

COUNTY COUNCIL

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



Sussex County

DELAWARE
sussexcountye.gov
(302) 855-7743

SUSSEX COUNTY COUNCIL

A G E N D A

July 28, 2026

10:00 AM

Call to Order

Approval of Agenda

Approval of Minutes - July 14, 2026

[Draft Minutes 07 14 26](#)

Reading of Correspondence

Public Comments

Todd Lawson, County Administrator

1. Discussion related to the implementation of Senate Bill 23
2. Administrator's Report

Mike Harmer, County Engineer

1. SCRWF Treatment Process Upgrade No. 3 - Inland Bays Expansion

A. M.F. Ronca Change Order No. IB-013

B. BW Electric Change Order No. IB-004

[CO 13 Ronca and CO 04 BW](#)



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

2. **Inflow and Infiltration Study**

A. **Arcadis - Amendment No. 5**

[Arcadis Amd No 5](#)

3. **Sussex County Wastewater Long Range Planning Study**

A. **Johnson, Mirmiran & Thompson – Amendment 8**

[JMT Amd 8](#)

Mark Parker, Assistant County Engineer

1. **Paramedic Station 101, Project C21-15**

A. **Use of Contingency Items**

[Paramedic Station 101 - use of contingent items](#)

Old Business

1. **[Ordinance No. 26-05](#)**

“AN ORDINANCE TO AMEND CHAPTER 99, ARTICLE I, III AND V §99-5 “DEFINITIONS”, §99-21A “PERIMETER BUFFERS” AND §99-26 “INFORMATION TO BE SHOWN” AND CHAPTER 115, ARTICLES I, XXV AND XXVIII §115-4 “DEFINITIONS AND WORD USAGE” AND §115-221 “FINAL SITE PLAN REQUIREMENTS” AND BY ADDING NEW §§115-194.8 “FOREST PRESERVATION’ AND 115-194.9 “TREE PLANTING REQUIREMENTS”

[Old Business Ord 26-05](#)

Grant Requests

1. **Developing Artist Collaboration for their West Side Creative Market Infrastructure & Workforce Development Initiative**

[Developing Artist Collaboration](#)

2. **Millsboro Little League for LED lighting improvements**

[Millsboro Little League](#)

3. **Bridgeville Apple Scrapple Festival for their 34th Annual Apple Scrapple Festival**

[Bridgeville Apple Scrapple, Inc.](#)

Introduction of Proposed Zoning Ordinances

[Ord Intros CU2560 CU2585 CU2629](#)

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. **Lilyvale Annexation into the Sussex County Unified Sanitary Sewer District (Millville Area)**
[Public Hearing Lilyvale](#)
2. **[Conditional Use No. 2631 filed on behalf of Zion Church Ventures, LLC](#)**

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR STORAGE/WAREHOUSE/OFFICE BUILDINGS AND A CAR WASH (TO AMEND CONDITION “D” AND CONDITION “N” OF THE CONDITIONS OF APPROVAL FOR CONDITIONAL USE NO. 2581 (ORDINANCE NO. 4009) TO ALLOW FOR OFFICE SPACES WITHIN THE WAREHOUSE UNITS AND TO REMOVE THE REQUIREMENT THAT AN ON-SITE MANAGEMENT OFFICE BE ESTABLISHED FOR THE MAINTENANCE AND OPERATION OF THE WAREHOUSE UNITS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 29.55 ACRES, MORE OR LESS” (property is lying on the southwest side of Zion Church Road [Route 20], approximately 605 feet northwest of Deer Run Road [S.C.R. 388], and the north side of Deer Run Road [S.C.R. 388], approximately 159 feet southwest of Zion Church Road [Route 20]) (911 Address: 36054 Zion Church Road, Frankford) (Tax Map Parcel: 533-11.00-23.00)

[Public Hearing CU 2631](#)

3. **[Conditional Use No. 2576 filed on behalf of Patricia and Frank DiNatale](#)**

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COIN RETAIL SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 0.34 ACRE, MORE OR LESS” (property is lying on the north side of Retz Lane and the west side of John J. Williams Highway [Rt. 24] within the Country Village Subdivision, approximately 437 feet south of Mulberry Knoll Road [S.C.R. 284]) (911 Address: 34429 Retz Lane, Lewes) (Tax Map Parcel: 334-12.00-35.00)

[Public Hearing CU 2576](#)

4. **[Conditional Use No. 2598 filed on behalf of TPE DE SU245, LLC](#)**

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 67.23 ACRES, MORE OR LESS” (property is lying on the southeast side of County Seat Highway [Rt. 9], approximately 0.35 mile southwest from Little Street [S.C.R. 469]) (911 Address: 2276 E Trap Pond Road, Georgetown) (Tax Map Parcel: 135-19.00-43.00)

[Public Hearing CU 2598](#)

5. [Conditional Use No. 2623 filed on behalf of TPE DE SU300A, LLC, TPE DE SU300B, LLC, TPE DE SU300C, LLC](#)

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 498.53 ACRES, MORE OR LESS” (properties are lying on the southwest corner of Zoar Road [S.C.R. 48] and Lawson Road [S.C.R. 296]) (911 Address: N/A) (Tax Map Parcels: 234-21.00-75.00 & 138.00)

[Public Hearing CU 2623](#)

6. [Conditional Use No. 2633 filed on behalf of TPE DE SU95A, LLC & TPE DE SU95B, LLC](#)

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 185.96 ACRES, MORE OR LESS” (property is lying on the west side of North Old State Road [S.C.R. 38A], the east side of DuPont Boulevard [Rt. 113], and the north side of Haflinger Road [S.C.R. 625]) (911 Address: 8850 North Old State Road, Lincoln) (Tax Map Parcel: 230-12.00-19.00 [P/O])

[Public Hearing CU 2633](#)

7. [Conditional Use No. 2640 filed on behalf of TPE DE SU646, LLC](#)

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND C-1 GENERAL COMMERCIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 19.74 ACRES, MORE OR LESS” (property is lying on the west side of the intersection of Sussex Highway [Rt. 13] and Camp Road [S.C.R. 532]) (911 Address: N/A) (Tax Map Parcel: 131-19.00-3.00)

[Public Hearing CU 2640](#)

8. [Conditional Use No. 2642 filed on behalf of TPE DE SU94B, LLC](#)

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 39.76 ACRES, MORE OR LESS” (property is lying on the east side of North Old State Road [S.C.R. 213], approximately 600 feet north of Haflinger Road [S.C.R. 625]) (911 Address: 9052 Lofland Drive, Lincoln) (Tax Map Parcel: 230-12.00-39.00)

[Public Hearing CU 2642](#)

Adjourn

-MEETING DETAILS-

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on July 21, 2026 at 4:15 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://sussexcountycle.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://sussexcountycle.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@sussexcountycle.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, JULY 14, 2026

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, July 14, 2026, at 10:00 a.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
Gina Jennings	Finance Director
J. Everett Moore, Jr.	County Attorney

Call to Order	The Invocation and Pledge of Allegiance were led by Mr. Hudson. Mr. Hudson called the meeting to order.
M 307 26 Approve Agenda	A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum, 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 June 23, 2026, were approved by consensus.
Correspondence	Mr. Moore reported that correspondence was received from Shoes That Fit thanking Council for their support.
Public Comments	There were no public comments.
M 308 26 Approve Consent Agenda	A Motion was made by Mr. McCarron, seconded by Ms. Gruenebaum to approve the following items under the Consent Agenda: Use of Existing Wastewater Infrastructure Agreement Plantation Square (Building 2), West Rehoboth Area Use of Existing Wastewater Infrastructure Agreement Horizon Farm Credit Office, Western Sussex Area Use of Existing Wastewater Infrastructure Agreement, IUA 2025-02 Bridgeville Warehouses, Western Sussex Area

**Use of Existing Wastewater Infrastructure Agreement, IUA 1130
Rehoboth Senior Living (Spring Arbor), West Rehoboth Area**

Motion Adopted: 5 Yeas

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

**Adminis-
trator's
Report**

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

1. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets, the following projects have received Substantial Completion: Mayapple Farm and Black Oak (FKA Glenwood) Phase 2 – (Construction Record) effective June 16th and June 24th, respectively.

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

**Federal
Payment**

Andrea Wall, Manger of Accounting presented a request for a federal payment in lieu of taxes for Council's consideration.

**M 309 26
Approve
Federal
Payment In
Lieu of
Taxes**

A Motion was made by Mr. Rieley, seconded by Mr. Lloyd, be it moved that Sussex County Council approve the accounting department's recommended distribution of the Refuge Sharing Fund as follows: Milford School District \$7,730.23, Cape Henlopen School District \$23,767.55, Sussex Tech \$3,742.84, Sussex County \$3,264.29 and Sussex County Libraries \$393.09.

Motion Adopted: 5 Yeas

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

**Wolfe Neck
CO No. 9**

Mike Harmer, County Engineer, presented change order no. 9 for Wolfe Neck RWF electrical service & switchgear replacement for Council's consideration.

**M 310 26
Approve CO
No. 9/
Wolfe Neck**

A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum, be it moved based upon the recommendation of the Sussex County Engineering Department, that change order no. 9 for contract S24-10, Wolfe Neck regional WWF electrical service & switchgear replacement – general construction, be approved in the amount of \$16,483.40 for Bancroft Construction.

Motion Adopted: 5 Yeas

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

Countryside Hamlet Mike Harmer, County Engineer, presented change order no. 1 for Countryside Hamlet for Council's consideration.

M 311 26 A Motion was made by Mr. McCarron, seconded by Mr. Lloyd, be it moved
Approve CO based upon the recommendation of the Sussex County Engineering
No. 1/ Department, that change order no. 1 for contract S23-01, Countryside
Countryside Hamlet sanitary sewer project be approved, increasing the contract by
Hamlet \$20,244.00, contingent upon DNREC approval.

Motion Adopted: 5 Yeas

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

Kings Hwy Relocation Mark Parker, Assistant County Engineer, presented a project closeout for Kings Highway from SR 1 to Freeman Highway, DelDOT State contract for utility relocation for Council's consideration.

M 312 26 A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum, be it
Approve moved based upon the recommendation of the Sussex County Engineering
Project Department, that project close-out be granted for phase 1 of the advanced
Closeout sewer utility relocation for DelDOT state contract T202512901, and that
Kings Hwy final payment be made to Christiana Excavating in accordance with
contract provisions.

Motion Adopted: 5 Yeas

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

Asset Manage-ment Mark Parker, Assistant County Engineer, presented enterprise asset management initiatives amendments for Council's consideration.

M 313 26 A Motion was made by Mr. Lloyd, seconded by Mr. McCarron, be it moved
Approve based upon the recommendation of the Sussex County Engineering and
Amendment Finance Departments, that amendment no. 7 of Johnson, Mirmiran &
No. 7 Thompson's base owner-engineer agreement be approved in the not-to-exceed amount of \$291,950.00.

Motion Adopted: 5 Yeas

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

M 314 26 **A Motion was made by Mr. Lloyd, seconded by Ms. Gruenebaum, be it moved based upon the recommendation of the Sussex County Engineering and Finance Departments, that amendment nos. 2, 3, & 4 of the base owner-engineer agreement for Arcadis, Inc. be approved in the respective not-to-exceed amounts of \$960,000.00, \$266,000.00 and \$287,000.00.**
Approve
Amendment
Nos. 2, 3, &
4

Motion Adopted: 5 Yeas

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

Slaughter **Paul Mauser, Assistant County Engineer presented a recommendation to**
Beach **award for Slaughter Beach transmission system – North Ellendale diversion**
Award **for Council's consideration.**

M 315 26 **A Motion was made by Mr. Lloyd, seconded by Mr. McCarron, be it moved based upon the recommendation of the Sussex County Engineering Department, that contract S22-26, Slaughter Beach septic elimination project, contract C1-A, be awarded to Atlantic Contracting & Material Co., Inc. for their total bid in the amount of \$5,152,051.00, contingent upon DNREC concurrence.**
Approve
Slaughter
Beach Septic
Elimination

Motion Adopted: 5 Yeas

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

M 316 26 **A Motion was made by Mr. McCarron, seconded by Mr. Lloyd, be it moved based upon the recommendation of the Sussex County Engineering Department, that contract S23-08, North Ellendale sewer force main, contract C2-A, be awarded to Allan Myers for their total bid and allowance No. 1 in the amount of \$4,400,000.00, contingent upon DNREC concurrence.**
Approve
North
Ellendale
Sewer
Main/C2-A

Motion Adopted: 5 Yeas

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

Permission Prepare & Post Notices/ Cedar Creek Station **John Ashman, Director of Utility Planning & Design Review, presented a request for permission to prepare and post notices for Cedar Creek Station expansion into the Sussex County Unified Sanitary Sewer District. The Engineering Department received a request from A.H. Davenport, LLC on behalf of their client Apennine Development Company, LLC owners/developers of parcel 230-26.00-15.00. The parcels have been annexed into the Town of Ellendale and Sussex County provides the sanitary sewer for the town. The parcels are located in the Tier 3 area for sewer service.**

M 317 26 **A Motion was made by Mr. McCarron, seconded by Mr. Lloyd, be it moved by Sussex County Council that the Sussex County Engineering Department is authorized to prepare and post notices for the Cedar Creek Station expansion of the Sussex County Unified Sanitary Sewer District to include parcel 230-26.00-15.00 as presented.**

Approve Permission Prepare & Post Notices/ Cedar Creek Station

Motion Adopted: 5 Yeas

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

Permission Prepare & Post Notices/ Belmead Farm, LLC **John Ashman, Director of Utility Planning & Design Review, presented a request for permission to prepare and post notices for Belmead Farm, LLC expansion into the Sussex County Unified Sanitary Sewer District. The Engineering Department received a request from Becker Morgan Group, Inc. on behalf of their client Belmead Farm, LLC owners/developers of parcels 334-18.00-40.01 & 40.06. The project is southeast of Route 24 near Mulberry Knoll Road and is located in the Tier 2 area for sewer service.**

M 318 26 **A Motion was made by Mr. Lloyd, seconded by Mr. McCarron, be it moved by Sussex County Council that the Sussex County Engineering Department is authorized to prepare and post notices for the Belmead Farm, LLC expansion of the Sussex County Unified Sanitary Sewer District to include parcels 334-18.00-40.01 & 40.06.**

Approve Permission Prepare & Post Notices/ Belmead Farm, LLC

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 319 26 **A Motion was made by Mr. McCarron, seconded by Mr. Lloyd to give Town of Bridgeville \$1,000 (\$1,000 from Mr. McCarron's Councilmanic Grant Account) to the Town of Bridgeville for the Police Department's back to school bash.**

Town of Bridgeville

Motion Adopted: 5 Yeas

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

M 320 26 **A Motion was made by Mr. Lloyd, seconded by Mr. McCarron to give**
Downtown **\$3,500 (\$3,500 from Mr. Lloyd's Councilmanic Grant Account) to**
Seaford **Downtown Seaford Association for their 2026 Downtown Seaford events.**
Association

Motion Adopted: 5 Yeas

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

M 321 26 **A Motion was made by Mr. Lloyd, seconded by Mr. McCarron to give**
Blades **\$5,000 (\$5,000 from Mr. Lloyd's Councilmanic Grant Account) to Blades**
Volunteer **Volunteer Fire Company for building repairs.**
Fire

Company

Motion Adopted: 5 Yeas

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

M 322 26 **A Motion was made by Mr. Hudson, seconded by Mr. Lloyd to give \$5,000**
DE Botanic **(\$2,500 from Mr. Hudson's Councilmanic Grant Account, \$1,000 from Ms.**
Gardens, **Gruenebaum's Councilmanic Grant Account and \$1,500 from Mr. Rieley's**
Inc. **Councilmanic Grant Account) to Delaware Botanic Gardens, Inc. for their**
 2026 annual fundraising dinner.

Motion Adopted: 5 Yeas

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

M 323 26 **A Motion was made by Mr. Hudson, seconded by Mr. Lloyd to give \$2,000**
DSU Alumni **(\$1,000 from Mr. Rieley's Councilmanic Grant and \$1,000 from Mr.**
Association **Hudson's Councilmanic Grant) to Delaware State University Alumni**
 Association for their fundraising event to fund scholarships.

Motion Adopted: 5 Yeas

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

Introduction of Proposed Zoning Ordinances **Mr. Rieley introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A WELDING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 4.56 ACRES, MORE OR LESS” filed on behalf of John Whitby.**

Mr. Hudson introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR COMMERCIAL DOG KENNEL AND VETERINARY CLINIC TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 2.52 ACRES, MORE OR LESS” filed on behalf of Frank Miranda.

Mr. Hudson introduced 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 (179 UNITS) FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 57.10 ACRES, MORE OR LESS” filed on behalf of NVR.

Member Comments **There were no Council Member comments.**

M 324 26 Go Into Executive Session **At 10:35 a.m., a Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum to go into Executive Session for the purpose of discussing matters related to land acquisition, pending & potential litigation and personnel.**

Motion Adopted: 5 Yeas

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

Executive Session **An Executive Session was held in the Basement Caucus Room to discuss matters relating to land acquisition & pending & potential litigation and personnel. The Executive Session ended at 12:55 p.m.**

M 325 26 Reconvene **At 1:04 p.m., a Motion was made by Ms. Gruenebaum, seconded by Mr. Rieley to come out of Executive Session back into Regular Session.**

Motion Adopted: 3 Yeas, 2 Absent

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

E/S Action	There was no action related to Executive Session matters.
M 326 26 Recess	A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum to recess until 1:30 p.m. Public Hearings. Motion Adopted: 3 Yeas, 2 Absent Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Absent; Mr. Lloyd, Absent; Mr. Rieley, Yea; Mr. Hudson, Yea
M 327 26 Reconvene	At 1:30 p.m., a Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum to reconvene. Motion Adopted: 5 Yeas Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Yea; Mr. Hudson, Yea
Rules	Mr. Moore read the rules of procedure for public hearings.
Public Hearing/ Ord No. 26- 05/Forest Preservation	A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 99, ARTICLE I, III AND V §99-5 “DEFINITIONS”, §99-21A “PERIMETER BUFFERS” AND §99-26 “INFORMATION TO BE SHOWN” AND CHAPTER 115, ARTICLES I, XXV AND XXVIII §115-4 “DEFINITIONS AND WORD USAGE” AND §115-221 “FINAL SITE PLAN REQUIREMENTS” AND BY ADDING NEW §115-194.8 “FOREST PRESERVATION” AND §115-194.9 “TREE PLANTING REQUIREMENTS”. Vince Robertson, Assistant County Attorney presented the Proposed Ordinance. Mr. Kyle Hoyd, State Forester, provided information regarding statics related to forest preservation. Mr. Hoyd discussed forest studies and how they are not all equal. He reviewed the Forest Inventory and Analysis that is completed that collects annualized data relating to forest resources, health and ownership. In addition, it collects and analyzes a consistent core set of ecological data on all forests to view trends over time. Mr. Hoyd then shared data that was collected using the Forest Inventory and Analysis guidelines and the 2023/2024 Forest Cover Study. Mr. Robertson discussed updates in §99-5 that would include new definitions for forest, forest cover, forest stand delineation and forest preservation. This would replace old definitions of the Forest Assessment and Forest Assessment Report. It would also pull the new definitions into

**Public
Hearing/
Ord No. 26-
05/Forest
Preservation
(continued)**

§99-21. A – Perimeter Buffer to allow consistent terminology throughout the Code. Mr. Robertson then reviewed the current definition, LURWG definition and the new recommendation for forest. The new recommendation reads “A vegetative community dominated by trees and other woody plants covering a land area of 10,000 square feet or greater. Forest includes: 1) areas that have at least 100 trees per acre with at least 50% of those having a two-inch or greater diameter at 4.5 feet above the ground and larger; or 2) forest areas that have been cut but neither stumps were removed nor the land surface regraded”.

Mr. Robertson then explained the forest stand delineation process which includes all residential developments where forest exists. They will be required to assess the forest condition via a Forest Stand Delineation. FSD is a plan and narrative report that identifies the existing forest, cover, vegetation, and environmental features on a proposed development site.

Mr. Robertson then discussed new definitions/terminology to Section §99.21-A by replacing “Woodlands” with new “Forest” definition. Another update was to §99-26 with plat requirements as follows “Protective tree fencing, staking, or continuous ribbon shall be installed along the entire edge of any Forest being protected pursuant to §115-194.8 and trees planted pursuant to §115-194.9. All work conducted pursuant to this subsection shall comply with the American National Standard Institute (ANSI) A300 Standards”.

In Section 115-4, an update will occur with new definitions to forest, forest cover, forest stand delineation and forest preservation. In Section 5 – forest preservation, it will apply to all residential development with expectation of minor subdivisions and ADUs. It will require forest stand delineation in certain circumstances as shown in a flow chart.

The forest preservation requirements were reviewed and discussed for existing forests and priority areas for forest protection.

Mr. Whitehouse discussed a subdivision, Baylis Estates, that went through the cluster subdivision application process and how it be redesigned today if all of the new Ordinances were in place and how it would be impacted.

Mr. Robertson then reviewed example demonstrations for forest area and forest mitigation. The importance of including the permitted buffer was discussed. It was noted that existing forest shall be protected using American National Standard Institute (ANSI) A300 Standards with fencing and staking continuous ribbon installation. Any forest or limit of disturbance to be protected shall not be cleared, graded or grubbed. The forest mitigation is required when removal of forest exceeds the amount permitted. A mitigation plan is required when removal of forest exceeds the amount permitted. In addition, mitigation plans require illustrating the amount of forest to be protected and removed. In the growth area, the area

**Public
Hearing/
Ord No. 26-
05/Forest
Preservation
(continued)**

reforested shall be 2.0 times area cleared in excess of permitted amount and in the rural area, the area reforested shall be 2.5 times area cleared in excess of permitted amount. Mr. Robertson further discussed the mitigation plan requirements.

Any damage to a forest that was to be protected shall result in mitigation plans at a rate of 2.0 times the forest improperly damaged/removed. Any damage to a forest that was to be protected shall result in a fine equal to the area (sq. ft.) damaged multiplied by the fine amount. The recommended change is to amend the fine amount from \$4.356 per square foot to \$1.00 square foot. In addition, no building permits nor inspections are permitted until the mitigation plan is completed and approved by the Commission.

Mr. Robertson stated that all residential development, including mixed use, shall comply with new tree planting standards as follows:

- **Growth Area: 1 tree/10,000 sq. ft. of residential; 1 tree/5,000 sq. ft. of non-residential**
- **Rural Area: 2 trees/5,000 sq. ft. of residential; 1 tree/3,000 sq. ft. of non-residential**
- **Foregoing planting requirements may be satisfied by retention of existing Forest in excess of Forest requirements**

He noted that all tree planting shall require a planting schedule, inspection and performance bond. The effective date as introduced is 6 months after adoption.

Ms. Gruenebaum commented that she would like for the effective date be changed to be consistent with what was passed for the 99-C Ordinance.

Public comments were heard.

Mr. Steve Sinclair spoke regarding the Proposed Ordinance.

Mr. Eric Whal spoke regarding the Proposed Ordinance.

Mr. Gary Vorsheim spoke regarding the Proposed Ordinance.

Mr. Chad Carter spoke regarding the Proposed Ordinance.

Mr. Jon Horner spoke regarding the Proposed Ordinance.

Ms. Alison White spoke regarding the Proposed Ordinance.

Mr. David Maul spoke regarding the Proposed Ordinance.

Ms. Judy Rose Siebert spoke regarding the Proposed Ordinance.

**Public
Hearing/
Ord No. 26-
05/Forest
Preservation
(continued)**

Mr. Johannes Sayre spoke regarding the Proposed Ordinance.

Mr. Nathaniel Wilson spoke regarding the Proposed Ordinance.

Ms. Wendy Taylor spoke regarding the Proposed Ordinance.

Ms. Patricia Barney spoke regarding the Proposed Ordinance.

Ms. Jill Hicks spoke regarding the Proposed Ordinance.

The Public Hearing and public record were closed.

**M 328 26
Defer
Action/
Ord No. 26-
05**

A Motion was made by Ms. Gruenebaum, seconded by Mr. Rieley to defer action on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 99, ARTICLE I, III AND V §99-5 “DEFINITIONS”, §99-21A “PERIMETER BUFFERS” AND §99-26 “INFORMATION TO BE SHOWN” AND CHAPTER 115, ARTICLES I, XXV AND XXVIII §115-4 “DEFINITIONS AND WORD USAGE” AND §115-221 “FINAL SITE PLAN REQUIREMENTS” AND BY ADDING NEW §§115-194.8 “FOREST PRESERVATION’ AND 115-194.9 “TREE PLANTING REQUIREMENTS”.

Motion Adopted: 5 Yeas

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

**M 329 26
Adjourn**

A Motion was made by Mr. Rieley, seconded by Mr. Lloyd to adjourn at 4:42 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

MIKE HARMER, P.E.
SUSSEX COUNTY ENGINEER

(302) 855-7370 T
(302) 854-5391 F
mike.harmer@sussexcountype.gov



Sussex County
DELAWARE
sussexcountype.gov

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: Mike Harmer, P.E., County Engineer

RE: ***SCWRF Treatment Process Upgrade No.3 – Inland Bays Extension***
A. M.F. Ronca Change Order No. IB-013
B. BW Electric, Inc. Change Order No. IB-004

DATE: July 28, 2026

The multi prime South Coastal RWF Treatment Process Upgrade No.3 was designed and bid in conjunction with the Rehoboth Beach WTP Capital Improvement Program, Phase 2.

General Construction Project C19-11 was awarded on December 17, 2019, to M.F. Ronca & Sons, Inc. County Council authorized a series of change orders since then and granted Substantial Project Completion for the Rehoboth Beach WTP Capital Improvement Program, Phase 2 on November 14, 2022, and similarly on December 10, 2024 for the South Coastal WRF Treatment Process Upgrade No.3 together with balancing change orders 36.1 & 36.2.

DNREC issued construction and operation permits for the Inland Bay RWF Phase 2 Project and Facility on June 17, 2024, after a seven (7) year process. Permit compliance was effective July 1, 2024, putting significant strain on the existing facility which should have been upgraded several years earlier. Furthermore, the County's responses to DNREC's 2020 & 2022 requests for additional information necessitated significant design modifications. These circumstances in combination required an innovative project implementation approach to establish a critical path, with construction of individual components out of sequence, as necessary for best possible permit compliance.

The South Coastal multi-prime construction team of M.F. Ronca & Sons, Inc. and BW Electric, Inc. effectively executed the complex South Coastal RWF Treatment Process Upgrade No. 3. Both expressed their willingness to continue the working relationship with the County, providing constructability input in the design modification process with pricing of a



subsequent series of change orders to bring the Inland Bay RWF Project elements online in the critical path format.

On July 16, 2024, Council concurred in the staged construction implementation process under a series of sequential change orders based on critical path. To financially separate the South Coastal RWF Treatment Process Upgrade No.3 Project from the Inland Bay RWF Phase 2 Project the Finance Department requested a transfer of retainage via change order process. This was issued on July 15, 2025, when Council approved Change Orders No. 37 & No. IB-007-GC to facilitate a transfer of \$500,000.00 in M.F. Ronca retainage.

On July 16, 2024, County Council also reaffirmed GHD, Inc. as “Engineer of Record” for Sussex County wastewater treatment process related projects at all facilities through June 30, 2029. The Engineering Department had met with GHD on several occasions and GHD committed to transition their cohesive South Coastal Project design team to Inland Bay RWF efforts; a scope of services matching the Inland Bay RWF Phase 2 Project implementation method was developed. GHD’s scope included eight subcategories grouped in five cost centers with individual cost centers fluid to permit funds being exchanged between them should project priorities or needs shift. On July 16, 2024, Council approved GHD’s Amendment 26 in the not to exceed amount of \$5,000,000.00 applied across the scope of services associated with Inland Bays RWF Phase 2 Project implementation format.

The first item of the Inland Bay RWF Phase 2 project was the two-stage clarifier component. RFP-IB-001 included costs associated with procuring precast concrete and the clarifier equipment, while RFP-IB-002 addressed full assembly and tie-in of the two (2) new clarifiers and scum pump station. Council approved Change Order IB-001 on December 10, 2024, in the amount of \$3,471,541.57.

M.F. Ronca & Sons, Inc. submitted pricing for clarifier construction, comprised of the distribution boxes, scum pump station, yard piping and equipment installations in the amount of \$2,023,505.90. Ronca also priced site mobilization per RFP-IB-003 in an upfront, one-time expense of \$208,250.00 with a monthly component covering ongoing overhead expenses in the amount of \$116,000.00 starting with the first construction invoice. Normally overhead expenses are included in the mark-up time and material work on a task basis, but due to the project complexity and accelerated project implementation the Engineering Department recommended Ronca’s staff be on site on a continuous basis.

On January 25, 2025, Council approved Change Order No. IB-002 in the amount of \$2,023,505.90 and Change Order No. IB-003 in the one-time and monthly values stated.

GHD issued RFP IB-004 covering the integrated headworks and influent distribution structure, IB-005 for the currently unused original lagoons 3 & 4 conversion to aeration basins utilizing the Bioworks equipment package under a direct procurement contract approved by County Council on March 25, 2025, and IB-006 for the associated yard piping.

M.F. Ronca & Sons, Inc. submitted pricing of \$1,405,000.00, \$1,448,000.00 & \$1,637,000.00 respectively. On May 13, 2025, County Council approved Change Orders IB-004, -005, and -006 in the amount values stated.

Change Order IB-005 included a sludge removal allowance of \$100,000 based on the assumption the lagoon was NOT used for biosolids storage. Upon removal of the supernatant water, a significant layer of old sludge was discovered, increasing the costs to date to a documented amount of \$158,325.62. The remaining work was estimated at approximately \$40,000. On September 23, 2025, Council approved Change Order No. IB-010, amending the IB-005 allowance in the amount of \$100,000.00.

In December 2025 GHD issued the Revision C update to yard piping construction plans in accordance with the applicable details and specifications from the South Coastal project for pricing by M.F. Ronca & Sons, Inc. GHD and the County Engineering Department reviewed the pricing and scope and found them competitive and complete. On December 16, 2025, Council approved to increase M.F. Ronca & Sons' Change Order IB-006 by \$2,277,600.00.

The Engineering Department designed and submitted permitting for site improvements, E&SC measures, drainage piping and storage building concrete pad under RFP-IB-008-GC. M.F. Ronca & Sons, Inc. submitted pricing for Site Work, E&SC, Storage Building Pad, etc. in the total amount of \$1,434,000.00 with unit pricing for column supports. As the final structural design was not yet available the number of storage building column supports was conservatively estimated with anticipated of adjusting downward using unit prices.

On July 29, 2025, Council approved Change Order No. IB-008-GC to M.F. Ronca & Sons, Inc. in the not to exceed amount of \$1,434,000.00 with column numbers anticipated to adjusted / reduced based on final structural design and unit cost.

Upgrades to Effluent Pump Station No.1 were designed and issued under RFP-IB-009. It comprised complete rehabilitation of mechanical components in the station including temporary pump rentals. M.F. Ronca & Sons offered to complete the scope for \$841,000.00 and Change Order No. IB-009 to M.F. Ronca & Sons was approved on September 23, 2025.

Construction of the proposed Pump & Blower Building No. 2 was issued under RFP-IB-010 in accordance with applicable details and specifications from the South Coastal projects, including all mechanical equipment but excluding the electrical components. On December 16, 2025, Council approved Change Order IB-011 to M.F. Ronca & Sons, Inc. in the amount of \$1,880,000.00

Filter equipment, UV disinfection technology and intermediate pumping systems were procured directly and the receipt of those equipment submittals allowed GHD to finalize the design for converting the former disinfection tank to a tertiary treatment system. RFP-IB-012 was issued, however the complexity of this component required GHD, Ronca and the Engineering Department to conduct two debriefings. With a best approach determined, M.F. Ronca & Sons offered to complete the scope for \$2,971,120.00. This amount included an addition to a previously issued purchase order for grit removal equipment at South Coastal with that cost to capitalized accordingly. On April 14, 2026, Council approved Change Order IB-012 to M.F. Ronca & Sons, Inc. in the amount of \$2,971,120.00.

Construction of the proposed Headworks Electrical Building was issued per RFP-IB-013. With construction of the headworks nearly complete the next critical steps include power, equipment and control. The proposal scope includes general construction of the building, along with a new generator pad adjacent to the proposed Pump and Blower Building 2, miscellaneous upgrade project items, and an equipment allowance for Transpactor Controls and Control Panels (i.e. headworks screen spiral conveyor and compactor). Final costs of equipment will adjust the actual amount of allowance used. After design coordination and small changes, M.F. Ronca & Sons offered a revised cost of \$1,135,600.00 to complete the scope.

The Engineering Department recommends issuance of Change Order No. IB-013 to M.F. Ronca & Sons, Inc., in the proposed amount of \$1,135,600.00.

Electrical Construction Project C19-17 was awarded to BW Electric Inc., by County Council on December 17, 2019. Since then, County Council authorized a series of change orders and granted Substantial Project Completion for the Rehoboth Beach WTP Capital Improvement Program, Phase 2 on November 14, 2022, and similarly on March 21, 2025, for the South Coastal WRF Treatment Process Upgrade No.3 together with the balancing Change Order No. 29.

As previously noted, County Council concurred in a staged construction implementation process for the Inland Bay RWF Project using the multi-prime team of M.F. Ronca & Sons, Inc. and BW Electric, Inc. BW Electric, Inc. offered pricing to mobilize to the Inland Bays site per RFP-IB-003 with an upfront, one-time expense amount of \$57,417.94, and a \$3,421.40 monthly component to cover ongoing overhead. BW Electric, Inc., has a much smaller on-site overhead team and chose to include its cost in the fixed percentage markup on a task-by-task basis. On January 28, 2025, Council approved BW Electric, Inc.'s Change Order No. IB-003.

The first electrical project component proposed for pricing was Pump & Blower Building No. 2 issued under RFP-IB-10-EC. BW Electric and the Engineering Department provided value engineering input resulting in two revisions. BW Electric, Inc. submitted interim pricing and on February 3, 2026, Council approved change order No. IB-001 to BW Electric, Inc. in the amount of \$2,400,000.00. The amount is to be modified when the blower VFD control cabinets are priced in a subsequent change order.

The first general construction scope item was the two-stage clarifier package component under RFPs IB-001 & 002. IB-002 consisted of the full assembly of clarifier parts as well as hydraulic tie-in of the new clarifiers and the scum pump station. In February of 2026, GHD issued RFP-IB-001 for the electrical service at new Clarifiers No. 3 and No. 4, the Scum Pump Station No. 2, and the distribution box. After the Engineering Department provided input, BW Electric, Inc. submitted pricing consistent with expectations. On March 10, 2026, Council approved Change Order No. IB-002 to BW Electric, Inc. in the amount of \$463,500.00.

Electrical construction of the proposed Headworks Electrical Building was issued by GHD under RFP-IB-013-EC. Included with the RFP scope of work are significant power components at both the new Headworks & Distribution Structure and Aeration Lagoons areas. Additionally, GHD provided necessary amendments to RFP-IB-010-EC for design and construction to comply with NFPA820 electrical code requirements. These adjustments primarily affect proposed Pump and Blower Building 2 work and were confirmed necessary after issuance of RFP-010.

BW Electric, Inc. submitted the amount of \$1,999,500.00 to complete the scope of work. The Engineering Department and GHD consider the cost consistent with expectations. Coordination with the Treated Effluent Loop Project requires miscellaneous electrical work at several meter and control vaults along the Loop. The Department discussed with BW Electric, Inc. implementation of service and control needs at vault locations as integral to the Inland Bay RWF Project and agreed a time & material basis for as-needed support is appropriate. The Engineering Department therefore recommends a \$100,000.00 not-to-exceed amount be included with their current proposal for electrical work as needed at meter and control vaults.

The Engineering Department recommends issuance of Change Order No. IB-004 to BW Electric, Inc., in the amount of \$2,099,500.00.

Direct Equipment Procurements and Additional Highlights

The Inland Bays RWF Phase 2 Project includes conversion of an unused original treatment lagoon into two new Aeration Basins (3 & 4) along with upgrade of the aeration system at the two existing aeration basins (1 & 2), which were converted over ten years ago. GHD developed and distributed an RFP to the only two (2) companies in the field, Bioworks and Parkson. After a two-stage competitive selection process both companies submitted cost and payment proposals. Based on GHD and Department review and recommendation, County Council approved issuance of a purchase order to Bioworks in the amount of \$1,397,640.00 on March 25, 2025.

The Inland Bays RWF Phase 2 Project includes conversion of the existing disinfection contact chamber into a tertiary treatment process followed by UV disinfection. Three (3) filter manufacturers were considered. Evoqua was the most expensive due to the stainless-steel filter media, while Aqua Aerobics and Nexom both offered cloth filter media at pricing comparably lower. The Nexom purchase price is slightly more expensive than Aqua Aerobics' but the Nexom equipment fits into the existing tank structure with less structural modification and easier accessibility for maintenance. Therefore, the overall capital and lifetime maintenance costs to the County are lowest using the Nexom equipment. Of the three (3) UV manufacturers considered, Nuvonic was the most expensive and the closed vessel design was not conducive to installation in the existing contact chamber. Trojan Technologies, in line, and Glasco, vertically, were priced comparably, with Glasco slightly cheaper. On July 15, 2025, Council approved issuance of two purchase orders: (i) Nexom for filtration equipment in the amount of \$798,300.00 and (ii) Glasco in the amount \$415,000.00 for UV equipment.

To provide sufficient air for the conversion of the currently unused lagoon into two aeration basins (3&4), GHD solicited firm proposals for process aeration blowers from the two manufacturers the County currently uses requiring similar warranty periods and payment schedules. GHD and the Department recommend the slightly lower cost Kaeser proposal. In addition to the slightly lower costs, the Kaeser blowers match the existing process aeration blowers at Inland Bays RWF. The existing blowers will be kept in service to supply air to aeration basins 1 & 2. Using identical blower models across all six units will simplify maintenance for the operations team and allow spare parts to be used interchangeably. A direct equipment purchase order in the amount of \$298,000.00 to Riordan Materials Corporation, the exclusive area representative of Kaeser, was approved on September 23, 2025.

As previously mentioned, the Project includes conversion of the existing disinfection contact chamber into a tertiary treatment process followed by UV disinfection. The existing three (3) intermediate lift pumps date to the original 1990s construction and do not meet the new hydraulic duty points. Therefore, GHD prepared an RFP and distributed it to five (5) manufacturers. After review of proposals, GHD recommended Pentair for the intermediate pumps due to the best hydraulic fit and long-term O&M expense, even though they are not the lowest capital cost. On January 13, 2026, Council approved the purchase order for intermediate and recirculation pumping equipment to Sydnor Hydro, Inc., the exclusive representative for Pentair in the amount of \$466,700.00.

The County's 5-year capital plan approved in the FY 24 Capital Budget anticipated several large projects at the Inland Bays Regional Wastewater Facility (RWF) including **the Treated Effluent Loop Project**. After completion of the Inland Bays RWF Phase 2 Project, the Loop will distribute effluent to County agricultural partners and forested spray sites under DNREC permitting, and a rapid infiltration basin to be constructed and maintained by Artesian Wastewater Resources on leased County property. The Loop consists of nearly 7 miles of mostly 18" – 24" diameter ductile iron pipeline with actuated meter vaults at twelve (12) distribution locations. Contract documents were publicly advertised and on April 9, 2024, County Council awarded the Loop Project, S24-01, to Atlantic Contracting & Material Co., Inc., (ACM) in the amount of \$7,649,916.00.

The Engineering Department completed supplemental construction drawings for the forested spray-field header piping in cooperation with the contractor via Change Order No. 1, using current unit pricing and new not-to-exceed costs, related only to additional tree clearing by ACM and labor associated with the atypical pipe assemblies where future distribution and diffuser piping will connect to spray-field headers. On October 15, 2024, Council approved Change Order No.1 for Project S24-01, in the amount of \$2,179,674.00. Council also approved Change Order No.2 in the amount \$136,460.00, addressing tree clearing and survey necessary to shift pipeline alignment per DP&L right-of-way coordination. Subsequently on September 9, 2025, Council approved Change Order No. 3 for the first of three forested spray field diffuser piping packages in the amount of \$909,915.98.

With installation of Loop pipeline and vaults significantly complete, the Department began efforts to incorporate power, metering and valving / control at vault locations. Environmental

Services utilizes hundreds of actuated valves in their facilities. Due to the critical nature of these valves in the treatment process, the Division went through standardization documentation and selected Beck Electric Actuators as vendor for actuators. The Engineering Department and Beck competitively selected the lowest cost companion valve manufacturer for each of the twelve vaults locations. Equipment will be installed by ACM under the previously issued change order and as noted, BW Electric will provide services to support electrical power and control work. On February 3, 2026, Council approved the purchase order for actuated valves to Harold Beck & Sons, Inc. in the amount of \$159,565.00. On June 16, 2026, Council approved Change Order 4 to ACM in the amount of \$227,215.40 to furnish and install metering equipment and related valves and piping at meter vault locations.

The 100,000-gallon treated **effluent elevated storage tank** is the centerpiece of the system pressure control. Two types of tanks were evaluated (i) spheroid and (ii) composite. Both could house the circulation pumping and chlorination systems in the base. After site selection and geotechnical evaluation GHD developed a performance specification which was distributed to the five (5) known tank manufactures. After a two-stage competitive selection process three (3) bids were received with Pittsburg Tank & Tower Group submitting the lowest responsible bid. On March 4, 2025, County Council approved a purchase order to Pittsburg Tank & Tower Group in the amount of \$1,903,250.00.

To meet future more stringent permit compliance regarding bacteria and dissolved solids, a cover for Storage Lagoon 1 will be required. It contains the water to be distributed to agricultural partners and is intended for unrestricted public access. GHD requested detailed proposals from three (3) vendors to furnish and install a HDPE floating cover. GHD also discussed with vendors the proposed pumping configuration of rainwater as well as the construction constraints regarding existing road along the north side of Lagoon 1. Two Contractors (JH Waters and R.T.D. Enterprises) submitted competitive proposals (\$613,769.00 and \$617,314.00, respectively) with equivalent 20-years manufacturer material warranties. After analyzing the constraints on the North side of Lagoon 1, GHD considered R.T.D. Enterprises as understanding of existing conditions and most able to complete the project effectively. On April 14, 2026, County Council approved a purchase order to R.T.D. Enterprises in the amount of \$617,314.00.



***SUSSEX COUNTY
CHANGE ORDER REQUEST***

A. ADMINISTRATIVE:

1. Project Name: **Inland Bays Expansion – General Construction**
2. Sussex County Project No. C19-11A
3. Change Order No. IB-013
4. Date Change Order Initiated - 7/28/26
5.
 - a. Original Contract Sum \$ 0
 - b. Net Change by Previous Change Orders \$22,981,017.47
 - c. Contract Sum Prior to Change Order \$22,981,017.47
 - d. Requested Change \$1,135,600.00
 - e. Net Change (No. of days) 0
 - f. New Contract Amount \$24,116,617.47
6. Contact Person: Mike Harmer, P.E.
Telephone No. (302) 855-7370

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:

General construction of Headworks Electrical Building, Generator Pad adjacent to Blower Building 2, and miscellaneous project work items pursuant to RFP IB-013-GC and supplemental GHD drawings; with \$437,000.00 equipment procurement allowance for Transactor with Controls and Screening Control Panels.

D. JUSTIFICATION FOR CHANGE ORDER INCLUDED?

Yes ☒ No ☐

E. APPROVALS

1. M.F. Ronca & Sons, Inc., Contractor



Signature Date 7/21/2026

David A. Ronca, CEO & General Manager

Representative's Name in Block Letters

2. Sussex County Engineer

Signature Date

3. Sussex County Council President

Signature Date



TELEPHONE 610/759-5100
FACSIMILE 610/746-0974

CONTRACTORS

179 Mikron Road, Bethlehem, PA 18020

July 21, 2026

Mr. Steven Clark, P.E.
GHD
16701 Melford Boulevard, Suite 330
Bowie, MD 20715

Re: Sussex County
Inland Bays RWF Expansion
Proposed Change Order Request No. 554-01-013 R1
Inland Bays Headworks Electrical Building

Dear Mr. Clark:

Pursuant to GHD's RFP-IB-013-GC, Michael F. Ronca & Sons, Inc. hereby proposes to furnish all necessary labor, materials and equipment for construction of Headworks Electrical Building as identified in the RFP and Generator Pad per Drawing provided via GHD 05.08.26 email, for the Lump Sum Price of One Million One Hundred Thirty Five Six Hundred Dollars and 00 Cents.....\$1,135,600.00

This proposal is based on all information identified in GHD's RFP IB-013-GC, dated April 20, 2026, "Draft" Headworks Electrical Building Drawings A5211, A5221, A5231, A9002, A9003, A9004, S5211, S5231, H5211, H5261 dated July 2026 provided via email 07.06.26, Architectural Specifications Refenced in RFP, Generator Pad & Platform Drawing S2711 provided via GHD 05.08 email, GHD 07.21.26 email regarding addition of equipment allowance and as further clarified in the "Scope of Work" and "Listing of Qualifications/Exclusions" below.

Scope of Work:

- General Construction of Proposed Headworks Electrical Building in accordance with provided drawings, applicable specifications sections provided and from SCRWF Upgrade No. 3 contract documents and further clarified as follows:
 - Coordination with Electrical Contractor for under slab work, penetrations, equipment pad sizes and locations, etc.
 - Cast-In-Place concrete foundation and slab construction in accordance with provided drawings and per SCRWF Upgrade No. 3 specifications.
 - Construction of building in accordance with Architectural details provided on drawings and in accordance with the following applicable Specification Sections,

Scope of Work (cont):

- 04300 – Unit Masonry System, 05425 – Steel Roof Trusses, 06640 – Plastic Paneling, 07190 – Vapor and Air Barriers, 07210 Building Insulation, 07212 – Board Insulation, 07411 -Metal Roofing, 07900 – Joint Sealers, and 08110 – Hollow Metal Doors and Frames, 08710 Door Hardware, 08800 - Glazing, 09900 - Painting, 10522 - Fire Extinguishers, and 10800 – Toilet and Bath Accessories.
 - Furnish and installation of HVAC equipment as outlined in contract drawings H5211 & H5261 including allowance for testing and balancing in accordance with SCRWF Specification Section 15990
- General Construction of Proposed Generator Pad adjacent to PBB2 in accordance with Dwg. S2711 provided via GHD 05.08.26 email to include applicable specifications sections provided and from SCRWF Upgrade No. 3 contract documents and further clarified as follows:
 - Coordination with Electrical contractor for pad sizes and any required penetrations.
 - Excavation and subgrade preparation.
 - Cast-In-Place concrete foundation and slab construction in accordance with provided drawings and per SCRWF Upgrade No. 3 specifications
 - Furnish and installation of aluminum handrail and stair nosing as outlined on drawing and per applicable SCRWF Upgrade No. 3 Div 5 specifications
- Miscellaneous additional project scope items as outlined in RFP-01-013 and per various email correspondence as follows:
 - Add a full-sized opposed blade motorized damper onto the intake of the BB2 electrical room exhaust fan. Damper size to match full-size of fan opening. Motor operators shall be 120 VAC, power to open, spring return to close, with actuator outside the air stream.
 - Provide PBB2-SF-101, PBB2-LV-102, PBB2-MOD-102 as shown in RFP-010-GC in lieu of the louver and motor operator damper shown on drawing H1911 Rev A.
 - Proposal includes credit for utilizing roof panels for PBB2 per specifications 07210 and 07411 in lieu of insulated roof panels per GHD 04.20.26 email directive.
 - Proposal includes additional 12" FLG 45 fittings and hardware for Irrigation Pump Station per reviewed submittal 15060-002 Irrigation PS Process Piping (R&R) comments.
- Equipment procurement allowance for the Transpactor with Controls and Screening Control Panels as outlined in GHD's 07.21.26. Proposal includes an allowance of \$437,000.00 (\$380,000.00 + 15% Ronca OH&P) for procurement of these materials. Final costs for this item will be adjusted based on actual costs once determined.

May 28, 2026
Mr. Steven Clark, PE
Page Three

Listing of Qualifications/Exclusions:

- Electrical and controls work is specifically excluded
- Furnish of Instrumentation is excluded. Proposal assumes instrumentation to be furnished by Electrical Contractor and installed by Ronca.
- Power and water consumption costs for construction activities is specifically excluded.
- Offsite disposal of excess excavated materials is specifically excluded.
- Proposal includes bond costs for work identified in this proposal.
- Permit fees are specifically excluded.
- Rock removal is specifically excluded, however, not anticipated based on the Geotechnical Report.
- Prevailing wage rates are excluded.
- Domestic steel requirements are specifically excluded.
- Construction testing for compaction, concrete, reinforcing steel, structural steel, etc. is assumed to be by Owner and is specifically excluded.

Thank you for the opportunity to provide this proposal, should you have any questions concerning the same, or require additional information, please do not hesitate to contact me.

Regards,
Scott Wachinski
Project Manager

cc: HO File 554-01
Patrick Brown – Sussex Co.
David A. Ronca – M.F. Ronca



***SUSSEX COUNTY
CHANGE ORDER REQUEST***

A. ADMINISTRATIVE:

1. Project Name: **Inland Bays Expansion – Electrical Construction**
2. Sussex County Project No. C19-17B
3. Change Order No. IB-004
4. Date Change Order Initiated - 7/28/26
5.
 - a. Original Contract Sum \$ 0
 - b. Net Change by Previous Change Orders \$ 3,003,031.54
 - c. Contract Sum Prior to Change Order \$ 3,003,031.54
 - d. Requested Change \$ 2,099,500.00
 - e. Net Change (No. of days) 0
 - f. New Contract Amount \$ 5,102,531.54
6. Contact Person: Mike Harmer, P.E.
Telephone No. (302) 855-7370

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:

Electrical construction of Headworks Electrical Building, Headworks & Distribution Structure and Aeration Lagoons pursuant to RFP IB-013-EC; and incorporation of work adjustments for previously authorized RFP IB-010-EC to comply with NFPA820 code requirements. Total pricing value of \$1,999,500.00

Authorization of not-to-exceed (NTE) value of \$100,000.00 for electrical construction at Treated Effluent Loop metering vault locations, on an as-needed, time & material basis per Owner request.

D. JUSTIFICATION FOR CHANGE ORDER INCLUDED?

Yes ☒ No ☐

E. APPROVALS

1. B.W. Electric, Inc., Contractor

Signature Date

Representative's Name in Block Letters

2. Sussex County Engineer

Signature Date

3. Sussex County Council President

Signature Date



15342 S. DuPont Hwy
Harrington DE 19952

Bryon Warren
President
302-270-5719

Office: 302.566.6248
Fax: 302.566.6251

Email(s):
office@bwelectricinc.com
estimates@bwelectricinc.com

July 14, 2026

Subject: RFP-IB-013-EC & Amendments to RFP-IB-010-EC

Dear Mr. Steven Clark,

Our price to perform the electrical work associated with the above project is based on RFP-IB-013-EC issued by GHD. Our price **does not** include the use of Prevailing Wages. Our pricing is **\$1,999,500.00**.

1. Supply and install electrical conduit, wire, and equipment to meet the drawings and specifications.
2. Supply and install PCS-HEB controls cabinet.
3. Supply and install controllers as illustrated on the drawings,
4. Supply 2 flow meters for the GC to install, 2 - 24" flow meters, 1 - Influent flow meter vault, 1 - Clarifier effluent flow fault.
5. Supply and install conduit and wire per the drawings and specifications for the classified areas described in the contract documents.
6. Supply and install Schedule 80 PVC with deflection/expansion fittings for the ductbank risers on the buildings.
7. Supply and install custom aluminum 4X pull boxes as described in the contract documents.
8. Supply and install concrete and rebar encased ductbank.
9. Supply and install the building and ductbank grounding.
10. Supply and install manholes/handholes as indicated in the drawings.
11. Supply and install back boxes for the thermostats for the HVAC systems described in the contract documents.
12. Install thermostats provided by the GC.
13. Supply and install Fan HEB-EF-1 fan controller.
14. Supply and install disconnects and methods to connect to the connected loads.
15. Supply and install the lighting fixtures and switches called out in the contract documents.
16. Supply and install the electrical receptacle outlets called out in the contract documents.
17. Supply and install FOPP-HEB cabinet, connect to the PCS-HEB cabinet, no fiber connects until future RFP.

18. Included in this scope of work is the RFP-IB-013-EC attached and the amendments to RFP-IB-010-EC.

19. Electrical Inspection.

Exclusions

1. No Bond.
2. No permit fees.
3. No cutting, patching or painting.
4. No liquidated damages.
5. No CONTROL PANELS; SCREENING CONVEYOR(CVN-1111 CP), BAR SCREEN NO. 1 (SCN-1101 CP), BAR SCREEN NO. 2 (SCN-1101 CP), BIOLAC OEM CP
6. B.W. Electric Inc will restore site conditions to rough grade only.
7. No HVAC equipment(power and control wiring only).
8. No concrete equipment pads(provided by GC.

This price is good for thirty (30) days only.

Sincerely,

Jason R. Walters
B. W. Electric, Inc.
JRW/

B. W. Electric, Inc. shall not be liable for damages for delays in performance due to circumstances beyond its reasonable control, including without limitation, fire, floods, storms, or other acts of God, accidents, shortage of materials, and lack of transportation for similar reasons such as COVID-19 etc.

ENGINEERING DEPARTMENT

MIKE HARMER, P.E.
SUSSEX COUNTY ENGINEER

(302) 855-7370 T
(302) 854-5391 F
mike.harmer@sussexcountype.gov



Sussex County

DELAWARE
sussexcountype.gov

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: Mike Harmer, P.E., County Engineer

DATE: July 28, 2026

RE: ***Inflow and Infiltration Study***
Arcadis, Inc. – Amendment No. 5

Various portions of the County's gravity sewer experience flow impacts from excessive rainfall and high level tidal influences. The infiltration leakages cause various issues with conveyance, treatment and discharge, which result in increased energy costs, increased chemical costs treating "clean" rainwater/bay water, and increased maintenance. Arcadis has submitted a proposal to investigate the sources of inflow and infiltration within portions of the system to assess the best course of action.

Sussex County recently had temporary flow monitoring performed at several locations. Arcadis will take this baseline data, other existing data, and incorporate the information into their assessments. Their scope of work includes:

1. Identify the different types and quantity of I&I leakage impacts in select areas.
2. Recommend Sanitary Sewer Evaluation Study (SSES) activities to locate the sources of I&I.
3. Conduct SSES activities to locate and quantify the source of leakage at actionable project sizing.
4. Prioritize and recommend sewers for rehabilitation.
5. Recommend rehabilitation actions for specific sewers to reduce I&I.
6. Predict the impact of said rehabilitations.
7. Prepare contract documents to facilitate the execution of some of that rehabilitation work.
8. Extend the understanding of I&I impacts on selected, prioritized other areas of the sewer system and recommend additional actions as found needed.



Based on the investigations to narrow the areas for rehabilitation, Arcadis will develop the associate bid package to remove inflow and infiltration sources. This work will lead to other inflow and infiltration activities, which will be prioritized based upon findings. The Engineering Department has reviewed the proposal and requests approval of Arcadis' Amendment 5, in the amount of \$349,000.00.

This is **EXHIBIT K**, consisting of 7 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated 07/01/24.

**AMENDMENT TO OWNER-ENGINEER AGREEMENT
Amendment No. 5**

The Effective Date of this Amendment is: July 28, 2026

Background Data

Effective Date of Owner-Engineer Agreement: 07/01/24

Owner: Sussex County

Engineer: Arcadis, Inc.

Project: Inflow & Infiltration Source Reductions

Nature of Amendment: [Check those that are applicable and delete those that are inapplicable.]

- ☒ Additional Services to be performed by Engineer
- ☒ Modifications to services of Engineer
- ☐ ~~Modifications to responsibilities of Owner~~
- ☒ Modifications of payment to Engineer
- ☒ Modifications to time(s) for rendering services
- ☐ ~~Modifications to other terms and conditions of the Agreement~~

Description of Modifications:

This Amendment includes modifications to Exhibit A – Engineer’s Services, to include work per Arcadis Proposal dated July 7, 2026 and selection and use of Exhibit C, Compensation Packet AS-1.

Agreement Summary:

Original Agreement Amount:	\$ <u>0</u>
Net Change for prior amendments:	\$ <u>1,861,000.00</u>
This amendment amount:	\$ <u>349,000.00</u>
Adjusted Agreement amount:	\$ <u>2,210,000.00</u>

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment. All provisions of the Agreement not modified by this or previous Amendments remain in effect.

OWNER:

ENGINEER:

By: _____
Print
name: _____

Title: _____

Date Signed: _____

By: _____
Print
name: James W. Shelton

Title: Vice President

Date Signed: July 21, 2026

Mike Harmer
County Engineer
Sussex County Engineering Department
2 The Circle (PO Box 589)
Georgetown, DE 19947

Arcadis U.S., Inc.
222 Delaware Avenue
Suite 1110
Wilmington, DE 19801
www.arcadis.com

Subject:

FY27 Sewer System I&I Source Reductions
Scope and Budget

Date:
July 7, 2026

Contact:
Jim Shelton

Dear Mr. Harmer:

Arcadis is pleased to provide Sussex County (Sussex County) with this scope and budget to assist with Inflow and Infiltration (I&I) source reduction in portions of Sussex County's sewer collection system.

Phone:
302.723.1450

Email:
James.shelton@arcadis.com

BACKGROUND AND OBJECTIVES

The Sussex County sewer system, comprising nearly 800 miles of gravity sewer, has portions that experience high flow impacts from hard rainfall and tidal high level conditions. These inflow and rainfall/tide influenced infiltration leakages into the sewers create conveyance, treatment, and spray irrigation discharge problems. Additionally, it is suspected that baseline infiltration robs significant baseload conveyance and treatment capacity in portions of the system. As most of the sewage in Sussex County is pumped multiple times (in some cases, as many seven times), this represents a significant energy cost too.

Arcadis evaluated daily flow summary data from 29 available pump station magmeters (only covering a portion of the system, and largely limited to the Inland Bays and Wolfe Neck service areas as the South Coastal pump stations only collected data weekly and the Piney Neck data were limited) for portions of 2023 and 2024, and reported in September 2024 that numerous pumpsheds appeared to be significantly impacted by rainfall. These impacted pumpsheds were:

Inland Bays

- LN80
- LN197
- AN317
- OO189
- GT26
- BL45
- BV430
- BV431
- OO326
- AN317
- EL90
- WR207

Wolfe Neck

- DB5
- WR207
- DB4
- HA50
- WR196

From December 2025 – April 2026, RJN installed and operated eight flow meters that gather data from the several locations.

The objectives of this project are to:

1. For the eight 2026 meter basins:
 - a. Identify the different types and quantity of I&I leakage impacts
 - b. Recommend SSES investigation activities to locate the sources of I&I
 - c. Conduct SSES activities to locate and quantify source of leakage at actionable project sizing
 - d. Prioritize and recommend sewers for rehabilitation
 - e. Recommend rehabilitation actions for specific sewers to reduce I&I
 - f. Predict the impact of said rehabilitations
 - g. Prepare contract documents to facilitate the execution of some of that rehabilitation work.
2. Extend the understanding of I&I impacts on selected, prioritized other areas of the sewer system.

SCOPE OF WORK

TASK 1 – 2026 METER DATA ANALYSES

For the eight 2025 flow meter data sets, Arcadis will define the typical dry day flow pattern for each meter basin. For this work, we will use Arcadis' SewerIQ flow analysis platform. From this work we will identify the impact of baseline groundwater infiltration (typically expressed as a percentage of the actual sewage flow using Stevens- Schutzbach formula) and, in the event data were collected during high groundwater conditions, we will assess seasonally varying infiltration. We will then conduct rainfall derived removal potential evaluations (RDII analysis) of flow monitoring and rainfall data. The results of the RDII analysis will be used to identify the types and amounts of I&I for each basin and determine the peaking factor for each storm event. If available, we will utilize the temperature meta-data collected during metering to additionally potentially assess impacts of dry weather and wet weather I&I impacts, though this technique is not fully developed or proven. The type of RDII impacts will be used to identify the most appropriate SSES activities for locating actual sources in each basin.

Wet weather events will be defined and classified according to southern Delaware Intensity/ Duration/ Frequency (IDF) curves. The most significant wet weather events will then be selected and evaluated for RDII analysis.

For each metered location, the data will be analyzed, and hydrographs will be developed and interpreted to identify suspected sources of I&I. Our data analysis software automates much of the analysis of flow, temperature, and rainfall data, providing efficient and effective review of data quality and statistical summaries, base flow patterns, and magnitude of RDII impacts. Where necessary

and possible (based on data quality), upstream flows will be subtracted from downstream flows to represent basin RDII conditions. The hydrographs will be analyzed qualitatively to determine the nature of RDII in each basin.

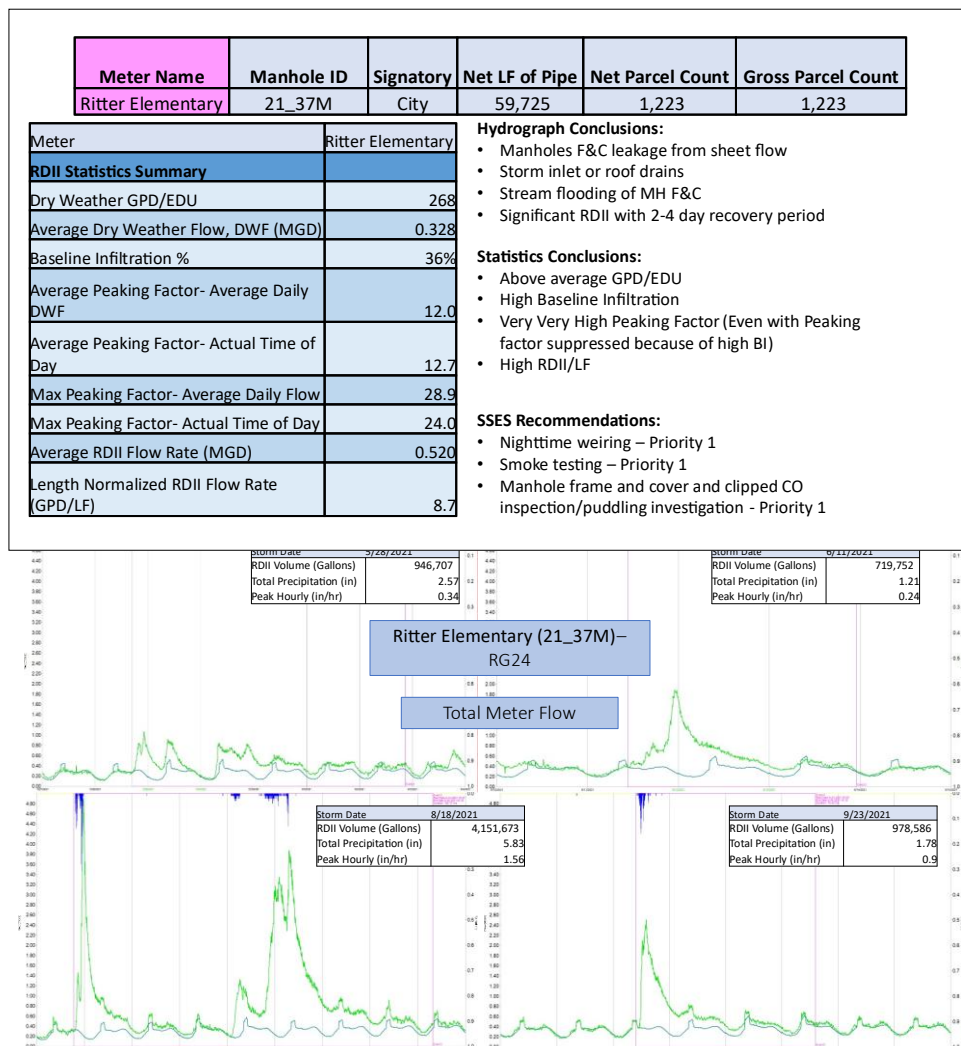
The following data assessments will be prepared for each valid and true meter basin:

- Average dry day flow by individual weekday
- Groundwater infiltration percentage of dry day flow
- Rainfall duration and intensity (recurrence frequency) for each event
- Peak flow rate and peaking factor for each event
- Peak RDII flow (Q) rate per event
- Volume RDII (V) per event
- RDII capture (Q vs. I)
- Normalized peak RDII Q and V (gpd/LF)
- Temperature analysis of non-wastewater flows

We will analyze all data collected to calculate average daily flows, peak flows, and I&I from each basin. Wet weather and dry weather flow patterns will be established and peak, minimum, and average flow rates will be calculated for each basin flow element: base infiltration, base sewage flow, and RDII.

Analysis of the flow hydrographs described above will provide insight into the sources of RDII in each basin. Different sources of RDII have different flow signatures. The hydrograph for each basin can be used to identify the types of inflow and infiltration impacted a meter basin.

The hydrographs and the data tables will be presented as Excel spreadsheets and GIS figures, which will be used to



report the findings and based on the amount and source(s) of RDII entering the basin.

Task 1 Deliverables and Workshops

1. Data Analysis for each of 8 meter basins – PowerPoint
 - a. SSOAP statistics
 - b. Hydrograph analysis
 - c. Scattergraph analysis
 - d. Prioritization recommendations
 - e. SSES recommendations
2. Flow Data analyses workshop

TASK 2 – SSES SEWER INVESTIGATIONS IN TARGETED AREAS

While Task 1 identifies the nature and extent of I&I impacting the 8 meter basins, successful source reduction efforts require the accurate location of the source. There are 8 kinds of I&I. Each impacts the flow with different peaking factors and durations. These are:

1. Baseline infiltration
2. Seasonal infiltration (which includes king tide circumstances)
3. Rainfall induced infiltration
4. Private-side Infiltration
5. Direct connection inflow
6. Sheet flow inflow
7. Ponding/Flooding inflow
8. Private-side inflow

We need to know exactly what kinds of leakage are coming in where. For this, we use various techniques for locating leakage, depending on what the Task 1 flow meter data analyses reveal.

TECHNIQUE	I&I SOURCE TYPE	OBJECTIVE
Flow Depth Sensors	- Surrogate for micrometering - Characterizes different types of I&I	Narrows down meter data to cost effective rehab areas Focusses SSES techniques
Night-time Weiring	- Rainfall induced infiltration (RII) - Seasonally high groundwater infiltration	Locate mains, taps, laterals, or manholes at subdivision level or less impacted by seasonally high groundwater infiltration and by rainfall induced infiltration
Smoke Testing	Inflow	Locate roof drain connections, directly connected storm and area drains, or badly leaking connectivity between storm and sanitary sewer pipe trenches

TECHNIQUE	I&I SOURCE TYPE	OBJECTIVE
Basement Inspections	- Delayed inflow - Delayed RII with extended tail	Locate properties with cross-connected sump pumps, puncture floor drains, or area drains
Property outside inspections	Inflow	Locate clipped cleanouts acting as area drains and true area drains in driveways or exterior basement stairwells, roof drains discharging underground with no apparent discharge point
Manhole inspections	- Primarily Inflow - RII	Locate manholes within puddling or floodplain expansion areas whose frames-covers-chimneys and inflow dishes are not watertight, and pipe penetration leakage
Storm sewer dye flood testing	Rainfall Induce Infiltration from crossing or parallel storm sewers	Locate leaking storm sewers in near direct communication with sanitary sewers
Wet ground CCTV	- Baseline, seasonal, and rainfall induced infiltration - Sump pumps, punctured basement drains, foundation drains	Locate mains and laterals that suffer infiltration
Joint Air Testing	Baseline, seasonal, and rainfall induced infiltration in sewers too large to weir	Locate mains and laterals that suffer infiltration. Defines loss of bedding fines in surcharged pipes

Based on the recommendations in Task 1, Arcadis will prepare workplans and conduct SSES investigations to locate the actual sources of I&I leakage. For the purposes of this scope and budget, Arcadis assumes the 4 weeks of field investigation SSES work and recommends allocating \$160,000 to this work.

Task 2 Deliverables and Workshops

1. SSES Workplans
2. SSES Maps and Summary of Findings tables
3. Recommendations for rehabilitation, including estimates for reductions in I&I and design-construction cost estimates
4. SSES scope and workplan review workshop
5. SSES findings and recommendation for rehab workshop

TASK 3 – PHYSICAL CONDITION ASSESSMENT (PCA) AND BASIS OF REHABILITATION (BOR)

Pipe segments prioritized in Task 2 for rehabilitation will need to be visually inspected to determine what structural defects are present, where chemical root control is required ahead of construction, and tap and lower lateral construction attributes/condition, all with the goal of identifying the most

appropriate rehabilitation technique(s) to apply to each sewer segment. For the purposes of this scope and budget, Arcadis assumes four miles of sewer (~100 segments) will be prioritized for rehabilitation, undergo CCTV inspection conducted by Sussex County Crews at no cost, and recommends allocating \$40,000 to this work.

Task 3 Deliverables and Workshops

1. CCTV Maps
2. CCTV Pay Item Progress Trackers
3. CCTV Sequence Tracker
4. CCTV PACP inspection reports, videos, and databases
5. PCA GIS figures showing significant defects, taps, length of pipe, pipe joint spacing, and pipe material
6. BOR tables with costs
7. Chemical root treatment (CRT) tables with costs
8. GIS figures for CRT
9. BOR tables chunked to recommended contracts with estimated construction costs and construction schedules, set up to be readily converted into Sequence Trackers and Pay Item Progress Trackers
10. BOR GIS figures showing chunked contract work
11. PCA BOR findings and recommendations workshop

TASK 4 – REHABILITATION DESIGN

The remedial measures for I&I reduction identified in Task 3 will include a variety of trenchless rehabilitation techniques, selected based on each individual sewer segment's specific defects as found during the pre-rehabilitation CCTV investigation. Technologies likely needed in the design packages will be cured in place mainline lining, mainline joint packer injection grouting, lateral tap and riser grouting, heavy cleaning and root removal, root removal from lateral tap connections via mainline access, and cured in place point repairs. For the purposes of this scope and budget, Arcadis assumed four miles of sewer (~100 segments) will be included in the rehabilitation design and recommends allocating \$95,000 to this work.

Task 4 Deliverables and Workshops

1. Technical Specifications
2. Measurement and Payment Specification
3. Bid Form
4. Front End Documents
5. Construction Plans
6. Construction Cost Estimate
7. Construction Schedule (contract time)
8. 50% design review workshop
9. 90% design review workshop

TASK 5 – ADDITIONAL FLOW MONITORING LOCATION DETERMINATION

Based on the findings of the work in Task 1 and of the previously conducted evaluation of pump station magmeter data, Arcadis will recommend additional meter basins for temporary flow metering to identify additional areas of high I&I with the goal of locating and removing I&I sources.

Task 5 Deliverables and Workshops

1. Recommended metering sites and durations

TASK PM – PROJECT MANAGEMENT AND MEETINGS

During this work, Arcadis will prepare for and lead meetings with Sussex County staff. For the purposes of this scope and budget, we have assumed bimonthly status meetings. This task will also account for project management costs. This task will also account for scoping and budgeting the next phase of asset management program development and implementation.

BUDGET ESTIMATE

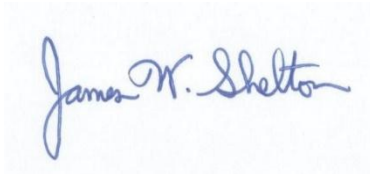
We estimate the cost and level of effort of this work as shown in the table below. Travel/subsistence costs are included in expenses.

Task		Total Hours	Expenses	Subs	Estimated Budget
1	2026 Meter Data Analyses	108	\$ 400	\$ -	\$ 29,000
2	SSES Sewer Investigations In Targeted Areas	700	\$ 22,700	\$ -	\$ 160,000
3	PCABOR	115	\$ 400	\$ -	\$ 30,000
4	Rehabilitation Design	337	\$ 10,500	\$ -	\$ 95,000
5	Additional Flow Monitoring Location Determination	36	\$ -	\$ -	\$ 10,000
PM	Project Management and Program Meetings	111	\$ 1,100	\$ -	\$ 25,000
Total		1407	\$ 35,100	\$ -	\$ 349,000

We propose to complete these services on a time and materials basis in accordance with the Agreement between Sussex County and Arcadis and the attached Summary of Standard Charges for Sussex County. Arcadis will track the costs associated with this work and report them to Sussex County monthly throughout the project; we will not exceed the authorized budget without written professional services authorization from Sussex County. Payment for services will be based upon the actual labor and expenses incurred. Invoicing will be completed monthly. The invoice will include the defined contract tasks listing the day-by-day personnel performing the task with hourly rate and hours worked. Travel/subsistence costs will be billed as additional actual expenses. The invoice will provide total billed for month. Support documents will be provided if there are any expenses incurred.

Please contact me with your authorization to proceed if this scope and budget are acceptable to you. If you have any questions, please do not hesitate to call me.

Arcadis U.S., Inc.

A handwritten signature in blue ink that reads 'James W. Shelton'.

James W. Shelton, PE
National Practice Leader
Pipeline Assessment, Design, and Construction

Cc: Dan Cooper

Copies:

ENGINEERING DEPARTMENT

MIKE HARMER, P.E.
SUSSEX COUNTY ENGINEER

(302) 855-7370 T
(302) 854-5391 F
mike.harmer@sussexcountype.gov



Sussex County

DELAWARE
sussexcountype.gov

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: Mike Harmer, P.E., County Engineer

RE: ***Sussex County Wastewater Long Range Planning Study***
A. Johnson, Mirmiran & Thompson – Amendment No. 8

DATE: July 28, 2026

On May 14, 2024, County Council awarded a five (5) year base contract for miscellaneous engineering services to Davis, Bowen & Friedel, Inc. (DBF), George, Miles & Buhr (GMB), Johnson, Mirmiran & Thompson, Inc. (JMT) and Arcadis U.S., Inc. following a publicly advertised, competitive Request for Proposal process in accordance the County's professional services procurement requirements.

The Sussex County Engineering Department has requested JMT to develop a wastewater long range planning study to ensure the existing system is well-maintained and future accommodations for growth are accounted for. In general, JMT's scope includes:

1. Creating a work plan identifying tasks included in the scope of work.
2. Review information and data pertaining to locate current structures and operational information regarding County facilities to evaluate system and operational challenges.
3. Compile the system inventory and baseline documentation to document how the collection, pumping, conveyance, treatment and disposal elements function together across regional service territories and determine flow projections, evaluation of hydraulics, regionalization opportunities and implementation planning.
4. Identify constraints, proposed upgrades and redundancies in the system.

JMT will utilize the information obtained to identify alternatives and recommendations for the wastewater system to develop a strategy to include a consistent maintenance schedule, capital improvement planning, and treatment plant improvements to the existing sewer system.

The Sussex County Engineering Department requests Council approval of JMT's Amendment No. 8 in the amount of \$394,040.00 to complete a wastewater long range planning study.



This is **EXHIBIT K**, consisting of 8 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated **July 1, 2024**.

AMENDMENT TO OWNER-ENGINEER AGREEMENT **Amendment No. 8**

The Effective Date of this Amendment is: July 28, 2026

Background Data

Effective Date of Owner-Engineer Agreement: **July 1, 2024**

Owner: **Sussex County**

Engineer: **Johnson, Mirmiran & Thompson, Inc.**

Project: **Sussex County Wastewater Long Range Planning Study**

Nature of Amendment:

- ☒ Additional Services to be performed by Engineer
- ☒ Modifications to services of Engineer
- ☐ Modifications to responsibilities of Owner
- ☒ Modifications of payment to Engineer
- ☒ Modifications to time(s) for rendering services
- ☐ Modifications to other terms and conditions of the Agreement

Description of Modifications:

This Amendment includes modifications to Exhibit A – Engineer’s Services, to include work per JMT Proposal dated March 24, 2026, and the selection and use of Exhibit C, Compensation Packet AS-1, for Standard Hourly Rates.

Agreement Summary:

Original agreement amount:	\$ <u>0.00</u>
Net change for prior amendments:	\$ <u>1,617,465.00</u>
This amendment amount:	\$ <u>394,040.00</u>
Adjusted Agreement amount:	\$ <u>2,011,505.00</u>

Change in time for services (days or date, as applicable):

The foregoing Agreement Summary is for reference only and does not alter the terms of the Agreement, including those set forth in Exhibit C.

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment. All provisions of the Agreement not modified by this or previous Amendments remain in effect.

OWNER:

ENGINEER:

Johnson, Mirmiran & Thompson, Inc.

By: _____
Print
name: _____

By: _____
Print
name: David DuPlessis

Title: _____

Title: Senior Vice President

Date Signed: _____

Date Signed: 7/20/2026 | 8:09:42 AM PDT

PREVIOUSLY APPROVED FORM



SCOPE OF SERVICES

Sussex County Engineering Department Delaware

Sussex County Wastewater Long Range Planning Study

JMT has been contracted by the Sussex County Engineering Department (County) to perform various miscellaneous engineering services such as planning, evaluation, design, construction management, and inspection under an on-call task order agreement executed in August of 2024. JMT's services will provide an approach that assures open communications and demonstrates JMT's commitment to a team approach. The services performed under this contract may vary based on the needs of the County and services outlined in JMT's proposal submission.

All work under this Task Proposal shall be performed in accordance with Request For Proposal (RFP) 24-17.

SCOPE PHASES

Sussex County is requesting JMT to lead the development of a Wastewater Long Range Planning Study (Study) to provide the County with an actionable roadmap for maintaining levels of service, accommodating growth, and capital improvement programming for conveyance, pumping station, and treatment plant improvements across the County's existing sanitary sewer system and proposed growth areas.

The Study will evaluate the sanitary sewer system from the upper reaches of the gravity collection system to pumping stations, force mains, and through wastewater treatment, disposal, and disposal management, using planning-level analysis focused on growth, regionalization, operational flexibility, and regulatory requirements. Any modeling efforts required will be completed after this Study is complete and will be conducted by JMT under our separate modeling task order. To complete the scope of work for this study, we have divided our proposal into the following tasks:

- Task 1 – Project Management and Coordination
- Task 2 – System Inventory & Baseline Documentation
- Task 3 – Flow Analysis & Growth Projections
- Task 4 – Conveyance and Pumping Station Capacity Evaluation
- Task 5 – Wastewater Treatment Plant Capacity (EDU's) & Disposal Evaluation
- Task 6 – Alternatives Analysis & Recommended Implementation Strategy
- Task 7 – Final Report & Presentations

SCOPE OF CONSULTANT SERVICES

1. PROJECT ADMINISTRATION

JMT will operate in coordination with, and report to the County's Project Manager. The County's Project Manager for this assignment is John Ashman and will communicate any change in Project Management to JMT in writing. JMT designates Christopher Brendza, P.E., as its Project Manager, and will communicate any change in Project Management to the County. JMT will develop a work plan, master schedule, project budget, prepare progress reports, organize and attend meetings.



- A. Work Plan - JMT will prepare an internal project work plan that identifies the tasks included in the scope of work and provide a management and tracking tool to facilitate work effort planning, scope control, project communication, and progress tracking.
- B. Schedule - JMT will prepare and periodically update a project schedule identifying the major project tasks and critical dates. The critical path through project completion will be identified and revised with each update. The schedule will also include periodic progress meetings and deliverable submittal dates.
- C. Project Initiation (Kickoff) Meeting - JMT will prepare an agenda for a project initiation meeting to be attended by key County and JMT project personnel and will submit the agenda for County input and concurrence. JMT will conduct the meeting at County offices and will keep a written record of the meeting. JMT will produce and circulate a formal record of the meeting. The meeting will establish communication contacts and procedures. JMT will conduct periodic project progress meetings at the project milestones identified in the schedule.
- D. Communication & Reporting - JMT will maintain regular communication with the County's Project Manager. Communication will include regular telephone updates, as-required email communications, written monthly progress reports to be submitted with JMT's monthly invoices, and other progress reporting as provided in the schedule.

2. CONTRACT ADMINISTRATION

- A. Subsequent Scope Preparation - JMT will assist the County in preparing and planning subsequent scope of services for additional Phases or Tasks as deemed necessary by the County.
- B. Invoice and Payment - JMT will prepare and submit invoices and change orders to the County for review and approval via email.
- C. Public Disclosure - JMT will not provide information to the public except when authorized by the County.

3. INFORMATION & FIELD ASSISTANCE

- A. The County will furnish and provide data and information at their disposal to aid in the execution of the tasks described in subsequent parts of this proposal. The following items may require the County's support:
 - 1. Assistance in locating, accessing, and opening structures to facilitate work identified herein.
 - 2. As-builts, design documents, and any other pertinent information and documents related to the Study.
 - 3. Operating pumping stations to complete draw-down tests to validate flow rates for stations with limited design information.
 - 4. Provide operational information related to the County's facilities.
 - 5. Share information related to known pinch points in the system or operational challenges in the collection, conveyance, and treatment facilities.

4. JMT FIELD ACTIVITY

- A. JMT will notify the County if:
 - 1. Any dangers or obstacles not anticipated are observed during the field activity.

Any residents that object to or have strong negative opinions to JMT completing our field work and design activities.

5. SCOPE OF SERVICES

The following scope of services is based upon the conversations held between JMT and the County in the Winter of 2026. We understand that the Study's goals and objectives are to provide the County's Engineering department with planning level information related to capacity constraints, recommended improvements, project implementation phasing, and cost estimates for improvements. JMT will work alongside the County's Engineering, Planning, Environmental Services, and Leadership teams to develop a clear, concise and actionable long range wastewater plan that will enable the County to provide reliable, cost-effective wastewater service to its current and future residents. The descriptions of the tasks outline our approach to the Study based upon our project understanding. However, JMT understands that as the Study progresses at the discretion of the County, JMT may reallocate resources within the agreed upon budget from one task to another based upon findings and observations during the Study phase.

A. Task 1 – Project Management and Coordination

JMT will provide proactive project leadership to keep the Study on schedule, coordinated, and decision-ready for the County's project management and leadership teams. We will establish clear communication protocols, perform timely and effective progress meetings and apply structured quality control to the technical findings.

Up to twelve progress meetings will be conducted with key members of both the JMT and County team to review progress of tasks, track action items, document decision points, and update the project schedule. Meeting agenda items will be distributed to the meeting attendees in advance of each meeting with clear meeting minutes and action items provided in a timely manner.

B. Task 2 – System Inventory & Baseline Documentation

JMT will compile, review, and categorize available County records into a baseline of the County's wastewater system. This baseline will document how the collection, pumping, conveyance, treatment, and disposal elements function together across regional service territories, providing the foundation for flow projections, capacity evaluations, regionalization, and implementation planning.

Key components of the system inventory and baseline documentation task include the following:

- Collection and review of available GIS, record drawings/as-builts, Operation and Maintenance summaries, flow data, and existing permits.
- Integration of the Unified Sanitary Sewer Districts into boundaries and legacy district references into Study mapping for analysis.
- Identification of data gaps that might affect flow projections, capacity evaluations, regionalization, and regulatory constraints.

At the conclusion of this task, JMT will provide the County with a Data Needs and Gap Analysis summary memorandum along with mapping exhibits that include service territories, major critical sewer facilities, and data gaps within the GIS database.

C. Task 3 – Flow Analysis and Growth Projections

JMT will utilize projected flows provided by the County for approved and pending developments and along with the County's build out analysis and integrate this information into the mapping

system developed under Task 2. Demand forecasts will be organized by planning area and service territory to support facility-specific capacity checks to identify growth triggers that might require capital improvements and operational changes.

At the conclusion of this task, JMT will provide the County with updated mapping that includes the flow projections and the impact this growth will have on the wastewater system as it travels from the point of origin through the collection and conveyance system to its ultimate treatment and disposal. This mapping will also serve as the baseline for regionalization and phasing improvements in major components of the wastewater system.

D. Task 4 – Conveyance and Pumping Station Capacity Evaluation

At a planning level, JMT will evaluate whether the County's pumping and conveyance systems (gravity mains 12-inches and larger) can reliably convey actual and projected flows to the appropriate treatment and disposal destinations. This evaluation will focus on capacity constraints, redundancy considerations, and operational flexibility which includes manifold and valving configurations and routing options that may enable flow balancing or emergency diversion without major new infrastructure improvements.

A high-level review of all pumping stations for capacity at a planning level (rated vs. actual vs. required) will be completed to identify which stations will require large upgrades, rather than scheduled maintenance and upkeep. Regionalization will be incorporated as well to identify any areas where stations can be removed from the system to reduce the County's long-term operation and maintenance needs.

A short summary memorandum along with constraint and routing maps will be submitted to the County at the completion of this task.

E. Task 5 – Wastewater Treatment Plant Capacity (EDU's) & Disposal Evaluation

Similar to Task 4, JMT will perform a planning level review and analysis of the County's three wastewater treatment facilities to identify constraints that may limit treatment plant capacity and permitted discharge. Each plant will have its own facility specific plan that outlines projected flows against planning level flows and these impacts to the entire treatment train. Enhancements to capacity, resilience, and regulatory feasibility for both treatment and disposal will be considered and organized into a logical comprehensive report.

JMT will spend up to one day at each wastewater treatment plant interviewing staff, documenting major treatment bottlenecks, defects, and identifying capital improvements required to meet both current and future demands as identified in previous tasks.

Disposal of treated wastewater will be analyzed and a major component of the capital improvement implementation plan. JMT will meet with state regulators to determine the permitting requirements, feasibility, timelines, and options for increasing disposal options at each of the County's four wastewater treatment plants.

F. Task 6 – Alternatives Analysis & Recommended Implementation Strategy

JMT will utilize the information obtained in the previous tasks into a set of implementable alternatives and recommendations for each component of the wastewater system while also incorporating the larger County wide perspective for regionalization.



The recommendations outlined in the alternatives analysis will then be used to develop a recommended strategy into a phased implementation plan that aligns with the County’s budgeting and delivery constraints. The implementation plan will prioritize projects by timing and benefit, define logical sequencing and dependencies, and provide cost ranges and triggers to support capital improvement programming and policy decisions.

G. Task 7 - Final Report & Presentations

In the form of a technical report, JMT will document the planning process, findings, and recommendations from Tasks 1 through 6 in a clear, decision-focused report supported by concise exhibits, data, and implementation phasing.

At the discretion of the County, JMT will also provide presentations tailored to County Engineering and Executive leadership to explain the recommended investment requirements, phasing, and regulatory impacts to the Study.

6. COST

The fee for this Proposal is as follows:

Task 1: Project Management and Coordination	\$28,410
Task 2: System Inventory & Baseline Documentation.....	\$58,860
Task 3: Flow Analysis & Growth Projections.....	\$60,720
Task 4: Conveyance and Pumping Station Capacity Evaluation	\$59,640
Task 5: Wastewater Treatment Capacity (EDU’s) & Disposal Evaluation	\$75,890
Task 6: Alternatives Analysis & Recommended Implementation Strategy	\$56,200
Task 7: Final Report & Presentations.....	<u>\$54,320</u>
Project Total:	\$ 394,040

7. SCHEDULE

Within two weeks of the Notice to Proceed, JMT will provide a fully detailed schedule that outlines the tasks associated with this project, and major deliverables. We have assumed that we will receive a Notice to Proceed no later than July 1, 2026 and will complete Tasks 1 through 6 no later than March 1, 2027. Between March 15, 2027 and June 1, 2027, JMT will meet with the County to review our recommendations and report. During this time the report will be updated to reflect revisions from the County before finalization.

8. ASSUMPTIONS

The following assumptions were made in the development of this scope and fee estimate. Should these assumptions not be correct, JMT may request a change in scope and budget to allow for creating or locating the information.

- Sussex County will provide available system data in a timely manner (GIS, record drawings/as-builts, flow record pumping station inventories, WWTP capacities, permits, etc.)
- Sussex County will provide JMT the approved, pending, and any assumed connections to the system along with anticipated tie-in locations.

- All analyses are planning level and will rely on available data and reasonable engineering assumptions where data gaps exist.
- Class 4 AACE cost estimates will be developed for proposed projects and improvements.
- No physical or detailed condition assessment of infrastructure assets, including remaining service life determinations, structural/mechanical condition scoring, or asset management condition grading.
- Recommendations for improvements will be based solely on capacity impacts and not routine maintenance or life-cycle estimations for replacement.
- The study will incorporate and utilize current regulations and standards.
- Piney Neck Wastewater Treatment Plant will be decommissioned and is not being considered as part of this Study.

9. **EXCLUSIONS**

The following is a list of exclusions for this assignment. If any of these exclusions are requested by the County or become required by the project, JMT may request additional budget to complete that work:

- Design work of any kind.
- Funding analysis, rate reviews, or any type of financial analysis or affordability studies.
- Public meetings. Presentations will be limited to Engineering and County leadership without public input or involvement.
- Field testing, inspections, or investigative services (CCTV, smoke/dye testing, manhole inspections, pumping station inspections, drawdown testing, etc.)
- Flow metering, surveying, or conceptual plans.
- Hydraulic modeling of any kind.
- Easement acquisition, right-of-way services, appraisals, or legal services.
- Projection of development timing for connection to the system.
- Future permitting requirements.

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: ***Paramedic Station 101, Project C21-15***
A. Use of Contingency Items

DATE: July 27, 2026

The new Paramedic Station 101 was programmed to replace the current EMS station which is co-located with the Lincoln Community Center on East Washington Street in Lincoln, and to support the new station a 2.5-acre parcel of land was subdivided from a larger parcel owned by the Lincoln City Fire Department and acquired by the County in February 2022. An Agreement was subsequently executed with the Fire Department to allow shared-use of existing on-site utilities as needed to support functionality of the new EMS facility.

In coordination with the EMS Team, our Design Consultant George, Miles and Buhr, Inc. (GMB) spearheaded the development of a Building Prototype for new EMS stations, in part based on the building layout that was implemented for the Seaford Station (Medic 200) completed in 2022 and subsequently refined based on the Millsboro Station (Medic 103) completed in 2025. The Building Prototype was adapted to fit the Lincoln site which has several unique site constraints, and the detailed design phase was initiated in Fall 2025.

Final bidding documents were subsequently developed and the project was advertised for public bid on March 24, 2026, and on April 24, 2026 a total of six (6) bids were received. The lowest bid price was submitted by Infinity Construction & Development, however based on full bid evaluation, it was determined that the lowest responsive and responsible bid was submitted by The Whayland Company. Based on the recommendation of the Engineering Department, Council awarded the project on May 12, 2026 to The Whayland Company for the Base Bid amount of \$2,208,000.00.

Since the start of construction, an area of unsuitable soil conditions has been encountered that necessitates the use of two (2) of the Site Contingent Items that were included as part of Bid Schedule C, specifically Removal of Unsuitable Materials Below Subgrade (Item C1) and Furnish and Place Select Backfill (Item C2). Since project award was made based on the Lump



Sum Bid Price only, a change order is necessary to allow the use of the Site Contingent Items. Therefore, the **Engineering Department recommends approval of Change Order No. 1 in the amount \$17,358.00 which will allow use of the Site Contingent Items, at the sole direction of the County Project Manager and/or Resident Project Representative overseeing project construction.**



***SUSSEX COUNTY
CHANGE ORDER REQUEST***

A. ADMINISTRATIVE:

1. Project Name: **Lincoln Paramedic Station 101**
2. Sussex County Project No. C21-15
3. Change Order No. 1
4. Date Change Order Initiated - 7/28/26
5.
 - a. Original Contract Sum \$2,208,000.00
 - b. Net Change by Previous Change Orders \$ 0
 - c. Contract Sum Prior to Current Change Order \$2,208,000.00
 - d. Requested Change \$17,358.00
 - e. Net Change (No. of days)
 - f. New Contract Amount \$2,225,358.00
6. Contact Person: Mark Parker, P.E.
Telephone No. (302) 855-7382

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:

Inclusion of unit price contingency items. (Bid Items C1-C5)

D. JUSTIFICATION FOR CHANGE ORDER INCLUDED?

Yes ☒ No ☐

E. APPROVALS

1. The Whayland Company, Contractor

Signature Date

Representative's Name in Block Letters

2. Sussex County Assistant Engineer

Signature Date

3. Sussex County Council President

Signature Date

DIVISION 00 – PROCUREMENT AND CONTRACTING REQUIREMENTS

SECTION 00 41 13

BID FORM

TO:

SUSSEX COUNTY ENGINEERING
DEPARTMENT
2 THE CIRCLE
GEORGETOWN, DELAWARE 19947

RE: SITE ADDRESS
LINCOLN PARAMEDIC STATION
101
8737 N. OLD STATE ROAD
LINCOLN, DELAWARE

I have received the construction documents titled LINCOLN PARAMEDIC STATION 101. I have also received Addenda Nos. 1 & 2, and have included their provisions in this Proposal. I have examined both the documents and the site and submit the following bid.

In submitting this bid, I agree:

1. To hold my bid open until 90 days after bids are opened.
2. To enter into and execute a Contract, if awarded on the basis of this bid, and to furnish Performance and Labor and Material Payment Bonds in accord with the Supplementary Instructions to AIA Document A701.
3. To accomplish the work in accord with the Contract Documents.
4. To substantially complete all specified work as certified in writing by the owner and/or architect within 300 calendar days following receipt of issuance of Notice to Proceed.
5. Bidder agrees to pay a penalty of **Five Hundred Dollar (\$500.00) per calendar day in Liquidated Damages** for not substantially completing the work within the specified timeframe.
6. Substantial Completion is defined as the project being completed to a level to enable the owner to take occupancy or otherwise enjoy full functional use of the improvements.

SCHEDULE A - LUMP SUM BID PRICE

I will construct this project for the lump sum price of:

Two million two hundred Eight thousand Dollars (\$ 2,208,000.00)

Included within the lump sum price is \$ 18,600.00 for the full payment & performance

bond premium.

I include a copy of my current Delaware Contractor's license, Delaware Registration Act Certificate and other local licenses if applicable, with my bid.

I include an executed copy of AIA Document A305 "Contractor's Qualification Statement" with my bid.

I include the required Bid Security with my bid.

SCHEDULE B - BID ALTERNATES

None.

SCHEDULE C - UNIT PRICES BID – SITE CONTINGENT ITEMS

CONTINGENT ITEMS: The following items will be utilized to account for changes in work scope from that indicated in the Project Manual and/or unforeseen conditions related to Site Work, subject to **advance authorization of the Engineer/Owner.** Contingent Item pricing shall not be included in the Lump Sum Bid Price in Schedule A.

Item No.	Description	Unit	Estimated Quantity	Unit price	Total Price
C1	Removal of Unsuitable Material Below Subgrade and/or Utility Trench	CY	100	\$57.75	\$5,775.00
C2	Furnish and Place No. 57 Stone	CY	50	\$94.60	\$4,730.00
C3	Furnish and Place Select Backfill ("Type C" Borrow)	CY	50	\$53.46	\$2,673.00
C4	Miscellaneous Excavation and Backfill	CY	50	\$39.60	\$1,980.00
C5	Furnish and Place Portland Cement Concrete (4,500 PSI) for Misc. Use	CY	10	\$220.00	\$2,200.00
TOTAL SITE CONTINGENT ITEMS					\$17,358.00

SUBCONTRACTORS

The undersigned BIDDER proposes to use the following named SUBCONTRACTORS. County to be made aware of who the 3rd tier subcontractors are and what percentage of work will be performed by the 3rd tier subcontractors. They will be subject to the same drug testing requirements and other pertinent contract requirements.:

SITE WORK: Lynn Construction

PAVING: Lynn Construction

STRIPING: Lynn Construction

TRAFFIC CONTROL: Lynn Construction

LANDSCAPING: Natural Concepts Landscaping

UTILITIES: Lynn Construction

CONCRETE: Harkins Concrete Construction

CARPENTRY: The Whayland Company, LLC

FRAMING: The Whayland Company, LLC

DOORS: The Whayland Company, LLC

FLOORING: Value Carpet One

PAINTING Gingell Painting

EPOXY FLOORING Floor Coatings, Etc.

CABINETRY OR FINISH CARPENTRY: Cabinetry Unlimited

WINDOWS: The Whayland Company, LLC

BLINDS & SHADES: Goodwin Brothers

DRYWALL: C & C Drywall

ROOFING: Rising Sun Contractors

HVAC: Crystal Clear Mechanical

ELECTRICAL: Filec Electrical Services

PLUMBING: Atlantic Refrigeration

SPRINKLER: Bear Industries, Inc.

The following Corporation is chartered in the State of Delaware.

Witness

CORPORATE SEAL

April 29, 2026

Date



Signature

President

Title

The Whayland Company, LLC

Firm Name

100 West 10th Street

Laurel, DE 19956

Business Address

2013601100

Delaware Contractor's License #

END OF SECTION



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: July 21, 2026

RE: County Council Report for Ord 26-05 Forest Preservation Ordinance

On April 21, 2026, the Sussex County Council introduced an Ordinance to consider a potential revision of Chapter 115 of the Code of Sussex County in relation to forest preservation and tree planting requirements.

The Planning & Zoning Commission held a Public Hearing on the application on June 3, 2026. At the meeting of June 17, 2026, the Planning & Zoning Commission recommended approval of the Ordinance for the 6 reasons as outlined within the motion (copied below). The Commission's motion also included recommendations as to additional matters that the County Council may wish to consider.

On July 14, 2026, the County Council held a Public Hearing on the Ordinance. At the conclusion of the public hearing, the Council closed the Public Record and deferred action on the Ordinance for further consideration.

Below are the minutes from the Planning & Zoning Commission meeting on June 6, 2026, and June 17, 2026.

Minutes of the June 3, 2026, Planning & Zoning Commission Meeting

ORD 26-05

AN ORDINANCE TO AMEND CHAPTER 99, ARTICLE I, III AND V §99-5 "DEFINITIONS", §99-21A "PERIMETER BUFFERS" AND §99-26 "INFORMATION TO BE SHOWN" AND CHAPTER 115, ARTICLES I, XXV AND XXVIII §115-4 "DEFINITIONS AND WORD USAGE" AND §115-221 "FINAL SITE PLAN REQUIREMENTS" AND BY



ADDING NEW §§115-194.8 “FOREST PRESERVATION” AND 115-194.9 “TREE PLANTING REQUIREMENTS”.

Mr. Robertson stated that for the benefit of the Commission, they had a PowerPoint presentation; that this was a continuation of the Land Use Working Group’s recommendation; that this one followed Recommendation No. 13 which called for forest preservation; that it was recommended by all 10 working group members; that of all 20 of the recommendations, this was the one that came the closest to being drafted in ordinance form; that all of them were aspirational; that several of them were more specific than others; that this one was in a form that was close to Code based; that they took that, and had a conversation with the State Forester, Mr. Kyle Hoyd, whom they had requested to attend the public hearing, however, was unable to attend the meeting; that Mr. Hoyd was involved in the drafting, ensuring the language, requirements and terminology were right; that it was very helpful to have independent expert assistance on the Ordinance; that there are eight sections to the Ordinance; that the first 13 to 14 pages of the Ordinance were suggesting changes in terminology for consistency; that similar to Chapter 99-5, they added new definitions; that §99-21.A had to do with perimeter buffers; that it did not change perimeter buffers; that it changed some of the words so that they matched; that the State Forester had helped with most of the terminology; that it was the same situation for §99-26 for Preliminary or Final Plat requirements; that they added language for consistency with the other new language; that §115-4 was the Definition section of the Zoning Code; that they added definitions in that section; that the new part of the Ordinance was contained in Section 5, which created a new Forest Preservation requirements; that Section 6 created new tree planting requirements; that Section 7 dealt with language making it all work, concerning the Final Site Plan requirements; that the Ordinance is about 20 pages in length; that the first 13 to 14 pages only provide a word change here and there; that the bulk of the Ordinance was reflected on the three to four pages toward the end of the Ordinance; that the suggestions were underlined in italics and reflected in green; that there were new definitions; that these were started in large part with the Working Group; that they were modified and clarified with industry standards by cooperation with the State Forester; that the new definitions were for “Forest”, “Forest Cover”, “Forest Stand Delineation” and “Forest Preservation”; that in large part, the definitions replace current definitions in the Code for Forest Assessment and Forest Assessment Report, particularly the Forest Stand Delineation; that the definitions were more specific than what was currently in the Code for Forest Assessment; that Forest Preservation in all residential development, where there is a forest currently, would be required to perform a Forest Stand Delineation to assess the forest condition on the site; that this is a defined term; that it is a plan and narrative report that identifies the existing forest cover, vegetation, and environmental features on a proposed development site; that the minimum protection for existing forest, when in a Growth Area, 30% of the pre-existing forest must be preserved; that when located within a Rural Area according to the Future Land Use Map, 50% of the pre-existing forest on the site must be preserved; that those 30% and 50% percentages were determined, condoned, authorized, approved and recommended by the Land Use Working Group; that there were priority area for where this should be located, and those are trees, shrubs, and plants located in a 100 Year Floodplain, perennial Non-Tidal rivers, streams and their buffers; that more importantly, because those are also covered elsewhere within the Code, there was a desire to have that preservation area occur contiguous to large, undeveloped tracks or forests within the site; that this would ensure that there were no isolated forest that either tied to off site forests or large tracks on the site; that with a total 40 acre property, with 10 currently forested acres, located within the Growth Area of the Future Land Use Map, would require 30% of the existing forest, not to be confused with 30% of the entire site; that the perimeter buffer is not counted towards the 30% of the forest being preserved; that there was a

reason for that; that if the perimeter buffer counted towards the forest preservation, one would be able to retain the forest along the perimeter; that with the forest mitigation they were getting to, one would be planting the perimeter buffer that was required to be planted anyway; that one would end up with the result being that the forest that are attempting to be preserved, being removed, because one would be attempting to comply with their perimeter buffer standards; that there was no point in the Ordinance if the perimeter buffer was counted, and the reasoning that the 30% and the 50% required to be preserved be considered outside of the perimeter buffer.

Mr. Passwaters questioned whether an existing forest would be saved to create the buffer on a wooded lot.

Mr. Robertson stated that one would have to do that currently anyway; that a developer would have to preserve the existing forest and the perimeter buffer; that they would not gain anything; that for another example, if the perimeter was forested, one could eliminate all the forest that Sussex County were trying to preserve on the site; that one would preserve the forest along the perimeter, which they would be required to retain anyway, and Sussex County would lose everything that they were trying to protect on the site, because all of it would go toward the perimeter buffer, or one could replant the perimeter buffer; that a site where there is no forest along the perimeter buffer, theoretically, would count towards one mitigation, as also stated within the Ordinance; that this would result in all the forest, or a good part of it, being removed, and it undermines the intent of the forest preservation.

Madam Chair Wingate questioned how calculations were formulated when given a larger parcel of 100 acres, containing several sections of forest.

Mr. Robertson stated that the requirement would remain 30% of the total amount of forest on the site; that there is a desire to maintain contiguity, and it would be determined whether portions were being eliminated from each of those forest areas or if one forest area would be retained, while removing the other.

Mr. Collins questioned whether the Ordinance specified a preference for forest to be contiguous, whether multiple stands could be separated, or whether replanting to the existing forest was encouraged.

Mr. Robertson stated Sussex County Code did specify a preference, however it was stated elsewhere, in Chapter 99.

Mr. Pettyjohn stated that he had read that part of invasive species could be removed; that if a large swath of bamboo was preserved but later was proposed to be removed because it is considered invasive, he questioned whether it would become a complicated issue.

Mr. Robertson stated that the area would need to qualify as a forest; that he questioned whether bamboo would qualify as a forest; that an example would be that it would not increase the percentage of forest that one would be required to preserve, in regard to bamboo, and it would not count towards the 30% requirement.

Mr. Pettyjohn questioned whether invasive species could be counted at all as forests.

Mr. Robertson stated that would be defined within the definition of the Forest Stand Delineation, where it talks about the condition, the location, the acreage, the forest species, the composition, and age; that these would be addressed through the Forest Stand Delineation; that within the preservation requirements, it talked about preservation of 30% of the pre-existing forest, and forest as defined as a vegetative community, dominated by trees or other woody plants covering a land area of 10,000 square feet or greater, including land that formerly had forest cover, and will be naturally and artificially regenerated; that the wording was originally provided by the State Forester, who was not present to discuss specifics to tree types; that going further into the Ordinance it stated that the following trees, shrubs, plants, and specific areas were considered a priority for retention and protection, and shall be left in an undisturbed condition; that the Ordinance talked about the trees and shrubs located in the 100 Year Floodplain, but also contiguous forest that connects to the largest undeveloped land, and most vegetated tract; that the Ordinance did not get into the specific tree types; that on the mitigation plan, it talked more about if one were to replant trees, what types of trees should be plant; that there were caliber requirements; that it should create a biological community, dominated by native trees and other woody plants; that it spoke to size, height and other things; that the Ordinance mentioned one would have to plant back if one had to mitigate; that one of the issues the Commission had always ran into was the preservation and protection; that it was one thing to show where the preservation line was on a Site Plan; that it was another thing to make sure that the line stayed put during site work and grading; that there is a requirement in the Ordinance that the existing forest, to be protected, shall be protected using (ANSI) A300 Standards with fencing, staking, and continuous ribbon installation; that this terminology again came from the State Forester; that it is specified that the forest or limited disturbance shall not be cleared, graded, re-graded or grubbed; that there was the ability to mitigate; that if there were the need or intention to remove more than 30%, the desire was to allow that, because there might be site reasons why one would need to do so; that they did not want the Ordinance so rigid that there was not any availability for mitigation; that one can mitigate, but one would have to reforest an area; that within the Growth Area, at least two times the area cleared, in excess of the permitted amount; that within the Rural Area, at least 2.5 times the area cleared; that within a presented example, 30% of the forest equaled three acres to be protected; that should the forest need to be cleared for some reason, the developer would have to mitigate at two times that area; that if a three acre area to be preserved were to be cleared, six acres would be required to be reforested, and that this allows for some flexibility, but does not become so easy.

Madam Chair Wingate questioned how and who would be responsible for keeping track and regulating the proposed requirements.

Mr. Robertson stated that Mr. Whitehouse had a flowchart to present to the Commission that would help address Madam Chair Wingate's concerns; that there was a mitigation plan supplied; that if one were to remove the trees, they would be required to supply a Mitigation Plan to the Planning & Zoning Department, which would include a Planting Schedule; that there would be inspections of that, prior to any permits being issued; that this would include permits for the next phase of any development; that the forest and mitigation areas would be inspected by staff, and have to be free of defects and in good health prior to the Issuance of Substantial Completion, as defined within the Code; that this is used for many things, including grading, sidewalks, and streets; that there would be a Mitigation Plan, along with a bond, or other requirement consistent with the current bonding requirements; that the current bonding requirement is 125% of the planting costs or a minimum of \$50,000, whichever is greater; that these things would be in place to ensure the development is not constructed without any trees, the inability to plant trees, or any damages to the trees which were to be protected; that the Mitigation Plan is proactive part of the Site Plan; that if down the line, the developer, HOA or

homeowner were to damage the areas that were planted or to be protected, they would be required to replant at a rate of two times the area that was improperly damaged or removed; that this would be over and above the mitigation area and/or the original forest area; that additionally, a fine equal to the area damaged multiplied by \$4.356 per square foot would be required; that this fine requirement was based on penalties Sussex County already had in Code with regard to resource buffers and other places; that the fee was calculated a bit differently, but it is the same per square foot price or fine; that if there were damages within a development that was underway, staff would withhold permits until the issue was rectified; that within Recommendation No. 13 of the Working Group was a tree planting requirement for all residential development, including mixed-use; that there were new tree planting standards; that within the Growth Area, there would be one tree per 10,000 square foot of residential, and one tree per 5,000 square foot of non-residential; that within the Rural Area, two trees would be required per 5,000 square foot of residential, and one tree per 3,000 square foot of non-residential; that this could be satisfied by the retention of existing forest, in excess of the forest requirements; that this requirement was more for properties that were fully cleared, requiring trees to be planted back on the property; that there is not a requirement that a forest be replanted; that the replanted trees could be boulevard trees or placed within open space; that much like the Mitigation Plan, a Planting Schedule, inspection and Performance Bond would be required, and would be no different than what Sussex County currently required for Landscape Plans, and with the way the Ordinance was currently drafted, the Ordinance would become effective six months after the Ordinance was approved by the County Council.

Mr. Whitehouse presented to the Commission a flow chart on how the Ordinance was crafted; that it was split into three sections; that the flow chart was designed to follow clockwise; that one would start with the application processes; that from there the flow chart questioned whether the application was for residential or mixed-use residential, does the site contain a forest, was the forest proposed to be disturbed; that depending on the answers, one would follow each step along the way; that depending on the answers, the flow chart would indicate the requirements, or the protocol if requirements were not followed; that the chart process splits depending on whether the site is located within the Growth Area or not; that the chart, in the end, returns to the same section, indicating everything required to get to before the Planning & Zoning Commission; that from a decision the chart then flows into the various steps of implementation, such as what a Planting Schedule must contain, what steps are required for implementation, such as tree protective fencing, staking, and continuous ribbon; that it addresses bonding, releasing of bonds, and violations; that subject to having no violations, once two years have passed from the holding of the bond and planting of trees, the bond may be released, reaching the end of the flow chart.

Mr. Robertson advised the Commission that the flow chart was more of an internal document for the Commission and County Council.

Mr. Pettyjohn stated if one were to own a 100 acre parcel, with 50% of the site being wooded; that possibly a developer were to approach this person regarding potential development; that in the meantime, the person was approached by a logging company, deciding to clear cut, he questioned whether this circumstance would be a work around the proposed requirements, whether there would be a timeline requirement between the developer taking over or would it fall underneath the reforestation requirements, and how Sussex County can protect the future, while also respecting landowner rights.

Mr. Robertson stated that the requirements would be placed subject to the time of the Application submission; that within the definition of forest, it talks about including land that formerly had forest cover, however, there was not a look back period on that specifically; that there are still tree planting requirements; that if one does not have any forest, one will be required to comply with the tree planting requirements; that a landowner or farmer may decide to remove trees for more land, to till or to sell off timber; that if the land is under contract, it would be contingent on getting all approvals; that as a land owner, unless you are under contract, and the contract obligates you to clear-cut trees first, in terms of the timing with the application, there is any number of things that make that not a certainty, and should it happen, staff would consider the time of the application submission.

Mr. Robertson stated that the County has the ability to view properties through Eagle View technology, and staff would know what existed at the time of application submission.

Mr. Collins questioned whether there was a requirement for the Fee Schedule to increase with inflation, or if the amounts were set in the written Ordinance.

Mr. Robertson stated that the amount would be required and set by what was written in Code, and that it was broken down to per square foot as it was easier to do that with forest.

The Commission found that there were five people present who wished to provide comments regarding the Ordinance.

Mr. Eric Whal, registered Landscape Architect with Pennoni and current President of the Delaware Native Plant Society provided comment on the Ordinance. Mr. Whal stated that he writes articles in Letters, being a Camp Rehoboth monthly magazine called *The Dirt*; that he also was a member of the Tree Commission for the City of Milford; that to truly protect the ecological integrity of Delaware's Coastal Plain, the Ordinance must prioritize the physical size, species, composition, and successional age of a forest; that the area of the forest stand is the most critical factor due to the edge effect; that this would be where the edge of the forest stand, approximately 20 to 25 feet, where the most invasive species can occur, because it receives more sunlight, more rainwater, and more nutrients; that the ratio when forest sizes are minimal, such as the 10,000 square feet definition, the ratio with the edge to interior habitat increases; that forest edges are high stress zones, where increased sunlight, wind, and human activity alter the microclimate; that these conditions favor the rapid spread of invasive species, like Multi-flora Rose, Japanese Stilt grass, Chinese Bittersweet, and Bradford Pear; that historically, Southern Delaware's landscapes have seen numerous changes in the last two centuries due to human occupation; that much of the original landscape was cleared in the first half of the 20th century, and the second-half of the 19th century for both agricultural activities, such as orchards, grains for milling and timber harvesting, for the shipbuilding industry found around Milford, Milton, Millsboro, and Millville; that most of the old growth forest were removed during that time period; that a monoculture of fast-growing softwoods, such as Loblolly Pine or a stand dominated by invasive species provides minimal support for the local food web; that a mix of native hardwoods, oaks, and hickories produce or supports hundreds of diverse species of lepidoptera and other insects who form the base of the terrestrial food chain; that the currently proposed changes do not offer specific language on species, rather it is left generic, defining the forest as a vegetated community, dominated by trees and other woody plants, covering a land of 10,000 square feet or greater; that the 10,000 square foot minimum

size for woodlands assumes that the wooded area is healthy, free of invasives, and meets the definition of a mature forest from edge to edge; that under §115-194.8, Forest Preservation, Paragraph B, it stated that perimeter buffer would not count towards the Forest Preservation requirements; that Sussex County was proposing that these area, as well as stormwater facilities, would no longer count towards the open space potentially; that in his opinion, the measure combined would result in a density reduction, without changing the actual Ordinance that provided two dwelling units per acre; that he performs feasibility studies for both developers and for nonprofits for the determination of the land value; that by removing all those areas, it would result in a reduction in the number of units that could be provided, and therefore reduces the value of the property; that under the tree planting requirements of §115-194.9, it states that shade trees installation should be required to be 2.5 inches in caliber; that it is well documented by nursery and landscape literature that planting younger trees, being 1.5 inches or smaller, such as saplings and whips, being more of the reforestation type things they perform, have a much better rate of establishment than planting larger bald and burlapped trees; that this may be due to the impacts of the root zone when using containerized trees versus larger bought and burlapped trees, which are dug at the nurseries and the roots are already under stress; that there had been studies which suggested that planting younger trees, that are containerized, once established, overtake in growth rate a tree that had been planted at 2.5 inches; that he believed the County, State and municipal jurisdictions have a responsibility to look towards the future and properly plan for the vision that the Ordinance is hoping to achieve; that when reviewing from higher elevation, large tracts of woodlands and vegetative cover exist as well as farmland and private property across the State, within the AR-1 (Agricultural Residential) Zoning District; that these areas are considered opportunities to begin to reconnect the green open spaces, including park development and open space in many areas and trails; that the perimeter buffers, resource buffers and other open spaces that are designed with purpose could provide ecological corridors, as well as educational and recreational opportunities; that he had been chosen to work on Symphony Glen; that on the site, there was a historical drainage area that is farmed over, along with two pockets of wetlands; that with their design, they are rehabilitating the natural drainage area, and re-establishing the drainage area to follow through the whole way through the different properties, protecting and preserving what they can; included to that are meadows, which are not discussed in our area; that there is an important ecosystem to include as a transition to establish woodlands, because it also establishes habitat resources for certain species of ground birds, ground nesting birds, pollinator species, and other ecosystem services that are provided by different types of ecosystems; that this can provide eco-tourism also; that trails can provide educational components within communities; that wooded lots are more appealing, and have a higher value when designed.

Mr. Robertson stated that the Commission had heard that there would be unintended consequences of all the grading requirements and questioned whether Mr. Whal was able to get lots close to trees, as he had been told it was required to clear the entire lot to ensure the site drained correctly.

Mr. Whal stated that site grading was an art form too; that when considering development there are different layers of information one must look at, being environmental features, existing grading, and soil properties; that all these things layer on top of each other; that if one can lay out the road system in a way that is more in line with the natural grade, there would be a better chance of saving more trees at the backs of the properties, as it would not require as much grading; that he hoped other developers, engineering teams and County officials are inspired to balance nature and the built

environment; that moving forward, Sussex County will always need more housing, but Sussex County also needs more open green spaces, ecological escapes and ecosystem services; that there are pathways forward that accommodate our necessities of food, water, and shelter with our need for a thriving mother nature, and this is one of those paths.

Mr. Jon Horner, Esq. spoke on behalf of the Home Builders Association of Delaware. Mr. Horner stated that there was two major issues with the proposed Ordinance; that he had submitted a letter expressing his concerns regarding forest preservation and forest cover within the proposed Ordinance; that the definition of forest significantly deviated from the Land Use Reform Working Group's recommendation; that the definition within the Ordinance is a vegetative community dominated by trees and other woody plants, covering a land area of 10,000 square feet or greater, including land that formerly had forest cover, and will naturally or artificially regenerated or will be naturally artificially regenerated; that this definition was incredibly broad; that he questioned what was artificial and could be naturally artificially regenerated; that Mr. Robertson had spoken to areas that would be cleared two weeks before a submitted application; that he questioned what about four weeks, four months, four years or 10 years; that he questioned whether an area, which was reforesting itself, made of saplings, small trees, and invasive species, would be considered a forest; that he questioned where the definition came from; that the definition is problematic; that the recommendation from the Working Group had a minimum of 100 trees per acre with at least half of the trees being a certain caliber at a certain height; that the idea was not looking at just quantitative; that they were looking at qualitative; that they recognized that not forest were created equal and they wanted to focus on mature trees; that regarding the plain language of the Ordinance, he questioned what it would apply to, and what would it not apply to; that the Ordinance is unclear; that regarding invasive species, if he had a 10,000 square foot spot of only invasive species, it would be considered a forest; that the Ordinance was not in alignment; that it was needed to protect mature forests, and forests that had significant ecological value; that they did not need a nebulous definition; that he questioned whether, per the definition of artificially regenerated meant that every piece of dirt in Sussex County could be a forest; that he did not understand how the definition could even be applied; that the Working Group invested significant time considering what a forest was, what was worthy of preservation and saving; that the Working Group agreed that if there were not mature trees, it was not an area they were seeking to protect; that they were seeking to prevent large, mature forests from being removed; that he would fully support a look-back period, rather than the current language regarding regenerated land trees; that the Buffer Ordinance provided a look back period, and he questioned why the current Ordinance could not also; that they do not want people to clear cut trees, in an attempt to avoid the requirement; that they wanted mature trees to be valued and preserved; that the definition required a ton of work, as it was unworkable from a practical point perspective in the land use context; that another issue was the stacking of requirements; that he questioned whether preserved forest would count towards the open space requirements; that the language was not clear; that buffers would not count towards the open space; that he provided an analysis in his submitted letter; that buffers and mature areas should count; that if mature trees are located within a buffer and preserved, the area should absolutely count; that with the stacking requirements, on a non-square parcel or a parcel narrow in the front, going back, the buffers would take a lot more land out of it; that would equal to 35% to 70% of the parcel, depending on the geometry of the parcel; that if we are preserving forest, whether it be as a result of the Forest Preservation Ordinance or a result of the Buffer Ordinance, than we should do so; that the

Buffer Ordinance should go back to the forest definition; that it would recognize that certain forests, and certain trees are more valuable than others; that if Sussex County were to adopt a look back period, they would have to certify that there was no change to the Land Use Plan; that if Sussex County were to do that, there would be significant penalties; that they were previously told as developers, that if they wanted to speed up their process, to obtain a forestry permit, and clear the property; that it would speed up the process and avoid the need for permits later; that now, the rules and regulations have changed, which no longer permit that to be done; that because of this, he was in support of a look back period, only if the definition is right; that if it is not right, and the definition is broad, it will not work; that the Ordinance provided deviations in mitigation ratios and tree planting ratios, from that proposed by the Reform Working Group; that the Land Use Reform Working Group had discussed mitigation fees in lieu, however it was not part of the provided recommendations; that it was something the Home Builders Association felt strongly should be considered; that they want a large continuous tract of woodlands to be preserved permanently; that they did not want disjointed, newly formed woodland tracks which did not offer a lot of ecological value; that when there are mitigation requirements that require on-site mitigation, one would be required to find a spot on the site to plant trees to call a forest; that this would not serve the goal of having large, continuous or large contiguous tracks of mature forests; that the Land Use Working Group had proposed a mitigation fee in lieu; that if one were to disturb an area, rather than plant trees within another area, being a standalone reforested area, give the money to the open space fund to provide funding to preserve large tracts of valuable resources in Sussex County from ever being developed, and he felt a mitigation fee in lieu was a better goal than throwing a few trees somewhere on the site to say they had reforested.

Mr. Robertson confirmed that preserved forest would count towards the open space requirements; that clear cutting was dependent on what category one fell into and that SCD (Sussex Conservation District) would be involved also.

Mr. Collins questioned that given where the development tends to be happening, would the fee in lieu reasonably be set at the price per acre, including additional cost of planting forest, where it needed to be replanted for the property being developed.

Mr. Horner stated that regarding what the developer paid for the land, he did not feel that would necessarily be the right math; that the math he would personally feel was fair would be to look at the most recent round of preservation easements that had been sold, whether it be farmland or woodland preservation, which would provide a direct analog to get a certain number preserved.

Mr. Collins stated that his thinking was that if someone were developing within the Coastal Area, that there may be preservation needed in the Coastal Area as well, and one would want to be able to afford land in the Coastal Area to acquire and maintain.

Mr. Horner stated that from a public policy perspective, it would drive up costs in the Growth Area, where the land is more expensive; that if there was a requirement to pay more for mitigation within the Growth Area, it would be going against a lot of what was currently being seen; that they want to drive the growth into the Growth Areas, but that is also where the land is more expensive; that one was located within the Growth Area, and all of a sudden they get higher density, having to pay a higher

per acre price, and now mitigate at their per acre price, it would drive people back out, and this would be something to consider from a public policy perspective.

Mr. Robertson stated that there would still need to be some geographic connection.

Mr. Collins stated that there should be benefits to the people in the region that the development is located in.

Mr. Horner stated that if it were to go into a fund that was administered by the County, then that would be within the County's purview to do; that there would also be people who are willing to sell those rights; that ultimately, placing that into a fund for the County to use for preserving large tracts of land; that if the County desired to prioritize the Coastal Area, then they must understand that they would pay more per acre for those rights; that the money would be received from the fee in lieu; that the alternative would be disjointed reforestation on individual parcels, which would not be serving the best interest of the public.

Madam Chair Wingate stated that she believed Mr. Collins was suggesting compensation be provided for the increased costs, which she understood and agreed with.

Mr. Steve Sinclair, current resident of Millsboro, and former State Forester, and current Board member of the Sussex Preservation Coalition, spoke on behalf of the Sussex Preservation Coalition (SPC). Mr. Sinclair stated that he was previously a State Forester with the Vermont Department of Forest Parks and Recreation for 43 years, with the last 18 years working as the State Forester and Director of Forest; that the SPC wholeheartedly supported the important and long-needed Ordinance, but had several modification suggestions; that Delaware has roughly 350,000 acres of forest land, equaling to about 28% of forest land; that of the 160,000 acres within Sussex County, almost 50% of Delaware's Forests are located within Sussex County; that recent studies by the Delaware Forest Service indicated that Sussex County had lost 43,000 acres of its forest land since the year 2000; that although Delaware's total forest acreage had remained constant over the past 20 years, the only reason was that the forest cover in Kent and New Castle County had been decreasing; that this fact made the proposed Ordinance very timely, important and necessary; that the Ordinance was a result of the Land Use Reform Working Group's Recommendation No. 13; that it hit much of what they had formed regarding tree preservation and tree planting requirements, as well as forest definition and mitigations; that of all the recommendations, only two dealt with natural resource issues, the current Ordinance being one of them; that the Ordinance was a reference to the ANSI A300 standards for tree planting and protection, being a national standard recognized by all tree care industries, in terms of how to protect trees and plant trees appropriately; that the SPC supported the idea of conducting a Forest Stand Delineation, as they are very common in municipal and State Ordinances; that the State of Maryland's Forest Conservation Act, requires a developer to perform a Forest Stand Delineation; that the SPC supported the idea of the timing on bonds and guarantees, and that those requirements would be up front; that although they did have some modification suggestions associated with the additional tree planting requirements, the SPC was also in support of the requirements; that the SPC felt that adding a purpose statement to the whereases would articulate not only the values and benefits of trees and forests, but would spell out the goals and purpose of forest preservation; that they felt it would

also provide a general framework on how it would work; that this would be similar to what was currently in the Resource Buffer Ordinance; that in addition to being a former State Forester in Vermont, he was also involved in the State of Delaware, working with Mr. Kyle Hoyd, a Delaware State Forest Community Forestry Advisory Council; that he was pleased to hear that Sussex County had contact Mr. Hoyd for his input and expertise on the Ordinance; that one of the things that he and Mr. Hoyd had discussed was the definition; that he questioned the rationale behind the definition; that he understood Mr. Hoyd's response to be that he wanted to keep the definition broad because all forest were different; that a forest could be comprised of all different species and sizes, which all provide different values; that he felt Mr. Hoyd's definition was too general; that scrub trees are not a forest, and was not a forestry term; that there was no question that there were invasive plants throughout the Northeast; that typically, there would not be a forest comprised of 100% invasive plants; that the SPC's minor changes mimic what he had found in his literature search of more common definitions across the spectrum of use; that he had added two qualifiers; that the first was regarding the number of required trees; that the SPC suggested the addition of 100 trees per acre at minimum; that it would be standard practice; that it would also mimic what Sussex County would be requiring for mitigation planting; that for mitigation planting, Sussex County was requiring 100 trees per acre; that he questioned why not make the establish number of 100 trees per acre in order for it to maintain a forest; that with 100 trees per acre it would create a canopy closure of somewhere around 70%; that some forest, especially young forest, could have 500 to 1,000 trees per acre; that a mature forest could only have 50 trees per acre, if they are all 40 inches in diameter; that because of this, he felt 100 trees per acre was a food standard; that the other qualifier that the SPC suggested was having a minimum requirement of 50 feet in width; that it would be wider than a perimeter buffer, as the requirement for a perimeter buffer was 30 feet; that this supports Mr. Wahl's comment to if a forest is not intact, if it is not large enough, there would be potential of intrusion by invasive plants, as well as, wind and light injury; that their suggested requirement would be a minimum to have any form of ecological function and long-term viability; that he did not like the idea of recognizing forests that previously had forest cover or that will be regenerated or reforested; that he felt it opened up the opportunity for someone to clear cut and then sell to a developer; that due to this, he felt that part should be eliminated; that currently, a Forest Stand Delineation definition includes both conducting the inventory and developing a plan; that those are two separate activities; that a Forest Stand Delineation is an inventory of existing trees, which is performed through a standard sampling system; that a forester will not measure every tree on a 20 acre block; that they have a sampling system which measures the trees, calculates stand information based on species composition, size classification, height, health, and maintenance requirements; that he felt the definition should be just that, rather than the requirement for a forest preservation and maintenance plan; that he SPC felt that the plan should be emphasized as it would be able to provide specific guidance on the type of forest habitat and values that should be preserved along with the maintenance plan; that he questioned how a developer would know which tracts are the most valuable; that by performing a Forest Preservation Plan, the forest delineation information could be used to consider specific stands and tracts of forest; that this will allow one to decide which ones have the type of forest habitat and value that should be retained and preserved, and which ones could be removed; that the requirement of a Forest Preservation and Maintenance Plan is similar to what Sussex County is already requiring under the Resource Buffer and Perimeter Buffer requirements; that the Perimeter Buffer Management Plan identifies steps and processes to protect the forest during construction and long-term maintenance of

the forest over time, including overall forest health, invasive species control, and tree removal; that because forest are not static, just because they are preserved, did not mean they would stay that way over time; that forest will mature, trees would die, and new trees would grow; that there needs to be a maintenance plan; that it would be valuable to the developer, as well as homeowners associations (HOAs) who would eventually maintain it over time; that he felt it was important that Sussex County separate forest delineation to just performing inventory, but add the provision of a Forest Preservation and Maintenance Plan; that another good example would be the need for clarity on the protection of forest being preserved; that currently the Ordinance referenced ANSIA 300 standards for forest protection; that the ANDIA 300 standards talk about fencing, but he questioned where the fencing would be placed; that under the ANSIA 300 standards, one would pick every tree along the border of the forest to be protected; that one would determine the diameter and multiply by 1.5 and convert the number into feet; that the total would equal to what the buffer should look like around the forest stand; that this was great, as it took into account a larger tree who would have a bigger root zone, and would need more protection; that in reality, performing this in the field would be extremely difficult; that having the Forest Preservation and Maintenance Plan, it will spell out how the forest will be protected and maintained over time; that the developer could spell out how they will create the buffer; that this will provide better clarification for the developer and for the homeowners associations who would take over; that an all too common process is a developer removes all the trees due to grading issues; that the new proposal of §99-9-C discuss planning steps necessary during the initial plot plan development, where natural resources are mapped out, and critical areas are set aside; that this is a great first step for forest preservation; that the value of mature trees cannot be replaced with new plantings; that the existing mitigation language allows a developer, for one reason or another, to cut forest down and replant the forest somewhere else; that the Forest Preservation Ordinance should preserve the forest where they are located, because that is where the forest is most valuable; that he would suggest that the Ordinance state that no forest area beyond the required preservation requirements shall be removed if through no fault or forethought of the developer forests are removed above the preservation requirements, the following mitigation standards shall be met, and then one may continue with mitigation; that concern had been raised regarding having to retain perimeter buffers might impact the developer in terms of providing utilities; that he felt this was a reasonable approach, to which mitigation should be allowed; that allowing mitigation just because the developer does not like the location of the forest, will disservice the whole purpose of the Ordinance; that the suggested language is very similar to that of the Resource Protection Ordinance as well, but should not mimic the Resource Buffer Ordinance; that he found the tree planting and landscape plan requirements to be confusing, as it combined the planting standards for planting forests lost during mitigation, as well as additional tree planting that tree canopy increased within the development; that the SPC felt that there should be a detailed Landscape Plan for the entire development; that they did not find where the County required the developer to submit a detailed Landscape Plan for the entire development; that a Landscape Plan was a standard requirement in almost every jurisdiction he had ever been in contact with; that it would go a long way in improving the appearance of and the appeal of developments in Sussex County; that some developers do a good job on their own landscaping without requirements, and others do not; that Pelican Point, where he personally resided, the landscape was abysmal; that he went to the County, and the only plans of record were for the perimeter buffers; that there were no plans for landscaping around the clubhouse, along town greens, and along the streets; that a detailed Landscape Plan, prepared by a licensed landscape architect, would cover the

entire property, spelling out the design, the species, and the standards to ensure that the right tree goes in the right place; that specifics on the location of required landscaping along entrance drives, trees and open spaces for shade, appropriately sized street trees between curb and sidewalks, and that minimum of one tree, per house lot, in a front yard should be placed.

Mr. Robertson questioned why it would not be the homeowner's decision when the home is built as to whether the landscape is planted or not.

Madam Chair Wingate stated that some homeowners do not want a lot of trees to mow around, and that it was a personal preference.

Mr. Sinclair stated that if the Ordinance is attempting to improve the quality of life for the residents of Sussex County, where forest cover is being lost, anything that Sussex County can do to increase tree canopy in our built and unbuilt developments would be of value; that he proposed landscape plants and trees to be placed around clubhouses, playgrounds, and other community resources, along with visual buffers between houses and infrastructure facilities; that they proposed interior and exterior screening be provided, as previously suggested in past Ordinances; that street trees are not only for aesthetics; that they improve the air, the shade and provide other ecosystem values; that the SPC does not want to see islands or pockets of remaining forest; that they wanted to try to preserve what was good; that this was the reason for the Forest Stand Delineation and a plan to identify the forests that provide value and benefit, requiring preservation; that the Ordinance is proposed to go into effect six months after its adoption, unless the development had submitted a completed application; and he questioned what a completed application meant.

Mr. Whitehouse stated that a completed application referred to a formally submitted land use application and fee paid to Sussex County; that he stated the definition of forest generated by staff along with the State of Delaware Forester, was very different than the recommendation proposed by Mr. Sinclair; that he requested Mr. Sinclair professionally outline his thoughts on why the State Forester's definition and Mr. Sinclair's definitions were different.

Mr. Sinclair stated when he had spoken with the State Forester on the phone, they had a conversation on forced definition; that he had told the State Forester the SPC wanted to place a bit of tightness on the definition; that the State Forester stated that he purposely left it broad, and that he did not try to delve into it anymore than that.

Mr. Robertson stated that the subdivision being referred to by Mr. Sinclair was a fairly old subdivision; that to Mr. Sinclair's point, during the public hearings, the Planning Commission would see very green Site Plans, with trees everywhere; that once construction took place, there were no trees anywhere; that a lot of the conditions placed on subdivisions are to hold people to what the proposed during the public hearing; that currently, Applicant's are required to provide a Landscape Plan that are held to bonding requirements as well, and that the Commission had tried to enforce requirements, and Grading and Landscape Plans, to ensure these issues do not happened.

Mr. David Hutt, Esq. with Morris James, LLP, provided comment regarding the Ordinance. Mr. Hutt stated that the definition of a forest was unenforceable; that he agreed with Mr. Horner regarding the

definition; that he supported the Land Use Reform Working Group's definition of forest; that regarding look back periods, he questioned when the period would start and stop; that the uncertainty of this is what rendered the definition unenforceable; that the point of the Ordinance was to adopt something enforceable; that if the Commission would lay out clear rules, people would follow them, as they would be required to; that he had not seen a complete forest of invasive species; that he agreed with Mr. Horner, as under the definition of the Code, one would see edges along fields that were predominantly invasive species for the reasons Mr. Whal spoke about; that the edge is where invasive species would be; that if they met the 10,000 square foot threshold, he did not believe that was the purpose of the Ordinance, and was not what Sussex County was attempting to accomplish; that in Line 475 it indicated that trees and vegetation located within any forest or mitigation area shall be free of defects and in good health prior to the issuance of substantial completion in accordance with §99-31 of the Code; that he questioned what if the forest was not healthy in the first place; that how a forest is defined is key, and important because it may be that there were a lot of invasive species; that there may have been a lot of downfall, and things that were on the base, which could provide certain types ecological benefits; that he understood if someone were doing mitigation, they could measure whether or not the trees look like they were growing and thriving in whatever place they had been planted; that to say an existing forest had to be free of defects and in good health seemed like a problem with the definition of forest; that maybe the definition needed to be stricken from the mitigation section; that he felt the definition should have the qualitative components referenced; that he wanted to support the fee in lieu concept previously mentioned by Mr. Horner; that there are many layers within the development process, from stormwater to important ecological resources; that sometimes it may make sense for it to be there; that in saying there had to be this replanting, when there is likely greater ecological value in preserving existing forest; that there had been discussion regarding what the right value would be; that setting that at the right value would be important; that the fee in lieu concept was better than randomly planting trees; that the first municipality, being the City of Rehoboth Beach, to have a tree ordinance is struggling with locations to plant trees; that this issue leads to trees being placed where they do not provide meaning or true ecological benefit, and that largely his concerns were regarding the definition.

Mr. Robertson stated that they did not want the fee in lieu to become a strictly economic decision of losing existing forest; that it would just be cheaper to do that; that there needed to be some relationship between the fee and the trees being preserved off-site; that it would not become some payment that goes nowhere and would not accomplish anything; that it was not meant to be a penalty, but they did not want it so cheap that everyone would do it, and they wanted to find the right balance.

Madam Chair Wingate stated that she felt the Commission were suggesting that there be a Forestry Report submitted as part of every application.

Mr. Richard Borrasso, resident of Milton, provided comment regarding the Ordinance. Mr. Borrasso stated that he served on the Resource Protection Working Group for 10 to 12 months; that at that time the group agonized over the buffer options; that he stated §115-193.G is a section on Buffer Options, providing a number of different ways that easements could be used to take the place of reducing the resource buffer, and he questioned had there been any buffer options exercised based on the Ordinance.

Mr. Whitehouse stated that staff had seen options utilized in terms of buffer averaging; that he could not recall one where there had been off-site through an easement; that most Applicants want to place it on the site and use the averaging to make it work.

Mr. Collins stated that he agreed with some of the points that were made around the definition of forest; that he hoped the definition could be refined, and applying the same look back to existing forests or existing forest in alignment with the buffer requirements to do so, seemed to be more consistent.

Madam Chair Wingate stated she agreed with Mr. Collins; that she would want a professional to provide the Forest Assessment, Archaeology Study and others.

Mr. Robertson stated that to some extent, Applicants must already provide some of those documents per the Perimeter Buffer requirements; that it was defined who must perform the Forest Stand Delineation; that it must be performed by a licensed landscape architect, certified arborist, or licensed forester or forester designated by the Society of American Forester, as a certified forester.

Mr. Collins stated that they would want to make sure they do not run into the City of Rehoboth example, where locations for reforestation cannot be found, but would want to charge enough to be able to acquire land somewhere in the proximity of the site being developed, and that otherwise they would not be getting the value they should be getting for Sussex County.

Mr. Robertson advised the Commission that within the Code there was a set geographical area that one would be required to stay in; that they had made a conscious decision that they were not doing anything if the perimeter buffer was counted towards the forest preservation; that both the perimeter buffer and the forest preservation count towards open space numbers; that the open space and forest preservation are not stacked, and they work together; that the purpose of it was if the perimeter buffer took up the 30% or close to it, within the Growth Area, he questioned what had been accomplished, and he stated it was the same circumstance within the Rural Area.

Mr. Collins stated that there were multiple suggestions to reduce the tree diameter requirements to 2.5 inches from 3.5 inches; that this suggestion seemed rational, and that in his personal experience, transplanting larger trees did not tend to succeed as well.

Mr. Passwaters stated that larger trees are much harder to source as well.

Madam Chair Wingate stated that she felt Mr. Whal had made good points regarding preservation and construction and should both be considered.

Mr. Robertson stated that there was something to be said for going back and looking at the grading and street design requirements to see whether they could be tweaked; that part of where they were getting this on the street design requirements was from where the swales go and the geometry of sidewalks in relation to curb, gutter and street widths, and there are really narrow streets within the subdivisions which make it difficult to do anything.

Mr. Collins stated that the issue then led to parking on the streets, to where emergency services cannot get through.

Mr. Pettyjohn stated that street trees could create hazards and issues in 10 to 15 years.

Mr. Collins stated that planting the wrong type of tree could create issues.

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

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

In relation to ORD 26-05 regarding Forest Preservation. Motion by Mr. Collins to defer action for further consideration, seconded by Mr. Allen and carried unanimously. Motion carried 5-0.

Minutes of the June 17, 2026, Planning & Zoning Commission Meeting

The Commission discussed the application which had been deferred since June 3, 2026.

Mr. Collins moved that the Sussex County Planning & Zoning Commission recommend approval of Ordinance 26-05 regarding Forest Preservation for the following reasons and with the following recommendations:

1. Sussex County Council commissioned a Land Use Reform Working Group that created multiple recommendations about housing and land use. Among the twenty recommendations from that Group, Recommendation No. 13 concerned Forest Preservation by promoting the retention of existing trees by enacting value-based tree preservation requirements including mitigation requirements and incentives. There was also a recommendation that the existing definition of a “forest” be revised.
2. In furtherance of Recommendation No. 13, this Ordinance proposed to revise the current definition of a “forest”. However, there was testimony from several different commenters during the public hearing that the Ordinance’s definition is too vague and that the definition should be closer to what was contained in the Working Group’s recommendation. Different versions of a new definition were proposed, and Council should consider adopting a more specific definition similar to what the Working Group recommended.
3. Staff advised that the State Forester was involved in evaluating the Working Group’s recommendation and the version of the Ordinance that was introduced. However, the State Forester was not present during the Commission’s hearing to comment on the introduced Ordinance. The State Forester should be present during County Council’s public hearing to provide expert advice on the Ordinance language and collaborate with Council to adopt the final version of the Ordinance using terms and requirements that are environmentally sound and recognized in forest conservation and in the forestry profession.

4. The introduced Ordinance excludes the perimeter buffer area from the required forest preservation area calculations. Staff stated a concern that allowing the perimeter buffer to be included in the forest calculations could mean that no internal forest area in a subdivision would be preserved in many instances. DNREC's comments on the Ordinance agreed with this assessment and stated that the purposes of a perimeter buffer and forest preservation are different, stating that the perimeter buffer is only a visual screen, while forest preservation provides a more vital environmental role in land development. For these reasons, it is recommended that the Ordinance be adopted as introduced to exclude the perimeter buffer from the forest preservation area calculations.
5. There was a request during the public hearing to add a provision for the option of a payment of a "fee in lieu" of forest preservation. This was not a recommendation of the Working Group. The Commission disagrees with this request and is concerned that it will undermine the basis of the Ordinance, with the result being a shift away from actual, worthy forest preservation to lower cost, lower value forests.
6. With these considerations and others by Council as part of its hearing process, this Ordinance will result in an overall improvement in the design of subdivisions and the preservation of forest areas that are currently being clearcut as part of the development design and construction process.

Motion by Mr. Collins, seconded by Mr. Passwaters, and carried unanimously to recommend approval of Ordinance 26-05 regarding Forest Preservation, for the reasons and the recommendations stated in the motion. Motion carried 4-0.

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

improvements to the Sussex County Code including the protection of existing forest on land to be developed and planting requirements for new development; and

WHEREAS, this Ordinance is in furtherance of the recommendations of the Land Use Reform Working Group regarding forest preservation and tree planting; 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 99, Article I, §99-5 “Definitions” is hereby amended by deleting the language in brackets and inserting the italicized and underlined language as follows:

§ 99-5 Definitions.

For the purpose of this chapter, certain terms and words are hereby defined:

...

FOREST - A vegetative community dominated by trees and other woody plants covering a land area of 10,000 square feet or greater, including land that formally had forest cover and will be naturally or artificially regenerated.

FOREST ASSESSMENT - A method or process, to include a forest inventory/tree survey, for determining the area or areas within a parcel that contain high habitat value and groupings of trees or individual trees to be preserved within the Perimeter Buffer and Perimeter Buffer

Protection Area.

FOREST ASSESSMENT REPORT -A report detailing the findings of a Forest Assessment prepared and certified by a licensed landscape architect, certified arborist, or licensed forester or a forester designated by the Society of American Foresters as a "certified forester."]

FOREST COVER – The area of a site meeting the definition of forest.

FOREST STAND DELINEATION (FSD) – A plan and narrative report that identifies existing forest cover, vegetation, and environmental features on a proposed development site. A Forest Stand Delineation plan includes an accurate depiction of the forest species, composition, age, condition, location, acreage, and the location of the 100-year floodplain existing on a property. A Forest Stand Delineation shall be prepared by a licensed landscape architect, certified arborist, or licensed forester or forester designated by the Society of American Foresters as a “certified forester.”

FOREST PRESERVATION – The retention of existing forest or the creation of new forest.

....

Section 2. The Code of Sussex County, Chapter 99, Article III, §99-21A “Perimeter Buffers” is hereby amended by deleting the language in brackets and by inserting the italicized and underlined language as follows:

§ 99-21.A Perimeter buffers.

A. Perimeter buffer general standards.

(1) There shall be a Perimeter Buffer established along the boundary of every major subdivision or residential planned community. A Perimeter Buffer shall not be required along internal boundaries within a subdivision or residential planned community, such as internal phasing lines.

(2) The Perimeter Buffer shall be planted with a variety of trees and shrubs so as to create a visual landscaped screening. All trees and shrubs shall be local and native species. All planting activities shall [adhere to ANSI A300, Planting Standards] comply with the American National Standard Institute (ANSI) A300 Standards.

(3) The Perimeter Buffer shall include a mix of 70% deciduous shade trees and 30% evergreen trees as well as shrubs. The Perimeter Buffer shall include at least 15 trees within every 100 linear feet of the Buffer. All deciduous and evergreen trees that are planted shall have a minimum height of six feet above ground when planted, shall be a species that typically achieves a height of at least 10 feet, and arranged in a staggered natural manner throughout the entire width of the Perimeter Buffer to effectively achieve a visual landscaped screening which will filter views from and into the subdivision. The Perimeter Buffer may include existing [Woodlands] Forest and planted trees to achieve these planting standards.

(4) In the event that a Resource Buffer (§ 115-193) is required in the location of a Perimeter Buffer or Perimeter Buffer Protection Area, the Resource Buffer standards shall take precedence over, and shall not be in addition to, the Perimeter Buffer and/or Perimeter Buffer Protection Area requirements for that same location.

(5) The Perimeter Buffer shall be marked with permanent, in-ground signage located at 100-foot intervals along the edge of the Perimeter Buffer to confirm the existence and non-disturbance of the Perimeter Buffer. This signage shall be at least five inches by seven inches in size and shall identify the existence of the Perimeter Buffer, the fact that it is a non-disturbance Area and a reference to

penalties and/or remediation required if unauthorized disturbance occurs.

B. Perimeter buffer standards —[Woodlands] Forest requirements. Where a Perimeter Buffer contains existing [Woodlands] Forest at the time of application, the following requirements shall apply:

(1) Any major subdivision or residential planned community where [Woodlands] Forest exist at the time of application shall require a [Forest Assessment Report] Forest Stand Delineation. The [Forest Assessment Report] Forest Stand Delineation must be submitted as part of the application.

(2) The [Woodlands] Forest retained within the Perimeter Buffer shall be depicted generally on the Preliminary Site Plan and with detail on the Perimeter Buffer Landscape Plan.

(3) Unless otherwise provided for herein, the [Woodlands] Forest within the Perimeter Buffer shall remain in its natural state.

(4) The Area of the Perimeter Buffer containing [Woodlands] Forest shall be bordered by a Perimeter Buffer Protection Area.

(5) There shall be protective tree fencing, staking, or continuous ribbon installed along the entire edge of the Perimeter Buffer Protection Area adjacent to the interior of the development to protect the integrity of existing trees within the Perimeter Buffer.

(6) Selective clearing of the [Woodlands] Forest retained for the use of the Perimeter Buffer may be permitted but at no time shall trees of six-inch diameter at breast height be damaged, removed, or otherwise adversely affected. Dead, dying or unstable live trees that present an imminent danger to persons or property may be removed.

(7) Walking trails within the [Woodlands] Forest for the purpose of providing access to the Perimeter Buffer may be permitted and shall be depicted on the Perimeter Buffer Landscape Plan.

(8) Access points to the [Woodlands] Forest for the purpose of Perimeter Buffer maintenance may be permitted and shall be

depicted on the Perimeter Buffer Landscape Plan.

(9) Any removal or damage of trees within the [Woodlands] Forest, the Perimeter Buffer or the Perimeter Buffer Protection Area (with the exception of the removal of invasive species) shall be subject to the mitigation requirements as well as the violations and penalties located in this Chapter.

(10) At no time shall the ground within [Woodlands] the Forest area of a Perimeter Buffer and Perimeter Buffer Protection Area be cleared, graded, regraded, or grubbed. Permitted stump removal shall only occur by stump grinding that does not disturb the surrounding area or vegetation.

(11) If [Woodlands] Forest on the land where the Perimeter Buffer is to be located have been cleared for a timber harvest within five years prior to the date of application, the following additional planting requirements shall apply:

(a) The cleared area along the Perimeter Buffer shall be measured and known as the "Cleared Area."

(b) The Perimeter Buffer shall be planted back with at least 15 trees every 50 linear feet of the Buffer.

(c) In addition to the Perimeter Buffer, a new [Woodlands] Forest shall be planted that is 2.0 times the size of the Cleared Area and a rate of at least 50 trees per acre.

(d) The new [Woodlands] Forest may border the area of the Perimeter Buffer or be in a separate area, but at no times shall the Perimeter Buffer be less than 30' in width measured from the property boundary.

(e) The planted Perimeter Buffer and new [Woodlands] Forest comply with the sizes and percentages required by § 99-21A.A(2) and (3).

(f) If the applicant chooses to provide replacement plantings on any property other than the one on which the timber harvest

occurred or protect an off-site [Woodlands] Forest area, the mitigation plan must be reviewed and approved by the Director, and:

[1] The replacement plantings or off-site [Woodlands] Forest area must be located within the same twelve-digit hydrologic unit code as defined by the United States Geological Survey as the proposed development.

[2] The replacement plantings or [Woodlands] Forest area located off-site must be protected under a perpetual conservation easement for the benefit of a conservation organization approved by Sussex County.

[3] At no time shall the area of the replacement plantings be less than 2.0 times the area of [Woodlands] Forest to be the Perimeter Buffer that was cleared and a rate of at least 50 trees per acre and shall meet the tree and shrub requirements of this Chapter.

(12) Removal of any invasive species from the [Woodlands] Forest is permitted.

C. Perimeter buffer standards — non-[woodlands] Forest requirements. Where a Perimeter Buffer does not contain existing [Woodlands] Forest at the time of application, the following requirements shall apply:

(1) Any major subdivision or residential planned community where [Woodlands] Forest do not exist within the Perimeter Buffer shall comply with the planting requirements of the Perimeter Buffer Standards and Perimeter Buffer Landscape Plan.

(2) There shall be protective fencing, staking, or continuous ribbon installed along the entire edge of the Perimeter Buffer adjacent to the interior of the development to protect the integrity of the Perimeter Buffer.

(3) There shall be a final grade that contains a minimum of four

inches of topsoil and a suitable grass mix or wildflowers planted as sacrificial cover between the buffer trees for soil stabilization until the newly planted trees become larger. Woodchips may substitute for planted grass between the buffer trees around both newly planted and existing trees.

(4) Walking trails within the Perimeter Buffer may be permitted and shall be depicted on the Perimeter Buffer Landscape Plan.

(5) Access points to the Perimeter Buffer and Perimeter Buffer Protection Area for the purpose of Perimeter Buffer maintenance shall be depicted on the Perimeter Buffer Landscape Plan.

(6) The Perimeter Buffer shall have a two-year guarantee secured by bonding from the date that substantial completion is issued for the phase where the Perimeter Buffer is located.

D. Perimeter buffer landscape plan.

(1) The Perimeter Buffer shall be depicted generally on the Preliminary Site Plan and in detail on a Perimeter Buffer Landscape Plan that is included within a Final Site Plan.

(2) The Perimeter Buffer Landscape Plan shall provide sufficient information and detail to clearly demonstrate that all applicable requirements and standards for Perimeter Buffers and Perimeter Buffer Protection Areas are satisfied. The Perimeter Buffer Landscape Plan shall contain, at a minimum, the following:

(a) Approximate location and description of the protective tree fencing, staking, or continuous ribbon.

(b) The location, spacing, height, and species of existing and new trees and shrubs proposed to meet tree planting requirements.

(c) The design and location of the required Perimeter Buffer signage.

(d) Measures to be taken to avoid sedimentation intrusions

and erosion in the Perimeter Buffer.

(e) A summary table of the number of new trees to be planted and minimum number of existing trees to be retained (if any) to meet the tree specification and density requirements with calculations confirming that these requirements have been achieved. The summary table may include example groupings of trees to be planted instead of each new tree labeled on the Perimeter Buffer Landscape Plan.

(f) A note confirming that the developer guarantees the full cost of replacement [Woodlands] Forest of the Perimeter Buffer for two years after the determination of substantial completion in accordance with § 99-31.

(g) A planting schedule for the Perimeter Buffer. The planting schedule shall demonstrate the installation of the Perimeter Buffer prior to the issuance of the first residential building permits in the phase where it is located. The Perimeter Buffer shall be planted and inspected prior to the issuance of the first residential building permit within the phase where the Buffer is located. Each phase of the development must include the Perimeter Buffer and Perimeter Buffer Protection Area (as applicable) that is adjacent to that Phase.

(h) Notwithstanding any other provisions of this chapter, the Planning and Zoning Commission shall be authorized, as part of the site plan review process, to grant final approval of a Plan for the roadway frontage of a major subdivision which may include landscape and design features, such as ornamental fences that are not used as screens, berms, landscape plantings of shrubs, non-invasive ornamental grasses and/or trees, multimodal paths required by DelDOT, or a combination of such features which is designed and certified to by a licensed Landscape architect, licensed Forester or Forester designated by the Society of American Foresters as a "Certified Forester," for the purpose of making the subdivision more attractive,

more in keeping with the surrounding area and less visible from the roadway, provided said plan will not cause the landscape features contained in the plan to be placed in an area adjacent to the entrance in such a manner as to restrict the view of motorists entering or exiting from the subdivision or restricting the sight lines of motorists in such a manner as to create a potential safety or traffic hazard. This authorization shall only apply to a subdivision's roadway frontage where its entrance is located. All other roadway frontages shall comply with the requirements of Subsections A., B. and C above, as applicable.

E. Timing; bonds and guarantees.

(1) The Perimeter Buffer Landscape Plan shall include the planting schedule for the entire Perimeter Buffer. The planting schedule shall demonstrate the installation of the Perimeter Buffer prior to the issuance of any residential building permits within the phase. The Perimeter Buffer shall be planted and inspected prior to the issuance of the first residential building permit within the phase where the Perimeter Buffer is located. Each phase of the development must include the Perimeter Buffer and Perimeter Buffer Protection Area (as applicable) that is adjacent to that phase. The Perimeter Buffer for each phase must be planted and inspected before County approvals or permits will be granted to construct the next phase. The portion of any non-[Woodlands] Forest Perimeter Buffer within the entirety of the development that is adjacent to other existing or approved dwellings or lots shall be planted in accordance with the requirements of § 99-21.A.A and C within 12 months of the issuance a Notice to Proceed for the first phase of the development.

(2) Where [Woodlands] Forest exist in the Perimeter Buffer, the Perimeter Buffer and Perimeter Buffer Protection Area shall be protected and marked as provided herein for the entire development (subject to inspection and approval by Sussex County) prior to the

issuance of any notice to proceed for site work. For subdivisions that are to be constructed in phases, the protection and marking of existing [Woodlands] Forest shall be maintained and inspected prior to the issuance of any notice to proceed for site work or construction within a subsequent phase.

(3) The developer shall be responsible for the removal and replacement of any dead, dying or diseased trees and for the removal from the site of all stakes, guy wires, protective tree fencing, staking, or continuous ribbon upon the conclusion of the two-year guaranty period.

(4) The developer shall post a performance bond or other guaranty for the Perimeter Buffer in an amount sufficient to install the Perimeter Buffer and the Perimeter Buffer Protection Area (as applicable) in a form acceptable to the County Attorney. The amount of such bond shall be 125% of the cost of the installation the Perimeter Buffer (including all plantings) and the Perimeter Buffer Protection Area (as applicable) or \$50,000, whichever is greater. The Perimeter Buffer shown on the Perimeter Buffer Landscape Plan may be bonded as a separate phase or phases of the subdivision, provided that all Perimeter Buffers containing [Woodlands] Forest must be bonded before a Notice to Proceed is issued for any phase of the development.

(5) Bonds posted to ensure the completion and non-disturbance of the Perimeter Buffers shall be posted with the Director of Planning and Zoning.

(6) The trees and shrubs located within the Perimeter Buffer shall be in good health prior to the issuance of substantial completion in accordance with § 99-31 of the Code. The Bonds for the Perimeter Buffer shall thereafter remain in place until two years after the determination of substantial completion in accordance with § 99-31.

(7) A party may not alter the Perimeter Buffer Area of the development (or any phase thereof) unless an amended Perimeter Buffer Landscaping Plan is approved by Sussex County and a new

bond or other guaranty is provided for the alteration.

F. Perimeter buffer maintenance.

(1) The developer shall be responsible for the health and survival of the Perimeter Buffer, including regular necessary watering until the determination of substantial completion in accordance with § 99-31. This shall include the obligation to replace any trees and shrubs within the Perimeter Buffer that do not survive during this time period.

(2) The Perimeter Buffer shall be maintained in perpetuity. The perpetual maintenance of the Perimeter Buffer by a homeowners' association shall be confirmed in the recorded declaration or restrictive covenants for the development with the requirement that any trees or shrubs that do not survive must be replanted with trees or shrubs of the same type and species in accordance with the original Landscape Plan approved by Sussex County. The Perimeter Buffer shall be maintained (and any replacement trees or shrubs planted) according to **[best management practices in the Forestry industry (ANSI A300)]** the American National Standard Institute (ANSI) A300 Standards. The applicant and/or developer must provide the Commission with satisfactory proof that the declaration or restrictive covenants include a perpetual maintenance plan which shall be binding upon the applicant and/or developer and thereafter by the homeowners' association. The Commission and its attorney shall review and approve the perpetual maintenance plan prior to the restrictive covenants being recorded and prior to granting final site plan approval.

G. Perimeter buffer tree mitigation.

(1) In the event that trees, shrubs, **[Woodlands]** Forest, Perimeter Buffer or the Perimeter Buffer Protection Area are removed or damaged without authorization, tree mitigation shall be required. In addition, violations and penalties may be assessed.

(2) If trees within a Perimeter Buffer (whether **[Woodlands]**

387 Forest or planted) have been damaged or removed (unless such
388 damage or removal is the result of Act of God or natural causes and
389 are therefore subject to the Perimeter Buffer Maintenance
390 Requirements), tree mitigation must occur as follows:

391 (a) A mitigation plan shall be prepared by a licensed
392 Landscape architect, certified arborist, or licensed Forester or
393 Forester designated by the Society of American Foresters as a
394 "Certified Forester."

395 (b) New [Woodlands] Forest shall be created for the area of
396 [Woodlands] Forest in the Perimeter Buffer that was illegally
397 accessed or damaged with at least three replacement trees
398 planted for every tree removed or damaged.

399 (c) The replacement plantings shall meet the tree and shrub
400 requirements of this Section.

401 (d) The developer, property owner and/or party who violates
402 this section shall be responsible for the health and survival of
403 the replacement in accordance with this Section.

404 (e) All tree mitigation plantings must be on the same lot,
405 parcel, or tract on which the illegal activity occurred, except
406 as noted herein.

407 H. Violations and penalties.

408 (1) The developer, owner of the land and any person or
409 corporation who shall violate any provisions of this Section shall be
410 subject to the following penalties in addition to other requirements
411 set forth in this Section. Separate violations or a series of violations
412 may be combined to determine the total area where the violation
413 occurred:

414 (a) A fine of \$10,000 per quarter acre, pro rata, of disturbance
415 within the Perimeter Buffer and Perimeter Buffer Protection Area,
416 as applicable, shall be imposed; and

417 (b) A tree mitigation plan in accordance with the requirements of

418 this Section shall be approved by the Planning and Zoning
419 Commission.

420 (2) Where the developer is the party who has violated the
421 provisions of this Section, no building or zoning permits shall be
422 issued nor shall any inspections occur within the phase where the
423 violation occurred (including, but not limited to building code and
424 utility inspections) until the tree mitigation plan is complete and
425 approved by the Commission.

426
427 **Section 3. The Code of Sussex County, Chapter 99, Article V, §99-26**
428 **“Information To Be Shown” is hereby amended by inserting the**
429 **italicized and underlined language as follows:**

430
431 **§99-26 Information To Be Shown.**

432 The final plat shall be legibly and accurately drawn and shall show the
433 following information:

434 . . .

435 *(23) Protective tree fencing, staking, or continuous ribbon shall be*
436 *installed along the entire edge of any Forest being protected pursuant*
437 *to §115-194.8 and trees planted pursuant to §115-194.9. All work*
438 *conducted pursuant to this subsection shall comply with the American*
439 *National Standard Institute (ANSI) A300 Standards.*

440
441 **Section 4. The Code of Sussex County, Chapter 115, Article I, §115-**
442 **4 “Definitions and Word usage” is hereby amended by inserting the**
443 **italicized and underlined language as follows:**

444
445 **§ 115-4 Definitions and word usage.**

446 . . .

447
448 B. General definitions. For the purpose of this chapter, certain terms
449 and words are hereby defined as follows:

...
FOREST - A vegetative community dominated by trees and other woody plants covering a land area of 10,000 square feet or greater, including land that formally had forest cover and will be naturally or artificially regenerated.

FOREST COVER – The area of a site meeting the definition of forest.

FOREST STAND DELINEATION (FSD) – A plan and narrative report that identifies existing forest cover, vegetation, and environmental features on a proposed development site. A Forest Stand Delineation plan includes an accurate depiction of the forest species, composition, age, condition, location, acreage, and the location of the 100-year floodplain existing on a property. A Forest Stand Delineation shall be prepared by a licensed landscape architect, certified arborist, or licensed forester or forester designated by the Society of American Foresters as a “certified forester.”

FOREST PRESERVATION – The retention of existing forest or the creation of new forest.

...
Section 5. The Code of Sussex County, Chapter 115, Article XXV, is hereby amended by inserting a new Section 115-194.8 “Forest Preservation” and by adding the italicized and underlined language as follows:

§ 115-194.8. Forest Preservation

All residential development including mixed use development (with the exception of minor subdivisions, projects governed by Chapter 72 of this

Code and Accessory Dwelling Units) shall be subject to the following requirements related to forest preservation. This section shall not apply to land which is actively managed and used for silviculture or other logging or forestry activities for a commercial purpose which shall remain in forest.

A. Forest Stand Delineation

(1) Where Forest exists at the time of application, the applicant shall develop A Forest Stand Delineation which shall be submitted as part of the application and used to determine the most suitable and practical areas for forest preservation.

B. Minimum Protection Standards of existing Forest.

(1) Where an existing Forest will be impacted or disturbed within a development, that Forest shall be protected and preserved as follows:

(a) Developments located in the Growth Area as described within the Land Use Element and as shown on the Future Land Use Map of the adopted Sussex County Comprehensive Plan, shall protect and preserve 30% of the pre-existing Forest as shown on the Forest Stand Delineation (not including the Perimeter Buffer required by Section 99-21A).

(b) Developments located in the Rural Areas as described within the Land Use Element and as shown on the Future Land Use Map of the adopted Sussex County Comprehensive Plan, shall protect and preserve 50% of the pre-existing Forest as

shown on the Forest Stand Delineation (not including the Perimeter Buffer required by Section 99-21A).

(2) The following trees, shrubs, plants and specific areas are considered priority for retention and protection and shall be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the Commission, that reasonable efforts have been made to protect them and the plan cannot be altered:

- (a) Trees, shrubs, and plants located in sensitive areas including the 100-year floodplain, perennial nontidal rivers and streams and their buffers, intermittent streams and their buffers; and
- (b) Contiguous Forest that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the site.

(4) There shall be protective tree fencing, staking, or continuous ribbon installed along the entire edge of any Forest being protected hereunder to protect the integrity of the existing Forest within the site. All work conducted pursuant to this subsection shall comply with the American National Standard Institute (ANSI) A300 Standards.

(5) Any Forest and limit of disturbance areas designated to be protected shall not be cleared, graded, regraded or grubbed. All work conducted pursuant to this subsection shall comply

543 with the American National Standard Institute (ANSI) A300
544 Standards.

545
546 C. Mitigation of Forest Removal

547 (1) In the event an application proposes removal of Forest in
548 excess of the amounts permitted under § 115-194.8B, the
549 application shall require mitigation in the form of new Forest
550 creation as follows:

551
552 (a) A mitigation plan shall be prepared by a licensed
553 landscape architect, certified arborist, or licensed forester
554 or forester designated by the Society of American Foresters
555 as a “certified forester.” The mitigation plan shall include
556 the following information and shall also comply with the
557 requirements of subparagraph (d) below:

558
559 i. A table that lists the proposed values of the
560 following, in square feet:

561
562 a. The gross Forest area on the entire
563 property prior to an application for
564 development being filed with the
565 Department.

566 b. The area of Forest to be protected
567 and preserved on the entire property.

568 c. The area of Forest that the applicant
569 proposes to remove.

570
571 ii. A site plan with clear graphic indication of the
572 Forest, drawn to scale, showing the Forest to be

protected and the Forest to be removed.

(b) If the application is located in a Growth Area as described within the Land Use Element and as shown on the Future Land Use Map of the adopted Sussex County Comprehensive Plan then the Forest area cleared shall be reforested in accordance with the mitigation plan in an amount equal to 2.0 times the Forest area cleared in excess of the amount required to be preserved under §115-194.8B (measured to the nearest square foot).

(c) If the application is located in a Rural Area as described within the Land Use Element and as shown on the Future Land Use Map of the adopted Sussex County Comprehensive Plan then the Forest area cleared shall be reforested in accordance with the mitigation plan in an amount equal to 2.5 times the Forest area cleared in excess of the amount required to be preserved under §115-194.8B (measured to the nearest square foot).

(d) The mitigation plan shall demonstrate reforestation that creates a biological community dominated by native trees and other woody plants that should be planted at a minimum caliper of 2.5" for shade trees, 1.5" for ornamental trees, and six-foot height for multi-stem and evergreen trees and containing at least 100 live trees per acre with a least 50 percent of those trees having the potential of attaining a 2-inch or greater diameter measured at 4.5 feet above the ground within 7 years. The mitigation plan shall demonstrate the location, spacing,

height, and species of existing and new trees and shrubs proposed to meet Forest mitigation requirements.

(e) The mitigation plan shall provide the location protective tree fencing, staking, or continuous ribbon installed along the entire edge of any reforested area, which shall also be installed on the site itself. All work conducted pursuant to this subsection shall comply with the American National Standard Institute (ANSI) A300 Standards.

D. Timing, bonds and guarantees.

(1) The Forest must be preserved and inspected and any mitigation areas planted and inspected before County approvals or permits will be granted to construct the next phase of the development.

(2) Any mitigation plan shall include the planting schedule for the entire mitigation area. The planting schedule shall demonstrate the installation of the trees or vegetation in the mitigation area prior to the issuance of any residential building permits within the phase where the mitigation area is located. The trees and vegetation in the mitigation area shall be planted and inspected prior to the issuance of the first residential building permit within the phase where the mitigation area is located.

(2) The trees and vegetation located within any Forest or mitigation area shall be free of defects and in good health prior to the issuance of substantial completion in accordance with § 99-31 of the Code for subdivisions and prior to the issuance of individual certificates of occupancy for other residential development.

635 (3) The developer shall post a bond or other guarantee for any
636 mitigation area in an amount sufficient to install the plantings in the
637 mitigation area(s) in a form acceptable to the County Attorney. The
638 amount of such bond shall be 125% of the cost of the installation of
639 all plantings in the mitigation area or \$50,000, whichever is greater.
640 The mitigation areas shown on the mitigation plan may be bonded
641 as a separate phase or phases of the development. Such bonds shall
642 be posted with the Director of Planning and Zoning. The bonds
643 shall remain in place until two years after the determination of
644 substantial completion in accordance with § 99-31 of the Code for
645 subdivisions and prior to the issuance of individual certificates of
646 occupancy for other residential development.

647
648 E. Violation and Penalties
649

650 (1) In the event a developer, owner of the land or any person or
651 corporation removes or damages Forests in excess of the amount
652 required to be retained pursuant to § 115-194.8B hereof and as
653 specified in the approved plans for such development, such party
654 shall be responsible for mitigation pursuant to § 115-194.8C at a
655 rate of 2 times the Forest area (measured to the nearest square foot)
656 removed (which may require a reconfiguration of the approved site
657 plan for the development to accommodate the additional planting)
658 and shall pay a fine equal to the Forest area (measured to the
659 nearest square foot) damaged or disturbed multiplied by \$4.356 per
660 square foot. Such fine shall be authorized and approved in the
661 County's annual budget and deposited in the County's open space
662 fund to be used for land and easement acquisitions.

663
664 (2) Where the developer or their agents or contractors are the
665 party who has violated the provisions of this Section, no building or
666 zoning permits shall be issued nor shall any development-related
667 inspections occur (including, but not limited to, Building Code
668 and/or utility inspections) until the mitigation plan set forth in § 115-

194.8C is completed, submitted to, and approved by the Commission.

Section 6. The Code of Sussex County, Chapter 115, Article XXV, is hereby amended by inserting a new Section 115-194.9 “Tree Planting Requirements” and by adding the italicized and underlined language as follows:

§ 115-194.9. Tree Planting Requirements.

All residential development including mixed use development (with the exception of minor subdivisions, projects governed by Chapter 72 of this Code and Accessory Dwelling Units) projects shall be subject to the following requirements related to tree planting.

A. Tree Planting

(1) Tree planting shall create a biological community dominated by native trees and other native woody plants free of defects containing at least 100 live, non-containerized, trees per acre. Replacement trees should be planted at a minimum caliper of 2.5” for shade trees, 1.5” for ornamental trees, and six-foot height for multi-stem and evergreen trees. At least fifty percent of all planted trees shall have the potential of attaining a 2-inch or greater diameter measured at 4.5 feet above the ground, within 7 years. The tree planting plan shall demonstrate the location, spacing, height, and species of existing and new trees and shrubs proposed and shall be incorporated in the Forest Stand Delineation.

(2) For development in the Growth Areas as described within the Land Use Element and as shown on the Future Land Use Map of the adopted Sussex County Comprehensive Plan, in addition to any preservation, reforestation, mitigation or other requirements

found elsewhere in the Code, the developer shall plant, at a minimum:

(a) one (1) tree per 10,000 square feet of net developed area for residential development;

(b) one (1) tree per 5,000 square feet of net developed area for non-residential development.

(3) For development in the Rural Areas as described within the Land Use Element and as shown on the Future Land Use Map of the adopted Sussex County Comprehensive Plan, in addition to any preservation, reforestation, mitigation or other requirements found elsewhere in the Code, the developer shall plant, at a minimum:

(a) two (2) trees per 5,000 square feet of net developed area for residential development;

(b) one (1) tree per 3,000 square feet of net developed area for non-residential development.

(4) The foregoing planting requirements set forth in subsections (1) and (2) hereof may be satisfied by the retention of existing Forest in excess of Forest required to be preserved pursuant to § 115-194.8 so long as the Forest Stand Delineation verifies that the remaining Forest demonstrates optimal health for retention.

(5) Timing; bonds and guarantees.

(a) The developer shall provide a planting schedule for the trees to be planted in accordance with this section. The planting schedule shall demonstrate the installation of the trees prior to the issuance of any residential building permits within the phase where the trees will be planted. The trees

shall be planted and inspected prior to the issuance of the first residential building permit within the phase where the trees are located. The trees must be planted and inspected before County approvals or permits will be granted to construct the next phase.

(b) The trees shall be in good health prior to the issuance of substantial completion in accordance with § 99-31 of the Code for subdivisions and prior to the issuance of individual certificates of occupancy for other residential development..

(c) The developer shall post a performance bond or other guaranty for the trees to be planted in an amount sufficient to install the plantings in a form acceptable to the County Attorney. The amount of such bond shall be 125% of the cost of the installation of all trees or \$50,000, whichever is greater. These areas may be bonded as a separate phase or phases of the development. Such bonds shall be posted with the Director of Planning and Zoning. The Bonds shall remain in place until two years after the determination of substantial completion in accordance with § 99-31 of the Code for subdivisions and prior to the issuance of individual certificates of occupancy for other residential development.

Section 7. The Code of Sussex County, Chapter 115, Article XXVIII, §115-221 “Final Site Plan Requirements”, is hereby amended by inserting the italicized and underlined language as a new Subsections B(19) and E. thereof:

§115-221 Final Site Plan Requirements

...

B. The final site plan shall show the following:

...

(20) Protective tree fencing, staking, or continuous ribbon shall be installed along the entire edge of any Forest being protected pursuant to §115-194.8 and trees planted pursuant to §115-194.9. All work conducted pursuant to this subsection shall comply with the American National Standard Institute (ANSI) A300 Standards.

(21) The requirements pursuant to §115-194.8 including clear graphic indication of the Forest, drawn to scale, showing the Forest to be protected and the results of the mitigation plan.

Section 8. Effective Date.

This Ordinance shall take effect upon six (6) months from the date of adoption by Sussex County Council. Provided however, that it shall not apply to any completed applications on file with the Sussex County Office of Planning & Zoning.



Outlook

Form submission from: Council Grant Form

From notifications=d3forms.com@mg.d3forms.com <notifications=d3forms.com@mg.d3forms.com>
on behalf of

Sussex County DE <notifications@d3forms.com>

Date Wed 2026-07-08 15:32

To Morgan C. Stokes <morgan.stokes@sussexcountyde.gov>

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Council Grant Form

Legal Name of Agency/Organization	Developing Artist Collaboration
Project Name	West Side Creative Market Infrastructure & Workforce Development Initiative
Federal Tax ID	821214176
Non-Profit	Yes
Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	No
Organization's Mission	Developing Artist Collaboration (DAC) empowers artists with the tools, education, and opportunities needed to build sustainable careers, while using the arts as a catalyst for community transformation, economic development, and creative connection.
Address	37401 Malloy St
City	Rehoboth Beach

State	DE
Zip Code	19971
Contact Person	Leah Beach
Contact Title	Founder
Contact Phone Number	3022129798
Contact Email Address	leah@developingarts.org
Total Funding Request	1000.00
Has your organization received other grant funds from Sussex County Government in the last year?	No
If YES, how much was received in the last 12 months?	N/A
Are you seeking other sources of funding other than Sussex County Council?	No
If YES, approximately what percentage of the project's funding does the Council grant represent?	N/A
Program Category (choose all that apply)	Cultural
Primary Beneficiary Category	Other

Beneficiary Category
Other

General Public

Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program

20000

Scope

The West Side Creative Market is one of Sussex County's largest recurring outdoor arts markets, providing income-generating opportunities for more than 140 local artists while welcoming over 20,000 residents and visitors annually. As the Market has grown, severe weather has become one of its greatest operational challenges. Since 2021, weather-related cancellations have disrupted artist income, reduced community access, and impacted the long-term reliability of the program.

To address this need, DAC has invested in a permanent awning and public gathering space to create a more resilient, accessible, and sustainable venue. This request will support the final phase of the renovation by funding additional gutter installation and related drainage improvements needed to complete the project. Once finished, the improvements will further protect artists, visitors, and infrastructure while allowing the Creative Market to operate more consistently despite changing weather conditions.

This investment benefits Sussex County by strengthening a free public arts destination, supporting local creative small businesses, enhancing community gathering space in West Rehoboth, and helping ensure artists have reliable opportunities to earn income throughout the season.

Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)

25,000.00

Description

Electrical Work by Azap Electric

Amount	2,310.00
Description	Awning Construction by Relax GC (with Gutters)
Amount	32,365.00
TOTAL EXPENDITURES	34,675.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	-9,675.00
Name of Organization	Developing Artist Collaboration
Applicant/Authorized Official	Leah Beach
Date	07/08/2026
I acknowledge and represent on behalf of the application organization that I have read and understand the Grant Program Guidelines and Affidavit of Understanding	Yes

I understand that, if awarded grant funding, I will be required to provide receipts and/or supporting documentation showing how the funds were spent. Failure to provide the required documentation may result in ineligibility for future grant funding from Sussex County.

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 with any questions.



Outlook

Form submission from: Council Grant Form

From notifications=d3forms.com@mg.d3forms.com <notifications=d3forms.com@mg.d3forms.com>
on behalf of
Sussex County DE <notifications@d3forms.com>
Date Thu 2026-07-09 08:44
To Morgan C. Stokes <morgan.stokes@sussexcountyde.gov>

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Council Grant Form

Legal Name of Agency/Organization	Millsboro Little League, Inc.
Project Name	LED Lighting Improvements
Federal Tax ID	51-0260181
Non-Profit	Yes
Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	No
Organization's Mission	The Millsboro Little League is committed to allowing young athletes ages 4 to 16 to learn the game and enjoy the games of Little League Baseball and Softball.
Address	P.O. Box 674
City	Millsboro
State	DE
Zip Code	19966

Contact Person	Christopher Lind
Contact Title	Treasurer
Contact Phone Number	302-745-7960
Contact Email Address	millsborolittleleague@gmail.com
Total Funding Request	2,500
Has your organization received other grant funds from Sussex County Government in the last year?	Yes
If YES, how much was received in the last 12 months?	1500
Are you seeking other sources of funding other than Sussex County Council?	No
If YES, approximately what percentage of the project's funding does the Council grant represent?	N/A
Program Category (choose all that apply)	Other
Program Category Other	Youth Sports
Primary Beneficiary Category	Youth

Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program

550

Scope

The Millsboro Little League is in the process of updating our lighting system throughout our park to LED lighting. The enhanced lighting will allow our growing population of players to enjoy the game of Little League Baseball and Softball after the sun has set. Millsboro is growing and more youth athletes are joining our little league. By enhancing our lighting we can continue to ensure players will have additional playing opportunities.

Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)

~~66,500.00~~ \$44,500 per email

Description

Reserves for Project

Amount

~~44,500.00~~ \$66,500 per email

TOTAL EXPENDITURES

~~44,500.00~~ \$66,500 per email

TOTAL DEFICIT FOR PROJECT OR ORGANIZATION

- 22,000.00

Name of Organization

Millsboro Little League, Inc.

Applicant/Authorized Official

Christopher Lind

Date

07/09/2026

I acknowledge and represent on behalf of the application organization that I have read and understand the Grant Program Guidelines and Affidavit of Understanding

Yes

I understand that, if awarded grant funding, I will be required to provide receipts and/or supporting documentation showing how the funds were spent. Failure to provide the required documentation may result in ineligibility for future grant funding from Sussex County.

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 with any questions.



Outlook

Form submission from: Council Grant Form

From notifications=d3forms.com@mg.d3forms.com <notifications=d3forms.com@mg.d3forms.com>
on behalf of
Sussex County DE <notifications@d3forms.com>
Date Tue 2026-07-14 17:36
To Morgan C. Stokes <morgan.stokes@sussexcountyde.gov>

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Council Grant Form

Legal Name of Agency/Organization	Bridgeville Apple Scrapple Festival, Inc.
Project Name	34th Annual Apple Scrapple Festival
Federal Tax ID	51-0399198
Non-Profit	Yes
Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	No
Organization's Mission	Our mission is to promote Western Sussex County agri-business and tourism, as an open-air street festival that provides fundraising opportunities to youth, civic, and non-profit groups and high-traffic commerce to hundreds of small business vendors.
Address	600 S Cannon St
Address 2	P. O. Box 206
City	Bridgeville

State	DE
Zip Code	19933-1315
Contact Person	Karen Johnson
Contact Title	President
Contact Phone Number	302-245-2038
Contact Email Address	kjohnsonasf@yahoo.com
Total Funding Request	3000.00
Has your organization received other grant funds from Sussex County Government in the last year?	Yes
If YES, how much was received in the last 12 months?	3500
Are you seeking other sources of funding other than Sussex County Council?	Yes
If YES, approximately what percentage of the project's funding does the Council grant represent?	12
Program Category (choose all that apply)	Other
Program Category Other	community festival

Primary Beneficiary Category	Other
Beneficiary Category Other	all that attend
Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program	20000
Scope	Each year our festival is coordinated as a fundraiser to many local organizations located in and around Sussex County. Over 20,000 attendees may join us for our event on Friday night, and all day Saturday. Providing a safe, comfortable, and clean festival is our priority. We provide free busing from our parking lots to our festival, tents, tables, and chairs in our food court, maintain 50 trash cans that are constantly emptied, and we provide 50 portapotties that are serviced during the event. Two local groups pick up trash during and after the event, leaving our town clean after our festival. All of these services are necessary to keep our attendees safe and comfortable while they enjoy our festival.
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	20,000.00
Description	Busing
Amount	11,775.00
Description	Portapotties
Amount	6,675.00
Description	Tents, Tables, Chairs

Amount	3,175.00
Description	Trash Cans and Dumpsters
Amount	2,250.00
Description	Trash Detail Organizations
Amount	1,800.00
TOTAL EXPENDITURES	25,675.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	-5,675.00
Name of Organization	Bridgeville Apple Scrapple Festival
Applicant/Authorized Official	Karen Johnson
Date	07/14/2026
I acknowledge and represent on behalf of the application organization that I have read and understand the Grant Program Guidelines and Affidavit of Understanding	Yes

I understand that, if awarded grant funding, I will be required to provide receipts and/or supporting documentation showing how the funds were spent. Failure to provide the required documentation may result in ineligibility for future grant funding from Sussex County.

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 with any questions.

To Be Introduced: 7/28/26

Council District 1: Mr. Lloyd

Tax I.D. No.: 432-7.00-13.00

911 Address: 8504 Portsville Road, Laurel

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR LANDSCAPING BUSINESS WITH EQUIPMENT STORAGE AND PARKING TO BE LOCATED ON A CERTAIN PORTION OF A PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 13.18 ACRES, MORE OR LESS

WHEREAS, on the 18th day of October 2024, a Conditional Use application, denominated Conditional Use No. 2560 was filed on behalf of Zachary Pulcinella; 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. 2560 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. 2560 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 the south side of Portsville Road (S.C.R. 492), approximately 1.04 miles east of South Shell Bridge Road (S.C.R. 492A) and being more particularly described in the attached legal description prepared by The Smith Firm, LLC said parcel containing 13.18 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: 7/28/26

**Council District 5: Mr. Rieley
Tax I.D. No.: 333-15.00-7.00 (P/O)
911 Address: 22009 & 37472 Dots Road, Millsboro**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPE AND HARDSCAPE BUSINESS TO BE LOCATED ON A PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 48.11 ACRES, MORE OR LESS

WHEREAS, on the 7th day of April 2025, a Conditional Use application, denominated Conditional Use No. 2585, was filed on behalf of Cody Collins; 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. 2585 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. 2585 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 Dots Road (S.C.R. 415B), the east and west sides of Firemans Road (S.C.R. 413), and the north side of Parker Road (S.C.R. 415), approximately 0.426 mile south of Cypress Road (Rt. 54) and being more particularly described in the attached legal description prepared by Moore & Rutt, PA said parcel containing 48.11 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: 7/28/26

Council District 4: Mr. Hudson

Tax I.D. No.: 134-15.00-139.00

911 Address: 34188 Roxana Road, Frankford

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ASSISTED LIVING FACILITY FOR UP TO SIXTEEN (16) RESIDENTS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 8.0 ACRES, MORE OR LESS

WHEREAS, on the 23rd day of December 2025, a Conditional Use application, denominated Conditional Use No. 2629, was filed on behalf of Age Well, LLC, 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. 2629 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. 2629 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 west of Roxana Road (Rt. 17), approximately 0.48 mile south of Powell Farm Road (S.C.R. 365), and being more particularly described in the attached legal description prepared by Stephen Parsons, P.A. said parcel containing 8.0 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.

ENGINEERING DEPARTMENT

ADMINISTRATION	(302) 855-7718
AIRPORT & INDUSTRIAL PARK	(302) 855-7774
ENVIRONMENTAL SERVICES	(302) 855-7730
PUBLIC WORKS	(302) 855-7703
RECORDS MANAGEMENT	(302) 854-5033
UTILITY ENGINEERING	(302) 855-7717
UTILITY PERMITS	(302) 855-7719
UTILITY PLANNING	(302) 855-1299
FAX	(302) 855-7799



Sussex County

DELAWARE
sussexcountyde.gov

HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING

Proposed Lilyvale Expansion of the Sussex County Unified Sanitary Sewer District

PUBLIC HEARING FACT SHEET

- County council granted permission to prepare and post notice for a public hearing on June 23, 2026, for the Lilyvale Expansion of the Sussex County Unified Sanitary Sewer District (Millville Area)
- The Engineering Department had received a request from Solutions IPEM, LLC, on behalf of their client K Hovnanian Delaware Division, Inc., the developers of parcels 134-19.00-13.00 & 13.04 to annex the properties into the SCUSSD.
- The project is north of Lizard Hill Road and on the west side of Central Ave. and proposed for 174 single-family units.
- The project will be responsible for System Connection Charges in place at the time of connection.
- The Engineering Department posted notices on July 8, 2026, advertised weeks of the 15th & 22nd and posted to the County website.
- To date we have received no correspondence either in support or opposition to this annexation.



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

PUBLIC NOTICE

PROPOSED LILYVALE EXPANSION OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (MILLVILLE AREA)

NOTICE IS HEREBY GIVEN that the Sussex County Council voted on **June 23, 2026** to consider extending the boundary of the Sussex County Unified Sanitary Sewer District (SCUSSD), Millville Area, to include the Lilyvale subdivision located on Central Avenue and Lizard Hill Road, being situate in Baltimore Hundred, Sussex County, Delaware.

This action is in conformity with 9 Del.C §6502.

A description of the area, which is contiguous to and to be added to the SCUSSD is described as follows:

Beginning at a point, said point being on the SCUSSD boundary, said point also being on the southeasternmost property line of Milo's Have subdivision, said point further being a property corner of lands Now-or-Formerly of Wayne E Hickman, Gary O. Hickman, Cinda S. Rickards Trustees; thence proceeding with said District boundary, said subdivision boundary and Hickman/Rickards Trustees boundary in a northeasterly, northwesterly, and northeasterly direction respectively a total distance of 2,230'± to a point, said point being the southwesternmost property corner of lands N/F of Tyler B. & Karen S. Hickman; thence leaving said District boundary and subdivision boundary and continuing with the Hickman/Rickards Trustees boundary in southeasterly direction a distance of 1,348'± to a point, said point is a property corner of lands N/F of Wayne E & Nancy G. Hickman TTEE REV TR; thence leaving said the Hickman/Rickards Trustees lands and continuing by and with said Hickman lands in a southeasterly direction a distance of 358'± to a point, said point being on the westerly Right-of-Way of Central Avenue; thence proceeding by and with said Hickman lands and said ROW in a southwesterly direction a distance of 150'± to a point, said point being a property corner of said Hickman/Rickards Trustees boundary; thence leaving said Hickman lands and proceeding by and with said Hickman/Rickards Trustees lands and ROW in a southwesterly direction a distance of 409'± to a point; thence leaving said ROW and proceeding with said Hickman/Rickards Trustees lands in a northwesterly, southwesterly, northwesterly, southwesterly, northwesterly, and southwesterly direction respectively a total distance of 2,222'± to a point, said point being on the northerly ROW of Lizard Hill Road; thence continuing with said Hickman/Trustees Trustees lands and said ROW in a southwesterly direction a distance of 360'± to a point; said point being a property corner of lands N/F Gary & Judy Hickman; thence leaving said ROW and continuing with said Hickman/Rickards Trustees lands in a northwesterly direction a distance of 436'± to a point, said point being that of the **BEGINNING**.

NOTE: The above description has been prepared using Sussex County Tax Map 134-19.00 and Sussex County property assessment records. The annexation contains 93 acres more or less.

A map outlining and describing the extension of the SCUSSD is attached. The area involved is crosshatched.

The public hearing will be held on this issue at 1:30 pm on July 28, 2026, in the Sussex County Council Chambers, 2 The Circle, Georgetown, Delaware 19947. All interested persons, officials, residents, voters, taxpayers, property owners, or corporations in any way affected by this boundary extension are welcome to attend. There will be an opportunity for questions and answers. The Sussex County Council following the hearing, at one of their regularly scheduled meetings, will make the final decision on the boundary extension.

For further information, please call or write the Sussex County Engineering Department, 2 The Circle, Post Office Box 589, Georgetown, DE 19947 – (302) 855-7370.

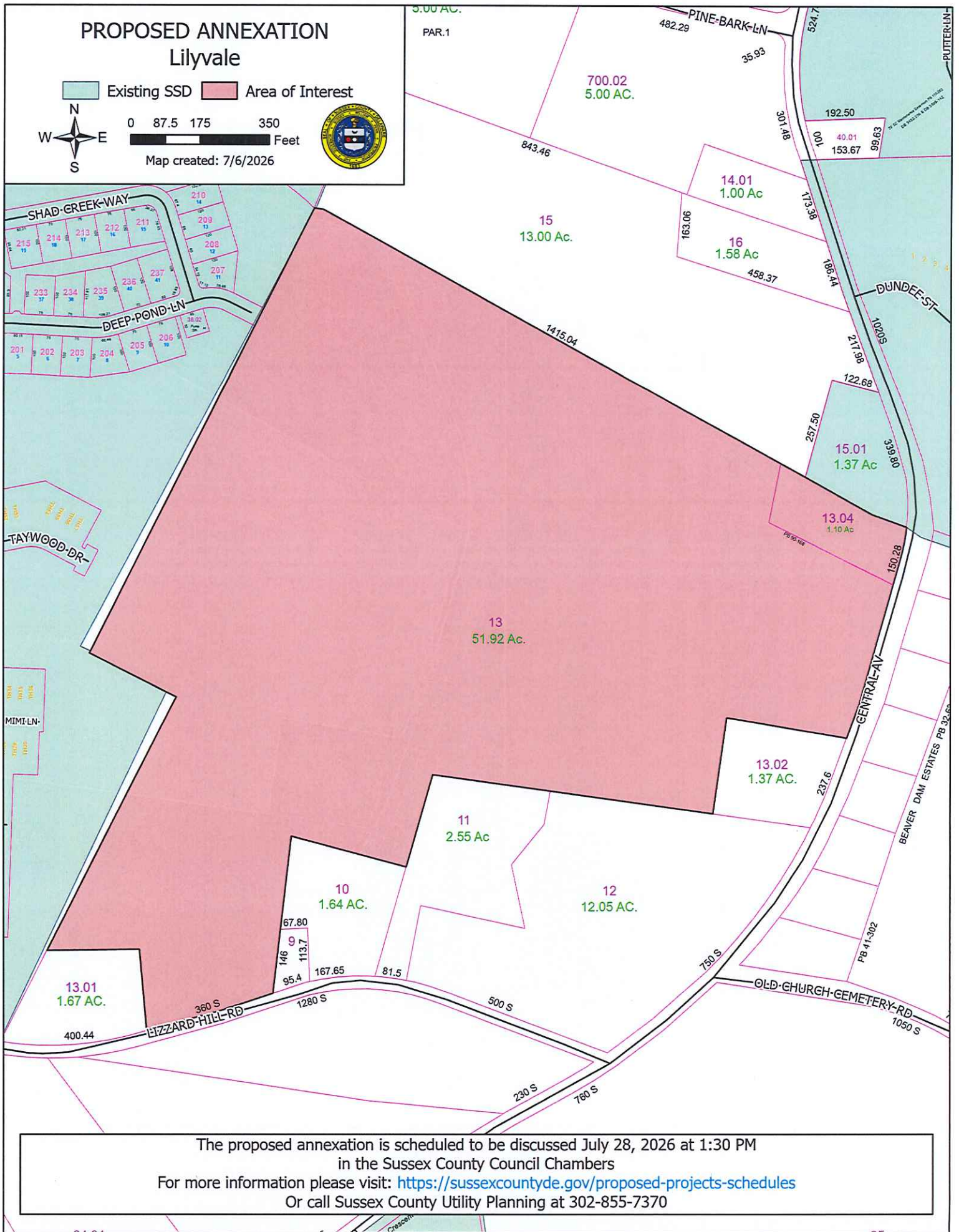
Mike Harmer, P.E.
County Engineer

PROPOSED ANNEXATION
Lilyvale

Existing SSD Area of Interest



0 87.5 175 350 Feet
Map created: 7/6/2026



The proposed annexation is scheduled to be discussed July 28, 2026 at 1:30 PM
in the Sussex County Council Chambers

For more information please visit: <https://sussexcountyde.gov/proposed-projects-schedules>
Or call Sussex County Utility Planning at 302-855-7370

PROPOSED LILYVALE EXPANSION
AFFIDAVIT FOR PUBLIC HEARING

STATE OF DELAWARE)(

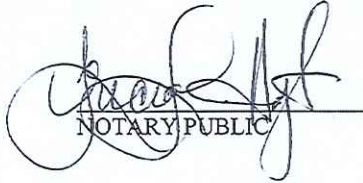
COUNTY OF SUSSEX)(

BE IT REMEMBERED, That the subscriber, PHILLIP C. CALIO, personally appeared before me and known to me personally to be such, who being by me duly sworn to law did depose and say as follows:

- A. On July 8, 2026 he was a Planning Tech for the Sussex County Engineering Department, Sussex County, State of Delaware; and
- B. On July 8, 2026 he did post the attached "Public Notice," prepared by the Sussex County Engineering Department, at the following locations:
1. On a post in the northerly Right-Of-Way (ROW) of Lizard Hill Road, 840'± east of Norman Lane,
 2. On a post in the northerly ROW of Lizard Hill Road, 960'± east of Norman Lane,
 3. On a post in front of DEC Pole 14461 in the westerly ROW of Central Avenue, 943'± southwest of Dundee St.,
 4. On a post in the westerly ROW of Central Avenue 132'± south of DEC Pole 14461,
 5. On a post in front of a STOP sign at the intersection of Tee Box Blvd. and Central Ave,
 6. On a post in front of a STOP Sign at the intersection of Lizard Hill Road and Norman Lane at the entrance to Milos Haven subdivision,
 7. On a post in front of a STOP sign at the intersection of Peppers Corner Road and Windsor Park Drive at the entrance to Sycamore Chase subdivision,
 8. On a post in front of a STOP sign at the intersection of Bayard Road and Privy Lane at the entrance to the Meadows at Bayard.


PHILLIP C. CALIO

SWORN TO AND SUBSCRIBED before me on this 9th day of July A.D., 2026


NOTARY PUBLIC



My Commission Expires 12/12/2027

RESOLUTION

A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) MILLVILLE AREA, TO INCLUDE THE PROPOSED LILYVALE SUBDIVISION LOCATED IN THE BALTIMORE HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE.

WHEREAS, Sussex County has established the Sussex County Unified Sanitary Sewer Sanitary Sewer District (SCUSSD); and

WHEREAS, in the best interests of the present district and to enhance the general health and welfare of that portion of Sussex County in the vicinity of Central Avenue and Lizard Hill Road, the inclusion of this area will be beneficial; and

WHEREAS, in accordance with 9 Del.C., Section 6502 (a), the Sussex County Council may, upon request of the County Engineer, revise the boundary of an established sewer district when 50 or more houses have been connected by posting a public notice in four public places in the district describing the new or revised boundary; and

WHEREAS, the Sussex County Council has caused to be posted a public notice in at least four public places in the district, as verified by the affidavit of Phillip C. Calio, a copy of which affidavit and public notice is attached hereto and made a part hereof: and

WHEREAS, in accordance with 9 Del.C., Section 6502 (b), the Sussex County Council shall, within ninety days after posting the public notices pass a formal resolution establishing the new boundary of the district;

NOW, THEREFORE,

BE IT RESOLVED the Sussex County Council hereby revises the boundary of the SCUSSD to encompass the lands mentioned above in the area of Central Avenue and Lizard Hill Road and further described as follows:

Beginning at a point, said point being on the SCUSSD boundary, said point also being on the southeasternmost property line of Milo's Haven subdivision, said point further being a property corner of lands Now-or-Formerly of Wayne E Hickman, Gary O. Hickman, Cinda S. Rickards Trustees; thence proceeding with said District boundary, said subdivision boundary and Hickman/Rickards Trustees boundary in a northeasterly, northwesterly, and northeasterly direction respectively a total distance of 2,230'± to a point, said point being the southwesternmost property corner of lands N/F of Tyler B. & Karen S. Hickman; thence leaving said District boundary and subdivision boundary and continuing with the Hickman/Rickards Trustees boundary in southeasterly direction a distance of 1,348'± to a point, said point is a property corner of lands N/F of Wayne E & Nancy G. Hickman TTEE REV TR; thence leaving said the Hickman/Rickards Trustees lands and continuing by and with said Hickman lands in a southeasterly direction a distance of 358'± to a point, said point being on the westerly Right-of-Way of Central Avenue; thence proceeding by and with said Hickman lands and said ROW in a southwesterly direction a distance of 150'± to a point, said point being a property corner of said Hickman/Rickards Trustees boundary; thence leaving said Hickman lands and proceeding by and with said Hickman/Rickards Trustees lands and ROW in a southwesterly direction a distance of 409'± to a point; thence leaving said ROW and proceeding with said Hickman/Rickards Trustees lands in a northwesterly, southwesterly, northwesterly, southwesterly, northwesterly, and southwesterly direction respectively a total distance of 2,222'± to a point, said point being on the northerly ROW of Lizard Hill Road; thence continuing with said Hickman/Trustees Trustees lands and said ROW in a southwesterly direction a distance of 360'± to a point; said point being a property corner of lands N/F Gary & Judy Hickman; thence leaving said ROW and continuing with said Hickman/Rickards Trustees lands in a northwesterly direction a distance of 436'± to a point, said point being that of the **BEGINNING**.

NOTE: The above description has been prepared using Sussex County Tax Map 134-19.00 and Sussex County property assessment records.

A map outlining and describing the extension of the SCUSSD is attached. The area involved is crosshatched.

BE IT FURTHER RESOLVED that the Sussex County Council directs the County Engineer and the Attorney for the County Council to procure the necessary lands and right-of-way by purchase, agreement, or condemnation in accordance with the existing statutes; and

BE IT FURTHER RESOLVED that the County Engineer is hereby authorized to prepare maps, plans, specifications, and estimates, let contracts for and supervise the construction and maintenance of, or enlarging and remodeling of, any and all structures required to provide for the safe disposal of sewage in the sanitary sewer district, as amended.



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: July 23, 2026

RE: County Council Report for C/U 2631 filed on behalf of Zion Church Ventures, LLC

The Planning and Zoning Department received an application (C/U 2631 filed on behalf of Zion Church Ventures, LLC) for a Conditional Use to amend the conditions of approval for Conditional Use No. 2581. The Tax Parcel ID is 533-11.00-23.00. The property is located at 36054 Zion Church Road. The parcel size is 29.55 ac. +/-

The Planning & Zoning Commission held a Public Hearing on the application on April 15, 2026. At the conclusion of the Public Hearing, the Commission deferred action on the application for further consideration, leaving the record open until April 22nd for receipt of any additional written comments. On June 3, 2026, the Commission recommended a **partial approval/partial denial** of the Applicant's request to modify conditions of approval.

The County Council held a Public Hearing on the application at the meeting on June 2, 2026. As the Commission had not yet made a recommendation at the time of the County Council meeting, the Council left the record open to allow for receipt of the Commission's recommendation.

As the Applicant was not present for the Public Hearing on June 2, 2026, the County Council Public Hearing was re-noticed for July 28, 2026.

Below are the minutes from the Planning & Zoning Commission meeting on April 15, 2026 and June 3, 2026



Minutes of the April 15, 2026, Planning & Zoning Commission Meeting

C/U 2631 Zion Church Ventures, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR STORAGE/WAREHOUSE/OFFICE BUILDINGS AND A CAR WASH (TO AMEND CONDITION “D” AND CONDITION “N” OF THE CONDITIONS OF APPROVAL FOR CONDITIONAL USE NO. 2581 (ORDINANCE NO. 4009) TO ALLOW FOR OFFICE SPACES WITHIN THE WAREHOUSE UNITS AND TO REMOVE THE REQUIREMENT THAT AN ON-SITE MANAGEMENT OFFICE BE ESTABLISHED FOR THE MAINTENANCE AND OPERATION OF THE WAREHOUSE UNITS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 29.55 ACRES, MORE OR LESS. The property is lying on the southwest side of Zion Church Road (Route 20), approximately 605 feet northwest of Deer Run Road (S.C.R. 388), and the north side of Deer Run Road (S.C.R. 388), approximately 159 feet southwest of Zion Church Road (Route 20). 911 Address: 36054 Zion Church Road, Frankford. Tax Map Parcel: 533-11.00-23.00.

Mr. Whitehouse advised the Commission that submitted into the record were the DelDOT Service Level Evaluation Response Letter, the Applicant’s Conditional Use Site Plan, the Staff Analysis Report, a letter received from the Sussex County Engineering Department’s Utility Planning Division, a copy of the previous application’s PLUS comments, the Applicant’s Request to Amend Conditions Letter, and copies of the previous application’s Notice of Decision Letters relating to the existing Conditional Use of the property. Mr. Whitehouse advised the Commission that no written comments were received regarding the application.

The Commission found that Mr. Brad Absher, Professional Surveyor with TrueNorth Land Surveying, spoke on behalf of the Applicant, Zion Church Ventures, LLC. Mr. Absher stated that the Applicant respectfully requested approval of the application, due to the request of limited and practical amendment, to an already approved use; that Sussex County approved a Conditional Use (C/U 2581) in 2025, and the proposed use remains the same in nature; that they were currently requesting to make two operation conditions work in practice; that the first request was to allow and office space to be permitted within the warehouse units; that the second request was to remove the requirement for separate on-site management office; that the amendment should be approved because this does not change the fundamental character of the project; that Condition D, as currently written, stated that the unit was to be used for business, and could be used for business purposes; that that the unit may only be used for climate control storage; that the units could not be used for manufacturing or industrial purposes; that no unit can be primarily used as an office; that the property could not be used for meeting customers, showrooms, customer pickup, or a delivery or mail drop location; that it also stated that office space cannot be isolated or walled off from remaining units; that their request was not to remove the business use limits; that their request was to allow a practical, internal office within the unit, while preserving the core protection against retail, traffic, customer visits, etc.; that they felt the request change was reasonable as explained in the submitted application materials; that a separate office within the same unit can improve organization, productivity, and safety for the tenants who need an administrative workspace tied directly to their storage and the warehouse use; that the request

was not to create standalone office units, but rather to allow office space that would be an accessory use to the warehouse and storage function; that they felt the request to change the Condition was reasonable; that the current Condition required a separate on-site management office to be open during regular business hours; that they requested for the Condition to be removed because the management could still handle responsibility without mandating a standalone office on the property; that removing the office requirement does not create a more intense use, would not increase traffic, and would not remove any of the operational safeguards that have already been imposed on the site; that the County's own prior findings on the site, support approval of these amendments; that when the Commission recommended C/U 2581, it found that the use was compatible with the surrounding zoning; that the traffic would be minimal; that DelDOT stated the traffic impact would be minor; that the property was in the Coastal and Development Areas, which are considered Growth Areas within the County; that the use would not adversely affect neighboring and adjacent properties; that those findings still currently apply; that the property still served as a practical need for climate controlled storage and office space for the area and property owners and businesses; that existing conditions still prevent the kind of impacts Sussex County wanted to avoid, and that the request was a modest operational adjustment, not just a change in the overall use of the property.

Mr. Collins questioned what specific activities will take place in the office spaces and whether individual or shared restrooms facilities were proposed.

Mr. Absher stated the restroom facilities had already been addressed in the previous Conditional Use approval.

Madam Chair Wingate stated that the previous Conditional Use approval for restroom facilities was only for the office.

Mr. Absher stated that there was a shared restroom room per unit.

Mr. Robertson stated that previously there was one office that had a restroom; that there was an issue of offices not being allowed within the individual units, as they did not want the use to become a office park versus a storage facility; that the original Conditional Use was presented to the Commission as a storage facility; that stated within the conditions were the Commission's findings, which spoke to climate-controlled storage and workspace areas for individuals with boats, recreational vehicles, motorcycles, cars and collectibles; that there was also an area for a car wash to serve the individuals in the area that did not have room at their home or their property to work on such things, along with a pool amenity as well; that he questioned what the proposed use was; that it appeared that the use had evolved; that there was concern about the use going from an accessory use to residential, where one would store their car or RV, or to something that is more intensive such as an office and commercial use with increased traffic and everything else.

Madam Chair Wingate stated that she was present for the previous public hearings; that she had been under the assumption that the use was for storage, with a pool and a car wash; that she was perplexed of why the Commission was again considering a change of the Conditions of Approval; that the Commission had imposed the conditions for a reason, and if the Commission were to change to the

condition, to allow all the units to have offices, it would result in a totally different look than a storage warehouse in her opinion.

Mr. Absher stated that the reason they returned before the Commission last time, which was completely annihilated, as it was not relayed to what the Applicant was actually trying to do; that when they returned before the Commission the second time, it was to request the individual offices for the units, and instead they were approved for bathrooms to be placed within each unit as part of the second approved Conditional Use.

Madam Chair Wingate stated that she reviews a storage building as being a storage building, not to be used for offices and bathrooms.

Mr. Pettyjohn questioned how many storage units were proposed for one storage building, and whether bathrooms would be included within each of the offices.

Mr. Absher stated that potentially nine offices would be proposed for one storage building, and that he believed the bathrooms were already approved and established as part of the previously approved Conditional Use.

Mr. Collins requested that Mr. Absher go back and repeat the original intent of the very first Conditional Use.

Mr. Absher stated that the original vision was twofold; that it is similar to some other Applicant's that presented before the Commission earlier that evening with contractor warehousing and storage; that the other vision was to provide a man cave for residential guys, which included facilities for people to clean up after themselves should they perform work on a project car; that one could have their RV in their bay; that one would be permitted to work within that bay; that they had a sewer clean out, where one could come back from camping, dump the RV, putting it in one's bay, and additionally, there would be car guys who would use their car, place their car collections in their bay, which was the reasoning for the carwash.

Mr. Pettyjohn stated that he understood Mr. Absher vision; that he knew it could get dangerous as "man cave" was not defined within the Code; that he knew often people would fall asleep there, and he was unsure what could happen.

Madam Chair Wingate stated that Mr. Pettyjohn's statement was part of the concern, as it could easily turn into a trade, having people spending the night at the site, and she questioned who would monitor that situation.

Mr. Absher stated that the issue was covered within the original Conditional Use, as they would be able to monitor by having gate codes with the people going in and out.

Madam Chair Wingate questioned how the Applicant would monitor people spending the night on the site.

Mr. Absher stated that the site would be monitored by a security system, and a gate code keypad; that it was not a new concept as this type of use is all over Florida and Texas, and they have restrictions.

Mr. Pettyjohn stated that it was not that the Commission did not think that the Applicant had the best of intentions, however, they had seen a lot and knew how quickly it could go south.

Mr. Collins stated that the Commission did not want to create conditions that Sussex County had an obligation to police, as Sussex County did not currently have the resources to do that.

Mr. Absher stated that the only two conditions he was present to request were the potential for an office area, and the removal of the on-site management, and he felt the bathrooms had already been addressed within the previously approved Conditional Use.

Mr. Robertson questioned the number of individual units proposed.

Mr. Absher stated that the accurate number was reflected on the Site Plan, and that he believed it was around 172 individual units.

Mr. Collins questioned whether the Commission was considering a 172-office park.

Mr. Passwaters questioned the difference the Applicant was proposing; that the bay already consisted of four-walls, with an approved bathroom, and he questioned whether the Applicant was proposing to build another room inside of the bay unit, which could be considered an office anyway.

Mr. Robertson stated that the Commission's concern was based on what they had previously seen done in Sussex County; that a storage unit would generate one person coming in and one person going out on an intermittent bases; that once one something becomes an office, depending on what happens, many office staff could begin accessing the site; that customers could begin dropping off payments, or sub-contractors may begin accessing the site; that this in turn blows up the DelDOT traffic counts, and the on-site parking requirements; that he felt the bigger trigger for the proposed offices was that there likely would not be enough parking for 172 offices with multiple employees and people visiting them; that the office alone was not the issue, and it was the spider web out of the office use that could create issues and was the bigger concern.

Mr. Absher stated that it was his understanding that business was already permitted as a result of the existing Conditional Use.

Mr. Pettyjohn questioned whether Mr. Absher was referring to a service business already being permitted for the site.

Mr. Absher stated yes that he was referring to service businesses already being permitted.

Mr. Robertson stated that he felt the Commission required better staff clarification regarding what was currently permitted; that the Commission was making assumptions of what was approved and

not approved; that he did not want to approve or not approve something in fairness to the Applicant; that the Commission was going to need to defer the application, due to the IT issues; that the application could be placed to the next meeting agenda with a report from staff confirming exactly what was permitted under the currently approved Conditional Use, and this would provide for a clean record and a better understanding for everyone.

Mr. Collins apologized, stating that the Commission would like to assume positive intent, however, there were previous examples within Sussex County where people pushed boundaries and had gotten out of control.

Mr. Absher stated that the prohibited uses would never happen, as the Commission had already stipulated what is permitted on the site from a business sense, which was part of the existing Conditional Use, and he was only present for the two requested amendments.

The Commission found that no one was present 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 2631 Zion Church Ventures, LLC. Motion by Mr. Allen, seconded by Mr. Passwaters, and carried unanimously to defer action, leaving the record open to allow for the receipt of an additional report from staff on the application history and permitted activities/uses per the previous approval, and for the receipt of written public comment, with the record to close on April 22, 2026. Motion carried 5-0.

Minutes of the June 3, 2026, Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since April 15, 2026.

Mr. Allen moved that Zion Church Ventures, under application C/U 2631, has requested an amendment to Condition D and the deletion of Condition N of Conditional Use No. 2581 and Ordinance No. 4009.

Condition D prohibited any walled-off offices within individual units, and Condition N required a central on-site office within the project.

The prohibition against an internal, walled-off office within any individual unit is consistent with the manner in which this application was presented- that it would primarily be used for personal storage purposes and not for more intensive business uses. In furtherance of this, there is also a prohibition in Condition D against the use of a unit for manufacturing or industrial purposes, or as a mail drop or for food preparation. Condition A also prohibits the use of units for gyms, food service, retail or other more intensive uses. These prohibitions were included to prevent the facility from being converted to more intensive uses than what was presented during the public hearings and creating unanticipated issues with parking, traffic, utility services, and other factors. There was also a concern

that the units might be converted in part for use as temporary residences for employees. The inclusion of the prohibition against internal, walled-off offices is consistent with these other existing prohibitions in the Conditional Use. For that reason, it is my recommendation that the Applicant's request to amend Condition D be denied.

Condition N is less of a concern. As originally presented, this use would have a variety of amenities, including a pool and car wash, which would suggest that a central office is appropriate. Although central offices are typically included in a storage facility as part of the design and operation of it, they are not always included as a condition of approval. For that reason, I recommend that Condition N requiring a central office be deleted from the prior approval. By removing this condition, the Applicant will still be able to install a central office, if necessary, it will just not be a County requirement.

In summary, Mr. Allen moved that the request to amend Condition D be denied, and the request to delete Condition N be granted by the Commission.

Motion by Mr. Allen, seconded by Mr. Collins, and carried unanimously to recommend partial approval for C/U 2631 Zion Church Ventures, LLC, by recommending denial of the requested amendment for Condition D, regarding individual unit offices, and recommended approval of the requested deletion of Condition N, regarding the requirement for a central on-site office, as required within the Conditions of Approval for Conditional Use No. 2581 (Ordinance No. 4009), for the reasons stated in motion. Motion carried 5-0.

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

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

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

Mr. Collins vote yea, for the reasons stated in the motion.

Mr. Pettyjohn voted yea, for the reasons stated in the motion.

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

PLANNING & ZONING COMMISSION

HOLLY J. WINGATE, CHAIR
JEFF ALLEN
G. SCOTT COLLINS
DAVID PETTYJOHN
JOHN PASSWATERS



Sussex County

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JAMIE WHITEHOUSE, AICP MRTPI
PLANNING & ZONING DIRECTOR

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: April 15th, 2026

Sussex County Council Hearing Date: June 2nd, 2026

Application: C/U 2631 Zion Church Ventures, LLC

Applicant: Mr. Bradley A. Absher
35322 Bayard Road
Frankford, DE 19945

Owner: Zion Church Ventures, LLC
35322 Bayard Road
Frankford, DE 19945

Site Location: Lying on the southwest side of Zion Church Road (Route 20), approximately 605 feet northwest of Deer Run Road (S.C.R. 388) and the north side of Deer Run Road (S.C.R. 388), approximately 159 feet southwest of Zion Church Road (Route 20) at 36054 Zion Church Road.

Current Zoning: MR (Medium Density Residential District)

Proposed Zoning: MR (Medium Density Residential District)

Proposed Use: Amendment to Existing Conditional Use No. 2581 (Ordinance No. 4009) to allow for office spaces within units & removal of an on-site Office.

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: District 4 - Mr. Hudson

School District: Indian River School District

Fire District: Roxana Fire Company

Sewer: Sussex County (central sewer)

Water: Tidewater (central water)

Site Area: 29.55 acres +/-

Tax Map ID.: 533-11.00-23.00





Memorandum

To: Sussex County Planning and Zoning Commission Members
From: Mrs. Lauren Cecchine, AICP, Planning & Zoning Manager
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: March 13th, 2026
RE: Staff Analysis for C/U 2631 Zion Church Ventures, 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 2631 Zion Church Ventures, LLC to be reviewed during the April 15th, 2026, 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: 533-11.00-23.00

Proposal: This Application is for a previously approved Conditional Use for Tax Parcel: 533-11.00-23.00 for storage/warehouse/office buildings and a car wash. The proposal is to be located within an Agricultural Residential (AR-1) District on a 29.55-acre parcel of land lying on the southwest side of Zion Church Road (Route 20), approximately 605 feet northwest of Deer Run Road (S.C.R. 388), approximately 159 feet southwest of Zion Church Road (Route 20) in Frankford, Delaware.

Specifically, the request is to amend Conditions “D” and “N” of the Conditions of Approval for Conditional Use No. 2581 (Ordinance 2009) to allow for office spaces within the warehouse units and to remove the requirement that an on-site management Office be established for the maintenance and operation of the warehouse units.

Staff note that this Application is a revision to two (2) previous Applications (Conditional Use No. 2581 & 2392 Zion Church Ventures, LLC) which was for 19, 9,500 square foot climate-controlled buildings (180,500 square feet), one 2,500 square foot car wash building with parking and a 6,400 square foot clubhouse with pool and patio and related parking.

Conditional Use No. 2392 Zion Church Ventures, LLC was approved by the Sussex County Council at their meeting of Tuesday, April 9th, 2024, and the change was adopted through Ordinance No. 2999 subject to seventeen (17) Conditions of Approval.

Staff further note that the changes to the originally approved Conditional Use Site Plan through Conditional Use No. 2581 included the addition of an ancillary Office, removal of the clubhouse and exclusion of a portion of Tax Parcel IDs: 533-11.00-23.00, 23.03 & 23.04.



Conditional Use No. 2581 Zion Church Ventures, LLC was approved by the Sussex County Council at their meeting of Tuesday, July 22nd, 2025, and the change was adopted through Ordinance No. 4009 subject to twenty (2)) Conditions of Approval.

Zoning: The Parcel is zoned Agricultural Residential (AR-1) District. The surrounding parcels to the north, east and west of the subject properties on the north side of Deer Run Road (S.C.R. 388) and the southwest side of Zion Church Road (Route 20).

The property to the south of Deer Run Road (S.C.R. 388) consisting of the Deer Run Acres Subdivision and the Hampden Park Subdivision are zoned General Residential (GR) District. There is a single parcel to the south of Deer Run Road and Zion Church Road that is zoned Neighborhood Business (B-1 & B-2). There are also commercially zoned properties on the north side of Zion Church Road to the southwest of the subject properties.

Future Land Use Map Designation w/in Comprehensive Plan: Coastal Area and Developing Area and a small portion appears to be within the Low Density Area.

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 in the plan indicates that the parcels have a Growth Area designation of “Coastal Area” and “Developing Area.”

The Comprehensive Plan notes that Coastal Areas are growth areas which “are areas that can accommodate development provided that special environmental concerns are addressed,” and “a range of housing types should be permitted in Coastal Areas, including single-family homes, townhomes and multifamily units” (2018 Sussex County Comprehensive Plan, 4-15). The plan notes that “retail uses are appropriate” with “appropriate mixed-use development also [being] allowed” (2018 Sussex County Comprehensive Plan 4-15).

The Comprehensive Plan states that Developing Areas are “newer, emerging growth areas that demonstrate the characteristics of developmental pressures” (2018 Sussex County Comprehensive Plan, 4-14). The Plan further notes that, “a careful mixture of homes with light commercial uses can be appropriate to provide convenient services and allow people to work close to home” (2018 Sussex County Comprehensive Plan, 4-14).

Compliance with Comprehensive Plan

The 2018 Sussex County Comprehensive Plan outlines Zoning Districts by their applicability to each Future Land Use category. Under Table 4.5-2 “Zoning Districts Applicable to Future Land Use Categories,” the Agricultural Residential (AR-1) District is listed as an Applicable Zoning District within the Coastal Area, Developing Area and Low Density Area Future Land Use Map designations (Sussex County Comprehensive Plan, 4-25).

Further Site Considerations:

- **Density:** N/A

- **Open Space Provisions:** N/A
- **Agricultural Areas:** Staff note that aerial imagery indicates that the project site is within the vicinity of lands in active agricultural use. This includes the Parcels to the north.
- **Interconnectivity:** Staff appreciate efforts to provide interconnectivity in order to prevent one-way-in, one-way-out access only to the property in an event an emergency should occur on the Parcel. Please add an easement or other means of providing alternative access to the property.

Staff note that §115-221 “Final Site Plan Requirements” notes that interconnectivity be provided where proposed development of *“business and office buildings, commercial buildings or industrial buildings”* is *“occurring or may occur in the future”* (§115-221(B)(16)).

- **Transportation Improvement District (TID):** The subject property is not located within any established Transportation Improvement Districts (TIDs).
- **Forested Areas:** Staff note that there is an existing forested area on the northeast portion of the subject property. Though not Conditional Use for single-family or multi-family dwellings, Staff request that a 30-ft buffer be provided in accordance with the recent approval of Ordinance No. 3038 “Perimeter Buffers Around Residential Developments” as the property is both adjacent and in proximity to existing residential uses (§115-218(E)).
- **Wetlands Buffers/Waterways:** Staff note per the County’s Online Mapping System that there appears to be a large area of lotic wetlands on the Property that also appear to exist in conjunction with the existing agricultural ditch which appears to bisect the property and run to the southeast of the property between Parcels 24.00, 23.03, 24.01 and 23.04. (This information has been included in a Supplemental Map for the Commission and Council’s review.)
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** The Parcels are located within Flood Zones “X” – Areas determined to be outside the 1% annual chance flood. Staff note there are no Wellhead Protection Areas on the project site. The Parcel is classified as within an area of “Fair” Groundwater Recharge Potential on the site per data from the State of Delaware. Staff note that there are two (2) Tax Ditch Areas (the Batson Branch Tax Ditch Area and the Bear Hole Tax Ditch Area) and a related Tax Ditch Right-Of-Way (ROW) which runs along the northeast side (along Parcels 22.00 and 22.01) which is measured 80-ft from the centerline (CL) of the Tax Ditch and another Tax Ditch Right-Of-Way (ROW) which runs along the southeast side of the property which is measured 50-ft from the Top of Bank (TOB) of the Ditch which was reduced through Court Order Change No. 16. ((This information has been included in a Supplemental Map for the Commission and Council’s review.)

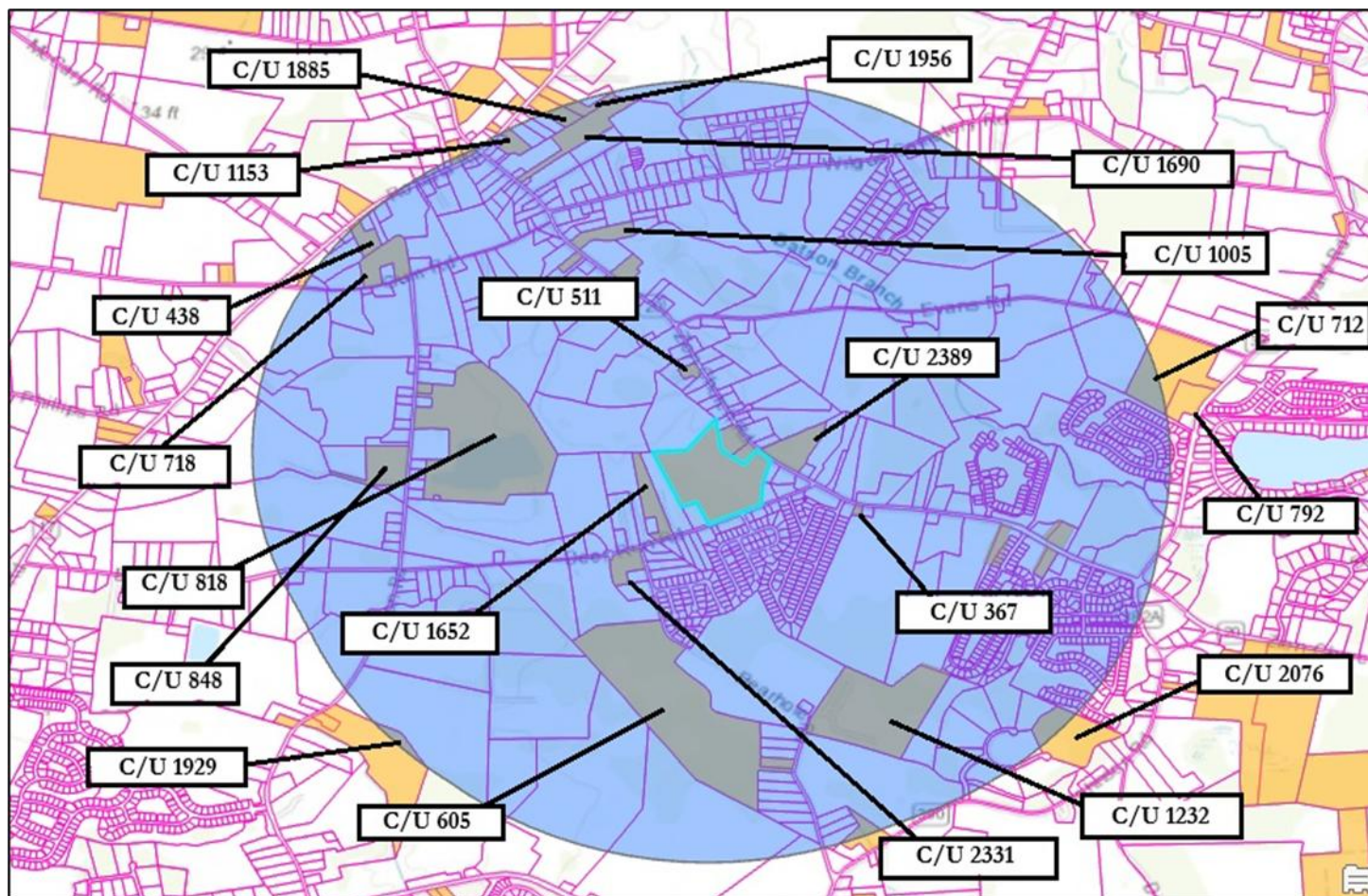
Based on the analysis provided, the Conditional Use to amend Conditions “D” and “N” of the Conditions of Approval for Conditional Use No. 2581 (Ordinance 2009) to allow for office spaces within the warehouse units and to remove the requirement that an on-site management Office be

established for the maintenance and operation of the warehouse units at the site, could be considered as being consistent with the surrounding land use, zoning, and uses, subject to considerations of scale and impact.

Existing Conditional Uses within the Vicinity of the Subject Site:

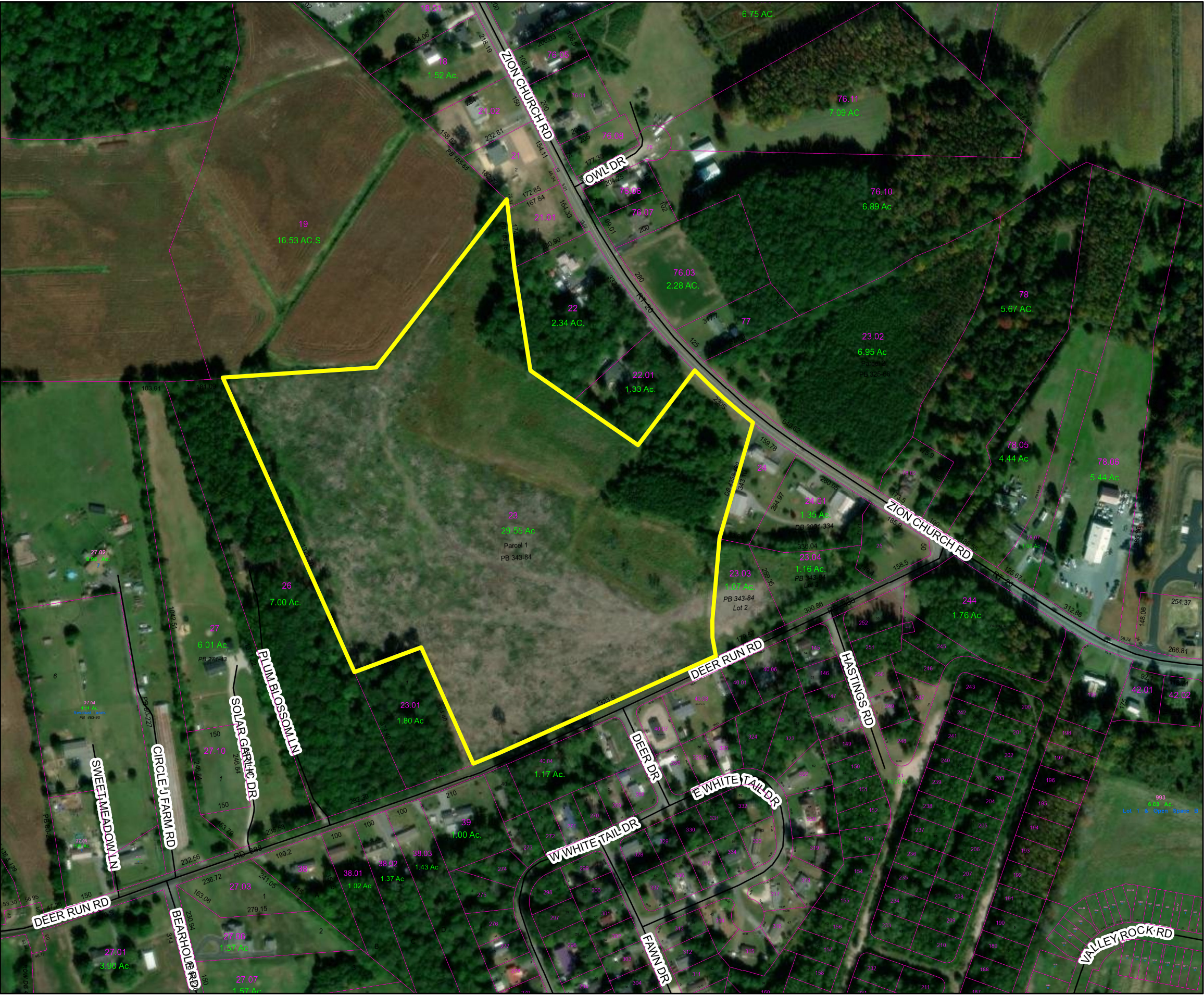
Staff notes there have been forty-one (41) Conditional Use Applications within a one (1) mile radius of the Application site. Four (4) Applications were denied, twenty-nine (29) were approved, six (6) were withdrawn and two (2) are Pending Public Hearings. A Data Table and Supplemental Map have been supplied to provide additional background regarding the approval status of Applications in the area to include the location of all other Conditional Use Applications since 2011 that are less than 1 mile distance from the subject site.

Conditional Use Applications (Within a 1-mile radius of the subject site)						
Conditional Use Number	APPLICANT	Zoning District	Proposed Use	CC Decision Date	CC Decision	Ordinance Number
12	Fenwick Properties	AR-1	manufactured home park	N/A	Approved	N/A
1929	Everett Dennis & David Harbin	AR-1	Farm Tractor and Auto Repair	6/5/2012	Approved	2258
605	Cee Bee, Inc.	AR-1	Borrow Pit	N/A	Approved	N/A
438	Jessie E Bivens	AR-1	poultry house on less than 5-acres	N/A	Approved	N/A
718	Hazel J. Lynch	AR-1	antique sales & storage shop	4/12/1983	Approved	N/A
367	George P. Fountain	GR	automobile & truck repair shop	N/A	Approved	N/A
1329	John & Mary Frey	AR-1	used car sales	4/11/2000	Denied	N/A
1232	William D. & Karen L. Simpson	AR-1	Recreational Vehicle Park/Campground & Boat Storage	3/17/1998	Approved	1222
848	Bruce G. & Mary Jane Bennett	AR-1	borrow pit	7/29/1986	Approved	372
1885	James Mershon	AR-1	Bait/tackle shop	4/12/2011	Approved	2187
1956	Mark A. Giblin	AR-1	Towing Service and Landscape Business	3/19/2013	Approved	2297
1804	Wayne Drywall	AR-1	office/warehousing	1/5/2010	Approved	2093
916	James W. Ward	AR-1	multi-family	10/9/1990	Denied	N/A
1153	Mark Beam & Keith Smith	AR-1	storage	N/A	Withdrawn	N/A
1641	Carroll & Diane Brasure	AR-1	service vehicles parking	3/28/2006	Approved	1838
1812	Roxana Preferred Properties	GR	Retail & Commercial w/20 Apartment Units	12/7/2009	Withdrawn	N/A
2088	Billy Banning Enterprises, LLC	AR-1	dance studio	N/A	Withdrawn	N/A
818	Cygnat Construction Corp	AR-1	borrow pit expansion	5/7/1985	Approved	246
1914	Steven Krebs & Barbara Krebs	AR-1	Barbeque Prep and Sales	1/17/2012	Approved	2233
1005	James E. Harrington	AR-1	Boat & Trailer Storage and Farm Equipment Repair	7/14/1992	Approved	843
426	Ronald Chandler & Kathleen	AR-1	repair & service all type of motor vehicles	N/A	Approved	N/A
511	Charles & Holly Carmack	AR-1	drywall contractor, building material sales & warehouse of building materials	N/A	Approved	N/A
1704	PMP Associates	GR	Health Care & Medical Offices	1/8/2008	Approved	1950
1273	Roxana Vol. Fire Company	AR-1	expansion of fire station	3/30/1999	Approved	1296
712	Harvey C. Becker, etux.	AR-1	manufactured home park	5/17/1983	Denied	N/A
1690	Delmar Plumbing, Inc.	AR-1	Plumbing	8/7/2007	Approved	1917
2087	John F. and Brenda L. Fegelein, Trustees	AR-1	Auto Repair Shop	8/22/2017	Approved	2517
1713	Keith Smith	AR-1	Commercial Storage Building	4/1/2008	Approved	1961
1652	Ken Gillam & Joan Gillam	AR-1	boat storage	6/5/2006	Withdrawn	N/A
2076	Joseph Mark Zdurienic	AR-1	event facility/center	6/13/2017	Approved	2504
156	Roxana Volunteer Fire Co	AR-1	Equipment Storage	8/21/1973	Approved	N/A
365	Gladys Swann	AR-1	Manufactured Home Park	9/7/1976	Denied	N/A
517	Cygnat Construction Corp.	AR-1	Borrow Pit	3/17/1981	Approved	N/A
808	Bruce G. & Mary J. Bennett	MR	Borrow Pit	N/A	Withdrawn	N/A
816	Bruce G. & Mary J. Bennett	MR	Borrow Pit	N/A	Withdrawn	N/A
1795	Steven Krebs (Kreative Garden Center)	B-1	Garden Center	11/10/2009	Approved	2087
1933	Mark A. Giblin	AR-1	Towing Service and Landscape Business	12/11/2012	Approved	2283
2331	Sweet Meadows Riding Academy	AR-1	Horse Riding Academy w. overnight accommodations	1/10/2023	Approved	2899
2389	AWH Properties, LLC	AR-1	Boat/RV Storage	4/9/2024	Approved	2998
2493	Rennie Hunt	AR-1	operation of a Site Development business office w/ employees	PENDING	PENDING	PENDING
2546	James Mershon	AR-1	Boat Storage	PENDING	PENDING	PENDING





A3 Landscape Parcel Details

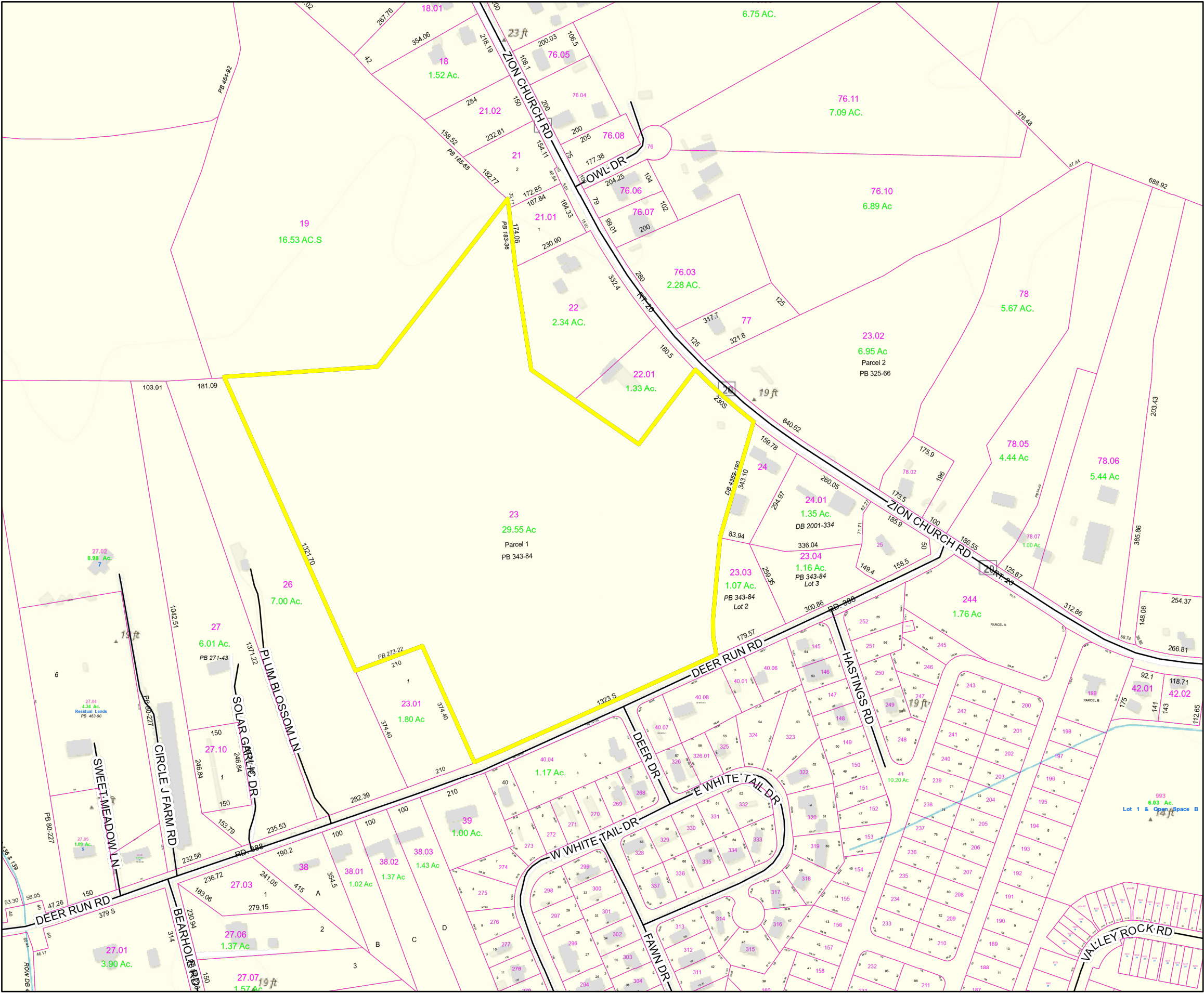


PIN:	533-11.00-23.00	
Owner Name	ZION	CHURCH VENTURES LLC
Book	5467	
Mailing Address	35322 BAYARD RD	
City	FRANKFORD	
State	DE	
Description		
Description 2		
Description 3		
Land Code		

- Tax Parcels
- TaxParcel
- Encumbrance
- Condo
- Streets
- County Boundaries
- GIOLandRecords.PARCELFABRIC.Condo
- World Imagery
- Low Resolution 15m Imagery
- High Resolution 60cm Imagery
- High Resolution 30cm Imagery
- Citations
- 1.2m Resolution Metadata



A3 Landscape Parcel Details

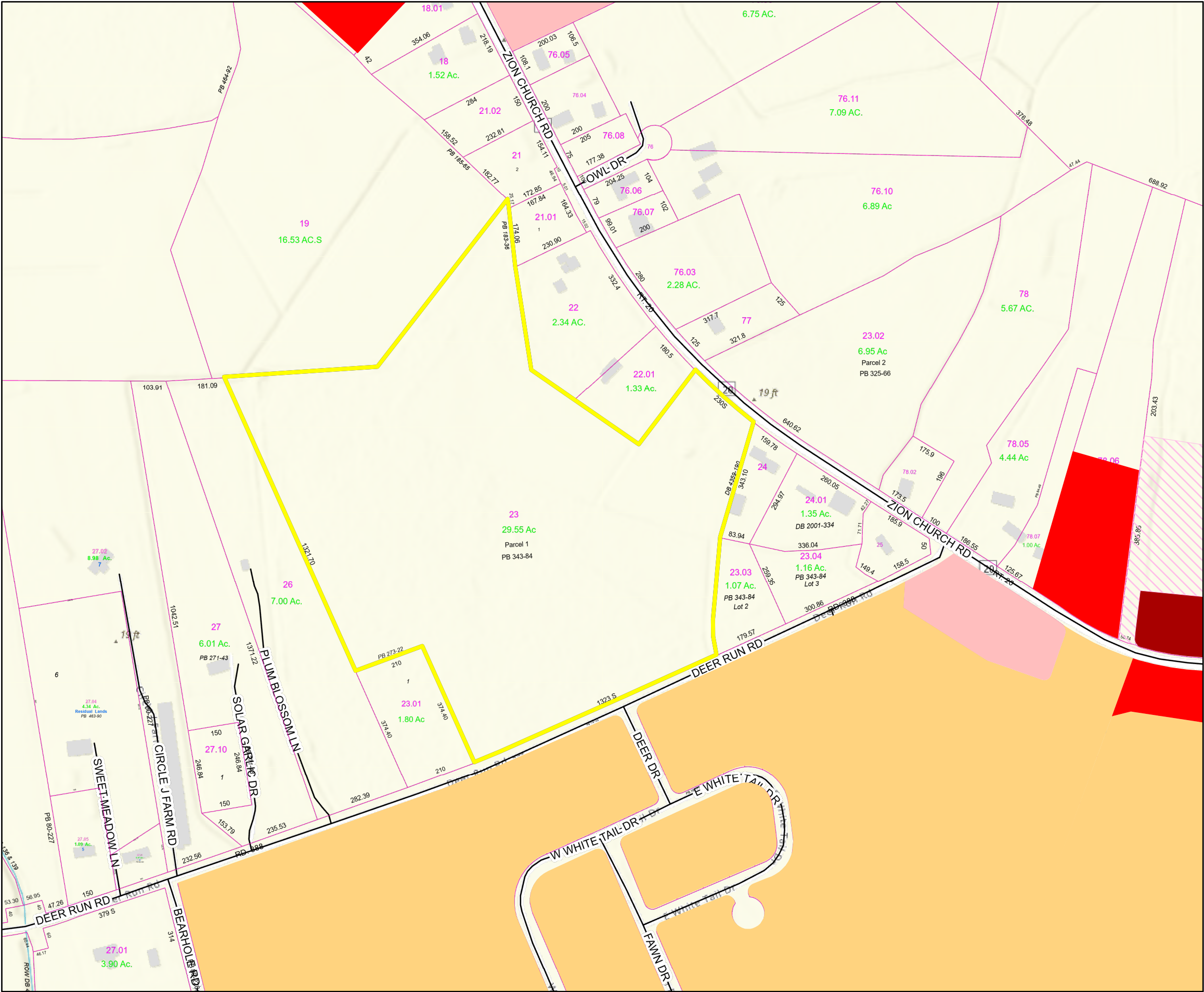


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- Condo
- Streets
- County Boundaries
- GIOLandRecords.PARCELFABRIC.Condo
- World_Hillshade

Introduced: 3/3/26

Council District 4: Mr. Hudson

Tax I.D. No. 533-11.00-23.00

911 Address: 36054 Zion Church Road, Frankford

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR STORAGE/WAREHOUSE/OFFICE BUILDINGS AND A CAR WASH (TO AMEND CONDITION “D” AND CONDITION “N” OF THE CONDITIONS OF APPROVAL FOR CONDITIONAL USE NO. 2581 (ORDINANCE NO. 4009) TO ALLOW FOR OFFICE SPACES WITHIN THE WAREHOUSE UNITS AND TO REMOVE THE REQUIREMENT THAT AN ON-SITE MANAGEMENT OFFICE BE ESTABLISHED FOR THE MAINTENANCE AND OPERATION OF THE WAREHOUSE UNITS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 29.55 ACRES, MORE OR LESS

WHEREAS, on the 19th day of December 19, 2025, a Conditional Use Application, denominated Conditional Use No. 2631, was filed on behalf of Zion Church Ventures, LLC; 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. 2631 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, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2631 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 situated in Sussex County, Delaware, and lying on the southwest side of Zion Church Road (Route 20), approximately 605 feet northwest of Deer Run Road (S.C.R. 388) and the north side of Deer Run Road (S.C.R. 388), approximately 159 feet southwest of Zion Church Road (Route 20) and being more particularly described in the attached legal description prepared by Parsons & Robinson, P.A., said parcel containing 29.55 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: July 23, 2026

RE: County Council Report for C/U 2576 filed on behalf of Patricia and Frank DiNatale

The Planning and Zoning Department received an application (C/U 2576 filed on behalf of Patricia and Frank DiNatale) for a Conditional Use for a coin retail shop within an Agricultural Residential AR-1 Zoning District. The Tax Parcel ID is 334-12.00-35.00. The property is located at 34429 Retz Lane, Lewes. The parcel size is 0.34 ac. +/-

The Planning & Zoning Commission held a Public Hearing on the application on June 17, 2026. On July 15, 2026, the Commission recommended approval of the application for the 7 reasons of approval and subject to the 5 recommended conditions as outlined in the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meeting on June 17, 2026, and July 15, 2026

Minutes of the June 17, 2026, Planning & Zoning Commission Meeting

C/U 2576 Patricia and Frank DiNatale

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COIN RETAIL SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 0.34 ACRE, MORE OR LESS. The property is lying on the north side of Retz Lane and the west side of John J. Williams Highway (Rt. 24) within the Country Village Subdivision, approximately 437 feet south of Mulberry Knoll Road (S.C.R. 284). 911 Address: 34429 Retz Lane, Lewes. Tax Map Parcel: 334-12.00-35.00.



Mr. Whitehouse advised the Commission that submitted into the record were a copy of the Applicant's Preliminary Site Plan, the property legal description, the Applicant's Septic Survey, the Applicant aerial photos, and the Applicant's presentation materials. Mr. Whitehouse advised the Commission that no comments were received regarding the Application.

The Commission found that Mrs. Patricia DiNatale spoke on behalf of the application; that Mr. Frank DiNatale was also present. Mrs. DiNatale stated that they were requesting a Conditional Use for the existing house located at 34429 Retz Lane, along John J. Williams Highway; that parking was provided in the front and along the side; that they often use the parking along the side; that the site was located right past Mulberry Knoll Road; that there were a lot of different commercial locations and activity in the surrounding area; that the biggest commercial development was the Wawa, currently being constructed across the street; that adjacent to them was the location of Olive & Jules Hair Salon & Spa; that located up the street was Waves Car Wash; that the Beebe Healthcare facility was expanding; that there recently had been a lot of talk regarding what would be constructed on farm located along Mulberry Knoll Road; that they had heard about Costco, but also heard they were presenting other ideas; that Copps Seafood was located around the corner from the site as well; that a condition they were requested to meet was to relocate their sheds to the appropriate setback, as they were not in compliance; that they had moved their sheds to be six feet from the rear property line; that the sheds were already in compliance from the adjacent property to the right; that their submitted plan showed a small gravel parking space in the back, where they often park their car; that there were two parking spaces with a carport located in the front, which they planned to remove; that they had gone through DelDOT to discuss what the appropriate parking would be; that the plan reflected that they could utilize the area in the back, where they had provided a parking lot with three parking spaces; that they would use the front driveway, which was currently uses for owner parking, and would provide one ADA parking spot; that they would have an ADA compliant path, which would lead from the parking area to the door; that they were proposing a coin shop; that they had discussed where the coin shop would be located; that currently they had decided the coin shop would be located within the garage space; that the plan reflected a requested sign, located on the corner, and would not impede line of sight, as they had requested Merestone to ensure the sign was in compliance.

Mr. DiNatale stated that he had been a coin collector his entire life; that he had worked in corporate America for 25 years; that this request was his dream, to open a small, sole proprietor, mom & pop coin shop; that they would offer numismatic items, as well as precious metals; that he and his wife would run the coin shop business, and would be the only employees; that they proposed to have the coin shop within the single car garage; that question was how would they make it secure; that they did not desire to have a large retail establishment; that they just wanted a place to transact business; that they intended to be open for business four to five days weekly, and the hours of business would be 10:00 AM to 5:00 PM.

Mrs. DiNatale stated that the number of parking spaces, being three spaces for customers, one space for the owner, and one ADA space was compliant with the size of the store, and the expected number of customers.

Mr. DiNatale stated that there really was not a shop similar to what they were proposing that would strictly focus on numismatics; that he had contacts all throughout the Country as he had traveled around for business; that he had worked with other dealers; that it really was about having a good, secure location to conduct business, and provided a place for the public to sell; that they are not proposing a pawn shop, and they would not be selling any other items other than strictly numismatic items and precious metals.

Mrs. DiNatale stated that they had spoken with many other people who had been interested in selling; that they had needed to spend more time on the roads traveling to other locations; that there was a gentleman who has a coin shop in Bethany, but that was 45 minutes away, and he is not open often; that there was a coin shop in Dover, however, most people drive to Wilmington; that the proposed use is needed; that there are a lot more people moving to Sussex County of a certain age that are often receiving these; that they hope to work with the lawyers in their area; that they hope to provide more in-person retail; that rather than sitting at the shop that plan to provide appointments and travel to other locations, and not everything would be conducted at the store itself.

Mr. Collins questioned whether fencing was proposed for the entire property.

Mr. DiNatale stated that they had discussed having fencing around the back of the property but did not intend to provide fencing around the front of the property; that the fencing would terminate around the building, and there would be a walk way provided from the back, around to the front of the building.

Mrs. DiNatale stated that the proposed fencing was also to protect their septic system located at the back of the property.

Mr. Collins stated that the Commission would likely require fencing as a Condition of Approval and would require fencing to be shown on the Final Site Plan should the application be approved.

Mr. Pettyjohn questioned whether secondary parking plan was allowed along Retz Lane, or if there was a secondary parking plan.

Mr. DiNatale stated they did not want to provide parking where people would be turning off John J Williams Highway, as it could be dangerous; that in the event they would need additional parking, they had planned to approach their neighbors across the street at the salon, who have a parking lot with about 14 parking spaces, and they would work out a financial agreement at that time.

Mrs. DiNatale stated that she had hoped to move the parking spaces closer to provide maintenance and additional security for clients; that she wanted customers to feel safe enough to walk to their vehicle with their coins; that this would also provide a benefit to any elderly customers; that she felt there was enough space to enter where they were requested to enter, toward the back of the property, pulling up the parking to be along the side of the house; that this would provide closer parking, and be more user friendly.

Mr. DiNatale stated that his business plan was going to be preferred appointment only, and he did not anticipate a lot of people coming and going.

Mr. Passwaters questioned whether any additional lighting is proposed, possibly around the sidewalks.

Mr. DiNatale stated that they wanted to make sure the site was well lit; that during the wintertime, when it would get dark earlier, they did not want someone to slip or fall; that the site would be well lit and well secured; that it would be their lives on the line, so it was critical that there be a line of sight there, and that the State Police barracks were located around the corner.

Mrs. DiNatale questioned the Commission whether there were particular reasons why the Commissions would require fencing.

Mr. Collins stated that fencing would provide security and would help with any adjacent neighbors concerns regarding customers visiting.

Mr. Robertson questioned whether Mr. & Mrs. DiNatale would reside on the property.

Mr. DiNatale stated that no, they would not reside on the property; that the site would be used for the coin shop and storage, and that it was not a good idea to live at the same location as the shop for safety and security reasons.

Mr. Robertson stated that the use was almost considered a Home Occupation, which would have been a permitted use; that because they were selling things and would not reside on the site, the proposed use fell outside of the Home Occupation approval category.

The Commission found that there was no one present who wished to speak in support or opposition of 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 2576 Patricia and Frank DiNatale. Motion by Mr. Collins to defer action for further consideration, seconded by Mr. Passwaters and carried unanimously. Motion by 4-0.

Minutes of the July 15, 2026, Planning & Zoning Commission Meeting

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

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

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

Motion by Mr. Collins, seconded by Mr. Passwaters, and carried unanimously to recommend approval of C/U 2576 Patricia and Frank DiNatale for the reasons and the conditions stated in the motion. Motion carried 5-0.

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

PLANNING & ZONING COMMISSION

HOLLY J. WINGATE, CHAIR
JEFF ALLEN
G. SCOTT COLLINS
JOHN PASSWATERS
DAVID PETTYJOHN



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: June 17, 2026

Sussex County Council Public Hearing Date: July 28, 2026

Application: CU 2576 Patricia & Frank DiNatale

Applicant: Patricia & Frank DiNatale
34429 Retz Lane
Lewes, DE 19958

Owner: Patricia & Frank DiNatale
34429 Retz Lane
Lewes, DE 19958

Site Location: Located on the west side of Beaver Dam Road (S.C.R. 285)
approximately 0.14 mile north of Kendale Road (S.C.R. 287).

Current Zoning: Agricultural Residential (AR-1) Zoning District

Proposed Use: Coin Retail Business

Comprehensive Land
Use Plan Reference: Commercial Area

Councilmanic
District: District 3 – Ms. Gruenebaum

School District: Cape Henlopen School District

Fire District: Lewes Fire Department

Sewer: Private Septic

Water: Private Well

Site Area: 0.34-acre(s) +/-

Tax Map ID.: 334-12.00-35.00





Memorandum

To: Sussex County Planning Commission Members
From: Ann Lepore, Planner I
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: June 5, 2026
RE: Staff Analysis for C/U 2576 Patricia and Frank DiNatale

This memo is to provide background and analysis for the Planning and Zoning Commission to consider as a part of Application C/U 2576 Patricia and Frank DiNatale to be reviewed during the June 17, 2026, 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: 334-12.00-35.00

Proposal: The request is for a Conditional Use for Tax Parcel 334-12.00-35.00 to allow for a Coin Retail Shop on a parcel lying on the north side of Retz Lane and the west side of John J. Williams Highway (Rt. 24) within the Country Village Subdivision, approximately 437 feet south of Mulberry Knoll Road (S.C.R. 284). The parcel is comprised of 0.34 acre +/-.

Zoning: The Parcel is zoned Agricultural Residential (AR-1) District. The adjacent parcels to the north, south, east, and west are also zoned Agricultural Residential (AR-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 in the plan indicates that the subject property is designated as a Growth Area and has a land use designation of "Commercial Area." All surrounding properties to the north, south, east, and west of the subject site contain the Future Land Use Map designation of "Commercial Area".

As outlined within the 2018 Sussex County Comprehensive Plan, Commercial Areas are growth areas that include concentrations of retail and service uses and are primarily located "arterials, and highways." (Sussex County Comprehensive Plan, 4-17) The Plan specifically notes that these areas include commercial corridors geared towards vehicular traffic and recommends they be located along "main roads or near major intersections." While the Plan's Commercial Area category dominates this portion the John J. Williams Highway (Route 24) corridor, much of the surrounding area is designated as "Coastal Area." Coastal Areas are areas that can accommodate development provided special environmental concerns are addressed, noting that commercial and office uses "can be appropriate to provide for convenient services." (Sussex County Comprehensive Plan, 4-15)



Further Site Considerations:

- **Density:** N/A
- **Open Space Provisions:** N/A
- **Agricultural Areas:** The site is within the vicinity of active agricultural lands.
- **Interconnectivity:** N/A
- **Transportation Improvement District (TID):** The parcel is within the Henlopen Transportation Improvement District.
- **Forested Areas:** N/A
- **Wetlands Buffers/Waterways:** N/A
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** N/A

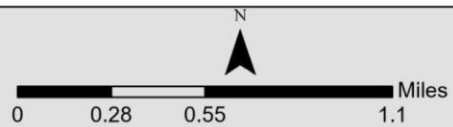
Existing Conditional Uses within the Vicinity of the Subject Site: Since 1970, there have been twenty-seven (27) Conditional Use applications within a 1-mile radius of the application site.

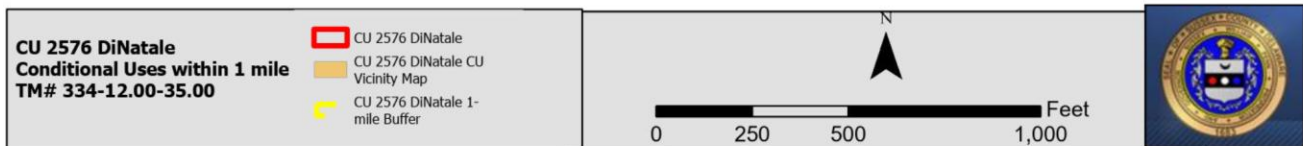
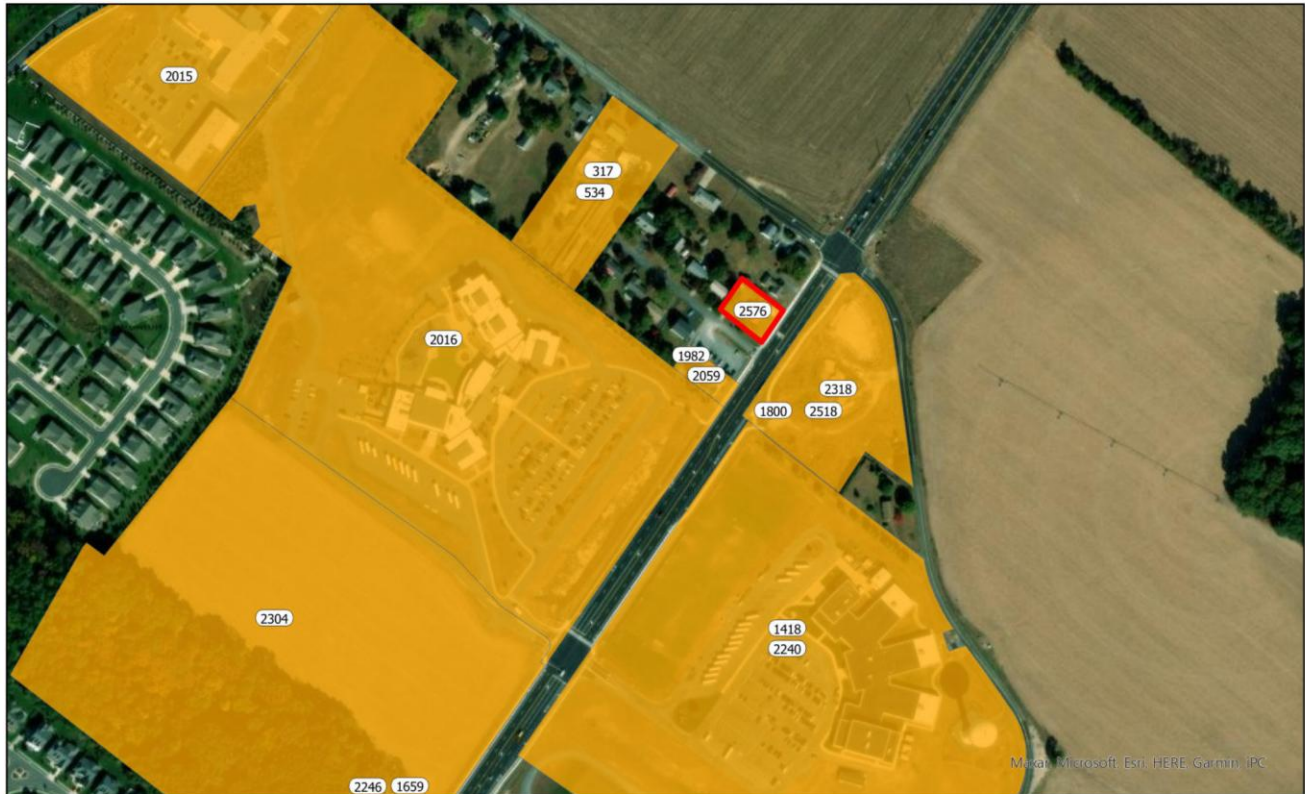
CU No.	APPLICANT	Current Zoning	Proposed Use	CC Date	CC Decision	Ord. No.
1800	Cheryl Normandeau	AR-1	Office/retail	2/9/2010	Approved	2102
1840	Juliane Olber & William N. Hein	AR-1	Printing	9/28/2010	Approved	2147
1848	Todd Bariglio	B-1	Business/office complex	3/16/2010	Approved	2108
1852	Charles P. Moore	AR-1	Auto repair/towing/sales	9/21/2010	Approved	2145
1902	Dorothy Garvey	AR-1	Medical Office	6/5/2012	Withdrawn	
1938	Karen L. Barwick	AR-1	Therapist Office and Residence	1/22/2013	Approved	2289
1951	Jack Lingo Asset Management	AR-1	RV resort and campground	12/9/2014	Denied	
1982	Gary Ennis-Southern Delaware Classic	AR-1	Office for a Cleaning Service Business	5/20/2014	Approved	2348
2000	Jovid Venture, LLC	AR-1	Wedding Ceremonies and Receptions	12/16/2014	Denied	
2015	Delaware Division of Facilities Manager	AR-1	Public Service Facility (State Police)	6/16/2015	Approved	2401
2016	Cape Henlopen School District	AR-1	Elementary School	6/16/2015	Approved	2402
2017	Eli and Victoria Zacharia	MR	Multi-family Dwelling Structures	2/9/2016	Approved	2436
2046	Lockwood Design & Construction (Arbo	MR	202 multi family development	12/13/2016	Approved	2479
2059	Julie Norwood	AR-1	Beauty Salon	10/25/2016	Approved	2478
2110	Gaw Venture Group	AR-1	Home Construction and Sales Business	2/6/2018	Approved	2548
2199	OA-Rehoboth, LLC (Herola Property)	CR-1	Multi-family (224 units)	1/28/2020	Approved	2702
2237	Sam Warrington II	AR-1	Outside Boat & RV Storage	12/1/2020	Approved	2756
2240	Tidewater Utilities, Inc	AR-1	Elevated Storage Tank	11/10/2020	Approved	2751
2246	Bee Wise, LLC	AR-1	Real Estate Business	6/8/2021	Approved	2775
2252	Delaware Electric Co-Op	MR	Substation	7/13/2021	Approved	2788
2297	Schell Brothers LLC	MR	Amendment to Conditions of Approval	2/22/2022	Approved	2831
2304	J.G. Townsend Jr. & Co.	AR-1	Multi-Family (84 Units)	5/16/2023	Denied	
2318	V&M, LLC	AR-1	Convenience store & Office building	5/17/2022	Approved	2853
2374	Jose Netto & Karyne DeSilva	AR-1	Esthetician Business	3/21/2023	Approved	2913
2432	Simon Fares / Lorne Crawford	AR-1	Salon	8/13/2024	Approval	3037
2518	V&M, LLC	AR-1	Amend Conditions of CU 2318	8/27/2024	Approved	3042
2576	Frank & Patricia DiNatale	AR-1	Commercial Coin Shop		Pending	



CU 2576 DiNatale
Conditional Uses within 1 mile
TM# 334-12.00-35.00

-  CU 2576 DiNatale
-  CU 2576 DiNatale CU Vicinity Map
-  CU 2576 DiNatale 1-mile Buffer





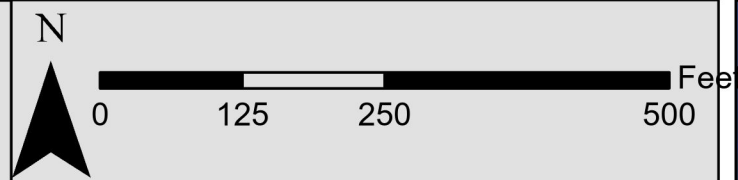
Based on the analysis of the land use, surrounding zoning and uses, a Conditional Use Application to allow for a Coin Retail Shop, could be considered as being consistent with the land use, area zoning and surrounding uses.



State of Delaware, Maxar, Microsoft, Esri, HERE, Garmin, IPC

CU 2576 Patricia & Frank DiNatale
Aerial Map
TM# 334-12.00-35.00

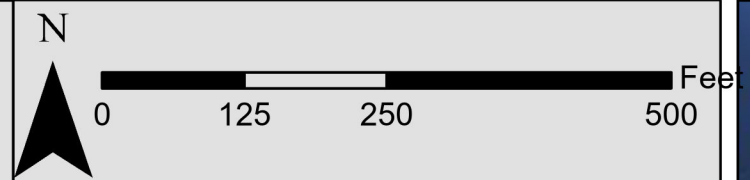
 CU 2576 Patricia &
Frank DiNatale

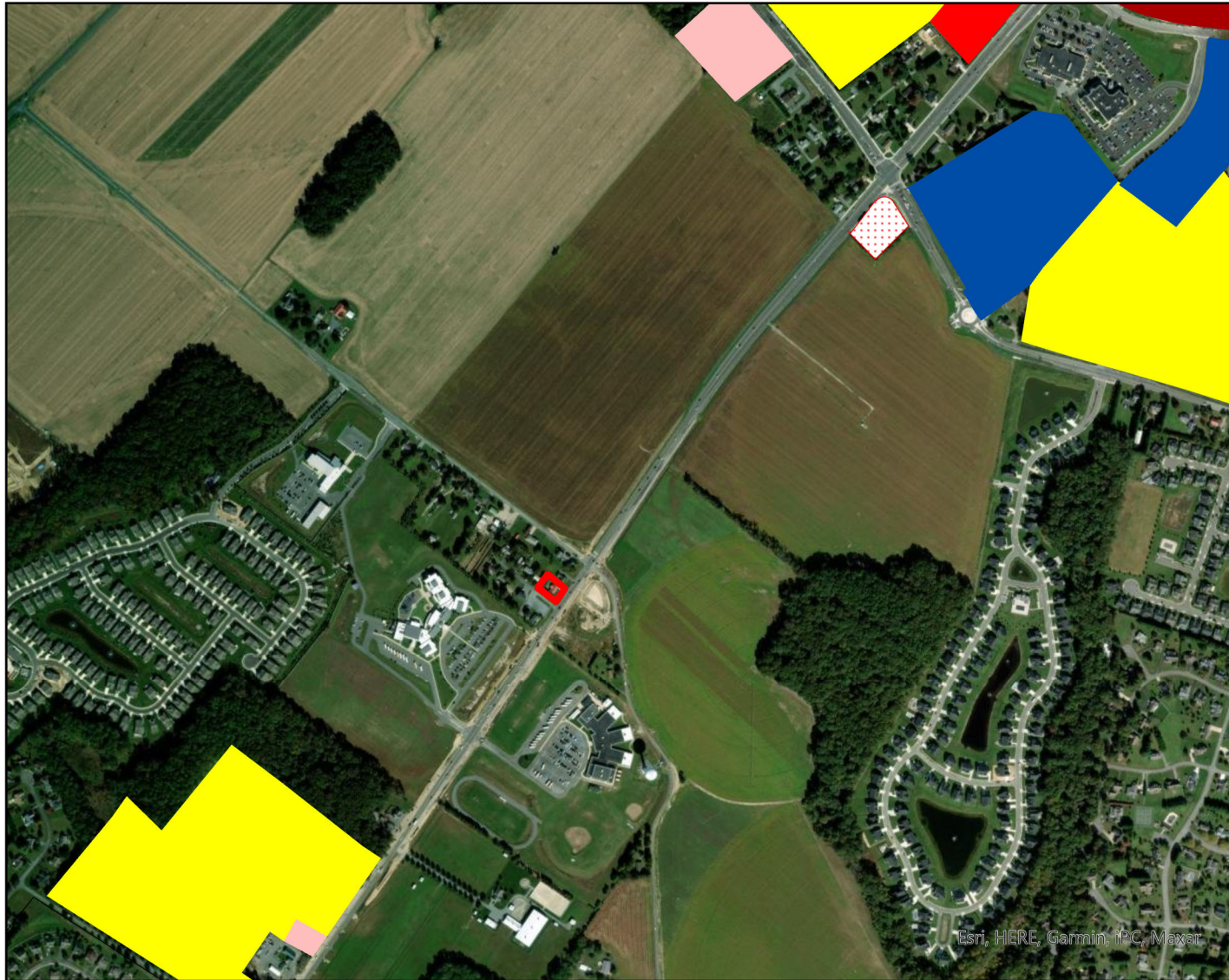




CU 2576 Patricia & Frank DiNatale
Street Map
TM# 334-12.00-35.00

 CU 2576 Patricia &
Frank DiNatale





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

Esri, HERE, Garmin, IPC, Maxar

CU 2576 Patricia & Frank DiNatale
Zoning Map
TM#334-12.00-35.00

 CU 2576 Patricia & Frank DiNatale



0 500 1,000 2,000 Feet



Introduced: 4/14/26

**Council District 3: Ms. Gruenebaum
Tax I.D. No.: 334-12.00-35.00
911 Address: 34429 Retz Lane, Lewes**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR COIN RETAIL SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 0.34 ACRE, MORE OR LESS

WHEREAS, on the 24th day of February 2025, a Conditional Use application, denominated Conditional Use No. 2576 was filed on behalf of Patricia & Frank DiNatale 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. 2576 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. 2576 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 side of Retz Lane and the west side of John J. Williams Highway (Rt. 24) within the Country Village Subdivision, approximately 437 feet south of Mulberry Knoll Road (S.C.R. 284) and being more particularly described in the attached legal description prepared by Bonnie M. Benson, P.A. said parcel containing 0.34 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: July 23, 2026

RE: County Council Report for C/U 2598 filed on behalf of TPE DE SU245, LLC

The Planning and Zoning Department received an application (C/U 2598 filed on behalf of TPE DE SU 245, LLC) for a Conditional Use for solar arrays within an Agricultural Residential AR-1 Zoning District. The Tax Parcel ID is 135-19.00-43.00. The property is located at 2276 E Trap Pond Road, Georgetown. The parcel size is 67.23 ac. +/-

The Planning & Zoning Commission held a Public Hearing on the application on June 17, 2026. On July 22, 2026, the Commission recommended approval of the application for the 7 reasons of approval and subject to the 10 recommended conditions as outlined in the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meeting on June 17, 2026, and July 22, 2026

Minutes of the June 17, 2026, Planning & Zoning Commission Meeting

C/U 2598 TPE DE SU245, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 67.23 ACRES, MORE OR LESS. The property is lying on the southeast side of County Seat Highway (Rt. 9), approximately 0.35 mile southwest from Little Street (S.C.R. 469). 911 Address: 2276 E Trap Pond Road, Georgetown. Tax Map Parcel: 135-19.00-43.00.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's presentation materials, the Exhibit Book, the Applicant's Conditional Use Site Plan, the Staff Analysis



Report, a letter received from the Sussex County Engineering Department's Utility Planning Division, the DelDOT Service Level Evaluation Response letter, and the property legal description. Mr. Whitehouse advised the Commission that one written public comment letter had been received for the Application and was included within the Commission's Paperless Packet.

Mr. Robertson advised the Commission that the following applications were all submitted by the same Applicant; that the Applicant planned to give an entire presentation on the general background of solar arrays, as part of the first public hearing; that from there they could incorporate that provided information by reference for the remaining applications, since it was general information and not site specific.

The Commission found that Mr. Jon Falkowski, Civil Engineer with Becker Morgan Group, spoke on behalf of the Applicant, C/U 2598 TPE DE SU245, LLC; that also present were Mr. Jordan Belknap with Turning Point Energy, Mr. John Trace, legal counsel, Ms. Kara Price and Mr. Abe Bennett, Lead Developers for Turning Point Energy. Mr. Falkowski requested that Mr. Jordan Belknap provide information about Turning Point Energy.

Mr. Jordan Belknap stated that he was the Managing Director of Development for Turning Point Energy; that Turning Point Energy was a renewable energy developer, specializing in community solar projects; that they were active in several markets across the United States; that they were also active in Sussex County with six previously permitted project within Sussex County, including one within the municipality of Georgetown, located next door; that five of the six projects had achieved building permits and were in various stages of construction; that development at Turning Point was a team effort; that Ms. Kara Price and Mr. Abe Bennett were the lead developers on the five previously mentioned projects; that at Turning Point Energy they believed their products should provide economic, environmental and community value; that they did so by providing economic value, by developing community solar projects, which allowed subscribers to sign up and save money on their electric bill; that these projects also represent an increase in the tax revenue to Sussex County; that they provide environmental value, because they were making electricity, with clean renewable energy; that at all of their projects they add pollinator plantings around the perimeter of the solar array, which provides a nice habitat for birds and small animals; that they create community value because an important thing they like to do is contribute to local charities and organizations for all their projects; that this was a rewarding part of the job, to visit people on the ground who were doing good work in the community, and contribute to them; that they were targeting \$3,000,000 of nonprofit donations for Turning Point across the company, by the end of 2026; that community solar was a model where they could build a larger solar farm, and spread out the cost savings; that it was more cost effective than going rooftop to rooftop to get the same amount of generation; that subscribers may sign up to receive a credit on their electric bill; that this enabled homeowners who have houses that were not well suited for solar to still participate in the clean energy economy; that it also enabled low-income households, condominiums, mobile homes, small businesses, and people who might not have a nice infrastructure to place solar panels on their roofs; that they could all sign up without changing their infrastructure; that it was purely an economic model; that community solar provided additional benefits to communities and tax benefits; that community solar provided local jobs, engineering services, construction services, civil contractors, fencing contractors, and electricians; that it would be

for distributed energy generation, which also helped with the electric grid; that it would ease the burden of the transmission system, because the energy would be produced closer to the point where it would be consumed; that the energy of the solar arrays back feed; that the electrons go into houses and businesses nearby; that the energy does not have to be transmitted over to the transmission grid; that they would have a pollinator habitat; that they worked with Becker Morgan to put in a nice seed mix to help the quality of the soils as well; that there had previously been some discussion by County Council regarding solar energy projects who had received building permits, but had not yet been constructed; that they had permitted six Conditional Use applications in 2023 within Sussex County; that five of them had gone to construction; that they had withdrawn one of the building permits due to the Interconnection Study taking longer than anticipated; that when the study came back, the actual cost to connect the facility no longer made the project feasible; that they do their best up front to analyze the grid to ensure they would be placing them in perfect spots; that however, they do not have all the information that utilities have; that they are required to submit a study, have utility study it, at which time they come back, telling them what the costs and upgrades would be necessary for the facility to connect; that five of their projects have building permits, and most of them are mechanically complete; that the one site was operational; that they expected the other sites to complete construction and become operational within 2026; that at times, they are required to wait on Delmarva Power; that they do not want to be too far ahead of them because they do not want to have the infrastructure in the ground before they can flip the switch, having it generate electricity; that for the five applications being currently being presented to the Commission, they had submitted applications for all five applications; that they had received cost letters back for most of the projects, which notifies Turning Point of how much it will cost for the project to connect; that based on the received letter, Turning Point felt confident that all five projects will move forward; that they must run the land use permitting process in parallel with the interconnection process; that this does not make a project connection ready, because the other big component was Delaware Power would need to tell them how much it would cost, and then later tell them how long it would take for construction on Delmarva Powers part; that time duration for construction was the biggest variable with the projects; that two to three years was the general time frame; that Delmarva Power did receive a lot of applications all at once when the community solar program opened; that community solar developers are required to have site control in order to submit an application, and that Delmarva Power is currently attempting to work through the influx of applications.

Mr. Pettyjohn questioned whether Turning Point projects were being impacted by State legislature.

Mr. Robertson stated that the reasons the Commission was asking certain questions was because they had seen an influx of community solar applications; that the Commission was attempting to get a handle on the community solar process, by sorting out what comes first; that the Commission had been approving solar projects which did not appear to be getting constructed; that the Commission are unaware whether the set conditions are appropriate, and that the information being provided had been very helpful for the Commission.

Mr. Belknap stated Turning Point did not desire to permit projects that did not have a high probability of going forward; that they did not want to spend their capital or waste their or the Commission's time; that they make it their business to know as much about the electric grid when applying for

projects; that they perform pre-application meetings; that they have engineers who analyze the project; that ultimately, the process requires them to pay Delmarva Power (DP&L) to perform the study; that Delmarva Power will come back to confirm whether they can connect, and what would be required to connect, and Turning Point wanted to ensure that what would be required would be manageable for the project.

Mr. Robertson questioned whether Delmarva Power would provide them with the connection response, if there was not a land use approval already in place.

Mr. Belknap stated that they needed to have proof of site control to apply for an Interconnection Application; that they needed to request Sussex County for a permit because at some point down the line, Delmarva Power would ask them to provide a large sum of money to connect the facility; that they would not want to provide the money unless they had the land use permit, being the reason they run the two processes in parallel of each other; that they are not required to have land use approval before hand, as they are actually paying and hiring Delmarva Power to perform the study; that first Delmarva Power provides them with an estimate on required costs; that the next step was the Interconnection Agreement, being the signed document that states one can back feed power at a location; that when Delmarva Power produces that, they also provide a construction and timing schedule; that they try to time everything at the same time; that sometimes there are further delays, but in fairness, there is a lot for the power company to do; that they attempt to work with them, but the reality of the situation was that this issue was a big component of why a lot of the permits had not been built; that while their projects are being built, they are actively going out and getting subscribers for the projects; that is was an ongoing process for the Sussex County projects, and currently they had almost 3,000 households and small businesses signed up.

Madam Chair Wingate questioned whether those 3,000 households and small businesses were within Sussex County.

Mr. Belknap stated that they were not all Sussex County residents; that they were all customers of Delmarva Power & Light (DP&L); that only Delmarva Power customers were allowed to participate in the program; that there were a lot of Sussex County residents within that; that 50% of the projects are going to low-income housing as well; that low-incoming housing get an additional benefit on their electricity bill, and if one mapped in their current savings and projections of what electricity rates are supposed to do, the proposed savings is estimated at 19 million dollars for the projects.

Mr. Jon Falkowski stated that the application for SU245 was located in Georgetown, being between Rt. 9 and East Trap Pond Road; that the parcel was zoned AR-1 (Agricultural Residential); that the parcel was currently utilized for agricultural use; that the Conditional Use area consisted of 25.96 acres; that the fenced area within the Conditional Use area consisted of 19.48 acres; that on the total area of the parcel contained 67.23 acres, which included a wooded area in the back, and farming activities that were proposed to remain; that the plan showed the area proposed for the solar arrays; that it reflected access from Rt. 9 through a parcel that was controlled by the same property owner; that the gravel access road would come straight down, through the middle of the site, extending the road to the inverters that were centrally located in the solar array field; that the plan reflected a 30 foot landscape

buffer; that the buffer would consist of a 70-30 mix, with 70% being deciduous trees, and 30% being evergreen trees; that the buffer would consist of 15 trees per 100 feet, which was the County standard for a subdivision buffer; that on previous applications, a fixed knot wire fence was proposed; that they had developed a detail which would be presented on the Final Site Plans; that fixed knot wire fencing was a 12.5 gauge mesh wires that would be fully taut with tension wires and wooden posts that get driven into the ground; that they have a fabric that they had been working on throughout the years; that it was a mesh fabric that allowed some wind to pass through; that they had found a product that was not solid like one would see at a tennis court, or a baseball outfield; that their fabric was a mix of nylon, providing 70% opacity, but still allowed more wind to pass through the mesh; that previous mesh fencing were being installed by plastic zip ties; that they will be beefing up the straps to a stainless strap, and adding tension wire to the top and bottom; that there would be little oval wind cutouts every 100 feet; that they believe that this would help with high wind events in the farm fields; that he presented to the Commission a rendering of the fencing along with canopy trees; that a typical 100 foot linear foot section would consist of 10 deciduous trees and five evergreens; that in previous applications it was proposed to provide full evergreens or reverse the mix to be 70% evergreen and 30% deciduous, which would provide 10 evergreen trees and five canopy trees; that Turning Point would be open to whichever the Commission would suggest; that they would appreciate consideration to be given to evergreen screening, as they felt it to be a better visual screening in the winter months when the canopy trees would lose their leaves; that they also proposed to have the mesh fence; that at the point when the vegetation was established or when the bond was released, they could remove the mesh; that the idea is that if they have a thicker evergreen buffer of 10 trees, once the landscape buffer is established in five years, they could remove the mesh; that this would avoid any long-term maintenance issues; that within the five years, the operator of the facility would make periodic visits to ensure the mesh was not coming down, and repair when necessary; that they had provided a graphic regarding noise for each application; that they had a tool that could evaluate the decibel level at the property line or at the houses; that they did meet all applicable buffers with the project and all other applications; that they were well in excess of the 200 foot distance requirement on every application; that the closest dwelling for the current application was 275 feet; that the provided a specification sheet on the low noise that the inverters produce; that at the property line the inverters would be at a noise level of 44 decibels, which was as quiet as a library; that the Site Plan would be full reviewed and approved by the Sussex Conservation District; that the pollinator friendly meadow grass was called Fuzz and Buzz from Ernst Seed Company; that the meadow grass would be planted underneath the array, as well as within the buffer area; that it would be maintained yearly, being cut down once to twice a year to a manageable height; that the pollinators grow in and help with reducing runoff to adjacent areas; that the project would benefit the local residential business and municipality subscribers; that they must be Delmarva Power subscribers; that the solar project would not increase traffic; that there would be a site visit one to two times per month; that a sign would be located at the front of each project that would provide the developer's name and direct contact number; that they were proposing a renewable energy source, which produces no odor, dust, gas, smoke or fumes; that the project would produce little to no noise from the inverters, which was tested at the property line; that the pollinator friendly ground cover plantings would reduce runoff, and the plans would be reviewed and approved by the Sussex Conservation District; that there would be a 30 foot landscape buffer; that the fencing would have a Knox box located at the gate providing emergency access for personnel; that the gravel road access would run the center of the site; that the State Fire Marshal

required the road to be a minimum of 14 feet in width, with a turnaround at the end; that they may make the access wider; that the access was only provided for maintenance vehicles; that the projects would be decommissioned at the end of their life; that a security bond would be placed as part of the Conditions; that all five applications had held a community hearing; that the current application's community hearing was held on May 19, 2026, at the Georgetown Library; that plan changes had been made from the input made at those hearings; that the community hearings were advertised by mail using the same mailing list as Sussex County; that the community solar facility was considered a public utility under the Sussex County Zoning Code; that the project met the purposes of a Conditional Use in that it was of a public or semi-public character; that it was essential and desirable for the general convenience and welfare of Sussex County residents; that the proposed facility promoted Goal 7.3 of the Comprehensive Plan, which encourages the use of renewable energy, such as solar arrays; that the project would not adversely impact any of the neighboring or adjacent properties; that the project provides the landscaping and fencing discussed; that the project would not increase traffic to adjacent properties or neighboring roadways; that there would be periodic maintenance on the site for repairs and maintenance; that there would be no noise, dust, or odor generated by the facility; that the project was compliant with the buffers and setbacks set forth in Ordinance 2920; that Interconnection Studies were provided for all applications, aside from one, as it was not required because it was located adjacent to a substation; that the interconnection costs are known for the applications, and that the projects had been economically de-risked to move forward.

Madam Chair Wingate questioned Mr. Passwaters whether he believed five years would be enough time to remove the woven fence screening.

Mr. Passwaters stated that in five years, if the initial installed tree was large enough, he felt that it would be; that he felt anything below eight feet would need to wait a minimum of 10 years; that the trees would not be watered, and therefore nothing would enhance them to grow.

Mr. Pettyjohn questioned Mr. Passwaters about his opinion of the type of trees and their lifespan.

Mr. Passwaters stated that for the proposed 25-to-35-year land leases, he felt that the trees should be fine; that heavy weight to Leland Cypress could cause damage; that he would suggest that the trees be properly staked and tied, as damage to the trees could become a nuisance and an eyesore.

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

Mr. Judson Malone, resident of Georgetown, spoke in support of the application. Mr. Malone stated that he was the Executive Director of Springboard Delaware, a nonprofit organization dedicated to housing stability; that the proposed project would offer benefits to the residents; that many families are making monthly choices to pay electric or purchase groceries; that community solar spoke directly to this pressure and issue; that the project would provide clean locally generated power, providing a 10% reduction in electric bills with no upfront costs, no credit barrier, and no behind the meter expense; that community solar lowered emissions and bills and were good for the climate, the grids

and the neighbors. Mr. Malone requested that the Commission consider his statement as support for the following solar applications as well.

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 2598 TPE DE SU245, LLC. Motion by Mr. Passwaters to defer action for further consideration, seconded by Mr. Pettyjohn, and carried unanimously. Motion by 4-0.

Madam Chair Wingate appointed Mr. Collins as acting Chairman and left Council Chambers.

Minutes of the July 22, 2026, Planning & Zoning Commission Meeting

C/U 2598 TPE DE SU245, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 67.23 ACRES, MORE OR LESS. The property is lying on the southeast side of County Seat Highway (Rt. 9), approximately 0.35 mile southwest from Little Street (S.C.R. 469). 911 Address: 2276 E Trap Pond Road, Georgetown. Tax Map Parcel: 135-19.00-43.00.

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

Mr. Collins moved that the Commission recommend approval of Conditional Use No. 2598 for TPE DE SU245, LLC for a solar energy facility in the AR-1 District based on the record made during the public hearing and for the following reasons:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
2. The solar array will be located within approximately 19.39 fenced-in acres of a larger 67.23-acre tract. The array area complies with all of the Code requirements for separation distances and setbacks from property lines and dwellings.
3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar arrays. There was testimony that this solar array will benefit residential, business, and municipal subscribers with lower power costs.
4. The proposed solar array is located on a parcel of land that is surrounded on three sides by land used for agricultural purposes, including poultry houses. The boundaries adjacent to residential uses will include a 30-foot-wide landscape buffer to screen the use.
5. This Application generally complies with Section 115-172.I of the Sussex County Zoning Code regarding solar arrays.

6. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways, and DelDOT has stated that the traffic impact will be “Diminutive”. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
7. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
8. This recommendation is subject to the conditions set forth in Section 115-172.I of the Zoning Code and the following additional conditions:
 - A. The use shall be for a ground-mounted solar array. No other types of electric generation shall be permitted at the site.
 - B. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use.
 - C. The entire area of the solar array shall be surrounded by a 7-foot-tall fence to comply with the height requirement of the National Electric Code. The fencing shall be a knot-wire agricultural style fencing including an interwoven privacy screening. The privacy screening shall be attached to the fencing with metal fasteners and a tension wire to reduce maintenance. The fence location and type of screening shall be shown on the Final Site Plan. The privacy screening may be removed after ten years from the installation of the solar array. The fencing shall remain.
 - D. The entire area of the solar array shall be surrounded by a buffer strip of open space a minimum of 100 feet from any street lines and a minimum distance of 50 feet from all property lines. It shall also be no closer than 200 feet from a dwelling on adjacent property. The landscaped buffer shall be at least 30 feet wide along the perimeter of the Property adjacent to lands of other ownership. This landscaped buffer shall use existing vegetation or shall be planted with 70% evergreen vegetation and 30% deciduous vegetation that serves as a screen while not impeding the use as a solar array facility. The location and types of vegetation used within this buffer area shall be included in a landscape plan provided with the Final Site Plan.
 - E. Transformers and similar equipment shall be centrally located on the site.
 - F. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - G. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.
 - H. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
 - I. The Final Site Plan shall include a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.
 - J. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Mr. Collins, seconded by Mr. Passwaters, and carried unanimously to recommend approval of C/U 2598 TPE DE SU245, LLC for the reasons and the conditions stated in the motion. Motion carried 4-0. Mr. Allen abstained.

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

PLANNING & ZONING COMMISSION

HOLLY WINGATE, CHAIR
SCOTT COLLINS, VICE CHAIR
JEFF ALLEN
JOHN PASSWATERS
DAVID PETTYJOHN



Sussex County

DELAWARE
sussexcountyde.gov
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JAMIE WHITEHOUSE, AICP MRTPI
PLANNING & ZONING DIRECTOR

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: June 17, 2026

Application: CU 2598 TPE DE SU245, LLC

Applicant: TPE DE SU245, LLC
7272 E. Indian School Road, Suite 540
Scottsdale, AZ 85251

Owner: Esperanza Hernandez
19724 County Seat Highway
Georgetown, DE 19947

Site Location: Located on the southeast side of County Seat Highway (Rt. 9),
approximately 0.35 miles southwest from Little Street (S.C.R. 469).

Current Zoning: Agricultural Residential (AR-1) Zoning District

Proposed Use: Solar Arrays

Comprehensive Land
Use Plan Reference: Developing Area

Councilmanic
District: District 5 – Mr. John Rieley

School District: Cape Henlopen School District

Fire District: Georgetown Fire Company

Sewer: N/A

Water: N/A

Site Area: 67.23 Acres

Tax Map ID.: 135-19.00-43.00



COUNTY ADMINISTRATIVE OFFICES
2 THE CIRCLE | PO BOX 417
GEORGETOWN, DELAWARE 19947



Memorandum

To: Sussex County Planning Commission Members
From: Ms. Susan Isaacs, Planner I
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: May 14, 2026
RE: Staff Analysis for C/U 2598 TPE DE SU245, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of Application C/U 2598 TPE DE SU245, LLC. to be reviewed during the June 17th, 2026, Planning 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: 135-19.00-43.00

Proposal: The request is for a Conditional Use for Tax Parcel 135-19.00-43.00 to allow for Solar Arrays to be located in an Agricultural Residential (AR-1) District. The property is lying on the southeast side of County Seat Highway (Route 9), approximately 0.35 miles southwest from Little Street (S.C.R. 469). The Parcel consists of 67.23 acres +/-.

Zoning: The Parcel is zoned Agricultural Residential (AR-1) District. The adjacent parcels to the east, north, west, and south are all zoned Agricultural Residential (AR-1) District with adjacent Parcel 135-19.00-30.02 being zoned Medium Residential (MR) and adjacent Parcel 135-19.00-30.00 being located within the Town of Georgetown.

Future Land Use Map Designation w/in Comprehensive Plan: The subject property is located within the "Developing Area" as outlined in the Sussex County's 2018 Comprehensive Plan.

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 in the plan indicates that the subject property is designated as a Growth Area and has a land use designation of "Developing Area." All adjacent parcels also have the "Developing Area" designation except for the northeast adjacent parcel having a land use designation of "Municipalities Area".

As outlined within the 2018 Sussex County Comprehensive Plan, *Developing Areas* are "newer, emerging growth areas that demonstrate the characteristics of developmental pressures. Most of the proposed Developing Areas are adjacent to municipalities, within or adjacent to potential future

annexation areas of a municipality, or adjacent to Town Centers” (2018 Sussex County Comprehensive Plan, 4-14).

In terms of non-residential development, the Plan also provides guidelines for *Developing Areas* as follows:

In selected areas and at appropriate intersections, commercial uses should be allowed. A variety of office uses would be appropriate in many areas. Portions of the Developing Areas with good road access and few nearby homes should allow for business and industrial parks. (2018 Sussex County Comprehensive Plan, 4-14).

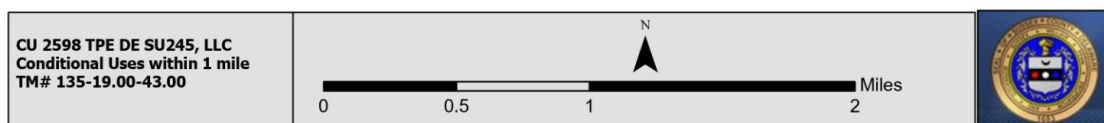
Further Site Considerations:

- **Density:** N/A
- **Open Space Provisions:** N/A
- **Agricultural Areas:** The site is within the vicinity of active agricultural lands.
- **Interconnectivity:** N/A
- **Transportation Improvement District (TID):** The parcel is not within the Henlopen Transportation Improvement District.
- **Forested Areas:** The site is located within the vicinity of forested areas.
- **Wetlands Buffers/Waterways:** N/A
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** The property is located within Flood Zones “X” and Staff note there are no Wellhead Protection Areas on the site. The Parcel is classified as within areas of “Fair” in terms of Groundwater Recharge Potential on the site per data from the State of Delaware.

Based on the analysis of the land use, surrounding zoning and uses, a Conditional Use Application to allow for a solar facility and associated site improvements, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.

Existing Conditional Uses within the Vicinity of the Subject Site: Staff have identified a history of twelve (12) Conditional Use applications within a one (1) mile radius of the application site. A Data Table and Supplemental Map have been supplied to provide additional background regarding the approval status of Applications in the area to include the location of all current or previous Conditional Use Applications that are less than 1 mile distance from the subject site.

20 Melvin Ware Jr	135-19.00-11.00	AR-1	Repair shop/addition to service station	8/24/1971	Approved
132 Clarence Sharp	135-19.07-23.00	C-1	Gas storage tanks/office/warehouse	5/22/1973	Approved
175 Town Council of Georgetown	135-19.00-70.00	AR-1	Youth recreation center	11/20/1973	Approved
331 William D Stevenson Jr	135-19.00-23.07	AR-1	Auto body shop	4/20/1976	Approved
535 William D Stevenson	135-19.00-23.00	AR-1	Sale of used cars	7/3/1979	Approved
1228 Diana F. Tunis	135-22.00-20.01	AR-1	Auto Repair Shop	3/10/1998	Approved
1623 Dawson & Bedsworth	135-19.00-22.00	AR-1	Electrical contracting business	11/1/2005	Approved
1941 Delaware Electric Cooperative	135-22.00-23.00	AR-1	Solar Electric Generation Facility	9/18/2012	Approved
2344 Turning Point Energy	135-22.00-23.00	AR-1	Community Solar Facility	2/21/2023	Approved
2492 Fernando Robles	135-19.00-23.03	AR-1	Restaurant		WITHDRAWN
2598 TPE DE SU245, LLC	135-19.00-43.00	AR-1	Solar Facility		Pending
2609 Walter Gonzalez Diaz	135-19.00-16.22	AR-1	Auto Repair Business		Pending





 CU 2598 TPE DE SU245, LLC

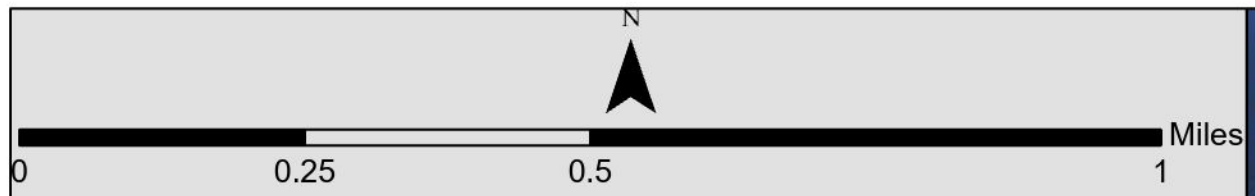
CU 2598 TPE DE SU245, LLC
Aerial Map
Tax Map No. 135-19.00-45.00

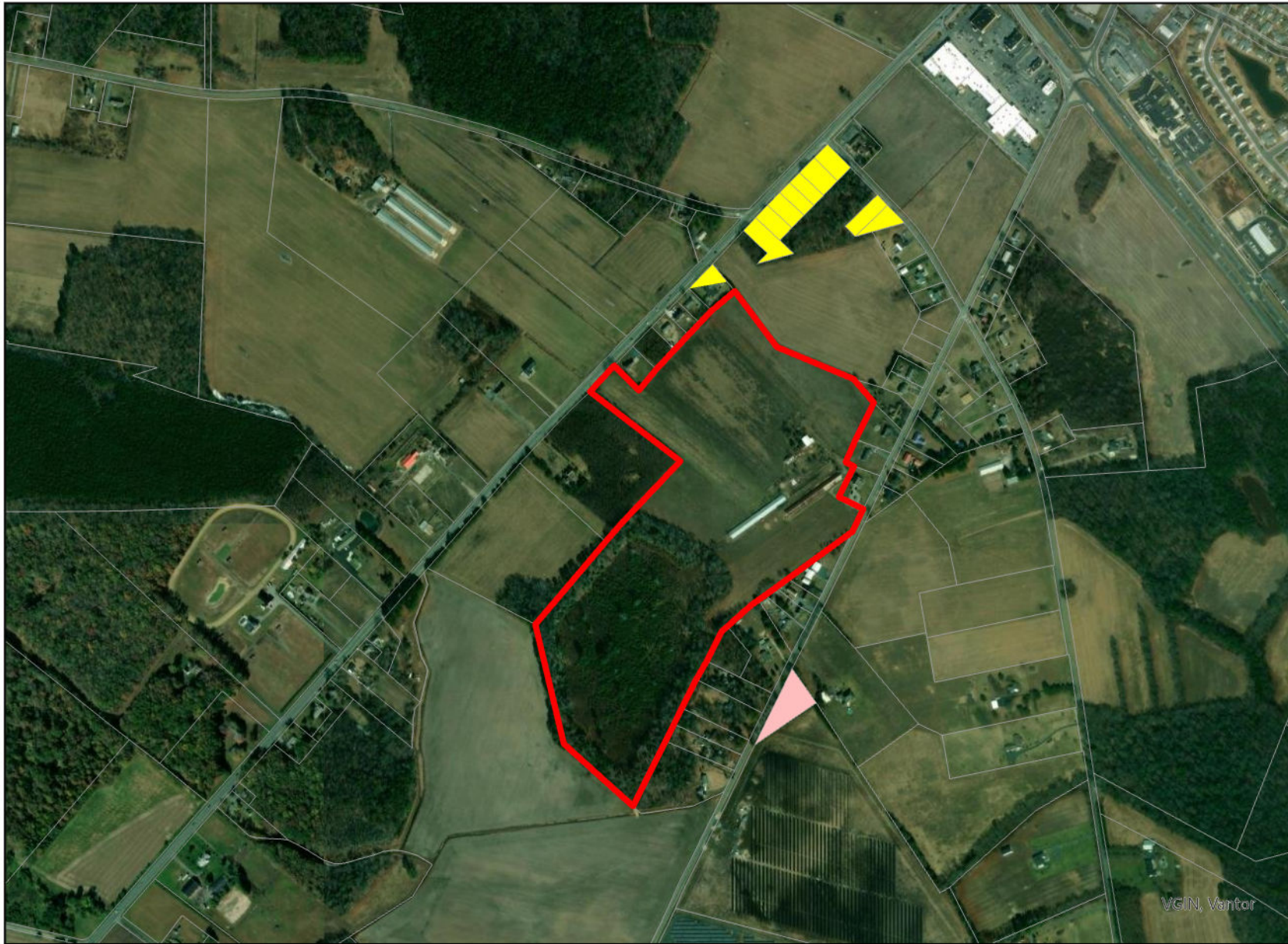




 CU 2598 TPE DE SU245, LLC

CU 2598 TPE DE SU245, LLC
Street Map
Tax Map No. 135-19.00-45.00



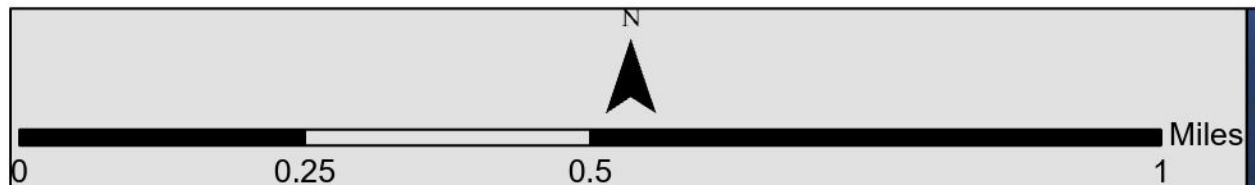


 CU 2598 TPE DE SU245, LLC

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 2598 TPE DE SU245, LLC
Zoning Map
Tax Map No. 135-19.00-45.00



Introduced: 5/19/26

Council District 5: Mr. Rieley

Tax I.D. No.: 135-19.00-43.00

911 Address: 22776 E Trap Pond Road, Georgetown

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 67.23 ACRES, MORE OR LESS

WHEREAS, on the 18th day of June 2025, a Conditional Use application, denominated Conditional Use No. 2598, was filed on behalf of TPE DE SU245, LLC; 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. 2598 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. 2598 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 southeast side of County Seat Highway (Rt. 9), approximately 0.35 mile southwest from Little Street (S.C.R. 469) and being more particularly described in the attached legal description prepared by Haller & Hudson said parcel containing 67.23 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: July 23, 2026

RE: County Council Report for C/U 2623 filed on behalf of TPE DE SU300A, LLC, TPE DE SU300B, LLC and TPE DE SU300C, LLC

The Planning and Zoning Department received an application (C/U 2623 filed on behalf of TPE DE SU300A, LLC, TPE DE SU300B, LLC and TPE DE SU300C, LLC) for a Conditional Use for solar arrays within an Agricultural Residential AR-1 Zoning District. The Tax Parcel ID is 234-21.00-75.00 & 138.00. The property is located on the southwest corner of Zoar Road (SCR 48) and Lawson Road (SCR 296). The parcel size is 498.53 ac. +/-

The Planning & Zoning Commission held a Public Hearing on the application on June 17, 2026. On July 22, 2026, the Commission recommended approval of the application for the 7 reasons of approval and subject to the 10 recommended conditions as outlined in the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meeting on June 17, 2026, and July 22, 2026

Minutes of the June 17, 2026, Planning & Zoning Commission Meeting

C/U 2623 TPE DE SU300A, LLC, TPE DE SU300B, LLC, TPE DE SU300C, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 498.53 ACRES, MORE OR LESS. The properties are lying on the southwest corner of Zoar Road (S.C.R. 48) and Lawson Road (S.C.R. 296). 911 Address: N/A. Tax Map Parcels: 234-21.00-75.00 & 138.00.



Mr. Robertson advised the Commission that the general information previously provided by the Applicant for solar arrays and Turning Point be incorporated into the current application by reference, as well as the public comment in support previously provided by Mr. Judson Malone.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's presentation materials, the Applicant's Exhibit Book, the Conditional Use Site Plan, the Staff Analysis, a letter received from the Sussex County Engineering Department's Utility Planning Division, the property deed, and the DelDOT Service Level Evaluation Response Letter. Mr. Whitehouse advised the Commission that zero public comments had been received regarding the Application.

The Commission found that Mr. Jon Falkowski, Civil Engineer with Becker Morgan Group, spoke on behalf of the Applicant, C/U 2623 TPE DE SU300A, LLC, TPE DE SU300B, LLC, TPE DE SU300C, LLC; that also present were Mr. Jordan Belknap with Turning Point Energy, Mr. John Trace, legal counsel, Ms. Kara Price and Mr. Abe Bennett, Lead Developers for Turning Point Energy. Mr. Falkowski requested that Mr. Jordan Belknap provide information about Turning Point Energy.

Mr. Falkowski stated that the property was located within Georgetown; that the site was four co-located projects, as a result of a recent change with the Public Service Commission, which allowed co-located community solar projects; that the project would be for four, four megawatt, ground tracking systems, equaling a total of 16 megawatts; that all the Conditional Use areas total up to 213 acres; that Site A consisted of 24.57 acres; that Site B consisted of 28.04 acres; that Site C consisted of 27.98 acres; that Site D consisted of 21.99 acres; that the fenced area would consist of 102.58 acres; that the total parcel contained 498.53 acres; that aerial photos reflected trees in rows; that previously the site was a timber field, which had been harvested in the mid-1900's, being about 30 years ago; that a little time later the site was harvested again, and currently being harvested once more by the property owner; that the site was planned to be harvested regardless whether solar was proposed or not; that property was purchased for timber harvest, and currently being used for such; that there was a gap shown between Site A and Site B; that there was a Delmarva Power high voltage transmission line which ran north to south through the property line, along with a substation; that an Interconnection Study was not required by Delmarva Power, because of the site being in such close proximity, they did not feel it was needed; that the site would have the same typical gravel road, extending north to south, within and utilizing the existing the Delmarva Power easement; that the access would enter the site, and then peel off to access the inverters; that the access would be 14 feet in width, and would provide turnarounds for emergency apparatuses and Knox box protection; that they would leave the easement open; that they would not propose to place the landscape buffer or the meadow plantings within the easement; that there should have been an additional letter of support, submitted by Mr. Dustun Thompson of the Sierra Club; that the site will have similar fencing; that whatever was decided for the landscape composition and the fence buffer, the timeline would carry forth for all the applications; that adjacent properties dwellings were located 300 feet and 500 feet away; that this provided very low decibels from the inverters; that the provided decibel ratings did not take into account the proposed fencing, landscaping and arrays that would further block out noise, and that the community hearing was held at the Georgetown Public Library.

Mr. Robertson questioned whether Delmarva Power had signed off on the use of their access easement.

Mr. Falkowski stated that they had been coordinating with Delmarva Power; that they had not received an approval letter; that however, they had similar situations in the past, where Delmarva Power did consider it a right-of-way, and there was an existing road, of which they would like to peel off of.

The Commission found that one person was present who wished to speak in support of the application; that no one was present in opposition to the application, and with Mr. Judson Malone's previous comments of support being incorporated into the record by reference.

Mr. Mark Baker spoke in support of the Application. Mr. Baker stated that he and his family owned the property, as well as others in the general area; that he and his brother actively farm the site; that they felt the site was ideal, as it was located adjacent to the existing electrical infrastructure; that they plan to increase their row crop acres by converting some of the pine and adding irrigation, alongside of the project; that the project was important to their farming operations; that the project would use a very small percentage of their crop acres and wooded acres of the two parcels; that the project would provide diversification of income during the ups and downs of farm cycles; that they employ two full-time employees for farm help; that the project would help them stabilize the overall operation, allowing them to keep farming, and for the reasons stated he was in support of the application.

Upon there being no further questions, Chairman Collins closed the public hearing.

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

In relation to C/U 2623 TPE DE SU300A, LLC, TPE DE SU300B, LLC, TPE DE SU300C, LLC. Motion by Mr. Pettyjohn to defer action for further consideration, seconded by Mr. Passwaters and carried unanimously. Motion by 3-0.

Minutes of the July 22, 2026, Planning & Zoning Commission Meeting

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

Madam Chair Wingate advised the Commission that she was absent from the public hearing, but had listened to the audio and therefore, was prepared to vote.

Mr. Pettyjohn moved that the Commission recommend approval of Conditional Use No. 2623 for TPE DE SU300A, LLC, TPE DE SU300B, LLC and TPE DE SU300C, LLC for a solar energy facility in the AR-1 District based on the record made during the public hearing and for the following reasons:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
2. The solar array will be located within approximately 102.58 fenced-in acres of a larger 498.53-acre tract. The array area complies with all of the Code requirements for separation distances and setbacks from property lines and dwellings.

3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar arrays. There was testimony that this solar array will benefit residential, business, and municipal subscribers with lower power costs.
4. The proposed solar array is located on a large parcel of land that is mostly surrounded by forested areas that naturally screen it from neighboring properties. It is also located adjacent to an existing electrical substation and transmission line. The boundaries adjacent to residential uses will include a 30-foot-wide landscape buffer to screen the use.
5. This Application generally complies with Section 115-172.I of the Sussex County Zoning Code regarding solar arrays.
6. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways, and DelDOT has stated that the traffic impact will be “Diminutive”. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
7. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
8. This recommendation is subject to the conditions set forth in Section 115-172.I of the Zoning Code and the following additional conditions:
 - A. The use shall be for a ground-mounted solar array. No other types of electric generation shall be permitted at the site.
 - B. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use.
 - C. The entire area of the solar array shall be surrounded by a 7-foot-tall fence to comply with the height requirement of the National Electric Code. The fencing shall be a knot-wire agricultural style fencing including an interwoven privacy screening. The privacy screening shall be attached to the fencing with metal fasteners and a tension wire to reduce maintenance. The fence location and type of screening shall be shown on the Final Site Plan. The privacy screening may be removed after ten years from the installation of the solar array. The fencing shall remain.
 - D. The entire area of the solar array shall be surrounded by a buffer strip of open space a minimum of 100 feet from any street lines and a minimum distance of 50 feet from all property lines. It shall also be no closer than 200 feet from a dwelling on adjacent property. The landscaped buffer shall be at least 30 feet wide along the perimeter of the Property adjacent to lands of other ownership. This landscaped buffer shall use existing vegetation or shall be planted with 70% evergreen vegetation and 30% deciduous vegetation that serves as a screen while not impeding the use as a solar array facility. The location and types of vegetation used within this buffer area shall be included in a landscape plan provided with the Final Site Plan.
 - E. Transformers and similar equipment shall be centrally located on the site.
 - F. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.

- G. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.
- H. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
- I. The Final Site Plan shall include a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.
- J. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Mr. Pettyjohn, seconded by Mr. Collins, and carried unanimously to recommend approval of C/U 2623 TPE DE SU300A, LLC, TPE DE SU300B, LLC, TPE DE SU300C, LLC, for the reasons and the conditions stated in the motion. Motion carried 4-0. Mr. Allen abstained.

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

PLANNING & ZONING COMMISSION

HOLLY J. WINGATE, CHAIR
JEFF ALLEN
G. SCOTT COLLINS
JOHN PASSWATERS
DAVID PETTYJOHN



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: June 17, 2026

Sussex County Council Public Hearing Date: July 28, 2026

Application: CU 2623 TPE SU DE300A, LLC, TPE SU DE300B, LLC
TPE SU DE300C, LLC

Applicant: TPE SU DE300A, LLC, TPE SU DE300B, LLC, TPE SU DE300C,
LLC
7272 E. Indian School Road, Suite 540
Scottsdale, AZ 85251

Owner: MMW Investments, LLC (Mark Baker)
15046 Gravel Hill Road
Milton, DE 19968

Site Location: Located on the south of Zoar Road (Rt. 24) and the west side of
Lawson Road (S.C.R. 296), approximately 0.26 mile east of Gravel Hill
Road (Rt. 30).

Current Zoning: Agricultural Residential (AR-1) Zoning District

Proposed Use: Solar Facility

Comprehensive Land
Use Plan Reference: Low Density Area

Councilmanic
District: District 5 – Mr. Rieley

School District: Indian River School District

Fire District: Indian River Fire Company

Sewer: N/A

Water: N/A

Site Area: 498.53 Acres

Tax Map ID.: 234-21.00-138.00 & 75.00



COUNTY ADMINISTRATIVE OFFICES
2 THE CIRCLE | PO BOX 417
GEORGETOWN, DELAWARE 19947



Memorandum

To: Sussex County Planning Commission Members
From: Ms. Ann Lepore, Planner I
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: June 5, 2026
RE: Staff Analysis for C/U 2623 TPE DE SU300A, 300B & 300C, LLC

This memo is to provide background and analysis for the Planning and Zoning Commission to consider as a part of Application C/U 2623 TPE DE SU300A, 300B & 300C, LLC. to be reviewed during the June 17, 2026, 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: 234-21.00-138.00 & 75.00

Proposal: The request is for a Conditional Use for Tax Parcels 234-21.00-138.00 & 75.00 to allow for a Solar Facility to be located in an Agricultural Residential (AR-1) District. The property is lying on the south of Zoar Road (Rt. 24) and the west side of Lawson Road (S.C.R. 296), approximately 0.26 mile east of Gravel Hill Road (Rt. 30). The Parcel consists of 498.53 acres +/-.

Zoning: The Parcel is zoned Agricultural Residential (AR-1) District. The adjacent parcels to the east, north, and west are zoned Agricultural Residential (AR-1) District. An adjacent parcel to the south is zoned General Residential (GR) District.

Future Land Use Map Designation w/in Comprehensive Plan: The subject property is located within the "Low Density Area" as outlined in the Sussex County's 2018 Comprehensive Plan.

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 in the plan indicates that the subject property is designated as a Rural Area and has a land use categorization of "Low Density Area." All properties surrounding the subject site contain the Future Land Use Map designation of "Low Density Area."

As outlined in the 2018 Sussex County Comprehensive Plan, Low Density Areas are areas that the County envisions as "a predominantly rural landscape where farming co-exists with appropriate residential uses and permanently preserved property" (Sussex County Comprehensive Plan, 4-18).



The Plan also notes that commercial uses “should be limited in their location, size and hours of operation” and “more intense commercial uses should be avoided” and commercial uses “may be appropriate depending on surrounding uses” (Sussex County Comprehensive Plan, 4-19).

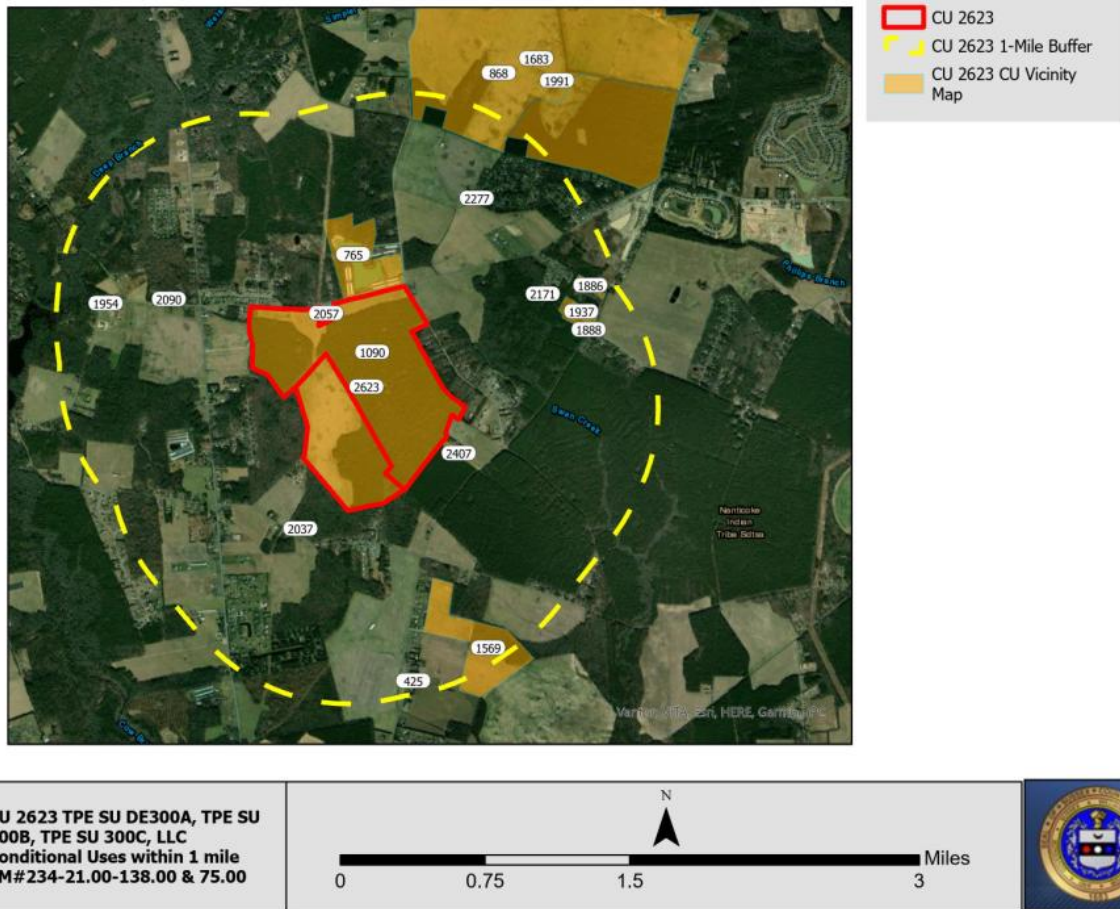
Further Site Considerations:

- **Density:** N/A
- **Open Space Provisions:** N/A
- **Agricultural Areas:** The site is within the vicinity of active agricultural lands.
- **Interconnectivity:** N/A
- **Transportation Improvement District (TID):** N/A
- **Forested Areas:** The site includes several acres of existing forest on both Parcels.
- **Wetlands Buffers/Waterways:**
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** The site is not located in a Wellhead Protection Area. There is an 80 ft. tax ditch on the west side of TMP 234-21.00-75.00

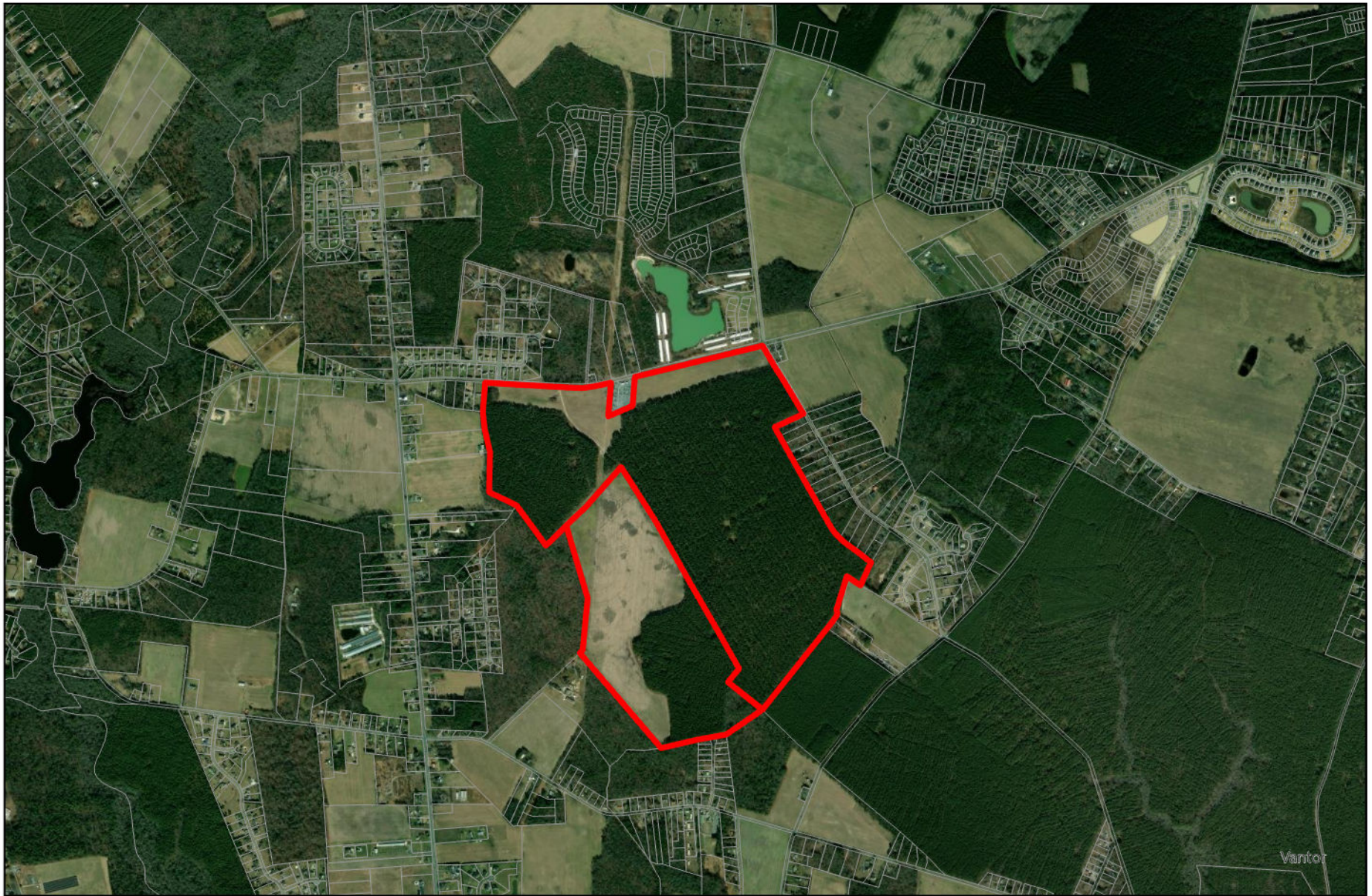
Existing Conditional Uses within the Vicinity of the Subject Site: A Data Table and Supplemental Map have been supplied which provide further background regarding the approval status of Applications in the area, including the location of all other Conditional Use Applications that are less than 1 mile distance from the subject site.

Since 1970, there have been 18 Conditional Use Applications within a 1-mile radius of the Application Site.

CU #	APPLICANT	Tax Parcel #	Zoning	Proposed Use	CC Decision Date	CC Decision	Ord. #
425	Dennis A Warrington	234-27.00-37.00	AR-1	Beauty salon	7/12/1977	Approved	N/A
765	Robert A. Raley	234-15.00-10.00	AR-1	Borrow pit/farm pond	1/10/1984	Approved	N/A
868	David H. Clark & Leslie M.	234-9.00-34.00	AR-1	Wastewater Management & Treatm	7/28/1987	Withdrawn	N/A
1090	Townsend	234-21.00-138.00	AR-1	Land application of treated sludge	12/13/1994	Approved	997
1569	Mountaire (Cordrey & Frame Tract	234-21.00-169.03	AR-1	Apply bio-solids	11/30/2004	Approved	1730
1683	Wayne Baker, LLC	234-9.00-34.00	AR-1	Borrow pit	4/17/2007	Approved	1907
1886	Clarence A. Edgens, III	234-15.00-38.00	GR	HVAC	8/16/2011	Approved	2210
1888	Michael Henderson	234-21.00-214.00	AR-1/GR	Boat Repair/storage	8/16/2011	Approved	2211
1937	Lisa M. St. Clair	234-21.00-213.00	GR	Bakery for Baking Dog Treats	7/16/2012	Withdrawn	N/A
1954	Robert A. Hermanson	234-14.00-20.03	AR-1	Commercial/Retail Shop	2/5/2013	Approved	2293
1991	Cool Springs LLC/ Highway One	234-15.00-22.00	AR-1	Outdoor Entertainment Events w/ Te	7/22/2014	Withdrawn	N/A
2037	Gilbert J. Bernoski, Jr.	234-21.00-50.00	GR	Auto repair shop	4/5/2016	Denied	N/A
2057	Delaware Electric Cooperative	234-21.00-138.00	AR-1	New electrical substation	10/25/2016	Approved	2471
2090	Edgar Reyes Hernandez	234-14.00-30.01	AR-1	Shop for painting business and sto	10/10/2017	Approved	2525
2171	Lisa St. Clair	234-21.00-213.00	GR	Dog Bakery with warehouse & stora	5/21/2019	Approved	2655
2277	Avalon Woods HOA	234-15.00-81.00	AR-1/GR	Storage Shed	1/25/2022	Approved	2825
2407	Lori & Jose Solis Marin	234-21.00-140.01	AR-1	Auto Repair Shop	4/9/2024	Denied	N/A
2623	TPE SU DE300A, 300B, 300C, LLC	234-21.00-138.00	AR-1	Solar Facility			



Based on the analysis of the land use, surrounding zoning and uses, a Conditional Use Application to allow for a solar facility and associated site improvements, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.



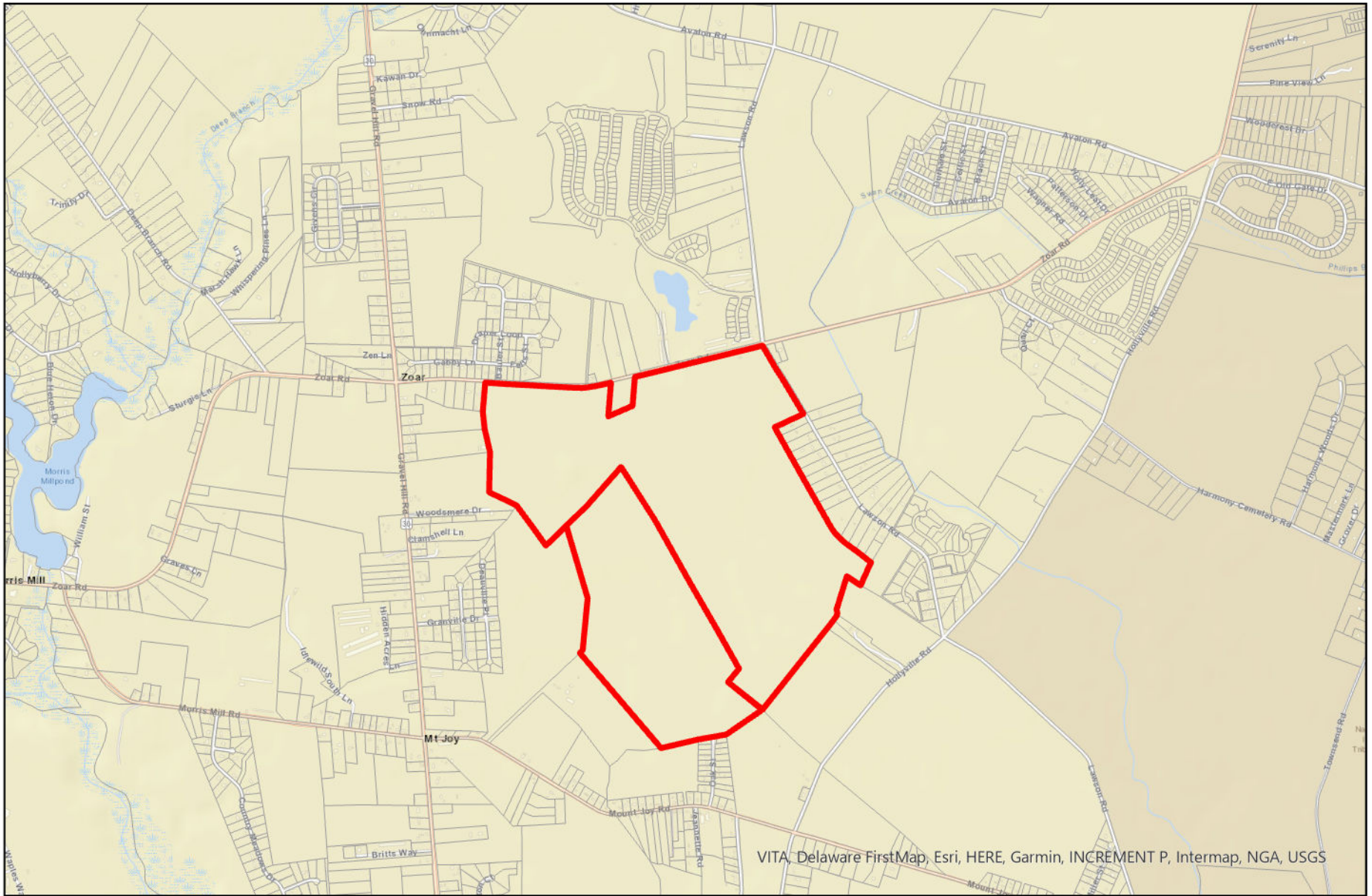
Vantor

CZ 2623 TPE SU DE 300A, LLC,
TPE SU DE 300B, LLC, TPE SU DE
300C, LLC
Aerial Map
TM# 234-21.00-75.00 & 138.00

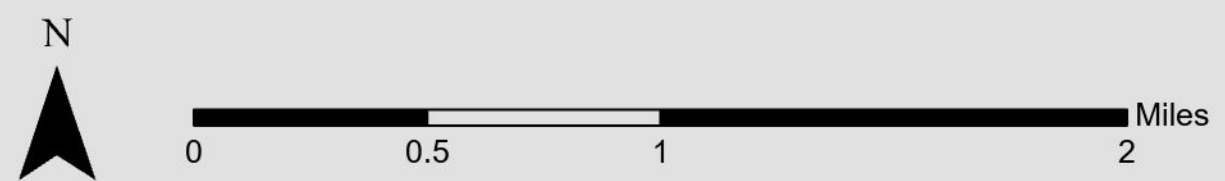


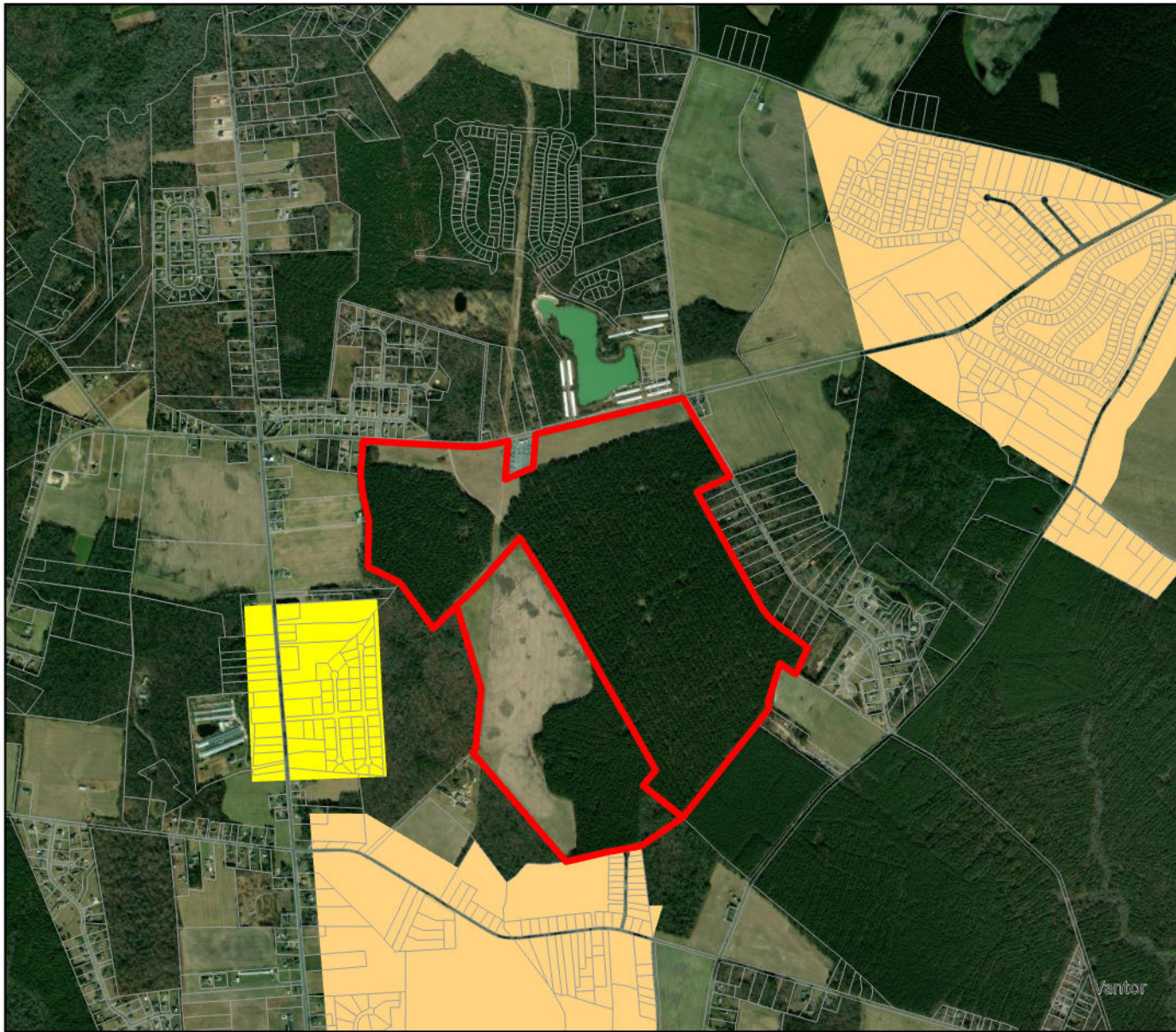
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**CZ 2623 TPE SU DE 300A, LLC,
TPE SU DE 300B, LLC, TPE SU DE
300C, LLC
Street Map
TM# 234-21.00-75.00 & 138.00**





 CU 2623

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

**CZ 2623 TPE SU DE 300A, LLC,
TPE SU DE 300B, LLC, TPE SU DE
300C, LLC
Zoning Map
TM# 234-21.00-75.00 & 138.00**



0 0.5 1 2 Miles



Introduced: 5/19/26

Council District 5: Mr. Rieley

Tax I.D. No.: 234-21.00-75.00 & 138.00

911 Address: N/A

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 498.53 ACRES, MORE OR LESS

WHEREAS, on the 30th day of October 2025, a Conditional Use application, denominated Conditional Use No. 2623, was filed on behalf of TPE DE SU3000A, LLC, TPE DE SU300B, LLC TPE DE SU300C, LLC; 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. 2623 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. 2623 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 southwest corner of Zoar Road (S.C.R. 48) and Lawson Road (S.C.R. 296); and being more particularly described in the attached legal description prepared by Morris James LLP, said parcel containing 498.53 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: July 23, 2026

RE: County Council Report for C/U 2633 filed on behalf of TPE DE SU95A, LLC and TPE DE SU95B, LLC

The Planning and Zoning Department received an application (C/U 2633 filed on behalf of TPE DE SU95A, LLC and TPE DE SU95B, LLC) for a Conditional Use for solar arrays within an Agricultural Residential AR-1 Zoning District. The Tax Parcel ID is 230-12.00-19.00. The property is located at 8850 North Old State Road, Lincoln. The parcel size is 185.96 ac. +/-

The Planning & Zoning Commission held a Public Hearing on the application on June 17, 2026. On July 22, 2026, the Commission recommended approval of the application for the 7 reasons of approval and subject to the 10 recommended conditions as outlined in the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meeting on June 17, 2026, and July 22, 2026

Minutes of the June 17, 2026, Planning & Zoning Commission Meeting

CU 2633 TPE DE SU95A, LLC & TPE DE SU95B, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 185.96 ACRES, MORE OR LESS. The property is lying on the west side of North Old State Road (S.C.R. 38A), the east side of DuPont Boulevard (Rt. 113), and the north side of Haflinger Road (S.C.R. 625). 911 Address: 8850 North Old State Road, Lincoln. Tax Map Parcel: 230-12.00-19.00 (P/O).



Mr. Robertson advised the Commission that the general information previously provided by the Applicant for solar arrays and Turning Point be incorporated into the current application by reference, as well as the public comment in support previously provided by Mr. Judson Malone.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's presentation materials, the Applicant's Exhibit Booklet, the Conditional Use Site Plan, the property deed, and the Staff Analysis. Mr. Whitehouse advised the Commission that no public comment had been received regarding the application.

The Commission found that Mr. Jon Falkowski, Civil Engineer with Becker Morgan Group, spoke on behalf of the Applicant, C/U 2633 TPE DE SU95A, LLC & TPE DE SU95B, LLC; that also present were Mr. Jordan Belknap with Turning Point Energy, Mr. John Trace, legal counsel, Ms. Kara Price and Mr. Abe Bennett, Lead Developers for Turning Point Energy. Mr. Falkowski requested that Mr. Jordan Belknap provide information about Turning Point Energy.

Mr. Falkowski stated that the project was another co-located project; that the supplemental presentation, submitted on June 16, 2026, included the updated Site Plan; that the Site Plan revision was a direct result of the community meeting; that the site was zoned AR-1 (Agricultural Residential) and was currently agricultural land; that Array A was located off North Old State Road; that Array B was located off Haflinger Road; that the old Site Plan had each taking access off each respective road; that the arrays would be completely surrounded with the same proposed landscape and fencing, with access by a gravel road leading to the center of the facilities, where the inverters would be located; that as a result of the community meetings, both arrays were shifted significantly further away from the road and the residents across the street; that Array B provided 700 feet, being roughly two football fields, 360 feet a piece in distance; that the project originally met the minimum setbacks, but had now been pushed back even further from the roadway; that as a result, the two separate arrays were located closer together, being more within the interior of the farmland rather than its extremities; that the construction lay down area would shift further away from the neighbors; that any noise during construction would be mitigated; that as shown on the Site Plan, there was a small family cemetery located on the site; that they did not plan to develop that area, and would not be located within the Conditional Use area; that they would leave the area undisturbed, and provide access for the neighbors or family who may want to visit the grave site, which currently did not exist; that the shift in the arrays allowed for some agricultural operations to continue; that there would be no mitigation or impacts to the neighbors; that the project proposed the same fencing and fabric previously presented, along with the same landscape buffer; that the noise decibel level for both Array A and Array B were 36 and 38 decibels, which was almost dead silence at the proposed distance; that he requested the entire presentation be carried into the record for all the applications; that the only difference with the current application, was that the community outreach meeting was held at the Milford Public Library on May 18, 2026; that the updated lease area for SU95A was 34.01 acres, with a fenced area of 27.38 acres, and the updated lease area for SU95B was 27.38 acres, with a fenced area of 28.37 acres.

The Commission found that there was one person present who wished to speak in support and one person present who wished to speak in opposition to the application, and with Mr. Judson Malone's previous comments of support being incorporated into the record by reference.

Mr. Robert Whitehead spoke in support of the Application. Mr. Whitehead stated that he was a retired Agricultural Specialist for Customs and Border Protection; that the site was his family farm; that their goal was to generate enough income to allow them to restore their original property house, which dated back to the 1700s; that the farm lease barely covered the basic expenses of the property; that they did not wish to sell or develop the property, and wished to keep it in the family as long as possible.

Mr. Jake Carpenter, resident of Lincoln, spoke in opposition to the Application. Mr. Carpenter stated that he was a huge supporter of solar and renewable energy, however, expressed concerns regarding the amount of approved solar arrays approved around his property and the negative impact on property values.

Mr. Falkowski spoke as part of his permitted five-minute rebuttal. Mr. Falkowski stated that there was a property value study performed and included within the exhibit booklet provided.

Upon there being no further questions, Chairman Collins closed the public hearing.

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

In relation to C/U 2633 TPE DE SU95A, LLC & TPE DE SU95B, LLC. Motion by Mr. Passwaters to defer action for further consideration, seconded by Mr. Pettyjohn, and carried unanimously. Motion by 3-0.

Minutes of the July 22, 2026, Planning & Zoning Commission Meeting

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

Madam Chair Wingate advised the Commission that she was absent from the application's public hearing, however, she had listened to the audio and therefore, was prepared to vote.

Mr. Passwaters moved that the Commission recommend approval of Conditional Use No. 2633 for TPE DE SU95A, LLC and TPE DE SU95B, LLC for a solar energy facility in the AR-1 District based on the record made during the public hearing and for the following reasons:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
2. The solar array will be located within approximately 59.61 fenced-in acres of a larger 185.96-acre tract. The array area complies with all of the Code requirements for separation distances and setbacks from property lines and dwellings.
3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar arrays. There was testimony that this solar array will benefit residential, business, and municipal subscribers with lower power costs.

4. The proposed solar array is located on a parcel of land that is mainly surrounded by forest or land used for agricultural purposes. The boundaries adjacent to residential uses will include a 30-foot-wide landscape buffer to screen the use.
5. This Application generally complies with Section 115-172.I of the Sussex County Zoning Code regarding solar arrays.
6. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways, and DelDOT has stated that the traffic impact will be “Diminutive”. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
7. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
8. This recommendation is subject to the conditions set forth in Section 115-172.I of the Zoning Code and the following additional conditions:
 - A. The use shall be for a ground-mounted solar array. No other types of electric generation shall be permitted at the site.
 - B. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use.
 - C. The entire area of the solar array shall be surrounded by a 7-foot-tall fence to comply with the height requirement of the National Electric Code. The fencing shall be a knot-wire agricultural style fencing including an interwoven privacy screening. The privacy screening shall be attached to the fencing with metal fasteners and a tension wire to reduce maintenance. The fence location and type of screening shall be shown on the Final Site Plan. The privacy screening may be removed after ten years from the installation of the solar array. The fencing shall remain.
 - D. The entire area of the solar array shall be surrounded by a buffer strip of open space a minimum of 100 feet from any street lines and a minimum distance of 50 feet from all property lines. It shall also be no closer than 200 feet from a dwelling on adjacent property. The landscaped buffer shall be at least 30 feet wide along the perimeter of the Property adjacent to lands of other ownership. This landscaped buffer shall use existing vegetation or shall be planted with 70% evergreen vegetation and 30% deciduous vegetation that serves as a screen while not impeding the use as a solar array facility. The location and types of vegetation used within this buffer area shall be included in a landscape plan provided with the Final Site Plan.
 - E. Transformers and similar equipment shall be centrally located on the site. The invertors shown within “Site A” on the Preliminary Site Plan shall be more centrally located than what was shown on that plan.
 - F. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - G. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.

- H. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
- I. The Final Site Plan shall include a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.
- J. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Mr. Passwaters, seconded by Mr. Pettyjohn and carried unanimously to recommend approval of CU 2633 TPE DE SU95A, LLC & TPE DE SU95B, LLC, for the reasons and the conditions stated in the motion. Motion carried 4-0. Mr. Allen abstained.

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

PLANNING & ZONING COMMISSION

HOLLY J. WINGATE, CHAIR
JEFF ALLEN
G. SCOTT COLLINS
JOHN PASSWATERS
DAVID PETTYJOHN



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: June 17, 2026

Sussex County Council Public Hearing Date: July 28, 2026

Application: CU 2633 TPE DE SU95A & TPE DE SU95B, LLC

Applicant: CU 2633 TPE DE SU95A & TPE DE SU95B, LLC
7272 E. Indian School Road, Suite 540
Scottsdale, AZ 85251

Owner: Whitehead Family Farm, LLC
8850 N. Old State Road
Lincoln, DE 19960

Site Location: Located on the west side of North Old State Road (S.C.R. 38A), the east side of DuPont Boulevard (Rt. 113), and the north side of Haflinger Road (S.C.R. 625).

Current Zoning: Agricultural Residential (AR-1) Zoning District

Proposed Use: Solar Facility

Comprehensive Land
Use Plan Reference: Low Density Area

Councilmanic
District: District 2 – Mr. McCarron

School District: Milford School District

Fire District: Ellendale Fire Company

Sewer: N/A

Water: N/A

Site Area: 185.96 Acres

Tax Map ID.: 230-12.00-19.00





Memorandum

To: Sussex County Planning Commission Members
From: Ms. Christin Scott, Planner III
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: June 10, 2026
RE: Staff Analysis for C/U 2633 TPE DE SU95A, LLC & TPE DE SU95B, LLC

This memo is to provide background and analysis for the Planning and Zoning Commission to consider as a part of Application C/U 2633 TPE DE SU95A, LLC & TPE DE SU95B, LLC, to be reviewed during the June 17, 2026, 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: 230-12.00-19.00 (portions of)

Proposal: The request is for a Conditional Use for portions of Tax Parcel 230-12.00-19.00 to allow for a Solar Facility to be located in an Agricultural Residential (AR-1) District. The property is lying on the east side of the intersection of Dupont Highway (Rt. 113) and Haflinger Road (S.C.R. 625) and the west of the intersection of N. Old State Road (S.C.R. 213) and Haflinger Road (S.C.R. 625). The Parcel consists of 185.96 acres +/-, Array Area 95A will encompass 27.92 acres +/-, Array Area 95B will encompass 31.70 acres +/-.

Zoning: The Parcel is zoned Agricultural Residential (AR-1) District. The adjacent parcels to the south and east are also zoned Agricultural Residential (AR-1) District. The adjacent parcels to the north are zoned Medium Residential (MR) District and General Residential (GR) District.

Future Land Use Map Designation w/in Comprehensive Plan: The subject property is located within the "Low Density Area" as outlined in the Sussex County's 2018 Comprehensive Plan.

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 in the plan indicates that the subject property is designated as a Rural Area and has a land use categorization of "Low Density Area." All properties surrounding the subject site contain the Future Land Use Map designation of "Low Density Area."

As outlined in the 2018 Sussex County Comprehensive Plan, Low Density Areas are areas that the County envisions as “a predominantly rural landscape where farming co-exists with appropriate residential uses and permanently preserved property” (Sussex County Comprehensive Plan, 4-18). The Plan also notes that commercial uses “should be limited in their location, size and hours of operation” and “more intense commercial uses should be avoided” and commercial uses “may be appropriate depending on surrounding uses” (Sussex County Comprehensive Plan, 4-19).

Further Site Considerations:

- **Density:** N/A
- **Open Space Provisions:** N/A
- **Agricultural Areas:** The site is within the vicinity of active agricultural lands.
- **Interconnectivity:** N/A
- **Transportation Improvement District (TID):** N/A
- **Forested Areas:** Forested areas are located on the site.
- **Wetlands Buffers/Waterways:**
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** N/A

Existing Conditional Uses within the Vicinity of the Subject Site: A Data Table has been supplied which provide further background regarding the approval status of Applications in the area, including the location of all other Conditional Use Applications that are less than 1 mile distance from the subject site.

Since 1970, there have been seventeen 46 Conditional Use Applications within a 1-mile radius of the Application Site.

CU No.	Tax Parcel #	APPLICANT	Zoning	Proposed Use	CC Decision Date	CC Decision
703	230-6.00-1.01	Peninsula Oil Co.	AR-1	expand petroleum sales storage	1/17/1984	Approved
2144	230-5.20-55.00	William Caldwell	AR-1	tree company operation	10/30/2018	Approved
1892	330-15.13-12.01	Revocable Trust of Donald F. Claycomb	AR-1	Investment/Insurance Office	6/7/2011	Approved
1288	230-6.17-60.01	Milford School District	AR-1	amend CU 1205 public school	6/15/1999	Approved

1211	230-6.17-60.00	Milford School District	AR-1	Expansion of CU 1014 for Play & Recreation Area	12/30/1997	Approved
2032	330-14.16-5.03	Guillermo Vasquez t/a F & N	AR-1	Construction company office, equipment parking and shop/yard	12/8/2015	Denied
1649	230-12.00-22.00	Ronald W. Morgan	AR-1	garage & parking of trucks & trailers	9/12/2006	Denied
2205	230-6.00-1.02	Frank Passwaters	AR-1	auto-motorcycle repair	2/18/2020	Approved
1154	330-15.13-12.00	Michael D. Swain	AR-1	office/apartment	<Null>	Withdrawn
323	330-15.13-17.00	Dairy Markets Inc		convenience store	<Null>	Withdrawn
1880	230-12.00-36.00	Ellendale Vol. Fire Dept., Inc.	AR-1	fire company substation	1/4/2011	Approved
166	230-12.00-41.00	David Wilson	AR-1	sales of farm equipment, snack bar, auction sales	<Null>	Approved
988	330-15.00-27.01	John E. & Janet E. Macklin	AR-1	tire sales/service demolition/landscape	11/12/1991	Approved
2056	330-15.00-20.01	Raynol E. Garcia	AR-1	office, storage of vehicles and equipment and repair equipment	10/4/2016	Approved
2146	330-15.00-10.00	Jose Carrillo	AR-1	indoor/outdoor soccer facility	11/13/2018	Approved
1876	230-5.00-10.03	Douglas R. Morgan	AR-1	Auto repair	1/4/2011	Approved
669	130-6.00-113.04	Paradee Oil Co		oil bulk plant		Denied
1014	230-6.17-58.00	Milford School District	AR-1	Expnsion to Existing Public School Facility	7/14/1992	Approved
1576	230-13.00-36.00	Swain Pit, Inc.	AR-1	store clam shells in borrow pit	10/25/2005	Denied
252	230-13.00-23.00	George Eddy	AR-1	clothing factory		Approved
551	130-6.00-84.00	Richard and Virginia Roop	AR-1	automobile sales & repair shop		Approved
1133	230-12.00-16.00	David L & Carolyn Wilson	AR-1	expand CU 687 sale of carriages/etc	10/17/1995	Approved

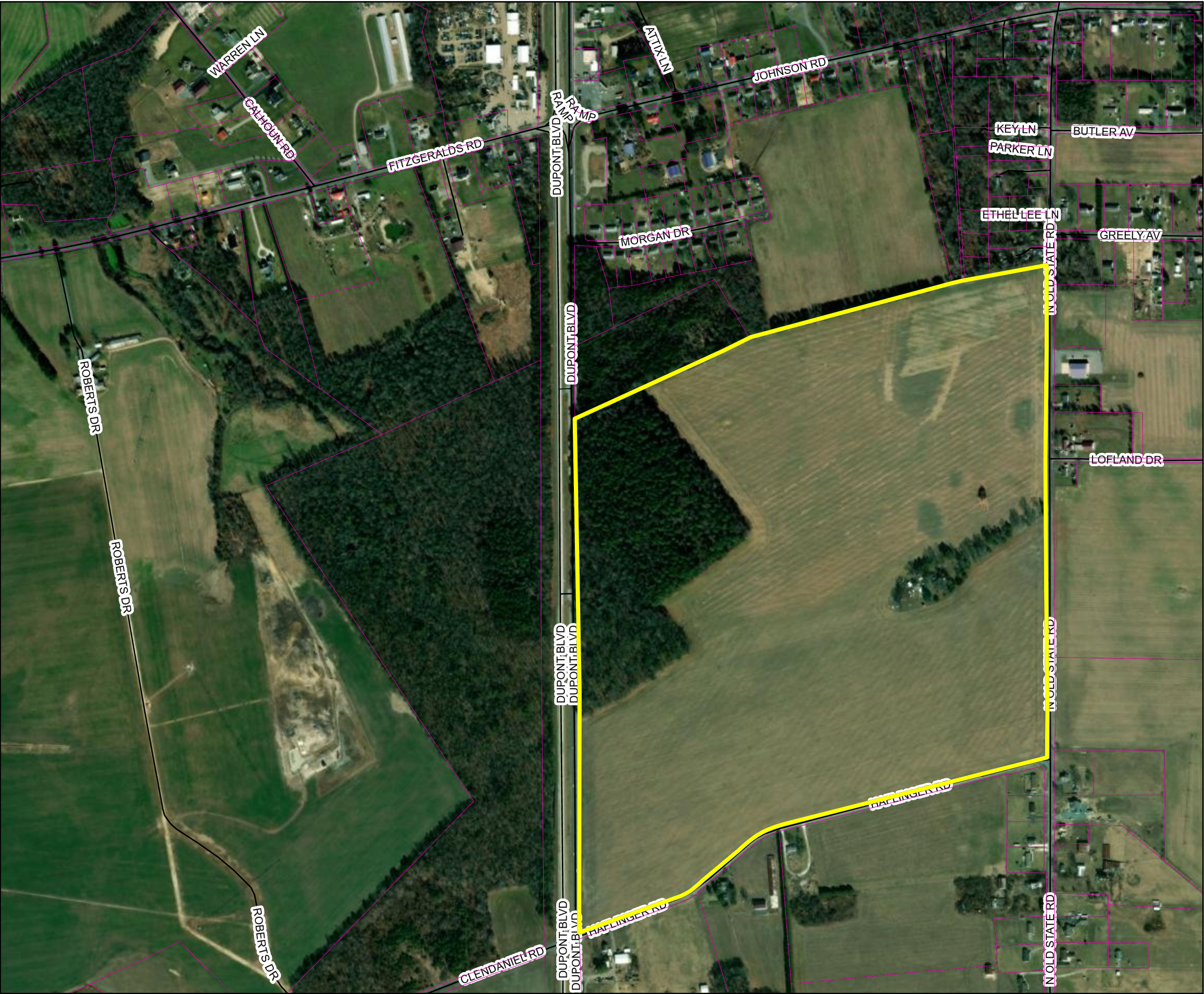
517	230- 12.00- 17.00	David Wilson	AR-1	enlarge existing auction barn		Approved
672	230- 12.00- 23.00	David Wilson	AR-1	furniture sales /car sales		Approved
682	230- 12.00- 14.00	Flossie Jefferson	AR-1	flea market		Approved
680	230- 6.17- 7.00	Richard Johnson & Son Inc	AR-1	clerical office		Approved
929	230- 6.17- 5.00	Samuel J. Passwaters III	AR-1	woodworking shop	3/27/1990	Approved
779	230- 6.17- 21.00	R. Calvin Clendaniel	AR-1	architect office	2/14/1984	Approved
1809	230- 12.00- 26.00	Curtis McDonald	AR-1	produce/meats/butcher	2/2/2010	Approved
2250	230- 12.00- 10.04	Paola Pacheco Vaquez	AR-1	Construction Business (Office w/equipment storage)	8/10/2021	Approved
1133	230- 12.00- 16.00	David L & Carolyn Wilson	AR-1	expand CU 687 sale of carriages/etc	10/17/1995	Approved
1205	230- 6.17- 60.01	Milford School District	AR-1	expand CU 1014 for play & recreation	10/14/1997	Approved
158	230- 12.00- 17.00	Delaware Pulpwood	AR-1	Farm Equipment Sales		Withdrawn
296	230- 12.00- 17.00	Wilson's Auction Sales & Service	AR-1	Enlarge Auction Barn	10/14/1975	Approved
397	230- 12.00- 26.00	Dillard Winstead	AR-1	guitar repair, arts & crafts & refinish furniture	2/1/1977	Approved
492	230- 13.00- 36.00	Harry J Swain Jr	AR-1	Borrow Pit	10/3/1978	Approved
687	230- 12.00- 16.00	David Wilson	AR-1	Farmers Market/Auction	6/29/1982	Approved
757	330- 15.00- 10.00	Harrington Equipment Co.,Inc.	AR-1	storage/shop/office/recondition canning equipment	10/11/1983	Approved
2298	130- 3.00- 246.00	Freeman Solar, LLC	AR-1, GR & MR	Solar Farm - to include 75 MW AC photovoltaic electric generation facility.	6/14/2022	Approved
2347	230- 12.00- 39.00	TPE DE SU94, LLC	AR-1	Community Solar Facility	6/20/2023	Approved

2498	230- 12.00- 260.00	Curtis McDonald	AR-1	Retail Sales, Professional office, food service		Withdrawn
2538	230- 5.00- 6.00	Jeffrey Baughman	AR-1	Professional Office	4/21/2026	Approved
2565	230- 13.00- 36.00	F and N Vazquez Concrete, LLC	AR-1/GR	Concrete, Masonary, Construction Businesss with Retail Sales	7/15/2025	Approved
2457	230- 6.00- 20.02	Dean Vincent	AR-1	Service Business for Gas Stations	12/10/2024	Approved
2616	230- 12.00- 22.00	TPE DE SU519, LLC	AR-1	Solar Facility		
2642	230- 12.00- 39.00	TPE DE SU 94B, LLC	AR-1	Solar Facility		

Based on the analysis of the land use, surrounding zoning and uses, a Conditional Use Application to allow for a solar facility and associated site improvements, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.

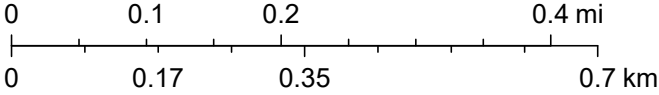


A3 Landscape Parcel Details

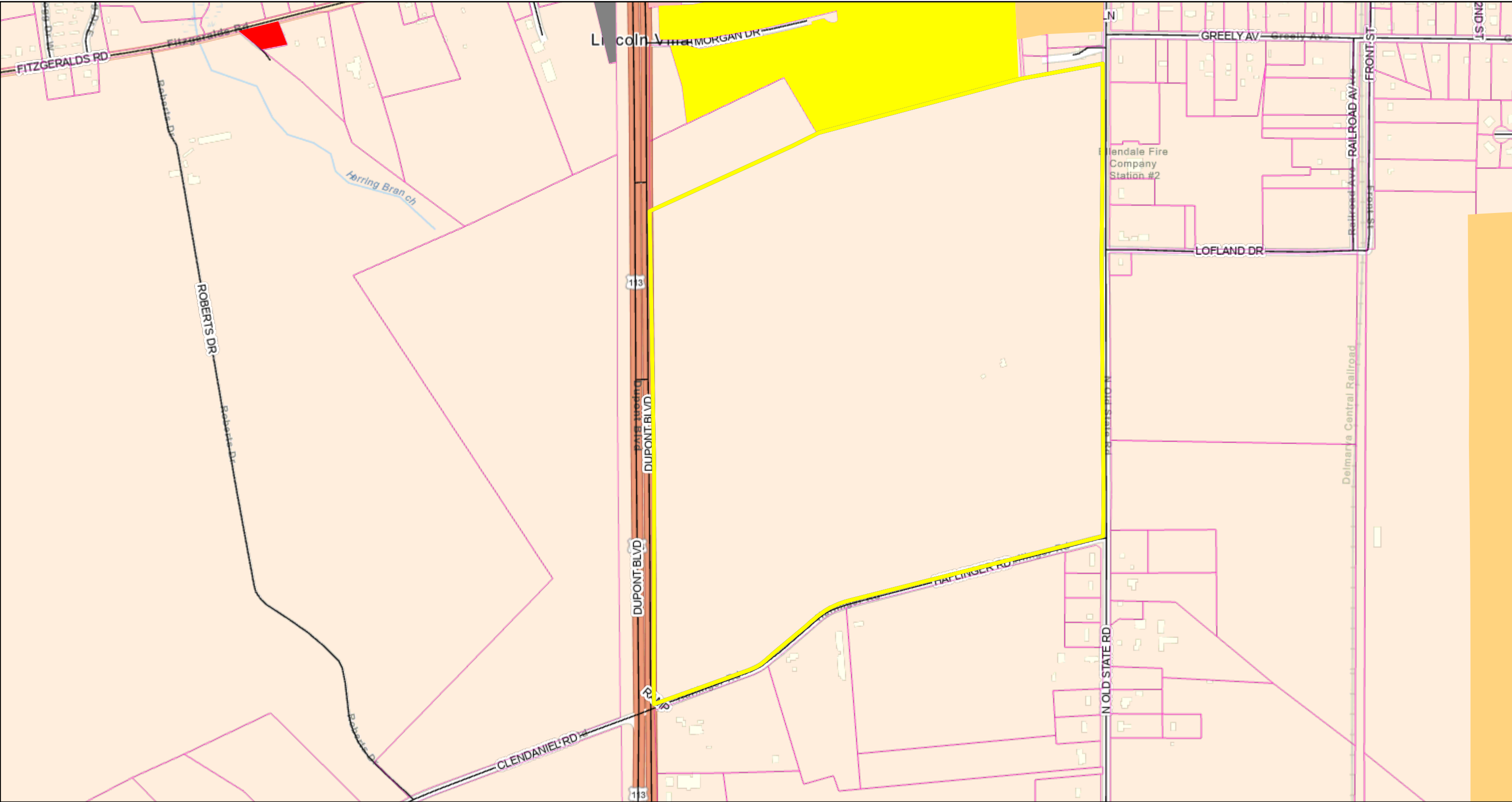


PIN:	230-12.00-19.00	
Owner Name	WHITEHEAD	FAMILY FARM
Book	4405	
Mailing Address	8850 N OLD STATE RD	
City	LINCOLN	
State	DE	
Description		
Description 2		
Description 3		
Land Code		

- Municipal Boundaries
- Tax Parcels
- TaxParcel
- Encumbrance
- Condo
- Streets
- County Boundaries
- GIOLandRecords.PARCELFABRIC.Condo
- World Imagery
- Low Resolution 15m Imagery
- High Resolution 60cm Imagery
- High Resolution 30cm Imagery
- Citations
- 2.4m Resolution Metadata



Sussex County



May 15, 2026

polygonLayer

Override 1

Override 2

Zoning

Medium Residential - MR

General Residential - GR

Heavy Industrial - HI-1

C1: General Commercial

B-1: Neighborhood Business

Tax Parcels

TaxParcel

Encumbrance

Streets

County Boundaries

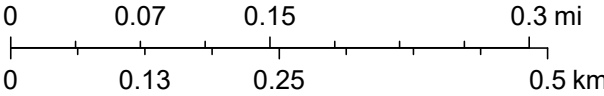
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Green: Band_2

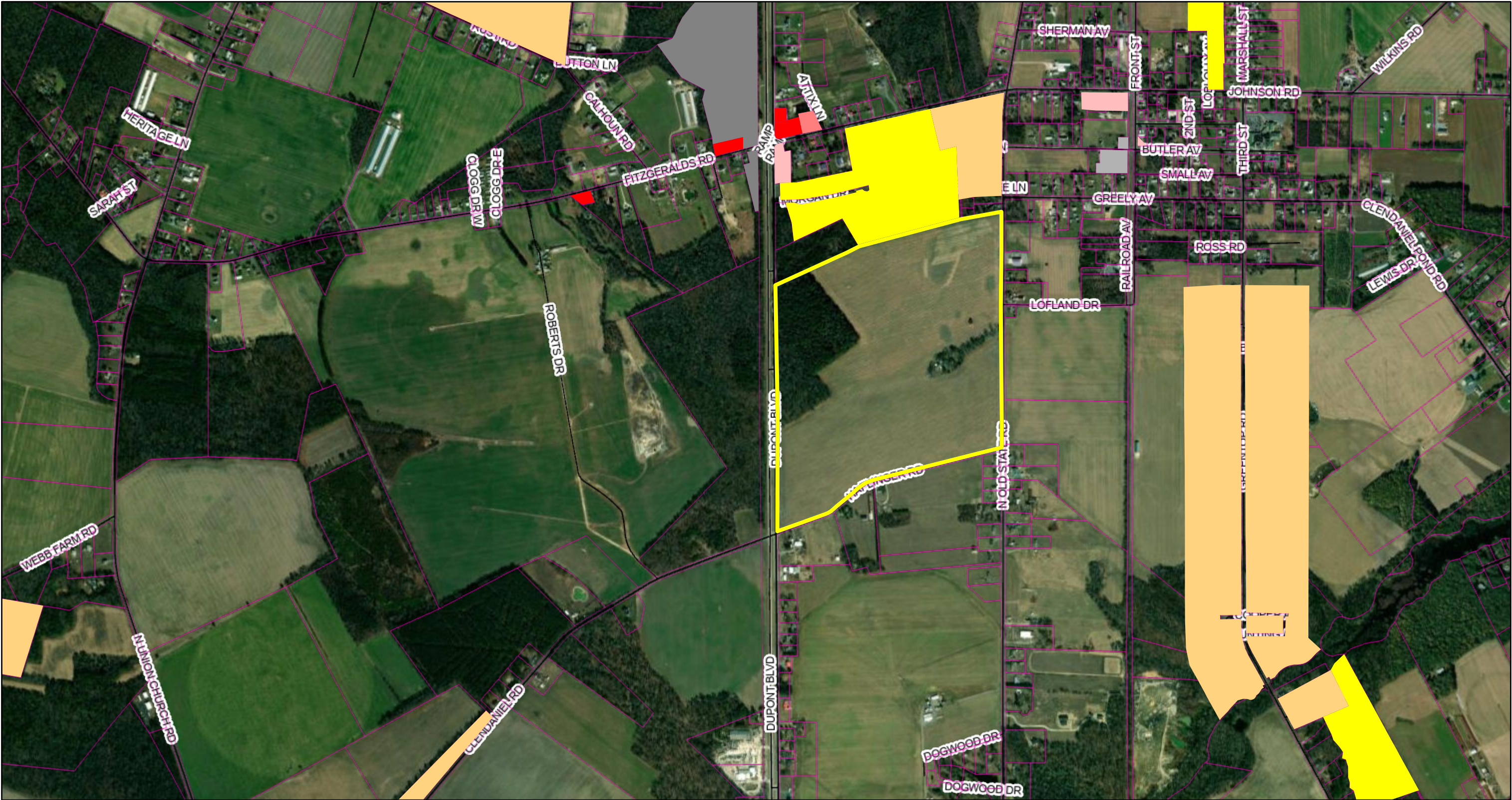
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Sussex County, Sussex County Government

Sussex County



May 15, 2026

polygonLayer

Override 1

Override 2

Zoning

Medium Residential - MR

General Residential - GR

Light Industrial - LI-2

Heavy Industrial - HI-1

C1: General Commercial

C2: Medium Commercial

B-1: Neighborhood Business

Tax Parcels

TaxParcel

Encumbrance

Streets

County Boundaries

World Imagery

Low Resolution 15m Imagery

High Resolution 60cm Imagery

High Resolution 30cm Imagery

Citations

4.8m Resolution Metadata

1:18,056

0 0.17 0.35 0.7 mi

0 0.28 0.55 1.1 km

VGIN, Vantor, Sussex County Government

Introduced: 5/19/26

**Council District 2: Mr. McCarron
Tax I.D. No.: 230-12.00-19.00 (P/O)
911 Address: 8850 North Old State Road, Lincoln**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 185.96 ACRES, MORE OR LESS

WHEREAS, on the 15th day of January 2026, a Conditional Use application, denominated Conditional Use No. 2633, was filed on behalf of TPE DE SU95A, LLC & TPE DE SU95B, LLC; 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. 2633 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. 2633 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 North Old State Road (S.C.R. 213), the east side of DuPont Boulevard (Rt. 113), and the north side of Haflinger Road (S.C.R. 625), and being more particularly described in the attached legal description prepared by Harold W.T. Purnell, II said parcel containing 185.96 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: July 23, 2026

RE: County Council Report for C/U 2640 filed on behalf of TPE DE SU646, LLC

The Planning and Zoning Department received an application (C/U 2640 filed on behalf of TPE DE SU646, LLC) for a Conditional Use for solar arrays within an Agricultural Residential AR-1 and General Commercial C-1 Zoning District. The Tax Parcel ID is 131-19.00-3.00. The property is located on the west side of the intersection of Sussex Highway (Rt. 13) and Camp Road (SCR.532). The parcel size is 19.74 ac. +/-

The Planning & Zoning Commission held a Public Hearing on the application on June 17, 2026. On July 22, 2026, the Commission recommended approval of the application for the 7 reasons of approval and subject to the 10 recommended conditions as outlined in the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meeting on June 17, 2026, and July 22, 2026

Minutes of the June 17, 2026, Planning & Zoning Commission Meeting

CU 2640 TPE DE SU646, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND C-1 GENERAL COMMERCIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 19.74 ACRES, MORE OR LESS. The property is lying on the west side of the intersection of Sussex Highway (Rt. 13) and Camp Road (S.C.R. 532). 911 Address: N/A. Tax Map Parcel: 131-19.00-3.00.



Mr. Robertson advised the Commission that the general information previously provided by the Applicant for solar arrays and Turning Point be incorporated into the current application by reference, as well as the public comment in support previously provided by Mr. Judson Malone.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's presentation materials, the Applicant's Exhibit Book, the Conditional Use Site Plan, the Staff Analysis, a letter received from the Sussex County Engineering Department's Utility Planning Division, and the DelDOT Service Level Evaluation Response. Mr. Whitehouse advised the Commission that no public comments had been received regarding the application.

The Commission found that Mr. Jon Falkowski, Civil Engineer with Becker Morgan Group, spoke on behalf of the Applicant, C/U 2640 TPE DE SU646, LLC; that also present were Mr. Jordan Belknap with Turning Point Energy, Mr. John Trace, legal counsel, Ms. Kara Price and Mr. Abe Bennett, Lead Developers for Turning Point Energy. Mr. Falkowski requested that Mr. Jordan Belknap provide information about Turning Point Energy.

Mr. Falkowski stated that the project was a single project, and was not co-located like the others; that the property was located in Bridgeville along Sussex Highway; that the site was split zoned between AR-1 (Agricultural Residential) and C-1 (General Commercial); that for the current project the Conditional Use was proposed for the entire parcel, consisting of 19.74 acres; that the fenced area consisted of 13.15 acres; that the project would take access from the highway; that access would be centrally located between the two residential uses to the north and south; that they proposed it to be centrally located in an effort to mitigate noise; that the project would have a 30 foot landscape buffer, which would fully surround the perimeter fencing; that the landscape would consist of that previously mentioned; that the community outreach meeting was held on May 19, 2026, at the Georgetown Public Library; that the project proposed a four megawatt AC tracker single system, and the decibel reading at the property line, being 229 feet away, was roughly 46 decibels or as quiet as an office.

Mr. Robertson questioned why the solar arrays were extended into the C-1 (General Commercial) area, as there was not a lot of commercial within that area along the highway.

Ms. Kara Price, Director of Development for Turning Point Energy, spoke on behalf of the application. Ms. Price stated that they had size limitations which impacted the project's viability; that there was no existing commercial development and no further commercial development planned within the area; that currently everything was residential; that they felt they were set back well from a visual perspective along the roadway, and had no plans to relinquish that area for any other development at the current time.

Mr. Chetan Patel, the landowner of the property, spoke on behalf of the application. Mr. Patel stated that when he purchased the property, he was told that C-1 (General Commercial) property was a rare zoning at the time; that there was not much C-1 Zoned property left; that currently he was uncertain as to what he could do in terms of the commercial aspect of it; that with that said, he felt the solar opportunity presented to him was the best opportunity, as he did not see much else being developed on the property.

The Commission found that one person was in support of the application, one person present with questions regarding the application and with Mr. Judson Malone's previous comments of support being incorporated into the record by reference.

Mr. Jeffery Lui, resident of Bridgeville, spoke with questions regarding the application. Mr. Lui stated that he did not receive notice of the Community Outreach meeting; that he questioned how far the project would be from his home, and how the project would benefit his electric bill.

Mr. Pettyjohn stated that if Mr. Lui had Delmarva Power, he would be eligible for the electric bill savings, and if he had Delaware Electric Cooperative, he would not be eligible for the savings.

Mr. Jon Falkowski spoke as part of his five-minute rebuttal. Mr. Falkowski stated that Mr. Lui was clearly located within 200 feet of the project and should have received a notice mailer; that he did not have the exact distance measurement and would say that Mr. Lui's dwelling was outside of 200 feet from the array itself.

Upon there being no further questions, Chairman Collins closed the public hearing.

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

In relation to C/U 2640 TPE DE SU646, LLC. Motion by Mr. Passwaters to defer action for further consideration, seconded by Mr. Pettyjohn, and carried unanimously. Motion by 3-0.

Minutes of the July 22, 2026, Planning & Zoning Commission Meeting

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

Madam Chair Wingate advised the Commission that she was absent from the application's public hearing, however, she had listened to the audio and therefore, was prepared to vote.

Mr. Passwaters moved that the Commission recommend approval of Conditional Use No. 2640 for TPE DE SU646, LLC for a solar energy facility in the AR-1 and C-1 Districts based on the record made during the public hearing and for the following reasons:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
2. The solar array will be located within approximately 13.15 fenced-in acres of a larger 19.74-acre tract. The array area complies with all of the Code requirements for separation distances and setbacks from property lines and dwellings.
3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar arrays. There was testimony that this solar array will benefit residential, business, and municipal subscribers with lower power costs.

4. The proposed solar array is located on a parcel of land that is mainly surrounded by land that is wooded or farmed. The boundaries adjacent to residential uses will include a 30-foot-wide landscape buffer to screen the use.
5. This Application generally complies with Section 115-172.I of the Sussex County Zoning Code regarding solar arrays.
6. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways, and DelDOT has stated that the traffic impact will be “Diminutive”. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
7. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
8. This recommendation is subject to the conditions set forth in Section 115-172.I of the Zoning Code and the following additional conditions:
 - A. The use shall be for a ground-mounted solar array. No other types of electric generation shall be permitted at the site.
 - B. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use.
 - C. The entire area of the solar array shall be surrounded by a 7-foot-tall fence to comply with the height requirement of the National Electric Code. The fencing shall be a knot-wire agricultural style fencing including an interwoven privacy screening. The privacy screening shall be attached to the fencing with metal fasteners and a tension wire to reduce maintenance. The fence location and type of screening shall be shown on the Final Site Plan. The privacy screening may be removed after ten years from the installation of the solar array. The fencing shall remain.
 - D. The entire area of the solar array shall be surrounded by a buffer strip of open space a minimum of 100 feet from any street lines and a minimum distance of 50 feet from all property lines. It shall also be no closer than 200 feet from a dwelling on adjacent property. The landscaped buffer shall be at least 30 feet wide along the perimeter of the Property adjacent to lands of other ownership. This landscaped buffer shall use existing vegetation or shall be planted with 70% evergreen vegetation and 30% deciduous vegetation that serves as a screen while not impeding the use as a solar array facility. The location and types of vegetation used within this buffer area shall be included in a landscape plan provided with the Final Site Plan.
 - E. Transformers and similar equipment shall be centrally located on the site.
 - F. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - G. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.
 - H. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.

- I. The Final Site Plan shall include a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.
- J. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Mr. Passwaters, seconded by Mr. Pettyjohn and carried unanimously to recommend approval of C/U 2640 TPE DE SU646, LLC for the reasons and the conditions stated in the motion. Motion carried 4-0. Mr. Allen abstained.

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

PLANNING & ZONING COMMISSION

HOLLY J. WINGATE, CHAIR
JEFF ALLEN
G. SCOTT COLLINS
JOHN PASSWATERS
DAVID PETTYJOHN



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: June 17, 2026

Sussex County Council Public Hearing Date: July 28, 2026

Application: C/U 2640 TPE DE SU646, LLC

Applicant: TPE DE SU646, LLC
7272 E. Indian School Road, Suite 540
Scottsdale, AZ 85251

Owner: Maa Gayatri Inc. c/o Chetal Patel
131 Dodge Drive
Smyrna, DE 19977

Site Location: The property is lying on the west side of the intersection of
Sussex Highway (Rt. 13) and Camp Road (S.C.R. 532).

Current Zoning: AR-1 (Agricultural Residential)

Comprehensive Land
Use Plan Reference: Developing Area

Councilmanic
District: Mr. McCarron

School District: Woodbridge School District

Fire District: Bridgeville Fire Department

Sewer: N/A

Water: N/A

Site Area: 19.74

Tax Map ID.: 131-19.00-3.00





Memorandum

To: Sussex County Planning Commission Members
From: Ms. Ann Lepore, Planner I
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: June 5, 2026
RE: Staff Analysis for C/U 2640 TPE DE SU646, LLC

This memo is to provide background and analysis for the Planning and Zoning Commission to consider as a part of Application C/U 2640 TPE DE SU646, LLC, to be reviewed during the June 17, 2026, 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: 131-19.00-3.00

Proposal: The request is for a Conditional Use for Tax Parcel 131-19.00-3.00 to allow for a Solar Facility to be located in an Agricultural Residential (AR-1) District. The property is lying on the west side of the intersection of Sussex Highway (Rt. 13) and Camp Road (S.C.R. 532). The Parcel consists of 19.74 acres +/-.

Zoning: The Parcel is zoned Agricultural Residential (AR-1) District and General Commercial (C-1) District. The adjacent parcels to the north and west are within the municipal boundaries of Bridgeville. The adjacent parcels to the south and east are zoned Agricultural Residential (AR-1) District.

Future Land Use Map Designation w/in Comprehensive Plan: The subject property is located within the "Developing Area" as outlined in the Sussex County's 2018 Comprehensive Plan.

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 in the plan indicates that the parcel has a designation of "Developing Area." The adjoining parcels to the east and south of the subject parcel, also have the Future Land Use Designation of "Developing Area."

As outlined in the 2018 Sussex County Comprehensive Plan, "Developing Areas are newer, emerging growth areas that demonstrate the characteristics of developmental pressures" and are "adjacent to municipalities within or adjacent to potential future annexation areas of a municipality"



(2018 Sussex County Comprehensive Plan, 4-14). The proposal is in proximity to and adjoins the Town of Bridgeville.

The adjoining parcels to the west and north of the subject parcel have a Future Land Use Map designation of “Municipality”, these parcels are located within the town jurisdiction of Bridgeville. Sussex County strongly favors directing development towards the municipalities that desire it (2018 Sussex County Comprehensive Plan, 4-14).

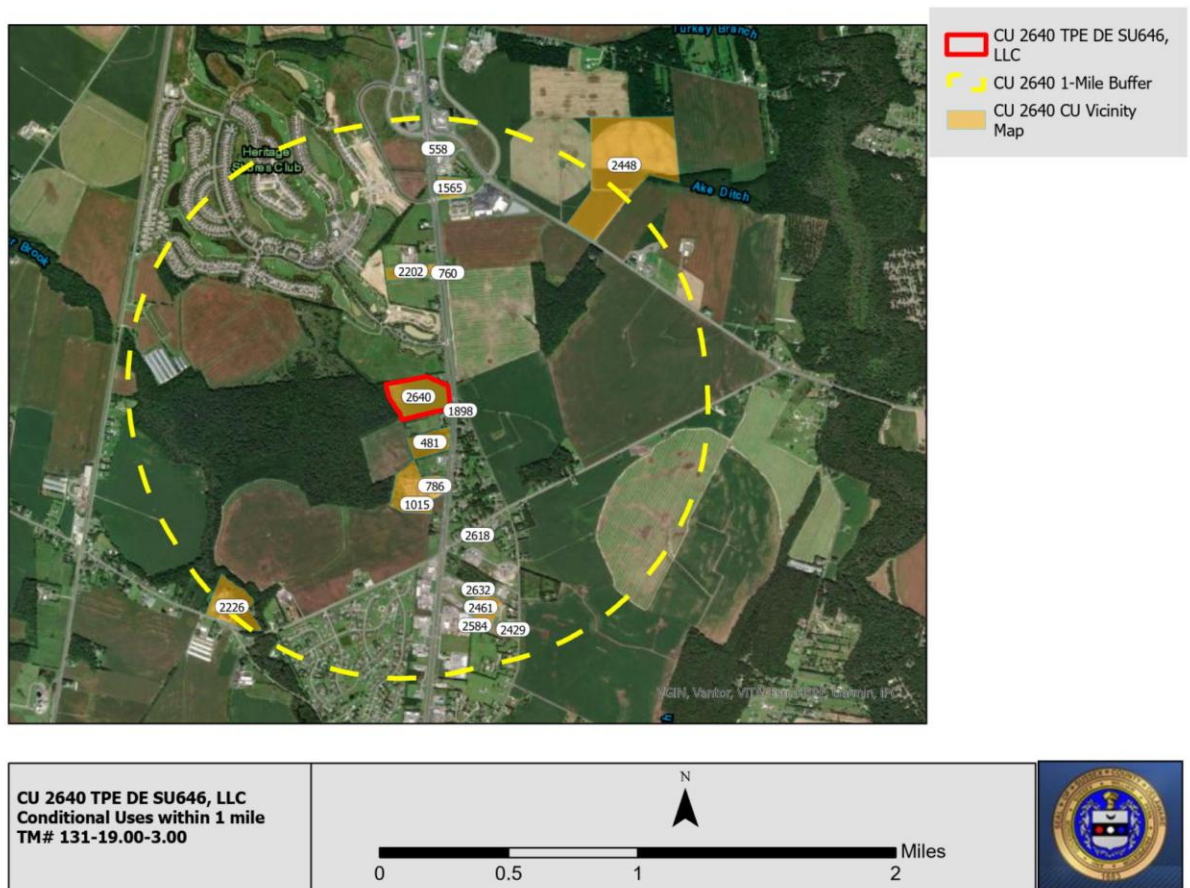
Further Site Considerations:

- **Density:** N/A
- **Open Space Provisions:** N/A
- **Agricultural Areas:** The site is within the vicinity of active agricultural lands.
- **Interconnectivity:** N/A
- **Transportation Improvement District (TID):** N/A
- **Forested Areas:** N/A
- **Wetlands Buffers/Waterways:**
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** N/A

Existing Conditional Uses within the Vicinity of the Subject Site: A Data Table and Supplemental Map have been supplied which provide further background regarding the approval status of Applications in the area, including the location of all other Conditional Use Applications that are less than 1 mile distance from the subject site.

Since 1970, there have been seventeen 17 Conditional Use Applications within a 1-mile radius of the Application Site.

CU No.	APPLICANT	Tax Parcel #	Zoning	Proposed Use	CC Decision	CC Decision
122	Calloway, Farnell & Moore Inc	131-15.00-20.00	AR-1	Sales Office	4/24/1973	Approved
481	Fred Truitt	131-19.00-4.00	AR-1	Paint & hardware store	7/10/1978	Approved
558	James & Gretta Faye Willey	131-15.00-22.00	AR-1	Antique & new furnishing sales	12/18/1979	Approved
760	John C. Street	131-15.00-20.00	AR-1	Retail produce stand	11/8/1983	Approved
786	Bridgeville Auto Center	131-19.00-5.01	AR-1	Extension of non-conforming auto salvage	5/1/1984	Approved
1015	Joe C. & Toni Johnson	131-19.00-8.01	AR-1	Expansion of CU 786 for Auto Recycling Center	2/2/1993	Approved
1565	State of Delaware/Facilities Management	131-15.00-24.08	C-1	Helipad	5/18/2004	Approved
1898	Bruce Fisher	131-19.00-10.01	AR-1	Professional offices	6/14/2011	Approved
2202	John Passwaters	131-15.00-17.00	AR-1	Landscaping business	2/4/2020	Approved
2226	Jonathan E. & Karen M. Hearn	131-18.00-33.00	AR-1	Event Venue	9/29/2020	Approved
2429	Jason Hignutt	331-2.00-17.02	AR-1	AR-1	8/13/2024	Approved
2448	TPE DE SU75, LLC	131-15.00-34.00	AR-1	Solar Facility	11/14/2023	Approved
2461	Raul Alvarez	331-2.00-18.20	AR-1	Event Venue		WITHDRAWN
2584	Martin Pacheco & Augustin Pacheco-Quillen	331-2.00-18.19	AR-1	Outdoor Athletic Field and Concession Trailer/Food Truck	8/19/2025	Approved
2618	Holly Smack	331-2.00-7.01	AR-1	Assisted Living		Pending
2632	Agustin Pacheco-Quillen	331-2.00-18.20	AR-1	Indoor Athletic Facility		Pending
2640	TPE DE SU646, LLC	131-19.00-3.00	AR-1 & C-1	Solar Facility		Pending

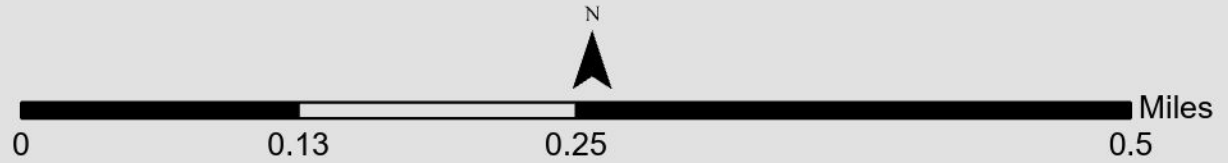


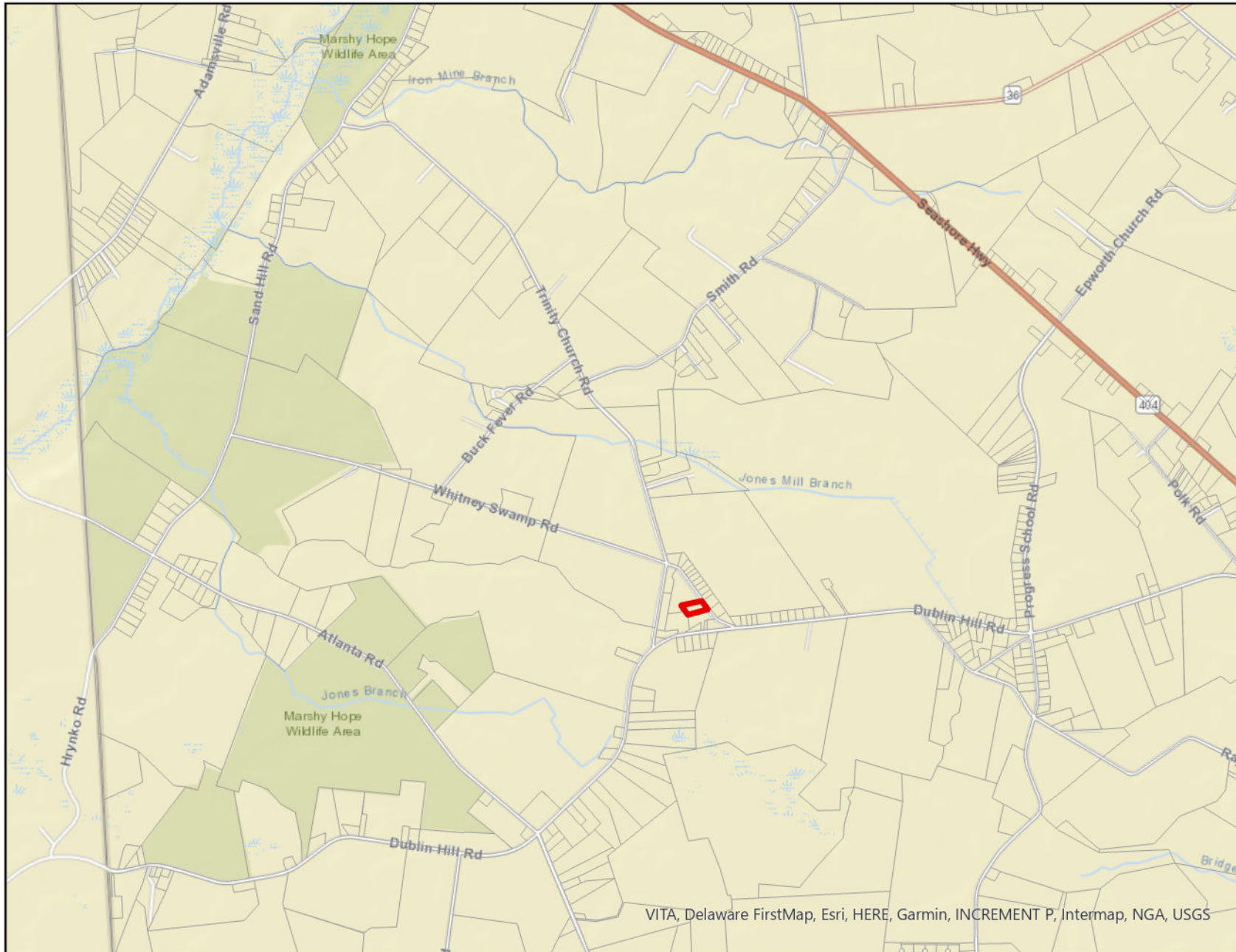
Based on the analysis of the land use, surrounding zoning and uses, a Conditional Use Application to allow for a solar facility and associated site improvements, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.



 CU 2640 TPE DE SU646,
LLC

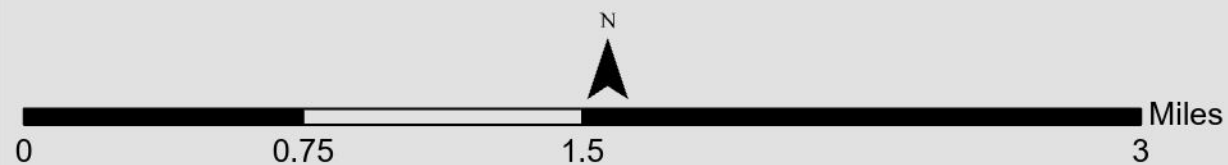
CU 2640 TPE DE SU646, LLC
Aerial Map
Tax Map No. 131-19.00-3.00





 CU 2640 TPE DE SU646, LLC

CU 2640 TPE DE SU646, LLC
Street Map
Tax Map No. 131-19.00-3.00



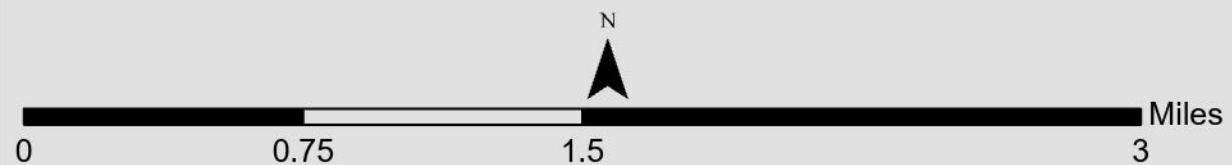


 CU 2640 TPE DE SU646, LLC

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 2640 TPE DE SU646, LLC
Zoning Map
Tax Map No. 131-19.00-3.00



Introduced: 5/19/26

Council District 2: Mr. McCarron

Tax I.D. No.: 131-19.00-3.00

911 Address: N/A

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND C-1 GENERAL COMMERCIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 19.74 ACRES, MORE OR LESS

WHEREAS, on the 6th day of March 2026, a Conditional Use application, denominated Conditional Use No. 2640 was filed on behalf of TPE DE SU646, LLC; 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. 2640 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, and Chapter 115, Article XI, Subsections 115-79 Code of Sussex County, be amended by adding the designation of Conditional Use No. 2640 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 the intersection of Sussex Highway (Rt. 13) and Camp Road (S.C.R. 532) and being more particularly described in the attached legal description prepared by Hudson, Jones, Jaywork & Fisher, said parcel containing 19.74 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: July 23, 2026

RE: County Council Report for C/U 2642 filed on behalf of TPE DE SU94B, LLC

The Planning and Zoning Department received an application (C/U 2642 filed on behalf of TPE DE SU94B, LLC) for a Conditional Use for solar arrays within an Agricultural Residential AR-1 Zoning District. The Tax Parcel ID is 230-12.00-39.00. The property is located at 9052 Lofland Drive, Lincoln. The parcel size is 39.76 ac. +/-

The Planning & Zoning Commission held a Public Hearing on the application on June 17, 2026. On July 22, 2026, the Commission recommended approval of the application for the 7 reasons of approval and subject to the 10 recommended conditions as outlined in the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meeting on June 17, 2026, and July 22, 2026

Minutes of the June 17, 2026, Planning & Zoning Commission Meeting

CU 2642 TPE DE SU94B, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 39.76 ACRES, MORE OR LESS. The property is lying on the east side of North Old State Road (S.C.R. 213), approximately 600 feet north of Haflinger Road (S.C.R. 625). 911 Address: 9052 Lofland Drive, Lincoln. Tax Map Parcel: 230-12.00-39.00.



Mr. Robertson advised the Commission that the general information previously provided by the Applicant for solar arrays and Turning Point be incorporated into the current application by reference, as well as the public comment in support previously provided by Mr. Judson Malone.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's presentation materials, the Applicant's Exhibit Booklet, the Conditional Use Site Plan, the Staff Analysis Report, the DelDOT Service Level Evaluation Response Letter, a letter received from the Sussex County Engineering Department's Utility Planning Division, and the property deed. Mr. Whitehouse advised the Commission that no public comments had been received regarding the application.

The Commission found that Mr. Jon Falkowski, Civil Engineer with Becker Morgan Group, spoke on behalf of the Applicant, C/U 2642 TPE DE SU94B, LLC; that also present were Mr. Jordan Belknap with Turning Point Energy, Mr. John Trace, legal counsel, Ms. Kara Price and Mr. Abe Bennett, Lead Developers for Turning Point Energy. Mr. Falkowski requested that Mr. Jordan Belknap provide information about Turning Point Energy.

Mr. Falkowski stated that the project was located within Lincoln; that the project that was presented earlier for SU94A and SU94B was located southwest of the current application site; that the current site, was also the site for C/U 2347 TPE DE SU94, LLC, which had already been constructed and online; that the current arrays were proposed as Array B; that the arrays for C/U 2347 were a lease area by itself, and would operate independently of the current Conditional Use No. 2642; that the northern half of the parcel was developed into solar arrays as part of C/U 2347; that the current application would be an infill of the rest of the parcel, consisting of 39.33 acres; that the original Conditional Use No. 2347 was granted for the entire property; that the new Conditional Use relates only the additional development, which would be operated by a different operator; that they should be treated as two separate entities; that the current Conditional Use would be subject to some conditions that the first one was not, based on the time of its approval; that the project would intend to fully comply with any imposed conditions; that the project would have a landscape buffer; that the previous conditional use did not require a landscape buffer as it was fully surrounded by additional farmland; that they intend to install the landscape buffer around three sides; that the top would lead into the lease area and fully encompass the three sides, being the north, west and south sides; that there was an existing hedgerow style buffer along the property to the east; that the site had one property owner, however the lease areas were two different entities being TPE DE SU94, LLC and TPE DE SU94B, LLC; that they had considered landscaping being proposed for all four sides; that they felt with the adjacent use and there being another fence line there; that a buffer within two fence lines did not provide great access for maintenance and things of that nature; that they therefore omitted the buffer between the two uses, both being solar; that the project did provide a separate access to the site; that the original project's access was located 150 foot north of the proposed access; that the proposed access would meet DelDOT's entrance spacing guidelines, and access would run to the inverters with turnaround areas provided.

Mr. Passwaters questioned whether the Commission could request the landscape buffer to be extended since it was a separate Conditional Use.

Mr. Robertson stated that he did not believe the Commission could request for the landscape buffer be extended around the existing solar array, as that area was not part of the current application, and questioned why the inverters were not more centrally located within the site.

Mr. Jordan Belknap with Turning Point Energy spoke on behalf of the application. Mr. Belknap stated that he would have no problem with the condition to have the inverter centrally located; that he too agreed with Mr. Robertson; that he believed they could extend the access road further to place the inverter between the two solar arrays.

Mr. Robertson stated that the prior Conditional Use was approved likely before Solar Ordinance No. 2920 was adopted, and within the Ordinance it spoke to the location of transformers and similar equipment to be centrally located within the site.

Mr. Pettyjohn questioned whether they could use the other access to come into the site and turn or whether separate access was required.

Mr. Belknap stated that he felt using the existing access would be sensible; that he believed they would pursue not combining the access roads; that he wanted to make sure that he permitted the project as a separate, independent, standalone project, as the different projects would have different finance structures; that he wanted to ensure that they could build Array B without the help of Array A, and he felt it was wise to pursue combining the access roads.

The Commission found that there was one person in support, one person in opposition, one person with neutral questions who wished to speak regarding the application, and with Mr. Judson Malone's previous comments of support being incorporated into the record by reference.

Mr. Randy Ennis, resident of Rehoboth Beach, spoke in support of the application. Mr. Ennis stated that was the owner of the property; that the first project was operational; that Turning Point had been a pleasure to work with; that they have done well with site maintenance; that the first phase was a successful operation; that solar was great for the community and for energy saving costs; that he had heard that the Senate would be combining utility solar and DPNL into one bill to allow it to become more convenient and easier to take advantage of savings; that his goal was to keep the site within the family, as it was his grandfather's land; that the land was in a trust; that it would benefit his grandkids and future generations, and that the proposed solar would have less impact on the roads than a development.

Mr. Jake Carpenter, resident of Lincoln, spoke in opposition to the Application. Mr. Carpenter stated that he was a huge supporter of solar and renewable energy, however, expressed concerns regarding the amount of approved solar arrays approved around his property and the negative impact on property values.

Mr. John Driscoll spoke with questions regarding the application. Mr. Driscoll questioned what the building setback was from North Old State Road to the front fence of the project, as he felt it was tight.

Mr. Jon Falkowski responded as part of the permitted five-minute rebuttal. Mr. Falkowski stated that the setback from the arrays to the road was 100 feet; that within that 100 feet would be a 30-foot landscape buffer, and he stated that there was a 50-foot distance from the fence line to the road.

Upon there being no further questions, Chairman Collins closed the public hearing.

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

In relation to C/U 2642 TPE DE SU94B, LLC. Motion by Mr. Passwaters to defer action for further consideration, seconded by Mr. Pettyjohn, and carried unanimously. Motion by 3-0.

Minutes of the July 22, 2026, Planning & Zoning Commission Meeting

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

Madam Chair Wingate advised the Commission that she was absent from the application's public hearing, however, she had listened to the audio and therefore, was prepared to vote.

Mr. Passwaters moved that the Commission recommend approval of Conditional Use No. 2642 for TPE DE SU94B, LLC for a solar energy facility in the AR-1 District based on the record made during the public hearing and for the following reasons:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
2. The solar array will be located on approximately 18.02 acres of a larger 39.32-acre tract. It is adjacent to an existing solar array approved as Conditional Use No. 2347. The array area complies with all of the Code requirements for separation distances and setbacks from property lines and dwellings.
3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar arrays. There was testimony that this solar array will benefit residential, business, and municipal subscribers with lower power costs.
4. The proposed solar array is located on a parcel of land that is surrounded on three sides by land used for agricultural purposes. All sides will be buffered with the exception of the common boundary with the solar array approved as Conditional Use No. 2347.
5. This Application generally complies with Section 115-172.I of the Sussex County Zoning Code regarding solar arrays.
6. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways, and DelDOT has stated that the traffic impact will be "Diminutive". There

are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.

7. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
8. This recommendation is subject to the conditions set forth in Section 115-172.I of the Zoning Code and the following additional conditions:
 - A. The use shall be for a ground-mounted solar array. No other types of electric generation shall be permitted at the site.
 - B. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use.
 - C. The entire area of the solar array shall be surrounded by a 7-foot-tall fence to comply with the height requirement of the National Electric Code. The fencing shall be a knot-wire agricultural style fencing including an interwoven privacy screening. The privacy screening shall be attached to the fencing with metal fasteners and a tension wire to reduce maintenance. The fence location and type of screening shall be shown on the Final Site Plan. The privacy screening may be removed after ten years from the installation of the solar array. The fencing shall remain.
 - D. The entire area of the solar array shall be surrounded by a buffer strip of open space a minimum of 100 feet from any street lines and a minimum distance of 50 feet from all property lines. It shall also be no closer than 200 feet from a dwelling on adjacent property. The landscaped buffer shall be at least 30 feet wide along the perimeter of the Property adjacent to lands of other ownership. This landscaped buffer shall use existing vegetation or shall be planted with 70% evergreen vegetation and 30% deciduous vegetation that serves as a screen while not impeding the use as a solar array facility. The location and types of vegetation used within this buffer area shall be included in a landscape plan provided with the Final Site Plan.
 - E. Transformers and similar equipment shall be centrally located on the site further away from North Old State Road than what was shown on the Preliminary Site Plan.
 - F. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - G. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.
 - H. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
 - I. The Final Site Plan shall include a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.
 - J. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Mr. Passwaters, seconded by Mr. Collins, and carried unanimously to recommend approval of C/U 2642 TPE DE SU 94B, LLC for the reasons and the conditions stated in the motion. Motion carried 4-0. Mr. Allen abstained.

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

PLANNING & ZONING COMMISSION

HOLLY WINGATE, CHAIR
SCOTT COLLINS, VICE CHAIR
JEFF ALLEN
JOHN PASSWATERS
DAVID PETTYJOHN



Sussex County

DELAWARE
sussexcountyde.gov
pandz@sussexcountyde.gov

JAMIE WHITEHOUSE, AICP MRTPI
PLANNING & ZONING DIRECTOR

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: June 17, 2026

Application: CU 2642 TPE DE SU94B, LLC

Applicant: TPE DE SU94B, LLC
7272 E. Indian School Road, Suite 540
Scottsdale, AZ 85251

Owner: Randall W. Ennis; Joyce E. Ennis – Jopp Irr. Tr.
37487 Liverpool Lane
Rehoboth Beach, DE 19971

Site Location: Located on the east side of North Old State Road (S.C.R. 213),
approximately 600 feet north of Haflinger Road (S.C.R. 625).

Current Zoning: Agricultural Residential AR-1) Zoning District

Proposed Use: Solar Arrays

Comprehensive Land
Use Plan Reference: Low Density Area

Councilmanic
District: District 2 – Mr. Steve McCarron

School District: Milford School District

Fire District: Ellendale Fire Company

Sewer: N/A

Water: N/A

Site Area: 39.76 Acres +/-

Tax Map ID.: 230-12.00-39.00



COUNTY ADMINISTRATIVE OFFICES
2 THE CIRCLE | PO BOX 417
GEORGETOWN, DELAWARE 19947



Memorandum

To: Sussex County Planning Commission Members
From: Ms. Susan Isaacs, Planner I
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: May 15, 2026
RE: Staff Analysis for C/U 2642 TPE DE SU94B, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of Application C/U 2642 TPE DE SU94B, LLC to be reviewed during the June 17th, 2026, Planning 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: 230-12.00-39.00

Proposal: The request is for a Conditional Use for Tax Parcel 230-12.00-39.00 to allow for Solar Arrays to be located in an Agricultural Residential (AR-1) District. The property is lying on the east side of North Old State Road (S.C.R. 213), approximately 600 feet north of Haflinger Road (S.C.R. 625). The Parcel consists of 39.76 acres +/-.

Zoning: The Parcel is zoned Agricultural Residential (AR-1) District. The adjacent parcels to the east, north, west, and south are all zoned Agricultural Residential (AR-1) District.

Future Land Use Map Designation w/in Comprehensive Plan: The subject property is located within the "Low Density Area" as outlined in the Sussex County's 2018 Comprehensive Plan.

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 in the plan indicates that the subject property is designated as a Rural Area and has a land use designation of "Low Density Area." All adjacent properties to the north, south, east, and west of the subject site contain the Future Land Use Map designation of "Low Density Area".

As outlined in the 2018 Sussex County Comprehensive Plan, Low Density Areas are areas that the County envisions as "a predominantly rural landscape where farming co-exists with appropriate residential uses and permanently preserved property" (Sussex County Comprehensive Plan, 4-18).

The Plan also notes that commercial uses “should be limited in their location, size and hours of operation” and “more intense commercial uses should be avoided” and commercial uses “may be appropriate depending on surrounding uses” (Sussex County Comprehensive Plan, 4-19).

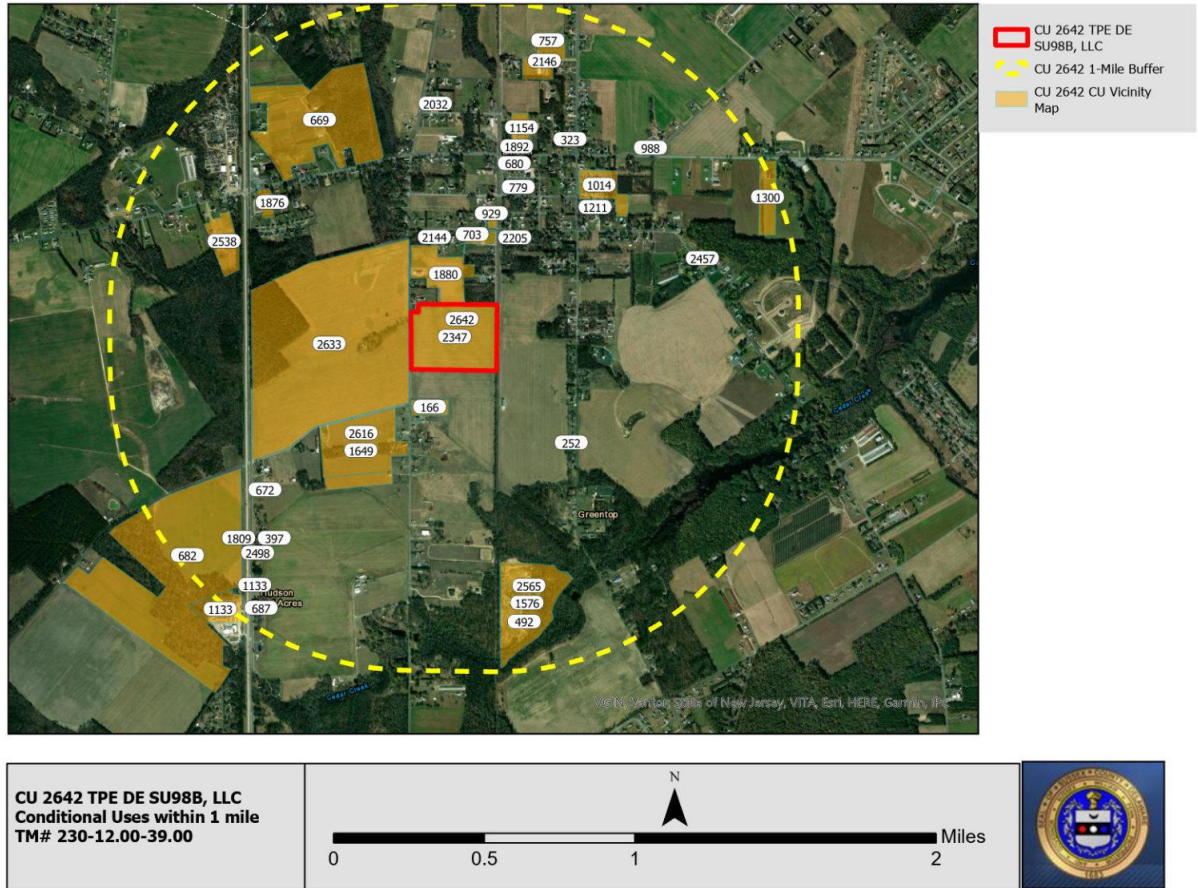
Further Site Considerations:

- **Density:** N/A
- **Open Space Provisions:** N/A
- **Agricultural Areas:** The site is within the vicinity of active agricultural lands.
- **Interconnectivity:** N/A
- **Transportation Improvement District (TID):** The parcel is not within the Henlopen Transportation Improvement District.
- **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 Flood Zones “X” and Staff note there are no Wellhead Protection Areas on the site. The Parcel is classified as within areas of “Fair” with a portion of the front being in “Poor”, in terms of Groundwater Recharge Potential on the site per data from the State of Delaware.

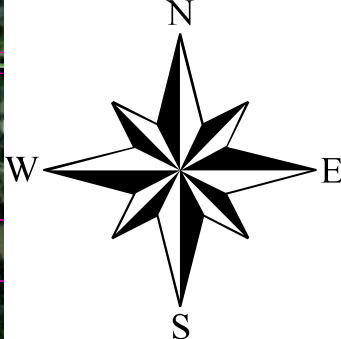
Based on the analysis of the land use, surrounding zoning and uses, a Conditional Use Application to allow for a solar facility and associated site improvements, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.

Existing Conditional Uses within the Vicinity of the Subject Site: Staff have identified a history of thirty-eight (38) Conditional Use applications within a one (1) mile radius of the application site. A Data Table and Supplemental Map have been supplied to provide additional background regarding the approval status of Applications in the area to include the location of all current or previous Conditional Use Applications that are less than 1 mile distance from the subject site.

CU No.	APPLICANT	Tax Parcel #	Zoning	Proposed Use	CC Decision Date	CC Decision
166	David Wilson	230-12.00-41.00	AR-1	Sales of farm equipment, snack bar, auction sales	10/9/1973	Approved
252	George Eddy	230-13.00-23.00	AR-1	Clothing factory	12/31/1974	Approved
323	Dairy Markets Inc	330-15.13-17.00	AR-1	Convenience store		Withdrawn
397	Dillard Winstead	230-12.00-26.00	AR-1	Guitar repair, arts & crafts & refinish furniture	2/1/1977	Approved
492	Harry J Swain Jr	230-13.00-36.00	AR-1	Borrow Pit	10/3/1978	Approved
669	Paradee Oil Co	130-6.00-113.04	AR-1	Oil bulk plant		Denied
672	David Wilson	230-12.00-23.00	AR-1	Furniture sales /car sales	7/6/1982	Approved
680	Richard Johnson & Son Inc	230-6.17-7.00	AR-1	Clerical office	6/1/1982	Approved
682	Flossie Jefferson	230-12.00-14.00	AR-1	Flea market	6/1/1982	Approved
687	David Wilson	230-12.00-16.00	AR-1	Farmers Market/Auction	6/29/1982	Approved
703	Peninsula Oil Co.	230-6.00-1.01	AR-1	Expand petroleum sales storage	1/17/1984	Approved
757	Harrington Equipment Co.,Inc.	330-15.00-10.00	AR-1	Storage/shop/office/recondition canning equipment	10/11/1983	Approved
779	R. Calvin Clendaniel	230-6.17-21.00	AR-1	Architect office	2/14/1984	Approved
929	Samuel J. Passwaters III	230-6.17-5.00	AR-1	Woodworking shop	3/27/1990	Approved
988	John E. & Janet E. Macklin	330-15.00-27.01	AR-1	Tire sales/service demolition/landscape	11/12/1991	Approved
1014	Milford School District	230-6.17-58.00	AR-1	Expansion to Existing Public School Facility	7/14/1992	Approved
1133	David L & Carolyn Wilson	230-12.00-16.00	AR-1	Expand CU 687 sale of carriages/etc	10/17/1995	Approved
1154	Michael D. Swain	330-15.13-12.00	AR-1	Office/apartment		Withdrawn
1205	Milford School District	230-6.17-60.01	AR-1	Expand CU 1014 for play & recreation	10/14/1997	Approved
1211	Milford School District	230-6.17-60.00	AR-1	Expansion of CU 1014 for Play & Recreation Area	12/30/1997	Approved
1288	Milford School District	230-6.17-60.01	AR-1	Amend CU 1205 public school	6/15/1999	Approved
1300	Deborah D. Kee	230-6.00-32.01	AR-1	Group music lessons	8/31/1999	Approved
1576	Swain Pit, Inc.	230-13.00-36.00	AR-1	Store clam shells in borrow pit	10/25/2005	Denied
1649	Ronald W. Morgan	230-12.00-22.00	AR-1	Garage & parking of trucks & trailers	9/12/2006	Denied
1809	Curtis McDonald	230-12.00-26.00	AR-1	Produce/meats/butcher	2/2/2010	Approved
1876	Douglas R. Morgan	230-5.00-10.03	AR-1	Auto repair	1/4/2011	Approved
1880	Ellendale Vol. Fire Dept., Inc.	230-12.00-36.00	AR-1	Fire company substation	1/4/2011	Approved
1892	Revocable Trust of Donald F. Claycomb	330-15.13-12.01	AR-1	Investment/Insurance Office	6/7/2011	Approved
2032	Guillermo Vasquez t/a F & N	330-14.16-5.03	AR-1	Construction company office, equipment parking and shop/yard	12/8/2015	Denied
2144	William Caldwell	230-5.20-55.00	AR-1	Tree company operation	10/30/2018	Approved
2146	Jose Carrillo	330-15.00-10.00	AR-1	Indoor/outdoor soccer facility	11/13/2018	Approved
2205	Frank Passwaters	230-6.00-1.02	AR-1	Auto-motorcycle repair	2/18/2020	Approved
2347	TPE DE SU94, LLC	230-12.00-39.00	AR-1	Community Solar Facility	6/20/2023	Approved
2457	Dean Vincent	230-6.00-20.02	AR-1	Service Business for Gas Stations	12/10/2024	Approved
2498	Curtis McDonald	230-12.00-260.00	AR-1	Retail Sales, Professional office, food service		Withdrawn
2538	Jeffrey Baughman	230-5.00-6.00	AR-1	Professional Office	4/21/2026	Approved
2565	F and N Vazquez Concrete, LLC	230-13.00-36.00	AR-1/GR	Concrete, Masonary, Construction Businesss with Retail Sales	7/15/2025	Approved
2616	TPE DE SU519, LLC	230-12.00-22.00	AR-1	Solar Facility		Pending
2633	TPE DE SU95A, LLC & TPE DE SU95B, LLC	230-12.00-19.00	AR-1	Solar Facility		Pending
2642	TPE DE SU 94B, LLC	230-12.00-39.00	AR-1	Solar Facility		Pending



C/U 2642 TPE DE SU94B, LLC
Tax Parcel ID: 230-12.00-29.00
Aerial Map



0 0.04 0.07 0.14 0.22 0.29 Miles

HAFLINGER ROAD

N. OLD STATE ROAD

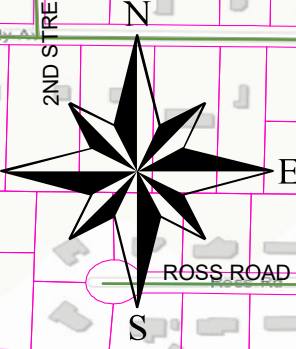
LOFLAND DRIVE

VENUE

N. RAILROAD AVENUE

FRONT STREET

C/U 2642 TPE DE SU94B, LLC
Tax Parcel ID: 230-12.00-29.00
Streets Map



N. OLD STATE ROAD

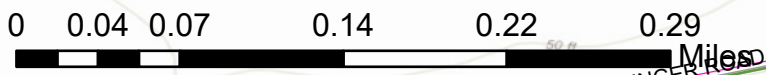
N. RAILROAD AVENUE

FRONT STREET

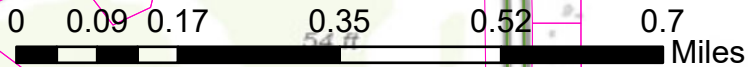
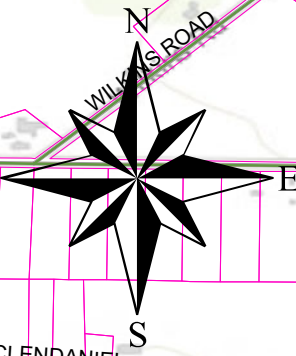
2ND STREET

LOFLAND DRIVE

ROSS ROAD



C/U 2642 TPE DE SU94B, LLC
Tax Parcel ID: 230-12.00-29.00
Zoning Map



County of Sussex, DE, Delaware FirstMap, State of New Jersey, VITA, Esri, HERE, Garmin, INCREMENT P, USGS, EPA, USDA, Sussex County Mapping and Addressing

Introduced: 5/19/26

Council District: Mr. McCarron

Tax I.D. No.: 230-12.00-39.00

911 Address: 9052 Lofland Drive, Lincoln

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 39.76 ACRES, MORE OR LESS

WHEREAS, on the 19th day of March 2026, a Conditional Use application, denominated Conditional Use No. 2642 was filed on behalf of TPE DE SU94B, LLC; 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. 2642 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. 2642 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 North Old State Road (S.C.R. 213), approximately 600 feet north of Haflinger Road (S.C.R. 625), and being more particularly described in the attached legal description prepared by Deirdre A. McCartney, Esquire with Sergovic Carmean Weidman McCartnry & Owens, P.A. said parcel containing 39.76 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.