

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



Sussex County

DELAWARE
sussexcountyde.gov

PLEASE NOTE

This paperless packet is published on the County's website for convenience purposes, and only includes information received up to the close of business on the day before a public hearing. Documents received after this, or documents submitted during the public hearing are not uploaded to the Paperless Packet. The legal record is the paper record maintained in the Offices of the Planning & Zoning Department.



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

ROBERT C. WHEATLEY, CHAIRMAN
KIM HOEY STEVENSON, VICE CHAIRMAN
R. KELLER HOPKINS
J. BRUCE MEARS
HOLLY WINGATE



2 THE CIRCLE | PO BOX 417
GEORGETOWN, DE 19947
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Sussex County Planning & Zoning Commission

AGENDA

April 28, 2022

5:00 P.M.

Call to Order

Approval of Agenda

Approval of Minutes – March 24, 2022

Other Business

- | | |
|---|----|
| <u>(2018-24) Sycamore Chase (F.K.A. Good Will Farm & Willow Run)</u>
Revised Final Subdivision Plan | BM |
| <u>(S-19-46) Ocean Park</u>
Revised Preliminary Site Plan | KS |
| <u>(S-21-35) Millsboro Fire Company Substation</u>
Preliminary Site Plan | HW |
| <u>(S-22-03) Steiner Road Industrial Park</u>
Preliminary Site Plan - Request to Determine the Type and Nature of Proposed Use | HW |
| <u>Peninsula Lakes Residential Planned Community (RPC)</u>
Revised Amenities Plan | BM |
| <u>(2017-17) Hailey's Glen (F.K.A. Keilbasa)</u>
Revised Amenities Plan | KS |
| <u>Sussex Bible Church</u>
Preliminary Site Plan | HW |
| <u>Coastal Tide Amended Parking Plan</u>
Revised Final Site Plan | KS |
| <u>Lands of Joshua Loose and Kristen Loose</u>
Minor Subdivision Plan | HW |



Old Business

2021-28 Lands of Fannin

KH

A standard subdivision to divide 4.45 acres +/- into five (5) single-family lots to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County. The property is lying on the north side of Shawnee Road (Route 36), approximately 0.70 mile southwest of S. DuPont Highway (Route 113). Tax Parcel: 130-3.00-170.00. Zoning: MR (Medium Density Residential District).

C/U 2318 V&M, LLC

KS

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for a convenience store and office building to be located on a certain parcel of land lying and being in Lewes & Rehoboth Hundred, Sussex County, containing 3.305 acres, more or less. The properties are lying on the southeast corner of the intersection of John J. Williams Highway (Route 24) and Mulberry Knoll Road (S.C.R. 284) also on the southeast side of John J. Williams Highway (Rt. 24) and also on the southwest side of Mulberry Knoll Road (S.C.R. 284). 911 Addresses: 19429, 19425, 19405, & 19387 John J. Williams Hwy. & 19676, 19662, 19646, & 19634 Mulberry Knoll Rd., Lewes. Tax Parcels: 334-12.00-108.00, 108.01, 109.00, 109.01, 110.00, 111.00, 111.01, 112.00.

C/Z 1962 Jeff-Kat, LLC

KS

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 portion of a parcel of land lying and being in Lewes & Rehoboth Hundred, Sussex County, containing 1.19 acres, more or less. The property is lying on the east side of Kings Highway (Rt. 9) approximately 0.36-mile northeast of the intersection of Kings Highway (Rt. 9) and Gills Neck Road (S.C.R. 267). 911 Address: 1005 & 1007 Kings Highway, Lewes. Tax Parcel: 335-8.00-39.00 (portion of).

Public Hearings

C/U 2341 Caden Oplinger

KH

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for a farm tractor and truck repair shop to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 20 acres, more or less. The property is lying on the southeast side of Shawnee Road (Route 36), approximately 0.23 miles south of Abbotts Pond Road (S.C.R. 620). 911 Address: N/A. Tax Parcel: 130-6.00-22.00.

C/Z 1933 Route 54 Limited Partnership

HW

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 Baltimore Hundred, Sussex County, containing 1.62 acres, more or less. The property is lying on the south side of Lighthouse Road (Route 54), approximately 0.39 mile east of Johnson Road (S.C.R. 390). 911 Address: 33006 Lighthouse Road, Selbyville. Tax Parcel: 533-18.00-59.00.

C/Z 1934 Bunting Holdings, LLC

HW

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 Baltimore Hundred, Sussex County, containing 3.18 acres, more or less. The property is a landlocked parcel of land lying on the south side of Lighthouse Road (Route 54), approximately 0.39 mile east of Johnson Road (S.C.R. 390). 911 Address: N/A. Tax Parcel: 533-18.00-58.00.

C/Z 1980 MARS-RE, LLC

BM

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 Baltimore Hundred, Sussex County, containing 3.91 acres, more or less. The property is lying on the south side of Atlantic Avenue (Route 26), approximately 475 ft. east of Powell Farm Road (S.C.R 365). 911 Address: 34464 Atlantic Avenue, Ocean View. Tax Parcel: 134-11.00-191.00

C/Z 1956 Jeffrey Behney

HW

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 Gumboro Hundred, Sussex County, containing 10.546 acres, more or less. The property is lying on the northeast of the intersection of E Line Road (S.C.R. 419) and Parker Road. 911 Address: 38531 Parker Road. Tax Parcel: 333-15.00-20.00.

AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 72, ARTICLE II, SECTIONS 72-16 THROUGH 72-28 AND CHAPTER 115, ARTICLE IV, V, VI, VII AND VIII SECTIONS 115-20, 115-25, 115-29, 115-34, 115-37, 115-42, 115-45, 115-50, 115-53 AND 115-58 REGARDING AFFORDABLY PRICED RENTAL UNITS AND THE SUSSEX COUNTY RENTAL UNIT (SCRIP) PROGRAM

Additional Business

In accordance with 29 Del. C. §10004(e)(2), this Agenda was posted on April 21, 2022 at 3:25 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 DETAILS-

The meeting will be streamed live at: <https://sussexcountyde.gov/council-chamber-broadcast>

The County provides 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 are encouraged to be submitted by 4:00 P.M on Wednesday, April 27, 2022.

###



Memorandum

To: Sussex County Planning Commission Members

From: Jamie Whitehouse, AICP, Director, Department of Planning & Zoning; Jenny Norwood, Planning and Zoning Manager; Lauren DeVore, Planner III; Michael Lowrey, Planner III; Chase Phillips, Planner II; Christin Scott, Planner I; Elliott Young, Planner I & Jesse Lindenberg, Planner I

CC: Vince Robertson, Assistant County Attorney

Date: April 20th, 2022

RE: Other Business for the April 28th, 2022 Planning Commission Meeting

This memo provides background for the Planning Commission to consider as a part of the Other Business to be reviewed during the April 28th, 2022 Meeting of the Planning & Zoning Commission.

(2018-24) Sycamore Chase (F.K.A. Good Will Farm & Willow Run)

BM

Revised Final Subdivision Plan

This is a Revised Final Subdivision Plan for the creation of a cluster subdivision consisting of one-hundred and four (104) single-family lots with amenities to include a clubhouse and pool. The Final Subdivision Plan for the development was approved by the Planning and Zoning Commission at their meeting of Thursday, March 11, 2021. The property is located on the west side of the intersection of Peppers Corner Road (S.C.R. 365) and Central Avenue (Route 84). Specifically, revisions to the plan include the extension of the ROW on Big Ben Court and Sunrise Court and to utilize the multi-modal plan as the buffer along Bayard Road and Peppers Corner Road as has been the case with other proposed projects due to DelDOT regulations. The proposed ROW extensions will not affect setbacks and the Sussex County Engineering Department has provided approval for these changes. The Revised Final Subdivision Plan complies with the Sussex County Zoning and Subdivision Code and all Conditions of Approval. Zoning District: AR-1 (Agricultural Residential District). Tax Parcels: 134-18.00-55.00, 134-19.00-5.00 & 6.00. Staff are in receipt of all agency approvals.

(S-19-46) Ocean Park

KS

Revised Preliminary Site Plan

This is a Revised Preliminary Site Plan for the construction of one (1) 30,00 square foot office building, one (1) 7,700 square foot office building, and one (1) 7,700 square foot restaurant, as well as other site improvements. The parcels total 5.482 acres +/- and are located on the southwest corner of the intersection of Cedar Grove Road (S.C.R. 283) and Plantations Road (S.C.R. 275). The Applicant requests relief to allow parking in the front yard setback. The Applicant has also indicated that the two parcels will be combined prior to the submission of the Final Site Plan. The Revised Preliminary Site Plan complies with the Sussex County Zoning Code. Zoning District: AR-1 (Agricultural Residential District) and B-1 (Neighborhood Business District). Tax Parcels: 334-12.00-50.00, 334-12.00-51.00. Staff are awaiting agency approvals.

(S-21-35) Millsboro Fire Company Substation

HW

Preliminary Site Plan

This is a Preliminary Site Plan for the adaptive reuse of the existing structures on the site as a fire company substation for the Millsboro Fire Company. The Sussex County Council approved this use through Conditional Use (CU 2314) at their meeting of Tuesday, November 30, 2021 and the change



was adopted through Ordinance No. 2816. The property is located on the northeast corner of Lewis Road (S.C.R. 409) and Millsboro Highway (Route 30). The Applicant's Preliminary Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Zoning District: AR-1 (Agricultural Residential District). Tax Parcel: 133-20.00-17.16. Staff are in receipt of all agency approvals.

(S-22-03) Steiner Road Industrial Park

HW

Preliminary Site Plan - Request to Determine the Type and Nature of Proposed Use

Pursuant to staff's review of the Preliminary Site Plan for the site, the Applicant has requested the Planning & Zoning Commission review the type and nature of the proposed uses at the site in terms of (§115-110); Permitted Uses and "potentially hazardous uses" as described in (§115-110(C)). The Preliminary Site Plan proposes for industrial uses to include the following as described in the plan; a "Concrete Central Mixing and Proportioning Plant" and a "Building Materials Recycling and Sorting Facility." Prior to any determination by the Director (§115-111), the Applicant has requested for Commission to consider if the proposed uses may be categorized under "similar industrial uses" as listed in (§115-110(C)). The parcels are located on the east side of Steiner Road (S.C.R. 320) approximately 1,060 feet south of Lewes Georgetown Highway (Route 9). Zoning District: HI-1 (Heavy Industrial District). Tax Parcels: 135-16.00-23.05, 135-16.00-23.06

Peninsula Lakes Residential Planned Community (RPC)

BM

Revised Amenities Plan

This is a Revised Ameniteis Plan for the previously approved and established Penninsula Lakes Residential Planned Community (RPC). The Peninsula Lakes Residential Planned Community was established through Change of Zone #1474 which changed the zoning on the site from Agricultural Residential (AR-1) District and General Residential (GR) District to Medium Density Residential, Residential Planned Community (MR-RPC). The Applciation was approved by the Sussex County Council on Tuesday, November 19, 2002 and the change was adopted through Ordinance No. 1572. The Final Site Plan for the development was approved by the Planning and Zoning Commission at their meeting of Thursday, October 16, 2008. Changes to the previous Amenities Plan include the relocation of the pavilion to the south side of the walking path, the revision of the bocce and horseshoe court locations, and the relocation of the proposed playground area (tot lot) to be located at the north end of the tennis court parking area. The Revised Amenities Plan complies with the Sussex County Zoning and Subdivision Codes and all Conditions of Approval. Zoning District: MR-RPC (Medium Density Residential – Residential Planned Community). Tax Parcels: 234-29.00- 248.00, 249.00, 249.01, 249.02, 256.00 & 259.00. Staff are in receipt of all agency approvals.

(2017-17) Hailey's Glen (F.K.A. Keilbasa)

KS

Revised Amenities Plan

This is a Revised Ameniteis Plan for the Hailey's Glen subdivision, a cluster subdivision comprised of sixty-seven (67) single-family lots and proposed amenities to include a double-sided fireplace, 1,120 square foot open air pavilion, 308 square foot patio and 204 square foot mailbox station. The Commission may recall that the previously proposed Amenities Plan was reviewed at their meeting of Thursday, February 17, 2022 where it was determined that, due to reasons including safety and traffic circulation concerns, the mail area be relocated to a better-suited location. Staff have been presented with an amended plan which addresses the Commission's earlier concerns. In addition, staff have provided a copy of the Meeting Minutes from the previously mentioned meeting for the Commission's review and this information has been included in the Commission's packet for this evening. The Revised Amenities Plan complies with the Sussex County Zoning and Subdivision Codes and all

Conditions of Approval. Zoning District: AR-1 (Agricultural Residential District). Tax Parcel: 234-12.00-11.00. Staff are in receipt of all agency approvals.

Sussex Bible Church

HW

Preliminary Site Plan

This is a Preliminary Site plan for the Sussex Bible Church for the creation of a proposed 31,250 square foot church building, a 240 square foot pavilion, an amphitheater, athletic field, softball field and other site improvements. The property is located on the east side of Harbeson Road (Route 5) and on northwest side of Cool Spring Road (S.C.R. 290). The Preliminary Site Plan complies with the Sussex County Zoning Code. Zoning District: AR-1 (Agricultural Residential Zoning District). Tax Parcel: 234-10.00-75.00. Staff are awaiting agency approvals.

Coastal Tide (F.K.A. Arbors of Cottagedale)

KS

Revised Final Site Plan

This is a Revised Final Site plan for the Coastal Tide Multi-family complex for the addition of thirty-eight (38) parking spaces, 12 garage unit spaces and related site improvements. The Sussex County Council approved a Conditional Use (C/U 1845) for the site to allow the multifamily dwellings at their meeting of Tuesday, February 23, 2010 and this change was adopted through Ordinance No. 2106. Additionally the Final Site Plan for the development was approved by the Planning and Zoning Commission at their meeting of Thursday, February 14, 2019. The property is located on the northeast side of Plantations Road (Route 1D). The Revised Final Site Plan complies with the Sussex County Zoning and Subdivision Code and all Conditions of Approval. Zoning District: MR (Medium Residential Zoning District). Tax Parcel: 334-6.00-5.02. Staff are awaiting agency approvals.

Lands of Joshua Loose and Kristen Loose

HW

Minor Subdivision Plan

This is a Minor Subdivision Plan for the creation of three lots plus residual lands off a 50-foot access easement. Proposed Lot 1 consists of 2.6 acres +/- . Proposed Lot 2 consists of 1.11 acres +/- . Proposed Lot 3 consists of 1.25 acres +/- and the proposed residual lands consist of 3.04 acres +/- . Staff note that a tax ditch right-of-way divides Lot 3 and Lot 4, and that the right-of-way extends 80 feet into Lot 4 as measured from top of bank. The property is located on the west side of Pyle Center Road (S.C.R. 382) in Frankford. It is requested that final approvals be made by staff upon the receipt of all agency approvals. This will allow a modification to the access easement as DNREC does not permit the access easement and the tax ditch right-of-way to overlap. Otherwise, the Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Zoning: AR-1 (Agricultural Residential District). Tax Parcel: 533-5.00-73.00. Staff are awaiting agency approvals.

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2 THE CIRCLE | PO BOX 417
GEORGETOWN, DELAWARE

PLANNING & ZONING COMMISSION

ROBERT C. WHEATLEY, CHAIRMAN
KIM HOEY STEVENSON, VICE-CHAIRMAN
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JAMIE WHITEHOUSE, AICP, MRTPI
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: April 28th, 2022

Application: CU 2341 Caden Oplinger

Applicant: Caden Oplinger
7465 Shawnee Road
Milford, DE 19963

Owner: Caden Oplinger
7465 Shawnee Road
Milford, DE 19963

Site Location: Lying on the west side of Dupont Boulevard (Rt. 113), approximately 0.33 miles north of Wilson Hill Rd. (S.C.R. 244).

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

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

Comprehensive Land Use Plan Reference: Low Density

Councilmanic District: Ms. Green

School District: Milford School District

Fire District: Carlisle Fire Department

Sewer: N/A

Water: N/A

Site Area: 20.00 acres +/-

Tax Map IDs.: 130-6.00-22.00



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Memorandum

To: Sussex County Planning Commission Members
From: Jesse Lindenberg, Planner I
CC: Vince Robertson, Assistant County Attorney
Date: March 29, 2022
RE: Staff Analysis for CU 2341 Caden Oplinger

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2341 Caden Oplinger to be reviewed during the April 28, 2022, 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 130-6.00-22.00 to allow for a conditional Use of land in an Agricultural Residential Zoning (AR-1) District for a farm tractor and truck repair shop. The property is lying on the southeast side of Shawnee Road (Rt. 36), 0.23 miles south of Abbotts Pond Road (S.C.R. 620). The size of the property is approximately 20.00 acres +/-.

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

As outlined in the 2018 Sussex County Comprehensive Plan, Low Density areas are intended to support agricultural uses and low-density single-family housing. Specifically, the Comprehensive Plan states that single family homes have a density of up to two dwelling units to the acre. It is envisioned that the Low-Density Areas allow for businesses that support nearby residents and the agricultural economy. More intense commercial uses could be limited in scale and impact. While residential growth is expected, the Comprehensive Plan intends for the rural landscape to be maintained and for farmland to be preserved in select locations.

The property is zoned Agricultural Residential (AR-1) Zoning District. The adjacent parcels to the north, south, east, and west are all zoned Agricultural Residential (AR-1) Zoning District. Properties further north and east are zoned General Residential (GR) Zoning District.

Since 2011, there have been three (3) Conditional Use applications within a 1-mile radius of the application site. The first application is Conditional Use 1909 Thomas P. Collins to allow for a beauty salon. This application was approved by the Sussex County Council on Tuesday, September 20th, 2011, and this change was adopted through Ordinance No. 2220. The second application is Conditional Use 1935 John Herholdt to allow for a family electrical business and butcher shop. This application was approved by the Sussex County Council on Tuesday, August 21st, 2012, and this change was adopted through Ordinance No. 2274. The third application is Conditional Use



2081 Rafael Arias for a used car sales and computer repair business. This application was withdrawn.

Based on the analysis of the land use, surrounding zoning and uses, the Conditional Use to allow for a farm tractor and truck repair shop subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.

File #: CU 2241
202200486

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

RECEIVED

JAN 13 2022

SUSSEX COUNTY
PLANNING & ZONING

Type of Application: (please check applicable)

Conditional Use

Zoning Map Amendment

Site Address of Conditional Use/Zoning Map Amendment

Shawnee Road, Milford DE 19963

Type of Conditional Use Requested:

Farm tractor/truck repair shop.

Tax Map #: 130-6.00-22.00

Size of Parcel(s): 20 acres

Current Zoning: AR1

Proposed Zoning: AR1

Size of Building: 4800 sq. ft.

Land Use Classification: _____

Water Provider: Private well

Sewer Provider: Septic

Applicant Information

Applicant Name: Caden Oplinger

Applicant Address: 7465 Shawnee Road

City: Milford

State: DE

Zip Code: 19963

Phone #: 3023934858

E-mail: Coplinge6@gmail.com

Owner Information

Owner Name: Caden Oplinger

Owner Address: 7465 Shawnee Road

City: Milford

State: DE

Zip Code: 19963

Phone #: 3023934858

E-mail: Coplinge6@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.

___ DeIDOT 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

Caden Plinger

Date: 1/13/2022

Signature of Owner

Caden Plinger

Date: 1/13/2022

For office use only:

Date Submitted: 1/13/22

Staff accepting application: Cez

Location of property: _____

Fee: \$500.00 Check #: 1501

Application & Case #: 202200486

Subdivision: _____

Date of PC Hearing: _____

Recommendation of PC Commission: _____

Date of CC Hearing: _____

Decision of CC: _____

SUSSEX COUNTY ENGINEERING DEPARTMENT
UTILITY PLANNING & DESIGN REVIEW DIVISION
C/U & C/Z COMMENTS

TO: **Jamie Whitehouse**

REVIEWER: **Chris Calio**

DATE: **4/4/2022**

APPLICATION: **CU 2341 Caden Oplinger**

APPLICANT: **Caden Oplinger**

FILE NO: **WS-4.06**

TAX MAP &
PARCEL(S): **130-6.00-22.00**

LOCATION: **Lying on the east side of Shawnee Road (Rt. 36),
approximately 900 feet south of Abbotts Pond Road (SCR 620).**

NO. OF UNITS: **Farm Tractor and Truck Repair Shop**

GROSS
ACREAGE: **20.00**

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 4**
- (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 \$6,600.00** per EDU. Please contact **N/A** at **302-855-7719** for additional information on charges.

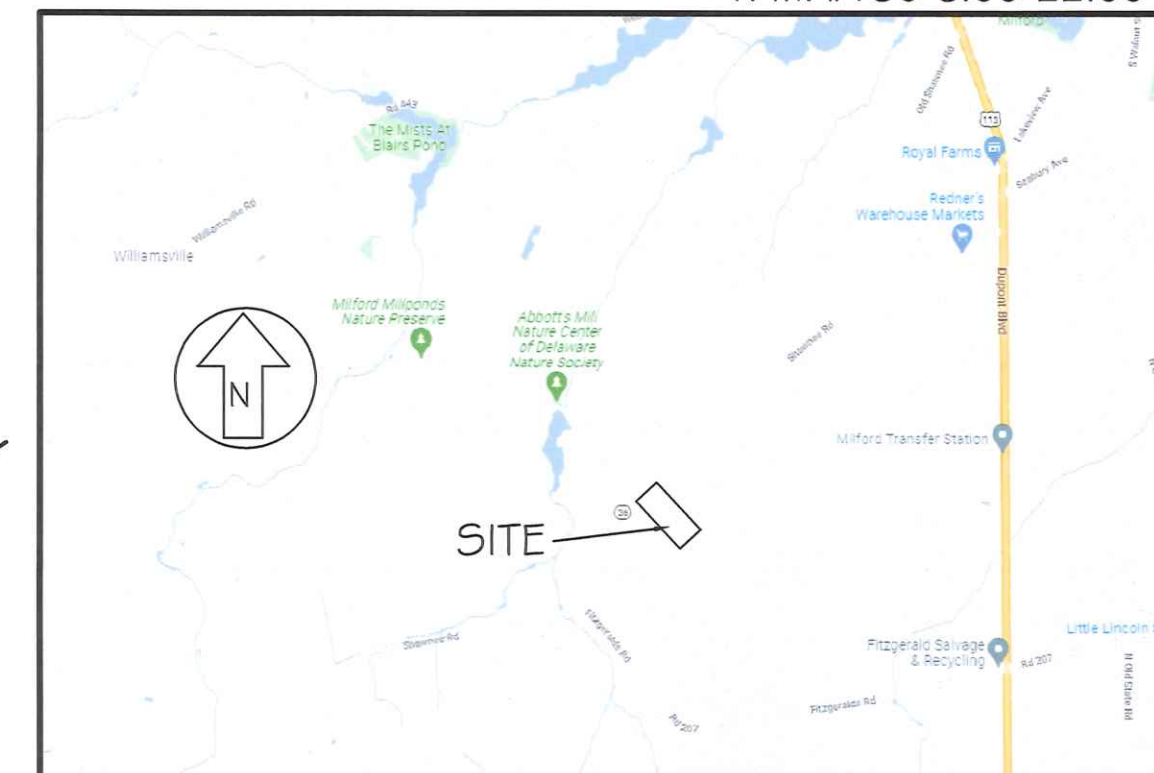
- (6). Is the project capable of being annexed into a Sussex County sanitary sewer district? **N/A**
- Attached is a copy of the Policy for Extending District Boundaries in a Sussex County Water and/or Sanitary Sewer District.
- (7). Is project adjacent to the Unified Sewer District? **N/A**
- (8). Comments: **The Sussex County Engineering does not have a schedule to provide sanitary sewer service.**
- (9). Is a Sewer System Concept Evaluation required? **Not at this time**
- (10). Is a Use of Existing Infrastructure Agreement Required? **Not at this time**
- (11). **All residential roads must meet or exceed Sussex County minimum design standards.**

UTILITY PLANNING & DESIGN REVIEW APPROVAL:



John J. Ashman
Sr. Manager of Utility Planning & Design Review

Xc: Hans M. Medlarz, P.E.
Lisa Walls
No Permit Tech Assigned



VICINITY MAP

N.T.S.

S 33°48'00" E

N 33°48'36" W

19.836 ACRES

LANDS N/F
EDWIN RALPH NIBLETT
DB 634-904

LANDS N/F
MARTIN KENNETH & MARGARET F.
BESSINGER
DB 2320-180

LANDS N/F
ROBERT A. & BEVERLY
DAWSON
DB 3532-244



DATA COLUMN:

OWNER: OPLINGER ACRES, LLC
7465 SHAWNEE ROAD, MILFORD, DE. 19963

ZONING: AR-1
TAX MAP # 130-G.00-22.00
SHOP AREA: 4,800 SQUARE FEET
GROSS AREA: 19.836 ACRES

TOTAL # OF LOTS: 1
PRESENT USE: AGRICULTURAL
PROPOSED USE: AGRICULTURAL/REFURBISH LARGE EQUIPMENT
ACCESS: DE. DE. RT. 36 (SHAWNEE RD.)
ROADWAY CLASSIFICATION: MAJOR COLLECTOR
WATER AND SEWER: PRIVATE ON-SITE WELL & SEPTIC
100 YEAR FLOODPLAIN: SITE IS NOT IMPACTED
AS PER FIRM #10005C0039J DATE 1/6/2005

PARKING REQUIRED: 13 SPACES (1 PER 3 EMPLOYEES)
(3 EMPLOYEES)
10 SPACES (1 PER 500 SQ. FT. OF FLOOR AREA)
4,800 SQ. FT. FLOOR AREA
TOTAL PARKING SPACES REQUIRED: 13
PARKING PROVIDED: 14 PARKING SPACES

FIRE MARSHAL NOTES:

1. ALL FIRE LANES, FIRE HYDRANTS AND FIRE DEPARTMENT CONNECTION SHALL BE MARKED IN ACCORDANCE WITH THE DELAWARE STATE FIRE PREVENTION REGULATIONS.
2. MAXIMUM HEIGHT: 3 STORIES NOT TO EXCEED 42'.
3. A POLE BUILDING STRUCTURE IS PROPOSED.
4. BUILDING CONSTRUCTION TYPE: NFPA TYPE V WOOD FRAME.
5. AUTOMATIC FIRE SPRINKLERS ARE NOT PROPOSED FOR THIS STRUCTURE.

MONUMENTATION

- ⊗ IRON AXLE (FOUND)
- IRON PIPE (SET)
- CONCRETE FENCE POST (FOUND)
- ▲ IRON ROD (FOUND)



OWNERSHIP CERTIFICATE:

WE, THE UNDERSIGNED, HEREBY CERTIFY TO THE OWNERSHIP OF THE PROPERTY DESCRIBED AND SHOWN ON THIS PLAN, THAT THE PLAN WAS MADE AT OUR DIRECTION AND DESIRE THE PLAN TO BE RECORDED ACCORDING TO LAW.

OWNER SIGNATURE

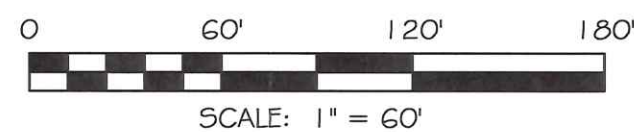
DATE

OWNER SIGNATURE

DATE

SITE PLAN FOR
CADEN & CHRISTINA OPLINGER

SHAWNEE ROAD, MILFORD, DE 19963



I, DONALD K. MILLER REGISTERED AS A PROFESSIONAL LAND SURVEYOR IN THE STATE OF DELAWARE, HEREBY STATE THAT THE INFORMATION SHOWN ON THIS PLAN HAS BEEN PREPARED UNDER MY SUPERVISION AND MEETS THE STANDARDS OF PRACTICE AS ESTABLISHED BY THE STATE OF DELAWARE BOARD OF PROFESSIONAL LAND SURVEYORS. ANY CHANGES TO THE PROPERTY CONDITIONS, IMPROVEMENTS, BOUNDARY OR PROPERTY CORNERS AFTER THE DATE SHOWN HEREON SHALL NECESSITATE A NEW REVIEW AND CERTIFICATION FOR ANY OFFICIAL OR LEGAL USE.

Donald K. Miller
DONALD K. MILLER, PLS 407

12/28/21
DATE

OTHER THAN SHOWN, THIS SURVEY AND PLAT DOES NOT VERIFY THE EXISTENCE OR NON-EXISTENCE OF RIGHTS-OF-WAY OR EASEMENTS CROSSING THIS PROPERTY. NO TITLE SEARCH PROVIDED OR STIPULATED. SURVEYED ON MAY 30, 2021.

DATE	REVISION

SURVEY CLASS: SUBURBAN

MILLER LEWIS, INC.
LAND SURVEYING
1560 MIDDLEFORD RD.
SEAFORD, DELAWARE 19973
PH: 302-629-9895 FAX: 302-629-2391

Donald K. Miller
DONALD K. MILLER
REGISTERED
PROFESSIONAL LAND SURVEYOR
NO. 407

HUNDRED	CEDAR CREEK	COUNTY	SUSSEX
STATE	DELAWARE	DRAWN BY	D.K. MILLER
REF.	DB 5462-201	FILE NO.	OPLINGER 130-G-21

DECEMBER 28, 2021

-Example of the earth-toned color scheme for the proposed shed so it will blend into the natural surroundings.



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



Sussex County

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PLEASE NOTE

This paperless packet is published on the County's website for convenience purposes, and only includes information received up to the close of business on the day before a public hearing. Documents received after this, or documents submitted during the public hearing are not uploaded to the Paperless Packet. The legal record is the paper record maintained in the Offices of the Planning & Zoning Department.



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

PLANNING & ZONING COMMISSION

ROBERT C. WHEATLEY, CHAIRMAN
KIM HOEY STEVENSON, VICE-CHAIRMAN
R. KELLER HOPKINS
J. BRUCE MEARS
HOLLY J. WINGATE



Sussex County

DELAWARE
sussexcountyde.gov
302-855-7878 T
302-854-5079 F
JAMIE WHITEHOUSE, MRTPI, AICP
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: April 28th, 2022

Application: CZ 1933 Route 54 Limited Partnership

Applicant: Route 54 Limited Partnership (c/o Mr. Daniel Bunting)
32996 Lighthouse Rd
Selbyville, DE 19975

Owner: Route 54 Limited Partnership
32996 Lighthouse Rd
Selbyville, DE 19975

Site Location: 33006 Lighthouse Road, Selbyville. The property is lying on the south side of Lighthouse Road (Route 54), approximately 0.39 mile east of Johnson Road (S.C.R 390).

Current Zoning: AR-1 – Agricultural Residential District

Proposed Zoning: C-2 – Medium Commercial District

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Hudson

School District: Indian River School District

Fire District: Roxana Volunteer Fire Company

Sewer: Septic

Water: Artesian

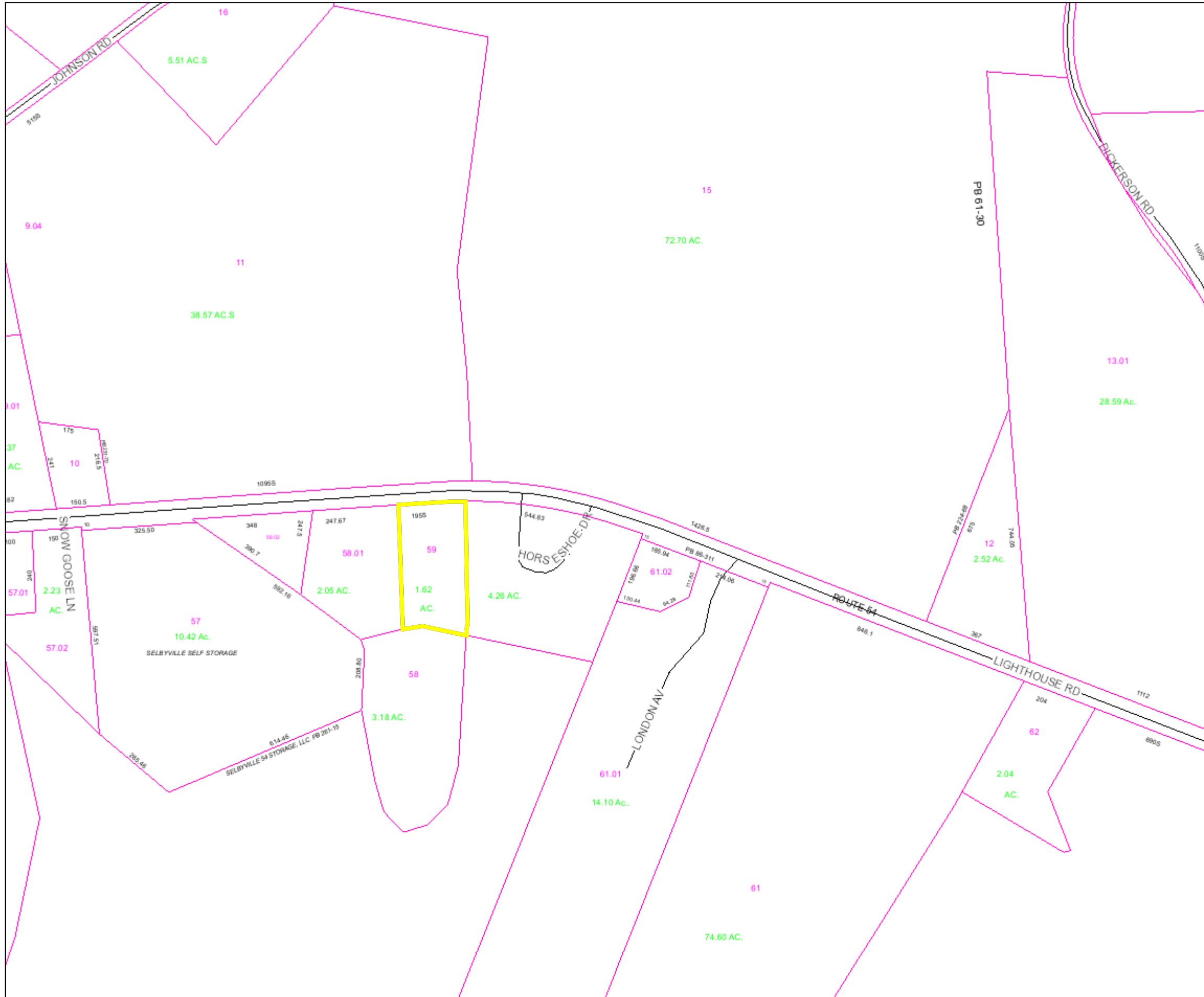
Site Area: 1.62 acres +/-

Tax Map ID.: 533-18.00-59.00





Sussex County



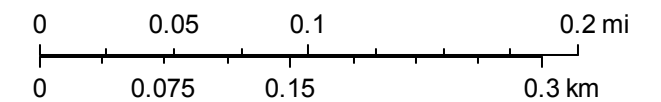
PIN:	533-18.00-59.00
Owner Name	ROUTE 54 LP
Book	4076
Mailing Address	32996 LIGHTHOUSE RD
City	SELBYVILLE
State	DE
Description	SLAG RD SELBYVILLE
Description 2	WILLIAMSVILLE
Description 3	
Land Code	

- polygonLayer**

Override 1
- polygonLayer**

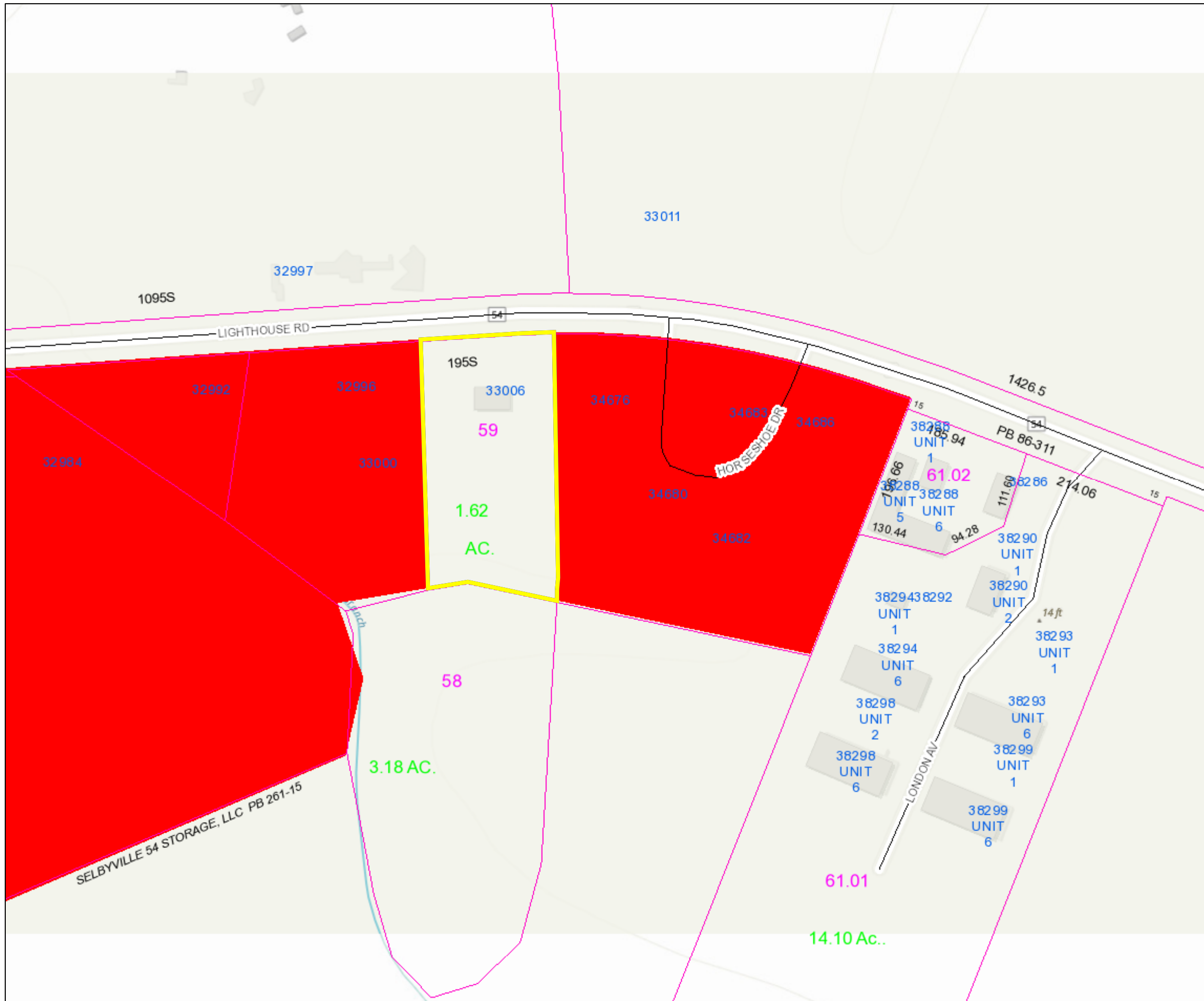
Override 1
- Tax Parcels
- Streets
- County Boundaries
- Municipal Boundaries

1:4,514





Sussex County



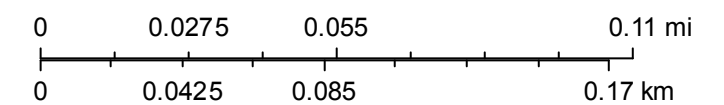
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City	SELBYVILLE
State	DE
Description	SLAG RD SELBYVILLE
Description 2	WILLIAMSVILLE
Description 3	N/A
Land Code	

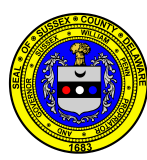
- polygonLayer**

 - Override 1
- polygonLayer**

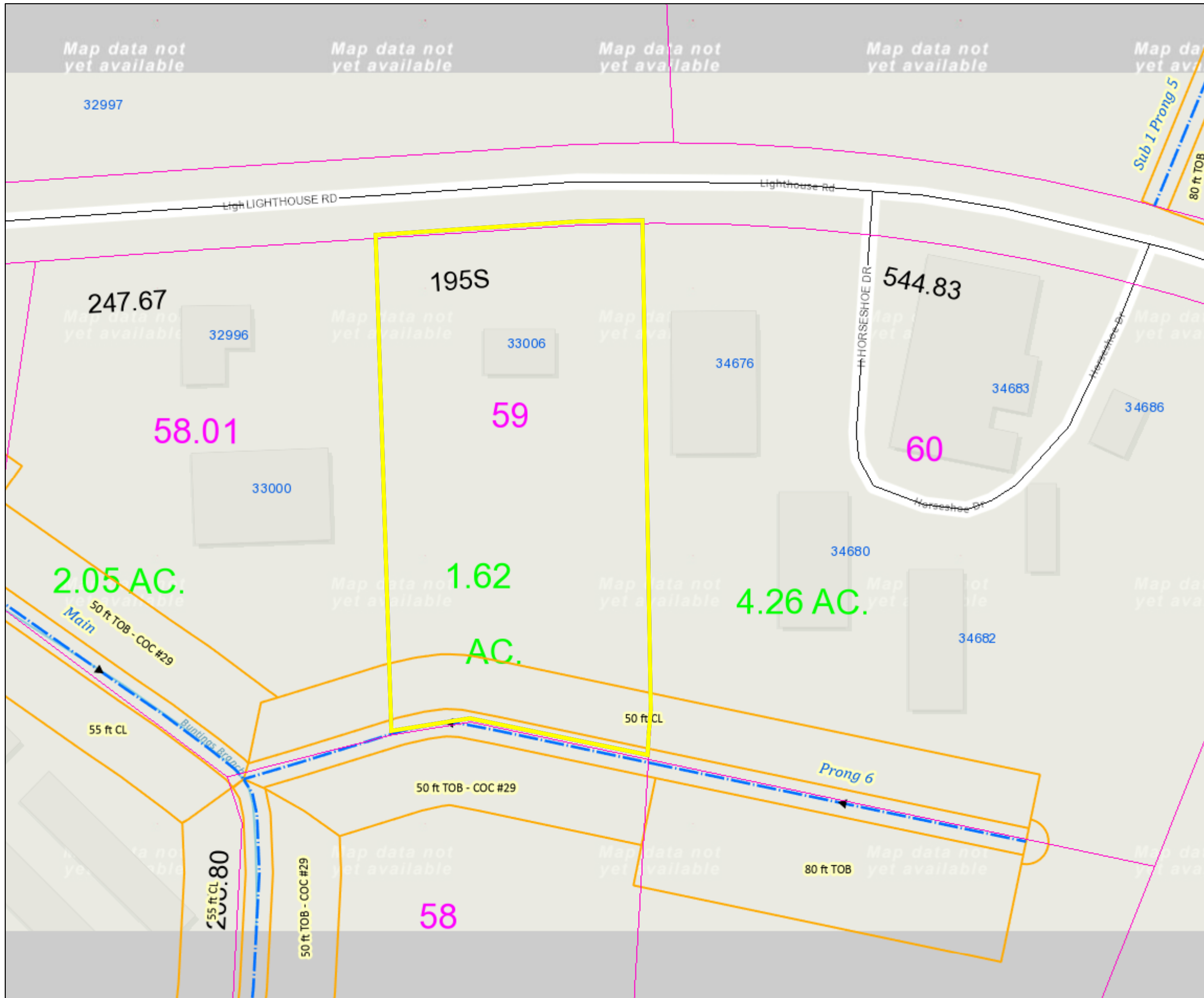
 - Override 1
- ⋯ Tax Parcels
- 911 Address
- Streets

1:2,257





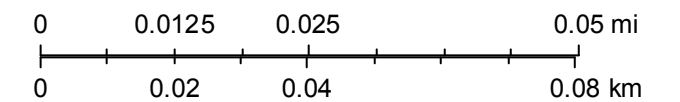
Sussex County



PIN:	533-18.00-59.00
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Book	4076
Mailing Address	32996 LIGHTHOUSE RD
City	SELBYVILLE
State	DE
Description	SLAG RD SELBYVILLE
Description 2	WILLIAMSVILLE
Description 3	N/A
Land Code	

- polygonLayer**
 - Override 1
- polygonLayer**
 - Override 1
- Tax Parcels
- 911 Address
- Streets
- County Boundaries
- Tax Ditch Segments**
 - Tax Ditch Channel
 - Pond Feature
 - Special Access ROW
 - Extent of Right-of-Way

1:1,128



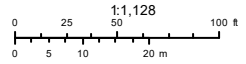


Delaware Flood Planning Tool

Location is **NOT WITHIN** the FEMA 100-year floodplain.



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community, FEMA



March 29, 2022

Effective Flood Hazard Areas

- A
- AE
- AE, FLOODWAY
- AO
- VE
- X, 0.2 PCT ANNUAL CHANCE FLOOD HAZARD
- Base Flood Elevation
- LiMWA
- Cross Sections
- Transect

Preliminary Flood Hazard

- A
- AE
- AE, FLOODWAY
- X, 0.2 PCT ANNUAL CHANCE FLOOD HAZARD

- ### Contours
- INDEX
 - DEPRESSION
 - HIDDEN
 - INTERVAL

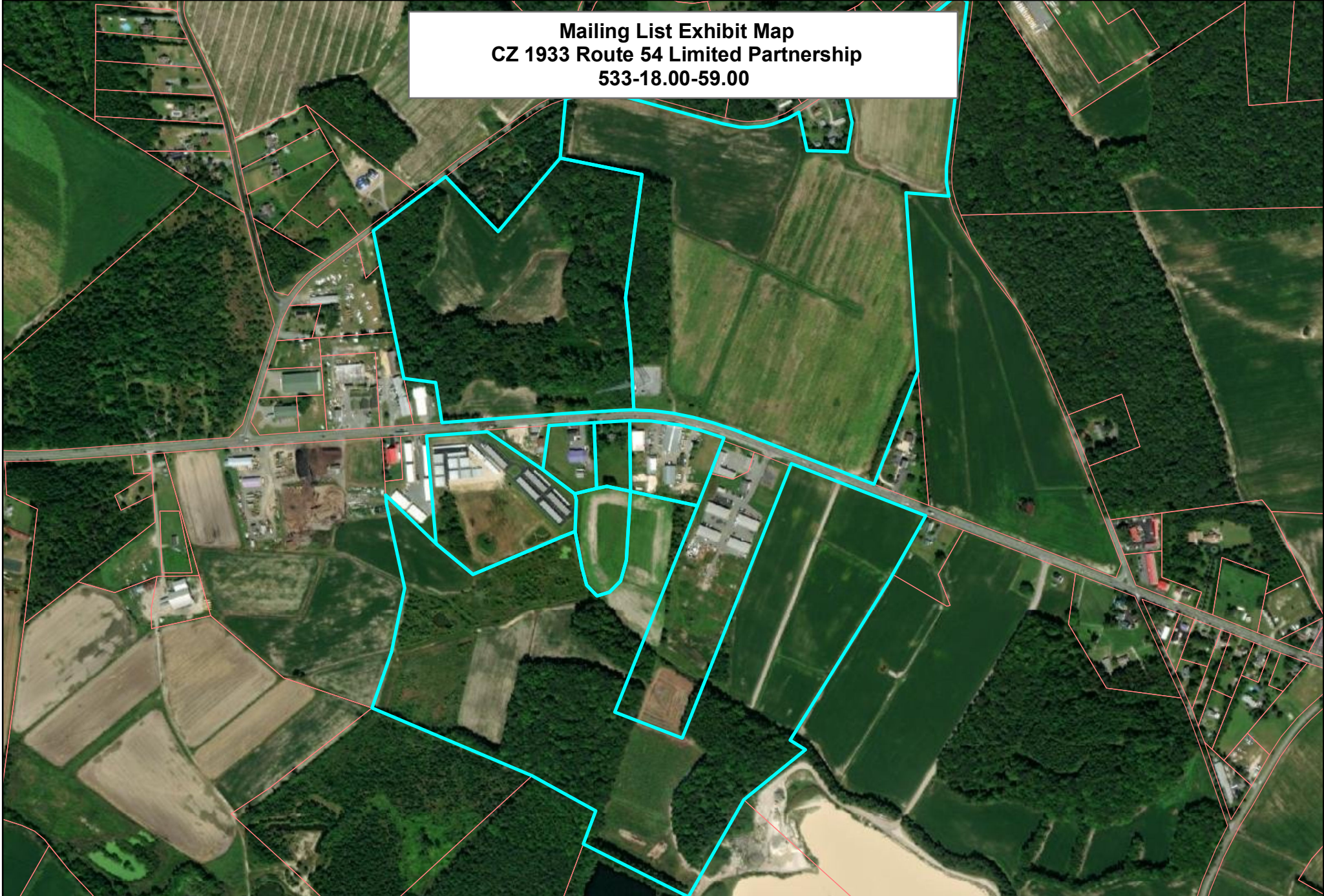
Flood Zone (at Point): X
 FEMA Issued Flood Map: 10005C0635K
 Map Date: 3/16/2015
 Watershed (HUC10): Inland Bays (0204030303)
 Subwatershed (HUC12): Assawoman Bay (020403030303)
 Tax Parcel: 533-18.00-59.00
 Tax Parcel Acres: 1.64
 Ground Elevation Height at Parcel (ft): 8 - 13
 Address (estimated): 33006 LIGHTHOUSE RD SELBYVILLE, DE 19945

FULLNAME	Second_Owner_Name	MAILINGADD	CITY	STATE	ZIPCODE
BUNTING CONSTRUCTION CORP		32996 LIGHTHOUSE RD	SELBYVILLE	DE	19975
BUNTING HOLDINGS LLC		7000 NE 8TH DR	BOCA RATON	FL	33487
CENTER ON 54 LLC		12945 VANDERBILD DR.	NAPLES	FL	34110
ROUTE 54 LP		32996 LIGHTHOUSE RD	SELBYVILLE	DE	19975
SELBYVILLE 54 STORAGE LLC		1024 SCARBOROUGH AVE EXT	REHOBOTH BEACH	DE	19971
SUSSEX COUNTY	ENG DEPT-LOUANN ROGERS	PO BOX 589	GEORGETOWN	DE	19947



Sussex County

Mailing List Exhibit Map
CZ 1933 Route 54 Limited Partnership
533-18.00-59.00



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



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Planning Commission Members
From: Ms. Lauren DeVore, Planner III
CC: Mr. Vince Robertson, Assistant County Attorney and applicant
Date: March 28th, 2022
RE: Staff Analysis for CZ 1933 Route 54 Limited Partnership

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1933 Route 54 Limited Partnership to be reviewed during the April 28, 2022, 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 533-18.00-59.00 to allow for a change of zone from an Agricultural Residential (AR-1) District to a Medium Commercial (C-2) District. The parcel is lying on the south side of Lighthouse Road (Route 54) approximately 0.39 mile east of Johnson Road (S.C.R 390) at 33006 Lighthouse Road in Selbyville, Delaware. The parcel to be rezoned contains 1.62 acres +/-.

Further Site Considerations

It should be noted that there is a Tax Ditch (and associated Tax Ditch ROW,) which runs along the southern portion of the property. The Tax Ditch ROW is measured 50-ft from the centerline of the ditch. No improvements may be located within these areas.

Comprehensive Plan Analysis

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map in the plan indicates that the subject property has a land use designation of "Coastal Area." The properties to the east, south, and northeast across Lighthouse Road (Route 54) also have the land use designation of "Coastal Area." The properties to the west and northwest have a land use designation of "Developing Area"

As outlined in the 2018 Sussex County Comprehensive Plan, Coastal Areas are areas that can accommodate development provided that special environmental concerns are addressed. A range of housing types should be permitted in Coastal Areas, including single-family homes, townhouses, and multi-family units. Retail and office uses are appropriate, but larger shopping centers and office parks should be confined to selected locations with access along arterial roads. Appropriate mixed-use development should all be allowed. In doing so, careful mixtures of homes with light commercial, office and institutional uses can be appropriate to provide for convenient services and to allow people to work close to home. Major new industrial uses are not proposed in these areas. (Sussex County Comprehensive Plan, 4-15).



Conversely, Developing Areas are newer, emerging growth areas that demonstrate the characteristics of developmental pressures. Most of the proposed Developing Areas are adjacent to municipalities, within or adjacent to potential future annexation areas of a municipality, or adjacent to Town Centers. A range of housing types are appropriate in Developing Areas, including single family homes, townhouses, and multi-family units. In selected areas and at appropriate intersections, commercial uses should be allowed. A variety of office uses would be appropriate in many areas. Portions of the Developing Areas with good road access and few nearby homes should allow for business and industrial parks. Appropriate mixed-use development should also be allowed. In doing so, careful mixtures of homes with light commercial and institutional uses can be appropriate to provide for convenient services and to allow people to work close to home (Sussex County Comprehensive Plan, 4-14).

Zoning Information

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 Medium Commercial (C-2) Zoning District is listed as an applicable Zoning District within the “Coastal Area” (Sussex County Comprehensive Plan, 4-25).

The property is zoned Agricultural Residential (AR-1) District. The adjacent parcels to the east and west of the subject property are zoned General Commercial (C-1) District. The properties located to the south and north across Lighthouse Road are zoned Agricultural Residential (AR-1).

It should be noted that the property directly to the south is also seeking a rezoning from Agricultural Residential (AR-1) District to a Medium Commercial (C-2) District under Change of Zone 1934 Bunting Holdings, LLC

Existing Changes of Zone within the Vicinity of the Subject Site

Since 2011, there have been three (3) Change of Zone applications within a 1-mile radius of the application site. The first application is for Change of Zone No. 1711 James Moses for a change of zone from an Agricultural Residential (AR-1) Zoning District and General Commercial (C-1) Zoning District to a Commercial Residential (CR-1) Zoning District. The application was approved by the Sussex County Council on February 14th, 2012 and the change was adopted through Ordinance No. 2241. The second application is for Change of Zone No. 1896 Fenwick Commons, LLC for a change of zone from an Agricultural Residential (AR-1) Zoning District to Medium Density Residential (MR) Zoning District. The application was approved by the Sussex County Council on January 14, 2020 and adopted through Ordinance No. 2700. The last application is for Change of Zone No. 1917 Iacchetta Development Corporation for a change of zone from an Agricultural Residential (AR-1) Zoning District to a Medium Commercial (C-2) Zoning District. The application was approved by the Sussex County Council on August 11, 2020 and adopted through Ordinance No. 2731.

Based on the analysis of the land use, surrounding zoning and uses, a Change of Zone from an Agricultural Residential (AR-1) District to a Medium Commercial (C-2) District could be considered as being consistent with the land use, area zoning and surrounding uses.

Change of Zone Applications (w/in a 1 mile radius of the subject site)*								
Application Number	Application Name	Current Zoning	Proposed Zoning	P&Z Decision	P&Z Decision Date	CC Decision	CC Decision Date	Ordinance Number
CZ 1711	James Moses	AR-1 & C-1	CR-1	Recommended Approval	1/26/2012	Approved	2/14/2012	2241
CZ 1896	Fenwick Commons, LLC	AR-1	MR	Recommended Approval	12/12/2019	Approved	1/14/2020	2700
CZ 1917	Iachetta Development Corporation	AR-1	C-2	Recommended Approval	7/23/2020	Approved	8/11/2020	2731

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

33006 Lighthouse Road Selbyville DE 19975

Type of Conditional Use Requested:

Change of Zoning from AR to C-2

Tax Map #: 533-18.00-59.00 **Size of Parcel(s):** 1.6 acres

Current Zoning: AR-1 **Proposed Zoning:** C-2 **Size of Building:** 2500 SF

Land Use Classification: _____

Water Provider: Artesian **Sewer Provider:** Septic

Applicant Information

Applicant Name: Route 54 Limited Partnership
Applicant Address: 32996 Lighthouse Road
City: Selbyville **State:** DE **Zip Code:** 19975
Phone #: (443) 880-3883 **E-mail:** daniel@buntingconstruction.com

Owner Information

Owner Name: Route 54 Limited Partnership
Owner Address: 32996 Lighthouse Road
City: Selbyville **State:** DE **Zip Code:** 19975
Phone #: (443) 880-3883 **E-mail:** Daniel@buntingconstruction.com

Agent/Attorney/Engineer Information

Agent/Attorney/Engineer Name: Daniel Bunting
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.

DeIDOT 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

D. Butz

Date: 7/20/2020

Signature of Owner

C. Cole Butz

Date: 7/20/20

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: _____

47027

BK: 4076 PG: 273

Tax Map Parcel Nos.: 5-33 18.00 59.00
5-33 18.00 47.01
5-33 20.00 4.00, Unit 348

Prepared by and return to:
George B. Smith, Esquire
Smith Feinberg McCartney & Berl, LLP
406 South Bedford Street, P.O. Box 588
Georgetown, Delaware 19947-0588.

NO TITLE SEARCH, LIEN SEARCH OR SURVEY REQUESTED OR PERFORMED

THIS DEED, made this 20 day of December, in the year of our LORD two thousand twelve (2012),

BETWEEN, C. COLEMAN BUNTING, JR., of 32996 Lighthouse Road, Selbyville, DE 19975, party of the first part,

- AND -

ROUTE 54 LIMITED PARTNERSHIP, a Delaware limited partnership, of 32996 Lighthouse Road, Selbyville, Delaware 19975, party of the second part,

WITNESSETH, that the said party of the first part, for and in consideration of the sum of **ONE DOLLAR (\$1.00)** lawful money of the United States of America and other valuable considerations, the receipt whereof is hereby acknowledged, hereby grants and conveys unto the said party of the second part, its successors and assigns,

Parcel Number One (TMP 5-33 18.00 59.00)

ALL that certain lot, piece of land lying and being situate in Baltimore Hundred, Sussex County, Delaware, and being more fully described according to a survey prepared by Land Tech, Inc., dated December 21, 1992 as follows, to wit:

BEGINNING at a concrete marker situate on the Southerly right-of-way of State RT. 54 and being 1,920 feet ± Easterly of the centerline of RT 390, said concrete marker being a corner of these lands and lands now or formerly of Bunting Construction Corp.; thence by and with said Southerly right-of-way of State RT 54, South 84 degrees 10 minutes 53 seconds East 197.50 feet to an iron pipe situate on the said Southerly right-of-way of State RT. 54 and being a corner of these lands and lands now or formerly of Stephan P. Galvagna; thence by and with said lands now or formerly of Stephan Galvagna and the centerline of a 20 foot easement, South 06 degrees 31 minutes 55 seconds West 382.48 feet to a rebar being a corner of these lands, lands now or formerly of Stephan P. Galvagna and lands now or formerly of Ideal Farm Stores, Inc.; thence by and with said lands now or formerly of Ideal Farm Stores, Inc. and the centerline of a ditch, the following three (3) courses and distances, North 70 degrees 59 minutes 23 seconds West 136.89 feet to a point; thence North 79 degrees 21 minutes 20 seconds West 19.98 feet to a point; thence South 83 degrees 35 minutes 05

seconds West 40.13 feet to a point situate in the centerline of a ditch being a corner of these lands, lands now or formerly of Ideal Farm Stores, Inc., and lands now or formerly of Bunting Construction Corp.; thence by and with said lands now or formerly of Bunting Construction Corp, and a ditch, North 05 degrees 36 minutes 178 seconds East 358.12 feet to the point and place of beginning, containing 1.62 acres of land, be the same more or less.

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

BEING the same lands and premises granted and conveyed unto C. Coleman Bunting, Jr., by deed of Barbara Wyatt Hughes, Trustee, dated August 2, 2004, of record in the Office of the Recorder of Deeds, Georgetown, Delaware, in Deed Book 3015, at Page 115.

Parcel Number Two (TMP 5-33 18.00 47.01)

ALL that certain tract, piece or parcel of land situate and lying in Baltimore Hundred, Sussex County, State of Delaware, more particularly described in a plot prepared by C. Kenneth Carter & Associates in June of 1982, which plot is of record in the Office of the Recorder of Deeds, in and for Sussex County, State of Delaware, in Plot Book 26, at Page 138, containing 32.25 acres of land, more or less.

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

BEING the same lands and premises granted and conveyed unto C. Coleman Bunting, Jr., by deed of C. Coleman Bunting, Jr., and Laurel J. Bunting, dated June 3, 2010, of record in the Office of the Recorder of Deeds, Georgetown, Delaware, in Deed Book 3792, at Page 164.

Parcel Number Three (TMP 5-33 20.00 4.00, Unit 348)

ALL that certain Unit known as **UNIT NO. 348, PHASE TWO, STAGE XVI, BUILDING 35** in the Condominium known as **MALLARD LAKES CONDOMINIUM** situate, lying and being in Baltimore Hundred, Sussex County, Delaware, being more particularly bounded and described in the Declaration of Gray Farm Farmers, a Delaware partnership, dated December 8, 1987, and filed for record in the Office of the Recorder of Deeds, in and for Sussex County, Georgetown, Delaware, in Deed Book 1535, Page 135, (the "Declaration"); and the **First** Amendment to Declaration, dated January 22, 1998; and filed for record in the Office of the Recorder of Deeds, aforesaid, in Deed Book 1544, Page 10; and the **Second** Amendment to Declaration dated February 5, 1988, and filed for record in the Office of the Recorder of Deeds, aforesaid, in Deed Book 1547, Page 63; and the **Third** Amendment to Declaration dated February 24, 1988, and filed for record in the Office of the recorder of Deeds, aforesaid, in Deed Book 1550, Page 17; and the **Fourth** Amendment to Declaration dated March 30, 1988, and filed for record in the Office of the Recorder of Deeds, aforesaid, in Deed Book 1556, Page 254; and the **Fifth** Amendment to Declaration dated May 23, 1988, and filed for record in the Office of the Recorder of Deeds, aforesaid, in Deed Book 1568,

Page 65; and the **Sixth** Amendment to Declaration dated June 15, 1988, and filed for record in the Office of the Recorder of Deeds, aforesaid, in Deed Book 1573, Page 176; and the **Seventh** Amendment to Declaration dated July 11, 1988 and filed for record in the Office of the Recorder of Deeds, aforesaid, in Deed Book 1579, Page 24; and the **Eight** Amendment to Declaration dated August 1, 1988 and filed for record in the Office of the Recorder of Deeds, aforesaid, in Deed Book 1583, Page 40; and the **Ninth** Amendment to Declaration dated October 3, 1988 and filed for record in the Office of the Recorder of Deeds, aforesaid, in Deed Book 1600, Page 224; and the **Tenth** Amendment to Declaration dated November 9, 1988 and filed for record in the Office of the Recorder of Deeds, aforesaid, in Deed Book 1609, Page 307; and the **Eleventh** Amendment to Declaration dated December 27, 1988 and filed for record in the Office of the Recorder of Deeds, aforesaid, in Deed Book 1619, Page 337, and the **Twelfth** Amendment to Declaration dated February 2, 1989 and filed for record in the Office of the Recorder of Deeds, aforesaid, in Deed Book 1628, Page 88; and the **Thirteenth** Amendment to Declaration dated March 7, 1989 and filed for record in the Office of the Recorder of Deeds, aforesaid, in Deed Book 1633, Page 89; and the **Fourteenth** Amendment to Declaration dated June 1, 1989, and filed for record in the Office of the Recorder of Deeds, aforesaid, in Deed Book 1650, Page 147; and the **Fifteenth** Amendment to Declaration dated July 7, 1989 and filed for record in the Office of the Recorder of Deeds, aforesaid, in Deed Book 1659, Page 21; and in the Declaration Plan of Mallard Lakes Condominium-Phase Two, prepared by C. Kenneth Carter, Registered Surveyor dated December, 1987, and filed for record in the Office of the Recorder of Deeds, aforesaid, in Plot Book 38, Page 212, (the "Declaration Plan"); and the Declaration Plan amended to incorporate Phase two, Stage II, Building 29, filed for record in the Office aforesaid, in Plot Book 38, Page 309; and the Declaration Plan amended to incorporate Phase Two, Stage III, Building 30, filed for record in the Office of the Recorder of Deeds, aforesaid, in Plot Book 38, Page 343; and the Declaration Plan amended to incorporate Phase Two, Stage IV, Building 31 filed for record in the Office of the Recorder of Deeds, aforesaid, in Plot Book 39, Page 23; and the Declaration Plan Amended to incorporate Phase Two, Stage V, Building 32 filed for record in the Office of the Recorder of Deeds, aforesaid, in Plot Book 39, Page 106; and the Declaration Plan amended to incorporate Phase Two, Stage VI, Building 20 filed for record in the Office of the Recorder of Deeds, aforesaid, in Plot Book 39, Page 273; and the Declaration Plan Amended to incorporate Phase Two, Stage VII, Building 25 filed for record in the Office of the Recorder of Deeds, aforesaid, in Plot Book 39, Page 326; and the Declaration Plan amended to incorporate Phase Two, Stage VIII, Building 24 filed for record in the Office of the Recorder of Deeds, aforesaid, in Plot Book 40, Page 27; and the Declaration Plan amended to incorporate Phase Two, Stage IX, Building 26 filed for record in the Office of the Recorder of Deeds, aforesaid, in Plot Book 40, Page 88; and the Declaration Plan amended to incorporate Phase Two, Stage X, Building 27, filed for record in the Office aforesaid, in Plot Book 40, Page 209; and the Declaration Plan amended to incorporate Phase Two, Stage XI, Building 22 filed for record in the Office of the Recorder of Deeds, aforesaid, in Plot Book 40, Page 289; and the Declaration Plan amended to incorporate Phase Two, Stage XII, Building 33, filed for record in the Office of the Recorder of Deeds aforesaid in Plot Book 41, Page 58; and the Declaration Plan amended to incorporate Phase Two, Stage XII, Building 34, filed for record in the Office of the Recorder of Deeds, aforesaid in Plot Book 41, Page 184; and the Declaration Plan amended to incorporate Phase Two, Stage IIX, Building 23, filed for record in the Office of the Recorder of Deeds, aforesaid, in Plot Book 41, Page 241; and the Declaration Plan amended to incorporate Phase Two, Stage XV, Building 21, field for record in the Office of the Recorder of Deeds, aforesaid, in Plot Book 42, Page 64; and the Declaration Plan amended to

incorporate Phase Two, Stage XVI, Building 35, filed for record in the Office of the Recorder of Deeds, aforesaid, in Plot Book 42, Page 156; all pursuant to the provisions of the Unit Property Act of the State of Delaware, Title 25, Section 2201, et seq. of the Delaware Code, said property being subject to a Code of Regulations of record in the Office of the Recorder of Deeds, aforesaid, in Deed Book 1535, Page 182, (the " Code of Regulations").

TOGETHER with a proportionate undivided interest totaling .0792%, subject to decrease to a lesser percentage calculated by the formula set forth in Schedule C of the Declaration, in all of the Common Elements of the said Mallard Lakes Condominium as said Common Elements are more particularly bounded and described in the aforesaid Declaration and Declaration Plan.

EXCEPTING AND RESERVING unto the Grantor the right and privilege, to effectuate, execute and deliver amendments to the Declaration, Declaration Plan and Code of Regulations, for the purpose of adding additional condominium units and common elements, reallocating the percentage interest and voting rights appurtenant to each of the condominium units, as set forth in Sections 5, 6, 7, 8 and 9 of the Declaration and Irrevocable Power of Attorney given by the Grantee to the Grantor immediately subsequent hereto.

AND TOGETHER with all other rights, title, interest and privileges provided for or created by the said Unit Property Act (25 Del. C. Section 2201 et seq.) for an in the owners of property made subject to the provisions of the said Act.

AND TOGETHER WITH the license, right and privilege in common with all other present and future owners of all units in the Mallard Lakes Condominium-Phase Two to use the roadways of right of way delineated on the Declaration Plan of Mallard Lakes Condominium-Phase Two as well as all future roadways or rights of way submitted by an supplement, amendment, modification or revision to the Declaration and Declaration Plan or as such be amended.

AND TOGETHER WITH the easements, licenses, rights and privileges, which shall be perpetual and run with the unit described above, subject to the rights of others in and to the use thereof: (1) easements in common with the owners of all of the other units in the condominium as set forth and granted in the Declaration, specifically including, but not limited to those easements specified in Sections 15, 17, 18 19 and 20 thereof; (ii) as set forth in the Declaration and Code of Regulations hereinabove mentioned; and (iii) subject to the reservations of the Grantor under Section s 5 and 6 of the Declaration appearing in Deed Book 1535, Page 135.

SUBJECT TO AND TOGETHER WITH, the following restrictions, covenants or conditions:

(1) The Grantee, for and on behalf of the Grantee and the Grantee's heirs, personal representatives, successors and assigns, by the acceptance of this Deed, covenant and agree to pay such charges for the maintenance of, repairs to, replacement of and expenses in connection with the common elements as may be assessed from time to time by the Council in accordance with the Unit Property Act of Delaware (Chapter 22 of Title 25 of the Delaware Code) and further covenant and agree that the unit conveyed by this Deed shall be subject to a charge for all amounts so assessed;

and that, except insofar as Sections 2236 and 2237 of Title 25 of the Delaware Code may relieve a subsequent unit owner of liability for prior unpaid assessments this covenant shall run with and bind the land or unit hereby conveyed and all subsequent owners thereof.

(2) All the rules, regulations, restrictions, covenants duly imposed upon the property by the Declaration recorded in Deed Book 1535, Page 135, the Code of Regulations recorded in Deed Book 1535, Page 182, and the Declaration of Covenants, Conditions and Restrictions of Mallard Lakes recorded in Deed Book 1434, Page 204, as the same may be from time to time amended.

(3) The Grantee, for an on behalf of the Grantee and the Grantee's heirs, personal representatives, successors and assigns, by acceptance of this Deed, covenants and agrees to pay such charges as may be assessed to Grantee's Unit or Grantee's by the Condominium Council of Mallard Lakes Condominium-phase Two.

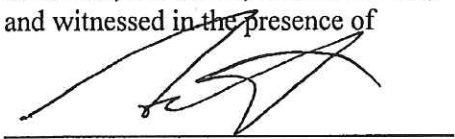
Unless the context shall indicate otherwise or unless defined, the terms used herein shall have the meanings ascribed to them in the Declaration, the Code of Regulations or this Indenture. However, if such definition should be in conflict with the definition of such terms in the Unit Property Act, then the definition contained in the Unit Property Act shall control.

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

BEING the same lands and premises granted and conveyed unto C. Coleman Bunting, Jr., by deed of Laurel J. Bunting, dated June 3, 2010, of record in the Office of the Recorder of Deeds, Georgetown, Delaware, in Deed Book 3793, at Page 23.

IN WITNESS WHEREOF, the said party of the first part has hereunto set his hand and seal the day and year aforesaid.

SIGNED, SEALED, DELIVERED,
and witnessed in the presence of



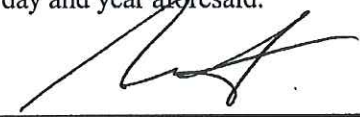
 (SEAL)
C. COLEMAN BUNTING, JR.

STATE OF DELAWARE)
) SS.
SUSSEX COUNTY)

BE IT REMEMBERED, that on this 20 day of December, 2012, personally appeared before me, the Subscriber, a Notary Public for the State and County aforesaid, C. COLEMAN BUNTING, JR., party to this Indenture, known to me personally to be such, and he acknowledged this Indenture to be his act and deed.

GIVEN under my hand and seal of office, the day and year aforesaid.

George B. Smith
Notary Public, State Of Delaware
Commission Expires February 4, 2015



Notary Public
My Commission Expires: 2/4/2015

Consideration: .00

County .00
State .00
Town Total .00
Received: Faith D Dec 21, 2012

RECEIVED

DEC 21 2012

**ASSESSMENT DIVISION
OF SUSSEX COUNTY**

Recorder of Deeds
Scott Dailey
Dec 21, 2012 11:44A
Sussex County
Doc. Surcharge Paid



STATE OF DELAWARE
DEPARTMENT OF TRANSPORTATION
800 BAY ROAD
P.O. BOX 778
DOVER, DELAWARE 19903

JENNIFER COHAN
SECRETARY

May 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 **Bunting Holdings, LLC** rezoning application, which we received on May 7, 2020. This application is for an approximately 3.18-acre parcel (Tax Parcel: 533-18.00-58.00). The subject land is located on the south side of Lighthouse Road (Sussex Road 58), approximately 1,900 feet east of the intersection of Lighthouse Road and Bunting Road (Sussex Road 390). The subject land is currently zoned MR (Medium-Density Residential), and the applicant is seeking to rezone the land to C-1 (General Commercial) for an unspecified future commercial development.

The subject parcel is landlocked and would have access on Lighthouse Road via an interconnection with the existing Bunting Construction Corp. development (Tax Parcel: 533-18.00-58.01) to the north.

Per the 2019 Delaware Vehicle Volume Summary, the annual average and summer average daily traffic volumes along the segment of Lighthouse Road where the subject land is located, which is from Bunting Road to Williamsville Road (Sussex Road 268), are 5,657 and 7,281 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 land development 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.



Mr. Jamie Whitehouse
Page 2 of 2
May 21, 2020

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

Sincerely,



T. William Brockenbrough, Jr.
County Coordinator
Development Coordination

TWB:cjm

cc: Constance C. Holland, Coordinator, Cabinet Committee on State Planning Issues
Bunting Holdings, LLC, Applicant
Todd Sammons, Assistant Director, Development Coordination
Gemez Norwood, South District Public Works Manager, Maintenance & Operations
Susanne K. Laws, Sussex County Review Coordinator, Development Coordination
Derek Sapp, Subdivision Manager, Development Coordination
Kevin Hickman, Subdivision Manager, Development Coordination
Brian Yates, Subdivision Manager, Development Coordination
John Andrescavage, Subdivision Manager, Development Coordination
James Argo, South District Project Reviewer, Maintenance & Operations
Troy Brestel, Project Engineer, Development Coordination
Claudy Joinville, Project Engineer, Development Coordination

**SUSSEX COUNTY ENGINEERING DEPARTMENT
UTILITY PLANNING & DESIGN REVIEW DIVISION
C/U & C/Z COMMENTS**

TO: **Jamie Whitehouse**

REVIEWER: **Chris Calio**

DATE: **4/4/2022**

APPLICATION: **CZ 1933 Route 54 Limited Partnership**

APPLICANT: **Route 54 Limited Partnership (c/o Mr. Daniel Bunting)**

FILE NO: **SPS-5.04**

TAX MAP &
PARCEL(S): **533-18.00-59.00**

LOCATION: **Lying on the south side of Lighthouse Road (Rt. 54),
approximately 0.39 mile east of Johnson Road (SCR 390)**

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

GROSS
ACREAGE: **1.60**

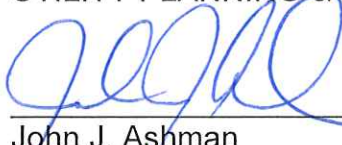
SYSTEM DESIGN ASSUMPTION, MAXIMUM NO. OF UNITS/ACRE: **2**

SEWER:

- (1). Is the project in a County operated and maintained sanitary sewer and/or water district?
Yes No
- a. If yes, see question (2).
b. If no, see question (7).
- (2). Which County Tier Area is project in? **Tier 2**
- (3). Is wastewater capacity available for the project? **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 \$6,600.00** per EDU. Please contact **N/A** at **302-855-7719** for additional information on charges.

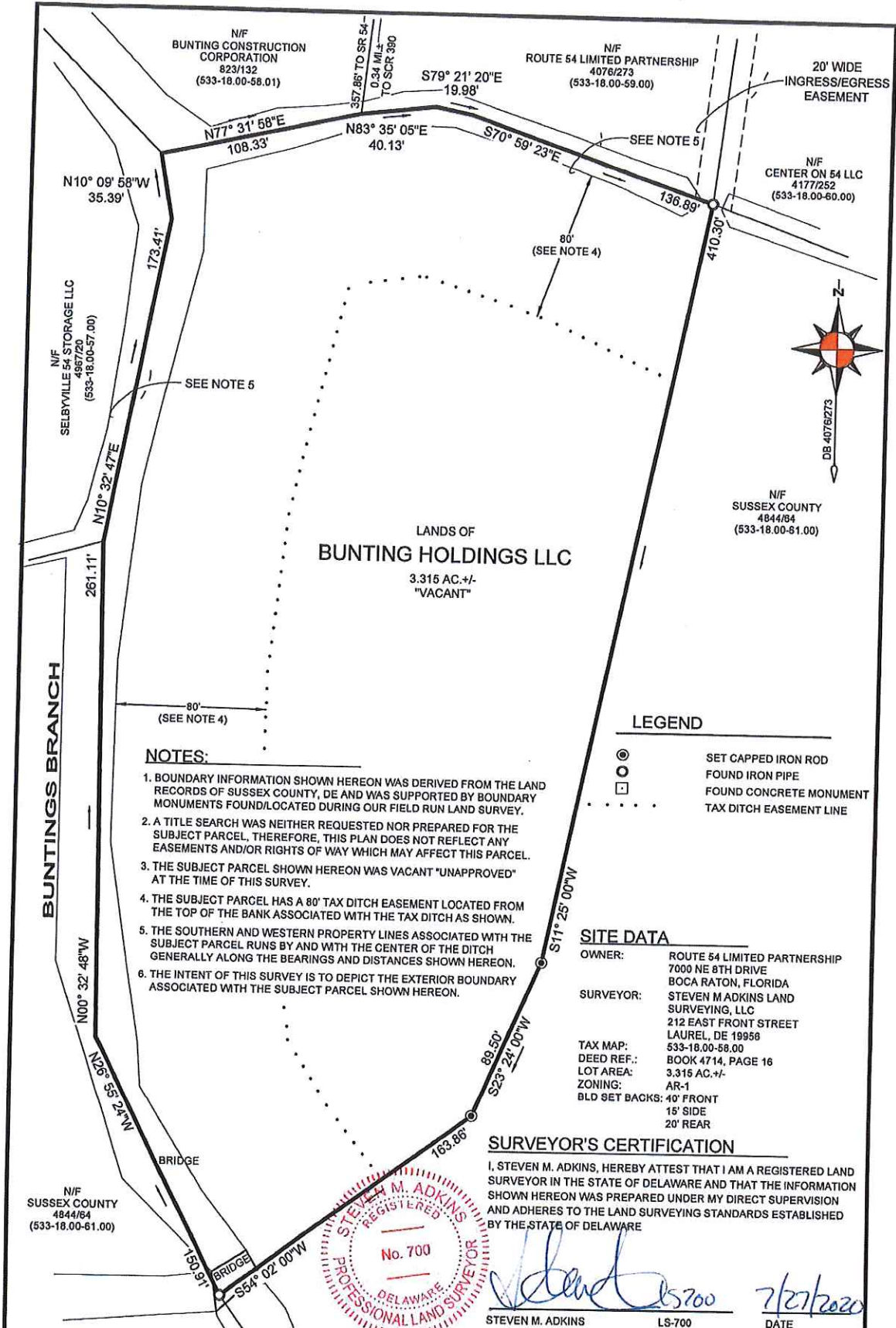
- (6). Is the project capable of being annexed into a Sussex County sanitary sewer district? **No**
- Attached is a copy of the Policy for Extending District Boundaries in a Sussex County Water and/or Sanitary Sewer District.
- (7). Is project adjacent to the Unified Sewer District? **No**
- (8). Comments: **Click or tap here to enter text.**
- (9). Is a Sewer System Concept Evaluation required? **Not at this time**
- (10). Is a Use of Existing Infrastructure Agreement Required? **Not at this time**
- (11). **All residential roads must meet or exceed Sussex County minimum design standards.**

UTILITY PLANNING & DESIGN REVIEW APPROVAL:



John J. Ashman
Sr. Manager of Utility Planning & Design Review

Xc: Hans M. Medlarz, P.E.
Lisa Walls
No Permit Tech Assigned



NOTES:

1. BOUNDARY INFORMATION SHOWN HEREON WAS DERIVED FROM THE LAND RECORDS OF SUSSEX COUNTY, DE AND WAS SUPPORTED BY BOUNDARY MONUMENTS FOUND/LOCATED DURING OUR FIELD RUN LAND SURVEY.
2. A TITLE SEARCH WAS NEITHER REQUESTED NOR PREPARED FOR THE SUBJECT PARCEL, THEREFORE, THIS PLAN DOES NOT REFLECT ANY EASEMENTS AND/OR RIGHTS OF WAY WHICH MAY AFFECT THIS PARCEL.
3. THE SUBJECT PARCEL SHOWN HEREON WAS VACANT "UNAPPROVED" AT THE TIME OF THIS SURVEY.
4. THE SUBJECT PARCEL HAS A 80' TAX DITCH EASEMENT LOCATED FROM THE TOP OF THE BANK ASSOCIATED WITH THE TAX DITCH AS SHOWN.
5. THE SOUTHERN AND WESTERN PROPERTY LINES ASSOCIATED WITH THE SUBJECT PARCEL RUNS BY AND WITH THE CENTER OF THE DITCH GENERALLY ALONG THE BEARINGS AND DISTANCES SHOWN HEREON.
6. THE INTENT OF THIS SURVEY IS TO DEPICT THE EXTERIOR BOUNDARY ASSOCIATED WITH THE SUBJECT PARCEL SHOWN HEREON.

LEGEND

- ⊙ SET CAPPED IRON ROD
- FOUND IRON PIPE
- FOUND CONCRETE MONUMENT
- TAX DITCH EASEMENT LINE

SITE DATA

OWNER: ROUTE 54 LIMITED PARTNERSHIP
 7000 NE 8TH DRIVE
 BOCA RATON, FLORIDA

SURVEYOR: STEVEN M ADKINS LAND SURVEYING, LLC
 212 EAST FRONT STREET
 LAUREL, DE 19956
 533-18.00-58.00

TAX MAP: 533-18.00-58.00
 DEED REF.: BOOK 4714, PAGE 16
 LOT AREA: 3.315 AC +/-
 ZONING: AR-1
 BLD SET BACKS: 40' FRONT
 15' SIDE
 20' REAR

SURVEYOR'S CERTIFICATION

I, STEVEN M. ADKINS, HEREBY ATTEST THAT I AM A REGISTERED LAND SURVEYOR IN THE STATE OF DELAWARE AND THAT THE INFORMATION SHOWN HEREON WAS PREPARED UNDER MY DIRECT SUPERVISION AND ADHERES TO THE LAND SURVEYING STANDARDS ESTABLISHED BY THE STATE OF DELAWARE



[Signature]
 STEVEN M. ADKINS LS-700 DATE 7/27/2020

STEVEN M. ADKINS
 Land Surveying, LLC
 212 East Front Street
 Laurel, DE 19956
 (302) 875-3555 - Office

A LOCATION SURVEY FOR THE
 LANDS OF
BUNTING HOLDINGS LLC
 ADJ. TO LIGHTHOUSE ROAD
 BALTIMORE HUNDRED
 SUSSEX COUNTY, DELAWARE

PROJECT #: 2020049.01	DATE: 07/27/2020
SCALE: 1" = 60'	DRAWN BY: S.M.A.
BOUNDARY SURVEY DRAWING NUMBER	
58	

Preliminary Land Use Service (PLUS)

Delaware State Planning Coordination

122 Martin Luther King Jr. Blvd., South • Dover, DE 19901 • Phone: 302-739-3090 • Fax: 302-739-5661

Purpose of PLUS - The PLUS process is intended to provide consolidated State comments regarding the proposed project. The Applicant is encouraged to submit the application during the concept stages of planning as this process often offers recommendations for changes to the plan. The application should be submitted after the pre-application meeting with the local jurisdiction but before formal application is made.

Please complete this PLUS application in its entirety. **All questions must be answered. If a question is unknown at this time or not applicable, please explain.** Unanswered questions on this form could lead to delays in scheduling your review. This form will enable the state staff to review the project before the scheduled meeting and to have beneficial information available for the applicant and/or developer at the time of review. If you need assistance or clarification, please call the State Planning Office at (302) 739-3090.

2021-12-09

PLUS Number (to be completed by OSPC): _____
 Investment Level Per Strategies for State Policies and Spending (to be determined by OSPC): 3

1. Project Title/Name: <u>Route 54 LP Rezone</u>			
2. Location (please be specific): <u>Route 54 - East of the town of Selbyville</u>			
3. Parcel Identification #: <u>533-18.00-59.00</u>		4. County or Local Jurisdiction Name: where project is located: <u>Sussex County</u>	
5. If contiguous to a municipality, are you seeking annexation: <u>No</u>			
6. Owner's Name: <u>Route 54 LP</u>			
Address: <u>32996 Lighthouse Rd</u>			
City: <u>Selbyville</u>	State: <u>DE</u>	Zip: <u>19975</u>	
Phone: <u>443-880-3883</u>	Fax:	Email: <u>Daniel@buntingconstruction.com</u>	
7. Equitable Owner/Developer (This Person is required to attend the PLUS meeting):			
Address: <u>32996 Lighthouse Rd</u>			
City: <u>Selbyville</u>	State: <u>DE</u>	Zip: <u>19975</u>	
Phone: <u>443-880-3883</u>	Fax:	Email: <u>Daniel@Buntingconstruction.com</u>	
8. Project Designer/Engineer: <u>N/A</u>			
Address:			
City:	State:	Zip:	
Phone:	Fax:	Email:	
9. Please Designate a Contact Person, including phone number, for this Project: <u>Daniel Bunting 443-880-3883</u>			

Information Regarding Site:	
10. Type of Review:	<input checked="" type="checkbox"/> Rezoning, if not in compliance with certified comprehensive plan <input type="checkbox"/> Site Plan Review <input type="checkbox"/> Subdivision
11. Brief Explanation of Project being reviewed: Rezoning to C-2 If this property has been the subject of a previous LUPA or PLUS review, please provide the name(s) and date(s) of those applications.	
12. Area of Project (Acres +/-): 6.62	Number of Residential Units: N/A Commercial square footage: N/A
13. Present Zoning: AR-1	14. Proposed Zoning: C-2
15. Present Use: Residential Dwelling	16. Proposed Use: Future Commercial
17. Water: <input type="checkbox"/> Central (Community system) <input type="checkbox"/> Individual On-Site <input checked="" type="checkbox"/> Public (Utility) Service Provider Name: Artesiam	
Will a new public well be located on the site? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
18. Wastewater: <input type="checkbox"/> Central (Community system) <input checked="" type="checkbox"/> Individual On-Site <input type="checkbox"/> Public (Utility) Service Provider Name:	
Will a new community wastewater system be located on this site? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
19. If residential, describe style and market segment you plan to target (Example- Age restricted): N/A	
20. Environmental impacts:	
How many forested acres are presently on-site? 0 How many forested acres will be removed? 0	
To your knowledge, are there any wetlands, as defined by the U.S. Army Corps of Engineers or the Department of Natural Resources and Environmental Control, on the site? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Are the wetlands: <input type="checkbox"/> Tidal Acres: N/A <input type="checkbox"/> Non-tidal Acres:	
If "Yes", have the wetlands been delineated? <input type="checkbox"/> Yes <input type="checkbox"/> No N/A	
Has the Army Corps of Engineers signed off on the delineation? <input type="checkbox"/> Yes <input type="checkbox"/> No N/A	
Will the wetlands be directly impacted and/or do you anticipate the need for wetland permits? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "Yes", describe the impacts:	
How close do you anticipate ground disturbance to wetlands, streams, wells, or waterbodies? N/A	
21. Does this activity encroach on or impact any tax ditch, public ditch, or private ditch (ditch that directs water off-site)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
22. List the proposed method(s) of stormwater management for the site: Tax Ditches	
23. Is open space proposed? <input type="checkbox"/> Yes <input type="checkbox"/> No If "Yes," how much? N/A Acres:	
What is the intended use of the open space (for example, active recreation, passive recreation, stormwater management, wildlife habitat, historical or archeological protection)? MA	
24. Are you considering dedicating any land for community use (e.g., police, fire, school)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

25. Please estimate How many vehicle trips will this project generate on an average weekday? A trip is a vehicle entering or exiting. If traffic is seasonal, assume peak season:

N/A

What percentage of those trips will be trucks, excluding vans and pick-up trucks?

26. Will the project connect to state maintained roads? Yes No

27. Please list any locations where this project physically could be connected to existing or future development on adjacent lands and indicate your willingness to discuss making these connections.

N/A

28. Are there existing sidewalks? Yes No; bike paths Yes No
 Are there proposed sidewalks? Yes No; bike paths Yes No

Is there an opportunity to connect to a larger bike, pedestrian, or transit network? Yes No

29. To your knowledge, is this site in the vicinity of any known historic/cultural resources or sites? Yes No

Has this site been evaluated for historic and/or cultural resources? Yes No

Would you be open to a site evaluation by the State Historic Preservation Office? Yes No

30. To promote an accurate review of your parcel's features, would you permit a State agency site visit? Yes No

Person to contact to arrange visit: Daniel Bunting phone number: 443-580-3583

31. Are any federal permits, licensing, or funding anticipated? Yes No

I hereby certify that the information on this application is complete, true and correct, to the best of my knowledge.

Daniel Bunting
 Signature of property owner

11/22/21
 Date

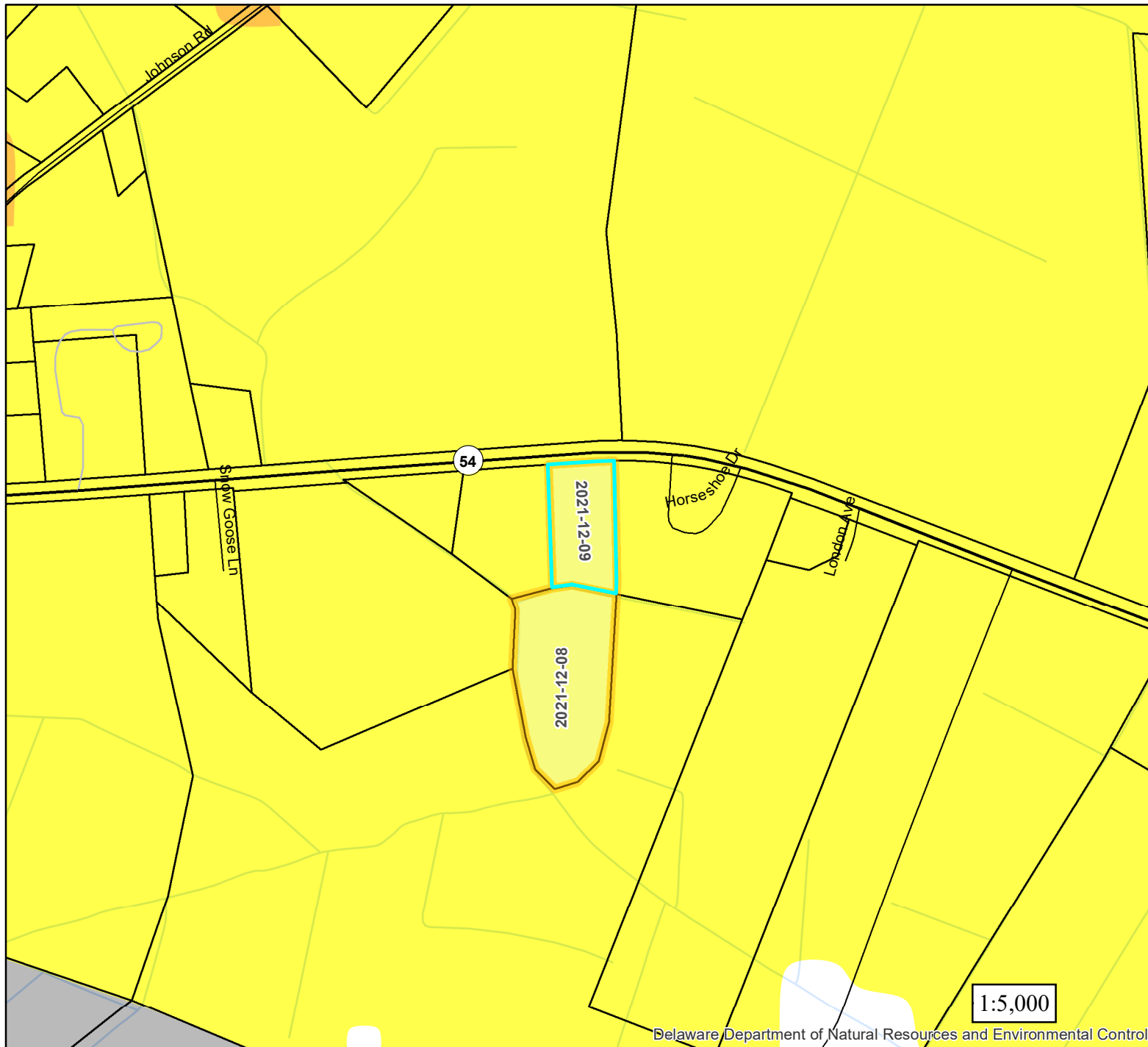
Daniel Bunting
 Signature of Person completing form
 (If different than property owner)

11/22/21
 Date

Signed application must be received before application is scheduled for PLUS review.

This form should be returned to the Office of State Planning **electronically** at plus@state.de.us **along with an electronic copy of any site plans and development plans for this site.** Site Plans, drawings, and location maps should be submitted as image files (JPEG, GIF, TIF, etc.) or as PDF files. GIS data sets and CAD drawings may also be submitted. If electronic copy of the plan is not available, contact The Office of State Planning Coordination at (302) 739-3090 for further instructions. A signed copy should be forwarded to the Office of State Planning, 122 William Penn Street, Dover, DE 19901. Thank you for this input. Your request will be researched thoroughly. **Please be sure to note the contact person** so we may schedule your request in a timely manner.

Preliminary Land Use Service (PLUS)



Route 54
2021-12-09

Legend

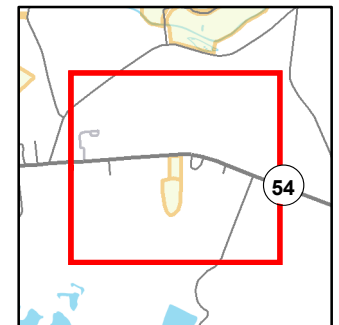
PLUS Project Areas

- Comp Plans
- All Other PLUS Reviews

2020 State Strategies

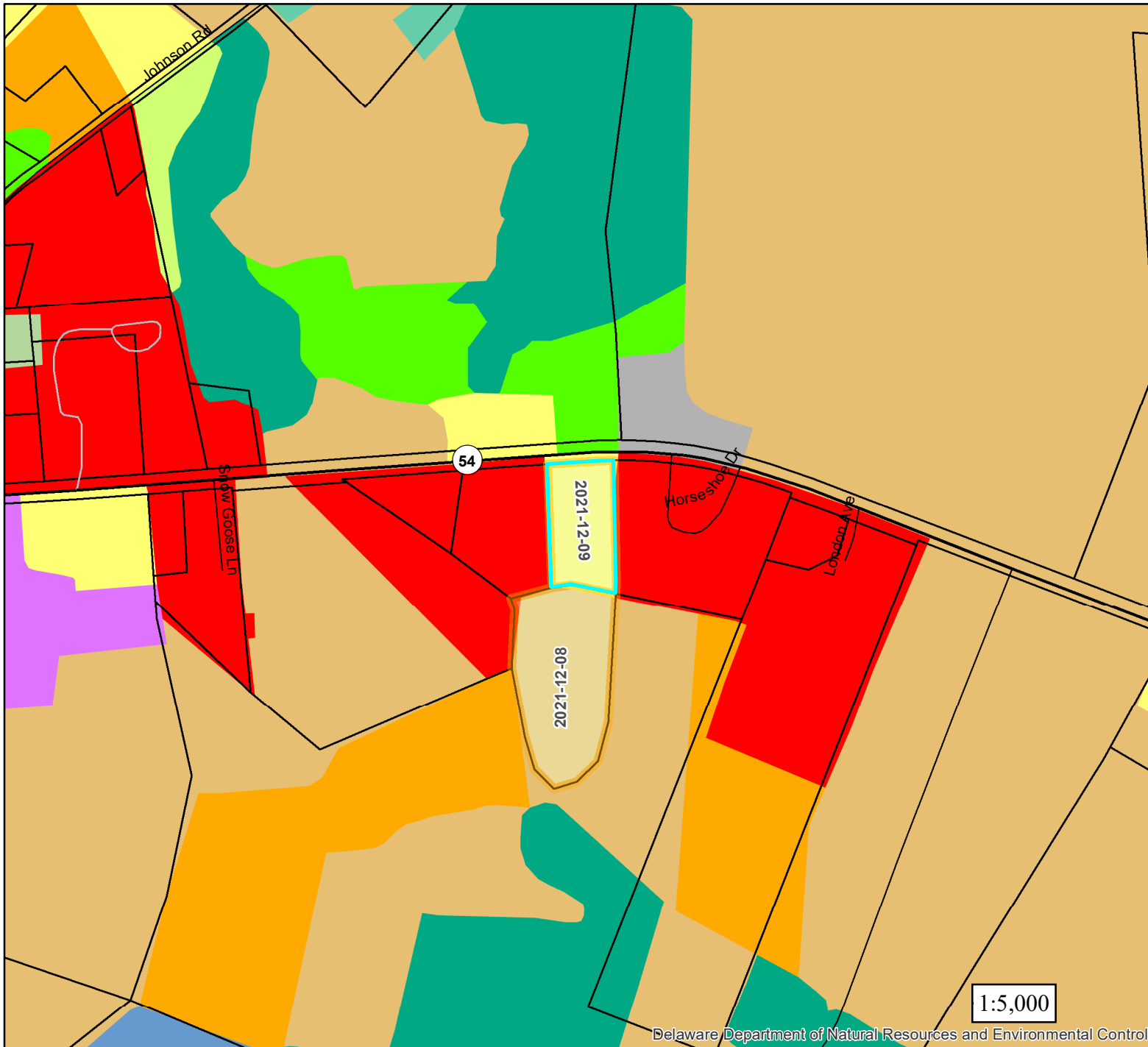
- 1
- 2
- 3
- 4
- Out of Play

Location Map



Preliminary Land Use Service (PLUS)

Route 54
2021-12-09



Legend

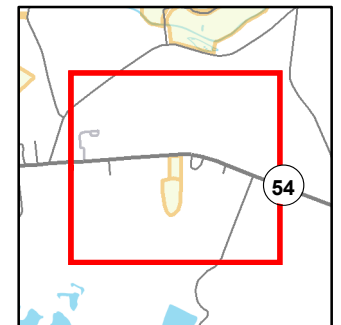
PLUS Project Areas

- Comp Plans
- All Other PLUS Reviews

2017 LULC

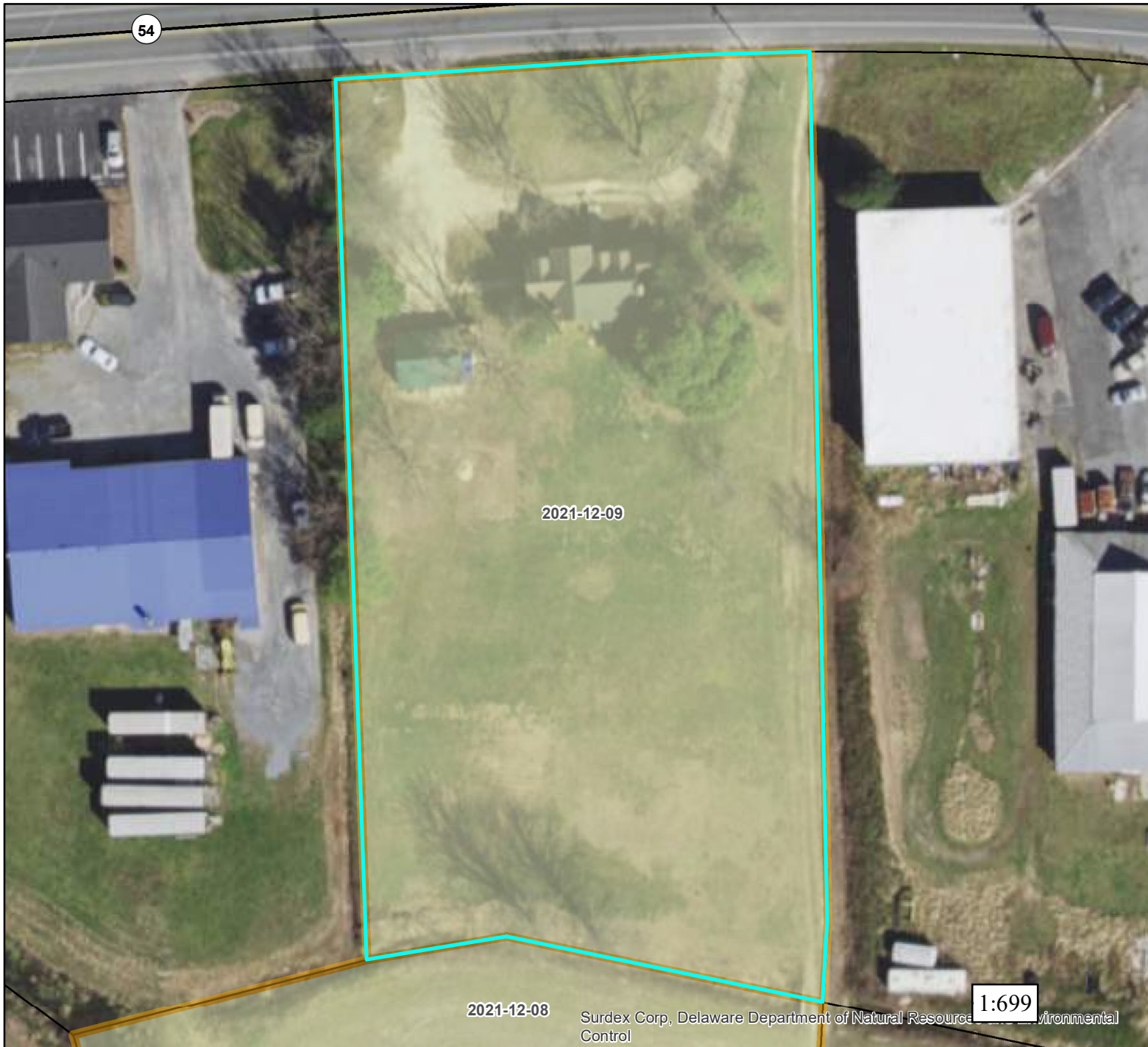
- Clear-cut
- Commercial
- Confined Feeding Operations/Feedlots/Holding
- Deciduous Forest
- Emergent Wetland - Tidal and Non-tidal
- Evergreen Forest
- Extraction and Transitional
- Farms, Pasture and Cropland
- Forested Wetland - Tidal and Non-tidal
- Industrial
- Institutional/Governmental
- Man-made Reservoirs and Impoundments
- Marinas/Port Facilities/Docks
- Mixed Forest
- Mixed Single and Multi-Family Residential
- Mixed Urban or Built-up Land
- Mobile home/Parks/Courts
- Multi-Family Dwellings
- Open Water
- Orchards/Nurseries/Horticulture
- Rangeland
- Recreational
- Sandy Areas and Shoreline
- Scrub/Shrub Wetland - Tidal and Non-tidal
- Shrub/Brush Rangeland
- Single Family Dwellings
- Transportation/Communication/Utilities

Location Map



1:5,000

Preliminary Land Use Service (PLUS)

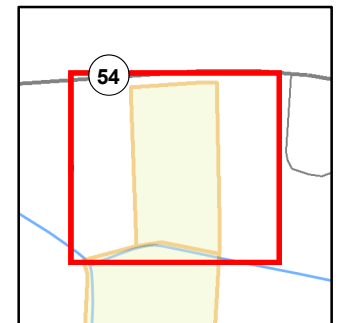


Route 54
2021-12-09

Legend

- PLUS Project Areas**
- Comp Plans
 - All Other PLUS Reviews

Location Map





STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF STATE PLANNING COORDINATION

January 13, 2022

Daniel Bunting
32996 Lighthouse Road
Selbyville, DE 19975

RE: PLUS review 2021-12-09; Route 54, LP Rezoning

Dear Mr. Bunting:

Thank you for meeting with State agency planners on December 15, 2021, to discuss the proposed plans for the Route 54, LP rezoning project. According to the information received you are seeking review of a proposed rezoning of 1.62 acres from AR-1 to C2 along Lighthouse Road in Sussex County.

The owners/developers will also need to comply with any Federal, State, and local regulations regarding this property. We note that as Sussex County is the governing authority over this land, the developers will need to comply with any and all regulations/restrictions set forth by the County.

Strategies for State Policies and Spending

- This parcel is located in Investment Level 3 according to the Strategies for State Policies and Spending. Investment Level 3 reflects areas where growth is anticipated by local, county, and state plans in the longer term future, or areas that may have environmental or other constraints to development. State investments may support future growth in these areas, but please be advised that the State has other priorities for the near future. If this site is developed, we encourage you to design the site with respect for the environmental features which are present.
- No site plan was submitted for review through PLUS. The PLUS review was for the rezoning only. Therefore, any development planned for this property that meets the PLUS criteria must be submitted to PLUS for review.

The following comments from State agencies should be considered if the site is developed. Note that this is not a complete list of requirements and recommendations. If the site is developed, the owner should contact the Office of State Planning regarding a review of the site plan.

Office of State Planning Coordination – Dorothy Morris 739-3090

- The Office of State Planning Coordination has no objections to this proposed rezoning as presented. C-2 is allowable within the Coastal area; a comp plan amendment is not required for this rezoning.

Delaware Department of Transportation – Contact Bill Brockenbrough 760-2109

- DelDOT has no comments on the subject rezoning but offers the following comments as information about what DelDOT will require if the County grants the rezoning and a developer subsequently submits a plan.
 - The site access on Lighthouse Road (Delaware Route 54) must be designed in accordance with DelDOT's Development Coordination Manual, which is available at <http://www.deldot.gov/Business/subdivisions/index.shtml?dc=changes>.
 - Pursuant to Section P.3 of the Manual, a Pre-Submittal Meeting is required before plans are submitted for review. The form needed to request the meeting and guidance on what will be covered there and how to prepare for it is located at https://www.deldot.gov/Business/subdivisions/pdfs/Meeting_Request_Form.pdf?08022017.
 - Section 1.7 of the Manual addresses fees that are assessed for the review of development proposals. DelDOT anticipates collecting the Initial Stage Fee when the record plan is submitted for review and the Construction Stage Fee when construction plans are submitted for review.
 - Per Section 2.2.2.1 of the Manual, Traffic Impact Studies (TIS) are warranted for developments generating more than 500 vehicle trip ends per day or 50 vehicle trip ends per hour in any hour of the day. DelDOT will assess the need for a TIS when a plan is presented for development of the subject land.

Department of Natural Resources and Environmental Control – Contact Beth Krumrine 735-3480

The project application proposes to rezone a 1.62-acre parcel along Route 54 from AR-1 to C-2. DNREC reviewers have no concerns or comments at this time regarding the rezoning. If this site is developed in the future, plan for the following environmental features on the site, which may trigger environmental permits or regulations. Please note that this is not an exhaustive list of environmental considerations.

- Hydrologic Soil Group A/D (poorly drained) soils have been identified over most of the site. These soil types are typically not conducive to utilizing infiltration stormwater Best Management Practices such as bioretention and infiltration basins, which must meet minimum infiltration requirements.
- Prong 6 of the Bunting Tax Ditch lies on the southern portion of the parcel. Tax ditches are man-made channels created to move normal water flow off agricultural lands. These channels have associated tax ditch Rights-of-Way (ROW) that are utilized for access as well as sediment and debris disposal during maintenance. Tax Ditch ROWs vary by channel size and location. Prong 6 of the Bunting Tax Ditch has a 50-foot to Centerline (CL) ROW extending into the project boundary.

State Historic Preservation Office – Contact Carlton Hall 736-7400

- There is high potential for prehistoric archaeological resources on this parcel due to favorable environmental conditions. The parcel is near Buntings Branch and is composed of well-drained soils. The Delaware SHPO recommends an archaeological survey prior to any ground disturbance.
- There is high potential for historic archaeological resources on this parcel as well. There is a known historic structure along Lighthouse Road that was constructed between 1937 and 1954. Our Office recommends an archaeological survey prior to any ground disturbance.
- If any project or development proceeds, the developer should be aware of the Unmarked Human Burials and Human Skeletal Remains Law (Del. C. Title 7, Ch. 54).
- If there is federal involvement, in the form of licenses, permits, or funds, the federal agency, often through its client, is responsible for complying with Section 106 of the National Historic Preservation Act (36 CFR 800) and must consider their project's effects on any known or potential cultural or historic resources. For further information on the Section 106 process please review the Advisory Council on Historic Preservation's website at: www.achp.gov
- If there are any questions, inquiries, or concerns, feel free to contact the Delaware State Historic Preservation Office for assistance at 302-736-7400.

Delaware State Fire Marshall's Office – Contact John Rudd 323-5365

- The Delaware State Fire Marshal's Office has the responsibility to review all commercial projects for compliance with the Delaware State Fire Prevention Regulations. This Agency's approvals are based on the Delaware State Fire Prevention Regulations only.

Following receipt of this letter and upon filing of an application with the local jurisdiction, the applicant shall provide to the local jurisdiction and the Office of State Planning Coordination a written response to comments received as a result of the PLUS process, noting whether comments were incorporated into the project design or not and the reason therefore.

Thank you for the opportunity to review this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Edgell". The signature is fluid and cursive, with a large initial "D" and a stylized "Edgell".

David Edgell, AICP
Director, Office of State Planning Coordination

CC: Sussex County Planning Department

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



Sussex County

DELAWARE
sussexcountyde.gov

PLEASE NOTE

This paperless packet is published on the County's website for convenience purposes, and only includes information received up to the close of business on the day before a public hearing. Documents received after this, or documents submitted during the public hearing are not uploaded to the Paperless Packet. The legal record is the paper record maintained in the Offices of the Planning & Zoning Department.



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

PLANNING & ZONING COMMISSION

ROBERT C. WHEATLEY, CHAIRMAN
KIM HOEY STEVENSON, VICE-CHAIRMAN
R. KELLER HOPKINS
J. BRUCE MEARS
HOLLY J. WINGATE



Sussex County

DELAWARE
sussexcountyde.gov
302-855-7878 T
302-854-5079 F
JAMIE WHITEHOUSE, MRTPI, AICP
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: April 28th, 2022

Application: CZ 1934 Bunting Holdings LLC

Applicant: Bunting Holdings LLC (c/o Mr. Daniel Bunting)
7000 NE 8th Dr
Boca Raton, FL 33487

Owner: Bunting Holdings LLC
7000 NE 8th Dr
Boca Raton, FL 33487

Site Location: The property is a landlocked parcel of land lying on the south side of Lighthouse Road (Route 54) approximately 0.39 mile east of Johnson Road (S.C.R 390).

Current Zoning: AR-1 – Agricultural Residential District

Proposed Zoning: C-2 – Medium Commercial District

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Hudson

School District: Indian River School District

Fire District: Roxana Volunteer Fire Company

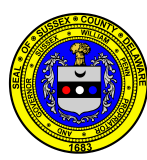
Sewer: N/A

Water: Artesian

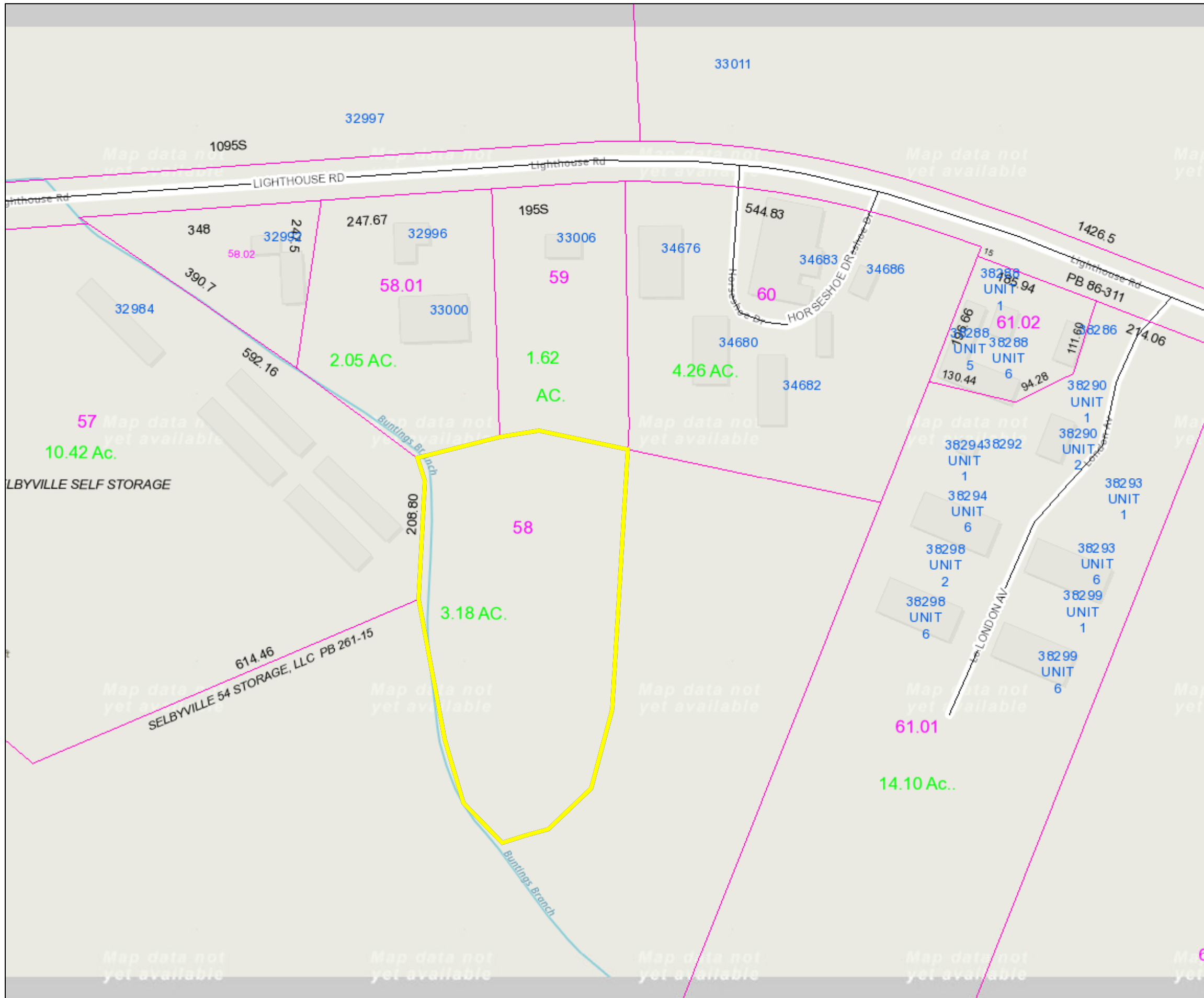
Site Area: 3.18 acres +/-

Tax Map ID.: 533-18.00-58.00





Sussex County



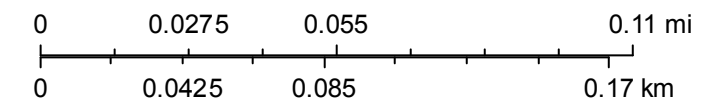
PIN:	533-18.00-58.00
Owner Name	BUNTING HOLDINGS LLC
Book	4714
Mailing Address	7000 NE 8TH DR
City	BOCA RATON
State	FL
Description	N/RT 54
Description 2	S/RT 390
Description 3	
Land Code	

- polygonLayer

 - Override 1
- polygonLayer

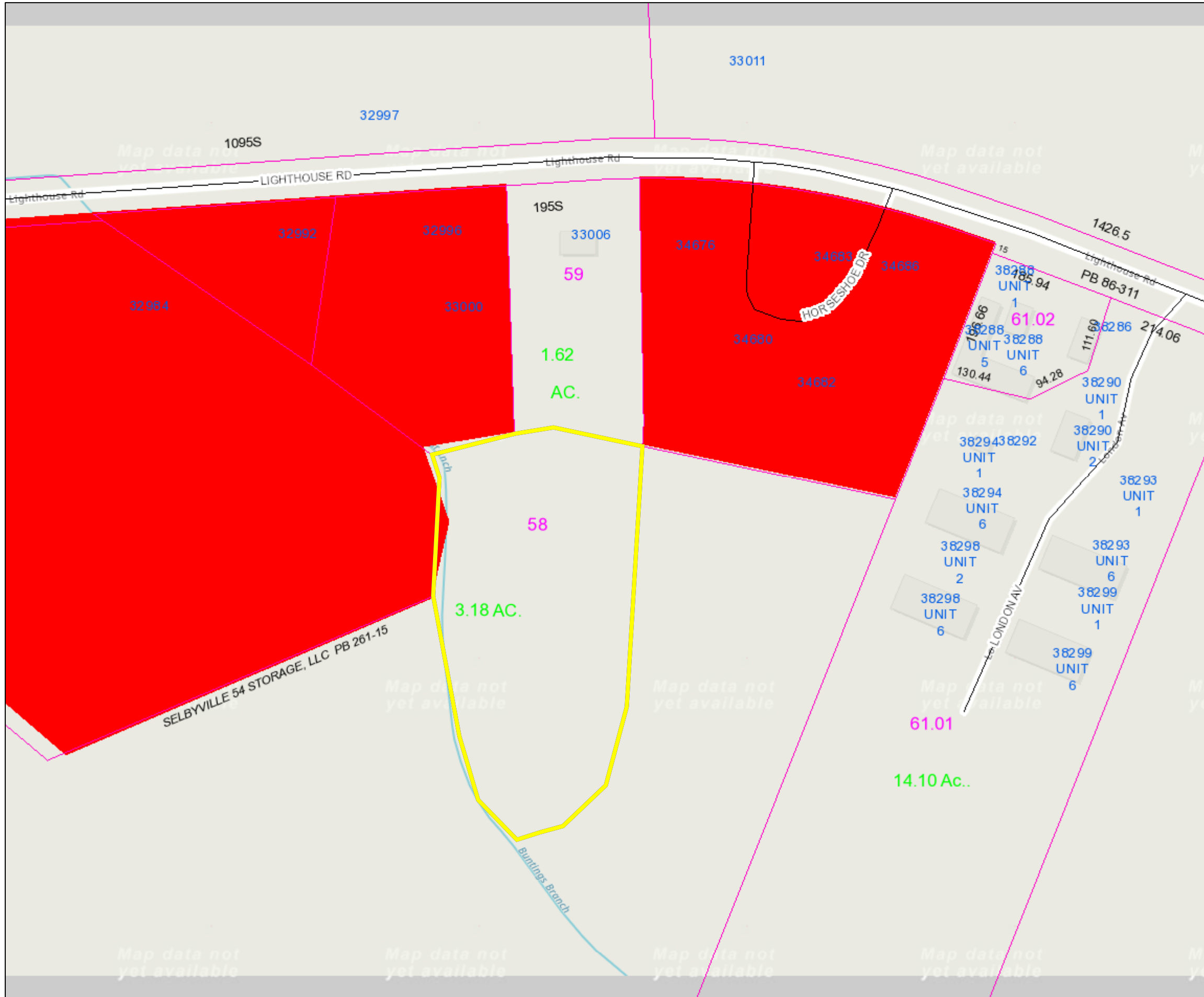
 - Override 1
- ⋮ Tax Parcels
- 911 Address
- Streets
- ⋮ County Boundaries

1:2,257



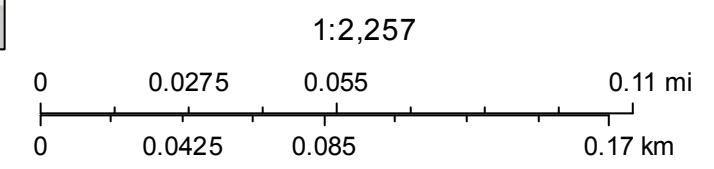


Sussex County



PIN:	533-18.00-58.00
Owner Name	BUNTING HOLDINGS LLC
Book	4714
Mailing Address	7000 NE 8TH DR
City	BOCA RATON
State	FL
Description	N/RT 54
Description 2	S/RT 390
Description 3	
Land Code	

- polygonLayer
 Override 1
- polygonLayer
 Override 1
- ⋯ Tax Parcels
- 911 Address
- Streets



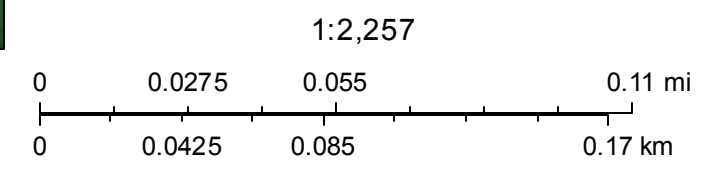


Sussex County



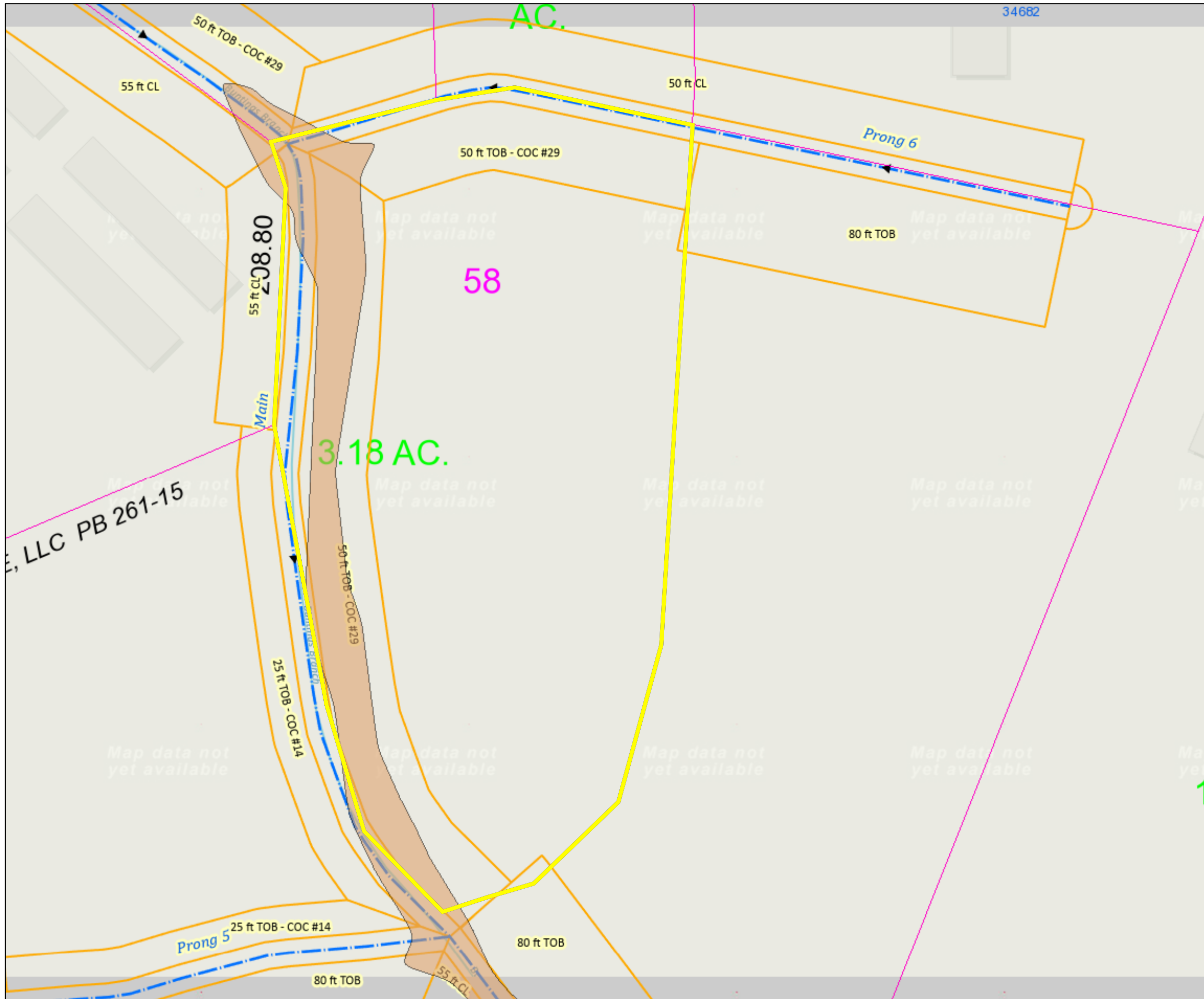
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State	FL
Description	N/RT 54
Description 2	S/RT 390
Description 3	
Land Code	

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





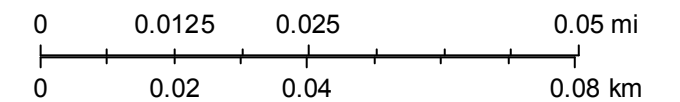
Sussex County



PIN:	533-18.00-58.00
Owner Name	BUNTING HOLDINGS LLC
Book	4714
Mailing Address	7000 NE 8TH DR
City	BOCA RATON
State	FL
Description	N/RT 54
Description 2	S/RT 390
Description 3	
Land Code	

- polygonLayer**
 - Override 1
- polygonLayer**
 - Override 1
- Tax Parcels
- 911 Address
- Streets
- County Boundaries
- Flood Zones 2018**
 - 0.2 PCT ANNUAL CHANCE FLOOD HAZARD
 - A
 - AE
 - AO
 - OPEN WATER
 - VE
- Tax Ditch Segments**
 - Tax Ditch Channel
 - Pond Feature
 - Special Access ROW
 - Extent of Right-of-Way

1:1,128



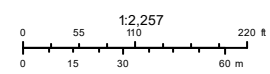


Delaware Flood Planning Tool

Location is **Within** from the FEMA 100-year floodplain in the Effective Map.



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community, FEMA



March 29, 2022

Effective Flood Hazard Areas

- A
- AE
- AE, FLOODWAY
- AO
- VE
- X, 0.2 PCT ANNUAL CHANCE FLOOD HAZARD
- Base Flood Elevation
- LiMWA
- Cross Sections
- Transect

Preliminary Flood Hazard

- A
- AE
- AE, FLOODWAY
- X, 0.2 PCT ANNUAL CHANCE FLOOD HAZARD
- Contours**
- INDEX
- DEPRESSION
- HIDDEN
- INTERVAL

Flood Zone (at Point): AE
 Base Flood Elevation (ft): 5
 FEMA Issued Flood Map: 10005C0635K
 Map Date: 3/16/2015
 Subwatershed (HUC12): Assawoman Bay
 Tax Parcel: 533-18.00-58.00
 Flood zones on Parcel: X
 AE

FULLNAME	Second_Owner_Name	MAILINGADD	CITY	STATE	ZIPCODE
BUNTING CONSTRUCTION CORP		32996 LIGHTHOUSE RD	SELBYVILLE	DE	19975
BUNTING HOLDINGS LLC		7000 NE 8TH DR	BOCA RATON	FL	33487
CENTER ON 54 LLC		12945 VANDERBILD DR.	NAPLES	FL	34110
ROUTE 54 LP		32996 LIGHTHOUSE RD	SELBYVILLE	DE	19975
SELBYVILLE 54 STORAGE LLC		1024 SCARBOROUGH AVE EXT	REHOBOTH BEACH	DE	19971
SUSSEX COUNTY	ENG DEPT-LOUANN ROGERS	PO BOX 589	GEORGETOWN	DE	19947



Sussex County

Mailing List Exhibit Map
CZ 1934 Bunting Holdings LLC
533-18.00-58.00



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



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Planning Commission Members
From: Ms. Lauren DeVore, Planner III
CC: Mr. Vince Robertson, Assistant County Attorney and applicant
Date: March 28th, 2022
RE: Staff Analysis for CZ 1934 Bunting Holdings LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1934 Bunting Holdings LLC to be reviewed during the April 28, 2022, 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 533-18.00-58.00 to allow for a change of zone from an Agricultural Residential (AR-1) District to a Medium Commercial (C-2) District. The parcel is a landlocked parcel of land lying on the south side of Lighthouse Road (Route 54) approximately 0.39 mile east of Johnson Road (S.C.R 390). The parcel to be rezoned contains 3.18 acres +/-.

Further Site Considerations

Although formerly thought to be landlocked, it should be noted that the property has the slightest semblance of an access point by way of a dirt road (likely an agricultural access) along the eastern portion of the subject property.

The western side of the property lies within the 100-Year Floodplain (Flood Zone AE). Any improvements within this location shall require an Elevation Certificate to be issued by FEMA with the lowest floor construction to be elevated to or above Base Flood Elevation (BFE) for the site.

Buntings Branch also runs through the western side of the property. With regard to any future improvements on the site, a fifty-foot (50-ft) buffer zone is required landward from the mean high water line of tidal waters, tidal tributary streams, and tidal wetlands and from the ordinary high water line of perennial nontidal rivers and nontidal streams in Sussex County (§115-193(B)).

There is a Tax Ditch (and associated Tax Ditch ROW,) which runs along the eastern and northern portion of the property. Both Tax Ditch ROWs are measured 50-ft from the top of bank (TOB) of the ditch and were reduced to this width through Court Order Change #29). No improvements may be located within these areas.

Comprehensive Plan Analysis

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



of “Coastal Area.” The properties to the east, south, and northeast across Lighthouse Road (Route 54) also have the land use designation of “Coastal Area.” The properties to the west and northwest have a land use designation of “Developing Area”

As outlined in the 2018 Sussex County Comprehensive Plan, Coastal Areas are areas that can accommodate development provided that special environmental concerns are addressed. A range of housing types should be permitted in Coastal Areas, including single-family homes, townhouses, and multi-family units. Retail and office uses are appropriate, but larger shopping centers and office parks should be confined to selected locations with access along arterial roads. Appropriate mixed-use development should all be allowed. In doing so, careful mixtures of homes with light commercial, office and institutional uses can be appropriate to provide for convenient services and to allow people to work close to home. Major new industrial uses are not proposed in these areas. (Sussex County Comprehensive Plan, 4-15).

Conversely, Developing Areas are newer, emerging growth areas that demonstrate the characteristics of developmental pressures. Most of the proposed Developing Areas are adjacent to municipalities, within or adjacent to potential future annexation areas of a municipality, or adjacent to Town Centers. A range of housing types are appropriate in Developing Areas, including single family homes, townhouses, and multi-family units. In selected areas and at appropriate intersections, commercial uses should be allowed. A variety of office uses would be appropriate in many areas. Portions of the Developing Areas with good road access and few nearby homes should allow for business and industrial parks. Appropriate mixed-use development should also be allowed. In doing so, careful mixtures of homes with light commercial and institutional uses can be appropriate to provide for convenient services and to allow people to work close to home (Sussex County Comprehensive Plan, 4-14).

Zoning Information

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 Medium Commercial (C-2) Zoning District is listed as an applicable Zoning District within the “Coastal Area” (Sussex County Comprehensive Plan, 4-25).

The property is zoned Agricultural Residential (AR-1) District. The adjacent parcels to the northeast and west of the subject property are zoned General Commercial (C-1) District. The properties located to the south and north across Lighthouse Road are zoned Agricultural Residential (AR-1).

It should be noted that the property directly to the north is also seeking a rezoning from Agricultural Residential (AR-1) District to a Medium Commercial (C-2) District under Change of Zone 1933 Route 54 Limited Partnership.

Existing Conditional Uses within the Vicinity of the Subject Site

Since 2011, there have been three (3) Change of Zone applications within a 1-mile radius of the application site. The first application is for Change of Zone No. 1711 James Moses for a change of zone from an Agricultural Residential (AR-1) Zoning District and General Commercial (C-1)

Zoning District to a Commercial Residential (CR-1) Zoning District. The application was approved by the Sussex County Council on February 14th, 2012 and the change was adopted through Ordinance No. 2241. The second application is for Change of Zone No. 1896 Fenwick Commons, LLC for a change of zone from an Agricultural Residential (AR-1) Zoning District to Medium Density Residential (MR) Zoning District. The application was approved by the Sussex County Council on January 14, 2020 and adopted through Ordinance No. 2700. The last application is for Change of Zone No. 1917 Iacchetta Development Corporation for a change of zone from an Agricultural Residential (AR-1) Zoning District to a Medium Commercial (C-2) Zoning District. The application was approved by the Sussex County Council on August 11, 2020 and adopted through Ordinance No. 2731.

Based on the analysis of the land use, surrounding zoning and uses, a Change of Zone from an Agricultural Residential (AR-1) District to a Medium Commercial (C-2) District could be considered as being consistent with the land use, area zoning and surrounding uses.

Change of Zone Applications (w/in a 1 mile radius of the subject site)*								
Application Number	Application Name	Current Zoning	Proposed Zoning	P&Z Decision	P&Z Decision Date	CC Decision	CC Decision Date	Ordinance Number
CZ 1711	James Moses	AR-1 & C-1	CR-1	Recommended Approval	1/26/2012	Approved	2/14/2012	2241
CZ 1896	Fenwick Commons, LLC	AR-1	MR	Recommended Approval	12/12/2019	Approved	1/14/2020	2700
CZ 1917	Iacchetta Development Corporation	AR-1	C-2	Recommended Approval	7/23/2020	Approved	8/11/2020	2731

File #: C/21434
202011634

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

533-18.00-58.00

Type of Conditional Use Requested:

Zoning Change AR - C-2

Tax Map #: 533-18.00-58.00

Size of Parcel(s): 3.18 Acres

Current Zoning: AR-1

Proposed Zoning: C-2

Size of Building: N/A

Land Use Classification: _____

Water Provider: Artesian

Sewer Provider: N/A

Applicant Information

Applicant Name: Bunting Holdings LLC

Applicant Address: 7000 NE 8th Drive

City: Boca Raton

State: FL

Zip Code: 33487

Phone #: (443) 880-3883

E-mail: Daniel@buntingconstruction.com

Owner Information

Owner Name: Bunting Holdings LLC

Owner Address: 7000 NE 8th Drive

City: Boca Raton

State: FL

Zip Code: 33487

Phone #: (443) 880-3883

E-mail: Daniel@buntingconstruction.com

Agent/Attorney/Engineer Information

Agent/Attorney/Engineer Name: Daniel Bunting

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.

___ DeIDOT Service Level Evaluation Request Response

___ PLUS Response Letter (if required)

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

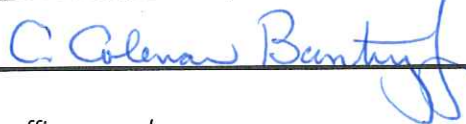
I also certify that I or an agent on my behalf shall attend all public hearing before the Planning and Zoning Commission and the Sussex County Council and any other hearing necessary for this application and that I will answer any questions to the best of my ability to respond to the present and future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

Signature of Applicant/Agent/Attorney



Date: 7/20/20

Signature of Owner



Date: 7/20/20

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: _____

19904

BK: 4714 PG: 16

5-33 18.00 11.00 & 5-33 18.00 58.00
PREPARED BY & RETURN TO:
Sergovic Carmean Weidman
McCartney & Owens, P.A.
406 S. Bedford St, Suite 1
P.O. Box 751
Georgetown, DE 19947-0751
File No. RE-8631

THIS DEED, made this 24th day of May, 2017,

- BETWEEN -

IDEAL FARM STORES, INC., a Delaware corporation, and C. COLEMAN BUNTING, SR., of 3 Dorchester Street, Ocean City, MD 21842, parties of the first part,

- AND -

BUNTING HOLDINGS, LLC, a Florida limited liability company, of 7000 N.E. 8th Drive, Boca Raton, FL 33487, party of the second part.

WITNESSETH: That the said parties of the first part, for and in consideration of the sum of One Dollar (\$1.00), lawful money of the United States of America, the receipt whereof is hereby acknowledged, hereby grant and convey unto the party of the second part, and its heirs and assigns:

ALL those lots, pieces and parcels of land situate, lying and being located in Baltimore Hundred, Sussex County and State of Delaware, and being more particularly described as follows, to wit:

TRACT NUMBER ONE: Three and Eighteen/One-Hundredths acres (3.18 Acs.), more or less, located south of Delaware Route No. 54, approximately 4-1/2 miles east of Selbyville, Delaware, as shown on Sussex County Tax Map #5-33-18.00, Parcel #58, with all improvements thereon.

TOGETHER with a right of ingress and egress over a 20 foot easement to the said State Route No. 54.

TRACT NUMBER TWO: Thirty-eight and Fifty-Seven/One-Hundredths acres (38.57 Acs.), more or less, having approximately 1,00 feet of frontage on the north side of Delaware State Route No. 54 and approximately 40 feet of frontage on the south side of State Route No. 390, adjoining on the east lands of Bunting Nurseries, Inc., located approximately 4 1/2 miles east

CW

CW

of Selbyville, Delaware, as shown on Sussex County Tax Map #5-33-18.00, Parcel #11.00, with all improvements thereon.

BEING the same lands of which Marion E. Bunting died seized on December 27, 1984 and by her Last Will and Testament, filed for record in the Office of the Register of Wills, in and for Sussex County, Delaware, in Will Book 138, page 67, she devised her estate in equal shares to C. Coleman Bunting Sr., Alma B. Hall and Pauline B. Carey. The said Alma B. Hall was deceased at the time of death of the said Marion E. Bunting and pursuant to the aforesaid Will, the share of Alma B. Hall was devised to her child, Lyn B. Hall. By a Deed dated August 4, 1989 and filed for record in Deed Book 1668, page 127, Lyn B. Hall conveyed her interest in the property unto Ideal Farm Stores, Inc. By a Deed dated November 24, 1998 and filed for record in Deed Book 2717, page 64, Pauline B. Carey conveyed her interest in the property unto Ideal Farm Store, Inc.

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

IN WITNESS WHEREOF, the said Ideal Farm Stores, Inc. has caused its name to be hereunto set, and its common and corporate seal to be hereunto affixed, duly attested, and the party of the first part has hereunto set his hand and seal, the day and year first above written.

[Signature]
Witness

IDEAL FARM STORES, INC.

By: [Signature] (SEAL)
President

Attest: _____ (SEAL)



[Signature]
Witness

[Corporate Seal]

By: [Signature] (SEAL)
C. Coleman Bunting, Sr.

Consideration: 246,000.00

County	3,690.00
State	3,690.00
Town	Total 7,380.00
Received: Mary W May 26, 2017	

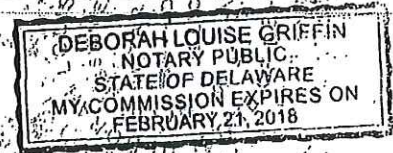
RECEIVED
May 26, 2017
ASSESSMENT DIVISION
OF SUSSEX COUNTY

STATE OF Delaware, COUNTY OF Sussex: to-wit

BE IT REMEMBERED, that on this 24th day of May, A.D. 2017, personally appeared before me, the Subscriber, a Notary Public for the State and County, C. Coleman Bunting, Sr., President of Ideal Farm Stores, Inc., party to this Indenture, known to me personally to be such, and acknowledged this Indenture to be his/her act and deed and the act and deed of said corporation; that the signature of the President is in his/her own proper handwriting and the seal affixed is the common and corporate seal of said corporation; and that his/her act of signing, sealing, acknowledging and delivering said Indenture was first duly authorized by a resolution of the Board of Directors of said corporation.

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

Deborah Louise Griffin
Notary Public
Printed Name: Deborah Louise Griffin
My Commission Expires: 2-21-18

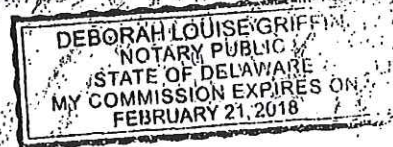


STATE OF Delaware:
COUNTY OF Sussex: :SS.

BE IT REMEMBERED, that on this 24th day of May, A.D. 2017, personally came before me, the Subscriber, a Notary Public for the State and County aforesaid, C. Coleman Bunting, Sr., party to this Indenture, known to me personally to be such, and acknowledged this Indenture to be his deed.

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

Deborah Louise Griffin
NOTARY PUBLIC
Type or Print Name: Deborah Louise Griffin
2-21-18
Comm. Exp:



Recorder of Deeds
Scott Dailey
May 26, 2017 11:48A
Sussex County
Doc. Surcharge Paid



STATE OF DELAWARE
DEPARTMENT OF TRANSPORTATION
800 BAY ROAD
P.O. Box 778
DOVER, DELAWARE 19903

JENNIFER COHAN
SECRETARY

May 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 **Route 54 LP** rezoning application, which we received on May 7, 2020. This application is for an approximately 1.62-acre parcel (Tax Parcel: 533-18.00-59.00). The subject land is located on the south side of Lighthouse Road (Sussex Road 58), approximately 2,000 feet east of the intersection of Lighthouse Road and Bunting Road (Sussex Road 390). The subject land is currently zoned MR (Medium-Density Residential), and the applicant is seeking to rezone the land to C-1 (General Commercial) for an unspecified future commercial development.

Per the 2019 Delaware Vehicle Volume Summary, the annual average and summer average daily traffic volumes along the segment of Lighthouse Road where the subject land is located, which is from Bunting Road to Williamsville Road (Sussex Road 268), are 5,657 and 7,281 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 land development 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.

Mr. Jamie Whitehouse
Page 2 of 2
May 21, 2020

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

Sincerely,



T. William Brockenbrough, Jr.
County Coordinator
Development Coordination

TWB:cjm

cc: Constance C. Holland, Coordinator, Cabinet Committee on State Planning Issues
Route 54 LP, Applicant
Todd Sammons, Assistant Director, Development Coordination
Gemez Norwood, South District Public Works Manager, Maintenance & Operations
Susanne K. Laws, Sussex County Review Coordinator, Development Coordination
Derek Sapp, Subdivision Manager, Development Coordination
Kevin Hickman, Subdivision Manager, Development Coordination
Brian Yates, Subdivision Manager, Development Coordination
John Andrescavage, Subdivision Manager, Development Coordination
James Argo, South District Project Reviewer, Maintenance & Operations
Troy Brestel, Project Engineer, Development Coordination
Claudy Joinville, Project Engineer, Development Coordination

**SUSSEX COUNTY ENGINEERING DEPARTMENT
UTILITY PLANNING & DESIGN REVIEW DIVISION
C/U & C/Z COMMENTS**

TO: **Jamie Whitehouse**

REVIEWER: **Chris Calio**

DATE: **4/4/2022**

APPLICATION: **CZ 1934 Bunting Holdings, LLC**

APPLICANT: **Bunting Holdings, LLC**

FILE NO: **SPS-5.04**

TAX MAP &
PARCEL(S): **533-18.00-58.00**

LOCATION: **Land Locked parcel lying on the south side of Lighthouse Road (Rt. 54), approximately 0.39 mile east of Johnson Road (SCR 390)**

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

GROSS
ACREAGE: **3.18**

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

SEWER:

- (1). Is the project in a County operated and maintained sanitary sewer and/or water district?
Yes No
- a. If yes, see question (2).
b. If no, see question (7).
- (2). Which County Tier Area is project in? **Tier 2**
- (3). Is wastewater capacity available for the project? **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 \$6,600.00** per EDU. Please contact **Choose an item.** at **302-855-7719** for additional information on charges.

- (6). Is the project capable of being annexed into a Sussex County sanitary sewer district? **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: **Click or tap here to enter text.**
- (9). Is a Sewer System Concept Evaluation required? **Not at this time**
- (10). Is a Use of Existing Infrastructure Agreement Required? **Not at this time**
- (11). **All residential roads must meet or exceed Sussex County minimum design standards.**

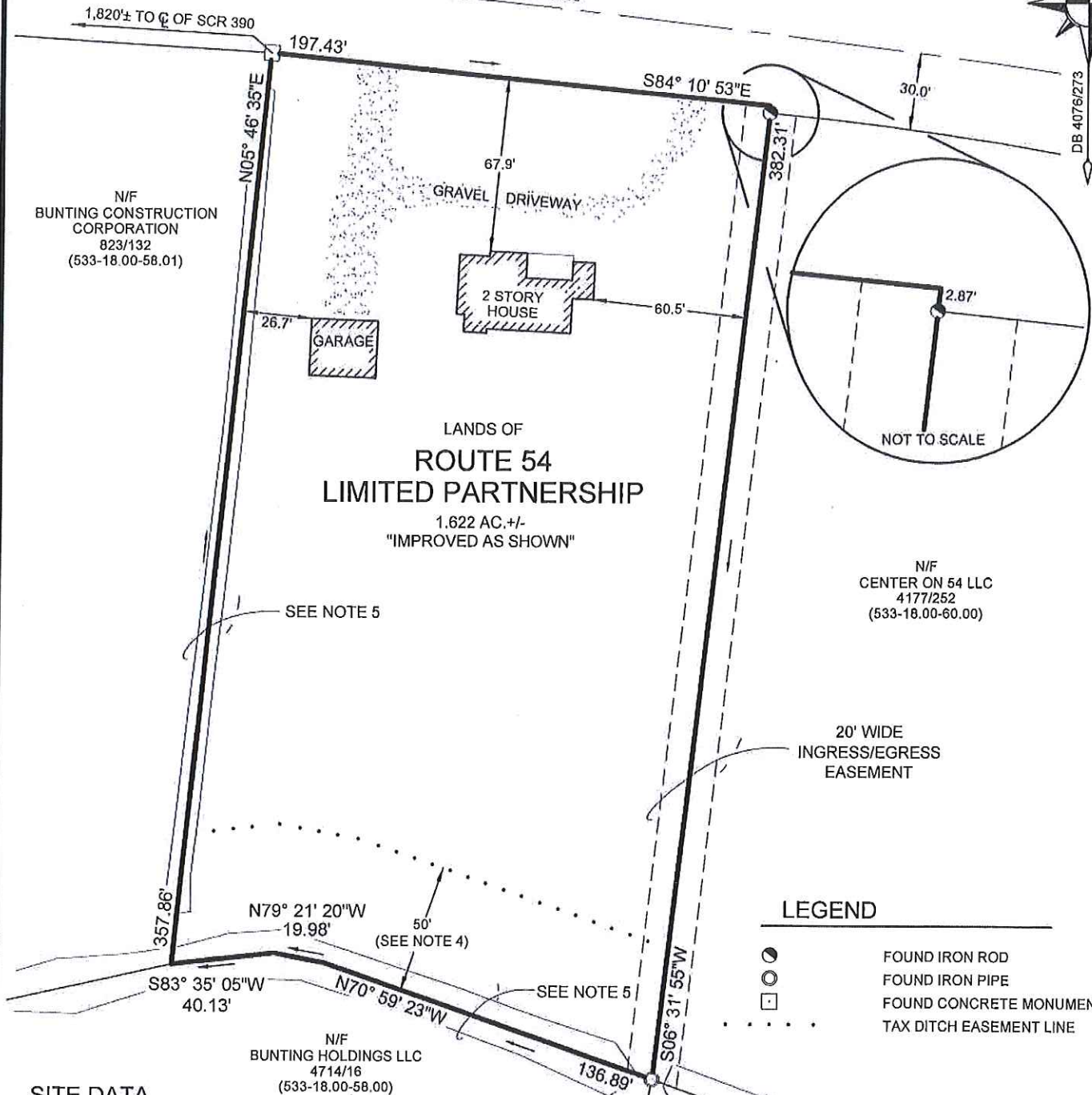
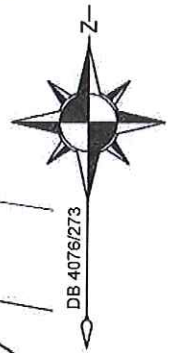
UTILITY PLANNING & DESIGN REVIEW APPROVAL:



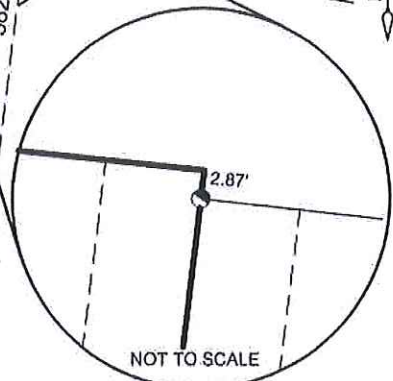
John J. Ashman
Sr. Manager of Utility Planning & Design Review

Xc: Hans M. Medlarz, P.E.
Lisa Walls
No Permit Tech Assigned

LIGHTHOUSE ROAD (SR54)
RIGHT OF WAY WIDTH VARIES



N/F
BUNTING CONSTRUCTION CORPORATION
823/132
(533-18.00-58.01)



LANDS OF
**ROUTE 54
LIMITED PARTNERSHIP**
1.622 AC +/-
"IMPROVED AS SHOWN"

N/F
CENTER ON 54 LLC
4177/252
(533-18.00-60.00)

SEE NOTE 5

20' WIDE
INGRESS/EGRESS
EASEMENT

LEGEND

- FOUND IRON ROD
- FOUND IRON PIPE
- FOUND CONCRETE MONUMENT
- TAX DITCH EASEMENT LINE

N/F
BUNTING HOLDINGS LLC
4714/16
(533-18.00-58.00)

SITE DATA

OWNER: ROUTE 54 LIMITED PARTNERSHIP
32996 LIGHTHOUSE ROAD
SELBYVILLE, DELAWARE 19975

SURVEYOR: STEVEN M ADKINS LAND SURVEYING, LLC
212 EAST FRONT STREET
LAUREL, DE 19956

TAX MAP: 533-18.00-59.00

DEED REF.: BOOK 4076, PAGE 273

LOT AREA: 1.622 AC +/-

ZONING: AR-1

BLD SET BACKS: 40' FRONT
15' SIDE
20' REAR

N/F
SUSSEX COUNTY
4844/64
(533-18.00-61.00)



NOTES:

1. BOUNDARY INFORMATION SHOWN HEREON WAS DERIVED FROM THE LAND RECORDS OF SUSSEX COUNTY, DE AND WAS SUPPORTED BY BOUNDARY MONUMENTS FOUND/LOCATED DURING OUR FIELD RUN LAND SURVEY.
2. A TITLE SEARCH WAS NEITHER REQUESTED NOR PREPARED FOR THE SUBJECT PARCEL, THEREFORE, THIS PLAN DOES NOT REFLECT ANY EASEMENTS AND/OR RIGHTS OF WAY WHICH MAY AFFECT THIS PARCEL.

SURVEYOR'S CERTIFICATION

I, STEVEN M. ADKINS, HEREBY ATTEST THAT I AM A REGISTERED LAND SURVEYOR IN THE STATE OF DELAWARE AND THAT THE INFORMATION

Preliminary Land Use Service (PLUS)

Delaware State Planning Coordination

122 Martin Luther King Jr. Blvd., South • Dover, DE 19901 • Phone: 302-739-3090 • Fax: 302-739-5661

Purpose of PLUS --The PLUS process is intended to provide consolidated State comments regarding the proposed project. The Applicant is encouraged to submit the application during the concept stages of planning as this process often offers recommendations for changes to the plan. The application should be submitted after the pre-application meeting with the local jurisdiction but before formal application is made.

Please complete this PLUS application in its entirety. All questions must be answered. If a question is unknown at this time or not applicable, please explain. Unanswered questions on this form could lead to delays in scheduling your review. This form will enable the state staff to review the project before the scheduled meeting and to have beneficial information available for the applicant and/or developer at the time of review. If you need assistance or clarification, please call the State Planning Office at (302) 739-3090.

PLUS Number (to be completed by OSPC): 2021-12-08 3
 Investment Level Per Strategies for State Policies and Spending (to be determined by OSPC): _____

1. Project Title/Name: <u>Bunting Holdings LLC Rezone</u>			
2. Location (please be specific): <u>Route 54 -East of Selbyville Town Limits</u>			
3. Parcel Identification #: <u>533-18.00-58.00</u>	4. County or Local Jurisdiction Name: where project is located: <u>Sussex County</u>		
5. If contiguous to a municipality, are you seeking annexation: <u>No</u>			
6. Owner's Name: <u>Bunting Holdings LLC</u>			
Address: <u>7000 NE 8th Drive</u>			
City: <u>Boca Raton</u>	State: <u>FL</u>	Zip: <u>33487</u>	
Phone: <u>302-436-5724</u>	Fax:	Email: <u>Coleman@Buntingconstruction.com</u>	
7. Equitable Owner/Developer (This Person is required to attend the PLUS meeting):			
Address: <u>32996 Lighthouse Rd</u>			
City: <u>Selbyville</u>	State: <u>DE</u>	Zip: <u>19975</u>	
Phone: <u>443-880-3883</u>	Fax:	Email: <u>Daniel@Buntingconstruction.com</u>	
8. Project Designer/Engineer: <u>N/A</u>			
Address:			
City:	State:	Zip:	
Phone:	Fax:	Email:	
9. Please Designate a Contact Person, including phone number, for this Project: <u>Daniel Bunting -443-880-3883</u>			

Information Regarding Site:	
10. Type of Review: <input checked="" type="checkbox"/> Rezoning, if not in compliance with certified comprehensive plan <input type="checkbox"/> Site Plan Review <input type="checkbox"/> Subdivision	
11. Brief Explanation of Project being reviewed: <i>Rezoning to C2</i> If this property has been the subject of a previous LUPA or PLUS review, please provide the name(s) and date(s) of those applications.	
12. Area of Project (Acres +/-): <i>3.18</i>	Number of Residential Units: <i>N/A</i> Commercial square footage: <i>N/A</i>
13. Present Zoning: <i>AR1</i>	14. Proposed Zoning: <i>C2</i>
15. Present Use: <i>Ag Land</i>	16. Proposed Use: <i>Future commercial</i>
17. Water: <input type="checkbox"/> Central (Community system) <input type="checkbox"/> Individual On-Site <input checked="" type="checkbox"/> Public (Utility) Service Provider Name: <i>Artesian</i> Will a new public well be located on the site? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
18. Wastewater: <input type="checkbox"/> Central (Community system) <input type="checkbox"/> Individual On-Site <input type="checkbox"/> Public (Utility) Service Provider Name: <i>N/A</i> Will a new community wastewater system be located on this site? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
19. If residential, describe style and market segment you plan to target (Example- Age restricted): <i>N/A</i>	
20. Environmental impacts: How many forested acres are presently on-site? <i>0</i> How many forested acres will be removed? <i>0</i> To your knowledge, are there any wetlands, as defined by the U.S. Army Corps of Engineers or the Department of Natural Resources and Environmental Control, on the site? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Are the wetlands: <input type="checkbox"/> Tidal Acres: <i>N/A</i> <input type="checkbox"/> Non-tidal Acres: <i>N/A</i> If "Yes", have the wetlands been delineated? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Has the Army Corps of Engineers signed off on the delineation? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Will the wetlands be directly impacted and/or do you anticipate the need for wetland permits? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "Yes", describe the impacts: How close do you anticipate ground disturbance to wetlands, streams, wells, or waterbodies? <i>N/A</i>	
21. Does this activity encroach on or impact any tax ditch, public ditch, or private ditch (ditch that directs water off-site)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
22. List the proposed method(s) of stormwater management for the site: <i>N/A</i>	
23. Is open space proposed? <input type="checkbox"/> Yes <input type="checkbox"/> No If "Yes," how much? <i>N/A</i> Acres: What is the intended use of the open space (for example, active recreation, passive recreation, stormwater management, wildlife habitat, historical or archeological protection)? <i>N/A</i>	
24. Are you considering dedicating any land for community use (e.g., police, fire, school)? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>N/A</i>	

25. Please estimate How many vehicle trips will this project generate on an average weekday? A trip is a vehicle entering or exiting. If traffic is seasonal, assume peak season: N/A

What percentage of those trips will be trucks, excluding vans and pick-up trucks?
N/A

26. Will the project connect to state maintained roads? Yes No

27. Please list any locations where this project physically could be connected to existing or future development on adjacent lands and indicate your willingness to discuss making these connections. N/A

28. Are there existing sidewalks? Yes No; bike paths Yes No
Are there proposed sidewalks? Yes No; bike paths Yes No

Is there an opportunity to connect to a larger bike, pedestrian, or transit network? Yes No

29. To your knowledge, is this site in the vicinity of any known historic/cultural resources or sites? Yes No

Has this site been evaluated for historic and/or cultural resources? Yes No

Would you be open to a site evaluation by the State Historic Preservation Office? Yes No

30. To promote an accurate review of your parcel's features, would you permit a State agency site visit? Yes No

Person to contact to arrange visit: Daniel Bunting phone number: 443-580-3883

31. Are any federal permits, licensing, or funding anticipated? Yes No

I hereby certify that the information on this application is complete, true and correct, to the best of my knowledge.

C. Cole Bunting
Signature of property owner

11/22/21
Date

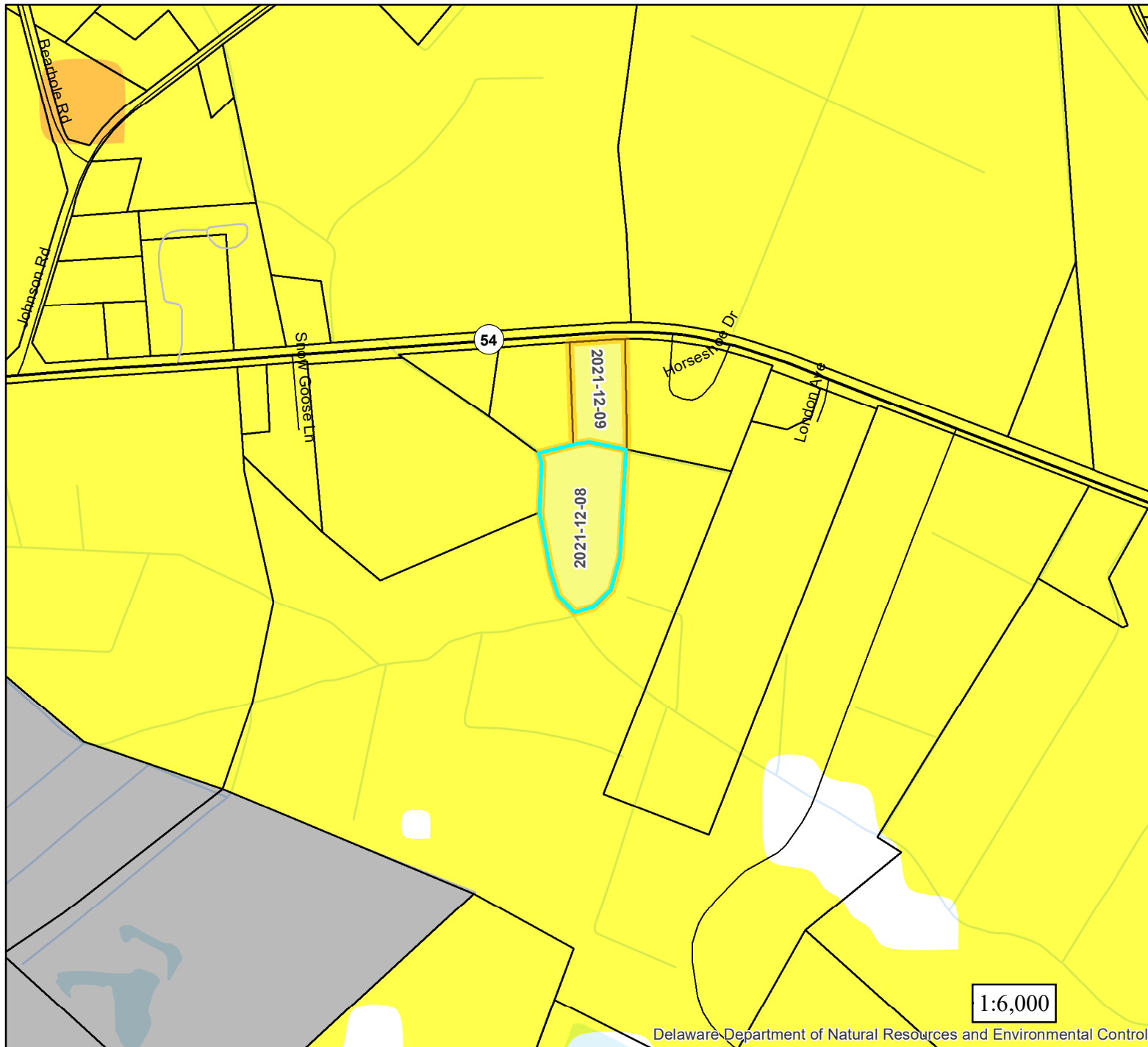
Daniel Bunting
Signature of Person completing form
(If different than property owner)

11/22/21
Date

Signed application must be received before application is scheduled for PLUS review.

This form should be returned to the Office of State Planning **electronically** at plus@state.de.us **along with an electronic copy of any site plans and development plans for this site.** Site Plans, drawings, and location maps should be submitted as image files (JPEG, GIF, TIF, etc.) or as PDF files. GIS data sets and CAD drawings may also be submitted. If electronic copy of the plan is not available, contact The Office of State Planning Coordination at (302) 739-3090 for further instructions. A signed copy should be forwarded to the Office of State Planning, 122 William Penn Street, Dover, DE 19901. Thank you for this input. Your request will be researched thoroughly. **Please be sure to note the contact person** so we may schedule your request in a timely manner.

Preliminary Land Use Service (PLUS)



Bunting Holdings
2021-12-08

Legend

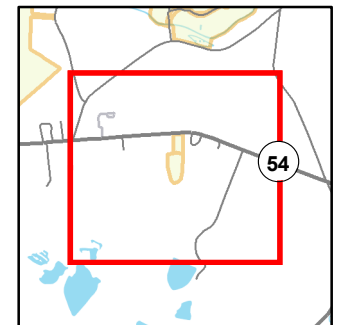
PLUS Project Areas

- Comp Plans
- All Other PLUS Reviews

2020 State Strategies

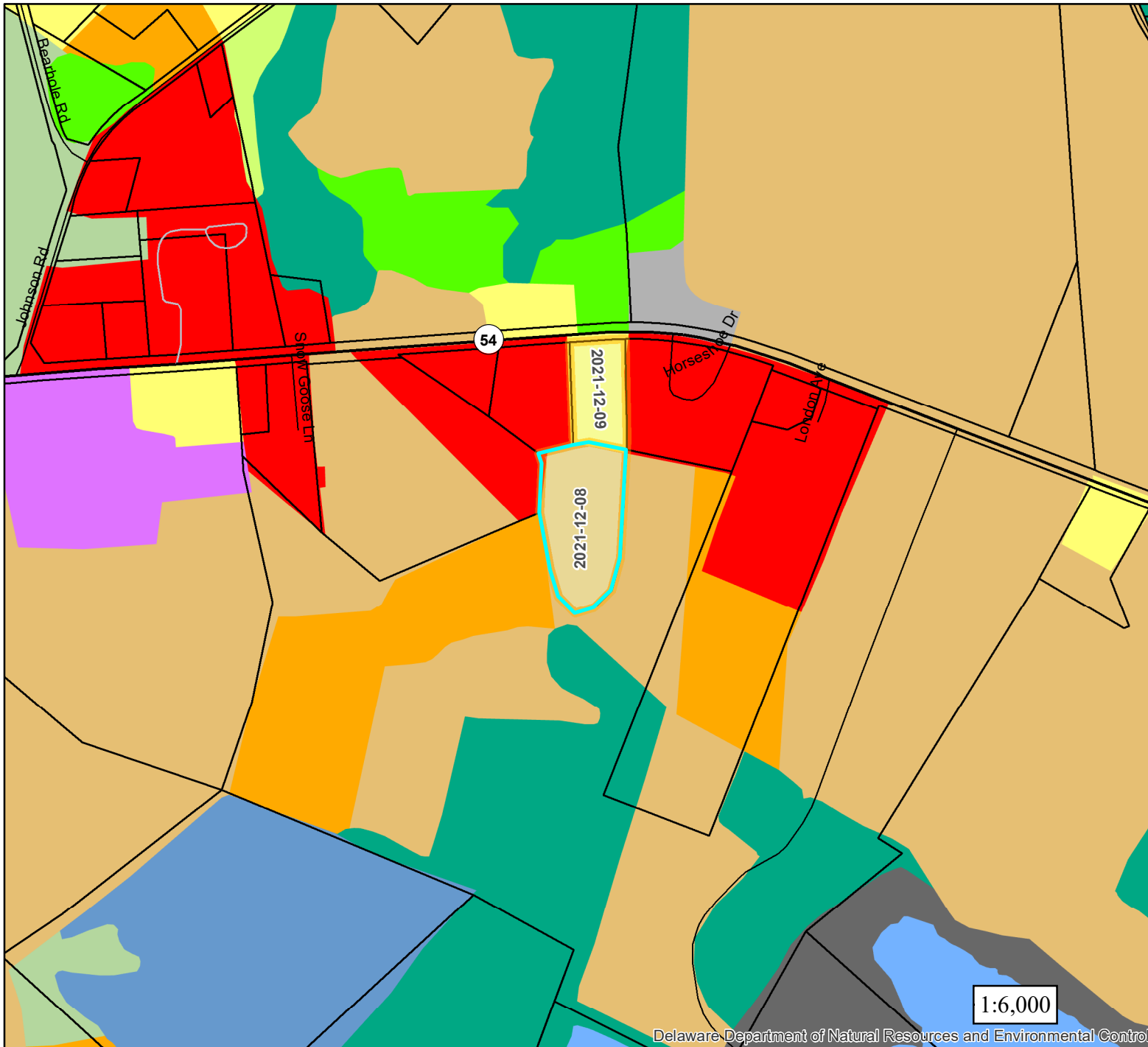
- 1
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- Out of Play

Location Map



Preliminary Land Use Service (PLUS)

Bunting Holdings
2021-12-08



Legend

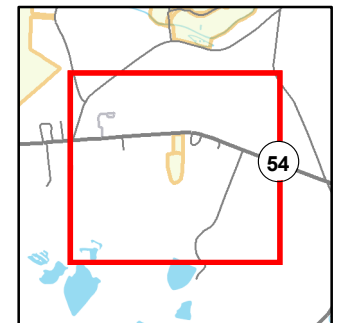
PLUS Project Areas

- Comp Plans
- All Other PLUS Reviews

2017 LULC

- Clear-cut
- Commercial
- Confined Feeding Operations/Feedlots/Holding
- Deciduous Forest
- Emergent Wetland - Tidal and Non-tidal
- Evergreen Forest
- Extraction and Transitional
- Farms, Pasture and Cropland
- Forested Wetland - Tidal and Non-tidal
- Industrial
- Institutional/Governmental
- Man-made Reservoirs and Impoundments
- Marinas/Port Facilities/Docks
- Mixed Forest
- Mixed Single and Multi-Family Residential
- Mixed Urban or Built-up Land
- Mobile home/Parks/Courts
- Multi-Family Dwellings
- Open Water
- Orchards/Nurseries/Horticulture
- Rangeland
- Recreational
- Sandy Areas and Shoreline
- Scrub/Shrub Wetland - Tidal and Non-tidal
- Shrub/Brush Rangeland
- Single Family Dwellings
- Transportation/Communication/Utilities

Location Map



1:6,000

Preliminary Land Use Service (PLUS)

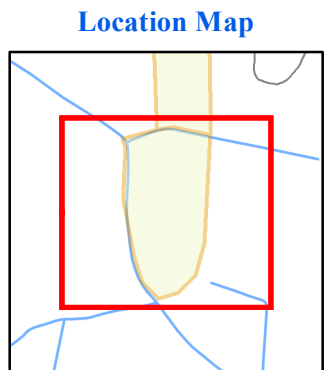


Bunting Holdings
2021-12-08

Legend

PLUS Project Areas

- Comp Plans
- All Other PLUS Reviews





STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF STATE PLANNING COORDINATION

January 13, 2022

Mr. Daniel Bunting
32996 Lighthouse Road
Selbyville, DE 19975

RE: PLUS review 2021-12-08; Bunting Holdings, LLC

Dear Mr. Bunting:

Thank you for meeting with State agency planners on December 15, 2021, to discuss the proposed plans for the Bunting Holdings LLC land. According to the information received you are seeking review of a proposed rezoning of 3.18 acres located along Route 54 from AR-1 to C-2 for future commercial.

The owners/developers will also need to comply with any Federal, State, and local regulations regarding this property. We note that as Sussex County is the governing authority over this land, the developers will need to comply with any and all regulations/restrictions set forth by the County.

Strategies for State Policies and Spending

- This parcel is located in Investment Level 3 according to the Strategies for State Policies and Spending. Investment Level 3 reflects areas where growth is anticipated by local, county, and state plans in the longer term future, or areas that may have environmental or other constraints to development. State investments may support future growth in these areas, but please be advised that the State has other priorities for the near future. If this site is developed, we encourage you to design the site with respect for the environmental features which are present.
- No site plan was submitted for review through PLUS. The PLUS review was for the rezoning only. Therefore, any development planned for this property that meets the PLUS criteria must be submitted to PLUS for review.

The following comments from State agencies should be considered if the site is developed. Note that this is not a complete list of requirements and recommendations. If the site is developed, the owner should contact the Office of State Planning regarding a review of the site plan.

Office of State Planning Coordination – Dorothy Morris 739-3090

- The Office of State Planning Coordination has no objections to this proposed rezoning as presented. C-2 is allowable within the Coastal area; a comp plan amendment is not required for this rezoning.

Delaware Department of Transportation – Contact Bill Brockenbrough 760-2109

- DelDOT has no comments on the subject rezoning but offers the following comments as information about what DelDOT will require if the County grants the rezoning and a developer subsequently submits a plan.
 - The site access on Lighthouse Road (Delaware Route 54) must be designed in accordance with DelDOT's Development Coordination Manual, which is available at <http://www.deldot.gov/Business/subdivisions/index.shtml?dc=changes>.
 - Pursuant to Section P.3 of the Manual, a Pre-Submittal Meeting is required before plans are submitted for review. The form needed to request the meeting and guidance on what will be covered there and how to prepare for it is located at https://www.deldot.gov/Business/subdivisions/pdfs/Meeting_Request_Form.pdf?08022017.
 - Section 1.7 of the Manual addresses fees that are assessed for the review of development proposals. DelDOT anticipates collecting the Initial Stage Fee when the record plan is submitted for review and the Construction Stage Fee when construction plans are submitted for review.
 - Per Section 2.2.2.1 of the Manual, Traffic Impact Studies (TIS) are warranted for developments generating more than 500 vehicle trip ends per day or 50 vehicle trip ends per hour in any hour of the day. DelDOT will assess the need for a TIS when a plan is presented for development of the subject land.

Department of Natural Resources and Environmental Control – Beth Krumrine 735-3480

The project application proposes to rezone a 3.18-acre parcel along Route 54 from AR-1 to C-2. DNREC reviewers have no concerns or comments at this time regarding the rezoning. If this site is developed in the future, plan for the following environmental features on the site, which may trigger environmental permits or regulations. Please note that this is not an exhaustive list of environmental considerations.

- Maps from the Statewide Wetlands Mapping Project indicate the presence of a perennial stream and its associated non-tidal wetlands on the site.
- According to the newest Flood Insurance Rate Maps (FIRM), a portion of this parcel is situated within a Special Flood Hazard Area, specifically within the mapped 100-year floodplain (1% annual chance of flooding). The Special Flood Hazard Area identified on the site lies within zone AE. In lands contained within the 100-year floodplain, the National Flood Insurance Program's floodplain management regulations must be enforced through the local floodplain ordinance, which can have higher standards.
- Prong 6 of the Bunting Tax Ditch lies on the northern portion of the parcel. Tax ditches are man-made channels created to move normal water flow off agricultural lands. These channels have associated tax ditch Rights-of-Way (ROW) that are utilized for access as well as sediment and debris disposal during maintenance. Tax Ditch ROWs vary by channel size and location. Prong 6 of the Bunting Tax Ditch has an 80-foot to Top of Bank (TOB) ROW extending into the project boundary.

State Historic Preservation Office – Contact Carlton Hall 736-7400

- There is high potential for prehistoric archaeological resources on this parcel. The western edge of the parcel is bordered by Buntings Branch, and the eastern half of the parcel is composed of well-drained soils. In the eastern half, there is high potential for prehistoric archaeological resources due to favorable environmental conditions. The Delaware State Historic Preservation Office recommends an archaeological survey prior to any ground disturbance.
- There is low potential for historic archaeological resources on this parcel. There are no known historic structures on this parcel. Historic aerials and topographic maps show the parcel has consistently remained agricultural field since 1937. Due to the lack of known historic occupation, there is low potential for historic archaeological resources.
- If any project or development proceeds, the developer should be aware of the Unmarked Human Burials and Human Skeletal Remains Law (Del. C. Title 7, Ch. 54).
- If there is federal involvement, in the form of licenses, permits, or funds, the federal agency, often through its client, is responsible for complying with Section 106 of the National Historic Preservation Act (36 CFR 800) and must consider their project's effects on any known or potential cultural or historic resources. For further information on the Section 106 process please review the Advisory Council on Historic Preservation's website at: www.achp.gov
- If there are any questions, inquiries, or concerns, feel free to contact the Delaware State Historic Preservation Office for assistance at 302-736-7400.

Delaware State Fire Marshall's Office – Contact John Rudd 323-5365

- The Delaware State Fire Marshal's Office has the responsibility to review all commercial projects for compliance with the Delaware State Fire Prevention Regulations. This Agency's approvals are based on the Delaware State Fire Prevention Regulations only.

Thank you for the opportunity to review this proposed rezoning. If you have any questions, please contact me at 302-739-3090.

Sincerely,



David Edgell, AICP
Director, Office of State Planning Coordination

CC: Sussex County Planning Department

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



Sussex County

DELAWARE
sussexcountyde.gov

PLEASE NOTE

This paperless packet is published on the County's website for convenience purposes, and only includes information received up to the close of business on the day before a public hearing. Documents received after this, or documents submitted during the public hearing are not uploaded to the Paperless Packet. The legal record is the paper record maintained in the Offices of the Planning & Zoning Department.



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

PLANNING & ZONING COMMISSION

ROBERT C. WHEATLEY, CHAIRMAN
KIM HOEY STEVENSON, VICE-CHAIRMAN
R. KELLER HOPKINS
J. BRUCE MEARS
HOLLY J. WINGATE



Sussex County

DELAWARE
sussexcountyde.gov
302-855-7878 T
302-854-5079 F
JAMIE WHITEHOUSE, MRTPI, AICP
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: April 28th, 2022

Application: CZ 1980 Mars-Re, LLC

Applicant: MARS-RE, LLC C/O Roger Schwandtner
35637 Central Park Circle
Dagsboro, DE 19939

Owner: MARS-RE, LLC C/O Roger Schwandtner
35637 Central Park Circle
Dagsboro, DE 19939

Site Location: Lying on southwest side of Atlantic Ave. (Rt. 26) approximately 350' east of the 4-way intersection of Powell Farm Road (S.C.R. 365), Omar Road (Rt. 54), Vines Creek Road (Rt. 26) and Atlantic Avenue.

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

Proposed Zoning: Heavy Commercial (C-3) Zoning District

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Hudson

School District: Indian River School District

Fire District: Millville Fire Department

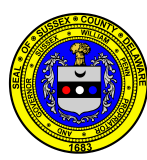
Sewer: Sussex County

Water: Tidewater Utilities

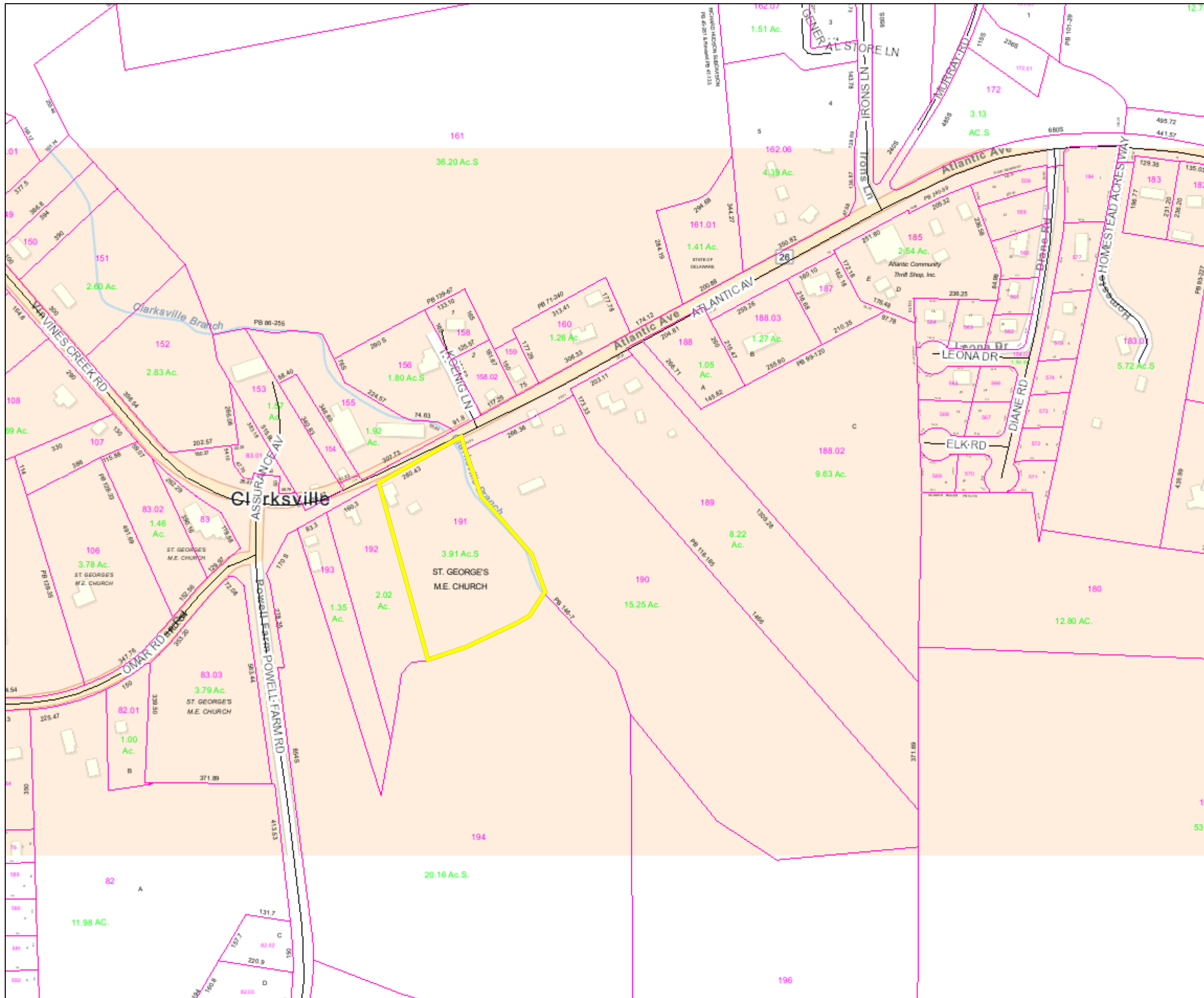
Site Area: 3.826 acres +/-

Tax Map ID.: 134-11.00-191.00





Sussex County



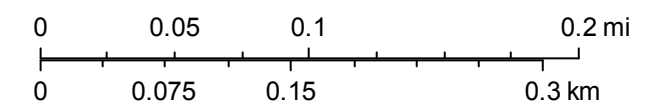
PIN:	134-11.00-191.00
Owner Name	MARS-RE LLC
Book	5146
Mailing Address	35637 CENTRAL PARK CIR
City	DAGSBORO
State	DE
Description	SE/RT 26
Description 2	330' NE/RD 365
Description 3	12950
Land Code	

- polygonLayer**

Override 1
- polygonLayer**

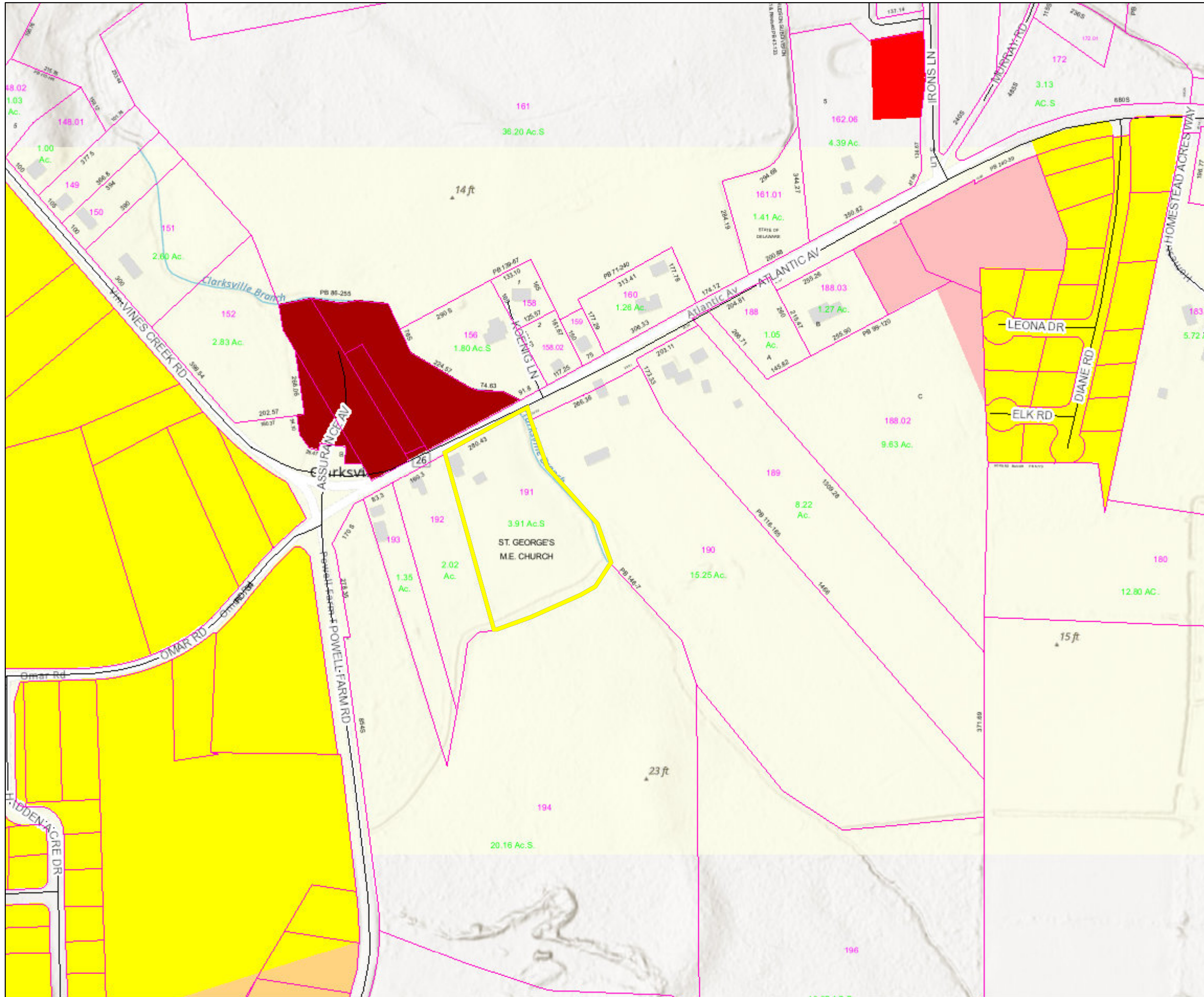
Override 1
- ⋯ Tax Parcels
- Streets
- ⋯ County Boundaries

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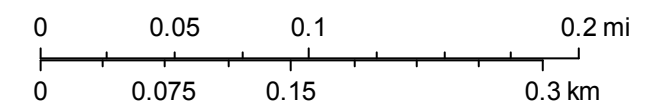
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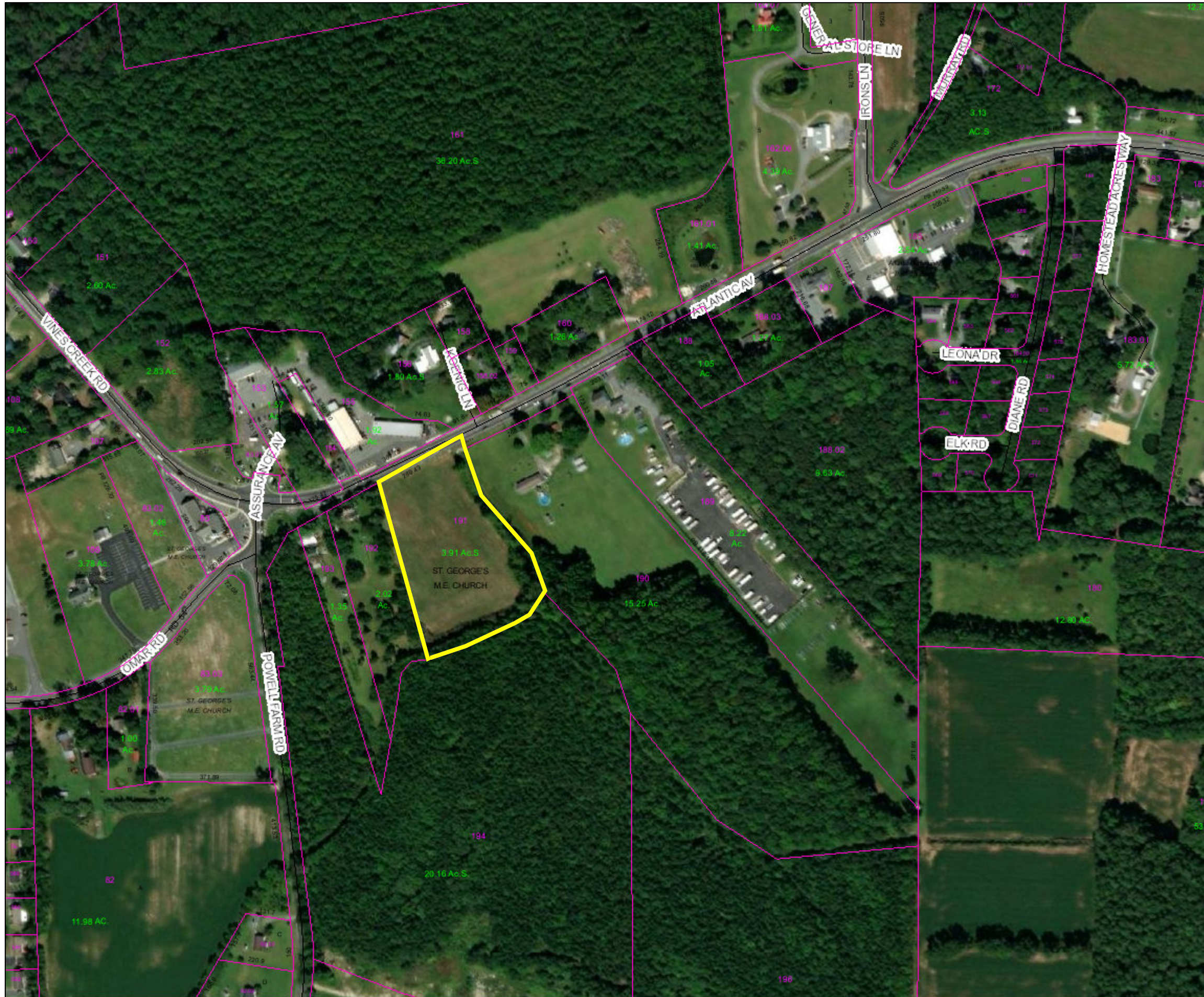
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- Streets

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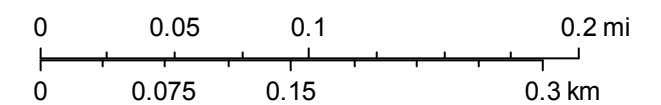
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- polygonLayer**
- Override 1
- polygonLayer**
- Override 1
- Tax Parcels
- Streets
- County Boundaries

1:4,514



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



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Memorandum

To: Sussex County Planning Commission Members
From: Christin Scott, Planner I
CC: Vince Robertson, Assistant County Attorney
Date: April 20th, 2022
RE: Staff Analysis for CZ 1980 Mars-Re, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1980 Mars-Re, LLC to be reviewed during the April 28th, 2022, Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Change of Zone for Tax Parcel 134-11.00-191.00 to allow for a change of zone from an Agricultural Residential Zoning District (AR-1) to a Heavy commercial District (C-3). The property is lying on the south side of Atlantic Avenue (Rt. 26), approximately 475 feet east of Powell Farm Road (S.C.R. 365). The parcel to be rezoned contains 3.826 acres +/-.

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

As outlined in the 2018 Sussex County Comprehensive Plan, the Coastal Areas are areas that can accommodate development provided that special environmental concerns are addressed. A range of housing types should be permitted in Coastal Areas, including single-family homes, townhouses, and multi-family units. Retail and office uses are appropriate, but larger shopping centers and office parks should be confined to selected locations with access along arterial roads. Appropriate mixed-use development should all be allowed

The property is zoned Agricultural Residential (AR-1) Zoning District. The adjacent parcels to the east, south and west are all zoned Agricultural Residential (AR-1) Zoning District. Across Atlantic Avenue (Rt. 26) the property is zoned Commercial Residential (CR-1) Zoning District. Properties further east and west are zoned Medium Density Residential (MR) Zoning District, Neighborhood Business (B-1) Zoning District and General Commercial (C-1) Zoning District.

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 District (C-3) is listed as an applicable zoning district in the "Coastal Area".



Since 2011, there have been six (6) Change of Zone applications within a 1-mile radius of the application site. Change of Zone 1735 for a change of zone from an Agricultural Residential Zoning District (AR-1) to a Commercial Residential Zoning District (CR-1) was approved by the Sussex County Council on Tuesday, September 24, 2013 through Ordinance No. 2321. Change of Zone 1738 for a change of zone from an Agricultural Residential Zoning District (AR-1) to a Neighborhood Business Zoning District (B-1) was approved by the Sussex County Council on Tuesday, December 3, 2013 through Ordinance No. 2331. Change of Zone 1789 for a change of zone from an Agricultural Residential Zoning District (AR-1) to a Commercial Residential Zoning District (CR-1) was approved by the Sussex County Council on Tuesday, April 5, 2016 through Ordinance No. 2439. Change of Zone 1798 for a change of zone from an Agricultural Residential Zoning District (AR-1) and General Commercial Zoning District to a Commercial Residential Zoning District (CR-1) was approved by the Sussex County Council on Tuesday, June 21, 2016, through Ordinance No. 2457. Change of Zone 1825 for a change of zone from an Agricultural Residential Zoning District (AR-1) to a Commercial Residential Zoning District (CR-1) was approved by the Sussex County Council on Tuesday, September 19, 2017, through Ordinance No. 2518. Change of Zone 1840 for a change of zone from an Agricultural Residential Zoning District (AR-1) to a Commercial Residential Zoning District (CR-1) was approved by the Sussex County Council on Tuesday, January 30, 2018 through Ordinance No. 2544.

Based on the analysis of the land use, surrounding zoning and uses, a Change of Zone from an Agricultural Residential Zoning District (AR-1) to a Heavy Commercial Zoning District (C-3) could be considered as being consistent with the land use, based on size and scale, with area zoning and surrounding uses.

File #: 42 1980

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

RECEIVED

FEB 22 2022

SUSSEX COUNTY
PLANNING & ZONING

Type of Application: (please check applicable)

Conditional Use

Zoning Map Amendment

Site Address of Conditional Use/Zoning Map Amendment

34464 Atlantic Avenue, Ocean View, DE 19970

Type of Conditional Use Requested:

Seeking change of zone from agricultural residential (AR-1) to Heavy Commercial District (C3) for a mixed use development (45 condominiums & 5,741 s.f. Retail/Restaurant)

Tax Map #: 134-11.00-191.00

Size of Parcel(s): 3.826 Ac.

Current Zoning: AR-1

Proposed Zoning: C3

Size of Building: 20,131 s.f. footprint

Land Use Classification: Mixed Residential

Water Provider: Tidewater Utilities

Sewer Provider: Sussex County

Applicant Information

Applicant Name: MARS-RE, LLC C/O Roger Schwandtner

Applicant Address: 35637 Central Park Circle

City: Dagsboro

State: DE

Zip Code: 19939

Phone #: (302) 604-1333

E-mail: Roger@ardllc.net

Owner Information

Owner Name: Same as Applicant

Owner Address: _____

City: _____

State: _____

Zip Code: _____

Phone #: _____

E-mail: _____

Agent/Attorney/Engineer Information

Agent/Attorney/Engineer Name: Baird Mandalas Brockstedt, LLC (C/o Mackenzie Peet)

Agent/Attorney/Engineer Address: 1413 Savannah Road, Suite 1

City: Lewes

State: DE

Zip Code: 19958

Phone #: 302.645.2262

E-mail: Mackenzie@bmbde.com



Check List for Sussex County Planning & Zoning Applications

The following shall be submitted with the application

- Completed Application**
- Provide eight (8) copies of the Site Plan or Survey of the property**
 - 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.**
- DeDOT 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: 2/22/2022

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: _____



STATE OF DELAWARE
DEPARTMENT OF TRANSPORTATION
800 BAY ROAD
P.O. BOX 778
DOVER, DELAWARE 19903

NICOLE MAJESKI
SECRETARY

February 4, 2021

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 **Mars-RE, LLC C/O Roger Schwandtner** proposed land use application, which we received on February 3, 2021. This application is for an approximately 3.8-acre parcel (Tax Parcel: 134-11.00-191.00). The subject land is located on the south side of Atlantic Avenue, east of the intersection with Omar Road. The subject land is currently zoned AR-1 (Agricultural Residential) with a proposed zoning of HR-1 (High-Density Residential District) and a conditional use approval requested to permit 45 condo units and 5741 square feet of Retail/Restaurant uses.

Per the 2019 Delaware Vehicle Volume Summary, the annual average daily traffic volume along the segment of Atlantic Avenue where the subject land is located, which is from Stephen Drive to Roxana Road (SR 17), is 11,632 vehicles per day.

Based on our review, we estimate that the proposed land use will generate more than 50 vehicle trips per peak hour or 500 vehicle trips per day, and would be considered to have a **Minor** impact to the local area roadways. In this instance, the Department considers a Minor impact to be when a proposed land use would generate more than either 50 vehicle trips per peak hour and / or 500 vehicle trips per day but fewer than 200 vehicle trips per a weekly peak hour and 2,000 vehicle trips per day. Because of this impact, we recommend that the applicant be required to perform a Traffic Impact Study (TIS) for the subject application. However, our Development Coordination Manual provides that where a TIS is required only because the volume warrants are met, and the projected trip generation will be fewer than 200 vehicle trips per a weekly peak hour and fewer than 2,000 vehicle trips per day, DelDOT may permit the developer to pay an Area-Wide Study Fee of \$10 per daily trip in lieu of doing a TIS. For this application, if the County were agreeable, we would permit the developer to pay an Area-wide Study Fee.



Mr. Jamie Whitehouse
Page 2 of 2
February 4, 2021

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

Please contact Ms. Annamaria Fumato, at (302) 760-2710, if you have questions concerning this correspondence.

Sincerely,



T. William Brockenbrough, Jr.
County Coordinator
Development Coordination

TWB:aff

cc: Roger Schwandtner, Applicant
Russell Warrington, Sussex County Planning & Zoning
Constance C. Holland, Coordinator, Cabinet Committee on State Planning Issues
Todd Sammons, Assistant Director, Development Coordination
Scott Rust, South District Public Works Manager, Maintenance & Operations
Steve McCabe, 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
Annamaria Fumato, Project Engineer, Development Coordination

PLANNING & ZONING
Jamie Whitehouse, AICP, MRTPI
Director
(302) 855-7878 T
(302) 854-5079 F



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Service Level Evaluation Request Form

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

Date: 2/2/21

Site Information:

Site Address/Location: 34464 Atlantic Avenue, Ocean View, DE 19970

Tax Parcel Number: 134-11.00-191.00

Current Zoning: AR-1

Proposed Zoning: HR-2

Land Use Classification: Mixed Residential

Proposed Use(s): 45 Condo Units &
5,741 s.f. Retail/Restaurant

Square footage of any proposed buildings or number of units: 20,131 s.f. footprint (71,129 s.f. total)

Applicant Information:

Applicant's Name: MARS-RE, LLC C/O Roger Schwandtner

Applicant's Address: 35637 Central Park Circle

City: Dagsboro

State: DE

Zip Code: 19939

Applicant's Phone Number: (302) 604-1333

Applicant's e-mail address: Roger@ardllc.net



COUNTY ADMINISTRATIVE OFFICES
2 THE CIRCLE | PO BOX 417
GEORGETOWN, DELAWARE 19947

Last updated 3-12-20



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF STATE PLANNING COORDINATION

April 22, 2021

Kevin Smith
The Kercher Group, Inc.
37385 Rehoboth Ave Ext, Unit #11
Rehoboth Beach, DE 19971

RE: PLUS review 2021-03-03; 34464 Atlantic Avenue

Dear Mr. Smith:

Thank you for meeting with State agency planners on March 24, 2021 to discuss the proposed plans for the 34464 Atlantic Avenue project. According to the information received you are seeking review of a proposed rezoning of 3.826 acres from AR-1 to HR-2 in anticipation of a site plan for 45 residential units and 5,741 square feet of commercial space along Atlantic Ave in Sussex County.

Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. **The developers will also need to comply with any Federal, State, and local regulations regarding this property. We also note that as the County is the governing authority over this land, the developers will need to comply with any and all regulations/restrictions set forth by the County.**

Strategies for State Policies and Spending

This project is located in Investment Levels 2 and 3 according to the Strategies for State Policies and Spending. Investment Level 2 reflects areas where growth is anticipated by local, county, and State plans in the near-term future. Investment Level 3 reflects areas where growth is anticipated by local, county, and state plans in the longer-term future, or areas that may have environmental or other constraints to development. State investments may support future growth in these areas but may have other priorities for the near future.

Our office has no objections to the proposed rezoning and development of this project provided it is in compliance with Sussex County Comprehensive plan and all applicable codes and ordinances.

We do ask that you work to preserve the environmental features on the site if the plan moves forward.

Code Requirements/Agency Permitting Requirements

Department of Transportation – Contact Bill Brockenbrough 760-2109

- The site access on Atlantic Avenue (Delaware Route 26) must be designed in accordance with DelDOT's Development Coordination Manual, which is available at <http://www.deldot.gov/Business/subdivisions/index.shtml?dc=changes>.
- Pursuant to Section 1.3 of the Manual, a Pre-Submittal Meeting is required before plans are submitted for review. The form needed to request the meeting and guidance on what will be covered there and how to prepare for it is located at https://www.deldot.gov/Business/subdivisions/pdfs/Meeting_Request_Form.pdf?08022017.
- Section 1.6.1 of the Manual addresses the location of proposed entrances. Preliminarily, DelDOT anticipates requiring that the entrance be aligned directly opposite the entrance from which it is presently proposed to be slightly offset.
- Section 1.7 of the Manual addresses fees that are assessed for the review of development proposals. DelDOT anticipates collecting the Initial Stage Fee when the record plan is submitted for review and the Construction Stage Fee when construction plans are submitted for review.
- Per Section 2.2.2.1 of the Manual, Traffic Impact Studies (TIS) are warranted for developments generating more than 500 vehicle trip ends per day or 50 vehicle trip ends per hour in any hour of the day. From the PLUS application, the total daily trips are estimated at 486 vehicle trip ends per day. DelDOT confirms this number as being correctly calculated for the Saturday Average Daily Traffic if the first-floor commercial uses are treated as a Shopping Center. However, DelDOT finds that it may be more appropriate to break out the proposed restaurant use and treat it separately. Using the 10th edition of the Institute of Transportation Engineers' Trip Generation Manual and floor areas from the parking space calculation shown on the site plan, as shown in the table below, DelDOT calculates 1,041 vehicle trip ends per day for this number and estimates the weekday morning and evening peak hour trip ends at 30 and 99, respectively. Therefore, a TIS would normally be required.

	Land Use Code	Floor Area (sf) / Dwellings	Average Daily Traffic	AM Peak Hour		PM Peak Hour	
				In	Out	In	Out
Retail	820	3,860	146	2	2	7	8
Restaurant	931	1,881	158	1	0	10	5
Multifamily Housing (Mid-Rise)	221	45	244	4	12	13	8
Total			548	7	14	30	21

Section 2.2.2.2 of the Development Coordination Manual provides that for developments generating less than 2,000 vehicle trip ends per day and less than 200 vehicle trip ends per hour in any hour of the day, DelDOT may accept an Area Wide Study (AWS) Fee in lieu of the TIS if the local government does not require a TIS. The AWS Fee is calculated as \$10 per daily trip or, in this case, \$5,480. AWS Fees are used to fund traffic studies, not to build improvements.

The purpose of a TIS is to determine what off-site improvements are needed to support a proposed development. DelDOT has not identified any capital projects in which they would require the developer to participate but reserves the right to do so. DelDOT does anticipate requiring the developer to improve Route 26, within the limits of their projected frontage, to meet DelDOT’s Minor Arterial Road standards, which include 12-foot lanes and 8-foot shoulders.

Questions regarding the site’s trip generation should be directed to the County Coordinator, Mr. T. William Brockenbrough. Mr. Brockenbrough may be reached at Thomas.Brockenbrough@delaware.gov or (302) 760-2109. Questions regarding the requirement to improve the site frontage should be directed to the Sussex County Review Coordinator, Mr. R. Stephen McCabe. Mr. McCabe may be reached at Richard.mccabe@delaware.gov or (302) 760-2276.

- As necessary, in accordance with Section 3.2.5 and Figure 3.2.5-a of the Manual, DelDOT will require dedication of right-of-way along the site’s frontage on Route 26. By this regulation, this dedication is to provide a minimum of 40 feet of right-of-way from the physical centerline. The following right-of-way dedication note is required, **“An X-foot wide right-of-way is hereby dedicated to the State of Delaware, as per this plat.”**
- In accordance with Section 3.2.5.1.2 of the Manual, DelDOT will require the establishment of a 15-foot wide permanent easement across the property frontage. The location of the easement shall be outside the limits of the ultimate right-of-way. The easement area can be used as part of the open space calculation for the site. The following note is required, **“A 15-foot wide permanent easement is hereby established for the State of Delaware, as per this plat.”**

- Referring to Section 3.4.2.1 of the Manual, the following items, among other things, are required on the Record Plan:
 - A Traffic Generation Diagram. See Figure 3.4.2-a for the required format and content.
 - Depiction of all existing entrances within 450 feet of the entrance on Route 26.
 - Notes identifying the type of off-site improvements, agreements (signal, letter) contributions and when the off-site improvements are warranted.
- Section 3.5 of the Manual provides DelDOT's requirements with regard to connectivity. The requirements in Sections 3.5.1 through 3.5.3 shall be followed for all development projects having access to state roads or proposing DelDOT maintained public streets for subdivisions. In response to the discussion at the PLUS meeting, DelDOT recommends that the plan be modified to provide for a future interconnection with the parcel to the west (Tax Parcel No. 134-11.00-192.00) if it is proposed for redevelopment with a compatible use.
- Section 3.5.4.2 of the Manual addresses requirements for Shared Use Paths (SUP) and sidewalks. For projects in Level 2 Investment Areas, installation of paths or sidewalks along the frontage on State-maintained roads is mandatory. DelDOT anticipates requiring the developer to build an SUP along their frontage on Route 26.
- Section 3.5.4.3 of the Manual addresses requirements for walkways. A walkway is a path connecting the interior of a development to the frontage sidewalk or SUP. DelDOT anticipates requiring a walkway to connect the interior of the site to Route 26.
- In accordance with Section 3.8 of the Manual, storm water facilities, excluding filter strips and bioswales, shall be located a minimum of 20 feet from the ultimate State right-of-way along Route 26.
- In accordance with Section 5.2.9 of the Manual, the Auxiliary Lane Worksheet should be used to determine whether auxiliary lanes are warranted at the site entrances and how long those lanes should be. The worksheet can be found at <http://www.deldot.gov/Business/subdivisions/index.shtml>. DelDOT anticipates requiring a right turn lane with a five-foot bicycle lane into the site from Route 26. The volumes shown on the Traffic Generation Diagram on the site plan may not warrant a right turn lane but, as mentioned above, DelDOT questions the proposed trip generation. DelDOT also questions the proposed trip distribution. A relatively small change in either regard would cause a right turn lane to be warranted. Trip generation and distribution will need to be agreed upon before the Pre-Submittal Meeting and the need for a right turn lane should be discussed at the meeting.

- In accordance with Section 5.4 of the Manual, sight distance triangles are required and shall be established in accordance with American Association of State Highway and Transportation Officials (AASHTO) standards. A spreadsheet has been developed to assist with this task. It can be found at <http://www.deldot.gov/Business/subdivisions/index.shtml>.
- In accordance with Section 5.14 of the Manual, all existing utilities must be shown on the plan and a utility relocation plan will be required for any utilities that need to be relocated.

Department of Natural Resources and Environmental Control – Beth Krumrine 735-3480

Concerns Identified Within the Development Footprint

Stormwater Management

This project/site has met the minimum threshold of 5000 square feet of land disturbing activity under the DNREC Sediment and Stormwater Program.

- A Sediment and Stormwater Plan must be developed, then approved by the appropriate plan review agency prior to any land disturbing activity taking place on the site. For this project, the plan review agency is the Sussex Conservation District.
- Additionally, construction activities that exceed 1.0 acre of land disturbance require Construction General Permit coverage through submittal of an electronic Notice of Intent for Stormwater Discharges Associated with Construction Activity. This form must be submitted electronically (<https://apps.dnrec.state.de.us/eNOI/default.aspx>) to the DNREC Division of Watershed Stewardship, along with the \$195 fee.
- Schedule a project application meeting with the appropriate agency prior to moving forward with the stormwater and site design. As part of this process, you must submit a Stormwater Assessment Study.

Plan review agency contact: Sussex Conservation District at (302) 856-2105 or (302) 856-7219. Website: <https://www.sussexconservation.org/>

- General stormwater contact: DNREC Sediment and Stormwater Program at (302) 739-9921. E-mail: DNREC.Stormwater@delaware.gov. Website: <https://dnrec.alpha.delaware.gov/watershed-stewardship/sediment-stormwater/>

Water Quality (Pollution Control Strategies)

Pollution Control Strategies have been developed for the following watersheds in Delaware: Christina, Appoquinimink, Broadkill, Mispillion and Cedar Creek, Murderkill, Saint Jones, Inland Bays (Rehoboth Bay, Indian River Bay, and Little Assawoman Bay), Nanticoke, and Upper Chesapeake. Such strategies were created because surface water failed to meet water quality standards for nutrients and sediment.

- This site lies within the Indian River Bay Watershed. Consult with the appropriate plan review agency to determine if stricter stormwater management standards may apply for development projects in this area.
- Contact: Sussex Conservation District at (302) 856-2105 or (302) 856-7219. Website: <https://www.sussexconservation.org/>

Tax Ditches

The parcel (134-11.00-191.00) of the proposed project is located within the St. Georges Tax Ditch Watershed. The Main Prong and Prong 3 of the St. Georges Tax Ditch are located within or along the parcel boundary. Tax Ditch channels have associated Tax Ditch Rights-of-Way (ROW) that are utilized for access as well as sediment and debris disposal during tax ditch maintenance. Permanent obstructions are not permitted in the ROW. Tax Ditch ROWs vary by channel size and location. For this particular site, both channels have an existing ROW of 80' from centerline.

- The preliminary plans show a proposed ROW of 30' from top of bank. To reduce Tax Ditch ROWs, a Court Order Change must be submitted by the DNREC Drainage Program. The associated Land Development Project Review Request form is attached, as well as the aerial drainage map.
- If the site and/or stormwater management features are designed to discharge into the Main Prong or Prong 3, comparison of existing conditions versus the proposed design specifications for each should be considered. Please consult with the DNREC Drainage Program for As-Built design information if necessary.
- Permanent obstructions including, but not limited to, stormwater management facilities, buildings, sheds, streets, wells, and septic systems are not allowed within the Tax Ditch ROW.
- All precautions should be taken to ensure the project does not hinder any off-site drainage upstream or create any off-site drainage problems downstream due to increases in stormwater.

- Contact: DNREC Drainage Program at (302) 855-1930.
Website: <https://dnrec.alpha.delaware.gov/drainage-stormwater/>
Tax Ditch Mapper: de.gov/taxditchmap

Wetlands

Maps from the Statewide Wetlands Mapping Project indicate the presence of riverine wetlands on the site. According to the project application, the wetland delineation has been completed, with 0.45 acres of non-tidal wetlands present.

- If the project proposes to disturb (dredge or fill) jurisdictional wetlands under the U.S. Army Corps of Engineers, a delineation of waterways and wetlands is required. In certain circumstances, additional certifications from DNREC Wetlands & Subaqueous Lands Section will be required as part of the U.S. Army Corps of Engineers permit process.
- Contact: U.S. Army Corps of Engineers (Dover Office) at (267) 240-5278.

Vegetated Buffer Zones

Vegetated buffer zones placed adjacent to waterways and wetlands help improve water quality by reducing sediment and pollutants loads. They also provide valuable habitat and can help prevent encroachment of human activities into ecologically sensitive areas. Vegetated buffers are not equivalent to setbacks, as residential lots, walkways, and stormwater management facilities should not be contained within the vegetated buffer zone.

- The applicant must comply with minimum vegetated buffer widths as identified within county and municipal codes.

Wastewater Permitting – Large Systems

Sussex County holds existing permits with the DNREC Groundwater Discharges Section's Large Systems Branch.

- It is the responsibility of the permittee (Sussex County) to notify the Large Systems Branch if the capacity of the rate of wastewater disposal is to be updated.
- Contact: DNREC Large Systems Branch at (302) 739-9948.
Website: <https://dnrec.alpha.delaware.gov/water/groundwater/>

State Historic Preservation Office – Contact Carlton Hall 736-7400

- Prehistoric archaeological potential is low on the eastern side, and moderate on the western side. Western portion has well-drained soils and it is within favorable distance to Clarksville Branch. Eastern portion is poorly drained soils. Deforestation that occurred in 2002 and subsequent tilling may have disturbed the integrity of any sites.
- Historic potential is low to moderate. Two (?) houses along the northern edge of the parcel are shown in early 20th century topos, but they may not have significant archaeological value. The rest of the parcel is low.
- If any project or development proceeds, the developer should be aware of the Unmarked Human Burials and Human Skeletal Remains Law (Del. C. Title 7, Ch. 54).
- If there is federal involvement, in the form of licenses, permits, or funds, the federal agency, often through its client, is responsible for complying with Section 106 of the National Historic Preservation Act (36 CFR 800) and must consider their project's effects on any known or potential cultural or historic resources. For further information or additional details pertaining to the Section 106 process and the Advisory Council's role; please review the Advisory Council's website at the following: www.achp.gov

Recommendations/Additional Information

This section includes a list of site-specific suggestions that are intended to enhance the project. These suggestions have been generated by the State Agencies based on their expertise and subject area knowledge. **These suggestions do not represent State code requirements.** They are offered here in order to provide proactive ideas to help the applicant enhance the site design, and it is hoped (**but in no way required**) that the applicant will open a dialogue with the relevant agencies to discuss how the suggestions can benefit the project.

Department of Transportation – Contact Bill Brockenbrough 760-2109

- The site plan presented shows a group of nine head-in parking spaces on the east side of the building, accessed by a drive aisle that will be relatively busy. DelDOT suggests that the developer consider placing parallel parking spaces there and designating them as handicap spaces, or possibly as pick-up spaces for the proposed restaurant.
- The applicant should expect a requirement that any substation and/or wastewater facilities will be required to have access from an internal driveway with no direct access to Route 26.
- The applicant should expect a requirement that all PLUS and Technical Advisory Committee (TAC) comments be addressed prior to submitting plans for review.
- Please be advised that the Standard General Notes have been updated and posted to the DelDOT website. Please begin using the new versions and look for the revision dates of

March 21, 2019 and March 25, 2019. The notes can be found at <https://www.deldot.gov/Business/subdivisions/>.

Department of Natural Resources and Environmental Control – Beth Krumrine 735-3480
Concerns Identified Within the Development Footprint

Stormwater Management

- Where the site and soil conditions allow, integrate runoff reduction techniques including infiltration basins, bioretention (rain gardens), filter strips, and pavers to encourage on-site stormwater infiltration and reduce runoff.

Drainage

- Environmental permits or exemptions may be required by the County Conservation District (Standard Plan), the DNREC Sediment and Stormwater Program (eNOI/NOT), Army Corp of Engineers, and/or DNREC Wetlands and Subaqueous Lands Section prior to clearing and/or excavating ditch channels.

Wetlands

- Recommendations for buffers are prescribed below under the heading, Vegetated Buffer Zones.

Vegetated Buffer Zones

- A 25-foot vegetated buffer has been included in the preliminary plans. Incorporate a 100-foot vegetated buffer zone from the edge of tax ditches and wetlands to protect water quality and to provide an additional margin of safety from flooding.
- Vegetated buffer zones should be left undisturbed during construction and should be identified outside of the Limit of Disturbance (LOD) on the engineering plans. In some instances, stormwater outfalls, conveyances, and emergency spillways may cross through these zones, and will require temporary disturbance during construction.
- Vegetated buffer zones should be deeded as community open space. Signage should be installed at the edge and within the buffer zones to deter residents from encroaching into these common areas.
- Maintain vegetated buffer zones as either grasslands/meadows or forest. Buffer zones should be planted exclusively with native trees and plants. Native plants are well-suited to our climate and require limited maintenance. They also provide an increasingly important role in the survival of native birds and beneficial insects whose habitat is

shrinking due to development and climate change.

- In general, grass cutting for vegetated buffer zones if maintained as meadow should not occur between April 1st to July 31st to reduce impacts to nesting birds and other wildlife species that utilize meadows and grasslands for breeding habitat.
- Contact: DNREC Wildlife Species Conservation & Research Program at (302) 735-3600. Website: <https://dnrec.alpha.delaware.gov/fish-wildlife/contact-information/>

Additional Sustainable Practices

- Install electric vehicle charging stations for residents and visitors. Electric vehicles are rapidly becoming commonplace. Installing the infrastructure to serve electric vehicles during initial construction will prevent costly upgrades later and provide a marketing tool for your project. Funding for charging stations and technical assistance are available from the DNREC Division of Climate, Coastal and Energy at: <https://dnrec.alpha.delaware.gov/climate-coastal-energy/clean-transportation/ev-charging-equipment-rebates/>.
- Consider using renewable energy infrastructure such as solar to reduce energy costs and further reduce pollution created from offsite generation. Grant funds and incentives may be available through the DNREC Green Energy Fund, which includes several funding types through the state's major electric utilities. Grants may be available for qualifying renewable energy systems installed in Delaware by applicants whose electricity provider collects funds for the program and offers a grant program for renewable energy projects. Additional information can be found at: <https://dnrec.alpha.delaware.gov/climate-coastal-energy/renewable/assistance/>.
- Incorporate nonmotorized connectivity and install bicycle racks where feasible to help facilitate non-vehicular travel modes.
- Use efficient Energy Star rated products and materials in construction and redevelopment to lessen the power source emissions of the project and costs. Every percentage of energy efficiency translates into a percent reduction in pollution.
- Air pollution from new construction is generated through the use of maintenance equipment, paints, and consumer products like roof coatings and primers. Use of structural paint coatings that are low in Volatile Organic Compounds will help protect air quality.
- The applicant should consider the use of recycled materials, such as reclaimed asphalt pavement, to reduce landfill waste, heat island effects on paved surfaces, and pavement costs.

Sussex County Planning & Zoning – Contact Lauren DeVore 855-7878

- Sussex County encourages the applicant to participate in a pre-application meeting with Planning and Zoning staff. Please include a note on the plans which indicates that the proposed project is not located within the Henlopen Transportation Improvement District (TID). Following submission to the County, staff undertake review of the Preliminary Site Plan, where more detailed comments are provided to the applicant. At the PLUS stage of review, staff wish to limit comments to high-level comments only.

For the Change of Zone, a Service Level Evaluation Request form must be completed and submitted to the Office of Planning and Zoning. Once the Office receives the completed Service Level Evaluation Response from DelDOT, the applicant may submit all documentation and materials pertaining to their Conditional Use application. Please note on the plans that the parcels are not located within a Wellhead Protection Area in order to comply with Chapter 89 “Source Water Protection” of the Sussex County Code (§ 89-6). Please note on the plans that the parcels are located within an area of “fair/good” groundwater recharge potential in order to comply with Chapter 89 “Source Water Protection” of the Sussex County Code (§89-7). Staff note that there is only one-way-in, one-way-out access to the property. The Planning and Zoning Commission desire more than one entrance or an easement for emergency access purposes in the event of an emergency occurring on the parcel. The proposed parking appears to meet Code requirements as well as ADA requirements regarding the provision of handicap spaces per total number of parking spaces (§115-162). Additionally, the proposal will have to comply with the site plan requirements of §115-220 and the multifamily requirements of §115-188 of the Sussex County Code.

Sussex County Housing – Contact: Brandy Nauman 855-7779

- Sussex County endeavors to promote non-discrimination and affordable housing whenever possible throughout the County. In this regard, the developer and associated financial institutions are encouraged to provide and finance affordable housing opportunities to Sussex County residents in all new developments, and affirmatively market those affordable housing units to diverse populations.
- For questions about opportunities available for affordable housing projects within Sussex County, please consult Sussex County’s “Affordable Housing Support Policy”. The policy along with other resources are available on the County’s Affordable & Fair Housing Resource Center website: www.sussexcountyde.gov/affordable-and-fair-housing-resource-center. The County’s Community Development & Housing Department can advise about existing affordable housing opportunities in Sussex County and the appropriate County Department to contact regarding specific development issues concerning future affordable housing projects within Sussex County.

- The Community Development & Housing Department can also explain and assist with any financial support or incentives that may be available to a project from federal, state and county sources, as well as private funding sources that also promote affordable housing in Sussex County.
- Please understand that all residential projects, including Affordable Housing Projects are subject to the applicable provisions of the Sussex County Subdivision and Zoning Codes, and the approval processes set forth in those Codes.
- On behalf of Sussex County, we look forward to cooperating with you and your project as it moves forward.

Following receipt of this letter and upon filing of an application with the local jurisdiction, the applicant shall provide to the local jurisdiction and the Office of State Planning Coordination a written response to comments received as a result of the pre-application process, noting whether comments were incorporated into the project design or not and the reason therefore.

Thank you for the opportunity to review this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,

A handwritten signature in cursive script that reads "Constance C. Holland".

Constance C. Holland, AICP
Director, Office of State Planning Coordination

CC: Sussex County Planning Department

Attachments

Date Received: _____

Date Submitted: _____

Land Development Project Review Request Form

Project Name: _____

Attach Site Plan of proposed request(s), include all structures, easements, setbacks, etc. that make your proposal as requested necessary. Include existing tax ditch channel and rights-of-way for comparison. Check out <https://de.gov/taxditchmap> for planning and illustrating purposes.

Owner(s) Contact Information:

Name: _____

Phone Number: _____

Email: _____

Authorized Signer(s) Contact Information:

Name and Title: _____

Phone Number: _____

Email: _____

Project Representative/Consultant Information:

Name and Title: _____

Phone Number: _____

Email: _____

Tax Ditch Organization(s) Affected: _____

Tax Parcel(s) Affected: _____

Request of Tax Ditch Organization (Check all that apply):

<input type="checkbox"/>	Outfall/Discharge Into Tax Ditch Channel(s)
<input type="checkbox"/>	Relocate/Eliminate Tax Ditch Channel(s)
<input type="checkbox"/>	Reduce/Increase Tax Ditch Rights-of-Way
<input type="checkbox"/>	Change Tax Ditch Watershed Boundary _____

Please specify Tax Ditch Channel(s) affected, existing and requested tax ditch rights-of-way extents whenever applicable please use space below and attach additional pages as appropriate.

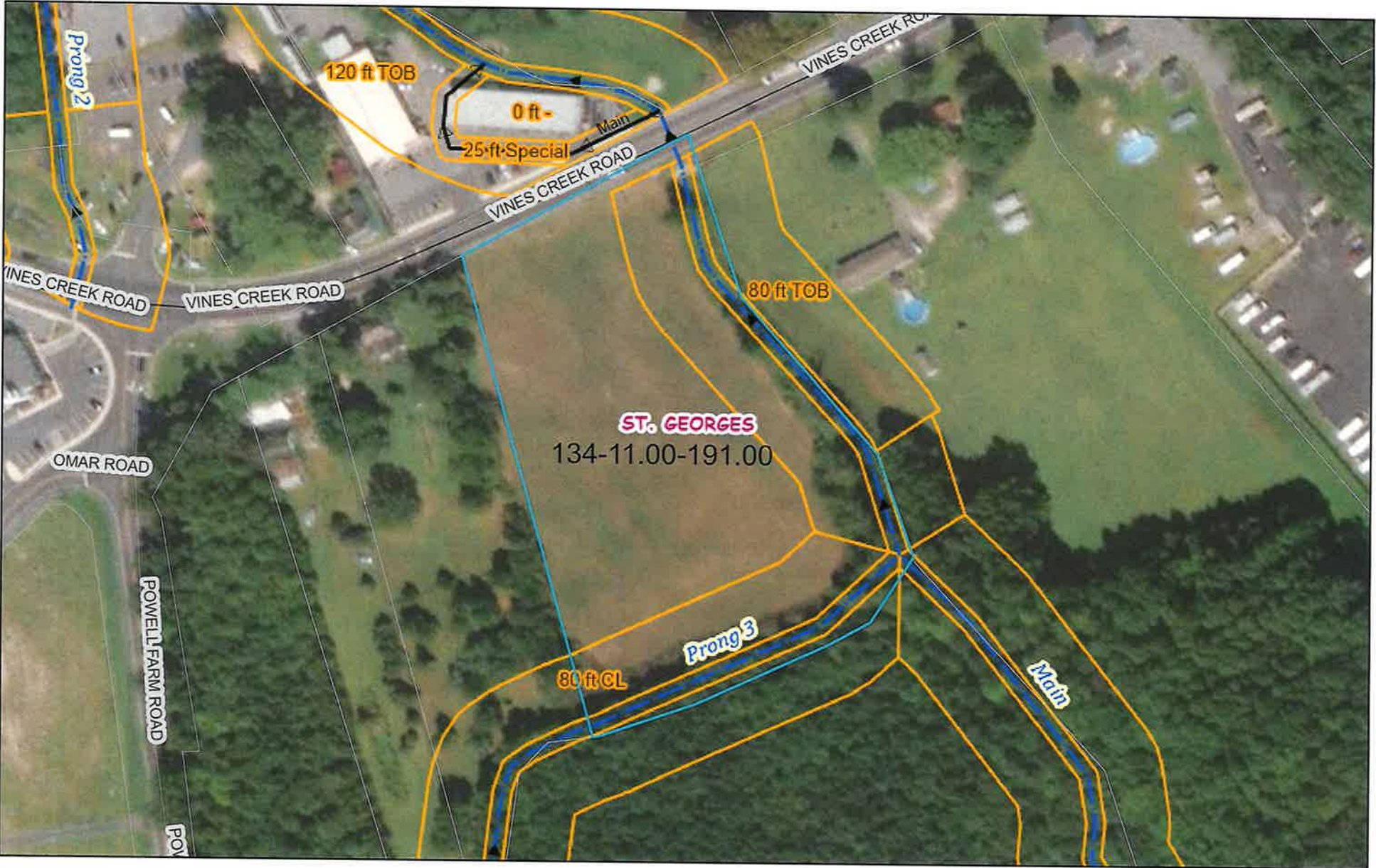
Date Received:

Date Submitted: _____

For Internal Use Only:

COC Required	COC Receipt from Prothonotary	LONO Required
COC Drafted	COC Instructions for Filing to Owner	S&S Plans Received Date:
COC Reviewed		Plans Reviewed by PM
COC Out of Signature		Plans Reviewed by Engineer
COC Signed. Date _____		Plans Approved by TD Officer
		LONO Issued Date:

Tax Ditch Web Map



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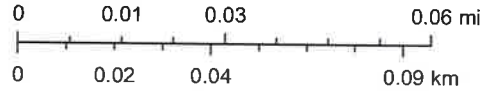
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DE_Road_Inventory - Road Inventory
 — Minor Arterial
 — Local

DE_StateParcels - Sussex
 — Approx. Watershed Boundary
 — Extent of Right-of-Way

Tax Ditch Segments
 — Tax Ditch Channel
 — Special Access ROW

Municipalities
 — Communities
 — State and County Boundaries



Delaware Office of State Planning Coordination, GeoEye, Maxar, Microsoft

DNREC, Division of Watershed Stewardship, Drainage Program

These maps do not replace the official documents on file in the Prothonotary's Office, and are not to be used for engineering purposes.

**SUSSEX COUNTY ENGINEERING DEPARTMENT
UTILITY PLANNING & DESIGN REVIEW DIVISION
C/U & C/Z COMMENTS**

TO: **Jamie Whitehouse**

REVIEWER: **Chris Calio**

DATE: **4/4/2022**

APPLICATION: **CZ 1980 Mars-Re, LLC**

APPLICANT: **MARS-RE, LLC (c/o Roger Schwandtner)**

FILE NO: **NM-1.03**

TAX MAP &
PARCEL(S): **134-11.00-191.00**

LOCATION: **Lying on the southwest side of Atlantic Ave. (Rt. 26),
approximately 350' east of Powell Farm Road (SCR 365)**

NO. OF UNITS: **Upzone from AR-1 to C-3**

GROSS
ACREAGE: **3.826**

SYSTEM DESIGN ASSUMPTION, MAXIMUM NO. OF UNITS/ACRE: **4**

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 1**
- (3). Is wastewater capacity available for the project? **Yes** If not, what capacity is available? **N/A.**
- (4). Is a Construction Agreement required? **Yes** If yes, contact Utility Engineering at (302) 855-7717.
- (5). Are there any System Connection Charge (SCC) credits for the project? **No** If yes, how many? **N/A.** Is it likely that additional SCCs will be required? **Yes** If yes, the current System Connection Charge Rate is **Unified \$6,600.00** per EDU. Please contact **Denise Burns** at **302-855-7719** for additional information on charges.

- (6). Is the project capable of being annexed into a Sussex County sanitary sewer district? **N/A**
- 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? **N/A**
- (8). Comments: **Click or tap here to enter text.**
- (9). Is a Sewer System Concept Evaluation required? **Yes, Contact Utility Planning at 302-855-7370 to apply**
- (10). Is a Use of Existing Infrastructure Agreement Required? **Yes**
- (11). **All residential roads must meet or exceed Sussex County minimum design standards.**

UTILITY PLANNING & DESIGN REVIEW APPROVAL:



John J. Ashman
Sr. Manager of Utility Planning & Design Review

Xc: Hans M. Medlarz, P.E.
Lisa Walls
Denise Burns

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



Sussex County

DELAWARE
sussexcountyde.gov

PLEASE NOTE

This paperless packet is published on the County's website for convenience purposes, and only includes information received up to the close of business on the day before a public hearing. Documents received after this, or documents submitted during the public hearing are not uploaded to the Paperless Packet. The legal record is the paper record maintained in the Offices of the Planning & Zoning Department.



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

PLANNING & ZONING COMMISSION

ROBERT C. WHEATLEY, CHAIRMAN
KIM HOEY STEVENSON, VICE-CHAIRMAN
R. KELLER HOPKINS
J. BRUCE MEARS
HOLLY J. WINGATE



Sussex County

DELAWARE
sussexcountyde.gov
302-855-7878 T
302-854-5079 F
JAMIE WHITEHOUSE, MRTPI, AICP
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: April 28th, 2022

Application: CZ 1956 Jeffrey Behney

Applicant: Jeffrey Behney
26179 Manor Way
Georgetown, DE 11947

Owner: Lloyd Behney
18 Ruth Street
Selbyville, DE 19975

Site Location: 38531 Parker Road (S.C.R. 415), Millsboro. Lying on the east side of Parker Road, approximately 200-feet north of the intersection of E Line Road (S.C.R. 419) and Parker Road.

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

Proposed Zoning: Heavy Commercial (C-2) Zoning District

Comprehensive Land Use Plan Reference: Low Density

Councilmanic District: Mr. Vincent

School District: Indian River School District

Fire District: Selbyville Fire Company

Sewer: Septic

Water: Well

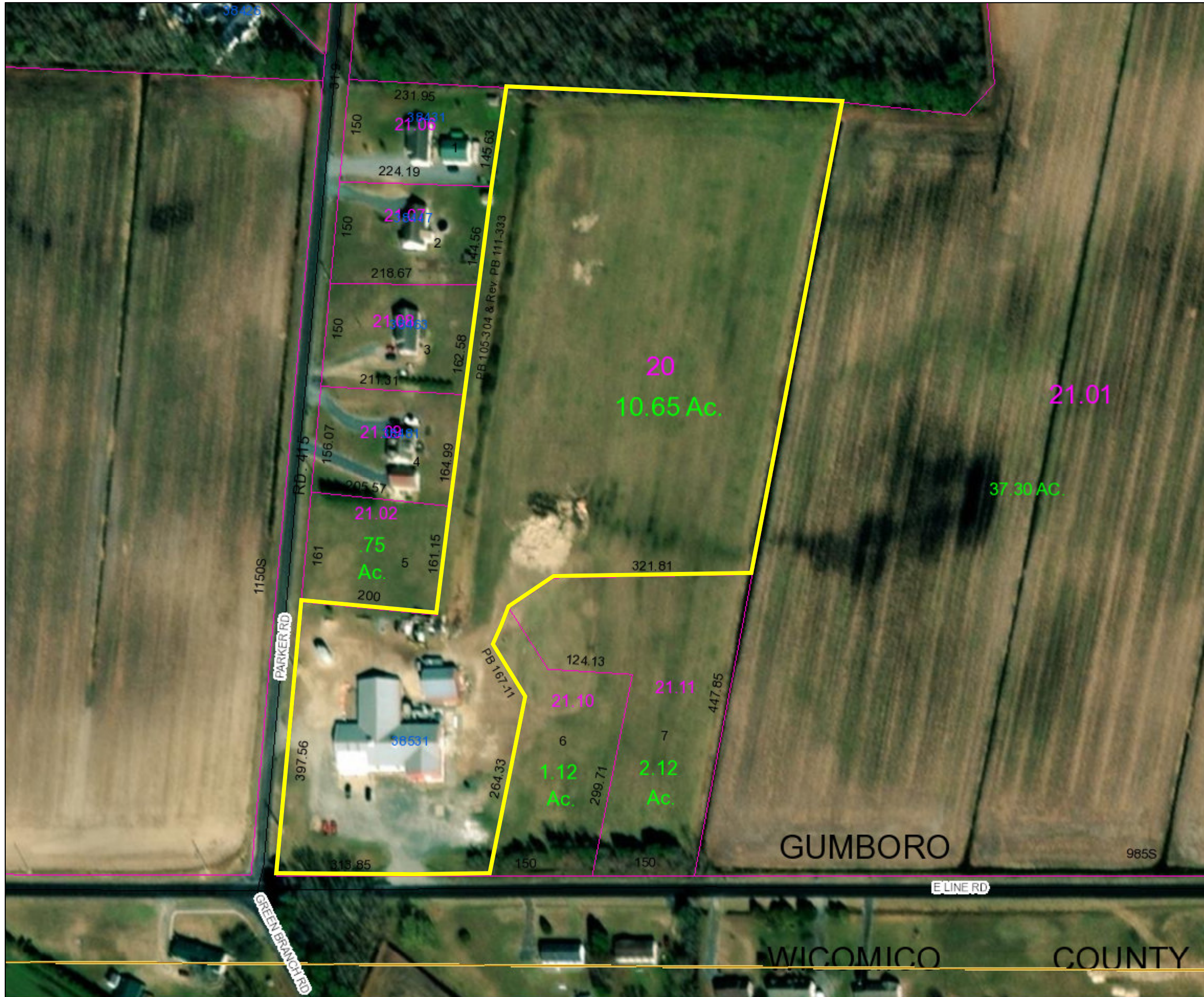
Site Area: 10.8 Acres +/-

Tax Map ID.: 333-15.00-20.00





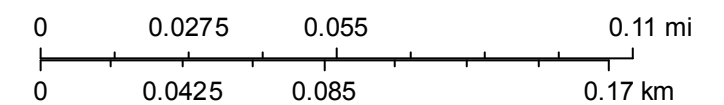
Sussex County



PIN:	333-15.00-20.00
Owner Name	OVER THE HILL HOLDINGS LLC
Book	5076
Mailing Address	38531 PARKER RD
City	MILLSBORO
State	DE
Description	NE/RD 54
Description 2	RT 415
Description 3	N/A
Land Code	

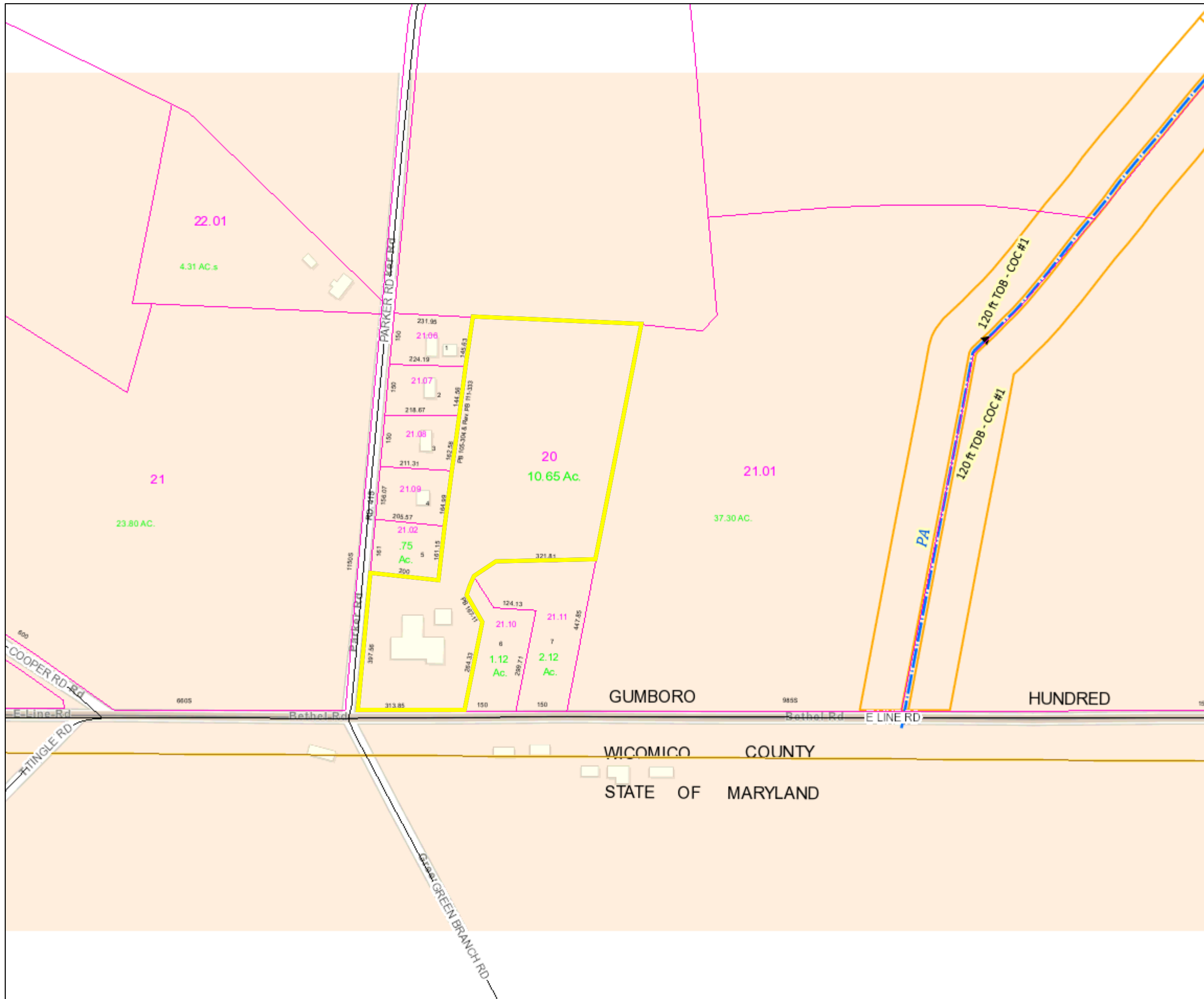
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 - Override 1
- Tax Parcels
- 911 Address
- Streets

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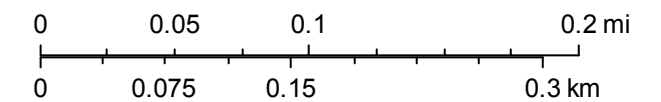
Sussex County

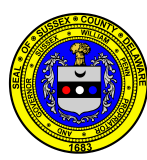


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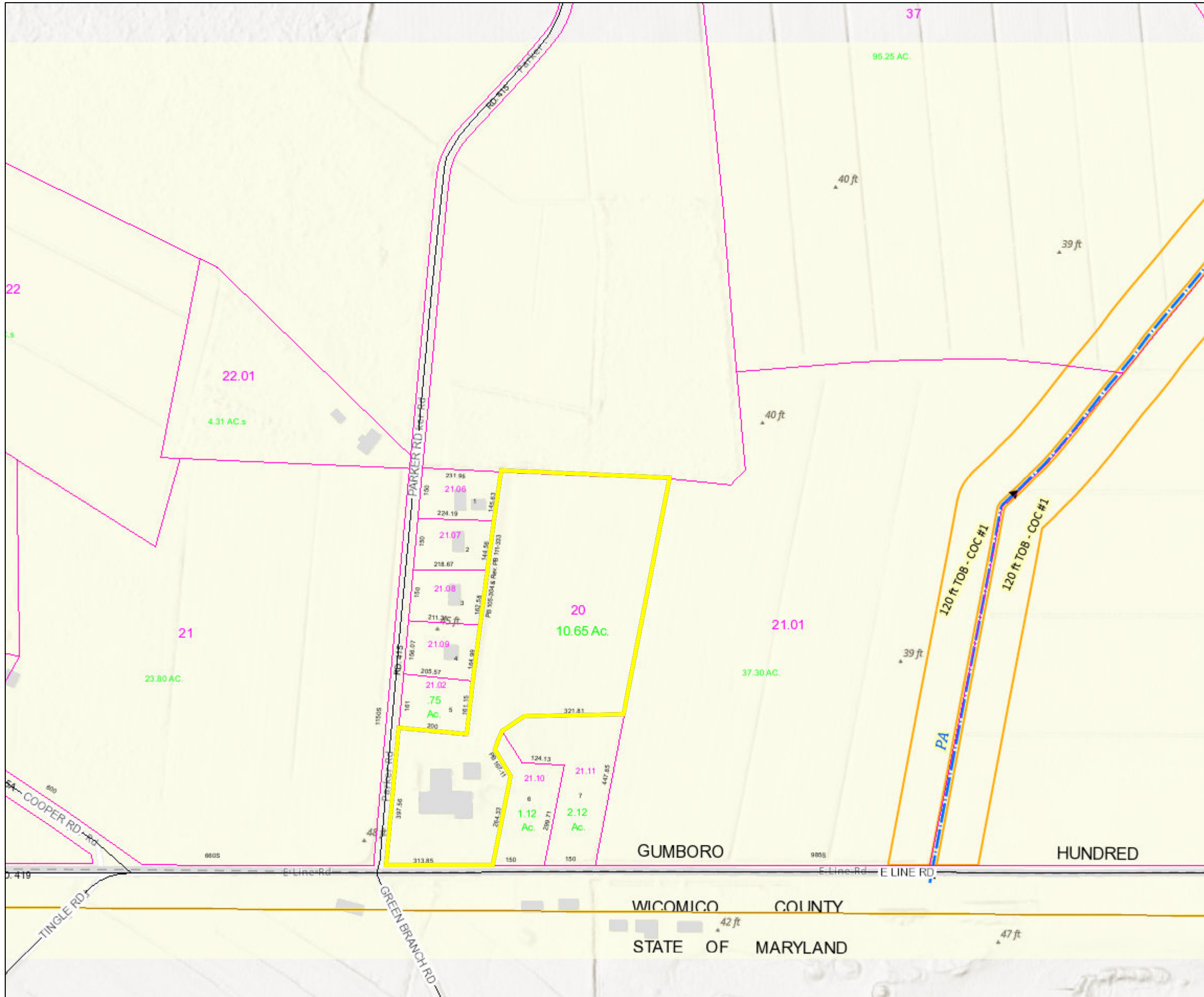
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Override 1
- ⋯ Tax Parcels
- Streets

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Sussex County



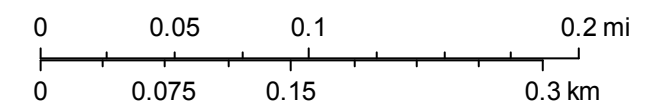
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State	DE
Description	NE/RD 54
Description 2	RT 415
Description 3	N/A
Land Code	

- polygonLayer**

 - Override 1
- polygonLayer**

 - Override 1
- ⋯ Tax Parcels
- Streets

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FULLNAME	Second_Owner_Name	MAILINGADD
BRASURE STEPHEN C		28413 FIRE TOWER RD
FAMIGLIETTI MICHAEL A & LIBRADA L	FAMIGLIETTI	38447 PARKER RD
MOORE FARMS INC		PO BOX 186
MOORE JOSEPH A JR & MALINDA R	MOORE	38431 PARKER RD
OVER THE HILL HOLDINGS LLC		38531 PARKER RD
POWELL WILLIAM	STEPHANIE POWELL	38481 PARKER RD
SOUTH SHORE PROVISIONS LLC		38531 PARKER RD
TOLLIVER JOHNNY L JR & RENEE	TURLINGTON-TOLLIVER	38463 PARKER RD
VILLARI JOSEPH	VILLARI CHRISTINE	1420 AVENEL DR.
VILLARI SALVATORE	VILLARI DONNA	315 OAK AVENUE

CITY	STATE	ZIPCODE
LAUREL	DE	19956
MILLSBORO	DE	19966
MILLSBORO	DE	19966
MILLSBORO	DE	19966
MILLSBORO	DE	19966
MILLSBORO	DE	19966
MILLSBORO	DE	19966
MILLSBORO	DE	19966
WILMINGTON	NC	28411
WOODBURY HEIGHTS	NJ	8097

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



Sussex County

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Memorandum

To: Sussex County Planning Commission Members
From: Elliott Young, Planner I
CC: Vince Robertson, Assistant County Attorney, and applicant
Date: April 20, 2022
RE: Staff Analysis for CZ 1956 Jeffrey Behney

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1956 Jeffrey Behney to be reviewed during the April 28, 2022, 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 part of Tax Parcel 333-15.00-20.00 to allow for a change of zone from an Agricultural Residential (AR-1) Zoning District to a Medium Commercial (C-2) Zoning District. The property is lying on the east side of Parker Road (S.C.R. 415), approximately 200-feet north of the intersection of E Line Road (S.C.R. 419) and Parker Road.

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map in the plan indicates that the subject property has a land use designation of "Low Density". The parcels to the north, east, and west of the subject property also contain the Future Land Use Designation of "Low Density".

As outlined in the 2018 Sussex County Comprehensive Plan, Low Density areas are intended to support agricultural uses and low-density single-family housing. Specifically, the Comprehensive Plan states that single family homes have a density of up to two dwelling units to the acre. It is envisioned that the Low-Density Areas allow for businesses that support nearby residents and the agricultural economy. More intense commercial uses could be limited in scale and impact. While residential growth is expected, the Comprehensive Plan intends for the rural landscape to be maintained and for farmland to be preserved in select locations.

The parcel is zoned Agricultural Residential (AR-1). Adjacent parcels to the north, east, and west are also zoned Agricultural Residential (AR-1) Zoning District. The properties to the south on the other side of E Line Road are across the Delaware-Maryland border and are out of Sussex Counties jurisdiction.

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 Medium Commercial (C-2) Zoning District is listed as an applicable zoning district in the Low-Density Area.



Since 2011, there have been zero (0) Change of Zone applications within a 1-mile radius of the application site.

Based on the analysis of the land use, surrounding zoning and uses, a Change of Zone from an Agricultural Residential Zoning District (AR-1) to a Medium Commercial Zoning District (C-2) could be considered as being consistent with the land use, based on the size, scale, zoning and surrounding uses.

File #: C21956
20213841

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

38531 Parker Road, Millsboro DE. 19966

Type of Conditional Use Requested:

Tax Map #: 333-15.00-20.00 Size of Parcel(s): 10.8 Acres

Current Zoning: AR-1 Proposed Zoning: C-2 Size of Building: 15,000 sq ft

Land Use Classification: Indoor Gun Range

Water Provider: Well Sewer Provider: Septic Tank

Applicant Information

Applicant Name: Jeffrey Behney
Applicant Address: 26179 Mc.01 Way
City: Georgetown State: DE. Zip Code: 19947
Phone #: 302-841-2814 E-mail: jeff@range-time.com

Owner Information

Owner Name: Lloyd Behney
Owner Address: 18 Ruthe Street
City: Selbyville State: DE. Zip Code: 19975
Phone #: 302-841-2020 E-mail: Lloyd@range-time.com

Agent/Attorney/Engineer Information

Agent/Attorney/Engineer Name: Mike Smith
Agent/Attorney/Engineer Address: 8866 Riverside Dr.
City: Seaford State: DE. Zip Code: 19973
Phone #: 302-875-5595 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.

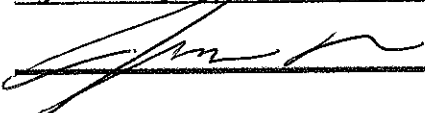
DeIDOT Service Level Evaluation Request Response

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.

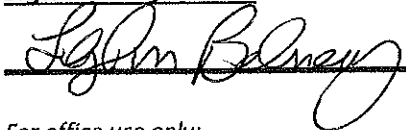
I also certify that I or an agent on my behalf shall attend all public hearing before the Planning and Zoning Commission and the Sussex County Council and any other hearing necessary for this application and that I will answer any questions to the best of my ability to respond to the present and future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

Signature of Applicant/Agent/Attorney



Date: 09/13/2021

Signature of Owner



Date: 9-13-21

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: _____

0

TM #3-33-15.00-20.00
PREPARED BY & RETURN TO:
The Smith Firm, LLC
8866 Riverside Dr.
Seaford, DE 19973
File No. S19-185/

This Deed made this 13th day of June, 2019,

- BETWEEN -

LLOYD M. BEHNEY and DEBRA E. BEHNEY, parties of the first part,

- AND -

OVER THE HILL HOLDINGS, LLC, a Delaware limited liability company, of 38531
Parker Road, Millsboro, DE 19966, party of the second part.

WITNESSETH: That the said parties of the first part, for and in consideration of the sum of **One and 00/100 Dollars (\$1.00)**, lawful money of the United States of America, the receipt whereof is hereby acknowledged, hereby grant and convey unto the party of the second part, and its successors and assigns, in fee simple, the following described lands, situate, lying and being in Sussex County, State of Delaware:

ALL that certain lot, piece and parcel of land situate, lying and being in Gumboro Hundred, Sussex County, State of Delaware, consisting of 10.5464 acres of land with improvements thereon as shown on plot of lands entitled "Conditional Use Plan for Glass Investment Properties, LLC" dated November 28, 2011 of record in the Office of the Recorder of Deeds, in and for Sussex County, Delaware in Plot Book 174, page 49, and being more particularly described as follows, to wit:

BEGINNING at an iron pipe (to be set) on the easterly right of way of S.C.R. #415 (Parker Road) (50' right of 0way), said iron pipe (to be set) being a common

boundary for this land and for Lot 5; thence by and with aforesaid Lot 5 South 75°10'54" East 200.04 feet to an iron pipe (to be set); thence turning and running by and with a common boundary for this land and Lot 5 North 16°15'55" East 161.15 feet to an iron pipe (found); thence continuing on with Lot 4 North 16°15'55" East 164.99 feet to an iron pipe (found); thence continuing on with Lot 3 North 16°38'05" East 162.58 feet to an iron pipe (found); thence continuing on with Lot 2 North 16°39'56" East 144.56 feet to an iron pipe (found); thence continuing on with Lot 1 North 17°27'16" East 135.63 feet to an iron pipe (found); thence continuing on North 17°27'16" East 10.00 feet to a point lying in the center of ditch; thence turning and running by and with the centerline of ditch and lands now or formerly of Helen & Stephen Smith South 77°59'55" East 492.14 feet to a point in centerline of ditch; thence turning and running by and with a common boundary for this land, center of ditch and for lands now or formerly of Moore Farm, Inc. South 19°57'27" West 603.27 feet to a point; thence continuing on South 19°54'25" West 92.61 feet to a point; thence turning and running by and with a common boundary for this land and for Lot 7 North 80°53'25" West 321.81 feet to an iron pipe (to be set); thence turning and running with Lot 7 South 56°17'00" West 78.96 feet to an iron pipe (to be set); thence turning and running by and with a common boundary for this land and for Lot 6 South 21°54'43" West 59.32 feet to an iron pipe (to be set); thence turning and running with Lot 6 South 31°17'19" East 90.26 feet to an iron pipe to be set; thence turning and running by and with Lot 6 South 19°54'25" West 264.33 feet to an iron pipe (to be set); thence turning and running by and with the northerly right of way of DE #54 Bethel Road (60' right of way) North 80°53'20" West 313.85 feet to an iron pipe (to be set); thence turning and running by and with the easterly right of way of S.C.R. #415 Parker Road (50' right of way) North 14°18'20" East 397.55 feet home to the place of beginning.

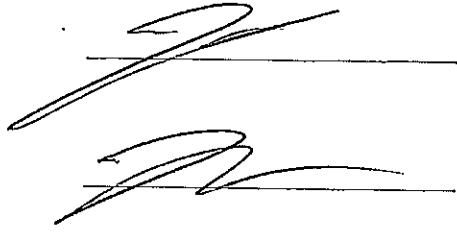
BEING the same lands conveyed to Lloyd M. Behney and Debra E. Behney from Lloyd & Scott, LLC, by Deed dated October 5, 2018, recorded in the Office of the Recorder of Deeds in and for Sussex County, Delaware, on October 16, 2018, in Deed Book 4963, Page 273.

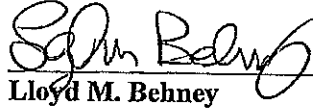
SUBJECT to any and all restrictions, reservations, conditions, easements and agreements of record in the Office of the Recorder of Deeds in and for Sussex County, Delaware.

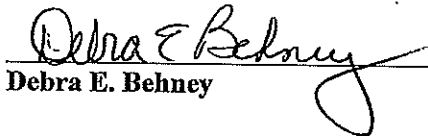
PURSUANT TO 25 Del. C., Section 135, the grantor and grantee hereunder do hereby acknowledge that the parcel or parcels conveyed hereunder, or a portion of same, may be subject to a tax ditch right of way and/or assessment, or a tax lagoon right of way and/or assessment pursuant to an Order of the Superior Court of the State of Delaware, in and for Sussex County, Delaware dated January 4, 2007, and recorded in the Office of the Recorder of Deeds in and for Sussex County, Delaware in Book 4, page 91; and pursuant to an Order of the Superior Court of the State of Delaware, in and for Sussex County, Delaware dated March 12, 2009 and recorded in the Office of the Recorder of Deeds in and for Sussex County, Delaware in Book 4, page 296.

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

Signed, Sealed and Delivered
in the presence of:




Lloyd M. Behney (SEAL)



Debra E. Behney (SEAL)

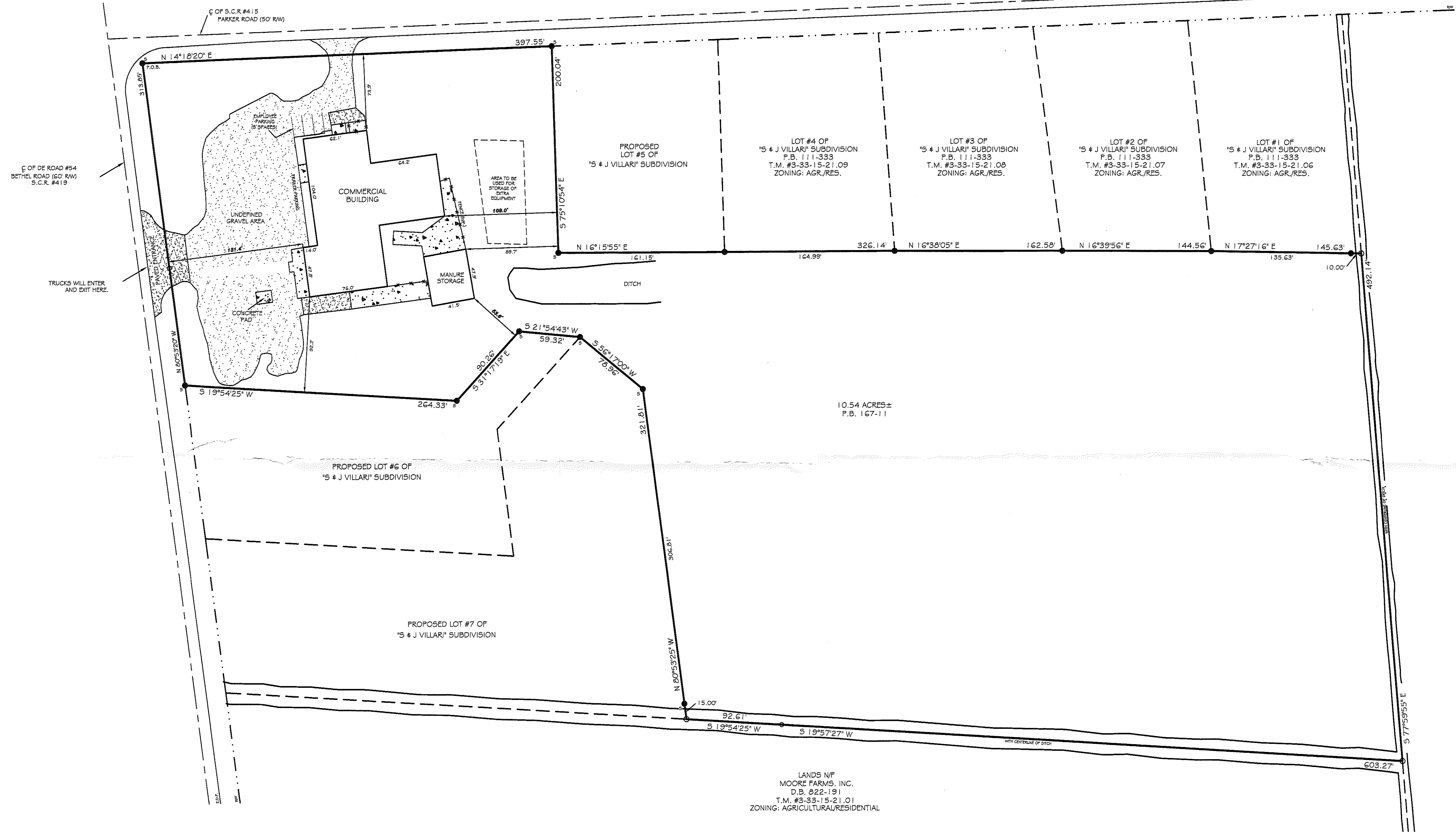
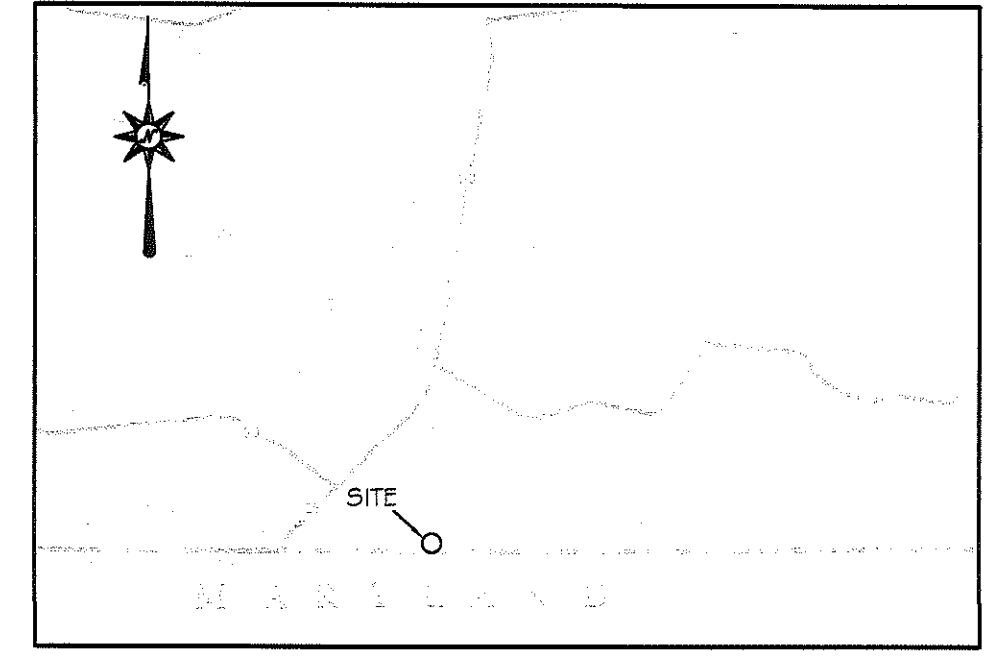
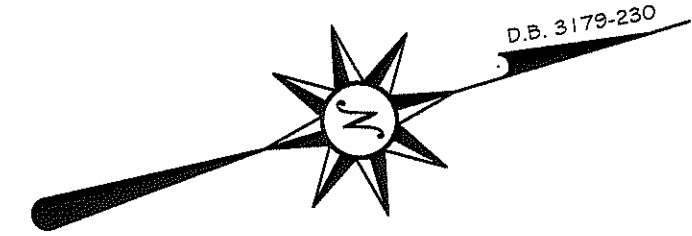
STATE OF DELAWARE, COUNTY OF SUSSEX: to-wit

BE IT REMEMBERED, that on June 13, 2019, personally came before me, the subscriber, Lloyd M. Behney and Debra E. Behney, parties of the first part to this Indenture, known to me personally to be such, and acknowledged this Indenture to be their act and deed.

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

MICHAEL R. SMITH
Attorney - Bar #4916
Admitted to Delaware Bar: 12/15/2006
Notary
Uniform Law on Notarial Acts
Pursuant to 29 Del. C., Sec 4323(3)


Notary Public
My Commission Expires: _____



10.54 ACRES±
P.B. 167-11

LANDS N/P
HELEN & STEPHEN SMITH
D.B. 2037-136
T.M. #3-33-15-21.02
ZONING: AGRICULTURAL/RESIDENTIAL

DATA COLUMN
T.M. #333-15.00-20.00.
PRESENT OWNER: OVER THE HILL HOLDINGS LLC
38531 PARKER ROAD
MILLSBORO, DE 19966
ZONING: PRESENT ZONING IS AGRICULTURAL/RESIDENTIAL.
PROPOSED ZONING IS C-2 COMMERCIAL
AREA: THE TOTAL AREA OF THE PROPERTY IS 10.54± ACRES

LANDS N/P
MOORE FARMS, INC.
D.B. 822-191
T.M. #3-33-15-21.01
ZONING: AGRICULTURAL/RESIDENTIAL

BOUNDARY SURVEY FOR LANDS OF
DELMARVA ARMORY
38531 PARKER ROAD, MILLSBORO, DE 19966

- LEGEND
- IRON PIPE (FOUND)
 - IRON PIPE (TO BE SET)
 - POINT

MILLER LEWIS, INC.
LAND SURVEYING
1560 MIDDLEFORD RD.
SEAFORD, DELAWARE 19773
PH: 302-629-8995 FAX: 302-629-2391

TOWN	COUNTY
GUMBORO	SUSSEX
STATE	DRAWN BY
DELAWARE	SMS
REF.	FILE
D.B. 507G-179	DELMARVA ARMORY 3-33-15-21.02 & 20

SURVEY CLASS: SUBURBAN

SUSSEX COUNTY ENGINEERING DEPARTMENT
UTILITY PLANNING & DESIGN REVIEW DIVISION
C/U & C/Z COMMENTS

TO: **Jamie Whitehouse**

REVIEWER: **Chris Calio**

DATE: **4/4/2022**

APPLICATION: **CZ 1956 Jeffrey Behney**

APPLICANT: **Jeffrey Behney**

FILE NO: **WS-4.06**

TAX MAP &
PARCEL(S): **333-15.00-20.00**

LOCATION: **38531 Parker Road (SCR 415), Millsboro. Lying on the east side of Parker Road, approximately 200' north of the intersection of E. Line Road (SCR 419) and Parker Road.**

NO. OF UNITS: **Upzone from AR-1 to C-2 (Heavy Commercial)**

GROSS
ACREAGE: **10.8**

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

SEWER:

- (1). Is the project in a County operated and maintained sanitary sewer and/or water district?
Yes No
- a. If yes, see question (2).
b. If no, see question (7).
- (2). Which County Tier Area is project in? **Tier 5**
- (3). Is wastewater capacity available for the project? **N/A** If not, what capacity is available? **N/A**.
- (4). Is a Construction Agreement required? **No** If yes, contact Utility Engineering at (302) 855-7717.
- (5). Are there any System Connection Charge (SCC) credits for the project? **No** If yes, how many? **N/A**. Is it likely that additional SCCs will be required? **N/A** If yes, the current System Connection Charge Rate is **Unified \$6,600.00** 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: **Click or tap here to enter text.**

(9). Is a Sewer System Concept Evaluation required? **Not at this time**

(10). Is a Use of Existing Infrastructure Agreement Required? **Not at this time**

(11). **All residential roads must meet or exceed Sussex County minimum design standards.**

UTILITY PLANNING & DESIGN REVIEW APPROVAL:



John J. Ashman
Sr. Manager of Utility Planning & Design Review

Xc: Hans M. Medlarz, P.E.
Lisa Walls
No Permit Tech Assigned



STATE OF DELAWARE
DEPARTMENT OF TRANSPORTATION
800 BAY ROAD
P.O. BOX 778
DOVER, DELAWARE 19903

NICOLE MAJESKI
SECRETARY

September 14, 2021

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 **Jeffrey Behney** proposed land use application, which we received on August 31, 2021. This application is for an approximately 10.65- acre parcel (Tax Parcel: 333-15.00-20.00). The subject land is located on the northeast corner of Bethel Road (Sussex Road 419) and Parker Road (Sussex Road 415). The subject land is currently zoned AR-1 (Agriculture Residential) with a proposed zoning of C-2 (Medium Commercial) for a 15,000 S.F. indoor range and retail.

Per the 2019 Delaware Vehicle Volume Summary, the annual average daily traffic volume along Bethel Road from Hudson Road (Sussex Road 418) to Millsboro Road (State Route 26), is 597 vehicles per day. The annual average daily traffic volume along Parker Road is 181 vehicles per day.

Based on our review, we estimate that the above land use will generate fewer than 50 vehicle trips in any hour and fewer than 500 vehicle trips per day. These numbers of trips are DeIDOT'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. DeIDOT'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 DeIDOT requires compliance with State regulations regarding plan approvals and entrance permits, whether or not a TIS is required.



Mr. Jamie Whitehouse
Page 2 of 2
September 14, 2021

Please contact Ms. Annamaria Furmato, at (302) 760-2710, if you have questions concerning this correspondence.

Sincerely,



T. William Brockenbrough, Jr.
County Coordinator
Development Coordination

TWB:afm

cc: Jeffery Behney, Applicant
Elliot Young, Sussex County Planning & Zoning
David Edgell, Coordinator, Cabinet Committee on State Planning Issues
Todd Sammons, Assistant Director, Development Coordination
Scott Rust, South District Public Works Manager, Maintenance & Operations
Steve McCabe, 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
Annamaria Furmato, Project Engineer, Development Coordination

1 **AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY,**
2 **CHAPTER 72, ARTICLE II, SECTIONS 72-16 THROUGH 72-28**
3 **AND CHAPTER 115, ARTICLE IV, V, VI, VII AND VIII**
4 **SECTIONS 115-20, 115-25, 115-29, 115-34, 115-37, 115-42, 115-45,**
5 **115-50, 115-53 AND 115-58 REGARDING AFFORDABLY PRICED**
6 **RENTAL UNITS AND THE SUSSEX COUNTY RENTAL UNIT**
7 **(SCRP) PROGRAM.**

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

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

16
17 WHEREAS, The Housing Element of the Plan recognizes that an influx
18 of new residents in Sussex County has fueled prosperity in the County’s
19 real estate market, hospitality industry, and related economic sectors, yet
20 most housing, particularly on the eastern side of the County, is new and
21 often unaffordable to low-income families, seasonal employees, entry-
22 level workers, or recent college graduates; and

23
24 WHEREAS, The Housing Element of the Plan recognizes that “the
25 shortage of affordable housing remains a very real problem for low to
26 moderate-income households in Sussex County, including many with
27 full-time, year-round jobs; and

28
29 WHEREAS, Goal 8.2 of the Housing Element within the Plan states that
30 Sussex County should “Ensure that a diversity of housing opportunities
31 are available to meet the needs of residents of different ages, income
32 levels, abilities, national origins and household configurations”; and

33
34 WHEREAS, Objective 8.2.1 and Strategy 8.2.1.1 of the Housing Element
35 within the Plan states that Sussex County will “Affirmatively further
36 affordable and fair housing opportunities in the County to accommodate
37 the needs of all residents” and in so doing “improve the County’s SCR
38 and MPHU Programs to provide incentives to properly reflect the housing
39 market and incentivize developers to participate in the provision of
40 affordable housing”; and

41
42 WHEREAS, Strategy 8.2.1.3 of the Housing Element within the Plan
43 states that Sussex County should “explore ways for private developers to
44 provide multi-family and affordable housing opportunities; and

46 WHEREAS, Objective 8.2.3 and Strategies 8.2.3.1, 8.2.3.2 and 8.2.3.6 of
47 the Housing Element within the Plan state that Sussex County should
48 “facilitate and promote land use policies that enable an increase in the
49 supply of affordable housing in areas with adequate infrastructure” by
50 “increasing affordable housing options, including the supply of rental
51 units, near employment opportunities”; by reviewing “County code to
52 determine if there are regulatory barriers to development of affordable
53 housing”; and by “revisiting [the] zoning code to determine in districts
54 where multifamily housing is currently a conditional use, if it should be
55 made a permitted use if water and sewer are already present and available
56 on the site”; and

57
58 WHEREAS, Strategy 8.3.1.1. of the Housing Element within the Plan
59 states that Sussex County should “evaluate current County code on an on-
60 going basis to determine if any regulatory barriers exist that impede the
61 development of multi-family and affordable housing”; and

62
63 WHEREAS, this Ordinance is in furtherance of these Goals, Objectives
64 and Strategies as set forth in the of the Housing Element within the Plan;
65 and

66
67 WHEREAS, Sussex County Council commissioned a study of Housing
68 Opportunities and Market Evaluation to evaluate and recommend
69 strategies and policies designed to promote housing choice and economic
70 vitality for Sussex County’s residents and workforce; and

71
72 WHEREAS, in November of 2019, LSA, the housing consultant retained
73 by Sussex County Council, issued its Final Report on “Housing
74 Opportunities and Market Evaluation” following an eight-month
75 initiative that included input from residents, homebuilders, developers,
76 housing advocates, County staff, County Council and Planning
77 Commissioners (“the LSA Report”); and

78
79 WHEREAS, one of the primary Strategy Recommendations included in
80 the LSA Report was a recommendation to “Modify the Zoning Code to
81 promote housing affordability in the Growth Areas identified in the
82 Comprehensive Plan, including the allowance for a maximum density of
83 12 units per acre “by-right” where affordable housing units are provided;
84 and

85
86 WHEREAS, this Ordinance carries out the Goals, Objectives and
87 Strategies of the Sussex County Comprehensive Plan and the LSA
88 Report; and

89

90 WHEREAS, Sussex County Council, with the assistance of the Office of
91 Community Development and Housing, has determined that the current
92 Sussex County Rental Unit program contained in Chapter 72 of the Code
93 of Sussex County requires an update based upon lessons learned in the
94 implementation and application of that Chapter to the single rental project
95 in Sussex County that has utilized the Program; and

96
97 WHEREAS, Sussex County Council, with the assistance of the Office of
98 Community Development and Housing, has determined that the current
99 Sussex County Rental Unit program contained in Chapter 72 of the Code
100 of Sussex County should be revised to attract more affordable housing
101 developments within Sussex County; and

102
103 WHEREAS, it has been determined that this Ordinance promotes and
104 protects the health, safety, convenience, orderly growth and welfare of
105 the inhabitants of Sussex County.

106
107 **NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY**
108 **ORDAINS:**

109
110 **Section 1. The Code of Sussex County, Chapter 72, Article II, §72-16**
111 **through 72-28 is hereby amended by deleting the language in**
112 **brackets and inserting the italicized and underlined language as**
113 **follows:**

114
115 **§ 72-16 Intent.**
116
117 This chapter seeks to better protect the health, safety and welfare of
118 Sussex County's residents and workforce by stimulating the provision of
119 affordable rental housing for residents with low and moderate incomes
120 and is hereafter known as the "Sussex County Rental Program" or
121 "SCRIP" or "program."

122
123 **§ 72-17 Governmental findings.**
124
125 The Sussex County Council hereby finds that a shortage exists within the
126 County for housing for residents with low and moderate incomes.
127 Specifically, the Council finds that:

- 128
129 A. It is well known that Sussex County rents have inflated far beyond
130 the ability of an average wage earner to pay. It is also known that
131 federal rental assistance programs, such as the state-administered
132 Public Housing and Section 8 Housing Choice Voucher
133 Programs, are unable to completely satisfy the need for affordable
134 rental housing.

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B. Council finds that new development is not adequately addressing the rental housing needs of the County's low- and moderate-income residents and workforce. Without influencing this trend, local employers will have a difficult time maintaining an ample workforce.

C. Without an adequate supply of affordable rental housing in close proximity to employment and Town Centers, the County's workforce must commute a great distance for work. Not only do long commutes have a negative effect on the environment and transportation, but commuting also comes with high fuel expenses.

D. Given the proper incentives, the private sector possesses the necessary resources and expertise to provide the type of affordable rental housing needed in Sussex County.

§ 72-18 Declaration of public policy.

The Sussex County Council hereby declares it to be the public policy of the County to:

A. Encourage the creation of a full range of housing choices, conveniently located in suitable living environments, for all incomes, ages and family sizes.

B. Encourage the production of affordable rental units to meet the existing and anticipated future employment needs in the County.

C. Assure that affordable rental units are dispersed throughout the County consistent with the Comprehensive Plan.

D. Encourage developments in Growth Areas as defined within the County's most current comprehensive plan and Areas of Opportunity as defined by the Delaware State Housing Authority to include [a minimum percentage of] affordable rental units on public water and sewer systems.

E. Provide incentives for developers to construct affordable rental units through tools such as the density incentive and expedited review (defined below).

§ 72-19 Definitions.

The following words and phrases have the following meanings:

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APPLICANT

Any person, firm, partnership, association, joint venture, corporation, or other entity or combination of entities owning or controlling via contract qualifying land (defined below) and any transferee or successor in interest of all or part of the qualifying land pursuing the development of affordable rental housing under the SCRP that:

- A. Submits to the County for approval or extension of approval a plan of housing development for any type of site plan review, subdivision plan or development approval (hereinafter, a "site plan") that provides for the development of affordable rental units on qualifying land in one or more subdivisions, parts of subdivisions, resubdivisions, multi-family townhouse developments or phases of development under the terms and conditions as set forth in this article.
- B. With respect to land in zones not subject to subdivision approval or site plan review, applies for building permits for the construction of affordable rental units on qualifying land under the terms and conditions as set forth in this article.

AREA MEDIAN INCOME

The midpoint family income for Sussex County, calculated each year by the U.S. Department of Housing and Urban Development (HUD), adjusted for household size.

AT ONE LOCATION

All land of the [a]Applicant if:

- A. The property lines are contiguous; or
- B. The property lines are separated only by a public or private right-of-way at any point; or
- C. The property lines are separated only by other land of the [a]Applicant and not subject to this section at the time of the submission of an application or development plan by the [a]Applicant.

[CERTIFICATE OF ELIGIBILITY

A certificate valid for a period of time, which is issued to eligible tenants by the landlord (defined below) and supplied to the Department (defined below) as further set forth within this article. This certificate must be issued before a tenant will be permitted to sign a lease agreement.]

223 **[CONTROL PERIOD**

224 The time a SCRP unit is subject to rental controls and occupancy
225 requirements. The control period is 30 years and begins on the date
226 of lease (defined below).]

227
228 **DATE OF LEASE**

229 The date of the initial lease agreement signing of an approved
230 [e]Eligible [t]Tenant for a SCRP [u]Unit.

231
232 **DENSITY INCENTIVE**

233 [Any increase in density pursuant to § 72-21 that allows a residential
234 development to achieve a density greater than would have been
235 possible under the applicable provisions of current and future zoning
236 ordinances and the County subdivision regulations then in effect.]
237 The density permitted by §72-21 and as a permitted use for SCRP
238 projects in Chapter 115.

239
240 **DEPARTMENT**

241 The Sussex County Department of Community Development and
242 Housing or its successors.

243
244 **DEPARTMENT-DESIGNATED ENTITY (DDE)**

245 Any agency, authority or political subdivision of the State of
246 Delaware or any other public housing development agency or
247 nonprofit housing corporation, land trust or similar entity designated
248 by the Department and approved by the County Administrator.

249
250 **DIRECTOR**

251 The head of the Department of Community Development and
252 Housing or head of a DDE, as applicable.

253
254 **DWELLING**

255 Any building, structure, or portion thereof which is occupied as, or
256 designed or intended for occupancy as, a residence; and any vacant
257 land which is offered for sale or lease for the construction or location
258 thereon of any such building, structure, or portion thereof.
259 "Dwelling" shall not include hotels, motels, motor lodges, boarding
260 and lodging houses, tourist houses, or similar structures.

261
262 **ELIGIBLE INCOME**

263 The levels of income designated by the County Administrator which
264 prohibit or severely limit the financial ability of persons to rent a
265 dwelling unit in Sussex County. Eligible [i]Income is low- to
266 moderate-income, defined as 30% to 80% of the area median
267 income for Sussex County adjusted for household size as defined by
268 the U.S. Department of Housing and Urban Development (HUD).

269 Income includes gross salary, wages, dividends, interest and all
270 other sources recognized by HUD from the [e]Eligible [t]Tenant and
271 all other adults (age 18 and older) who will occupy the SCRP
272 [u]Unit. Income will be verified by a copy of the filed income tax
273 returns from the previous year and any other personal and financial
274 information requested by the [l]Landlord in order to accurately
275 verify the potential tenant's qualifications and income, which may
276 include, but is not limited to, a credit history report and a criminal
277 background report on the proposed adult tenants, so long as these
278 are requirements for all leases in the housing development.

279

280 ELIGIBLE TENANT

281 Person(s):

282 A. Whose household *income is within the Eligible Income [is of low or*
283 *moderate income;]*.

284 [*B. Who has been found eligible to participate in the Sussex County*
285 *Rental Program; and*

286 *C. Who holds a valid certificate of eligibility from the landlord.]*

287

288 EXPEDITED REVIEW

289 A project entering the SCRP will receive priority in the County's
290 planning and zoning process, with the Director of Planning and
291 Zoning and the County Administrator to determine the
292 [a]Applicant's placement in the list of pending applications. The
293 expedited review is provided to the [a]Applicant to assist the
294 [a]Applicant in managing, to the extent possible, the risk of changes
295 to cost, interest rates, schedule and other factors that the [a]Applicant
296 is taking on by virtue of participation in the SCRP. If an [a]Applicant
297 at any time during processing elects to withdraw from the SCRP,
298 any approvals granted for the development through the date of
299 withdrawal will be vacated and the [a]Applicant will have to
300 resubmit the project through the normal County process. A project
301 receiving expedited review does not exempt the project from the
302 County's planning and zoning process, nor guarantee approval
303 through that process.

304

305 FORECLOSURE EVENT

306 A foreclosure, deed-in-lieu of foreclosure or other court-ordered
307 sale of the rental unit or of the subdivision or development in which
308 the unit is located, subject to rental restrictions continuing in force
309 after foreclosure sale of disposition.

310

311 LANDLORD

312 The owner of the property that contains SCRP [u]Units or an entity
313 designated by the owner to manage and lease dwelling units.

314

315 QUALIFYING LAND

316 All land that:

317 A. Is owned by or under contract to the [a]Applicant; and

318 B. [Is located within a Growth Area as defined within the County's most
319 current comprehensive plan or within an Area of Opportunity as
320 defined by the Delaware State Housing Authority; and] Allows the
321 SCRP Units as a Permitted Use pursuant to Chapter 115.

322 [C. Requires the submission and approval of a site plan or, where a site
323 plan is not required, one or more building permits; and

324 D. Is served by a public water and sewer system; and

325 E. Is at one location as defined above.]

326

327 SUSSEX COUNTY RENTAL PROGRAM UNIT (SCRP UNIT)

328 A dwelling which is:

329 A. Offered for lease to [e]Eligible [t]Tenants through or pursuant to the
330 provisions of this article and any regulations promulgated
331 thereunder by the Department and approved by the County
332 Administrator; or

333 B. Leased under another government program designated by the County
334 Administrator designed to assist in the construction or occupancy of
335 affordable rental housing.

336

337 § 72-20 Minimum standards of eligibility for tenants.

338

339 A. Eligible [t]Tenants must:

340

341 (1) Have proof of citizenship.

342

343 (2) Be of [e]Eligible [i]Income, as defined in § 72-19 above,
344 and be able to pay the first month's rent and any required
345 security deposit.

346

347 (3) Be employed [and live] in Sussex County for at least one
348 year preceding application to the SCRP. Sussex County
349 employers may seek waivers to this restriction from the
350 Director and County Administrator. Waivers are evaluated
351 on a case-by-case basis and are not guaranteed.

352

353 (4) Provide proof that adult tenants have not been convicted of
354 a felony and have a satisfactory credit and criminal history,
355 so long as these are requirements of all leases within the
356 proposed housing development.

357
358 (5) Occupy the SCRP [u]Unit as the tenant's principal residence
359 during the lease period. Each [e]Eligible [t]Tenant must
360 certify before taking occupancy that the tenant will occupy
361 the SCRP [u]Unit as the tenant's principal residence. Any
362 tenant who violates occupancy requirements will be subject
363 to eviction procedures.

364
365 B. Where necessary or advisable to achieve the objectives of this
366 chapter or to comply with state or federal housing laws, the
367 Department may propose changes to these standards for approval
368 by the County, including changes to eligibility requirements for
369 tenants as recommended by the Department.

370
371 **§ 72-21 Density and expedited review incentives.**

372
373 A. Density incentive. [Subject to meeting the requirements outlined
374 in § 72-22, a proposed development on qualifying land at one
375 location may receive a density bonus of 20%. The project entering
376 the SCRP with the execution of a SCRP [a]Agreement will be
377 allowed to utilize the density permitted by the zoning district in
378 which the property is located, provided that the total density,
379 including any SCRP density bonus, shall not exceed 12 units per
380 acre.] See Permitted Uses in Chapter 115.

381
382 B. Expedited review. A project entering the SCRP through execution
383 of an SCRP [a]Agreement will receive expedited review, as
384 defined in § 72-19 above, through the County's Planning and
385 Zoning process.

386
387 C. Incentives will only be granted to projects submitted for new
388 development that meet all requirements of this program.

389
390 [D. To the extent necessary, Council shall amend the provisions of
391 the County's Zoning Ordinances as needed to achieve the density
392 incentives and the specific design elements (e.g., minimum lot
393 sizes, setbacks, building heights, parking requirements, etc.) of
394 approved SCRP projects.]

395
396 **§ 72-22 Minimum standards of eligibility for SCRP developments.**

398 [A. Applicants must contribute 12.5% of all units to SCRP inventory.
399 In applying and calculating the number of affordable units within
400 a proposed development, any decimal fraction less than or equal
401 to 0.50 may be disregarded, and any decimal fraction greater than
402 0.50 shall be constructed as one unit. In the case where the total
403 number of units being constructed is four or less, the minimum
404 number of SCRP units must be one unit.

405
406 B.] A. All parcels in the proposed project must be on qualifying land,
407 as defined in § 72-19.

408
409 [C]B. All units contributed as SCRP [u]Units will remain at the
410 affordable rental rates specified herein [for the remainder of the
411 control period]. SCRP [u]Units shall never be leased as market-
412 rate units [during the control period], regardless of vacancy,
413 except in accordance with § 72-23N(1).

414
415 D. SCRP [u]Units must be fully integrated into the communities of
416 which they are a part and shall not be substantially different in
417 external appearance from market-rate units. SCRP [u]Units shall
418 be equipped with the same basic appliances as the market rate
419 units, such as an oven, refrigerator, dishwasher, and washer and
420 dryer.

421 § 72-23 SCRP Agreements.

422 To participate in the SCRP and secure any incentives provided for
423 herein, an [a]Applicant must execute an SCRP [a]Agreement
424 prepared by the Department and the County Attorney. Each
425 agreement must include, at a minimum, the following information
426 and/or evidence the following agreements and any others deemed
427 necessary by the Department and the County Attorney to properly
428 implement the chapter:
429

430
431
432 A. The specific number of SCRP [u]Units to be constructed in the
433 project. If a final site plan has not been approved when the SCRP
434 [a]Agreement is executed, an amendment to the SCRP
435 [a]Agreement will be made to incorporate the approved final site
436 plan.

437
438 B. [The schedule pursuant to which the SCRP units will be
439 constructed, marketed, and delivered and explaining the
440 relationship between the delivery of market-rate units and the
441 delivery of SCRP units (i.e., a stated number of SCRP units to be
442 created for each market-rate unit created).] A description of how
443 the SCRP Units will be marketed and delivered. The SCRP Units

444 must be constructed and delivered in equal proportion to non-
445 SCRP Units within the development.

446
447 (1) Applicants [should] shall affirmatively market the SCRП
448 [U]Units to diverse populations, and meet with the
449 surrounding residents early in the development approval
450 process.

451
452 C. Any economic risk created by changes, whether within or outside
453 of the [a]Applicant's control, in development and construction
454 costs, interest rates, processing and construction schedules,
455 permitting and any other factor impacting the [a]Applicant's costs
456 and development obligations are borne solely by the [a]Applicant.

457
458 D. Building permits, performance bonds and letters of credit.

459
460 [(1)] No building permits shall be issued in any subdivision or
461 housing development where SCRП [u]Units are included until
462 the [a]Applicant executes a valid SCRП [a]Agreement which
463 applies to the entire subdivision.

464
465 [(2)]If an applicant does not build the SCRП units in accordance
466 with the construction schedule along with or before other
467 dwelling units the County Administrator may withhold
468 building permits or call in performance bond or letter of credit
469 from the applicant until the SCRП units contained in the
470 construction schedule are built and contributed to SCRП rental
471 inventory to the satisfaction of the Department.]

472
473 E. Be signed by the [a]Applicant and all other parties having an
474 interest in the property whose signatures are required for the
475 effective and binding execution of contracts conveying real
476 property. SCRП [a]Agreements must be executed in a manner that
477 will enable them to be recorded in the land records of the County.
478 [If the applicant is a corporation or limited liability company, the
479 principal officers of the entity must sign the agreements
480 individually and on behalf of the corporation pursuant to a duly
481 adopted resolution.]

482
483 F. Partnerships, associations, corporations and other entities may not
484 evade the requirements of the SCRП [a]Agreement through
485 voluntary dissolution, bankruptcy, or the sale or transfer of
486 qualifying land.

487
488 G. The SCRП [a]Agreement may only be assigned with the prior
489 written approval of the Department and only if the proposed

490 assignee demonstrates the financial ability to fulfill all of the
491 [a]Applicant's obligations under the SCRП [a]Agreement.
492

493 H. Landlords are responsible for marketing, leasing, and determining
494 tenant eligibility for the SCRП [u]Units. [A lease agreement shall
495 not be signed unless validated by a certificate of eligibility.] A
496 landlord shall not be permitted to refuse to rent a unit to an
497 [e]Eligible [t]Tenant *[without providing the Department with just
498 cause, to the Department's satisfaction, for the refusal]. The
499 reasons for a refusal to rent to an Eligible Tenant shall be
500 documented and included in the Annual Audit and Certification
501 required by §72-28*
502

503 I. If the [a]Applicant is not also the builder, the relationship between
504 the [a]Applicant and the builder shall be fully disclosed to the
505 Department's satisfaction, as soon as the relationship is
506 established.
507

508 J. SCRП [u]Units must be fully integrated into the communities of
509 which they are a part (not separated geographically from the
510 market rate units and not grouped together) and shall not be
511 substantially different in external appearance from non-SCRП
512 [u]Units. When the SCRП [u]Units are a part of a phased
513 development, a proportionate number or percentage of said
514 [u]Units will be placed within each phase and/or constructed
515 within each housing type appearing in the development. The
516 planning and design of individual SCRП [u]Units must be
517 consistent with the planning and design of *non-SCRП Units (i.e.*
518 *market-rate units)* within a single project.
519

520 (1) The ratio of SCRП [u]Units by type must reflect the ratio by
521 type of market rate units, to the extent feasible. For instance,
522 if a development has 200 two-bedroom dwelling units and
523 100 one-bedroom dwelling units, the ratio of two-bedroom to
524 one-bedroom SCRП [u]Units should also be 2:1.
525

526 K. *[The applicant will execute and record covenants confirming
527 that]The SCRП Agreement shall be recorded in the Office of the
528 Recorder of Deeds confirming that:*
529

530 (1) The covenants *contained within it* will bind the [a]Applicant,
531 any assignee, mortgagee, or buyer and all other parties that
532 receive title to the property. In the event the mortgagee
533 acquires the property through a foreclosure or acceptance of
534 deed-in-lieu of foreclosure, the SCRП [a]Agreement

535 covenants will continue in effect. The covenants must be
536 senior to all instruments securing financing.

537
538 (2) In any deed or instrument conveying title by the [a]Applicant,
539 the property shall remain subject to all of the terms and
540 conditions contained in the SCRPs [a]Agreements by the
541 [a]Applicant required under the chapter [during the control
542 period]. The source of the SCRPs [a]Agreements and any deed
543 restrictions related thereto must be included in the public land
544 records so that they are readily identifiable in a routine title
545 search.

546
547 L. Where the [a]Applicant is a DDE, agreements will be negotiated
548 between the Department and the DDE so as to be consistent with
549 the mission, strategies, business plans and operating procedures
550 of the DDE and may, with Council approval, deviate from the
551 requirements of this chapter.

552
553 M. The SCRPs [a]Agreement requires that the [l]Landlord ensure that
554 the SCRPs [u]Units are occupied only by tenants whose [monthly]
555 *annual* income levels do not exceed the eligible income limit, and
556 shall prohibit tenants from subletting or subleasing the [u]Units.
557 [The agreement shall also require the landlord to submit a copy of
558 the initial and all renewal leases to the Director within 30 days of
559 signing the lease.]

560
561 (1) In addition, the [l]Landlord must supply the information listed
562 below in a format acceptable to the Director on an annual
563 basis:

564
565 (a) The number of SCRPs [u]Units, by bedroom count, that are
566 leased to [e]Eligible [t]Tenants and those that are vacant,
567 and the monthly rent charged for each SCRPs [u]Unit;

568
569 (b) For each SCRPs [u]Unit, the tenant's name, household size,
570 and total household income as of the date of the lease, and
571 the effective date of the lease;

572
573 (c) A statement that, to the best of the [l]Landlord's
574 information and knowledge, tenants who are leasing the
575 SCRPs [u]Units meet the eligibility criteria[; and

576
577 (d) A copy of each new or revised certificate of eligibility
578 obtained since the last annual report].

579

580 (2) The Department shall audit the report and may require such
581 additional information *monthly* needed to evaluate and accept
582 the annual report.

583
584 N. The tenant must vacate the SCRP [u]Unit if the tenant's household
585 income exceeds 80% of the area median income by 20% *at the*
586 *time of lease renewal*. The [a]Applicant must take the necessary
587 action to have the tenant vacate the SCRP [u]Unit within six
588 months of receiving information that the tenant's household
589 income exceeds the [e]Eligible [i]Income limit.

590
591 (1) Notwithstanding the provisions of § 72-23N above, if the
592 [a]Applicant immediately designates an additional
593 comparable unit as an affordable dwelling unit to be leased
594 under the controlled rental price and requirements of the
595 SCRP program, the tenant of such SCRP [u]Unit referenced
596 in § 72-23N above may continue to lease such [u]Unit at the
597 market value rent.

598
599 *O. The Landlord shall comply with the Annual Audit and*
600 *Certification Requirements of Section 72-28*

601
602 **§ 72-24 SCRP [u]Units.**

603
604 A. Rent.

605
606 (1) Rent shall be established and updated annually by the
607 Department based upon 25% of household income for 50% of
608 the area median income adjusted for household size and unit size
609 and shall not include trash services, parking, water and sewer
610 utilities and any other charges to be paid by the tenant.

611
612 (2) The [e]Eligible [t]Tenant must provide to the [l]Landlord income
613 tax returns (and proof of payment of any taxes owed) from the
614 previous year for all members of the household who were
615 required to file such returns. If an [e]Eligible [t]Tenant was not
616 required to file tax returns or if the [l]Landlord believes that
617 information from the previous tax returns is insufficient to
618 determine income, the [l]Landlord is authorized to request such
619 information as it deems necessary to confirm the income levels
620 of the proposed tenants.

621
622 B. Unit and household size. Households must be placed in units
623 according to the following distribution:

624

Unit Size (number of bedrooms)	Household Size
Efficiency	1
1	1 to 2
1 plus Den	2 to 4
2	2 to 4
2 plus Den	2 to 4
3	4 to 6
4	5 to 8

625 **§ 72-25 Leasing of SCRP [u]Units.**

626

627 A. Leases to [e]Eligible [t]Tenants.

628

629 (1) Every SCRP [u]Unit constructed under this program must
630 be offered to all [e]Eligible [t]Tenants for lease as the
631 [e]Eligible [t]Tenant's principal residence. Notification to
632 the public of SCRP [u]Unit availability will be made by the
633 [l]Landlord and is recommended to be made by advertising
634 on DelawareHousingSearch.org *and similar sites*. The
635 Department may, but is not obligated to, provide notice of
636 SCRP [u]Unit availability through the Department's
637 website.

638

639 (2) The [l]Landlord will determine SCRP tenant eligibility
640 under § 72-20[, *and lease agreements shall not be signed*
641 *until the tenant has received a certificate of eligibility from*
642 *the landlord*].

643

644 (3) Annually, the Department will provide updated income
645 guidelines and rental rates to the [l]Landlord for use in
646 leasing the SCRP [u]Units.

647

648 (4) Lease agreements shall contain the same terms and
649 conditions as the lease agreements with market-rate renters
650 with the exception of the rental rates and other terms and
651 conditions as required under this article.

652

653 (5) All lease agreements of SCRP [u]Units shall cover a period
654 of one year.

655

656 (6) An [e]Eligible [t]Tenant already occupying a SCRP [u]Unit
657 *[has]shall have a* first-option to renew the lease agreement
658 each year, as long as the tenant maintains good standing

659 with the [l]Landlord and continues to qualify as an
660 [e]Eligible [t]Tenant. [The Department shall be notified by
661 the landlord of the intent to evict and the reasons therefor at
662 the same time the landlord first provides notice to the
663 tenant.]

664
665 B. Tenants of SCRPs [u]Units shall provide an executed affidavit on
666 an annual basis certifying their continuing occupancy of the unit
667 as their principal residence. Tenants shall provide such affidavit
668 to the [l]Landlord by the date that may be specified in their lease
669 or that may otherwise be specified by the [l]Landlord.

670
671 C. In the event the tenant of an SCRPs [u]Unit fails to provide his or
672 her [l]Landlord with an executed affidavit as provided for in the
673 preceding paragraph within 30 days of written request for such
674 affidavit, then the lease shall automatically terminate, become
675 null and void and the occupant shall vacate the [u]Unit within 30
676 days of written notice from the [l]Landlord.

677
678 **§ 72-26 Foreclosure or default.**

679
680 A. The [l]Landlord must provide the Department with a copy of any
681 mortgage default notification immediately upon receipt and a written
682 explanation of how the default will be remedied.

683
684 B. If a foreclosure event occurs [during the control period], the covenants
685 endure through the transfer of property [until the end of the control
686 period].

687
688 [C. If the foreclosure event occurs after the thirty-year control period, then
689 all binding restrictions of this chapter will dissolve.]

690
691 **§ 72-27 Implementation.**

692
693 Improvements to concepts, processes and rules and regulations of the
694 SCRPs program will be incorporated into future amendments of this
695 article. Council views this article as a living document that will be
696 modified as needed to respond to economic, housing, development,
697 land use and other trends in the County and to best practices in
698 affordable rental programs.

699
700 **§72-28 Annual Audit and Certification.**

701
702 The Landlord shall contract with an independent Delaware Certified
703 Public Accountant that has no other relationship with the
704 Landlord/Developer/Owner/Manager to audit the Landlord's

705 Compliance with this Chapter 72, the conditions of approval for the
706 project, the terms of the SCRP Agreement, the rental of the SCRP
707 Units and the status of the Eligible Tenants (and their Eligible
708 Income) within the project. In this engagement, the Delaware
709 Certified Public Accountant will perform this obligation in
710 accordance with attestation standards established by the American
711 Institute of Certified Public Accountants. This annual audit and
712 report shall certify that the project remains in compliance with (i) all
713 of the Chapter 72 requirements and the terms of the SCRP Agreement;
714 (ii) the status of each of the SCRP Units (whether leased or vacant);
715 (iii) certification that each of the Eligible Tenants renting an SCRP
716 Unit within the project are an Eligible Tenant as of the date of the
717 annual audit and report; (iv) the status and duration of any vacancy
718 of any SCRP Unit; (v) the marketing efforts to re-let any vacant SCRP
719 Unit to an Eligible Tenant; (vi) the status of any list of Eligible
720 Tenants waiting for an SCRP Unit to come available; and (vii) such
721 other information as the Delaware Certified Public
722 Accountant and/or the Community Development and Housing Office
723 may deem appropriate and necessary. This annual audit and report
724 shall be submitted to both the Office of Planning & Zoning and the
725 Community Development & Housing Office no later than March 1 of
726 each year.

727
728 **§ 72-2[8]2 Government regulations; enforcement.**

- 729
- 730 A. The Department will maintain a list of all SCRP [u]Units
731 constructed and leased under this program, and the Council
732 hereby authorizes the County Administrator to promulgate and
733 adopt regulations and approve the various agreements/documents
734 necessary to administer this program.
- 735
- 736 B. The Director may, with Council approval, waive or modify the
737 provisions of the program if the Director finds the program in
738 conflict with state or federal housing laws.
- 739
- 740 C. This program applies to all agents, successors, and assigns of an
741 [a]Applicant. A building permit shall not be issued and a
742 preliminary plan of subdivision, development plan, or site plan
743 shall not be approved for a development that will contain
744 affordable rental units to be submitted to this program unless it
745 meets the requirements of this program. The County
746 Administrator may deny, suspend, or revoke any building or
747 occupancy permit upon finding a violation of this program. Any
748 prior approval of a preliminary or final plan of subdivision,
749 development plan or site plan may be suspended or revoked upon
750 the failure to meet any requirement of this chapter. An occupancy

751 permit shall not be issued for any building to any [a]Applicant, or
752 a successor, or assign of any [a]Applicant, for any construction
753 that does not comply with this program. The County
754 Administrator may also withhold or call in performance bond
755 funds, letters of credit, and certificates of compliance or
756 occupancy from the [a]Applicant for any violation of this
757 program.

758
759 *D. In the event that the Landlord rents any of the SCRP Units at non-*
760 *SCRP Unit rates (i.e. market rental rates) so that the*
761 *proportionate share of SCRP Units versus non-SCRP Units as*
762 *originally approved is not maintained, the Landlord of the project*
763 *shall be required to pay to Sussex County the monthly market rent*
764 *collected from any such SCRP Unit that is rented at a non-SCRP*
765 *Unit Rate. Any such funds collected by Sussex County shall be*
766 *used for housing purposes and administered by the Sussex County*
767 *Office of Community Development and Housing.*
768

769 D]E. The Director is authorized to pursue any available remedy, legal
770 or equitable in nature, to enforce the requirements of this program
771 or to prevent or abate a violation of this program.
772

773 [E]F. The Director may take legal action to stop or cancel any lease
774 of an SCRP [u]Unit if any party does not comply with all
775 requirements of this program. The Director may recover any
776 funds improperly obtained from the rental of a SCRP [u]Unit in
777 violation of this chapter.
778

779 [F]G. In the event of litigation to enforce the terms and conditions of
780 this chapter or any agreement or obligation under the SCRP
781 program, the Department shall be entitled to an award of legal
782 costs and fees to be collected from the party who is determined to
783 be in violation of such agreements and obligations.
784
785

786 **Section 2. The Code of Sussex County, Chapter 115, Article IV, §115-**
787 **20 “Permitted Uses”, is hereby amended by inserting the italicized**
788 **and underlined language as a new subpart A.(17) thereof as follows:**
789

790 **§115-20 Permitted Uses.**
791

792 A. A building or land shall be used only for the following purposes:
793

794 . . .
795

796 (17) A Sussex County Rental Program, or SCRP, townhouse or multi-
797 family development governed by, and subject to, Chapter 72,
798 where at least 30% of all dwelling units are SCRP Units pursuant
799 to Chapter 72. The SCRP development must satisfy the following
800 criteria:

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

805
806 (b) The site shall be located within 2,640 feet of an existing or
807 proposed DART Route operated by the Delaware Transit
808 Corporation. In the case of a proposed DART Route, Final Site
809 Plan approval shall not be granted until the Route is in existence
810 and operated by DART.

811
812 (c) The site must be served by a central sewer system and a central
813 water system.

814
815 (d) The total maximum number of dwelling units (including both
816 SCRP Units and non-SCRP Units) that may be permitted shall be
817 determined by dividing the gross area by 3,630 square feet.
818 "Gross area" shall exclude any area designated as a tidal
819 tributary stream or tidal wetlands by § 115-193.

820 (e) There shall be a one-hundred foot wide setback around the
821 entire site, which shall incorporate the "Forested and/or
822 Landscaped Buffer Strip" identified in Section 99-4. This setback
823 shall include walking and biking trails.

824 (f) The height of any townhouse or multi-family buildings shall
825 not exceed 52 feet or four stories, whichever is greater.

826 (g) There shall be sidewalks on all streets, roadways and parking
827 areas, with interconnectivity to adjacent walkway systems.

828 (h) There must be interconnectivity with any adjacent property
829 that is zoned C-1, CR-1, C-2, C-3, C-4, C-5, B-1, B-2 or B-3.

830 (i) There shall be open space that exceeds fifty percent of the
831 gross area of the entire site. The Primary view from each
832 dwelling unit shall be directed to open space and recreational
833 amenities.

834
835 **Section 3. The Code of Sussex County, Chapter 115, Article IV, §115-**
836 **25 "Height, Area and Bulk Requirements", is hereby amended by**

837 **inserting the italicized and underlined language as a new subpart G**
838 **thereof as follows:**

839

840 **§115-25 Height, Area and Bulk Requirements.**

841

842 . . .

843

844 G. Sussex County Rental Unit development permitted by §115-20A.(17).
845 The minimum lot size, lot area per dwelling unit, open space, height and
846 setback requirements for a Sussex County Rental Unit development
847 permitted by §115-20A.(17) shall be governed by the dimensional
848 requirements set forth in that Section.

849

850 **Section 4. The Code of Sussex County, Chapter 115, Article V, §115-**
851 **29 “Permitted Uses”, is hereby amended by inserting the italicized**
852 **and underlined language as a new subpart K. thereof as follows:**

853

854 **§115-29 Permitted Uses.**

855

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

857

858 . . .

859

860 K. A Sussex County Rental Program, or SCRP, townhouse or multi-
861 family development governed by, and subject to, Chapter 72,
862 where at least 30% of all dwelling units are SCRP Units pursuant
863 to Chapter 72. The SCRP development must satisfy the following
864 criteria:

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

869

870 (2)The site shall be located within 2,640 feet of an existing or
871 proposed DART Route operated by the Delaware Transit
872 Corporation. In the case of a proposed DART Route, Final Site
873 Plan approval shall not be granted until the Route is in existence
874 and operated by DART.

875

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

878

879 (4)The total maximum number of dwelling units (including both
880 SCRIP Units and non-SCRIP Units) that may be permitted shall be
881 determined by dividing the gross area by 3,630 square feet.
882 "Gross area" shall exclude any area designated as a tidal
883 tributary stream or tidal wetlands by § 115-193.

884 (5)There shall be a one-hundred foot wide setback around the
885 entire site, which shall incorporate the “Forested and/or
886 Landscaped Buffer Strip” identified in Section 99-4. This setback
887 shall include walking and biking trails.

888 (6)The height of any townhouse or multi-family buildings shall
889 not exceed 52 feet or four stories, whichever is greater.

890 (7)There shall be sidewalks on all streets, roadways and parking
891 areas, with interconnectivity to adjacent walkway systems.

892 (8)There must be interconnectivity with any adjacent property
893 that is zoned C-1, CR-1, C-2, C-3, C-4, C-5, B-1, B-2 or B-3.

894 (9)There shall be open space that exceeds fifty percent of the
895 gross area of the entire site. The Primary view from each
896 dwelling unit shall be directed to open space and recreational
897 amenities.

898
899 **Section 5. The Code of Sussex County, Chapter 115, Article V, §115-**
900 **34 “Height, Area and Bulk Requirements”, is hereby amended by**
901 **inserting the italicized and underlined language as a new subpart D.**
902 **thereof as follows:**

903
904 **§115-34 Height, Area and Bulk Requirements.**

905
906 . . .

907
908 D. Sussex County Rental Unit development permitted by §115-29K. The
909 minimum lot size, lot area per dwelling unit, open space, height and
910 setback requirements for a Sussex County Rental Unit development
911 permitted by §115-29K shall be governed by the dimensional
912 requirements set forth in that Section.

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915 **Section 6. The Code of Sussex County, Chapter 115, Article VI, §115-**
916 **37 “Permitted Uses”, is hereby amended by inserting the italicized**
917 **and underlined language as a new subpart C. as follows:**

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919 **§115-37 Permitted Uses.**

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Permitted uses are as follows:

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C. A Sussex County Rental Program, or SCRP, townhouse or multi-family development governed by, and subject to, Chapter 72, where at least 30% of all dwelling units are SCRP Units pursuant to Chapter 72. The SCRP development must satisfy the following criteria:

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

(2) The site shall be located within 2,640 feet of an existing or proposed DART Route operated by the Delaware Transit Corporation. In the case of a proposed DART Route, Final Site Plan approval shall not be granted until the Route is in existence and operated by DART.

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

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

(5) There shall be a one-hundred foot wide setback around the entire site, which shall incorporate the "Forested and/or Landscaped Buffer Strip" identified in Section 99-4. This setback shall include walking and biking trails.

(6) The height of any townhouse or multi-family buildings shall not exceed 52 feet or four stories, whichever is greater.

(7) There shall be sidewalks on all streets, roadways and parking areas, with interconnectivity to adjacent walkway systems.

(8) There must be interconnectivity with any adjacent property that is zoned C-1, CR-1, C-2, C-3, C-4, C-5, B-1, B-2 or B-3.

(9) There shall be open space that exceeds fifty percent of the gross area of the entire site. The Primary view from each dwelling unit shall be directed to open space and recreational amenities.

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Section 7. The Code of Sussex County, Chapter 115, Article VI, §115-42 “Height, Area and Bulk Requirements”, is hereby amended by inserting the italicized and underlined language as a new subpart D. thereof as follows:

§115-42 Height, Area and Bulk Requirements.

...

D. Sussex County Rental Unit development permitted by §115-37C. The minimum lot size, lot area per dwelling unit, open space, height and setback requirements for a Sussex County Rental Unit development permitted by §115-37C shall be governed by the dimensional requirements set forth in that Section.

Section 8. The Code of Sussex County, Chapter 115, Article VII, §115-45 “Permitted Uses”, is hereby amended by inserting the italicized and underlined language as a new subpart F. thereof as follows:

§115-45 Permitted Uses.

Permitted uses are as follows:

...

F. A Sussex County Rental Program, or SCRP, townhouse or multi-family development governed by, and subject to, Chapter 72, where at least 30% of all dwelling units are SCRP Units pursuant to Chapter 72. The SCRP development must satisfy the following criteria:

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

(2) The site shall be located within 2,640 feet of an existing or proposed DART Route operated by the Delaware Transit Corporation. In the case of a proposed DART Route, Final Site Plan approval shall not be granted until the Route is in existence and operated by DART.

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

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

(5) There shall be a one-hundred foot wide setback around the entire site, which shall incorporate the "Forested and/or Landscaped Buffer Strip" identified in Section 99-4. This setback shall include walking and biking trails.

(6) The height of any townhouse or multi-family buildings shall not exceed 52 feet or four stories, whichever is greater.

(7) There shall be sidewalks on all streets, roadways and parking areas, with interconnectivity to adjacent walkway systems.

(8) There must be interconnectivity with any adjacent property that is zoned C-1, CR-1, C-2, C-3, C-4, C-5, B-1, B-2 or B-3.

(9) There shall be open space that exceeds fifty percent of the gross area of the entire site. The Primary view from each dwelling unit shall be directed to open space and recreational amenities.

Section 9. The Code of Sussex County, Chapter 115, Article VII, §115-50 "Height, Area and Bulk Requirements", is hereby amended by inserting the italicized and underlined language as a new subpart G. thereof as follows:

§115-50 Height, Area and Bulk Requirements.

G. Sussex County Rental Unit development permitted by §115-45F. The minimum lot size, lot area per dwelling unit, open space, height and setback requirements for a Sussex County Rental Unit development permitted by §115-45F. shall be governed by the dimensional requirements set forth in that Section.

Section 10. The Code of Sussex County, Chapter 115, Article VIII, §115-53 "Permitted Uses", is hereby amended by inserting the italicized and underlined language as a new subpart K. thereof as follows:

§115-53 Permitted Uses.

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

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K. A Sussex County Rental Program, or SCRP, townhouse or multi-family development governed by, and subject to, Chapter 72, where at least 30% of all dwelling units are SCRP Units pursuant to Chapter 72. The SCRP development must satisfy the following criteria:

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

(2) The site shall be located within 2,640 feet of an existing or proposed DART Route operated by the Delaware Transit Corporation. In the case of a proposed DART Route, Final Site Plan approval shall not be granted until the Route is in existence and operated by DART.

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

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

(5) There shall be a one-hundred foot wide setback around the entire site, which shall incorporate the "Forested and/or Landscaped Buffer Strip" identified in Section 99-4. This setback shall include walking and biking trails.

(6) The height of any townhouse or multi-family buildings shall not exceed 52 feet or four stories, whichever is greater.

(7) There shall be sidewalks on all streets, roadways and parking areas, with interconnectivity to adjacent walkway systems.

(8) There must be interconnectivity with any adjacent property that is zoned C-1, CR-1, C-2, C-3, C-4, C-5, B-1, B-2 or B-3.

(9) There shall be open space that exceeds fifty percent of the gross area of the entire site. The Primary view from each dwelling unit shall be directed to open space and recreational amenities.

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Section 11. The Code of Sussex County, Chapter 115, Article VIII, §115-58 “Height, Area and Bulk Requirements”, is hereby amended by inserting the italicized and underlined language as a new subpart E. thereof as follows:

§115-58 Height, Area and Bulk Requirements.

. . .

E. Sussex County Rental Unit development permitted by §115-53K. The minimum lot size, lot area per dwelling unit, open space, height and setback requirements for a Sussex County Rental Unit development permitted by §115-53K shall be governed by the dimensional requirement set forth in that Section.