Sussex County
Planning & Zoning Commission

AGENDA**

November 12, 2020
5:00 P.M.

PLEASE REVIEW MEETING INSTRUCTIONS AT THE BOTTOM OF THE AGENDA

Call to Order

Approval of Agenda

Approval of Minutes – N/A

Other Business

The Estuary – Phase 3 (2005-64) HW
Final Subdivision Plan

James D. West (2020-05) KH
Final Subdivision Plan

Americana Bayside MR-RPC – Freeman Arts Pavillion BM
Revised Preliminary Site Plan

MillerMetal Fabrication Inc. (S-20-17) KS
Preliminary Site Plan

Old Business

C/Z 1928 Plantation Partners, LLC KS
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 Lewes and Rehoboth Hundred, Sussex County, containing 11.570 acres, more or less The property is lying on the southwest side of Plantations Rd. (S.C.R. 275) and the southeast side of Cedar Grove Rd. (S.C.R. 283) approximately 0.63 mile northwest of John J. Williams Hwy. (Rt. 24). 911 Address: N/A. Tax Parcel: 334-12.00-52.00 (portion of)

C/U 2228 M.L. Joseph Heirs Farm Account, LLC KS
An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for a campground for mobile campers, camp trailers, touring vans and the like
to be located on a certain parcel of land lying and being in Georgetown Hundred, Sussex County, containing 73.91, more or less. The property is lying on the north side of Lewes-Georgetown Hwy. (Rt. 9) approximately 0.66 mile east of the intersection of Sand Hill Rd. (S.C.R. 319) and Lewes-Georgetown Hwy. (Rt. 9). 911 Address: 22349 Lewes-Georgetown Hwy., Georgetown. Tax Parcel: 135-15.00-55.01

Public Hearings

C/U 2247 Hillary Brock  
An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for a mini spa to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 1.50 acres, more or less. The property is lying on the west side of Beaver Dam Rd. (Rt. 23) approximately 0.41 mile south of Hopkins Rd. (S.C.R. 286). 911 Address: 19950 Beaver Dam Rd., Lewes. Tax Parcel: 234-5.00-44.09

C/Z 1930 Indian River School District  
An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a I-1 Institutional District for a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 186.98 acres, more or less. The property is lying on the east and west side of Patriot’s Way. 911 Address: 26026 Patriots Way & N/A. Tax Parcels: 133-7.00-8.01 & 133-11.00-105.00

C/Z 1932 Jeff-Kat, LLC  
An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a C-3 Heavy Commercial District for a certain parcel of land lying and being in Lewes & Rehoboth Hundred, Sussex County, containing 0.78 acre, more or less. The property is lying on the east side of Kings Highway (Route 9) approximately 900 feet southeast of Theodore C. Freeman Highway (S.C.R 23). 911 Address: 1005 Kings Highway, Lewes. Tax Parcel: 335-8.00-40.00 (portion of)

Ord. 20-05 – The Coastal Area

AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE XXV, SECTION 115-194.3 OF THE CODE OF SUSSEX COUNTY REGARDING THE COASTAL AREA

In accordance with 29 Del. C. §10004(e)(2), this Agenda was posted on November 4, 2020 at 3:55 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

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/

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, November 11, 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: October 27, 2020
RE: Other Business for the November 12, 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 November 12, 2020 Planning Commission meeting.

**The Estuary – Phase 3 (2005-64)  **

Final Subdivision Plan
This is a Final Subdivision Plan for the establishment of a proposed cluster subdivision to consist of 118 single-family dwellings on a 78.36 acre +/- parcel of land lying within the Coastal Area. The property retains access off of Piney Way and Estuary Boulevard within what is currently Phase 2 of the existing Estuary Subdivision. At their meeting of Thursday, October 11, 2018, the Planning and Zoning Commission approved the Final Subdivision Plan for the Estuary Subdivision (2005-64). The Final Subdivision Plan complies with the Sussex County Zoning and Subdivision Code and all Conditions of Approval. Tax Parcels: 134-19.00-115.02 & 134-21.00-8.00. Zoning: AR-1 (Agricultural Residential Zoning District). Staff are in receipt of all agency approvals.

**James D. West (2020-05)  **

Final Subdivision Plan
This is a Final Subdivision Plan for the creation of a major, standard subdivision to divide 4.296 acres +/- into 4 single-family lots off of a 50-ft access easement. The property is located on the west side of Sussex Highway (Route 13) approximately 0.78 miles south of Adams Road. At their meeting of Thursday, September 10, 2020, the Planning and Zoning Commission approved the Preliminary Subdivision Plan. The Final Subdivision Plan complies with the Sussex County Zoning and Subdivision Code and all Conditions of Approval. Tax Parcel: 530-17.00-2.02. Zoning: AR-1 (Agricultural Residential Zoning District). Staff are in receipt of all agency approvals.

**Americana Bayside MR-RPC – Freeman Arts Pavilion  **

Revised Preliminary Site Plan
This is a Revised Preliminary Site Plan for the construction of a 1,010-seat arts pavilion, including 876 parking spaces, and other related uses on a parcel consisting of 8.98 acres. The site is located on the south side of Signature Boulevard within the existing Americana Bayside development. At their meeting of Thursday, March 12, 2020, the Planning and Zoning Commission approved the Preliminary Subdivision Plan for the performing arts pavilion. Due to the current COVID-19 pandemic, the Freeman Stage had to significantly alter their plans for the 2020 season. Seats were previously sold in “pods” of four, with each pod maintaining the required 6-ft of separation distance. However, this option can only accommodate 400 patrons total and for this reason is unsustainable in
the long term. To both address the need to accommodate additional patrons under the current Governor’s Orders and CDC guidelines and ensure the success of the Freeman Stage, GMB has proposed a phasing plan which would allow for maintaining the same number of patrons as the existing stage could accommodate while the new stage is being constructed. The plan is called “Phase 1A” and has been added to the plans as “Phase 1A Temporary Site Plan.” The Final Site Plan complies with the Sussex County Zoning and Subdivision Code and all Conditions of Approval. Tax Parcels: 533-19.00-36.01, 864.00, 866.00, 881.00 and 990.00. Zoning District: MR-RPC (Medium Density Residential, Residential Planned Community.) Staff are in receipt of all approvals.

**MillerMetal Fabrication Inc. (S-20-17)**

Preliminary Site Plan

This is a Preliminary Site Plan for the construction of a proposed 60,000 square foot sheet metal and metal fabrication shop. The property was the subject of a Change of Zone application, (C/Z 1919) to facilitate a change of zone from a C-1 (General Commercial District) to an LI-2 (Light Industrial District). The Change of Zone was approved by the Planning and Zoning Commission at their meeting of Thursday, September 24, 2020. Subsequently, the application was also approved by the Sussex County Council at their meeting of Tuesday, October 20, 2020. The project is located on the south side of Newton Road (Route 404), approximately 791 feet west of Sussex Highway (Route 13) and retains access off a private road, Emma Jane Lane. The Preliminary Site Plan complies with the Sussex County Zoning Code. Tax Parcel: 131-6.00-8.00. Zoning: LI-2 (Light Industrial District). Staff are awaiting agency approvals.
January 23, 2020

TIDEWATER UTILITIES, INC.

APPROVAL TO CONSTRUCT
Meadows District
The Estuary Phase 3 Connection
PWS #DE0000271
Approval #20W13

Mr. John Galiani
Estuary Development, LLC
6726 Curran Street
McLean, VA 22102

Dear Mr. Galiani:

As provided by Section 2.11 of the State of Delaware Regulations Governing Public Drinking Water Systems, you are granted approval to connect The Estuary Phase 3 to the existing main in accordance with the plans submitted by George, Miles & Buhr, LLC. The plans consist of:

2. Two copies of the plans entitled “The Estuary Phase 3 Sussex County, Delaware” dated June 2019 and revised November 7, 2019.

These plans, as noted, are made a part of this approval. This approval is granted subject to the enclosed list of conditions. It is the owner’s responsibility to ensure as-built drawings are maintained throughout all phases of construction. Prior to receiving an Approval to Operate, the Office of Engineering requires one set of as-built drawings, including profile markups.

The Office of Engineering recommends detectable tracer tape that is three inches wide and blue in color to be installed directly above all water mains larger than two inches in diameter.

I am sending one set of plans with a copy of this approval to George, Miles & Buhr, LLC that is signed and dated by the Office of Engineering.
Should you have any questions regarding this matter, please feel free to contact Bill Milliken at 302-741-8646.

Plans reviewed by:

William J. Milliken, Jr.
Engineer III
Office of Engineering

Sincerely,

Doug Lodge, P.E.
Supervisor of Engineering
Office of Engineering

cc: Janelle Cornwell, Sussex County Planning & Zoning
    Kevin Neilson, Public Service Commission
    Stephen L. Marsh, P.E., George, Miles & Buhr, LLC
    Tawanda Priester, Tidewater Utilities, Inc.
    Alexis Virdin-Gede, Tidewater Utilities, Inc.
    Ashley Kuder, Office of Drinking Water
1. The approval is void if construction has not started by January 23, 2021.

2. The project shall be constructed in accordance with the approved plans and all required conditions listed in this Approval to Construct. If any changes are necessary, revised plans shall be submitted and a supplemental approval issued prior to the start of construction. As-built plans including profile mark-ups must be submitted to the Office of Engineering after construction has been completed.

3. Representatives of the Division of Public Health may inspect this project at any time during the construction.

4. The water system shall be operated in conformance with the State of Delaware Regulations Governing Public Drinking Water Systems.

5. All potable water lines and appurtenances shall be disinfected using one of the methods in the American Water Works Association Standard C651, current edition.

6. Water mains crossing sanitary and storm sewers should be laid to provide a minimum vertical distance of 18 inches between the outside of the water main and the outside of the sewer, and the water main should be above the sewer. At crossings, one full length of water pipe should be located so both joints will be as far from the sewer as possible. Special structural support for the water and sewer pipes may be required. In cases where it is not practical to maintain an 18-inch separation, the Division may allow deviation on a case-by-case basis if supported by data from the design engineer.

7. Water mains should be laid 10 feet horizontally from any existing or proposed sanitary or storm sewers. The distance should be measured edge to edge. In cases where it is not practical to maintain a 10-foot separation, the Division may allow deviation on a case-by-case basis if supported by data from the design engineer.

8. All chemicals, materials, mechanical devices, and coatings in contact with potable water shall comply with National Sanitation Foundation/American National Standards Institute Standards (NSF/ANSI) 60 and 61 and shall be inert, nontoxic, and shall not impart any taste, odor, or color to the water.

9. Sufficient valves should be provided so that inconvenience and sanitary hazards will be minimized during repairs. Valves should be located at not more than 500-foot intervals in commercial districts and at not more than one block or 800-foot intervals in other districts.

10. There shall be no connection between the distribution system and any pipes, pumps, hydrants, or tanks whereby unsafe water or other contaminating materials may be discharged or drawn into the system.
11. Fire hydrant drains shall not be connected to or located within 10 feet of sanitary sewers, storm sewers, or storm drains.

12. Prior to usage of water from this new well, water plant, storage plant, or distribution system, approval for the water quality must be obtained from the Division of Public Health.

13. The water system should be capable of providing at least 25 psi at ground level at all times throughout the distribution system.

14. All plastic pipe utilized in this drinking water system shall be approved for potable water use (NSF-pw). If any piping is joined with solder or flux, the solder and flux shall be lead free (less than or equal to 0.2 percent lead).

15. All water lines should be buried to a depth of at least 3 feet.

16. A Certificate of Public Conveniences and Necessity should be acquired from the Public Service Commission, (302) 739-4247.

17. This approval is for the distribution system only. Plans and specifications for all well plumbing, pumps, storage (including any interior coatings), and treatment must be submitted to and approved by this office prior to their installation.

18. The approval is subject to immediate revocation upon violation of any of the preceding conditions.

19. All other local (state/county/city/town) approvals or permits needed must be obtained prior to beginning construction.

20. Upon completion of construction and before the system is placed into operation, a “Notice of Completion” must be submitted to the Office of Engineering. Before placing the system into operation, the following must be adhered to:
   a. Submit a set of as-built plans with profile markups to the Office of Engineering.
   b. Obtain an Approval to Operate from the Office of Drinking Water.
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Cathy Lyons

From: Terri Dukes <tdukes@sussexcountye.gov>
Sent: Wednesday, October 16, 2019 12:00 PM
To: Cathy Lyons
Subject: RE: Estuary Phase 3 Street Names

Cathy, as long as roads are approved for this community and are on the newest recordings it doesn’t matter to use where you use them.

From: Cathy Lyons <CLyons@gmbnet.com>
Sent: Wednesday, October 16, 2019 9:06 AM
To: Terri Dukes <tdukes@sussexcountye.gov>
Subject: RE: Estuary Phase 3 Street Names

Terri,
Good Morning.

As mentioned in my email below, we had to make a change to two of the street names. The new names were on the original approval/reserved list for the Estuary.

Thanks,
Cathy

Cathy Lyons
Sr. Project Coordinator

206 West Main Street | Salisbury, MD | 21801
410.742.3115 | www.gmbnet.com | Find us on facebook

From: Terri Dukes <tduces@sussexcountye.gov>
Sent: Friday, September 13, 2019 10:55 AM
To: Cathy Lyons <CLyons@gmbnet.com>
Subject: RE: Estuary Phase 3 Street Names

ok

From: Cathy Lyons <CLyons@gmbnet.com>
Sent: Friday, September 13, 2019 10:38 AM
To: Terri Dukes <tduces@sussexcountye.gov>
Cc: Steve Brodbeck <sbrodbeck@gmbnet.com>
Subject: RE: Estuary Phase 3 Street Names

Terri,
Happy Friday. Please disregard. I was just informed that Old Salt and Sandbar are already used. We will submit our other suggestions.

1
Terri,
As discussed below, I wanted to send you the enclosed exhibit with the street names we will be using for Estuary Phase 3 for your review.

Thank you,
Cathy

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Thanks Terri. We will provide prior to recordation.

CL

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Cathy. It looks like some of these where approved with no thoroughfares. I will need to know those before you record them.

Best Regards,
Terri
From: Cathy Lyons <cLyons@gmbnet.com>
Sent: Monday, July 22, 2019 2:33 PM
To: Terri Dukes <tdukes@sussexcountyde.gov>
Cc: Steve Brodbeck <sbrodbeck@gmbnet.com>
Subject: RE: Estuary Phase 3 Street Names

Terri,
Sorry for the delay. It looks like we are going with the below names:

Decoy
Misty Morning Ln
Old Marsh
Sandbar
Seashell
Hailey Court

Please let me know if there are any issues.

Thanks,
Cathy

---

Cathy Lyons
Project Coordinator

GMB
206 West Main Street | Salisbury, MD | 21801
410.742.3115 Ext. 1142 | www.gmbnet.com | Find us on facebook

From: Terri Dukes <tdukes@sussexcountyde.gov>
Sent: Thursday, May 2, 2019 4:13 PM
To: Cathy Lyons <cLyons@gmbnet.com>
Subject: RE: Estuary Phase 3 Street Names

Cathy, hopefully this will make it easier for you. This is the list of name already on reserve for The Estuary.

From: Cathy Lyons <cLyons@gmbnet.com>
Sent: Thursday, May 2, 2019 12:58 PM
To: Terri Dukes <tdukes@sussexcountyde.gov>
Subject: RE: Estuary Phase 3 Street Names

Terri, below are some other selections:

Maple View Drive
Willow Lane
Turtle Walk Court
Fox Den Drive
Sea Otter Court

I am sure some of the above are already in use in other communities. We are working on some more to submit for review.

Thanks,
Cathy Lyons
Project Coordinator
206 West Main Street | Salisbury, MD | 21801
410.742.3115 Ext. 1142 | www.gmbnet.com | Find us on facebook

From: Terri Dukes <tdukes@sussexcountyde.gov>
Sent: Thursday, May 2, 2019 11:35 AM
To: Cathy Lyons <Clyons@gmbnet.com>
Subject: RE: Estuary Phase 3 Street Names

Cathy, reference list below.

From: Cathy Lyons <Clyons@gmbnet.com>
Sent: Thursday, May 2, 2019 10:46 AM
To: Terri Dukes <tdukes@sussexcountyde.gov>
Cc: Doug L. Bolner, Jr. <DBolner@gmbnet.com>; Steve Brodbeck <sbrodbeck@gmbnet.com>
Subject: FW: Estuary Phase 3 Street Names

Terri,

We are working on a Site Plan for the Estuary Phase 3 project, which is located along Camp Barnes Road, in Frankford, DE.

We have a few road names picked out and wanted to confirm with your office that they would be acceptable:

- Oak Tree Court /Denied
- Hailey Court /Approved
- Summer Breeze Drive /Denied
- Woodside Court/ there are already 2 streets in The Estuary starting with Wood
- Penny Lane/ Denied
- Trailside Court /Already exist in The Estuary

Thank you,
Cathy
September 11, 2020

Mr. Ross Byington  
c/o George, Miles, & Buhr, LLC  
206 West Main Street  
Salisbury, MD 21804

RE: The Estuary, Phase 3

Dear Mr. Byington:

A Sediment and Stormwater Management Plan has been reviewed for compliance with the Sediment and Stormwater Regulations and is approved with conditions (see attached). Enclosed herein please find a copy of the approved application form and approved plan sets. Please retain a copy for your use and provide the contractor with a copy to be retained onsite at all times. Failure to keep an approved plan onsite is a violation of the approved plan.

Approval of a Sediment and Stormwater Plan does not grant or imply a right to discharge stormwater runoff. The owner/developer is responsible for acquiring any and all agreements, easements, etc., necessary to comply with State drainage and other applicable laws.

This plan approval pertains to compliance with the Delaware Sediment and Stormwater Regulations. Please understand that the approval of this plan does not relieve you from complying with any and all federal, state, county, or municipal laws and regulations.

As of January 1, 2014, the Sussex Conservation District began collecting financial guarantees to ensure the construction of stormwater management practices is accomplished in accordance with the approved sediment and stormwater plan. Please refer to the SCD Policy on Bonds located on our website at Sussexconservation.org. If you have any questions concerning the aforementioned, please do not hesitate to call 302 856-7219.

Sincerely,

Jessica Watson
Jessica Watson queue
Program Manager

JW/jmg

cc: Janelle Cornwell
CONDITIONS OF APPROVAL

NOTIFICATION
1. This approved plan will remain valid for 5 years from the date of this approval. If construction does not begin within five years, the approved plan will be considered to have expired, and must be resubmitted to the District for a new review. In addition, if work is not completed within the five-year timeframe, the District must be contacted and a request for an extension submitted. Depending on regulation changes, a new plan may need to be submitted to ensure that all stormwater management facilities are constructed to the most recent standards.

2. Submittal of the Notice of Intent (NOI) for Storm Water Discharges Associated with Construction Activities together with this approval of the detailed Sediment and Stormwater Plan provide this project with Federal permit coverage to be authorized to discharge storm water associated with construction activities. It is the owner’s responsibility to ensure that permit coverage remains valid throughout construction by submitting the NOI fee annually as requested. The developer is responsible for weekly self-inspection reporting to be retained onsite.

3. Notify the Sussex Conservation District Sediment and Stormwater Management Section of your intent to begin construction in writing five (5) days prior to commencing. Failure to do so constitutes a violation of the approved plan.

CHANGES
4. This project is to be undertaken in accordance with the plans submitted and as approved. If changes are necessary at any time during the completion of the project, submit revised plans, prior to further construction, to the Sussex Conservation District Sediment and Stormwater Program for review and approval of the revision.

5. Should ownership change during the construction period, a revised plan must be submitted for approval showing the new owner’s signature on the owner’s certification. In addition, a Transfer of Authorization form must be submitted to DNREC to transfer Federal permit coverage to the new owner.

CONSTRUCTION AND CLOSEOUT
6. A pre-construction meeting must take place before any land disturbing activity begins. The meeting may take place on site and be attended by the owner, contractor, design consultant, Certified Construction Reviewer and Sussex Conservation District Sediment and Stormwater Program Construction Reviewer. The owner or the owner’s designee shall contact the Sussex Conservation Construction Reviewer to schedule the pre-construction meeting.

7. Keep available onsite, during all phases of construction, a copy of the approved Sediment and Stormwater Management Plan.

8. Keep available onsite, during all phases of construction, copies of the Developers weekly self-inspection reports and/or the CCR Reports.

9. Any sediment transported off-site to roads or road rights-of-way including ditches shall be removed. Any damage to ditches shall be repaired and stabilized to original condition.

10. Grading shall not impair surface drainage, create an erosion hazard, or create a source of sediment to any adjacent watercourse or property owner.

11. Failure to implement the permanent stormwater management practices as mentioned herein constitutes a violation of the conditions of this plan approval; it may result in the suspension or revocation of building permits or grading permits issued by the local jurisdiction; and it may result in legal action by the DNREC to bring the site into compliance with the approved Sediment and Stormwater Management Plan and the Delaware Sediment and Stormwater Regulations.

12. The permanent stormwater management facility or facilities must be constructed and accepted by the Sussex Conservation District Sediment and Stormwater Program prior to final closeout of the project site. Post construction verification documentation of the stormwater management facility or facilities must be completed as soon as construction of the facility or facilities is complete so that any necessary modifications may be made during the construction period.
DETAILED SEDIMENT AND STORMWATER MANAGEMENT PLAN APPLICATION

NAME OF PROJECT: The Estuary - Phase 3
PROJECT DESCRIPTION: Residential
LOCATION OF PROJECT: Southeast of Double Bridges Road and intersected by Camp Barnes Road
PROJECT TAX MAP NUMBER: 134-19.00 parcels 115.02, 134-21.00-8.00 and 134-21.00-11.00
PROJECT COORDINATES (center of site-decimal degrees) LAT: 38° 29' 52.4" N LONG: 75° 07' 01.5" W
TYPE OF PROJECT: Residential
WATERSHED: Little Assawoman Bay
NUMBER OF LOTS: 118 TOTAL ACRES: 192.91 DISTURBED ACRES: 46.60

APPLICANT'S CONTACT INFORMATION
FIRST NAME: Ross LAST NAME: Bylington
COMPANY NAME: Estuary Development, LLC, DE Land Investment 3, LLC and DE Land Investment 1, LLC
ADDRESS: 6726 Curran Street, 2nd Floor
CITY: McLean STATE: VA ZIP: 22101
PHONE NUMBER: 703-207-7006 FAX NUMBER: 703-207-7054
EMAIL ADDRESS: rossgoldsgym@aol.com

CONSULTANT CONTACT INFORMATION
CONSULTANT/ENGINEER NAME: George, Miles & Buhr, LLC
CONTACT PERSON/PROJECT MANAGER: Stephen L. Marsh, P.E.
PHONE #: (410) 742-3115 FAX #: (410) 548-5790
EMAIL ADDRESS: smarsh@gmbnet.com

SUSSEX CONSERVATION DISTRICT APPROVAL
REVIEWER: 
APPROVAL: 
DATE: 9/11/20
DATE: 9/11/20

If ownership of this project changes during the construction period, Sussex Conservation District will require a new signed owner’s certification statement. In addition, the authorization to discharge stormwater under the regulations Part 2 Special Conditions for Storm Water Discharges Associated with Construction Activities, must be transferred by the original owner to the new owner, please contact DNREC for assistance at 302-739-9221.
OWNER/DEVELOPER CERTIFICATION

- I/We certify that the information on this form and the attached plans are true and accurate to the best of my/our knowledge.

- I/We understand that DNREC/Delegated Agency may request information in addition to that set forth herein as may be deemed appropriate in considering this application.

- I/We will abide by the conditions of this approval as issued.

- I/We hereby certify that all clearing, grading, construction and/or development will be done pursuant to the approved plan, and that all responsible personnel involved in the land disturbing activities will have a Sediment and Stormwater Management Certification from DNREC/Delegated Agency.

- I/We hereby authorize the right of entry for periodic on site inspection by DNREC/Delegated Agency personnel and/or authorized agents.

OWNER/DEVELOPER SIGNATURE: ___________________________ DATE: _____________
OWNER/DEVELOPER PRINTED NAME: ___________________________

AGENT AUTHORIZATION

(If this authorization form is completed with the application, all future correspondence may be signed by the duly authorized agent.)

I, ____________________________________________, hereby designate and authorize the following identified agent to act on my behalf in the processing of this application and to furnish any information that is requested.

AGENT NAME: __________________________________________

AGENT ADDRESS: _________________________________________
CITY: ___________________________ STATE: _______________ ZIP: ________________
AGENT PHONE #: ( ) ___________________ FAX #: __________________
EMAIL ADDRESS: ____________________________________________

OWNER/DEVELOPER SIGNATURE: ___________________________ DATE: _____________
AGENT SIGNATURE: __________________________________________ DATE: _____________
**PROJECT BMP DATA SHEET**

List the BMP(s) utilized in the project stormwater management quantity and water quality strategy.

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<th>BMP NAME</th>
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<td>SWM 3-3</td>
<td>Wet pond</td>
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<td>SWM 3-4</td>
<td>Wet pond</td>
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</tbody>
</table>
May 8, 2020

Mr. Stephen Marsh, P.E.
George, Miles & Buhr LLC
206 West Main Street
Salisbury, MD 21801

REF: THE ESTUARY – PHASE 3
MILLER CREEK SANITARY SEWER DISTRICT
SUBDIVISION NO. 2005-64
SUSSEX COUNTY TAX MAP NUMBERS 134-18.00-115.02,
134-21.00-8.00 & 134-21.00-11.00 – CLASS-1
AGREEMENT NO. 638-26

Dear Mr. Marsh:

The above referenced project was approved on May 8, 2020 and one (1) set of the approved plans are enclosed. This approval is valid for three (3) years, unless prior to expiration of that three (3) year period, a time extension is requested and approved by the Department. Plans granted an extension beyond the three (3) period will be required to meet updated standards and specifications.

Also, it is your responsibility to secure approvals and/or permits that may be required by other regulatory agencies.

Please contact Mr. Gary Fleetwood of this Division to initiate pre-construction procedures for private roads and Mr. Keith Bryan in the Department’s Division of Utility Engineering to initiate pre-construction procedures for sanitary sewer.

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

Sincerely,

SUSSEX COUNTY ENGINEERING DEPARTMENT

Scott A. Thornton
Public Works Engineering Technician IV

cc: Mr. Keith Bryan, w/2 enclosures
Public Works Field File, w/3 enclosures
Owner/Developer
**OFFICE OF THE STATE FIRE MARSHAL**  
Technical Services  
22705 Park Avenue  
Georgetown, DE 19947

---

**SFMO PERMIT**

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<tbody>
<tr>
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<td>Date: 12/16/2019</td>
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</table>

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**Project**

- Phase 3 of Subdivision
- The Estuary
- Phase #: 3
- Double Bridges Road
- Frankford DE 19945

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**Scope of Project**

- **Number of Stories:**
- **Square Footage:**
- **Construction Class:**
- **Fire District:** 90 - Roxana Volunteer Fire Co
- **Occupant Load Inside:**
- **Occupancy Code:**

---

**Applicant**

Stephen Marsh  
206 W Main Street  
Salisbury, MD 21801

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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:  

[Signature]

---

Page 1 of 3
### FIRE PROTECTION PLAN REVIEW COMMENTS

**Plan Review Number:** 2019-04-202464-MJS-01  
**Tax Parcel Number:** 134-19.00-115.00  
**Status:** Approved as Submitted  
**Date:** 12/16/2019

#### PROJECT COMMENTS

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<tr>
<th>Code</th>
<th>Comment</th>
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</thead>
<tbody>
<tr>
<td>1002 A</td>
<td>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 <a href="http://www.statefiremarshal.delaware.gov">www.statefiremarshal.delaware.gov</a>. 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.</td>
</tr>
<tr>
<td>1040 A</td>
<td>This site meets Water Flow Table 2, therefore the following water for fire protection requirements apply: Main Sizes: 6” minimum. Minimum Capacity: 1,000 gpm @ 20 psi residual for 1 hour duration. Hydrant Spacing: 800' on center.</td>
</tr>
<tr>
<td>1180 A</td>
<td>This report reflects site review only. It is the responsibility of the applicant and owner to forward copies of this review to any other agency as required by those agencies.</td>
</tr>
<tr>
<td>1190 A</td>
<td>Separate plan submittal is required for the building(s) proposed for this project.</td>
</tr>
<tr>
<td>2710 A</td>
<td>The following items will be field verified by this Agency at the time of final inspection:</td>
</tr>
<tr>
<td>1032 A</td>
<td>Additional hydrants and/or relocation of proposed hydrants are required for this project (DSFPR Part II Chapter 6). Contact this Agency for location information.</td>
</tr>
<tr>
<td>1130 A</td>
<td>Provide a water flow test on the subdivision hydrant(s) once they have been installed, and before they are placed into service (DSFPR Part I, Section 4 4.2 and Part III, Chapter 3). Results are to be forwarded to this Agency for review.</td>
</tr>
<tr>
<td>1132 A</td>
<td>Fire hydrants shall be color coded in accordance with the DSFPR, Part III, Section 3 4. This includes both color coding the bonnet and 2” reflective tape around the barrel under the top flange.</td>
</tr>
</tbody>
</table>
1232 A All threads provided for fire department connections, to sprinkler systems, standpipes, yard hydrants or any other fire hose connections shall be uniform to those used by the fire department in whose district they are located. DSFPR Part III, Section 1.1.5.1.

1432 A The steamer connection of all fire hydrants shall be so positioned so as to be facing the street or fire lane. (DSFPR Regulation 705, Chapter 5, Section 10). The center of all hose outlet(s) on fire hydrants shall be not less than 18 inches above final grade (NFPA 24, Section 7.3.3).

1501 A If there are any questions about the above referenced comments please feel free to contact the Fire Protection Specialist who reviewed this project. Please have the plan review number available when calling about a specific project. When changes or revisions to the plans occur, plans are required to be submitted, reviewed, and approved.
October 19, 2020

Sussex County Department of Planning & Zoning
2 The Circle
Georgetown, DE 19947

Attn: Lauren DeVore
Planner III

Re: Estuary Phase 3
#2005-64
TMP # 134-19.00-115.02 & 134-21.00-8.00
GMB # 140049.E

Dear Ms. DeVore:

We have received your comment letter dated, February 5, 2020 for the above referenced project and offer the following responses.

Comment 1: Please note that Lots #415 and 493 are not achieving the minimum lot depth of 100-ft the entire way around the lot. Please amend the lot size to comply with the minimum depth requirement. If this additional area cannot be accommodated without including wetlands within the proposed lot boundary which would violate Condition #5 of the Conditions of Approval, the lot will have to be removed.

Response 1: Per your email dated October 16, 2020, we are disregarding this comment.

Comment 2: Please include in the Site Data Column that the Environmentally Sensitive Development District Overlay Zone is now known as the “Coastal Area.”

Response 2: We have revised the notation to reflect Coastal Area Overlay Zone.

Comment 3: Please note in the Site Data Column that the parcel is located within an area of “fair” Groundwater Recharge potential in order to comply with the provisions of Chapter 89 “Source Water Protection” of the Sussex County Code.

Response 3: We have included notes for Source Water Protection in the Site Data Column.

Comment 4: Please note in the Site Data Column that the parcel is not located within a Wellhead Protection Area in order to comply with the provisions of Chapter 89 “Source Water Protection” of the Sussex County Code.

Response 4: We have included notes for Source Water Protection in the Site Data column.
Comment 5: Staff notes that there are no more than 631 lots in the subdivision to accord with Condition #1 of the Conditions of Approval.

Response 5: *Comment noted*

Comment 6: Please include the zoning of all surrounding parcels on the plans.

Response 6: *Zoning Designations have been added to the neighboring parcels.*

Comment 7: Please clarify on Sheet P1.1 that the tax ditch R.O.W. is measured 35-ft from the top-of-bank (TOB).

Response 7: *A note describing “from top of bank, typ.” Has been included*

Comment 8: Please clarify if Lot #370 is included as part of Phase 3 or is to be included as part of Phase 2. The plans outline the lot as if to include it in Phase 3, but the lot appears to be situated in Phase 2 on the plans.

Response 8: *Lot 370 is part of Phase 3. We agree that this can be confusing, but it is based on Sewer connection availability, as well as the location of the driveway on Estuary Boulevard gets extended across the tax ditch from Phase 2 to Phase 3.*

Comment 9: Please add hatching or symbology which clearly indicates that sidewalks will be provided in the community to accord with Condition #13 of the Conditions of Approval.

Response 9: *Sidewalks will be constructed as part of the subdivision streets and are now shown on the recently added Final Site Plans, sheets FSP1.0 and FSP1.1, as well as the typical road crossing section on FSP1.0 and FSP1.1.*

Comment 10: Please include a breakdown which provides the overall breakdown of tidal vs. non-tidal wetlands on the property. (§99-26(A)(17)).

Response 10: *A Non-Tidal Wetlands note has been added to the Site Data Column. There are no Tidal wetlands within Phase 3.*

Comment 11: Please include a typical street section of the street construction design in the plans (§99-26(A)(12)).

Response 11: *County standard street sections are now indicated on the recently added Final Site Plans, sheets FSP1.0 and FSP1.1*

Comment 12: Please include a space for the signature of the President of the Sussex County Council (§99-26(A)(13)).

Response 12: *We have included a signature block for County Council approval.*

Comment 13: Please include a space for the signature of an authorized representative of the Sussex Conservation District approving the location and design of all stormwater management areas and erosion and sediment control facilities which shall be shown on the final site plan (§99-26(A)(18)).
Response 13:  *A signature block for Sussex Conservation District has been added to the Cover Sheet.*

Comment 14:  Please provide within the Site Data Column a breakdown of open space proposed by open space area (i.e.: Open Space “A,” Open Space “B,” Open Space “C”, etc.) and please also include the percentage of impervious surface cover area proposed for the project (§99-26(A)(19)).

Response 14:  *Acreages for Open Space areas and proposed impervious area are included in the Site Data column.*

Comment 15:  Please note that per Condition #6 of the Conditions of Approval, the restrictive covenants shall contain the agricultural use protection and wetlands notice. The covenants shall also include a notice that hunting activities occur in neighboring and adjacent properties and prohibit the use of any off road, ATV-type vehicles on the property other than by the Homeowner’s Association or its designee for maintenance. Also, as required under Condition#24 of the Conditions of Approval, the restrictive covenants shall include a tree preservation covenant.

Response 15:  *Comment Noted.*

Comment 16:  Please clarify on the plans that no amenities are included in this Phase.

Response 16:  *A note regarding no amenities in this phase has been added to the Site Data column.*

Comment 17:  The Final Subdivision Plan shall show all required forested and landscaped buffers and shall meet the requirements of §99-5 “Forested and/or Landscaped Buffer Strip”. Please ensure that no stormwater management facilities are included in the 20-ft width for the landscape buffer strip.

Response 17:  *A 30’ wooded buffer is shown on the plans.*

Comment 18:  Prior to approval of any Final Subdivision Plan, approval letters or ‘no-objection’ letters from the following agencies shall be submitted to the Sussex County Planning and Zoning Department (All items in which a check mark appear have been received by the Department. All bolded items still require submittal to the Department before consideration for final approval can be received):

a. Sussex Conservation District  
b. Office of the State Fire Marshal  
c. Office of Drinking Water (Division of Public Health)  
d. Sussex County Engineering Department  
e. Sussex County Mapping and Addressing Department  
f. Delaware Department of Transportation  
g. The local school district regarding bus stop provisions.  
h. Copies of all HOA documents/restrictive covenants
Response 18: All appropriate approval letters are enclosed within this submittal. We have also included the HOA documents. In addition, there is no DelDOT approval for this phase. These lots were included in the TIS, and the traffic counts are included in the previously installed Phase 1 entrances and the future Phase 4. Please note, bus stop location is Number 8 of the Conditions of Approval. A designated bus stop shelter was already installed as part of Phase 1B, near the clubhouse.

Upon your review, please place the project on the next available Planning & Zoning Commission Agenda.

Thank you for your time and attention in this matter.

Sincerely,

Stephen L. Marsh, P.E.
Sr. Vice President

Enclosures:

- One (1) copy of Revised Final Site Plan (paper and electronic)
- One (1) copy of the SCD Approval Letter, dated 9/11/2020
- One (1) copy of the SFMO Permit, dated 12/16/2019
- One (1) copy of the ODW Approval Letter, dated 1/23/2020
- One (1) copy of the SCED Approval Letter, dated 5/8/2020
- One (1) copy of email correspondence from Mapping & Addressing, dated 5/2019 with approved street names.
- One (1) copy of the HOA documents

cc: Estuary Development, LLC
    Attn: John Galiani (w/ electronic encl.)
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<th>X Location</th>
<th>Y Location</th>
<th>Z Location</th>
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**ESTUARY PHASE 3**
**SUSSEX COUNTY, DELAWARE**

**PRINTS ISSUED FOR:**
**APPROVAL & RECORDATION**

2020 C COPYRIGHT GEORGE, MILES & BUHR, LLC
### Luminaire Schedule

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### Statistics

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</table>
October 5, 2020

Mr. Steve Sellers  
Miller Lewis, Inc.  
1560 Middleford Road  
Seaford, De 19973

RE:  James D. West  
TMP# 530-4.00-34.00 and 530-7.00-2.02

Dear Mr. Sellers,

The Sussex Conservation District has reviewed your submittal on the above referenced project, and we have no objection to recordation.

If you have any questions or concerns, please contact the District at 302-856-2105.

Sincerely,

Jessica L. Watson

Jessica L. Watson  
Program Manager
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 Recodarion  
JAMES WEST  
Tax Parcel # 530-17.00-2.02, 530-14.00-34.00  
SCR004-SUSSEX HIGHWAY  
Northwest Fork Hundred, Sussex County

Dear Mr. Whitehouse:

The Department of Transportation has reviewed the Minor Subdivision Plan dated March 23, 2020 (last revised September 15, 2020), for the above referenced site, and has no objection to its recodarion as shown on the enclosed drawing. This "No Objection to Recodarion" 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 Recodarion", 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 Recodarion" 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 recodarion 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,

[Signature]

Susanne K. Laws
Sussex County Review Coordinator
Development Coordination

cc: Stephen Sellers, Miller Lewis
    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 Ancerson, South District Public Work Admin Specialist
    Wendy L. Polasko, Subdivision Engineer
    John Andrecavage, Sussex County Reviewer
October 5, 2020

Mr. Steve Sellers
Miller Lewis, Inc.
1560 Middleford Road
Seafor, De 19973

RE: James D. West
TMP# 530-4.00-34.00 and 530-7.00-2.02

Dear Mr. Sellers,

The Sussex Conservation District has reviewed your submittal on the above referenced project, and we have no objection to recordation.

If you have any questions or concerns, please contact the District at 302-856-2105.

Sincerely,

Jessica L. Watson

Jessica L. Watson
Program Manager
## OFFICE OF THE STATE FIRE MARSHAL
Technical Services
22705 Park Avenue
Georgetown, DE 19947

### SFMO PERMIT

<table>
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<th>Tax Parcel Number: 530-17.00-2.02</th>
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<td>Status: Approved as Submitted</td>
<td>Date: 04/07/2020</td>
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### Project
- James West Subdivision
- James West Property
- 14686 Sussex Hwy
- Bridgeville DE 19933

### Scope of Project

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<th>Occupant Load Inside:</th>
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<td>Construction Class:</td>
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<td>Fire District: 78 - Greerwood Volunteer Fire Co #1 Inc</td>
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### Applicant

Stephen M Sellers
1560 Road 535
Seaford, DE 19973

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:

Joseph Moran

Page 1 of 2
**FIRE PROTECTION PLAN REVIEW COMMENTS**

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<td><strong>Date:</strong> 04/07/2020</td>
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**PROJECT COMMENTS**

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<tr>
<th>1002 A</th>
<th>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 <a href="http://www.statefiremarshal.delaware.gov">www.statefiremarshal.delaware.gov</a>. 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.</th>
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<tbody>
<tr>
<td>1010 A</td>
<td>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.</td>
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<tr>
<td>1180 A</td>
<td>This report reflects site review only. It is the responsibility of the applicant and owner to forward copies of this review to any other agency as required by those agencies.</td>
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<tr>
<td>1190 A</td>
<td>Separate plan submittal is required for the building(s) proposed for this project.</td>
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<tr>
<td>1501 A</td>
<td>If there are any questions about the above referenced comments please feel free to contact the Fire Protection Specialist who reviewed this project. Please have the plan review number available when calling about a specific project. When changes or revisions to the plans occur, plans are required to be submitted, reviewed, and approved.</td>
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TO: Jamie Whitehouse

REVIEWER: Chris Calio

DATE: 8/24/2020

APPLICATION: 2020-05 Lands of James D. West

APPLICANT: James D. West

FILE NO: WSPA-5.01

TAX MAP & PARCEL(S): 530-14.00-34.00 & 530-17.00-2.02

LOCATION: Located on the west side of Sussex Hwy (Rt. 13), approximately 0.78 miles south of Adams Road

NO. OF UNITS: 4 lots

GROSS ACREAGE: 4.296 +/-

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? 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 subdivision of land is in a Tier 3 area for sanitary sewer service. Therefore, the Sussex County Engineering Department does not currently have 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:

John J. Ashman
Director of Utility Planning

Xc: Hans M. Medlarz, P.E.
    Jayne Dickerson
    No Permit Tech Assigned
September 22, 2020

Sussex County Planning and Zoning Department
PO Box 589
Georgetown, DE 19947

Attn: Ms. Lauren DeVore
   Planner III

Re: Freeman Arts Pavilion
   Tax Map 5-33-19.00-36.01, 864.00, 881.00 & 990.00
   GMB Project No. R150078.00

Dear Lauren:

Please accept this letter and formal Final Site Plan approval request as a follow up to my email dated, 9/2/2020 and our accompanying conference call regarding the referenced project.

I offer the following comments:

1. Master Plan approval for the proposed Freeman Arts Pavilion was granted by the Planning Commission at their December 16, 2015 meeting.
2. Preliminary Site Plan approval was granted by the Planning Commission at their March 12, 2020 meeting.
3. The proposed Final Site Plan is consistent with the previously approved Preliminary Site Plan.
4. As detailed in my 9/2/2020 email and discussed in our follow up call, the Freeman Stage had to significantly alter their plans for the 2020 season due to the COVID-19 pandemic, by limiting the number of patrons to facilitate appropriate social distancing measures. Seats were sold in “pods” of four, with each pod maintaining six feet of separation. I applaud the Freeman Foundation for working tirelessly to bring the arts to lower Sussex County in a time of great turmoil, and for adapting to develop a safe environment for patrons. That being said, the current facility can only accommodate about 400 patrons in the “pod” format. The Freeman Stage team is preparing for another few seasons of social distancing, and 400 patrons is unsustainable.

   As such, the team has developed a phasing plan that would allow for maintaining the same number of patrons as the existing stage facility could accommodate “pre-COVID”, while the new stage facility is being constructed. We have called this “Phase 1A” and anticipate utilizing this arrangement for the next few years. The Phase 1A plan has been added as Sheet No. FSP-5A, “Interim Phase 1A Temporary Site Plan”. Since this sheet was not in the Preliminary Site Plan set, we have labelled the Freeman Arts Pavilion submittal as “Amended Preliminary/Final Site Plan”.
5. We have attached Office of Drinking Water, Office of State Fire Marshal and Sussex Conservation District approval letters. We are just waiting on Sussex County Engineering Department approval.
6. We have enclosed two (2) hard copy check prints of the Amended Preliminary/Final Site Plan and Record Plat for your review. We will address your comments and resubmit with Sussex County Engineering Department approval to be placed on the next available Planning Commission agenda.

Please feel free to contact me with any questions at 410-742-3115. Thank you for your assistance in this matter.

Sincerely,

[Signature]

Stephen L. Marsh, P.E.
Sr. Vice-President

Enclosures: Two (2) copies of the Freeman Arts Pavilion Amended Preliminary/Final Site Plan (check print)

cc: Joshua M. Freeman Foundation
   Attn: Ms. Pattie Grimes (w/o encl.)
September 1, 2020

TIDEWATER UTILITIES, INC.  

APPROVAL TO CONSTRUCT  
Bayside  
Freeman Arts Pavilion  
PWS #DE00A0837  
Approval #20W139

Ms. Patti Grimes  
Carl M. Freeman Foundation, Inc.  
31556 Winterberry Parkway  
Selbyville, DE 19975

Dear Ms. Grimes:

As provided by Section 2.11 of the State of Delaware Regulations Governing Public Drinking Water Systems, you are granted approval to connect the Freeman Arts Pavilion to the existing main in accordance with the plans submitted by George, Miles & Buhr, LLC. The plans consist of:


These plans, as noted, are made a part of this approval. This approval is granted subject to the enclosed list of conditions. It is the owner’s responsibility to ensure as-built drawings are maintained throughout all phases of construction. Prior to receiving an Approval to Operate, the Office of Engineering requires one set of as-built drawings, including profile markups and the following additions:

- Increase the vertical separation distance to 18-inches of between the existing sanitary sewer and the proposed water main at water Crossing X-1 on sheet C1.5A.
- Profile crossing mark-ups are required where the 8-inch sanitary sewer crosses the 6-inch mains to Fire hydrant H-1 and the 2-inch service to the Concessions and Restrooms on sheet C1.5A.

The Office of Engineering recommends detectable tracer tape that is three inches wide and blue in color to be installed directly above all water mains larger than two inches in diameter.
I am sending one set of plans with a copy of this approval to George, Miles & Buhr, L.L.C. that is signed and dated by the Office of Engineering.

Should you have any questions regarding this matter, please feel free to contact Bill Milliken at (302) 741-8646.

Plans reviewed by:

William J. Milliken, Jr.
Engineer III
Office of Engineering

Sincerely,

Doug Lodge, P.E.
Supervisor of Engineering
Office of Engineering

cc: Janelle Cornwell, Sussex County Planning & Zoning
Kevin Neilson, Public Service Commission
Terry Gundry, George Miles & Buhr, L.L.C.
Tawanda Priester, Tidewater Utilities, Inc.
Alexis Virdin-Gede, Tidewater Utilities, Inc.
Ashley Kunder, Office of Drinking Water
1. The approval is void if construction has not started by September 1, 2021.

2. The project shall be constructed in accordance with the approved plans and all required conditions listed in this Approval to Construct. If any changes are necessary, revised plans shall be submitted and a supplemental approval issued prior to the start of construction. As-built plans including profile mark-ups must be submitted to the Office of Engineering after construction has been completed.

3. Representatives of the Division of Public Health may inspect this project at any time during the construction.

4. This approval does not cover the structural stability of any units or parts of this project.

5. The water system shall be operated in conformance with the State of Delaware Regulations Governing Public Drinking Water Systems.

6. All potable water lines and appurtenances shall be disinfected using one of the methods in the American Water Works Association Standard C651, current edition.

7. Water mains crossing sanitary and storm sewers should be laid to provide a minimum vertical distance of 18 inches between the outside of the water main and the outside of the sewer, and the water main should be above the sewer. At crossings, one full length of water pipe should be located so both joints will be as far from the sewer as possible. Special structural support for the water and sewer pipes may be required. In cases where it is not practical to maintain an 18-inch separation, the Division may allow deviation on a case-by-case basis if supported by data from the design engineer.

8. Water mains should be laid 10 feet horizontally from any existing or proposed sanitary or storm sewers. The distance should be measured edge to edge. In cases where it is not practical to maintain a 10-foot separation, the Division may allow deviation on a case-by-case basis if supported by data from the design engineer.

9. All chemicals, materials, mechanical devices, and coatings in contact with potable water shall comply with National Sanitation Foundation/American National Standards Institute Standards (NSF/ANSI) 60 and 61 and shall be inert, nontoxic, and shall not impart any taste, odor, or color to the water.

10. Sufficient valves should be provided so that inconvenience and sanitary hazards will be minimized during repairs. Valves should be located at not more than 500-foot intervals in commercial districts and at not more than one block or 800-foot intervals in other districts.

11. There shall be no connection between the distribution system and any pipes, pumps, hydrants, or tanks whereby unsafe water or other contaminating materials may be discharged or drawn into the system.
12. Fire hydrant drains shall not be connected to or located within 10 feet of sanitary sewers, storm sewers, or storm drains.

13. Prior to usage of water from this new well, water plant, storage plant, or distribution system, approval for the water quality must be obtained from the Division of Public Health.

14. The water system should be capable of providing at least 25 psi at ground level at all times throughout the distribution system.

15. All plastic pipe utilized in this drinking water system shall be approved for potable water use (NSF-pw). If any piping is joined with solder or flux, the solder and flux shall be lead free (less than or equal to 0.2 percent lead).

16. All water lines should be buried to a depth of at least 3 feet.

17. A Certificate of Public Conveniences and Necessity should be acquired from the Public Service Commission, (302) 739-4247.

18. This approval is for the distribution system only. Plans and specifications for all well plumbing, pumps, storage (including any interior coatings), and treatment must be submitted to and approved by this office prior to their installation.

19. The approval is subject to immediate revocation upon violation of any of the preceding conditions.

20. All other local (county/city/town) approvals or permits needed must be obtained prior to beginning construction.

21. Upon completion of construction and before the system is placed into operation, a “Notice of Completion” must be submitted to the Office of Engineering. Before placing the system into operation, the following must be adhered to:
   a. Submit a set of as-built plans with profile markups to the Office of Engineering.
   b. Obtain an Approval to Operate from the Office of Engineering.
May 11, 2020

Ms. Patti Grimes
C/O George, Miles, & Buhr, LLC
206 West Main Street
Salisbury, MD 21801

RE: Americana Bayside – Freeman Arts Pavilion

Dear Ms. Grimes:

A Sediment and Stormwater Management Plan has been reviewed for compliance with the Sediment and Stormwater Regulations and is approved with conditions (see attached). Enclosed herein please find a copy of the approved application form and approved plan sets. Please retain a copy for your use and provide the contractor with a copy to be retained onsite at all times. Failure to keep an approved plan onsite is a violation of the approved plan.

Approval of a Sediment and Stormwater Plan does not grant or imply a right to discharge stormwater runoff. The owner/developer is responsible for acquiring any and all agreements, easements, etc., necessary to comply with State drainage and other applicable laws.

This plan approval pertains to compliance with the Delaware Sediment and Stormwater Regulations. Please understand that the approval of this plan does not relieve you from complying with any and all federal, state, county, or municipal laws and regulations.

As of January 1, 2014, the Sussex Conservation District began collecting financial guarantees to ensure the construction of stormwater management practices is accomplished in accordance with the approved sediment and stormwater plan. Please refer to the SCD Policy on Bonds located on our website at Sussexconservation.org. If you have any questions concerning the aforementioned, please do not hesitate to call 302 856-7219.

Sincerely,
Jessica Watson
Program Manager

JW/jmg
CONDITIONS OF APPROVAL

NOTIFICATION
1. This approved plan will remain valid for 5 years from the date of this approval. If construction does not begin within five years, the approved plan will be considered to have expired, and must be resubmitted to the District for a new review. In addition, if work is not completed within the five-year timeframe, the District must be contacted and a request for an extension submitted. Depending on regulation changes, a new plan may need to be submitted to ensure that all stormwater management facilities are constructed to the most recent standards.

2. Submittal of the Notice of Intent (NOI) for Storm Water Discharges Associated with Construction Activities together with this approval of the detailed Sediment and Stormwater Plan provide this project with Federal permit coverage to be authorized to discharge storm water associated with construction activities. It is the owner’s responsibility to ensure that permit coverage remains valid throughout construction by submitting the NOI fee annually as requested. The developer is responsible for weekly self-inspection reporting to be retained onsite.

3. Notify the Sussex Conservation District Sediment and Stormwater Management Section of your intent to begin construction in writing five (5) days prior to commencing. Failure to do so constitutes a violation of the approved plan.

CHANGES
4. This project is to be undertaken in accordance with the plans submitted and as approved. If changes are necessary at any time during the completion of the project, submit revised plans, prior to further construction, to the Sussex Conservation District Sediment and Stormwater Program for review and approval of the revision.

5. Should ownership change during the construction period, a revised plan must be submitted for approval showing the new owner’s signature on the owner’s certification. In addition, a Transfer of Authorization form must be submitted to DNREC to transfer Federal permit coverage to the new owner.

CONSTRUCTION AND CLOSEOUT
6. A pre-construction meeting must take place before any land disturbing activity begins. The meeting may take place on site and be attended by the owner, contractor, design consultant, Certified Construction Reviewer and Sussex Conservation District Sediment and Stormwater Program Construction Reviewer. The owner or the owner's designee shall contact the Sussex Conservation Construction Reviewer to schedule the pre-construction meeting.

7. Keep available on site, during all phases of construction, a copy of the approved Sediment and Stormwater Management Plan.

8. Keep available on site, during all phases of construction, copies of the Developers weekly self-inspection reports and/or the CCR Reports.

9. Any sediment transported off-site to roads or road rights-of-way including ditches shall be removed. Any damage to ditches shall be repaired and stabilized to original condition.

10. Grading shall not impair surface drainage, create an erosion hazard, or create a source of sediment to any adjacent watercourse or property owner.

11. Failure to implement the permanent stormwater management practices as mentioned herein constitutes a violation of the conditions of this plan approval; it may result in the suspension or revocation of building permits or grading permits issued by the local jurisdiction; and it may result in legal action by the DNREC to bring the site into compliance with the approved Sediment and Stormwater Management Plan and the Delaware Sediment and Stormwater Regulations.

12. The permanent stormwater management facility or facilities must be constructed and accepted by the Sussex Conservation District Sediment and Stormwater Program prior to final closeout of the project site. Post construction verification documentation of the stormwater management facility or facilities must be completed as soon as construction of the facility or facilities is complete so that any necessary modifications may be made during the construction period.
DETAILED SEDIMENT AND STORMWATER MANAGEMENT PLAN APPLICATION

NAME OF PROJECT: Freeman Arts Pavilion

PROJECT DESCRIPTION: Stage, Amphitheater, and facilities at America Bayside for Joshua M. Freeman Foundation

LOCATION OF PROJECT: Americana Bayside - Selbyville, DE

PROJECT TAX MAP NUMBER: 533-19.00-36.01

PROJECT COORDINATES (center of site-decimal degrees) LAT: 38.46534 N  LONG: 75.11228 W

TYPE OF PROJECT: Other

WATERSHED: Assawoman Bay

NUMBER OF Lots: N/A  TOTAL ACRES: 10.54 ac  DISTURBED ACRES: 9.85 ac

APPLICANT'S CONTACT INFORMATION

FIRST NAME: Patti  LAST NAME: Grimes

COMPANY NAME: Joshua M. Freeman Foundation

ADDRESS: 31556 Winterberry Parkway

CITY: Selbyville  STATE: DE  ZIP: 19975

PHONE NUMBER: 302-436-3015  FAX NUMBER:

EMAIL ADDRESS: patti@freemanfoundation.org

CONSULTANT CONTACT INFORMATION

CONSULTANT/ENGINEER NAME: George, Miles & Buhr, LLC

CONTACT PERSON/PROJECT MANAGER: Jonathan R. Soistman, E.I.T.

PHONE #: (410) 742-3115  FAX #: ( )

EMAIL ADDRESS: jsois:man@gmbnet.com

SUSSEX CONSERVATION DISTRICT APPROVAL

REVIEWER:  DATE: 5/11/20

APPROVAL:  DATE: 5/10/20

If ownership of this project changes during the construction period, Sussex Conservation District will require a new signed owner's certification statement.... In addition, the authorization to discharge stormwater under the regulations Part 2 Special Conditions for Storm Water Discharges Associated with Construction Activities, must be transferred by the original owner to the new owner, please contact DNREC for assistance at 302-739-9921.
Please attach project Supplemental BMP Data Sheet to the Detailed Sediment and Stormwater Management Plan Application.

**PROJECT BMP DATA SHEET**

List the BMP(s) utilized in the project stormwater management quantity and water quality strategy.

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<th>BMP NAME</th>
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OFFICE OF THE STATE FIRE MARSHAL
Technical Services
22705 Park Avenue
Georgetown, DE 19947

SFMO PERMIT

Plan Review Number: 2020-04-203895-MJS-01
Status: Approved as Submitted
Tax Parcel Number: 533-19.00-39.00
Date: 06/04/2020

Project
Freeman Arts Pavillion
Americana Bayside Property
Lakeview Drive
Selbyville DE 19975

Scope of Project
Number of Stories: [ ]
Square Footage: [ ]
Construction Class: [ ]
Fire District: 90 - Roxana Volunteer Fire Co
Occupant Load Inside: [ ]
Occupancy Code: [ ]

Applicant
Stephen Marsh
206 W Main Street
Salisbury, MD 21801

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:

Desiree McCall

Page 1 of 3
FIRE PROTECTION PLAN REVIEW COMMENTS

Plan Review Number: 2020-04-203895-MJS-01  Tax Parcel Number: 533-19.00-39.00
Status: Approved as Submitted  Date: 06/04/2020

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.

1040 A This site meets Water Flow Table 2, therefore the following water for fire protection requirements apply: Main Sizes: 6” minimum. Minimum Capacity: 1,000 gpm @ 20 psi residual for 1 hour duration. Hydrant Spacing: 800’ on center.

1180 A This report reflects site review only. It is the responsibility of the applicant and owner to forward copies of this review to any other agency as required by those agencies.

1190 A Separate plan submittal is required for the building(s) proposed for this project.

1132 A Fire hydrants shall be color coded in accordance with the DSFPR, Part III, Section 3 4. This includes both color coding the bonnet and 2” reflective tape around the barrel under the top flange.

1232 A All threads provided for fire department connections, to sprinkler systems, standpipes, yard hydrants or any other fire hose connections shall be uniform to those used by the fire department in whose district they are located. DSFPR Part III,Section 1.1.5.1.

1332 A The distance between a fire hydrant and the fire lane shall not be greater than seven feet (DSFPR Part V, Chapter 5, Section 5 10.4).

1432 A The steamer connection of all fire hydrants shall be so positioned so as to be facing the street or fire lane. (DSFPR Regulation 705, Chapter 5, Section 10).
center of all hose outlet(s) on fire hydrants shall be not less than 18 inches above final grade (NFPA 24, Section 7.3.3).

1299 A The required Fire Lane Access and Perimeter Access and all fire lane markings shall be in accordance with the site plan as approved by this Agency. This will be field verified at the final inspection. Noncompliance may cause a delay in approval for Certificate of Occupancy.

1501 A If there are any questions about the above referenced comments please feel free to contact the Fire Protection Specialist who reviewed this project. Please have the plan review number available when calling about a specific project. When changes or revisions to the plans occur, plans are required to be submitted, reviewed, and approved.
LIST OF DRAWINGS

FSP-1  COVER SHEET
FSP-2  OWNER/DEVELOPER'S CERTIFICATION
FSP-3  ENGINEER'S CERTIFICATION
FSP-4  LOCATION MAP
FSP-5  VICINITY MAP
FSP-6  OWNER/DEVELOPER'S CERTIFICATION
FSP-7  VICINITY MAP
FSP-8  SITE INFORMATION
FSP-9  FOUNDATION
FSP-10  PROJECT LOCATION
Stage (full capacity) 840 spaces
Overflow @ Golf Clubhouse 115 spaces

PHASE 1A INTERIM 642 spaces

PHASE 2 PARKING LOT 332 SPACES

PARKING PER CODE

Required
Provided

FSP-10 FREEMAN ARTS PAVILION PARKING PER CODE

SIGNATURE BOULEVARD

ROUTE 54

LAKEVIEW DRIVE

NORTH HAVEN DRIVE

DESTINATION DRIVE

LAKEVIEW DRIVE

AMERICANA PARKWAY

AMERICANA PARKWAY

FOUNDERS AVENUE

FOUNDERS AVENUE

1014x720

WELCOME

840 spaces

883 spaces

138 spaces

115 spaces

138 spaces

PHASE 1A INTERIM 642 spaces

PHASE 2 PARKING LOT 332 SPACES

PRINTS ISSUED FOR:
APPROVAL AND RECORDE
October 9, 2020

Ms. Lauren DeVore  
Sussex County Planning & Zoning  
2 The Circle  
Georgetown, DE 19947

RE: MillerMetal Fabrication Facility (S-20-17)  
Comment Response Letter  
Tax Parcel: 131-6.00-8.00

Dear Ms. Lauren DeVore:

In response to your Staff Review Letter dated May 8, 2020 for the MillerMetal Fabrication Facility, we offer the following comment responses. Your comments appear below followed by our responses. I am sending you two revised sets of the MillerMetal Site Plans for consideration on the October 22, 2020 Planning and Zoning Meeting. I am also including a copy of the Fire Marshal Site Plan approval for your files.

Preliminary Site Plan

1. Please include the County Project Reference Number at the top center of the Cover Sheet (S-20-17.)

   **Response:** The County Project Reference Number S-20-17 has been added to the Cover Sheet.

2. Please indicate in the Site Data Column that this site plan is also the subject of a proposed Change of Zone application, CZ 1919, to facilitate a change of zone from General Commercial (C-1) Zoning District to Light Industrial (LI-2) Zoning District. The approval of this site plan utilizing the setbacks required in the LI-2 District will be contingent upon the Planning and Zoning Commission and County Council’s approval of the related Change of Zone application.

   **Response:** A note has been added under item 9 of the site data column.

3. Please clarify if any soft landscaping will be proposed for the site.

   **Response:** Soft landscaping will be part of the proposed site; however, it is not part of the construction plan set. Please note that a 6’ fence has been added to the site for screening purposes between the building and Route 404.

4. Please indicate if screening will be provided for the two (2) proposed dumpsters to the rear of the building site. All dumpsters shall meet the setbacks and screening requirements of §115-170.1(C)(1-4).

   **Response:** Screening is not proposed for roll-off dumpsters. The code section referenced is for parcels in the Commercial Zoning Districts. This project is contingent upon approval of the LI-2 zoning district.
5. Please include topographic contours at one foot unless waived by the Commission as clearly unnecessary to review the project or proposal (§115-220(B)(4)).

Response: The grading plan has been included with the submission showing the existing and proposed topographical contours at a 1’ interval.

6. Please clarify the limit of disturbance of the property. The Site Data Column reflects that the limit of disturbance will be 7.5 acres, but the box underneath the Cover Sheet diagram reflects that the limit of disturbance is 8.1 acres.

Response: The Limit of Disturbance box on the cover sheet has been updated to match the Site Data Limit of Disturbance.

7. Please add the size of all proposed stormwater management areas and facilities.

Response: Siteworks has added the stormwater management facility size to sheet R-4.

8. Staff notes that the parking calculation provided for the building meets the “Off-Street Parking” requirements for “Manufacturing” under the Sussex County Code of “1 [space] for every 2 employees on the major shift establishments” (§115-162).

Response: Comment Noted

9. The parking spaces proposed meet the minimum 162 square foot requirement noted in §115-166(1) “Design Standards” of the Sussex County Code.

Response: Comment Noted

10. Staff notes that four (4) loading spaces have been provided which meets the requirements of a proposed building consisting of 60,000 square feet per §115-167 “Off-Street Loading” of the Sussex County Code.

Response: Comment Noted

11. Staff notes that four (4) ADA accessible parking spaces have been included on the plans, which meets the provisions set forth in Table 1106.1 of the 2012 International Building Code. Please ensure that these parking spaces are located as close to the primary entrance to the building as possible.

Response: Comment Noted.
12. Staff notes that an opportunity exists to provide electric vehicle charging at this location and to minimize the carbon footprint of the proposed use. Programs and incentives are available through the State of Delaware, Delaware Department of Natural Resources and Environmental Control (DNREC).

**Response:** Comment Noted

13. Prior to approval of any revised Final Site Plan, it will be necessary to provide letters of approval/no-objection from the following agencies (Items in which a check mark appear have been received by the Department. Items that have been bolded still require submittal to the Department.)

   a. Delaware Department of Transportation (DelDOT) (**approval pending submission of final plans**)
   b. Sussex Conservation District (**SCD has requested final plans**)
   c. Office of the State Fire Marshal (**A copy of the site plan approval is included with this submission**)

Please give me a call if you have any questions or concerns, 302-841-7901.

---

Dave Heatwole, PE | Principal
SITWORKS ENGINEERING
SFMO PERMIT

Plan Review Number: 2020-04-204284-MJS-01
Status: Approved as Submitted

Tax Parcel Number: 131-6.00-8.00
Date: 07/27/2020

Project

Miller Metal Fabrication
Newton Farms LLC

8500 Newton Road
Bridgeville DE 19966

Scope of Project

Number of Stories:
Square Footage:
Construction Class:
Fire District: 72 - Bridgeville Volunteer Fire Co

Occupant Load Inside: Occupancy Code: 9794

Applicant

Dave Heatwole
34 John Andrews Drive
Harrington, DE 19952

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
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.

1031 A  Where the structure being considered is protected throughout by an automatic sprinkler system, the required fire flow shall be modified to meet the designed sprinkler demand where hydraulically calculated plus outside hose streams as specified in NFPA13, Table 11.2.3.1.1 (2002 ed.) (DSFPR Part II, Section 6 3.2.1).

1184 A  Automatic sprinkler systems, installed in accordance with NFPA 13, are required in all buildings exceeding 10,000 sq.ft. of aggregate, gross floor area. Provide note on plan. NOTE: Sprinkler coverage is required throughout and in all areas of the building, including, but not limited to, concealed combustible spaces (attics, canopies), freezers, and coolers. NOTE: When revised plans are required to be resubmitted, a narrative letter does not suffice.

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).

1150 A  A lock box containing keys for fire department access shall be provided for any occupancy which contains a fire alarm signaling system that is monitored off site or for any occupancy that contains an automatic sprinkler system. (DSFPR Regulation 705, Chapter 5, Section 2.4).

1090 A  Fire Lane Access and Perimeter Access shall be in accordance with Table 5-2. (DSFPR Regulation 705, Chapter 5, Section 4.2) Percent of Perimeter Access requirements shall include the required Percent of Fire Lane Access requirements of Table 5-2. (DSFPR Regulation 705, Chapter 5, Section 4.5.2).
1421 A All standpipe and sprinkler connections shall be marked and identified in accordance with DSFPR Regulation 705, Chapter 6, Section 3.0.

1417 A All Fire Lanes shall be marked and identified in accordance with DSFPR Regulation 705, Chapter 5, Section 7.0.

1411 A Fire Lane signs shall be placed at each end of the fire lane and spaced at 150 foot intervals maximum. All Fire Lane signs shall be located no less than six feet and no higher than eight feet above the pavement and shall face oncoming traffic. Where no parking is provided between the building and the Fire Lane, Fire Lane signs shall be posted along the inner curb, building line, or edge of the roadway immediately adjacent to the fire lane. (DSFPR Regulation 705, Chapter 6, Section 7.0).

1180 A This report reflects site review only. It is the responsibility of the applicant and owner to forward copies of this review to any other agency as required by those agencies.

1190 A Separate plan submittal is required for the building(s) proposed for this project.

1195 A Separate plan submittal is required for all flammable gas installations (regardless of tank size) proposed for this project.

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.
Application: CU 2247 Hillary Brock

Applicant: Hillary Brock
19950 Beaver Dam Road
Lewes, DE 19958

Owner: Hillary Brock
19950 Beaver Dam Road
Lewes, DE 19958

Site Location: 19950 Beaver Dam Road. The property is lying on the west side of Beaver Dam Rd. (Rt. 23) approximately 0.41 mile south of Hopkins Rd. (S.C.R. 286)

Current Zoning: AR-1 Agricultural Residential Zoning District

Proposed Use: Operate a Mini Spa

Comprehensive Land Use Plan Reference: Low Density

Councilmanic District: Mr. Burton

School District: Cape Henlopen School District

Fire District: Lewes Fire Department

Sewer: Septic

Water: Well

Site Area: 1.5 acres +/-

Tax Map ID.: 234-5.00-44.09
TODD MATTHEW BROCK

PIN: 234-5.00-44.09

Owner Name: BROCK MATTHEW TOOD

Book: 5197

Mailing Address: 35609 PEREGRINE RD

City: LEWES

State: DE

Description: CRN / BEAVER DAM RD & STOCKLEY RD

Description 2: LOT 5A LANDS OF MATTHEW TODD

Land Code: CRN / BEAVER DAM RD & STOCKLEY RD

Description 3: LOT 5A LANDS OF MATTHEW TODD

Object Layer

Override 1

Object Layer

Override 1

Tax Parcels

Streets
Memorandum
To: Sussex County Planning Commission Members
From: Christin Scott, Planner I
CC: Vince Robertson, Assistant County Attorney and applicant
Date: November 6, 2020
RE: Staff Analysis for CU 2247 Hillary Brock

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2247 Hillary Brock to be reviewed during the November 12, 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 234-5.00-44.09 to allow for a Conditional Use of land in an Agricultural Residential (AR-1) Zoning District to operate a mini spa. The parcel is located on the west side of Beaver Dam Rd. (Rt. 23) in Lewes, Delaware. The size of the property is approximately 1.50 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 north, south, east and west 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, east and west are all zoned AR-1 (Agricultural Residential Zoning District).

Since 2011, there has been one (1) Conditional Use approval within a 1-mile radius of the application site. Conditional Use Number 2014 for a landscaping and site work business was approved by Sussex County Council on October 13, 2015 with Ordinance No. 2420.

Based on the analysis of the land use, surrounding zoning and uses, the Conditional Use to allow operation of a mini spa, 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
19950 Beaver Dam Road Lewes, DE 19958

Type of Conditional Use Requested:
operate a mini spa

Tax Map #: 234-5.00-44.09  Size of Parcel(s): 1.5 acres

Current Zoning: R5AR-1 Proposed Zoning: CU  Size of Building: Whole Building 120'x 40'

Land Use Classification: RS

Water Provider: N/A (own septic)  Sewer Provider: N/A (own septic)

Applicant Information
Applicant Name: Hillary Brock
Applicant Address: 19950 Beaver Dam Road Lewes, DE 19958
City: Lewes  State: DE  Zip Code: 19958
Phone #: 302-228-7208  E-mail: skinbyhillary@gmail.com

Owner Information
Owner Name: Hillary Brock
Owner Address: 19950 Beaver Dam Road
City: Lewes  State: DE  Zip Code: 19958
Phone #: 302-228-7208  E-mail: skinbyhillary@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, De aware.

Signature of Applicant/Agent/Attorney

______________________________ Date: __________________

Signature of Owner

______________________________ Date: 10/12/2020

For office use only:
Date Submitted: __________________ Fee: $500.00 Check #: __________________
Staff accepting application: __________________ Application & Case #: __________________
Location of property: __________________

Subdivision: __________________
Date of PC Hearing: __________________ Recommendation of PC Commission: __________________
Date of CC Hearing: __________________ Decision of CC: __________________
October 8, 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 Hillary Brock conditional use application, which we received on September 23, 2020. This application is for an approximately 1.50-acre parcel (Tax Parcel: 234-5.00-44.09). The subject land is located on the west side of Beaver Dam Road (Sussex Road 285), approximately 200 feet north of the intersection of Beaver Dam Road and Stockley Road (Sussex Road 280). The subject land is currently zoned AR-1 (Agricultural Residential), and the applicant is seeking a conditional use approval to utilize part of the residential facility to operate a mini spa.

Per the 2019 Delaware Vehicle Volume Summary, the annual average and summer average daily traffic volumes along the segment of Beaver Dam Road where the subject land is located, which is from Hollymount Road (Sussex Road 48) to Dairy Farm Road (Sussex Road 261), are 5,982 and 7,699 vehicles per day, respectively.

Based on our review, we estimate that the above land use will generate fewer than 50 vehicle trips per day. This number of trips is below DelDOT’s minimum warrants for determining that a Traffic Impact Study (TIS) should be required for a particular development. DelDOT’s regulations specify the minimum TIS warrants as 50 vehicle trips in any hour and/or 500 vehicle trips per day. Because the proposed land use would generate fewer than 50 vehicle trips per day, we consider the development’s traffic impact to be diminutive 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 diminutive with regard to warranting a TIS does not mean that it is diminutive in other respects. We recommend that the applicant not be required to perform a TIS for the subject application.

A review of TIS completed in the last three years found that a TIS was completed for the Anchors Run (f.k.a. Insight at Lewes Run) residential development. That TIS
included the intersection of Beaver Dam Road and Stockley Road located just south of the subject site’s proposed access. We are enclosing a copy of the TIS review letter.

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: cjmcjm
Enclosure

cc: Hillary Brock, Applicant
Russell Warrington, Sussex County Planning & Zoning
Constance C. Holland, Coordinator, Cabinet Committee on State Planning Issues
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 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: 10/27/2020

APPLICATION: CU 2247 Hillary Brock

APPLICANT: Hillary Brock

FILE NO: NCPA-5.03

TAX MAP & PARCEL(S): 234-5.00-44.09

LOCATION: 19950 Beaver Dam Road. The property is lying on the west side of Beaver Dam Road (Rt. 23) approximately 0.41 mile south of Hopkins Road (SCR 286).

NO. OF UNITS: Operate a mini-spa

GROSS ACREAGE: 1.5

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 located 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 1930 Indian River School District

Applicant: Indian River School District
31 West Hosier St
Selbyville, DE 19975

Owner: Indian River School District
31 West Hosier St
Selbyville, DE 19975

Site Location: 26026 Patriots Way. The property is lying on the east and west side of Patriot’s Way

Current Zoning: AR-1 Agricultural Residential Zoning District

Proposed Zoning: I-1 Institutional Zoning District

Comprehensive Land Use Plan Reference: Commercial & Low Density

Councilmanic District: Mr. Rieley & Mr. Wilson

School District: Indian River School District

Fire District: Millsboro Fire Department

Sewer: Town of Georgetown

Water: Owned by Applicant

Site Area: 186.98 acres +/-

Tax Map ID.: 133-7.00-8.01 & 133-11.00-105.00
Sussex County

October 21, 2020

PIN: 133-11.00-105.00
Owner Name: INDIAN RIVER SCHOOL DISTRICT

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polygonLayer
Override 1

polygonLayer
Override 1

Tax Parcels
Streets
Memorandum
To: Sussex County Planning Commission Members
From: Christin Scott, Planner I
CC: Vince Robertson, Assistant County Attorney and applicant
Date: November 6, 2020
RE: Staff Analysis for CZ 1930 Indian River School District

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1930 Indian River School District to be reviewed during the November 12, 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 Parcels 133-7.00-8.01 and 133-11.00-105.00 to allow for a change of zone from an Agricultural Residential (AR-1) Zoning District to an Institutional (I-1) District. The properties are lying on the northeast and southwest side of Patriots Way (S.C.R. 318) in Georgetown, DE. The size of the properties are approximately 32.43 acres +/- and 164.55 acres +/- respectively.

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 133-7.00-8.01 has the land use designation of “Low Density.” The Future Land Use map in the plan indicates that the subject property 133-7.00-8.01 has the land use designation of “Commercial.” Each property to the north, south and east also has the “Low Density” designation. Properties to the west are designated “Developing Area” or are located within a municipality. 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. “Commercial Areas” include concentrations of retail and service uses that are mainly located along arterials, and highways. Specifically, Commercial Areas include commercial corridors, shopping centers, and other medium and large commercial vicinities geared towards vehicular traffic.

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 Institutional (I-1) Zoning District is listed as an applicable zoning district in both the “Low Density” and “Commercial 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. In the near vicinity there are also parcel located within a municipality.

Since 2011, there have been two (2) Change of Zone applications within a one-mile radius of the subject properties. Change of Zone No. 1903, which proposed a change from Agricultural Residential (AR-1) District to Medium Commercial (C-2) District, was approved by County Council on February 25, 2020. It was adopted through Ordinance No. 2709. Change of Zone No. 1814, proposed a change from Agricultural Residential (AR-1) District to Commercial Residential (CR-1) District, was approved by the Sussex County Council on April 11, 2017. It was adopted through Ordinance No. 2491.

Based on the analysis of the surrounding zoning and uses, a Change of Zone to an Institutional (I-1) Zoning District 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
26026 Patriots Way Georgetown, DE 19947

Type of Conditional Use Requested:
NA, rezoning request to I-1 Institutional District

Tax Map #: 133-11-00-105.00 133 7.00 8.01 Size of Parcel(s): 159.6 Ac. +/- 32.43 Acres

Current Zoning: AR-1 Proposed Zoning: I-1 Size of Building: NA

Land Use Classification: Currently under a conditional use for high school.

Water Provider: Owned by applicant Sewer Provider: Town of Georgetown

Applicant Information
Applicant Name: Indian River School District C/O Joseph W. Booth
Applicant Address: 31 West Hosier Street
City: Selbyville State: DE Zip Code: 19975
Phone #: (302) 436-1000 E-mail: joseph.Booth@irsd.k12.de.us

Owner Information
Owner Name: Indian River School District C/O Joseph W. Booth
Owner Address: 31 West Hosier Street
City: Selbyville State: DE Zip Code: 19975
Phone #: (302) 436-1000 E-mail: joseph.Booth@irsd.k12.de.us

Agent/Attorney/Engineer Information
Agent/Attorney/Engineer Name: NA
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
  - Survey shall show the location of existing or proposed building(s), building setbacks, parking area, proposed entrance location, etc.
  - Provide a PDF of Plans (may be e-mailed to a staff member)
  - 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

1. N/A 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 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

Joseph W. Booth JRSO

Date: 5-11-2020

Signature of Owner

Joseph W. Booth JRSO

Date: 5-11-2020

For office use only:

Date Submitted: 5/13/2020

Staff accepting application: JF

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
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 Indian River School District / Joseph W. Booth (Supervisor Building and Grounds) rezoning application, which we received on May 11, 2020. This application is for an approximately 186.98-acre assemblage of parcels (Tax Parcels: 133-7.00-8.01 and 133-11.00-105.00). The subject land is located on the both sides of Patriots Way (Sussex Road 318), just north of Avenue of Honor (Sussex Road 86), south of Georgetown. The subject land is currently zoned AR-1 (Agricultural Residential), and the applicant is seeking to rezone the land to I-1 (Institutional) to continue operating the two existing schools, measuring 97,000 and 188,000 square feet; and to develop 310,000 square feet of additional school space.

Per the 2019 Delaware Vehicle Volume Summary, the annual average daily traffic volume along the segment of Patriots Way where the subject land is located is 3,018 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.

On February 6, 2020, a Traffic Operational Analysis (TOA) was completed for a proposed 157,000 square-foot special needs school on Tax Parcel 133-7.00-8.01. DelDOT reviewed the TOA and issued a TOA review letter, containing recommendations for roadway and entrance improvements, on March 25, 2020. A copy of the TOA review letter is enclosed with this letter.
MEMORANDUM

TO: Susanne Laws, Sussex Review Coordinator

FROM: Troy Brestel, Project Engineer

DATE: March 25, 2020

SUBJECT: Howard T. Ennis School (Protocol Tax Parcel #133-7.00-8.01)
Results of Traffic Operational Analysis (TOA)

We have reviewed the traffic operational analysis (TOA) for the proposed Howard T. Ennis School, submitted by Traffic Planning and Design, Inc., on February 6, 2020. The analysis evaluates the traffic impacts of the proposed development, which is to be located on the east side of Patriots Way (Sussex Road 318), across from the existing Sussex Central High School, in Sussex County. The proposed development would consist of a 157,000 square foot special needs school. One full access is proposed across from the central access to the existing high school. Construction is expected to be complete by 2022.

Based on our review, we find that the Sussex Central High School south entrance / Patriots Way intersection and the proposed site entrance / Sussex Central High School middle entrance / Patriots Way intersection would operate at level of service (LOS) D or better during the a.m. and p.m. peak hours for both present and future conditions, and would meet the LOS criteria listed in Chapter 2 of the Development Coordination Manual.

For the Sussex Central High School north entrance / Patriots Way intersection, the high school eastbound approach would operate at LOS E during the a.m. peak hour for both present and future conditions. However, the 95% queue length for this approach would only be approximately 125 feet for each condition analyzed during the a.m. peak hour and is the result of the higher operating volumes at this intersection during the beginning of the school day for the high school. We do not recommend any improvements to be made to this intersection.
Table 1
PEAK HOUR LEVELS OF SERVICE (LOS)
Howard T. Ennis School – TOA
Prepared by Traffic Planning and Design, Inc.

<table>
<thead>
<tr>
<th>Unsignalized Intersection</th>
<th>LOS per TOA</th>
<th>LOS per DelDOT</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Weekday AM</td>
<td>Weekday PM</td>
</tr>
<tr>
<td>Site Entrance / Sussex Central</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Middle Entrance / Patriots Way</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2019 Existing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Northbound Patriots Way Left-Turn</td>
<td>A (8.5)</td>
<td>A (8.0)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2022 without development</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Northbound Patriots Way Left-Turn</td>
<td>A (8.5)</td>
<td>A (8.0)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2022 with development</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Northbound Patriots Way Left-Turn</td>
<td>A (8.2)</td>
<td>A (7.9)</td>
</tr>
<tr>
<td>Southbound Patriots Way Left-Turn</td>
<td>A (8.6)</td>
<td>A (*)</td>
</tr>
<tr>
<td>Westbound Site Entrance</td>
<td>C (20.2)</td>
<td>C (15.1)</td>
</tr>
</tbody>
</table>

1 Numbers in parentheses are average vehicle delay, measured in seconds.
2 The (*) symbol in the table denotes that no measurable value was observed in the analysis, due to the movement having zero volume.
Table 3
PEAK HOUR LEVELS OF SERVICE (LOS)
Howard T. Ennis School – TOA
Prepared by Traffic Planning and Design, Inc.

<table>
<thead>
<tr>
<th>Unsignalized Intersection¹</th>
<th>LOS per TOA</th>
<th>LOS per DelDOT</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Weekday AM</td>
<td>Weekday PM</td>
</tr>
<tr>
<td></td>
<td>Weekday AM</td>
<td>Weekday PM</td>
</tr>
<tr>
<td>Sussex Central North Entrance / Patriots Way</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2019 Existing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Northbound Patriots Way Left-Turn</td>
<td>B (10.4)</td>
<td>A (7.6)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Eastbound Sussex Central Entrance</td>
<td>E (36.9)²</td>
<td>C (17.9)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2022 without development</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Northbound Patriots Way Left-Turn</td>
<td>B (10.4)</td>
<td>A (7.6)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Eastbound Sussex Central Entrance</td>
<td>E (38.2)²</td>
<td>C (18.1)</td>
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<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2022 with development</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Northbound Patriots Way Left-Turn</td>
<td>B (10.7)</td>
<td>A (7.5)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Eastbound Sussex Central Entrance</td>
<td>E (43.8)²</td>
<td>C (20.8)</td>
</tr>
</tbody>
</table>

¹ Numbers in parentheses are average vehicle delay, measured in seconds.
² The 95% queue length is approximately 5 vehicles, or 125 feet.
TO: Jamie Whitehouse

REVIEWER: Chris Calio

DATE: 10/27/2020

APPLICATION: CZ 1930 Indian River School District

APPLICANT: Indian River School District

FILE NO: NCPA-5.03

TAX MAP & PARCEL(S): 133-7.00-8.01 & 133-11.00-105.00

LOCATION: 26026 Patriots Way. The property is lying on both sides of Patriots Way

NO. OF UNITS: Upzone from AR-1 to I-1

GROSS ACREAGE: 186.98

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 Change of Zone is not located 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
<table>
<thead>
<tr>
<th><strong>Application:</strong></th>
<th>CZ 1932 Jeff-Kat, LLC</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Applicant:</strong></td>
<td>Jeff-Kat, LLC</td>
</tr>
<tr>
<td></td>
<td>113 Draper Dr</td>
</tr>
<tr>
<td></td>
<td>Rehoboth Beach, DE 19971</td>
</tr>
<tr>
<td><strong>Owner:</strong></td>
<td>First Baptist Church of Lewes</td>
</tr>
<tr>
<td></td>
<td>P.O. Box 25</td>
</tr>
<tr>
<td></td>
<td>Lewes, DE 19958</td>
</tr>
<tr>
<td><strong>Site Location:</strong></td>
<td>The east side of Kings Highway (Route 9) approximately 900 feet southeast of Theodore C. Freeman Highway (S.C.R 23)</td>
</tr>
<tr>
<td><strong>Current Zoning:</strong></td>
<td>AR-1 Agricultural Residential Zoning District</td>
</tr>
<tr>
<td><strong>Proposed Zoning:</strong></td>
<td>C-3 Heavy Commercial Zoning District</td>
</tr>
<tr>
<td><strong>Comprehensive Land Use Plan Reference:</strong></td>
<td>Coastal Area</td>
</tr>
<tr>
<td><strong>Councilmanic District:</strong></td>
<td>Mr. Burton</td>
</tr>
<tr>
<td><strong>School District:</strong></td>
<td>Cape Henlopen School District</td>
</tr>
<tr>
<td><strong>Fire District:</strong></td>
<td>Lewes Fire Department</td>
</tr>
<tr>
<td><strong>Sewer:</strong></td>
<td>Lewes BPW</td>
</tr>
<tr>
<td><strong>Water:</strong></td>
<td>Lewes BPW</td>
</tr>
<tr>
<td><strong>Site Area:</strong></td>
<td>0.78 acre +/-</td>
</tr>
<tr>
<td><strong>Tax Map ID.:</strong></td>
<td>335-8.00-40.00 (part of)</td>
</tr>
</tbody>
</table>
Owner Name: CHURCH FIRST BAPTIST OF LEWES

Book: 0
Mailing Address: PO BOX 25
City: LEWES
State: DE
Description: KING ST. RD.
Description 2: LOT W/IMP 2.2 AC.S.
Description 3: 64150

Land Code: 335-8.00-40.00

PIN: 335-8.00-40.00
Memorandum
To: Sussex County Planning Commission Members
From: Nick Torrance, Planner I
CC: Vince Robertson, Assistant County Attorney and applicant
Date: November 6th, 2020
RE: Staff Analysis for CZ 1932 Jeff-Kat, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1932 Jeff-Kat, LLC to be reviewed during the November 12th, 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 335-8.00-40.00 (portion of) to allow for a change of zone from an Agricultural Residential (AR-1) Zoning District to a Heavy Commercial (C-3) District. The property is lying on the east side of Kings Hwy. (Route 9) 900 feet southeast of Theodore C. Freeman Highway (S.C.R 23). The size of the property is approximately 0.78 acre +/-.

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 south, east, and west also has the “Coastal Area” designation. The property to the north is located within town limits of Lewes and therefore has a future land use classification of Municipality. 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 Heavy Commercial (C-3) 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. The parcels to the south and west are currently zoned C-1 (general commercial), the parcel to the east is currently C-3 (Heavy commercial) and the parcels to the north are located within town limits.

Since 2011, there has been one Change of Zone applications within a one-mile radius of the subject property. Change of Zone No. 1875, which proposed a change from Agricultural Residential (AR-1) District to Heavy Commercial (C-3) District, was approved by County Council on May 14th, 2019. It was adopted through Ordinance No. 2654.
Based on the analysis of the surrounding zoning and uses, a Change of Zone to a Heavy Commercial (C-3) Zoning District 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
1005 Kings Highway, Lewes, Delaware

Type of Conditional Use Requested:
N/A (Rezoning)

Tax Map #: p/o 335 800 40.00 Size of Parcel(s):

Current Zoning: AR-1 Proposed Zoning: C-3 Size of Building: Existing

Land Use Classification:

Water Provider: Lewes BPW Sewer Provider: Lewes BPW

Applicant Information
Applicant Name: Jef-Kat, LLC
Applicant Address: 113 Draper Drive
City: Rehoboth Beach State: DE ZipCode: 19971
Phone #: 302-745-0875 E-mail: jeffatins@comcast.net

Owner Information
Owner Name: First Baptist Church of Lewes
Owner Address: PO Box 25
City: Lewes State: DE Zip Code: 19968
Phone #: E-mail:

Agent/Attorney/Engineer Information
Agent/Attorney/Engineer Name: N/A
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 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: 07/09/3050

**Signature of Owner**

Date: __________________________

**For office use only:**

Date Submitted: __________________________ Fee: $500.00 Check #: __________________________

Staff accepting application: __________________________ Application & Case #: __________________________

Location of property: __________________________

Subdivision: __________________________

Date of PC Hearing: __________________________ Recommendation of PC Commission: __________________________

Date of CC Hearing: __________________________ Decision of CC: __________________________
August 20, 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 Jeff-Kat, LLC rezoning application, which we received on July 27, 2020. This application is for a portion of a 2.20-acre parcel (Tax Parcel: 335-8.00-40.00). The subject land is located on the east side of Kings Highway (Sussex Road 268), approximately 900 feet southeast of the intersection of Kings Highway and Theodore C. Freeman Highway (Sussex Road 23). The subject land is currently zoned as AR-1 (Agricultural Residential), and the applicant is seeking to rezone the land to C-3 (Heavy Commercial) to utilize the facility for offices and expansion of brewpub operations.

Per the 2019 Delaware Vehicle Volume Summary, the annual average and summer average daily traffic volumes along the segment of Kings Highway where the subject land is located, which is from Gills Neck Road (Sussex Road 267) to Freeman Highway, are 12,019 and 15,468 vehicles per day, respectively.

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 site plan is proposed.

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.
SUSSSEX COUNTY ENGINEERING DEPARTMENT
UTILITY PLANNING DIVISION
C/U & C/Z COMMENTS

TO: Jamie Whitehouse
REVIEWER: Chris Calio
DATE: 10/27/2020
APPLICATION: CZ 1932 Jeff-Kat LLC
APPLICANT: Jeff-Kat LLC
FILE NO: NCPA-5.03
TAX MAP & PARCEL(S): 335-8.00-40.00 (part of)
LOCATION: The east side of Kings Highway (Rt. 9), approximately 900 feet southeast of Theodore C. Freeman Highway (SCR 23).
NO. OF UNITS: Upzone from AR-1 to C-3
GROSS ACREAGE: 0.78

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? Municipal Growth & annexation Area

(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 Change of Zone is within the boundaries of the City of Lewes’ Growth and Annexation Area. Therefore, the Sussex County Engineering Department has no 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. Meclarz, P.E.
    Jayne Dickerson
    No Permit Tech Assigned
Jeff-Kat, LLC  
Jeff Hamer  
113 Draper Drive  
Rehoboth Beach, DE 19971

Via Hand Delivery

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

RE: Rezoning of P/O 335-8.00-40.00 from AR-1 to C-3  
Jeff-Kat, LLC

Dear Mr. Whitehouse,

We are pleased to enclose the following with regard to our request to rezone this property from AR-1 to C-3:

- The Application Form
- 8 copies of a survey of the property to be rezoned
- A metes and bounds description of the property to be rezoned
- A check payable to Sussex County in the amount of $500.00
- A summary of the reasons we are seeking the rezoning
- A copy of Ordinance # 2654 approving C-3 Zoning adjacent to this property

Because this rezoning seeks to be a minor expansion of our existing Big Oyster Brewpub operations next door to this property, we are respectfully requesting that it be exempted from the PLUS process.

Thank you in advance for your attention and cooperation with regard to this matter. If you have any questions or need any additional information to process this request, please do not hesitate to contact us.

Respectfully Submitted,  
Jeff-Kat, LLC  Jeff Hamer
SUMMARY OF REZONING REQUEST

The Applicant is Jeff-Kat, LLC, an LLC owned by Jeff and Kim Hamer. Jeff-Kat is the owner of the Big Oyster Brewpub immediately next door to this property. Jeff and Kim Hamer also own the Fins Restaurants in Rehoboth Beach, Bethany Beach and Berlin, Maryland, along with CLAWS Restaurant in Rehoboth Beach.

This application seeks to rezone this small adjacent lot along Kings Highway from its current AR-1 Zoning to C-3 Zoning so that it can be utilized as an improvement and expansion of the brewpub operations.

As a bit of background, the subject property is currently owned by The First Baptist Church of Lewes. The property is improved by a home and a multi-purpose building that has been used for church gatherings, basketball and other similar uses. The church sanctuary is not located on this parcel.

The Church and Big Oyster have had a good relationship over the years, and when the Church discussed plans to sell this parcel so that it could use the proceeds to construct a new sanctuary on the existing field owned by it on the other side of its property, an agreement was reached to sell this property to the Church’s neighbor, Jeff-Kat.

The purchase and use of this property is beneficial to Jeff-Kat and the Big Oyster Brewpub because it will allow a better overall configuration and use of the property, including vehicular and pedestrian movement on the site. Right now, vehicular access to the rear of the current brewpub is difficult, at best. By adding this property, it will significantly improve vehicular movement and parking within the entire site.

It is the intention to retain the existing buildings on the property (the residential structure and metal multi-purpose/gym). The residence will likely be used for office operations associated with the brewpub and Jeff-Kat’s other restaurants. The multi-purpose building will likely be used to relocate and house part of the brewpub operations. This reconfiguration will also free up space within the existing brewpub property for use by patrons. One of the goals is to increase the outdoor, or “backyard” area at the rear of the brewpub for outdoor enjoyment by the brewpub’s patrons.

If this rezoning is approved, it will not adversely affect the neighbors or the neighborhood, and it is very important to continue to be good neighbors with the Church. The brewpub uses will not be materially different from what is currently
occurring on the site and there will not be any noise or odors generated by the expansion of operations onto the rezoned property. Traffic patterns and parking within the site will be improved, and this will benefit traffic on Kings Highway by creating more space within the site and eliminate cars waiting to pull in (as sometimes currently occurs).

C-3 Zoning is appropriate for this site for several reasons. C-3 Zoning is consistent with the County's recent approval of C-3 Zoning for the land behind both the Big Oyster Brewery and the entire Church property. This rezoning application is an appropriate expansion of the existing C-3 Zoning. The existing brewpub site is zoned C-1. C-1 Zoning is no longer available in Sussex County, and C-3 Zoning is the most compatible for the expansion of the brewpub site. The site is also in the Coastal Area according to the Sussex County Comprehensive Plan. The Plan indicates that C-3 zoning is appropriate in the Coastal Area.

As the owners of The Big Oyster Brewery, we hope that you will look favorably upon this rezoning request.
Exhibits

1. Project Information

2. Data Column

3. Rezoning Submission/Application

4. Maps
   a. Surrounding Communities Map
   b. Firmette from FEMA
   c. 2020 State Strategies Map
   d. Sussex County 2045 Future Land Use Map
   e. Sussex County Zoning Map
   f. 1992 Aerial Map
   g. Current Aerial Map

5. Deed of Record

6. DelDOT Support Facilities Report

7. Rezoning Plan
Exhibit 1
A. Land Use & Zoning

1. The Owner’s name is First Baptist Church of Lewes, Delaware, Inc.

2. The Applicant is Jeff-Kat, LLC.

3. The property is located at 1005 Kings Highway in Lewes, Delaware.

4. The property is currently zoned AR (Agricultural / Residential).

5. The property is located in the Level 1 Area of the 2015 State Strategies Map.

6. The property is located within the Coastal Area per the Comprehensive Plan.

B. Land Utilization

1. The total acreage of land to be rezoned is approximately 0.77 +/- acres of land.

2. The land to be rezoned was used for parking and buildings to support Church ministries.

C. Environmental

1. The property does not contain federal wetlands as indicated on the National Wetland Inventory Map.

2. The project is not located in the floodplain.

3. There are no known archaeological sites or National Register-listed properties on the parcels of land.

D. Traffic

1. A Support Facilities Report was completed for this project.

2. A Traffic Impact Study is not required for the rezoning according to DelDOT.
Exhibit 2
Jeff-Kat, LLC. Rezoning
Data Sheet

**Owner / Developer:** First Baptist Church of Lewes

**Applicant:** Jeff-Kat, LLC

**Engineer:** Davis, Bowen & Friedel, Inc.

**Project Description**
Physical Location: 1005 Kings Highway, Lewes, Delaware
Tax Parcel #: 3-35-8.00-40.00 (part of)
Acreage: 0.77 +/- Acres
Current Zoning: AR-1
Proposed Zoning: C-3
Land Use: Big Oyster Brewery Operations

**Minimum Zoning Requirements**

<table>
<thead>
<tr>
<th></th>
<th>AR-1</th>
<th>C-3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front Yard Setback:</td>
<td>30’</td>
<td>60’</td>
</tr>
<tr>
<td>Side Yard Setback:</td>
<td>15’</td>
<td>5’</td>
</tr>
<tr>
<td>Rear Yard Setback:</td>
<td>20’</td>
<td>5’</td>
</tr>
</tbody>
</table>
Exhibit 3
Jeff-Kat, LLC
Jeff Hamer
113 Draper Drive
Rehoboth Beach, DE 19971

Via Hand Delivery

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

RE: Rezoning of P/O 335-8.00-40.00 from AR-1 to C-3
Jeff-Kat, LLC

Dear Mr. Whitehouse,

We are pleased to enclose the following with regard to our request to rezone this property from AR-1 to C-3:

- The Application Form
- 8 copies of a survey of the property to be rezoned
- A metes and bounds description of the property to be rezoned
- A check payable to Sussex County in the amount of $500.00
- A summary of the reasons we are seeking the rezoning
- A copy of Ordinance # 2654 approving C-3 Zoning adjacent to this property

Because this rezoning seeks to be a minor expansion of our existing Big Oyster Brewpub operations next door to this property, we are respectfully requesting that it be exempted from the PLUS process.

Thank you in advance for your attention and cooperation with regard to this matter. If you have any questions or need any additional information to process this request, please do not hesitate to contact us.

Respectfully Submitted,
Jeff-Kat, LLC  Jeff Hamer
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
1005 Kings Highway, Lewes, Delaware

Type of Conditional Use Requested:
N/A (Rezoning)

Tax Map #: p/o 335 8.00 40.00
Size of Parcel(s):

Current Zoning: AR-1 Proposed Zoning: C-3 Size of Building: Existing

Land Use Classification:

Water Provider: Lewes BPW Sewer Provider: Lewes BPW

Applicant Information
Applicant Name: Jeff-Kat, LLC
Applicant Address: 113 Draper Drive
City: Rehoboth Beach State: DE ZipCode: 19971
Phone #: 302-745-0875 E-mail: jeffatfins@comcast.net

Owner Information
Owner Name: First Baptist Church of Lewes
Owner Address: PO Box 25
City: Lewes State: DE Zip Code: 19958
Phone #: E-mail:

Agent/Attorney/Engineer Information
Agent/Attorney/Engineer Name: N/A
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: __________________

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: __________________ Decision of CC: __________________
Date of CC Hearing: __________________
Boundary Survey Plan with Improvements

FIRST BAPTIST CHURCH OF LEWES 2.1438 AC. PARCEL ON
KINGS HWY, PARTIALLY IN THE CITY OF LEWES, SUSSEX CO., DELAWARE
Plat Ref.: Bk. 48, Pg. 104
Scale: 1" = 50'
Class "B" Survey
Client: FIRST BAPTIST CHURCH
TAX MAP: 335-8.00-40.00

No recorded rights-of-way, easements or other encumbrances affecting these lands have been provided to the Surveyor by the Client. No warranty as to title to any lands depicted hereon is explicitly or implicitly provided.

SURVEYED BY: VW
DRAWN BY: AK
CHECKED BY: VW
PROJECT #: N/A
DATE: 3/23/2020
SHEET NO: 1
ALL THAT CERTAIN lot, piece and parcel of land, lying and being in Lewes and Rehoboth Hundred, Sussex County and State of Delaware fronting on the southeasterly side of Kings Highway (Road 268) and being further described as follows:

BEGINNING at a capped rebar set in the southeasterly right of way of Kings Highway (Road 268), said point being the common corner of these lands and lands now or formerly of Jeff-Kat, LLC; thence running by and with said right of way North 21 degrees 17 minutes 13 seconds East 118.00 feet to a ½ inch capped rebar, said point being the common corner of these lands and lands now or formerly of The First Baptist Church of Lewes; thence by and with said Church lands South 68 degrees 43 minutes 52 seconds East 292.32 feet to a ½ inch iron pipe; thence South 21 degrees 02 minutes 58 seconds West 115.75 feet to a ¾ inch iron pipe, said point being the common corner of these lands and the aforesaid lands of Jeff-Kat; thence by and with said lands of Jeff-Kat North 69 degrees 10 minutes 18 seconds West 292.80 feet to the point and place of beginning, as further depicted on a survey prepared by Atlantic Surveying & Mapping, LLC dated March 23, 2020.
SUMMARY OF REZONING REQUEST

The Applicant is Jeff-Kat, LLC, an LLC owned by Jeff and Kim Hamer. Jeff-Kat is the owner of the Big Oyster Brewpub immediately next door to this property. Jeff and Kim Hamer also own the Fins Restaurants in Rehoboth Beach, Bethany Beach and Berlin, Maryland, along with CLAWS Restaurant in Rehoboth Beach.

This application seeks to rezone this small adjacent lot along Kings Highway from its current AR-1 Zoning to C-3 Zoning so that it can be utilized as an improvement and expansion of the brewpub operations.

As a bit of background, the subject property is currently owned by The First Baptist Church of Lewes. The property is improved by a home and a multi-purpose building that has been used for church gatherings, basketball and other similar uses. The church sanctuary is not located on this parcel.

The Church and Big Oyster have had a good relationship over the years, and when the Church discussed plans to sell this parcel so that it could use the proceeds to construct a new sanctuary on the existing field owned by it on the other side of its property, an agreement was reached to sell this property to the Church’s neighbor, Jeff-Kat.

The purchase and use of this property is beneficial to Jeff-Kat and the Big Oyster Brewpub because it will allow a better overall configuration and use of the property, including vehicular and pedestrian movement on the site. Right now, vehicular access to the rear of the current brewpub is difficult, at best. By adding this property, it will significantly improve vehicular movement and parking within the entire site.

It is the intention to retain the existing buildings on the property (the residential structure and metal multi-purpose/gym). The residence will likely be used for office operations associated with the brewpub and Jeff-Kat’s other restaurants. The multi-purpose building will likely be used to relocate and house part of the brewpub operations. This reconfiguration will also free up space within the existing brewpub property for use by patrons. One of the goals is to increase the outdoor, or “backyard” area at the rear of the brewpub for outdoor enjoyment by the brewpub’s patrons.

If this rezoning is approved, it will not adversely affect the neighbors or the neighborhood, and it is very important to continue to be good neighbors with the Church. The brewpub uses will not be materially different from what is currently
occurring on the site and there will not be any noise or odors generated by the expansion of operations onto the rezoned property. Traffic patterns and parking within the site will be improved, and this will benefit traffic on Kings Highway by creating more space within the site and eliminate cars waiting to pull in (as sometimes currently occurs).

C-3 Zoning is appropriate for this site for several reasons. C-3 Zoning is consistent with the County’s recent approval of C-3 Zoning for the land behind both the Big Oyster Brewery and the entire Church property. This rezoning application is an appropriate expansion of the existing C-3 Zoning. The existing brewpub site is zoned C-1. C-1 Zoning is no longer available in Sussex County, and C-3 Zoning is the most compatible for the expansion of the brewpub site. The site is also in the Coastal Area according to the Sussex County Comprehensive Plan. The Plan indicates that C-3 zoning is appropriate in the Coastal Area.

As the owners of The Big Oyster Brewery, we hope that you will look favorably upon this rezoning request.
ORDINANCE NO. 2654

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.317 ACRES, MORE OR LESS

WHEREAS, on the 28th day of December 2018, a zoning application, denominated Change of Zone No. 1875, was filed on behalf of L. W. & J. T. Mitchell Family, LP; and

WHEREAS, on the 11th day of April 2019, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 25th day of April 2019, said Planning and Zoning Commission recommended that Change of Zone No. 1875 be approved; and

WHEREAS, on the 14th day of May 2019, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article II, Subsection 115-7, Code of Sussex County, be amended by deleting from the Comprehensive Zoning Map of Sussex County the zoning classification of [AR-1 Agricultural Residential District] and adding in lieu thereof the designation of C-3 Heavy Commercial District as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying on the southeast side of Kings Highway, approximately 0.3 miles northeast of Gills Neck Road and being more particularly described in the attached legal description prepared by Davis, Bowen & Friedel, Inc., said parcel containing 1.317 acres, more or less.

This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.
The Council found that the Change of Zone was appropriate legislative action based on the following Findings of Fact:

A. This is the application of L.W. & J.T. Mitchell Family L.P. (Big Oyster) to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a C-3 Heavy Commercial District for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 1.317 acres, more or less (land lying on the southeast side of Kings Highway, approximately 0.3 miles northeast of Gills Neck Road) (Tax I.D. No. 335-8.00-37.00 (portion of) (911 Address: None Available).

B. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that David C. Hutt, Esquire, with Morris James LLP, Jeff Hamer, Principal of Big Oyster Brewery, Bob Mitchell and Jerry Mitchell, property owners, and Ring Lardner, with Davis, Bowen, & Friedel, Inc., were present on behalf of the application; that the property is located in the area behind Big Oyster Brewery, Lane Builders, and First Baptist Church; that the project is not the entire Mitchell farm property; that the property was farmed up until 2019; that the farming operation has stopped and there has been a "For Sale" sign on the property for many years; that Big Oyster Brewery was looking to expand the existing business site to add more parking and storage; and that Big Oyster Brewery has arrangements with people across the street to be able to have off-site parking, but it requires customers to cross Kings Highway.

C. Council also found that the site is not in a floodplain and there are no wetlands on the site; that there are no known historic or cultural features on the site; that the site has access to public utilities and is currently served by the Lewes Board of Public Works for sewer and water; that the property is located in the Delaware State Strategies for Spending Level 1 Area; that the property is located within the Lewes Fire District and the Cape Henlopen School District; that the Land Use Classification per the 2008 Comprehensive Plan is that the site is located in the Environmentally Sensitive Developing Area and, according to the 2018 Comprehensive Plan, it is located in the Coastal Area; that the site is located in a designated growth area; that C-1 zoned property is located behind the site and across the street; that there is B-1 zoning nearby, Conditional Uses, and many business uses in the City of Lewes; that the Applicant applied for C-3 zoning classification because it most closely resembles the front portion of the property that is zoned C-1; that the C-3 zoning has fewer permitted uses than C-1 (General Commercial) zoning would allow for; that the setbacks are the same; that the parcel would meet the minimum 1-acre lot size for C-3 zoning; that if the rezoning is approved, a lot line adjustment would occur between the farm and the Big Oyster Brewery; that Kings Highway is a busy well-traveled road; and that Route 9 is a major arterial road per County Code.

D. Council further found that the Cape Henlopen Medical Office is beginning its construction of the offices and the Mitchell family is putting in its entrance; that the Conditional Use for Lot 1 is for the Cape Henlopen Office Building, and the supporting infrastructure is located on the Mitchell property which is providing the access from Gills Neck Road further away from Kings Highway; that the internal road which will serve the Cape Henlopen Building and the road could potentially serve the residual land; and that a road would be put in and built to Sussex County standards.

E. Based on the Findings (1 through 8) of the Planning & Zoning Commission, Council found that:
1. C-3 (Heavy Commercial Zoning) is designed to allow auto-oriented retail and service businesses that serve local and regional residents. Permitted uses include retail uses, restaurants, offices, and vehicle service stations.

2. The site is at the rear of a property fronting Kings Highway that is currently used for a restaurant and a church. This location is appropriate for this type of zoning.

3. This location is currently vacant. The Applicant has stated that this will be used for centralization and expansion of its restaurant and brewery.

4. As stated by the Applicant, there will be interconnectivity between this site and the existing brewpub restaurant that is next to it.

5. The site will be served by central water and sewer.

6. The site is in the Environmentally Sensitive Developing Area (now identified as the Coastal Area) according to the prior and current Sussex County Land Use Plans. This type of commercial use is appropriate in these areas according to the Plan.

7. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order, prosperity and welfare of the County.

8. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.

F. Based on the record created before the Planning and Zoning Commission and the Sussex County Council, the Council approved this application.
Exhibit 4
Sussex County
Unincorporated Areas
100029

NOTE:
This map includes boundaries of the Coastal Barrier Resources System established under the
Coastal Barrier Resources Act of 1982 and/or other
enabling legislation.

Notice to User: The Map Number shown below should be used when placing map orders. The Community Number
shown above should be used on insurance applications for the
subject community.

MAP NUMBER
10005C0194K

MAP REVISED
MARCH 16, 2015

Federal Emergency Management Agency
Entire Site is within the
Environmental Sensitive Developing Area
Sussex County Zoning Map
Jeff-Kat, LLC. Rezoning
Sussex County, Delaware

Sources:
Tax Parcels per Sussex County

November 2020
Lewes-Georgetown Highway
Gills Neck Road
Kings Highway
Jeff-Kat, LLC. Rezoning
Sussex County, Delaware

Sources:
Tax Parcels per Sussex County

November 2020

2017 Aerial Photo
Jeff-Kat, LLC. Rezoning
Sussex County, Delaware

0 500 1,000 Feet

Summer 2017 Aerial Photo
Exhibit 5
This Deed, made this 
Third day of March in the year of our LORD one thousand nine hundred and seventy-three.

BETWEEN, Ralton H. Dennis and Richard Dennis, executors of the Estate of Virgil L. Dennis, deceased; Beaside Dennis, widow; Ralton H. Dennis and Dorothy L. Dennis, his wife; Richard Dennis and Geneevlje E. Dennis, his wife, parties of the first part;

and

First Baptist Church of Lewes, Delaware, Inc., a Religious Corporation of the State of Delaware, party of the second part:

Witnesseth, That the said part in of the first part, for and in consideration of the sum of $37,500.00 lawful money of the United States of America, the receipt whereof is hereby acknowledged, hereby grant and convey unto the said party of the second part,

ALL

That certain tract, piece, and parcel of land, located in Lewes and Rehoboth Hundred, Sussex County, Delaware, near the town of Lewes, Delaware, described as follows, to wit: Beginning on the old county road known as the King Street Road, being road #9868, at the corner now or formerly of the Robinson Homestead, marked by a Chestnut post, and running along and with the Robinson line south 61° east a distance of 209 feet 6 inches to a cedar post; thence turning and running south 28° west a distance of 115 feet 9 inches to a post in line of lands now or formerly of Fred C. Marshall; thence turning and running north 61° east a distance of 300 feet to the edge of the King Street Road; thence turning and running in a northeastly direction along and with the King Street road 118 feet, home to the place of beginning, be the contents what they may, with all improvements thereon.

Being same lands conveyed to Virgil L. Dennis and Bertha E. Dennis, his wife, by George W. Robinson, widower, by deed dated the 13th day of April, 1939, said deed now of record in the office of the Recorder of Deeds, in and for Sussex County, Delaware, in deed book no. 426, page 526.

The said Bertha E Dennis predeceased her husband, Virgil L. Dennis, therefore said lands descended to the said Virgil L. Dennis absolutely.

The said Virgil L. Dennis later remarried and his wife is known as Beaside Dennis.

The said Virgil L. Dennis died testate, on or about 19th day of September, 1972, and in and by his Last Will and Testament of record in the office of the Register of Wills, in and for Sussex County, Delaware, he ordered that the residue of his property be sold by his executors and divided between his wife, Beaside Dennis and two sons, Ralton H. Dennis and Richard Dennis.

LAW OFFICES OF
Maull & Maull
EAST MARKET STREET
GEORGETOWN, DELAWARE 19947
In Witness Whereof, the said parties of the first part have hereunto set their hand and seals, the day and year aforesaid.

(SIGNATURE)
(SEAL)

Ralph H. Dennis
Richard Dennis, Executors of Estate of Virgil L. Dennis, deceased.

(SEAL)

(SIGNATURE)

State of Florida
County of

BE IT REMEMBERED, that on this 3rd day of February A.D. 1773, personally appeared before me, a Notary Public of the State and County aforesaid, Ralph H. Dennis, executor of the estate of Virgil L. Dennis, deceased; and Richard Dennis and Genevieve E. Dennis, his wife, parties to this indenture, known to me personally to be such, and they acknowledged this indenture to be their act and deed. Given under my hand and seal of office the day and year aforesaid.

Notary Public.

STATE OF DELAWARE.

Sussex County

BE IT REMEMBERED, that on this 17th day of March, in the year of our Lord one thousand nine hundred and seventy three, personally came before me, a Notary Public in and for the State and County aforesaid, Ralph H. Dennis, executor of the Estate of Virgil L. Dennis, deceased, and Beaulne Dennis, widow; Ralph H. Dennis and Dorothy L. Dennis, his wife,

Parties to this Indenture, known to me personally to be such, and they acknowledge this Indenture to be their Deed.

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

RECEIVED

Notary Public

LAW OFFICES OF
Maul & Maul
EAST MARKET STREET GEORGETOWN, DELAWARE 19940
Exhibit 6
August 21, 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 Jeff-Kat, LLC rezoning application, which we received on July 27, 2020. This application is for a 0.7-acre portion of a 2.20-acre parcel (Tax Parcel: 335-8.00-40.00). The subject land is located on the east side of Kings Highway (Sussex Road 268), approximately 900 feet southeast of the intersection of Kings Highway and Theodore C. Freeman Highway (Sussex Road 23). The subject land is currently zoned as AR-1 (Agricultural Residential), and the applicant is seeking to rezone the land to C-3 (Heavy Commercial) to utilize the existing facility for the expansion of brewpub operations.

Per the 2019 Delaware Vehicle Volume Summary, the annual average and summer average daily traffic volumes along the segment of Kings Highway where the subject land is located, which is from Gills Neck Road (Sussex Road 267) to Freeman Highway, are 12,019 and 15,468 vehicles per day, respectively.

Based on our review and information provided by the applicant, 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: cjm
cc: Constance C. Holland, Coordinator, Cabinet Committee on State Planning Issues
    Jeff-Kat, LLC, Applicant
    Todd Sammons, 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 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
Exhibit 7
Boundary Survey Plan with Improvements
FIRST BAPTIST CHURCH OF LEWES 2.1438 AC. PARCEL ON
KINGS HWY, PARTIALLY IN THE CITY OF LEWES, SUSSEX CO., DELAWARE
Plat Ref.: Bk. 48, Pg. 104
Scale: 1" = 50'
Class "B" Survey
Client: FIRST BAPTIST CHURCH
TAX MAP: 335-8.00-40.00

No recorded rights-of-way, easements
or other encumbrances affecting these
lands have been provided to the Surveyor
by the Client. No warranty as to title to
any lands depicted hereon is explicitly or
implicitly provided.

SURVEYED BY:        VW
DRAWN BY:           AK
CHECKED BY:         VW
PROJECT #:          N/A
DATE:               3/23/2020
SHEET NO:           1
Improving our communities.
Shaping the world around us.
Creating value by design.
ORDINANCE NO. ___

AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE XXV, SECTION 115-194.3 OF THE CODE OF SUSSEX COUNTY REGARDING THE COASTAL AREA.

WHEREAS, pursuant to the provisions of Title 9, Chapter 68 and 69, Delaware Code, the Sussex County government has the power and the authority to regulate the use of land and to adopt a Comprehensive Plan; and

WHEREAS, pursuant to Chapter 115 of the Code of Sussex County, as amended, the Sussex County government has undertaken to regulate the use of land; and

WHEREAS, the Sussex County Council adopted a Sussex County Comprehensive Plan Update on September 2, 2002, which established an “Environmentally Sensitive Developing Area” with “special environmental design and protection requirements”; and

WHEREAS, Sussex County Council adopted a Sussex County Comprehensive Plan that was certified by the Governor on March 19, 2019, and this Plan expanded what was formerly identified as the “Environmentally Sensitive Developing Area” and renamed that Area as the Coastal Area in the Future Land Use Map contained therein; and

WHEREAS, it is the intent of the Sussex County Council to balance the need to protect land equity with the need to reasonably protect the County’s environment and to protect and enhance the water quality of the County’s “Inland Bays”; and

WHEREAS, Goal 4.6 and Strategy 4.6.2 of the Sussex County Comprehensive Plan states that Sussex County should “Recognize the importance of the Inland Bays” and “Recognize the Inland Bays, their tributaries and other waterbodies as valuable open space areas of ecological importance”; and

WHEREAS, Goal 4.3 of the Sussex County Comprehensive Plan states that Sussex County should “Identify and designate future development areas in a manner that protects the County’s natural and cultural resources from the adverse impacts of development as outlined in the Conservation [Element of the Plan]”; and
WHEREAS, Goal 4.3 of the Sussex County Comprehensive Plan includes Objective 4.3.2 which states that Sussex County should “Promote new development that incorporates preserved usable open space and mitigates for the protection or replacement of environmental resources in subdivision design” and Strategy 4.3.2.3 and 4.3.2.4 which state that Sussex County should “Strengthen County development regulations to ensure that open space dedicated by developers contains contiguous open space” and “Revisit County Code to determine if modifications are needed to open space requirements to promote less fragmentation of open space”; and

WHEREAS, it has been determined that in order to promote and protect the health, safety, convenience, orderly growth and welfare of the inhabitants of Sussex County, and to assist in the proper development of land.

NOW, THEREFORE, THE COUNTY OF SUSSEX ORDAINS:

Section 1. The Code of Sussex County, Chapter 115, Article xxv §115-194.3 “Coastal Area” is hereby amended by deleting the language in brackets and adding the italicized and underlined language:

§ 115-194.3. Coastal Area.

A. Delineation of the zoning district.

(1) The Coastal Area shall include all lands designated as the "Coastal Area" in the adopted Sussex County Comprehensive Plan dated March 19, 2019, or as subsequently amended.

(2) Where the boundary of the Coastal Area is formed by a roadway, the overlay zone shall be deemed to include the contiguous property on the far side of the roadway, provided that depth of the Coastal Area on contiguous property shall not exceed 600 feet.

B. Application process.

(1) All rezoning, subdivision, business and industrial site plans and conditional use applications involving one or a combination of the following shall be subject to the process and performance requirements as described hereinafter:

(a) Any residential planned community application.
(b) Any development containing 50 or more dwelling units.

(c) Any development containing 75,000 square feet or more of floor area used for commercial or industrial uses.

(d) Any use or activity that requires a permit in the Coastal Zone.

(2) The applicant shall submit an environmental assessment and public facility evaluation report and sketch plan (report) to the Director of Planning and Zoning, a copy of which will be forwarded to the Office of State Planning Coordination and members of the Technical Advisory Committee for review and comment. The sketch plan shall address the following issues for the property to be developed and, where appropriate to the context, for the contiguous property. Information submitted by the applicant shall at a minimum contain the following:

(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.

(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.

(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.

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

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

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

(g) Provisions for open space as defined in § 115-4.
(h) A description of provisions for public and private infrastructure.

(i) Economic, recreational or other benefits.

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

(k) [An affirmation that] A description of how the proposed application and proposed mitigation measures are in conformance with the current Sussex County Comprehensive Plan.

(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.

(3) The Director of Planning and Zoning shall prepare (with input from the County Administrator) guidelines describing the application process and the form and content of information to be submitted by the applicant and shall review all applications, plans, assessments and other information submitted and prepare a written report summarizing his findings and the comments of state agencies and other County offices. The Planning and Zoning Commission shall make a determination as to whether adequate information has been presented for the project to proceed. A completed report shall be required prior to any preliminary plan approval for a development subject to this section. Approval of the report does not constitute final approval of the commenting agencies.

C. Permitted uses and densities.

(1) Uses permitted in the Coastal Area will be those uses permitted in the underlying zoning category as established by the Sussex County Zoning Ordinance.

(2) Uses prohibited in the underlying zone are also prohibited in the overlay zone.

(3) Subject to the design requirements set forth in §115-194.3D, [T]he maximum density shall be the allowable density of the underlying zoning district for developments using a central water and wastewater collection and treatment system. "Central sewer system" means centralized treatment and disposal facilities as defined in § 115-194A. Within [this Overlay District] the Coastal Area, clustering of single-family detached lots to a minimum lot size of 7,500 square feet is permitted in all residential zoning districts using a central water and sewer system. For
dwelling units using on-site individual wastewater disposal systems, the allowable
density shall be based upon a minimum lot size of 3/4 of an acre. The applicant has
the option of clustering the lots to a minimum lot size of 1/2 of an acre where soil
conditions are suitable as determined by DNREC, provided, however, that the
number of lots or dwelling units permitted shall not exceed the number permitted in
the underlying district. [For purposes of this subsection, the "allowable density" shall
be determined by calculating the lot area and the area of land set aside for common
open space or recreational use but shall exclude any area designated as a tidal
tributary stream or tidal wetlands by § 115-193.]

(4) For areas within the Conservation Zone, as currently defined in the Sussex
County Zoning Ordinance, the minimum lot size and dimension requirements in the
Conservation Zone shall apply.

D. Design Requirements for Coastal Area development.

(1) The applicant must submit a “yield plan” that accurately depicts the maximum
number of dwelling units possible on the same tract under the current applicable
conventional (non-cluster/non-Coastal Area) development regulations.

(a) The yield plan shall be completed to scale, and accurately depict
potential lots, streets, and storm drainage facilities. However, the yield plan
is not required to contain the same level of engineering detail required for a
subdivision plan.

(b) The yield plan shall depict all wetlands, wooded areas, waterways or
other water bodies.

(c) The maximum number of dwelling units allowed on a cluster
development tract shall not be greater than the maximum number of dwelling
units determined to be possible under the yield plan prepared for that same
tract.

(d) The yield plan shall not have any legal standing except for the purposes
of determining maximum density allowed under a cluster development.

(2) The Planning and Zoning Commission shall determine that the following
requirements are met before approving any preliminary plan.

(a) The preliminary plan of the Coastal Area subdivision provides for a
total environment and design which is superior, in the reasonable judgment
of the Planning Commission, to that which would be allowed under the regulations for a conventional (non-cluster/non-Coastal Area) standard subdivision. For the purposes of this subsection a proposed subdivision which provides for a total environment and design which are superior to that allowed under the conventional (non-cluster/non-Coastal Area) standard subdivision is one which, in the reasonable judgment of the Planning Commission meets all of the following criteria:

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

[2] Required open space shall comply with the following criteria:

[a] All required open space must meet the official definition of acceptable open space contained in § 115-4.

[b] Required open space must be designed to be beneficial to the residents or users of the open space. It shall not be constituted of fragmented lands with little open space value. Accordingly, 30% of all required open space shall be located on one contiguous tract of land, except that such open space may be separated by water bodies and a maximum of one street.

[c] If one of the following physical conditions exists adjacent to the proposed Coastal Area development tract, at least 30% of all required open space must be adjacent to:

[i] An existing or officially planned public park, land preserved by easement, or land preserved as open space and in municipal, County, state, or federal ownership.

[ii] Existing wetlands, waterways, wildlife corridors, or other ecology-sensitive land.

[iii] Existing farmland and/or woodlands.
If more than one of these physical features exist on adjacent properties, then one of these features will be identified and utilized to satisfy this requirement.

If the open space is proposed to be dedicated to a municipality, a County, state, or federal agency or a homeowners' association, an agreement shall be provided, in advance, stipulating that such entity agrees in advance to accept that dedication and maintain that land for public recreation or as a nature preserve.

Open space in a Coastal Area development may include a pedestrian trail system accessible to residents. Construction materials for the proposed trail shall be identified, and a typical construction detail for the proposed trail shall be shown. Trail construction materials shall be pervious in nature.

A minimum of 25 feet of permanent setback must be maintained around the outer boundaries of all wetlands, except for tidal waters, tidal tributary streams and tidal wetlands and from the ordinary high water line of perennial nontidal rivers and nontidal streams as provided for in § 115-193B where a fifty-foot permanent setback is required. No buildings or paving shall be placed within these setbacks.

Stormwater management shall be designed to promote groundwater recharge and protect groundwater quality. Natural drainage flows shall be maintained to the greatest extent possible. Drainage from rooftops shall be directed to vegetated areas or allow green technology. Stormwater detention and retention facilities should be designed to resemble natural ponds as referenced by DNREC in the National Resource Conservation Service's (NRCS) Pond Code 378, Visual Resource Design.

Removal of healthy mature trees shall be limited.

Scenic views that can be seen from within the tract should be preserved to the greatest extent possible.
[7] Design consideration should be given by the applicant toward the establishment of a greenways system which utilizes schools, parks, wildlife habitat areas, river and stream corridors, wetlands, floodplains, historic sites, business parks, urban sidewalks, abandoned rail lines, roads, beach areas and vacant land. Greenways should provide benefits like safe pedestrian, bicycling and equestrian routes for recreationists and commuters; and natural wildlife corridors and biological reserves.

[8] The applicant for a Coastal Area development shall illustrate that the following sequence and process was followed in the site design of the Coastal Area development:

[a] Identify lands that should be preserved. First, areas worthy of preservation should be mapped, including wetlands, wooded areas, waterways, other water bodies, and natural drainage areas. Then, other features that are important should be mapped, such as tree lines, scenic views, historic buildings, and prime farmland. The areas with the fewest important natural, scenic and historic features should be considered the "potential development area."

[b] Identify developable areas. Next, the most appropriate locations for development should be chosen to minimize the impact to the most important features mapped in the first step.

[c] Locate roads and trails. After the developable areas are determined, a road system should be designed to serve those homes. A trail system that links homes to destinations outside of the tract should be designed.

[d] Locate lot lines. The last step is to configure lot lines and make necessary adjustments to satisfy the various reviewing agencies' comments.

[D]E. Exemptions from the Coastal Area. The following are exempted from the requirement of this section:

(1) Single-family residential lots of record as of the date of this section.
(2) Existing developments and developments which have filed for approval as of the
date of this section.

[E. Design consideration should be given by the applicant toward the establishment
of a greenways system which utilizes schools, parks, wildlife habitat areas, river and
stream corridors, wetlands, floodplains, historic sites, business parks, urban
sidewalks, abandoned rail lines, roads, beach areas and vacant land. Greenways
should provide benefits like safe pedestrian, bicycling and equestrian routes for
recreationists and commuters; and natural wildlife corridors and biological reserves.]