

JAMIE WHITEHOUSE, AICP
DIRECTOR OF PLANNING & ZONING
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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



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JAMIE WHITEHOUSE, MRTPI, AICP
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: January 13th, 2022

Application: CU 2297 Schell Brothers, LLC

Applicant: Schell Brothers LLC
20184 Phillips Street
Rehoboth Beach, DE 19971

Owner: Arbor Lyn Rehoboth Beach, LLC
26412 Broadkill Road
Milton, DE 19968

Site Location: Lying on north side of Warrington Road (S.C.R. 275) approximately .35 miles west of the 4-way intersection of Old Landing Road (S.C.R. 274), Strawberry Way, and Warrington Road.

Current Zoning: Medium Residential (MR-1) Zoning District

Proposed Zoning: Medium Residential (MR) Zoning District

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Hudson

School District: Cape Henlopen School District

Fire District: Rehoboth Beach Fire Department

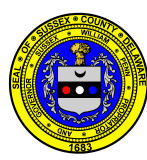
Sewer: Sussex County

Water: Tidewater Utilities

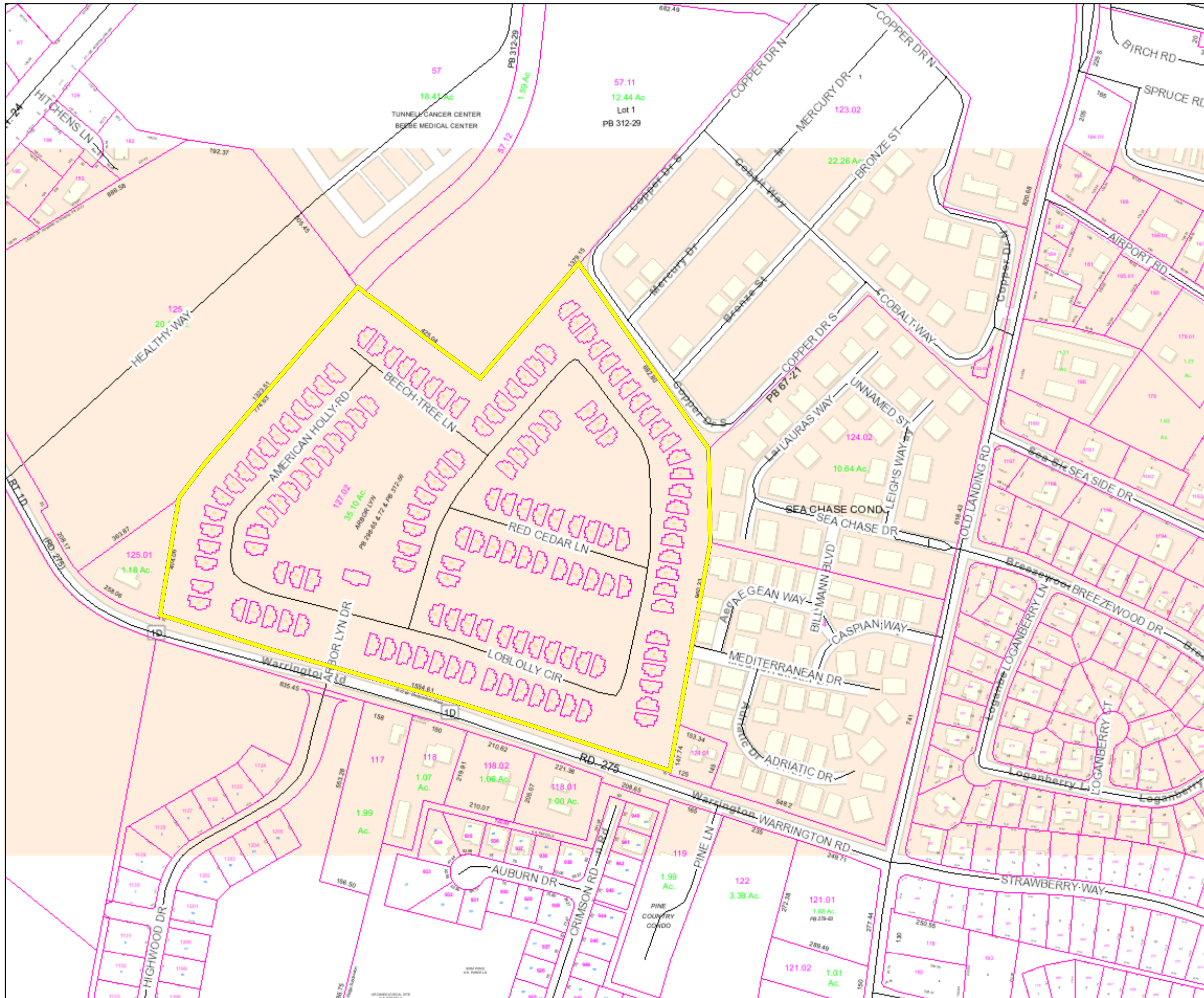
Site Area: 36.61 acres +/-

Tax Map ID.: 334-12.00-127.02





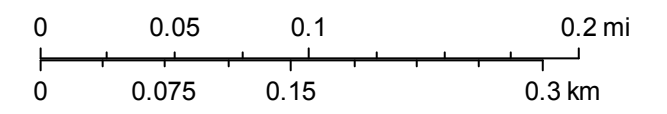
Sussex County

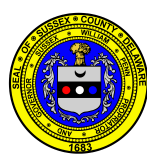


PIN:	334-12.00-127.02	
Owner Name	ARBOR REHOBOTH LLC	LYN BEACH
Book	4812	
Mailing Address	26412 BROADKILL RD	
City	MILTON	
State	DE	
Description	ARBOR LYN REHOBOTH B	
Description 2	LLC CONDOMINIUM	
Description 3	N/A	
Land Code		

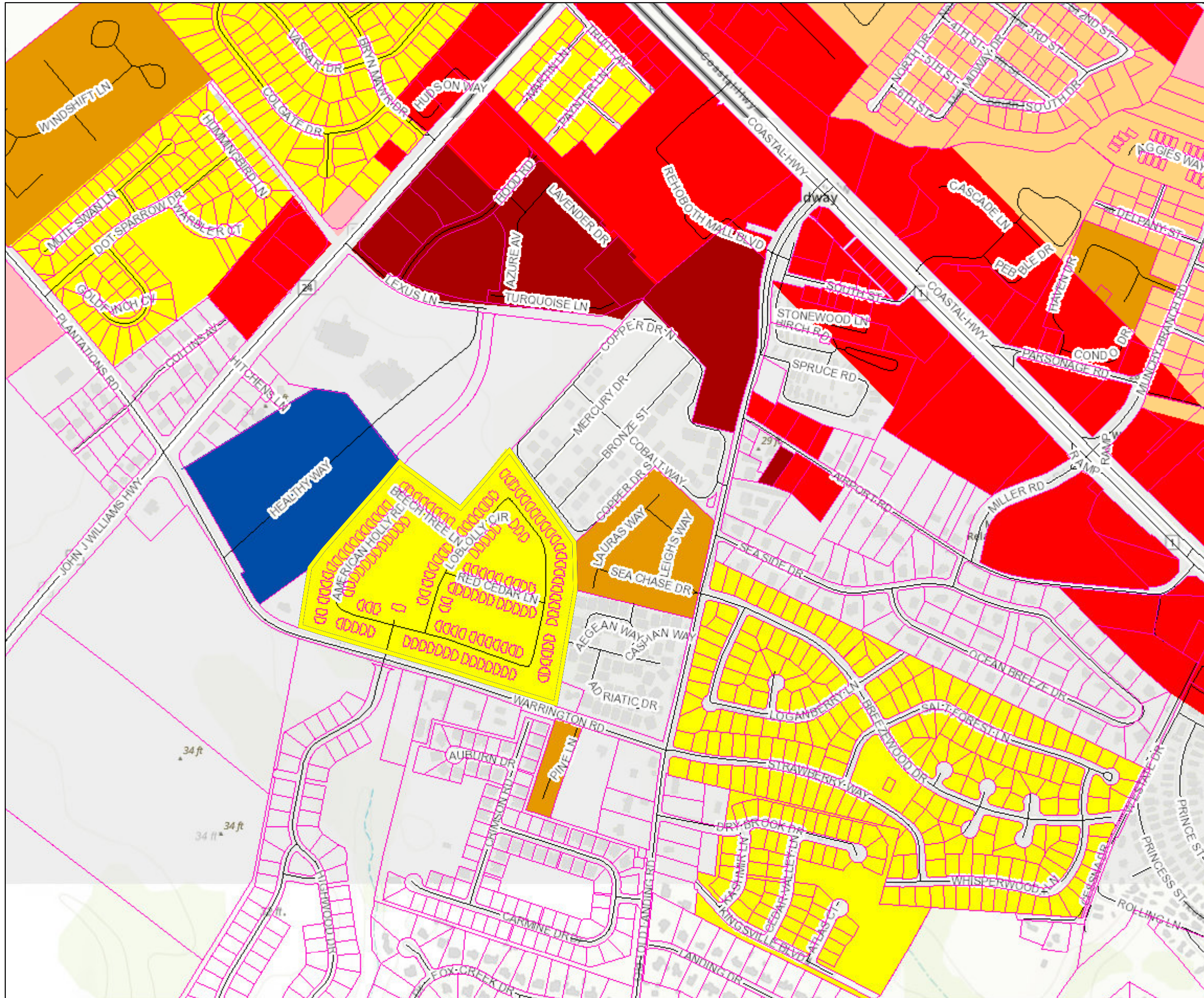
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 - Override 1
 - Tax Parcels
 - Streets
 - County Boundaries
- Public Schools**
 - Adult
 - Elementary School
 - Early Childhood Center
 - Elementary - High School
 - Elementary - Middle School
 - High School
 - Intensive Learning Center
 - Middle School
 - Middle - High School
 - Administrative
 - DE Adolescent Program Inc. (DAPI)
 - Centers
 - Alternative Schools

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Sussex County



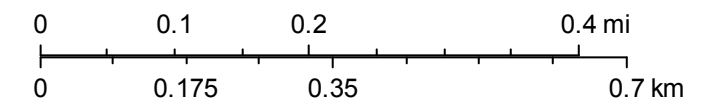
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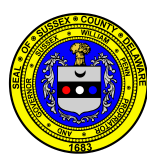
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 - Override 1
- Tax Parcels
- Streets

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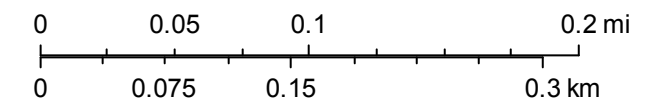
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 - Override 1
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Memorandum

To: Sussex County Planning Commission Members
From: Christin Scott, Planner I
CC: Vince Robertson, Assistant County Attorney and Applicant
Date: January 6, 2022
RE: Staff Analysis for CU 2297 Schell Brothers, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2297 Schell Brothers, LLC to be reviewed during the January 13, 2021 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcel: 334-12.00-127.02 to amend Conditional Use No. 2046 (Ordinance No. 2479, condition "K" relating to permitted hours of construction. The parcel is lying on the northeast side of Warrington Road (S.C.R. 275), approximately 0.25 mile southeast of John J. Williams Highway (Rt. 24). The parcel consists of 36.61 acres +/-.

The parcel has a previously approved Conditional Use Application. The parcel is subject to a Conditional Use Application (Conditional Use No. 2046) to allow for 202 multi-family units. The Conditional Use was approved by the Sussex County Council at their meeting of Tuesday, December 13, 2016 and the change was adopted through Ordinance No. 2479.

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 parcel has a designation of "Coastal Area." The surrounding and adjacent properties located to the north, south, east and west of the subject property also lie within the "Coastal Area" Future Land Use Map designation as well as the "Commercial" Area.

As outlined within 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, townhomes, 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 also be allowed.

The subject property is zoned Medium Residential (MR). The adjacent properties to the north, south, east, and west of the subject sites are also zoned Agricultural Residential (AR-1). One adjacent property to the west is zoned Institutional (I-1), while another parcel to the east is zoned High-Density Residential (HR-2).



Based on the analysis of the land use, surrounding zoning and uses, the Conditional use to amend Conditional Use No. 1920 (Ordinance No. 2240) to allow for office space, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.

Planning & Zoning Commission Application

Sussex County, Delaware

Sussex County Planning & Zoning Department
2 The Circle (P.O. Box 417) Georgetown, DE 19947
302-855-7878 ph. 302-854-5079 fax

Type of Application: (please check applicable)

Conditional Use

Zoning Map Amendment

Site Address of Conditional Use/Zoning Map Amendment

Arbor Lyn Drive at intersection of Warrington Road

Type of Conditional Use Requested:

Amendment to Condition K of Ordinance 2479 (C/U No. 2046)

Tax Map #: 3-34-12.00-127.02

Size of Parcel(s): 36.61

Current Zoning: MR

Proposed Zoning: MR

Size of Building: Varies

Land Use Classification: Conditional Use for Multifamily Structures

Water Provider: Tidewater Utilities, Inc.

Sewer Provider: Sussex County

Applicant Information

Applicant Name: Schell Brothers LLC

Applicant Address: 20184 Phillips Street

City: Rehoboth Beach

State: DE

Zip Code: 19971

Phone #: (302) 226-1994

E-mail: Carmen@schellbrothers.com

Owner Information

Owner Name: Arbor Lyn Rehoboth Beach, LLC

Owner Address: 26412 Broadkill Road

City: Milton

State: DE

Zip Code: 19968

Phone #:

E-mail: dal@lockwooddesigns.com

Agent/Attorney/Engineer Information

Agent/Attorney/Engineer Name: Davis, Bowen & Friedel, Inc. (Ring W. Lardner, P.E.)

Agent/Attorney/Engineer Address: 1 Park Avenue

City: Milford

State: DE

Zip Code: 19963

Phone #: (302) 424-1441

E-mail: rwl@dbfinc.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.
- 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

Jonathan Horner Digitally signed by Jonathan Horner
Date: 2021.06.30 16:53:28 -04'00'

Date: 6/30/21

Signature of Owner



Date: 7/2/21

For office use only:

Date Submitted: 07/02/2021

Fee: \$500.00 Check #: 3419

Staff accepting application: CHASE P

Application & Case #: 202110021 and CV 2297

Location of property: Arbor Lyn and Warrington Road

334-12.00-127.02

Subdivision: _____

Date of PC Hearing: _____

Recommendation of PC Commission: _____

Date of CC Hearing: _____

Decision of CC: _____

Mailing List Application Form

For Applications requiring a Public Hearing in Sussex County

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

Application Information:

Site Address: Arbor Lyn Drive at intersection with Warrington Road

Parcel #: 3-34-12.00-127.02

Site Address: _____

Parcel #: _____

Applicant Name: Schell Brothers LLC

Owner Name: Arbor Lyn Rehoboth Beach LLC

Type of Application:

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

Date Submitted: 6/25/21

For office use only:

Date of Public Hearing: _____

File #: _____

Date list created: _____

Date letters mailed: _____

List created by: _____

Letters sent by: _____

ORDINANCE NO. 2479

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 35.45 ACRES, MORE OR LESS

WHEREAS, on the 15th day of January 2016, a conditional use application, denominated Conditional Use No. 2046 was filed on behalf of Lockwood Design and Construction, Inc.; and

WHEREAS, on the 24th day of March 2016, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 14th day of April, 2016, said Planning and Zoning Commission recommended that Conditional Use No. 2046 be approved with conditions; and

WHEREAS, on the 14th day of June 2016, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article V, Subsection 115-31, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2046 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying on the northeast side of Warrington Road (Road 275) 0.25 mile southeast of John J. Williams Highway (Route 24) and being more particularly described as follows:

BEGINNING at a point on the northerly side of Warrington Road (Road 275), said point being 0.25 mile southeast of John J. Williams Highway (Route 24) and east of lands of the City of Rehoboth; thence north 09°33'10" east 404.05 feet along lands of the City of Rehoboth to a concrete monument; thence north 42°06'04" east 774.63 feet along lands of Beebe Medical Center, Inc., to a concrete monument; thence continuing along lands of Beebe Medical Center, Inc., south 53°09'06" east 305.54 feet to an iron pipe and north 40°57'30" east 439.29 feet to an iron pipe; thence south 37°40'32" east 682.80 feet along lands, now or formerly, of Old Landing Road, Inc., to a concrete monument; thence south 08°27'51" west 960.53 feet along lands, now or formerly, of Robino Sea Chase, LLC, and Colleen A. Lowe to an iron pipe on the northerly side of Warrington Road; thence northwesterly by and along the northerly side of Warrington Road 1,491.05 feet to the point and place of beginning, said parcels containing 35.45 acres, more or less.

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

This Ordinance was adopted subject to the following conditions:

- A. There shall be no more than 142 units within the development.
- B. The Applicant shall form a homeowners' or condominium association responsible for the perpetual maintenance of streets, roads, any buffers, stormwater management facilities, erosion and sedimentation control facilities and other common areas.
- C. The stormwater management system shall meet or exceed the requirements of the State and County. It shall be constructed and maintained using Best Management Practices to provide for positive groundwater recharge.
- D. All entrances and roadway improvements shall comply with all of DeDDOT's requirements, and an area for a school bus stop shall be established. The location of the school bus stop shall be coordinated with the local school district.
- E. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Departments.
- F. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
- G. A 20 foot forested Agricultural Buffer shall be shown along the perimeter of the entire development. The Final Site Plan shall also contain a landscape plan for all of the buffer areas, showing all of the landscaping and vegetation to be included in the buffer area.
- H. The project shall be served by Sussex County sewer.
- I. As proffered by the Applicant, the developer shall construct the pool and community building no later than the issuance of the 75th residential building permit for the project.

- J. As proffered by the Applicant, the interior street design shall comply with or exceed Sussex County minimum standards and shall include sidewalks on at least one side of all streets in the development.
- K. Construction, site work, grading and deliveries of construction material, landscaping material and fill on, off or to the property shall occur from Monday through Saturday between the hours of 8:00 a.m. and 6:00 p.m. and use Route 24 to get access to the site.
- L. The Applicant shall consult and coordinate with the local school district's transportation manager to establish appropriate school bus stop locations.
- M. This Preliminary Approval is contingent upon the Applicant submitting a revised Preliminary Site Plan either depicting or noting the conditions of this approval on it. Staff shall approve the revised Plan upon confirmation that the conditions of approval have been depicted or noted on it.
- N. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2479 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 13TH DAY OF DECEMBER 2016.


ROBIN A. GRIFFITH
CLERK OF THE COUNCIL

The Council found that the Conditional Use was appropriate legislative action based on the following Findings of Fact:

- A. This is the application of Lockwood Design and Construction, Inc. for a Conditional Use of land in a MR Medium Density Residential District for multi-family dwelling structures to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 35.45 acres, more or less (located on the northeast side of Warrington Road (Road 275), 0.25 mile southeast of John J. Williams Highway (Route 24) (Tax I.D. No. 334-12.00-127.02, 127.04, 127.05) (911 Address: None Available).
- B. Council found that the Sussex County Engineering Department, Utility Planning Division, commented that the property is not currently located in a sewer district; however, it could be annexed into a sewer district.
- C. Based on testimony before the Planning & Zoning Commission and the Public Hearing before the Sussex County Council, Council found that Mr. and Mrs. Robert Hood, Pete Malmberg, Don Lockwood, and John Barwick, of Lockwood Design were present at the Planning and Zoning Commission's Public Hearing with Gene Bayard, Esquire of Morris James Wilson Halbrook & Bayard, LLP; and Robert Hood, Don Lockwood, and John Barwick of Lockwood Design, and Roger Gross of Merestone Consultants, Inc. were present at the Sussex County Council's Public Hearing with Dennis Schrader, Esquire of Morris James Wilson Halbrook & Bayard, LLP; and they stated that this application was initially submitted as a HR-RPC (C/Z 1780); that the Planning and Zoning Commission recommended denial of C/Z 1780 and, thereafter, the Applicant resubmitted for a Conditional Use project and a Change of Zone from AR-1 to MR thereby reducing the density to the lower densities provided for in Medium Density Residential Districts; that a record of the hearing for C/Z 1780 was made part of the record for this application; that the only change is the zoning classification; that C/Z 1780 was recommended to be denied for excess density if the zoning was approved and the RPC classification lapsed; that when the RPC overlay lapses in HR-1 zoning the density restriction in the RPC lapses and the zoning classification of HR-1 increases the density; that in the Motion to recommend denial, the

Planning and Zoning Commission stated that the MR zoning classification with a Conditional Use is a more appropriate application; that there are multiple commercially zoned properties in the area; that there are properties zoned MR, CR-1, HR-2, and two (2) conditional uses with significant density; that Sterling Crossing and Sea Chase both have approximately six (6) units to the acre; that to the north of the property is the Beebe Medical Center; and that in the last 15 years, at least 12 Change of Zone applications or Conditional Use applications have been approved in that area.

D. Council also found that the application is for a Medium Density Residential Development (Arbor-Lyn) containing 35.45 acres, more or less, of which 3.1 acres are in streets, 23 acres in lots, and open space of 21.17 acres (59.5% of the project); that the property is currently wooded and has a single family dwelling on it; that their proposal is to develop the site with a mixture of residential unit types; that the proposed use will be marketed to empty-nesters and 55 and over families; that water will be provided by Tidewater Utilities and sewer will be provided by Sussex County; that any upgrades are at the Developer's expense; that the project has been reviewed by PLUS and TAC, stormwater design reviewed by Soil Conservation; and Envirotech has studied the woods; that there are no wetlands or endangered species on the site; that the Applicant met the Sussex County Planning Manager's suggestions to have incorporated additional sidewalks for future connection to the Beebe Medical property; that the Applicant plans to preserve as many trees as possible; that the project did not require a Traffic Impact Study; that the Applicant will participate in the cost of intersection improvements; that DelDOT has a timeline for improvements to the intersection of Old Landing Road and Warrington Road; that the response still does not define whether a traffic light will be required; that the response does define that road improvements will begin in Fiscal Year 2017; and that the road improvements will coincide with Final Site Plan approval of this project and the Osprey Landing project, if approved.

E. Council further found that the project is consistent with the Zoning Ordinance, Comprehensive Land Use Plan, and Future Land Use Map; that the density housing mix is consistent with the Zoning Code and the neighboring developments; that residents from this project will have walking access to the neighboring CR-1 zoned property; that there will be 14 acres of impervious area; that stormwater management ponds and swales will cover approximately 60% of the property; that with the Conditional Use, the Commission is able to define the density of this project; that this project follows the residential character and development of this area; that this parcel is the last large undeveloped parcel in the area; that this property is in a Level 1 and Level 2 State growth area; and that it should be treated accordingly.

F. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 8), as amended, and Conditions (9A through 9N), as amended, Council found that:

1. The Sussex County Comprehensive Plan supports the development since the land is located in a Developing Area according to the Plan.
2. The development will be consistent with surrounding developments that include other multi-family uses.
3. The development will not adversely affect neighboring properties, roadways or communities.
4. The development will be required to comply with all DelDOT requirements, including entrance improvements and improvements to the Warrington Road and Old Landing Road intersection.
5. The multi-family development will be served by central sewer provided by Sussex County.
6. The multi-family development will be served by central water.

7. The proposed development at a density of approximately 4.0 units per acre is consistent with surrounding densities and is appropriate for this location.

8. The proposed site plan will conserve about 21.2 acres of open space, with the preservation of woodlands. All of this will be confirmed through the conditions of approval and the site plan process.

9. Based on the record and recommendation of the Planning and Zoning Commission, the Conditional Use is approved subject to fourteen (14) conditions (A – N), as amended, which will serve to minimize any potential impacts on the surrounding areas and adjoining properties.



June 25, 2021

Via Email

Mr. Jamie Whitehouse
Planning and Zoning Manager
2 The Circle
Georgetown, DE 19947

RE: Arbor Lyn – Construction Restrictions

Dear Mr. Whitehouse:

I am general counsel for Schell Brothers LLC ("Schell"). As you are aware, we are currently constructing single family condominiums in the community known as Arbor Lyn, located on Rd 275 13A in Rehoboth Beach. The final site plan for Arbor Lyn, recorded in the Office of the Recorder of Deeds in and for Sussex County, Delaware in Plot Book 298, Page 65, contains a restriction in note K from Ordinance No. 2479 which limits construction activities to Monday through Saturday from 8:00 A.M. to 6:00 P.M. (the "Work Restriction").

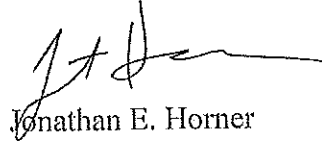
The purpose of this letter is to request limited relief from the Work Restriction to allow construction activities to commence one hour earlier at 7am. As you are aware, we are experiencing an unprecedented boom in the construction industry combined with a shortage in the labor force and massive issues and disruptions in our supply chain. Additionally, summer weather conditions are the most conducive to construction activities and there is a strong necessity to take advantage of these conditions. Furthermore, summer traffic worsens the later in the morning and allowing earlier work hours will relieve traffic during rush hours while also allowing our workforce to maximize their productivity.

It is essential to our business, the construction industry in Sussex County and the county itself that homes are completed in an expedient and efficient manner to facilitate closing on the home, the payment of laborers and the payment of transfer tax. We feel that this small concession to increase morning work hours will have a profound impact on our ability to do that not just in Arbor Lyn, but across all of our projects as the increased hours will free crews up to work diligently in other communities. Additionally, the increased construction speed in Arbor Lyn will lead to the quicker completion of the project which, as you are aware, would constitute the end of all construction activities in the community and end any and all disturbances related to such activities.

Mr. Jamie Whitehouse
June 25, 2021
Page 2

Should you have any further questions, please feel free to contact me by telephone at (302) 212-2490 or by email at jon.horner@schellbrothers.com.

Very truly yours,



Jonathan E. Horner

cc: Zac Crouch
Carmen Marinelli