

COUNTY COUNCIL

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JANE GRUENEBAUM
MATT LLOYD
STEVE C. McCARRON



Sussex County

DELAWARE
sussexcountyde.gov
(302) 855-7743

SUSSEX COUNTY COUNCIL

AGENDA

June 2, 2026

10:00 AM

Call to Order

Approval of Agenda

Approval of Minutes - May 19, 2026

[Draft Minutes 05 19 26](#)

Reading of Correspondence

Public Comments

Consent Agenda

1. **Use of Existing Wastewater Infrastructure Agreement, IUA20-2025
The Centre at Love Creek (Building 5) Royal Farms Project, Angola North Area**
[Consent Agenda Royal Farms](#)
2. **Use of Existing Wastewater Infrastructure Agreement
Dockside Bar & Grill Project, Angola North Area**
[Consent Agenda Dockside Bar & Grill](#)

Presentation – Patti Grimes, Executive Director, Joshua M. Freeman Foundation

Presentation – Sara Bluhm, Executive Director, Sussex County Land Trust



Todd Lawson, County Administrator

1. **Administrator's Report**

Mike Harmer, County Engineer

1. **Dewey Water Tank Recoating, Project G26-14**

A. Recommendation to Award

[Dewey Beach Tank Recoating Award CM](#)

Mark Parker, Assistant County Engineer

1. **Business Park Water Tank, Project A26-09**

A. Recommendation to Award

[Business Park Water Tank Modifications Award CP](#)

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

A. Approval of Christiana Excavating Co. Change Order No. 5

[Kings Highway Advanced Utility Relocation - CO#5 CP](#)

Jamie Whitehouse, Planning & Zoning Director

1. **S-25-01 & Conditional Use No. 2354 filed on behalf of Sussex CSG, LLC – request for an extension**

[Sussex CSG1 Time Ext Request](#)

2. **On-Call Planning Services (Comprehensive Plan)**

A. Update and Approval of Vendor Contracts

Old Business

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 (SCR) PROGRAM”

[Old Business ORD 26-01](#)

2. [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”

[Old Business ORD 26-03](#)

Grant Requests

1. **Town of Greenwood for their National Night Out event**
[Town of Greenwood Grant Request- Greenwood Night Out](#)
2. **Sussex County Land Trust Foundation Inc. for their Dogfish Dash**
[Sussex Land Trust](#)
3. **Friends of the Georgetown Public Library Inc. for their Annual 5K race**
[Friends of Georgetown](#)
4. **Town of Georgetown for Delaware 250 events**
[Town of Georgetown](#)
5. **Rehoboth Summer Children’s Theatre for their Jungle Book summer tour**
[Rehoboth Summer Childrens Theatre](#)

Introduction of Proposed Zoning Ordinances

Council Members' Comments

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

Possible action on Executive Session Items

1:30 p.m. Public Hearings

1. [Conditional Use No. 2563 filed on behalf of George Herker](#)

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MINI-STORAGE WITH BOAT AND RV STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 13.48 ACRES, MORE OR LESS” (property is lying on the south side of Omar Road [S.C.R. 54], approximately 0.23 mile east of Dukes Road [S.C.R. 354]) (911 Address: N/A) (Tax Map Parcel: 433-7.00-20.00)

[Public Hearing CU 2563](#)

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

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

[Public Hearing CU 2631](#)

3. [Conditional Use No. 2551 filed on behalf of Sarah Peterson](#)

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EVENTS VENUE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 8.45 ACRES, MORE OR LESS” (property is lying on Morning Glory Farms Road on the northwest side of Portsville Road [S.C.R. 492], approximately 0.84 mile east of S. Shell Bridge Road [S.C.R 492A]) (911 Address: 8982 Morning Glory Farms Road, Laurel) (Tax Map Parcel: 432-3.00-41.06)

[Public Hearing CU 2551](#)

Adjourn

-MEETING DETAILS-

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on May 26, 2026 at 4:15 p.m. and at least seven (7) days in advance of the meeting.

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

Agenda items may be considered out of sequence.

The meeting will be streamed live at <https://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 19, 2026

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, May 19, 2026, at 9:00 a.m., in Council Chambers, with the following present:

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

Call to Order	The Invocation and Pledge of Allegiance were led by Mr. Hudson. Mr. Hudson called the meeting to order.
M 209 26 Approve Agenda	A Motion was made by Mr. Rieley, seconded by Mr. Lloyd, to approve the Agenda, as presented. Motion Adopted: 5 Yeas Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Yea; Mr. Hudson, Yea
Minutes	The minutes from May 12, 2026, were approved by consensus.
Correspondence	Mr. Moore reported that correspondence was received from Shoes that Fit thanking Council for their donation.
Public Comments	Ms. Alison White spoke about proposed developments that are in the pipeline process. Mr. Greg Kordel spoke about the proposed FY27 budget. Mr. Jim Marshall spoke about proposed developments in Sussex County.
M 210 26 Approve Consent Agenda	A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum, to approve the following items under the Consent Agenda: Proclamation Request – Community Action Month 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/
CU2554**

Under Old Business, Mr. Whitehouse presented a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SELF STORAGE FACILITY 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” filed on behalf of E. Johnson Holdings, LLC.

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. There will now be a period of 5 days that the public can comment in writing only to P&Z considering the recommendation.

**Old
Business/
CU2555**

Under Old Business, Mr. Whitehouse presented a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN 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” filed on behalf of Bittersweet Investments, LLC.

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. There will now be a period of 5 days that the public can comment in writing only to P&Z considering the recommendation.

**Old
Business/
CU2602**

Under Old Business, Mr. Whitehouse presented a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR 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.

**M 211 26
Adopt
Ordinance
No. 4057/
CU2602**

A Motion was made by Mr. Rieley, seconded by Mr. McCarron to Adopt Ordinance No. 4057 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

**M 211 26
Adopt
Ordinance
No. 4057/
CU2602
(continued)**

ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 3.64 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows:

- 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**

**M 211 26
Adopt
Ordinance
No. 4057/
CU2602
(continued)**

- 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 admission 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 Adopted: 5 Yeas

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

**Old
Business/
CU2533**

Under Old Business, Mr. Whitehouse presented a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR

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) filed on behalf of RWE Clean Energy.

**M 212 26
Approve
CU2533/
DENIED**

A Motion was made by Mr. Rieley, seconded by Mr. McCarron to Adopt 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 DENIED: 4 Nays, 1 Yea

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

Members voted nay based on the reasons provided by Mr. Hudson.

Rules

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

**Public
Hearing/
Ord No.
26-01**

A Public Hearing was held on Proposed Ordinance entitled “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 (SCR) PROGRAM”.

Vince Robertson, Assistant County Attorney, presented the Proposed Ordinance.

Mr. Robertson stated the Sussex County currently has the SCR (Sussex County Rental Program); that it is an affordable housing rental program available within Sussex County; that the Ordinance came directly out of Recommendation No. 10; 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 SCR unit or not; that Ms. Brandy Nauman was present from the Sussex County Community Development and Housing Department; that the next recommendation was to reduce the open space requirement from 50% to

**Public
Hearing/
Ord No.
26-01
(continued)**

30%; that the next recommendation was to align rents with certain established rents; that they have changed the amount of the base rent.

Ms. Nauman presented an example of Coastal Tide, a current development in the Sussex County's SCRCP development program; that currently 85-90 households are on the waiting list; 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 SCRCP units are occupied with no vacancies; that the predominant AMI range for households at the time of application is 40% to 70% AMI, which has remained consistent through the recertification process; that this shows the majority of the SCRCP participants fall within the 40% to 70% range.

Mr. Robertson shared that currently rent is based on 50% AMI, which equals to \$765 per month for a one bedroom rental; that because they are hearing that it does not pencil at 50% AMI and 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 SCRCP 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 SCRCP project and uses of flow intensity or height, existing or future, outside the proposed SCRCP project; that this was not pulled from thin air, as it

**Public
Hearing/
Ord No.
26-01
(continued)**

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%.

A discussion was held about the program including monthly reporting that is completed and how applicants are determined to be eligible to participate in the program. It was then discussed about potentially adopting a tiered approach.

Public comments were heard.

Mr. James Baxter, IV spoke about the Proposed Ordinance.

Mr. Steve Alexander spoke about the Proposed Ordinance.

Ms. Justine Cuccia spoke about the Proposed Ordinance.

Ms. Judy Rose Siebert spoke about the Proposed Ordinance.

Mr. Rich Borrasso spoke about the Proposed Ordinance.

Mr. David Hutt spoke about the Proposed Ordinance.

Ms. Jill Hicks spoke about the Proposed Ordinance.

Ms. Katie Gills spoke about the Proposed Ordinance.

The Public Hearing was closed, and public record was left open until it is placed back on an agenda for discussion and for written comments only.

**M 213 26
Defer
Action/
Ord No.
26-01**

A Motion was made by Ms. Gruenebaum, seconded by Mr. McCarron to defer action on a Proposed Ordinance entitled “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” and to keep the record open until it is placed back on an agenda for discussion and for written comment only.

Motion Adopted: 5 Yeas

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

Public

A Public Hearing was held on Proposed Ordinance entitled “AN

Hearing/
Ord No. 26-
02

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”.

Vince Robertson, Assistant County Attorney, presented the Proposed Ordinance.

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 Ordinance 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 it proposes 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 it states that one cannot do an RPC outside of the growth area.

A discussion was held about the potentially decrease in land value and rights of others.

Public comments were heard.

Mr. Mark Davidson spoke about the Proposed Ordinance.

Mr. Steve Breeding spoke about the Proposed Ordinance.

Mr. James Baxter, IV spoke about the Proposed Ordinance.

Mr. David Horsey spoke about the Proposed Ordinance.

Mr. Lee Bunting spoke about the Proposed Ordinance.

Mr. Bill Powers spoke about the Proposed Ordinance.

Ms. Jill Hicks spoke about the Proposed Ordinance.

Mr. Johannes Sayre spoke about the Proposed Ordinance.

**Public
Hearing/
Ordinance
No. 26-02
(continued)**

Mr. Mark Baker spoke about the Proposed Ordinance.

Mr. Kenny Bounds spoke about the Proposed Ordinance.

Mr. Joe Pika spoke about the Proposed Ordinance.

Mr. Ray Ellis spoke about the Proposed Ordinance.

Mr. Jordan Ashburn spoke about the Proposed Ordinance.

Mr. John Adkins spoke about the Proposed Ordinance.

Mr. David Hutt spoke about the Proposed Ordinance.

Mr. Keith Johnson spoke about the Proposed Ordinance.

Ms. Kay Carpenter Dukes spoke about the Proposed Ordinance.

Mr. R.C. Willin spoke about the Proposed Ordinance.

The Public Hearing was closed, and public record was left open until it is placed back on an agenda for discussion and for written comments only.

**M 214 26
Defer
Action/
Ordinance
No. 26-02**

A Motion was made by Mr. McCarron, seconded by Mr. Lloyd to defer action on a Proposed Ordinance entitled “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” and to keep the record open until it is placed back on an agenda for discussion and for written comment only.

Motion Adopted: 5 Yeas

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

Mr. Moore noted that many people that spoke in regard to Ordinance No. 26-02 also referenced Ordinance No. 26-04. Mr. Robertson also commented that all of the testimony from Ordinance No. 26-02 can be incorporated into Ordinance No. 26-04 record.

**M 215 26
Amend
Agenda**

A Motion was made by Mr. Lloyd, seconded by Mr. McCarron to flip Ordinance No. 26-03 and Ordinance No 26-04 on the agenda.

Motion Adopted: 5 Yeas

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

M 216 26 At 1:35 p.m., a Motion was made by Mr. Lloyd, seconded by Mr. McCarron
Recess to recess.

Motion Adopted: 5 Yeas

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

M 217 26 At 2:01 p.m., a Motion was made by Mr. McCarron, seconded by Ms.
Reconvene 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/
Ordinance
No. 26-04**

A Public Hearing was held on Proposed Ordinance entitled “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”.

Vince Robertson, Assistant County Attorney, presented the Proposed Ordinance.

Mr. Robertson requested that the document submission and testimony from Ordinance No. 26-02 be incorporated into the record for this Ordinance.

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 from 35% to 50% for any development; 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 and the open space

**Public
Hearing/
Ordinance
No. 26-04
(continued)**

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 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.

Public comments were heard.

Mr. Mark Davidson spoke about the Proposed Ordinance.

Mr. R.C. Willin spoke about the Proposed Ordinance.

Mr. Steve Sinclair spoke about the Proposed Ordinance.

Ms. Jill Hicks spoke about the Proposed Ordinance.

Ms. Susan Petze-Rosenblum spoke about the Proposed Ordinance.

The Public Hearing was closed, and the public record was left open until it is placed back on an agenda for discussion and for written comments only.

**M 218 26
Defer
Action/
Ordinance
No. 26-04**

A Motion was made by Mr. McCarron, seconded by Ms. Gruenebaum to defer action on a Proposed Ordinance entitled “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” and to keep the record open until it is placed back on an agenda for discussion and for written comment only.

Motion Adopted: 5 Years

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

**Public
Hearing/
Ordinance
No. 26-03**

A Public Hearing was held on Proposed Ordinance entitled “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,

**Public
Hearing/
Ordinance
No. 26-03
(continued)**

AREA AND BULK REQUIREMENTS” OF THE CODE OF SUSSEX COUNTY REGARDING DESIGN CRITERIA FOR ALL SUBDIVISIONS”.

Vince Robertson, Assistant County Attorney, presented the Proposed Ordinance.

Mr. Robertson stated that Chapter 99-9C had been in the Sussex County Code for at least 30 years; 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 this provide clarity relating to interconnectivity between residential developments; that it allows the Commission to waive connectivity; that it adjusts engineering issues that have occurred in the past; 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 requires that all resources and resource buffers are protected in accordance with Chapter 99 and Chapter 115 herein; 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 on 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 take it out; that it was the same situation for the means and methods of sewage disposal to be adequately addressed; 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 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

**Public
Hearing/
Ordinance
No. 26-03
(continued)**

Ordinance; 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 the problem was that the school districts does not always respond; that if Sussex County required a school district response, but the school district does not respond, then everyone becomes stuck, and become held up; 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 DeIDOT; that they wanted language in the Ordinance that would close the loophole; that the next one requires sidewalks on the side of each street; that it is a requirement in all cluster subdivisions currently; that the next one states that no lots should have access to state maintained roads; that the last two move them into all subdivisions including language relating to sensitive environmental features; that this all applies to showing the design on the plans.

Public comments were heard.

Mr. Mark Davidson spoke about the Proposed Ordinance.

Mr. Rich Barrasso spoke about the Proposed Ordinance.

Mr. Joe Pika spoke about the Proposed Ordinance.

Ms. Jill Hicks spoke about the Proposed Ordinance.

The Public Hearing was closed, and the public record was left open until it is placed back on an agenda for discussion and for written comments only.

**M 219 26
Defer
Action/
Ordinance
No. 26-03**

A Motion was made by Ms. Gruenebaum, seconded by Mr. McCarron to defer action on a Proposed Ordinance entitled “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” and to keep the record open until it is placed back on an

agenda for discussion and for written comment only.

Motion Adopted: 5 Yeas

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

**FY27
Budget
Presentation**

Mr. Lawson and Mrs. Jennings presented the proposed \$300 million budget for Fiscal Year 2027.

Mr. Lawson reported that the recommended budget was drafted by the County Administrator, Finance Director/COO, Deputy Finance Director, Manager of Accounting and Financing Reporting Officer. This recommended budget was drafted after receiving submissions from County departments. The Fiscal Year 2027 budget is an increase of \$14.9 million. This increase is being driven largely by one-time capital expenditures in the capital fund. These expenditures include major upgrades and improvements at the Delaware Coastal Airport such as the runway extension and new taxiway, multiple major pump stations rebuilds and upgrades to our water tower. As any prudent government, increased costs have been held to inflationary increases. Guided by the Council's priorities, this budget focuses on addressing some of the long-term concerns that have been brought before the County. There are funds to assist in workforce housing opportunities through settlement assistance, provide support for businesses that want to expand and create jobs, engage the public in future land-use decisions through the comprehensive land-use process, to create a mechanism that funds capacity-related school infrastructure and support sustainability of the ambulance service by providing funding for additional ambulances and third-party billing services.

Mrs. Jennings reviewed last year's successes throughout the year from the past fiscal year's budget and some of the milestones that were accomplished.

Mrs. Jennings discussed the general fund revenue highlights and discussed what pays for County services. Mrs. Jennings then showed a trend chart outlining budgeted revenue distribution over 10 years. She then shared a chart outlining the building trends specifically analyzing construction indicators from 2021-2026. Mrs. Jennings expressed a concern due to the decline of building permits. A graph was shown outlining Realty Transfer Tax from 2007-2026.

Mrs. Jennings showed various one-year activity comparisons. The activity showed that building inspections were going down. The number of bills issued, and Register of Wills revenue have increased.

Mrs. Jennings stated that the use of reserves is being used to balance the

**FY27
Budget
Presentation
(continued)**

budget. She then shared a breakdown of reserve usage for the FY2027 budget. The reason why the tax base is not growing as fast was then discussed.

Mrs. Jennings discussed proposed changes in fees.

- **Building permit fee: revisions to calculation methods and rates.**
- **School surcharge on building permits: new \$5.00 per \$1,000 surcharge on building permits.**
- **Building plan replacement fee: new \$120 fee for replacing building plans requiring staff re-review.**
- **Public Hearing advertisement fee: new \$500 fee for advertising public hearings at applicant's request.**
- **P&Z plan re-review fee: new \$150 fee per additional review required due to applicant error.**
- **By-right application fee without floor area: new \$300 fee by-right applications without floor area (current fee assumes floor area)**
- **Record plan modification: new \$1,000 fee for making changes after initial recordation or revising conditions of approval.**
- **Street naming fee: addition of street name changes to the existing subdivision naming fee of \$50/hour fee.**

Mrs. Jennings discussed the building permits and the percentage that will be added for schools. She outlined the history, next steps and objectives of the Proposed Ordinance. She then shared a graph of the cost recovery analysis and the proposed permit calculation.

Mrs. Jennings discussed the school surcharge ordinance and how it would apply to permits. She added that this was structured off of Kent County's Ordinance. Mrs. Jennings shared what would qualify for funding, the recommended rate and estimated collections per school district per year based on CY2025 permits.

Mrs. Jennings shared a comparison of general fund expenses showing most of the expenses are for personnel costs. The biggest changes was in supplies with half of that dealing with paramedic supplies. The next largest increase is grant-in aid (this includes additional money for ambulance services and an increase in the MOU with DSP) and personnel (related to cost-of-living adjustment, health insurance costs and merits).

Mrs. Jennings reported that there are no changes in position count totals. Mrs. Jennings discussed and shared charts showing the staffing trends over the years.

Grant-in-Aid, Public Safety, Economic Development Grants, Libraries and Open Space/Recreation funding were discussed further. The general fund project revenues, project expenditures, sewer and water were shared and discussed further.

The budget book and presentation can be found on the County's website at www.sussexcountvde.gov. Budget comments can be sent to budget@sussexcountvde.gov.

**Ordinance
Introduct-
ions**

Mr. Rieley introduced a Proposed Ordinance entitled "AN ORDINANCE ESTABLISHING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2027".

Mr. Rieley introduced a Proposed Ordinance entitled "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".

Mr. McCarron introduced a Proposed Ordinance entitled "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".

**Adminis-
trator's
Report**

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

1. Holiday and Council Meeting Schedule

A reminder that County offices will be closed on Monday, May 25th, to observe the Memorial Day holiday. In addition, Council will not meet on Tuesday, May 26th. The next regularly scheduled Council meeting will be held Tuesday, June 2nd.

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

**Introduction
of Proposed
Ordinances**

Mr. McCarron introduced a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 39.76 ACRES, MORE OR LESS" filed on behalf of TPE DE SU94B, LLC.

Mr. McCarron introduced a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND C-1 GENERAL COMMERCIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX

**Introduction
of Proposed
Ordinances
(continued)**

COUNTY, CONTAINING 19.74 ACRES, MORE OR LESS” filed on behalf of TPE DE SU646, LLC.

Mr. McCarron introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 185.96 ACRES, MORE OR LESS” filed on behalf of TPE DE SU95A, LLC & TPE DE SU95B, LLC.

Mr. McCarron introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 31.3 ACRES, MORE OR LESS” filed on behalf of TPE DE SU519, LLC.

Mr. Rieley introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 67.23 ACRES, MORE OR LESS” filed on behalf of TPE DE SU245, LLC.

Mr. Rieley introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 498.53 ACRES, MORE OR LESS” filed on behalf of TPE DE SU3000A, LLC, TPE DE SU300B, LLC, TPE DE SU300C, LLC.

The Proposed Ordinances will be advertised for a Public Hearing.

**CM
Comments**

Mr. McCarron commented that there were some unique perspectives heard today and he hopes the story is written the way it was told today.

**M 220 26
Adjourn**

A Motion was made by Mr. Rieley, seconded by Mr. McCarron to adjourn at 5:04 p.m.

Motion Adopted: 5 Yeas

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

Respectfully submitted,

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

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

ENGINEERING DEPARTMENT

JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING & DESIGN REVIEW

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jashman@sussexcountype.gov




Sussex County

DELAWARE
sussexcountype.gov

MIKE HARMER, P.E.
SUSSEX COUNTY ENGINEER

Memorandum

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

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

RE: *Existing Wastewater Infrastructure Use Agreement
The Centre at Love Creek (Bldg. 5)
Royal Farms IUA 20-2025
File: OM 9.01*

DATE: June 2, 2026

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

The Engineering Department requests approval of an agreement for the existing wastewater infrastructure use with **Pelican Landing-Route 24, LLC** for **The Centre at Love Creek (Bldg. 5) Royal Farms** project in the **Angola North Area**. Such an arrangement does not modify the underlying land use decision in any form. However, it allows the wastewater originating from the approved project to be conveyed through the existing transmission system previously constructed by the County.

Under the proposed arrangement, **The Centre at Love Creek (Bldg. 5)** project will connect to the existing County owned wastewater infrastructure. In return for utilization of said, **Pelican Landing-Route 24, LLC** will contribute **\$72,674.00** for the financial catch-up contribution of the existing infrastructure to serve **7.50** Equivalent Dwelling Units. Payment is required prior to connection to the county infrastructure.



EXISTING WASTEWATER INFRASTRUCTURE USE AGREEMENT

The Centre at Love Creek (Building 5) Royal Farms – IUA 20-2025

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

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

PELICAN LANDING-ROUTE 24, LLC, developer of a project known as **The Centre at Love Creek**, hereinafter called the “Developer.”

WITNESSETH:

WHEREAS, Developer is developing several tracts of land identified as Tax Map parcels 234-7.00-88.00, 89.00 & 90.00 to be known as **The Centre at Love Creek** (“Project”) and;

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

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

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

- (1) Developer is proposing to utilize County’s existing collection and transmission capacity by connecting to existing regional infrastructure used by multiple pump stations.
- (2) In exchange for permission to connect up to 7.50 additional equivalent dwelling units to the County’s existing system and to utilize the existing capacity in said system, Developer agrees to financial catch-up contribution in the amount of \$72,674.00 for said existing facilities.
- (3) The contribution amount in the case of multiple pump stations using an existing collection and transmission system is based on the ratio of average flow capacity utilization of said transmission facilities.
- (4) **Payment of the contribution is required prior to receiving a connection permit.**

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

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

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

Any notice required to be delivered to or by either party under this Agreement shall be sent by U.S. first class mail. For purposes of this provision, the address of the County is 2 The Circle, P.O. Box 589, Georgetown, Delaware, 19947, and the address of the Developer is **5169 W. Woodmill Drive, Suite 10 Wilmington Delaware 19808.**

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

FOR THE COUNTY:

{Seal}

By: _____
(President - Sussex County Council)

_____ (DATE)

ATTEST:

Tracy Torbert
Clerk of the County Council

FOR PELICAN LANDING ROUTE 24, LLC

By: RP Allen Jr. (Seal)
Robert P. Allen Jr.

5/5/26 (DATE)

WITNESS: Amy C. Pheasant

ENGINEERING DEPARTMENT

JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING & DESIGN REVIEW

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jashman@sussexcountype.gov




Sussex County

DELAWARE
sussexcountype.gov

MIKE HARMER, P.E.
SUSSEX COUNTY ENGINEER

Memorandum

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

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

RE: *Existing Wastewater Infrastructure Use Agreement*
Dockside Bar & Grill
File: OM 9.01

DATE: June 2, 2026

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

The Engineering Department requests approval of an agreement for the existing wastewater infrastructure use with **Love Creek Marina, LLC** for **Dockside Bar & Grill** project in the **Angola North Area**. Such an arrangement does not modify the underlying land use decision in any form. However, it allows the wastewater originating from the approved project to be conveyed through the existing transmission system previously constructed by the County.

Under the proposed arrangement, **Dockside Bar & Grill** project will connect to the existing County owned wastewater infrastructure. In return for utilization of said, **Love Creek Marina, LLC** will contribute **\$23,452.00** for the financial catch-up contribution of the existing infrastructure to serve **11.82** Equivalent Dwelling Units. Payment is required prior to receiving a connection permit to the county infrastructure.



EXISTING WASTEWATER INFRASTRUCTURE USE AGREEMENT

Dockside Bar & Grill

THIS AGREEMENT ("Agreement"), made this 8th day of May 2026, by and between:

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

LOVE CREEK MARINA, LLC, developer of a project known as **Dockside Bar & Grill**, hereinafter called the "Developer."

WITNESSETH:

WHEREAS, Developer is developing a tract of land identified as Tax Map parcel 234-7.00-108.01 to be known as **Dockside Bar & Grill** ("Project") and;

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

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

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

- (1) Developer is proposing to utilize County's existing collection and transmission capacity by connecting to existing regional infrastructure used by multiple pump stations.
- (2) In exchange for permission to connect up to **11.82** additional equivalent dwelling units to the County's existing system and to utilize the existing capacity in said system, Developer agrees to financial catch-up contribution in the amount of **\$23,452.00** for said existing facilities.
- (3) The contribution amount in the case of multiple pump stations using an existing collection and transmission system is based on the ratio of average flow capacity utilization of said transmission facilities.
- (4) **Payment of the contribution is required prior to receiving a connection permit.**
- (5) If the Project (as currently submitted) is amended and County determines in its sole discretion that such amendments materially affect this Agreement, this Agreement

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

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

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

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

Any notice required to be delivered to or by either party under this Agreement shall be sent by U.S. first class mail. For purposes of this provision, the address of the County is 2 The Circle, P.O. Box 589, Georgetown, Delaware, 19947, and the address of the Developer is **300 Delaware Ave. Suite 1370 Wilmington, Delaware 19801.**

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

FOR THE COUNTY:

{Seal}

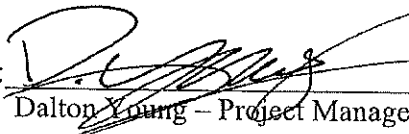
By: _____
(President - Sussex County Council)

_____ (DATE)

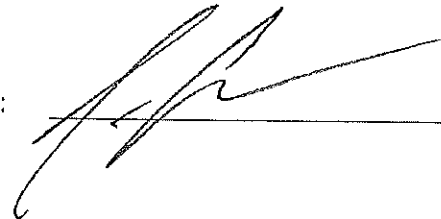
ATTEST:

Tracy Torbert
Clerk of the County Council

FOR LOVE CREEK MARINA, LLC

By:  _____ (Seal)
Dalton Young - Project Manager

5/8/26 (DATE)

WITNESS:  _____

ENGINEERING DEPARTMENT

MIKE HARMER, P.E.
SUSSEX COUNTY ENGINEER

(302) 855-7370 T

(302) 854-5391 F

mike.harmer@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

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

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

RE: ***Dewey Beach Tank Recoating, Project G26-14***
A. Recommendation to Award

DATE: June 2, 2026

Sussex County maintains and operates a 1,000,000 gallon water tank located in Dewey Beach. In the Spring of 2024, USG Water performed full inspections on each of the County's four (4) water tanks and provided recommendations for both short and long term repairs. As a result of these recommendations, the Engineering Department and one of the County's on-call engineering consultants, JMT, developed specifications to bid out repairs of the tank. The repairs included foundation work, steel repairs, new valve installations, electrical work, and tank interior/exterior painting.

Invitations to Bid were advertised in the local newspaper, as well as available to view on the County website. In addition, the information was directly forwarded to several contractors. Six (6) contractors attended the pre-bid meeting and on May 6, 2026, four (4) bids were received. The low bidder was D&M Painting at \$1,480,240.00. However, D&M Painting misinterpreted the specification requirements and did not include a rigid scaffolding system in their A-1 bid item price. This scaffolding is necessary during remediation due to high winds near the Atlantic Ocean and the necessity of returning the tank to service before beach season. D&M decided to retract their bid upon realizing their error.

Therefore, the Engineering Department recommends award to next lowest, responsive bidder, US Tank Painting in the amount of \$2,171,000.00.



ENGINEERING DEPARTMENT

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

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



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

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

FROM: Mark Parker, Assistant County Engineer

RE: **Coastal Business Park, Water Storage Tank Modifications**
A. Recommendation to Award

DATE: June 2, 2026

In 2024 USG Water Solutions, an infrastructure asset management company, conducted an inspection of two (2) water tanks located at the Business Park as well as the Dewey Beach elevated water storage tank to provide recommendations for immediate and future repairs and maintenance. Based on these recommendations, JMT developed a scope of work to review various options, and a purchase order was established in November 2024, in the amount of \$92,540.00 of which approximately 12% was expended to prepare a Technical Memorandum dated June 10, 2025 which outlined specific options and recommendations related to water storage needs at the Business Park Water Plant.

After reviewing the (i) tank capacity, (ii) required upgrades and (iii) future maintenance of the two (2) existing tanks at the Coastal Business Park dating from the 1970s/80s, JMT outlined the following three (3) options in the Memorandum:

- 1) Increase Capacity of the newer glass-lined Aquastore Tank from 326,000 to 417,000 gallons by adding a four-foot wall section while demolishing the two (2) old steel tanks
- 2) Demolish the 1980s steel tank and rehabilitate the other steel tank including piping modifications
- 3) Demolish both steel tanks and construct a new Aquastore tank



Table 1: Cost Summary of Consolidation Options

	Construction Cost	Demolition Cost	Rehabilitation Cost	Total Cost	Storage Volume (G)
Option 1	\$255,000	\$170,000	\$0	\$425,000	417,000
Option 2	\$0	\$85,000	\$550,000	\$635,000	476,000
Option 3	\$600,000	\$170,000	\$0	\$770,000	506,000

Both JMT and the Engineering Department agreed to pursue Option 1, which increases the capacity of the existing newer tank while demolishing the older steel tanks allowing the County to have sufficient water storage capacity, while eliminating unnecessary future maintenance.

The Engineering Department advertised a request for Miscellaneous Engineering Services proposals in March 2024. On May 14, 2024, Council approved a motion selecting four (4) consulting firms to provide professional services for a 5-year period: Davis, Bowen & Friedel (DBF); George Miles and Buhr (GMB); Johnson, Mirmiran & Thompson, Inc. (JMT); and Arcadis U.S., Inc. At the Engineering Department's request, JMT provided a focused scope of work based on Option 1, which replaced an earlier issued task order that covered a broader design scope. Council subsequently authorized JMT's proposal as Contract Amendment No. 2 on July 15, 2025 in the not-to-exceed amount of \$56,960.00

During design development, the Engineering Department requested JMT to provide additional services related to coordination with the targeted water tank air stripper for equipment assessment and selection, and also establishing an advance material procurement program in order to reduce construction timing and overall project cost. These services were not included in the original approved scope of work. At the recommendation of the Engineering Department, Council approved the additional services on April 14, 2026 in the amount of \$18,250.00 which is represented as Amendment No. 6 of JMT's base Professional Services Agreement.

Final Contract Documents for the water tank modifications were subsequently completed and the project was issued for public bid on April 16, 2026, and on May 13, 2026 a total of four (4) bids were received. After careful review of all bids, it was determined that A-Del Construction, Inc. submitted the lowest responsive and responsible bid. Therefore, the **Engineering Department recommends that the Contract Award be made to A-Del Construction, Inc. in the amount of \$634,000.00.**



Sussex County

BID TABULATION SHEET

Project: Business Park Water Storage Tank Modifications

Project No.: A26-09

Advertisement Date: April 16, 2026

Bids Received: May 13, 2026

Award Date: June 2, 2026

Awarded Bidder: Recommend to A-Del Construction, Inc.

Bidder	Total Bid
A-Del Construction	\$634,000.00
Delmarva Veteran Builders	\$637,213.00
Somerset Well Drilling	\$749,700.00
Chesapeake Turf	\$897,150.00

ENGINEERING DEPARTMENT

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

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



Sussex County

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

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

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

A. Approval of Christiana Excavating Co. Change Order No. 5

DATE: June 2, 2026

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

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

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

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



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

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

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

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

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

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

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

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

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

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

Despite several weather-related work shutdowns, all sewer construction was completed including system testing and tie-ins through the early months of 2026. Due to the constrained work area along Gills Neck Road, unavoidable damage occurred to an existing 10’ wide asphalt shared-use path that extends within the road right-of-way throughout the work limits. Based on an inspection performed by DelDOT, repairs were mandated along a fairly extensive section of the path resulting in an estimated 2,443 SY of asphalt to be reconstructed. At the Engineering Department’s request, Christiana Excavating submitted a proposal to address the necessary repairs to the shared-use path. As a final piece to the phase 1 portion of the advance sewer relocation work, the **Engineering Department recommends approval of Change Order No. 5 in the amount of \$63,518.00 subject to DelDOT funding approval, thus increasing the overall Contract value to \$2,423,803.00.**



**SUSSEX COUNTY
CHANGE ORDER REQUEST**

A. ADMINISTRATIVE:

1. Project Name: **Kings Highway Advanced Sewer Relocation**
2. Sussex County Project No. S25-46
3. Change Order No. 5
4. Date Change Order Initiated - 6/2/26
5.
 - a. Original Contract Sum \$2,210,880.00
 - b. Net Change by Previous Change Orders \$ 149,405.00
 - c. Contract Sum Prior to Change Order \$2,360,285.00
 - d. Requested Change \$ 63,518.00
 - e. Net Change (No. of days) _____
 - f. New Contract Amount \$2,423,803.00
6. Contact Person: Mark Parker, P.E.
Telephone No. (302) 855-7718

B. REASON FOR CHANGE ORDER (CHECK ONE)

1. Differing Site Conditions
2. Errors and Omissions in Construction Drawings and Specifications
3. Changes Instituted by Regulatory Requirements
4. Design Change
5. Overrun/Underrun in Quantity

- 6. Factors Affecting Time of Completion
- 7. Other (explain below):

C. BRIEF DESCRIPTION OF CHANGE ORDER:

Hot mix repairs along Gill's Neck Road.

D. JUSTIFICATION FOR CHANGE ORDER INCLUDED?

Yes No


E. APPROVALS

- 1. Christiana Excavating Co., Contractor

Signature Date

Representative's Name in Block Letters

- 2. Sussex County Assistant Engineer


Signature Date

29 MAY '26

- 3. Sussex County Council President

Signature Date

CHRISTIANA EXCAVATING COMPANY

2016 Sunset Lake Road, Newark, DE. 19702
(Newark) 302-738-8660 (Milford) 302-424-8343 FAX 302-738-3515

April 27, 2026

Sussex County Engineering
P.O. Box 589
Georgetown, De 19947

Attn: Hans Medlarz

Re: King's Highway Force Main Relocate

Dear Mr. Medlarz:

Enclosed please find our Change Order #5 on the above-referenced project for hot mix repairs on the shared use path along Gill's Neck Road. This change results in an increase of \$63,518.00 to the original contract.

Please review the enclosed change order, sign it, and return a copy to our office. A summary cost analysis to date including change orders is provided per the following:

Original Proposal Contract Dated 04/30/25			\$ 2,210,880.00
Change Order Totals:	#1	\$ 33,480.00	
	#2	\$69,375.00	
	#3	\$30,500.00	
	#4	\$16,050.00	
	#5	\$63,518.00	
Total Change Orders to Date:		\$ 212,923.00	
		Revised Project Total:	\$ 2,423,803.00

Should you have any questions please do not hesitate to call me.

Sincerely,



R.J. Andrews

CHRISTIANA EXCAVATING COMPANY

2016 Sunset Lake Road, Newark, DE. 19702
(Newark) 302-738-8660 (Milford) 302-424-8343 FAX 302-738-3515

CONTRACT CHANGE ORDER

#5

April 27, 2026

Sussex County Engineering
P.O. Box 589
Georgetown De 19947

Attn: Hans Medlarz

King's Highway Force Main Relocate
Lewes, DE

We hereby propose to provide all labor, materials, and equipment necessary to perform the following changed scope of work from our Base Contract:

Shared Use Path Hot Mix Repairs

- 2" Mill & Overlay 2,443 SY @ \$26.00/SY
 - Hot Seal Joints as Required

NET CHANGE ORDER TOTAL:

\$63,518.00

NOTE: This Change Order becomes part of and in conformance with the existing Contract dated April 30, 2025.

- Note:
- Hot mix repairs were identified and marked by DelDot. The repairs are associated with site access activities necessary to complete work beyond the original limits and accommodate a shift in the force main alignment.

CONTRACTOR: CHRISTIANA EXCAVATING COMPANY

AUTHORIZATION:  DATE: 4-27-26

ACCEPTANCE OF CHANGE ORDER:

The above prices, specifications, and conditions are satisfactory and are hereby fully and unconditionally accepted. Christiana Excavating Company is authorized to do the work as specified.

ACCEPTANCE: Sussex County Engineering

SIGNATURE: _____ DATE: _____



Memorandum

To: Sussex County Council

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

CC: Everett Moore, County Attorney

Date: May 29th, 2026

RE: County Council Report for Sussex CSG1, LLC (C/U 2354) 6-Month Time Extension Request

On April 28th, 2026, the Planning and Zoning Department received a written request for a 6-month time extension for the establishment of a Solar Farm to be located within an Agricultural Residential (AR-1) District. The Conditional Use Application (Conditional Use No. 2354 Sussex CSG1, LLC) was approved by the Sussex County Council at their meeting of Tuesday, October 10th, 2023, subject to eleven (11) Conditions of Approval and the change was adopted through Ordinance No. 2955.

Under §115-174 of the Code, *“Approval of a conditional use shall be valid for a period of three years after the date of approval and thereafter shall become null and void unless construction or use is substantially underway during said three-year period.”* The property is located on the south side of Old Racetrack Road (S.C.R. 502), approximately 0.75 mile east of Delmar Road (Route 54).

The request for extension has been submitted under the sunset provision of (§99-40(C)) which allows an Applicant to request up to a six-month extension of the Conditional Use approval. The Council may grant a time extension for up to six (6) months pursuant to (§99-40) based on the following:

1. Prior to the expiration date of its current approval, any Applicant holding a currently valid approval set forth in this §99-40(C) may request an extension up to six months for the validity of said approval. The six-month period shall commence upon the date of expiration of the current approval. Such a request must be in writing and delivered to the Director on or before the expiration date of its current approval. At a minimum, the written request must include the following information:
 - (a) A schedule or plan for the project describing the steps that have been completed through the date of the extension request and describing the remaining steps to be completed. For any steps that remain outstanding, the Applicant is to provide the anticipated time frame for completing those remaining steps.
 - (b) A detailed explanation of the reasons in support of the Applicant’s request for the time extension. The Applicant is to include an explanation of whether such reasons were within the Applicant’s reasonable control. Examples of reasons beyond the Applicant’s reasonable control include, but are not limited to, undue delays in



receiving regulatory approvals, litigation affecting the progression of the project, third-party economic restrictions of an extraordinary or unreasonable nature, or delays caused by significant medical or health issues impacting the Applicant's key stakeholders.

- (d) For conditional uses, a specific schedule and plan demonstrating that the construction or use will be substantially underway within six months of the expiration of the current approval.

On April 28th, 2026, the Planning & Zoning Department received both the initial request for extension letter as well as a copy of the anticipated project schedule demonstrating that approval of the use will be substantially underway within 6 months of the expiration of the current approval. The Letter submitted by the Applicant's legal representative notes that, "*It is anticipated that the facility will be substantially underway by early 2027 and operational by Fall of 2027.*"

Of further note is that the Preliminary Site Plan for the proposal (S-25-01) received both preliminary and final approval by the Planning & Zoning Commission at their Meeting of Wednesday, February 19th, 2025. At that time, the Department was in receipt of all required agency approvals including Letters of No Objection (LONO) from the Delaware Department of Transportation (DelDOT), Office of the State Fire Marshal, Sussex Conservation District and the Decommissioning Plan for the use.

The current status of the project and anticipated project approval timeline are outlined in the Applicant's original request letter dated April 28th, 2026, and include the following:

- Phase 1 – May – June 2026 – Design finalization including structural and electrical Engineering and Decommissioning Plan and Bond underwriting.
- Phase 2 – June – August 2026 – Final Agency Approvals including Sussex County Building Permit (anticipated to be obtained).
- Phase 3 – September – October 2026 – Site mobilization, commencement of Site work and infrastructure including ROW clearing, rough-grading of stormwater management facilities and installation and maintenance of erosion and sediment control measures.
- Phase 4 – Completion of Project. It is anticipated that the facility will be operational and placed in service with Delmarva Power by October 2027.

The Planning and Zoning Commission recommended approval for the 6-month time extension request at their meeting of Wednesday, May 20th, 2026, and to forward the Application to the Sussex County Council for their final decision and approval of this request. If the Council agrees, there should be a motion that, based upon the authority granted to Council under §99-40(C)), and based upon compliance and requirements of the referenced Ordinance, supporting documentation, and the recommendation of the Director of Planning and Zoning, that Conditional Use No. 2354 Sussex CSG1, LLC shall be granted a six (6) month time extension until April 10th, 2027, which is six (6) months from October 10th, 2026, the original expiration date for the Conditional Use.

FUQUA, WILLARD & SCHAB, P.A.

James A. Fuqua, Jr.
William Schab
Timothy G. Willard

Phone: 302-856-7777
Fax: 302-856-2128
www.fwsdelaw.com

Paynter House
26 The Circle
Georgetown, Delaware 19947

April 28, 2026

Mr. Jamie Whitehouse, AICP, MRTPI
Director, Department of Planning & Zoning
2 The Circle
Georgetown, DE 19947

**Re: CU# 2354/CSG1, LLC
Solar Array Facility**

Dear Director Whitehouse:

I represent Dimension Energy, the owner of CSG1, LLC. Please allow this letter to serve as a request for a six-month extension of the validity of CU# 2354 which was approved by County Council on October 10, 2023, and is valid through October 10, 2026.

In accordance with Chapter 99-40(c) the applicant represents the following in support of its request:

- a. To date, the applicant has obtained engineering, procurement and construction (EPC) bids for the project which are being reviewed. It is anticipated that the EPC companies will be selected and contracts finalized within the next 60 days. The applicant has purchased the transformer which is necessary to connect the project to the electrical power grid. The transformer is in storage at a local warehouse. It is anticipated that the facility will be “substantially underway” by early 2027 and operational by fall of 2027.
- b. The requested time extension is directly related to reasons beyond the applicant’s reasonable control. The solar array facility will connect to the electrical grid by way of a Delmarva Power substation and power lines.

The original interconnection agreement involved the inclusion of a third-party user resulting in both Dimension and the third party sharing financial responsibility for common distribution and substation upgrades. The third party withdrew from the cost sharing agreement resulting in Dimension being fully responsible for all interconnection costs. In addition, Delmarva Power performed a more detailed engineering review of the project resulting in additional substation modifications and upgrades to ensure adequate reliability, protection and operational flexibility.

Because of these developments, the upgrades are not anticipated to be completed until approximately July 2027. Dimension determined that it would not be financially nor practically prudent to construct the facility which would sit dormant for an extended period of time.

- c. The applicant's plan is for construction to be "substantially underway" prior to the expiration of the Conditional Use approval and seeks the extension as a safeguard for unforeseen delays. The scheduled timeline is as follows:

Phase 1 May-June 2026/design finalization including structural and electrical engineering and decommissioning plan and bond underwriting.

Phase 2 June-August 2026/final agency approvals including Sussex County Building Permit.

Phase 3 September-October 2026 site mobilization, commencement of site work and infrastructure including row clearing, rough-grading of SWM facilities and installation and maintenance of erosion and sediment control measures.

Phase 4 Completion of Project. It is anticipated that the facility will be operational and placed in service with Delmarva Power by October 2027.

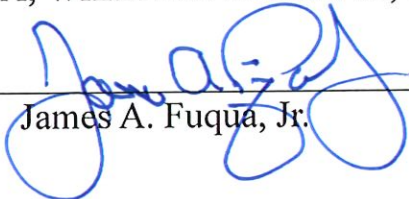
In summary, the applicant is requesting a six-month extension of approval of CU# 2354 allowing construction to be "substantially underway" by April 10, 2027.

FUQUA, WILLARD & SCHAB, P.A.

Thank you for your consideration. Please contact me if any additional information or documentation is needed.

Respectfully submitted,

FUQUA, WILLARD & SCHAB, P.A.

By:  _____
James A. Fuqua, Jr.

JAF/jel

Pc: Dimension Energy



PLANNING & ZONING COMMISSION

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

Sussex County

DELAWARE

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

May 22, 2026

Mrs. Mackenzie M. Sindelar, Esquire
Saul Ewing, LLP
1201 North Market Street, Suite 2300
Wilmington, DE 19801

By email to: mackenzie.sindelar@saul.com

RE: Notice of Decision Letter for a 6-month Time Extension Request for the Preliminary Site Plan for the Sussex CSG 1, LLC (S-25-01 & C/U 2354) Solar Facility project for the installation and operation of a 4 megawatt community solar facility consisting of photo-voltaic solar panels affixed to steel racking and associated appurtenances, transformers, fencing with interwoven screening, a Knox box and other site improvements to be located on a 23.58 acre portion of a parcel of land containing 49 acres total, lying on the south side of Old Racetrack Road (S.C.R. 502), approximately 0.75-mile east of Delmar Road (Route 54) in Delmar, Delaware
Tax Parcel: 532-20.00-14.00

Dear Mrs. Sindelar,

At their meeting of **Wednesday, May 20th, 2026**, the Planning & Zoning Commission **recommended approval** of the **6-month Time Extension Request for the Conditional Use for Sussex CSG 1, LLC (S-25-01 & C/U 2354)**. Specifically, the proposed use is for the installation and operation of a 4 megawatt community solar facility consisting of photo-voltaic solar panels affixed to steel racking and associated appurtenances, transformers, fencing with interwoven screening, a Knox box and other site improvements to be located on a 23.58 acre portion of a parcel of land containing 49 acres total. The property is located on the south side of Old Racetrack Road (S.C.R. 502), approximately 0.75-mile east of Delmar Road (Route 54) in Delmar, Delaware. The parcel is zoned Agricultural Residential (AR-1) District. The parcel also has a Growth Area Future Land Use designation of "Industrial Area" per Sussex County's 2018 Comprehensive Plan update.

Specifically, the time extension request was made pursuant to §99-40(C)(1)(a, b & d) of the Sussex County Code, which requires for Conditional Uses, the submittal of a.) A schedule or plan for the project describing the steps that have been completed and the status of any remaining steps, b.) A detailed explanation of the reasons in support of the Applicant's request for the time extension, and d.) For conditional uses, a specific schedule and plan demonstrating that the construction or use will be substantially underway within six (6) months of the expiration of the current approval.

On April 28th, 2026, the Planning and Zoning Department received a written request for a 6-month time extension for the establishment of a Solar Farm to be located within an Agricultural Residential (AR-1) District. The Conditional Use Application (Conditional Use No. 2354 Sussex CSG1, LLC) was approved



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by the Sussex County Council at their meeting of Tuesday, October 10th, 2023, subject to eleven (11) Conditions of Approval and the change was adopted through Ordinance No. 2955.

Under §115-174 of the Code, *“Approval of a conditional use shall be valid for a period of three years after the date of approval and thereafter shall become null and void unless construction or use is substantially underway during said three-year period.”*

On April 28th, 2026, the Planning & Zoning Department received both the initial request for extension letter as well as a copy of the anticipated project schedule demonstrating that approval of the use will be substantially underway within 6 months of the expiration of the current approval. The Letter submitted by the Applicant’s legal representative notes that, *“It is anticipated that the facility will be “substantially underway by early 2027 and operational by Fall of 2027.”*

Of further note is that the Preliminary Site Plan for the proposal (S-25-01) received both preliminary and final approval by the Planning & Zoning Commission at their Meeting of Wednesday, February 19th, 2025. At that time, the Department was in receipt of all required agency approvals including Letters of No Objection (LONO) from the Delaware Department of Transportation (DelDOT), Office of the State Fire Marshal, Sussex Conservation District and the Decommissioning Plan for the use.

The current status of the project and anticipated project approval timeline are outlined in the Applicant’s original request letter dated April 28th, 2026, and include the following:

- Phase 1 – May – June 2026 – Design finalization including structural and electrical Engineering and Decommissioning Plan and Bond underwriting.
- Phase 2 – June – August 2026 – Final Agency Approvals including Sussex County Building Permit (anticipated to be obtained).
- Phase 3 – September – October 2026 – Site mobilization, commencement of Site work and infrastructure including ROW clearing, rough-grading of stormwater management facilities and installation and maintenance of erosion and sediment control measures.
- Phase 4 – Completion of Project. It is anticipated that the facility will be operational and placed in service with Delmarva Power by October 2027.

The Planning and Zoning Commission have recommended approval for the 6-month time extension request and to forward the Application to the Sussex County Council for their final decision and approval of this request. If approved by the Sussex County Council, in accordance with §99-40(C)(3) of the Sussex County Code, the Application’s expiration date will be extended 6-months from the previous approval deadline of October 10th, 2026, to April 10th, 2027.

Please feel free to contact me with any questions during regular business hours from 8:30AM- 4:30PM, Monday through Friday, at 302-855-7878.

Sincerely,

A handwritten signature in cursive script that reads "Lauren Cecchine". The signature is written in black ink and is positioned below the word "Sincerely,".

Mrs. Lauren Cecchine, AICP
Planning & Zoning Manager

CC: Ms. Lisa Walls, Sussex County Engineering Project Coordinator Engineering – Public Works
Mr. Mark A. Rogers, Chief Constable – Constable’s Office
Mr. Andy Wright, Chief of Building Code – Sussex County Building Code
Mr. Jamie Whitehouse, AICP, MRTPI, Director of Planning & Zoning
Mr. John Ashman, Director of Utility Planning & Design – Engineering
Ms. Jennifer Norwood, Planning Manager – Sussex County Planning & Zoning
Mr. Alan Decktor, P.E., Project Manager – Pennoni & Associates, Inc.
Sussex CSG1, LLC (S-25-01 & C/U 2354) Site Plan file

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 29, 2026

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

The County Council held a Public Hearing on the Ordinance at the meeting on May 19, 2026. At the conclusion of the public hearing, the Council closed the public hearing, leaving the record open.

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 (SCRIP) PROGRAM.



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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 rents; 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 of 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 fees 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 work, 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 height 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 retired 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 SCRП 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 SCRП 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 (SCRUP) 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

1 **AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY,**
2 **CHAPTER 72, ARTICLE II, SECTION 72-24 AND CHAPTER 115,**
3 **ARTICLE IV, V, VI, VII AND VIII SECTIONS 115-20, 115-29, 115-**
4 **37, 115-45 AND 115-53 REGARDING AFFORDABLY PRICED**
5 **RENTAL UNITS AND THE SUSSEX COUNTY RENTAL UNIT**
6 **(SCRIP) PROGRAM.**

7
8 WHEREAS, Sussex County Council has adopted the 2018
9 Comprehensive Development Plan (the “Plan”); and

10
11 WHEREAS, The Housing Element of the Plan contains the following
12 “Housing Vision”: To ensure the provision of decent, safe, affordable and
13 safe housing opportunities to improve communities and quality of life for
14 the residents of Sussex County; and

15
16 WHEREAS, The Housing Element of the Plan recognizes that “the
17 shortage of affordable housing remains a very real problem for low to
18 moderate-income households in Sussex County, including many with
19 full-time, year-round jobs”; and

20
21 WHEREAS, Goal 8.2 of the Housing Element within the Plan states that
22 Sussex County should “Ensure that a diversity of housing opportunities
23 are available to meet the needs of residents of different ages, income
24 levels, abilities, national origins and household configurations”; and

25
26 WHEREAS, Objective 8.2.1 and Strategy 8.2.1.1 of the Housing Element
27 within the Plan state that Sussex County will “Affirmatively further
28 affordable and fair housing opportunities in the County to accommodate
29 the needs of all residents” and in so doing “improve the County’s SCRIP
30 and MPHU Programs to provide incentives to properly reflect the housing
31 market and incentivize developers to participate in the provision of
32 affordable housing”; and

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

37

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

42

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

47

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

53

54 WHEREAS, Sussex County Council, with the assistance of the Office of
55 Community Development and Housing, has determined that the current
56 Sussex County Rental Unit program contained in Chapter 72 of the Code
57 of Sussex County requires an update based upon lessons learned in the
58 implementation and application of that Chapter to the single rental project
59 in Sussex County that has utilized the Program; and

60

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

64

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

67 **Section 1. The Code of Sussex County, Chapter 72, Article II, §72-24**
68 **“SCRP Units” is hereby amended by deleting the language in**
69 **brackets and inserting the italicized and underlined language as**
70 **follows:**

71

72 **§ 72-24 SCR P Units.**

73

74 A. Rent.

75

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

81

82

83

84 **Section 2. The Code of Sussex County, Chapter 115, Article IV, §115-**
85 **20 “Permitted Uses”, is hereby amended by deleting the language in**
86 **brackets and inserting the italicized and underlined language as**
87 **follows:**

88

89 **§115-20 Permitted Uses.**

90

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

92

93 . . .

94

95 (17) A Sussex County Rental Program, or SCR P, ~~townhouse or~~
96 ~~multi-family~~ development governed by, and subject to, Chapter
97 72, where at least ~~25~~15% of all dwelling units are SCR P Units

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

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

104
105 (b) The site shall be located within 2,640 feet of a principal arterial
106 road, minor arterial road or major collector road as classified by
107 the Delaware Department of Transportation. In addition, an
108 Applicant should make every effort to coordinate with DART for
109 transit access to and from the site.

110
111 (c) The site must be served by a central sewer system and a central
112 water system.

113
114 (d) The total maximum number of dwelling units (including both
115 SCRP Units and non-SCRP Units) that may be permitted shall be
116 determined by dividing the gross area by 3,630 square feet.
117 "Gross area" shall exclude any area designated as a [tidal tributary
118 stream or tidal wetlands] *Tidal Waters or Tidal Wetlands* by § 115-
119 193.

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

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

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

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

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

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

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

147
148 **Section 3. The Code of Sussex County, Chapter 115, Article V, §115-**
149 **29 “Permitted Uses”, is hereby amended by deleting the language in**
150 **brackets and inserting the italicized and underlined language as**
151 **follows:**

152
153 **§115-29 Permitted Uses.**

154
155 A building or land shall be used only for the following purposes:

156
157 . . .
158

159 M. A Sussex County Rental Program, or SCRP, [townhouse or
160 multi-family] development governed by, and subject to, Chapter
161 72, where at least [25]15% of all dwelling units are SCRP Units
162 pursuant to Chapter 72. The SCRP development must satisfy the
163 following criteria:

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

168
169 (2) The site shall be located within 2,640 feet of a principal arterial
170 road, minor arterial road or major collector road as classified by
171 the Delaware Department of Transportation. In addition, an
172 Applicant should make every effort to coordinate with DART for
173 transit access to and from the site.

174
175 (3) The site must be served by a central sewer system and a central
176 water system.

177
178 (4) The total maximum number of dwelling units (including both
179 SCRP Units and non-SCRP Units) that may be permitted shall be
180 determined by dividing the gross area by 3,630 square feet.
181 "Gross area" shall exclude any area designated as a [tidal tributary
182 stream or tidal wetlands] Tidal Waters or Tidal Wetlands by § 115-
183 193.

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

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

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

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

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

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

211

212 **Section 4. The Code of Sussex County, Chapter 115, Article VI, §115-**
213 **37 “Permitted Uses”, is hereby amended by deleting the language in**
214 **brackets and inserting the italicized and underlined language as**
215 **follows:**

216

217 **§115-37 Permitted Uses.**

218

219 Permitted uses are as follows:

220 . . .
221

222 C. A Sussex County Rental Program, or SCRP, [townhouse or
223 multi-family] development governed by, and subject to, Chapter
224 72, where at least [25]15% of all dwelling units are SCRP Units
225 pursuant to Chapter 72. The SCRP development must satisfy the
226 following criteria:

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

231
232 (2) The site shall be located within 2,640 feet of a principal arterial
233 road, minor arterial road or major collector road as classified by
234 the Delaware Department of Transportation. In addition, an
235 Applicant should make every effort to coordinate with DART for
236 transit access to and from the site.

237
238 (3) The site must be served by a central sewer system and a central
239 water system.

240
241 (4) The total maximum number of dwelling units (including both
242 SCRP Units and non-SCRP Units) that may be permitted shall be
243 determined by dividing the gross area by 3,630 square feet.
244 "Gross area" shall exclude any area designated as a [tidal tributary
245 stream or tidal wetlands] Tidal Waters or Tidal Wetlands by § 115-
246 193.

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

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

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

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

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

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

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

274

275 **Section 5. The Code of Sussex County, Chapter 115, Article VII,**
276 **§115-45 “Permitted Uses”, is hereby amended by deleting the**
277 **language in brackets and inserting the italicized and underlined**
278 **language as follows:**

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280 **§115-45 Permitted Uses.**

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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.

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

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

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

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

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

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

338
339 **Section 6. The Code of Sussex County, Chapter 115, Article VIII,**
340 **§115-53 “Permitted Uses”, is hereby amended by deleting the**

341 **language in brackets and inserting the italicized and underlined**
342 **language as follows:**

343

344 **§115-53 Permitted Uses.**

345

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

347

348 . . .

349

350 K. A Sussex County Rental Program, or SCRP, [**townhouse or**
351 **multi-family**] development governed by, and subject to, Chapter
352 72, where at least [**25**] 15% of all dwelling units are SCRP Units
353 pursuant to Chapter 72. The SCRP development must satisfy the
354 following criteria:

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

359

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

365

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

368

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

372 "Gross area" shall exclude any area designated as a [tidal tributary
373 stream or tidal wetlands] *Tidal Waters or Tidal Wetlands* by § 115-
374 193.

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

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

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

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

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

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

402

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



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 29, 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).

The County Council held a Public Hearing on the Ordinance at the meeting on May 19, 2026. At the conclusion of the public hearing, the Council closed the public meeting but left the public record open.

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 think 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 restate 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 through 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 be 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

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

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

37
38 **Section 1. The Code of Sussex County, Chapter 99, Article II, §99-9**
39 **“Public hearing on preliminary plat approval or disapproval” is**
40 **hereby amended by deleting the language in brackets and by**
41 **inserting the italicized and underlined language in Subsection 99-9.C**
42 **thereof as follows:**

43
44 **§ 99-9 Public hearing on preliminary plat approval or**
45 **disapproval.**

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47 . . .

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49 C. In addition to the other provisions contained within this article, an
50 Applicant for approval of a preliminary plat shall *demonstrate how the*
51 *preliminary plan is consistent with the Code of Sussex County and the*
52 *Comprehensive Land Use Plan and that the following criteria are*
53 *satisfied and the manner in which each one is satisfied* [provide that the
54 following criteria are incorporated and addressed in the plat and the
55 manner in which each one is incorporated and addressed] through the
56 design of the preliminary plat:

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58 (1) That the proposed subdivision is integrated into existing terrain and
59 surrounding landscape.

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61 (2) That all resources and resource buffers are protected in accordance
62 with Chapters 99 and 115 herein [and that floodplains are minimally
63 used].

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65 (3) [That natural and historic features are preserved and forest
66 fragmentation and vegetation and soil removal is minimized. In addition,
67 a forest assessment shall be conducted with a forest assessment report
68 provided with the preliminary plat. If woodlands or mature forests that
69 contain high habitat value are found, these areas shall be conserved to the
70 maximum extent possible.] That the cultural landscape, including scenic
71 views and cultural and historic features, are identified and protected as
72 appropriate on the preliminary plat.

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74 [(4) That open space and scenic views are preserved.]

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76 ([5]4) That the supply of potable water to future residents of the proposed
77 subdivision is safe and adequate for their use.

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79 ([6]5) That the means and method of sewage disposal are adequately
80 addressed for the proposed subdivision.

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82 (6) That all lots shall be configured to be contained completely outside
83 of all wetlands and that [That] the proposed subdivision will not pollute
84 surface water or groundwater.

85

86 ([8]7) That the anticipated method of minimization of erosion and
87 sedimentation are adequately identified and that the proposed subdivision
88 complies with the requirements of Chapter 90 of the Code of Sussex
89 County.

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91 ([9]8) That changes to the groundwater levels will be minimized and
92 that groundwater recharge is maximized as a result of the proposed
93 subdivision and that the methods of both are adequately identified. In
94 addition, that there will not be increased rates of runoff or increased risk
95 of flooding onto adjoining properties from the design and construction of
96 the proposed subdivision, and the anticipated methods used to achieve
97 these criteria are adequately identified.

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99 ([10]9) That area property values will not be adversely affected.

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[(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.

135 (17) That lots are located on the environmentally suitable portions of the
136 tract, specifically those portions of the tract least encumbered by sensitive
137 environmental features, including but not limited to wetlands, mature
138 woodlands, waterways and other water bodies.

139
140 (18) That the following sequence and process was followed in the site
141 design of the preliminary plan:

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143 (a) Lands that should be preserved are identified first. First, areas
144 worthy of preservation should be mapped, including wetlands,
145 wooded areas, waterways, other water bodies, and natural drainage
146 areas. Then, other features that are important should be mapped,
147 such as tree lines, scenic views, historic buildings, and prime
148 farmland. The areas with the fewest important natural, scenic and
149 historic features should be considered the "potential development
150 area."

151
152 (b) Developable lands should be identified second. The most
153 appropriate locations for development should be chosen to minimize
154 the impact to the most important features mapped in (18)(a).

155
156 (c) Roads and trails should be identified third. After the
157 developable areas are determined, a road system should be
158 designed to serve those homes. A trail system that links homes to
159 destinations outside of the tract should be designed.

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161 (d) Lot lines should be located fourth. The last step is to configure
162 lot lines and make necessary adjustments to satisfy the various
163 reviewing agencies' comments.

164
165 **Section 2. The Code of Sussex County, Chapter 99, Article III, §99-**
166 **17 “Street Layout” is hereby amended by deleting the language in**
167 **brackets and by inserting the italicized and underlined language in**
168 **as follows:**

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§ 99-17 Street layout.

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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.

198 **Section 3. The Code of Sussex County, Chapter 115, Article IV, §115-**
199 **25 “Height, Area and Bulk Requirements” is hereby amended by**
200 **deleting the language in brackets as follows:**
201

202 § 115-25 Height, area and bulk requirements.

203 . . .

204 [E. Design requirements for cluster development.

205 (1) All development shall be in accordance with the latest
206 amendment to the community design standards.

207 (2) Housing types in the low-density area, as shown on the Sussex
208 County Comprehensive Plan, are limited to single-family detached
209 dwellings and manufactured homes where permitted by ordinance.

210 (3) The perimeter buffer and perimeter buffer protection area as
211 required by § 99-21.A.

212 (4) No lots shall have direct access to any state-maintained roads.

213 (5) All lots shall be configured to be contained completely outside
214 of all wetlands.

215 (6) Any development using the option in Subsection B(2) shall
216 have central water and wastewater systems operated and maintained
217 by companies authorized by the State of Delaware to perform such
218 services. Wastewater collection and treatment systems must be
219 designed in accordance with the requirements of Sussex County
220 ordinances and conform to the requirements for a central sewer
221 system as defined in § 115-194A of the Sussex County Zoning
222 Ordinance.

223 F. Review procedures for cluster development.

224 (1) The developer shall submit an application for a cluster
225 development in accordance with Chapter 99, Subdivision of Land,

226 of the Sussex County Code and which shall include, at a minimum,
227 a sketch plan showing the location and uses of all open spaces, the
228 extent of existing wooded areas and wetlands and the location of any
229 historical or cultural resources. The Director of Planning and Zoning
230 may waive this requirement when the proposed development does
231 not contain significant natural features or resources.

232 (2) The information submitted shall include a plan for the
233 management of all open space.

234 (3) The Planning and Zoning Commission shall determine that the
235 following requirements are met before approving any preliminary
236 plan and such application shall be reviewed on an expedited basis.

237 (a) The cluster development sketch plan and the preliminary
238 plan of the cluster subdivision provides for a total environment
239 and design which are superior, in the reasonable judgment of
240 the Planning Commission, to that which would be allowed
241 under the regulations for the standard option. For the purposes
242 of this subsection a proposed cluster subdivision which
243 provides for a total environment and design which are superior
244 to that allowed under the standard option subdivision is one
245 which, in the reasonable judgment of the Planning
246 Commission meets all of the following criteria:

247 [1] Homes shall be clustered on the environmentally
248 suitable portions of the tract, specifically those portions
249 of the tract least encumbered by sensitive environmental
250 features, including but not limited to wetlands, mature
251 woodlands, waterways and other water bodies. This does
252 not inhibit the development of wooded parcels.

253 [2] (Reserved)

254 [3] Required open space shall comply with the
255 following criteria:

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[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'

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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.

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[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.

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(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.

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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.

McLanahan



SUSSEX COUNTY GOVERNMENT

GRANT APPLICATION

SECTION 1 APPLICANT INFORMATION

Town of Greenwood
ORGANIZATION NAME: Greenwood Police Department

PROJECT NAME: 2026 National Night Out

FEDERAL TAX ID: 51-0107189 NON-PROFIT: YES NO

DOES YOUR ORGANIZATION OR ITS PARENT ORGANIZATION HAVE A RELIGIOUS AFFILIATION?

YES NO *IF YES, FILL OUT SECTION 3B.

ORGANIZATION'S MISSION: To conduct Community Policing within the Town of Greenwood. In addition, we also assist other Law Enforcement Agencies throughout Sussex County.

ADDRESS: 100 W. Market Street/PO Box 208

Greenwood DE 19950
(CITY) (STATE) (ZIP)

CONTACT PERSON: Alice Green

TITLE: Police Administrator

PHONE: 302-349-4822 EMAIL: alice.green@cj.state.de.us

TOTAL FUNDING REQUEST: 2,000.00

Has your organization received other grant funds from Sussex County Government in the last year? YES NO

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

\$1,500.00
~~\$46,500.00~~ ~~\$51,500.00~~

If you are asking for funding for building or building improvements, do you own the building in which the funding will be used for? YES NO

Are you seeking other sources of funding other than Sussex County Council? YES NO

If YES, approximately what percentage of the project's funding does the Council grant represent? 20

SECTION 2: PROGRAM DESCRIPTION

PROGRAM CATEGORY (choose all that apply)

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|--|--|--------------------------------------|
| <input type="checkbox"/> Fair Housing | <input type="checkbox"/> Health and Human Services | <input type="checkbox"/> Cultural |
| <input type="checkbox"/> Infrastructure ¹ | <input type="checkbox"/> Other Community Outreach | <input type="checkbox"/> Educational |

BENEFICIARY CATEGORY

- | | | |
|---|--|-----------------------------------|
| <input type="checkbox"/> Disability & Special Needs | <input type="checkbox"/> Victims of Domestic Violence | <input type="checkbox"/> Homeless |
| <input type="checkbox"/> Elderly Persons | <input type="checkbox"/> Low to Moderate Income ² | <input type="checkbox"/> Youth |
| <input type="checkbox"/> Minority | <input checked="" type="checkbox"/> Other Community of Greenwood | |

BENEFICIARY NUMBER

Approximately the total number of Sussex County Beneficiaries served annually by this program:
200

SECTION 3: PROGRAM SCOPE

- A. Briefly describe the program for which funds are being requested. The narrative should include the need or problem to be addressed in relation to the population to be served or the area to benefit.

The Annual National Night Out for Law Enforcement is an event that brings the community together, to build a greater understanding of each other. There are information tables and a wide variety of demonstrations by numerous State, County and Local Agencies. In addition, local businesses within the community have a chance to contribute to the event.

B. IF RELIGIOUS AFFILIATION WAS CONFIRMED ABOVE IN SECTION 1, PLEASE FILL OUT THE FOLLOWING SECTION. IF RELIGIOUS AFFILIATION WAS NOT CHECKED IN SECTION 1, THIS SECTION MAY BE LEFT BLANK.

A faith-based nonprofit organization is eligible to receive and apply for a grant on the same basis as other nonprofit organizations, with respect to programs which are eligible. In the selection of grantees, the County will not discriminate for or against an organization on the basis of the organization's religious characterization or affiliation. However, certain requests to utilize funding for programs with religious purposes may not be eligible due to constitutional principles of the United States and/or the State of Delaware.

Briefly describe the components of the program that involve religious purposes and the components that involve secular purposes, or non-religious purposes. If both non-religious and religious purposes are involved in the program, this narrative must include the specific actions that will be implemented in order to ensure that the funding is solely used for non-religious purposes and will not be used to advance or inhibit religious or faith-based activities.

After the awarded funds have been made, receipts of the non-religious purchases shall be submitted in accordance with Section 5 below before funds will be disbursed.

SECTION 4: BUDGET

REVENUE	2000.00
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	
TOTAL REVENUES	2,000.00
EXPENDITURES	
Please enter the total projected budget for the project (not entire organization expense if not applicable to request). Example of expenditure items: PERSONNEL-one lump sum that would include benefits, OPERATING COSTS-supplies, equipment, rent/lease, insurance, printing telephone, CONSTRUCTION/ACQUISITION-acquisition, development, rehab hard cost, physical inspections, architectural engineering, permits and fees, insurance, appraisal. (Put amounts in as a negative)	
Bounce House/Obstacle Course	-\$ 575.00
Gift Bags	-\$ 800.00
Food And Drinks	-\$ 1,500.00
Custom T-Shirts	-\$ 3,500.00
Mobile Game Center	-\$ 1,000.00
TOTAL EXPENDITURES	-\$ 7,375.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	-\$ 5,375.00

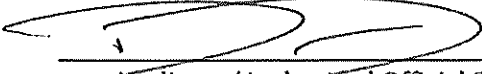
SECTION 5: STATEMENT OF ASSURANCES

If this grant application is awarded funding, the Greenwood Police Department agrees that:
(Name of Organization)

- 1) For non-religious organizations, all expenditures must have adequate documentation and must be expended within one (1) year of receipt of award funds. The funding awarded to the organization must be used in substantial conformity with the anticipated expenditures set forth in the submitted application. All accounting records and supporting documentation shall be available for inspection by Sussex County within thirty (30) days after the organization's expenditure of the awarded funding, or within one year after the receipt of the awarded funds, whichever first occurs.
- 2) For religious organizations, all accounting records and supporting documentation shall be provided for inspection by Sussex County after the award has been made by County Council but before the funding is released.
- 3) No person, on the basis of race, color, or national origin, should be excluded from participation in, be denied the benefit of, or be otherwise subjected to discrimination under the program or activity funded in whole or in part by these Grant funds.

SECTION 5: STATEMENT OF ASSURANCES (continued)

- 4) All information and statements in this application are accurate and complete to the best of my information and belief.
- 5) All funding will benefit only Sussex County residents.
- 6) All documents submitted by the applicant are defined as public documents and available for review under the Freedom of Information Act of the State of Delaware.
- 7) All funding will be used exclusively for secular purposes, i.e., non-religious purposes and shall not be used to advance or inhibit religious purposes.
- 8) **In the event that the awarded funding is used in violation of the requirements of this grant, the awarded funding shall be reimbursed to Sussex County within a timeframe designated by Sussex County by written notice.**



Applicant/Authorized Official Signature

5/11/2026
Date



Witness Signature

5/11/2026
Date

Completed application can be submitted by:

Email: gjennings@sussexcountyde.gov

Mail: Sussex County Government
Attention: Gina Jennings
PO Box 589
Georgetown, DE 19947

SUSSEX COUNTY COUNCIL NON-PROFIT GRANT PROGRAM
GUIDELINES FOR SUBMITTAL AND AFFIDAVIT OF UNDERSTANDING

The Sussex County Council makes available a limited amount of funding to non-profit organizations that serve the citizens of Sussex County. Each application for funding shall be evaluated by Sussex County administrative staff and shall be subject to final approval from Sussex County Council.

In the attached application, each organization must outline its intended uses for the awarded funding and provide a detailed breakdown of the expenses and costs for such uses. Any funding awarded to the organization must be used in substantial conformity with anticipated expenditures of the submitted application.

All expenditures must have adequate documentation and must be expended within one (1) year of award of funds.

For non-religious organizations, all accounting records and supporting documentation shall be available for inspection by Sussex County within thirty (30) days after the organization's expenditure of the awarded funding, or within one year after the receipt of the awarded funds, whichever first occurs.

For religious organizations, all accounting records and supporting documentation shall be provided for inspection by Sussex County after the award has been made by County Council but before funding is released. Grant is relinquished if supporting documentation is not provided within one year of County Council award.

Certain programs are not eligible for funding pursuant to United States Constitution and State of Delaware Constitution. Those constitutional principles prohibit the use of funding to advance or inhibit religious activities. By signing below, the organization acknowledges that the funding shall be used exclusively for secular purposes, i.e., non-religious purposes and shall not be used to advance or inhibit religious activities.

In the event that such funding is used in violation of the requirements and assurances contained in this grant application, the awarded funding shall be reimbursed to Sussex County within a timeframe designated by Sussex County by written notice.

I acknowledge and represent on behalf of the applicant organization that I have read and understand the above statements.




Applicant/Authorized Official Signature



Witness Signature



Title



Date

Bobbi Albright

From: notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE <notifications@d3forms.com>
Sent: Friday, May 1, 2026 4:34 PM
To: Bobbi Albright
Subject: Form submission from: Council Grant Form

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Council Grant Form

Legal Name of Agency/Organization Sussex County Land Trust

Project Name Dogfish Dash

Federal Tax ID 04-3611220

Non-Profit Yes

Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.) No

Organization's Mission Safeguarding the land and resources that make Sussex County special

Address P.O. Box 372

City Lewes

State DE

Zip Code 19958

Contact Person Sara Bluhm

Contact Title	Executive Director
Contact Phone Number	3025196767
Contact Email Address	sara@sclandtrust.org
Total Funding Request	5000
Has your organization received other grant funds from Sussex County Government in the last year?	Yes
If YES, how much was received in the last 12 months?	3000
Are you seeking other sources of funding other than Sussex County Council?	Yes
If YES, approximately what percentage of the project's funding does the Council grant represent?	.05
Program Category (choose all that apply)	Other
Program Category Other	Environment/5K

Primary Beneficiary Category	Other
Beneficiary Category Other	Sussex County Residents & Visitors
Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program	250000
Scope	<p>The Sussex County Land Trust is requesting support for the Dogfish Dash, a community-driven road race that promotes health, wellness, and environmental stewardship while raising critical funds for land conservation across Sussex County. As one of the fastest-growing counties in Delaware, Sussex is experiencing significant development pressure, resulting in the loss of open space, natural habitats, and access to outdoor recreation.</p> <p>Proceeds from the Dogfish Dash directly support the preservation and stewardship of parks, trails, and open spaces that serve residents and visitors countywide. These funds help ensure that as Sussex County continues to grow, it remains a place where people can access nature, stay active, and enjoy the quality of life that defines the region.</p>
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	0.00
Description	Personnel
Amount	30,000.00

Description	Advertising
Amount	600.00
TOTAL EXPENDITURES	30,600.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	-30,600.00
Name of Organization	Sussex County Land Trust
Applicant/Authorized Official	Sara Bluhm
Date	05/01/2026
Affidavit Acknowledgement	Yes

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

Bobbi Albright

From: notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE <notifications@d3forms.com>
Sent: Wednesday, May 6, 2026 3:37 PM
To: Bobbi Albright
Subject: Form submission from: Council Grant Form

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Council Grant Form

Legal Name of Agency/Organization Friends of the Georgetown Public Library

Project Name Annual 5K Race

Federal Tax ID 51-0403103

Non-Profit Yes

Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.) No

Organization's Mission Friends of the Georgetown Public Library (FGPL) are a registered 501 (c) (3) organization separate from the Georgetown Public Library. The Friends' mission is to advocate for the Library and raise funds for programming, book acquisitions, and general support.

Address 123 West Pine Street

City Georgetown

State DE

Zip Code	19947
Contact Person	Ivan D. Neal
Contact Title	5K Race Chairperson
Contact Phone Number	302-519-1928
Contact Email Address	ivandneal7@gmail.com
Total Funding Request	\$1000
Has your organization received other grant funds from Sussex County Government in the last year?	Yes
If YES, how much was received in the last 12 months?	750
Are you seeking other sources of funding other than Sussex County Council?	Yes
If YES, approximately what percentage of the project's funding does the Council grant represent?	10
Program Category (choose all that apply)	Other

Program Category Other	Programs & Operations
Primary Beneficiary Category	Other
Beneficiary Category Other	Residents of Sussex County
Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program	25000
Scope	<p>This request is made on behalf of The Friends of the Georgetown Public Library.</p> <p>Our mission is to raise money in an effort to help finance the Georgetown Public Library's budget. In the past, "The Friends" have allocated funds for the Library's e-book collection, tablets with educational testing (SAT prep, Math, Learning a foreign language, Brain games, etc) and toys for the children's area.</p> <p>Throughout the year "The Friends" group hosts events to raise funding that goes directly to the Georgetown Library. The events include a 5K Race/1 Mile Walk through Georgetown, an auction, two book sales, etc.</p> <p>All members of the community, but especially residents of Sussex County benefit from the many services the Georgetown Public Library offers. One of the greatest opportunities to residents is the use of computers and internet access to those residents who do not have internet service (or slow internet service) in their homes.</p> <p>One hundred percent (100%) of this grant will be used to supplement Library programs operating costs.</p>

Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	0.00
Description	Race Coordinator
Amount	1,500.00
Description	Supplies & Materials
Amount	1,000.00
TOTAL EXPENDITURES	2,500.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	-2,500.00
Name of Organization	Friends of the Georgetown Public Library
Applicant/Authorized Official	Ivan D. Neal
Date	05/06/2026
Affidavit Acknowledgement	Yes

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

Bobbi Albright

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

Legal Name of Agency/Organization Town of Georgetown

Project Name Georgetown America/Delaware 250 Events

Federal Tax ID 51-6000120

Non-Profit Yes

Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.) No

Organization's Mission Recognizing the importance of the 250th anniversary of Delaware and America.

Address 37 The Circle

City GEORGETOWN

State DE

Zip Code 19947

Contact Person Gene Dvornick

Contact Title	Town Manager
Contact Phone Number	3028567391
Contact Email Address	gdvornick@georgetowndel.com
Total Funding Request	5000
Has your organization received other grant funds from Sussex County Government in the last year?	No
If YES, how much was received in the last 12 months?	N/A
Are you seeking other sources of funding other than Sussex County Council?	Yes
If YES, approximately what percentage of the project's funding does the Council grant represent?	20
Program Category (choose all that apply)	Cultural Educational
Primary Beneficiary Category	Other

Beneficiary Category Other	All ages
Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program	8000
Scope	<p>To promote, throughout Sussex County and especially the County Seat, events recognizing the 250th anniversary of Delaware and America. This includes the following events/activities:</p> <ul style="list-style-type: none"> o Crosswalk Art Work - adding 13 stars, representing the 13 colonies, amongst the 12 crosswalks around The Circle o Georgetown Spirit of 1776 Artisan & Craft Festival (June 13, 2026) o Fire Hydrant Painting - hydrants on The Circle o Reading of the Declaration of Independence, on The Circle, July 4, 2026 (8:00, Noon, 4:00) o Mural painting - Cherry Alley (9 East Market Street) <p>We are hopeful for \$1,000 from each Councilperson as this is the County Seat.</p>
Religious Components	n/a
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	18,540.00
Description	Contracted Services (design, marketing, performers)

Amount	4,600.00
Description	Honoraria (dancers, speakers, performers)
Amount	800.00
Description	Merchandise
Amount	2,700.00
Description	Mural
Amount	5,000.00
Description	Cross Walk Art
Amount	4,500.00
Description	Trash & Portable Toilets
Amount	2,000.00
Description	Printing & Publishing (program, flyers, etc.)
Amount	1,750.00
Description	All other
Amount	2,190.00
TOTAL EXPENDITURES	23,540.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	-5,000.00
Name of Organization	Town of Georgetown

Applicant/Authorized Official	Gene Dvornick
Date	05/05/2026
Affidavit Acknowledgement	Yes

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

Bobbi Albright

From: notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE <notifications@d3forms.com>
Sent: Wednesday, May 6, 2026 11:09 AM
To: Bobbi Albright
Subject: Form submission from: Council Grant Form

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Council Grant Form

Legal Name of Agency/Organization Rehoboth Summer Children's Theatre

Project Name The Jungle Book Summer Tour

Federal Tax ID ~~530292158~~ 51-0292158

Non-Profit Yes

Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.) No

Organization's Mission The Rehoboth Summer Children's Theatre provides participatory theatrical programs of enrichment, education and entertainment for family audiences of all ages, these include touring theatrical productions and theatre and film camps for ages 8-14.

Address PO Box 153

City Oreland

State PA

Zip Code	19075
Contact Person	Steve Seyfried
Contact Title	Managing Director
Contact Phone Number	302-227-6766
Contact Email Address	rehobothchildrenstheatre@gmail.com
Total Funding Request	\$1,625.00
Has your organization received other grant funds from Sussex County Government in the last year?	No
If YES, how much was received in the last 12 months?	N/A
Are you seeking other sources of funding other than Sussex County Council?	Yes
If YES, approximately what percentage of the project's funding does the Council grant represent?	11
Program Category (choose all that apply)	Cultural

Primary Beneficiary Category	Youth
Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program	1750
Scope	<p>Each year the Rehoboth Summer Children’s Theatre produces a play with professional actors. The show travels to locations throughout Sussex County. The performances take place in libraries, parks and community centers and are free and open to the public. In 2025 (our 44th year!) there will be a minimum of 19 performances of The Jungle Book in July and August. The shows will take place in these communities: Bridgeville, Seaford, Greenwood, Georgetown, Milton, Lewes. Rehoboth Beach, Bethany Beach, Selbyville, Millsboro, Milford, Frankford and Delmar. The performances in these locations are free and open to the public. RSCT provides all of these Sussex County locations with easy access to performances of The Jungle Book, providing a wonderful opportunity for family members of all ages to enjoy the excitement and magic of live theatre!</p>
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	12,375.00
Description	Actors
Amount	5,000.00
Description	Director

Amount	2,000.00
Description	Actor Housing
Amount	4,000.00
Description	Props & Costumes
Amount	1,500.00
Description	Advertising
Amount	600.00
Description	Administration
Amount	900.00
TOTAL EXPENDITURES	14,000.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	-1,625.00
Name of Organization	Rehoboth Summer Children's Theatre
Applicant/Authorized Official	Steve Seyfried
Date	05/06/2026
Affidavit Acknowledgement	Yes

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

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 29, 2026

RE: County Council Report for C/U 2563 filed on behalf of George Herker

The Planning and Zoning Department received an application (C/U 2563 filed on behalf of George Herker) for a Conditional Use for a mini-storage business with boat and RV storage in an AR-1 Agricultural Residential District. The Tax Parcel ID is 433-7.00-20.00. The property is located at on the south side of Omar Road (SCR 54, approximately 0.23 mile east of Dukes Rd. The parcel size is 13.48 ac. +/-

The Planning & Zoning Commission held a Public Hearing on the application on April 15, 2026. At the meeting of May 6, 2026, the Planning & Zoning Commission recommended approval of the application for the 6 reasons and subject to the 13 recommended conditions of approval as outlined within the motion (copied below).

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

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

C/U 2563 George Herker

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MINI-STORAGE WITH BOAT AND RV STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 13.48 ACRES, MORE OR LESS. The property is lying on the south side of Omar Road (S.C.R. 54), approximately 0.23 mile east of Dukes Road (S.C.R. 354). 911 Address: N/A. Tax Map Parcel: 433-7.00-20.00.



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

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Conditional Use Site Plan, the DelDOT Service Level Evaluation Response Letter, a copy of a letter received from the Sussex County Engineering Department's Utility Planning Division, and the Staff Analysis Report. Mr. Whitehouse advised the Commission that no written public comment had been received regarding the application.

The Commission found that Mr. Richard Polk, Civil Engineer with Vista Design, Inc., spoke on behalf of the applicant, Mr. George Herker. Mr. Polk stated that as indicated, the Applicant was requesting a Conditional Use for the development of a commercial mini storage facility to contain thirty-one (31) 40' x 60' storage buildings and sixty-two (62) storage spaces; that the property is comprised of 13.4 acres, and located on the south side of Omar Road, approximately 2,500 feet west of the Route 20 intersection, and approximately 2/3 mile east of the Town of Frankford; that the property is currently zoned AR-1 (Agricultural Residential); that the site is located within the Coastal Area per the 2019 Future Land Use Map; that the property is not located within a DelDOT Transportation Improvement District (TID); that the site was not located within a Wellhead Protection Area; that the site was located within an area of poor groundwater recharge potential; that the site was located within Investment Levels 2 and 3 per the Delaware State Strategies Map, with the portion nearest to Omar Road within the Level 2 area, and the area to the south of the site being within the Leve 3 area; that the property had 460 feet of frontage along Omar Road; that the site was currently a mixture of active agricultural fields on the northern half, and forested lands on the southern half; that most of the property's eastern and western property lines, along the existing agricultural fields are comprised of a single or double row of mature trees with various amounts of understory; that only the northernmost part of the site, being near Omar Road, did not have the forested buffer along the agricultural field; that the southern boundary of the property ran along Vines Creek, where areas of regulated wetlands had been identified; that portions of the southern area are also mapped within Flood Zone A per the FEMA Flood Maps; that topography on the site ranges from high of approximately 25 elevation along Omar Road, to a low of near 9 in Vines Creek; that the agricultural fields, and the first area of woods are relatively flat with most of the fall in the topography, occurring immediately adjacent to the Vines Creek; that the property is located within Tier 2 being the Sewer Planning Area by the Sussex County Engineering; that although no plans currently exist to extend service to the area; that the property is located almost directly across Omar Road, from the Applicant and the Owner's current property management facilities, where they have provided services for property owners throughout Sussex County for the last 15 years; that they take great pride in their entrance, and they intend to do the same with the subject property; that the proposed development program contains thirty-one (31) 40' x 60' single-story buildings and sixty-two (62) parking spaces; that a single point of ingress and egress from Omar Road is proposed; that DelDOT reviewed the application and responded that the proposed use would create a negligible traffic impact; that there will be no development nor disturbance within the regulated wetlands or the FEMA floodplain areas; that the development portions of the site is to be completely fenced; that the site's entrance will be key or card activated; that the entrance will also include a provision for turnarounds; that if someone were to pull off Omar Road for any reason, or were not authorized to get in, they will be able to perform a three-point-turn and pull back out onto Omar Road; that there will be no personnel intended to work on the property; that therefore, there are no well or septic facilities; that the signage will be located at the entrance; that should there be a problem, a telephone number for a 24-hour service line will be included, as well as

direction to Herker Property Management Facility office, located across the street; that because no personnel are intended to work from the site, no well or septic facilities are proposed; that the site is to be lighted for security purposes; that lighting is to be fully shielded to prevent light from bleeding onto adjacent properties; that 30 foot forested buffers are proposed along both sides of the majority of the site's frontage, as well as along both sides of the property, and along the majority of the site's frontage; that the only place there will no be a 30 foot buffer will be at the site's primary means of ingress, egress and a small area set aside for the sign; that the majority of the development is proposed within the existing agricultural land; that the site preserves or reforests 80% of the existing on-site forest; that post-development, the overall developed site open space area will be more than 50% of the site; that in summary, the proposed Herker mini-storage site proposes 31 single-story storage buildings, and 62 surface parking storage spaces; that the development had been designed to minimize impacts on surrounding properties and is proposed to retain or reforest over 80% of the existing on-site forested lands, equating to over 51% open post development; that access to the site had been designed to ensure safe ingress and egress to Omar Road; that while the property would not be staffed 24 hours a day, signage would be installed directing patrons to the existing Herker Property Management Facility, located immediately across Omar Road should any issue arise, and that the development would adhere to all Sussex County, DelDOT and the State of Delaware regulations.

Madam Chair Wingate questioned the location of the gate from the roadway, as she was concerned about there being ample space provided for the mentioned turn around, so that Omar Road was not blocked.

Mr. Polk stated that the gate would be located inward of the site, and should someone be unable to get into the gate, there was a provided turn around area before the gate entrance.

Mr. Robertson questioned the number of surface storage spaces.

Mr. Polk stated that sixty-two (62) surface storage spaces were proposed, which was listed later in the plan by size; that those spaces would be the areas where the boat and RV storage would occur and were not intended to be parking spaces.

Ms. Lepore questioned the hours of operation for the proposed storage facility.

Mr. Polk stated that the proposed commercial facility was intended to operate 24/7, because it was not intended to be manned.

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

Ms. Debbie Brittingham, realtor, current resident of Laurel, recent property owner along Omar Road, spoke in opposition to application. Ms. Brittingham stated that she had been a realtor for 40 years; that Ms. Brittingham spoke with concerns regarding the lack of shoulders and upgrades to Omar Road and the negative impact on nearby property values.

Mr. Robertson questioned whether any mechanical work would be performed on the boats and RV on the site.

Mr. Polk stated that no mechanical work would be performed on the site, and that the proposed use was purely for storage and maintenance operations.

Mr. Allen questioned whether the entrance would be long enough for a truck to pull a long travel trailer to access the site without it blocking Omar Road.

Mr. Polk stated that they are required from DelDOT to ensure that the entrance is designed in that way; that they had recently proposed a similar use for self-storage to be located over in Seaford, were they were required to actually show DelDOT that a boat could be turned around within the provided entrance; that they have allowed themselves more room, in the case DelDOT required even more room, as opinions can change through the process, and they have prepared for that.

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 2563 George Herker. Motion by Mr. Allen, seconded by Mr. Passwaters, 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. Allen moved that the Commission recommend approval of C/U 2563 for George Herker to operate a mini-storage facility with outdoor boat and RV storage based upon the record made at the public hearing and for the following reasons:

1. The use as a storage facility is of a public or semi-public character and is desirable for the general convenience and welfare of the area.
2. The use will be located along Omar Road, and it is in an area where several small businesses and commercial uses exist within one mile of the site, including the Applicant's property management business across the road. This is an appropriate location for this type of low-intensity use.
3. The use will be a storage facility. No manufacturing, assembling, fabrication, or similar activities will be permitted on this site. The management of the use will occur from the Applicant's existing property management company on the opposite side of Omar Road.
4. There was testimony in the record that there is a need for storage facilities in Sussex County. This type of use complements 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 31 mini-storage buildings and the outside storage of boats and RVs. The buildings on the site shall be no larger than 40 feet by 60 feet in size and 20 feet in height. The buildings shall be separated by a minimum separation distance of 24 feet. None of the buildings shall have water or sewer connections.
 - B. Security lighting shall be screened with downward illumination so that it does not shine on any neighboring properties or roadways.
 - C. The perimeter of the storage area shall be fenced and gated with electronic access. The location and type of fencing shall be shown on the Final Site Plan. The entrance gate shall be located at least 40 feet from the Omar Road right-of-way so that waiting vehicles do not line up on that roadway.
 - D. There shall not be any manufacturing, fabrication, or similar activities conducted on the site.
 - E. There shall be only one lighted sign allowed on the site. It shall not be larger than 32 square feet per side.
 - F. Stormwater management shall be maintained on site, using Best Management Practices.
 - G. A 30-foot-wide perimeter landscape buffer shall be established along the perimeter of the site with the exception of the entrance and sign areas. This buffer shall include existing trees to the greatest extent possible. The Final Site Plan shall include the details of this perimeter landscape buffer.
 - H. Any trash receptacles associated with the use shall be screened from neighboring properties and roadways.
 - I. 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.
 - J. The use shall be subject to all DelDOT requirements regarding entrance and roadway improvements necessary to provide access to the site.
 - K. 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.
 - 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 be subject to approval of the Planning and Zoning Commission.

Motion by Mr. Allen, seconded by Mr. Collins, and carried unanimously to recommend approval of C/U 2563 George Herker 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



Memorandum

To: Sussex County Planning Commission Members
From: Susan Isaacs, Planner I
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: February 11, 2026
RE: Staff Analysis for C/U 2563 George Herker

This memo is to provide background and analysis for the Planning Commission to consider as a part of Application C/U 2563 George Herker to be reviewed during the April 15, 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: 433-7.00-20.00

Proposal: The request is for a Conditional Use for Tax Parcel 433-7.00-20.00 to allow for Mini Storage with Boat and RV Storage. The property is lying on the south side of Omar Road (Route 54), approximately 0.23 miles east of Dukes Road (S.C.R. 354). The Parcel consists of 13.48 acres +/-.

Zoning: The Parcel is zoned Agricultural Residential (AR-1) District. The adjacent Parcels to the north, south, west and east 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 Omar Road (Route 54) 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:** Staff note that a review of the Sussex County Online Mapping Application confirmed that the Property is within the vicinity of lands which appear to be actively farmed.
- **Interconnectivity:** N/A
- **Transportation Improvement District (TID):** The Parcel is not located within any established Transportation Improvement Districts (TIDs).
- **Forested Areas:** Staff notes that the Parcels appear to have existing forest/vegetation cover on the rear of the subject Property.
- **Wetlands Buffers/Waterways:** Staff note there appears to be wetlands encroaching the rear of the Property based on Delaware’s FirstMap data system in GIS.
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** The majority of the property is located within Flood Zone “X” with Flood Zone “A” encroaching on the rear of the property. The Parcel is not located within any Wellhead Protection Area. The subject property is located within an “Poor” Groundwater Recharge Area.

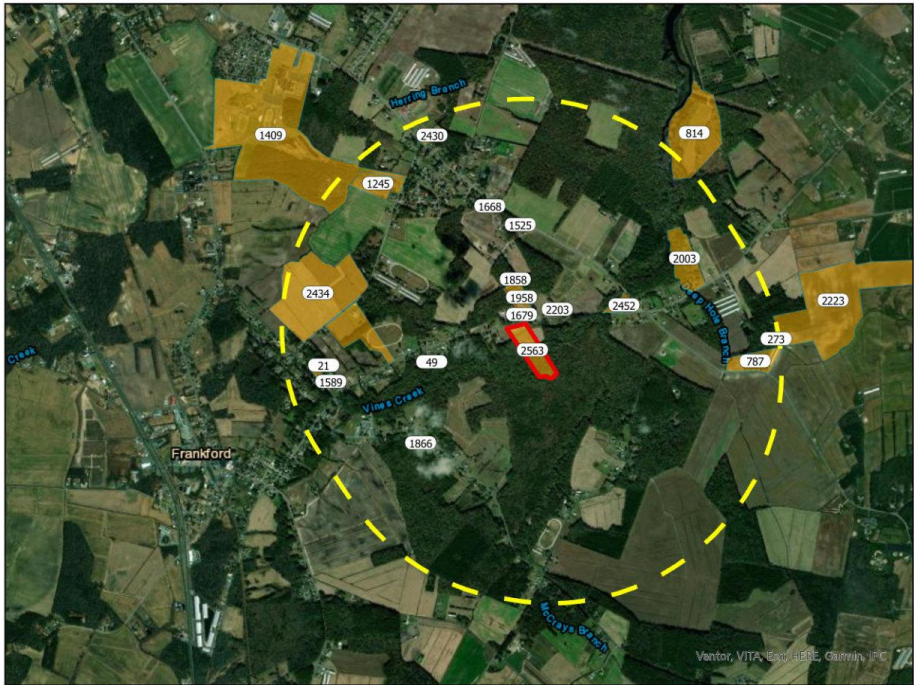
Based on the analysis of the land use, surrounding zoning and uses, a Conditional Use Application to allow for mini storage with boat and RV storage, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.

Existing Conditional Uses within the Vicinity of the Subject Site: A Data Table and Supplemental Maps 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.

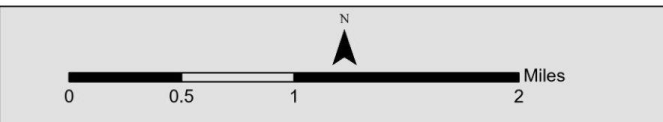
Since 1971, there have been 20 Conditional Use Applications within a 1-mile radius of the Application Site.

CU No.	APPLICANT	Tax Parcel #	Proposed Use	CC Date	CC Decision
21	Sylvester Bratton	433-6.15-41.00	Barber shop	9/7/1971	Approved
49	Leroy & Nancy Hooper	433-6.00-119.00	Beauty salon	3/21/1972	Approved
273	Jack Hickman & Barbara	134-14.00-28.00	Poultry House on Less than 5 Acres	6/10/1975	Approved
787	Jack Hickman	134-14.00-28.00	Poultry house on less than 5 acres	4/10/1984	Approved
814	Bayshore, Inc.	134-10.00-51.00	Addition to non-conforming mhp-accessory use	4/16/1985	Approved
1245	Paradee Gas Co., Inc.	433-6.00-40.00	2 33-gallon LP Gas Storage Tanks	5/22/1998	Withdrawn
1409	Indian River School District(Frankford/Dagsb	233-11.00-313.00	Public school	7/17/2001	Approved
1525	Kay A. Wilkerson	433-7.00-5.00	Produce stand	3/16/2004	Approved
1589	Delmar Homes, Inc.	433-6.15-44.00	Expansion to mobile home park	3/15/2005	Approved
1668	Karl M. Klink	433-7.00-2.02	Country store	6/12/2007	Approved
1679	Herker Property Maintenance	433-7.00-15.02	Warehouse/office	3/27/2007	Approved
1858	Omar Road, LLC	433-7.00-15.01	Helipad	9/28/2010	Approved
1866	Trustees of Church of Christ	533-1.00-25.00	Extend cemetery	8/10/2010	Approved
1958	Omar Road, LLC	433-7.00-15.01	Relocation of a Helicopter Pad as an extension to	3/26/2013	Approved
2003	Thomas E. Lowe	134-14.00-6.00	Retail Store	12/9/2014	Approved
2203	Christopher Booth	433-7.00-13.01	Tree and landscaping business	3/17/2020	Approved
2223	A&W Burbage, LLC	134-14.00-36.00	Boat & RV Storage	8/11/2020	Approved
2430	Mark Baull	433-1.00-7.00	Auto Repair Shop	4/30/2024	Approved
2434	New Leaf Energy	433-6.00-37.00	Solar Facility		Pending
2452	Community Lutheran Church	533-2.00-8.00	Electronic Message Center	11/14/2023	APPROVED
2563	Omar Road, LLC (George Herker)	433-7.00-20.00	Mini-Storage & Boar/RV Parking		Pending



- CU 2563 Omar Road, LLC (George Herker)
- CU 2563 - 1-Mile Buffer
- CU 2563 - CU Vicinity Map

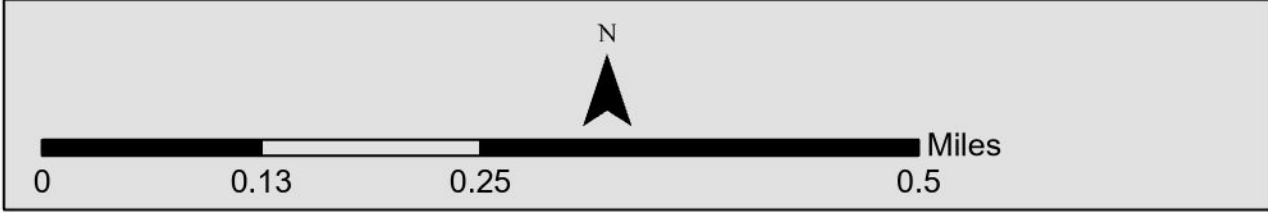
**CU 2563 Omar Road, LLC
(George Herker)
Conditional Uses within 1 mile
TM# 433-7.00-20.00**

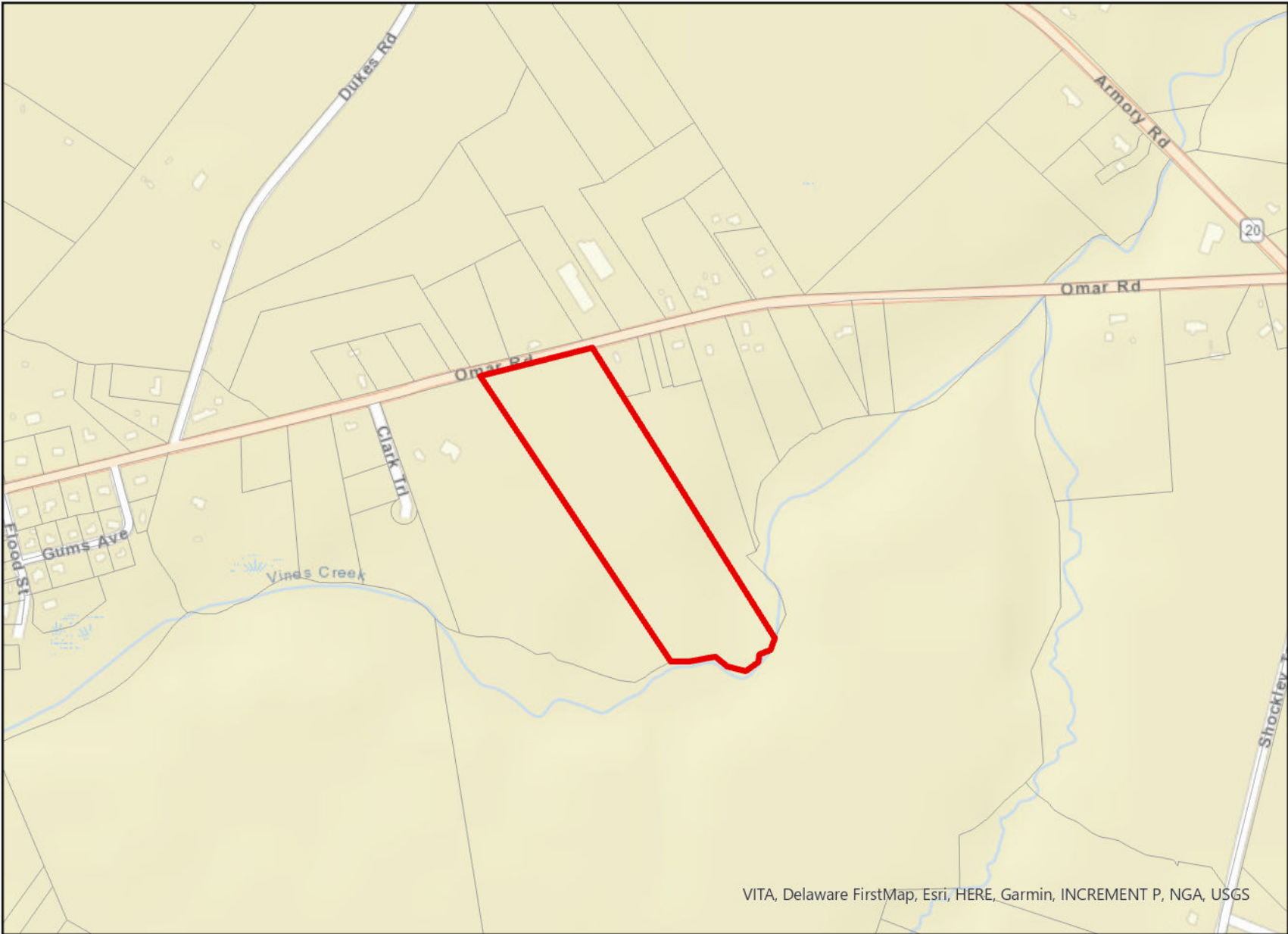




 CU 2563 Omar Road, LLC

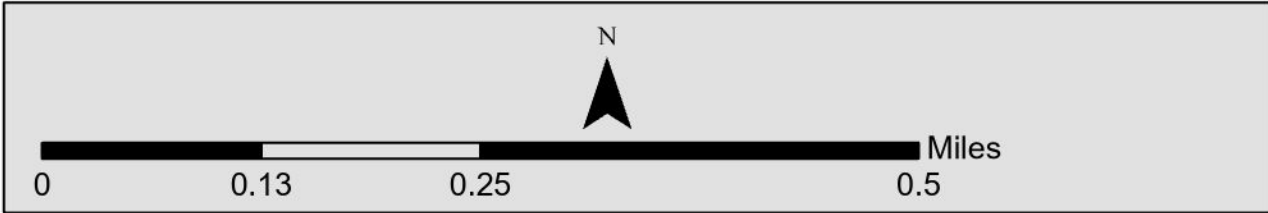
CU 2563 Omar Road, LLC
(George Herker)
Aerial Map
Tax Map No. 433-7.00-20.00

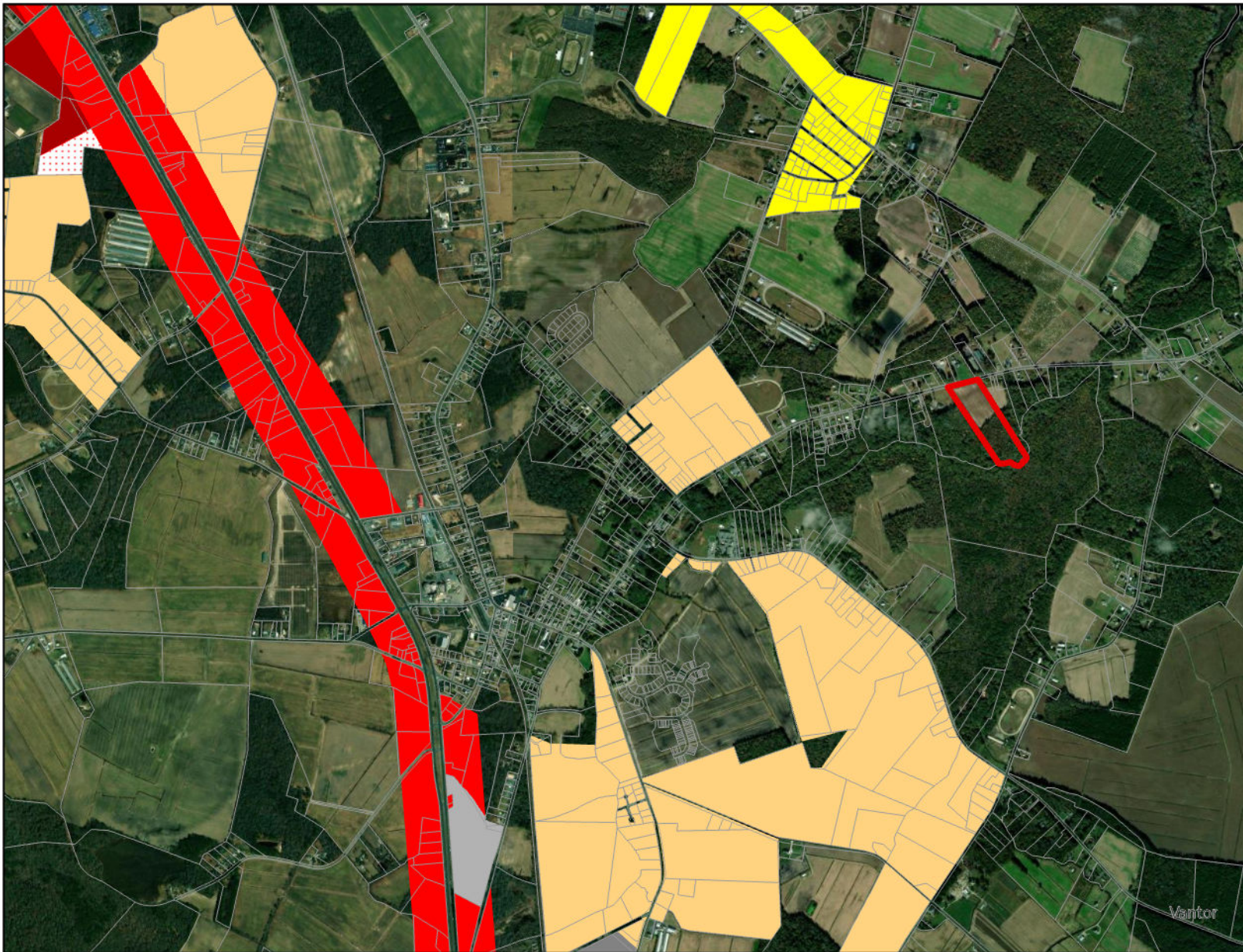





 CU 2563 Omar Road, LLC

CU 2563 Omar Road, LLC
(George Herker)
Street Map
Tax Map No. 433-7.00-20.00



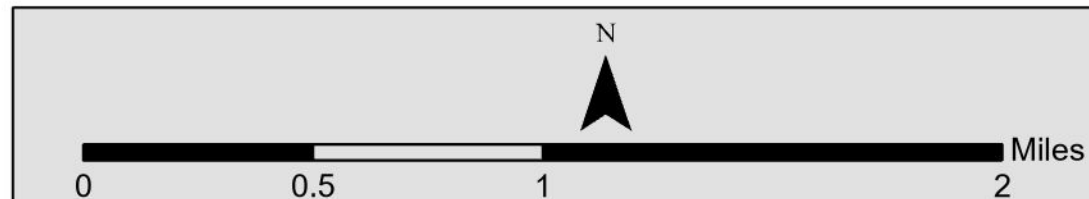


 CU 2563 Omar Road, LLC

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 2563 Omar Road, LLC
(George Herker)
Zoning Map
Tax Map No. 433-7.00-20.00**



Introduced: 3/3/26

Council District 4: Mr. Hudson
Tax I.D. No.: 433-7.00-20.00
911 Address: N/A

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MINI-STORAGE WITH BOAT AND RV STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 13.48 ACRES, MORE OR LESS

WHEREAS, on the 8th day of November 2024, a Conditional Use application, denominated Conditional Use No. 2563 was filed on behalf of George Herker; 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. 2563 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. 2563 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 Omar Road (S.C.R. 54), approximately 0.23 mile east of Dukes Road (S.C.R. 354), and being more particularly described in the attached legal description prepared by Moore & Rutt, PA said parcel containing 13.48 acres, more or less.

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



Memorandum

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

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

CC: Everett Moore, County Attorney

Date: May 29, 2026

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

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

The Planning & Zoning Commission held a Public Hearing on the application on April 15, 2026. At the conclusion of the Public Hearing, the Commission deferred action on the application for further consideration, leaving the record open until April 22nd for receipt of any additional written comments. The item is scheduled to be considered under Old Business at the meeting scheduled for June 3, 2026. If action is taken at that meeting, an update will be provided to the County Council.

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

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

C/U 2631 Zion Church Ventures, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR STORAGE/WAREHOUSE/OFFICE BUILDINGS AND A CAR WASH (TO AMEND CONDITION "D" AND CONDITION "N" OF THE CONDITIONS OF APPROVAL FOR CONDITIONAL USE NO. 2581 (ORDINANCE NO. 4009) TO ALLOW FOR OFFICE SPACES WITHIN THE WAREHOUSE UNITS AND TO REMOVE THE REQUIREMENT THAT AN ON-SITE MANAGEMENT OFFICE BE ESTABLISHED FOR THE MAINTENANCE AND OPERATION OF THE WAREHOUSE UNITS TO BE LOCATED ON A CERTAIN



PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 29.55 ACRES, MORE OR LESS. The property is lying on the southwest side of Zion Church Road (Route 20), approximately 605 feet northwest of Deer Run Road (S.C.R. 388), and the north side of Deer Run Road (S.C.R. 388), approximately 159 feet southwest of Zion Church Road (Route 20). 911 Address: 36054 Zion Church Road, Frankford. Tax Map Parcel: 533-11.00-23.00.

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

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

the County; that the use would not adversely affect neighboring and adjacent properties; that those findings still currently apply; that the property still served as a practical need for climate controlled storage and office space for the area and property owners and businesses; that existing conditions still prevent the kind of impacts Sussex County wanted to avoid, and that the request was a modest operational adjustment, not just a change in the overall use of the property.

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

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

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

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

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

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

Mr. Absher stated that the reason they returned before the Commission last time, which was completely annihilated, as it was not relayed to what the Applicant was actually trying to do; that when they returned before the Commission the second time, it was to request the individual offices for the units, and instead they were approved for bathrooms to be placed within each unit as part of the second approved Conditional Use.

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. Robertson questioned the number of individual units proposed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PLANNING & ZONING COMMISSION

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



Sussex County

DELAWARE
SUSSEXCOUNTYDE.GOV
302-855-7878

JAMIE WHITEHOUSE, AICP MRTPI
PLANNING & ZONING DIRECTOR

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: April 15th, 2026

Sussex County Council Hearing Date: June 2nd, 2026

Application: C/U 2631 Zion Church Ventures, LLC

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

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

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

Current Zoning: MR (Medium Density Residential District)

Proposed Zoning: MR (Medium Density Residential District)

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

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: District 4 - Mr. Hudson

School District: Indian River School District

Fire District: Roxana Fire Company

Sewer: Sussex County (central sewer)

Water: Tidewater (central water)

Site Area: 29.55 acres +/-

Tax Map ID.: 533-11.00-23.00



JAMIE WHITEHOUSE, AICP MRTPI
PLANNING & ZONING DIRECTOR
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jamie.whitehouse@sussexcountyde.gov



Sussex County

DELAWARE
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Memorandum

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

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

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

Tax Parcel ID: 533-11.00-23.00

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

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

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

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

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



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

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

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

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

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

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

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

Compliance with Comprehensive Plan

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

Further Site Considerations:

- **Density:** N/A

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

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

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

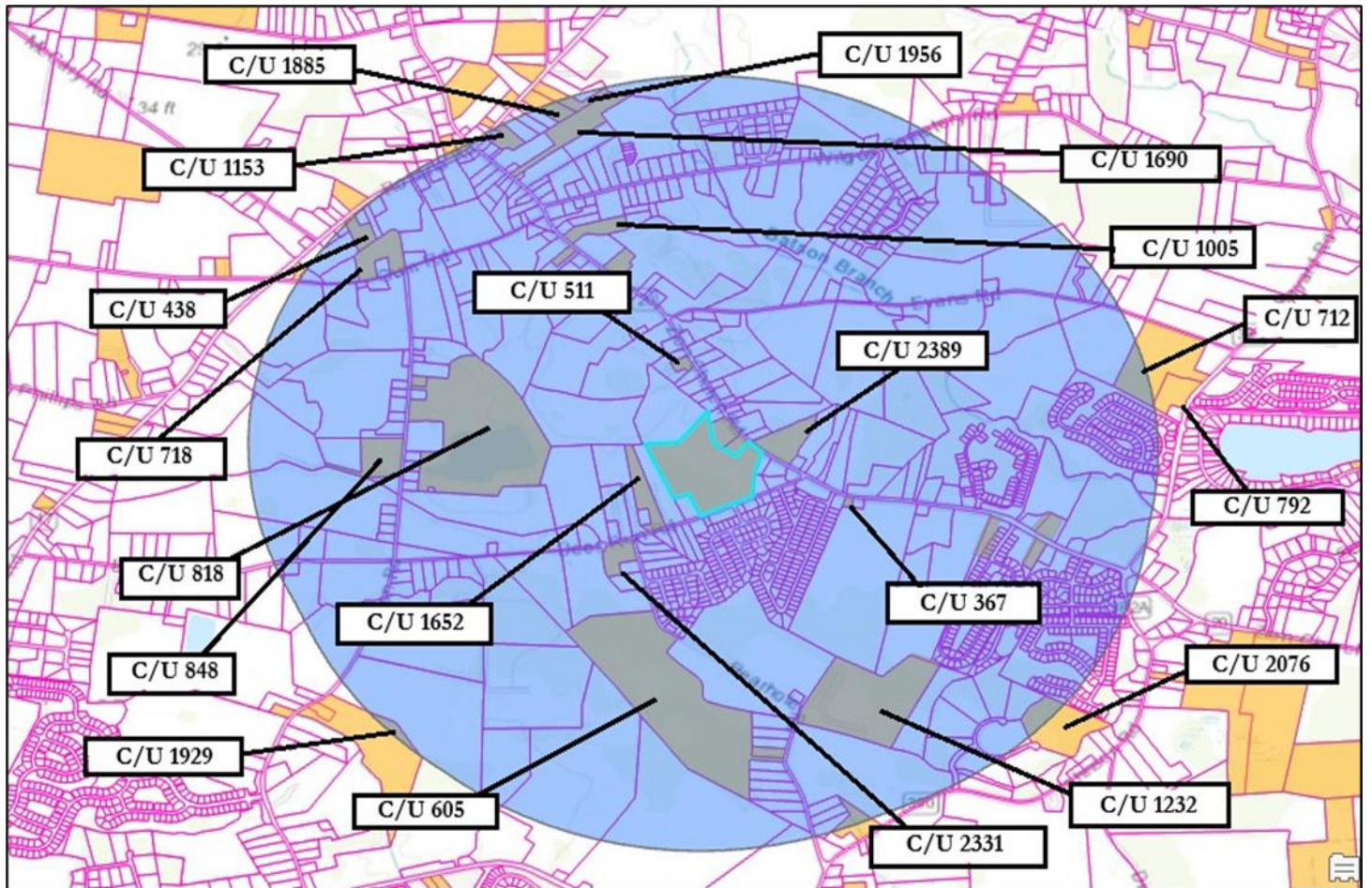
Based on the analysis provided, the Conditional Use to amend Conditions “D” and “N” of the Conditions of Approval for Conditional Use No. 2581 (Ordinance 2009) to allow for office spaces within the warehouse units and to remove the requirement that an on-site management Office be

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

Existing Conditional Uses within the Vicinity of the Subject Site:

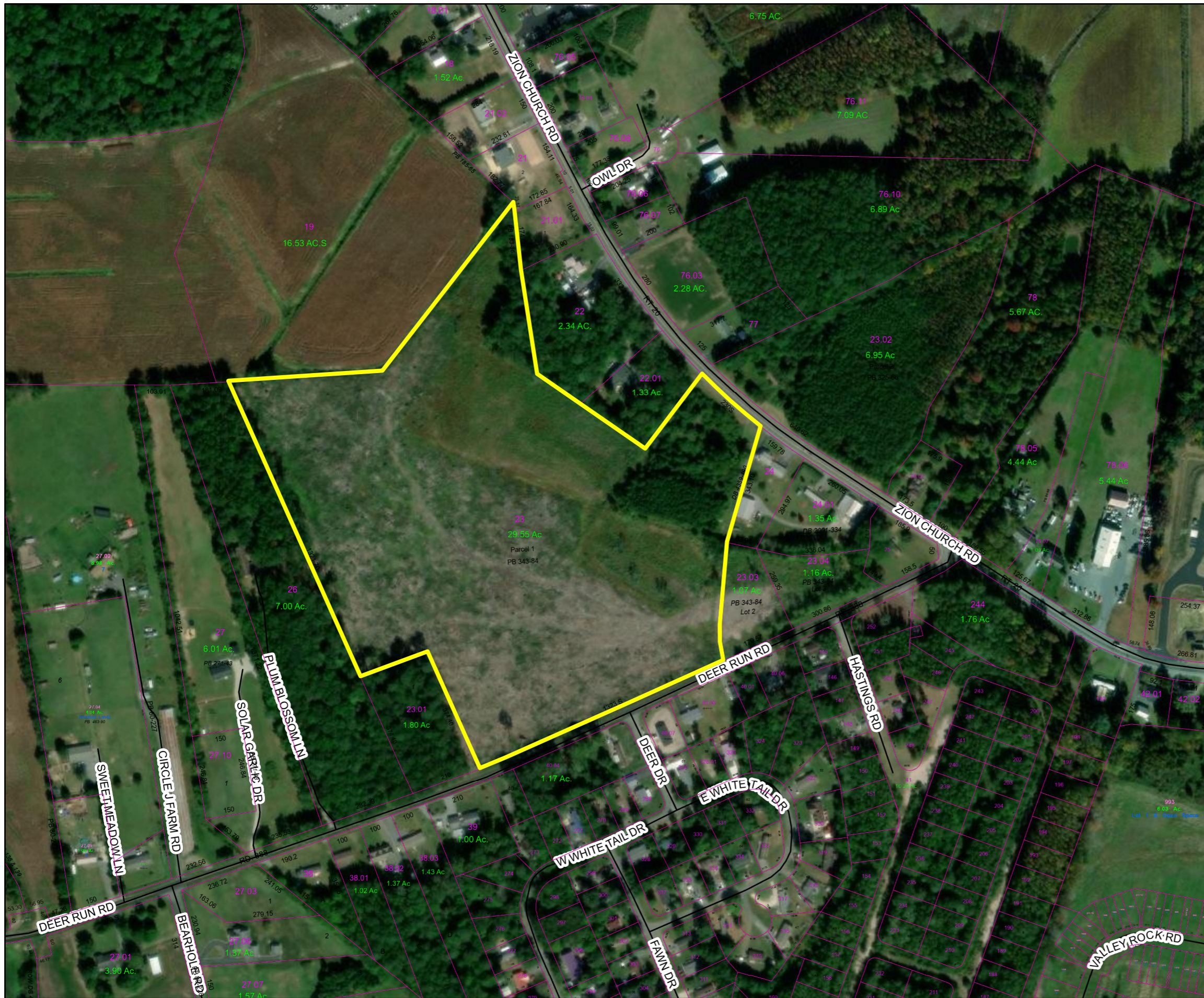
Staff notes there have been forty-one (41) Conditional Use Applications within a one (1) mile radius of the Application site. Four (4) Applications were denied, twenty-nine (29) were approved, six (6) were withdrawn and two (2) are Pending Public Hearings. A Data Table and Supplemental Map have been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

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



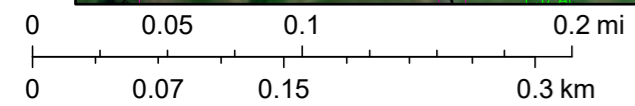


A3 Landscape Parcel Details



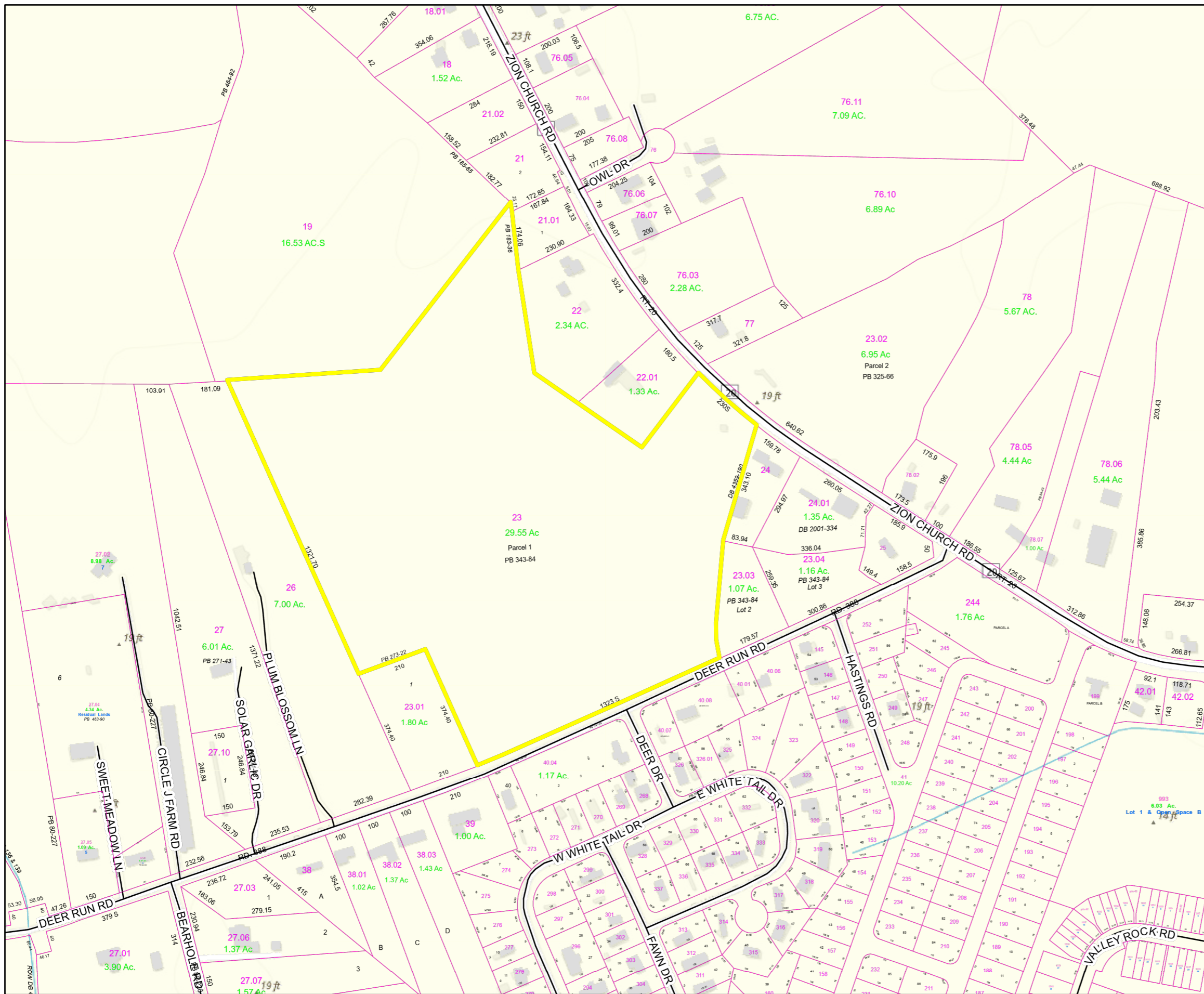
PIN:	533-11.00-23.00
Owner Name	ZION CHURCH VENTURES LLC
Book	5467
Mailing Address	35322 BAYARD RD
City	FRANKFORD
State	DE
Description	
Description 2	
Description 3	
Land Code	

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



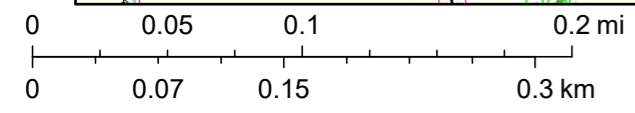


A3 Landscape Parcel Details



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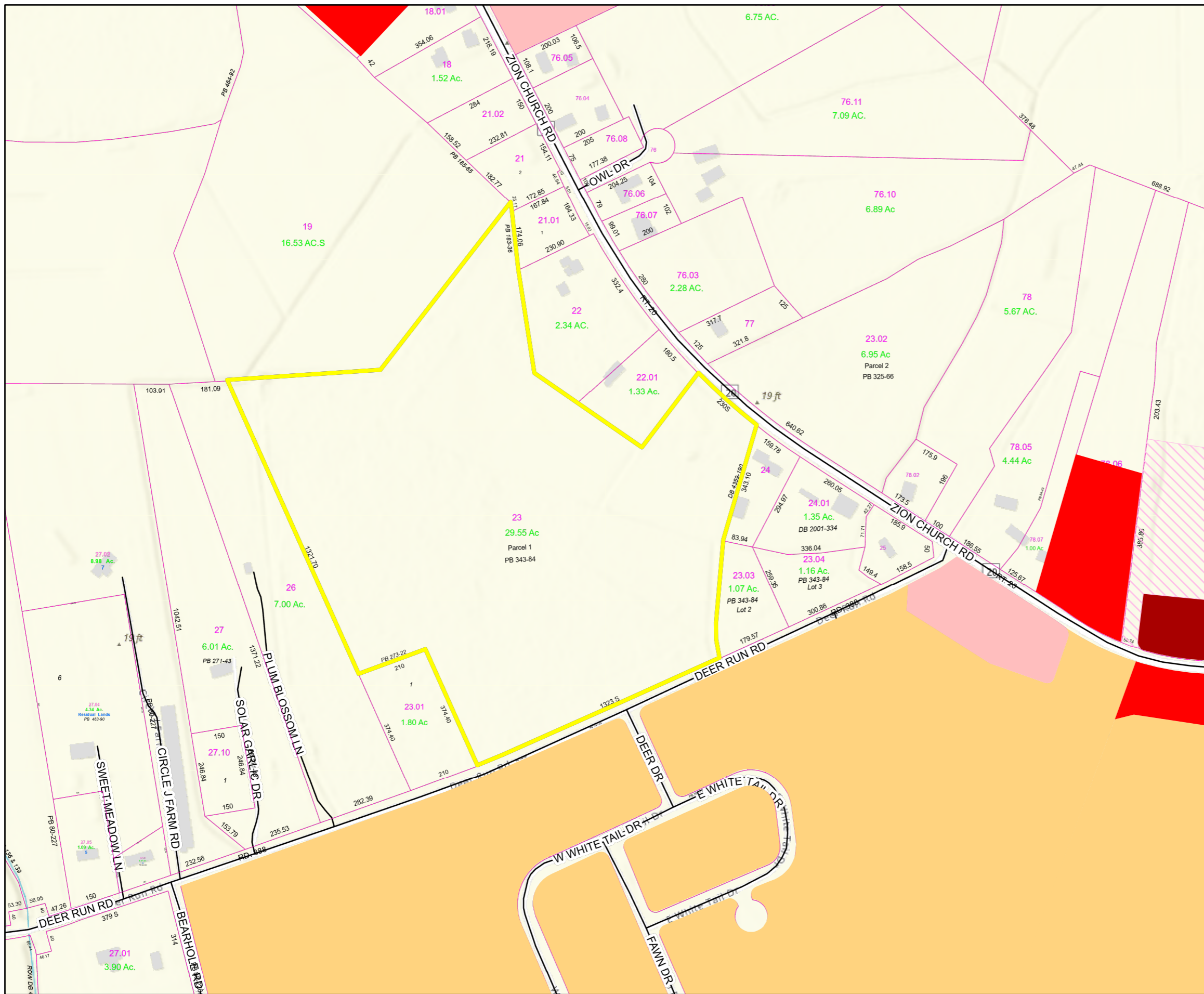
- Tax Parcels
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- Encumbrance
- Condo
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March 13, 2026

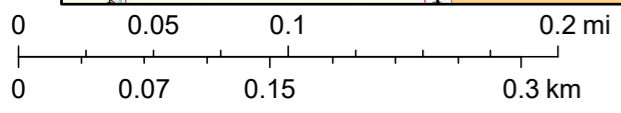


A3 Landscape Parcel Details



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Owner Name	ZION CHURCH VENTURES LLC
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Mailing Address	35322 BAYARD RD
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State	DE
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Description 3	
Land Code	

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



Introduced: 3/3/26

Council District 4: Mr. Hudson
Tax I.D. No. 533-11.00-23.00
911 Address: 36054 Zion Church Road, Frankford

ORDINANCE NO. ____

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

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

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

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

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

Section 2. The subject property is described as follows:

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

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

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 29, 2026

RE: County Council Report for C/U 2551 filed on behalf of Sarah Peterson

The Planning and Zoning Department received an application (C/U 2551 filed on behalf of Sarah Peterson) for a Conditional Use for an events venue in an AR-1 Agricultural Residential District. The Tax Parcel ID is 432-3.00-41.06. The property is located at 8982 Morning Glory Farms Road. The parcel size is 8.45 ac. +/-

The Planning & Zoning Commission held a Public Hearing on the application on April 15, 2026. At the meeting of May 20, 2026, the Planning & Zoning Commission recommended approval of the application for the 6 reasons and subject to the 10 recommended conditions of approval as outlined within the motion (copied below).

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

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

C/U 2551 Sarah Peterson

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EVENTS VENUE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 8.45 ACRES, MORE OR LESS. The property is lying on Morning Glory Farms Road on the northwest side of Portsville Road (S.C.R. 492), approximately 0.84 mile east of S. Shell Bridge Road (S.C.R. 492A). 911 Address: 8982 Morning Glory Farms Road, Laurel. Tax Map Parcel: 432-3.00-41.06.



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GEORGETOWN, DELAWARE

Mr. Whitehouse advised that Commission that submitted into the record were the Applicant's DeIDOT Entrance Approval, the Applicant's exhibits and presentation materials, the Applicant's Preliminary Site Plan, the Staff Analysis Report, the DNREC Site Evaluation Report, the property deed, a copy of a Lot Line Adjustment Plan, and a copy of court-related documents, relating to the property. Mr. Whitehouse advised the Commission that no public comments had been received regarding the application.

Madam Chair Wingate questioned whether there was any applicable history regarding the application.

Mr. Whitehouse stated that the Applicant had been working with staff for a number of years; that there had been previously application submitted prior to the application currently before the Commission; that the Constables had been involved with the property; that there had been back and forth about whether a wedding and special events were occurring on the site; that it was intermittent, and in its nature, was subsequently identified as requiring a Conditional Use; that the Applicant had been utilizing the Sussex County Special Events Request System, which allowed a property owner to have up to three days of events per year; that as soon as it became apparent that the use was more intensive than three days per year, staff began to work with the Applicant to get the current Conditional Use application submitted, and that Ms. Peterson had been working with the Constable's office in an effort to submit the Conditional Use application currently before the Commission.

The Commission found that Ms. Sarah Peterson spoke on behalf of her application. Ms. Peterson stated that Mr. Whitehouse had provided much of her presentation material; that the current public hearing was her second time before the Commission; that she was the owner of the property, and had lived there for 26 years; that the property was originally a horse farm; that her daughter, who currently resides with her, operate the event venue together; that they turned the horse farm into a venue after her divorce, seven years ago; that they originally started with just special events, because at the time, they were a large compound; that through her divorce, they had separate entities there; that after proceeding in getting her property in 2022, she found out that there was an encroachment, which had to be resolved; that the encroachment issue had been resolved; that there is a property deed; that all of the items of concern, which led to the denial of the last application, had been resolved and accomplished; that they had placed a new driveway, which is a mile long and in an area that is completely wooded; that establishing the new driveway was quite an undertaking; that the encroachment has been taken care of; that they had paid Ms. Grace Peterson, her (the Applicant's) ex-mother-in-law, and by doing so were able to take care of the encroachment by getting it deeded properly; that they had provided their Preliminary Site Plan and Construction Plans, which were performed by Mr. Mark Warfel and Mr. John Warfel; that Mr. Doug Annand had performed her survey; that a driveway agreement had been finished and approved; that the site is surrounded by Broad Creek River; that they are the only people that reside there; that they do not have any neighbors; that the nearest neighbors rides approximately a mile away from the site; that she had letters from other neighbors expressing support for the event venue; that one of them had previously had an event, and that they had tried to remedy everything that had previously been expressed in opposition, so that they could move forward. Ms. Peterson requested to submit into the record the two written letters in support of her application.

Mr. Robertson stated that he understood the history of the property but requested information regarding the use of the property, specifically requesting details regarding event frequency and what structures are proposed to be use as part of the use.

Ms. Peterson stated that her barn was just under 10,000 square feet; that the property was previously used for a horse farm; that when she was previously married, they had began changing things over, and her office was located on the site; that she had now change it over to the event venue; that the event venue was proposed to host baby showers, weddings, and life celebrations, and really any need for an event, they could accommodate it at their venue.

Madam Chair Wingate questioned the hours of operation and operation days of the week.

Mr. Peterson stated that typically, most of the events were held on the weekends; that they could host a one-day wedding, lasting a span of 12 hours span; that they can hold a three-day wedding; that this allows clients to arrive for set up the day before, allow for the event, and the following day for clean up, and that they are always staffed with at least four to five people at every wedding; that they live there, which provides a lot of convenience.

Mr. Robertson questioned the maximum number of event attendees at a time.

Ms. Peterson stated that the currently had their plans into the State Fire Marshal's Office; that 130 people can be held in one area; that the adjacent area, located to the right and separate by a wall of which they wanted to have removed, can hold up to 100 people; that they needed to obtain a building permit for the removal of the wall; that they only want to host events for 200 people or under; that they do have adequate parking; that they have room for additional parking, but were not interested in hosting any larger than 200 people, and that there are additional Code requirements through the Fire Marshal when hosting over 200 people.

Mr. Collins questioned whether there was an updated site plan or property deed for the site, as the documents within the record were from 2024.

Ms. Peterson stated that her update deed was dated 2024; that they had to purchase 4.54 acres to make the barn legal; that her previous husband was a carpenter; that he built the barn 25 feet onto his mother's property, and she had only found that out through her previous Conditional Use application.

Mr. Collins stated that he believed the road proposed for the previous application ran in the middle of the site.

Ms. Peterson stated that they no longer use that road, as that was one of the Commission's recommendations; that they had used that road for 25 years; that she understood if they were going to have a commercial business, Grace (her ex-mother-in-law) did not want people coming through her property; that they were in agreement to do that, and had that completed.

Mr. Allen questioned what the 92 lawn spaces reflected on the Site Plan were for, whether the area would be grass or gravel, and whether signage was current located or proposed at the site entrance.

Ms. Peterson stated that the 92 lawn spaces are for parking; that they have two parking areas; that vehicle parking is located where the corral was; that the area is sand; that they do not have any water runoff to that area because everything drains; that she currently has a sign on a trailer, as she is not yet permitted to erect a sign, and that she did want a sign to be permitted as part of any approval.

Mr. Collins stated that the sign would need to be included within the Site Plan.

Mr. Robertson stated that if the application were approved, the sign would be permitted as a Condition of Approval with imposed sign limits, and the sign would be required to be shown as part of Final Site Plan review and approval.

Madam Chair Wingate stated that she had visited the site, which was a very long lane; that there did not appear to be neighbors who would be impacted by the use, and questioned what type of outside noise the use would create.

Ms. Peterson stated that events are completed by 11:00 pm, regardless of what type of event is being hosted, and they have a 15-page contract which clients are required to sign.

Mr. Collins requested Mr. Whitehouse pull up the submitted Preliminary Site Plan for viewing; that the access road appeared to be located in the wrong location, and that it would need to be revised prior to Final Site Plan review.

Ms. Peterson agreed that the road was reflected in the wrong location and needed to be changed.

Mr. Robertson questioned whether the access road was the curvy road or the straight road on the Site Plan.

Ms. Peterson stated that they do not use the curvy road that was reflected on the Site Plan, and that was the old, previously proposed, access road.

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

Ms. Grace Peterson, adjacent neighbor, spoke in opposition of the application. Ms. Peterson spoke with concern regarding potential trespassing, as people had trespassed before; that a fence had been installed, but the remaining area was only logs, which could be stepped over, and she requested to submit a survey and photos of the property.

Madam Chair Wingate stated potential the site needed more signage to be posted by the owner.

Mr. Collins questioned if the issue was mostly regarding keeping trespassers out, whether a certain type of fence would be required, or whether a wire fence would suffice, and stated that it could be conditioned.

Ms. Sarah Peterson stated as part of the permitted 5-minute rebuttal in support of the application that a one-wire fence had been placed on Ms. Grace Peterson's property; that the fence was placed about two to three months prior; that originally it was placed 20 feet onto her property; that she contacted Ms. Grace Peterson about the fence; that they change the fence location three times before it was placed correctly; that it was a one-wire fence and that it was located on Ms. Grace Peterson's property.

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 2551 Sarah Peterson. Motion by Mr. Allen seconded by Mr. Collins 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 20, 2026, Planning & Zoning Commission Meeting

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

Mr. Allen moved that the Commission recommend approval of C/U 2551 for Sarah Peterson for an Event Venue based upon the record made during the public hearing and for the following reasons:

1. The site is an 8.45-acre parcel of land owned by the Applicant with direct access to Portsville Road.
2. This use was previously the subject of Conditional Use #2373 for a similar event venue. That Conditional Use was denied for lack of a detailed site plan, improper access via a private easement and a property line dispute. All of those issues are now resolved, including a dedicated entrance drive to Portsville Road on land owned by the Applicant.
3. The Applicant intends to hold events that include weddings, baby showers, birthday parties and similar events.
4. The site will have an area available for at least 141 parking spaces based on the site plan that was submitted with the Application.
5. With the conditions and limitations placed upon the Conditional Use, it will not adversely affect neighboring or adjacent properties or area roadways.
6. This use promotes tourism and hospitality activities in Sussex County.
7. This recommendation is subject to the following conditions:
 - A. All events shall end no later than 11:00 p.m.
 - B. Food and beverage service and music or similar entertainment is permitted.
 - C. As stated by the Applicant, there shall be no more than 200 people at any event.

- D. All parking areas shall be generally shown on the Final Site Plan. No parking shall be permitted on any nearby County roads or adjacent properties.
- E. All access to the site for this use shall be via the Applicant's fee simple roadway connecting to Portsville Road. There shall not be any access for this use via the 10-foot-wide easement shown on the site plan.
- F. One unlighted sign shall be permitted on the Applicant's property at the entrance along Portsville Road. It shall not be larger than 32 square feet per side.
- G. A solid wooden or vinyl fence at least six feet in height shall be installed along the eastern boundary of the site along lands of Grace S. Peterson. The type and location of this fencing shall be shown on the Final Site Plan.
- H. All entrance locations shall be subject to the review and approval of DelDOT.
- I. Any violation of these conditions of approval may be grounds for the termination of this Conditional Use.
- J. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Allen, seconded by Mr. Collins, and carried unanimously to recommend approval of C/U 2551 Sarah Peterson, for the reasons and the conditions stated in the motion. Motion carried 5-0.

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: Mrs. Christin Scott, Planner III
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: March 8, 2026
RE: Staff Analysis for C/U 2551 Sarah Peterson

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 2551 Sarah Peterson to be reviewed at the March 18th, 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: 432-3.00-41.06

Proposal: The request is for Conditional Use for Tax Parcel #432-3.00-41.06 to allow for an Events Venue. The Parcel is located on the northwest side of Portsville Road (S.C.R. 492), approximately 0.84 miles east of S. Shell Bridge Road (S.C.R. 492A) and the improvements are proposed on an (8.50) acres +/- parcel of land.

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

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

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

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

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



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

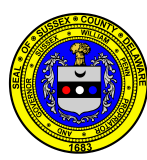
Further Site Considerations:

- **Density: N/A**
- **Open Space Provisions: N/A**
- **Agricultural Areas:** The site is within the vicinity of active agricultural lands.
- **Interconnectivity: N/A**
- **Transportation Improvement District (TID): N/A**
- **Forested Areas:** A majority of the western portion of the parcel is wooded. Staff appreciate efforts to preserve as many mature trees as possible on the site.
- **Wetlands Buffers/Waterways:** Tidal wetlands appear to be present in a rear portion of the Parcel adjacent to Broad Creek. 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.):** Majority of the property is located within Flood Zones “X”, with a portion of the property in the rear being located within Flood Zone “AE”. 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.

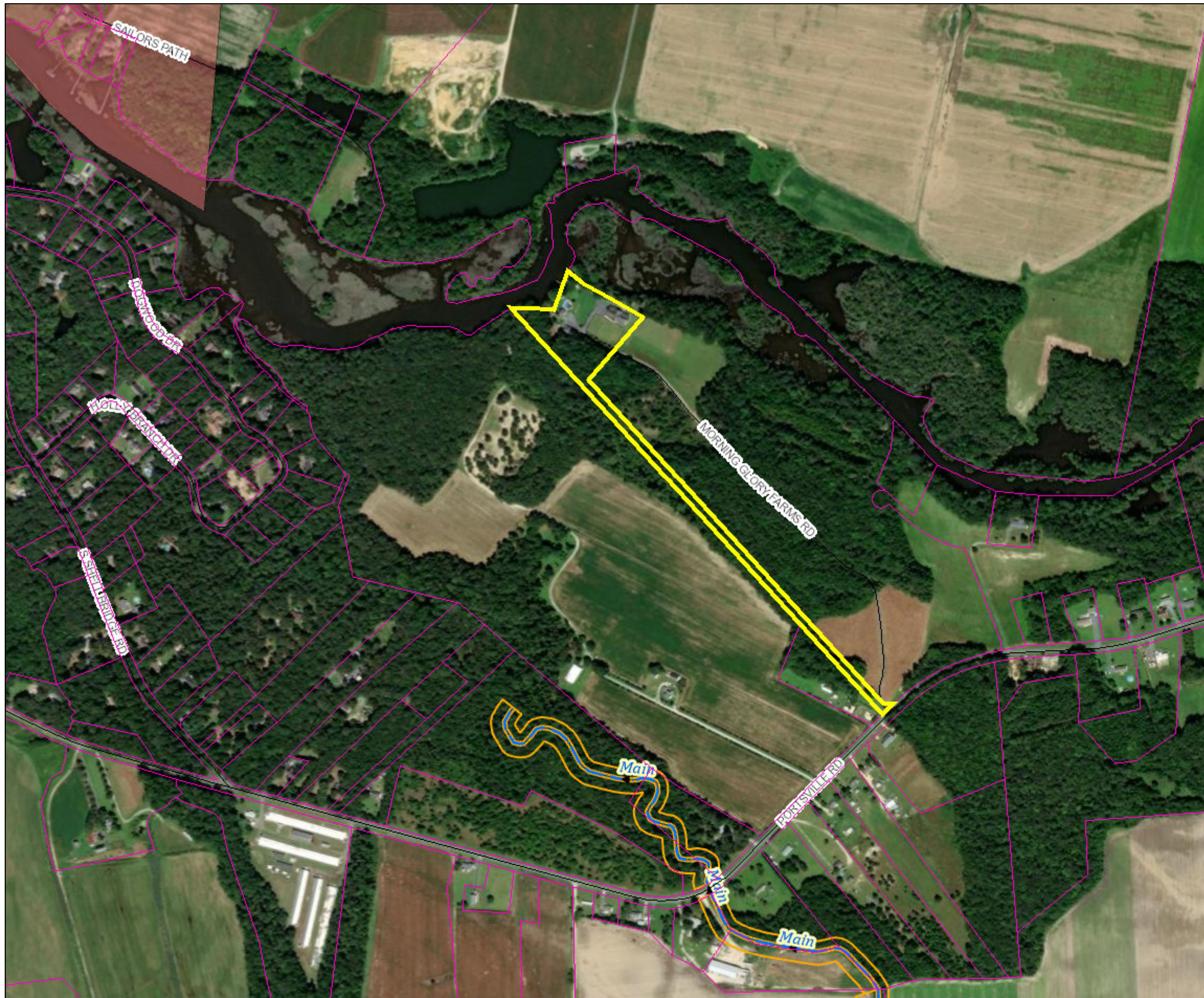
Based on the analysis provided, a Conditional Use to allow for an events venue could be considered as being consistent with the surrounding land use, zoning, and uses, subject to considerations of scale, impact, and the design for vehicular access.

Existing Conditional Uses within the Vicinity of the Subject Site: Staff have identified a history of seven (7) Conditional Use applications within a one (1) mile radius of the application site. A Data Table has been supplied to provide additional background regarding the approval status of Applications in the area.

CU Number	Application Name	Zoning District	Proposed Use	CC Decision	CC Decision Date
377	Herbert C Carey & Bonnie	MR	beauty salon	Approved	N/A
575	Charles K. Kennedy	AR-1	Sales and Service of Used Appliances	Approved	N/A
1062	Excel Leasing Corp	AR-1	equipment leasing company	Approved	2/1/1994
827	Glen R. Jones & Sally A. S. Jones	AR-1	Campground	Approved	7/30/1985
2336	Community Power Group, LLC	AR-1	Community Solar Facility	Approved	6/6/2023
2383	Consolidated Edison Development, Inc.	AR-1	Solar Farm	Approved	2/6/2026
2560	Zachary Pulcinella	AR-1	Construction Equipment Storage & Landscaping Business	Pending	Pending



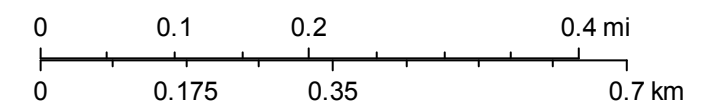
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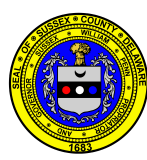


PIN:	432-3.00-41.06
Owner Name	SARAH ELIZABETH PETERSON TTEE REV TR
Book	5711
Mailing Address	8982 MORNING GLORY FARMS RD
City	LAUREL
State	DE
Description	N/RT 492
Description 2	N/A
Description 3	N/A
Land Code	

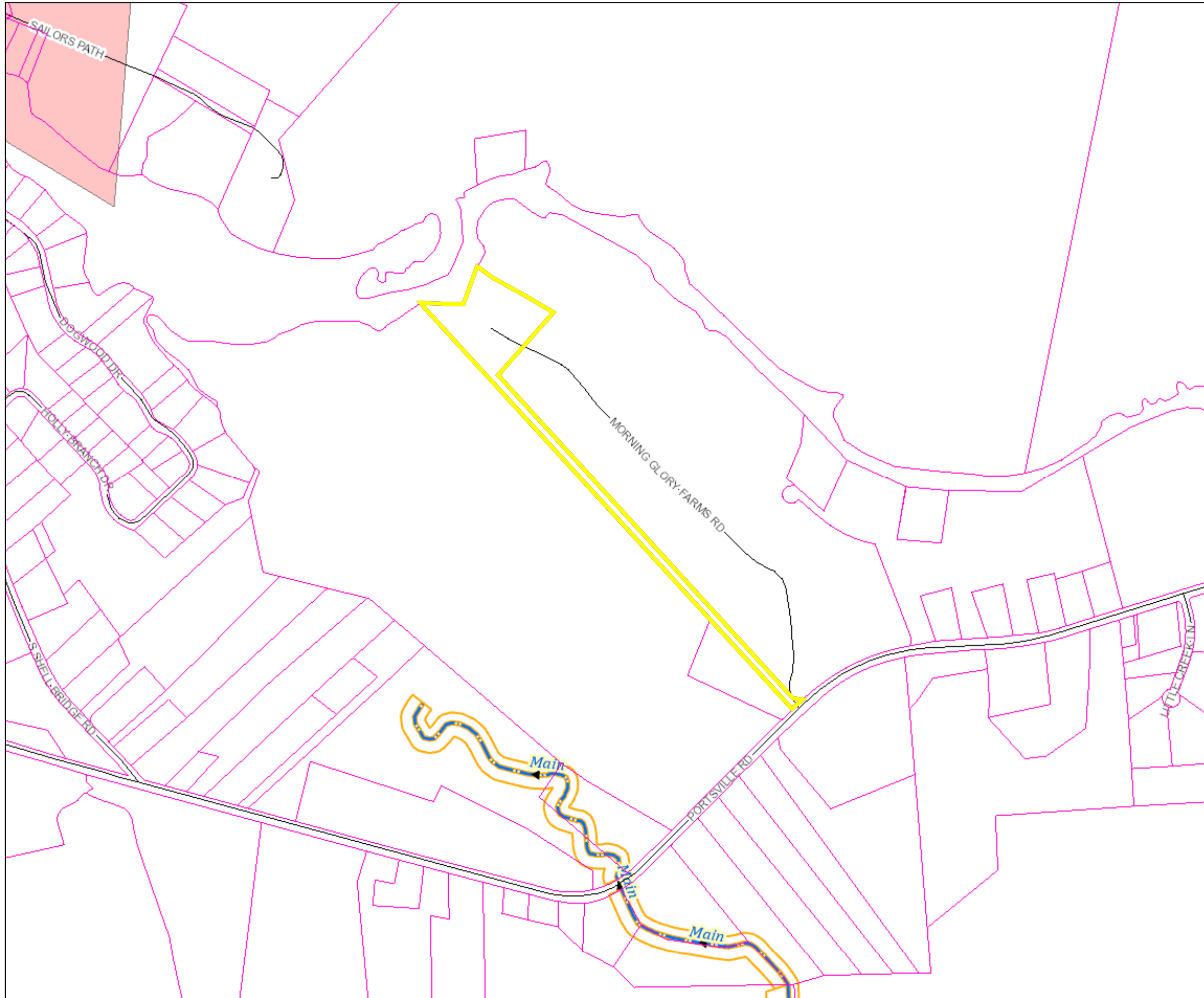
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- Tax Parcels
- Streets

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Sussex County



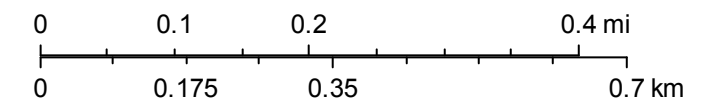
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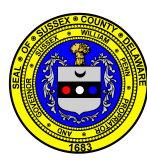
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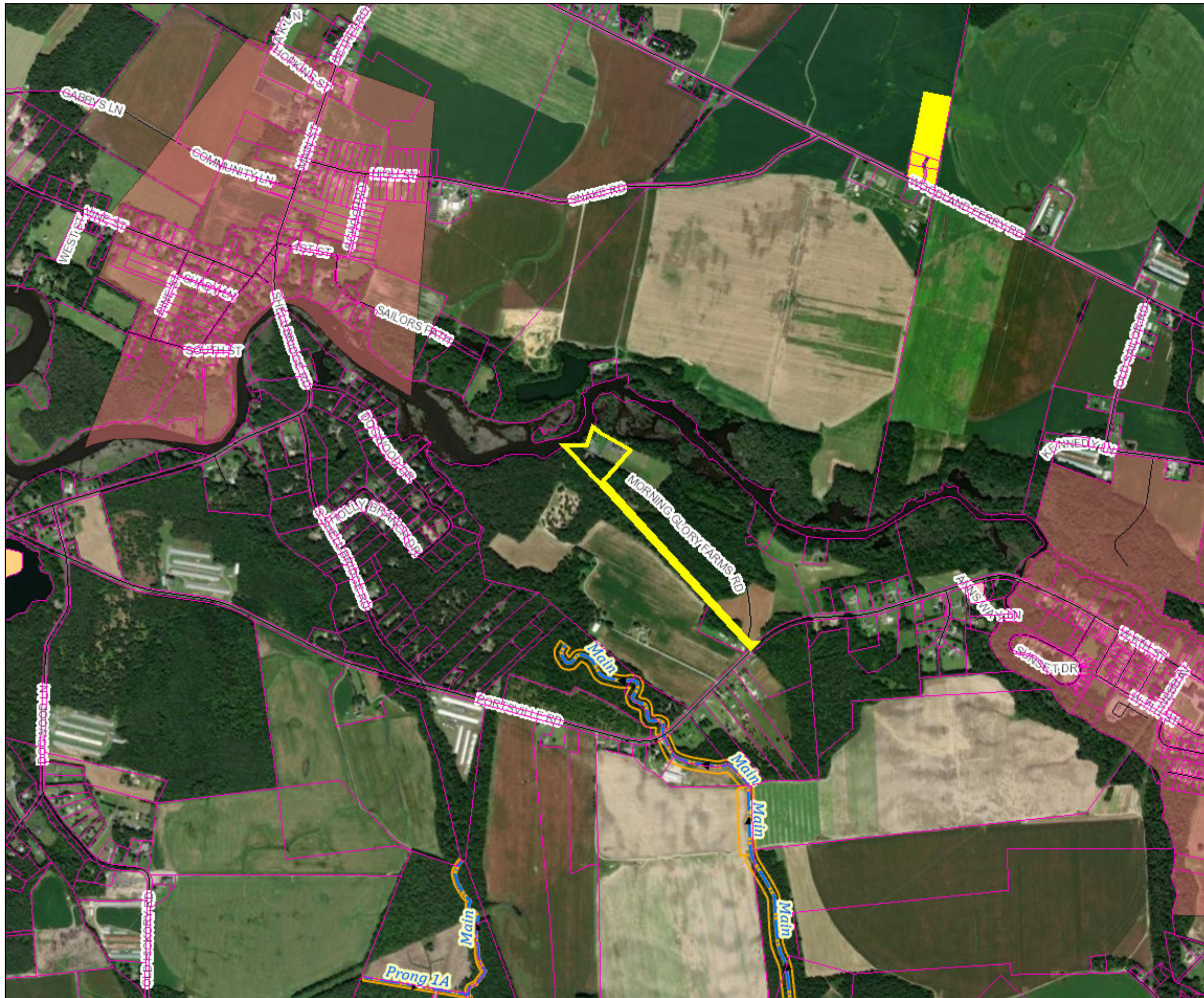
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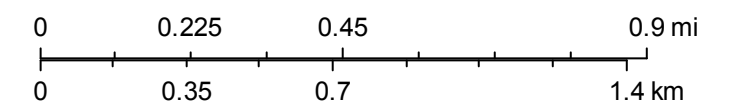
Sussex County



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State	DE
Description	N/RT 492
Description 2	N/A
Description 3	N/A
Land Code	

- polygonLayer**
- Override 1
- polygonLayer**
- Override 1
- Tax Parcels
- Streets

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Introduced: 3/3/26

**Council District 1: Mr. Lloyd
Tax I.D. No.: 432-3.00-41.06
911 Address: 8982 Morning Glory Farms Road, Laurel**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EVENTS VENUE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 8.45 ACRES, MORE OR LESS

WHEREAS, on the 13th day of September 2024, a conditional use application, denominated Conditional Use No. 2551 was filed on behalf of Sarah Peterson; 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. 2551 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2551 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 Morning Glory Farm Road on the northwest side of Portsville Road (S.C.R. 492) approximately 0.84 mile east of S. Shell Bridge Road (S.C.R 492A) and being more particularly described in the attached legal description prepared by Sergovic Carmean Weidman McCartney & Owens, P.A. , said parcel containing 8.45 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.