

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

September 1, 2026

10:00 AM

Call to Order

Approval of Agenda

Approval of Minutes - August 25, 2026

[Draft Minutes 082526](#)

Reading of Correspondence

Public Comments

Consent Agenda

1. Proclamation Request – Emergency Preparedness Month
2. Use of Existing Wastewater Infrastructure Agreement, IUA 1183
Leeward Chase, Airport Area
[Consent Agenda Leeward Chase, Airport Area](#)

Todd Lawson, County Administrator

1. Review & Appointment for the Steering Committee required by House Joint Resolution No. 11
2. Library Advisory Board Appointment
3. Administrator's Report



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

Karen Brewington, Human Resources Director

1. **Third Quarter Employee Recognition Awards**

10:15 A.M. Public Hearing

1. **“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”**

[Public Hearing Bethany Forest Septic Elimination](#)

Gina Jennings, Finance Director

1. **Assessment Update and Related Municipal Agreements**

A. State Committees

B. RFP Update

C. Municipal Agreement

[Assessment Update](#)

2. **Fire/Ambulance Programs**

A. Ambulance Purchase MOU

B. Ambulance Billing Tri-Party Agreement

[Ambulance Programs](#)

Old Business

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

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

[Old Business CU 2485](#)

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 Request

1. **Delaware Seaside Railroad Club, Inc. for signage and an AED bathroom**
[Delaware Seaside Railroad Club, Inc.](#)

Introduction of Proposed Zoning Ordinances

Council Members' Comments

Adjourn

-MEETING DETAILS-

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on August 25, 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, AUGUST 25, 2026

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, August 25, 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 374 26 Approve Agenda	A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum, to approve the Agenda, as presented. Motion Adopted: 5 Yeas Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Yea; Mr. Hudson, Yea
Minutes	The minutes from August 11, 2026, were approved by consensus.
Corre-Spondence	Mr. Moore reported that correspondence was received from the Francois Foundation for Autism thanking Council for their support.
Public Comments	Public comments were heard. Ms. Trudy Kruger spoke about farming in Sussex County. Mr. Greg Kordell spoke about proposed forest preservation Ordinance. Mr. Kirk Shively spoke about a sewer project near his residence.
Recognition	Lars T. Granholm was recognized for his retirement.
Adminis-trator's Report	Mr. Lawson read the following information in his Administrator's Report: 1. <u>Projects Receiving Substantial Completion</u>

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

Per the attached Engineering Department Fact Sheets, the following projects have received Substantial Completion: Sundance Club (FKA Evans Farm Apartments) – Phase 1 – (Construction Record) effective August 10th; Cypress Landing (Plan Review & Construction Record) effective August 19th; Black Oak (FKA Glenwood) – Phase 4 and Black Oak (FKA Glenwood) – Phase 5 effective August 20th.

2. FY 2027 Human Service Grant Program

Applications for the Fiscal Year 2027 Human Service Grant Program are now being accepted. The Human Service Grant Program provides grants to county-wide nonprofit agencies for the purpose of enhancing health and human services which contribute to a safe, healthy, and self-sufficient community. Funds provide grants that assist organizations with resources in support of programs or capital purchases.

To be eligible for a grant, organizations must fill out an application which is available on the County's website at www.sussexcountydela.gov.

The deadline to submit grant requests is Wednesday, September 30th.

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

Ext Request 2022-18 **Jamie Whitehouse, Planning & Zoning Director presented a request for an extension for 2022-18 Wilhaven (F.K.A. Wil King Station) application.**

M 375 26
Approve
Time Ext
Request
2022-18 **A Motion was made by Mr. Lloyd, seconded by Mr. Rieley, that be it moved that Sussex County Council approve a 6-month time extension request from August 24, 2026.**

Motion Adopted: 5 Yeas

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

Taxiway B
CO Nos. 1, 2, 3 **Bob Bryant, Airport Manager, presented change order nos. 1, 2 & 3 for construct parallel taxiway B for Council's consideration.**

M 376 26
Approve CO **A Motion was made by Mr. Lloyd, seconded by Mr. McCarron, be it moved based upon the recommendation of the Sussex County Engineering Department, that Sussex County Council approve change order no 1, fiber**

**No. 1/
Taxiway B** **optic in the amount of \$18,980.76 for work associated with construction phase of construction of construct parallel taxiway B bid package b project.**

Motion Adopted: 5 Yeas

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

**M 377 26
Approve CO
No. 2/
Taxiway B** **A Motion was made by Mr. Lloyd, seconded by Mr. McCarron, be it moved based upon the recommendation of the Sussex County Engineering Department, that Sussex County Council approve change order no. 2, pull back for the respective unit rates associated with non-productive pull back work at \$1,296.96 per hour Allen Myers and \$525.26 per hour BW Electric and the total non-productive work hours to be rectified at conclusion of the project.**

Motion Adopted: 5 Yeas

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

**M 378 26
Approve CO
No. 3/
Taxiway B** **A Motion was made by Mr. Lloyd, seconded by Mr. McCarron, be it moved based upon the recommendation of the Sussex County Engineering Department, that Sussex County Council approve change order no. 3, base cans in the credited amount of \$1,950.00 for work associated with construction phase of construct parallel taxiway B bid package b project.**

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/
CU2480** **Under Old Business, Mr. Whitehouse presented a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO TIRE CENTER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 1.0 ACRE, MORE OR LESS” (property is lying on the east side of Downs Road [S.C.R. 243], approximately 0.45 mile northeast of Wilson Road [S.C.R. 244]) (911 Address: 18651 Downs Road, Georgetown) (Tax Map Parcel: 135-9.00-280.00) filed on behalf of DJ Tire Center, LLC.**

The County Council held a public hearing on April 21, 2026 and then deferred action for further consideration.

**M 379 26
Approve
CU2480/
DENIED**

A Motion was made by Mr. Rieley, seconded by Mr. McCarron to approve a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO TIRE CENTER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 1.0 ACRE, MORE OR LESS”.

Motion DENIED: 5 Nays

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

**Old
Business/
CU2424**

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

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

**M 380 26
Adopt
Ordinance
No. 4082/
CU2424**

A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum to Adopt Ordinance No. 4082 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (6 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 0.61 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows:

- 1. This application seeks the approval of six (6) multi-family structures on approximately 0.61-acres of land.**
- 2. Six (6) new multifamily units in this location will not overburden this property and will be similar to the other multifamily and townhouse developments and densities around this site. It is one of the last vacant properties in this area and it is reasonable to allow it to be developed in a similar way to its surroundings. This is an appropriate location for a small multifamily residential**

M 380 26
Adopt
Ordinance
No. 4082/
CU2424
(continued)

- development.
3. This site was the subject of two prior approved conditional uses in 2003 and 2009 for the same multi-family use, with the only difference being the number of units. In the prior applications 7 units were approved while this application seeks approval for only 6 units.
 4. This site is between the Towns of Bethany Beach and South Bethany. It is surrounded by properties that are zoned B-1, HR-2, and C-1 and it has frontage on Route 1. In addition to fairly intensive commercial uses, there are the high-density residential developments of Sea Colony and Sea Pines Village close by. This development is appropriately located within this mixture of zoning districts and uses.
 5. The site is in the Coastal Area according to the Sussex County Comprehensive Plan. This type of development is appropriate in this Area according to the Plan, which states that “a range of housing types” are acceptable here, including medium and high densities when a site is served by central water and sewer, where the use is in keeping with the character of the area and other similar factors. These types of considerations exist with regard to this site.
 6. The proposed development will not have an adverse impact on the neighboring properties or community.
 7. DelDOT has stated that the development will have a “Diminutive” impact upon area roadways. The proposed development will not have an adverse impact upon traffic or roadways.
 8. The development will be served by central sewer provided by Sussex County.
 9. The development will be served by central water.
 10. No parties appeared in opposition to this application.
 11. This recommendation is subject to the following conditions:
 - a. The maximum number of residential units shall be six (6).
 - b. The developer and then a condominium shall be responsible for the perpetual maintenance of the project’s stormwater management facilities, erosion and sedimentation control facilities, roadways and other common areas.
 - c. All entrance, intersection, roadway and multi-modal improvements shall be completed by the developer as required by DelDOT.
 - d. Any dumpsters on the Property are to be screened from the view of neighboring properties and roadways. The dumpster locations shall be shown on the Final Site Plan.
 - e. The project shall be served by Sussex County sewer. The developer shall comply with all Sussex County Engineering Department requirements including any offsite upgrades necessary to provide service to the project.
 - f. The project shall be served by central water to provide drinking water and fire protection.
 - g. Construction activities, including site work and deliveries, shall only occur between 7:00 a.m. and 6:00 p.m. Monday through

**M 380 26
Adopt
Ordinance
No. 4082/
CU2424
(continued)**

Saturday. There shall be no construction activities at the site on Sundays. A 24 inch by 36 inch “NOTICE” sign in English and Spanish confirming these hours shall be prominently displayed at all entrances to the site during construction.

- h. The Final Site Plan shall contain the approval of the Sussex County Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities. The system shall be designed and maintained using best management practices.**
- i. The Final Site Plan shall include a Grading Plan for the site. No building permits shall be issued until an individual lot grading plan has been supplied to and approved by Sussex County. No certificate of occupancy shall be issued until a grading certificate is submitted to the Building Code Department demonstrating general conformity with the individual site grading plan.**
- j. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

Motion 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. Lawson, Mr. Whitehouse and Mr. Robertson reviewed potential changes to be incorporated into the Ordinance based on feedback that has been received.

**Grant
Requests**

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

**M 381 26
Historical
Georgetown
Association**

A Motion was made by Mr. Rieley, seconded by Mr. McCarron to give \$1,000 (\$1,000 from Mr. Rieley’s Councilmanic Grant Account) to Historical Georgetown Association for security camera installation for the train museum & first firehouse.

Motion Adopted: 5 Yeas

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

Mr. Hudson, Yea

M 382 26 **A Motion was made by Ms. Gruenebaum, seconded by Mr. Rieley to give**
Ocean **\$2,000 (\$1,000 from Ms. Gruenebaum's Councilmanic Grant Account, \$500**
Waves Quilt **from Mr. Rieley's Councilmanic Grant Account and \$500 from Mr.**
Guild **McCarron's Councilmanic Grant Account) to Ocean Waves Quilt Guild for**
 their Ocean of Quilts program.

Motion Adopted: 5 Yeas

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

M 383 26 **A Motion was made by Mr. Rieley, seconded by Mr. McCarron to give**
American **\$1,500 (\$300 from each Members' Councilmanic Grant Account) to**
Cancer **American Cancer Society for their Relay for Life event.**
Society

Motion Adopted: 5 Yeas

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

Proposed **Mr. Lloyd introduced a Proposed Ordinance entitled "AN ORDINANCE**
Ordinance **TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1**
Introduction **AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS**
 TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND
 BEING IN SUSSEX COUNTY, CONTAINING 28.64 ACRES, MORE OR
 LESS" filed on behalf of Lonesome Road Community Energy Initiative,
 LLC.

Mr. Lloyd introduced 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 39.281 ACRES, MORE OR
LESS" filed on behalf of Woodpecker Road Community Energy Initiative,
LLC.

Mr. McCarron introduced 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 31.3 ACRES, MORE OR
LESS" filed on behalf of TPE DE SU519, LLC.

Mr. Lloyd introduced a Proposed Ordinance entitled "AN ORDINANCE

Proposed Ordinance Introduction (continued) **TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 47.20 ACRES, MORE OR LESS” filed on behalf of Sunrise Solar, Inc.**

Mr. Lloyd introduced 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 52.34 ACRES, MORE OR LESS” filed on behalf of Sussex CSG 3, LLC.

CM Comments **Mr. McCarron commented about the number of solar projects and the previous comment regarding the concerns from the agricultural industry related to growth.**

Mr. Lloyd commented about farmland that is lost and balance that is needed for the need for housing and property owners’ rights.

Ms. Gruenebaum commented about the comments on the land use docket and the need for infrastructure when development occurs. She added that she shares the same concerns of the previous two Council Members’.

Mr. Rieley commented about the proposed forest preservation Ordinance and finding the balance for the property owners.

M 384 26 Go Into Executive Session **At 11:40 a.m., a Motion was made by Mr. McCarron, seconded by Mr. Lloyd to go into Executive Session to discuss matters related to pending & potential litigation and personnel.**

Motion Adopted: 5 Yeas

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

Executive Session **At 11:47 a.m., an Executive Session was held in the Basement Caucus Room to discuss matters related to pending & potential litigation & personnel. The Executive Session ended at 12:47 p.m.**

M 385 26 Reconvene **At 12:50 p.m., a Motion was made by Mr. McCarron, seconded by Ms. Gruenebaum to come out of Executive Session and back into Regular Session.**

Motion Adopted: 3 Yeas, 2 Absent

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

**Mr. Lloyd, Absent; Mr. Rieley, Absent;
Mr. Hudson, Yea**

E/S Action There was no action related to Executive Session matters.

**M 386 26 A Motion was made by Ms. Gruenebaum, seconded by Mr. McCarron to
Recess recess until 1:30 p.m. Public Hearings.**

Motion Adopted: 3 Yeas, 2 Absent

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

**M 387 26 A Motion was made by Ms. Gruenebaum, seconded by Mr. Rieley to
Reconvene reconvene.**

Motion Adopted: 4 Yeas, 1 Absent

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

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

**Public A Public Hearing was held on Proposed Ordinance entitled “AN
Hearing/
CU2485 ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-
1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FENCE
INSTALLATION BUSINESS WITH OUTSIDE STORAGE TO BE
LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN
SUSSEX COUNTY, CONTAINING 5.00 ACRES, MORE OR LESS”
(property is and lying on the east side of Rust Road [S.C.R. 292A],
approximately 0.27 mile south of Harbeson Road [Rt. 5]) (911 Address:
20601 Rust Road, Harbeson) (Tax Map Parcel: 234-4.00-10.32) filed on
behalf of Christopher Hanvok.**

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

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

**The Council found that Mr. Christopher and Jeannie Hanyok spoke on
behalf of their application. Mr. Hanyok stated he is currently running a
business from the property; that he currently keeps materials on the site for
various commercial jobs; that 90% of the materials are taken directly to job
sites; that he submitted pictures showing where he stores materials in the**

**Public
Hearing/
CU2485
(continued)**

front and back of their pole building; that he has a food plot for deer that come into the lot every day; that there are a few gates that are made inside the pole building; that a privacy fence has been started on the side of the property; that pictures were submitted showing the neighboring property's fill dirt pile; that pictures were shown of someone cutting grass that bring a lot of dust; that they want to be good neighbors; that they mainly do computer work including estimates at the property; that pictures were provided showing materials being delivered to job site as well as a statement from a contractor confirming materials were delivered to the site; that he has been in business since 2021; that prior to owning this property, he leased a property; that they purchased this property because it had a conditional use already issued; that this reduced their expenses by purchasing the property; that most of the time there are locations on the job site to store the materials; that they store some materials on site but mostly for residential projects; that they have tried to reduce the amount of times tractor trailers come to their property; that they are going to reduce what is kept outside; that they will do everything that they can to continue on a low scale

A discussion was held about the materials that were stored on the property as requested by DelDOT for the Georgetown bike trail.

Public comments were heard.

Mr. Donald Downs spoke in favor of the application.

Mr. Eric Rieley spoke in favor of the application.

Mr. Mark Wyatt spoke in favor of the application.

Mr. Constantin Albu spoke in opposition of the application.

Ms. Nancy Zalick spoke in opposition of the application.

The Public Hearing and public record were closed.

**M 388 26
Defer
Action/
CU2485**

A Motion was made by Mr. Rieley, seconded by Mr. McCarron 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 A FENCE INSTALLATION BUSINESS WITH OUTSIDE STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 5.00 ACRES, MORE OR LESS"

Motion Adopted: 5 Yeas

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

M 389 26
Adjourn

Mr. Hudson, Yea
A Motion was made by Mr. Rieley, seconded by Mr. Lloyd to adjourn at 2:16 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

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



Sussex County

DELAWARE
sussexcountyde.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*
Leeward Chase IUA 1183
File: OM 9.01

DATE: September 1, 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 **Leeward Chase DE, LLC** for **Leeward Chase** project in the **Airport 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, **Leeward Chase** project will connect to the existing County owned wastewater infrastructure. In return for utilization of said, **Leeward Chase DE, LLC** will contribute **\$280,855.00** for the financial catch-up contribution of the existing infrastructure to serve **109.00** Equivalent Dwelling Units. Payment is required prior to receiving beneficial acceptance of the projects on-site collection system.



EXISTING WASTEWATER INFRASTRUCTURE USE AGREEMENT

Leeward Chase (Moore Farm) – IUA 1183

THIS AGREEMENT (“Agreement”), made this 6th day of
August 2026, by and between:

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

LEEWARD CHASE DE, LLC. a Limited Liability Corporation and developer of a project known as **Leeward Chase (Moore Farm)**, hereinafter called the “Developer.”

WITNESSETH:

WHEREAS, Developer is developing a tract of land identified as Tax Map parcels 135-15.00-98.00 be known as **Leeward Chase** (“Project”) and;

WHEREAS, the Project is within the boundary of the Town of Georgetown’s Growth & Annexation 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 **109.00** additional equivalent dwelling units to County’s existing system and to utilize the existing capacity in said system, Developer agrees to financial catch-up contribution in the amount of **\$280,855.00** for said existing facilities.
- (3) The contribution amount in the case of multiple pump stations using an existing collection and transmission system is based on the ratio of average flow capacity utilization of said transmission facilities.
- (4) **Payment of the contribution must be submitted prior to connection to the County 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 the sewer connection permit.
- (8) Developer shall comply in all aspects with the *Sussex County Code* and any other local, state, county, or federal laws, regulations, or policies that may be applicable and as such may be hereinafter amended.
- (9) Prior to the commencement of construction of any sanitary sewer facilities for the Project, Developer shall obtain a project construction permit from the County in accordance with and pursuant to the requirements of the *Sussex County Code*.
- (10) In order to allow the opportunity for a County representative to be present as the County so chooses, Developer shall send written notice to County of the date upon which connection to the County regional transmission system will be made. Developer shall follow County's written or verbal instructions in making said connection to the County sanitary sewer system.
- (11) Developer may assign this Agreement in whole or in part to any entity controlled directly or indirectly by Developer or to any third party who purchases, leases or otherwise controls any portion of Developer's property without the consent of County. Developer, and any subsequent assignees or successors shall provide County at least ten (10) days' written notice of any such assignment. Any other assignments, transfers, or conveyances with respect to this Agreement are prohibited without prior written consent of County.
- (12) To the extent permitted by law, Developer shall indemnify and hold harmless County, and its appointed and elected officials, employees, licensees, and agents for any claims, losses, liabilities, suits, or damages, including but not limited to reasonable attorneys' fees, professional engineering fees, and any other costs of litigation, arising out of Developer's negligence in connection with its performance of this Agreement, including but not limited to damage to the County's infrastructure

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

- (13) All the terms, covenants, and conditions of this Agreement shall in all respects be governed and construed under and pursuant to the Laws of the State of Delaware without respect to its conflict of law provisions. This Agreement may only be amended, supplemented or modified by a subsequent written agreement executed by all the parties hereto.
- (14) This Agreement and exhibits constitute the final, entire and exclusive agreement between the parties with respect to the subject matter of all matters discussed in it and supersedes all prior or contemporaneous discussions, statements, representations, warranties or agreements, whether written or oral, made in connection with the Agreement described herein.
- (15) It is mutually agreed between the parties that no review, approval, acceptance, and/or payment made under this Agreement shall be conclusive evidence of the performance of the Agreement, either wholly or in part, and that no review, approval, acceptance, and/or payment shall be construed as acceptance of defective work by County, nor in any way relieve Developer of its responsibility for the adequacy of its work.
- (16) The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach. Neither party shall be deemed to have waived any rights under this Agreement unless such waiver is expressly given in writing and signed by the waiving party. No delay or omission on the part of either party in exercising any right shall operate as a waiver of such right or any other right.
- (17) This Agreement shall be executed in duplicate, any copy of which shall be considered and construed as and for the original.
- (18) If any provision of this Agreement shall be deemed invalid or unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not render invalid or unenforceable any of the other provisions of this Agreement which may be given effect without such invalid or unenforceable provision, and to this end, the provisions of this Agreement are hereby deemed to be severable.
- (19) Any notice required to be delivered to or by either party under this Agreement shall be sent by U.S. first class mail. For purposes of this provision, the address of the County is 2 The Circle, P.O. Box 589, Georgetown, Delaware, 19947, and the address of the Developer is **448 Viking Drive, Suite 220, Virginia Beach VA 23452**

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)

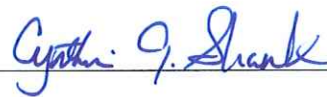
ATTEST:

Tracy Torbert
Clerk of the County Council

FOR LEEWARD CHASE DE, LLC
BY: TMPR, LLC-ITS MANAGER

By:  _____ (Seal)
Raymond L. Gottlieb, Manager, TMPR ,LLC

_____ 08/06/2026 _____ (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. Public Hearing

DATE: September 1, 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.

On August 11, 2026, the Engineering Department recommended 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.

Sussex County Engineering Recommendation for County Council: Based on a favorable Public Hearing at the September 1, 2026 Council Meeting, the Engineering Department recommends approval 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.

ORDINANCE NO. [____]

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

WHEREAS, pursuant to Title 9, Delaware Code, Section 7001(a), Sussex County (the “County”) has “all powers which, under the Constitution of the State, it would be competent for the General Assembly to grant by specific enumeration, and which are not denied by statute” (the “Home Rule Power”);

WHEREAS, acting pursuant to its Home Rule Power, and pursuant to Title 9, Delaware Code, Chapters 65 and 67, the County has authorized the design, construction and equipping of the Bethany Forest Septic Elimination Project, which will finance the installation of a central gravity sanitary sewer system and a pump station to serve the existing 95 lot single family home Bethany Forest subdivision located on Bethany Forest Drive in Dagsboro, north of Ocean View (the “Project”);

WHEREAS, pursuant to Title 9, Delaware Code, Section 6706, the County is authorized to issue its Bond and to pledge its full faith and credit thereto, to finance the cost of any object, program or purpose for which the County is authorized to raise, appropriate or expend money under Chapter 67 of Title 9; and

WHEREAS, acting pursuant to the aforesaid authority, the County desires to authorize the issuance of a general obligation of the County to finance the costs of the Project and for the other purposes described herein.

NOW THEREFORE THE COUNTY OF SUSSEX HEREBY ORDAINS (AT LEAST FOUR FIFTHS OF THE MEMBERS OF COUNCIL CONCURRING HEREIN):

Section 1. Amount and Purpose of the Bond. Acting pursuant to Title 9, Delaware Code, Chapters 65 and 67, Sussex County shall issue its negotiable general obligation bond in the maximum aggregate principal amount not to exceed \$7,197,174 (the “Bond”) to finance or reimburse the County for a portion of the costs of the design, construction and equipping of the Project.

The monies raised from the sale of the Bond (including the investment earnings thereon) after the payment of the costs of issuance, shall be held in one or more Project accounts and shall be expended only for the purposes authorized herein or as may otherwise be authorized by subsequent action by County Council. Authorized purposes include the costs of planning, constructing, acquiring and equipping the Project or any portion thereof; interest on the Bond and any interim financing during the construction period and for a period of up to one year following the estimated date of completion; the reasonable costs of issuance of the Bond and any interim financing; the repayment of temporary loans incurred with respect to the Project; and the reimbursement of authorized costs previously expended by the County from other funds.

Section 2. Security for the Bond. The principal, interest and premium, if any, on the Bond may be paid by ad valorem taxes on all real property subject to taxation by the County without limitation as to rate or amount, except as limited by Title 9, Delaware Code, Section 8002 (c). Pursuant to Title 9, Delaware Code, Section 6706, the full faith and credit of the County is pledged to such payment. The Bond shall contain a recital that they are issued pursuant to Title 9, Delaware Code, Chapter 67, which recital shall be conclusive evidence of its validity and of the regularity of its issuance. The Bond is backed by the County's full faith and credit.

Section 3. Terms of the Bond. The Bond shall be sold at such price and upon such other terms and conditions consistent with the provisions of this Ordinance and otherwise as the County Administrator shall determine to be in the best interests of the County. The Bond is currently expected to bear interest at rate of 2.00% and shall mature in such amounts and at such times, but not exceeding thirty (30) years from the date of completion of the Project, and shall be subject to redemption, as the County Administrator shall determine.

Section 4. Sale of the Bond. The Bond is expected to be issued in one series and shall be sold in one public sale or private negotiated transaction upon such terms and conditions as the County Administrator shall determine shall be in the best interest of the County. It is anticipated that the Bond will be sold to the State of Delaware Water Pollution Control Revolving Fund, acting by and through the Delaware Department of Natural Resources and Environmental Control (or any successor agency).

Section 5. Details of the Bond. The County Administrator is authorized to determine the details of the Bond including the following: the date of the Bond; provisions for either serial or term Bond; sinking fund or other reserve fund requirements; due dates of the interest thereon; the form of the Bond; the denomination and designation of the Bond; registration, conversion and transfer provisions; provisions for the receipt, deposit and investment of the proceeds of the Bond; provisions for the replacement of lost, stolen, mutilated or destroyed Bond; and provisions for issuing uncertificated obligations and all procedures appropriate for the establishment of a system of issuing uncertificated debt. The Bond shall be executed by the manual or facsimile signature of the County Administrator, shall contain an impression of the County seal or a facsimile thereof and shall be attested by the manual or facsimile signature of the County Clerk. The County Administrator shall determine the form of the Bond.

Section 6. Debt Limit. It is hereby determined and certified, as of the effective date hereof, that the issuance of the Bond is within the legal debt limit of the County.

Section 7. Further Action. The President of the County Council, the County Administrator, the Finance Director and the County Clerk are authorized and directed to take such other action on behalf of the County, as may be necessary or desirable to effect the adoption of this Ordinance and the issuance and sale of the Bond and to provide for its security and to carry out the intent of this Ordinance, including the publication of notices and advertisements and the execution and delivery of customary closing certificates.

Section 8. Effective Date. This Ordinance shall become effective immediately upon its passage.

The County Clerk is hereby directed to publish a notice of the adoption hereof in accordance with Section 7002(m)(2) of Title 9 of the Delaware Code, as amended.

SYNOPSIS: This Ordinance provides for the issuance of up to \$7,197,174 of the Sussex County General Obligation Bond (Bethany Forest Septic Elimination Project), Series 2026D-WPCRF to finance or reimburse the County for a portion of the costs of the design, construction and equipping of the Project (the “Project”).

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. [_____] ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 1st DAY OF SEPTEMBER, 2026.

Tracy N. Torbert
Clerk of the Council

GINA A. JENNINGS, MBA, MPA
FINANCE DIRECTOR

(302) 855-7741 T
(302) 855-7749 F
gjennings@sussexcountyde.gov



Sussex County
DELAWARE
sussexcountyde.gov

MEMORANDUM:

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

FROM: Gina A. Jennings
Finance Director/Chief Operating Officer

RE: *Assessment Update*

DATE: August 27, 2026

As we move into the next reassessment there are a few updates that I will be discussing on Tuesday.

In addition, because towns and cities are looking to use our updated assessments, I am requesting County Council's approval of a Memorandum of Understanding that can be used with any municipality seeking to utilize the County's assessment data going forward.

Both the presentation and the MOU are attached for your review.

If you have any questions, please feel free to contact me.

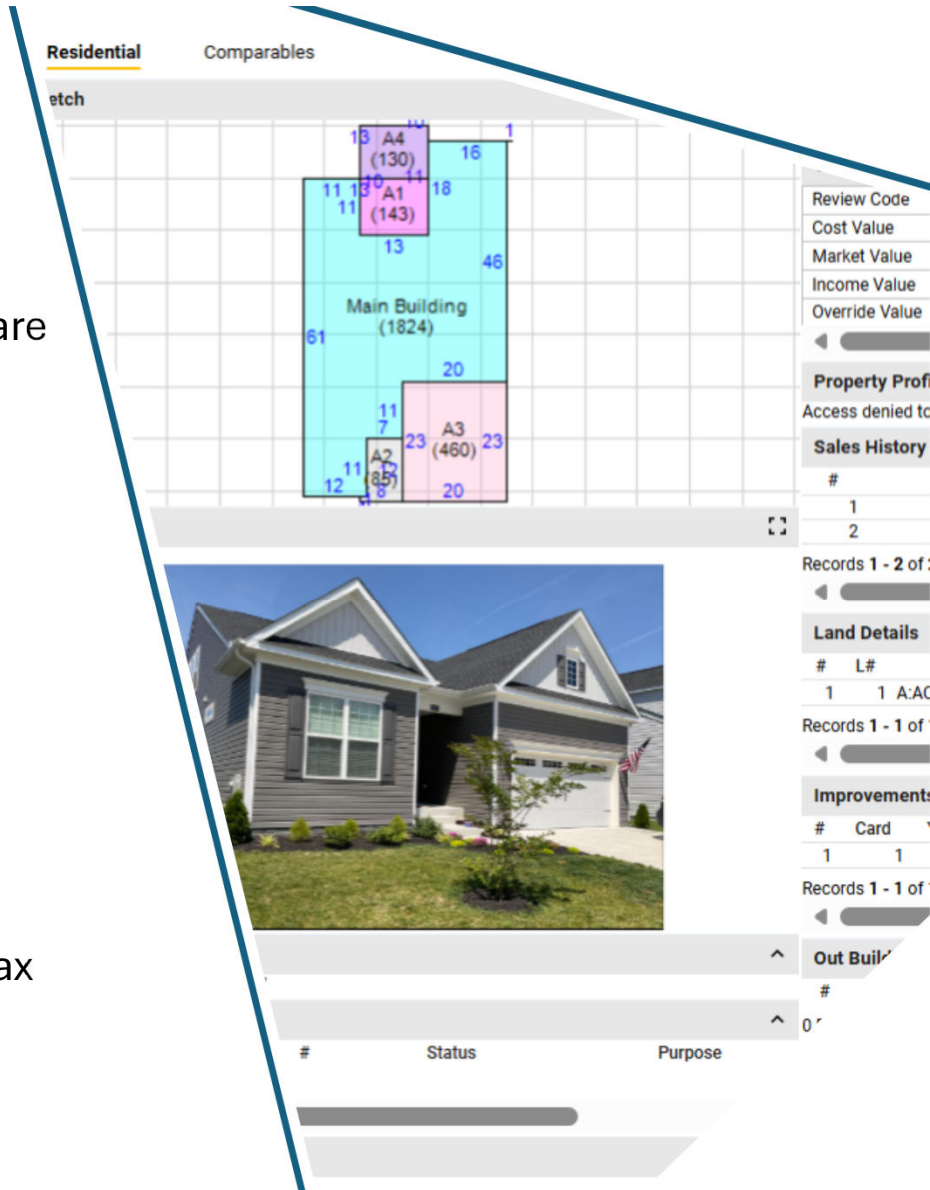
Attachments

ASSESSMENT UPDATES



UPDATES

- A Request for Proposals has been advertised and bids are due September 16th. This is for a reassessment using a July 1, 2028 valuation date and will be effective for the 2030 tax billing.
- Serving on State Working Groups
 - HCR 150 – working group to establish State standards (quality benchmarks and operational requirements) governing property assessment practices in Delaware
 - HCR 151 – working group to examine long-term property tax relief and modernization strategies following statewide reassessment (homestead exemptions, circuit breaker programs, property tax stabilization measures, assessment caps, etc.)



MUNICIPAL MOU

With the County required to do a reassessment every 5 years, municipalities that have been doing their own assessments are considering switching to the County's.

The MOU:

- Outlines each entity's responsibilities
- The sharing of data by both entities (building permit information and assessment data)
- Permitted use of the data
- How the assessment file can be obtained and in what format

Municipalities that have already voted to switch to the County assessments:

- Seaford
- Milton

INTERGOVERNMENTAL AGREEMENT FOR USE OF PROPERTY ASSESSMENT DATA

INTERGOVERNMENTAL AGREEMENT FOR USE OF PROPERTY AS
ment") is entered into as of _____, by and between
subdivision of the State of Delaware (the "County"), and
Municipal corporation of the State of Delaware (the "Municipi
Municipality may be referred to individually as a "Party" and col

RECITALS

Municipality desires to gain access to and use the County
Permitted Use stated herein, and the County desires to
to the Municipality solely for the Permitted Use; and

Chapter 11 of the Delaware Code authorizes muni
assessment data upon the municipality's adop
ed therein: and

ality has adopted an ordinance in cor
er 11 of the Delaware Code; and

sire to enter this Agreement to s
ct hereto.

MOTION:

Be it moved that the Sussex County Council approves entering into a Memorandum of Understanding with any municipality that wants to utilize Sussex County's tax assessment records for their billing purposes.



INTERGOVERNMENTAL AGREEMENT FOR USE OF PROPERTY ASSESSMENT DATA

THIS INTERGOVERNMENTAL AGREEMENT FOR USE OF PROPERTY ASSESSMENT DATA (the “Agreement”) is entered into as of _____, by and between SUSSEX COUNTY, a political subdivision of the State of Delaware (the “County”), and [Name of Municipality], a municipal corporation of the State of Delaware (the “Municipality”). The County and the Municipality may be referred to individually as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, the Municipality desires to gain access to and use the County’s property assessment data for the Permitted Use stated herein, and the County desires to provide its property assessment data to the Municipality solely for the Permitted Use; and

WHEREAS, Title 22, Chapter 11 of the Delaware Code authorizes municipalities to use the county’s property assessment data upon the municipality’s adoption of an ordinance in the manner stated therein: and

WHEREAS, the Municipality has adopted an ordinance in compliance with the requirements of Title 22, Chapter 11 of the Delaware Code; and

WHEREAS, the Parties desire to enter this Agreement to set forth Parties’ obligations, terms, and conditions with respect hereto.

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00), the mutual covenants herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Recitals

The Recitals are incorporated by reference as though fully set forth herein.

2. Definitions

For purposes of this Agreement:

“Assessment Data” means the Sussex County property assessment information, parcel-level data, ownership fields, situs address information, property characteristics, exemption indicators, taxable values, and related assessment records that the County elects to provide under this Agreement, as may be updated from time to time.

“Authorized Users” means the elected and appointed officials, officers, employees, agents, contractors, and software vendors of the Municipality who have a legitimate need to access the Assessment Data for the permitted uses described in this Agreement and who are bound by confidentiality and security obligations no less protective than those set forth herein.

“Permitted Use” means use of the Assessment Data solely for municipal tax billing, tax account administration, collections support, audits, reconciliations, customer service, and other directly related governmental purposes authorized by law.

3. Purpose

The purpose of this Agreement is to establish the terms under which the County will provide certain property Assessment Data maintained in connection with the County’s real property reassessment and assessment administration functions, and under which the Municipality may use that data solely for preparing, issuing, administering, and reconciling municipal property tax billings and related lawful municipal revenue functions.

4. Provision of Assessment Data

The County shall provide the Municipality with the Assessment Data in such format or formats as the County reasonably determines are available and administratively feasible, which may include data extracts, reports, secure file transfers, or system-based access. The Parties may, by mutual written agreement, establish a data layout, delivery schedule, transmission method, and points of contact in an attachment or implementation memorandum without the need to amend the substantive terms of this Agreement. Unless otherwise expressly stated in writing, the County does not undertake to create new software, custom reports, or data fields for the Municipality.

5. Permitted Use and Restrictions

The Municipality shall use the Assessment Data only for the Permitted Use and for no other purpose unless otherwise authorized in writing by the County and permitted by applicable law. The Municipality shall not sell, license, commercially exploit, publish in bulk, or redistribute the Assessment Data to any third party except: (a) to Authorized Users for the Permitted Use; (b) as required by law, subpoena, court order, audit, or public records process; or (c) to the Municipality’s contracted tax billing or information technology service providers, provided such providers are bound by written obligations of confidentiality, security, and restricted use consistent with this Agreement. The Municipality shall not represent the Assessment Data as its own original assessment determination and shall not alter County assessment values for purposes of representing official County assessment records, although the Municipality may transform, import, or map the data within its billing

systems as necessary for the Permitted Use. Assessment value changes shall be handled by the County through the County's assessment appeal process.

6. Data Accuracy, Updates, and No Warranty

The County will make commercially reasonable efforts to provide Assessment Data that reflects the County's official records as of the date of transmission; however, assessment records may be modified due to appeals, corrections, exemptions, clerical adjustments, parcel changes, ownership transfers, legal determinations, and other events. Accordingly, the County does not warrant that the Assessment Data is error-free, complete, or current for any specific billing date unless the Parties expressly identify a certified tax-billing file in writing. Except as otherwise required by law, the Assessment Data is provided "as is," and the County disclaims all warranties, express or implied, including any warranties of merchantability or fitness for a particular purpose.

7. Municipality Responsibility.

The Municipality shall be responsible for its own tax bills, tax rates, levy calculations, billing decisions, billing rate and methodology appeals, and statutory compliance applicable to municipal tax administration. All inquiries regarding municipal tax bills that are based on County Assessment Data shall be handled by the Municipality. The Municipality shall not refer such inquiries to the County. If assistance is needed to explain the assessed value reflected on a tax bill, the Municipality—not its customers—shall contact the County directly.

8. Confidentiality, Public Records, and Security

Each Party shall comply with all applicable laws governing public records, privacy, records retention, and information security. To the extent any portion of the Assessment Data is confidential, restricted, or exempt from public disclosure under the Delaware Freedom of Information Act (29 Del. C. §10001, *et seq.*), the Municipality shall maintain such information in confidence and protect it from unauthorized access, use, or disclosure. The Municipality shall implement administrative, technical, and physical safeguards appropriate to the sensitivity of the Assessment Data, including user access controls and secure transmission or storage methods. If the Municipality receives a request or demand for disclosure of Assessment Data that may be confidential or restricted, the Municipality shall, to the extent permitted by law, promptly notify the County and cooperate in the County's efforts to assert any applicable exemption or protection. Nothing in this Agreement shall be construed to require either Party to violate public records law or to withhold records that must be disclosed by law.

9. Building Permit Data

The Municipality shall provide municipal building permit data to the County on a monthly basis by no later than the 15th of each month. The data shall include the property's Sussex County tax parcel number, owner name, and description of improvements.

10. Fees

The County shall provide the Assessment Data to the Municipality without charge.

11. Term and Termination

This Agreement shall commence on the Effective Date and continue for an initial term of one (1) year and shall automatically renew for successive one-year terms unless either Party provides the other Party with at least thirty (30) days' prior written notice of non-renewal. Either Party may terminate this Agreement for convenience upon thirty (30) days' prior written notice, or for material breach if the breaching Party fails to cure such breach within fifteen (15) days after its receipt of written notice. Upon termination, the Municipality shall cease all new use of the Assessment Data except as necessary to complete pending billing cycles, satisfy legal retention obligations, or preserve records required for audit, litigation hold, or public records compliance.

12. Liability and Indemnification

To the extent permitted by applicable law, each Party shall be responsible for the acts and omissions of its own elected and appointed officials, officers, employees, agents, and contractors. Neither Party assumes liability for the acts or omissions of the other Party. If permitted and required by applicable law, the Municipality shall defend, indemnify, and hold harmless the County, its elected and appointed officials, officers, employees, and agents from and against claims, damages, losses, and expenses arising out of or relating to the Municipality's use, misuse, disclosure, or security failure involving the Assessment Data, except to the extent caused by the County's gross negligence or willful misconduct.

13. No Waiver of Immunity

Nothing contained herein is intended to waive, alter, or otherwise amend the County's immunity under the Delaware Code or otherwise, including but not limited to the County and Municipal Tort Claims Act. Additionally, nothing contained herein is intended to violate any constitutional principles of the State of Delaware or United States. To the extent that any obligations contained in this Agreement are determined by court or other judicial action to waive, alter, or otherwise amend such immunity or to be constitutionally prohibited or

otherwise not in accordance with the laws in effect at the time of any such claim, liability, cost or expense, the offending language shall be stricken from this Agreement by such authority and considered invalid and unenforceable to the extent necessary to allow the application of such immunity to any claims, losses, damages, or suits asserted against either party or to the extent necessary to correct such violation of the law. The parties agree that any claims, liabilities, damages, costs, and expenses shall be subject to the provisions of the County and Municipal Tort Claims Act, including the limitations on damages.

14. Notices

Any notice, demand or other communication under this Agreement shall be deemed to have been duly given if in writing and if transmitted by hand delivery with receipt thereof, or by registered or certified mail, return receipt requested or by first class postage prepaid as follows:

If to Municipality:

Attention: _____
Email: _____

If to County:

Sussex County
2 The Circle
P.O. Box 589
Georgetown, DE 19947
Attention: _____
Email: _____

Either Party by notice to the other in accordance with the above may designate a substitute address for such notice or demand and thereafter such substitute address shall be used for the giving of notice or demand. Notice shall be deemed to be given: (a) two (2) days after the date of mailing thereof; or (b) the date of actual receipt, whichever first occurs. Notice may be sent via email if simultaneously provided in the written manner above.

15. Severability

If any provision of this Agreement shall be invalid or unenforceable to any extent, as determined by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

16. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to conflicts of law principles.

17. Entire Agreement

This Agreement constitutes the entire agreement between the parties with respect to the subject matter herein and supersedes all prior discussions, negotiations, and understandings relating thereto.

18. Amendments

This Agreement may only be amended or modified by a written instrument signed by both parties.

19. Assignment

Neither Party may assign this Agreement except to a lawful governmental successor. The Municipality shall not be permitted to assign this Agreement without the prior written consent of the County.

20. Counterparts; Electronic Signatures

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Electronic signatures and photocopies or facsimile copies of signatures shall be deemed to have the same force and effect as originals.

[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY.
SIGNATURE PAGE TO FOLLOW.]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives on the respective date(s) set forth below.

MUNICIPALITY:

_____, a municipal
corporation of the State of Delaware

Date

By: _____(SEAL)

Print Name and Title

Attest: _____

Print Name and Title

SUSSEX COUNTY, a political subdivision of the
State of Delaware

Date

By: _____(SEAL)

Douglas B. Hudson
President, Sussex County Council

Attest: _____

Tracy Torbert, Clerk of the
Sussex County Council

GINA A. JENNINGS, MBA, MPA
FINANCE DIRECTOR
(302) 855-7741 T
(302) 855-7749 F
gjennings@sussexcountyde.gov



Sussex County
DELAWARE
sussexcountyde.gov

MEMORANDUM:

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

FROM: Gina A. Jennings
Finance Director/Chief Operating Officer

RE: **Ambulance Programs**

DATE: August 27, 2026

As you know, the fiscal year 2027 budget included funding for two new programs to support the ambulance service. The first program provides for the purchase of 3 ambulances annually, ensuring that each company has the opportunity to receive a new ambulance approximately once every 7 years. The second program provides support for a combined ambulance billing contract.

On Tuesday, I will be presenting the results of the two requests for proposals. As you will see, the combined purchasing power of the participating companies yielded positive results.

Following the discussion, I will be asking for your support to enter into agreements with any of the fire and ambulance companies that wish to participate in either of these two new programs.

Attachments

SUSSEX COUNTY AMBULANCE PROGRAMS

A SUSTAINABLE,
RESPONSIBLE, COST
SAVING
PARTNERSHIP
BETWEEN SUSSEX
COUNTY AND SCVFA



Committee Members

Michael Suit

- President of SCVFA
- President of the Bethany Beach VFC
- 2nd Vice President of the Sussex County Vol. Fire Police Assoc.
- Fire Police Captain on BBVFC
- PT EMS employee of the Millsboro VFD
- Quality Assurance for OC's 9-1-1 Center

Michael Greenstreet

- 1st Vice President of the Sussex County Chiefs Assoc.
- Past President of the Sussex County Ambulance Association
- Member of the DVFD
- EMS Supervisor for Selbyville Vol. Fire Co.
- EMT for 14 years
- Delaware State Fire School Instructor

Jason Hudson

- President of the Blades Vol. Fire Co.
- Asst. Chief of Career Services with the Seaford Fire Dept.
- NREMT for 17 years
- Member of the BBVFC, MVFC, & DVFD
- Served on various committees such as 4 ambulance committees and 3 fire apparatus committees

Deanna Loeb

- EMS Captain/Supervisor for American Legion Georgetown Ambulance Service
- EMS member of the Laurel Fire Department
- Auxiliary member of the Laurel Fire Department
- NREMT

Holly Donaway

- Lifetime, Active Member of the Dagsboro Vol. Fire Dept.
- Ambulance Captain
- Member of the State's EMS QA/QI Committee
- 1st Vice President of the Sussex County Vol. Ambulance Assoc.
- NREMT for 33 years

Andy Johnson

- Career EMT with Bethany Beach VFC for 18 years
- Chief of Roxana Vol. Fire Co. for 20 years
- Past President of the Sussex County Chiefs Assoc.
- Completed 9 ambulance replacements & 7 fire truck replacements
- NREMT

Clara Marshall

- Retired Assistant Supervisor of the Rehoboth Beach Vol. Fire Co.
- Volunteer with RBVFC
- 2nd Vice President of the Sussex County Vol. Ambulance Assoc.
- NREMT for 19 years
- Certification Manager at the Delaware State Fire School

Dale White

- Sussex County Facilities & Fleet Manager
- Chief Engineer at Willards VFC
- President of the WVFC
- Volunteer at Georgetown Fire Co.

Andrea Wall

- Sussex County Accounting Manager
- Member of the Milton Vol. Fire Company Auxiliary



TIMELINE

MARCH

Launched program ideas to fire/ambulance service leadership

APRIL

Developed RFP/met with committees

MAY

Research (toured ambulances & received feedback for billing)

JUNE

Released RFPs

JULY

Council approved budget and bids were received



AMBULANCE PURCHASE PROGRAM

AMBULANCE PURCHASE

Built RFP based on the following grading criteria:

- Specifications similar to Georgetown EMS's newest unit
- Service capabilities of vendor
- Delivery schedule
- Cost Effectiveness



POSITIVE RESULTS

By bulk purchasing the County and the companies were able to secure a reduced price from Atlantic. Per Atlantic, this program is saving about \$17,500 per ambulance, or over \$50,000/year.

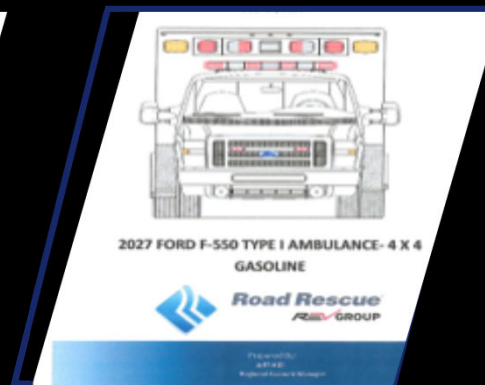


AMBULANCE PURCHASE RESULTS – SPEC'D UNITS



WHEELED COACH

Atlantic Emergency
Type I - \$346,906
Type III - \$312,984
14-18 Months Until
Delivery



ROAD RESCUE

Atlantic Emergency
Type I - \$376,294
Type III - \$335,976
24-28 Months Until
Delivery



AEV

VCI
Type I - \$394,186
Type III – no bid
36 Months Until
Delivery

NEXT STEPS

AUGUST 2026

- Top 6 companies will receive copies of the bids/specs
- Any company who wants to order off the bid can also receive copies

SEPTEMBER 30, 2026

- Companies on the list tell the County if you want one of the ambulances and, if so, which ambulance your company wants

OCTOBER 2026

- Sign contract with Atlantic
- Sign MOU with the County to ensure payment
- Depending on company choices, we may open the order up for the next company(s) on the list

MAY 2027

- Next order is placed for Wheeled Coach

JULY 2027

- Next Order is placed for Road Rescue



AMBULANCE BILLING PROGRAM

AMBULANCE BILLING

Built RFP based on the following grading criteria:

- Experience and Reputation
- Quality of their Scope of Services
- Capacity to Perform
- Added Value Services
- Cost Effectiveness



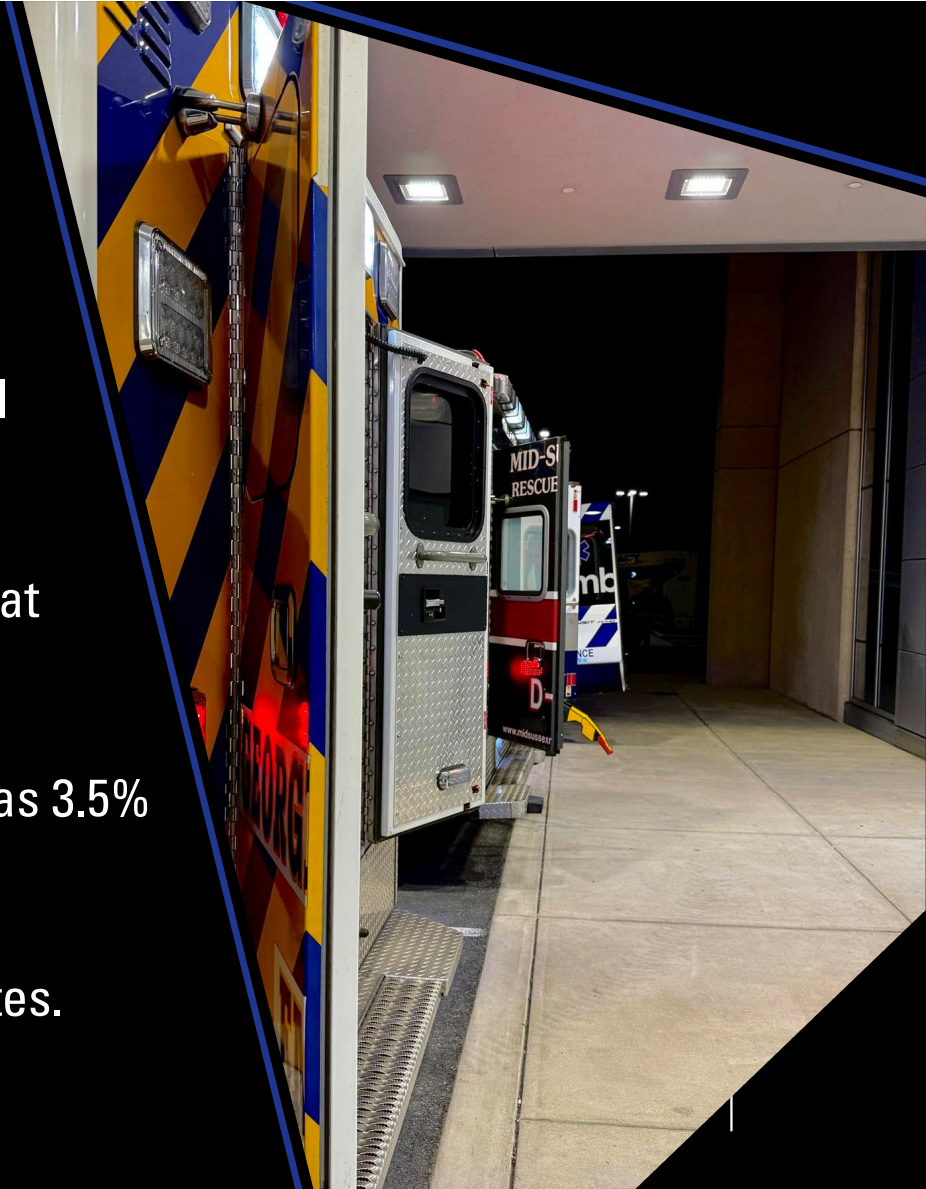
POSITIVE RESULTS

Received 7 qualified bids from both local and national companies.

Most cost-effective bidder was a current business that already does billings for 5 companies in Sussex.

Depending on participation the cost could be as low as 3.5% for 3 years, where today's average is 7%.

Saving over \$500,000 PER YEAR if everyone participates.



AMBULANCE BILLINGS RESULTS



4%
Kentucky
Currently has 0 Sussex clients



8%
Delaware
Currently has 4 Sussex clients



4.75%
North Carolina
Currently has 0 Sussex clients



4.9% (1ST YR) - 5.5% (3RD YR)
Delaware
Currently has 1 Sussex client



3.5% (15 SIGN UP)
4.0% (8 SIGN UP)
New Jersey
Currently has 5 Sussex clients



15%
Nebraska
Currently has 0 Sussex clients



4.70% + .60% FOR COMPLIANCE
Delaware
Currently has 2 Sussex clients

WHY MAVERICK STOOD OUT

LOWEST GUARANTEED RATE

- 3.5% lowest
- 4.0% expected

MOST CURRENT USERS

- Roxana – 2013
- Millville – 2019
- Greenwood – 2019
- Selbyville – 2020
- Seaford – 2021
- Positive references

TRAINING

- In-person training
- On-going document education

COMPLIANCE

- In-house General Counsel for compliance oversight
- 3rd party compliance certification
- Provides notifications of regulatory changes
- Mock RAC audits

CAPACITY TO HANDLE

- Currently billing over \$200 million in ambulance billings today (Sussex has ~\$15 million)

WHY MAVERICK STOOD OUT

ADDED VALUE SERVICES

- Revenue integrity audits
- Annual fee schedule review
- Contract consulting for negotiating improved managed care agreements

OPERATIONAL CLINICAL SUPPORT

- EMS membership program consulting to strengthen membership
- Continuous performance improvement by providing recommendations that improve documentation quality, reduce denials & maximize collections

CLIENT SUPPORT

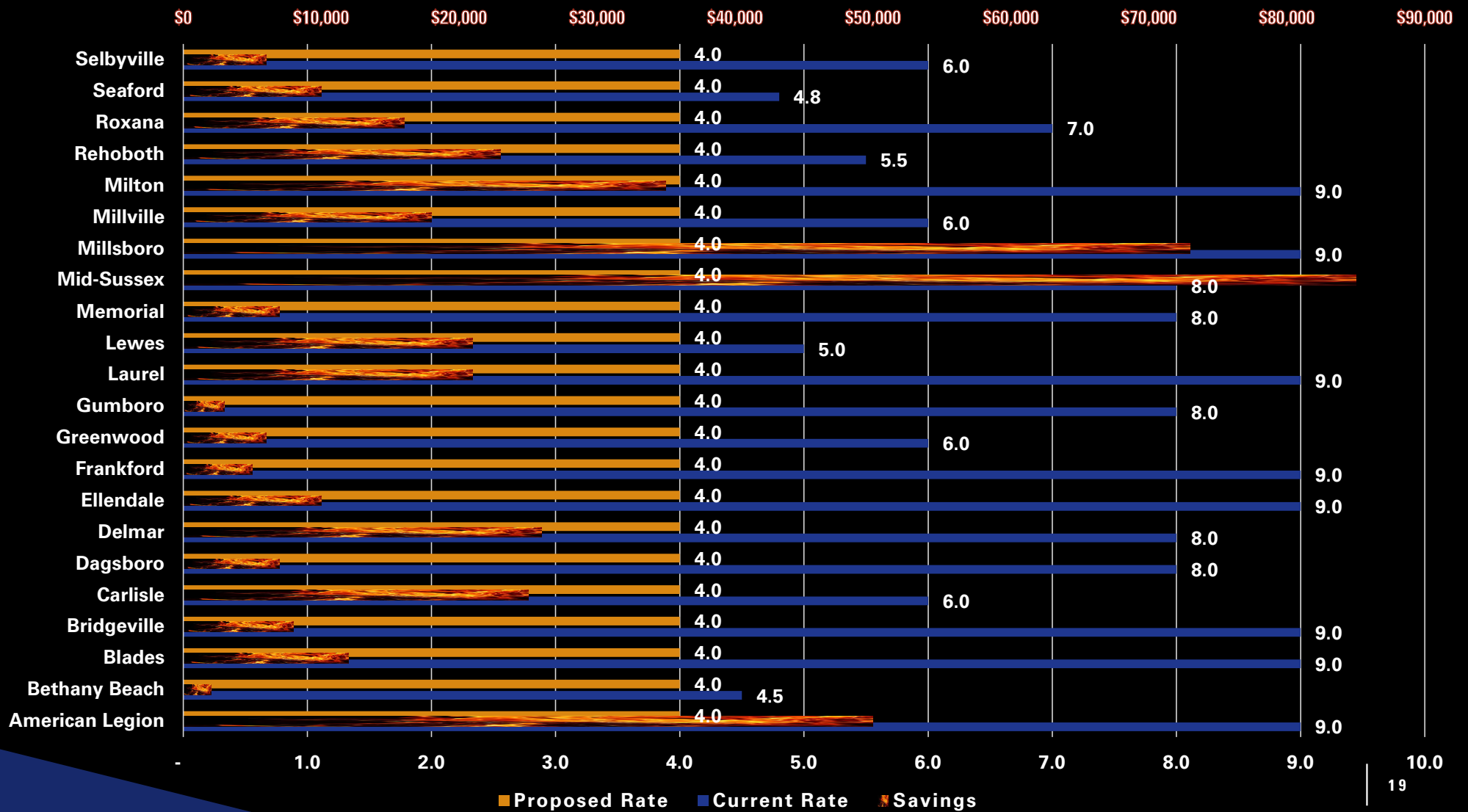
- Dedicated client success team
- Bilingual patient assistance
- Custom reporting
- Virtual dashboard to track benchmarks

PERFORMANCE DRIVEN

- Guaranteed improvement in average collection rate (89%-96% collection rate with current clients)
- Less than a 5% denial rate
- 1-2 days to billing
- Average of ~45 days in A/R

INCLUDED SERVICES

- Implementation & onboarding
- Compliance oversight
- Billing, coding, collections
- Travel & training
- All admin expenses & overhead
- Reporting



NEXT STEPS

AUGUST 2026

- Distribute copies of bid response
- Distribute copy of tri-party agreement (September 1)

SEPTEMBER 30, 2026

- Reach out to Gina if your company is going to participate and when you are able to. Implementation for first group can start October 1st.

OCTOBER 2026

- Sign tri-party agreement with Maverick and Sussex
- Maverick can onboard 2-3 agencies a week

IMPLEMENTATION PHASES

- Discovery & Operational Assessment (Kick-off Meeting)
- System Integration (EFT enrollment, statement configuration)
- Credentialing & Payer Enrollment
- Testing & Go-Live

Note: Ambulance/Fire companies still set their own billing rates, and subscription plans are still set at the individual company level assuming compliance to laws such as non-discrimination requirements.

MOTIONS:

SUSSEX COUNTY COUNCIL APPROVES ENTERING INTO A TRI-PARTY AGREEMENT WITH EACH FIRE/AMBULANCE COMPANY WHO WANTS TO PARTICIPATE IN THE AMBULANCE BILLING PROGRAM WITH THE VENDOR, MAVERICK, WHO WAS THE RECOMMENDED VENDOR BY THE SCVFA AMBULANCE BILLING COMMITTEE THROUGH THE COUNTY'S RFP PROCESS.

SUSSEX COUNTY COUNCIL APPROVES ENTERING INTO A MOU TO PROVIDE FUNDING FOR A BASE BID AMBULANCE BASED ON THE RESULTS OF THE JUNE 2026 AMBULANCE PURCHASE RFP.



MEMORANDUM OF UNDERSTANDING

COUNTY-FUNDED AMBULANCE PROGRAM

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is entered into by and between **SUSSEX COUNTY**, a political subdivision of the State of Delaware (“County”) and _____, a duly organized fire company and/or ambulance agency (“Agency”) (each individually a “Party” and collectively, the “Parties”).

RECITALS

WHEREAS, the County recognizes the importance of maintaining reliable emergency medical services and adequate ambulance resources throughout Sussex County;

WHEREAS, the County has established a program through which County funds may be used to assist an eligible fire company or emergency medical services agency in purchasing a new ambulance;

WHEREAS, the Agency desires to participate in the County-funded ambulance program and to acquire an ambulance for use in providing emergency medical services within its service area; and

WHEREAS, the Parties intend that the Agency will purchase, own, title, register, insure, operate, maintain, and otherwise be responsible for the ambulance, and that the County's participation will be limited to providing the funding expressly described in this MOU.

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00), together with the mutual covenants contained herein and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Recitals. The Recitals are incorporated herein by reference as though fully set forth.

2. Purpose. The purpose of this MOU is to establish the terms and conditions under which the County will provide funding toward the Agency's purchase of one new ambulance. The County's obligations under this MOU are limited to providing the funding expressly described herein. Except as expressly provided in this MOU, the County shall have no responsibility or obligation whatsoever relating to the purchase, ownership, title, registration, insurance, operation, staffing, maintenance, repair, storage, use, or disposal of the ambulance or the underlying contractual obligations between the Agency and Atlantic for the purchase of the ambulance.

3. County Funding and Payment.

3.1 County-Approved Funding. In accordance with the Sussex County Request for Proposals for Type I and III Ambulances dated June 8, 2026, a copy of which is attached hereto as Exhibit A and incorporated herein by reference, the County shall provide funding in an amount not to exceed \$_____ toward the purchase of one base

_____ (Wheeled Coach or Road Rescue) ambulance identified in Attachment B to the Atlantic Emergency Solutions (“Atlantic”) bid, a copy of which is attached hereto as Exhibit B and is incorporated herein by reference.

The County-funded amount shall be limited to the base ambulance specifically identified in Exhibit B and shall not exceed the amount stated in this Section 3.1 unless expressly increased by a written amendment to this MOU executed by the Parties.

3.2 Direct Payment to Atlantic. The County shall pay the approved County-funded amount directly to Atlantic in accordance with the procedures outlined in the RFP and on behalf of the Agency.

The Agency shall remain solely responsible for entering into, performing, and enforcing its purchase agreement with Atlantic. The County's direct payment to Atlantic shall satisfy the County's funding obligation under this MOU for the amount paid and shall not make the County a party to the Agency's purchase agreement, purchaser, co-purchaser, owner, operator, or otherwise responsible for the Agency's contractual obligations to Atlantic.

The Agency acknowledges that the County's payment to Atlantic does not create any ownership interest, security interest, lien, possessory interest, or other proprietary or legal interest in the ambulance in favor of the County.

3.3 Additional Equipment and Costs.

3.3.1 Agency Contractual and Financial Responsibility. Any equipment, options, modifications, upgrades, accessories, technology, graphics, or other items requested by the Agency that are not included in the County-approved base ambulance price shall be the sole financial responsibility of the Agency. The Agency shall obtain and pay for such additional items through a separate purchase order or other appropriate purchasing arrangement directly with Atlantic.

3.3.2. No Additional County Funding. Nothing herein requires the County to approve or pay for signage, graphics, decals, or other identification placed on the ambulance unless specifically included within the County-approved base ambulance funding. The County shall have no financial responsibility for any such additional items or for any associated costs, fees, or expenses.

3.4 Limitation on County Financial Obligation. The County shall have no obligation to provide additional funding resulting from increases in the purchase price, change orders, additional equipment or options, shipping or delivery costs not included in the approved base price, taxes, fees, registration costs, maintenance or repair costs, insurance costs, financing costs, or any other expense associated with the purchase, ownership, operation, maintenance, or disposal of the ambulance.

Unless expressly agreed to in a written amendment executed by the County, the County's total financial obligation under this MOU shall not exceed the amount specified in Section 3.1.

The Agency shall be solely responsible for all amounts owed to Atlantic or any other person or entity that exceed the County-approved funding amount.

3.5 Payment Documentation. Prior to making payment, the County may require documentation reasonably necessary to verify the purchase and the amount due, including a copy of the Agency's fully executed purchase agreement with Atlantic, purchase order, invoice, specifications, or other documentation reasonably acceptable to the County.

4. Agency Purchase Agreement with Atlantic.

4.1 Agency Party to Atlantic Agreement. The Agency shall contract directly with Atlantic for the purchase of the ambulance and shall be solely responsible for negotiating and executing all purchase documents and other contractual arrangements with Atlantic, and the performance of all obligations thereunder. The Agency shall be solely responsible for specifications, payment of all amounts owed by the Agency, warranty matters, delivery, acceptance, and resolution of any dispute with Atlantic.

4.2 Agency Responsible for Ensure Ambulance Conformity. The Agency shall be solely responsible for ensuring that the ambulance purchased conforms to all applicable federal, State of Delaware, manufacturer, and applicable emergency medical services requirements.

4.3 County Not a Party; No County Responsibility under Purchase Agreement. The County shall not be a party to the Agency's purchase agreement with Atlantic and shall not be responsible for enforcing or administering that agreement. Any dispute between the Agency and Atlantic concerning the ambulance shall be resolved solely between those parties. The County shall not be responsible for any amount owed to Atlantic that exceeds the County-approved funding commitment.

5. Ownership, Title, and Registration. The ambulance shall be purchased in the legal name of the Agency and shall be titled and registered in the Agency's name. The Agency shall be the sole and exclusive owner of the ambulance. The County shall acquire no ownership, lien, security, possessory, or other proprietary interest in the ambulance as a result of providing the funding contemplated by this MOU. The Agency shall not represent, imply, or otherwise indicate to any third party that the County owns, controls, or otherwise has any proprietary or other interest in the ambulance.

6. Insurance. The Agency shall, at its sole expense, obtain and maintain all insurance required by applicable law, as well as such additional insurance as is reasonably appropriate for the ownership, maintenance, and operation of the ambulance. All policies shall be issued by carriers having an A.M. Best's Financial Strength Rating of A- (or better), an A.M. Best's Financial

Size Category of VIII (or better) and who are licensed to provide insurance in the State of Delaware. The Agency shall be solely responsible for insuring the ambulance from the time ownership or possession of the ambulance is transferred to the Agency and throughout the period during which the Agency owns, possesses, or operates the ambulance. The County shall have no responsibility or obligation to provide or maintain insurance coverage for the ambulance, the Agency, its officers, employees, personnel, volunteers, contractors, or any other person or entity using, possessing, maintaining, or operating the ambulance.

The Agency shall provide the County with satisfactory evidence of all required insurance coverage at the time the Agency takes possession of the ambulance and thereafter upon the County's reasonable request during the Agency's ownership of the ambulance.

7. Operation and Maintenance. The Agency shall have sole responsibility for the operation, staffing, maintenance, repair, inspection, storage, fueling, and upkeep of the ambulance. All costs associated with the operation, maintenance, repair, inspection, fueling, storage, and eventual replacement of the ambulance shall be the sole responsibility of the Agency. Nothing in this MOU obligates the County to provide funding for the ongoing operation or maintenance of the ambulance.

The Agency shall ensure that the ambulance is operated only by individuals who are properly licensed, certified, trained, and authorized to operate the vehicle and provide emergency medical services.

8. No County Operational Control. The County's funding of the ambulance shall not create an operational relationship between the County and the Agency. The Agency shall retain sole and exclusive operational control over the ambulance, including decisions regarding its use, deployment, staffing, maintenance, and operation.

The County shall have no authority or responsibility to direct, instruct, influence, supervise, or control the Agency's operation or use of the ambulance, including, but not limited to:

- (a) where or when the ambulance is deployed;
- (b) who operates the ambulance;
- (c) who staffs the ambulance;
- (d) how the ambulance is maintained;
- (e) how emergency medical services are provided;
- (f) how patient care is delivered; or
- (g) how the Agency otherwise uses the ambulance.

All operational, staffing, maintenance, medical, and patient-care decisions relating to the ambulance shall remain solely within the Agency's discretion and responsibility.

Nothing in this MOU shall be construed to make the County an owner, operator, user, provider of emergency medical services, employer, principal, partner, joint venturer, agent, or contractor of the Agency, Atlantic, or any other person or entity in connection with the ambulance.

9. Liability and Indemnification.

9.1 Agency Control and Responsibility; No County Liability. To the fullest extent permitted by applicable law, the County shall not be responsible or liable, and no claim shall be asserted against the County, for any claims, demands, actions, causes of action, suits, judgments, damages, losses, injuries, deaths, liabilities, penalties, fines, costs, or expenses, including reasonable attorneys' fees and litigation expenses, arising out of, resulting from, or in any way relating to the ambulance or any transaction, activity, service, or occurrence involving the ambulance, all of which shall remain under the control and responsibility of the Agency, including, but not limited to:

- (a) the selection, purchase, acquisition, financing, delivery, transportation, or acceptance of the ambulance;

- (b) the manufacture, design, construction, condition, performance, or defects of the ambulance or any component thereof;

- (c) the ownership, title, possession, custody, or control of the ambulance;

- (d) the operation, use, dispatch, or deployment of the ambulance;

- (e) the maintenance, inspection, servicing, modification, repair, or replacement of the ambulance or any component thereof;

- (f) the staffing, training, credentialing, licensing, certification, supervision, or conduct of any person operating or providing services through or in connection with the ambulance;

- (g) the provision, failure to provide, or alleged improper provision of emergency medical, ambulance, transportation, or related services;

- (h) any act or omission, negligent or otherwise, of the Agency, its officers, employees, agents, volunteers, contractors, subcontractors, or personnel;

- (i) any act or omission, negligent or otherwise, of Atlantic or any manufacturer, vendor, supplier, contractor, subcontractor, or other person or entity engaged by or on behalf of the Agency;

- (j) any accident, collision, malfunction, breakdown, loss, theft, damage, or destruction involving the ambulance; or

(k) any bodily injury, death, property damage, or other loss allegedly arising from or relating to the ambulance or services provided through or in connection with it.

9.2 Indemnification. The Agency shall defend, indemnify, and hold the County, its elected and appointed officials, officers, employees, agents, representatives, and volunteers harmless from and against any and all claims, demands, actions, causes of action, suits, judgments, damages, losses, liabilities, penalties, costs, and expenses, including reasonable attorneys' fees and litigation expenses, arising out of, resulting from, or in any way relating to the ambulance or any matter described in this MOU, except to the extent caused by the County's own gross negligence, willful misconduct, or other conduct for which indemnification is prohibited by applicable law.

No action taken by the County in providing or administering the financial assistance contemplated by Section 9 hereof shall be construed to confer upon the County any right or duty to direct, supervise, control, or participate in the operation or use of the ambulance or the provision of services through the ambulance.

9.3 Immunity. Nothing contained herein is intended to waive, alter, or otherwise amend the County's immunity under the Delaware Code or otherwise, including but not limited to the County and Municipal Tort Claims Act. Additionally, nothing contained herein is intended to violate any constitutional principles of the State of Delaware or United States. To the extent that any obligations contained in this Agreement are determined by court or other judicial action to waive, alter, or otherwise amend such immunity or to be constitutionally prohibited or otherwise not in accordance with the laws in effect at the time of any such claim, liability, cost or expense, the offending language shall be stricken from this MOU by such authority and considered invalid and unenforceable to the extent necessary to allow the application of such immunity to any claims, losses, damages, or suits asserted against either party or to the extent necessary to correct such violation of the law. The parties agree that any claims, liabilities, damages, costs and expenses shall be subject to the provisions of the County and Municipal Tort Claims Act, including the limitations on damages.

9.4 Survival. The provisions of this Section shall survive the expiration or termination of this MOU and shall remain in effect for so long as any claim may lawfully be asserted against the County arising out of or relating to the ambulance or any matter covered by Section 9 hereof.

10. Delivery and Acceptance. The Agency shall be responsible for coordinating delivery and acceptance of the ambulance with Atlantic. The Agency shall inspect and accept the ambulance and shall be responsible for ensuring that any deficiencies, warranty issues, or other concerns are addressed directly with Atlantic. The County's payment to Atlantic shall not constitute nor be construed as acceptance of the ambulance by the County.

11. County Financial Records. The Agency shall identify in its financial records that the ambulance was acquired with financial assistance from the County, provided that such identification does not imply County ownership or operational control.

12. Sale, Transfer, Trade, Donation, or Other Disposition of Ambulance.

12.1 Five-Year Restriction. Because the County is providing public funds toward the acquisition of the ambulance, the Agency agrees and acknowledges that if the ambulance is sold, transferred, traded, donated, or otherwise permanently disposed of within five (5) years from the date the ambulance is placed in service, the Agency shall repay to Sussex County a portion of the County's original contribution in accordance with Section 12.2. For purposes of this Section, the date the ambulance is placed in service shall be the date the Agency takes possession of the ambulance. The Agency shall provide the County with written notice of the date of possession, *i.e.*, the date the ambulance is placed in service, within ten (10) days of the Agency's receipt and acceptance of the ambulance.

12.2 Pro-Rata Repayment. The amount required to be repaid to the County shall be based upon the following schedule:

Time of Disposition	Amount Repayable to County
During Year 1	100% of County contribution
During Year 2	80% of County contribution
During Year 3	60% of County contribution
During Year 4	40% of County contribution
During Year 5	20% of County contribution
After completion of 5 years	0%

The applicable repayment amount shall be calculated based upon the original amount actually paid by the County toward the base ambulance.

Example: If the County's contribution toward the base ambulance is \$300,000 and the Agency sells, trades, transfers, donates, or otherwise disposes of the ambulance during Year 3, the Agency shall repay \$180,000 to the County, representing 60% of the County's original contribution.

12.3 Notice to County. The Agency shall provide the County with written notice at least thirty (30) days prior to any anticipated sale, transfer, trade, donation, or other permanent disposition of the ambulance during the five-year period. The notice shall identify:

- (a) the proposed date of disposition;
- (b) the type of disposition;
- (c) the identity of the purchaser, transferee, or recipient, if applicable;

(d) the anticipated sale or trade value; and

(e) any other information reasonably requested by the County.

12.4 Payment to County. Any amount owed to the County under this Section shall be paid within thirty (30) days following the date of the sale, transfer, trade, donation, or other disposition. The County may, in its discretion and subject to applicable law, deduct or offset any amount owed under this Section from other funds otherwise payable by the County to the Agency.

12.5 Total Loss, Accident, Theft, or Other Casualty. If, during the five-year period, the ambulance is destroyed, totaled, stolen, or otherwise permanently rendered unusable due to an accident, fire, theft, or other casualty, and the loss is not caused by the Agency's negligence, intentional misconduct, unlawful conduct, or violation of this MOU, the Agency will not be required to repay the County solely because of the casualty. The Agency shall promptly notify the County of any such casualty and provide any documentation the County reasonably requests, including insurance documentation and information regarding any insurance settlement. The Agency shall use any available insurance proceeds to reimburse the County in accordance with the applicable insurance policy and law. The County will not be required to provide additional funding for a replacement ambulance.

If the casualty results from the Agency's negligence, intentional misconduct, unlawful conduct, or violation of this MOU, the County may require the Agency to repay all or a portion of the County's contribution. In determining the amount of any repayment, the County shall consider the circumstances of the loss and any insurance proceeds received by the Agency.

12.6 Replacement Ambulance. The Agency's purchase of a replacement ambulance shall not, by itself, eliminate or reduce any repayment obligation established under this Section, except as expressly provided in Section 12.5 or otherwise approved by the County in writing.

12.7 No Repayment After Five Years. After completion of five (5) years from the date the ambulance is placed in service, the Agency shall have no repayment obligation to the County under this Section solely because the ambulance is subsequently sold, transferred, traded, donated, or otherwise permanently disposed of.

12.8 County Interest in Public Funds. The Parties acknowledge that the repayment provisions contained in this Section are intended to protect the County's investment of public funds and are not intended to create an ownership interest, lien, or other proprietary interest in the ambulance in favor of the County.

12.9 Survival. The provisions of this Section shall survive the expiration or termination of this MOU.

13. Term. This MOU shall become effective upon execution by the last Party and shall remain in effect until the Parties have fulfilled the responsibilities contemplated herein, unless earlier terminated in accordance with this MOU. The financial obligations of the County shall

terminate upon the County's payment of the approved funding amount to Atlantic, subject to any outstanding obligations expressly identified in this MOU.

14. Termination. This MOU may be terminated as follows:

(a) Either Party may terminate this MOU upon written notice to the other Party if the other Party materially breaches the terms of this MOU and fails to cure such breach within thirty (30) days after receiving written notice of the breach; or

(b) If the Agency has not entered into a purchase agreement with Atlantic within ninety (90) days following execution of this MOU, the County may withdraw its funding commitment unless the County agrees in writing to extend the deadline; or

(c) If the Agency does not complete the purchase of the ambulance for which the County provided funding, the County may require the return of any County funds that were not properly applied to the approved purchase.

15. No Third-Party Beneficiaries. This MOU is intended solely for the benefit of the Parties and shall not create any rights or benefits for any third party, including Atlantic, the manufacturer of the ambulance, or any other contractor or vendor.

16. Independent Entities. The Parties are independent entities, and nothing in this MOU shall be construed to create or establish a partnership, joint venture, employment relationship, agency relationship, or other fiduciary relationship between the County and the Agency. Neither Party shall have the authority to act on behalf of, or bind, the other Party except as expressly provided in this MOU.

17. Entire Agreement; Amendment. This MOU constitutes the entire understanding between the Parties concerning the County-funded ambulance program and supersedes any prior oral or written understanding concerning the subject matter herein. Any amendment to this MOU must be in writing and signed by authorized representatives of both Parties.

18. Waiver. No waiver of any of the provisions of this MOU will constitute a waiver of any other provision (whether or not similar). No waiver will be binding unless executed in writing by the Party to be bound by the waiver. No failure or delay by any party hereto in exercising any right, power or privilege hereunder (and no course of dealing between or among any of the parties) shall operate as a waiver of any such right, power or privilege. No waiver of any default on any one occasion shall constitute a waiver of any subsequent or other default. No single or partial exercise of any such right, power or privilege shall preclude the further or full exercise thereof.

19. Severability. If any provision of this MOU is determined to be invalid or unenforceable by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect to the fullest extent permitted by law.

20. Governing Law. This MOU and any claims arising out of or relating hereto shall be governed by and construed in accordance with the laws of the State of Delaware, without reference to its conflicts of law principles.

21. Notice. Any notice under this MOU shall be in writing and shall be deemed to have been given when (i) delivered in person, (ii) sent by facsimile to the fax number listed below (if any) (provided that such notice is also sent the same day by U.S. first class mail, postage prepaid, addressed to the parties as set forth below), (iii) delivered by Federal Express or other reputable overnight courier service, or (iv) Three (3) days after same is deposited in the United States registered or certified mail, return receipt requested, postage prepaid, addressed to the parties as follows:

If to Sussex County:

Sussex County
2 The Circle
P.O. Box 589
Georgetown, DE 19947
Attention: Gina A. Jennings, County Finance Director/COO

If to the Agency:

Name: _____

Address: _____

Attention: _____

22. Assignment. The Agency shall not be permitted to assign its interest in this MOU to a third party without the County's prior written consent.

23. Counterparts; Electronic Signatures. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Electronic signatures and photocopies or facsimile copies of signatures shall be deemed to have the same force and effect as originals.

24. Authority To Execute. Each person signing this MOU represents and warrants that he or she has the authority to execute this MOU on behalf of the Party identified below and to bind that Party to the terms and conditions contained herein.

[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY.
SIGNATURE PAGE TO FOLLOW.]

IN WITNESS WHEREOF, the Parties have executed this Memorandum of Understanding as of the dates set forth below.

Date

SUSSEX COUNTY, a political subdivision
of the State of Delaware

By: _____ (SEAL)

Print Name and Title

Attest: _____

AGENCY:

Date

By: _____ (SEAL)

Print Name and Title

Attest: _____



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 28, 2026

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

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

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

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

The County Council held a Public Hearing on the application at the meeting on August 25, 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 meetings of February 4, 2026, and February 18, 2026.



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

C/U 2485 Christopher Hanyok

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

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

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

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

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

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

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

Mr. Hanyok stated that currently he had a lot of material stored on the site for a large project within Sussex County, being the Georgetown Trail; that he was storing material for the contractor that he was providing work for as a subcontractor; that he anticipated those materials to be removed from the site in about a year to a year and a half, when the trail is nearing completion; that he does store chain-link fence; that he does a lot of fencing for schools, previously for Sussex Central, however, all of that job material had been removed; that he previously stored safety fencing for the Route 113 bypass in Millsboro; that the material for the bypass job remained onsite for about three to four months, and has now been removed; that generally the materials stored onsite consist of a lot of pipe, chain link, some wood from time to time, and vinyl fencing, and generally all the materials are bundled together, and stored for each job.

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

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

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

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

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

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

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

Mr. Hanyok stated that his crews, depending on the daylight, will arrive around 6:30 AM to 7:00 AM; that his employees usually work from 7:00 AM until 3:00 PM, Monday through Friday; that he would prefer to begin work at 6:00 AM for the summer months, as his employees prefer to begin early; that he would appreciate the ability to operate past 3:00 PM; that his office employees always leave the site at 3:00 PM, however his employees in the field, occasionally arrive to the site late, and therefore he felt the ability to operate until 5:00 PM would be perfect.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PLANNING & ZONING COMMISSION

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



Sussex County

DELAWARE
SUSSEXCOUNTYDE.GOV
302-855-7878

JAMIE WHITEHOUSE, AICP MRTPI
PLANNING & ZONING DIRECTOR

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: February 4, 2026

Application: CU 2485 Christopher Hanyok

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

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

Site Location: 20601 Rust Road, Harbeson

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

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

Proposed Use: Fence Business with Outdoor Storage

Comprehensive Land
Use Plan Reference: Low Density Area

Councilmanic
District: District 5 - Mr. Rieley

School District: Indian River School District

Fire District: Milton Fire Department

Sewer: Private Septic

Water: Private Well

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

Tax Map ID.: 234-4.00-10.32





Memorandum

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

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

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

Tax Parcel ID: 234-4.00-10.32

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

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

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

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

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

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

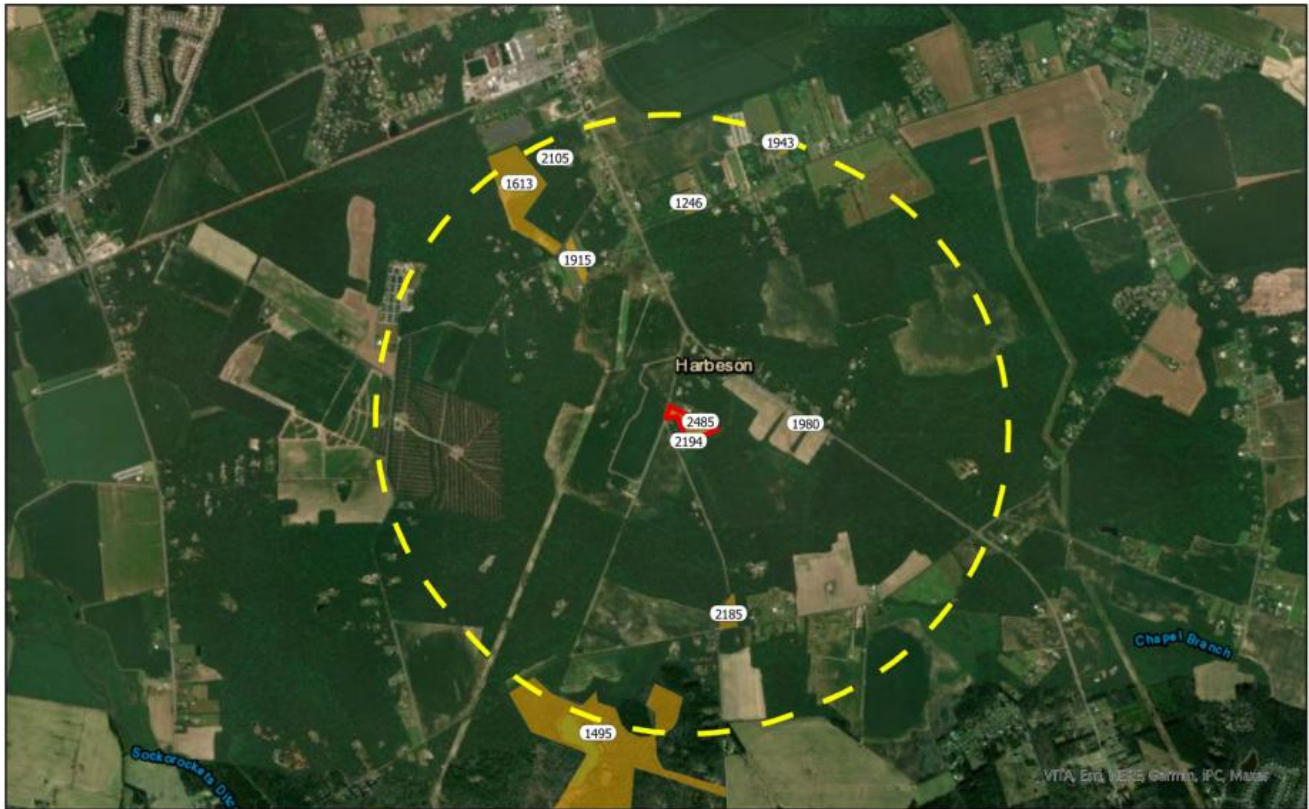
Further Site Considerations:

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

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

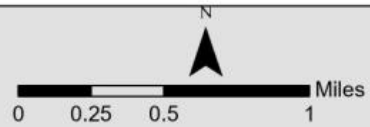
Existing Conditional Uses within the Vicinity of the Subject Site: There have been ten (10) Conditional Use applications within a 1-mile radius of the application site.

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



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

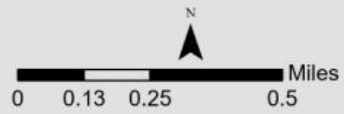
- CU 2485 Christopher Hanyok
- CU 2485 1-mile Buffer
- CU 2485 CU Vicinity Map





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

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





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

 CU 2485 Christopher
Hanyok



0 250 500 1,000 Feet



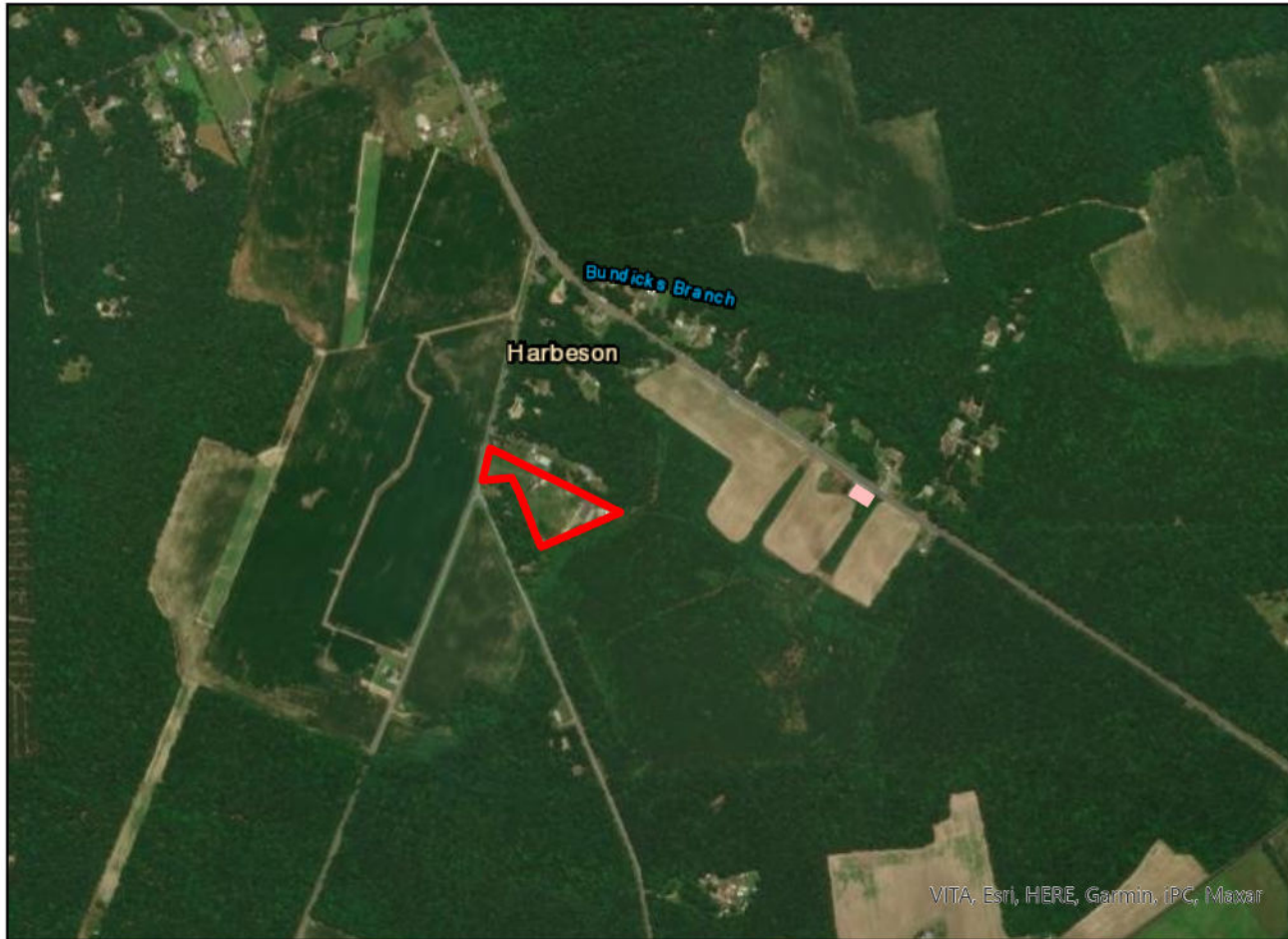


CU 2485 Christopher Hanyok
Street Map
TM# 234-4.00-10.32



CU 2485 Christopher
Hanyok





Zoning

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

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

 CU 2485 Christopher Hanyok



0 0.13 0.25 0.5 Miles



Introduced: 3/25/25

Council District 5: Mr. Rieley

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

911 Address: 20601 Rust Road, Harbeson

ORDINANCE NO. ____

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

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

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

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

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

Section 2. The subject property is described as follows:

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

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



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 28, 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 meetings of July 28, 2026, August 11, 2026 and August 25, 2026, the Council discussed the Ordinance, but at each meeting deferred action on the application for further consideration.

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

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

ORD 26-05

AN ORDINANCE TO AMEND CHAPTER 99, ARTICLE I, III AND V §99-5 "DEFINITIONS", §99-21A "PERIMETER BUFFERS" AND §99-26 "INFORMATION TO



BE SHOWN” AND CHAPTER 115, ARTICLES I, XXV AND XXVIII §115-4 “DEFINITIONS AND WORD USAGE” AND §115-221 “FINAL SITE PLAN REQUIREMENTS” AND BY ADDING NEW §§115-194.8 “FOREST PRESERVATION” AND 115-194.9 “TREE PLANTING REQUIREMENTS”.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. Eric Whal, registered Landscape Architect with Pennoni and current President of the Delaware Native Plant Society provided comment on the Ordinance. Mr. Whal stated that he writes articles in Letters, being a Camp Rehoboth monthly magazine called *The Dirt*; that he also was a member of the Tree Commission for the City of Milford; that to truly protect the ecological integrity of Delaware's Coastal Plain, the Ordinance must prioritize the physical size, species, composition, and successional age of a forest; that the area of the forest stand is the most critical factor due to the edge effect; that this would be where the edge of the forest stand, approximately 20 to 25 feet, where the most invasive species can occur, because it receives more sunlight, more rainwater, and more nutrients; that the ratio when forest sizes are minimal, such as the 10,000 square feet definition, the ratio with the edge to interior habitat increases; that forest edges are high stress zones, where increased sunlight, wind, and human activity alter the microclimate; that these conditions favor the rapid spread of invasive species, like Multi-flora Rose, Japanese Stilt grass, Chinese Bittersweet, and Bradford Pear; that historically, Southern Delaware's landscapes have seen numerous changes in the last two centuries due to human occupation; that much of the original landscape was cleared in the first half of the 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

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35

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.

Morgan C. Stokes

From: notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE
<notifications@d3forms.com>
Sent: Tuesday, August 18, 2026 11:41 AM
To: Morgan C. Stokes
Subject: Form submission from: Council Grant Form

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Council Grant Form

Legal Name of Agency/Organization Delaware Seaside Railroad Club, Inc.

Project Name Museum Building project in Georgetown

Federal Tax ID 20-5762923

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 Preserve and Promote the history and hobby of model railroading. This is accomplished through the exchange of information, development of friendships, and the interaction with the community through educational workshops, train meetings, shows, displays and presentations.
We have operated leased accommodations in Dagsboro and Selbyville Delaware since 2015 with our facility open to the public to times per week, all year long, with no charge for admissions.

Address P O Box 479

City	Ocean View
State	Delaware
Zip Code	19970
Contact Person	John Hodges
Contact Title	President
Contact Phone Number	302-448-5654
Contact Email Address	jchodges46@verison.net
Total Funding Request	\$25,000. \$2,500 per email
Has your organization received other grant funds from Sussex County Government in the last year?	No
If YES, how much was received in the last 12 months?	N/A
Are you seeking other sources of funding other than Sussex County Council?	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
Primary Beneficiary Category	Other
Beneficiary Category Other	All Visitors
Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program	1500
Scope	We need more space, and commercial rates in Eastern Sussex County are too high for us to sustain. Our income is 100% dependent on donations or cash and/or used model trains. We recondition and sell these items to allow us to operate an educational "Living Museum" for Model Railroading. We are partnering with Marvel Museum to lease a space to build our own building to suit our needs, and allow us long term stability instead of having to move every 3-5 years. We will loose our lease in Selbyville June of 2027.
Religious Components	N/A
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	90,000.00
Description	Initial building shell

Amount	130,000.00
Description	Finshing interior walls
Amount	25,000.00
Description	Finish electrical
Amount	25,000.00
Description	Finsh HVAC
Amount	40,000.00
Description	Plumbing/hookups
Amount	45,000.00
Description	Architect/engineering specs
Amount	20,000.00
Description	Permits
Amount	15,000.00
TOTAL EXPENDITURES	300,000.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	-210,000.00
Name of Organization	Delaware Seaside RR Club
Applicant/Authorized Official	John C Hodges
Date	08/13/2026

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

Yes

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

Yes

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