

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 11, 2026

10:00 AM

Call to Order

Approval of Agenda

Approval of Minutes - July 28, 2026

[Draft Minutes 07 28 26](#)

Reading of Correspondence

Public Comments

Consent Agenda

1. Use of Existing Wastewater Agreement - IUA 817-2
Cypress Landing, Blades Area
[Consent Agenda Cypress Landing](#)
2. Use of Existing Wastewater Agreement – IUA 999-1
Glen Cove, Millville Area
[Consent Agenda Glen Cove](#)

Todd Lawson, County Administrator

1. Administrator's Report



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

Paul Mauser, Assistant County Engineer

1. **Discussion & Possible Introduction of a Proposed 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”**

[Bethany Forest Septic Elimination Project](#)

Old Business

1. [Conditional Use No. 2631 filed on behalf of Zion Church Ventures, LLC](#)

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

[Old Business CU 2631](#)

2. [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. **New Coverdale Outreach Mission, Inc. for Community Education Support**
[New Coverdale Outreach Mission Inc.](#)
2. **Lewes Base Ball Club for their Historical Base Ball Clubs National Championship Tournament**
[Lewes Base Ball Club](#)
3. **Kim and Evans Family Foundation, Inc. for their Kickz for Kids event**
[Kim and Evans Family Foundation, Inc.](#)
4. **Friends of Prime Hook National Wildlife Refuge for Educational Equipment Improvements**

[Friends of Prime Hook National Wildlife Refuge Inc.](#)

5. **Eastern Shore AFRAM Festival for their annual festival**
[Eastern Shore AFRAM Festival](#)
6. **Delaware Fraternal Order of Police for their Golf Tournament**
[Delaware State FOP Lodge](#)
7. **Seaford Tomorrow, Inc. for their Friday Night Live event**
[Seaford Tomorrow Inc.](#)

Introduction of Proposed Zoning Ordinances

[Ord Intros CU2548 CU2593 CZ2063 CU2573 Ord No. 26-06](#)

Council Members' Comments

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

Possible action on Executive Session Items

1:30 p.m. Public Hearings

1. **[Conditional Use No. 2465 filed on behalf of Sussex Materials, LLC](#)**

“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)

[Public Hearing CU 2465](#)

2. **[Conditional Use No. 2569 filed on behalf of Pivot Energy DEL045, LLC](#)**

“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)

[Public Hearing CU 2569](#)

3. **[Change of Zone No. 2061 filed on behalf of Sandie, LLC](#)**

“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)

[Public Hearing CZ 2061](#)

Adjourn

-MEETING DETAILS-

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on August 4, 2026 at 4:15 p.m. and at least seven (7) days in advance of the meeting.

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

Agenda items may be considered out of sequence.

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

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

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

To join the meeting via telephone, please dial:

Conference Number: 1-302-394-5036

Conference Code: 570176

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

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

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

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JULY 28, 2026

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, July 28, 2026, at 10:00 a.m., in Council Chambers, with the following present:

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

Call to Order	The Invocation and Pledge of Allegiance were led by Mr. Hudson. Mr. Hudson called the meeting to order.
M 330 26 Approve Agenda	Mr. Lawson reported that Executive Session and Possible Action on Executive Session Items can be taken off the agenda. A Motion was made by Mr. Rieley, seconded by Mr. McCarron, to approve the Agenda, as amended. Motion Adopted: 5 Yeas Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Yea; Mr. Hudson, Yea
Minutes	The minutes from July 14, 2026, were approved by consensus.
Corre-Spondence	Mr. Moore reported that correspondence was received from Bayhealth Foundation and Delaware Technical Community College thanking Council for their support.
Public Comments	Public comments were heard. Mr. Rich Borrasso spoke about the Open Space Ordinance. Mr. Kevin Goldsborough spoke about solar projects. Mr. Donald Goldsborough spoke about solar projects. Mr. Gary Vorsheim spoke about the comprehensive plan. Ms. Alison White spoke about public participation and the comprehensive

plan.

Mr. Joe Pika spoke about the comprehensive plan process.

**SB23
Discussion**

Mr. Lawson and Mr. Robertson led a discussion relating to the implementation of Senate Bill No. 23. The background and effects of the bills were discussed along with the next steps.

**Adminis-
trator's
Report**

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

1. Project Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, Bridgewater (FKA Bent Creek/Old Mill Landing North) – Phase 2A (Construction Record) received Substantial Completion effective July 1st.

2. Delaware State Police Activity Report

The Delaware State Police year-to-date activity report for June 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 June.

3. Government Finance Officers Association Triple Crown Award

I am pleased to announce that Sussex County has been awarded the prestigious Government Finance Officers Association (GFOA) Triple Crown Award for the third consecutive year. The GFOA's Triple Crown Award recognizes governments that have received GFOA's Certificate of Achievement for Excellence in Financial Reporting, the Popular Annual Financial Reporting Award, and the Distinguished Budget Presentation Award. This year, Sussex County is one of only 441 local governments across the United States to receive this award this year. Please join me in congratulating Finance Director Gina Jennings and her staff for another job well done.

4. Council Meeting Schedule

A reminder that Council will not meet on Tuesday, August 4th. The next regularly scheduled Council meeting will be held on Tuesday, August 11th.

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

SCRWF CO No. IB-013 & IB-004 **Mike Harmer, County Engineer, presented change order no. IB-013 and IB-004 for SCRWF treatment process upgrade no. 3 – Inland Bays Expansion for Council's consideration.**

M 331 26 **A Motion was made by Mr. Lloyd, seconded by Ms. Gruenebaum, that be it**
Approve CO **moved based upon the recommendation of the Sussex County Engineering**
No. IB-013/ **Department, that change order no. IB-013 for Inland Bays phase 2C**
SCRWF **expansion project, be approved, in the amount of \$1,135,600.00.**

Motion Adopted: 5 Yeas

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

M 332 26 **A Motion was made by Mr. McCarron, seconded by Mr. Lloyd, that be it**
Approve CO **moved based upon the recommendation of the Sussex County Engineering**
No. IB-004/ **Department, that BW Electric, Inc. change order no. IB-004 for the Inland**
SCRWF **Bays phase 2 project, be approved in the amount of \$2,099,500.00.**

Motion Adopted: 5 Yeas

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

Amend No. 8/Inflow **Mike Harmer, County Engineer, presented amendment no. 5 for Arcadis for an inflow and infiltration study for Council's consideration.**

M 333 26 **A Motion was made by Ms. Gruenebaum, seconded by Mr. McCarron, be it**
Approve **moved based upon the recommendation of the Sussex County Engineering**
Amend No. **Department, that amendment no. 5 of the base owner-engineer agreement**
8/Inflow & **for Arcadis, Inc. be approved in the amount of \$349,000.00.**
Infiltration

Study **Motion Adopted: 5 Yeas**

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

Amend No. 8/WW Study **Mike Harmer, County Engineer, presented amendment no. 8 for Sussex County Wastewater long range planning study for Council's consideration.**

M 334 26 **A Motion was made by Mr. Lloyd, seconded by Mr. McCarron, be it moved**

**Approve
Amend No.
8/
WW Long
Range Study**

based upon the recommendation of the Sussex County Engineering and Finance Departments that amendment no. 8 of Johnson, Mirmiran & Thompson's base owner-engineer agreement be approved in the not-to-exceed amount of \$394,040.00.

Motion Adopted: 5 Yeas

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

**Paramedic
Station 101**

Mark Parker, Assistant County Engineer, presented a request for use of contingency items for paramedic station 101 for Council's consideration.

**M 335 26
Approve
Contingent
Funds/
Paramedic
Station 101**

A Motion was made by Mr. Lloyd, seconded by Mr. McCarron, that be it moved based upon the recommendation of the Sussex County Engineering Department that change order no. 1 for contract C21-15, Lincoln paramedic station 101, be approved in the amount of \$17,358.00 allowing the use of site contingent items at the respective unit bid prices.

Motion Adopted: 5 Yeas

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

**Old
Business/
Forest
Preservation**

Under Old Business, Mr. Whitehouse presented a Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 99, ARTICLE I, III AND V §99-5 "DEFINITIONS", §99-21A "PERIMETER BUFFERS" AND §99-26 "INFORMATION TO BE SHOWN" AND CHAPTER 115, ARTICLES I, XXV AND XXVIII §115-4 "DEFINITIONS AND WORD USAGE" AND §115-221 "FINAL SITE PLAN REQUIREMENTS" AND BY ADDING NEW §§115-194.8 "FOREST PRESERVATION" AND 115-194.9 "TREE PLANTING REQUIREMENTS".

Mr. Robertson and Mr. Lawson reviewed potential changes to be incorporated in the draft Ordinance based on feedback that has been received.

**Grant
Requests**

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

**M 336 26
Developing
Artist
Collabora-
tion**

A Motion was made by Ms. Gruenebaum, seconded by Mr. Lloyd to give \$500 (\$500 from Ms. Gruenebaum's Councilmanic Grant Account) to Developing Artist Collaboration for their West side creative market infrastructure & workforce development initiative.

Motion Adopted: 5 Yeas

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

M 337 26
Millsboro
Little
League

A Motion was made by Mr. Rieley, seconded by Mr. McCarron to give \$2,500 (\$2,500 from Mr. Rieley's Councilmanic Grant Account) to Millsboro Little League for LED lighting improvements.

Motion Adopted: 5 Yeas

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

M 338 26
Bridgeville
Apple
Scrapple
Festival

A Motion was made by Mr. McCarron, seconded by Mr. Lloyd to give \$3,000 (\$3,000 from Mr. McCarron's Councilmanic Grant Account) to Bridgeville Apple Scrapple Festival for their 34th annual Apple Scrapple Festival.

Motion Adopted: 5 Yeas

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

Proposed
Ordinance
Introduction

Mr. Rieley introduced a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPE AND HARDSCAPE BUSINESS TO BE LOCATED ON A PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 48.11 ACRES, MORE OR LESS" filed on behalf of Cody Collins.

Mr. Lloyd introduced a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR LANDSCAPING BUSINESS WITH EQUIPMENT STORAGE AND PARKING TO BE LOCATED ON A CERTAIN PORTION OF A PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 13.18 ACRES, MORE OR LESS" filed on behalf of Zachary Puicinella.

Mr. Hudson introduced a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ASSISTED LIVING FACILITY FOR UP TO SIXTEEN (16) RESIDENTS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 8.0 ACRES, MORE OR LESS" filed on behalf of Age Well, LLC.

CM Comments	There were no Council Member comments.
M 339 26 Recess	At 12:07 p.m., a Motion was made by Mr. McCarron, seconded by Mr. Lloyd to recess until 1:30 p.m. Public Hearings. Motion Adopted: 5 Yeas Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Yea; Mr. Hudson, Yea
M 340 26 Reconvene	A Motion was made by Mr. Rieley, seconded by Mr. McCarron to reconvene. Motion Adopted: 5 Yeas Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Yea; Mr. Hudson, Yea
Rules	Mr. Moore reviewed the rules for public hearings.
Public Hearing/ Lilyvale Annexation Into SCUSSD	A Public Hearing was held for the Lilyvale Annexation into the Sussex County Unified Sanitary Sewer District (Millville Area). John Ashman, Director of Utility Planning & Design Review presented the information to Council's for consideration. There were no public comments. The Public Hearing and public record were closed.
M 341 26 Adopt Resolution No. R 005 26/ Lilyvale Annexation Into SCUSSD	A Motion was made by Mr. Rieley, seconded by Mr. Lloyd to Adopt Resolution No. R 005 26 entitled "A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) MILLVILLE AREA, TO INCLUDE THE PROPOSED LILYVALE SUBDIVISION LOCATED IN THE BALITMORE HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE". Motion Adopted: 5 Yeas Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Yea; Mr. Hudson, Yea

**Rules
Public
Hearing/
CU2631**

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

A Public Hearing was held on Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR 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.

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

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

The Council found that Mr. Brad Absher, Professional Surveyor with True North Land Surveying, spoke on behalf of the Applicant, Zion Church Ventures, LLC. Mr. Absher stated that the Applicant respectfully requested approval of the application, due to the request of limited and practical amendment, to an already approved use; that Sussex County approved a Conditional Use (C/U 2581) in 2025, and the proposed use remains the same in nature; that they were currently requesting to make two operation conditions work in practice; that the first request was to allow office space to be permitted within the warehouse units; that the second request was to remove the requirement for a separate on-site management office; that the amendment should be approved because this does not change the fundamental character of the project; that Condition D, as currently written, states that the unit was to be used for business, and could be used for business purposes; that that the unit may only be used for climate control storage; that the units could not be used for manufacturing or industrial purposes; that no unit can be primarily used as an office; that the property could not be used for meeting customers,

**Public
Hearing/
CU2631
(continued)**

showrooms, customer pickup, or a delivery or mail drop location; that it also stated that office space cannot be isolated or walled off from remaining units; that their request was not to remove the business use limits; that their request was to allow a practical, internal office within the unit, while preserving the core protection against retail, traffic, customer visits, etc.; that they felt the request change was reasonable as explained in the submitted application materials; that a separate office within the same unit can improve organization, productivity, and safety for the tenants who need an administrative workspace tied directly to their storage and the warehouse use; that the request was not to create standalone office units, but rather to allow office space that would be an accessory use to the warehouse and storage function; that they feel the request to change the Condition N was reasonable; that the current Condition required a separate on-site management office to be open during regular business hours; that they requested for the Condition to be removed because the management could still handle responsibility without mandating a standalone office on the property; that removing the office requirement does not create a more intense use, would not increase traffic, and would not remove any of the operational safeguards that have already been imposed on the site; that the County's own prior findings on the site, support approval of these amendments; that when the Commission recommended C/U 2581, it found that the use was compatible with the surrounding zoning; that the traffic would be minimal; that DelDOT stated the traffic impact would be minor; that the property was in the Coastal and Development Areas, which are considered Growth Areas within the County; that the use would not adversely affect neighboring and adjacent properties; that those findings still currently apply; that the property still served as a practical need for climate controlled storage and office space for the area and property owners and businesses; that existing conditions still prevent the kind of impacts Sussex County wanted to avoid, and that the request was a modest operational adjustment, not just a change in the overall use of the property; that this use is allowed here.

There were no public comments.

The Public Hearing and public record were closed.

**M 342 26
Defer
Action/
CU2631**

A Motion was made by Mr. Rieley, seconded by Mr. Lloyd to defer action on 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”.

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/
CU2576**

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

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

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

The Council found that Mrs. Patricia DiNatale spoke on behalf of the application; that Mr. Frank DiNatale was also present. Mrs. DiNatale stated that they are requesting a Conditional Use for the existing house located at 34429 Retz Lane, along John J. Williams Highway; that the property is currently zoned AR-1; that parking was provided in the front and along the side; that they often use the parking along the side; that the site was located right past Mulberry Knoll Road; that there were a lot of different commercial locations and activity in the surrounding area; that the biggest commercial development was the Wawa, currently being constructed across the street; that adjacent to them was the location of Olive & Jules Hair Salon & Spa; that located up the street was Waves Car Wash; that the Beebe Healthcare facility was expanding; that Copps Seafood was located around the corner from the site as well; that they have looked into options for more parking if needed; that their submitted plan showed a small gravel parking space in the back, where they often park their car; that there were two parking spaces with a carport located in the front, which they planned to remove; that they had gone through DelDOT to discuss what the appropriate parking would be; that the plan reflected that they could utilize the area in the back, where they had provided a parking lot with three parking spaces; that they would use the front driveway; they were proposing a coin shop; that they had discussed where

the coin shop would be located; that currently they had decided the coin shop would be located within the garage space; that they will do appointment only to start with; that they think this is a good location for a coin shop since they are not many in the area; that Mr. DiNatale stated that he is looking for this opportunity; that he emphasized that this not a pawn shop; that this will be a professional coin business.

There were no public comments.

The Public Hearing and public record were closed.

**M 343 26
Adopt
Ordinance
No. 4073/
CU2576**

A Motion was made by Ms. Gruenebaum, seconded by Mr. McCarron to Adopt Ordinance No. 4073 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COIN RETAIL SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 0.34 ACRE, MORE OR LESS" for the reasons and conditions given by the Planning & Zoning Commission as follows by this Council:

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

permitted.

- e. **The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

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

**Public
Hearing/
CU2598**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 67.23 ACRES, MORE OR LESS” (property is lying on the southeast side of County Seat Highway [Rt. 9], approximately 0.35 mile southwest from Little Street [S.C.R. 469]) (911 Address: 2276 E Trap Pond Road, Georgetown) (Tax Map Parcel: 135-19.00-43.00) filed on behalf of TPE DE SU245, LLC.

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

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

The Council found that that Mr. Mike Riemann, Civil Engineer with Becker Morgan Group, spoke on behalf of the Applicant, C/U 2598 TPE DE SU245, LLC; that also present were Mr. Ted Hastings with Becker Morgan Group, Mr. Jordan Belknap with Turning Point Energy and other members of the team to help answer questions.

Mr. Jordan Belknap stated that he was the Managing Director of Development for Turning Point Energy; that Turning Point Energy was a renewable energy developer, specializing in community solar projects; that they were active in several markets across the United States; that they are also active in Sussex County with previously permitted project within Sussex County; that at Turning Point Energy they believed their products should provide economic, environmental and community value; that they did so by providing economic value, by developing community solar projects, which allowed subscribers to sign up and save money on their electric bill; that these projects also represent an increase in the tax revenue to Sussex County; that they provide environmental value, because they are making electricity, with clean renewable energy; that all of their projects add pollinator plantings around the perimeter of the solar array, which provides a nice habitat for birds and small animals; that they create community value because an important thing they like to do is contribute to local charities and organizations for all their projects; that this was a rewarding part of the job, to visit people on the ground who were

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CU2598
(continued)**

doing good work in the community, and contribute to them; that community solar is a model where they could build a larger solar farm, and spread out the cost savings; that it was more cost effective than going rooftop to rooftop to get the same amount of generation; that subscribers may sign up to receive a credit on their electric bill; that this enabled homeowners who have houses that were not well suited for solar to still participate in the clean energy economy; that it also enabled low-income households, condominiums, mobile homes, small businesses, and people who might not have a nice infrastructure to place solar panels on their roofs; that community solar provided additional benefits to communities and tax benefits; that community solar provided local jobs, engineering services, construction services, civil contractors, fencing contractors, and electricians; that it would be for distributed energy generation, which also helped with the electric grid; that it would ease the burden of the transmission system, because the energy would be produced closer to the point where it would be consumed; that the energy of the solar arrays back feed; that the electrons go into houses and businesses nearby; that the energy does not have to be transmitted over to the transmission grid; that they would have a pollinator habitat; that they worked with Becker Morgan to put in a nice seed mix to help the quality of the soils as well; that there had previously been some discussion by County Council regarding solar energy projects who had received building permits, but had not yet been constructed; that they had permitted six Conditional Use applications in 2023 within Sussex County; that five of them had gone to construction; that they had withdrawn one of the building permits due to the Interconnection Study taking longer than anticipated; that when the study came back, the actual cost to connect the facility no longer made the project feasible; that they do their best up front to analyze the grid to ensure they would be placing them in perfect spots; that however, they do not have all the information that utilities have; that they are required to submit a study, have utility study it, at which time they come back, telling them what the costs and upgrades would be necessary for the facility to connect; that five of their projects have building permits, and most of them are mechanically complete; that the one site was operational; that at times, they are required to wait on Delmarva Power; that they do not want to be too far ahead of them because they do not want to have the infrastructure in the ground before they can flip the switch, having it generate electricity.

Mr. Riemann stated that the application for SU245 is located in Georgetown, being between Rt. 9 and East Trap Pond Road; that the parcel was zoned AR-1 (Agricultural Residential); that the parcel was currently utilized for agricultural use; that the Conditional Use area consists of 25.96 acres; that the fenced area within the Conditional Use area consists of 19.48 acres; that the total area of the parcel contains 67.23 acres, which included a wooded area in the back, and farming activities that were proposed to remain; that the plan showed the area proposed for the solar arrays; that it reflects access from Rt. 9 through a parcel that was controlled by the same

**Public
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(continued)**

property owner; that the gravel access road would come straight down, through the middle of the site, extending the road to the inverters that were centrally located in the solar array field; that the plan reflected a 30 foot landscape buffer; that the buffer would consist of a 70-30 mix, with 70% being deciduous trees, and 30% being evergreen trees was previously discussion during the Commission meeting; that they recommended is to make 70% evergreen and 30% deciduous trees which they support; that on previous applications, a fixed knot wire fence was proposed; that they had developed a detail which would be presented on the Final Site Plans; that fixed knot wire fencing was a 12 gauge mesh wires that would be fully taut with tension wires and wooden posts that get driven into the ground; that they have a fabric that they had been working on throughout the years; that it was a mesh fabric that allowed some wind to pass through; that they had found a product that was not solid like one would see at a tennis court, or a baseball outfield; that their fabric was a mix of nylon, providing 70% opacity, but still allowed more wind to pass through the mesh; that previous mesh fencing were being installed by plastic zip ties; that they will be beefing up the straps to a stainless strap, and adding tension wire to the top and bottom; that there would be little oval wind cutouts every 100 feet; that they believe that this would help with high wind events in the farm fields; that he presented to the Council a rendering of the fencing along with canopy trees; that they would appreciate consideration to be given to evergreen screening, as they felt it to be a better visual screening in the winter months when the canopy trees would lose their leaves; that they also proposed to have the mesh fence; that at the point when the vegetation was established or when the bond was released, they could remove the mesh; that the idea is that if they have a thicker evergreen buffer of 10 trees, once the landscape buffer is established in five years, they could remove the mesh; that this would avoid any long-term maintenance issues; that within the five years, the operator of the facility would make periodic visits to ensure the mesh was not coming down, and repair when necessary; that they had provided a graphic regarding noise for each application; that they had a tool that could evaluate the decibel level at the property line or at the houses; that they did meet all applicable buffers with the project and all other applications; that they were well in excess of the 200 foot distance requirement on every application; that the closest dwelling for the current application was 275 feet; that the provided a specification sheet on the low noise that the inverters produce; that at the property line the inverters would be at a noise level of 44 decibels, which was as quiet as a library; that they are quieter during the night; that the project would benefit the local residential business and municipality subscribers; that they must be Delmarva Power subscribers; that the solar project would not increase traffic; that there would be a site visit one to two times per month; that a sign would be located at the front of each project that would provide the developer's name and direct contact number; that they were proposing a renewable energy source, which produces no odor, dust, gas, smoke or fumes; that the project would produce little to no noise from the inverters, which was tested at the property line; that the pollinator friendly ground

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CU2598
(continued)**

cover plantings would reduce runoff; that there would be a 30 foot landscape buffer; that the fencing would have a knox box located at the gate providing emergency access for personnel; that the gravel road access would run the center of the site; that the State Fire Marshal required the road to be a minimum of 14 feet in width, with a turnaround at the end; that the projects would be decommissioned at the end of their life; that a security bond would be placed as part of the Conditions; that all five applications had held a community hearing; that the current application's community hearing was held on May 19, 2026, at the Georgetown Library; that plan changes had been made from the input made at those hearings; that the community hearings were advertised by mail using the same mailing list as Sussex County; that the Commission had a hearing for the application; that they recommended approval with the conditions as previously discussed.

Public comments were heard.

Mr. Judson Malone spoke in favor of the application.

The Public Hearing and public record were closed.

**M 344 26
Amend
Condition
8C/CU2598**

A Motion was made by Mr. Rieley, seconded by Mr. Lloyd to amend Condition 8C to now read "The entire area of the solar array shall be surrounded by a 7-foot-tall fence to comply with the height requirement of the National Electric Code. The fencing shall 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 345 26
Amend
Condition
8J/CU2598**

A Motion was made by Mr. Rieley, seconded by Mr. Lloyd to amend Condition 8J to now read "The Final Site Plan to include maintenance plan including identification and eradication of obnoxious weeds and grasses as set forth by the Delaware Department of Agriculture 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 346 26
Adopt
Ordinance
No. 4074/
CU2598**

A Motion was made by Mr. Rieley, seconded by Mr. Lloyd to Adopt Ordinance No. 4074 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 67.23 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows and as amended by this Council:

- 1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purpose of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.**
- 2. The solar array will be located within approximately 19.39 fenced-in acres of a larger 67.23- acre tract. The array area complies with all of the Code requirements for separation distances and setbacks from property lines and dwellings.**
- 3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar arrays. There was testimony that this solar array will benefit residential, business, and municipal subscribers with lower power costs.**
- 4. The proposed solar array is located on a parcel of land that is surrounded on three sides by land used for agricultural purposes, including poultry houses. The boundaries adjacent to residential uses will include a 30-foot-wide landscape buffer to screen the use.**
- 5. This Application generally complies with Section 115-172.I of the Sussex County Zoning Code regarding solar arrays.**
- 6. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways, and DelDOT has stated that the traffic impact will be “Diminutive”. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.**
- 7. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.**
- 8. This recommendation is subject to the conditions set forth in Section 115-172.I of the Zoning Code and the following additional conditions:**
 - a. The use shall be for a ground-mounted solar array. No other types of electric generation shall be permitted at the site.**
 - b. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use.**
 - c. The entire area of the solar array shall be surrounded by a 7-foot-tall fence to comply with the height requirement of the**

**M 346 26
Adopt
Ordinance
No. 4074/
CU2598
(continued)**

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.

- 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 to include maintenance plan including identification and eradication of obnoxious weeds and grasses as set forth by the Delaware Department of Agriculture shall be subject to the review and approval of the Sussex County Planning & Zoning Commission”.**

Motion Adopted: 5 Yeas

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

**Public
Hearing/
CU2623**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 498.53 ACRES, MORE OR LESS” (properties are lying on the southwest corner of Zoar Road [S.C.R. 48] and Lawson Road [S.C.R. 296]) (911 Address: N/A) (Tax Map Parcels: 234-21.00-75.00 & 138.00) filed on behalf of TPE DE SU300A, LLC, TPE DE SU300B, LLC, TPE DE SU300C, LLC.

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

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

Mr. Riemann requested that the previous testimony from Mr. Jordan Belknap be incorporated in the record for this application.

The Council found that Mr. Riemann stated that the property was located within Georgetown; that the site was four co-located projects, as a result of a recent change with the Public Service Commission, which allowed co-located community solar projects; that the project would be for four megawatt, ground tracking systems, equaling a total of 16 megawatts; that all the Conditional Use areas total up to 213 acres; that Site A consists of 24.57 acres; that Site B consists of 28.04 acres; that Site C consists of 27.98 acres; that Site D consists of 21.99 acres; that the fenced area would consist of 102.58 acres; that the total parcel contained 498.53 acres; that aerial photos reflected trees in rows; that previously the site was a timber field; that a little time later the site was harvested again, and currently being harvested once more by the property owner; that the site was planned to be harvested regardless whether solar was proposed or not; that the property was purchased for timber harvest, and currently being used for such; that the site will have similar fencing; that whatever was decided for the landscape composition and the fence buffer, the timeline would carry forth for all the applications; that adjacent properties dwellings were located 300 feet and 500 feet away; that this provided very low decibels from the inverters; that the provided decibel ratings did not take into account the proposed fencing, landscaping and arrays that would further block out noise, and that the community hearing was held at the Georgetown Public Library.

Public comments were heard.

Mr. Mark Baker spoke in favor of the application.

It was requested that the previous application’s testimony from Mr. Judson

Malone be incorporated into the record for this application.

The Public Hearing and public record were closed.

**M 347 26
Amend
Condition
8C & 8J
/CU2623**

A Motion was made by Mr. Rieley, seconded by Mr. Lloyd to amend Condition 8C 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” and Condition 8J to now read “The Final Site Plan to include maintenance plan including identification and eradication of obnoxious weeds and grasses as set forth by the Delaware Department of Agriculture 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 348 26
Adopt
Ordinance
No. 4075/
CU2623**

A Motion was made by Mr. Rieley, seconded by Mr. Lloyd to Adopt Ordinance No. 4075 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 498.53 ACRES, MORE OR LESS” (properties are lying on the southwest corner of Zoar Road [S.C.R. 48] and Lawson Road [S.C.R. 296]) (911 Address: N/A) (Tax Map Parcels: 234-21.00-75.00 & 138.00) for the reasons and conditions given by the Planning & Zoning Commission as follows and as amended by this Council:

- 1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.**
- 2. The solar array will be located within approximately 102.58 fenced-in acres of a larger 498.53- acre tract. The array area complies with all of the Code requirements for separation distances and setbacks from property lines and dwellings.**
- 3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar arrays. There was testimony that this solar array will benefit residential, business, and municipal subscribers with lower power costs.**

**M 348 26
Adopt
Ordinance
No. 4075/
CU2623
(continued)**

4. The proposed solar array is located on a large parcel of land that is mostly surrounded by forested areas that naturally screen it from neighboring properties. It is also located adjacent to an existing electrical substation and transmission line. The boundaries adjacent to residential uses will include a 30-foot-wide landscape buffer to screen the use.
5. This Application generally complies with Section 115-172.I of the Sussex County Zoning Code regarding solar arrays.
6. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways, and DelDOT has stated that the traffic impact will be “Diminutive”. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
7. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
8. This recommendation is subject to the conditions set forth in Section 115-172.I of the Zoning Code and the following additional conditions:
 - a. The use shall be for a ground-mounted solar array. No other types of electric generation shall be permitted at the site.
 - b. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use.
 - c. The entire area of the solar array shall be surrounded by a 7-foot-tall fence to comply with the height requirement of the National Electric Code. The fencing shall be a knot-wire agricultural style fencing including an interwoven privacy screening. The privacy screening shall be attached to the fencing with metal fasteners and a tension wire to reduce maintenance. The fence location and type of screening shall be shown on the Final Site Plan. The privacy screening may be removed after 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

**M 348 26
Adopt
Ordinance
No. 4075/
CU2623
(continued)**

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 to include maintenance plan including identification and eradication of obnoxious weeds and grasses as set forth by the Delaware Department of Agriculture shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.**

Motion Adopted: 5 Yeas

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

**Public
Hearing/
CU2633**

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

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

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

Mr. Riemann requested that the previous testimony from Mr. Jordan Belknap be incorporated in the record for this application.

The Council found that Mr. Riemann stated that the site was zoned AR-1(Agricultural Residential)and was currently agricultural land; that the total acreage for the project is about 81.99 acres; that 55.7 acres is the total array area; that Array A was located off North Old State Road; that Array

**Public
Hearing/
CU2633**

B was located off Haflinger Road; that the old Site Plan had each taking access off each respective road; that the arrays would be completely surrounded with the same proposed landscape and fencing, with access by a gravel road leading to the center of the facilities, where the inverters would be located; that as a result of the community meetings, both arrays were shifted significantly further away from the road and the residents across the street; that Array B provided 700 feet, being roughly two football fields; that the project originally met the minimum setbacks, but had now been pushed back even further from the roadway; that as a result, the two separate arrays were located closer together, being more within the interior of the farmland rather than its extremities; that any noise during construction would be mitigated; that as shown on the Site Plan, there was a small family cemetery located on the site; that they did not plan to develop that area, and would not be located within the Conditional Use area; that they would leave the area undisturbed, and provide access for the neighbors or family who may want to visit the grave site, which currently did not exist; that the shift in the arrays allowed for some agricultural operations to continue; that there would be no mitigation or impacts to the neighbors; that the project proposed the same fencing and fabric previously presented, along with the same landscape buffer; that the noise decibel level for both Array A and Array B were 36 and 38 decibels.

Public comments were heard.

Senator Dave Wilson spoke regarding the application.

Mr. Mark Whitehead spoke in favor of the application.

It was requested that the previous application's testimony from Mr. Judson Malone be incorporated into the record for this application.

The Public Hearing and public record were closed.

**M 349 26
Amend
Conditions
8C & 8J/
CU2633**

A Motion was made by Mr. McCarron, seconded by Mr. Lloyd to amend Condition 8C to now read "The entire area of the solar array shall be surrounded by a 7-foot-tall fence to comply with the height requirement of the National Electric Code. The fencing shall 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" and for Condition 8J to now read "The Final Site Plan to include maintenance plan including identification and eradication of obnoxious weeds and grasses as set forth by the Delaware Department of Agriculture 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 350 26
Adopt
Ordinance
No. 4076/
CU2633**

A Motion was made by Mr. McCarron, seconded by Mr. Lloyd to Adopt Ordinance No. 4076 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 185.96 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows and as amended by this Council:

- 1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.**
- 2. The solar array will be located within approximately 59.61 fenced-in acres of a larger 185.96- acre tract. The array area complies with all of the Code requirements for separation distances and setbacks from property lines and dwellings.**
- 3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar arrays. There was testimony that this solar array will benefit residential, business, and municipal subscribers with lower power costs.**
- 4. The proposed solar array is located on a parcel of land that is mainly surrounded by forest or land used for agricultural purposes. The boundaries adjacent to residential uses will include a 30-foot-wide landscape buffer to screen the use.**
- 5. This Application generally complies with Section 115-172.I of the Sussex County Zoning Code regarding solar arrays.**
- 6. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways, and DelDOT has stated that the traffic impact will be “Diminutive”. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.**
- 7. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.**
- 8. This recommendation is subject to the conditions set forth in Section 115-172.I of the Zoning Code and the following additional conditions:**
 - a. The use shall be for a ground-mounted solar array. No other types of electric generation shall be permitted at the site.**
 - b. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining**

**M 350 26
Adopt
Ordinance
No. 4076/
CU2633
(continued)**

- acreage that is not part of this Conditional Use.
- c. The entire area of the solar array shall be surrounded by a 7-foot-tall fence to comply with the height requirement of the National Electric Code. The fencing shall be a knot-wire agricultural style fencing including an interwoven privacy screening. The privacy screening shall be attached to the fencing with metal fasteners and a tension wire to reduce maintenance. The fence location and type of screening shall be shown on the Final Site Plan. The privacy screening may be removed after 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. The invertors shown within "Site A" on the Preliminary Site Plan shall be more centrally located than what was shown on that plan.
 - f. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - g. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.
 - h. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
 - i. The Final Site Plan shall include a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.
 - j. The Final Site Plan to include maintenance plan including identification and eradication of obnoxious weeds and grasses as set forth by the Delaware Department of Agriculture shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion Adopted: 5 Yeas

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

**Public
Hearing/
CU2640**

A Public Hearing was held for a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND C-1 GENERAL COMMERCIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 19.74 ACRES, MORE OR LESS” (property is lying on the west side of the intersection of Sussex Highway [Rt. 13] and Camp Road [S.C.R. 532]) (911 Address: N/A) (Tax Map Parcel: 131-19.00-3.00) filed on behalf of TPE DE SU646, LLC.

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

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

Mr. Riemann requested that the previous testimony from Mr. Jordan Belknap be incorporated in the record for this application.

The Council found that Mr. Riemann stated that the property was located in Bridgeville along Sussex Highway; that the site was split zoned between AR-1 (Agricultural Residential) and C-1 (General Commercial); that for the current project the Conditional Use was proposed for the entire parcel, consisting of 19.74 acres; that the fenced area consisted of 13.15 acres; that the project would take access from the highway; that access would be centrally located between the two residential uses to the north and south; that they proposed it to be centrally located in an effort to mitigate noise; that the project would have a 30 foot landscape buffer, which would fully surround the perimeter fencing; that the landscape would consist of that previously mentioned; that the community outreach meeting was held on May 19, 2026, at the Georgetown Public Library; that the project proposed a four megawatt AC tracker single system, and the decibel reading at the property line, being 229 feet away, was roughly 46 decibels or as quiet as an office.

Public comments were heard.

Mr. Jed Patel spoke in favor of the application.

It was requested that the previous testimony from Mr. Judson Malone be incorporated into the record for this application.

The Public Hearing and public record were closed.

**M 351 26
Amend
Condition
8C & 8J/
CU2640**

A Motion was made by Mr. McCarron, seconded by Mr. Lloyd to amend Condition 8C to now read “The entire area of the solar array shall be surrounded by a 7-foot-tall fence to comply with the height requirement of the National Electric Code. The fencing shall 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” and for Condition 8J to now read “The Final Site Plan to include maintenance plan including identification and eradication of obnoxious weeds and grasses as set forth by the Delaware Department of Agriculture 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 352 26
Adopt
Ordinance
No. 4077/
CU2640**

A Motion was made by Mr. McCarron, seconded by Mr. Lloyd to Adopt Ordinance No. 4077 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND C-1 GENERAL COMMERCIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 19.74 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission and as amended by this Council 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.**
- 2. The solar array will be located within approximately 13.15 fenced-in acres of a larger 19.74- acre tract. The array area complies with all of the Code requirements for separation distances and setbacks from property lines and dwellings.**
- 3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar arrays. There was testimony that this solar array will benefit residential, business, and municipal subscribers with lower power costs.**
- 4. The proposed solar array is located on a parcel of land that is mainly**

M 352 26
Adopt
Ordinance
No. 4077/
CU2640
(continued)

- surrounded by land that is wooded or farmed. The boundaries adjacent to residential uses will include a 30-foot-wide landscape buffer to screen the use.
5. This Application generally complies with Section 115-172.I of the Sussex County Zoning Code regarding solar arrays.
 6. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways, and DelDOT has stated that the traffic impact will be “Diminutive”. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
 7. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
 8. This recommendation is subject to the conditions set forth in Section 115-172.I of the Zoning Code and the following additional conditions:
 - a. The use shall be for a ground-mounted solar array. No other types of electric generation shall be permitted at the site.
 - b. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use.
 - c. The entire area of the solar array shall be surrounded by a 7-foot-tall fence to comply with the height requirement of the National Electric Code. The fencing shall be a knot-wire agricultural style fencing including an interwoven privacy screening. The privacy screening shall be attached to the fencing with metal fasteners and a tension wire to reduce maintenance. The fence location and type of screening shall be shown on the Final Site Plan. The privacy screening may be removed after 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.

**M 352 26
Adopt
Ordinance
No. 4077/
CU2640
(continued)**

- 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 to include maintenance plan including identification and eradication of obnoxious weeds and grasses as set forth by the Delaware Department of Agriculture shall be subject to the review and approval of the Sussex County Planning & Zoning Commission”.**

Motion Adopted: 5 Yeas

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

**Public
Hearing/
CU2642**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 39.76 ACRES, MORE OR LESS” (property is lying on the east side of North Old State Road [S.C.R. 213], approximately 600 feet north of Haflinger Road [S.C.R. 625]) (911 Address: 9052 Lofland Drive, Lincoln) (Tax Map Parcel: 230-12.00-39.00) filed on behalf of TPE DE SU94B, LLC.

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

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

Mr. Riemann requested that the previous testimony from Mr. Jordan Belknap be incorporated in the record for this application.

The Council found that Mr. Riemann stated that the project was located within Lincoln; that the project that was presented earlier for SU94A and SU94B was located southwest of the current application site; that the current site, was also the site for C/U 2347 TPE DE SU94, LLC, which had already been constructed and online; that the current arrays were proposed

**Public
Hearing/
CU2642
(continued)**

as Array B; that the arrays for C/U 2347 were a lease area by itself, and would operate independently of the current Conditional Use No. 2642; that the northern half of the parcel was developed into solar arrays as part of C/U 2347; that the current application would be an infill of the rest of the parcel, consisting of 39.33 acres; that the original Conditional Use No. 2347 was granted for the entire property; that the new Conditional Use relates only the additional development, which would be operated by a different operator; that they should be treated as two separate entities; that the current Conditional Use would be subject to some conditions that the project would intend to fully comply with any imposed conditions; that the project would have a landscape buffer; that the previous conditional use did not require a landscape buffer as it was fully surrounded by additional farmland; that they intend to install the landscape buffer around three sides; that the top would lead into the lease area and fully encompass the three sides, being the north, west and south sides; that there was an existing hedgerow style buffer along the property to the east; that the site had one property owner, however the lease areas were two different entities being TPE DE SU94, LLC and TPE DE SU94B, LLC; that they had considered landscaping being proposed for all four sides; that they felt with the adjacent use and there being another fence line there; that a buffer within two fence lines did not provide great access for maintenance and things of that nature; that they therefore omitted the buffer between the two uses, both being solar; that the project did provide a separate access to the site; that the original project's access was located 150 foot north of the proposed access; that the proposed access would meet DelDOT's entrance spacing guidelines, and access would run to the inverters with turnaround areas provided.

Public comments were heard.

Mr. Randy Ennis spoke in favor of the application.

It was requested that the previous testimony from Mr. Judson Malone be incorporated into the record for this application.

The Public Hearing and public record were closed.

**M 353 26
Amend
Conditions
8C & 8J/
CU2642**

A Motion was made by Mr. McCarron, seconded by Mr. Rieley to amend Condition 8C to now read "The entire area of the solar array shall be surrounded by a 7-foot-tall fence to comply with the height requirement of the National Electric Code. The fencing shall 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" and for Condition 8J to now read "The Final Site Plan to include maintenance plan including identification and ratification of

obnoxious weeds and grasses as set forth by the Delaware Department of Agriculture 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 354 26
Adopt
Ordinance
No. 4078/
CU2642**

A Motion was made by Mr. McCarron, seconded by Mr. Lloyd to Adopt Ordinance No. 4078 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 39.76 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission and as amended by this Council 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.**
- 2. The solar array will be located on approximately 18.02 acres of a larger 39.32-acre tract. It is adjacent to an existing solar array approved as Conditional Use No. 2347. The array area complies with all of the Code requirements for separation distances and setbacks from property lines and dwellings.**
- 3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar arrays. There was testimony that this solar array will benefit residential, business, and municipal subscribers with lower power costs.**
- 4. The proposed solar array is located on a parcel of land that is surrounded on three sides by land used for agricultural purposes. All sides will be buffered with the exception of the common boundary with the solar array approved as Conditional Use No. 2347.**
- 5. This Application generally complies with Section 115-172.I of the Sussex County Zoning Code regarding solar arrays.**
- 6. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways, and DelDOT has stated that the traffic impact will be “Diminutive”. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.**
- 7. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.**
- 8. This recommendation is subject to the conditions set forth in Section**

**M 354 26
Adopt
Ordinance
No. 4078/
CU2642
(continued)**

115-172.I of the Zoning Code and the following additional conditions:

- a. The use shall be for a ground-mounted solar array. No other types of electric generation shall be permitted at the site.**
- b. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use.**
- c. The entire area of the solar array shall be surrounded by a 7-foot-tall fence to comply with the height requirement of the National Electric Code. The fencing shall be a knot-wire agricultural style fencing including an interwoven privacy screening. The privacy screening shall be attached to the fencing with metal fasteners and a tension wire to reduce maintenance. The fence location and type of screening shall be shown on the Final Site Plan. The privacy screening may be removed after 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 further away from North Old State Road than what was shown on the Preliminary Site Plan.**
- f. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
- g. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.**
- h. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.**
- i. The Final Site Plan shall include a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.**
- j. The Final Site Plan to include maintenance plan including**

**M 354 26
Adopt
Ordinance
No. 4078/
CU2642**

identification and eradication of obnoxious weeds and grasses as set forth by the Delaware Department of Agriculture 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 355 26
Adjourn**

A Motion was made by Mr. Rieley, seconded by Mr. Lloyd to adjourn at 3:34 p.m.

Motion Adopted: 5 Yeas

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

Respectfully submitted,

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

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

ENGINEERING DEPARTMENT

JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING & DESIGN REVIEW

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Sussex County

DELAWARE
sussexcountype.gov

MIKE HARMER, P.E.
SUSSEX COUNTY ENGINEER

Memorandum

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

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

RE: *Existing Wastewater Infrastructure Use Agreement*
Cypress Landing IUA 817-2
File: OM 9.01

DATE: August 11, 2026

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

The Engineering Department requests approval of an agreement for the existing wastewater infrastructure use with **Fairway Village Investments, LLC** for **Cypress Landing** project in the **Blades Area**. Such an arrangement does not modify the underlying land use decision in any form. However, it allows the wastewater originating from the approved project to be conveyed through the existing transmission system previously constructed by the County.

Under the proposed arrangement, **Cypress Landing** project will connect to the existing County owned wastewater infrastructure. In return for utilization of said, **Fairway Village Investments, LLC** will contribute **\$186,217.00** for the financial catch-up contribution of the existing infrastructure to serve **95.00** Equivalent Dwelling Units. Payment is required prior to receiving beneficial acceptance of the projects on-site collection system.



EXISTING WASTEWATER INFRASTRUCTURE USE AGREEMENT

CYPRESS LANDING – IUA 817-2

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

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

FAIRWAY VILLAGE INVESTMENTS, LLC, developer of a project known as **Cypress Landing**, hereinafter called the “Developer.”

WITNESSETH:

WHEREAS, Developer is developing a tract of land identified as Tax Map parcel 132-1.12-31.00 to be known as **Cypress Landing** (“Project”) and;

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

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

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

- (1) Developer is proposing to utilize County’s existing collection and transmission capacity by connecting to existing regional infrastructure used by multiple pump stations.
- (2) In exchange for permission to connect up to **95.00** additional equivalent dwelling units to the County’s existing system and to utilize the existing capacity in said system, Developer agrees to financial catch-up contribution in the amount of **\$186,217.00** for said existing facilities.
- (3) The contribution amount in the case of multiple pump stations using an existing collection and transmission system is based on the ratio of average flow capacity utilization of said transmission facilities.
- (4) **Payment of the contribution is required prior to receiving beneficial acceptance of the projects on-site collection system.**

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

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

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

Any notice required to be delivered to or by either party under this Agreement shall be sent by U.S. first class mail. For purposes of this provision, the address of the County is 2 The Circle, P.O. Box 589, Georgetown, Delaware, 19947, and the address of the Developer is **16255 Sussex Highway, Bridgeville Delaware 19933.**

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

FOR THE COUNTY:

{Seal}

By: _____
(President - Sussex County Council)

_____ (DATE)

ATTEST:

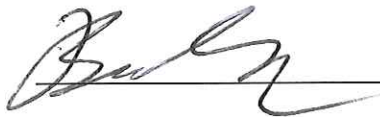
Tracy Torbert
Clerk of the County Council

FOR FAIRWAY VILLAGE INVESTMENTS, LLC

By:  _____ (Seal)
Robert M. Lisle

7/15/20 (DATE)

WITNESS:

 _____

ENGINEERING DEPARTMENT

JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING & DESIGN REVIEW

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Sussex County

DELAWARE
sussexcountype.gov

MIKE HARMER, P.E.
SUSSEX COUNTY ENGINEER

Memorandum

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

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

RE: *Existing Wastewater Infrastructure Use Agreement*
Glen Cove IUA 999-1
File: OM 9.01

DATE: August 11, 2026

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

The Engineering Department requests approval of an agreement for the existing wastewater infrastructure use with **Foxlane Homes at Burbage RD, LLC** for **Glen Cove** project in the **Millville Area**. Such an arrangement does not modify the underlying land use decision in any form. However, it allows the wastewater originating from the approved project to be conveyed through the existing transmission system previously constructed by the County.

Under the proposed arrangement, **Glen Cove** project will connect to the existing County owned wastewater infrastructure. In return for utilization of said, **Foxlane Homes at Burbage RD, LLC** will contribute **\$33,929.00** for the financial catch-up contribution of the existing infrastructure to serve **48.00** Equivalent Dwelling Units. Payment is required prior to receiving beneficial acceptance of the projects on-site collection system.



EXISTING WASTEWATER INFRASTRUCTURE USE AGREEMENT

Glen Cove IUA 999-1

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

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

FOXLANE HOMES AT BURBAGE RD, LLC a limited liability corporation and developers of a project known as **Glen Cove**, hereinafter called the "Developer."

WITNESSETH:

WHEREAS, Developer is developing several tracts of land identified as Tax Map parcels 134-12.00-374.01 & 374.02, 3445.00 thru 3460.00 & 375.00 to be known as **Glen Cove** ("Project") and;

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

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

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

- (1) Developer is proposing to utilize County's existing collection and transmission capacity by connecting to existing regional infrastructure used by multiple pump stations.
- (2) In exchange for permission to connect **48.00** additional equivalent dwelling units to County's existing sanitary sewer system and to utilize the existing transmission capacity in said system, Developer agrees to a financial catch-up contribution in the net amount of **33,929.00** for said existing facilities.
- (3) The contribution amount in the case of multiple pump stations using an existing collection and transmission system is based on the ratio of average flow capacity utilization of said transmission facilities.
- (4) **Payment of the contribution will be required prior to beneficial acceptance of the onsite collection system.**

- (5) All the conditions of this agreement must be disclosed to any and all third-party purchasers of the project and/or part of the project prior to the time of settlement.
- (6) If the Project (as currently submitted) is amended and County determines in its sole discretion that such amendments materially affect this Agreement, this Agreement may be declared by County to be null and void, and any unused payments made pursuant to this Agreement shall be returned to Developer, unless the parties otherwise agree. Nothing herein shall prevent the parties from the negotiation of a new agreement with respect to the amended Project, as the parties may deem appropriate.
- (7) The contribution is to be placed in County's sewer capital fund and expended towards overall debt reduction or at such time when any transmission infrastructure in County's Unified Sanitary Sewer District requires capital improvements (See Chapter 110-96 of the Sussex County Code).
- (8) Developer shall be responsible for payment of any and all undiscounted system connection charges in accordance with and pursuant to the requirements of the *Sussex County Code* for all lots, due at such time the Developer receives the sewer connection permit.
- (9) Developer shall comply in all aspects with the *Sussex County Code* and any other local, state, county, or federal laws, regulations, or policies that may be applicable and as such may be hereinafter amended.
- (10) Prior to the commencement of construction of any sanitary sewer facilities for the Project, Developer shall obtain a project construction permit from the County in accordance with and pursuant to the requirements of the *Sussex County Code*.
- (11) In order to allow the opportunity for a County representative to be present as the County so chooses, Developer shall send written notice to County of the date upon which connection to the County regional transmission system will be made. Developer shall follow County's written or verbal instructions in making said connection to the County sanitary sewer system.
- (12) Developer may assign this Agreement in whole or in part to any entity controlled directly or indirectly by Developer or to any third party who purchases, leases or otherwise controls any portion of Developer's property without the consent of County. Developer, and any subsequent assignees or successors shall provide County at least ten (10) days' written notice of any such assignment. Any other assignments, transfers, or conveyances with respect to this Agreement are prohibited without prior written consent of County.
- (13) To the extent permitted by law, Developer shall indemnify and hold harmless County, and its appointed and elected officials, employees, licensees, and agents for

any claims, losses, liabilities, suits, or damages, including but not limited to reasonable attorneys' fees, professional engineering fees, and any other costs of litigation, arising out of Developer's negligence in connection with its performance of this Agreement, including but not limited to damage to the County's infrastructure in making connection to County's regional transmission system. The obligations of this Paragraph shall survive the termination of this Agreement.

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

Any notice required to be delivered to or by either party under this Agreement shall be sent by U.S. first class mail. For purposes of this provision, the address of the County is 2 The Circle, P.O. Box 589, Georgetown, Delaware, 19947, and the address of the Developer is **18422 Coastal Highway, Suite 206, Lewes Delaware 19958.**

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

FOR THE COUNTY:

{Seal}

By: _____
(President - Sussex County Council)

_____ (DATE)

ATTEST:

Tracy N. Torbert
Clerk of the County Council

FOR FOXLANE HOMES AT BURBAGE RD, LLC

By: _____ (Seal)

David L. Hart

7/31/26 (DATE)

WITNESS:

ENGINEERING DEPARTMENT

PAUL B. MAUSER, P.E.
ASSISTANT COUNTY ENGINEER

(302) 854-5028 T
Paul.Mauser@sussexcountype.gov



Sussex County

DELAWARE
sussexcountype.gov

Memorandum

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

FROM: Paul Mauser, P.E., Assistant County Engineer

RE: Bethany Forest Septic Elimination Project, S26-16
A. Recommendation of Introduction of Debt Ordinance

DATE: August 11, 2026

Project Background Information: In October of 2019, the Sussex County Engineering Department distributed polling letters to the Bethany Forest community on the interest of central sewer. The polling letters were distributed per community request but the results of the polling letters indicated insufficient interest to proceed with the project.

At a later date, the Bethany Forest HOA revisited the idea of central sewer and there was more interest from the community with the polling results showing (60) in favor, (12) opposed, and (21) not responding, resulting in 63% of the 95 total recorded lots being in favor of the project.

On August 23, 2022, The Engineering Department presented these results to County Council with a request to prepare and post notices for a Public Hearing to expand the Sussex County Unified Sanitary Sewer District (SCUSSD) to include the Bethany Forest community and County Council approved that motion.

A Public Hearing was held on October 21, 2022 at the Millville Town Hall (36404 Club House Road, Millville, DE 19967). The Public Hearing included a presentation with the Proposed Annexation Boundary, Project Background/Information, General User Rate Information, Estimated Rates, and more. During the Public Hearing, the Department asked those in attendance if the County should proceed with the annexation and the majority of those in attendance were in favor.

On December 6, 2022, County Council approved the recommendation of the Engineering Department to expand the Sussex County Unified Sanitary Sewer District (SCUSSD) to include the Bethany Forest subdivision, via Resolution No. R 012 22.



Proposed Septic Elimination Project: The connection of the Bethany Forest community to the County's sewer system will eliminate approximately 3,500 pounds of Total Nitrogen (TN) per year from the Indian River Bay. The County proposes to install a gravity collection system to serve the existing 91 improved lots. The gravity collection system will flow to a new pump station to be constructed as part of this project. The pump station will then convey the wastewater flow to existing County sewer infrastructure on Whites Neck Road near the existing Bay Forest subdivision. From this connection point, the wastewater will flow to existing County Pump Station #303 which ultimately directs the flow to the South Coastal Regional Wastewater Facility (SCRWF) for treatment and disposal.

The estimated project cost is \$7,197,174.00. The County will provide each Property Owner with a sewer connection at the property line. The Property Owner will be responsible for engaging the services of a licensed plumber to install the piping from the County owned lateral cleanout to the house, as well as pumping out and filling the existing septic tank.

Delaware Water Pollution Control Revolving Loan Fund (WPCRF): Sussex County Engineering Department Staff completed the Preliminary Engineering Report (PER) and the Environmental Information Documents (EID) in March 2026. The PER and EID are required for submittal of the funding application to Delaware State Revolving Fund (SRF). On June 25, 2026, the County received a Binding Commitment Letter (BCL) from DNREC Environmental Finance for the Bethany Forest Septic Elimination project. The County acknowledged and accepted the DNREC BCL the same day, June 25, 2026. The BCL identifies a loan amount of \$7,197,174.00 for a term of thirty (30) years. Upon completion of the project, up to \$5,000,000.00 of principal balance will be forgiven and the remaining balance will be amortized over 30 years at 2% interest and will require semi-annual principal and interest payments.

Sussex County Engineering Department Recommendation for County Council: The Engineering Department recommends introduction of the associated Debt Ordinance authorizing the issuance of up to \$7,197,174.00 of general obligation bonds of Sussex County in connection with the construction and equipping of the Bethany Forest Septic Elimination project.



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 5, 2026

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

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

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

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

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

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

C/U 2631 Zion Church Ventures, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR STORAGE/WAREHOUSE/OFFICE BUILDINGS AND A CAR WASH (TO AMEND CONDITION "D" AND CONDITION



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

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

The Commission found that Mr. Brad Absher, Professional Surveyor with TrueNorth Land Surveying, spoke on behalf of the Applicant, Zion Church Ventures, LLC. Mr. Absher stated that the Applicant respectfully requested approval of the application, due to the request of limited and practical amendment, to an already approved use; that Sussex County approved a Conditional Use (C/U 2581) in 2025, and the proposed use remains the same in nature; that they were currently requesting to make two operation conditions work in practice; that the first request was to allow and office space to be permitted within the warehouse units; that the second request was to remove the requirement for separate on-site management office; that the amendment should be approved because this does not change the fundamental character of the project; that Condition D, as currently written, stated that the unit was to be used for business, and could be used for business purposes; that that the unit may only be used for climate control storage; that the units could not be used for manufacturing or industrial purposes; that no unit can be primarily used as an office; that the property could not be used for meeting customers, showrooms, customer pickup, or a delivery or mail drop location; that it also stated that office space cannot be isolated or walled off from remaining units; that their request was not to remove the business use limits; that their request was to allow a practical, internal office within the unit, while preserving the core protection against retail, traffic, customer visits, etc.; that they felt the request change was reasonable as explained in the submitted application materials; that a separate office within the same unit can improve organization, productivity, and safety for the tenants who need an administrative workspace tied directly to their storage and the warehouse use; that the request was not to create standalone office units, but rather to allow office space that would be an accessory use to the warehouse and storage function; that they felt the request to change the Condition was reasonable; that the current Condition required a separate on-site management office to be open during regular business hours; that they requested for the Condition to be removed because the management could still handle responsibility without mandating a standalone office on the property; that removing the office requirement does not create a more intense use, would not increase traffic,

and would not remove any of the operational safeguards that have already been imposed on the site; that the County's own prior findings on the site, support approval of these amendments; that when the Commission recommended C/U 2581, it found that the use was compatible with the surrounding zoning; that the traffic would be minimal; that DelDOT stated the traffic impact would be minor; that the property was in the Coastal and Development Areas, which are considered Growth Areas within the County; that the use would not adversely affect neighboring and adjacent properties; that those findings still currently apply; that the property still served as a practical need for climate controlled storage and office space for the area and property owners and businesses; that existing conditions still prevent the kind of impacts Sussex County wanted to avoid, and that the request was a modest operational adjustment, not just a change in the overall use of the property.

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

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

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

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

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

Madam Chair Wingate stated that she was present for the previous public hearings; that she had been under the assumption that the use was for storage, with a pool and a car wash; that she was perplexed of why the Commission was again considering a change of the Conditions of Approval; that the Commission had imposed the conditions for a reason, and if the Commission were to change to the condition, to allow all the units to have offices, it would result in a totally different look than a storage warehouse in her opinion.

Mr. Absher stated that the reason they returned before the Commission last time, which was completely annihilated, as it was not relayed to what the Applicant was actually trying to do; that when they returned before the Commission the second time, it was to request the individual offices for the

units, and instead they were approved for bathrooms to be placed within each unit as part of the second approved Conditional Use.

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. Robertson questioned the number of individual units proposed.

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

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

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

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

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

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

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

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

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

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

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

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

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

In relation to C/U 2631 Zion Church Ventures, LLC. Motion by Mr. Allen, seconded by Mr. Passwaters, and carried unanimously to defer action, leaving the record open to allow for the receipt of an additional report from staff on the application history and permitted activities/uses per the previous approval, and for the receipt of written public comment, with the record to close on April 22, 2026. Motion carried 5-0.

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

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

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

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

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

Condition N is less of a concern. As originally presented, this use would have a variety of amenities, including a pool and car wash, which would suggest that a central office is appropriate. Although

central offices are typically included in a storage facility as part of the design and operation of it, they are not always included as a condition of approval. For that reason, I recommend that Condition N requiring a central office be deleted from the prior approval. By removing this condition, the Applicant will still be able to install a central office, if necessary, it will just not be a County requirement.

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

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

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

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

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

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

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

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

PLANNING & ZONING COMMISSION

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



Sussex County

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: April 15th, 2026

Sussex County Council Hearing Date: June 2nd, 2026

Application: C/U 2631 Zion Church Ventures, LLC

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

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

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

Current Zoning: MR (Medium Density Residential District)

Proposed Zoning: MR (Medium Density Residential District)

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

Comprehensive Land
Use Plan Reference: Coastal Area

Councilmanic District: District 4 - Mr. Hudson

School District: Indian River School District

Fire District: Roxana Fire Company

Sewer: Sussex County (central sewer)

Water: Tidewater (central water)

Site Area: 29.55 acres +/-

Tax Map ID.: 533-11.00-23.00



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



Memorandum

To: Sussex County Planning and Zoning Commission Members
From: Mrs. Lauren Cecchine, AICP, Planning & Zoning Manager
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: March 13th, 2026
RE: Staff Analysis for C/U 2631 Zion Church Ventures, LLC

The purpose of this memo is to provide background and analysis for the Planning and Zoning Commission to consider as a part of Application C/U 2631 Zion Church Ventures, LLC to be reviewed during the April 15th, 2026, Planning and Zoning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

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

Tax Parcel ID: 533-11.00-23.00

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

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

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

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

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



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

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

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

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

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use Map in the plan indicates that the parcels have a Growth Area designation of “Coastal Area” and “Developing Area.”

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

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

Compliance with Comprehensive Plan

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

Further Site Considerations:

- **Density:** N/A

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

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

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

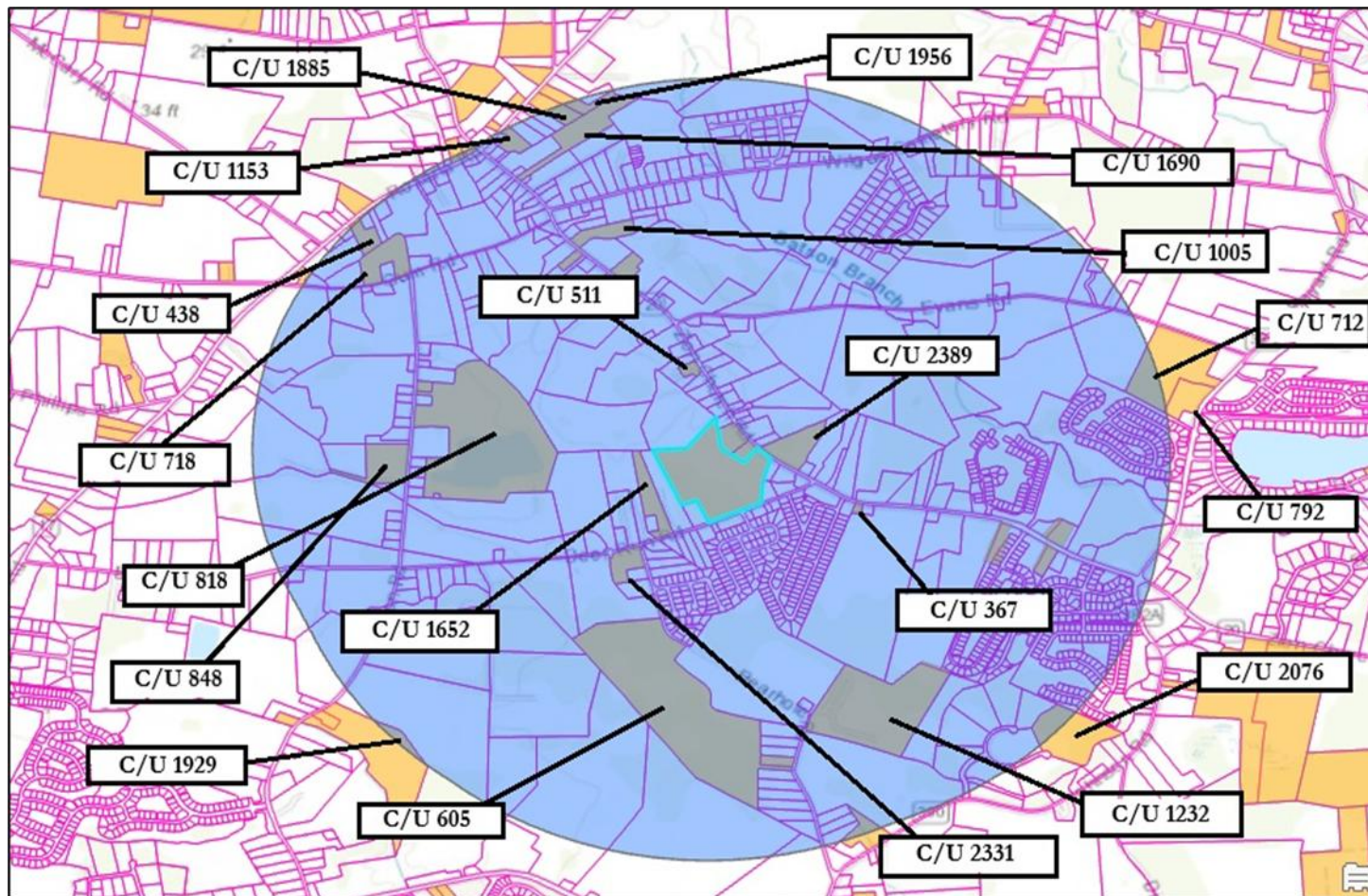
Based on the analysis provided, the Conditional Use to amend Conditions “D” and “N” of the Conditions of Approval for Conditional Use No. 2581 (Ordinance 2009) to allow for office spaces within the warehouse units and to remove the requirement that an on-site management Office be

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

Existing Conditional Uses within the Vicinity of the Subject Site:

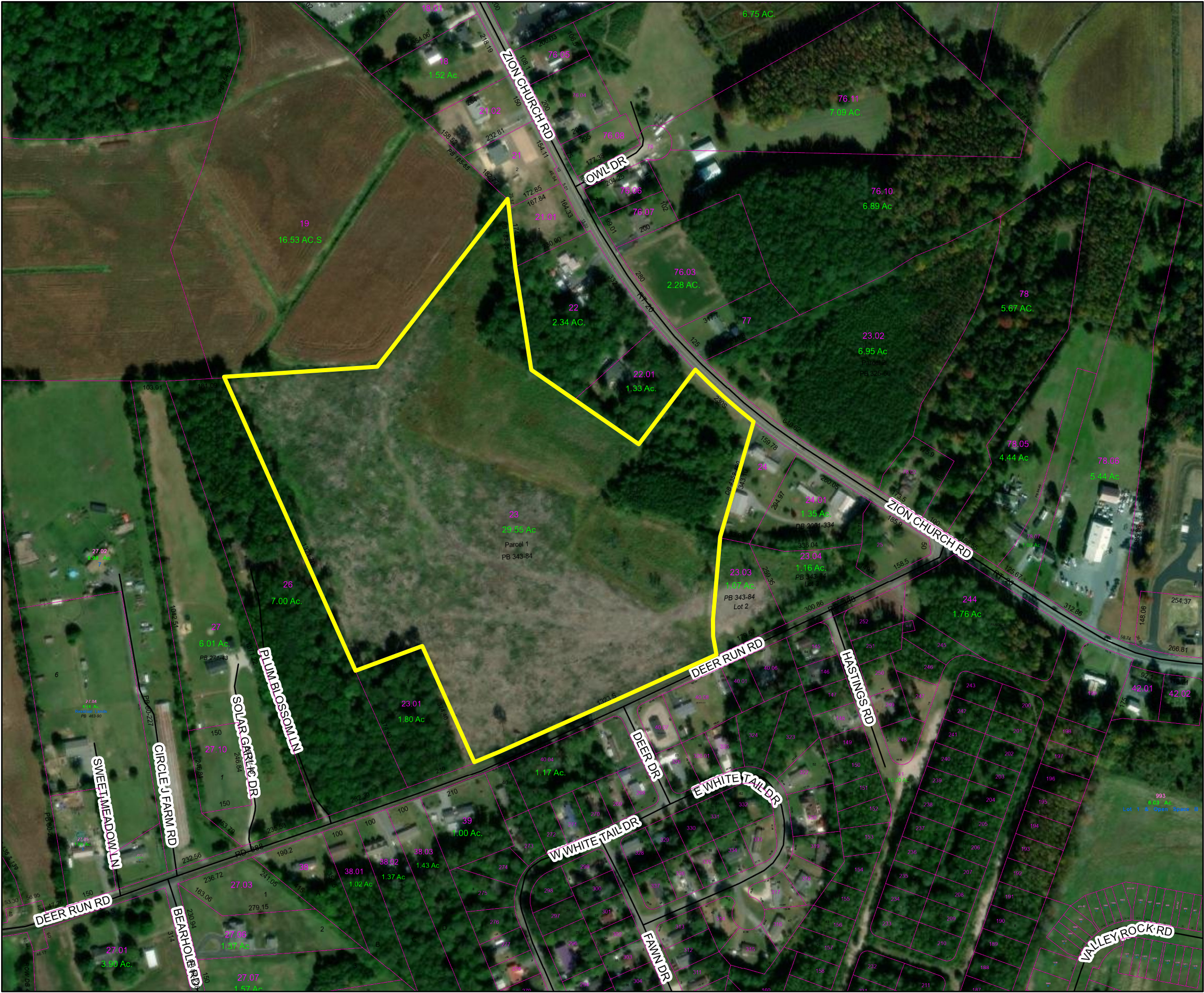
Staff notes there have been forty-one (41) Conditional Use Applications within a one (1) mile radius of the Application site. Four (4) Applications were denied, twenty-nine (29) were approved, six (6) were withdrawn and two (2) are Pending Public Hearings. A Data Table and Supplemental Map have been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

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



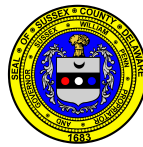


A3 Landscape Parcel Details

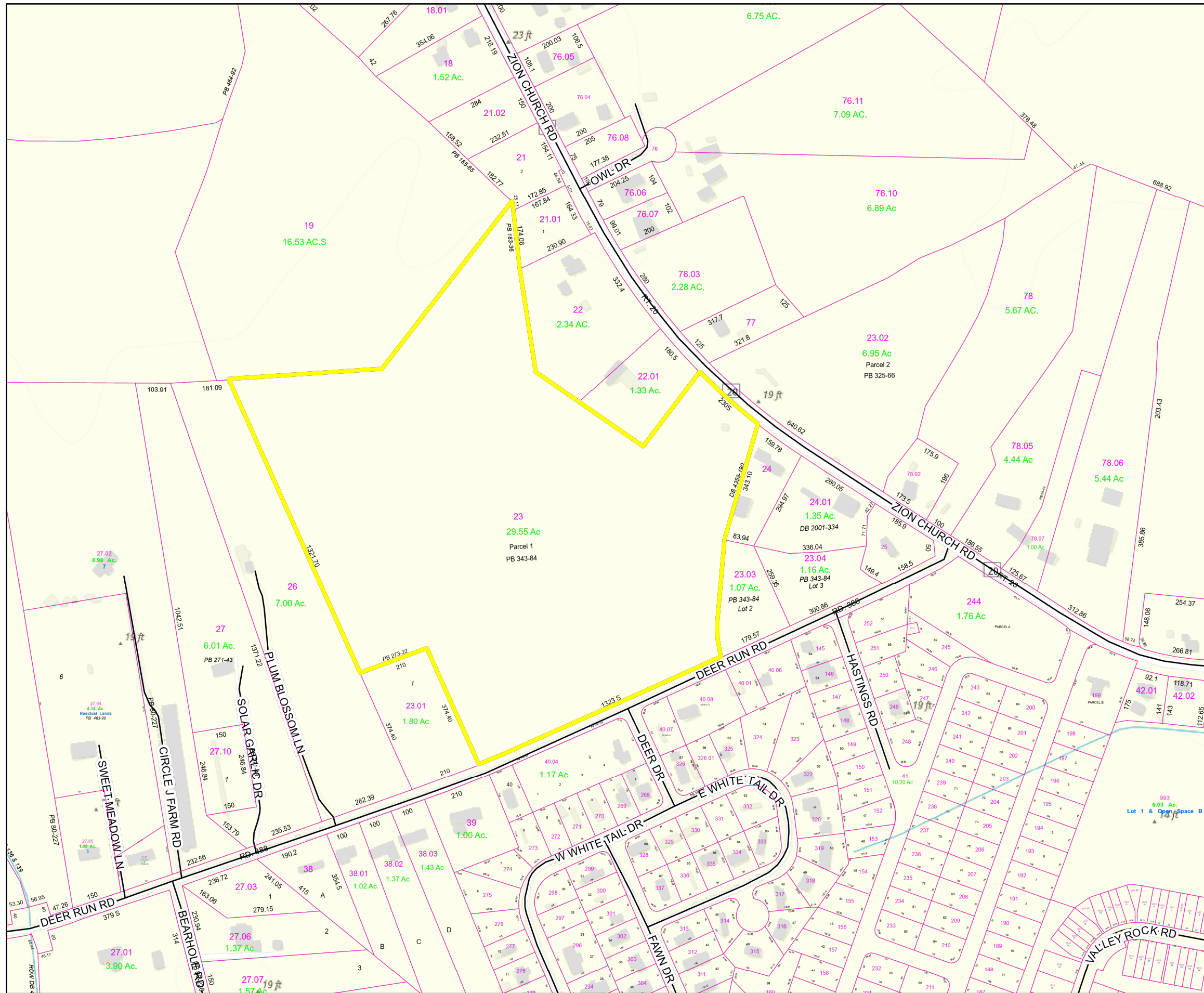


PIN:	533-11.00-23.00	
Owner Name	ZION	CHURCH VENTURES LLC
Book	5467	
Mailing Address	35322 BAYARD RD	
City	FRANKFORD	
State	DE	
Description		
Description 2		
Description 3		
Land Code		

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



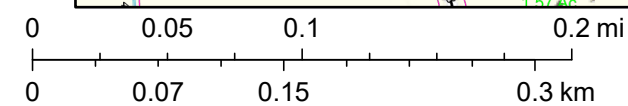
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-  Tax Parcels
-  TaxParcel
-  Encumbrance
-  Condo
-  Streets
-  County Boundaries
-  GIOLandRecords.PARCELFABRIC.Condo
-  Citations

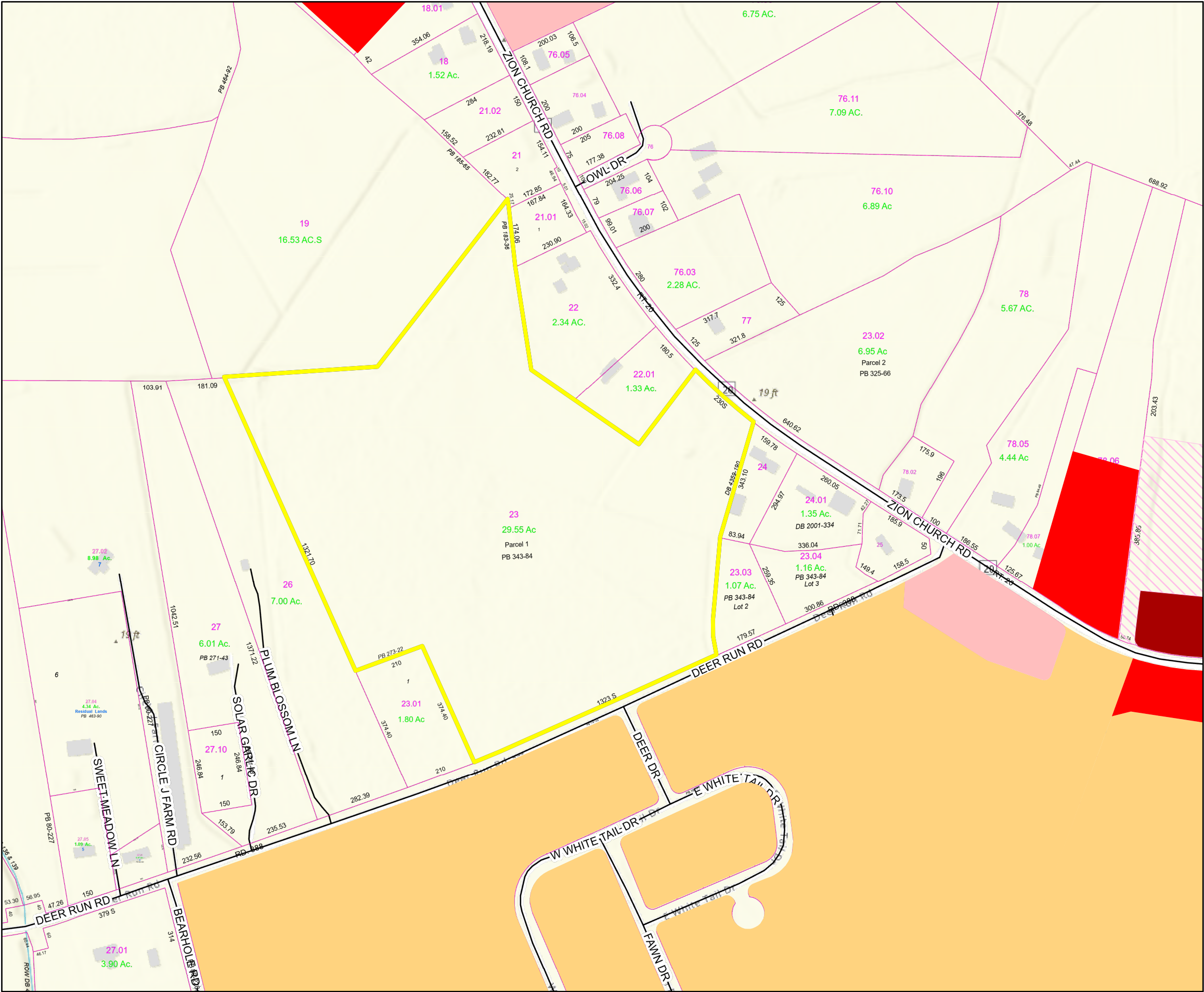
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March 13, 2026



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- Tax Parcels
- TaxParcel
- Encumbrance
- Condo
- Streets
- County Boundaries
- GIOLandRecords.PARCELFABRIC.Condo
- World_Hillshade

Introduced: 3/3/26

Council District 4: Mr. Hudson

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

911 Address: 36054 Zion Church Road, Frankford

ORDINANCE NO. ____

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

WHEREAS, on the 19th day of December 19, 2025, a Conditional Use Application, denominated Conditional Use No. 2631, was filed on behalf of Zion Church Ventures, LLC; and

WHEREAS, on the ____ day of _____ 2026, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2631 be _____; and

WHEREAS, on the ____ day of _____ 2026, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2631 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situated in Sussex County, Delaware, and lying on the southwest side of Zion Church Road (Route 20), approximately 605 feet northwest of Deer Run Road (S.C.R. 388) and the north side of Deer Run Road (S.C.R. 388), approximately 159 feet southwest of Zion Church Road (Route 20) and being more particularly described in the attached legal description prepared by Parsons & Robinson, P.A., said parcel containing 29.55 acres, more or less.

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



Memorandum

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

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

CC: Everett Moore, County Attorney

Date: August 5, 2026

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

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

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

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

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

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

ORD 26-05

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

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

§ 99-5 Definitions.

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

...

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

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

Protection Area.

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

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

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

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

....

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

§ 99-21.A Perimeter buffers.

A. Perimeter buffer general standards.

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

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

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

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

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

penalties and/or remediation required if unauthorized disturbance occurs.

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

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

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

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

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

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

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

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

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

depicted on the Perimeter Buffer Landscape Plan.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

D. Perimeter buffer landscape plan.

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

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

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

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

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

(d) Measures to be taken to avoid sedimentation intrusions

and erosion in the Perimeter Buffer.

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

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

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

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

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

E. Timing; bonds and guarantees.

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

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

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

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

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

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

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

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

bond or other guaranty is provided for the alteration.

F. Perimeter buffer maintenance.

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

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

G. Perimeter buffer tree mitigation.

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

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

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

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

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

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

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

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

407 H. Violations and penalties.

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

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

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

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

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

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

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

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

434 . . .

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

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

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

446 . . .

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

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

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

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

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

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

§ 115-194.8. Forest Preservation

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

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

A. Forest Stand Delineation

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

B. Minimum Protection Standards of existing Forest.

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

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

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

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

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

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

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

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

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

545
546 C. Mitigation of Forest Removal

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

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

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

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

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

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

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

protected and the Forest to be removed.

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

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

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

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

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

D. Timing, bonds and guarantees.

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

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

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

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

647
648 E. Violation and Penalties

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

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

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

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

§ 115-194.9. Tree Planting Requirements.

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

A. Tree Planting

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

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

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

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

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

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

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

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

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

(5) Timing; bonds and guarantees.

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

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

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

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

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

§115-221 Final Site Plan Requirements

...

B. The final site plan shall show the following:

...

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

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

Section 8. Effective Date.

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



Outlook

Form submission from: Council Grant Form

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

Date Fri 2026-07-17 17:21

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

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Council Grant Form

Legal Name of Agency/Organization	New Coverdale Outreach Mission Inc
Project Name	Community Education support
Federal Tax ID	31-1695369
Non-Profit	Yes
Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	Yes
Organization's Mission	Feed the hungry,clothe the naked + Equip the youth with complete educational supplies
Address	22215 Coverdale Rd
City	Seaford
State	DE
Zip Code	19973

Contact Person	Diane Lofland
Contact Title	Excutive Director
Contact Phone Number	302-629-3036
Contact Email Address	Cutiepie14k@gmail.com
Total Funding Request	\$2,000
Has your organization received other grant funds from Sussex County Government in the last year?	Yes
If YES, how much was received in the last 12 months?	3300
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?	50
Program Category (choose all that apply)	Educational
Primary Beneficiary Category	Low to Moderate Income

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

100

Scope

Provide school supply kits to school in need support families experiencing financial challenges encourage academic prepares and student confidence

Religious Components

Strengthen Community support through out faith based outreach

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

1,500.00

Description

utilities

Amount

5,650.00

Description

insurance

Amount

3,130.00

Description

purchasing school supplies

Amount

2,000.00

TOTAL EXPENDITURES

10,780.00

TOTAL DEFICIT FOR PROJECT OR ORGANIZATION

-9,280.00

Name of Organization

New Coverdale outreach Mission Inc

**Applicant/Authorized
Official**

Diane Lofland

Date

07/17/2026

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

Yes

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

Yes

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



Outlook

Form submission from: Council Grant Form

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

Date Fri 2026-07-24 13:34

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

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Council Grant Form

Legal Name of Agency/Organization	Lewes Base Ball Club
Project Name	National Association of Historic Base Ball Clubs National Championship Tournament
Federal Tax ID	85-1487760
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 Lewes Base Ball Club promotes the enjoyment and understanding of the history of baseball in southern Delaware through educational programs, research, and period games.
Address	c/o 36 Sussex Dr
City	Lewes
State	DE

Zip Code	19958-1507
Contact Person	Mike DiPaolo
Contact Title	President
Contact Phone Number	3028410032
Contact Email Address	lewesbaseball@gmail.com
Total Funding Request	2500
Has your organization received other grant funds from Sussex County Government in the last year?	No
If YES, how much was received in the last 12 months?	N/A
Are you seeking other sources of funding other than Sussex County Council?	Yes
If YES, approximately what percentage of the project's funding does the Council grant represent?	30
Program Category (choose all that apply)	Cultural Educational
Primary Beneficiary Category	Other
Beneficiary Category Other	General Sussex County residents

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

2000

Scope

The Lewes Base Ball Club is acting as local host for the National Association of Historic Base Ball Clubs national championship tournament. This will see 16 teams (including Lewes) play multiple games over two days. This will help share the spirit of American baseball as it was played in the 19th century and continue to help celebrate America 250 in Sussex County. Sussex county has an extensive baseball heritage having been home to several local and semi pro teams. Major Leaguers have come from Sussex including Phillies pitching legend Chris Short and Delino DeSheilds, who finished second in the 1990 NL Rookie of the Year voting.

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

5,000.00

Description

Rent

Amount

1,500.00

Description

Marketing

Amount

2,200.00

Description

Field Set Up

Amount

2,000.00

Description

Insurance

Amount

500.00

Description	Rentals
Amount	1,500.00
TOTAL EXPENDITURES	7,700.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	-2,700.00
Name of Organization	Lewes Base Ball Club
Applicant/Authorized Official	Mike DiPaolo
Date	07/09/2026
I acknowledge and represent on behalf of the application organization that I have read and understand the Grant Program Guidelines and Affidavit of Understanding	Yes
I understand that, if awarded grant funding, I will be required to provide receipts and/or supporting documentation showing how the funds were spent. Failure to provide the required documentation may result in ineligibility for future grant funding from Sussex County.	Yes

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



Outlook

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on behalf of
Sussex County DE <notifications@d3forms.com>
Date Sun 2026-07-26 07:42
To Morgan C. Stokes <morgan.stokes@sussexcountyde.gov>

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Council Grant Form

Legal Name of Agency/Organization	Kim and Evans Family Foundation, Inc.
Project Name	Kickz for Kids
Federal Tax ID	82-3857830
Non-Profit	Yes
Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	No
Organization's Mission	To better the lives of disadvantaged people and animals in Sussex County, De and beyond.
Address	29255 Laughing Gull Court
City	Millsboro
State	DE
Zip Code	19966

Contact Person	Dr. Joseph Kim
Contact Title	President
Contact Phone Number	4436147454
Contact Email Address	kimandevansff@gmail.com
Total Funding Request	1000
Has your organization received other grant funds from Sussex County Government in the last year?	No
If YES, how much was received in the last 12 months?	N/A
Are you seeking other sources of funding other than Sussex County Council?	Yes
If YES, approximately what percentage of the project's funding does the Council grant represent?	10
Program Category (choose all that apply)	Health and Human Services
Primary Beneficiary Category	Youth

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

500

Scope

Kickz for Kids is a community-based initiative that provides brand new tennis shoes to in-need students in Laurel, Delaware. Proper footwear is essential for student safety, physical health, school participation, and self-confidence. For many families facing financial hardship, purchasing new, properly fitting shoes is difficult. This program addresses a basic but critical need that directly affects students' daily school experience.

Students without adequate footwear are at increased risk for discomfort, injury, limited participation in physical education and recess, and social stigma. Families in Laurel often must prioritize housing, food, and utilities over essential items like new shoes. Kickz for Kids removes this barrier by ensuring students have safe, comfortable footwear that supports learning, mobility, and dignity.

~55% of children under 18 in Laurel live below the poverty line.

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

5,000.00

Description

Cost of 500 brand named tennis shoes

Amount

10,000.00

TOTAL EXPENDITURES

10,000.00

TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	-5,000.00
Name of Organization	Kim and Evans Family Foundation, Inc.
Applicant/Authorized Official	Joseph Hill Kim
Date	07/26/2026
I acknowledge and represent on behalf of the application organization that I have read and understand the Grant Program Guidelines and Affidavit of Understanding	Yes
I understand that, if awarded grant funding, I will be required to provide receipts and/or supporting documentation showing how the funds were spent. Failure to provide the required documentation may result in ineligibility for future grant funding from Sussex County.	Yes

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on behalf of
Sussex County DE <notifications@d3forms.com>
Date Fri 2026-07-24 11:56
To Morgan C. Stokes <morgan.stokes@sussexcountyde.gov>

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Council Grant Form	
Legal Name of Agency/Organization	Friends of Prime Hook National Wildlife Refuge Inc.
Project Name	Educational Equipment Improvements
Federal Tax ID	51-0380294
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 Friends of Prime Hook National Wildlife Refuge, Inc. was established in 1998 as a 501(c)(3) nonprofit organization. Our mission is to support educational, environmental, and recreational activities at Prime Hook National Wildlife Refuge. We work to increase public awareness of the role the Prime Hook NWR and U.S. Fish and Wildlife Service play in preserving habitat for native plants and animals. The Friends group functions as the cooperating association of the Refuge and its staff.
Address	12322 Turtle Pond Road

City	Milton
State	DE
Zip Code	19968
Contact Person	Carol Knapp
Contact Title	Treasurer FoPH
Contact Phone Number	2012300230
Contact Email Address	treasurer@friendsofprimehook.org
Total Funding Request	2500.00
Has your organization received other grant funds from Sussex County Government in the last year?	No
If YES, how much was received in the last 12 months?	N/A
Are you seeking other sources of funding other than Sussex County Council?	No
If YES, approximately what percentage of the project's funding does the Council grant represent?	N/A
Program Category (choose all that apply)	Cultural Educational
Primary Beneficiary Category	Elderly Persons (62 +)

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

5000

Scope

Request funding to upgrade the computing and presentation systems used by the Friends of Prime Hook National Wildlife Refuge to support public educational and outreach programs at the refuge.

The current computing system is more than 12 years old and can no longer reliably support the visual program operations needed to deliver presentations to the public. Throughout the year, we offer free programs and events at the refuge for community members of all ages, with programs designed for children, families, and seniors. These programs are an essential part of our public outreach efforts, helping participants learn about the local environment, understand current environmental issues, and enjoy meaningful experiences. Upgrading the system will help ensure that these programs remain accessible, engaging, and relevant for the public. The total funding request is \$2500. Including \$2000 for a replacement computer and \$500 for program related software.

In summary, this \$2500 investment will replace outdated technology, strengthen the quality of public presentations, and help the Friends of Prime Hook NWR continue providing free programs that benefit our communities.

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

0.00

Description

Purchase computer/laptop

Amount

2,000.00

Description

Software and installation

Amount	500.00
TOTAL EXPENDITURES	2,500.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	-2,500.00
Name of Organization	Friends of Prime Hook National Wildlife Refuge
Applicant/Authorized Official	Carol Knapp
Date	07/24/2026
I acknowledge and represent on behalf of the application organization that I have read and understand the Grant Program Guidelines and Affidavit of Understanding	Yes
I understand that, if awarded grant funding, I will be required to provide receipts and/or supporting documentation showing how the funds were spent. Failure to provide the required documentation may result in ineligibility for future grant funding from Sussex County.	Yes

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Form submission from: Council Grant Form

From notifications=d3forms.com@mg.d3forms.com <notifications=d3forms.com@mg.d3forms.com>
on behalf of
Sussex County DE <notifications@d3forms.com>
Date Mon 4/27/2026 11:53 PM
To Morgan C. Stokes <morgan.stokes@sussexcountyde.gov>

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Council Grant Form

Legal Name of Agency/Organization	Eastern Shore AFRAM Festival Inc
Project Name	AFRAM FESTIVAL
Federal Tax ID	050 59 5124
Non-Profit	Yes
Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	No

Organization's Mission

Dear Sussex County Council,

On behalf of the Eastern Shore AFRAM Festival, I am pleased to submit this request for grant funding in the amount of \$1,000 in support of our upcoming 2026 Eastern Shore AFRAM Festival, scheduled to take place on August 8th, in Seaford, Delaware.

Now entering its 31st year, the Eastern Shore AFRAM Festival is a vibrant, family-friendly cultural event that celebrates African American heritage through music, art, food, education, and community engagement.

Each year, the festival brings together hundreds of attendees from across the region to experience a powerful showcase of culture, unity, and pride.

The requested funding will directly support essential components of the festival, including:

Cultural programming and live performances

Youth and family engagement activities

Vendor and community outreach coordination

Event logistics, equipment, and site operations

Our mission is to foster a positive and empowering cultural experience that strengthens community connections while highlighting African American contributions and traditions.

Despite ongoing challenges faced by many communities, we remain committed to providing an inclusive space that promotes education, inspiration, and economic opportunity for local vendors and artists.

We believe your support will play a meaningful role in sustaining and growing this impactful event. Enclosed, please find additional information outlining our program, budget, and anticipated outcomes.

Thank you for considering our request. We would welcome the opportunity to partner with you in making the 2026 Eastern Shore AFRAM Festival a continued success. Should you require any additional information, please do not hesitate to contact us.

Sincerely,

Pat A Jones

Executive Director

Eastern Shore AFRAM Festival Inc
P.O. Box 687
Seaford, Delaware 19973
302-228-5636
esaframfestival@gmail.com

Address 104 N Paula Lynne Drive

City Seaford

State De

Zip Code 19973

Contact Person Pat A.Jones

Contact Title Executive Director

Contact Phone Number 302-228-5636

Contact Email Address Esaframfestival@gmail.com

Total Funding Request 1,000

Has your organization received other grant funds from Sussex County Government in the last year? Yes

If YES, how much was received in the last 12 months? 1000

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?

10

Program Category (choose all that apply)

Cultural

Primary Beneficiary Category

Minority

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

2000

Scope

Community Resource Hub: The event serves as a central gathering point where underserved individuals can connect with community organizers, local leaders, and peer networks, strengthening the social safety net and promoting collective success.

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

10,000.00

Description

Stage Audio

**Amounts changed per email.*

Amount

~~3,500.00~~ \$3,950.00

Description

Entertainment Child's Enrichment

Amount

~~4,000.00~~ \$6,275.00

Description

Children's Enrichment paint crafts Story time Performers Arts

Amount	4,500.00 \$1,700.0
Description	Arts-crafts-Childrens-enrichment-section Advertisement
Amount	4,000.00 \$575.00
Description	Rentals-space
TOTAL EXPENDITURES	10,000.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	0.00
Name of Organization	AFRAM FESTIVAL
Applicant/Authorized Official	Pat A.Jones
Date	04/27/2026
Affidavit Acknowledgement	Yes

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



Outlook

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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 Sat 2026-08-01 01:27

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

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Council Grant Form

Legal Name of Agency/Organization	Delaware Fraternal order of police Delaware State FOP Lodge
--	--

Project Name	golf tournament
---------------------	-----------------

Federal Tax ID	51-0312994
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Non-Profit	Yes
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Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	No
---	----

Organization's Mission	To help and support the families of law enforcement by providing scholarships funds for their families.
-------------------------------	---

Address	PO Box 9818
----------------	-------------

City	Newark
-------------	--------

State	Delaware
--------------	----------

Zip Code	19714
-----------------	-------

Contact Person	Justin King
Contact Title	Editor
Contact Phone Number	302-381-8241
Contact Email Address	jking2665@gmail.com
Total Funding Request	\$2500
Has your organization received other grant funds from Sussex County Government in the last year?	No
If YES, how much was received in the last 12 months?	N/A
Are you seeking other sources of funding other than Sussex County Council?	No
If YES, approximately what percentage of the project's funding does the Council grant represent?	N/A
Program Category (choose all that apply)	Educational Other
Program Category Other	Scholarship
Primary Beneficiary Category	Youth

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

5

Scope

These funds will be utilized to help host the Delaware Fraternal Order of Police State Golf Tournament. The proceeds of the tournament are used to fund our annual scholarships which provides one scholarship for each of our lodges. These scholarships are \$1000/ child and awarded to each lodge every calendar year. This includes two lodges located in Sussex County (lodge 16 and lodge 2) as well as three additional statewide Lodges (10,11,22) which serves Sussex County offices for statewide agencies. This tournament is funded by donations and participants with proceeds going to the scholarship fund.

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

Course rental (96 participants)

Amount

14,440.00

Description

Hosting

Amount

9,000.00

TOTAL EXPENDITURES

23,440.00

TOTAL DEFICIT FOR PROJECT OR ORGANIZATION

-23,440.00

Name of Organization	Delaware Fraternal Order of Police State Lodge
Applicant/Authorized Official	Justin King
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

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on behalf of
Sussex County DE <notifications@d3forms.com>
Date Thu 2026-07-30 16:08
To Morgan C. Stokes <morgan.stokes@sussexcountyde.gov>

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Council Grant Form

Legal Name of Agency/Organization	Seaford Tomorrow Inc.
Project Name	Friday Night Live
Federal Tax ID	475519548
Non-Profit	Yes
Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	No
Organization's Mission	To make Downtown Seaford an experiential destination with a thriving, active downtown community consisting of a combination of art, dining, historical, and business attractions, leveraging natural and historical resources for the long-term economic well-being of the community.
Address	414 High Street
Address 2	PO BOX 1100
City	Seaford

State	Delaware
Zip Code	19973
Contact Person	Katie Hickey
Contact Title	Event Coordinator
Contact Phone Number	302-745-5221
Contact Email Address	khickey@seafordde.com
Total Funding Request	\$7,000.00
Has your organization received other grant funds from Sussex County Government in the last year?	Yes
If YES, how much was received in the last 12 months?	3000.00
Are you seeking other sources of funding other than Sussex County Council?	Yes
If YES, approximately what percentage of the project's funding does the Council grant represent?	50
Program Category (choose all that apply)	Other
Program Category Other	community

Primary Beneficiary Category	Elderly Persons (62 +)
-------------------------------------	------------------------

Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program	2200
---	------

Scope	Friday Night Live is a free concert series Seaford Tomorrow hosts for the local community. During the months of May through September, we offer 8 free concerts from 5pm - 8pm hiring local bands/artists to provide a high-quality performance at no cost to residents or visitors. We have a rotation of local food trucks at each event, hold a 50/50 raffle and sell local beer and wines to 21+ to help offset the costs of the bands. Although our primary beneficiary was selected as the elderly community, this is due to the majority of attendees being over the age of 62+. We welcome all ages, ethnicities, and families to join us. This past year, we celebrated Juneteenth by hiring a black-owned band and black-owned food truck. In September, we will celebrate Hispanic Heritage Month by hiring a Hispanic-owned band and food truck. All are local to the area. Our goal is to create a welcoming atmosphere and event that everyone can enjoy. We have watched our downtown grow over the past decade, and we want to help keep it thriving! We host this event in the downtown area and encourage people to visit the shops, restaurants, and businesses.
--------------	--

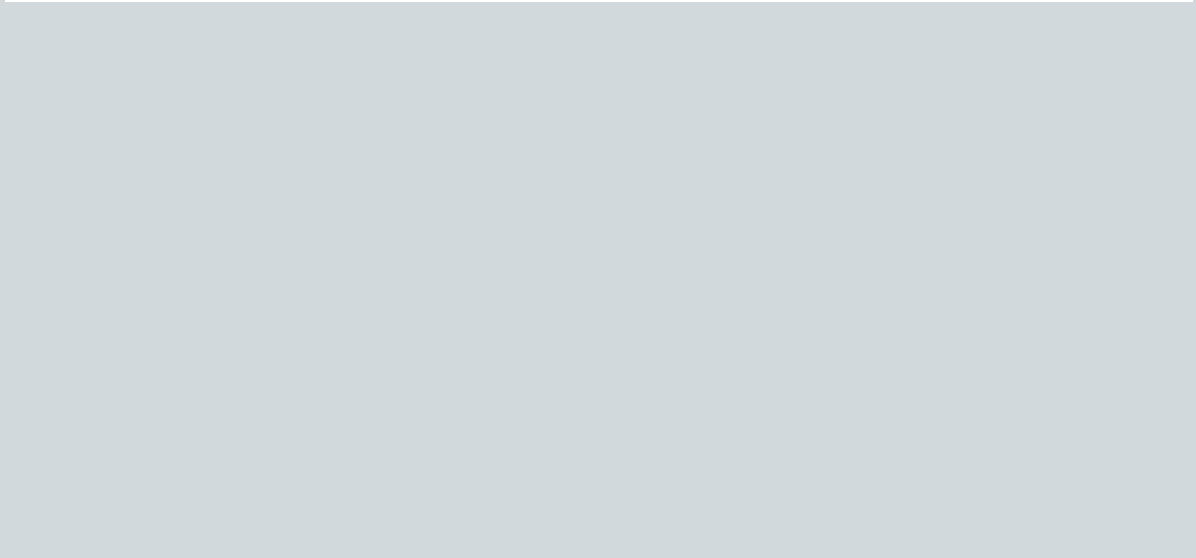
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	3,000.00
--	----------

Description	Advertising
--------------------	-------------

Amount	1,350.00
---------------	----------

Description	Supplies/Operations
--------------------	---------------------

Amount	3,100.00
Description	Entertainment
Amount	7,550.00
Amount	0.00
TOTAL EXPENDITURES	12,000.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	-9,000.00
Name of Organization	Seaford Tomorrow
Applicant/Authorized Official	Katie Hickey
Date	07/30/2026
I acknowledge and represent on behalf of the application organization that I have read and understand the Grant Program Guidelines and Affidavit of Understanding	Yes



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

Yes

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

To Be Introduced: 8/11/26

Council District 4: Mr. Hudson

Tax I.D. No.: 134-9.00-28.00

911 Address: 38492 Hickman Road, Ocean View

ORDINANCE NO. ____

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

WHEREAS, on the 13th day of August 2024, a Conditional Use application, denominated Conditional Use No. 2548 was filed on behalf of Foxlane Homes Delaware, 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. 2548 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 115-31, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2548 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 Hickman Road (S.C.R. 359), approximately 560 feet east of Cedar Neck Road (S.C.R. 357), and being more particularly described in the attached legal description prepared by Moore & Rutt, P.A. said parcel containing 12.8 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: 8/11/26

**Council District 3: Ms. Gruenebaum
Tax I.D. No.: 334-5.00-195.00
911 Address: 17659 Stingey Lane, Lewes**

ORDINANCE NO. ____

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

WHEREAS, on the 8TH day of May 2025, a Conditional Use application, denominated Conditional Use No. 2593 was filed on behalf of Andrew Scrutchfield 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. 2593 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. 2593 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 in Sussex County, Delaware, and lying the east side of Stingey Lane (Not a State Maintained Road) approximately 195 feet north of Beaver Dam Road (Rt. 23), and being more particularly described in the attached legal description prepared by Fuqua, Willard & Schab, P.A. said parcel containing 0.22 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: 8/11/26

Council District 5: Mr. Rieley

Tax I.D. No.: 135-11.00-31.00, 135-16.00-17.00 & 70.00

911 Address: 24215, 24217 & 20288 Lewes Georgetown Highway, Georgetown & N/A

ORDINANCE NO. ____

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

WHEREAS, on the 15th day of April 2026, a zoning application, denominated Change of Zone No. 2063, was filed on behalf of Millsboro Towne Village, 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 Change of Zone No. 2063 be _____; and

WHEREAS, on the ____ day of _____ 2026, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County,

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article II, Subsection 115-7, Code of Sussex County, be amended by deleting from the Comprehensive Zoning Map of Sussex County the zoning classification of [AR-1 Agricultural Residential District] and [C-1 General Commercial District] adding in lieu thereof the designation LI-2 Light Industrial District as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Sussex County, Delaware, and lying on the north side of Lewes Georgetown Highway (Rt. 9), approximately 0.69 mile west of Gravel Hill Road (Rt. 30) and being more particularly described in the attached legal description prepared by Pennoni, said parcels containing 42.54 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: 8/11/26

Council District 5: Mr. Rieley

Tax I.D. No.: 234-2.00-2.01

911 Address: 19024 Beaver Dam Road, Lewes

ORDINANCE NO. ____

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

WHEREAS, on the 22nd day of January 2025, a Conditional Use application, denominated Conditional Use No. 2573 was filed on behalf of Total Package Landscaping, 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. 2573 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. 2573 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 Beaver Dam Road (Rt. 23), approximately 0.14-mile north of Kendale Road (S.C.R. 287), and being more particularly described in the attached legal description prepared by Superior Title Corporation, P.C. said parcel containing 1.16 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: 8/11/26

Council District 5: Mr. Rieley

ORDINANCE NO. _____

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

WHEREAS, on April 15th, 2026, the Sussex County Planning and Zoning Office received an application for a requested Comprehensive Plan Amendment to amend the Future Land Use Map element of the Comprehensive Plan to change the Area designation of Sussex County Parcel No. 135-11.00-31.00, 135-16.00-17.00 and 135-16.00-70.00 from the Commercial Area to the Developing Area; and

WHEREAS, the Parcel is comprised of 42.54 acres of land, lying and being within Georgetown Hundred, and is located on the north side of Lewes Georgetown Highway (Route 9), approximately 0.69 mile west of the intersection of Lewes Georgetown Highway (Route 9) and Gravel Hill Road (Route 30).

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

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

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. The Future Land Use Map identified as Figure 4.5-1 of the Sussex County Comprehensive Plan is hereby amended to change the area designation of Sussex County Parcel No. 135-11.00-31.00, 135-16.00-17.00 and 135-16.00-70.00 from the Commercial Area to the Developing Area. The entirety of Sussex County Parcel No. 135-11.00-31.00, 135-16.00-17.00 and 135-16.00-70.00 so changed is identified in Exhibit A, attached hereto, and incorporated herein.

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



Memorandum

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

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

CC: Everett Moore, County Attorney

Date: August 7, 2026

RE: County Council Report for C/U 2465 filed on behalf of Sussex Materials, LLC

The Planning and Zoning Department received an application (C/U 2465 filed on behalf of Sussex Materials, LLC) for a Conditional Use for a borrow pit and sand plant site within an Agricultural Residential AR-1 Zoning District. The Tax Parcel ID is 430-9.00-21.01. The property is located on the southwest side of Hunters Cove Road (SCR 602), approximately 0.43 mile southeast of Owens Road (SCR 611). The parcel size is 107.517 ac. +/-

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 in the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meeting on July 22, 2026, and August 5, 2026

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

C/U 2465 Sussex Materials, LLC

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. The 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.



Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Exhibit Booklet and materials, a Wetland Delineation, the property deed, and the Conceptual Site Plan. Mr. Whitehouse advised the Commission that no public comment had been received regarding the application.

The Commission found that Ms. Mackenzie Sindelar, Esq. with Saul Ewing, LLP spoke on behalf of the Applicant, Sussex Materials, LLC; that also present on behalf of the Applicant were Mr. RJ Andrews, Mr. Kenny Web, Mr. Chad Warren, Project Engineer with David Bowen & Friedel, Inc.

Ms. Sindelar stated that the Application was for a Conditional Use to be located within the AR-1 (Agricultural Residential) Zoning District, for an approximately 6.9 acres sand plant, and the excavation of an approximately 31.70 acre borrow pit, extraction, processing and removal of sand, gravel, or stone from the property; that the property is located within the Nanticoke Hundred in Sussex County, and situated off Hunters Cove Road; the parcel was identified as Tax Map Parcel no. 430-9.00-21.01; that the total property acreage was about 103.25 acres; that the advertisement note that the property was approximately 107 acres, however, there had been a subdivision of some strip lots from the perimeter of the site, resulting in a total acreage of 103.25 acres; that the Applicant intended to submit an amended Site Plan before the hearing before County Council; that the proposed Conditional Use area was approximately 48.25 acres; that the property was currently owned by the Applicant, Sussex Materials, LLC, which was a Delaware Limited Liability Company; that the site currently consisted of, and more fully set forth in the Wetland Delineation Report, of scattered historic agricultural fields and woodlands, some of which exhibit signs of logging and were more immature forest, characterized in the report as "Pioneering Forest"; that the property is zoned AR-1 (Agricultural Residential); that all properties surrounding the site were zoned the same; that the property was located within the Rural Area, being a Low Density Area designation, with nearby properties designated the same; that the property was located within the Investment Level 4 area; that the Applicant's Conceptual Site Plan complied with the specific borrow pit siting requirements, as more fully set forth in §115-172.B of the Code; that no material would be brought off the site for processing, mixing, or similar purposes; that the excavating, extraction, or filling operation would be managed to provide reasonable protection to surrounding properties and neighborhoods, particularly concerning odors, dust, air, and water pollution; that access to the site was provided from Hunters Cove Road; that there was a service road to provide access back to the sand plant and the borrow pit area; that the excavation location would be controlled by property lines, depth, water table and flood criteria; the specifically, the pit was greater than 100 feet from all property lines; that the pit was surrounded by woodlands, agricultural uses, and a limited number of property lines; that surrounding uses to the site were predominantly chicken houses; that generally with borrow pit uses, there would be a lot of concern regarding truck traffic; that the Applicant had spoken with a neighbor who confirmed that 24 hour tractor-trailer related truck traffic occurred, due to the nearby chicken farm uses; that truck traffic would not be out of character for the area; that the landscape buffer complied and exceeded the Code requirements; that a minimum buffer of 250 feet had been provided from the Tax Map Parcel No. 430-9.00-23.00; that a minimum 300 foot buffer had been provided from the adjacent Tax Map Parcel No. 430-12.00-13.00 and the centerline of the tax ditch which ran along the property; that a varying width buffer had been provided, ranging from 550 feet to 1,000 feet from Hunters Cove Road, except for the location of the access road; that she had submitted into the record a set of Proposed Conditions of Approval which reflected what she had previously stated; that the borrow pit was located

a minimum of 200 feet from any dwelling on a property of other ownership; that the Applicant acknowledged and understood that final approval and Notice to Proceed components in order to get final approval; that the submitted documents included a Conceptual Reclamation Plan; that the property was not located within the TID (Transportation Improvement District); that DelDOT indicated that the traffic impact was considered negligible, which was based on an understanding that there would only be three (3) employees located on the site, and approximately twenty (20) to thirty (30) trucks visiting the site per day; that any Site Plan would require DelDOT approval; that there was no potable drinking water to be provided on the site; that sanitary sewer would be provided by use of a Delaware State licensed porta-potty, and therefore, no on-site wastewater disposal systems were proposed to be provided; that the retained woodlands would provide an extensive buffer between the borrow pit and the nearby uses; that there was a small portion, approximately .50 acre, of Federally regulated Non-Tidal wetlands located on the site, which were consistent with the one prong of the tax ditch; that those wetlands were to remain undisturbed; that there were no known historic features present on the site; that the purpose of a Conditional Use was to provide for certain uses, which could not otherwise be well adjusted to their environment in particular locations, with full protection offered to surrounding properties by rigid application of the District regulations; that furthermore, the borrow pit and sand plant were generally of public or semi-public character, and were essential and desirable for the general convenience and welfare of the County; that because of the nature of the proposed use, the importance of its relationship to the plan and the possible impact on neighboring properties, the application would require the exercise of planning judgement on location and site plan; that there currently was a need in the area for materials, dirt, sand and gravel; that the materials removed from the site would be used throughout Sussex County for a variety of residential and commercial uses, as well as road construction; that moreover, the approval of the application would provide a borrow pit and sand plant for the processing and removal of sand, gravel, and stone to be used in construction of private and public works projects in the immediate area, and throughout Sussex County; that the proposed Conditional Use met the purpose of the Code and the Comprehensive Plan, as it was located within an appropriate location, which provided sufficient area for the proposed use, which in other locations, may not be able to be as well adjusted to its environment; that through the placement of appropriate Conditions of Approval, the impact of the borrow pit and the sand plant on neighboring properties would significantly be reduced; that the project met the purpose of the Code and that it promoted the orderly growth, convenience, order, prosperity, and welfare of the County; that the Conditional Use would also promote the health and safety of inhabitants of the County; that the use was considered to be essential and desirable for the general convenience, orderly growth, prosperity, and welfare of the County; that to date the Applicant was not aware of any opposition; that five letters of support had been submitted into the record by the Applicant; that the proposed Conditions of Approval were standard conditions that were typically imposed on borrow pits; that the proposed Conditions clarified and specified the borrow pit, sand plant, and Conditional Use areas; that she had also added that a water truck should be available to control any dust from road traffic, when conditions would require it; that she had confirmed that the single proposed entrance would be conditioned as an entrance to the pit; that the Applicant proposed hours of operation to run from 6:00 a.m. to 6:00 p.m. Monday through Friday, and 6:00 a.m. to 2:00 p.m. on Saturdays; that no Sunday hours were proposed; that she had clarified that no materials should be stored or on any access road, or within any buffers; that any fuel stored on the site would be subject to the authority of DNREC; that otherwise, the provided standard conditions noted that security lighting would be downward screened, as to not shine on properties, and

that the Final Site Plan would be subject to the review and approval of the Planning & Zoning Commission.

Mr. Passwaters questioned the number of anticipated trucks per day, as he had concerns regarding the number of trucks, when considering the chicken farm, and the weight of those trucks.

Ms. Sindelar stated that 20 to 30 trucks were anticipated per day; that she understood Mr. Passwaters' concerns, regarding the wear and tear on the roads; that ultimately, DelDOT confirmed that the impact would be negligible, based on the number of trips; that any Site Plan would be subject to DelDOT's review and approval; that the Applicant had spoken with many of the surrounding neighbors, to whom had supplied the previously mentioned letters of support, and many of the neighbors had mentioned that they preferred something with buffering, rather than a housing development.

Madam Chair Wingate questioned whether any improvements were required, as she did not see anything indicated on the Conceptual Site Plan.

Mr. Chad Warren, P.E. with David Bowen & Friedel, Inc. spoke on behalf of the Applicant. Mr. Warren stated that the site would be required to go through the full DelDOT approval process and pre-application meeting; that DelDOT would tell them what would be required, and what would be warranted based on the traffic on the road and their site's ADT; that any requirements necessitated by DelDOT would be provided along the site frontage or wherever needed; that currently, no improvements were being required by DelDOT, and they had not currently initiated that process.

Mr. Allen questioned the number of trucks to be located on the site at one time, as he expressed concerns regarding there being no shoulder along the road and the entrance being narrow.

Mr. Kenny Webb spoke on behalf of the Applicant. Mr. Webb stated that the number of trucks would vary; that there would be days where no trucks would come to the site; that there may be days where 20 trucks come to the site to pull out loads; that at other times there may be five trucks; that there was no way to tell; that the trucks will come in when they need dirt or hit a big dirt order; that most of the time they have 10 trucks at most, and the entrance that DelDOT will require them to have would be able to handle the anticipated traffic.

Mr. Collins stated that he assumed the entrance would have a gate, which would hopefully be set back far enough to allow trucks to pull off the road, should they happen to arrive before the facility opened, and he did not want the trucks parked on the side of the narrow road.

Mr. Webb stated that DelDOT would require them to provide an area where the trucks could pull up and turn around, without entering the site.

Mr. Pettyjohn questioned whether the access was wide enough to allow for two dump trucks or tractor trailers to easily pass each other and provide space to where the trucks could line up if they had to.

Ms. Sindelar stated that was the intention.

Madam Chair Wingate stated that the plan did not note the width of the access road and that she would be interested in that notation being a Condition of Approval.

Ms. Sindelar stated that the submitted plan was conceptual in nature; that the Final Site Plan would indicate the width of the road, as it was a standard procedure to provide that information and was a requirement of the Code.

Madam Chair Wingate whether there would be a fuel tank stored on the site, and she requested clarification regarding proposed Condition 7(1), which stated that “*no material will be brought from off the site for processing*” and questioned the Conditions intention, as she understood the use to be for digging dirt and hauling the dirt off site.

Ms. Sindelar stated that a fuel tank was intended but would also be conditioned to be in compliance with any applicable DNREC regulations; that, with respect to the borrow pit operations, the intention of proposed Condition 7(1) was that any materials would be processed at the sand plant, located on the site, and then leave the site after the materials had already been processed and washed and that condition was a typical for similar types of applications.

Mr. Robertson stated that usually it was a standard condition, and it was to keep people from hauling materials onto the site.

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

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

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

In relation to C/U 2465 Sussex Materials, LLC. Motion by Mr. Passwaters to defer action for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 5-0.

Minutes of the August 5, 2026, Planning & Zoning Commission Meeting

The Commission discussed the application which had been deferred since July 22, 2026.

Mr. Passwaters moved that the Commission recommend approval of C/U 2465 for Sussex Materials, LLC for a borrow pit and sand plant based upon the record made at the public hearing and for the following reasons:

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 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 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 by Mr. Passwaters, seconded by Mr. Allen, and carried unanimously to recommend approval of C/U 2465 Sussex Materials, LLC for the reasons and the conditions stated in the motion. Motion carried 4-0.

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

PLANNING & ZONING COMMISSION

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



Sussex County

DELAWARE
sussexcountyde.gov
302-855-7878
JAMIE WHITEHOUSE, MRTPI, AICP
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: July 22nd, 2026

Sussex County Council Hearing Date: August 11th, 2026

Application: C/U 2465 Sussex Materials, LLC

Applicant: Davis, Bowen & Friedel, Inc.
1 Park Avenue
Milford, DE 19963

Owner: Sussex Materials, LLC
2016 Sunset Lake Road
Newark, DE 19702

Site Location: The 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) in Greenwood, Delaware.

Current Zoning: Agricultural Residential (AR-1) District

Proposed Use: Borrow Pit & Sand Plant Site

Comprehensive Land Use Plan Reference: Low Density Area

Councilmanic District: District 2 – Mr. McCarron

School District: Woodbridge School District

Fire District: Greenwood Fire Department

Sewer: Private (On-site septic)

Water: Private (On-site well)

Site Area: 107.517 acres +/-

Tax Map ID.: 430-9.00-21.01





Memorandum

To: Sussex County Planning and Zoning Commission Members
From: Mrs. Lauren Cecchine, AICP, Planner III
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: August 20th, 2025
RE: Staff Analysis for C/U 2465 Sussex Materials, LLC

The purpose of this memo is to provide background and analysis for the Planning and Zoning Commission to consider as a part of Application C/U 2465 Sussex Materials, LLC to be reviewed during the October 1st, 2025, Planning and Zoning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

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

Tax Parcel ID: 430-9.00-21.01

Proposal: The request is for a Conditional Use for Tax Parcel: 430-9.00-21.01 to allow for a proposed Borrow Pit to be located on a property zoned Agricultural Residential (AR-1) District. The 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) in Greenwood, Delaware. The subject property consists of 107.517-acres +/-.

Zoning: The Parcel is zoned Agricultural Residential (AR-1) District. The adjacent parcels to the north on the opposite side of Hunters Cove Road (S.C.R. 602), south, east and west of the subject property are also zoned Agricultural Residential (AR-1) District. There is a large Parcel to the northwest of the subject property on the opposite side of Hunters Cove Road (S.C.R. 602) that is part of Delaware's Public Protected Lands and is known as "Owens Station." This Parcel (19.00) is currently owned by the State of Delaware Department of Natural Resources and Environmental Control (DNREC) and consists of 104.34 acres +/- . There are also two (2) Parcels to the north on the south side of Beach Highway (Route 16) which are zoned Neighborhood Business (B-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 (FLUM) in the Plan indicates that the subject property is designated as a Rural Area designation of "Low Density Area." The adjacent properties to the north, south, east and west of the subject property also have a Future Land Use Map designation of Low Density Area. There is only a single Parcel about a mile from

the subject property on the north side of Beach Highway (Route 16) which has a Future Land Use Map Growth Area Designation of “Industrial Area” which currently houses a “Lawn Doctor” Landscaping Business use.

As outlined in the 2018 Sussex County Comprehensive Plan, “Low Density Areas” are areas in which “the primary uses envisioned” are “agricultural activities and homes.” Therefore, the Plan furthers that, “business development should be largely confined to businesses addressing the needs of these two uses” and that, “Commercial uses in these residential areas should be limited in their location, size and hours of operation” (2018 Sussex County Comprehensive Plan, 4-19).

Further Site Considerations:

- **Density: N/A**
- **Open Space Provisions: N/A**
- **Agricultural Areas:** Staff note that a review of the Sussex County Online Mapping Application confirmed that the Property is within the vicinity of lands which appear to be actively farmed. Additionally, Staff note that the Parcel is within the vicinity of the “Hawthorne Expansion” Agricultural Easement immediately to the southeast of the subject property. The Parcel is also in proximity to the “Hunt Expansion” Agricultural Easement approximately two (2) Parcels east of the subject property and the “Lofland Expansion” Agricultural Easement two (2) Parcels to the southwest of the subject property and on the opposite side of Owens Branch which touches the southwest corner of 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 “negligible” and generate fewer than 50 vehicle trips in any hour and fewer than 500 vehicle trips per day.

- **Forested Areas:** Staff notes that the Parcel appears to have existing forest/vegetation cover on a majority of the subject Property.

Staff also note the provisions of §115-172(B) specific to borrow pits that a borrow pits “*shall be surrounded by a landscaped unexcavated buffer strip of open space a minimum distance of 100-ft from any street line s and a minimum distance of 50-ft from all other property lines.*”

- **Wetlands Buffers/Waterways:** Staff note that there do not appear to be any wetlands encroaching the Property based on Delaware’s FirstMap data system in GIS.

Staff note that there appears to be a small area in the center of the Parcel which contains what the National Wetlands Inventory (NWI) Mapper refers to as a 0.66-acre Freshwater

Emergent Wetland. The Wetland is stated to be palustrine in nature including all nontidal wetlands dominated by trees. The Mapper also indicates that this area is semipermanently flooded in that “*surface water persists throughout the growing season in most years,*” but, “*when surface water is absent, the water table is usually at or very near the land surface.*”

The NWI also notes that this area appears to have been “Excavated” and is “*likely a product of a wetland basin or channel that was excavated by humans.*”



Exhibit “A” –National Wetland Inventory Wetlands Mapper data for the 0.66-acre Freshwater Pond Habitat (shown in light green area in screenshot above.)

- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** The Property is located within the “Owens East Nanticoke” and “West Branch East Nanticoke” Tax Ditch Area and has a Tax Ditch Right-Of-Way on the western side which runs along the Owens Branch of which the Tax Ditch ROW is measured 65-ft from the centerline of the ditch and is reduced to 50-ft adjacent to the branch. No structures may be placed within these designated Right-Of-Way areas.

Please see Exhibit “B” for further details regarding the location and extent of the Tax Ditch Right-Of-Way (ROW) on the Property.

The Property is located within Flood Zone “X” – Areas determined to be outside the 1%annual chance flood and outside the 500-year flood zone. The Parcel is not located within any Wellhead Protection Areas. The subject Property is located within an area of “Good” Groundwater Recharge Potential which a very small sliver of “Excellent” Groundwater Recharge Potential being located on the southwest side of the Parcel.

Existing Conditional Uses within the Vicinity of the Subject Site

Since 1970, there have been five (5) Conditional Use applications within a 1-mile radius of the Application site.

The current status of those Applications are outlined below:

- **One (1) Application, Conditional Use No. 1201 Menno Chupp for woodworking shop and sales was Withdrawn.**
- **One (1) Application, Conditional Use No. 2465 Sussex Materials, LLC (this Application) is currently Pending.**
- **Four (4) Applications (Conditional Use Nos. 1054, 1497, 314 and 1931 were all approved by Sussex County Council.**

A Supplemental Table has been provided showing the approval status of all Conditional Use Applications within a 1-mile radius of the Application Site.

Conditional Uses w/in a 1-Mile Radius of Subject Site						
Conditional Use Number	APPLICANT	Current Zoning	Proposed Use	CC Decision Date	CC Decision	Ordinance Number
1054	Tressler Mennonite Church	AR-1	cemetery	9/14/1993	Approved	921
1201	Menno Chupp	AR-1	wood working shop & sales	Withdrawn	Withdrawn	Withdrawn
1497	Bobby R. Jones	AR-1	construct/repair pallets	10/28/2003	Approved	1640
314	Ronald Hamstead	AR-1	poultry house on less than 5-acres	1/6/1976	Approved	N/A
1931	Crist and Brian Zook	AR-1	Custom Woodworking Shop	6/26/2012	Approved	2266
2465	Sussex Materials, LLC	AR-1	Borrow Pit	Pending	N/A	N/A

Based on the analysis provided, the Conditional Use to allow for a proposed Borrow Pit in this location could be consistent with the surrounding land uses, zoning, and general environment given considerations of scale and impact.

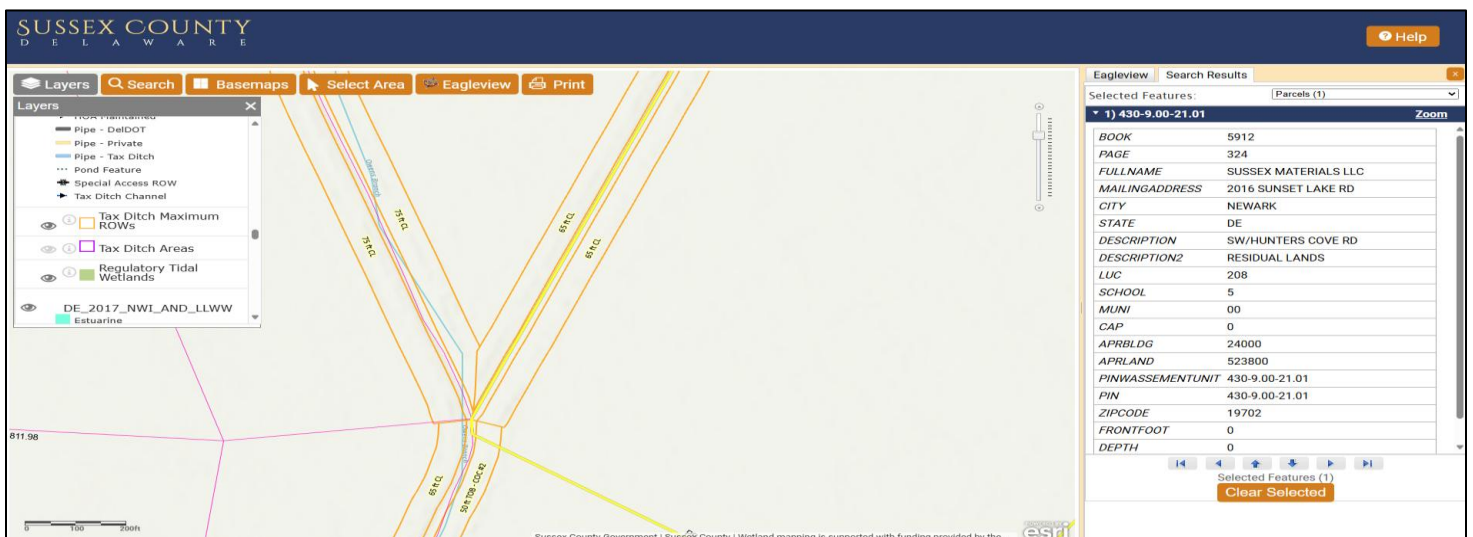


Exhibit “B” – Existing Tax Ditch Right-Of-Way (ROW) on the Property.

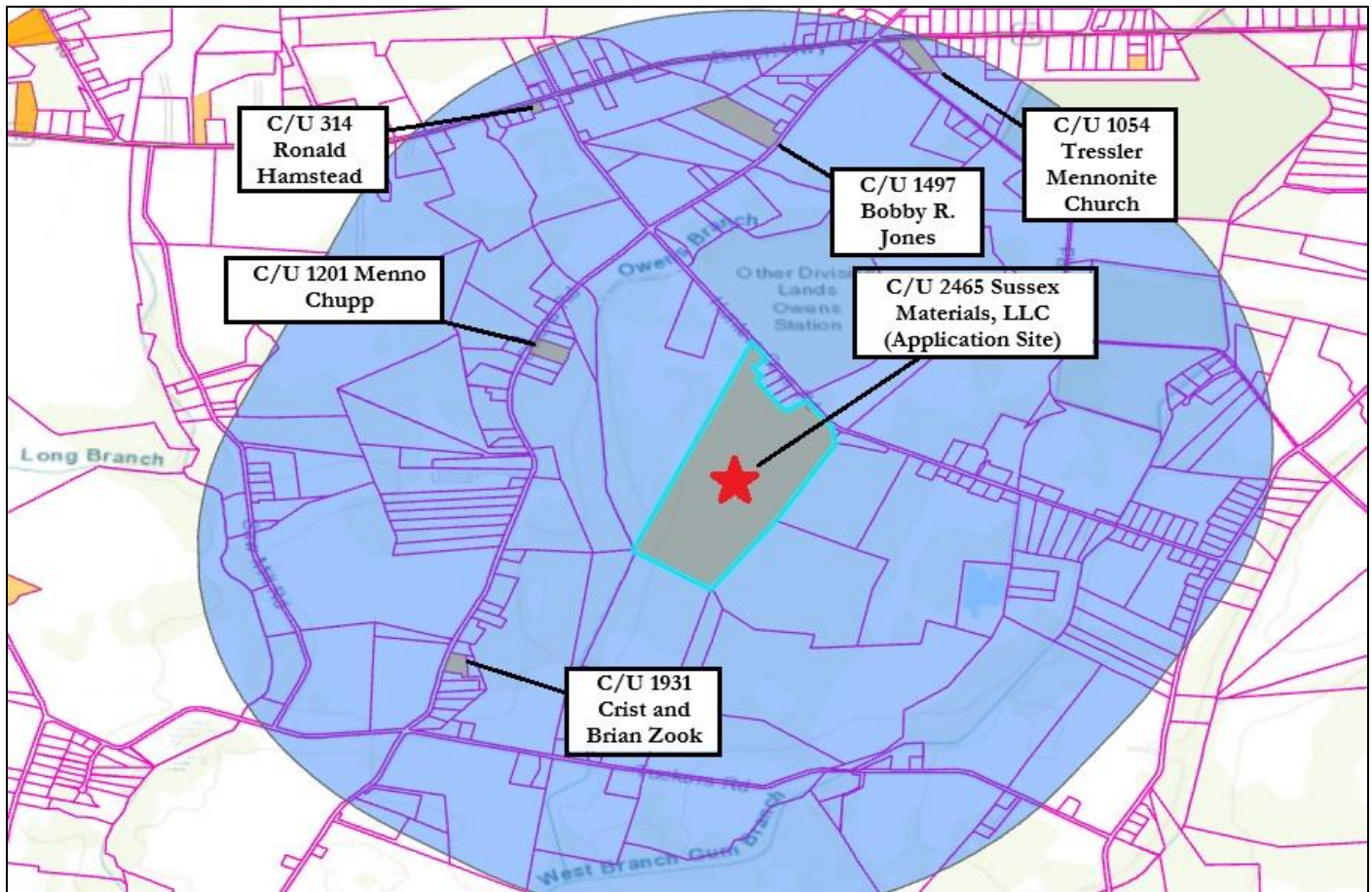


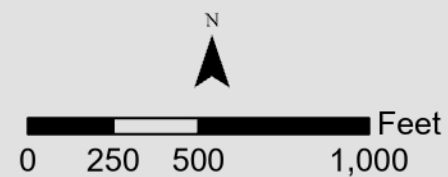
Exhibit "C" – Conditional Use Applications w/in 1-Mile Vicinity of the Application Site.



Maxar, Microsoft, VITA, Esri, HERE, Garmin, IPI

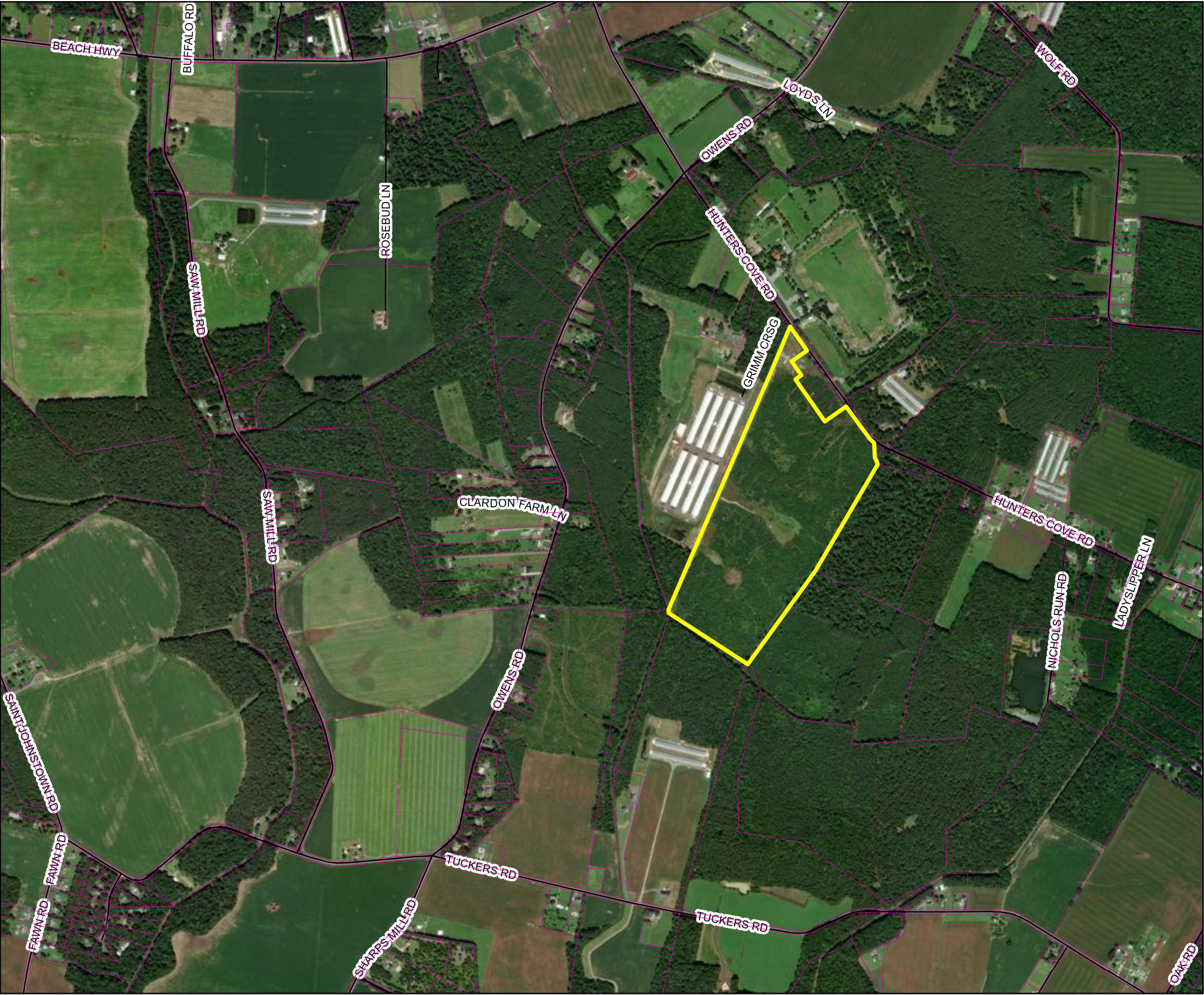
C/U 2465 Sussex Materials LLC
Aerial Map
TM# 430-9.00-21.01

 C/U 2465 Sussex
Materials LLC





A3 Landscape Parcel Details

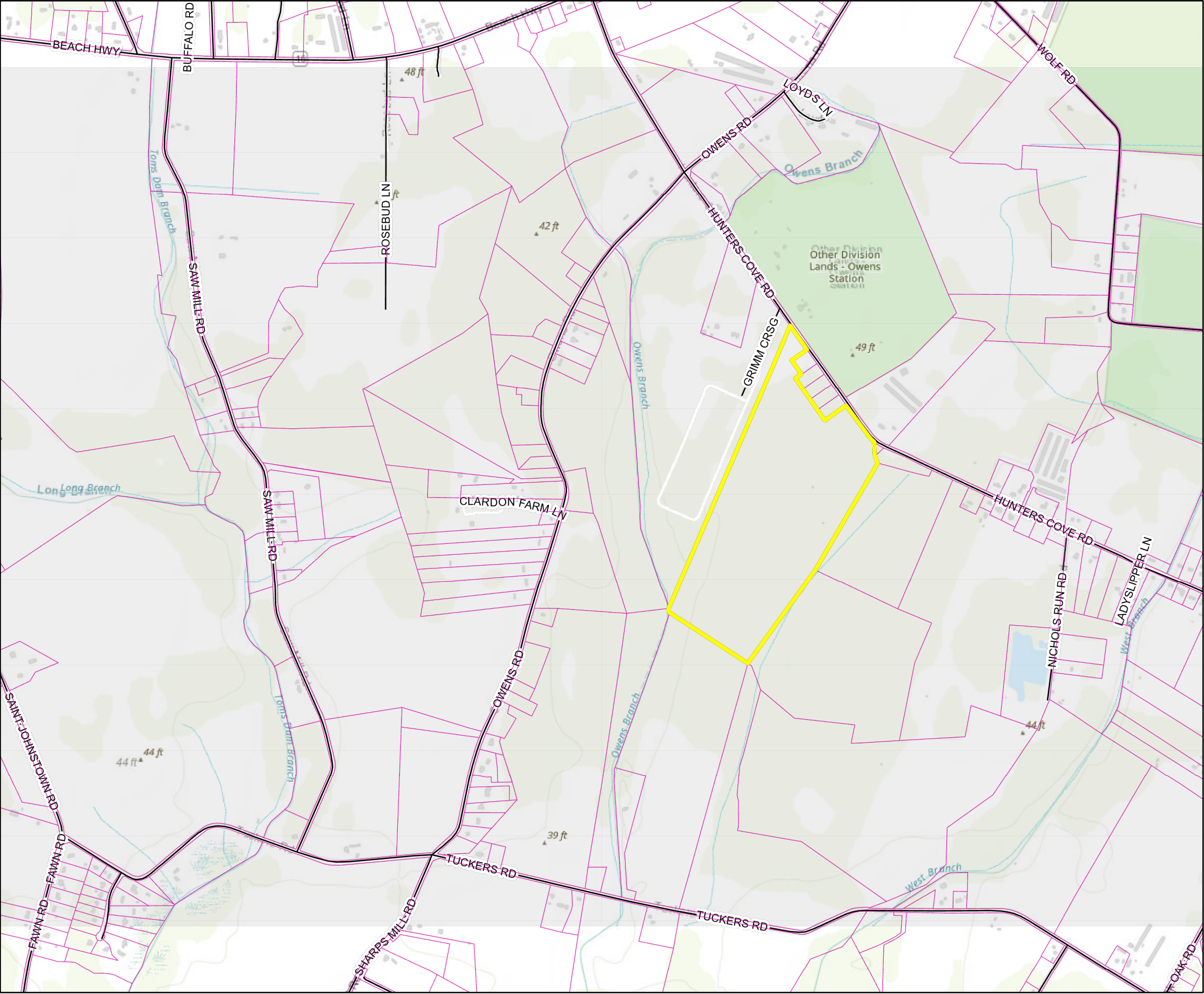


PIN:	430-9.00-21.01	
Owner Name	SUSSEX	MATERIALS LLC
Book	5912	
Mailing Address	2016 SUNSET LAKE RD	
City	NEWARK	
State	DE	
Description		
Description 2		
Description 3		
Land Code		

- Tax Parcels
- Streets
- County Boundaries
- World Imagery
- Low Resolution 15m Imagery
- High Resolution 60cm Imagery
- High Resolution 30cm Imagery
- Citations
- 4.8m Resolution Metadata



A3 Landscape Parcel Details

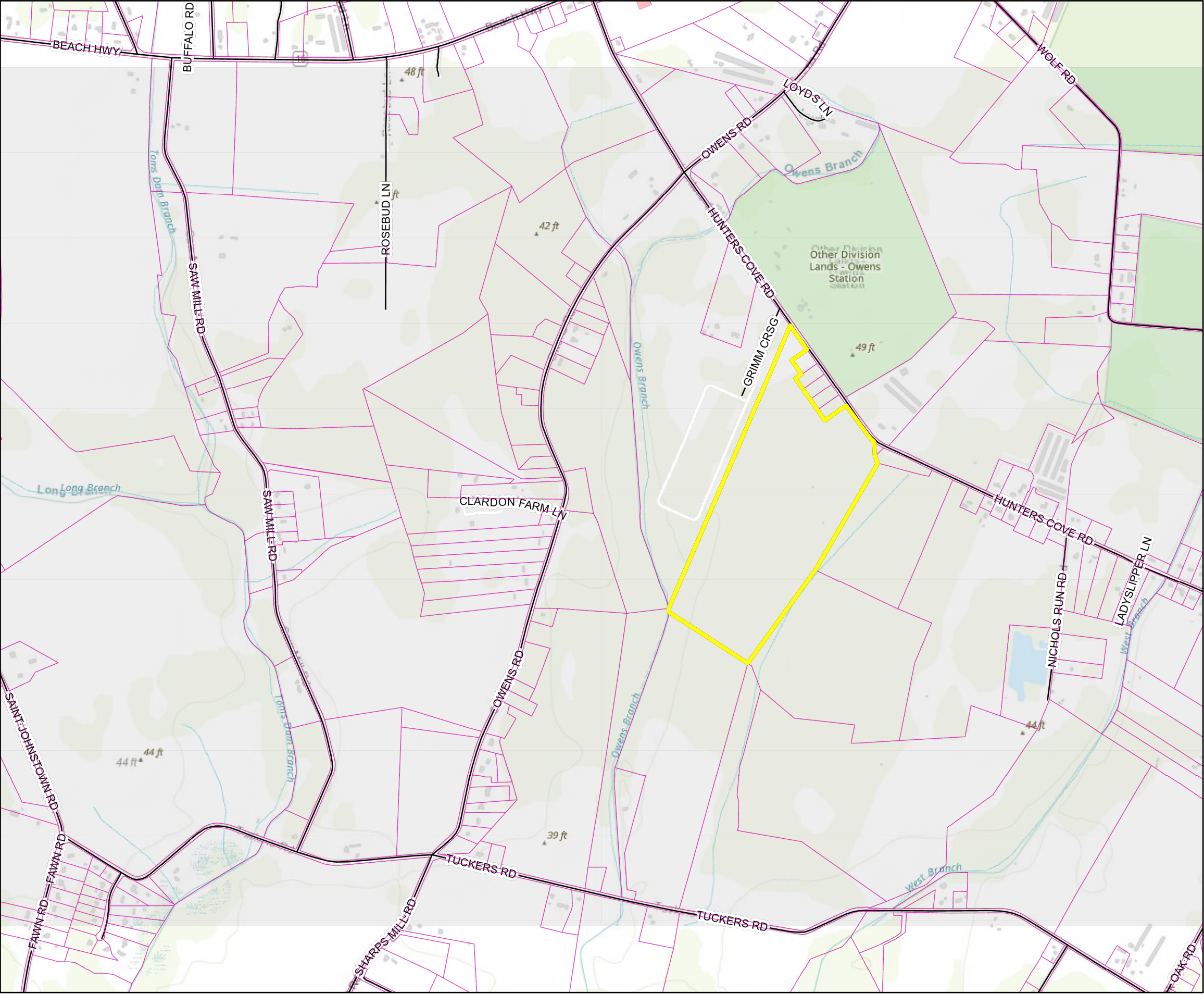


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A3 Landscape Parcel Details



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Description 2		
Description 3		
Land Code		

- Tax Parcels
- Streets
- County Boundaries
- Citations

Introduced: 9/9/25

**Council District 2: Mr. McCarron
Tax I.D. Nos. 430-9.00-21.01
911 Address: N/A**

ORDINANCE NO. ____

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

WHEREAS, on the 13th day of July 2023, a conditional use application, denominated Conditional Use No. 2465, was filed on behalf of Sussex Materials, LLC; and

WHEREAS, on the ____ day of _____ 2025, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2465 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2465 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Sussex County, Delaware, and lying on the southwest side of Hunters Cove Road (S.C.R. 602), approximately 0.43 mile southeast of Owens Road (S.C.R. 611) and being more particularly described in the attached legal descriptions prepared by Ward & Taylor, LLC, said parcels containing 107.517 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 7, 2026

RE: County Council Report for C/U 2569 filed on behalf of Pivot Energy, DEL045, LLC

The Planning and Zoning Department received an application (C/U 2569 filed on behalf of Pivot Energy DEL045, LLC) for a Conditional Use for solar arrays within a General Residential GR Zoning District. The Tax Parcel ID is 234-29.00-220.00. The property is located on the west and east sides of Norwood Lane, approximately 950 feet southwest of Oak Orchard Road (Rt.5). The parcel size is 45.57 ac. +/-

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 in the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meeting on July 15, 2026, and July 22, 2026

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

C/U 2569 Pivot Energy DEL045, LLC

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. The 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.



Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Conceptual Site Plan, the Applicant's presentation materials and exhibits, the Applicant's Exhibit Booklet, the Applicant's Revised Exhibit Booklet, a Noise Study, the Staff Analysis Report, the DelDOT Service Level Evaluation Response Letter, and a letter received from the Sussex County Engineering Department's Utility Planning Division. Mr. Whitehouse advised the Commission that 11 public comments had been received regarding the application, which were included in the Paperless Packet.

Mr. John Falkowski, Civil Engineer with Becker Morgan Group, spoke on behalf of the Applicant, DEL045 Norwood East Johnson project; that also present were Mr. Seth Shafer, Pivot Energy Director of Project Development, and Mr. Edward (Ted) Hastings, PMP with Becker Morgan Group. Mr. Falkowski stated that application name on the agenda was the entity LLC, however the project name was DEL045 Norwood East Johnson, and requested that Mr. Shafer provide the Commission with background information regarding Pivot Energy.

Mr. Seth Shafer, Pivot Energy Director of Project Development, provided the Commission with background information regarding Pivot Energy. Mr. Shafer stated that Pivot Energy was before the Commission in 2024 with four solar applications; that they were a national community solar developer based out of Denver, Colorado; that they had a local office in the Baltimore, Maryland area; that they had several projects within Kent County, with some almost done and operating; that Pivot Energy was not only a developer, but were also a long-term owner-operator; that they did all their own subscriptions as it related to residents of the County and getting the residents subscribed; that a little over a month ago, they hosted a community event, coordinating with Sussex County, where notice was provided to everyone within the same radius Sussex County would notice; that they provided background on the project, and answered questions and concerns; that some changes were made as a result of the input received; that they had submitted the application in November 2024; that it had taken them 20 months to come before the Planning Commission; that one of the neighbors had mentioned that the new subdivision home sellers had mentioned that the project would be happening; that it appeared that some of the neighbors knew that the project was coming, and that the community event was held at the local Grottos in Millsboro.

Mr. Falkowski stated that the property was zoned GR (General Residential); that the site took access off the existing private road of Norwood Drive; 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 was mostly 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 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 a solar project, recently approved by the County Council, added this as a Condition of Approval; 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; that 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 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 regarding the interconnection process, they were about halfway through the process; that as Mr. Shafer had mentioned, the application had been submitted to Sussex County in 2024; that they received their Interconnection Study and their interconnection cost estimate later that year; that 50% of the required interconnection costs had been paid to date; that they would wait to see whether or not the project received approval; that additional fees could be paid at that time for construction; that infrastructure could be constructed by Delmarva Power, and should line up with approvals moving forward; that the project was considered a Conditional Use, being a public utility use under the Sussex County Zoning Code; that the project met the purposes of a Conditional Use in that it was a public or semi-public character; that it was essential and desirable for the general convenience and welfare of Sussex County residents; that the solar arrays promoted Goal 7.3 of the Sussex County Comprehensive Plan, which encouraged renewable energy; that the project would not have any adverse impacts on the neighboring properties for the reasons previously stated, the additional buffering, the centrally located inverters, and runoff reductions; that the project would not increase traffic; that the project would not create any noise, dust, or odors, and was compliant with all the restrictions and setbacks set forth in Ordinance No. 2920.

Mr. Collins questioned what was being planted within the triangular area located between the property line and the buffer.

Mr. Falkowski stated that the area would not be farmed, as there was not enough access for farm equipment; that the area would be planted with grass or potentially meadow to mimic the project; that the area was located outside of their lease area and would be maintained by the property owner.

Mr. Allen questioned whether the strip of existing woods would remain.

Mr. Falkowski stated that the existing vegetation within that area was proposed to remain.

Mr. Pettyjohn questioned whether anything located within the solar array area would be dangerous or hazardous to someone who may be able to access the site by climbing over the knot wire fencing.

Mr. Falkowski stated that there would be no exposed wiring that someone could access, and that it was all a closed system and protected.

Mr. Seth Shafer stated that everything within the array would be low voltage; that it would be no different than a car inverter, from the transformer out; that it would be an underground line; that someone would have to physically dig up the line to get to it, and it would be a medium voltage line that would run out to the public road.

Madam Chair Wingate questioned what would happen with the grass if maintenance visits were only proposed once a year.

Mr. Falkowski stated that the grass would grow about shin to knee high; that the grass would be knocked down once or twice per year; that it would be a seed mixture from Ernst Seed called Fuzz & Buzz mix with a wildflower establishment, and it was meadow grass with pollinators.

Mr. Collins questioned whether sheep would be proposed for the purpose of grass maintenance rather than mowing.

Mr. Shafer stated that for some projects they have provided agrivoltaics, such as sheep grazing.

Madam Chair Wingate questioned whether someone was sent to the site to check on the sheep with the agrivoltaics provided.

Mr. Shafer stated the agrivoltaics are always contracted with local farmers with sheep; that it would be seasonal during growing season from spring to fall; that the farmers would be required to bring their own water for the animals, and agrivoltaics are just an alternative to vegetative management.

Mr. Robertson stated that the site was a tract located within GR (General Residential); that Sussex County had been hearing from the State that they need to preserve housing, and place density withing the Growth Areas; that GR (General Residential) permitted four units to the acre; that the land would be lost to a solar farm, taking out the potential for housing production, which is counter to what Sussex County was hearing from the State and the Land Use Reform Working Group, and requested for the record why the solar project was appropriate rather than potential housing.

Mr. Falkowski stated the site was certainly prime real estate for additional housing, however, that would be the choice of the property owner; that he believed property owners weigh their options on what would be more advantageous or better for them and their families; in this case, they property owner wanted to have a use that was less permanent, with a 25 year lease for solar, which could be converted back to farmland in the future, and he was unsure whether the property owner had previously considered other residential uses for the site.

The Commission found that four people were present who wished to speak in support and one person present who wished to speak in opposition to the application.

Mr. Michael M. McGroerty, P.A., spoke in support of the application. Mr. McGroerty stated that he wanted to respond to the submitted petition in opposition to the application; that the opposition provided to explanation of why the project was too large, or how it was located too close to houses;

that the project would not increase heat, but rather reduce heat; that Mr. Falkowski had already addressed the noise concern; that there would be more noise created by Patriots Glen than the solar arrays; that the solar project provided a beneficial environmental impact; that it would not create traffic, as a residential development would; that there would be less carbon monoxide; that the Patriots Glen development had a much worse impact on wildlife than the solar project; that the project would eliminate fragmentation as the project would encourage animals to be left alone; that there was no explanation given to how the project would negatively impact coastal migratory birds and other neotropical migrants; that the project had been called a power plant, which it was not; that the residents of Patriots Glen have no right to insist that the property owner keep his land farmland because they want to look at farmland; that if the property were developed into high-density housing, the residents would be looking out their window to more housing; that Mr. Johnson wanted to keep the property in his family and was his reasoning for leasing the land; that the submitted petition was signed by people from Spain, Sweden, Hungary, Mexico, France, Italy, Brazil, Philadelphia and Kennett Square, Pennsylvania, and Burlington and Washington Township, New Jersey; that the solar panels would displace carbon-intensive fossil fuels and consume virtually no operational water; that the environmental benefits are emission reduction, minimal water usage, soil and habitat restoration; that the meadow mix would support pollinators and would dramatically increase land biodiversity.

Mr. Quentin Jackson, adjacent neighbor, spoke in support of the application. Mr. Jackson stated that he had no issues with the proposed solar project and supported the project if it helped the property owner.

Mr. Eldridge D. Johnson, current property owner, spoke in support of his application. Mr. Johnson stated that the land had been in his family for several generations, being used for agricultural farmland for soybeans and corn long before the surrounding developments such as River Winds, Oak Meadows and Patriots Glen were constructed; that he had no intention of selling the property; that he wanted to utilize the land with other options; that he had previously considered a pig farm, chicken houses, a storage building, or manufactured home park; that a solar farm was his choice, as it was more beneficial for him and his family to preserve the farmland for future generations; that the solar farm would generate clean solar energy, while creating no noise, no pollution, no glare, no lighting and no harm to the wildlife; that the solar farm process began three years ago before any homes were constructed within Patriots Glen; that the property was previously owned by his family members; that it took a long time to get everything approved, and then took 10 months for the project to come before the Planning Commission; that a lot of the Oak Orchard area was owned by Native Americans, being the Nanticoke Tribe, including his property and family land; that they want to hold the land for future generations, without development, as they do not want to lose their heritage and culture; that the farmland was leased to a local farmer to plant crops yearly; that he was a member of the Farm Bureau; that the opposition petition started by the residents of Patriots Glen was trying to restrict him from developing his farmland properly to help improve its value for the future generations; that solar arrays could preserve and improve agricultural land and soil as its undisturbed ground cover supported a healthy ecosystem; that no trees were to be cut down and no wild life would be affected; that the solar project would not impact the entire Patriot Glen community, only those within 200 feet of the site's boundary lines, which was about 12 lots; that landscape buffers would be provided for both sites; that if he sold his property, the Patriot Glen residents would not have a view anyway; that Sussex County

has complained about losing farmland, as some are sold for developments; that the ones who wish to keep their farmland, receive complaints and petitions from residents, mostly from Pennsylvania and New Jersey, which have only lived in Delaware a few years; that at times it seemed like the new residents and the developments had more say and input than the residents who had been in Sussex County for lifetimes and generations; that last month, Governor Matt Mayer accepted the “Jobs First” initiative for community solar; that he would be considering applying for that program to assist him and Pivot Energy; that with the Commission’s recommended approval, the community solar farm would benefit from him, his family and Delmarva Power customers by reducing energy bills of local households within the community.

Ms. Natalie Jackson Foundain spoke in support of the application. Ms. Foundain stated her family owned the property to the south of the site; that her father was the co-owner of the land located southeast of the site; that she spoke on behalf of her father; that her father grew up on the adjacent farm; that her family’s connection to the land spanned across generations; that for indigenous people, land has meant more than property; that it was a responsibility; that responsible renewable energy reflected the same principle by preserving resources while meeting today and tomorrow’s needs; that the Public Service Commission had a future meeting scheduled to discuss rate increases; that solar energy was the solution to the problem that many faced, while the housing shortage was being addressed; that the energy needs needed to be addressed as well; that Sussex County’s growth had been breathtaking; that we needed to leave open land; that solar arrays were a great compromise; that she and her family supported the application; that Sussex County had long respected the right of its homeowners and its agricultural heritage for landowners to make responsible decisions about the use of their property; that the application allowed the land to remain productive, while contributing to Delaware’s energy future; that long before Delaware became a state, the indigenous people who lived here, welcomed newcomers to the shores; that in that same spirit, the local community has welcomed many people who have more recently chosen Sussex County as their home, and that she asked that the same respect be shown to the families like theirs, and Mr. Johnson’s, whose roots run deep here.

Ms. Tracy Johnson, resident of Patriots Glen, spoke in opposition to the application. Ms. Johnson stated that she had created the opposition petition, which 172 people had signed; that wherever the person was located when signing the petition, was where the petition reflected, and did not mean that they were not real signatures; that she was concerned about the view of 16 acres of 15 foot solar panels with limited buffers; that the buffers would be insufficient; that she was not an engineer, but had ChatGPT design a rendering of what her view would be like; that the buffer would not work at all and would be useless; that the buffer would likely take 20 years to grow, and at which time the solar arrays would be dismantled; that residents were unsure what type of reflection would be generated from the panels; that approximately 350 homes would be located within Patriots Glen; that child would get into the solar array area; that Patriots Glen did have its own buffer, however they only had 10 feet of backyard; that the landscape buffer was not dense, opaque or wide enough; that the buffer needed more evergreens and shrubs in a variety of sizes; that the solar arrays would be an eyesore; that she had committed to two homes within Patriots Glen; that had she known about the solar arrays beforehand, she would not have purchased within Patriots Glen; that a study performed by Virginia Tech showed that property values within three miles of solar farms drop approximately 4.8%, and the Patriots Glen community requested a better landscape buffer be placed.

Mr. Shafer stated 20-year lease with two 10-year extensions, with a potential lifespan of 40 years.

Mr. Collins stated for clarification that the provided landscape buffer met the Sussex County Ordinance, which was written to address some of the expressed concerns.

Mr. Robertson stated that both landscape buffers met the Sussex County requirements; that the buffer behind the residential subdivision met the requirements of the Code, and as well, the proposed solar project, and stated that the Commission had previously discussed the solar array buffers to contain all evergreens or majority evergreens so that there would be foliage all year round versus the perimeter buffer on a subdivision, which was a mixture of deciduous and evergreen trees.

Mr. Falkowski spoke as a part of the permitted five-minute rebuttal. Mr. Falkowski stated that he believed ChatGPT may have mixed up the order of which the screening would be provided; that the ChatGPT rendering reflected the house, array, and buffer; that in reality it would be the opposite; that it would be the house, the subdivision buffer, the solar project's buffer, the fence and then the arrays; that he believed the perspective was off as well; that their seven foot fence would have a mesh screening on it; that when the arrays were at their maximum height of 15 feet, which would occur mid-day, the top of the arrays would be visible; that otherwise the arrays would not be at their maximum height, and would not be visible; that they would be completely open to doing an evergreen mix of 100% or an inverse mixture of 70% Evergreen and 30% deciduous, which would provide more screening during the winter months.

Mr. Passwaters stated that he believed the Commission had agreed moving forward that solar projects would be required to have the inverted mixture of 70% Evergreen and 30% deciduous per 100 feet.

Mr. Collins stated that it seemed possible that some of the concerns could be addressed by potential tree planting within the area outside of the Conditional Use area, and potentially was something the property owner could consider.

Mr. Falkowski stated that there was a 20-foot maintenance and access easement provided between the Patriots Glen buffer and the site's buffer, to allow the property owner to access the area and for the maintenance of the buffer, and if they filled that area in with plantings it would potentially cut off access.

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 2569 Pivot Energy DEL045, LLC. Motion by Mr. Collins to defer action for further consideration, seconded by Mr. Passwaters, and carried unanimously. Motion carried 5-0.

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

The Commission discussed the application which had been deferred since July 15, 2026.

Mr. Collins moved that the Commission recommend approval of Conditional Use No. 2569 Pivot Energy DEL045, LLC for a solar energy facility in the GR District based on the record made during the public hearing and for the following reasons:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
2. The solar array will be located within approximately 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. This recommendation is subject to the conditions set forth in Section 115-172.I of the Zoning Code and the following additional conditions:
 - A. The use shall be for a ground-mounted solar array. No other types of electric

generation shall be permitted at the site.

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

Motion by Mr. Collins, seconded by Mr. Pettyjohn, and carried unanimously to recommend approval of C/U 2569 Pivot Energy DEL045, LLC 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

PLANNING & ZONING COMMISSION

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



Sussex County

DELAWARE
sussexcountyde.gov
302-855-7878
JAMIE WHITEHOUSE, AICP, MRTPI
DIRECTOR

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: June 3, 2026

Application: CU 2569 Pivot Energy DEL045, LLC

Applicant: CU 2569 Pivot Energy DEL045, LLC

Owner: Eldridge D. Johnson

Site Location: 27742 Norwood Lane, Millsboro
The parcel is lying on the east and west sides of Norwood Lane, approximately 950 feet southwest of Oak Orchard Road (Route 5).

Current Zoning: General Residential (GR)

Proposed Use: Solar Facility

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: District 4 – Mr. Doug Hudson

School District: Indian River School District

Fire District: (80) Indian River Fire Co.

Sewer: N/A

Water: N/A

Site Area: (45.57) acres p/o (15.22) acres

Tax Map ID.: 234-29.00-220.00



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



Memorandum

To: Sussex County Planning and Zoning Commission Members
From: Mr. Michael Lowrey, Planner IV
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: May 18th, 2026
RE: Staff Analysis for C/U 2569 Pivot Energy DEL045, LLC

The purpose of this memo is to provide background and analysis for the Planning and Zoning Commission to consider as a part of Application for C/U 2569 Pivot Energy DEL045, LLC to be reviewed at the June 3rd, 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: 234-29.00-220.00

Proposal: The request is for Conditional Use for a portion of Tax Parcel #234-29.00-220.00 to allow for a solar array facility on a portion of the Parcel. The Parcel is located on the east and west sides of Norwood Lane, approximately 950 feet southwest of Oak Orchard Road (Route 5) and the improvements are proposed on a (16.64) +/- acre portion of a Parcel comprised of a total of (45.57) acres +/-.

Zoning: The subject property is zoned General Residential (GR) District.

The parcels adjacent to the north, east, and south of the site are also within the General Residential (GR) Zoning District with the parcels immediately to the west zoned Medium Residential (MR) Zoning District.

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

Applicability to Comprehensive Plan: The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map in the plan indicates that the subject property is designated as a Rural Area and has a land use designation of "Coastal Area". All Parcels adjacent and surrounding are also "Coastal Area".

As outlined within the 2018 Sussex County Comprehensive Plan, *Coastal Areas* are growth areas that the County encourages only the appropriate forms of concentrated new development, especially when environmental features are in play. The Coastal Area designation is intended to

recognize the characteristics of both anticipated growth and ecologically important and sensitive characteristics. The Plan notes, “this region contains ecologically important and sensitive characteristics as well as other coastal lands which help to absorb floodwaters and provide extensive habitat for native flora and fauna” (2018 Sussex County Comprehensive Plan, 4-15). Additionally, the Plan also notes that Coastal Areas “also has significant impact upon water quality within the adjacent bays and inlets as well as upon natural the region’s various habitats” (2018 Sussex County Comprehensive Plan, 4-15) Additionally the Plan notes challenges in the Coastal Areas relating to safeguarding “genuine natural areas and mitigating roadway congestion without stifling the tourism and real estate markets which: a) provide many jobs; b) create business for local entrepreneurs; and c) help keep local tax rates low” (2018 Sussex County Comprehensive Plan, 4-15).

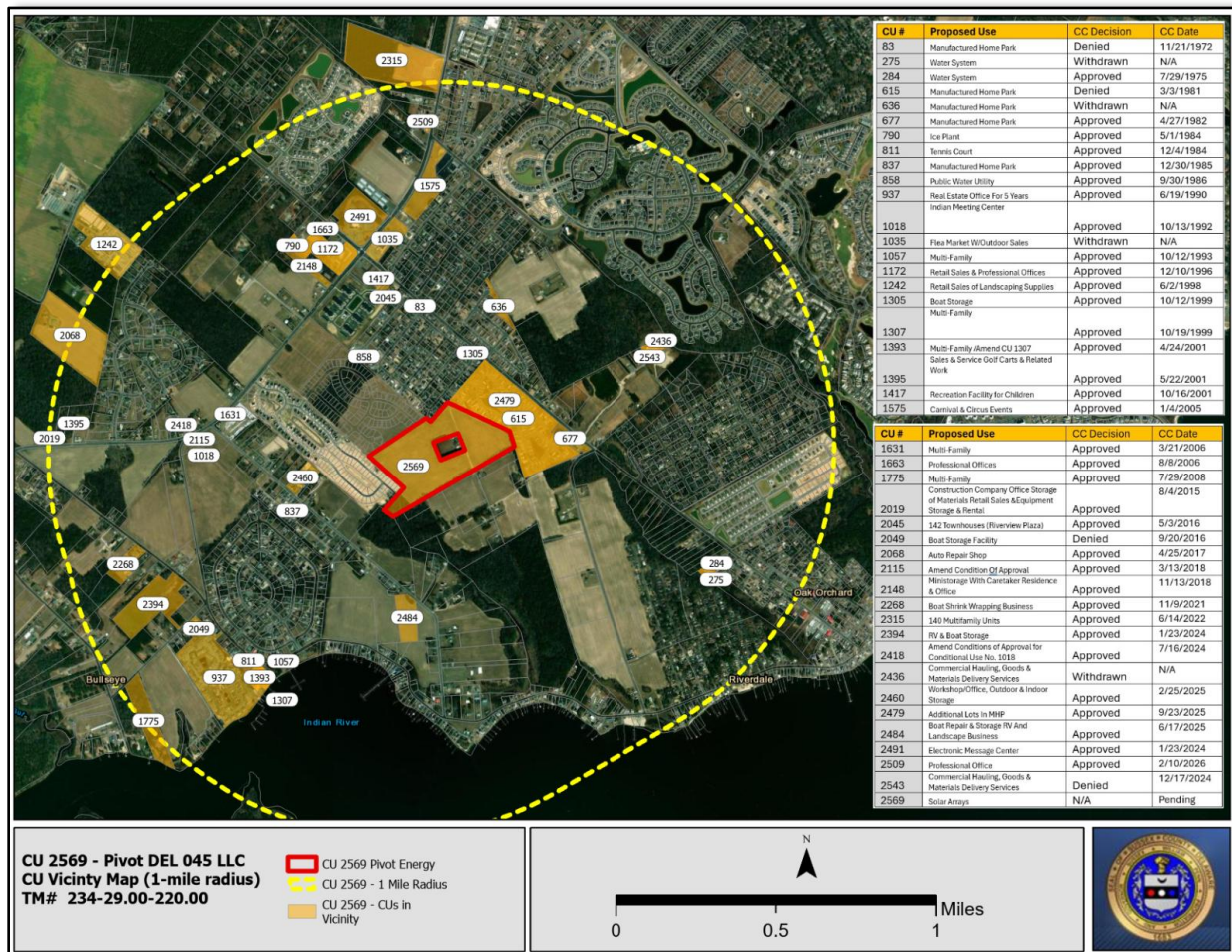
In terms of non-residential development in Coastal Areas, the Plan provides the following guidance: “Retail and office uses are appropriate but larger shopping centers and office parks should be confined to selected locations with access along arterial roads. Appropriate mixed-use development should also be allowed. In doing so, careful mixtures of homes with light commercial, office and institutional uses can be appropriate to provide for convenient services and to allow people to work close to home” (2018 Sussex County Comprehensive Plan, 4-15)

Further Site Considerations:

- **Density:** N/A
- **Open Space Provisions:** N/A
- **Agricultural Areas:** The site is within the vicinity of active agricultural lands.
- **Interconnectivity:** N/A
- **Transportation Improvement District (TID):** N/A
- **Forested Areas:** A limited portion the Parcel’s exterior and interior boundaries with adjoining parcels is forested, particularly surrounding the residential parcel interior to the site and lining the southern boundaries.
- **Wetlands Buffers/Waterways:** County data indicates that no wetlands or waterways are present on the site.
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** The property is located within Flood Zones “X”. Staff note that the Parcel is not within a Wellhead Protection Area. The Parcel’s area is classified as within areas of “Fair” and “Poor” in terms of Groundwater Recharge Potential per data from the State of Delaware.

Based on the analysis provided, a Conditional Use to allow for a solar array facility could be considered as being consistent with the surrounding land use, zoning, and uses, subject to considerations of scale, impact, and the design for vehicular access.

Existing Conditional Uses within the Vicinity of the Subject Site: Staff have identified a history of (43) Conditional Use applications within a one (1) mile radius of the application site. A Data Table and Supplemental Map have been supplied to provide additional background regarding the approval status of Applications in the area to include the location of all current or previous Conditional Use Applications that are less than 1 mile distance from the subject site.



CU Number	Application Name	Zoning District	Proposed Use	CC Decision	CC Decision Date
83	Manufactured Homes Inc	AR-1	Manufactured Home Park	Denied	11/21/1972
275	John Satterfield	GR	Water System	Withdrawn	N/A
284	John Satterfield	GR	Water System	Approved	7/29/1975
615	Lawrence E. Merganthaler	GR	Manufactured Home Park	Denied	3/3/1981

636	Lawrence E. Merganthaler	GR	Manufactured Home Park	Withdrawn	N/A
677	Lawrence Merganthaler	GR	Manufactured Home Park	Approved	4/27/1982
790	Charles Koch T/A Penguin Ice Co.	AR-1	Ice Plant	Approved	5/1/1984
811	Stephens/Moore Associates	AR-1	Tennis Court	Approved	12/4/1984
837	Tunnell Companies, L.P.	GR	Manufactured Home Park	Approved	12/30/1985
858	John T. Satterfield & Pauline	AR-1	Public Water Utility	Approved	9/30/1986
937	Iota Rho Corp	M	Real Estate Office For 5 Years	Approved	6/19/1990
1018	Nanticoke Indian Assoc.	AR-1	Indian Meeting Center	Approved	10/13/1992
1035	Robert L. & Melissa S. Richardson	B-1	Flea Market W/Outdoor Sales	Withdrawn	5/18/1993
1057	Gull Point Trust	MR	Multi-Family	Approved	10/12/1993
1172	Charles G. & Patricia A. Wagner	AR-1	Retail Sales & Professional Offices	Approved	12/10/1996
1242	RSC Landscaping, LTD	AR-1	Retail Sales Of Landscaping Supplies	Approved	6/2/1998
1305	Short's Marine, Inc.	AR-1	Boat Storage	Approved	10/12/1999
1307	Gull Point Trust	MR	Multi-Family	Approved	10/19/1999
1393	Gull Point Trust	MR	Multi-Family /Amend CU 1307	Approved	4/24/2001
1395	Keith Butcher	AR-1	Sales & Service Golf Carts & Related Work	Approved	5/22/2001
1417	Boys & Girls Club of Delaware, Inc.	AR-1	Recreation Facility For Children	Approved	10/16/2001
1575	American Legion Post 28	AR-1	Carnival & Circus Events	Approved	1/4/2005

1631	Design Consultants	CR-1	Multi-Family	Approved	3/21/2006
1663	Toe Tapper, L.L.C.	AR-1	Professional Offices	Approved	8/8/2006
1775	East Market, LLC	MR	Multi-Family	Approved	7/29/2008
2019	JB Builders, LLC	AR-1	Construction Company Office Storage of Materials Retail Sales & Equipment Storage & Rental	Approved	8/4/2015
2045	Robert & Deborah Reed Remax	B-1	142 Townhouses (Riverview Plaza)	Approved	5/3/2016
2049	Blue Claw, LLC	AR-1	Boat Storage Facility	Denied	9/20/2016
2068	Charles J. Short	AR-1	Auto Repair Shop	Approved	4/25/2017
2115	Nanticoke Indian Association, Inc.	AR-1	Amend Condition Of Approval	Approved	3/13/2018
2148	Sussex Farms, LLC c/o Samuel Connors	AR-1	Ministorage With Caretaker Residence & Office	Approved	11/13/2018
2268	Staci C. and Winfield S. Walls Jr.	AR-1	Boat Shrink Wrapping Business	Approved	11/9/2021
2315	American Storage of Delaware, LLC	AR-1	140 Multifamily Units	Approved	6/14/2022
2394	Wayne Development, LLC	AR-1	RV & Boat Storage	Approved	1/23/2024
2418	Nanticoke Indian Association	AR-1	Amend Conditions of Approval for Conditional Use No. 1018	Approved	7/16/2024
2436	Toney Floyd & Charletta Speaks-Floyd	GR	Commercial Hauling, Goods & Materials Delivery Services	Withdrawn	N/A
2460	Jose M Hernandez Perez	GR	Workshop/Office, Outdoor & Indoor Storage	Approved	2/25/2025

2479	The Crossing at Oak Orchard, LLC	GR	Additional Lots In MHP	Approved	9/23/2025
2484	Dick Ennis, Inc.	GR	Boat Repair & Storage RV And Landscape Business	Approved	6/17/2025
2491	St. Michael the Archangel Church	AR-1	Electronic Message Center	Approved	1/23/2024
2509	Juan Edward Johnson	AR-1	Professional Office	Approved	2/10/2026
2543	Toney Floyd & Charletta Speaks-Floyd	GR	Commercial Hauling, Goods & Materials Delivery Services	Denied	12/17/2024
2569	Pivot Energy DELO45, LLC	AR-1	Solar Arrays	Pending	Pending



Microsoft, Vantor, VITA, Esri, HERE, Garmin, iPC

CU 2569 - Pivot DEL 045 LLC
Aerial Map
TM# 234-29.00-220.00

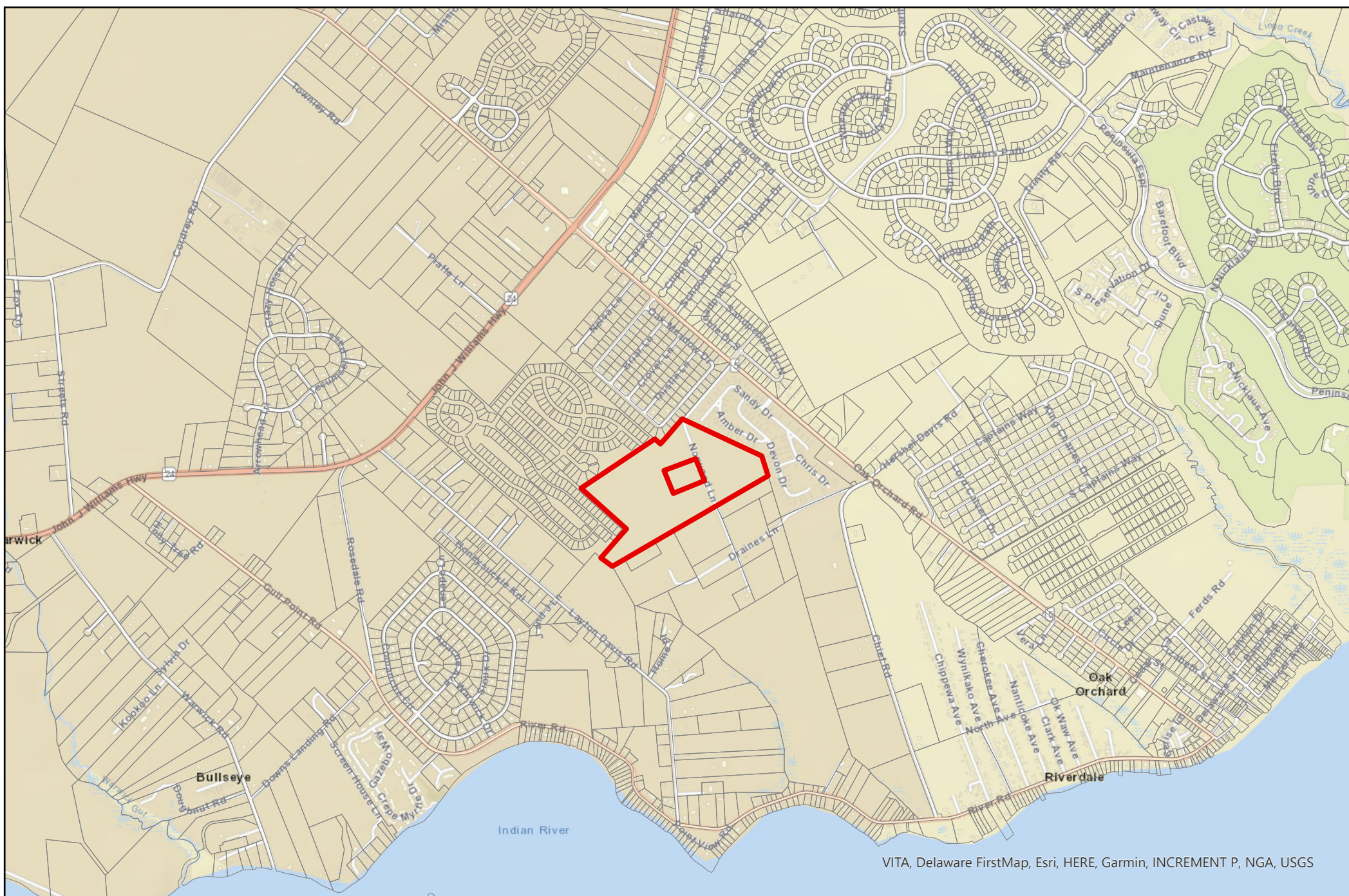
 CU 2569 - Pivot DEL 045 LLC

 Tax Parcels

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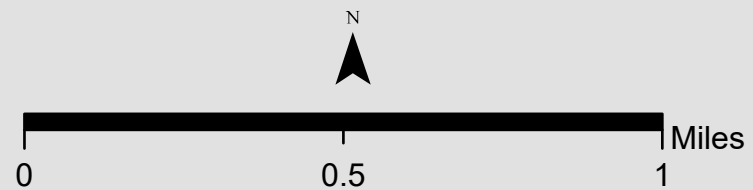




VITA, Delaware FirstMap, Esri, HERE, Garmin, INCREMENT P, NGA, USGS

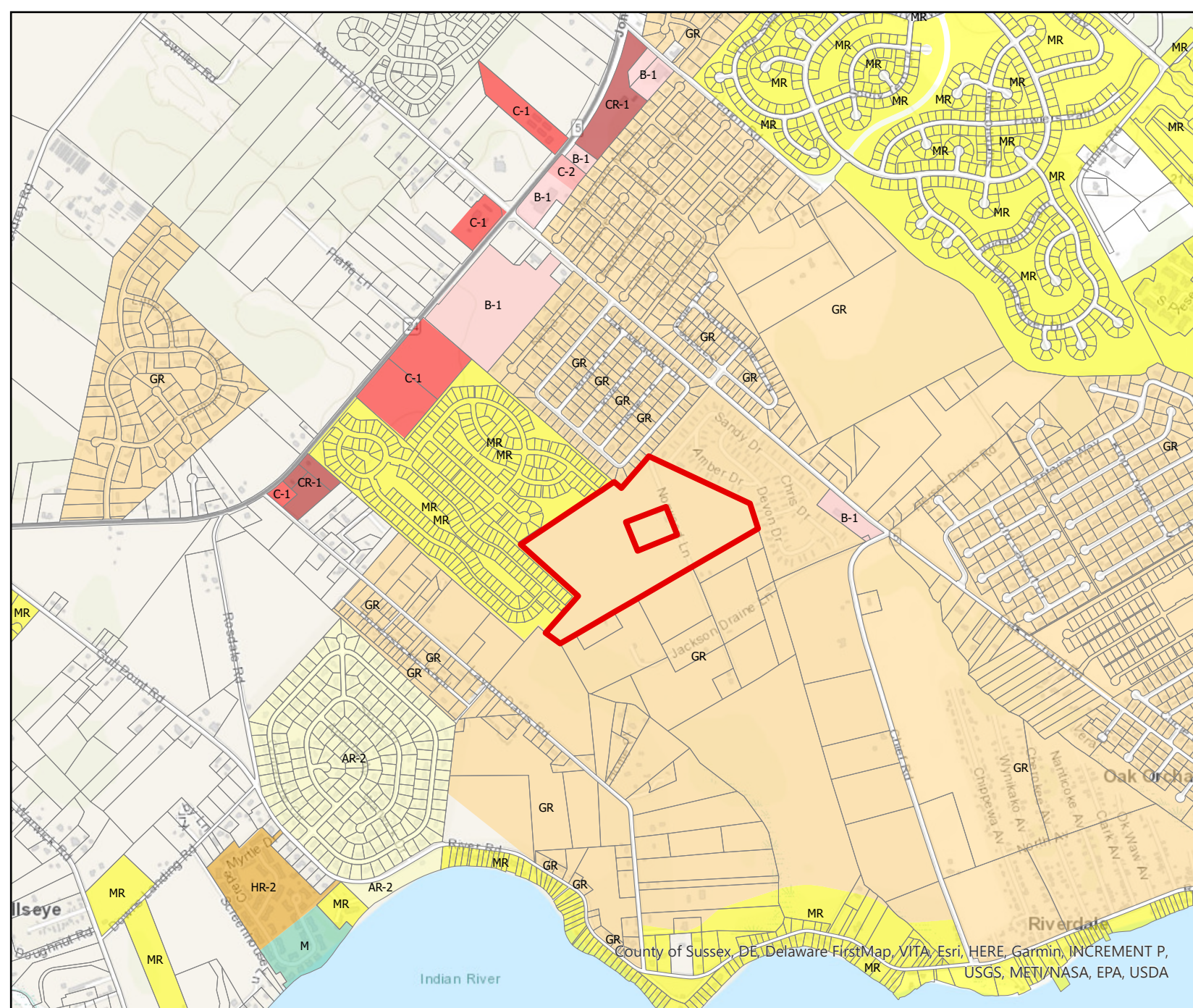
CU 2569 - Pivot DEL 045 LLC
Streets Map
TM# 234-29.00-220.00

 CU 2569 - Pivot DEL
045 LLC
 Tax Parcels



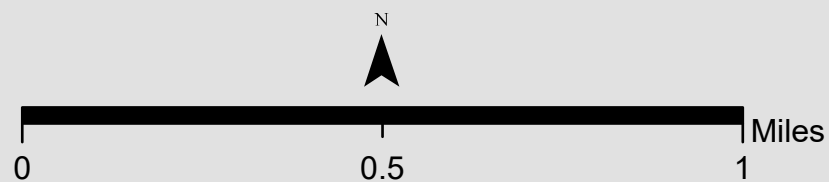
Zoning

-  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 2569 - Pivot DEL 045 LLC
Zoning Map
TM# 234-29.00-220.00

-  CU 2569 - Pivot DEL 045 LLC
-  Tax Parcels



Introduced: 5/12/26

**Council District 4: Mr. Hudson
Tax I.D. No.: 234-29.00-220.00
911 Address: N/A**

ORDINANCE NO. ____

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

WHEREAS, on the 26th day of November 2024, a Conditional Use application, denominated Conditional Use No. 2569 was filed on behalf of Pivot Energy DEL045, 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. 2569 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 VI, Subsections 115-39, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2569 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 and west sides of Norwood Lane, approximately 950 feet southwest of Oak Orchard Road (Route 5), being more particularly described in the attached legal description prepared by Moore & Rutt, P.A. said parcel containing 45.57 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 7, 2026

RE: County Council Report for C/Z 2061 filed on behalf of Sandie, LLC

The Planning and Zoning Department received an application (C/Z 2061 filed on behalf of Sandie, LLC) for a Change of Zone from an MR-RPC to an MR-RPC to amend the conditions of approval for C/Z 673. The Tax Parcel ID is 334-6.00-553.02. The property is located at 18462, 18464 & 18466 Plantation Boulevard, Lewes. The parcel size is 4.2 ac. +/-

The Planning & Zoning Commission held a Public Hearing on the application on July 22, 2026. On August 5, 2026, the Commission discussed the application but took no further action, deferring action for further consideration. A recommendation will be forwarded to the Council once it become available.

Below are the minutes from the Planning & Zoning Commission meeting on July 22, 2026, and August 5, 2026

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

Mr. Robertson recused himself from the next application and left Council Chambers.

Mr. Jamie Sharp, Assistant County Attorney, entered Council Chambers in Mr. Robertson's place.

C/Z 2061 Sandie, LLC

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. The 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.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Presentation materials and exhibits, a Revised Site Plan, a survey, the Staff Analysis Report, a letter received from the Sussex County Engineering Department's Utility Planning Division, the DelDOT Service Level Evaluation Response Letter, a letter received from the State Fire Marshal's Office, and copies of past Ordinances and meeting minutes, including Ordinance No. 294. Mr. Whitehouse advised the Commission that a total of 211 public comments had been received regarding the application, which included multiple pages, multiple documents and a petition.

The Commission found that Ms. Mackenzie Sindelar, Esq. with Saul Ewing, LLP spoke on behalf of the Applicant, Sandie, LLC and the owner and operator of Dave Marshall Tennis & Pickleball; that also present were Mr. Dave Marshall, member of Sandie, LLC and the owner and operator of Dave Marshall Tennis and Pickleball, Mr. Carlton Savage, Civil Engineer with Scaled Engineering, Inc., Mr. Dennis James (D.J.) Hughes, II, P.E., Traffic Engineer with For Sure Hughes, LLC; and Ms. Kim Hoey Stevenson, former Planning & Zoning Commissioner for District 3 and Public Relations Professional with Hoey Communications Group; that other members of the team who were not present for the hearing included, Mr. Jeffrey Wolf, Architect with Jeffrey Wolf Architecture, and Ms. Amy Reese, Landscape Architect with Love Dirt, LLC.

Ms. Sindelar stated that she represented Sandie, LLC, the applicant and property owner, in connection with their Change of Zone application, in connection with the property designated as Tax Map Parcel No. 334-6.00-553.02; that the application sought an amendment to the Comprehensive Zoning Map of Sussex County from an MR-RPC (Medium Density Residential – Residential Planned Community) to an MR-RPC (Medium Density Residential – Residential Planned Community) for the purpose to allow for a recreational area, for public access, and to improve the site further with recreational facilities and amenities, such as an indoor (not outdoor) pickleball and racket courts, an outdoor pool, parking areas, and sidewalks to the recreational area; that this request would thereby amend the original approval for Change of Zone, C/Z 673, which was approved in August 1985; that this application involved a lot of history; that initially, the Applicant, with support from prior legal representation, before she became involved, understood that they could rebuild the facility, which is currently being proposed, but without the pool, by simply obtaining a building permit; that the previous pool was destroyed by a fire; that the Applicant learned that the proposal was required to proceed through Site Plan review, and approval processes, which would not have been a public hearing; that ultimately, during Site Plan review, a letter from the Board was evaluated by the Planning & Zoning Commission, and ultimately resulted in the scheduling of the current public hearing; that the Applicant was requesting to rebuild and replace the recreational facilities, some of which were lost in a fire in 2024; that Sandie, LLC is the owner and the Applicant of the application; that Sandie, LLC owned the property in fee simple, having acquired the

property in 2008, with Dave Marshall Properties, LLC; that later by a deed dated, December 16, 2010, Dave Marshall Properties, LLC conveyed its entire interest to Sandie, LLC; the Dave Marshall Tennis and Pickleball is the tenant of the property, and is a well-known, long-standing racquet sports facility operated by Dr. Marshall and his son, Jordan, and a dedicated team, all embodying a friendly mom-and-pop culture; that the club offers year-round indoor and outdoor play, featuring both, indoor hard courts and outdoor clay courts for tennis; that with Dr. Marshall's extensive experience coaching players on the Association of Tennis Professionals and the Women's Tennis Association Tours, the facility provides professional coaching, clinics and private lessons for players of all skill levels; that the club enjoys strong community interest support in Sussex County, as demonstrated by the overwhelming support for the application; that memberships were affordably priced, making them accessible to many residents of Sussex County; that Dr. Marshall had operated the recreational amenities since 1995; that the property itself encompasses approximately 4.29 acres, as confirmed by survey, and was situated on the south side of Plantation Boulevard, about 0.46 mile north of Cedar Grove Road (S.C.R. 283), and 0.14 mile west of Plantation Road (Rt. 1D) and Route 275; that the 911 addresses were 18462, 18464 and 18466 Plantation Boulevard, Lewes, Delaware, being Tax Map Parcel No. 334-6.00-553.02; that the property was zoned MR-RPC (Medium Density Residential – Residential Planned Community), falling into the Plantation's Residential Planned Community, which was established through Change of Zone No. 673, changing the zoning from MR to MR-RPC; that some of the adjacent properties are zoned the same; that there was also a mixture of residential, agricultural, commercial and business uses nearby; that the property was located within the Coastal Area, which was a designated Growth Area in Sussex County per the 2018 Comprehensive Plan; that the Comprehensive Plan indicates that the Coastal Area can accommodate development, provided that specific environmental concerns are addressed; that a range of housing types, including single-family homes, townhomes, and multi-family units are permitted; that additionally, retail and office uses are appropriate, although larger shopping centers should be positioned with access along arterial roads; that mixed-use developments are also encouraged; that medium to high density residential, ranging from four to 12 units to the acre were also considered to be suitable, provided that central sewer and water is provided, as well as near employment centers and along main roads; that the 2025 Delaware Strategies for State Policies and Spending Map identifies the property as being located predominantly within Investment Level 1, with a small portion being located within Investment Level 2; that site was surrounded by similarly designated properties; that Investment Level 1, reflected areas already developed in urban and suburban style, where infrastructure was present or readily available, and where future redevelopment or infill projects are encouraged by State policy; that Investment Level 2 areas encompassed less developed regions within municipalities, rapidly growing areas in the County with impending water, and wastewater services, areas adjacent to Investment Level 1, and smaller towns and rural villages that should grow consistently with their historic characters, along with suburban areas, and public utilities; that in both Investment Level 1 and Investment Level 2 areas, State investments and policies should endorse and encourage a diverse range of uses and densities, promote alternative transportation options, optimize existing public and private investments, and enhance community identity and integrity; that additionally, according to the Sussex County's Comprehensive Plan §410, in Investment Level 1, it was the State's intent to use its spending and management tools to maintain and enhance community character, promote well-designed and efficient new growth, and facilitate redevelopment in Investment Level 1 areas; that in Investment Level 2, it was the State's intent to use its spending and management tools to promote well-designed development in those areas; that such development provides for a variety of housing types, user-friendly transportation systems, essential open spaces, recreational

facilities, and other public facilities and services to promote a sense of community; that the property is part of the Plantations RPC, which included single family lots, and condominium units collectively referred to as the Plantations property, detailed in the Declaration Plan for Plantations, recorded as Plot Book 36, Page 96; that the original RPC application was considered by the prior Commission at their meeting of May 16, 1985; that the application was subsequently approved at the County Council meeting on August 27, 1985, through Ordinance No. 294, which was contained within the record; that the Ordinance was very simplistic in nature, and was nothing like what Ordinances would be currently in terms of conditions; that previously, the property and the Plantations were owned by Crown Estates, a Delaware partnership, who developed the project; that it included the residential components, but it also included the recreational area, as well as the spray irrigation area; that the recreational area, Phase One Residential area, Expanded Residential area, and Spray Irrigation area were all a part of the original approval; that the underlying Declaration of Covenants, Conditions, and Restrictions for the Plantations, recorded as Deed Book 1461, Page 54, provided language to the effect that every owner of a condominium unit, lot or improvement upon payment of a fee, has the right to enjoy the recreational area, the recreational properties, and the related facilities; that this right was subject to specific conditions, one of which permitted the developer and its successors to allow non-owners to use the recreational property and facilities for a reasonable fee; that additionally, the developer can establish permissible commercial uses within that area, construct structures for other uses, and lease them to operators, owners and managers of businesses; that these provisions clearly indicate that from the inception of the Plantation's RPC, the intention was to create a recreational area, with facilities to be accessible to both residents of the community, as well as to the public; that therefore, the current proposal to enhance the recreational facilities, some of which were lost as a result of a fire, within the recreational area, aligns with the original intent of developing this particular property, as part of the larger RPC and as confirmed by the documents of public record; that all of the mentioned documents were held within the public record; that even if owners were not on actual notice, which seemed unlikely given the existence of the recreational area since the community's inception, which were in plain sight, owners were at least on constructive notice; that there are documents of public record, which clearly outline the recreation area, how it was intended to be used, and its size; that the recreation area had been used exactly in that way since its inception; that arguments to the contrary hold no water; that several comments were submitted suggesting that the original approval was not compliant with the RPC code, implying that the acreage designated for the use was somehow excessive or not permitted; that to the contrary, one might argue that the allocated space was actually undersized, given the total acreage of the RPC, which was approximately 154.59 acres; that the existing acreage allocated for the recreation area, therefore does comply with the RPC Code, and specifically §115-119.B, which specifies a standard of one acre per 100 dwelling units, with a total of 608 dwelling units, 376 in Plantations East, and 232 in Plantations West; that this standard allows for a recreation area of approximately 6.08 acres; that therefore, the recreation area, at approximately 4.29 acres, complied with the requirement; that Ms. Sindelar presented to the Commission Google Earth aerial images from March 1992, which reflected the original recreational facilities, and a portion of the property record card; that the property card reflected that in the early 90s, two pools, storage buildings, and tennis were permitted by Building & Licensing at that time; that there were questions regarding the use and continued use; that for a long time, and since inception, the facilities had been used by others, not just the community residents; that the record contained a 1994 article announcing the hiring of a new general manager and tennis director; that an advertisement from 1995 described the area and the community as resort living; that indicated that it was not only the residential

component, but also the recreational component; that historical records indicate that the use had existed, operated and was permitted since the mid-80s; that she presented an image from 2005 illustrating the recreational facilities that were available; that on the image one could see that there used to be two pools; that there had been historical swim meets at the property; that the larger, Olympic sized pool was retired, due to a crack in the liner, and the cost of replacement was cost prohibitive; that a picture from July 2010 showed what existed at the time, but also reflected a parking area that Dr. Marshall used to rent from the community; that there previously was a dispute regarding the use and rental of the parking lot, which ultimately escalated into litigation between the Applicant and the community; that the key point was to note that there used to be a parking lot on the property, where everyone parked to use the space; that the parking area eventually became too costly for Dr. Marshall to continue renting the space; that the area was partially retired and grassed over; that she believed there were dumpsters within that area currently; that in the 1980s, condominium owners in the Plantations RPC paid recreation fees for access to the property, while outside memberships were also available; that as early as 1988, Mr. Walter Chappie Layman, a member of the original ownership group, attempted to contract Dave Marshall Tennis Services to run a tennis program at the property, although there was no agreement reached at that time; that by the early 1990s, the recreational areas were established, even before some of the residential units; that by the mid-1990s, around 1995, Dave Marshall Tennis began staffing and managing the tennis program at the property; that around 1990, the Property Owners Association of the RPC chose to opt out of the recreational fee that was paid, leading many owners to participate in specific recreational areas that they utilized; that the membership fee was an a la carte; that the fee structure became uniform for both owners and the broader outside community; that initially, Mr. Dennis Vandermeer operated an academy offering memberships and weekend clinics; that in 2008, the Applicant and Dave Marshall Tennis acquired the property, shortly after, facing challenges from the housing market crash; that during this period, a collaborative relationship developed between the residents of the Plantations RPC and Dave Marshall Tennis; that the relationship included compensating residents for the use of the parking areas, allowing the HOA to place a dumpster on the property for trash collection, maintaining a library and meeting room in one of the recreational facilities, which allowed meetings for the community to be held at a minimum cost, and providing use of a maintenance storage shed at no cost; that this long-standing relationship eventually led to a lawsuit stemming from a fee dispute regarding the Applicant's use of the parking lot; that the issue evolved into a broader dispute over access to the property, which resulted in an agreement between the parties; that under the agreement, the Applicant is required to pay a fee to the Plantations Owners Association, Inc., with specific payment terms outlined in the agreement; that this agreement was designated as the Declaration of Cross Easement and Maintenance Agreement, recorded as Deed Book 4154, Page 292; that the drafter of that document was Mr. David Hutt, Esquire; that there had been discussions regarding amending the agreement, which the Applicant was considering; that to date, the Applicant had paid approximately \$150,000 to the Plantations Owners Association, Inc. for historical parking area usage and the easement rights granted under the agreement; that the Applicant was not aware, as they were not a member of the community, of how the Plantations Owners Association uses or has used the fees; that the easement fee, which was described and defined as a maintenance fee within the agreement, was supposed to be used and should be used for the joint use of the Plantations Boulevard easement area; that between 2013 and the fire in 2024, the vibrant tennis, pickleball and fitness facility operated at the property; that it also offered activities such as hot yoga, Pilates, Weight Watchers, counseling, and other programs to paying members; that in 2024 full memberships for the gym, tennis, and pool access was \$950 annually with no additional fees; that while memberships were priced at

approximately \$1,300 per year; that for those seeking partial access to the facility, there were a la carte pricing with gym memberships at \$15 per month, with full access at \$250 per month, or \$500 for a family of five; that given the short capital contribution and HOA amenity fees in other communities, especially within Rehoboth and Lewes, she felt those prices were very reasonable; that tennis members were considered full members; that the club, over its history, and time at the property had gained recognition through its professional tennis coaching, with players coached by Dr. Dave Marshall, achieving success at prestigious events like Wimbledon, the U.S. Open, French Open and World Tour Finals; that camps were also offered featuring Hall of Famers, Mike and Bob Bryan, along with Madison Brengel, Megan Fudge, and Ryan DeHart; that this operation continued until a fire of unknown origin happened on January 12, 2024; that the fire resulted in the total loss of the previous clubhouse; that in its simplest form, the current application proposed to reconstruct the recreational facilities in the fire; that the operations support many local fundraisers such as the Lewes Fire Company, Camp Rehoboth, the YMCS, the annual Cape Gazette 5K, the Harry Cave Foundation, First Responder fundraisers, the Community Resource Center, the Big Fish Foundation, the Bryan Brothers Foundation and many others; that the existing recreation facility included six indoor courts, comprised of two tennis courts and four pickleball courts; that there were four outdoor tennis courts; that there was a gym, storage facilities, restrooms, and parking; that currently, there were 45 parking spaces on the site with two ADA compliant spaces; that when entering the property, one could see the existing parking lot, some landscaping boulders with no parking signs; that they proposed to place additional signage to address some of the off-site parking issues; that on January 12, 2024, the prior clubhouse caught fire due to unknown causes, which resulted in a total loss; that the foundation of the building was tied to the foundation of the pool; that when the fire occurred, it was advised from a structural integrity perspective, to also abandon the pool; that the prior clubhouse was approximately 13,383 square feet; that the proposal included constructing a new building of approximately 9,984 square feet to serve indoor courts; that they are proposing a clubhouse about 3,399 square feet smaller than the previous clubhouse; that the proposed building would be designed to be more integrated into the property, as it will align more with the existing structures, rather than the previous clubhouse which extended closer to the property lines and the condominium units on the one side of the entrance; that the new plan reduced the footprint of the prior building, allowing it to blend more seamlessly with the surrounding improvements on the site; that the proposal features a pool and a proposed deck area, describing the disturbed area; that they had and were continuing to have discussions with the community about the size of the pool; that the proposal also contemplates an additional 62 regular parking spaces, and an additional four ADA compliant spaces, along with sidewalks, which will all be subject to final engineering; that from a financial perspective the proposed pool would be a total loss to Dr. Marshall and the business, however, he was offering the pool for good neighborly relations and considering that a pool had previously been present at the property; that it was his understanding that a vast majority of residents are excited about the prospect of the pool; that she present the Commission a conceptual design, and architectural rendering for the proposed build, which maintained earth toned colors, which were requested and proffered as a condition; that Dr. Marshall painted some other buildings on site green to blend in with existing vegetation, which had been requested by some members of the community; that the purpose of the MR Zoning District was to provide for medium density residential development in areas that were or were expected to become generally urban in character, where sanitary sewer and public water supplies would be available at the time of construction; that the recreational use would resemble typical uses and practices in residential communities and would be compatible with the area; that the use had existed since the communities inception, supported by governing documents of the

community, and aerial images dating back to the early 90s, which publicly advertised the concept of resort and club life; there thereby informing the community of its presence; that whole the Applicant acknowledged the public use of the property, and its existing and proposed uses, §115-29.E of the Code permits recreational activities, such as tennis courts and swimming pools to operate as private membership facilities, not for commercial purposes and subject to certain siting requirements; that it was also common in private developments to impose an amenity fee, similar to the membership fee, but often at a higher rate, to maintain and enhance recreational facilities, ensuring they remain accessible and well-managed for all residents; that therefore, the proposed use fits within the permitted activities in the MR District, and aimed to enhance the community and its enjoyment; that the purpose of the RPC District Overlay was to encourage large-scale developments, as a means of creating a superior living environment through unified developments and to provide for the application of design and ingenuity, while protecting existing and future developments, while achieving the goals of the Comprehensive Plan; that the stated purposes of the MR District and RPC Overlay are addressed and met in the proposed application; that both central water and sewer services were available; that the property was situated in an area with more urban characteristics, surrounded by numerous existing residential developments, as well as a variety of small and large businesses and commercial uses, more predominantly located on Route 1, but also conveniently located close to Route 1, and Five Points; that the application replaces the prior clubhouse that was lost to a fire, and would enhance the recreational amenities with the addition of new courts, pool, parking, sidewalks, and landscaping; that they had included a conceptual Landscape Plan, which primarily showed where landscaping would be proposed; that they were continuing to work with the Board and the community, as it related to additional screening that may be appropriate; that a Preliminary Site Plan was submitted into the record; that the Site Plan was conceptual, and was not to be considered a final, as based on the community comments, and the Commission's recommendations, modifications may be required as necessary to improve the use and its coexistence with the residential community; that the building was proposed to be tucked tight with the rest of the existing improvements; that this would allow for double the existing parking spaces; that additional site data and parking calculations could be located on the plan for review; that the Applicant was the recipient of the Delaware Sports Tourism Investment Fund Grant Award in the amount of \$1 Million; that the grant operates as a match fund, meaning the Applicant's expenditure of up to a million dollars would then be matched by an amount equal of up to a million dollars; that there was a lot of questions related to traffic, and what was represented in the grant proposal; that the Applicant's Traffic Engineer would speak to the traffic, trip generation and traffic flow; that access to the property was provided from Plantations Road, using certain internal streets of the Plantations in accordance with the Declaration of Cross Easement and Maintenance Agreement; that her client had paid, in connection with the use, over \$100,00, despite the untrue statements suggesting there had been no contribution from her client to the maintenance of the streets; that the issue of access, use and maintenance fees, for those access ways were established by written recorded agreement and recorded easement plot, which had already been litigated and decided; that there had been requests for changes to the underlying agreement and related changes to the capital funds and maintenance fees, which her client was reviewing and currently considering; that her client was not looking to relitigate the issue, but was willing to consider amendments; that he had paid over \$100,000 to the community to maintain the current roadways; that he had offered to assist with repaving, and was willing to continue that conversation; that any outcome must be fair; that there needed to be accountability for the maintenance of the roadways, as it was not entirely evident what historical improvements had been made; that any consideration for the use of the easement should be proportional to the Applicant's use, and Ms. Sindelar requested to have

Mr. Carlton Savage speak on the stormwater, to be followed by Mr. Hughes to discuss traffic for the project.

The Commission found that Mr. Carlton Savage, Principal and Sr. Civil Engineer with Scaled Engineering, Inc., spoke on behalf of the application's stormwater management. Mr. Savage stated that they had already had conversations with the Soil Conservation District in Sussex County; that on September 29, 2025, they had a meeting to discuss what would be required for rebuilding the application; that based on that meeting, it was determined that that they would be a non-residential standard plan; that those requirements were listed; that some of those requirements are less than an acre of disturbance; that they were about 0.75 acres of disturbed land; that the pre-existing land cannot be forest, which it was not; that the application was originally built in 1985; that a lot of the areas had stormwater management, but under older regulations; that therefore those areas would be considered unmanaged for stormwater; that one must compare the curve number pre and post, to what was there and what was designed; that based on that comparison, one could see that the majority of the site was paved with the original proposal; that the current proposal eliminated some of the pavement; that the runoff that would be generated by the proposal would be less than what was there previously; that the site does sheet flow in a couple different directions, heading towards a ditch where there were trees in the back, crossing the parking lots and heads to ditches; that there were also stormwater management pipes across the property on the site which came from the stormwater management ponds; that those pipes had been cleaned out in the past; that discussions had been taken regarding those maintenance items as well; that the standards for the application required by Sussex Conservation District (SCD), would be the submission of a Standard Non-Residential Plan; that there would be silt fencing provided; that they would provide all the requirements of the plan, but not any detailed calculations other than showing the two; that they were on the path of getting their Site Plan approval; that in 2025, they received an email from the Sussex Conservation District requesting final plans, and should the current application be successful, they would continue the process with the Soil Conservation District.

Madam Chair Wingate stated they Mr. Savage mentioned that the standards had changed and questioned if they were still required to manage any stormwater runoff.

Mr. Savaged stated absolutely, that the standard plan was one of the processes; that there was a detailed plan and a standard plan; that the detailed plan typically involved when one needs to build a stormwater management item because one would be increasing runoff; that in cases where runoff was not increased, such as the current application, where it would be less impervious, and the runoff would be decreased, no detailed plan would be required.

Mr. Dennis James (D.J.) Hughes, II, P.E., President and Sr. Traffic Engineer with For Sure Hughes, LLC spoke on behalf of the application's traffic impact. Mr. Hughes stated that as part of the application, a DelDOT Service Level Evaluation Request was required; that consistent with DelDOT and Sussex County's MOU (Memorandum of Understanding), DelDOT responded that the application would have a diminutive impact on local roadways, which equaled an increase of fewer than 50 trips per day; that previously the fire that destroyed a building that was larger by about 4,000 square feet; that the building they were proposing to rebuild was about 4,000 square feet less than the previous building; that the proposed pool and deck were basically replacing the previous improvement; that before the application

was submitted, they had submitted their Site Plan to DelDOT; that DelDOT responded by providing a Letter of No Impact, where DelDOT stated there would not be any improvements associated with the application, and that no further review would be required by DelDOT; that DelDOT and general traffic engineers are required to follow the national standard of the Institute of Transportation Engineers Trip Generation Manual; that the 12th edition being the most current edition; that they had discussed the recreational area, and the appropriate land use Code 495, which was a recreational community center; that a recreational community center included meeting rooms, social quarters, swimming pools, saunas, whirlpools, racquetball, handball, pickleball, tennis courts, indoor and outdoor facilities, exercise classes, and also could be open to public access, public use, and there would typically be a membership fee charge; that the previous use included Hot Yoga, Irish dance classes, Pilates, and Weight Watchers, as well as counseling, along with the existing pickleball and tennis courts; that the current application proposed to only have pickleball courts inside, with a pool and deck outside, which used to exist previously; that when one totaled up all the buildings, the previous facility, excluding the storage building, was 40,000 square feet, which totaled 1,153 trips per day, not just 1,153 cars per day; that this basically equated to 577 cars in and out each day; that the morning peak hour came out to 81 trips in and out; that the evening hour came out to 116 trips in and out; that the recreational community center covered all the previous and current proposed uses; that with replacing the building with a smaller building, it equaled about 1,055 trips per day, equating to just under 530 cars coming in and out; that the morning hour would equal 74 trips per day, and the evening hour would equal about 106 trips per day; that the supporting data and calculations came from the ITE (Institute of Transportation Engineers Trip Generation Manual); that there had been a lot of discussion regarding the pickleball tournaments, especially when people heard 500 players; that those 500 players would be over the course of three days; that at any one time, there would not be any more than about 40 to 50 players on the site; that parking was also an issue of concern; that there was 47 existing parking spaces, and 66 parking spaces were proposed; that parking would be more than doubling; that there would be 113 parking spaces on the site, including ADA combined parking spaces; that if the ITE stated, if one held a daily week or weekend tournament, sometime between Monday and Friday, it would generate 666 total trips, which would be like 334 cars entering and exiting; that during the morning it would be 33 trips; that in the afternoon it would be 75 trips; that on Saturdays those trips counts would go up; that the trip count for the previous use was 1,153, with the daily use actually being higher at 1,055 trips; that on Saturday there would be 898 ADT, equating to 499 cars in and out throughout the course of the day; that it would be spread throughout the course of the day; that 130 trips would be the highest hour; that traffic flow was one of the most stated concerns within the submitted comments, and expressed at their open house; that they had discussed making a one-way entrance, and improving signage to ensure everyone knows how to get to and from the site; that there were also expressed concerns regarding headlights; that they would eliminate head-in parking where headlights would be a concern; that they had discussed a hedgerow to block headlights, however, he did not believe there was enough room on their site to provide a hedgerow; that one would be able to make a U-turn to get out; that they had decided to keep a two-way coming out; that the issues mentioned were Site Plan issues; that the Site Plan would be required to go through Final Site Plan review; that there had been discussions regarding speed bumps; that he would recommend tables or humps, as they were more gradual; that speed bumps come with noise than generally people do not like; that gated access was already provided, which acted like a speed table; that the gate would not be open when during a pickleball tournament; that when they visited the site at 2:00 p.m. on a Friday there were 60 pickleball players and 20 tennis players on the site; that there was plenty of parking at that time; that they were proposing to

double the parking; that regarding the pickleball court tournaments, they assumed up to 17 courts being the most that would be played during tournaments; that the traffic numbers previously provided were based on 17 pickleball courts being used as the maximum during a tournament; that the average daily traffic during the weekday was 667, and the average daily traffic is 898 on a Saturday; that those traffic counts were based on a maximum of 17 courts during a tournament; that within the existing facility, on July 4th weekend, there was a tournament, and 12 to 15 would be a good number assumption per year. Mr. Collins questioned whether Mr. Hughes could provide the traffic numbers for the Plantations community itself, compared to the provided traffic count numbers, to provide the Commission with a relative traffic impact.

Mr. Hughes stated that he did not have the number off the top of his head, however, he did have the calculation noted, which could be provided during the rebuttal period; that he believed it to be around 2,000 ADT for the community, based on the number of single-family and multi-family units equaling 232 units, and it was definitely more than what the recreational community center was.

Mr. Collins stated that it sounded like the proposal would bring in almost 1/3rd of what traffic would be brought into the development.

Mr. Hughes stated 1/3rd was roughly about the percentage of traffic.

Mr. Allen questioned how many hours per day a normal pickleball tournament would run, as he had concerns regarding the impact study which estimated 47 cars, per hour, per court.

The Commission found that Mr. Dave Marshall, member of Sandie, LLC and the owner and operator of Dave Marshall Tennis and Pickleball, spoke on behalf of the application. Mr. Marshall stated that a typical tournament would run from 9:00 a.m. to approximately 5:00 p.m. or 6:00 p.m.; that the tournaments run in groups, being 3-0, a break, then 3-5 and 4-0, moving forward in that manner; that the tournaments are completed in levels; that tournaments are usually two to two and a half hours; that people come and leave; the pickleball is not a spectator sport; that pickleball was a participant sport; that people arrive for the tournament, and usually arrive with their partner; that generally there would not be two separate cars, which happens a lot when people from the community come to play; that the tournaments are all day, however, the brackets last about two to two and a half hours.; that they cannot have 500 people at once, because they are unable to manage that number of people, and they would only be able to manage it over a certain amount of days.

Ms. Sindelar stated in conclusion that they had pulled together a set of Findings and Conditions, which she requested to submit into the record; that she had shared a version of the conditions with Mr. David Hutt, Esq., the community's attorney; that the version currently being submitted did not incorporate any of Mr. Hutt's comments, which they had received that morning; that she had not had an opportunity to review his comments; that they would work with Mr. Hutt on the suggested changes with the goal of coming into terms by council; that the Conditions clarified what the use was, being a recreational facility and amenities for public access, including provisions for community engagement and events; that the hours of operation proposed were 6:00 a.m. until 10:00 p.m., Monday through Sunday; that a security system already existed on site, but would be enhanced considering the new build; that all security lighting,

which was a request of the residents, would be downward screened; that parking would be in compliance with the Code; that the Final Site Plan would indicated drive aisles; that they would condition further and clarify the one-way traffic pattern that Mr. Hughes had previously discussed; that a Final Site Plan would include a Landscape Plan, which would show all limits of disturbance; that they were developing additional landscaping and screening plans with the goal of presenting those additional details to County Council; that they had proffered a Signage Plan to show where parking is allowed and where parking would be prohibited; that for areas of prohibited parking, appropriate warnings would be posted; that the Applicant was agreeable to also displaying a map on their website outlining designated and prohibited parking areas, along with notice, confirming that any vehicles parking in violation of those regulations, would be towed at the owner's expense; that any trash receptacles and dumpsters would be shown on the Final Site Plan; that they had agreed to have earth toned colors, consistent with the Applicant's rendering for the new building; that as Mr. Savage had previously discussed, all stormwater management would be in compliance with the applicable regulations; that regarding the construction, site work, and deliveries, just to an from the property, they had provided the standard condition that would generally be placed with a residential community, providing restrictions on construction hours; that the Preliminary and Final Site Plans would be subject to the review of the Planning Commission; that should the request no be approved, Dr. Marshall would continue to operate the use, as it currently exists; that ultimately, the courts are critical for his business and his livelihood, as well as for the success of the club and its future; that if Dr. Marshall could not maintain a successful business within the community, with the addition of the proposed facilities, he may be forced to consider selling the property, and any potential alternative just based off surrounding uses, would likely be residential; that her statement was not intended as a threat, but rather a sort of reality; that if Dr. Marshall cannot operate at the site, he will be required to move on; that the proposal was not for a booming business; that it was a mom and pop operation, as it was family ran; that the operations were critical to Dr. Marshall and his family's livelihood; that Dr. Marshall was committed to goodwill and collaboration with the community, despite some of the past and continued misunderstandings and disagreements with some members of the community; that Dr. Marshall was actively engaged with the current Board; that Ms. Hoey-Stevenson and her team had been very helpful in maintaining consistent outreach and communication; that a open house was held the past Friday, July 17, 2026, from 2:00 p.m. to 4:00 p.m.; that there was a great turnout; that Dr. Marshall agreed to enhance the site, the aesthetics of the site; that he engaged a traffic engineer to provide information regarding traffic at the public hearing, and in the future; that Dr. Marshall was willing to talk through contributions to road maintenance; that she was confident that she and Mr. Hutt, Esq. could work through that together; that Dr. Marshall had provided additional on-site parking; that he was willing to add more on-site parking; that he had adjusted some of his programming to remove Isish Dance; that some people were concerned about the noise of the prior use on the site; that Dr. Marshall also offered a 10% membership discount to community residents for the proposed facilities; that he was agreeable to reasonable infrastructure improvements, including contributing to the repair of the road, landscaping upgrades, and installing screening where appropriate; that Dr. Marshall was offering the new pool, despite it financially being a total loss for him; that she appreciated that all residents may not support the proposal, however the reality was that the facility had always existed and residents should have been aware of its presence; that it was really troubling to think that some voices, which are a minority, could shut down the proposal; that many in the community, not only within the Plantations, but in the broader Sussex County community, rely on, and enjoy the use; that it was worth considering the implications of allowing those who wish to see Dr. Marshall fail, to dictate the future of the community facility, especially after it was partially destroyed due

to a devastating fire; that in many communities, amenities of this nature, come with substantial amenity fees; that this facility was an affordable recreational resource that serves both the community and the broader public, being a staple for the area; that many within the community know the value Dr. Marshall had brought to the community, showcased in numerous letters of support; that one general letter captured the essence of what the organization meant; that it stated that the organization served the community, and the proposal would better meet the current needs, including indoor, not outdoor, pickleball courts, expanded parking, and a community pool; that importantly the proposed footprint is smaller than the prior facility; that the letter also emphasized the professionalism and smooth operation during events, even major tournaments, minimizing traffic congestion and parking challenges; that the facility had also supported numerous non-profits and charitable causes previously mentioned; that one proponent of the application. Mr. Leon Robinson wrote *“Today more than ever in the community mobile device world, we have now become a place like Dave Marshall Tennis and Pickleball facility update, expanded and improved is what people need. It would be able to serve even more members of the community, as well as creating a first-class visitor destination that uplifts and supports the entire area. Dr. Marshall is not just a coach or business owner. He’s a father of two, and a mentor to many youths that have come to his facility”*; that a letter submitted by Mr. Bob Bryan, Captain of the United States Davis Cup Team, underscored the importance of community facilities for family and children, emphasizing their roles in promoting healthy lifestyles, and community connections, stating *“Facilities like Dave’s are important community assets. They provide children with a place to learn, families with a place to spend time together, and adults and seniors with opportunities to stay active, health, and connected. They also attract visitors from throughout the region, supporting local restaurants, hotels, and businesses while contributing to the local economy.”*; that Ms. Sindelar request to submit additional letters of support received from residents in the community, as well as some of the information handed out at the open house that succinctly summarized and highlighted a lot of what was covered during the current public hearing, but much more abbreviated; that she requested the Commission’s recommendation of approval, subject to reasonable conditions; that should the application be approved, they were open, willing and able to continue work with the residents as plans move forward to address their concerns, and she was confident that all concerns could be addressed through imposition of conditions or in the form of an amendment to the previously mentioned agreement.

Mr. Collins stated that in general, the Commission was very supportive of businesses and providing recreational facilities for a wide variety of different types of activities for the citizens of the County, and certainly within the resort area; that at the same time, he expressed concerns regarding the traffic counts that the Plantations already had, as he felt they were pretty terrible; that he believed, on any given weekday, especially during the summer season, but even in the off seasons, traffic was becoming very difficult; that he had visited the site, at which time he had to wait approximately nine minutes to make a left turn to exit; that he requested additional insight to the difference of traffic, and that he understood DelDOT had indicated that the proposal would not provide a significant impact, however, the citizens of Sussex County did not seem to believe that.

Mr. Hughes stated that he felt the key thing to remember was that there was a building existing before; that the previous building was larger; that the previous building was destroyed by a fire, and replaced with a smaller building; that the proposal went to DelDOT, where they basically had indicated that based on the MOU (Memorandum of Understanding) of the different levels, the proposal would be fewer than a 50 trip increase, and would actually be considered a decrease.

Mr. Allen questioned whether the vehicle trip calculation would be considered by membership more so that the building size.

Mr. Hughes stated that DelDOT's traffic counts were based on the square footage of the buildings; that this was generally the calculation uses; that every application is required to be submitted to DelDOT for a Service Level Evaluation Request (SLER); that DelDOT's response was their words, not his; that DelDOT determined the proposal was an increase of less than 50 trips, which designated the application as a diminutive impact; that DelDOT was also provided the Site Plan, which is considered for entrances purposes, not just over all traffic; that DelDOT responded with a Letter of No Impact; that building size generally provides the most data, and that was generally what was used.

Mr. Collins questioned whether tournaments were part of the prior Conditional Use.

Ms. Sindelar stated that they used to have tournaments under the previous Conditional Use, and tournaments were currently ongoing.

Mr. Collins questioned how frequently the tournaments were held and questioned whether the Applicant would be willing to accept an imposed condition limiting the number of tournaments to be held per year.

Mr. Dave Marshall stated that currently a tournament is held every month; that they no longer offer Pilates, which created 20 to 30 people every hour; that Pilates was held in the back building; that the gym was gone, which had about five to 10 people at one time; that there was a counseling business; that the pickleball building would have five courts, and five courts multiplied by four people, equaled a total of 20 people.

Ms. Sindelar stated that Dr. Marshall's calculations were where Mr. Hughes' trip generation numbers came from, and there was a lot of very detailed traffic and trip generation numbers provided that supported Mr. Hughes' presentation.

Madam Chair Wingate stated that what the Commission may be seeing regarding the traffic impact may be from all the other projects.

Mr. Collins stated that he felt there was an opportunity for DelDOT to place another roundabout.

Mr. Hughes stated that a roundabout was about to be constructed; that the proposed roundabout would alleviate making a left-hand turn, whether one was coming out of the tennis courts or from Orton Circle, and one would only be able to make a right turn.

Mr. Pettyjohn questioned whether summer camps were provided for children who do not drive.

Mr. Marshall stated that they just had a summer camp, where 40 children attended and they were dropped off.

Mr. Pettyjohn questioned whether there was a drop-off plan, whether there was a back-up plan, and whether there was a fire lane required.

Mr. Marshall stated that they annually hold a weeklong camp, being the Gaby & Dave's Annual Tennis Camp, provided by himself and Madison Brengle's mother; that it is a sleepover camp; that they rent condos, and it was not an everyday drop off in the morning, pick up in the afternoon situation.

Mr. Savage stated that buildings of 10,000 square feet or more trigger the fire lane requirement; that he assumed the buildings were previously approved by the Fire Marshal, back in 1985; that the proposed building was smaller than 10,000 square feet; that they will need to submit their Final Site Plan to the Fire Marshal for approval; that there was discussion regarding reducing the lane coming in; that he felt the one way would be fine, however, he would not suggest going with a smaller width on both as the width would be needed for a fire lane and fire apparatus; that all the lanes are typically designed to be 24 feet wide; that the Fire Marshal would contact them with any questions; that if flipped, one would be required to drive around the building to get into the parking located in the middle of the site; that the felt their proposed configurations were best for moveability.

Mr. Pettyjohn questioned whether parking space was currently being rented to the development.

Ms. Sindelar stated that parking space was not currently being rented to the development; that the annual maintenance fee was in connection with the easement agreement, having nothing to do with any exterior spaces, and was only for the road in and road out, more or less; that Mr. David Hutt, Esq. had much more knowledge regarding the historical dispute, and the resultant easement agreement, and they were in current discussions about possible changes to the easement agreement.

Mr. Collins questioned whether the Commission could require the agreement to be updated prior to the potential Final Site Plan review, in an effort to ensure that any updated contribution amounts or similar was all worked out between the homeowner's association and the Applicant's organization.

Ms. Sindelar stated that as it stood today, she was not comfortable with Mr. Collin's proposed condition; that she needed to work with Mr. David Hutt, Esq.; that she had only received the information from him earlier that morning; that she had not had an opportunity to vet or review the provided information; that currently, she considered the proposed condition unreasonable, however, she could not say it would not happen, and currently it required further review.

Mr. Jamie Sharp questioned the number of tournaments, whether the Applicant was willing to condition the number of tournaments per year, and whether vendors or food trucks were proposed for the tournament events.

Madam Chair Wingate stated that the Applicant proposed 12 to 15 tournaments annually, as 12 tournaments were currently being held annually.

Mr. Marshall stated that the only time they brought in food trucks was for first responders; that Kyle Schaefer had brought in food trucks to feed the people themselves; that this was part of a charity

tournament where they had donated their facility to the Schaefer Foundation for first responders; but otherwise, they do not do food trucks.

Ms. Sindelar stated that if there was any example of a situation of an exception to that rule, they had discussed applying for a Sussex County Special Event through the Special Even application process.

Mr. Sharp questioned whether there were any specific grant requirements, specific to the tournament; that he understood there was previous reference to the Delaware Sports Tourism but questioned whether there were limitations based on that with a directive to have more outside people using the facility than people perhaps within the Plantations or the surrounding area.

Mr. Marshall stated that the tournaments would have less people over the weekend that the current number of people; that the difference was that people from the community pay \$8.00; that when people from the outside come, they were paying a much higher fee, because they are playing a tournament versus a community drop-in, and there would be less people throughout the three days than there would be each day.

Mr. Sharp questioned whether it was safe to state that the primary use of the additional facility, including the pool, would mainly be for the residents of the Plantations and the community surrounding it, and requested a percentage estimate of memberships from residents of the Plantations.

Mr. Marshall stated that the pool would 100% be for the community of the Plantations; that he did not know an estimated percentage of Plantation residents with memberships; that there were at least 10 to 15 tennis players located on both side; that there was a good amount, but he was unsure of an exact number; that there were more Plantation resident memberships when there was a gym, Pilates, and a pool, but they had not had those things for two years.

Mr. Sharp questioned whether there were hopes to build those things back up for the residents of the Plantations.

Mr. Marshall stated that he was absolutely planning to provide the pool; that he hoped to bring back the gym and the courts; that it was a win-win for the amenity of a pool for the people who live there; that he believed there had been historical studies stating that where there is a pool, property values rise; that there were two sides to every issue; that everyone needed to look at it as a neighborhood, and for people who are renting, where there is no pool, people would not want to go there.

Mr. Sharp stated that there were multiple comments both in support and in opposition, however, there was a comment submitted regarding access pathways for residents of the Plantations, and questioned whether good, navigable pathways, via foot or bike, would be provided.

Mr. Marshall stated that there would be access provided; that residents would be able to walk over the berm on the side, by the back tennis courts; that residents could walk through the grass field, where the parking lot used to be located; that the new pool would be in front of the old pool house; that they were able to save that from the fire; that residents would not have to walk on the road where the circle is; that

there were no sidewalks provided within the Plantations community, and there were sidewalks provided on the subject site.

Mr. Sharp stated that he had noticed in the 2013 maintenance agreement, it talked about the maintenance fee that Mr. Marshall paid for contributions; that he questioned whether he had been making those contributions; that there was a note that stated unless there was a change in use; that it appeared that maybe there had been some preliminary discussions with the HOA about that, and whether the proposed use would constitute as a change in use under that prior agreement, and he questioned whether they had discussions with the HOA regarding this.

Mr. Marshall stated that he had been making those contributions; that Mr. David Hutt, Esq. had gotten back to Ms. Sindelar, Esq. earlier that morning; that there were different points that they had been going back and forth on; that they had been in discussions with the Board for the past five to six months in an effort to move forward, and there was an open line of communication.

Mr. Sharp stated that within the submitted written comments, a question was brought up regarding the TIS (Traffic Impact Study), and he questioned, regarding trip generation, whether DelDOT's Service Level Evaluation Response considered when the clubhouse was in existence, to what was being proposed currently.

Mr. Hughes stated that with DelDOT, anything that existed within the last three years was considered existing; that he did not believe DelDOT provided any specific numbers within their letter; that DelDOT had stated that it was an increase of less than 50 vehicle trips per day; that per the regulations, if it was existing three years ago, they considered it existing; that therefore, DelDOT would have been comparing the existing facility, which existed within the last three years and before the fire, to what was currently being proposed; that the total square footage was 40,011 square feet, including everything but the storage building; that 36,000 square feet was being proposed, resulting in a 3,999 square foot decrease than what existed and burnt down.

Mr. Sharp questioned how long the tournaments were proposed to be.

Mr. Marshall stated that the tournaments were over three days, consisting of Friday, Saturday and Sunday, resulting in 45 days a year.

The Commission found that Mr. David Hutt, Esq. with Morris James, LLP spoke on behalf of the Plantations Condominium Association, Inc., as well as the Plantations Property Owners Association, Inc., being the two associations that govern the Plantations Residential Community within which the subject site currently lies. Mr. Hutt stated that the associations were neutral on the application; that the associations have left support and opposition up to the individual residents of the community, that the Planning Commission essentially had two options, being recommended approval or denial of the application; that should the application be recommended for approval, there would certainly be conditions placed on that approval; that as a matter of prudence, in the case the Planning Commission ultimately recommended approval of the application to County Council, he would conclude his presentation with some recommended conditions that would be important to protect the existing

residents of the Plantations community; that §115-118 states the purpose of the RPC (Residential Planned Community) District, was to encourage large-scale developments as a means of creating a superior living environment through unified developments and to provide for the application of design ingenuity, while protecting existing and future developments; that his proposed conditions were intended to protect existing developments; that in this case was 231 residents within the Plantations; that Ms. Sindelar has presented some history regarding the Plantations; that the RPC was adopted in August of 1985 as Ordinance No. 294; that as referenced, there were no Conditions of Approval on Ordinance No. 294; that within the Ordinance, there were three facts found, which basically stated that there was going to be an RPC; that the other historical document that was referenced during the presentation was a portion of the declaration that created the community, being an 11 page document; that the Commission saw the provisions presented earlier, regarding what was referred to as the recreational property in that document; that he would submit that one of the things that had led to the consternation that had existed historically as represented by the litigation which was referenced, was that there was a shift in time over the use of that; that typically, when one sees a recreational facility, one sees a pool or a pool house within a community, which is thought of as the community amenity; that the Declaration supports that and even states it; that Article 3 states that every owner of the condominium unit lotter improvement upon payment of the fees established by the developer, has a right of enjoyment in and to the recreational property and recreational facilities; that over time, that went from being a community facility and amenity, to pretty much a wholly commercial enterprise, situated in the middle of the community; that there are some residents who pay the fees and participate in that, however, it was not connected like one would typically think of regarding a community pool or community clubhouse; that the original declaration had a Right of First Refusal for the Property Owners Association, to be able to purchase that property of a little over four acres located within in the middle of the Plantations; that very curiously, within three years of the developer putting that declaration of record, they sold it to a third-party entity, which happened to be owned by the developer; that the developer essentially extinguished the right of First Refusal on their own; that the RPC would not be the same if it were enacted today; that the current Delaware Uniform Common Interest Ownership Act would stand in the way of that type of activity occurring; that he wanted to focus on protecting the existing community, which was part of the RPC Code; that in this case, it was the 231 property owners who would be the most impacted; that every time a person wants to visit the site, they would be required to drive through the gated access of the Plantations community to get there; that sometimes when there is an RPC with a commercial component, the commercial component would be located on the road and other than any interconnectivity that exists between the residential use and the commercial use, they are not necessarily tied together; that the three parties, being both associations and Sandie, LLC are very tied together, as one can see from the Site Plan; that many concerns had been expressed regarding traffic and parking; that secondly, concerns had been expressed regarding the construction process itself; that other expressed concerns were regarding the nuisance factors that happen anytime commercial and residential are combined and located right next to each other; that another concern was regarding landscaping; that the primary concern was that of parking and traffic; that regarding construction, one of the primary concerns was that the only entrance was located down Plantations Boulevard through the gated access to the community; that if the application were more of a typical fashion, there would be a construction entrance for all construction equipment, so that it would not travel down a finished road within the community; that there was concern regarding the impact of construction on the residents of the community, regarding the hours of operation; that the construction could create dust and trash from dumpsters; that these issues would be a great inconvenience to what

was a very existing and mature community; that other concerns related to noise, headlights of people parking at the facilities, and hours of play; that he believed everyone knew and appreciated how well landscaped and maintained the Plantations community was; that concern was expressed that the commercial use would need to be required to reflect that in its Landscape Plan; that a good example of the communication that had already occurred between the Applicant and the community was the Landscape Plan Ms. Sindelar presented to the Commission; that the proposed Landscape Plan was an attempt to be responsive to some of the concerns that had been raised to Sandie, LLC; that the plan was reflective of the existing landscaping within the Plantations already; that should the application be acted on favorably, the Associations would request that a condition requiring landscaping to continue back, so that the commercial site, within the Plantations, would have the same cohesiveness, with respect to landscaping; that Ms. Sindelar did share her client's proposed conditions with him in advance of the hearing, so that he could share them with the Property Owners Associations; that he requested to submit a markup of those conditions; that the new conditions had not yet been shared with all of the Homeowners Association members; that the Board was neutral to the application; that should the Commission act favorably on the application, those were the types of conditions that would protect the residents of the community; that the first item was that the language being heard about tennis, pickleball and the outdoor swimming pool was too broad; that recreational facilities and amenities could accompany or describe a number of things; that they would like it to get down to what those uses will be; that he refined the hours of operation to add a time period for the activities; that the Applicant proposed 6:00 a.m. to 10:00 p.m.; that with respect to someone playing sports or participating in swimming, that the time be between 7:00 a.m. to 9:00 p.m.; that this left a little room on either side, for the Applicant to prepare courts or do whatever necessary to begin and end a day; that the second one was additional, which stated that all pickleball courts play and events will be indoors; that he believed that condition was proposed by the Applicant; that pickleball had become a very controversial sport; that he believed if the play was indoors, a lot of the controversy would be diminished; that the third proposed condition related to the water surface area of the pool; that a 3,500 square foot pool was proposed, being an attempt to get back the pool that previously existed on the site; that there would also be a time frame for construction, similar to what the Commission would generally impose, or what the Code currently states regarding when amenities needed to be constructed; that the proposed condition would have a requirement that the pool construction would be completed within six months from the date of Final Site Plan approval; that the fourth condition was one proffered by the Applicant, being that after completing construction of the new facilities, to include the pickleball center, swimming pool, and parking areas, and within six months thereof, that Plantation Boulevard would be milled and overlaid throughout that process; that the existing Cross Access Easement and Maintenance agreements shall be update to reflect the permitted use; that propose Condition No. 6 there was an addition to the parking being marked with respect to which direction the travel would go; that there was a proposed condition that there would be a one-way flow of traffic to and from the circle at the end of Plantations Boulevard; that it was important, as there are people who try to go the wrong way; that signage or anything that could be done in order to make sure there is an orderly flow of one-way traffic into and out of the site would be very helpful; that proposed Condition No. 7 provided additional language regarding landscaping; that there was language about being consistent with the existing plantings in the adjacent Plantations Residential Community; that the largest area of addition to that talks about the northern boundary of the property, which was the location of the new parking area; that there would be a continuous border, whether it is vegetation or fencing, be installed along the parking perimeter to separate the area from the residential area located

immediately adjacent to it; that there was a height limit stated, because of the current height of the Plantations greenery; that six feet would be the maximum height that would work underneath that to fill that in; that the Applicant proposed signage regarding designation for parking spaces; that they request the Commission review a Signage Plan regarding entry and access, ingress, and egress to and from the site; that proposed Condition No. 10 mentioned a speed bump being installed; that it related to the entrance seen on the far right side, into the parking lot from the time one leaves Plantation, the circle or roundabout through the parking lot is a long straight road or drive aisle; that when there is a long, straight road in front of someone, they naturally go faster; that the placement of a speed bump or speed hump would provide some traffic calming measure to discourage that type of activity; that the last two proposed changes were regarding any trash receptacles or dumpsters are screened from the adjacent property lines; that with respect to the earth tone colors, there was proposed language to add that they be consistent with the color palette that was already within the adjacent residential community; that his comments were not intended as support or opposition, and should the Planning Commission act favorably on the application, to consider the proposed changes to those conditions as there were things that would help protect the existing residents of the community.

Mr. Sharp stated that he had previously questioned Ms. Sindelar about the Maintenance Agreement, and he questioned whether it was the HOA's position that would need to be amended should the application be approved.

Mr. Hutt stated that it would be the HOA's position that the Maintenance Agreement would need to be amended should the application be approved, and as Ms. Sindelar had stated, discussions had already begun with respect to that amendment.

The Commission found that there were six people present who wished to speak in support of the application, and there were 15 people present who wished to speak in opposition to the application.

The Commission found that the following people spoke in support of the application: Ms. Maria Francu, Mr. Christopher Pajak, Mr. Frank Fumagalli, Ms. Robin Verdery, Ms. Laurie Bronstein, and Ms. Megan (Margaret) Rice, on behalf of the non-profit, First State Pickleball Club.

The Commission found that the following people spoke in opposition to the application: Mr. Arthur Garcia, Mr. Dino Costas, Ms. Kathy (Kathleen) Tyler, Ms. Jeanmarie Dolan, Mr. Lawrence Mullen, Ms. Emily Wheatley, Mr. Jim Anderson, Ms. Diana Sampayo, Mr. Ryan Cox, Ms. Susan Towers, Mr. Rob Goldberg, Ms. Carrie Anderson, Ms. Billie Travalini, Mr. Duane Arnold, and Ms. Susan Gilbert.

Madam Chair Wingate questioned whether any consideration had been given regarding a separate permanent entrance to the commercial facility.

Mr. Savage stated that he had not considered anything other than the application and Site Plan currently before the Planning Commission; that larger improvements would require a lot more requirements from DelDOT, as well as a lot more stormwater management, and it would take the current application from basically a replacement type project, to something that would create a much larger impact on not only the Plantations community, but the surrounding properties as well.

Mr. Collins questioned whether any disclosures that had been made to buyers in the past regarding the status of the property, and what it could be used for, be placed into the record to help build the record regarding the awareness or not to the residents regarding how the property could be used.

Ms. Sindelar stated that those disclosures were already within the record; that the provided disclosures included the declaration, and the ads, which were included within her PowerPoint presentation; that she was unsure if the submitted information was provided within the disclosures when buying; that she was unsure how she would come by that information, and she and Mr. Hutt could potentially have conversations regarding those documents.

Ms. Sindelar spoke as part of the permitted five-minute rebuttal period. Ms. Sindelar stated that their team take years to pull together applications, as it was an iterative process; that the process requires the application to go through various different iterations of plans that are informed by public comments and meetings with members of the public; that she could not speak to the why some members of the public and the community were not able to access the information; that this application had engaged a professional relations person, who was responsible for communications which were communicated to the Board; that they had met with Board members, as well as with some people who opposed; that from her perspective, they worked really hard to engage with the public; that the grant information was included within the material; that it was not a secret; that the information was included in their application material, which was included in the public record; that they focus on all the details; that they had a team of credentialed professionals, including engineers, specifically civil engineers, and traffic engineers who took a lot of time and effort to go through the plans to make sure that they were well adjusted to the community; that as she represented, they were willing to work, and continue to work with the community and Mr. Hutt, Esq. to make sure they get it right; that they believed all issues mentioned during the hearing could be addressed in the form of reasonable conditions, and therefore, they would request for a recommendation of approval accordingly; that for clarification, referencing minor versus major support of the project, she was specifically referring to the hundreds of letters and signatures that were on the public docket that overwhelmed the number of opponents; that her statement was substantiated, and she requested to hand over her remaining time to Mr. Hughes, to provide clarification regarding traffic points.

Mr. Hughes spoke as part of the remaining permitted five-minute rebuttal period. Mr. Hughes stated that someone had previously stated that there would be no more than 50 players on the site per day; that what the Applicant had stated was that there would be no more than 50 players on the site at one time; that the per day traffic information provided clearly showed that there would be over 500 cars per day for the daily use; that DelDOT's Plantation Road Project was proposed to include a roundabout; that the site was located within the DelDOT Henlopen TID (Transportation Improvement District); to return to Mr. Allen's questioned regarding the square footage based on the daily use of the recreational center, the pickleball courts were based on 17; that it was based on courts, not square feet; that he had previously overstated the traffic counts for residential use; that the 200 single family units would be about 2,000; that the 200 multi-family condo units versus 32 single family units, which equated to a total of 1,537 ADT; that when one totaled the 1,055, it equaled 2,592; that this equated to a 40-60% split regarding the traffic; that the possible speed hump was a Site Plan issue that they could work out; that he could not recall where he had seen one placed in a parking lot; that he would assume everyone would prefer a speed hump over

a speed bump, as there definitely would be noise associated with speed bumps, and generally with sporting events, located on the website, there are parking maps provided to indicate where participants are permitted to park.

Mr. Sharp questioned whether there would be any outside loudspeakers or any similar devices proposed as part of the application, and when considering the pool and the tournaments, he questioned how parking was envisioned and would interplay with those using the pool.

Mr. Marshall stated that no loudspeakers were proposed as part of the application.

Ms. Sindelar stated that what was designed on the site was in compliance with the Code; that there was enough parking available to accommodate the usage on the site; that the breakdown of how the numbers were calculated were located in the Site Data Column; that for anyone opposed, they were available to speak with them; that she felt if they could sit down, they would be able to explain, as some of the information was really hard to understand, and they were happy to meet with anyone who wanted to meet and discussed the application.

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

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

In relation to C/Z 2061 Sandie, LLC. Motion by Mr. Collins to defer action for further consideration, seconded by Mr. Passwaters and carried unanimously. Motion carried 5-0.

Minutes of the August 5, 2026, Planning & Zoning Commission Meeting

Mr. Robertson recused himself and left Council Chambers.

Mr. Jamie Sharp, Assistant County Attorney entered Council Chambers in Mr. Robertson's absence.

The Commission discussed the application which had been deferred since July 22, 2026. As Mr. Collins was not present at the meeting, the Commission discussed the potential for action on the application at the next meeting.

In relation to C/Z 2061 Sandie, LLC. Motion by Mr. Allen to defer action for further consideration, seconded by Mr. Passwaters, and carried unanimously. Motion carried 4-0.

PLANNING & ZONING COMMISSION

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



Sussex County

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DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: July 22nd, 2026
Sussex County Council Public Hearing Date: August 11th, 2026

Application: C/Z 2061 Sandie, LLC (The Plantations MR-RPC)

Applicant: Sandie, LLC
P.O. Box 1472
Bethany Beach, DE 19930

Owner: Sandie, LLC
P.O. Box 1472
Bethany Beach, DE 19930

Site Location: The property is lying on the south side of Plantations Boulevard within The Plantations Residential Planned Community (RPC). The request is to amend the Residential Planned Community (RPC) overlay by amending the Conditions of Approval for Change of Zone No. 673 (Ordinance No. 294) and to add additional recreational facilities and amenities to the Recreational Area for public access.

Current Zoning: Medium Density Residential, Residential Planned Community (MR-RPC) District

Proposed Zoning: Medium Density Residential, Residential Planned Community (MR-RPC) District

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: District 3– Ms. Gruenebaum

School District: Cape Henlopen School District

Fire District: Lewes Volunteer Fire Department

Sewer: Sussex County (Central Sewer)

Water: Tidewater Utilities, Inc. (Central Water)

TID: Henlopen Transportation Improvement District

Site Area: 4.29 acres +/-

Tax Map ID: 334-6.00-553.02





Memorandum

To: Sussex County Planning Commission Members
From: Mrs. Lauren Cecchine, AICP, Planning & Zoning Manager
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: Monday, May 19th, 2026
RE: Staff Analysis for C/Z 2061 Sandie, LLC MR-RPC

This memo is to provide background and analysis for the Planning Commission to consider as a part of Application Change of Zone No. 2061 Sandie, LLC MR-RPC to be reviewed during the Wednesday, July 22nd, 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: 334-6.00-553.02

Proposal: The proposal is for a Change of Zone from a Medium Density Residential, Residential Planned Community (MR-RPC) District to a Medium Density Residential, Residential Planned Community (MR-RPC) District. The request is to amend the Residential Planned Community (RPC) overlay by amending the Conditions of Approval for Change of Zone No. 673 (Ordinance No. 294) and to add additional recreational facilities and amenities to the Recreational Area for public access (to include a tennis and pickleball facility).

History of The Plantations RPC & Application Site: The Plantations is a Residential Planned Community (RPC) that was established through Change of Zone No. 673 for a Change of Zone from Medium Density Residential (MR) District to a Medium Density Residential, Residential Planned Community (MR-RPC) District. The Planning and Zoning Commission recommended approval of the Application at their meeting of Thursday, May 16th, 1985. Additionally, the Sussex County Council approved the Application at their meeting of Tuesday, August 27th, 1985, and the change was adopted through Ordinance No. 294 based on three (3) Findings of Fact.

Staff note that the Plans are being revised with the pole building and five (5) outdoor pickleball courts being constructed in place of the previously approved “clubhouse” building and in-ground pool shown on and recorded at Plot Book 187, PG 85. Aerial imagery of the subject site confirms that the existing in-ground pool was removed on or around 2009. The clubhouse building was destroyed in an unexpected fire occurring on or around January of 2024 and was never reconstructed on the Site.

Zoning: The subject property is zoned Medium Density Residential, Residential Planned Community (MR-RPC) District. The Parcels which comprise the existing Plantations Residential Planned Community (RPC) are also zoned Medium Density Residential, Residential Planned



Community (MR-RPC) District. Staff note that the Parcels to the east and west of the subject Site are also zoned Medium Density Residential (MR) District as well as the Plantations East and Sandy Brae subdivisions located on the opposite side (north side) of Plantation Road (Route 1D).

There is one Parcel located at the southeast corner of Cedar Grove Road (S.C.R. 283) and Plantation Road (Route 1D/S.C.R. 275) which is zoned Neighborhood Business (B-1) District. This Parcel has an approved Conditional Use (Conditional Use No. 1848) for a Business/Office Complex which was approved in 2010 that appears to have expired.

There is a 600-ft area on either side of Route 1 to the north of the property which is zoned General Commercial (C-1) District as Route 1 is a commercial corridor with a variety of commercial, business and residential uses.

Further Site Considerations:

- **Density:** Staff note that the existing Recreation Area is delineated to be approximately 4.512 acres on the latest Declaration Plan of record which was recorded in the Office of the Recorder of Deeds on 12/12/1986 at PB 36, PG 96. A corresponding and related Easement Survey Plan was recorded in the Office of the Recorder of Deeds on 7/31/2013 at PB 187, PG 85. The County's Online Mapping System notes that the current size of the Parcel is approximately 4.31 acres.

The Declaration Plan appears to indicate that there are 8 units per multifamily structure with twenty-five (25) multifamily buildings to be proposed. Thus, there appear to be approximately 200 multifamily units. There are also 32 single-family lots within the RPC. Therefore, the total unit count for this portion (on the south side of Plantations Road) of the Residential Planned Community (RPC) is approximately 232 units.

- **Open Space Provisions:** N/A
- **Agricultural Areas:** The project is located in proximity to Agricultural Preservation Districts or Agricultural Preservation Easements and lands that are not within either of these designations but appear to be actively farmed. This includes the adjacent Tax Parcel ID: 334-12.00-6.04 to the southeast of the project Site. Therefore, the south side of the RPC would require a 50-ft buffer for all residential uses as outlined in §99-6(G)(2) of the Sussex County Code.
- **Interconnectivity:** Staff note that there is existing interconnectivity with existing private roads within the Residential Planned Community off of Plantations Boulevard via Pennsylvania Avenue.
- **Transportation Improvement District (TID):** The subject property is located within the established Henlopen Transportation Improvement District (TID).
- **Forested Areas:** Staff note that there is an existing buffer on the south side of project Site and along the adjacent Parcel (Tax Parcel ID: 334-12.00-6.04).

- **Wetlands Buffers/Waterways:** Staff note that there do not appear to be any wetlands present on the Parcel and the areas on the County's Online Mapping system containing FirstMap Data noting "Terrene Wetlands," are indicating the location of existing stormwater management ponds on either side of Pennsylvania Avenue.
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** Staff note that the Property is located within Flood Zone "X" - Areas Determined to be outside of the 100-year flood. Staff further note that there are no Tax Ditches or related Tax Ditch Rights-Of-Way (ROW) on the property. Staff note that there is a Wellhead Protection Area on the Property and that any new improvements will have to comply with the provisions of §89-6 (Ordinance No. 1979) the "Source Water Protection" Ordinance relating to proposed impervious cover percentage maximums. The Site is also located within an area of mostly "Good" with a small portion of Fair" Groundwater Recharge Potential per available FirstMap Data from the Delaware Geological Survey (DGS). Exhibit "A" below shows the nature of the Wellhead Protection Area on the Property.

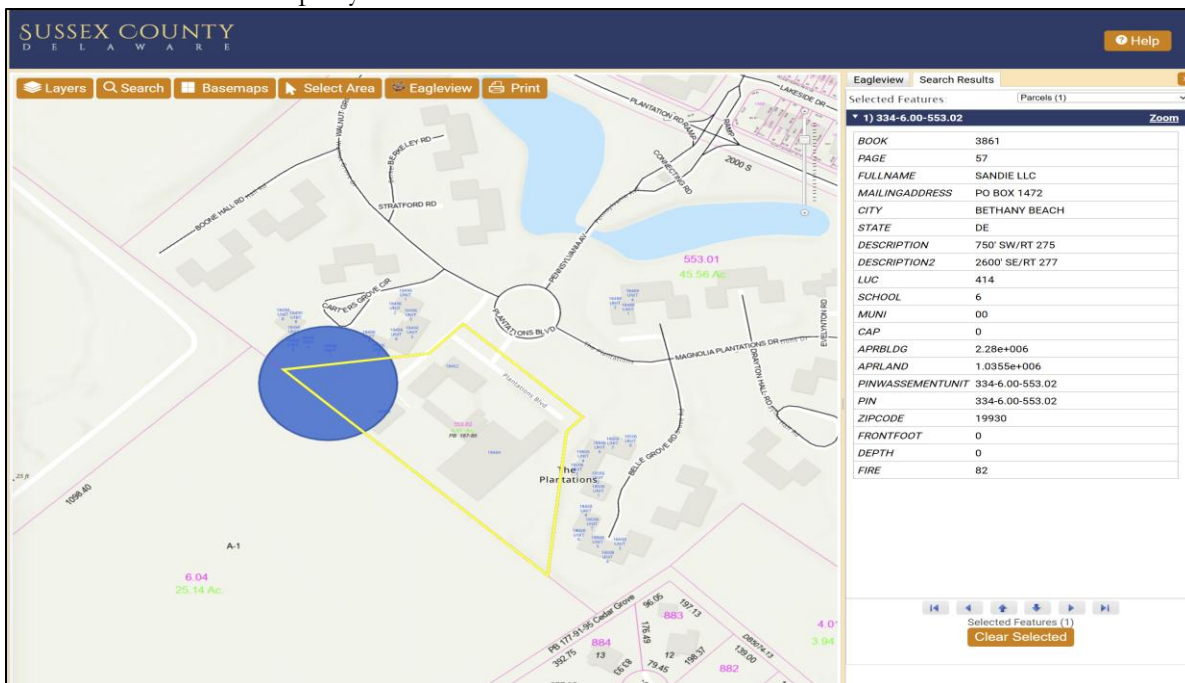


Exhibit "A" – Wellhead Protection Area on the Subject Property

Future Land Use Map Designation w/in Comprehensive Plan: The Property is located within and has a Future Land Use Map (FLUM) designation of "Coastal Area." The "Coastal Area" is one of the County's seven (7) designated Growth Areas and, *"this region is among the most desirable locations in Sussex County for new housing"* as well as *"contains ecologically important and sensitive characteristics"* (2018 Sussex County Comprehensive Plan, 4-15). The Plan further notes that, *"Coastal Areas are areas that can accommodate development provided special environmental concerns are addressed"* and *"a range of housing types should be permitted in Coastal Areas, including single-family homes, townhouses, and multi-family units"* (2018 Sussex County Comprehensive Plan, 4-15).

Additionally, the Plan notes, “*Appropriate mixed-use development should also be allowed. In doing so, careful mixtures of homes with light commercial, office and institutional uses can be appropriate to provide for convenient services and to allow people to work close to home*” (2018 Sussex County Comprehensive Plan, 4-15).

Applicability to Comprehensive Plan: Table 4.5-2 “Zoning Districts Applicable to Future Land Use Categories” of the Plan notes that the Medium Density Residential (MR) District is an applicable Zoning District within the “Coastal Area” (2018 Sussex County Comprehensive Plan, 4-25).

Existing Change of Zones within the Vicinity of the Subject Site: A Data Table and Supplemental Map have been supplied which provide further background regarding the approval status of Applications in the area including the location of all other Change of Zone Applications that are within a 1.5-mile distance from the subject site. This information has been included as part of Exhibits “B” and “C” below.

Of those Change of Zone Applications w/in a 1.5-mile radius of the Application Site, the following decisions were previously made by the Sussex County Council:

- **There were six (6) Applications within a 1-mile radius of the Application Site.**
- **Of those three (3) Applications:**
 - **All four (4) Applications were approved by the Sussex County Council.**
 - **One (1) Application was denied by the Sussex County Council.**
 - **One (1) Application was withdrawn by the Applicant.**

Based on the analysis of the land use, surrounding zoning and uses, a Change of Zone to allow for a Change of Zone from a Medium Density Residential, Residential Planned Community (MR-RPC) District to a Medium Density Residential, Residential Planned Community (MR-RPC) District to amend the Residential Planned Community (RPC) overlay by amending the Conditions of Approval for Change of Zone No. 673 (Ordinance No. 294) and to add additional recreational facilities and amenities to the Recreational Area for public access (to include a tennis and pickleball facility), subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.

Change of Zone Applications w/in a 1.5-Mile Radius of the Application Site (Since 2022)									
Change of Zone No.	Applicant	Tax Parcel ID	Zoning	Proposed Zoning	Planning & Zoning Recommendation	P&Z Decision Date	Sussex County Council Decision	CC Decision Date	Ordinance No.
1388	Donald A. Wagner	334-6.00-58.00	AR-1	C-1	Recommended Denial	10/28/1999	Denied	11/16/1999	N/A
1780	Lockwood Design	334-12.00-127.02	AR-1	HR-1-RPC	Recommended Denial	9/24/2015	Withdrawn	11/17/2015	N/A
1818	Ocean Highway, LLC	334-6.00-497.08	AR-1	C-1	Recommended Approval	4/6/2017	Approved	5/23/2017	2497
1832	MDI Investment Group, LLC	334-6.00-511.00	AR-1	MR	Recommended Approval	12/14/2017	Approved	3/20/2018	2565
1835	HKLS, LLC	334-12.00-51.00	AR-1	B-1	Recommended Approval	12/21/2017	Approved	1/9/2018	2546
1854	Ferguson Enterprises, Inc.	334-5.00-139.00	AR-1	C-1	Recommended Approval	8/23/2018	Approved	9/11/2018	2598

Exhibit “B” – Change of Zone Applications w/in a 1-Mile Radius of the Application Site Data Table

Since 2022

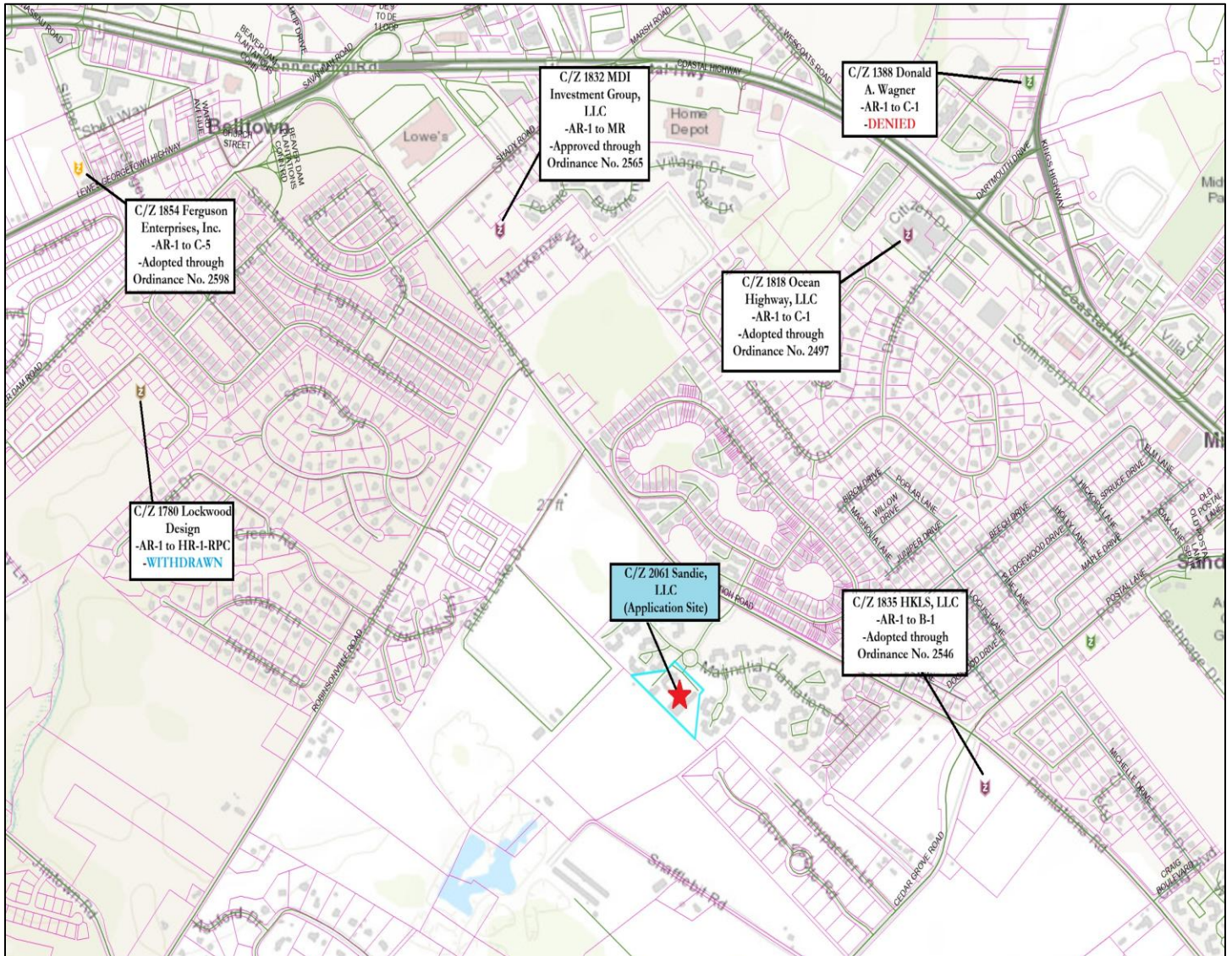


Exhibit “C” – Change of Zone Applications w/in a Vicinity of the Project Site



A3 Landscape Parcel Details

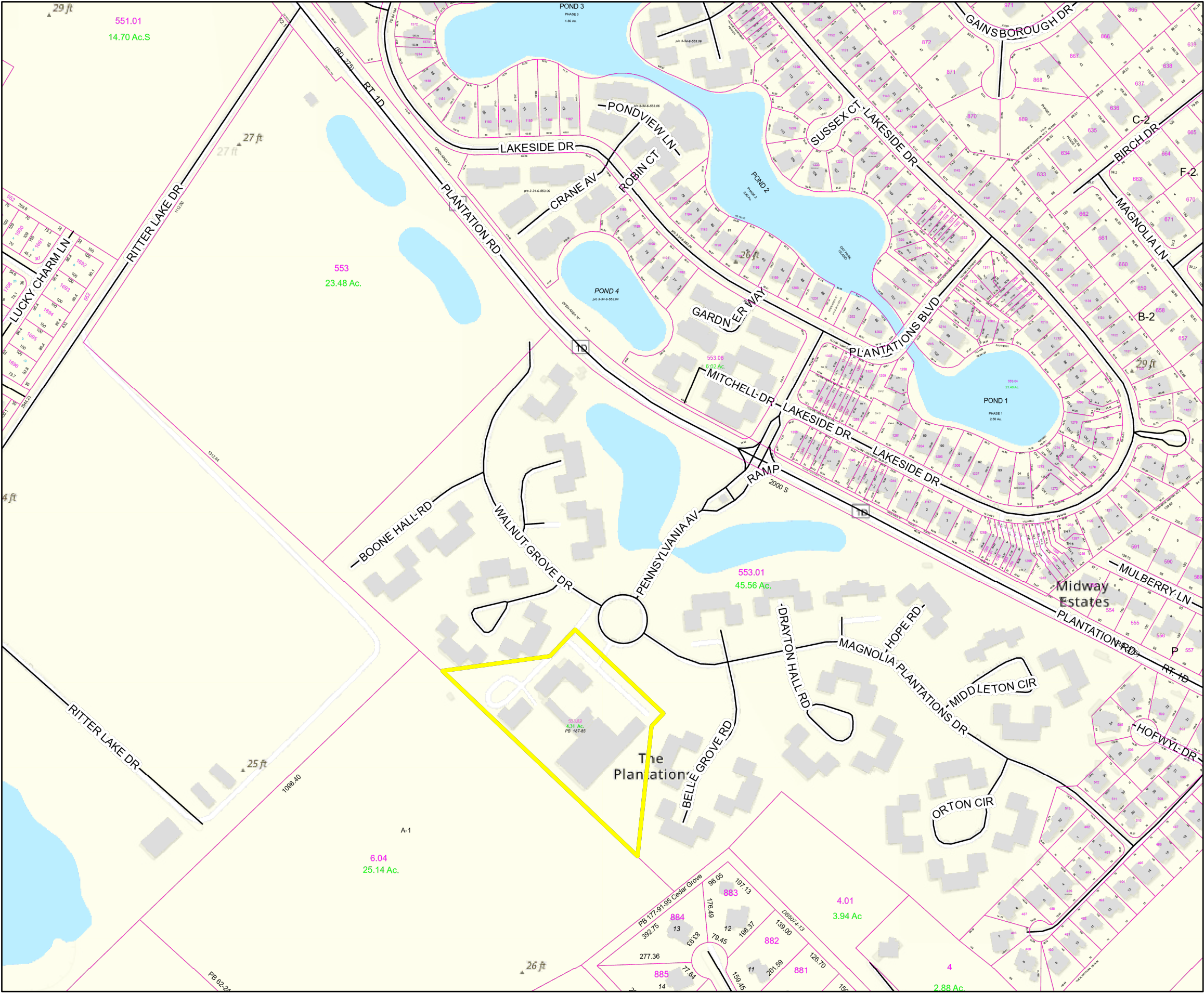


PIN:	334-6.00-553.02
Owner Name	SANDIE LLC
Book	3861
Mailing Address	PO BOX 1472
City	BETHANY BEACH
State	DE
Description	
Description 2	
Description 3	
Land Code	

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



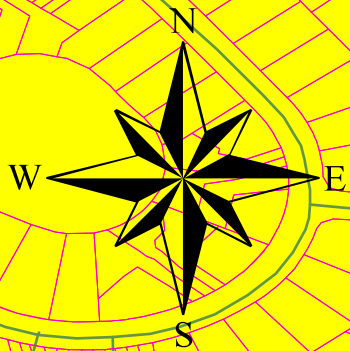
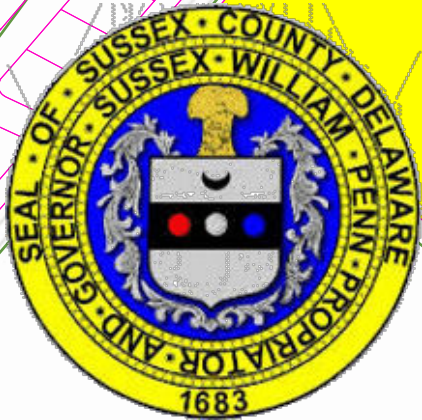
A3 Landscape Parcel Details



PIN:	334-6.00-553.02
Owner Name	SANDIE LLC
Book	3861
Mailing Address	PO BOX 1472
City	BETHANY BEACH
State	DE
Description	
Description 2	
Description 3	
Land Code	

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

C/Z 2061 Sandie, LLC (The Plantations MR-RPC)
Tax Parcel ID: 334-6.00-553.02
Zoning Map



PLANTATION ROAD

MULBERRY LANE

0 0.03 0.06 0.11 0.17 0.22 Miles

County of Sussex, DE, Delaware FirstMap, VITA, Esri, HERE, Garmin, INCREMENT P, USGS, EPA, USDA, Sussex County Mapping and Addressing

Introduced: 6/23/26

Council District 3: Ms. Gruenebaum

Tax I.D. No.: 334-6.00-553.02

911 Address: 18462, 18464 & 18466 Plantation Boulevard, Lewes

ORDINANCE NO. ____

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.

WHEREAS, on the 6th day of March 2026, a zoning application, denominated Change of Zone No. 2061 was filed on behalf of Sandie, 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 Change of Zone No. 2061 be _____; and

WHEREAS, on the ____ day of _____ 2026, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County,

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

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

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Sussex County, Delaware, and lying on the 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), and being more particularly described in the attached legal description prepared by Tunnell & Raysor, P.A., said parcels containing 4.29 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.