

## 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

August 25, 2026

10:00 AM

#### Call to Order

#### Approval of Agenda

#### Approval of Minutes - August 11, 2026

[Draft Minutes 081126](#)

#### Reading of Correspondence

#### Public Comments

#### Todd Lawson, County Administrator

1. Recognition of Retiree – Lars T. Granholm
2. Administrator's Report

#### Jamie Whitehouse, Planning & Zoning Director

1. 2022-18 Wilhaven (F.K.A. Wil King Station) – request for an extension  
[2022-18 Wilhaven request for extension](#)

#### Bob Bryant, Airport Manager

1. Construct Parallel Taxiway B – Bid Package 2, Project A24-16

#### A. Approval of Change Order Nos. 1, 2, & 3

[Taxiway B CO No. 1, 2, 3](#)



## Old Business

1. [Conditional Use No. 2480 filed on behalf of DJ Tire Center, LLC](#)

**“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO TIRE CENTER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 1.0 ACRE, MORE OR LESS” (property is lying on the east side of Downs Road [S.C.R. 243], approximately 0.45 mile northeast of Wilson Road [S.C.R. 244]) (911 Address: 18651 Downs Road, Georgetown) (Tax Map Parcel: 135-9.00-280.00)**

[Old Business CU 2480](#)

2. [Conditional Use No. 2424 filed on behalf of Oceans Six](#)

**“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (6 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 0.61 ACRES, MORE OR LESS” (property is lying on the east side of Coastal Highway [Route 1], approximately 278 feet north of Jefferson Bridge Rd [S.C.R. 361-A]) (911 Address: N/A) (Tax Map Parcel: 134-17.07-190.00)**

[Old Business CU 2424](#)

3. [Ordinance No. 26-05](#)

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

[Old Business Ord 26-05](#)

## Grant Requests

1. **Historical Georgetown Association for Security Camera Installation for the Train Museum & First Fire House**

[Historic Georgetown Association](#)

2. **Ocean Waves Quilt Guild for their Ocean of Quilts program**

[Ocean Waves Quilt Guild](#)

3. **American Cancer Society for their Relay for Life event**

[American Cancer Society Inc.](#)

## Introduction of Proposed Zoning Ordinances

[Ord Intros CU2597 CU2601 CU2616 CU2639 CU2652](#)

## Council Members' Comments

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

## Possible action on Executive Session Items

### 1:30 p.m. Public Hearing

1. [Conditional Use No. 2485 filed on behalf of Christopher Hanyok](#)

**“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FENCE INSTALLATION BUSINESS WITH OUTSIDE STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 5.00 ACRES, MORE OR LESS” (property is and lying on the east side of Rust Road [S.C.R. 292A], approximately 0.27 mile south of Harbeson Road [Rt. 5]) (911 Address: 20601 Rust Road, Harbeson) (Tax Map Parcel: 234-4.00-10.32)**

[Public Hearing CU 2485](#)

### Adjourn

**-MEETING DETAILS-**

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on August 18, 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://sussexcountysde.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://sussexcountysde.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@sussexcountysde.gov](mailto:councilpackets@sussexcountysde.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, AUGUST 11, 2026**

**A regularly scheduled meeting of the Sussex County Council was held on Tuesday, August 11, 2026, at 10:00 a.m., in Council Chambers, with the following present:**

|                          |                             |
|--------------------------|-----------------------------|
| <b>Douglas B. Hudson</b> | <b>President</b>            |
| <b>John L. Rieley</b>    | <b>Vice President</b>       |
| <b>Jane Gruenebaum</b>   | <b>Councilwoman</b>         |
| <b>Matt Lloyd</b>        | <b>Councilman</b>           |
| <b>Steve C. McCarron</b> | <b>Councilman</b>           |
| <b>Todd F. Lawson</b>    | <b>County Administrator</b> |
| <b>Gina Jennings</b>     | <b>Finance Director</b>     |
| <b>Ryan Adams</b>        | <b>Attorney</b>             |

|                                |                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|--------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Call to Order</b>           | <b>The Invocation and Pledge of Allegiance were led by Mr. Hudson.</b><br><b>Mr. Hudson called the meeting to order.</b>                                                                                                                                                                                                                                                                                                             |
| <b>M 356 26 Approve Agenda</b> | <b>Mr. Lawson reported that under 1:30 p.m. Public Hearings Change of Zone No. 2061 filed on behalf of Sandie, LLC has requested to postpone their Public Hearing to a later date. A Motion was made by Mr. Rieley, seconded by Mr. Lloyd, to approve the Agenda.</b><br><br><b>Motion Adopted: 5 Yeas</b><br><br><b>Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Yea; Mr. Hudson, Yea</b> |
| <b>Minutes</b>                 | <b>The minutes from July 28, 2026, were approved by consensus.</b>                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Corre-Spondence</b>         | <b>Mr. Adams reported that correspondence was received from Downtown Milford, Inc., Joshua M. Freeman Foundation and Children's Beach House thanking Council for their support.</b>                                                                                                                                                                                                                                                  |
| <b>Public Comments</b>         | <b>Public comments were heard.</b><br><b>Ms. Alison White spoke about the proposed forest preservation Ordinance.</b><br><b>Mr. Steve Sinclair spoke about the proposed forest preservation Ordinance.</b><br><b>Mr. Joe Pika spoke about Senate Bill 23 and the proposed forest preservation Ordinance.</b><br><b>Ms. Wendy Taylor spoke about the proposed forest preservation Ordinance and Senate Bill 23.</b>                   |

**Public  
Comments  
(continued)**

**Mr. Johannes Sayre spoke about the proposed forest preservation Ordinance**

**Ms. Judy Rose Siebert spoke about the proposed forest preservation Ordinance.**

**Mr. Jack Young spoke about the proposed forest preservation Ordinance.**

**M 357 26  
Approve  
Consent  
Agenda**

**A Motion was made by Mr. Lloyd, seconded by Mr. McCarron to approve the following items under the Consent Agenda:**

**Use of Existing Wastewater Infrastructure Agreement, IUA 817-2  
Cypress Landing, Blades Area**

**Use of Existing Wastewater Infrastructure Agreement, IUA 999-1  
Glen Cove, Millville Area**

**Motion Adopted: 5 Yeas**

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

**Adminis-  
trator's  
Report**

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

**1. Projects Receiving Substantial Completion**

**Per the attached Engineering Department Fact Sheets, Newdale Acres – Phase 2 (Construction Record) and Scenic Harbor (FKA Estates at Mulberry Knoll & Scenic Manor) – Phase 6 (Construction Record) received Substantial Completion effective July 13<sup>th</sup>.**

**2. Delaware State Police Activity Report**

**The Delaware State Police year-to-date activity report for July 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 194 troopers assigned to Sussex County for the month of July.**

**3. Council Meeting Schedule**

**A reminder that Council will not meet on Tuesday, August 18<sup>th</sup>. The next regularly scheduled Council meeting will be held on Tuesday, August 25<sup>th</sup>.**

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

**Proposed Ordinance/  
Bethany Forest  
Septic Elimination**

**Paul Mauser, Assistant County Engineer presented an Ordinance entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$7,197,174 OF A GENERAL OBLIGATION BOND OF SUSSEX COUNTY IN CONNECTION WITH THE BETHANY FOREST SEPTIC ELIMINATION PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH" for Council's consideration.**

**Ordinance Introduction**

**Mr. Lloyd introduced an Ordinance entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$7,197,174 OF A GENERAL OBLIGATION BOND OF SUSSEX COUNTY IN CONNECTION WITH THE BETHANY FOREST SEPTIC ELIMINATION PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH".**

**Old Business/  
CU2631**

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

**The County Council held a Public Hearing on the application at the meeting on July 28, 2026. At the conclusion of the public hearing, the Council closed the Public Record and deferred action on the application for further consideration.**

**The gavel was given to Mr. Rieley.**

**M 358 26  
Amend  
Condition D/**

**A Motion was made by Mr. Hudson, seconded by Mr. Lloyd to amend Condition D to read as follows "The property shall not be used by a business for retail, manufacturing, or industrial purposes, and the unit shall not be primarily used as an office. An accessory office within each unit is**

**CU2631** permitted and shall be limited to a single workstation. In addition, the property may not be used by a business for meeting customers, as a showroom, or as a “mail-drop” or pick-up or delivery location for customers”.

**Motion Adopted: 5 Yeas**

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

**M 359 26** A Motion was made by Mr. Hudson, seconded by Mr. Lloyd to Adopt  
**Adopt** Ordinance No. 4079 entitled “AN ORDINANCE TO GRANT A  
**Ordinance** CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL  
**No. 4079/** RESIDENTIAL DISTRICT FOR STORAGE/WAREHOUSE/OFFICE  
**CU2631** BUILDINGS AND A CAR WASH (TO AMEND CONDITION “D” AND  
CONDITION “N” OF THE CONDITIONS OF APPROVAL FOR  
CONDITIONAL USE NO. 2581 (ORDINANCE NO. 4009) TO ALLOW  
FOR OFFICE SPACES WITHIN THE WAREHOUSE UNITS AND TO  
REMOVE THE REQUIREMENT THAT AN ON-SITE MANAGEMENT  
OFFICE BE ESTABLISHED FOR THE MAINTENANCE AND  
OPERATION OF THE WAREHOUSE UNITS TO BE LOCATED ON A  
CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX  
COUNTY, CONTAINING 29.55 ACRES, MORE OR LESS” amending  
Condition N as recommended by the Planning & Zoning Commission and  
amending Condition D as amended by this Council.

**Motion Adopted: 5 Yeas**

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

**Old** Under Old Business, Mr. Whitehouse presented a Proposed Ordinance  
**Business/** entitled “AN ORDINANCE TO AMEND CHAPTER 99, ARTICLE I, III  
**Ord No. 26-** AND V §99-5 “DEFINITIONS”, §99-21A “PERIMETER BUFFERS” AND  
**05/Forest** §99-26 “INFORMATION TO BE SHOWN” AND CHAPTER 115,  
**Preservation** 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”.

On July 14, 2026, the County Council held a Public Hearing on the Ordinance. At the conclusion of the public hearing, the Council closed the Public Record and deferred action on the Ordinance for further consideration. At the meeting of July 28, 2026, the Council discussed the Ordinance.

|                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>OB/<br/>Forest<br/>Preservation</b>                                             | <b>Mr. Lawson presented proposed amendments for the proposed Ordinance based on the feedback received. The Council Members further discussed the proposed amendments.</b>                                                                                                                                                                                                                                                                             |
| <b>Grant<br/>Requests</b>                                                          | <b>Mrs. Jennings presented grant requests for Council's consideration.</b>                                                                                                                                                                                                                                                                                                                                                                            |
| <b>M 360 26<br/>New<br/>Coverdale<br/>Outreach<br/>Mission, Inc.</b>               | <b>A Motion was made by Mr. McCarron, seconded by Mr. Lloyd to give \$1,500 (\$1,500 from Mr. McCarron's Councilmanic Grant Account) to New Coverdale Outreach Mission, Inc. for community education support.</b><br><br><b>Motion Adopted: 5 Yeas</b><br><br><b>Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;<br/>Mr. Lloyd, Yea; Mr. Rieley, Yea;<br/>Mr. Hudson, Yea</b>                                                              |
| <b>M 361 26<br/>Lewes Base<br/>Ball Club</b>                                       | <b>A Motion was made by Ms. Gruenebaum, seconded by Mr. McCarron to give \$1,000 (\$1,000 from Ms. Gruenebaum's Councilmanic Grant Account) to Lewes Base Ball Club for their historical base ball clubs national championship tournament.</b><br><br><b>Motion Adopted: 5 Yeas</b><br><br><b>Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;<br/>Mr. Lloyd, Yea; Mr. Rieley, Yea;<br/>Mr. Hudson, Yea</b>                                 |
| <b>M 362 26<br/>Kim and<br/>Evans<br/>Family<br/>Foundation,<br/>Inc.</b>          | <b>A Motion was made by Mr. Lloyd, seconded by Mr. Rieley to give \$1,000 (\$750 from Mr. Lloyd's Councilmanic Grant Account and \$250 from Mr. Rieley's Councilmanic Grant Account) to Kim and Evans family foundation, inc. for their kickz for kids event.</b><br><br><b>Motion Adopted: 5 Yeas</b><br><br><b>Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;<br/>Mr. Lloyd, Yea; Mr. Rieley, Yea;<br/>Mr. Hudson, Yea</b>              |
| <b>M 363 26<br/>Friends of<br/>Prime Hook<br/>National<br/>Wildlife<br/>Refuge</b> | <b>A Motion was made by Ms. Gruenebaum, seconded by Mr. McCarron to give \$1,500 (\$1,000 from Ms. Gruenebaum's Councilmanic Grant Account and \$500 from Mr. McCarron's Councilmanic Grant Account) to Friends of Prime Hook National Wildlife Refuge for educational equipment improvements.</b><br><br><b>Motion Adopted: 5 Yeas</b><br><br><b>Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;<br/>Mr. Lloyd, Yea; Mr. Rieley, Yea;</b> |

**Mr. Hudson, Yea**

**M 364 26**  
**Eastern**  
**Shore**  
**AFRAM**  
**Festival**

**A Motion was made by Mr. Lloyd, seconded by Mr. McCarron to give \$1,000 (\$750 from Mr. Lloyd's Councilmanic Grant Account and \$250 from Mr. McCarron's Councilmanic Grant Account) to Eastern Shore AFRAM festival for their annual festival.**

**Motion Adopted: 5 Yeas**

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

**M 365 26**  
**Delaware**  
**Fraternal**  
**Order of**  
**Police**

**A Motion was made by Mr. Hudson, seconded by Mr. Rieley to give \$2,500 (\$1,500 from Mr. Hudson's Councilmanic Grant Account and \$1,000 from Mr. Rieley's Councilmanic Grant Account) to Delaware Fraternal Order of Police for their golf tournament.**

**Motion Adopted: 5 Yeas**

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

**M 366 26**  
**Seaford**  
**Tomorrow,**  
**Inc.**

**A Motion was made by Mr. Lloyd, seconded by Mr. Rieley to give \$3,000 (\$3,000 from Mr. Lloyd's Councilmanic Grant Account) to Seaford Tomorrow, Inc. for their Friday Night Live event.**

**Motion Adopted: 5 Yeas**

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

**Introduction**  
**of Proposed**  
**Zoning**  
**Ordinances**

**Mr. Hudson introduced a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM-DENSITY RESIDENTIAL DISTRICT FOR MUTLI-FAMILY DWELLINGS (54 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 12.8 ACRES, MORE OR LESS" filed on behalf of Foxlane Homes Delaware, LLC.**

**Ms. Gruenebaum introduced a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR INDOOR STORAGE UNITS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 0.22 ACRES, MORE OR LESS" filed on behalf of Andrew Scrutchfield.**

|                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|---------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Introduction of Proposed Zoning Ordinances (continued)</b> | <p><b>Mr. Rieley introduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A C-1 GENERAL COMMERCIAL DISTRICT TO A LI-2 LIGHT INDUSTRIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 42.54 ACRES, MORE OR LESS” filed on behalf of Millsboro Towne Village, LLC.</b></p> <p><b>Mr. Rieley introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR LANDSCAPE BUSINESS WITH EMPLOYEE PARKING AND EQUIPMENT STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 1.16 ACRES, MORE OR LESS” filed on behalf of Total Package Landscaping, Inc.</b></p> <p><b>Mr. Rieley introduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP ELEMENT OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 135-11.00-31.00, 135-16.00-17.00 AND 135-16.00-70.00”.</b></p> |
| <b>Council Member Comments</b>                                | <p><b>Mr. McCarron commented on the number of solar applications that have come before the Council recently.</b></p> <p><b>Mr. Rieley commented about solar applications that have recently come before the Council.</b></p> <p><b>Mr. Lloyd commented about the need for power and solar applications.</b></p> <p><b>Ms. Gruenebaum commented about traffic and DelDOT figures.</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>M 367 26 Go Into Executive Session</b>                     | <p><b>At 11:46 a.m., a Motion was made by Mr. Lloyd, seconded by Mr. McCarron to go into Executive Session for the purpose of discussing matters related to land acquisition and personnel.</b></p> <p><b>Motion Adopted: 5 Yeas</b></p> <p><b>Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Yea; Mr. Hudson, Yea</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Executive Session</b>                                      | <p><b>An Executive Session was held in the Basement Caucus Room to discuss matters relating to land acquisition and personnel. The Executive Session ended at 1:24 p.m.</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>M 368 26 Reconvene</b>                                     | <p><b>At 1:30 p.m., a Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum to come out of Executive Session and back into Regular Session.</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

**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.**

**Rules Mr. Adams read the rules of procedure for public hearings.**

**Public Hearing/  
CU2465** A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BORROW PIT AND SAND PLANT SITE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 107.517 ACRES, MORE OR LESS” (property is lying on the southwest side of Hunters Cove Road [S.C.R. 602], approximately 0.43 mile southeast of Owens Road [S.C.R. 611]) (911 Address: N/A) (Tax Map Parcel: 430-9.00-21.01) filed on behalf of Sussex Materials, LLC.

**Jamie Whitehouse, Planning & Zoning Director presented the Proposed Ordinance.**

**The Planning & Zoning Commission held a Public Hearing on the application on July 22, 2026. On August 5, 2026, the Commission recommended approval of the application for the 9 reasons of approval and subject to the 18 recommended conditions as outlined.**

**The Council found that Ms. Mackenzie Sindelar, Esq. with Fox Rothschild, LLP spoke on behalf of the Applicant, Sussex Materials, LLC; that also present on behalf of the Applicant were Mr. RJ Andrews, Mr. Kenny Webb, Mr. Jamie Sechler, Project Engineer with David Bowen & Friedel, Inc. Ms. Sindelar stated that the Application was approve during the August 5, 2026 meeting by a vote of 4-0; that the applicant has reviewed and agrees with all of the conditions set forth by the Commission; that the advertised acreage was 107 acres and it is now approximately 103.25 acres; that this is a result of a subdivision from the larger tract while this application was pending; that the applicant requests approval of the application as recommended by the Commission.**

**There were no public comments.**

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

**M 369 26  
Adopt  
Ordinance  
No. 4080/** A Motion was made by Mr. McCarron, seconded by Mr. Rieley to Adopt Ordinance No. 4080 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BORROW PIT AND SAND PLANT



**CU2465**

**SITE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 107.517 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows:**

- 1. This application is for a 6.9-acre sand plant, and a 31.7 acre borrow pit operation within a 103.25-acre site.**
- 2. The property currently consists of scattered agricultural fields and woodlands that exhibit signs of prior logging operations.**
- 3. A need exists in the area for dirt, sand and gravel, and existing borrow pit sources are becoming depleted. The material removed from this site will be used throughout the County for a variety of residential and commercial uses and road construction.**
- 4. The Applicant will provide dust control to keep the area roadways free of dirt and dust from trucks leaving the site.**
- 5. The Application complies with the requirements of Section 115-172(B) of the Zoning Code as follows:**
  - a. No material will be brought from off the site for processing, mixing, or similar purposes.**
  - b. The excavating and extraction operations will be managed to provide reasonable protection to surrounding properties and neighborhoods, particularly concerning odors, dust, air or water pollution, and the use of roads providing access to the site.**
  - c. The location of the excavation and extraction will be controlled concerning depth water table, flood criteria, and slope to prevent an unsightly, hazardous, or wasteful condition of the land. Specifically, the proposed pit is:**
    - (i) greater than 100 feet from all property lines;**
    - (ii) surrounded by woodlands, agricultural uses, and a limited number of residential homes;**
    - (iii) the proposed pit will have a 3:1 side slope down to a 10-foot level bench that will be approximately near or one foot below the static water surface;**
    - (iv) only trees within the area of the proposed pit and sand plant will be disturbed, with the other existing trees remaining as they are on the property; and**
    - (v) regulated, non-tidal wetlands will not be disturbed and there will be a 50-foot buffer from those wetlands.**
  - d. The borrow pit will be surrounded by a landscaped unexcavated buffer strip of open space, maintaining a minimum distance of 100 feet from any street lines and 50 feet from all other property lines. The proposed landscaped buffer exceeds Code requirements, proposing a minimum buffer of 250 feet from the property identified as Parcel No. 430-9.00-23.00; a minimum 300 feet buffer from Parcel No. 430-12.00- 13.00 and the centerline of the “Owens East Nanticoke Tax Ditch”; and a varying width buffer of 550 feet to 1,000 feet from Hunters Cove Road.**
  - e. The borrow pit will be located at least 200 feet from any dwelling**

**M 369 26  
Adopt  
Ordinance  
No. 4080/  
CU2465  
(continued)**

- on property of other ownership.
6. The project, with the conditions and stipulations placed upon it, will not have an adverse impact on traffic or the neighboring properties.
  7. As a source of fill dirt and aggregate available to the entire County, the project is essential and desirable for the general convenience, safety and welfare of the current and future residents of the County.
  8. The use is subject to approvals from State Agencies including DelDOT and DNREC.
  9. No parties appeared in opposition to this Application and there were several letters submitted in support of the Application.
  10. This recommendation for approval is subject to the following conditions and stipulations:
    - a. The borrow pit shall not exceed 31.7 acres and the sand plant shall not exceed 6.9 acres. The Conditional Use area shall be limited to approximately 48.25 acres of the larger 103.25-acre tract.
    - b. The conditional use shall comply with all of the requirements of Section 115-172B of the Sussex County Zoning Code regarding borrow pits.
    - c. No materials shall be brought from off the site for processing, mixing or similar purposes.
    - d. Water or a water truck shall be available to control dust from road traffic when conditions require.
    - e. There shall be a single entrance to the pit via Hunters Cove Road. The entrance shall be gated to prevent unauthorized access, and the gate shall be located far enough away from the edge of Hunters Cove Road to allow trucks and other vehicles to pull entirely off of the road when the gate is locked. In addition, the entrance road shall be sufficiently sized to allow two trucks to safely pass each other. The dimensions of this road and the location of the gate shall be shown on the Final Site Plan.
    - f. Any roadway and entrance improvements required by DelDOT shall be completed by the Applicant.
    - g. Borrow pit operations shall only be between 6:00 a.m. to 6:00 p.m. Monday through Friday and 6:00 a.m. to 2:00 p.m. on Saturdays. No Sunday hours shall be permitted.
    - h. No materials shall be stored on any access roads or within any buffer area.
    - i. Any fuel stored on-site shall be subject to all applicable State and Federal legal requirements.
    - j. No stumps, branches, debris or similar items shall be buried or placed on the site of the borrow pit.
    - k. Any safety lights shall be downward screened so that they do not shine on neighboring properties or roadways.
    - l. The proposed pit will have a 3:1 side slope down to a 10-foot level bench that will be approximately near or one foot below the static water surface.
    - m. Permanent concrete markers or signs shall be placed at appropriate locations to designate the boundaries of the subject

**M 369 26  
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Ordinance  
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(continued)**

- property and the pit areas. The markers shall be raised and marked so that they are clearly visible to anyone nearing the site.
- n. A Final Site Plan, including all pit slopes, excavation phasing, and reclamation plans shall be reviewed and approved by the Planning and Zoning Commission prior to the commencement of operations. Reclamation plans shall indicate finished grading, seeding and planting schedules designed to create a pleasing appearance and protect existing and future developments.
  - o. The Applicant shall comply with all State and County erosion and sediment control regulations. The project will meet or exceed stormwater management system regulations set forth by the Sussex Conservation District (SCD) and DNREC through a combination of Best Management Practices (BMP) and Best Available Technologies (BAT). The Final Site Plan shall contain the approval of Sussex County Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
  - p. The borrow pit shall be surrounded by a buffer strip, a minimum distance of 100 feet from any street lines, 200 feet from any dwelling of other ownership, and 50 feet from all other property lines of other ownership. The buffer area shall be a vegetated buffer of existing vegetation or native species vegetation. All of these requirements shall be clearly shown on the Final Site Plan along with a "Limit of Disturbance" line for the existing trees and vegetation on the site.
  - q. This approval shall expire 50 years from the date of approval for the conditional use ordinance
  - r. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

**Motion Adopted: 5 Yeas**

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

**Public  
Hearing/  
CU2569**

**A Public Hearing was held on a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN GR GENERAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 45.57 ACRES, MORE OR LESS" (parcel is lying on the east and west sides of Norwood Lane, approximately 950 feet southwest of Oak Orchard Road [Route 5]) (911 Address: N/A) (Tax Map Parcel: 234-29.00-220.00) filed on behalf of Pivot Energy DEL045, LLC.**

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

**Public  
Hearing/  
CU2569  
(continued)**

**The Planning & Zoning Commission held a Public Hearing on the application on July 15, 2026. On July 22, 2026, the Commission recommended approval of the application for the 9 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, DEL045 Norwood East Johnson project; that also present were Mr. John Shields, Pivot Energy Director of Project Development, and Mr. Edward (Ted) Hastings, PMP with Becker Morgan Group.**

**Mr. John Shields, Pivot Energy Director of Project Development, provided the Council with background information regarding Pivot Energy.**

**Mr. Falkowski stated that the property was zoned GR (General Residential); that the site took access off the existing private road of Norwood Lane; that the private driveway served a few homes, and led to a dead end; that the surrounding area was mostly residential; that Phase 1 of Patriots Glen is built out; that Phase 2 of Patriots Glen was located directly northwest of the project and had begun construction; that one of the roads had been constructed; that bulk earth work, some pond work and stormwater work had taken place; that they were actively selling and building homes in Phase 2 of Patriots Glen; that the existing use of the property was farmland; that the proposed Conditional Use area consisted of 16.64 acres; that the total parcel consisted of 45.57 acres; that only a portion of the farm was being utilized for the solar project; that the remainder of the property would remain actively farmed; that the solar array area would consist of 15.22 acres; that 15 acres of the total 45 acres would be used for the solar project; that the project would be surrounded by a landscape buffer; that the landscape buffer would be 30 foot wide, consisting of a 70% & 30% deciduous to evergreen mix, along with fencing; that changes were made from the originally submitted Site Plan following the community meeting, based on concerns regarding the locations of the inverters; that they related the inverters to the exact center of the site, being the furthest point away from all now and future residences; that where there were no dwelling units currently, they used the rear restriction line as the buffer, not a home itself, which would have been located a bit further into the lot; that to be more conservative, they used the rear building restriction line to base their 200 feet on; that the buffer went around the entire property; that as noted, they would construct a 16 foot wide gravel road access off Norwood Drive; that the drive would come into the site; that there would be a gate at the main access with a knox box for fire personnel to gain access to the facility if needed; that the 16 foot wide road would enter the center of the site, where the inverters would be located, along with a turnaround in the center; that the project would be planted with a meadow grass within the landscape buffer and underneath the arrays; that similar to most projects, the meadow mix would be a pollinator grass, which had been widely accepted as an approved practice for solar**

**Public  
Hearing/  
CU2569  
(continued)**

project by the Sussex Conservation District; that the meadow mix would help reduce runoff and would not affect any of the neighboring properties; that noise was a previously expressed concern; that in addition to moving the inverters, they had a Sound Study performed for the site; that the Sound Study did not take into account the mesh, fencing and arrays; that the studies assume the inverter would be located within the middle of the farm field with nothing blocking it; that the numbers would therefore be even lower than what the study found; that the study found that the decibel rating would be in the mid-20s to low-30s, by the time the sound reached the property line; that the sound would equal to a quiet room; that the noise would only take place during the day, which would be a light hum, while the arrays were fully operational and at peak sunlight; that the Sound Study was submitted in the packet, as well as within the Revised Exhibit Booklet; that fencing would surround the entire perimeter of the project; that the fence would be a knot wire, agricultural-style fence; that the fence would not be an industrial looking fence; that the proposed fence type was commonly used for farm animal containment; that it was used as an agricultural fence with six inch round wooden posts, and seven foot knot wire fencing; that they had incorporated different passages; that every so often in the fence they would cut smaller passages in the fence to allow for some of the wildlife to pass through; that it would be one foot high to allow for smaller animals, such as foxes, to access through the property; that the front of the gate would have a knox box; that the fence detail would be beefed up to handle the loads from the wind on the fence, so that it does not become a nuisances of flapping mesh or long-term maintenance; that after the landscaping is established for a period of five to 10 years, the mesh would be able to be removed once the vegetative buffer was established; that this would help avoid long-term maintenance concerns; that it was a 10 year period for the Ameresco Milton project; that at 10 years, Evergreen and deciduous trees would completely fill it in; that the projects were 25 year leases; that from year 10 to year 25, the mesh would not be needed, and may cause maintenance concerns; that the solar arrays would benefit local residential businesses and municipal subscribers, as long as they were a Delmarva Power service customer; that the project would not increase traffic; that there would be periodic maintenance facility visits to maintain the meadow grass; that these visits would happen about once a year; that the facility would not produce any odor, dust, gas, smoke or fumes; that the Noise Study was provided; that the inverter at the property line would be almost inaudible; that the meadow grass would reduce the stormwater for the property; that they were providing a 30 foot wide landscape buffer around the entire perimeter, along with fencing, and decommissioning as required; that the community meeting was held on May 21, 2026; that regarding the Patriots Glen project, they reflected a 200 foot buffer; that they had a 30 foot wide landscape buffer with fencing shown along the entire boundary line with Patriots Glen; that there were some additional buffered areas, which would just remain planted; that the Patriots Glen Subdivision also provides a 30 foot wide landscape buffer of its own; that Patriots Glen would have a 30 foot

**Public  
Hearing/  
CU2569  
(continued)**

landscape buffer, then a 20 foot gap in between the site's 30 foot landscape buffer; that essentially, there would be 80 feet of buffering from Patriots Glen; that much of the lots located along the northern property line would be furthered buffered by a stormwater pond; that the dwellings would be located 200 to 300 feet away, with their own landscape buffer provided; that there would only be a few lots located closer, however, those lots still were in compliance with the buffer requirements of Ordinance No. 2920; that there would be significant buffer provided when combining the requirements for the two projects; that they request that Condition 10C be modified from ten year to five year; that this farm has been in the family for many years.

**Public comments were heard.**

**Mr. Michael McGroerty, Esq. spoke in favor of the application.**

**Mr. Eldridge Johnson spoke in favor of the application.**

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

**M 370 26  
Amend  
Condition  
10C/CU2569**

**A Motion was made by Mr. Rieley, seconded by Mr. Lloyd to amend 10C to 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 be a knot-wire agricultural style fencing including an interwoven privacy screening. The privacy screening shall be attached to the fencing with metal fasteners and a tension wire to reduce maintenance. The fence location and type of screening shall be shown on the Final Site Plan. The privacy screening may be removed after five years from the installation of the solar array. The fencing shall remain."**

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

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

**M 371 26  
Adopt  
Ordinance  
No. 4081/  
CU2569**

**A Motion was made by Mr. Rieley, seconded by Mr. Lloyd to Adopt Ordinance No. 4081 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN GR GENERAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 45.57 ACRES, MORE OR LESS" for the reasons and conditions given by the Planning & Zoning Commission as follows:**

- 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.**

**M 371 26  
Adopt  
Ordinance  
No. 4081/  
CU2569  
(continued)**

2. The solar array will be located within approximately 15.22 fenced-in acres of a larger 45.57- 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 farmland that has been owned by the same family for generations. Although it is zoned GR for residential use, the family has stated that they have never had any desire to develop or sell the property. The use as a solar facility will maintain the family's ownership of the property in perpetuity.
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. Although there was opposition to this Application regarding the possible visual impact of the use, the site plan complies with or exceeds the Code-mandated requirements for vegetation, screening, fencing, and separation distances. Likewise, while there was a petition submitted into the record, the testimony during the public hearing called into question whether the individuals who signed it are neighbors of the subject property or would be impacted by it in any way.
9. Several immediate, long-standing neighbors of the subject property, testified in favor of this Application and praised the desire to preserve the land from residential development and the traffic that would result.
10. 10. This recommendation is subject to the conditions set forth in Section 115-172.I of the Zoning Code and the following additional conditions:
  - a. The use shall be for a ground-mounted solar array. No other types of electric generation shall be permitted at the site.
  - b. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use.
  - c. The entire area of the solar array shall be surrounded by a 7-foot-tall fence to comply with the height requirement of the National Electric Code. The fencing shall be a knot-wire agricultural style fencing including an interwoven privacy screening. The privacy screening shall be attached to the fencing

**M 371 26**  
**Adopt**  
**Ordinance**  
**No. 4081/**  
**CU2569**  
**(continued)**

with metal fasteners and a tension wire to reduce maintenance. The fence location and type of screening shall be shown on the Final Site Plan. The privacy screening may be removed after five years from the installation of the solar array. The fencing shall remain.

- d. The entire area of the solar array shall be surrounded by a buffer strip of open space, a minimum of 100 feet from any street lines and a minimum distance of 50 feet from all property lines. It shall also be no closer than 200 feet from a dwelling on adjacent property. The landscaped buffer shall be at least 30 feet wide along the perimeter of the Property adjacent to lands of other ownership. This landscaped buffer shall use existing vegetation or shall be planted with 70% evergreen vegetation and 30% deciduous vegetation that serves as a screen while not impeding the use as a solar array facility. The location and types of vegetation used within this buffer area shall be included in a landscape plan provided with the Final Site Plan.
- e. Transformers and similar equipment shall be centrally located on the site.
- f. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
- g. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.
- h. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
- i. The Final Site Plan shall include a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.
- j. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

**Motion Adopted: 5 Yeas**

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

**M 372 26**  
**Allow**  
**Reschedule/**  
**CZ2061**

A Motion was made by Mr. Lloyd, seconded by Mr. McCarron to allow the applicant to reschedule the Public Hearing for 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” (property is lying on the south side of Plantations Boulevard, approximately 0.46 mile north of Cedar Grove Road [S.C.R. 283] and 0.14 mile west of Plantation Road [Route 1D & S.C.R. 275]) (911 Addresses: 18462, 18464 & 18466 Plantation Boulevard, Lewes) (Tax Map Parcel: 334-6.00-553.02) filed on behalf of Sandie, LLC.**

**Motion Adopted: 5 Yeas**

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

**M 373 26  
Adjourn**

**A Motion was made by Mr. McCarron, seconded by Mr. Lloyd to adjourn at 2:11 p.m.**

**Motion Adopted: 5 Yeas**

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

**Respectfully submitted,**

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

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

## PLANNING & ZONING COMMISSION

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



## Sussex County

DELAWARE  
SUSSEXCOUNTYDE.GOV  
302-855-7878

JAMIE WHITEHOUSE, MRTPI, AICP  
DIRECTOR OF PLANNING AND ZONING

## Memorandum

To: Sussex County Council

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

CC: Everett Moore, County Attorney

Date: August 11, 2026

RE: County Council Report for Wilhaven, LLC (2022-18) (F.K.A. Wil King Station)

On July 28, 2026, the Planning and Zoning Department received a request for a 6-month time extension for Wilhaven, LLC (2022-18) (F.K.A. Wil King Station) a cluster subdivision to consist of fifty-eight (58) single-family lots, stormwater management, private roads, open space and other site improvements. The Preliminary Subdivision Plan for the Subdivision was approved by the Planning and Zoning Commission at their meeting of Thursday, August 24, 2023. Under (§99-9(B)) of the Code, the Preliminary Subdivision Plan approval is valid for a period of three years and will expire on August 24, 2026, unless *“a final plan [is] filed with the Commission’s staff within 36 months from the date of action of the preliminary plat.”* The property is located on the west side of Wil King Road (S.C.R. 288), approximately one mile south of Kendale Road (S.C.R. 287) in Lewes, Delaware.

The Applicant filed this request with the Planning & Zoning Department in writing on July 28, 2026. The request for extension has been submitted under the sunset provision of (§99-40(C)) which allows an Applicant to request up to a six-month extension of the Preliminary Subdivision approval. The Council may grant a time extension for up to six (6) months pursuant to (§99-40) based on the following:

1. Prior to the expiration date of its current approval, any Applicant holding a currently valid approval set forth in this §99-40(C) may request an extension up to six months for the validity of said approval. The six-month period shall commence on upon the date of expiration of the current approval. Such a request must be in writing and delivered to the Director on or before the expiration date of its current approval. At a minimum, the written request must include the following information:

- a. A schedule or plan for the project describing the steps that have been completed through the date of the extension request and describing the remaining steps to be completed. For any steps that remain outstanding, the Applicant is to provide the anticipated time frame for completing those remaining steps.

- b. A detailed explanation of the reasons in support of the Applicant’s request for the time extension. The Applicant is to include an explanation of

whether such reasons were within the Applicant's reasonable control. Examples of reasons beyond the Applicant's reasonable control include, but are not limited to, undue delays in receiving regulatory approvals, litigation affecting the progression of the project, third-party economic restrictions of an extraordinary or unreasonable nature, or delays caused by significant medical or health issues impacting the Applicant's key stakeholders.

All agency approvals have been received except for the Sussex Conservation District (SCD) approval. The developer of the project entered into a Brownfields Development Agreement (BDA) with the Delaware Department of Natural Resources and Environmental Control (DNREC) on January 22, 2024. Upon execution of this agreement Wilhaven became a certified Brownfield (DE-1843) which requires the preparation, review, and approval of additional supporting documentation by the DNREC Sediment and Stormwater program and its delegated agency, the SCD, a plan of remediation needed to be developed. In coordination with DNREC this plan was developed over the course of 2024 and 2025, with the final plan of remedial action being approved on November 18, 2025. At that point adjustments were made to the stormwater management design of the site based on information provided in the remediation plan and the initial submittal to both DNREC and SCD were made.

Approval from the Sussex Conservation District is the only remaining item required before the Final Subdivision Plan can be submitted for review and approval. Due to the timing of this process, approval from SCD is not expected before August 24, 2026, the Preliminary Subdivision Plan expiration date.

The Planning and Zoning Commission recommended approval for the 6-month time extension request at their meeting of Wednesday, August 5, 2026, and to forward the Application to the Sussex County Council for their final decision and approval of this request.

If the Council agrees, there should be a motion that, based upon the authority granted to Council under §99-40(C)), and based upon compliance and requirements of the referenced Ordinance, supporting documentation, and the recommendation of the Director of Planning and Zoning that Wilhaven, LLC (2022-18) (F.K.A. Wil King Station) shall be granted a six (6) month time extension until February 24, 2027, which is six (6) months from August 24, 2026, the original expiration date for the Subdivision.

## ENGINEERING DEPARTMENT

ADMINISTRATION (302) 855-7718  
AIRPORT & BUSINESS PARK (302) 855-7774  
ENVIRONMENTAL SERVICES (302) 855-7730  
RECORDS MANAGEMENT (302) 855-5033  
UTILITY ENGINEERING (302) 855-7717  
UTILITY PERMITS (302) 855-7719  
UTILITY PLANNING (302) 855-1299  
FAX (302) 855-7773



# Sussex County

DELAWARE  
sussexcountyde.gov

MIKE HARMER, P.E.  
SUSSEX COUNTY ENGINEER

ROBERT L. BRYANT, A.A.E.  
AIRPORT MANAGER

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

FROM: Robert L. Bryant, A.A.E., Airport Manager *RLB*

DATE: August 25, 2026

REFERENCE: APPROVAL - CHANGE ORDER No. One (1) – FIBER OPTIC  
CONSTRUCT TAXIWAY B – BID PACKAGE 2  
AIP GRANT PROJECT NO. 3-10-0007-042-2025  
AIG GRANT PROJECT NO. 3-10-0007-042-2025

The Engineering Department, on behalf of the Delaware Coastal Airport, is seeking approval from the Sussex Council on Change Order No. One (1) – Fiber Optic, as work associated with the current construction of Taxiway Bravo – Bid Package 2 project. Change Order 1 total amount is \$18,980.76.

Change Order 1 is being made to reconnect fiber optic communication s circuits I2 and I3 to the airfield lighting electrical vault after they were disconnected and pulled back due to conflicts unknown at the time of design during the TWY B - Bid Package 1 project (that ¼ section of TWY B completed in 2025). These conflicts continue into TWY B Bid Package 2 and therefore could not be resolved in construction during Bid Package 1.

This Change Order 1 will restore and reconnect the fiber optic communications as a part of Bid Package 2 and resolve these conflicts.

Change Order 1 total amount of \$18,980.76 is eligible for FAA reimbursement at 95% (or \$18,031.70) requiring Sussex County to pay the remaining 5% (or \$949.06).





CHANGE ORDER NO. ONE (1)  
7/9/2026

OWNER: Sussex County Council  
OWNER'S ADDRESS: 2 The Circle, Georgetown, Delaware 19947  
NAME OF AIRPORT: Delaware Coastal Airport  
LOCATION OF AIRPORT: 21553 Rudder Lane, Georgetown, Delaware 19947

NAME OF CONTRACTOR: Allan Myers MD, Inc.  
ADDRESS OF CONTRACTOR: 2011 Belair Road, Fallston, Maryland 21047

PROJECT DESCRIPTION: Construct Taxiway B - Bid Package II

CURRENT CONTRACT AMOUNT: \$2,447,777.00  
COST THIS CHANGE: \$18,980.76  
NEW CONTRACT AMOUNT: \$2,466,757.76

DELTA PROJECT NO. 24077  
AIP PROJECT NO. 3-10-0007-042-2025  
AIG PROJECT NO. 3-10-0007-043-2025

| ITEM                | DESCRIPTION         | UNIT | CONTRACT QUANTITY | CHANGE ORDER QUANTITY | NEW CONTRACT QUANTITY | ORIGINAL PRICE | CHANGE ORDER PRICE | ORIGINAL AMOUNT | NEW AMOUNT  | CHANGE ORDER AMOUNT |
|---------------------|---------------------|------|-------------------|-----------------------|-----------------------|----------------|--------------------|-----------------|-------------|---------------------|
| CO1.1               | Fiber Optic Changes | LS   | 0                 | 1                     | 1                     | \$0.00         | \$18,980.76        | \$0.00          | \$18,980.76 | \$18,980.76         |
| CHANGE ORDER TOTAL: |                     |      |                   |                       |                       |                |                    |                 | \$18,980.76 |                     |

REASONS FOR CHANGE ORDER:

Due to conflicts that occurred in bid package 1 construction, fiber optic communications for circuits I2 and I3 were disconnected and now need to be reconnected to the vault.

|                                                |     |
|------------------------------------------------|-----|
| CURRENT CONTRACT TIME (CALENDAR DAYS)          | 150 |
| ADJUSTMENT IN TIME THIS CHANGE (CALENDAR DAYS) | 2   |
| NEW CONTRACT TIME (CALENDAR DAYS)              | 152 |

CHANGE ORDER NO. ONE (1)  
7/9/2026

Subject to conditions set forth below, an equitable adjustment is established as follows:

| CONTRACT PRICE |              |             |         |
|----------------|--------------|-------------|---------|
|                | Not Changed  |             |         |
| X              | Increased by | \$18,980.76 | Dollars |
|                | Decreased by |             | Dollars |

| CONTRACT TIME |              |   |               |
|---------------|--------------|---|---------------|
|               | Not Changed  |   |               |
| X             | Increased by | 2 | Calendar Days |
|               | Decreased by |   | Calendar Days |

The foregoing is in accordance with your contract dated December 9th, 2025 and as listed below:

- 1 The aforementioned change and work affected thereby are subject to all contract stipulations and covenants,
- 2 The rights of the OWNER are not prejudiced; and
- 3 All claims against the OWNER which are incidental to or as a consequence of the aforementioned change are satisfied.

SIGNATURE  
Sussex County Council

PRINTED NAME

TITLE

DATE



Kevin Kern

Project Manager

July 13, 2026

SIGNATURE  
Allan Myers MD, Inc.

PRINTED NAME

TITLE

DATE



Digitally signed by William M  
Eschenfelder  
Date: 2026.07.10  
15:24:27-04'00'

William Eschenfelder

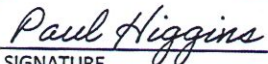
Project Manager

SIGNATURE  
Delta Airport Consultants, Inc.

PRINTED NAME

TITLE

DATE



Paul Higgins

Program Manager

8/4/2026

SIGNATURE  
Federal Aviation Administration

PRINTED NAME

TITLE

DATE

FAA  
REVIEWED  
+  
APPROVED



P.O. Box 278, Fallston, MD 21047

**Communication Date:** 01-JUL-2026

SUSSEX COUNTY  
BUILDING 2 THE CIRCLE  
GEORGETOWN, DE 19947  
**Attn:** Robert Bryant

**Letter**                    COM0003  
**Number:**

**Job Number:**    2525066

**Re:**                    TWY B Package 2  
                         Change Order Request 3 - Fiber Optic

Dear Bob,

In accordance with Section 40, 40-04 Extra Work, please accept the lump sum price of \$18,980.76 for the changes associated with Field Change No 3 received by email on June 24, 2026. This price includes all labor, materials, equipment and incidentals costs required to complete the revised scope in full.

Additionally, Myers requests that two (2) calendar day extension be added to the project schedule to accommodate this additional scope.

Please provide written acceptance at your earliest convenience for which option is preferred.

If you have any questions or concern, please give me a call.

Sincerely,

A handwritten signature in black ink, appearing to read "KK" followed by a stylized flourish.

Kevin Kern



Contractor: Allan Myers  
Activity: Field Change # 3  
Change Order # COR # 3  
Delta # 24077

Date: 7/1/2026  
Contract #: AIP 3-10-0007-042-2025  
Contract Name: DE Coastal Airport - TWY B

**MARKUP SUMMARY**

|     |                                                 |                            |             |
|-----|-------------------------------------------------|----------------------------|-------------|
| (1) | LABOR                                           |                            | \$0.00      |
|     |                                                 | PLUS 15% Profit & Overhead | \$0.00      |
|     |                                                 | TOTAL LABOR                | \$0.00      |
| (2) | MATERIALS                                       |                            | \$0.00      |
|     |                                                 | PLUS 15% Profit & Overhead | \$0.00      |
|     |                                                 | TOTAL MATERIALS            | \$0.00      |
| (3) | EQUIPMENT                                       |                            | \$0.00      |
|     |                                                 | PLUS 15% Profit & Overhead | \$0.00      |
|     |                                                 | TOTAL EQUIPMENT            | \$0.00      |
| (4) | SERVICE/SUBCONTRACTOR                           |                            | \$10,080.84 |
|     |                                                 | PLUS 15% Profit & Overhead | \$1,512.13  |
|     |                                                 | TOTAL SERVICE              | \$11,592.97 |
| (5) | TOTAL LABOR, MATERIALS, EQUIPMENT, AND SERVICES |                            | \$11,592.97 |
| (6) | DAILY OPERATING EXPENSE @                       | \$ 3,553.65                | \$7,107.29  |
| (7) | BOND                                            | 1.50%                      | \$ 280.50   |

**TOTAL AMOUNT OF THIS CHANGE ORDER REQUEST** \$18,980.76



| SUMMARY OF CHANGE            |     |      |             | July 1, 2026 |
|------------------------------|-----|------|-------------|--------------|
| Field Change Number 3        |     |      |             |              |
| Item                         | HRS | Unit | RATE        | TOTAL        |
| Labor Total:                 |     |      |             | \$0.00       |
| Insurance, Taxes & Benefits: |     |      |             | \$0.00       |
| Total Labor & Benefits:      |     |      |             | \$0.00       |
|                              |     |      |             |              |
| Equipment Total:             |     |      |             | \$0.00       |
|                              |     |      |             |              |
| Material Total:              |     |      |             | \$0.00       |
|                              |     |      |             |              |
| Fiber Optic Changes          | 1   | LS   | \$10,080.84 | \$10,080.84  |
| Service Total:               |     |      |             | \$10,080.84  |



15342 S. DuPont Hwy  
Harrington DE 19952

Office: 302.566.6248  
Fax: 302.566.6251

Bryon Warren  
President  
302-270-5719

Email(s):  
office@bwelectricinc.com

Subject: Georgetown Airport Bid Pack 2 Fiber Optic Change

July 1, 2026

Dear Kevin,

Please find the enclosed documentation concerning the proposed modifications to the fiber optic infrastructure. The total value of this change order is \$10,080.84. We kindly request your authorization to proceed at your earliest convenience, as the new fiber specifications must still be submitted for formal approval. Given the project timelines, an expedited review would be greatly appreciated.

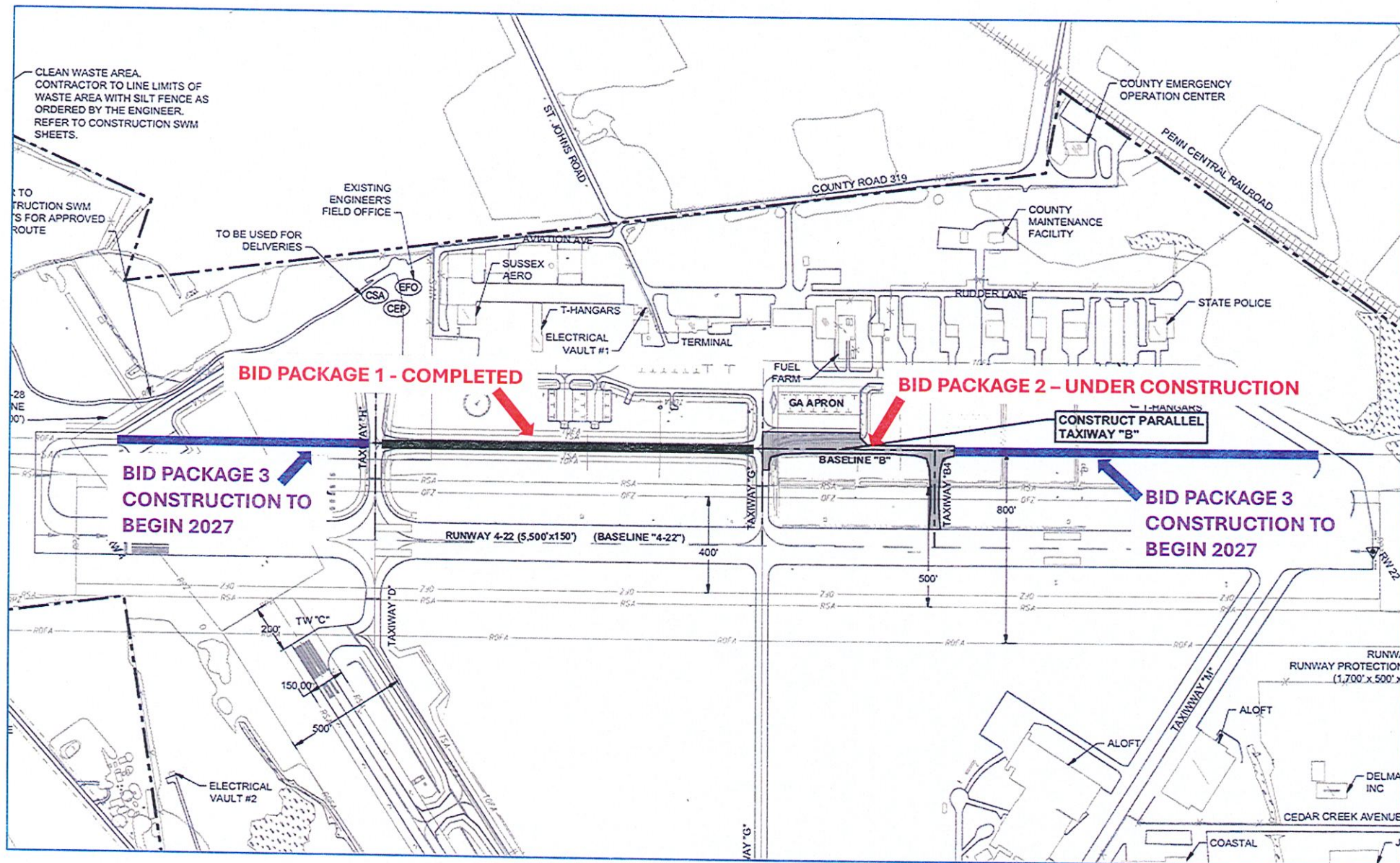
| QTY. | DESCRIPTION                                                                  | MATERIAL |              | LABOR     |             |
|------|------------------------------------------------------------------------------|----------|--------------|-----------|-------------|
|      |                                                                              | EACH     | TOTAL        | EACH      | TOTAL       |
| 1    | New Contract Documents Fiber Optic (Includes, termination, splices, testing) | 7968     | \$ 7,968.00  | 16        | 16          |
|      |                                                                              |          | \$ -         |           | 0           |
|      |                                                                              |          | \$ -         |           | 0           |
|      |                                                                              |          | \$ -         |           | 0           |
| 1    | Fiber Optic (Old Contract Documents)                                         | -600     | \$ (600.00)  |           | 0           |
|      |                                                                              |          | \$ -         |           | 0           |
|      |                                                                              |          | \$ -         |           | 0           |
|      |                                                                              |          | \$ -         |           | 0           |
|      |                                                                              |          | \$ -         |           | 0           |
|      |                                                                              |          | \$ -         |           | 0           |
|      |                                                                              |          | \$ -         |           | 0           |
|      | MATERIAL PRICE                                                               |          | \$ 7,368.00  | T.M.H >   | 16          |
|      | LABOR \$ FIGURE                                                              |          | \$ 1,360.00  | LABOR\$ > | \$ 85.00    |
|      | OVER HEAD %                                                                  | 10%      | \$ 872.80    |           | \$ 1,360.00 |
|      | SUB TOTAL                                                                    |          | \$ 9,600.80  |           |             |
|      | PROFIT %                                                                     | 5%       | \$ 480.04    |           |             |
|      | TOTAL                                                                        |          | \$ 10,080.84 | EACH      |             |

This price is good for 30 Days

Sincerely,

Josh Morris  
B. W. Electric, Inc.







## ENGINEERING DEPARTMENT

ADMINISTRATION (302) 855-7718  
AIRPORT & BUSINESS PARK (302) 855-7774  
ENVIRONMENTAL SERVICES (302) 855-7730  
RECORDS MANAGEMENT (302) 855-5033  
UTILITY ENGINEERING (302) 855-7717  
UTILITY PERMITS (302) 855-7719  
UTILITY PLANNING (302) 855-1299  
FAX (302) 855-7773



# Sussex County

DELAWARE  
sussexcountype.gov

MIKE HARMER, P.E.  
SUSSEX COUNTY ENGINEER

ROBERT L. BRYANT, A.A.E.  
AIRPORT MANAGER

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

FROM: Robert L. Bryant, A.A.E., Airport Manager

DATE: August 25, 2026

REFERENCE: APPROVAL - CHANGE ORDER No. TWO (2) – PULL-BACK  
CONSTRUCT TAXIWAY B – BID PACKAGE 2  
AIP GRANT PROJECT NO. 3-10-0007-042-2025  
AIG GRANT PROJECT NO. 3-10-0007-042-2025

The Engineering Department, on behalf of the Delaware Coastal Airport, is seeking approval from the Sussex Council on Change Order No. Two (2) – Pull-Back, as work associated with the current construction of Taxiway Bravo – Bid Package 2 project.

During the design phase of the Construct Taxiway Bravo – Bid Package 2 project (currently under construction), we knew that a 400-foot section of the new taxiway would need to be built adjacent to and within the Runway 4-22 Safety Area (RSA) and Object Free Area (OFA). FAA mandatory Construction Safety Plan requires that no aircraft operations (takeoff and/or landings) can occur on a runway when construction activities are occurring within an RSA and OFA, effectively closing the runway.

The original plan (thought of during design) was to close RWY 4-22 for 20 consecutive days while this 400-foot section of new taxiway was being built. Long story short, when airport tenants and users found out that RWY 4-22 was going to be closed for 20 days, they weren't pleased. To reduce that 20-day RWY 4-22 closure, airport management sought FAA approval of a revised Construction Safety Plan that would place TEMPORARY restriction on the use of aircraft 12,500 pounds, and greater, and reduce the construction time within the RSA and OFA to only 5 consecutive days.

HOWEVER, FAA approval of a TEMPORARY restriction on the use of RWY 4-22 by aircraft 12,500 MTOW, and greater (12,500+), requires that aircraft operator to seek and receive





P.O. Box 278, Fallston, MD 21047

**Communication Date:** 18-AUG-2026

SUSSEX COUNTY  
BUILDING 2 THE CIRCLE  
GEORGETOWN, DE 19947

**Attn:** Robert Bryant

**Letter**                    COM0004  
**Number:**

**Job Number:**    2525066

**Re:**                    Taxiway B Package 2  
                         Change Order Request 2 - Pull Back -  
                         REVISED

Dear Bob,

In accordance with Section 40-04, Extra Work, please accept the following hourly rates for nonproductive work associated with Work Area C - Pull Back operation.

Allan Myers = \$1296.69 per hour  
BW Electric = \$525.26 per hour

The proposed rates include the labor, equipment, and nonproductive time associated with Work Area C operations conducted within 125 feet of the runway edge of pavement.

Each occurrence of nonproductive work will be compensated at the applicable rate listed above. The minimum duration for each occurrence shall be one hour. After the initial hour has elapsed, additional nonproductive time will be calculated and rounded to the nearest quarter hour using the same per hour rates.

The County Representative will be responsible for the communication with Air Traffic along with notifying the Contractor of the Pull Back.

Please provide written acceptance of this change order at your earliest convenience.

If you have any questions or require additional information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "KK" followed by a flourish.

Kevin Kern



## CHANGE ORDER NO. TWO (2)

8/19/2026

OWNER: Sussex County Council  
 OWNER'S ADDRESS: 2 The Circle, Georgetown, Delaware 19947  
 NAME OF AIRPORT: Delaware Coastal Airport  
 LOCATION OF AIRPORT: 21553 Rudder Lane, Georgetown, Delaware 19947

NAME OF CONTRACTOR: Allan Myers MD, Inc.  
 ADDRESS OF CONTRACTOR: 2011 Belair Road, Fallston, Maryland 21047

PROJECT DESCRIPTION: Construct Taxiway B - Bid Package II

CURRENT CONTRACT AMOUNT: \$2,447,777.00

COST THIS CHANGE: \$30,570.98

NEW CONTRACT AMOUNT: \$2,478,347.98

DELTA PROJECT NO. 24077

AIP PROJECT NO. 3-10-0007-042-2025

AIG PROJECT NO. 3-10-0007-043-2025

| ITEM                | DESCRIPTION                             | UNIT | CONTRACT<br>QUANTITY | CHANGE<br>ORDER<br>QUANTITY | NEW<br>CONTRACT<br>QUANTITY | ORIGINAL<br>PRICE | CHANGE<br>ORDER PRICE | ORIGINAL<br>AMOUNT | NEW<br>AMOUNT | CHANGE ORDER<br>AMOUNT |
|---------------------|-----------------------------------------|------|----------------------|-----------------------------|-----------------------------|-------------------|-----------------------|--------------------|---------------|------------------------|
| CO2.1               | Non-Productive Work Hours - Allan Myers | EA   | 0                    | 17.5                        | 17.5                        | \$0.00            | \$1,296.69            | \$0.00             | \$22,692.08   | \$22,692.08            |
| CO2.2               | Non-Productive Work Hours - BW Electric | EA   | 0                    | 15                          | 15                          | \$0.00            | \$525.26              | \$0.00             | \$7,878.90    | \$7,878.90             |
| CHANGE ORDER TOTAL: |                                         |      |                      |                             |                             |                   |                       |                    |               | \$30,570.98            |

## REASONS FOR CHANGE ORDER:

Compensate Contractor for impacts of revised phasing inside Work Area C, per the revised CSPP. Final compensation will be based on the total number of non-productive work hours accrued and approved by the Owner by each respective Contractor.

ESTIMATE

CURRENT CONTRACT TIME (CALENDAR DAYS)

150

ADJUSTMENT IN TIME THIS CHANGE (CALENDAR DAYS)

0

NEW CONTRACT TIME (CALENDAR DAYS)

150

CHANGE ORDER NO. TWO (2)  
8/19/2026

Subject to conditions set forth below, an equitable adjustment is established as follows:

|   |              | <u>CONTRACT PRICE</u> |         |
|---|--------------|-----------------------|---------|
|   | Not Changed  |                       |         |
| X | Increased by | \$30,570.98           | Dollars |
|   | Decreased by |                       | Dollars |

|   |              | <u>CONTRACT TIME</u> |               |
|---|--------------|----------------------|---------------|
| X | Not Changed  |                      |               |
|   | Increased by |                      | Calendar Days |
|   | Decreased by |                      | Calendar Days |

The foregoing is in accordance with your contract dated December 9th, 2025 and as listed below:

- 1 The aforementioned change and work affected thereby are subject to all contract stipulations and covenants,
- 2 The rights of the OWNER are not prejudiced; and
- 3 All claims against the OWNER which are incidental to or as a consequence of the aforementioned change are satisfied.

SIGNATURE  
Sussex County Council



PRINTED NAME

Kevin Kern

TITLE

Project Manager

DATE

8/20/26

SIGNATURE  
Allan Myers MD, Inc.

PRINTED NAME

TITLE

DATE

SIGNATURE  
Delta Airport Consultants, Inc.

PRINTED NAME

TITLE

DATE

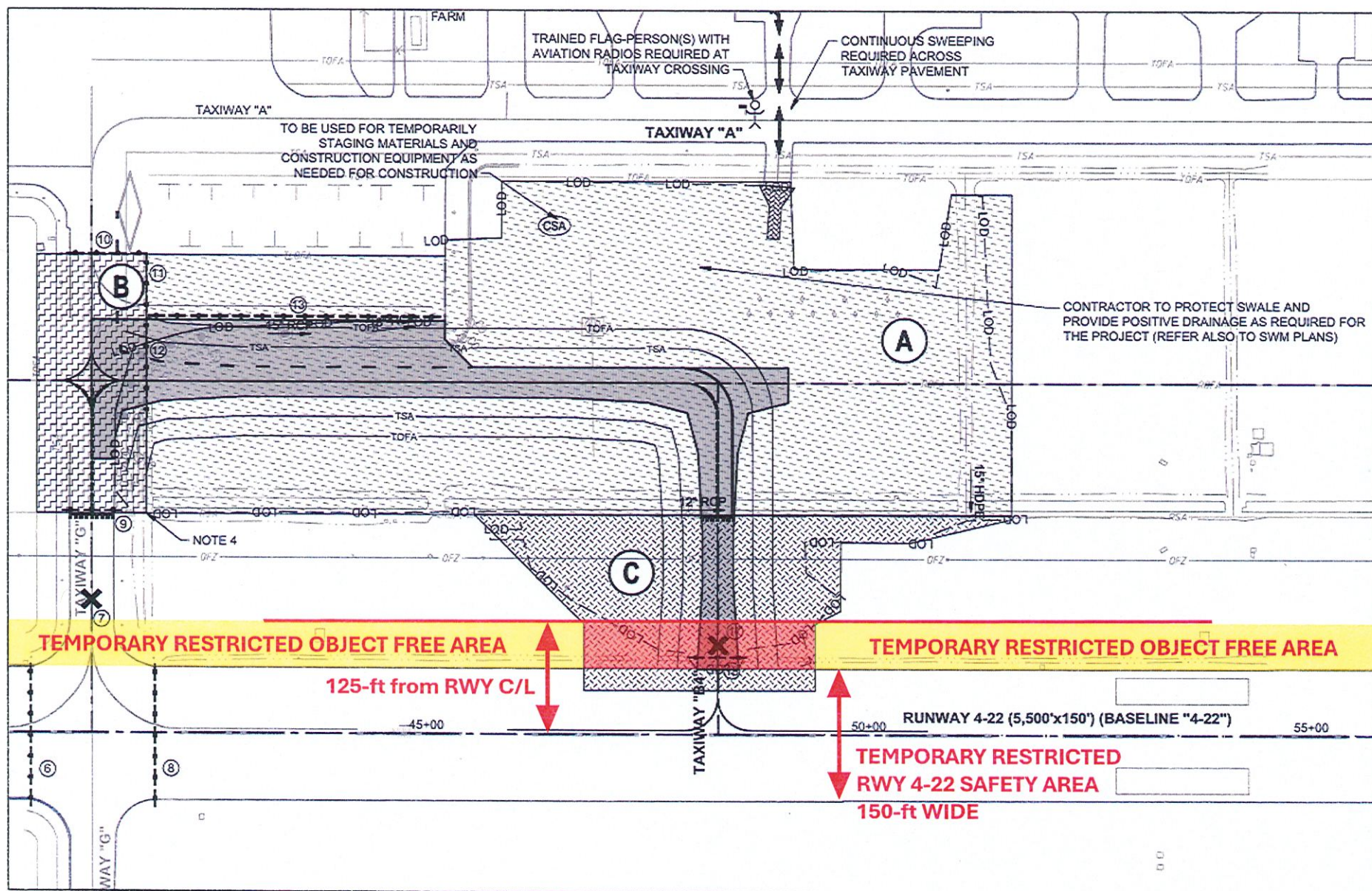
SIGNATURE  
Federal Aviation Administration

PRINTED NAME

TITLE

DATE





BEGINNING MONDAY, AUGUST 31, THROUGH FRIDAY, SEPTEMBER 4, 7AM UNTIL 6PM, RWY 4-22 CLOSED TO ALL AIRCRAFT 12,500 MAXIMUM TAKEOFF WEIGHT (AS LISTED BY FAA) AND GREATER WITHOUT 24-HOURS PRIOR PERMISSION REQUIRED FROM AIRPORT MANAGER.

BEGINNING THURSDAY, 7AM-1PM, SEPTEMBER 10 AND FRIDAY, 7AM-1PM, SEPTEMBER 11 RWY 4-22 CLOSED



## ENGINEERING DEPARTMENT

ADMINISTRATION (302) 855-7718  
AIRPORT & BUSINESS PARK (302) 855-7774  
ENVIRONMENTAL SERVICES (302) 855-7730  
RECORDS MANAGEMENT (302) 855-5033  
UTILITY ENGINEERING (302) 855-7717  
UTILITY PERMITS (302) 855-7719  
UTILITY PLANNING (302) 855-1299  
FAX (302) 855-7773



# Sussex County

DELAWARE  
sussexcountype.gov

MIKE HARMER, P.E.  
SUSSEX COUNTY ENGINEER

ROBERT L. BRYANT, A.A.E.  
AIRPORT MANAGER

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

FROM: Robert L. Bryant, A.A.E., Airport Manager

DATE: August 25, 2026

REFERENCE: APPROVAL - CHANGE ORDER No. THREE (23 – BASE CANS  
CONSTRUCT TAXIWAY B – BID PACKAGE 2  
AIP GRANT PROJECT NO. 3-10-0007-042-2025  
AIG GRANT PROJECT NO. 3-10-0007-042-2025

The Engineering Department, on behalf of the Delaware Coastal Airport, is seeking approval from the Sussex Council on Change Order No. Three (3) – Based Cans, as work associated with the current construction of Taxiway Bravo – Bid Package 2 project. Change Order 3 is a “CREDIT” total amount \$1,950.00.

The existing Taxiway edge light base cans were found to be in good condition to be re-used and have been preserved, providing a savings to the project. The credit for reusing the base can and associated materials, labor, and equipment for pouring the concrete base is comparable to the cost of similar scopes of work on this project and other projects.



CHANGE ORDER NO. THREE (3)  
8/20/2026

OWNER: Sussex County Council  
OWNER'S ADDRESS: 2 The Circle, Georgetown, Delaware 19947  
NAME OF AIRPORT: Delaware Coastal Airport  
LOCATION OF AIRPORT: 21553 Rudder Lane, Georgetown, Delaware 19947

NAME OF CONTRACTOR: Allan Myers MD, Inc.  
ADDRESS OF CONTRACTOR: 2011 Belair Road, Fallston, Maryland 21047

PROJECT DESCRIPTION: Construct Taxiway B - Bid Package II

CURRENT CONTRACT AMOUNT: \$2,478,347.98  
COST THIS CHANGE: \$1,950.00  
NEW CONTRACT AMOUNT: \$2,476,397.98

DELTA PROJECT NO. 24077  
AIP PROJECT NO. 3-10-0007-042-2025  
AIG PROJECT NO. 3-10-0007-043-2025

| ITEM                | DESCRIPTION                                             | UNIT | CONTRACT<br>QUANTITY | CHANGE<br>ORDER<br>QUANTITY | NEW<br>CONTRACT<br>QUANTITY | ORIGINAL<br>PRICE | CHANGE<br>ORDER PRICE | ORIGINAL<br>AMOUNT | NEW<br>AMOUNT | CHANGE ORDER<br>AMOUNT |
|---------------------|---------------------------------------------------------|------|----------------------|-----------------------------|-----------------------------|-------------------|-----------------------|--------------------|---------------|------------------------|
| CO3.1               | L-861T(L) BASE MOUNTED MITL (LED), CREDIT TO REUSE BASE | EA   | 3                    | 0                           | 3                           | \$0.00            | \$650.00              | \$0.00             | \$1,950.00    | \$1,950.00             |
| CHANGE ORDER TOTAL: |                                                         |      |                      |                             |                             |                   |                       |                    |               | \$1,950.00             |

REASONS FOR CHANGE ORDER:

Credit to reuse existing base cans for proposed MITL. Credit includes associated labor and materials for new bases and pouring the concrete housekeeping pad.

|                                                |     |
|------------------------------------------------|-----|
| CURRENT CONTRACT TIME (CALENDAR DAYS)          | 150 |
| ADJUSTMENT IN TIME THIS CHANGE (CALENDAR DAYS) | 0   |
| NEW CONTRACT TIME (CALENDAR DAYS)              | 150 |

CHANGE ORDER NO. THREE (3)  
8/20/2026

Subject to conditions set forth below, an equitable adjustment is established as follows:

| <u>CONTRACT PRICE</u>                            |            |         |
|--------------------------------------------------|------------|---------|
| <input type="checkbox"/> Not Changed             |            |         |
| <input type="checkbox"/> Increased by            |            | Dollars |
| <input checked="" type="checkbox"/> Decreased by | \$1,950.00 | Dollars |

| <u>CONTRACT TIME</u>                            |  |               |
|-------------------------------------------------|--|---------------|
| <input checked="" type="checkbox"/> Not Changed |  |               |
| <input type="checkbox"/> Increased by           |  | Calendar Days |
| <input type="checkbox"/> Decreased by           |  | Calendar Days |

The foregoing is in accordance with your contract dated December 9th, 2025 and as listed below:

- 1 The aforementioned change and work affected thereby are subject to all contract stipulations and covenants,
- 2 The rights of the OWNER are not prejudiced; and
- 3 All claims against the OWNER which are incidental to or as a consequence of the aforementioned change are satisfied.

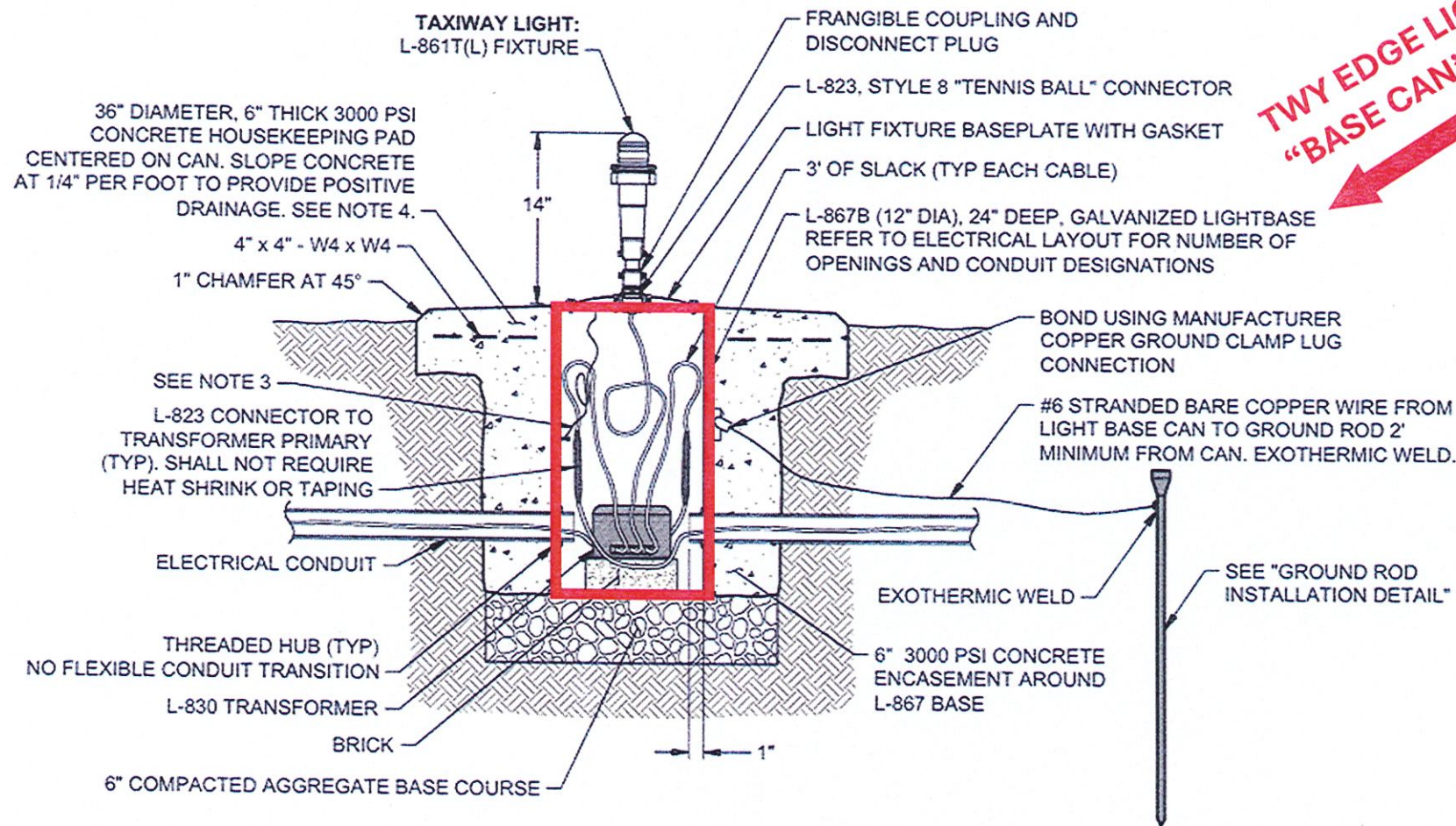
| SIGNATURE             | PRINTED NAME | TITLE | DATE |
|-----------------------|--------------|-------|------|
| Sussex County Council |              |       |      |

| SIGNATURE            | PRINTED NAME | TITLE | DATE |
|----------------------|--------------|-------|------|
| Allan Myers MD, Inc. |              |       |      |

| SIGNATURE                       | PRINTED NAME | TITLE | DATE |
|---------------------------------|--------------|-------|------|
| Delta Airport Consultants, Inc. |              |       |      |

| SIGNATURE                       | PRINTED NAME | TITLE | DATE |
|---------------------------------|--------------|-------|------|
| Federal Aviation Administration |              |       |      |





## LED TAXIWAY EDGE LIGHT DETAIL

NTS



## 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: August 20, 2026

RE: County Council Report for C/U 2480 filed on behalf of DJ Tire Center, LLC

---

The Planning and Zoning Department received an application (C/U 2480 filed on behalf of DJ Tire Center, LLC) for a Conditional Use for an auto tire center in an AR-1 Agricultural Residential Zoning District at Tax Parcel 135-9.00-280.00. The property is located at 18651 Downs Road, Georgetown. The parcel size is 1.0 ac. +/-

The Planning & Zoning Commission held a Public Hearing on the application on January 21, 2026. At the meeting of February 4, 2026, the Planning & Zoning Commission recommended **denial** of the application for the 8 reasons stated within the motion (copied below).

The County Council held a Public Hearing on the application at the meeting of April 21, 2026. At the conclusion of the Public Hearing, the Council closed the public hearing and deferred action for further consideration. Below is a link to the minutes of the April 21, 2026, Council Meeting.

[Link to the Minutes of the April 21, 2026, County Council Meeting](#)

Below are the minutes from the Planning & Zoning Commission meetings of January 21, 2026, and February 4, 2026.

[Minutes of the January 21, 2026, Planning & Zoning Commission Meeting](#)

### **C/U 2480 DJ Tire Center, LLC**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO TIRE CENTER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX**





**COUNTY, CONTAINING 1.0 ACRE, MORE OR LESS.** The property is lying on the east side of Downs Road (S.C.R. 243), approximately 0.45 mile northeast of Wilson Road (S.C.R. 244). 911 Address: 18651 Downs Road, Georgetown. Tax Map Parcel: 135-9.00-280.00.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Survey, the DelDOT Service Level Evaluation Response Letter, Applicant Exhibits, a letter received from the Sussex County Engineering Department Utility Planning Division, and the Applicant's Conceptual Conditional Use Site Plan. Mr. Whitehouse advised the Commission that no public comments were received regarding the application.

The Commission found that Mr. Danny Perez spoke on behalf of the Applicant, Mr. Javier Chilel Garcia, owner of DJ Tire Center, LLC. Mr. Perez stated that DJ Tire Center, LLC, is an operating tire replacement and tire changing center; that the majority of the information was included within the packet; that the site is less than an acre; that there will not be a large number of vehicles located on the site; that at most, maybe three vehicles would be on-site; that they do not operate seven days a week; that they operate Monday through Friday; that the Applicant is unsure of when, but plans to apply for a construction permit to place a dwelling on the property.

Madam Chair Wingate questioned the hours of operation for the business.

Mr. Perez stated the proposed hours of operation would be from 8:00 am until 4:00 pm, Monday through Friday, and that no weekend hours are proposed.

Mr. Perez stated that the Applicant applied for disposal of the tires; that the tires are unique, as they were basically for trucks, and not so much for passenger vehicles; that the Applicant had some equipment, which is required in the business; that the Applicant was trying to specialize in the tire changing business; that for old tires removed, the Applicant has a container; that there is a photo of the container within the submitted packet; that the container is about 30 feet, and is fireproof; that the old tires will be placed in the container, and a licensed recyclable company from Maryland come to the site to pick up the tires; that the Applicant is not in the business of oil changing, but should the Applicant need to change oil, the fluids would be environmentally disposed, and the Applicant has a company that would remove the oil from the site.

Madam Chair Wingate questioned if Crystal Clean was the disposal company being used.

Mr. Perez stated yes, Crystal Clean was the disposal company, and he requested to submit additional site photographs for the record.

Mr. Allen questioned whether the site would also be used as a mechanic shop, offering service work, or mainly for tire service only.

Mr. Perez stated that no oil changes are proposed to be performed on the site; that with heavy duty trucks, a little bit of fluid may be required to be replaced, and in this case, the fluid would be disposed of environmentally.

Mr. Mears questioned whether all tire changes are proposed to be performed inside a building, or if any tire changes are proposed to be performed outside.

Mr. Perez stated that all tire changes are proposed to be performed inside a building; that everything, such as tools, tires, and the lift, will be contained inside the building; that in the summer, when the temperature is 90 degrees, the Applicant may want to change the tire outside very quickly, or potentially half of the vehicle inside, and half of the vehicle outside, and when working on a specialty tire, it requires special tubes, which should be kept inside, as it will require an electric generator.

Madam Chair Wingate stated the Commission wanted to ensure a clear understanding of where the work was proposed to be performed, as there were not many other businesses within the immediate area, and the Commission did not want adjacent residences to be impacted by the proposed use.

Madam Chair Wingate questioned the number of proposed employees.

Mr. Perez stated that two employees are proposed, being the Applicant and his nephew.

Mr. Whitehouse advised the Commission that the building permit pulled in 2023 was for a residential accessory structure, at which time it went through residential plan review; that currently a commercial use is being proposed, and he questioned if the Applicant would be willing to go through Commercial Plan Review, as there may be modifications required to the building as part of that.

Mr. Perez stated the Applicant's plan was to leave it the way it was for now; that the Applicant does good things for the community on the other side of his property, by providing children's soccer on the weekends, and he did not believe the Applicant would be applying for anything residential any time soon.

Mr. Robertson stated that the current building was approved as a residential pole building; that they are a different set of construction and inspection standards for a commercial building; that he stated that if the Conditional Use were approved, the Applicant will be required to get the building permit modified and inspected for commercial use, and he requested additional information regarding the surrounding neighborhood, and any other commercial businesses in the area.

Mr. Perez stated that the road is pretty much isolated and rural; that approximately ¼ mile from the site is the State park, and that adjacent to the parcel, there is a property owner performing something similar, however, their parcel is much larger.

Madam Chair Wingate questioned whether the mentioned soccer field was located on the site or another parcel, as she was concerned about trucks coming and going while kids play on the soccer field.

Mr. Perez stated that the children play in the vacant area located to the left of the building, and it is a small league of kids from the Applicant's church, who come to play on the weekends, however, they do not play in the winter.

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

Mr. Michael Calloway spoke in opposition to the application and requested permission to submit his written opposition along with photographs. Mr. Calloway expressed concerns regarding traffic, quality of life, negative impact on property values and quality of life, the amount of vehicles located on the site, a previous complaint from the Georgetown Fire Company, and questions regarding the ability to place a pole building without the placement of a dwelling.

Mr. Ismael Torres, Jr., spoke in opposition to the application and requested to submit his written opposition. Mr. Torres, Jr., expressed concerns regarding negative impacts to adjacent properties, setting precedence for future commercial businesses, environmental health concerns, breeding of mosquitoes and rodents, noise and air quality, traffic safety, and the negative impact on property values.

Mr. Whitehouse advised the Commission that he was unable to locate an approved Conditional Use for Parcel No. 7.08; that there was no approval for a use aside from a residential dwelling, and that the Commission may want to investigate the issue further.

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

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

In relation to C/U 2480 DJ Tire Center, LLC. Motion by Mr. Collins to defer action for further consideration, seconded by Mr. Allen and carried unanimously. Motion carried 4-0.

#### Minutes of the February 4, 2026, Planning & Zoning Commission Meeting

The Commission discussed the application, which had been deferred since January 21, 2026.

Mr. Passwaters stated that he was absent at the January 7, 2026, Commission meeting; however, he had watched the broadcast, reviewed the record, and therefore was prepared to vote.

Mr. Passwaters moved that the Commission recommend denial of Conditional Use No. 2480 for DJ Tire Center, LLC, for a tire and auto repair shop based upon the incompatibility with the area, the lack of a sufficient record, and for the following reasons:

1. During the public hearing, the Applicant did not make an adequate record to support this Application. He did not sufficiently address the factors that the Commission must consider when acting upon a conditional use such as this.

2. The Applicant has also not presented sufficient evidence to show that this conditional use application is consistent with the AR-1 Zoning of this property, the area where the use would be located, the Zoning Code, or the County's Comprehensive Land Use Plan.
3. The Applicant has proposed to operate a tire and auto repair shop in an existing pole building. This is a fairly intensive use.
4. This conditional use is not compatible with the properties and land uses in the immediate vicinity. The location is very rural, across from the Redden State Forest and agricultural and residential uses. There are no other permitted compatible business or commercial uses in the immediate vicinity.
5. There was evidence in the record suggesting that vehicles, vehicle parts and tires will be stored outside all around the site. There are few places in Sussex County where such a use may be appropriate, but these are within industrial or heavily commercial areas. Not an extremely rural location like this site.
6. There was substantial opposition in the record from neighboring residents and landowners that this use would not be compatible with the area or its roads; that the roads could not handle the additional truck traffic; that the noise from the use would be objectionable; that their property values would be reduced by the impact of the use and other concerns. I find all of these concerns to be valid, and they support a denial of this Application.
7. According to information in the record, the pole building constructed on their site by the Applicant was not built to commercial standards. This is not compatible with the potential use and the fire hazards associated with automobile repairs.
8. For all of these reasons, I move that the Commission recommend a denial of this Conditional Use Application.

Motion by Mr. Passwaters, seconded by Mr. Collins, and carried unanimously to recommend denial of C/U 2480 DJ Tire Center, LLC, for the lack of a sufficient record, and for the reasons stated in the motion. Motion carried 4-0.

Vote by roll call: Mr. Passwaters – yea, Mr. Collins – yea, Mr. Allen – yea, Mr. Mears - yea



## PLANNING & ZONING COMMISSION

HOLLY J. WINGATE, CHAIR  
JEFF ALLEN  
G. SCOTT COLLINS  
J. BRUCE MEARS, VICE-CHAIR  
JOHN PASSWATERS



## Sussex County

DELAWARE  
SUSSEXCOUNTYDE.GOV  
302-855-7878

JAMIE WHITEHOUSE, AICP MRTPI  
PLANNING & ZONING DIRECTOR

### PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: October 15, 2025

Application: C/U 2480 DJ Tire Center, LLC

Applicant: DJ Tire Center, LLC  
18651 Downs Road  
Georgetown, DE 19947

Owner: Javier Chilel Garcia  
16 Gadwall Drive  
Georgetown, DE 19947

Site Location: 18651 Downs Road, Georgetown

Site Location: Located on the east side of Downs Road (S.C.R. 243), approximately 0.45 mile northeast of Wilson Road (S.C.R. 244).

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

Proposed Use: Auto Tire Center

Comprehensive Land  
Use Plan Reference: Low Density Area

Councilmanic  
District: District 5 - Mr. Rieley

School District: Indian River School District

Fire District: Georgetown Fire Department

Sewer: Private Septic

Water: Private Well

Site Area: 1.0-acre(s) +/-

Tax Map ID.: 135-9.00-280.00





## Memorandum

To: Sussex County Planning Commission Members  
From: Ann Lepore, Planner I  
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant  
Date: January 14, 2026  
RE: Staff Analysis for C/U 2480 DJ Tire Center, LLC

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This memo is to provide background and analysis for the Planning Commission to consider as a part of Application C/U 2480 DJ Tire Center, LLC to be reviewed during the January 21, 2026, Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

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

**Tax Parcel ID:** 135-9.00-280.00

**Proposal:** The request is for a Conditional Use for Tax Parcel 135-9.00-280.00 to allow for an Auto Tire Shop on a parcel lying on the east side of Downs Road (S.C.R. 243), approximately 0.45-mile northeast of Wilson Road (S.C.R. 244). The parcel is comprised of 1.0 acres +/-.

**Zoning:** The Parcel is zoned Agricultural Residential (AR-1) District. The adjacent parcels to the east, north, west, and south are zoned Agricultural Residential (AR-1) District.

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

**Applicability to Comprehensive Plan:** The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map in the plan indicates that the subject property is designated as a Rural Area and has a land use designation of "Low Density Area." All surrounding properties to the north, south, east, and west of the subject site contain the Future Land Use Map designation of "Low Density Area".

As outlined in the 2018 Sussex County Comprehensive Plan, Low Density Areas are areas that the County envisions as "a predominantly rural landscape where farming co-exists with appropriate residential uses and permanently preserved property" (Sussex County Comprehensive Plan, 4-18).

The Plan also notes that commercial uses "should be limited in their location, size and hours of operation" and "more intense commercial uses should be avoided" and commercial uses "may be appropriate depending on surrounding uses" (Sussex County Comprehensive Plan, 4-19).



**Further Site Considerations:**

- **Density:** N/A
- **Open Space Provisions:** N/A
- **Agricultural Areas:** The site is within the vicinity of active agricultural lands.
- **Interconnectivity:** N/A
- **Transportation Improvement District (TID):** The parcels are not within the Henlopen Transportation Improvement District.
- **Forested Areas:** N/A
- **Wetlands Buffers/Waterways:** N/A
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** N/A

Based on the analysis of the land use, surrounding zoning and uses, a Conditional Use Application to allow for an Auto Tire Shop, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.

**Existing Conditional Uses within the Vicinity of the Subject Site:** Since 2011, there has been seven (7) Conditional Use applications within a 1-mile radius of the application site.

| CU No. | APPLICANT            | Tax Parcel #    | Zoning | Proposed Use                             | CC Date   | CC Decision | Ord. No. |
|--------|----------------------|-----------------|--------|------------------------------------------|-----------|-------------|----------|
| 230    | Harvey Donovan Sr    | 135-9.00-82.00  | GR     | Storage bldgs for non-conforming salvage | 8/24/1974 | Approved    | N/A      |
| 288    | Frank Warrington Jr  | 135-10.00-28.00 | GR     | Manufacture precast steps, lawn ornamen  | 9/2/1975  | Approved    | N/A      |
| 578    | Cordia W. Warrington | 135-10.00-27.01 | GR     | Automotive Repair Shop                   |           | Approved    | N/A      |
| 1234   | The Jefferson School | 135-10.00-16.00 | AR-1   | Elementary School                        | 3/31/1998 | Approved    | 1224     |
| 2410   | Nicasia Chavez Reyes | 135-9.00-122.00 | GR     | Grocery Store                            | 2/27/2024 | Deferred    |          |
| 2478   | George Bailey        | 135-10.00-6.01  | AR-1   | Multi-family                             |           | WITHDRAWN   |          |
| 2480   | DJ Tire Center, LLC  | 135-9.00-280.00 | AR-1   | Auto Tire Shop                           |           | Pending     |          |



**CU 2480 DJ Tire Center, LLC**  
**Conditional Uses within 1 mile**  
**TM# 135-9.00-280.00**

-  CU 2480 DJ Tire Center, LLC
-  CU 2480 1-mile Buffer
-  CU 2480 CU Vicinity Map







**CU 2480 DJ Tire Center, LLC**  
**Conditional Uses within 1 mile**  
**TM# 135-9.00-280.00**

-  CU 2480 DJ Tire Center, LLC
-  CU 2480 1-mile Buffer
-  CU 2480 CU Vicinity Map







**CU 2480 - DJ Tire Center**  
**Street Map**  
**TM# 135-9.00-280.00**



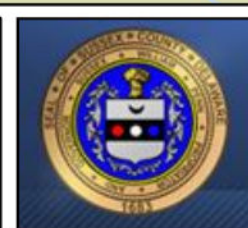
**CU 2480 DJ Tire Center**



N



0 250 500 1,000 Feet



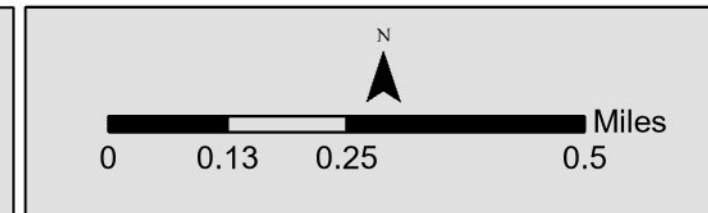


## Zoning

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

**CU 2480 - DJ Tire Center**  
**Zoning Map**  
**TM# 135-9.00-280.00**

 **CU 2480 DJ Tire Center**







State of Delaware, Maxar, Microsoft

**CU 2480 - DJ Tire Center**  
**Aerial Map**  
**TM# 135-9.00-280.00**

 **CU 2480 DJ Tire Center**



0 25 50 100 Feet



**Reintroduced: 11/18/25**

**Council District 5: Mr. Rieley**

**Tax I.D. No.: 135-9.00-280.00**

**911 Address: 18651 Downs Road, Georgetown**

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO TIRE CENTER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 1.0 ACRE, MORE OR LESS**

**WHEREAS, on the 24<sup>th</sup> day of August 2023, a conditional use application, denominated Conditional Use No. 2480, was filed on behalf of DJ Tire Center, LLC.; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2026, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2480 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. 2480 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 Downs Road (S.C.R. 243), approximately 0.45 mile northeast of Wilson Road (S.C.R. 244) and being more particularly described in the attached legal description prepared by Aleman Echevarria Attorneys at Law, said parcel containing 1.0 acre, more or less.**

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





## Memorandum

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

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

CC: Everett Moore, County Attorney

Date: August 20, 2026

RE: County Council Report for C/U 2424 filed on behalf of Oceans Six

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The Planning and Zoning Department received an application (C/U 2424 filed on behalf of Oceans Six) for a Conditional Use for multi-family dwellings (6 units) in an MR Medium Density Residential Zoning District at Tax Parcel 134-17.07-190.00. The property is located on the east side of Coastal Highway (Route 1), approximately 278 feet north of Jefferson Bridge Road. The parcel size is 0.61 ac. +/-

The Planning & Zoning Commission held a Public Hearing on the application on March 4, 2026. At the meeting of March 18, 2026, the Planning & Zoning Commission recommended approval of the application for the 10 reasons stated within the motion and subject to the 10 recommended conditions of approval (copied below).

The County Council held a Public Hearing on the application at the meeting on April 21, 2026. At the conclusion of the public hearing, the Council closed the public record and deferred action on the application for further consideration. Below is a link to the minutes of the April 21, 2026, meeting.

[Link to the Minutes of the April 21, 2026 County Council Meeting](#)

Below are the minutes from the Planning & Zoning Commission meetings of March 4, 2026, and March 18, 2026.

Minutes of the March 4, 2026, Planning & Zoning Commission Meeting

### **C/U 2424 Oceans Six**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (6 UNITS)**





**TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 0.61 ACRES, MORE OR LESS.** The property is lying on the east side of Coastal Highway (Route 1), approximately 278 feet north of Jefferson Bridge Rd. (S.C.R. 361-A). 911 Address: N/A. Tax Map Parcel: 134-17.07-190.00.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Conceptual Site Plan, the Applicant's presentation materials, the Applicant's Exhibit Booklet, the DelDOT Service Level Evaluation Response letter, the DelDOT Entrance Approval Letter, the Applicant's Drainage Assessment, the Staff Analysis Report, and a letter received from the Sussex County Engineering Department's Utility Planning Division. Mr. Whitehouse advised the Commission that no public comment had been received regarding the application.

The Commission found that Mr. David Hutt, Esq. with Morris James, LLP, spoke on behalf of Applicant, Oceans Six; that also present were Mr. William Buchanan, Jr. Principal of Buchanan Corporation, also being the Applicant and owner, and Mr. Michael Kaszyski, Professional Engineer with Atwell, LLC. Mr. Hutt stated that the subject application had two characteristics; that he felt, in every manner possible, that the application fit the characteristic of infill development; that the second characteristic was that this was the third time Sussex County would be considering a land use application for the subject property; that the first Conditional Use was known as C/U 1494, which the County Council adopted as Ordinance No. 1632 on September 16, 2003, approving the property for seven multi-family dwellings under the Sussex County Code §115-74; that the Conditional Use approval expired; that in 2009, on March 17<sup>th</sup>, the County Council adopted Ordinance No. 2033, which approved Conditional Use No. 1764, again approving a multifamily project of seven units on the property, however, the Conditional Use was never developed; that this resulted in a second expiration for the property; that the only difference between the two previous Conditional Use approvals, and the current Conditional Use application is the number of proposed units have been reduced from seven to six units, and the Conditional Use name has been changed from Oceans Seven to Oceans Six; that approximately 40% of the one mile radius surrounding the site, encompassed the Atlantic Ocean; that the municipal boundary for the Town of Bethany Beach is located north of the site; that the municipal boundary for South Bethany; that the site is located along Coastal Highway (Route 1), and within proximity to Pennsylvania Avenue; that Sea Pines Village multifamily condominium is located between the subject site, and Pennsylvania Avenue; that across from Pennsylvania Avenue is the location of the Sea Colony tennis courts and buildings associated with Sea Colony; that Sea Pines Village Condominium wraps around along Pennsylvania Avenue and down Jefferson Bridges Road; that on the other side of that road is the Hotel Bethany; that next to Hotel Bethany is Mickey's Family Crab House; that just south of that is the location of Nick's Mini-Golf; that north then, on Route 1, at the corner of the intersection is Perfect Furnishings; that next to that is PepUp, which used to have a Arby's, and is now Pony Donuts; that the next property is the location of the subject Conditional Use; that the next property, being the last property located within Sussex County's jurisdiction is the location of Taggart Professional Center; that the property is a little more than 0.6 acre; that the property has a vacant and somewhat dilapidated home and shed, which is proposed to be removed as part of the application; that when the application was submitted, the 2020 State Strategies Map was in effect; that the 2025 State Strategies Map was just recently adopted in 2026; that the site was located within Investment Level 2, where the State investments and policies in 2020 would support and encourage a wide range of uses; that the site is currently located within Investment Level 1, according to the 2025 State Strategies Map, which had been signed by the Governor a few weeks prior to the current hearing; that in 2020, the Office of State Planning

Coordination described Investment Level 1 as reflecting area that are already developed in an urban or suburban fashion, where infrastructure is existing or readily available, and where future redevelopment or infill projects are expected to and encouraged by State projects or policies; that the 2025 State Strategies document does not have the same narrative and paragraph format; that now it contains a chart where it describes each of the levels, along with characteristics of the levels; that there were three characteristics he wished to highlight from within the 2025 characteristics for Investment Level 1; that one characteristic is higher density development with mixed uses; that the second characteristics is a variety of housing and transportation options; that the third characteristics is walkable communities, which again describes the area, being along Route 1, Bethany Beach and South Bethany; that within the chart, promulgated with the State Strategies Map, is a policy focus for the State in Investment Level 1; that the policy focus includes a wide range of uses and densities, and significantly also includes infill and redevelopment, which matches the propose use of the site; that in short, regardless whether it is the 2020 or 2025 version of the State Strategies Map, the site is a location where the State expects and encourages growth to occur; that the site is located within the Coastal Area, according to the 2045 Future Land Use Map found within the Sussex County's 2018 Comprehensive Plan; that the site is located within the MR (Medium-Density Residential) Zoning District of Sussex County; that the site is near four different zoning classifications, being HR-2 (High Density Residential) District of Sussex County, which extends from the ocean over to the Assawoman Canal, additional MR (Medium-Density Residential) zoned properties within Sussex County, the C-1 (General Commercial) District of Sussex County, and the B-1 (Neighborhood Business) District of Sussex County; that the Planning Commission was very familiar with multifamily Conditional Use applications within the MR (Medium-Density Residential) Zoning District; that Conditional Uses, pursuant to §115-219 of the Sussex County Code are uses that are generally of a public or semi-public character, being essential and desirable for the general convenience and welfare; that due to the nature of the proposed use, the importance of the relationship to the Comprehensive Plan, and the possible impact, not only on neighboring properties, but on a larger section of the County, requires the exercise of planning judgement on location and site plan; that the County Code defines multifamily as a Conditional Use in the MR (Medium-Density Residential) Zoning District; that certainly housing is a public or semi-public character; that there are many Conditional Uses for multifamily dwellings; that the submitted Site Plan proposes six (6) units, and is fairly straightforward; that the plan offers a right-in and right-out entrance off Route 1, just north of the PepUp; that about two-thirds of the way back into the site, is a location for the fire and emergency responders to turn around; that located at the end of the drive aisle, is the location of the dumpsters, which are proposed to be screened from the surrounding properties, and are distant from the roadway itself; that the Sussex County Code requires two (2) parking spaces per dwelling unit; that the plan provides three (3) parking spaces per dwelling unit; that two spaces are provided internal to each home, with one space located on the outside; that per the FEMA mapping, the property is located within Flood Zone X, which is located outside of the 500 Year Floodplain; that there are no wetlands located on the property; that the property is not located within a Source Water Protection Area, Wellhead Protection Areas or Excellent Groundwater Recharge Areas; that the property does not have any resources as the term is defined in §115-4 of the County Code; that when the Sussex County Engineering Department reviewed the Drainage Assessment Report, it requested that there be an easement along the common drainage swale to the south of the property, with the PepUp station; that the most recent Site Plan filed did include the requested easement from the Sussex County Engineering Department; that central water will be provided by the Town of Bethany Beach; that central sewer will be provided by the Sussex County Engineering Department; that a letter was submitted by the Sussex County Engineering Department which indicated that the property is located within the Tier 1 Sewer District Area, and that there was capacity for the proposed six units; that DelDOT responded to the Service Level Evaluation request,

which indicated the proposed impact for the six units was diminutive, as that term is described in the Memorandum of Understanding between Sussex County and DelDOT; that the term means 50 vehicle trips or less, per day; that while Ocean Six has been waiting in the queue, it had put its wait to good use; that Atwell have been working with DelDOT; that DelDOT issued a Letter of No Objection to Recordation (LONOR) for the application, should the County Council act favorably on the application; that in the last two weeks, DelDOT approved the entrance reflected on the plan, should the County Council act favorably upon the application; that the property proposes a density of 9.8 units to the acre, which is consistent with the density of the surrounding properties; that the Sea Pines Village Condominium, immediately to the east and south of the project has a density in the nature of 12 units to the acre; that Sea Colony is in the same area of density requirements; that the site is consistent with the HR-2 (High Density Residential) Zoning classification that exists between the Atlantic Ocean and the Assawoman Canal in the area; that the Comprehensive Plan provides guidance on when medium and higher densities, things such as four to 12 units to the acres can be appropriate; that there is a list of several considerations, which include locations where central water and sewer are provided, when the property is near a significant number of commercial uses and employment centers, when it is in keeping with the character of the area, and when it is situated along a main road, or at/near a major intersection; that the application checks every one of those boxes; that the site is provided central water and sewer; that many commercial uses and employment centers exist along Route 1, and along a portion of the Route 1 corridor; that the site is located along the major road of Coastal Highway (Route 1); that the application is truly an infill development, as the term is described; that the property had been granted approval on two separate occasions being in 2003 and 2009; that because of how long all the businesses and development had been in the area, the application was considered infill in 2003, as well as in 2009, and that Mr. Buchanan would request that the Commission agree to those prior two Ordinances and agree that the project continues to be considered infill development, which would reflect the character of the area.

Mr. Hutt requested to submit Proposed Findings of Fact into the record for the application.

Mr. Collins questioned why interconnectivity was not provided in the event of an emergency within the surrounding area, and whether there was potential that the application would return before the Planning Commission again.

Mr. Hutt stated that there was no opportunity for interconnectivity because all surrounding properties had already been developed, and that he hoped the application would not return before the Commission, and the reason the application was changed from Ocean 7 to Ocean 6 was due to changes in regulations requirements for things like stormwater management.

Mr. Allen questioned whether the provided turn-around was large enough for emergency fire apparatuses to turn around.

Mr. Hutt stated that the provided turnaround was located about two-thirds of the way down the property; that on the submitted plan, it appears there are parking spaces within that area, as it appeared that parking bumpers were placed in that area; that parking spaces are not being provided in that area; that the purpose was only to keep the area open; that this will be required by the fire company, and the area is also provided as place for persons to turn around should they accidentally turn, and realize it is a dead-end street.

Mr. Passwaters questioned what the width of the turnaround area was.

Mr. Kaszyski, P.E. stated that the turnaround area had been designed in accordance with the State Fire Marshal's regulations; that the width itself was about 20 feet in width, and the driveway, at the front, was about 24 feet, which was the standard for fire lanes.

Mr. Robertson stated that should the application be approved, the Final Site Plan would still be required to go through State Fire Marshal Office review again to confirm compliance and approval.

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

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

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

In relation to C/U 2424 Oceans Six. Motion by Mr. Collins to defer action for further consideration, seconded by Mr. Passwaters and carried unanimously. Motion carried 5-0.

#### Minutes of the March 18, 2026, Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since March 4, 2026.

Mr. Collins moved that the Commission recommend approval of Conditional Use No. 2424 for Oceans Six for six (6) Multi-Family Units in an MR Medium Density Residential District based on the record made during the public hearing and for the following reasons:

1. This application seeks the approval of six (6) multi-family structures on approximately 0.61-acres of land.
2. Six (6) new multifamily units in this location will not overburden this property and will be similar to the other multifamily and townhouse developments and densities around this site. It is one of the last vacant properties in this area and it is reasonable to allow it to be developed in a similar way to its surroundings. This is an appropriate location for a small multifamily residential development.
3. This site was the subject of two prior approved conditional uses in 2003 and 2009 for the same multi-family use, with the only difference being the number of units. In the prior applications 7 units were approved while this application seeks approval for only 6 units.
4. This site is between the Towns of Bethany Beach and South Bethany. It is surrounded by properties that are zoned B-1, HR-2, and C-1 and it has frontage on Route 1. In addition to fairly intensive commercial uses, there are the high-density residential developments of Sea Colony and Sea Pines Village close by. This development is appropriately located within this mixture of zoning districts and uses.
5. The site is in the Coastal Area according to the Sussex County Comprehensive Plan. This type of development is appropriate in this Area according to the Plan, which states that "a range of housing types" are acceptable here, including medium and high densities when a site is served by central water and sewer, where the use is in keeping with the character of the area and other similar factors. These types of considerations exist with regard to this site.



6. The proposed development will not have an adverse impact on the neighboring properties or community.
7. DelDOT has stated that the development will have a “Diminutive” impact upon area roadways. The proposed development will not have an adverse impact upon traffic or roadways.
8. The development will be served by central sewer provided by Sussex County.
9. The development will be served by central water.
10. No parties appeared in opposition to this application.
11. This recommendation is subject to the following conditions:
  - A. The maximum number of residential units shall be six (6).
  - B. The developer and then a condominium shall be responsible for the perpetual maintenance of the project’s stormwater management facilities, erosion and sedimentation control facilities, roadways and other common areas.
  - C. All entrance, intersection, roadway and multi-modal improvements shall be completed by the developer as required by DelDOT.
  - D. Any dumpsters on the Property are to be screened from the view of neighboring properties and roadways. The dumpster locations shall be shown on the Final Site Plan.
  - E. The project shall be served by Sussex County sewer. The developer shall comply with all Sussex County Engineering Department requirements including any offsite upgrades necessary to provide service to the project.
  - F. The project shall be served by central water to provide drinking water and fire protection.
  - G. Construction activities, including site work and deliveries, shall only occur between 7:00 am and 6:00 pm Monday through Saturday. There shall be no construction activities at the site on Sundays. A 24 inch by 36 inch “NOTICE” sign in English and Spanish confirming these hours shall be prominently displayed at all entrances to the site during construction.
  - H. The Final Site Plan shall contain the approval of the Sussex County Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities. The system shall be designed and maintained using best management practices.
  - I. The Final Site Plan shall include a Grading Plan for the site. No building permits shall be issued until an individual lot grading plan has been supplied to and approved by Sussex County. No certificate of occupancy shall be issued until a grading certificate is submitted to the Building Code Department demonstrating general conformity with the individual site grading plan.
  - J. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Collins, seconded by Mr. Passwaters and carried unanimously to recommend approval of C/U 2424 Oceans Six for the reasons and the conditions stated in the motion. Motion carried 5-0.

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

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

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

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

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

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

## PLANNING & ZONING COMMISSION

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



## Sussex County

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302-855-7878

JAMIE WHITEHOUSE, AICP MRTPI  
PLANNING & ZONING DIRECTOR

### PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: March 4<sup>th</sup>, 2026

Sussex County Council Hearing Date: April 21<sup>st</sup>, 2026

Application: C/U 2424 Oceans Six

Applicant: Mr. William Buchanan, Jr.  
30911 Cricket Street  
Dagsboro, DE 19958

Owner: Mr. William Buchanan, Jr.  
30911 Cricket Street  
Dagsboro, DE 19958

Site Location: The property is lying on the east side of Coastal Highway (Route 1), approximately 278 feet north of Jefferson Bridge Road in Bethany Beach, Delaware.

Current Zoning: MR (Medium Density Residential District)

Proposed Zoning: MR (Medium Density Residential District)

Proposed Use: Multifamily (6 Units)

Comprehensive Land  
Use Plan Reference: Coastal Area

Councilmanic District: District 4 - Mr. Hudson

School District: Indian River School District

Fire District: Bethany Beach Fire Company

Sewer: Sussex County (Public Sewer)

Water: Town of Bethany Beach (Public Water)

Site Area: 0.61 acres +/-

Tax Map ID.: 134-17.07-190.00





## Memorandum

To: Sussex County Planning and Zoning Commission Members  
From: Mrs. Lauren Cecchine, AICP, Planning & Zoning Manager  
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant  
Date: February 5<sup>th</sup>, 2026  
RE: Staff Analysis for C/U 2424 Oceans Six

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The purpose of this memo is to provide background and analysis for the Planning and Zoning Commission to consider as a part of Application C/U 2424 Oceans Six to be reviewed during the March 4<sup>th</sup>, 2026, Planning and Zoning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

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

**Tax Parcel ID:** 134-17.07-190.00

**Proposal:** The request is for a Conditional Use for Tax Parcel ID: 134-17.07-190.00 for the establishment of six (6) multifamily units, associated parking and other related site improvements to be located on a 0.61-acre Parcel of land lying on the east side of Coastal Highway (Route 1), approximately 278 feet north of Jefferson Bridge Road in Bethany Beach, Delaware.

**Zoning:** The Parcel is zoned Medium Density Residential (MR) District and is located just one Parcel south of the municipal boundary of the Town of Bethany Beach. The parcel to the north contains the Taggart Professional Center Condominiums and is zoned Neighborhood Business (B-1) District. To the rear of the subject Parcel are further multifamily condominiums which are zoned High-Density Residential (HR-1) District.

To the south of the Property is a Parcel zoned General Commercial (C-1) which includes the Sandy Pony Donuts and Acai Bowls drive-thru restaurant facility. Two Parcels south of the subject Property is also zoned General Commercial (C-1) District and contains the Perfect Furnishings Furniture Store.

The Parcels on the opposite side of Coastal Highway (Route 1) to include the Compass Investment Advisors, Wilgus Associates Office uses are also zoned General Commercial (C-1) District.

**Application History/Background Information:** Staff note that there were two (2) previous Conditional Use Applications for the subject Site (Tax Parcel ID: 134-17.07-190.00.)

The first Application was Conditional Use No. 1494 Buchanan Builders, Inc. for the establishment of Multifamily (single-family Condominium Units) within a Medium Density Residential (MR) District. The Planning and Zoning Commission recommended approval of the Application at their meeting of Thursday, July 10<sup>th</sup>, 2003, subject to ten (10) Conditions of Approval. The Conditions





of Approval limited the proposal to seven (7) single-family condominium units. The Sussex County Council approved the Application at their meeting of Tuesday, September 16<sup>th</sup>, 2003, and the change was adopted through Ordinance No. 1632.

The second Application was Conditional Use No. 1764 Buchanan Developers, Inc. for the establishment of Multifamily (7 units) within a Medium Density Residential (MR) District. The Conditions of Approval limited the proposal to seven (7) single-family condominium units. The Planning and Zoning Commission recommended approval of the Application at their meeting of Thursday, February 26, 2009, subject to nine (9) Conditions of Approval. The Sussex County Council approved the Application at their meeting of Tuesday, March 17<sup>th</sup>, 2009, and the change was adopted through Ordinance No. 2033.

According to “Period of Validity Approval” for Conditional Uses within the Sussex County Code, *“Approval of a conditional use shall be valid for a period of three (3) years after the date of approval and thereafter shall become null and void unless construction or use is substantially underway during said three-year period. Any conditional use shall expire upon abandonment or expiration of the use. Construction shall be deemed to be “substantially underway” if the right-of-way has been cleared, the roadways, internal streets and/or parking areas have been rough-graded, the drainage system and/or stormwater management facilities have been rough-graded, and erosion and sediment control measures are in place and being actively maintained”* (§115-174).

Staff note that the previous two (2) Applications on the Property expired and were rendered null and void as they were not substantially underway within a three (3) year period, requiring the submittal of a new Conditional Use Application.

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

**Applicability to Comprehensive Plan:** The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use Map (FLUM) in the Plan indicates that the subject property has a Growth Area Future Land Use Map (FLUM) designation of “Coastal Area.” All adjacent and surrounding Parcels, to include the Parcels on the opposite side (west side) of Coastal Highway (Route 1) and the large Parcel to the east containing the Sea Colony Resort all have a Future Land Use Map (FLUM) designation of “Coastal Area.”

One (1) Parcel to the north includes all properties which are within the incorporated town limits of the Town of Bethany Beach.

The Coastal Area is one of the County’s seven (7) Growth Areas. According to the 2018 Sussex County Comprehensive Plan, Coastal Areas are areas where, *“the County encourages only appropriate forms of concentrated new development”* and *“especially when environmental features are in play”* (2018 Sussex County Comprehensive Plan, 4-9).

Furthermore, the Coastal Area designation recognizes two characteristics: 1.) *“This region is among the most desirable locations in Sussex County for new housing”* and 2.) *“This region contains ecologically important and sensitive characteristics”* and that, *“these factors are themselves part of the reason that this Area is so desirable - making the protection of them important to both the environment and the economy”* (2018 Sussex County Comprehensive Plan, 4-15).

The Plan further notes that medium and higher density (4-12 units per acre) can be appropriate in certain locations where:

- *There is central water and sewer;*
- *Near sufficient commercial uses and employment centers;*
- *Where it is in keeping with the character of the area;*
- *Where is along a main road or at/or near a major intersection;*
- *Where there is an adequate Level of Service;*
- *Or where other considerations exist that are relevant to the requested project and density”* (2018 Sussex County Comprehensive Plan, 4-16).

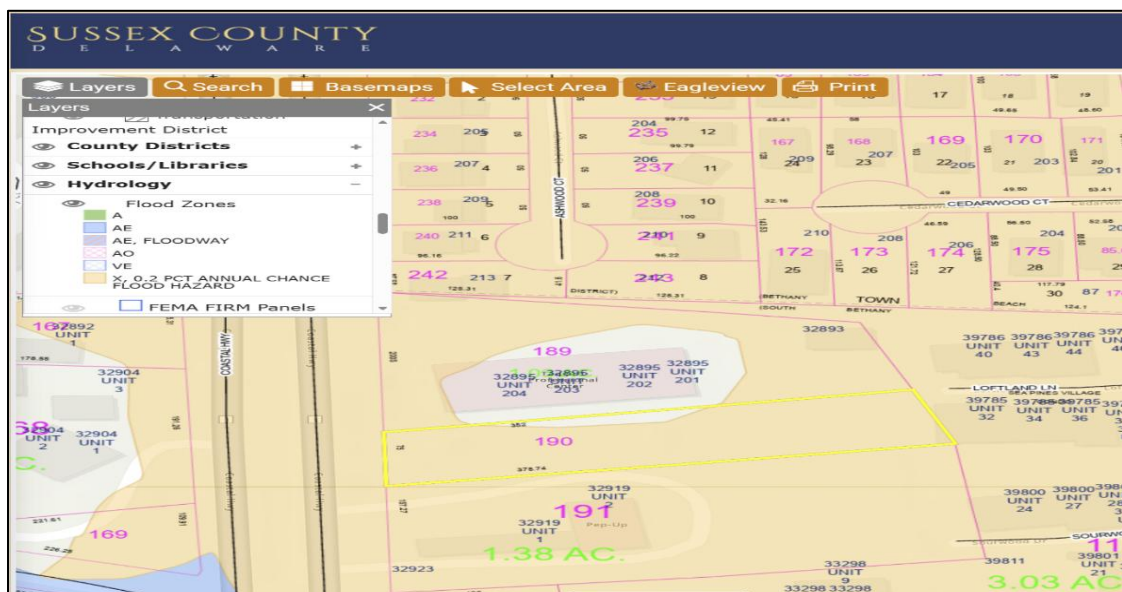
**Further Site Considerations:**

- **Density:** The proposed density of 9.83 dwelling units/acre (for 6 units on a 0.61-acre Parcel of land) meets the Medium Density Residential (MR) District density requirements, which permits a base density of up to 4 dwelling units/acre by-right and 12 dwelling units/acre through a Conditional Use Application (§115-34(A)).
- **Open Space Provisions:** N/A
- **Agricultural Areas:** Staff note that there are no Agricultural Areas within proximity to the subject Parcel.
- **Interconnectivity:** N/A
- **Transportation Improvement District (TID):** The Parcel is not located within any established Transportation Improvement Districts (TIDs). The DelDOT Service Level Evaluation Response (SLER) noted that the anticipated traffic impact of the proposed use would be “diminutive” in the context of the County’s Memorandum of Understanding (MOU) with DelDOT and that the land use would generate fewer than 50 vehicle trips per day.
- **Forested Areas:** Staff notes that the Parcel is currently fully forested and that the Plans appear to propose the clearing of all existing trees.
- **Wetlands Buffers/Waterways:** Staff note an area of Terrene Wetlands (ie: wetlands that are relatively isolated and not connected to adjacent wetlands or waterbodies by surface water or overflow) have been indicated on the Property on the County’s Online Mapping Application. An image of the associated wetlands has been included in the image below as Exhibit “A.”



Exhibit “A” – Terrene Wetlands Indicated on the Parcel

- Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** The subject Property is not located within any Tax Ditch Areas and does not contain any Tax Ditches or Tax Ditch Rights-Of-Way (ROW). There are also no Wellhead Protection Areas on the subject Property. The Property is almost entirely located within Flood Zone “X” – “0.2 Percent Annual Chance Flood Hazard” Flood Zone. The project will have to adhere to FEMA requirements regarding flood-proofing and building within flood prone areas/within the floodplain. An image has been included below showing the Flood Zone on the Property. The Parcel is primarily located within an area of “Good” Groundwater Recharge Potential.



## Exhibit “B” – Flood Zone “X” – Areas within 0.2 percent annual chance flood hazard

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

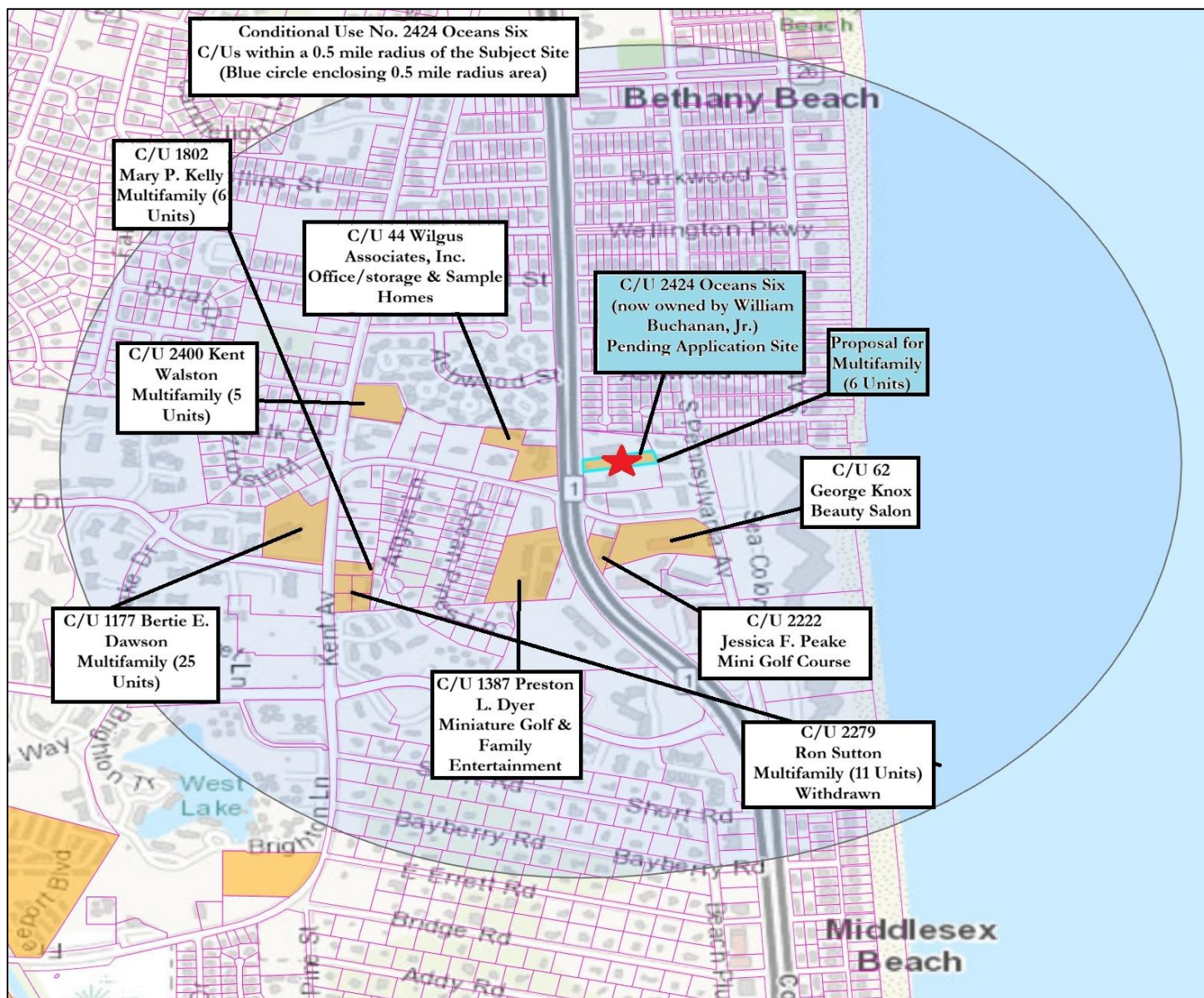
Since 1970, there have been thirteen (11) Conditional Use Applications within a 0.5-mile radius of the Application site. A Supplemental Table has been provided showing the approval status of all Conditional Use Applications within a 0.5-mile radius of the Application Site.

| Conditional Uses w/in a 0.5-mile Radius of the Application Site |                          |                  |                |                                       |                      |                   |                  |             |                     |
|-----------------------------------------------------------------|--------------------------|------------------|----------------|---------------------------------------|----------------------|-------------------|------------------|-------------|---------------------|
| Conditional Use Number                                          | Applicant                | Tax Parcel #     | Current Zoning | Proposed Use                          | P&Z Decision         | P&Z Decision Date | CC Decision Date | CC Decision | Ordinance Number    |
| 62                                                              | George Knox              | 134-17.00-53.00  | MR             | beauty salon                          | N/A                  | N/A               | N/A              | Approved    | N/A                 |
| 1764                                                            | Buchanan Developers Inc. | 134-17.07-190.00 | MR             | Multi-Family                          | Recommended Approval | 2/26/2009         | 3/17/2009        | Approved    | 2033                |
| 2222                                                            | Jessica F. Peake         | 134-17.11-40.00  | C-1            | Mini Golf Course                      | Recommended Approval | 3/26/2020         | 6/9/2020         | Approved    | 2713                |
| 44                                                              | Wilgus Associates Inc    | 134-17.07-168.00 | MR             | office/storage & sample homes         | N/A                  | N/A               | N/A              | Approved    | N/A                 |
| 1802                                                            | Mary P. Kelly            | 134-17.11-5.00   | MR             | multi-family                          | Recommended Approval | 1/14/2010         | 10/5/2010        | Approved    | 2151                |
| 1177                                                            | Bertie E. Dawson         | 134-17.00-49.00  | MR             | multi-family                          | Recommended Approval | 4/10/1997         | 7/30/1997        | Approved    | 1158                |
| 1387                                                            | Preston L. Dyer          | 134-17.11-35.00  | C-1            | miniature golf & family entertainment | Withdrawn            | 2/20/2001         | 2/20/2001        | Withdrawn   | <Null>              |
| 1494                                                            | Buchanan Builders Inc.   | 134-17.07-190.00 | MR             | Multi-Family                          | Recommended Approval | 7/10/2003         | 9/16/2003        | Approved    | 1632                |
| 2279                                                            | Ron Sutton               | 134-17.11-6.00   | MR             | Multi-Family (11 Units)               | Withdrawn            | N/A               | N/A              | Withdrawn   | N/A                 |
| 2333                                                            | Kent Walston             | 134-17.07-173.02 | AR-1/MR        | Multi-Family                          | Withdrawn            | N/A               | N/A              | Withdrawn   | N/A                 |
| 2400                                                            | Kent Walston             | 134-17.07-173.02 | AR-1/MR        | Multi-Family (5 Units)                | Recommended Approval | 7/13/2023         | N/A              | Approved    | 2947                |
| 2424                                                            | William Buchanan, Jr.    | 134-17.07-190.00 | MR             | Multifamily Dwelling Units (6)        | Pending              | Pending           | Pending          | Pending     | PENDING APPLICATION |

### **Exhibit “C” – Conditional Use Applications w/in a 0.5-Mile Radius of the Application Site**

Based on the analysis provided, the Conditional Use to allow for six (6) multifamily dwellings to be constructed on the Site in this location could be consistent with the surrounding land uses, zoning, and general environment given considerations of scale and impact.



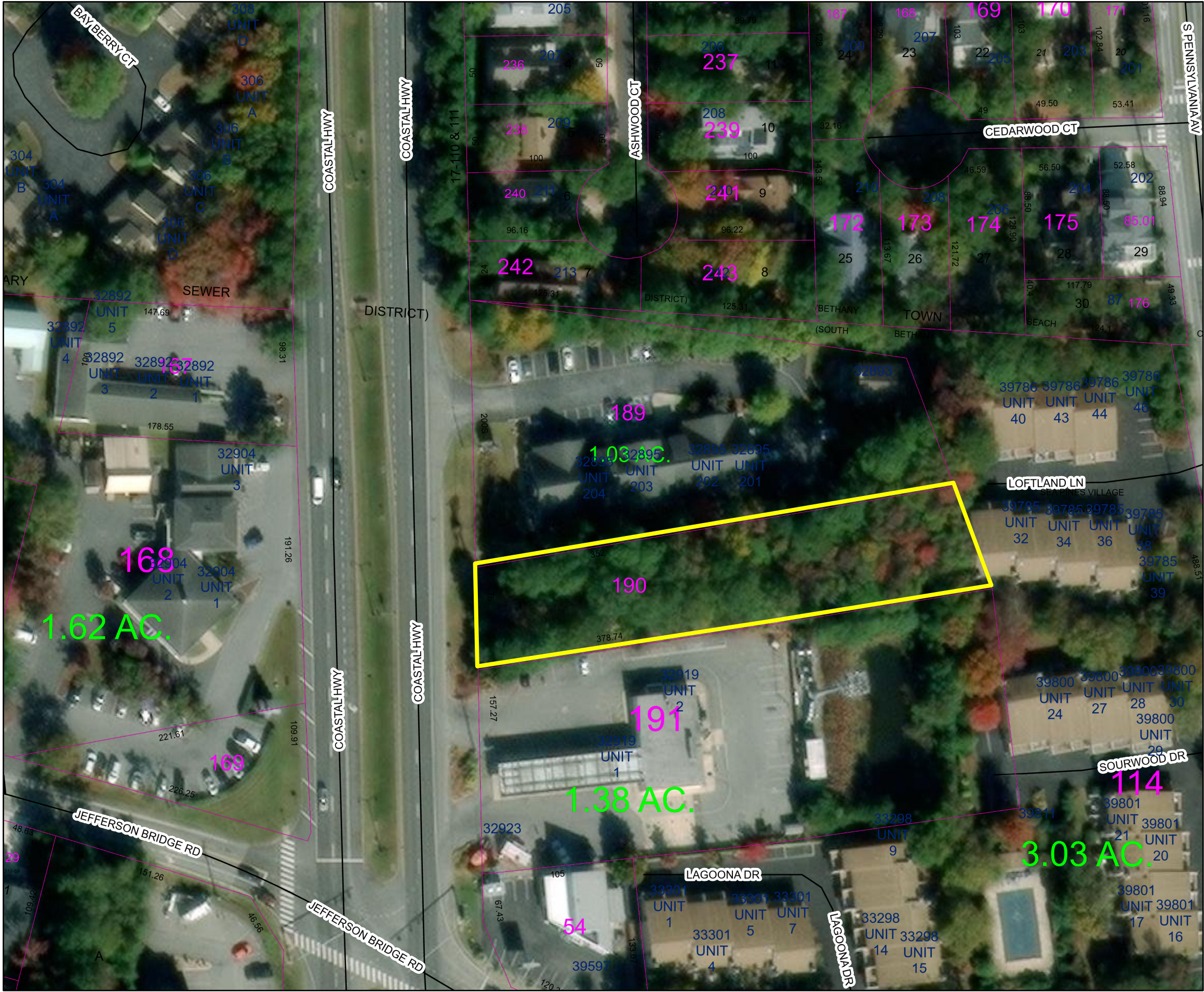


**Exhibit "D" – Conditional Use Applications w/in a 0.5-Mile Vicinity of Application Site**





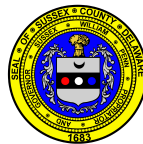
# A3 Landscape Parcel Details



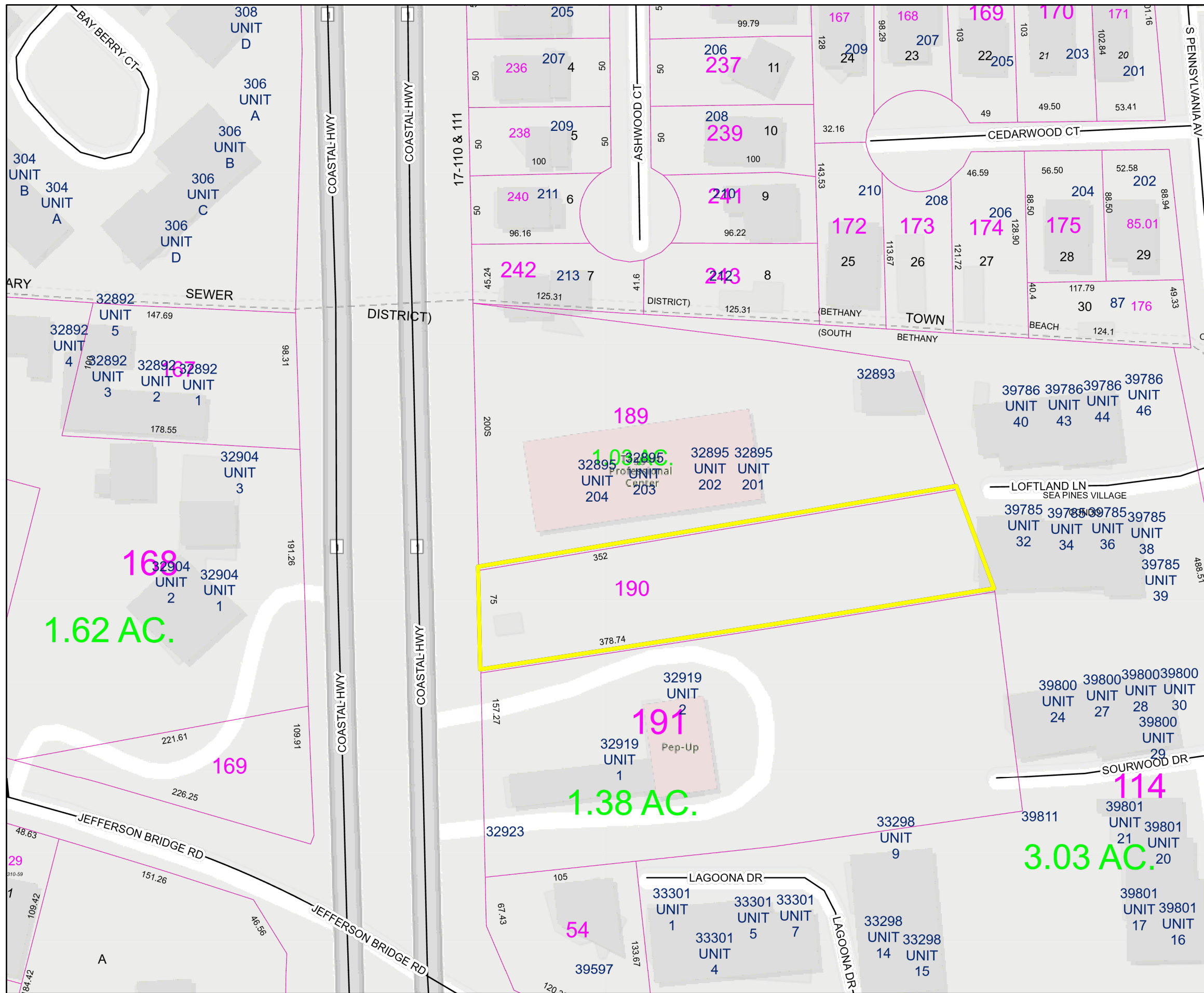
|                        |                  |
|------------------------|------------------|
| <b>PIN:</b>            | 134-17.07-190.00 |
| <b>Owner Name</b>      | BUCHANAN CORP    |
| <b>Book</b>            | 2865             |
| <b>Mailing Address</b> | 30911 CRICKET ST |
| <b>City</b>            | DAGSBORO         |
| <b>State</b>           | DE               |
| <b>Description</b>     |                  |
| <b>Description 2</b>   |                  |
| <b>Description 3</b>   |                  |
| <b>Land Code</b>       |                  |

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





# A3 Landscape Parcel Details



|                 |                  |
|-----------------|------------------|
| PIN:            | 134-17.07-190.00 |
| Owner Name      | BUCHANAN CORP    |
| Book            | 2865             |
| Mailing Address | 30911 CRICKET ST |
| City            | DAGSBORO         |
| State           | DE               |
| Description     |                  |
| Description 2   |                  |
| Description 3   |                  |
| Land Code       |                  |

- Tax Parcels
- 911 Address
- TaxParcel
- Encumbrance
- Condo
- Streets
- County Boundaries
- GIOLandRecords.PARCELFABRIC.Condo
- Citations



# A3 Landscape Parcel Details



|                 |                  |
|-----------------|------------------|
| PIN:            | 134-17.07-190.00 |
| Owner Name      | BUCHANAN CORP    |
| Book            | 2865             |
| Mailing Address | 30911 CRICKET ST |
| City            | DAGSBORO         |
| State           | DE               |
| Description     |                  |
| Description 2   |                  |
| Description 3   |                  |
| Land Code       |                  |

- Tax Parcels
- 911 Address
- TaxParcel
- Encumbrance
- Condo
- Streets
- County Boundaries
- GIOLandRecords.PARCELFABRIC.Condo
- World\_Hillshade

**To Be Introduced: 8/29/23**

**Council District 4: Mr. Hudson  
Tax I.D. No. 134-17.07-190.00  
911 Address: N/A**

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (6 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.614 ACRES, MORE OR LESS**

**WHEREAS, on the 23<sup>rd</sup> day of January 2023, a conditional use application, denominated Conditional Use No. 2424 was filed on behalf of Oceans Six; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2023, 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. 2424 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2023, 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, Subsection 115-31, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2424 as it applies to the property hereinafter described.**

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

**ALL that certain tract, piece, or parcel of land, lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on the east side of Coastal Highway, approximately 278 feet north of Jefferson Bridge Rd and being more particularly described in the attached legal description prepared by Joseph C. Raskauskas, P.A., said parcel containing 0.614 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: August 20, 2026

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

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

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

On July 14, 2026, the County Council held a Public Hearing on the Ordinance. At the conclusion of the public hearing, the Council closed the Public Record and deferred action on the Ordinance for further consideration. At the meetings of July 28, 2026, and August 11, 2026, the Council discussed the Ordinance, but at each meeting deferred action on the application for further consideration.

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

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

#### **ORD 26-05**

**AN ORDINANCE TO AMEND CHAPTER 99, ARTICLE I, III AND V §99-5 "DEFINITIONS", §99-21A "PERIMETER BUFFERS" AND §99-26 "INFORMATION TO BE SHOWN" AND CHAPTER 115, ARTICLES I, XXV AND XXVIII §115-4 "DEFINITIONS**





**AND WORD USAGE” AND §115-221 “FINAL SITE PLAN REQUIREMENTS” AND BY ADDING NEW §§115-194.8 “FOREST PRESERVATION’ AND 115-194.9 “TREE PLANTING REQUIREMENTS”.**

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

the perimeter buffer is not counted towards the 30% of the forest being preserved; that there was a reason for that; that if the perimeter buffer counted towards the forest preservation, one would be able to retain the forest along the perimeter; that with the forest mitigation they were getting to, one would be planting the perimeter buffer that was required to be planted anyway; that one would end up with the result being that the forest that are attempting to be preserved, being removed, because one would be attempting to comply with their perimeter buffer standards; that there was no point in the Ordinance if the perimeter buffer was counted, and the reasoning that the 30% and the 50% required to be preserved be considered outside of the perimeter buffer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

WHEREAS, this Ordinance is in furtherance of the recommendations of the Land Use Reform Working Group regarding forest preservation and tree planting; and

WHEREAS, it has been determined that this Ordinance promotes and protects the health, safety, convenience, orderly growth and welfare of the inhabitants of Sussex County.

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

**Section 1. The Code of Sussex County, Chapter 99, Article I, §99-5 “Definitions” is hereby amended by deleting the language in brackets and inserting the italicized and underlined language as follows:**

**§ 99-5 Definitions.**

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

...

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

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



Protection Area.

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

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

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

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

....

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

**§ 99-21.A Perimeter buffers.**

A. Perimeter buffer general standards.

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

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

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

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

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

penalties and/or remediation required if unauthorized disturbance occurs.

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

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

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

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

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

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

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

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

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

depicted on the Perimeter Buffer Landscape Plan.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

D. Perimeter buffer landscape plan.

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

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

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

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

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

(d) Measures to be taken to avoid sedimentation intrusions

and erosion in the Perimeter Buffer.

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

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

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

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

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

E. Timing; bonds and guarantees.

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

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

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

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

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

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

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

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

bond or other guaranty is provided for the alteration.

F. Perimeter buffer maintenance.

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

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

G. Perimeter buffer tree mitigation.

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

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



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

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

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

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

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

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

#### 407 H. Violations and penalties.

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

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

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

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

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

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

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

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

434 . . .

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

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

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

446 . . .

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

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

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

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

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

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

***§ 115-194.8. Forest Preservation***

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

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

A. Forest Stand Delineation

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

B. Minimum Protection Standards of existing Forest.

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

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

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

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

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

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

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

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



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

545  
546 C. Mitigation of Forest Removal

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

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

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

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

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

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

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

protected and the Forest to be removed.

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

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

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

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

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

D. Timing, bonds and guarantees.

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

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

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

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

647  
648 E. Violation and Penalties

649  
650 (1) In the event a developer, owner of the land or any person or  
651 corporation removes or damages Forests in excess of the amount  
652 required to be retained pursuant to § 115-194.8B hereof and as  
653 specified in the approved plans for such development, such party  
654 shall be responsible for mitigation pursuant to § 115-194.8C at a  
655 rate of 2 times the Forest area (measured to the nearest square foot)  
656 removed (which may require a reconfiguration of the approved site  
657 plan for the development to accommodate the additional planting)  
658 and shall pay a fine equal to the Forest area (measured to the  
659 nearest square foot) damaged or disturbed multiplied by \$4.356 per  
660 square foot. Such fine shall be authorized and approved in the  
661 County's annual budget and deposited in the County's open space  
662 fund to be used for land and easement acquisitions.

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

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

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

**§ 115-194.9. Tree Planting Requirements.**

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

A. Tree Planting

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

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



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

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

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

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

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

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

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

(5) Timing; bonds and guarantees.

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

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

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

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

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

**§115-221 Final Site Plan Requirements**

...

B. The final site plan shall show the following:

...

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

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

#### **Section 8. Effective Date.**

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



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 Fri 2026-07-31 14:58  
To Morgan C. Stokes <morgan.stokes@sussexcountyde.gov>

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**Council Grant Form**

|                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                           |
|----------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Legal Name of Agency/Organization                                                                              | Historic Georgetown Association                                                                                                                                                                                                                                                                                                                                           |
| Project Name                                                                                                   | Installation of Security Cameras on the Train Station Museum and Georgetown's First Fire House                                                                                                                                                                                                                                                                            |
| Federal Tax ID                                                                                                 | EIN-510368948                                                                                                                                                                                                                                                                                                                                                             |
| 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 mission of the Historic Georgetown Association is to promote historical, cultural, and educational issues concerning the citizens of Georgetown. Historic Georgetown Association is committed to preserving Georgetown's rich history by restoring & renovating historic structures and working with community leaders to present that history to future generations. |
| Address                                                                                                        | c/o Michael Digiacom, (Treasurer) 18362 Gravel Hill Road, Georgetown, DE 19947                                                                                                                                                                                                                                                                                            |

|                                                                                                         |                                                                                          |
|---------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|
| <b>Address 2</b>                                                                                        | The location of the complex is at the corner of Layton Ave. and Depot St. Georgetown, DE |
| <b>City</b>                                                                                             | Georgeotwn                                                                               |
| <b>State</b>                                                                                            | Delaware                                                                                 |
| <b>Zip Code</b>                                                                                         | 19947                                                                                    |
| <b>Contact Person</b>                                                                                   | Mr. Lynn W. Moore                                                                        |
| <b>Contact Title</b>                                                                                    | Executive Vice President                                                                 |
| <b>Contact Phone Number</b>                                                                             | 3207456595                                                                               |
| <b>Contact Email Address</b>                                                                            | <a href="mailto:lynnwmoore@aol.com">lynnwmoore@aol.com</a>                               |
| <b>Total Funding Request</b>                                                                            | <del>\$2,000</del> \$2,600 Per Email                                                     |
| <b>Has your organization received other grant funds from Sussex County Government in the last year?</b> | Yes                                                                                      |
| <b>If YES, how much was received in the last 12 months?</b>                                             | 2500                                                                                     |
| <b>Are you seeking other sources of funding other than Sussex County Council?</b>                       | No                                                                                       |
| <b>If YES, approximately what percentage of the project's funding does the Council grant represent?</b> | N/A                                                                                      |



**Program Category  
(choose all that apply)**

Cultural  
Educational  
Other

**Program Category  
Other**

Museums

**Primary Beneficiary  
Category**

Other

**Beneficiary Category  
Other**

Protection of premises and visitors

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

500

**Scope**

Historic Georgetown Association owns the Georgetown Train Station built in the late 1800's and has a museum on the first floor. We also have Georgetown's First Fire House built in 1909 and dedicated in honor of past, present, and future volunteer firefighters of Station 77. We have never had security cameras and would like to have them so as to protect the many items and historic documents in both buildings. Furthermore, it will provide security for the many visitors and volunteers that are present at events and meetings. The total amount should be less than the \$3,000 requested, but we need a cushion in case of unexpected expenses in the installation process.

**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                                                                                                                                                       | 4 security cameras on the outside of train station and two on outside of First Fire House |
| Amount                                                                                                                                                            | 2,600.00                                                                                  |
| Amount                                                                                                                                                            | 0.00                                                                                      |
| TOTAL EXPENDITURES                                                                                                                                                | 2,600.00                                                                                  |
| TOTAL DEFICIT FOR PROJECT OR ORGANIZATION                                                                                                                         | -2,600.00                                                                                 |
| Name of Organization                                                                                                                                              | Historic Georgeotwn Association                                                           |
| Applicant/Authorized Official                                                                                                                                     | Lynn Moore                                                                                |
| Date                                                                                                                                                              | 07/31/2026                                                                                |
| 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.  
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Outlook

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**Form submission from: Council Grant Form**

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**From** notifications=d3forms.com@mg.d3forms.com <notifications=d3forms.com@mg.d3forms.com>  
on behalf of  
Sussex County DE <notifications@d3forms.com>

**Date** Mon 2026-08-10 16:56

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

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***Council Grant Form***

|                                              |                         |
|----------------------------------------------|-------------------------|
| <b>Legal Name of<br/>Agency/Organization</b> | Ocean Waves Quilt Guild |
|----------------------------------------------|-------------------------|

|                     |                    |
|---------------------|--------------------|
| <b>Project Name</b> | An Ocean of Quilts |
|---------------------|--------------------|

|                       |            |
|-----------------------|------------|
| <b>Federal Tax ID</b> | 52-2079625 |
|-----------------------|------------|

|                   |     |
|-------------------|-----|
| <b>Non-Profit</b> | Yes |
|-------------------|-----|

|                                                                                                                                           |    |
|-------------------------------------------------------------------------------------------------------------------------------------------|----|
| <b>Does your<br/>organization or its<br/>parent organization<br/>have a religious<br/>affiliation? (If yes, fill<br/>out Section 3B.)</b> | No |
|-------------------------------------------------------------------------------------------------------------------------------------------|----|

|                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|---------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Organization's Mission</b>                                                                           | <p>Ocean Waves Quilt Guild, Inc. is an educationally oriented guild which seeks to develop and expands its members' quilting skills and knowledge through a variety of opportunities including:</p> <p>monthly programs featuring professional and member lectures and trunk shows</p> <p>demonstrations and classes</p> <p>small group projects such as block swaps, round robins and challenges</p> <p>community service.</p> <p>The guild strives to foster the sharing of member talents and quilting resources through its activities, newsletter, facebook, instagram and website.</p> <p>We see for over 50 organizations, supplying quilts, heart pillows, pillowcases and other fabric items for babies, youth, veterans, hospital patients and the unhoused.</p> |
| <b>Address</b>                                                                                          | 23298 Horse Island Rd                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>City</b>                                                                                             | Lewes                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>State</b>                                                                                            | DE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>Zip Code</b>                                                                                         | 19958                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Contact Person</b>                                                                                   | Monica Berault Chmielewski                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>Contact Phone Number</b>                                                                             | 4105076456                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>Contact Email Address</b>                                                                            | <a href="mailto:monicamary1960@gmail.com">monicamary1960@gmail.com</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Total Funding Request</b>                                                                            | 5,000                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Has your organization received other grant funds from Sussex County Government in the last year?</b> | No                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>If YES, how much was received in the last 12 months?</b>                                             | N/A                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |



**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?**

1

**Program Category (choose all that apply)**

Cultural  
Educational

**Primary Beneficiary Category**

Other

**Beneficiary Category Other**

Veterans, babies, youth, unhoused

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

1000

**Scope**

Ocean Waves Quilt Guild provides quilts and other hand made items to various groups that include babies, youth, veterans, hospital patients and elderly.

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

2,500.00

**Description**

Operating Costs

**Amount**

50,000.00

|                               |           |
|-------------------------------|-----------|
| <b>TOTAL<br/>EXPENDITURES</b> | 50,000.00 |
|-------------------------------|-----------|

|                                                          |            |
|----------------------------------------------------------|------------|
| <b>TOTAL DEFICIT FOR<br/>PROJECT OR<br/>ORGANIZATION</b> | -47,500.00 |
|----------------------------------------------------------|------------|

|                             |                         |
|-----------------------------|-------------------------|
| <b>Name of Organization</b> | Ocean Waves Quilt Guild |
|-----------------------------|-------------------------|

|                                          |                            |
|------------------------------------------|----------------------------|
| <b>Applicant/Authorized<br/>Official</b> | Monica Berault Chmielewski |
|------------------------------------------|----------------------------|

|             |            |
|-------------|------------|
| <b>Date</b> | 08/10/2026 |
|-------------|------------|

|                                                                                                                                                                                                          |     |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|
| <b>I acknowledge and<br/>represent on behalf of<br/>the application<br/>organization that I<br/>have read and<br/>understand the Grant<br/>Program Guidelines<br/>and Affidavit of<br/>Understanding</b> | Yes |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|

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

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Please feel free to email [clientservices@d3corp.com](mailto:clientservices@d3corp.com) with any questions.

**Morgan C. Stokes**

---

**From:** notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE  
<notifications@d3forms.com>  
**Sent:** Friday, August 14, 2026 1:16 PM  
**To:** Morgan C. Stokes  
**Subject:** Form submission from: Council Grant Form

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***Council Grant Form***

**Legal Name of  
Agency/Organization** American Cancer Society

**Project Name** Relay For Life of Sussex County

**Federal Tax ID** 13-1788491

**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 mission of the American Cancer Society is to improve the lives of people with cancer and their families through advocacy, research, and patient support, to ensure everyone has an opportunity to prevent, detect, treat, and survive cancer.

**Address** PO Box 1877

**City** Salisbury

**State** Maryland

|                                                                                                         |                                                                      |
|---------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------|
| <b>Zip Code</b>                                                                                         | 21802                                                                |
| <b>Contact Person</b>                                                                                   | Debbie White                                                         |
| <b>Contact Title</b>                                                                                    | Sr. Development Manager                                              |
| <b>Contact Phone Number</b>                                                                             | 4108453049                                                           |
| <b>Contact Email Address</b>                                                                            | <a href="mailto:debbie.white@cancer.org">debbie.white@cancer.org</a> |
| <b>Total Funding Request</b>                                                                            | 1,500.00                                                             |
| <b>Has your organization received other grant funds from Sussex County Government in the last year?</b> | No                                                                   |
| <b>If YES, how much was received in the last 12 months?</b>                                             | N/A                                                                  |
| <b>Are you seeking other sources of funding other than Sussex County Council?</b>                       | Yes                                                                  |
| <b>If YES, approximately what percentage of the project's funding does the Council grant represent?</b> | 2.2                                                                  |
| <b>Program Category (choose all that apply)</b>                                                         | Health and Human Services                                            |

|                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|----------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Primary Beneficiary Category</b>                                                                                                                | Other                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>Beneficiary Category Other</b>                                                                                                                  | all Sussex countians                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program</b>                    | 1500                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>Scope</b>                                                                                                                                       | Approximately 1500 Sussex countians are diagnosed with cancer each year. The American Cancer Society is here to end cancer as we know it for everyone, fighting every cancer, every day...with Relay For Life, our signature fundraising activity, directly funding our research, free patient services, and prevention & detection education for anyone who requests help. Last year 163 Sussex Countians requested help for rides to treatment, free lodging at Hope Lodge, and other support through our 800# help line. |
| <b>Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)</b> | 0.00                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>Description</b>                                                                                                                                 | Operating                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Amount</b>                                                                                                                                      | 1,800.00                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>Description</b>                                                                                                                                 | Personnel                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Amount</b>                                                                                                                                      | 1,000.00                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |



|                                                                                                                                                                          |                               |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|
| <b>Description</b>                                                                                                                                                       | Fundraising                   |
| <b>Amount</b>                                                                                                                                                            | 2,800.00                      |
| <b>Description</b>                                                                                                                                                       | Education & Marketing         |
| <b>Amount</b>                                                                                                                                                            | 1,500.00                      |
| <b>TOTAL EXPENDITURES</b>                                                                                                                                                | 7,100.00                      |
| <b>TOTAL DEFICIT FOR PROJECT OR ORGANIZATION</b>                                                                                                                         | -7,100.00                     |
| <b>Name of Organization</b>                                                                                                                                              | American Cancer Society, Inc. |
| <b>Applicant/Authorized Official</b>                                                                                                                                     | Debbie White                  |
| <b>Date</b>                                                                                                                                                              | 08/14/2026                    |
| <b>I acknowledge and represent on behalf of the application organization that I have read and understand the Grant Program Guidelines and Affidavit of Understanding</b> | Yes                           |
| <b>I understand that, if awarded grant funding, I will be required to provide receipts and/or supporting documentation showing how the funds were spent.</b>             | Yes                           |

**Failure to provide the  
required  
documentation may  
result in ineligibility  
for future grant  
funding from Sussex  
County.**

If you feel this is not a valid submission please log into D3Forms to update this submissions status.  
Please feel free to email [clientservices@d3corp.com](mailto:clientservices@d3corp.com) with any questions.

**To Be Introduced: 8/25/26**

**Council District 1: Mr. Lloyd  
Tax I.D. No.: 531-12.00-92.02  
911 Address: N/A**

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 28.64 ACRES, MORE OR LESS**

**WHEREAS, on the 30<sup>th</sup> day of May 2025, a Conditional Use application, denominated Conditional Use No. 2597, was filed on behalf of Lonesome Road Community Energy Initiative, LLC; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2026, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County, and said Planning and Zoning Commission recommended that Conditional Use No. 2597 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. 2597 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 Lonesome Road (S.C.R. 541), approximately 800 feet south of Woodpecker Road (S.C.R. 80), and being more particularly described in the attached legal description prepared by Becker Morgan Group, said parcel containing 28.64 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: 8/25/26**

**Council District 1: Mr. Lloyd  
Tax I.D. No.: 531-12.00-84.01  
911 Address: N/A**

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 39.281 ACRES, MORE OR LESS**

**WHEREAS, on the 2<sup>nd</sup> day of July 2025, a Conditional Use application, denominated Conditional Use No. 2601, was filed on behalf of Woodpecker Road Community Energy Initiative LLC; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2026, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2601 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. 2601 as it applies to the property hereinafter described.**

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

**ALL that certain tract, piece, or parcel of land, lying and being situate in Sussex County, Delaware, and lying on the northwest side of Woodpecker Road (S.C.R. 80), approximately 0.29 mile south of West Stein Highway (Rt. 20) and being more particularly described in the attached legal description prepared by Becker Morgan Group said parcel containing 39.281 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: 8/25/26**

**Council District 2: Mr. McCarron**

**Tax I.D. No.: 230-12.00-22.00**

**911 Address: 9074 North Old State Road & 18126 Haflinger Road, Lincoln**

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 31.3 ACRES, MORE OR LESS**

**WHEREAS, on the 16<sup>th</sup> day of October 2025, a Conditional Use application, denominated Conditional Use No. 2616, was filed on behalf of TPE DE SU519, LLC; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2026, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2616 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. 2616 as it applies to the property hereinafter described.**

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

**ALL that certain tract, piece, or parcel of land, lying and being situate in Sussex County, Delaware, and lying on the west side of North Old State Road (S.C.R. 213) and the south side of Haflinger Road (S.C.R. 625), approximately 0.25 mile east of DuPont Boulevard (Rt. 113), and being more particularly described in the attached legal description prepared by David D. Finocchiaro, LLC said parcel containing 31.3 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: 8/25/26**

**Council District 1: Mr. Lloyd  
Tax I.D. No.: 232-12.00-100.00  
911 Address: 11279 Sycamore Road, Laurel**

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 47.20 ACRES, MORE OR LESS**

**WHEREAS, on the 9<sup>th</sup> day of March 2026, a Conditional Use application, denominated Conditional Use No. 2639, was filed on behalf of Sunrise Solar, Inc.; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2026, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2639 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. 2639 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 Sycamore Road (S.C.R. 466), approximately 0.27 miles east of Sussex Highway (Route 13), and being more particularly described in the attached legal description prepared by The Smith Firm, LLC, said parcel containing 47.20 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: 8/25/26**

**Council District 1: Mr. Lloyd  
Tax I.D. No.: 532-20.00-14.00  
911 Address: N/A**

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 52.34 ACRES, MORE OR LESS**

**WHEREAS, on the 2<sup>nd</sup> day of June 2026, a Conditional Use Application, denominated Conditional Use No. 2652, was filed on behalf of Sussex CSG 3, LLC; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2026, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2652 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. 2652 as it applies to the property hereinafter described.**

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

**ALL that certain tract, piece, or parcel of land, lying and being situate in Sussex County, Delaware, and lying the south side of Old Racetrack Road (S.C.R. 502), approximately 0.25 mile west of the intersection of Old Racetrack Road (S.C.R. 502) and North Second Street, and being more particularly described in the attached legal description prepared by Pennoni Associates, Inc., said parcel containing 52.34 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: August 20, 2026

RE: County Council Report for C/U 2485 filed on behalf of Christopher Hanyok

---

The Planning and Zoning Department received an application (C/U 2485 filed on behalf of Christopher Hanyok) for a Conditional Use for a fence installation business in an AR-1 Agricultural Residential Zoning District at Tax Parcel 234-4.00-10.32. The property is located at 20601 Rust Road, Harbeson. The parcel size is 5.0 ac. +/-

The Planning & Zoning Commission held a Public Hearing on the application on February 4, 2026. At the meeting of February 18, 2026, the Planning & Zoning Commission recommended **denial** of the application for the 7 reasons stated within the motion (copied below).

The County Council Public Hearing was originally scheduled for March 10, 2026. This public hearing did not take place following receipt of a request to postpone from the Applicant, so that the Applicant could retain legal representation. On May 20, 2026, the Department sent a formal letter to the Applicant via Certified Mail, requiring details of the Applicant's intentions as to how to proceed to be communicated within 30 days of the letter.

Below are the minutes from the Planning & Zoning Commission meetings of February 4, 2026, and February 18, 2026.

### Minutes of the February 4, 2026, Planning & Zoning Commission Meeting

#### C/U 2485 Christopher Hanyok

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FENCE INSTALLATION BUSINESS WITH OUTSIDE STORAGE TO BE LOCATED ON A CERTAIN PARCEL**



**OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 5.00 ACRES, MORE OR LESS.** The property is and lying on the east side of Rust Road (S.C.R. 292A), approximately 0.27 mile south of Harbeson Road (Rt. 5). 911 Address: 20601 Rust Road, Harbeson. Tax Map Parcel: 234-4.00-10.32.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Property Survey, with buildings shown on the survey, a letter received from the Sussex County Engineering's Utility Planning Division, and a copy of the DelDOT Service Level Evaluation Response Letter. Mr. Whitehouse advised the Commission that no public comment was received regarding the application.

The Commission found that Mr. Christopher Hanyok spoke on behalf of his application. Mr. Hanyok stated he is the current owner of the property; that he purchased the property, and is currently running a business from the property; that the business creates one to two deliveries per week, give or take; that he currently keeps materials on the site for various commercial jobs; that the materials are delivered to the site, are taken to the job site, at which point they are installed; that 90% of the materials are stored outside; that the materials consists of metal, wood, and other fencing material for outside; that currently he has had no issues, and is requesting Conditional Use approval.

Mr. Allen questioned whether the business area was fenced in on the site, whether there was any debris caused by the use, and whether a dumpster was required to be on site.

Mr. Hanyok stated that the materials are not; that there was fencing along some of the boundary lines of the site; that he did have one dumpster on the site, which was reflected on a plan he had submitted into the record; that there is a large pole building to the rear of the property; they when he purchased the property, the pole building existed and was currently running a business from the pole building; that his dwelling is located in the middle of the property; that his driveway is located along the side of his property and is accessed from Rust Road; that there is a smaller building located behind the large pole building, to the northeast corner, which was also used by the prior owners business; that the previous owners did not have much outside storage other than a dumpster; that the dumpster is a small, five-yard dumpster, which sits close to the building at the end of the driveway; that there is a pipe material rack located on the site; that there is a septic on the site which services the pole building; that there is a shed a chicken coops located on the site for personal use; that there is a separate septic which services the dwelling; that the site is surrounded by trees, and that the neighbors have a wooded lot located to the rear of the property.

Mr. Allen stated that when reviewing the documents, it did not appear that the dumpster would be screened.

Mr. Collins requested that Mr. Hanyok provide a description of the materials stored on the site and the location where the materials were being stored.

Mr. Hanyok stated that currently he had a lot of material stored on the site for a large project within Sussex County, being the Georgetown Trail; that he was storing material for the contractor that he was providing work for as a subcontractor; that he anticipated those materials to be removed from the site in about a year to a year and a half, when the trail is nearing completion; that he does store chain-link fence; that he does a lot of fencing for schools, previously for Sussex Central, however, all of that job material had been removed; that he previously stored safety fencing for the Route 113

bypass in Millsboro; that the material for the bypass job remained onsite for about three to four months, and has now been removed; that generally the materials stored onsite consist of a lot of pipe, chain link, some wood from time to time, and vinyl fencing, and generally all the materials are bundled together, and stored for each job.

Mr. Collins questioned where equipment and business vehicles would be stored on the site, whether any vehicles would be stored in garages, and whether maintenance of the vehicles would be performed onsite.

Mr. Hanyok stated that he had a mini excavator, which is stored inside; that he had a small excavator, a small skid steer, and two trailers used to haul the equipment; that the equipment was stored next to the pole barn and in front of the small garage, located in the back corner of the property; that he takes all vehicles to the Ford dealership for service, the trailers to Weller's for service, and the remaining equipment to Fleet Titans, located in Georgetown, for servicing.

Vice Chairman Mears questioned how materials are loaded and unloaded, what equipment is used for the loading process, whether any waste was brought back to the site from jobs, the number of proposed employees, whether the employees arrive at the site before heading to the job site, whether there was adequate parking for employees, and whether customers are met onsite.

Mr. Hanyok stated that he uses a skid steer for loading and unloading; that generally, when they remove waste from a site, it is a lot, and they take the waste straight to DSWA to be unloaded at the waste facilities; that with smaller jobs, they may return with a pile of scrap metal, which he will gather to take to recycling every four months or so; that besides himself and his wife, he had two full-time employees and two part-time employees; that he subcontracts out all of his installation crews; that a lot of the work is done in-house, a lot of estimating and site visits; that the employees will usually come to the site to perform morning work, or sometimes go directly to the job site, returning to the property afterward; that he does not perform much residential construction; that most of his work are commercial jobs; that the commercial jobs are generally performed through email, where a lot of the documents sent are for products that they would be installing for their client, and if material samples were needed, they would take it to the client.

Mr. Robertson requested information regarding the surrounding neighborhood, whether any other businesses were in the area, and whether Mr. Hanyok resided in the dwelling located on the property.

Mr. Hanyok stated that there were not a lot of businesses located nearby; that the surrounding area was a lot of farmland with a lot of wooded trees; that there are not many businesses located along Rust Road, that along the neighboring road, there are quite a few businesses, consisting of landscape and construction companies, and he did currently reside within the dwelling located on the property.

Mr. Collins questioned the business hours of operation and the days of the week the business was proposed to operate.

Mr. Hanyok stated that his crews, depending on the daylight, will arrive around 6:30 AM to 7:00 AM; that his employees usually work from 7:00 AM until 3:00 PM, Monday through Friday; that he would prefer to begin work at 6:00 AM for the summer months, as his employees prefer to begin early; that he would appreciate the ability to operate past 3:00 PM; that his office employees always leave the site

at 3:00 PM, however his employees in the field, occasionally arrive to the site late, and therefore he felt the ability to operate until 5:00 PM would be perfect.

Mr. Whitehouse advised the Commission that he was reviewing the building permit history for the property; that the garage was permitted as a residential accessory structure of more than 400 sq. ft. in 2015; that at that time, the building never went through commercial plan review, and he questioned whether any modifications had been performed to the building, or if the building was still of residential standard.

Mr. Hanyok stated that he had not made any modifications other than the widening of his driveway to allow for trailers and deliveries to come and go more easily.

Mr. Robertson stated that if the application were approved for the proposed commercial use, it would be required to be inspected for commercial use.

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

Ms. Nancy Zalick, an adjacent neighbor, spoke in opposition with concerns regarding the noise from the tractor-trailers, the dust, the two gas tanks that appeared on the property, the portable toilet, the lack of privacy, the inconsistent nature of commercial use in a residential area, and the operation of ABC Storage, which she found online and submitted documents for the record.

Ms. Linda Cole, sister of Ms. Zalick, spoke in opposition with concerns regarding the tractor-trailers accessing the property being only 20 feet from Ms. Zalick's bedroom walls, and the hours of which the tractor-trailers arrive at the site; that the tractor-trailers park overnight on the site; that she stated the business owner before Mr. Hanyok was a custom cabinet maker; that he was the only employee; that he would bring wood in on a trailer to make cabinets; that two to three months later the same trailer would pick up the cabinets to deliver to the customer, and the previous business owner did not have any outdoor storage.

Mr. Allen questioned whether the driveway was paved or not.

Ms. Zalick stated yes, the driveway was paved, but only to the end of the garage.

Mr. Collins questioned Mr. Whitehouse whether the application was related to a Notice of Violation or not.

Mr. Whitehouse stated that yes, the application was related to an issued Notice of Violation.

Mr. Mears questioned what the tanks are being used for on the property and their sizes.

Mr. Hanyok stated that currently, he has a diesel fuel tank and a gasoline fuel tank located to the rear of the site, with one being 250 gallons and the other being 350 gallons; that the tanks hold gasoline and diesel needed for the equipment, as well as the business sales trucks; that the tanks sit to the rear of the site; that the tanks were delivered and placed about a month prior to the hearing and they are brand-new, double-walled sealed tanks.

Mr. Robertson questioned who the people were going to the sales.

Mr. Hanyok stated that his sales employees were his two full-time employees.

Mr. Robertson stated the property is zoned AR-1 (Agricultural Residential); that he questioned why Mr. Hanyok would order such large tanks, running a fairly large business, without applying for approvals; that he was in the contracting business, and he felt he should have known the business would not have been permitted by-right.

Mr. Hanyok stated that when he purchased the property, it was already zoned for Conditional Use.

Mr. Whitehouse stated that the application was related to a Notice of Violation, as a result of a filed complaint made in June 2023.

Mr. Robertson stated that the previous Conditional Use was supposedly for a cabinet shop, not the same use proposed by the Applicant, and that the cabinet shop use was operated entirely indoors.

Mr. Hanyok stated that he is new and that he started his business in 2021.

Mr. Robertson stated that the Planning Commission supports small businesses; however, the Planning Commission only supports small businesses when located within appropriate locations, and it is frustrating for the staff and County official level when folks open fairly intensive small businesses without obtaining permits.

Mr. Collins stated that the property does not contain massive acreage, nor does it provide large landscape buffers or fencing to protect adjacent neighbors from the noise and dust; that it appeared that the previous Conditional Use would not be related to the current proposed use, and would therefore be considered abandoned now.

Mr. Roberson stated that he would need time to research the prior Conditional Use information, and that should the application be recommended for approval, it would likely have heavy conditions placed upon it, including the placement of a fence to run along the property boundary line and hours of operation.

Mr. Hanyok stated that he had started placing a screened fence on one side in the back of the property to create a buffer.

Upon there being no further questions, Chairman Mears closed the public hearing.

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

In relation to C/U 2485 Christopher Hanyok. Motion by Mr. Allen to defer action for further consideration and leaving the record open to obtain information regarding the previously approved Conditional Use for the property, seconded by Mr. Collins, and carried unanimously. Motion carried 4-0.

Minutes of the February 18, 2026, Planning & Zoning Commission Meeting



The Commission discussed the application which had been deferred since February 4, 2026.

Mr. Mears requested that Mr. Robertson read his prepared motion for the record.

Mr. Mears moved that the Commission recommend a denial of Conditional Use No. 2485 for Christopher Hanyok for a fence installation business with outside storage based on the record made during the public hearing and for the following reasons:

1. This application is for a fencing business on a 5-acre parcel in an area that is generally surrounded by rural residential properties.
2. Although there was a prior Conditional Use approved for this property, it was for a cabinetry business which is largely indoors and is not as intensive as what is now being proposed for the site. This use, with the tractor trailer deliveries, outdoor storage of materials and employees coming to and from the site will have a much greater impact on the neighbors than the prior conditional use on the site.
3. There was opposition to the Application from a neighboring property owner describing the current condition and use of the Property, and the neighbor expressed concerns that this would only get worse if the use is allowed to continue with a conditional use approval. The tractor trailer deliveries to the site currently occur along the driveway that is located right on her property line. The neighbor stated that the noise and dust from the use adversely affects the use and enjoyment of her property. She stated that the Applicant's use is essentially and industrial use that should be located elsewhere.
4. There are other more appropriate locations for this type of use that are not adjacent to residential properties and that are zoned for this type of commercial or industrial use.
5. The proposed conditional use at this location does not promote the health, safety and welfare of Sussex County and its residents.
6. The proposed use in this location does not satisfy the purpose of a conditional use under the Sussex County Zoning Code because it is not well-adjusted to its environment with full protection of the neighboring properties, and because the proposed use is not desirable in this location for the general convenience and welfare of Sussex County residents.
7. For all of these reasons, I move that the Commission recommend a denial of this Conditional Use.

Madam Chair Wingate stated that she had watched the public hearing broadcast, and had reviewed the record, and therefore was eligible to vote on the application.

Motion by Mr. Mears, seconded by Mr. Collins, and carried unanimously to recommend denial of C/U 2485 Christopher Hanyok for the reasons stated in the motion. Motion carried 5-0.

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

Mr. Mears voted yea to recommend denial for the reasons stated in the motion.

Mr. Allen voted yea to recommend denial for the reasons stated in the motion.

Mr. Collins voted yea to recommend denial for the reasons stated in the motion.

Mr. Passwaters voted yea to recommend denial for the reasons stated in the motion.

Madam Chair Wingate voted yea to recommend denial for the reasons stated in the motion.

JAMIE WHITEHOUSE, AICP  
PLANNING & ZONING DIRECTOR  
(302) 855-7878

jamie.whitehouse@sussexcountycle.gov



**Sussex County**

DELAWARE  
sussexcountycle.gov

May 20, 2026

Christopher Hanyok  
20601 Rust Road  
Harbeson, DE 19951

**Certified Mail**  
7019 0700 0001 0627 3629

**RE: Conditional Use Application**

Dear Christopher Hanyok

I am writing to you as you requested to postpone your public hearing before the County Council to retain legal counsel for Conditional Use 2485. Please contact our office within 30 days of the date of this letter to provide the Planning and Zoning Department with information regarding your intentions.

If you do not respond to this letter, your application will be withdrawn and it will be forwarded to the Constables Office for formal action. Should you wish to reapply for a Conditional Use in the future, your new application would be subject to current application fees.

Please feel free to contact my office at 302-855-7878 if you have any questions.

Very truly yours,

Jamie Whitehouse  
Sussex County Planning & Zoning Director

CC. Constables Office  
CU 2485 Christopher Hanyok File



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

## PLANNING & ZONING COMMISSION

HOLLY J. WINGATE, CHAIR  
JEFF ALLEN  
G. SCOTT COLLINS  
J. BRUCE MEARS, VICE-CHAIR  
JOHN PASSWATERS



## Sussex County

DELAWARE  
SUSSEXCOUNTYDE.GOV  
302-855-7878

JAMIE WHITEHOUSE, AICP MRTPI  
PLANNING & ZONING DIRECTOR

### PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: February 4, 2026

Application: CU 2485 Christopher Hanyok

Applicant: Christopher Hanyok/CMJ Fence & Security, LLC  
20601 Rust Road  
Harbeson, DE 19951

Owner: Christopher Hanyok/CMJ Fence & Security, LLC  
20601 Rust Road  
Harbeson, DE 19951

Site Location: 20601 Rust Road, Harbeson

Site Location: Located on the east side of Rust Road (S.C.R. 292A), approximately 0.27 mile south of Harbeson Road (Rt. 5).

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

Proposed Use: Fence Business with Outdoor Storage

Comprehensive Land  
Use Plan Reference: Low Density Area

Councilmanic  
District: District 5 - Mr. Rieley

School District: Indian River School District

Fire District: Milton Fire Department

Sewer: Private Septic

Water: Private Well

Site Area: 5.0-acre(s) +/-

Tax Map ID.: 234-4.00-10.32





## Memorandum

To: Sussex County Planning Commission Members  
From: Ann Lepore, Planner I  
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant  
Date: January 28, 2026  
RE: Staff Analysis for C/U 2485 Christopher Hanyok

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This memo is to provide background and analysis for the Planning Commission to consider as a part of Application C/U 2485 Christopher Hanyok to be reviewed during the February 4, 2026, Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

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

**Tax Parcel ID:** 234-4.00-10.32

**Proposal:** The request is for a Conditional Use for Tax Parcel 234-4.00-10.32 to allow for a Fencing Business with an Office and outside storage on a parcel lying on the east side of Rust Road (S.C.R. 292A), approximately 0.27 mile south of Harbeson Road (Rt. 5). The parcel is comprised of 5.0 acres +/-.

**Zoning:** The Parcel is zoned Agricultural Residential (AR-1) District. The adjacent parcels to the east, north, west, and south are zoned Agricultural Residential (AR-1) District.

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

**Applicability to Comprehensive Plan:** The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map in the plan indicates that the subject property is designated as a Rural Area and has a land use designation of "Low Density Area." All surrounding properties to the north, south, east, and west of the subject site contain the Future Land Use Map designation of "Low Density Area".

As outlined in the 2018 Sussex County Comprehensive Plan, Low Density Areas are areas that the County envisions as "a predominantly rural landscape where farming co-exists with appropriate residential uses and permanently preserved property" (Sussex County Comprehensive Plan, 4-18).

The Plan also notes that commercial uses "should be limited in their location, size and hours of operation" and "more intense commercial uses should be avoided" and commercial uses "may be appropriate depending on surrounding uses" (Sussex County Comprehensive Plan, 4-19).

### Further Site Considerations:

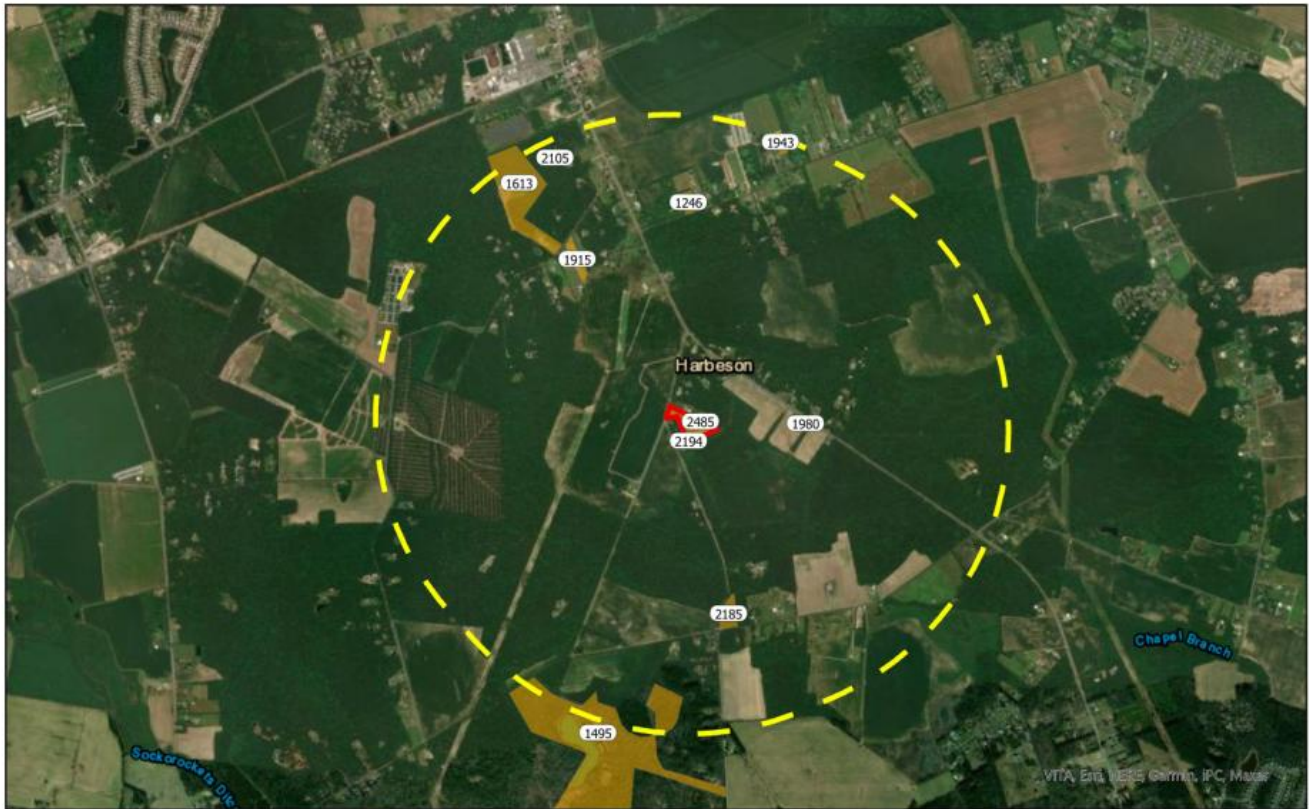
- **Density:** N/A
- **Open Space Provisions:** N/A
- **Agricultural Areas:** The site is within the vicinity of active agricultural lands.
- **Interconnectivity:** N/A
- **Transportation Improvement District (TID):** The parcels are not within the Henlopen Transportation Improvement District.
- **Forested Areas:** N/A
- **Wetlands Buffers/Waterways:** N/A
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** N/A

Based on the analysis of the land use, surrounding zoning and uses, a Conditional Use Application to allow for a Fencing Business with Office and Outdoor Storage, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.

**Existing Conditional Uses within the Vicinity of the Subject Site:** There have been ten (10) Conditional Use applications within a 1-mile radius of the application site.

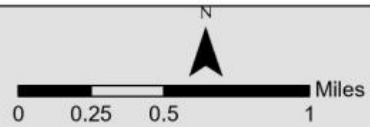
| CU No. | APPLICANT                      | Tax Parcel #     | 911 Address or Road Name     | Zoning | Proposed Use                                                                        | CC Date    | CC Decision | Ord. NO. |
|--------|--------------------------------|------------------|------------------------------|--------|-------------------------------------------------------------------------------------|------------|-------------|----------|
| 1246   | Paul Crone                     | 235-30.00-125.01 | Martins Farm Rd.             | AR-1   | Trucking Company                                                                    | 6/16/1998  | Approved    | 1242     |
| 1495   | J. Everett Moore Jr. & Deborah | 234-9.00-11.00   | Anderson Corner Rd           | AR-1   | Borrow pit/pond reclamation                                                         | 7/15/2003  | Approved    | 1622     |
| 1613   | Fresh Cut                      | 235-30.00-103.09 | Doddtown Rd                  | AR-1   | Landscaping                                                                         | 6/8/2005   | Withdrawn   |          |
| 1915   | Michael Van Drunen             | 135-17.00-19.00  | Doddtown Road (SCR. 293)     | AR-1   | Manufactured Home Installation Business & Related Equipment Storage                 | 3/21/2012  | Approved    | 2246     |
| 1943   | Charles L. Williams            | 334-9.00-1.03    | Martins Farm Road (SCR. 291) | AR-1   | Automotive Repair Shop/Garage                                                       | 3/19/2013  | Denied      |          |
| 1980   | Eastern Shore Auto Exchange    | 234-4.00-11.00   | Route 5 (Harbeson Road)      | B-1    | Used Car Sales Facility                                                             | 4/8/2014   | Approved    | 2343     |
| 2105   | Thomas R. Engel                | 235-30.00-103.09 | 20132 Doddtown rd.           | AR-1   | Commercial Landscaping business with outdoor storage of equipment and other storage | 12/5/2017  | Approved    | 2538     |
| 2185   | Vincent Kinack                 | 234-4.00-42.00   | 21167 Short Rd.              | AR-1   | Multi-family (2 units)                                                              | 12/17/2019 | Denied      |          |
| 2194   | Imagination-Renovation, LLC    | 234-4.00-10.32   | 20601 Rust Rd.               | AR-1   | Furniture Making and repair business                                                | 12/10/2019 | Approved    | 2691     |
| 2485   | Christopher Hanyok             | 234-4.00-10.32   | 20601 Rust Road              | AR-1   | Fencing Business with Office & Outdoor Storage                                      |            | Pending     |          |





**CU 2485 Christopher Hanyok**  
**Conditional Uses within 1 mile**  
**TM# 234-4.00-10.32**

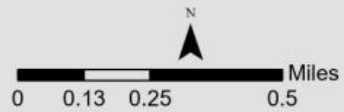
- CU 2485 Christopher Hanyok
- CU 2485 1-mile Buffer
- CU 2485 CU Vicinity Map





**CU 2485 Christopher Hanyok**  
**Conditional Uses within 1 mile**  
**TM# 234-4.00-10.32**

- CU 2485 Christopher Hanyok
- CU 2485 1-mile Buffer
- CU 2485 CU Vicinity Map







**CU 2485 Christopher Hanyok**  
**Aerial Map**  
**TM# 234-4.00-10.32**

 CU 2485 Christopher  
Hanyok



0 250 500 1,000 Feet





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

**CU 2485 Christopher Hanyok**  
**Street Map**  
**TM# 234-4.00-10.32**

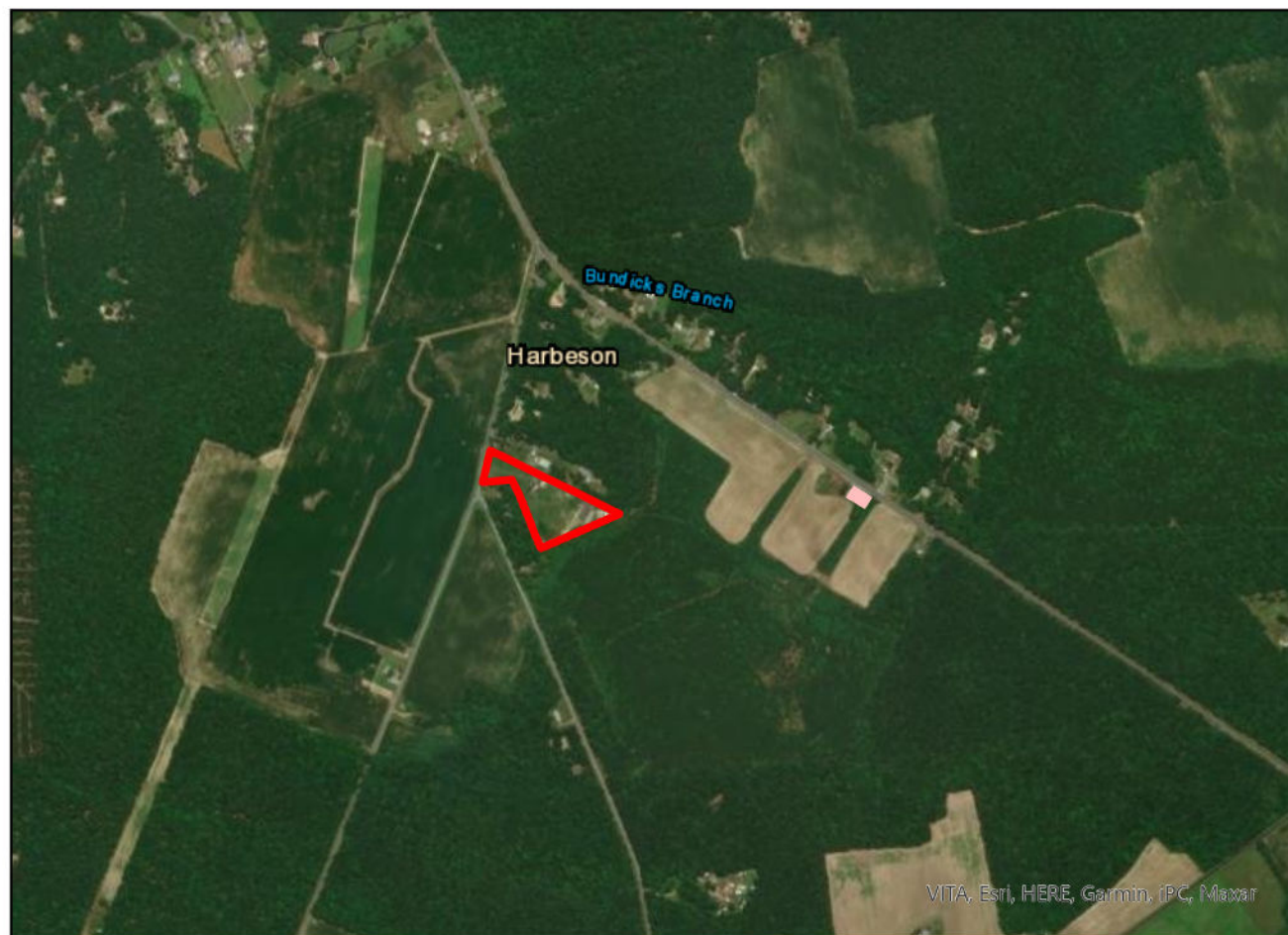
 CU 2485 Christopher  
Hanyok



0 250 500 1,000 Feet







## Zoning

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

**CU 2485 Christopher Hanyok**  
**Zoning Map**  
**TM# 234-4.00-10.32**

 CU 2485 Christopher Hanyok



0 0.13 0.25 0.5 Miles



**Introduced: 3/25/25**

**Council District 5: Mr. Rieley**

**Tax I.D. No.: 234-4.00-10.32**

**911 Address: 20601 Rust Road, Harbeson**

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FENCE INSTALLATION BUSINESS WITH OUTSIDE STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 5.00 ACRES, MORE OR LESS**

**WHEREAS, on the 9<sup>th</sup> day of October 2023, a Conditional Use application, denominated Conditional Use No. 2485 was filed on behalf of Christopher Hanyok; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2025, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County, and said Planning and Zoning Commission recommended that Conditional Use No. 2485 be \_\_\_\_\_; and**

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

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

**Section 1. That Chapter 115, Article IV, Subsections 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2485 as it applies to the property hereinafter described.**

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

**ALL that certain tract, piece, or parcel of land, lying and being situated in Indian River Hundred, Sussex County, Delaware, and lying on the east side of Rust Road (S.C.R. 292A), approximately 0.27 mile south of Harbeson Road (Rt. 5), and being more particularly described in the attached legal description prepared by Fuqua, Willard & Schab, PA., said parcel containing 5.00 acres, more or less.**

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