COUNTY COUNCIL

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

Sussex County
DELAWARE
sussexcountyde.gov
(302) 855-7743

SUSSEX COUNTY COUNCIL

A G E N D A

May 19, 2026

9:00 A.M.

Call to Order

Approval of Agenda

Approval of Minutes - May 12, 2026

Minutes 051226

Reading of Correspondence

Public Comments

Consent Agenda

1. **Proclamation Request – Community Action Month**

Old Business

1. **Conditional Use No. 2554 filed on behalf of E. Johnson Holdings, LLC**

   "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SELF STORAGE FACILITY TO BE LOCATED ON A PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY CONTAINING 12.05 ACRES, MORE OR LESS" (property is lying on the north and west side of the intersection of Central Avenue [S.C.R. 84] and Lizard Hill Road [S.C.R. 367A]) (911 Address: N/A) (Tax Map Parcel: 134-19.00-12.00 [P/O]) TO ANNOUNCE P&Z RECOMMENDATION

   Old Business CU 2554

2. **Conditional Use No. 2555 filed on behalf of Bittersweet Investments, LLC**

"AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OFFICE AND STORAGE TO BE LOCATED ON A CERTAIN PORTION OF A PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 45.78 ACRES, MORE OR LESS" (property is lying on the southeast corner of the intersection of Central Avenue [S.C.R. 84] and Old Church Cemetery Road [S.C.R. 367]) (911 Address: 34555 Central Avenue, Frankford) (Tax Map Parcel: 134-19.00-25.00 [P/O]) TO ANNOUNCE P&Z RECOMMENDATION

Old Business CU 2555

3. **Conditional Use No. 2602 filed on behalf of Sunset Bridge Corporation**

"AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A NON-PROFIT PUBLIC CHARITY PROVIDING RESPITE CARE FACILITY AND USE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 3.64 ACRES, MORE OR LESS" (property is lying on the east side of Charleys Run, approximately, 0.22 mile south of Fred Hudson Road [S.C.R. 360]) (911 Address: 31613 Charleys Run, Bethany Beach) (Tax Parcel: 134-13.00-84.00)

Old Business CU 2602

4. **Conditional Use No. 2533 filed on behalf of RWE Clean Energy**

"AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS AND ASSOCIATED UTILITIES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 69.03 ACRES, MORE OR LESS" (property is lying on the south side of Cypress Road [Route 54], approximately 62 feet west of the intersection of Cliff Road (][S.C.R. 380A] and Cypress Road [Route 54]) (911 Address: N/A) (Tax Map Parcel: 533-8.00-10.00)

Old Business CU 2533

9:00 a.m. Public Hearings

1. **Ordinance No. 26-01**

"AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 72, ARTICLE II, SECTION 72-24 AND CHAPTER 115, ARTICLE IV, V, VI, VII AND VIII SECTIONS 115-20, 115-29, 115-37, 115-45 AND 115-53 REGARDING AFFORDABLY PRICED RENTAL UNITS AND THE SUSSEX COUNTY RENTAL UNIT (SCRP) PROGRAM"

Public Hearing Ord 26-01

2. **Ordinance No. 26-02**

"AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE IV, §115-25 "HEIGHT, AREA AND BULK REQUIREMENTS" AND ARTICLE XVI §115-120 "SUPERIMPOSED DISTRICT; EFFECT ON OTHER PROVISIONS" OF THE CODE OF SUSSEX COUNTY REGARDING CLUSTER SUBDIVISIONS AND RESIDENTIAL PLANNED COMMUNITY DISTRICTS"

Public Hearing Ord 26-02

3. **Ordinance No. 26-03**

"AN ORDINANCE TO AMEND CHAPTER 99, ARTICLE II, SECTIONS 99-9, "PUBLIC HEARING ON PRELIMINARY PLAT APPROVAL OR DISAPPROVAL" AND CHAPTER 115, ARTICLE IV, §115-25 "HEIGHT, AREA AND BULK REQUIREMENTS" OF THE CODE OF SUSSEX COUNTY REGARDING DESIGN CRITERIA FOR ALL SUBDIVISIONS"

Public Hearing Ord 26-03

4. **Ordinance No. 26-04**

"AN ORDINANCE TO AMEND CHAPTER 99, ARTICLES I, III & IV, SECTIONS 99-5 "DEFINITIONS", 99-21, "PUBLIC SITES AND OPEN SPACES", §99-23 "PRELIMINARY PLAT REQUIREMENTS" AND CHAPTER 115, ARTICLES I & V, §115-4 "DEFINITIONS AND WORD USAGE" AND §115-25 "HEIGHT, AREA AND BULK REQUIREMENTS" OF THE CODE OF SUSSEX COUNTY REGARDING OPEN SPACE"

Public Hearing Ord 26-04

Recess

Todd Lawson, County Administrator

1. **Fiscal Year 2027 – Budget Presentation**

2. **Discussion and Possible Introduction of Proposed Ordinances:**

"AN ORDINANCE ESTABLISHING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2027"

"AN ORDINANCE ESTABLISHING ANNUAL SERVICE CHARGES, ANNUAL ASSESSMENT RATES FOR COLLECTION AND TRANSMISSION AND/OR TREATMENT, AND CONNECTION CHARGES FOR ALL SUSSEX COUNTY WATER AND SANITARY SEWER DISTRICTS"

"AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 62, ARTICLE III, § 62-7, ENTITLED, "FEES FOR PERMITS AND APPLICATIONS," TO ADD A NEW § 62-7J., WHICH SHALL ESTABLISH A SCHOOL SURCHARGE ON BUILDING PERMIT APPLICATIONS TO GENERATE REVENUE FOR CAPITAL IMPROVEMENTS FOR LOCAL SCHOOL DISTRICTS AND SUSSEX TECHNICAL HIGH SCHOOL"

Ordinance Budget 27
Ordinance Sewer & Water Rates
Ordinance Chapter 62

3. **Administrator's Report**

Introduction of Proposed Zoning Ordinances

Ord Intros CU2642 CU2640 CU2633 CU2616 CU2598 CU2623

Council Members' Comments

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

Possible action on Executive Session Items

Adjourn

-MEETING DETAILS-

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on May 12, 2026 at 4:00 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://sussexcountyde.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://sussexcountyde.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@sussexcountyde.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, MAY 12, 2026

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, May 12, 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**

The Invocation and Pledge of Allegiance were led by Mr. Hudson.

Call to Order **Mr. Hudson called the meeting to order.**

M 179 26 Approve Agenda **Mr. Lawson reported that under Mike Harmer, County Engineer No. 1 A can be removed from the agenda. He also announced that under 1:30 p.m. Public Hearings, CU2546 filed on behalf of James Mershon can be removed. A Motion was made by Mr. Rieley, seconded by Mr. Lloyd, to approve the Agenda, as amended.**

Motion Adopted: **5 Yeas**

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

Minutes **The minutes from April 28, 2026 and May 5, 2026, were approved by consensus.**

Corre-spondence **There was no correspondence.**

Public Comments **There were no public comments.**

M 180 26 Approve Consent Agenda **A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum, to approve the following items under the Consent Agenda:**

Use of Existing Wastewater Infrastructure Agreement, IUA-1283
Convenience Store with Gas (Wawa), Western Sussex Area

Use of Existing Wastewater Infrastructure Agreement, IUA-1284
Club House Crossing, Millville Area

Use of Existing Wastewater Infrastructure Agreement, IUA-1296 Dartmouth Independent Living (LIC Housing), West Rehoboth Area

Motion Adopted: **5 Yeas**

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

Opioid Commission

Mr. Lawson reviewed the Opioid Commission Grant Applications that were received and provided recommendations for the organizations to move forward with the process.

M 181 26 Approve Opioid Commission Grants

A Motion was made by Mr. Lloyd, seconded by Mr. McCarron, be it moved that Sussex County Council approves the five organizations and funding recommendations as presented to be forwarded onto the Opioid Commission for review and final approval.

Motion Adopted: **5 Yeas**

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

Administrator's Report

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

1. **<u>Project Receiving Substantial Completion</u>**

   Per the attached Engineering Department Fact Sheet, The Estates at Bridgewater (FKA Bent Creek Estates) Phase 3A (Construction Record) received substantial completion effective April 23, 2026

2. **<u>Valerie Wing</u>**

   It is with great sadness that we inform you that pensioner, Valerie Wing, passed away on Sunday, April 26, 2026, Ms. Wing began her career with Sussex County in January 2000 where she worked until February 2012 for a total of 12 years of service. Her last position with the County was Clerk III in the Assessment Division. We would like to extend our condolences to the Wing family.

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

CU2371 Ext Request

Jamie Whitehouse, Planning & Zoning Director, presented a time extension request for CU2371 filed on behalf of Georgetown Business Plaza, LLC.

M 182 26

A Motion was made by Mr. Rieley, seconded by Mr. McCarron that Sussex

Approve CU2371 Time Ext Request

County Council approve the 6-month time extension request for CU2371 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**

Wolfe Neck CO No. 5

Mike Harmer, County Engineer presented change order no. 5, denali sludge removal agreement for Wolfe Neck RWF upgrade and expansion for Council's consideration.

M 183 26 Approve CO No. 5/ Wolfe Neck RWF

A Motion was made by Mr. Rieley, seconded by Mr. McCarron that be it moved based upon the recommendation of the Sussex County Engineering Department that change order no. 5 to the Wolfe Neck Regional Wastewater Facility – denali sludge removal agreement be approved, increasing the contract by $2,000,000.00 for additional sludge removal from Lagoon 1 and an allowance for site work at the Wolfe Neck Regional wastewater facility.

Motion Adopted: **5 Yeas**

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

Admin Bldg Services

Mike Harmer, County Engineer, presented a professional services proposal for Administration Building for Council's consideration.

M 184 26 Approve Admin Bldg Services Proposal

A Motion was made by Ms. Gruenebaum, seconded by Mr. Lloyd, that be it moved based upon the recommendation of the Sussex County Engineering Department that County Council approve the DEDC, LLC building systems modifications and renovations proposal, in the amount of $253,860.00 for various renovations within the Administration building.

Motion Adopted: **5 Yeas**

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

Landfill CO No. 1

Mike Harmer, County Engineer, presented change order no. 1 for landfills site maintenance contract for Council's consideration.

M 185 26 Approve CO No. 1/

A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum, that be it moved based upon the recommendation of the Sussex County Engineering Department that change order no. 1 to the landfill maintenance contract,

Landfill Site **for additional hourly services, be approved in the not-to-exceed value of $14,400.00.**

Motion Adopted: **5 Yeas**

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

General Labor & Equip **Mike Harmer, County Engineer, presented change order no. 2 and a one-year extension request for FY25 general labor & equipment contract for Council's consideration.**

M 186 26 Approve CO No. 2/ General Labor & Equip **A Motion was made by Mr. Lloyd, seconded by Mr. McCarron, that be it moved based upon the recommendation of the Sussex County Engineering Department that FY26 change order no. 2 for contract #25-01, FY25 general labor & equipment, be approved, which increases the contract amount by $2,500,000.00, for a new total of $6,249,784.00, and to approve the second, one-year contract extension in the amount of up to $7,000,000.00 at the unit prices previously bid, contingent upon approval of the FY27 budget.**

Motion Adopted: **5 Yeas**

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

Lincoln EMS Station **Mark Parker, Assistant County Engineer, presented a recommendation to award for Lincoln EMS station for Council's consideration.**

M 187 26 Approve Lincoln Station Award **A Motion was made by Mr. McCarron, seconded by Ms. Gruenebaum, be it moved based upon the recommendation of the Sussex County Engineering Department that contract C21-15, Lincoln paramedic station 101, be awarded to the Whayland Company for their base bid amount of $2,208,000.00.**

Motion Adopted: **5 Yeas**

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

Pole Bldg Award **Paul Mauser, Assistant County Engineer, presented a recommendation for the award of Facilities Management pole buildings for Council's consideration.**

M 188 26 **A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum, be it**

Approve Pole Bldg Award

moved based upon the recommendation of the Sussex County Engineering Department that contract G25-08, Sussex County pole buildings, be awarded to Delmarva Pole Building Supply, Inc., for their total base bid amount of $1,871,668.00.

Motion Adopted: **5 Yeas**

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

Stop Loss Insurance

Karen Brewington, Human Resources Director, presented a request for stop loss insurance for Council's consideration.

M 189 26 Approve Stop Loss Insurance Proposal

A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum, be it moved that the Sussex County Council renew its annual contract with Highmark for stop loss coverage at a rate per month of $66.16 per single coverage and $189.31 per family coverage and annual specific deductible of $305k effective May 2026.

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/ CZ2033

Under Old Business, Mr. Whitehouse presented a Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN MR-RPC MEDIUM DENSITY RESIDENTIAL - RESIDENTIAL PLANNED COMMUNITY DISTRICT TO AN MR-RPC MEDIUM DENSITY RESIDENTIAL - RESIDENTIAL PLANNED COMMUNITY DISTRICT AND TO AMEND CONDITIONS OF APPROVAL FOR C/Z 1528 (ORDINANCE NO. 1679) AND FOR C/Z 1753 (ORDINANCE NO. 2361) FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 37.97 ACRES, MORE OR LESS" filed on behalf of Springpoint at Lewes, Inc.

The County Council held a Public Hearing on the application at its meeting on February 10, 2026. The application was deferred for further consideration.

M 190 26 Amend Condition F/ CZ2033

A Motion was made by Ms. Gruenebaum, seconded by Mr. Lloyd to delete the current Condition F and revise it to now read "A revised Master Plan either depicting or noting these conditions must be submitted to the Office of Planning & Zoning. This Master Plan will include the entire Springpoint at Lewes MR-RPC. This revised Master Plan shall show a minimum separation distance of 40 feet between the proposed new buildings and any existing buildings adjacent to the application site".

Motion Adopted: **5 Yeas**

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

M 191 26 Adopt Ordinance No. 4052/ CZ2033

A Motion was made by Ms. Gruenebaum, seconded by Mr. Lloyd, to Adopt Ordinance No. 4052 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN MR-RPC MEDIUM DENSITY RESIDENTIAL - RESIDENTIAL PLANNED COMMUNITY DISTRICT TO AN MR-RPC MEDIUM DENSITY RESIDENTIAL - RESIDENTIAL PLANNED COMMUNITY DISTRICT AND TO AMEND CONDITIONS OF APPROVAL FOR C/Z 1528 (ORDINANCE NO. 1679) AND FOR C/Z 1753 (ORDINANCE NO. 2361) FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 37.97 ACRES, MORE OR LESS" for the reasons and conditions given by the Planning & Zoning Commission as follows and as amended by this Council:

1. **This is an application seeking to amend an existing MR-RPC Medium Density Residential Planned Community known as The Moorings at Lewes and formerly known as Cadbury at Lewes to increase the number of units to 273, add amenities, and expand the healthcare center and community center. This is an amendment to the conditions of approval imposed by C/Z 1528 (Ordinance No. 1679) and for C/Z 1753 (Ordinance No. 2361).**
2. **The site is bounded by Gills Neck Road to the South and East, the Breakwater Subdivision to the North, and Mitchell's Corner to the West. Nearby developments include Bay Breeze Estates, Showfield, Senators, Hawkseye, and Governors. A similar project known as the Lodge at Lewes is located across Kings Highway, along with the Cape Henlopen High School. There are also several commercial uses, including medical offices, contractors' offices, retail, and restaurants in the immediate vicinity. This expansion of the existing MR-RPC is appropriate in this location.**
3. **On April 6, 2004, Ordinance No. 1679 (C/Z 1528) permitted 48 single and duplex units, 84 apartment units, and an 80-unit Healthcare Center, totaling 212 units. The residential portion was approved for 80 single-family lots and 105 townhome and duplex units. On April 5, 2014, Ordinance No. 2361 expanded the Cadbury at Lewes project by five (5) acres to permit an additional 32 units, bringing the approved total to 215 units. This is a reasonable, limited expansion of this existing MR-RPC.**
4. **The purpose of the MR Zoning District and RPC overlay is satisfied by this expansion of the development because both central public water and sewer are provided; the area is more urban than rural character with numerous existing residential developments surrounding the**

M 191 26 Adopt Ordinance No. 4052/ CZ2033 (continued)

site; there are a variety of small and large business, commercial and public uses nearby; and it is in close proximity to Beebe Hospital and other medical services.

5. **The development is located within "Coastal Area" on the Future Land Use Map of the Comprehensive Plan. The "Coastal Area" is a designated Growth Area that permits development such as this.**
6. **DelDOT has determined that the traffic impact of this limited expansion will be "negligible." The existing entrance and roadway improvements along Gills Neck Road will continue to serve the community. In addition. DelDOT is requiring a new left-turn lane at the existing entrance and a shared-use path to be installed.**
7. **There are no wetlands on the Property, and the site does not lie within a wellhead protection area.**
8. **The MR-RPC will continue to have active and passive open space areas. The proposed Open Space accounts for 56% of the Property.**
9. **There will be a landscape buffer of at least 20 feet in width established between the Site and Sussex County Tax Parcel Numbers: 335-8.00-37.00 and 335-8.00-322.00 through 325.00. The proposed 20-foot buffer aligns with the buffer distance already established between Mitchell's Corner and the Site.**
10. **The Applicant, through its engineers, submitted its Coastal Area Environmental Assessment and Public Facilities Evaluation Report in accordance with Section 115-194.3 of the Code, in support of the Application.**
11. **With the recommended conditions of approval there will be no adverse impact on the neighborhood or neighboring property values. The expansion is consistent with the character and trend of development in the immediate area.**
12. **This recommendation is subject to the following conditions:**
    a. **With the exception of the following, the conditions imposed by Ordinance No. 1679 and Ordinance No. 2361 shall apply to this approval and remain in full force and effect.**
    b. **The maximum number of units in the MR-RPC shall not exceed 274 units as shown on the Applicant's site plan, and consisting of:**
        i. **21 Single Family Detached Dwelling Units**
        ii. **20 Single Family Attached Dwelling Duplexes (40 units)**
        iii. **130 Multi-Family Apartment Units**
        iv. **83 Healthcare Center Rooms**
    c. **Construction, site work, and deliveries shall only occur on the site between the hours of 7:00 a.m. through 6:00 p.m., Monday through Friday, and 7:00 a.m. through 2:00 p.m. on Saturdays. No Sunday hours are permitted. A 24-inch by 36-inch "NOTICE" sign confirming these hours in English and Spanish shall be prominently displayed at the site entrance during construction.**
    d. **There shall be a vegetated or forested buffer that is at least 20 feet wide installed between the Site and Sussex County Tax Parcel Nos. 335-8.00-37.00 and 335-8.00-322.00 through 325.00 as more fully shown on the Preliminary Site Plan. As proffered during the**

M 191 26 Adopt Ordinance No. 4052/ CZ2033 (continued)

public hearing, the buffer area adjacent to Parcels 322.00 through 325.00 shall include an additional row of evergreen plantings to screen the view of the MR-RPC from these neighboring properties. The Final Site Plan shall include a Landscape Plan depicting all landscaping to be provided or preserved in the buffer areas. The Landscape Plan shall also identify all "Limits of Disturbance."

e. There are pickleball courts shown along Gills Neck Road at the eastern corner of this site, adjacent to the development known as Breakwater. These pickleball courts shall either be relocated to a more centralized location or eliminated from the site plan.

f. A revised Master Plan either depicting or noting these conditions must be submitted to the Office of Planning & Zoning. This Master Plan will include the entire Springpoint at Lewes MR-RPC. This revised Master Plan shall show a minimum separation distance of 40 feet between the proposed new buildings and any existing buildings adjacent to the application site.

g. The Master Plan shall be subject to the review and approval of the Planning & Zoning Commission.

Motion Adopted: **5 Yeas**

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

Old Business/ CU2622

Under Old Business, Mr. Whitehouse presented a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT TO AMEND CONDITION K OF CONDITIONAL USE NO. 2583 (ORDINANCE NO. 4003) TO ALLOW FOR YEAR-ROUND OUTDOOR STORAGE TO REMAIN ON THE PROPERTY AS PART OF A CAMPGROUND FOR THE UNHOUSED TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 7.16 ACRES, MORE OR LESS" filed on behalf of Tharros Village (c/o Code Purple at the Cape).

The County Council held a Public Hearing on the Application at the meeting on April 21, 2026. At the conclusion of the meeting, the Council closed the Public Record and deferred action for further consideration.

M 192 26 Adopt Ordinance No. 4053/ CU2622

A Motion was made by Ms. Gruenebaum, seconded by Mr. McCarron, to Adopt Ordinance No. 4053 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT TO AMEND CONDITION K OF CONDITIONAL USE NO. 2583 (ORDINANCE NO. 4003) TO ALLOW FOR YEAR-ROUND OUTDOOR STORAGE TO REMAIN ON THE PROPERTY AS PART OF A CAMPGROUND FOR THE UNHOUSED TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX

M 192 26 Adopt Ordinance No. 4053/ CU2622 (continued)

COUNTY, CONTAINING 7.16 ACRES, MORE OR LESS" for the reasons and conditions given by the Planning & Zoning Commission as follows:

1. **Tharros Village received approval for a campground for the unhoused on June 17, 2025, as part of Conditional Use No. 2583 that was approved by County Council as Ordinance No. 4003.**
2. **Tharros Village has satisfied the requirements of Condition O of Ordinance No. 4003 that required a report to be sent to the Commission and County Council in early 2026. That report has been received by the County.**
3. **As part of that prior approval, and based upon information available at that time, the site used by Tharros Village was to be seasonal, with all items associated with the Conditional Use removed from the property in the colder months so that the State of Delaware could utilize the property for its DelDOT equipment and material storage.**
4. **Tharros Village has now advised the County that it has reached an agreement with the State of Delaware to allow certain items to remain on the site year-round, even while the camping area is unoccupied. This will enable the more efficient and convenient use of the site by Tharros Village, its volunteers, and the people who utilize the site.**
5. **For these reasons, it is appropriate to amend Condition K of Conditional Use No. 2583 and Ordinance No. 4003 so that it now states as follows:**
   "The entire facility may open no earlier than March 1st of each year, and it shall close no later than November 30th of each year. However, during the time that the site is unoccupied, the operators of the facility may store items or materials associated with the use as permitted by the State of Delaware. Any such items or materials shall be securely stored and screened from the view of neighboring properties and roadways. The applicant shall provide The Office of Planning & Zoning with an updated site plan showing where any items or materials associated with the use will be stored."

Motion Adopted: **3 Yeas, 1 Nay, 1 Recusal**

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

Grant Requests

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

M 193 26 Children's Beach House

A Motion was made by Ms. Gruenebaum, seconded by Mr. Lloyd to give $3,500 ($2,500 from Countywide Youth Grant Account and $1,000 from Ms. Gruenebaum's Councilmanic Grant Account) to Children's Beach House, Inc. for their youth development 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 194 26 History Book Festival at Lewes Inc.

A Motion was made by Ms. Gruenebaum, seconded by Mr. Lloyd to give $2,000 ($2,000 from Ms. Gruenebaum's Councilmanic Grant Account) to History Book Festival at Lewes Inc. for their history book authors in schools and community outreach programs.

Motion Adopted: **5 Yeas**

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

M 195 26 American Legion Post 8 Inc.

A Motion was made by Mr. Rieley, seconded by Mr. Lloyd to give $2,000 ($1,500 from Mr. Rieley's Councilmanic Grant Account and $500 from Mr. Hudson's Councilmanic Grant Account) to American Legion Post 8 Inc. for their emergency aid to veterans' 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 196 26 Millsboro Historical Society

A Motion was made by Mr. Rieley, seconded by Mr. Lloyd to give $2,200 ($2,000 from Mr. Rieley's Councilmanic Grant Account and $200 from Mr. Hudson's Councilmanic Grant Account) to Millsboro Historical Society for the Jacob Godwin school.

Motion Adopted: **5 Yeas**

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

M 197 26 Speak Out Against Hate Association

A Motion was made by Ms. Gruenebaum, seconded by Mr. Lloyd to give $1,500 ($1,500 from Ms. Gruenebaum's Councilmanic Grant Account) to Speak Out Against Hate Association for their student ambassador internship program.

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

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

M 198 26 Bridgeville Apple Scrapple Festival

A Motion was made by Mr. McCarron, seconded by Mr. Lloyd to give $1,500 ($1,500 from Mr. McCarron's Councilmanic Grant Account) to Bridgeville Apple Scrapple Festival.

Motion Adopted: 5 Yeas

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

Introduction of Proposed Ordinances

Mr. Hudson introduced a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN GR GENERAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 45.57 ACRES, MORE OR LESS" filed on behalf of Pivot Energy DEL045, LLC.

The Proposed Ordinance will be advertised for a Public Hearing.

CM Comments

Mr. Lloyd commented about the roadside clean up that was recently completed by staff.

M 199 26 Recess

At 11:02 a.m., a Motion was made by Mr. Lloyd, seconded by Ms. Gruenebaum to recess until 1:30 p.m. Public Hearings.

Motion Adopted: 5 Yeas

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

M 200 26 Reconvene

At 1:30 p.m., a Motion was made by Mr. Lloyd, seconded by Ms. Gruenebaum to reconvene.

Motion Adopted: 5 Yeas

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

Public Hearing/ Joy Beach Increased Costs

A Public Hearing was held on an Ordinance entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO $239,059 OF A GENERAL OBLIGATION BOND OF SUSSEX COUNTY IN CONNECTION WITH INCREASED COSTS ASSOCIATED WITH THE JOY BEACH PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH".

Mr. Paul Mauser, Assistant County Engineer, provided a brief overview of the project.

There were no public comments.

The Public Hearing and public record were closed.

M 201 26 Adopt Ordinance No. 4054/ Joy Beach

A Motion was made by Mr. Lloyd, seconded by Mr. McCarron to Adopt Ordinance No. 4054 entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO $239,059 OF A GENERAL OBLIGATION BOND OF SUSSEX COUNTY IN CONNECTION WITH INCREASED COSTS ASSOCIATED WITH THE JOY BEACH PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH".

Motion Adopted: 5 Yeas

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

Rules

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

Public Hearing/ CU2594

A Public Hearing was held on Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO REPAIR AND VEHICLE STORAGE BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 3.07 ACRES, MORE OR LESS" (property is lying on the north side of Long Neck Road [Rt. 23], approximately 800 feet west of Pot Nets Road [S.C.R. 22C]) (911 Address: 32909 Long Neck Road, Millsboro) (Tax Parcel: 234-24.00-39.05) filed on behalf of Anthony DeGirolano.

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

The Planning & Zoning Commission held a Public Hearing on the application on April 1, 2026. At the meeting of April 15, 2026, the Planning & Zoning Commission recommended approval of the application for the 5 reasons of approval and subject to the 13 recommended conditions of approval as outlined.

The Council found that Mr. Anthony DeGirolano spoke on behalf of application; that also present was Mr. DeGirolano's son, Mr. Victor DeGirolano, the current business owner of Long Neck Auto. Mr. Victor DeGirolano stated that they do auto repair; that he has been helping the community for the past four years; that they have a lot of older customers;

Public Hearing/ CU2594 (continued)

that they would like to have a sign on the wall of the building rather than by the road; that at times he has a car for a long period of time while waiting for a part or an insurance adjustor; that at any given time, he can have about 60-70 cars on site; that he takes seven appointments per day; that the land is part of a family farm; that he uses a company out of VA for tire removal and they are stored properly; that he reburns the oil for heat and all fluids are stored properly; that the daily hours are 7:00 a.m. until 7:00 p.m.; that Mr. Anthony DeGirolano lives on the property and he is there on Sunday mowing the grass; that he is working with Rogers Signs for a sign to place on the building.

There were no public comments.

The Public Hearing and public record were closed.

M 202 26 Amend Condition F/ CU2594

A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum to amend Condition F to read "No junked, unregistered or permanently inoperable vehicles or trailers shall be stored on the site other than vehicles owned by the Applicant's family or those waiting for insurance adjustor reports. These vehicles shall be located in the rear of the site."

Motion Adopted: **5 Yeas**

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

M 203 26 Adopt Ordinance No. 4055/ CU2594

A Motion was made by Mr. Rieley, seconded by Mr. McCarron to Adopt Ordinance No. 4055 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO REPAIR AND VEHICLE STORAGE BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 3.07 ACRES, MORE OR LESS" for the reasons and conditions given by the Planning & Zoning Commission and as amended by this Council as follows:

1. **The automobile repair facility is a family operation on family land that has been in existence for years. It has grown from a home occupation to the point where this conditional use application was required. With the conditions and stipulations placed upon it, this use will not have an adverse impact on the neighboring properties and community or area roadways.**
2. **There are many other small businesses in this area of Long Neck Road, and this use is consistent with those existing businesses.**
3. **The use as an automotive repair facility is of a public or semi-public character and is desirable for the general convenience and welfare of the area. Many nearby residents testified that the use is very convenient to people in the Long Neck community in particular.**

M 203 26 Adopt Ordinance No. 4055/ CU2594 (continued)

4. **All repairs will occur indoors, and the Applicant resides on the property along with other family on the adjacent properties.**
5. **No parties appeared in opposition to this Application, and several community members spoke in strong favor of it.**
6. **This recommendation for approval is subject to the following conditions and stipulations:**
   a. **The use shall be limited to an automobile repair business with associated vehicle storage.**
   b. **One lighted sign, not to exceed 32 square feet per side, shall be permitted.**
   c. **Security lighting shall be downward screened and shall be directed away from neighboring properties and roadways.**
   d. **Any dumpsters shall be screened from view of neighbors and roadways. The dumpster locations shall be shown on the Final Site Plan.**
   e. **All repairs shall be performed indoors. No automobile parts shall be stored outside.**
   f. **No junked, unregistered or permanently inoperable vehicles or trailers shall be stored on the site other than vehicles owned by the Applicant's family or those waiting for insurance adjustor reports. These vehicles shall be located in the rear of the site.**
   g. **All parking areas shall be shown on the Final Site Plan and clearly marked on the site itself.**
   h. **All oils and other fluids shall be properly stored indoors in appropriate containers. The Applicant shall also comply with all State and Federal requirements for the disposal of these fluids.**
   i. **No cars shall be sold on the property.**
   j. **The site shall be subject to all DelDOT entrance and roadway requirements.**
   k. **The hours of operation shall be from 7:00 a.m. through 7:00 p.m., Monday through Saturday.**
   l. **Any violation of these conditions may be grounds for the termination of this Conditional Use.**
   m. **The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

Motion Adopted: **5 Yeas**

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

Public Hearing/ CU2636

A Public Hearing was held on a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MECHANICAL TRAILER MAINTENANCE BUSINESS AND STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS"

Public Hearing/ CU2636 (continued)

(property is lying on the west side of Doddtown Road [S.C.R. 293], approximately 0.36 mile north of Anderson Corner Road [S.C.R. 292]) (911 Address: 21032 Doddtown Road, Harbeson) (Tax Parcel: 135-17.00-25.00) filed on behalf of Antulio Joel Chavez Lopez.

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

The Planning & Zoning Commission held a Public Hearing on the application on April 1, 2026. At the meeting of February 4, 2026, the Planning & Zoning Commission recommended denial of the application for the 8 reasons as outlined.

The Council found that Mr. Antulio Joel Chavez Lopez spoke on behalf of his application. Mr. Lopez stated that he operates a tractor trailer business; that he purchased the land to store his trucks; that he works to feed his family; that they do make a lot of noise, as they run on different hours, leaving the site, returning, and going back out again; that it is not a mechanical trailer maintenance business; that it is only tractor trailers coming and going; that he is trying to build a pole building in the back; that he is cutting trees to help himself to have a parking lot; that he works for Allen's doing livestock, and that is why he has different hours for different trucks.

Public comments were heard.

Mr. Antonio White spoke in support of the application.

Ms. Lopez spoke in support of the application.

The Public Hearing and public record were closed.

M 204 26 Approve CU2636/ DENIED

A Motion was made by Mr. Rieley, seconded by Mr. Lloyd to approve a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MECHANICAL TRAILER MAINTENANCE BUSINESS AND STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS".

Motion DENIED: 5 Nays

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

Public Hearing/ CU2541

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

Public Hearing/ CU2541 (continued)

WITH OUTDOOR BOAT AND RV STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 4.485 ACRES, MORE OR LESS" (properties are lying on the north and south sides of West Hudson Pond Road [S.C.R. 623], approximately 234-feet west of DuPont Boulevard [Rt. 113]) (911 Address: N/A) (Tax Parcel: 230-19.00-23.03 & 23.00 [P/O]) filed on behalf of Hudson Pond, LLC.

The Planning & Zoning Commission held a Public Hearing on the application on April 1, 2026. At the meeting of April 15, 2026, the Planning & Zoning Commission recommended approval of the application for the 6 reasons and subject to the 14 recommended conditions of approval as outlined.

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

The Council found that Mr. Tim Willard, Esq. with Fuqua, Willard & Schab, P.A. spoke on behalf of the Applicant, Hudson Pond, LLC; that also present were Mr. Mark Pirrizzi, the principal of the Delaware moving company known as, Hopkins Brothers, and Mr. Ken Christenbury, Professional Engineer with Axiom Engineering. Mr. Willard stated that the property is located along Rt. 113, being just north of Ellendale, and just south of Milford; that the site is located between Milford and Georgetown, just north of Rt. 16, along the west side of Rt. 113; that the application is for two separate parcels; that the larger parcel, located to the north, is divided by West Hudson Pond Road; that the application is for Parcel No. 23.03, and a portion of Parcel No. 23.00, which is intended to be combined into one parcel; that the remaining part of Parcel No. 23.00, located north of West Hudson Pond Road, is not intended to be part of the Conditional Use application; that the total of the two intended parcel areas equals to about 4.58 acres; that the site is located within the AR-1 (Agricultural Residential) Zoning District; that there are several conditional uses located across the street; that the area is located within the Low Density area according to the Future Land Use Map; that by the nature of the area, being along a major, north and south, highway, there are a lot of things going on along the highway; that this is one of the reasons they believed the site made sense for the proposed mini storage facility use; that the storage facility is going to be designed for RVs, as well as boats, which is in high demand in the area; that there is commercial zoning nearby, which is located within Ellendale; that within the nearby area are Wilson's Auction, with an approved Conditional Use for the other lands of Dave Wilson, located just south of the auction; that there was a Sussex County Special Use Exception (Case No. 11712), granted for a nearby property for the temporary approval to do concrete; that this was approved to help DelDOT when they are building the roads; that the approval for Special Use Exception Case No. 11712 had since expired; that the site is now use more for storage and things of that nature; that on the other side of that site, is a heavy industrial site; that above that area is the

Public Hearing/ CU2541 (continued)

location of a preschool, which is located just up the road from the proposed site for the storage facility; that the Site Plan proposes buildings which are 50' x 50'; that it also provides flexibility; that any area that is not utilized for storage buildings, or the proposed office, would be designated for RV or boat storage; that this provides more flexibility; that the DelDOT Service Level Response letter concluded that the traffic impact for the proposed use would be negligible; that stormwater management is proposed to be located near the front of the site; that the plan provides a 30 foot forested buffer around the property, which will not be removed; that in the bottom, left-hand corner of the plan, they are proposing to plant in that area; that a Conditional Use allows for uses that are convenient for the people within the area, including Milford, Georgetown, and Ellendale; that the proposed storage facility would serve homeowners and residential uses in the area; that the proposed use is generally considered a public or semi-public character; that the application was consistent with the purpose and goals of the Comprehensive Plan, specifically Chapter 6, which encourages recreational activities, such as boating, fishing and camping; that there is a whole chapter of the Comprehensive Plan designated to this because of the areas ponds, rivers, lakes, and the proximity to the bay and the ocean; that such recreation requires storage options for boats and RVs; that most homeowners associations (HOAs) prohibit storage of recreational vehicles on residential property, located within the Low Density Area; that stated within the Comprehensive Plan, Chapter 4.2, areas of Low Density, business development should be largely confined to businesses addressing the needs of the homes nearby; that the application was also consistent with the goals of the Comprehensive Plan, because the property is located on a major arterial between Milford and Georgetown; that Mr. Willard reviewed the conditions that were proposed by the Planning & Zoning Commission; that he had one requested change to Condition A; that he provided the proposed language to Mr. Moore; that Mr. Pirrizzi confirmed that the information presented was correct.

There were no public comments.

The Public Hearing and public record were closed.

M 205 26 Amend Condition A/ CU2541

A Motion was made by Mr. McCarron, seconded by Mr. Lloyd, to amend Condition A to now read "The use shall be limited to ministorage buildings and outside storage for RVs and boards. The buildings on the site shall be no larger than 2,500 square feet in size and 20 feet in height. Other than the central office, none of the buildings have water or sewer service."

Motion Adopted: **5 Yeas**

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

M 206 26 Adopt Ordinance No. 4056/ CU2541

A Motion was made by Mr. McCarron, seconded by Mr. Lloyd to Adopt Ordinance No. 4056 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MINI-STORAGE WITH OUTDOOR BOAT AND RV STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 4.485 ACRES, MORE OR LESS" for the reasons and conditions given by the Planning & Zoning Commission as follows and as amended by this Council:

1. **The use as a storage facility is of a public or semi-public character and is desirable for the general convenience and welfare of neighboring properties and uses in the area.**
2. **The use is to be located along Route 113, and it is in an area along the Route 113 corridor where several businesses exist. This is an appropriate location for this type of low-intensity use.**
3. **The use will be a storage facility with an office. No manufacturing, assembling, fabrication, or similar activities will be permitted.**
4. **There was testimony in the record that there is a need for storage facilities in Sussex County. This type of use compliments the residential development that is occurring in Sussex County and the newer residential developments that do not allow sheds or long-term parking of boats and RVs on lots.**
5. **This type of storage facility generates a relatively minor amount of traffic when compared with other types of uses. It will not adversely affect traffic on area roadways. DelDOT has stated that the traffic impact will be negligible.**
6. **The project, with the conditions and stipulations placed upon it, will not have an adverse impact on the neighboring properties or community.**
7. **This recommendation for approval is subject to the following conditions and stipulations:**
   a. **The use shall be limited to ministorage buildings and outside storage for RVs and boards. The buildings on the site shall be no larger than 2,500 square feet in size and 20 feet in height. Other than the central office, none of the buildings have water or sewer service.**
   b. **Any security lights shall be screened with downward illumination so that they do not shine on any neighboring properties or roadways.**
   c. **The perimeter of the Storage area shall be fenced and gated. The location and type of fencing shall be shown on the Final Site Plan.**
   d. **There shall not be any manufacturing, fabrication, or similar activities conducted on the site and the buildings shall not be used for contractor units or other business uses conducted within them.**
   e. **There shall be only two indirectly lit signs allowed on the site of no more than 32 square feet per side. One may be located on**

M 206 26 Adopt Ordinance No. 4056/ CU2541 (continued)

West Hudson Road and the other on Route 113.

f. Stormwater management shall be maintained on site, using Best Management Practices.

g. The hours of operation and access to the facility will be as follows: gate access will be available daily from 6:00 A.M. to 8:00 P.M., seven days per week.

h. A perimeter landscape buffer shall be established along the entire perimeter of the site at varying widths, consisting of existing trees to the greatest extent possible. The Final Site Plan shall also include details of the perimeter landscape buffer including specifically the area along Route 113 that shall be planted to screen the storage area.

i. Any trash receptables associated with the use shall be screened from neighboring properties and roadways.

j. The Final Site Plan shall indicate all RV and boat storage spaces and parking and drive aisles. The location of the outdoor storage and parking spaces shall also be clearly marked on the site itself. In addition, the boat and RV storage area shall not be located along the perimeter adjacent to Route 113 or West Hudson Road.

k. The use shall be subject to all DelDOT requirements regarding entrance and roadway improvements necessary to provide access to the site.

l. No sales or maintenance of boats or RVs shall occur from the site. No hazardous materials or fuel shall be stored on the site other than what may be in the tanks of boats and RVs on the site. No junked or unregistered boats, boat trailers, or RVs shall be stored on the site.

m. Any violations of the conditions of approval of this Conditional Use may result in the termination of this Conditional Use.

n. The Final Site Plan shall be subject to approval of the Planning and Zoning Commission.

Motion Adopted: **5 Yeas**

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

Public Hearing/ CU2620

A Public Hearing was held on a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A NON-PROFIT PUBLIC CHARITY PROVIDING RESPITE CARE FACILITY AND USE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 3.64 ACRES, MORE OR LESS" (property is lying on the east side of Charleys Run, approximately, 0.22 mile south of Fred Hudson Road [S.C.R. 360]) (911 Address: 31613 Charleys Run, Bethany Beach) (Tax Parcel: 134-13.00-84.00) filed on behalf of Sunset Bridge Corporation.

Public Hearing/ CU2620 (continued)

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

The Planning & Zoning Commission held a Public Hearing on the application on April 1, 2026. At the meeting of April 15, 2026, the Planning & Zoning Commission recommended approval of the application for the 9 reasons and subject to the 10 recommended conditions of approval as outlined.

The Council found that Mr. Alex Burns, Esq. with Baird Mandalas Brockstedt & Federico LLC, spoke on behalf of the Applicant, Sunset Bridge Corporation; that also present were Ms. Terri Sarisky, Founder and President of Sunset Bridge Corporation, Mr. Steve Marsh, Professional Engineer and Vice President of Community Development at Carl M. Freeman Companies and Ms. Katja Kaliski with George, Miles & Buhr, LLC (GMB).

Ms. Sarisky stated that she was a caregiver and the founder of Sunset Bridge Corporation, located within Bethany Beach, Delaware, where she is also a resident. Ms. Sarisky stated that when there is a terminal diagnosis made for an individual, there typically is a lot of challenge and pandemonium that comes along with it; that often the end of life preparations have not been made in any way; that it is a topic that is seldom discussed; that about 20% of the population have this discussion before they receive a terminal diagnosis of how to plan for end of life; that the challenge intensifies when there are no longer medical treatment options available; that she personally had been on the receiving end of a bad message for five immediate family members, regarding malignant brain cancer, esophageal cancer, ovarian cancer, kidney failure and most recently, pulmonary fibrosis diagnosis; that when doors are slammed in your face from the people that were helping you, saying that there is nothing else they can do for you, it is an extremely challenging time; it can seem without hope for everyone involved; that their commitment stemmed from their own love and experience; that their mission and goal is to build a retreat home, to be a home where end-of-life guests, and their family can come together to receive help, to enjoy the beauty of a sunrise, and a sunset, and to have time together, free of charge, for one to two weeks, as a transitionary stay; that this will allow them to go through the options for end-of-life care; that this will allow caretakers a moment to breathe and give them a chance to navigate the gap from when traditional medical support is no longer available; that they also want to ensure that they minimize the disparity in treatment options for the underserved population; that if one does not know who to turn to, or what questions to ask, it is often very difficult to find what services are available; that Sunset Bridge was incorporated in Delaware on November 15, 2022; that they applied for their 501C3 Public Charity application on March 24, 2023; that within five days of submitting the application, they received endorsement on March 29, 2023; that she received a personal call from the IRS endorsing what they were

Public Hearing/ CU2620 (continued)

doing, and acknowledging the need for the organization, and the services it will provide; that they were grateful for the comments and opinions posted through the Online Application Docket, as they will only make Sunset Bridge much stronger and better for the community; that from an operations perspective, it was important to note that Sunset Bridge Corporation had already helped 100 people virtually; that their goal was to now build the proposed retreat home, where families can come together, under one roof in a facilitated retreat; that they are proposing a working session, not a vacation; that the project will not be a rental property, allowing keys to be turned over to individuals to enjoy, and have a great time; that they are proposing a facilitated working retreat session; that their goal is to provide people with comfort, peace, renewed strength and reassurance that no one is alone on the journey; that they had found that many folks they had served were along, or it may be only them and their loved one; that specifically for those who will stay at the retreat home, there would be a very rigorous screening process; that they want to ensure that they are not just receiving a referral from a friend; that the referral must come from a medical professional, and from a professional organization; that they had spent a significant amount of time in discussions with those who, like the Ronald McDonald House, do similar help for the under age 18 population; that their population will be 18 and over; that no one will come to the home that is not 18 years of age as defined by Delaware Code Title 1, Section 302.1; that this is to enable folks to be part of the discussion, planning, and decision-making process; that she previously had discussions with Ms. Pamela Cornforth, the President/CEO of Ronald McDonald House Charities of Greater Delaware; that there are a lot of services available for the under 18 year old population; that when someone is released from the Ronald McDonald House, they do not have any other medical interventions for them, and often services run dry; that many times, people's only option is to enroll in hospice, but many people are not ready to there; that their goal is to help work with folks along the way; that they want to ensure their folks are not undergoing treatment; that they are not a medical facility in any way; that they will not be providing IV chemotherapy, or routine medical care; that when folks have declined or discontinued all treatment options, they will have a formal intake process, as they recognize that no person or journey is exactly the same; that no action plan they place will be the same; that through the intake process, they want to learn about the individual and their family, before that person comes to them; that there will be very thorough background checks; that they do not want someone coming to stay at the property, unless they know who they are, and the folks that are coming with them, for the purpose of their staff and the community; that as part of the day-to-day operations, families come to Sunset Bridge and will work through their framework; that they have a very rigorous framework that walks through all the different facets of anyone's life; that again, they are proposing a facilitated retreat, not a vacation with back and forth beach trips; that their residents may go out for a walk, or

Public Hearing/ CU2620 (continued)

desire to spend an afternoon at the beach; that they will operate all year long; that their work and activities will take place inside the house; that the house will operate 24/7, with at least two staff members present at all times; that meals will be provided; that they have a cook on staff; that food will be brought in once a week; that one of the greatest attributes she remembered at a retreat home was that they provided a cup of tomato soup, and a copy of coffee, which made her feel she had won the lottery; that they want to help nourish people's body and soul; that families are permitted to bring some food; that they will have one kitchen, and one dining area; that they will have a meditation/spiritual room, and one family room; that United Way had done a phenomenal job with their 211 program, however, it does not come with recommendations, past experiences, or what is best for where you live and are; that their program will help folks navigate through what options are available; that their program will provide estate planning by virtually meeting with an estate planner, both an attorney, as well as someone in the banking industry; that they will provide legacy planning, which will include establishing documents that have their loved ones passports, accounts, their loved ones affairs and housing information; that this helps organize their loved ones' digital footprint; that they will identify the resident's wish list or bucket list; that they will meet with social workers and counselors all through a virtual setting; that she is a hospice volunteer; that it is very important that folks are educated on the difference between palliative and hospice care, and the options that are available to them; that they would like for their residents to be assessed or evaluated for hospice or palliative care, so that they can leave their facility with that being part of their action plan ; that it is important to note that they are not a hospice facility; that they complement hospice, but to not provide hospice care; that overall, they engage in active listening, discuss various service options, endeavor to assist in identifying support for everyone involved; that there is a lot of support available in the State of Delaware for caregivers, however, folks may not know about it; that they expect their residents to leave Sunset Bridge Retreat Home with an action plan; that each action plan will look different; that their intake process, at the beginning, will help them in developing those action plans; that prior to them purchasing the property in early 2023, there was an existing home on the property; that the property was mostly trees with nothing else around, which made the property very conducive for them, as they wanted to create a peaceful, serene, and calm environment; that they learned that the existing house had a very large crack in the foundation, in addition to an issue with mold; that because of this, they were unable to use the existing home for their purpose; that when they shared their proposed use during a community meeting, held at the South Coastal Library in October 2025, they originally showed a bigger structure of 12 bedrooms; that because they would be serving residents who would be staying in the home, they felt a bigger space would be preferred, in the case someone would come with two

Public Hearing/ CU2620 (continued)

loved ones; that they would have an area for time together, but also separate when needed; that they recognized their folks would be engages in working sessions and spending time together within the home; that their Board of Directors felt it would be fiscally responsible for them, as a public charity, to have a larger scope to help for families, since they are paying for staff, and allowing them to provide a greater opportunity to those they serve; that based on their experience of helping over 100 people over the past couple years, many of them being one or two who were helping their family, it did not make sense to have 12 bedrooms; that they heard everyone's feedback, and decided to reduce the scope and the size; that they came up with eight Board resolutions; that they will ensure the character of the home fits the style of the surrounding communities, which had always been there intent; that their home footprint includes screened-in patios; that the area, being on the water, has a lot of mosquitoes; that outdoor time will be spent in a screened-in patio; that they want to be able to use those porches throughout the year; that they were intentionally designing the house were one cannot see the front door, and so people cannot see the families come or go; that one family may be there for one week, while another family may be there for two weeks; that they want to respect people's privacy; that there will be no sign posted outside; that all parking will take place on the 3.6 acre, Sunset Bridge Corporation, property; that the majority of parking will be located under the home, as the first floor will be raised on pilings; that there will be no parking in the Bethany Woods cul-de-sac; that all parking, including the two staff members and all residents of the retreat home will be located on their property; that there will be rules placed, which will govern participation; that residents must be 18 years of age or older, no visitors are permitted during the stay, unless it is an extreme exception; that they anticipate eight to 10 people in the house at one time in total, including staff; that there is a limit on the length of stay, the number of people who can come, and a limit on the number of vehicles folks can bring; that they can bring a maximum of two cars if needed; that they agree to have no more than three, simultaneous families present at any given time, as they recognize that a family could be one person; that if they are paying two staff members, but only having two families, one each, that ratio does not quite work out; that they want to be able to have three families, in the case they happen to have three families each of one; that final details for the home are not completely ironed out yet, they are committed to ensuring that the footprint of the home is no more than 3,000 square feet; that they are also committed to ensuring that the Sunset Bridge Corporation Retreat Home has no more than six bedrooms; that they are working with a couple different pro bono architects, for designing two floors; that above the area where the vehicles would be parked, would be two living spaces; that the second floor would be the living space, with the optimal view, the family room, and the kitchen; that they will not request future expansion of the retreat home; that she would love to have a little gazebo, located closer to the wetlands and the water in the future; that they will not expand the size of

Public Hearing/ CU2620 (continued)

the home, and will not expand beyond the proposed six bedrooms; that it is their hope that with success, others will embrace their model and replicate it elsewhere; that they do not want to deter or detract in any way from the beauty of the community which already exists; that it is their desire to ensure the proposed retreat home adds to the beauty, the opportunity, and the overall value of the community; that as a Bethany Beach resident, the best of Sussex County, and Bethany Beach is in her own best interest as well; that she thanked everyone for their opinions and perspectives; that they continue to ask the community for their involvement and support; that they have a member of the Bethany Woods community, who graciously accepted their offer to be on their Transportation Committee and three have stepped forward for the Building Committee; that they genuinely would like for the project to be a win for not only the people they serve, but also their collective community at large.

Public comments were heard.

Ms. Carol Hess spoke in support of the application.

Ms. Wong spoke in support of the application.

Mr. Steve Rhodes spoke in support of the application.

Mr. Rob Sarskiy spoke in support of the application.

Mr. Ward Gaisor spoke in opposition of the application.

The Public Hearing and public record were closed.

M 207 26 Defer Action/ CU2602

A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum to defer action on a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A NON-PROFIT PUBLIC CHARITY PROVIDING RESPITE CARE FACILITY AND USE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 3.64 ACRES, MORE OR LESS".

Motion Adopted: **5 Yeas**

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

M 208 26 Adjourn

A Motion was made by Mr. Rieley, seconded by Mr. McCarron to adjourn at 3:32 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.}

JAMIE WHITEHOUSE, AICP
DIRECTOR OF PLANNING & ZONING
(302) 855-7878 T
pandz@sussexcountyde.gov

Sussex County
DELAWARE
sussexcountyde.gov

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: May 14, 2026

RE: County Council Report for C/U 2554 filed on behalf of E. Johnson Holdings, LLC

The Planning and Zoning Department received an application (C/U 2554 filed on behalf of E. Johnson Holdings, LLC) for a Conditional Use for a self-storage facility in an AR-1 Agricultural Residential Zoning District at Tax Parcel 134-19.00-12.00. The property is located at on the north and west side of the intersection of Central Avenue (SCR 84) and Lizard Hill Road (SCR 367A). The parcel size is 12.5 ac. +/-

Please note that the Public Hearing before the Planning & Zoning Commission, originally scheduled for March 18, 2026, could not be held due to a newspaper noticing error beyond the County's control. The public hearing was rescheduled and re-noticed for a new Planning & Zoning Commission meeting date of April 15, 2026.

The Planning & Zoning Commission held a Public Hearing on the application on April 15, 2026. At the meeting of April 15, 2026, the Planning & Zoning Commission deferred action on the application, leaving the public record open until the close of business on April 22, 2026, for receipt of any additional written comments.

At the meeting on May 6, 2026, the Planning & Zoning Commission recommended approval of the application for the 6 reasons stated and subject to the 13 recommended conditions of approval (copied below).

Below are the minutes from the Planning & Zoning Commission meeting of April 15, 2026, and May 6, 2026.

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

C/U 2554 E. Johnson Holdings, LLC
AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SELF STORAGE FACILITY TO BE LOCATED ON A PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY CONTAINING 12.05 ACRES, MORE OR LESS. The property is lying on the north and west side of the intersection of Central Avenue (S.C.R. 84) and Lizard Hill Road (S.C.R. 367A). 911 Address: N/A. Tax Map Parcel: 134-19.00-12.00 (P/O).

Mr. Whitehouse summarized the documents submitted into the Public Record for the application, including the Applicant's conceptual site plan and a copy of the staff analysis, and noted that there was one letter of opposition.

The Commission found that Mr. Brenton Archut spoke on behalf of his application; that also present was his father, Mr. Russell Archut, who wished to present in support of the application. Mr. Archut summarized the application and stated that the parcel is 12 acres, but the area proposed is about 170 feet wide at the eastern end and about 150 feet wide at the middle; that 40' setbacks would be met; that the initial phase is for contractor usage for them to store equipment and materials; that everything would be housed inside; that there is no boat or trailer storage and strictly for housed storage facilities; that they know a number of contractors are looking for convenient storage space in the coastal area; that the parcel is irregularly shaped and could not be used for housing development; that the applicant was approached by a pool business looking for a centrally located space for pool equipment storage; that he wished to send his workers out to maintain pools; that the property has been in family ownership for 40-50 years; that DelDOT states that the use would generate less than 50 trips per day and that the use is a low impact use; that the property is located in the Coastal Area between two existing commercial uses (Wilson's Welding about 150 feet away) and a heating and cooling business; that the applicant's exhibits show all the other conditional uses in the area which are similar to the proposed use; that the exhibits show all the development in the area including Crescent Place and Sycamore Chase which is now in its second phase; that the use will provide service to the area; that the applicant is not focusing on self-storage at this time, but the applicant is focusing on commercial storage; that some of the buildings might have 2 units in the them and some might have 3; that the proposed use is consistent with neighboring uses; that there are no proposed offices and no proposed septic system; that there is no proposed fabrication in the units; and no residential living in the units; that the applicant believes the use is a good use considering the irregular shape of the land/

Mr. Brendon Archut added that the use is not a business park type of use; that there are no bathrooms in the units; that there would be a gate that could only be opened by gate code or RFID.

Madam Chair Wingate questioned the distance the gate would be located off the roadway and raised concerns about potential vehicle stacking, especially with tractor-trailers. Mr. Archut stated that it would be at least 20 feet for a standard car, but could be amended for tractor-trailers.

Mr. Pettyjohn asked about the size of the buildings, and the applicant stated that the building size would allow for potential self-storage for nearby developments like Lillyvale, which is also on the same

meeting agenda. Mr. Archut stated that having locally available self-storage would limit traffic in the area.

Mr. Pettyjohn asked about the commercial aspect of the use. Mr. Archut said that there is a lot of demand for building material storage and contractor storage, which would likely be Phase 1 of the project; that there would be self-storage in 10'x10' units; that the commercial units would be 20' x 40' and that there would be a fire-Code compliant separation; that the site does not have a well and is not in a CPCN area; that the site does have access to Tidewater for any needed water supplies for fire fighting purposes; that the hours of operation would be 6 am to 9 pm to match the construction hours of contractors; that the hours need not be 24 hours; that the use would be just for storage;

Mr. Collins questioned the operation days of the week, and the Applicant stated that the hours stated would be daily – i.e., every day, including Saturday and Sunday. Mr. Collins also asked about the potential for on-site renewable generation. The Applicant stated that the parcel is wooded and the orientation of the sun means that there is not sufficient exposure for solar to make sense.

The Commission asked about the paving, and the applicant confirmed that crush and run would be used. The applicant confirmed that the access would accommodate emergency vehicles and tractor-trailers; that loading zones would be provided of sufficient size to accommodate a fire truck.

The Commission found that there was no one present in support and one person present in opposition to the application.

Ms. Greta Muirhead, spoke in opposition to the application. Ms. Muirhead lives in the Milos Haven development and spoke with concerns regarding the nature of the use and whether the storage would be for pool chemicals or other chemicals that could be flammable or explosive; Ms. Muirhead asked about the signage and the design of the buildings, including their color and materials;

Ms. Wingate and Mr. Roberston confirmed that a 32-square-foot size could be sited and that the entrance would be subject to DelDOT design requirements;

Ms. Muirhead raised concerns about traffic and the incompatibility of commercial uses with the residential uses in the area; she believes that the storage business is likely to be more impactful than the existing welding business in the area. Ms. Muirhead questioned the security arrangements for the site and objected to the proposed hours of operation, raising concerns in relation to buffering of the site.

The Commission found that no one else present wished to speak in opposition to the application.

Mr. Robertson explained that there is C-1 Zoning that currently exists in the vicinity of the site and that this Zoning District can be developed commercially by right. Mr. Robertson also explained to the Commission that a Conditional Use application has the benefit of allowing conditions to be imposed in relation to the use.

Mr. Archut and Mr. Archut spoke as part of the permitted 5-minute rebuttal in support of the application; that the use is not a commercial business, that the pool contractor previously mentioned had found another location, and that setbacks of 40' would be met from the two roads; that a sign is shown on the corner of the site on the site plan under 32 square feet; that DelDOT states that the traffic has been deemed by DelDOT to be diminutive; that commercial storage would have leases that govern what materials can be stored there; that specific hazardous chemicals cannot be stored; that lighting would be downward facing; that there are commercial businesses in the area; that the chicken houses in the area could be converted to storage; that sightlines for traffic have determined the entrance location due to the speed of traffic; that in terms of construction the buildings would have neutral colors and would look like a pole barn in keeping with the area; that a conditional use is very limited to specific activities that could be controlled.

In relation to C/U 2554 E. Johnson Holdings, LLC. Motion by Mr. Pettyjohn, seconded by Mr. carried unanimously to defer action, leaving the record open to allow for the receipt of written public comment, with the record to close on April 22, 2026. Motion carried 5-0.

Minutes of the May 6, 2026, Planning & Zoning Commission Meeting

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

Mr. Pettyjohn moved that the Commission recommend approval of C/U 2554 for E. Johnson Holdings, LLC to operate a self-storage facility based upon the record made at the public hearing and for the following reasons:

1. The use as a self-storage facility is of a public or semi-public character and is desirable for the general convenience and welfare of the area.
2. The use is to be located along Central Avenue near an area where other small business uses exist. There is also a large commercially zoned tract of land nearby. This is an appropriate location for this type of low-intensity use.
3. The use will be a self-storage facility. No manufacturing, assembling, fabrication, or similar activities will be permitted. As stated by the Applicants, no plumbing facilities will be provided to individual units.
4. There was testimony in the record that there is a need for small business storage facilities in Sussex County. The Applicant has testified that they routinely get requests for this type of use by small businesses and contractors.
5. This type of storage facility generates a relatively minor amount of traffic. It will not adversely affect traffic on area roadways. DelDOT has stated that the traffic impact will be diminutive.
6. The project, with the conditions and stipulations placed upon it, will not have an adverse impact on the neighboring properties or community.
7. This recommendation for approval is subject to the following conditions and stipulations:

    A. The use shall be limited to no more than five (5) self-storage buildings. None of the buildings shall have water or sewer connections.
    B. Any security lights shall be screened with downward illumination so that they do not shine on any neighboring properties or roadways.

C. The perimeter of the Storage area shall be fenced and gated. The location and type of fencing shall be shown on the Final Site Plan.

D. There shall not be any manufacturing, fabrication, or similar activities conducted on the site.

E. There shall be only two indirectly lit signs allowed on the site of no more than 32 square feet per side. One may be located on Central Avenue and the other on Lizzard Hill Road.

F. Stormwater management shall be maintained on site, using Best Management Practices.

G. The hours of operation and access to the facility will be as follows: gate access will be available daily from 6:00 A.M. to 9:00 P.M., seven days per week.

H. The site shall be fenced on all sides with a controlled access gate. The gate shall be located at least 40 feet from the Lizzard Hill Road right-of-way so that waiting vehicles do not line up on that roadway.

I. Any trash receptables associated with the use shall be screened from neighboring properties and roadways.

J. The use shall be subject to all DelDOT requirements regarding entrance and roadway improvements necessary to provide access to the site.

K. No maintenance of vehicles or equipment shall occur on the site. No hazardous materials or fuel shall be stored on the site. No junked or unregistered vehicles or trailers shall be stored on the site.

L. Any violations of the conditions of approval of this Conditional Use may result in the termination of this Conditional Use.

M. The Final Site Plan shall clearly depict the portion of the larger property that is being occupied by this Conditional Use, and it shall be subject to approval of the Planning and Zoning Commission.

Motion by Mr. Pettyjohn, seconded by Mr. Collins and carried unanimously to recommend approval of C/U 2554 E. Johnson Holdings, LLC, for the reasons and the conditions stated in the motion. Motion carried 4-0.

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

JAMIE WHITEHOUSE, AICP MRTPI
PLANNING & ZONING DIRECTOR
(302) 855-7878 T
(302) 854-5079 F
jamie.whitehouse@sussexcountyde.gov

Sussex County
DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Planning and Zoning Commission Members
From: Mr. Michael Lowrey, Planner IV
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: February 26th, 2026
RE: Staff Analysis for C/U 2554 E. Johnson Holdings, LLC

The purpose of this memo is to provide background and analysis for the Planning and Zoning Commission to consider as a part of Application for C/U 2554 E. Johnson Holdings, LLC to be reviewed at the April 15th, 2026, Planning and Zoning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

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

Tax Parcel ID: 134-19.00-12.00

Proposal: The request is for Conditional Use for a portion of Tax Parcel #134-19.00-12.00 to allow for a commercial self-storage business to include five (5) commercial self-storage buildings totaling (17,600) square feet of storage use, and internal access with the office proposed on the parcel across Central Avenue. A corollary Application (C/U 2555 Bittersweet Investments, LLC) accompanies this application to provide for the proposed (1,600) square foot office for the storage business on TM# 134-19.00-25.00 directly across Central Avenue (Route 84). Staff note the Parcels are under separate ownership. The Parcel is located on the western corners of the intersection of Central Avenue (Route 84) and Lizard Hill Road (S.C.R.367A) and the improvements are proposed on a (4.4) acre portion of a Parcel comprised of a total of (12.05) acres +/-.

Zoning: The subject property is zoned Agricultural Residential (AR-1) District.

The parcels adjacent to the west are zoned Agricultural Residential (AR-1) District and Medium Residential (MR) with parcels across Central Avenue within the Agricultural Residential (AR-1), Medium Residential (MR), or General Residential (GR) Zoning Districts. The jurisdictional boundaries with Millville and Ocean View lie approximately (1) mile to the north of the site.

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

Applicability to Comprehensive Plan: The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be

zoned to ensure responsible development. The Future Land Use map in the plan indicates that the subject property is designated as a Rural Area and has a land use designation of "Coastal Area". All Parcels adjacent and surrounding are also "Coastal Area".

As outlined within the 2018 Sussex County Comprehensive Plan, *Coastal Areas* are growth areas that the County encourages only the appropriate forms of concentrated new development, especially when environmental features are in play. The Coastal Area designation is intended to recognize the characteristics of both anticipated growth and ecologically important and sensitive characteristics. The Plan notes, "this region contains ecologically important and sensitive characteristics as well as other coastal lands which help to absorb floodwaters and provide extensive habitat for native flora and fauna" (2018 Sussex County Comprehensive Plan, 4-15). Additionally, the Plan also notes that Coastal Areas "also has significant impact upon water quality within the adjacent bays and inlets as well as upon natural the region's various habitats" (2018 Sussex County Comprehensive Plan, 4-15) Additionally the Plan notes challenges in the Coastal Areas relating to safeguarding "genuine natural areas and mitigating roadway congestion without stifling the tourism and real estate markets which: a) provide many jobs; b) create business for local entrepreneurs; and c) help keep local tax rates low" (2018 Sussex County Comprehensive Plan, 4-15).

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

Further Site Considerations:

- **Density: N/A**
- **Open Space Provisions: N/A**
- **Agricultural Areas:** The site is within the vicinity of active agricultural lands.
- **Interconnectivity: N/A**
- **Transportation Improvement District (TID): N/A**
- **Forested Areas:** A majority of the rear of the portion of the parcel south of Lizard Hill Road is wooded. Staff appreciate efforts to preserve as many mature trees as possible on the site.
- **Wetlands Buffers/Waterways:** Isolated non-tidal wetlands appear to be present on the western area of the portion of the Parcel south of Lizard Hill Road. If the Conditional Use were to be approved, Staff recommend the Applicant perform an investigation of the wetland types and acreage via the Army Corps or a wetland scientist to ensure no improvements are proposed in any regulatory wetlands prior to submission of a site plan for review by the Planning & Zoning Commission.

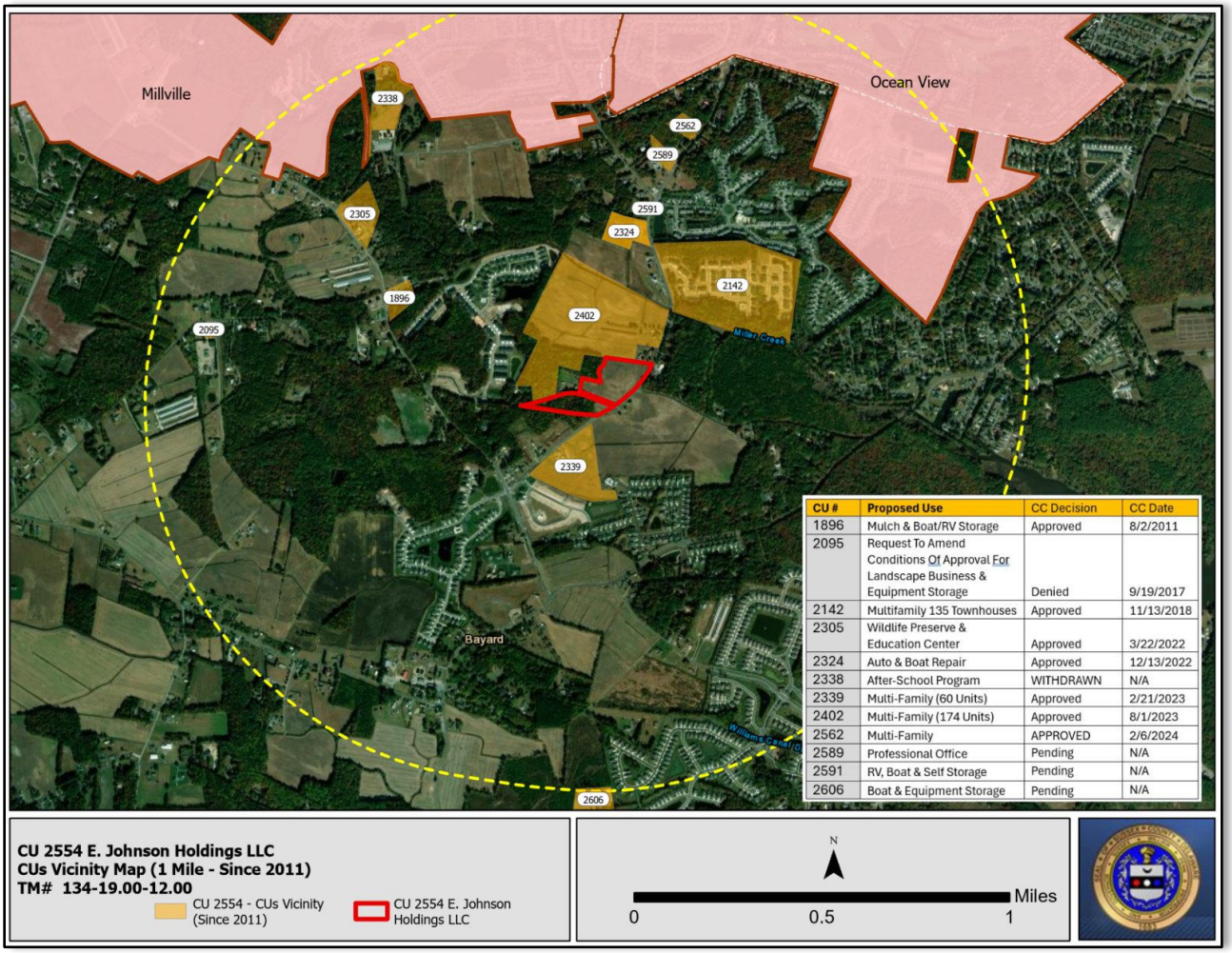
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** The property is located within Flood Zones "X". Staff note that the Parcel is not within a Wellhead Protection Area. A majority of the Parcel's area is classified as within areas of "Good", in terms of Groundwater Recharge Potential on the site per data from the State of Delaware.

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

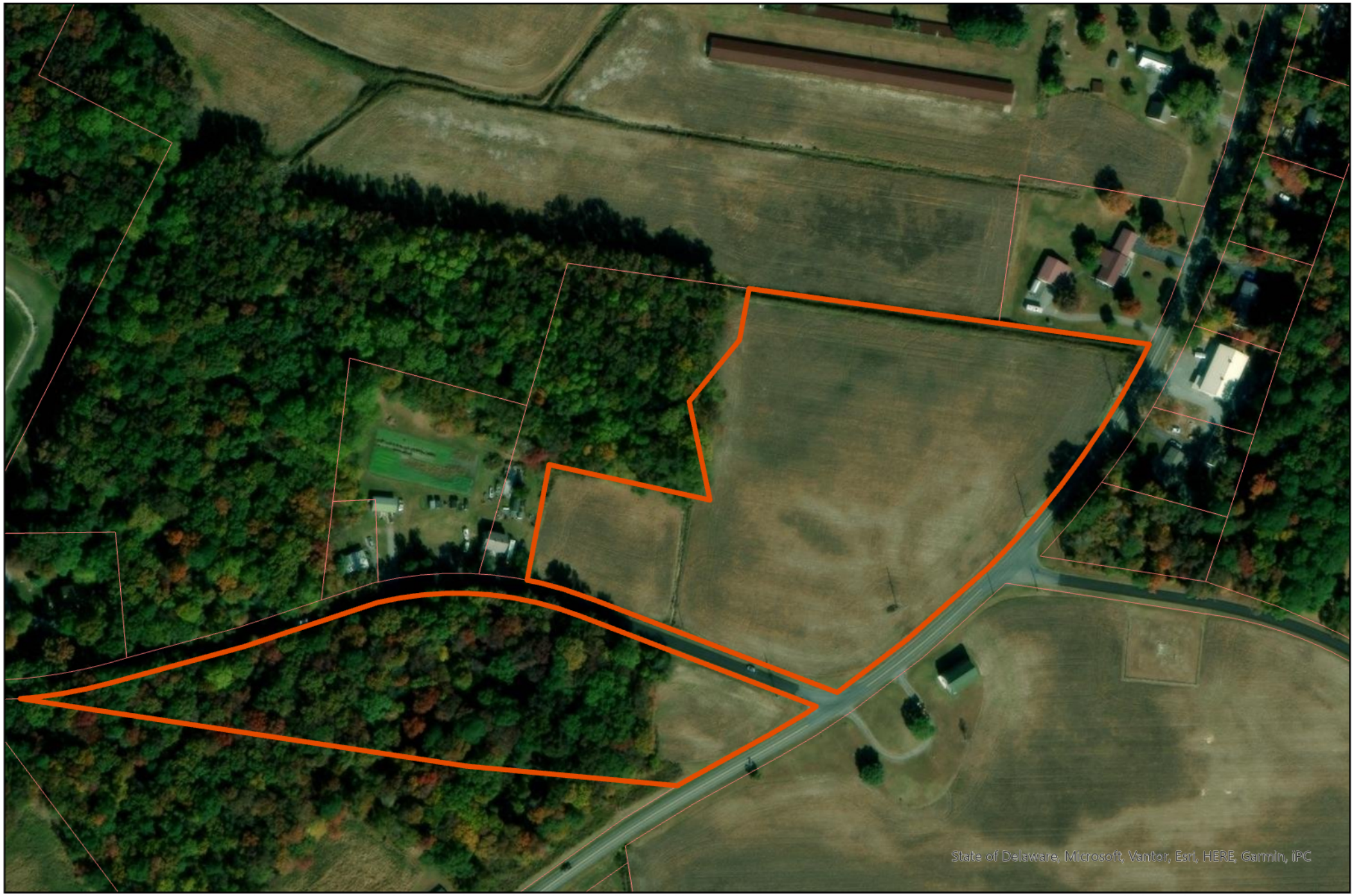
Existing Conditional Uses within the Vicinity of the Subject Site: Staff have identified a history of twelve (12) Conditional Use applications within a one (1) mile radius of the application site. A Data Table and Supplemental Map have been supplied to provide additional background regarding the approval status of Applications in the area to include the location of all current or previous Conditional Use Applications that are less than 1 mile distance from the subject site.

CU Number	Application Name	Zoning District	Proposed Use	CC Decision	CC Decision Date
1896	Timothy S. Miller	AR-1	Mulch & Boat/RV Storage	Approved	8/2/2011
2095	Sposato Investment, LLC	AR-1	Request To Amend Conditions of Approval for Landscape Business & Equipment Storage	Denied	9/19/2017
2142	RH Orr, LLC c/o Ribera Development, LLC	GR	Multifamily 135 Townhouses	Approved	11/13/2018
2305	Barnhill Preserve of DE, LLC	AR-1	Wildlife Preserve & Education Center	Approved	3/22/2022
2324	Zachary Bedell	AR-1	Auto & Boat Repair	Approved	12/13/2022
2338	Lora Collins	AR-1	After-School Program	WITHDRAWN	N/A
2339	Ron Sutton	MR	Multi-Family (60 Units)	Approved	2/21/2023
2402	McKee Builders, LLC	AR-1	Multi-Family (174 Units)	Approved	8/1/2023

2562	John L. Hnatishion	AR-1	Multi-Family	APPROVED	2/6/2024
2589	Linda Schroeder	AR-1	Professional Office	Pending	N/A
2591	Michael Tussie	AR-1	RV Boat & Self Storage	Pending	N/A
2606	Sheila Marie Rose	AR-1	Boat & Equipment Storage	Pending	N/A



CU #	Proposed Use	CC Decision	CC Date
1896	Mulch & Boat/RV Storage	Approved	8/2/2011
2095	Request To Amend Conditions Of Approval For Landscape Business & Equipment Storage	Denied	9/19/2017
2142	Multifamily 135 Townhouses	Approved	11/13/2018
2305	Wildlife Preserve & Education Center	Approved	3/22/2022
2324	Auto & Boat Repair	Approved	12/13/2022
2338	After-School Program	WITHDRAWN	N/A
2339	Multi-Family (60 Units)	Approved	2/21/2023
2402	Multi-Family (174 Units)	Approved	8/1/2023
2562	Multi-Family	APPROVED	2/6/2024
2589	Professional Office	Pending	N/A
2591	RV, Boat & Self Storage	Pending	N/A
2606	Boat & Equipment Storage	Pending	N/A

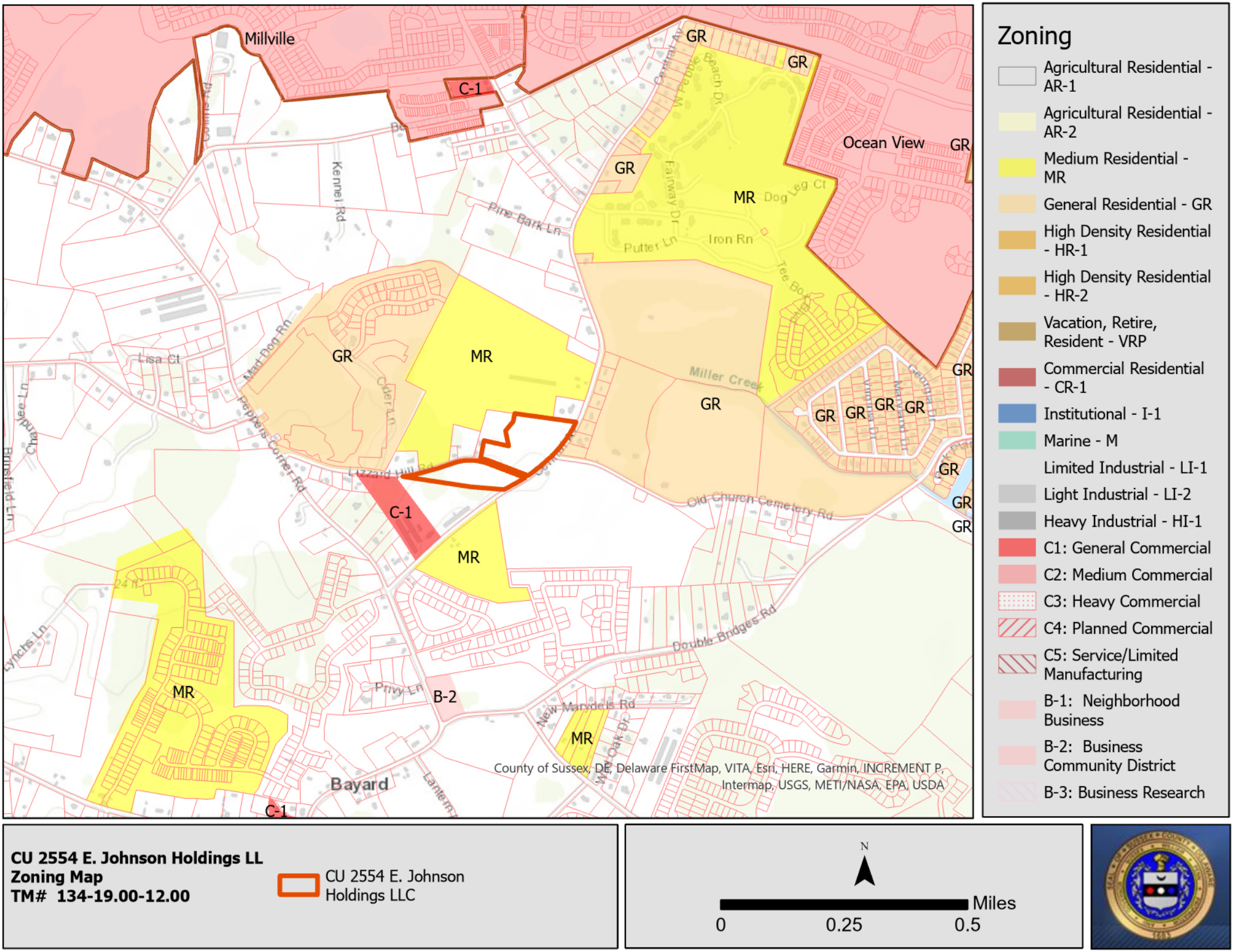


CU 2554 E. Johnson Holdings LLC
Aerial Map
TM# 134-19.00-12.00

CU 2554 E. Johnson Holdings LLC

N

0 250 500 Feet



Zoning

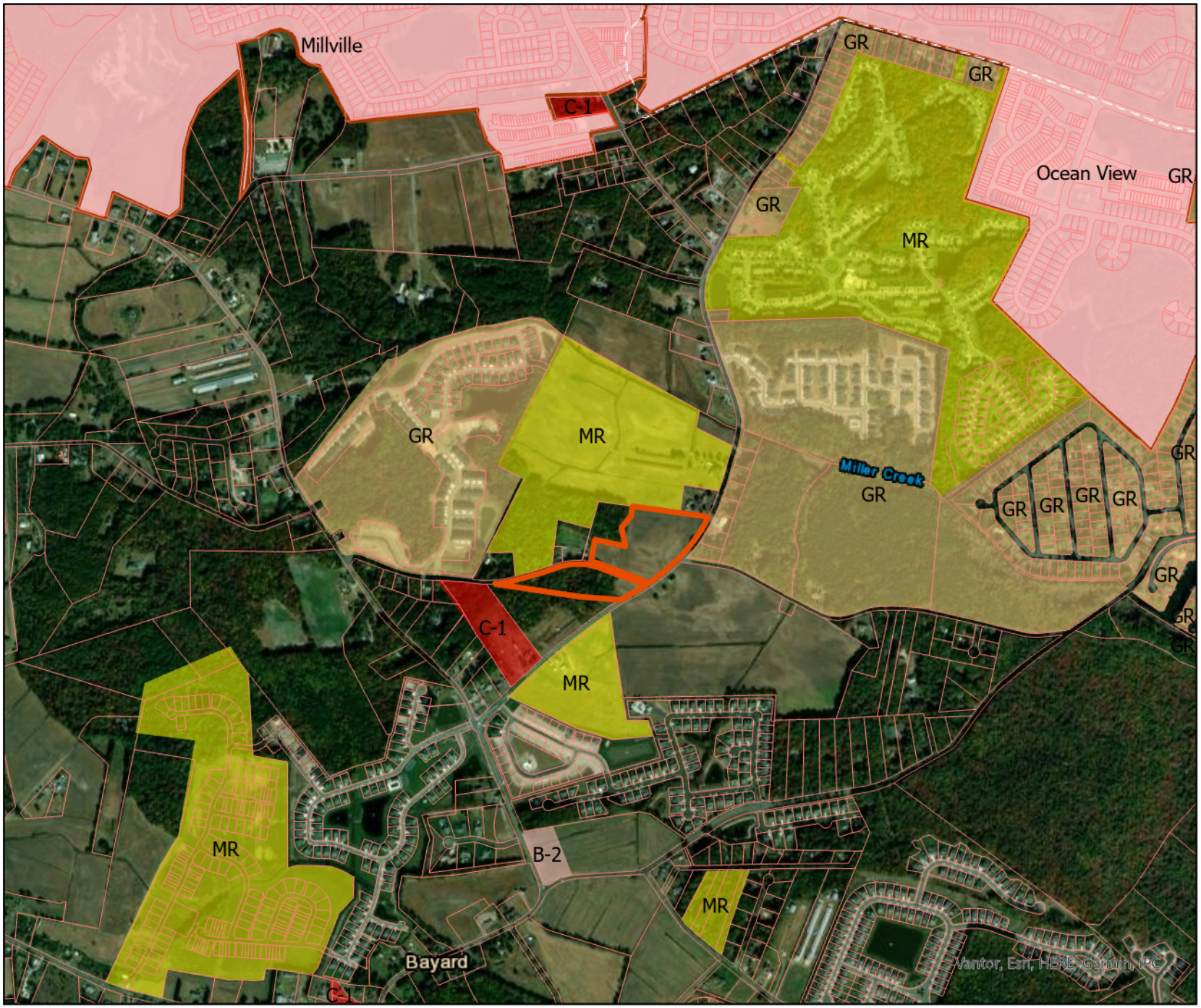
- Agricultural Residential - AR-1
- Agricultural Residential - AR-2
- Medium Residential - MR
- General Residential - GR
- High Density Residential - HR-1
- High Density Residential - HR-2
- Vacation, Retire, Resident - VRP
- Commercial Residential - CR-1
- Institutional - I-1
- Marine - M
- Limited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

CU 2554 E. Johnson Holdings LL
Zoning Map
TM# 134-19.00-12.00

CU 2554 E. Johnson Holdings LLC

N

0 0.25 0.5 Miles



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 2554 E. Johnson Holdings LL
Zoning Map
TM# 134-19.00-12.00

CU 2554 E. Johnson Holdings LLC

N

0 0.17 0.35 Miles

Introduced: 3/3/26

Council District 4: Mr. Hudson
Tax I.D. No.: 134-19.00-12.00 (P/O)
911 Address: N/A

ORDINANCE NO. ___

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR COMMERCIAL SELF STORAGE TO BE LOCATED ON A PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY CONTAINING 12.05 ACRES, MORE OR LESS

WHEREAS, on the 25th day of September 2024, a Conditional Use application, denominated Conditional Use No. 2554, was filed on behalf of E. Johnson Holdings, LLC, and

WHEREAS, on the _____ day of _____ 2026, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2554 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsections 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2554 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece, or parcel of land, lying and being situate in Sussex County, Delaware, and lying on the north and west side of the intersection of Central Avenue (S.C.R. 84) and Lizard Hill Road (S.C.R. 367A) and being more particularly described in the attached legal description prepared by James J. Gallagher, Esq. said parcel containing 12.05 acres, more or less.

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

JAMIE WHITEHOUSE, AICP
DIRECTOR OF PLANNING & ZONING
(302) 855-7878 T
pandz@sussexcountyde.gov

Sussex County
DELAWARE
sussexcountyde.gov

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: May 14, 2026

RE: County Council Report for C/U 2555 filed on behalf of Bittersweet Investments, LLC

The Planning and Zoning Department received an application (C/U 2555 filed on behalf of Bittersweet Investments , LLC) for a Conditional Use for an office and storage in an AR-1 Agricultural Residential Zoning District at Tax Parcel 134-19.00-25.00. The property is located at 24555 Central Avenue. The parcel size is 45.78 ac. +/-

Please note that the Public Hearing before the Planning & Zoning Commission, originally scheduled for March 18, 2026, could not be held due to a newspaper noticing error beyond the County's control. The public hearing was rescheduled and re-noticed for a new Planning & Zoning Commission meeting date of April 15, 2026.

The Planning & Zoning Commission held a Public Hearing on the application on April 15, 2026. At the meeting of April 15, 2026, the Planning & Zoning Commission deferred action on the application, leaving the public record open until the close of business on April 22, 2026, for receipt of any additional written comments. At the meeting on May 6, 2026, the Planning & Zoning Commission recommended approval of the application for the 8 reasons and subject to the 9 recommended conditions as outlined within the motion.

Below are the minutes from the Planning & Zoning Commission meeting of April 15, 2026, and May 6, 2026.

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

C/U 2555 Bittersweet Investments, LLC
AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OFFICE AND STORAGE

TO BE LOCATED ON A CERTAIN PORTION OF A PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 45.78 ACRES, MORE OR LESS. The property is lying on the southeast corner of the intersection of Central Avenue (S.C.R. 84) and Old Church Cemetery Road (S.C.R. 367). 911 Address: 34555 Central Avenue, Frankford. Tax Map Parcel: 134-19.00-25.00 (P/O).

Mr. Whitehouse advised the Commission that the documents submitted into the record were the applicant's conceptual site plan, staff analysis report, letter from County engineering, and a copy of the DelDOT Service Level Evaluation Response.

Mr. Robertson stated that, due to the location of the site adjacent to application C/U 2554, heard prior to this application, the testimony from that application relating to the location description and the area would be incorporated into the record by reference.

The Commission found that Mr. Brenton Archut spoke on behalf of his application; that also present was his father, Mr. Russell Archut, was also present. Mr. Brenton Archut stated that the proposal is for an office building and to use the existing barn structure for storage; that they are not looking to add any additional storage; that Mr. Archut mentioned that he had been approached whilst mowing the property with requests to rent the barn; that approaches had been made from landscapers wishing to keep their trucks on site; that he had been approached by several people wishing to do this; that Mr. Archut has an office already at the beach; that Mr. Archut is looking to put his office in this location to keep an eye on his other properties in the area; that there are many developments within a mile of the site including Lilyvale with 174 homes with a need for services such as landscaping, plowing and HVAC; that he is aware of residents with storage struggles locally, including struggles with cost and availability; that there is very little available storage near the beach; that the proposal would generate revenue to help preserve the barn; that there is a viable septic system on the parcel; that Crescent Place 58 home development allows for a sewer easement to enable annexation and connection to the sewer district; that there is a Tidewater line to the property and an available well; that offices are one of the least intensive uses in terms of traffic; that DelDOT states that the use would be diminutive; that this use would be in the Coastal Area as shown on the Future Land Use Map, which is where growth should occur; that retail and office uses are appropriate in this area to provide convenience services to local residents; that there is a welding business nearby and a C-1 Zoned Parcel nearby; that there are residential developments under construction; that the Woodlands development is directly behind this parcel; that there are no plans to develop the remainder of the parcel; that the office space and storage would be confined to 1 acre of the parcel; that commercial service is lagging behind residential growth in the area.

Mr. Pettyjohn questioned whether the barn would be occupied for other activities, such as retail, and whether conditions could overcome this; he supports small businesses in the right place and right setting.

Mr. Brenton Archut stated that he had been approached by those wishing to have an office space with storage for equipment and etcetera; that conditions could control the storage, that if not used as an

office, this could be called out and enforced, that there would be no retail sellers, and that a landscape business would not be able to run a retail landscape center.

Mr. Collins asked about the potential for clients of the business to visit the office. Mr. Archut said that customers could visit as part of the service uses there, but that the office would not be a doctor's office, for example, but that customers could come and make payment for work at the office; that the office is limited to 1600 square feet; and that a prohibition on medical offices would be acceptable.

Mr. Robertson confirmed that it is possible to add conditions to limit the types of office that would be permitted and to limit the office to the 1,600 square feet proposed.

Mr. Whitehouse provided a summary of why the applications were not heard on March 18th; that this was due to an error beyond the County's control, and thanked the public for their patience for anyone tracking these applications through the process.

Madam Chair Wingate questioned the hours and days of operation. Mr. Brenton Archut stated that 6:00 am until 9:00 pm, seven days per week, is typically associated with service uses. That 24-hour uses was not sought.

Mr. Robertson suggested that the office hours match the storage use proposed next door and that this would make any conditions easier to enforce.

The Commission found that no one was present in support, and three people were present in opposition to the application.

Mrs. Scheinholtz spoke in opposition to the application. Mrs. Scheinholtz spoke with concerns regarding their dwelling facing the barn; that it is very quiet and peaceful in the area; that they are concerned with artificial lighting and traffic, and potential noise; that they would like to see a buffer of trees planted; that trees have fallen in the last storm; and that they live in the Woodlands at Bethany development.

Mr. Scheinholtz spoke in opposition to the application. Mr. Scheinholtz spoke with concerns regarding noise and disturbance, as they are concerned with customers coming and going at all hours of the night. Mr. Robertson confirmed that it was not proposed to be a 24-hour use and that the hours of operation could be controlled through conditions of approval, should the use be approved. Mr. Robertson also confirmed that the storage was to be in the existing barn.

Mrs. Greta Muirhead spoke in opposition to the application. Mr. Muirhead questioned the number of offices proposed for the 1,600 square foot building, and what the exterior would look like.

Mr. Robertson stated that the exterior design is not regulated by the Planning & Zoning Commission.

Mr. Russell Archut stated that there would be just two offices and that the exterior design would be tailored to be just right.

In relation to C/U 2555 Bittersweet Investments, LLC. Motion by Mr. Pettyjohn, seconded by Mr. Collins, and carried unanimously to defer action, leaving the record open to allow for the receipt of written public comment, with the record to close on April 22, 2026. Motion carried 5-0.

Minutes of the May 6, 2026, Planning & Zoning Commission Meeting

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

Mr. Pettyjohn moved that the Commission recommend approval of C/U 2555 for Bittersweet Investments, LLC, to operate a small storage facility with an office building based upon the record made at the public hearing and for the following reasons:

1. The use as a small storage facility with office space is of a public or semi-public character and is desirable for the general convenience and welfare of the area.
2. Although the entire property is about 45 acres in size, only about one (1) acre of the property will be used for the Conditional Use.
3. The Applicant and its subsidiaries own and operate several commercial rental properties in the area. This small 1,600 square foot office building will provide a convenient, centralized location for the Applicant's business.
4. The storage will occur in the existing barn on the site. This is an adaptive re-use of this agricultural building that has become an informal landmark in this neighborhood.
5. The use will be a storage facility with an office. No manufacturing, assembling, fabrication, or similar activities will be permitted.
6. There was testimony in the record that there is a need for storage facilities for small businesses and contractors in this area.
7. This type of storage facility generates a relatively minor amount of traffic when compared with other types of uses. It will not adversely affect traffic on area roadways. DelDOT has stated that the traffic impact will be diminutive.
8. The project, with the conditions and stipulations placed upon it, will not have an adverse impact on the neighboring properties or community.
9. This recommendation for approval is subject to the following conditions and stipulations:

    A. The use shall be limited to storage within the existing barn and an office building that will be 1,600 square feet in size. The area set aside from the larger parcel for this Conditional Use shall be clearly shown on the Final Site Plan.
    B. Security lights shall be screened with downward illumination so that they do not shine on any neighboring properties or roadways.
    C. There shall not be any manufacturing, fabrication, or similar activities conducted on the site.
    D. There shall be only one lighted sign allowed on the site. It shall be no larger than 32 square feet per side.
    E. Stormwater management shall be maintained on site as required.
    F. Any trash receptables associated with the use shall be screened from neighboring properties and roadways.

G. The use shall be subject to all DelDOT requirements regarding entrance and roadway improvements necessary to provide access to the site.

H. Any violations of the conditions of approval of this Conditional Use may result in the termination of this Conditional Use.

I. The Final Site Plan shall be subject to approval of the Planning and Zoning Commission.

Motion by Mr. Pettyjohn, seconded by Mr. Allen, and carried unanimously to recommend approval of C/U 2555 Bittersweet Investments, LLC for the reasons and the conditions stated in the motion. Motion carried 4-0.

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

JAMIE WHITEHOUSE, AICP MRTPI
PLANNING & ZONING DIRECTOR
(302) 855-7878 T
(302) 854-5079 F
jamie.whitehouse@sussexcountyde.gov

Sussex County
DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Planning Commission Members
From: Susan Isaacs, Planner I
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: February 10, 2026
RE: Staff Analysis for C/U 255 Bittersweet Investments LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of Application C/U 2555 Bittersweet Investments LLC to be reviewed during the March 18, 2026, Planning & Zoning Commission Meeting. This analysis should be included in the record of this Application and is subject to comments and information that may be presented during the public hearing.

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

Tax Parcel ID: 134-19.00-25.00 P/O

Proposal: The request is for a Conditional Use for Tax Parcel 134-19.00-25.00 P/O to allow an office and storage within an Agricultural Residential (AR-1) District on a parcel lying on the southeast corner of the intersection of Central Avenue (S.C.R. 87), and Old Church Cemetery Road (S.C.R. 367). The subject property is located at 34555 Central Avenue in Frankford. The parcel consists of 45.78acres +/-.

Zoning: The Parcel is zoned Agricultural Residential (AR-1) District. The adjacent parcel to the north is zoned General Residential (GR) District. The adjacent parcels to the south are zoned Agricultural Residential (AR-1) District and Medium Residential (MR) District. Staff further note that much of the surrounding lands are also zoned Agricultural Residential (AR-1) District.

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

Applicability to Comprehensive Plan: The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use Map (FLUM) in the Plan indicates that the subject property is designated has a Growth Area designation of "Coastal Area." The adjacent properties to the north, south, east and on the opposite side of Central Avenue (Route 84) and west of the subject property also have a Future Land Use Map designation of Coastal Area.

As outlined in the 2018 Sussex County Comprehensive Plan, *"Coastal Areas" are areas where the County encourages only appropriate forms of concentrated new development – especially when environmental features are at play"* (2018 Sussex County Comprehensive Plan, 4-9).

Additionally, the Plans notes that, *"This region is among the most desirable location in Sussex County for new housing"* but also *"contains ecologically important and sensitive characteristics" (2018 Sussex County Comprehensive Plan,* 4-15).

The Plan further notes that, *"Medium and higher density (4-12 unit per acre" can be appropriate in areas:*

- *Where there is central water and sewer;*
- *Near sufficient commercial uses and employment centers;*
- *Where it is in keeping with the character of the area;*
- *Where it is along a main road or at/or near a major intersection;*
- *Where there is adequate Level of Service"* (2018 Sussex County Comprehensive Plan, 4-16).

Further Site Considerations:

- **Density:** N/A

- **Open Space Provisions:** N/A

- **Agricultural Areas:** Aerial imagery of the property shows that the site is within the vicinity of active agricultural lands.

- **Interconnectivity:** N/A

- **Transportation Improvement District (TID):** The parcel is not within any established Transportation Improvement Districts.

- **Forested Areas:** N/A

- **Wetlands Buffers/Waterways:** The County's Online Mapping System does not indicate the presence of wetlands on the subject property.

- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** The property is located within Flood Zone "X" – "Areas determined to be outside the 1% annual chance flood and outside the 500-year floodplain. The Parcel is not located within any Wellhead Protections Areas. The County's Online Mapping System indicates the presence of a Tax Ditch Right-of-Way on the subject property. The property is also located within an area of "Good" Groundwater Recharge Potential.

Based on the analysis of the land use, surrounding zoning and uses, a Conditional Use Application to allow for an office and 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: A Data Table and Supplemental Map have been supplied which provide further background regarding the approval status of Applications in the area, including the location of all other Conditional Use Applications that are less than 1-mile distance from the subject site.

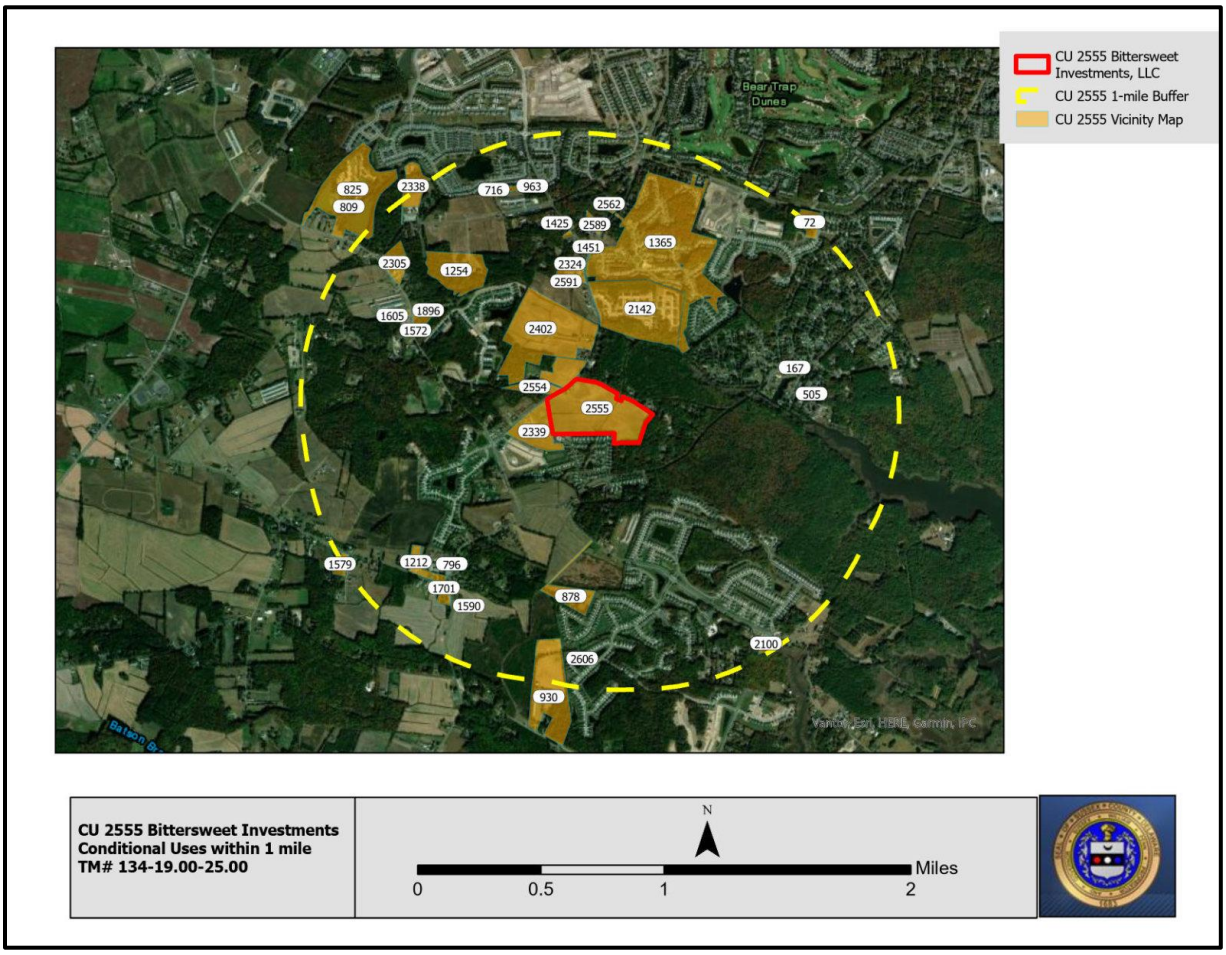
Existing Conditional Uses within the Vicinity of the Subject Site: Staff have identified a history of thirty-four (34) Conditional Use applications within a one (1) mile radius of the application site. A Data Table and Supplemental Map have been supplied to provide additional background regarding the approval status of Applications in the area to include the location of all current or previous Conditional Use Applications that are less than 1 mile distance from the subject site. The current status of those Applications are outlined below:

- **Three (3) Applications were Withdrawn.**
- **Two (2) Applications were Denied by the Sussex County Council.**
- **Twenty-Five (25) Applications were Approved by the Sussex County Council.**
- **Four (4) Applications are Pending.**

CU Number	Application Name	Proposed Use	CC Decision	CC Decision Date	Ord. Number
72	Kauffman & Rickards	Manufactured Home Park	Approved	8/8/1972	N/A
167	Fuhrmann Brothers	Manufactured Home Park	**Withdrawn**		
505	Harold P Evans Jr	Beauty salon	12/19/1978	Approved	N/A
716	Dogwood, Inc	Borrow Pit	4/12/1983	Approved	N/A
789	Emmon & Anna Bayless	Custom Furniture Manufacturing	5/1/1984	Approved	N/A
796	Malcolm T. Laurlee Chandler	Buy/repair/refinish & sell antiques	5/29/1984	Approved	N/A
809	Morris E. Justice	Borrow Pit		Withdrawn	
825	Morris E. Justice	Borrow pit	7/23/1985	Approved	280

878	Herbert W. Murray	Private air strip	7/5/1988	Approved	518
930	Daniel G. McMunn	Hunting/fishing equipment store	4/24/1990	Approved	677
963	Bonard Timmons, Jr.	Borrow pit for 2 wildlife ponds	4/30/1991	Approved	762
1212	Glen & Patti J. Roberts	HVAC Workshop	12/9/1997	Approved	1210
1254	Bethany Beach Kennels	Pet Crematory	12/8/1998	Approved	1275
1365	Chesapeake Utilities Corp.	Bulk propane storage	12/19/2000	Denied	
1425	Brice & Wanda M. Butler	Storage/office for plumbing business	11/27/2001	Approved	1608
1451	Rickie L. Clogg	Auto/boat & small engine repair	7/30/2002	Approved	1557
1572	Donald K. Miller	Guest House / Survey Office	11/30/2004	Approved	1731
1579	Jody Sweetman	Upholstery shop	1/18/2005	Approved	1745
1590	Peninsula Oil Co., Inc.	Mini-storage	3/15/2005	Approved	1762
1605	Loyal Order of Moose, Inc.	Family center	5/11/2005	Denied	
1701	Bridget M. Nicholson	New and Used Furniture Sales, Thrift Shop & Office	12/18/2007	Approved	1948
1896	Timothy S. Miller	Mulch & boat/RV storage	8/2/2011	Approved	2206
2100	Catherine Schultz	Retail flower shop	10/31/2017	Approved	2530
2142	RH Orr, LLC c/o Ribera Development, LLC (John Stamato)	Multifamily 135 Townhouses	11/13/2018	Approved	2612

2305	Barnhill Preserve of DE, LLC (Attn: Joshua Mueller)	Wildlife Preserve & Education Center	3/22/2022	Approved	2843
2324	Zachary Bedell	Auto & Boat Repair	12/13/2022	Approved	2897
2338	Lora Collins	After-school program		WITHDRAWN	
2339	Ron Sutton	Multi-Family (60 units)	2/21/2023	Approved	2903
2402	McKee Builders, LLC	Multi-Family (174 Units)	8/1/2023	Approved	2945
2554	E. Johnson Holdings, LLC	Commercial & Self Storage		Pending	
2562	John L. Hnatishion	Multi-family	12/16/2025	Approved	4037
2589	Linda Schroeder	Professional Office		Pending	
2591	Michael Tussie	RV, Boat & Self Storage		Pending	
2606	Sheila Marie Rose	Boat & Equipment Storage		Pending	

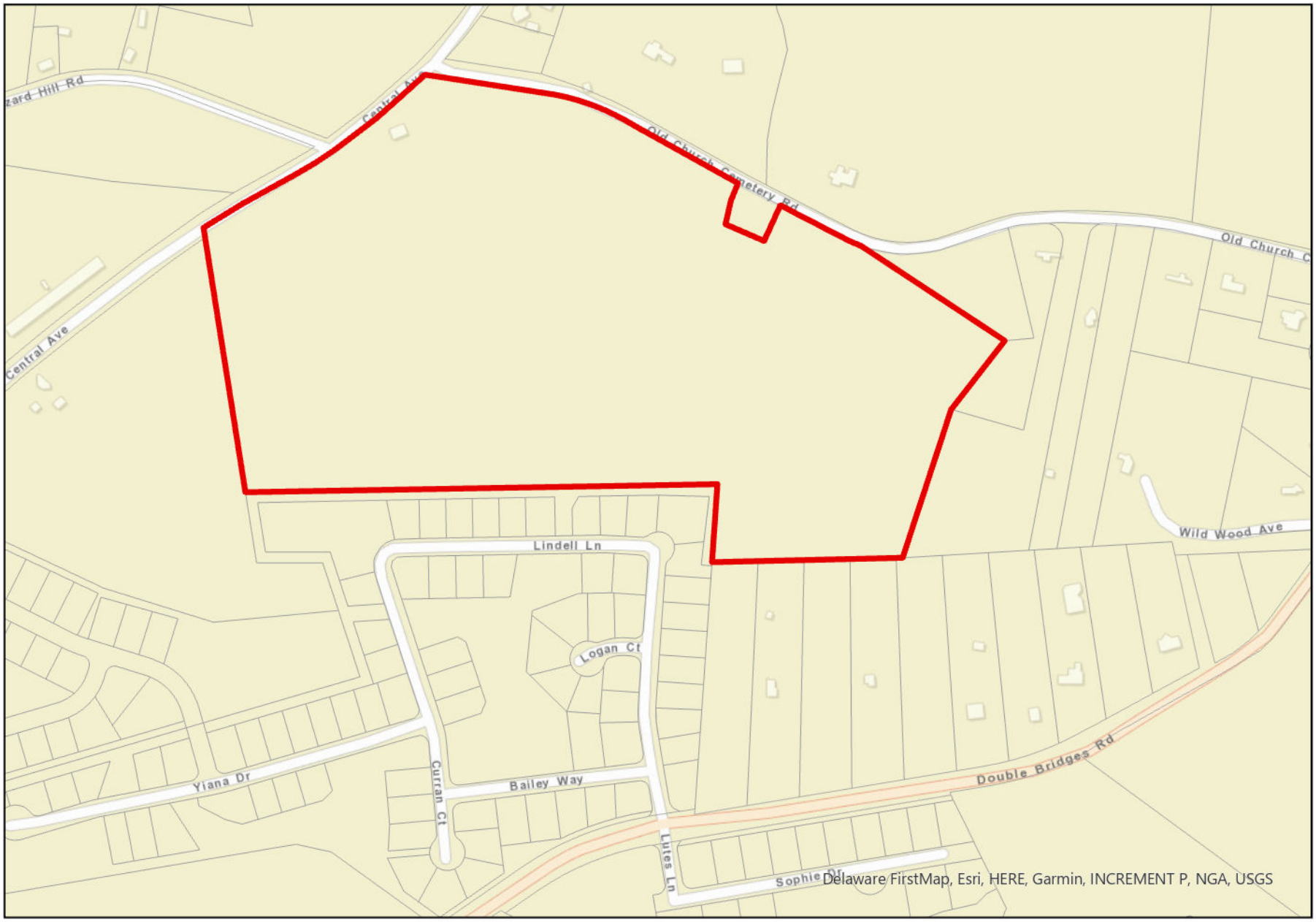

CU 2555 Bittersweet Investments, LLC
CU 2555 1-mile Buffer
CU 2555 Vicinity Map
Bear Trap Dunes
825
809
2338
716
963
2562
1425
2589
1451
1365
72
2305
1254
2324
2591
1605
1896
1572
2142
2402
167
505
2554
2555
2339
1579
1212
796
1701
1590
878
2100
2606
930
Vantor, Esri, HERE, Garmin, FC
CU 2555 Bittersweet Investments
Conditional Uses within 1 mile
TM# 134-19.00-25.00
N
0
0.5
1
2
Miles



CU 2555 Bittersweet Investments
Aerial Map
TM# 134-19.00-25.00

N

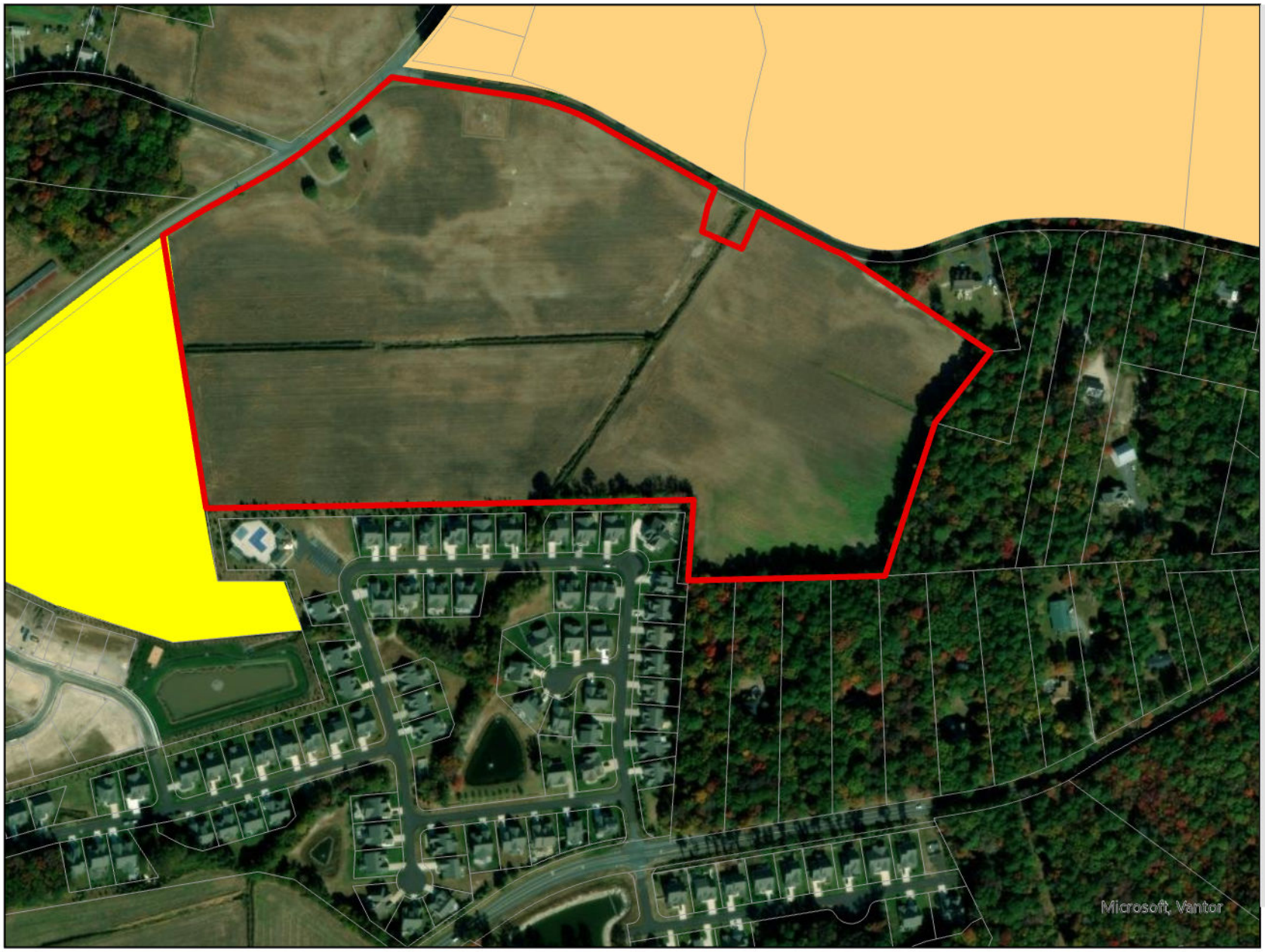
0 0.13 0.25 0.5 Miles



CU 2555 Bittersweet Investments
Street Map
TM# 134-19.00-25.00

N

0 0.13 0.25 0.5 Miles



CU 2555 Bittersweet Investments

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 2555 Bittersweet Investments
Zoning Map
TM# 134-19.00-25.00

N

0 0.13 0.25 0.5 Miles

Introduced: 10/29/24

Council District 4: Mr. Hudson
Tax I.D. No.: 134-19.00-25.00
911 Address: 34555 Central Avenue, Frankford

ORDINANCE NO. ___

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OFFICE AND STORAGE TO BE LOCATED ON A CERTAIN PORTION OF A PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 45.78 ACRES, MORE OR LESS

WHEREAS, on the 25th day of September 2024, a Conditional Use application, denominated Conditional Use No. 2555 was filed on behalf of Bittersweet Investments, LLC; and

WHEREAS, on the _____ day of _____ 2025, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2555 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. 2555 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece, or parcel of land, lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on the on the southeast corner of the intersection of Central Avenue (S.C.R. 84) and Old Church Cemetery Road (S.C.R. 367) and being more particularly described in the attached legal description prepared by James J. Gallagher, Esq. said parcel containing 45 acres, more or less.

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

JAMIE WHITEHOUSE, AICP
DIRECTOR OF PLANNING & ZONING
(302) 855-7878 T
pandz@sussexcountyde.gov

Sussex County
DELAWARE
sussexcountyde.gov

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: May 14, 2026

RE: County Council Report for C/U 2602 filed on behalf of Sunset Bridge Corporation

The Planning and Zoning Department received an application (C/U 2602 filed on behalf of Sunset Bridge Corporation) for a Conditional Use for a non-profit public charity providing respite care facility in an MR Medium Density Residential District. The Tax Parcel ID is 134-13.00-84.00. The property is located at 31613 Charleys Run, Bethany Beach. The parcel size is 3.64 ac. +/-

The Planning & Zoning Commission held a Public Hearing on the application on April 1, 2026. At the meeting of February 4, 2026, the Planning & Zoning Commission recommended approval of the application for the 9 reasons and subject to the 10 recommended conditions of approval as outlined within the motion (copied below).

The County Council held a Public Hearing on the application at the meeting on May 12, 2026. At the conclusion of the Public Hearing, the Council closed the Public Record and deferred action on the application for further consideration.

Below are the minutes from the Planning & Zoning Commission meeting on April 1, 2026, and April 15, 2026.

Minutes of the April 1, 2026, Planning & Zoning Commission Meeting

C/U 2602 Sunset Bridge Corporation
AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A NON-PROFIT PUBLIC CHARITY PROVIDING RESPITE CARE FACILITY AND USE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 3.64

ACRES, MORE OR LESS. The property is lying on the east side of Charleys Run, approximately, 0.22 mile south of Fred Hudson Road (S.C.R. 360). 911 Address: 31613 Charleys Run, Bethany Beach. Tax Parcel: 134-13.00-84.00.

The Commission found that submitted into the record were the Applicant's Conditional Use Site Plan, the DelDOT Service Level Evaluation Response Letter, the property deed, the Applicant's exhibits and presentation materials, the Applicant's renderings for the proposed structures on the property, a letter received from the Sussex County Engineering Department's Utility Planning Division, and the Staff Analysis Report. Mr. Whitehouse advised the Commission that 63 written public comments had been received regarding the application.

The Commission found that Mr. John Paradee, Esq. with Baird Mandalas Brockstedt & Federico LLC, spoke on behalf of the Applicant, Sunset Bridge Corporation; that also present were Ms. Terri Sarisky, Founder and Administrator of Sunset Bridge Corporation, Mr. Steve Marsh, Professional Engineer and Vice President of Community Development at Carl M. Freeman Companies and Ms. Katja Kaliski with George, Miles & Buhr, LLC (GMB).

Ms. Sarisky stated that she was a caregiver and the founder of Sunset Bridge Corporation, located within Bethany Beach, Delaware, where she is also a resident. Ms. Sarisky stated that when there is a terminal diagnosis made for an individual, there typically is a lot of challenge and pandemonium that comes along with it; that often the end of life preparations have not been made in any way, until this challenge in time hits; that it is a topic that is seldom discussed; that about 20% of the population have this discussion before they receive a terminal diagnosis of how to plan for end of life; that the challenge intensifies when there are no longer medical treatment options available; that she personally had been on the receiving end of a bad message for five immediate family members, regarding malignant brian cancer, esophageal cancer, ovarian cancer, kidney failure and most recently, pulmonary fibrosis diagnosis; that when doors are slammed in your face from the people that were helping you, saying that there is nothing else they can do for you, it is an extremely challenging time; it can seem without hope for everyone involved; that their commitment stemmed from their own love and experience; that their mission and goal is to build a retreat home, to be a home where end-of-life guests, and their family can come together to receive help, to enjoy the beauty of a sunrise, and a sunset, and to have time together, free of charge, for one to two weeks, as a transitionary stay; that this will allow them to go through the options for end-of-life care; that this will allow caretakers a moment to breathe and give them a chance to navigate the gap from when traditional medical support is no longer available; that they also want to ensure that they minimize the disparity in treatment options for the underserved population; that if one does not know who to turn to, or what questions to ask, it is often very difficult to find what services are available; that Sunset Bridge was incorporated in Delaware on November 15, 2022; that they applied for their 501C3 Public Charity application on March 24, 2023; that within five days of submitting the application, they received endorsement on March 29, 2023; that she received a personal call from the IRS endorsing what they were doing, and acknowledging the need for the organization, and the services it will provide; that they were grateful for the comments and opinions posted through the Online Application Docket, as they will only make Sunset Bridge a much stronger and better for the community; that from an operations perspective, it was important to note that Sunset Bridge Corporation had already helped 100 people virtually; that their goal was to now build

the proposed retreat home, where families can come together, under one roof in a facilitated retreat; that they are proposing a working session, not a vacation; that the project will not be a rental property, allowing keys to be turned over to individuals to enjoy, and have a great time; that they are proposing a facilitated working retreat session; that their goal is to provide people with comfort, peace, renewed strength and reassurance that no one is alone on the journey; that they had found that many folks they had served were along, or it may be only them and their loved one; that specifically for those who will stay at the retreat home, there would be a very rigorous screening process; that they want to ensure that they are not just receiving a referral from a friend; that the referral must come from a medical professional, and from a professional organization; that they had spent a significant amount of time in discussions with those who, like the Ronald McDonald House, do similar help for the under age 18 population; that their population will be 18 and over; that no one will come to the home that is not 18 years of age as defined by Delaware Code Title 1, Section 302.1; that this is to enable folks to be part of the discussion, planning, and decision-making process; that she previously had discussions with Ms. Pamela Cornforth, the President/CEO of Ronald McDonald House Charities of Greater Delaware; that there are a lot of services available for the under 18 year old population; that when someone is released from the Ronald McDonald House, they do not have any other medical interventions for them, and often services run dry; that many times, people's only option is to enroll in hospice, but many people are not ready to there; that their goal is to help work with folks along the way; that they want to ensure their folks are not undergoing treatment; that they are not a medical facility in any way; that they will not be providing IV chemotherapy, or routine medical care; that when folks have declined or discontinued all treatment options, they will have a formal intake process, as they recognize that no person or journey is exactly the same; that no action plan they place will be the same; that through the intake process, they want to learn about the individual and their family, before that person comes to them; that there will be very thorough background checks; that they do not want someone coming to stay at the property, unless they know who they are, and the folks that are coming with them, for the purpose of their staff and the community; that as part of the day-to-day operations, families come to Sunset Bridge and will work through their framework; that they have a very rigorous framework that walks through all the different facets of anyone's life; that again, they are proposing a facilitated retreat, not a vacation with back and forth beach trips; that their residents may go out for a walk, or desire to spend an afternoon at the beach; that they will operate all year long; that their work and activities will take place inside the house; that the house will operate 24/7, with at least two staff members present at all times; that meals will be provided; that they have a cook on staff; that food will be brought in once a week; that one of the greatest attributes she remembered at a retreat home was that they provided a cup of tomato soup, and a copy of coffee, which made her feel she had won the lottery; that they want to help nourish people's body and soul; that families are permitted to bring some food; that they will have one kitchen, and one dining area; that they will have a meditation/spiritual room, and one family room; that United Way had done a phenomenal job with their 211 program, however, it does not come with recommendations, past experiences, or what is best for where you live and are; that their program will help folks navigate through what options are available; that their program will provide estate planning by virtually meeting with an estate planner, both an attorney, as well as someone in the banking industry; that they will provide legacy planning, which will include establishing documents that have their loved ones passports, accounts, their loved ones affairs and housing information; that this helps organize their loved ones' digital footprint; that they will identify the resident's wish list or bucket list; that they will meet with social workers and

counselors all through a virtual setting; that she is a hospice volunteer; that it is very important that folks are educated on the difference between palliative and hospice care, and the options that are available to them; that they would like for their residents to be assessed or evaluated for hospice or palliative care, so that they can leave their facility with that being part of their action plan ; that it is important to note that they are not a hospice facility; that they complement hospice, but to not provide hospice care; that overall, they engage in active listening, discuss various service options, endeavor to assist in identifying support for everyone involved; that there is a lot of support available in the State of Delaware for caregivers, however, folks may not know about it; that they expect their residents to leave Sunset Bridge Retreat Home with an action plan; that each action plan will look different; that their intake process, at the beginning, will help them in developing those action plans; that prior to them purchasing the property in early 2023, there was an existing home on the property; that the property was mostly trees with nothing else around, which made the property very conducive for them, as they wanted to create a peaceful, serene, and calm environment; that they learned that the existing house had a very large crack in the foundation, in addition to an issue with mold; that because of this, they were unable to use the existing home for their purpose; that when they shared their proposed use during a community meeting, held at the South Coastal Library in October 2025, they originally showed a bigger structure of 12 bedrooms; that because they would be serving residents who would be staying in the home, they felt a bigger space would be preferred, in the case someone would come with two loved ones; that they would have an area for time together, but also separate when needed; that they recognized their folks would be engages in working sessions and spending time together within the home; that their Board of Directors felt it would be fiscally responsible for them, as a public charity, to have a larger scope to help for families, since they are paying for staff, and allowing them to provide a greater opportunity to those they serve; that based on their experience of helping over 100 people over the past couple years, many of them being one or two who were helping their family, it did not make sense to have 12 bedrooms; that they heard everyone's feedback, and decided to reduce the scope and the size; that they came up with eight Board resolutions; that they will ensure the character of the home fits the style of the surrounding communities, which had always been there intent; that their home footprint includes screened-in patios; that the area, being on the water, has a lot of mosquitoes; that outdoor time will be spent in a screened-in patio; that they want to be able to use those porches throughout the year; that they were intentionally designing the house were one cannot see the front door, and so people cannot see the families come or go; that one family may be there for one week, while another family may be there for two weeks; that they want to respect people's privacy; that there will be no sign posted outside; that all parking will take place on the 3.6 acre, Sunset Bridge Corporation, property; that the majority of parking will be located under the home, as the first floor will be raised on pilings; that there will be no parking in the Bethany Woods cul-de-sac; that all parking, including the two staff members and all residents of the retreat home will be located on their property; that there will be rules placed, which will govern participation; that residents must be 18 years of age or older, no visitors are permitted during the stay, unless it is an extreme exception; that they anticipate eight to 10 people in the house at one time in total, including staff; that there is a limit on the length of stay, the number of people who can come, and a limit on the number of vehicles folks can bring; that they can bring a maximum of two cars if needed; that they agree to have no more than three, simultaneous families present at any given time, as they recognize that a family could be one person; that if they are paying two staff members, but only having two families, one each, that ratio does not quite work out; that they want to be able to have three families, in the

case they happen to have three families each of one; that final details for the home are not completely ironed out yet, they are committed to ensuring that the footprint of the home is no more than 3,000 square feet; that they are also committed to ensuring that the Sunset Bridge Corporation Retreat Home has no more than six bedrooms; that they are working with a couple different pro bono architects, for designing two floors; that above the area where the vehicles would be parked, would be two living spaces; that the second floor would be the living space, with the optimal view, the family room, and the kitchen; that they will not request future expansion of the retreat home; that she would love to have a little gazebo, located closer to the wetlands and the water in the future; that they will not expand the size of the home, and will not expand beyond the proposed six bedrooms; that it is their hope that with success, others will embrace their model and replicate it elsewhere; that they do not want to deter or detract in anyway from the beauty of the community which already exists; that it is their desire to ensure the proposed retreat home adds to the beauty, the opportunity, and the overall value of the community; that as a Bethany Beach resident, the best of Sussex County, and Bethany Beach is in her own best interest as well; that she thanked everyone for their opinions and perspectives; that they continue to ask the community for their involvement and support; that they have a member of the Bethany Woods community, who graciously accepted their offer to be on their Transportation Committee; that they genuinely would like for the project to be a win for not only the people they serve, but also their collective community at large, and she requested to submit into the record, a letter of endorsement from State Representative, Mr. Ronald E. Gray.

Mr. Paradee submitted a written letter of support from Mr. Ronald E. Gray, State Representative of the 38th District.

Mr. Paradee stated it had been unfortunate that there had been a certain amount of misinformation and misunderstanding about what the facility is; that there was a letter of opposition submitted from Mr. William Stout that cited a number of Code provisions and case law; that everything cited in the letter was incorrect; that Mr. Stout cited Section 115-210 a number of times, which is a provision that deals with special exceptions that can be granted by the Board of Adjustment; that these had nothing to do with a Conditional Use request before the Planning & Zoning Commission; that he cited Section 115-194, which talks about Conservation Zones, and really had no application to the proposed application; that he cited Section 115-48, which is Special Use Exceptions within the HR-1 and HR-2 (High Density Residential) Districts, which had nothing to do with the application; that he cited Section 115-20, which are the permitted uses within the AR-1 and AR-2 (Agricultural Residential) Zoning Districts, again having no application to the proposed project; that he cited many cases, including the Kwik-Check Case, which is a landmark Delaware Supreme Court decision, however, had nothing to do with the application; that the Kwik-Check Case, would be a Board of Adjustment decision, and it talked about the standard for area variances; that Mr. Stout cited another Board of Adjustment case in his letter, which he called Miller vs. Board of Adjustment of Sussex County; that there is no such case; that he believed Mr. Stout was citing to Miller vs. Board of Adjustment of the Town of Dewey Beach; that again, it was a Board of Adjustment decision that was actually affirmed on appeal, and had nothing to do with the application; that he cited Tate vs. Miles, which was a Delaware Supreme Court case that basically stated that bodies, such as the Planning Commission, must give reasons for their decisions, but had zero application to the current circumstance; that he cited the Council of Civic Organizations of Brandywine 100, which delt with a motion to dismiss, that

was granted for failure to name an indispensable party, again, not applicable to the application; that he felt there was misinformation presented, as well as some misunderstandings; that one of the opposition comments referenced Conditional Use No. 1244 from 1998, stating that it was a similar application for Conditional Use for the property; that it was not; that it was a Conditional Use for the a nearby property called Slat Pond, and it was approved by Sussex County; that he found it interesting that Conditional Use No. 1244 was for an elderly community in Salt Pond, and it was approved; that because of this, there is some precedent; that they are not proposing a commercial structure; that they are proposing a multi-family residential home; that multi-family uses are permitted as residential uses within the district; that the are proposing something a little different than what is typically seen; that a typical multi-family conditional use might be apartment buildings, and their application is somewhat similar to that use; that he felt no one really disagrees with the merits of what they were proposing or the need for the services they are offering; that he believed the concerns seem to be from the neighbors regarding the size of the home and the amount of traffic the use would generate; that in 2023, the Bethany Woods Homeowners Association granted an easement to Sunset Bridge Corporation, to allow them to use the subdivision roads; that what is important about the easement agreement is it requires Sunset Bridge to contribute to the maintenance of the road, such that if their traffic caused damage to the roadways, Sunset Bridge would have to pay for it; that DelDOT had indicated that the traffic impact for the proposed use would be diminutive, and they found no problem with the roads being adequate to serve the property; that the Applicant had made a number of concessions to accommodate the concerns which had been expressed by the neighborhood regarding the size and the traffic, by agreeing to limit the size of the facility to 3,000 square foot footprint, while limiting the number of bedrooms down 12 bedrooms to six bedrooms; that the Applicant had spoken to limiting the number of families, limiting parking and so on in an effort to address concerns; that the size and the impact of the facility had be greatly diminished from what was originally proposed; that per Sussex County Code, Section 115-171, the purpose of the article is to provide for certain uses, which cannot be well adjusted to their environment in particular locations, with full protection offered to surrounding properties by rigid application of the District regulations; that the uses are generally of a public or semi public character, and are essential, and desirable for the general convenience of and welfare; that because of the nature of the use, the importance of the relationship to the Comprehensive Plan and the possible impact, not only on neighboring properties, but on a large section of the County, the application requires the exercise of planning judgement n location and site plan; that the Planning Department, in its report, concluded, based on the analysis provided, the Conditional Use to allow for a non-profit public charity for providing respite car, associated parking, and other related site improvements to be constructed on the site location, could be consistent with the surrounding land uses, zoning and general environment given considerations of scale and impact; that he would have Mr. Steve Marsh, P.E. speak to the scale and impact, and how the application is being reduced; that the application satisfied the standard, and they therefore would respectfully request the Planning Commission's favorable consideration.

Mr. Steve Marsh, P.E. stated that the big point was that there was a lot of concern about the size of the project; that they made a commitment to limit the footprint of the building and the number of bedrooms; that he and Ms. Kaliski spent a lot of time developing and designing communities when he was at George, Miles & Buhr, LLC (GMB); that they looked at a few samples of projects in not

particularly large homes; that the average was about 2,800 to 3,200 square feet for a footprint, and that those were consistent with homes being built now.

Mr. Collins stated that there were some concerns expressed around what would happen if years down the road, the organization was not found to be successful financially, and he questioned whether the Conditional Use would expire at that time.

Mr. Robertson stated that expiration was not necessarily the case; that the Conditional Use would expire for abandonment or the lack of use; that if the organization were able to transfer it to another similar organization, the use would be able to continue; that the Conditional Use, even under new ownership, would still be subject to all the imposed conditions, and if the conditions were not followed the Conditional Use approval could be revoked.

Mr. Pettyjohn stated that he understood the application was for a respite type of situation, not necessarily ideal for someone to be brought in or taken away by ambulance; that he understood emergencies can happen anywhere at anytime, but questioned whether ambulance transportation was the intent or not.

Mr. Marsh, P.E. stated that the proposed use was not for a nursing facility; that he felt there was no more likelihood of that need more than there would be at any other home; that their residents will not be receiving treatment; that they will not be right at the end of life; that their facility is more a retreat for end of life planning, and there will not be medication driven to the site, or a higher probability of needing emergency medical vehicles.

Ms. Sarisky stated that residents coming to them cannot be bedridden, and that is one of their requirements upon intake; that some people may be in a wheelchair; that their residents will not need to have declined medical treatment; that as part of their Transportation Committee, they will be reviewing the number of times that people are coming and going; that they will not tell people they are not allowed to leave the house, but they are not going to encourage them ; that they will be busy during the day while there; that they will ensure there is not a lot of back and forth because they want to be respectful the community, and no ambulances are anticipated unless there is some unexpected accident that would happen, just like at anyone else's home.

Mr. Collins stated that the property could be sold to a developer, should the Conditional Use not receive a favorable decision from the County Council, and the property potentially could be developed into a beach vacation house or rental units.

Mr. Robertson stated that any of the permitted uses could take place on the property, and as Mr. Marsh had testified, one could build a fairly large home on the site, which could be used for daily or weekly rentals.

Madam Chair Wingate stated there were much larger beach homes already built in the area.
Mr. Allen questioned what the limit of the stay was, and what would happen if the resident declined during their stay and required hospice.

Mr. Sarisky stated that a stay would be limited to one to two weeks; that the stay would depend upon the individual, their situation, and the pre-screening that they would perform; that if someone was closer to potentially end of life, or if they were bedridden, they would not be coming to the retreat; that those people should already be on hospice, and hospice would be their recommendation for them; that they will have palliative care and hospice nurses working with them; that one of them is a member of their Board; that she cannot predict the future, and any one of us could be healthy today, and gone tomorrow, but that is not their intent, and their intent is to help people earlier in their process, when they really need the help to get their life sorted and together.

Mr. Paradee stated for clarification that the application is not for a hospice facility.

Madam Chair Wingate stated that she felt the proposed use is wonderful, and a wonderful opportunity to help our neighbors; that everyone knows someone with cancer, or have gone through any other medical need; that to have a facility, like the one proposed, could help people push through to get to the end because too many times there are no plans made, and because of this, she felt the proposed use was a wonderful opportunity for the community.

Mr. Robertson stated that Ms. Sarisky mentioned resolutions made by the Board; that he had questions regarding a few of the resolutions, regarding the requirement of no visitors, and he questioned what the distinction was between visitors and families.

Ms. Sarisky stated that as part of the intake process, they evaluate the individual with the terminal diagnosis, and determine how many of their loved ones will be coming with them; that for most people it is one or two people; that there may be occasions where a person has four sisters that they are very close to, and would really like all four sisters to be there; that those elected members are not considered visitors; that those members are part of their intake; that they are the caregiver, or also known as the caregiving unit, which consists of the individual with the terminal diagnosis and their loved ones; that it may only be the individual, as many people are alone; that it could be a friend, as they will not require the caregiver to only be a family member; that all members of the caregiving unit will be pre-screened and evaluated before they arrive on the property; that an example of a visitor, would be the individual's mother-in-law, who happened to be down from Baltimore, and decides she wants to drive over; that they would not allow her; that they would be happy to get the mother-in-law on the phone, or to set something up virtually; that they do not want visitors coming in and out of the property; that they want the caregiving unit to be there, focused in a working retreat; that there will be individuals who will not want to come to them, because they will rather have a week at the beach; that there are other resources to help the individual embrace those opportunities as well, and they want to help people and their caregiving unit, collectively, in a facilitate retreat.

Mr. Pettyjohn questioned the maximum number of beds for people to stay.

Ms. Sarisky stated that they would have a maximum of six bedrooms, with approximately eight to 10 people total within the house, and that this maximum would count the staff.

The Commission found that there were six people present in support of the application, and four people spoke in opposition to the application.

Mr. Pettyjohn questioned whether there was any chance the facility could make a mistake, be overcrowded, and possibly have people residing within tents outside.

Ms. Sarisky stated no, that residing in tents outside the home was not option, and that was the reasoning for their upfront, due diligence through the pre-screening process.

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

Ms. Faye Iudicello, resident of Bethany for 46 years, spoke in support of the application. Ms. Iudicello stated that she had often used the area for refuge; that many people enjoy the coastal area, and locals often forget it is a luxury; that one of the greatest things she learned from the Wounded Warrior Project was that they had gained more from it than they had been impacted; that the noise is no more than hearing kids on the beach, jumping in the waves for the first time, and just as love does not exist until it is given away, community does not exist until you let people in.

Ms. Kathy Dickman, year-round resident of Bethany Beach, spoke in support of the application. Ms. Dickman stated that she had owned her home for 40 years, which she rented in the beginning; that rentals are noisy, as people are coming there to have fun; that the proposed application is a six-bedroom, non-profit retreat, that would fill a need in the county and surrounding areas; that there is a gap in the care of a family that is dealing with end-of-life issues; that she spoke as a retired nurse, nurse practitioner who had hospice patients, and an oncology background; that she had personal experience through her mother's death at age 54 from lung cancer; that the retreat will be quiet; that people will not be having big parties; that she spoke highly of Ms. Terri Sarisky's character, as she was her neighbor and good friend; that Ms. Sarisky could be counted on; that she was reliable, good person, and that she 110% supported her on this project.

Ms. Beth Wong, RN, resident of Milton, spoke in support of the application. Ms. Wong stated that she is currently a nurse for a Sussex County based non-profit, called Nurses & Neighbors; that Nurses & Neighbors is a community partner with Sunset Bridge; that she, and all of their members support the application; that the organization's Board of Directors were in favor of the application; that she was currently a volunteer nurse, that people can contact her 24/7; that many of the local residents live here, with their children living at least two hours away; that a lot of people live alone; that she is a person someone can call regarding those decisions on what to do, or with questions regarding hospice; that by training she was an operating room nurse; that this is the right time for what is being proposed, and it is the right thing to do; that she wanted to give Ms. Terri Sarisky credit on her new model of care; that it would be great to have this new model of care begin in Delaware, specifically Sussex County, and go nationwide; that the application did not propose a bunch of kids; that it is targeting the woman in a crochet group, and to help those types of people make their end-of-life decisions.

Mr. Val Curran, resident of Bethany Beach, spoke in support of the application. Mr. Curran stated that he agreed with all the things the others before him stated; that Ms. Sarisky and her husband were dear friends; that when Ms. Sarisky explained her idea, he thought it was righteous; that everyone has lost someone; that many do not get the family interaction the application would provide; that when Wounded Warrior began 13 years ago, with Operation Seize the Day, it was only for families of the wounded warriors; that to see them interacting on the beach was emotional and unique; that he wished that service was around many years ago, and he is thankful now that the service has been put together.

Mr. Andreas Gresser, resident of Bethany Beach spoke in support of the application. Mr. stated that he resided in close proximity to the site; that 45 years ago, when he began his career, he worked as a nurse; that he appreciated the effort; that his main concern in the beginning was the potential for parking in the cul-de-sac, and the creation of additional traffic; that based on what was presented at the public hearing, the Applicant listened to the concerns, by slimming down the size of the home, which will limit the number of cars and traffic; that he had purchased his home because it was on a cul-de-sac; that there was now six other additions to the south, and the street had become more like a through street, and often used as a parking lot, and if those things could be managed, he would retract his formerly expressed objection to the application.

Mr. Rob Sarisky, husband of Ms. Terri Sarisky, spoke in support of the application. Mr. Sarisky stated that to Ms. Sarisky, every voice matters; that she listens and takes constructive action; that her entire career had been spent in compliance, and she is rule follower; that they heard a lot from the neighbors that their mission had merit; that it takes courage to stand up and voice opposing opinions; that he hoped that people in opposition could come around, and gather a better perspective on what the mission was really about; that Ms. Sarisky is driven by data and facts; that she makes all decisions collectively as a group based on those two things; that opinions are important to her, but facts and data must underpin all the decisions that she makes; that as a testament to her character, he did not know anyone else like her; that she is a positive individual, who respects every voice, even those that may be opposing; that she spends hours attempting to address issues, while remaining consistent with the mission; that this is the type of person the area will be receiving as a neighbor, and she is a community steward, not just for those she is serving through the retreat, but a community steward for everyone else as well.

Mr. William Stout, resident of Charleys Run (Bethany Woods), Bethany, spoke in opposition to application. Mr. Stout stated that he is not an attorney; that he believed everyone in the community admired the passion, vision and mission that Ms. Sarisky had put forth; that however, they had serious concerns regarding the proposal; that Bethany Woods subdivision was approved in 2008 for 19 lots; that 18 of those lots are located along Jay Bird Street and Charleys Run; that Lot 19 is located within the woods, past the Sunset Bridge property; that the Sunset Bridge property is not considered part of Bethany Woods; that at the end of the cul-de-sac, a driveway was placed to access Lot 19, and also to service the Sunset Bridge property; that it is a 12 foot driveway, which was placed to serve two homes; that beyond the Sunset Bridge property, there is Osprey Watch, which consists of five homes, but is not considered a subdivision; it was approved as two lots, one lot consisting of two homes, and the other lot consisting of three homes; that now the 12 foot driveway will serve Osprey Watch's five homes, Sunset Bridge's respite facility, plus the home on Lot 19, which is part of Bethany Woods; that

the 12 foot driveway provides only one ingress and one egress; that the only way out is off of McCoy's Way, which they all had easements agreements with Salt Pond in order to use McCoy's Way; that the bridge is major concern; that if the bridge goes out, there will be no way for 26 homes, plus a respite care facility to have ingress or egress; that in 2023, Bethany Woods did enter into an easement agreement with Sunset Bridge, at which time their mission was shared with the community; that at that time, their vision was to use the existing home on the property, with potentially adding one or two bedrooms, and instead what was filed, was a Conditional Use application for a four unit, three bedroom, massive facility, which became the reason for their concerns.

Madam Chair Wingate questioned whether the Bethany Woods Homeowners Association had a maximum allowable square footage for buildings.

Mr. Stout stated that the Bethany Woods Homeowners Association did not have a maximum but rather had a minimum.

Madam Chair Wingate questioned whether it would be better if Ms. Sarisky chose to build and rent an 8,000 square foot home, with additional traffic, rather than the proposed respite facility.

Mr. Stout stated that he did not know whether the 8,000 square foot home for rent would be better or worse than the proposed respite facility.

Madam Chair Wingate stated that she felt the proposed application is reasonable with what is permitted and wanted to confirm on the record that the square footage being proposed is permissible.

Mr. Stout stated that some of the nearby residents' concerns consisted of a failure to demonstrate compatibility with the surrounding area; that as of the current public hearing they had received new information regarding the size of the facility; that they felt the rendering shared with them demonstrated compatibility as it did not look like a house; that another concern was adverse impact on traffic and public safety; that they are still not clear on how much more traffic will be crossing the bridge or the 12 foot driveway; that only one car can fit on it; that in the event two cars are trying to access it, someone will have to get out of the way or back up; that the safety and welfare of the community are also a concern, especially with residents trying to get out on a 12 foot driveway; that he questioned whether fire and ambulances had gone back there to see how they would service the give homes built within Osprey Watch, and he could not see how those vehicles would operate in and out of the 12 foot driveway.

Madam Chair Wingate stated that the plan would require State Fire Marshal approval, before the Final Site Plan would be permitted to be approved.

Mr. Robertson stated that Charleys Run appeared to be an approximate 30 to 40 foot right of way; that the pavement width may only be 12 feet in width, but the right of way was wider; that the Bethany Woods Property Owners Association granted an easement, which is in the record, to Sunset Bridge Corporation, and it now appears that Mr. Stout was asking the Commission to ignore the easement agreement because he no longer wanted Sunset Bridge to use the roadway.

Mr. Stout stated that was not his intention, and that the intention of his concern was regarding the safety of using a 12-foot-wide driveway.

Mr. Robertson questioned why the easement was granted in the first place; that he felt the safety discussion would have been appropriate to have back when the easement was granted, not at the current public hearing, and he assumed that the Property Association would have to be involved in increasing the roadway as well.

Mr. Stout stated that he did not know how the developer originally negotiated in 2008; that there was no easement agreement with the owners of Sunset Bridge, prior to Sunset Bridge, and he believed the previous owners were the Eastburn's, at which time they were allowed to come through the community without paying any compensation to Bethany Woods.

Madam Chair Wingate stated that was not the case with Sunset Bridge, and therefore was irrelevant to the current application.

Mr. Robertson stated that the easement agreement was established with Sunset Bridge in 2023, providing them the right to use the road; that he felt the safety conversation should have been had when the easement agreement was being negotiated, and he believed the pavement is a 12 foot width, however the right of way appears to be 30 to 40 feet in width.

Mr. Robert (Bob) Bailey, resident of Charleys Run in Bethany Beach, spoke in opposition to the application. Mr. Bailey stated that all the residents of the community are full-time residents; that he recently had to deal with the planning and passing of a loved one, Mr. Ed Riggin, owner of Ed's Chicken and Crabs, in Dewey Beach; that he questioned who would be against a respite center; that he was against a respite super center; that they had received new information, which maybe had helped some of his fears; that at its origin three years ago, the community was asked to support a noble cause, being the respite center; that the request was easy to support, as it was a charitable initiative, which has great cause and merit; that however, the current plan got bigger; that when the easement agreement was granted three years ago, it was granted for the existing dwelling on the property, which was proposed to become the respite center; that at that time, the intention was to grant an easement, which would become a respite center, but would not substantially be changing; that things had changed; that the rendering looked nice, but it looked more like a small Motel 6; that it was inconsistent with the existing houses in the community; that the existing residents are looking for consistency; that he understood they would be using a similar builder, and that was good news; that to secure support, Bethany Woods community was promised by Sunset Bridge Corporation that they would use the original single-family home that existed on the property; that the existing home had since been torn down; that he understood the facility is not proposed to be a hospice center, which was great, as he did not feel the site was an appropriate place for a hospice center; that he was also concerned about the previously mentioned medical and emergency safety; that he was concerned about the number of cars are traffic the facility would create; that he did not feel the 12 foot wide road could handle the increased traffic; that as Ms. Sarisky stated, this proposed use had never been done before; that the group managing this profoundly needed services, had never managed this service before; that there

could be a law of unintended consequences; that they wanted to plan for the worse, not for the best; that the want to work together to get the best; that he felt due consideration had not been given to the transient scale that would be present, including the number of family members, counselors, social workers, palliative nurses, advisors, medical professionals, planners, estate and legacy planners, the full time, on-premises staff and cooks, and that the separate families would be using different sets of counselors and planners, and they would not all be using the same one; that he was advised that two weeks, following the passing of the family member, the family can come back for a re-visit; that this was written within the document that was presented to them; that he appreciated the reduction of the building; that he still had concern regarding serving more than one family at a time; that the organization had shared their concerns regarding parking and traffic; that Sunset Bridge had dialogue with Hocker's Grocery Store regarding overflow parking at the local grocery store, which was reflective of the law of unintended consequence; and he requested that the information presented at the hearing be memorialized in writing, as he wanted to make it a success, not a failure.

Mr. Collins stated that should the application be approved, there would be conditions placed upon the use, which would be memorialized within an adopted Ordinance; that the application would have a second public hearing before the Sussex County Council, who may place additional conditions, and questioned what size maximum could be developed on the property.

Mr. Robertson stated that the property is located outside of the Bethany Woods Homeowners Association; that he did not believe there were any restrictive covenants, and it would mostly come down to compliance with the building setbacks, and the maximum height of 42 feet.

Madam Chair Wingate stated that the property is approximately three acres, permitting two dwellings per acre.

Mr. Whitehouse stated that theoretically, borrowing no issues of wetlands, setbacks or any other building hardship, the maximum density of the zoning district would permit a maximum of 43 dwellings units.

Mr. Collins stated that he wanted that information to be placed on record, and that 43 dwelling units could be placed on the property, should it be found that the property was not a suitable place for the proposed respite center to be built.

Mr. Robertson stated that he appreciated the information; that however, there would be some guardrails on that, as 43 dwelling units would require a certain number of parking spaces and stormwater management, and there are wetlands on the property which would create additional building setbacks.

Ms. Leslie Knapp, resident of Bethany Woods, spoke in opposition to the application. Ms. Knapp stated that she would like the property to only be used for the proposed purpose, and could not be rented if it were not used for the proposed use, and requested the right for the Bethany Woods property owners to renegotiate the easement agreement, based on the increased usage of the roadway, as the original agreement was based on the three bedroom home which was existing at that time.

Mr. Robertson stated that the easement agreement is a contractual issue; that Sussex County did not have any authority to require folks to renegotiate contracts; that he looked into the easement agreement to see if it spoke on any limitations of the easement being used for residential versus commercial uses; that the contract was silent in that regard, and that Sussex County cannot enforce restrictive covenants, as they are private contractual obligations for the property owners, homeowners associations et cetera.

Mr. Collins stated that should the Commission place a condition prohibiting the rental of units, the condition would apply to the Conditional Use itself and would not apply should they convert the property or if the property were sold to another party.

Madam Chair Wingate stated that she did not find it fair to the rest of the community; that if someone else wanted to, at some point, rent their property, they would be permitted to do so, and that residents within Bethany Beach rent their properties all the time.

Ms. Knapp stated that Bethany Woods had restrictions within their homeowners' documents that rentals are only allowed under certain circumstances.

Mr. Collins stated that the subject property is not located under the Bethany Woods Homeowners Association.

Mr. Ward Gaisor, resident of Salt Pond, spoke in opposition to the application. Mr. Gaisor stated that in May of 1998, Conditional Use No. 1244 was approved by the Sussex County Council, however, that happened only after the Planning & Zoning Commission had recommended against it, as they did not feel it was an appropriate location for mixed-use density, previous C and that the Conditional Use was abandoned, as no development took place after three years.

Mr. Robertson stated that there had been a lot of discussion of what could be done on the site, should the application not get approved or were to get abandoned; that the MR (Medium Density Residential) Zoning District does not permit multi-family by right; that should the application not be approved, it would only permit for one single-family home; that the single-family could be a large one, as had been seen in North Bethany; that should the current or any future applicant propose a multi-family dwelling, they would be required to come back before the Planning Commission and the County Council through another Conditional Use, and would automatically convert to those suggested types of uses.

Mr. Collins stated that there are examples of similar uses located nearby, which would be favorable to any future application, which was a concern he had.

Mr. Robertson stated that Spinnaker Village was made up of townhomes, and there appeared to be another development off Fred Hudson Road, which had townhomes as well.

Madam Chair Wingate stated there was also Salt Pond, Inland Bays, and several others which were also rented by many of those residents as well.

Mr. Collins stated that he currently has a landscape business located behind his home; that he would rather that business be there than many townhomes; that even though the business may at times create noise, dust, and unpleasant smells, he would rather deal with those than an additional 30 neighbors; that he asked these questions because it is good to know the trade-offs; that if this site is not appropriate for the proposed use of a respite facility, the land will be used for something else, as it is valuable; that he would assume if the Applicant wanted to pursue the mission, they would not hold onto the property, and that they would likely sell it.

Mr. Pettyjohn questioned whether Bethany Woods was granted entrance approval from Salt Pond, with Sunset Bridge trying to gain access through Bethany Woods.

Madam Chair Wingate stated that Mr. Pettyjohn was correct, and Bethany Woods was granted entrance approval from Salt Pond.

Mr. Robertson stated that Sunset Bridge already had obtained approval from Bethany Woods through the easement agreement; that those entrances exist; that the DelDOT entrance was from Fred Hudson Road, and he was unsure where the DelDOT maintenance stopped.

Mr. Whitehouse stated that when the parcels to the south were previously subdivided it went through the review process, which required review by the Commission, and at that time the Commission and staff had looked at Charleys Run, where it connects, and the location of the easements.

Ms. Sarisky stated that they had agreed that initially there services would be gradual; that they intended to start off with one family in one year; that within year two, they would expand to two families in one year, and then maybe increase to three families; that with having a Bethany Woods representative on their Transportation Committee, it will help with monitoring; that she intended to monitor incoming and outgoing traffic; that if there were to be a recommendation made that the traffic is too much, they will address that; that they had proactively approached the Bethany Woods Homeowners Association before they purchased the property to discuss the use of the bridge; that her daughter, who is a structural civil engineer, who previously worked for DelDOT and bridges, attended the meeting; that at that time they stated that they would evaluate the existing home, and that they wanted to be good neighbors; that their most important discussion was the bridge and its protection, as it had received a significant amount of love since the development of all the houses to the east of the site; that Sunset Bridge paid more money that year to place into reserve funds; that they were contributing to the bridge and the roadways; that if the Transportation Committee stated there was more traffic, than they would contribute more money; that they are respectful; that they love the quiet privacy of the existing 12 foot wide road, and she suspected the people who live down that road would say the same thing; that when you reach the end of the cul-de-sac, which they will not be parking in, there is a little enclave of trees with a beautiful 12 foot roadway, with their property located on the left; that she did not feel it was any different than any other cul-de-sac, with there being one way in and one way out; that they recognize and respect that it is not a wide road, but they had heard people who live there state that they would wait in their driveway for a car to go by; that there are six homes and the Sunset Bridge property; that it is not like 40 homes are trying to exist on a one way road; that they would evaluate

and consider that there be a time, either twice a year, one time a year or once a quarter, if they got up to that, where the family would come back for bereavement and counseling; that this time would not be for vacationing; that all consulting and services are virtual, as they currently work in a virtual setting; that they have a banker and a State attorney lawyer who provide all work virtually; that there will be no influx of people coming and going, and there may be staff who come and go after there eight or twelve hour shift ends; that they will have a coordinator on site to help pull stuff together, and keep people focused on outcomes; that residents will have an agenda, and a schedule for the facilitated workshop; that they have a framework that the residents would work through; that the residents will be leaving with an action plan and results after spending their one to two weeks at Sunset Bridge; that after year two, they family will be invited back, if they choose to, for bereavement and counseling; that at that time, the family member will only be there for that specific reason, and there will not be any other families at retreat during that same time; that the family member may stay overnight; that the specific intent is to allow the caregiver to close out the journey where they started; that not everyone will want to come back to them; that they do not have this set in stone yet, but were offering it as a consideration; that they will need to get all their ducks in a row for their opening on year one and year two; that an example would be, if she attended the retreat with her spouse, and he spouse passed away, she would be invited to come back for bereavement and counseling; that this would be subject to the same maximum house limit stated previously; that it would not be open to other friends or family members, and that they have very strict rules and guidelines around how they operate.

Mr. Robertson questioned how Sunset Bridge would schedule or plan for people's passings.

Ms. Sarisky stated that it would be offered once or twice a year, where one week would be blocked off for anyone who had a loved one pass in the past 12 months, they would be invited to come back; that if they find this week is not being used, they will open that week for others; that they find it is a great use for people to be able to come back once a year, and it would be specifically intended for those who had loved ones who passed within the past 12 months.

Ms. Robertson stated he was a bit concerned that this consideration was not presented during the initial part of the public hearing presentation; that the way it was presented initially, Sunset Bridge probably would not have been allowed to have caregivers return to the retreat, as there would have been conditions imposed that would not have allowed folks to come back for bereavement later one; that it would have only been approved for the respite care facility, where people could reside while performing their end-of-life planning; that it would have precluded what is now being described, and he believed the community was concerned as they were told one thing, and heard something different that the public hearing.

Ms. Sarisky apologized for not mentioning the consideration earlier, however, it is part of their submitted application; that she hoped the community did hear something different at the hearing, as they made changes based on their heard voices; that they would agree to eliminate the caregiver bereavement if it was going to cause contention; that there are other ways for people to receive that service, and that their primary goal is to help people as they go through trauma.

Mr. Collins stated that he suspected that Sunset Bridge could offer that service virtually to those who would like to take advantage of the service.

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

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

In relation to C/U 2602 Sunset Bridge Corporation. Motion by Mr. Collins, seconded by Mr. Passwaters, and carried unanimously. Motion carried 5-0.

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

The Commission discussed the application which had been deferred since April 1, 2026.

Mr. Collins moved that the Commission recommend approval of C/U 2602 for Sunset Bridge Corporation for a Non-Profit Public Charity Providing a Respite Care Facility and Use based upon the record made during the public hearing and for the following reasons:

1. This application seeks approval to allow a non-profit charity to provide a respite care facility for individuals with their close family members.
2. The Applicant has stated that this facility will not be a nursing home. Instead, it will provide a safe and honorable structured environment for individuals nearing the end of their life with their immediate family members. This will include counseling and guidance for the family group.
3. There will be no more than three terminal individuals needing respite care with their immediate families at the facility at any one time.
4. Representatives of the Applicant testified that this program will be structured, with programming and 24-hour on-site supervision at all times.
5. This site is a large lot, and the new structure will be residential in character. It will comply with all residential height and setback requirements, and it will not appear materially different in design and size from a permitted residential home that could be placed on the property. As a result, this structured use will result in potentially less traffic and impact on the nearby community than if a large vacation home is constructed on the property for large family weekly rental use.
6. This use fills an important need and service to Sussex County residents and their families. Although there are nursing homes and assisted living facilities throughout the county, there are few, if any, for terminal patients to spend quality time with family in a dignified, comfortable manner while receiving respite care and counseling about the circumstances.
7. There is no compelling evidence in the record that the use will have a negative effect on area roadways or nearby properties. The use is limited and the concerns raised by neighboring property owners will also be mitigated by the conditions imposed upon this conditional use.
8. The property will be served by central water and Sussex County Sewer.
9. This use satisfies the purpose of a conditional use under our Sussex County Zoning Code. The services that will be provided here have a charitable public or semipublic character that is

essential and desirable for the general convenience and welfare of Sussex County and its residents.

10. This recommendation is subject to the following conditions:

    A. The property shall be operated as a non-profit residential care facility for respite care. There shall be no more than three respite care individuals along with their immediate family members staying in the home at any one time. In addition, there shall be no more than six (6) staff members on site at any one time.
    B. The property shall not be operated as a nursing home or assisted living facility for indefinite admissions by infirm individuals.
    C. The home shall be staffed by qualified supervisors at all times.
    D. The home shall maintain its residential appearance at all times and there shall not be any signage on the property. In furtherance of this and as proffered by the Applicant: (a) the first floor footprint of the structure shall not exceed 3,000 square feet (excluding any exterior ramp, outdoor gazebo, garden areas, or walkways), (b) the structure shall not exceed two stories in height, not including its roof, and (c) there shall be no more than six bedrooms within the structure. These architectural requirements shall be included on the Final Site Plan.
    E. The use of the home shall comply with all of the standard State agency requirements that may apply, including, but not limited to those mandated by DelDOT, DNREC, the Sussex Conservation District and the State Fire Marshal's Office.
    F. To ensure that there is sufficient parking on the site for the use, no parking by residents, staff or visitors shall be permitted on the roadways of the adjacent Bethany Woods Subdivision or within the cul-de-sac at the end of Charleys Run. The on-site parking spaces shall be shown on the Final Site Plan and clearly marked on the site itself.
    G. Any security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
    H. No dumpsters shall be utilized on the site. Instead, only residential-type trash receptacles shall be used. The Applicant is encouraged to use the same service as the surrounding properties to avoid additional trash pickups on area roadways.
    I. The failure to comply with any of these conditions may be grounds for the termination of this Conditional Use. In addition, should this Conditional Use lapse or be terminated for any reason, the property shall automatically revert to use as a single-family residence.
    J. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Mr. Collins, seconded by Mr. Passwaters, and carried unanimously to recommend approval of C/U 2602 Sunset Bridge Corporation for the reasons and the conditions stated in the motion. Motion carried 5-0.

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

PLANNING & ZONING COMMISSION
HOLLY J. WINGATE, CHAIR
JEFF ALLEN
G. SCOTT COLLINS
DAVID PETTYJOHN
JOHN PASSWATERS

Sussex County
DELAWARE
SUSSEXCOUNTYDE.GOV
302-855-7878

JAMIE WHITEHOUSE, AICP MRTPI
PLANNING & ZONING DIRECTOR

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: April 1st, 2026
Sussex County Council Hearing Date: May 12th, 2026

Application:	C/U 2602 Sunset Bridge Corporation
Applicant:	Sunset Bridge Corporation (c/o Terri Sarisky) P.O. Box 792 Bethany Beach, DE 19930
Owner:	Terri Sarisky P.O. Box 792 Bethany Beach, DE 19930
Site Location:	The property is lying on the east side of Charley's Run, 0.22-mile south of Fred Hudson Road at 31613 Charleys Run in Bethany Beach, Delaware.
Current Zoning:	MR (Medium Density Residential District)
Proposed Zoning:	MR (Medium Density Residential District)
Proposed Use:	Public or governmental buildings and uses, per Section §115-31.
Comprehensive Land Use Plan Reference:	Coastal Area
Councilmanic District:	District 4 - Mr. Hudson
School District:	Indian River School District
Fire District:	Millville Fire Company
Sewer:	Sussex County (Public Sewer)
Water:	Tidewater Utilities (Public Water)
Site Area:	3.64 acres +/-
Tax Map ID.:	134-13.00-84.00

JAMIE WHITEHOUSE, AICP MRTPI
PLANNING & ZONING DIRECTOR
(302) 855-7878 T
jamie.whitehouse@sussexcountyde.gov

Sussex County
DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Planning and Zoning Commission Members
From: Mrs. Lauren Cecchine, AICP, Planning & Zoning Manager
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: February 26th, 2026
RE: Staff Analysis for C/U 2602 Sunset Bridge Corporation

The purpose of this memo is to provide background and analysis for the Planning and Zoning Commission to consider as a part of Application C/U 2602 Sunset Bridge Corporation to be reviewed during the April 1st, 2026, Planning and Zoning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

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

Tax Parcel ID: 134-13.00-84.00

Proposal: The request is for a Conditional Use for Tax Parcel ID: 134-13.00-84.00 for a non-profit public charity providing respite care facility, associated parking and other related site improvements to be located on a 3.64-acre Parcel of land lying on the east side of Charleys Run, approximately 0.22 mile south of Fred Hudson Road (S.C.R. 360) at 31613 Charleys Run in Bethany Beach, Delaware.

Zoning: The Parcel is zoned Medium Density Residential (MR) District and is located just one Parcel south of the Bethany Woods Subdivision. Bethany Woods is an existing Subdivision consisting of 17 single-family lots and Open Space. The subject Parcel has access via the Charleys Run private access road which also runs through this Subdivision.

There are six (6) strip lots to the south of the Property which are also zoned Medium Density Residential (MR) District that also have access off of Charleys Run.

All of these Parcels are part of a large swath of land that is zoned Medium Density Residential (MR) District, which stretches from the Assawoman Canal to the west and from the north side of Fred Hudson Road (S.C.R. 360) to Indian River Bay.

Background Information: Staff note that the Parcel is subject to an Easement Agreement with the Bethany Woods Property Owners Association, dated May 12, 2023. The Easement Agreement (recorded at DB 5906, PG 111) was granted for direct vehicular and pedestrian access to the subject Property and stipulates the terms and conditions for the use of the roads within the Bethany Woods Subdivision. A copy of the Easement Agreement has been included in the Commission's Packet of Application materials for clarity and completeness.

Staff note that the closest corollary to the proposed use is *"Public or governmental buildings and uses"* which is considered a Conditional Use within the Medium Density Residential (MR) District (§115-31). The use is of a public nature in that also fits the *"Services, Personal" definition, which notes that Personal Service are "Establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel"* (§115-4).

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

Applicability to Comprehensive Plan: The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use Map (FLUM) in the Plan indicates that the subject property has a Growth Area Future Land Use Map (FLUM) designation of "Coastal Area." All adjacent and surrounding Parcels, to include the Parcels to the north within the Bethany Woods Subdivision and the six (6) strip lot Parcels to the south of the proposal having access off of Charleys Run have a Future Land Use Map (FLUM) designation of "Coastal Area."

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

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

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

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

Further Site Considerations:

- **Density:** N/A

- **Open Space Provisions:** N/A

- **Agricultural Areas:** Staff note that there are no Agricultural Areas within proximity to the subject Parcel.

- **Interconnectivity:** N/A

- **Transportation Improvement District (TID):** The Parcel is not located within any established Transportation Improvement Districts (TIDs). The DelDOT Service Level Evaluation Response (SLER) noted that the anticipated traffic impact of the proposed use would be "diminutive" in the context of the County's Memorandum of Understanding (MOU) with DelDOT and that the land use would generate fewer than 50 vehicle trips per day.

- **Forested Areas:** Staff notes that the Applicant seeks to maintain as many existing mature, healthy trees as possible for the proposal.

- **Wetlands Buffers/Waterways:** Staff note that there is an area of Estuarine and Lotic (ie: Wetlands that are adjacent to or in the active floodplain of a stream or river) have been indicated on the Property on the County's Online Mapping Application. An image of the associated wetlands has been included in the image below as Exhibit "A."



Exhibit "A" – Terrene Wetlands Indicated on the Parcel

Staff further note that an area of Federally regulated wetlands governed under Section 404(B) of the Clean Water Act have been identified to the rear of the Property as shown on Exhibit "B" below. The Applicant has opted to engage in Buffer Averaging as outlined in §115-192(G) of the Code by removing a portion (235 square feet) of Buffer Zone "B" to add (332 square feet) to Buffer Zone "B" to offset the project's impact. Buffer Zone Averaging is available for *"perennial nontidal rivers and streams, nontidal wetlands and intermittent streams."*

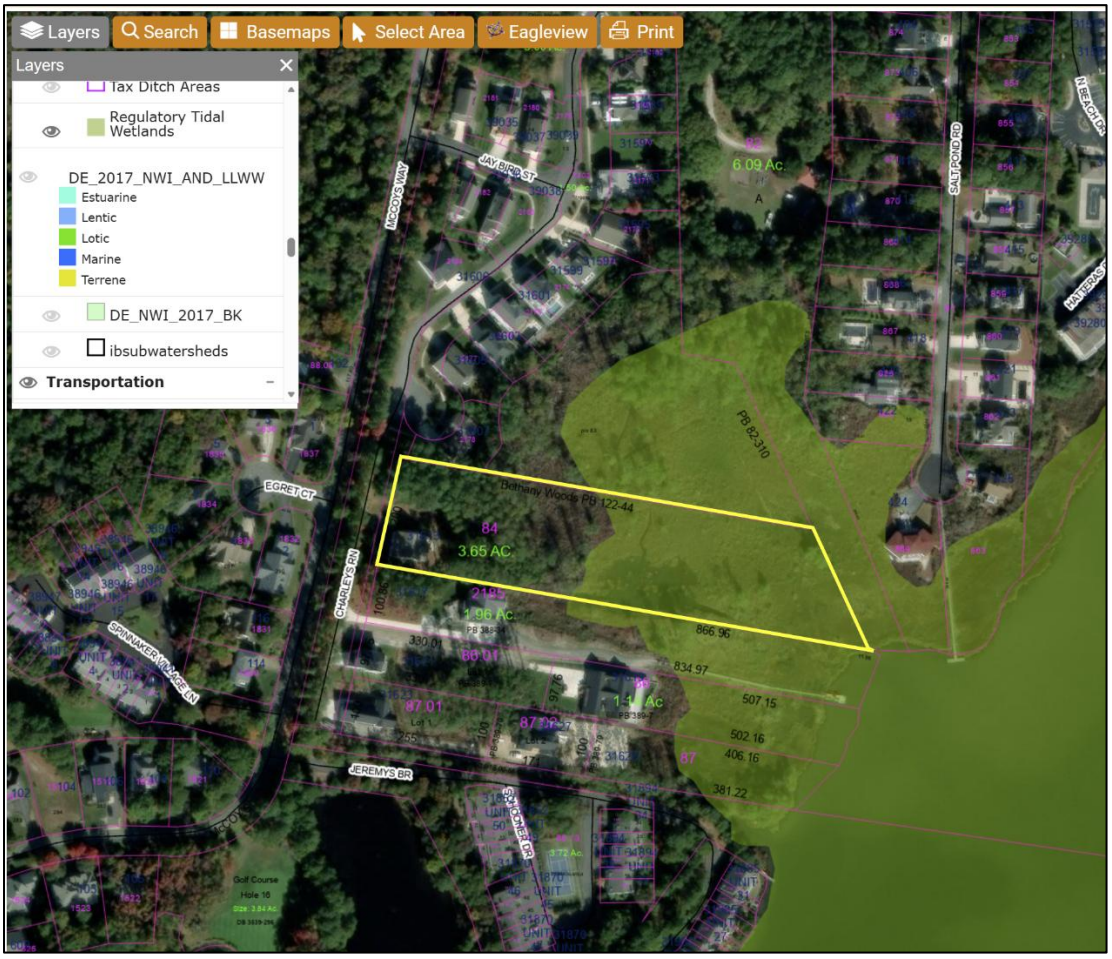


Exhibit "B" – Federally-Regulated Section 404(B) Wetlands on the Parcel

- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** The subject Property is not located within any Tax Ditch Areas and does not contain any Tax Ditches or Tax Ditch Rights-Of-Way (ROW). There are also no Wellhead Protection Areas on the subject Property. The Property is entirely located within the "AE" Flood Zone - Special flood hazard areas subject to inundation by the one-percent annual chance flood; base flood. The project will have to adhere to FEMA requirements regarding flood-proofing and building within flood prone areas/within the floodplain. An image has been included below showing the Flood Zone on the Property. The Parcel is primarily located within an area of "Fair" Groundwater Recharge Potential.

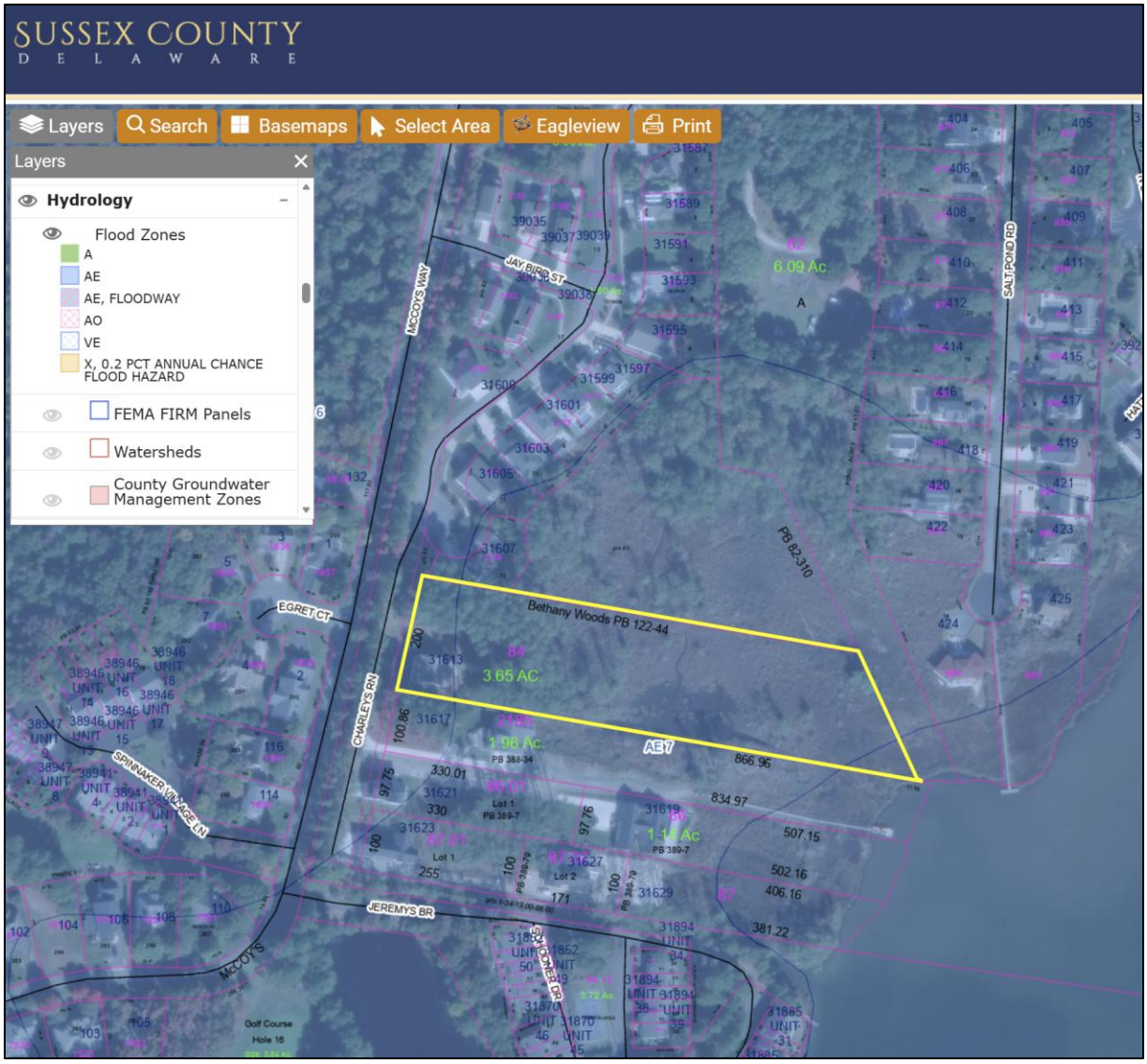


Exhibit "C" – Flood Zone "X" – Areas within 0.2 percent annual chance flood hazard

Existing Conditional Uses within the Vicinity of the Subject Site

Since 1970, there have been three (3) Conditional Use Applications within a 0.5-mile radius of the Application site. A Supplemental Table has been provided showing the approval status of all Conditional Use Applications within a 0.5-mile radius of the Application Site.

Conditional Uses w/in a 0.5 Mile Radius of the Application Site									
Conditional Use Number	Applicant Name	Tax Parcel #	Current Zoning	Proposed Use	P&Z Decision	P&Z Decision Date	CC Decision Date	CC Decision	Ordinance Number
2259	The Evergreen Companies, LLC	134-13.00-72.02	MR	30 single family conominum units	Recommended Approval	7/22/2021	12/7/2021	Approved	2817
1123	North Bethany Seafood Market	134-13.00-133.00	AR-1	expand to include restaurant	Withdrawn	N/A	N/A	Withdrawn	B/A
1306	DMV Partnership	134-13.00-78.00	MR	multi-family	Recommended Approval	9/23/1999	10/12/1999	Approved	1344

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

Based on the analysis provided, the Conditional Use to allow for a non-profit public charity providing respite care facility, associated parking and other related site improvements to be constructed on the Site in this location could be consistent with the surrounding land uses, zoning, and general environment given considerations of scale and impact.

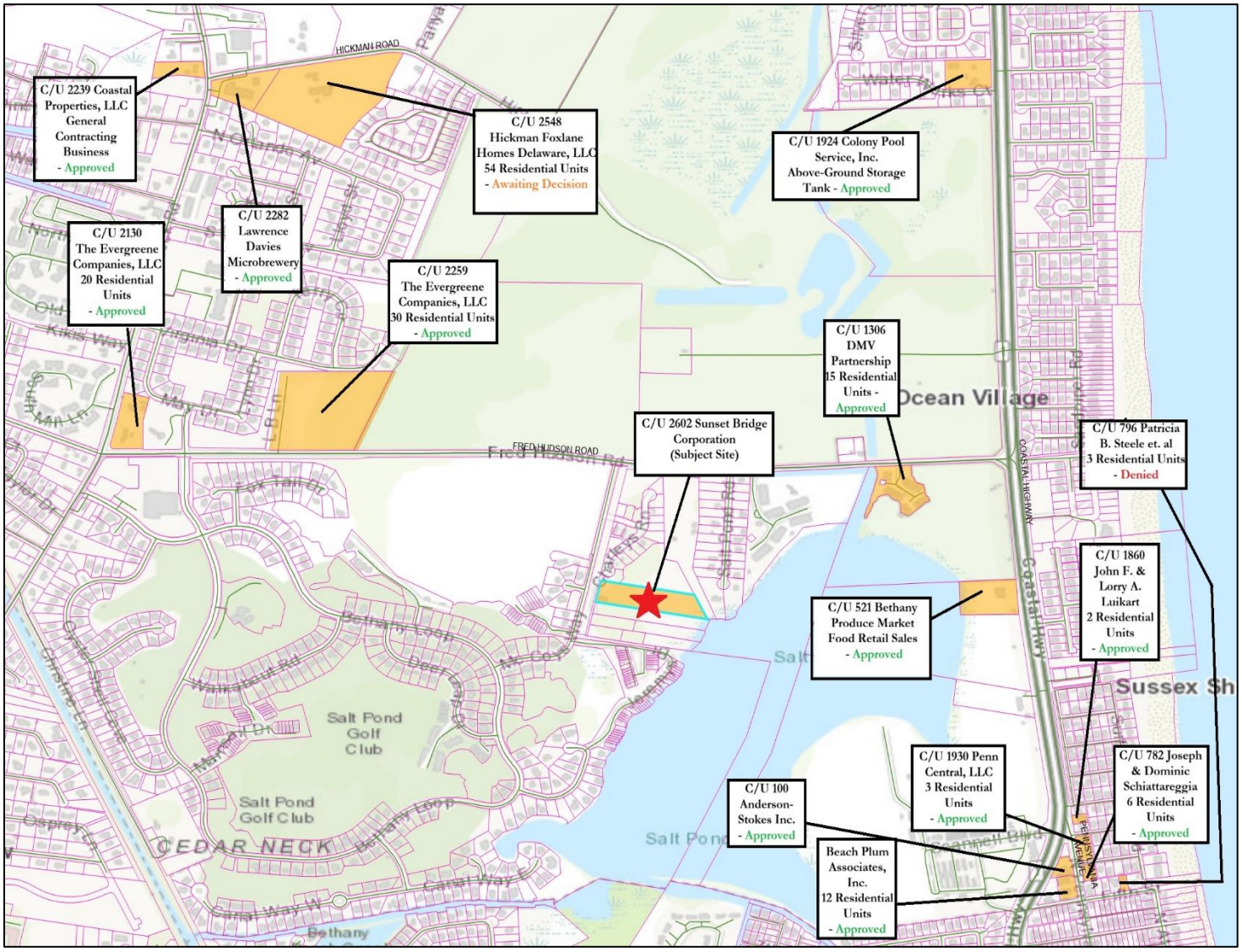


Exhibit "E" – Conditional Use Applications w/in Vicinity of Subject Site & Decisions Rendered

A3 Landscape Parcel Details



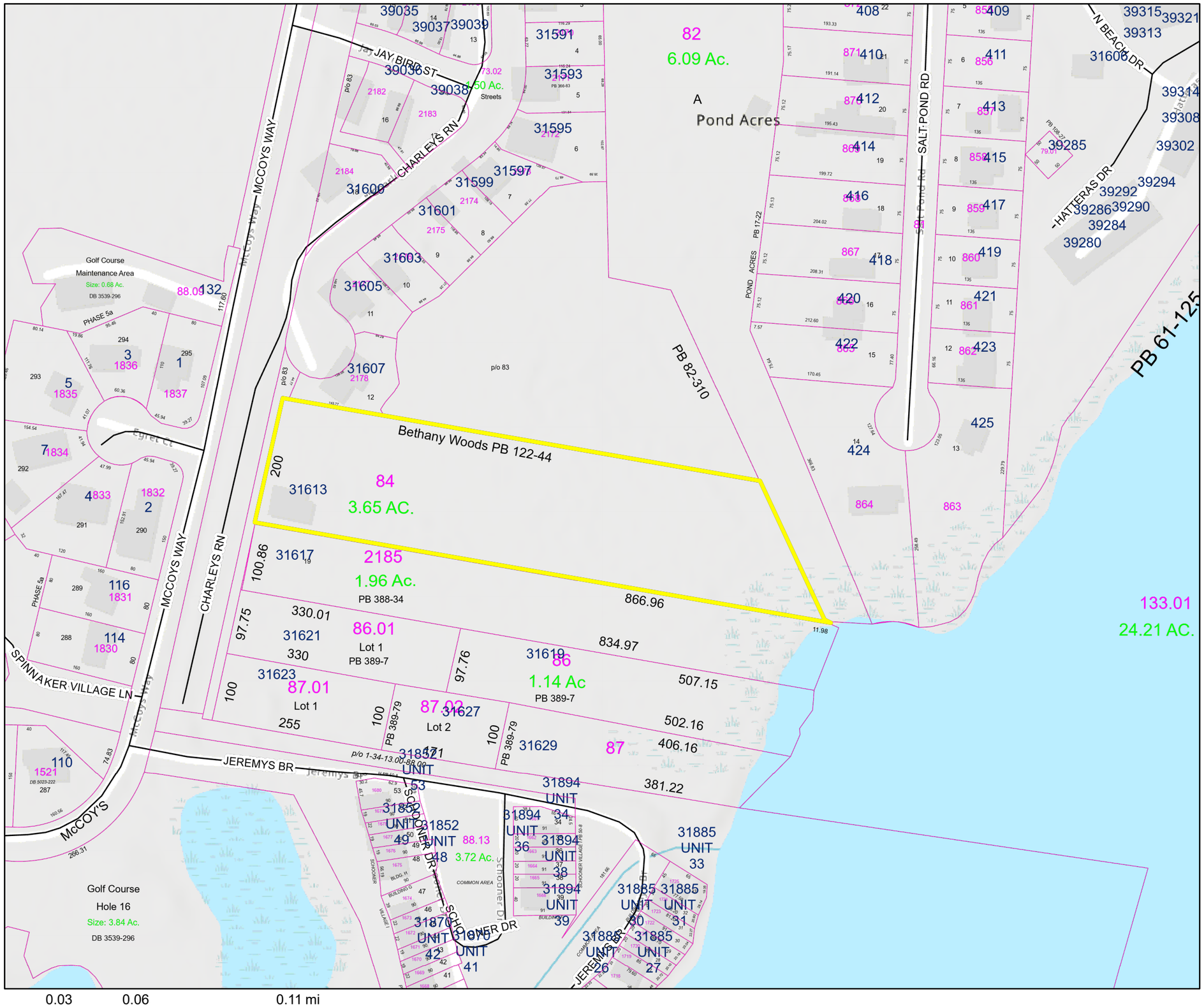
February 25, 2026

PIN:	134-13.00-84.00
Owner Name	SUNSET BRIDGE CORPORATION
Book	5906
Mailing Address	PO BOX 792
City	BETHANY BEACH
State	DE
Description	
Description 2	
Description 3	
Land Code	

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

1:

A3 Landscape Parcel Details



PIN:	134-13.00-84.00
Owner Name	SUNSET BRIDGE CORPORATION
Book	5906
Mailing Address	PO BOX 792
City	BETHANY BEACH
State	DE
Description	
Description 2	
Description 3	
Land Code	

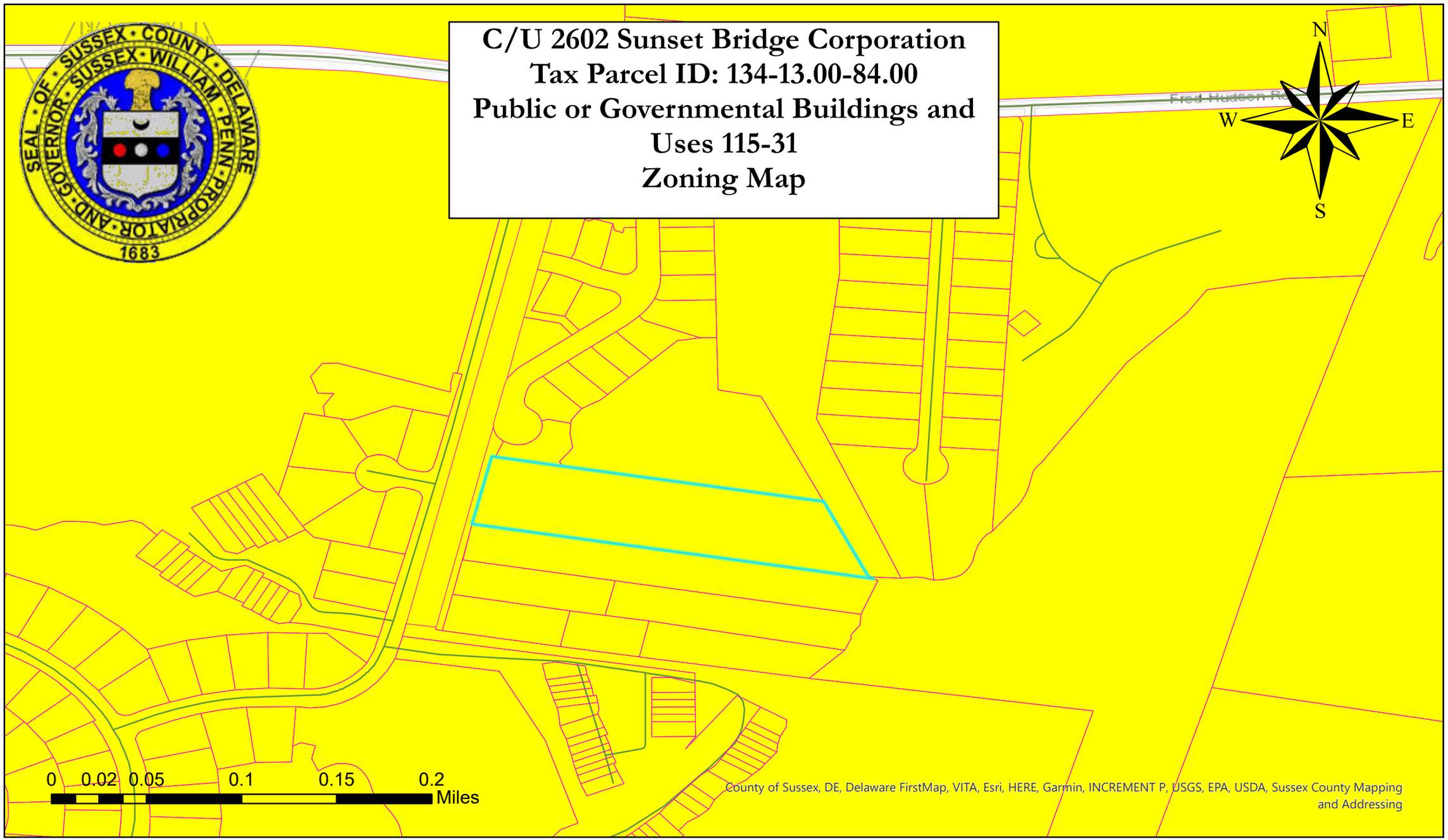
Tax Parcels
911 Address
TaxParcel
Encumbrance
Condo
Streets
County Boundaries
GIOLandRecords.PARCELFABRIC.Condo
World_Hillshade

1:

0 0.03 0.06 0.11 mi
0 0.04 0.09 0.17 km

February 25, 2026

C/U 2602 Sunset Bridge Corporation
Tax Parcel ID: 134-13.00-84.00
Public or Governmental Buildings and Uses 115-31
Zoning Map



Introduced: 3/10/26

Council District 4: Mr. Hudson
Tax I.D. No.: 134-13.00-84.00
911 Address: 31613 Charleys Run, Bethany Beach

ORDINANCE NO. ___

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A NON-PROFIT PUBLIC CHARITY PROVIDING RESPITE CARE FACILITY AND USE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 3.64 ACRES, MORE OR LESS

WHEREAS, on the 30th day of June 2025, a Conditional Use Application, denominated Conditional Use No. 2602, was filed on behalf of Sunset Bridge Corporation; and

WHEREAS, on the _____ day of _____ 2026, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County, and said Planning and Zoning Commission recommended that Conditional Use No. 2602 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article V, Subsections 115-31, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2602 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece, or parcel of land, lying and being situate in Sussex County, Delaware, and lying on the east side of Charleys Run, approximately, 0.22 mile south of Fred Hudson Road (S.C.R. 360) and being more particularly described in the attached legal description prepared by George, Miles & Buhr, LLC., said parcel containing 3.64 acres, more or less.

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

JAMIE WHITEHOUSE, AICP
DIRECTOR OF PLANNING & ZONING
(302) 855-7878 T
pandz@sussexcountyde.gov

Sussex County
DELAWARE
sussexcountyde.gov

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: May 14, 2026

RE: County Council Report for C/U 2533 filed on behalf of RWE Clean Energy

The Planning and Zoning Department received an application (C/U 2533 filed on behalf of RWE Clean Energy, C/O Joe Shanahan) for solar arrays and associated utilities in an AR-1 Agricultural Residential Zoning District at Tax Parcel 533-8.00-10.00. The property is located on the south side of Cypress Road (Rt.54), approximately 62 feet west of the intersection of Cliff Road (SCR 380 A) and Cypress Road (Rt. 54). The parcel size is 69.03 ac. +/-

The Planning & Zoning Commission held a Public Hearing on the application on February 18, 2026. At the meeting of March 18, 2026, the Planning & Zoning Commission recommended approval of the application for the 8 reasons of approval and subject to the 10 recommended conditions of approval as outlined within the motion (copied below).

The County Council held a Public Hearing on the application at its meeting on April 14, 2026. At the conclusion of the public hearing, the Council closed the Public Record and deferred action on the application for further consideration. Below is a link to the minutes of the April 14, 2026, County Council meeting.

Link to the Minutes of the April 14, 2026, County Council Meeting

Below are the minutes from the Planning & Zoning Commission meeting on February 18, 2026, and March 18, 2026.

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

C/U 2533 RWE Clean Energy
AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS AND ASSOCIATED UTILITIES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 69.03 ACRES, MORE OR LESS. The property is lying on the south side of Cypress Road (Route 54), approximately 62 feet west of the intersection of Cliff Road (S.C.R. 380A) and Cypress Road (Route 54). 911 Address: N/A. Tax Map Parcel: 533-8.00-10.00.

Mr. Whitehouse advised the Commission that submitting into the record were the Staff Analysis, the DelDOT Service Level Evaluation Response, the Applicant's Conceptual Site Plan, potentially a Revised Site Plan that will be added to the electronic file, the Applicant's Property Survey, the Property Deed, and a letter received from the Sussex County Engineering Department's Utility Planning Division. Mr. Whitehouse advised the Commission that no public comment had been received regarding the application.

The Commission found that Mr. Joe Shanahan, Senior Project Manager spoke on behalf of the Applicant, RWE Clean Energy, and also present was Mr. Brian Riley, Professional Engineer with Colliers Engineering & Design. Mr. Shanahan stated that he had been before the Planning Commission six previous times for solar projects, which included a rather lengthy and detailed presentation; that his usual presentation includes information regarding the corporate organization, corporate experience, and portfolio for RWE Clean Energy; that he would also provide a lengthy presentation on the general attributes of community solar projects, as well as the specifics of the project site, and he requested permission from the Commission to submit his previously provided information regarding the corporate organization and general community solar attributes into the record by reference, allowing him to address the site specifically.

Madam Chair Wingate granted permission of the request to include the previously provided information regarding the corporate organization and general community solar attributes into the record by reference.

Mr. Shanahan stated that the project proposed a ground-mounted solar facility to be located along Cypress Road (Route 54) in Frankford; that the overall project site consisted of a little over 69 acres, on land owned by Ellen Scott Anderson Revocable Trust, and was previously owned by Ellen Anderson individually, at the time the Conditional Use application was submitted; that the property had been in the Ellen's family for three generations; that the land was currently being farmed by a member of the family; that the proposed solar facility is a public utility use under the Sussex County Zoning Code; that the project meets the purpose of a Conditional Use because it has a public or semi-public character, that is essential and desirable for the general convenience of and welfare of Sussex County residents; that the project is located in the AR-1 (Agricultural Residential) Zoning District; that a public utility use is allowed in the AR-1 District, with the approval of the of the Sussex County Council; that as shown on the Site Plan, the project is to be constructed in a lease area, which consists of only 24.5 acres of the overall 69 acre property; that the project is proposed to only utilize 35% of

the land owned by their landlord, with the remaining 65% to continued to be used as the family had for generations; that the project will be set back some 890 feet, being the length of approximately three football fields from the public road where access will be gained; that the access will be by means of a 20 foot wide gravel driveway; that the project will be enclosed by a seven foot fence as is required by the National Electrical Code; that the fence will be gated with a knox box at each gate; that the solar project will contain solar arrays, which is a group of solar panels wired together to collect energy from the sun and send it into the solar projects inverter, which converts the power into useable electricity, and distribute it to the Delmarva Power grid; that the panels are hung on posts, being approximately three feet off of the ground, and approximately 12 feet in height; that the ground below and around the panels will be planted with a pollinator-friendly mix that provides more shelter, nesting habitat and food sources for a variety of insect populations that support wildlife species; that the proposed solar project will comply with all the specific requirements of Section 115-172 of the Sussex County Zoning Code; that the project is surrounded by a landscape buffer strip of open space, being a minimum of 100 feet from any street lines, and a minimum of 50 feet from all property lines; that the transformers and similar equipment are centrally located, and located a minimum of 200 feet away from any dwelling or property of other ownership; that as mentioned in detail previously, the project is surrounded by fencing with a gate and an emergency key box; that he requested to submit a Decommissioning Plan and Cost Estimate into the record, as part of his presentation; that the Decommission Plan includes a cost estimate of $318,000, which would be secured by a bond; that they had submitted their original Conceptual Site Plan; that ultimately, after receiving remarks from DNREC, there were issues regarding a tax ditch on the property; that as a result, a section of panels are proposed to be removed, and the array area will be decreased.

Madam Chair Wingate requested that a representative indicated on the Site Plan the area of the tax ditch of concern.

Mr. Riley stated that the issue expressed within the comment letter received from DNREC specifically regarded a tax ditch; that the tax ditch is more or less directly underneath the roadway that they were originally proposing; that the road was proposed within the tax ditch offset, and also running parallel to the tax ditch; that the comments requested that the road be placed outside of the tax ditch offset, and stated that any crossings should be done at a perpendicular angle; that by nature of those request, the driveway got shifted a bit westward; that there also are tax ditches which wrap around like the letter C; that they were able to fit the panels right in the middle, and that the revision is shown on the revised plan.

Mr. Shanahan stated that was all the information he wished to provide regarding the site's specificity, and he respectfully requested the Commission's recommended approval to the Sussex County Council as he concluded his presentation.

Mr. Mears questioned the location of the transformer on the revised plan.

Mr. Riley stated that the transformers, associated with each section of the solar array, would be located adjacent to the entrance of each section, and that there is a notation on the revised plan calling out the equipment pad, which is adjacent to the entrance gates at each section of the solar array.

Mr. Allen questioned whether the revised location would still make them centrally located, and whether there would be any proposed signage.

Mr. Riley stated that Mr. Allen was correct, and that they still would be centrally located.

Mr. Shanahan stated that no signage was proposed, other than any signage that may be required by the fire department.

Mr. Robertson stated that the Commission generally would allow signage; that the signage would not be so much for advertising, but more for relaying contact information, and that the Commission would allow 32 square feet of unlit signage.

Mr. Shanahan stated that they will have signage at the fence, however there will be no announcement of the solar facility.

Madam Chair Wingate questioned whether any of the other solar facility applications that Mr. Shanahan was involved in were in construction and/or completed.

Mr. Shanahan stated that they previously had six solar facility applications approved; that the facilities located within Harbeson and Bridgeville were currently under construction; that Delmar A, Delmar B, and Delmar C facilities were currently being held up thanks to Delmarva Power; that they also have applications in Lewes and Laurel; that they would like to start construction on all of them when they were originally approved by the County; that unfortunately, Delmarva Power and the interconnection process is ridiculous, and they are currently working on all of them.

Madam Chair Wingate stated that the Commission has seen a lot of applications, however, the Commission has not seen a lot of activity regarding the approved solar applications; that to continue to approve solar applications without seeing any running, it becomes difficult for the Commission, and it is difficult for the Commission to continue making conditions for solar facilities because they cannot see for themselves what conditions are needed or not needed with completed projects.

Mr. Shanahan stated that they are in the same situation, as they have spent thousands of dollars in engineering, and are still waiting to receive answers.

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

Mr. Clifton Parker spoke in opposition to the application. Mr. Parker stated that he currently farms on the subject parcel, and that he is the adjoining property owner surrounding the parcel. Mr. Parker spoke with concerns regarding solar facilities, putting agricultural lands out of production, decreasing open space, toxic materials leaking into the groundwater, land and wildlife, the lithium from batteries, the inefficiency of solar panels, as they would not pay for themselves, and the short lifespan of solar panels. Mr. Parker requested permission to submit his opposition exhibit into the record.

Ms. Donna Mitchell spoke in opposition to the application. Ms. Mitchell stated that she resided directly adjacent to the proposed solar farm. Ms. Mitchell expressed her concerns regarding the negative impact of her view as the facility was proposed to be 80 feet from her bedroom window, the proximity of the solar arrays to residential homes, negative impact to her property value, protecting valuable habitat for nature, animals, birds, bees and plants, impacts to the Great Cypress Swamp, which helps breed two regionally rare species, including the Swanson's Warbler, negative impacts from glare, harmful chemicals used for the maintenance of the facility, groundwater pollution, the possible lack of decommissioning, noise impacts, and poor television reception.

Mr. Collins stated he presumed that the solar facility lease may the property owner's attempt to hedge against agricultural prices declining in the future, and that the proposed solar facility would provide a sustained income that would help the property owner preserve their land, allowing the owner to keep the farmland they have.

Mr. Shanahan stated that Mr. Collins was correct; that as he had previously indicated, the solar facility use is proposed to use approximately a third of the total site; that the Commission had previously been through many solar facility public hearings; that he did not want to go point by point; that so many, if not all of the allegations raised by the opposition, do not apply to the particular type of solar farm they are proposing; that there will be no batteries; that there will be no lithium; that there is no fire damage; that there is no toxic materials; that the project is approved by the FAA (Federal Aviation Administration), therefore they would not be interfering with air flight or anything of that nature, and that he respectfully requested that none of the previous allegations have any substance behind them when the Commission considers the application.

Mr. Collins questioned whether there was any lead content in the solar panels or any of the other materials used throughout the site.

Mr. Shanahan stated that they had presented evidence; that because of the proliferation of solar projects, they had been studied inside and out; that they are not allowed to use solar panels that present toxic materials; that a recent exclusion does not allow to use solar panels that have PFAS in them; that the solar panels have been studied; that they are safe, and therefore is the reason so many states are aggressively pursuing solar projects.

Mr. Collins stated that the Commission had seen Mr. Shanahan for many projects previously; that he questioned whether consideration had been given to using previously developed land, rather than consuming additional agricultural lands, and he questioned whether investigation had been given to options such as building over parking lots or other un-used, low-value land that was not serving an agricultural purpose.

Mr. Shanahan stated those would be preferred, however, time and time again, it is proven that land is not available; that when they approach a commercial or industrial center, making a proposal to develop a canopy solar over a parking lot, no one wants to do it due to issues with snow removal, dealing with cars and et cetera; that one may see many single-family homes with very small solar systems, one rarely sees a commercial or industrial building where they want solar panels on their roofs; that they have developed them for municipalities in different states; that they prefer to develop on roof tops because they do not receive the current type of emotional reaction from adjacent neighbors; that the desire for them, in those areas, is not there; that it is not one-sided, as he previously alluded to; that there is a benefit to landowners; that Ms. Ellen Anderson's family owned the land for three generations and never developed it or built on it; that they pay taxes on the land; that they allow Mr. Parker to farm on the land; that Ms. Anderson had since retired to Florida, and would like to subsidize in some manner, rather than selling her family farm, and the proposed use allows her to achieve both.

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

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

In relation to C/U 2533 RWE Clean Energy. Motion by Mr. Mears to defer action for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 5-0.

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

The Commission discussed the Application, which had been deferred since February 18, 2026.

Mr. Allen moved that the Commission recommend approval of Conditional Use No. 2533 for RWE Clean Energy for a solar energy facility in the AR-1 District based on the record made during the public hearing and for the following reasons:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
2. The solar array will be located on approximately 24.5 acres of a larger 69.03-acre tract. The array area is set back approximately 800 feet from Cypress Road, and it complies with all of the Code requirements for separation distances and setbacks from property lines and dwellings.
3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar arrays. There was testimony that this solar array will benefit residential, business, and municipal subscribers with lower power costs.
4. The proposed solar array is located on a parcel of land that is surrounded on three sides by land used for agricultural purposes, including poultry houses. The fourth side is wooded.
5. The land is designated as being within the "Developing Area" according to Sussex County's Future Land Use Map. This is an appropriate location for a solar array with a minimal need for infrastructure or other governmental-related services.
6. This Application generally complies with Ordinance No. 2920 regarding solar arrays.
7. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways, and DelDOT has stated that the traffic impact will be "Diminutive." There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
8. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
9. This recommendation is subject to the conditions set forth in Ordinance No. 2920 and the following additional conditions:

    A. The use shall be for a ground-mounted solar array. No other types of electric generation shall be permitted at the site.
    B. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use.
    C. The entire area of the solar array shall be surrounded by a 7-foot-tall fence to comply with the height requirement of the National Electric Code. The fencing shall include interwoven screening. The fence location and type of screening shall be shown on the Final Site Plan.

D. The entire area of the solar array shall be surrounded by a landscaped buffer strip of open space, a minimum of 100 feet from any street lines and a minimum distance of 50 feet from all property lines. Because there was opposition in the record to the impacts of this solar array on the adjacent homes and land, this landscaped buffer shall be planted with vegetation that serves as a screen while not impeding the use as a solar array facility. The location and types of vegetation used within this buffer area shall be included in a landscape plan provided with the Final Site Plan. No plantings shall be required along the wooded southern boundary of the array area.
E. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
F. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.
G. All transformers or similar equipment or structures shall be centrally located within the solar array, and they shall be shown on the Final Site Plan. In addition, a sound barrier shall be installed along the northern side of this equipment to reduce the noise that may travel to nearby neighboring properties.
H. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
I. The Final Site Plan shall include a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.
J. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Mr. Allen, seconded by Mr. Collins to recommend approval of C/U 2533 RWE Clean Energy for the reasons and the conditions stated in the motion. Motion carried 3-1. Mr. Pettyjohn abstained.

Vote by roll call: Mr. Passwaters – nay, Mr. Allen – yea, Mr. Collins – yea, Madam Chair Wingate – yea
Mr. Passwaters voted nay, stating that he is not against solar arrays, however, he felt there were better suited areas for the project to be built, that would not utilize a perfectly good farm field.

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

Mr. Collins voted yea, for the reasons and the conditions stated in the motion, however, he expressed that he had similar concern regarding the conversion of productive agricultural lands into solar farms, and he felt there should be redevelopment opportunities promoted, rather than the consumption of agricultural lands, or even worse, the cutting for existing forests.

Madam Chair Wingate voted yea, reluctantly, for the reasons and the conditions stated in the motion, however, stating that she also agreed with the concerns expressed by the fellow Commissioners.

PLANNING & ZONING COMMISSION
HOLLY J. WINGATE, CHAIR
JEFF ALLEN
G. SCOTT COLLINS
JOHN PASSWATERS
DAVID PETTYJOHN

Sussex County
DELAWARE
SUSSEXCOUNTYDE.GOV
302-855-7878

JAMIE WHITEHOUSE, AICP MRTPI
PLANNING & ZONING DIRECTOR

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: February 18, 2026

Application:	C/U 2533 RWE Clean Energy (c/o Joe Shanahan)
Applicant:	RWE Clean Energy (c/o Joe Shanahan) 100 Summit Lake Drive Valhalla, NY 10595
Owner:	Ellen Kay Anderson 10178 Cypress Lakes Drive Lake Worth, FL 33449
Site Location:	The property is lying on the south side of Cypress Road (Route 54), approximately 62 feet west of the intersection of Cliff Road (S.C.R. 380A) and Cypress Road (Route 54). 911 Address: N/A.
Current Zoning:	AR-1 (Agricultural Residential)
Proposed Use:	Solar arrays and associated utilities
Comprehensive Land Use Plan Reference:	Developing Area
Councilmanic District:	District 4 – Mr. Hudson
School District:	Indian River
Fire District:	Selbyville
Sewer:	N/A
Water:	N/A
Site Area:	69.03 acres +/-
Tax Map ID.:	533-8.00-10.00

JAMIE WHITEHOUSE, AICP MRTPI
PLANNING & ZONING DIRECTOR
(302) 855-7878
jamie.whitehouse@sussexcountyde.gov

Sussex County
DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Planning Commission Members
From: Ann Lepore, Planner I
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: February 11, 2026
RE: Staff Analysis for C/U 2533 RWE Clean Energy

This memo is to provide background and analysis for the Planning Commission to consider as a part of Application C/U 2533 RWE Clean Energy to be reviewed during the February 18, 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: 533-8.00-10.00 (Portion of)

Proposal: The request is for a Conditional Use for Tax Parcel 533-8.00-10.00 to allow for a Solar Facility on a parcel lying on the south side of Cypress Road (Route 54), approximately 62 feet west of the intersection of Cliff Road (S.C.R. 380A) and Cypress Road (Route 54). The parcel is comprised of 69.03 acres +/-.

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

Future Land Use Map Designation w/in Comprehensive Plan: Developing Area and 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 has a land use designation of "Developing Area." All surrounding properties to the south, east, and west of the subject site contain the Future Land Use Map designation of "Developing Area". The properties to the north and across Cypress Road contain the Future Land Use Map designation of "Low Density Area".

As outlined in the 2018 Sussex County Comprehensive Plan, Developing Areas are "newer, emerging growth areas that demonstrate the characteristics of developmental pressures. Most of the proposed Developing Areas are adjacent to municipalities, within or adjacent to potential future annexation areas of a municipality, or adjacent to Town Centers". (Sussex County Comprehensive Plan, 4-14).

The Plan also notes that "in selected areas and at appropriate intersections, commercial uses should be allowed. A variety of office uses would be appropriate in many areas. Portions of the Developing Areas with good road access and few nearby homes should allow for business and industrial parks. Appropriate mixed-use development should also be allowed. In doing so, careful mixtures of homes with light commercial and

institutional uses can be appropriate to provide for convenient services and to allow people to work close to home". (Sussex County Comprehensive Plan, 4-14).

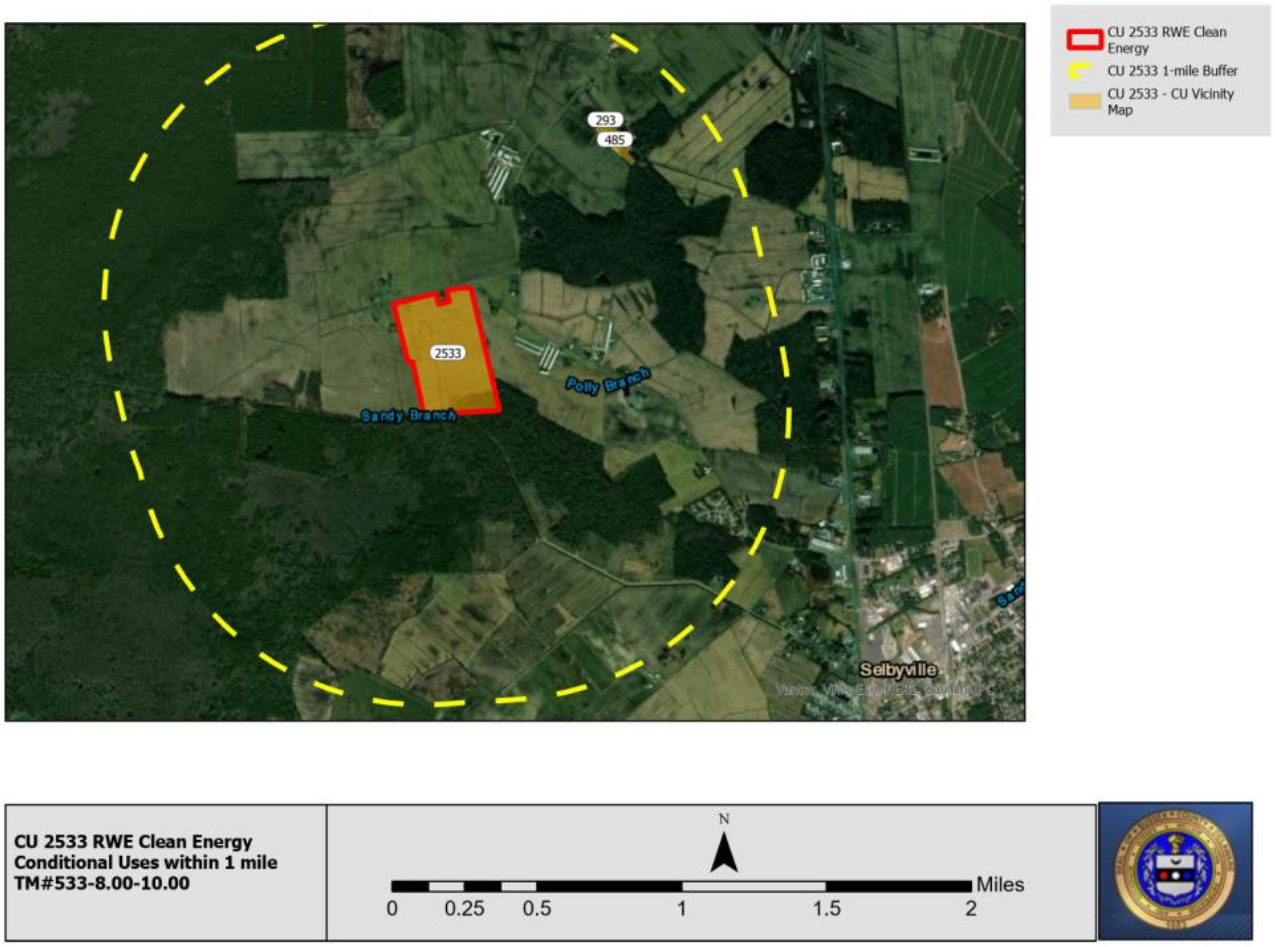
Further Site Considerations:

- **Density: N/A**
- **Open Space Provisions: N/A**
- **Agricultural Areas:** The site is within the vicinity of active agricultural lands.
- **Interconnectivity: N/A**
- **Transportation Improvement District (TID):** The 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 Solar Facility, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.

Existing Conditional Uses within the Vicinity of the Subject Site: Since 2011, there have been three (3) Conditional Use applications within a 1-mile radius of the application site.

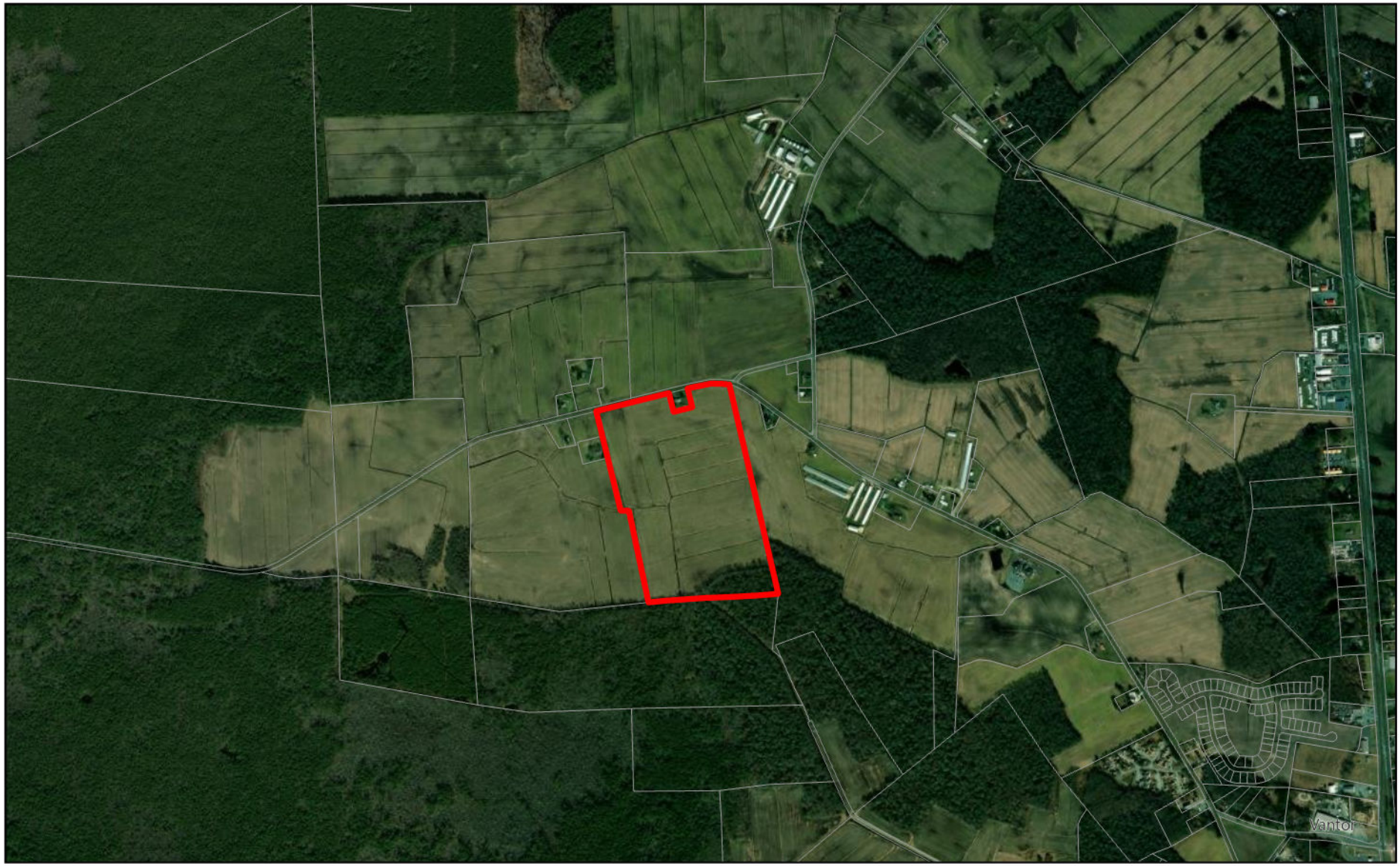
CU No.	Tax Map #	APPLICANT	Proposed Use	CC Date	CC Decision	Ord. No.
293	533-9.00-35.00	Vernon J Mitchell & Janice	Poultry House on Less than 5 Acres	9/30/1975	Approved	N/A
485	533-9.00-35.00	Vernon Mitchell & Janice	Poultry house on less than 5-acres	8/1/1978	Approved	N/A
2533	533-8.00-10.00	RWE Clean Energy	Solar Facility		Pending	



CU 2533 RWE Clean Energy
Conditional Uses within 1 mile
TM#533-8.00-10.00

N

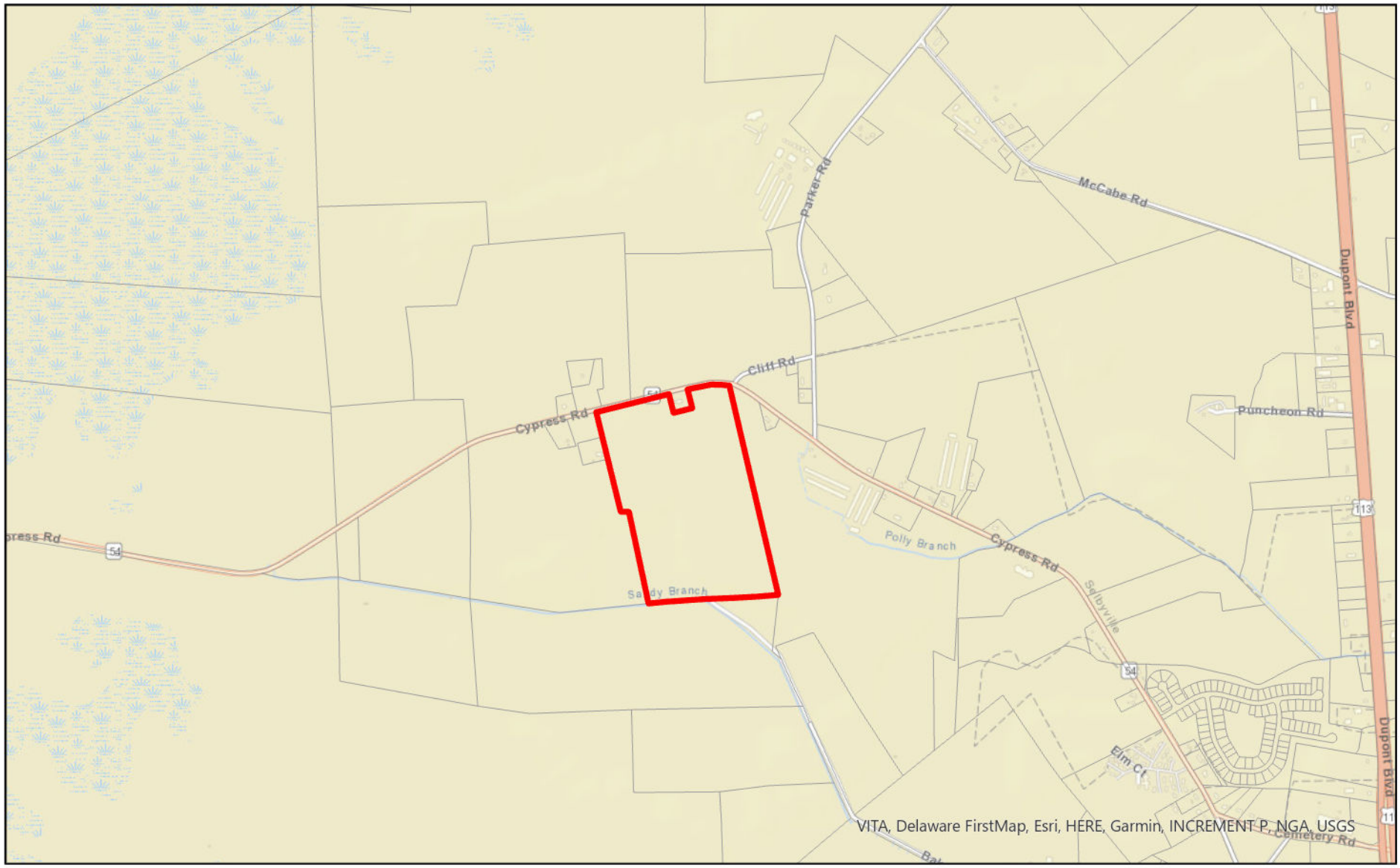
0 0.25 0.5 1 1.5 2 Miles



CU 2533 RWE Clean Energy
Aerial Map
TM# 533-8.00-10.00

N

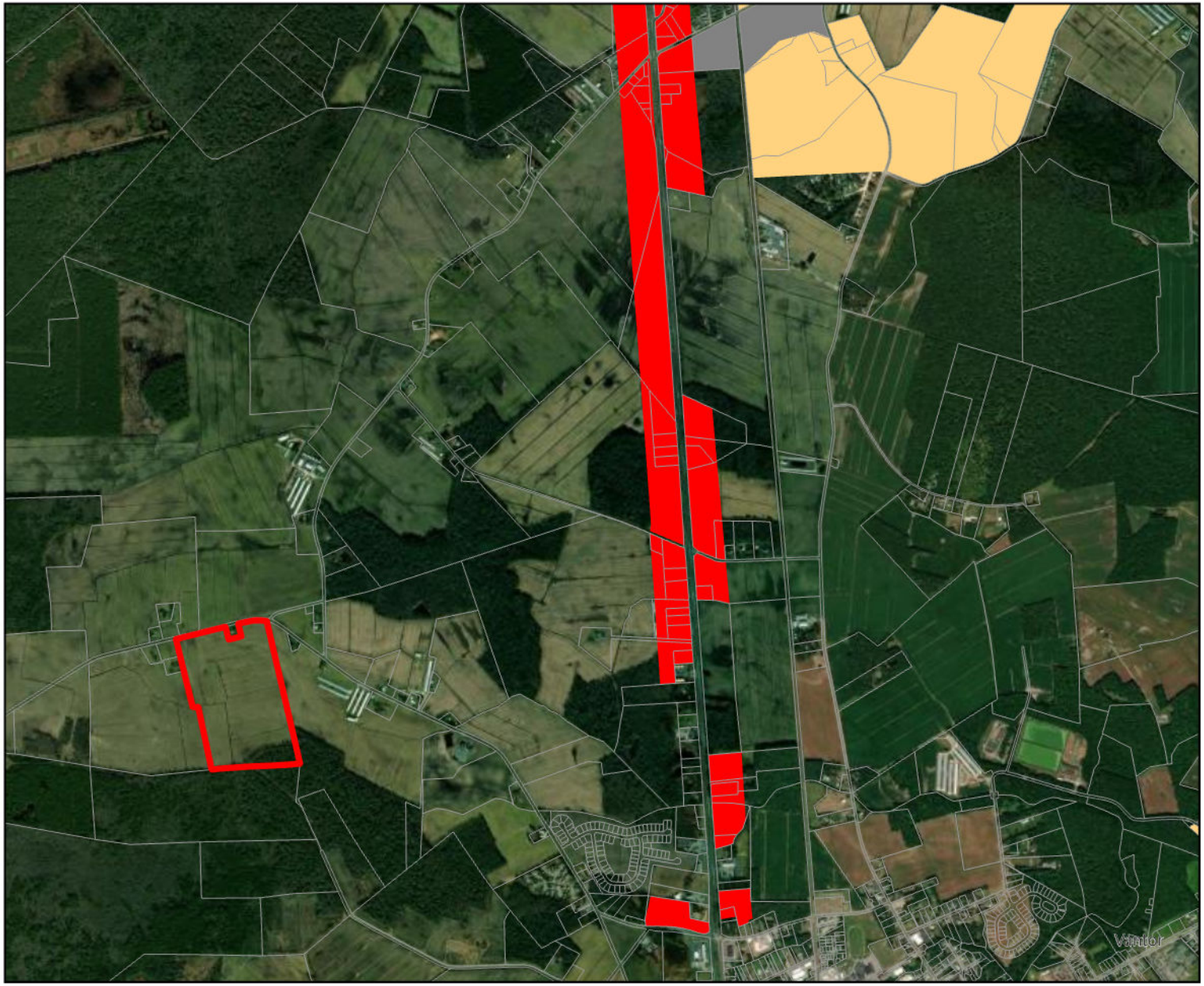
0 0.25 0.5 1 Miles



CU 2533 RWE Clean Energy
Street Map
TM# 533-8.00-10.00

N

0 0.25 0.5 1 Miles



CU 2533 RWE Clean Energy

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 2533 RWE Clean Energy
Zoning Map
TM# 533-8.00-10.00

N

0 0.5 1 2 Miles

Introduced: 2/3/26

Council District 4: Mr. Hudson
Tax I.D. No.: 533-8.00-10.00
911 Address: N/A

ORDINANCE NO. ___

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS AND ASSOCIATED UTILITIES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 69.03 ACRES, MORE OR LESS

WHEREAS, on the 3rd day of June 2024, a Conditional Use Application, denominated Conditional Use No. 2533, was filed on behalf of RWE Clean Energy and

WHEREAS, on the _____ day of _____ 2026, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County, and said Planning and Zoning Commission recommended that Conditional Use No. 2533 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsections 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2533 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece, or parcel of land, lying and being situate in Sussex County, Delaware, and lying on the south side of Cypress Road (Route 54), approximately 62 feet west of the intersection of Cliff Road (S.C.R. 380A) and Cypress Road (Route 54), and being more particularly described in the attached legal description prepared by David W. Baker, Esq., P.A. said parcel containing 69.03 acres, more or less.

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

JAMIE WHITEHOUSE, AICP
DIRECTOR OF PLANNING & ZONING
(302) 855-7878 T
pandz@sussexcountyde.gov

Sussex County
DELAWARE
sussexcountyde.gov

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: May 14, 2026

RE: County Council Report for Ord 26-01 in Relation to Affordability and the Sussex County Rental Unit (SCRP) Program

---

On March 10, 2026, the County Council introduced an Ordinance to consider potential changes to the Code of Sussex County in relation to Affordability and the Sussex County Rental Unit (SCRP) Program.

The Planning & Zoning Commission held a Public Hearing on the application on April 1, 2026. At the meeting of April 15, 2026, the Planning & Zoning Commission recommended approval of the Ordinance for the 8 reasons of approval as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meeting on April 1, 2026, and April 15, 2026.

Minutes of the April 1, 2026, Planning & Zoning Commission Meeting

ORD 26-01
AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 72, ARTICLE II, SECTION 72-24 AND CHAPTER 115, ARTICLE IV, V, VI, VII AND VIII SECTIONS 115-20, 115-29, 115-37, 115-45 AND 115-53 REGARDING AFFORDABLY PRICED RENTAL UNITS AND THE SUSSEX COUNTY RENTAL UNIT (SCRP) PROGRAM.

Mr. Robertson stated the Sussex County currently had the SCRP (Sussex County Rental Program); that it was an affordable housing rental program available within Sussex County; that the Ordinance came directly out of Recommendation No. 10; that he requested to highlight some of the

recommendations that are suggested within the Ordinance; that it was to reduce the affordable unit set aside from 25%, which was what Sussex County Code currently required, and reduce it to 15% of the units; that the next recommendation was to revise the AMI (Area Median Income) target from 50% to 80% AMI; that currently 80% was the cap for whether one would qualify for an SCRP unit or not; that representatives, Ms. Brandy Nauman, and Ms. Tyesia DuPont-Palmer, were present from the Sussex County Community Development and Housing Department; that the next recommendation was to reduce the open space requirement from 50% to 30% because they heard that the projects geometrically were not buildable at 50% open space; that the next recommendation was to align rents with certain established rets; that they have changed the amount of the base rent; that he presented an example of Coastal Tide, a current development in the Sussex County's SCRP development program; that there were 85 households that are on the waiting list with the SCRP; that applicants are pre-screened for a minimum income; that the average length of time tenants reside there is nearly three years, with seven of them having been there since 2021; that all the SCRP units are occupied with no vacancies; that the predominant AMI range for households at the time of application was 40% to 70% AMI, which had remained consistent through the recertification process; that this shows the majority of the SCRP participants fall within the 40% to 70% range; that currently rent is based on 50% AMI, which equals to $765 per month for rent, for a one bedroom rental; that because they are hearing that it does not pencil at 50% AMI; that it is not enough rental income and revenue to make the projects worth it; that the Ordinance increased it to 60%, which gets it to $915 per month in rent, which would be a fixed rental; that if one is at 40% AMI, one is still paying the 60% AMI rent; that the same thing goes with 50%, it is still 60%; that because we all know they have to do budgets, this will allow the developer to know what the rent will be, allowing Sussex County to know whether it pencils or not; that the goal is to make the projects happen, so Sussex County will have more affordable rental units; that there was a request in one of the letters to increase it to 80%; that there were two issues with that; that it was staff's thoughts that 80% gets close to market rate; that at $1,220 per month, it prices it out of the affordability for the majority of current SCRP participants, who are at 40, 50, and 60%; that if the rent is fixed at $1,220, it would become a stretch for someone who could only afford $915, $765 or $610 rent per month; that whereas, if it is kept at 60%, it gets the top end of the people that Sussex County is currently serving, and it is closer to the lower end of the 40% and 50%; that with regard to specific developments, the Ordinance will reduce the number of units, down from 25% to 15%; that it makes a terminology change to reflect Sussex County resources and resource buffers; that it reduces the setbacks from 100 feet to 50 feet; that there was some concern about the way in which setbacks were calculated and whether that was a one-size-fits-all setback that should not be there in the event that development is next to land that is within agricultural preservation, land that is commercial or land that could be higher density developed; that there is language that was pulled directly from what is in the current Code regarding Sussex County's residential planned communities that stated if the height exceeds 42 feet, and the site is adjacent to land that is or could become developed residentially, the building shall include a setback design above 42 feet, and/or an increased setback to ensure an appropriate relationship between the higher density SCRP project and uses o flow intensity or height, existing or future, outside the proposed SCRP project; that this was not pulled from thin air, as it already existed within the Sussex County Code for Residential Planned Communities (RPC), which provide design flexibility, but still protect how an RPC interacts with existing or future development next door; that another major change was decrease of open space from the current requirement of 50% to 30%; that the Ordinance involved several

developers; that Mr. Matt Padrone, with Volker, submitted a letter into the record that stated the changes work and enable them; that they had done the Chapel Farm development, and they were in this; that they also worked with Mr. Preston Schell who deal with these types of projects; that when Mr. Schell looked at the Ordinance, he initially had some concerns, but said that the numbers worked; that it is an improvement; that Sussex County want to get these types of units built, and he felt it was a good step forward, while still following the recommendations of the working group .

The Commission found that there were five people present who wished to speak on the Ordinance.

Mr. David Hutt, Esq. with Morris James, LLP provided comment to the Ordinance, provided a presentation, and submitted documents into the record to accompany his comments. Mr. Hutt stated that affordable housing is a difficult topic to discuss; that it is not difficult because there is opposition to the concept of providing affordable housing; that is fairly universally accepted fact that housing should be affordable to as many people as possible; that makes it difficult is that it is sort of a technical, nuanced subject matter with different factors, calculations, and analysis, with many different types of programs out there; that one of the best examples of the difficulty in this is the term affordable housing itself; that he questioned whether they were discussing affordable housing with a lowercase A or an uppercase A; that they are defined terms; that at times, when one refers to affordable housing, they may just be using a generic reference to the word, which references how much a person can spend on a given portion of their lifestyle, including housing; that Mr. Robertson referred to the Ordinance well, as the Ordinance, as it was written, as an improvement; that the reduction from 25% of the required number of units to 15% is significant; that the increased from 50% to 60% certainly is a step in the right direction; that however, he would like to explain how the Sussex County Rental Program could be even better, providing greater opportunities for affordable housing throughout Sussex County; that he questioned why there are not more SCRP units being built; that he believed this was a question that the Land Use Working Group was trying to answer; that he knew Ms. Brandy Nauman's office had been working to answer the question; throughout the program, which was created in 2008, Coastal Tide apartments, located off Plantation Road, constructed 32 Sussex County Rental Program units; that currently, Coastal Tide is the only completed project in Sussex County under the Sussex County Rental Program; that Mr. Robertson had referred to the second project being Chapel Branch, which had not yet been completed; that when completed, he believed the project would provide 24 Sussex County Rental Program units; that between the 24 units of Chapel Branch, and the 32 units of Coastal Tide, Sussex County has had 56 units created for the Sussex County Rental Program since 2008; that this had not been from a lack of effort; that Sussex County had hired an outside consultant, being LSA Consulting, who produced a report in 2018 or 2019, which is commonly referred to as the "Home Report" (Housing Opportunities and Market Evaluation; that even that report resulted in changes over time; that in 2022, there were updates and changes to the Sussex County Rental Program; that there was also the creation of a Housing Trust Fund, that resulted from that; that within the very back of that report, the executive summary for the report, the very first strategy from that was to modify the Zoning Code to promote housing affordability in Growth Areas identified within the Comprehensive Plan; that given Sussex County's low base zoning, the County should revise existing ordinances to better incentivize below market rate housing with changes appropriately scaled to meet both housing needs of lower income households, and the economic realities of developing housing in Sussex County; that appropriate scaling and balance of trying to

determine the rents to be charged, the percentage to go out, purchase land, undertake the vertical construction and still be able to finance the development or that community is exactly what was mentioned as the first strategy or priority back in the Home Report; that frankly, it is why it is what was discussed during the Land Use Working Group, and why this Ordinance was crafted; that given the 56 units is all that exists, it appeared that the appropriate scaling and balance had not yet been met; that the purpose of the current Ordinance was to try to find that scaling and balance; the based on the current program, the maximum rent that can be changed for a three-bedroom unit is $1,060, based on 50% AMI; that if one would be at 80% of AMI, the rent would be $1,690; that this would allow the developer who wanted to build the homes, to go out and be able to obtain financing, indicating that the rental income would satisfy that; that the gap between those two numbers is $630, which was significant over the expanse of a project when you multiply that out by each unit and factor that into the financing; that in 2022, when the Ordinance was changed, he felt it was believed that those changes would be enough; that under the Sussex County Rental Program, there are density bonuses, there is expedition of the review of the application by Mr. Whitehouse and staff; that unfortunately, that appropriate balance or scale had not apparently been met based on the fact that there is only one project that is under construction, being the Chapel Branch community; that this demonstrates that it is still not often possible to finance those projects, without the intervention of other housing programs; that even the Chapel Branch community uses the Sussex County Rental Program, but also uses specialized funding through the Delaware State Housing Authority, to help accomplish the financing of the project; that he did not say this to diminish the importance of those types of projects; that the Low Income Housing Tax Credit projects are those communities exist throughout Sussex County and have been very successful in developing housing that is affordable to many people; that however the Sussex County Rental Program, was developed so that it could stand alone, that you would not have to stack other types of assistance for financing help through the Delaware State Housing Authority; that there is nothing wrong with using multiple programs, however, the intent, of the Sussex County Rental Program was that it would be used solely to develop a project using those parameters that are found within that; that one should bear in mind, that if a person uses those other types of funding that are available through the Delaware State Housing Authority, they often come with a cap of the maximum amount of AMI that a person can make; that generally speaking, that is 60%; that for most of the Low Income Housing Tax Credit projects that a developer is building, a person's income cannot exceed 60% of AMI; that there is a gap between them and the Sussex County Rental Program, which in order to be eligible, there is a defined term called eligible income; that one would have to equal 80% of AMI; that if a builder were to utilize one of the State programs, such as the Low Income Housing Tax Credit, no one in that community would be able to be in the eligible income above the 60% threshold that exists for the program; that when looking at the charts, the individuals who would fall within the 70% to 80% range are teachers, nurses and individuals who under the Eligible Income Standard for the County are people that the County has indicated that it wanted to assist in that; that to have the Sussex County Rental Program provide as many opportunities as possible within the defined terms, such as eligible income, there are three things that they would propose; that first would be to right-size the number of required units at 15%; that this is within the Ordinance, and therefore that box is checked; that the second, is that they would propose that the Ordinance should be modified so that it is not 25% of 50%, but rather 30% of 80% of AMI; that this would require two changes to the Ordinance; that Line 77 contains both of those numbers, so it would be a matter of striking 25, and inserting 30; that on the same line then striking

50, for what is proposed to be 60, but make it 80 instead; that he would assume one would question why 30%; that largely because other locations have been successful in developing hundreds of affordable units at that 30% threshold; that one example would be Howard County, over a very similar time period to the Sussex County Rental Program, it created more than 800 units within that range and also within a range for AMI of 60 to 80%; that the next question would be why 80%; that the Land Use Reform Working Group's recommendation was 80%; that this number was fairly consistent throughout the opportunity; the Governor created the Affordable Housing Production Task Force when he entered office; that one of the co-chairs of that was local senator, Senator Russell Huxtable; that in the report, where it tried to define who to target for affordable housing, the report stated for the purpose of expediting or incentivizing affordable housing development, the task force recommends defined affordable housing developments as those in which units are prices to be affordable to renter households making up to 80% AMI; that this recommendation was consistent with the Sussex County's Eligible Income up to 80%; that he believed this was why the Land Use Reform Working Group targeted 80% as well; that the third category was to reduce feed on units in the SCRP; that all units cost the same to build, whether a developer is constructing units that are market rate units, or they are Sussex County Rental Program units; that they have the same land cost, the same infrastructure cost, the same vertical construction cost; that they propose an additional way to incentivize increasing the number of SCRP units in the County, would be to reduce or waive fees for those SCRP units; that this proposed recommendation is not currently within the proposed Ordinance; that in the past on other ordinances, it might be something that was almost a narrative comment, when the Planning Commission send its recommendation to County Council, that the Commission recommends that in addition to whatever changes are contained in the ordinance itself; that the County look to develop a program to incentivize in other ways, such as the waiver or reduction of fees and costs; that within Howard County, there are reductions in water and sewer connection fees, with exemption from certain impact fees, in addition to density increases for affordable housing; that last year he had circulated a paper to Sussex County, separate and apart from what the Land Use Reform Working Group was doing, which specifically targeted the Sussex County Rental Program, and ways to help make it expand the use of the program to provide more affordable housing units within the County; that as part of that, there was a proposal to reduce the number of required units to 15%, which is something that is now within the current Ordinance; that another proposal was to have a tiered methodology for the percentage of AMI; that his proposed changes related to Line 77, where the number would move from 25 to 30; that for Line 78, instead of 50, which is now proposed to be 60, it would be a tiered approach to AMI for 60%, 70% or 80%; that within his submitted exhibit, it included a chart that reflected a schedule showing eligible income levels and rent as a percentage of AMI for all three categories of 60%, 70%, and 80%; that they could have no more than 5%, and no less than 80%, and no more than or no less than 5% of 60%; that this tries to allow the greatest amount of flexibility within that; that if one were to look on the Sussex County webpage, for its Housing Section, one would find a statement that states as follows, "*in the most recent housing needs assessment from 2023, published by the Delaware State Housing Authority, data shows that Delaware has a shortage of 19,400 affordable rental units for renters with incomes below 50% of AMI. The assessment further outlines that Sussex County has a projected need of 2,643 affordable rental units by 2030*"; that certainly that is a call that the Sussex County Rental Program needs to start being more inclusive, and to allow for a greater number of communities to utilize its tools that include density; that there needs to be units built in order to approach that number; that currently there is only one completed project; that

the rents are just simply too low to be able to build SCRP units; that even when reviewing the charts, our teachers, nurses, trades and vocational workers are excluded from the rental program if the rents get too low; that he felt this was one of the important components of the changes currently being proposed; that currently, one would have to pay full fees on the SCRP units, just like one would do on a market rate unit; that this is not a unique problem to Sussex County; that affordable housing is an issue throughout the United States and other countries as well; that with the proposed changes, more projects are financially viable; that the rents would be based on more realistic AMI; that with the fees, permits, and costs being adjusted, it would help as well; that he knew the Planning Commission regularly hear about the need for people to be able to work close to where they live, not living in western Sussex County, but needing to drive to eastern Sussex County for their employment; that what he proposed for the Ordinance would allow that to occur, and that this was his plea to the Planning Commission regarding the Sussex County Rental Program.

Mr. Robertson stated that the SCRP shows up as a permitted use in each zoning district, and therefore that is why the ordinance is longer than what he initially described; that Sussex County does not talk about fees, and if the Commission were inclined to have County Council consider waiving fees for the SCRP units, it would be more of a general recommendation, as it would be part of the budget process where Council establish fees each year.

Mr. Hutt stated that last year, there were a number of fees, and impact fees, which were increased by the County to cover other costs, which further put the Sussex County Rental Program units out of reach, and that he understood the County's need to collect those monies for its system, but if to incentivize the production or creation of the Sussex County Rental Program units, a reduction or waiver of those fees would be significant.

Mr. Jon Horner, Esq. provided comment to the Ordinance, on behalf of the Home Builders Association of Delaware. Mr. Horner stated that it was the position of many members of the Land Use Reform Working Group, of which he had been a member, that the Ordinance need to move forward as a package; that this was for multiple reasons, part of it was that the incentives, particularly regarding the SCRP, all needed to go together to make the program work properly; that the other piece was that if things did not move together, there was concern from both sides including the Sussex Preservation Coalition and some of the environmental groups, that if we were to move forward with the SCRP, increasing density in all the growth zones, and rezoning, but not move forward with some of the recommendations that dealt with tree preservation or sprawl in AR-1, that these issues would fall by the wayside; that conversely, his group, as well as many of the other housing advocacy groups, lamented that if we move forward in this political environment, with the down zoning or anti-development type measures that help to stymie the growth of housing; that the political will would not exist ultimately to follow through with the remaining portions of the recommendation that need to be address the housing affordability and availability crisis; that this would include up-zonings in growth areas, such as the increase of density in certain areas, such as the various missing middle housing types which were identified as needed; that the list goes on and on; that as stated within his submitted letter, their concern is not that they oppose the concepts of the ordinances, but rather that there are number of things they felt needed to be looked at and addressed; that they do oppose the concept of the ordinances moving forward piecemeal; that he understood that it was complicated;

that he understood that some of the issues needed to be addressed as part of the Comprehensive Plan; that there have been several pathways and discussions had about how the process could be done in a manner that protected the interests of all sides; that they welcomed the opportunity to have more discussions related to how the process could be; that he did not come prepared with all of his case law prepared, however, he disagreed with Mr. Robertson's take; that he had submitted into the record why he felt this way, and he felt the Cluster Subdivision Ordinance and the Open Space Ordinance violate the Delaware law.

Mr. Robertson stated that he understood what Mr. Horner was stating; that he knew Mr. Horner was on the Land Use Reform Working Group; that he felt it appeared that Mr. Horner only had one side of the equation, and that he felt Mr. Horner was suggesting that the Cluster Ordinance violates Farmers for Fairness, however, he was agreeable to up-zoning and increasing density within growth areas.

Mr. Jon Horner stated that Mr. Robertson left out something very important in his argument; that within Recommendation No. 2, it very clearly identifies what zoning districts would be permitted in the growth areas, and what zoning districts would be permitted within the non-growth areas; that is the distinction, because it was all supposed to happen as part of the comprehensive rezoning; that the reason why Recommendation No. 2 was to say only these zoning districts in the non-growth area was exactly because of this uniformity requirement; that the uniformity requirement, broadly stated, states that if you have a zoning district, it had to be treated the same; that one could not have an AR-1 zoned property sitting next to another AR-1 zoned property, stating that certain things could be allowed on one property, but would not be allowed on the other property; that this was codified in Delaware Code within Title 9; that the package of recommendations, specifically Recommendation No. 2, dealt with that issue by recommending a comprehensive rezoning; that as part of the comprehensive rezoning, we do not have zoning districts that straddle both the Growth Area and the Preservation Area, and if the zoning district does not straddle both, there is no issue with saying something would be permitted on one property, but not on another property; that this was the reason the issue was not raised, because when the recommendations are taken into account, the issue goes away.

Mr. Robertson stated that he disagreed with Mr. Horner; that for the SCRP, which allowed for AR-1 to be within the Growth Area, but not the Rural Area; that Mr. Horner was instrumental in drafting the Forest Preservation ordinance, which was about to be introduced; that the ordinance will address what tree preservation is within the Growth Area, which is lower than what the tree preservation would be within the Rural Area; that his intention was not to split hairs or point fingers, and he was stating that it was across the board in the recommendations; that to do them as a whole, they have to be considered as a whole, and he did not want to get hung up on Farmers for Fairness and kill the remainder of the recommendations.

Mr. Horner stated that to his point, the issue with uniformity is the zoning district; that if he had an AR-1 zoned property, located within the Growth Area and a non-growth area, treating those differently violates the uniformity as set forth in Delaware Code; that if he had a tree preservation ordinance that stated in a growth zone there are certain rules, and outside of the growth zone, there were a different set of rules, it would not violate uniformity when the recommendations are taken in

tandem; that there would not be, for example, an AR-1 zoned property located within a growth zone, and an AR-1 zone property outside of the growth zone; that this was the important distinction; that when the recommendations are put all together, they do not permit zoning districts in both areas to cross; that this was the reason why there is no overlap in the zoning districts within Recommendation No. 2; that the Statue of Repose is codified in Delaware law; that it states after a rezoning, there is a 60 day period to bring forth a challenge; that if a challenge is not brought, that is the law of the land; that there are plenty of things in codes across the state on zoning codes that if they were timely challenged, would not stand; that Farmers for Fairness is one of a series of five cases; that in a later Farmers for Fairness case, that failed on Statue of Reposed grounds, it was stated very clearly that it would not stand withstand scrutiny; that however, the challenge was filed more than 60 days late; that the overlay districts had existed for a very long time; that however, if they were to change, it would open up a new 60 day Statue of Repose; that in his opinion, that would absolutely open a challenge to the ordinances on that ground; that according to the interpretation of Mr. Robertson, the districts have existed, and therefore, they are there permanently, not being subject to challenge to a logical extreme; that an example of this would be if he were to create a district, where 50% of the county was overlaid with no restrictions; that 60 days pass, and the district is good go; that all of sudden, it is stated that no development could be had within the district at all; that he questioned, within this situation, why he would not have the right to challenge the decision under a 60 day Statute of Repose, and stated that he did not believe the courts would agree with Mr. Robertson's interpretation.

Mr. Robertson stated that no one was stating that development could not take place; that he understood Mr. Horner's statements; that it had struck him, and others, that Mr. Horner was on the Land Use Reform Working Group, as a recommendation of the Home Builders Association; that the recommendations of the Land Use Reform Working Group were a result of a lot of time spent by a lot of people, of which Mr. Horner was involved in; that it boiled down to a smaller group of four people, who were really helpful in getting them done; that there was a draft of the ordinance, and to now raise the issue of Farmers for Fairness cases after all of that, also in light of, trying to move all the recommendations forward seemed confusing.

Mr. Horner stated that Mr. Robertson was misconstruing the situation; that when he had put forth the recommendation, he stated very clearly that Sussex County should not have zoning districts that are in both the growth area, and the non-growth area; that he personally stated this; that he did not take the time in the Land Use Reform Working Group to give a dissertation about the state of the law in the State of Delaware and the uniformity requirements; that instead, he stated how it should be done, because this is the proper way to do it, because in the Farmers for Fairness case, the second paragraph of what he cited was Chancellor Chandler laying out how it should be done properly; that he brought up this issue by putting forth recommendations that would comply; that to Mr. Robertson's point, he disagreed; that regarding the SCRP, he was concerned as history appears to be repeating itself; that within every single iteration of the SCRP, the development community had said it would not work; that they could not build those things; that everyone listened to them for a part in time; that then, the writing comes out, and people think they are doing the right thing with proposing more units and lower rents; that everyone wants to have lower rents for people, and want to provide more units because that is the right thing societally to do; that if Sussex County wants to have more units involved within the SCRP, the ordinance does the exact opposite of what the SCRP is needing

to do; that the Ordinance is preventing units from being created because the projects are not financeable; that this is the simple, end of story; that Mr. Preston Schell had submitted the email; that Preston Schell's email stated that the program was great, if Sussex County only wanted him to build it; that Mr. Schell had a $400 to $500 home builder back him up, using their sub-contractors, using Schell Brother's sub-contractors, and using Schell Brothers suppliers; that he had vertically integrated with a management company that charged, at most, a 3% fee when market is 6%; that Mr. Schell would state this, and he had talked to him, because he was Mr. Horner's client.

Mr. Robertson stated that the Ordinance was sent; that there was concern about both the number of SCRP units required, and the rent that was going to be charged for the units; that there was some confusion about it being one or the other; that it is both; that at that point, Mr. Schell's comment was that it would work; that Mr. Schell made the comment that he was going to let folks know that it worked; that he understood there was a desire to increase the amount of rent, and decrease the number of units, because it would make the project more viable to build; that at the same time, Sussex County wanted to make sure that they were not giving away the farm on these projects either, and there is always going to be a balance.

Mr. Horner stated that Sussex County had made sure of that twice, and there are no projects; that he wanted to be very clear, and requested to read exactly what Mr. Preston Schell texted him appropriately 15 minutes prior; that Mr. Schell had stated, "*yeah, feel free to say he can do it because he always buys land right and can build for less than anybody else out there, but no one else can do it*"; that "*also I use my own asset management company at a cost of 3%, but that's not market*; that *market starts at 5% and goes up to 6%, so my operating costs are also unusually low*."; that Mr. Schell's letter was stating that it works for him; that Mr. Schell can do this because he has a vertically integrated company; that if the goal is to only have one developer building the SCRP projects in Sussex County, than the proposed Ordinance will do that he would be incentivized for this, as he is the general counsel for Mr. Schell's company; that however, they do not wish to do that; that they desire an SCRP that actually works, and puts units on the ground; that he questioned what the worse case would be; that maybe Sussex County may build too many units, which potentially could cause market rents to come down; that it might just help affordability across the board; that this would be the worst case outcome; that ultimately, he felt better about 60% because lower rents are just going to be affordable to more people; that rents in apartments that do not exist are not affordable to anyone; that Mr. Matt Pedrone with Volker Development, sat on the mainstream working group; that Volker Development is a low-income, housing tax credit developer, who uses special financing from DSHA; that ultimately, the rents that they are having to charge, by virtue of those programs, are lower than SCRP; that the financing available, by virtue of those rents, is not something a market rate developer has access to, and frankly, nor should they; that this is intended to be a workforce housing program; that it is intended to be an affordable housing program that is really subsidized by the State; that absolutely, Mr. Pedrone supporting this made all the sense in the world, because for what he does, it would word, but he is not a market rate developer; that if we are going to only rely on using this program with the LIHTC (Low-Income Housing Tax Credit), which is severely underfunded and does not have close to the amount of money to address this, we are not going to get where we need to be; that the working group recommended 80% because that was where they felt projects were financeable, and felt we would get a significant number of projects; that Mr. Hutt identified, that it aligned with the Affordable Housing Production Task Force,

of which Mr. Horner sat on a subcommittee; that it aligns with the Governor's recent Executive Order No. 18, which talked about the Governor's priority projects being products that included 15% of units at 80% of AMI; that there is all this momentum behind 80%; that the State is saying if you hit this 80%, we are going to move forward; that the Affordable Housing Task Force, the Land Use Reform Working Group, and developers are all saying 80%; that we out with 60%; that within the entire development community, other than one person, and a low-income housing developer saying it does not work; that he would suggest Sussex County go with something that works; that when it was suggested to take the recommendations as a whole, the recommendations included an upzoning; that this was not called out in his submitted letter, but the recommendations included an increase in height and building length; that this would help the project's viability; that Sussex County is saying 60%, with no increase to height or density, despite these things being super crucial for the projects to move forward; that the recommendations gave a pathway up to 24 units per acre; that this was the reasoning they wanted everything to go as a whole; that Sussex County also needs to take a deep look at buffers; that buffers make sense when abutting residential development; that you will not hear him say that Chapel Branch should not have buffers, as it absolutely should; that infill projects that are next to commercial or industrial development, or when located next to open space, a 50 foot buffer on either side kills an infill project; that if Sussex County's desire is to see these projects along Route 1, even at a 20 unit project, it would not happen with the required buffers; that he felt there was a way to balance it; that if a SCRP project was being proposed next to Walmart, he did not feel a need for a 50 foot buffer was appropriate to preserve the views of Walmart; that there is language in the Code being utilized to talk about the buffer going up if it is adjacent to these types of projects; that he felt the buffer should go down to 10 feet when located adjacent to commercial, permanent open space and all those things; that Sussex County needs to maximize the buildable area in the growth areas for these project, to increase viability, particularly if Sussex County is not going to do the upzoning in conjunction with this; that he also suggested raising the height on the SCRP to 60 feet; that it is in the recommendations to raise the height in the growth areas; that SCRP projects are growth area projects by nature; that raising the heigh and adjusting the buffer scaling next to projects related to that; that there had been a lot of talk regarding building length; that the current building length limits the projects, and really hurts affordability; that we have got a 170 foot arbitrary length on buildings, that then requires a minimum separation to the next building; that on the infill projects, this requirement kills them; that these are not suggestions by Jon Horner; that these are placed within the recommendations that could plug into the Ordinance and apply just to the SCRP, and be really good things; that he encouraged the Commission to take a bold step and understand that if Sussex County is going with a lower percentage of rent it will make the units unable to be built, and that we will be back in the future to address the problem.

Mr. Robertson stated that Mr. Horner made a fair point regarding the height limit, building length and building separation, which was made as a recommendation; that the issue is, that it would be an across-the-board change; that Sussex County was going to look at doing that 100%, by increasing heights, reducing or eliminating the building separation for townhouses and multi-families, and building length; that rather than do that in a one-off thing with the SCRP, the decision was made to do that as a whole across the board, because it is in every zoning district; that he did not want there to be an impression that it was not happening or that it is not being considered; that it would be

something across the board and not limited to the SCRP, and Sussex County would address heights throughout the Code, which would include the SCRP.

Mr. Horner stated that there is nothing preventing Sussex County from doing that right now, with the SCRP amendment to the current Ordinance; that is what he was encouraging, because of all those things; that he was concerned that 60 foot everywhere might suffer to political whims; that Sussex County can do it right now, as it related to the SCRP, allowing everyone to know the timeline on the Ordinance; that when Sussex County were to address it all later, it would be a matter of striking a couple lines in this section because it will apply everywhere else, and nothing was stopping Sussex County from doing it right now, to make the SCRP projects more forward faster within this crisis.

Madam Chair Wingate questioned how many stories a 60-foot height would equate to.

Mr. Whitehouse stated that, depending on the roof construction, five stories could be constructed.

Mr. James Grant, owner of Sun Building Group in Milton, provided verbal and written comments to the Ordinance. Mr. Grant stated that he had been a resident of Delaware for 50 years, and had served in the Marine Corps; that he saw the Not In My Backyard syndrome all the time; that the government is now paying out $1300 per person to pay for housing; that he questioned if by allowing the changes, by changing the by-right, would affect any other court cases that were already in place, with an example being Ashburn vs. Kent County; that he questioned whether the by-right use would change with the property; that he mentioned this because of the appealable process; that it is actually 60 days from the newspaper posting is appealable, not from when the decision was made; that it is critical that posting to the newspaper be done in a timely manner; that University of Delaware did a study where it was stated that 18,000 affordable workforce housing needs to happen to keep up with the current pace of the houses being built in the area; that we have less land and a higher cost, it will only going to make a higher cost; that Mr. Grant requested to read his letter, which had been submitted into the record and stated that as Sussex County continue to experience significant growth, he was concerned that the increasing number of regulations and development restrictions are driving up infrastructure and construction costs in way that directly undermine our shared goal of providing affordable and workforce housing; that many of the requirements are well intended, the cumulative impact adds substantial cost, time, and uncertainty to house projects across the County; that in Sussex County, affordable and workforce housing already faces unique challenges due to rising land values, infrastructure expansion requirements, transportation improvements, impact fees, and compliance with multi-layers of County regulation and review processes; that these projects operate on very tight financial margins; that each additional mandate, whether related to road utility, stormwater management, design standards, or fees, further reduce feasibility; that when costs increase, they are either passed on through higher housing prices and rents or the project does not move forward at all; that either outcome works against the County's stated goal of providing housing opportunities for teachers, healthcare workers, service employees, and others who are essential to our local economy and community; that limiting housing supply though regulatory cost burdens only intensify affordable challenges; that the success of the County is serious about addressing housing affordability; that it is critical to strike a balance between necessary protections and practical cost-conscious policies; that streamlining review processes, reducing duplicate requirements, allowing flexibility in design an

infrastructure standards, providing targeted relief for affordable workforce housing can help reduce without compromising public safety or quality of the development; that he respectfully encourage County officials, the Planning & Zoning Commission, and the County Council to carefully consider how regulatory decisions impact project visibility and to prioritize policies through support housing affordable rather than intentionally working against it, especially at the time of substance growth, and increased demand; that when he was growing up, a farmer used to always tell him never sign that document to give your rights away; that he was mostly referring to water and sewer rights; that it is happening a lot right now; that essentially, the farmer was trying to say someone will not tell him what to do with his land; that Sussex County needs to do responsible growth; that Sussex County also needs to look at the land rights as a property owner, and questioned who Sussex County was to tell someone they could no longer sell their farm to a developer for what they would have gotten if they had sold a year ago, and wanted to offer these comments as food for thought.

Ms. Jill Hicks, resident of Chapel Green in Lewes, provided comments on the Ordinance. Ms. Hicks stated that she agreed with a lot of what Mr. Hutt had said; that she questioned how many units are needed at 60%, 80%, 100% or even 120% AMI; that even in the chart shown, she questioned how many of those at 50%, how many were rented at 50%, how many were rented at 40% and how many were rented at 60%; that she questioned how many are needed within each of those tiers; that the scenario being discussed reminded her of the phrase, "Ready, Fire, Aim"; that it felt like we are on a fishing expedition and hoping we get a strike; that she also agreed with 30% AMI, rather than 25%; that she felt it was likely a standard that is used a lot nationally; that from what she had read, they are using 30% of wage earner's income goes towards housing costs, not 25%, and therefore she agreed with Mr. Hutt's statement, which she felt he made well; that if Sussex County were able to scale things for 60%, 80%, 120% AMI, she questioned if the result would be more feasible units; that she was concerned that Sussex County is jumping from 25% of the units, all the way down to 15% of the units; that if there were a tiered approach, she questioned if Sussex County could go to 20% of the units being part of the SCRP program; that to add to the dilemma; she questioned the ratio of workforce housing to market rate housing; that Sussex County needed to break even, or even dig out of the hole that it is in; that for example, the U.S. Census reports that about 10% of the working population is in public service jobs, such as teachers, emergency services, law enforcement, postal services etc.; that it is sage to say that in Sussex County, we need at least 10% of all new housing to be affordable to the workforce, just to maintain this insufficient level of status quo; that if she build a mixed-use community, comprised of rental apartments, townhomes, and single-family homes, and only 15% of the apartments are required to meet SCRP; that it would be safe to say, that the project will dig the hole deeper; that a hypothetical example would be if she had a project with 2,000 total units consisting of 350 apartments, 750 single-family homes, and 1,000 duplex homes; that 15%, or 52 units, of the apartments are located within the SCRP program; that unless 200 apartments, which equates to 10% of the total projects, are in the SCRP, the project would dig the hole deeper; that as Sussex County continues to keep adding housing units into the pipeline, the hole becomes deeper; that she questioned what we were aiming for; that she questioned why Sussex County would wait two years to reevaluate; that she recommended that the Planning & Zoning Commission and Sussex County Council has a dashboard, which would show exactly how many housing units are in the pipeline, and how many of them were SCRP; that as time moved one, one could reference the dashboard as it was refreshed; that it is said that we need 7,000 workforce units; that she assured the

Commission that number would increase, as Sussex County already had at least 14,000 single-family homes already in the pipeline; that she questioned what AMI is being aimed for; that she questioned if the AMI should be on a sliding scale based on actual needs and what the ratio of market rate that workforce housing we should be striving to for in an effort to close the gap; that the answer was scary when looking at the ratio; that she felt it need to be known, despite it being overwhelming, and that knowing this would give Sussex County better direction, helping to show how intense Sussex County needs to make the program.

Mr. Robertson stated that the review scheduled for January 1, 2028, was in the Code currently; that they had proposed taking it out; that he assumed Ms. Hicks would like that put back in, or made sooner; that at the Council level there are reports regarding when the SCRP projects are being received, how much, and how many units are being constructed and occupied; that Ms. Brandy Nauman's office (Community Development) had the information, and it is something that can be evaluated at any time, however, was proposed to come out as proposed in the current Ordinance.

Ms. Hicks stated that she was suggesting that a dashboard be implemented; that it could refresh every month, or every quarter; that it would be a dashboard that would state exactly where Sussex County was, not only with the SCRP program, but the overall housing in general, regardless of single-family or townhomes; that they had to do a lot of digging to reach the 14,000 single-family homes, and stating that just as the Commission was sitting before her, that they should be able to access a report that reflected the kind of progress or not, Sussex County was making.

Mr. Robertson stated that Sussex County had that information.

Madam Chair Wingate stated that the Commission were talking about that, and in regards to solar farms, and that the Commission had previously had a lot of different conversations regarding trying to stay on top of what is being approved, and what is being developed.

Mr. Collins questioned if the Economic Development Office have anything that would provide leading indicators of where demand might be for these kinds of units, based on job openings or whatever the case may be or where the demand for this workforce housing would be, and how many units might be needed.

Ms. Brandy Nauman, Director of Sussex County Community Development & Housing, stated that it is hard geographically, because the intent of the program is just to make it so that opportunities are made available throughout the County; that employment centers exist all over the County, and that right now, people are traveling to the east side from the west side, because that is where it is more affordable to build or rent.

Mr. Collins stated that it was taking affordable housing units offline in western Sussex County and dedicating them to eastern Sussex County.

Ms. Nauman stated that it would also increase the demand and increase traffic burden of our major roadways, such as Route 9 and Route 24; that she would look into trying to identify specific areas of the County, where the demand is, but she did not have the information off the top of her head, and it is more just, in Sussex County specifically, we need this.

Mr. Robertson stated that Sussex County also had that information, which would be presented at the Council level, as to what the average incomes are for various types of careers; that it was surprising where those average incomes were in relation to the AMI percentages and affordable rent; that they tend to be higher than what Sussex County was talking about; that it was an eye opener, and the discussion generally refers to teachers and nurses, however they are at the affordable rate on rents.

Ms. Nauman stated that oftentimes Sussex County had always used state that they wanted to help nurses and teachers, but really, nurses, physical therapy assistants, and others are on the upper scale of the AMI; that it is not easy, but they can afford market rate rents; that she did not want to go into the details of what had been recommended, but it would change the affordability significantly based on what some of the commentary that was proffered; that she did want that to be a component; that she could not speak on the land use specifics; that currently a three-bedroom at Coastal Tide was rented at $1,060 based on 25% of 50% AMI; that if the formula were to change to 30% of 80% AMI, it would equate to a $2,030 rent for a three bedroom unit; that she felt that price was significantly above market rate rents; that she was advocating for the tenants and the applicants that come through, and she understood the need to make viable projects, but recommended to keep in mind that sometimes the numbers, while different percentages are thrown out, they can be very significant.

Ms. Nauman stated that a $2,000 monthly rent was market rate rent.

Madam Chair Wingate stated that it was not affordable for the people they were trying to reach.

Mr. Horner stated that the monthly rent for a two-bedroom unit at Beach Plum Dunes was currently $2,200.00.

Mr. Robertson stated that it is a scale; that it comes down to which side does Sussex County want to balance; that he questioned do we want to serve people that are in 40% to 70% at rents that are at 60%, which they can afford, or have more projects; that they are trying to find a balance because Sussex County also does not want to have more projects that freeze out the people who are currently on the wait list.

Madam Chair Wingate stated that she felt like that was what would happen.

Mr. Collins stated that there was always a risk that nothing would be built.

Ms. Nauman stated that she agreed that was the current balance, and that she understood that it was the current position Sussex County was in.

Mr. Collins questioned if depending on where the units were located, a $2,000 per month rent for a two-bedroom condo in Rehoboth would not currently be unreasonable.

Mr. Collins stated that maybe Sussex County needed a better partnership with Beebe Healthcare, other major medical providers and the school districts to understand what their hiring needs are.

Mr. Joseph Pika, President of the Sussex Preservation Coalition (SPC), provided comment on the Ordinance. Mr. Pika stated that the Sussex Preservation Coalition had a member, being one of the 10 Land Use Reform Working Group members, which was Ms. Jill Hicks; that while Mr. Horner may have dominated the discussion on the issues, Ms. Hicks was there as well; that Ms. Hicks had been actively involved in all of the discussions; that they had prepared a detailed line by line presentation, raising questions and providing comments on all of the Ordinances; that he was a retired faculty member and administrator from the University of Delaware; that Mr. Steve Sinclair, who would be speaking later on Chapter 99, was a retried state forester from Vermont; that the SPC had about 20 to 25 different organizations who are allied with them; that they have 4,300 supports who are on their email list and regularly receive communications from them; that the SPC is countywide; that the track issues very closely; that he, as well as four other SPC members, had attended every session of the Land Use Working Group along with Ms. Hicks; that their members always equaled 80% to 90% of the public attendees of every session, consisting of approximately 12 people; that they had been working on Chapter 99 for more than two years; that on the third page of his handout, he had highlighted one item, which inserted references in the County Code of the Chapter and Article; that he felt it would be useful throughout all of the Ordinances to reference the relevant sections in the rest of the County Code that could have a bearing on those; that on the fourth page of the handout, it stated Ordinance No. 2601 and at the end of that introductory, it stated that Page 2, under the comments section, he wanted to echo Ms. Hicks and Mr. Hutt's comments; that he had found Mr. Hutt's presentation very thoughtful and helpful; that what had puzzled them is that the terminology was very mushy and very difficult; that they talk about affordable housing with an upper case "A", and a lower case "a" to differentiate the specific definition that the Delaware State Housing Authority uses in reference to affordable housing, which is a capital "A", versus the lowercase "a" which means housing that people can afford; that the DSHA director, in his testimony to the Joint Finance Committee, was asked the question, of the definition by one of the senators; that his response was that he did not want to be nailed down to a definition, and it was whatever somebody's income enabled them to afford; that he believed for Sussex County the question was for people, who are priced out of the market, who could not afford market rates for their housing, which was the scope of what Mr. Hutt had been referring to; that there needed to be a way of coming up with a numerical definition of the size of the problem and how that problem might vary by different income levels; that the other term, which had been bandied about, was workforce housing, by which people think of nurses, technicians, physical therapists, physical therapists assistants, and teachers; that when you look at the salaries of those professionals, and what can be afforded, it was remarkable the difficulty they have in getting into the market; that it was very difficult for them to pay market rates given their salaries; that Dr. Tam, who did a presentation to the County Council earlier in the year, gave an example of four people working in healthcare professions, and who needed to be able to find housing; that of the four, only one of them, a nursing supervisor, was at 80% Area Median Income; that the crisis is real; that DSHA (Delaware State Housing Authority) had stated that Sussex County needed

13,000 housing units by 2030; that of the 13,000 units, 7,000 of those units would need to be affordable units; that this is an enormous lift, particularly when the projects will only have to have 15% affordable units included in them; that the 7,000 affordable units would be a combination of both rentals and purchase units; that Sussex County is trying to formulate a plan of how do they get to the 2,600 units, which Mr. Hutt had referred, to be affordable units; that there needed to be a realistic plan; that the realism is, what will get built, what can people afford to build, and what developers can afford to get financing to build; that at 3%, one would have to build seven times the number of units at 15% to get to the affordable number Sussex County is trying to reach; that the same is true for the other numbers; that the entire county is invested in this, and want to see it work; that he believed Sussex County needed to be very mindful of dimensions, and questioned is Sussex County was nibbling away or trying to find answers that provided real solutions.

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 26-01. Motion by Mr. Collins to defer action for further consideration, seconded by Mr. Allen and carried unanimously. Motion carried 5-0.

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

The Commission discussed the Ordinance which had been deferred since April 1, 2026.

Mr. Collins moved that the Sussex County Planning & Zoning Commission recommend approval of Ordinance 26-01 regarding the Sussex County Rental Unit (SCRP) Program for the following reasons:

1. The need for affordable housing in Sussex County is well-documented and supported by the Sussex County Comprehensive Plan.
2. The current SCRP Program has been in effect for many years, but at this point only two (2) developments have been built under the Program.
3. Sussex County Council commissioned a Land Use Reform Working Group that created multiple recommendations about housing and land use. The Group recommended an update to the SCRP program that are included in the Ordinance, such as:

    a. A reduction of the required percentage of affordable units in the development from 25% to 15%.
    b. A reduction of the required Open Space in the development from 50% to 30%.
    c. Create a better alignment of the rent to household incomes and the amount necessary to make a project viable.

4. The County's Office of Community Development and Housing was involved in the drafting of this Ordinance and supports it.

5. Under the current SCRP Program, rent is fixed at 50% AMI for all SCRP Units. Projects are not viable with that fixed rent for the SCRP Units, even if the number of Units is reduced from 25% to 15% of the SCRP Project. Based on information provided during the hearing, most of the residents served by the SCRP program fall within the 40% to 70% AMI range. For these reasons, the increased rent at 60% AMI for the SCRP Units provided by this Ordinance is appropriate.
6. Although there was testimony about increasing the SCRP rent to 80% AMI, that would be unaffordable for the residents to be served by the SCRP Program who can only afford to pay between 40% and 70% based on the current data available from the Program.
7. During its hearings, Council should consider this rental rate information carefully, including the suggestion of a tiered approach to the SCRP rental rates, as long as the target population is still served by the Program.
8. One of the Working Group's recommendations was to "offer impact fee reductions proportionate to the share of affordable units." Since that is a fiscal question and not one of land use, it should not be considered as part of an amendment to the Zoning Code and is outside of the Commission's area of responsibility. Instead, that should be considered by County Council as part of its fee structure and budget process to determine if such reductions can be an additional tool used to make SCRP Projects more viable.

Motion by Mr. Collins, seconded by Mr. Allen, and carried unanimously to recommend approval of ORD 26-01 regarding the Sussex County Rental Unit (SCRP) Program for the reasons stated in the motion. Motion carried 5-0.

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

AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 72, ARTICLE II, SECTION 72-24 AND CHAPTER 115, ARTICLE IV, V, VI, VII AND VIII SECTIONS 115-20, 115-29, 115-37, 115-45 AND 115-53 REGARDING AFFORDABLY PRICED RENTAL UNITS AND THE SUSSEX COUNTY RENTAL UNIT (SCRP) PROGRAM.

WHEREAS, Sussex County Council has adopted the 2018 Comprehensive Development Plan (the "Plan"); and

WHEREAS, The Housing Element of the Plan contains the following "Housing Vision": To ensure the provision of decent, safe, affordable and safe housing opportunities to improve communities and quality of life for the residents of Sussex County; and

WHEREAS, The Housing Element of the Plan recognizes that "the shortage of affordable housing remains a very real problem for low to moderate-income households in Sussex County, including many with full-time, year-round jobs"; and

WHEREAS, Goal 8.2 of the Housing Element within the Plan states that Sussex County should "Ensure that a diversity of housing opportunities are available to meet the needs of residents of different ages, income levels, abilities, national origins and household configurations"; and

WHEREAS, Objective 8.2.1 and Strategy 8.2.1.1 of the Housing Element within the Plan state that Sussex County will "Affirmatively further affordable and fair housing opportunities in the County to accommodate the needs of all residents" and in so doing "improve the County's SCRP and MPHU Programs to provide incentives to properly reflect the housing market and incentivize developers to participate in the provision of affordable housing"; and

WHEREAS, Strategy 8.2.1.3 of the Housing Element within the Plan states that Sussex County should "explore ways for private developers to provide multi-family and affordable housing opportunities; and

WHEREAS, Strategy 8.3.1.1 of the Housing Element within the Plan states that Sussex County should "evaluate current County Code on an on-going basis to determine if any regulatory barriers exist that impede the development of multi-family and affordable housing"; and

WHEREAS, Sussex County Council, with the assistance of the Office of Community Development and Housing, has determined that the current Sussex County Rental Program has been underutilized based upon impacts to such developments; and

WHEREAS, Sussex County Council commissioned a Land Use Reform Working Group that developed multiple recommendations for improvements to the Sussex County Code regarding housing and land use and one of the recommendations included an update to the Sussex County Rental Unit program as reflected in this Ordinance; and

WHEREAS, Sussex County Council, with the assistance of the Office of Community Development and Housing, has determined that the current Sussex County Rental Unit program contained in Chapter 72 of the Code of Sussex County requires an update based upon lessons learned in the implementation and application of that Chapter to the single rental project in Sussex County that has utilized the Program; 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 72, Article II, §72-24 "SCRP Units" is hereby amended by deleting the language in brackets and inserting the italicized and underlined language as follows:

§ 72-24 SCRP Units.

A. Rent.

(1) Rent shall be established and updated annually by the Department based upon 25% of household income for [50]*60*% of the area median income adjusted for household size and unit size and shall not include trash services, parking, water and sewer utilities and any other charges to be paid by the tenant.

. . . .

Section 2. The Code of Sussex County, Chapter 115, Article IV, §115-20 "Permitted Uses", is hereby amended by deleting the language in brackets and inserting the italicized and underlined language as follows:

§115-20 Permitted Uses.

A. A building or land shall be used only for the following purposes:

. . .

(17) A Sussex County Rental Program, or SCRP, [townhouse or multi-family] development governed by, and subject to, Chapter 72, where at least [25]*15*% of all dwelling units are SCRP Units

pursuant to Chapter 72. The SCRP development must satisfy the following criteria:

(a) The site must be located within a Town Center, a Developing Area, the Commercial Area or the Coastal Area as described within the Land Use Element and as shown on the Future Land Use Plan of the adopted Sussex County Comprehensive Plan.

(b) The site shall be located within 2,640 feet of a principal arterial road, minor arterial road or major collector road as classified by the Delaware Department of Transportation. In addition, an Applicant should make every effort to coordinate with DART for transit access to and from the site.

(c) The site must be served by a central sewer system and a central water system.

(d) The total maximum number of dwelling units (including both SCRP Units and non-SCRP Units) that may be permitted shall be determined by dividing the gross area by 3,630 square feet. "Gross area" shall exclude any area designated as a [tidal tributary stream or tidal wetlands] *Tidal Waters or Tidal Wetlands* by § 115-193.

(e) There shall be a [one-hundred] *fifty* foot wide setback around the entire site, which shall incorporate the perimeter buffers and perimeter buffer protection areas (if Perimeter Buffer Protection Areas are required) set forth in §99-21.A. This setback may include walking and biking trails.

(f) The height of any [townhouse or multi-family] buildings shall not exceed 52 feet or four stories, whichever is greater; provided, however, [that if the height does not exceed 42 feet, then the

setback described in this subsection shall be reduced from 100 feet to 50 feet] *that if the height exceeds 42 feet and the site is adjacent to land that is, or could become, developed residentially, the building(s) shall include a stepback design above 42 feet and/or an increased setback to ensure an appropriate relationship between the higher density SCRP project and uses of low intensity or height, existing or future, outside the proposed SCRP project.*

(g) There shall be sidewalks on at least one side of all streets, roadways and parking areas, with interconnectivity to adjacent walkway systems wherever possible.

(h) There must be interconnectivity with any adjacent property that is zoned C-1, CR-1, C-2, C-3, C-4, C-5, B-1, B-2 or B-3 *wherever appropriate as determined by the Commission*.

(i) There shall be open space that exceeds [50]*30*% of the gross area of the entire site.

[(j) Sussex County shall commence a comprehensive review of the provisions of this SCRP program as set forth herein on or before January 1, 2028.]

Section 3. The Code of Sussex County, Chapter 115, Article V, §115-29 "Permitted Uses", is hereby amended by deleting the language in brackets and inserting the italicized and underlined language as follows:

§115-29 Permitted Uses.

A building or land shall be used only for the following purposes:

. . .

M. A Sussex County Rental Program, or SCRP, [townhouse or multi-family] development governed by, and subject to, Chapter 72, where at least [25]*15*% of all dwelling units are SCRP Units pursuant to Chapter 72. The SCRP development must satisfy the following criteria:

(1) The site must be located within a Town Center, a Developing Area, the Commercial Area or the Coastal Area as described within the Land Use Element and as shown on the Future Land Use Plan of the adopted Sussex County Comprehensive Plan.

(2) The site shall be located within 2,640 feet of a principal arterial road, minor arterial road or major collector road as classified by the Delaware Department of Transportation. In addition, an Applicant should make every effort to coordinate with DART for transit access to and from the site.

(3) The site must be served by a central sewer system and a central water system.

(4) The total maximum number of dwelling units (including both SCRP Units and non-SCRP Units) that may be permitted shall be determined by dividing the gross area by 3,630 square feet. "Gross area" shall exclude any area designated as a [tidal tributary stream or tidal wetlands] *Tidal Waters or Tidal Wetlands* by § 115-193.

(5) There shall be a [one-hundred] *fifty* foot wide setback around the entire site, which shall incorporate the perimeter buffers and perimeter buffer protection areas (if Perimeter Buffer Protection Areas are required) set forth in §99-21.A. This setback may include walking and biking trails.

(6) The height of any [townhouse or multi-family] buildings shall not exceed 52 feet or four stories, whichever is greater; provided, however, [that if the height does not exceed 42 feet, then the setback described in this subsection shall be reduced from 100 feet to 50 feet] *that if the height exceeds 42 feet and the site is adjacent to land that is, or could become, developed residentially, the building(s) shall include a stepback design above 42 feet and/or an increased setback to ensure an appropriate relationship between the higher density SCRP project and uses of low intensity or height, existing or future, outside the proposed SCRP project.*

(7) There shall be sidewalks on at least one side of all streets, roadways and parking areas, with interconnectivity to adjacent walkway systems wherever possible.

(8) There must be interconnectivity with any adjacent property that is zoned C-1, CR-1, C-2, C-3, C-4, C-5, B-1, B-2 or B-3 *wherever appropriate as determined by the Commission*.

(9) There shall be open space that exceeds [50]*30%* of the gross area of the entire site.

[(10) Sussex County shall commence a comprehensive review of the provisions of this SCRP program as set forth herein on or before January 1, 2028.]

Section 4. The Code of Sussex County, Chapter 115, Article VI, §115-37 "Permitted Uses", is hereby amended by deleting the language in brackets and inserting the italicized and underlined language as follows:

§115-37 Permitted Uses.

Permitted uses are as follows:

. . .

C. A Sussex County Rental Program, or SCRP, [townhouse or multi-family] development governed by, and subject to, Chapter 72, where at least [25]*15*% of all dwelling units are SCRP Units pursuant to Chapter 72. The SCRP development must satisfy the following criteria:

(1) The site must be located within a Town Center, a Developing Area, the Commercial Area or the Coastal Area as described within the Land Use Element and as shown on the Future Land Use Plan of the adopted Sussex County Comprehensive Plan.

(2) The site shall be located within 2,640 feet of a principal arterial road, minor arterial road or major collector road as classified by the Delaware Department of Transportation. In addition, an Applicant should make every effort to coordinate with DART for transit access to and from the site.

(3) The site must be served by a central sewer system and a central water system.

(4) The total maximum number of dwelling units (including both SCRP Units and non-SCRP Units) that may be permitted shall be determined by dividing the gross area by 3,630 square feet. "Gross area" shall exclude any area designated as a [tidal tributary stream or tidal wetlands] *Tidal Waters or Tidal Wetlands* by § 115-193.

(5) There shall be a [one-hundred] *fifty* foot wide setback around the entire site, which shall incorporate the perimeter buffers and perimeter buffer protection areas (if Perimeter Buffer Protection

Areas are required) set forth in §99-21.A. This setback may include walking and biking trails.

(6) The height of any [townhouse or multi-family] buildings shall not exceed 52 feet or four stories, whichever is greater; provided, however, [that if the height does not exceed 42 feet, then the setback described in this subsection shall be reduced from 100 feet to 50 feet] *that if the height exceeds 42 feet and the site is adjacent to land that is, or could become, developed residentially, the building(s) shall include a stepback design above 42 feet and/or an increased setback to ensure an appropriate relationship between the higher density SCRP project and uses of low intensity or height, existing or future, outside the proposed SCRP project.*

(7) There shall be sidewalks on at least one side of all streets, roadways and parking areas, with interconnectivity to adjacent walkway systems wherever possible.

(8) There must be interconnectivity with any adjacent property that is zoned C-1, CR-1, C-2, C-3, C-4, C-5, B-1, B-2 or B-3 *wherever appropriate as determined by the Commission*.

(9) There shall be open space that exceeds [50] *30%* of the gross area of the entire site.

[(10) Sussex County shall commence a comprehensive review of the provisions of this SCRP program as set forth herein on or before January 1, 2028.]

Section 5. The Code of Sussex County, Chapter 115, Article VII, §115-45 "Permitted Uses", is hereby amended by deleting the language in brackets and inserting the italicized and underlined language as follows:

§115-45 Permitted Uses.

Permitted uses are as follows:

. . .

F. A Sussex County Rental Program, or SCRP, [townhouse or multi-family] development governed by, and subject to, Chapter 72, where at least [25] *15*% of all dwelling units are SCRP Units pursuant to Chapter 72. The SCRP development must satisfy the following criteria:

(1) The site must be located within a Town Center, a Developing Area, the Commercial Area or the Coastal Area as described within the Land Use Element and as shown on the Future Land Use Plan of the adopted Sussex County Comprehensive Plan.

(2) The site shall be located within 2,640 feet of a principal arterial road, minor arterial road or major collector road as classified by the Delaware Department of Transportation. In addition, an Applicant should make every effort to coordinate with DART for transit access to and from the site.

(3) The site must be served by a central sewer system and a central water system.

(4) The total maximum number of dwelling units (including both SCRP Units and non-SCRP Units) that may be permitted shall be determined by dividing the gross area by 3,630 square feet. "Gross area" shall exclude any area designated as a [tidal tributary stream or tidal wetlands] *Tidal Waters or Tidal Wetlands* by § 115-193.

(5) There shall be a [one-hundred] *fifty* foot wide setback around the entire site, which shall incorporate the perimeter buffers and perimeter buffer protection areas (if Perimeter Buffer Protection Areas are required) set forth in §99-21.A. This setback may include walking and biking trails.

(6) The height of any [townhouse or multi-family] buildings shall not exceed 52 feet or four stories, whichever is greater; provided, however, [that if the height does not exceed 42 feet, then the setback described in this subsection shall be reduced from 100 feet to 50 feet] *that if the height exceeds 42 feet and the site is adjacent to land that is, or could become, developed residentially, the building(s) shall include a stepback design above 42 feet and/or an increased setback to ensure an appropriate relationship between the higher density SCRP project and uses of low intensity or height, existing or future, outside the proposed SCRP project.*

(7) There shall be sidewalks on at least one side of all streets, roadways and parking areas, with interconnectivity to adjacent walkway systems wherever possible.

(8) There must be interconnectivity with any adjacent property that is zoned C-1, CR-1, C-2, C-3, C-4, C-5, B-1, B-2 or B-3 *wherever appropriate as determined by the Commission*.

(9) There shall be open space that exceeds [50] *30*% of the gross area of the entire site.

[(10) Sussex County shall commence a comprehensive review of the provisions of this SCRP program as set forth herein on or before January 1, 2028.]

Section 6. The Code of Sussex County, Chapter 115, Article VIII, §115-53 "Permitted Uses", is hereby amended by deleting the

language in brackets and inserting the italicized and underlined language as follows:

§115-53 Permitted Uses.

A building or land shall be used only for the following purposes:

. . .

K. A Sussex County Rental Program, or SCRP, [townhouse or multi-family] development governed by, and subject to, Chapter 72, where at least [25] *15*% of all dwelling units are SCRP Units pursuant to Chapter 72. The SCRP development must satisfy the following criteria:

(1) The site must be located within a Town Center, a Developing Area, the Commercial Area or the Coastal Area as described within the Land Use Element and as shown on the Future Land Use Plan of the adopted Sussex County Comprehensive Plan.

(2) The site shall be located within 2,640 feet of a principal arterial road, minor arterial road or major collector road as classified by the Delaware Department of Transportation. In addition, an Applicant should make every effort to coordinate with DART for transit access to and from the site.

(3) The site must be served by a central sewer system and a central water system.

(4) The total maximum number of dwelling units (including both SCRP Units and non-SCRP Units) that may be permitted shall be determined by dividing the gross area by 3,630 square feet.

"Gross area" shall exclude any area designated as a [tidal tributary stream or tidal wetlands] *Tidal Waters or Tidal Wetlands* by § 115-193.

(5) There shall be a [one-hundred] *fifty* foot wide setback around the entire site, which shall incorporate the perimeter buffers and perimeter buffer protection areas (if Perimeter Buffer Protection Areas are required) set forth in §99-21.A. This setback may include walking and biking trails.

(6) The height of any [townhouse or multi-family] buildings shall not exceed 52 feet or four stories, whichever is greater; provided, however, [that if the height does not exceed 42 feet, then the setback described in this subsection shall be reduced from 100 feet to 50 feet] *that if the height exceeds 42 feet and the site is adjacent to land that is, or could become, developed residentially, the building(s) shall include a stepback design above 42 feet and/or an increased setback to ensure an appropriate relationship between the higher density SCRP project and uses of low intensity or height, existing or future, outside the proposed SCRP project.*

(7) There shall be sidewalks on at least one side of all streets, roadways and parking areas, with interconnectivity to adjacent walkway systems wherever possible.

(8) There must be interconnectivity with any adjacent property that is zoned C-1, CR-1, C-2, C-3, C-4, C-5, B-1, B-2 or B-3 *wherever appropriate as determined by the Commission*.

(9) There shall be open space that exceeds [50] *30*% of the gross area of the entire site.

[(10) Sussex County shall commence a comprehensive review of the provisions of this SCRP program as set forth herein on or before January 1, 2028.]

SECTION 7. Effective Date. This Ordinance shall become effective on the date of its adoption by Sussex County Council.

JAMIE WHITEHOUSE, AICP
DIRECTOR OF PLANNING & ZONING
(302) 855-7878 T
pandz@sussexcountyde.gov

Sussex County
DELAWARE
sussexcountyde.gov

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: May 15, 2026

RE: County Council Report for Ord 26-02 in Relation to Cluster Subdivisions and Residential Planned Community Districts

---

On March 10, 2026, the County Council introduced an Ordinance to consider potential changes to the Code of Sussex County in relation to Cluster Subdivisions and Residential Planned Community Districts.

The Planning & Zoning Commission held a Public Hearing on the application on April 1, 2026. At the meeting of April 15, 2026, the Planning & Zoning Commission recommended approval of the Ordinance for the 5 reasons of approval as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meeting on April 1, 2026, and April 15, 2026.

Minutes of the April 1, 2026, Planning & Zoning Commission Meeting

ORD 26-02
AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE IV, §115-25 "HEIGHT, AREA AND BULK REQUIREMENTS" AND ARTICLE XVI §115-120 "SUPERIMPOSED DISTRICT; EFFECT ON OTHER PROVISIONS" OF THE CODE OF SUSSEX COUNTY REGARDING CLUSTER SUBDIVISIONS AND RESIDENTIAL PLANNED COMMUNITY DISTRICTS.

Mr. Robertson stated that the Ordinance was regarding cluster subdivisions; that the Ordinance eliminated cluster subdivisions within the rural area when on central sewer; that this would result in no more 7,500 square foot cluster subdivisions being permitted within the rural area on central sewer;

that the Ordinance would not affect cluster subdivisions of 20,000 square feet, when located on septic systems, or three quarter acre lots on septic systems; that the Ordnance had a couple different points of which the recommendations pulled from; that the second recommendation, which was to establish growth in conservation areas; that another recommendation, being one proposed by the Land Use Working Group, recommended strategic density adjustments, regarding what the base density should be; that the Ordinance is modified a bit, as it does not go as low as what is required; that there was an additional requirement of the Ordinance that was not really talked about in the Land Use Reform Working Group recommendations; that it was a good suggestion, recommended by Mr. Horner, which proposed to eliminate RPC's (Residential Planned Communities) from the rural areas; that the reason for that, being if one cannot do a cluster subdivision of 7,500 square feet, it would be a total workaround, if one could construct an RPC in the rural area, allowing the same thing, or potentially more; that regarding the drafting, there was not many changes to the Ordinance; that the proposed Ordinance proposes to change three lines, at Line 73 regarding confirming where the cluster development options goes, and adds five lines stating that one cannot do an RPC outside of the growth area.

The Commission found that there were three people present who wished to provide comment on the Ordinance.

Mr. Jon Horner, Esq. provided comment to the Ordinance, on behalf of the Home Builders Association of Delaware. Mr. Horner stated that he would not repeat his concern regarding Farmers for Fairness; that when discussing the package and the down zoning without a corresponding up zoning, the Ordinance proposed just that; that he believed that the Ordinance was effectively a down zoning to approximately 0.80 units per acre; that the reason where his math fell on that was if one received 100 acres; that 50% of it would be required to be open space; that this would equate to 50 acres; that if they had 20,000 square foot lots, being close, but not exactly, half acres, it would allow for 100 houses without the installation of roads; that when looking at the Open Space Ordinance, the stormwater management would largely be excluded from the open space as well, other than certain ponds; that he did not know the percentage of the County that was not within a growth area, but his estimate was approximately 60% to 70%; that this would be taking a large portion of the County; that taking it from two units per acre currently for a cluster subdivision, to about 0.80 units per acre; that this is being proposed without a corresponding up zoning within growth areas; that they had already discuss the need for housing production; that Sussex County had a shortage; that it would be a policy decision; that this was why they supported the concept; that the code he had drafted was not meant to in any way be his personal code; that it was meant to take the recommendations provided by the Working Group, placing then in actionable formats, without him providing ad-libbing; that it was meant to give a product that people could start from, so that change could spur within the County; that ultimately, that is why they suggested to remove the RPC's from the low-density area, because it did not make sense in the context of the recommendations; that to be clear, his membership, and him as a representative of the group, as well as Mr. Mike Riemann, P.E. with ACEC (American Council of Engineering Companies of Delaware); that they had voted to support the recommendation that included down zoning; that only one person voted against the votes, which were anonymous; that the only reason why they vote was cast in this way was due to the corresponding upzoning; that it was very politically palatable to downzone, requesting less houses to be built, in the environment today; that it is less politically palatable for someone to say we want more housing to be built in the areas

where Sussex County needs it, being the area where people are working, the areas where infrastructure is already there or planned; that their main concern remains that this is what will happen; that the other policy decision that struck him odd, was the Land Use Reform Working Group stated that they wanted to preserve the resources on the site, not necessarily the open space to have open space; that he understood open space was being addressed in another ordinance, but in the context of the cluster subdivisions, with removing the cluster option in favor of large lots, we would not be accomplishing the goals; that the same amount of land is being used for a lot less housing, and that ultimately, he did not feel that the Ordinance helped necessarily to the problem of sprawl.

Mr. Robertson stated regarding clustering, particularly in the rural areas, that did not exist until 2003 within the Comprehensive Plan; that this Ordinance takes it back to what was pre-existing in 2003 within the rural area; that back then, if one was on central sewer, they would get 20,000 square feet; that when located on septic, one was automatically required to have 0.75 acre; that he was not advocating one way or another and only wanted to provide the history of where the Ordinance came from.

Mr. James Grant, owner of Sun Building Group in Milton, provided comments on the Ordinance. Mr. Grant questioned how much open space would be required when sticking with a 0.75-acre lot, when located on septic.

Mr. Robertson stated that the Open Space Ordinance was coming before the Commission later in the evening, and stated that it would depend on where the property was located; that it was a Working Group recommendation that regardless of lot sizes, when located within a growth area, there was a range of open space that was required or requested in the recommendations; that it would increase from 35%, to a range of 35% to 50%; that it would be introduced as 30% for the growth area, and 50% for the rural area; that it should be kept in mind that ultimately there would be higher densities within the growth area, an one would want a lower number of the percentage of open space within those areas.

Mr. Grant stated that he assumed the Working Group probably had looked at the Kent County exercise performed between 2008 and 2010; that he had lunch with a gentleman who resides within a subdivision that provided 50% open space and 93 houses; that the man stated the subdivision spent $55,000 per year for the stormwater management and grass maintenance; that there is a lot more maintenance; that farmland is trying to be preserved; that if a subdivision is constructed, even at 50% open space, the farmland would still be going away; that it goes back to responsible growth; that farmland is the biggest economic driver within Sussex County; that he knew that Sussex County Engineering and Artesian Engineering, due to all the growth, had placed a lot of money into attempting to get ahead of the game with infrastructure, which is another thing to think about; that if money is placed into putting in infrastructure, but then one can only have 20,000 square foot houses versus 7,500 square foot lots, they would be losing a lot; that there would be less revenue coming in to pay for that infrastructure that had already been placed, and that we should be looking for a balance.

Mr. Whitehouse stated that in terms of open space, currently within the Code, there is not a requirement that open space necessarily be moved; that some homeowners' associations do mow their

open spaces; that more often it is coming to Sussex County and Sussex Conservation District into looking into more naturalized maintenance meadows; that this was one of the recommendations that came out of the Working Group; that there were mechanisms to do that now, and there were proposals to do that in a more formalized way.

Mr. Robertson stated that Mr. Grant and Mr. Horner both made a point that was not lost of staff, the Commission or on County Council, regarding the fact that the Ordinance is one side of the bargain; that it will create lower density within the rural areas; that the opposite side of the equation is that it incentivizes growth to be placed where infrastructure is planned to be, including roads and sewers; that this was the Working Groups point; that that it was part of that bigger conversation, and was not lost on anyone.

Mr. Joseph Pika, President of the Sussex Preservation Coalition (SPC), provided comment on the Ordinance. Mr. Pika stated that he agreed with Mr. Robertson and felt that he had made his point. 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 26-02. Motion by Mr. Collins to defer action for further consideration, seconded by Mr. Allen and carried unanimously. Motion carried 5-0.

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

The Commission discussed the Ordinance which had been deferred since April 1, 2026.

Mr. Allen moved that the Sussex County Planning & Zoning Commission recommend approval of Ordinance 26-02 regarding Cluster Subdivisions and Residential Planned Community Districts for the following reasons:

1. Sussex County Council commissioned a Land Use Reform Working Group that created multiple recommendations about housing and land use. The Group recommended several updates that concerned subdivisions and cluster subdivisions in the Rural Area designated in the Future Land Use Map of the Comprehensive Plan including Recommendation No. 8 regarding base densities in the AR-1 District.
2. This Ordinance proposes to eliminate small-lot cluster subdivisions in the Rural Areas and only allow clustered subdivisions with a minimum lot size of 20,000 square feet in that Area if the lots are served by central sewer. 3/4 acre lots would still be allowed on septic systems. Residential Planned Community Districts would also be eliminated in the Rural Area since they would not be compatible with the Working Group's desire to lower density in the Rural Area while increasing density in the County's Growth Areas.
3. There was testimony during the public hearing on both sides of the elimination of clustering with 7,500 square foot lots. County Council should take this under advisement as well as the additional testimony that will be presented during Council's hearings.

4. There was testimony regarding the timing of this Ordinance versus the timing of other changes, including possible increased densities in the Growth Area. The Commission recognizes that many of the Working Group recommendations are tied to the new Comprehensive Plan and its Future Land Use Map. However, many the Working Group's recommendations were connected to one another, including the consideration of where densities should be increased and lowered throughout the County. As a result, the Commission is making this recommendation for approval with the knowledge that additional work on other Land Use Working Group Recommendations still must be completed.
5. Although this is a recommendation for approval, County Council should still carefully consider all of the comments made to the Commission and those that will be made to Council during its hearing.

Motion by Mr. Allen, seconded by Mr. Passwaters, and carried unanimously to recommend approval of Ordinance 26-02 regarding Cluster Subdivisions and Residential Planned Community Districts for the reasons stated in the motion. Motion carried 5-0.

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

ORDINANCE NO. ___

AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE IV, §115-25 "HEIGHT, AREA AND BULK REQUIREMENTS" AND ARTICLE XVI §115-120 "SUPERIMPOSED DISTRICT; EFFECT ON OTHER PROVISIONS" OF THE CODE OF SUSSEX COUNTY REGARDING CLUSTER SUBDIVISIONS AND RESIDENTIAL PLANNED COMMUNITY DISTRICTS.

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

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

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

WHEREAS, Sussex County Council commissioned a Land Use Reform Working Group that developed multiple recommendations for improvements to the Sussex County Code; and

WHEREAS, Following the recommendations of the Land Use Reform Working Group it has been determined that one way to achieve the goals thereof is to eliminate subdivisions with a "cluster" design as contemplated by Section 115-25 of the Code of Sussex County from the Low Density Areas; and

WHEREAS, in conjunction with the elimination of "cluster" design developments in the Low Density Areas, it is appropriate to also eliminate

Residential Planned Community Districts from the Low Density Areas; and

WHEREAS, this ordinance has been drafted to prohibit "cluster" subdivisions and Residential Planned Communities with smaller lot sizes within the Low Density Area of the Sussex County Future Land Use Map while retaining the ability to subdivide land in that Area; 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 2. The Code of Sussex County, Chapter 115, Article IV, §115-25 "Height, Area and Bulk Requirements" is hereby amended by adding the language in italics and by deleting the language in brackets as follows:

§ 115-25 Height, area and bulk requirements.

A. Minimum lot sizes for lots using a wastewater disposal system located entirely on that lot and generally defined as an on-site septic system.

(1) Standard lot option:

District (square feet)	Area (feet)	Width* (feet)	Depth
AR-1	32,670	100	100

NOTES:

A lot fronting on a numbered road shown on the latest revision of the General Highway Map for Sussex County shall have a minimum width of 150 feet.

(2) Cluster development option. The minimum lot size may be reduced to one-half acre (21,780 square feet) where soil conditions are suitable as approved by DNREC. The total number of lots allowed shall not exceed the number of lots that would be permitted under the standard lot option. The number of dwelling units permitted shall be determined by dividing the gross area by 32,670 square feet. "Gross area" shall include the lot area and the area of land set aside for common open space or recreational use but shall exclude any area designated as a tidal tributary stream or tidal wetlands by § 115-193. However, if the proposed cluster development lies within a Low-Density Area as described within the Land Use Element and as shown on the Future Land Use Plan of the adopted Sussex County Comprehensive Plan, the total number of lots permitted shall be determined by first reducing the gross area by 25%.

B. Minimum lot sizes, dimensions and open space for lots using a central sewer system as defined by § 115-194A:

(1) Standard lot option:

District	Area** (square feet)	Width* (feet)	Depth (feet)
AR-1	20,000	100	100

(2) Cluster development option, *but only in the Town Center, a Developing Area, or the Coastal Area as described within the Land Use Element and as shown on the Future Land Use Map of the adopted Sussex County Comprehensive Plan* [(subject to § 115-25F)]:

Minimum Tract Size (acres)	Minimum Lot Size (square feet)	Required Open Space
10	7500	30%

NOTES:

* A lot fronting on a numbered road shown on the latest revision of the General Highway Map for Sussex County shall have a minimum width of 150 feet.

** For lots located in the Coastal Area, the Development Districts or the Town Center Districts, the overlay ordinance for that district shall determine the minimum lot size.

(3) The number of dwelling units permitted shall be determined by dividing the gross area by 21,780 square feet. When a cluster development lies within a Town Center, a Developing Area, or the Coastal Area as described within the Land Use Element and as shown on the Future Land Use Plan of the adopted Sussex County Comprehensive Plan, and the developer has proffered to Sussex County for the purpose of creating open space preservation/active and passive recreation areas a development fee per unit for every unit in excess of two units per acre, then the maximum number of dwelling units that may be permitted by the Planning and Zoning Commission shall be determined by dividing the gross area by 10,890 square feet. The development fee shall not be less than the minimum established by the Sussex County Council and shall be paid prior to recording any lot based upon the fee in effect at the time the application was filed. "Gross area" shall include the lot area and the area of land set aside for common open space or recreational use but shall exclude any area designated as a tidal tributary stream or tidal wetlands by § 115-193. The Sussex County Council prior to the signing of a contract to purchase, shall approve all such land or conservation easement purchases which utilize monies paid to the County under the terms of this

act. All such approvals by the Council shall be by a four-fifths majority vote. It is understood that the County shall control all monies and the Sussex County Land Trust will act as a recommending body and partner at the discretion of the County Council.

Section 3. The Code of Sussex County, Chapter 115, Article XVI, §115-120 "Superimposed District; Effect on Other Provisions" is hereby amended by adding the language in italics as follows:

§ 115-120 Superimposed district; effect on other provisions.

A. To enable the district to operate in harmony with the plan for land use and population density embodied in these regulations, the RPC District is created as a special district to be superimposed on other districts contained in these regulations and is to be so designated by a special symbol for its boundaries on the Zoning District Map. *Provided, however, that the RPC District shall only be available in the Town Center, a Developing Area, or the Coastal Area as described within the Land Use Element and as shown on the Future Land Use Map of the adopted Sussex County Comprehensive Plan.*

. . . .

Section 3. Effective Date.

This ordinance shall become effective upon adoption. Provided however, that it shall not apply to subdivision or residential planned community district applications that have had a Preliminary Conference pursuant to §99-7 of the Code of Sussex County and that have submitted a PLUS application to the Office of State Planning Coordination and received a PLUS comment letter from the Office of State Planning Coordination following the PLUS meeting on the application.

JAMIE WHITEHOUSE, AICP
DIRECTOR OF PLANNING & ZONING
(302) 855-7878 T
pandz@sussexcountyde.gov

Sussex County
DELAWARE
sussexcountyde.gov

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: May 15, 2026

RE: County Council Report for Ord 26-03 in Relation to Height, Area, and Bulk Requirements and the Design Criteria for all Subdivisions

---

On March 10, 2026, the County Council introduced an Ordinance to consider potential changes to the Code of Sussex County in relation to Height, Area, and Bulk Requirements, and also the design criteria for all Subdivisions

The Planning & Zoning Commission held a Public Hearing on the application on April 1, 2026. At the meeting of April 15, 2026, the Planning & Zoning Commission recommended approval of the Ordinance for the 6 reasons of approval as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meeting on April 1, 2026, and April 15, 2026.

Minutes of the April 1, 2026, Planning & Zoning Commission Meeting

ORD 26-03
AN ORDINANCE TO AMEND CHAPTER 99, ARTICLE II, SECTIONS 99-9, "PUBLIC HEARING ON PRELIMINARY PLAT APPROVAL OR DISAPPROVAL" AND CHAPTER 115, ARTICLE IV, §115-25 "HEIGHT, AREA AND BULK REQUIREMENTS" OF THE CODE OF SUSSEX COUNTY REGARDING DESIGN CRITERIA FOR ALL SUBDIVISIONS.

Mr. Robertson stated that Chapter 99-9C had been in the Sussex County Code for at least 30 years; that there were 17 items that had to be considered as part of a subdivision; that a couple years ago, concern was expressed by the Planning & Zoning Commission, as well as the County Council,

regarding what the applicant's responses of "consider" mean; that one can say they considered it, disregard it and move on; that at that point, there was an effort to redo Chapter 99-9C to provide the section to have more teeth, by placing the burden on a developer to speak to all 17 times, and how they were being satisfied within the design of the subdivision; that an applicant can submit it into the record, but is also required to show it, and how they addressed it, not just that they had considered it; that candidly, it got watered down at the last minute; that the more directive language in it was taken out; that there had been some misunderstanding of what was in the Code currently versus the proposed changes; that he did not want people to thing the requirements were brand new, because they were not; that the Ordinance places the burden on an applicant to show and demonstrate how the preliminary plan is consistent with the Sussex County Code and the Comprehensive Plan, which they are required to do anyway; that most good presenters already do this; that the applicant would be required to demonstrate that the criteria was satisfied and the manner in which each one was satisfied; that the first one proposed subdivisions integrated into existing terrain and surrounding landscape; that this requirement had been untouched, and had been in the Code for decades; that the second one required that all resources and resource buffers are protected in accordance with Chapter 99 and Chapter 115 herein, which had been unchanged; that was updated because it refers to resources and resource buffers, which Sussex County had taken a lot of time to improve and protect with previously made Code changes; that the next item required that the cultural landscape, including scenic views and cultural and historical features are identified and protected as appropriate in the preliminary plat; that this one was partially moved up from an existing one that was deleted, which stated that open space and scenic view are preserved; that they had deleted the part about open space because there were requirements for open space elsewhere in the Code already; that there was no need to restated it in Chapter 99-9C; that an existing one that was getting a lot of attention from submitted written comments, was regarding the requirement that the supply of potable water to future residents of the proposed subdivision as safe and adequate for their use; that again, this requirement had been within in the Code forever; that they could change it; that they could take it out; that they could refer to State standards if they wanted to; that for context, this requirement had been in the Code, and had not changed; that it was the same situation for the means and methods of sewage disposal to be adequately addressed; that they knew that sometimes people stand before them, and do not state whether the lots are on wells or on central water; that they do not state what kind of septic is proposed, such a mound system, or what type of sewer is proposed and who the provider would be; that the Ordinance would not require an applicant to show the Commission how they are doing it, as part of the record they are making; that the next one requires that all lots be configured to be completely outside of all wetlands and that the proposed subdivision will not pollute surface water or groundwater; that the requirement to be configured outside of all wetlands is part of the clustered standard subdivision requirements currently; that this went along with the other in the Ordinance, as well as the Open Space Ordinance; that the County Council, in conversations with staff, questioned why we should have a superior design for just cluster subdivisions and why all subdivisions in Sussex County did not have to be a superior design; that the reasoning behind the Ordinance was to pull those cluster subdivision superior design standards up into the requirements for all subdivision; that the next recommendation was to add the recent modifications performed on Chapter 90, regarding erosion and sedimentation control measures and identifications; that this refers to the groundwater levels; that it is existing and unchanged; that the next would be that area property values would not be adversely affected, which had been within the Code since day one; that they had taken out one, and he really wanted people to understand why;

that the requirement had stated that any active farmland and tree farming adjacent to the proposed subdivision would be adequately preserved through the design and construction of the proposed subdivision; that the reason that it was taken out was not because it was not important, but because it would be addressed in the future Forest Preservation Ordinance, scheduled to come before the County Council soon; that it did not need to be duplicated if it was going to be located within another portion of the Code; that the next requirement addresses objectionable features, including but not limited to utility infrastructure, parking areas, loading zones, and outdoor storage areas, be screened from the view of neighboring properties and roadways; that this was a design requirement that had been added in; that currently within the Code, it states that the applicant must notified the local school district of where the proposed subdivision will be located; that there was a lot of comment in the information submitted, stating that the requirement does not go far enough; that Sussex County should get a reply from the school district, which should be part of the record and acted on; that he did not disagree with this statement; that the problem was that the school districts did not always respond; that mainly there were only one to two school districts who provided responses; that if Sussex County required a school district response, but the school district do not respond, then everyone becomes stuck, and become held up; that potentially there is some middle ground by allowing a school district a certain amount of time to respond within the letter that would come out of TAC (Technical Advisory Committee); that this was not included because it was not important, but rather because the school districts do not always respond, which would create an issue; that if that were a requirement, and the school district did not respond, the record would be considered incomplete, but Sussex County does not have the authority to compel the school districts to respond; that the next requires that public buildings and community facilities not be adversely affected; that this was a standard requirement; that the next one was a result of the most recent update regarding whether a subdivision is in a Transportation Improvement District (TID) or the service level remains a certain level; that there had been concerns that had created issues with DelDOT; that they wanted language in the Ordinance that would close the loophole, and he requested that Mr. Whitehouse provide additional information regarding that language.

Madam Chair Wingate questioned that she understood the issue but questioned what would happen to the districts who do provide a response and questioned whether the Commission could consider their responses.

Mr. Robertson stated that if a school district's response was submitted into the record, that 100% the Commission could consider their response.

Mr. Whitehouse that the County Council had updated and add this section of Code in December 2024; that the text reflected in green clarified what had already been placed in the Code; that when the text was added to the Code, the Delaware Department of Transportation (DelDOT) did not participate in the 2024 Ordinance; that staff had made DelDOT aware if the current ordinance as well; that they had been discussing this ordinance with DelDOT; that the confusion is that the intent was to increase the quality of the information before the Planning & Zoning Commission; that the question then arose with the engineering community, in their conversations with DelDOT; that they questioned, in a scenario where one has a subdivision, and DelDOT states that the applicant is permitted to take more part in the Area Wide Study Fee (AWSF); that the applicant would pay a sum

of money, and would not be required to perform any site-specific analysis; that he questioned what happens when this standard applies and this is the highest standard; that applicants and DelDOT were saying that all one would have to do is pay the Area Wide Study fee; that yes, one would have to meet the highest standard; that one must give the Commission data, but we would want to clarify that the analysis being requested by the Commission was not necessarily a full Traffic Impact Study (TIS); that a Traffic Impact Study is a very large, complex document; that they wanted to add specific transportation terminology, which was Segment Analysis; that a segment analysis is an analysis of what is going on in the road, street or intersection immediately adjacent to the development; that a Traffic Impact Study would go out to three or four intersections; that they wanted to clarify the scope of this; that there are cases where this could be a higher standard than what DelDOT requires; that the Area Wide Study fee would be an example; that the language is designed to mitigate that issue; that DelDOT had signed off on the proposed language, and when the Ordinance goes before the County Council, DelDOT will be invited to attend the public hearing.

Mr. Robertson stated that the next one was language about safe and efficient vehicular and pedestrian movement with interconnectivity where appropriate; that they added in compliance with Section 99-17(D) because that gave the Commission discretion for example, if one had interconnectivity with farmland that was in agricultural preservation; that one would not want to run a stub street to that parcel; that Section 99-17(D) also talks about issues previously had with County Engineering regarding ensuring those stub streets actually go to the property line; that there is cross access easements, so that they can be connected from the other side at some point, as well as construction easements; that again, pulled from the cluster subdivision requirements, that sidewalks are required on at least one side of a street, subject to the Planning & Zoning Commission approval; that the thought on that is that we should require them, but provides flexibility to the Commission; that there may be situations in larger lots or more rural developments, where the Commission may not want sidewalks or no one wants to pay for them because no one will use them; that no lot shall have direct access to any State maintained roads, which was taken from the cluster subdivision requirements; that No. 17 and No. 18 talk about the design process for how a preliminary site plan is developed; that generally, it was pulled right from Section 115-25, being the Cluster Subdivision requirements; that currently, when developing a cluster subdivision, the applicant has the burden of showing when the subdivision was designed that it looked at lands to be preserved first, including wetlands, wooded areas, waterways, water bodies, natural drainage area, and other important features, such as tree lines, scenic views, historic buildings, etc.; that following that, developable land should be identified, with the most appropriate locations for development being chosen to minimize impact on the features previously mentioned; that roads and trails are identified third, where a road connecting all the lots could be located; that lot lines are located fourth; that these are the current requirements for cluster subdivisions; that currently applicants will provide the information within the written materials, describing the exercise they went through, or present it at the hearing; that this Ordinance will require applicants to provide this for all subdivisions, not just the cluster subdivisions; that within Section 99-17 for street layout, states Sussex County wants interconnectivity, and that it shall be fully engineered to be compatible with the topography of the adjacent tract; that the Commission had seen situations where people build up elevation, so that it would never be interconnected, or vice versa, or the road may be stubbed out 10 feet from the property line, so one would not be able to interconnect; that the proposed Ordinance addresses these issues; that the last part deletes the superior design requirements from Section 115-25, as they will now be

located within Chapter 99-9C; that there are a lot of moving parts to this Ordinance, and he wanted to go through the history of it, as it did attract a lot of attention.

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

Mr. Steve Sinclair, resident of Millsboro, and current member of the Sussex Preservation Coalition and former Director of Forest and State Forester for Vermont, provided comment on the Ordinance. Mr. Sinclair stated that he had previously spoke before the Commission and County Council regarding perimeter buffers in Chapter 99-9C and on open space; that that the Sussex Preservation Coalition had always felt that Chapter 99-9C was a really important element to the County Code as it relates to coming up with criteria that all developments are required to go though in the submission of their final plans; that SPC appreciated that the Commission and Council reviewed these, and recognized that the Working Group identified this as a significant needed to move forward; that they would like to recognize the fact that the opening statement changed to include, demonstrate and satisfy versus the previous wording, which was vague; that now the onus is placed on the developer to demonstrate and/or satisfy that the 18 criteria put forward in Chapter 99-9 are being met; that they mostly had questions regarding some of the existing language, which they felt was still vague and inconsistent; that they propose some changes as well; that under Criteria No. 1, regarding the subdivision being integrated into the existing terrain and surrounding landscape; that they question, what constituted as terrain and landscape; that he questioned if it was referring to topography, elevation changes, vegetation cover, and questioned what was being implied; that they would suggest that it state the subdivision should be incorporated into the existing FLUM (Future Land Use Map); that under Item No. 2, they questioned why floodplains had been removed from the language; that he questioned if this would be addressed somewhere else in the plat approval process; that everyone recognized how important wetlands are in our landscape and the need to preserve the areas by trying to direct growth and development away from those area; that the next language they questioned was the existing language where it talked about protect as appropriate; that they were unsure that requirement would be satisfied or demonstrated by an applicant; that he questioned if perhaps some other language would be better suited in its place; that some of the text was removed from Item No. 3, particularly relating to Forest Assessments; that this will be addressed in future criteria; that in Item No. 4 and Item No. 5 deal with portable water a sewage disposal; that they wanted to reiterate that it was their understanding that the County had a Technical Advisory Committee (TAC) that worked with the County Engineer in reviewing proposals, making recommendations to the Planning & Zoning and County Council in terms of whether the application meets the criteria; that he suggested that inserted language state that these areas had been met as approved by the Technical Advisory Committee; that this would hold true for both water supply and sewage disposal; that they felt it would be good to codify the role and responsibility of the Technical Review Committee and them identified in the Ordinance; that this will continue to confirm that the conditions have been met; that they questioned if there would be any value to inserting, where appropriate, where these things are also identified in other areas of the County Code's Chapters and Articles; that this would refer back to Chapter 115; that perhaps by having this element, it would provide better clarification that those two are interrelated; that next, they would proposed a word change when talking about affecting improved visibility and screening from the view of neighboring properties and roadways; that their suggestion

was to add the work from view of interior and neighboring properties; that it suggests that objectionable features be screened from the neighboring properties; that he questioned what about the view of the homeowners within the subdivision, who have views to those same features; that next they had proposed new language for several criteria dealing with school districts, public buildings, facilities and transportation; that they believed that it was critical for the County to use Chapter 99-9 to address the capacity issues regarding infrastructure; that it was one of the goals of the Land Use Working Group; that except for transportation, it really was never fully addressed; that they feel this Ordinance is a change to do that; that they suggested there be an opening statement that would be applied to both 11, 12, and 13, providing assurances that the area be served by adequate existing and planned infrastructure for new additional upgrades of existing public facilities, including roads, schools, sewers, and emergency services, which are necessary to prevent development from exceeding the existing carrying capacity; that they proposed to removed sewage and add roads; that regarding school districts, they suggested that school districts must certify that it is adequate capacity; that he understood Mr. Robertson's previous comments regarding this, however, questioned that if it were made a requirement in the County Code, would it carry more weight, and therefore creating more responsiveness, and if not, perhaps a second phone call should go out to them.

Mr. Robertson stated that it was surprising, and one would think the school districts would respond.

Madam Chair Wingate stated there was one school district who was very good about responding.

Mr. Joseph Pika, President of the Sussex Preservation Coalition (SPC), provided comment on the Ordinance. Mr. Pika stated that currently, the school districts are informed by notification that a response requirement would provide more clout and certification by giving the districts a role in the process.

Madam Chair Wingate stated that she felt the Commission was already providing the school districts a role; that the Commission is requesting their feedback, yet the Commission is not receiving any feedback, and that there was one school district who was always very good about responding, but there were several others who never respond.

Mr. Whitehouse stated that Delaware Code requires that with any major subdivision, the local school district must be notified; that staff send out notifications to the school district; that within the last year, the Planning department saw three responses to approximately four large-scale applications, and that was it.

Mr. Robertson questioned what was stated in the notifications provided.

Mr. Whitehouse stated that staff summarize that there is a major subdivision being proposed as a public hearing, being held on this application, for this amount of units; that staff provide a link to the application details, which provide the number of units and the location, and staff additionally share the link to the Online Application Docket, the same way they would with the public.

Ms. Paugh stated for the past year, when processing major subdivision applications and notifying the Technical Advisory Committee, notice is also provided to the local school district; that a public hearing date is not provided at that time, as the application would not yet have a date; that the notice includes the number of units, the site plan the application, which is all provided with the short title description; that only one district has every responded to the provided notifications; that the assigned Planner may reach out again with the scheduled public hearing date prior to the public hearing.

Mr. Pettyjohn questioned what the school district's usual responses are, based on the number of units and the potential number of students.

Madam Chair Wingate stated that she felt the school district responses have been very honest; that they have sometimes stated that they are at capacity, and other times have stated that they are reaching capacity.

Mr. Robertson stated that sometimes the responses vary; that more recently responses have been along the lines Madam Chair Wingate expressed; that the responses are only being received from one school district, and other times the responses have been nebulous, thanking staff for the information, and stating that the district could handle whatever they have to handle.

Mr. Pettyjohn stated he felt that public education in a way was like that; that they could not plan ahead; that it was almost like an afterthought, and they would just make things work; that they will being in a mobile office, or do what they can, and the next step that they have is the Board of Education, who serves the whole State, not necessarily Sussex County.

Mr. Robertson stated that he did not understand why the Commission does not receive responses, particularly with all the conversations regarding impacts on school and the development that is occurring in Sussex County; that he feels the Commission was open on how to handle it best, but to require a certification that the Commission may never get based on past performance; that he understood that it may push them into responding, but the requirement would jam everyone up if no one could proceed without the receipt of a certification; that other thing would be a pocket veto for a school district to purposefully not certify it in an effort to hold up the development, and there must be a safety valve as well.

Mr. Collins questioned whether the Commission could make it incumbent on the developer or applicant to acquire a response from the school district and leverage their influence to get what they need.

Mr. Pettyjohn stated that requirement would not affect funding, and that it would be from the State, not from the County.

Madam Chair Wingate stated that she would rather see the Commission's energies spent trying to be an advocate to obtain funding for them, for everything that is being placed before the Commission.

Mr. Sinclair stated that they propose the same thing for EMT, fire and medical services; that they recommended that they also certify the adequacy of current dispatch services and the levels to accommodate anything generated by the proposed residential development; that same thing for properties related to the Transportation Improvement District (TID) and transportation level; that the only thing they added was the last line, which they recommended should state that the County shall impose conditions regarding phasing and timing of building permits, concurrent with the completion of necessary road improvements; that Mr. Pika, as well as many others from SBC, had previously provided testimony on specific developments, with concerns regarding the phasing and capacity issue; that they felt the Ordinance was an opportunity to place the requirement in the Code, and it could be referred to if necessary; that they had a question on No. 14, stating that the subdivision is compatible with other land uses; that it was unclear what the subdivision must be compatible with; that their alternative language would require that it be complementary to the Future Land Use Map; that he was very please to see the additions place in Chapter 99, and now understood that it was taken from the cluster subdivision regulations and transferred; that this was something that the Sussex Preservation Coalition had been talking about; that all too often it seemed with developments that occur, streets are place, then stormwater, then roads, then lots, and whatever was left became open space; that whether is had any natural resource values in it left or not was up for question; that the proposed Ordinance would set up a system that looked at how to make the developments fit in well with the landscape; that previously, the Sussex Preservation Coalition was referred to as an anti-growth organization; that he stated that was not the case; that the SPC was a smart growth organization, and had never been anti-growth; that the SPC want to make things done better; that the proposed Ordinance was a great example of moving in that direction; that the forest assessment was removed; that the way it is currently worded, is that land should be preserved or identified first; that he questioned how do you identify the lands that are preserved first, if you have not done any mapping; that it is stating that one should identify the areas that we want to map; that the SPC's thought was, why do we not map the entire parcel; that the SPC suggested that the entire parcel be mapped and an assessment of worthy areas, being areas worth of preservation, including wetlands, woodlands, waterways and so on; that if a parcel was mapped first, one could identify those areas through an assessment, those areas that demand conservation and preservation; that as a forester, he knew that not all forest are equal; that some forest are really valuable and beneficial by providing wildlife habitat and water features; that other areas of forest are common; that you want to preserve the good pieces, and maybe not fall on your sword on some of the other pieces; that when mapping takes place, allowing for an assessment of areas to preserve, allowing for a ranking process and then allowing the other steps of considering the development.

Mr. Robertson stated that the Forest Preservation Ordinance would be introduced to County Council on April 14th, 2026; that the County is working with a State Forester on the ordinance; that one of the requirements of the ordinance will be a Forest Stand Delineation, which is a defined term that they had worked on, in conjunction with the State Forester, and would provide a whole site mapping that Mr. Sinclair had referred to.

Mr. Sinclair stated that the SPC had been in consultation with Mr. Kyle Hoyt, Delaware State Forester, and had been providing him their thoughts as well; that the SPC had questions regarding the sequence and process following the identification of and mapping; that there is no mention of areas to be

preserved or out of bounds, merely that they be considered and minimized for impact, which is once again not very clear, and that with the language it is hard to know the criteria is being considered or being met.

Mr. Collins questioned what level of specificity the Sussex Preservation Coalition was looking for.

Mr. Sinclair stated that the Sussex Preservation Coalition would like to defer that until they see what the Forest Preservation Ordinance looks like.

Mr. Jon Horner, Esq. with Home Builders Association of Delaware, provided comment on the Ordinance. Mr. Horner stated that his submitted comments largely cover the issues; that the main issue with Ordinance 99-9C had been something that they agree on with the Sussex Preservation Coalition; that there is a lack of clarity, and there are standards that are inconsistent; that when it states to minimize stormwater runoff, but there is a Code that specifically is required to be conformed to, it creates a situation where we comply with one standard, but one could argue that we do not comply with another; that the public get to state that they do not think the applicant is minimizing stormwater, and that the applicant could do this and that to minimize the stormwater more, and maybe that would meet the technical issue under Chapter 99-9; that currently there is a Code to follow, and it is inconsistent; that they just want consistency; that they want cross-references to Code; that their letter outlines all of those things; that we need smart growth; that smart growth was the whole premise of the Land Use Reform Working Group; that he found it hard to say that the Sussex Preservation Coalition was a smart growth organization, when he could not think of a single project that they had ever supported; that a lot of the language they had just advocated for would not be smart growth; that it would stop all growth dead in its tracks; that if all infrastructure is required to be placed before a project can move forward, the answer is it will not happen; that it would not be smart growth; that it would equal zero growth; that the fundamental flaw in that logic and rationale is all of the things that all of the things that they stated we need the infrastructure from, all of it would be funded by future development; that we know the school impact fees and funding are coming; the State legislature passed it last year; the Sussex County Council is planning to act on it; that the Home Builders Association supports it; that fire impact fees are funded by building permits; that he questioned how all of the things being stated that we need more of would be funded; that there is a funding issue with roads; that he hoped the State would address that, and look for legislation, potentially a statewide impact fee; that there is a chicken and egg problem, which he believed everyone recognized; that if all the infrastructure is required first, nothing will get built; that the only way infrastructure gets built is with funding from development; that when it comes to school capacity, it would be a pocket veto for school districts; that the legislature recognizes the issue when they did the voluntary school assessment; that they are live in New Castle County; that Sussex County had them pass, and then they sunset it; that Sussex County and Kent County would rather do VSA's (Voluntary School Assessment), and they moved in favor of the building permit surcharge; that one of the things being built into the VSA's is, if one has a VSA, and if a builder is required to pay an impact fee for schools, you are not allowed to deny a project for lack of school capacity; that this is the concept of a VSA, and is how we are funding our schools; that it is not candidly built into the Sussex County or Kent County program, but it should have been; that the same concept still applies; that when one looks at the language in the cluster design subdivisions for superior design, he felt it important to point out that a lot of the

resources being discussed are already protected, under the wetlands protections of the Code; that there are buffering, wetlands, Statewide wetland protection being introduced potentially within the next two weeks for freshwater wetlands from Senator Hansen, which would additionally protect those resources; that protection for trees would be coming within the next few weeks; that the standards currently provided require them to identify those areas and then move forward; that the language the SPC proposed would basically say, that if you have these on your property, your property is completely worthless from any sort of development potential; that under their proposed language, if he had a fully wooded parcel, he would have zero development potential; that this would be a constitutional taking in many instances, and his submitted letter provides line by line comments regarding the lack of specificity and things.

Mr. James Grant, owner of Sun Building Group in Milton, provided comments on the Ordinance. Mr. Grant stated that he wanted to discuss the land use breakdown for Sussex County; that there are 625,966 acres in Sussex County; that agricultural and undevelopable land is 523,558 acres (83%); that 35,000 acres was preserved farmland; that 2,428 acres was open space through subdivision approvals; that developed residential land was 79,000 acres (12.62%), consisting of single-family homes, multi-family homes, and mobile home parks; that 72,238 acres was available for potential future growth; that commercial and industrial made up only 7,200 acres (1.15%); that infrastructure and public use made up 16,200 acres (2.59%), being utilities, recreation, and industrial lands; that the Investment Level 1 District is 27,655 acres; that we have 523,558 acres at 83%; that he wished he could write a handout on what it take to do a development, and the process it is required to go through; that it takes 18 to 24 months to get before the Planning & Zoning Commission; that the development then has to receive preliminary approval; that once preliminary approval has been granted, then one must go through all the State agencies; that the amount of work they must do to specify what SCD (Sussex Conservation District) wants, when it came to stormwater management, and DNREC was well beyond; that agency approval was a six to eight month process; that DelDOT just announced that they are going to work on it, and that their field goalpost would not keep moving; that it used to take a year to go through DelDOT's process; that every entrance is a custom entrance; that overall it is a three year process for a developer; that he did not want to see a more burdensome regulation where it is already addressed and potentially not in the Sussex County Code, but rather in the State Code; that the EPA (Environmental Protection Agency) is now getting involved in; that when you do pre-construction meetings with Sussex County, they verbatim tell you what the EPA is requiring; that previously someone had taken a picture of a bald eagle near a subdivision, however there was no bald eagle near the subdivision; that it was a shame people have stooped to that level; that the Milford School District's enrollment had gone down; that they just received a $2,500 fee for the funding of schools; that they are currently discussing affordable housing, and currently, on average, it takes between $75,000 to $100,000 a lot to build a subdivision, however, the Commission was currently discussing affordable housing.

Ms. Jill Hicks, resident of Chapel Green in Lewes, provided comments on the Ordinance. Ms. Hicks stated that this was a golden opportunity for the Planning & Zoning Commission to get what they needed to feel comfortable, providing the confidence in their decisions, regardless if is to approve or deny, or even how many times they have to look at a site plan; that this would eliminate the Commission being forced to make decisions based on the lack of legal foundation to stand on if

challenged; that three years ago, previous Commissioner, Ms. Kim Hoey-Stevenson, stepped down because she became frustrated that she could not make the decisions she felt she needed to make, because she did not have the protections within the Code to do it; that she wrote recommendations, and Chapter 99-9C was one of them, and she urged the Commission to think back on applications that they may have wished they had the ability to change, and how the proposed recommendations could have help them.

Mr. Whitehouse stated that the cultural landscape requirement and recommendation to revisit that wording as appropriate; that the wording is very deliberate and important; that it is because cultural assets and historical features can be very different in the field; that there can be historic features in development that are very significant; that there are some features that may not necessarily require protection; that an example of this would be a historic coin; that yes, they coin has historic features, and should be identified, especially if they are known to the State in development; that if they had the word protected, and do not have the appropriate words afterwards, it automatically means that the land is sterilized and preserved around that coin; that those coins could not be explored by archaeologists because they are protected; that there may be certain types of historic features and artifacts that can be moved or relocated in a site; that coins are a common example of this, and otherwise the land above them would never be touched; that the words "as appropriate" are to allow the Commission to consider specific historic artifacts.

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

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

In relation to ORD 26-03. Motion by Mr. Collins to defer action for further consideration, seconded by Mr. Passwaters and carried unanimously. Motion carried 5-0.

Minutes of the April 1, 2026, Planning & Zoning Commission Meeting

The Commission discussed the Ordinance which had been deferred since April 1, 2026.

Mr. Passwaters the Sussex County Planning & Zoning Commission recommend approval of Ordinance 26-03 regarding Section 99-9C of the Subdivision Code and interconnectivity requirements of Section 99-17 of the Subdivision Code for the following reasons:

1. Sussex County Council commissioned a Land Use Reform Working Group that created multiple recommendations about housing and land use. Recommendation No. 18 specifically addressed an update and improvement to Section 99-9C of the Subdivision Code.
2. As part of this initiative, Sussex County Council also asked staff to incorporate the "superior design" requirements for cluster subdivisions in to Section 99-9C and make them applicable to the design of all subdivisions in Sussex County.
3. This Ordinance proposes to eliminate redundant requirements in 99-9C that are addressed with more specificity elsewhere. For example, the Forest Assessment and Forest Preservation requirements have been removed since they are being specifically addressed through a new

ordinance that will appear elsewhere in the Code. Similarly, the requirements about open space have been removed because open space is addressed in a separate section of the Code.

4. This Ordinance will be an improvement over what currently appears in Section 99-9C since it will compel an applicant to explain how each listed item is satisfied in the design of the subdivision site plan and will give applicants, the public and the Commission better guidance for the design of a subdivision.
5. The improvements to the existing interconnectivity requirements of Section 99-17 will enable better alignment and design of adjacent subdivisions so that actual interconnectivity occurs.
6. Although this is a recommendation for approval, County Council should still carefully consider all of the comments made to the Commission and those that will be made to Council during its hearing.

Motion by Mr. Passwaters, seconded by Mr. Pettyjohn and carried unanimously to recommend approval of Ordinance 26-03 regarding Section 99-9C of the Subdivision Code and interconnectivity requirements of Section 99-17 of the Subdivision Code for the reasons stated in the motion. Motion carried 5-0.

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

ORDINANCE NO. ___

AN ORDINANCE TO AMEND CHAPTER 99, ARTICLE II and III, SECTIONS 99-9, "PUBLIC HEARING ON PRELIMINARY PLAT APPROVAL OR DISAPPROVAL" 99-17 "STREET LAYOUT", AND CHAPTER 115, ARTICLE IV, §115-25 "HEIGHT, AREA AND BULK REQUIREMENTS" OF THE CODE OF SUSSEX COUNTY REGARDING DESIGN CRITERIA FOR ALL SUBDIVISIONS.

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

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

WHEREAS, Section 99-9C of the Code of Sussex County underwent a substantial revision in 2024, yet it has been determined that further improvements to these requirements are necessary; and

WHEREAS, Sussex County Council commissioned a Land Use Reform Working Group that developed multiple recommendations for improvements to the Sussex County Code regarding housing and land use and one of the recommendations included an update to the requirements of Section 99-9C as reflected in this Ordinance; and

WHEREAS, this Ordinance has been drafted to improve Section 99-9C in the Code of Sussex County as recommended by the Land Use Reform Working Group; and

WHEREAS, Sussex County Council has determined that it is appropriate to require the "superior design" criteria currently applicable to cluster subdivisions to apply to all major subdivisions in Sussex County; 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 II, §99-9 "Public hearing on preliminary plat approval or disapproval" is hereby amended by deleting the language in brackets and by inserting the italicized and underlined language in Subsection 99-9.C thereof as follows:

§ 99-9 Public hearing on preliminary plat approval or disapproval.

. . .

C. In addition to the other provisions contained within this article, an Applicant for approval of a preliminary plat shall *demonstrate how the preliminary plan is consistent with the Code of Sussex County and the Comprehensive Land Use Plan and that the following criteria are satisfied and the manner in which each one is satisfied* [provide that the following criteria are incorporated and addressed in the plat and the manner in which each one is incorporated and addressed] through the design of the preliminary plat:

(1) That the proposed subdivision is integrated into existing terrain and surrounding landscape.

(2) That all resources and resource buffers are protected in accordance with Chapters 99 and 115 herein [and that floodplains are minimally used].

(3) [That natural and historic features are preserved and forest fragmentation and vegetation and soil removal is minimized. In addition, a forest assessment shall be conducted with a forest assessment report provided with the preliminary plat. If woodlands or mature forests that contain high habitat value are found, these areas shall be conserved to the maximum extent possible.] *That the cultural landscape, including scenic views and cultural and historic features, are identified and protected as appropriate on the preliminary plat.*

[(4) That open space and scenic views are preserved.]

([5]*4*) That the supply of potable water to future residents of the proposed subdivision is safe and adequate for their use.

([6]*5*) That the means and method of sewage disposal are adequately addressed for the proposed subdivision.

(6) That all lots shall be configured to be contained completely outside of all wetlands and that [That] the proposed subdivision will not pollute surface water or groundwater.

([8]*7*) That the anticipated method of minimization of erosion and sedimentation are adequately identified *and that the proposed subdivision complies with the requirements of Chapter 90 of the Code of Sussex County.*

([9]*8*) That changes to the groundwater levels will be minimized and that groundwater recharge is maximized as a result of the proposed subdivision and that the methods of both are adequately identified. In addition, that there will not be increased rates of runoff or increased risk of flooding onto adjoining properties from the design and construction of the proposed subdivision, and the anticipated methods used to achieve these criteria are adequately identified.

([10]*9*) That area property values will not be adversely affected.

[(11) That any active farmland and tree farming adjacent to the proposed subdivision is adequately preserved through the design and construction of the proposed subdivision.]

(10) That objectionable features, including but not limited to, utility infrastructure, parking areas, loading zones and outdoor storage areas are screened from view of neighboring properties and roadways.

([12]*11*) That the Applicant has notified the local school district where the proposed subdivision will be located.

([13]*12*) That public buildings and community facilities will not be adversely affected by the proposed subdivision.

([14]*13*) That the subdivision is either within an established Transportation Improvement District or the subdivision endeavors to maintain the current Delaware Department of Transportation Level of Service on all adjacent roads and intersections after the subdivision is completed and in no event will allow the Level of Service to degrade below a Level of Service D. *A segment analysis of the adjacent roads and intersections may be submitted in cases where the subdivision does not warrant a Traffic Impact Study.*

([15]*14*) That the proposed subdivision will be compatible with other area land uses.

([16]*15*) That there will be safe and efficient vehicular and pedestrian movement within the site and to and from adjacent developed properties with interconnectivity where appropriate *in compliance with Section 99-17D. Sidewalks shall be required at least on one side of each street, subject to Planning and Zoning Commission approval.*

(16) No lots shall have direct access to any state-maintained roads.

(17) That lots are located on the environmentally suitable portions of the tract, specifically those portions of the tract least encumbered by sensitive environmental features, including but not limited to wetlands, mature woodlands, waterways and other water bodies.

(18) That the following sequence and process was followed in the site design of the preliminary plan:

(a) Lands that should be preserved are identified first. First, areas worthy of preservation should be mapped, including wetlands, wooded areas, waterways, other water bodies, and natural drainage areas. Then, other features that are important should be mapped, such as tree lines, scenic views, historic buildings, and prime farmland. The areas with the fewest important natural, scenic and historic features should be considered the "potential development area."

(b) Developable lands should be identified second. The most appropriate locations for development should be chosen to minimize the impact to the most important features mapped in (18)(a).

(c) Roads and trails should be identified third. After the developable areas are determined, a road system should be designed to serve those homes. A trail system that links homes to destinations outside of the tract should be designed.

(d) Lot lines should be located fourth. The last step is to configure lot lines and make necessary adjustments to satisfy the various reviewing agencies' comments.

Section 2. The Code of Sussex County, Chapter 99, Article III, §99-17 "Street Layout" is hereby amended by deleting the language in brackets and by inserting the italicized and underlined language in as follows:

§ 99-17 Street layout.

. . .

D. Proposed collector streets in the subdivision shall provide for the *interconnectivity with* [and continuation of existing, planned, or platted streets on] adjacent tracts unless such continuation shall be prevented by *preservation easement,* topography or other physical condition or unless such extension is found by the Commission to be unnecessary for the coordination of development between the subdivision and such adjacent tracts. When deemed advisable, the Commission may restrict access to proposed collector streets from abutting properties.

E. Where [the Commission deems it desirable or necessary to provide access] *interconnectivity is required* to adjacent tracts *that are* not presently subdivided, proposed collector streets in the subdivision shall be extended to the boundary lines with such adjacent tracts, and temporary turnarounds shall be provided within the subdivision at the ends of such streets, by means of temporary easements or otherwise. *Such interconnectivity shall be fully engineered to be compatible with the topography of the adjacent tract and shall be shown to the property boundary or boundaries on the Final Site Plan. Whenever possible, such interconnectivity shall be designed at a perpendicular alignment to the property boundary. No buildings, structures or stormwater management features shall be located within the areas of interconnectivity. The Final Site Plan shall also include a Temporary Construction Easement for the benefit of the adjacent tract to be used to facilitate the completion of the fully constructed interconnectivity.*

Section 3. The Code of Sussex County, Chapter 115, Article IV, §115-25 "Height, Area and Bulk Requirements" is hereby amended by deleting the language in brackets as follows:

§ 115-25 Height, area and bulk requirements.

. . .

[E. Design requirements for cluster development.

(1) All development shall be in accordance with the latest amendment to the community design standards.

(2) Housing types in the low-density area, as shown on the Sussex County Comprehensive Plan, are limited to single-family detached dwellings and manufactured homes where permitted by ordinance.

(3) The perimeter buffer and perimeter buffer protection area as required by § 99-21.A.

(4) No lots shall have direct access to any state-maintained roads.

(5) All lots shall be configured to be contained completely outside of all wetlands.

(6) Any development using the option in Subsection B(2) shall have central water and wastewater systems operated and maintained by companies authorized by the State of Delaware to perform such services. Wastewater collection and treatment systems must be designed in accordance with the requirements of Sussex County ordinances and conform to the requirements for a central sewer system as defined in § 115-194A of the Sussex County Zoning Ordinance.

F. Review procedures for cluster development.

(1) The developer shall submit an application for a cluster development in accordance with Chapter 99, Subdivision of Land,

of the Sussex County Code and which shall include, at a minimum, a sketch plan showing the location and uses of all open spaces, the extent of existing wooded areas and wetlands and the location of any historical or cultural resources. The Director of Planning and Zoning may waive this requirement when the proposed development does not contain significant natural features or resources.

(2) The information submitted shall include a plan for the management of all open space.

(3) The Planning and Zoning Commission shall determine that the following requirements are met before approving any preliminary plan and such application shall be reviewed on an expedited basis.

(a) The cluster development sketch plan and the preliminary plan of the cluster subdivision provides for a total environment and design which are superior, in the reasonable judgment of the Planning Commission, to that which would be allowed under the regulations for the standard option. For the purposes of this subsection a proposed cluster subdivision which provides for a total environment and design which are superior to that allowed under the standard option subdivision is one which, in the reasonable judgment of the Planning Commission meets all of the following criteria:

[1] Homes shall be clustered on the environmentally suitable portions of the tract, specifically those portions of the tract least encumbered by sensitive environmental features, including but not limited to wetlands, mature woodlands, waterways and other water bodies. This does not inhibit the development of wooded parcels.

[2] (Reserved)

[3] Required open space shall comply with the following criteria:

[a] All required open space must meet the official definition of acceptable open space contained in § 115-4.

[b] Required open space must be designed to be beneficial to the residents or users of the open space. It shall not be constituted of fragmented lands with little open space value. Accordingly, 30% of all required open space shall be located on one contiguous tract of land, except that such open space may be separated by water bodies and a maximum of one street.

[c] If one of the following physical conditions exists adjacent to the proposed cluster development tract, at least 30% of all required open space must be adjacent to:

[i] An existing or officially planned public park, land preserved by easement, or land preserved as open space and in municipal, County, state, or federal ownership.

[ii] Existing wetlands, waterways, wildlife corridors, or other ecology-sensitive land.

[iii] Existing farmland and/or woodlands.

[iv] If more than one of these physical features exist on adjacent properties, then one of these features will be identified and utilized to satisfy this requirement.

[v] If the open space is proposed to be dedicated to a municipality, a County, state, or federal agency or a homeowners'

association, an agreement shall be provided, in advance, stipulating that such entity agrees in advance to accept that dedication and maintain that land for public recreation or as a nature preserve.

[vi] Open space in a cluster development shall include a pedestrian trail system accessible to residents. This trail system shall connect to an adjacent trail, adjacent neighborhood, adjacent commercial area, or adjacent public open space, if any such areas exist adjacent to the proposed cluster development. Construction materials for the proposed trail shall be identified, and a typical construction detail for the proposed trail shall be shown. Trail construction materials shall be pervious in nature.

[4] The preliminary plan shall comply with the requirements of § 115-193.

[5] Stormwater management shall be designed to promote groundwater recharge and protect groundwater quality. Natural drainage flows shall be maintained to the greatest extent possible. Drainage from rooftops shall be directed to vegetated areas or allow green technology. Stormwater detention and retention facilities should be designed to resemble natural ponds as referenced by DNREC in the National Resource Conservation Service's (NRCS) Pond Code 378, Visual Resource Design.

[6] Removal of healthy mature trees shall be limited.

[7] Scenic views that can be seen from within the tract should be preserved to the greatest extent possible.

[8] The applicant for a cluster development shall illustrate that the following sequence and process was followed in the site design of the cluster project:

[a] Identify lands that should be preserved. First, areas worthy of preservation should be mapped, including wetlands, wooded areas, waterways, other water bodies, and natural drainage areas. Then, other features that are important should be mapped, such as tree lines, scenic views, historic buildings, and prime farmland. The areas with the fewest important natural, scenic and historic features should be considered the "potential development area."

[b] Identify developable areas. Next, the most appropriate locations for development should be chosen to minimize the impact to the most important features mapped in the first step.

[c] Locate roads and trails. After the developable areas are determined, a road system should be designed to serve those homes. A trail system that links homes to destinations outside of the tract should be designed.

[d] Locate lot lines. The last step is to configure lot lines and make necessary adjustments to satisfy the various reviewing agencies' comments.

[9] Sidewalks shall be required at least on one side of each street, subject to Planning and Zoning Commission approval.

(b) The cluster development plan will preserve the natural environment and any historic or archeological resources.

(c) All of the items in Ordinance Number 1152 (see § 99-9C) have been addressed and approval of the cluster option for the proposed development will not have an adverse effect on any of the items to be considered.

Section 4. Effective Date.

This ordinance shall become effective upon adoption. Provided however, that it shall not apply to subdivision or residential planned community district applications that have had a Preliminary Conference pursuant to §99-7 of the Code of Sussex County and that have submitted a PLUS application to the Office of State Planning Coordination and received a PLUS comment letter from the Office of State Planning Coordination following the PLUS meeting on the application.

JAMIE WHITEHOUSE, AICP
DIRECTOR OF PLANNING & ZONING
(302) 855-7878 T
pandz@sussexcountyde.gov

Sussex County
DELAWARE
sussexcountyde.gov

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: May 15, 2026

RE: County Council Report for Ord 26-04 in Relation to Open Space and Preliminary Plat Requirements

---

On March 10, 2026, the County Council introduced an Ordinance to consider potential changes to the Code of Sussex County in relation to Open Space and Preliminary Plat Requirements.

The Planning & Zoning Commission held a Public Hearing on the application on April 1, 2026. At the meeting of April 15, 2026, the Planning & Zoning Commission recommended approval of the Ordinance for the 7 reasons of approval as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meeting on April 1, 2026, and April 15, 2026.

Minutes of the April 1, 2026, Planning & Zoning Commission Meeting

ORD 26-04
AN ORDINANCE TO AMEND CHAPTER 99, ARTICLES I, III & IV, SECTIONS 99-5 "DEFINITIONS", 99-21, "PUBLIC SITES AND OPEN SPACES", §99-23 "PRELIMINARY PLAT REQUIREMENTS" AND CHAPTER 115, ARTICLES I & V, §115-4 "DEFINITIONS AND WORD USAGE" AND §115-25 "HEIGHT, AREA AND BULK REQUIREMENTS" OF THE CODE OF SUSSEX COUNTY REGARDING OPEN SPACE.

Mr. Robertson stated that this Ordinance was regarding open space; that the Land Use Reform Working Group's Recommendation No. 15, requested an increase of the minimum open space requirement to 35% to 50% for any development; that these are proposed percentages, and that

County Council could move the numbers around; that the Ordinance realized that, based on a lot of other recommendations, that a one-size-fits-all should not necessarily be the best approach for the rural areas versus the growth areas; that because they were looking at higher density within the growth area, and lower density within the rural areas; that this was one of the fundamental things of the Working Group; that as proposed, the Ordinance increases the percentage of open space in the growth area to 30%, and 50% within the rural area; that it also adds criteria for how the open space is designed, how it is laid out etc., being another example where that is existing language in Chapter 115-25; that it is language that is currently in the Cluster Subdivision Code; that rather than have that as a standalone open space requirement for clusters, staff all agreed, and County Council signed off on it, that we have the open space requirements all located within one place which focused on open space; that it is not new language, but may be slightly modified; that it is the same as what currently exists within Code, it had just been moved to the Open Space Standards; that stormwater management facilities (aka stormwater management facility area) was allowed to be part of open space; that there is concern that dry ponds, being big square ponds, surrounded by dirt, should not necessarily be considered open space; that the language, previously came from the Sussex Conservation District or the Planning & Zoning staff, and stormwater retention ponds, with suitably designed to emulate natural features by incorporating irregular shapes, gradual slopes, no greater than one to four, and appropriate landscape planning would be approved as open space.

Mr. Whitehouse stated that staff wanted to clarify that first of all, there was a difference between retention and detention, being wet ponds versus dry ponds; that they wanted to clarify that wet ponds could be included in the open space calculations; that there are many subdivisions, that have wet ponds included in their open space; that staff wanted to clarify that just because a pond is a wet pond, it did not mean that it would automatically be counted; that staff wanted to make sure there was some component of that, and that is why it is specifically listed as being included.

Mr. Robertson stated that it had some origin in Recommendation No. 14, which talked about open space being more natural in state, and that was also part of the initiative.

The Commission found that there were four people present who wished to provide comment on the Ordinance.

Mr. James Grant, owner of Sun Building Group in Milton, provided comments on the Ordinance.
Mr. Grant stated that SCD (Sussex Conservation District) requires that if it can be an infiltration pond, they want it to be an infiltration pond; that the developer would be permitted to plant wildflowers around the pond; that a lot of ponds are built because it is the most cost-effective way; that if the pond was made in a kidney shape, or a bit more creative with plants or berms, it would be permitted to be counted towards open space; that he felt it was a nice and good balance; that many developers would rather see wet ponds, and would want to put fountains in them, have wildlife and are providing more natural features, and felt that the requirement to make a stormwater management pond more natural was a fair trade off.

Mr. Steve Sinclair, resident of Millsboro, and current member of the Sussex Preservation Coalition and former Director of Forest and State Forester for Vermont, provided comment on the Ordinance.

Mr. Sinclair stated that the SPC felt it was a step in the right direction, but the way the language talked about appropriate landscape plantings did not provide a definition, unless the definition is proposed to be found elsewhere within the Code; that their suggestions were to add in accordance with Delaware Stormwater Standards; that then consideration credit for open space be given only when stormwater ponds are not created in previously forested areas, and when sized appropriately for the necessary stormwater storage area only; that all too often the land that was forested prior to pre-development, gets cleared and then a stormwater pond gets put in its place, when the forest could have been providing come of the same infiltration values as that stormwater pond; that the Sussex Conservation Commission had a series of 15 different practices that could be used to meet the stormwater requirements; that developers tend to go toward the stormwater ponds, rather than maintaining forest land and using it as infiltration; that their recommendation is that the Ordinance try to provide credit where it would allow the open space, where they are putting the ponds, where they were not previously forced; that they were unsure if the open space was 30% contiguous, and questioned if the requirement only applied to cluster subdivisions or all subdivisions.

Mr. Robertson stated that it is in Chapter 99 and therefore applied to all subdivisions.

Mr. Jon Horner, Esq. with Home Builders Association of Delaware, provided comment on the Ordinance. Mr. Horner stated that when he talked about down zoning earlier, and Mr. Robertson commented that the Cluster Subdivision Ordinance took us back to 2003; that he did not believe it took us back to 2003; that in 2003, the Standard Subdivision Ordinance did not have an open space requirement; that this had been the whole genesis of the cluster subdivision as a tradeoff; that smaller lots and higher density would be permitted, but one was required to preserve open space; that the Cluster Subdivision Ordinance was tremendously successful at preserving open space; that if Sussex County is going back to 2003, and going to 50% open space, we will get a down zoning to 0.80 units per acre; that when making the change to remove stormwater areas, he thought there was a fundamental misunderstanding of open space and everyone's interpretation of it was different; that everyone needed to understand that it is open space within a community; that he is not going to his adjacent neighborhood to play in their grass field; that they would tell him to get out of their community; that open space for open space is not societally valuable; that open space that is usable is societally valuable, such as a field and things of that nature; that preservation of valuable resources, such as tree preservation and wetlands are all valuable; that setting an arbitrary open space number places areas to be mowed; that he understood that the Code does not require the area to be grass, but generally that is what ends up happening; that homeowners' association are burdened by it, and costs go up; that homeowners' associations do not want it, and they complain; that he cautioned against it, particularly within the growth areas, when the goal is to maximize the land in those growth areas, so that we could minimize the land outside of it; that we should want to use the land, located within the growth areas, as efficiently as possible; that oftentimes, arbitrary open space requirements negatively impact the ability to; that when the recommendations came out, it was a sliding scale of range, being the reason it was done the way it was, in his opinion; that regarding stormwater management, Delaware is a flat state; that it requires a robust stormwater management as part of the site design and as required by State law; that the propose Ordinance effectively punishes an applicant for having to comply with State law, because this is de facto increase in open space beyond just that 30% to 50%; that he believed people would agree when someone is only given credit for stormwater retention ponds with this

standard, it would not allow for any other sort of green BMP's (Best Management Practices); that with an ephemeral wetland, something that has native plants which function as an environmentally favorable BMP, stormwater management feature; that one would not receive credit for that in open space; that a rain garden would not necessarily receive credit; that there are a few different types of those types of BMPs that are not covered under the stormwater management facility area language, and that he felt this would lead to an unintended consequence.

Ms. Jill Hicks, resident of Chapel Green in Lewes, provided comments on the Ordinance.
Ms. Hicks stated that Sussex County needed a word that better suited the intention of contiguous or parameters around what is required to be considered contiguous; that there needed to be a better outline of the purpose and spatial relationship of the areas required to meet the intended result; that open space is more than scenic views; that it is essential for public health, clean water, and clean air; that she disagreed with Mr. Horner; that it is not just about the neighborhood; that it is about providing ecosystem services for everyone; that it is good for mental health; that it reduced fear, anger, and depression; that it is proven beneficial for children with ADHD and depression; that it increases social connection; that this is important for both physical and mental health; that open spaces increase property values and lowers healthcare costs; that the way contiguous had been manipulated, open space was failing the intent; that she was unsure if open space was providing scenic views, for which the Code at least recognized; that she referenced the previous project of Northstar; that in the case of Northstar, along with many other examples, the cluster subdivision required 30% open space; that Northstar had to provide 114 acres of open space; that Northstar came up with 166 acres; that the 50% was not a burden, and she did not feel anyone was disputing that; that 30% of the 30%, or 34 acres, must be contiguous; that only one area of the site was large enough to do that; that it was then manipulated; that to comply with the 30% of 30% contiguous open space, the applicant took fragmented open spaces and connected them by the buffer, and none of the purposes for open spaces were met.

Mr. Whitehouse advised the Commission, for the purpose of the Commission members who were not present for the original Northstar public hearing, that the Commission's decision on the Preliminary Subdivision Plat required the reconfiguration of the open space, which was the plan that the Commission had reviewed at the last Planning Commission meeting; that at the last meeting, the Commission saw a revised plan, specifically to reconfigure the open space; that at that time the Commission did not approve the plan and that staff are currently and actively working with the developer on the specific issue.

Ms. Hicks stated that there are other examples of developers doing the same thing because of the way the Ordinance was written, it could be considered open space that was connected through a perimeter buffer; that this was not the intent of contiguous open space; that contiguous open space needed to be better defined; that some jurisdictions require for areas to be considered part of contiguous open space calculations, an area may never be narrower than 100 feet; that the land considered in the calculation is never a narrow strip; that Sussex County is calling for a 15% contiguous open space over the total project, when most jurisdictions require 25% area contiguous open space as defined; that most jurisdictions also exclude area that are dissected by a street; that at the very least, contiguous open space should be substantial and available to all; that another part of the problem is that open

space should be available to everyone within that project or in that subdivision; that within the Northstar project, the provided contiguous open space was not really provided to the whole project; that there should be open space, a green area, for people to enjoy for all the reasons she previously stated; that stormwater ponds to be counted as open space, and any part of the calculation, should be accessible to all residents, and that she felt both of these are qualifiers that could be added to the proposed Ordinance.

Mr. Collins stated that he did somewhat agree that it would be helpful to have an explicit number, providing a minimum width that would be acceptable for contiguous open space.

Mr. Pettyjohn stated that he agreed with Mr. Collins' statement, and that it is all about the spirit of the law versus the letter of the law.

Mr. Grant stated that he felt that the Ordinance would take away from Superior Design

Mr. Collins stated that he believed that the developer for the Northstar project was earnestly trying to address the Commission's concerns, he felt it would be easier to do so if it were contained within the Ordinance.

Mr. Whitehouse stated that within the 2024 open space revisions, there were a series of numerical requirements; that small strips of land between the front of a house or on a corner would not count, and that there was already a series of numerical rules in the Code, but they could be added to.

Mr. Robertson stated that change had been made fairly recently, as the Commission was beginning to see the parking lot medians, within multi-family developments, being used within the open space calculations, and that there is a place in Code to add the proposed numerical requirements.

Mr. Pettyjohn stated that he did not feel it was a bad thing to have accessible areas, as Ms. Hicks had spoken to; that if someone lived on a far corner of a development, they should not have to drive to access the green open space.

Mr. Robertson stated that there is always an opposite side; that the issue was that there must be a balance of accessible (active) open space versus the desire for better forest preservation, which is passive; that the Commission did not want to have one, but lose a bunch of forest because there was so much active open space, and it becomes really complicated.

Mr. Collins stated that he felt most people would rather keep the trees than have mowed lawn.

Mr. Pettyjohn stated that he hoped a property owner would have something of their own yard that they would make into an enjoyable space as well.

Mr. Whitehouse stated that there were two ways of looking at the situation; that open space could be concentrated in larger areas for sustainability purposes and ecological purposes, because of the benefit they bring by having that open space connected to another open space; that this would be the adjacent

or contiguous side of it; that there is another side of the design principle, which is the series of smaller interconnected pocket parks, and there is a value to having a series of interconnected parks, being serialized vision, where one could walk their dog from one park to the next, instead of having larger open space.

Mr. Collins stated that there may be different kinds of spaces for different projects.

Madam Chair Wingate stated that she felt the Commission should not limit itself, and any good engineer would be able to get creative and provide them with the total amount in the best way for the subdivision.

Mr. Robertson stated that had been the historical approach of the County, however, he was not stating that it was the right approach or one the County should continue to follow; that there had always been a desire, but questioned whether the Commission should require more active open space versus passive open space, and the problem with that was there was no one-size-fits-all answer ever.

Madam Chair Wingate stated that it would also depend on the target of the people that would be buying within the community.

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

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

In relation to ORD 26-04. Motion by Mr. Collins to defer action for further consideration, seconded by Mr. Pettyjohn and carried unanimously. Motion carried 5-0.

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

The Commission discussed the Ordinance which had been deferred since April 1, 2026.

Mr. Pettyjohn moved that the Sussex County Planning & Zoning Commission recommend approval of Ordinance 26-04 regarding Open Space for the following reasons:

1. Sussex County Council commissioned a Land Use Reform Working Group that created multiple recommendations about housing and land use. The Group recommended several updates that concerned the design and amount of open space required to be included in residential development.
2. Recommendation No. 15 from the Working Group suggested that the minimum open space required for residential development should be increased to 35% to 50%. Recommendation No. 14 encouraged naturalized landscaping and native vegetation within passive open space.
3. In furtherance of Recommendation No. 15, this Ordinance revises the current Open Space requirements so that 30% of a site within a Growth Area will remain as open space, and 50% of a site with a Rural Area will remain as open space. These different percentages are

consistent with the Working Group's recommendation to reduce density in the Rural Area while increasing density in the Growth Area.

4. This Ordinance also addresses Recommendation No. 14 by allowing naturally designed and planted stormwater retention ponds to be considered "open space" and thereby encouraging that design.
5. This Ordinance also incorporates the former open space design standards that were previously only required as part of a cluster subdivision's "superior design" and makes those standards apply to all subdivisions.
6. This Ordinance will result in an overall improvement in the design of subdivisions and the open space areas located within them.
7. Although this is a recommendation for approval, County Council should still carefully consider all of the comments made to the Commission and those that will be made to Council during its hearing.

Motion by Mr. Pettyjohn, seconded by Mr. Collins, and carried unanimously to recommend approval of Ordinance 26-04 regarding Open Space for the reasons stated in the motion. Motion carried 5-0.

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

AN ORDINANCE TO AMEND CHAPTER 99, ARTICLES I AND III, SECTIONS 99-5 "DEFINITIONS", 99-21, "PUBLIC SITES AND OPEN SPACES" AND CHAPTER 115, ARTICLES I & V, §115-4 "DEFINITIONS AND WORD USAGE" AND §115-25 "HEIGHT, AREA AND BULK REQUIREMENTS" OF THE CODE OF SUSSEX COUNTY REGARDING OPEN SPACE.

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

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

WHEREAS, the 2019 Sussex County Comprehensive Plan and its Future Land Use Element contemplate the revision of the Subdivision and Zoning Codes regarding open space; and

WHEREAS, Sussex County Council commissioned a Land Use Reform Working Group that developed multiple recommendations for improvements to the Sussex County Code regarding housing and land use and one of the recommendations included an update to open space requirements as reflected in this Ordinance; and

WHEREAS, this ordinance has been drafted to update the open space definitions and requirements in the Code of Sussex County as recommended by the Land Use Reform Working Group; 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 by inserting the italicized and underlined language as follows:

§ 99-5 Definitions.

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

. . .

OPEN SPACE

Those land areas within all major residential subdivisions, residential planned communities or developments which have a purpose to provide active and/or passive recreational opportunities, maintain land in a predominantly undeveloped or natural and undisturbed state, including lands used for agricultural purposes, promote conservation, protect wildlife or serve as a buffer between residential and nonresidential areas and/or commercial and noncommercial areas.

(1) The following uses are permitted and the land area devoted to said uses will be included in the calculation of open space:

(a) Play areas not including playgrounds, tot lots or other structures, walking paths, bike paths and multimodal paths that are not located on state road rights-of-way.

(b) Ponds.

(c) Perimeter buffers, perimeter buffer protection areas, resource buffers and forested areas.

(d) Areas protected by perpetual conservation easements.

(e) Areas providing scenic vistas, areas providing wildlife corridors.

(f) Areas designated as "safe zones" under the Source Water Protection Ordinance contained in Chapter 89.

(g) Resources.

(h) [Stormwater management facility area]. *Stormwater retention ponds when suitably designed to emulate natural features by incorporating irregular shapes, gradual slopes (no greater than 1:4) and appropriate landscape plantings.*

(2) The following uses are not permitted and the land area devoted to said uses will not be included in the calculation of open space:

(a) Land area included within designated lot lines.

(b) Building footprints.

(c) Predominantly impervious surfaces such as street rights-of-way, sidewalks within street rights-of-way, parking and/or loading areas.

(d) Utility facilities, including but not limited to, any building, plant, equipment for treatment or pumping, lagoons and rapid infiltration basins, for sewer, water, gas, and/or electric utilities.

(f) Clubhouses, community buildings, recreational facilities, including swimming pools, game courts, tot lots and playgrounds, pavilions, community patios, sidewalks and other impervious recreational or community facilities.

(g) Medians, boulevards, parking islands or areas between the pavement or curb and sidewalk within a right of way unless these areas are planted with trees no further than thirty feet from one

another that have a minimum height of six feet above ground when planted and will obtain a minimum height of ten feet when fully grown.

(h) Stormwater retention ponds that are not suitably designed to emulate natural features by incorporating irregular shapes, gradual slopes (no greater than 1:4) and appropriate landscape plantings.

(3) Any reference in this chapter to "open space" shall be subject to and governed by this definition.

Section 2. The Code of Sussex County, Chapter 99, Article III, §99-21 "Public Sites and Open Spaces" is hereby amended by deleting the language in brackets and by inserting the italicized and underlined language as follows:

§ 99-21 Public sites and open spaces.

A. Where the proposed subdivision includes lands proposed for use as parks, playgrounds, playfields, public landings or school sites in the Comprehensive Plan, the subdivider shall indicate the location of such lands on the subdivision plat and shall reserve the right of purchase of such lands by the appropriate jurisdiction for the time period specified herein. If the reserved lands are not purchased by the appropriate jurisdiction within the specified time limit, the subdivider shall be free to market such lands for an alternate purpose as specified on the approved subdivision plat.

B. Park, playground and playfield areas may be required to be reserved for a period of two years from the date of recording the subdivision, and school sites shall be reserved for four years from such date.

C. Where deemed essential by the Commission upon consideration of the type of development proposed in the subdivision, the subdivider may be required to dedicate other areas or sites of a character, extent or location suitable to meet the needs of such development. In lieu of dedication, such additional areas may be reserved for the common use of all property owners in the proposed subdivision through deed restrictions or agreements approved by the Commission, which restrictions or agreements may include a right of enforcement by the County Council.

D. For residential subdivisions [and other residential land development], the following table shall establish the minimum percentage of the total site which shall be set aside for park and open space uses; in achieving the minimum percentage of open space, isolated areas of open space that are not directly connected to contiguous open space and that are smaller than 10,000 square feet in size shall not be counted.

[Gross Density (dwelling units per acre)	Minimum Percentage of Open Space
2 to 5	10
6 to 10	15
Over 10	25 or more]

	Minimum Percentage of Open Space
Growth Area	*Rural Area*
30%	*50%*[1]

. . . .

E. Required open space shall comply with the following criteria:

[1] *Growth Areas" and "Rural Areas" are those Areas as described within the Land Use Element and as shown on the Future Land Use Map of the adopted Sussex County Comprehensive Plan*

[a] All required open space must meet the official definition of acceptable open space contained in § 99-5.

[b] Required open space must be designed to be beneficial to the residents or users of the open space. It shall not be constituted of fragmented lands with little open space value. Accordingly, 30% of all required open space shall be located on one contiguous tract of land, except that such open space may be separated by water bodies and a maximum of one street.

[c] If one of the following physical conditions exists adjacent to the proposed development tract, at least 30% of all required open space must be adjacent to:

[i] An existing or officially planned public park, land preserved by easement, or land preserved as open space and in municipal, County, state, or federal ownership.

[ii] Existing wetlands, waterways, wildlife corridors, or other ecology-sensitive land.

[iii] Existing farmland and/or woodlands.

[iv] If more than one of these physical features exist on adjacent properties, then one of these features will be identified and utilized to satisfy this requirement.

[v] Open space in a cluster development shall include a pedestrian trail system accessible to residents. This trail system shall connect to an adjacent trail, adjacent neighborhood, adjacent commercial area, or adjacent public open space, if any such areas exist adjacent to the proposed cluster development. Construction materials for the proposed trail shall be identified, and a typical construction detail for

the proposed trail shall be shown. Trail construction materials shall be pervious in nature.

F. Naturalized landscaping and native vegetation is encouraged within open space, including habitat-friendly design features including native plantings, pollinator zones and low-mow zones. Low- or no-mow zones shall be identified on the Final Site Plan with signage located on the site itself.

Section 3. The Code of Sussex County, Chapter 115, Article I, §115-4 "Definitions and Word usage" is hereby amended by deleting the language in brackets and by inserting the italicized and underlined language as follows:

§ 115-4 Definitions and word usage.

. . .

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

. . .

OPEN SPACE

Those land areas within all major residential subdivisions, residential planned communities or developments which have a purpose to provide active and/or passive recreational opportunities, maintain land in a predominantly undeveloped or natural state, including lands used for agricultural purposes, promote conservation, protect wildlife or serve as a buffer between residential and nonresidential areas and/or commercial and noncommercial areas.

(1) The following uses are permitted and the land area devoted to said uses will be included in the calculation of open space:

(a) Play areas not including playgrounds, tot lots or other structures, walking paths, bike paths and multimodal paths that are not located on state road rights-of-way.

(b) Ponds.

(c) Perimeter buffers, perimeter buffer protection areas, resource buffers and forested areas.

(d) Areas protected by perpetual conservation easements.

(e) Areas providing scenic vistas, areas providing wildlife corridors.

(f) Areas designated as "safe zones" under the Source Water Protection Ordinance contained in Chapter 89.

(g) Resources.

(h) [Stormwater management facility area]. *Stormwater retention ponds when suitably designed to emulate natural features by incorporating irregular shapes, gradual slopes (no greater than 1:4) and appropriate landscape plantings.*

(2) The following uses are not permitted and the land area devoted to said uses will not be included in the calculation of open space:

(a) Land area included within designated lot lines.

(b) With the exception of Moderately Priced Housing Units and Affordably Priced Rental Units under Chapter 72 herein or projects that will be truly "affordable" as part of an official HUD, DSHA, USDA or other similarly recognized housing program, land area included within an area within 40 feet from the front, 10 feet from the side and 10 feet from the rear of any multifamily or townhouse dwelling.

(c) Building footprints.

(d) Predominantly impervious surfaces such as street rights-of-way, sidewalks within street rights-of-way, parking and/or loading areas.

(e) Utility facilities, including but not limited to, any building, plant, equipment for treatment or pumping, lagoons and rapid infiltration basins, for sewer, water, gas, and/or electric utilities.

(f) Clubhouses, community buildings, recreational facilities, including swimming pools, game courts, tot lots and playgrounds, pavilions, community patio, sidewalks and other impervious recreational or community facilities.

(g) Medians, boulevards, parking islands or areas between the pavement or curb and sidewalk within a right of way unless these areas are planted with trees no further than thirty feet from one another that have a minimum height of six feet above ground when planted and will obtain a minimum height of ten feet when fully grown.

(h) Stormwater retention ponds that are not suitably designed to emulate natural features by incorporating irregular shapes, gradual slopes (no greater than 1:4) and appropriate landscape plantings.

(3) For [residential subdivisions and other] residential land development *other than residential subdivisions governed by Chapter 99 herein,* [(with

the exception of] Moderately Priced Housing Units and Affordably Priced Rental Units under Chapter 72 herein or projects that will be truly "affordable" as part of an official HUD, DSHA, USDA or other similarly recognized housing program[)], the following table shall establish the minimum percentage of the total site which shall be set aside for park and open space uses; in achieving the minimum percentage of open space, isolated areas of open space that are not directly connected to contiguous open space and that are smaller than 10,000 square feet in size shall not be counted:

Gross Density (dwelling units per acre)	Minimum Percentage of Open Space
2 to 5	10
6 to 10	15
Over 10	25 or more

Provided, however, that the minimum percentage of open space for any residential development in a Rural Area shall be fifty percent.[2]

(4) Any reference in this chapter to "open space" shall be subject to and governed by this definition.

Section 4. The Code of Sussex County, Chapter 115, Article IV, §115-25 "Height, Area and Bulk Requirements" is hereby amended by deleting the language in brackets as follows:

§ 115-25 Height, area and bulk requirements.

. . .

[2] *"Growth Areas" and "Rural Areas" are those Areas as described within the Land Use Element and as shown on the Future Land Use Map of the adopted Sussex County Comprehensive Plan*

F. Review procedures for cluster development.

. . .

(3) The Planning and Zoning Commission shall determine that the following requirements are met before approving any preliminary plan and such application shall be reviewed on an expedited basis.

(a) The cluster development sketch plan and the preliminary plan of the cluster subdivision provides for a total environment and design which are superior, in the reasonable judgment of the Planning Commission, to that which would be allowed under the regulations for the standard option. For the purposes of this subsection a proposed cluster subdivision which provides for a total environment and design which are superior to that allowed under the standard option subdivision is one which, in the reasonable judgment of the Planning Commission meets all of the following criteria:

[1] Homes shall be clustered on the environmentally suitable portions of the tract, specifically those portions of the tract least encumbered by sensitive environmental features, including but not limited to wetlands, mature woodlands, waterways and other water bodies. This does not inhibit the development of wooded parcels.

[2] (Reserved)

[[3] Required open space shall comply with the following criteria:

[a] All required open space must meet the official definition of acceptable open space contained in § 115-4.

[b] Required open space must be designed to be beneficial to the residents or users of the open space. It shall not be constituted of fragmented lands with little open space value. Accordingly, 30% of all required open space shall be located on one contiguous tract of land, except that such open space may be separated by water bodies and a maximum of one street.

[c] If one of the following physical conditions exists adjacent to the proposed cluster development tract, at least 30% of all required open space must be adjacent to:

[i] An existing or officially planned public park, land preserved by easement, or land preserved as open space and in municipal, County, state, or federal ownership.

[ii] Existing wetlands, waterways, wildlife corridors, or other ecology-sensitive land.

[iii] Existing farmland and/or woodlands.

[iv] If more than one of these physical features exist on adjacent properties, then one of these features will be identified and utilized to satisfy this requirement.

[v] If the open space is proposed to be dedicated to a municipality, a County, state, or federal agency or a homeowners' association, an agreement shall be provided, in advance, stipulating that such entity agrees in advance to accept that dedication and maintain that land for public recreation or as a nature preserve.]

[vi] Open space in a cluster development shall include a pedestrian trail system accessible to residents. This trail system shall connect to an adjacent trail, adjacent neighborhood, adjacent commercial area, or adjacent public open space, if any such areas exist adjacent to the proposed cluster development. Construction materials for the proposed trail shall be identified, and a typical construction detail for the proposed trail shall be shown. Trail construction materials shall be pervious in nature.]

Section 5. Effective Date.

This ordinance shall become effective upon adoption. Provided however, that it shall not apply to subdivision or residential planned community district applications that have had a Preliminary Conference pursuant to §99-7 of the Code of Sussex County and that have submitted a PLUS application to the Office of State Planning Coordination and received a PLUS comment letter from the Office of State Planning Coordination following the PLUS meeting on the application.

Council District: Mr. McCarron
Tax I.D. No.: 230-12.00-39.00
911 Address: 9052 Lofland Drive, Lincoln

ORDINANCE NO. ___

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 39.76 ACRES, MORE OR LESS

WHEREAS, on the 19th day of March 2026, a Conditional Use application, denominated Conditional Use No. 2642 was filed on behalf of TPE DE SU94B, LLC; and

WHEREAS, on the _____ day of _____ 2026, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2642 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsections 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2642 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece, or parcel of land, lying and being situate in Sussex County, Delaware, and lying on the east side of North Old State Road (S.C.R. 213), approximately 600 feet north of Haflinger Road (S.C.R. 625), and being more particularly described in the attached legal description prepared by Deirdre A. McCartney, Esquire with Sergovic Carmean Weidman McCartnry & Owens, P.A. said parcel containing 39.76 acres, more or less.

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

To Be Introduced: 5/19/26

Council District 2: Mr. McCarron
Tax I.D. No.: 131-19.00-3.00
911 Address: N/A

ORDINANCE NO. ___

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND C-1 GENERAL COMMERICIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 19.74 ACRES, MORE OR LESS

WHEREAS, on the 6th day of March 2026, a Conditional Use application, denominated Conditional Use No. 2640 was filed on behalf of TPE DE SU646, LLC; and

WHEREAS, on the _____ day of _____ 2026, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2640 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsections 115-22, and Chapter 115, Article XI, Subsections 115-79 Code of Sussex County, be amended by adding the designation of Conditional Use No. 2640 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece, or parcel of land, lying and being situate in Sussex County, Delaware, and lying on the west side of the intersection of Sussex Highway (Rt. 13) and Camp Road (S.C.R. 532) and being more particularly described in the attached legal description prepared by Hudson, Jones, Jaywork & Fisher, said parcel containing 19.74 acres, more or less.

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

To Be Introduced: 5/19/26

Council District 2: Mr. McCarron
Tax I.D. No.: 230-12.00-19.00 (P/O)
911 Address: 8850 North Old State Road, Lincoln

ORDINANCE NO. ___

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 185.96 ACRES, MORE OR LESS

WHEREAS, on the 15th day of January 2026, a Conditional Use application, denominated Conditional Use No. 2633, was filed on behalf of TPE DE SU95A, LLC & TPE DE SU95B, LLC; and

WHEREAS, on the ____ day of _____ 2026, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2633 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsections 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2633 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece, or parcel of land, lying and being situate in Sussex County, Delaware, and lying on the west side of North Old State Road (S.C.R. 213), the east side of DuPont Boulevard (Rt. 113), and the north side of Haflinger Road (S.C.R. 625), and being more particularly described in the attached legal description prepared by Harold W.T. Purnell, II said parcel containing 185.96 acres, more or less.

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

To Be Introduced: 5/19/26

Council District 2: Mr. McCarron
Tax I.D. No.: 230-12.00-22.00
911 Address: 9074 North Old State Road & 18126 Haflinger Road, Lincoln

ORDINANCE NO. ___

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

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

WHEREAS, on the _____ day of _____ 2026, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2616 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsections 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2616 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

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

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

To Be Introduced: 5/19/26

Council District 5: Mr. Rieley
Tax I.D. No.: 135-19.00-43.00
911 Address: 22776 E Trap Pond Road, Georgetown

ORDINANCE NO. ___

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 67.23 ACRES, MORE OR LESS

WHEREAS, on the 18th day of June 2025, a Conditional Use application, denominated Conditional Use No. 2598, was filed on behalf of TPE DE SU245, LLC; and

WHEREAS, on the _____ day of _____ 2026, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2598 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsections 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2598 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece, or parcel of land, lying and being situate in Sussex County, Delaware, and lying on the southeast side of County Seat Highway (Rt. 9), approximately 0.35 mile southwest from Little Street (S.C.R. 469) and being more particularly described in the attached legal description prepared by Haller & Hudson said parcel containing 67.23 acres, more or less.

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

To Be Introduced: 5/19/26

Council District 5: Mr. Rieley
Tax I.D. No.: 234-21.00-75.00 & 138.00
911 Address: N/A

ORDINANCE NO. ___

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 498.53 ACRES, MORE OR LESS

WHEREAS, on the 30th day of October 2025, a Conditional Use application, denominated Conditional Use No. 2623, was filed on behalf of TPE DE SU3000A, LLC, TPE DE SU300B, LLC TPE DE SU300C, LLC; and

WHEREAS, on the _____ day of _____ 2026, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2623 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsections 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2623 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece, or parcel of land, lying and being situate in Sussex County, Delaware, and lying on the southwest corner of Zoar Road (S.C.R. 48) and Lawson Road (S.C.R. 296); and being more particularly described in the attached legal description prepared by Morris James LLP, said parcel containing 498.53 acres, more or less.

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