

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 14, 2026

10:00 AM

Call to Order

Approval of Agenda

Approval of Minutes - June 23, 2026

[Draft Minutes 06 23 26](#)

Reading of Correspondence

Public Comments

Consent Agenda

1. Use of Existing Wastewater Infrastructure Agreement
Plantation Square (Building 2), West Rehoboth Area
[Consent Agenda Plantation Square](#)
2. Use of Existing Wastewater Infrastructure Agreement
Horizon Farm Credit Office, Western Sussex Area
[Consent Agenda Horizon Farm Credit Office](#)
3. Use of Existing Wastewater Infrastructure Agreement, IUA 2025-02
Bridgeville Warehouses, Western Sussex Area
[Consent Agenda Bridgeville Warehouses](#)
4. Use of Existing Wastewater Infrastructure Agreement, IUA 1130
Rehoboth Senior Living (Spring Arbor), West Rehoboth Area
[Consent Agenda Rehoboth Senior Living \(Spring Arbor\)](#)



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

Todd Lawson, County Administrator

1. **Administrator's Report**

Andrea Wall, Manager of Accounting

1. **Federal Payment in Lieu of Taxes**
[Payment In Lieu of Taxes](#)

Mike Harmer, County Engineer

1. **Wolfe Neck RWF Electrical Service & Switchgear Replacement**

A. General Construction, project S24-10 - Change Order No. 9
[Wolfe Neck CO No 9](#)
2. **Countryside Hamlet, Project S23-01**

A. Change Order No. 1
[Countryside Hamlet CO No 1](#)

Mark Parker, Assistant County Engineer

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

A. Christiana Excavating Co. – Project Closeout
[Kings Highway Advanced Utility Relocation](#)
2. **Enterprise Asset Management (EAM) Initiatives**

A. Standard Operating Procedure Development - JMT Amendment No. 7

B. EAM/Enterprise Solution Implementation - Arcadis Inc. Amendments No. 2-4

[Asset Management Initiatives](#)

Paul Mauser, Assistant County Engineer

1. **Slaughter Beach Transmission System North Ellendale Diversion – Contract C, Project S23-08**

A. Recommendation to Award
[Slaughter Beach North Ellendale_Recommendations of Award CP](#)

John Ashman, Director of Utility Planning & Design Review

1. **Permission to Prepare and Post Notices for Cedar Creek Station Expansion Into the Sussex County Unified Sanitary Sewer District, Ellendale Area**
[Cedar Creek Station](#)
2. **Permission to Prepare and Post Notices for Belmead Farm, LLC Expansion Into the Sussex County Unified Sanitary Sewer District, West Rehoboth Area**
[Belmead Farm LLC](#)

Grant Requests

1. **Town of Bridgeville for the Police Department's Back to School Bash**
[Town of Bridgeville](#)
2. **Downtown Seaford Association for their 2026 Downtown Seaford Events**
[Downtown Seaford Association](#)
3. **Blades Volunteer Fire Company for Building Repairs**
[Blades Volunteer Fire Company](#)
4. **Delaware Botanic Gardens, Inc. for their 2026 Annual Fundraising dinner**
[Delaware Botanic Gardens, Inc](#)
5. **Delaware State University Alumni Association for their fundraising event to fund scholarships**
[DSU Alumni Association](#)

Introduction of Proposed Zoning Ordinances

[Ord Intros CU2536 CU2561 CZ2042](#)

Council Members' Comments

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

Possible action on Executive Session Items

1:30 p.m. Public Hearing

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"

[Public Hearing Ord No. 26-05](#)

Adjourn

-MEETING DETAILS-

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on July 7, 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, JUNE 23, 2026

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, June 23, 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 280 26 Approve Agenda	A Motion was made by Mr. Lloyd, 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 16, 2026, were approved by consensus.
Correspondence	Mr. Moore reported that correspondence was received from Make-a-Wish Foundation and Dry Dock Recovery, Inc. thanking Council for their support.
Public Comments	Public comments were heard. Ms. Fern Goodheart spoke about bike trail safety access.
Administrator's Report	Mr. Lawson read the following information in his Administrator's Report: 1. <u>Project Receiving Substantial Completion</u> Per the attached Engineering Department Fact Sheet, The Estates at Bridgewater (FKA Bent Creek Estates) – Phase 3B (Construction Record) received substantial completion effective June 11, 2026.

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

2. Delaware State Police Activity Report

The Delaware State Police year-to-date activity report for May 2026 is attached listing the number of violent crime and property crime arrests, as well as total traffic charges and corresponding arrests. In addition, DUI and total vehicle crashes investigated are listed. In total, there were 196 troopers assigned to Sussex County for the month of May.

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

**Annual
Comp Plan**

Jamie Whitehouse, Planning & Zoning Director, presented the annual Comprehensive Land Use Plan for Council's consideration.

**M 281 26
Approve
Annual
Comp Plan**

A Motion was made by Mr. Rieley, seconded by Mr. Lloyd, that be it moved that Sussex County Council approves the 2025-2026 Comprehensive Plan Update report to the State Planning office.

Motion Adopted: 5 Yeas

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

**Slaughter
Beach**

Mike Harmer, County Engineer, presented a recommendation to award for Slaughter Beach septic elimination project for Council's consideration.

**M 282 26
Approve
Contract A/
Slaughter
Beach Septic
Elimination**

A Motion was made by Mr. Lloyd, seconded by Mr. McCarron, that be it moved based upon the recommendation of the Sussex County Engineering Department, that contract S22-26, Slaughter Beach septic elimination project contract A, be awarded to Atlantic Contracting & Material Co., Inc. for their total bid in the amount of \$6,466,158.00.

Motion Adopted: 5 Yeas

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

**M 283 26
Approve
Contract B/
Slaughter
Beach Septic
Elimination**

A Motion was made by Mr. Lloyd, seconded by Mr. Rieley, that be it moved based upon the recommendation of the Sussex County Engineering Department, that contract S22-26, Slaughter Beach septic elimination project contract B, be awarded to Delmarva Veteran Builders for their total bid in the amount of \$2,614,990.00.

Motion Adopted: 5 Yeas

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

**SCWRF
GHD
Amend 32**

Mike Harmer, County Engineer, presented a continuation of engineering support request for South Coastal WRF treatment process upgrade no. 3 & Rehoboth Beach WTP improvement program for Council's consideration.

**M 284 26
SCWRF
GHD
Amend 32**

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 amendment no. 32 to the base engineering contract with GHD, Inc., be approved in the amount not to exceed \$238,400.00 for engineering services, associated with the South Coastal regional wastewater facility upgrade.

Motion Adopted: 5 Yeas

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

**Permission
to Prepare
& Post
Notices/
Lilyvale
Annexation
into
SCUSSD**

John Ashman, Director of Utility Planning & Design Review, presented a request to prepare and post notices for Lilyvale Annexation into the SCUSSD. The Engineering Department 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.

**M 285 26
Authorize
Permission
to Prepare
& Post
Notices**

A Motion was made by Mr. McCarron, seconded by Mr. Lloyd that be it moved by Sussex County Council that the Sussex County Engineering Department is authorized to prepare & post notices for the Lilyvale expansion of the Sussex County Unified Sanitary Sewer District to include parcels 134-19.00-13.00 & 13.04 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**

**FAA AIP
Grant**

Bob Bryant, Airport Manager, presented an approval request to submit a FAA AIP grant application and approval to sign grant offer for Council's consideration.

M 286 26

A Motion was made by Mr. Lloyd, seconded by Mr. McCarron, that be it

**Approve
Grant
Application**

moved based upon the recommendation of the Sussex County Engineering Department that Sussex County Council approves submittal of a Federal Aviation Administration Airport Improvement program grant application in the amount of \$6,487,537.00 for work associated with the construction of Taxiway Bravo bid package 3 phases 5, 6 & 7.

Motion Adopted: 5 Yeas

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

**M 287 26
Approve
Authority to
Sign**

A Motion was made by Mr. Lloyd, seconded by Mr. Rieley, that be it moved based upon the recommendation of the Sussex County Engineering Department that Sussex County Council approve the Sussex County Administration with authority to sign a federal aviation administration airport improvement program grant offer in the amount of \$6,487,537.00 for work associated with the construction of Taxiway Bravo bid package 3 phases 5, 6, & 7.

Motion Adopted: 5 Yeas

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

**Old
Business/
CZ2053**

Under Old Business, Mr. Whitehouse presented a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 29.97 ACRES, MORE OR LESS” (properties are lying on the northeast side of Coastal Highway [Rt. 1], directly north of Cave Neck Road [S.C.R. 88]) (911 Address: N/A) (Tax Map Parcel: 235-23.00-1.04 & 235-23.00-1.00 [P/O]) filed on behalf of Seaside at Lewes, LLC & Derrickson Properties, LLC.

The County Council held a Public Hearing on the application at the meeting on June 9, 2026. At the conclusion of the Public Hearing, the Council left the Public Record open until 4:30 p.m. on Monday, June 15, 2026, for receipt of additional comments. At the meeting on June 16, 2026, the Council received an update that the record has closed, and the Council then deferred for further consideration.

**M 288 26
Adopt
Ordinance
No. 4068/**

A Motion was made by Ms. Gruenebaum, seconded by Mr. McCarron to Adopt Ordinance No. 4068 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM

CZ2053

COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 29.97 ACRES, MORE OR LESS” for the reasons given by the Planning & Zoning Commission as follows:

- 1. The Applicant is seeking a change in zone from AR-1 to C-2 (Medium Commercial). The purpose of this district is to allow retail sales and consumer services. It is intended to be located near arterial and collector streets.**
- 2. This property is located along the northbound lanes of Route One across from the intersection with Cave Neck Road. Route One is designated as a “Principle Arterial” roadway by DelDOT and a “Major Arterial Roadway” by the Sussex County Zoning Code. This is also the location of a new grade-separated intersection or overpass serving Cave Neck Road and this property and the large residential development to be built behind it. Both of these projects were taken into account by DelDOT during the design of the overpass project. This is an appropriate location for the C-2 Zoning District and the uses that are permitted within it.**
- 3. There is a mixture of zoning classifications in this general area, including C-1, CR-1, B-1, C-2 and C-3 Districts nearby. This rezoning and the uses permitted within the C-2 Zone are consistent with the other zoning districts and uses in this area, particularly at the location of the new overpass.**
- 4. This rezoning and the permitted uses within it will provide a convenient, nearby shopping and service location for residents of the adjacent residential development as well as other residents of the Cave Neck Road and Route One area north of Nassau. This will eliminate the need for these residents to travel further to Milton or Nassau and Lewes for such services which will reduce traffic on area roadways.**
- 5. There is no evidence in the record that rezoning will significantly and adversely impact neighboring properties or roadways.**
- 6. The property will be served by central water and Sussex County Sewer.**
- 7. There are no wetlands on the property, and it is not located in a Wellhead Protection Area.**
- 8. Any development that occurs on the property will require site plan review by the Sussex County Planning & Zoning Commission after taking into account all required agency reviews, including DelDOT, State Fire Marshall and the Sussex Conservation District.**
- 9. No parties appeared in opposition to this rezoning application.**
- 10. This rezoning promotes the purpose of the Zoning Ordinance in that it promotes the orderly growth, convenience, order, prosperity and welfare of Sussex County.**
- 11. For all of these reasons it is appropriate to rezone this property from AR-1 to C-2 Medium Commercial.**

Motion Adopted: 5 Yeas

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

**Old
Business/
CU2540**

Under Old Business, Mr. Whitehouse presented a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SELF STORAGE FACILITY, AN OFFICE AND OUTDOOR STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 7.00 ACRES, MORE OR LESS” (property is lying on the west side of DuPont Boulevard [Route 113], approximately 0.19 mile north of East Piney Grove Road [S.C.R. 329]) (911 Address: N/A) (Tax Map Parcel: 133-11.00-1.02) filed on behalf of La Dolce Far Niente, LLC.

The County Council held a Public Hearing on the application at the meeting on June 9, 2026. At the conclusion of the Public Hearing, the Council left the Public Record open until 4:30 p.m. on Monday, June 15, 2026, for receipt of additional comments. At the meeting on June 16, 2026, the Council received an update that the record has closed, and the Council then deferred for further consideration.

**M 289 26
Adopt
Ordinance
No. 4069/
CU2540**

A Motion was made by Mr. Rieley, seconded by Mr. McCarron to Adopt Ordinance No. 4069 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SELF STORAGE FACILITY, AN OFFICE AND OUTDOOR STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 7.00 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows:

- 1. The use as a storage facility is of a public or semi-public character and is desirable for the general convenience and welfare of the area.**
- 2. The use will be located along Route 113 which is a major arterial road with access via East Piney Grove Road. It is in an area between Georgetown and Millsboro where several business and commercial uses exist, including a large Sharp Energy facility next door. This is an appropriate location for this type of low-intensity use.**
- 3. The use will be a storage facility. No manufacturing, assembling, fabrication, or similar activities will be permitted on this site.**
- 4. There was testimony in the record that there is a need for storage facilities in Sussex County. This type of use compliments the residential development that is occurring in Sussex County, which do not have their own on-site parking for boats and RVs. It is also a benefit for small businesses that do not have their own on-site storage.**

**M 289 26
Adopt
Ordinance
No. 4069/
CU2540
(continued)**

- 5. This type of storage facility generates a relatively minor amount of traffic when compared with other types of uses. It will not adversely affect traffic on area roadways. DelDOT has stated that the traffic impact will be negligible.**
- 6. The project, with the conditions and stipulations placed upon it, will not have an adverse impact on the neighboring properties or community.**
- 7. This recommendation for approval is subject to the following conditions and stipulations:**
 - a. The use shall be limited to 19 mini-storage buildings and the outside storage of boats and RVs phased as the storage buildings are constructed. None of the buildings shall have water or sewer connections except for Building A, which will contain the central office for the site.**
 - b. Security lighting shall be screened with downward illumination so that it does not shine on any neighboring properties or roadways.**
 - c. The perimeter of the storage area shall be fenced and gated with electronic access. The location and type of fencing shall be shown on the Final Site Plan. The entrance gate shall be located at least 40 feet from the East Piney Grove Road right-of-way so that waiting vehicles do not line up on that roadway.**
 - d. There shall not be any manufacturing, fabrication, or similar activities conducted on the site.**
 - e. Because this site has frontage on Route 113, which is a major arterial roadway, the signage for this use shall comply with the sign requirements of the C-2 Zoning District. This is also consistent with the signage allowed next door at the Sharp Energy site.**
 - f. Stormwater management shall be maintained on site, using Best Management Practices.**
 - g. Any trash receptacles associated with the use shall be screened from neighboring properties and roadways.**
 - h. The Final Site Plan shall indicate all RV and boat storage spaces and parking and drive aisles. The location of the outdoor storage and parking spaces shall also be clearly marked on the site itself.**
 - i. The use shall be subject to all DelDOT requirements regarding entrance and roadway improvements necessary to provide access to the site.**
 - j. No sales or maintenance of boats or RVs shall occur from the site. No hazardous materials or fuel shall be stored on the site other than what may be in the tanks of boats and RVs on the site. No junked or unregistered boats, boat trailers, or RVs shall be stored on the site.**
 - k. Any violations of the conditions of approval of this Conditional Use may result in the termination of this Conditional Use.**
 - l. The Final Site Plan shall be subject to approval of the Planning and Zoning Commission. The Final Site Plan shall include a**

Phasing Plan depicting the boat and RV storage areas that will exist until all of the phases and buildings are completed.

Motion Adopted: 5 Yeas

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

**Old
Business/
CU2604**

Under Old Business, Mr. Whitehouse presented a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING BUSINESS WITH OUTDOOR STORAGE AND PARKING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 5.00 ACRES, MORE OR LESS” filed on behalf of Alvaro E. Perez Roblero.

The County Council held a Public Hearing on the application at the meeting on June 9, 2026. At the conclusion of the Public Hearing, the Council left the Public Record open until 4:30 p.m. on Monday, June 15, 2026, for receipt of additional comments. At the meeting on June 16, 2026, the Council received an update that the record has closed, and the Council then deferred for further consideration.

**M 290 26
Approve
CU 2604/
DENIED**

A Motion was made by Mr. McCarron, seconded by Mr. Lloyd to approve an Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING BUSINESS WITH OUTDOOR STORAGE AND PARKING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 5.00 ACRES, MORE OR LESS”.

Motion DENIED: 5 Nays

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

**Proposed
Ordinance
Introduction**

Ms. Gruenebaum introduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN MR-RPC MEDIUM DENSITY RESIDENTIAL - RESIDENTIAL PLANNED COMMUNITY DISTRICT TO AN MR-RPC MEDIUM DENSITY RESIDENTIAL - RESIDENTIAL PLANNED COMMUNITY DISTRICT TO AMEND CONDITIONS OF APPROVAL FOR C/Z 673 (ORDINANCE NO. 294) IN RELATION TO THE ADDITION AND USE OF RECREATIONAL AMENITIES FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 4.29 ACRES, MORE OR LESS” filed on behalf of

CM Comments	Sandie, LLC. Mr. Rieley commented about traffic safety and relying on DelDOT for their expertise. Mr. Hudson commented about the County's participation in land preservation over the years.
M 291 26 Go Into Executive Session	At 10:48 a.m., a Motion was made by Mr. Lloyd, seconded by Mr. McCarron to go into Executive Session for the purpose of discussing matters relating to land acquisition & pending & potential litigation. 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 and potential litigation. The Executive Session ended at 11:31 a.m.
M 292 26 Reconvene	At 11:34 a.m., a Motion was made by Mr. McCarron, seconded by Ms. Gruenebaum to come out of Executive Session back into Regular Session. Motion Adopted: 5 Yeas Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Yea; Mr. Hudson, Yea
E/S Action	There was no action related to Executive Session matters.
M 293 26 Recess	A Motion was made by Mr. Lloyd, seconded by Mr. McCarron to recess until 1:30 Public Hearings. Motion Adopted: 5 Yeas Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Yea; Mr. Hudson, Yea
M 294 26 Reconvene	A Motion was made by Mr. McCarron, seconded by Mr. Lloyd 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 zoning hearings.**

**Public Hearing/
Northstar** **A Public Hearing was held for the Northstar Annexation into the Sussex County Unified Sanitary Sewer District (West Rehoboth Area).**

**Annexation Into
SCUSSD** **John Ashman, Director of Utility Planning & Design Review presented the request to Council's for consideration.**

There were no public comments.

The Public Hearing and public record were closed.

M 295 26 **A Motion was made by Mr. Lloyd, seconded by Ms. Gruenebaum to**
Adopt **Adopt Resolution No. R 002 26 entitled "A RESOLUTION TO EXTEND**
Resolution **THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY**
No. R 002 **SEWER DISTRICT (SCUSSD) WEST REHOBOTH AREA TO**
26/ **INCLUDE NORTHSTAR, TWO PARCELS, ON THE SOUTH SIDE OF**
Northstar **BEAVER DAM ROAD. THE PARCELS ARE LOCATED IN THE**
Annexation **LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY,**
into **DELAWARE, AND RECORDED IN THE OFFICE OF THE**
SCUSSD **RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY,**
 DELAWARE".

Motion Adopted: 5 Yeas

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

**Public Hearing/
Swann Lake** **A Public Hearing was held for the Swann Lake Annexation into the Sussex County Unified Sanitary Sewer District (Fenwick Island Area).**

**Annexation Into
SCUSSD** **John Ashman, Director of Utility Planning & Design Review presented the request to Council's for consideration.**

There were no public comments.

The Public Hearing and public record were closed.

M 296 26 **A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum to**
Adopt **Adopt Resolution No. R 003 26 entitled "A RESOLUTION TO EXTEND**
Resolution **THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY**
No. R 003 **SEWER DISTRICT (SCUSSD) FENWICK ISLAND AREA, TO**
26/ **INCLUDE THE PROPOSED SWANN LAKE SUBDIVISION**
Swann Lake **PROJECT LOCATED IN THE BALITMORE HUNDRED, SUSSEX**

**Annexation
Into
SCUSSD** **COUNTY, DELAWARE, AND RECORDED IN THE OFFICE OF THE
RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY,
DELAWARE”.**

Motion Adopted: 5 Yeas

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

**Public
Hearing/
CU2577** **A Public Hearing was held on Proposed Ordinance entitled “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 32.94 ACRES, MORE OR
LESS” (property is lying on the south side of Millsboro Highway [Route
24], at the intersection of Millsboro Highway [Route 24] and Phillips Hill
Road [S.C.R. 472]) (911 Address: N/A) (Tax Map Parcel: 133-20.00-75.00)
filed on behalf of Soltage DE DevCO, LLC.**

Jamie Whitehouse, Planning & Zoning Director, presented the application.

**The Planning & Zoning Commission held a Public Hearing on the
application on May 20, 2026. At the meeting of June 17, 2026, the Planning
& Zoning Commission recommended approval of the application for the 7
reasons of approval and subject to the 13 recommended conditions as
outlined.**

**The Council found that Ms. Mackenzie Sindelar, Esq. with Saul Ewing,
LLP spoke on behalf of the Applicant, Soltage DE DevCo, LLC; that also
present were Zach Myer, representing Soltage DE DevCo, LLC, the
current property owners, Mr. Phillip E. Messick and Mrs. Eloise W.
Messick, Mr. Steven Fortunato, P.E. with Bohler Engineering, Mr. Jon
Marco Sanchez, Develop Manager for Soltage, and Mr. Matt Jennette, Vice
President of Geo-Technology Associates, Inc.**

**Ms. Sindelar stated that Soltage is an independent power producer,
who specializes in the development of financing, ownership, and operation
of distributed, smaller, localized scale solar and battery storage projects;
that since its establishment in 2006, the company has successfully developed
and constructed over 125 clean energy projects across 18 states; that in
Delaware, Soltage has a notable presence already with completed projects
in Sussex County, New Castle County, and with additional projects
currently underway in Kent County; that the projects within Sussex County
are located within unincorporated land, specifically within Lewes and
Dagsboro; that the Lewes site is currently operational; that the
Dagsboro site has finished construction of the solar facility over six months
ago, and was awaiting Delmarva Power and Light to complete**

**Public
Hearing/
CU2577
(continued)**

interconnection construction in order for it to become operational; that Soltage had operated two other facilities in Wilmington since 2014; that Soltage had entered into a Ground Lease agreement with the Messick's for development and operation of the proposed use; that the Applicant is requesting a Conditional Use approval, within the AR-1 (Agricultural Residential) District within the Low Density area for a solar array facility; that the proposed solar array facility, is a community solar project, operating under Delaware's Clean Energy Facility Program; that ultimately the project will connect to the Delmarva Power and Light grid, facilitating the transfer of generated clean electricity to the local distribution network; that as a community energy facility participating in Delaware's program, the project was designed to provide guaranteed bill savings to participating Delmarva Power customers without requiring any change to their existing electric service, utility account, or electric reliability; that subscribers continue to receiving service from DP&L (Delmarva Power); that the project provides bill credits through the program; that any Delaware Delmarva Power & Light customer would be eligible to receive those credits with the project; that upon approval, the facility was anticipated to generate a total of 3.5 megawatts of alternating current (a unit measuring the power output of the renewable energy source); that the particular project had obtain its interconnection approval; that the site is located along Millsboro Highway (Rt. 24), at the intersection of Phillips Hill Road; that the acreage of the parcel was 33.59 acres; that the new development area was approximately 19.92 acres; that the property was zoned AR-1 (Agricultural Residential), and located within the Low Density area; that the site was located within Investment Level 4, near properties that are similarly situated; that access to the site would be provided from Millsboro Highway, from Rt. 24; that the internal streets and access ways were provided to each solar array area, to allow for maintenance and upkeep; that DelDOT confirmed the project would generate a diminutive impact on traffic; that the solar setbacks required by Code have been met; that all buffer requirements have been met; that a request was made to amend Condition C relating to fencing; that the applicant is looking to install an agricultural style fence; that the current condition is for interwoven fencing to be installed; that they have found that it does not stay in place and it does not look good; that the applicant is proposing a donation to the Sussex County Land Trust for reforestation at a ratio of 3 acres reforested for every 2 acres of forest cleared at a rate of \$3,000 per acre of reforestation subject to final unappealable site plan approval.

It was further discussed of how solar credits can be obtained, the bonding process and the setbacks and buffer.

Public comments were heard.

Ms. Kathleen Depoortere spoke in opposition of the application.

The Public Hearing and public record were closed.

M 297 26 **A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum to amend**
Amend **Condition C to now read “The entire area of the solar array shall be**
Condition C/ **surrounded by a 7-foot-tall agricultural fixed knot fence to comply with the**
CU2477 **height requirement of the National Electric Code. The fence location and**
 type of screening shall be shown on the Final Site Plan”.

Motion Adopted: 5 Yeas

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

M 298 26 **A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum to amend**
Amend **Condition D to now read “The forested buffer shall be at least 30-feet-wide**
Condition D/ **along the perimeter of the Property adjacent to lands of other ownership**
CU2477 **and 50 feet wide along Millsboro Highway (Route 24) (except for the access**
 and entryway area and where utility and stormwater infrastructure
 prevents maintenance of a vegetated or forested buffer).

Motion Adopted: 5 Yeas

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

M 299 26 **A Motion was made by Mr. Rieley, seconded by Mr. McCarron to Adopt**
Adopt **Ordinance No. 4070 entitled “AN ORDINANCE TO GRANT A**
Ordinance **CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL**
No. 4070/ **RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED**
CU2477 **ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX**
 COUNTY, CONTAINING 32.94 ACRES, MORE OR LESS” for the
 reasons and conditions given by the Planning & Zoning Commission as
 follows and as amended by this Council:

- 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 19.92 acres of a larger 33.59-acre tract. In accordance with a forest assessment prepared by the Applicant, approximately 13.47 acres of woodlands will be preserved along with a proffered donation to the Sussex County Land Trust for addition woodlands planting and preservation. The array area complies with all of the Code requirements for separation distances and setbacks from property lines and dwellings.**

**M 299 26
Adopt
Ordinance
No. 4070/
CU2477
(continued)**

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 fourth side is wooded.
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 agricultural fixed knot fence to comply with the height requirement of the National Electric Code. The fence location and type of screening shall be shown on the Final Site Plan.
 - d. The entire area of the solar array shall be surrounded by a landscaped 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. The forested buffer shall be at least 50-feet-wide along the perimeter of the Property adjacent to lands of other ownership and 50 feet wide along Millsboro Highway (Route 24) (except for the access and entryway area and where utility and stormwater infrastructure prevents maintenance of a vegetated or forested buffer). This landscaped buffer shall use existing vegetation or shall be planted with evergreen 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. As proffered by the Applicant, to offset the impact of woodland clearing, it shall donate to the Sussex County Land Trust (SCLT) funding for reforestation at a ratio of three (3) acres reforested for every two (2) acres of forest cleared, at a rate of \$3,000.00 per acre of reforestation, subject to final unappealable site plan

**M 299 26
Adopt
Ordinance
No. 4070/
CU2477
(continued)**

- approval.
- f. The solar panels and array area shall be located at least 200 feet from any dwelling on neighboring properties, with the nearest dwelling situated 204.8 feet away.
 - g. Transformers and similar equipment shall be centrally located on the site, at least 200 feet from any dwelling on neighboring properties.
 - h. 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.
 - i. 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.
 - j. There are approximately 4.25 acres of wetlands on the Property that shall remain undisturbed. As proffered by the Applicant, there shall be a wetland buffer that is at least 30-feet-wide from all wetlands within the Property.
 - k. 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.
 - l. 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.
 - m. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion Adopted: 5 Yeas

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

**Public
Hearing/
CU2592**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR COMMERCIAL SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 85.3 ACRES, MORE OR LESS” (property is lying on the south side of Radish Road [S.C.R. 338] and on the north and south side of Hickory Hill Road [S.C.R. 82] and Indian Town Road [S.C.R. 408], approximately 940 feet east from Mumford Road [S.C.R. 409]) (911 Address: N/A) (Tax Map Parcel: 133-20.00-51.00) filed on behalf of Soltage DE DevCo, LLC.

Jamie Whitehouse, Planning & Zoning Director, presented the application.

**Public
Hearing/
CU2592
(continued)**

The Planning & Zoning Commission held a Public Hearing on the application on May 20, 2026. At the meeting of June 17, 2026, the Planning & Zoning Commission recommended approval of the application for the 7 reasons of approval and subject to the 13 recommended conditions as outlined.

The Council found that Ms. Mackenzie Sindelar, Esq. with Saul Ewing, LLP, spoke on behalf of the Applicant, Soltage DE DevCo, LLC; that also present were Mr. Zac Meyer, Develop Director for Soltage, Mr. Steven Fortunato, P.E. with Bohler Engineering, and Mr. Matt Jennette, Vice President of Geo-Technology Associates, Inc.

Ms. Sindelar stated that she would not introduce Soltage again, but rather request to incorporate the background information provided in the prior public hearing for C/U 2577 Soltage DE DevCo, LLC into the record for C/U 2592 Soltage DE DevCo, LLC by reference; that the application sought approval for a Conditional Use of land located within the AR-1 (Agricultural Residential) Zoning District, within the Low Density Area for a solar array facility; that the proposed use is for a community solar project, operating under the Delaware's Clean Energy Facility Program; that upon approval of the project, it would generate a combined total of eight of electric power; that the site was located between the Hickory Hill Road and Radish Road; that the section of property that was opposite the street, came up in consideration of wetland areas, as well as forest to be retained; that the acreage was approximately 85.09 acres, with a net development area of 58.45 acres; that the property was located within the AR-1 (Agricultural Residential) District, Low Density Area and the Investment Level 3 and 4 areas; that access would be provided from Hickory Hill Road; that there would be internal streets for maintenance; that DelDOT indicated limited traffic, stating that the proposed use would have a diminutive impact on nearby traffic; that solar setbacks had been met or exceeded; that she presented to the Council a street view renderings of what the site looked like currently, what the site would look like after planting, and what the site would look like in 10 years; that in some areas there would be maintenance to the existing forest; that other areas would be buffered; that they proposed a 30 foot wide buffer to consist of 10 Evergreen trees per linear feet; that the wetland area was located across the street, consisting of approximately 5.02 acres; that no solar arrays were proposed in that area; that in terms of the compliance with the Zoning Code, Comprehensive Plan, Conditional Use and Solar Siting considerations, she requested to incorporate by reference the previous states made with respect to the previous project, which were also applicable for the current site; that the landscape buffer, as required by §115-172.I were proposed with a minimum of 100 feet from any streets and a minimum of 50 feet from all property lines; that the panels would be located 207.6 feet away from any dwelling on any neighboring property, therefore being in excess of the minimum 200 foot setback; that equipment would be centrally located

**Public
Hearing/
CU2592
(continued)**

on the site; that the facility would operate as a ground mounted solar farm; that signage would be in compliance with the Code; that the project was in compliance with the Solar Ordinance; that the 5.02 acres of wetlands would remain undisturbed; that a revision to Condition C was requested and discussed.

Public comments were heard.

Mr. Charlie Timmons spoke in opposition of the application.

**M 300 26
Amend
Condition C/
CU2592**

The Public Hearing and public record were closed.

A Motion was made by Mr. Rieley, seconded by Mr. McCarron, to amend Condition C to now read “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 include interwoven screening for the first five years of operation on the south side of the project. The balance of the project may either be the same type of screening or the agricultural fixed knot screening. The fence location and type of screening shall be shown on the Final Site Plan.

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

**M 301 26
Adopt
Ordinance
No. 4071/
CU2592**

A Motion was made by Mr. Rieley, seconded by Mr. Lloyd to Adopt Ordinance No. 4071 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR COMMERCIAL SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 85.3 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows and as amended by this Council:

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 58.45 acres of a larger 85.3-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

**M 301 26
Adopt
Ordinance
No. 4071/
CU2592
(continued)**

surrounded on three sides by land used for agricultural purposes, including poultry houses. The fourth side is wooded.

5. This Application generally complies with Section 115-172I 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 115-172I 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 include interwoven screening for the first five years of operation on the south side of the project. The balance of the project may either be the same type of screening or the agricultural fixed knot screening. The fence location and type of screening shall be shown on the Final Site Plan.
 - d. The entire area of the solar array shall be surrounded by a 30-foot-wide landscaped 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. Furthermore, there shall be a forested buffer planted along the boundary of the parcel adjacent to Hickory Hill Road (except for the access and entryway area and where utility and stormwater infrastructure prevents maintenance of a vegetated or forested buffer), as well as along the portion of the site and the adjacent Parcels 54 and 158, where the existing woodlands are not proposed to be maintained. The buffer shall be 30-foot-wide and consist of 10 evergreen trees per 100 linear feet. Additionally, the existing woodlands located on the Property to the north of the array area and outside the limit of disturbance line shall be maintained to the greatest extent practicable. This landscaped buffer shall use existing vegetation or shall be planted with evergreen 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. As proffered by the Applicant, to offset the impact of woodland clearing, it shall donate to the Sussex County Land Trust (SCLT) funding for reforestation at a ratio of three (3) acres reforested

**M 301 26
Adopt
Ordinance
No. 4071/
CU2592
(continued)**

- for every two (2) acres of forest cleared, at a rate of \$3,000.00 per acre of reforestation, subject to final unappealable site plan approval.
- f. The solar panels and array area shall be located at least 200 feet from any dwelling on neighboring properties, with the nearest dwelling situated 207.6 feet away.
 - g. Transformers and similar equipment shall be centrally located on the site, at least 200 feet from any dwelling on neighboring properties.
 - h. 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.
 - i. 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.
 - j. There are approximately 5.02 acres of wetlands on the Property located on the south side of Hickory Hill Road that shall remain undisturbed.
 - k. 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.
 - l. 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.
 - m. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

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

**Public
Hearing/
CU2550**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 30.55 ACRES, MORE OR LESS” (property is lying on the west side of Harbeson Road [Route 5], approximately 850-feet south from the intersection of Diamond Farm Road [S.C.R. 257] and Harbeson Road [Route 5]) (911 Address: N/A) (Tax Map Parcel: 235-26.00-17.01) filed on behalf of Milton DE Solar CSS, LLC.

Jamie Whitehouse, Planning & Zoning Director, presented the application.

The Planning & Zoning Commission held a Public Hearing on the application on May 20, 2026. At the meeting of June 17, 2026, the Planning

**Public
Hearing/
CU2550
(continued)**

& Zoning Commission recommended approval of the application for the 7 reasons of approval and subject to the 10 recommended conditions as outlined.

The Council found that Mr. Jon Falkowski, Civil Engineer with Becker Morgan Group, spoke on behalf of the Applicant, Milton DE Solar CSS, LLC. Mr. Falkowski stated that also present were Mr. Paul Reducha with Ameresco, Inc., as well as Mr. John E. Tracey, Esq. with Young Conaway Stargatt & Taylor, LLP.

Mr. Falkowski stated that the application was for a community solar project, located in Milton, Delaware, just south of Milton along Harbeson Road; that the site was located near the intersection of Carpenter Road and Harbeson Road, to the west side of Harbeson; that the site consisted of 30.55 acres within the AR-1 (Agricultural Residential) Zoning District; that the layout has changed since the Commission meeting due to testimony from the neighbor; that they met with the neighbor several times to take into consideration their request; that they rearranged the array layout; that Southern Therapeutic Riding Center is a value to the community and they wanted to respect their wishes; that the application proposes a 14.82 acre Conditional Use area; that the 30 foot buffer requirement has become the Sussex County standard; that they are proposing 7 foot tall solid fence and evergreen buffer boundary along the north side; that they propose all 4 sides have the evergreen buffer; that they have a landscape architect on staff that they can utilize; that the buffer would surround the entire perimeter of the property or of the fenced area; that the proposed fencing would be a seven foot high fence, with an interwoven mesh screening for a period of 5-10 years to allow the evergreens to grow in; that the design standards were fairly typical; that the community solar project would benefit the local community through the subscriber program by providing lower power costs; that the use would not generate much traffic, with only one to two visits per month; that because of this there would be no increase in traffic; that the project proposes a renewable energy source that would not produce odors, dust, gas, smoke or fumes; that there would be little to no noise; that there would be a small hum at the inverter, which would be centrally located on the site, being more than 735 feet away from the stables and over 450 to the southern properties; that they plan to put in a new access road; that there would be no herbicides, no chemicals, and no pesticides used to control weeds; that as required, they would post the Decommissioning Bond and decommission the project at the end of its life; that they had performed a Glare Study on the project for aviation and for the neighbors, which was included in the submitted packet under Appendix 2.12; that the Glare Study showed that there would be no adverse impact on the neighbors; that he was aware that there had been a lot of discussion on the interconnection process; that Becker Morgan Group has personally been processing solar applications since 2021; that he understood there was question as to why the project could go through Sussex County's process, get approved, but seemingly were not being built;

**Public
Hearing/
CU2550
(continued)**

that the interconnection process was a very long process; that it was generally a three year process; that the Sussex County Conditional Use process was currently roughly a two to a two and a half year process; that this was the reasoning for the gap the Council was seeing with some of the solar projects; that the current site was in a great position, because they were through most of the steps already; that the first step was to apply to Delmarva Power, at which time they get assigned in the queue; that they need to perform an Interconnection Study to require system upgrades, depending on where the property is, what distribution upgrades are necessary to facilitate the project in its location; that Delmarva Power provides a cost estimate, which will get signed, and those costs are paid by the Developer; that the project met the Conditional Use in that it is of public or semi-public character, essential to and desirable for the general convenience of and welfare of Sussex County residents; that the application promoted Chapter 7.3 of the Sussex County Comprehensive Plan, which encouraged renewable energy; that there would be no adverse impacts as he had noted; that they proposed adequate landscape buffering and perimeter fencing; that there would be no increased traffic; that traffic would consist of one to two visits per month, as required for periodic inspection; that the project would not create any significant noise, glare, lighting, dust or odor; that the project complied with Ordinance No. 2920.

Public comments were heard.

Ms. Kelly Boyer support in favor of the application.

**M 302 26
Amend
Condition
8C/CU2550**

The Public Hearing and public record were closed.

A Motion was made by Mr. McCarron, seconded by Ms. Gruenebaum to amend Condition 8C for the second sentence to now read “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 include interwoven screening for ten-year period with the northern property being shielded for its length by the neighbor by a solid fence. The fence location and type of screening shall be shown on the Final Site Plan.

Motion Adopted: 5 Yeas

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

**M 303 26
Amend
Condition
8D/CU2550**

A Motion was made by Mr. McCarron, seconded by Mr. Rieley to amend Condition 8D for it to now read “The solar array will be located on approximately 14.82 acres of a larger 30.55-acre tract as shown on the revised plan dated June 1, 2026. The array area complies with all of the Code requirements for separation distances and setbacks from property

lines and dwellings and the setbacks along the northern boundary with the riding organization have been increased to 220 feet with a 20-foot-wide landscaped buffer. This landscaped buffer shall be planted with evergreen 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.

Motion Adopted: 5 Years

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

**M 304 26
Adopt
Ordinance
No. 4072/
CU2550**

A Motion was made by Mr. McCarron, seconded by Ms. Gruenebaum to Adopt Ordinance No. 4072 entitled “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 30.55 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows and as amended by this Council:

- 1. During the initial public hearing on this Conditional Use, the Applicant presented a site plan that showed the solar array area in fairly close proximity to the neighboring property owned and operated by the Southern Delaware Therapeutic Riding Organization. As the name implies, this organization provides therapeutic horseback riding to mentally and physically vulnerable children and adults. The Organization expressed concerns about this design in both a letter to the Commission and in testimony during the public hearing. As a result, the Commission left the record open so that the Applicant could revisit its design. A more favorable Site Plan has been submitted with the array area located further away from the Riding Organization. With these modifications, it is appropriate to recommend an approval of this solar array application.**
- 2. 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.**
- 3. The solar array will be located on approximately 14.82 acres of a larger 30.55-acre tract as shown on the revised plan dated June 1, 2026. The array area complies with all of the Code requirements for separation distances and setbacks from property lines and dwellings and the setbacks along the northern boundary with the riding organization have been increased to 220 feet with a 20-foot-wide landscaped buffer.**

**M 304 26
Adopt
Ordinance
No. 4072/
CU2550
(continued)**

4. 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.
5. This Application as amended 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 in the configuration shown on the Applicants Revised Conditional Use Site Plan dated June 1, 2026. 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 include interwoven screening for ten-year period with the northern property being shielded for its length by the neighbor by a solid fence. The fence location and type of screening shall be shown on the Final Site Plan.
 - d. The solar array will be located on approximately 14.82 acres of a larger 30.55-acre tract as shown on the revised plan dated June 1, 2026. The array area complies with all of the Code requirements for separation distances and setbacks from property lines and dwellings and the setbacks along the northern boundary with the riding organization have been increased to 220 feet with a 20-foot-wide landscaped buffer. This landscaped buffer shall be planted with evergreen 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 as shown on the Revised Conditional Use Site Plan dated June 1, 2026.
 - 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

**M 304 26
Adopt
Ordinance
No. 4072/
CU2550
(continued)**

- 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 Adopted: 5 Yeas

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

**Public
Hearing/
CZ2032**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A GR-RPC GENERAL RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY (181 DWELLING UNITS) FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 63.28 ACRES, MORE OR LESS” (properties are lying on the on the south side of Legion Road [S.C.R. 298], approximately 0.51 mile south of John J. Williams Highway [Route 24]) (911 Address: N/A) (Tax Map Parcels: 234-29.00-265.00 & 264.00 [P/O]) filed on behalf of ELI DeLuca Mid-Atlantic, LLC (Tide Pines).

The Planning & Zoning Commission held a Public Hearing on the application on May 20, 2026. At the meeting of June 17, 2026, the Planning & Zoning Commission recommended approval of the application for the 7 reasons of approval and subject to the 20 recommended conditions as outlined.

Jamie Whitehouse, Planning & Zoning Director, presented the application.

The Council found that Mr. David Hutt, Esq. with Morris James, LLP, spoke on behalf of the Applicant, ELU DeLuca Mid-Atlantic, LLC; that also present were Mr. Joe DeLuca and Mr. Reese Rosenthal, Principals of ELU DeLuca Mid-Atlantic, LLC, Mr. Jason Palkewicz, P.E. with Solutions, IPEM and Mr. Marc Cote, P.E. & Certified Planner with the Rossi Group.

Mr. Hutt stated that the application was for a Change of Zone for all of one parcel, and a portion of another parcel; that the total acreage involved was 63.21 acres; that while the application was dominated as a Change

**Public
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CZ2032
(continued)**

of Zone application, it was a bit of a misnomer; that the end result would be the same underlying zoning; that they were requesting a RPC (Residential Planned Community) overlay to be placed over the current zoning; that presently the property was zoned GR (General Residential); that the property is located along the west side of the Legion Road; that various existing communities were located within the area; that the site was current undeveloped; that the application proposed 181 total units, to include a mixture of 107 single-family detached homes and 74 townhomes; that the application could easily be described as an infill project which would be consistent with the surrounding area; that the Site Plan was created and tailored to match the physical characteristics of the property, as well as the surrounding area; that the site was located on the west side of Legion Road; that Legion Road began at Route 24 (John J. Williams Highway), and ran to Tributary Road, within the Peninsula Lakes community; that the American Legion Post 28 was located at the intersection of Legion Road and Route 24; that if one were to travel east from the intersection of Legion Road and Route 24, the next signalized intersection was Bay Farm Road, being the intersection were Harris Teeter, Walgreens and other commercial opportunities were located; that at that traffic signal, Bay Farm Road would be to the left and Autumn Road would be located to the right; that when traveling west on Route 24 from the Legion Road intersection to the next signalized intersection, would be the location of Mary Mother of Peace Church; that across the street from the church was the location of Royal Farms; that when switching back across Route 24, there was the location of the Nanticoke Indian Museum; that when heading back east, towards Legion Road on Route 24, there was the Trading Post Plaza; that at this location, Mount Joy Road was located to the north, and Oak Orchard Road was located to the south; that Route 24 was one of the primary east to west corridors in Sussex County; that the mentioned traffic signals and businesses was a representative of the Route 24 corridor, and its significant amount of residential uses, commercial businesses, employment opportunities, and business centers along the length of Route 24; that according to the State Strategies Map, the property was primarily located within Investment Level 2; that there was a small portion near Emily Gut, located on the eastern side of the property, located within Investment Level 3; that the Office of State Planning Coordination and the State Strategies document, indicated that for Level 2, investments in policy should support and encourage a wide range of uses and densities, promote other transportation options, foster efficient use of existing public and private investments, and enhance community identity integrity; that it went on to state that investments should encourage departure from the typical single family dwelling developments and promote a broader mix of housing types; that it stated the State's intent was to use its spending and management tools to promote well- designed development in these areas; that such developments provide a variety of housing types; that the application proposed two housing types; that was what Residential Planned Communities allowed; that according to the chart provided within the 2025

**Public
Hearing/
CZ2032
(continued)**

State Strategies document, it included a policy focus; that the first bullet point of the policy focus was for a broader mix of housing and commercial options; that the next was for efficient use of public and private investments and then infrastructure investments for new growth; that the most important part was for the broader mix of housing options is what Level 2 encouraged; that in short, this was an area where the State expected and encouraged growth and more specifically, departure from single-family detached developments; that according to the Future Land Use Map, the site was located within Coastal Area, being one of the County's seven growth areas; that everything surrounding the property was located within the same Coastal Area; that northwest of the site there were areas located within the Low Density Area; that the Comprehensive Plan describes the Coastal Area; that it talks about having a range of housing types that should be permitted and specifies including single-family homes, townhomes, and multi-family units; that this is exactly the housing proposed within the current application; that the predominant zoning classification for the area was GR (General Residential), being the same as the subject property; that immediately east of the site are properties located within the MR (Medium Density Residential) Zoning, which was very similar to the GR District as far as density and types of uses; that most of that area was the Peninsula Lakes community; that additionally, there were HR-1 (High Density Residential) zoned properties, along with various commercial areas including C-1 (General Commercial), CR-1 (Commercial Residential), C-2 (Medium Commercial), and B-1 (Neighborhood Business) are all represented along the Route 24 corridor; that all of this highlighted the mixture of businesses, various residential opportunities, including medium to higher density residential uses within the immediately surrounding area; that the purpose of the GR (General Residential) Zoning was to provide for medium density residential development use, including all manufactured homes, and was an apt description of the area; that when looking at a one or two mile radius around the site, one can see all the various community names represented on the map; that the application proposed 181 total units, with a gross density of 2.86 units to the acre; that because they were proposing an RPC (Residential Planned Community), there was a different way to calculate density; that pursuant to §115-126, there was a different way to calculate density; that those included areas for churches, schools, State wetlands or Tidal wetlands, commercial uses, and then either 25% as a number for streets or the actual area of the streets; that all of those things could be deducted when calculating density within an RPC; that the only one of these that applied to the current property was the actual area of the streets which was 8.6 acres; that when the application's RPC's net density was calculated, it equaled to 3.31 units to the acre; that this was consistent and less than the density of many of the other residential projects located within the one and two mile radiuses of the site; that within a one mile radius of the site there was Victoria's Landing at 11.4 units to the acres, Plover Point at 2.6 units to the acre, the Crossings at Oak Orchard at six (6) units to the acre, Patriots Glen at 3.1 units to the acre, Riverside at

**Public
Hearing/
CZ2032
(continued)**

6.7 units to the acre, and Driftwood Village at four (4) units to the acre; that within a two mile radius of the site there was Bayshore at 8.9 units to the acre, Baywood Garden Villas at 9.4 units to the acre, Lingo Estates at 3.9 units to the acre, and Enchanted Acres at four (4) units to the acre; that most of nearby communities were higher than the proposed 3.31 units to the acre, as was proposed for the current application; that Mr. Matt Jennette and his team with GTA performed a number of forms of analysis of the property; that the purpose of an RPC (Residential Planned Community) was to encourage large scale developments as a means of creating a superior living environment through unified developments and to provide for the application of design ingenuity while protecting existing and future developments in achieving the goals of the Comprehensive Plan; that in order to create that superior living environment, or a well-designed community, the property was studied to determine its primary ecological factors; that this process also occurs with Cluster Major Subdivision applications; that not only was this consistent with the Comprehensive Plan, the Zoning Code and sound land use planning, it also matched the Office of State Planning Coordination Statement in its PLUS Review for the project; that it noted that based on comments from State agencies, if the parcel contained environmental concerns or other constraints to development, the State requested that the Applicant and the local jurisdiction work with State agencies to design the site with respect to those environmental features, which would help create a more sustainable development; that one of the first things that occurred was a Wetland Delineation of the property, which was conducted by GTA; that the delineation showed the existence of just under one acre, specifically 0.96 acres, of Non-Tidal wetlands located along the eastern boundary of the property, along Emily Gut; that the U.S. Army Corps of Engineers issued an approved Jurisdictional Determination (AJD) on September 13th, confirming the delineation; that the first step was the delineation of the wetlands along Emily Gut, and the approved Army Corps of Engineers Jurisdictional Determination; that the next step was to identify any other ecological features that existed on the site; that this was the wooded areas of the site, which were reflected in a green color on the presentation; that the areas reflected in purple were agricultural fields which existed on the site; that as part of the process, GTA did a Forest Assessment Report and a Drainage Assessment Report, assigning a list of priorities, with respect to those resources on the site; that with respect to the actual resource, as the term is defined in the Zoning Code, the wetlands were a resource that required resource buffering; that layers of resource buffering were provided adjacent to those wetlands; that the next priority was level was given to the trees and the woodlands, with the next priority being the agricultural areas; that after delineating the wetlands, studying the site, taking into consideration the performed assessments and reports, the lots were then added, followed by the street network; that the land plan was then prepared, so that the wetlands and the area at the eastern side of the parcel would not be disturbed at all; that the land plan

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(continued)**

was designed in a way so that 12.8 acres (26%) of the woods would remain; that Open Space A, consisting of 23.7 acres, equaling 37% of the site, not only created a greater buffer between the resource wetlands, but additionally included an amenity; that it was useful open space to the residents of the future community, as they would be able to walk on a walking trail through the area; that while the application was filed before the current perimeter buffer Ordinance, which requires a 30 foot buffer, as well as perimeter buffer protection area, it was found that the plan could meet those requirements on the southern and western boundaries of the site; that in addition to the 30 foot perimeter buffer, the Applicant was proffering within the proposed conditions, an additional 20 feet of perimeter buffer protection area along the southern and western boundaries; that this would allow more preservation of woods; that the entrance would be off Legion Road; that there would be a required right turn lane added; that the 30 foot perimeter buffer would be added to the area which was currently agricultural field; that there would be an amenity center right as one would enter the community; that the amenities were proposed to include a clubhouse, pool house, and some sports courts; that when moving further into the community, was the location of the wetlands along the eastern boundary, along with the resource buffers, and Open Space A consisting of 23.7 acres; that the plan proposed an additional open space area, consisting of four acres, equaling a total of 27.5 acres (43%) of open space for the entire project; that the walking trail within Open Space A provided a connection to the location of the amenity area; that the same walking trail connected to a sidewalk network in the community; that the sidewalks would be located on one side of the streets throughout the community; that street lighting would be provided throughout the community; that other superior design feature was to treat the 50 foot agricultural separation distance requirement as a setback, rather than just a separation distance; that in addition to the 30 foot perimeter buffer, and in some cases the 20 foot perimeter buffer protection area, there are no lots closer than 50 foot along those areas; that it is not a separation distance, but rather a true building setback; that from the Peninsula Lakes community, there was an organic buffer provided by Emily Gut, with the addition of Open Space A to buffer the two communities from each other; that the FEMA Flood Map indicated that the properties were located within the Flood Zone X, which is an area outside of the 500 Year Floodplain; that central and public utilities were available to the site; that Tidewater Utilities had provided a Willing and Able Letter, confirming the availability of central water; that the Sussex County Engineering Department confirmed that there was capacity for central sewer to the site; that there were no Water Protection Areas, as defined in Chapter 89, which included Wellhead Protection Areas and Excellent Groundwater Recharge Areas; that a Property Owners Association would be formed to manage all of the open space and common areas; that the property was located within the Indian River School District; that the Applicant would coordinate with the school district regarding the location of a bus stop; that a DelDOT Service Level Evaluation Request was filed with DelDOT;

**Public
Hearing/
CZ2032
(continued)**

that DelDOT's response indicated that the traffic impact for the proposed community would be a minor impact; that when a project provides a minor impact, rather than performing a Traffic Impact Study (TIS), the Applicant may pay an Area Wide Study Fee (AWSF) in lieu of that Traffic Impact Study; that there would be a right turn lane added onto Legion Road, as part of the creation of the entrance to Tide Pines community; that Legion Road is an improved road; that the road was improved as part of the Peninsula Lakes community construction; that Legion Road, from Route 24 to the Peninsula Lakes community, met the DelDOT Functional Classification of a local road; that there would be two, 11 foot travel lanes and five foot shoulders outside of those travel lanes; that DelDOT had reported that a traffic signal was to be installed at the intersection of Legion Road and Route 24, in Fiscal Year 27; that the proposed traffic signal would be helpful for not only the Tide Pines community, but for the Peninsula Lakes and others who access Legion Road; that the Applicant had hired Mr. Marc Cote, P.E. & Certified Planner with the Rossi Group, to perform an analysis on the level of service at the nearest intersections; that the intersections where the entrances were studied were the entrance to Tide Pines, Peninsula Lakes, and the Legion Road and Route 24 entrance; that particularly with the traffic signal, the conclusion was that there was no degradation below a level of Service D; that he had questioned Mr. Cote about how the straightaway and the road would work; that Mr. Cote indicated that the road was too short to do a true segment analysis, where actual straightaways or the distances between intersections were analyzed; that the reports were submitted as part of the application's project book; that within those reports, Mr. Cote indicated that there was sufficient capacity for the additional demand from the Tide Pines community along Legion Road; that Mr. Cote noted that there was a generally accepted capacity of 1,700 vehicles per hour in each direction and 3,200 vehicles per hour in both directions for a road of that nature; that the peak hour trips projected to be generated were 137, and therefore there was adequate capacity as the project did not approach anything close to those type of vehicles per hour in either direction; that within the project book, there were a number of items; that in addition, there were references to various Chapters, not only Chapter 4 of the Comprehensive Plan, but other ways that the application complied with Chapter 5 regarding Conservation, Chapter 6 regarding Recreation and Open Space, Chapter 7 regarding Utilities, Chapter 8 regarding Housing, and Chapter 12 regarding Community Design; that with respect to the Coastal Areas, the Comprehensive Plan stated that there should be a range of housing types, including single family homes, townhomes, and multifamily units, going on to state that medium and higher densities, of four to 12 units per acre could be appropriate in certain locations, where supported by central water and sewer, and when near sufficient commercial uses and employment centers, where it would be keeping in character of the area, and where located along a main road or at/near a major intersection, where adequate level of service, or whether there are other considerations that exist, which were relevant to the requested project and density; that

**Public
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CZ2032
(continued)**

the application's purpose of the General Residential (GR) District was to provide for medium density residential use; that the application was not considered a medium density residential use, as it did not propose four to 12 units to the acre; that not only was the proposed density below the Comprehensive Plans definition of medium to high density, that both the net or RPC density of 3.3 units to the acre, as well as the gross density of 2.86 units to the acre are short by nearly a unit to the acre of the base density within the GR (General Residential) District, which allowed a subdivision with 10,000 square foot lots, equaling a base density of the GR (General Residential) Zoning District at 4.3 units per acre; that the proposed application was well below that number; that the property was located within an area where central water and sewer would be provided; that there are plenty of commercial uses and employment centers along Route 24; that the proposed project would be keeping within the character of the area; that there were various existing communities within the area, creating the project to be considered an infill project; that the intersection of Route 24 and Legion Road was considered a major intersection and will likely become more major after the traffic signal would be placed; that as demonstrated in the Traffic Analysis performed by the Rossi Group, there was an adequate level of service; that Super Design elements required as part of the RPC plan included the Resource Buffer Protection requirements, and all the additional woods added along the resource; that the resource itself was actually within the Peninsula Lakes property, however the Tide Pines site would be located adjacent to it; that the design proposed to provide a resource buffer of 30 feet, and additionally the acres of woods to surround that resource buffer; that the application exceeded the Open Space requirements by providing 43% open space, located in one block of land, adjacent to the resource that was being protected; that one of the goals of any RPC was to protect existing and future developments; that this was achieved by increasing the perimeter buffers, with a significant buffer provided adjacent to Peninsula Lakes, with all other adjacent properties receiving the benefit of not only the 30 foot perimeter buffer, but along the southern and western boundary the additional buffer protection area; that the application also proposed that the agricultural separation distance be treated as a setback; that the project included walking trails, sidewalks on one side of the street and amenities for all of the residents; that the result of all of these things was a superior design development that conformed with the standard of the Comprehensive Plan, as well as the principles of civic design, land use planning and landscape architecture; that within RPC districts, it was permitted to modify some of the typical Bulk Area standards, as part of the design and ingenuity for the RPC; that on Page 5, Condition B of the proposed Conditions of Approval, the application, with respect to single-family homes, proposed a Front Yard Setback of 20 feet with a Side Yard Setback of eight (8) feet; that with respect to the townhomes, the application proposed a Front Yard Setback of 20 feet, with a Rear Yard Setback of ten (10) feet, with a required 30 feet, rather than 40 feet; that the

**Public
Hearing/
CZ2032
(continued)**

proposed setbacks allowed for more compact lots, which allowed for the greater protection of open space and the perimeter buffer; that the Applicant would make a \$500 contribution to the Indian River Volunteer Fire Company, equaling a total contribution of \$90,500 by the build out of the project.

There were no public comments.

**M 305 26
Defer
Action/
CZ3032**

The Public Hearing and public record were closed.

A Motion was made by Mr. Rieley, seconded by Mr. Lloyd to defer action on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A GR-RPC GENERAL RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY (181 DWELLING UNITS) FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 63.28 ACRES, MORE OR LESS”.

Motion Adopted: 5 Yeas

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

**M 306 26
Adjourn**

A Motion was made by Mr. Lloyd, seconded by Mr. Rieley to adjourn at 4:15 p.m.

Motion Adopted: 5 Yeas

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

Respectfully submitted,

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

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

ENGINEERING DEPARTMENT

JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING & DESIGN REVIEW
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jashman@sussexcountype.gov



Sussex County

DELAWARE
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MIKE HARMER, P.E.
SUSSEX COUNTY ENGINEER

Memorandum

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

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

RE: *Existing Wastewater Infrastructure Use Agreement*
Plantation Square Bldg. 2
File: OM 9.01

DATE: July 14, 2026

The Existing Wastewater Infrastructure Use Agreement is an arrangement that collects financial contributions based on development built out flows for available capacity in the existing wastewater transmission infrastructure previously funded by the County while at the same time eliminating the granting of "oversizing" credits.

The Engineering Department requests approval of an agreement for the existing wastewater infrastructure use with **Plantation Medical Center, LLC** for **Plantation Square (Building 2)** project in the **West Rehoboth Area**. Such an arrangement does not modify the underlying land use decision in any form. However, it allows the wastewater originating from the approved project to be conveyed through the existing transmission system previously constructed by the County.

Under the proposed arrangement, **Plantation Square** project will connect to the existing County owned wastewater infrastructure. In return for utilization of said, **Plantation Medical Center, LLC** will contribute **\$21,841.00** for the financial catch-up contribution of the existing infrastructure to serve **33.16** Equivalent Dwelling Units. Payment is required prior to receiving a connection permit for Building 2 to the county infrastructure.



EXISTING WASTEWATER INFRASTRUCTURE USE AGREEMENT

Plantation Square Building 2

THIS AGREEMENT ("Agreement"), made this 26th day of MAY 2026, by and between:

SUSSEX COUNTY, a political subdivision of the State of Delaware, hereinafter called the "County," and;

PLANTATION MEDICAL CENTER, LLC, a Delaware Limited Liability Company and developer of a project known as Plantation Square, hereinafter called the "Developer."

WITNESSETH:

WHEREAS, Developer is developing a tract of land identified as Tax Map parcel 334-12.00-57.01, to be known as Plantation Square Building 2 ("Project") and;

WHEREAS, the Project will be annexed into the Sussex County Unified Sanitary Sewer District (West Rehoboth Area) and;

WHEREAS, the Project will utilize available capacity in existing wastewater infrastructure previously funded by Sussex County.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, which is hereby acknowledged by both parties as sufficient consideration, the parties hereby agree as follows:

- (1) Developer is proposing to utilize County's existing transmission capacity by connecting to an existing pipeline.
- (2) In exchange for permission to connect up to **33.16** additional equivalent dwelling units to County's existing system and to utilize the existing capacity in said system, Developer agrees to financial catch-up contribution in the amount of **\$21,841.00** for said existing facilities.
- (3) The contribution amount in the case of multiple pump stations using an existing collection and transmission system is based on the ratio of average flow capacity utilization of said transmission facilities.
- (4) **Payment of the contribution is due prior to a connection permit being issued for Building 2.**

- (5) If the Project (as currently approved) is amended and County determines in its sole discretion that such amendments materially affect this Agreement, this Agreement may be declared by County to be null and void, and any unused payments made pursuant to this Agreement shall be returned to Developer, unless the parties otherwise agree. Nothing herein shall prevent the parties from the negotiation of a new agreement with respect to the amended Project, as the parties may deem appropriate.
- (6) The contribution is to be placed in County's sewer capital fund and expended towards overall debt reduction or at such time when any transmission infrastructure in County's Unified Sanitary Sewer District requires capital improvements (See Chapter 110-96 of the Sussex County Code).
- (7) Developer shall be responsible for payment of any and all undiscounted system connection charges in accordance with and pursuant to the requirements of the *Sussex County Code* for all lots, due at such time the Developer receives the sewer connection permit.
- (8) Developer shall comply in all aspects with the *Sussex County Code* and any other local, state, county, or federal laws, regulations, or policies that may be applicable and as such may be hereinafter amended.
- (9) Prior to the commencement of construction of any sanitary sewer facilities for the Project, Developer shall obtain a project construction permit from the County in accordance with and pursuant to the requirements of the *Sussex County Code*.
- (10) In order to allow the opportunity for a County representative to be present as the County so chooses, Developer shall send written notice to County of the date upon which connection to the County regional transmission system will be made. Developer shall follow County's written or verbal instructions in making said connection to the County sanitary sewer system.
- (11) Developer may assign this Agreement in whole or in part to any entity controlled directly or indirectly by Developer or to any third party who purchases, leases or otherwise controls any portion of Developer's property without the consent of County. Developer, and any subsequent assignees or successors shall provide County at least ten (10) days' written notice of any such assignment. Any other assignments, transfers, or conveyances with respect to this Agreement are prohibited without prior written consent of County.
- (12) To the extent permitted by law, Developer shall indemnify and hold harmless County, and its appointed and elected officials, employees, licensees, and agents for any claims, losses, liabilities, suits, or damages, including but not limited to reasonable attorneys' fees, professional engineering fees, and any other costs of litigation, arising out of Developer's negligence in connection with its performance

of this Agreement, including but not limited to damage to the County's infrastructure in making connection to County's regional transmission system. The obligations of this Paragraph shall survive the termination of this Agreement.

- (13) All the terms, covenants, and conditions of this Agreement shall in all respects be governed and construed under and pursuant to the Laws of the State of Delaware without respect to its conflict of law provisions. This Agreement may only be amended, supplemented or modified by a subsequent written agreement executed by all of the parties hereto.
- (14) This Agreement and exhibits constitute the final, entire and exclusive agreement between the parties with respect to the subject matter of all matters discussed in it and supersedes all prior or contemporaneous discussions, statements, representations, warranties or agreements, whether written or oral, made in connection with the Agreement described herein.
- (15) It is mutually agreed between the parties that no review, approval, acceptance, and/or payment made under this Agreement shall be conclusive evidence of the performance of the Agreement, either wholly or in part, and that no review, approval, acceptance, and/or payment shall be construed as acceptance of defective work by County, nor in any way relieve Developer of its responsibility for the adequacy of its work.
- (16) The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach. Neither party shall be deemed to have waived any rights under this Agreement unless such waiver is expressly given in writing and signed by the waiving party. No delay or omission on the part of either party in exercising any right shall operate as a waiver of such right or any other right.
- (17) This Agreement shall be executed in duplicate, any copy of which shall be considered and construed as and for the original.
- (18) If any provision of this Agreement shall be deemed invalid or unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not render invalid or unenforceable any of the other provisions of this Agreement which may be given effect without such invalid or unenforceable provision, and to this end, the provisions of this Agreement are hereby deemed to be severable.
- (19) Any notice required to be delivered to or by either party under this Agreement shall be sent by U.S. first class mail. For purposes of this provision, the address of the County is **2 The Circle, P.O. Box 589, Georgetown, Delaware, 19947**, and the address of the Developer is **18068 Coastal Hwy, Lewes, Delaware 19958-4901**

IN WITNESS WHEREOF, the respective parties hereto have affixed their hands
and seals the day and year aforesaid.

FOR THE COUNTY:

{Seal}

By: _____
(President - Sussex County Council)

(DATE)

ATTEST:

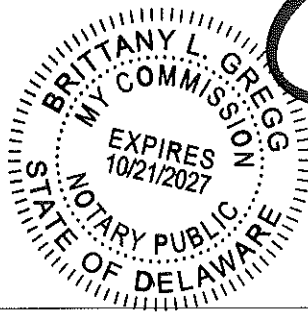
Tracy N. Torbert
Clerk of the County Council

FOR PLANTATION MEDICAL CENTER, LLC

By: _____ (Seal)
Christopher Timm, Authorized Signatory

5/26/26

(DATE)



WITNESS: _____

Brittany Greig

ENGINEERING DEPARTMENT

JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING & DESIGN REVIEW

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Sussex County

DELAWARE
sussexcountype.gov

MIKE HARMER, P.E.
SUSSEX COUNTY ENGINEER

Memorandum

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

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

RE: *Existing Wastewater Infrastructure Use Agreement*
Horizon Farm Credit Office
File: OM 9.01

DATE: July 14, 2026

The Existing Wastewater Infrastructure Use Agreement is an arrangement that collects financial contributions based on development built out flows for available capacity in the existing wastewater transmission infrastructure previously funded by the County while at the same time eliminating the granting of "oversizing" credits.

The Engineering Department requests approval of an agreement for the existing wastewater infrastructure use with **Horizon Farm Credit, FLCA for Horizon Farm Credit Office** project in the **Western Sussex Area**. Such an arrangement does not modify the underlying land use decision in any form. However, it allows the wastewater originating from the approved project to be conveyed through the existing transmission system previously constructed by the County.

Under the proposed arrangement, **Horizon Farm Credit Office** project will connect to the existing County owned wastewater infrastructure. In return for utilization of said, **Horizon Farm Credit, FLCA** will contribute **\$22,520.00** for the financial catch-up contribution of the existing infrastructure to serve **19.68** Equivalent Dwelling Units. Payment is required prior to receiving a connection permit to the county infrastructure.



EXISTING WASTEWATER INFRASTRUCTURE USE AGREEMENT

Horizon Farm Credit Office

THIS AGREEMENT ("Agreement"), made this 6th day of June 2026, by and between:

SUSSEX COUNTY, a political subdivision of the State of Delaware, hereinafter called the "County," and;

HORIZON FARM CREDIT, FLCA a federal instrumentality charter under the laws of the United States and developer of a project known as **Horizon Farm Credit Office**, hereinafter called the "Developer."

WITNESSETH:

WHEREAS, Developer is developing a tract of land identified as Tax Map parcel 131-14.00-44.16 to be known as **Horizon Farm Credit Office** ("Project") and;

WHEREAS, the Project is within the boundary of the Sussex County Unified Sanitary Sewer District (Western Sussex Area) and;

WHEREAS, the Project will utilize available capacity in existing wastewater infrastructure previously funded by Sussex County.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, which is hereby acknowledged by both parties as sufficient consideration, the parties hereby agree as follows:

- (1) Developer is proposing to utilize County's existing collection and transmission capacity by connecting to existing regional infrastructure used by multiple pump stations.
- (2) In exchange for permission to connect up to **19.68** additional equivalent dwelling units to County's existing system and to utilize the existing capacity in said system, Developer agrees to financial catch-up contribution in the amount of **\$22,520.00** for said existing facilities.
- (3) The contribution amount in the case of multiple pump stations using an existing collection and transmission system is based on the ratio of average flow capacity utilization of said transmission facilities.
- (4) **Payment of the contribution must be submitted prior to issuance of connection permit.**

- (5) If the Project (as currently submitted) is amended and County determines in its sole discretion that such amendments materially affect this Agreement, this Agreement may be declared by County to be null and void, and any unused payments made pursuant to this Agreement shall be returned to Developer, unless the parties otherwise agree. Nothing herein shall prevent the parties from the negotiation of a new agreement with respect to the amended Project, as the parties may deem appropriate.
- (6) The contribution is to be placed in County's sewer capital fund and expended towards overall debt reduction or at such time when any transmission infrastructure in County's Unified Sanitary Sewer District requires capital improvements (See Chapter 110-96 of the Sussex County Code).
- (7) Developer shall be responsible for payment of any and all undiscounted system connection charges in accordance with and pursuant to the requirements of the *Sussex County Code* for all lots, due at such time the Developer receives the sewer connection permit.
- (8) Developer shall comply in all aspects with the *Sussex County Code* and any other local, state, county, or federal laws, regulations, or policies that may be applicable and as such may be hereinafter amended.
- (9) Prior to the commencement of construction of any sanitary sewer facilities for the Project, Developer shall obtain a project construction permit from the County in accordance with and pursuant to the requirements of the *Sussex County Code*.
- (10) In order to allow the opportunity for a County representative to be present as the County so chooses, Developer shall send written notice to County of the date upon which connection to the County regional transmission system will be made. Developer shall follow County's written or verbal instructions in making said connection to the County sanitary sewer system.
- (11) Developer may assign this Agreement in whole or in part to any entity controlled directly or indirectly by Developer or to any third party who purchases, leases or otherwise controls any portion of Developer's property without the consent of County. Developer, and any subsequent assignees or successors shall provide County at least ten (10) days' written notice of any such assignment. Any other assignments, transfers, or conveyances with respect to this Agreement are prohibited without prior written consent of County.
- (12) To the extent permitted by law, Developer shall indemnify and hold harmless County, and its appointed and elected officials, employees, licensees, and agents for any claims, losses, liabilities, suits, or damages, including but not limited to reasonable attorneys' fees, professional engineering fees, and any other costs of litigation, arising out of Developer's negligence in connection with its performance

of this Agreement, including but not limited to damage to the County's infrastructure in making connection to County's regional transmission system. The obligations of this Paragraph shall survive the termination of this Agreement.

- (13) All the terms, covenants, and conditions of this Agreement shall in all respects be governed and construed under and pursuant to the Laws of the State of Delaware without respect to its conflict of law provisions. This Agreement may only be amended, supplemented or modified by a subsequent written agreement executed by all the parties hereto.
- (14) This Agreement and exhibits constitute the final, entire and exclusive agreement between the parties with respect to the subject matter of all matters discussed in it and supersedes all prior or contemporaneous discussions, statements, representations, warranties or agreements, whether written or oral, made in connection with the Agreement described herein.
- (15) It is mutually agreed between the parties that no review, approval, acceptance, and/or payment made under this Agreement shall be conclusive evidence of the performance of the Agreement, either wholly or in part, and that no review, approval, acceptance, and/or payment shall be construed as acceptance of defective work by County, nor in any way relieve Developer of its responsibility for the adequacy of its work.
- (16) The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach. Neither party shall be deemed to have waived any rights under this Agreement unless such waiver is expressly given in writing and signed by the waiving party. No delay or omission on the part of either party in exercising any right shall operate as a waiver of such right or any other right.
- (17) This Agreement shall be executed in duplicate, any copy of which shall be considered and construed as and for the original.
- (18) If any provision of this Agreement shall be deemed invalid or unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not render invalid or unenforceable any of the other provisions of this Agreement which may be given effect without such invalid or unenforceable provision, and to this end, the provisions of this Agreement are hereby deemed to be severable.
- (19) Any notice required to be delivered to or by either party under this Agreement shall be sent by U.S. first class mail. For purposes of this provision, the address of the County is 2 The Circle, P.O. Box 589, Georgetown, Delaware, 19947, and the address of the Developer is **300 Winding Creek Blvd. Mechanicsburg Pennsylvania 17050.**

IN WITNESS, WHEREOF, the respective parties hereto have affixed their hands
and seals the day and year aforesaid.

FOR THE COUNTY:

{Seal}

By: _____
(President - Sussex County Council)

_____ (DATE)

ATTEST:

Tracy Torbert
Clerk of the County Council

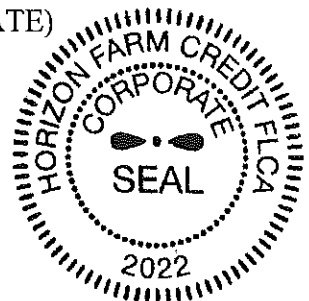
FOR HORIZON FARM CREDIT DHQ

By: Cathy L Blair (Seal)
Cathy Blair

6/11/2026 (DATE)

WITNESS: Caitlin M. Ross

Caitlin M. Ross



ENGINEERING DEPARTMENT

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



Sussex County

DELAWARE
sussexcountye.gov
MIKE HARMER, P.E.
SUSSEX COUNTY ENGINEER

Memorandum

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

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

RE: *Existing Wastewater Infrastructure Use Agreement*
Bridgeville Warehouses
File: OM 9.01

DATE: July 14, 2026

The Existing Wastewater Infrastructure Use Agreement is an arrangement that collects financial contributions based on development built out flows for available capacity in the existing wastewater transmission infrastructure previously funded by the County while at the same time eliminating the granting of "oversizing" credits.

The Engineering Department requests approval of an agreement for the existing wastewater infrastructure use with **FDPN Management, LLC** for **Bridgeville Commerce Center** project in the **Western Sussex Area**. Such an arrangement does not modify the underlying land use decision in any form. However, it allows the wastewater originating from the approved project to be conveyed through the existing transmission system previously constructed by the County.

Under the proposed arrangement, **Bridgeville Commerce Center** project will connect to the existing County owned wastewater infrastructure. In return for utilization of said, **FDPN Management, LLC** will contribute **\$49,205.00** for the financial catch-up contribution of the existing infrastructure to serve **43.00** Equivalent Dwelling Units. Payment is required prior to receiving a connection permit to the county infrastructure.



EXISTING WASTEWATER INFRASTRUCTURE USE AGREEMENT

Bridgeville Warehouses– IUA 2025-02

THIS AGREEMENT (“Agreement”), made this _____ day of _____ 2026, by and between:

SUSSEX COUNTY, a political subdivision of the State of Delaware, hereinafter called the “County,” and;

FDPN MANAGEMENT, LLC a Limited Liability Company and developer of a project known as **Bridgeville Commerce Center**, hereinafter called the “Developer.”

WITNESSETH:

WHEREAS, Developer is developing a tract of land identified as Tax Map parcel 131-19.00-4.00 to be known as **Bridgeville Commerce Center** (“Project”) and;

WHEREAS, the Project is within the boundary of the Sussex County Unified Sanitary Sewer District (Western Sussex Area) and;

WHEREAS, the Project will utilize available capacity in existing wastewater infrastructure previously funded by Sussex County.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, which is hereby acknowledged by both parties as sufficient consideration, the parties hereby agree as follows:

- (1) Developer is proposing to utilize County’s existing collection and transmission capacity by connecting to existing regional infrastructure used by multiple pump stations.
- (2) In exchange for permission to connect up to **43.00** additional equivalent dwelling units to County’s existing system and to utilize the existing capacity in said system, Developer agrees to financial catch-up contribution in the amount of **\$49,205.00** for said existing facilities.
- (3) The contribution amount in the case of multiple pump stations using an existing collection and transmission system is based on the ratio of average flow capacity utilization of said transmission facilities.
- (4) **Payment of the contribution must be submitted prior to issuance of connection permit.**
- (5) If the Project (as currently submitted) is amended and County determines in its sole discretion that such amendments materially affect this Agreement, this Agreement

may be declared by County to be null and void, and any unused payments made pursuant to this Agreement shall be returned to Developer, unless the parties otherwise agree. Nothing herein shall prevent the parties from the negotiation of a new agreement with respect to the amended Project, as the parties may deem appropriate.

- (6) The contribution is to be placed in County's sewer capital fund and expended towards overall debt reduction or at such time when any transmission infrastructure in County's Unified Sanitary Sewer District requires capital improvements (See Chapter 110-96 of the *Sussex County Code*).
- (7) Developer shall be responsible for payment of any and all undiscounted system connection charges in accordance with and pursuant to the requirements of the *Sussex County Code* for all lots, due at such time the Developer receives the sewer connection permit.
- (8) Developer shall comply in all aspects with the *Sussex County Code* and any other local, state, county, or federal laws, regulations, or policies that may be applicable and as such may be hereinafter amended.
- (9) Prior to the commencement of construction of any sanitary sewer facilities for the Project, Developer shall obtain a project construction permit from the County in accordance with and pursuant to the requirements of the *Sussex County Code*.
- (10) In order to allow the opportunity for a County representative to be present as the County so chooses, Developer shall send written notice to County of the date upon which connection to the County regional transmission system will be made. Developer shall follow County's written or verbal instructions in making said connection to the County sanitary sewer system.
- (11) Developer may assign this Agreement in whole or in part to any entity controlled directly or indirectly by Developer or to any third party who purchases, leases or otherwise controls any portion of Developer's property without the consent of County. Developer, and any subsequent assignees or successors shall provide County at least ten (10) days' written notice of any such assignment. Any other assignments, transfers, or conveyances with respect to this Agreement are prohibited without prior written consent of County.
- (12) To the extent permitted by law, Developer shall indemnify and hold harmless County, and its appointed and elected officials, employees, licensees, and agents for any claims, losses, liabilities, suits, or damages, including but not limited to reasonable attorneys' fees, professional engineering fees, and any other costs of litigation, arising out of Developer's negligence in connection with its performance of this Agreement, including but not limited to damage to the County's infrastructure

in making connection to County's regional transmission system. The obligations of this Paragraph shall survive the termination of this Agreement.

- (13) All the terms, covenants, and conditions of this Agreement shall in all respects be governed and construed under and pursuant to the Laws of the State of Delaware without respect to its conflict of law provisions. This Agreement may only be amended, supplemented or modified by a subsequent written agreement executed by all the parties hereto.
- (14) This Agreement and exhibits constitute the final, entire and exclusive agreement between the parties with respect to the subject matter of all matters discussed in it and supersedes all prior or contemporaneous discussions, statements, representations, warranties or agreements, whether written or oral, made in connection with the Agreement described herein.
- (15) It is mutually agreed between the parties that no review, approval, acceptance, and/or payment made under this Agreement shall be conclusive evidence of the performance of the Agreement, either wholly or in part, and that no review, approval, acceptance, and/or payment shall be construed as acceptance of defective work by County, nor in any way relieve Developer of its responsibility for the adequacy of its work.
- (16) The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach. Neither party shall be deemed to have waived any rights under this Agreement unless such waiver is expressly given in writing and signed by the waiving party. No delay or omission on the part of either party in exercising any right shall operate as a waiver of such right or any other right.
- (17) This Agreement shall be executed in duplicate, any copy of which shall be considered and construed as and for the original.
- (18) If any provision of this Agreement shall be deemed invalid or unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not render invalid or unenforceable any of the other provisions of this Agreement which may be given effect without such invalid or unenforceable provision, and to this end, the provisions of this Agreement are hereby deemed to be severable.
- (19) Any notice required to be delivered to or by either party under this Agreement shall be sent by U.S. first class mail. For purposes of this provision, the address of the County is 2 The Circle, P.O. Box 589, Georgetown, Delaware, 19947, and the address of the Developer is **91 Brenda Lane, Suite A, Camden, Delaware 19934.**

IN WITNESS, WHEREOF, the respective parties hereto have affixed their hands
and seals the day and year aforesaid.

FOR THE COUNTY:

{Seal}

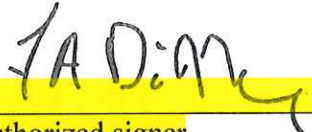
By: _____
(President - Sussex County Council)

(DATE)

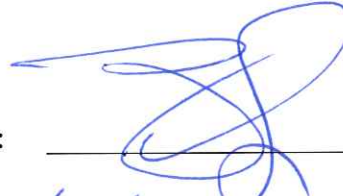
ATTEST:

Tracy Torbert
Clerk of the County Council

FOR FDPN MANAGEMENT, LLC

By:  _____ (Seal)
Authorized signer

6/15/26 (DATE)

WITNESS:  _____

6/15/26

ENGINEERING DEPARTMENT

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



Sussex County

DELAWARE
sussexcountype.gov

MIKE HARMER, P.E.
SUSSEX COUNTY ENGINEER

Memorandum

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

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

RE: *Existing Wastewater Infrastructure Use Agreement*
Rehoboth Senior Living (Spring Arbor)
File: OM 9.01

DATE: July 14, 2026

The Existing Wastewater Infrastructure Use Agreement is an arrangement that collects financial contributions based on development built out flows for available capacity in the existing wastewater transmission infrastructure previously funded by the County while at the same time eliminating the granting of "oversizing" credits.

The Engineering Department requests approval of an agreement for the existing wastewater infrastructure use with **PRII Plantation Road Propco, LLC** for **Rehoboth Senior Living** project in the **West Rehoboth Area**. Such an arrangement does not modify the underlying land use decision in any form. However, it allows the wastewater originating from the approved project to be conveyed through the existing transmission system previously constructed by the County.

Under the proposed arrangement, **Rehoboth Senior Living** project will connect to the existing County owned wastewater infrastructure. In return for utilization of said, **PRII Plantation Road Propco, LLC** will contribute **\$163,570.00** for the financial catch-up contribution of the existing infrastructure to serve **124.59** Equivalent Dwelling Units. Payment is required prior to receiving a connection permit to the county infrastructure.



USE OF EXISTING INFRASTRUCTURE AGREEMENT

Rehoboth Senior Living (Spring Arbor) – IUA1130

THIS AGREEMENT (“Agreement”), made this 9th day of June 2026, by and between:

SUSSEX COUNTY, a political subdivision of the State of Delaware, hereinafter called the “County,” and;

PRII PLANTATION ROAD PROPCO, LLC a Delaware Limited Liability Corporation and developer of a project known as **Rehoboth Senior Living**, hereinafter called the “Developer.”

WITNESSETH:

WHEREAS, Developer is developing a tract of land identified as Tax Map parcel 334-12.00-52.01 to be known as **Rehoboth Senior Living** (“Project”) and;

WHEREAS, the Project is within the boundary of the Sussex County Unified Sanitary Sewer District (West Rehoboth Area) and;

WHEREAS, the Project will utilize available capacity in existing wastewater infrastructure previously funded by Sussex County.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, which is hereby acknowledged by both parties as sufficient consideration, the parties hereby agree as follows:

- (1) Developer is proposing to utilize County’s existing collection and transmission capacity by connecting to existing regional infrastructure used by multiple pump stations.
- (2) In exchange for permission to connect up to **124.59** additional equivalent dwelling units to County’s existing system and to utilize the existing capacity in said system, Developer agrees to financial catch-up contribution in the amount of **\$163,570.00** for said existing facilities.
- (3) The contribution amount in the case of multiple pump stations using an existing collection and transmission system is based on the ratio of average flow capacity utilization of said transmission facilities.
- (4) **Payment of the contribution must be submitted prior to connection to the county infrastructure.**
- (5) If the Project (as currently submitted) is amended and County determines in its sole discretion that such amendments materially affect this Agreement, this Agreement

may be declared by County to be null and void, and any unused payments made pursuant to this Agreement shall be returned to Developer, unless the parties otherwise agree. Nothing herein shall prevent the parties from the negotiation of a new agreement with respect to the amended Project, as the parties may deem appropriate.

- (6) The contribution is to be placed in County's sewer capital fund and expended towards overall debt reduction or at such time when any transmission infrastructure in County's Unified Sanitary Sewer District requires capital improvements (See Chapter 110-96 of the Sussex County Code).
- (7) Developer shall be responsible for payment of any and all undiscounted system connection charges in accordance with and pursuant to the requirements of the *Sussex County Code* for all lots, due at such time the Developer receives the sewer connection permit.
- (8) Developer shall comply in all aspects with the *Sussex County Code* and any other local, state, county, or federal laws, regulations, or policies that may be applicable and as such may be hereinafter amended.
- (9) Prior to the commencement of construction of any sanitary sewer facilities for the Project, Developer shall obtain a project construction permit from the County in accordance with and pursuant to the requirements of the *Sussex County Code*.
- (10) In order to allow the opportunity for a County representative to be present as the County so chooses, Developer shall send written notice to County of the date upon which connection to the County regional transmission system will be made. Developer shall follow County's written or verbal instructions in making said connection to the County sanitary sewer system.
- (11) Developer may assign this Agreement in whole or in part to any entity controlled directly or indirectly by Developer or to any third party who purchases, leases or otherwise controls any portion of Developer's property without the consent of County. Developer, and any subsequent assignees or successors shall provide County at least ten (10) days' written notice of any such assignment. Any other assignments, transfers, or conveyances with respect to this Agreement are prohibited without prior written consent of County.
- (12) To the extent permitted by law, Developer shall indemnify and hold harmless County, and its appointed and elected officials, employees, licensees, and agents for any claims, losses, liabilities, suits, or damages, including but not limited to reasonable attorneys' fees, professional engineering fees, and any other costs of litigation, arising out of Developer's negligence in connection with its performance of this Agreement, including but not limited to damage to the County's infrastructure

in making connection to County's regional transmission system. The obligations of this Paragraph shall survive the termination of this Agreement.

- (13) All the terms, covenants, and conditions of this Agreement shall in all respects be governed and construed under and pursuant to the Laws of the State of Delaware without respect to its conflict of law provisions. This Agreement may only be amended, supplemented or modified by a subsequent written agreement executed by all the parties hereto.
- (14) This Agreement and exhibits constitute the final, entire and exclusive agreement between the parties with respect to the subject matter of all matters discussed in it and supersedes all prior or contemporaneous discussions, statements, representations, warranties or agreements, whether written or oral, made in connection with the Agreement described herein.
- (15) It is mutually agreed between the parties that no review, approval, acceptance, and/or payment made under this Agreement shall be conclusive evidence of the performance of the Agreement, either wholly or in part, and that no review, approval, acceptance, and/or payment shall be construed as acceptance of defective work by County, nor in any way relieve Developer of its responsibility for the adequacy of its work.
- (16) The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach. Neither party shall be deemed to have waived any rights under this Agreement unless such waiver is expressly given in writing and signed by the waiving party. No delay or omission on the part of either party in exercising any right shall operate as a waiver of such right or any other right.
- (17) This Agreement shall be executed in duplicate, any copy of which shall be considered and construed as and for the original.
- (18) If any provision of this Agreement shall be deemed invalid or unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not render invalid or unenforceable any of the other provisions of this Agreement which may be given effect without such invalid or unenforceable provision, and to this end, the provisions of this Agreement are hereby deemed to be severable.
- (19) Any notice required to be delivered to or by either party under this Agreement shall be sent by U.S. first class mail. For purposes of this provision, the address of the County is 2 The Circle, P.O. Box 589, Georgetown, Delaware, 19947, and the address of the Developer is **1 Towne Square, Suite 1600, Southfield Michigan 48076.**

IN WITNESS, WHEREOF, the respective parties hereto have affixed their hands
and seals the day and year aforesaid.

FOR THE COUNTY:

{Seal}

By: _____
(President - Sussex County Council)

(DATE)

ATTEST:

Tracy Torbert
Clerk of the County Council

FOR PRII PLANTATION ROAD PROPCO, LLC

Signed by:
By: Paul Stodulski (Seal)
Paul Stodulski

6/25/2026 (DATE)

WITNESS:

DocuSigned by:
N Sunday
1530E12366FE464...

FINANCE DEPARTMENT
ACCOUNTING DIVISION

ANDREA M. WALL
MANAGER
awall@sussexcountye.gov



Sussex County

DELAWARE
sussexcountye.gov
(302) 855-7853 T
(302) 855-7722 F

MEMORANDUM

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

FROM: Andrea Wall, Manager of Accounting

DATE: July 10, 2026

RE: Federal Payments in Lieu of Taxes

A check in the amount of \$38,898 has been received from the United States Department of the Interior, Fish and Wildlife Service, as a federal payment in lieu of taxes for the Prime Hook National Wildlife Refuge. This check represents payments under the Refuge Revenue Sharing Act covering Fiscal Year 2025.

The amount is calculated by the U.S. Fish and Wildlife Service by prorating the total funds available for payment. This check is funded through revenues generated from the Prime Hook National Wildlife Refuge and from a supplemental congressional appropriation. Sussex County may use these funds for any governmental purpose.

The County does not collect property taxes from the Federal Government for the Prime Hook National Wildlife Refuge. In return, the Federal Government gives the County this payment in lieu of taxes. In the past, these funds have been allocated in the same percentage as the other County tax collections. The attached spreadsheet shows the recommended allocation of these funds based on assessed value of the Prime Hook Refuge. I will be presenting this allocation for Council's authorization on July 14, 2026.

Please feel free to contact me with any questions.

TAXING AUTHORITY	TAX RATE	% OF TOTAL	GRANT AMOUNT	
MILFORD SCHOOL DISTRICT				
Sussex County	0.0191%	6.2276%	\$560.54	\$9,001.00
Library	0.0023%	0.7499%	\$67.51	
Sussex Tech	0.0219%	7.1405%	\$642.72	
Milford School	0.2634%	85.8820%	\$7,730.23	
	0.3067%	100.0000%	\$9,001.00	
CAPE HENLOPEN DISTRICT				
Sussex County	0.0191%	9.0436%	\$2,703.75	\$29,897.00
Library	0.0023%	1.0890%	\$325.58	
Sussex Tech	0.0219%	10.3693%	\$3,100.12	
Cape School District	0.1679%	79.4981%	\$23,767.55	
	0.2112%	100.0000%	\$29,897.00	\$38,898.00
SUMMARY				
Sussex County	\$3,264.29			
Library	\$393.09			
Vocational School	\$3,742.84			
Milford School	\$7,730.23			
Cape School District	\$23,767.55			
	\$38,898.00			

NOTE:

Per Chris Keeler, Director of Assessment, 23.14% of the Primehook National Wildlife Refuge land assessed value in Sussex County is within the Milford School District and 76.86% is within the Cape Henlopen School District. Appropriate shares have been determined based on these percentages

A deposit from US Dept of Interior for \$38,898 was deposited to the general fund 06/30/2026

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 Steve C. McCarron

FROM: Mike Harmer, P.E., County Engineer

RE: **Wolfe Neck RWF Electrical Service & Switchgear Replacement
A. General Construction, Project S24-10 – Change Order No. 9**

DATE: July 14, 2026

As you may recall, GHD developed preliminary construction documents for the ongoing electrical work at the Wolfe Neck Regional Wastewater Facility associated with electrical and General Construction with the option to bid on one or both segments of the work. Invitations to Bid were advertised in the local newspaper and were available to view on the County website. In addition, the information was directly forwarded to several contractors. Five (5) contractors attended the pre-bid meeting on March 26, 2024, and on April 18, 2024, two (2) bids were received for the Electrical Construction, and one (1) bid was received for the General Construction.

BW Electric, Inc.'s low bid for Electrical Construction was within budget. However, the bid for General Construction came in well above budget. At the time of bid the County had three (3) open general construction projects with different companies. All three, Bancroft, Whayland and Ronca could perform the scope but chose not to bid. Therefore, the Engineering Department recommended, and Council concurred to approach each company requesting competitive proposals for a potential change order under their respective open contract.

On April 30, 2024, Council approved award of Electrical Construction to BW Electric, Inc. in the low bid amount of \$5,000,000.00, rejecting the sole General Construction bid and soliciting three proposals under an alternate delivery method.

The Whayland Company, Bancroft Construction, and M.F. Ronca were sent a request for proposals. BW Electric was later invited to bid since they were awarded the electrical portion



of the project. Out of the four (4) proposals received on June 7, 2024, the lowest responsible offer was made by Bancroft Construction at \$1,376,000.00 and on June 11, 2024, Council approved issuance of Change Order No. 1 under Bancroft Construction's James Farm contract in the full amount of \$1,376,000.00 but with separate accounting and schedule of values.

The initial design approach for the lagoon solar project anticipated a "behind the meter" component connected to the new main power distribution panel. However, in the final design both projects connect directly to the utility transformer. The lagoon solar alignment routing was initially laid out outside of the County's project envelope on State owned lands. The archeological findings necessitated the consolidation of all construction activities on previously disturbed areas under County ownership. Therefore, GHD, prepared modified drawings incorporating an advanced construction duct bank between the building and the generator for us by Noria-Chaberton JV LLC under the lagoon solar project while at the same time removing the solar connection to the main power distribution panel. BW Electric, Inc. priced out the work in the aggregate amount of \$87,423.45. On August 13, 2024, Council approved BW Electric, Inc.'s Change Order No. 1 for the same amount.

The electrical project also included a new Process Control System Cabinet, which will initially communicate with existing Supervisory Control and Data Acquisition (SCADA) and ultimately be incorporated into the new site-wide SCADA system for the expanded facility. This Cabinet was to include a County-furnished Industrial Process Control (IPC) to match recent projects and direction given by Environmental Services. However, the IT Department decided to phase out IPCs and instead use Operator Interface Terminals. BW Electric, Inc. priced out the work in the amount of \$6,102.82 which Council approved under Change Order No. 2 on November 19, 2024.

In the course of the last twelve months the following RFPs were issued and BW Electric, Inc. proposed aggregate Change Order No.3 to complete the entire scope:

RFP-003 for the relocation of the Temporary Aerator Motor Starter Structure. It provides the power to the relocated aerators in lagoons 2 & 3 during the sludge removal project in lagoon 1. In the original configuration it was to be located on the top of the lagoon berm, but Environmental Services requested the relocation to the toe of the berm due to access concerns

RFP-004 for the ductbank modifications requested by DP&L due to limitations of conductor terminations in the transformer. The transformer DP&L had initially envisioned using could accommodate more conductors than the one ultimately installed triggering the change in conductors and conduits.

RFP-005 for the modifications to existing Administration Building power distribution establishing a permanent dedicated feeder from the building's Motor Control Center to the 480VAC panelboard. In the process also removing the no longer needed automatic transfer switch and the generator.

RFP-006 for the removal of the existing main circuit breaker in the Administration Building Motor Control Center. This breaker is over 30-years old and was installed under the original construction. It is obsolete and has never been serviced. The building's circuit board is now

fed and protected via a dedicated circuit from the new electrical building making the original breaker redundant.

On December 16, 2025, Council approved Change Order No.3 covering RFPs 003-006 in the aggregate amount of \$336,019.09.

The exact dimensions of the solar duct bank penetrations in the building foundation issued under Change Order No.1 to BW Electric were still being finalized in the submittal process when Bancroft started on the building footers and foundation walls. GHD informed Bancroft of the delay on December 20th, 2024 and the issue was resolved one month later on January 20th. GHD and the Engineering Department supported a 3-week delay encompassing twelve work days and an allowance for remobilization after subtracting weather-related delays not eligible for compensation. Subsequently, Council approved Change Order No. 3 for coordination related delays to Bancroft Construction in the amount of \$19,717.76 on February 11, 2025.

The biosolids removal and dewatering equipment was originally powered out of the new electrical building. When Council approved the sludge removal contractor, Denali's Change Order No.1 switching to generator power, it eliminated the temporary power requirements under the sludge removal contract and consequently, a canopy from Bancroft's contract. In addition, the Department was able to provide value engineering input on the ceiling material in the electrical building for a total combined credit Change Order No. 5 of -\$14,910.63 from Bancroft Construction which was approved by Council on May 13, 2025.

In the fall of 2025, Bancroft had to vacate the site, allowing unrelated activities not a part of Bancroft's contract scope to be completed. Specifically, Bancroft has demobilized from the site on three (3) occasions but continuing to maintain a field office, storage trailers and limited supervision as well as all insurance and bonding. The Engineering Department and Bancroft agreed on appropriate compensation. Change Order No.7 to Bancroft Construction in the amount of \$64,035.25 was approved on October 7, 2025.

Change Order No. 7 compensated Bancroft Construction for their incurred expenses related to the time delays. Since then, all subcontracts have been reviewed and it was agreed to compensate two subcontractors for their incurred costs too, but without markup or profit by Bancroft. On December 16, 2025, Council approved Change Order No. 8 to Bancroft Construction in the amount of \$28,952.00 for documented subcontractor delay-related expenses.

Based on manufacturer specifications at the time of design, a generator platform of 10 feet was specified in the bid. However, due to layout changes during construction, the engineer determined the platform should be increased to 16 feet. For the additional material and labor, the Engineering Department is requesting approval of Change Order No. 9 in the amount of \$16,483.40.



SUSSEX COUNTY CHANGE ORDER REQUEST

A. ADMINISTRATIVE:

1. Project Name: **PROPOSED CAMPUS AT JAMES FARM ECOLOGICAL PRESERVE**
2. Sussex County Project No. S24-10
3. Change Order No. 9 – Wolfe Neck RWF Electrical Service
& Switchgear (general construction)
4. Date Change Order Initiated - 12/16/25
5. Status

	<u>C23-21</u>	<u>S24-10 (GC)</u>
a. Original Contract Sum	<u>\$ 2,090,500.00</u>	<u>\$ 0</u>
b. Net Change by Previous Change Orders	<u>\$ 0</u>	<u>\$1,473,794.38</u>
c. Contract Sum Prior to Change Order	<u>\$ N/A</u>	<u>\$1,473,794.38</u>
d. Requested Change	<u>\$ N/A</u>	<u>\$ 16,483.40</u>
e. Net Change (No. of days)	N/A	N/A
f. New Contract Amount	<u>\$ 2,088,250.72</u>	<u>\$1,490,277.78</u>
6. Contact Person: Mike Harmer, P.E.
Telephone No. (302) 855-7718

B. REASON FOR CHANGE ORDER (CHECK ONE)

- | | | |
|----------|----|--|
| — | 1. | Differing Site Conditions |
| — | 2. | Errors and Omissions in Construction Drawings and Specifications |
| — | 3. | Changes Instituted by Regulatory Requirements |
| X | 4. | Design Change |
| — | 5. | Overrun/Underrun in Quantity |
| — | 6. | Factors Affecting Time of Completion |
| — | 7. | Other (explain below): |

C. BRIEF DESCRIPTION OF CHANGE ORDER:

Adjustment of generator platform from 10' to 16' in length.

D. JUSTIFICATION FOR CHANGE ORDER INCLUDED?

Yes X No

E. APPROVALS

1. Bancroft Construction, Contractor

Signature Date

Representative's Name in Block Letters

2. County Engineer

Signature Date

3. Sussex County Council President

Signature Date



PCO #010

Bancroft Construction
2324 W Zion Rd, Suite 108
Salisbury, Maryland 21801
Phone: (410) 844-8080

Project: CSED0003 - WNRWF Electrical Upgrades
36160 Wolfe Neck Road
Rehoboth Beach, Delaware 19971

Prime Contract Potential Change Order #010: Increase of Generator Landing Size Per Submittal Comments on 11/4/25

TO:	Sussex County Delaware 2 The Circle P.O. Box 589 Georgetown Delaware, 19947	FROM:	Bancroft Construction Company 1300 N. Grant Avenue Suite 101 Wilmington Delaware, 19806
PCO NUMBER/REVISION:	010 / 0	CONTRACT:	CSED0003 - WNRWF S24-10
REQUEST RECEIVED FROM:		CREATED BY:	Lauren Lyon (Bancroft Construction Company)
STATUS:	Approved	CREATED DATE:	4/24/2026
REFERENCE:		PRIME CONTRACT CHANGE ORDER:	None
FIELD CHANGE:	No		
LOCATION:		ACCOUNTING METHOD:	Amount Based
SCHEDULE IMPACT:		PAID IN FULL:	No
		TOTAL AMOUNT:	\$16,483.40

POTENTIAL CHANGE ORDER TITLE: Increase of Generator Landing Size Per Submittal Comments on 11/4/25

CHANGE REASON: Design Change

POTENTIAL CHANGE ORDER DESCRIPTION: *(The Contract Is Changed As Follows)*
CE #027 - Increase of Generator Landing Size Per Submittal Comments on 11/4/25

* Increase length of generator platform landings from 10' long (contract bid drawings 2/20/24) to 16' long
per latest engineer review and markup

* Based on last engineer review dated 11/4/25

ATTACHMENTS:

[Generator Stairs 4 17 26.pdf](#)

#	Budget Code	Description	Type	Amount
1	05-9700.S Structural Steel.Subcontractor	Increase of Generator Landing Size Per Submittal Comments on 11/4/25	Subcontractor	\$14,936.00
2	00-1515.LR Project Manager.Labor - Regular	PM Time	Labor - Regular	\$746.80
3	90-0999.F Fee.Fee	Fee	Fee	\$15.68
4	80-9701.O Excess General Liability Insurance.Other Direct Costs	Insurance	Other Direct Costs	\$784.92
Grand Total:				\$16,483.40

Sussex County Delaware
2 The Circle P.O. Box 589
Georgetown Delaware 19947

Bancroft Construction Company
1300 N. Grant Avenue Suite 101
Wilmington Delaware 19806

SIGNATURE DATE

SIGNATURE DATE

John H Sauter ii 04.24.2026
SIGNATURE DATE



26546 Seaford Road Seaford, DE 19973
Mail: Po Box 763 Laurel, DE 19956
Phone 302-875-2417 ~ Fax 302-875-8012
www.firststatefab.com

PROPOSAL

Bancroft Construction Co
1300 N Grant Ave, Suite 101
Wilmington, DE 19806
302-254-3052
jsauter@bancroftusa.com

4/17/26

RE: Wolfe Neck Waste Water Facility– Rehoboth Beach, DE

Attn: John Sauter

The following price is an additional cost to for the increased size of the generator platform at the Wolfe Neck Waste Water Facility in Rehoboth Beach, DE. The price is based upon the following:

- * Increase length of generator platform landings from 10' long (contract bid drawings 2/20/24) to 16' long per latest engineer review and markup
- * Based on last engineer review dated 11/4/25
- * All licenses, permits, engineering, fees & inspections by others

Price: \$14,936.00

Thank you,

Scott Calloway

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 14, 2026

RE: ***Countryside Hamlet, Project S23-01***
A. *Change Order 01*

On July 17, 2020, the Engineering Department received correspondence from the Countryside Hamlet Mobile Home Park (Parcel 533-4.00-20.00) property owner requesting the County consider annexation of the community into the Unified Sanitary Sewer District. The existing (47) space mobile home park community is located on Lazy Lagoon Lane in Frankford, Delaware, served by a failing on-site private septic system, and listed on DNREC's under-served communities list.

The Department made a presentation to County Council for permission to prepare and post notices for a Public Hearing on September 22, 2020. The Public Hearing was held on October 27, 2020, and immediately following the hearing, County Council voted in the affirmative to approve annexation of Countryside Hamlet into the County's Unified Sanitary Sewer District.

In December of 2021, we received notification that the project was included in the Delaware Water Pollution Revolving Loan Fund (WPCRF) Revised 2021 Intended Use Plan and that DNREC, Office of the Secretary, Environmental Finance would solicit loan applications for project funding consideration through the WPCRF. In February of 2022, the Engineering Department finalized the Preliminary Engineering Report and the Environmental Information Documents required for submission of the funding application to Delaware State Revolving Fund (SRF). On February 21, 2022, these Documents were combined with the overall funding application prepared by the Finance Department and filed with DNREC for \$1,840,400.00. On October 3, 2022, the County received the Binding Commitment Letter from DNREC Environmental Finance and on the same day the County Administrator accepted the Binding Commitment Offer and obligating documents in a loan amount of \$1,840,400.00 with 100% of principal forgiveness.



On November 15, 2022, the associated debt ordinance was adopted, authorizing the issuance of up to \$1,840,400.00 of general obligation bonds of Sussex County in connection with the construction and equipping of the Countryside Hamlet Area of the Unified Sanitary Sewer District.

With funding in place, the Department solicited a proposal from Davis, Bowen & Friedel, Inc. (DBF) for survey and design services pursuant to the 2019 base agreement for miscellaneous engineering services. DBF was selected since they were already under contract with the Artesian Water Company (AWC) to provide similar services for public water expansion.

On January 10, 2023, Council approved Amendment No. 8 of DBFs base agreement to provide survey and design services for the Countryside Hamlet Project in the amount of \$124,500.00. Project documents were completed, permitted and solicited for construction bids. Invitations to Bid were advertised in the local newspaper and made available to view on the County website. In addition, the information was directly forwarded to several contractors. Six (6) contractors attended the pre-bid meeting on March 21, 2025, and on April 4, 2025, five (5) bids were received. The low-bidder was Teal Construction, Inc. at \$1,588,588.00.

On April 29, 2025, County Council awarded the sewer project to Teal Construction, Inc. Co. in the bid amount of \$1,588,588.00. County Council also authorized Amendment No. 3 to the 2024 base agreement for miscellaneous engineering services with DBF, in a not to exceed amount of \$266,675.00 for additional services including construction phase administration and inspection of the sewer project. DBF performs similar services for the AWC water project, therefore a cost efficiency is recognized in onsite inspection during a portion of time when projects occur concurrently.

Teal Construction was given Notice to Proceed effective February 9, 2026. Shortly after installation of the pump station wet well, a betterment for safety and operation was identified by the Department. Contract documents called for pump station valving to be installed inside the wet well. Although this was a historical standard for small pump stations, the Department has moved towards providing valve vaults at all pump stations as a standard design approach when possible. This reduces the difficulty of accessing an individual inside a wet well for valve maintenance and/or replacement in the future and improves general safety of operators.

The Department coordinated DBF to incorporate a valve vault into the design, as reflected by the attached change order proposal from Teal Construction. The proposal includes a precast vault with standard hatch, ladder, and appurtenance along with all labor associated with placement and sewer piping work.

The Engineering Department recommends approval of Change Order No. 1 at the value of \$20,244.00, increasing the Contract Price to a total of \$1,608,832.00.

CHANGE ORDER NO.: 1

Owner: Sussex County Council
Engineer: Davis, Bowen & Friedel
Contractor: Teal Construction, Inc.
Project: Countryside Hamlet Sanitary Sewer
Contract Name: Countryside Hamlet Sanitary Sewer
Date Issued: June 22, 2026

Owner's Project No.: S23-01
Engineer's Project No.: 1897B031
Contractor's Project No.: T-25012

Effective Date of Change Order: June 22, 2026

The Contract is modified as follows upon execution of this Change Order:

Description: **Addition of pump station valve vault and hatch.**

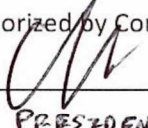
Attachments: **Teal Construction, Inc. change order proposal**

Change in Contract Price	Change in Contract Times
Original Contract Price: \$ <u>1,588,588.00</u>	Original Contract Times: Substantial Completion: <u>270</u> Ready for final payment: <u>300</u>
[Increase] [Decrease] from previously approved Change Orders No. 1 to No. [Number of previous Change Order]: \$ <u>N/A</u>	[Increase] [Decrease] from previously approved Change Orders No.1 to No. [Number of previous Change Order]: Substantial Completion: <u>N/A</u> Ready for final payment: <u>N/A</u>
Contract Price prior to this Change Order: \$ <u>1,588,588.00</u>	Contract Times prior to this Change Order: Substantial Completion: <u>270</u> Ready for final payment: <u>300</u>
Increase this Change Order: \$ <u>20,244.00</u>	Increase this Change Order: Substantial Completion: <u>0</u> Ready for final payment: <u>0</u>
Contract Price incorporating this Change Order: \$ <u>1,608,832.00</u>	Contract Times with all approved Change Orders: Substantial Completion: <u>270</u> Ready for final payment: <u>300</u>

Recommended by Engineer (if required)

By:  Jason P. Loar, P.E.
Title: Principal/Sr. Civil Engineer
Date: 2026-06-22

Authorized by Owner

Authorized by Contractor
By:  CHARLES W. REED III
Title: PRESIDENT
Date: 6/22/2026

Approved by Funding Agency (if applicable)

TEAL

CONSTRUCTION INC.

June 4, 2026

Davis, Bowen & Friedel, Inc.
Attn: Jason Loar, P.E.
601 East Main Street, Suite 100
Salisbury, MD 21804

RE: Countryside Hamlet Valve Vault Change Order

Dear Mr. Loar,

The following is Teal Construction Inc.'s change order proposal for the request to add a valve vault for the Countryside Hamlet Sanitary Sewer Project. If you have any questions, please contact us at our office at 302-678-9500.

SCOPE OF WORK:

- Furnish & Install 72"x48" Pre-Cast Concrete Valve Vault
- Furnish & Install 36"x48" Aluminum Hatch

Lump Sum Total: \$20,244.00

Sincerely,



John W. Stant III

Cost Report

Teal Construction, Inc.

3

Page 1 of 2

JS1242

Countryside Hamlet Sewer Valve Vault CO

6/4/2026 11:52 AM

Biditem

Valve Vault

10

Takeoff Qty:

1.000 LS

Client #: 1

Bid Qty:

1.000 LS

	Base Labor	Burden	Total Labor	Equipment	Perm Matls	Const Matls	Sub	Total
U. Cost	2,387.10	966.04	3,353.14	1,298.40	12,951.64	0.00	0.00	17,603.18
Total	2,387.10	966.04	3,353.14	1,298.40	12,951.64	0.00	0.00	17,603.18

Manhours	Unit/MH	MH/Unit	\$/MH	Base Labor/MH	Total Labor/MH	Unit/CH
36.0000	0.0278	36.0000	488.9772	66.3083	93.1428	0.1667

Activity: 10.1 Hatch Materials (Core & Main) Quantity: 1.00 Unit: LS

Calendar: 509 45 Hour Work Week (5x9hrs) Hrs/Shift: 9 WC: DE6306 Sewer Workman's Comp

Resource	Description	Pcs/Wste	Quantity	Unit	Unit Cost	Tax/OT %	Actual UC	Total
2	MATERIALS	1.00	1.00	LS	5,300.25	100.000	5,300.25	5,300.25

Activity: 10.2 Pre-cast Concrete Materials (Gillespie) Quantity: 1.00 Unit: LS

Calendar: 509 45 Hour Work Week (5x9hrs) Hrs/Shift: 9 WC: DE6306 Sewer Workman's Comp

Resource	Description	Pcs/Wste	Quantity	Unit	Unit Cost	Tax/OT %	Actual UC	Total
2	MATERIALS	1.00	1.00	LS	7,651.39	100.000	7,651.39	7,651.39

Activity: 10.3 Teal Construction, Inc. Quantity: 1.00 Unit: LS

	Base Labor	Burden	Total Labor	Equipment	Perm Matls	Const Matls	Sub	Total
U. Cost	2,387.10	966.04	3,353.14	1,298.40	0.00	0.00	0.00	4,651.54
Total	2,387.10	966.04	3,353.14	1,298.40	0.00	0.00	0.00	4,651.54

Crew \$/Unit	Crew Hrs/Unit	Units/Crew Hr	\$/Crew Hour	Shifts	Units/Shift	Shifts/Unit	\$/Shift
4,651.5400	6.0000	0.1667	775.2567	0.6667	1.5000	0.6667	6,977.3101

Manhours	Unit/MH	MH/Unit	Total Labor/MH	Base Labor/Unit
36.0000	0.0278	36.0000	93.1428	2,387.1000

Calendar: 509 45 Hour Work Week (5x9hrs) Hrs/Shift: 9 WC: DE6306 Sewer Workman's Comp

Crew: PSMD (Mod) Pipe- Sewer Main Deep Crew Prod: CH 6 Eff: 100.00 Crew Hrs:6.00 Labor Pcs:6.00 Equipment Pcs:3.00

Resource	Description	Pcs/Wste	Quantity	Unit	Unit Cost	Tax/OT %	Actual UC	Total
8-02.135	Van (I)	1.00	6.00	HR	22.03	100.000	22.03	132.18
8-26.125	Loader 150 - 180 hp (I)	1.00	6.00	HR	96.43	100.000	96.43	578.58
8-32.150	Excavator 226 - 300 hp (I)	1.00	6.00	HR	97.94	100.000	97.94	587.64
F	Foreman	1.00	6.00	MH	50.00	100.000	98.70	592.18
L1	Labor 1	1.00	6.00	MH	55.65	105.560	78.18	469.06
L2	Labor 2	1.00	6.00	MH	55.65	105.560	78.18	469.06
O1	Operator 1	1.00	6.00	MH	81.29	105.560	112.82	676.89
O2	Operator 2	1.00	6.00	MH	81.29	105.560	112.82	676.89
PL	Pipe Layer	1.00	6.00	MH	55.65	105.560	78.18	469.06

Report Summary

	Base Labor	Burden	Total Labor	Equipment	Perm Matls	Const Matls	Sub	Total
Total	2,387	966	3,353	1,298	12,952	0	0	17,603

Job Notes

Estimate created on: 04/29/2008 by User#: 1 -
Source estimate used: T:\HeavyBid\EST\ESTMAST



Gillespie Precast
9466 Beach Highway
Greenwood, DE 19950
Phone: (302) 349-5528

Job Number: 55799

Order Date: 2/6/2026

Bill to:	TEAL CONSTRUCTION CHAD REED PO BOX 779 DOVER, DE 19903	Project:	COUNTRYSIDE HAMLET - SEWER 34913 DELAWARE AVE FRANKFORD, DE 19945
Contact:		Project Manager:	JOHNNY STANT
Phone :	302 678-9500	Fax:	302-678-9715
Phone :		Phone :	302-270-7090
Fax:		Fax:	302-678-9715
Customer ID:	TEAC01	PO:	
Terms:	NET 30	ShipVia:	
		Sales Rep:	KEVIN SOCKRITER

Structure ID/Product	Structure Type	Qty	Rim to Invert	Unit Price	Amount
VV	Storm VALVE VAULT - 72X48	1.00	9.00		\$7,651.39
SubTotal					\$7,651.39
Taxable					\$0.00
Non-Taxable					\$7,651.39
Sub Total					\$7,651.39
Tax					\$0.00
Total					\$7,651.39

Valve Vault includes link seals, extended base, slab top w/hatch cast in - HATCH IS NOT INCLUDED IN PRICE. HATCH PROVIDED BY OTHERS.

****QUOTE VALID FOR 30 DAYS****

Prices include delivery on flatbed trailer, contractor to unload.

Freight charges allow for 90 minutes unloading time on-site. Additional time will be billed at \$135 per hour.

Any products which are not delivered within 60 days of the agreed upon delivery date will be invoiced in full.

Any products which are not delivered within 90 days of the agreed upon delivery date will be subject to a storage fee of 1.5% per month.

Projects ongoing for more than 9 months after receipt of PO or acceptance of quote, are subject to a price escalation up to 5% and additional 5% escalation every 6 months thereafter.

All deliveries may be subject to a fuel surcharge. Surcharge will be updated on the first day of the month based on previous months average cost.

If paying account balance by credit card, there will be a 3% processing fee added at time of payment.

Accepted by: _____



Bid Proposal for Country side Hamlet Valve Vault

CUSTOMER

TEAL CONSTRUCTION INC

612 MARY ST
DOVER, DE 19904

Job

Country side Hamlet Valve Vault
Frankford, DE
Bid Date: 05/18/2026
Bid #: 4946916

CONTACT

Sales Representative

Kevin Reichhold
(M) 302-604-4530
(T) 302-684-3054
(F) 302-684-3586
Kevin.Reichhold@coreandmain.com

Core & Main

25414 Prime Hook Rd
Suite 100
Milton, DE 19968
(T) 3026843054

NOTES



Bid Proposal for Country side Hamlet Valve Vault

TEAL CONSTRUCTION INC
Job Location: Frankford, DE
Bid Date: 05/18/2026
Core & Main Bid #: 4946916

Core & Main
25414 Prime Hook Rd
Suite 100
Milton, DE 19968
Phone: 3026843054
Fax: 3026843586

Seq#	Qty	Part Number	Description	Units	Price	Ext Price
10	1	NS	24"X42" HATCH W/ SAFE GRATE	EA	4,950.25	4,950.25
					Sub Total	4,950.25
					Freight	350.00
					Tax	0.00
					Total	5,300.25

Branch Terms:

This quotation represents Core & Main's interpretation of the plans and specifications as of the date of this document and is provided solely as an aid to bidding. Customers are responsible for verifying all materials and quantities prior to bidding or ordering. Prices are based on purchase of the quoted materials in their entirety and assume full truckload freight-paid releases; lesser quantities may incur additional shipping and handling charges. All quoted prices exclude applicable sales taxes. Prices are subject to change if scope, specifications, or quantities are altered, or due to factors such as government regulations, tariffs, transportation, fuel, and raw material costs.

PVC pipe pricing is based on availability at the time of shipping unless otherwise noted. HDPE pricing is valid for 10 days from the quote date and may be revised if quantities change. Quoted prices are firm for shipment within 30 days of the quote date unless otherwise noted. Special-order or non-stock items may be non-refundable or subject to cancellation/restocking charges and must be shipped to the customer within 30 days of receipt by Core & Main. Delivery will commence based on manufacturer lead times. Delays beyond manufacturer lead times may result in price increases and/or applicable storage fees. Any buyer caused delay or buyer's failure to take timely delivery shall be subject to additional costs.

All quotations are contingent upon the buyer's acceptance of Core & Main's terms and cond

UNLESS OTHERWISE SPECIFIED HEREIN, PRICES QUOTED ARE VALID IF ACCEPTED BY CUSTOMER AND PRODUCTS ARE RELEASED BY CUSTOMER FOR MANUFACTURE WITHIN THIRTY (30) CALENDAR DAYS FROM THE DATE OF THIS QUOTATION. CORE & MAIN LP RESERVES THE RIGHT TO INCREASE PRICES TO ADDRESS FACTORS, INCLUDING BUT NOT LIMITED TO, GOVERNMENT REGULATIONS, TARIFFS, TRANSPORTATION, FUEL AND RAW MATERIAL COSTS. DELIVERY WILL COMMENCE BASED UPON MANUFACTURER LEAD TIMES. ANY MATERIAL DELIVERIES DELAYED BEYOND MANUFACTURER LEAD TIMES MAY BE SUBJECT TO PRICE INCREASES AND/OR APPLICABLE STORAGE FEES. THIS BID PROPOSAL IS CONTINGENT UPON BUYER'S ACCEPTANCE OF SELLER'S TERMS AND CONDITIONS OF SALE, AS MODIFIED FROM TIME TO TIME, WHICH CAN BE FOUND AT: <https://coreandmain.com/terms-of-sale/>

THIS BID MAY INCLUDE GLOBALLY SOURCED (IMPORTED) MATERIALS THAT ARE SUBJECT TO CHANGING TARIFFS. PRICES ARE SUBJECT TO CHANGE DUE TO POTENTIAL ADDITIONAL TARIFFS IMPOSED BY THE U.S. GOVERNMENT. IF IMPOSED, PRICES WILL INCREASE BY THE SAME PERCENTAGE AND WILL BE EFFECTIVE ON THE DATE THAT THE NEW TARIFFS ARE IMPLEMENTED. THESE ITEMS SHOULD BE PURCHASED WITH HASTE TO AVOID ANY ADDITIONAL RISING TARIFF COSTS.

ENGINEERING DEPARTMENT

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

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



Sussex County

DELAWARE
sussexcountype.gov

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

FROM: J. Mark Parker, P.E., Assistant County Engineer

RE: **Kings Highway from SR 1 to Freeman Highway, DelDOT State Contract T202512901 – Advanced Utility Relocation**
A. Christiana Excavating Co. – Project Closeout

DATE: July 14, 2026

On May 14, 2024, County Council awarded a five (5) year base contract for miscellaneous engineering services to Davis, Bowen & Friedel, Inc. (DBF) among others. In January of 2025 the Engineering Department requested Amendment 2 from DBF for the King's Highway Advanced Utility Relocation Project. The project entails routing a new 24-inch forcemain (+/- 8,000 feet) from PS-210 on Wescoats Road to the existing force main near the curve along Gills Neck Road (boundary of Governors and Senators subdivisions) as part of DelDOT's Advanced Utility Relocation process in support of the Kings Highway road widening project.

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

Section 143, Title 17, Delaware Code states that relocations caused by DelDOT's repair or expansion of a public highway, when the facilities are owned and/or operated by a **public utility**, must be included and funded through the underlying transportation project. The relocation of the forcemain must occur as one of the first construction phases due to the conflicts between it and the proposed drainage and other improvements associated with the road expansion project.

The northern initial phase of the DelDOT project would have included rerouting the sewer main around the proposed traffic roundabouts at Clay Road and Gills Neck Road under the Village Center project using their contractor. However, a reconnection to the existing County infrastructure on the north side of Gills Neck Road was determined to not be desirable.



Therefore, the Engineering Department recommended considering an extension to the bend of Gills Neck Road thereby eliminating two expensive jack & bore road crossings. Under the future second phase, new forcemain piping would be constructed off-road alignment from pump station 210 to the future roundabout at Clay Road and Kings Highway, thus eliminating all conflicts with the DelDOT road expansion project.

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

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

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

In June 2025, DelDOT completed the evaluation of the cultural resources for phase 1 project area with no positive findings. Therefore, County Council was able to approve the DelDOT Letter Agreement T202512901 – Kings Highway Sussex County Sewer Relocation, Phase I on June 17, 2025. However, DelDOT's cultural resources evaluation for phase 2 has been delayed due to the funding issues and is currently not expected to wrap up until mid-2026.

On July 31, 2025, the Engineering Department and DelDOT's Traffic Safety Section discussed the accommodation of pedestrian and bicycle traffic along Gills Neck Road during construction which had not been incorporated in the Christiana Excavating, Co.'s base award. As a result of these discussions, DBF developed a detour plan which was subsequently approved by DelDOT and priced out by Christiana Excavating. Based on the recommendation of the Engineering Department, on September 16, 2025 Council approved Change Order No. 1 in the amount of \$33,480.00 to cover the traffic control provisions associated with the approved detour plan.

Subsequently during construction activities, it was discovered that dewatering (i.e., well pointing) would be needed along a portion of the proposed sewer alignment due to the encountered groundwater conditions – well pointing was excluded from the original construction agreement approved on 4/29/25. At the request of the Engineering Department,

Christiana Excavating provided a proposal in the amount of \$69,375.00 to implement the required dewatering. The proposal assumed a period of two (2) months for dewatering and includes a monthly pump rental rate for an add or deduct cost if actual pumping is either longer or shorter than the assumed time period. On October 21, 2025, County Council concurred and approved Change Order No. 2, thereby increasing the contract amount by \$69,375.00.

As stated above, State funding delays affected the cultural resources evaluation significantly for phase 2 sewer relocation work. This will trigger a repricing of the work further delaying the tie-in of the main Pump Station 210. With only the local pump station serving the Governor's subdivision left on the new 24-inch forcemain, we had to make another interconnection with the existing 8-inch forcemain along Gills Neck Rd. At the request of the Engineering Department, Christiana Excavating provided a proposal in the amount of \$30,500.00 to implement the additional forcemain interconnection. County Council approved this work as Change Order No. 3 on December 9, 2025.

The sewer interconnection work with live wastewater requires a pumper truck for flow control. The base contract with Christiana Excavating included only one (1) day for the anticipated connection to the 24-inch forcemain, however it was recognized that the connections may extend into two days based on the volume to be drained. In addition, pumper trucks were needed for the temporary bypass and the additional tie-in to the 8-inch forcemain. Therefore, at the Department's request, Christiana Excavating provided a proposal in the *unit truck cost* of \$5,350.00 with an estimated unit count of three (3). County Council approved this work in the amount of \$16,050.00 as Change Order No. 4 on December 9, 2025.

Despite several weather-related work shutdowns, all sewer construction was completed including system testing and tie-ins through the early months of 2026. Due to the constrained work area along Gills Neck Road, unavoidable damage occurred to an existing 10' wide asphalt shared-use path that extends within the road right-of-way throughout the work limits. Based on an inspection performed by DelDOT, repairs were mandated along a fairly extensive section of the path resulting in an estimated 2,443 SY of asphalt to be reconstructed. At the Engineering Department's request, Christiana Excavating submitted a proposal to address the necessary repairs to the shared-use path. County Council approved this work in the amount of \$63,518.00 as Change Order No. 5 on June 2, 2026.

Since this time, all work related to the Christiana Excavating's Base Construction Contract and all approved Change Orders have been confirmed to be completed and all punch-list items required by DelDOT within their right-of-way have also been satisfactorily addressed. Therefore, the **Engineering Department recommends approval of Project Closeout and issuance of retainage monies in accordance with Contract provisions.**



Christiana Excavating Company
2016 Sunset Lake Road
Newark DE 19702
302-738-8660

License: 1989029588

Owner: Sussex County Engineering
Hans Medlarz
P.O. Box 589
Georgetown DE 19947

Job Location: Kings Hwy Force Main Relocation

Progress Billing

Application: 9

Period: 06/30/2026

Application For Payment On Contract

Original Contract.....	2,210,880.00
Net Change by Change Orders.....	212,923.00
Contract Sum to Date.....	2,423,803.00
Total Complete to Date.....	2,423,803.00
Total Retained.....	0.00
Total Earned Less Retained.....	2,423,803.00
Less Previous Billings.....	2,236,571.70
Current Payment Due.....	187,231.30
Balance on Contract.....	0.00

Contractor's Certification of Work

The undersigned contractor certifies that, to the best of the contractor's knowledge, the work on the above named job has been completed in accordance with the plans and specifications to the level of completion indicated on the attached schedule of completion.

Contractor: _____

Date: _____

6-30-26

Terms: Invoices are due and payable 30DY from the date of invoice. All overdue amounts will be charged a service charge of 0.0000% per annum. Please make checks payable to: Christiana Excavating Company

Thank you for your prompt payment.

PROGRESS BILLING

Application: 9

Period: 06/30/2026

Schedule of Work Completed

The amounts listed below are rounded to the nearest dollar.

Description of Work	Scheduled	Changes	Contract	Previous	Current Comp.	Stored Mat.	Total Comp.	%	Balance	Retained
Force Main	2,210,880		2,210,880	2,204,881	5,999		2,210,880	100.00		
Change Order #1		33,480	33,480	33,480			33,480	100.00		
Change Order #2		69,375	69,375	69,375			69,375	100.00		
Change Order #3		30,500	30,500	30,500			30,500	100.00		
Change Order #4		16,050	16,050	16,050			16,050	100.00		
Change Order #5		63,518	63,518		63,518		63,518	100.00		
Totals:	2,210,880	212,923	2,423,803	2,354,286	69,517		2,423,803	100.00		

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: **Enterprise Asset Management (EAM) Initiatives**
A. Standard Operating Procedures Development – JMT Amendment No. 7
B. EAM/Enterprise Solution Implementation – Arcadis Inc. Amendment No.'s 2 thru 4

DATE: July 14, 2026

As part of last year's budget program, the Engineering Department led an initiative for the development of a formalized Enterprise Asset Management (EAM) program that is designed to overhaul the way we schedule, track, and manage our infrastructure maintenance and operations. The primary focus in year 1 of our EAM Program was to initiate comprehensive data collection and assessment for a targeted portion of our linear utility assets including manholes, valves, sewer pipes, and pump stations. The effort included record plan and GIS inventory review as well as physical infrastructure inspections in the field. The ultimate goal is for all assets to be evaluated by both physical and performance attributes based on a matrix scoring system that is tied to *likelihood* and *consequence* of failure. This information will help the County better assess and manage asset performance and lifecycle in a more holistic manner, and in turn will lead to a more efficient capital and budget planning process related to system repairs and replacements.

Another component of the EAM Program performed last year was the ramping up of the development of Standard Operating Procedures (SOP's), which are geared to document how our Operations Staff inspect, clean, replace and repair the various components of our utility systems. This effort encompassed reviewing existing SOP's developed in past years and updating them based on industry standards as well as developing new SOP's for critical inspection functions. Staff training of developed SOP's also occurred where needed.

A separate initiative involving the implementation of a new Work Order Management System (WOMS) was also started last year, and on April 28, 2026 Council approved the purchase of a software system (*Trimble Unity Maintain*) which is targeted to serve as the platform for the



new WOMS. Ultimately the data collected from the field inspection and asset assessment efforts along with new and improved SOP's will be loaded into the WOMS, which will in turn lead to more efficient and transparent work orders assigned to inspect and/or repair our aging infrastructure. The WOMS structure was summarized in the 4/28/26 Council session and is a subset of the overall Enterprise Solution initiative that targets workflow and productivity improvements across a number of different County Departments. Activities related to implementation of the WOMS software will begin this month.

There are four (4) different EAM-related activity approvals being sought from Council today and are summarized in the table below. Two of the Subject Matter Expert Engineering Firms under our Miscellaneous Engineering Services contract will again be assisting the County with the various EAM initiatives in Fiscal Year 2027 and beyond.

EAM Initiative	Scope	Consultant	NTE Fee	Contract
SOP Development	Develop formal SOP's for O&M staff for various inspection, maintenance & repairs items. Includes field visits & staff training	JMT	\$291,950.00	Amendment #7
Asset Management Programming, Year 2 - data collection/assessment on utility linear assets	Data collection, field inspection, risk assessment, load prep for WOMS input for linear utility assets (pipes, MH's, valves, PS's)	Arcadis, Inc.	\$960,000.00	Amendment #2
Asset Management Programming, Year 1 - data collection/assessment at SCRWF Treatment Plant	Data collection, field inspection, risk assessment, load prep for WOMS input for Plant assets (pumps, valves, headworks, transformers, tanks, control, structures, etc)	Arcadis, Inc.	\$266,000.00	Amendment #3
WOMS Implementation ¹	Owner support for implementation process for software solutions to improve County business workflow (includes EAM, permitting & EPR)	Arcadis, Inc.	\$287,000.00	Amendment #4

¹ includes implementation efforts related to overall Enterprise Solution initiative

All proposed fees have been reviewed by the Engineering Department and have been found to be appropriate for the work involved. The EAM costs have been integrated into the approved FY27 budget and based on the summary above, the **Engineering Department in coordination with the Finance Department recommend approval of all Contract Amendments as presented.**

This is **EXHIBIT K**, consisting of **12** 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. 7

The Effective Date of this Amendment is: July 14, 2026

Background Data

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

Owner: **Sussex County**

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

Project: **Standard Operating Procedure Development, Year 2 Support Services**

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 6, 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>1,325,515.00</u>
This amendment amount:	\$ <u>291,950.00</u>
Adjusted Agreement amount:	\$ <u>1,617,465.00</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:

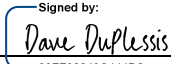
ENGINEER:

By: _____
Print
name: _____

Title: _____

Date Signed: _____

Johnson, Mirmiran & Thompson, Inc.

Signed by:
By: 
Print
name: David DuPlessis

Title: Senior Vice President

Date Signed: 7/8/2026 | 1:49:42 PM PDT

PREVIOUSLY APPROVED FORM

This is **EXHIBIT K**, consisting of 11 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. 2**

The Effective Date of this Amendment is: July 14, 2026

Background Data

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

Owner: Sussex County

Engineer: Arcadis, Inc.

Project: Asset Management Programming, Year 2 Data Collection/Assessment Support Services

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 March 2026 and selection and use of Exhibit C, Compensation Packet AS-1.

Agreement Summary:

Original Agreement Amount:	\$ 0
Net Change for prior amendments:	\$ 348,000.00
This amendment amount:	\$ 960,000.00
Adjusted Agreement amount:	\$1,308,000.00

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.

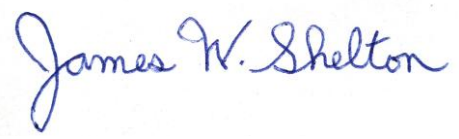
OWNER:

ENGINEER:

By: _____
Print
name: _____

Title: _____

Date Signed: _____

By: 
Print
name: James W. Shelton

Title: Vice President

Date Signed: July 7, 2026

This is **EXHIBIT K**, consisting of 11 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. 3**

The Effective Date of this Amendment is: July 14, 2026

Background Data

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

Owner: Sussex County

Engineer: Arcadis, Inc.

Project: Asset Management Programming, SCRWF Data Collection/Assessment Support Services

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

- X Additional Services to be performed by Engineer
- X Modifications to services of Engineer
- ~~Modifications to responsibilities of Owner~~
- X Modifications of payment to Engineer
- X 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 February 27, 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>1,308,000.00</u>
This amendment amount:	\$ <u>266,000.00</u>
Adjusted Agreement amount:	\$ <u>1,574,000.00</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.

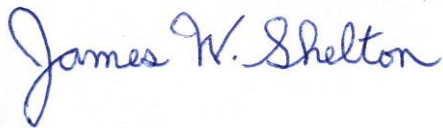
OWNER:

ENGINEER:

By: _____
Print
name: _____

Title: _____

Date Signed: _____

By: 
Print
name: _____

Title: Vice President

Date Signed: July 7, 2026

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. 4**

The Effective Date of this Amendment is: July 14, 2026

Background Data

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

Owner: Sussex County

Engineer: Arcadis, Inc.

Project: Enterprise Solution Implementation Owner's Agent Services

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 March 3, 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>1,574,000.00</u>
This amendment amount:	\$ <u>287,000.00</u>
Adjusted Agreement amount:	\$ <u>1,861,000.00</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.

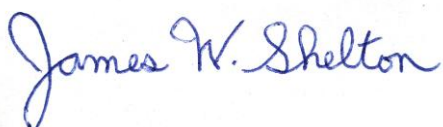
OWNER:

ENGINEER:

By: _____
Print
name: _____

Title: _____

Date Signed: _____

By: 
Print
name: _____

Title: Vice President

Date Signed: July 7, 2026

ENGINEERING DEPARTMENT

MIKE HARMER, P.E.
SUSSEX COUNTY ENGINEER

(302) 855-7370 T

(302) 854-5391 F

mike.harmer@sussexcountysde.gov



Sussex County

DELAWARE
sussexcountysde.gov

Memorandum

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

FROM: Mike Harmer, P.E., County Engineer
Paul B. Mauser, P.E., Assistant County Engineer

RE: Slaughter Beach Septic Elimination Project, S22-26
North Ellendale Sewer Diversion Project, S23-08
A. Recommendation of Award (Contracts C1A & C2A)

DATE: July 14, 2026

Project Background Information:

October 2016: The Engineering Department met with Slaughter Beach officials laying out a path forward to become part of the Sussex County Unified Sanitary Sewer District (SCUSSD) and in December of 2016, the Town passed a Resolution to have the County review the area for sewer service. The Engineering Department began an attempt to identify a suitable location for the treatment and disposal of flow from Slaughter Beach. First thoughts were to send flow to the City of Milford.

June 2021: The County Engineer presented an option to the Town Commissioners during a regularly scheduled meeting on a path toward joining the SCUSSD. It involved passing an ordinance requesting the County to form a district pursuant to Title 9 Del. Code § 6501, thus allowing the County Council to establish Slaughter Beach as an area of the SCUSSD under an initial boundary matching that of the municipal Town Boundary.

August 2021: Slaughter Beach Town Council voted 5-0 to approve an ordinance requesting Sussex County to form a sewer district for Slaughter Beach. The County received a copy of the Town of Slaughter Beach Ordinance No. 2021-05 authorizing Sussex County to provide sewer services within the municipal boundaries of the Town of Slaughter Beach. The Engineering Department made a presentation to County Council on September 21, 2021 acknowledging the receipt of the ordinance from the town and requesting Council to adopt a resolution creating the sanitary sewer district area. County Council voted in favor of passing Resolution R 023 21



establishing the Slaughter Beach Area of the SCUSSD consisting of the municipal limits of the Town of Slaughter Beach.

January 2022: The Engineering Department finalized the Preliminary Engineering Report (PER) and the Environmental Information Documents (EID) required for submittal of the funding application to Delaware State Revolving Fund (SRF). The referenced PER specifically identified vacuum sewer as the specific method of sewer collection. On February 21, 2022, the documents were combined with the overall funding application prepared by the Finance Department and filed with DNREC for a \$21,629,688.00 project. Prior to presenting to the Water Infrastructure Advisory Council (WIAC) for approval, the County was asked to update the cost estimate to show additional EDUs in the area, this brought the total to \$21,682,488.00.

October 1, 2022: The County received the Binding Commitment Letter (BCL) from DNREC Environmental Finance. October 3, 2022, the County Administrator accepted the Binding Commitment Offer and the obligating documents associated in the loan amount of \$21,682,488.00 containing \$9,450,000.00 of principal forgiveness. Upon project completion, up to \$9,450,000.00 of the principal balance will be forgiven (\$4,281,620.00 will be provided by CWSRF and the remaining \$5,168,380.00 will be from State Bond Bill Funds). The remaining balance of \$12,232,488.00 (approximately) will be amortized and will require semi-annual principal and interest payments in an amount sufficient to amortize the outstanding balance over the remaining term, not to exceed 30 years.

November 15, 2022: County Council approved the associated debt ordinance authorizing the issuance of up to \$21,682,488.00 of general obligation bonds of Sussex County in connection with the construction and equipping of the Slaughter Beach Area of the Unified Sanitary Sewer District. The flow from the Slaughter Beach District Area will be directed to the Artesian Wastewater Management Inc. facility on RT-30 for treatment and disposal under the Bulk Wastewater Services Agreement approved by Council on August 30, 2016.

December 6, 2022: County Council approved Amendment No. 7 of DBF's Engineering Base Contract providing survey and engineering services for the Slaughter Beach Sewer Extension & North Ellendale Sewer Diversion Projects in the aggregate amount of \$1,475,500.00, contingent on DNREC concurrence.

December 2022 through March 2026: DBF completed the necessary Design and Permitting work for this large-scale project. The S22-26 Slaughter Beach project is comprised of three (3) separate Contracts due to the unique aspects of each of the separate Scopes of Work. The three (3) Contracts are:

- Contract A: Construct Sewer Collection System in Slaughter Beach Corporate Limits.
- Contract B: Construct Sewer Vacuum Station / Pump Station.
- Contract C:
 - C1A: Construct 10 Miles of Sewer Force Main from Vacuum Station / Pump Station to intersection of Reynolds Pond Road & Isaacs Road (Route 30).
 - C2A: Construct 3.5 Miles of Sewer Force Main from existing Pump Station #91 in Ellendale to the Artesian Sussex Regional Reclamation Facility (SRRF).

June 23, 2026: The Engineering Department recommended Award of S22-26 Slaughter Beach Septic Elimination – Contract A to Atlantic Contracting & Material Co. Inc. (ACM) in the bid amount of \$6,466,158.00 and Award of S22-26 Slaughter Beach Septic Elimination – Contract B to Delmarva Veteran Builders (DVB) in the bid amount of \$2,614,990.00 and Council approved the Award of the referenced Contracts.

Proposed Sewer Force Main Conveyance Project & Public Bidding of Construction: DBF completed the design of Contracts C1A and C2A in April 2026 and worked with Sussex County Engineering to publicly bid the projects.

- Contract C1A (10 Miles of Sewer Force Main from Slaughter Beach Vacuum Station / Pump Station to intersection of Reynolds Pond Road & Isaacs Road (Route 30): Contract C1A was publicly advertised on April 20, 2026 with the Pre-Bid Meeting being held on April 22nd and the Public Bid Opening on June 17th, 2026. The Bid Opening was held in Sussex County Council Chambers and the results of the Contract C1A Bid Opening are noted below:

Contract C1A (Slaughter Beach Sewer Force Main) Bid Opening	
Bidder:	Total Base Bid:
Atlantic Contracting & Material Co. Inc.	\$5,152,051.00
A-Del Construction Co. Inc.	\$5,582,515.00
Kinsley Construction, LLC	\$5,615,893.97
Allan Myers	\$6,325,000.00
Teal Construction	\$6,340,340.00
DXI Construction	\$10,613,610.00

- Contract C2A (3.5 Miles of Sewer Force Main from existing Pump Station #91 in Ellendale to the Artesian Sussex Regional Reclamation Facility (SRRF): Contract C2A was publicly advertised on April 20, 2026 with the Pre-Bid Meeting being held on April 22nd and the Public Bid Opening on June 17th, 2026. The Bid Opening was held in Sussex County Council Chambers and the results of the Contract C2A Bid Opening are noted below:

Contract 2A (North Ellendale Sewer Force Main) Bid Opening	
Bidder:	Total Base Bid:
Allan Myers	\$4,250,000.00
Kinsley Construction, LLC	\$4,701,023.15
Teal Construction	\$5,420,420.00
Atlantic Contracting & Material Co. Inc.	\$5,422,375.00
Eastern States Construction Services	\$6,770,545.00
DXI Construction	\$9,471,790.00

*Contract Allowance of \$150,000.00 for Rehabilitation of PS #91 to be added to the Total Base Bid amounts noted above.

Contract C1A and Contract C2A were bid as separate Contracts due to the projects having separate funding arrangements as noted below:

- Contract C1A is funded through the DNREC Environmental Finance State Revolving Fund (SRF) in the amount of \$21,682,488.00 and is specifically for the Slaughter Beach Collection System (Contract A), the Slaughter Beach Vacuum Station / Pump Station (Contract B), and the 10 Miles of Sewer Force Main from the referenced Slaughter Beach Vacuum Station / Pump Station to the intersection of Reynolds Pond Road & Isaacs Road (Route 30). This funding arrangement is memorialized in a Binding Commitment Letter from DNREC, dated October 3, 2022.
- Contract C2A is also funded through the DNREC Environmental Finance State Revolving Fund (SRF). The amount of the funding is \$9,236,846.00 and is specifically for the 3.5 Miles of Sewer Force Main from existing Pump Station #91 in Ellendale to the Artesian Sussex Regional Reclamation Facility (SRRF). This funding also includes upgrades and improvements to the existing Pump Stations #91 and #92 in Ellendale. This funding arrangement is memorialized in a Binding Commitment Letter from DNREC, dated July 3, 2024.

Sussex County Engineering Recommendation for County Council: Sussex County Engineering recommends award of S22-26 Slaughter Beach Septic Elimination – Contract C1A to Atlantic Contracting & Material Co. Inc. (ACM) in the bid amount of \$5,152,051.00. Sussex County Engineering also recommends award of S23-08 North Ellendale Sewer Diversion – Contract C2A to Allan Myers in the bid amount of \$4,250,000.00 + \$150,000.00 (Contract Allowance for PS #91) for a total contract award amount of \$4,400,000.00.

ENGINEERING DEPARTMENT

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



Sussex County

DELAWARE
sussexcountype.gov
MIKE HARMER, P.E.
SUSSEX COUNTY ENGINEER

Proposed Cedar Creek Station Expansion of the Sussex County Unified Sanitary Sewer District (Ellendale Area)

PERMISSION TO POST FACT SHEET

- We are here to request permission to prepare and post notices for a public hearing for the Cedar Creek Station Expansion.
- The Engineering Department has received a request from A.H. Davenport, LLC on behalf of their client Apennine Development Company, LLC owners/developers of parcels 230-26.00-15.00
- The project is bordered by Route 113 on the east and Route 16 to the south.
- The parcels have been annexed into the Town of Ellendale and Sussex County provides the sanitary sewer service for the town.
- The parcels are located in the Tier 3 Area for sewer service and with annexation into the town Sussex County is the best option for service.
- The project will be responsible for System Connection Charges in place at the time of connection.
- The Engineering Department would like to request permission to prepare and post notices for a Public Hearing on annexation of the parcel into the SCUSSD.



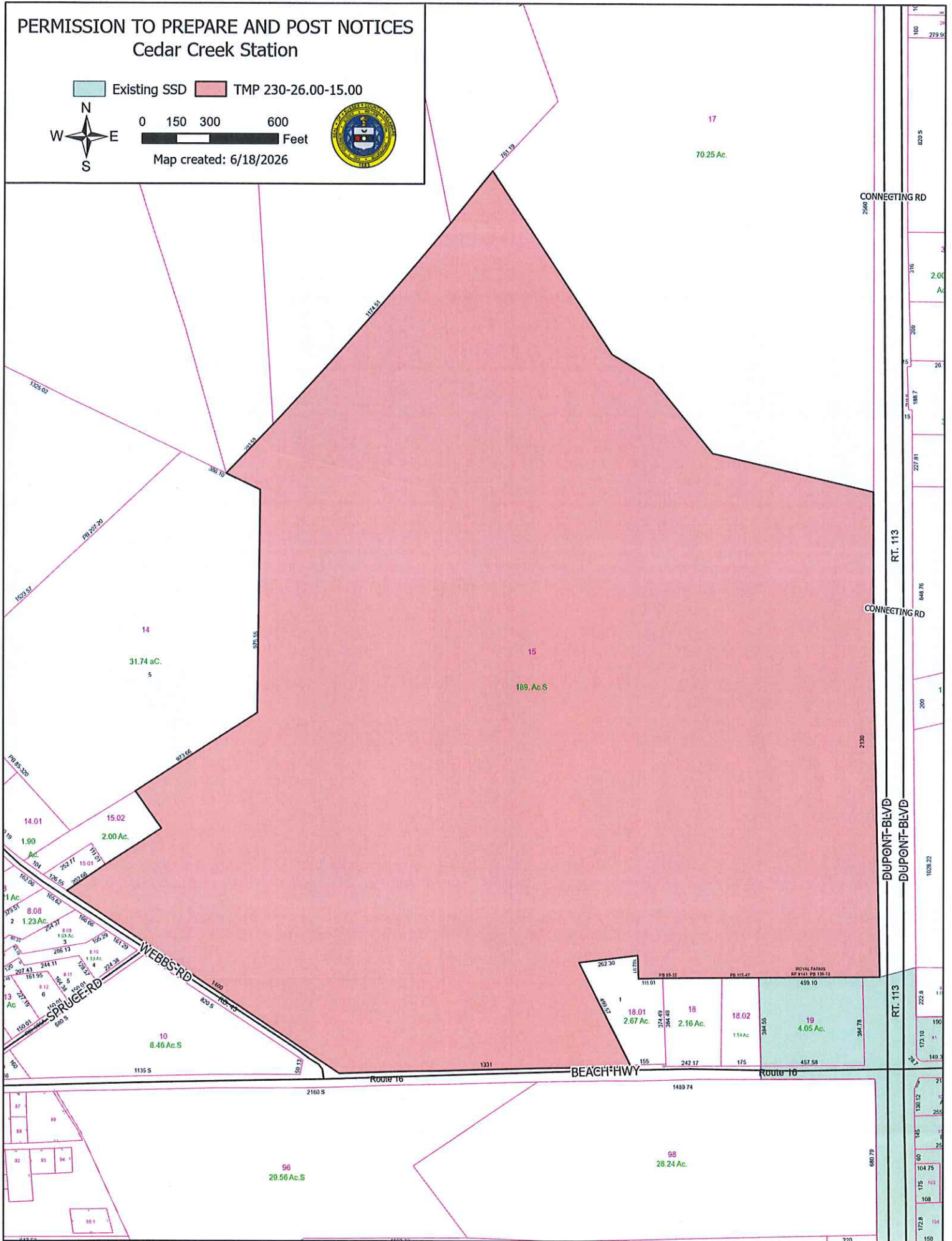
PERMISSION TO PREPARE AND POST NOTICES
Cedar Creek Station

Existing SSD TMP 230-26.00-15.00



0 150 300 600
Feet

Map created: 6/18/2026



ENGINEERING DEPARTMENT

JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING & DESIGN REVIEW

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



Sussex County

DELAWARE
sussexcountyde.gov

MIKE HARMER, P.E.
SUSSEX COUNTY ENGINEER

Proposed Belmead Farm, LLC Expansion of the Sussex County Unified Sanitary Sewer District

PERMISSION TO POST FACT SHEET

- We are here to request permission to prepare and post notices for a public hearing for the Belmead Farm, LLC Expansion of the Sussex County Unified Sanitary Sewer District (West Rehoboth Area).
- The Engineering Department has 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.
- Planning & Zoning recommended the project for approval in May of 2025 and County Council approved December of 2025.
- The project will be responsible for System Connection Charges in place at the time of connection.
- The Engineering Department would like to request permission to prepare and post notices for a Public Hearing on annexation of the parcel into the SCUSSD.





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 2026-06-09 15:29
To Morgan C. Stokes <morgan.stokes@sussexcountyde.gov>

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Council Grant Form

Legal Name of Agency/Organization	Bridgeville Police Department Town of Bridgeville on behalf of the Bridgeville Police Department
Project Name	BPD's Back to School Bash
Federal Tax ID	51-6000028
Non-Profit	Yes
Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	No
Organization's Mission	It is the duty of the Bridgeville Police Department to protect and assist the citizens of Bridgeville. The Police Department fulfills these duties by providing foot and vehicle patrols that help to eliminate crime and drugs. Mandatory law and equipment training program requirements keep officers up to date. These mandates help to ensure that the Town of Bridgeville has knowledgeable and dependable officers patrolling the streets.
Address	105 S. Main Street
City	Bridgeville

State	DE
Zip Code	19933
Contact Person	H. Burke Parker
Contact Title	Chief of Police
Contact Phone Number	3023378302
Contact Email Address	harvey.parker@cj.state.de.us
Total Funding Request	1,000.00
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?	Yes
If YES, approximately what percentage of the project's funding does the Council grant represent?	25
Program Category (choose all that apply)	Other
Program Category Other	Community Awareness

Primary Beneficiary Category	Youth
Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program	2000
Scope	Due to recent events in the country over the last few years, law enforcement is often viewed in a negative light. We strive to change the perspective of our community members, especially the youth of the community, and to overcome stereotypes. Our Community Policing Program works to create positive relationships and educate the community of necessary safety needs. The Bridgeville Police Department will be hosting a Back to School Bash on August 6th. Our goal is to provide free backpacks and school supplies to the youth in our community while allowing them to interact with officers in a more relaxed environment.
Religious Components	Not applicable.
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	450.00
Description	Operating Costs for Events (backpacks, school supplies, etc.)
Amount	5,000.00
TOTAL EXPENDITURES	5,000.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	-4,550.00

Name of Organization	Bridgeville Police Department
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Applicant/Authorized Official	H. Burke Parker
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Date	06/09/2026
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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
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If you feel this is not a valid submission please log into D3Forms to update this submissions status.
Please feel free to email clientservices@d3corp.com 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 Mon 2026-05-18 16:02

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

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Council Grant Form

Legal Name of Agency/Organization	The Downtown Seaford Association
Project Name	2026 Downtown Seaford Association Events
Federal Tax ID	41-3669327
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 Downtown Seaford Association is dedicated to strengthening and celebrating our community by supporting local businesses, fostering meaningful partnerships, and creating vibrant events that bring people together. In honor of America's 250th Anniversary, we are committed to uniting our communities in celebration of our nations' history, heritage, and shared spirit of patriotism.
Address	222 High Street
City	Seaford

State	DE
Zip Code	19973
Contact Person	Alice Adkins
Contact Title	President
Contact Phone Number	443-786-3968
Contact Email Address	downtownseafordassociation@gmail.com
Total Funding Request	3500.00
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?	2000.00
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?	25
Program Category (choose all that apply)	Educational Other
Program Category Other	Community Outreach

Primary Beneficiary Category	Youth
Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program	5000
Scope	The Downtown Seaford Association (DSA) sponsors not only the Christmas parade and Halloween Parade but also a Fall Harvest Festival in it's 3rd year to both bring people in to our downtown and for the entertainment of our citizens. We added another event this year to celebrate America's 250th Anniversary and to give some history. Adding this additional event to have downtown is making the cost rise considerably.
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	3,550.00
Description	Insurance
Amount	350.00
Description	Advertising
Amount	1,000.00
Description	Portable Toilets & Roll Totes
Amount	3,550.00
Description	Police Security
Amount	6,000.00

Description	Trophies
Amount	1,500.00
Description	Marching Bands
Amount	1,350.00
Description	Right Way Flagging
Amount	3,400.00
Description	Candy, prizes, gifts
Amount	1,500.00
TOTAL EXPENDITURES	18,650.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	-15,100.00
Name of Organization	The Downttown Seaford Association
Applicant/Authorized Official	Alice Adkins
Date	05/18/2026
Affidavit Acknowledgement	Yes

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Please feel free to email clientservices@d3corp.com with any questions.



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 2026-06-11 15:22
To Morgan C. Stokes <morgan.stokes@sussexcountyde.gov>

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Council Grant Form

Legal Name of Agency/Organization	Blades Volunteer Fire Company
Project Name	Blades Volunteer Fire Company Building Repairs
Federal Tax ID	51-1148671
Non-Profit	Yes
Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	No
Organization's Mission	Fire / Rescue / EMS Services
Address	200 E 5th Street
Address 2	Blades Volunteer Fire Company
City	Blades
State	DE
Zip Code	19973

Contact Person	Jason Hudson
Contact Title	President
Contact Phone Number	3025197464
Contact Email Address	jhudson@blades71.com
Total Funding Request	5,000.00
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)	Infrastructure
Primary Beneficiary Category	Other
Scope	Blades Volunteer Fire Company is requesting 5,000.00 to help offset the cost of large building repairs in amount of 600,000.00 in total. We are looking for ways to help offset the cost while working on fundraising and exploring options with State of Delaware for help.

Religious Components	n/a
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	0.00
Description	DOAS System Install by Statewide Mechanical
Amount	234,975.00
Description	Building Repairs Evans Construction
Amount	363,345.00
TOTAL EXPENDITURES	598,320.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	-598,320.00
Name of Organization	Blades Volunteer Fire Company
Applicant/Authorized Official	Jason Hudson
Date	06/11/2026
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

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Please feel free to email clientservices@d3corp.com with any questions.



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 2026-06-04 11:58
To Morgan C. Stokes <morgan.stokes@sussexcountyde.gov>

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Council Grant Form	
Legal Name of Agency/Organization	Delaware Botanic Gardens INC.
Project Name	2026 DBG Dinner Party Sponsorship
Federal Tax ID	32-0371538
Non-Profit	Yes
Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	No
Organization's Mission	To provide a world-class garden in Sussex County that delights visitors.
Address	P.O. Box 85
City	Dagsboro
State	Delaware
Zip Code	19939

Contact Person	Sheryl J. Swed
Contact Title	Executive Director
Contact Phone Number	202-262-9856
Contact Email Address	sherylswed@delawaregardens.org
Total Funding Request	\$5000
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?	4000
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?	3
Program Category (choose all that apply)	☐ Cultural ☐ Educational ☐ Other
Program Category Other	Conservation
Primary Beneficiary Category	Other

Beneficiary Category	All Sussex residents
Other	
Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program	30000
Scope	Creating a Garden that preserves and protects our native coastal plain, as well as providing a legacy to its character through community outreach and education, benefits southern Delaware both aesthetically and economically. Delaware Botanic Gardens provides a venue that supports ecotourism, and subsequently local town and county economics. DBG remains in need of funding not only for the beautiful habitat-specific plantings but also for funding for operations and infrastructure to support public visitors, particularly in our new four-season pavilion. Your sponsorship is essential for us to make further progress and become sustainable.
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	60,000.00
Description	Staff salaries for Horticulture and Grounds
Amount	5,000.00
TOTAL EXPENDITURES	5,000.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	55,000.00
Name of Organization	Delaware Botanic Gardens

Applicant/Authorized Official	Sheryl J. Swed
--------------------------------------	----------------

Date	06/04/2026
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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
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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
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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 Sat 2026-07-04 21:35

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

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Council Grant Form

Legal Name of Agency/Organization	Delaware State University Alumni Association Sussex County Chapter
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Project Name	Remembering Iconic Rosedale Beach
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Federal Tax ID	23-7009665
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Non-Profit	Yes
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Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	No
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Organization's Mission	DSUAA-SCC unites with the University through shared interests, common goals, and steadfast commitment to advancing the legacy of academic achievement, leadership and community service.
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Address	P. O. Box 108
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City	Millsboro
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State	Delaware
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Zip Code	49956 19966
Contact Person	Jerome Foster
Contact Title	Treasurer
Contact Phone Number	(302) 745-9380
Contact Email Address	Jfoster9380@gmail.com
Total Funding Request	\$6000.00 \$5,570.00 per email
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?	Yes
If YES, approximately what percentage of the project's funding does the Council grant represent?	60
Program Category (choose all that apply)	Cultural Educational
Primary Beneficiary Category	Low to Moderate Income

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

50

Scope

We are putting together a fundraising program featuring a live band, DJ, catered food, and education program to raise money to provide scholarships to students who live in Sussex County, Delaware and plan to attend Delaware State University. Sussex County is often underfunded when it come to resources allocated in the state of Delaware. Many of our students who seek financial assistance are from under resourced families and first generation college students. Our chapter seeks to provide a many scholarships as we can to help families with their child's post secondary education.

Religious Components

NA.

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

2,110.00

Description

Fire Hall

Amount

1,100.00

Description

Band

Amount

2,100.00

Description

DJ

Amount

350.00

Description

Catering/Approx - based on number of participants

Amount

3,500.00

Description	Gratuity for Caterer
Amount	630.00
TOTAL EXPENDITURES	7,680.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	-5,570.00
Name of Organization	Delaware State University Alumni Association Sussex County Chapter
Applicant/Authorized Official	Jerome Foster
Date	07/04/2026
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: 7/14/26

Council District 5: Mr. Rieley

Tax I.D. No.: 235-21.00-180.01

911 Address: 16423 Diamond Farm Road, Milton

ORDINANCE NO. ____

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

WHEREAS, on the 7TH Day of June 2024, a Conditional Use application, denominated Conditional Use No. 2536 was filed on behalf of John Whitby; 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. 2536 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 V, Subsections 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2536 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 Diamond Farm Road (SCR 257) and approximately 774.64 ft. north of Walker Road (SCR 260), and being more particularly described in the attached legal description prepared by Sergovic Carmean Weidman McCartney & Owens, P.A. said parcel containing 4.56 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: 7/14/26

Council District 4: Mr. Hudson

Tax I.D. No.: 533-18.00-12.00

911 Address: 33053 Lighthouse Road, Selbyville

ORDINANCE NO. ____

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

WHEREAS, on the 22nd day of October 2024, a Conditional Use application, denominated Conditional Use No. 2561, was filed on behalf of Frank Miranda; 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. 2561 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. 2561 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 Lighthouse Road (Rt. 54), approximately 0.22 mile west of Dickerson Road (S.C.R. 389) and being more particularly described in the attached legal description prepared by D. Stephen Parsons, P.A. said parcel containing 2.52 acres, more or less.

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

To Be Introduced: 7/14/26

Council District 4: Mr. Hudson

Tax I.D. Nos.: 134-19.00-108.00, 110.04, 110.05 & 110.00 (P/O) and 134-21.00-3.00 & 4.00 (P/O)

911 Address: 35987 & 36159 Old Mill Bridge Road, 35379 Bayard Road, 35400 Lantern Lane,
Frankford

ORDINANCE NO. ____

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

WHEREAS, on the 8th day of November 2024, a Zoning application, denominated Change of Zone No. 2042 was filed on behalf of NVR; 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 Change of Zone No. 2042 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 has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County,

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

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

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Sussex County, Delaware, and lying on the north side of Old Mill Bridge Road (S.C.R. 381), the south and east sides of Bayard Road (Route 54/S.C.R. 384), and the south side of Lantern Lane, approximately 0.19-mile south of the intersection of Bayard Road (Route 54/S.C.R. 384) and Double Bridges Road (Route 54/S.C.R. 363), and being more particularly described in the attached legal description prepared by Morris James, said parcels containing 57.10 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 9, 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 Requirement.

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 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.

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 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 good 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 ORD 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

ORDINANCE NO. ____

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”.

WHEREAS, Pursuant to the provisions of Title 9, Chapters 68 and 69 of the Delaware Code, the Sussex County Government has the power and authority to regulate the use of land; and

WHEREAS, Pursuant to Chapters 99 and 115 of the Code of Sussex County, the Sussex County Government has undertaken to regulate the use of land; and

WHEREAS, The Sussex County Comprehensive Land Use Plan includes a Future Land Use Map that designates portions of the County as being within a “Rural Area” and portions of the County being within a “Growth Area”; and

WHEREAS, the 2019 Sussex County Comprehensive Plan contemplates the review and improvement of the protection forested areas in Sussex County; and

WHEREAS, Goal 5.1 of the Conservation Element of the 2019 Sussex County Comprehensive Plan states that Sussex County should “Encourage development practices and regulations that support natural resource protection” and this Ordinance carries out that Goal; and

WHEREAS, Sussex County Council commissioned a Land Use Reform Working Group that developed multiple recommendations for 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

58 and certified by a licensed landscape architect, certified arborist, or licensed forester or a forester
59 designated by the Society of American Foresters as a "certified forester."]

60

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

67

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

69

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

71

72

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

76

77 **§ 99-21.A Perimeter buffers.**

78 A. Perimeter buffer general standards.

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

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

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

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

99 (5) The Perimeter Buffer shall be marked with permanent, in-ground signage located at 100-
100 foot intervals along the edge of the Perimeter Buffer to confirm the existence and non-
101 disturbance of the Perimeter Buffer. This signage shall be at least five inches by seven inches in
102 size and shall identify the existence of the Perimeter Buffer, the fact that it is a non-disturbance
103 Area and a reference to penalties and/or remediation required if unauthorized disturbance occurs.

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

107 (1) Any major subdivision or residential planned community where [Woodlands] Forest exist
108 at the time of application shall require a [Forest Assessment Report] Forest Stand Delineation.
109 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]** Forest or planted) have been damaged or removed (unless such damage or removal is the result of Act of God or natural causes and are therefore subject to the Perimeter Buffer Maintenance Requirements), tree mitigation must occur as follows:

(a) A mitigation plan 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."

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

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

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

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

H. Violations and penalties.

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

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

(b) A tree mitigation plan in accordance with the requirements of this Section shall be approved by the Planning and Zoning Commission.

(2) Where the developer is the party who has violated the provisions of this Section, no building or zoning permits shall be issued nor shall any inspections occur within the phase where

the violation occurred (including, but not limited to building code and utility inspections) until the tree mitigation plan is complete and approved by the Commission.

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

§99-26 Information To Be Shown.

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

. . .

(23) 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.

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

§ 115-4 Definitions and word usage.

. . .

B. General definitions. For the purpose of this chapter, certain terms 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 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 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 plan 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.

FOREST COVER – The area of a site meeting the definition of 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.
- (2) If no part of the Forest will be impacted or disturbed by development on the site (i.e., outside of the limits of disturbance on the developed site) and the Forest will be preserved as open space in perpetuity, then a Forest Stand Delineation will not be required.

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

C. Mitigation of Forest Removal

- (1) In the event an application proposes removal of Forest in excess of the amounts permitted under § 115-194.8B, the application shall require mitigation in the form of new Forest creation as follows:
- (a) A mitigation plan 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.” The mitigation plan shall include the following information and shall also comply with the requirements of subparagraph (d) below:

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

- a. The gross Forest area on the entire property prior to an application for development being filed with the Department.
- b. The area of Forest to be protected and preserved on the entire property.
- c. The area of Forest that the applicant proposes to remove.

ii. A site plan with clear graphic indication of the 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.

(3) The developer shall post a bond or other guarantee for any mitigation area in an amount sufficient to install the plantings in the mitigation area(s) in a form acceptable to the County Attorney. The amount of such bond shall be 125% of the cost of the installation of all plantings in the mitigation area or \$50,000, whichever is greater. The mitigation areas shown on the mitigation plan 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.

E. Violation and Penalties

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

(2) Where the developer or their agents or contractors are the party who has violated the provisions of this Section, no building or zoning permits shall be issued nor shall any development-related inspections occur (including, but not limited to, Building Code 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:

(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:

(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:

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

591

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

594

595 **Section 8. Effective Date.**

596 This Ordinance shall take effect upon six (6) months from the date of adoption by Sussex County
597 Council. Provided however, that it shall not apply to any completed applications on file with the
598 Sussex County Office of Planning & Zoning.
599