Call to Order

Approval of Agenda

Other Business

Ocean Meadows Subdivision (2018-28)  
Request to Revise Forested/Landscape Buffer  
KS

Welches Pond Subdivision (2017-20) (FKA Fieldstone, The Grove at Love Creek)  
Request to Revise Conditions of Approval and Forested/Landscape Buffer  
KS

Dagsboro Trace Subdivision (2004-34)  
Revised Subdivision Plan  
HW

Lighthouse Annex Self-Storage (S-17-40)  
Revised Site Plan  
HW

Amenities Plan  
BM

Lands of Stoney Creek Realty  
Minor subdivision off a 30-ft easement  
HW

Old Business

C/U 2237 Samuel C. Warrington II  
An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for outdoor RV and boat storage to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 2.5 acres more or less. The property is lying on the southeast side of Postal Lane, approximately 0.38 mile southwest of Coastal Highway (Route 1). 911 Address: 34378 Postal Lane, Lewes. Tax Parcel: 334-12.00-55.01 (portion of).  
KS
2019-32 – Lands of Coroc/Rehoboth, III, LLC  
A standard subdivision to divide 10.00 acres +/- into 3 lots to be located on a certain parcel of land lying and being in Lewes and Rehoboth, Hundred, Sussex County. The property is lying on the west side of Holland Glade Road (S.C.R. 271), approximately 0.11-mile northeast of Coastal Highway (Route 1). Tax Parcel: 334-13.00-325.36. Zoning District: C-3 (Heavy Commercial District).

2020-06 – Lands of James & Denise Taylor  
A standard subdivision to divide 8.925 acres +/- into 4 single family lots to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County. The property is lying on the south side of Asketum Branch Road (S.C.R. 442), approximately 0.21 mile south west of Bryans Store Road (S.C.R. 435) Tax Parcel: 133-14.00-3.05 Zoning District: AR-1 (Agricultural Residential District).

C/Z 1906 Eliud Ramirez-Mejia  
An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a C-2 Medium Commercial District for a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 2.53 acres, more or less. The property is lying on the west side of Dagsboro Road, approximately 0.24 mile south of Crickett Street. 911 Address: 27436 Dagsboro Road, Dagsboro. Tax Parcel: 233-5.00-172.00.

C/U 2239 Coastal Services, LLC  
An Ordinance to grant a Conditional Use of land in a B-1 Neighborhood Business District and a GR General Residential District for a General Contracting Business to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 1.08 acres, more or less. The property is lying on the west side of Cedar Neck Rd. (Rt. 357) approximately 0.64 mile north of Fred Hudson Rd. (S.C.R. 360). 911 Address: 30430 & 30432 Cedar Neck Rd., Ocean View. Tax Parcel: 134-9.00-67.00.

5:30 P.M. Public Hearings

C/U 2234 James Jones  
An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for a fiberglass swimming pool and spa display and landscaping business to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 2.70 acres, more or less. The property is lying on the south side of Cordrey Rd (S.C.R. 308), approximately 0.12 miles east of William Street Rd (S.C.R. 309). 911 Address: 28984 Cordrey Road, Millsboro. Tax Parcel: 234-28.00-67.00.

C/U 2240 Tidewater Utilities, Inc.  
An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for a public utility elevated storage tank to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 0.32 acres more or less. The property is lying on the southeast side of John J. Williams Highway (Rt. 24) approximately 1.52 miles southwest of Coastal Highway (S.R. 1). 911 Address: 19483 John J. Williams Highway, Lewes. Tax Parcel: 334-12.00-107.00 (portion of).
C/U 2241 Jonathan J. Bowman
An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for a truck and trailer repair business to be located on a certain parcel of land lying and being in Gumboro Hundred, Sussex County, containing 2.69 acres, more or less. The property is lying on the east side of Millsboro Highway (S.C.R. 26/30) approximately 120 ft. north of Bradford Road (S.C.R 426). 911 Address: 34647 Millsboro Highway, Millsboro. Tax Parcel: 333-7.00-32.00

C/Z 1925 Lemuel H. Hickman GST Exempt Trust fbo Brenton Archut
An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a B-2 Business Community District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 25.63 acres, more or less. The property is lying on the northeast corner of Bayard Road (S.C.R. 84) and Double Bridges Road (S.C.R. 363). 911 Address: N/A. Tax Parcel: 134-19.00-22.00 (portion of).

Additional Business

- Discussion in relation to the Memorandum of Understanding with Delaware Department of Transportation

In accordance with 29 Del. C. §10004(e)(2), this Agenda was posted on October 1, 2020 at 5:15 p.m., and at least seven (7) days in advance of the meeting.

This Agenda 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 listed may be considered out of sequence.
**MEETING INSTRUCTIONS**

**The Sussex Planning & Zoning Commission is holding this meeting under the authority issued by Governor John C. Carney through Proclamation No. 17-3292.**

The public is encouraged to view the meeting on-line. Any person attending in-person will be required to go through a wellness and security screening, including a no-touch temperature check. The public will be required to wear a facial mask.

Chamber seating capacity is limited and seating assignments will be enforced.

The meeting will be streamed live at [https://sussexcountyde.gov/council-chamber-broadcast](https://sussexcountyde.gov/council-chamber-broadcast)

The County is required to provide a dial-in telephone 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 by telephone 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 for those items listed under public hearings on this agenda.

The Planning & Zoning Commission meeting materials, including the “packet”, are electronically accessible on the County’s website at: [https://sussexcountyde.gov/](https://sussexcountyde.gov/)

If any member of the public would like to submit comments electronically, these may be sent to pandz@sussexcountyde.gov. All comments shall be submitted by 5:00 P.M on Wednesday, October 7, 2020

###
Memorandum
To: Sussex County Planning Commission Members
From: Jamie Whitehouse, Director, Department of Planning & Zoning; Lauren DeVore, Planner III, Jenny Norwood, Planner I, Christin Headley, Planner I, Nicholas Torrance, Planner I, and Chase Phillips, Planner I
CC: Vince Robertson, Assistant County Attorney
Date: September 30, 2020
RE: Other Business for the September 24, 2020 Planning Commission Meeting

This memo is to provide background for the Planning Commission to consider as a part of the Other Business to be reviewed during the October 8, 2020 Planning Commission meeting.

Ocean Meadows (2018-28)KS
Request to Amend Forested/Landscape Buffer
This is a request to amend the ratio of deciduous trees and evergreen trees provided in the proposed forested/landscape buffer from the 70% deciduous trees and 30% evergreen requirement to 60% evergreen and 40% deciduous trees. The applicant has indicated that the proposed ratio will provide additional year-round screening between this subdivision and the adjacent Ridings of Rehoboth Subdivision. At their meeting of Thursday, January 9, 2020, the Planning and Zoning Commission approved the Final Subdivision Plan. Tax Parcels: 234-2.00-2.00 & 2.02. Zoning: AR-1 (Agricultural Residential Zoning District).

Welches Pond (2017-20) (F.K.A. Fieldstone, The Grove at Love Creek)KS
Request to Amend Forested/Landscape Buffer & Conditions of Approval
This is a request to remove the 50-ft landscape buffer located along the eastern side of the proposed subdivision which separates the subdivision from the residual lands. This buffer is currently required under Condition “E” of the Conditions of Approval. Condition “E” currently reads, “As stated by the applicant, a forested or landscaped buffer of at least 50 feet in depth shall be installed along the entire perimeter of the project. The Final Site Plan shall contain a landscaped plan for all of these areas, with the exception of areas that are currently forested and will not be disturbed.” The applicant intends to submit an additional application for the residual lands for a second phase of the subdivision. The applicant is requesting that Condition “E” be amended to exclude the buffer from the eastern portion of the property. The applicant has provided a Revised Landscape Plan reflecting these proposed changes for the Commission’s consideration. Tax Parcel: 334-12.00-16.00 (part of). Zoning: AR-1 (Agricultural Residential Zoning District) & GR (General Residential Zoning District).

Dagsboro Trace (2004-34)HW
Revised Subdivision Plan
This Revised Subdivision Plan proposes to remove the sidewalks from the subdivision. The Planning and Zoning Commission previously reviewed this request at their meeting of Thursday, September 24, 2020 where they had requested additional information be provided from the applicant prior to a final decision being rendered. The sidewalks have not been installed and the proposed location of the sidewalks would require the relocation of street lighting and transformers already installed throughout
the development. The Planning and Zoning Office has received documentation that 51% of existing property owners within the subdivision consent to this proposed change. Tax Parcel: 233-11.00-194.01. Zoning: AR-1 (Agricultural Residential Zoning District).

Lighthouse Annex Self-Storage

Revised Site Plan
This is a Revised Final Site Plan for a three story, 34,500 square foot self-storage facility to be located on 1.76-acre parcel. This Revised Site Plan proposes changes to the self-storage building (phase 2) that was previously approved on December 21, 2017 (S-17-40). A 600+/- square foot office space is utilized within an existing building on site. The Site Plan complies with the Sussex County Zoning Code. Tax Parcel: 533-17.00-83.00. Zoning: C-1 (General Commercial Zoning District). Staff are awaiting agency approvals.


Amenities Plan
This is an Amenities Plan for a proposed 1,918 square foot clubhouse, 4,308 square foot in-ground pool, playground, covered seating area, boardwalk and 18 associated parking spaces to be located within the existing Marsh Island (2005-52 & 2008-25) cluster subdivision. At their meeting of Thursday, December 13, 2012, the Planning and Zoning Commission approved the Final Subdivision Plan for the development. The Amenities Plan complies with the Sussex County Zoning and Subdivision Code and all conditions of approval. Tax Parcels: 234-7.00-132.00 & 234-12.00-22.00 (portion of). Zoning: AR-1 (Agricultural Residential Zoning District). Staff are awaiting agency approvals.

Lands of Stoney Creek Realty

Minor Subdivision off a 30-ft easement
This is a Preliminary Subdivision Plan for a minor subdivision off a 30-ft easement over an existing driveway to create three (3) lots with a residual lot located off of Scott Land Road (S.C.R. 434). Lot 1 will measure 0.91 acre +/-, Lot 2 will measure 1.16 acre +/-, Lot 3 will measure 1.00 acres +/- and the residual lot will measure 1.91 acres +/- . Tax Parcel: 232-15.00-67.00. Zoning: AR-1 (Agricultural Residential Zoning District). Staff are in receipt of all agency approvals.
Sussex County Planning & Zoning  
22215 Dupont Blvd.  
Georgetown, DE 19947  
Attn. Jennifer Norwood  

RE: Ocean Meadows Tree Buffer  
Beaver Dam Rd, Lewes, DE 19958  

23 September 2020  

To whom it may concern,  

We are requesting a change in tree buffer species for the above referenced community. This request is based on the need for additional year-round screening between communities. This change will increase the value and privacy of this community plus the other communities adjacent to the buffer. Currently we have a mixture of 70% deciduous trees and 30% evergreen. The density of deciduous trees that lose their foliage means 70% of the screening is gone for at least 50% of the year. We are requesting the ratio be changed to a 60/40 mixture with 60% evergreen and 40% deciduous trees. The value of the trees we have chosen is equivalent to our current approved buffer tree value. Therefore, this change would not affect the bond value.  

We would like to add the following species for consideration: Eastern Red Cedar, Wax Myrtle Tree, Green Giant Arborvitae, Nellie Stevens Holly.  

Thank you for your kind consideration.  

Jason Hearn  
Vice President  
Blue Heron Landscape & Design  
A BHCC Company
September 14, 2020

Sussex County Planning and Zoning
2 The Circle
Georgetown, DE 19947

Attn: Lauren DeVore
Planner III

RE: Welches Pond (fka Fieldstone)
Subdivision Buffer Waiver
Tax Map No.: 3-34-12.00-16.00
DBF #: 2261H004

Dear Ms. DeVore:

On behalf of our client, JLAM, LLC, we are requesting a waiver from the required Subdivision buffer (20’) on the eastern property line separating the Subdivision from the Residual Land where there are ponds that act as a buffer. A large pond behind lots 84-95 will separate most of the homes from the residual lands and will act as a buffer. A buffer remains behind lot 83. The purpose of this request is formally seeking a buffer waiver that was intended to be requested during the preliminary plan stage. Included with this request are the following:

- One (1) set of revised Landscape Plans, sheets: L-101, L-104, L-108, & L-112
- PDF set of revised Landscape plans (via email)

If you have any questions or require additional information, please do not hesitate to contact me at (302) 424-1441 or via email at cdm@dbfinc.com.

Sincerely,

DAVIS, BOWEN & FRIEDEL, INC.

Cliff Mumford, P.E.
Associate

cc: Nick Hammonds, JLAM, LLC

P:\JG Townsend\2261J007 Fieldstone\Documents\SC P&Z\2020-08-14 Buffer Waiver\Cover Letter.docx
Planning and Zoning Commission
PO Box 417
Georgetown, DE 19947

To whom it may concern,

I own lots 8 thru 17 in the Dagsboro Trace community near Dagsboro, Delaware. The original site plan for Dagsboro Trace includes an asphalt sidewalk.

[ ] I support installing the sidewalk as per the original site plan.

[✓] I do not support installing the sidewalk. Please consider an amended site plan that excludes the sidewalk.

Thank you for your consideration,

PR Builders Inc.

[Signature]
April 11, 2020

Planning and Zoning Commission
PO Box 417
Georgetown, DE 19947

To whom it may concern,

I own a home located at 31919 Chelsea Court in the Dagsboro Trace community near Dagsboro, Delaware. The original site plan for Dagsboro Trace includes an asphalt sidewalk.

I support installing the sidewalk as per the original site plan. 

I do not support installing the sidewalk. Please consider an amended site plan that excludes the sidewalk.

Thank you for your consideration,

Richard & Diane Bilski

[Signature]

[Signature]
April 11, 2020

Planning and Zoning Commission
PO Box 417
Georgetown, DE 19947

To whom it may concern,

I own a home located at 30784 Alyssa Drive in the Dagsboro Trace community near Dagsboro, Delaware. The original site plan for Dagsboro Trace includes an asphalt sidewalk.

[ ] I support installing the sidewalk as per the original site plan.

[ ] I do not support installing the sidewalk. Please consider an amended site plan that excludes the sidewalk.

Thank you for your consideration,

Royce Alexander & Nicole Hatcher
April 11, 2020

Planning and Zoning Commission
PO Box 417
Georgetown, DE 19947

To whom it may concern,

I own a home located at 30787 Alyssa Drive in the Dagsboro Trace community near Dagsboro, Delaware. The original site plan for Dagsboro Trace includes an asphalt sidewalk.

I support installing the sidewalk as per the original site plan.

I do not support installing the sidewalk. Please consider an amended site plan that excludes the sidewalk.

Thank you for your consideration,

Lori Ott
April 11, 2020

Planning and Zoning Commission
PO Box 417
Georgetown, DE 19947

To whom it may concern,

I own a home located at 31918 Chelsea Court in the Dagsboro Trace community near Dagsboro, Delaware. The original site plan for Dagsboro Trace includes an asphalt sidewalk.

☐ I support installing the sidewalk as per the original site plan.

☒ I do not support installing the sidewalk. Please consider an amended site plan that excludes the sidewalk.

Thank you for your consideration,

James & Deborah Costello

RECEIVED

APR 17 2020

SUSSEX COUNTY
PLANNING & ZONING
April 11, 2020

Planning and Zoning Commission  
PO Box 417  
Georgetown, DE  19947

To whom it may concern,

I own a home in the Dagsboro Trace community near Dagsboro, Delaware. The original site plan for Dagsboro Trace includes an asphalt sidewalk.

☐ I support installing the sidewalk as per the original site plan.

☒ I do not support installing the sidewalk. Please consider an amended site plan that excludes the sidewalk.

Thank you for your consideration,

Danny & Susan Goldsmith

[Signatures]

RECEIVED

APR 17 2020

SUSSEX COUNTY
PLANNING & ZONING
April 11, 2020

Planning and Zoning Commission
PO Box 417
Georgetown, DE 19947

To whom it may concern,

I own a home located at 30772 Alyssa Drive in the Dagsboro Trace community near Dagsboro, Delaware. The original site plan for Dagsboro Trace includes an asphalt sidewalk.

___ I support installing the sidewalk as per the original site plan.

___ I do not support installing the sidewalk. Please consider an amended site plan that excludes the sidewalk.

Thank you for your consideration,

Karen Carroll & Shirley Taylor
I addition to the residences not wanting the bike path there are transformers and street lights in the way.

    On 08/31/2020 2:25 PM PR Builders Inc BUILDERS INC <sandll50@comcast.net> wrote:

Will this work?

    On 08/27/2020 2:13 PM Jennifer Norwood <jnorwood@sussexcountyde.gov> wrote:

    Bart,

    I have attached copies of the letters we have received requesting to no install the asphalt sidewalk.

    Jenny

Jennifer Norwood

Planner 1
Planning & Zoning Dept.
Sussex County Government
PO Box 417
2 The Circle
Georgetown, DE 19947
302-858-5501
jnorwood@sussexcountyde.gov
October 30, 2020

To whom it may concern,

We are formally requesting a modification of the original site plan for Dagsboro Trace eliminating the sidewalk.

Dagsboro Trace subdivision was originally developed by Dagsboro Trace, LLC. We were not involved with Dagsboro Trace, LLC. Dagsboro Trace, LLC contracted with Paul's Paving to install the DELDOT entrance and infrastructure elements in the first two (2) phases of infrastructure in the community with The Wayland Company providing construction management services on behalf of Dagsboro Trace, LLC.

We acquired individual building lots from Dagsboro Trace, LLC, at fair market values and built many of the single-family homes in the community.

At some point in approximately 2016-2017, Dagsboro Trace, LLC defaulted on the loan and M&T Bank took possession of the property. During this time, the homeowner's association dissolved and the community foundered. During the time M&T foreclosed on the property, the roads were not complete, the sidewalks were not installed, the landscaping was not complete, nor were the amenities installed.

In December 2019, we acquired the remaining ten (10) building lots in the Dagsboro Trace, and in doing so, took responsibility for completing the development. As such, we have provided letters of credit as required by Sussex County Planning and Zoning Commission. Our obligations include installing phase three (3) of the infrastructure as well as installing the final roadway surface in all three phases, installing amenities, installing landscaping, and installing a sidewalk.

As work has begun on phase three (3), we have been contacted by many of the homeowners expressing their opinion that they do not want the sidewalk. We believe that you have received numerous letters from the Dagsboro Trace homeowners requesting the elimination of the sidewalk. Further, it appears that some of the original utilities were installed in the area designated for the sidewalks. We hereby request a modification of the original site plan to eliminate the sidewalk.

Thank you for your consideration,

Bart Phillips
PR Builders, Inc.
TAX MAP AND PARCEL #: 4-30 21.00
7.01 p/o
PREPARED BY & RETURN TO:
Haller & Hudson
101 S. Bedford St.
P.O. Box 533
Georgetown, DE 19947
File No. HWH-1502/

NO LIEN OR TITLE SEARCH PREPARED OR REQUESTED

THIS DEED, made this 27 day of May, 2020,

- BETWEEN -

CHERYL B. RUSSELL, of 14210 Russell Road, Bridgeville, DE 19933, party of the first part,

- AND -

DAVID WAYNE MILLMAN and JORDYN TAYLOR MILLMAN, of 25834 Charles Scott Lane, Milton, DE 19968, as tenants by the entirety unto the survivor of them, his or her heirs and assigns, parties of the second part.

WITNESSETH: That the said party of the first part, for and in consideration of the sum of One and 00/100 Dollar ($1.00), lawful money of the United States of America, and other good and valuable consideration, the receipt whereof is hereby acknowledged, hereby grants and conveys unto the parties of the second part, and their heirs and assigns, in fee simple, the following described lands, situate, lying and being in Sussex County, State of Delaware:

ALL that certain lot, piece and parcel of land, lying and being situated in Nanticoke Hundred, Sussex County, State of Delaware, being designated as Lot 3, "Subdivision Survey Plan Prepared for Cheryl B. Russell", prepared by Adams-Kemp Associates, Inc., Professional Land Surveyors as per survey plan no. 040336-D, dated October 28, 2019 and revised December 11, 2019 and recorded in Plot Book 300, Page 88 in the Office of the Recorder of Deeds in and for Sussex County in the County Administration Building in Georgetown, Delaware, more particularly described as follows to wit:

1
BEGINNING at a set iron bar along Parcel “A”, said set iron bar being located the following two (2) courses and distances from the intersection of County Road 42 and County Road 592.

1. Along County Road 592 in an Easterly direction 1.5 miles more or less;
2. Along the line of Parcel “A”, South 16° 15’ 13” East 769.59 feet;

Thence along Parcel “A” the following two (2) courses and distances:

1. South 16° 15’ 13” East a distance of 283.09 feet to a set iron bar;
2. South 66° 12’ 00” West a distance of 150.00 feet to a set iron bar along the line of lands now or formerly of Cheryl B. Russell and Carlos J. Russell;

Thence along the line of lands now or formerly of Cheryl B. Russell and Carlos J. Russell, North 16° 15’ 13” West a distance of 302.79 feet to a set iron bar at a corner of this lot and lot 2; thence along lot 2, North 73° 44’ 47” East a distance of 148.70 feet to the point of beginning.

Containing within described metes and bounds 1.000 acres of land be the same more or less.


SUBJECT to any and all restrictions, reservations, conditions, easements and agreements of record in the Office of the Recorder of Deeds in and for Sussex County, Delaware.

IN WITNESS WHEREOF, the party of the first part has hereunto set her hand and seal the day and year first above written.

Signed, Sealed and Delivered in the presence of:

[Signature]

Cheryl B. Russell
(SEAL)

STATE OF DELAWARE, COUNTY OF SUSSEX: to-wit

BE IT REMEMBERED, that on May 27, 2020 personally came before me, the subscriber, Cheryl B. Russell, party of the first part to this Indenture, known to me personally to be such, and acknowledged this Indenture to be her act and deed.

GIVEN under my hand and Seal of Office the day and year aforesaid.

[Signature]

Notary Public
My Commission Expires: 8/13/21
### Standard Detail & Specifications

#### Alpprop Outlet Protection - 1

**Construction Notes:**
1. The substrate for the tarp shall be installed to the specified area and grade as shown on the plan. The drain shall be installed to the substrate to prevent any damage to the specified area and grade.
2. The drain shall be made of the specified materials and installed in accordance with the manufacturer's instructions.
3. The drain shall be inspected and tested to ensure compliance with the specified requirements.
4. The drain shall be protected from damage during construction and maintenance.

**Materials:**
- The geotextile material shall be installed in accordance with Appendix 4.1 of the Delaware Drainage Specification Control Manual.

#### Inlet Protection - Type 2

**Notes:**
1. This practice shall only be used in situations where Inlet Protection - Type 1 cannot be used due to site constraints. These materials, but are not limited to partially completed parking areas, streets, roads, etc.
2. The drain shall be made of the specified materials and installed in accordance with the manufacturer's instructions.
3. The drain shall be inspected and tested to ensure compliance with the specified requirements.

**Materials:**
- The geotextile material shall be installed in accordance with Appendix 4.2 of the Delaware Drainage Specification Control Manual.
OFFICE OF THE STATE FIRE MARSHAL
Technical Services
22705 Park Avenue
Georgetown, DE 19947

SFMO PERMIT

Plan Review Number: 2020-04-204731-MIS-01  Tax Parcel Number: 232-15.00-67.00
Status: Approved as Submitted  Date: 09/28/2020

Project

Blue Bird Lane Subdivision
Stoney Creek Realty Property
18475 Blue Bird Lane
Laurel DE 19956

Scope of Project

Number of Stories:  
Square Footage:  
Construction Class:  
Fire District: 83 - Millsboro Fire Co Inc
Occupant Load Inside:  
Occupancy Code: 9601

Applicant

Carlton Savage
20246 Coastal Hwy
Rehoboth, DE 19971

This office has reviewed the plans and specifications of the above described project for compliance with the Delaware State Fire Prevention Regulations, in effect as of the date of this review.
The owner understands that this construction start approval is limited to preliminary site construction and foundation work only. No other construction of any kind shall be permitted until the required building plan review is completed.
A Review Status of "Approved as Submitted" or "Not Approved as Submitted" must comply with the provisions of the attached Plan Review Comments.
Any Conditional Approval does not relieve the Applicant, Owner, Engineer, Contractor, nor their representatives from their responsibility to comply with the plan review comments and the applicable provisions of the Delaware State Fire Prevention Regulations in the construction, installation and/or completion of the project as reviewed by this Agency.

This Plan Review Project was prepared by:

Dennett Pridgeon

Page 1 of 3
FIRE PROTECTION PLAN REVIEW COMMENTS

Plan Review Number: 2020-04-204731-MIS-01    Tax Parcel Number: 232-15.00-67.00
Status: Approved as Submitted    Date: 09/28/2020

PROJECT COMMENTS

1002 A This project has been reviewed under the provisions of the Delaware State Fire Prevention Regulations (DSFPR) UPDATED March 11, 2016. The current Delaware State Fire Prevention Regulations are available on our website at www.statefiremarshal.delaware.gov. These plans were not reviewed for compliance with the Americans with Disabilities Act (ADA). These plans were not reviewed for compliance with any Local, Municipal, nor County Building Codes.

1000 The site plans have been approved as submitted. The Office of DE State Fire Marshal has no objection to recordation.

1010 A The following water for fire protection requirements apply: NONE. On-Site Wells Proposed. this site meets Water Flow Table 1. therefore the provisions of NFPA 1142 shall apply to this site (DSFPR Regulation 702, Chapter 6, Section 3).Since wells are proposed for this site, no additional requirements will be made by this Agency for water for fire protection.

1011 A Per Fire Flow Table 1, the following occupancies: One and Two Family Detached Dwellings, Multi Family & Other Residential, Rowhouses & Townhouses Shall not exceed 10,000 aggregate gross square footage; shall not exceed 35"" or three stories; and Shall have a minimum setback of 15"" from all property lines and 10"" setback from exposure hazards on the same property. Additionally, Rowhouses & Townhouses shall have an internal fire separation of two hour fire rated walls per SFPR Part II, Chapter 2.

1408 A All premises where emergency personnel may be called upon to provide emergency services, which are not readily accessible from streets, shall be provided with suitable gates, access roads, and fire lanes so that all buildings on the premises are accessible to emergency apparatus. (DSFPR Regulation 705, Chapter 5, Section 2).

1171 A Any dead end road more than 300 feet in length shall be provided with a turn around or cul-de-sac arranged such that emergency apparatus will be able to
turn around by making not more than one backing maneuver. Any turn-arounds and cul-de-sacs shall be designed in accordance with DSFPR Regulation 705, Chapter 2, Sections 2.3, 2.3.1, and 2.3.

1093 A In the case of one and two-family dwellings emergency service access shall be provided in such a manner so that emergency apparatus will be able to locate within 100 feet from the street to the primary entrance. Where alleys are provided, pumpers shall be able to access all portions of the alley without strict restrictions for entrance radii. (DSFPR Regulation 705, Chapter 5, Sections 2.2 and 2.2.1).

2500 A A final inspection is required for this project prior to occupancy (DSFPR Part I, Section 4-7). Contact this Agency to schedule this inspection. Please have the plan review number available. A MINIMUM OF FIVE (5) WORKING DAYS NOTICE IS REQUIRED.
August 27, 2020

Mr. Jamie Whitehouse, Director
Sussex County Planning & Zoning Commission
Sussex County Administration Building
P.O. Box 417
Georgetown, Delaware 19947

SUBJECT: Minor Subdivision - Letter of No Objection to Recordation
Blue Bird Lane (Minor Subdivision)
Tax Parcel # 232-15.00-67.00
SCR434-SCOTT LAND ROAD
Broad Creek Hundred, Sussex County

Dear Mr. Whitehouse:

The Department of Transportation has reviewed the Minor Subdivision Plan dated June 17, 2020 (signed and sealed August 24, 2020), for the above referenced site, and has no objection to its recordation as shown on the enclosed drawing. This "No Objection to Recordation” approval shall be valid for a period of five (5) years. If the Minor Subdivision Plan is not recorded and/or an entrance permit is not issued for the lot(s) prior to the expiration of the "No Objection to Recordation”, then the plan must be updated to meet current requirements and resubmitted for review and approval.

Entrances(s) must be installed prior to the sale of the lot(s). All entrances shall conform to DelDOT's Development Coordination Manual and shall be subject to its approval. This letter does not authorize the commencement of entrance construction.

This “No Objection to Recordation” letter is not a DelDOT endorsement of the project discussed above. Rather, it is a recitation of the transportation improvements, which the applicant may be required to make as a pre-condition to recordation steps and deed restrictions as required by the respective county/municipality in which the project is located. If transportation investments are necessary, they are based on an analysis of the proposed project, its location, and its estimated impact on traffic movements and densities. The required improvements conform to DelDOT’s published rules, regulations and standards. Ultimate responsibility for the approval of any project rests with the local government in which the land use decisions are authorized. There may be other reasons (environmental, historic, neighborhood composition, etc.) which compel that jurisdiction
to modify or reject this proposed plan even though DelDOT has established that these enumerated transportation improvements are acceptable.

The owner shall be responsible to submit a copy of the *recorded Minor Subdivision Plan* showing all appropriate signatures, seals, plot book and page number to the South District Public Works office (302) 853-1341 in order to obtain the entrance permit(s) for the proposed minor subdivision.

Sincerely,

Susanne K. Laws
Sussex County Review Coordinator
Development Coordination

cc: Carlton Savage, Scaled Engineering, Inc.
Rusty Warrington, Sussex County Planning & Zoning
Jessica L. Watson, Sussex Conservation District
James Argo, South District Project Reviewer
William Kirsch, South District Entrance Permit Supervisor
Shannon Anderson, South District Public Work Admin Specialist
Wendy L. Polasko, Subdivision Engineer
John Andrecavage, Sussex County Reviewer
Application: CU 2234 James Jones

Applicant/Owner: James Jones
28984 Cordrey Rd
Millsboro, DE 19966

Site Location: 28984 Cordrey Rd. On the south side of Cordrey Rd (S.C.R. 308), approximately 0.12 miles east of William Street Rd (S.C.R. 309)

Current Zoning: AR-1 (Agricultural Residential District)

Proposed Use: Fiberglass Swimming Pool & Spa Display/ Landscaping Business

Comprehensive Land Use Plan Reference: Low Density

Councilmatic District: Mr. Hudson

School District: Indian River School District

Fire District: Indian River Volunteer Fire Company

Sewer: Septic

Water: Private

Site Area: 2.70 Acres +/-

Tax Map ID.: 234-28.00-67.00
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<td>JONES YVONNE R</td>
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<tr>
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<td>4459</td>
</tr>
<tr>
<td>Mailing Address</td>
<td>10A CEDAR LANE</td>
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<tr>
<td>City</td>
<td>FRANKFORD</td>
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<tr>
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<td>2.70 ACRES</td>
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</tr>
</tbody>
</table>
Memorandum
To: Sussex County Planning Commission Members
From: Nick Torrance, Planner I
CC: Vince Robertson, Assistant County Attorney and applicant
Date: October 1, 2020
RE: Staff Analysis for CU 2234 James Jones

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2234 James Jones to be reviewed during the October 8, 2020 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.

The request is for a Conditional Use for Tax Parcel 234-28.00-67.00 to allow for a Conditional Use of land in an Agricultural Residential (AR-1) Zoning District for a fiberglass swimming pool and spa display and landscaping business. The parcel is located on the south side of Cordrey Rd. (S.C.R. 308) in Millsboro, Delaware. The size of the property is approximately 2.70 acres +/-.

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework for 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 property has the land use designation of Low-Density Area.

The surrounding parcels to the southwest, west, and northwest are all designated on the Future Land Use Map as “Low Density”. The uses that the Low-Density Area land use designation recognizes are primarily agricultural activities and homes. Business development should be largely confined to businesses addressing the needs of these two uses. Industrial and agribusiness uses that support or depend on agriculture should be permitted. The focus of retail and office uses in Low Density should be providing convenience goods and services to nearby residents. Commercial uses in these residential areas should be limited in their location, size and hours of operation. More intense commercial uses should be avoided in these areas.

The property is zoned AR-1 (Agricultural Residential Zoning District). The adjoining and surrounding properties located within the county jurisdiction to the southwest, west, and northwest are all zoned AR-1 (Agricultural Residential Zoning District).

Since 2011, there have been no Conditional Use approvals within a 1-mile radius of the application site.

Based on the analysis of the land use, surrounding zoning and uses, the Conditional Use to allow for a public utility elevated storage tank, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.
Planning & Zoning Commission Application
Sussex County, Delaware
Sussex County Planning & Zoning Department
2 The Circle (P.O. Box 417) Georgetown, DE 19947
302-855-7878 ph. 302-854-5079 fax

Type of Application: (please check applicable)
Conditional Use ✓
Zoning Map Amendment ___

Site Address of Conditional Use/Zoning Map Amendment
28984 Cordrey Rd, Millsboro, DE 19966

Type of Conditional Use Requested:
Fiberglass swimming pool & spa display

Tax Map #: 234-28.00-67.00 Size of Parcel(s): 2.70 ac

Current Zoning: AR-1 Proposed Zoning: _______ Size of Building: _________

Land Use Classification: Conditional

Water Provider: ____________________ Sewer Provider: ____________________

Applicant Information
Applicant Name: James Jones
Applicant Address: 28984 Cordrey Rd
City: Millsboro State: DE Zip Code: 19966
Phone #: 302-752-6233 E-mail: codwatercleanlaune@gmail.com

Owner Information
Owner Name: James Jones
Owner Address: 28984 Cordrey Rd
City: Millsboro State: DE Zip Code: 19966
Phone #: 302-752-6233 E-mail: codwatercleanlaune@gmail.com

Agent/Attorney/Engineer Information
Agent/Attorney/Engineer Name: ______________________________
Agent/Attorney/Engineer Address: ______________________________
City: ________________ State: __________ Zip Code: __________
Phone #: __________________________ E-mail: __________________
Check List for Sussex County Planning & Zoning Applications

The following shall be submitted with the application

___ Completed Application

___ Provide eight (8) copies of the Site Plan or Survey of the property
   o Survey shall show the location of existing or proposed building(s), building setbacks, parking area, proposed entrance location, etc.
   o Provide a PDF of Plans (may be e-mailed to a staff member)
   o Deed or Legal description

___ Provide Fee $500.00

___ Optional - Additional information for the Commission/Council to consider (ex. architectural elevations, photos, exhibit books, etc.) If provided, submit 8 copies and they shall be submitted a minimum of ten (10) days prior to the Planning Commission meeting.

___ Please be aware that Public Notice will be sent to property owners within 200 feet of the subject site and County staff will come out to the subject site, take photos and place a sign on the site stating the date and time of the Public Hearings for the application.

___ DelDOT Service Level Evaluation Request Response

___ PLUS Response Letter (if required)

The undersigned hereby certifies that the forms, exhibits, and statements contained in any papers or plans submitted as a part of this application are true and correct.

I also certify that I or an agent on my behalf shall attend all public hearing before the Planning and Zoning Commission and the Sussex County Council and any other hearing necessary for this application and that I will answer any questions to the best of my ability to respond to the present and future needs, the health, safety, morals, convenience, order, prosperity, and general welfare of the inhabitants of Sussex County, Delaware.

Signature of Applicant/Agent/Attorney

_________________________________________ Date: ________________

Signature of Owner

_________________________________________ Date: 2-21-2020

For office use only:
Date Submitted: ________________ Fee: $500.00 Check #: ________________
Staff accepting application: ________________ Application & Case #: ________________
Location of property: ______________________________
Subdivision: ______________________________ Recommendation of PC Commission: ______________________________
Date of PC Hearing: ______________________________ Date of CC Hearing: ______________________________
Decision of CC: ______________________________

Sussex County P & Z Commission application
Page | 2 last updated 3-17-16
Mr. Jamie Whitehouse, Acting Director  
Sussex County Planning & Zoning  
P.O. Box 417  
Georgetown, DE 19947

Dear Mr. Jamie:

The Department has completed its review of a Service Level Evaluation Request for the James Jones conditional use application, which we received on February 21, 2020. This application is for an approximately 2.70-acre parcel (Tax Parcel: 234-28.00-67.00). The subject land is located on the south side of Cordrey Road (Sussex Road 308), approximately 600 feet east of the intersection of Cordrey Road and William Street Road (Sussex Road 309). The subject land is currently zoned AR-1 (Agricultural Residential), and the applicant is seeking a conditional use approval to use the existing 1,200 square-foot pole building for a fiberglass pool and spa display / landscaping business.

Per the 2018 Delaware Vehicle Volume Summary, the annual average daily traffic volume along the segment of Cordrey Road where the subject land is located, which is from William Street Road to Streets Road (Sussex Road 310), is 729 vehicles per day.

Based on our review, we estimate that the above land uses will generate fewer than 50 vehicle trips in any hour and fewer than 500 vehicle trips per day. These numbers of trips are DelDOT’s minimum warrants for determining that a Traffic Impact Study (TIS) should be required for a particular development. Because the proposed land use would not meet these warrants, we consider the development’s traffic impact to be negligible in the context of our agreement with the County regarding land development coordination and we do not recommend that the applicant be required to perform a TIS for the subject application. DelDOT’s description of this application as negligible with regard to warranting a TIS does not mean that it is negligible in other respects. We recommend that the applicant not be required to perform a TIS for the subject application.

If the County approves this application, the applicant should be reminded that DelDOT requires compliance with State regulations regarding plan approvals and entrance permits, whether or not a TIS is required.
Mr. Jamie Whitehouse
Page 2 of 2
March 16, 2020

Please contact Mr. Claudy Joinville, at (302) 760-2124, if you have questions concerning this correspondence.

Sincerely,

T. William Brockenbrough, Jr.
County Coordinator
Development Coordination

TWB: cj
cc: Constance C. Holland, Coordinator, Cabinet Committee on State Planning Issues
    James Jones, Applicant
    J. Marc Coté, Assistant Director, Development Coordination
    Gemez Norwood, South District Public Works Manager, Maintenance & Operations
    Susanne K. Laws, Sussex County Review Coordinator, Development Coordination
    Derek Sapp, Subdivision Manager, Development Coordination
    Kevin Hickman, Subdivision Manager, Development Coordination
    Brian Yates, Subdivision Manager, Development Coordination
    John Andrecavage, Subdivision Manager, Development Coordination
    James Argo, South District Project Reviewer, Maintenance & Operations
    Troy Brestel, Project Engineer, Development Coordination
    Claudy Joinville, Project Engineer, Development Coordination
Service Level Evaluation Request Form

This form shall be submitted to the Planning and Zoning Office and a response shall be received back from DelDOT prior to the applicant being able to submit an application to the Planning and Zoning Office.

Date: 2-21-2020

Site Information:

Site Address/Location: 28984 Cordrey RD Millsboro DE 19966

Tax Parcel Number: 234-28-00-67-00
Current Zoning: AR-1
Proposed Zoning: CU
Land Use Classification: Conditional

Proposed Use(s):
Flowers, plants and supplies display, landscaping business

Square footage of any proposed buildings or number of units: 30 x 50 existing pole building

Applicant Information:

Applicant's Name: James Jones
Applicant’s Address: 28984 Cordrey RD
City: Millsboro State: DE Zip Code: 19966

Applicant’s Phone Number: 302-752-6233
Applicant's e-mail address: Coolwater CLEANtown@gmail.com
TO: Jamie Whitehouse
REVIEWER: Chris Calio
DATE: 9/21/2020
APPLICATION: CU 2234
APPLICANT: James Jones
FILE NO: NCPA-5.03
TAX MAP & PARCEL(S): 234-28.00-67.00
LOCATION: 28984 Cordrey Road. On the east side of Cordrey Road (SCR 308), approximately 0.12 miles east of William Street Road (SCR 309)
GROSS ACREAGE: 2.70
SYSTEM DESIGN ASSUMPTION, MAXIMUM NO. OF UNITS/ACRE: 2
SEWER:
(1). Is the project in a County operated and maintained sanitary sewer and/or water district? □ Yes □ No ☒
   a. If yes, see question (2).
   b. If no, see question (7).
(2). Which County Tier Area is project in? Tier 3
(3). Is wastewater capacity available for the project? N/A If not, what capacity is available? N/A.
(4). Is a Construction Agreement required? No If yes, contact Utility Engineering at (302) 855-7717.
(5). Are there any System Connection Charge (SCC) credits for the project? No If yes, how many? N/A. Is it likely that additional SCCs will be required? N/A If yes, the current System Connection Charge Rate is Unified $6,360.00 per EDU. Please contact N/A at 302-855-7719 for additional information on charges.
(6). Is the project capable of being annexed into a Sussex County sanitary sewer district? **No**

☐ Attached is a copy of the Policy for Extending District Boundaries in a Sussex County Water and/or Sanitary Sewer District.

(7). Is project adjacent to the Unified Sewer District? **No**

(8) Comments: The proposed Conditional Use is not in an area where the Sussex County Engineering Department has a schedule to provide sanitary sewer service.

(9). Is a Sewer System Concept Evaluation required? **No**

(10). Is a Use of Existing Infrastructure Agreement Required? **No**

UTILITY PLANNING APPROVAL:

[Signature]

John J. Ashman
Director of Utility Planning

Xc: Hans M. Medlarz, P.E.
Jayne Dickerson
No Permit Tech Assigned
Application: CU 2234 Tidewater Utilities, Inc

Applicant/Owner: Tidewater Utilities, Inc
1100 South Little Creek Road
Dover, DE 19901

Site Location: 1270 Kings Highway. Located on the southeast side of John J. Williams Highway (Rt. 24) approximately 1.52 miles southwest of Coastal Highway (Route 1)

Current Zoning: AR-1 (Agricultural Residential District)

Proposed Use: Elevated Storage Tank

Comprehensive Land Use Plan Reference: Commercial

Councilmatic District: Mr. Hudson

School District: Cape Henlopen School District

Fire District: Rehoboth Fire Company

Sewer: Tier 2 - Sussex County Planning Area

Water: Tidewater Utilities

Site Area: 2124 Square Feet +/-

Tax Map ID.: 334-12.00-107.00 (Portion of)
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Sussex County

Owner Name: CAPE HENLOPEN SCHOOL DISTRICT

Book: 2549
Mailing Address: 1270 KINGS HWY
City: LEWES
State: DE
Description: ON RD 24
Description 2: CAPE HENLOPEN MIDDLE
Description 3: SCHOOL 2759700
Land Code:

PIN: 334-12.00-107.00

Owner Name: CAPE HENLOPEN SCHOOL DISTRICT

Book: 2549
Mailing Address: 1270 KINGS HWY
City: LEWES
State: DE
Description: ON RD 24
Description 2: CAPE HENLOPEN MIDDLE
Description 3: SCHOOL 2759700
Land Code:
Memorandum
To: Sussex County Planning Commission Members
From: Jennifer Norwood, Planner I
CC: Vince Robertson, Assistant County Attorney and applicant
Date: October 1, 2020
RE: Staff Analysis for CU 2240 Tidewater Utilities LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2240 Tidewater Utilities, LLC to be reviewed during the October 8, 2020 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.

The request is for a Conditional Use for Tax Parcel 334-12.00-107.00 to allow for a Conditional Use of land in a Agricultural Residential (AR-1) Zoning District for a public utility elevated storage tank. The parcel is located on the southeast side of John J. Williams Hwy (Rt. 24) in Lewes, Delaware. The size of the property is approximately 2,124 SF +/-.

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map in the plan indicates that the subject property has a Commercial designation. The adjacent properties in each direction are also a part of the Commercial and Coastal Area.

The Commercial Area is designated to encourage commercial corridors, shopping centers, and other medium and large commercial vicinities geared towards vehicular traffic. The Coastal Area is designated to encourage growth and development without diminishing ecological and environmental characteristics.

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

Since 2011, there has been one (1) Conditional Use application in a one-mile radius. Conditional Use 2059, to allow for a beauty salon, was approved by County Council on October 25, 2016 and adopted through Ordinance No. 2478.

Based on the analysis of the land use, surrounding zoning and uses, the Conditional Use to allow for a public utility elevated storage tank, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.
Planning & Zoning Commission Application
Sussex County, Delaware
Sussex County Planning & Zoning Department
2 The Circle (P.O. Box 417) Georgetown, DE 19947
302-855-7878 ph. 302-854-5079 fax

Type of Application: Conditional Use
Zoning Map Amendment

Site Address of Conditional Use/Zoning Map Amendment
(Beacon Middle School) 19483 John J. Williams Highway, Lewes, Delaware 19958

Type of Conditional Use Requested:
Public utility; installation of an elevated storage tank

Tax Map #: 334-12.00-107.00 Size of Parcel(s): 29.23 AC
Current Zoning: AR-1 Proposed Zoning: AR-1 Size of Building: 2,124 SF (tank base)

Land Use Classification: Institutional/Governmental

Water Provider: Tidewater Utilities, Inc. Sewer Provider: Sussex County

Applicant Information
Applicant Name: Tidewater Utilities, Inc.
Applicant Address: 1130 South Little Creek Road
City: Dover State: DE ZipCode: 19901
Phone #: (302) 747-1306 E-mail: gcoury@middlesexwater.com

Owner Information
Owner Name: Cape Henlopen School District
Owner Address: 1270 Kings Highway
City: Lewes State: DE Zip Code: 19958
Phone #: (302) 645-1442 E-mail:

Agent/Attorney/Engineer Information
Agent/Attorney/Engineer Name: Beacon Engineering, LLC
Agent/Attorney/Engineer Address: 23318 Cedar Lane
City: Georgetown State: DE Zip Code: 19947
Phone #: (302) 864-8825 E-mail: rpalmer@beaconengineeringllc.com
Check List for Sussex County Planning & Zoning Applications
The following shall be submitted with the application

☐ Complete Application

☐ Provide eight (8) copies of the Site Plan or Survey of the property
  o Survey shall show the location of existing or proposed building(s), building setbacks, parking area, proposed entrance location, etc.
  o Provide a PDF of Plans (may be e-mailed to a staff member)
  o Deed or Legal description

☐ Provide Fee $500.00

☐ Optional - Additional information for the Commission/Council to consider (ex. architectural elevations, photos, exhibit books, etc.) If provided submit 8 copies and they shall be submitted a minimum of ten (10) days prior to the Planning Commission meeting.

☐ Please be aware that Public Notice will be sent to property owners within 200 feet of the subject site and County staff will come out to the subject site, take photos and place a sign on the site stating the date and time of the Public Hearings for the application.

☐ DelDOT Service Level Evaluation Request Response

N/A PLUS Response Letter (if required)

SLER was applied for on July 2, 2020. We will provide the County with a response once we receive it from DelDOT.

The undersigned hereby certifies that the forms, exhibits, and statements contained in any papers or plans submitted as a part of this application are true and correct.

I also certify that I or an agent on by behalf shall attend all public hearing before the Planning and Zoning Commission and the Sussex County Council and any other hearing necessary for this application and that I will answer any questions to the best of my ability to respond to the present and future needs, the health, safety, morals, convenience, order, prosperity, and general welfare of the inhabitants of Sussex County, Delaware.

Signature of Applicant/Agent/Attorney

Date: 7/17/2020

Signature of Owner

Date: 7/13/20

For office use only:

Date Submitted: 7/18/1990 Fee: $500.00 Check #: 10144633

Application & Case #: CU2240

Subdivision:

Date of PC Hearing: Recommendation of PC Commission:

Date of CC Hearing: Decision of CC:
July 30, 2020

Mr. Jamie Whitehouse, Director
Sussex County Planning & Zoning
P.O. Box 417
Georgetown, DE 19947

Dear Mr. Whitehouse:

The Department has completed its review of a Service Level Evaluation Request for the Tidewater Utilities, Inc. conditional use application, which we received on July 2, 2020. This application is for an approximately 25.3-acre parcel (Tax Parcel: 334-12.00-107.00). The subject land is located on the southeast side of Delaware Route 24, approximately 500 feet southwest of the intersection of Delaware Route 24 and Mulberry Knoll Road (Sussex Road 284). The subject land is currently zoned as AR-1 (Agricultural Residential), and the applicant is seeking a conditional use approval to install an elevated storage tank onsite at the Beacon Middle School to serve the south Rehoboth area.

Per the 2019 Delaware Vehicle Volume Summary, the annual average and summer average daily traffic volumes along the segment of Delaware Route 24 where the subject land is located, which is from Camp Arrowhead Road (Sussex Road 279) to Warrington Road / Plantations Road (Sussex Road 275), are 19,793 and 25,474 vehicles per day, respectively.

Based on our review, we estimate that the above land uses will generate fewer than 50 vehicle trips in any hour and fewer than 500 vehicle trips per day. These numbers of trips are DelDOT’s minimum warrants for determining that a Traffic Impact Study (TIS) should be required for a particular development. Because the proposed land use would not meet these warrants, we consider the development’s traffic impact to be negligible in the context of our agreement with the County regarding land development coordination and we do not recommend that the applicant be required to perform a TIS for the subject application. DelDOT’s description of this application as negligible with regard to warranting a TIS does not mean that it is negligible in other respects. We recommend that the applicant not be required to perform a TIS for the subject application.

If the County approves this application, the applicant should be reminded that DelDOT requires compliance with State regulations regarding plan approvals and entrance permits, whether or not a TIS is required.
Mr. Jamie Whitehouse
Page 2 of 2
July 30, 2020

Please contact Mr. Claudy Joinville, at (302) 760-2124, if you have questions concerning this correspondence.

Sincerely,

T. William Brockenbrough, Jr.
County Coordinator
Development Coordination

TWB:cjm
cc: Constance C. Holland, Coordinator, Cabinet Committee on State Planning Issues
Tidewater Utilities, Inc., Applicant
Todd Sammons, Assistant Director, Development Coordination
Gemz Norwood, South District Public Works Manager, Maintenance & Operations
Susanne K. Laws, Sussex County Review Coordinator, Development Coordination
Derek Sapp, Subdivision Manager, Development Coordination
Kevin Hickman, Subdivision Manager, Development Coordination
Brian Yates, Subdivision Manager, Development Coordination
John Andrecavage, Subdivision Manager, Development Coordination
James Argo, South District Project Reviewer, Maintenance & Operations
Troy Brestel, Project Engineer, Development Coordination
Claudy Joinville, Project Engineer, Development Coordination
TO: Jamie Whitehouse

REVIEWER: Chris Calio

DATE: 9/21/2020

APPLICATION: CU 2240 Tidewater Utilities, Inc

APPLICANT: Tidewater Utilities, Inc

FILE NO.: NCPA-5.03

TAX MAP & PARCEL(S): 334-12.00-107.00 (portion of)

LOCATION: Located on the southeast side of John J. Williams Highway (Rt. 24), approximately 1.52 miles southwest of Coastal Highway (SR 1)

NO. OF UNITS: Elevated Water Storage Tank

GROSS ACREAGE: 2,124 sq. ft.

SYSTEM DESIGN ASSUMPTION, MAXIMUM NO. OF UNITS/ACRE: 2

SEWER:

(1). Is the project in a County operated and maintained sanitary sewer and/or water district?
   Yes ☐ No ☒
   a. If yes, see question (2).
   b. If no, see question (7).

(2). Which County Tier Area is project in? Tier 2

(3). Is wastewater capacity available for the project? Yes If not, what capacity is available? N/A.

(4). Is a Construction Agreement required? No If yes, contact Utility Engineering at (302) 855-7717.

(5). Are there any System Connection Charge (SCC) credits for the project? No If yes, how many? N/A. Is it likely that additional SCCs will be required? No If yes, the current System Connection Charge Rate is Unified $6,360.00 per EDU. Please contact Christine Fletcher at 302-855-7719 for additional information on charges.
(6). Is the project capable of being annexed into a Sussex County sanitary sewer district? Yes

Attached is a copy of the Policy for Extending District Boundaries in a Sussex County Water and/or Sanitary Sewer District.

(7). Is project adjacent to the Unified Sewer District? Yes

(8). Comments: Sussex County has a pumpstation and forcemain contract permitted by DNREC for construction of sewer improvements in the area. Construction is scheduled to begin early 2021 coordination of the project and utilities is required. The proposed project is on a parcel that is currently served with Sussex County sewer through a Memorandum of Understanding.

(9). Is a Sewer System Concept Evaluation required? No

(10). Is a Use of Existing Infrastructure Agreement Required? No

UTILITY PLANNING APPROVAL:

[Signature]
John J. Ashman
Director of Utility Planning

Xc: Hans M. Medlarz, P.E.
Jayne Dickerson
Christine Fletcher
To the Planning and Zoning Committee of Sussex County

This correspondence from the Cape Henlopen School District is to promise our continued cooperation for the water tower project being presented by Tidewater (TUI). Since the summer of 2019, when we were first approached to revive the agreement signed when Beacon Middle School was erected, we have been working with Tidewater to make this project happen.

We were able to locate the original agreements and two other attempts to move forward with this project in 2010 and 2012. We are not sure why they were not carried out, but we are prepared to make it work this time. Tidewater has made some edits to the plans and scheduling to be the least invasive to our school should this project be approved.

If there are any questions you may have, feel free to contact me by email (lenny.richardson@cape.k12.de.us) or on my cell phone (302-228-2530).

Thank you

Lenny C. Richardson

The Cape Henlopen School District is an equal opportunity employer and does not discriminate on the basis of race, color, creed, religion, gender (including pregnancy, childbirth and related medical conditions), national origin, citizenship or ancestry, age, disability, marital status, veteran status, genetic information, sexual orientation, or gender identity, against victims of domestic violence, sexual offenses, or stalking, or upon any other categories protected by federal, state, or local law. (El Distritio Escolar Cape Henlopen ofrece oportunidades iguales de empleo y sin discriminación de raza, color, credo, religión, género incluyendo embarazo, parto y sus condiciones médicas), nacionalidad, ciudadanía o ascendencia, edad, discapacidad, estado civil, servicio militar(veterano), discriminación genética, orientación sexual, o identidad de género, en contra de víctimas de violencia doméstica, ofensas sexuales, acos, o bajo cualquier otra categoría protegida por la ley local, estatal, y federal.) Edward I. Waples, Employee/Student Compliance Officer; OCR/TiX804 Office of Human Resources; LouAnn Hudson, Student 604 Compliance Officer, 1270 Kings Highway, Lewes, DE 19958.
CONDITIONAL USE APPLICATION No. 2240

PROJECT NO. TUI01-02

Exhibit Booklet
Proposed Elevated Storage Tank

On the site of Beacon Middle School
19483 John J. Williams Highway
Lewes & Rehoboth Hundred
Sussex County, Delaware

Prepared by: Beacon Engineering, LLC
23318 Cedar Lane
Georgetown, Delaware 19947

Robert J. Palmer, P.E.
302.864.8825

Prepared for: Tidewater Utilities, Inc.
1100 South Little Creek Road
Dover, Delaware 19901

Mr. Gregory L. Coury
302.734.7500

September 28, 2020
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I. Introduction

II. Environmental Assessment and Public Facility Evaluation
I. Introduction

This request is for a Conditional Use to permit the construction of an elevated storage tank for Tidewater Utilities, Inc., a public utility, to be located between an existing middle school and Mulberry Knoll Road on the subject property. In particular, the elevated storage tank would be for the purpose of expanding the capacity of the existing Rehoboth District which will further improve the level of water service for the unincorporated areas surrounding Lewes and Rehoboth in Sussex County.

The 29.23 acre property, belonging to the Cape Henlopen School District, is the site of the Beacon Middle School, located approximately 1,400 feet southeast of the intersection of John J. Williams Highway (Route 24) and Mulberry Knoll Road (SCR #284). The location of the elevated storage tank would be defined by a permanent easement, totaling approximately 14,125 SF. The legal description is provided in Exhibit III. b. The parcel is bound by John J. Williams Highway, to the west, Mulberry Knoll road to the north and east, with agriculture and single family residential to the north, east, and south. The property is zoned AR-1 and is situated within the Coastal Area of Sussex County. The property is designated as Commercial based the 2019 Future Land Use layer of the Sussex County Mapping and Addressing online application, and is within a Commercial Area per the 2018 Sussex County Comprehensive Plan 2045 Future Land Use Map.

The setting of the region is primarily residential with intermittent agriculture and wooded lots. The tank location is approximately 1.5 miles south of the Route 1 corridor, which is primarily developed with various commercial uses. Exhibit III. c. depicts the site of the proposed elevated storage tank location from various surrounding viewpoints which demonstrates that granting of this conditional use will not be disruptive to the existing character of the surrounding area.

The proposed elevated storage tank will be accessed from Mulberry Knoll Road which is designated as a local road per DelDOT’s Functional Classification Map. This site is an unmanned facility and will generate zero traffic impact to the existing road network. In the DelDOT Service Level Evaluation Request response that is presented in Exhibit III. f., DelDOT anticipates minimal increase in traffic associated with the project and determined the impact negligible. The property lies within a Level 2 Investment Area according to the 2020 Investment Level State Strategies Map. Refer to Exhibit III. d. According to the 2020 State Strategies for Policies and Spending, “Level 2 areas can be composed of less developed areas within municipalities, [and] rapidly growing areas in the counties that have or will have public water and wastewater services and utilities...” Areas designated as Level 2 are intended to promote a variety of uses, and enhance the existing, surrounding communities; therefore, Tidewater Utilities’ desire to increase the water system capacity and further improve the level of water service through the construction of this proposed elevated storage tank is in harmony with the development goals for this property and region.

The property would be served by the following infrastructure:

- DelDOT – The SLER found in Exhibit III. f. indicates “…the development’s traffic impact to be negligible in the context of our agreement with the County regarding land development coordination and we do not recommend that the applicant be required to perform a TIS for the subject application.” A letter of no
contention/permit for entrance construction is being proposed for the approval mechanism which is in harmony with the existing Sussex County Pump station located 190 feet north of the proposed site driveway.

- DNREC Sediment and Stormwater Program. A non-residential standard plan for less than 1.0 acre disturbed is the proposed approval mechanism. The project is consistent with the following applicability criteria:

1. The disturbed area for construction of the improvements will not exceed 1.0 acre.
2. Within the disturbed area, the pre-development land use is not classified as forest.
3. For project site locations within an area previously managed for stormwater quantity and quality under an approved Sediment and Stormwater Plan, the post construction condition meets the original stormwater design criteria.

- Water Service – Tidewater Utilities, Inc. No service is proposed.
- Wastewater Service – Sussex County. No service is proposed.

II. Environmental Assessment and Public Facility Evaluation

(a) Proposed drainage design and the effect on stormwater quality and quantity leaving the site, including methods for reducing the amount of phosphorous and nitrogen in the stormwater runoff and the control of any other pollutants such as petroleum hydrocarbons or metals.

**Narrative:** Minimal land disturbance is proposed, and the existing, approved sediment and stormwater design will remain unchanged. A culvert is proposed beneath the proposed driveway to allow the existing runoff patterns to match pre-construction conditions. The proposed elevated storage tank will add approximately 4,600 square feet of impervious area to the 29.23 acre parcel.

(b) Proposed method of providing potable and, where appropriate, irrigation water and the effect on public or private water systems and groundwater, including an estimate of average and peak demands.

**Narrative:** The property and environs are served by Tidewater Utilities, Inc. No water service is proposed to this facility because it is an unmanned facility and will, therefore, not incur a water demand increase. The purpose of this property would be to expand the system capacity and further improve the existing level of water service.

(c) Proposed means of wastewater treatment and disposal with an analysis of the effect on the quality of groundwater and surface waters, including alternative locations for on-site septic systems.
Narrative: The property is served by Sussex County; however, no service connection is proposed or required for the proposed elevated storage tank because the facility would be unmanned. No effect on quality of groundwater or surface waters is anticipated.

(d) Analysis of the increase in traffic and the effect on the surrounding roadway system.

Narrative: The DelDOT planning staff estimated that the proposed elevated storage tank will increase the site average daily trips (ADT) by fewer than 50 trips per day. According to the Service Level Evaluation Request Response included in Exhibit III. f., DelDOT considers the increase “... to be negligible in the context of our agreement with the County regarding land development coordination and we do not recommend that the applicant be required to perform a TIS for the subject application.” Because this facility would be unmanned, zero traffic will be generated.

(e) The presence of any endangered or threatened species listed on federal or state registers and proposed habitat protection areas.

Narrative: According to the U.S. Fish & Wildlife Service Information for Planning and Consultation (iPaC) website, there are no federally listed threatened species. Of the 18 migratory bird species of conservation concern that are listed, 8 have been observed within the 10 km grid cell in which this project is located. No wildlife refuge lands, no fish hatcheries, and no wetland areas are present on the property, or within the 10 km grid cell in which this project is located. The parent property has been in continuous use as a middle school since approximately 2001.

While not ideal for operation and maintenance of the proposed elevated storage tank, bald eagles and osprey have been known to build nests on the roofs. Therefore, the tower could indirectly be a habitat improvement.

(f) The preservation and protection from loss of any tidal or nontidal wetlands on the site.

Narrative: No tidal or nontidal wetlands are present on this property. Therefore, no tidal or nontidal wetlands will be affected by the requested Conditional Use.

(g) Provisions for open space as defined in § 115-4.

Narrative: The main property is developed as a middle school and is surrounded by open turf areas. The portion of the property within the permanent easement totals 14,125 SF, (and will include 4,613 SF of impervious surface) which is approximately 1.1% of the total acreage.

(h) A description of provisions for public and private infrastructure.

Narrative: The proposed conditional use would expand and improve the existing public water system infrastructure through the construction of the proposed elevated storage tank. Connection to the existing water main which runs along Mulberry Knoll Road and the addition of a fire hydrant are also proposed. No other public or private infrastructure is proposed.
(i) Economic, recreational or other benefits.

**Narrative:** The proposed project will allow Tidewater Utilities, Inc. to increase the available system storage and provide an improved level of water service to existing customers, as well as, enable the expansion of service to new areas of the unincorporated area surrounding Lewes and Rehoboth.

(j) The presence of any historic or cultural resources that are listed on the National Register of Historic Places.

**Narrative:** No historic or cultural resources are known to exist on the property. Should any historic or cultural resources be present, they would have been discovered and documented during the planning for the existing middle school.

(k) An affirmation that the proposed application and proposed mitigation measures are in conformance with the current Sussex County Comprehensive Plan.

**Narrative:** The proposed application for a Conditional Use is consistent with the 2018 Comprehensive Plan for the following reasons:

- The property is located in a Coastal Area which has been defined as one of the 7 types of growth areas.

- Expanded infrastructure supports the Level 2 Investment Area goals to accommodate continued residential and commercial development in the Coastal Area.

- Tidewater Utilities, Inc. is sited as the largest provider of water service in Sussex County and has been granted a Certificate of Public Convenience and Necessity (CPCN). The Public Service Commission grants the CPCNs, and “encourages compact and contiguous service territories to provide efficient delivery of drinking water without redundancy in infrastructure.” Construction of an elevated storage tank at this location is in harmony with the Rehoboth District CPCN.

(l) Actions to be taken by the applicant to mitigate the detrimental impacts identified relevant to Subsection B(2)(a) through (k) above and the manner by which they are consistent with the Comprehensive Plan.

**Narrative:** All mitigation measures, where required, have been discussed in their respective section. All mitigation measures as well as the application are consistent with the 2018 Comprehensive Plan.
III. Support Documentation and Exhibits
a. Deed
THIS DEED, made this 13th day of December, 2000,

BETWEEN J.G. Townsend, Jr. & Co., a Delaware corporation, party of the first part,

AND

Cape Henlopen School District, party of the second part.

WITNESSETH: That the said party of the first part, for and in consideration of the sum of TEN DOLLARS And 00/100 ($10.00), lawful money of the United States of America, the receipt whereof is hereby acknowledged, hereby grants and conveys unto the party of the second part, its Successors and Assigns, its Successors and Assigns, in fee simple the following described lands, situate, lying and being Sussex County, State of Delaware,

ALL that certain piece, parcel and tract of land, lying and being situate in Lewes and Rehoboth Hundred, Sussex County, and the State of Delaware, depicted on a survey prepared by Charles D Murphy Associates, Inc., dated December 11, 2000, fronting on the Southeasterly side of State Route 24 (at 50.00 feet wide), and on the Westerly side of County Road 284 (at fifty (50.00) feet wide), adjoining lands now or formerly of Thomas W. Bush et ux, lands now or formerly of Leroy O. Bush, lands now or formerly of Irene S. Murray, lands now or formerly of Albert G. Best, Trustee, and Parcel Two as shown on this Plan, and being more particularly bounded and described as follows, to-wit:

BEGINNING at a point on the Southeasterly right-of-way line of State Route 24, twenty-five (25.00) feet from the centerline thereof, and at the Northwesterly corner for lands now or formerly of Thomas W. Bush, et ux, said point being distant 469.00 feet, more or less, from the right-of-way line of County Road 284; thence running with said Bush lands, South 41 degrees 22 minutes 59 seconds East, passing over a found iron pipe at 1.43 feet, a total distance of 330.97 feet to a found iron pipe at a corner for lands now or formerly of Leroy O. Bush; thence running with said Leroy O. Bush lands, South 41 degrees 16 minutes 32 seconds East, passing over a found concrete monument 265.64 feet, a total distance of 271.56 feet to a set capped rebar on the Westerly right-of-way line of County Road 284; thence proceeding along said right-of-way line, the following five (5) courses and distances: (1) deflecting left along a 761.02 foot radius curve, the chord of which bears South 15 degrees 41 minutes 49 seconds East, 274.12 feet, an arc distance of 275.62 feet to a point of tangency; (2) South 26 degrees 04 minutes 20 seconds East, 52.90 feet to a point of curvature; (3) deflecting right along a 408.05 foot radius curve, the chord of which bears South 03 degrees 03 minutes 08 seconds West, 397.21 feet, an arc distance of 414.84 feet to a point of reverse curve; and (4) deflecting left along an 825.85 foot radius curve, the chord of which bears South 28 degrees 44 minutes 12 seconds West, 99.11 feet, an arc distance of 99.17 feet to a set capped rebar at a point on curve and a corner for lands now or formerly of Irene S. Murray; thence running with said Murray.
lands and in part with lands now or formerly of Alfred G. Best, Trustee, South 42 degrees 36 minutes 44 seconds West, 322.86 feet to a found iron pipe at a corner for Parcel Two (part of Tax Map Parcel 3-34-18-40.01); thence following said Parcel Two, North 45 degrees 01 minute 13 seconds 1,199.73 feet to a set capped rebar on the aforementioned Southeasterly right-of-way line of State Route 24; thence finally proceeding along said right-of-way line of Route 24, North 44 degrees 47 minutes 21 seconds East, 903.39 feet to the place of BEGINNING. Containing within said described metes and bounds, 25.6755 acres of land, be the same more or less.

SUBJECT to all matters of record, to the extent valid and enforceable.

BEING the same lands and premises which Ebe Roy Dorman and Arzie Dorman, by Deed dated November 16, 1945, of record in the Office of the Recorder of Deeds, in and for Sussex County and State of Delaware, in Deed Book 357, Page 356, did grant and convey unto J. G. Townsend, Jr. & Co., in fee.

ALSO BEING the same lands and premises which Mary Irma Ayers and Dudley A. Ayers, by Deed dated March 5, 1949, of record in the Office of the Recorder of Deeds aforesaid in Deed Book 387, Page 176, did grant and convey unto J. G. Townsend, Jr. & Co., in fee.

Parcel 2 (Part of Tax Map Parcel 3-34-18-40.01)

ALL that certain piece, parcel and tract of land, lying and being situated in the Lewes and Rehoboth Hundred, Sussex County and the State of Delaware, depicted on a survey prepared by Charles D. Murphy Associates, Inc., dated December 11, 2000, lying on the Southeasterly line of State Route 24 (at fifty (50) feet wide), adjoining Parcel One above described and lands now or formerly of Alfred G. Best, Trustee, and being more particularly bounded and described as follows to-wit:

BEGINNING at a point on aforementioned Southeasterly right-of-way line of State Route 24, twenty-five (25.00) feet from the centerline thereof, and at the Southwesterly corner of aforementioned Parcel One; thence running with said Parcel One, South 45 degrees 01 minute 13 seconds East 1,199.73 feet to a found iron pipe at a point on line of lands now or formerly of Alfred G. Best, Trustee; thence following line of said Best lands, South 42 degrees 36 minutes 44 seconds West, 156.76 feet to a set capped rebar at a corner for residual lands of J.G. Townsend, Jr. & Co.; thence following said other lands of J.G. Townsend, Jr., & Co.; North 45 degrees 01 minute 13 seconds West, 1,205.69 feet to set capped rebar on aforementioned Southeasterly right-of-way line of State Route 24; thence finally running with said Southeasterly right-of-way line of State Route 24, North 44 degrees 47 minutes 21 seconds East, 156.63 feet to the place of BEGINNING. Containing within said described metes and bounds, 4.3245 acres of lands, be the same more or less.

SUBJECT to all matters of record, to the extent valid and enforceable.

IN WITNESS WHEREOF, the said J.G. Townsend, Jr. & Co. has caused its name by
Steven E. Neff
its President, to be hereunto set, and the common and
corporate seal of the said corporation to be hereunto affixed, duly attested by its Secretary, the day and year
first above written.

J.G. TOWNSEND, JR. & CO.

By:

(SEAL)

Attest:

(SEAL)

[Corporate Seal]

State of Delaware
County of Sussex

The foregoing Deed was acknowledged before me this 14th
of December, 2000, by

Steven E. Neff
President of J.G. Townsend, Jr. & Co., on
behalf of the Corporation.

Given under my Hand and Seal of office the day and year aforesaid.

Received

Dec 19 2000

ASSESSMENT DIVISION
OF SUSSEX CTY.

Revised

Dec 18 2000

EUGENE H. BAYARD, ESQ.
NOTARY PUBLIC PURSUANT TO
39 DEL CODE SEC 4923
ATTORNEY AT LAW
DELWARE

Received

Dec 19 2000

ASSESSMENT DIVISION
OF SUSSEX CTY.
b. Legal Description and Exhibit of Conditional Use Request Area
LEGAL DESCRIPTION

TIDEWATER UTILITIES, INC., PERMANENT EASEMENT

REFERENCE PARCEL: 334-12.00-107.00

BEGINNING AT A POINT found at the southeast corner of the lands of Sussex County, Tax Map No. 334-12.00 Parcel 107.01 (Sussex County Pump Station), and being a common marker between the lands of Sussex County and Cape Henlopen School District, the same corner lying on the northerly Right-of-Way of Mulberry Knoll Road (S.C.R. 286), along a tie line, running South 25 degrees 52 minutes 06 seconds East, 184.03 feet to a point, being along a curve deflecting to the right, having a chord bearing South 08 degrees 51 minutes 54 seconds West, a radius of 260.63 feet, and arc length of 317.86 feet, per the plat recorded in the Office of the Recorder of Deeds in and for Sussex County and the State of Delaware, in Plot Book 71, page 73, to a place and point of beginning; thence running by and with said curve, with a chord bearing South 16 degrees 35 minutes 21 seconds East, having a radius of 260.63 feet, and an arc length of 60.97 feet to a point along the aforementioned curve; thence turning into the lands of the Cape Henlopen School District South 63 degrees 55 minutes 39 seconds West, and running 122.21 feet to a point; thence turning North 77 degrees 38 minutes 32 seconds West, and running 45.90 feet to a point; thence turning North 26 degrees 04 minutes 21 seconds West, and running 52.95 feet to a point; thence turning North 25 degrees 29 minutes 50 seconds East, and running 45.90 feet to a point; thence turning North 63 degrees 55 minutes 39 seconds East, and running 69.86 feet to a point; thence turning South 26 degrees 04 minutes 21 seconds East, and running 50.00 feet to a point; thence turning North 63 degrees 55 minutes 39 seconds East, and running 62.38 feet to the place and point of beginning, containing 14,125 square feet of land, more or less.
c. Site Photos
1. Looking from existing ballfield, north towards proposed elevated storage tank location.

2. Looking northwest past the proposed elevated storage tank location, west of Mulberry Knoll Road.
3. Looking southeast toward the proposed elevated storage tank location from Beacon Middle School.

4. Looking northeast towards the proposed elevated storage tank location from Beacon Middle School.
5. Looking northwest toward the proposed elevated storage tank location from Mulberry Knoll Road.

6. Looking southwest towards the proposed elevated storage tank location from Mulberry Knoll Road.
7. Site example showing the elevated storage tank proximity to The Breakers Hotel and 2nd Street, in Rehoboth Beach.

8. Site example showing the elevated storage tank proximity to The Breakers Hotel, Sandcastle Motel, and the Rehoboth Beach City Hall parking lot.
9. Site example showing the water spheroid view from the entrance of Rehoboth Beach City Hall.

10. Site example looking west towards the water spheroid from the intersection of 1st Street and Baltimore Avenue, in Rehoboth Beach.
11. Site example looking west towards the water spheroid on Baltimore Avenue between the Admiral on Baltimore and the Sands Hotels, in Rehoboth Beach.

12. Site example looking north towards the water spheroid from Rehoboth Avenue, in Rehoboth Beach.
13. Example of existing Tidewater Utilities, Inc. elevated storage tank with approved DelDOT entrance.
d. Investment Level State Strategies Map
Tidewater Utilities, Inc.
Elevated Storage Tank
Lewes & Rehoboth Hundred
Sussex County, Delaware

Legend
Delaware State Strategies 2020

1
2
3
4
Out of Play

This map is provided by Beacon Engineering, LLC solely for display and reference purposes and was prepared using publically available data. No guarantee, either real or assumed, as to the absolute accuracy or precision of any data contained herein is made.

September 25, 2020
TUI01-02
e. Preliminary Site Plan
f. Service Level Evaluation Request Response
Mr. Jamie Whitehouse, Director  
Sussex County Planning & Zoning  
P.O. Box 417  
Georgetown, DE 19947  

July 30, 2020  

Dear Mr. Whitehouse:

The Department has completed its review of a Service Level Evaluation Request for the Tidewater Utilities, Inc. conditional use application, which we received on July 2, 2020. This application is for an approximately 25.3-acre parcel (Tax Parcel: 334-12.00-107.00). The subject land is located on the southeast side of Delaware Route 24, approximately 500 feet southwest of the intersection of Delaware Route 24 and Mulberry Knoll Road (Sussex Road 284). The subject land is currently zoned as AR-1 (Agricultural Residential), and the applicant is seeking a conditional use approval to install an elevated storage tank onsite at the Beacon Middle School to serve the south Rehoboth area.

Per the 2019 Delaware Vehicle Volume Summary, the annual average and summer average daily traffic volumes along the segment of Delaware Route 24 where the subject land is located, which is from Camp Arrowhead Road (Sussex Road 279) to Warrington Road / Plantations Road (Sussex Road 275), are 19,793 and 25,474 vehicles per day, respectively.

Based on our review, we estimate that the above land uses will generate fewer than 50 vehicle trips in any hour and fewer than 500 vehicle trips per day. These numbers of trips are DelDOT’s minimum warrants for determining that a Traffic Impact Study (TIS) should be required for a particular development. Because the proposed land use would not meet these warrants, we consider the development’s traffic impact to be negligible in the context of our agreement with the County regarding land development coordination and we do not recommend that the applicant be required to perform a TIS for the subject application. DelDOT’s description of this application as negligible with regard to warranting a TIS does not mean that it is negligible in other respects. We recommend that the applicant not be required to perform a TIS for the subject application.

If the County approves this application, the applicant should be reminded that DelDOT requires compliance with State regulations regarding plan approvals and entrance permits, whether or not a TIS is required.
Please contact Mr. Claudy Joinville, at (302) 760-2124, if you have questions concerning this correspondence.

Sincerely,

T. William Brockenbrough, Jr.
County Coordinator
Development Coordination

TWB: cj m
cc: Constance C. Holland, Coordinator, Cabinet Committee on State Planning Issues
Tidewater Utilities, Inc., Applicant
Todd Sammons, Assistant Director, Development Coordination
Gemez Norwood, South District Public Works Manager, Maintenance & Operations
Susanne K. Laws, Sussex County Review Coordinator, Development Coordination
Derek Sapp, Subdivision Manager, Development Coordination
Kevin Hickman, Subdivision Manager, Development Coordination
Brian Yates, Subdivision Manager, Development Coordination
John Andrescavage, Subdivision Manager, Development Coordination
James Argo, South District Project Reviewer, Maintenance & Operations
Troy Brestel, Project Engineer, Development Coordination
Claudy Joinville, Project Engineer, Development Coordination
24 FT WIDE DOUBLE LEAF SWING GATE

CHAIN LINK FENCE ENCLOSURE

ON SITE HEAVY PAVING SECTION (ON SITE ROADS AND PARKING AREA DRIVE AISLES)

TYPICAL PAVEMENT TIE-IN DETAIL
PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date October 8, 2020.

Application: (CU 2241) Jonathan J. Bowman

Applicant: Jonathan J. Bowman
34647 Millsboro Highway
Millsboro, DE 19966

Owner: Jonathan J. Bowman
34647 Millsboro Highway
Millsboro, DE 19966

Site Location: 34647 Millsboro Highway
Millsboro, DE 19966

Current Zoning: Agricultural Residential (AR-1)

Type of Conditional Use Requested: Truck and Trailer Repair Business

Comprehensive Land Use Plan Reference: Low Density

Councilmanic District: Mr. Riley

School District: Indian River School District

Fire District: Gumboro Fire District

Sewer: Septic

Water: Well

Site Area: 2.69 acres +/-

Tax Map ID.: 333-7.00-32.00
Sussex County

August 25, 2020

Owner Name: BOWMAN JONATHAN J

Book: 4500
Mailing Address: 34647 MILLSBORO HIGHWAY
City: MILLSBORO
State: DE
Description 1: E/RT 26 110'
Description 2: N/RT 426
Description 3: N/A
Land Code: N/A

PIN: 333-7.00-32.00

Book 4500
Mailing Address 34647 MILLSBORO HIGHWAY
City MILLSBORO
State DE
Description E/RT 26 110'
Description 2 N/RT 426
Description 3 N/A
Land Code N/A

polygonLayer
Override 1
polygonLayer
Override 1
Tax Parcels
911 Address
Streets
County Boundaries
Municipal Boundaries

August 25, 2020
Memorandum
To: Sussex County Planning Commission Members
From: Nick Torrance, Planner I
CC: Vince Robertson, Assistant County Attorney and applicant
Date: October 1, 2020
RE: Staff Analysis for CU 2241 Jonathan J. Bowman

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2241 Jonathan J. Bowman to be reviewed during the October 8, 2020 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.

The request is for a Conditional Use for Tax Parcel 333-7.00-32.00 to allow for a Conditional Use of land in an Agricultural Residential (AR-1) Zoning District for a truck and trailer repair business. The parcel is located on the east side of Millsboro Hwy. (Rts. 26/30) in Millsboro, Delaware. The size of the property is approximately 2.69 acres +/-.

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework for 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 property has the land use designation of Low-Density Area.

The surrounding parcels to the southwest, west, and northwest are all designated on the Future Land Use Map as “Low Density”. The uses that the Low-Density Area land use designation recognizes are primarily agricultural activities and homes. Business development should be largely confined to businesses addressing the needs of these two uses. Industrial and agribusiness uses that support or depend on agriculture should be permitted. The focus of retail and office uses in Low Density should be providing convenience goods and services to nearby residents. Commercial uses in these residential areas should be limited in their location, size and hours of operation. More intense commercial uses should be avoided in these areas.

The property is zoned AR-1 (Agricultural Residential Zoning District). The adjoining and surrounding properties located within the county jurisdiction to the north, south and west are all zoned AR-1 (Agricultural Residential Zoning District).

Since 2011, there have been no Conditional Use approvals within a 1-mile radius of the application site.

Based on the analysis of the land use, surrounding zoning and uses, the Conditional Use to allow for a truck and trailer repair business, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.
Planning & Zoning Commission Application
Sussex County, Delaware
Sussex County Planning & Zoning Department
2 The Circle (P.O. Box 417) Georgetown, DE 19947
302-855-7878 ph. 302-854-5079 fax

Type of Application: (please check applicable)
Conditional Use ✓
Zoning Map Amendment ___

Site Address of Conditional Use/Zoning Map Amendment
34647 Millboro Highway, Millsboro, DE 19966

Type of Conditional Use Requested:
Conditional use requested for the operation of a truck and trailer repair business on approximately 2.69 acres, consisting of a dwelling, paved driveway, pole building, and gravel driveway. Approval requested in accordance with Section 115-22.

Tax Map #: 333-7.00-32.00 Size of Parcel(s): 2.69 +/- acres

Current Zoning: AR-1 Proposed Zoning: N/A Size of Building: 1,350 square feet

Land Use Classification: ____________

Water Provider: Well Sewer Provider: Septic

Applicant Information

Applicant Name: Jonathan J. Bowman
Applicant Address: 34647 Millboro Highway
City: Millsboro State: DE Zip Code: 19966
Phone #: (302) 841-7350 E-mail: mackenzie@tunnellraynor.com

Owner Information

Owner Name: Jonathan J. & Veronica L. Bowman
Owner Address: 34647 Millboro Highway
City: Millsboro State: DE Zip Code: 19966
Phone #: (302) 841-7350 E-mail: wobowman78@soi.com

Agent/Attorney/Engineer Information

Agent/Attorney/Engineer Name: Mackenzie Peet, Esq
Agent/Attorney/Engineer Address: 323B Rehoboth Avenue
City: Rehoboth Beach State: DE Zip Code: 19971
Phone #: (302) 227-1314 E-mail: mackenzie@tunnellraynor.com
Check List for Sussex County Planning & Zoning Applications

The following shall be submitted with the application

☑ Completed Application

☑ Provide eight (8) copies of the Site Plan or Survey of the property
  o Survey shall show the location of existing or proposed building(s), building setbacks, parking area, proposed entrance location, etc.
  o Provide a PDF of Plans (may be e-mailed to a staff member)
  o Deed or Legal description

☑ Provide Fee $500.00

☑ Optional - Additional information for the Commission/Council to consider (ex. architectural elevations, photos, exhibit books, etc.) If provided submit 8 copies and they shall be submitted a minimum of ten (10) days prior to the Planning Commission meeting.

☑ Please be aware that Public Notice will be sent to property owners within 200 feet of the subject site and County staff will come out to the subject site, take photos and place a sign on the site stating the date and time of the Public Hearings for the application.

☑ DelDOT Service Level Evaluation Request Response

PLUS Response Letter (if required)

The undersigned hereby certifies that the forms, exhibits, and statements contained in any papers or plans submitted as a part of this application are true and correct.

I also certify that I or an agent on my behalf shall attend all public hearing before the Planning and Zoning Commission and the Sussex County Council and any other hearing necessary for this application and that I will answer any questions to the best of my ability to respond to the present and future needs, the health, safety, morals, convenience, order, prosperity, and general welfare of the inhabitants of Sussex County, Delaware.

Signature of Applicant/Agent/Attorney

[Signature]

Date: 07/27/2020

Signature of Owner

[Signature]

Date: 8/20/2020

For office use only:

Date Submitted:

Staff accepting application:

Location of property:

Subdivision:

Date of PC Hearing:

Recommendation of PC Commission:

Date of CC Hearing:

Decision of CC:

Sussex County P & Z Commission application

Page 12

last updated 3-17-16
Planning & Zoning
Project Contact List

Applicant Information

Applicant Name: Jonathan J. Bowman
Applicant Address: 34647 Millsboro Highway
City: Millsboro  State: DE  Zip: 19966
Phone #: (302) 841-7350  E-mail: mackenzie@tunnellraysor.com

Owner Information

Owner Name: Jonathan J. & Veronica L. Bowman
Owner Address: 34647 Millsboro Highway
City: Millsboro  State: DE  Zip: 19966
Phone #: (302) 841-7350  E-mail: wcubowman78@aol.com

Engineer/Surveyor Information

Engineer/Surveyor Name: Cotten Engineering, LLC
Engineer/Surveyor Address: 10087 Concord Road
City: Seaford  State: DE  Zip: 19973
Phone #: (302) 628-9164  E-mail:

Agent/Attorney Information

Agent/Attorney Name: Mackenzie Peet, Esq
Agent/Attorney Address: 323E Rehoboth Avenue
City: Rehoboth Beach  State: DE  Zip: 19971
Phone #: (302) 227-1314  E-mail: mackenzie@tunnellraysor.com

Other

Name:
Address:
City:  State:  Zip:
Phone #:  E-mail:
Mailing List Application Form
For Applications requiring a Public Hearing in Sussex County

Please fill out this form and return it with your application. As a part of your application a Public Hearing is required. The property owners within 200’ of the site of the application will be notified. Staff will notify the property owners.

Application Information:

Site Address: 34647 Millsboro Highway

Millsboro, DE 19966

Parcel #: 333-7.00-32.00

Site Address: 

Parcel #: 

Application Name: Jonathan J. Bowman

Owner Name: Jonathan J. Bowman

Type of Application:

- Conditional Use: ☒
- Change of Zone: 
- Subdivision: 
- Board of Adjustment: 

Date Submitted:

For office use only:

Date of Public Hearing: 

File #: 

Date list created: List created by: 

Date letters mailed: Letters sent by:
August 4, 2020

Mr. Jamie Whitehouse, Director  
Sussex County Planning & Zoning  
P.O. Box 417  
Georgetown, DE 19947

Dear Mr. Whitehouse:

The Department has completed its review of a Service Level Evaluation Request for the Jonathan J. Bowman conditional use application, which we received on May 19, 2020. This application is for an approximately 2.06-acre parcel (Tax Parcel: 333-7.00-32.00). The subject land is located on the east side of the Millsboro Highway (Sussex Road 26), approximately 150 northeast of the intersection of Millsboro Highway and Bradford Road / Westwoods Road (Sussex Road 426), in Millsboro. The subject land is currently zoned as AR-1 (Agricultural Residential), and the applicant is seeking a conditional use approval to utilize the facility to operate a truck and trailer repair business.

Per the 2019 Delaware Vehicle Volume Summary, the annual average and summer average daily traffic volumes along the segment of Millsboro Highway where the subject land is located, which is from Cypress Road (Sussex Road 60) to Nine Foot Road (Sussex Road 26), are 4,606 and 5,928 vehicles per day, respectively.

Based on our review, we estimate that the above land uses will generate fewer than 50 vehicle trips in any hour and fewer than 500 vehicle trips per day. These numbers of trips are DelDOT’s minimum warrants for determining that a Traffic Impact Study (TIS) should be required for a particular development. Because the proposed land use would not meet these warrants, we consider the development’s traffic impact to be negligible in the context of our agreement with the County regarding land development coordination and we do not recommend that the applicant be required to perform a TIS for the subject application. DelDOT’s description of this application as negligible with regard to warranting a TIS does not mean that it is negligible in other respects. We recommend that the applicant not be required to perform a TIS for the subject application.

If the County approves this application, the applicant should be reminded that DelDOT requires compliance with State regulations regarding plan approvals and entrance permits, whether or not a TIS is required.
Please contact Mr. Clady Joinville, at (302) 760-2124, if you have questions concerning this correspondence.

Sincerely,

T. William Brockenbrough, Jr.
County Coordinator
Development Coordination

TWB: cj
cc: Constance C. Holland, Coordinator, Cabinet Committee on State Planning Issues
    Jonathan J. Bowman, Applicant
    Todd Sarnaons, Assistant Director, Development Coordination
    Genez Norwood, South District Public Works Manager, Maintenance & Operations
    Susanne K. Laws, Sussex County Review Coordinator, Development Coordination
    Derek Sapp, Subdivision Manager, Development Coordination
    Kevin Hickman, Subdivision Manager, Development Coordination
    Brian Yates, Subdivision Manager, Development Coordination
    John Andresavage, Subdivision Manager, Development Coordination
    James Argc, South District Project Reviewer, Maintenance & Operations
    Troy Brestel, Project Engineer, Development Coordination
    Clady Joinville, Project Engineer, Development Coordination
TO: Jamie Whitehouse
REVIEWER: Chris Calio
DATE: 9/21/2020
APPLICATION: CU 2241 Jonathan J. Bowman
APPLICANT: Jonathan J. Bowman
FILE NO: WSPA-5.01
TAX MAP & PARCEL(S): 333-7.00-32.00
LOCATION: 34647 Millsboro Highway. On the east side of Millsboro Highway, 120 feet north of Bradford Road.
NO. OF UNITS: Truck and Trailer Repair Business
GROSS ACREAGE: 2.69 +/-

SYSTEM DESIGN ASSUMPTION, MAXIMUM NO. OF UNITS/ACRE: 2

SEWER:

(1). Is the project in a County operated and maintained sanitary sewer and/or water district?  
Yes ☐  No ☑

   a. If yes, see question (2).
   b. If no, see question (7).

(2). Which County Tier Area is project in? Tier 5

(3). Is wastewater capacity available for the project? N/A If not, what capacity is available? N/A.

(4). Is a Construction Agreement required? No If yes, contact Utility Engineering at (302) 855-7717.

(5). Are there any System Connection Charge (SCC) credits for the project? No If yes, how many? N/A. Is it likely that additional SCCs will be required? No If yes, the current System Connection Charge Rate is Unified $6,360.00 per EDU. Please contact N/A at 302-855-7719 for additional information on charges.
(6). Is the project capable of being annexed into a Sussex County sanitary sewer district? **No**

☐ Attached is a copy of the Policy for Extending District Boundaries in a Sussex County Water and/or Sanitary Sewer District.

(7). Is project adjacent to the Unified Sewer District? **No**

(8). Comments: The proposed Conditional Use is not in an area where the Sussex County Engineering Department has a schedule to provide sanitary sewer service.

(9). Is a Sewer System Concept Evaluation required? **No**

(10). Is a Use of Existing Infrastructure Agreement Required? **No**

UTILITY PLANNING APPROVAL:

[Signature]

John J. Ashman
Director of Utility Planning

Xc: Hans M. Medlarz, P.E.
    Jayne Dickerson
    No Permit Tech Assigned
Application: CZ 1925 Lemuel H. Hickman GST Exempt Trust fbo Brenton Archut

Applicant/Owner: Lemuel H. Hickman GST Exempt Trust fbo Brenton Archut

Site Location: Northeast corner of Bayard Road (S.C.R. 84) and Double Bridges Road (S.C.R. 363)

Current Zoning: AR-1 (Agricultural Residential District)

Proposed Zoning: B-2 (Business Community District)

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Rieley

School District: Indian River School District

Fire District: This parcel is split between Millville Fire Company and Roxana Fire Company, with the subject portion of the site falling within the jurisdiction of the Millville Fire Company

Sewer: Currently on private septic with proposed connection to the Sussex County Central Sewer System in the future

Water: Private (On-site)

Site Area: 25.63 acres +/-

Tax Map ID.: 134-19.00-22.00
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<tbody>
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### Attributes Table

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**Map Attributes:**
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  - Override 1
- **polygonLayer**
  - Override 1
- **Owners**
  - ARCHUT DIANNE H TRUSTEE
- **Land Code**
  - T#55018
Memorandum
To: Sussex County Planning Commission Members
From: Chase Phillips, Planner I
CC: Vince Robertson, Assistant County Attorney and applicant
Date: September 15, 2020
RE: Staff Analysis for CZ 1925 Lemuel H. Hickman GST Exempt Trust fbo Brenton Archut

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1925 Lemuel H. Hickman GST Exempt Trust fbo Brenton Archut to be reviewed during the October 8, 2020 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.

The request is for a Change of Zone for Tax Parcel 134-19.00-22.00 to allow for a change of zone from an Agricultural Residential (AR-1) Zoning District to a Business Community (B-2) District. The parcel is located on the northeast corner of Bayard Road (S.C.R. 84) and Double Bridges Road (S.C.R. 363). The parcel is divided by Double Bridges Road and is located at 35910 Double Bridges Road. The size of the property is approximately 25.63 acres +/-.

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map in the plan indicates that the subject property has the land use designation of “Coastal Area.” Each property to the north, south, east, and west also have the “Coastal Area” designation. The Coastal Area is designated to encourage growth and development provided that environmental concerns are addressed. The Coastal Area may include various types of housing, small-scale retail and office, light commercial, and institutional land uses. Sussex County's base density of two (2) units per acre is standard. Medium and higher densities (4-12 units per acre) may be appropriate in select locations.

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 Community Business (B-2) Zoning District is listed as an applicable zoning district in the “Coastal Area.”

Additionally, the subject property is currently within an Agricultural Residential (AR-1) Zoning District. Each parcel to the north, south, east, and west is also within the Agricultural Residential Zoning District.

Since 2011, there have been two Change of Zone applications within a one-mile radius of the subject property. Change of Zone No. 1841 was a previous Change of Zone application for the subject site (i.e. this same tax parcel). It was denied by the Sussex County Council on January 30, 2018. Change of Zone No. 1761, which proposed a change from a General Commercial (C-1)
District to an Agricultural Residential (AR-1) District, was approved by the Sussex County Council on November 18, 2014. It was adopted through Ordinance No. 2373.

Based on the analysis of the surrounding zoning and uses, a Change of Zone to a Community Business (B-2) Zoning District could be considered as being consistent with the land use, area zoning and surrounding uses.
SETBACK INFORMATION REQUEST

Date of Request: 07/23/2020  Zoning District: GR
Customer Name: Mr. Willis Miller
Customer Contact: wrmillerllc@gmail.com 302-272-8084
Tax Parcel ID: 234-12.18-41.00  Lot/Unit Number: 20
Parcel Address: 22928 Pine Road, Lewes

Front Yard Setback: / See Notes
Side Yard Setback: / See Notes
Rear Yard Setback: / See Notes
Corner Front Yard Setback: -
Maximum Height: 42'

Additional Notes:

***Revised setbacks (see Chase)***

This request is for setbacks for an as accessory structure that is proposed to be 24X25 which is to equ to 600 square feet precisely.

151-185(F) states that "accessory buildings and structures which are not a part of the main buildings may be constructed in a rear yard provided that such accessory building does not contain more than 600 square feet of area, and may be located five feet from a side lot line and five feet from a rear lot line."

Subject to any potential HOA regulations (Angola Neck Park; Lot 20)

Name of Staff Member: Chase Phillips, Planner I
Checked By: Chase Phillips

This proposed accessory structure is suggested to be in compliance with setbacks as long as it does not encroach the five (5) foot setbacks.

Revised 11/8/2019
April 21, 2020

Mr. Jamie Whitehouse, Director
Sussex County Planning & Zoning
P.O. Box 417
Georgetown, DE 19947

Dear Mr. Whitehouse:

This letter is to revise and replace my letter earlier today regarding the Brenton Archut rezoning application, which we received on March 23, 2020. While the letter referenced the correct parcel number, the information describing the location and acreage of the parcel incorrectly referred to another parcel. The letter is being revised to correctly describe the location and acreage of parcel 134-19.00-22.00. A copy of our previous letter is attached.

This revised application is for a 3.00-acre portion of a 25.63-acre parcel (Tax Parcel 134-19.00-22.00). The subject land is located on the northeast and southeast corners of the intersection of Bayard Road (Sussex Road 84) and Double Bridges Road (Sussex Road 363). The subject land is currently zoned AR-1 (Agricultural Residential), and the applicant is seeking to rezone the land to B-2 (Neighborhood Business) to develop a 7,500 square-foot office/retail complex.

Per the 2019 Delaware Vehicle Volume Summary, the annual average daily traffic volume along the segment of Bayard Road where the subject land is located, which is from Double Bridges Road (Sussex Road 363) to South Ocean View Limits, is 3,060 vehicles per day. As the subject land also has frontage along Double Bridges Road, the annual average daily traffic volume on that road segment, which is from Bayard Road to Camp Barnes Road (Sussex Road 364), is 3,645 vehicles per day.

Our volume-based criteria for requiring a traffic impact study (TIS), addressed in Section 2.2.2.1 of the Development Coordination Manual, are that a development generates more than 500 trips per day or 50 trips during a weekly peak hour. While it seems that the above criteria could be met, we presently cannot predict the site’s trip generation with enough accuracy to make a TIS useful. Thus, we recommend that this rezoning application be considered without a TIS and that the need for a TIS be evaluated when a subdivision or land development plan is proposed.
Mr. Jamie Whitehouse  
Page 2 of 2  
April 21, 2020

If the County approves this application, the applicant should be reminded that DelDOT requires compliance with State regulations regarding plan approvals and entrance permits, whether or not a TIS is required.

Please contact Mr. Claudy Joinville, at (302) 760-2124, if you have questions concerning this correspondence.

Sincerely,

T. William Brockenbrough, Jr.  
County Coordinator  
Development Coordination

TWB: cj m  
Enclosure  
cc: Constance C. Holland, Coordinator, Cabinet Committee on State Planning Issues  
Brenton Archut, Applicant  
J. Marc Coté, Director, DelDOT Planning  
Gemez Norwood, South District Public Works Manager, Maintenance & Operations  
Susanne K. Laws, Sussex County Review Coordinator, Development Coordination  
Derek Sapp, Subdivision Manager, Development Coordination  
Kevin Hickman, Subdivision Manager, Development Coordination  
Brian Yates, Subdivision Manager, Development Coordination  
John Andrescoavage, Subdivision Manager, Development Coordination  
James Argo, South District Project Reviewer, Maintenance & Operations  
Troy Brestel, Project Engineer, Development Coordination  
Claudy Joinville, Project Engineer, Development Coordination
TO: Jamie Whitehouse

REVIEWER: Chris Calio

DATE: 9/21/2020

APPLICATION: CZ 1925 Lemuel H. Hickman GST Exempt Trust fbo Brenton Archut

APPLICANT: Lemuel H. Hickman GST Exempt Trust fbo Brenton Archut

FILE NO: SPS-5.04

TAX MAP & PARCEL(S): 134-19.00-22.00

LOCATION: Northeast corner of Bayard Road (SCR 84), and Double Bridges Road (SCR 363).

NO. OF UNITS: Upzone from AR-1 to B-2

GROSS ACREAGE: 25.63 +/-

SYSTEM DESIGN ASSUMPTION, MAXIMUM NO. OF UNITS/ACRE: 2

SEWER:

(1). Is the project in a County operated and maintained sanitary sewer and/or water district?  Yes ☐ No ☑

a. If yes, see question (2).

b. If no, see question (7).

(2). Which County Tier Area is project in? Tier 2

(3). Is wastewater capacity available for the project? Yes If not, what capacity is available? N/A.

(4). Is a Construction Agreement required? Yes If yes, contact Utility Engineering at (302) 855-7717.

(5). Are there any System Connection Charge (SCC) credits for the project? No If yes, how many? N/A. Is it likely that additional SCCs will be required? Yes If yes, the current System Connection Charge Rate is Unified $6,360.00 per EDU. Please contact Choose an item. at 302-855-7719 for additional information on charges.
(6). Is the project capable of being annexed into a Sussex County sanitary sewer district? **Yes**

☒ Attached is a copy of the Policy for Extending District Boundaries in a Sussex County Water and/or Sanitary Sewer District.

(7). Is project adjacent to the Unified Sewer District? **Yes**

(8). Comments: The proposed Change of Zone is contiguous to the Sussex County Unified Sanitary Sewer District and shall connect to said sewer system.

(9). Is a Sewer System Concept Evaluation required? **Yes**, Contact Utility Planning at 302-855-1299 to apply

(10). Is a Use of Existing Infrastructure Agreement Required? **Yes**

UTILITY PLANNING APPROVAL:

John J. Ashman
Director of Utility Planning

Xc: Hans M. Medlarz, P.E.
Jayne Dickerson
Noell Warren
Policy for Extending District Boundaries

1. Property owner (developer) and/or his representative shall make a request to the Utility Planning Division for a Sewer System Concept Evaluation.

2. Property owner (developer) and/or his representative shall meet with the applicable planning and zoning agency to determine if zoning is appropriate for the development being planned.

3. With appropriate zoning, property owner (developer) and/or his representative shall send a letter (with appropriate application fee as listed below) requesting the Sussex County Council to consider extending the water and/or sanitary sewer district boundaries. (Sussex County Code)

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<tr>
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4. The Sussex County Engineering Department shall present, for Sussex County Council's consideration, posting of notices for the proposed extension of the district boundaries.

5. The Sussex County Council approves posting notices for the proposed extension of the boundaries. (If approval to post the notices is not given, the appropriate fee is refunded.)

6. Within ninety days of the posting of the notices, the Sussex County Council approves/disapproves extending the boundaries.

7. The Sussex County Council approves/disapproves of the extension of the water and/or sanitary sewer pipelines under the appropriate Sussex County Ordinance.
Mr. Jamie Whitehouse, Planning Director  
Sussex County Planning and Zoning Commission  
2 The Circle  
P.O. Box 417  
Georgetown, DE 19947  
302-855-7878

Re: C/Z 1925 - Brenton Archut  
Change of Zone  
Tax Parcel 134-19.00-22.00

Dear Mr. Whitehouse,

As nearby property owners, we are writing to express our support of the above referenced application. Our primary residence is located just over a mile from the parcel in question and we travel past the site on a daily basis.

Watching our area grow over the last 30+ years we have seen thousands upon thousands of new single family homes being developed with limited corresponding commercial development. The inland area between Bethany Beach and Fenwick Island is in need of sensibly limited commercial development to support the continued residential growth. The site in question lies at what is currently a significant crossroad along the most direct inland route between Bethany Beach and Fenwick Island, making it ideal for supporting a commercial parcel.

In addition to the suitability of the parcel for commercial use, the owner’s intent should be taken into account. We have known Mr. Archut for 20 years. He and his family have owned several agricultural and commercial parcels in coastal Sussex County for generations. While many of the old farming families have sold their land to developers and walked away from the area, Mr. Archut and his family have retained their land, and developed it sensibly with care for the local community while continuing to farm the majority of it. They are the type of landowners Sussex County needs behind development like this.

Sincerely yours,

Russell & Michelle Hall

SUPPORT EXHIBIT

RECEIVED

OCT 01 2020
SUSSEX COUNTY PLANNING & ZONING
Jamie Whitehouse  
Director of Planning and Zoning  
2 The Circle  
P.O. 417  
Georgetown, DE 19947

Date: September 25, 2020

Re: CZ #1925

Dear Mr. Whitehouse,

Attached is a booklet to support the application to amend the Comprehensive Zoning Map from AR-1 Agricultural Residential District to B-2 Business Community District for 2.99 Acres, more or less in Baltimore Hundred.

We believe the request will:
1. Provide a convenient location for services needed by our growing area;
2. Reduce congestion on area roads and streets by providing nearby services;
3. Provide opportunities for local businesses and local business owners; and
4. Meet the goals outlined in the Sussex County Land Use Plan.

We look forward to presenting this application for public consideration.

Respectfully Submitted,

Brenton H. Archut
1. Application
2. Aerial Photo of the site (about 2017)
3. Survey and Concept Plan
4. Copy of Deed to the Property
5. SCED (sewer) service letter
6. Sewer easement
7. Tidewater Utilities (water) service letter
8. DelDOT Service Level Evaluation Request Response letter
9. Sussex County Future Land Use map
10. Current zoning and non-residential uses in the area
11. Map showing historical provision of general services to the area
12. Examples of Light Commercial Service Centers
13. Is Selling the only option?
14. Planning and Zoning Staff Analysis Report
15. CZ #1925 application informational summary
Planning & Zoning Commission Application
Sussex County, Delaware
Sussex County Planning & Zoning Department
2 The Circle (P.O. Box 417) Georgetown, DE 19947
302-855-7878 ph. 302-854-5079 fax

Type of Application: (please check applicable)
Conditional Use ___
Zoning Map Amendment ✓

Site Address of Conditional Use/Zoning Map Amendment
Northeast Corner at the Intersection of Bayard Rd and Double Bridges Rd

Type of Conditional Use Requested:

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<tbody>
<tr>
<td>Size of Building: Total 7,056 +/-</td>
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</table>

Land Use Classification:

Water Provider: On-Site
Sewer Provider: SCEID

Applicant Information
Applicant Name: Irenn H. Hickman GST Exempt Trust Flo Brenton Archit
Applicant Address: 36219 Old Church Cemetery Rd
City: Frankford
Phone #: (302) 245-3056
State: DE
Zip Code: 19945
E-mail: burenh@bhpizza.com

Owner Information
Owner Name:
Owner Address:
City: State: State: Zip Code: 
Phone #: E-mail:

Agent/Attorney/Engineer Information
Agent/Attorney/Engineer Name: Tom Ford
Agent/Attorney/Engineer Address: 53 Atlantic Ave Oak Square Suite 3
City: Ocean View
Phone #: (302)-577-1919
State: DE
Zip Code: 19970
E-mail: tford51@aol.com
Check List for Sussex County Planning & Zoning Applications
The following shall be submitted with the application

✓ Completed Application

✓ Provide eight (8) copies of the Site Plan or Survey of the property
  o Survey shall show the location of existing or proposed building(s), building setbacks, parking area, proposed entrance location, etc.
  o Provide a PDF of Plans (may be e-mailed to a staff member)
  o Deed or Legal description

✓ Provide Fee $500.00

Optional - Additional Information for the Commission/Council to consider (ex. architectural elevations, photos, exhibit books, etc.) If provided submit 8 copies and they shall be submitted a minimum of ten (10) days prior to the Planning Commission meeting.

Please be aware that Public Notice will be sent to property owners within 200 feet of the subject site and County staff will come out to the subject site, take photos and place a sign on the site stating the date and time of the Public Hearings for the application.

✓ DelDOT Service Level Evaluation Request Response

PLUS Response Letter (if required)
The undersigned hereby certifies that the forms, exhibits, and statements contained in any papers or plans submitted as a part of this application are true and correct.

I also certify that I or an agent on my behalf shall attend all public hearing before the Planning and Zoning Commission and the Sussex County Council and any other hearing necessary for this application and that I will answer any questions to the best of my ability to respond to the present and future needs, the health, safety, morals, convenience, order, prosperity, and general welfare of the inhabitants of Sussex County, Delaware.

Signature of Applicant/Agent/Attorney

Date: 7/10/2020

Signature of Owner  (Trustee)

Date: 7/10/2020

For office use only:
Date Submitted: 7/10/2020
Staff accepting application: CE
Location of property:

Subdivision:
Date of PC Hearing:
Recommendation of PC Commission:

Date of CC Hearing:
Decision of CC:

Sussex County P & Z Commission application
Page 2
last updated 3-17-16
THIS CORRECTIVE DEED, made this 24th day of December, 2008 by and between:

LEMOUEL H. HICKMAN MARITAL TRUST URTA dated APRIL 6, 1992, DIANNE H. ARCHUT, TRUSTEE, DIANNE H. ARCHUT, individually, and DIANNE H. ARCHUT REVOCABLE TRUST u/a dated MAY 3, 2006, DIANNE H. ARCHUT, TRUSTEE, hereinafter referred to as the "Grantors",

and

LEMOUEL H. HICKMAN GST EXEMPT TRUST f/b/o BRENTON ARCHUT URTA dated APRIL 6, 1992, DIANNE H. ARCHUT, TRUSTEE, of 36219 Old Church Cemetery Road, Frankford, Delaware 19945, hereinafter referred to as the "Grantee",

WITNESSETH

That for and in consideration of the sum of One Dollar ($1.00), current lawful money of the United States of America, and other good and valuable consideration, the receipt of which is hereby acknowledged, Lemouel H. Hickman Marital Trust hereby grants and conveys unto Grantee, its successors and assigns, and Dianne H. Archut, individually and as Trustee of the Dianne H. Archut Revocable Trust, hereby quitclaims unto the Grantee, its successors and assigns:

ALL THAT parcel, piece or tract of land being and lying on the East side of the County Road leading from Hall School House to the Double Bridges adjoining lands now or formerly of Evantoe Murray, Harry Evans and Charles Holloway in Baltimore Hundred, County of Sussex and State of Delaware, described as follows to wit:

BEGINNING at a Holly Tree a corner for this land and the lands of Charles Holloway, thence running Northerly until it comes to a County Road thence running Easterly to a Red Oak;
thence commencing and running in a Westerly direction to the center of the County Road leading from Hall School House to the house of John D. Farmau; thence running Southerly with said road to the lands of Charles Holloway then with the lands of Charles Holloway to the place of beginning, and is said to contain thirty acres be the same more or less.


LEMUZEL H. HICKMAN MARITAL TRUST
URTA DATED APRIL 6, 1992

By: Dianne H. Archut, Trustee (SEAL)
Dianne H. Archut, Trustee

Witness

DIANNIE H. ARCHUT

DIANNIE H. ARCHUT REVO desirable TRUST
U/A DATED MAY 3, 2006

By: Dianne H. Archut, Trustee (SEAL)
Dianne H. Archut, Trustee

Witness
STATE OF DELAWARE

SUSSEX COUNTY

BE IT REMEMBERED, That on this 24th day of 12, 2008, personally appeared before me, the Subscriber, a Notary Public for the State and County aforesaid, DIANNE H. ARCHUT, Trustee of the Lemoel H. Hickman Marital Trust UTMA dated April 6, 1992, party to this Indenture, known to me personally to be such, and acknowledged this Indenture to be her act and deed.

GIVEN under my Hand and Seal of Office, the day and year aforesaid.

Notary Public / Attorney at Law
State of Delaware
DEBBIE A. CRAIG
Notary Public - State of Delaware
My Comm. Expires Feb. 23, 2010
STATE OF DELAWARE  
)  
SUSSEX COUNTY  
) SS.

BE IT REMEMBERED, That on this ___ day of ___, 2008, personally appeared before me, the Subscriber, a Notary Public for the State and County aforesaid, DIANNE H. ARCHUT, Trustee of the Dianne H. Archut Revocable Trust UA dated May 3, 2006, party to this Indenture, known to me personally to be such, and acknowledged this Indenture to be her act and deed.

GIVEN under my Hand and Seal of Office, the day and year aforesaid.

[Signature]
Notary Public / Attorney at Law
State of Delaware

DEBBIE A. CROGO
Notary Public - State of Delaware
My Comm. Expires Feb. 23, 2010

**RECEIVED**

**JAN 09 2009**

**ASSESSMENT DIVISION OF SUSSEX COUNTY**

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Received by Koray B Jan 09, 2009
September 21, 2020

Mr. Russell Archut
30219 Old Church Cemetery Road
Frankford, Delaware 19945

REF: SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (BAYARD PLANNING AREA)
TAX MAP 134-19.00-22.00
ABILITY TO SERVE
FILE: SPS-5.03BK

Dear Mr. Archut:

This is response to your request for a letter confirming Sussex County’s ability to provide wastewater service for a project on the above-mentioned parcel. The parcel is in a Tier 2 service area for Sussex County and is contiguous to the existing sewer district boundary.

Sussex County does have the ability and is willing to provide sewer service for parcel 22.00 noted above. In order for the parcel to receive sewer service certain administrative procedures must be completed. First, the developer must receive preliminary site plan approval, then submit a written request for annexation along with the appropriate fee based on the acreage of the parcel. The Engineering Department will then establish a date and time for a Public Hearing before County Council. If County Council approves the annexation the developer would then need to install the necessary pipelines to the approved connection point. System connection charges will apply to the parcel after annexation, the current rate is $8,360.00 per equivalent dwelling unit.

Should you have additional needs or questions, please call (302) 855-1299.

Sincerely,

SUSSEX COUNTY ENGINEERING DEPARTMENT

John J. Ashman
Director of Utility Planning
DEED OF EASEMENT

THIS DEED OF EASEMENT, Made this 12th day of March, A.D. 2019

BETWEEN

ACTA, LLC, of 11001 Huntover Drive Rockville, Maryland 20852 party of the first part, hereinafter referred to as Grantor,

AND

LEMUEL H. HICKMAN GST EXEMPT TRUST dba BRENTON ARCHUT urta
DATED April 6, 1992, of 36219 Old Church Cemetery Road, Frankford DE 19945, party of the second part, hereinafter referred to as the Grantee.

WITNESSETH:

FOR AND IN CONSIDERATION of the sum of ONE DOLLAR ($1.00), cash in hand paid, the receipt of which is hereby acknowledged, and other good and valuable consideration, the Grantor has this day bargained and sold, and by these presents does bargain, sell, convey, transfer, and deliver unto the Grantee a permanent easement and right-of-way, including the perpetual right to enter upon the real estate herein after described, at any time that it may seem fit and construct, maintain and repair underground pipelines and/or mains for the purpose of conveying sewage and/or water over, across, through and under the lands of the Grantor, together with the right to excavate and the duty to refill ditches and/or trenches for the location of said pipelines and/or mains; the right to remove trees, bushes, undergrowth, and other obstructions interfering with the location, construction, and maintenance of said pipelines and/or mains; and to keep the area within permanent easement perpetually free and clear of all construction including garages, storage sheds, fences, etc., that would obstruct in any way the repair or replacement of said pipeline.

A permanent easement is hereby granted, more particularly described as follows:

ALL those certain tract, piece or parcel of land, lying and being situate in Baltimore Hundred,
Sussex County, State of Delaware, more particularly designated and described as follows, to wit: a 20' wide proposed utility easement for a proposed force main to the lands of Grantee beginning at MH 15 in Yanna Drive and running in a southerly direction to the lands of the Grantee (TM No. 1-34-19.00-22.00) as more particularly shown on Utility Easement Plan for Sussex County File S.P.S.-5.03bj The Woodlands Subdivision Phase 3, prepared by Civil Engineering Associates, LLC, dated March 24, 2017, and last revised August 6, 2019, at attached hereto as Exhibit A and made a part hereof.

BEING a portion of those lands conveyed unto the above named Grantors by deed of ACTA, LLC, dated December 17, 2015, and of record in the Office of the Recorder of Deeds, in and for Sussex County, Delaware, in Deed Book 4486, at page 270.

At the termination of any construction, repair, or restoration, the Grantee agrees to restore said areas of construction to its present condition and otherwise agrees to pay reasonable costs of restoration.

IN WITNESS WHEREOF, the parties of the first of the first part have hereunto set their hands and seals the day and year aforesaid.

ACTA, LLC

[Signature]

Witness

By: [Signature]

Member/Manager

[Signature]
STATE OF DELAWARE  
COUNTY OF SUSSEX  

BE IT REMEMBERED, That on the 12th day of March, A.D. 2019, personally appeared before me, the Subscriber, a Notary Public for the State and County aforesaid, E. C. Yeager Jr., Member/Manager of ACTA, LLC, party to this indenture, known to me personally to be such, and acknowledged this indenture to be his act and deed and the act and deed of the company.

GIVEN under my Hand and Seal of Office, the day and year aforesaid.

NANCY ELLEN SMITH  
NOTARY PUBLIC  
MONTGOMERY COUNTY  
MARYLAND  
My Commission Expires January 13, 2022  

[Signature]

(Printed or typewritten name)

My Commission Expires: January 13, 2022
September 16, 2020

Sent Via E-Mail
Dianne H. Archut Trustee
c/o Bronson Archut
Assistant Manager
Hickman Beach Plaza

RE: Willing & Able Letter – Parcel 134-19.00-22.00

Dear Mr. Archut:

Tidewater Utilities, Inc. (Tidewater) is willing and able to serve public water to the following parcel, identified as Tax Map & Parcel 134-19.00-22.00 based on the terms and conditions of a water service agreement to be negotiated and agreed upon by Tidewater and the owner(s) of these parcels. This parcel is located outside of Tidewater’s Certificate of Public Convenience and Necessity (CPCN) franchised area. Thus, in order to serve water to this parcel, TUI must apply for and receive a CPCN from the Public Service Commission. Once the CPCN is granted and a water service agreement is finalized, TUI is legally able to provide water service to this parcel.

Enclosed please find a sheet entitled “Petition for Inclusion in Tidewater Utilities, Inc. Water Service Territory”. Please have the current owner(s) of parcels 134-19.00-22.00 sign the petition and return the original to Tidewater, Attn: Joe Cucinello. The signed petition from the landowner is an important and necessary first step in the CPCN application submittal process.

Please feel free to contact me at 302-747-1308 if you should have any questions.

Sincerely,

Joseph C. Cucinello
CPCN Coordinator
April 21, 2020

Mr. Jamie Whitehouse, Director
Sussex County Planning & Zoning
P.O. Box 417
Georgetown, DE 19947

Dear Mr. Whitehouse:

This letter is to revise and replace my letter earlier today regarding the Brenton Archut rezoning application, which we received on March 23, 2020. While the letter referenced the correct parcel number, the information describing the location and acreage of the parcel incorrectly referred to another parcel. The letter is being revised to correctly describe the location and acreage of parcel 134-19.00-22.00. A copy of our previous letter is attached.

This revised application is for a 3.00-acre portion of a 25.63-acre parcel (Tax Parcel 134-19.00-22.00). The subject land is located on the northeast and southeast corners of the intersection of Bayard Road (Sussex Road 84) and Double Bridges Road (Sussex Road 363). The subject land is currently zoned AR-1 (Agricultural Residential), and the applicant is seeking to rezone the land to B-2 (Neighborhood Business) to develop a 7,500 square-foot office/retail complex.

Per the 2019 Delaware Vehicle Volume Summary, the annual average daily traffic volume along the segment of Bayard Road where the subject land is located, which is from Double Bridges Road (Sussex Road 363) to South Ocean View Limits, is 3,060 vehicles per day. As the subject land also has frontage along Double Bridges Road, the annual average daily traffic volume on that road segment, which is from Bayard Road to Camp Barnes Road (Sussex Road 364), is 3,645 vehicles per day.

Our volume-based criteria for requiring a traffic impact study (TIS), addressed in Section 2.2.2.1 of the Development Coordination Manual, are that a development generates more than 500 trips per day or 50 trips during a weekly peak hour. While it seems that the above criteria could be met, we presently cannot predict the site’s trip generation with enough accuracy to make a TIS useful. Thus, we recommend that this rezoning application be considered without a TIS and that the need for a TIS be evaluated when a subdivision or land development plan is proposed.
If the County approves this application, the applicant should be reminded that DeIDOT requires compliance with State regulations regarding plan approvals and entrance permits, whether or not a TIS is required.

Please contact Mr. Claude Joinville, at (302) 760-2124, if you have questions concerning this correspondence.

Sincerely,

T. William Brockenbrough, Jr.
County Coordinator
Development Coordination

TWB cjm
Enclosure

cc: Constance C. Holland, Coordinator, Cabinet Committee on State Planning Issues
    Brenton Archut, Applicant
    J. Marc Côté, Director, DeIDOT Planning
    Genez Norwood, South District Public Works Manager, Maintenance & Operations
    Susanne K. Laws, Sussex County Review Coordinator, Development Coordination
    Derek Sapp, Subdivision Manager, Development Coordination
    Kevin Hickman, Subdivision Manager, Development Coordination
    Brian Yates, Subdivision Manager, Development Coordination
    John Andressavage, Subdivision Manager, Development Coordination
    James Argo, South District Project Reviewer, Maintenance & Operations
    Troy Brestel, Project Engineer, Development Coordination
    Claude Joinville, Project Engineer, Development Coordination
2045 Future Land Use Map

Growth Areas
- Municipalities
- Town Center
- Developing Area
- Existing Development Area
- Coastal Area
- Commercial
- Industrial Area

Rural Areas
- Low Density
- Protected Land
- Ag. Preservation District
- Ag. Preservation Easement

Sources: DE FirstMap, Sussex County Mapping Dept. Land Use Data from 2008, State Forest Data from 2013, Conservation Easements Data from 2016, Municipal Annex Areas 2016

*The official depiction of the protected lands can be found on the Protected Land Map (Figure 5.2-1)
Map showing location of previous businesses providing general services to the area from Mid-1800s to about 2000.

- Quillen's Market thru 2000
- Bayard Store thru 1960s
- H.H. Hickman's Store mid-1800s - abt 1900
Examples of Light Commercial Service Centers

Williamsville Country Plaza Shopping Center

Derrickson Plaza Shopping Center
The Trend in Our Area
Memorandum
To: Sussex County Planning Commission Members
From: Chase Phillips, Planner I
CC: Vince Robertson, Assistant County Attorney and applicant
Date: September 15, 2020
RE: Staff Analysis for CZ-1925 Lemuel H. Hickman GST Exempt Trust fbo Brenton Archut

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ-1925 Lemuel H. Hickman GST Exempt Trust fbo Brenton Archut to be reviewed during the October 8, 2020 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.

The request is for a Change of Zone for Tax Parcel 134-19.00-22.00 to allow for a change of zone from an Agricultural Residential (AR-1) Zoning District to a Business Community (B-2) District. The parcel is located on the northeast corner of Bayard Road (S.C.R. 84) and Double Bridges Road (S.C.R. 363). The parcel is divided by Double Bridges Road and is located at 55910 Double Bridges Road. The size of the property is approximately 25.63 acres +/-.

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map in the plan indicates that the subject property has the land use designation of “Coastal Area.” Each property to the north, south, east, and west also have the “Coastal Area” designation. The Coastal Area is designated to encourage growth and development provided that environmental concerns are addressed. The Coastal Area may include various types of housing, small-scale retail and office, light commercial, and institutional land uses. Sussex County’s base density of two (2) units per acre is standard. Medium and higher densities (4-12 units per acre) may be appropriate in select locations.

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 Community Business (B-2) Zoning District is listed as an applicable zoning district in the “Coastal Area.”

Additionally, the subject property is currently within an Agricultural Residential (AR-1) Zoning District. Each parcel to the north, south, east, and west is also within the Agricultural Residential Zoning District.

Since 2011, there have been two Change of Zone applications within a one-mile radius of the subject property. Change of Zone No. 1841 was a previous Change of Zone application for the subject site (i.e. this same tax parcel). It was denied by the Sussex County Council on January 30, 2018. Change of Zone No. 1761, which proposed a change from a General Commercial (C-1)
District to an Agricultural Residential (AR-1) District, was approved by the Sussex County Council on November 18, 2014. It was adopted through Ordinance No. 2373.

Based on the analysis of the surrounding zoning and uses, a Change of Zone to a Community Business (B-2) Zoning District could be considered as being consistent with the land use, area zoning and surrounding uses.
Change of Zone #1925
Summary

Ownership: Lemuel H. Hickman GST Exempt Trust f/b/o Brenton H. Archut. It is a third generation locally owned property.

Property description and location: 24.8 acres located at the intersection of Double Bridges Road (County Road 363) and Bayard Road (County Road 84), near Bayard, Delaware.

Current Zoning: Agricultural Residential (AR-1)

Current Use: Farmland with an existing single family dwelling

Proposed Zoning Request: Business Community District (B-2) for a portion of the parcel.

Purpose of B-2 Zoning: To provide primarily for office, retail shopping, and personal service uses, to be developed either as a unit or on an individual parcel, to serve the needs of a relatively small area, primarily nearby rural, low-density, or medium density residential neighborhoods.

Amount of land to be rezoned: 2.99 acres, or 12% of the parcel.

Proposed Use: Light retail and office to provide convenience goods and services to nearby residents and business opportunities for local business owners. Less than 7,500 square feet of rentable space is proposed.

Land Use Plan designation: Coastal Area, which is considered a "Growth Area" where where additional considerations should be taken into account.

Comprehensive Plan criteria (Future Land Use):
- Coastal Area section
  - states “Retail and office uses are appropriate.”
  - states “careful mixtures of homes with light commercial office and institutional uses can be appropriate to provide for convenient services and to allow people to work close to home.”
- Low Density Rural Areas section
  - encourages maintaining the rural landscape and sustaining reasonable development rights
  - emphasizes that retail and office uses in Low Density Areas should be providing convenience goods and services to nearby residents

Sewer availability: Per the Sussex County Engineering Department, it is in a sewer planning area and contiguous to an existing sanitary sewer district boundary.

Water availability: Tidewater Utilities has provided an Ability to Serve letter. Water lines are currently located along the property frontage.

Approved Development within a 1 mile radius:
- Number of new and approved homes since 2008 - 1000+
- Number of potential homes in near future - 135
WHEREAS, Title 9, Section 6962 of the Delaware Code “Highway Capacity” obligates Sussex County to “establish an agreement with the Department of Transportation to provide a procedure for analysis by the Department of Transportation (“DelDOT”) of the effects on traffic of each rezoning application; and

WHEREAS, This Memorandum of Understanding is intended to comply with the foregoing requirements of Title 9, Section 6962 of the Delaware Code; and

WHEREAS, Land development has the potential to impact adjacent highways and Sussex County and DelDOT recognize that an analysis of the effects upon traffic is important in all types of land use decisions (Residential Planned Communities, Major Subdivisions, Conditional Uses) and not just rezoning applications; and

WHEREAS, The 2018 Sussex County Comprehensive Plan promotes greater coordination between DelDOT and Sussex County in land use decisions; and

WHEREAS, Sussex County is solely responsible for land use decisions in Sussex County; and

WHEREAS, DelDOT is responsible for the operation, maintenance, and construction of State-maintained roads as well as the regulation of all entrance and roadway improvements required as part of new development; and

WHEREAS, it is the desire of Sussex County and DelDOT to coordinate land development with transportation needs.

NOW, THEREFORE,

BE IT RESOLVED that Sussex County Council and DelDOT hereby adopt the following Memorandum of Understanding:

DEFINITIONS

COMMİTTED OFF-SİTE IMPROVEMENTS – Road improvements for the benefit of safety and/or capacity that are generally beyond the limits of the site entrance and frontage that are required to be built by an approved land development project. Such improvements do not include auxiliary lanes that serve the site entrance, but may include roadway widening along the frontage of the site.
AREA WIDE STUDY FEE (AWSF) – DelDOT regulations define an Area Wide Study Fee that, under certain conditions, DelDOT may accept when it would otherwise require a TIS. The fees accepted are used by DelDOT to subsidize the preparation of studies of larger areas than a TIS would normally address; they are not used to build improvements. Payment of the fee does not relieve a developer of responsibility to build or contribute toward transportation improvements.

LEVEL OF SERVICE (LOS) - A quantitative stratification of a performance measure or measures representing how well a transportation facility or service operates from a traveler’s perspective. For each type of facility or service there are six levels of service, ranging from A to F, with A representing the best operating condition and F the worst operating conditions. Except as may be specified by DelDOT, LOS shall be determined in accordance with the current edition of the Highway Capacity Manual, a publication of the Transportation Research Board.

PRELIMINARY TRAFFIC ANALYSIS – A request made by Sussex County Planning and Zoning Department for an evaluation by DelDOT, in terms of the proposed trip generation, to determine the Traffic Impact with regard to a proposed land use approval.

TRAFFIC IMPACTS:

- DIMINUTIVE - The proposed land use is expected to increase the trip generation of the subject land by fewer than 50 vehicle trips per day.

- NEGLIGIBLE - The proposed land use is expected to increase the trip generation of the subject land by fewer than 50 vehicle trips in any hour and fewer than 500 vehicle trips per day.

- MINOR - The proposed land use is expected to increase the trip generation of the subject land by at least 50 vehicle trips in any hour but fewer than 200 vehicle trips in any hour or at least 500 vehicle trips per day, but fewer than 2,000 vehicle trips per day.

- MAJOR - The proposed land use is expected to increase the trip generation of the subject land by more than 200 vehicle trips in any hour or more than 2,000 vehicle trips per day.

TRAFFIC IMPACT STUDY (TIS) – A study conducted during the development approval process, in accordance with applicable DelDOT regulations, to determine the impacts that traffic generated by the proposed development will have on the surrounding street network and the improvements needed to the transportation system in order to mitigate those impacts.

TRAFFIC OPERATIONAL ANALYSIS (TOA) – An evaluation, or series of evaluations, conducted during the review of subdivision, land development and entrance plans, in accordance with applicable DelDOT regulations, primarily intended to determine site entrance location and movements to be allowed at the site entrance. These evaluations may include; Queuing Analysis, Highway Capacity Manual Analysis, and Crash Analysis.
LAND USE COORDINATION

1. Sussex County will make the final decisions on all matters of land use.
2. Preliminary Traffic Analysis:
   a. The Sussex County Planning and Zoning Department will request a Preliminary Traffic Analysis from DelDOT for each land use application to determine if the resulting traffic impact will be diminutive, negligible, minor, or major. This shall not be required where the County Planning and Zoning staff, in concurrence with DelDOT staff, finds that the proposed change in land use will have a diminutive impact upon the road system.
   b. DelDOT shall provide a Preliminary Traffic Analysis within twenty (20) working days after receiving the Analysis request. If more time is needed, a written request explaining the reason for the additional time will be required.
   c. Unless waived as set forth in Paragraph 2.a. above, Sussex County will not consider an application until DelDOT supplies Sussex County with the above information.
3. Diminutive Impact:
   a. When it is determined that the impact would be diminutive, no further traffic analysis will be necessary.
4. Negligible Impact:
   a. When DelDOT determines the traffic impact to be negligible it will provide projected traffic volumes in support and no further traffic analysis will be necessary.
   b. DelDOT may still identify the need for a TOA in a subsequent plan review process.
5. Minor Impact:
   a. When DelDOT determines the traffic impact to be minor, the Preliminary Traffic Analysis shall include the feasibility of providing safe access and the condition, pavement, and the geometry of the nearby roadways and intersections relative to the traffic the subject property could generate. Where any of these are deemed potentially inadequate, DelDOT shall comment to this effect, and identify roadway improvements that shall be required by the Developer.
   b. When DelDOT determines that the traffic impact will be minor, the developer will be required to pay an Area Wide Study Fee (AWSF). An AWSF letter will be generated to document the developer’s obligations to construct identified roadway improvements or fund road improvements as required by DelDOT.
• Alternative to an Area Wide Study Fee, the developer may elect to conduct an in-depth Traffic Impact Study (TIS) (at the developer’s expense) to DelDOT standards.

• Payment of the fee does not exempt the developer from the responsibility to make off-site improvements or from preparing a Traffic Operational Analysis (TOA) if DelDOT identifies a need for a TOA in the plan review process.

c. DelDOT may require a TIS if necessary, given the particular circumstances of a land use application.

6. Major Impact:

a. When DelDOT determines that the traffic impact will be major, the developer will be required to conduct an in-depth Traffic Impact Study (TIS) (at the developer’s expense) to DelDOT standards. In addition, Sussex County, at its own initiative, may require a developer to conduct at TIS.

b. Additionally, DelDOT may ask for a Traffic Operational Analysis (TOA) to supplement an existing TIS.

c. As an alternative to the TIS or TOA process set forth above, when DelDOT has determined that the area in question has already been the subject of sufficient study, a new TIS or TOA may not be required. Instead, DelDOT may require an AWSF to be paid by the developer to DelDOT to recoup all or a portion of the cost of the prior studies relied upon by DelDOT in lieu of a new TIS or TOA. The AWSF is unrelated to the developer’s subsequent obligations to construct or fund road improvements as required by DelDOT and the AWSF is not a waiver of those requirements. A TISRL or AWSF letter will be generated to document the developer’s obligations.

7. Elements of the Traffic Impact Study:

a. The TIS will consider the effects of active or proposed transportation improvements in the adopted Six (6) Year Capital Transportation Program, Current Transportation Plans, and Committed Off-Site Improvements, committed developments approved by Sussex County and the current Sussex County Comprehensive Plan and establish staging for development as needed.

b. DelDOT will provide a technical evaluation of the TIS in the form of written comments in a Traffic Impact Study Review Letter (TISRL).
8. Level of Service Standards:
   a. Sussex County and DelDOT shall endeavor, where possible, to maintain a Level of Service of D on roads and intersections affected by a land use application. However, Sussex County and DelDOT recognize that:
      • Level of Service of D is not always attainable;
      • That this threshold may create an undue burden on a property owner looking to develop a property given the prior development that has occurred in an area contributing to the existing Level of Service;
      • Other relevant factors (such as the size of the property, type or importance of the development) may mitigate against maintaining a Level of Service D.
   b. If the existing Level of Service is below D prior to the impact of the proposed land use, in no event shall the existing Level of Service be degraded.
   c. When DelDOT determines that the traffic impact of the proposed land use causes the threshold level of service to be exceeded, the County will not approve the land use application unless:
      • The developer takes appropriate measures to maintain operations at the threshold level of service; or,
      • Sussex County finds that there are sufficient reasons why the threshold level of service should not be maintained. Sussex County, in this case, shall set forth in writing their reasons for approving the land use application.

9. Coordination:
   a. The Sussex County Planning and Zoning Department is responsible for coordinating all required information with Sussex County Council and the Planning and Zoning Commission.
   b. No public hearing on the land use application shall occur until one of the following conditions are met:
      • It is determined that the application will have a diminutive impact as described above; or,
      • Sussex County receives the AWSF Letter from DelDOT; or,
      • Sussex County receives the TISRL from DelDOT.
c. If, in DelDOT’s opinion, there are appropriate conditions of approval that should be imposed upon a land use decision, DelDOT shall offer those conditions as part of its TISRL, AWSF Letter or as part of its Technical Advisory Committee review for consideration by Sussex County. Any such proposed conditions shall be clearly summarized by DelDOT prior to the Preliminary Site Plan hearing. Sussex County shall consider the proposed conditions but shall not be obligated to include them as part of any approval.

d. Phasing of land development with highway capacity and safety improvements to restore and maintain a level of service “D” may be recommended by DelDOT. Such phasing may refer to sections or areas of the development or to a specific number of building permits. To accomplish this, DelDOT should clearly and concisely state what phasing is appropriate for the proposed land use application so that Sussex County may impose all or part of those recommendations into its various approvals as appropriate. DelDOT’s recommended phasing of the project may include (but is not limited to) consideration of the following:

- A delay of all or part of the development until specific roadway improvements are made by DelDOT or others;
- Whether the required roadway improvements are being funded, designed and/or constructed at the developer’s own expense;
- Whether the developer is participating in, and/or funding, transit or traffic mitigation strategies.

The phasing requirements shall be included as part of the Final Site Plan. Phasing tied to other types of site plan approval is addressed in a following Section of this MOU regarding Site Plan Coordination.

e. When Sussex County believes that expert testimony regarding transportation issues is required to make a land use decision (such as a rezoning, major subdivision, conditional use or Residential Planned Community), DelDOT will provide a suitable representative to attend meetings of the Planning and Zoning Commission and/or County Council. The representative should be someone with specific technical knowledge of the project in particular and ongoing projects in the area of Sussex County where the project is to occur.
f. In addition to the project-specific information referenced in the preceding paragraph, DelDOT shall provide regular updates to Sussex County about the status of ongoing and future roadway and transportation projects in the County, so that County Council and the Planning & Zoning Commission have an up-to-date understanding of their status. This shall include both developer-funded and DelDOT-initiated and -funded projects. During these updates, Sussex County will also have an opportunity to discuss other transportation improvements that may be needed in the future.

g. Whenever possible during the implementation of the foregoing items, Sussex County and DelDOT should encourage master planning for large scale developments on large parcels or groups of parcels in the Town Center, Coastal Area, Developing Area and commercial areas as set forth in the Comprehensive Land Use Plan to provide greater flexibility in design and/or the installation of additional roadways and interconnectivity.

h. Sussex County shall be invited to participate in the scoping meetings and the conversations leading to the issuance of the TISRL, the AWSF Letter or TOA as to roadway improvements associated with a project. Sussex County may provide input into those negotiations, but DelDOT shall be entitled to make the final determination as to all required roadway improvements and negotiated agreements with a developer. Any agreement reached between a developer and DelDOT as to roadway improvements, phasing of a development and funding of roadway improvements shall be timely forwarded to Sussex County for its records with regard to the development. Any subsequent changes or amendments to a DelDOT and developer agreement shall likewise be timely forwarded to Sussex County. Provided, however, that DelDOT acknowledges that if a specific requirement (such as phasing) is incorporated into a land use decision (such as a major subdivision, conditional use or Residential Planned Community), this may not be enforceable by Sussex County without an amendment to the subdivision approval or the ordinance that approved a Residential Planned Community, Conditional Use or certain other rezonings where conditions can be imposed.
REZONINGS (WITHOUT SITE PLANS OR CONDITIONS OF APPROVAL)

1. Sussex County and DelDOT acknowledge that on a rezoning to a new zoning district where a specific site plan is not under consideration, and where the County cannot impose conditions as part of the rezoning approval, a TIS may not be possible (with the exception of rezoning’s to Residential Planned Communities and C-4, where specific site plans are considered and conditions can be imposed). This is because the various zoning districts have several permitted uses that are allowed once a rezoning occurs; as a result DelDOT cannot determine, at the time of rezoning, what the actual use will be nor what the traffic and possible roadway improvements will be as a result of it. This requires greater coordination on the part of both Sussex County and DelDOT.

2. Whenever possible, DelDOT shall endeavor to provide as much information as possible about the general impacts of the rezoning upon area traffic and roadways as required in the preceding section prior to the public hearing before Sussex County Council and the Planning & Zoning Commission. This shall include, but is not limited to, recent studies performed on roadways in the immediate area, including any TIS’s that may exist; information about the existing LOS in the immediate area based on prior studies; planned roadway improvements in the immediate area; the impacts and required improvements of approved, but not yet completed developments in the immediate area; and any other relevant information in DelDOT’s possession that can assist Sussex County in making a rezoning decision.

3. Whenever DelDOT is approached by a developer with a specific project in mind, DelDOT and that developer may enter into an agreement to obtain a TIS for the project as part of the rezoning process so that the information required as part of the TIS may be included in the record of the public hearings of the rezoning application. Because other possible uses of the property may be permitted under the proposed new zoning, Sussex County is not bound by this information in making its decision on the rezoning. However, if the use that the TIS is based upon changes after the rezoning occurs, another TIS may be required and if so, Sussex County shall not approve any Preliminary or Final Site Plan for the property until the new TIS is completed with all necessary traffic and roadway improvements determined by DelDOT. Alternatively, if no TIS is performed on a specific project, DelDOT or Sussex County shall have the ability to request a TIS based upon the most impactful permitted use available under the new zoning classification that is sought.
SITE PLAN COORDINATION

1. Sections 115-220C and 221C of the Sussex County Zoning Code allow Sussex County to approve certain site plans “subject to conditions”. In any site plan reviewed pursuant to Section 115-220 of the Sussex Zoning Code, Sussex County, with the assistance of DelDOT, may impose conditions regarding phasing and the timing of building permits in conjunction with completion of necessary roadway improvements.

2. In all site plan reviews, DelDOT will review the site plans in accordance with its rules and regulations for access and roadway improvements. Sussex County will withhold any site plan approval until DelDOT has provided a Letter of No Contention (LONC) or a Letter of No Objection to Recordation (LONOR). Provided, however, that this requirement may be waived by Sussex County for minor amendments to existing site plans that changes the trip generation by less than 50 trips per day.

3. Sussex County shall withhold the issuance of any building permit until DelDOT has issued the entrance permit associated with the project.

4. Unless bonded in accordance with DelDOT’s requirements, DelDOT will withhold an entrance permit until the developer has agreed to construct the access point(s) to Department standards and to provide off-site improvements as may be required to maintain acceptable traffic operation on roadways.

5. Sussex County will withhold issuance of the Certificate of Compliance until DelDOT has received appropriate bonding or accepted the entrance construction as substantially completed.

6. The coordination described in this section shall take into consideration any phasing of the land use project.
TRANSPORTATION IMPROVEMENT DISTRICTS

1. In the event that a land use application falls within an approved Transportation Improvement District ("TID"), the requirements of the TID, as set forth in the TID Agreement, shall supersede the requirements set forth in this MOU.

IT IS FURTHER RESOLVED that the Secretary of the Delaware Department of Transportation and The County Administrator will affirm this agreement by affixing their signature to the Resolution.

Adopted by the County Council of Sussex County on September 22, 2020.

[Signature]
President of the County Council of Sussex County

The following signatures concurring herein:

For Sussex County:

[Signature]
Todd F. Lawson, Sussex County Administrator

[Signature]
Robert Wheatley, Chairman, Sussex County Planning & Zoning Commission

[Signature]
Jamie Whitehouse, Director of Planning & Zoning

For the Department of Transportation:

[Signature]
Jennifer Cohan, Secretary