of law, can be circumvented, and to avoid a fiscally irresponsible decision, that undermines the State's planning and budgeting processes, as well as the State's major role in funding necessary infrastructure improvements in the County.

Mr. Joe Pika spoke on behalf of the Sussex Preservation Coalition, in opposition to the applications, regarding the impact the project would have on the nearby area communities. Mr. Pika stated that he has been involved in public policy issues in Delaware for a long time; that he is a resident of Lewes, a retired faculty member from the University of Delaware, and previously served as President of the State Board of Education; that he wanted to discuss service infrastructure, which is much more than water, sewer, electric, natural gas and broadband services; that service infrastructure includes school, fire, police, and medical service providers, as well as the impact on neighboring towns, who provide many of those services; that the concern of SPC is regarding the new demands Cool Spring Crossing will place on all the previously mentioned services, placing those services under even greater stress than they already are under; that their interpretation is that Sussex County's growth has been so rapid that those services have been unable to keep up; that we have had residential growth on properties in the area, but the growth has not been synchronized with the expansion of those services; that as a result, the demand has exceeded capacity; that there are strains we all experience when trying to get a medical appointment; that the recent examples, seen in the news, is the discussion regarding emergency services, particularly from Lewes, the issues the Cape Henlopen School District has raised, and medical services; that they believe the impact of Cool Spring Crossing go well beyond those that were explored in the economic and physical analysis submitted by the Applicant, which primarily focused on the economic benefits of the development and the tax revenue it will produce; that Cool Spring Crossing is going to cause big ripples; that he believes the project's population will top out at approximately 5,600; that even when allowing for the growth of Laurel and Milton, the project will be within the vicinity of the fourth largest to the sixth largest community within the County; that there are consequences from that; that one of these consequences is the position that the Cape Henlopen School District has taken regarding many proposed developments; that the Cape School District has expressed that they do not want to take on any further students until they can settle on a way to accommodate the students; that he has had previous conversations with Mr. Jason Hale, Cape Henlopen Director of Operations, regarding the current issues with enrollments; that the Cape Henlopen School District's concern is that they are being inundated with students, which must be placed somewhere; that the estimates from the Developer had been inconsistent; that the 2023 estimate was 566 students; that the current estimate in the materials before the Commission, the estimate total is 409 students; that the number of residential units had not changed, rather the methodology changes; that the 2023 estimate was based on a projection, founded on a questionnaire given to the residents of Americana Bayside, questioning how many of those households had school aged children; that the Developer than used that census data to make that projection; that the newest estimate is based solely on the estimate referred to by Mr. Fuqua on the census; that in both cases, Mr. Hale suggested that the estimates were too low; that Mr. Hale believed the census would be higher; that neither estimate takes into account the issues of overcrowded classrooms, how the school district will accommodate, or the disruption to families as a result of the school district being unable to accommodate them; that it will require the school district to redesign the attendance boundaries; that he can confirm that those changes can be tremendously disruptive, as he is a father of three children who went through attendance boundary changes in the past; that the arrangement that they had learned about, only as a result of the Milton Fire Department letter; that there is no other description of this document within the 900 page exhibit book; that within the drafted HOA documents, there is no mention of this obligation, and there is nothing in writing addressing this from the Developer; that they did hear during the presentation how it would operate and that it would also apply to Lewes; that it has been made clear that EMS needs more support; that currently there is a report being performed on the financial status of the volunteer fire departments in the County; that the fire departments are confronted with too few volunteers, moving towards using more professional, resulting in much

higher expenses; that Lewes Fire Department have been providing monthly reports, expressing their higher demands; that according to their February report, only 14% of the Lewes Fire responses happened within city limits; that according to a recently uploaded document, the Cool Spring Crossing project would be served by the Lewes Fire Department; that he believed that providing some compensation to both fire district would be a good idea; that only 23% of emergency responses are located within the city limits; that between February 2024 and February 2025, the fire calls increased by 26%; that EMS calls increased by 15% as an indication of growth in the area; that Lewes' agreement is that growth has exceeded their capacity; that SPC is concerned that the project will place pressure and exceed capacity in all of the service areas; that Lewes has been considering discontinuing ambulance service; that police service, within unincorporated areas, relies on the Delaware State Police; that Town of Milton is adding two officers, resulting in a force of 12 officers; that the Milton Police have a reciprocity arrangement with the State Police; that in the last six months of 2024, the Milton Police responded to an average of 16 calls per month for areas outside of city limits, resulting in about 200 calls per year outside of their city limits; that after conversing with city officials, there is concern that the project will place a burden on the Milton police and fire departments; that Lewes is also adding officers to their police force; that Cool Spring Crossing would be an unincorporated community and would not have either police or fire service; that it was suggested that Cool Spring Crossing be considered a new town, but he was unsure if that suggestion had ever been considered; that growth has impacts on neighboring communities; that Dr. Tam and the Beebe Healthcare staff recently presented a valuable briefing to the County Council; that the briefing pointed out that currently we have a shortage of 336 clinicians, doctors, nurse practitioners, and physicians assistants, resulting in a total shortage of 2,400 medical support staff; that there are about six medical support staff required for every clinician; that this current issue will worsen by 2030; that Dr. Tam estimated that Sussex County will need 11,120 additional clinicians, and 7,800 medical support staff by 2030; that our area has been identified nationally as a shortage area for healthcare professionals, including dentist, and mental health providers; that regarding medical services, Cool Spring Crossing will provide the benefit of 175 affordable housing units to assist with recruitment and retention; that the affordable housing unit rates will be fixed and limited; that the 525 workforce units will be rented at market rates; that the project will provide medical space, to be located next to Bayhealth; that the consequences of the project would be an additional 5,600 new patients creating a new set of demands; that the project must account for both full-time and part-time residents; that part-time residents are staying for nine months now, rather than three months out of the year; that the market rates will place a lot of the support staff outside of the group that will be able to afford to live in the 525 units; that during Dr. Tam's presentation he mentioned three kinds of positions he needed to find housing, being for nurses, care coordinators, and lab technicians; that all of those positions would qualify for Sussex County's Rental Program housing; that none of them would equal at 100% Area Medium Income (AMI), which is presumably where the market rates would be; that the challenge is not being met for the needs of medical service housing; that SPC has sought to mitigate several of its impacts, by providing the financial support to Milton and Lewes Fire Departments, providing the medical office space, the 175 affordable units; that SHARP has raised the question if an HOA payment is the correct way to provide additional money to EMS services; that everything he had mentioned demonstrates the problems of meeting capacity on the service side, exceeds any one developers capacity to mitigate the issues; that the issues require managed growth; that this will require plans to be put into place on how the issues will be addressed; that the required planning will not be achieved by making piecemeal decisions; that these plans are derived during the Comprehensive Plan, when all of these issues are on the table at the same time; that SPC is not stating that the Cool Spring Crossing plan is a bad idea, and they acknowledge that the plan offers many desirable things, and that SPC believes that the project is not a good idea at this current time.



Ms. Wingate stated for the record that within the Applicant's proposed Conditions of Approval, the Applicant proposed a fee of \$100,000 to be paid by the applicable homeowners or condominium association fees, being \$100 per house, and that the Applicant appeared committed to that proposal, by their submitted conditions.

Mr. Johannes Sayre, resident of Lewes, spoke on behalf of the Sussex Preservation Coalition on the impact of traffic and what the Traffic Impact Study (TIS) revealed. Mr. Sayre stated that he had reviewed all the information of the TIS, but acknowledged that he was not a traffic professional that the SPC had vetted their observations with Mr. Dennis Hughes, a professional traffic engineer in Delaware, and therefore felt their beliefs were accurate and relevant; that Cool Spring Crossing is proposed to be one of the largest developments in eastern Sussex County to date; that the project could be considered a new community, or a separate town, consisting of 5,000 people in a space of 20 years; that the project is estimated to bring 33,359 added vehicle trips to area roads; that in review the TIS, they noted that DelDOT regulations require a TIS to consider roadways and intersections out two to three intersections, beyond the planned boundaries of the proposed development; that the Cool Spring Crossing TIS goes well beyond that requirement, considering intersections as far away as Rt. 9 and Shingle Point Road, located 4.5 miles west of the site, and planned DelDOT projects on Rt. 1, starting 2.5 miles north at Hudson Road and moving southeast from there; that the TIS is considering a much larger area for traffic impacts of the project, than what the regulations mandate; that they found the analysis of the TIS identified about 20 intersections whose level of service (LOS) will degrade below the standard for failure, unless local roadway improvements are made or planned build out projects are completed; that the TIS identifies remedies like those for most of the mentioned intersections; that recalling that the TIS considers intersections up to four miles away from the project, there are several new developments at that distance or closer, that the TIS did not consider, notably the Northstar development, located about two miles east of the project's perimeter; that there were also developments located between three to four miles north of the site, which were not considered; that the understand the absence of these developments from the TIS is not due to negligence, as these developments were proposed, approved for finished build out after work was in progress on the Cool Spring Crossing proposal; that this does not change the fact that these developments will contribute significantly to the traffic impact within the same area as the Cool Spring Crossing project, within the Rt. 9 corridor; that they found six developments, with a total of 3,132 homes located within four miles of the project, that were not considered within the Cool Spring Crossing TIS; that the Rt. 9 corridor is already a subject of the Coastal Corridor Study, consisting of Rt. 9 and Rt. 16; that as they just heard, there is currently a study being performed specifically to Rt. 9, which just began; that dualization of Rt. 9 is in some stage of planning, west of Five Points to Sweet Briar road, ending about one mile east of the project site; that the TIS performed a segment analysis of the impact of the project traffic contribution to Rt. 9, projecting completion from 2044 to 2048; that the Rt. 9 level of service will fall below the failure threshold; that the TIS does not recommend dualization of Rt. 9, considering the scale of the traffic impact of the Cool Spring Crossing project, as well as other developments within the immediate area; that it appears that no one yet has a whole plan to ensure that Rt. 9 does not fail to bear up under the projected load; that the DelDOT Memorandum of Understanding (MOU) states that DelDOT and Sussex County shall endeavor to maintain a service level of D, also known as Delta, on roads affected by an application; that there are conditions and exceptions on that mentioned within the MOU; that DelDOT's Level of Service Scale runs from A, being the best condition, to F, being the worst condition; that from the point of the MOU, failure means dropping to a Level E or Level F; that the TIS identifies multiple intersections, failing with a level of service less than Level D at different stages of the Cool Spring Crossing build out at 100%, 75% and even only 25% build out;

that this creates impacts on access to neighborhoods and congestion conditions on roadways, at intersections, and area roadways, notably being Rt. 1, Rt. 9, Rt. 5, Cave Neck Road, and Hudson Road; that the TIS identifies local improvements such as added lanes, signalization or planned build out projects that can prevent that failing state from occurring; that completion of those roadway improvements is required in order to prevent failure; that SPC also found cases where failure is predicted, but no improvements are planned; that the presented to the Commission a list of intersections listed within the TIS, where failure conditions levels of service E or F are predicted at some stage of build out; that two of the roads are smaller neighborhood roads, being Joseph Road and Arabian Acres Road; that it does not appear that the TIS suggested improvements to avoid any service level failure; that he presented to the Commission an aerial map of the neighborhood entrances, with the Cool Spring Crossing project being outline in pink; that all of the entrances reflected are located along Rt. 9 and the Cool Spring Crossing area; that reflected within the middle of the map are the Hunters Mill and Beaver Creek developments, which the TIS does propose improvements to prevent service level failures; that further west on the map, there is Prettyman Road and Shingle Point Road; that the TIS proposes improvements to avoid failures at the Prettyman Road location; that at Shingle Point Road and Rt. 9, the DelDOT Park Avenue Relocation project, will address any potential failures in that location; that on the lower left of the map, there was a small red notch, labeled as Hawthorne development, which is one of the six areas found that was not considered in the TIS; that within the reflected class of neighborhoods, where traffic is entering and exiting, the neighborhoods may be impacted and suffer with a failure to their level of service; that the list of area roadways with intersections, where the TIS predicts that service level failures will occur were the intersection of Rt. 1 and Cave Neck Road, and the intersections of Rt. 9, Hudson Road, and Fisher Road; that they counted nine, of which six are listed as depending on planned build out projects avoid failure; that the other three depend on the local improvements, such as added lanes, or signalization; that he presented and referenced an aerial map, which was provided within the TIS; that he stated the areas to take note of are the areas of the red dots, which represent planned DelDOT projects; that these projects include the Rt. 1, Eagle Crest and Oyster Rocks intersection, the Rt. 1 and Cave Neck Road intersection and the DelDOT Grade Separated Intersection project at that location, the Minos Conaway Road and Rt. 1 and another DelDOT Grade Separated Intersection at that location, Dairy Farm Road and Beaver Dam Road, and the DelDOT traffic circle project at that location, and the Rt. 9 and Rt. 30 intersection; that the TIS identified that area of Rt. 30 as requiring dualization to avoid failure; that Rt. 9 and Shingle Point Road intersection, depends on the Park Avenue Relocation project; that the Cave Neck Road, Sweetbriar Road, and Hudson Road intersection, and the DelDOT five-legged traffic circle project planned at that location; that he wanted to references these improvements, as well as all the local ones, as they are required to be completed in order to avoid failing levels of service at the mentioned intersections; that there are six developments, with a total of 3,132 homes, equaling about 1.5 times the size of the Cool Spring Crossing project, located within four miles of the project's perimeter that were not considered within the TIS; that the Villages at Red Mill Pond, with 177 homes, is listed within the TIS, but does not appear to provide any trip generation data; that the remaining developments are not mentioned within the TIS at all; that these developments will be contributing traffic, at their scale, to the roadways were Cool Spring Crossing traffic will also be added to the Rt. 9 corridor; that the Cool Spring Crossing project proposes 1,922 homes; that the Villages of Red Mill Pond has 177 homes; that the approved Northstar development will have 852 homes; that Hawthorne has 254 homes; that the Granary will have 1,350 homes; that Scarlet Oaks will have 163 homes; that Four Winds will have 336 homes; that these are developments, equaling to 3,132 homes within a four mile radius of the Cool Spring Crossing project; that these developments are incrementally changing the area to something other than rural area; that the questions to be asked if we want to accept this process, do we want it to continue and do we want to facilitate it or not; that

whatever the reason of why this data was not included in the TIS, these homes will contribute massively to the area traffic, while Cool Spring Crossing builds out; that SPC urged that for the Cool Spring Crossing proposal to be complete, an analysis of the Cool Spring Crossing traffic impact must include the traffic contributions of the missing developments; that the TIS identifies Rt. 9 as failing at Service Level E by 2044 or 2048, at 100% build out, specifically from Shing Point Road and Sweetbriar Road; that on Page 5 of the TIS, it explicitly states not to recommend Rt. 9 dualization; that the 2024 Coastal Corridor Study projected a failing Service Level E, at the location of the Rt. 9 and Rt. 5 intersection, without the consideration of the Cool Spring Crossing or Northstar projects; that the recommended second study for specifically Rt. 9, had just began; that currently, the daily vehicle trip estimate for Rt. 9 is 17,000 trips, which is close to the threshold of 20,000 trips, where dualization is recommended; that there will be a total of 47,000 additional trips added to area roadways when combining the total trips proposed for Cool Spring Crossing and Northstar; that given the service level failures the TIS predicts on Rt. 9 in the project's area, SPC question why mitigations for that, including dualization are not proposed; that it appears that there is an analysis, which currently anticipates service level failure on a major local roadway, while still missing information and results need to support an accurate review of the proposed project; that the SPC concludes that the road improvements which the TIS identifies as preventing service level failures must be carried out; that otherwise, per the TIS, those failures will occur; that to avoid those failures, the Phasing Plan for the Cool Spring Crossing project must synchronize completion of the roadway improvements with the project build out; that the project must establish concurrency; that the development cannot grow fast than the roadwork is completed; that the Cool Spring Crossing parcels are currently classified within State Investment Level 4, meaning there is no support planned for infrastructure investment; that funding and timing of improvements must be assured; that if this does not happen, per the TIS, there will be failure conditions on the affected roadways; that the TIS is missing information that is required in order for the TIS analysis for Cool Springs Crossing traffic impacts to be complete, and the Rt. 9 and corridor traffic studies, the land use review, State Investment Level review and Sussex County Comprehensive Plan update for 2028 need to be finalized before approving the proposed Cool Spring Crossing project, given the scale of the proposed traffic impact.

Chairman Wheatley requested to ask additional questions of the DelDOT representatives.

Chairman Wheatley questioned if the Delaware Office of State Planning Coordination had any authority over DelDOT's budget or had the ability to provide or take away funding to planned projects.

Ms. Steinebach stated that she was not aware of that being the case; that DelDOT goes through the Capital Transportation Project (CTP) full public process through MPO's and counties; that the projects get prioritized as part of the Delaware Code, and proceed through the Council of Transportation's public process; that as part of the CTP prioritization process, there is a local priority, and if it is located within a Transportation Improvement District (TID); that within the list of nominations DelDOT receives, some of the ranking does receive more points, if a project is endorsed by an agency, and it is a very long process.

Mr. Sammons stated that DelDOT attempts to account for all government and state agencies, and they have the TIS to mitigate the specific impacts of the developments themselves.

The Commission found that Mr. David Edgell, Planning Director with the Delaware Office of State Planning Coordination, was able to provide additional information. Mr. Edgell stated his office does

not have the budgetary authority to stop any project at any State agency; that however, all of the State projects for infrastructure and operating budgets for service, do adhere to the Strategies for State Policies and Spending, which is developed by the Cabinet Committee on State planning issues, which are enacted by the Governor by executive order; that through the capital budgeting process and operating budgeting process, all of the projects are all evaluated based on those metrics and determined; that DelDOT has a very detailed process for Capital Transportation projects; that location, in accordance to the State Strategies, is part of that process; that this is a statewide evaluation, broken down by county; that if they have priorities in any given cycle in Investment Levels 1 and 2, they might outweigh Investment Levels 3 and 4; that projects proceed through an entire matrix of evaluations from DelDOT, and the whole Capital Transportation Project and budgeting process.

Ms. Wingate stated that she understood Mr. Sammon's previous comments testified that DelDOT does take other projects into consideration, and that all projects are factored in, at some point as a whole.

Mr. Sammons stated the Sussex Preservation Coalition has been reviewing the DelDOT analysis since January 2025; that they had only received SPC's presentation earlier that morning; that DelDOT attempts to account for all communities and developments, but as he previously mentioned, there must be a cutoff point; that the Northstar application was submitted after the Cool Spring Crossing application; that at the time, the Northstar project was not considered a committed development; that they can only analyze the information they have at the time; that if there is something significant, the department is willing to review and consider anything, and that the current application has been scrutinized and torn apart multiple times to date.

Ms. Steinebach stated that DelDOT knew how intensive the project would be; that as part of the Development Coordination Manual, DelDOT technically only had to review three intersections; that due to the magnitude of the project, they made the extra effort, going above and beyond, analyzing 46 intersections to review the ripple effects, and to provide a hypothesis of when phasing would be required to be done; that they performed a Segment analysis as well, which the DCM does not require, and DelDOT was sensitive to the impacts, which led to their additional efforts of analysis.

Ms. Jill Hicks, spoke on behalf of the Sussex Preservation Coalition, and presented a petition of opposition containing 1,803 signatures. Ms. Hicks stated the subject area is a rural area, with only pockets of developments around the area; that Mr. Fuqua previously stated that the project size is irrelevant; that she disagreed; that the project and its size will impact the roads, schools, fire and ambulance services, and infrastructure, and therefore is relevant; that the option of building a cluster subdivision, from her understanding, would take an additional two years to proceed through the zoning process; that she believed that Sussex County would be well into the FLUM and the Land Use Reform Work Group would be done with its work; that she does not know if a cluster subdivision proposal would be a viable option; that she questioned if the 515 acres included the Martin Branch area and the resources around it; that the impact to the schools and other infrastructure is one reason that the Land Use Reform Working Group was designed; that she felt between those two issues, it warrants waiting; that the estimation of 23 additional students per year, equals to a classroom per year; that she questioned if the \$100 per unit would be added into the rent figure, whether it be for affordable housing, or the market rate affordable housing; that she was pleased that the Applicant referenced smart growth; that the SPC is about smart growth, but she stated it does have to do with if it is the right time for the project and if the project is the right size; that there is a lot of information

being presented for the estimated traffic count; that Mr. Sayre had provided some traffic analysis information; that she questioned if the Commission would want to hold the record open to the receipt of the traffic count information for the 1,200 unit application; that livable communities is not an internal look; that it is a look at the entire community area of the County; that what makes an area livable is the quality of life, including infrastructure, as well as the environment; that another area of consideration should be that Rt. 9 is a major evacuation route, placing more importance on the traffic analysis; that currently Sussex County is short about 13,400 residential units, based on a study done by Cabinet Committee on State Planning; that 80% of those are required for homeowners, and 20% for renters; that the shortage varies by income; that the shortage is more pronounced in eastern Sussex County; that the project proposes 175 units to participate in the Sussex County Rental program, with the remaining 525 units, being considered workforce housing, that will be subject to market rates affordable house; that she considered this an oxymoron, particularly when located within Sussex County; that the market rate is not affordable to the workforce, thus the reason Sussex County is in the predicament it is in; that affordable relates to what is affordable to a household at 30% of the gross monthly income; that if they are renters, that includes rent and utilities; that if it is a homeowner, it is a mortgage, utilities, property tax and insurance; that in 2023, it was stated that the Area Median Income (AMI) was \$71,200; that she recently saw a report stating it is \$78,000; that affordable housing and workforce housing are used interchangeably; that workforce housing is generally considered housing affordable to persons below 100% AMI, that meets the needs of wage and service industry workers; that when referring to workforce housing units, there needs to be specification given to the workers the unit would be affordable to; that a unit geared toward a teacher, making 100% AMI, is not going to be affordable to a cashier making 50% AMI; that she questioned which workers the housing needs will meet with the Cool Spring Crossing project; that at 100% AMI, a person should be able to afford close to \$1,800; that she questioned if he proffered \$100 would be tacked onto the rent or not; that she is part of a homeowners association; that she felt an HOA is not where the proffered \$100 fee should be handled; that people do not pay their dues; that an HOA will not want to be responsible for paying something that the developer committed to; that she felt the intent was good, but it would be a bad way to administer; that she felt the Commission should wait for the impact fees that the Council is currently working on; that she felt the administration of those monies would have to come through the County, potentially as a County tax; that HOA will change their covenants; that public service people, and some of the people Dr. Tam had mentioned do not come up to 100% AMI; that when considering the market rate affordable housing, the 525 units will not apply; that only the 175 units will apply; that average rents in Sussex County for a one bedroom unit is \$1,800; that for a four bedroom unit, it is \$2,900; that for a unit to be affordable, it requires an income from \$72,000 to \$116,000; that average rent in Lewes, including the outer area, is \$2,800 per month at market rate; that those 525 units are not going to be affordable to the workforce the County is trying to take care of; that examples of this are, at the Vineyards a one bedroom unit cost \$1,669 to \$1,729; that two bedroom units range from \$1,810 to \$2,600; that the Vineyard Mendocino, consisting of two bedrooms and two bathrooms, ranges from \$2,050 to \$2,280; that she questioned if Cool Spring Crossings net contribution of 175 units of workforce housing reduce the County's need; that she questioned if the 175 units would even support the 1,900 units that are being proposed; that based on her research from the U.S. Census Data, for a subdivision, one would need about 6% of the project to be for workforce housing, to be able to handle the rest of the subdivision; that for the Cool Spring Crossing project at 5,600, the project would need 337 workforce people; that she questioned if the 175 units will get the County out of the hole, or will they dig the County deeper; that she questioned if all of the concessions being discussed are worth making; that the proposal appears to be progress, but in reality it is far more modest, and may even create a negative impact; that she advised the Commission to not rush to judgement; that amending the Future Land Use Map at this time, for a

project of its magnitude would be irresponsible; that the County needs to lead with the planning process for the County as a whole, not react piecemeal to developers' site-focused business plans, which has been happening over the past five to eight years; that Sussex County should avoid a fiscally irresponsible decision that undermines the State's planning and budgeting process; that the project will place undue burden on all Delaware taxpayers; that if Sussex County builds 24% of its homes within State Investment Level 4, all of Delaware taxpayers will be paying for that; the Future Land Use Map carries a force of law and should not be easily circumvented; that Sussex County should allay the growing public concern that there are no effective constraints on development in Sussex County; that the way to achieve this is to let the planning process play out; that a decision on the project should not preempt the upcoming 2028 Comprehensive Plan work; that the State Investment Level work should be completed at the end of the year; that the work of the Land Use Reform Working Group and the current Rt. 9 Corridor Study should not be subverted or undermined; that public welfare is at risk; that a project of its magnitude needs construction to be concurrent with all the Traffic Impact Study road improvements, and the dualization of Rt. 9; that the data is incomplete and inconclusive; that the County and State must collaborate to align infrastructure with growth, school space, staffing needs, medical services, and emergency services; that this cannot be another example of let the County build it, and the State will fix it; that SPC supports the County's effort to increase workforce housing; that the County needs metrics to know if proposals, such as the current, are going to help or exacerbate the problem; that the County needs to be more prudent in its expectations; that the County needs to commit to more affordable housing units, priced in line with Area Median Income guidelines, not market rate affordable housing; that smart growth is questioning if a project is the right use, at the right place, at the right time, and the current project is not the right size, at the right time, until we have more answers.

Mr. Collins questioned whether SPC preferred the by-right subdivision application of 1,200 units over the current proposal.

Ms. Hicks stated that the SPC does not prefer one application over the other; that if the Applicant were to come back with a 1,200 unit application, the two applications hearings would be two years apart; that during the two year time period, working will be started on the Comprehensive Plan; that work will be completed for the Land Use Reform Working Group, and the State Investment Level studies should be completed, and she was implying that the County needs to complete the Comprehensive Plan on where they want to see this area go.

Mr. Collins questioned if the Applicant was to resubmit next week, what rules would the application fall under?

Chairman Wheatley stated that if the applicant were to propose any affordable housing component, their application would be expedited.

Ms. Hicks stated in the secondary application, being the 1,200-unit subdivision, she did not see any affordable housing proposed, and again questioned at what point affordable housing would be getting the County out of the hole or even covering its own proposed residents.

Chairman Wheatley stated he felt everyone needed to keep in mind that sewer lines are not built on speculation; that sewer lines are built upon demand; that the idea that the County will catch up, and things will be in equilibrium, will never happen; that he hoped the County could do a better job than what is currently being done; that the County is currently trying to do that; that infrastructure will

always be behind because taxpayers do not want to pay the cost of speculative ventures and there is always going to be an inconvenient period.

Ms. Hicks stated that the Commission needed to consider if they wanted to amend the Future Land Use Map for 637 acres, when every other developer watching will request the same, claiming a precedent had been set.

Mr. Robertson stated he disagreed with Ms. Hicks' statement, as a mentioned development was Seaside, which was quite large, and was denied, and he stated that developers can ask, but it does not mean the request will be granted.

Chairman Wheatley stated that each application must stand on its own; that the subject site has water and sewer services, with development all around, and the area might be currently classified as Level 4, but the area is not rural.

Mr. Collins stated that Level 4 only becomes Level 3 or Level 2, when all the infrastructure is in place.

Mr. David Edgell, Planning Director with the Delaware Office of State Planning Coordination, spoke in opposition to the applications. Mr. Edgell stated that as required by Delaware Code, the Sussex County application submitted the plan amendment for review through the Preliminary Land Use service in December 2021; that the PLUS review determined that the plan amendment was inconsistent with the Strategies for State Policies and Spending; that their PLUS response letter, dated January 13<sup>th</sup>, 2022, identified a number of concerns related to the proposed amendment, notable the location and Investment Level, as well as their environmental, transportation and archaeological concerns due to the large size of the amendment and the potential significant impact on State resources; that the letter was ended stating that the State looked forward to working with the County on a process that will evaluate the application in conjunction with the Coastal Corridors study, and a robust community planning effort led by the County; that it had been three years since the State's initial review; that to date, there had been no robust community planning effort led by the County to consider the plan amendment in relation to its cumulative impact on the area and corridor; that after waiting patiently for over two years, the Office decided to formally object the plan amendment in February 2024; that the objection triggered a 45 day period of negotiations with the County that they hoped would be an opportunity to discuss the amendment, and ways for collaboration, moving forward together to evaluate the impacts; that instead the County's position was that they were unable to discuss the amendment at that time; that they learned from the County, that the current public hearing process, is the way they gather information and data about the plan amendment; that after the 45 day period concluded, he referred the matter to the Cabinet Committee on State Planning Issues; that the committee met with representatives of Sussex County on April 8<sup>th</sup>, 2024; that at the meeting, the County further explained the importance of holding hearings before discussing potential plan amendments with the State; at that meeting, a mutually agreeable course of action was decided upon; that the County would hold hearings before the Planning & Zoning Commission and Sussex County Council, and before action was taken, reengage the 45 day period of negotiations; that another meeting between Sussex County and the Cabinet Committee on State Planning issues will be held during this 45 day period to further discuss the amendment; that he prepared and submitted the letters of correspondence, along with his comments for the Commission; that Comprehensive Plan amendments of the proposed type, are required to go through the Cabinet Committee of State Planning issues, then onto the Governor; that the current process is very unusual, and they are feeling their way through it; that they have worked closely with Mr. Robertson; that they have crafted the

process before the State's DAG, and it was important that he present before the Commission to share what the process was, so that the public was informed.

Mr. Robertson stated that it has been an evolving process working with the State Planning Coordination on map amendments; that they heard two different sides of it; that he supposed the County was somewhere in the middle; that the County had a couple of applications where the County was at the forefront of requesting a map amendment on behalf of the applicant; that an issue was that the County did not have sufficient information to understand why the request may be appropriate or not; that this needed information was not provided until the public hearing process; that Mr. Whitehouse was placed in the awkward position of having to appear at the Office of State Planning Coordination to advocate or explain a map amendment that he had no information on, which would allow him to present a meaningful, background reason, because it had not proceeded through the public hearing process; that through this process, they realized that this was not the best way to proceed; that the best way to proceed in all the matters is to have all the information available to everyone, to allow for an informed decision to be made; that at the time, no one had all the relevant information, and therefore it was the County's opinion that an informed decision could not be made; that there was mention of a delay in getting this application before the Office of State Planning Coordination; that he would disagree, as the County was trying to work out the process to do that; that the County has drafted a Memorandum of Understanding (MOU), with the Office of State Planning Coordination to document the process; that the MOU has not yet been signed by the Office; that they are currently proceeding this way because it enables the County to create a record, and the County is trying to work out the process to allow clear understanding on how to move forward.

Mr. Jack Young, resident of Rehoboth, spoke in opposition to the applications. Mr. Young stated that the Cool Spring Crossing applications failed the primary tests of the Sussex County Code §99-3 and §115-3; that the Sussex County Code §99-3 provides for the orderly growth and welfare of the citizens with proper development; that Sussex County Code §115-3 establishes the purposes of the zoning process; that the zoning process should provide for present and future needs, including lessening congestions, and providing adequate provisions for public requirements, transportation and education opportunities; that the Cool Spring Crossing applications do not and are not supported by sufficient service infrastructure at the current time; that given the Code requirements, more needs to be done to satisfy the Code requirements or adequate provisions of public requirements, transportation and educational opportunities, and more must be done before we can satisfy ourselves of the primary task that the Zoning Code tells us to do in both Chapters 99 and 115.

Mr. John Montanez with SHARP (Sussex Homeowners Advocacy Resource Partnership) spoke in opposition to the applications. Mr. Montanez stated that SHARP has been in existence for approximately three years, and is comprised of 19 volunteer communities, servicing approximately 6,000 households in Lewes and Rehoboth; that SHARP's purpose is to serve the homeowners and residents of Sussex County; that SHARP is in full agreement with the Milton Fire Department; that they have witnessed first-hand all of the exponential growth that has occurred in the area; that they are equally concerned about their ability to meet those growing needs; that where they disagree is the belief that issues can be remedied by an agreement between a developer and HOAs; that they feel it is not justified and not sustainable to ask homeowners to pay an additional fee; that you are asking the residents to pay an additional fee for the same service that everyone in the room is currently receiving; that while the State allows the HOA to levy fees, homeowners can rescind those fees by vote; that this creates the fee to be unsustainable and non-binding; that everyone agrees that they trust the local government to make the services of roads, schools and emergency services provided in a fair and equal



manner; that the idea of having an HOA provide these services is a stopgap measure that undermines the agreement that SHARP is trying to make; that the emergency services are being taxed, requiring a response from the County; that the response should be done through local governance, not through a relationship between the HOA and developer; that SHARP, and its 19 communities, fully support the local schools, emergency services and fire department, but do not agree with the idea that an HOA should be used as a mean of leveraging the proposed fee; that SHARP is not advocating for taxes; that they are suggesting that we need to look at the problem; that for the long-term, it is not going to be achieved by a Band-Aid approach, by having the HOA attempting to fill a void; that his personal opinion is that people will assume that the HOA will be able to make up that money, and they will not have to pay it; that as a taxpayer, this would be a County-wide issue; that by the fee going through the County, it would create a fair and equitable way to ensure all residents bear the burden, and not just the residents of Cool Spring Crossing.

Ms. Wingate stated she has spoken with one of the fire chiefs in the local departments, who stated they have sent out thousands of letters requesting homeowners to contribute to the local fire department, and they receive very few back, and this is the reasoning why, in her opinion, the proposed method would work.

Ms. Carolin Velardi, resident of Hawthorne in Sussex County, spoke in opposition to the applications. Ms. Veladri stated that three years ago, she attended a meet and greet with the House of Representatives; that it was filled with angry EMS workers, teachers, and many people concerned with housing; that at that time, it was told to them that they needed to get involved with local County administration; that the State does not handle those issues, and that the local government does; that it was said that it is not the State; that the State had identified areas of concern, and placed things into progress to address the issues; that the issue was the local government allowing too much growth, which was outpacing the State plans; that she lives in the area; that just because she has a Dollar General store, does not mean that the area is not rural; that within the area there are farms all around; that there are different perceptions of what rural area looks like; that the State has identified the area as rural; that it is up to the Commission to deem whether it is an appropriate area or not; that there are a million reasons why the area is not the appropriate place and she is listening to her State representative, voicing her objection and now it is in the Commission's hands.

Mr. Fuqua stated that he would like to clarify the question regarding the fire company; that the fee has been proposed as a Condition of Approval, but more importantly, will be placed as one of the restrictions, and that the restriction would have a type of provision that it would not be permitted to be deleted, amended or modified, without the consent of the Lewes and Milton Volunteer Fire Departments.

Ms. Alison White, resident of Red Mill in Sussex County, spoke in opposition to the applications and submitted a petition of opposition containing 250 signatures. Ms. White stated that the proposed project will degrade their quality of life, safety and property values; that the project would add a town of 5,600 additional residents in 1,922 residential units with commercial development; that the project would add 33,359 daily vehicle trips to area roadways and remove 108 acres of forest cover on the parcel; that Rt. 9 is near capacity; that the community would triple traffic on Rt. 9 and its surrounding roads; that this will further impair vehicle entry and exit for the Villages of Red Mill Pond and degrade the residents daily driving experience; that there are insufficient plans for corridor expansion to manage additional traffic; that the site was classified by the State as being within Investment Level 4; that DelDOT will not consider, much less implement road improvements on Hudson Road, or Rt. 9

west of Old Vine Blvd until well after 2030; that Rt. 9 is one of the few emergency evacuation route for the Sussex Shore area; that Rt. 9 supports residents of Lewes, Rehoboth, and the growing Rt. 9 corridor; that adding 5,000 residents will make it more unviable than it currently is; that the property is not located within a growth area in the County's land use plans; that because of this, the developer is requesting the parcel to be amended to the Coastal Area, being considered a growth area; that the Coastal Area stretches from roughly Sweet Briar Road to the shore, and is already a scene of rampant overdevelopment; that the request to amend the FLUM violates State strategies, by building within State Investment Level 4, which is an area designated for conservation and preservation; that the massive number of added residents would further strain schools, emergency services, and healthcare facilities; that the amount of forest removal and pavement will endanger environmentally sensitive areas; that she urged the Commission to not recommend the applications for approval; that Red Mill Pond South has 177 homes with one entrance along Rt. 9; that the entrance has already been impacted by current traffic, creating a queue of four to five cars waiting to exit; that there was one occasion where a resident was attempting to get a relative to the hospital, who had to wait six to eight minutes to get onto Rt. 9; that urgently needing medical care can be critical; that there had been discussions regarding signalization at this entrance and about the dualization of Rt. 9; that any such plans are at minimum five years away from being realized; that their entrance is just over one mile west of the future Northstar community and 2.5 miles east of the proposed projects Site Entrance A; that they are located in the middle of the two projects, and considering the two project will add an estimated total of 46,000 additional vehicle trips to area roads, and the unfinished plans for improving Rt. 9, she has grave concerns about the project's impact to her community and their driving safety.

Ms. Alison Monroe, Sussex County resident along Walker Road, spoke in opposition to the applications and submitted two separate petitions of opposition, one containing 760 signatures from the last application in 2024, and 175 signatures for the current application of 2025. Ms. Monroe stated that the primary purpose of the Commission is to protect the interests of the current residents in the area, not the wishes of those who would like to move to the area; that she would argue that every name on the petition carries as much weight, if not more, than any developer, real estate agent or builder, as the individuals will be the ones most impacted; that the opposition rate in the nearby area is 98.3%; that as of May 1<sup>st</sup>, 2025, there were 287 public comments submitted through the County's website, equaling to an opposition rate of 83%; that the other related applications had opposition rates of 73%, 88.9% and 90.1%; that as a native to the immediate area, she had watched her hometown be altered almost past recognition; that she understands when she hears complaints regarding how busy the area has become, or when the newest transplants lament on the explosion of growth; that she believed many of the new residents feel they were sold a bill of goods of a pretty new house, on a quarter acre lot, located in the middle of farmland and forest along quiet country roads; that the realtors and developers sell this dream to one person after another; that this is all done while generational community members, longtime residents and newcomers alike, are left watching feeling helpless as slower, lower Delaware is being sold out of existence; that many natives are heartbroken, but too attached to leave; that she questioned is there a tipping point, to where sacrificing our quality of living is not worth the extra dollar, when it takes an hour to get home, when it used to take 15 minutes, when a person no longer feels safe walking along the road on which they have lived for years, or when the family doctor cannot accept you as an patient, when there are no more turtles in your yard, and no more cows in the field, and no more solitude to be found on the beaches; that she questioned if the extra income will be enough, or will the man-made improvements be enough to replace what the area has lost; that as she watches the farm fields being bulldozed and back country roads becoming thoroughfares, she implored the Commission to make the only correct decision, to

help protect what makes Sussex County a rural gem, and requested the Commission to not recommend the Cool Spring Crossing application for approval.

Ms. Barbara Capuano, resident of Independence in Sussex County, spoke in opposition to the application. Ms. Capuano stated that there has been massive growth over the past four years; that now every one of us sits in traffic, on roads, trying to catch up with the growth; that on the peninsula, we live on the coast; that there could be an emergency or 24 hour mandatory evacuation at any time, like what northern New Jersey, and New York have had; that the area cannot handle the traffic now; that the roads need to be built or corrected before laying plans to place this development; that the roads have not caught up with what is already here; that this issue will cost lives, should anything happen, and she requested the Commission to pause to look at the infrastructure, to figure out ways to handle what had already been approved before moving forward, as it is concerning life and death.

Upon there being no further questions, Chairman Wheatley closed the public hearing for the four applications.

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

In relation to C/Z 2010 CMF Cool Spring, LLC. Motion by Ms. Wingate defer action, holding the record open for ten business days, for the sole purpose of receiving additional written public comments on the document submitted by the Delaware Office of State Planning Coordination, seconded by Mr. Butler, and carried unanimously. Motion carried 5-0.

#### Minutes of the July 2, 2025, Planning & Zoning Commission Meeting

The Commission discussed the application, which had been deferred since May 7<sup>th</sup>, 2025.

Ms. Wingate moved that the Commission recommend approval of C/Z 2010 CMF Coolspring, LLC for a change in zone from the AR-1 Agricultural Residential District to an MR-RPC Medium Density-Residential Planned Community District based on the record made during the public hearing and for the following reasons:

1. This is an application to rezone a nearly 637-acre site of land along Route 9, Log Cabin Hill Road, Cool Spring Road, and Hudson Road in eastern Sussex County to an MR-RPC. The purpose of an RPC is “to encourage large-scale developments as a means of creating a superior living environment through unified developments and to provide for the application of design ingenuity while protecting existing and future developments and achieving the goals of the Comprehensive Plan.” This purpose is satisfied with this application.
2. This Application also includes a change in zone from AR-1 to MR. The purpose of the MR zone is to provide housing in an area which is expected to become urban in character and where central water and sewer is available. The stated purpose of the MR District is satisfied for this site. Both central water and central sewer are available. It is also in an area that is continuing to develop with a more urban character, including nearby large and small business, commercial, retail, and office uses. It is adjacent to the Bayhealth Medical and Surgical Center that provides healthcare and surgical services for all of eastern Sussex County. It is adjacent to Artesian Water Company’s 1-million gallon water tower. It is also located along one of DART’s bus routes. This rezoning is consistent with the zoning and land uses in the area.

3. Route 9 is classified by DelDOT and County Code as a Major Arterial Roadway. The development complies with the updated Memorandum of Understanding between Sussex County and DelDOT addressing the traffic impacts of a rezoning application. In compliance with the MOU, Century Engineering was retained to perform a Traffic Impact Study, or TIS, to determine the impact of the development under the scope and parameters established by DelDOT. The TIS reviewed the impact at all proposed development access points and at approximately 48 intersections in the area surrounding the development. The TIS, dated June 30, 2022, was reviewed by DelDOT, and DelDOT issued its TIS Review Letter on January 10, 2023. After the TIS Review Letter was issued, the Applicant made changes to the RPC Plan to reduce the number of proposed dwellings and to reduce the number of access points onto area roads from ten to six. These changes reduced the daily and pm peak hour trips associated with the RPC. DelDOT then required an updated review of the TIS based on these changes and required a supplemental sensitivity analysis to identify when recommended road improvements should be implemented. A final revised TIS Review Letter was issued by DelDOT on January 14, 2025. The revised Review Letter requires the Applicant to be responsible for 22 specific roadway and intersection improvements and contribution to existing DelDOT projects that are identified in detail on pages 17 through 24 of the revised TIS Review Letter. The Applicant will be responsible for the improvements and contributions as determined by DelDOT in accordance with the Sussex County-DelDOT MOU as well as the timing of their construction. Recognizing that the buildout of this MR-RPC will occur over a 10-to-25-year period, the timing of construction of these improvements will be identified as part of the MR-RPC's Master Plan as a condition of approval.
4. While the site is currently designated "Low Density" on the Future Land Use Map of the Comprehensive Plan, the Applicant is simultaneously requesting a Future Land Use Map amendment to the "Coastal Area" designation. The Planning and Zoning Commission is recommending approval of this amendment.
5. With the amendment to the Comprehensive Plan's Future Land Use Map, the Comprehensive Plan states that MR Zoning is appropriate in the Coastal Area and that a higher density of 4 to 12 units per acre can occur. The Plan also states that "[a] range of housing types should be permitted, including single-family homes, townhouses, and multi-family units... Appropriate mixed-use development should also be allowed. In doing so, careful mixtures of homes with light commercial, office, and institutional uses can be appropriate to provide for convenient services and to allow people to work close to home." This project satisfies this objective.
6. For the reasons set forth in this Recommendation, the Applicant has satisfactorily addressed the criteria set forth in §99-9C of the Sussex County Subdivision Code. Additionally, the Applicant has addressed possible archeological and historical impacts of the project through an Archeological Assessment Report and with comments supplied by the State's Historic Preservation Office. This includes the preservation of a small cemetery on the site. The Applicant has also provided a report prepared by the Sage Policy Group regarding the impact of this development on the local school district and including economic benefits through increased tax revenue to the school district as a result of the MR-RPC.
7. Although Sussex County has not yet adopted a Master Plan Ordinance, master planning is a long-standing goal of the County. A development of this size and scope includes residential villages with single family and multi-family housing options; an "affordable" village of 700 multi-family dwellings of various types with 175 units participating in the Sussex County Rental Program, providing work force housing units; a "Town Center" containing retail, service, educational and recreational uses; and an assisted living facility with a medical office building. County staff has confirmed that the plan includes 18.52 acres of commercial uses,

which is within the maximum acreage of “commercial uses of convenience and necessity to the development as a whole” in accordance with §115-119(B) of the County Zoning Code. This variety of uses essentially creates a master planned community. This single, large, and interconnected MR-RPC development with an integrated design is preferable to multiple, unrelated single-family subdivisions.

8. The Sussex County Comprehensive Plan states that master planning should be encouraged for large-scale developments on large parcels or groups of parcels with higher density and mixed-use developments to provide flexibility in site design. The 2020 Delaware Strategies for State Policies and Spending also advocates development of “complete communities” that typically include an integrated pedestrian and bike network, new streets interconnected with existing streets, intermingling of residential and commercial uses, and the inclusion of parks or open space networks within developments.
9. The development is consistent with the Goals set forth in Chapter 8 of the Comprehensive Plan regarding Housing. The following are examples of Goals, Objectives, and Strategies within Chapter 8 of the Plan that are addressed by this development:
  - a. Goal 8.2: “Ensure that a diversity of housing opportunities are available to meet the needs of residents of different ages, income levels, abilities, national origins and household configurations.”
  - b. Objective 8.2.1: “Affirmatively further affordable and fair housing opportunities in the County to better accommodate the housing needs of all residents.”
  - c. Strategy 8.2.1.3: “Explore ways for private developers to provide more multi-family and affordable housing opportunities.”
  - d. Objective 8.2.3: “Facilitate and promote land use policies that enable an increase in the supply of affordable housing in areas with adequate infrastructure.”
  - e. Strategy 8.2.3.1: “Promote increasing affordable housing options, including the supply of rental units, near employment opportunities.”

This project is consistent with these goals. It is intended to provide affordable housing opportunities in an area where the use is consistent with the existing and planned infrastructure, and it is located near numerous employment opportunities with access to many more employment opportunities given its location on an established DART route.

10. The MR-RPC includes site plan review within the rezoning process. The Applicant has provided a master-planned mixed-use site plan with a variety of housing types and commercial uses. Because of this variety, the site plan’s design is superior to an exclusively residential or exclusively commercial development. For example, County Staff has noted that the design includes “the provision of Middle Housing units, at various locations through the Plan’s Villages and with walkable connections to day-to-day services and open space.” The MR-RPC design is substantially better than one more cluster subdivision adding to Sussex County’s sprawl – something the County is currently working to reduce. In this case, such a cluster subdivision could include 1,200 homes on 7,500 square foot lots. Instead, the mixed-use design will allow residents to use and enjoy a variety of retail, educational, restaurant, food service, and other varied uses near their homes without having to travel outside of their community. This benefits the residents of this community and County residents by reducing the need to travel on area roadways for these uses.
11. The use will be served by central water and sewer by a publicly regulated utility company.

12. Even though this project is adjacent to a Bayhealth medical facility, Dr. David Tam, the President and CEO of Beebe Healthcare testified in support of this project. Dr. Tam testified that this type of development and housing is needed in eastern Sussex County to recruit and maintain appropriate staffing levels within area healthcare services. Terry Murphy, the President and CEO of Bayhealth also provided a letter supporting this Application, stating that, “Workforce housing in this area of Sussex County is critical as we recruit the clinical and support team members providing services at our Route 9 campus. I feel that [this application] will have the needed impact to ensure that expansion of healthcare services and workforce housing to this population.” Without more affordable and varied housing options like what is proposed for this project, it is difficult to recruit support staff and physicians for the entire area healthcare system, whether Beebe, Bayhealth or others.
13. The multi-family residential portion of this development will provide an affordable rental housing option for current and future Sussex County residents. The high price of homes and rentals in much of eastern Sussex County makes housing unaffordable for a lot of the workforce in this area. People cannot afford to live where they work. The Applicant will provide 175 units that will be included in, and administered under, the Sussex County Rental Unit Program governed by Chapter 72 of the Sussex County Code.
14. Sussex County Council declared in Chapter 72, Section 18 of the County Code that it is the public policy of the County to:
  - a. Encourage the creation of a full range of housing choices, conveniently located in suitable living environments, for all incomes, ages, and family sizes.
  - b. Encourage the production of affordable rental units to meet the existing and anticipated future employment needs in the County.
  - c. Assure that affordable rental units are dispersed throughout the County consistent with the Comprehensive Plan.
  - d. Encourage developments in Growth Areas as defined within the County’s Comprehensive Plan and Areas of Opportunity as defined by DSHA to include a minimum percentage of affordable rental units on public water and sewer systems.

This application with the mixed-use site plan addresses each of these stated goals.

15. The Future Land Use Element of the Comprehensive Plan states that Sussex County should “expand affordable housing opportunities, particularly in areas near job centers and the Delaware State Housing Authority’s ‘Areas of Opportunity.’” DSHA has indicated that this project is in an Area of Opportunity where diverse housing types should be supported. This means that the area has high-quality schools, supportive infrastructure, and the capacity to support diverse and affordable housing types. DSHA noted that the need for affordable housing in the coastal resort area of Sussex County is acute and well-documented. This was affirmed by a letter from the Housing Alliance Delaware stating that there is an acute need for affordable housing options near the eastern coast of Sussex County and supporting this project. The Alliance noted that the project is “a step towards addressing the pressing housing needs in our community while also promoting a vibrant, inclusive environment.”
16. The site is located along a bus transit route operated year-round by DART from Georgetown to the Lewes Park and Ride and connections to the entire DART bus network.
17. There are Resources on the site as defined by the Sussex County Zoning Code. The Developer has supplied a Drainage Assessment Report and an Environmental Assessment & Public Facilities Evaluation Report in support of the application. In addition, the site plan complies

- with the requirements for Resources and Resource Buffers set forth in the Zoning Code, and the design meets or exceeds the design standards for protecting these Resources.
18. Surface and groundwater pollution will be prevented through the design and construction of the development and its stormwater management facilities using an erosion and sediment control plan in accordance with the requirement of and under the jurisdiction of the Sussex County Conservation District and DNREC. Conversion of the property from Agricultural use to the proposed development will decrease the nitrogen and phosphorus loading on the property.
  19. The property currently contains approximately 217 acres of woodlands. Approximately 114 acres or 53% of the existing woodlands will be preserved within approximately 295 acres of open space that will exist throughout the site. The majority of the woodlands being removed are in areas that have been timbered in the past and contain tree species typical of prior timbered land. The majority of the woodlands being preserved are mature woodlands and will be preserved and protected as part of a Conservation Area.
  20. The eastern boundary of the site contains a single perennial stream, Martin Branch, and associated non-tidal wetlands containing 29.6 acres. The stream and non-tidal wetlands will be preserved and protected as part of a Conservation area.
  21. The buffers required by the Sussex County Resource Buffer Ordinance as to Martin Branch and the adjacent non-tidal wetlands will provide a Resource Buffer 45 feet in width containing 13.73 acres of forested land. Adjacent to the Resource Buffers, the Applicant is creating an additional preservation and conservation area containing 61.61 acres of forested land with the exception of a 2.6-acre open field area that will be maintained as a Natural Meadow. This additional Conservation Area substantially increases the width of the wetland buffer to an average 130 feet. The required 30-foot Resource Buffer would contain 9.24 acres. The actual buffer provided within the proposed design expands the total Buffer area to 75.34 acres, over eight times the area of the required Resource Buffer.
  22. All of the area comprising Martin Branch, the adjacent non-tidal wetlands, the expanded Resource Buffer and the voluntary Conservation Area, totaling approximately 104.93 acres or over 16% of the site, will be subject to a Declaration of Restrictions permanently preserving it as a Conservation Area and a Buffer Management Plan providing for the management and stewardship of the Area.
  23. With conditions imposed, including the affordable housing units administered under the County's SCRP Program, this mixed-use, master-planned project meets the purpose of the Zoning Code and Comprehensive Plan in that it promotes the orderly growth, convenience, order, prosperity, and welfare of the County and its residents.
  24. This recommendation is subject to the following conditions:
    - A. There shall be no more than 1,922 residential units within the MR-RPC comprised of 534 single-family homes on individual lots and 1,388 multi-family units. The units shall be phased in pursuant to a phasing plan submitted as part of the Final Site Plan review. 175 of the Village A units shall be subject to the Sussex County SCRP Program administered under Chapter 72 of the Sussex County Code. Village A shall be constructed as part of the first phase of the residential development of this project.
    - B. The MR-RPC Master Plan shall provide a tabular breakdown of all types of residential units and commercial floor areas within it. This tabular breakdown shall also identify the number of SCRP and Workforce Housing (Accelerator Fund) units included in the project and identify the distribution and location of these units throughout the

project. Given the size and complexity of this RPC, any future requests to revise its site plan shall be accompanied by a revised Master Plan showing the requested updates to the tabular breakdown, including a table summarizing the date and nature of each revision.

- C. The RPC Town Center commercial uses shall conform to the uses shown on the Preliminary Site Plan, and the land dedicated to these commercial uses shall not exceed 19.22 acres. The Applicant proffered that the YMCA will have a location within the Town Center. Under a separate conditional use, there is an educational facility with the RPC as well. Both of these facilities shall be constructed within the first phase of the Town Center.
- D. All entrances, intersections, roadways, and multimodal improvements required by DelDOT shall be completed by the Applicant in accordance with the final revised TIS Review Letter dated January 14, 2025, along with any additional requirements that DelDOT may impose. There shall be interconnectivity provided to the Bayhealth property adjacent to the Town Center, with signage on the site indicating that pedestrian and vehicular interconnectivity will occur at this location. The design and location of this signage shall be shown on the Final Site Plan, and the signage shall be installed when sitework first begins within the MR-RPC. This interconnectivity shall be fully constructed and open for use by residents prior to the issuance of the first Certificate of Occupancy for the first commercial unit within the Town Center.
- E. As stated by the Applicant, there will be a clubhouse with a minimum of 7,500 square feet of floor area, including a refreshment area, a fitness center, space for group fitness exercise, a children's play area, meeting and gathering rooms, casual areas, staff offices, restrooms, and storage. Adjacent to the clubhouse, there shall be an outdoor resort-style swimming pool, a hot tub area, and a separate children's pool and splash play area. All of these pool areas shall be surrounded by an expansive deck with shaded and unshaded areas. The amenities shall also include tennis/pickleball courts, bocce courts, and a green space picnic area with fire pits, grills, seating, and open space for special events and entertainment. The MR-RPC Master Plan shall include a description of the types and frequency of special events and entertainment that will occur in this area and identify the specific area utilized as part of these events. There shall be 4 additional outdoor pools with bathhouses located in Village B, D & G, and between Villages E & F. The site will also include larger village parks, smaller neighborhood parks, and recreational features to be determined at the time of site plan approval for each phase of the RPC. All amenities shall be constructed and open for use in accordance with §115-194.5 of the Zoning Code.
- F. The development shall be connected to Artesian Water Company's sanitary sewer system.
- G. The development shall be served by a central water system providing adequate drinking water and fire protection as required by applicable regulations.
- H. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements, and the project shall utilize Best Management Practices to construct and maintain these fixtures. The Master Plan and each site plan for each phase of the RPC shall contain the approval of the Sussex Conservation District.
- I. The internal main roads that intersect with Hudson Road, Log Cabin Road, and Route 9 (being the main roads that separate and serve the various Villages within the RPC) shall be constructed to DelDOT specifications and dedicated to DelDOT. For the remainder of the internal roadways, the street design shall comply with or exceed Sussex County standards. There shall be sidewalks on both sides of all streets with interconnection



between the sidewalks and DelDOT-mandated multi-modal paths. The roads to be dedicated to DelDOT in accordance with this condition shall be identified as such on the Master Plan for the MR-RPC.

- J. Road naming and addressing shall be subject to the review and approval of the Sussex County Geographical Information Office.
- K. The Applicant shall consult with the local school district's transportation manager to determine school bus stop locations. The location of these bus stops shall be shown on the Master Site Plan.
- L. As shown on the Preliminary Site Plan, Resource Buffers required by Sussex County Code Section 115-193 shall be created to include waters, wetlands, their associated Resource Buffers and the additional areas shown on the Preliminary Site Plan, all of which shall be permanently protected, delineated and described on the RPC's Master Site Plan and within a recorded Declaration of Covenants and Buffer Management Plan for the community. This area shall be protected as part of a dedicated Conservation Area, with the location and details of this Conservation Area shown on the RPC's Master Plan.
- M. There shall be a vegetated or forested buffer that is at least 30 feet wide installed along the perimeter of the MR-RPC in accordance with Sections 99-5 and 115-25 of the Sussex County Code. This buffer shall utilize existing forest or similar vegetation that exists within it. Where trees currently exist in the buffer area, stump removal or construction activities that disturb the existing grade of the area within the buffer shall be prohibited. All silt fencing shall be located along the interior limit of the buffer area (the edge of the buffer nearest the interior development), and the Final Site Plan shall identify the "Limit of Disturbance" to prevent disturbance of the buffer area. Signage identifying this buffer as a "non-disturbance area" shall be installed along the buffer at 300-foot intervals. This buffer area shall expand to a width of 50 feet in areas along other land used for agricultural purposes, as shown on the Preliminary Site Plan. These buffer areas shall be completed within each phase prior to the issuance of any Certificates of Occupancy for homes within that phase.
- N. Construction, site work, and deliveries shall only occur on the site between the hours of 7:00 a.m. through 6:00 p.m., Monday through Friday, and between 8:00 am and 2:00 pm on Saturday. No Sunday hours are permitted. A 24-inch by 36-inch "NOTICE" sign confirming these hours in English and Spanish shall be prominently displayed at the site entrances during construction.
- O. Approximately 114 acres of the existing 217 acres of woodlands shall be preserved. The RPC's Master Site Plan shall include a landscape plan for the development showing the proposed tree and shrub landscape design, including the buffer areas and the woodlands that must be preserved.
- P. All lighting on the site shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.
- Q. As proffered by the Applicant, each residential unit shall be obligated to make an annual payment of \$50.00 to the Milton Volunteer Fire Company and \$50.00 to the Lewes Volunteer Fire Company beginning with the issuance of a residential Certificate of Occupancy for each residential unit in the RPC. These fees shall be collected and paid by the applicable homeowners' or condominium association within the RPC. As also proffered by the Applicant, there shall also be an annual contribution in the total amount of \$58,000.00 to these two fire companies in correlation with the construction of the commercial space within the Town Center. These contribution requirements shall be set forth on the MR-RPC's Master Plan. A copy of this Ordinance shall also be provided to

the two Fire Companies as a condition of Master Site Plan approval. However, if the State or County enacts a separate law governing the mandatory payment or contribution to Fire/EMS service applicable to the residential units or Town Center, then this condition shall no longer apply.

- R. The Cape Henlopen School District has commented that its schools are at capacity and that new development should contribute to the district's need to expand its facilities to accommodate the additional students that will enroll as a result of the development. Therefore, Sussex County Council should consider establishing a contribution to the Cape Henlopen School District to be paid by the Developer to the District upon completion of each residential unit within the development.
- S. There will be many entrances, off-site roadways, and intersection improvements constructed to provide safe vehicular and pedestrian access to the development and within area roadways. Given the location and size of the development, the Applicant shall coordinate with DelDOT and provide a phasing schedule that shall establish the timeframe and phasing of the construction of the commercial buildings, mixed-use buildings and residential buildings and the construction of the off-site entrance and roadway improvements that DelDOT will require as a result of this development. The phasing schedule shall be coordinated between the Applicant and DelDOT, and it shall be presented to the Planning and Zoning Commission for consideration as part of the RPC's Master Site Plan.
- T. The Applicant shall continue to coordinate with DelDOT and other state agencies, Sussex County, and the Sussex County Land Trust to establish an improved and safe pedestrian and bicycle crossing of Route 9 for the Georgetown-Lewes Trail in conjunction with the interconnection of that trail to the internal roads and pathways within the RPC. The details and design of this crossing, along with all access points from the RPC to the trail, shall be provided as part of the RPC's Master Site Plan.
- U. The Master Plan and each phase's site plan with the RPC and the recorded restrictive covenants shall state that agricultural activities exist nearby, and they shall include the Agricultural Use Protection Notice along with a similar notice that hunting activities may also occur on nearby properties.
- V. There is a cemetery located on the eastern side of Village A within the RPC. The Master Plan shall include an area for visitor parking with access to the cemetery area.
- W. Each phase's site plan shall include a grading plan for the RPC. No building permit shall be issued for individual lots or residential units until an individual lot grading plan has been supplied to and approved by Sussex County. No Certificate of Occupancy shall be issued until a grading certificate is submitted to and the Building Code Department demonstrating general conformity with the individual lot grading plan.
- X. The Master Site Plan shall include a Landscape Plan depicting all landscaping to be provided or preserved in all of the buffers and open space areas throughout the RPC. The Landscape Plan shall clearly show all forested areas that will be preserved. The Landscape Plan shall also identify all "Limits of Disturbance" within the site.
- Y. A revised Preliminary Site Plan shall either depicting or noting these conditions must be submitted to the Office of Planning and Zoning. In addition, these conditions shall be noted within the RPC's Master Plan and the site plan for each phase of the RPC.
- Z. The Master Site Plan shall be subject to the review and approval of the Sussex Planning & Zoning Commission.

Mr. Collin stated he would have loved to have a proposal before the Commission to place the subject land within land preservation, to reforest the part of the land that is currently agricultural; however, that is not the application currently placed before the Commission; that he is not permitted to vote solely on his personal preference; that the current application will allow for preservation of more land, forest and open space than Sussex County Code currently requires; that the plan provides affordable workforce housing, and the plan meets many requirements that Sussex County has set to what is preferred to be developed.

Motion by Ms. Wingate, seconded by Mr. Mears, and carried unanimously to recommend approval of C/Z 2010 CMF Cool Spring, LLC for the reasons stated in the motion. Motion carried 4-0.

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

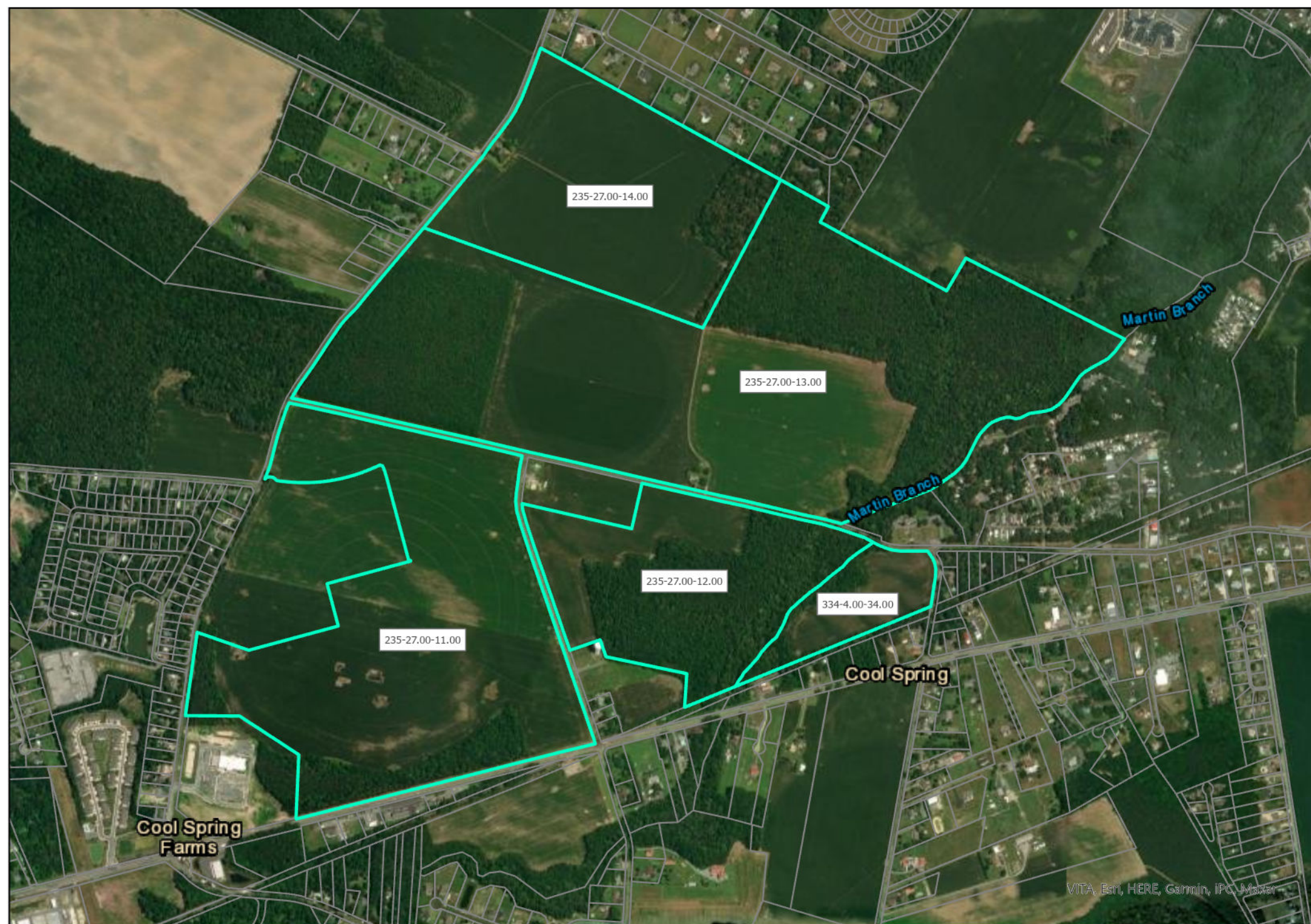
Mr. Collins motioned yes, for the reasons and conditions stated in the motion.

Ms. Wingate motioned yes, for the reasons and conditions stated in the motion.

Mr. Mears motioned yes, for the reasons and conditions stated in the motion.

Chairman Wheatley motioned yes, for the reasons and conditions stated in the motion.





Cool Spring Crossing - Residential Planned Community  
(Ord.23-07) (C/Z 2010) (C/U 2441) (C/U 2442)  
TM#s 334-4.00-34.00, 235-27.00-11.00, 12.00, 13.00 &14.00  
Aerial Map

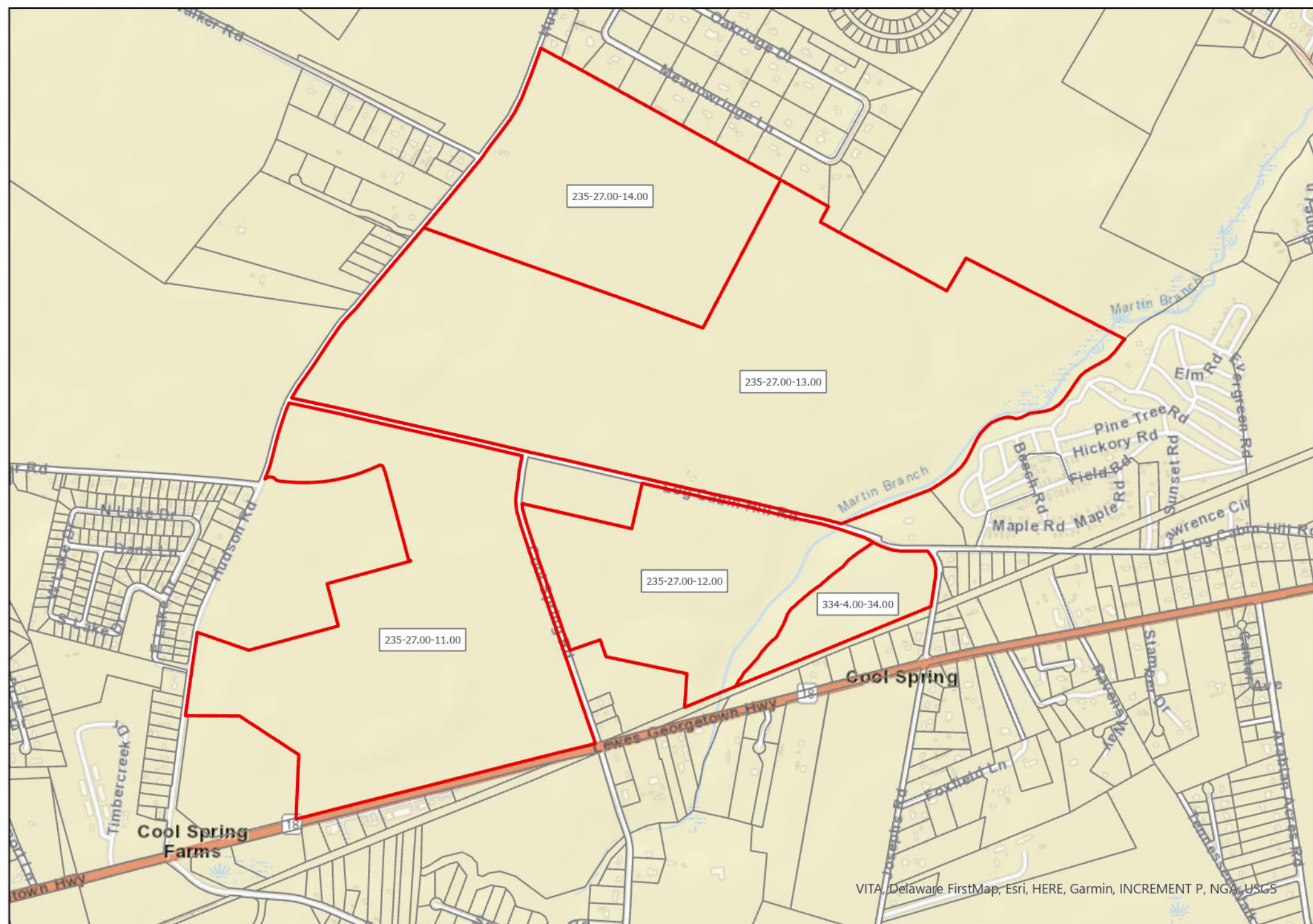
 Cool Spring Crossing -  
Parcels



0 1,250 2,500 5,000 Feet







VITA, Delaware FirstMap, Esri, HERE, Garmin, INCREMENT P, NOAA, USGS

Cool Spring Crossing - Residential Planned Community  
 (Ord.23-07) (C/Z 2010) (C/U 2441) (C/U 2442)  
 TM#s 334-4.00-34.00, 235-27.00-11.00, 12.00, 13.00 &14.00  
 Street Map

 Cool Spring Crossing -  
 Parcels



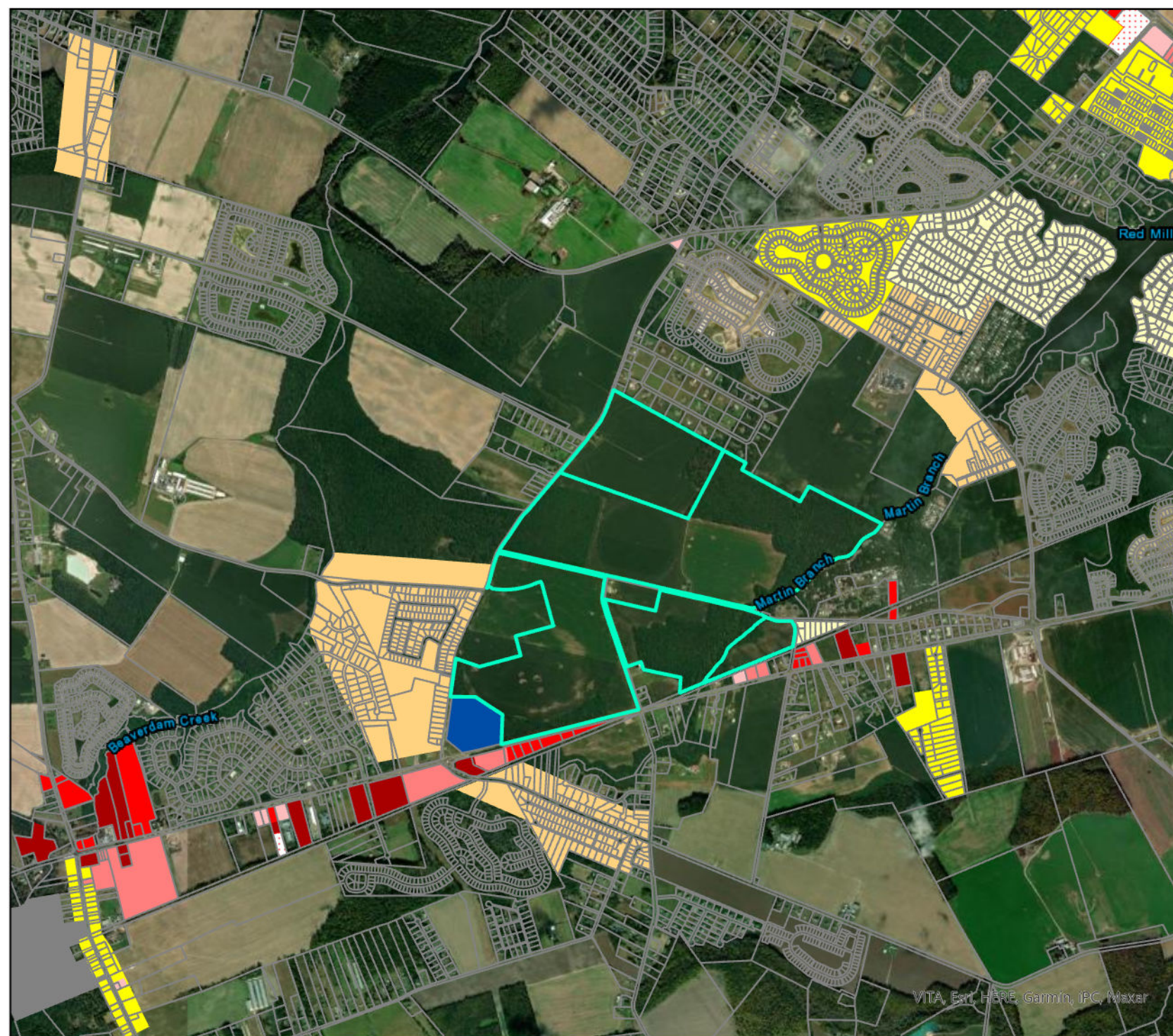
0 1,250 2,500 5,000 Feet






## Zoning

-  Agricultural Residential - AR-1
-  Agricultural Residential - AR-2
-  Medium Residential - MR
-  General Residential - GR
-  High Density Residential - HR-1
-  High Density Residential - HR-2
-  Neighborhood Business - B-1
-  Business Research - B-3
-  General Commercial - C-1
-  Commercial Residential - CR-1
-  Institutional - I-1
-  Marine - M
-  Limited Industrial - LI-1
-  Light Industrial - LI-2
-  Heavy Industrial - HI-1
-  Medium Commercial District-C-2
-  Heavy Commercial District-C-3
-  Planned Commercial District-C-4
-  Service/Limited Manufacturing District-C-5
-  Business Community District-B-2
-  Vacation-Retirement-Residential Park District - VRP



Cool Spring Crossing - Residential Planned Community  
(Ord.23-07) (C/Z 2010) (C/U 2441) (C/U 2442)  
TM#s 334-4.00-34.00, 235-27.00-11.00, 12.00, 13.00 &14.00  
Zoning Map

 Cool Spring Crossing -  
Parcels

 Miles  
0 0.25 0.5 1





**Introduced: 4/8/25**

**Council District 5: Mr. Rieley**

**Tax I.D. No.: 235-27.00-11.00, 12.00, 13.00, 14.00 & 334-4.00-34.00**

**911 Address: N/A, 28645 Log Cabin Hill Road, Lewes, & 16915 Hudson Road, Milton**

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR CERTAIN PARCELS OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 637 ACRES, MORE OR LESS**

**WHEREAS, on the 14<sup>th</sup> day of April 2023, a zoning application, denominated Change of Zone No. 2010 was filed on behalf of CMF Cool Spring, LLC; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2025, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 2010 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2025, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County,**

**NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:**

**Section 1. That Chapter 115, Article II, Subsection 115-7, Code of Sussex County, be amended by deleting from the Comprehensive Zoning Map of Sussex County the zoning classification of [AR-1 Agricultural Residential District] and adding in lieu thereof the designation MR-RPC Medium Residential District – Residential Planned Community as it applies to the property hereinafter described.**

**Section 2. The subject property is described as follows:**

**ALL that certain tract, piece or parcels of land, lying and being situate in Broadkill Hundred, Sussex County, Delaware, and lying on the north and south side of Log Cabin Hill Road (S.C.R. 247), the east and west side of Cool Spring Road (S.C.R. 290), the east side of Hudson Road (S.C.R. 258), and the north side of Lewes Georgetown Highway (Rt. 9) at the intersection of Cool Spring Road (S.C.R. 290) and Lewes Georgetown Highway (Rt. 9) and being more particularly described in the attached legal description prepared by \_\_\_\_\_, said parcels containing 637 acres, more or less.**

**This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.**



## Memorandum

To: Sussex County Council  
The Honorable Douglas B. Hudson  
The Honorable Jane Gruenebaum  
The Honorable Matt Lloyd  
The Honorable Steve McCarron  
The Honorable John L. Rieley

From: Jamie Whitehouse, AICP, Director of Planning & Zoning

CC: Everett Moore, County Attorney

Date: December 4, 2025

RE: County Council Report for C/U 2441 filed on behalf of CMF Cool Spring, LLC

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The Planning and Zoning Department received an application (C/U 2441 filed on behalf of CMF Cool Spring, LLC) for a Conditional Use in an MR-RPC Medium Density Residential Zoning District – Residential Planned Community for an educational facility at Tax Parcel 235-27.00-11.00. The property is located at south side of Log Cabin Hill Road (S.C.R. 247), the west side of Cool Spring Road (S.C.R. 290) and the north side of Lewes Georgetown Highway (Rt. 9) at the intersection of Cool Spring Road (S.C.R. 290), the east side of Hudson Road (S.C.R. 258), and Lewes Georgetown Highway (Rt. 9). The parcel size is 194.17 ac. +/-

The Planning & Zoning Commission held a Public Hearing on the application on May 7, 2025. At the meeting of July 2, 2025, the Planning & Zoning Commission recommended approval of the application for the 5 reasons and subject to the 7 recommended conditions of approval as outlined within the motion (copied below).

The County Council held a Public Hearing on the application at the meeting on November 4, 2025. At the conclusion of the meeting, the Council deferred action on the application, holding the record open for the limited purpose of obtaining responses from State Agencies, including DelDOT and DNREC, to be received by the close of business on December 2, 2025. The responses would then be announced at a County Council meeting, after which members of the Public and the applicant would have a period of 14 calendar days to submit, in writing, any written comments on the responses received from State Agencies.

Below is a link to the minutes of the November 4, 2025, County Council meeting:

[Link to the Minutes of November 4, 2025, County Council Meeting](#)





Below are the minutes from the Planning & Zoning Commission meeting on May 7, 2025, and July 2, 2025

Minutes of the May 7, 2025, Planning & Zoning Commission Meeting

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

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

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the Applicant's conceptual site plan, a copy of the Applicant's exhibits and slides, a copy of the Applicant's proposed findings of facts, a copy of the staff analysis letter, a copy of the States PLUS comments, a copy of a letter received from the Cape Henlopen School District, copies of the Technical Advisory Committee comments, including letters received from Delaware Forestry, DNREC Waste and Hazardous Substances Division, DNREC Drainage Program, the State Historic Preservation Office (SHPO), a copy of the letter received from DelDOT, a copy of the comments received from the State Fire Marshall and the Sussex County Engineering Department Utility Planning Division, along with a letter from the State Department of Agriculture and a letter received from the Delaware Electric Co-op and we have received 190 responses which are included in your paperless packet.

Chairman Wheatley advised the Commission and the members of the public the order that the presentation and public hearing would proceed.

The Commission found that Mr. James Fuqua, Esq., of Fuqua, Willard & Schab, P.A., spoke on behalf of the Applicants, Carl Freeman Companies and CMF Cool Spring, LLC; that there are four (4) applications being presented to the Commission that involve 637 acres of land that's comprised of five (5) tax map parcels located on the north side of Route 9 at Cool Spring; that the first application is a request to amend the Comprehensive Plans Future Land Use Map; that the 637 acres are currently designated as being in the low density rural area of the Future Land Use Map; that the amendment proposes a change from the existing designation to the coastal area designation, which is one of the planned growth areas; that the second application is for a Change of Zone from AR-1 (Agricultural Residential) to MR (Medium Density) within a RPC (Residential Planned Community) overlay for the entire 637 acres; that the RPC would be called Cool Spring Crossing and it would consist of residential villages with single family and multifamily homes and the commercial Town Center; that the third application is a Conditional Use for educational facilities to be located in the Town Center; that the final application is for Conditional Use for an assisted living facility and associated medical offices that would be next to the Town Center; that all four (4) applications are interrelated; that these applications propose a significant large scale, single family and multifamily residential community consisting of 1922 residential units and a Town Center comprised of retail, service, educational and recreational uses, as well as an assisted living facility and medical offices; that the demand for residential housing

in Sussex County is the reason Freeman filed these applications and the situation can be summarized in four (4) comments:

1. In 2022, 78% of all residential growth in the state of Delaware was in Sussex County.
2. More than 33,000 people have moved to Sussex County from other states over the past four (4) years and this migration is expected to keep rising for the next three (3) decades.
3. Growth is rapid in Sussex County.
4. There is a lack of affordable multifamily housing units to keep pace with the growing population.

That those four (4) comments are the comments made by David Edgell, the Director of the Delaware Office of State Planning Coordination, at a presentation made to the Sussex Preservation Coalition in February of 2024; that in agreement with Director Edgell's comments, on the land use issue in Sussex County, the two (2) issues that arise are a strong demand for residential housing and an even stronger need for affordable housing; that the Applicant is proposing Cool Spring Crossing as a Master Plan, a large scale mixed residential use community and a Town Center with a wide variety of uses; that the development is projected to be constructed in multiple phases over a 20 year build out time frame; that considering the zoning approval, site plan approval and agency permitting for this type of development will probably take two (2) to three (3) years, Cool Spring Crossing is not anticipated to be completed until 2048; that Freeman has an established history of developing large scale communities here in Sussex County and has proven it has the experience, the knowledge and the ability to develop a large scale mixed-use community like Cool Spring Crossing; that the request to amend Comprehensive Plans Future Land Use Map from low density, which is a rural area to a Coastal area which is a growth area under the plan is to ensure that the proposed MR-RPC development would be within compliance; that the Comprehensive Plan states that the proposed MR-RPC is not a zoning district designated as being appropriate in a low density area, but is appropriate within the Coastal area; that the Office of State Planning issued a PLUS review letter objecting and opposing this original request on January 13, 2022; that the current request for amendment brings up the question to the Commission as to whether the area of Cool Spring Crossing is still considered to be a rural area in which it would remain as low density on the Future Land Use Map; that following are the facts and reasons for supporting the Coastal Area change:

1. To the West of the Cool Spring Crossing proposed property is the Bay Health Emergency Center, with an additional land of residential development including approximately twelve (12) different subdivisions.
2. There is the Sussex Consortium, a special needs school, part of the Cape Henlopen School District not far from the proposed property.
3. There is a commercial corridor of land including a variety of businesses West of Fisher Road.
4. The Stephen Hudson Park is being developed on the South side of Route 9 at Cool Spring Road with a connection to the Lewes Georgetown Bike Trail.
5. The frontage of Cool Spring Crossing is along Route 9, which is a major Sussex County road, which is necessary for the Sussex County Zoning Ordinance to be located along a major arterial roadway.
6. The Delaware Transit Corporation operates a DART bus along Route 9 from Georgetown to the Lewes Park and Ride, with East and West stops all along Route 9, with the offer to install new stops near the Cool Spring Crossing development.
7. The Lewes Georgetown Bike Trail is adjacent to the property with a crossover of Route 9 located at Fisher Road and Route 9 where the Hudson Park is planned to be.

8. The proposed Cool Spring development will have a public bike trail going through it, connecting the existing trail to Hudson Road and a future extension to the Town of Milton.
9. Central public sewer is available from Artesian Wastewater Management, Inc. and they hold a Certificate of Public Convenience and Necessity for central water in this area.
10. The Delaware State Housing Authority indicated that the lands comprising Cool Spring Crossing are located within a Delaware State Housing Authority area of opportunity, which are strong, high value markets with close job proximity and economic opportunity, high performing schools, amenities and supportive infrastructure that help households succeed. They also noted that the need for affordable housing, particularly in the Coastal Area, is well documented, especially in the PLUS Review letter 2021-1287 and 2021-1288.
11. The Cool Spring Crossing property is contiguous with an existing Coastal Area on the Future Land Use Map all the way from the Northeast corner all the way to the coast.

All of these reasons support that the area of Cool Spring Crossing is not located within a rural area any longer and can support the amendment of the Future Land Use Map to a Coastal Area for this property; that the Delaware Supreme Court has ruled that the adoption of the a Comprehensive Plan in Sussex County is vested solely with the government of Sussex County; that Supreme Court case was Denmark versus Sussex County; that the Delaware Planning Act, Title 29, §9103 of the Delaware Code, states that as to the adoption of amendment update or revision of a Comprehensive Plan, the final decision is that of the County; that it is an irrefutable fact, that the 2020 Delaware Strategies for State Spending and Investment Level Maps are not a land use plan; that the Strategies document itself states that it is not a land use plan; that the plan states that the land use authority in Delaware has been delegated to the local government; that the decision to amend or not amend the Future Land Use Map is a Sussex County decision; that the Applicant's request to amend the Future Land Use Map is not unique; that County Council has amended the Future Land Use Map ten times since 2020; that the opposition would argue that the previous amendments were for smaller parcels; that this is a case where size is irrelevant; that it is important to look at the underlying facts to support if there is a basis or not for the change; that if there are solid facts supporting the amendment, it should be approved; that he believed that to be the case with the Cool Spring Crossing project; that next year, the Commission will begin its revision of the amendment of the County's Comprehensive Plan and Future Land Use Maps; that this is required to be completed every 10 years, resulting in an updated Comprehensive Plan in 2028; that regardless if the application was not before the Commission today, it is likely the Commission would be considering the very same issue as part of the plan update; that if the facts he presented support an amendment for the plan in three years, that those same facts support the amendment of the plan today; that in order for the MR-RPC development to proceed, the amendment of the Future Land Use Map to the Coastal Area is required; that if the amendment is not approved by the County, the 637 acres will remain designated as a rural, low density area; that this does not mean that the land will remain as farmland, nor does it mean that the land will remain undeveloped; that if the Cool Spring Crossing MR-RPC does not proceed, the land would be developed with single-family homes on individual lots; that the AR-1 (Agricultural Residential) zoned land, located within the low-density area, is permitted by the Sussex County Zoning Ordinance to be developed as a cluster subdivision; that subject to the design requirements of the Ordinance, a cluster subdivision is permitted to contain two lots per acre; that with a minimum lot size of 7,500 sq. ft., the 637 acres would support a phased cluster subdivision or multiple subdivisions containing 1,274 single-family homes on individual lots; that a subdivision would have none of the numerous benefits of the completed livable community and with these comments, Mr. Fuqua concluded his comments regarding the proposed Future Land Use Map amendment.

In regard to the Cool Spring Crossing, MR-RPC, and the two Conditional Use applications for the educational facility, assisted living facility, and medical offices Mr. Fuqua stated that Cool Spring Crossing is designed as a mixed-use community containing several seven residential villages and a town center that the villages will contain a mixture of housing types being single-family homes, and various types of multi-family dwellings; that the variety of housing types will result in a range of housing options and prices for both purchase and rental; that the homes in the villages will be located on new developed streets, interconnected with existing public roads, with pedestrian and bicycle network of sidewalk and shared use paths, to create a walkable and bikeable community; that a network of recreational uses, parks, and open space area will be interspaced throughout the development; that the Town Center is adjacent and easily accessible from the residential villages; that the Town Center will offer a variety of retail and service businesses, educational facilities and recreational opportunities; that this will reduce the need for vehicle dependency for residents of Cool Spring Crossing; that the project has road frontage along the northside of Rt. 9, the east side of Hudson Road, and along both sides of Cool Spring Road and Log Cabin Road; that the Town Center would front Rt. 9, bordering the western side of Cool Spring Road, and the eastern side of the Bay Health emergency facility; that there are seven distinct residential villages; that three villages, being Village A, B & C are located south of Log Cabin Road; that four villages, being Villages D, E, F & G are similar in nature, as they all contain a mixture of single-family homes, on individual lot, and a variety of multi-family dwellings; that Village C is located to the west, on the west side of Josephs Road; that this village will only contain 34 single-family lots; that it is envisioned as the community of higher end, custom build type homes; that Village A is located to the north of the Town Center; that Village A will contain 700 multi-family dwellings and a mixture of housing type; that there will be 50 patio homes, 144 quadplexes, 30 villas, 188 townhomes, and 288 condominium units; that Village A is planned and designed as the more affordable village and community, with residential units both for sale and for rent; that 175 of the Village 8 units, being 25%, of the 700 units will be made subject to the Sussex County Rental Program (SCRPP) Ordinance; that the Ordinance was enacted by Sussex County Council to encourage the creation of the affordable rental housing, particularly for County workers in the easter part of Sussex County; that the rental program ordinance controls both the eligibility criteria for tenants and the rent schedule for tenants based on the tenant's family income; that as required by the Ordinance, the types of units participating in the rental program must be the same ratio as the different types of units in Village A; that the units must be integrated, not separated from, the other units in Village A; that the units must be the same design and floor layout as the other units of Village A; that Village A would have the same access from Cool Spring Road, Log Cabin Road, and from the main entrance to the Town Center, located off Rt. 9; that Village A will be comprised of approximately 115 acres, of which 61 acres will be open space, including five interior park areas; that the open space; that the open space amounts to approximately 53% of the Village A area; that upon full completion of all of the villages, Cool Spring Crossing will contain 1,922 residential units, made up of 534 single-family homes, and 1,388 multi-family units of various types; that the proposed number of units is less than the maximum number of units that would be permitted within the residential planned community (RPC); that there is a special formula to calculate permitted density of RPC's; that for the project containing 637 acres, the area was reduced by the streets, resulting in 63.46 acres; that they took a conservative approach when performing the Town Center reductions calculations, by deducting the entire Town Center area, which contains 57.94 acres; that this calculation results in the permitted development area; that when deducting the streets and Town Center acreage from the gross development area, it results in a net area of 515.6 acres; that when one divides the net area of 515.6 acres by 10,000 sq. ft., being the minimum lot size permitted within the MR (Medium-Density Residential) district, the result of permitted density within the RPC would be 2,245 residential units, with a density of 3.52 units per acre; that the project is only proposing 1,922 units, with a density of 3.01 units per acre, being

significantly less than the permitted density for the MR-RPC; that their result of the 3.1 units per acre density, was determined solely by using the MR (Medium-Density Residential) density; that they did not use any of the bonus density that is permitted under the Sussex County Rental Program, which would have allowed the density to increase up to 12 units per acre; that regarding the Town Center, the Town Center fronts on Rt. 9, being bordered by Cool Springs Road on the east, and the Bayhealth emergency urgent care center on the west, with Village A being located to the north; that the main entrance to the Town Center is from Rt. 9, with an additional entrance from Cool Spring Rd.; that there are several access streets from Village a that connect to the Town Center; that the center will include a variety of retail, service and educational and recreational uses to serve the Cool Spring residents, as well as the area residents; that the proposed uses will include a grocery store, bank, a convenience store with a gas service, four restaurants, five retail stores, an art & theater facility, which would be the Cultural Center of the community; that it is envisioned to be operated by a local theater group, who would provide live theater workshops and other live performances, as well as painting and similar art classes, workshops and displays; that the Town Center would also include a 100 room hotel, a modern YMCA, or similar type of facility with a full gym, indoor and outdoor pools, indoor and outdoor pickleball, indoor tennis courts, multi-purpose meeting rooms, and an early childhood program for the care and instruction of preschool ages children; that the Town Center would include the two requested Conditional Uses; that the educational facilities would be located in two buildings with classrooms, resources areas, study areas, and administrative offices; that one building would be the college level instruction, potentially with the University of Delaware offering associate degree courses and professional certifications; that the second building would be for adult learning, potentially operated by the University of Delaware's Osher Lifelong Learning Center, which is a volunteer driven educational cooperative for adults aged 50 plus; that this project offers a wide variety of subjects, often taught by experienced retired residents; that the other Conditional Use to be located within the Town Center would be the assisted living facility; that the facility would have a capacity of 100 residents; that it would also have the associated medical office building, focusing on senior healthcare, which could possibly be associated with Bayhealth, who operates the emergency and urgent care center, located adjacent to the Town Center; that at the core of the Town Center, there are two large area of landscape open space, which will consist of a village green, and an event lawn for various community events and activities; that the Town Center would create economic development and employment opportunities, as well as convenient access to shopping and services to both residents of the community and residents in the area; that the Town Center would have a built-in advantage of having customers from the Cool Spring Villages, who would have the opportunity to access the Town Center without the need to drive; that in an RPC, commercial uses is one acre for each 100 dwelling units; that the 1,922 units being requested would equate to 19.22 acres of commercial use; that the planned commercial uses in the Town Center would utilize 18.52 acres of lands, being within the commercial use calculation; that regarding the entire community, and the recreational and social aspects of the development, the project is designed to be a walkable and bikeable community; that the project offers extensive opportunities for recreational activities and residential interaction, with sidewalks on both sides of community streets; that a DelDOT design shared use path will be provided along one side of the site frontage, along Rt. 9, Cool Spring Road, Hudson Road, Log Cabin Road, and on the extension of Cool Spring Road that comes through the development; that those shared use paths will be interconnected with the Lewes Georgetown Bike trail, which borders the property along Rt. 9; that the Town Center has the village green, the event lawn, and other recreational, educational, and entertainment opportunities for residents; that the main recreational complex is located between Villages D, E, F & G; that this complex will include a clubhouse, with a minimum of 7,500 sq. ft. of floor area, accommodating areas for group fitness exercise, children's play, teen gathering, meeting rooms, casual seating area, staffed offices, restrooms and a refreshment and storage area; that located

adjacent to the clubhouse, will be an outdoor, resort style swimming pool, separate kids pool with a splash play area, and a hot tub area, which will be surrounded by an expansive deck with shaded and unshaded areas; that there will be tennis, pickleball, and bocce ball courts; that also in this area will be a green space picnic area, with fire pits, gas tabletop grills, seating and open space for special events and entertainment; that there will be four additional outdoor swimming pools, with bathhouses, to be located in Villages B, D, G and also between Villages E & F; that there are several larger village parks, along with smaller neighborhood parks, with other recreational features, to be determined at a later time, but part of the site plan review approval for each phase of the development as it goes on; that there will be approximately 1.5 mile nature trail that will meander along the western edge of the Martin Branch Conservation area; that all of the homeowners within Cool Spring Crossing, with the exception of the owners located within Village A, will be required to be members of the Recreational Association, with quarterly or annual assessments to cover the expenses of operating and maintaining the recreational facilities; that Village A is planned and designed to be the more affordable village within the development; that in keeping with that goal, the owners of Village A will not be required to be members of the REC Association; that the owners of Village A, will have the option of joining the Recreational Association, subject to the same recreation fee as the other members of the Recreational Association; that the village as five internal open space park areas; that those areas contain 3.3, 2.3, 1.3, 1.2, and .9 acres; that the specific design of the parks has not been finalized; that the spaces would be focused on spaces to gather, to exercise and to play; that the parks will include pavilions, numerous shades areas with benches, a walking loop, a children's bike/scooter loop track, two playgrounds, a yoga lawn area, open play areas, outdoor fitness stations and a possible dog park; that the idea in Village A was to amenities that would not be high in maintenance or high in design; that Cool Spring Crossing will be served by public central sewer by Artesian Wastewater Management Company; that public central water will be provided by Artesian Waster Company; that Artesian has stated they are willing and able to provide sewer and water to the development; that Artesian has been issue a majority of the water and sewer certificates of Public Convenience and Necessity by the Delaware Public Service Commission to serve the area; that Artesian owns two properties that are surrounded by or located adjacent to the Cool Spring Crossing property, being the undeveloped parcel at the southeast intersection of the Cool Spring Road and Log Cabin Hill Road, and the elevated water storage tower, located along Cool Spring Road; that Artesian's Ability to Serve letter, dated April 9, 025, is located within the Applicant's submitted exhibit booklet; that stormwater management facilities, are required and will be designed and constructed to meet or exceed the requirements of DNREC's Sediment and Stormwater Management regulations, and also the Inland Bays Pollution Control Strategies; that the development of Cool Spring Crossing will occur over a 20 year period, in construction phases; that each phase will have its own Sediment and Erosion Control Plan, approved by the Sussex Conservation District, prior to the start of the construction phases; that there are multiple stormwater ponds integrated in the site design; that because the sites well drained sandy soil, and the relatively low water table, bioretention and infiltration practices will be utilized; that the development's stormwater will be directed to treatment ponds, and other management facilities for pretreatment, prior to any infiltration or discharge; that this will create significant improvement compared to the current condition of unfiltered stormwater runoff from land in agricultural use; that traffic impacts are almost always the main issue involved in any proposed development application; that Sussex County is required by law to have an agreement with DelDOT to provide a procedure to determine the traffic impact of any rezoning application; that in September 2020, Sussex County Council approved and executed an update Memorandum of Understanding (MOU) between the County and DelDOT establishing this agreement; that the Cool Spring Crossing application will have a significant impact on traffic; that provided within the MOU, at the Applicant, at the Applicant's expense, is required to conduct a Traffic Impact Study (TIS); that on Page 7 of the MOU, it states the Sussex County and

DelDOT should encourage Master Planning for large scale development on large parcels or groups of parcels located within the Coastal Area; that Century Engineering was retained by Carl Freeman Companies to perform a Traffic Impact Study (TIS), in accordance with the scope and parameters established by DelDOT; that the Century studied reviewed the impact at all proposed access points to the development, and approximately 48 intersections in the surrounding area; that the TIS dated June 30, 2022, was reviewed by DelDOT, and subsequently DelDOT issued there TIS Review letter on January 10<sup>th</sup>, 2023; that subsequent to the issuance of the DelDOT Review letter, the applicant made some changes to the Cool Spring Crossing site design; that those changes reduced the number of proposed dwellings, and reduced the number of access points from ten to six; that those changes resulted in a reduction of the daily and peak hour trips; that as a result of those changes, DelDOT did require an updated review of the TIS, taking into consideration the revision of the land use, and the site entrances; that in additional, DelDOT also required a supplemental Sensitivity Analysis, to identify when improvements, to help mitigate traffic deficiencies should be constructed; that the Sensitivity Analysis was prepared by JMT Engineering, being DelDOT's consulting traffic engineering firm; that the final Revised TIS Review letter was issued by DelDOT on January 14<sup>th</sup>, 2025, and is about 150 pages in length; that both the original and the revised TIS letters are included into the record; that DelDOT's revised letter provides that the Applicant is responsible for 22 specific roadway and intersection improvements, and also monetary contribution to several current DelDOT projects; that the required improvements are listed in detail on Pages 17 through 23 of the Revised TIS Review letter; that the Revised TIS Review letter also discusses the Sensitivity Analysis, and provides a time frame of when required improvements must be constructed; that the majority of the intersection improvements must be constructed at the beginning of the site plan construction; that the Applicant has fully complied with the requirements and provisions of the Sussex County and DelDOT Memorandum of Understanding for land development coordination; that the Applicant will be responsible for all the improvements and contributions as determined by DelDOT; that those applications will be implemented concurrently with the development, as determined by DelDOT's Sensitivity Analysis; that the entire site contains 637 acres; that based on DNREC's Wetlands Maps, there are no State regulated Tidal wetlands located on the property; that there is a single perennial stream, known as Martin Branch, located along the eastern boundary of the property; that as identified on the FEMA Flood Insurance Maps and the National Wetland Inventory Maps, federally regulated Non-Tidal wetlands exist on the low-lying area, adjacent to Martin Branch; that a Wetland Boundary Determination was performed by Mr. Edward Launay, with Environmental Resources, Inc., which found that there were 29.6 acres of stream and Non-Tidal wetlands existing on the site, being Martin Branch and the adjacent area wetlands; that the U.S. Army Corp of Engineers Office confirmed the determination, an issued a Jurisdictional Determination Letter on April 17, 2024; that there are no additional Tidal or Non-Tidal wetlands located on the property; that with the exception of the 29.6 acres containing Martin Branch, and the adjacent wetland, the remainder of the property is uplands, comprised of well drained, sandy soil, with an average elevation between 25 to 35 feet; that the site currently contains 217 wooded acres; that the development plan will result in approximately 103 acres of the existing woodlands to be removed, and 114 acres (53%) of the existing woodlands to be preserved; that except for a large portion of forested area adjacent to Martin Branch, historical aerial photos and land owner records, indicate that most of the other woodlands have been timbered in the past, being considered mid-succession, containing tree species typica of previously timbered land; that almost all tree clearing being proposed is located in the location of the pre-timbered areas; that the most important, natural and environmentally sensitive portion of the site, is located on the eastern boundary of the site; that this is the location of Martin Branch; that the Applicant recognizes and acknowledges the environmentally sensitive nature of this area, and accepts the responsibility of protecting and preserving the natural feature; that in 2022, the County enacted the Sussex County



Resource Buffer Ordinance, which does apply to the Cool Spring Crossing applications; that this Ordinance would require a 50 foot wide resource buffer from Martin Branch; that it would require a 30 foot wide resource buffer from the edge of all Non-Tidal wetlands; that the Cool Spring Crossing development will far exceed the resource buffer requirements, by providing an expansive Martin Branch Conservation Area, consisting of the required resource buffers and additional land voluntarily included in the conservation; that as permitted by the Resource Buffer Ordinance, the Applicant elected to voluntarily expand the resource buffer by an additional 15 foot in width; that the Applicant is not requesting any buffer averaging; that the area would result in a total Non-Tidal Wetland Resource Buffer of 45 feet, which results in a total of 13.73 acres of forested, Non-Tidal wetlands; that the required 50 foot buffer from the perennial stream lies within the wetland area; that the 50 foot buffer is provided, as it overlaps with the wetland and other buffers; that the additional conservation area contains 61.61 acres of forested land, with the exception of 2.6 acres of open field; that the open field will be maintained as a natural meadow; that the meadow will be planted with pollinator wildflower seed mix that is targeted to support the Monarch butterfly during its migration; that the Monarch butterfly is a candidate for listing as a threatened species by the U.S. Fish and Wildlife Service; that the additional conservation area, borders the Non-Tidal wetland resource buffer, resulting in a substantial increase in the width of the buffer from the wetland line; that the buffer varies considerably, but on average the buffer is about 130 feet in width, compared to the required 30 foot wide buffer; that the buffer consisting of the required buffer, the expanded resource buffer, and the 61.61 acres of voluntarily provided conservation area, results in a total buffer of 75.34 acres, resulting in more than eight times the required resource buffer area; that the entire Martin Branch Conservation Area, consisting of Martin Branch, the adjacent Non-Tidal wetlands, the resource buffers, and the voluntary Conservation Area will permanently preserve and protect 104.93 acres of the most natural and environmentally sensitive portion of the site; that this protected area also includes all of the Cool Spring Crossing site that is located within a Flood Hazard Area according to the FEMA Flood Insurance Maps; that all of the area proposed for development is located outside of the floodplain as designated by FEMA's Floodplain maps; that the Martin Branch Conservation Area will also be made subject to a Declaration of Restrictions, permanently preserving it as a natural area, and a Resource Buffer Management Plan, providing the management and stewardship of the protected area; that there are three additional areas, containing an additional 12 acres, that will also be subject to the conservation documents; that those lands are located on the western side of the property, near Hudson Road; that there are three or four trees that will be preserved in that area; that in total, the entire conservation area, including the Hudson Road portion of the forest, will contain approximately 117 acres, being over 18% of the Cool Spring Crossing site; that in addition to the Environmental Protection, the Martin Branch conservation area will also preserve and protect the archaeological integrity of the site; that the State Historical Preservation Office (SHPO) indicated that the majority of the site had low potential for prehistoric archaeological sites, except for a low to moderate potential, located on the eastern side of the site, near Martin Branch; that the Applicant retained Mr. Edward Otter to perform an Archaeological Assessment of the property; that the assessment confirmed that the area of near Martin Branch had the most potential for Native American sites; that all of the areas identified by SHPO and Mr. Otter, are located the Martin Branch Conservation Area, that will be permanently preserved and protected by the conservation restrictions and the conservation management plan; that Mr. Otter also conducted an archaeological study and delineation of the known cemetery site, located south of Log Cabin Road, just west of Cool Spring Road; that the cemetery area is located on the eastern side of Village A; that the study determined that there were four marked graves, and possibly more members of the Warrington family, who owned the land and passed between 1843 and 1849; that the delineation determined that the cemetery is 30 feet by 30 feet in size; that this area is two feet higher in elevation than the surrounding farm field; that this is due a loss of

two feet in elevation, with over a century of rain and plowing; that the delineation excavated soils around the identified cemetery to confirm that no graves or human remains were present outside of the 30 ft. x 30 ft. cemetery area; that markers were placed at the cemetery corners; that the cemetery, as part of the Cool Spring Crossing Development, will be restored; that a fence will be erected, marking the cemetery boundaries; that there will be a 25 foot buffer established from the fence line, and a marker will be placed to provide historical data or information regarding the cemetery; that including the 117 acres in the superior design conservation area, altogether the Cool Spring Crossing development will contain 295 acres of open space, being approximately 46% of the site; that the project will provide positive economic benefits, since one of the purposes of the Sussex County Zoning Authority is to promote the welfare and prosperity of the present and future county; that the Applicant retained Sage Policy Group, Inc., an economic and policy consulting firm out of Baltimore, Maryland, to prepare a report analyzing the economic and fiscal impacts of the proposed development; that Sage was also the firm to perform analysis for the Northstar development; that the report indicates that over the estimated 20 year build out, will result in the following impacts being, the construction phases, consisting of site preparation, infrastructure installation, and residential and non-residential building construction is estimated to cost \$836 million; that the construction phase will support thousands of jobs in Sussex County, the majority of which will be in the construction trades, with an estimated \$475,000,000 in labor income; that after completion, the development will support approximately, 1,500 permanent Sussex County jobs, generating an estimated \$80 million in annual labor income; that transfer taxes from the initial land purchases will generate \$12.5 billion to Sussex County, and \$20.9 million of revenue to the State; that future resales will be sold in additional transfer tax revenue; that the Cape Henlopen School District, as a response to receiving notice about the application, recommended that no additional residential development be approved until such time that a school construction impact fee or voluntary school assessment can be implemented; that it was his understanding, that the District's response was not personal to their application, rather a stronger tact that the District is taking on the issue; that the District had provided similar responses on other applications; that the Applicant believed that funding for future school construction is an important issue that needs resolution; that County Council considered the School Impact Fee issue on January 30, 2024; that County Council unanimously rejected the fee for a number of reasons, but mostly for the reason that future school construction was deemed to be the responsibility of the State government, not the County; that there is no reasonable basis to delay the current applications, because of that issue; that the current applications were filed two years ago; that Sage determined, assuming the demographic of the 1,222 units, being all units except for Village A, that pupil generation from the development on the Cape Henlopen School District, would align with the demographics of Lewes and Milton, based on the U.S. Census Bureau's data; that Village A, being 700 more affordable workforce units, they were assumed to have similar demographics as the entirety of Sussex County; that the report projects, that once the development is at full build, would generate an estimate of 449 public school pupils in the Cape Henlopen School District; that with a 20 year build out, 449 pupils would average to 20 new pupils per year; that the Sage report estimates that the pupils from Cool Spring Crossing would increase the school district's annual expenditure by \$4.1 million; that those expenditures would be offset by annual property tax revenue in the district of \$4.7 million; that this would generate an annual net surplus of \$550,000 to the district; that regarding fire and emergency services, the closest fire companies to the development are the Milton Fire Department and the Lewes Fire Department; that the Applicant did meet with the fire department representatives; that the Applicant has offered, that rather than the fire departments relying on individual contributions from Cool Spring Crossing homeowners, there would be a provision in the covenants stating upon issuance of the certificate of occupancy for each residential unit, each unit will be responsible for an annual fee of \$100; that the fee will be collected as part of the HOA fees; that the HOA or condo association

will pay the fire department; that non-residential uses of the Town Center, will be responsible for an annual fire company fee of \$58,000, that will be correlated as it is built in the percentage of completion, and will progress as the Town Center progresses build out; that at build out the fire company fee would total \$250,000 per year, with half of the fee being paid to the Milton Fire Department and the other half of the fee being paid to the Lewes Fire Department; that this proffer contained on caveat condition that in the even the State or the County enact a fire or EMS fee ordinance in the future, applying to residential units or the Town Center, the condition shall be terminated; that there was a letter of opposition submitted on behalf of SHARP, which is a coalition of HOA's; that the letter opposed the proposed fire company contribution as unjustified and being against the intent of both public policy and homeowners; that the Applicant strongly disagrees; that the proposed fee is a fee restriction; that it is a private matter between the buyer and the seller; that if the potential buyer is offended by the annual \$100 fee, they do not have to buy within the community; that any potential buyer will be well aware that this fee is one of the requirements; that the SHARP letter alleges that the HOA can amend or nullify the fee, by amending the condition or amending the Declaration of Restrictions; that this required fee will be placed as a proposed Conditions of Approval for the project; that the Applicant did receive a letter from the Milton Fire Department, extending its appreciation for the offer and the proactive approach that Carl Freeman Companies is taking, to address the fire departments concerns; that the letter noted that Carl Freeman was the only developer to contact the department regarding the matter; that he submitted to the Commission proposed Findings and Conditions of Approval for all four applications; that the Applicant has the option of proceeding with the development of a cluster subdivision; that the Applicant could have submitted for a cluster subdivision four years ago; that the reason the approval for the MR-RPC continued to be pursued in the Carl Freeman firmly believes that the Cool Spring Crossing MR-RPC is a type of Master Planned Mixed-Use development that is by far in the best interested of both the applicant, and the current and future residents of Sussex County; that the plan is in accordance with the concepts of smart growth; that for example, the 2020 Delaware Strategies for State Policies and Spending documents, advocates the designing and building of what the State refers to as "complete communities" which are described as including integrated pedestrian and bike networks, new streets interconnected with existing streets, intermingling of residential and commercial uses, and the inclusion of parks or open space networks within the development; that the strategy states that this type of development would result in more diverse range of transportation and housing options, with more economical extension of public service utilities; that Cool Spring Crossing will be a complete community; that the Sussex County Comprehensive Plan states that in a Coastal Area, residential planned communities are encouraged to allow for a mix of housing types, to preserve open space and natural areas and resources; that the plan further stated that master planning should be encouraged, especially for large-scale developments on large parcels or groups of parcels, where higher density and mixed use developments are provided flexibility and site design; that Cool Spring Crossing will be a Master Plan Residential Planned Community; that even the Sussex Preservation Coalition endorsed an agenda for what they referred to as livable communities; that the agenda for livable communities includes consideration of open space and protection of wetlands and streams, providing adequate infrastructure for residential growth, including safe roads, bike lanes, and public transportation, adequate healthcare, educational facilities, and the ability of affordable housing units for young families and local workers; that per the Sussex Preservation Coalitions agenda, Cool Spring Crossing will be a livable community; that the Coalition's opinion is the project is not the right use, at the right place, at the right time; that the Commission's opinion must be based on the facts placed into the record; that the project is the right use, being a mixed-use development, with a variety of housing options, located adjacent to a Town Center; that the project's design is consistent with the criteria of a complete community of a Master Plan community, or a livable community; that for the reasons previously stated regarding the Future

Land Use Map amendment, the area is an appropriate place for the proposed project; that the site will have central sewer and water, and located near medical facilities; that the proposed site is possibly the only suitable land in the area for large scale development; that the Applicant has been working on the application for four years; that the Applicant could have requested a cluster subdivision; that this plan cannot wait for the revision of the Comprehensive Plan; that the decision for the application must stand on its own merits; that the Commission's recommendation on the four applications is extremely important, having significant influence on the County Council's decision and he requested that the Commission base their decision on the factual records and the reasons presented into the record.

Ms. Wingate questioned whether it was the developer's intention to construct the phases in alpha order, as they are reflected in the Phasing Plan; that she questioned if an explanation could be provided regarding the traffic impact and traffic numbers for the building out of each phase over the next 20 to 24 years of build-out, and questioned if there were only two entrances to the project, and why the hotel was labeled as non-commercial on the plan.

Mr. Fuqua stated that the plan reflects the names of the villages; that they normally would start in the front and back; that the idea is that Village A would be part of the initial construction; that in the Ordinance for a residential planned community, any permitted use in any residential district, is considered a permitted use; that a hotel is a permitted use in the HR District; that therefore the hotel is a permitted use in an RPC, and is not considered commercial; that within an RPC you can have one acre of commercial use for each 100 units, and what they were designating was that the hotel was not being counted against that one acre, because it is a permitted use.

Mr. Drew Boyce with Century Engineering stated that there is no assessment of per unit or per phase currently; that within the supplemental review letter issued by DelDOT, they commissioned their own consultant to do a high-level phasing analysis to provide an idea of when improvements may be triggered or may require to come online to support the traffic impacts; that there is a single entrance off Rt. 9; that there is an entrance for Village A and B off Cool Spring Road; that there is an entrance to Village D off Log Cabin Hill Road; that the extension of Cool Spring Road provides some additional infrastructure; that this area would be privately maintained, but look similar to the local infrastructure that DelDOT has in the surrounding area; that the entrance off Hudson Road, is considered the fourth leg of the two intersecting roads that come in being Carpenter Road and Walker Road and those are anticipated based on the information in the TIS roundabouts at those locations.

Mr. Whitehouse stated that as a discussion with the Applicant's team as to whether the requirements for an RPC, which has a maximum commercial area that may be proposed, were complied with; that he does concur with Mr. Fuqua's answer, and staff did meet with the Applicant's team chairs.

Ms. Wingate stated she was happy to see the letter from the Milton Fire Department, as our first responders need all the support they can get; that she would like to go on record to state that the schools need support as well, and she questioned if there was a possibility for all the interior roads to be per DelDOT specifications and maintain budget.

Mr. Fuqua stated that there are five state-maintained roads involved in the application, being Cool Spring Road, Old Cabin Hill Road, Hudson Road, Joseph Road, and Rt. 9; that if you look at all the other interior roads, they are no different than any other subdivision; that the interior roadways would be built to Sussex County standards, and the interior roads will not bear any more traffic than a standard subdivision.

Ms. Wingate stated she would like to see the overhead bridge, similar to that of Baywood, to provide access to the trails, but she understood that it would most likely be up to DelDOT.

Mr. Fuqua stated that the Land Trust was fortunate enough to have the piece come up for sale, which became the source of Hudson Park; that DelDOT had a crossing located at the next light, which is where DelDOT preferred the crossing to be; the Carl Freeman got involved with the Land Trust; that there was preliminary work done; that there are sketches of what is being proposed; that he would be located where the park is located; that it would provide for a much safer crossing across Rt. 9, and the future of that is uncertain, as it is still being proposed.

Ms. Wingate questioned if it was the intention of the developer to complete the buffer strips as the phases are completed, and there have been issues in the past with communities waiting for the entire project to be completed before the buffer strips are placed.

Mr. Fuqua stated that the buffer strips would be completed as each phase is completed.

Mr. Mears stated that the Phasing Plan does not shade the Town Center area, and he questioned if the Town Center build-out will be constructed as part of Village Section A.

Mr. Fuqua stated he would envision those areas on the southernmost portion of the site, being Village A and the Town Center, would progress at the same time; that they do not know this for certain; that the Applicant would have to present that Phasing Plan before the Commission, and they recognize that Village A is top priority for the County.

Mr. Collins questioned whether there are any other alternative locations anywhere in the County, where a similar development could be placed, potentially within closer proximity to Rt.1, or consideration given to redevelopment of existing properties that may be underutilized.

Mr. Fuqua stated that off the top of his head, he absolutely could not think of another area, closer to Rt. 1, for this type of development; that one could renovate any existing property if one could purchase it; that this project was a product of the owners wanting to sell the land, and the vast majority of the land is existing cleared farmland, with little environmental impact, and that with the protections the Applicant is providing for the environmentally sensitive area, the site is an ideal piece.

Mr. Collins stated he was happy to see the voluntary contributions placed into the covenants for the fire and EMS services; that he questioned if there was any consideration given to the placement of residential units above some of the commercial uses; that although some people do not like high density, the higher the density, the less land is required to be used; that land is precious in Sussex County, and the Commission wants to preserve as much land as possible as natural habitat.

Mr. Fuqua stated that he could not say whether consideration was given to the placement of residential use being placed above commercial uses; that he believed the main concept was that not everyone wants to live in a commercial area either; that the 700 units located within Village A, adjacent to the Town Center is a lot of units, and they believed those units served the same purpose.

Mr. Butler questioned if the developer would build the bridge for the crossing of Rt. 9.

Mr. Fuqua stated he felt the bridge was cost-prohibitive; that he would talk to his client about the bridge in the future; that Carl Freeman had spent money to make a good design; that the Applicant has been working with DelDOT; that if the bridge can come to be, there could be some type of arrangement, as it certainly would be beneficial for the project, as well as the public, and that it is an idea that is being pursued.

Mr. Robertson stated that the roads laid out on the site plan do not match the current DelDOT layout, and that it appeared that there may need to be some road abandonment and relocation.

Mr. Fuqua stated that he believed that the one end of Log Cabin Road will be realigned; that the arch that connects to Hudson Road will be a brand new State road.

Mr. Robertson questioned if the fire company donation would be per unit or per fee simple unit, as there will be ownership, rental, and SCRP units with the development.

Mr. Fuqua stated they had discussed if they should exclude the SCRP units from the fee; that he hated to need to go back to the Fire Department stating they were going to exclude units from anything; that he then realized it is not the renters paying the fee, that it will be the owners; that the fee will be paid per unit, and the owner will be paying the fee, not the renting tenant.

Mr. Robertson questioned what the open space for special events and entertainment means or would look like.

Mr. Fuqua stated it is a designated community area for periodic events, such as Fourth of July, Halloween, and potentially for weekly farmers markets, and the area is not proposed to be the new Freeman Stage North.

Ms. Wingate stated she was disappointed to hear it would not be a Freeman State North; that she felt that Bayside has been a wonderful asset to the community; that she questioned if the development roads will be connected to the medical center.

Mr. Fuqua stated that they envisioned a connection there; that they do not know at this point who will have the doctors' offices; that if it were Bayhealth it would make it easier; that they are going to have some type of connection, however interconnection becomes tricky because you do not want to create an unintentional thoroughfare.

## **RECESS**

2:25 pm – 2:35 pm

The Commission found, by a show of hands, that there were 58 people present in support of the applications, and nine people present who wished to speak in support of the applications.

Dr. David Tam, MD, the President of Beebe Healthcare spoke in support of the applications. Dr. Tam requested that the Commission consider not only Beebe Healthcare of overall healthcare in general; that he had previously spoke before the Commission and County Council regarding the current physician shortage and the healthcare workforce housing shortage issues; that Sussex County will need more healthcare workers as more retirees move to the area; that if growth stopped today,

the retiree community will continue to require three times more healthcare than non-retirees; that he supported the smart growth proposal by Cool Springs; that the plan provides 700 workforce housing units, with 175 units being rent restricted units; that for every doctor he would bring in, he will also require junior nurses, pharmacy technicians, laboratory technicians and radiology technicians, as well as many others that are required to support healthcare services; that he recently had contacted medical professionals, who stated they would love to work for Beebe Healthcare, but could not afford to live in Sussex County; that the YMCA plan will provide childcare; that the people they are looking to recruit are people with children and families, that will require childcare for their 12 hour work days; that the plan supports community integration; that Blue Zone studies have shown that people who live in congregate housing with multigenerational utilization, such as the ability to walk to places, being able to converse with each other, help improve healthcare outcomes; that he felt the proposed design was a good one, and regardless of what healthcare system is proposed to go in that location, they will all have the same issues with the aging and challenging population, with a workforce that cannot serve that group of people.

Mr. Tim Kriebel spoke in support of the applications. Mr. Kriebel stated that he recently purchased property in close proximity to the site, where he plans to build a part-time retirement home; that he resides full time in Vendor City, New Jersey, where he currently serves as the Mayo, Commissioner of Public Safety, and has sat as a member of their Planning & Zoning Board for nine years; that his support for the project comes from a decade of public service and a 30 year career in Design & Planning; that he has seen the consequences of resisting thoughtful planning and development; that he has seen the development benefits when a community chooses managed growth instead of fearing it; that he experienced a similar proposal in his hometown; that after superstorm Sandy, the project was abandoned; that for the next 10 years the town declined; that there were no investments; that the ratables were in a nine year consecutive decline; that he felt the Master Plan offered walkability, affordability, and infrastructure investment; that the proposed plan was not development sprawl; that the plan offered a balanced, community focused development approach; that the plan offered a rare opportunity to shape growth, and he agreed the project would create increased traffic, but felt the plan provided a smart way to manage growth.

Ms. Linda Risk, Chief Operating Officer of the Delaware State YMCA, spoke in support of the applications. Ms. Risk stated that the YMCA of Delaware has been the cornerstone of the community in Sussex County; that this is achieved by their many programs including, after school care, early childhood education, summer camps, swim lessons, exercise classes, and chronic disease programs; that during the pandemic, they offered emergency child care services and food assistance across the State; that as the Sussex County population grows, so does their program; that the demand for their high quality programs has never been greater; that they support the Cool Springs Master Plan as the development presents a meaningful solution to pressing challenges facing local families; that the plan provides 700 workforce housing units, directly addressing the housing needs for the essential workers in the community; that the diverse housing options support families of all sizes, young professionals, first time homebuyers, and empty nesters; that the plan will make it easier for people to live where they work, while raising children in a stable, supportive environment; that by integrating a YMCA into the thoughtfully designed, walkable community, they can reduce barriers to access families; that if approved, Cool Spring Crossing would provide a unique opportunity, bringing the YMCA mission to life in a new and impactful way, through arts programming, workforce development, teen programs, college and career readiness programming, and other inclusive initiatives that benefit every age and background; that the projects emphasis on walkability, sustainability, and lifelong learning aligns directly with the YMCA's mission and their promises to Delaware; that ensure youth have a pathway



to success, improve the health and wellbeing of individuals and families, and bringing communities together to inspire and serve others, and she respectfully requested the Commission support the forward thinking plan, and the long term benefits the plan would bring to the families of Sussex County.

Ms. Kelly Basile, Chief Operating Officer of the Delaware State Chamber of Commerce, spoke in support of the applications. Ms. Basile stated the most pressing concern the Chamber of Commerce hears from Sussex County members is regarding the lack of affordable and diverse housing; that they recently released a report on the State's demographics and trends that will shape the State's future, which reinforces that between 2025 to 2035, the State's population is projected to increase by 6.4%, while the number of households are expected to rise by only 5.7%; that the supply is not meeting the demand; that house affordability is a key factor; that home prices have surged 56.2% over the past four years, which is outpacing the national average of 51.8%; that Sussex County is the fastest growing county by percentage in the Mid Atlantic; that employees are finding it increasingly more difficult to secure affordable housing near their places of work; that she questioned where the doctors, nurses, teachers, first responders and hospitality workers will live; that entry level wages for these positions do not allow people to live in the current available housing near their workplaces; that this makes people less likely to accept employment opportunities, because they do not want to drive an hour or more to work daily; that to maintain economic strength and competitiveness, Delaware must confront the housing shortages and the cost of living concerns; that the Cool Springs Crossing project directly addresses these issues with a thoughtfully planned mix of homes; that beyond housing, the project brings a significant economic impact; that potential construction activity alone is estimated to generate a one-time economic impact of 1.3 billion statewide and will support approximately 6,400 full-time jobs, that the developer's investment in transportation infrastructure will help ensure that growth is manageable and forward thinking; that the proposed job creation, paired with significant infrastructure improvements is a win, and she requested the Commission approve the Cool Springs Crossing project, which will help to build a more sustainable and inclusive future for Sussex County.

Mr. Jonathan Contant, Land Planning Manager for K Hovanian Homes, spoke in support of the applications. Mr. Contant stated that with the proposed Master Plan, three minutes would be the approximate amount of time it would take someone to get from one end of the project to the other, to access groceries, gas, access to restaurants, doctor's offices, the gym, the YMCA and more; that the currently the closest grocery store to the site, is the Redners on Rt. 9, which would exceed three minute drive to; that it also adds to the traffic along Rt. 9; that the proposed Master Plan community would keep most daily necessities accessible from inside the community without creating additional traffic along the major roadways; that K Hovanian is the builder in Monarch Glen, located across the street; that the proposed plan provides closer access to these services for their buyers as well; that he felt having high density, multi-purpose, mixed-use, multi-price level communities, will help to reduce the traffic; that smart growth is a partnership; that partnership is not only what Sussex County wants, or what DelDOT wants; that the partnership is also what the land owners want to do; that this proposed development will help expand public water, and public sewer; that there are many DelDOT projects, identified in the Traffic Impact Study (TIS), that the project is proposed to impact by providing DelDOT more funding; that the developer will have to improve intersections rather than just providing a contribution; that he had not taken a look at the Traffic Impact Study, but he was willing to bet that most of the intersections are either currently failing; that the project will provide a partnership between the developer, DelDOT and the County, providing an opportunity to rectify those situations, and improve everyone's level of living and travel in the area; that he agreed with many other points of support that had already been mentioned; that he requested the Commission consider

the need for workforce housing, and stated that K Hovanian supports the proposal for additional housing, increased inventory and options for those who are retiring here, as well as those who work here.

Mr. Brian Rashley, Manager of Bayside Golf Club, spoke in support of the applications. Mr. Rashley stated that Sussex County continues to grow, and so does the urgent need for thoughtful and sustainable housing solutions, particularly for the local workforce; that he witnesses this need at Bayside and across the hospitality industry; that many of their employees struggle to find affordable housing; that he currently has associates who travel from Virginia and Pocomoke City to Bayside daily; that the issue is not unique to hospitality, as it impacts the healthcare workers, teachers, first responders and retail employees; that workforce housing is not just a housing issue, it is an economic and community issue; that if the community desires for businesses to thrive, and the communities to stay vibrant, we need employees to work close to where they work; that the Cool Springs Crossing project represents the comprehensive, forward-thinking development that Sussex County needs; that the project does not just check boxes on a site plan; that the plan offers a long-term solution by providing diverse housing options, thoughtfully planned amenities and a stronger foundation for the workforce and local economy, and he stated that by approving the project, the Commission would be voting for balance, inclusivity, and long term sustainability for Sussex County.

Mr. Greg Hurley, resident of Tower Hill within Sussex County, spoke in support of the applications. Mr. Hurley stated he felt the Tower Hill community is the most significant project of Carl Freeman, prior to the proposal of the Cool Spring Crossing project; that he serves as a member of the Tower Hill Property Association Board of Directors; that he had frequently interacted with the developer, Carl Freeman Companies and its team for the past two years; that he has found Carl Freeman Companies to be responsive to the needs of the residents, during the continuing development of Tower Hill; that they have made additions and changes in response to the request of the residents and the association, and based on past performance, he had no reason to change his view regarding Carl Freeman Companies.

Mr. Dave Carey, resident of Lewes, spoke in support of the applications. Mr. Carey stated he is one of the property owners in Cool Springs Crossing; that the property came to his father in 1969; that the decision to sell the property was difficult, and was made based on analyzing many factors, challenges, and risks; that one of his considerations was the ever increasing number of overlays on the property, which he felt served to diminish his private property rights; that water, sewer, three phase electric, and fire protection has been on the property for a decade; that the increasing traffic on Hudson Road, clearly explain the reasoning as to why the property should not be located within Level 4; that his support for Carl Freeman was based on three points, being the project is a mixed-use, smart growth community; that from his research there are at least 5,000 homes located within three miles of the property, that are required to drive to Milton, Long Neck, Rt. 1 or Lewes; that he feels the County needs to provide employment for the working age people, and those just graduating; that construction activities will generate \$1.3 billion, of which the vast majority of it will stay in Sussex County, and he stated he would prefer to see a smart growth community over another community of single-family homes.

Ms. Patti Grimes, resident of Americana Bayside within Sussex County, spoke in support of the applications. Ms. Grimes stated that Americana Bayside is a completed community that offers similar amenities to the Cool Springs Crossing project; that her family has enjoyed being homeowners in Carl Freeman's communities; that she has been able to enjoy a walkable community for many years as a

Bayside resident; that she is able to walk to work; that she is able to walk safely along sidewalks with streetlamps; that she often gets to meet and converse with her neighbors during walks and bike rides; that she is able to walk to the Bayside commercial corridor to the grocery store, pharmacy, restaurants, and bank without leaving the community; that this allows for less traffic on the roads, while still allowing the public to enjoy the benefits of their Master Plan community; that the project protects the environment by reducing the carbon footprint; that there is diversity in the community, allowing people to stay in place as they age; that it is important that we continue to grow Sussex County; that recommending a Master Plan community, with an amenity core, for not only the residents, but the public to enjoy, is very important; that there is quite a difference in the livability for people residing in a subdivision versus a Master Plan community, and she urged the Commission to approve the Cool Springs Crossing project.

Chairman Wheatley advised the Commission and the members of the public that the representatives from DelDOT are not presenting in support of or in opposition to the applications, and that the DelDOT representatives are present as a resource for the Commission only.

The Commission found that Mr. Todd Sammons, Assistant Director with DelDOT's Development Coordination Division, was present at the request of the Commission; that also present were Ms. Pamela Steinebach, former Director of Planning, newly appointed Director of Maintenance and Operations, Ms. Sireen Muhtaseb, Traffic Impact Study Engineer, Ms. Joanne Arellano, Senior Traffic Engineer with JMT Transportation Engineering firm.

Ms. Wingate requested an explanation of the impact the 1,922 units will have on the area, compared to the 1,200 to 1,300 units that would be permitted by right within a standard subdivision, given that the project is projected to be constructed over a 24-year span.

Mr. Sammons stated he was just presented that question that morning; that the Applicant is conducting a traffic analysis based on just single-family use, and that they currently do not have the apple to oranges to compare.

Ms. Muhtaseb stated they just received the preliminary Traffic Impact Analysis, and they are currently reviewing the analysis.

Mr. Sammons stated that if the current project is not approved, the Applicant is moving forward with a separate submission for a major subdivision, for single-family lots based on the by-right density permitted within the zoning district; that DelDOT is currently undertaking that requested analysis, and because they are in the early stages of the analysis, they are not able to provide an apples to oranges response at that time.

Ms. Wingate stated that she realized the amount of time the analysis would take and questioned if four separate people purchased four separate properties, and they all decided to develop at the same time, the impact on the roadways would be very different than what the Commission is currently considering.

Ms. Sammons stated that it could look different; that the analysis was a massive undertaking with having to review 43 intersections, all of the committed developments, collectively painting a broad picture to do serious planning on it from a transportation impact; that if it was broken into small properties, being developed individually, they would have to comply with any warrants for analysis if

required; that even if a project does not meet the warrants for a Traffic Impact Study or Traffic Operational Analysis, DelDOT still performs some form of analysis on the project; that if a project were to be piecemealed, it could result in piecemealed improvements to the roadways, creating a less holistic approach, and that it all comes down to timing.

Ms. Wingate questioned whether DelDOT was in support of constructing the walking bridge, which is proposed to be similar to what is at Baywoods and would take traffic off the crosswalks.

Mr. Sammons stated DelDOT has extended the trail down to Hudson Road and Rt. 9; that there is currently a pedestrian crossing there; that bicyclists also cross at this area, rather than the location of Cool Springs Road; that they initially looked at the area, as it was the proposed location for a bridge or tunnel; that these proposal are not technically off the table; that the proposed bridge or tunnel is out of realm of what they do, and at this time is not something the department is planning for.

Ms. Steinebach stated the current crossing is a safe crossing; that DelDOT does not currently have plans to perform a DelDOT funded project for a bridge or a tunnel; that they are completely on board with supporting it potentially with a federal grant, but it will not be funded as a DelDOT Capital Transportation (CPT) Project, as they do have an existing crossing in that location.

Mr. Sammons stated DelDOT has placed a crossing, and DelDOT may consider a bridge or tunnel in the future; that there are challenges with the proposal, which is the reasoning it has not already occurred; that the department took the initiative to build the path farther down to make that at-grade crossing; that people do not like to walk or bike across bridges, and tunnels present different challenges from a homeland security perspective.

Ms. Wingate stated that both bridges and tunnels are very effective and questioned if DelDOT would have any objection to allowing a roadway from the development to the medical center.

Mr. Sammons stated DelDOT fully supports interconnectivity within the department, subject to it being constructed in a sound and safe way; that many times the Planning Commission, County Council, and DelDOT plan for interconnectivity, which is followed up by public opposition from the development community; that interconnectivity must be designed in a proper way, as cut throughs can become unsafe; that there are ways to mitigate that, and without interconnection it defeats the purposed of planned communities.

Mr. Collins questioned what DelDOT's estimate in trip reduction would be for a Residential Planned Community with amenities, employment centers, shopping, etc. built in versus a by-right standard subdivision.

Mr. Sammons stated that DelDOT refers to that as Internal Capture; that if you have a standard single family subdivision, residents will have to leave and return for every amenity; that when a project proposes multiple uses, like Cool Spring Crossing, that DelDOT provides credit to the project, and can calculate what the internal capture will be, which will pull those estimated trips off the roadways; that there is a huge benefit to internal capture; that DelDOT is not present to support the project; that DelDOT remains neutral to the proposed project; that there is a huge benefit to having these types of planned communities, with provided amenities, from a transportation perspective, and overall planned communities reduce vehicular traffic all together, because many people will walk or take a bike.

Ms. Arellano suggested keeping in mind that with internal capture, is the type of uses internal capture is applied to; that primarily it is residential to retail, residential to office or restaurants, and vice versa, and not every proposed land use within the development has an internal capture according to the ITE Trip Generation Manual.

Mr. Robertson requested further explanation of how the Traffic Impact Study (TIS) is facilitated.

Mr. Sammons stated that everything is time sensitive; that to be able to perform the analysis, a certain time and build out must be chosen; that they are dependent on the developer to tell them their schedule; that in the current case it was 2044, realistically now probably adjusted to 2048 for the full build out presented during the presentation; that when the counts are analyzed, it must be performed at a certain time, so that they can begin the analysis process; that they do apply annual growth factors and seasonal adjustment factors depending on when the counts were taken; that growth factors take into account the growth that is going to occur over the years, and committed developments as well; that it takes some time to perform an analysis of this magnitude, and DelDOT attempts to account for all the committed developments, add in growth factors which takes into account build out as well.

Ms. Steinebach stated that DelDOT also maintains nearly 90% of the roads, they do large scale planning; that one of the large scale areas is the coastal corridors; that they have completed the final report for those; that they will continue to analysis as they understand there is a lot of growth in the area; that the Henlopen Transportation Improvement District (TID) is located to the east; that they are not going to stop with that one formalized analysis; that they will continue to perform additional counts and forecasting; that; that they are a monitoring entity, and will have a pulse on all the new developments; that they are trying to hone in on growth factors; that there are many factors that contribute to growth factors, such as population, number of households, and employment areas; that DelDOT is monitoring the coastal corridors, while including input from stakeholders throughout the area and the input includes comments from the County and business owners, who are on the ground, and can voice any current issues or potential issues.

Mr. Robertson stated that there is a Traffic Impact Study (TIS), which is separate from the Coastal Corridor Analysis, and he questioned how those two documents work with one another, how the Coastal Corridor study impacts the project, how the Coastal Corridor study should impact the Commission's consideration of the project, and what the interplay between the two studies are.

Ms. Steinebach stated the Traffic Impact Study (TIS) placed responsibility on the Developer for certain infrastructure that they will be responsible for, to avoid the project negatively impacting the transportation system; that this responsibility is only one cog in all development County-wide, not in one specific area; that this is part of DelDOT's long range planning; that the Coastal Corridors studies are to provide a regional analysis of impacts to the transportation system, separate from the specific developer requirements for specific projects and the current planning vision takes in account longer forecasting to approximately 2050 and beyond.

Mr. Sammons stated that DelDOT attacks the analysis, admiring the roadways and infrastructure from multiple sections and approaches; that these areas overlap each other; that just like the current letter for Cool Spring Crossing, which mentions the TID, the Coastal Corridor study and the CPT projects; that all these studies are independent of each other, but all overlap each other, while analyzing and attacking the same issues; that the main issue is traffic mitigation with regards to end growth and those

types of things; that these individual studies are performed not only by their group, but multiple other groups, and this is the reasoning why it can be so cumbersome to pull these letters together, coordinating with multiple different sections and groups.

Mr. Collins questioned what the project timeline will be for the Lewes Georgetown Highway (Rt. 9) roadway dualization and expressed the voiced concern from the public that the property that may potentially need to be acquired may be developed on.

Ms. Steinebach stated that there are two projects in the DelDOT Capital Transportation Project (CTP); that construction for the project located from Coastal Highway (Rt. 1) to Old Vine Blvd. is projected to begin in FY27; that construction for the Rt. 9 dualization between Old Vine Blvd. to Dairy Farm Rd.; that the preliminary engineering is slated to begin in FY27 – FY28; that currently DelDOT does not have an estimated construction timing for that project; that DelDOT will need to accomplish the professional engineering, acquisition process and utility relocation first; that the Coastal Corridors monitoring is what will indicate when Rt. 9 will require dualization further west; that the intersection creating a lot of constraint is the intersection of Rt. 9 and Rt. 5; that there are many sensitive areas at that location, creating many complex problems, which will be the hardest for them to tackle; that DelDOT is aware of the concerns and growth of the area, but transportation projects take a very long time to get on the ground; that DelDOT has great partnerships with Director Whitehouse and the Sussex County Planning staff; that they are working on the Rt. 9 dualization to the east; that they have a good footprint of what it will be; that it is extremely important that DelDOT's ensure that information is placed in the Traffic Impact Studies; that this helps provide the information to Sussex County, allowing the Commission and County Council to place requirements or stipulations if needed, and the developer has agreed and accepted the reservation.

Mr. Sammons stated that within Item 21 of the Traffic Impact Study states that the developer should enter into an agreement built for right of way reservation along Rt. 9 site frontage, to allow for the potential future U.S. Rt. 9 road widening; that DelDOT may not know at this time how much right away will be required, but as the developer proceeds through the approval process, those are items that will be addressed, and if DelDOT cannot achieve an exact determination, they will project and obtain the reservations as they proceed through the process, ultimately the property would be acquired when the dualization or widening occurs in the future.

## OPPOSITION

The Commission found that, by showing of hands, there were 39 people present who were in opposition to the applications, and 12 people present who wished to speak in opposition to the applications.

The Commission found that representatives of the Sussex Preservation Coalition (SPC) being, Mr. Richard Barasso, Mr. Jim Dick, Mr. Joe Pika, Mr. Johannes Sayre, and Ms. Jill Hicks spoke in opposition to the applications and submitted an 1,800-signature petition in opposition for the records.

Mr. Barasso stated that the Sussex Preservation Coalition (SPC) consists of organizations and individuals who have interest or concerns regarding land use in the county; that their effort is not to unduly delay, interfere or obstruct the process, but rather be part of the process; that the Sussex Preservation Coalition (SPC) represents at least 4,000 people; that the SPC was organized about three years ago; that it was an outgrowth of other organizations including Sussex 2030 and Sussex Alliance

Responsible Growth (SARG), which was an organization that he had co-founded; that SPC efforts are to focus on sustainability in the County as it relates to our natural resources, but more importantly, focuses on how best to balance growth, economic growth, and preservation of the roads, schools and emergency services; that he is proud to state that the former president of the Sussex Preservation Coalition now sits as a member of the Sussex County Council; that often land use decisions are focused on the future, and fail to recognize the unintended consequences to the here and now; that he complimented Carl Freeman Company in the presence of their management and organization at the meeting, unlike what the public has experienced from past developers; the SPC designated a team to work on the Cool Spring Crossing project for the past 18 to 20 months; that the team had interactions with hundreds of local residents, state agencies, homeowners associations, including HOAs where Carl Freeman was their developer; that they have spoken with land use professionals, traffic engineers and others; that the current application was the fifth application to come before the Commission for the proposed area, after previous efforts in 2021 and 2023; that if it were an easy decision, a decision would have already been made; that the current issues of concern are design changes, specifically as it relates to housing and housing expectations; that he has no doubt that the land will be developed in 20 to 25 years from now; that SPC wants to ensure that development was completed in the right way, not just for the benefit of the landowner or the developer, but for the people in the surrounding area; that the public understands that the Commission has total discretion on the four applications; that SPC believes currently, all four applications must be denied for the following five reasons; that the subject properties are zoned AR-1 (Agricultural Residential); that according to the current Future Land Use Map the properties are not located within a designated growth area; that based on the scale and scope, any decision on these applications would be premature, neglecting the recent commitment and investment made by the County in formally assigning a Land Use Reform group to analyze land use development in Sussex County, set forth to make recommendations that could result in new ordinance to amend the current County Cod and Comprehensive Plan; that working group consists of ten people; that within seven months, extensive work will begin in casting what will serve as the standard for how development occurs and how land use is governed in Sussex County over the next 20 years; this will be performed through the process of updating the Sussex County Comprehensive Plan; that this plan is essential in updating and establishing land use policies and identifying growth areas; that the plan will also consider various other community concerns, such as affordable housing, agriculture preservation, open space protection, historic preservation, etc.; that Sussex County must learn from other jurisdictions to begin to implement land development plans utilizing carrying capacity, which regulates the maximum intensity of a development based on actual infrastructure capacity; that proposed residential or commercial occupancy needs to be aligned and sequenced with capacity; that capacity is dependent on required road improvements; that although Sussex County does not have responsibility for roads, Sussex County certainly has responsibility for land use decisions for cars on the road; that the SCP's main questions are, is this the right use, is this the right place, and is this the right time; that every development must be sequenced, and must be sequenced relative to the road improvements to provide for the needed capacity

Mr. Jim Dick spoke on behalf of the Sussex Coalition Preservation in opposition of the applications with legal questions, and to provide explanation as to why SCP believes it would be wrong to accept a rewrite of the Future Land Use Map. Mr. Dick stated that according to the Sussex County website, the Sussex County Comprehensive Plan, adopted by Sussex County Council in December 2018, and certified by Governor Carney in March 2019, represented “*the culmination of more than two years’ worth of work with scores of public meetings, workshops, outreach that attracted hundreds of comments, suggestions, and ideas from residents, business owners, government officials and others*”; that the Future Land Use Map is a legally required part of the Comprehensive Land Use Plan, and according to Delaware Code, it “*shall have the*

*force of law, and no development shall be permitted except in conformity with the Land Use Map*”; that the current FLUM divides County land into seven growth areas, where development is encouraged, and two rural restricted growth areas, where growth is not encouraged; that Cool Spring Crossing is located within the Low Density Area, being one of the two restricted growth areas; that the primary uses within the Low Density Area are agricultural uses and single-family homes on individual lots; that this area does not permit for large commercial developments or for multifamily residential buildings; that this is why the Cool Spring Crossing proposal cannot proceed unless the FLUM is amended to change the area from Low Density to a growth designation, such as the adjacent Coastal Area; that they have found only nine instances where County Council has used its authority to amend the current FLUM, since it was adopted about six years ago; that Mr. Fuqua had referred to ten instances, with one of those amendments pertaining to the Sewer Tier Map; that two of the nine instances were to correct technical errors; that one case was to transfer less than 1.5 acres, which had mistakenly been included in the Bethany Beach municipal FLUM to the Coastal Area within Sussex County’s FLUM; that the other case involved restoring a Growth Area designation to land that had been in a growth area under the 2008 plan and map, but was incorrectly designated as Low Density in connection with the 2018 FLUM revision, apparently by a computer software program without any instruction or direction from the Commission or County Council; that he presented a list of seven amendments, excluding the sewer tier amendments, and the two technical amendments; that most of the amendments involved a change from one growth area to another growth area; that only three of the previous amendments involved changing land from Low Density to a growth area; that a FLUM amendment the size of Cool Spring Crossing, being 637 acres, is unprecedented; that the average of the three amendments listed is 19.5 acres; that Cool Spring Crossing would be nearly 33 times as large; that the average of the three low density to growth area amendments is only six acres; that Cool Spring Crossing would be 106 times as large as the average of the low density to growth area amendments that have occurred since 2018 and 2019; that 637 acres is twice the geographic area of Ellendale, and is 30% greater than Greenwood; that the next largest request to change the FLUM involved the 247 acre Seaside application; that FLUM amendment requested a change from the Low Density area to the Coastal Area; that this request was denied in January 2023; that the SCP believes that, at this current time, a development of Cool Spring Crossing’s size and location would have very significant adverse impacts on Sussex County residents, traffic, schools and the delivery of medical, fire and police services; that they believe the project would have a negative impact on the environment, health, safety, and general welfare; that the approval of the project will also have other, less tangible, but very real adverse impacts; that an amendment of this magnitude would undermine the purpose of the Comprehensive Plan and the Future Land Use Map; that the project would be inconsistent with the plans overall objective of focusing growth in designated growth areas, leaving low density areas for low density; that approval of the project would disregard the years of work, scores of public meetings, workshops, citizen involvement, and County efforts; that approval for an amendment of this size would set a dangerous precedent, allowing other developers to look for similar opportunities, claiming entitlement to the same rights as Cool Spring Crossing; that approval of the proposed FLUM would inevitable erode public confidence in the FLUM as a reliable land use planning tool with the force of law; it would be seen as no more than a toothless suggestion; that it would also preempt any future decision on whether or not to expand the Coastal Area, in the Cool Spring Crossing direction, in connection with the upcoming 2028 Comprehensive Plan and Future Land Use Map revision; that a decision of this magnitude should not be made in isolation before the 2028 revision, and without consideration of the cumulative impact of existing and approved developments, as well as the long range planning objectives for Sussex Count as a whole; that the decision should not be made without consideration of the results from the Land Use Reform Working Group, the Rt. 9 Corridor Study, and the other ongoing efforts that would impact the 2028 Comprehensive Plan; that Cool Spring Crossing is also



located within Investment Level 4, which is not a designated growth area for the State; that the State tends to limit any investment in Level 4 areas to agricultural preservation and natural resource protection; that large residential developments and commercial activities are discouraged in these areas; that Sussex County has the highest percentage of residential developments located within the Level 4 areas in the State; that all of the residential building permits issued for Level 4 areas from 2019 to 2023, nearly 81% of them were in Sussex County; that less than 20% of building permits were issued in Kent and New Castle counties combined; that nearly ¼ of all the residential building permits issued in Sussex County during that period were located within Investment Level 4 areas; that this information was taken from the 2024 publication from the Delaware Office of State Planning Coordination; that Cool Spring Crossing would add nearly 2,000 new residential units to the Investment Level 4 area, as well as the large commercial project; that this is the reasoning the Office of State Planning Coordination has opposed projects in April 2021, December 2021, January 2023, and December 2023; that the State has a huge financial interest in the way Sussex County is developing; that the State pays for a very significant proportion of our infrastructure and necessary services; that according to the Office of State Planning Coordination's 2024 Annual Report chart for State planning issues, the State funds 90% of the roads in Delaware, including Sussex County; that the State funds 100% of the State Police, 30% of the State's paramedic programs, 90% of the public school's transportation; 60% to 80% of public school's construction and 70% of public school's operations; that the State is not currently planning to make the type of infrastructure investments needed to handle a new development of Cool Spring Crossing's size; that the State is expecting the area to remain largely rural and agricultural; that if the FLUM is amended and the project is approved, the State can legally withhold financial assistance and infrastructure improvements to support the project; that the State has lawful authority to withhold support for any new development with the Office of State Planning determines it is substantially inconsistent with State development policies; that this is the determination the Office of State Planning Coordination has made four times in the past; that legal authority is Delaware Code, Title 9, Section 6958-B; that is the State does agree to invest in a Level 4 area, in order to support a project of the proposed scale and magnitude, the investment will necessarily divert money from planned investments in Levels 1 and 2, slowing down essential projects in more populated areas; that it will disrupt State agencies long term planning and budgeting processes, resulting in inefficient and inflated State spending; that this is happening at a time where any financial help from the Federal Government is uncertain at best; that the SPC request that the Commission recommend denial of the pending huge and unprecedented FLUM amendment sought by Cool Spring Crossing, in order to allay growing public concern of there being no effective constraints on development in Sussex County, that even a planning guide, with the force of law, can be circumvented, and to avoid a fiscally irresponsible decision, that undermines the State's planning and budgeting processes, as well as the State's major role in funding necessary infrastructure improvements in the County.

Mr. Joe Pika spoke on behalf of the Sussex Preservation Coalition, in opposition to the applications, regarding the impact the project would have on the nearby area communities. Mr. Pika stated that he has been involved in public policy issues in Delaware for a long time; that he is a resident of Lewes, a retired faculty member from the University of Delaware, and previously served as President of the State Board of Education; that he wanted to discuss service infrastructure, which is much more than water, sewer, electric, natural gas and broadband services; that service infrastructure includes school, fire, police, and medical service providers, as well as the impact on neighboring towns, who provide many of those services; that the concern of SPC is regarding the new demands Cool Spring Crossing will place on all the previously mentioned services, placing those services under even greater stress than they already are under; that their interpretation is that Sussex County's growth has been so rapid

that those services have been unable to keep up; that we have had residential growth on properties in the area, but the growth has not been synchronized with the expansion of those services; that as a result, the demand has exceeded capacity; that there are strains we all experience when trying to get a medical appointment; that the recent examples, seen in the news, is the discussion regarding emergency services, particularly from Lewes, the issues the Cape Henlopen School District has raised, and medical services; that they believe the impact of Cool Spring Crossing go well beyond those that were explored in the economic and physical analysis submitted by the Applicant, which primarily focused on the economic benefits of the development and the tax revenue it will produce; that Cool Spring Crossing is going to cause big ripples; that he believes the project's population will top out at approximately 5,600; that even when allowing for the growth of Laurel and Milton, the project will be within the vicinity of the fourth largest to the sixth largest community within the County; that there are consequences from that; that one of these consequences is the position that the Cape Henlopen School District has taken regarding many proposed developments; that the Cape School District has expressed that they do not want to take on any further students until they can settle on a way to accommodate the students; that he has had previous conversations with Mr. Jason Hale, Cape Henlopen Director of Operations, regarding the current issues with enrollments; that the Cape Henlopen School District's concern is that they are being inundated with students, which must be placed somewhere; that the estimates from the Developer had been inconsistent; that the 2023 estimate was 566 students; that the current estimate in the materials before the Commission, the estimate total is 409 students; that the number of residential units had not changed, rather the methodology changes; that the 2023 estimate was based on a projection, founded on a questionnaire given to the residents of Americana Bayside, questioning how many of those households had school aged children; that the Developer than used that census data to make that projection; that the newest estimate is based solely on the estimate referred to by Mr. Fuqua on the census; that in both cases, Mr. Hale suggested that the estimates were too low; that Mr. Hale believed the census would be higher; that neither estimate takes into account the issues of overcrowded classrooms, how the school district will accommodate, or the disruption to families as a result of the school district being unable to accommodate them; that it will require the school district to redesign the attendance boundaries; that he can confirm that those changes can be tremendously disruptive, as he is a father of three children who went through attendance boundary changes in the past; that the arrangement that they had learned about, only as a result of the Milton Fire Department letter; that there is no other description of this document within the 900 page exhibit book; that within the drafted HOA documents, there is no mention of this obligation, and there is nothing in writing addressing this from the Developer; that they did hear during the presentation how it would operate and that it would also apply to Lewes; that it has been made clear that EMS needs more support; that currently there is a report being performed on the financial status of the volunteer fire departments in the County; that the fire departments are confronted with too few volunteers, moving towards using more professional, resulting in much higher expenses; that Lewes Fire Department have been providing monthly reports, expressing their higher demands; that according to their February report, only 14% of the Lewes Fire responses happened within city limits; that according to a recently uploaded document, the Cool Spring Crossing project would be served by the Lewes Fire Department; that he believed that providing some compensation to both fire district would be a good idea; that only 23% of emergency responses are located within the city limits; that between February 2024 and February 2025, the fire calls increased by 26%; that EMS calls increased by 15% as an indication of growth in the area; that Lewes' agreement is that growth has exceeded their capacity; that SPC is concerned that the project will place pressure and exceed capacity in all of the service areas; that Lewes has been considering discontinuing ambulance service; that police service, within unincorporated areas, relies on the Delaware State Police; that Town of Milton is adding two officers, resulting in a force of 12 officers; that the Milton

Police have a reciprocity arrangement with the State Police; that in the last six months of 2024, the Milton Police responded to an average of 16 calls per month for areas outside of city limits, resulting in about 200 calls per year outside of their city limits; that after conversing with city officials, there is concern that the project will place a burden on the Milton police and fire departments; that Lewes is also adding officers to their police force; that Cool Spring Crossing would be an unincorporated community and would not have either police or fire service; that it was suggested that Cool Spring Crossing be considered a new town, but he was unsure if that suggestion had ever been considered; that growth has impacts on neighboring communities; that Dr. Tam and the Beebe Healthcare staff recently presented a valuable briefing to the County Council; that the briefing pointed out that currently we have a shortage of 336 clinicians, doctors, nurse practitioners, and physicians assistants, resulting in a total shortage of 2,400 medical support staff; that there are about six medical support staff required for every clinician; that this current issue will worsen by 2030; that Dr. Tam estimated that Sussex County will need 11,120 additional clinicians, and 7,800 medical support staff by 2030; that our area has been identified nationally as a shortage area for healthcare professionals, including dentist, and mental health providers; that regarding medical services, Cool Spring Crossing will provide the benefit of 175 affordable housing units to assist with recruitment and retention; that the affordable housing unit rates will be fixed and limited; that the 525 workforce units will be rented at market rates; that the project will provide medical space, to be located next to Bayhealth; that the consequences of the project would be an additional 5,600 new patients creating a new set of demands; that the project must account for both full-time and part-time residents; that part-time residents are staying for nine months now, rather than three months out of the year; that the market rates will place a lot of the support staff outside of the group that will be able to afford to live in the 525 units; that during Dr. Tam's presentation he mentioned three kinds of positions he needed to find housing, being for nurses, care coordinators, and lab technicians; that all of those positions would qualify for Sussex County's Rental Program housing; that none of them would equal at 100% Area Medium Income (AMI), which is presumably where the market rates would be; that the challenge is not being met for the needs of medical service housing; that SPC has sought to mitigate several of its impacts, by providing the financial support to Milton and Lewes Fire Departments, providing the medical office space, the 175 affordable units; that SHARP has raised the question if an HOA payment is the correct way to provide additional money to EMS services; that everything he had mentioned demonstrates the problems of meeting capacity on the service side, exceeds any one developers capacity to mitigate the issues; that the issues require managed growth; that this will require plans to be put into place on how the issues will be addressed; that the required planning will not be achieved by making piecemeal decisions; that these plans are derived during the Comprehensive Plan, when all of these issues are on the table at the same time; that SPC is not stating that the Cool Spring Crossing plan is a bad idea, and they acknowledge that the plan offers many desirable things, and that SPC believes that the project is not a good idea at this current time.

Ms. Wingate stated for the record that within the Applicant's proposed Conditions of Approval, the Applicant proposed a fee of \$100,000 to be paid by the applicable homeowners or condominium association fees, being \$100 per house, and that the Applicant appeared committed to that proposal, by their submitted conditions.

Mr. Johannes Sayre, resident of Lewes, spoke on behalf of the Sussex Preservation Coalition on the impact of traffic and what the Traffic Impact Study (TIS) revealed. Mr. Sayre stated that he had reviewed all the information of the TIS, but acknowledged that he was not a traffic professional that the SPC had vetted their observations with Mr. Dennis Hughes, a professional traffic engineer in Delaware, and therefore felt their beliefs were accurate and relevant; that Cool Spring Crossing is

proposed to be one of the largest developments in eastern Sussex County to date; that the project could be considered a new community, or a separate town, consisting of 5,000 people in a space of 20 years; that the project is estimated to bring 33,359 added vehicle trips to area roads; that in review the TIS, they noted that DelDOT regulations require a TIS to consider roadways and intersections out two to three intersections, beyond the planned boundaries of the proposed development; that the Cool Spring Crossing TIS goes well beyond that requirement, considering intersections as far away as Rt. 9 and Shingle Point Road, located 4.5 miles west of the site, and planned DelDOT projects on Rt. 1, starting 2.5 miles north at Hudson Road and moving southeast from there; that the TIS is considering a much larger area for traffic impacts of the project, than what the regulations mandate; that they found the analysis of the TIS identified about 20 intersections whose level of service (LOS) will degrade below the standard for failure, unless local roadway improvements are made or planned build out projects are completed; that the TIS identifies remedies like those for most of the mentioned intersections; that recalling that the TIS considers intersections up to four miles away from the project, there are several new developments at that distance or closer, that the TIS did not consider, notably the Northstar development, located about two miles east of the project's perimeter; that there were also developments located between three to four miles north of the site, which were not considered; that they understand the absence of these developments from the TIS is not due to negligence, as these developments were proposed, approved for finished build out after work was in progress on the Cool Spring Crossing proposal; that this does not change the fact that these developments will contribute significantly to the traffic impact within the same area as the Cool Spring Crossing project, within the Rt. 9 corridor; that they found six developments, with a total of 3,132 homes located within four miles of the project, that were not considered within the Cool Spring Crossing TIS; that the Rt. 9 corridor is already a subject of the Coastal Corridor Study, consisting of Rt. 9 and Rt. 16; that as they just heard, there is currently a study being performed specifically to Rt. 9, which just began; that dualization of Rt. 9 is in some stage of planning, west of Five Points to Sweet Briar road, ending about one mile east of the project site; that the TIS performed a segment analysis of the impact of the project traffic contribution to Rt. 9, projecting completion from 2044 to 2048; that the Rt. 9 level of service will fall below the failure threshold; that the TIS does not recommend dualization of Rt. 9, considering the scale of the traffic impact of the Cool Spring Crossing project, as well as other developments within the immediate area; that it appears that no one yet has a whole plan to ensure that Rt. 9 does not fail to bear up under the projected load; that the DelDOT Memorandum of Understanding (MOU) states that DelDOT and Sussex County shall endeavor to maintain a service level of D, also known as Delta, on roads affected by an application; that there are conditions and exceptions on that mentioned within the MOU; that DelDOT's Level of Service Scale runs from A, being the best condition, to F, being the worst condition; that from the point of the MOU, failure means dropping to a Level E or Level F; that the TIS identifies multiple intersections, failing with a level of service less than Level D at different stages of the Cool Spring Crossing build out at 100%, 75% and even only 25% build out; that this creates impacts on access to neighborhoods and congestion conditions on roadways, at intersections, and area roadways, notably being Rt. 1, Rt. 9, Rt. 5, Cave Neck Road, and Hudson Road; that the TIS identifies local improvements such as added lanes, signalization or planned build out projects that can prevent that failing state from occurring; that completion of those roadway improvements is required in order to prevent failure; that SPC also found cases where failure is predicted, but no improvements are planned; that he presented to the Commission a list of intersections listed within the TIS, where failure conditions levels of service E or F are predicted at some stage of build out; that two of the roads are smaller neighborhood roads, being Joseph Road and Arabian Acres Road; that it does not appear that the TIS suggested improvements to avoid any service level failure; that he presented to the Commission an aerial map of the neighborhood entrances, with the Cool Spring Crossing project being outline in pink; that all of the entrances

reflected are located along Rt. 9 and the Cool Spring Crossing area; that reflected within the middle of the map are the Hunters Mill and Beaver Creek developments, which the TIS does propose improvements to prevent service level failures; that further west on the map, there is Prettyman Road and Shingle Point Road; that the TIS proposes improvements to avoid failures at the Prettyman Road location; that at Shingle Point Road and Rt. 9, the DelDOT Park Avenue Relocation project, will address any potential failures in that location; that on the lower left of the map, there was a small red notch, labeled as Hawthorne development, which is one of the six areas found that was not considered in the TIS; that within the reflected class of neighborhoods, where traffic is entering and exiting, the neighborhoods may be impacted and suffer with a failure to their level of service; that the list of area roadways with intersections, where the TIS predicts that service level failures will occur were the intersection of Rt. 1 and Cave Neck Road, and the intersections of Rt. 9, Hudson Road, and Fisher Road; that they counted nine, of which six are listed as depending on planned build out projects avoid failure; that the other three depend on the local improvements, such as added lanes, or signalization; that he presented and referenced an aerial map, which was provided within the TIS; that he stated the areas to take note of are the areas of the red dots, which represent planned DelDOT projects; that these projects include the Rt. 1, Eagle Crest and Oyster Rocks intersection, the Rt. 1 and Cave Neck Road intersection and the DelDOT Grade Separated Intersection project at that location, the Minos Conaway Road and Rt. 1 and another DelDOT Grade Separated Intersection at that location, Dairy Farm Road and Beaver Dam Road, and the DelDOT traffic circle project at that location, and the Rt. 9 and Rt. 30 intersection; that the TIS identified that area of Rt. 30 as requiring dualization to avoid failure; that Rt. 9 and Shingle Point Road intersection, depends on the Park Avenue Relocation project; that the Cave Neck Road, Sweetbriar Road, and Hudson Road intersection, and the DelDOT five-legged traffic circle project planned at that location; that he wanted to reference these improvements, as well as all the local ones, as they are required to be completed in order to avoid failing levels of service at the mentioned intersections; that there are six developments, with a total of 3,132 homes, equaling about 1.5 times the size of the Cool Spring Crossing project, located within four miles of the project's perimeter that were not considered within the TIS; that the Villages at Red Mill Pond, with 177 homes, is listed within the TIS, but does not appear to provide any trip generation data; that the remaining developments are not mentioned within the TIS at all; that these developments will be contributing traffic, at their scale, to the roadways where Cool Spring Crossing traffic will also be added to the Rt. 9 corridor; that the Cool Spring Crossing project proposes 1,922 homes; that the Villages of Red Mill Pond has 177 homes; that the approved Northstar development will have 852 homes; that Hawthorne has 254 homes; that the Granary will have 1,350 homes; that Scarlet Oaks will have 163 homes; that Four Winds will have 336 homes; that these are developments, equaling to 3,132 homes within a four mile radius of the Cool Spring Crossing project; that these developments are incrementally changing the area to something other than rural area; that the questions to be asked if we want to accept this process, do we want it to continue and do we want to facilitate it or not; that whatever the reason of why this data was not included in the TIS, these homes will contribute massively to the area traffic, while Cool Spring Crossing builds out; that SPC urged that for the Cool Spring Crossing proposal to be complete, an analysis of the Cool Spring Crossing traffic impact must include the traffic contributions of the missing developments; that the TIS identifies Rt. 9 as failing at Service Level E by 2044 or 2048, at 100% build out, specifically from Shingle Point Road and Sweetbriar Road; that on Page 5 of the TIS, it explicitly states not to recommend Rt. 9 dualization; that the 2024 Coastal Corridor Study projected a failing Service Level E, at the location of the Rt. 9 and Rt. 5 intersection, without the consideration of the Cool Spring Crossing or Northstar projects; that the recommended second study for specifically Rt. 9, had just began; that currently, the daily vehicle trip estimate for Rt. 9 is 17,000 trips, which is close to the threshold of 20,000 trips, where dualization is recommended; that there will be a total of 47,000 additional trips added to area roadways when

combining the total trips proposed for Cool Spring Crossing and Northstar; that given the service level failures the TIS predicts on Rt. 9 in the project's area, SPC question why mitigations for that, including dualization are not proposed; that it appears that there is an analysis, which currently anticipates service level failure on a major local roadway, while still missing information and results need to support an accurate review of the proposed project; that the SPC concludes that the road improvements which the TIS identifies as preventing service level failures must be carried out; that otherwise, per the TIS, those failures will occur; that to avoid those failures, the Phasing Plan for the Cool Spring Crossing project must synchronize completion of the roadway improvements with the project build out; that the project must establish concurrency; that the development cannot grow fast than the roadwork is completed; that the Cool Spring Crossing parcels are currently classified within State Investment Level 4, meaning there is no support planned for infrastructure investment; that funding and timing of improvements must be assured; that if this does not happen, per the TIS, there will be failure conditions on the affected roadways; that the TIS is missing information that is required in order for the TIS analysis for Cool Springs Crossing traffic impacts to be complete, and the Rt. 9 and corridor traffic studies, the land use review, State Investment Level review and Sussex County Comprehensive Plan update for 2028 need to be finalized before approving the proposed Cool Spring Crossing project, given the scale of the proposed traffic impact.

Chairman Wheatley requested to ask additional questions of the DelDOT representatives.

Chairman Wheatley questioned if the Delaware Office of State Planning Coordination had any authority over DelDOT's budget or had the ability to provide or take away funding to planned projects.

Ms. Steinebach stated that she was not aware of that being the case; that DelDOT goes through the Capital Transportation Project (CTP) full public process through MPO's and counties; that the projects get prioritized as part of the Delaware Code, and proceed through the Council of Transportation's public process; that as part of the CTP prioritization process, there is a local priority, and if it is located within a Transportation Improvement District (TID); that within the list of nominations DelDOT receives, some of the ranking does receive more points, if a project is endorsed by an agency, and it is a very long process.

Mr. Sammons stated that DelDOT attempts to account for all government and state agencies, and they have the TIS to mitigate the specific impacts of the developments themselves.

The Commission found that Mr. David Edgell, Planning Director with the Delaware Office of State Planning Coordination, was able to provide additional information. Mr. Edgell stated his office does not have the budgetary authority to stop any project at any State agency; that however, all of the State projects for infrastructure and operating budgets for service, do adhere to the Strategies for State Policies and Spending, which is developed by the Cabinet Committee on State planning issues, which are enacted by the Governor by executive order; that through the capital budgeting process and operating budgeting process, all of the projects are all evaluated based on those metrics and determined; that DelDOT has a very detailed process for Capital Transportation projects; that location, in accordance to the State Strategies, is part of that process; that this is a statewide evaluation, broken down by county; that if they have priorities in any given cycle in Investment Levels 1 and 2, they might outweigh Investment Levels 3 and 4; that projects proceed through an entire matrix of evaluations from DelDOT, and the whole Capital Transportation Project and budgeting process.

Ms. Wingate stated that she understood Mr. Sammon's previous comments testified that DelDOT does take other projects into consideration, and that all projects are factored in, at some point as a whole.

Mr. Sammons stated the Sussex Preservation Coalition has been reviewing the DelDOT analysis since January 2025; that they had only received SPC's presentation earlier that morning; that DelDOT attempts to account for all communities and developments, but as he previously mentioned, there must be a cutoff point; that the Northstar application was submitted after the Cool Spring Crossing application; that at the time, the Northstar project was not considered a committed development; that they can only analyze the information they have at the time; that if there is something significant, the department is willing to review and consider anything, and that the current application has been scrutinized and torn apart multiple times to date.

Ms. Steinebach stated that DelDOT knew how intensive the project would be; that as part of the Development Coordination Manual, DelDOT technically only had to review three intersections; that due to the magnitude of the project, they made the extra effort, going above and beyond, analyzing 46 intersections to review the ripple effects, and to provide a hypothesis of when phasing would be required to be done; that they performed a Segment analysis as well, which the DCM does not require, and DelDOT was sensitive to the impacts, which led to their additional efforts of analysis.

Ms. Jill Hicks, spoke on behalf of the Sussex Preservation Coalition, and presented a petition of opposition containing 1,803 signatures. Ms. Hicks stated the subject area is a rural area, with only pockets of developments around the area; that Mr. Fuqua previously stated that the project size is irrelevant; that she disagreed; that the project and its size will impact the roads, schools, fire and ambulance services, and infrastructure, and therefore is relevant; that the option of building a cluster subdivision, from her understanding, would take an additional two years to proceed through the zoning process; that she believed that Sussex County would be well into the FLUM and the Land Use Reform Work Group would be done with its work; that she does not know if a cluster subdivision proposal would be a viable option; that she questioned if the 515 acres included the Martin Branch area and the resources around it; that the impact to the schools and other infrastructure is one reason that the Land Use Reform Working Group was designed; that she felt between those two issues, it warrants waiting; that the estimation of 23 additional students per year, equals to a classroom per year; that she questioned if the \$100 per unit would be added into the rent figure, whether it be for affordable housing, or the market rate affordable housing; that she was pleased that the Applicant referenced smart growth; that the SPC is about smart growth, but she stated it does have to do with if it is the right time for the project and if the project is the right size; that there is a lot of information being presented for the estimated traffic count; that Mr. Sayre had provided some traffic analysis information; that she questioned if the Commission would want to hold the record open to the receipt of the traffic count information for the 1,200 unit application; that livable communities is not an internal look; that it is a look at the entire community area of the County; that what makes an area livable is the quality of life, including infrastructure, as well as the environment; that another area of consideration should be that Rt. 9 is a major evacuation route, placing more importance on the traffic analysis; that currently Sussex County is short about 13,400 residential units, based on a study done by Cabinet Committee on State Planning; that 80% of those are required for homeowners, and 20% for renters; that the shortage varies by income; that the shortage is more pronounced in eastern Sussex County; that the project proposes 175 units to participate in the Sussex County Rental program, with the remaining 525 units, being considered workforce housing, that will be subject to market rates

affordable house; that she considered this an oxymoron, particularly when located within Sussex County; that the market rate is not affordable to the workforce, thus the reason Sussex County is in the predicament it is in; that affordable relates to what is affordable to a household at 30% of the gross monthly income; that if they are renters, that includes rent and utilities; that if it is a homeowner, it is a mortgage, utilities, property tax and insurance; that in 2023, it was stated that the Area Median Income (AMI) was \$71,200; that she recently saw a report stating it is \$78,000; that affordable housing and workforce housing are used interchangeably; that workforce housing is generally considered housing affordable to persons below 100% AMI, that meets the needs of wage and service industry workers; that when referring to workforce housing units, there needs to be specification given to the workers the unit would be affordable to; that a unit geared toward a teacher, making 100% AMI, is not going to be affordable to a cashier making 50% AMI; that she questioned which workers the housing needs will meet with the Cool Spring Crossing project; that at 100% AMI, a person should be able to afford close to \$1,800; that she questioned if he proffered \$100 would be tacked onto the rent or not; that she is part of a homeowners association; that she felt an HOA is not where the proffered \$100 fee should be handled; that people do not pay their dues; that an HOA will not want to be responsible for paying something that the developer committed to; that she felt the intent was good, but it would be a bad way to administer; that she felt the Commission should wait for the impact fees that the Council is currently working on; that she felt the administration of those monies would have to come through the County, potentially as a County tax; that HOA will change their covenants; that public service people, and some of the people Dr. Tam had mentioned do not come up to 100% AMI; that when considering the market rate affordable housing, the 525 units will not apply; that only the 175 units will apply; that average rents in Sussex County for a one bedroom unit is \$1,800; that for a four bedroom unit, it is \$2,900; that for a unit to be affordable, it requires an income from \$72,000 to \$116,000; that average rent in Lewes, including the outer area, is \$2,800 per month at market rate; that those 525 units are not going to be affordable to the workforce the County is trying to take care of; that examples of this are, at the Vineyards a one bedroom unit cost \$1,669 to \$1,729; that two bedroom units range from \$1,810 to \$2,600; that the Vineyard Mendocino, consisting of two bedrooms and two bathrooms, ranges from \$2,050 to \$2,280; that she questioned if Cool Spring Crossings net contribution of 175 units of workforce housing reduce the County's need; that she questioned if the 175 units would even support the 1,900 units that are being proposed; that based on her research from the U.S. Census Data, for a subdivision, one would need about 6% of the project to be for workforce housing, to be able to handle the rest of the subdivision; that for the Cool Spring Crossing project at 5,600, the project would need 337 workforce people; that she questioned if the 175 units will get the County out of the hole, or will they dig the County deeper; that she questioned if all of the concessions being discussed are worth making; that the proposal appears to be progress, but in reality it is far more modest, and may even create a negative impact; that she advised the Commission to not rush to judgement; that amending the Future Land Use Map at this time, for a project of its magnitude would be irresponsible; that the County needs to lead with the planning process for the County as a whole, not react piecemeal to developers' site-focused business plans, which has been happening over the past five to eight years; that Sussex County should avoid a fiscally irresponsible decision that undermines the State's planning and budgeting process; that the project will place undue burden on all Delaware taxpayers; that if Sussex County builds 24% of its homes within State Investment Level 4, all of Delaware taxpayers will be paying for that; the Future Land Use Map carries a force of law and should not be easily circumvented; that Sussex County should allay the growing public concern that there are no effective constraints on development in Sussex County; that the way to achieve this is to let the planning process play out; that a decision on the project should not preempt the upcoming 2028 Comprehensive Plan work; that the State Investment Level work should be completed at the end of the year; that the work of the Land Use Reform Working Group



and the current Rt. 9 Corridor Study should not be subverted or undermined; that public welfare is at risk; that a project of its magnitude needs construction to be concurrent with all the Traffic Impact Study road improvements, and the dualization of Rt. 9; that the data is incomplete and inconclusive; that the County and State must collaborate to align infrastructure with growth, school space, staffing needs, medical services, and emergency services; that this cannot be another example of let the County build it, and the State will fix it; that SPC supports the County's effort to increase workforce housing; that the County needs metrics to know if proposals, such as the current, are going to help or exacerbate the problem; that the County needs to be more prudent in its expectations; that the County needs to commit to more affordable housing units, priced in line with Area Median Income guidelines, not market rate affordable housing; that smart growth is questioning if a project is the right use, at the right place, at the right time, and the current project is not the right size, at the right time, until we have more answers.

Mr. Collins questioned whether SPC preferred the by-right subdivision application of 1,200 units over the current proposal.

Ms. Hicks stated that the SPC does not prefer one application over the other; that if the Applicant were to come back with a 1,200 unit application, the two applications hearings would be two years apart; that during the two year time period, working will be started on the Comprehensive Plan; that work will be completed for the Land Use Reform Working Group, and the State Investment Level studies should be completed, and she was implying that the County needs to complete the Comprehensive Plan on where they want to see this area go.

Mr. Collins questioned if the Applicant was to resubmit next week, what rules would the application fall under?

Chairman Wheatley stated that if the applicant were to propose any affordable housing component, their application would be expedited.

Ms. Hicks stated in the secondary application, being the 1,200-unit subdivision, she did not see any affordable housing proposed, and again questioned at what point affordable housing would be getting the County out of the hole or even covering its own proposed residents.

Chairman Wheatley stated he felt everyone needed to keep in mind that sewer lines are not built on speculation; that sewer lines are built upon demand; that the idea that the County will catch up, and things will be in equilibrium, will never happen; that he hoped the County could do a better job than what is currently being done; that the County is currently trying to do that; that infrastructure will always be behind because taxpayers do not want to pay the cost of speculative ventures and there is always going to be an inconvenient period.

Ms. Hicks stated that the Commission needed to consider if they wanted to amend the Future Land Use Map for 637 acres, when every other developer watching will request the same, claiming a precedent had been set.

Mr. Robertson stated he disagreed with Ms. Hicks' statement, as a mentioned development was Seaside, which was quite large, and was denied, and he stated that developers can ask, but it does not mean the request will be granted.

Chairman Wheatley stated that each application must stand on its own; that the subject site has water and sewer services, with development all around, and the area might be currently classified as Level 4, but the area is not rural.

Mr. Collins stated that Level 4 only becomes Level 3 or Level 2, when all the infrastructure is in place.

Mr. David Edgell, Planning Director with the Delaware Office of State Planning Coordination, spoke in opposition to the applications. Mr. Edgell stated that as required by Delaware Code, the Sussex County application submitted the plan amendment for review through the Preliminary Land Use service in December 2021; that the PLUS review determined that the plan amendment was inconsistent with the Strategies for State Policies and Spending; that their PLUS response letter, dated January 13<sup>th</sup>, 2022, identified a number of concerns related to the proposed amendment, notable the location and Investment Level, as well as their environmental, transportation and archaeological concerns due to the large size of the amendment and the potential significant impact on State resources; that the letter was ended stating that the State looked forward to working with the County on a process that will evaluate the application in conjunction with the Coastal Corridors study, and a robust community planning effort led by the County; that it had been three years since the State's initial review; that to date, there had been no robust community planning effort led by the County to consider the plan amendment in relation to its cumulative impact on the area and corridor; that after waiting patiently for over two years, the Office decided to formally object the plan amendment in February 2024; that the objection triggered a 45 day period of negotiations with the County that they hoped would be an opportunity to discuss the amendment, and ways for collaboration, moving forward together to evaluate the impacts; that instead the County's position was that they were unable to discuss the amendment at that time; that they learned from the County, that the current public hearing process, is the way they gather information and data about the plan amendment; that after the 45 day period concluded, he referred the matter to the Cabinet Committee on State Planning Issues; that the committee met with representatives of Sussex County on April 8<sup>th</sup>, 2024; that at the meeting, the County further explained the importance of holding hearings before discussing potential plan amendments with the State; at that meeting, a mutually agreeable course of action was decided upon; that the County would hold hearings before the Planning & Zoning Commission and Sussex County Council, and before action was taken, reengage the 45 day period of negotiations; that another meeting between Sussex County and the Cabinet Committee on State Planning issues will be held during this 45 day period to further discuss the amendment; that he prepared and submitted the letters of correspondence, along with his comments for the Commission; that Comprehensive Plan amendments of the proposed type, are required to go through the Cabinet Committee of State Planning issues, then onto the Governor; that the current process is very unusual, and they are feeling their way through it; that they have worked closely with Mr. Robertson; that they have crafted the process before the State's DAG, and it was important that he present before the Commission to share what the process was, so that they public was informed.

Mr. Robertson stated that it has been an evolving process working with the State Planning Coordination on map amendments; that they heard two different sides of it; that he supposed the County was somewhere in the middle; that the County had a couple of applications where the County was at the forefront of requesting a map amendment on behalf of the applicant; that an issue was that the County did not have sufficient information to understand why the request may be appropriate or not; that this needed information was not provided until the public hearing process; that Mr. Whitehouse was placed in the awkward position of having to appear at the Office of State Planning Coordination to advocate or explain a map amendment that he had no information on, which would

allow him to present a meaningful, background reason, because it had not proceeded through the public hearing process; that through this process, they realized that this was not the best way to proceed; that the best way to proceed in all the matters is to have all the information available to everyone, to allow for an informed decision to be made; that at the time, no one had all the relevant information, and therefore it was the County's opinion that an informed decision could not be made; that there was mention of a delay in getting this application before the Office of State Planning Coordination; that he would disagree, as the County was trying to work out the process to do that; that the County has drafted a Memorandum of Understanding (MOU), with the Office of State Planning Coordination to document the process; that the MOU has not yet been signed by the Office; that they are currently proceeding this way because it enables the County to create a record, and the County is trying to work out the process to allow clear understanding on how to move forward.

Mr. Jack Young, resident of Rehoboth, spoke in opposition to the applications. Mr. Young stated that the Cool Spring Crossing applications failed the primary tests of the Sussex County Code §99-3 and §115-3; that the Sussex County Code §99-3 provides for the orderly growth and welfare of the citizens with proper development; that Sussex County Code §115-3 establishes the purposes of the zoning process; that the zoning process should provide for present and future needs, including lessening congestions, and providing adequate provisions for public requirements, transportation and education opportunities; that the Cool Spring Crossing applications do not and are not supported by sufficient service infrastructure at the current time; that given the Code requirements, more needs to be done to satisfy the Code requirements or adequate provisions of public requirements, transportation and educational opportunities, and more must be done before we can satisfy ourselves of the primary task that the Zoning Code tells us to do in both Chapters 99 and 115.

Mr. John Montanez with SHARP (Sussex Homeowners Advocacy Resource Partnership) spoke in opposition to the applications. Mr. Montanez stated that SHARP has been in existence for approximately three years, and is comprised of 19 volunteer communities, servicing approximately 6,000 households in Lewes and Rehoboth; that SHARP's purpose is to serve the homeowners and residents of Sussex County; that SHARP is in full agreement with the Milton Fire Department; that they have witnessed first-hand all of the exponential growth that has occurred in the area; that they are equally concerned about their ability to meet those growing needs; that where they disagree is the belief that issues can be remedied by an agreement between a developer and HOAs; that they feel it is not justified and not sustainable to ask homeowners to pay an additional fee; that you are asking the residents to pay an additional fee for the same service that everyone in the room is currently receiving; that while the State allows the HOA to levy fees, homeowners can rescind those fees by vote; that this creates the fee to be unsustainable and non-binding; that everyone agrees that they trust the local government to make the services of roads, schools and emergency services provided in a fair and equal manner; that the idea of having an HOA provide these services is a stopgap measure that undermines the agreement that SHARP is trying to make; that the emergency services are being taxed, requiring a response from the County; that the response should be done through local governance, not through a relationship between the HOA and developer; that SHARP, and its 19 communities, fully support the local schools, emergency services and fire department, but do not agree with the idea that an HOA should be used as a mean of leveraging the proposed fee; that SHARP is not advocating for taxes; that they are suggesting that we need to look at the problem; that for the long-term, it is not going to be achieved by a Band-Aid approach, by having the HOA attempting to fill a void; that his personal opinion is that people will assume that the HOA will be able to make up that money, and they will not have to pay it; that as a taxpayer, this would be a County-wide issue; that by the fee going through

the County, it would create a fair and equitable way to ensure all residents bear the burden, and not just the residents of Cool Spring Crossing.

Ms. Wingate stated she has spoken with one of the fire chiefs in the local departments, who stated they have sent out thousands of letters requesting homeowners to contribute to the local fire department, and they receive very few back, and this is the reasoning why, in her opinion, the proposed method would work.

Ms. Carolin Velardi, resident of Hawthorne in Sussex County, spoke in opposition to the applications. Ms. Veladri stated that three years ago, she attended a meet and greet with the House of Representatives; that it was filled with angry EMS workers, teachers, and many people concerned with housing; that at that time, it was told to them that they needed to get involved with local County administration; that the State does not handle those issues, and that the local government does; that it was said that it is not the State; that the State had identified areas of concern, and placed things into progress to address the issues; that the issue was the local government allowing too much growth, which was outpacing the State plans; that she lives in the area; that just because she has a Dollar General store, does not mean that the area is not rural; that within the area there are farms all around; that there are different perceptions of what rural area looks like; that the State has identified the area as rural; that it is up to the Commission to deem whether it is an appropriate area or not; that there are a million reasons why the area is not the appropriate place and she is listening to her State representative, voicing her objection and now it is in the Commission's hands.

Mr. Fuqua stated that he would like to clarify the question regarding the fire company; that the fee has been proposed as a Condition of Approval, but more importantly, will be placed as one of the restrictions, and that the restriction would have a type of provision that it would not be permitted to be deleted, amended or modified, without the consent of the Lewes and Milton Volunteer Fire Departments.

Ms. Alison White, resident of Red Mill in Sussex County, spoke in opposition to the applications and submitted a petition of opposition containing 250 signatures. Ms. White stated that the proposed project will degrade their quality of life, safety and property values; that the project would add a town of 5,600 additional residents in 1,922 residential units with commercial development; that the project would add 33,359 daily vehicle trips to area roadways and remove 108 acres of forest cover on the parcel; that Rt. 9 is near capacity; that the community would triple traffic on Rt. 9 and its surrounding roads; that this will further impair vehicle entry and exit for the Villages of Red Mill Pond and degrade the residents daily driving experience; that there are insufficient plans for corridor expansion to manage additional traffic; that the site was classified by the State as being within Investment Level 4; that DelDOT will not consider, much less implement road improvements on Hudson Road, or Rt. 9 west of Old Vine Blvd until well after 2030; that Rt. 9 is one of the few emergency evacuation route for the Sussex Shore area; that Rt. 9 supports residents of Lewes, Rehoboth, and the growing Rt. 9 corridor; that adding 5,000 residents will make it more unviable than it currently is; that the property is not located within a growth area in the County's land use plans; that because of this, the developer is requesting the parcel to be amended to the Coastal Area, being considered a growth area; that the Coastal Area stretches from roughly Sweet Briar Road to the shore, and is already a scene of rampant overdevelopment; that the request to amend the FLUM violates State strategies, by building within State Investment Level 4, which is an area designated for conservation and preservation; that the massive number of added residents would further strain schools, emergency services, and healthcare facilities; that the amount of forest removal and pavement will endanger environmentally sensitive

areas; that she urged the Commission to not recommend the applications for approval; that Red Mill Pond South has 177 homes with one entrance along Rt. 9; that the entrance has already been impacted by current traffic, creating a queue of four to five cars waiting to exit; that there was one occasion where a resident was attempting to get a relative to the hospital, who had to wait six to eight minutes to get onto Rt. 9; that urgently needing medical care can be critical; that there had been discussions regarding signalization at this entrance and about the dualization of Rt. 9; that any such plans are at minimum five years away from being realized; that their entrance is just over one mile west of the future Northstar community and 2.5 miles east of the proposed projects Site Entrance A; that they are located in the middle of the two projects, and considering the two project will add an estimated total of 46,000 additional vehicle trips to area roads, and the unfinished plans for improving Rt. 9, she has grave concerns about the project's impact to her community and their driving safety.

Ms. Alison Monroe, Sussex County resident along Walker Road, spoke in opposition to the applications and submitted two separate petitions of opposition, one containing 760 signatures from the last application in 2024, and 175 signatures for the current application of 2025. Ms. Monroe stated that the primary purpose of the Commission is to protect the interests of the current residents in the area, not the wishes of those who would like to move to the area; that she would argue that every name on the petition carries as much weight, if not more, than any developer, real estate agent or builder, as the individuals will be the ones most impacted; that the opposition rate in the nearby area is 98.3%; that as of May 1<sup>st</sup>, 2025, there were 287 public comments submitted through the County's website, equaling to an opposition rate of 83%; that the other related applications had opposition rates of 73%, 88.9% and 90.1%; that as a native to the immediate area, she had watched her hometown be altered almost past recognition; that she understands when she hears complaints regarding how busy the area has become, or when the newest transplants lament on the explosion of growth; that she believed many of the new residents feel they were sold a bill of goods of a pretty new house, on a quarter acre lot, located in the middle of farmland and forest along quiet country roads; that the realtors and developers sell this dream to one person after another; that this is all done while generational community members, longtime residents and newcomers alike, are left watching feeling helpless as slower, lower Delaware is being sold out of existence; that many natives are heartbroken, but too attached to leave; that she questioned is there a tipping point, to where sacrificing our quality of living is not worth the extra dollar, when it takes an hour to get home, when it used to take 15 minutes, when a person no longer feels safe walking along the road on which they have lived for years, or when the family doctor cannot accept you as an patient, when there are no more turtles in your yard, and no more cows in the field, and no more solitude to be found on the beaches; that she questioned if the extra income will be enough, or will the man-made improvements be enough to replace what the area has lost; that as she watches the farm fields being bulldozed and back country roads becoming thoroughfares, she implored the Commission to make the only correct decision, to help protect what makes Sussex County a rural gem, and requested the Commission to not recommend the Cool Spring Crossing application for approval.

Ms. Barbara Capuano, resident of Independence in Sussex County, spoke in opposition to the application. Ms. Capuano stated that there has been massive growth over the past four years; that now every one of us sits in traffic, on roads, trying to catch up with the growth; that on the peninsula, we live on the coast; that there could be an emergency or 24 hour mandatory evacuation at any time, like what northern New Jersey, and New York have had; that the area cannot handle the traffic now; that the roads need to be built or corrected before laying plans to place this development; that the roads have not caught up with what is already here; that this issue will cost lives, should anything happen,

and she requested the Commission to pause to look at the infrastructure, to figure out ways to handle what had already been approved before moving forward, as it is concerning life and death.

Upon there being no further questions, Chairman Wheatley closed the public hearing for the four applications.

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

In relation to C/U 2441 CMF Cool Spring, LLC. Motion by Ms. Wingate to defer action, holding the record open for ten business days, for the sole purpose of receiving additional written public comments on the document submitted by the Delaware Office of State Planning Coordination, seconded by Mr. Butler, and carried unanimously. Motion carried 5-0.

#### Minutes of the July 2, 2025, Planning & Zoning Commission Meeting

The Commission discussed the application, which had been deferred since May 7<sup>th</sup>, 2025.

Ms. Wingate moved that the Commission recommend approval of C/U 2441 CMF Coolspring, LLC for a Conditional Use within an MR-RPC Medium Density-Residential Planned Community District for an educational facility based on the record made during the public hearing and for the following reasons:

1. For the reasons and with conditions stated in its Motion, the Planning & Zoning Commission has recommended approval of C/Z 2010 to create a Medium Density-Residential Planned Community District on a 637-acre site of land along Route 9, Log Cabin Hill Road, Cool Spring Road, and Hudson Road in eastern Sussex County. That motion recognized that this is an area that is continuing to develop with nearby large and small business, commercial, retail, and office uses. It is adjacent to the Bayhealth Medical and Surgical Center, which provides healthcare and surgical services for all of eastern Sussex County. It is adjacent to Artesian Water Company's 1-million-gallon water tower. It is also located along one of DART's bus routes that interconnects with Lewes, Milton, Georgetown, and the statewide public transportation system. The site is also located along Route 9, which is classified by DelDOT and County Code as a Major Arterial Roadway.
2. For the reasons stated in its Motion, the Planning & Zoning Commission has also recommended that the land area designation be changed from the "Low Density Area" to the "Coastal Area" within the Future Land Use Map of the County's Comprehensive Plan.
3. Based upon those prior recommendations and the circumstances of this location, it is appropriate to also recommend approval of an education facility within the MR-RPC. This facility will be located within the Town Center of the MR-RPC, and it will consist of two buildings with classrooms and administrative offices. One building would be for college-level instruction, offering associate degree courses and professional certifications. The second building would be used for adult learning courses.
4. These proposed educational uses are of a public or semi-public character and are essential and desirable for the general convenience and welfare of Sussex County and its existing and future residents and visitors.
5. With the conditions imposed on the MR-RPC and this conditional use, these facilities will not adversely affect neighboring properties or area roadways. Since they are located within the

MR-RPC, they will be subject to the extensive roadway improvements and financial contributions required by DelDOT as part of its TIS Review Letter for the MR-RPC dated January 14, 2025.

6. This recommendation is subject to the following conditions:
  - A. This recommendation is conditioned on the approval of Ordinance No. 23-07 to amend the Future Land Use Map within the Comprehensive Plan from the current “Low Density” Area designation to the “Coastal Area” designation for this property. It is also conditioned upon the approval of C/Z 2010 to create the MR-RPC within which this assisted living facility and medical office building would be located.
  - B. These uses are subject to the applicable conditions of approval imposed upon C/Z 2010, and those conditions of approval are incorporated herein by reference.
  - C. The uses shall be limited to an educational facility providing college-level and professional certification-type courses, along with adult education courses within two buildings. Building One shall not exceed 45,000 square feet in size, and Building Two shall not exceed 30,000 square feet in size.
  - D. All parking shall be shown on the Final Site Plan for this conditional use. The Final Site Plan shall also contain a tabular description of the parking spaces required for these uses as they relate to the parking calculations for the entire MR-RPC that is the subject of C/Z 2010.
  - E. All dumpsters or trash receptacles associated with this use shall be screened from the view of neighboring properties and roadways within the MR-RPC. The location of these items shall be shown on the Final Site Plan.
  - F. The Final Site Plan for this conditional use shall identify the timing of its construction in relation to the phasing and construction of the overall MR-RPC, including the timing and phasing of roadway improvements required for the MR-RPC. This information shall align with the timing and phasing information for these improvements that is also required to be shown on the Master Site Plan for the MR-RPC as part of the approval of C/Z 2010.
  - G. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Ms. Wingate, seconded by Mr. Mears, and carried unanimously to recommend approval of C/U 2441 CMF Cool Spring, LLC for the reasons and the conditions stated in the motion. Motion carried 4-0.

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

Mr. Collins motioned yes, for the reasons and stipulations stated in the motion.

Ms. Wingate motioned yes, for the reasons and conditions stated in the motion.

Mr. Mears motioned yes, for the reasons and conditions stated in the motion.

Chairman Wheatley motioned yes, for the reasons and stipulations stated in the motion.

**Introduced: 4/8/25**

**Council District 5: Mr. Rieley  
Tax I.D. No.: 235-27.00-11.00  
911 Address: N/A**

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR AN EDUCATIONAL FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 194.17 ACRES, MORE OR LESS**

**WHEREAS, on the 14<sup>th</sup> day of April 2023, a Conditional Use Application, denominated Conditional Use No. 2441 was filed on behalf of CMF Cool Spring, LLC; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2025, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2441 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2025, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.**

**NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:**

**Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2441 as it applies to the property hereinafter described.**

**Section 2. The subject property is described as follows:**

**ALL that certain tract, piece or parcel of land, lying and being situate in Broadkill Hundred, Sussex County, Delaware, and lying on the south side of Log Cabin Hill Road (S.C.R. 247), the west side of Cool Spring Road (S.C.R. 290) and the north side of Lewes Georgetown Highway (Rt. 9) at the intersection of Cool Spring Road (S.C.R. 290), the east side of Hudson Road (S.C.R. 258), and Lewes Georgetown Highway (Rt. 9) and being more particularly described in the attached legal description prepared by \_\_\_\_\_, said parcel containing 194.17 acres, more or less.**

**This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.**





## Memorandum

To: Sussex County Council  
The Honorable Douglas B. Hudson  
The Honorable Jane Gruenebaum  
The Honorable Matt Lloyd  
The Honorable Steve McCarron  
The Honorable John L. Rieley

From: Jamie Whitehouse, AICP, Director of Planning & Zoning

CC: Everett Moore, County Attorney

Date: December 4, 2025

RE: County Council Report for C/U 2442 filed on behalf of CMF Cool Spring, LLC

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The Planning and Zoning Department received an application (C/U 2442 filed on behalf of CMF Cool Spring, LLC) for a Conditional Use in an MR-RPC Medium Density Residential Zoning District – Residential Planned Community for an assisted living facility and medical offices at Tax Parcel 235-27.00-11.00. The property is located at south side of Log Cabin Hill Road (S.C.R. 247), the west side of Cool Spring Road (S.C.R. 290) and the north side of Lewes Georgetown Highway (Rt. 9) at the intersection of Cool Spring Road (S.C.R. 290), the east side of Hudson Road (S.C.R. 258), and Lewes Georgetown Highway (Rt. 9). The parcel size is 13.86 ac. +/-

The Planning & Zoning Commission held a Public Hearing on the application on May 7, 2025. At the meeting of July 2, 2025, the Planning & Zoning Commission recommended approval of the application for the 6 reasons and subject to the 8 recommended conditions of approval as outlined within the motion (copied below).

The County Council held a Public Hearing on the application at the meeting on November 4, 2025. At the conclusion of the meeting, the Council deferred action on the application, holding the record open for the limited purpose of obtaining responses from State Agencies, including DelDOT and DNREC, to be received by the close of business on December 2, 2025. The responses would then be announced at a County Council meeting, after which members of the Public and the applicant would have a period of 14 calendar days to submit, in writing, any written comments on the responses received from State Agencies.

Below is a link to the minutes of the November 4, 2025, County Council meeting:

[Link to the Minutes of November 4, 2025, County Council Meeting](#)



Below are the minutes from the Planning & Zoning Commission meeting on May 7, 2025, and July 2, 2025

Minutes of the May 7, 2025, Planning & Zoning Commission Meeting

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

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

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the Applicant's conceptual site plan, a copy of the Applicant's exhibits, plans and slides, a copy of the staff analysis and the Applicant's response to the staff analysis, a copy of the Applicant's proposed findings of fact letter, a letter received from the Sussex County Engineering Department Utility Planning Division, a copy of a letter received from the local school districts, a copy of the States PLUS comments, a copy of written responses received from the Technical Advisory Committee, including the State Fire Marshall's Office, the US Department of Agriculture, the Delaware Electric Co-op, Delaware Department of Transportation, and DNREC's Drainage Program and we have 185 comments submitted into the paperless packet.

Chairman Wheatley advised the Commission and the members of the public the order that the presentation and public hearing would proceed.

The Commission found that Mr. James Fuqua, Esq., of Fuqua, Willard & Schab, P.A., spoke on behalf of the Applicants, Carl Freeman Companies and CMF Cool Spring, LLC; that there are four (4) applications being presented to the Commission that involve 637 acres of land that's comprised of five (5) tax map parcels located on the north side of Route 9 at Cool Spring; that the first application is a request to amend the Comprehensive Plans Future Land Use Map; that the 637 acres are currently designated as being in the low density rural area of the Future Land Use Map; that the amendment proposes a change from the existing designation to the coastal area designation, which is one of the planned growth areas; that the second application is for a Change of Zone from AR-1 (Agricultural Residential) to MR (Medium Density) within a RPC (Residential Planned Community) overlay for the entire 637 acres; that the RPC would be called Cool Spring Crossing and it would consist of residential villages with single family and multifamily homes and the commercial Town Center; that the third application is a Conditional Use for educational facilities to be located in the Town Center; that the final application is for Conditional Use for an assisted living facility and associated medical offices that would be next to the Town Center; that all four (4) applications are interrelated; that these applications propose a significant large scale, single family and multifamily residential community consisting of 1922 residential units and a Town Center comprised of retail, service, educational and recreational uses, as well as an assisted living facility and medical offices; that the demand for residential housing

in Sussex County is the reason Freeman filed these applications and the situation can be summarized in four (4) comments:

1. In 2022, 78% of all residential growth in the state of Delaware was in Sussex County.
2. More than 33,000 people have moved to Sussex County from other states over the past four (4) years and this migration is expected to keep rising for the next three (3) decades.
3. Growth is rapid in Sussex County.
4. There is a lack of affordable multifamily housing units to keep pace with the growing population.

That those four (4) comments are the comments made by David Edgell, the Director of the Delaware Office of State Planning Coordination, at a presentation made to the Sussex Preservation Coalition in February of 2024; that in agreement with Director Edgell's comments, on the land use issue in Sussex County, the two (2) issues that arise are a strong demand for residential housing and an even stronger need for affordable housing; that the Applicant is proposing Cool Spring Crossing as a Master Plan, a large scale mixed residential use community and a Town Center with a wide variety of uses; that the development is projected to be constructed in multiple phases over a 20 year build out time frame; that considering the zoning approval, site plan approval and agency permitting for this type of development will probably take two (2) to three (3) years, Cool Spring Crossing is not anticipated to be completed until 2048; that Freeman has an established history of developing large scale communities here in Sussex County and has proven it has the experience, the knowledge and the ability to develop a large scale mixed-use community like Cool Spring Crossing; that the request to amend Comprehensive Plans Future Land Use Map from low density, which is a rural area to a Coastal area which is a growth area under the plan is to ensure that the proposed MR-RPC development would be within compliance; that the Comprehensive Plan states that the proposed MR-RPC is not a zoning district designated as being appropriate in a low density area, but is appropriate within the Coastal area; that the Office of State Planning issued a PLUS review letter objecting and opposing this original request on January 13, 2022; that the current request for amendment brings up the question to the Commission as to whether the area of Cool Spring Crossing is still considered to be a rural area in which it would remain as low density on the Future Land Use Map; that following are the facts and reasons for supporting the Coastal Area change:

1. To the West of the Cool Spring Crossing proposed property is the Bay Health Emergency Center, with an additional land of residential development including approximately twelve (12) different subdivisions.
2. There is the Sussex Consortium, a special needs school, part of the Cape Henlopen School District not far from the proposed property.
3. There is a commercial corridor of land including a variety of businesses West of Fisher Road.
4. The Stephen Hudson Park is being developed on the South side of Route 9 at Cool Spring Road with a connection to the Lewes Georgetown Bike Trail.
5. The frontage of Cool Spring Crossing is along Route 9, which is a major Sussex County road, which is necessary for the Sussex County Zoning Ordinance to be located along a major arterial roadway.
6. The Delaware Transit Corporation operates a DART bus along Route 9 from Georgetown to the Lewes Park and Ride, with East and West stops all along Route 9, with the offer to install new stops near the Cool Spring Crossing development.
7. The Lewes Georgetown Bike Trail is adjacent to the property with a crossover of Route 9 located at Fisher Road and Route 9 where the Hudson Park is planned to be.

8. The proposed Cool Spring development will have a public bike trail going through it, connecting the existing trail to Hudson Road and a future extension to the Town of Milton.
9. Central public sewer is available from Artesian Wastewater Management, Inc. and they hold a Certificate of Public Convenience and Necessity for central water in this area.
10. The Delaware State Housing Authority indicated that the lands comprising Cool Spring Crossing are located within a Delaware State Housing Authority area of opportunity, which are strong, high value markets with close job proximity and economic opportunity, high performing schools, amenities and supportive infrastructure that help households succeed. They also noted that the need for affordable housing, particularly in the Coastal Area, is well documented, especially in the PLUS Review letter 2021-1287 and 2021-1288.
11. The Cool Spring Crossing property is contiguous with an existing Coastal Area on the Future Land Use Map all the way from the Northeast corner all the way to the coast.

All of these reasons support that the area of Cool Spring Crossing is not located within a rural area any longer and can support the amendment of the Future Land Use Map to a Coastal Area for this property; that the Delaware Supreme Court has ruled that the adoption of the a Comprehensive Plan in Sussex County is vested solely with the government of Sussex County; that Supreme Court case was Denmark versus Sussex County; that the Delaware Planning Act, Title 29, §9103 of the Delaware Code, states that as to the adoption of amendment update or revision of a Comprehensive Plan, the final decision is that of the County; that it is an irrefutable fact, that the 2020 Delaware Strategies for State Spending and Investment Level Maps are not a land use plan; that the Strategies document itself states that it is not a land use plan; that the plan states that the land use authority in Delaware has been delegated to the local government; that the decision to amend or not amend the Future Land Use Map is a Sussex County decision; that the Applicant's request to amend the Future Land Use Map is not unique; that County Council has amended the Future Land Use Map ten times since 2020; that the opposition would argue that the previous amendments were for smaller parcels; that this is a case where size is irrelevant; that it is important to look at the underlying facts to support if there is a basis or not for the change; that if there are solid facts supporting the amendment, it should be approved; that he believed that to be the case with the Cool Spring Crossing project; that next year, the Commission will begin its revision of the amendment of the County's Comprehensive Plan and Future Land Use Maps; that this is required to be completed every 10 years, resulting in an updated Comprehensive Plan in 2028; that regardless if the application was not before the Commission today, it is likely the Commission would be considering the very same issue as part of the plan update; that if the facts he presented support an amendment for the plan in three years, that those same facts support the amendment of the plan today; that in order for the MR-RPC development to proceed, the amendment of the Future Land Use Map to the Coastal Area is required; that if the amendment is not approved by the County, the 637 acres will remain designated as a rural, low density area; that this does not mean that the land will remain as farmland, nor does it mean that the land will remain undeveloped; that if the Cool Spring Crossing MR-RPC does not proceed, the land would be developed with single-family homes on individual lots; that the AR-1 (Agricultural Residential) zoned land, located within the low-density area, is permitted by the Sussex County Zoning Ordinance to be developed as a cluster subdivision; that subject to the design requirements of the Ordinance, a cluster subdivision is permitted to contain two lots per acre; that with a minimum lot size of 7,500 sq. ft., the 637 acres would support a phased cluster subdivision or multiple subdivisions containing 1,274 single-family homes on individual lots; that a subdivision would have none of the numerous benefits of the completed livable community and with these comments, Mr. Fuqua concluded his comments regarding the proposed Future Land Use Map amendment.

In regard to the Cool Spring Crossing, MR-RPC, and the two Conditional Use applications for the educational facility, assisted living facility, and medical offices Mr. Fuqua stated that Cool Spring Crossing is designed as a mixed-use community containing several seven residential villages and a town center that the villages will contain a mixture of housing types being single-family homes, and various types of multi-family dwellings; that the variety of housing types will result in a range of housing options and prices for both purchase and rental; that the homes in the villages will be located on new developed streets, interconnected with existing public roads, with pedestrian and bicycle network of sidewalk and shared use paths, to create a walkable and bikeable community; that a network of recreational uses, parks, and open space area will be interspaced throughout the development; that the Town Center is adjacent and easily accessible from the residential villages; that the Town Center will offer a variety of retail and service businesses, educational facilities and recreational opportunities; that this will reduce the need for vehicle dependency for residents of Cool Spring Crossing; that the project has road frontage along the northside of Rt. 9, the east side of Hudson Road, and along both sides of Cool Spring Road and Log Cabin Road; that the Town Center would front Rt. 9, bordering the western side of Cool Spring Road, and the eastern side of the Bay Health emergency facility; that there are seven distinct residential villages; that three villages, being Village A, B & C are located south of Log Cabin Road; that four villages, being Villages D, E, F & G are similar in nature, as they all contain a mixture of single-family homes, on individual lot, and a variety of multi-family dwellings; that Village C is located to the west, on the west side of Josephs Road; that this village will only contain 34 single-family lots; that it is envisioned as the community of higher end, custom build type homes; that Village A is located to the north of the Town Center; that Village A will contain 700 multi-family dwellings and a mixture of housing type; that there will be 50 patio homes, 144 quadplexes, 30 villas, 188 townhomes, and 288 condominium units; that Village A is planned and designed as the more affordable village and community, with residential units both for sale and for rent; that 175 of the Village 8 units, being 25%, of the 700 units will be made subject to the Sussex County Rental Program (SCRPP) Ordinance; that the Ordinance was enacted by Sussex County Council to encourage the creation of the affordable rental housing, particularly for County workers in the easter part of Sussex County; that the rental program ordinance controls both the eligibility criteria for tenants and the rent schedule for tenants based on the tenant's family income; that as required by the Ordinance, the types of units participating in the rental program must be the same ratio as the different types of units in Village A; that the units must be integrated, not separated from, the other units in Village A; that the units must be the same design and floor layout as the other units of Village A; that Village A would have the same access from Cool Spring Road, Log Cabin Road, and from the main entrance to the Town Center, located off Rt. 9; that Village A will be comprised of approximately 115 acres, of which 61 acres will be open space, including five interior park areas; that the open space; that the open space amounts to approximately 53% of the Village A area; that upon full completion of all of the villages, Cool Spring Crossing will contain 1,922 residential units, made up of 534 single-family homes, and 1,388 multi-family units of various types; that the proposed number of units is less than the maximum number of units that would be permitted within the residential planned community (RPC); that there is a special formula to calculate permitted density of RPC's; that for the project containing 637 acres, the area was reduced by the streets, resulting in 63.46 acres; that they took a conservative approach when performing the Town Center reductions calculations, by deducting the entire Town Center area, which contains 57.94 acres; that this calculation results in the permitted development area; that when deducting the streets and Town Center acreage from the gross development area, it results in a net area of 515.6 acres; that when one divides the net area of 515.6 acres by 10,000 sq. ft., being the minimum lot size permitted within the MR (Medium-Density Residential) district, the result of permitted density within the RPC would be 2,245 residential units, with a density of 3.52 units per acre; that the project is only proposing 1,922 units, with a density of 3.01 units per acre, being

significantly less than the permitted density for the MR-RPC; that their result of the 3.1 units per acre density, was determined solely by using the MR (Medium-Density Residential) density; that they did not use any of the bonus density that is permitted under the Sussex County Rental Program, which would have allowed the density to increase up to 12 units per acre; that regarding the Town Center, the Town Center fronts on Rt. 9, being bordered by Cool Springs Road on the east, and the Bayhealth emergency urgent care center on the west, with Village A being located to the north; that the main entrance to the Town Center is from Rt. 9, with an additional entrance from Cool Spring Rd.; that there are several access streets from Village a that connect to the Town Center; that the center will include a variety of retail, service and educational and recreational uses to serve the Cool Spring residents, as well as the area residents; that the proposed uses will include a grocery store, bank, a convenience store with a gas service, four restaurants, five retail stores, an art & theater facility, which would be the Cultural Center of the community; that it is envisioned to be operated by a local theater group, who would provide live theater workshops and other live performances, as well as painting and similar art classes, workshops and displays; that the Town Center would also include a 100 room hotel, a modern YMCA, or similar type of facility with a full gym, indoor and outdoor pools, indoor and outdoor pickleball, indoor tennis courts, multi-purpose meeting rooms, and an early childhood program for the care and instruction of preschool ages children; that the Town Center would include the two requested Conditional Uses; that the educational facilities would be located in two buildings with classrooms, resources areas, study areas, and administrative offices; that one building would be the college level instruction, potentially with the University of Delaware offering associate degree courses and professional certifications; that the second building would be for adult learning, potentially operated by the University of Delaware's Osher Lifelong Learning Center, which is a volunteer driven educational cooperative for adults aged 50 plus; that this project offers a wide variety of subjects, often taught by experienced retired residents; that the other Conditional Use to be located within the Town Center would be the assisted living facility; that the facility would have a capacity of 100 residents; that it would also have the associated medical office building, focusing on senior healthcare, which could possibly be associated with Bayhealth, who operates the emergency and urgent care center, located adjacent to the Town Center; that at the core of the Town Center, there are two large area of landscape open space, which will consist of a village green, and an event lawn for various community events and activities; that the Town Center would create economic development and employment opportunities, as well as convenient access to shopping and services to both residents of the community and residents in the area; that the Town Center would have a built-in advantage of having customers from the Cool Spring Villages, who would have the opportunity to access the Town Center without the need to drive; that in an RPC, commercial uses is one acre for each 100 dwelling units; that the 1,922 units being requested would equate to 19.22 acres of commercial use; that the planned commercial uses in the Town Center would utilize 18.52 acres of lands, being within the commercial use calculation; that regarding the entire community, and the recreational and social aspects of the development, the project is designed to be a walkable and bikeable community; that the project offers extensive opportunities for recreational activities and residential interaction, with sidewalks on both sides of community streets; that a DelDOT design shared use path will be provided along one side of the site frontage, along Rt. 9, Cool Spring Road, Hudson Road, Log Cabin Road, and on the extension of Cool Spring Road that comes through the development; that those shared use paths will be interconnected with the Lewes Georgetown Bike trail, which borders the property along Rt. 9; that the Town Center has the village green, the event lawn, and other recreational, educational, and entertainment opportunities for residents; that the main recreational complex is located between Villages D, E, F & G; that this complex will include a clubhouse, with a minimum of 7,500 sq. ft. of floor area, accommodating areas for group fitness exercise, children's play, teen gathering, meeting rooms, casual seating area, staffed offices, restrooms and a refreshment and storage area; that located

adjacent to the clubhouse, will be an outdoor, resort style swimming pool, separate kids pool with a splash play area, and a hot tub area, which will be surrounded by an expansive deck with shaded and unshaded areas; that there will be tennis, pickleball, and bocce ball courts; that also in this area will be a green space picnic area, with fire pits, gas tabletop grills, seating and open space for special events and entertainment; that there will be four additional outdoor swimming pools, with bathhouses, to be located in Villages B, D, G and also between Villages E & F; that there are several larger village parks, along with smaller neighborhood parks, with other recreational features, to be determined at a later time, but part of the site plan review approval for each phase of the development as it goes on; that there will be approximately 1.5 mile nature trail that will meander along the western edge of the Martin Branch Conservation area; that all of the homeowners within Cool Spring Crossing, with the exception of the owners located within Village A, will be required to be members of the Recreational Association, with quarterly or annual assessments to cover the expenses of operating and maintaining the recreational facilities; that Village A is planned and designed to be the more affordable village within the development; that in keeping with that goal, the owners of Village A will not be required to be members of the REC Association; that the owners of Village A, will have the option of joining the Recreational Association, subject to the same recreation fee as the other members of the Recreational Association; that the village as five internal open space park areas; that those areas contain 3.3, 2.3, 1.3, 1.2, and .9 acres; that the specific design of the parks has not been finalized; that the spaces would be focused on spaces to gather, to exercise and to play; that the parks will include pavilions, numerous shades areas with benches, a walking loop, a children's bike/scooter loop track, two playgrounds, a yoga lawn area, open play areas, outdoor fitness stations and a possible dog park; that the idea in Village A was to amenities that would not be high in maintenance or high in design; that Cool Spring Crossing will be served by public central sewer by Artesian Wastewater Management Company; that public central water will be provided by Artesian Waster Company; that Artesian has stated they are willing and able to provide sewer and water to the development; that Artesian has been issue a majority of the water and sewer certificates of Public Convenience and Necessity by the Delaware Public Service Commission to serve the area; that Artesian owns two properties that are surrounded by or located adjacent to the Cool Spring Crossing property, being the undeveloped parcel at the southeast intersection of the Cool Spring Road and Log Cabin Hill Road, and the elevated water storage tower, located along Cool Spring Road; that Artesian's Ability to Serve letter, dated April 9, 025, is located within the Applicant's submitted exhibit booklet; that stormwater management facilities, are required and will be designed and constructed to meet or exceed the requirements of DNREC's Sediment and Stormwater Management regulations, and also the Inland Bays Pollution Control Strategies; that the development of Cool Spring Crossing will occur over a 20 year period, in construction phases; that each phase will have its own Sediment and Erosion Control Plan, approved by the Sussex Conservation District, prior to the start of the construction phases; that there are multiple stormwater ponds integrated in the site design; that because the sites well drained sandy soil, and the relatively low water table, bioretention and infiltration practices will be utilized; that the development's stormwater will be directed to treatment ponds, and other management facilities for pretreatment, prior to any infiltration or discharge; that this will create significant improvement compared to the current condition of unfiltered stormwater runoff from land in agricultural use; that traffic impacts are almost always the main issue involved in any proposed development application; that Sussex County is required by law to have an agreement with DelDOT to provide a procedure to determine the traffic impact of any rezoning application; that in September 2020, Sussex County Council approved and executed an update Memorandum of Understanding (MOU) between the County and DelDOT establishing this agreement; that the Cool Spring Crossing application will have a significant impact on traffic; that provided within the MOU, at the Applicant, at the Applicant's expense, is required to conduct a Traffic Impact Study (TIS); that on Page 7 of the MOU, it states the Sussex County and

DelDOT should encourage Master Planning for large scale development on large parcels or groups of parcels located within the Coastal Area; that Century Engineering was retained by Carl Freeman Companies to perform a Traffic Impact Study (TIS), in accordance with the scope and parameters established by DelDOT; that the Century studied reviewed the impact at all proposed access points to the development, and approximately 48 intersections in the surrounding area; that the TIS dated June 30, 2022, was reviewed by DelDOT, and subsequently DelDOT issued there TIS Review letter on January 10<sup>th</sup>, 2023; that subsequent to the issuance of the DelDOT Review letter, the applicant made some changes to the Cool Spring Crossing site design; that those changes reduced the number of proposed dwellings, and reduced the number of access points from ten to six; that those changes resulted in a reduction of the daily and peak hour trips; that as a result of those changes, DelDOT did require an updated review of the TIS, taking into consideration the revision of the land use, and the site entrances; that in additional, DelDOT also required a supplemental Sensitivity Analysis, to identify when improvements, to help mitigate traffic deficiencies should be constructed; that the Sensitivity Analysis was prepared by JMT Engineering, being DelDOT's consulting traffic engineering firm; that the final Revised TIS Review letter was issued by DelDOT on January 14<sup>th</sup>, 2025, and is about 150 pages in length; that both the original and the revised TIS letters are included into the record; that DelDOT's revised letter provides that the Applicant is responsible for 22 specific roadway and intersection improvements, and also monetary contribution to several current DelDOT projects; that the required improvements are listed in detail on Pages 17 through 23 of the Revised TIS Review letter; that the Revised TIS Review letter also discusses the Sensitivity Analysis, and provides a time frame of when required improvements must be constructed; that the majority of the intersection improvements must be constructed at the beginning of the site plan construction; that the Applicant has fully complied with the requirements and provisions of the Sussex County and DelDOT Memorandum of Understanding for land development coordination; that the Applicant will be responsible for all the improvements and contributions as determined by DelDOT; that those applications will be implemented concurrently with the development, as determined by DelDOT's Sensitivity Analysis; that the entire site contains 637 acres; that based on DNREC's Wetlands Maps, there are no State regulated Tidal wetlands located on the property; that there is a single perennial stream, known as Martin Branch, located along the eastern boundary of the property; that as identified on the FEMA Flood Insurance Maps and the National Wetland Inventory Maps, federally regulated Non-Tidal wetlands exist on the low-lying area, adjacent to Martin Branch; that a Wetland Boundary Determination was performed by Mr. Edward Launay, with Environmental Resources, Inc., which found that there were 29.6 acres of stream and Non-Tidal wetlands existing on the site, being Martin Branch and the adjacent area wetlands; that the U.S. Army Corp of Engineers Office confirmed the determination, an issued a Jurisdictional Determination Letter on April 17, 2024; that there are no additional Tidal or Non-Tidal wetlands located on the property; that with the exception of the 29.6 acres containing Martin Branch, and the adjacent wetland, the remainder of the property is uplands, comprised of well drained, sandy soil, with an average elevation between 25 to 35 feet; that the site currently contains 217 wooded acres; that the development plan will result in approximately 103 acres of the existing woodlands to be removed, and 114 acres (53%) of the existing woodlands to be preserved; that except for a large portion of forested area adjacent to Martin Branch, historical aerial photos and land owner records, indicate that most of the other woodlands have been timbered in the past, being considered mid-succession, containing tree species typica of previously timbered land; that almost all tree clearing being proposed is located in the location of the pre-timbered areas; that the most important, natural and environmentally sensitive portion of the site, is located on the eastern boundary of the site; that this is the location of Martin Branch; that the Applicant recognizes and acknowledges the environmentally sensitive nature of this area, and accepts the responsibility of protecting and preserving the natural feature; that in 2022, the County enacted the Sussex County



Resource Buffer Ordinance, which does apply to the Cool Spring Crossing applications; that this Ordinance would require a 50 foot wide resource buffer from Martin Branch; that it would require a 30 foot wide resource buffer from the edge of all Non-Tidal wetlands; that the Cool Spring Crossing development will far exceed the resource buffer requirements, by providing an expansive Martin Branch Conservation Area, consisting of the required resource buffers and additional land voluntarily included in the conservation; that as permitted by the Resource Buffer Ordinance, the Applicant elected to voluntarily expand the resource buffer by an additional 15 foot in width; that the Applicant is not requesting any buffer averaging; that the area would result in a total Non-Tidal Wetland Resource Buffer of 45 feet, which results in a total of 13.73 acres of forested, Non-Tidal wetlands; that the required 50 foot buffer from the perennial stream lies within the wetland area; that the 50 foot buffer is provided, as it overlaps with the wetland and other buffers; that the additional conservation area contains 61.61 acres of forested land, with the exception of 2.6 acres of open field; that the open field will be maintained as a natural meadow; that the meadow will be planted with pollinator wildflower seed mix that is targeted to support the Monarch butterfly during its migration; that the Monarch butterfly is a candidate for listing as a threatened species by the U.S. Fish and Wildlife Service; that the additional conservation area, borders the Non-Tidal wetland resource buffer, resulting in a substantial increase in the width of the buffer from the wetland line; that the buffer varies considerably, but on average the buffer is about 130 feet in width, compared to the required 30 foot wide buffer; that the buffer consisting of the required buffer, the expanded resource buffer, and the 61.61 acres of voluntarily provided conservation area, results in a total buffer of 75.34 acres, resulting in more than eight times the required resource buffer area; that the entire Martin Branch Conservation Area, consisting of Martin Branch, the adjacent Non-Tidal wetlands, the resource buffers, and the voluntary Conservation Area will permanently preserve and protect 104.93 acres of the most natural and environmentally sensitive portion of the site; that this protected area also includes all of the Cool Spring Crossing site that is located within a Flood Hazard Area according to the FEMA Flood Insurance Maps; that all of the area proposed for development is located outside of the floodplain as designated by FEMA's Floodplain maps; that the Martin Branch Conservation Area will also be made subject to a Declaration of Restrictions, permanently preserving it as a natural area, and a Resource Buffer Management Plan, providing the management and stewardship of the protected area; that there are three additional areas, containing an additional 12 acres, that will also be subject to the conservation documents; that those lands are located on the western side of the property, near Hudson Road; that there are three or four trees that will be preserved in that area; that in total, the entire conservation area, including the Hudson Road portion of the forest, will contain approximately 117 acres, being over 18% of the Cool Spring Crossing site; that in addition to the Environmental Protection, the Martin Branch conservation area will also preserve and protect the archaeological integrity of the site; that the State Historical Preservation Office (SHPO) indicated that the majority of the site had low potential for prehistoric archaeological sites, except for a low to moderate potential, located on the eastern side of the site, near Martin Branch; that the Applicant retained Mr. Edward Otter to perform an Archaeological Assessment of the property; that the assessment confirmed that the area of near Martin Branch had the most potential for Native American sites; that all of the areas identified by SHPO and Mr. Otter, are located the Martin Branch Conservation Area, that will be permanently preserved and protected by the conservation restrictions and the conservation management plan; that Mr. Otter also conducted an archaeological study and delineation of the known cemetery site, located south of Log Cabin Road, just west of Cool Spring Road; that the cemetery area is located on the eastern side of Village A; that the study determined that there were four marked graves, and possibly more members of the Warrington family, who owned the land and passed between 1843 and 1849; that the delineation determined that the cemetery is 30 feet by 30 feet in size; that this area is two feet higher in elevation than the surrounding farm field; that this is due a loss of

two feet in elevation, with over a century of rain and plowing; that the delineation excavated soils around the identified cemetery to confirm that no graves or human remains were present outside of the 30 ft. x 30 ft. cemetery area; that markers were placed at the cemetery corners; that the cemetery, as part of the Cool Spring Crossing Development, will be restored; that a fence will be erected, marking the cemetery boundaries; that there will be a 25 foot buffer established from the fence line, and a marker will be placed to provide historical data or information regarding the cemetery; that including the 117 acres in the superior design conservation area, altogether the Cool Spring Crossing development will contain 295 acres of open space, being approximately 46% of the site; that the project will provide positive economic benefits, since one of the purposes of the Sussex County Zoning Authority is to promote the welfare and prosperity of the present and future county; that the Applicant retained Sage Policy Group, Inc., an economic and policy consulting firm out of Baltimore, Maryland, to prepare a report analyzing the economic and fiscal impacts of the proposed development; that Sage was also the firm to perform analysis for the Northstar development; that the report indicates that over the estimated 20 year build out, will result in the following impacts being, the construction phases, consisting of site preparation, infrastructure installation, and residential and non-residential building construction is estimated to cost \$836 million; that the construction phase will support thousands of jobs in Sussex County, the majority of which will be in the construction trades, with an estimated \$475,000,000 in labor income; that after completion, the development will support approximately, 1,500 permanent Sussex County jobs, generating an estimated \$80 million in annual labor income; that transfer taxes from the initial land purchases will generate \$12.5 billion to Sussex County, and \$20.9 million of revenue to the State; that future resales will be sold in additional transfer tax revenue; that the Cape Henlopen School District, as a response to receiving notice about the application, recommended that no additional residential development be approved until such time that a school construction impact fee or voluntary school assessment can be implemented; that it was his understanding, that the District's response was not personal to their application, rather a stronger tact that the District is taking on the issue; that the District had provided similar responses on other applications; that the Applicant believed that funding for future school construction is an important issue that needs resolution; that County Council considered the School Impact Fee issue on January 30, 2024; that County Council unanimously rejected the fee for a number of reasons, but mostly for the reason that future school construction was deemed to be the responsibility of the State government, not the County; that there is no reasonable basis to delay the current applications, because of that issue; that the current applications were filed two years ago; that Sage determined, assuming the demographic of the 1,222 units, being all units except for Village A, that pupil generation from the development on the Cape Henlopen School District, would align with the demographics of Lewes and Milton, based on the U.S. Census Bureau's data; that Village A, being 700 more affordable workforce units, they were assumed to have similar demographics as the entirety of Sussex County; that the report projects, that once the development is at full build, would generate an estimate of 449 public school pupils in the Cape Henlopen School District; that with a 20 year build out, 449 pupils would average to 20 new pupils per year; that the Sage report estimates that the pupils from Cool Spring Crossing would increase the school district's annual expenditure by \$4.1 million; that those expenditures would be offset by annual property tax revenue in the district of \$4.7 million; that this would generate an annual net surplus of \$550,000 to the district; that regarding fire and emergency services, the closest fire companies to the development are the Milton Fire Department and the Lewes Fire Department; that the Applicant did meet with the fire department representatives; that the Applicant has offered, that rather than the fire departments relying on individual contributions from Cool Spring Crossing homeowners, there would be a provision in the covenants stating upon issuance of the certificate of occupancy for each residential unit, each unit will be responsible for an annual fee of \$100; that the fee will be collected as part of the HOA fees; that the HOA or condo association

will pay the fire department; that non-residential uses of the Town Center, will be responsible for an annual fire company fee of \$58,000, that will be correlated as it is built in the percentage of completion, and will progress as the Town Center progresses build out; that at build out the fire company fee would total \$250,000 per year, with half of the fee being paid to the Milton Fire Department and the other half of the fee being paid to the Lewes Fire Department; that this proffer contained on caveat condition that in the even the State or the County enact a fire or EMS fee ordinance in the future, applying to residential units or the Town Center, the condition shall be terminated; that there was a letter of opposition submitted on behalf of SHARP, which is a coalition of HOA's; that the letter opposed the proposed fire company contribution as unjustified and being against the intent of both public policy and homeowners; that the Applicant strongly disagrees; that the proposed fee is a fee restriction; that it is a private matter between the buyer and the seller; that if the potential buyer is offended by the annual \$100 fee, they do not have to buy within the community; that any potential buyer will be well aware that this fee is one of the requirements; that the SHARP letter alleges that the HOA can amend or nullify the fee, by amending the condition or amending the Declaration of Restrictions; that this required fee will be placed as a proposed Conditions of Approval for the project; that the Applicant did receive a letter from the Milton Fire Department, extending its appreciation for the offer and the proactive approach that Carl Freeman Companies is taking, to address the fire departments concerns; that the letter noted that Carl Freeman was the only developer to contact the department regarding the matter; that he submitted to the Commission proposed Findings and Conditions of Approval for all four applications; that the Applicant has the option of proceeding with the development of a cluster subdivision; that the Applicant could have submitted for a cluster subdivision four years ago; that the reason the approval for the MR-RPC continued to be pursued in the Carl Freeman firmly believes that the Cool Spring Crossing MR-RPC is a type of Master Planned Mixed-Use development that is by far in the best interested of both the applicant, and the current and future residents of Sussex County; that the plan is in accordance with the concepts of smart growth; that for example, the 2020 Delaware Strategies for State Policies and Spending documents, advocates the designing and building of what the State refers to as "complete communities" which are described as including integrated pedestrian and bike networks, new streets interconnected with existing streets, intermingling of residential and commercial uses, and the inclusion of parks or open space networks within the development; that the strategy states that this type of development would result in more diverse range of transportation and housing options, with more economical extension of public service utilities; that Cool Spring Crossing will be a complete community; that the Sussex County Comprehensive Plan states that in a Coastal Area, residential planned communities are encouraged to allow for a mix of housing types, to preserve open space and natural areas and resources; that the plan further stated that master planning should be encouraged, especially for large-scale developments on large parcels or groups of parcels, where higher density and mixed use developments are provided flexibility and site design; that Cool Spring Crossing will be a Master Plan Residential Planned Community; that even the Sussex Preservation Coalition endorsed an agenda for what they referred to as livable communities; that the agenda for livable communities includes consideration of open space and protection of wetlands and streams, providing adequate infrastructure for residential growth, including safe roads, bike lanes, and public transportation, adequate healthcare, educational facilities, and the ability of affordable housing units for young families and local workers; that per the Sussex Preservation Coalitions agenda, Cool Spring Crossing will be a livable community; that the Coalition's opinion is the project is not the right use, at the right place, at the right time; that the Commission's opinion must be based on the facts placed into the record; that the project is the right use, being a mixed-use development, with a variety of housing options, located adjacent to a Town Center; that the project's design is consistent with the criteria of a complete community of a Master Plan community, or a livable community; that for the reasons previously stated regarding the Future

Land Use Map amendment, the area is an appropriate place for the proposed project; that the site will have central sewer and water, and located near medical facilities; that the proposed site is possibly the only suitable land in the area for large scale development; that the Applicant has been working on the application for four years; that the Applicant could have requested a cluster subdivision; that this plan cannot wait for the revision of the Comprehensive Plan; that the decision for the application must stand on its own merits; that the Commission's recommendation on the four applications is extremely important, having significant influence on the County Council's decision and he requested that the Commission base their decision on the factual records and the reasons presented into the record.

Ms. Wingate questioned whether it was the developer's intention to construct the phases in alpha order, as they are reflected in the Phasing Plan; that she questioned if an explanation could be provided regarding the traffic impact and traffic numbers for the building out of each phase over the next 20 to 24 years of build-out, and questioned if there were only two entrances to the project, and why the hotel was labeled as non-commercial on the plan.

Mr. Fuqua stated that the plan reflects the names of the villages; that they normally would start in the front and back; that the idea is that Village A would be part of the initial construction; that in the Ordinance for a residential planned community, any permitted use in any residential district, is considered a permitted use; that a hotel is a permitted use in the HR District; that therefore the hotel is a permitted use in an RPC, and is not considered commercial; that within an RPC you can have one acre of commercial use for each 100 units, and what they were designating was that the hotel was not being counted against that one acre, because it is a permitted use.

Mr. Drew Boyce with Century Engineering stated that there is no assessment of per unit or per phase currently; that within the supplemental review letter issued by DelDOT, they commissioned their own consultant to do a high-level phasing analysis to provide an idea of when improvements may be triggered or may require to come online to support the traffic impacts; that there is a single entrance off Rt. 9; that there is an entrance for Village A and B off Cool Spring Road; that there is an entrance to Village D off Log Cabin Hill Road; that the extension of Cool Spring Road provides some additional infrastructure; that this area would be privately maintained, but look similar to the local infrastructure that DelDOT has in the surrounding area; that the entrance off Hudson Road, is considered the fourth leg of the two intersecting roads that come in being Carpenter Road and Walker Road and those are anticipated based on the information in the TIS roundabouts at those locations.

Mr. Whitehouse stated that as a discussion with the Applicant's team as to whether the requirements for an RPC, which has a maximum commercial area that may be proposed, were complied with; that he does concur with Mr. Fuqua's answer, and staff did meet with the Applicant's team chairs.

Ms. Wingate stated she was happy to see the letter from the Milton Fire Department, as our first responders need all the support they can get; that she would like to go on record to state that the schools need support as well, and she questioned if there was a possibility for all the interior roads to be per DelDOT specifications and maintain budget.

Mr. Fuqua stated that there are five state-maintained roads involved in the application, being Cool Spring Road, Old Cabin Hill Road, Hudson Road, Joseph Road, and Rt. 9; that if you look at all the other interior roads, they are no different than any other subdivision; that the interior roadways would be built to Sussex County standards, and the interior roads will not bear any more traffic than a standard subdivision.

Ms. Wingate stated she would like to see the overhead bridge, similar to that of Baywood, to provide access to the trails, but she understood that it would most likely be up to DelDOT.

Mr. Fuqua stated that the Land Trust was fortunate enough to have the piece come up for sale, which became the source of Hudson Park; that DelDOT had a crossing located at the next light, which is where DelDOT preferred the crossing to be; the Carl Freeman got involved with the Land Trust; that there was preliminary work done; that there are sketches of what is being proposed; that he would be located where the park is located; that it would provide for a much safer crossing across Rt. 9, and the future of that is uncertain, as it is still being proposed.

Ms. Wingate questioned if it was the intention of the developer to complete the buffer strips as the phases are completed, and there have been issues in the past with communities waiting for the entire project to be completed before the buffer strips are placed.

Mr. Fuqua stated that the buffer strips would be completed as each phase is completed.

Mr. Mears stated that the Phasing Plan does not shade the Town Center area, and he questioned if the Town Center build-out will be constructed as part of Village Section A.

Mr. Fuqua stated he would envision those areas on the southernmost portion of the site, being Village A and the Town Center, would progress at the same time; that they do not know this for certain; that the Applicant would have to present that Phasing Plan before the Commission, and they recognize that Village A is top priority for the County.

Mr. Collins questioned whether there are any other alternative locations anywhere in the County, where a similar development could be placed, potentially within closer proximity to Rt.1, or consideration given to redevelopment of existing properties that may be underutilized.

Mr. Fuqua stated that off the top of his head, he absolutely could not think of another area, closer to Rt. 1, for this type of development; that one could renovate any existing property if one could purchase it; that this project was a product of the owners wanting to sell the land, and the vast majority of the land is existing cleared farmland, with little environmental impact, and that with the protections the Applicant is providing for the environmentally sensitive area, the site is an ideal piece.

Mr. Collins stated he was happy to see the voluntary contributions placed into the covenants for the fire and EMS services; that he questioned if there was any consideration given to the placement of residential units above some of the commercial uses; that although some people do not like high density, the higher the density, the less land is required to be used; that land is precious in Sussex County, and the Commission wants to preserve as much land as possible as natural habitat.

Mr. Fuqua stated that he could not say whether consideration was given to the placement of residential use being placed above commercial uses; that he believed the main concept was that not everyone wants to live in a commercial area either; that the 700 units located within Village A, adjacent to the Town Center is a lot of units, and they believed those units served the same purpose.

Mr. Butler questioned if the developer would build the bridge for the crossing of Rt. 9.

Mr. Fuqua stated he felt the bridge was cost-prohibitive; that he would talk to his client about the bridge in the future; that Carl Freeman had spent money to make a good design; that the Applicant has been working with DelDOT; that if the bridge can come to be, there could be some type of arrangement, as it certainly would be beneficial for the project, as well as the public, and that it is an idea that is being pursued.

Mr. Robertson stated that the roads laid out on the site plan do not match the current DelDOT layout, and that it appeared that there may need to be some road abandonment and relocation.

Mr. Fuqua stated that he believed that the one end of Log Cabin Road will be realigned; that the arch that connects to Hudson Road will be a brand new State road.

Mr. Robertson questioned if the fire company donation would be per unit or per fee simple unit, as there will be ownership, rental, and SCRP units with the development.

Mr. Fuqua stated they had discussed if they should exclude the SCRP units from the fee; that he hated to need to go back to the Fire Department stating they were going to exclude units from anything; that he then realized it is not the renters paying the fee, that it will be the owners; that the fee will be paid per unit, and the owner will be paying the fee, not the renting tenant.

Mr. Robertson questioned what the open space for special events and entertainment means or would look like.

Mr. Fuqua stated it is a designated community area for periodic events, such as Fourth of July, Halloween, and potentially for weekly farmers markets, and the area is not proposed to be the new Freeman Stage North.

Ms. Wingate stated she was disappointed to hear it would not be a Freeman State North; that she felt that Bayside has been a wonderful asset to the community; that she questioned if the development roads will be connected to the medical center.

Mr. Fuqua stated that they envisioned a connection there; that they do not know at this point who will have the doctors' offices; that if it were Bayhealth it would make it easier; that they are going to have some type of connection, however interconnection becomes tricky because you do not want to create an unintentional thoroughfare.

## **RECESS**

2:25 pm – 2:35 pm

The Commission found, by a show of hands, that there were 58 people present in support of the applications, and nine people present who wished to speak in support of the applications.

Dr. David Tam, MD, the President of Beebe Healthcare spoke in support of the applications. Dr. Tam requested that the Commission consider not only Beebe Healthcare of overall healthcare in general; that he had previously spoke before the Commission and County Council regarding the current physician shortage and the healthcare workforce housing shortage issues; that Sussex County will need more healthcare workers as more retirees move to the area; that if growth stopped today,

the retiree community will continue to require three times more healthcare than non-retirees; that he supported the smart growth proposal by Cool Springs; that the plan provides 700 workforce housing units, with 175 units being rent restricted units; that for every doctor he would bring in, he will also require junior nurses, pharmacy technicians, laboratory technicians and radiology technicians, as well as many others that are required to support healthcare services; that he recently had contacted medical professionals, who stated they would love to work for Beebe Healthcare, but could not afford to live in Sussex County; that the YMCA plan will provide childcare; that the people they are looking to recruit are people with children and families, that will require childcare for their 12 hour work days; that the plan supports community integration; that Blue Zone studies have shown that people who live in congregate housing with multigenerational utilization, such as the ability to walk to places, being able to converse with each other, help improve healthcare outcomes; that he felt the proposed design was a good one, and regardless of what healthcare system is proposed to go in that location, they will all have the same issues with the aging and challenging population, with a workforce that cannot serve that group of people.

Mr. Tim Kriebel spoke in support of the applications. Mr. Kriebel stated that he recently purchased property in close proximity to the site, where he plans to build a part-time retirement home; that he resides full time in Vendor City, New Jersey, where he currently serves as the Mayor, Commissioner of Public Safety, and has sat as a member of their Planning & Zoning Board for nine years; that his support for the project comes from a decade of public service and a 30 year career in Design & Planning; that he has seen the consequences of resisting thoughtful planning and development; that he has seen the development benefits when a community chooses managed growth instead of fearing it; that he experienced a similar proposal in his hometown; that after superstorm Sandy, the project was abandoned; that for the next 10 years the town declined; that there were no investments; that the ratables were in a nine year consecutive decline; that he felt the Master Plan offered walkability, affordability, and infrastructure investment; that the proposed plan was not development sprawl; that the plan offered a balanced, community focused development approach; that the plan offered a rare opportunity to shape growth, and he agreed the project would create increased traffic, but felt the plan provided a smart way to manage growth.

Ms. Linda Risk, Chief Operating Officer of the Delaware State YMCA, spoke in support of the applications. Ms. Risk stated that the YMCA of Delaware has been the cornerstone of the community in Sussex County; that this is achieved by their many programs including, after school care, early childhood education, summer camps, swim lessons, exercise classes, and chronic disease programs; that during the pandemic, they offered emergency child care services and food assistance across the State; that as the Sussex County population grows, so does their program; that the demand for their high quality programs has never been greater; that they support the Cool Springs Master Plan as the development presents a meaningful solution to pressing challenges facing local families; that the plan provides 700 workforce housing units, directly addressing the housing needs for the essential workers in the community; that the diverse housing options support families of all sizes, young professionals, first time homebuyers, and empty nesters; that the plan will make it easier for people to live where they work, while raising children in a stable, supportive environment; that by integrating a YMCA into the thoughtfully designed, walkable community, they can reduce barriers to access families; that if approved, Cool Spring Crossing would provide a unique opportunity, bringing the YMCA mission to life in a new and impactful way, through arts programming, workforce development, teen programs, college and career readiness programming, and other inclusive initiatives that benefit every age and background; that the projects emphasis on walkability, sustainability, and lifelong learning aligns directly with the YMCA's mission and their promises to Delaware; that ensure youth have a pathway

to success, improve the health and wellbeing of individuals and families, and bringing communities together to inspire and serve others, and she respectfully requested the Commission support the forward thinking plan, and the long term benefits the plan would bring to the families of Sussex County.

Ms. Kelly Basile, Chief Operating Officer of the Delaware State Chamber of Commerce, spoke in support of the applications. Ms. Basile stated the most pressing concern the Chamber of Commerce hears from Sussex County members is regarding the lack of affordable and diverse housing; that they recently released a report on the State's demographics and trends that will shape the State's future, which reinforces that between 2025 to 2035, the State's population is projected to increase by 6.4%, while the number of households are expected to rise by only 5.7%; that the supply is not meeting the demand; that house affordability is a key factor; that home prices have surged 56.2% over the past four years, which is outpacing the national average of 51.8%; that Sussex County is the fastest growing county by percentage in the Mid Atlantic; that employees are finding it increasingly more difficult to secure affordable housing near their places of work; that she questioned where the doctors, nurses, teachers, first responders and hospitality workers will live; that entry level wages for these positions do not allow people to live in the current available housing near their workplaces; that this makes people less likely to accept employment opportunities, because they do not want to drive an hour or more to work daily; that to maintain economic strength and competitiveness, Delaware must confront the housing shortages and the cost of living concerns; that the Cool Springs Crossing project directly addresses these issues with a thoughtfully planned mix of homes; that beyond housing, the project brings a significant economic impact; that potential construction activity alone is estimated to generate a one-time economic impact of 1.3 billion statewide and will support approximately 6,400 full-time jobs, that the developer's investment in transportation infrastructure will help ensure that growth is manageable and forward thinking; that the proposed job creation, paired with significant infrastructure improvements is a win, and she requested the Commission approve the Cool Springs Crossing project, which will help to build a more sustainable and inclusive future for Sussex County.

Mr. Jonathan Contant, Land Planning Manager for K Hovanian Homes, spoke in support of the applications. Mr. Contant stated that with the proposed Master Plan, three minutes would be the approximate amount of time it would take someone to get from one end of the project to the other, to access groceries, gas, access to restaurants, doctor's offices, the gym, the YMCA and more; that the currently the closest grocery store to the site, is the Redners on Rt. 9, which would exceed three minute drive to; that it also adds to the traffic along Rt. 9; that the proposed Master Plan community would keep most daily necessities accessible from inside the community without creating additional traffic along the major roadways; that K Hovanian is the builder in Monarch Glen, located across the street; that the proposed plan provides closer access to these services for their buyers as well; that he felt having high density, multi-purpose, mixed-use, multi-price level communities, will help to reduce the traffic; that smart growth is a partnership; that partnership is not only what Sussex County wants, or what DelDOT wants; that the partnership is also what the land owners want to do; that this proposed development will help expand public water, and public sewer; that there are many DelDOT projects, identified in the Traffic Impact Study (TIS), that the project is proposed to impact by providing DelDOT more funding; that the developer will have to improve intersections rather than just providing a contribution; that he had not taken a look at the Traffic Impact Study, but he was willing to bet that most of the intersections are either currently failing; that the project will provide a partnership between the developer, DelDOT and the County, providing an opportunity to rectify those situations, and improve everyone's level of living and travel in the area; that he agreed with many other points of support that had already been mentioned; that he requested the Commission consider



the need for workforce housing, and stated that K Hovanian supports the proposal for additional housing, increased inventory and options for those who are retiring here, as well as those who work here.

Mr. Brian Rashley, Manager of Bayside Golf Club, spoke in support of the applications. Mr. Rashley stated that Sussex County continues to grow, and so does the urgent need for thoughtful and sustainable housing solutions, particularly for the local workforce; that he witnesses this need at Bayside and across the hospitality industry; that many of their employees struggle to find affordable housing; that he currently has associates who travel from Virginia and Pocomoke City to Bayside daily; that the issue is not unique to hospitality, as it impacts the healthcare workers, teachers, first responders and retail employees; that workforce housing is not just a housing issue, it is an economic and community issue; that if the community desires for businesses to thrive, and the communities to stay vibrant, we need employees to work close to where they work; that the Cool Springs Crossing project represents the comprehensive, forward-thinking development that Sussex County needs; that the project does not just check boxes on a site plan; that the plan offers a long-term solution by providing diverse housing options, thoughtfully planned amenities and a stronger foundation for the workforce and local economy, and he stated that by approving the project, the Commission would be voting for balance, inclusivity, and long term sustainability for Sussex County.

Mr. Greg Hurley, resident of Tower Hill within Sussex County, spoke in support of the applications. Mr. Hurley stated he felt the Tower Hill community is the most significant project of Carl Freeman, prior to the proposal of the Cool Spring Crossing project; that he serves as a member of the Tower Hill Property Association Board of Directors; that he had frequently interacted with the developer, Carl Freeman Companies and its team for the past two years; that he has found Carl Freeman Companies to be responsive to the needs of the residents, during the continuing development of Tower Hill; that they have made additions and changes in response to the request of the residents and the association, and based on past performance, he had no reason to change his view regarding Carl Freeman Companies.

Mr. Dave Carey, resident of Lewes, spoke in support of the applications. Mr. Carey stated he is one of the property owners in Cool Springs Crossing; that the property came to his father in 1969; that the decision to sell the property was difficult, and was made based on analyzing many factors, challenges, and risks; that one of his considerations was the ever increasing number of overlays on the property, which he felt served to diminish his private property rights; that water, sewer, three phase electric, and fire protection has been on the property for a decade; that the increasing traffic on Hudson Road, clearly explain the reasoning as to why the property should not be located within Level 4; that his support for Carl Freeman was based on three points, being the project is a mixed-use, smart growth community; that from his research there are at least 5,000 homes located within three miles of the property, that are required to drive to Milton, Long Neck, Rt. 1 or Lewes; that he feels the County needs to provide employment for the working age people, and those just graduating; that construction activities will generate \$1.3 billion, of which the vast majority of it will stay in Sussex County, and he stated he would prefer to see a smart growth community over another community of single-family homes.

Ms. Patti Grimes, resident of Americana Bayside within Sussex County, spoke in support of the applications. Ms. Grimes stated that Americana Bayside is a completed community that offers similar amenities to the Cool Springs Crossing project; that her family has enjoyed being homeowners in Carl Freeman's communities; that she has been able to enjoy a walkable community for many years as a

Bayside resident; that she is able to walk to work; that she is able to walk safely along sidewalks with streetlamps; that she often gets to meet and converse with her neighbors during walks and bike rides; that she is able to walk to the Bayside commercial corridor to the grocery store, pharmacy, restaurants, and bank without leaving the community; that this allows for less traffic on the roads, while still allowing the public to enjoy the benefits of their Master Plan community; that the project protects the environment by reducing the carbon footprint; that there is diversity in the community, allowing people to stay in place as they age; that it is important that we continue to grow Sussex County; that recommending a Master Plan community, with an amenity core, for not only the residents, but the public to enjoy, is very important; that there is quite a difference in the livability for people residing in a subdivision versus a Master Plan community, and she urged the Commission to approve the Cool Springs Crossing project.

Chairman Wheatley advised the Commission and the members of the public that the representatives from DelDOT are not presenting in support of or in opposition to the applications, and that the DelDOT representatives are present as a resource for the Commission only.

The Commission found that Mr. Todd Sammons, Assistant Director with DelDOT's Development Coordination Division, was present at the request of the Commission; that also present were Ms. Pamela Steinebach, former Director of Planning, newly appointed Director of Maintenance and Operations, Ms. Sireen Muhtaseb, Traffic Impact Study Engineer, Ms. Joanne Arellano, Senior Traffic Engineer with JMT Transportation Engineering firm.

Ms. Wingate requested an explanation of the impact the 1,922 units will have on the area, compared to the 1,200 to 1,300 units that would be permitted by right within a standard subdivision, given that the project is projected to be constructed over a 24-year span.

Mr. Sammons stated he was just presented that question that morning; that the Applicant is conducting a traffic analysis based on just single-family use, and that they currently do not have the apple to oranges to compare.

Ms. Muhtaseb stated they just received the preliminary Traffic Impact Analysis, and they are currently reviewing the analysis.

Mr. Sammons stated that if the current project is not approved, the Applicant is moving forward with a separate submission for a major subdivision, for single-family lots based on the by-right density permitted within the zoning district; that DelDOT is currently undertaking that requested analysis, and because they are in the early stages of the analysis, they are not able to provide an apples to oranges response at that time.

Ms. Wingate stated that she realized the amount of time the analysis would take and questioned if four separate people purchased four separate properties, and they all decided to develop at the same time, the impact on the roadways would be very different than what the Commission is currently considering.

Ms. Sammons stated that it could look different; that the analysis was a massive undertaking with having to review 43 intersections, all of the committed developments, collectively painting a broad picture to do serious planning on it from a transportation impact; that if it was broken into small properties, being developed individually, they would have to comply with any warrants for analysis if

required; that even if a project does not meet the warrants for a Traffic Impact Study or Traffic Operational Analysis, DelDOT still performs some form of analysis on the project; that if a project were to be piecemealed, it could result in piecemealed improvements to the roadways, creating a less holistic approach, and that it all comes down to timing.

Ms. Wingate questioned whether DelDOT was in support of constructing the walking bridge, which is proposed to be similar to what is at Baywoods and would take traffic off the crosswalks.

Mr. Sammons stated DelDOT has extended the trail down to Hudson Road and Rt. 9; that there is currently a pedestrian crossing there; that bicyclists also cross at this area, rather than the location of Cool Springs Road; that they initially looked at the area, as it was the proposed location for a bridge or tunnel; that these proposal are not technically off the table; that the proposed bridge or tunnel is out of realm of what they do, and at this time is not something the department is planning for.

Ms. Steinebach stated the current crossing is a safe crossing; that DelDOT does not currently have plans to perform a DelDOT funded project for a bridge or a tunnel; that they are completely on board with supporting it potentially with a federal grant, but it will not be funded as a DelDOT Capital Transportation (CPT) Project, as they do have an existing crossing in that location.

Mr. Sammons stated DelDOT has placed a crossing, and DelDOT may consider a bridge or tunnel in the future; that there are challenges with the proposal, which is the reasoning it has not already occurred; that the department took the initiative to build the path farther down to make that at-grade crossing; that people do not like to walk or bike across bridges, and tunnels present different challenges from a homeland security perspective.

Ms. Wingate stated that both bridges and tunnels are very effective and questioned if DelDOT would have any objection to allowing a roadway from the development to the medical center.

Mr. Sammons stated DelDOT fully supports interconnectivity within the department, subject to it being constructed in a sound and safe way; that many times the Planning Commission, County Council, and DelDOT plan for interconnectivity, which is followed up by public opposition from the development community; that interconnectivity must be designed in a proper way, as cut throughs can become unsafe; that there are ways to mitigate that, and without interconnection it defeats the purposed of planned communities.

Mr. Collins questioned what DelDOT's estimate in trip reduction would be for a Residential Planned Community with amenities, employment centers, shopping, etc. built in versus a by-right standard subdivision.

Mr. Sammons stated that DelDOT refers to that as Internal Capture; that if you have a standard single family subdivision, residents will have to leave and return for every amenity; that when a project proposes multiple uses, like Cool Spring Crossing, that DelDOT provides credit to the project, and can calculate what the internal capture will be, which will pull those estimated trips off the roadways; that there is a huge benefit to internal capture; that DelDOT is not present to support the project; that DelDOT remains neutral to the proposed project; that there is a huge benefit to having these types of planned communities, with provided amenities, from a transportation perspective, and overall planned communities reduce vehicular traffic all together, because many people will walk or take a bike.

Ms. Arellano suggested keeping in mind that with internal capture, is the type of uses internal capture is applied to; that primarily it is residential to retail, residential to office or restaurants, and vice versa, and not every proposed land use within the development has an internal capture according to the ITE Trip Generation Manual.

Mr. Robertson requested further explanation of how the Traffic Impact Study (TIS) is facilitated.

Mr. Sammons stated that everything is time sensitive; that to be able to perform the analysis, a certain time and build out must be chosen; that they are dependent on the developer to tell them their schedule; that in the current case it was 2044, realistically now probably adjusted to 2048 for the full build out presented during the presentation; that when the counts are analyzed, it must be performed at a certain time, so that they can begin the analysis process; that they do apply annual growth factors and seasonal adjustment factors depending on when the counts were taken; that growth factors take into account the growth that is going to occur over the years, and committed developments as well; that it takes some time to perform an analysis of this magnitude, and DelDOT attempts to account for all the committed developments, add in growth factors which takes into account build out as well.

Ms. Steinebach stated that DelDOT also maintains nearly 90% of the roads, they do large scale planning; that one of the large scale areas is the coastal corridors; that they have completed the final report for those; that they will continue to analysis as they understand there is a lot of growth in the area; that the Henlopen Transportation Improvement District (TID) is located to the east; that they are not going to stop with that one formalized analysis; that they will continue to perform additional counts and forecasting; that; that they are a monitoring entity, and will have a pulse on all the new developments; that they are trying to hone in on growth factors; that there are many factors that contribute to growth factors, such as population, number of households, and employment areas; that DelDOT is monitoring the coastal corridors, while including input from stakeholders throughout the area and the input includes comments from the County and business owners, who are on the ground, and can voice any current issues or potential issues.

Mr. Robertson stated that there is a Traffic Impact Study (TIS), which is separate from the Coastal Corridor Analysis, and he questioned how those two documents work with one another, how the Coastal Corridor study impacts the project, how the Coastal Corridor study should impact the Commission's consideration of the project, and what the interplay between the two studies are.

Ms. Steinebach stated the Traffic Impact Study (TIS) placed responsibility on the Developer for certain infrastructure that they will be responsible for, to avoid the project negatively impacting the transportation system; that this responsibility is only one cog in all development County-wide, not in one specific area; that this is part of DelDOT's long range planning; that the Coastal Corridors studies are to provide a regional analysis of impacts to the transportation system, separate from the specific developer requirements for specific projects and the current planning vision takes in account longer forecasting to approximately 2050 and beyond.

Mr. Sammons stated that DelDOT attacks the analysis, admiring the roadways and infrastructure from multiple sections and approaches; that these areas overlap each other; that just like the current letter for Cool Spring Crossing, which mentions the TID, the Coastal Corridor study and the CPT projects; that all these studies are independent of each other, but all overlap each other, while analyzing and attacking the same issues; that the main issue is traffic mitigation with regards to end growth and those

types of things; that these individual studies are performed not only by their group, but multiple other groups, and this is the reasoning why it can be so cumbersome to pull these letters together, coordinating with multiple different sections and groups.

Mr. Collins questioned what the project timeline will be for the Lewes Georgetown Highway (Rt. 9) roadway dualization and expressed the voiced concern from the public that the property that may potentially need to be acquired may be developed on.

Ms. Steinebach stated that there are two projects in the DelDOT Capital Transportation Project (CTP); that construction for the project located from Coastal Highway (Rt. 1) to Old Vine Blvd. is projected to begin in FY27; that construction for the Rt. 9 dualization between Old Vine Blvd. to Dairy Farm Rd.; that the preliminary engineering is slated to begin in FY27 – FY28; that currently DelDOT does not have an estimated construction timing for that project; that DelDOT will need to accomplish the professional engineering, acquisition process and utility relocation first; that the Coastal Corridors monitoring is what will indicate when Rt. 9 will require dualization further west; that the intersection creating a lot of constraint is the intersection of Rt. 9 and Rt. 5; that there are many sensitive areas at that location, creating many complex problems, which will be the hardest for them to tackle; that DelDOT is aware of the concerns and growth of the area, but transportation projects take a very long time to get on the ground; that DelDOT has great partnerships with Director Whitehouse and the Sussex County Planning staff; that they are working on the Rt. 9 dualization to the east; that they have a good footprint of what it will be; that it is extremely important that DelDOT's ensure that information is placed in the Traffic Impact Studies; that this helps provide the information to Sussex County, allowing the Commission and County Council to place requirements or stipulations if needed, and the developer has agreed and accepted the reservation.

Mr. Sammons stated that within Item 21 of the Traffic Impact Study states that the developer should enter into an agreement built for right of way reservation along Rt. 9 site frontage, to allow for the potential future U.S. Rt. 9 road widening; that DelDOT may not know at this time how much right away will be required, but as the developer proceeds through the approval process, those are items that will be addressed, and if DelDOT cannot achieve an exact determination, they will project and obtain the reservations as they proceed through the process, ultimately the property would be acquired when the dualization or widening occurs in the future.

## OPPOSITION

The Commission found that, by showing of hands, there were 39 people present who were in opposition to the applications, and 12 people present who wished to speak in opposition to the applications.

The Commission found that representatives of the Sussex Preservation Coalition (SPC) being, Mr. Richard Barasso, Mr. Jim Dick, Mr. Joe Pika, Mr. Johannes Sayre, and Ms. Jill Hicks spoke in opposition to the applications and submitted an 1,800-signature petition in opposition for the records.

Mr. Barasso stated that the Sussex Preservation Coalition (SPC) consists of organizations and individuals who have interest or concerns regarding land use in the county; that their effort is not to unduly delay, interfere or obstruct the process, but rather be part of the process; that the Sussex Preservation Coalition (SPC) represents at least 4,000 people; that the SPC was organized about three years ago; that it was an outgrowth of other organizations including Sussex 2030 and Sussex Alliance

Responsible Growth (SARG), which was an organization that he had co-founded; that SPC efforts are to focus on sustainability in the County as it relates to our natural resources, but more importantly, focuses on how best to balance growth, economic growth, and preservation of the roads, schools and emergency services; that he is proud to state that the former president of the Sussex Preservation Coalition now sits as a member of the Sussex County Council; that often land use decisions are focused on the future, and fail to recognize the unintended consequences to the here and now; that he complimented Carl Freeman Company in the presence of their management and organization at the meeting, unlike what the public has experienced from past developers; the SPC designated a team to work on the Cool Spring Crossing project for the past 18 to 20 months; that the team had interactions with hundreds of local residents, state agencies, homeowners associations, including HOAs where Carl Freeman was their developer; that they have spoken with land use professionals, traffic engineers and others; that the current application was the fifth application to come before the Commission for the proposed area, after previous efforts in 2021 and 2023; that if it were an easy decision, a decision would have already been made; that the current issues of concern are design changes, specifically as it relates to housing and housing expectations; that he has no doubt that the land will be developed in 20 to 25 years from now; that SPC wants to ensure that development was completed in the right way, not just for the benefit of the landowner or the developer, but for the people in the surrounding area; that the public understands that the Commission has total discretion on the four applications; that SPC believes currently, all four applications must be denied for the following five reasons; that the subject properties are zoned AR-1 (Agricultural Residential); that according to the current Future Land Use Map the properties are not located within a designated growth area; that based on the scale and scope, any decision on these applications would be premature, neglecting the recent commitment and investment made by the County in formally assigning a Land Use Reform group to analyze land use development in Sussex County, set forth to make recommendations that could result in new ordinance to amend the current County Cod and Comprehensive Plan; that working group consists of ten people; that within seven months, extensive work will begin in casting what will serve as the standard for how development occurs and how land use is governed in Sussex County over the next 20 years; this will be performed through the process of updating the Sussex County Comprehensive Plan; that this plan is essential in updating and establishing land use policies and identifying growth areas; that the plan will also consider various other community concerns, such as affordable housing, agriculture preservation, open space protection, historic preservation, etc.; that Sussex County must learn from other jurisdictions to begin to implement land development plans utilizing carrying capacity, which regulates the maximum intensity of a development based on actual infrastructure capacity; that proposed residential or commercial occupancy needs to be aligned and sequenced with capacity; that capacity is dependent on required road improvements; that although Sussex County does not have responsibility for roads, Sussex County certainly has responsibility for land use decisions for cars on the road; that the SCP's main questions are, is this the right use, is this the right place, and is this the right time; that every development must be sequenced, and must be sequenced relative to the road improvements to provide for the needed capacity

Mr. Jim Dick spoke on behalf of the Sussex Coalition Preservation in opposition of the applications with legal questions, and to provide explanation as to why SCP believes it would be wrong to accept a rewrite of the Future Land Use Map. Mr. Dick stated that according to the Sussex County website, the Sussex County Comprehensive Plan, adopted by Sussex County Council in December 2018, and certified by Governor Carney in March 2019, represented “*the culmination of more than two years’ worth of work with scores of public meetings, workshops, outreach that attracted hundreds of comments, suggestions, and ideas from residents, business owners, government officials and others*”; that the Future Land Use Map is a legally required part of the Comprehensive Land Use Plan, and according to Delaware Code, it “*shall have the*

*force of law, and no development shall be permitted except in conformity with the Land Use Map*”; that the current FLUM divides County land into seven growth areas, where development is encouraged, and two rural restricted growth areas, where growth is not encouraged; that Cool Spring Crossing is located within the Low Density Area, being one of the two restricted growth areas; that the primary uses within the Low Density Area are agricultural uses and single-family homes on individual lots; that this area does not permit for large commercial developments or for multifamily residential buildings; that this is why the Cool Spring Crossing proposal cannot proceed unless the FLUM is amended to change the area from Low Density to a growth designation, such as the adjacent Coastal Area; that they have found only nine instances where County Council has used its authority to amend the current FLUM, since it was adopted about six years ago; that Mr. Fuqua had referred to ten instances, with one of those amendments pertaining to the Sewer Tier Map; that two of the nine instances were to correct technical errors; that one case was to transfer less than 1.5 acres, which had mistakenly been included in the Bethany Beach municipal FLUM to the Coastal Area within Sussex County’s FLUM; that the other case involved restoring a Growth Area designation to land that had been in a growth area under the 2008 plan and map, but was incorrectly designated as Low Density in connection with the 2018 FLUM revision, apparently by a computer software program without any instruction or direction from the Commission or County Council; that he presented a list of seven amendments, excluding the sewer tier amendments, and the two technical amendments; that most of the amendments involved a change from one growth area to another growth area; that only three of the previous amendments involved changing land from Low Density to a growth area; that a FLUM amendment the size of Cool Spring Crossing, being 637 acres, is unprecedented; that the average of the three amendments listed is 19.5 acres; that Cool Spring Crossing would be nearly 33 times as large; that the average of the three low density to growth area amendments is only six acres; that Cool Spring Crossing would be 106 times as large as the average of the low density to growth area amendments that have occurred since 2018 and 2019; that 637 acres is twice the geographic area of Ellendale, and is 30% greater than Greenwood; that the next largest request to change the FLUM involved the 247 acre Seaside application; that FLUM amendment requested a change from the Low Density area to the Coastal Area; that this request was denied in January 2023; that the SCP believes that, at this current time, a development of Cool Spring Crossing’s size and location would have very significant adverse impacts on Sussex County residents, traffic, schools and the delivery of medical, fire and police services; that they believe the project would have a negative impact on the environment, health, safety, and general welfare; that the approval of the project will also have other, less tangible, but very real adverse impacts; that an amendment of this magnitude would undermine the purpose of the Comprehensive Plan and the Future Land Use Map; that the project would be inconsistent with the plans overall objective of focusing growth in designated growth areas, leaving low density areas for low density; that approval of the project would disregard the years of work, scores of public meetings, workshops, citizen involvement, and County efforts; that approval for an amendment of this size would set a dangerous precedent, allowing other developers to look for similar opportunities, claiming entitlement to the same rights as Cool Spring Crossing; that approval of the proposed FLUM would inevitable erode public confidence in the FLUM as a reliable land use planning tool with the force of law; it would be seen as no more than a toothless suggestion; that it would also preempt any future decision on whether or not to expand the Coastal Area, in the Cool Spring Crossing direction, in connection with the upcoming 2028 Comprehensive Plan and Future Land Use Map revision; that a decision of this magnitude should not be made in isolation before the 2028 revision, and without consideration of the cumulative impact of existing and approved developments, as well as the long range planning objectives for Sussex Count as a whole; that the decision should not be made without consideration of the results from the Land Use Reform Working Group, the Rt. 9 Corridor Study, and the other ongoing efforts that would impact the 2028 Comprehensive Plan; that Cool Spring Crossing is also

located within Investment Level 4, which is not a designated growth area for the State; that the State tends to limit any investment in Level 4 areas to agricultural preservation and natural resource protection; that large residential developments and commercial activities are discouraged in these areas; that Sussex County has the highest percentage of residential developments located within the Level 4 areas in the State; that all of the residential building permits issued for Level 4 areas from 2019 to 2023, nearly 81% of them were in Sussex County; that less than 20% of building permits were issued in Kent and New Castle counties combined; that nearly ¼ of all the residential building permits issued in Sussex County during that period were located within Investment Level 4 areas; that this information was taken from the 2024 publication from the Delaware Office of State Planning Coordination; that Cool Spring Crossing would add nearly 2,000 new residential units to the Investment Level 4 area, as well as the large commercial project; that this is the reasoning the Office of State Planning Coordination has opposed projects in April 2021, December 2021, January 2023, and December 2023; that the State has a huge financial interest in the way Sussex County is developing; that the State pays for a very significant proportion of our infrastructure and necessary services; that according to the Office of State Planning Coordination's 2024 Annual Report chart for State planning issues, the State funds 90% of the roads in Delaware, including Sussex County; that the State funds 100% of the State Police, 30% of the State's paramedic programs, 90% of the public school's transportation; 60% to 80% of public school's construction and 70% of public school's operations; that the State is not currently planning to make the type of infrastructure investments needed to handle a new development of Cool Spring Crossing's size; that the State is expecting the area to remain largely rural and agricultural; that if the FLUM is amended and the project is approved, the State can legally withhold financial assistance and infrastructure improvements to support the project; that the State has lawful authority to withhold support for any new development with the Office of State Planning determines it is substantially inconsistent with State development policies; that this is the determination the Office of State Planning Coordination has made four times in the past; that legal authority is Delaware Code, Title 9, Section 6958-B; that is the State does agree to invest in a Level 4 area, in order to support a project of the proposed scale and magnitude, the investment will necessarily divert money from planned investments in Levels 1 and 2, slowing down essential projects in more populated areas; that it will disrupt State agencies long term planning and budgeting processes, resulting in inefficient and inflated State spending; that this is happening at a time where any financial help from the Federal Government is uncertain at best; that the SPC request that the Commission recommend denial of the pending huge and unprecedented FLUM amendment sought by Cool Spring Crossing, in order to allay growing public concern of there being no effective constraints on development in Sussex County, that even a planning guide, with the force of law, can be circumvented, and to avoid a fiscally irresponsible decision, that undermines the State's planning and budgeting processes, as well as the State's major role in funding necessary infrastructure improvements in the County.

Mr. Joe Pika spoke on behalf of the Sussex Preservation Coalition, in opposition to the applications, regarding the impact the project would have on the nearby area communities. Mr. Pika stated that he has been involved in public policy issues in Delaware for a long time; that he is a resident of Lewes, a retired faculty member from the University of Delaware, and previously served as President of the State Board of Education; that he wanted to discuss service infrastructure, which is much more than water, sewer, electric, natural gas and broadband services; that service infrastructure includes school, fire, police, and medical service providers, as well as the impact on neighboring towns, who provide many of those services; that the concern of SPC is regarding the new demands Cool Spring Crossing will place on all the previously mentioned services, placing those services under even greater stress than they already are under; that their interpretation is that Sussex County's growth has been so rapid



that those services have been unable to keep up; that we have had residential growth on properties in the area, but the growth has not been synchronized with the expansion of those services; that as a result, the demand has exceeded capacity; that there are strains we all experience when trying to get a medical appointment; that the recent examples, seen in the news, is the discussion regarding emergency services, particularly from Lewes, the issues the Cape Henlopen School District has raised, and medical services; that they believe the impact of Cool Spring Crossing go well beyond those that were explored in the economic and physical analysis submitted by the Applicant, which primarily focused on the economic benefits of the development and the tax revenue it will produce; that Cool Spring Crossing is going to cause big ripples; that he believes the project's population will top out at approximately 5,600; that even when allowing for the growth of Laurel and Milton, the project will be within the vicinity of the fourth largest to the sixth largest community within the County; that there are consequences from that; that one of these consequences is the position that the Cape Henlopen School District has taken regarding many proposed developments; that the Cape School District has expressed that they do not want to take on any further students until they can settle on a way to accommodate the students; that he has had previous conversations with Mr. Jason Hale, Cape Henlopen Director of Operations, regarding the current issues with enrollments; that the Cape Henlopen School District's concern is that they are being inundated with students, which must be placed somewhere; that the estimates from the Developer had been inconsistent; that the 2023 estimate was 566 students; that the current estimate in the materials before the Commission, the estimate total is 409 students; that the number of residential units had not changed, rather the methodology changes; that the 2023 estimate was based on a projection, founded on a questionnaire given to the residents of Americana Bayside, questioning how many of those households had school aged children; that the Developer than used that census data to make that projection; that the newest estimate is based solely on the estimate referred to by Mr. Fuqua on the census; that in both cases, Mr. Hale suggested that the estimates were too low; that Mr. Hale believed the census would be higher; that neither estimate takes into account the issues of overcrowded classrooms, how the school district will accommodate, or the disruption to families as a result of the school district being unable to accommodate them; that it will require the school district to redesign the attendance boundaries; that he can confirm that those changes can be tremendously disruptive, as he is a father of three children who went through attendance boundary changes in the past; that the arrangement that they had learned about, only as a result of the Milton Fire Department letter; that there is no other description of this document within the 900 page exhibit book; that within the drafted HOA documents, there is no mention of this obligation, and there is nothing in writing addressing this from the Developer; that they did hear during the presentation how it would operate and that it would also apply to Lewes; that it has been made clear that EMS needs more support; that currently there is a report being performed on the financial status of the volunteer fire departments in the County; that the fire departments are confronted with too few volunteers, moving towards using more professional, resulting in much higher expenses; that Lewes Fire Department have been providing monthly reports, expressing their higher demands; that according to their February report, only 14% of the Lewes Fire responses happened within city limits; that according to a recently uploaded document, the Cool Spring Crossing project would be served by the Lewes Fire Department; that he believed that providing some compensation to both fire district would be a good idea; that only 23% of emergency responses are located within the city limits; that between February 2024 and February 2025, the fire calls increased by 26%; that EMS calls increased by 15% as an indication of growth in the area; that Lewes' agreement is that growth has exceeded their capacity; that SPC is concerned that the project will place pressure and exceed capacity in all of the service areas; that Lewes has been considering discontinuing ambulance service; that police service, within unincorporated areas, relies on the Delaware State Police; that Town of Milton is adding two officers, resulting in a force of 12 officers; that the Milton

Police have a reciprocity arrangement with the State Police; that in the last six months of 2024, the Milton Police responded to an average of 16 calls per month for areas outside of city limits, resulting in about 200 calls per year outside of their city limits; that after conversing with city officials, there is concern that the project will place a burden on the Milton police and fire departments; that Lewes is also adding officers to their police force; that Cool Spring Crossing would be an unincorporated community and would not have either police or fire service; that it was suggested that Cool Spring Crossing be considered a new town, but he was unsure if that suggestion had ever been considered; that growth has impacts on neighboring communities; that Dr. Tam and the Beebe Healthcare staff recently presented a valuable briefing to the County Council; that the briefing pointed out that currently we have a shortage of 336 clinicians, doctors, nurse practitioners, and physicians assistants, resulting in a total shortage of 2,400 medical support staff; that there are about six medical support staff required for every clinician; that this current issue will worsen by 2030; that Dr. Tam estimated that Sussex County will need 11,120 additional clinicians, and 7,800 medical support staff by 2030; that our area has been identified nationally as a shortage area for healthcare professionals, including dentist, and mental health providers; that regarding medical services, Cool Spring Crossing will provide the benefit of 175 affordable housing units to assist with recruitment and retention; that the affordable housing unit rates will be fixed and limited; that the 525 workforce units will be rented at market rates; that the project will provide medical space, to be located next to Bayhealth; that the consequences of the project would be an additional 5,600 new patients creating a new set of demands; that the project must account for both full-time and part-time residents; that part-time residents are staying for nine months now, rather than three months out of the year; that the market rates will place a lot of the support staff outside of the group that will be able to afford to live in the 525 units; that during Dr. Tam's presentation he mentioned three kinds of positions he needed to find housing, being for nurses, care coordinators, and lab technicians; that all of those positions would qualify for Sussex County's Rental Program housing; that none of them would equal at 100% Area Medium Income (AMI), which is presumably where the market rates would be; that the challenge is not being met for the needs of medical service housing; that SPC has sought to mitigate several of its impacts, by providing the financial support to Milton and Lewes Fire Departments, providing the medical office space, the 175 affordable units; that SHARP has raised the question if an HOA payment is the correct way to provide additional money to EMS services; that everything he had mentioned demonstrates the problems of meeting capacity on the service side, exceeds any one developers capacity to mitigate the issues; that the issues require managed growth; that this will require plans to be put into place on how the issues will be addressed; that the required planning will not be achieved by making piecemeal decisions; that these plans are derived during the Comprehensive Plan, when all of these issues are on the table at the same time; that SPC is not stating that the Cool Spring Crossing plan is a bad idea, and they acknowledge that the plan offers many desirable things, and that SPC believes that the project is not a good idea at this current time.

Ms. Wingate stated for the record that within the Applicant's proposed Conditions of Approval, the Applicant proposed a fee of \$100,000 to be paid by the applicable homeowners or condominium association fees, being \$100 per house, and that the Applicant appeared committed to that proposal, by their submitted conditions.

Mr. Johannes Sayre, resident of Lewes, spoke on behalf of the Sussex Preservation Coalition on the impact of traffic and what the Traffic Impact Study (TIS) revealed. Mr. Sayre stated that he had reviewed all the information of the TIS, but acknowledged that he was not a traffic professional that the SPC had vetted their observations with Mr. Dennis Hughes, a professional traffic engineer in Delaware, and therefore felt their beliefs were accurate and relevant; that Cool Spring Crossing is

proposed to be one of the largest developments in eastern Sussex County to date; that the project could be considered a new community, or a separate town, consisting of 5,000 people in a space of 20 years; that the project is estimated to bring 33,359 added vehicle trips to area roads; that in review the TIS, they noted that DelDOT regulations require a TIS to consider roadways and intersections out two to three intersections, beyond the planned boundaries of the proposed development; that the Cool Spring Crossing TIS goes well beyond that requirement, considering intersections as far away as Rt. 9 and Shingle Point Road, located 4.5 miles west of the site, and planned DelDOT projects on Rt. 1, starting 2.5 miles north at Hudson Road and moving southeast from there; that the TIS is considering a much larger area for traffic impacts of the project, than what the regulations mandate; that they found the analysis of the TIS identified about 20 intersections whose level of service (LOS) will degrade below the standard for failure, unless local roadway improvements are made or planned build out projects are completed; that the TIS identifies remedies like those for most of the mentioned intersections; that recalling that the TIS considers intersections up to four miles away from the project, there are several new developments at that distance or closer, that the TIS did not consider, notably the Northstar development, located about two miles east of the project's perimeter; that there were also developments located between three to four miles north of the site, which were not considered; that they understand the absence of these developments from the TIS is not due to negligence, as these developments were proposed, approved for finished build out after work was in progress on the Cool Spring Crossing proposal; that this does not change the fact that these developments will contribute significantly to the traffic impact within the same area as the Cool Spring Crossing project, within the Rt. 9 corridor; that they found six developments, with a total of 3,132 homes located within four miles of the project, that were not considered within the Cool Spring Crossing TIS; that the Rt. 9 corridor is already a subject of the Coastal Corridor Study, consisting of Rt. 9 and Rt. 16; that as they just heard, there is currently a study being performed specifically to Rt. 9, which just began; that dualization of Rt. 9 is in some stage of planning, west of Five Points to Sweet Briar road, ending about one mile east of the project site; that the TIS performed a segment analysis of the impact of the project traffic contribution to Rt. 9, projecting completion from 2044 to 2048; that the Rt. 9 level of service will fall below the failure threshold; that the TIS does not recommend dualization of Rt. 9, considering the scale of the traffic impact of the Cool Spring Crossing project, as well as other developments within the immediate area; that it appears that no one yet has a whole plan to ensure that Rt. 9 does not fail to bear up under the projected load; that the DelDOT Memorandum of Understanding (MOU) states that DelDOT and Sussex County shall endeavor to maintain a service level of D, also known as Delta, on roads affected by an application; that there are conditions and exceptions on that mentioned within the MOU; that DelDOT's Level of Service Scale runs from A, being the best condition, to F, being the worst condition; that from the point of the MOU, failure means dropping to a Level E or Level F; that the TIS identifies multiple intersections, failing with a level of service less than Level D at different stages of the Cool Spring Crossing build out at 100%, 75% and even only 25% build out; that this creates impacts on access to neighborhoods and congestion conditions on roadways, at intersections, and area roadways, notably being Rt. 1, Rt. 9, Rt. 5, Cave Neck Road, and Hudson Road; that the TIS identifies local improvements such as added lanes, signalization or planned build out projects that can prevent that failing state from occurring; that completion of those roadway improvements is required in order to prevent failure; that SPC also found cases where failure is predicted, but no improvements are planned; that he presented to the Commission a list of intersections listed within the TIS, where failure conditions levels of service E or F are predicted at some stage of build out; that two of the roads are smaller neighborhood roads, being Joseph Road and Arabian Acres Road; that it does not appear that the TIS suggested improvements to avoid any service level failure; that he presented to the Commission an aerial map of the neighborhood entrances, with the Cool Spring Crossing project being outline in pink; that all of the entrances

reflected are located along Rt. 9 and the Cool Spring Crossing area; that reflected within the middle of the map are the Hunters Mill and Beaver Creek developments, which the TIS does propose improvements to prevent service level failures; that further west on the map, there is Prettyman Road and Shingle Point Road; that the TIS proposes improvements to avoid failures at the Prettyman Road location; that at Shingle Point Road and Rt. 9, the DelDOT Park Avenue Relocation project, will address any potential failures in that location; that on the lower left of the map, there was a small red notch, labeled as Hawthorne development, which is one of the six areas found that was not considered in the TIS; that within the reflected class of neighborhoods, where traffic is entering and exiting, the neighborhoods may be impacted and suffer with a failure to their level of service; that the list of area roadways with intersections, where the TIS predicts that service level failures will occur were the intersection of Rt. 1 and Cave Neck Road, and the intersections of Rt. 9, Hudson Road, and Fisher Road; that they counted nine, of which six are listed as depending on planned build out projects avoid failure; that the other three depend on the local improvements, such as added lanes, or signalization; that he presented and referenced an aerial map, which was provided within the TIS; that he stated the areas to take note of are the areas of the red dots, which represent planned DelDOT projects; that these projects include the Rt. 1, Eagle Crest and Oyster Rocks intersection, the Rt. 1 and Cave Neck Road intersection and the DelDOT Grade Separated Intersection project at that location, the Minos Conaway Road and Rt. 1 and another DelDOT Grade Separated Intersection at that location, Dairy Farm Road and Beaver Dam Road, and the DelDOT traffic circle project at that location, and the Rt. 9 and Rt. 30 intersection; that the TIS identified that area of Rt. 30 as requiring dualization to avoid failure; that Rt. 9 and Shingle Point Road intersection, depends on the Park Avenue Relocation project; that the Cave Neck Road, Sweetbriar Road, and Hudson Road intersection, and the DelDOT five-legged traffic circle project planned at that location; that he wanted to reference these improvements, as well as all the local ones, as they are required to be completed in order to avoid failing levels of service at the mentioned intersections; that there are six developments, with a total of 3,132 homes, equaling about 1.5 times the size of the Cool Spring Crossing project, located within four miles of the project's perimeter that were not considered within the TIS; that the Villages at Red Mill Pond, with 177 homes, is listed within the TIS, but does not appear to provide any trip generation data; that the remaining developments are not mentioned within the TIS at all; that these developments will be contributing traffic, at their scale, to the roadways where Cool Spring Crossing traffic will also be added to the Rt. 9 corridor; that the Cool Spring Crossing project proposes 1,922 homes; that the Villages of Red Mill Pond has 177 homes; that the approved Northstar development will have 852 homes; that Hawthorne has 254 homes; that the Granary will have 1,350 homes; that Scarlet Oaks will have 163 homes; that Four Winds will have 336 homes; that these are developments, equaling to 3,132 homes within a four mile radius of the Cool Spring Crossing project; that these developments are incrementally changing the area to something other than rural area; that the questions to be asked if we want to accept this process, do we want it to continue and do we want to facilitate it or not; that whatever the reason of why this data was not included in the TIS, these homes will contribute massively to the area traffic, while Cool Spring Crossing builds out; that SPC urged that for the Cool Spring Crossing proposal to be complete, an analysis of the Cool Spring Crossing traffic impact must include the traffic contributions of the missing developments; that the TIS identifies Rt. 9 as failing at Service Level E by 2044 or 2048, at 100% build out, specifically from Shingle Point Road and Sweetbriar Road; that on Page 5 of the TIS, it explicitly states not to recommend Rt. 9 dualization; that the 2024 Coastal Corridor Study projected a failing Service Level E, at the location of the Rt. 9 and Rt. 5 intersection, without the consideration of the Cool Spring Crossing or Northstar projects; that the recommended second study for specifically Rt. 9, had just began; that currently, the daily vehicle trip estimate for Rt. 9 is 17,000 trips, which is close to the threshold of 20,000 trips, where dualization is recommended; that there will be a total of 47,000 additional trips added to area roadways when

combining the total trips proposed for Cool Spring Crossing and Northstar; that given the service level failures the TIS predicts on Rt. 9 in the project's area, SPC question why mitigations for that, including dualization are not proposed; that it appears that there is an analysis, which currently anticipates service level failure on a major local roadway, while still missing information and results need to support an accurate review of the proposed project; that the SPC concludes that the road improvements which the TIS identifies as preventing service level failures must be carried out; that otherwise, per the TIS, those failures will occur; that to avoid those failures, the Phasing Plan for the Cool Spring Crossing project must synchronize completion of the roadway improvements with the project build out; that the project must establish concurrency; that the development cannot grow fast than the roadwork is completed; that the Cool Spring Crossing parcels are currently classified within State Investment Level 4, meaning there is no support planned for infrastructure investment; that funding and timing of improvements must be assured; that if this does not happen, per the TIS, there will be failure conditions on the affected roadways; that the TIS is missing information that is required in order for the TIS analysis for Cool Springs Crossing traffic impacts to be complete, and the Rt. 9 and corridor traffic studies, the land use review, State Investment Level review and Sussex County Comprehensive Plan update for 2028 need to be finalized before approving the proposed Cool Spring Crossing project, given the scale of the proposed traffic impact.

Chairman Wheatley requested to ask additional questions of the DelDOT representatives.

Chairman Wheatley questioned if the Delaware Office of State Planning Coordination had any authority over DelDOT's budget or had the ability to provide or take away funding to planned projects.

Ms. Steinebach stated that she was not aware of that being the case; that DelDOT goes through the Capital Transportation Project (CTP) full public process through MPO's and counties; that the projects get prioritized as part of the Delaware Code, and proceed through the Council of Transportation's public process; that as part of the CTP prioritization process, there is a local priority, and if it is located within a Transportation Improvement District (TID); that within the list of nominations DelDOT receives, some of the ranking does receive more points, if a project is endorsed by an agency, and it is a very long process.

Mr. Sammons stated that DelDOT attempts to account for all government and state agencies, and they have the TIS to mitigate the specific impacts of the developments themselves.

The Commission found that Mr. David Edgell, Planning Director with the Delaware Office of State Planning Coordination, was able to provide additional information. Mr. Edgell stated his office does not have the budgetary authority to stop any project at any State agency; that however, all of the State projects for infrastructure and operating budgets for service, do adhere to the Strategies for State Policies and Spending, which is developed by the Cabinet Committee on State planning issues, which are enacted by the Governor by executive order; that through the capital budgeting process and operating budgeting process, all of the projects are all evaluated based on those metrics and determined; that DelDOT has a very detailed process for Capital Transportation projects; that location, in accordance to the State Strategies, is part of that process; that this is a statewide evaluation, broken down by county; that if they have priorities in any given cycle in Investment Levels 1 and 2, they might outweigh Investment Levels 3 and 4; that projects proceed through an entire matrix of evaluations from DelDOT, and the whole Capital Transportation Project and budgeting process.

Ms. Wingate stated that she understood Mr. Sammon's previous comments testified that DelDOT does take other projects into consideration, and that all projects are factored in, at some point as a whole.

Mr. Sammons stated the Sussex Preservation Coalition has been reviewing the DelDOT analysis since January 2025; that they had only received SPC's presentation earlier that morning; that DelDOT attempts to account for all communities and developments, but as he previously mentioned, there must be a cutoff point; that the Northstar application was submitted after the Cool Spring Crossing application; that at the time, the Northstar project was not considered a committed development; that they can only analyze the information they have at the time; that if there is something significant, the department is willing to review and consider anything, and that the current application has been scrutinized and torn apart multiple times to date.

Ms. Steinebach stated that DelDOT knew how intensive the project would be; that as part of the Development Coordination Manual, DelDOT technically only had to review three intersections; that due to the magnitude of the project, they made the extra effort, going above and beyond, analyzing 46 intersections to review the ripple effects, and to provide a hypothesis of when phasing would be required to be done; that they performed a Segment analysis as well, which the DCM does not require, and DelDOT was sensitive to the impacts, which led to their additional efforts of analysis.

Ms. Jill Hicks, spoke on behalf of the Sussex Preservation Coalition, and presented a petition of opposition containing 1,803 signatures. Ms. Hicks stated the subject area is a rural area, with only pockets of developments around the area; that Mr. Fuqua previously stated that the project size is irrelevant; that she disagreed; that the project and its size will impact the roads, schools, fire and ambulance services, and infrastructure, and therefore is relevant; that the option of building a cluster subdivision, from her understanding, would take an additional two years to proceed through the zoning process; that she believed that Sussex County would be well into the FLUM and the Land Use Reform Work Group would be done with its work; that she does not know if a cluster subdivision proposal would be a viable option; that she questioned if the 515 acres included the Martin Branch area and the resources around it; that the impact to the schools and other infrastructure is one reason that the Land Use Reform Working Group was designed; that she felt between those two issues, it warrants waiting; that the estimation of 23 additional students per year, equals to a classroom per year; that she questioned if the \$100 per unit would be added into the rent figure, whether it be for affordable housing, or the market rate affordable housing; that she was pleased that the Applicant referenced smart growth; that the SPC is about smart growth, but she stated it does have to do with if it is the right time for the project and if the project is the right size; that there is a lot of information being presented for the estimated traffic count; that Mr. Sayre had provided some traffic analysis information; that she questioned if the Commission would want to hold the record open to the receipt of the traffic count information for the 1,200 unit application; that livable communities is not an internal look; that it is a look at the entire community area of the County; that what makes an area livable is the quality of life, including infrastructure, as well as the environment; that another area of consideration should be that Rt. 9 is a major evacuation route, placing more importance on the traffic analysis; that currently Sussex County is short about 13,400 residential units, based on a study done by Cabinet Committee on State Planning; that 80% of those are required for homeowners, and 20% for renters; that the shortage varies by income; that the shortage is more pronounced in eastern Sussex County; that the project proposes 175 units to participate in the Sussex County Rental program, with the remaining 525 units, being considered workforce housing, that will be subject to market rates

affordable house; that she considered this an oxymoron, particularly when located within Sussex County; that the market rate is not affordable to the workforce, thus the reason Sussex County is in the predicament it is in; that affordable relates to what is affordable to a household at 30% of the gross monthly income; that if they are renters, that includes rent and utilities; that if it is a homeowner, it is a mortgage, utilities, property tax and insurance; that in 2023, it was stated that the Area Median Income (AMI) was \$71,200; that she recently saw a report stating it is \$78,000; that affordable housing and workforce housing are used interchangeably; that workforce housing is generally considered housing affordable to persons below 100% AMI, that meets the needs of wage and service industry workers; that when referring to workforce housing units, there needs to be specification given to the workers the unit would be affordable to; that a unit geared toward a teacher, making 100% AMI, is not going to be affordable to a cashier making 50% AMI; that she questioned which workers the housing needs will meet with the Cool Spring Crossing project; that at 100% AMI, a person should be able to afford close to \$1,800; that she questioned if he proffered \$100 would be tacked onto the rent or not; that she is part of a homeowners association; that she felt an HOA is not where the proffered \$100 fee should be handled; that people do not pay their dues; that an HOA will not want to be responsible for paying something that the developer committed to; that she felt the intent was good, but it would be a bad way to administer; that she felt the Commission should wait for the impact fees that the Council is currently working on; that she felt the administration of those monies would have to come through the County, potentially as a County tax; that HOA will change their covenants; that public service people, and some of the people Dr. Tam had mentioned do not come up to 100% AMI; that when considering the market rate affordable housing, the 525 units will not apply; that only the 175 units will apply; that average rents in Sussex County for a one bedroom unit is \$1,800; that for a four bedroom unit, it is \$2,900; that for a unit to be affordable, it requires an income from \$72,000 to \$116,000; that average rent in Lewes, including the outer area, is \$2,800 per month at market rate; that those 525 units are not going to be affordable to the workforce the County is trying to take care of; that examples of this are, at the Vineyards a one bedroom unit cost \$1,669 to \$1,729; that two bedroom units range from \$1,810 to \$2,600; that the Vineyard Mendocino, consisting of two bedrooms and two bathrooms, ranges from \$2,050 to \$2,280; that she questioned if Cool Spring Crossings net contribution of 175 units of workforce housing reduce the County's need; that she questioned if the 175 units would even support the 1,900 units that are being proposed; that based on her research from the U.S. Census Data, for a subdivision, one would need about 6% of the project to be for workforce housing, to be able to handle the rest of the subdivision; that for the Cool Spring Crossing project at 5,600, the project would need 337 workforce people; that she questioned if the 175 units will get the County out of the hole, or will they dig the County deeper; that she questioned if all of the concessions being discussed are worth making; that the proposal appears to be progress, but in reality it is far more modest, and may even create a negative impact; that she advised the Commission to not rush to judgement; that amending the Future Land Use Map at this time, for a project of its magnitude would be irresponsible; that the County needs to lead with the planning process for the County as a whole, not react piecemeal to developers' site-focused business plans, which has been happening over the past five to eight years; that Sussex County should avoid a fiscally irresponsible decision that undermines the State's planning and budgeting process; that the project will place undue burden on all Delaware taxpayers; that if Sussex County builds 24% of its homes within State Investment Level 4, all of Delaware taxpayers will be paying for that; the Future Land Use Map carries a force of law and should not be easily circumvented; that Sussex County should allay the growing public concern that there are no effective constraints on development in Sussex County; that the way to achieve this is to let the planning process play out; that a decision on the project should not preempt the upcoming 2028 Comprehensive Plan work; that the State Investment Level work should be completed at the end of the year; that the work of the Land Use Reform Working Group

and the current Rt. 9 Corridor Study should not be subverted or undermined; that public welfare is at risk; that a project of its magnitude needs construction to be concurrent with all the Traffic Impact Study road improvements, and the dualization of Rt. 9; that the data is incomplete and inconclusive; that the County and State must collaborate to align infrastructure with growth, school space, staffing needs, medical services, and emergency services; that this cannot be another example of let the County build it, and the State will fix it; that SPC supports the County's effort to increase workforce housing; that the County needs metrics to know if proposals, such as the current, are going to help or exacerbate the problem; that the County needs to be more prudent in its expectations; that the County needs to commit to more affordable housing units, priced in line with Area Median Income guidelines, not market rate affordable housing; that smart growth is questioning if a project is the right use, at the right place, at the right time, and the current project is not the right size, at the right time, until we have more answers.

Mr. Collins questioned whether SPC preferred the by-right subdivision application of 1,200 units over the current proposal.

Ms. Hicks stated that the SPC does not prefer one application over the other; that if the Applicant were to come back with a 1,200 unit application, the two applications hearings would be two years apart; that during the two year time period, working will be started on the Comprehensive Plan; that work will be completed for the Land Use Reform Working Group, and the State Investment Level studies should be completed, and she was implying that the County needs to complete the Comprehensive Plan on where they want to see this area go.

Mr. Collins questioned if the Applicant was to resubmit next week, what rules would the application fall under?

Chairman Wheatley stated that if the applicant were to propose any affordable housing component, their application would be expedited.

Ms. Hicks stated in the secondary application, being the 1,200-unit subdivision, she did not see any affordable housing proposed, and again questioned at what point affordable housing would be getting the County out of the hole or even covering its own proposed residents.

Chairman Wheatley stated he felt everyone needed to keep in mind that sewer lines are not built on speculation; that sewer lines are built upon demand; that the idea that the County will catch up, and things will be in equilibrium, will never happen; that he hoped the County could do a better job than what is currently being done; that the County is currently trying to do that; that infrastructure will always be behind because taxpayers do not want to pay the cost of speculative ventures and there is always going to be an inconvenient period.

Ms. Hicks stated that the Commission needed to consider if they wanted to amend the Future Land Use Map for 637 acres, when every other developer watching will request the same, claiming a precedent had been set.

Mr. Robertson stated he disagreed with Ms. Hicks' statement, as a mentioned development was Seaside, which was quite large, and was denied, and he stated that developers can ask, but it does not mean the request will be granted.



Chairman Wheatley stated that each application must stand on its own; that the subject site has water and sewer services, with development all around, and the area might be currently classified as Level 4, but the area is not rural.

Mr. Collins stated that Level 4 only becomes Level 3 or Level 2, when all the infrastructure is in place.

Mr. David Edgell, Planning Director with the Delaware Office of State Planning Coordination, spoke in opposition to the applications. Mr. Edgell stated that as required by Delaware Code, the Sussex County application submitted the plan amendment for review through the Preliminary Land Use service in December 2021; that the PLUS review determined that the plan amendment was inconsistent with the Strategies for State Policies and Spending; that their PLUS response letter, dated January 13<sup>th</sup>, 2022, identified a number of concerns related to the proposed amendment, notable the location and Investment Level, as well as their environmental, transportation and archaeological concerns due to the large size of the amendment and the potential significant impact on State resources; that the letter was ended stating that the State looked forward to working with the County on a process that will evaluate the application in conjunction with the Coastal Corridors study, and a robust community planning effort led by the County; that it had been three years since the State's initial review; that to date, there had been no robust community planning effort led by the County to consider the plan amendment in relation to its cumulative impact on the area and corridor; that after waiting patiently for over two years, the Office decided to formally object the plan amendment in February 2024; that the objection triggered a 45 day period of negotiations with the County that they hoped would be an opportunity to discuss the amendment, and ways for collaboration, moving forward together to evaluate the impacts; that instead the County's position was that they were unable to discuss the amendment at that time; that they learned from the County, that the current public hearing process, is the way they gather information and data about the plan amendment; that after the 45 day period concluded, he referred the matter to the Cabinet Committee on State Planning Issues; that the committee met with representatives of Sussex County on April 8<sup>th</sup>, 2024; that at the meeting, the County further explained the importance of holding hearings before discussing potential plan amendments with the State; at that meeting, a mutually agreeable course of action was decided upon; that the County would hold hearings before the Planning & Zoning Commission and Sussex County Council, and before action was taken, reengage the 45 day period of negotiations; that another meeting between Sussex County and the Cabinet Committee on State Planning issues will be held during this 45 day period to further discuss the amendment; that he prepared and submitted the letters of correspondence, along with his comments for the Commission; that Comprehensive Plan amendments of the proposed type, are required to go through the Cabinet Committee of State Planning issues, then onto the Governor; that the current process is very unusual, and they are feeling their way through it; that they have worked closely with Mr. Robertson; that they have crafted the process before the State's DAG, and it was important that he present before the Commission to share what the process was, so that they public was informed.

Mr. Robertson stated that it has been an evolving process working with the State Planning Coordination on map amendments; that they heard two different sides of it; that he supposed the County was somewhere in the middle; that the County had a couple of applications where the County was at the forefront of requesting a map amendment on behalf of the applicant; that an issue was that the County did not have sufficient information to understand why the request may be appropriate or not; that this needed information was not provided until the public hearing process; that Mr. Whitehouse was placed in the awkward position of having to appear at the Office of State Planning Coordination to advocate or explain a map amendment that he had no information on, which would

allow him to present a meaningful, background reason, because it had not proceeded through the public hearing process; that through this process, they realized that this was not the best way to proceed; that the best way to proceed in all the matters is to have all the information available to everyone, to allow for an informed decision to be made; that at the time, no one had all the relevant information, and therefore it was the County's opinion that an informed decision could not be made; that there was mention of a delay in getting this application before the Office of State Planning Coordination; that he would disagree, as the County was trying to work out the process to do that; that the County has drafted a Memorandum of Understanding (MOU), with the Office of State Planning Coordination to document the process; that the MOU has not yet been signed by the Office; that they are currently proceeding this way because it enables the County to create a record, and the County is trying to work out the process to allow clear understanding on how to move forward.

Mr. Jack Young, resident of Rehoboth, spoke in opposition to the applications. Mr. Young stated that the Cool Spring Crossing applications failed the primary tests of the Sussex County Code §99-3 and §115-3; that the Sussex County Code §99-3 provides for the orderly growth and welfare of the citizens with proper development; that Sussex County Code §115-3 establishes the purposes of the zoning process; that the zoning process should provide for present and future needs, including lessening congestions, and providing adequate provisions for public requirements, transportation and education opportunities; that the Cool Spring Crossing applications do not and are not supported by sufficient service infrastructure at the current time; that given the Code requirements, more needs to be done to satisfy the Code requirements or adequate provisions of public requirements, transportation and educational opportunities, and more must be done before we can satisfy ourselves of the primary task that the Zoning Code tells us to do in both Chapters 99 and 115.

Mr. John Montanez with SHARP (Sussex Homeowners Advocacy Resource Partnership) spoke in opposition to the applications. Mr. Montanez stated that SHARP has been in existence for approximately three years, and is comprised of 19 volunteer communities, servicing approximately 6,000 households in Lewes and Rehoboth; that SHARP's purpose is to serve the homeowners and residents of Sussex County; that SHARP is in full agreement with the Milton Fire Department; that they have witnessed first-hand all of the exponential growth that has occurred in the area; that they are equally concerned about their ability to meet those growing needs; that where they disagree is the belief that issues can be remedied by an agreement between a developer and HOAs; that they feel it is not justified and not sustainable to ask homeowners to pay an additional fee; that you are asking the residents to pay an additional fee for the same service that everyone in the room is currently receiving; that while the State allows the HOA to levy fees, homeowners can rescind those fees by vote; that this creates the fee to be unsustainable and non-binding; that everyone agrees that they trust the local government to make the services of roads, schools and emergency services provided in a fair and equal manner; that the idea of having an HOA provide these services is a stopgap measure that undermines the agreement that SHARP is trying to make; that the emergency services are being taxed, requiring a response from the County; that the response should be done through local governance, not through a relationship between the HOA and developer; that SHARP, and its 19 communities, fully support the local schools, emergency services and fire department, but do not agree with the idea that an HOA should be used as a mean of leveraging the proposed fee; that SHARP is not advocating for taxes; that they are suggesting that we need to look at the problem; that for the long-term, it is not going to be achieved by a Band-Aid approach, by having the HOA attempting to fill a void; that his personal opinion is that people will assume that the HOA will be able to make up that money, and they will not have to pay it; that as a taxpayer, this would be a County-wide issue; that by the fee going through

the County, it would create a fair and equitable way to ensure all residents bear the burden, and not just the residents of Cool Spring Crossing.

Ms. Wingate stated she has spoken with one of the fire chiefs in the local departments, who stated they have sent out thousands of letters requesting homeowners to contribute to the local fire department, and they receive very few back, and this is the reasoning why, in her opinion, the proposed method would work.

Ms. Carolin Velardi, resident of Hawthorne in Sussex County, spoke in opposition to the applications. Ms. Veladri stated that three years ago, she attended a meet and greet with the House of Representatives; that it was filled with angry EMS workers, teachers, and many people concerned with housing; that at that time, it was told to them that they needed to get involved with local County administration; that the State does not handle those issues, and that the local government does; that it was said that it is not the State; that the State had identified areas of concern, and placed things into progress to address the issues; that the issue was the local government allowing too much growth, which was outpacing the State plans; that she lives in the area; that just because she has a Dollar General store, does not mean that the area is not rural; that within the area there are farms all around; that there are different perceptions of what rural area looks like; that the State has identified the area as rural; that it is up to the Commission to deem whether it is an appropriate area or not; that there are a million reasons why the area is not the appropriate place and she is listening to her State representative, voicing her objection and now it is in the Commission's hands.

Mr. Fuqua stated that he would like to clarify the question regarding the fire company; that the fee has been proposed as a Condition of Approval, but more importantly, will be placed as one of the restrictions, and that the restriction would have a type of provision that it would not be permitted to be deleted, amended or modified, without the consent of the Lewes and Milton Volunteer Fire Departments.

Ms. Alison White, resident of Red Mill in Sussex County, spoke in opposition to the applications and submitted a petition of opposition containing 250 signatures. Ms. White stated that the proposed project will degrade their quality of life, safety and property values; that the project would add a town of 5,600 additional residents in 1,922 residential units with commercial development; that the project would add 33,359 daily vehicle trips to area roadways and remove 108 acres of forest cover on the parcel; that Rt. 9 is near capacity; that the community would triple traffic on Rt. 9 and its surrounding roads; that this will further impair vehicle entry and exit for the Villages of Red Mill Pond and degrade the residents daily driving experience; that there are insufficient plans for corridor expansion to manage additional traffic; that the site was classified by the State as being within Investment Level 4; that DelDOT will not consider, much less implement road improvements on Hudson Road, or Rt. 9 west of Old Vine Blvd until well after 2030; that Rt. 9 is one of the few emergency evacuation route for the Sussex Shore area; that Rt. 9 supports residents of Lewes, Rehoboth, and the growing Rt. 9 corridor; that adding 5,000 residents will make it more unviable than it currently is; that the property is not located within a growth area in the County's land use plans; that because of this, the developer is requesting the parcel to be amended to the Coastal Area, being considered a growth area; that the Coastal Area stretches from roughly Sweet Briar Road to the shore, and is already a scene of rampant overdevelopment; that the request to amend the FLUM violates State strategies, by building within State Investment Level 4, which is an area designated for conservation and preservation; that the massive number of added residents would further strain schools, emergency services, and healthcare facilities; that the amount of forest removal and pavement will endanger environmentally sensitive

areas; that she urged the Commission to not recommend the applications for approval; that Red Mill Pond South has 177 homes with one entrance along Rt. 9; that the entrance has already been impacted by current traffic, creating a queue of four to five cars waiting to exit; that there was one occasion where a resident was attempting to get a relative to the hospital, who had to wait six to eight minutes to get onto Rt. 9; that urgently needing medical care can be critical; that there had been discussions regarding signalization at this entrance and about the dualization of Rt. 9; that any such plans are at minimum five years away from being realized; that their entrance is just over one mile west of the future Northstar community and 2.5 miles east of the proposed projects Site Entrance A; that they are located in the middle of the two projects, and considering the two project will add an estimated total of 46,000 additional vehicle trips to area roads, and the unfinished plans for improving Rt. 9, she has grave concerns about the project's impact to her community and their driving safety.

Ms. Alison Monroe, Sussex County resident along Walker Road, spoke in opposition to the applications and submitted two separate petitions of opposition, one containing 760 signatures from the last application in 2024, and 175 signatures for the current application of 2025. Ms. Monroe stated that the primary purpose of the Commission is to protect the interests of the current residents in the area, not the wishes of those who would like to move to the area; that she would argue that every name on the petition carries as much weight, if not more, than any developer, real estate agent or builder, as the individuals will be the ones most impacted; that the opposition rate in the nearby area is 98.3%; that as of May 1<sup>st</sup>, 2025, there were 287 public comments submitted through the County's website, equaling to an opposition rate of 83%; that the other related applications had opposition rates of 73%, 88.9% and 90.1%; that as a native to the immediate area, she had watched her hometown be altered almost past recognition; that she understands when she hears complaints regarding how busy the area has become, or when the newest transplants lament on the explosion of growth; that she believed many of the new residents feel they were sold a bill of goods of a pretty new house, on a quarter acre lot, located in the middle of farmland and forest along quiet country roads; that the realtors and developers sell this dream to one person after another; that this is all done while generational community members, longtime residents and newcomers alike, are left watching feeling helpless as slower, lower Delaware is being sold out of existence; that many natives are heartbroken, but too attached to leave; that she questioned is there a tipping point, to where sacrificing our quality of living is not worth the extra dollar, when it takes an hour to get home, when it used to take 15 minutes, when a person no longer feels safe walking along the road on which they have lived for years, or when the family doctor cannot accept you as an patient, when there are no more turtles in your yard, and no more cows in the field, and no more solitude to be found on the beaches; that she questioned if the extra income will be enough, or will the man-made improvements be enough to replace what the area has lost; that as she watches the farm fields being bulldozed and back country roads becoming thoroughfares, she implored the Commission to make the only correct decision, to help protect what makes Sussex County a rural gem, and requested the Commission to not recommend the Cool Spring Crossing application for approval.

Ms. Barbara Capuano, resident of Independence in Sussex County, spoke in opposition to the application. Ms. Capuano stated that there has been massive growth over the past four years; that now every one of us sits in traffic, on roads, trying to catch up with the growth; that on the peninsula, we live on the coast; that there could be an emergency or 24 hour mandatory evacuation at any time, like what northern New Jersey, and New York have had; that the area cannot handle the traffic now; that the roads need to be built or corrected before laying plans to place this development; that the roads have not caught up with what is already here; that this issue will cost lives, should anything happen,

and she requested the Commission to pause to look at the infrastructure, to figure out ways to handle what had already been approved before moving forward, as it is concerning life and death.

Upon there being no further questions, Chairman Wheatley closed the public hearing for the four applications.

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

In relation to C/U 2442 CMF Cool Spring, LLC. Motion by Ms. Wingate to defer action, holding the record open for ten business days, for the sole purpose of receiving additional written public comments on the document submitted by the Delaware Office of State Planning Coordination, seconded by Mr. Collins, and carried unanimously. Motion carried 5-0.

#### Minutes of the July 2, 2025, Planning & Zoning Commission Meeting

The Commission discussed the application, which had been deferred since May 7<sup>th</sup>, 2025.

Ms. Wingate moved that the Commission recommend approval of C/U 2442 CMF Coolspring, LLC for a Conditional Use within an MR-RPC Medium Density-Residential Planned Community District for an assisted living facility and medical office based on the record made during the public hearing and for the following reasons:

1. For the reasons and with conditions stated in its Motion, the Planning & Zoning Commission has recommended approval of C/Z 2010 to create a Medium Density-Residential Planned Community District on a 637-acre site of land along Route 9, Log Cabin Hill Road, Cool Spring Road, and Hudson Road in eastern Sussex County. That motion recognized that this is an area that is continuing to develop with nearby large and small business, commercial, retail, and office uses. It is adjacent to the Bayhealth Medical and Surgical Center, that provides healthcare and surgical services for all of eastern Sussex County. It is adjacent to Artesian Water Company's 1-million-gallon water tower. It is also located along one of DART's bus routes that interconnects with Lewes, Milton, Georgetown, and the statewide public transportation system. The site is also located along Route 9, which is classified by DelDOT and County Code as a Major Arterial Roadway.
2. For the reasons stated in its Motion, the Planning & Zoning Commission has also recommended that the land area designation be changed from the "Low Density Area" to the "Coastal Area" within the Future Land Use Map of the County's Comprehensive Plan.
3. Based upon those prior recommendations and the circumstances of this location, it is appropriate to also recommend approval of an Assisted Living and Medical Office Building within the MR-RPC. Both of these facilities will be located within the Town Center of the MR-RPC, each within its own separate building.
4. These uses compliment the Bayhealth Emergency and Urgent Care Center adjacent to the MR-RPC. Terry Murphy, the President and CEO of Bayhealth, provided a letter in support of the MR-RPC, which includes these uses. Likewise, Dr. David Tam, the President and CEO of Beebe Healthcare, also supported the MR-RPC. There is an undisputed need for more healthcare facilities throughout all of Sussex County, and these two facilities will help address that need by serving not only the residents of the MR-RPC but also residents throughout eastern Sussex County.

5. These proposed medical and healthcare uses are of a public or semi-public character and are essential and desirable for the general convenience and welfare of Sussex County and its existing and future residents and visitors.
6. With the conditions imposed on the MR-RPC and this conditional use, these facilities will not adversely affect neighboring properties or area roadways. Since they are located within the MR-RPC, they will be subject to the extensive roadway improvements and financial contributions required by DelDOT as part of its TIS Review Letter for the MR-RPC dated January 14, 2025.
7. This recommendation is subject to the following conditions:
  - A. This recommendation is conditioned on the approval of Ordinance No. 23-07 to amend the Future Land Use Map within the Comprehensive Plan from the current “Low Density” Area designation to the “Coastal Area” designation for this property. It is also conditioned upon the approval of C/Z 2010 to create the MR-RPC within which this assisted living facility and medical office building would be located.
  - B. These uses are subject to the applicable conditions of approval imposed upon C/Z 2010, and those conditions of approval are incorporated herein by reference.
  - C. The uses shall be limited to an assisted living facility and a medical office building. Each use shall be located within its own building. The Assisted Living Facility shall not exceed 71,500 square feet of floor area, and the medical office building shall not exceed 25,000 square feet of floor area.
  - D. The Assisted Living Facility shall not house more than 100 residents at any one time.
  - E. All parking shall be shown on the Final Site Plan for this conditional use. The Final Site Plan shall also contain a tabular description of the parking spaces required for these uses as they relate to the parking calculations for the entire MR-RPC that is the subject of C/Z 2010.
  - F. All dumpsters or trash receptacles associated with this use shall be screened from view of neighboring properties and roadways within the MR-RPC. The location of these items shall be shown on the Final Site Plan.
  - G. The Final Site Plan for this conditional use shall identify the timing of its construction in relation to the phasing and construction of the overall MR-RPC, including the timing and phasing of roadway improvements required for the MR-RPC. This information shall align with the timing and phasing information for these improvements that is also required to be shown on the Master Site Plan for the MR-RPC as part of the approval of C/Z 2010.
  - H. The Final Site Plan shall be subject to the review and approval and approval of the Sussex County Planning & Zoning Commission.

Motion by Ms. Wingate, seconded by Mr. Mears, and carried unanimously to recommend approval of C/U 2442 CMF Cool Spring, LLC for the reasons and the conditions stated in the motion. Motion carried 4-0.

**Introduced: 4/8/25**

**Council District 5: Mr. Rieley  
Tax I.D. No.: 235-27.00-11.00  
911 Address: N/A**

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR AN ASSISTED LIVING FACILITY AND MEDICAL OFFICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 194.17 ACRES, MORE OR LESS**

**WHEREAS, on the 14<sup>th</sup> day of April 2023, a Conditional Use Application, denominated Conditional Use No. 2442 was filed on behalf of CMF Cool Spring, LLC; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2025, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2442 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2025, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.**

**NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:**

**Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2442 as it applies to the property hereinafter described.**

**Section 2. The subject property is described as follows:**

**ALL that certain tract, piece or parcel of land, lying and being situate in Broadkill Hundred, Sussex County, Delaware, and lying on the south side of Log Cabin Hill Road (S.C.R. 247), the west side of Cool Spring Road (S.C.R. 290), the east side of Hudson Road (S.C.R. 258), and the north side of Lewes Georgetown Highway (Rt. 9) at the intersection of Cool Spring Road (S.C.R. 290) and Lewes Georgetown Highway (Rt. 9) and being more particularly described in the attached legal description prepared by \_\_\_\_\_, said parcel containing 194.17 acres, more or less.**

**This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.**

## Wendy Lobato

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**From:** notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE  
<notifications@d3forms.com>  
**Sent:** Tuesday, November 11, 2025 6:51 PM  
**To:** Wendy Lobato  
**Subject:** Form submission from: Council Grant Form

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

### ***Council Grant Form***

<b>Legal Name of Agency/Organization</b>	Grace -N- Mercy Ministries, Inc.
<b>Project Name</b>	Thanksgiving Community Dinner
<b>Federal Tax ID</b>	38-3655598
<b>Non-Profit</b>	Yes
<b>Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)</b>	Yes
<b>Organization's Mission</b>	Our mission is to serve our community with the love of Christ by connecting generations—nurturing our youth, supporting our seniors, and strengthening families. Through faith, fellowship, and outreach, we seek to bring hope, healing, and harmony to all.
<b>Address</b>	PO BOX 70
<b>City</b>	Greenwood
<b>State</b>	DE



<b>Zip Code</b>	19950
<b>Contact Person</b>	TONEKIA LINNEA SHOWELL
<b>Contact Title</b>	Secretary
<b>Contact Phone Number</b>	4438594763
<b>Contact Email Address</b>	<a href="mailto:tonekia.showell@seaford.k12.de.us">tonekia.showell@seaford.k12.de.us</a>
<b>Total Funding Request</b>	\$4000.00
<b>Has your organization received other grant funds from Sussex County Government in the last year?</b>	Yes
<b>If YES, how much was received in the last 12 months?</b>	3000
<b>Are you seeking other sources of funding other than Sussex County Council?</b>	Yes
<b>If YES, approximately what percentage of the project's funding does the Council grant represent?</b>	70
<b>Program Category (choose all that apply)</b>	Health and Human Services Other

<b>Program Category Other</b>	Poverty/Pubic Assistance
<b>Primary Beneficiary Category</b>	Other
<b>Beneficiary Category Other</b>	Homeless, Elderly (62+), Disability & Special Needs
<b>Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program</b>	600
<b>Scope</b>	For the last 20 years, we have served Sussex County with the Annual Thanksgiving Dinner. It has grown to serve over 500 meals. Last year we served 600 meals to the homeless, elderly, and low to moderate-income citizens in Sussex County. We served individuals from Greenwood, Bridgeville, Seaford, Laurel, Delmar, Millsboro, Georgetown and Selbyville. These individuals were from local group homes (Delaware Mentor, Chimes, Stockley Center and Fellowship Resources). We also have individuals from hotels and motels in Sussex County. Some come to our location and others we take and pass out at these locations and local parks in the areas.
<b>Religious Components</b>	The Thanksgiving Community Dinner has no religious affliction. The 501c3 is in the church's name. We use the location of the church to serve the dinner.
<b>Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)</b>	1,000.00

<b>Description</b>	700 To Go Trays (125ct. x 7) (\$18)
<b>Amount</b>	125.86
<b>Description</b>	drinking cups (125ct) (\$11)
<b>Amount</b>	76.86
<b>Description</b>	50 Turkeys x \$20 each
<b>Amount</b>	1,000.00
<b>Description</b>	Green Beans (100 cans x \$6)
<b>Amount</b>	600.00
<b>Description</b>	500 pounds of mashed potatoes (\$9 x 100 boxes)
<b>Amount</b>	900.00
<b>Description</b>	720 Dinner Rolls (30 packs) x \$4
<b>Amount</b>	120.00
<b>Description</b>	Variety of desserts (40 cakes and 40 pies x \$8)
<b>Amount</b>	640.00
<b>Description</b>	Stuffing ( 30 pans) (\$8 per box of 6: need 60 boxes)
<b>Amount</b>	480.00
<b>TOTAL EXPENDITURES</b>	3,942.72
<b>TOTAL DEFICIT FOR PROJECT OR ORGANIZATION</b>	-2,942.72
<b>Name of Organization</b>	Grace -N- Mercy Ministries, Inc.

<b>Applicant/Authorized Official</b>	TONEKIA SHOWELL
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<b>Date</b>	11/11/2025
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<b>Affidavit Acknowledgement</b>	Yes
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If you feel this is not a valid submission please log into D3Forms to update this submissions status.  
Please feel free to email [clientservices@d3corp.com](mailto:clientservices@d3corp.com) with any questions.

**SUSSEX COUNTY COUNCIL NON-PROFIT GRANT PROGRAM**  
**GUIDELINES FOR SUBMITTAL AND AFFIDAVIT OF UNDERSTANDING**

The Sussex County Council makes available a limited amount of funding to non-profit organizations that serve the citizens of Sussex County. Each application for funding shall be evaluated by Sussex County administrative staff and shall be subject to final approval from Sussex County Council.

In the attached application, each organization must outline its intended uses for the awarded funding and provide a detailed breakdown of the expenses and costs for such uses. Any funding awarded to the organization must be used in substantial conformity with anticipated expenditures of the submitted application.

All expenditures must have adequate documentation and must be expended within one (1) year of award of funds.

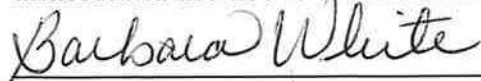
For non-religious organizations, all accounting records and supporting documentation shall be available for inspection by Sussex County within thirty (30) days after the organization's expenditure of the awarded funding, or within one year after the receipt of the awarded funds, whichever first occurs.

For religious organizations, all accounting records and supporting documentation shall be provided for inspection by Sussex County after the award has been made by County Council but before funding is released. Grant is relinquished if supporting documentation is not provided within one year of County Council award.

Certain programs are not eligible for funding pursuant to United States Constitution and State of Delaware Constitution. Those constitutional principles prohibit the use of funding to advance or inhibit religious activities. By signing below, the organization acknowledges that the funding shall be used exclusively for secular purposes, i.e., non-religious purposes and shall not be used to advance or inhibit religious activities.

In the event that such funding is used in violation of the requirements and assurances contained in this grant application, the awarded funding shall be reimbursed to Sussex County within a timeframe designated by Sussex County by written notice.

I acknowledge and represent on behalf of the applicant organization that I have read and understand the above statements.



Applicant/Authorized Official Signature



Witness Signature

Paraeducator- Mentoring Coordinator

Title

10/24/2025

Date



# SUSSEX COUNTY GOVERNMENT

## GRANT APPLICATION

### SECTION 1 APPLICANT INFORMATION

ORGANIZATION NAME: Sussex Central High School Mentoring Program

PROJECT NAME: Afterschool Program

FEDERAL TAX ID: 51-6000279 NON-PROFIT: ☒ YES ☐ NO

DOES YOUR ORGANIZATION OR ITS PARENT ORGANIZATION HAVE A RELIGIOUS AFFILIATION?

☐ YES ☒ NO \*IF YES, FILL OUT SECTION 3B.

ORGANIZATION'S MISSION: The Sussex Central Mentoring Program is committed to empowering students by fostering meaningful mentor-mentee relationships that promote academic achievement, personal growth, and lifelong success.

ADDRESS: 26044 Patriots Way

Georgetown De 1994  
(CITY) (STATE) (ZIP)

CONTACT PERSON: Barbara White

TITLE: Paraeducator- ISS Monitor/Mentoring Coordina

PHONE: 934-3166 EMAIL: bwhite@irsd.k12.de.us

TOTAL FUNDING REQUEST: 1500.00

Has your organization received other grant funds from Sussex County Government in the last year? ☐ YES ☒ NO

If YES, how much was received in the last 12 months? \_\_\_\_\_

If you are asking for funding for building or building improvements, do you own the building in which the funding will be used for? ☐ YES ☐ NO

Are you seeking other sources of funding other than Sussex County Council? ☐ YES ☒ NO

If YES, approximately what percentage of the project's funding does the Council grant represent? \_\_\_\_\_

## SECTION 2: PROGRAM DESCRIPTION

### PROGRAM CATEGORY (choose all that apply)

- |  |   |                                      |
|--|---|--------------------------------------|
| <input type="checkbox"/> Fair Housing                | <input type="checkbox"/> Health and Human Services                    | <input type="checkbox"/> Cultural    |
| <input type="checkbox"/> Infrastructure <sup>1</sup> | <input checked="" type="checkbox"/> Other <u>after school program</u> | <input type="checkbox"/> Educational |

### BENEFICIARY CATEGORY

- |   |  |                                   |
|---|--|-----------------------------------|
| <input type="checkbox"/> Disability & Special Needs | <input type="checkbox"/> Victims of Domestic Violence                      | <input type="checkbox"/> Homeless |
| <input type="checkbox"/> Elderly Persons            | <input type="checkbox"/> Low to Moderate Income <sup>2</sup>               | <input type="checkbox"/> Youth    |
| <input type="checkbox"/> Minority                   | <input checked="" type="checkbox"/> Other <u>High School Students 9-12</u> |                                   |

### BENEFICIARY NUMBER

Approximately the total number of Sussex County Beneficiaries served annually by this program:

12-15

## SECTION 3: PROGRAM SCOPE

- A. Briefly describe the program for which funds are being requested. The narrative should include the need or problem to be addressed in relation to the population to be served or the area to benefit.

B. IF RELIGIOUS AFFILIATION WAS CONFIRMED ABOVE IN SECTION 1, PLEASE FILL OUT THE FOLLOWING SECTION. IF RELIGIOUS AFFILIATION WAS NOT CHECKED IN SECTION 1, THIS SECTION MAY BE LEFT BLANK.

A faith-based nonprofit organization is eligible to receive and apply for a grant on the same basis as other nonprofit organizations, with respect to programs which are eligible. In the selection of grantees, the County will not discriminate for or against an organization on the basis of the organization's religious characterization or affiliation. However, certain requests to utilize funding for programs with religious purposes may not be eligible due to constitutional principles of the United States and/or the State of Delaware.

Briefly describe the components of the program that involve religious purposes and the components that involve secular purposes, or non-religious purposes. If both non-religious and religious purposes are involved in the program, this narrative must include the specific actions that will be implemented in order to ensure that the funding is solely used for non-religious purposes and will not be used to advance or inhibit religious or faith-based activities.

After the awarded funds have been made, receipts of the non-religious purchases shall be submitted in accordance with Section 5 below before funds will be disbursed.

**Sussex Central Mentoring Program Description**

The Sussex Central Mentoring Program is designed to provide students with positive role models who offer guidance, encouragement, and support to help them succeed academically, socially, and emotionally. The program pairs students with caring mentors, teachers, staff members, or community volunteers who meet regularly to build trusting relationships and set personal and academic goals. The program pairs students with trained mentors who provide one-on-one guidance, encouragement, and accountability. Mentors meet regularly with students to set goals, build study and life skills, and promote positive decision-making. Group sessions and community service projects further strengthen teamwork and leadership skills while helping students build a sense of belonging within the school community.

By addressing barriers such as low motivation, behavioral challenges, and limited support systems, the Sussex Central Mentoring Program serves as an essential intervention that reduces disciplinary incidents and improves academic outcomes. The program also encourages family engagement and collaboration with school staff to ensure every student receives the support they need to thrive academically and personally.

Our goal is to create a sustainable, trauma-informed mentoring model that inspires resilience, enhances school climate, and equips students with the tools for lifelong success.

**Use of Grant Funds:**

Grant funding will be used to enhance mentor training, provide educational and recreational materials, and support experiential learning opportunities. Funds will also help cover transportation and admission costs for student field trips designed to promote teamwork, cultural awareness, and career exploration. These experiences give students the opportunity to learn beyond the classroom, connect with mentors in real-world settings, and gain exposure to positive life pathways.

**Brief Budget Overview – Sussex Central Mentoring Program (\$1,200)**

Grant funds totaling \$1,500 will be used to enhance program activities and student engagement opportunities throughout the school year.

- Field Trips and Transportation – \$600: Covers admission fees, bus transportation, and activity materials for educational and team-building field trips.

- Mentor Training and Materials – \$300: Supports training sessions for mentors, including printed resources, professional development materials, and refreshments, supplies to motivate and celebrate student growth.

- Program Refreshments – \$300: Funds light snacks and refreshments, and end of year party for mentoring sessions and family engagement events.

- Student Incentives and Supplies – \$300: Provides recognition items, certificates, journals, and school supplies to motivate and celebrate growth.

Program Refreshments - \$300: Funds light refreshments and snacks for weekly meetings and end of year party for mentoring sessions and family engagement events



## SECTION 4: BUDGET

<b>REVENUE</b>	
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	
<b>TOTAL REVENUES</b>	
<b>EXPENDITURES</b>	
Please enter the total projected budget for the project (not entire organization expense if not applicable to request). Example of expenditure items: PERSONNEL-one lump sum that would include benefits, OPERATING COSTS-supplies, equipment, rent/lease, insurance, printing telephone, CONSTRUCTION/ACQUISITION-acquisition, development, rehab hard cost, physical inspections, architectural engineering, permits and fees, insurance, appraisal. <b>(Put amounts in as a negative)</b>	
Field trips	\$ 600.00
Mentoring Training and Materials	\$ 300.00
Student incentives and supplies	\$ 300.00
Program Refreshments for weekly meetings	\$ 300.00
<b>TOTAL EXPENDITURES</b>	\$ 1,500.00
<b>TOTAL DEFICIT FOR PROJECT OR ORGANIZATION</b>	\$ 1,500.00

## SECTION 5: STATEMENT OF ASSURANCES

If this grant application is awarded funding, the SCHS Mentoring Program agrees that:  
(Name of Organization)

- 1) For non-religious organizations, all expenditures must have adequate documentation and must be expended within one (1) year of receipt of award funds. The funding awarded to the organization must be used in substantial conformity with the anticipated expenditures set forth in the submitted application. All accounting records and supporting documentation shall be available for inspection by Sussex County within thirty (30) days after the organization's expenditure of the awarded funding, or within one year after the receipt of the awarded funds, whichever first occurs.
- 2) For religious organizations, all accounting records and supporting documentation shall be provided for inspection by Sussex County after the award has been made by County Council but before the funding is released.
- 3) No person, on the basis of race, color, or national origin, should be excluded from participation in, be denied the benefit of, or be otherwise subjected to discrimination under the program or activity funded in whole or in part by these Grant funds.

## SECTION 5: STATEMENT OF ASSURANCES (continued)

- 4) All information and statements in this application are accurate and complete to the best of my information and belief.
- 5) All funding will benefit only Sussex County residents.
- 6) All documents submitted by the applicant are defined as public documents and available for review under the Freedom of Information Act of the State of Delaware.
- 7) All funding will be used exclusively for secular purposes, i.e., non-religious purposes and shall not be used to advance or inhibit religious purposes.
- 8) **In the event that the awarded funding is used in violation of the requirements of this grant, the awarded funding shall be reimbursed to Sussex County within a timeframe designated by Sussex County by written notice.**



Applicant/Authorized Official Signature

10.24.2025

Date



Witness Signature

10/24/25

Date

Completed application can be submitted by:

Email: gjennings@sussexcountyde.gov

Mail: Sussex County Government  
Attention: Gina Jennings  
PO Box 589  
Georgetown, DE 19947

## Wendy Lobato

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**From:** notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE  
<notifications@d3forms.com>  
**Sent:** Tuesday, November 18, 2025 11:04 AM  
**To:** Wendy Lobato  
**Subject:** Form submission from: Council Grant Form

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### ***Council Grant Form***

<b>Legal Name of Agency/Organization</b>	Unique Minds Changing Lives Inc.
<b>Project Name</b>	Annual Christmas Giveaway Program
<b>Federal Tax ID</b>	882520844
<b>Non-Profit</b>	Yes
<b>Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)</b>	No
<b>Organization's Mission</b>	Established May 18, 2022, Unique Minds Changing Lives Inc. is a non-profit organization designed to change the lives of low-income families and individuals, that have fallen into hardship, by providing different types of services to help restore, educate and stabilize them.
<b>Address</b>	17584 STINGEY LN
<b>City</b>	Lewes
<b>State</b>	Delaware

<b>Zip Code</b>	19958
<b>Contact Person</b>	Helena Gibbs
<b>Contact Title</b>	President
<b>Contact Phone Number</b>	302-943-1945
<b>Contact Email Address</b>	<a href="mailto:helenagibbs@uniquemindscl.com">helenagibbs@uniquemindscl.com</a>
<b>Total Funding Request</b>	2000.00
<b>Has your organization received other grant funds from Sussex County Government in the last year?</b>	Yes
<b>If YES, how much was received in the last 12 months?</b>	2730.00
<b>Are you seeking other sources of funding other than Sussex County Council?</b>	Yes
<b>If YES, approximately what percentage of the project's funding does the Council grant represent?</b>	27
<b>Program Category (choose all that apply)</b>	Health and Human Services

<b>Primary Beneficiary Category</b>	Low to Moderate Income
<b>Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program</b>	400
<b>Scope</b>	<p>The Annual Christmas Giveaway hosted by Unique Minds Changing Lives Inc. provides essential holiday support to low-to-moderate income families, children, and vulnerable individuals across Sussex County. Each year, many families in our community face significant financial hardship, making it difficult to provide basic necessities—let alone holiday meals, winter clothing, or gifts for their children. This program directly addresses those needs by distributing toys, coats, food baskets, hygiene products, and household essentials to residents experiencing economic challenges.</p> <p>For many families, the holiday season increases emotional and financial stress, particularly for those managing job loss, reduced income, rising living costs, or instability in housing or transportation. The Christmas Giveaway helps relieve that burden by ensuring that children have gifts to open, families have access to warm clothing, and households receive food and supplies that support their well-being during the winter months. This program strengthens community stability, promotes dignity, and ensures that vulnerable residents—especially youth—experience joy and support during a time that can otherwise be overwhelming.</p> <p>Funds requested through this grant will help expand the number of families served, increase the quantity and quality of items distributed, and ensure that Sussex County residents facing financial hardship receive meaningful assistance during the holiday season.</p>

<b>Religious Components</b>	N/A
<b>Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)</b>	5,500.00
<b>Description</b>	Operating Costs
<b>Amount</b>	7,500.00
<b>TOTAL EXPENDITURES</b>	7,500.00
<b>TOTAL DEFICIT FOR PROJECT OR ORGANIZATION</b>	-2,000.00
<b>Name of Organization</b>	Unique Minds Changing Lives Inc.
<b>Applicant/Authorized Official</b>	Helena Gibbs
<b>Date</b>	11/18/2025
<b>Affidavit Acknowledgement</b>	Yes

If you feel this is not a valid submission please log into D3Forms to update this submissions status.  
Please feel free to email [clientservices@d3corp.com](mailto:clientservices@d3corp.com) with any questions.

## Wendy Lobato

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**From:** notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE <notifications@d3forms.com>  
**Sent:** Tuesday, November 18, 2025 4:06 PM  
**To:** Wendy Lobato  
**Subject:** Form submission from: Council Grant Form

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### ***Council Grant Form***

<b>Legal Name of Agency/Organization</b>	Delaware 4-H / Clover Knights 4-H Club
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<b>Project Name</b>	Annual Christmas Wishes Service Project
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<b>Federal Tax ID</b>	51-6000297
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<b>Non-Profit</b>	Yes
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<b>Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)</b>	No
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<b>Organization's Mission</b>	4-H empowers youth to reach their full potential, working and learning in partnership with caring adults through hands-on and research-based experiences. In 4-H we believe in the power of young people. We recognize that every child has valuable strengths and can have real potential to improve the world ... to show what it means to be a true leader. 4-H gives young people experiences where they can learn by doing, grow from failure, express their ideas, and lead. We tap into their potential and empower them to become true leaders.
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<b>Address</b>	c/o Clover Knights 4-H Club
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<b>Address 2</b>	26748 Shortly Road
<b>City</b>	Georgetown
<b>State</b>	DE
<b>Zip Code</b>	19947
<b>Contact Person</b>	Kim Elliott
<b>Contact Title</b>	Co-Organizational Leader
<b>Contact Phone Number</b>	302-245-1998
<b>Contact Email Address</b>	<a href="mailto:ElliottsHNK@aol.com">ElliottsHNK@aol.com</a>
<b>Total Funding Request</b>	\$1000
<b>Has your organization received other grant funds from Sussex County Government in the last year?</b>	No
<b>If YES, how much was received in the last 12 months?</b>	N/A
<b>Are you seeking other sources of funding other than Sussex County Council?</b>	Yes
<b>If YES, approximately what percentage of the project's funding</b>	50



**does the Council  
grant represent?**

**Program Category  
(choose all that  
apply)**

Cultural  
Educational  
Health and Human Services  
Other

**Primary Beneficiary  
Category**

Elderly Persons (62 +)

**Approximately the  
total number of  
Sussex County  
Beneficiaries served,  
or expected to be  
served, annually by  
this program**

171

**Scope**

Our club places a strong emphasis on giving back, and we have made it our goal to complete a community service project every month. These monthly projects have included Adopt-A-Highway, Coastal Clean-Up, Easter baskets for the Veterans Home, Hearts for Heroes, canned food drives, Rock Your Socks, cards for soldiers, tray favors for nursing home residents, volunteering at the food bank, and Christmas caroling. One of our most special traditions is our annual "Christmas Wishes" project for elderly residents.

Since 2019, we have been spreading Christmas cheer to nursing home residents in Sussex County through our Annual "Christmas Wishes" service project. The nursing homes visited have included Harrison House in Georgetown, ExcelCare in Lewes, and The Country Rest Home in Greenwood. This project involves several visits to sit and chat with residents to learn what they wish for at Christmas. For some, we may be the only visitors they receive, and their faces truly light up when our members arrive. It is a meaningful experience not only for the residents, but also for our 4-H youth.

After we visit all the residents and gather their wishes, our club members meet to shop for the gifts. Once everything is purchased, we hold a wrapping party to wrap presents and create cards. This is always a special night for our youth—seeing all the heartfelt, and often simple, things the residents wish for reminds us how much we often take for granted.

Once the gifts are wrapped and organized, we are ready for our return visit to deliver each resident's "Christmas Wishes," along with plenty of holiday cheer and Christmas caroling. This project fills the hearts of the residents—and our members and parents—with joy. The smiles, conversations, and connections formed throughout the entire process create lasting memories for everyone involved, making it a truly special tradition. It is a project that not only spreads holiday cheer but also instills the timeless value of giving and compassion in our youth.

This project not only creates special memories for both our members and the residents, but it also teaches valuable skills and life lessons. Lessons that truly embody the four H's of 4-H—Head, Heart, Hands, and Health. Our youth look forward to this project every year and feel honored to take part in it. They cherish the opportunity to spread joy and holiday cheer, especially to residents who may not have any other visitors during the season.

But like most projects, this one does come with a cost. We estimate a budget of \$15–\$20 per resident. While that may not seem like much, with 131 residents the total comes to approximately \$1,965–\$2,620. With very limited financial resources, our club relies on the generosity and sponsorships of local businesses and community organizations. To date, our club has raised \$778 toward the lower end of our estimated budget. We are still short of our goal, so our members and their families are reaching out to the community in hopes of securing the additional funding needed to make this project possible.

It is our hope to once again bring this special project to life—not only to brighten Christmas for the residents we

	visit and grant "Christmas Wishes" to, but also to also teach our youth the value of kindness, compassion, and giving back.
<b>Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)</b>	0.00
<b>Description</b>	Resident Gifts (\$15-\$20 per resident, 131 total residents)
<b>Amount</b>	1,965.00
<b>Description</b>	Wrapping Paper, Gift Bags, Tags
<b>Amount</b>	50.00
<b>Description</b>	Cardstock paper and card making supplies
<b>Amount</b>	50.00
<b>TOTAL EXPENDITURES</b>	2,065.00
<b>TOTAL DEFICIT FOR PROJECT OR ORGANIZATION</b>	-2,065.00
<b>Name of Organization</b>	Clover Knights 4-H Club
<b>Applicant/Authorized Official</b>	Kim Elliott
<b>Date</b>	11/18/2025
<b>Affidavit Acknowledgement</b>	Yes

If you feel this is not a valid submission please log into D3Forms to update this submissions status.  
Please feel free to email [clientservices@d3corp.com](mailto:clientservices@d3corp.com) with any questions.

## Wendy Lobato

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**From:** notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE  
<notifications@d3forms.com>  
**Sent:** Tuesday, November 25, 2025 1:50 PM  
**To:** Wendy Lobato  
**Subject:** Form submission from: Council Grant Form

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### ***Council Grant Form***

<b>Legal Name of Agency/Organization</b>	The Selbyville Historical Society
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<b>Project Name</b>	Townsend Building
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<b>Federal Tax ID</b>	92-0925055
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<b>Non-Profit</b>	Yes
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<b>Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)</b>	No
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<b>Organization's Mission</b>	The Selbyville Historical Society envisions a "Selbyville that celebrates and preserves its history and architectural heritage to enhance community today and for future generations.."
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<b>Address</b>	P.O. Box 917
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<b>City</b>	Selbyville
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<b>State</b>	DE
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<b>Zip Code</b>	19975
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<b>Contact Person</b>	Susan Bunting
<b>Contact Title</b>	Selbyville Historical Society Vice-President
<b>Contact Phone Number</b>	3025429120
<b>Contact Email Address</b>	<a href="mailto:sbunting8@mchsi.com">sbunting8@mchsi.com</a>
<b>Total Funding Request</b>	\$2262.50
<b>Has your organization received other grant funds from Sussex County Government in the last year?</b>	No
<b>If YES, how much was received in the last 12 months?</b>	N/A
<b>Are you seeking other sources of funding other than Sussex County Council?</b>	Yes
<b>If YES, approximately what percentage of the project's funding does the Council grant represent?</b>	100
<b>Program Category (choose all that apply)</b>	Cultural Educational Infrastructure
<b>Primary Beneficiary Category</b>	Disability & Special Needs

**Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program**

250

**Scope**

The Selbyville Historical Society has finally acquired possession of the former home of Sen. John G. Townsend, Jr., who was Selbyville's most noted citizen. In addition to prospering in the lumber business, starting the town's Baltimore Trust bank, organizing transportation and growers in a manner that led to the town's becoming "The Strawberry Capital of the World", and founding Townsend's poultry business, he became the state's governor and a US Senator. Well-respected throughout the nation, he hosted Eleanor Roosevelt for dinner in his home and was honored by Vice-President Richard Nixon's coming to Selbyville to attend the celebration of the Senator's 86th birthday.

Now that the town's new library has been completed and its former location has been deeded to the Society, its members are now in the process of preparing the building for a variety of services and programs that will benefit both the town's citizens and its visitors. Before museum and educational programming plans can further materialize, the building must be prepared for use. A primary need is the security of the building and the repair of the handicapped entrance. Consequently, the Selbyville Historical Society is requesting funds to redo the building's locks and repair the handicapped entrance's safety bar.

**Religious Components**

N/A

**Please enter the current support your organization receives for this project (not entire organization)**

0.00

revenue if not  
applicable to request)

**Description** Handicap Entry

**Amount** 1,239.50

**Description** General Lock Replacement

**Amount** 1,023.00

**TOTAL EXPENDITURES** 2,262.50

**TOTAL DEFICIT FOR  
PROJECT OR  
ORGANIZATION** -2,262.50

**Name of Organization** Selbyville Historical Society

**Applicant/Authorized  
Official** Susan Bunting

**Date** 11/24/2025

**Affidavit  
Acknowledgement** Yes

If you feel this is not a valid submission please log into D3Forms to update this submissions status.  
Please feel free to email [clientservices@d3corp.com](mailto:clientservices@d3corp.com) with any questions.



**To Be Introduced: 12/9/25**

**Council District 5: Mr. Rieley**

**Tax I.D. No.: 133-7.00-8.00**

**911 Address: N/A**

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EMERGENCY VEHICLE OPERATIONS COURSE, STORAGE, AND PAVILLION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 839.05 ACRES, MORE OR LESS**

**WHEREAS, on the 7th day of August 2025, a Conditional Use application, denominated Conditional Use No. 2607, was filed on behalf of the State of Delaware Office of Management & Budget and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2026, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2607 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2026, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.**

**NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:**

**Section 1. That Chapter 115, Article IV, Subsections 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2607 as it applies to the property hereinafter described.**

**Section 2. The subject property is described as follows:**

**ALL that certain tract, piece, or parcel of land, lying and being situate in Sussex County, Delaware, and lying on the east side of Patriots Way (S.C.R. 318), approximately 0.66 mile south of Zoar Road (S.C.R. 48), and being more particularly described in the attached legal description prepared by Delaware Department of Transportation said parcel containing 839.05 acres, more or less.**

**This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.**

**To Be Introduced: 12/9/25**

**Council District 3: Ms. Gruenebaum  
Tax I.D. No.: 235-4.13-64.00  
911 Address: 103 Maryland Avenue, Milton**

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A B-1 NEIGHBORHOOD BUSINESS AND MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR IMPROVEMENTS TO AN EXISTING WATER TREATMENT FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 0.91 ACRES, MORE OR LESS**

**WHEREAS, on the 31<sup>st</sup> day of July 2025, a Conditional Use application, denominated Conditional Use No. 2603, was filed on behalf of Tidewater Utilities, Inc. and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2026, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2603 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2026, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.**

**NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:**

**Section 1. That Chapter 115, Article X, Subsections 115-71 and Chapter 115, Article V, Subsection 115-31 Code of Sussex County, be amended by adding the designation of Conditional Use No. 2603 as it applies to the property hereinafter described.**

**Section 2. The subject property is described as follows:**

**ALL that certain tract, piece, or parcel of land, lying and being situate in Sussex County, Delaware, and lying south of Maryland Avenue and east of North Bay Shore Drive (Rt. 16), approximately 430 feet north of Broadkill Road (S.C.R. 5), and being more particularly described in the attached legal description prepared by Parkowski, Guerke, & Swayze, P.A. said parcel containing 0.91 acres, more or less.**

**This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.**

**To Be Introduced: 12/9/25**

**Council District 4: Mr. Hudson**

**Tax I.D. No.: 134-12.00-379.01**

**911 Address: 32293 Roxanna Road, Ocean View**

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SEASONAL BUNGALOWS (2 UNITS) FOR THE PURPOSE OF SHORT-TERM RENTAL TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 0.8 ACRE, MORE OR LESS**

**WHEREAS, on the 14th day of May 2024, a Conditional Use application, denominated Conditional Use No. 2530, was filed on behalf of Whitney Price; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2026, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County, and said Planning and Zoning Commission recommended that Conditional Use No. 2530 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2026, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.**

**NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:**

**Section 1. That Chapter 115, Article IV, Subsections 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2530 as it applies to the property hereinafter described.**

**Section 2. The subject property is described as follows:**

**ALL that certain tract, piece, or parcel of land, lying and being situate in Sussex County, Delaware, and lying on the east side of Roxanna Road (Rt. 17) and the south side of Lucinda Drive, approximately 600 feet north of Burbage Road (S.C.R. 353) and being more particularly described in the attached legal description prepared by Parsons & Robinson, P.A. said parcel containing 0.8 acre, more or less.**

**This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.**

## ENGINEERING DEPARTMENT

J. MARK PARKER, P.E.  
ASSISTANT COUNTY ENGINEER

(302) 855-7370 T  
(302) 854-5391 F  
mark.parker@sussexcountype.gov



# Sussex County

DELAWARE  
sussexcountype.gov

TO: Sussex County Council:  
The Honorable Douglas B. Hudson, President  
The Honorable John L. Rieley, Vice President  
The Honorable Jane Gruenebaum  
The Honorable Matt R. Lloyd  
The Honorable Steve C. McCarron

FROM: J. Mark Parker, P.E., Assistant County Engineer

RE: ***Love Creek MHC Septic Elimination, Project S26-08***  
***A. Financing Public Hearing***

DATE: December 9, 2025

The Sussex County Engineering Department originally received a request from Love Creek MHC LLC in Summer 2024 to annex the Love Creek Mobile Home Community (MHC), consisting of 168 homes and 10 campers, into the Sussex County Unified Sewer District for the purpose of providing County central sewer service to parcel 334-18.00-32.00.

The community is located directly adjacent to the tidal portion of Love Creek. Under the State of Delaware's promulgated Pollution Control Strategy for the Inland Bays, the areas within 1,000 feet of the water's edge were to be connected to central sewer under priority one in 2008. The Love Creek waterway has had its shell fishing halted many times in recent years due to contamination. However, no official request for central sewer service had been received for a number of years despite several outreach attempts by the County.

The Love Creek MHC is presently served by individual on-site sewer "systems" with two homes on average connected to the same system. The majority of the sewer disposal areas are very limited in size and possibly not much more than a converted cesspool. If the community is connected to a central sewer system, the environmental benefit of removing almost three (3) tons of nitrogen per year from the Inland Bays is significant and in the best interest for the health and wealth of the entire area.

On January 14, 2025 Council approved a request by the Engineering Department to prepare and post notices for a Public Hearing to be held for the annexation area per Del Code Title 9. On February 4, 2025, a Public Hearing was held outlining potential costs and an anticipated timeline for project implementation. Two smaller mobile home parks located off Love Creek and immediately adjacent to the Love Creek MHP had also expressed interest in being part of the overall sewer annexation. Following the Public Hearing, Council approved the requested



annexation of the outlined properties into the Sussex County Unified Sewer District as well as the submission of a funding request to the State of Delaware Water Pollution Control Revolving Fund (WPCRF) as administered by DNREC.

In a letter dated May 9, 2025 DNREC indicated that the project was included in the 2025 Intended Use Plan and that official loan applications would be accepted for consideration through the WPCRF. Following the County's submission of a loan application, DNREC provided a binding commitment offer on September 29, 2025 to fund the project through the WPCRF which was accepted by the County Finance Department.

On November 18, 2025, Council approved the introduction of an Ordinance authorizing the issuance of up to \$7,243,669 of general obligation bonds of Sussex County in connection with anticipated costs associated with the Love Creek MHC Septic Elimination Project. Based on a favorable outcome of the Public Hearing scheduled on December 9, 2025, the **Engineering & Finance Departments jointly recommend approval of the Ordinance authorizing the issuance of up to \$7,243,669 of general obligation bonds of Sussex County in connection with anticipated costs associated with the Love Creek MHC Septic Elimination Project.**



STATE OF DELAWARE  
**DEPARTMENT OF NATURAL RESOURCES AND  
ENVIRONMENTAL CONTROL**

OFFICE OF THE SECRETARY  
ENTERPRISE BUSINESS PARK  
97 COMMERCE WAY, SUITE 106  
DOVER, DELAWARE 19904

ENVIRONMENTAL  
FINANCE

PHONE: (302) 739-9941

FAX: (302) 739-2137

September 29, 2025

Ms. Gina Jennings  
Finance Director  
Sussex County Council  
P.O. Box 589  
Georgetown, DE 19947

RE: Delaware Water Pollution Control Revolving Fund Binding Commitment Offer for  
Sussex County Council ("the County") – Love Creek Mobile Home Community ("MHC")  
Project

Dear Ms. Jennings:

On behalf of the Delaware Water Pollution Control Revolving Fund ("Fund"), the Delaware Department of Natural Resources and Environmental Control ("Department") is pleased to advise you that a Loan ("Loan") has been authorized from the Fund to the County in the amount of **\$7,243,669** for a term of **thirty (30) years**. The Loan will be used to finance the installation of a low-pressure sanitary sewer system for the Love Creek MHC, Lazy Pine Retreat Mobile Home Park, Dolly's Mobile Home Park, and a few individual homes fronting the tidal portion of Love Creek in Lewes. With this project, 193 homes will be taken off their existing on-site sewer disposal systems and approximately 120 total on-site treatment and disposal systems will be eliminated. The proposed collection system will consist of individual lot grinder pump stations discharging to a central small diameter force main which will then discharge to an existing gravity sewer line on the north side of Route 24, directly across from the Love Creek MHC entrance.

The loan interest rate shall be **2%**. During the disbursement period, the interest rate shall be 0%. After the Project has been completed, up to \$5,926,060 of the principal balance will be forgiven. The remaining balance will require principal and interest payments paid semi-annually in an amount sufficient to amortize the outstanding balance over thirty years.

It is understood that a General Obligation Bond from the County will secure the Loan. All legal costs, incurred by the Fund, associated with loan closing shall be borne by the County and will become a part of loan proceeds.

The Fund reserves the right to withdraw or alter the terms of this commitment if, between the date of the County's loan application and the date of the closing, the County incurs any debt or its financial condition changes in any way deemed material by the Fund at its sole discretion. Loan closing and the disbursement of funds shall remain subject to the satisfaction of any conditions established by the Fund.

The County shall comply in all respects with all applicable Fund requirements and reporting, federal laws, regulations, and other requirements related to or arising out of, or in connection with funding by the Fund. The County shall also comply in all respects with the Federal Single Audit Act, 2 CFR 200 Subpart F, as a sub-recipient of Federal funds. The Catalog of Federal Domestic Assistance (CFDA) number for the Fund is 66.458. Where noncompliance of such requirements is determined by the Fund or the Department, the issue shall be referred to the proper federal authority and/or agency for consultation and/or enforcement action.

If you have any questions concerning the foregoing, please contact this office at 302-739-9941. If you concur with the terms and conditions stated above, please acknowledge your acceptance by signing below and returning the original to this office no later than October 30, 2025.

If Loan closing shall not have occurred within 120 days of receipt of this letter, the Fund reserves the right to discontinue processing the County's application.

Sincerely,  
FOR THE DELAWARE WATER POLLUTION  
CONTROL REVOLVING FUND

*Laura Robbins*

---

Laura Robbins  
Chief of Administration  
Environmental Finance  
DNREC- Office of the Secretary

By: \_\_\_\_\_  
Ms. Gina Jennings  
Finance Director, Sussex County

(COUNTY SEAL)

cc: Keith Kooker, DNREC EF  
Emily Frederick, DNREC EF

**ORDINANCE NO. [\_\_\_\_\_]**

**AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$7,243,669 OF  
GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH  
THE LOVE CREEK MOBILE HOME COMMUNITY (“MHC”) PROJECT AND  
AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH**

WHEREAS, pursuant to Title 9, Delaware Code, Section 7001(a) Sussex County (the “County”) has “all powers which, under the Constitution of the State, it would be competent for the General Assembly to grant by specific enumeration, and which are not denied by statute” (the “Home Rule Power”);

WHEREAS, acting pursuant to its Home Rule Power, and pursuant to Title 9, Delaware Code, Chapters 65 and 67, the County has authorized the design, construction and equipping of the Love Creek Mobile Homes Community (“MHC”) Project, which will finance the installation of a low-pressure sanitary sewer system for the Love Creek MHC, Lazy Pine Retreat Mobile Home Park, Dolly's Mobile Home Park, and a few individual homes fronting the tidal portion of Love Creek in Lewes. With this project, 193 homes will be taken off their existing on-site sewer disposal systems and approximately 120 total on-site treatment and disposal systems will be eliminated. The proposed collection system will consist of individual lot grinder pump stations discharging to a central small diameter force main which will then discharge to an existing gravity sewer line on the north side of Route 24, directly across from the Love Creek MHC entrance (collectively, the “Project”);

WHEREAS, pursuant to Title 9, Delaware Code, Section 6706, the County is authorized to issue its bonds and to pledge its full faith and credit thereto, to finance the cost of any object, program or purpose for which the County is authorized to raise, appropriate or expend money under Chapter 67 of Title 9; and

WHEREAS, acting pursuant to the aforesaid authority, the County desires to authorize the issuance of general obligations of the County to finance the costs of the Project and for the other purposes described herein.

NOW THEREFORE THE COUNTY OF SUSSEX HEREBY ORDAINS (AT LEAST FOUR FIFTHS OF THE MEMBERS OF COUNCIL CONCURRING HEREIN):

Section 1. Amount and Purpose of the Bonds. Acting pursuant to Title 9, Delaware Code, Chapters 65 and 67, Sussex County shall issue its negotiable general obligations in the maximum aggregate principal amount not to exceed \$7,243,669 (the “Bonds”) to finance or reimburse the County for a portion of the cost of the design, construction and equipping of the Project.

The monies raised from the sale of the Bonds (including the investment earnings thereon) after the payment of the costs of issuance, shall be held in one or more Project accounts and shall be expended only for the purposes authorized herein or as may otherwise be authorized by subsequent action by County Council. Authorized purposes include the costs of planning, constructing, acquiring and equipping the Project or any portion thereof; interest on the Bonds



and any interim financing during the construction period and for a period of up to one year following the estimated date of completion; the reasonable costs of issuance of the Bonds and any interim financing; the repayment of temporary loans incurred with respect to the Project; and the reimbursement of authorized costs previously expended by the County from other funds.

Section 2. Security for the Bonds. The principal, interest and premium, if any, on the Bonds may be paid by ad valorem taxes on all real property subject to taxation by the County without limitation as to rate or amount, except as limited by Title 9, Delaware Code Section 8002(c). Pursuant to Title 9, Delaware Code, Section 6706, the full faith and credit of the County is pledged to such payment. The Bonds shall contain a recital that they are issued pursuant to Title 9, Delaware Code, Chapter 67, which recital shall be conclusive evidence of their validity and of the regularity of their issuance. The Bonds are backed by the County's full faith and credit.

Section 3. Terms of the Bonds. The Bonds shall be sold at such prices and upon such other terms and conditions consistent with the provisions of this Ordinance and otherwise as the County Administrator shall determine to be in the best interests of the County. The Bonds shall bear interest at such rate or rates and shall mature in such amounts and at such times, but not exceeding thirty (30) years from the date of completion of the Project, and shall be subject to redemption, as the County Administrator shall determine.

Section 4. Sale of the Bonds. The Bonds may be issued in one or more series and shall be sold in one or more public sales or private negotiated transactions upon such terms and conditions as the County Administrator shall determine shall be in the best interest of the County. It is anticipated that the Bonds will be sold to the State of Delaware Water Pollution Control Revolving Fund (acting by and through the Delaware Department of Natural Resources and Environmental Control) (or any successor agency).

Section 5. Details of the Bonds. The County Administrator is authorized to determine the details of the Bonds including the following: the date or dates of the Bonds; provisions for either serial or term bonds; sinking fund or other reserve fund requirements; due dates of the interest thereon; the form of the Bonds; the denominations and designations of the Bonds; registration, conversion and transfer provisions; provisions for the receipt, deposit and investment of the proceeds of the Bonds; provisions for the replacement of lost, stolen, mutilated or destroyed Bonds; and provisions for issuing uncertificated obligations and all procedures appropriate for the establishment of a system of issuing uncertificated debt. The Bonds shall be executed by the manual or facsimile signature of the County Administrator, shall contain an impression of the County seal or a facsimile thereof and shall be attested by the manual signature of the County Clerk. The County Administrator shall determine the form of the Bonds.

Section 6. Debt Limit. It is hereby determined and certified, as of the effective date hereof, that the issuance of the Bonds is within the legal debt limit of the County.

Section 7. Further Action. The President of the County Council, the County Administrator, the Finance Director and the County Clerk are authorized and directed to take such other action on behalf of the County, as may be necessary or desirable to effect the adoption of this Ordinance and the issuance and sale of the Bonds and to provide for their security and to carry out the intent of this Ordinance, including the publication of notices and advertisements and the execution and delivery of customary closing certificates.

Section 8. Effective Date. This Ordinance shall become effective immediately upon its passage.

The County Clerk is hereby directed to publish a notice of the adoption hereof in accordance with Section 7002(m)(2) of Title 9 of the Delaware Code, as amended.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF  
ORDINANCE NO. \_\_\_\_ ADOPTED ON THE \_\_\_\_ day of November, 2025.

SUSSEX COUNTY, DELAWARE

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Tracy Torbert  
Clerk of the Council

SYNOPSIS: This Ordinance provides for the issuance of up to \$7,243,669 of Sussex County General Obligation Bonds in order to finance or reimburse the County for a portion of the costs for the design, construction and equipping of the Love Creek Mobile Home Community (“MHC”) Project, which will installation of a low-pressure sanitary sewer system for the Love Creek MHC, Lazy Pine Retreat Mobile Home Park, Dolly's Mobile Home Park, and a few individual homes fronting the tidal portion of Love Creek in Lewes. With this project, 193 homes will be taken off their existing on-site sewer disposal systems and approximately 120 total on-site treatment and disposal systems will be eliminated. The proposed collection system will consist of individual lot grinder pump stations discharging to a central small diameter force main which will then discharge to an existing gravity sewer line on the north side of Route 24, directly across from the Love Creek MHC entrance (collectively, the “Project”).

## ENGINEERING DEPARTMENT

J. MARK PARKER, P.E.  
ASSISTANT COUNTY ENGINEER

(302) 855-7370 T  
(302) 854-5391 F  
mark.parker@sussexcountyde.gov



# Sussex County

DELAWARE  
sussexcountyde.gov

TO: Sussex County Council:  
The Honorable Douglas B. Hudson, President  
The Honorable John L. Rieley, Vice President  
The Honorable Jane Gruenebaum  
The Honorable Matt R. Lloyd  
The Honorable Steve C. McCarron

FROM: J. Mark Parker, P.E., Assistant County Engineer

RE: ***New Marydels Rd, Tanglewood & Oak Acres Sewer Extension, Projects S19-19 & S22-24***  
***A. Supplemental Financing Public Hearing***

DATE: December 9, 2025

On February 5, 2008, the Engineering Department held a public hearing before council for the Bayard Expansion of the Miller Creek Sanitary Sewer District. Residents from Tanglewood/New Marydel and Oak Acres appeared and questioned council on the possibility of their communities being included in the district boundary. The Engineering Department was tasked with collecting information from the residents and reporting back the next week. On February 12, 2008, the Engineering Department came back to council with information on the community poll. Council subsequently approved inclusion into the Sewer District only those parcels responding in New Marydel and all of Tanglewood and Oak Acres.

The turn in the economy affected the construction of infrastructure that was to be built by the developers of the Estuary to serve the overall area. Once the project began moving forward the main infrastructure became available for the Oak Acres Community. The County agreed to a cost share agreement with the developer for the pumpstation required to serve their phase 4 as well as the Oak Acres Community.

The final design package for the Oak Acres community was ultimately combined with the Tanglewood and New Marydel communities to produce a single overall Bid Package. Invitations to Bid for the combined package was subsequently advertised in the local newspaper, as well as available to view on the County website. In addition, the information was directly forwarded to several contractors. A total of six (6) contractors attended the pre-bid meeting on February 22, 2024, and on March 7, 2024, six (6) bids were received. Teal Construction, Inc. submitted the lowest responsible bid of \$1,891,891.00. At the recommendation of the Engineering Department, Council approved contract award to Teal Construction on April 9, 2024.



Due to resource scheduling issues with the Contractor, official Notice-to-Proceed wasn't issued until October 21, 2024, with construction activities starting up the following month. Over the following few months, adverse weather conditions resulted in delays to construction progression. Although the Contractor ultimately submitted a request for a time extension of six (6) Calendar Days due to inclement weather, based on a review of inspector records only three (3) days were accepted by the Owner. Based on a recommendation from the Engineering Department, on March 25, 2025 Council approved a no-cost Change Order No. 1 adding 3 Calendar Days to the Contract.

Project construction progressed over the following several months and the Substantial Completion milestone was reached on July 25, 2025. System Connection Letters were sent to all property owners in the project area on July 28th. Following this, minor punch list items were completed by the Contractor and a *Notice of Acceptability of Work* was issued on September 5<sup>th</sup>. Final balancing Change Order No. 2 includes accounting for all final quantities used during construction and results in a decrease of \$28,005.18 from the original award amount of \$1,891,891.00. An additional 42 Calendar Days were also granted due to weather delays and additional work required tied to DelDOT inspections.

On the financing side, the original State Loan amount was \$2,376,356.00 which reflected costs for Land/ROW, Legal/Admin, Engineering, Construction, Inspection, and Connection Fees. After compiling all project expenditures, it was determined that the loan amount was exceeded by \$344,960.39. The primary driver of the cost overrun was construction costs as the contract award amount was significantly greater than what was included in the budget supporting the loan request. The other components of the budget overrun were construction management fees and the County's participation in a cost share agreement that allowed the constructed sewer system to utilize an adjacent pump station built as part of a private development.

Construction management and inspection services were provided by one of the Consultants under our open-end Miscellaneous Engineering Contracts – George, Miles and Buhr (GMB). Council approved Amendment No. 1 to their Base Contract on April 9, 2024 in the amount of \$206,076.00 to provide full-time construction oversight services for this project. As a result of additional time needed to complete the project, GMB exceeded their approved budget by \$12,500.00 which is represented as Amendment No. 2.

On September 15, 2025, Council approved Amendment No. 2 to GMB's Base Contract, as well as final balancing Change Order No. 2 and project close-out for the construction project, and submission of a supplemental funding request to the State for project cost overrun.

Subsequent to Council approval and submission of the supplemental funding request, a financing binding commitment offer from the Delaware Water Pollution Control Revolving Fund was received and accepted by the Sussex County Finance Department on October 28, 2025.

On November 18, 2025, Council approved the introduction of an Ordinance authorizing the issuance of up to \$344,960.39 of general obligation bonds of Sussex County in connection with increased costs associated with the Tanglewood-Oak Acres Septic Elimination Project.

Based on a favorable outcome of the Public Hearing scheduled on December 9, 2025, the **Engineering & Finance Departments jointly recommend approval of the Ordinance authorizing the issuance of up to \$344,960.39 of general obligation bonds of Sussex County in connection with increased costs associated with the Tanglewood-Oak Acres Septic Elimination Project.**



STATE OF DELAWARE  
**DEPARTMENT OF NATURAL RESOURCES AND  
ENVIRONMENTAL CONTROL**

OFFICE OF THE SECRETARY  
ENTERPRISE BUSINESS PARK  
97 COMMERCE WAY, SUITE 106  
DOVER, DELAWARE 19904

ENVIRONMENTAL  
FINANCE

PHONE: (302) 739-9941

FAX: (302) 739-2137

October 27, 2025

Ms. Gina Jennings  
Finance Director  
Sussex County Council  
P.O. Box 589  
Georgetown, DE 19947

RE: Delaware Water Pollution Control Revolving Fund Binding Commitment Offer for  
Sussex County Council ("the County") – Supplemental Tanglewood-Oak Acres Septic  
Elimination Project

Dear Ms. Jennings:

On behalf of the Delaware Water Pollution Control Revolving Fund ("Fund"), the Delaware Department of Natural Resources and Environmental Control ("Department") is pleased to advise you that a Loan ("Loan") has been authorized from the Fund to the County in the amount of **\$344,960.39** for the existing term of the original loan. The Loan will be used to finance the construction budget shortfall and additional engineering services associated with the original project for the connection of 77 lots to the nearby existing County sewer located in the Tanglewood and Oak Acres communities.

The loan interest rate shall be 2%. During the disbursement period, the interest rate shall be 0%. After the Project has been completed, up to \$344,960.39 of the principal balance will be forgiven. Should the project not be completed, the principal balance will be amortized over the remaining term of the original loan until April 1, 2054, such date being the final maturity date of the original loan.

It is understood that a General Obligation Bond from the County will secure the Loan. All legal costs, incurred by the Fund, associated with loan closing shall be borne by the County and will become a part of loan proceeds.

October 27, 2025

WPCRF Binding Commitment Letter

Sussex County– Supplemental Tanglewood-Oak Acres Project

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The Fund reserves the right to withdraw or alter the terms of this commitment if, between the date of the County's loan application and the date of the closing, the County incurs any debt or its financial condition changes in any way deemed material by the Fund at its sole discretion. Loan closing and the disbursement of funds shall remain subject to the satisfaction of any conditions established by the Fund.

The County shall comply in all respects with all applicable Fund requirements and reporting, federal laws, regulations, and other requirements related to or arising out of, or in connection with funding by the Fund. The County shall also comply in all respects with the Federal Single Audit Act, 2 CFR 200 Subpart F, as a sub-recipient of Federal funds. The Catalog of Federal Domestic Assistance (CFDA) number for the Fund is 66.458. Where noncompliance of such requirements is determined by the Fund or the Department, the issue shall be referred to the proper federal authority and/or agency for consultation and/or enforcement action.

If you have any questions concerning the foregoing, please contact this office at 302-739-9941. If you concur with the terms and conditions stated above, please acknowledge your acceptance by signing below and returning the original to this office no later than November 27, 2025.

If Loan closing shall not have occurred within 120 days of receipt of this letter, the Fund reserves the right to discontinue processing the County's application.

Sincerely,  
FOR THE DELAWARE WATER POLLUTION  
CONTROL REVOLVING FUND

Laura Robbins

Laura Robbins  
Chief of Administration  
Environmental Finance  
DNREC- Office of the Secretary

The foregoing terms and conditions are hereby acknowledged and accepted this 28 day of October, 2025.

By: Gina Jennings  
Ms. Gina Jennings  
Finance Director, Sussex County

(COUNTY SEAL)

cc: Keith Kooker, DNREC EF



**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$344,960.39 OF  
GENERAL OBLIGATION BOND OF SUSSEX COUNTY IN CONNECTION WITH  
INCREASED COSTS ASSOCIATED WITH THE TANGLEWOOD-OAK ACRES  
SEPTIC ELIMINATION PROJECT AND AUTHORIZING ALL NECESSARY  
ACTIONS IN CONNECTION THEREWITH**

WHEREAS, pursuant to Title 9, Delaware Code, Section 7001(a) Sussex County (the “County”) has “all powers which, under the Constitution of the State, it would be competent for the General Assembly to grant by specific enumeration, and which are not denied by statute” (the “Home Rule Power”);

WHEREAS, acting pursuant to its Home Rule Power, and pursuant to Title 9, Delaware Code, Chapters 65 and 67, the County has authorized the design, construction and equipping of the Oak Acres And Tanglewood Septic Elimination Project, which will finance the connection of the Tanglewood and Oak Acres communities to the nearby existing County sanitary sewer by installing gravity main and lot laterals (collectively, the “Project”);

WHEREAS, pursuant to Title 9, Delaware Code, Section 6706, the County is authorized to issue its bond and to pledge its full faith and credit thereto, to finance the cost of any object, program or purpose for which the County is authorized to raise, appropriate or expend money under Chapter 67 of Title 9;

WHEREAS, pursuant to Ordinance No. 2836 adopted on March 1, 2022, the County authorized the issuance of its General Obligation Bond in the maximum principal amount of up to \$2,376,356 for the Project;

WHEREAS, the County previously issued its General Obligation Bond (Oak Acres and Tanglewood Septic Elimination Project), Series 2022B-SRF in the maximum aggregate principal amount of up to \$2,376,356 (the “2022B Bond”) on March 24, 2022 to secure a loan from the Delaware Department of Natural Resources and Environmental Control (acting by and through the Delaware Water Pollution Control Revolving Fund) (“DNREC”) to fund the Project;

WHEREAS, the County requires additional funding due to increases costs for the Project and desires to accept a supplemental loan in the amount of \$344,960.39 from DNREC to fund the increased costs of the Project; and

WHEREAS, acting pursuant to the aforesaid authority, the County desires to authorize the issuance of general obligations of the County to finance the increased costs of the Project and for the other purposes described herein.

NOW THEREFORE THE COUNTY OF SUSSEX HEREBY ORDAINS (AT LEAST FOUR FIFTHS OF THE MEMBERS OF COUNCIL CONCURRING HEREIN):

Section 1. Amount and Purpose of the Bond. Acting pursuant to Title 9, Delaware Code, Chapters 65 and 67, Sussex County shall issue its negotiable general obligations in the

maximum aggregate principal amount not to exceed \$344,960.39 (the “Bond”) to finance or reimburse the County for the construction budget shortfall and additional engineering services associated with the original project for the connection of 77 lots to the nearby existing County sewer located in the Tanglewood and Oak Acres communities, with the expectation that up to \$344,960.39 of principal forgiveness will be applied to the Bond, resulting in a total forgiveness of \$1,876,960.39 with respect to the 2022B Bond and the Bond to reduce the combined principal amount of the 2022B Bond and the Bond outstanding to \$844,356 upon Project completion.

The monies raised from the sale of the Bond (including the investment earnings thereon) after the payment of the costs of issuance, shall be held in one or more Project accounts and shall be expended only for the purposes authorized herein or as may otherwise be authorized by subsequent action by County Council. Authorized purposes include the costs of planning, constructing, acquiring and equipping the Project or any portion thereof; interest on the Bond and any interim financing during the construction period and for a period of up to one year following the estimated date of completion; the reasonable costs of issuance of the Bond and any interim financing; the repayment of temporary loans incurred with respect to the Project; and the reimbursement of authorized costs previously expended by the County from other funds.

Section 2. Security for the Bond. The principal, interest and premium, if any, on the Bond may be paid by ad valorem taxes on all real property subject to taxation by the County without limitation as to rate or amount, except as limited by Title 9, Delaware Code Section 8002 (c). Pursuant to Title 9, Delaware Code, Section 6706, the full faith and credit of the County is pledged to such payment. The Bond shall contain a recital that it is issued pursuant to Title 9, Delaware Code, Chapter 67, which recital shall be conclusive evidence of its validity and of the regularity of its issuance. While the Bond is backed by the County’s full faith and credit, it is expected that the debt service will be paid from revenues of the Subdivision.

Section 3. Terms of the Bond. The Bond shall be sold at such price and upon such other terms and conditions consistent with the provisions of this Ordinance and otherwise as the County Administrator shall determine to be in the best interests of the County. The Bond shall bear interest at such rate and shall mature in such amount and at such times, but not exceeding thirty (30) years from the date of completion of the Project, and shall be subject to redemption, as the County Administrator shall determine.

Section 4. Sale of the Bond. The Bond may be issued in one or more series and shall be sold in one or more public sales or private negotiated transactions upon such terms and conditions as the County Administrator shall determine shall be in the best interest of the County. It is anticipated that the Bond will be sold to the DNREC (or any successor agency).

Section 5. Details of the Bond. The County Administrator is authorized to determine the details of the Bond including the following: the date or dates of the Bond; provisions for either serial or term bond; sinking fund or other reserve fund requirements; due dates of the interest thereon; the form of the Bond; the denomination and designation of the Bond; registration, conversion and transfer provisions; provisions for the receipt, deposit and investment of the proceeds of the Bond; provisions for the replacement of lost, stolen, mutilated or destroyed Bond; and provisions for issuing uncertificated obligations and all procedures appropriate for the establishment of a system of issuing uncertificated debt. The Bond shall be executed by the manual

or facsimile signature of the County Administrator, shall contain an impression of the County seal or a facsimile thereof and shall be attested by the manual signature of the County Clerk. The County Administrator shall determine the form of the Bond.

Section 6. Debt Limit. It is hereby determined and certified, as of the effective date hereof, that the issuance of the Bond is within the legal debt limit of the County.

Section 7. Further Action. The President of the County Council, the County Administrator, the Finance Director and the County Clerk are authorized and directed to take such other action on behalf of the County, as may be necessary or desirable to effect the adoption of this Ordinance and the issuance and sale of the Bond and to provide for its security and to carry out the intent of this Ordinance, including the publication of notices and advertisements and the execution and delivery of customary closing certificates.

Section 8. Effective Date. This Ordinance shall become effective immediately upon its passage.

The County Clerk is hereby directed to publish a notice of the adoption hereof in accordance with Section 7002(m)(2) of Title 9 of the Delaware Code, as amended.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF  
ORDINANCE NO. \_\_\_\_ ADOPTED ON THE \_\_\_\_ day of November, 2025.

SUSSEX COUNTY, DELAWARE

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Tracy N. Torbert  
Clerk of the Council

SYNOPSIS: This Ordinance provides for the issuance of up to \$344,960.39 of Sussex County General Obligation Bond – Supplemental in order to finance or reimburse the County for the construction budget shortfall and additional engineering services associated with the original project for the connection of 77 lots to the nearby existing County sewer located in the Tanglewood and Oak Acres communities (collectively, the “Project”), with the expectation that up to \$344,960.39 of principal forgiveness will be applied to the Bond, resulting in a total forgiveness of \$1,876,960.39 with respect to the 2022B Bond and the Bond to reduce the combined principal amount of the 2022B Bond and the Bond outstanding to \$844,356 upon Project completion.



## Memorandum

To: Sussex County Council  
The Honorable Douglas B. Hudson  
The Honorable Jane Gruenebaum  
The Honorable Matt Lloyd  
The Honorable Steve McCarron  
The Honorable John L. Rieley

From: Jamie Whitehouse, AICP, Director of Planning & Zoning

CC: Everett Moore, County Attorney

Date: December 4, 2025

RE: County Council Report for Ordinance 25-02 relating to Sediment Releases and Sediment Control and Stormwater Management

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On October 21, 2025, the County Council introduced an Ordinance to consider potential amendments to multiple sections of the Code of Sussex County relating to sediment releases, sediment control, and stormwater management.

The Planning & Zoning Commission held a Public Hearing on the Ordinance at the meeting on November 19, 2025. At the conclusion of the public hearing, action on the Ordinance was deferred, leaving the record open for receipt of additional comments from the Sussex Conservation District.

Once a recommendation from the Planning & Zoning Commission is received, it will be reported to the County Council.

Minutes of the November 19, 2025, Planning & Zoning Commission Meeting

### **Ord. 25-02**

**AN ORDINANCE TO AMEND CHAPTER 90, §§90-3, 90-6 AND TO ADD NEW §§90-8, 90-9 AND 90-10; TO AMEND CHAPTER 99, ARTICLES I, II, IV, V AND VI, §§99-5, 99-7, 99-9, 99-23, 99-26 AND 99-29; TO AMEND CHAPTER 110, ARTICLES I AND III, §§110-1 AND 110-12; AND TO AMEND CHAPTER 115, ARTICLES I AND XXV, §§115-4 AND 115-193 OF THE CODE OF SUSSEX COUNTY REGARDING SEDIMENT RELEASES AND SEDIMENT CONTROL AND STORMWATER MANAGEMENT.**

The Commission found that Mr. Hanz Medlarz, Sussex County Engineering Project Manager, presented on behalf of Ordinance 25-02. Mr. Medlarz stated that some of the proposed ordinances



are triggered by Code amendments requested by the County Council; that the storms which occurred in April 2025, triggered aerial photos taken by a drone, which caused some reaction by the County Council; that a presentation, spearheaded by the district representatives from the Sussex Conservation District (SCD) was made before the Council County; that the presentation was presented in May 2025; that following the presentation, the County Council had discussions with the Sussex County Engineering Department; that the first County Council presentation was held on July 15, 2025, and followed by a broad range of topics the Council wanted to consider; that Council discussed those items at the meeting, provided the Engineering department with instructions, and narrowed them down for the County Council meeting of August 19, 2025; that subsequently discussion between the Engineering department, and the previous Council members, further topics were narrowed down further, which were approved to draft an ordinance on; that the same presentation was presented to the Sussex Conservation District at their board meeting; that they initially received a letter of support, and have since received a letter of neutrality, based on the district's comments, which were included within the record; that there was a recent presentation held regarding the ordinance, before the Sussex Conservation Districts Stormwater Advisory Committee, which is a long-standing committee, who assist in giving the board instruction on how to make a decision in support, opposition, or any legislation before the County Council; that when you place all this historical information together, it is the reason he was presenting before the Planning Commission currently; that the slide he presented was the exact presentation that the County Council approved as the basis of the draft for the ordinance; that the ordinance proposes to do an enhanced sediment capture, under certain distinct conditions, based on pre-existing land use, topography, and distances to highly influenced resources; that the County Council drafted something based on that, and then made it such that this practice; that a dry pond would be one of the practices approved under the State law, which is in place and stabilized, before the rest of the project is developed; that the ordinance contains the legal language of what that means, while carefully staying within Sussex County's legal authority, of what the County can do, review and not review, and actually implement; that it deals with information provided to the County by the developing entity, which would consist of pre-development slope of the site in each catchment area, and how close is the site to Tidal wetlands and/or Tidal marsh areas; that once this information is added into a series of formulas (aka algorithm), they would then develop a trigger value to be considered for enhanced sediment capture, or it is released into the normal regulatory process; that this does not change what practices are, or the design criteria for the practices are; that we, Sussex County, would say, that for this particular site, we would want to see a dry pond as a practice, installed and stabilized prior to construction; that the district would still review everything, and would make all the decisions in the terms of review, comments, implementation and inspection; that comments were received back from the Sussex Conservation District; that there was some desire that Sussex County no interject themselves, as the selecting entity of the practice, but rather make a recommendation to the District, that the practice should be pre-selected, and used as an enhanced sediment; that the County Administrator, the County attorney, and himself, deferred, and after discussing with the Administrator at the District, the following amendment recommended language is being presented to the Planning Commission for consideration; that two things have changed; that they have changed the wording from requirement to recommendation, and may be used at the discretion of the District; that in addition, they received feedback from the engineering community, stating the Sussex County should look at each sub-catchment area individually versus all of them in a conglomerate; that there was some discussion regarding a site distance boundary to the Tidal wetland line versus a catchment

area; that this was a good suggestion by the engineering community because a site can have five sub-catchment areas, with one touching the Tidal boundary line, and the remaining four, not touching the Tidal line; that it was a very good technical amendment, and Sussex County was happy to support it; that in conclusion, there was an original presentation to the County Council, who provided authorization to draft the ordinance; that the ordinance currently before the Planning Commission had been modified for the reasons previously stated; that the current ordinance deals with the sediment capture, and the enhanced sediment capture; that Mr. Medlarz provided an example of how the interface looked when they perform an analysis; that he would enter the data points on the top, with different rates assigned; that he had been able to run 20 different projects through this analysis; that three of the projects triggered the criteria, which was the goal, without changing the parameters; that should the ordinance be adopted the algorithm gets locked; that this would mean that no changes can be made without the County Council's review and approval of the changes in determining that criteria; that it is a fully transparent process; that there are a number of people who would like to see the programming behind it; that as soon as the County has a regulatory piece, and once it is published, Sussex County will publish the source code along with it; that this will allow everyone to see what the criteria is, which cannot be changed without proceeding through County Council's regulatory process; that the County Council stated if they have a site with bare earth, while grading is being performed, as per the Bulk Grading Plan, which has significant upstream drainage areas, which are not open, but they drain into the open bare earth piece; that County Council would like to see that bare earth piece limited so that it is less than 20 acres; that the current State law has a one-size-fits-all of 20 acres; that County Council requested this, and instructed them to come up with something that created some limitation; that their proposed language states, as submitted, if there are slopes, being bulk grading slopes where the dirt is open and bare ground, greater than 3%, or you have a combined upstream drainage area exceeding 20 acres, one should have a limitation; that there is some design flexibility; that the design engineering team can try to avoid that because Sussex County already stated these are the two things, when the development begins to be considered; that if one were to grade their site to 2.9 acres throughout, keeping an upstream acreage to 19.9, the limitation would not be applicable; that they came up with a table of hard formulas; that there is no waiting, and no calculation; that this is why the formulas are included within the document, which would allow them to be codified as a table; that if you had a slope greater than three for more than 100 feet, that the table would apply; that if the slope is less than three, then the upper table would apply; that these are the two criteria; that there was some discussion about properly discharging; that County Council had requested prohibition of property line discharges; that there were a number of complaints related to that, and so County Council wanted to address those complaints; that Council wanted to see them limit the flow in terms of volume, which is in the post development world, going onto adjoining residential lots or their associated buffers; that they had originally proposed the word "onto" parcels, which caused some consternation in the engineering community; that it was the intent to only look at flow, which comes in terms of sheet flow or semi-concentrated across open ground on adjoining parcels; that was the intent, however, people said no, and requested further clarification; that included with the current recommended amended ordinance, they added the words in the form of overland flow; that this means that if there is a tax ditch, stream or Tidal boundary, it does not apply; that it was intended strictly for if the flow comes, in sheet flow form, across the boundary line; that the second change they proposed stated that none of the flow, the offside discharges are directed onto existing residential parcels; that this was addressed in both §90-9 and §99-5; that some of the current stormwater plans have

unmanaged flow, which is not part of the calculation process; that if one had a piece of land, which breaks into two directions, the piece is not developed, it drains onto the adjoining property; that in the future would still drain onto the adjoining property because it is not developed, because the grades are not changed, it should continued to be allowed, because it does not change the volume; that they added the word “managed”; that as soon as one starts to manage it, you want to drain it to the adjoining parcel, the 5% over rule would kick in; that the Baylis subdivision is a prime example of a subdivision draining onto an adjoining parcel overland; that the criteria for the approval by the District stated “shall not exceed the downstream elevation”, which means at the property line of point of analysis; that no, they never exceeded it, but instead of one day, the flow continued for three days; that the recipient, which is the owner that owns the sump, it filled up more than it ever did before, and began overflowing; that the proposed ordinance is the driver behind the thoughts of the County Council to address these issues

Madam Chair Wingate stated that there is always a sequence of construction noted on the plan, and she questioned whether the Council was suggesting that the contractors are currently not following the sequence of construction, as there is already a sequence of requirements per the Sussex Conservation District.

Mr. Medlarz stated no; that the sequence of construction would just contain one step, which states, as per Sussex County requirement, this practice is required to be installed as number one; that the developer would incorporate the requirement into their sequence of construction; that the majority of the plans submitted currently, already follow the proposed practice, and they want to make sure that if a site came within their target, where they believed it should be a requirement, it will allow Sussex County to be able to impose a requirement that the site has a stabilized practice in place before continuing their sequence of construction requirements.

Madam Chair Wingate stated that the Soil Conservation District inspectors are very good about ensuring the order of sequence is being followed.

Mr. Collins questioned why Sussex County would not make a requirement versus a recommendation.

Mr. Medlarz stated that there was a discussion regarding overlapping regulatory authority, which was the main trigger for the revision; that even so, it was intended that Sussex County would not review that; that they would just say use this practice as is says in the State law; that that as the former County Engineer, he had no horse in the race, and that the County Council requested this ordinance.

Mr. Collins stated that there appeared to be public comments submitted expressing concerns regarding the overlapping of authorities.

Madam Chair Wingate stated that the Planning Commission had always stated to the Applicant’s or concerned residents that by law, developers are not allowed to discharge, or cause overflow onto others' property, and she questioned if Mr. Medlarz was suggesting that they had not really been doing that. (01.27.07)



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

The Commission found that Mr. Mark Davidson, P.E., with Pennoni, spoke in opposition to the Ordinance

The Commission found that Mr. Kenneth Christenbury, P.E., with Axiom Engineering, spoke in opposition to the Ordinance.

The Commission found that Mr. Jim Erikson, P.E., with Solutions IPEM, spoke in opposition to the Ordinance.

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

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

In relation to Ord 25-02. Motion by Mr. Collins to defer action, leaving the record open until the close of business on Friday, December 5, 2025, to allow for the receipt of written comment from the Sussex Conservation District, seconded by Mr. Allen, and carried unanimously. Motion carried 4-0.

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE TO AMEND CHAPTER 90, §§90-3, 90-6 AND TO ADD NEW §§90-8, 90-9 AND 90-10; TO AMEND CHAPTER 99, ARTICLES I, II, IV, V AND VI, §§99-5, 99-7, 99-9, 99-23, 99-26 AND 99-29; TO AMEND CHAPTER 110, ARTICLES I AND III, §§110-1 AND 110-12; AND TO AMEND CHAPTER 115, ARTICLES I AND XXV, §§115-4 AND 115-193 OF THE CODE OF SUSSEX COUNTY REGARDING SEDIMENT RELEASES AND SEDIMENT CONTROL AND STORMWATER MANAGEMENT.**

WHEREAS, Chapter 90 of the Code of Sussex County governs sediment control and stormwater management in Sussex County; and

WHEREAS, the currently stated purpose of Chapter 90 of the Code of Sussex County is “to protect, maintain, and enhance the public health, safety and general welfare by establishing minimum requirements and procedures to control the adverse impacts associated with sediment and modified stormwater characteristics. Proper implementation and maintenance of sediment control and stormwater management will minimize adverse impacts to public and private property, reduce the impacts that the developmental process has on land stream channel erosion, assist in the maintenance of water quality standards, reduce the potential for localized flooding and maintain after development, to the extent that it can be maintained, the predevelopment runoff characteristics” and this purpose can be improved upon; and

WHEREAS, Sussex County has been experiencing more frequent storms which exceeded the Conveyance Event, as defined in 7 Del. Admin. C. §5101 resulting in documented failures of the State-required sediment and erosion control measures as well as increased flooding of downstream properties; and

WHEREAS, Chapter 99 of the Code of Sussex County contains requirements including the consideration of stormwater management, erosion and sedimentation

control and runoff volume from subdivided properties as part of the approval process; and

WHEREAS, This Ordinance is intended to improve the sediment and erosion control design requirements by introducing science based protection measures for non-erosive conveyance of surface water runoff during project construction and post development as well as inclusion of site specifics in the Zone B Resource Buffer layout and the selection of the stormwater management practice as defined in 7 Del. Admin. C. §5101; and

WHEREAS, it is necessary to amend portions of Chapters 99, 110 and 115 of the Code of Sussex County to implement the proposed revisions to Chapter 90 of the Code of Sussex County; and

WHEREAS, it has been determined that this Ordinance promotes and protects the health, safety, convenience, orderly growth and welfare of the inhabitants of Sussex County.

**NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:**

**Section 1. The Code of Sussex County, Chapter 90, §90-3 “Purpose” is hereby amended by deleting the language in brackets and by inserting the italicized and underlined language as follows:**

**§ 90-3 Purpose.**

The purpose of this chapter is to protect, maintain and enhance the public health, safety and general welfare by establishing [minimum] requirements and procedures to control the adverse impacts associated with sediment *releases* and [modified] *post development* stormwater characteristics. [Proper] [i]Implementation and maintenance of sediment control and stormwater management will minimize

adverse impacts to public and private property, reduce the impacts that the developmental process has on land and stream channel erosion, assist in the maintenance of water quality standards, reduce the potential for localized flooding and maintain after development, to the extent that it can be maintained, the predevelopment runoff characteristics.

**Section 2. The Code of Sussex County, Chapter 90, §90-6 “Suspension or revocation of permit” is hereby amended by deleting the language in brackets and by inserting the italicized and underlined language as follows:**

**§ 90-6 Suspension or revocation of permit.**

Any grading plan approval or building permit issued by the County may be suspended or revoked (a) by the County Engineer or the Director of Planning & Zoning for violation of these requirements or (b) upon request by the Sussex Conservation District and a new sediment control and stormwater plan required to be submitted to the District for approval after written notice is given by the District to the permittee for any of the following reasons:

A. Any violation or violations of the conditions of the sediment control and stormwater management plan approval.

B. Changes in site runoff characteristics upon which a waiver was granted.

C. Construction which was not in accordance with the approved plans. The land-disturbed area was enlarged beyond that shown on the originally approved plan.

D. Noncompliance with correction notice or notices or stop-work orders by the Department of Natural Resources and Environmental Control.

E. An immediate danger exists in a downstream area in the opinion of the District.

[F. The District determines it is necessary and appropriate in order to more fully effect the purposes and intents of this chapter.]

Section 3. The Code of Sussex County, Chapter 90, is hereby amended by inserting the italicized and underlined language as a new § 90-8 “Sediment capture requirements” as follows:

**§ 90-8 Sediment capture requirements.**

*A. At or before the Preliminary Conference as outlined in § 99-7 of Chapter 99 of this Code the subdivider shall provide the County Engineer with the following data for the subdivision development:*

*(a) Maximum predevelopment site slope(s) for a length of more than 100 feet along the flow path from the hydrologically most remote point of all sub-catchment areas to the point or points of discharge;*

*(b) The combined on-site and off-site upstream sub-catchment drainage areas; and*

*(c) Site boundary line distance from a tidally influenced Resource as defined in §-115-4 of Chapter 115 of this Code.*

*B. Based on the data provided as required herein, the County Engineer or his or her designee shall apply that data to the approved County Engineer’s Algorithm for determination of the necessary and required capture of sediment during construction. The Algorithm is set forth in and calculated by using the Electronic Online Sediment Capture System located at <https://sussexcountyde.gov/engineering-department> adopted as part of this Ordinance. Any changes to this Algorithm or Electronic Online Sediment Capture System will be made at the direction of the County Engineer with the approval of County Council. If the trigger value for sediment capture per the algorithm is met, the County Engineer shall advise the subdivider and the Sussex Conservation District which stormwater management practice permitted under the State of Delaware Sediment and Stormwater Regulations set forth in 7 Del. Admin. C. §5101 must be used in the design. The selected practice must be constructed and stabilized prior to any ground disturbance, and the site must be temporarily or permanently graded in such a way to receive the stormwater run-off during construction as well as post development.*

Section 4. The Code of Sussex County, Chapter 90, is hereby amended by inserting the italicized and underlined language as a new § 90-9 “Stormwater volume limitations for discharges at property lines” as follows:

**§ 90-9 Stormwater volume limitations for discharges at property lines.**

*A. The Delaware Sediment and Stormwater Regulations generally require the Conveyance Event, as defined therein, to have no adverse post development impact demonstrated by limiting the downstream water surface elevation increase to no more than 0.05 feet.*

*B. In the case of discharges at property lines onto adjacent parcels, the Conveyance Event, as defined in 7 Del. Admin. C. §5101, must have no post development runoff volume increase greater than 5%.*

Section 5. The Code of Sussex County, Chapter 90, is hereby amended by inserting the italicized and underlined language as a new § 90-10 “Limit of disturbance restrictions” as follows:

**§ 90-10 Limit of disturbance restrictions.**

*A. The Delaware Sediment and Stormwater Regulations generally limit the land disturbance to not more than 20 acres at any one time.*

*B. Prior to the approval of Bulk Grading Plan as required by either Chapter 99 or Chapter 115 herein, the County Engineer or his or her designee shall review Table I: Allowable Limit of Disturbance (LOD) based on the following inputs:*

*(1) Bulk Grading Plan proposed slope(s) exceeding 3% for a length of more than 100 feet; and*

*(2) The combined on-site and off-site upstream drainage area exceeding 20 acres.*

*C. If the proposed subdivision or proposed development falls outside of the allowed values, then the Limit of Disturbance shall be reduced on a sliding scale to not less than 7.5 acres as set forth in Table I: Allowable Limit of Disturbance (LOD). The County Engineer or his or her designee shall thereafter advise the subdivider’s or developer’s engineer and the Sussex Conservation District what limitations are*

*applied, if any, prior to construction plan submittal in accordance with § 99-30 of this Code.*

**Section 6. The Code of Sussex County, Chapter 99, Article I, §99-5 “Definitions” is hereby amended by by inserting the italicized and underlined language as follows:**

**§ 99-5 Definitions.**

For the purpose of this Chapter, certain terms and words are hereby defined:

**BULK GRADING PLAN**

An overall lot grading plan prepared by a licensed professional who is permitted to prepare detailed sediment and stormwater plans, specifying the elevation, surface gradients, lot types, swale locations, driveway pipe sizes and other drainage information required for lot grading, as further set forth in the Sussex Conservation District Technical Drainage and Grading Requirements. A bulk grading plan shall confirm that all conveyance features must be located in deeded open space or the subject of a permanent easement, *that none of the off-site discharges are directed into existing adjacent residential development lots* and that they satisfy the following requirements:

....

**SEWER SERVICE CONCEPT EVALUATION (SSCE)**

*A Sussex County Engineering Department fee-based service study identifying system connection point(s), service to off-site parcels, district status and necessity of any use of existing infrastructure agreement to be presented at the § 99-7 Preliminary conference.*

**Section 7. The Code of Sussex County, Chapter 99, Article II, §99-7 “Preliminary conference” is hereby amended by deleting the language in brackets and by inserting the italicized and underlined language as follows:**

180  
181 **§ 99-7 Preliminary conference.**

182 A. Before the submission of a subdivision plat, the subdivider shall consult with  
183 the Commission's staff and other public agencies to ascertain the location of  
184 proposed major streets, highways, parks, playgrounds, school sites and other planned  
185 public improvements, and to determine the zoning regulations and other  
186 requirements relating to or affecting the proposed subdivision. The subdivider shall  
187 also consult with the County Engineer *or his or her designee* and, where applicable,  
188 State agencies having jurisdiction [Department of Natural Resources and  
189 Environmental Control] on matters relating to (i) proposed facilities for sanitary  
190 sewer service [sewage disposal] in general; (ii) Sewer Concept Evaluations in  
191 particular, (iii) Resource Buffers generally and Resource Buffer Averaging of Zone  
192 B as set forth in §115-193 of this Code particularly; (iv) Sediment Capture Selection;  
193 (v) storm drainage generally; (vi) Drainage Assessment Reports required under  
194 §115-193 of this Code; and (vii) drinking water supply intended to serve the  
195 proposed subdivision. The purpose of these consultations is to assist the subdivider  
196 by furnishing information and advice, in order to expedite matters for the subdivider,  
197 saving [him] unnecessary expense and promote the best coordination between the  
198 plans of the subdivider and those of the county and other State [public] agencies.

199  
200 **Section 8. The Code of Sussex County, Chapter 99, Article II, §99-9 “Public**  
201 **hearing on preliminary plat approval or disapproval” is hereby amended by**  
202 **deleting the language in brackets and by inserting the italicized and underlined**  
203 **language as follows:**

204  
205 **§ 99-9 Public hearing on preliminary plat approval or disapproval.**

206 . . . .

207 C. In addition to the other provisions contained within this article, an applicant for  
208 approval of a preliminary plat shall provide that the following criteria are  
209 incorporated and addressed in the plat and the manner in which each one is  
210 incorporated and addressed through the design of the preliminary plat:



211 . . . .

212 (8) That the [~~anticipated method of minimization of~~] erosion and sediment  
213 [~~sedimentation~~] control measures [are adequately identified] satisfy the requirements  
214 of §§ 90-8, 90-9 and 90-10 of this Code.

215

216 **Section 9. The Code of Sussex County, Chapter 99, Article IV, §99-23**  
217 **“Information to be shown” is hereby amended by deleting the language in**  
218 **brackets and by inserting the italicized and underlined language as follows:**

219

220 **§ 99-23 Information to be shown.**

221 The preliminary plat shall be drawn in a clear and legible manner and shall show the  
222 following information:

223 . . .

224

225 G. Topographic contours at one-foot intervals and referenced to North  
226 American Datum of 1983 (NAD83). [United States Geological Survey data or  
227 other commonly accepted data. Where unusual conditions, such as steep  
228 slopes, create problems in drafting contour lines, a greater interval may be  
229 used if other information is provided to adequately describe the true nature of  
230 the topography.]

231 . . .

232

233 N. The tabulation of the range of predevelopment site slope(s) for a length  
234 of more than 100 feet of the flow path from the most hydrologically remote  
235 point of all sub-catchment areas to the point or points of discharge and the  
236 combined on-site and off-site upstream subcatchment areas. [The proposed  
237 grading plan when excavation, recontouring or similar work is to occur in  
238 conjunction with development of the subdivision.]

239 . . .

T. The location of all water and wetland resources and their resource buffers.

(1) The boundary and type of any nontidal/tidal wetland or water resources (tidal, perennial, intermittent) which require a resource buffer. The boundary will be shown per methods identified in the definitions of "wetlands" and "ordinary high-water line delineation."

(2) All existing (i.e., at the time of application) natural forest, managed forest and nonforest meadow within the future resource buffer shall be identified.

(3) The area limits of the required resource buffers.

(4) Calculations supporting *the overall square footage area of the Zone B* resource buffer *required to be concentrated pursuant to § 115-193B* [width averaging (§ 115-193B)].

(5) Calculations supporting resource buffer enhancement calculations and corresponding forested and/or landscaped buffer reductions, if applicable (§ 115-193G).

(6) Proposed access easement layout for access to resource buffers and the adjacent resources with a note that such access easements are public access easements for maintenance purposes. For purposes of this requirement, "public" shall mean, and be limited to, those parties requiring access for maintenance purposes.

(7) A reference by title, author and date, to the drainage assessment report required by § 115-193F(2).

(8) Any walking trails, including the method of construction and the materials used to establish the trails.

**Section 10. The Code of Sussex County, Chapter 99, Article V, §99-26 "Information to be shown" is hereby amended by deleting the language in brackets and by inserting the italicized and underlined language as follows:**

§ 99-26 Information to be shown.

A. The final plat shall be legibly and accurately drawn and shall show the following information:

...

(21) The location of all resource buffers.

(a) The boundary and type of any nontidal/tidal wetland or water resources (tidal, perennial, intermittent) which require a resource buffer. The boundary will be shown per methods identified in the definitions of "wetlands" and "ordinary high-water line delineation." In addition, the boundary shall be marked on the site itself with permanent markers and signage, with the location and type of signage depicted on the final plat

(b) All existing (i.e., at the time of application) natural forest, managed forest and nonforest meadow within the future resource buffer shall be identified.

(c) The area limits of the required resource buffer.

(d) Calculations supporting the overall square footage area of the Zone B resource buffer required to be concentrated pursuant to § 115-193B [width averaging (§ 115-193B)].

(e) Calculations supporting resource buffer enhancement calculations and corresponding forested and/or landscaped buffer reductions, if applicable (§ 115-193G).

(f) Proposed access easement layout for access to resource buffers and the adjacent resources with a note that such access easements are public access easements for maintenance purposes. For purposes of this requirement, "public" shall mean, and be limited to, those parties requiring access for maintenance purposes.

(g) A statement incorporating the resource and resource management and maintenance plan by reference.

(h) A reference by title, author and date, to the drainage assessment report required by § 115-193F(2).

(i) That disturbance of the resource buffers on the site may result in penalties imposed pursuant to § 115-193K of the Sussex County Zoning Code.

**Section 11. The Code of Sussex County, Chapter 99, Article VI, §99-29 “Minimum installation requirements” is hereby amended by deleting the language in brackets and by inserting the italicized and underlined language as follows:**

**§ 99-29 Minimum installation requirements.**

The minimum requirements for the installation of improvements in subdivisions shall be as follows:

**B. Surface drainage facilities.**

(1) All drainage facilities shall be constructed in accordance with minimum construction standards established by the County Engineer or standards adopted by the Delaware [Division of Highways] *Department of Transportation* in areas where it has jurisdiction.

(2) Where subdivision and/or development results in increased *volume* [quantities] of stormwater runoff leaving the *subdivision development* [area to be developed], the subdivider shall demonstrate that off-site drainage improvements are adequate to handle the additional water and that all new or expanded swales, pipes or other off-site improvements are located in dedicated easements which permit efficient access for maintenance purposes. Minimum standards shall be those established by the County Engineer or by the State Division of Highways where it has jurisdiction.

**C. Erosion and sedimentation control.** All subdivision plans shall include [adequate] *the* provision for control of temporary flooding *and* / or erosion and sediment control

both during construction and after completion of construction as required by Chapter 90, Sediment Control and Stormwater Management.

**Section 12. The Code of Sussex County, Chapter 110, Article I, §110-1 “Definitions; word usage; abbreviations” is hereby amended by inserting the italicized and underlined language as follows:**

**§ 110-1 Definitions; word usage; abbreviations.**

A. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

....

**SEWER [SYSTEM] SERVICE CONCEPT EVALUATION (SSCE)**

A Sussex County Engineering Department fee-based service study identifying system connection point(s), service to off-site parcels, district status and necessity of any use of existing infrastructure agreement to be presented at the § 99-7 Preliminary conference.

**Section 13. The Code of Sussex County, Chapter 110, Article III, §110-12 “Connection of building sewer to public sewer” is hereby amended by deleting the language in brackets and by inserting the italicized and underlined language as follows:**

**§ 110-12 Connection of building sewer to public sewer.**

The applicant for the building sewer permit shall notify the County when the building sewer connection to the public sewer is ready for an open-trench visual inspection [and connection to the public sewer]. The work shall be inspected and approved by the Engineer or his or her designee prior to being placed in service.

**Section 14. The Code of Sussex County, Chapter 115, Article I, §115-4 “Definitions and word usage” is hereby amended by inserting the italicized and underlined language as follows:**

**§ 115-4 Definitions and word usage.**

**BULK GRADING PLAN**

An overall lot grading plan prepared by a licensed professional who is permitted to prepare detailed sediment and stormwater plans, specifying the elevation, surface gradients, lot types, swale locations, driveway pipe sizes and other drainage information required for lot grading, as further set forth in the Sussex Conservation District Technical Drainage and Grading Requirements. A bulk grading plan shall confirm that all conveyance features must be located in deeded open space or the subject of a permanent easement, *that none of the off-site discharges are directed into existing adjacent residential development lots* and that they satisfy the following requirements:

**Section 15. The Code of Sussex County, Chapter 115, Article XXV, §115-193 “Resource protection” is hereby amended by deleting the language in brackets and by inserting the italicized and underlined language as follows:**

**§ 115-193 Resource protection.**

**B. Resource buffer width averaging.**

(1) Resource buffer width *averaging shall be utilized in the area(s) of stormwater runoff concentration as determined by the County Engineer or his or her designee* [may be utilized but only within resources buffers adjacent to the same resource to adjust the required Zone B resource buffer width thereby allowing flexibility for the proposed development], so long as the overall square footage of the Zone B resource buffer is maintained.

(2) Criteria for utilizing resource buffer width averaging:

(a) Resource buffer width averaging is not available for Zone A.

(b) The overall square footage of the Zone B resource buffer must be achieved within the boundaries of the proposed development unless a resource buffer option permitted under Subsection G is utilized.

(c) Resource buffer width averaging [may] must be used on all of the Zone B resource buffers within the boundaries of the proposed development.

(d) Zone B resource buffer averaging layout requirements shall be provided by the County Engineer to the subdivider at the Preliminary Conference as outlined in § 99-7. [shall not be expanded more than double the width of the Zone B resource buffer as referenced in § 115-193A.]

(e) The overall square footage of the Zone B resource buffer must be calculated based upon the entire length of the resource border line that is located within the boundaries of the proposed development.

(f) The Zone B resource buffer averaging shall only occur within the resource buffer adjacent to the same resource.

C. Permitted activities. Activities in Zones A and B shall be permitted or not permitted as set forth in the following table. Uses not specifically identified shall be prohibited, unless the contrary is clear from the context of the table, as determined by the Commission.

....

20.	Stormwater management water quality BMPs [as approved by Sussex Conservation District]	<u>Not</u> Permitted	<u>Not</u> Permitted
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## **Section 16. Effective Date.**

This Ordinance shall become effective upon the date of its adoption by Sussex County Council.



## Memorandum

To: Sussex County Council  
The Honorable Douglas B. Hudson  
The Honorable Jane Gruenebaum  
The Honorable Matt Lloyd  
The Honorable Steve McCarron  
The Honorable John L. Rieley

From: Jamie Whitehouse, AICP, Director of Planning & Zoning

CC: Everett Moore, County Attorney

Date: December 4, 2025

RE: County Council Report for C/U 2610 filed on behalf of Howard L. Repass

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The Planning and Zoning Department received an application (C/U 2610 filed on behalf of Howard L. Repass) for a Conditional Use for indoor storage of business vehicles associated with a limousine business in a GR General Residential Zoning District at Tax Parcel 130-15.00-10.00. The property is located at 9268 & 9274 Daniels Road, Lincoln. The parcel size is 3.52 ac. +/-

The Planning & Zoning Commission held a Public Hearing on the application on October 15, 2025. At the meeting of November 5, 2025, the Planning & Zoning Commission recommended approval of the application for the 6 reasons of approval and subject to the 10 recommended conditions of approval as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meeting on October 15, 2025 and November 5, 2025.

### Minutes of the October 15, 2025, Planning & Zoning Commission Meeting

#### C/U 2610 Howard L Repass

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR INDOOR STORAGE OF BUSINESS VEHICLES ASSOCIATED WITH A LIMOUSINE BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 3.52 ACRES, MORE OR LESS.** The parcel is lying on the west side of Daniels Road (S.C.R. 215A), approximately 160 feet north of Slaughter Neck Road (S.C.R. 215). 911 Address: 9268 & 9274 Daniels Road, Lincoln. Tax Map Parcel: 230-15.00-10.00.





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

The Commission found that Mr. Justin Brown, General Operations Manager for Atlantic Transportation, spoke on behalf of the Applicant, Mr. David Repass, who was also present. Mr. Brown stated that Atlantic Transportation is a well-established limousine company, which they are trying to get inside; that Mr. Repass acquired ownership approximately nine months ago; that they have professional chauffeurs; that everything will be kept and stored inside; that no clients will access the site; that DelDOT stated there would be no significant impact on traffic; that the Applicant would request approval to utilize the site for the commercial storage of their vehicles, office space and drivers lounge for when the chauffeurs come in and out; that there are usually two or three at a time; that when a driver arrives to the site, they will pull the vehicle into the building, and replace the limousine with their personal vehicle, therefore no vehicles will be kept outside, and there will only be an office manager onsite, Monday through Friday.

Mr. Mears questioned whether vehicle maintenance would be performed on the site.

Mr. Brown stated that all vehicle maintenance is performed by Meineke at an off-site location.

Mr. Robertson questioned whether all vehicles, of every type, were proposed to be stored inside.

Mr. Brown stated yes, that all vehicles, of every type, would be stored inside the building, and the only time a vehicle would be outside would be during the switch out from one to the other, and no vehicles would be parked outside.

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

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

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

In relation to C/U 2516 Roxana Apartment, LLC. Motion by Mr. Passwaters to defer action for further consideration, seconded by Mr. Collins, and carried unanimously. Motion carried 5-0.

#### Minutes of the November 5, 2025, Planning & Zoning Commission Meeting

The Commission discussed the application, which had been deferred since October 15, 2025.

Mr. Passwaters moved that the Commission recommend approval of C/U 2610 Howard L. Repass for indoor storage of vehicles associated with a limousine business based upon the record made during the public hearing and for the following reasons:

1. The use is located near Route One, providing convenient access to Sussex County for this type of business. The use will all occur indoors, and the site will not be open to the public. This is an appropriate location for this Conditional Use.
2. With the conditions and stipulations of approval, the use will not have a negative impact on the neighboring properties or area roadways.
3. This site is located in the Existing Development Area according to the Sussex County Comprehensive Plan. Small businesses such as this one are appropriate in this Area according to the Plan.
4. The use provides a service to residents and businesses in Sussex County. This use has a public or semi-public character that will benefit the residents and businesses of the County.
5. The Applicant has stated that vehicles leave the site when needed for transportation, so there is not a lot of activity that occurs on this site.
6. No parties appeared in opposition to this Application.
7. This recommendation is subject to the following conditions:
  - A. The use shall be limited to the indoor storage of business vehicles associated with a limousine business.
  - B. There shall not be any outside storage associated with the use.
  - C. All lighting on the site shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.
  - D. Any dumpsters on the site shall be screened from the view of neighboring properties and roadways.
  - E. The applicant shall comply with all DelDOT requirements for entrance and roadway improvements.
  - F. One lighted sign shall be permitted on the site. It shall not exceed 32 square feet per side.
  - G. The parking shall comply with the County Parking Requirements. All vehicles must only be parked within the designated areas.
  - H. The Applicant shall comply with all requirements of the Sussex Conservation District regarding stormwater management on the site.
  - I. Failure to comply with any of these conditions may be grounds for the termination of the Conditional Use approval.
  - J. 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. Allen, and carried unanimously to recommend approval of C/U 2610 Howard L Repass, for the reasons and the conditions stated in the motion. Motion carried 4-0.

Vote by roll call: Mr. Passwaters – yea, Mr. Collins – yea, Mr. Allen – yea, Chairman Mears - yea



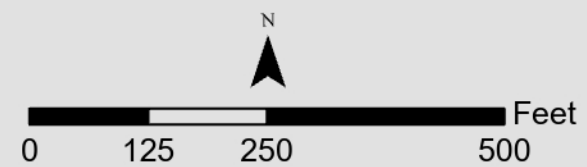




**CU 2610 Howard L. Repass**  
**Aerial Map**  
**TM# 230-15.00-10.00**



CU 2610 Howard L.  
Repass



## PLANNING & ZONING COMMISSION

HOLLY J. WINGATE, CHAIR  
JEFF ALLEN  
G. SCOTT COLLINS  
J. BRUCE MEARS, VICE-CHAIR  
JOHN PASSWATERS



## Sussex County

DELAWARE  
SUSSEXCOUNTYDE.GOV  
302-855-7878

JAMIE WHITEHOUSE, AICP MRTPI  
PLANNING & ZONING DIRECTOR

### PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: October 15, 2025

Application: CU 2610 Howard L. Repass

Applicant: Howard L. Repass (Justin Brown)  
10 NW 10<sup>th</sup> Street  
Milford, DE 19963

Owner: Brian K. Steele  
9268 Daniels Road  
Lincoln, DE 19960

Site Location: 9274 Daniels Road, Lincoln, DE

Site Location: Located on the west side of Daniels Road (S.C.R. 215A),  
approximately 200 feet north of Slaughter Neck Road (S.C.R. 215).

Current Zoning: General Residential (GR) Zoning District

Proposed Use: Indoor storage of business vehicles associated with a limousine  
business

Comprehensive Land  
Use Plan Reference: Existing Development Area

Councilmanic  
District: District 2 - Mr. McCarron

School District: Milford School District

Fire District: Milford (Carlisle) Fire Department

Sewer: Private Septic

Water: Private Well

Site Area: 3.52-acre(s) +/-

Tax Map ID: 230-15.00-10.00







## Memorandum

To: Sussex County Planning and Zoning Commission Members  
From: Mrs. Christin Scott, Planner III  
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant  
Date: October 7, 2025  
RE: Staff Analysis for C/U 2610 Howard L. Repass

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The purpose of this memo is to provide background and analysis for the Planning and Zoning Commission to consider as a part of Application C/U 2610 Howard L. Repass to be reviewed during the October 15<sup>th</sup>, 2025, Planning and Zoning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

**Please note that the following staff analysis is for informational purposes only and does not prejudice any decision that the Sussex County Planning & Zoning Commission or Sussex County Council may wish to make as part of any Application submitted to the Department.**

**Tax Parcel ID:** 230-15.00-10.00

**Proposal:** The request is for a Conditional Use for Tax Parcel: 230-15.0-10.00 to allow for a proposed indoor storage of business vehicles to be located on a property zoned General Residential (GR) District. The property is lying on the west side of Daniels Road (S.C.R. 215A), approximately 160 feet north of Slaughter Neck Road (S.C.R. 215) in Lincoln, Delaware. The Parcel consists of 3.52 acres +/-.

**Zoning:** The Parcel is zoned General Residential (GR) District. The adjacent Parcels to the north, south and west are also zoned General Residential (GR) District. A Parcel further north is zoned General Commercial (C-1) District. The Parcels on the opposite side of Coastal Highway (Route 1), Slaughter Neck Road (S.C.R. 215), and Daniels Road (S.C.R. 215A) are zoned Agricultural Residential (AR-1) District.

**Future Land Use Map Designation w/in Comprehensive Plan:** Existing Developing Area

**Applicability to Comprehensive Plan:** The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use Map (FLUM) in the Plan indicates that the subject property has a Growth Area designation of "Commercial Area." The adjacent properties to the north, south and east of the subject property also have a Future Land Use Map designation of Commercial Area.

The Parcels surrounding the subject property also have a Future Land Use Map (FLUM) designation of "Existing Developing Area."



As outlined in the 2018 Sussex County Comprehensive Plan, “*Existing Development Areas consists of primarily of existing residential development under the current General Residential and Medium Density Residential zoning districts, as well as some commercial uses. These areas are scattered throughout the County. These areas are surrounded by Low Density Areas, and this particular classification is simply being used to identify these existing scattered zoning areas that have no direct relation to their surrounding zoning and/or the Future Land Use Map.*” (2018 Sussex County Comprehensive Plan, 4-16).

The Plan further notes that, “The full range of housing types allowed in the existing underlying zoning districts are appropriate in these residential areas, including single-family homes, townhouses, and multi-family units. Non-residential development consists of uses found in the neighborhood business districts and commercial districts.” (2018 Sussex County Comprehensive Plan, 4-17).

#### **Further Site Considerations:**

- **Density:** N/A
- **Open Space Provisions:** N/A
- **Agricultural Areas:** The site is surrounded by lands used primarily for Agricultural Uses
- **Interconnectivity:** The Sussex County Code notes that interconnectivity is required for existing and proposed commercial buildings and structures (§115-219(A)(6)) & (§115 220(B)(17)).
- **Transportation Improvement District (TID):** The Parcel is not located within the Henlopen Transportation Improvement District (TID)
- **Forested Areas:** N/A
- **Wetlands Buffers/Waterways:** Staff note that there do not appear to be any wetlands encroaching the Property based on Delaware’s FirstMap data system in GIS.
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** The Property is not located within any Tax Ditch Rights-Of-Way (ROW) or corresponding Tax Ditch Areas.

The Property is located within Flood Zone “X” – Areas determined to be outside the 1%annual chance flood and outside the 500-year flood zone. The subject Property is located within an area of “Good” Groundwater Recharge Potential.

#### **Existing Conditional Uses within the Vicinity of the Subject Site**

Since 1970, there have been twelve (12) Conditional Use applications within a 1-mile radius of the Application site. The current status of those Applications are outlined below:

- **One (1) Application was Withdrawn.**
- **One (1) Application was Denied by the Sussex County Council.**
- **Ten (10) Applications were Approved by the Sussex County Council.**

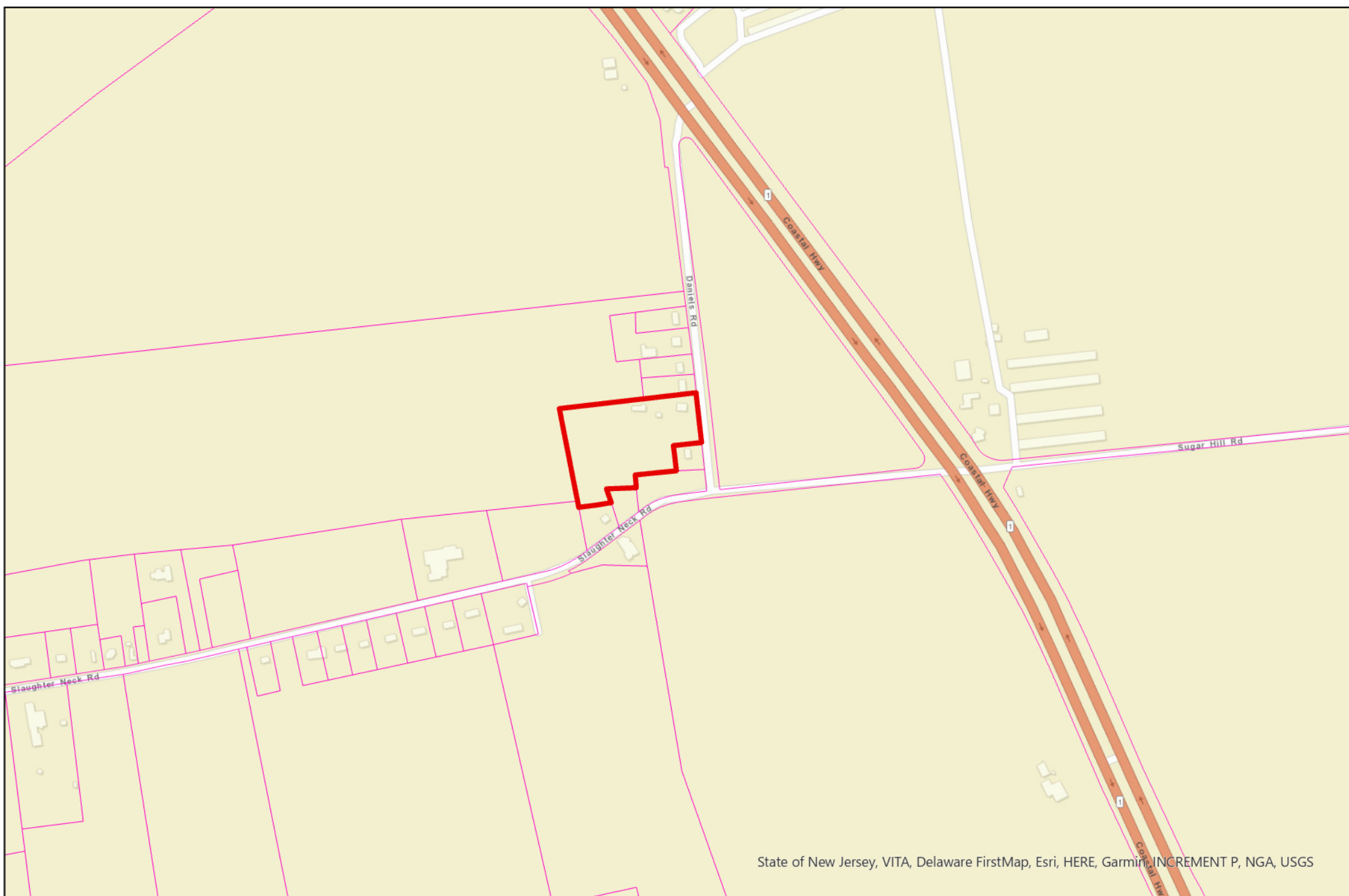
A Supplemental Table has been provided showing the approval status of all Conditional Use Applications within a 1-mile radius of the Application Site.

<b>Conditional Use Applications</b> <b>(Within a 1-mile radius of the subject site)</b>						
<b>Application CU Number</b>	<b>Application Name</b>	<b>Zoning District</b>	<b>Proposed Use</b>	<b>CC Decision Date</b>	<b>CC Decision</b>	<b>Ordinan ce Number</b>
135	Penn-Ar Farms	AR-1	snack bar attached to produce market	6/5/1973	Approved	
205	Joseph Penuel	AR-1	add gas pumps to existing snack bar/produce market		Approved	
361	Zook		convenience store		Withdrawn	
429	Irene's Trailer Park	GR	extension of an existing manufactured home park		Approved	
637	Edward F. Klosowski	GR	Bait & Tackle Shop		Approved	
1182	Trustees Westley Church	GR	extend cemetery	6/10/1997	Approved	1143
1199	Slaughter Neck Cemetery Inc.	GR	cemetery addition	9/16/1997	Approved	1175
1265	Nancy C. Rhue	AR-1	Antiques & Craft Shop	1/12/1999	Approved	1284




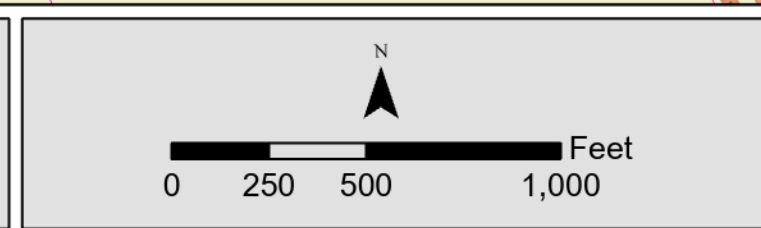
1607	Myra Mitchell & Cliff Burris	GR	painting contractor business	10/25/2005	Approved	1798
1819	Candleberry Creek c/o Michael Rhue	AR-1	expand CU 1265, swing sets, sheds, garden	4/13/2010	Denied	<Null>
1871	Candleberry Creek	AR-1	sheds/swings	11/30/2010	Approved	2163
2420	Vance Daniels	GR & C- 1	Auto Storage	5/9/2023	Approved	2921

Based on the analysis provided, the Conditional Use to allow for a proposed indoor storage of business vehicles in this location could be consistent with the surrounding land uses, zoning, and general environment given considerations of scale and impact.



**CU 2610 Howard L. Repass**  
**Street Map**  
**TM# 230-15.00-10.00**

 CU 2610 Howard L. Repass







## Zoning

-  Agricultural Residential - AR-1
-  Agricultural Residential - AR-2
-  Medium Residential - MR
-  General Residential - GR
-  High Density Residential - HR-1
-  High Density Residential - HR-2
-  Vacation, Retire, Resident - VRP
-  Commercial Residential - CR-1
-  Institutional - I-1
-  Marine - M
-  Limited Industrial - LI-1
-  Light Industrial - LI-2
-  Heavy Industrial - HI-1
-  C1: General Commercial
-  C2: Medium Commercial
-  C3: Heavy Commercial
-  C4: Planned Commercial
-  C5: Service/Limited Manufacturing
-  B-1: Neighborhood Business
-  B-2: Business Community District
-  B-3: Business Research

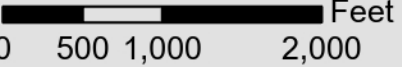
**CU 2610 Howard L. Repass**  
**Zoning Map**  
**TM# 230-15.00-10.00**

 CU 2610 Howard L. Repass

N



0 500 1,000 2,000 Feet





**Introduced: 9/16/25**

**Council District: Mr. McCarron**

**Tax I.D. No.: 230-15.00-10.00**

**911 Address: 9268 & 9274 Daniels Road, Lincoln**

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR INDOOR STORAGE OF BUSINESS VEHICLES ASSOCIATED WITH A LIMOSINE BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 3.52 ACRES, MORE OR LESS**

**WHEREAS, on the 19<sup>th</sup> day of August 2025, a Conditional Use application, denominated Conditional Use No. 2610, was filed on behalf of Howard L. Repass; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2025, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2610 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2025, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.**

**NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:**

**Section 1. That Chapter 115, Article VI, Subsections 115-39, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2610 as it applies to the property hereinafter described.**

**Section 2. The subject property is described as follows:**

**ALL that certain tract, piece, or parcel of land, lying and being situate in Sussex County, Delaware, and lying on the west side of Daniels Road (S.C.R. 215A), approximately 160 feet north of Slaughter Neck Road (S.C.R. 215), and being more particularly described in the attached legal description prepared by Embery, Outtersen & Fuges said parcel containing 3.52 acres, more or less.**

**This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.**





## Memorandum

To: Sussex County Council  
The Honorable Douglas B. Hudson  
The Honorable Jane Gruenebaum  
The Honorable Matt Lloyd  
The Honorable Steve McCarron  
The Honorable John L. Rieley

From: Jamie Whitehouse, AICP, Director of Planning & Zoning

CC: Everett Moore, County Attorney

Date: December 4, 2025

RE: County Council Report for C/U 2506 filed on behalf of NGR Sports, LLC

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The Planning and Zoning Department received an application (C/U 2506 filed on behalf of NGR Sports, LLC) for a Conditional Use for an indoor and outdoor miniature golf course in C-1 General Commercial Zoning District at Tax Parcel 334-13.00-132.00. The property is located at 19068 & 19268 Old Landing Road, Rehoboth. The parcel size is 1.69 ac. +/-

The Planning & Zoning Commission held a Public Hearing on the application on October 15, 2025. At the meeting of October 15, 2025, the Planning & Zoning Commission recommended approval of the application for the 8 reasons of approval and subject to the 7 recommended conditions of approval as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meeting on October 15, 2025.

### Minutes of the October 15, 2025, Planning & Zoning Commission Meeting

#### **C/U 2506 NGR Sports, LLC**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR AN INDOOR AND OUTDOOR MINIATURE GOLF COURSE TO BE LOCATED ON A 0.30 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 1.69 ACRES, MORE OR LESS.** The property is lying on the north and south sides of Rehoboth Mall Blvd., and the west side of Old Landing Road (S.C.R. 274), approximately 150 feet northwest of the intersection of Old Landing Road (S.C.R. 274) and Coastal Highway (Route 1). 911 Address: 19068 & 19268 Old Landing Road, Rehoboth. Tax Map Parcel: 334-13.00-132.00 (P/O).



Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Conditional Use Site Plan, the DelDOT Service Level Evaluation Response letter, and a letter received from the Sussex County Engineering Department's Utility Planning Division. Mr. Whitehouse advised the Commission that no public comment was received on behalf of the Application.

The Commission found that Mr. Glenn Mandalez, Esq., with Brockstedt Mandalas Federico spoke on behalf of the Applicant, NGR Sports, LLC; that also present was Mr. Nick Geracimas, the Applicant and owner of NGR Sports, LLC. Mr. Mandalez stated that the Applicant currently does business as Nick's Mini Gold; that Mr. Geracimas had grown his mini golf empire to eight locations, stretching from Ocean City up through Bethany Beach and Dewey; that the current application is requesting a Conditional Use approval for a 18 hole indoor and outdoor miniature golf course with a Jurassic Park theme; that 14 holes are played outdoors, and four holes are play indoors; that this site is located outside of Walmart in Rehoboth Beach; that the zoning is C-1 (General Commercial); that the Code permits indoor golf courses as a matter of right, however, the Code does not permit for outdoor miniature golf courses, which is the reasoning for the Conditional Use; that the Sussex County Planning & Zoning Department graciously allowed them to open early, being June 2024; that this allowed them to have been in operation for about 16 months; that there have been no incidents at the site, and no complaints had been filed with Sussex County; that the pad site is approximately 13,300 square feet; that the site is across the street from Atlantic Liquors; that the site is located behind the Wendy's and the relatively new Chase Bank; that Mr. Geracimas leases the pad site from Rehoboth Mall Limited Partnership, who owns the entire 1.6 acres +/- parcel; that the lease is a 15 year lease, with a five year option after the initial 15 year term; that Mr. Geracimas plans to be there for a while; that the proposed application is consistent with the Comprehensive Plan's Future Land Use Map, as the site is identified as a Commercial Area; that the adjacent properties to the north and south and east of the property also have the same Future Land Use Map designation of a Commercial Area; that with being open since June 2024, they have had a good operational track record; that there generally are one to two employees at the site when open; that there is a floating manager, who visits the sites multiple times each day; that the hours of operation are 9:00 am to 11:00 pm during the season; that in the off season the hours drop to 10:00 am to 9:00 pm; that the site is lighted with directional lighting contained on site, and is only lit during operational hours; that there are some themed acoustics at the course which include dinosaur sounds and music, however, the volume is regulated and reasonable; that Mr. Geracimas stated you can hear the Wendy's dive through over the dinosaur sounds; that the concept has been well received by locals and visitors, and for the reasons stated the Applicant would respectfully request that the Planning Commission recommend approval of the application. Mr. Mandalez submitted for the record the Applicant's recommended Findings and Conclusions.

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

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

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

Mr. Collins moved that the Commission recommend approval of C/U 2506 NGR Sports, LLC for a miniature golf course based on the information contained in the public record and for the following reasons:

1. The property is zoned C-1 General Commercial. A miniature golf course is an appropriate use on C-1 property in this location.
2. The Sussex County Comprehensive Plan's Future Land Use Map indicates that this site is within the "Commercial Area" designation. This use is appropriate within that Map designation.
3. The site is located within the existing Rehoboth Mall complex. It includes a building that was previously used as a bank, and that building and its surrounding area have been redeveloped into a mini-golf facility. It has been in operation throughout the past two summer seasons without issue. This use is also no more intensive than the other permitted uses within the C-1 District, including the large-scale retail uses, drive-through restaurants, and other uses on this site.
4. The location is in the resort area of Sussex County along Route One, where a variety of commercial and retail uses exist. The area also includes other mini golf courses located along Route One in other locations. This is an appropriate location for a miniature golf course.
5. The use will provide a family activity for residents and visitors to this area of Sussex County.
6. The use will not generate a significant amount of traffic, and DelDOT has stated that the use will have a "diminutive" impact upon area roadways.
7. There was no evidence that the use would adversely affect neighboring properties, area roadways, or public facilities.
8. No parties appeared in opposition to this application.
9. This recommendation is subject to the following conditions:
  - A. The use shall be limited to a mini golf and uses associated with that activity.
  - B. The signage shall comply with the sign requirements for the underlying C-1 zone.
  - C. The applicant shall comply with all of DelDOT's Requirements.
  - D. All lighting shall be downward screened and shielded so that it does not shine on neighboring properties or roadways.
  - E. Any dumpsters shall be screened from view from neighboring properties or roadways.
  - F. Failure to comply with any of these conditions may be grounds for the termination of the Conditional Use approval.
  - G. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Collins, seconded by Mr. Mears, and carried unanimously to recommend approval of C/U 2506 NGR Sports, LLC for the reasons and the considerations stated in the motion. Motion carried 5-0.

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

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

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

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

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

Madam Chair Wingate voted yea, for the reasons and the conditions stated in the motion.

## PLANNING & ZONING COMMISSION

HOLLY J. WINGATE, CHAIR  
JEFF ALLEN  
G. SCOTT COLLINS  
J. BRUCE MEARS, VICE CHAIR  
JOHN PASSWATERS



## Sussex County

DELAWARE  
sussexcountye.gov  
302-855-7878  
JAMIE WHITEHOUSE, MRTPI, AICP  
DIRECTOR OF PLANNING & ZONING

### PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: October 15<sup>th</sup>, 2025

Sussex County Council Hearing Date: December 9<sup>th</sup>, 2025

Application: C/U 2506 NGR Sports, LLC

Applicant: NGR Sports, LLC (c/o Nicholas Geracimos)  
13001 Riggin Ridge  
Ocean City, ME 21842

Owner: Rehoboth Mall, LP  
601 E. Pratt Street, 6<sup>th</sup> Floor  
Baltimore, MD 21202

Site Location: The property is lying on the north and south side of Rehoboth Mall Boulevard and west side of Old Landing Road (S.C.R. 274), approximately 0.02 mile northwest of the intersection of Old Landing (S.C.R. 274) and Coastal Highway (Route 1) in Rehoboth, Delaware.

Current Zoning: General Commercial (C-1) District

Proposed Use: Indoor and Outdoor Miniature Golf Course

Comprehensive Land Use Plan Reference: Commercial Area

Councilmanic District: District 3 – Jane Gruenebaum

School District: Cape Henlopen School District

Fire District: Rehoboth Beach Fire District

Sewer: Sussex County (sewer)

Water: Tidewater (central water)

Site Area: 1.69 acres +/- (C/U Area 0.30 acres +/- per Application)

Tax Map ID.: 334-13.00-132.00







## Memorandum

To: Sussex County Planning and Zoning Commission Members  
From: Mrs. Lauren Cecchine, AICP, Planner III  
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant  
Date: September 2<sup>nd</sup>, 2025  
RE: Staff Analysis for C/U 2506 NGR Sports, LLC

---

The purpose of this memo is to provide background and analysis for the Planning and Zoning Commission to consider as a part of Application C/U 2506 NGR Sports, LLC to be reviewed during the October 15<sup>th</sup>, 2025, Planning and Zoning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

**Please note that the following staff analysis is for informational purposes only and does not prejudice any decision that the Sussex County Planning & Zoning Commission or Sussex County Council may wish to make as part of any Application submitted to the Department.**

**Tax Parcel ID:** 334-13.00-132.00

**Proposal:** The request is for a Conditional Use for Tax Parcel: 334-13.00-132.00 to allow for a proposed indoor and outdoor miniature golf course to be located on a property zoned General Commercial (C-1) District. The property is lying on the north and south side of Rehoboth Mall Boulevard and west side of Old Landing Road (S.C.R. 274), approximately 0.02 mile northwest of the intersection of Old Landing (S.C.R. 274) and Coastal Highway (Route 1) in Rehoboth, Delaware. The Parcel consists of 1.69 acres +/- with the impacted portion of the Property consisting of approximately 0.30 acres +/- as noted in the Application.

**Zoning:** The Parcel is zoned General Commercial (C-1) District. The adjacent Parcel to the north which currently houses a series of fast food restaurants and the Rehoboth Mall is also zoned General Commercial (C-1) District. The Parcels on the opposite side of Coastal Highway (Route 1) are also zoned General Commercial (C-1) District as well as the Parcels to the south on the opposite side of Old Landing Road (S.C.R. 274). The Parcel to the west of the subject property is zoned Commercial Residential (CR-1) District.

**Future Land Use Map Designation w/in Comprehensive Plan:** Commercial Area

**Applicability to Comprehensive Plan:** The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use Map (FLUM) in the Plan indicates that the subject property has a Growth Area designation of "Commercial Area." The adjacent properties to the north, south and east of the subject property also have a Future Land Use Map designation of Commercial Area.



The Parcel to the west of the subject property has Future Land Use Map (FLUM) designation of “Coastal Area.”

As outlined in the 2018 Sussex County Comprehensive Plan, “*Commercial Areas include concentrations of retail and service uses that are mainly located along arterials, and highways*” and “*As opposed to small, traditional downtown areas that are often historic and pedestrian-friendly, Commercial Areas include commercial corridors, shopping centers, and other medium and large commercial vicinities geared towards vehicular traffic*” (2018 Sussex County Comprehensive Plan, 4-17).

The Plan further notes that, “Institutional and commercial uses may be appropriate depending on surrounding uses” (20187 Sussex County Comprehensive Plan, 4-16).

**Further Site Considerations:**

- **Density:** N/A
- **Open Space Provisions:** N/A
- **Agricultural Areas:** N/A
- **Interconnectivity:** The Sussex County Code notes that interconnectivity is required for existing and proposed commercial buildings and structures (§115-219(A)(6) & (§115 220(B)(17)).
- **Transportation Improvement District (TID):** The Parcel is not located within the Henlopen Transportation Improvement District (TID) and shall be subject to the payment of any related fees as outlined by DelDOT in the Transportation Infrastructure Recoupment Agreement to be recorded for the use (unless as stated otherwise by DelDOT).
- **Forested Areas:** Staff note that if the proposal consists of over 75,000 square feet of commercial use on the existing Parcel, the Parking Lot Landscaping provisions of §115-166.1(A-B) shall apply to “*reduce the visual impact of large, expansive parking areas.*” If the use will not exceed 75,000 square feet of commercial uses, then these design standards are highly recommended by Staff, but not a requirement.

Staff further note that the proposal is located within the Combined Highway Corridor Overlay Zone (CHCOZ) and shall be subject to the setback and buffering requirements of §115-194.1(E)(3) of the Sussex County Code which requires a 60-ft setback and 20-ft landscape buffer. The buffer shall utilize existing vegetated areas to the maximum extent possible. The Code further notes, “*For each 100 linear feet of buffer yard required, the number of plantings required shall be not less than 22. The plantings shall include, on average, a canopy forest of at least 12 deciduous or evergreen/conifer trees and 10 shrubs. The buffer yard shall be seeded with grass or planted with ivy unless natural ground cover is established. In areas where a ten-foot paved path is provided, the landscaping requirement can be reduced by 50%*” If the Applicant is unable to accommodate these

requirements, a variance from these provisions may be sought from the Sussex County Board of Adjustment per §115-194.1(A).

- **Wetlands Buffers/Waterways:** Staff note that there do not appear to be any wetlands encroaching the Property based on Delaware's FirstMap data system in GIS.
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** The Property is not located within any Tax Ditch Rights-Of-Way (ROW) or corresponding Tax Ditch Areas.

The Property is located within Flood Zone "X" – Areas determined to be outside the 1% annual chance flood and outside the 500-year flood zone. The subject Property is located within an area of "Good" Groundwater Recharge Potential which a very small sliver of "Excellent" Groundwater Recharge Potential being located on the southeast side of the Parcel.

Staff note that the property is almost entirely within a Wellhead Protection Area and shall therefore be subject to the provisions of Chapter 89 "Source Water Protection" Section 6 "Wellhead Protection Areas" of the Sussex County Code in relation to the amount of impervious cover proposed for the use. A supplemental Map has been provided below showing the extent of the Wellhead Protection Area onto the property.

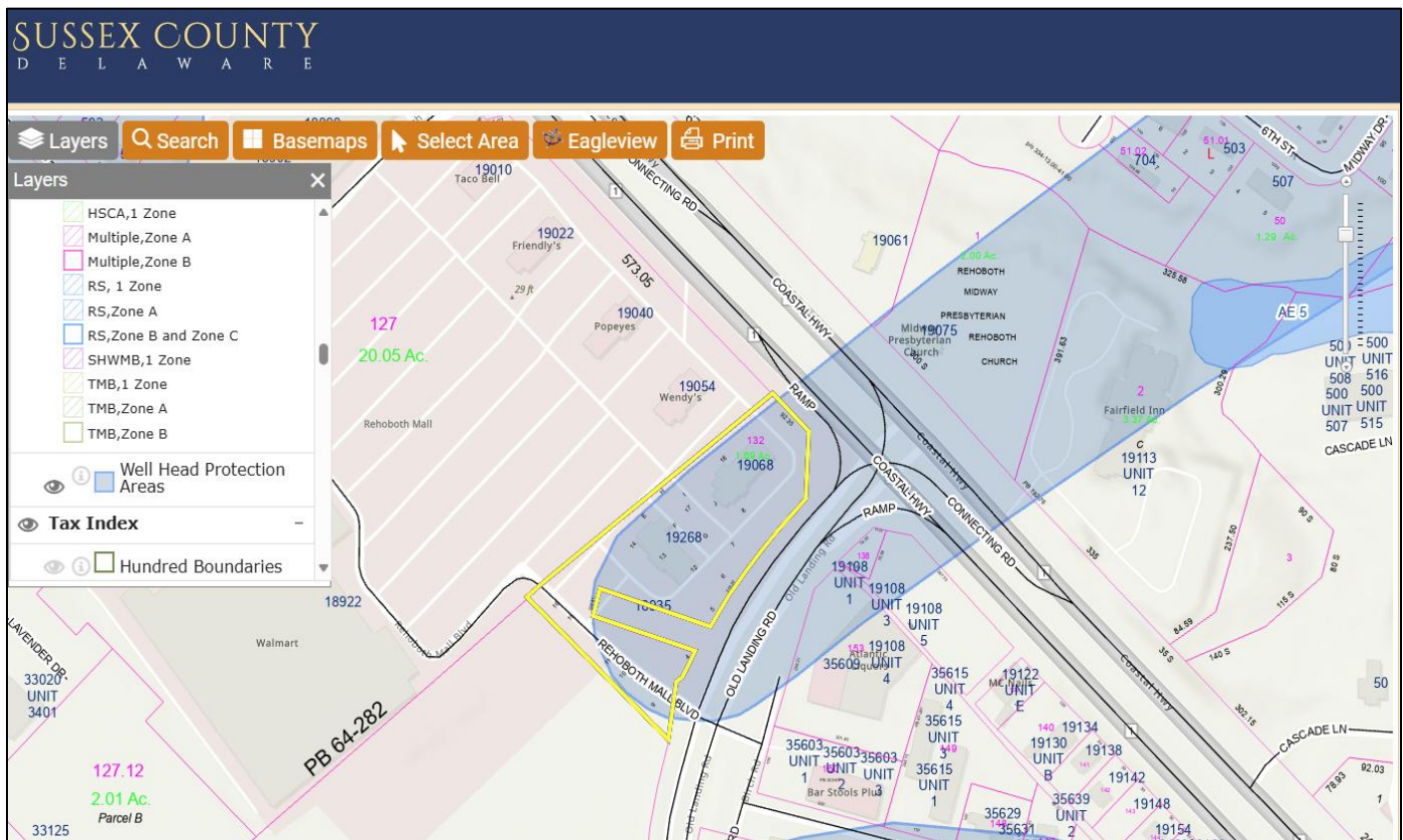


Exhibit "A" – Wellhead Protection Area on the Property.

## Existing Conditional Uses within the Vicinity of the Subject Site

Since 1970, there have been fifty-four (54) Conditional Use applications within a 1-mile radius of the Application site. The current status of those Applications are outlined below:

- **Six (6) Applications were Withdrawn.**
- **Four (4) Application were Denied by the Sussex County Council.**
- **Forty-three (43) Applications were Approved by the Sussex County Council.**
- **One (1) Application (this Application) is currently Pending decision by the Sussex County Council.**

A Supplemental Table has been provided showing the approval status of all Conditional Use Applications within a 1-mile radius of the Application Site.

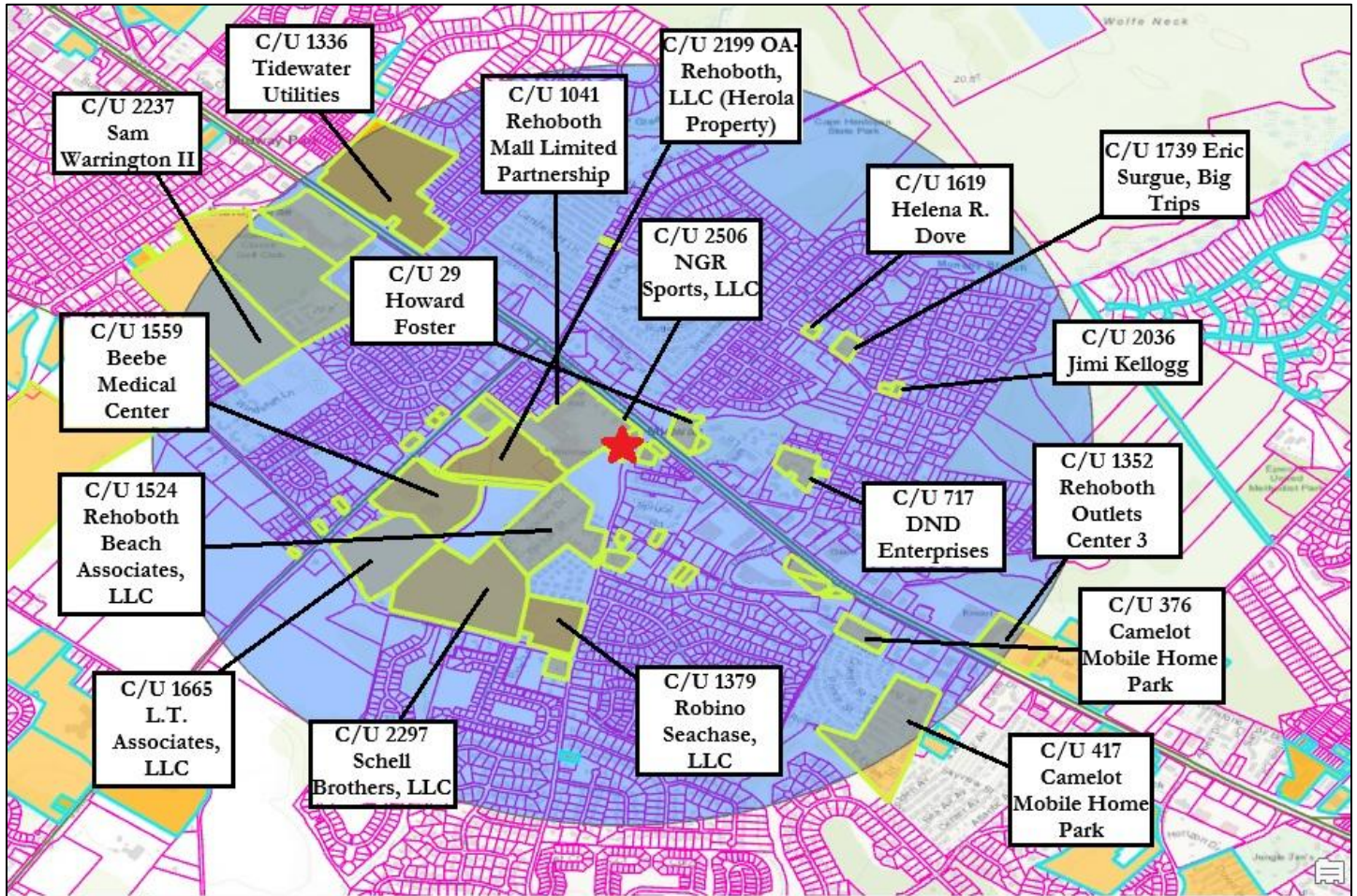
Conditional Uses w/in a Mile Radius of the Subject Site							
Conditional Use No.	Tax Parcel #	APPLICANT	Current Zoning	Proposed Use	CC Decision Date	CC Decision	Ordinance Number
1352	334-13.00-325.16	Rehoboth Outlets Center 3	C-1	sales of soft/hard goods off carts	5/1/2001	Approved	1450
2036	334-13.00-873.00	Juni Kellogg	GR	Parking of employee vehicles and vans for a cleaning service business	4/5/2016	Denied	N/A
1644	334-13.00-599.00	Robert Sames	GR	multi-family	3/9/2006	Withdrawn	38785
2009	334-13.00-325.02	Josh Grapki	C-1	FOOD TRUCK (VENDOR)	3/31/2015	Approved	2392
717	334-13.00-8.00	DND Enterprises, Inc.	GR	multi-family	N/A	Withdrawn	N/A
1619	334-13.00-104.00	Helena R. Dove	GR	multi-family	11/1/2005	Approved	1798
1739	334-13.00-105.02	Eric Suroge, Big Tups	GR	Multi-Family Dwelling	12/2/2008	Approved	2010
417	334-13.00-308.00	Camelot Mobile Home Park	AR-1/C-1	addition to existing manufactured home park	N/A	Approved	N/A
1357	334-6.00-355.04	Super Fresh Food Market	C-1	sales of soft/hard goods off carts	5/1/2001	Approved	1452
1938	334-12.00-85.00	Karen L. Barwick	AR-1	Therapist Office and Residence	1/22/2013	Approved	2289
1774	334-12.00-124.00	Robino Seachase, LLC	AR-1	Poolhouse	6/17/2008	Approved	1975
831	334-12.00-377.00	Tidewater Utilities, Inc.	MR	public utility for public water system	9/10/1985	Denied	N/A
1342	334-13.00-177.02	Mark Wolfe	AR-1	multi-family	8/8/2000	Approved	1390
1218	334-12.00-127.03	Angola Community Partners	AR-1	Expansion of CU 1117 Model Home Sales	1/6/1998	Approved	1203
1204	334-13.00-177.01	Mary A. Benninger	AR-1	multi-family	10/14/1997	Approved	1182
1294	334-6.00-355.00	Don Demickson	AR-1	apartment over golf pro shop	7/27/1999	Approved	1332
1041	334-12.00-127.00	Rehoboth Mall Limited Partnership	C-1	movie theater w/ in existing mall	6/29/1993	Approved	900
521	334-13.00-186.00	John Marsh	AR-1	rental storage	N/A	Approved	NA
2153	334-13.00-181.00	Cassandra Toroin	AR-1	real estate office	2/5/2019	Approved	2630
29	334-13.00-2.00	Howard Foster	MR	motel	N/A	Approved	N/A
1278	334-13.00-3.00	Silver Properties, LLC	GR	multi-family	6/6/1999	Approved	1379
1274	334-13.00-325.19	Rehoboth Beach Vol. Fire Company	C-1	Radio communication tower	3/30/1999	Approved	1297
1113	334-13.00-325.29	Patty & Tom Demick	C-1	mini-golf course	5/16/1995	Approved	1027
2000	334-12.00-121.01	Jorid Venture, LLC	AR-1	Wedding Ceremonies and Receptions	12/16/2014	Denied	N/A
1840	334-12.00-58.00	Juliane Olber & William N. Hein	AR-1	printing	9/28/2010	Approved	2147
2237	334-12.00-55.01	Sam Warrington II	AR-1	Outside Boat & RV Storage	12/1/2020	Approved	2756
376	334-13.00-305.00	Camelot Mobile Home Park	C-1	addition to existing manufactured home park	N/A	Approved	N/A
1347	334-13.00-153.00	Kluk Kart	C-1	hot dog cart for retail sales	8/29/2000	Denied	N/A
1203	334-13.00-168.00	Lewes/Rehoboth Assoc. of Churches, Inc.	AR-1	N/A	N/A	Withdrawn	N/A
1336	334-6.00-138.00	Tidewater Utilities	C-1	elevated water storage facility	12/19/2000	Denied	N/A
1524	334-12.00-123.02	Rehoboth Beach Associates LLC	AR-1	multi-family	6/8/2004	Approved	1695
899	334-12.00-52.00	Lewes Fire Department, Inc.	AR-1	substation for fire department	N/A	Withdrawn	N/A
910	334-12.00-81.00	Theodore D. Shaffer	AR-1	hair salon	10/3/1989	Denied	N/A
1313	334-12.00-89.00	Apple Electric Inc.	AR-1	electric contractors office & aerial rigulations	12/21/1999	Approved	1356
1239	334-12.00-194.00	Maplewood Dental Associates	B-1	2 apartments above existing dental office	5/5/1998	Approved	1231
2109	334-12.00-127.01	O.A. Rehoboth, LLC (Hercula Property)	CR-1	multi-family (234 units)	1/28/2020	Approved	2702
1665	334-12.00-125.00	L. T. Assoc. LLC	AR-1	medical offices	9/19/2006	Approved	1873
1859	334-12.00-87.00	Beebe Medical Center	AR-1	expansion outpatient medical center	3/30/2004	Approved	1673
2046	334-12.00-127.02	Lockwood Design & Construction (Arbor-Lyn)	MR	202 multi family development	12/13/2016	Approved	2479
1066	334-6.00-138.00	FuuSport, Inc.	C-1	Go-Cart Track	3/29/1994	Approved	959
1108	334-6.00-138.00	FuuSport, Inc.	C-1	Go Cart Track Expansion/ Amusement Place	3/28/1995	Approved	1019
1117	334-12.00-127.01	Angola Community Partnership	AR-1	model homes/sales/display	6/13/1995	Approved	1035
1229	334-6.00-138.00	FuuSport, Inc.	C-1	on of Existing Go Cart Track and Wading Pool (CU 1066 & CU 1108)	4/28/1998	Approved	1228
1236	334-12.00-87.00	Beebe Medical Facility	AR-1	Outpatient Medical Facility	4/21/1998	Approved	1227
1280	334-12.00-89.00	Apple Electric Inc.	AR-1	contractors office	5/11/1999	Approved	1307
1319	334-6.00-138.00	FuuSport, Inc.	C-1	expand waterpark & miniature golf	2/1/2000	Approved	1359
1325	334-13.00-177.02	Mark Wolfe	AR-1	multi-family	2/29/2000	Approved	1365
1340	334-12.00-124.00	Robino Sea Chase LLC	AR-1	multi-family	8/1/2000	Withdrawn	N/A
1379	334-12.00-124.00	Robino Seachase, LLC	AR-1	multi-family	5/8/2001	Approved	1455
1716	334-12.00-127.01	Andrew Lubin	AR-1	Office Park with Medical, Professional & Retail Buildings	1/16/2007	Approved	1887
1902	334-12.00-85.00	Dorothy Garvey	AR-1	Medical Office	6/5/2012	Withdrawn	N/A



2297	334-12.00-127.02	Schell Brothers LLC	MR	Amendment to Conditions of Approval	2/22/2022	Approved	2831
2317	334-6.00-340.00	William E. Martin, II	GR	Sign & Vehicle Graphics	3/1/2022	Approved	2838
2506	334-13.00-132.00	NGR Sports, LLC	C-1	Indoor/Outdoor Mini-Golf	Pending	Pending	Pending

### Exhibit “B” – Conditional Uses w/in a 1-Mile Radius of the Application Site.

Based on the analysis provided, the Conditional Use to allow for a proposed indoor and outdoor miniature golf course in this location could be consistent with the surrounding land uses, zoning, and general environment given considerations of scale and impact.



### Exhibit “C” – Conditional Use Applications w/in a 1-Mile Radius of the Application Site (with 1-Mile Radius Buffer Around Application Site.)





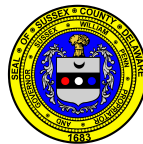
# A3 Landscape Parcel Details



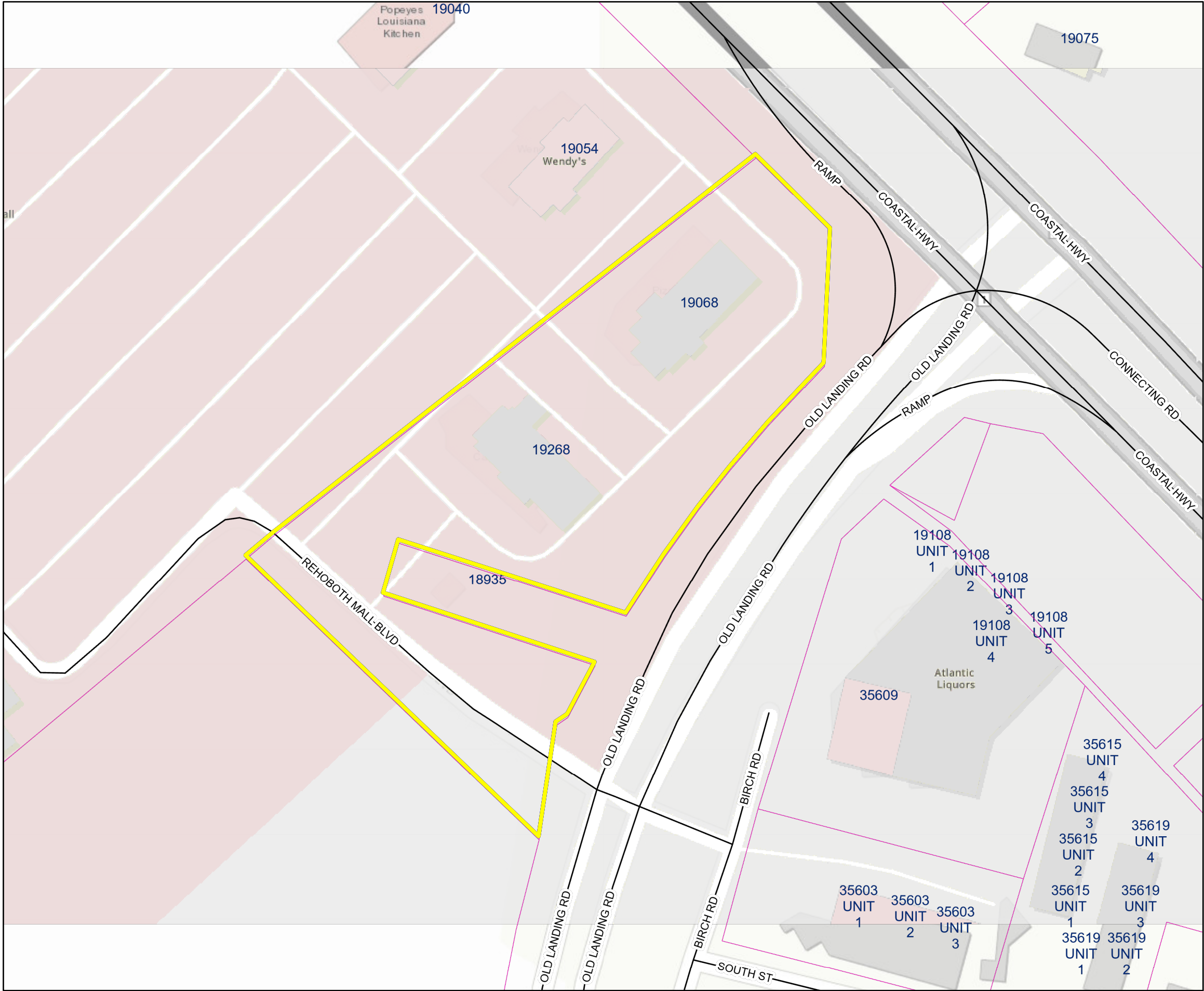
PIN:	334-13.00-132.00
Owner Name	REHOBOTH MALL LP
Book	0
Mailing Address	601 E PRATT ST 6TH FLOOR
City	BALTIMORE
State	MD
Description	
Description 2	
Description 3	
Land Code	

- Tax Parcels
- 911 Address
- Streets
- County Boundaries
- World Imagery
- Low Resolution 15m Imagery
- High Resolution 60cm Imagery
- High Resolution 30cm Imagery
- Citations
- 30cm Resolution Metadata



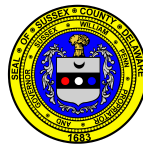


# A3 Landscape Parcel Details

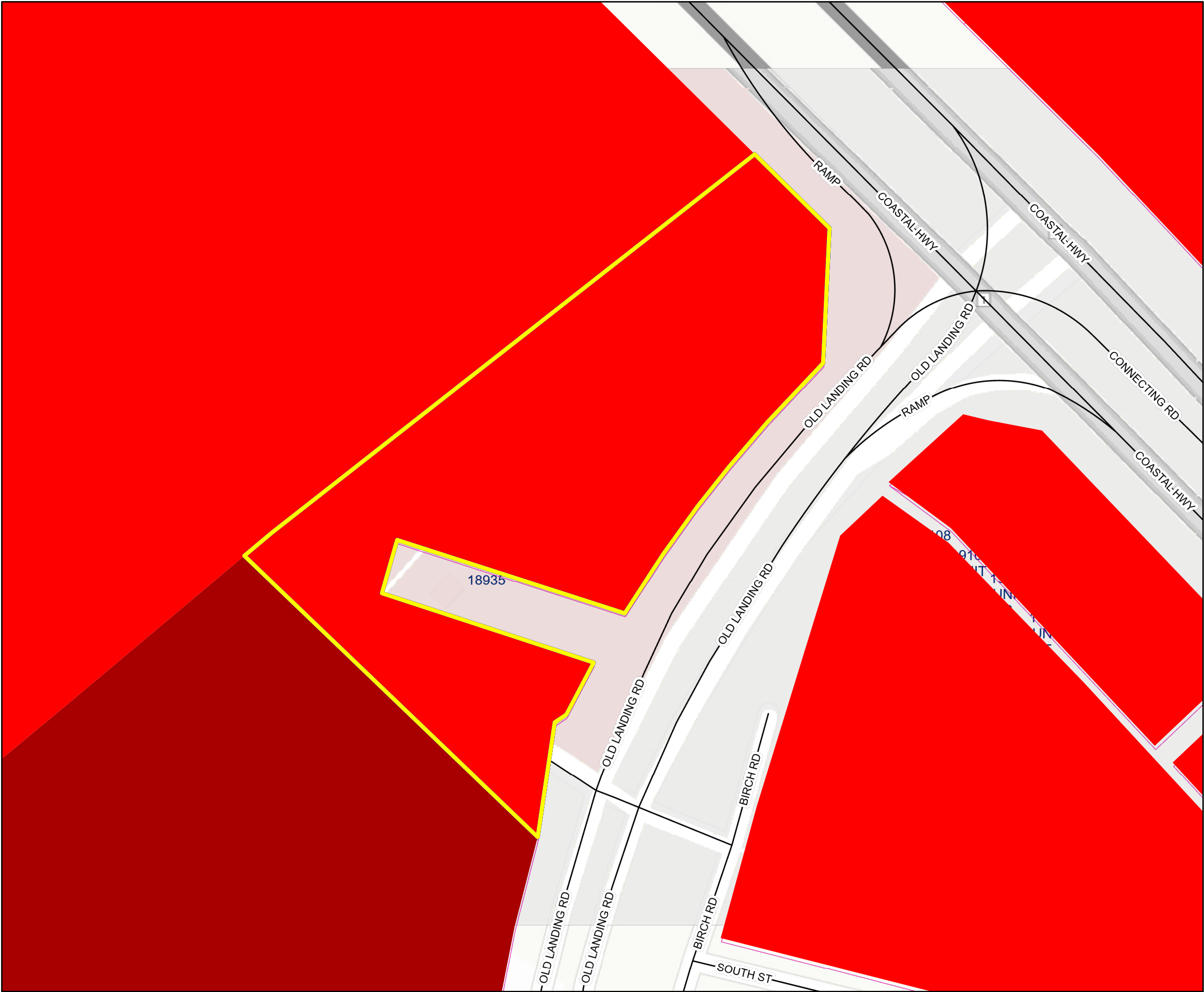


PIN:	334-13.00-132.00
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Description	
Description 2	
Description 3	
Land Code	

- Tax Parcels
- 911 Address
- Streets
- County Boundaries
- Citations



# A3 Landscape Parcel Details



PIN:	334-13.00-132.00
Owner Name	REHOBOTH MALL LP
Book	0
Mailing Address	601 E PRATT ST 6TH FLOOR
City	BALTIMORE
State	MD
Description	
Description 2	
Description 3	
Land Code	

- Tax Parcels
- 911 Address
- Streets
- County Boundaries
- Citations



**Introduced: 9/16/25**

**Council District 3: Ms. Gruenebaum  
Tax I.D. No.: 334-13.00-132.00 (P/O)  
911 Address: 19068 & 19268 Old Landing Road, Rehoboth**

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR AN INDOOR AND OUTDOOR MINIATURE GOLF COURSE TO BE LOCATED ON A 0.30 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 1.69 ACRES, MORE OR LESS**

**WHEREAS, on the 8<sup>th</sup> day of January 2024, a Conditional Use application, denominated Conditional Use No. 2506, was filed on behalf of NGR Sports, LLC; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2025, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2506 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2025, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.**

**NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:**

**Section 1. That Chapter 115, Article XI, Subsections 115-79, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2506 as it applies to the property hereinafter described.**

**Section 2. The subject property is described as follows:**

**ALL that certain tract, piece, or parcel of land, lying and being situate in Sussex County, Delaware, and lying on the north and south sides of Rehoboth Mall Blvd., and the west side of Old Landing Road (S.C.R. 274), approximately 150 feet northwest of the intersection of Old Landing Road (S.C.R. 274) and Coastal Highway (Route 1), and being more particularly described in the attached legal description prepared on July 17, 1984, portion of said parcel containing 0.30 acres, more or less.**

**This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.**



## Memorandum

To: Sussex County Council  
The Honorable Douglas B. Hudson  
The Honorable Jane Gruenebaum  
The Honorable Matt Lloyd  
The Honorable Steve McCarron  
The Honorable John L. Rieley

From: Jamie Whitehouse, AICP, Director of Planning & Zoning

CC: Everett Moore, County Attorney

Date: December 4, 2025

RE: County Council Report for C/U 2516 filed on behalf of Roxana Apartments, LLC

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The Planning and Zoning Department received an application (C/U 2516 filed on behalf of Roxana Apartments, LLC) for a Conditional Use for multi-family dwelling houses (42 units) in a CR-1 Commercial Residential Zoning District at Tax Parcel 134-11.00-199.00, 200.00 & 200.01. The property is located at 31924, 32014 & 32026 Roxana Road, Ocean View. The parcel size is 4.74 ac. +/-

The Planning & Zoning Commission held a Public Hearing on the application on October 15, 2025. At the meeting of November 5, 2025, the Planning & Zoning Commission recommended approval of the application for the 11 reasons of approval and subject to the 15 recommended conditions of approval as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meeting on October 15, 2025, and November 5, 2025.

### Minutes of the October 15, 2025, Planning & Zoning Commission Meeting

#### **C/U 2516 Roxana Apartments, LLC**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY (42 UNITS) TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 4.74 ACRES, MORE OR LESS.** The properties are lying on the west side of Roxana Road (Rt. 17), approximately 575 feet south of Atlantic Avenue (Rt. 26). 911 Address: 31924, 32014 & 32026 Roxana Road, Ocean View. Tax Map Parcel: 134-11.00-199.00, 200.00 & 200.01.



Mr. Whitehouse advised the Commission that submitted into the record were a copy of the Applicant's Conditional Use Site Plan, the Applicant's Wetland Delineation, the Applicant's Exhibit Booklet, the Applicant's renderings, the DelDOT Service Level Evaluation Response, the PLUS response, a Jurisdictional Determination letter, the Staff Analysis report, a letter from the Sussex County Engineering Department's Utility Planning Division, and Technical Advisory Committee (TAC) comments, including a response from DNREC's Drainage Program. Mr. Whitehouse advised the Commission that no public comments were received in relation to the application.

The Commission found that Mr. David Hutt, Esq. with Morris James, LLP, spoke on behalf of the Applicant, Roxana Apartments, LLC; that also present were Ms. Teresa Rosler on behalf of the Applicant, and Mr. Kenneth Usub, P.E. with Morris & Ritchie Associates, Inc. Mr. Hutt stated that the Conditional Use request is for three parcels, totaling approximately 4.7 acres of land, and seeking to approval to allow 42 multi-family, attached dwelling apartments; that all three properties are zoned CR-1 (Commercial Residential) District; that in the CR-1 District, multi-family dwellings are a Conditional Use, which requires public hearings before the Planning Commission and the Sussex County Council; that Sussex County closed the C-1 (General Commercial) District, and created the CR-1 District in relation to this purpose, to ensure that if residential was proposed, a Conditional Use would be required as part of the process; that the property immediately across the street from the site is zoned C-1 (General Commercial), which has apartments which were approved, but only through the Site Plan Review process, rather than a public hearing; that Sussex County has also closed the CR-1 (Commercial Residential) Zoning District, resulting in not many properties within Sussex County with the CR-1 zoning designation; that the site is located to the south of Atlantic Avenue (Rt. 26), and the west side of Roxana Road (Rt. 17); that located at the corner of the intersection is Creative Concepts; that on the opposite side of Creative Concepts, is the location of Hocker's Super Center, and a McDonald's, which is located within the Hocker's parking lot; that according to the 2020 State Strategies Map, the vast majority of the properties are located within Investment Level 2, with a small portion being located within Investment Level 3; that the Investment Level 2 area, are areas where the State Investment Policy should support a wide range of uses and densities, being areas where the State should encourage departure from the typical single-family dwelling developments to promote a broader mix of housing types; that Investment Level 2 areas are areas where the State expects and encourages growth; that the Planning Commission recently spent a lot of time with the Land Use Reform Working Group; that one of the emphasis of that group was discussing development in Investment Level 1 and 2 areas, to remain consistent with the Office of State Planning Coordination; that it was specifically and often noted that Level 1 areas are often municipalities, and Level 2 areas are often the area located just outside of municipalities; that this would hold true for the current application; that according to the Sussex County Future Land Use Map, the properties are located within the Coastal Area, being one of the County's Growth Areas; that the site is surrounded by properties also located within the County's Coastal Area, or the municipal growth area for the Town of Millville; that within Chapter 4 of the Comprehensive Plan it speaks to the purpose of the Coastal Area, stating that a range of housing types should be permitted, including single-family homes, townhomes, and multi-family units, making the current application consistent with that purpose; that according to the drafted 2025 State Strategies Map, not much is proposed to change, other than the fact that the entirety of the property would be located within Investment Level 2; that all three properties are located within the CR-1 (Commercial Residential) Zoning District; that the properties immediately north of the site are within the C-1 (General Commercial) District, as are the properties located across the street; that on the southern side of the site is a CR-1 zoned property, which was the subject of a site plan the Commission reviewed for J&J Bulkheading; that the adjacent lands located behind and to the south of the site are located AR-1 (Agricultural Residential); that also located within

a one mile vicinity of the site are properties zoned GR (General Residential) and MR (Medium Density Residential); that there are also multiple Conditional Uses for manufactured home parks; that also within a one mile radius are properties zoned C-2 (Medium Commercial) and B-1 (Neighborhood Business); that the site is located within the nearby proximity to the Town of Millville, who has similar zoning districts consisting of AR (Agricultural Residential), R (Residential), RPC (Residential and Community), and MPC (Master Plan Community) Districts; that along Atlantic Avenue (Rt. 26), the Town of Millville has properties located under its C-1 (Town Center Commercial) district, which creates a very similar mix of zoning classifications as exists in Sussex County; that pursuant to §115-83.5 what the Zoning Code refers to as “multifamily dwelling structures”, are a Conditional Use within the CR-1 Zoning District; that §115-171 of the Code states that Conditional Uses are generally of a public or semi-public character, essential and desirable for the general convenience and welfare, but because of the nature of the use, the importance of the relationship to the Comprehensive Plan and the possible impact, not only to the neighboring properties, but on a large section of the County, the Conditional Use requires the exercise of planning measurement on location and site plan; that the Planning Commission has seen many Conditional Use applications for various residential uses, recognizing that housing is certainly of a public or semi-public character, being essential and desirable for the general welfare; that there are a number of single-family home developments which currently exist in Sussex County; that the current application proposes an alternative and different option from the single-family home dwellings to a multi-family dwelling option; that the application proposes 42 units on the site; that the units will be attached, but separated into two buildings; that the application proposes a density of 8.78 units to the acre, which is below the base density of 12 units to the acre, which is permitted in the CR-1 Zoning District; that the proposed density is consistent or less than the density of some of the other residential projects located within the area; that Millville by the Sea is a large RPC (Residential Planned Community), located immediately south and east of the site, has an overall density of 4.2 units to the acre, it has many areas of high density, as that is the nature of the Master Plan Community; that Ascend by the Sea, located south of the site, has 7.3 units to the acre; that directly across the street from the site is Roxanna Apartments, which is a future proposed multi-family unit, approved through site plan review, which the Planning Commission completed in December 2024, which proposed 12 units to the acre; that the proposed entrance to the site is located along the Roxanna Road (Rt. 17), almost a crossed from the back entrance of the Hocker’s Super Center; that a shared entrance is proposed with the property immediately to the left, which is also owned by the Applicant; that DelDOT was very pleased at the proposal of a joint entrance between the properties for whatever future development may arise; that after one enters from the shared entrance, one would make a left to access two parking areas; that one parking area is located adjacent to the front of the buildings, with the other parking area being located to the side of the buildings; that there are two buildings proposed, one being to the left, and the other to the right; that each building would have 21 units within it; that a stormwater management pond is proposed between the parking area and Rt. 17 (Roxanna Road); that there will be no parking within the Front Yard Setback; that the open space, meaning the area where there are no buildings or pavement, will consist of 2.53 acres, which results in a little over half of the site; that there are no amenities proposed due to the size of the property and the number of proposed units; that there is a single family home located adjacent to the site, and along Roxanna Road; that within the Applicant’s proposed Conditions of Approval, a vinyl fence is proposed to run along the property line shared with the single family home, running from Roxanna Road toward the easternmost property line; that the remainder of the property does not have the traditional buffer boundary that the Commission is familiar with, when looking at a residential subdivision; that the reason for this is there is a tax ditch with a 80 foot easement required from the tax ditch right of way; that the Applicant has submitted an application to modify the current 80 foot easement to reduce it to a 25 foot easement from the top of back of the tax ditch; that the

DNREC Tax Ditch Program is familiar with those applications; that the easement runs through the middle of the existing structures on the site and the adjacent property; that modifying the easement will clean up the issue of there being physical structures located within the tax ditch easement; that a meadow mix is proposed to be placed within the modified 25 foot easement, which DNREC allows in the areas along tax ditches; that DNREC will require that the trees and such, located within the tax ditch be removed, to allow the ditch to function properly; that once the trees are removed, the meadow mix will be placed within the 25 foot easement; that trees are proposed between the tax ditch easement and the buildings; that there are symbols for the trees and shrubbery landscaping reflected on the Site Plan; that the landscaping and the buffering is a bit inversed where the trees are going to be between the building and the buffer in the meadow area; that within the proposed Conditions of Approval is that a meadow mix be placed within the tax ditch easement area, and a Landscape Plan will be provided to the Planning & Zoning Commission for review; that the goal is not to eliminate trees on the site, however, they are required to comply with the requirements of DNREC for the tax ditch; that according to the FEMA Flood Maps, the site is located within Flood Zone X, which is an area located outside of the 500 Year Floodplain; that public utilities are available to the site through Sussex County's Engineering Department; that within the record is a letter indicating that there is capacity available for the project; that in addition, there is a Willing and Able to Serve letter from Tidewater Utilities, Inc., indicating that there is capacity, and their readiness and willingness to provide central water for both domestic use and fire protection; that there are no source water protection areas, subject to Chapter 89, meaning the site is not located within a Wellhead Protection Area and the site is not located within an Excellent Groundwater Recharge area; that the site is located within a fair groundwater recharge area; that there are no resources on the site, that will require a resource buffer, as the term is described in §115-4 and §115-193; that there are no wetlands located on the property; that within the record there are reports, where the property was studied, and there was a Jurisdictional Determination letter of no wetlands by the Army Corps of Engineers; that a Service Level Evaluation Request was filed with DelDOT; that DelDOT responded that the traffic impact for the proposed community would be negligible; that per the Sussex County's Memorandum of Understanding with DelDOT, the negligible term means less than 50 vehicle trips in any hour, and less than 500 vehicle trips in total per day; that the Applicant would submit that the proposed density is appropriate within the CR-1 District, which allows up to 12 units to the acres; that the proposed density is also consistent with the Coastal Area and the Comprehensive Plan; that the Comprehensive Plan states that Sussex County's base density of two units per acre is appropriate throughout the classification of the Coastal Area; that medium and higher densities of four to 12 units per acre can be appropriate in certain locations; that medium and higher densities could be supported in areas where there is central water and sewer, near sufficient commercial uses and employment centers, where it is in keeping with the character of the area, where it is along a main road or at or near a major intersection, where there is adequate level of service or where other considerations exist that are relevant to the requested project and density; that the proposed project creates an important additional residential housing option at an appropriate density, being within an Investment Level 2 area per the State Strategies Map in the Coastal Area, near the municipal limits of Millville; that this is an area where central water and sewer are provided; that sewer will be provided by Sussex County, and central water will be provided by Tidewater; that the site is certainly near a significant number of commercial uses and employment centers up and down Rt. 26 and along Rt. 17; that the site is situated along Roxanna Road, which is a major collector road, as identified by DelDOT; that the site is also near a major intersection, as it is located within 600 feet of the intersection of Rt. 26 and Atlantic Avenue; that the project would certainly be in keeping with the character of the area, including the proposed multifamily dwellings that are immediately across the street, and that all of those factors make the project consistent with the underlying CR-1 zoning classification, as well as the Coastal Area designation on the Future Land

Use Map; that Mr. Hutt requested to submit into the record, proposed Conditions of Approval; that proposed Condition H states that the tax ditch easements and rights of way, as amended, shall be shown on the Final Site Plan, and shall be maintained in a meadow-like manner, consistent with DNREC's requirements for tax ditches, and that proposed Condition I states that a six-foot-high vinyl fence shall be installed along the common boundary line with the adjacent parcel located within the upper right-hand corner.

Madam Chair Wingate questioned if Mr. Hutt was referring to the St. George's Tax Ditch, and if the Applicant was submitting the application to DNREC requesting the reduction of the right of way to allow part of the proposed structure to encroach on the tax ditch.

Mr. Hutt stated that the current requirement is an 80-foot right of way from the top of the bank of the tax ditch; that the proposal to the Tax Ditch Authority will be to move it so that it is 25 feet from the top of the bank of the tax ditch, allowing the easement to be located on the right hand side of the trees, and that the existing structures are currently located within the 80 foot easement.

Mr. Mears questioned whether the landscaping between the meadow and the buildings would meet the Sussex County Landscape Buffer Ordinance, and he stated that he liked the contemporary design shown in the rendering.

Mr. Hutt stated he did not believe that the proposed landscaping would meet the density of trees and shrubs requirement due to the proximity to the buildings.

Mr. Allen questioned whether the existing tax ditch was dry, wet, or flooded.

Mr. Usub stated that the tax ditch generally has very little water in it; that currently it has not been maintained in a long time; that there is a lot of overgrowth of trees, which they will be removing to help bring the tax ditch to a better condition as required by the Drainage section.

Madam Chair Wingate stated she noticed the Site Plan did reflect interconnectivity, as it is required, and she mentioned it appeared there was an option for a multi-use path, emergency access, should it be needed, to the west side of the project.

Mr. Usub stated that the width of the entrance should provide two routes to travel, going one direction or the other, and they could make the multi-use pathway wide enough to accommodate emergency access.

Mr. Hutt stated that widening the multi-use pathway may limit some of the landscaping between the vinyl fence and the stormwater pond in that area.

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

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

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

In relation to C/U 2516 Roxana Apartments, LLC. Motion by Mr. Mears to defer action for further consideration, seconded by Mr. Collins, and carried unanimously. Motion carried 5-0.

Minutes of the November 5, 2025, Planning & Zoning Commission Meeting

The Commission discussed the application, which had been deferred since October 15, 2025.

Mr. Collins moved that the Commission recommend approval of C/U 2516 Roxana Apartments, LLC for 42 Multi-Family Units within the CR-1 Zoning District based upon the record made during the public hearing and for the following reasons:

1. The CR-1 Zoning District permits residential uses at a density of up to 12 units an acre, provided that a Conditional Use is approved for the residential use.
2. The property is in an area that has developed with a variety of uses, including a variety of large and small business, commercial and office uses, and residential development at various densities. There is a wide variety of zoning in the immediate area, including AR-1, MR, GR, C-1, CR-1, and B-1. There is a similar mixture of uses and zoning classifications within the nearby Town of Millville as well. This conditional use is consistent with other zoning and land uses in the area.
3. The proposed use is consistent with the County's Comprehensive Land Use Plan. It is in the Coastal Area according to the Plan, which is a Growth Area. The Plan states that medium and higher densities can be appropriate where, like here, there are features such as central water and sewer and nearby commercial uses and employment centers. The Plan also states that a range of housing types should be permitted in the Coastal Area, including single-family homes, townhouses, and multifamily units.
4. The project has a density of 8.78 units per acre, which is lower than the maximum density that is permitted in the CR-1 Zoning District.
5. There are no Resources or Groundwater Protection Areas located within the property, and the Applicant has provided an Environmental Assessment and Public Facility Evaluation Report.
6. DelDOT has stated that the proposed multi-family conditional use will have a "negligible" impact upon local area roadways.
7. As part of the Final Site Plan approval process, the stormwater management design will be reviewed and approved by the Sussex Conservation District, ensuring that the drainage system will be adequately designed and constructed to protect adjoining developments.
8. The project will be served by central water and sewer systems.
9. The proposed multi-family conditional use meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County in an appropriate location.
10. There is no evidence that this project will adversely affect the neighboring properties, area roadways, or community facilities.
11. No parties appeared in opposition to this Application.
12. This recommendation is subject to the following conditions:
  - A. There shall be no more than 42 Units within the development.
  - B. All entrances, intersections, roadways, and multimodal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's determination. In addition, the area along the southeastern frontage of Roxana Road shall remain unobstructed so that first responders can access the development in the unlikely event that the main access is blocked. This shall be shown and noted on the Final Site Plan.
  - C. Central sewer shall be provided to the development by Sussex County. The developer shall comply with all requirements and specifications of the Sussex County Engineering Department.

- D. The development shall be served by a central water system providing adequate drinking water and fire protection as required by applicable regulations.
- E. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements, and the project shall utilize Best Management Practices to construct and maintain these fixtures. The Final Site Plan shall contain the approval of the Sussex Conservation District.
- F. The tax ditch easements and rights of way, as amended, shall be shown on the Final Site Plan and shall be maintained in a meadow-like manner consistent with DNREC's requirements for tax ditches.
- G. Interior street design shall comply with or exceed Sussex County standards, and sidewalks shall be installed that connect with the multi-modal paths required by DelDOT.
- H. Road naming and addressing shall be subject to the review and approval of the Sussex County Geographical Information Office.
- I. The Applicant shall consult with the local school district's transportation manager to determine if a school bus stop is appropriate. The location of such a bus stop shall be shown on the Final Site Plan.
- J. A six-foot-high vinyl fence shall be installed along the common boundary line with the adjacent Tax Parcel Number 134-11.00-201.00.
- K. Construction, site work, and deliveries shall only occur on the site between the hours of 7:00 a.m. through 6:00 p.m., Monday through Saturday. No Sunday hours are permitted. A 24-inch by 36-inch "NOTICE" sign confirming these hours in English and Spanish shall be prominently displayed at the site entrance during construction.
- L. The Final Site Plan shall include a landscape plan for the development showing the proposed tree and shrub landscape design, including the tax ditch easement meadow.
- M. All lighting on the site shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.
- N. The Final Site Plan shall state that agricultural activities exist nearby, and it shall include the Agricultural Use Protection Notice.
- O. The Final Site Plan shall depict or note these conditions of approval, and it shall be subject to the review and approval of the Sussex Planning & Zoning Commission.

Motion by Mr. Collins, seconded by Mr. Allen, and carried unanimously to recommend approval of C/U 2516 Roxanna Apartments, LLC, for the reasons and the conditions stated in the motion.

Vote by roll call: Mr. Collins – yea, Mr. Passwaters – yea, Mr. Allen – yea, Chairman Mears - yea



## PLANNING & ZONING COMMISSION

HOLLY J. WINGATE, CHAIR  
JEFF ALLEN  
G. SCOTT COLLINS  
J. BRUCE MEARS, VICE CHAIR  
JOHN PASSWATERS



## Sussex County

DELAWARE  
sussexcountyde.gov  
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JAMIE WHITEHOUSE, MRTPI, AICP  
DIRECTOR OF PLANNING & ZONING

### PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: October 15<sup>th</sup>, 2025

Sussex County Council Hearing Date: December 9<sup>th</sup>, 2025

Application: C/U 2516 Roxana Apartments, LLC

Applicant: Roxana Apartments, LLC  
(Attention: Anthony Giulio, Sole Member)  
9640 Deereco Road  
Timonium, MD 21093

Owner: Roxana Apartments, LLC, Yourspace Roxana, LLC  
(Attention: Anthony Giulio, Sole Member)  
9640 Deereco Road  
Timonium, MD 21093

Site Location: The property is lying on the west side of Roxana Road (Route 17), approximately 575 feet south of Atlantic Avenue (Route 26) in Ocean View, Delaware.

Current Zoning: Commercial Residential (CR-1) District

Proposed Use: Multifamily Dwelling Structures pursuant to §115-83.5 to allow for 42 apartment units.

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: District 4 – Doug Hudson

School District: Indian River School District

Fire District: Millville Fire District

Sewer: Sussex County (sewer)

Water: Tidewater Utilities (central water)

Site Area: 4.74 acres +/-

Tax Map IDs.: 134-11.00-199.00, 200.00 & 200.01





## Memorandum

To: Sussex County Planning and Zoning Commission Members  
From: Mrs. Lauren Cecchine, AICP, Planner III  
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant  
Date: September 2<sup>nd</sup>, 2025  
RE: Staff Analysis for C/U 2516 Roxana Apartments, LLC

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The purpose of this memo is to provide background and analysis for the Planning and Zoning Commission to consider as a part of Application C/U 2516 Roxana Apartments, LLC to be reviewed during the October 15<sup>th</sup>, 2025, Planning and Zoning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

**Please note that the following staff analysis is for informational purposes only and does not prejudice any decision that the Sussex County Planning & Zoning Commission or Sussex County Council may wish to make as part of any Application submitted to the Department.**

**Tax Parcel IDs:** 134-11.00-199.00, 200.00 & 200.01

**Proposal:** The request is for a Conditional Use for Tax Parcels: 134-11.00-199.00, 200.00 & 200.01 to allow for a multifamily dwelling structures pursuant to §115-83.5 of the Sussex County Code to allow for forty-two (42) apartments to be located on a property zoned Commercial Residential (CR-1) District. The property is lying on the west side of Roxana Road (Route 17), approximately 575 feet south of Atlantic Avenue (Route 26) in Ocean View, Delaware and consists of 4.74 acres +/-

**Zoning:** The Parcels are zoned Commercial Residential (CR-1) District. The adjacent Parcel to the north, which includes the YourSpace Roxana, LLC property is zoned General Commercial (C-1) District). The Parcel to the west of the subject property is zoned Agricultural Residential (AR-1) District as is the Parcel to the south, including a small residential property fronting on Roxana Road (Route 17).

**Future Land Use Map Designation w/in Comprehensive Plan:** Coastal Area

**Applicability to Comprehensive Plan:** The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use Map (FLUM) in the Plan indicates that the subject property is designated has a Growth Area designation of "Coastal Area." The adjacent properties to the north, south, east on the opposite side of Roxana Road (Route 17) and west of the subject property also have a Future Land Use Map designation of Coastal Area.

The Parcel on the opposite side of the Roxana Road (Route 17) and down a single Parcel consists of incorporated lands which are part of the Town of Ocean View.



As outlined in the 2018 Sussex County Comprehensive Plan, *“Coastal Areas” are areas where the County encourages only appropriate forms of concentrated new development – especially when environmental features are at play*” (2018 Sussex County Comprehensive Plan, 4-9).

Additionally, the Plans notes that, *“This region is among the most desirable location in Sussex County for new housing”* but also *“contains ecologically important and sensitive characteristics”* (2018 Sussex County Comprehensive Plan, 4-15).

The Plan further notes that, *“Medium and higher density (4-12 unit per acre” can be appropriate in areas:*

- *Where there is central water and sewer;*
- *Near sufficient commercial uses and employment centers;*
- *Where it is in keeping with the character of the area;*
- *Where it is along a main road or at/or near a major intersection;*
- *Where there is adequate Level of Service”* (2018 Sussex County Comprehensive Plan, 4-16).

**Further Site Considerations:**

- **Density:** N/A
- **Open Space Provisions:** N/A
- **Agricultural Areas:** N/A
- **Interconnectivity:** The Sussex County Code notes that interconnectivity is required for existing and proposed commercial buildings and structures (§115-219(A)(6)) & (§115-220(B)(17)).
- **Transportation Improvement District (TID):** The Parcel is not located within any established Transportation Improvement Districts (TIDs).
- **Forested Areas:** Staff appreciate efforts to conserve as many existing native, mature, healthy trees as possible on the subject Site.

Staff further note the following, pursuant to §115-218(E) of the Sussex County Code: *“When approving a conditional use for multifamily,” that the “Council shall have the right to impose a condition requiring the applicant to install a forested and/or landscaped buffer as defined in §§ 99-5 and 99-6D of the Subdivision Ordinance. Any conditional use for attached or detached single-family or multi-family dwellings; a residential planned community; or the permitted residential portion of a development in any zoning district shall comply with the requirements of § 99-21.A.”*

- **Wetlands Buffers/Waterways:** Staff note that there do not appear to be any wetlands encroaching the Property based on Delaware's FirstMap data system in GIS but that there does exist an area of lotic wetlands that appear to be coincident with the location of the existing Tax Ditch on the subject Property.
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** Staff note that the Properties are part of the St. Georges Tax Ditch Area and include a Tax Ditch of which has been previously reduced through Court Order Change #3 of which the Right-Of-Way is measured 80-ft from the Centerline of the existing Tax Ditch. No structures may be placed within these Tax Ditch ROWs without prior approval from the Delaware Department of Natural Resources and Environmental Control (DNREC). Any Tax Ditch Right-Of-Way may be reduced through the submittal of a Court Order Change. The request may be submitted utilizing the following form: <https://documents.dnrec.delaware.gov/Watershed/Drainage/Tax-Ditches/Tax-Ditch-ROW-Change-Request-Form.pdf>

The Property is located within Flood Zone "X" – Areas determined to be outside the 1% annual chance flood and outside the 500-year flood zone. The Parcel is not located within any Wellhead Protection Areas. The subject Property is located within an area of "Poor" Groundwater Recharge Potential. The Property is not located within any Wellhead Protection Areas. A Supplemental Map has been included below showing the nature and location of the existing Tax Ditch and Tax Ditch Right-Of-Way (ROW) on the Property.

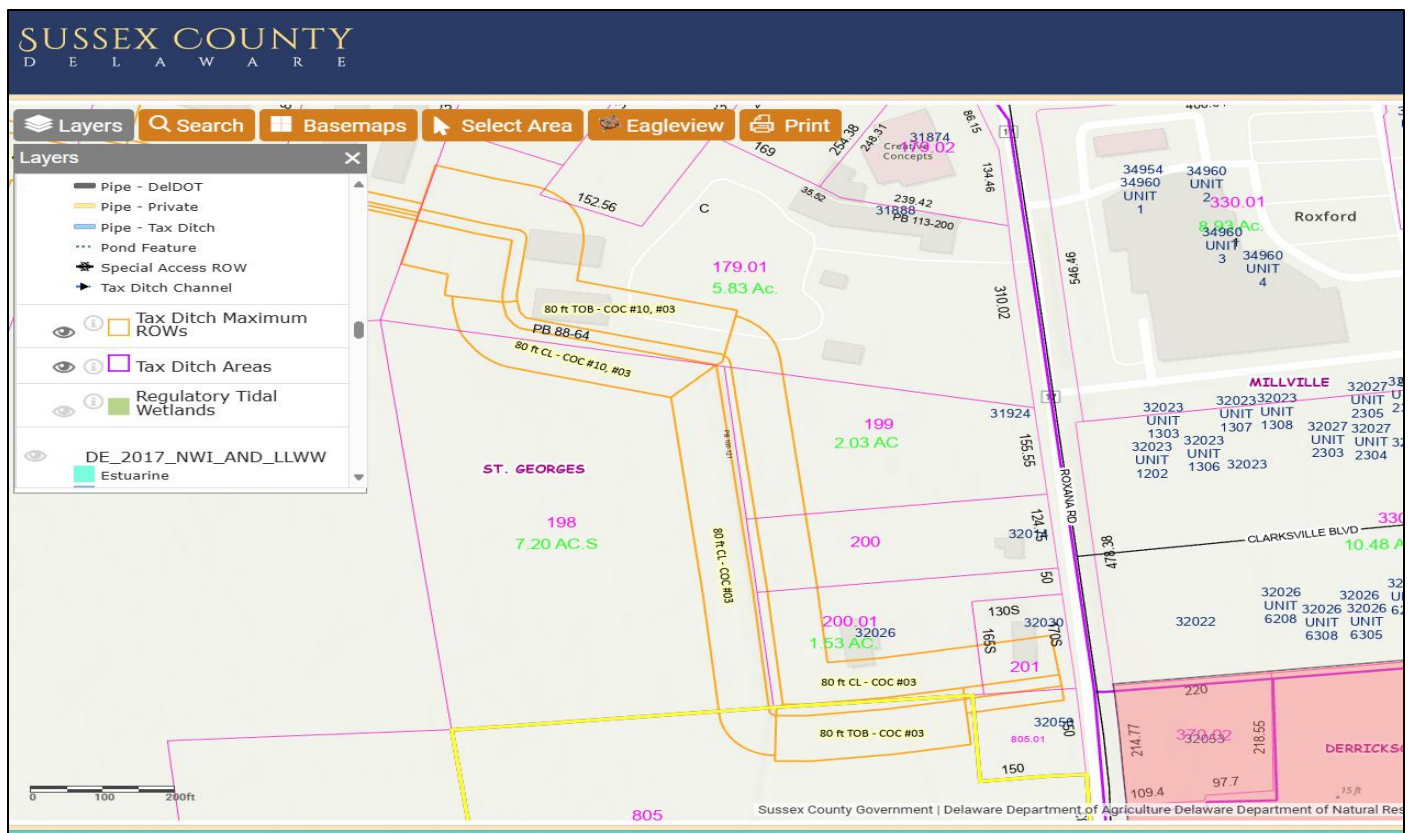


Exhibit "A" – Tax Ditch and Tax Ditch Right-Of-Way (ROW) on the Property.

## Existing Conditional Uses within the Vicinity of the Subject Site

Since 1970, there have been forty-six (46) Conditional Use applications within a 1-mile radius of the Application site. The current status of those Applications are outlined below:

- **Five (5) Applications were Withdrawn.**
- **Four (4) Application were Denied by the Sussex County Council.**
- **Thirty-four (34) Applications were Approved by the Sussex County Council.**
- **Three (3) Applications (including this Application – Conditional Use No. 2516) is currently Pending decision by the Sussex County Council.**

A Supplemental Table has been provided showing the approval status of all Conditional Use Applications within a 1-mile radius of the Application Site.

Conditional Uses w/in a Mile Radius of the Subject Site							
Conditional Use No.	APPLICANT	Tax Parcel #	Current Zoning	Proposed Use	CC Decision Date	CC Decision	Ordinance Number
1484	Good Earth Market, LLC	134-11.00-181.02	AR-1	retail produce market	4/1/2003	Approved	1597
1546	Julie & Joseph Schroeck	134-11.00-181.00	AR-1	antique shop/art gallery	7/27/2004	Approved	1704
2166	Deborah Townsend	134-11.00-226.01	AR-1	Professional office and business services with residence	4/30/2019	Approved	2651
1983	Gerald W. & Emily W. Hocker	134-12.00-330.01	C-1	Food Vendor	5/20/2014	Approved	2349
1518	Atlantic Auction Co., Inc.	134-11.00-227.00	AR-1	self storage & professional office	1/27/2004	Approved	1660
336	Allen B Clark	134-11.00-172.00	AR-1	antique shop	N/A	Approved	N/A
2206	Linder & Company, Inc. (Evans Farm)	134-12.00-74.00	GR	multi-family (200)	6/15/2021	Approved	N/A
144	DeMarie	134-11.00-76.00	MR	manufactured home park	N/A	Withdrawn	N/A
1405	Michael G. McCarthy	134-11.00-808.02	AR-1	offices & woodshop	6/19/2001	Approved	1473
1828	Mark & Dawn Theriault	134-11.00-189.00	AR-1	boat/rv storage	5/11/2010	Approved	2118
1289	Dorothy A. Theriault	134-11.00-187.00	AR-1	antique collectible gift shop	6/29/1999	Approved	1322
2038	Good Earth Market, LLC	134-11.00-181.03	CR-1	multi-family dwelling structures (3 units)	4/5/2016	Approved	2440
1777	Beebe Medical Center Inc.	134-11.00-180.00	AR-1	Medical Center	8/12/2008	Approved	1990
1601	Pierce Hardt Limited Partnership	134-11.00-197.00	AR-1	wholesale bldg./materials/sales	8/16/2005	Approved	1786
1539	Russell Banks	134-7.00-144.00	AR-1	recycling/storage facility	8/24/2004	Approved	1715
830	Trustees of St. Georges United Methodist Church	134-11.00-106.00	AR-1	addition to existing cemetery	9/3/1985	Approved	295
1621	Gregory & Patricia White	134-11.00-107.00	MR	multi-family	11/29/2005	Denied	N/A
267	Raymond Mitchell	134-11.00-155.00	AR-1	additional bay on non-conforming business	N/A	Approved	N/A
138	Louis Travahini	134-8.00-421.00	<Null>	used car sales	N/A	Withdrawn	N/A
1682	Tim Haines	134-11.00-147.00	AR-1	pet grooming	4/17/2007	Approved	1897
1298	Lawrence & Susan Kelly	134-15.00-95.00	AR-1	nursery/landscaping/garden center	8/10/1999	Approved	1335
1692	Millville Vol. Fire Co., Inc.	134-11.00-105.00	MR	fire co. substation	8/1/2006	Approved	1866
1897	Russell V. Banks	134-7.00-187.00	AR-1	borrow pit	6/12/2012	Approved	2259
1949	Banks Family Trust Farm Preservation	134-7.00-186.00	AR-1	Relocation of the Access Easement to the Proposed Borrow Pit (C/U # 1897)	12/11/2012	Approved	2285
1913	Jeremy W. Smith	134-12.00-2.00	AR-1	Yard & Waste Composting Facility	2/7/2012	Approved	2236
1732	Mabethson, LLC	134-12.00-24.00	AR-1	Storage of Equipment for HVAC Business	N/A	Withdrawn	N/A
1969	Melvin L. Joseph Construction Co.	134-11.00-207.00	AR-1	Borrow Pit	10/15/2013	Approved	2324
332	Hogsten	134-11.00-216.00	AR-1	campground	N/A	Denied	N/A
319	Howard Cleaver	134-11.00-185.00	AR-1	apartments over garage	N/A	Approved	N/A
2062	RDK & A Investments, LLC	134-12.00-373.05	AR-1	medical offices	2/14/2017	Approved	2481
1502	Windmill Venture LLC	134-12.00-388.00	MR	multi-family	12/16/2003	Approved	1647
1376	David S. Elechko	134-11.00-148.00	AR-1	multi-family	1/2/2001	Approved	1426
1496	Julie Schroeck	134-11.00-181.00	AR-1	antique shop/art gallery	7/29/2003	Denied	N/A
70	James & Marie Hogsten	134-11.00-216.00	AR-1	Camping Area	8/29/1972	Approved	N/A
414	R Dwight Crevision, Jr.	134-11.00-187.00	AR-1	sales of camper tops, pick up caps & repair parts	5/17/1977	Approved	N/A
1715	Good Earth Market, LLC	134-11.00-181.03	AR-1	Office, Professional Space, Cafe Restaurant & Meeting Space	4/1/2008	Approved	1962
1849	Linder & Company	134-12.00-74.00	GR	Multi-Family	2/1/2011	Approved	2176
1900	Doris D. Turner	134-11.00-207.00	AR-1	Borrow Pit	6/2/2011	Withdrawn	N/A
1148	Great Scott Broadcasting	134-8.00-15.00	AR-1	Radio Broadcast Tower	3/12/1996	Approved	1081
2401	OA Sundance Club, LLC	134-12.00-74.01	GR	Multi-Family (180 Units)	2/6/2024	Approved	2979
2462	Gulf Stream Glen Cove, LLC	134-12.00-374.01	AR-1	Multi-family Condominiums (Single - Detached)	7/15/2025	Approved	4007
2513	Whitney Russell	134-8.00-422.00	B-1	Camper Sales	<Null>	WITHDRAWN	N/A
2575	Ocean Sand Holdings	134-11.00-180.00	AR-1	Multi-family (94 Units) in MR	Pending	Pending	Pending
2556	William Melton	134-12.00-73.02	GR	Professional Office	5/13/2025	DENIED	N/A
2530	Whitney Price	134-12.00-379.01	AR-1	Multi-family	Pending	Pending	Pending
2516	Roxana Apartments, LLC	134-11.00-199.00	CR-1	Multi-family	Pending	Pending	Pending

**Exhibit “B” – Conditional Uses w/in a 1-Mile Radius of the Application Site.**



Based on the analysis provided, the Conditional Use to allow for proposed Multifamily Dwelling Structures (42 Apartment Units) in this location could be consistent with the surrounding land uses, zoning, and general environment given considerations of scale and impact.

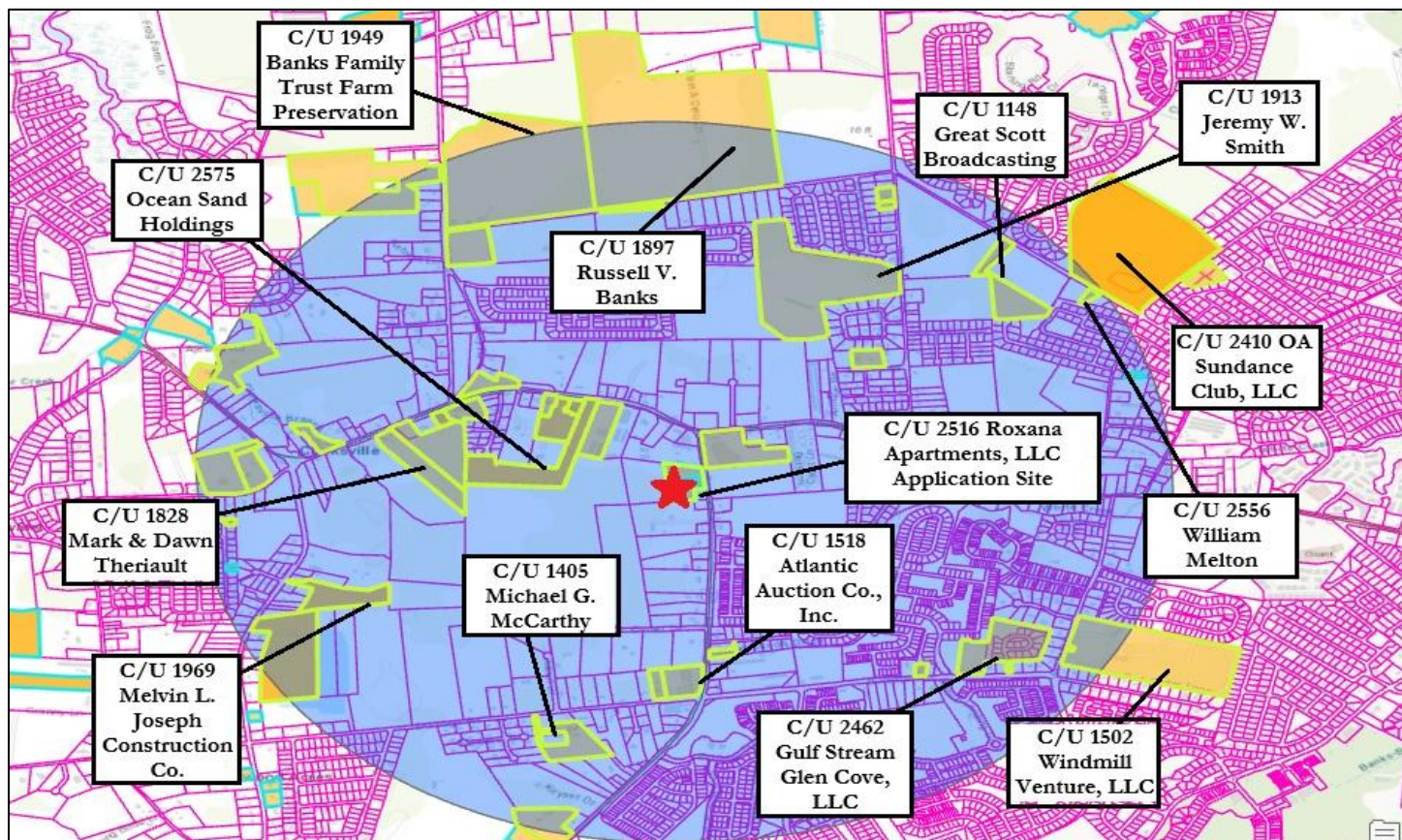


Exhibit "C" – Conditional Use Applications w/in a 1-Mile Radius of the Application Site (with 1- Mile Radius Buffer Around Application Site.)








Millville

Maxar, Microsoft, Esti, HERE, Garmin, IPC

**CU 2516 Roxana Apartments, LLC**  
**Aerial Map**  
**TM#s: 134-11.00-199.00, 200.00 & 200.01**

 CU 2516 Roxana  
Apartments, LLC  
 Municipal Boundaries

N  
  
0 125 250 500 Feet



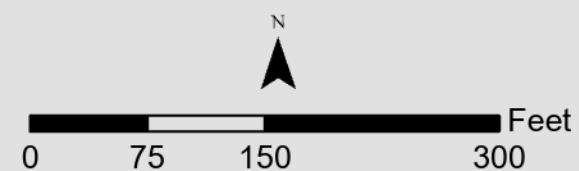
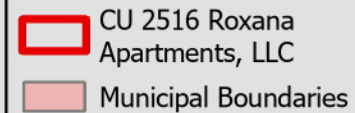




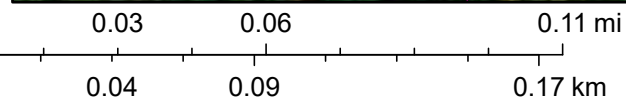
Millville

State of Delaware, Maxar, Microsoft, Esri, HERE, Garmin, IPC

**CU 2516 Roxana Apartments, LLC**  
**Aerial Map**  
**TM#s: 134-11.00-199.00, 200.00 & 200.01**







1:

**FEMA Flood Maps**

- A
- AE
- AE, FLOODWAY
- AO
- VE
- X, 0.2 PCT ANNUAL CHANCE FLOOD HAZARD

**Ag Lands Preservation Districts**

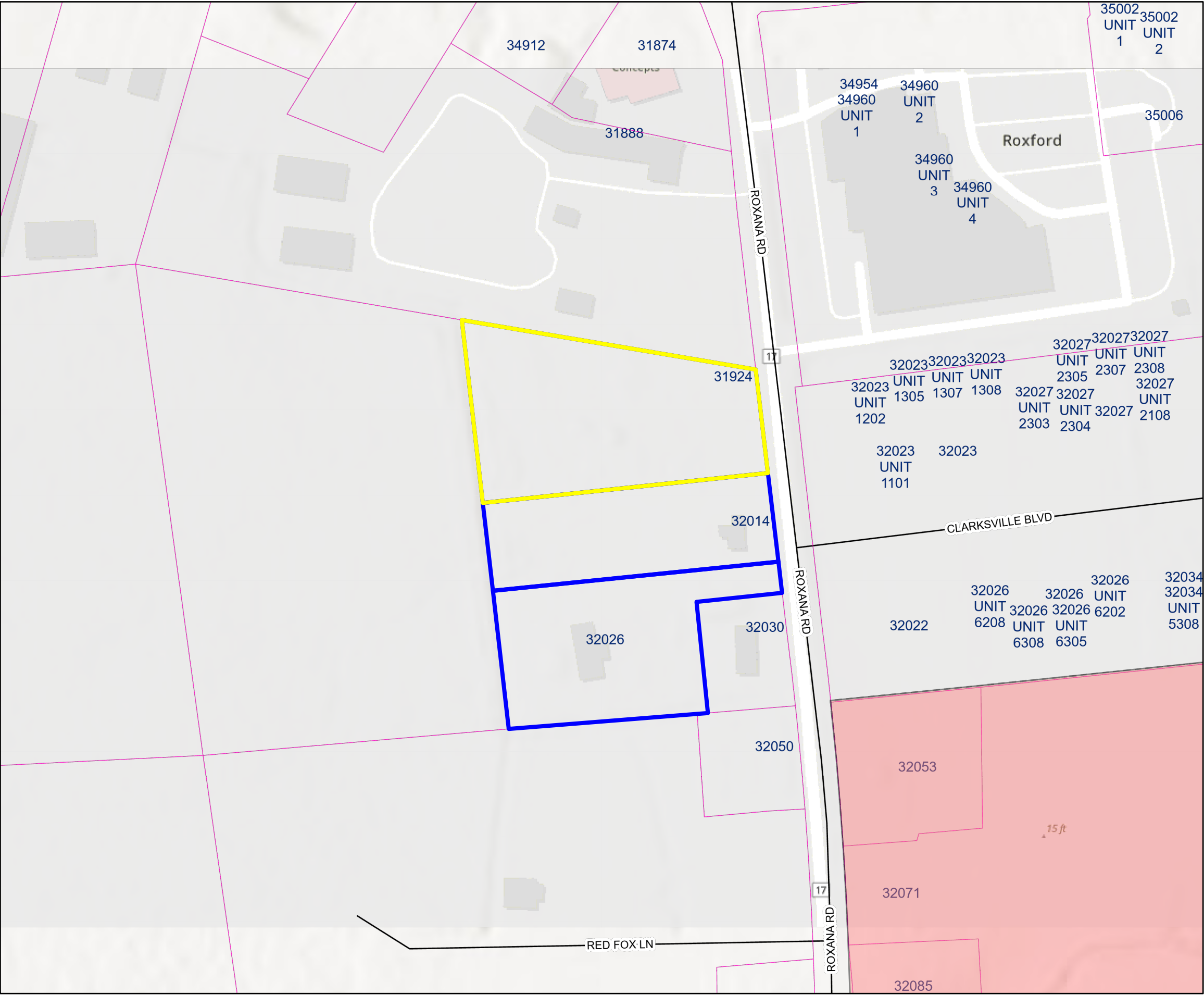
- Ag Easement
- District
- Expansion
- Forestland Area
- Forestland Easement
- Young Farmer
- DE\_NWI\_2017\_Broadkill

World Imagery  
Low Resolution 15m Imagery  
High Resolution 60cm Imagery  
High Resolution 30cm Imagery  
Citations  
60cm Resolution Metadata



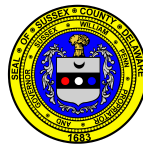


# A3 Landscape Parcel Details

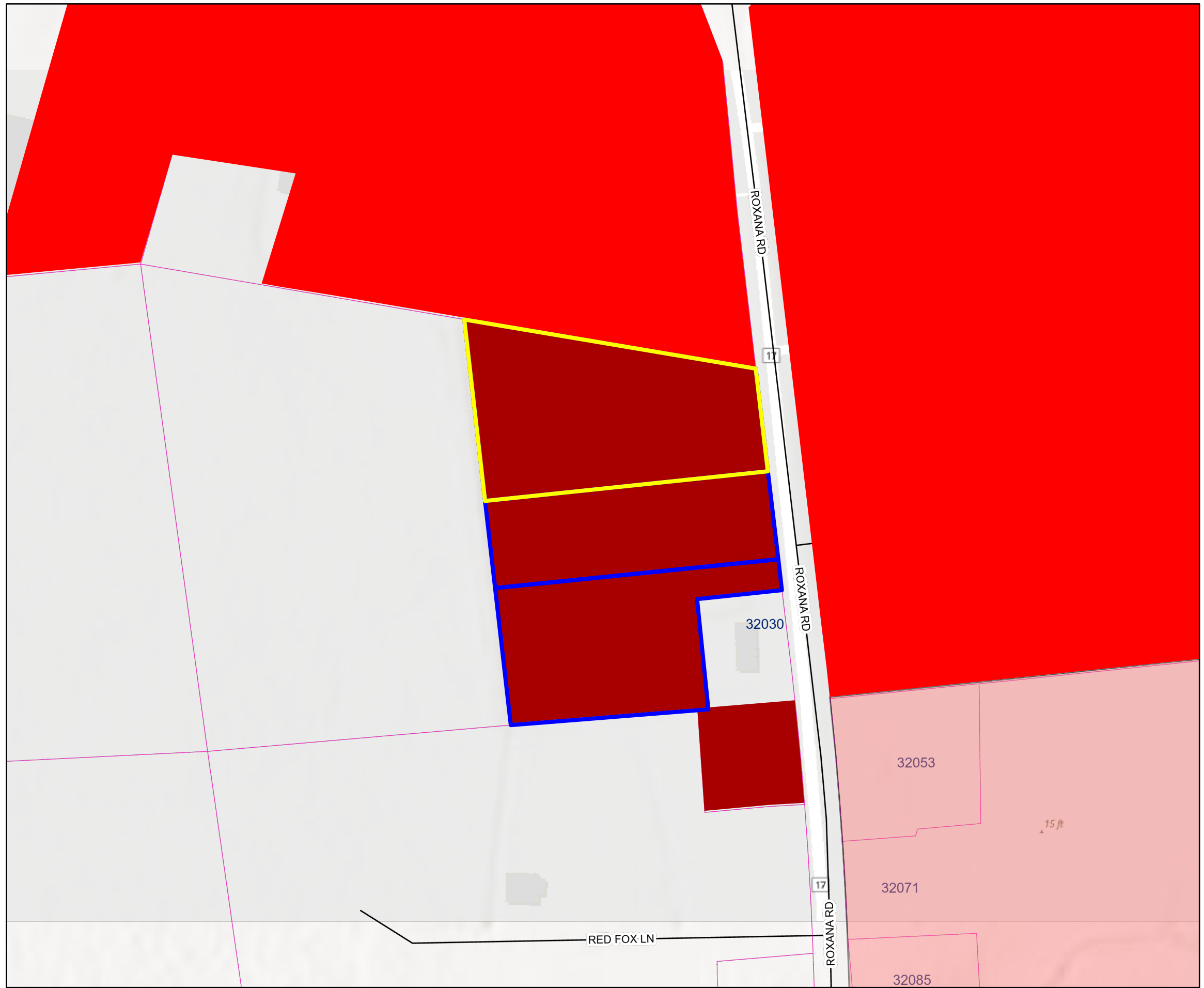


<b>PIN:</b>	134-11.00-199.00
<b>Owner Name</b>	YOURSPACE ROXANA LLC
<b>Book</b>	5974
<b>Mailing Address</b>	9640 DEERECO RD
<b>City</b>	LUTHERVILLE TIMONIUM
<b>State</b>	MD
<b>Description</b>	
<b>Description 2</b>	
<b>Description 3</b>	
<b>Land Code</b>	

- Municipal Boundaries
- Transportation Improvement District
- Tax Parcels
- 911 Address
- Streets
- County Boundaries
- FEMA Flood Maps
- Flood Zone
- A
- AE
- AE, FLOODWAY
- AO
- VE
- X, 0.2 PCT ANNUAL CHANCE FLOOD HAZARD
- Aglands Preservation Districts
- Ag Easement
- District
- Expansion
- Forestland Area
- Forestland Easement
- Young Farmer
- DE\_NWI\_2017\_Broadkill
- World\_Hillshade



# A3 Landscape Parcel Details



<b>PIN:</b>	134-11.00-199.00
<b>Owner Name</b>	YOURSPACE ROXANA LLC
<b>Book</b>	5974
<b>Mailing Address</b>	9640 DEERECO RD
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<b>Description</b>	
<b>Description 2</b>	
<b>Description 3</b>	
<b>Land Code</b>	

- Municipal Boundaries
- Tax Parcels
- 911 Address
- Streets
- County Boundaries
- DE\_NWI\_2017\_Broadkill
- World\_Hillshade

**Introduced: 6/18/24**

**Council District 4: Mr. Hudson**

**Tax I.D. No.: 134-11.00-199.00, 200.00 & 200.01**

**911 Address: 31924, 32014 & 32026 Roxana Road, Ocean View**

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY (42 UNITS) TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 4.86 ACRES, MORE OR LESS**

**WHEREAS, on the 1st day of March 2024, a Conditional Use application, denominated Conditional Use No. 2516 was filed on behalf of Roxanna Apartments, LLC; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2024, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County, and said Planning and Zoning Commission recommended that Conditional Use No. 2516 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2024, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.**

**NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:**

**Section 1. That Chapter 115, Article XIA, Subsections 115-83.5, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2516 as it applies to the property hereinafter described.**

**Section 2. The subject property is described as follows:**

**ALL that certain tract, piece, or parcel of land, lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on the west side of Roxanna Road (Rt. 17), approximately 575 feet south of Atlantic Avenue (Rt. 26), and being more particularly described in the attached legal description prepared by Neuberger, Quinn, Gielen, Rubin & Gibber, P.A. said parcel containing 4.86 acres, more or less.**

**This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.**