SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, NOVEMBER 4, 2025

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, November 4, 2025, at 12:00 p.m., in Council Chambers, with the following present:

Douglas B. Hudson	**President**
John L. Rieley	**Vice President**
Jane Gruenebaum	**Councilwoman**
Matt Lloyd	**Councilman**
Steve C. McCarron	**Councilman**
Todd F. Lawson	**County Administrator**
J. Everett Moore, Jr.	**County Attorney**

The Invocation and Pledge of Allegiance were led by Mr. Hudson.

Call to Order — **Mr. Hudson called the meeting to order.**

M 453 25 Approve Agenda — **A Motion was made by Mr. Rieley, seconded by Mr. McCarron, to approve the Agenda 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**

Minutes — **The minutes from October 21, 2025, were approved by consensus.**

Correspondence — **There was no correspondence.**

Public Comments — **Public comments were heard.**

Ms. Alison White spoke about upcoming development applications.

Ms. Christy Wimmer spoke about impact fees on construction fees.

Ms. Jennifer Pawloski spoke about SB199.

A remote caller spoke about SB199.

Ms. Blair Catlin Brown spoke about funding for school districts.

A remote caller spoke about SB199.

LURWG Recommendations — **Mr. Lawson discussed the next steps for the Land Use Reform Working Group Recommendations & Comprehensive Land Use Plan.**

Adminis-trator's Report

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

1. **<u>County Council Meeting/Holiday Schedule</u>**

   County offices will be closed on Tuesday, November 11th, for Veterans Day. The next regularly scheduled Council meeting will be held on November 18th.

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

Old Business/ CU2395

Under Old Business, Mr. Whitehouse presented a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A DISTRIBUTION WAREHOUSE TO BE LOCATED ON A 10.896 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 71.127 ACRES, MORE OR LESS" (property is lying on the south side of Park Avenue [S.C.R. 318] at the intersection of Park Avenue [S.C.R. 318] and Cedar Lane [S.C.R. 321A]) (911 Address: 22318 Cedar Lane, Georgetown) (Tax Map Parcel: 135-20.00-81.00) filed on behalf of Breeze-A-Bella Land Group, LLC.

M 454 25 Approve CU2395/ DENIED

A Motion was made by Mr. Rieley, seconded by Mr. McCarron to Adopt a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A DISTRIBUTION WAREHOUSE TO BE LOCATED ON A 10.896 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 71.127 ACRES, MORE OR LESS".

Motion DENIED: 4 Nays, 1 Yea

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

The votes for denial were based on the reasons provided by Mr. Rieley.

Old Business/ CZ2001

Under Old Business, Mr. Whitehouse presented 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-4 PLANNED COMMERCIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 39.22 ACRES, MORE OR LESS" filed on behalf of Belmead Farm. LLC.

The County Council held a Public Hearing on the application at the meeting

Old Business/ CZ2001 (continued)

on September 16, 2025. At the conclusion of the meeting, the Council held the Public Record open for a period of 14 days to submit additional questions to State Agencies, with a subsequent period of 14 days for the State Agencies to respond to the Council's questions. The Public was then provided with 14 calendar days from October 14, 2025, to submit additional comments in relation to the State of Delaware's written responses. The Public Record automatically closed at the end of business on October 28, 2025.

Old Business/ CZ2024

Under Old Business, Mr. Whitehouse presented a Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN MR-RPC MEDIUM-DENSITY RESIDENTIAL - RESIDENTIAL PLANNED COMMUNITY DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 94.7 ACRES, MORE OR LESS" filed on behalf of The Christopher Companies.

The County Council held a Public Hearing on the Application at its meeting on September 16, 2025. At the conclusion of the meeting the Council closed the Public Record and deferred action on the application for further consideration.

M 455 25 Approve CZ2024/ DENIED

A Motion was made by Mr. Rieley, seconded by Mr. McCarron to approve a Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN MR-RPC MEDIUM-DENSITY RESIDENTIAL - RESIDENTIAL PLANNED COMMUNITY DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 94.7 ACRES, MORE OR LESS".

Motion DENIED: **5 Nays**

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

The votes for denial were based on the reasons given by Mr. Hudson as well as the reasons provided by the Planning & Zoning Commission.

Council Member Comments

Mr. McCarron commented on the work of the Community Housing & Development Office and impact fees for funding for schools.

Mr. Rieley commented on the money that was budgeted for the Food Bank during this fiscal year for the first time.

Ms. Gruenebaum commented on the funds given to the food bank and impact fees for school funding. She also commented that no decision has been made regarding the Atlantic Fields application.

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

Public Hearing/ Ord. 23-07, CZ2010, CU2441, CU2442

A Public Hearing was held on a Proposed Ordinance entitled "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])

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.

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 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) filed on behalf of Cool Spring, LLC.

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.

A Public Hearing was on a Proposed Ordinance entitled "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

Public Hearing/ Ord. 23-07, CZ2010, CU2441, CU2442 (continued)

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) filed on behalf of CMF Cool Spring, LLC.

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.

A Public Hearing was held on a Proposed Ordinance entitled "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) filed on behalf of CMF Cool Spring, LLC.

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.

Mr. McCarron made a statement regarding a petition that he signed prior to him serving as an elected official.

The Council 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 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

Public Hearing/ Ord. 23-07, CZ2010, CU2441, CU2442 (continued)

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 a 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 1,922 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 one of the reasons 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

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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 he and the applicant attended a PLUS meeting in Dover but was not given the opportunity to speak; that the Office of State Planning issued a PLUS review letter objecting and opposing this original request on January 13, 2022; that this letter should be disregarded since it excludes any factors favorable to the amendment; that the opposition is led by the that the current request for amendment brings up the question to the Council 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 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 Hudson Park is planned to be.**
8. **The proposed Cool Spring development will have a public 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**

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affordable housing, particularly in the Coastal Area, is well documented, especially in the PLUS Review letters 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 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 Council 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 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

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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 (SCRP) 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

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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 the 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

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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 boarders 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

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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; 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 Recreational 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 Village A will have 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 Cool Spring Crossing will be served by public central sewer by Artesian Wastewater Management Company; that public central water will be provided by Artesian; 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 there is real pipe infrastructure in the ground to provide services for this proposed development; that Artesian's Ability to Serve letter, dated April 9, 2025, 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

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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.

Mr. Rieley questioned whether any correspondence were received from the Cape Henlopen School District, State Police or Milton Fire Company.

Mr. Fuqua state 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 Century Engineering studied and 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 10th, 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 in January, 2025; 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

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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.

Mr. Drew Boyce from Century Engineering discussed the traffic impact study that was completed; that the recommendations from DelDOT were not changed from the initial more intense development; that the plan was reduced from a larger development; that the scope of the project was discussed further; that the traffic impacts and trips generated by the proposed development were discussed.

Representatives from DelDOT discussed the analysis that was completed for the proposed project.

Mr. Fuqua stated that the applicant has done everything that is required of them by DelDOT and the MOU; 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

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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

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Buffer Management Plan, providing the management and stewardship of the protected area; that three 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 that 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 296 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 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

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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 $30 million in annual labor income; that transfer taxes from the initial land purchases will generate $12.5 million to Sussex County, and $20.9 million of revenue to the State; that future resales will be sold in additional transfer tax revenue; 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 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 Commission recommended approval for the applications; that the applicant proposes to add another condition; that this condition is to set a cap of any building permits per year; that the proposed condition ZZ states "with the exception of village no more than 200 residential building permits will be issued per year. There will be no exceptions with Village A".; that Village A is where

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the affordable units will be located; that the applicant reviews this as being smart growth; that in the 2020 Delaware Strategies Document, the State discusses complete communities; that they discuss things that Cool Springs has in their plans; that the Comprehensive Plan states that in the Coastal Area, residential homes are encouraged; 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 this development includes some of the items included in the Working Group recommendations; that the Council'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 requests approval for this application.

Mr. Rieley discussed the existing bike path crossing and if the applicant considered another way for cyclists to safely cross Route 9. Mr. Rieley questioned if the applicant considered incorporating as a town. Mr. Fuqua pointed out if that were to occur, they would have zoning authority.

Ms. Gruenebaum discussed the meaning of the map and if the affordable units can be moved to market rate in the future.

A discussion was held about the permitted use for the property.

Public comments were heard.

Mr. Tim Krimble spoke in support of the application.

Mr. Brian DiSabatino spoke in support of the application.

Mr. Jon Horner spoke in support of the application.

Mr. Dave Carey spoke in support of the application.

M 456 25
Recess

A Motion was made by Mr. Lloyd; seconded by Ms. Gruenebaum to take a recess.

Motion Adopted: **5 Yeas**

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

M 457 25 **Mr. Hudson, Yea**

Reconvene **A Motion was made by Mr. McCarron, seconded by Mr. Rieley to reconvene.**

Motion Adopted: **4 Yeas, 1 Absent**

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

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Public comments were heard.

Members of the Sussex Preservation Coalition including Joe Pika, Jim Dick, Rich Borrasso, Jill Hicks and Jack Young spoke in opposition of the application.

Pam Steinebach from DelDOT answered questions from the Council regarding traffic.

Ms. Fern Goodheart spoke in opposition of the application.

Ms. Alison White spoke in opposition of the application.

Mr. Dave Green spoke in opposition of the application.

Mr. Terry Bartley spoke in opposition of the application.

Mr. Phillip Sky Brady spoke about the application.

Mr. Johannes Sayre spoke in opposition of the application.

Ms. Alison Monroe spoke in opposition of the application.

Ms. Judy Rose Siebert spoke in opposition of the application.

Mr. William Zack spoke in opposition of the application.

Mr. Ray Walls spoke about the application.

Ms. Susan Anderheggen spoke about the application.

The Public Hearing was closed for all of the applications.

M 458 25

Defer Action/ Ord. 23-07, CZ2010,

A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum to defer action on a Proposed Ordinances entitled "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,

CU2441, CU2442

13.00 & 14.00", "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", "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" and "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" and to keep the record open for Council Members to ask questions of the Cape Henlopen School District, DelDOT, Fire Companies, State Forester and Office of State Planning for two weeks, then allow two weeks for those agencies to respond to the questions and then allow two weeks for any member of the public and the applicant to respond to those responses all due by close of business day.

Motion Adopted: **5 Yeas**

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

M 459 25
Adjourn

A Motion was made by Mr. Rieley, seconded by Mr. Lloyd to adjourn at 7:11 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.}