

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  
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302-854-5079 F  
JAMIE WHITEHOUSE, AICP, MRTPI  
DIRECTOR OF PLANNING & ZONING

### PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: February 9<sup>th</sup>, 2023

Application: CU 2349 Lessard Builders

Applicant: Lessard Builders  
257E Camden-Wyoming Avenue  
Camden, DE 19934

Owner: Andrew & Carol Walton  
2138 Graves Road  
Hockessin, DE 19707

Site Location: Lying at the intersection of Oak Orchard Road and Smiths Landing Road  
extending from Indian River to Pine Street within the Orchard Manor  
Subdivision.

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

Proposed Use: Multi-family Dwellings

Comprehensive Land  
Use Plan Reference: Coastal Area

Councilmanic  
District: Ms. Hudson

School District: Indian River School District

Fire District: Indian River Fire Department

Sewer: Sussex County

Water: Tidewater Utilities, Inc.

Site Area: 0.84 acres +/-

Tax Map ID: 234-35.09-6.00







Sussex County



|                        |  |
|------------------------|--|
| <b>PIN:</b>            | 234-35.09-6.00                         |
| <b>Owner Name</b>      | WALTON<br>COMMERCIAL<br>PROPERTIES LLC |
| <b>Book</b>            | 4900                                   |
| <b>Mailing Address</b> | 2138 GRAVES RD                         |
| <b>City</b>            | HOCKESSIN                              |
| <b>State</b>           | DE                                     |
| <b>Description</b>     | OAK ORCHARD LOT 15                     |
| <b>Description 2</b>   | PARCEL                                 |
| <b>Description 3</b>   | N/A                                    |
| <b>Land Code</b>       |  |

- Override 1

Override 1

Tax Parcels

911 Address

Streets

Tax Ditch Channel

DeIDOT Maintained

HOA Maintained

Pipe - DeIDOT

Pipe - Tax Ditch

Pipe - Private

Pond Feature

Special Access ROW

Extent of Right-of-Way

Well Head Protection Areas

Ag Easement

District

Expansion

Forestland Area

Forestland Easement

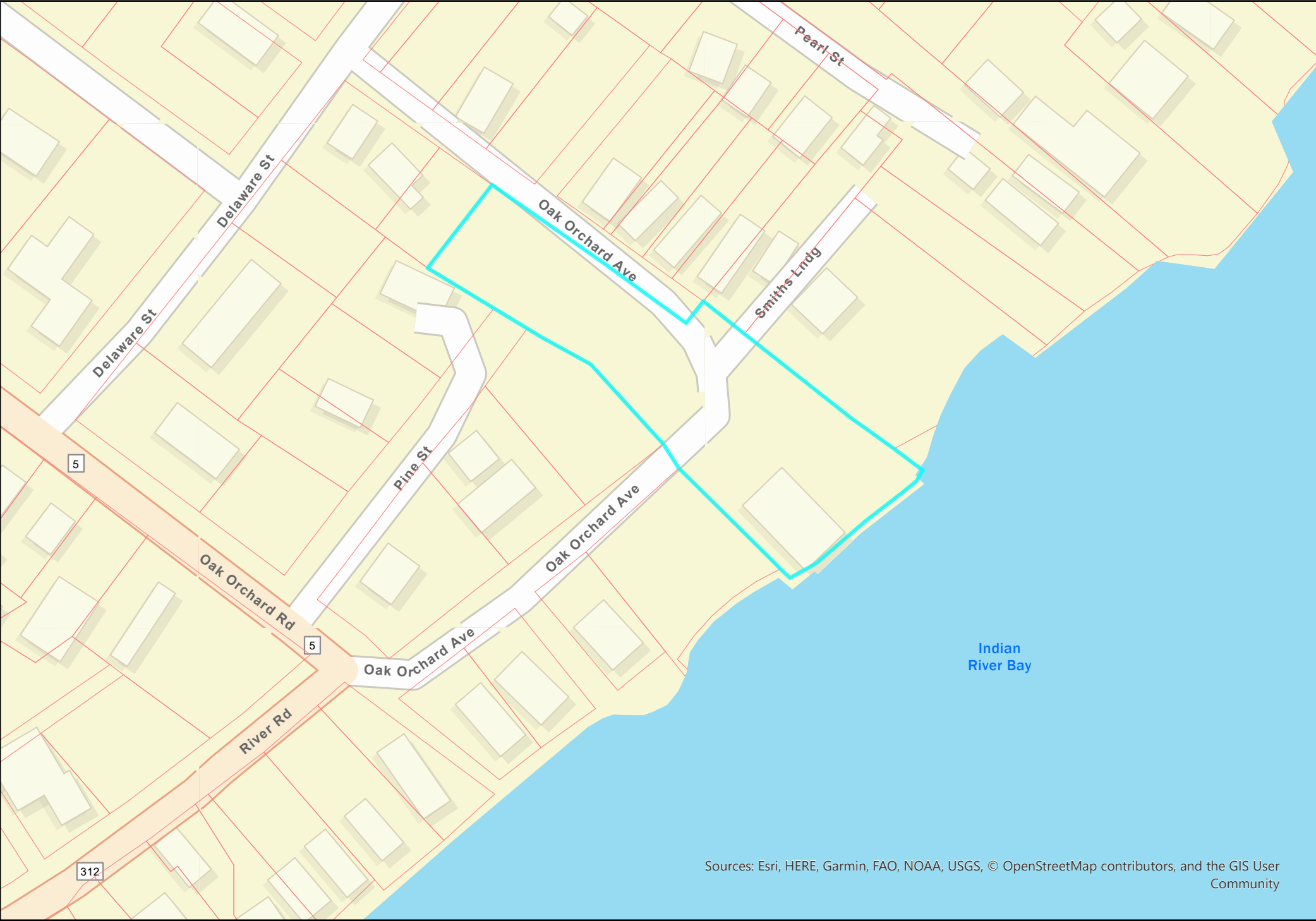
Young Farmer

Municipal Boundaries

Easements

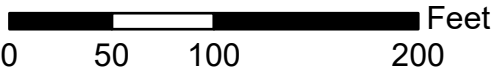
TID
- 1:1,128
- 
- January 10, 2023





Sources: Esri, HERE, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community

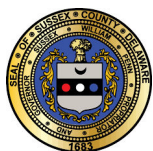
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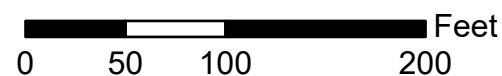


## Zoning

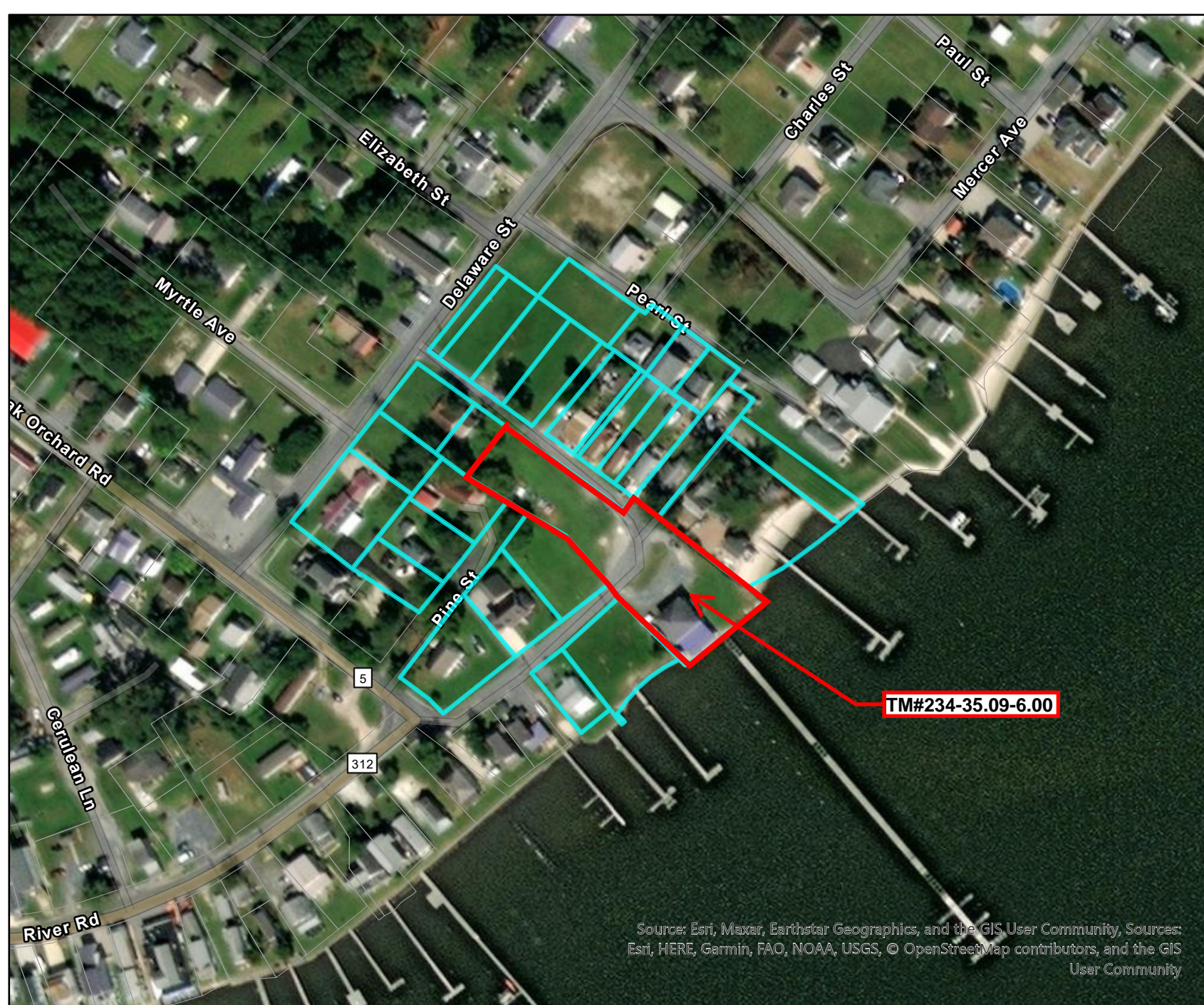
- Agricultural Residential - AR-1
- Agricultural Residential - AR-2
- Medium Residential - MR
- General Residential - GR
- High Density Residential - HR-1
- High Density Residential - HR-2
- Vacation, Retire, Resident - VRP
- Neighborhood Business - B-1
- Neighborhood Business - B-2
- Business Research - B-3
- General Commercial - C-1
- General Commercial - C-2
- General Commercial - C-3
- General Commercial - C-4
- General Commercial - C-5
- Commercial Residential - CR-1
- Institutional - I-1
- Marine - M
- Limited Industrial - LI-1
- Light Industrial - LI-2
- Heavy Industrial - HI-1



Lessard Builders - CU 2349  
 TM# 234-35.09-6.00  
 Groundwater Recharge Potential







| PIN              |
|------------------|
| 234-35.09-6.00   |
| 234-34.08-71.00  |
| 234-35.05-121.00 |
| 234-34.08-76.00  |
| 234-35.05-116.00 |
| 234-34.12-29.00  |
| 234-35.05-117.00 |
| 234-34.08-75.00  |
| 234-35.05-43.00  |
| 234-35.05-111.01 |
| 234-35.05-119.00 |
| 234-35.09-1.00   |
| 234-35.05-42.00  |
| 234-35.05-111.02 |
| 234-35.05-113.00 |
| 234-35.05-118.00 |
| 234-34.08-77.00  |
| 234-35.09-1.01   |
| 234-34.12-30.00  |
| 234-34.08-73.00  |
| 234-35.09-3.00   |
| 234-34.08-70.00  |
| 234-35.09-4.00   |
| 234-34.12-31.00  |
| 234-34.08-72.00  |
| 234-35.05-115.00 |
| 234-35.05-111.00 |
| 234-35.05-114.00 |
| 234-34.08-74.01  |





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**Sussex County**

DELAWARE  
sussexcountye.gov

## Memorandum

To: Sussex County Planning Commission Members  
From: Mr. Michael Lowrey, Planner III  
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant  
Date: January 10, 2023  
RE: Staff Analysis for C/U 2349 Lessard Builders

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This memo is to provide background and analysis for the Planning Commission to consider as a part of application C/U 2349 Lessard Builders to be reviewed during the February 9<sup>th</sup>, 2023, Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcel: 234-35.09-6.00 to allow for multifamily dwellings (10 units). The property is lying on the northwest side and the southeast side of Oak Orchard Road (Rt. 5), approximately 300 feet east of River Road (S.C.R. 312). The parcel is comprised of a total of 0.84 acres +/-.

### 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 (FLUM) is included to help determine how land should be zoned to ensure responsible development. The Future Land Use Map in the plan indicates that the parcels have a Growth Area designation of "Coastal Area." The parcels adjacent to the subject property landward and all along Indian River Bay also have the Future Land Use Map (FLUM) designation of "Coastal Area."

Coastal Areas are growth areas that are among "the most desirable locations in Sussex County for new housing" and contain "ecologically important and sensitive characteristics." The Plan also notes that these areas have "significant impact upon water quality within the adjacent bays and inlets" (2018 Sussex County Comprehensive Plan, 4-15). The Plan includes guidelines for growth in Coastal Areas noting "A range of housing types should be permitted in Coastal Areas, including single-family homes, townhouses, and multi-family units." Additionally, the Plan notes that "medium and higher density (4-12 units per acre) can be appropriate: "where there is central water and sewer, near sufficient commercial uses, keeping with the character of the area, and where it is along a main road" (2018 Sussex County Comprehensive Plan, 4-16).

Under the guidelines in the Plan, the proposed Conditional Use to permit multifamily dwellings (10 units) could be seen as appropriate at this site.



### Zoning Information

The subject parcels are zoned Medium Density Residential (MR) District. The adjacent properties are zoned Medium Density Residential (MR) District as well.

### Conditional Use Applications within the Vicinity of the Subject Site (Within a 1-mile radius of the subject site)

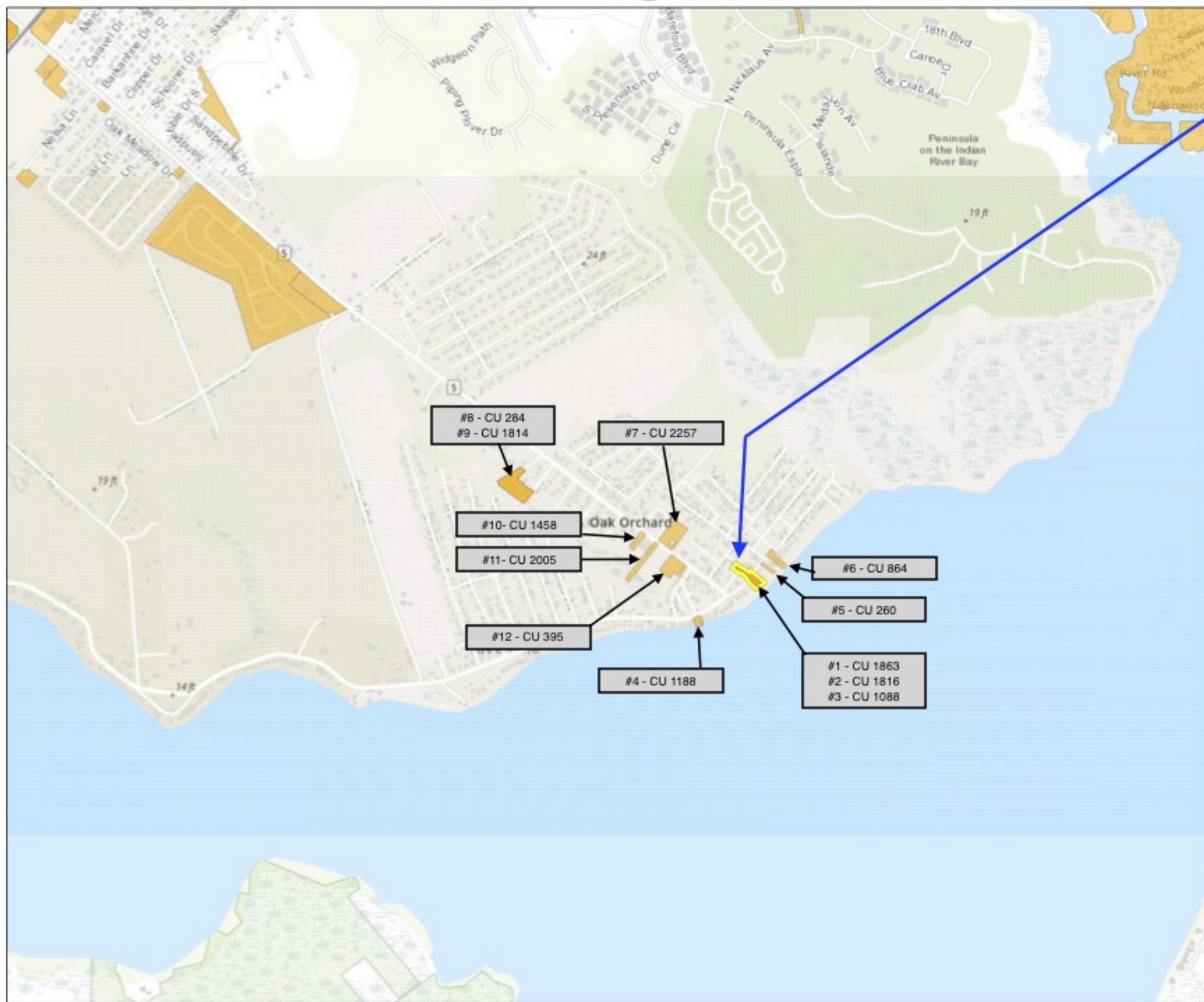
|                                 | <b>Change of Zone Applications</b><br><b>(Within a 0.5-mile radius of the subject site)</b> |                             |                    |                        |                  |                        |                          |
|---------------------------------|---|-----------------------------|--------------------|------------------------|------------------|------------------------|--------------------------|
| Item #<br>on<br>Attached<br>Map | Application<br>Number   | Application<br>Name         | Zoning<br>District | Proposed<br>Use        | CC<br>Decision   | CC<br>Decision<br>Date | Ordinance<br>Number      |
| <b>#1</b>                       | <b><u>CU 1863</u></b>   | Andrew & Carol<br>Walton    | MR                 | Marina/Restaurant/Etc. | <b>Approved</b>  | 6/8/2010               | <b>Ord. No.<br/>2124</b> |
| <b>#2</b>                       | <b><u>CU 1816</u></b>   | Andrew & Carol<br>Walton    | MR                 | Retail/Multifamily     | <b>Withdrawn</b> | 3/16/2010              | <b>N/A</b>               |
| <b>#3</b>                       | <b><u>CU 1088</u></b>   | Andrew & Carol<br>Walton    | MR                 | Marina & Related Uses  | <b>Approved</b>  | 9/13/1994              | <b>Ord. No.<br/>985</b>  |
| <b>#4</b>                       | <b><u>CU 1188</u></b>   | Indian River<br>Marina Pier | C-1                | Multifamily            | <b>Approved</b>  | 7/29/1997              | <b>Ord. No.<br/>1160</b> |
| <b>#5</b>                       | <b><u>CU 260</u></b>  | Ulrich & Ruth<br>Willard    | MR                 | Beauty Shop            | <b>Denied</b>    | 3/18/1975              | <b>N/A</b>               |
| <b>#6</b>                       | <b><u>CU 864</u></b>  | Jere & Janet<br>Coxon       | MR                 | Multifamily            | <b>Approved</b>  | 5/12/1987              | <b>Ord. No.<br/>417</b>  |

|            |                       |                                      |          |                                   |                  |           |                      |
|------------|-----------------------|--------------------------------------|----------|-----------------------------------|------------------|-----------|----------------------|
| <b>#7</b>  | <b><u>CU 2257</u></b> | Indian River Volunteer Fire Co. Inc. | C-1 & GR | Boat Storage and Overflow Parking | <b>Approved</b>  | 9/14/2021 | <b>Ord. No. 2799</b> |
| <b>#8</b>  | <b><u>CU 284</u></b>  | John Satterfield                     | GR       | Water System                      | <b>Approved</b>  | 7/29/1975 | <b>N/A</b>           |
| <b>#9</b>  | <b><u>CU 1814</u></b> | John Satterfield                     | GR       | Water System                      | <b>Withdrawn</b> | N/A       | <b>N/A</b>           |
| <b>#10</b> | <b><u>CU 1458</u></b> | Indian River Vol. Fire Co., Inc.     | GR       | Expand Fire Station               | <b>Approved</b>  | 7/16/2002 | <b>Ord. No. 1551</b> |
| <b>#11</b> | <b><u>CU 2005</u></b> | Indian River Vol. Fire Co., Inc.     | GR       | Boat Storage Facility             | <b>Approved</b>  | 3/10/2015 | <b>Ord. No. 2387</b> |
| <b>#12</b> | <b><u>CU 395</u></b>  | John Satterfield                     | C-3      | Boat Display, Sales & Services    | <b>Approved</b>  | 2/1/1977  | <b>N/A</b>           |

Based on the analysis of the land use, surrounding zoning and uses, a Conditional Use to allow for the construction of multifamily dwellings (10 units) at this site, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.



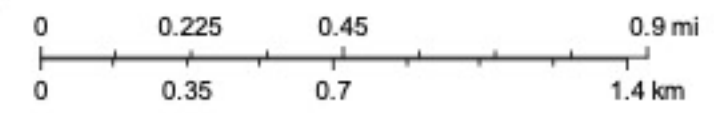
# Sussex County



|                        |   |
|------------------------|---|
| <b>PIN:</b>            | <b>234-35.09-6.00</b>                           |
| <b>Owner Name</b>      | <b>WALTON<br/>COMMERCIAL<br/>PROPERTIES LLC</b> |
| <b>Book</b>            | <b>4900</b>                                     |
| <b>Mailing Address</b> | <b>2138 GRAVES RD</b>                           |
| <b>City</b>            | <b>HOCKESSIN</b>                                |
| <b>State</b>           | <b>DE</b>                                       |
| <b>Description</b>     | <b>OAK ORCHARD LOT 15</b>                       |
| <b>Description 2</b>   | <b>PARCEL</b>                                   |
| <b>Description 3</b>   | <b>N/A</b>                                      |
| <b>Land Code</b>       |   |

polygonLayer  
Override 1  
polygonLayer  
Override 1  
Conditional Use

1:18,056





File #: C/U 2349  
202201773

## 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 08 2022

SUSSEX COUNTY  
PLANNING & ZONING

**Type of Application: (please check applicable)**

Conditional Use ☒

Zoning Map Amendment ☐

**Site Address of Conditional Use/Zoning Map Amendment**

Intersection of Oak Orchard Ave., Pine Street and Phillips Road

**Type of Conditional Use Requested:**

Conditional Use for 10 multi-family condo units.

**Tax Map #:** 234-35.09-6.00

**Size of Parcel(s):** 0.84 acres

**Current Zoning:** MR

**Proposed Zoning:** MR

**Size of Building:** 17,889 Sq. ft.

**Land Use Classification:** Residential

**Water Provider:** Tidewater Utilities, Inc.

**Sewer Provider:** Sussex County

**Applicant Information**

**Applicant Name:** Lessard Builders

**Applicant Address:** 257E Camden-Wyoming Ave.

**City:** Camden

**State:** DE

**Zip Code:** 19934

**Phone #:** (302) 698-1091

**E-mail:** bpl@lessardbuilders.com

**Owner Information**

**Owner Name:** Andrew and Carol Walton

**Owner Address:** 2138 Graves Road

**City:** Hockessin

**State:** DE

**Zip Code:** 19707

**Phone #:** (302) 235-5955

**E-mail:** accontractinginc@msn.com

**Agent/Attorney/Engineer Information**

**Agent/Attorney/Engineer Name:** Davis, Bowen & Friedel, Inc., c/o W. Zachary Crouch, P.E.

**Agent/Attorney/Engineer Address:** 1 Park Avenue

**City:** Milford

**State:** DE

**Zip Code:** 19963

**Phone #:** (302) 424-1441

**E-mail:** wzc@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.

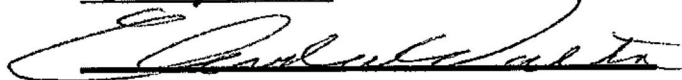
I also certify that I or an agent on my behalf shall attend all public hearing before the Planning and Zoning Commission and the Sussex County Council and any other hearing necessary for this application and that I will answer any questions to the best of my ability to respond to the present and future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

Signature of Applicant/Agent/Attorney



Date: 2-2-2022

Signature of Owner



Date: 2/2/22

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

December 15, 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 **Lessard Builders** proposed land use application, which we received on December 3, 2021. This application is for an approximately 1.30-acre parcel (Tax Parcel: 234-35.09-6.00). The subject land is located on the north and south of Oak Orchard Road (Sussex Road 312) about 290 ft east of the intersection with River Road (Sussex Road 312). The subject land is currently zoned MR (Medium Density Residential), and the applicant seeks a conditional use approval to build condo style beach homes.

Per the 2019 Delaware Vehicle Volume Summary, the annual average daily traffic volume along River Road, is 263 vehicles per day.

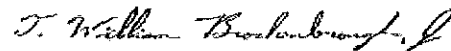
Based on our review, we estimate that the above land use will generate fewer than 50 vehicle trips in any hour and fewer than 500 vehicle trips per day. These numbers of trips are DelDOT's minimum warrants for determining that a Traffic Impact Study (TIS) should be required for a particular development.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

Mr. Jamie Whitehouse  
Page 2 of 2  
December 15, 2021

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

Please contact Ms. Annamaria Furmato, at [Annamaria.Furmato@delaware.gov](mailto:Annamaria.Furmato@delaware.gov), if you have questions concerning this correspondence.

Sincerely,



T. William Brockenbrough, Jr.  
County Coordinator  
Development Coordination

TWB:afm

cc: Brian Lessard, Applicant  
Sussex Reviewer, 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  
Claudy Joinville, Project Engineer, Development Coordination  
Annamaria Furmato, 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: **1/13/2023**

APPLICATION: **CU 2349 Lessard Builders**

APPLICANT: **Lessard Builders**

FILE NO: **OM-19.04**

TAX MAP &  
PARCEL(S): **234-35.09-6.00**

LOCATION: **Lying at the intersection of Oak Orchard Road and Smiths  
Landing Road.**

NO. OF UNITS: **Multi-family dwellings (10 units)**

GROSS  
ACREAGE: **0.84**

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? **Choose an item.** If yes, how many? **Click or tap here to enter text..** Is it likely that additional SCCs will be required? **Choose an item.**  
If yes, the current System Connection Charge Rate is **Unified \$6,600.00** per EDU. Please contact **Nicole Messeck** 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? **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:



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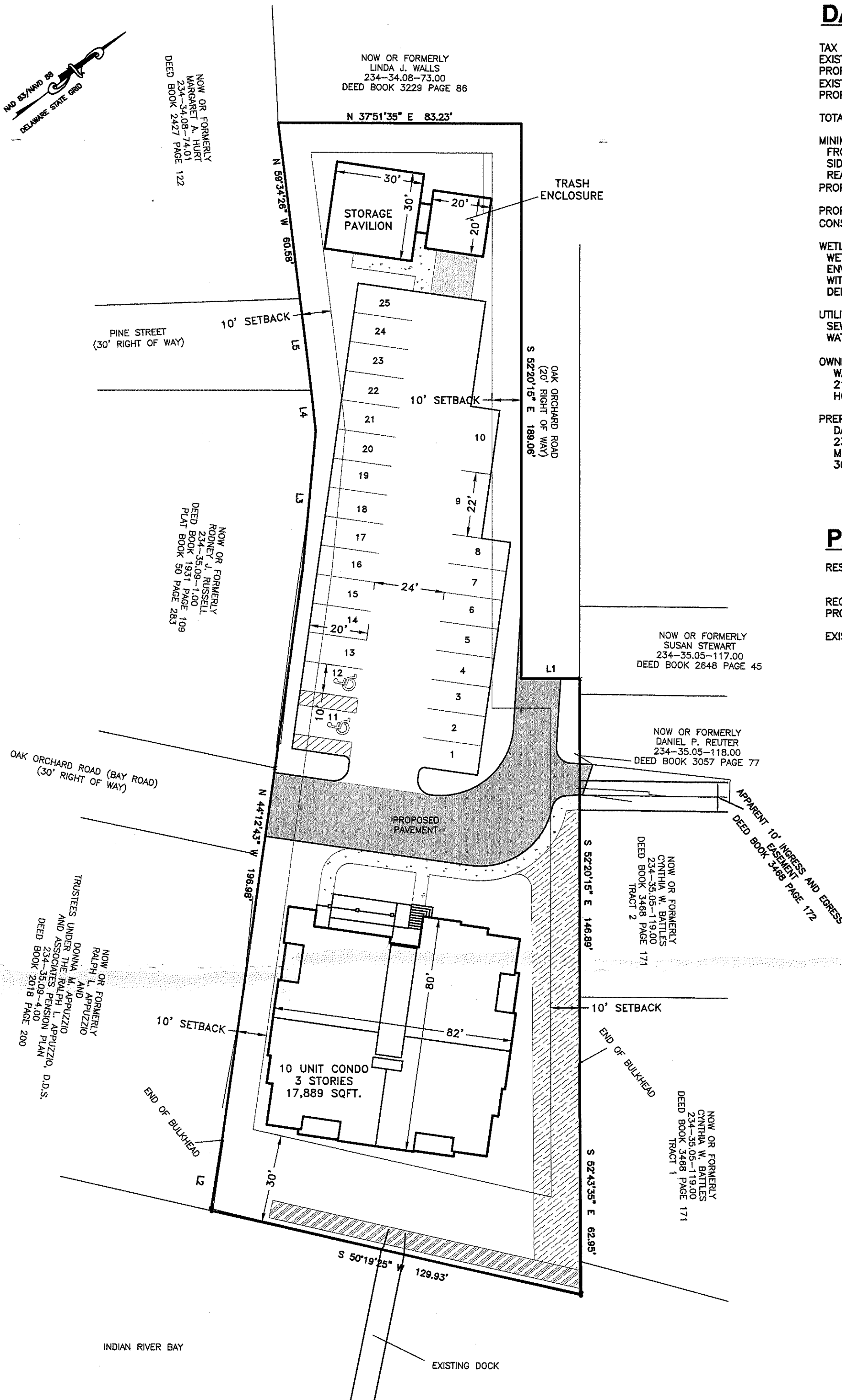
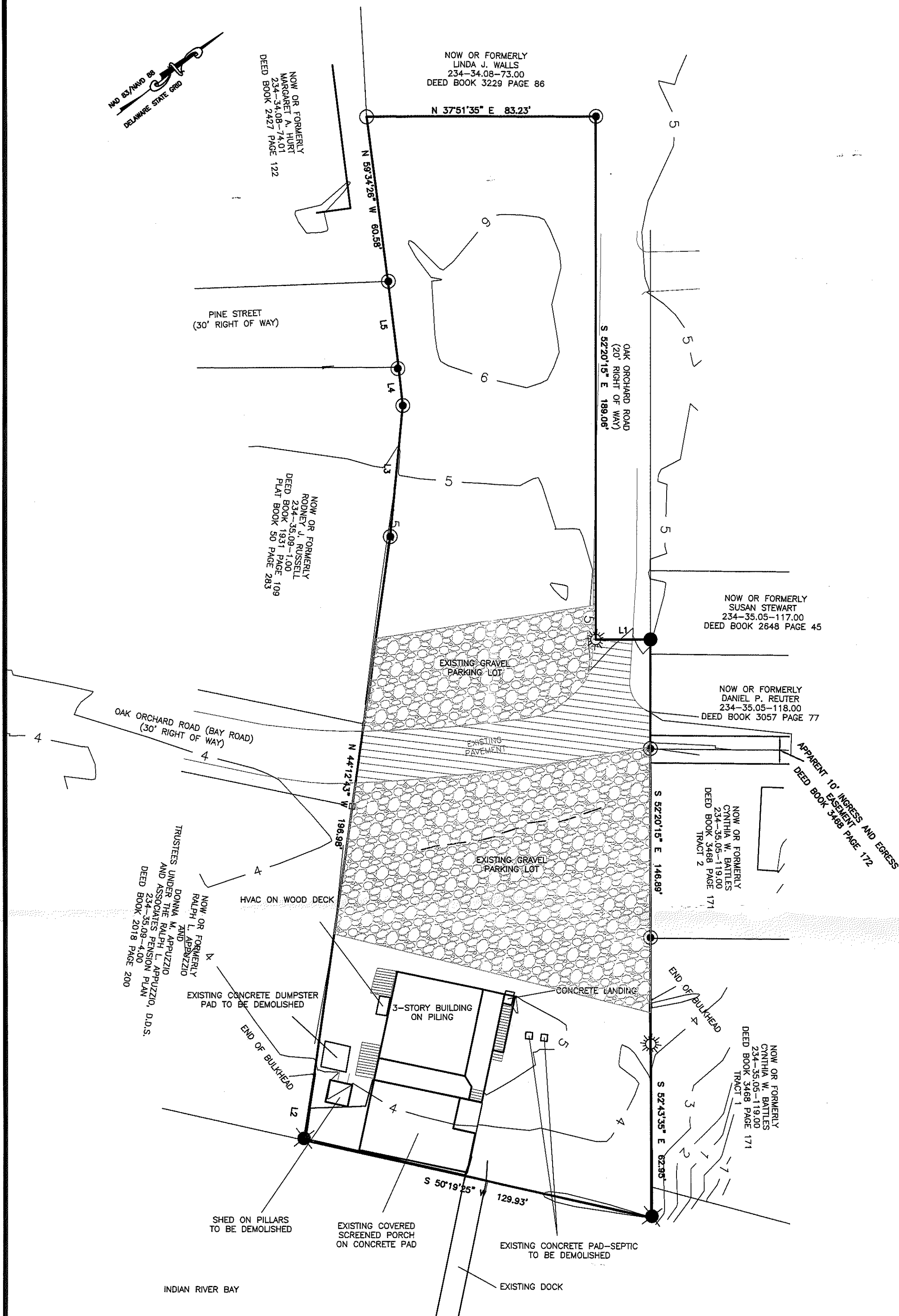
John J. Ashman  
Director of Utility Planning & Design Review

Xc: Hans M. Medlarz, P.E.  
Lisa Walls  
Nicole Messeck



EXISTING

PROPOSED



DATA COLUMN

TAX MAP NUMBER: 234-35.09-6.00  
EXISTING ZONING: MR WITH CONDITIONAL USE  
PROPOSED ZONING: MR WITH CONDITIONAL USE  
EXISTING USE: COMMERCIAL/MARINA  
PROPOSED USE: RESIDENTIAL

TOTAL CONDITIONAL USE SITE AREA: 0.84 ACRES

MINIMUM ZONING REQUIREMENTS:  
FRONT YARD SETBACK: 30 FT.  
SIDE YARD SETBACK: 10 FT.  
REAR YARD SETBACK: 10 FT.  
PROPOSED BUILDING HEIGHT: 42' MAXIMUM

PROPOSED BUILDING  
CONSTRUCTION: WOOD/CONCRETE BLOCK

WETLANDS: WETLANDS DO NOT EXIST ON SITE.  
WETLANDS EVALUATION WAS PERFORMED BY  
ENVIRONMENTAL RESOURCES, INC. IN ACCORDANCE  
WITH THE 1987 CORPS OF ENGINEERS WETLANDS  
DELINEATION MANUAL AND ASSOCIATED GUIDANCE.

UTILITIES:  
SEWER—OAK ORCHARD SANITARY SEWER DISTRICT  
WATER—PUBLIC WATER SUPPLY

OWNERS/DEVELOPER:  
WALTON COMMERCIAL PROPERTIES, LLC.  
2138 GRAVES ROAD  
HOCKESSIN, DE 19707

PREPARED BY:  
DAVIS, BOWEN, & FRIEDEL, INC.  
23 NORTH WALNUT STREET  
MILFORD, DE 19963  
302-424-1441

PARKING RATIONALE

RESIDENTIAL: 2 SPACES / UNIT  
10 UNITS x 2 = 20 SPACES

REQUIRED SPACES: 20  
PROPOSED SPACES: 25

EXISTING BOAT SLIPS: 10

LEGEND

- RIGHT OF WAY
- PROPERTY LINE
- BUILDING SETBACK LINE
- EXISTING CONTOUR
- IRON ROD & CAP FOUND
- IRON PIPE FOUND
- CONCRETE MONUMENT FOUND
- IRON ROD & CAP TO BE SET
- DELDOT MONUMENT TO BE SET
- ⊙ GEAR SPIKE FOUND
- ⊙ TIMBER SPIKE FOUND

GENERAL NOTES:

- 1) ALL FIRELANES, EXITS, STANDPIPE AND SPRINKLER CONNECTIONS WILL BE MARKED IN ACCORDANCE WITH STATE FIRE PREVENTION REGULATIONS. BUILDING CONSTRUCTION TO BE MASONRY AND WOOD. THE PAVING RADIUS FOR ALL CUL-DE-SACS IS 36'.
- 2) THE SUSSEX CONSERVATION DISTRICT RESERVES THE RIGHT TO ADD, MODIFY OR DELETE ANY EROSION AND SEDIMENT CONTROL MEASURES AS THEY DEEM NECESSARY.
- 3) THE SUSSEX CONSERVATION DISTRICT RESERVES THE RIGHT TO ENTER PRIVATE PROPERTY FOR PURPOSES OF PERIODIC SITE INSPECTION.
- 4) ALL MATERIALS AND WORKMANSHIP SHALL BE CONSTRUCTED IN ACCORDANCE WITH DELDOT STANDARDS, SPECIFICATIONS, AND SUSSEX COUNTY ORDINANCE 38.
- 5) ALL DISTURBED AREAS WITHIN THE STATE RIGHT-OF-WAY, BUT NOT IN PAVEMENT, SHALL BE TOPSOILED (6" MINIMUM), FERTILIZED AND SEEDED.
- 6) A 72 HOUR (MINIMUM) NOTICE SHALL BE GIVEN TO THE DISTRICT PERMIT SUPERVISOR PRIOR TO STARTING ENTRANCE CONSTRUCTION.
- 7) MISS UTILITY SHALL BE NOTIFIED THREE (3) CONSECUTIVE WORKING DAYS PRIOR TO EXCAVATION.
- 8) ALL SIGNING FOR MAINTENANCE OF TRAFFIC IS THE CONTRACTORS RESPONSIBILITY AND SHALL FOLLOW THE GUIDELINES SHOWN IN "DELAWARE 2000 TRAFFIC CONTROLS FOR STREETS AND HIGHWAY CONSTRUCTION, MAINTENANCE, UTILITY AND EMERGENCY OPERATIONS." (LATEST EDITION FEB. 1, 2000)
- 9) DESIGN, FABRICATION, AND INSTALLATION OF ALL PERMANENT SIGNING SHALL BE AS OUTLINED IN THE "GUIDE FOR FABRICATION AND INSTALLATION OF TRAFFIC CONTROL DEVICES."
- 10) THIS PROPERTY IS LOCATED IN THE VICINITY OF LAND USED PRIMARILY FOR AGRICULTURAL PURPOSES. IT CAN BE ANTICIPATED THAT SUCH AGRICULTURAL USES AND ACTIVITIES MAY NOW OR IN THE FUTURE INVOLVE NOISE, DUST, MANURE AND OTHER ODORS, THE USE OF AGRICULTURAL CHEMICALS, AND NIGHTTIME FARMING OPERATIONS.
- 11) TOPOGRAPHIC SURVEY PERFORMED JUNE 2008, BY DAVIS, BOWEN, & FRIEDEL, INC. VERTICAL DATUM IS NAVD 88.

ENGINEERS' STATEMENT

I, W. ZACHARY CROUCH, HEREBY STATE THAT I AM A REGISTERED ENGINEER IN THE STATE OF DELAWARE, THAT THE INFORMATION SHOWN HEREON HAS BEEN PREPARED UNDER MY SUPERVISION AND TO MY BEST KNOWLEDGE AND BELIEF REPRESENTS GOOD ENGINEERING PRACTICES AS REQUIRED BY THE APPLICABLE LAWS OF THE STATE OF DELAWARE.

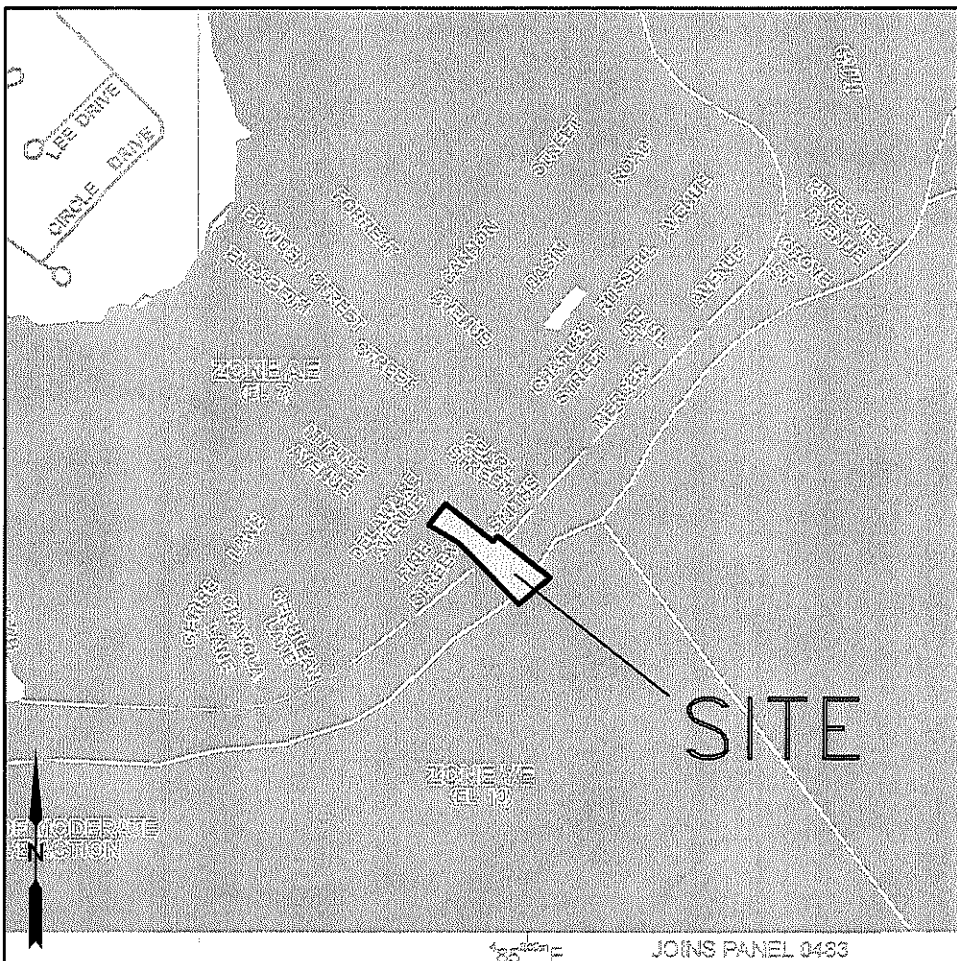
SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

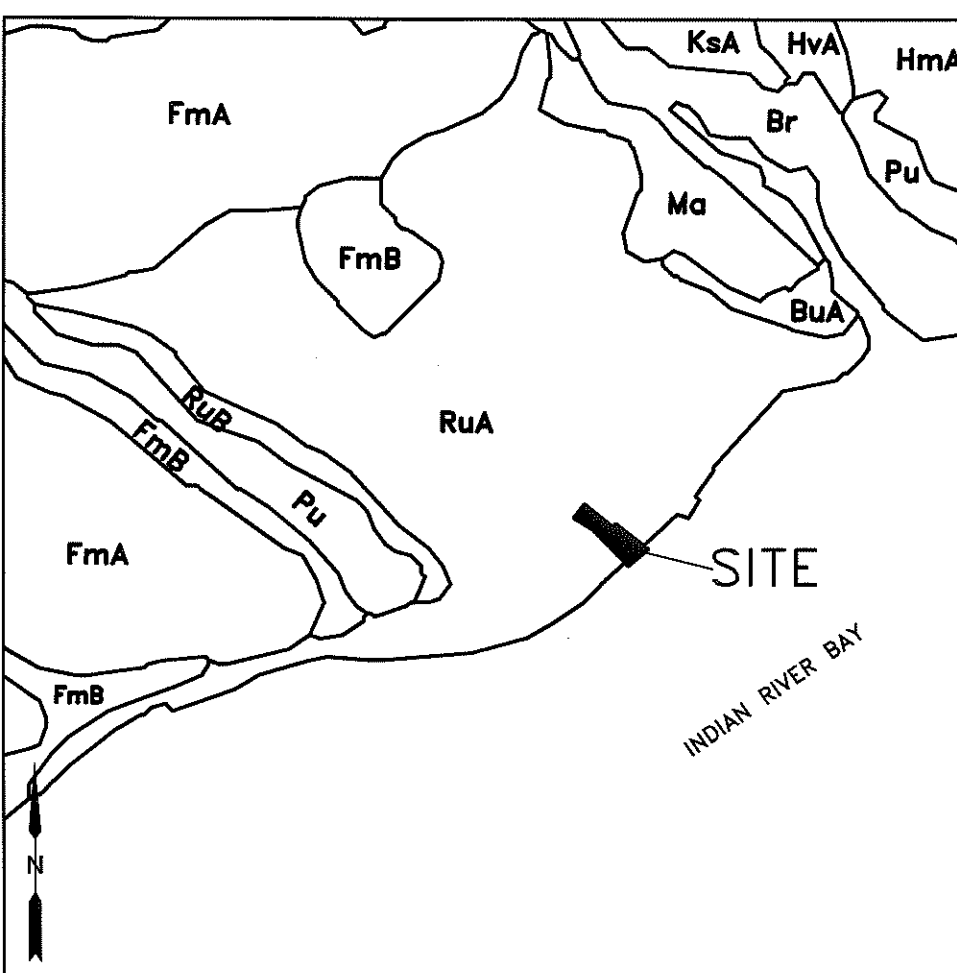
SEAL: \_\_\_\_\_



LOCATION MAP 1" = 1000'  
COPYRIGHT ACD THE MAP PEOPLE PERMITTED USE NO. 20609180



FEMA FLOODPLAIN MAP 1" = 600'  
MAP 10005C0481KJ MARCH 16, 2015

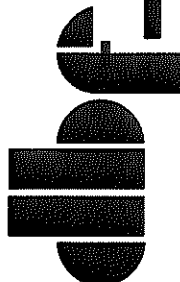


| SOILS MAP 1" = 1000' |  |
|----------------------|--|
| FmA                  | FORT MOTT LOAMY SAND, 0-2% SLOPES                    |
| FmB                  | FORT MOTT LOAMY SAND, 2-5% SLOPES                    |
| Pu                   | PURNELL PEAT, VERY FREQUENTLY FLOODED, TIDAL         |
| RuA                  | RUNCINT LOAMY SAND, 0-2% SLOPES                      |
| RuB                  | RUNCINT LOAMY SAND, 2-5% SLOPES                      |
| KsA                  | KLEJ LOAMY SAND, 0-2% SLOPES                         |
| Ma                   | MANAHAWKIN MUCK, FREQUENTLY FLOODED                  |
| BuA                  | BROCKATON/URBAN LAND COMPLEX, 0-2% SLOPES            |
| Br                   | BROADKILL MUCKY PEAT, VERY FREQUENTLY FLOODED, TIDAL |
| HvA                  | HURLOCK SANDY LOAM, 0-2% SLOPES                      |
| HmA                  | HAMMONTON LOAMY SAND, 0-2% SLOPES                    |

EXISTING BOUNDARY  
LINE CHART

| LINE | BEARING       | DISTANCE |
|------|---------------|----------|
| L1   | N 37°39'45" E | 20.00'   |
| L2   | N 43°13'18" W | 23.79'   |
| L3   | N 46°52'18" W | 47.50'   |
| L4   | N 58°41'58" W | 13.90'   |
| L5   | N 59°24'42" W | 31.26'   |

DAVIS, BOWEN & FRIEDEL, INC.  
ARCHITECTS, ENGINEERS & SURVEYORS



Conditional Use Plan

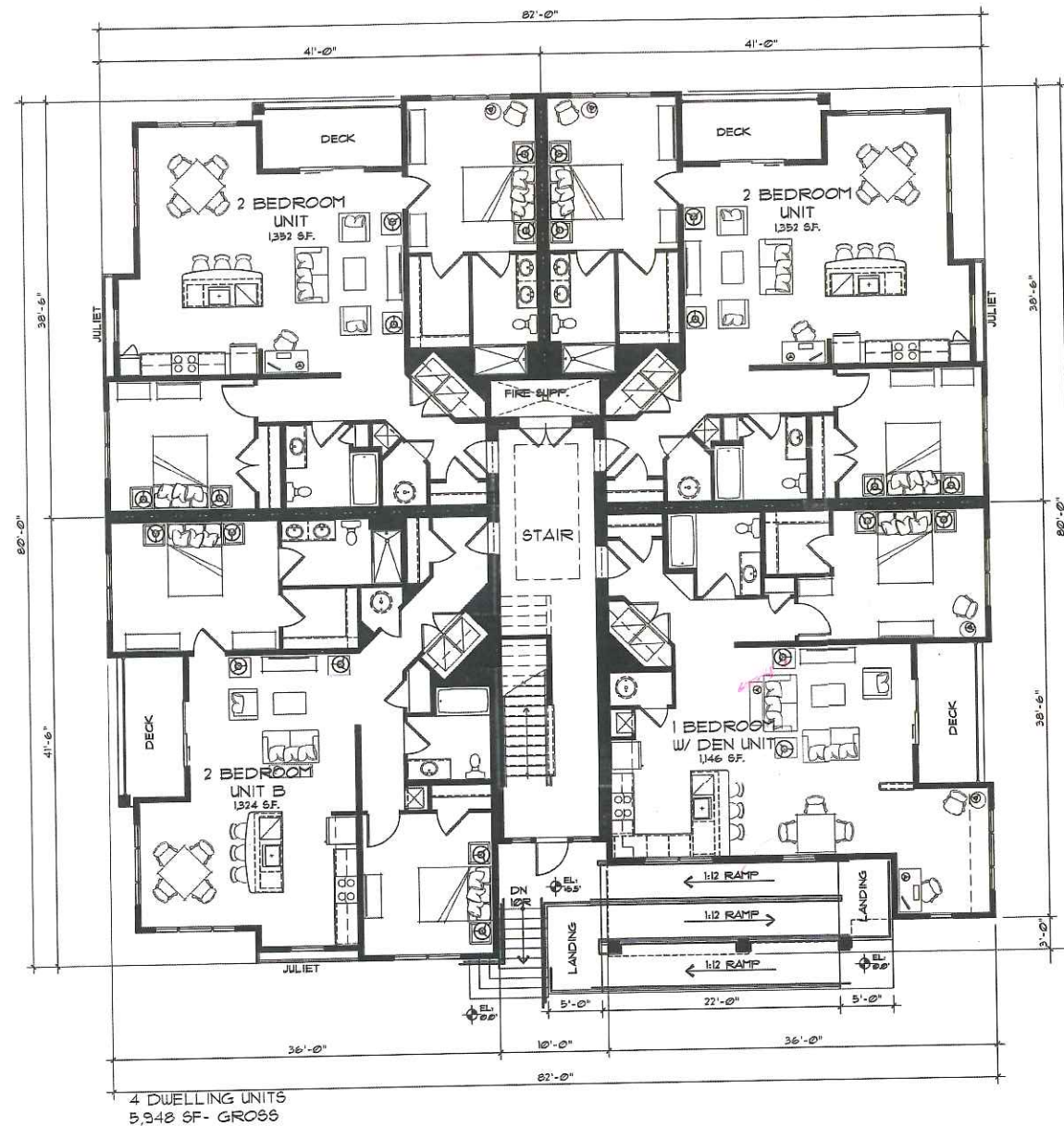
E. ANDREW & CAROL WALTON  
INDIAN RIVER HUNDRED  
SUSSEX COUNTY, DELAWARE

REVISED:  
3-16-2010 PER OWNER

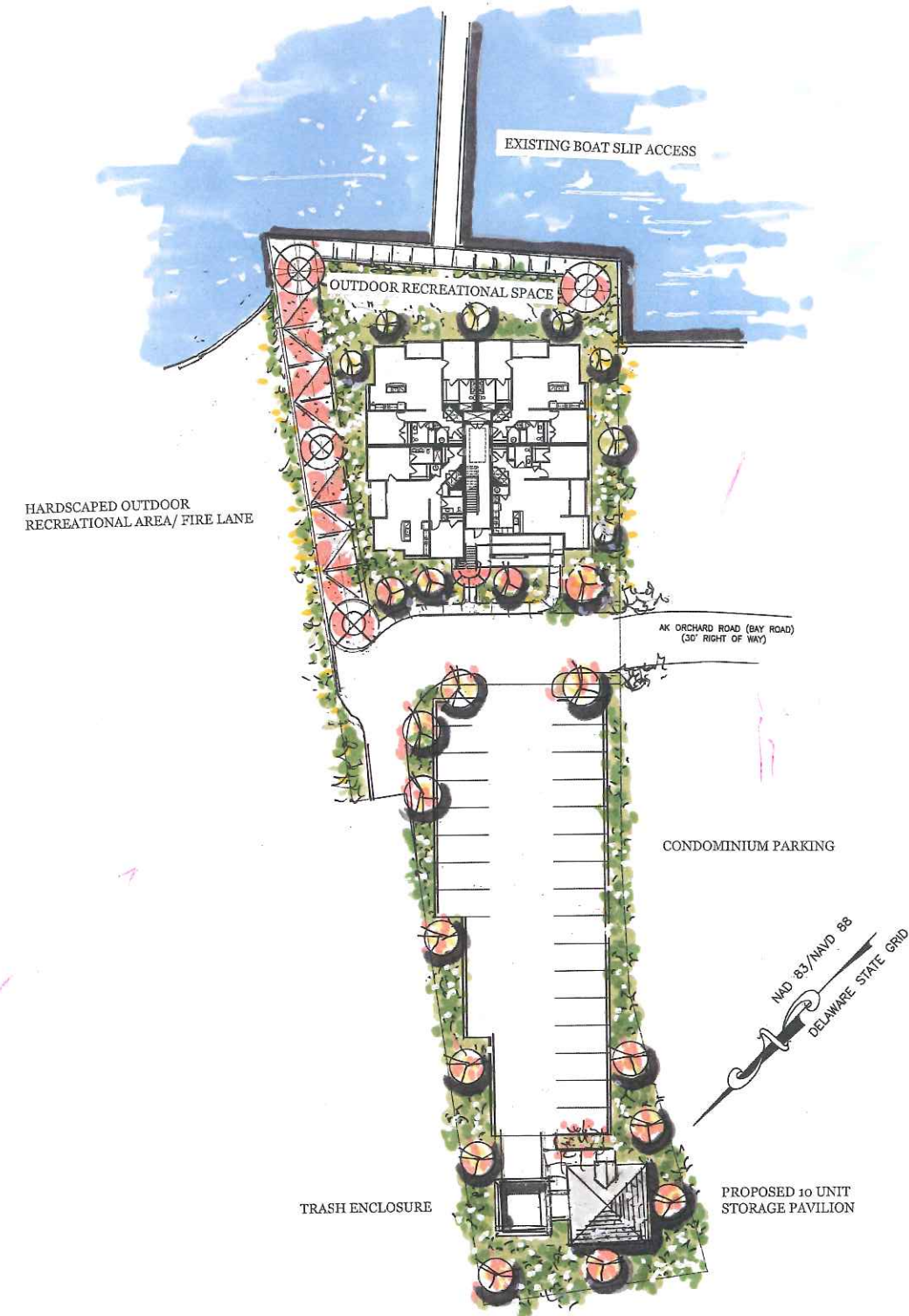
Date: AUGUST 2021  
Scale: 1" = 30'  
Dwn.By: JMJ  
Proj.No.: 2039A002.C01  
Dwg.No.: 1



FILE COPY



FIRST FLOOR PLAN  
SCALE: 1/8" = 1'-0"



SITE PLAN  
SCALE: 1" = 30'-0"

MAY 28, 20

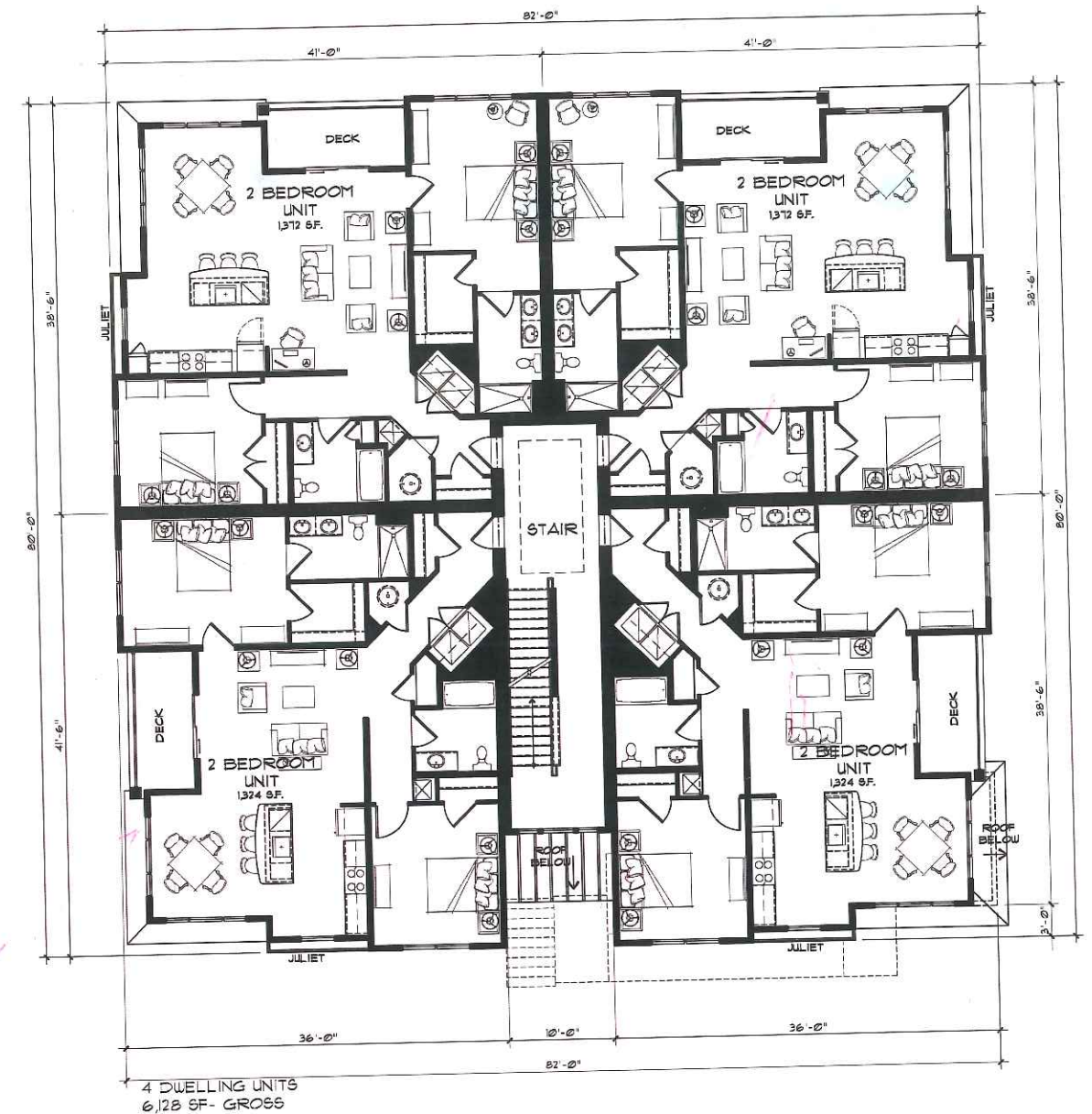
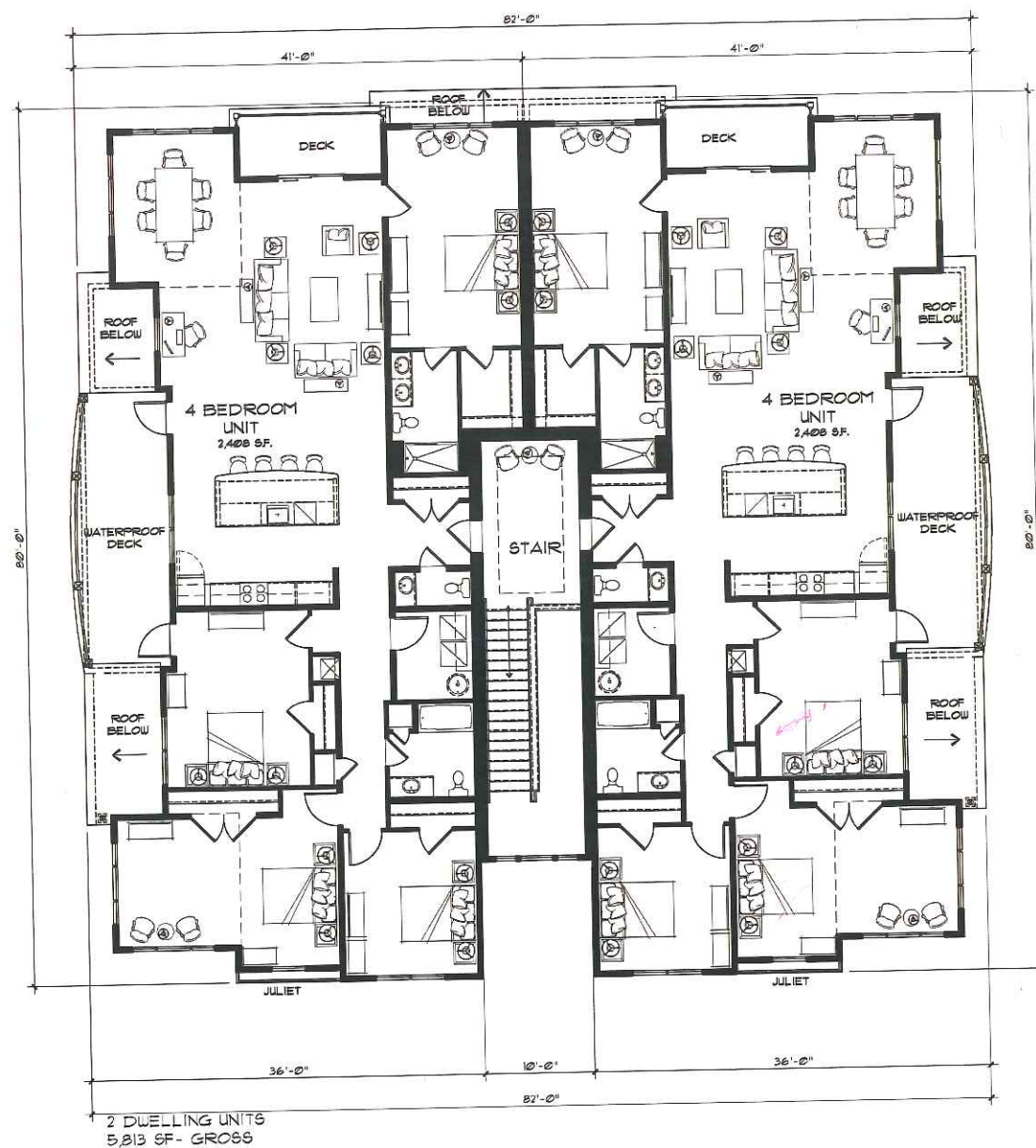
OAK ORCHARD - 10 UNIT CONDOMINIUMS  
32792 OAK ORCHARD AVENUE  
MILLSBORO, DELAWARE

ALLIES  
ARCHITECTURE, INC.

285 SOUTH CHURCH STREET, SUITE 4, MOORESTOWN, NEW JERSEY 08057 (856) 231-1111

A1





SCALE: 1/8" = 1'-0"  
MAY 28, 2021

A2

# OAK ORCHARD - 10 UNIT CONDOMINIUMS

32792 OAK ORCHARD AVENUE  
MILLSBORO, DELAWARE

LESSARD BUILDERS

**ALLIES**  
ARCHITECTURE, INC.

285 SOUTH CHURCH STREET, SUITE 4, MOORESTOWN, NEW JERSEY 08057 (856) 244-7  
© 2021 ALLIES





BAY SIDE ELEVATION



OAK ORCHARD AVENUE ELEVATION

SCALE: 1/8" = 1'-0"  
MAY 28, 2021

OAK ORCHARD - 10 UNIT CONDOMINIUMS

32792 OAK ORCHARD AVENUE

ALLIES



# FUQUA, WILLARD & SCHAB, P.A.

☒ PAYNTER HOUSE

26 THE CIRCLE OR P.O. BOX 250  
GEORGETOWN, DELAWARE 19947  
PHONE 302-856-7777  
FAX 302-856-2128  
onthecircle@fwsdelaw.com

JAMES A. FUQUA, JR.  
WILLIAM SCHAB  
TIMOTHY G. WILLARD  
www.fwsdelaw.com

☐ LEWES REAL ESTATE OFFICE  
16698 KINGS HIGHWAY, SUITE B  
LEWES, DELAWARE 19958  
PHONE 302-645-6626  
FAX 302-645-6620  
realestate@fwsdelaw.com

☐ BLUE BUILDING  
105 W. 4TH STREET  
LEWES, DE 19958  
PHONE 302-856-9024  
FAX 302-856-6360

☐ REHOBOTH OFFICE  
20245 BAY VISTA RD., UNIT 203  
REHOBOTH BEACH, DE 19971  
PHONE 302-227-7727  
FAX 302-227-2226

January 19, 2023

Jamie Whitehouse, Director  
Sussex County Planning Dept.  
2 The Circle  
Georgetown, DE 19947

RECEIVED

JAN 25 2023

**Re: CU No. 2349**  
**Lessard Builders**

SUSSEX COUNTY  
PLANNING & ZONING

Dear Mr. Whitehouse:

Please include the attached in the record as part of the applicant's exhibits:

1. County Council and Planning and Zoning decisions on CU No. 1088/Clyde Hull
2. County Council and Planning and Zoning decisions on CU No. 1863/Andrew and Carol Walton

Thank you.

Very truly yours,

FUQUA, WILLARD & SCHAB, P.A.

By:   
James A. Fuqua, Jr.

JAF/jel

CU# 1088

ORDINANCE NO. 935

WITH STIPULATIONS

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A MARINA WITH BOAT RENTAL, BOAT SLIP RENTAL, BAIT AND TACKLE SALES, SANDWICH SHOP, CRABPING PIER, OFFICE AND RESIDENCE, TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 36,628 SQUARE FEET (0.841 ACRES), MORE OR LESS

WHEREAS, on the 19th day of July, 1994, a conditional use application, denominated C/U #1088, was filed on behalf of Clyde Hull; and

WHEREAS, on the 25th day of August, 1994, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that C/U #1088 be approved; and

WHEREAS, on the 13th day of September, 1994, 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 C/U #1088 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 Indian River Hundred, Sussex County, Delaware, and lying on the western side of a twenty (20) foot private road,

2

BEGINNING at a point on the western side of a twenty (20) foot private road, 140 feet south of Delaware Street. thence south 42°18'40" east 189.06 feet to a point, thence north 47°41'20" east 20.00 feet to a point, thence south 42°18'40" east 146.89 feet to a point, thence south 42°42'00" east 62.95 feet to a point, thence south 60°21'00" west 129.93 feet to a point, thence north 33°11'43" west 23.79 feet to a point, thence north 34°11'08" west 196.98 feet to a point, thence north 36°50'43" west 47.50 feet to a point, thence north 49°23'07" west 31.26 feet to a point, thence north 49°32'51" west 60.60 feet to a point, thence north 47°53'10" east 83.23 feet to said point of beginning as surveyed by Coast Survey, Inc., said parcel to contain 36,628 square feet (0.841 acres) more or less.

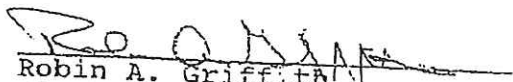
✓

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 stipulations:

1. The maximum number of boats for rent shall be twenty.
2. No boat storage shall be permitted, except for boats belonging to the owner.
3. No boat motor repair shall be permitted.
4. No fuel sales shall be permitted.
5. The hours of operation shall be from 6:00 a.m. to 10:00 p.m. for use of the pier and boat rental.
6. There shall be no arcade.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 985 ADOPTED BY THE COUNTY COUNCIL OF SUSSEX COUNTY ON THE 13TH DAY OF SEPTEMBER, 1994.


  
Robin A. Griffith  
Clerk of the County Council

The findings of fact and recommendations of the Planning and Zoning



ON THE 15TH DAY OF SEPTEMBER, 1997.

③

  
Robin A. Griffith  
Clerk of the County Council

The findings of fact and recommendations of the Planning and Zoning Commission were incorporated into the record and into the findings of fact of the County Council. The County Council found that the proposed conditional use was appropriate legislative action and promoted the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County. The County Council found that the proposed conditional use was of a public or semi-public character and was essential and desirable for the general convenience and welfare.

- M 388 94 (con't)
3. Maximum number of applications of sludge on this site shall be once per year; subject to the approval of the State DNREC.
  4. Hours for application of sludge shall be limited as follows: 6:00 a.m. to 8:00 p.m., Monday through Saturday.
  5. There shall be no stockpiling of sludge materials on site.
  6. The Conditional Use will be valid for five years; concurrent with the State DNREC permit.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Benson, Yea; Mr. Cole, Yea;  
Mr. Collins, Yea; Mr. Stevenson, Yea;  
Mr. Dukes, Yea

Findings  
of Fact

The findings of fact and recommendations of the Planning and Zoning Commission were incorporated into the record and into the findings of fact of the County Council. The County Council found that the proposed conditional use was appropriate legislative action and promoted the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County. The County Council found that the proposed conditional use was of a public or semi-public character and was essential and desirable for the general convenience and welfare.

Public  
Hearing  
(C/U  
#1088)

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A MARINA WITH BOAT RENTAL, BOAT SLIP RENTAL, BAIT AND TACKLE SALES, SANDWICH SHOP, CRABBING PIER, OFFICE AND RESIDENCE, TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 36,628 SQUARE FEET (0.841 ACRES), MORE OR LESS (Conditional Use No. 1088) filed on behalf of Clyde Hull. The Public Hearing was closed.

M 389 94  
Adopt  
Ordinance  
No. 985  
(C/U  
#1088)

A Motion was made by Mr. Collins, seconded by Mr. Cole, to Adopt Ordinance No. 985 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A MARINA WITH BOAT RENTAL, BOAT SLIP RENTAL, BAIT AND TACKLE SALES, SANDWICH SHOP, CRABBING PIER, OFFICE AND RESIDENCE, TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 36,628 SQUARE FEET (0.841 ACRES), MORE OR LESS (Conditional Use No. 1088) filed on behalf of Clyde Hull, with the following stipulations:



~~Motion by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to defer action.~~

3. RE: C/U #1088 - Clyde Hull

Clyde Hull and Kenneth Clark, attorney, were present on behalf of this application to consider the Conditional Use of land in an MR Medium Density Residential District in Indian River Hundred for a Marina with Boat Rental, Boat Slip Rental, Bait and Tackle Sales, Sandwich Shop, Crabbing Pier, Office and Residence, lying on the west side of a twenty (20) foot private road, 140 feet south of Delaware Street (Route 297-A) to be located on a parcel containing 36,628 square feet (0.841 acre) more or less.

Mr. Lank summarized comments received from DelDOT, the Sussex Conservation District, the Indian River School District.

Mr. Lank summarized a letter in support from Patrick C. Miller and a petition in support which contains 11 signatures.

Mr. Lank read a letter from Scott Walls in opposition.

Mr. Clark advised the Commission that the applicant purchased the site in 1993, that the site was originally the site of the old Oak Orchard Hotel, that the hotel had a 520' pier, that the hotel/restaurant was torn down in 1986 and lost its non-conforming status, that the applicant proposes a community oriented marina, that the community has historically utilized the pier, that fees may be charges to fish or crab from the pier, that applications have been filed with DNREC for marina use of the pier, that a two story building is proposed with a bait and tackle shop, office, and sandwich shop on the first floor, and a residence on the second floor, that historically a need has existed for this type of activity in the Oak Orchard area, that over the years most of the river frontage has been privatized, that the use will allow access to the river, that the pier has recently been renovated per approvals from DNREC, that the closest bait and tackle shop is approximately 2 miles away at the intersection of Route 24 and Route 5 (Route 297), that the use will meet the criteria for a marina in the Conditional Use section of the Code, that the use will comply with all laws and Codes, that no fuel sales or storage are proposed, and that there will be no additional impact on navigation since the pier already existed and was only renovated.

Mr. Hull advised the Commission that he has been a lifetime visitor of the area, that he proposes a maximum of twenty (20) boats, that off-season storage of boats will be limited to boats that he owns, that no boat motor repair is proposed, that no arcade area is proposed, that the public will have access



to the pier, that the primary commercial use of the pier will be permitting crabbing and fishing from the pier, that if the DNREC rejects the slip rentals the crabbing activity and the sandwich shop will still proceed, that his deed does not reference any dedication of any roads, that the roads cross his property and will remain open, that ten (10) boat slips exist on the pier, that additional moorings exist for the boat rental, that he will occupy the residence, that the proposed building will be utilized for all of the uses, that a boat ramp does not exist and is not proposed, that no additional moorings are proposed, that the pier may be lighted, that the business may be open from 6:00 am to 10:00 pm, and that dry boat storage of his rental boats will be in the open area.

Mr. Clark added that as a resident of the area he can see a need for the use, that children enjoy crabbing, that the area needs an area that permits crabbing, that over the years the community started to decline, and that recently the community has started to upgrade.

Scott Walls spoke in support, after listening to the testimony, and stated that he was concerned about the area to be utilized for boat storage and access roads, that fencing should blend in with area fences, that the use will be good for the community, and that there are no known negative comments from the Oak Orchard/Riverdale Civic Association.

No parties appeared in opposition.

At the conclusion of the public hearings, the Chairman referred back to this application.

The Commission discussed the points and issues raised during the public hearing.

The Commission found, based on comments received from DelDOT, that the proposed change will have no significant impact on traffic.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on site are mapped as Evesboro loamy sand, that the suitability of the soils for the intended use will have slight limitations that are easily overcome, that during any construction an erosion and sedimentation control plan should be followed and that after completion of any construction a vegetative cover should be maintained, that the farmland rating of the soil is of Statewide Importance, that no storm flood hazard area is affected, that it may not be necessary for any on-site or off-site drainage

improvements, and that no tax ditch is affected.

The Commission found, based on comments received from the Indian River School District, that at this time it does not appear that the proposed change will have a significant impact on the District.

The Commission found that a letter was received in support of the application.

The Commission found that a petition was received in support containing eleven (11) signatures of area residents.

The Commission found that the applicant and his attorney were present and advised the Commission that the applicant purchased the site in 1993, that the site was originally the site of the old Oak Orchard Hotel, that the hotel had a 520' pier, that the hotel/restaurant was torn down in 1986 and lost its non-conforming status, that the applicant proposes a community oriented marina, that the community has historically utilized the pier, that fees may be charged to fish or crab from the pier, that applications have been filed with DNREC for marina use of the pier, that a two story building is proposed with a bait and tackle shop, office, and sandwich shop on the first floor, and a residence on the second floor, that historically a need has existed for this type of activity in the Oak Orchard area, that over the years most of the river frontage has been privatized, that the use will allow access to the river, that the pier has recently been renovated per approvals from DNREC, that the closest bait and tackle shop is approximately 2 miles away at the intersection of Route 24 and Route 5 (Route 297), that the use will meet the criteria for a marina in the Conditional Use section of the Code, that the use will comply with all laws and Codes, that no fuel sales or storage are proposed, and that there will be no additional impact on navigation since the pier already existed and was only renovated, that the applicant has been a lifetime visitor of the area, that the applicant proposes a maximum of twenty (20) boats, that off-season storage of boats will be limited to boats that he owns, that no boat motor repair is proposed, that no arcade area is proposed, that the public will have access to the pier, that the primary commercial use of the pier will be permitting crabbing and fishing from the pier, that if the DNREC rejects the slip rentals the crabbing activity and the sandwich shop will still proceed, that the applicant deed does not reference any dedication of any roads, that the roads cross the applicant's property and will remain open, that ten (10) boat slips exist on the pier, that additional moorings exist for the boat rental, that the applicant will occupy the residence, that the proposed building will be utilized for all of



the uses, that a boat ramp does not exist and is not proposed, that no additional moorings are proposed, that the pier may be lighted, that the business may be open from 6:00 am to 10:00 pm, and that dry boat storage of the rental boats will be in the open area.

The Commission found that the attorney representing the applicant was also a resident of the area and advised them that as a resident of the area he can see a need for the use, that children enjoy crabbing, that the area needs an area that permits crabbing, that over the years the community started to decline, and that recently the community has started to upgrade.

The Commission found that the resident, who had written in opposition, spoke in support after listening to the testimony, and stated that he was concerned about the area to be utilized for boat storage and access roads, that fencing should blend in with area fences, that the use will be good for the community, and that there are no known negative comments from the Oak Orchard/Riverdale Civic Association.

The Commission found that no parties appeared in opposition.

Motion by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved with the following stipulations:

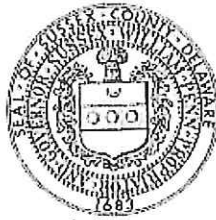
1. The maximum number of boats for rent shall be twenty (20).
2. No boat storage shall be permitted, except for boats belonging to the owner.
3. No boat motor repair shall be permitted.
4. No fuel sales shall be permitted.
5. The hours of operation shall be from 6:00 am to 10:00 pm for use of the pier and boat rental.

4. RE: ~~C/Z #1237 - Hunter Mill estates Partnership~~

~~No parties appeared on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to GR General Residential in Broadkill Hundred, located on the east side of Hunters Mill Road, south of Circle Drive East, and north and west of Sawgrass Road within Hunters Mill Estates, 1,100 feet north of Route 9 and approximately one mile east of Route 5, lots 47, 48, and 50 through 61 of Hunters Mill Estates Subdivision to be located on a parcel containing 8.15 acres more or less.~~

~~Mr. Lank summarized comments received from the Sussex Conservation District.~~

#2  
Sussex County  
Planning & Zoning Commission  
P.O. Box 417  
Georgetown, DE 19047  
302-855-7878  
302-854-5079 (Fax)



Robert C. Wheatley  
Michael B. Johnson  
Rodney Smith  
Martin L. Ross  
Irwin G. Burton, III  
Lawrence B. Lank, Director

CU # 1863

June 9, 2010

Andrew and Carol Walton  
2138 Graves Road  
Hockessin, DE 19707

RE: Conditional Use #1863

Marina with Restaurant, Retail and Multi-Family Dwelling Structures

Dear Mr. and Mrs. Walton,

This is to inform you that on June 8, 2010 the Sussex County Council approved the above referenced Conditional Use application with 14 conditions. This approval is valid for a three-year period. The approved use needs to be substantially underway within three years or the application is void.

The conditions of this approval are:

1. This Conditional Use shall replace Conditional Use #1088 for the property.
2. There shall be no more than 10 boat slips permitted, and all boat slips, dock, pier and marina activities shall be subject to all State and Federal requirements that may be applicable to the use.
3. All entrance, intersection and roadway improvements required by DelDOT shall be completed by the Applicant in accordance with DelDOT's determination.
4. No boat storage shall be permitted, except for boats belonging to the owner of the property.
5. No boat motor repair shall be permitted.
6. No fuel sales will be permitted.
7. There shall not be an arcade.
8. There shall be no more than 5 residential units on the property.
9. There shall be parking as required by the Zoning Code. The spaces shall be delineated on the site, and there shall be landscaping or a fence between the parking area and Oak Orchard Road to separate the parking area from the roadway.
10. The property shall be connected to the Oak Orchard Sanitary Sewer District and shall comply with all Sussex County Engineering Department requirements for the connection or system upgrades required to serve the property.
11. Storm water management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements, using Best Management Practices.
12. Security lighting shall be screened from neighboring properties and roadways.

June 9, 2010

Page 2

13. All dumpsters or trash receptacles shall be screened from view.
14. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

The final site plan shall be prepared by a Delaware Licensed Surveyor or Professional Engineer and shall contain the conditions of approval shown and depicted on it. Building permits will not be issued until the site plan has been approved by the Planning and Zoning Commission and upon receipt of all agency approvals. The following approvals are required for this project: DelDOT, Office of the State Fire Marshal, Sussex Conservation District and Sussex County Engineering Department.

An approved Ordinance will be sent to you in the near future from the Clerk of the County Council.

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

Sincerely,



Shane Abbott  
Assistant Director

cc: W. Zachary Crouch, P.E., Davis, Bowen & Friedel, Inc.



**Mr. Phillips, Yea**

**Public  
Hearing  
(C/U  
No. 1863)**

**A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A MARINA WITH RESTAURANT, RETAIL AND MULTI-FAMILY DWELLING STRUCTURES (5 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.84 ACRE, MORE OR LESS” (Conditional Use No. 1863) filed on behalf of Andrew and Carol Walton.**

**Public  
Hearing  
(C/U  
No. 1863)  
(continued)**

**Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on May 13, 2010 at which time action was deferred. On May 27, 2010, the Commission recommended that the application be approved with the following conditions:**

- 1. This Conditional Use shall replace Conditional Use No. 1088 for the property.**
- 2. There shall be no more than 10 boat slips permitted, and all boat slips, dock, pier and marina activities shall be subject to all State and Federal requirements that may be applicable to the use.**
- 3. All entrance, intersection and roadway improvements required by DelDOT shall be completed by the Applicant in accordance with DelDOT’s determination.**
- 4. No boat storage shall be permitted, except for boats belonging to the owner of the property.**
- 5. No boat motor repair shall be permitted.**
- 6. No fuel sales will be permitted.**
- 7. There shall not be an arcade.**
- 8. There shall be no more than 5 residential units on the property.**
- 9. There shall be parking as required by the Zoning Code. The spaces shall be delineated on the site, and there shall be landscaping or a fence between the parking area and Oak Orchard Road to separate the parking area from the roadway.**
- 10. The property shall be connected to the Oak Orchard Sanitary Sewer District and shall comply with all Sussex County Engineering Department requirements for the connection or system upgrades required to serve the property.**
- 11. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements, using Best Management Practices.**
- 12. Security lighting shall be screened from neighboring properties and roadways.**
- 13. All dumpsters or trash receptacles shall be screened from view.**
- 14. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

**(See the minutes of the meeting of the Planning and Zoning Commission**

dated May 13 and 27, 2010.)

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing.

Mr. Lank distributed Exhibit Books which were provided by the Applicant.

Public  
Hearing  
(C/U  
No. 1863)  
(continued)

Mr. Lank reported that one letter of correspondence was received on May 17, 2010, following the date of the Public Hearing before the Commission. The letter was from Margaret Hurt of Millsboro stating that she is in opposition to the retail aspect of the application but that she does not oppose the restaurant portion of the application. Ms. Hurt also questioned if sufficient parking would be available.

Andrew Walton was present on behalf of the application with Zach Crouch, Professional Engineer with Davis, Bowen & Friedel. They stated that the Applicant does not propose to close the roadway that runs across the property; that the site is subject to a previously approved application in 1994 for the marina with boat rental, boat slip rental, bait and tackle sales, sandwich shop, crabbing pier, office and residence (Conditional Use No. 1088); that the approval allowed for a maximum of 20 boat slips but only 10 boat slips exist and no additional boat slips are proposed; that the existing boat slips and docks will remain; that they are proposing to relocate the existing building to the north of the site and to convert it into a single family dwelling; that they are proposing four multi-family units above a restaurant and retail area; that the proposed building is proposed to include a 2,800 square foot restaurant facility with a 700 square foot patio, a 1,600 square foot retail store, and four apartments; that each apartment will contain 2,000 square feet and will be located on the second and third floors; that adequate space is available for parking on the site; that 29 parking spaces are required and 30 spaces are proposed (10 for the rental units and 20 for the restaurant); that the County will provide sewer service; that stormwater management will be Best Management Practices; that they will comply with the Pollution Control Strategies; that DelDOT did not require a Traffic Impact Study; that no wetlands exist on the site; and that the Owner is participating in the Delaware Clean Marina Program.

Public comments were heard.

Linda Walls spoke in support of the application and she stated that the project will be beneficial to the area and that traffic and parking is not a concern.

Councilmembers discussed whether or not the project provides sufficient parking. Mrs. Deaver stated that there should be parking for boat slips. It was noted that the County should consider addressing parking regulations for marinas.

The Public Hearing was closed.



**M 311 10**  
**Adopt**  
**Ordinance**  
**No. 2124**  
**(C/U**  
**No. 1863)**  
**M 311 10**  
**Adopt**  
**Ordinance**  
**No. 2124**  
**(C/U**  
**No. 1863)**  
**(continued)**

A Motion was made by Mr. Vincent, seconded by Mr. Wilson, to Adopt Ordinance No. 2124 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A MARINA WITH RESTAURANT, RETAIL AND MULTI-FAMILY DWELLING STRUCTURES (5 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.84 ACRE, MORE OR LESS" (Conditional Use No. 1863) filed on behalf of Andrew and Carol Walton, with the following conditions:

1. This Conditional Use shall replace Conditional Use No. 1088 for the property.
2. There shall be no more than 10 boat slips permitted, and all boat slips, dock, pier and marina activities shall be subject to all State and Federal requirements that may be applicable to the use.
3. All entrance, intersection and roadway improvements required by DelDOT shall be completed by the Applicant in accordance with DelDOT's determination.
4. No boat storage shall be permitted, except for boats belonging to the owner of the property.
5. No boat motor repair shall be permitted.
6. No fuel sales will be permitted.
7. There shall not be an arcade.
8. There shall be no more than 5 residential units on the property.
9. There shall be parking as required by the Zoning Code. The spaces shall be delineated on the site, and there shall be landscaping or a fence between the parking area and Oak Orchard Road to separate the parking area from the roadway.
10. The property shall be connected to the Oak Orchard Sanitary Sewer District and shall comply with all Sussex County Engineering Department requirements for the connection or system upgrades required to serve the property.
11. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements, using Best Management Practices.
12. Security lighting shall be screened from neighboring properties and roadways.
13. All dumpsters or trash receptacles shall be screened from view.
14. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Wilson, Yea;**  
**Mr. Cole, Yea; Mr. Vincent, Yea;**  
**Mr. Phillips, Yea**

**Agenda**


**Mr. Cole requested that the issue of sewer capacity be placed on a future**



9 22

2. Any security lights shall only be installed on the buildings and shall be screened so that they do not shine on neighboring properties or roadways.
3. As proposed by the Applicant, the hours of operation shall be limited to between 7:00 a.m. and 8:00 p.m., Monday through Friday.
4. As stated by the Applicant, the building shall have a residential appearance.
5. The Applicant must comply with all DelDOT requirements concerning the entrance, easement and roadway improvements:
6. As stated by the Applicant, the use shall be a physical therapy practice.
7. The Final Site Plan shall include a landscape plan for the property.
8. The Applicant shall comply with all County Engineering Department requirements for connection of the property into the Sussex County Sewer District, including any system upgrades that are necessary to serve the property.
9. The site plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Burton, seconded by Mr. Johnson, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons and with the conditions and stipulations stated. Motion carried 5 – 0.

 **C/U #1863** – application of **ANDREW AND CAROL WALTON** to consider the Conditional Use of land in a MR Medium Density Residential District for a marina with restaurant, retail and multi-family dwelling structures (5 units) to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 0.84 acres, more or less, lying southwest of Oak Orchard Road, northeast of Pine Street and northeast of Bay Road in Oak Orchard.

The Commission discussed this application, which has been deferred since May 13, 2010.

Mr. Johnson stated that he would move that the Commission recommend approval of C/U #1863 for Andrew and Carol Walton for a marina with restaurant, retail and multi-family dwelling structures (5 units) based upon the record and for the following reasons:

- 1) This is the site of a prior Conditional Use approved for a marina with boat rental, boat slip rental, bait and tackle sales, sandwich shop, crabbing pier, office and residence. This new Conditional Use is consistent with the prior approved uses for the property.
- 2) Oak Orchard residents appeared in favor of the application, stating that it will be a benefit to the area.
- 3) The use, with the stipulations and conditions placed upon it, will not have an adverse effect on neighboring properties or the neighborhood.
- 4) The proposed use will not have an adverse effect upon traffic.
- 5) The use as a marina with restaurant and retail is of a public benefit to the residents of Oak Orchard and should help revitalize small businesses within the heart of Oak Orchard.
- 6) This recommendation for approval is subject to the following conditions:
  1. This Conditional Use shall replace Conditional Use #1088 for the property.
  2. There shall be no more than 10 boat slips permitted, and all boat slips, dock, pier and marina activities shall be subject to all State and Federal requirements that may be applicable to the use.

3. All entrance, intersection and roadway improvements required by DelDOT shall be completed by the Applicant in accordance with DelDOT's determination.
4. No boat storage shall be permitted, except for boats belonging to the owner of the property.
5. No boat motor repair shall be permitted.
6. No fuel sales will be permitted.
7. There shall not be an arcade.
8. There shall be no more than 5 residential units on the property.
9. There shall be parking as required by the Zoning Code. The spaces shall be delineated on the site, and there shall be landscaping or a fence between the parking area and Oak Orchard Road to separate the parking area from the roadway.
10. The property shall be connected to the Oak Orchard Sanitary Sewer District and shall comply with all Sussex County Engineering Department requirements for the connection or system upgrades required to serve the property.
11. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements, using Best Management Practices.
12. Security lighting shall be screened from neighboring properties and roadways.
13. All dumpsters or trash receptacles shall be screened from view.
14. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Johnson, seconded by Mr. Ross, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons and with the conditions stated. Motion carried 5 – 0.

#### PUBLIC HEARINGS

**Subdivision #2008-25** – application of **UNDERHILL PROPERTIES, LLC** to consider the subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 8.78 acres into 14 lots (Environmentally Sensitive Developing District Overlay Zone) expansion of 138 lot Environmentally Sensitive Developing District Overlay Zone (#2005-52), located 300 feet east of Road 279 and 700 feet north of Road 279A.

The Commission found that on May 14, 2010 the Applicant submitted an Exhibit Booklet for consideration which contains Projects Contacts, an Application, Subdivision #2008 – 25 Application Overview, a Development Report and Subdivision Considerations, Application Plans, Site Plan Details, Land Use Surrounding Zoning and Site Location Maps, Utility Providers and Covenants and Conditions.

Mr. Abbott advised the Commission that the Technical Advisory Committee Report of February 19, 2009 is a part of the record for this application.

The Commission found that Gene Bayard, Attorney, Tom Ford of Land Design Inc. and Michael Daniels of Underhill Properties, L.L.C. were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that this application is




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relocation of Old Orchard Road; that a traffic impact study was not required; that the peak a.m. hour increase in traffic is calculated as 16 additional vehicles, and the peak p.m. hour increase in traffic is calculated as 24 additional vehicles; that Tidewater Utilities are willing and able to serve the project with potable water; that the County will be providing sewer service; that the Applicants are aware that they may be required to participate in upgrades to the sewer system; that the proposed stormwater management facilities will include underground infiltration subject to the approval of the Sussex Conservation District; that parking is proposed in the front and rear yards and is similar to the adjacent Happy Harry's site; that they are planning on landscaping and fencing the north and east property lines; that the site is located in an Investment Level 2 according to the State Strategies; that the site is located in the Environmentally Sensitive Developing Area according to the Comprehensive Plan Update; that the Conditional Use will be consistent with the development taking place in the area where C-1 and B-1 zoning already existing along with many Conditional Use site for offices; that the adjoining land owners have voiced no objections to the use; and that the building has not yet been designed, but will maintain a residential appearance.

The Commission found that there were no parties present in support of or in opposition to this application.

At the conclusion of the public hearings, the Commission discussed this application.

Motion by Mr. Burton, seconded by Mr. Johnson, and carried unanimously to defer action for further consideration. Motion carried 5 - 0.



**C/U #1863** – application of **ANDREW AND CAROL WALTON** to consider the Conditional Use of land in a MR Medium Density Residential District for a marina with restaurant, retail and multi-family dwelling structures (5 units) to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 0.84 acres, more or less, lying southwest of Oak Orchard Road, northeast of Pine Street and northeast of Bay Road in Oak Orchard.

The Commission found that the Applicant provided an Exhibit Booklet on May 3, 2010 which contains a presentation outline, a parcel map of the area showing zonings, a copy of the Findings for Conditional Use No. 1088 for Clyde Hull for the site permitting a marina with boat rental, boat slip rental, bait and tackle sales, sandwich shop, crabbing pier, an office and a residence; a series of photographs, a survey/site plan showing existing and proposed uses, a color rendering of the same, and a copy of a DelDOT Support Facilities Report, dated April 9, 2008.

The Commission found that the County Engineering Department Utility Planning Division provided comments on May 10, 2010 and advised that the site is located in the Oak Orchard Sanitary Sewer District; that wastewater capacity is available; that there are no deficient downstream lines at this time and the proposed project will not create a deficiency in the system; that the proposal exceeds design assumptions however; that the sewer capacity assumption for the parcel is 4.45 EDU, which reflects the current commercial use of this parcel; that Ordinance 38 construction will be required; that the current System Connection Charge Rate is \$3,352.00 per EDU; that the parcel has been provided with one 6-inch lateral and one 8-inch lateral during



original construction; that prior to demolition or moving of the existing structure, or starting site work, the existing structure must be properly disconnected requiring a disconnection permit, disconnection by a County licensed plumber and inspection by the County; that conformity to the North Coastal Planning Study will be required; and that a concept plan is not required.

The Commission found that the Sussex Conservation District provided comments on May 11, 2010 and advised that the site contains one soil type; that the Applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that no storm flood hazard areas or tax ditches are affected; and that it may not be necessary for any off-site or on-site drainage improvements.

The Commission found that a letter was received on May 6, 2010 from Heath and Michelle Rinier in opposition to this application expressing concerns about the impact on the homes in the area which are predominantly one family and vacation homes, not multi-family dwellings; that retail places have tried to make it in this area and failed, leaving empty buildings and eye sores; and that the area is not marketable, due to the water front area.

The Commission found that Andy and Carol Walton were present with Zac Crouch, Professional Engineer with Davis, Bowen & Friedel, Inc. and that they stated in their presentation and in response to questions raised by the Commission that the site is located in the Environmentally Sensitive Developing District; that the site is subject to a previously approved application for Clyde Hull for the marina with boat rental, boat slip rental, bait and tackle sales, sandwich shop, crabbing pier, office and residence (C/U #1088); that the approval granted allowed for a maximum of 20 boat slips; that only 10 boat slips exists and no additional boat slips are proposed; that the marina updated their Operation and Maintenance Plan in 2009 and has been approved by DNREC as part of the Delaware Clean Marina Program; that they are proposing to relocate the existing building to the north of the site and to convert it into a single family dwelling; that they are proposing four multi-family units above a restaurant and retail area; that the proposed building is proposed to include a 3,200 restaurant facility with a 700 square foot patio, a 1,600 square foot retail store, and four apartments; that each apartment will contain 2,400 square feet and will be located on the second and third floors; that adequate space is available for parking on the site; that 29 spaces are required and 30 spaces are proposed; that they are proposing to use crusher run on the parking lot, rather than pavement, to abide by the Pollution Control Strategies; that they will provide parking bumpers to designate the parking spaces; that Tidewater Utilities will provide potable water; that the County will provide sewer; that the site is in close proximity to the Indian River Fire Company facility; that development of the site will not impact sewer capacity; that DelDOT did not require a traffic impact study; that there are no wetlands on the site; that all stormwater management requirements will be met; that they have no objection that a landscaping plan be required to be submitted with the Final Site Plan.

The Commission found that Linda Walls, a 40 year resident of the area, was present in support of the application and stated that the use will be beneficial to the area; that the area needs improvements; that traffic is not a concern; that the use should bring livelihood to the area; and that the area needs some attractions.



The Commission found that Attilio Cafini, the restaurant operator, was present in support of the application and stated that the use will be a plus to the neighborhood.

The Commission found that David Harper, an adjacent landowner, was present in support of the application and stated that the area needs construction activities; that the use will be a benefit to the area; and that the use should improve property values.

The Commission found that there were no parties present in opposition to this application.

At the conclusion of the public hearings, the Commission discussed this application.

Motion by Mr. Johnson, seconded by Mr. Ross, and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

**AN ORDINANCE PROVIDING FOR A SIX MONTH MORATORIUM ON APPLICATIONS FOR CASINO AND/OR GAMBLING OR GAMING VENUES IN SUSSEX COUNTY.**

Mr. Robertson stated that he would like to take the opportunity to explain to the Commission and the audience the purpose of tonight's hearing on the Moratorium on casinos and/or gaming venues, so that everyone understands what is relevant to tonight's hearing, and what is not relevant; that this hearing is in furtherance of the Moratorium imposed by County Council several weeks ago on casinos and gaming venues; that the purpose of the Moratorium is simply to give Council time to determine how it wants to address casino and/or gaming venues through a Zoning Ordinance Amendment regarding those uses; that the Moratorium, and therefore this hearing, does not concern casinos or gaming venues, or possible regulations of them; that the hearing only deals with whether or not it is appropriate to impose a Moratorium to allow the Council time to do its work considering how it wants to address casinos and/or gaming venues; therefore, that's what any testimony should be limited to, and not the substance of any ordinance regulating casinos or gaming venues; and that the audience should be aware that anyone wishing to address the potential regulation of casinos will have an opportunity to do so at the time Council introduces whatever regulations it drafts on the subject, but not tonight.

Mr. Lank advised the Commission that on March 30, 2010 the Sussex County Council introduced this Ordinance providing, if approved, for a six month moratorium on receipt of applications for casino and/or gambling or gaming venues. The Ordinance would allow the County to study, prepare, and introduce Ordinance amendments providing definitions and restrictions/regulations relating to the zoning districts where such uses could be permitted, the location of such uses, and related requirements for parking, loading, signage, etc.

Mr. Lank advised the Commission that he has received 17 E-mails from interested parties relating to the construction of a casino with related parking and activities. One (1) letter supports the use, two (2) letters oppose the use, ten (10) letters oppose the use at the Indian River Inlet, and four (4) letters oppose the use at the Indian River Inlet, but not somewhere inland in Sussex County.



52782 Oak Orchard Ave



4/12/22, 3:00 PM

<https://onlinebanking.mlb.com/Transfers/AccountAndLoanPayments>



© 2022 Google

38°35'48.45" N 75°10'20.48" W elev 4 ft

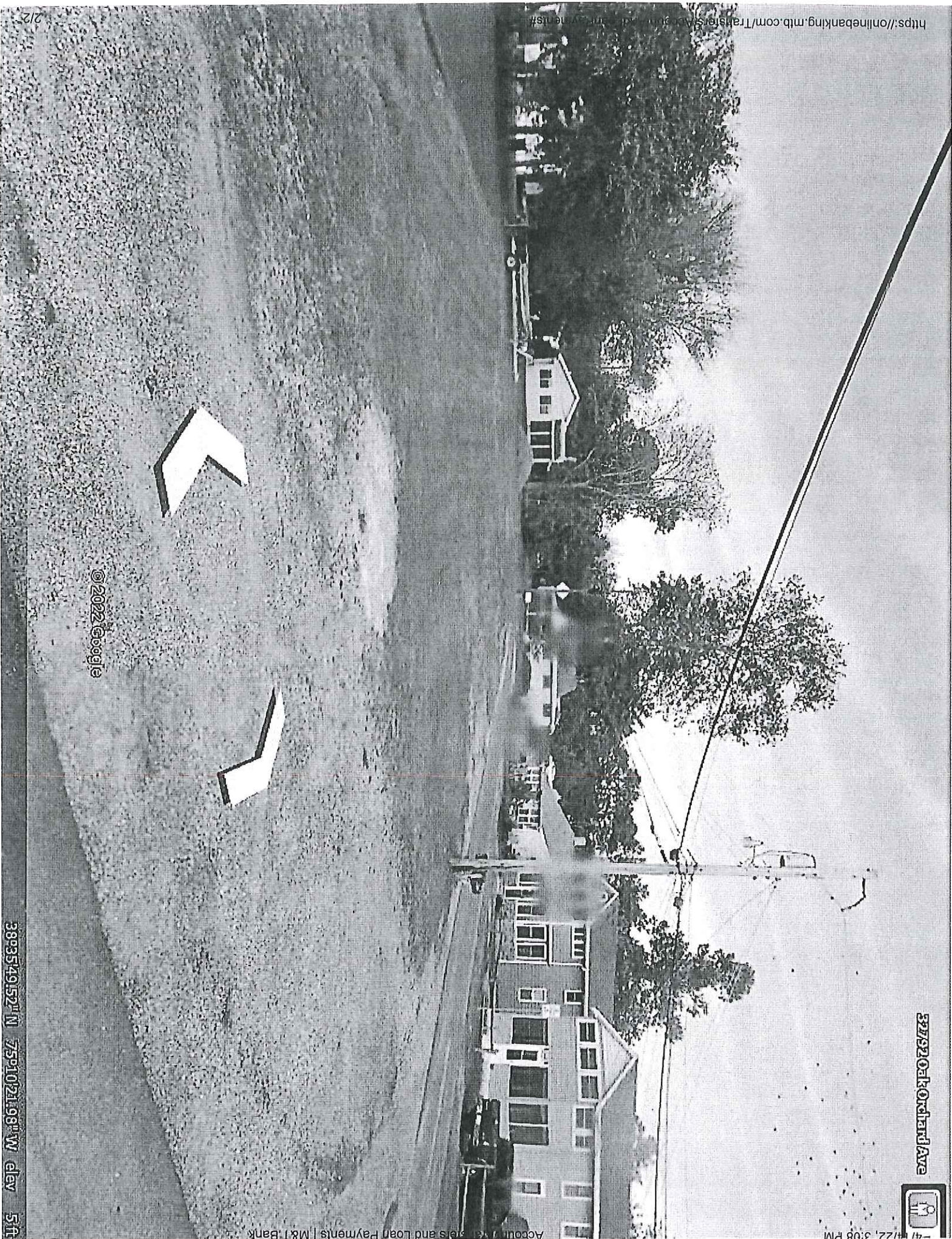
2/2



3279208K Orchard Ave



141 11/22, 3:08 PM



© 2022 Google

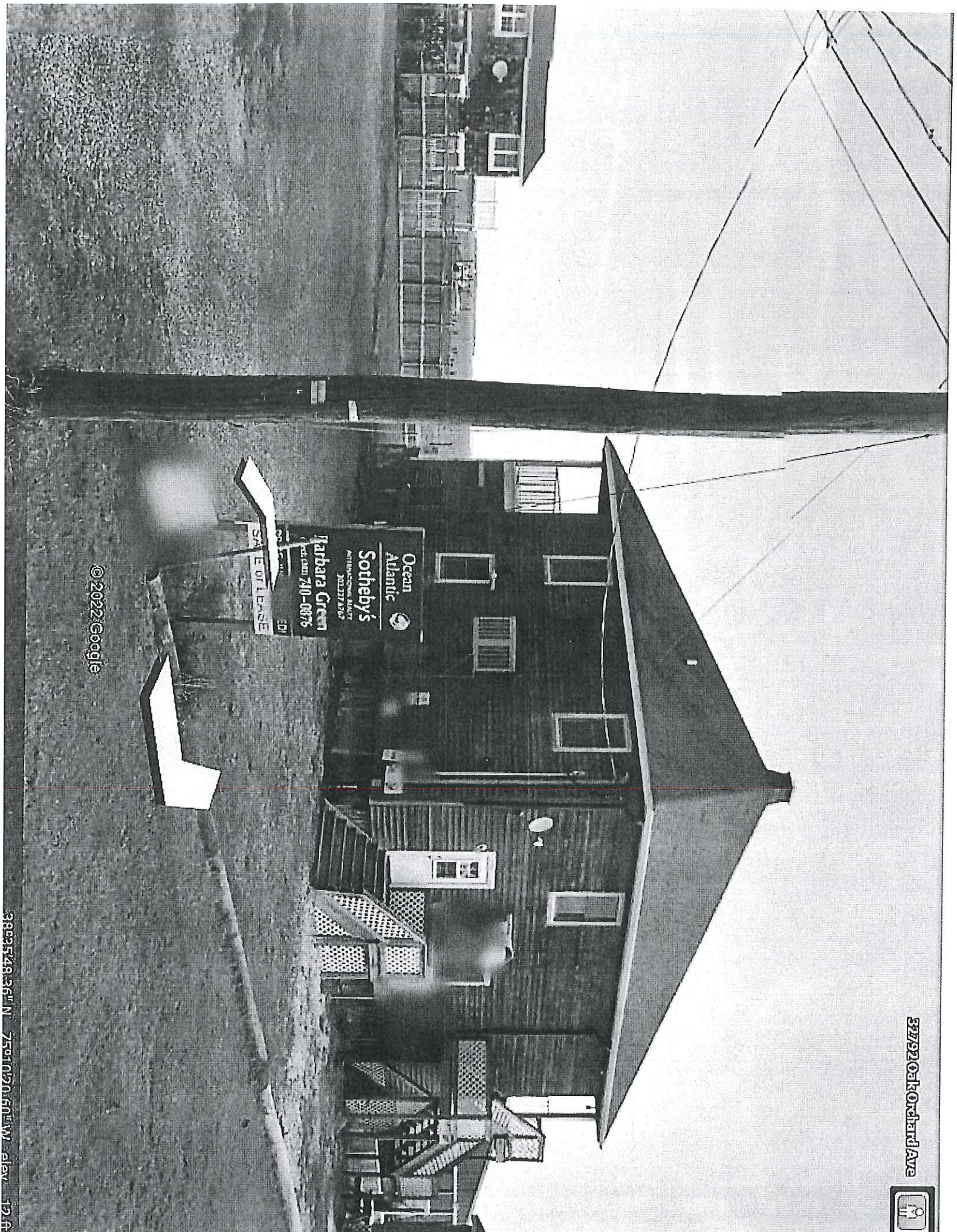
38°35'49.52"N 75°10'21.98"W elev 51ft



32792 Oak Orchard Ave



© 2022 Google



38°35'48.36" N 75°10'20.60" W elev - 12 ft



# OAK ORCHARD CONDO BUILDING

CONDITIONAL USE APPLICATION

SUSSEX COUNTY, DELAWARE

2039A002.C01

FEBRUARY 2023



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## Exhibits

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  - a. Existing Tax Map
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- 4. Wetlands Statement
- 5. 99-C Response
- 6. PLUS Comment Response



A

## Presentation Outline

### A. Land Use & Zoning

1. The project is a proposed conditional use application consisting of 1 building containing 10 condo units.
2. The property is located on the southeast side of Oak Orchard Road, approximately 150 feet southeast of Delaware Avenue Road.
3. The Owner and developer of the parcel is Walton Commercial Properties, LLC.
4. The property is currently zoned MR-1 (Medium Residential) in Sussex County.
5. The property is in Investment Level Areas 4 on the 2020 State Strategies Map.
6. The property is designated as within the Coastal Area on Sussex Counties 2045 future land use map in the latest comprehensive plan.
7. The property was previously operated as a Restaurant & Hotel.

### B. Land Utilization

1. The total acreage of the site is 0.84 acres of land.
2. The project proposed will consist of 10 condo units within 1 building.

### C. Environmental

1. The property contains frontage along the Indian River Bay. A bulkhead is the property line border for the site.
2. State(Tidal) and Federal(Non-Tidal) wetlands do not exist on the property
3. The proposed project is located within an Excellent Groundwater Recharge Area.
4. The proposed project is not within a Wellhead Protection Area.
5. The property is impacted by the 100 year floodplain, Zone AE (Elev. 8') & Zone VE(Elev. 10') as determined by FEMA Map 10005C0481K (Dated March 16, 2015).



#### D. Traffic

1. The existing roadway is not a DelDOT street but is being used by the public as a connection of Oak Orchard Avenue..
2. DelDOT has determined that the project will generate less than 50 vehicle trips in any hour and fewer that 500 trips a day. A Traffic Impact Study is not warranted.

#### E. Civil Engineering

1. The street will be privately maintained and will meet or exceed the requirements of the Code of Sussex County.
2. The grading of the site will meet or exceed the requirements of the Code of Sussex County.
3. Drinking and fire protection water will be provided by Tidewater Utilities, Inc.
4. Wastewater will be provided by Susses County(Oak Orchard Sanitary Sewer District).
5. The stormwater management system will meet all State, County, and Conservation District requirements through a combination of Best Management Practices (BMP) and Best Available Technologies (BAT).
6. Fire protection will be provided by the Indian River Fire Department.
7. Electricity will be provided by Delmarva Power & Light.
8. The parcel is located in the Indian River School District.

#### F. Previous Applications

1. This parcel was approved for a conditional use as a Marina by Ordinance #935 and file as Conditional Use #1088 in 1994. (See Tab E)
2. This parcel was approved for a conditional use as a Marina with Restaurant, Retail & Multi-Family by Ordinance #1863 on June 8, 2010. (See Tab F)
3. The marina updated their Operation and Maintenance Plan in 2009 as approved by DNREC as part of the Delaware Clean Marina Program. (See Tab G)

**B**



Oak Orchard  
Data Sheet

**Owner/Developer:** Walton Commercial Properties, LLC.  
**Engineer:** Davis, Bowen & Friedel, Inc.  
**Legal Services:** Fuqua, Willard, Stevens, & Schab, P.A.

**Project Description**

Physical Location: Property is located on the south side of Oak Orchard Road, approximately 150 feet southeast of Delaware Avenue.

Tax Parcel #: 234-35.09-6.00

Acreage: 0.84 +/- Acres

Proposed Units: 10 Single Family Dwelling

Proposed Density: 11.9 Units/Acre

Current Zoning: MR-1 (Medium Residential)

Proposed Zoning: MR-1(Medium Residential) – Conditional Use

Existing Land Use: Commercial/Marina

Proposed Land Use: Residential

County Future Land Use: Coastal Area

Existing Woodlands: None Exist

Parking Required: 2 spaces/unit = 20 Spaces

Parking Provided: 25 Spaces

Wetlands: Wetlands do not exist on site.

Flood Plain: Impacted by the 100 year flood, Zone AE(Elev.8') & Zone VE(Elev. 10') Map #10005C0481K (March 16, 2015)

Coastal Area: Project is within the Coastal Area

Source Water Protection: Project is not within a Wellhead Protection Area  
Project is within the "Excellent" Groundwater Recharge Areas

Water Provider: Tidewater Utilities, Inc.

Wastewater Provider: Sussex County - Oak Orchard Sanitary Sewer District

Electric Provide: Delmarva Power & Light

**MR- Bulk and Area Regulations:**

Minimum Lot Area: 10,000 SQFT.

Minimum Lot Width: 75 FT

Minimum Lot Depth: 100 FT

Front Yard Setback: 30 FT

Side Yard Setback: 10 FT

Corner Yard Setback: 15 FT

Rear Yard Setback: 10 FT

Maximum Building Height: 42 FT

C



## 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**

**Type of Conditional Use Requested:**

**Tax Map #:**

**Size of Parcel(s):**

**Current Zoning:**

**Proposed Zoning:**

**Size of Building:**

**Land Use Classification:**

**Water Provider:**

**Sewer Provider:**

**Applicant Information**

Applicant Name:

Applicant Address:

City:

State:

ZipCode:

Phone #:

E-mail:

**Owner Information**

Owner Name:

Owner Address:

City:

State:

Zip Code:

Phone #:

E-mail:

**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

- 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:

### 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: \_\_\_\_\_

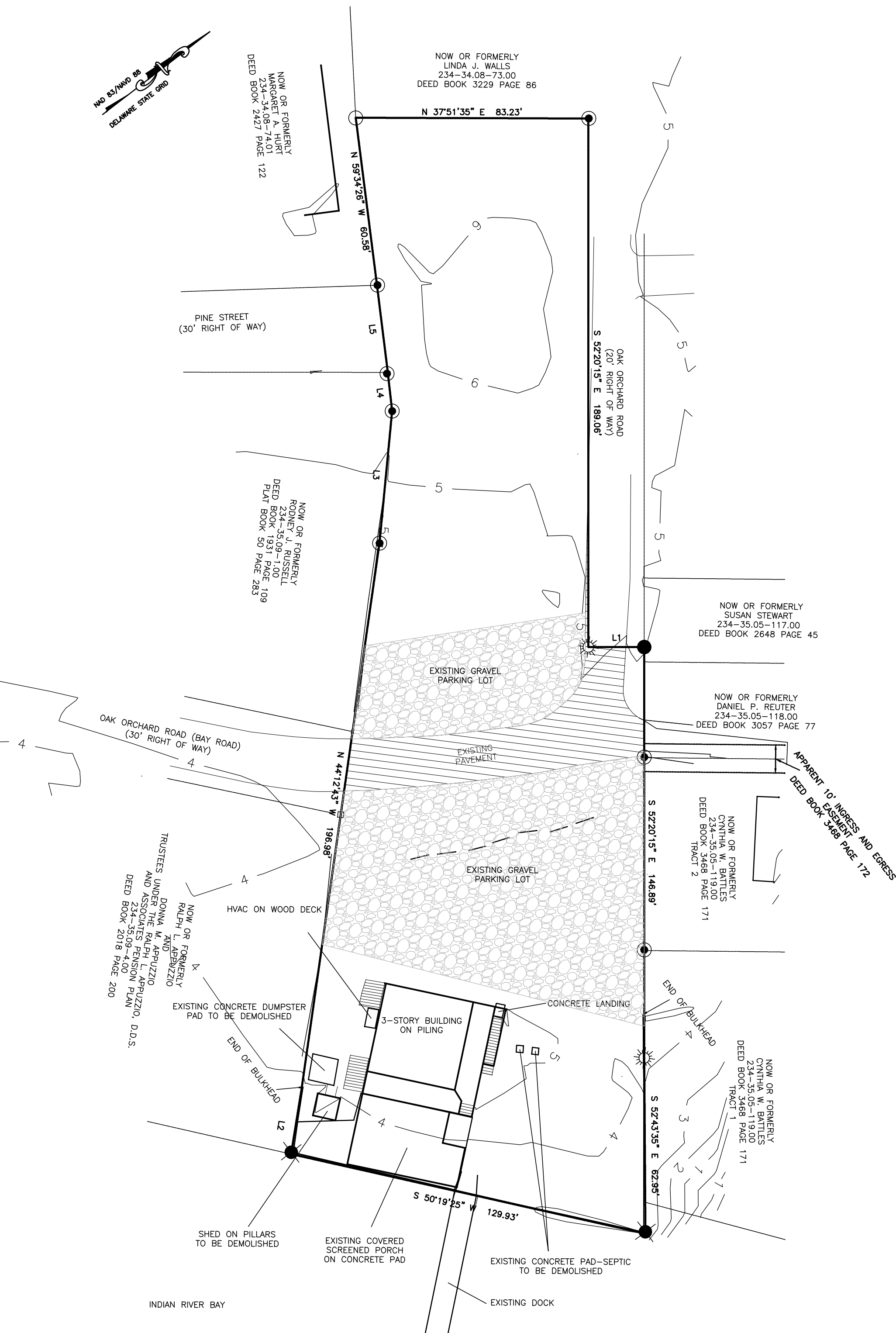
Decision of CC: \_\_\_\_\_



D



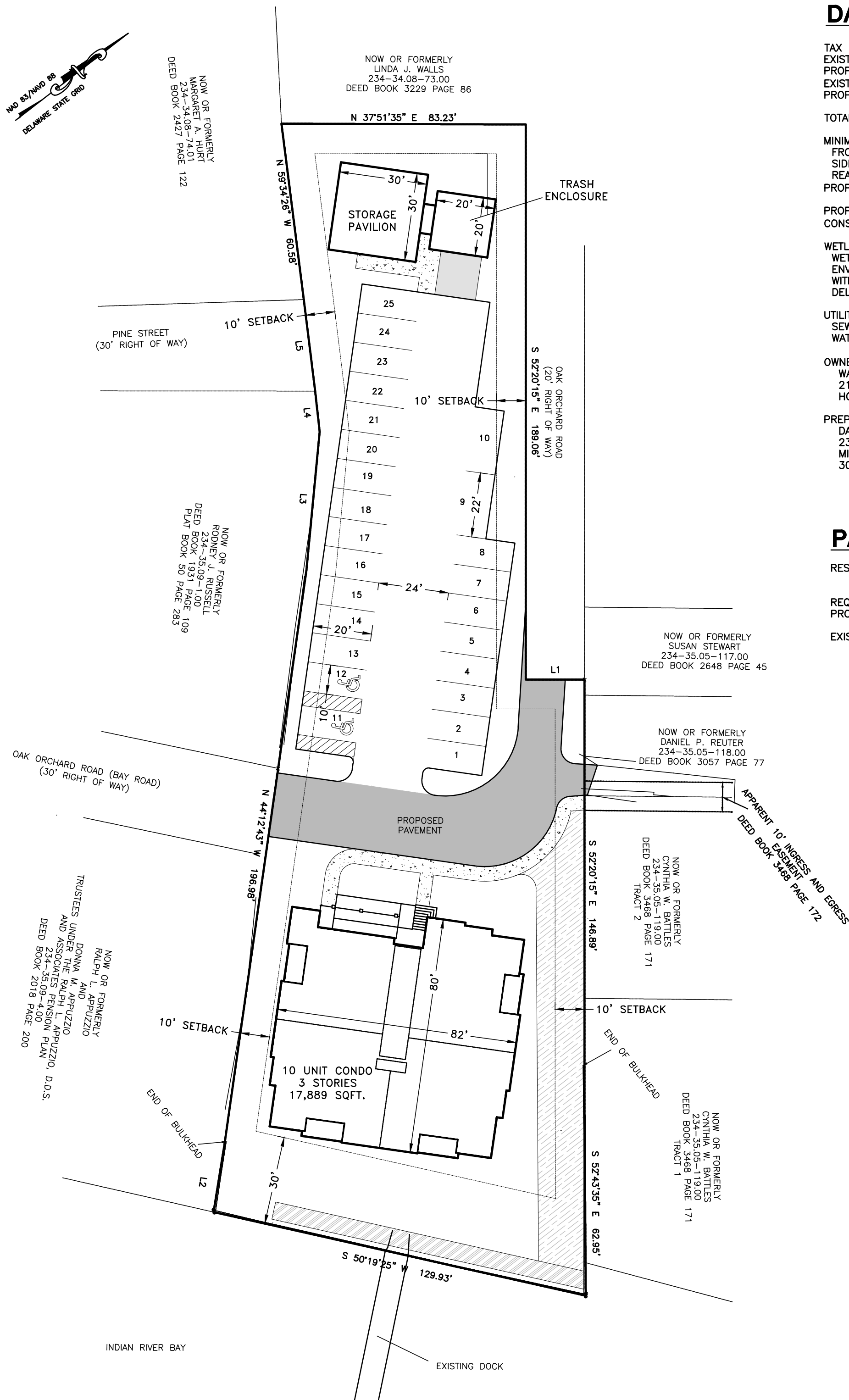
## EXISTING



### GENERAL NOTES:

- 1) ALL FIRELANES, EXITS, STANDPIPE AND SPRINKLER CONNECTIONS WILL BE MARKED IN ACCORDANCE WITH STATE FIRE PREVENTION REGULATIONS. BUILDING CONSTRUCTION TO BE MASONRY AND WOOD. THE PAVING RADIUS FOR ALL CUL-DE-SACS IS 38'.
- 2) THE SUSSEX CONSERVATION DISTRICT RESERVES THE RIGHT TO ADD, MODIFY OR DELETE ANY EROSION AND SEDIMENT CONTROL MEASURES AS THEY DEEM NECESSARY.
- 3) THE SUSSEX CONSERVATION DISTRICT RESERVES THE RIGHT TO ENTER PRIVATE PROPERTY FOR PURPOSES OF PERIODIC SITE INSPECTION.
- 4) ALL MATERIALS AND WORKMANSHIP SHALL BE CONSTRUCTED IN ACCORDANCE WITH DELDOT STANDARDS, SPECIFICATIONS, AND SUSSEX COUNTY ORDINANCE 38.
- 5) ALL DISTURBED AREAS WITHIN THE STATE RIGHT-OF-WAY, BUT NOT IN PAVEMENT, SHALL BE TOPSOILED (6" MINIMUM), FERTILIZED AND SEEDED.
- 6) A 72 HOUR (MINIMUM) NOTICE SHALL BE GIVEN TO THE DISTRICT PERMIT SUPERVISOR PRIOR TO STARTING ENTRANCE CONSTRUCTION.
- 7) MISS UTILITY SHALL BE NOTIFIED THREE (3) CONSECUTIVE WORKING DAYS PRIOR TO EXCAVATION.
- 8) ALL SIGNING FOR MAINTENANCE OF TRAFFIC IS THE CONTRACTORS RESPONSIBILITY AND SHALL FOLLOW THE GUIDELINES SHOWN IN "DELAWARE 2000 TRAFFIC CONTROLS FOR STREETS AND HIGHWAY CONSTRUCTION, MAINTENANCE, UTILITY AND EMERGENCY OPERATIONS." (LATEST EDITION FEB. 1, 2000)
- 9) DESIGN, FABRICATION, AND INSTALLATION OF ALL PERMANENT SIGNING SHALL BE AS OUTLINED IN THE "GUIDE FOR FABRICATION AND INSTALLATION OF TRAFFIC CONTROL DEVICES."
- 10) THIS PROPERTY IS LOCATED IN THE VICINITY OF LAND USED PRIMARILY FOR AGRICULTURAL PURPOSES. IT CAN BE ANTICIPATED THAT SUCH AGRICULTURAL USES AND ACTIVITIES MAY NOW OR IN THE FUTURE INVOLVE NOISE, DUST, MANURE AND OTHER ODORS, THE USE OF AGRICULTURAL CHEMICALS, AND NIGHTTIME FARMING OPERATIONS.
- 11) TOPOGRAPHIC SURVEY PERFORMED JUNE 2008, BY DAVIS, BOWEN, & FRIEDEL, INC. VERTICAL DATUM IS NAVD 88.

## PROPOSED



### DATA COLUMN

TAX MAP NUMBER: 234-35.09-6.00  
 EXISTING ZONING: MR WITH CONDITIONAL USE  
 PROPOSED ZONING: MR WITH CONDITIONAL USE  
 EXISTING USE: COMMERCIAL/MARINA  
 PROPOSED USE: RESIDENTIAL

TOTAL CONDITIONAL USE SITE AREA: 0.84 ACRES

MINIMUM ZONING REQUIREMENTS:  
 FRONT YARD SETBACK: 30 FT.  
 SIDE YARD SETBACK: 10 FT.  
 REAR YARD SETBACK: 10 FT.  
 PROPOSED BUILDING HEIGHT: 42' MAXIMUM

PROPOSED BUILDING CONSTRUCTION: WOOD/CONCRETE BLOCK

WETLANDS: WETLANDS DO NOT EXIST ON SITE.  
 WETLANDS EVALUATION WAS PERFORMED BY ENVIRONMENTAL RESOURCES, INC. IN ACCORDANCE WITH THE 1987 CORPS OF ENGINEERS WETLANDS DELINEATION MANUAL AND ASSOCIATED GUIDANCE.

UTILITIES:  
 SEWER-OAK ORCHARD SANITARY SEWER DISTRICT  
 WATER-PUBLIC WATER SUPPLY

OWNERS/DEVELOPER:  
 WALTON COMMERCIAL PROPERTIES, LLC.  
 2138 GRAVES ROAD  
 HOCKESSIN, DE 19707

PREPARED BY:  
 DAVIS, BOWEN, & FRIEDEL, INC.  
 23 NORTH WALNUT STREET  
 MILFORD, DE 19963  
 302-424-1441

### PARKING RATIONALE

RESIDENTIAL: 2 SPACES / UNIT  
 10 UNITS x 2 = 20 SPACES

REQUIRED SPACES: 20  
 PROPOSED SPACES: 25

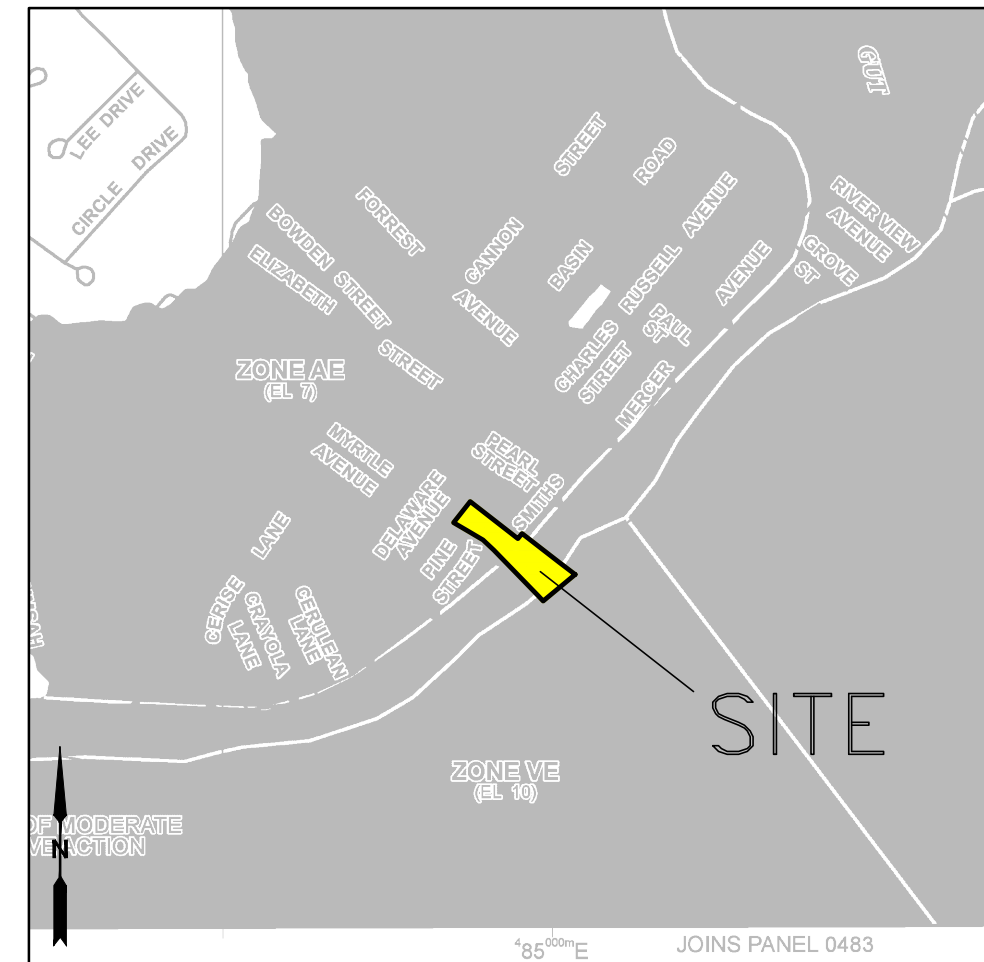
EXISTING BOAT SLIPS: 10

### LEGEND

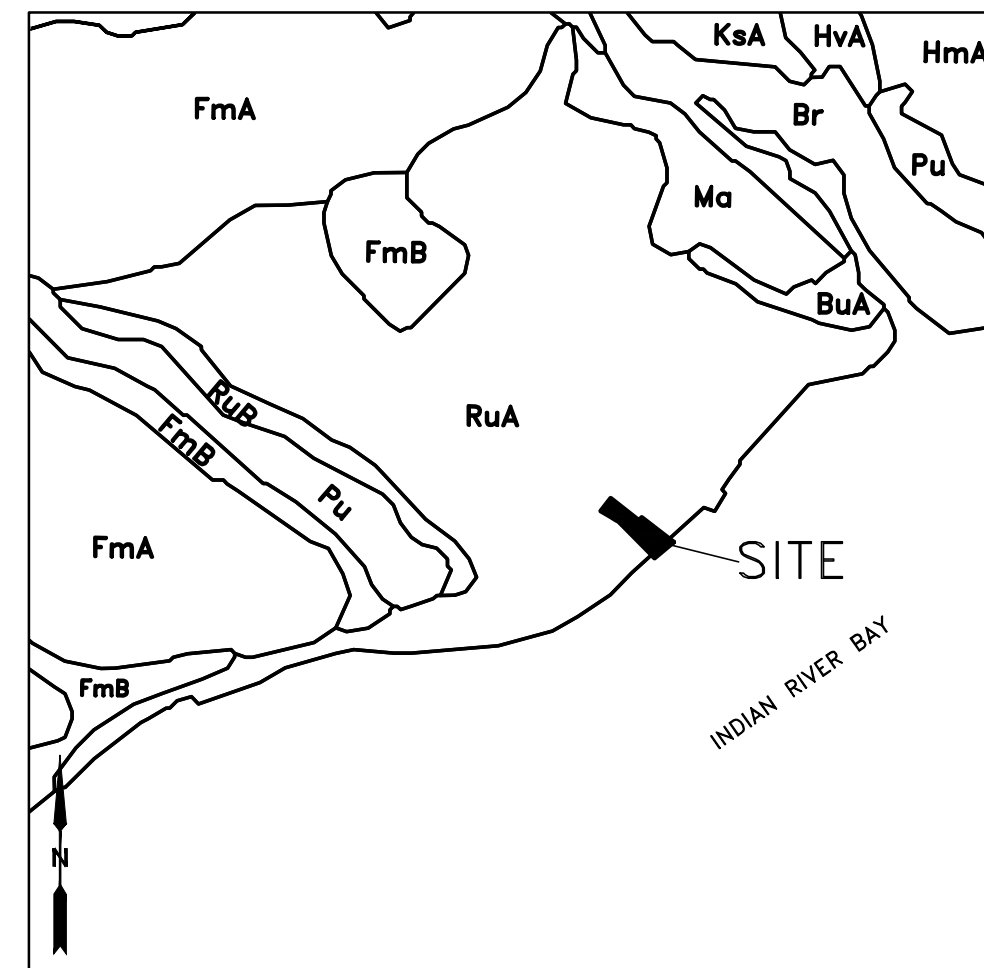
|     |                           |
|-----|---------------------------|
| --- | RIGHT OF WAY              |
| --- | PROPERTY LINE             |
| --- | BUILDING SETBACK LINE     |
| --- | EXISTING CONTOUR          |
| ●   | IRON ROD & CAP FOUND      |
| ●   | IRON PIPE FOUND           |
| □   | CONCRETE MONUMENT FOUND   |
| •   | IRON ROD & CAP TO BE SET  |
| ■   | DELDOT MONUMENT TO BE SET |
| ⊗   | GEAR SPIKE FOUND          |
| ⚡   | TIMBER SPIKE FOUND        |



LOCATION MAP 1" = 1000'  
 COPYRIGHT ACD THE MAP PEOPLE PERMITTED USE NO. 20609180



FEMA FLOODPLAIN MAP 1" = 600'  
 MAP 10005C0481KJ MARCH 16, 2015



|     |  |
|-----|--|
| FmA | FORT MOTT LOAMY SAND, 0-2% SLOPES                    |
| FmB | FORT MOTT LOAMY SAND, 2-5% SLOPES                    |
| Pu  | PURNELL PEAT, VERY FREQUENTLY FLOODED, TIDAL         |
| RuA | RUNCLINT LOAMY SAND, 0-2% SLOPES                     |
| RuB | RUNCLINT LOAMY SAND, 2-5% SLOPES                     |
| KsA | KLEJ LOAMY SAND, 0-2% SLOPES                         |
| Ma  | MANAHAWKIN MUCK, FREQUENTLY FLOODED, 0-2% SLOPES     |
| BuA | BROCKATONORTON-URBAN LAND COMPLEX, 0-2% SLOPES       |
| Br  | BROADKILL MUCKY PEAT, VERY FREQUENTLY FLOODED, TIDAL |
| HVA | HURLOCK SANDY LOAM, 0-2% SLOPES                      |
| HmA | HAMMONTON LOAMY SAND, 0-2% SLOPES                    |

### EXISTING BOUNDARY LINE CHART

| LINE | BEARING       | DISTANCE |
|------|---------------|----------|
| L1   | N 37°39'45" E | 20.00'   |
| L2   | N 43°13'18" W | 23.79'   |
| L3   | N 46°52'18" W | 47.50'   |
| L4   | N 58°41'58" W | 13.90'   |
| L5   | N 59°24'42" W | 31.26'   |

DAVIS, BOWEN & FRIEDEL, INC.  
 ARCHITECTS, ENGINEERS & SURVEYORS



Conditional Use Plan

**E. ANDREW & CAROL WALTON**  
**INDIAN RIVER HUNDRED**  
**SUSSEX COUNTY, DELAWARE**

REVISED:  
 3-16-2010 PER OWNER

Date: AUGUST 2021  
 Scale: 1" = 30'  
 Dwn.By: JMJ  
 Proj.No.: 2039A002.C01  
 Dwg.No.:

1



E

①

## ORDINANCE NO. 935

WITH STIPULATIONS

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A MARINA WITH BOAT RENTAL, BOAT SLIP RENTAL, BAIT AND TACKLE SALES, SANDWICH SHOP, CRABPING PIER, OFFICE AND RESIDENCE, TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 36,628 SQUARE FEET (0.841 ACRES), MORE OR LESS

WHEREAS, on the 19th day of July, 1994, a conditional use application, denominated C/U #1088, was filed on behalf of Clyde Hull; and

WHEREAS, on the 25th day of August, 1994, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that C/U #1088 be approved; and

WHEREAS, on the 13th day of September, 1994, 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 C/U #1088 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 Indian River Hundred, Sussex County, Delaware, and lying on the western side of a twenty (20) foot private road,



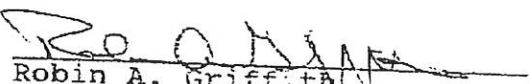
②  
BEGINNING at a point on the western side of a twenty (20) foot private road, 140 feet south of Delaware Street. thence south 42°18'40" east 189.06 feet to a point, thence north 47°41'20" east 20.00 feet to a point, thence south 42°18'40" east 146.89 feet to a point, thence south 42°42'00" east 62.95 feet to a point, thence south 60°21'00" west 129.93 feet to a point, thence north 33°11'43" west 23.79 feet to a point, thence north 34°11'08" west 196.98 feet to a point, thence north 36°50'43" west 47.50 feet to a point, thence north 49°23'07" west 31.26 feet to a point, thence north 49°32'51" west 60.60 feet to a point, thence north 47°53'10" east 83.23 feet to said point of beginning as surveyed by Coast Survey, Inc., said parcel to contain 36,628 square feet (0.841 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 stipulations:

1. The maximum number of boats for rent shall be twenty.
2. No boat storage shall be permitted, except for boats belonging to the owner.
3. No boat motor repair shall be permitted.
4. No fuel sales shall be permitted.
5. The hours of operation shall be from 6:00 a.m. to 10:00 p.m. for use of the pier and boat rental.
6. There shall be no arcade.


I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 985 ADOPTED BY THE COUNTY COUNCIL OF SUSSEX COUNTY ON THE 13TH DAY OF SEPTEMBER, 1994.

  
Robin A. Griffith  
Clerk of the County Council

The findings of fact and recommendations of the planning and zoning

ON THE 15TH DAY OF SEPTEMBER, 1997.

(3)

  
Robin A. Griffith  
Clerk of the County Council

The findings of fact and recommendations of the Planning and Zoning Commission were incorporated into the record and into the findings of fact of the County Council. The County Council found that the proposed conditional use was appropriate legislative action and promoted the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County. The County Council found that the proposed conditional use was of a public or semi-public character and was essential and desirable for the general convenience and welfare.



F



June 9, 2010

Andrew and Carol Walton  
2138 Graves Road  
Hockessin, DE 19707

RE: Conditional Use #1863  
Marina with Restaurant, Retail and Multi-Family Dwelling Structures



Dear Mr. and Mrs. Walton,

This is to inform you that on June 8, 2010 the Sussex County Council approved the above referenced Conditional Use application with 14 conditions. This approval is valid for a three-year period. The approved use needs to be substantially underway within three years or the application is void.

The conditions of this approval are:

1. This Conditional Use shall replace Conditional Use #1088 for the property.
2. There shall be no more than 10 boat slips permitted, and all boat slips, dock, pier and marina activities shall be subject to all State and Federal requirements that may be applicable to the use.
3. All entrance, intersection and roadway improvements required by DelDOT shall be completed by the Applicant in accordance with DelDOT's determination.
4. No boat storage shall be permitted, except for boats belonging to the owner of the property.
5. No boat motor repair shall be permitted.
6. No fuel sales will be permitted.
7. There shall not be an arcade.
8. There shall be no more than 5 residential units on the property.
9. There shall be parking as required by the Zoning Code. The spaces shall be delineated on the site, and there shall be landscaping or a fence between the parking area and Oak Orchard Road to separate the parking area from the roadway.
10. The property shall be connected to the Oak Orchard Sanitary Sewer District and shall comply with all Sussex County Engineering Department requirements for the connection or system upgrades required to serve the property.
11. Storm water management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements, using Best Management Practices.
12. Security lighting shall be screened from neighboring properties and roadways.



June 9, 2010

Page 2

13. All dumpsters or trash receptacles shall be screened from view.
14. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

The final site plan shall be prepared by a Delaware Licensed Surveyor or Professional Engineer and shall contain the conditions of approval shown and depicted on it. Building permits will not be issued until the site plan has been approved by the Planning and Zoning Commission and upon receipt of all agency approvals. The following approvals are required for this project: DelDOT, Office of the State Fire Marshal, Sussex Conservation District and Sussex County Engineering Department.

An approved Ordinance will be sent to you in the near future from the Clerk of the County Council.

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

Sincerely,



Shane Abbott  
Assistant Director

cc: W. Zachary Crouch, P.E., Davis, Bowen & Friedel, Inc.

G



Oak Orchard Marina  
32678 Oak Orchard Road  
Millsboro, Delaware 19966

## Marina Operations and Maintenance Plan

Contact Name Andrew and Carol Walton  
Contact Position Owners

Waterbody Indian River Bay

### 1. Introduction

The Marina is located approximately 400 feet east of the intersection of Oak Orchard Road (SR-5) and Oak Orchard Road. The Marina consists of a Restaurant, Apartment above the Restaurant, 2 Outbuildings and a pier. The pier consists of 6 mooring dolphin clusters (with 3 pilings each) and 6 docks which permits 10 slips. In addition, there are 7 mooring dolphins consisting of a single piling for other boats to dock. The purpose of the Marina is for guests to dock their boats while visiting the Restaurant.

The Owners acquired the property in February 2008 and are updating the Marina Operations and Maintenance Plan that was last updated in 2000.

### 2. Marina Design

Include a scaled plan of the marina. The plan must clearly identify the following features (if applicable):

|                       |  |
|-----------------------|--|
| Property Boundaries   | Docking Structures (piers, docks, slips)   |
| Boat Ramps            | Parking Areas                              |
| Maintenance Buildings | Fueling Stations and Storage Tanks         |
| Sanitation Facilities | Vessel Storage Areas                       |
| Fire Extinguishers    | Spill Materials (sorbent pads, booms, etc) |
| Life Rings/Preservers | Other Buildings                            |

Total Number of Wet Slips 10  
Size and Number of Each Size All slips are the same size and are approximately 14' x 25'.

Total Number of Dry Stack Slips N/A  
Size and Number of Each Size N/A

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Tidal Range 0' to 3'

Water Depth Range

There is a minimum depth of 4' across the entire marina.

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### **Seasonal Wet Storage**

The lease term is from April 5 to October 31.

As per marina slips lease agreements/rental contracts, winter season wet storage is not permitted.

Tenants that have not removed their vessel(s) by the fall removal date will pay a fine of \$10.00 per day until the vessel(s) is/are removed.

Abandoned vessels will be removed at the expense of the owner.

### **3. Stormwater Management**

- Parking areas are covered by an initial layer of crushed rock/stone.
- There are no solvents, paints, or fuels stored at this facility.
- There is to be no maintenance activity to be conducted at this facility.
- This is a carry in carry out facility.
- There are no fueling facilities at the marina.
- Damage to the dock or pier from any tenant or visitor of that tenant will be responsible for the repair.

### **4. Vessel Maintenance**

There are no facilities for vessel repairs and maintenance at the Oak Orchard Marina. It is understood that some maintenance and repairs on vessels will be required on a routine basis. It is the responsibility of the owner of each vessel to provide safe,



acceptable means of storage and handling of all materials in order to prevent any leakage or spillage into the water. No fuel transfers are allowed in the marina. Fuel or auxiliary craft with outboard engines may be transferred to vessels in Coast Guard – approved OEM 6 gallon outboard motor fuel tanks. All oil and other lubricants shall be handled in such a manner as to prevent spillage. Any spillage within vessels must be removed using absorbent pads and disposed of legally. No discharge of bilge water containing hydrocarbons is allowed. Paints, epoxies and solvents shall be stored and handled to prevent leakage or spillage. No exterior painting or scraping of the sides or bottom of the vessels will be allowed in the marina. Any topside or exterior painting or scraping shall be done in a manner so that all materials can be collected and disposed of properly. Only biodegradable cleaning materials shall be used to clean any exterior portion of the vessels. Any corrosive cleaners, pesticides or other materials used on vessels shall be handled in such a way as to prevent spillage or leakage into the water.

No maintenance or repair materials will be stored at the site or used by marina personnel. None of the materials used in the construction of the marina require painting or lubricating.

## **5. Petroleum Control**

There is to be no fueling at the Oak Orchard Marina facility. All fueling shall be conducted off-site.

### **Fuel Spill Plan**

Absorbent booms and other spill containment materials are not located on this site. It is up to each boat owner to provide their own material in the event of a leak, breakage or spill. Kits may be purchased at one of the Out Buildings.

## **6. Sewage Handling**

There are no provisions for Lesees, Renters or Visitors to empty Port a Johns or to dump there sanitary waste. Sewage pump out is available at the Indian River Marina located on the north side of the Indian River Inlet which is approximately 5.5 miles east of the Oak Orchard Marina.

Discharge of sewage in any form is illegal in the Oak Orchard Marina.

Discharge of untreated or inadequately treated sewage is illegal in Delaware coastal waters within three (3) miles of shore.

### **Marine Sanitation Devices \***

The Federal Clean Water Act requires that any vessel with a toilet installed to be equipped with a certified Type I, Type II, or Type III marine sanitation device (MSD):

- Type I systems mechanically cut solids, disinfect the waste with a chemical additive or with chlorine disassociated from saltwater with an electronic jolt, and discharge the treated sewage overboard. The fecal coliform bacteria count of the effluent may be no greater than 1,000 per 100 milliliters and may not contain any floating solids.
- Type II systems are similar to Type I except that a Type II treat the sewage to a higher standard; effluent fecal coli form bacteria levels may not exceed 200 per 100 milliliters and total suspended solids may not be greater than 150 milligram per liter. Type II also require more space and have greater energy requirements.
- Type III systems do not allow sewage to be discharged. The most common form of a Type III system is a holding tank. Other forms include recirculation and incinerating systems.

Vessels 65 feet and under may have any of the three types of MSD's. Vessels over 65 feet must have a Type II or III system. Additionally, Type I and Type II systems must display a certification label affixed by the manufacturer. A certification label is not required on Type III systems. Per Federal regulation (USCG), vessels with Type III MSD with routes outside the three (3) miles may install a Y-valve to allow pumping overboard when beyond three (3) from shore. Whenever the vessel is inside the three (3) mile limit, the valve **MUST BE LOCKED** in the **CLOSED POSITION**, preventing discharge over the side. Operators on routes greater than three (3) miles from shore shall install a placard at the Y-valve that states; "THIS VALVE IS TO REMAIN LOCKED IN CLOSED POSITION WHEN WITHIN THREE (3) MILES OF THE MAINLAND SHORE."

MSD requirements do not apply to vessels with portable toilets. Portable toilets should be properly emptied on shore. **Remember it is illegal to discharge raw sewage into any state waterway.**

- Adopted from Delaware Clean Marina Guidebook

## 7. Waste Containment

### **Storage of Materials and Wastes**

There are no materials stored at the marina facility. It is strictly a docking structure and accompanying restaurant facility which is leased by a different enterprise.

### **Marina Tenants**

All refuse must be secured in plastic bags and carried off-site. This is a carry-in carry-out marina. Marina tenants are prohibited from practicing self-service activities in the yard.

### **Waste Disposal**

This is a carry in carry out marina. The Waste Disposal bins are for use by the Owner and Businesses of the marina and not for Patron Use.



Fish Waste:

Fish Cleaning is permitted on the dock and piers. The cleaning is to be in compliance with the Fish Waste Policy attached to the Oak Orchard Marina Rules and Regulations.

Trash:

This is a carry in carry out Marina. The trash service is only for the Owners and Businesses that are operating on the Marina and not for Patron Use.

## 8. Emergency Procedure/Contacts

### Emergency Contacts

Marina Staff:

Name Andy Walton Phone (302) 235-5955  
Phone (302) 545-0505

Name Carol Walton Phone (302) 235-5955  
Phone \_\_\_\_\_

Name \_\_\_\_\_ Phone \_\_\_\_\_  
Phone \_\_\_\_\_

In the event of any emergency, marina personnel have the authority to board vessels and or take any preventative or remedial action necessary A) in the case of imminent or ongoing pollutant discharge, B) to secure a vessel or other property located at the marina in the event on severe weather, C) to protect a vessel or other property in fire-related emergency, and D) when any other emergency situation has been identified and staff must board a vessel to prevent damage or pollutant discharges.

#### a. **Fuel and Oil Spill Procedures**

- In the case of a fuel or oil spill, try to identify the type and the source of the spill. If possible stop the spill at the source to prevent any additional fuel or oil from spilling into the water or onto the ground.
- Contain spill using sorbent pads or booms.
- Contact a member of the marina personnel at the numbers listed above.
- Contact US Coast Guard National Response Center **1-800-424-8802**
- If necessary, contact DNREC Environmental Response Team **1-800-662-8802**
- Depending on size of spill, conduct cleanup yourself or have US Coast Guard or DNREC conduct cleanup activities.

The party responsible for the spill will be subject to clean up costs and any fines that may be applied by either the Coast Guard or DNREC. Any tenant who repeatedly causes fuel or oil spill may be subject to lease termination.

**b. Fire Procedures**

**1) CALL 911**

Advise them on location, type of fire, hazards, and any victims

**2) Call US Coast Guard 1-800-424-8802**

Advise them on location, type of fire, hazards, and any victims

**3) Call marina personnel at numbers listed above**

If cause of fire is found to be due to negligence on the part of a tenant by disregarding marina rules and regulations, the tenant will be subject to lease cancellation.

**c. Sewage Spill Procedure**

Overboard discharge is prohibited and violators will be subject to lease termination, fines incurred by DNREC and/or Coast Guard and any expense related to collection or cleanup of spill.

In the event of a sewage spill,

**1) Call DNREC 1-800-662-8802**

**2) Call the US Coast Guard National Response Center 1-800-424-8802**

**3) Shut off source of spill if possible**

**4) Deploy spill containment material**

**5) Clean-up spill and properly dispose of spill containment materials.**

**d. Severe Weather/Hurricane Procedures**

1) In the case of an approaching hurricane, a phone (e-mail) tree (distribution list) will be used to contact all tenants and inform them of impending severe weather. Whenever possible, the preferred practice is to have all vessels removed from water for storage inland or on higher ground.

2) Marina staff (Building Managers or their employees) will secure all outside equipment, materials, signage, trash cans, buildings, etc, that could sustain or cause damage during the storm

**e. Sinking Vessel Procedures**

If a vessel is seen to be taking on water:

**1) Contact Marina personnel**

**2) Other tenants will try to identify leak and stop source if possible while watching for fuel leaks**

**3) Deploy spill containment material if necessary**

**4) Turn on manual bilge if present**

**5) Contact owner of vessel**

In the event that a vessel sinks for any reason:

- The marina will not be held responsible for damage incurred to vessels through taking on water or sinking for any reason. All costs for damages to vessels or surrounding structures and salvage will be the responsibility of the vessel owner.

## Employee Training Coordinator: \_\_\_\_\_

[illegible]



## RECORD KEEPING OF INCIDENTAL SPILLS

Record Keeper: \_\_\_\_\_. Record Keeper responsibilities include maintaining records of incidents, updating the SPCC plan as necessary and ensuring reports are submitted to the proper authorities when necessary.

[illegible]

## Marina Rules and Regulations

A copy of these rules and regulations will be supplied to all tenants and transient boaters. Violating any of the rules set forth in this section will result in the terminations of the slip lease agreement (in the case of tenants), prohibition from using this facility in the future (in the case of transient boaters) and possible fines incurred from spills or spill clean-up costs.

- 1) Sewage: tenants are instructed that overboard discharge of untreated/under-treated sewage is not permitted and operable "Y" valves connected to holding tanks are not acceptable. Coast Guard regulations require the "Y" valves be secured in the holding tank position with a wire tie or other device.
- 2) Fuel or Oil Spill

### In the event of a spill or leak:

- In the case of a fuel or oil spill, try to identify the type and the source of the spill. If possible stop the spill at the source to prevent any additional fuel or oil from spilling into the water or onto the ground.
  - Contain spill using sorbent pads or boom.
  - Contact a member of the marina personnel at the numbers listed above.
  - Contact US Coast Guard National Response Center **1-800-424-8802**
  - If necessary, contact DNREC Environmental Response Team **1-800-662-8802**
  - Depending on size of spill, conduct cleanup yourself or have US Coast Guard or DNREC conduct cleanup activities.
- 3) Tenants must properly dispose of waste oil by transporting waste oil to the nearest recycling center, which is located at the Indian River Inlet.
  - 4) Pumping of oily bilge water is prohibited. Use of oil sorbent pads or material in the bilge is required.
  - 5) Open fires are not permitted in the marina. Use of gas or charcoal grills may be used with prior approval from marina personnel.

### In the event of a fire:

- **CALL 911**, advise them on location, type of fire, hazards, and any victims
  - **Call US Coast Guard 1-800-424-8802**  
advise them on location, type of fire, hazards, and any victims
  - Call marina personnel at numbers listed above
- 6) No swimming or diving in the Yard. No fishing or crabbing without expressed written permission by the Yard.
  - 7) All refuse must be secured in plastic bags and deposited off-site.

8) Vessel Maintenance

There is to be **no maintenance** performed at the Oak Orchard Marina facility, other than routine upkeep of the vessel.

- 9) Vessels will maintain a No Wake speed in the waters of the marina.
- 10) Loud noise, roughhousing, abusive language, intoxication, and general disturbances are prohibited. The volume from all sound equipment shall be at such a level so as not to disturb adjacent tenants.
- 11) Pets will not be permitted to disturb other tenants and shall be on leashes at all times. Owners shall be required to clean up after their pets.
- 12) Tenants shall use parking areas and spaces as designated.
- 13) No soliciting sale, charter, or other business activities will be placed on the vessel. No charter or other business activity shall be permitted in the Yard.
- 14) Interior and exterior halyards and lines and the like must be secured to eliminate slapping and noise.
- 15) No bathing suits, towels, or laundry may be hung outside of the vessel or at any location in the yard.
- 16) Children shall be accompanied by an adult at all times and should wear approved flotation/safety devices.
- 17) All spaces shall be kept neat and orderly, prompt notice shall be given to the Yard of any defects or breakage in any structure, equipment, or fixtures in the Yard.
- 18) Living aboard vessels at the marina is prohibited.

In the event of any emergency, marina personnel have the authority to board vessels and or take any preventative or remedial action necessary A) in the case of imminent or ongoing pollutant discharge, B) to secure a vessel or other property located at the marina in the event on severe weather, C) to protect a vessel or other property in fire-related emergency, and D) when any other emergency situation has been identified and staff must board a vessel to prevent damage or pollutant discharges. Emergency procedures will be posted on a board located at the end (landward side) of the pier.

- 19) In the case of impending severe weather or hurricane
  - a. In the case of an approaching hurricane, a phone (e-mail) tree (distribution list) will be used to contact all tenants and inform them of impending severe weather. Whenever possible, the preferred practice is to have all vessels removed from water for storage inland or on higher ground.

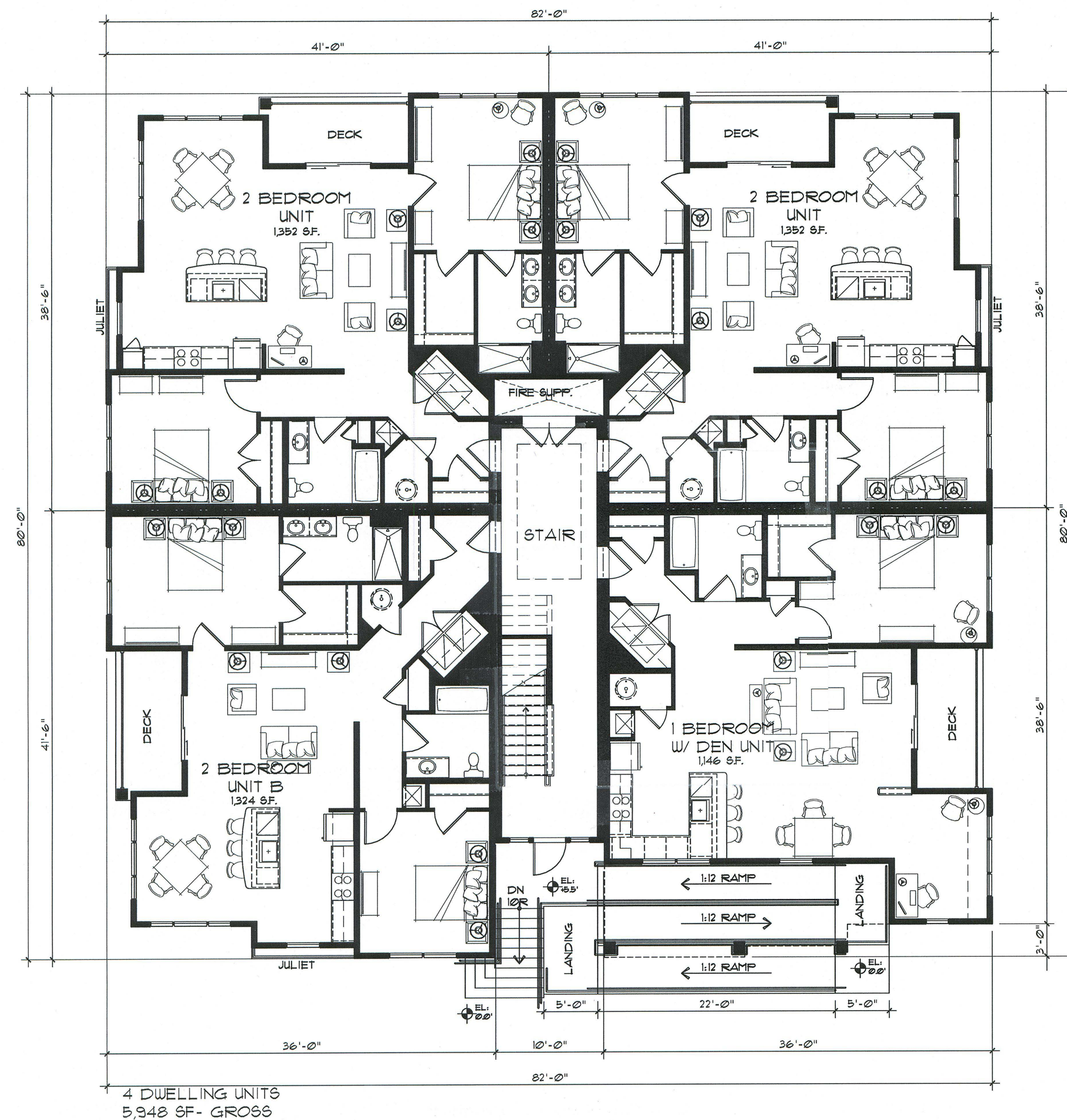


- b. Tenants are responsible for removing or securing their vessel(s). Any damage to a vessel resulting from a storm will be the responsibility of the vessel owner including payment of any fees or fines that may result from oil, fuel, or sewage spills from vessel and vessel damage.

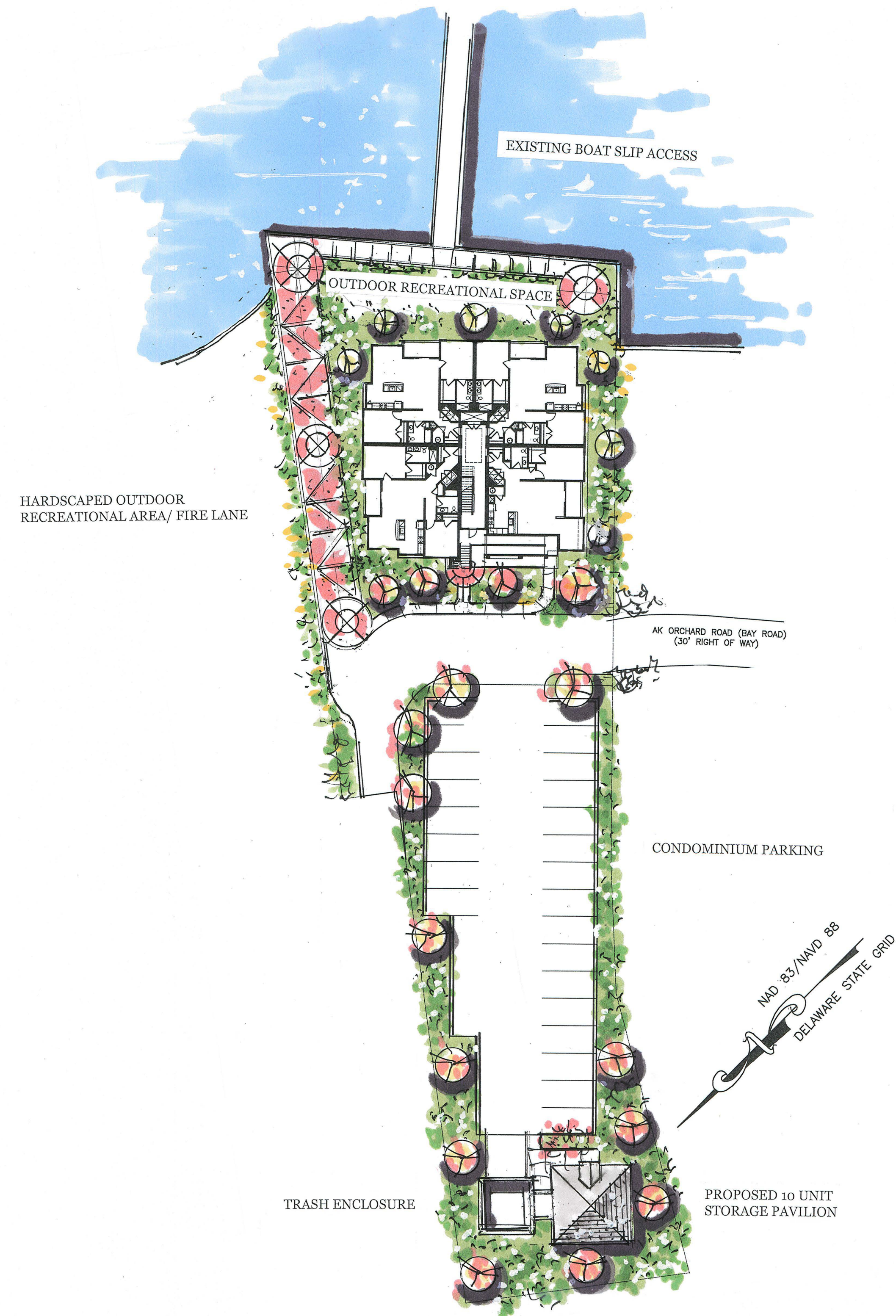
20) Marina Personnel will not be responsible for theft or damage to the vessels while docked at Oak Orchard Marina.

H





FIRST FLOOR PLAN  
SCALE: 1/8" = 1'-0"



SITE PLAN  
SCALE: 1" = 30'-0"

MAY 28, 2021

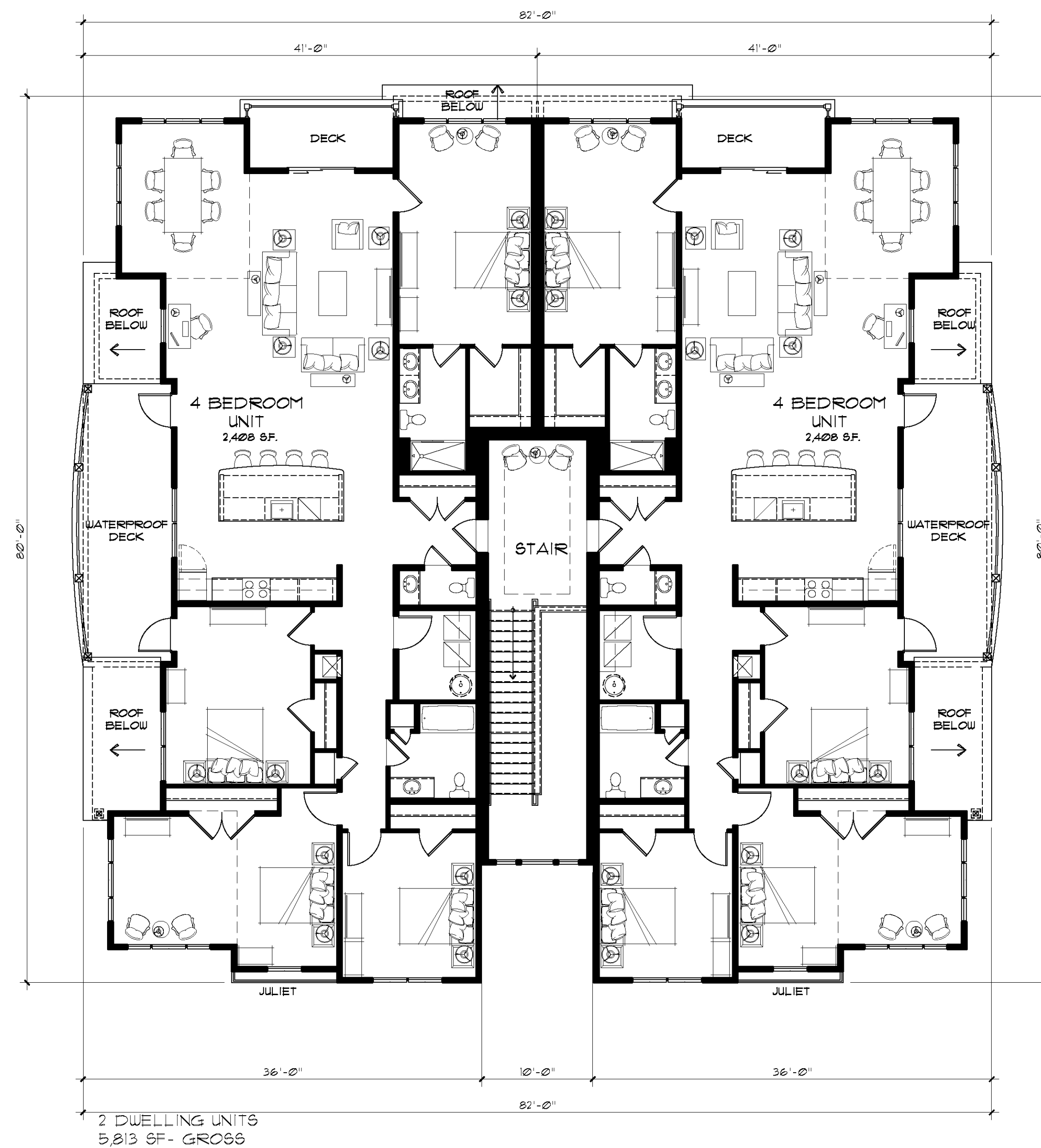
A1

OAK ORCHARD - 10 UNIT CONDOMINIUMS  
32792 OAK ORCHARD AVENUE  
MILLSBORO, DELAWARE  
LESSARD BUILDERS

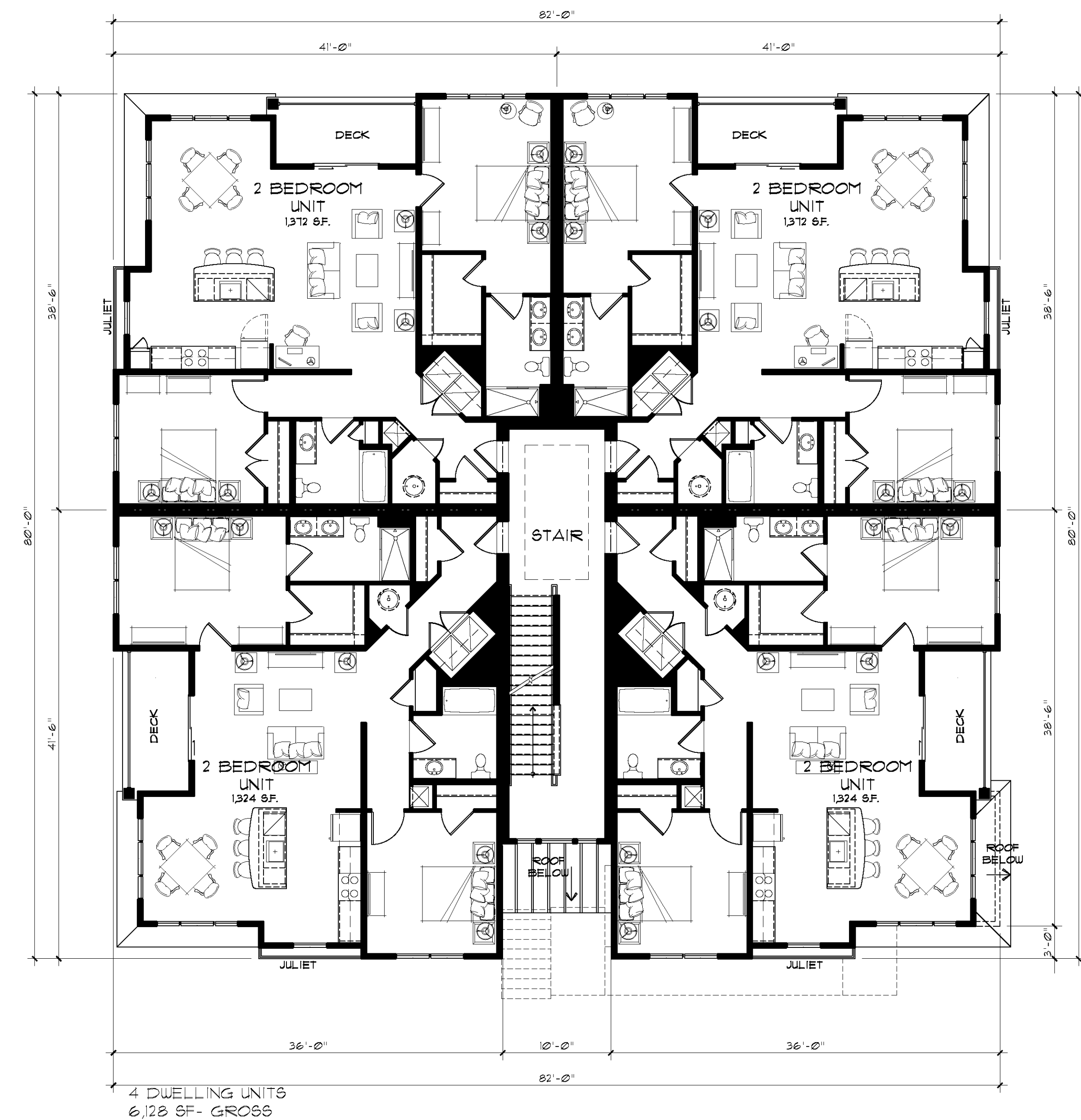
ALLIES  
ARCHITECTURE, INC.

285 SOUTH CHURCH STREET, SUITE 4, MOORESTOWN, NEW JERSEY 08057 (856) 244-7766  
© 2021 ALLIES ARCHITECTURE, INC.





THIRD FLOOR PLAN



SECOND FLOOR PLAN

SCALE: 1/8" = 1'-0"  
MAY 28, 2021

A2

# OAK ORCHARD - 10 UNIT CONDOMINIUMS

32792 OAK ORCHARD AVENUE

MILLSBORO, DELAWARE

LESSARD BUILDERS

**ALLIES**  
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285 SOUTH CHURCH STREET, SUITE 4, MOORESTOWN, NEW JERSEY 08057 (856) 244-7766

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BAY SIDE ELEVATION



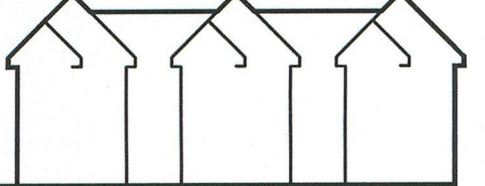
OAK ORCHARD AVENUE ELEVATION

SCALE: 1/8" = 1'-0"  
MAY 28, 2021

A3

## OAK ORCHARD - 10 UNIT CONDOMINIUMS

32792 OAK ORCHARD AVENUE  
MILLSBORO, DELAWARE  
LESSARD BUILDERS

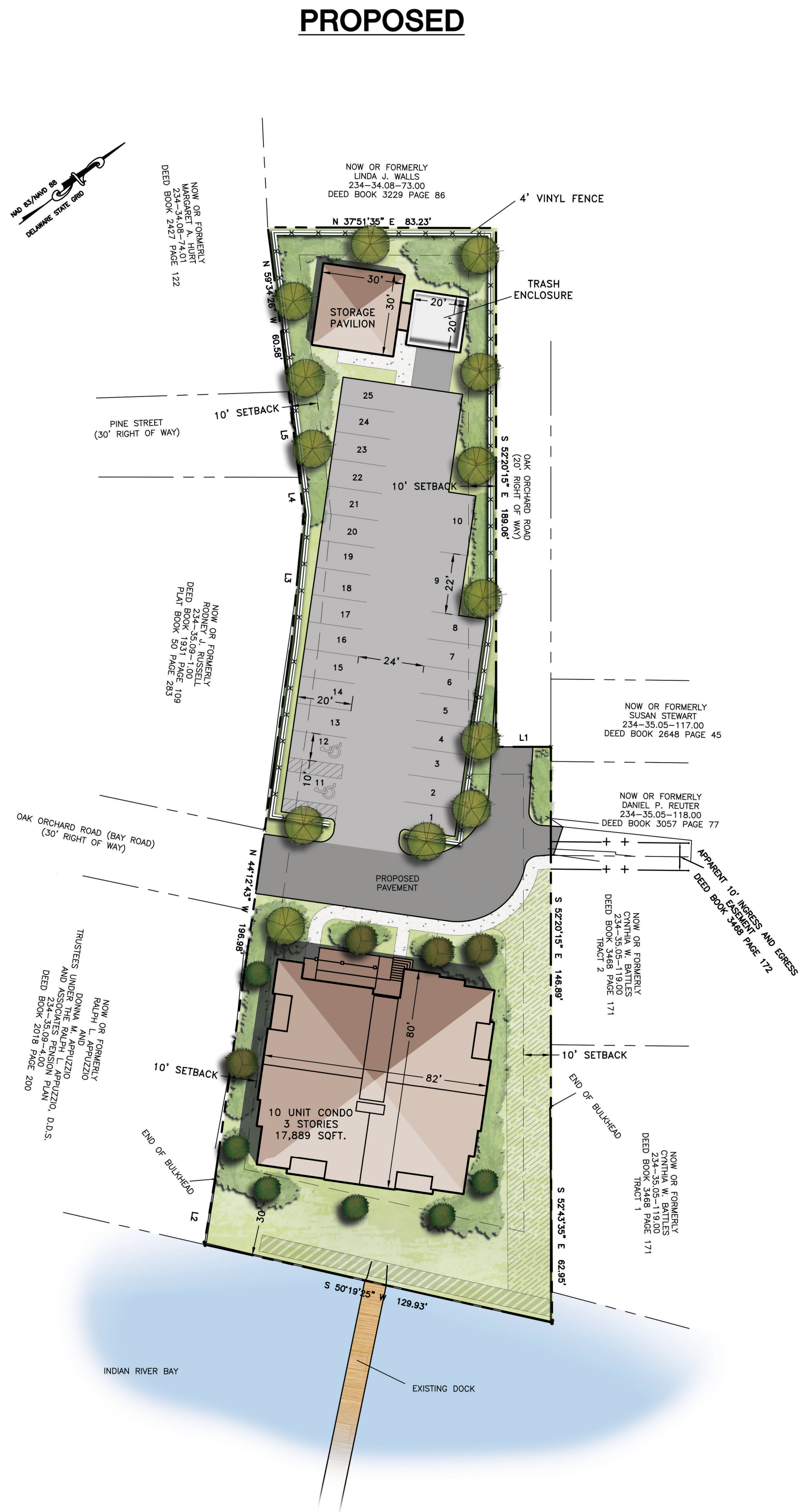
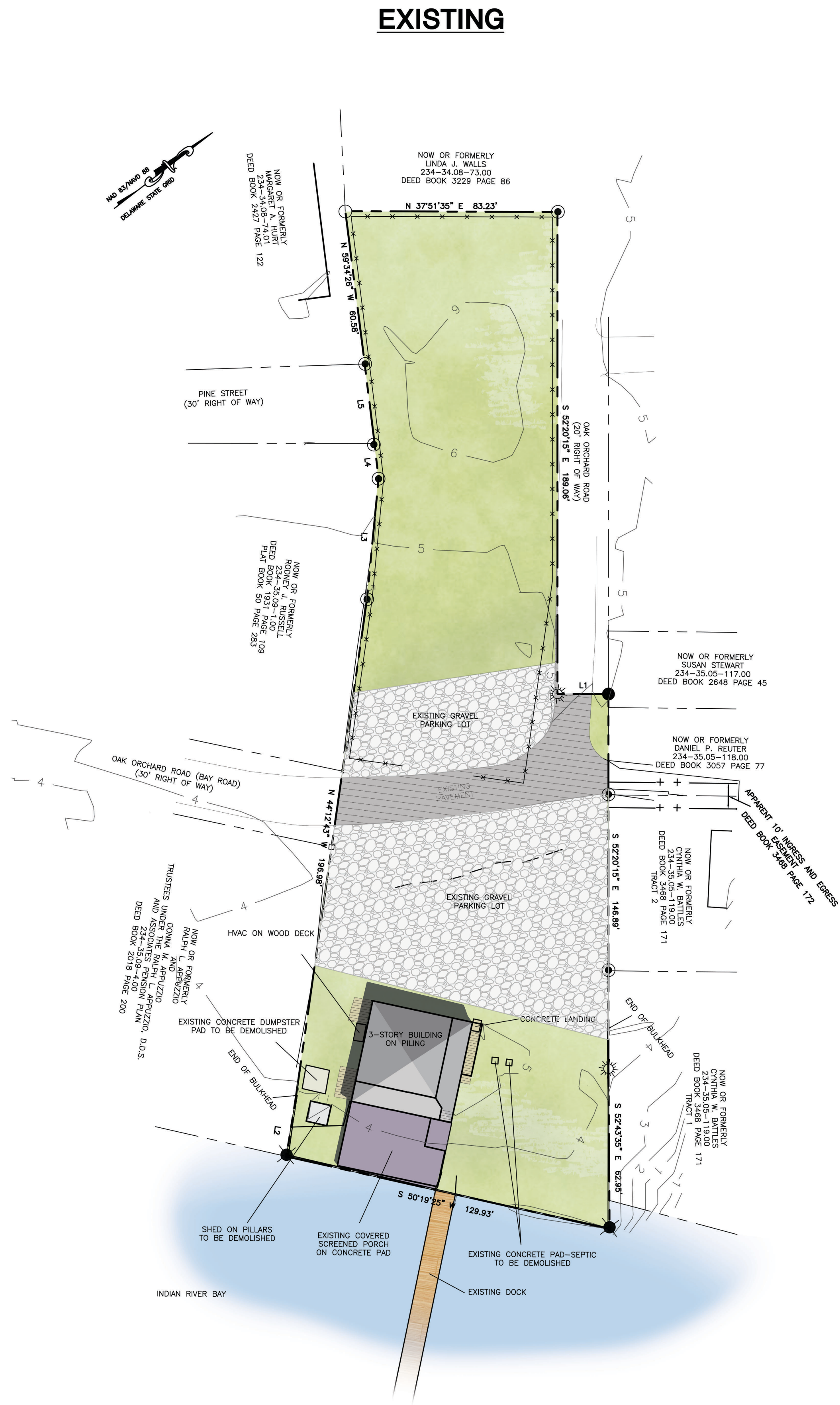
**ALLIES**   
**ARCHITECTURE, INC.**

285 SOUTH CHURCH STREET, SUITE 4, MOORESTOWN, NEW JERSEY 08057 (856) 244-7766  
© 2021 ALLIES ARCHITECTURE, INC.



1







J

06/11/2008







06/11/2008



06/11/2008





06/11/2008

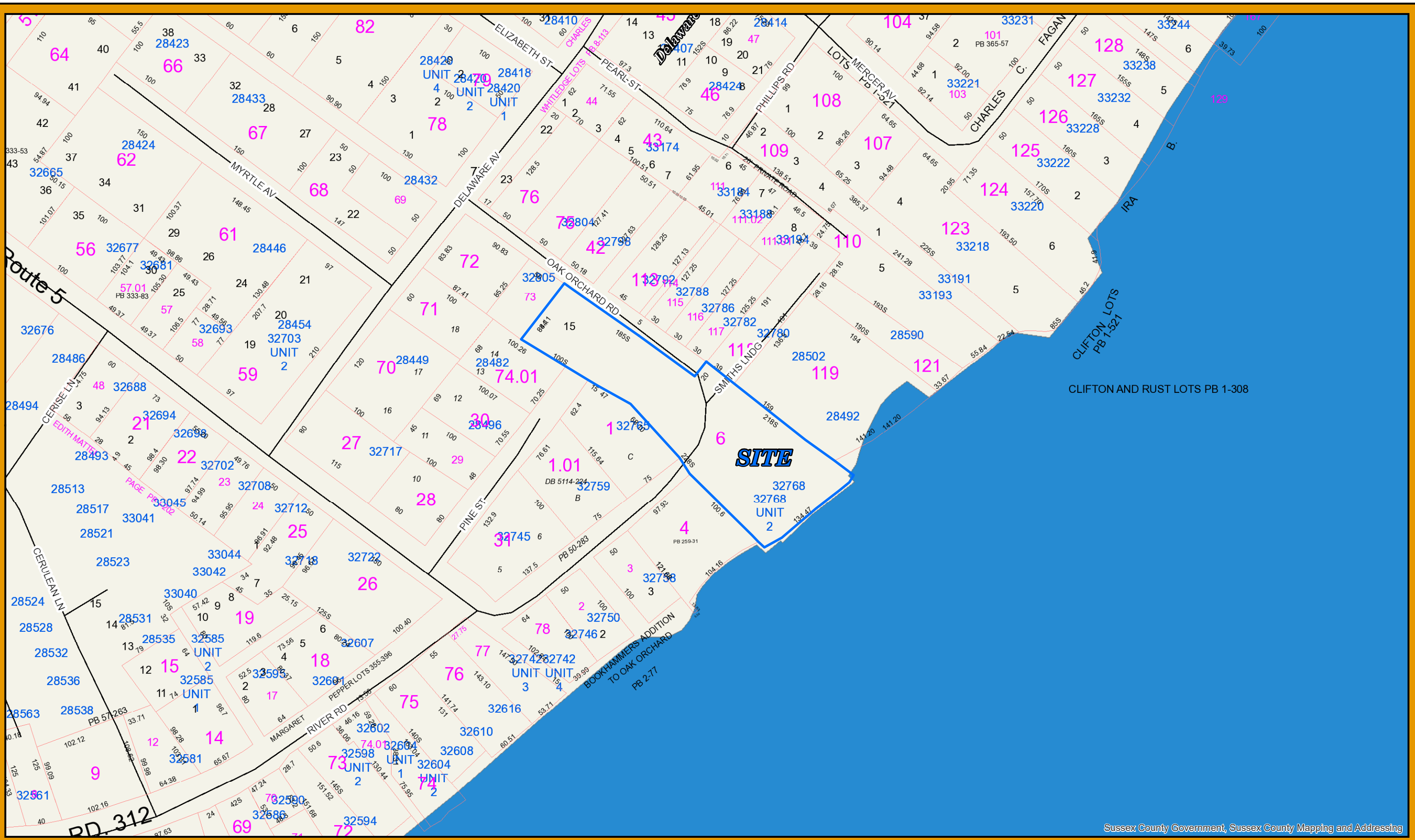
06/11/2008

PRIVATE PIER  
NO  
TRESPASSING  
NO  
CRABBERG  
NO  
FISHING  
NO  
SWIMMING

WATCH  
YOUR  
WAKE



# Exhibit 1







Summer 2021  
Aerial Photo

Sources:  
Tax Parcels per Sussex County



February 2023

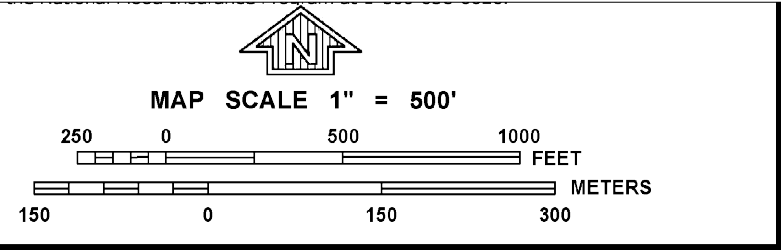
# Surrounding Communities Map

**Walton Property**  
Sussex County, Delaware

0 600 1,200  
Feet








**NFIP**  
**NATIONAL FLOOD INSURANCE PROGRAM**

**PANEL 0481K**

**FIRM**  
**FLOOD INSURANCE RATE MAP**  
**SUSSEX COUNTY, DELAWARE**  
**AND INCORPORATED AREAS**  
**PANEL 481 OF 660**  
(SEE MAP INDEX FOR FIRM PANEL LAYOUT)  
CONTAINS:  

| COMMUNITY     | NUMBER | PANEL | SUFFIX |
|---------------|--------|-------|--------|
| SUSSEX COUNTY | 100029 | 0481  | K      |

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

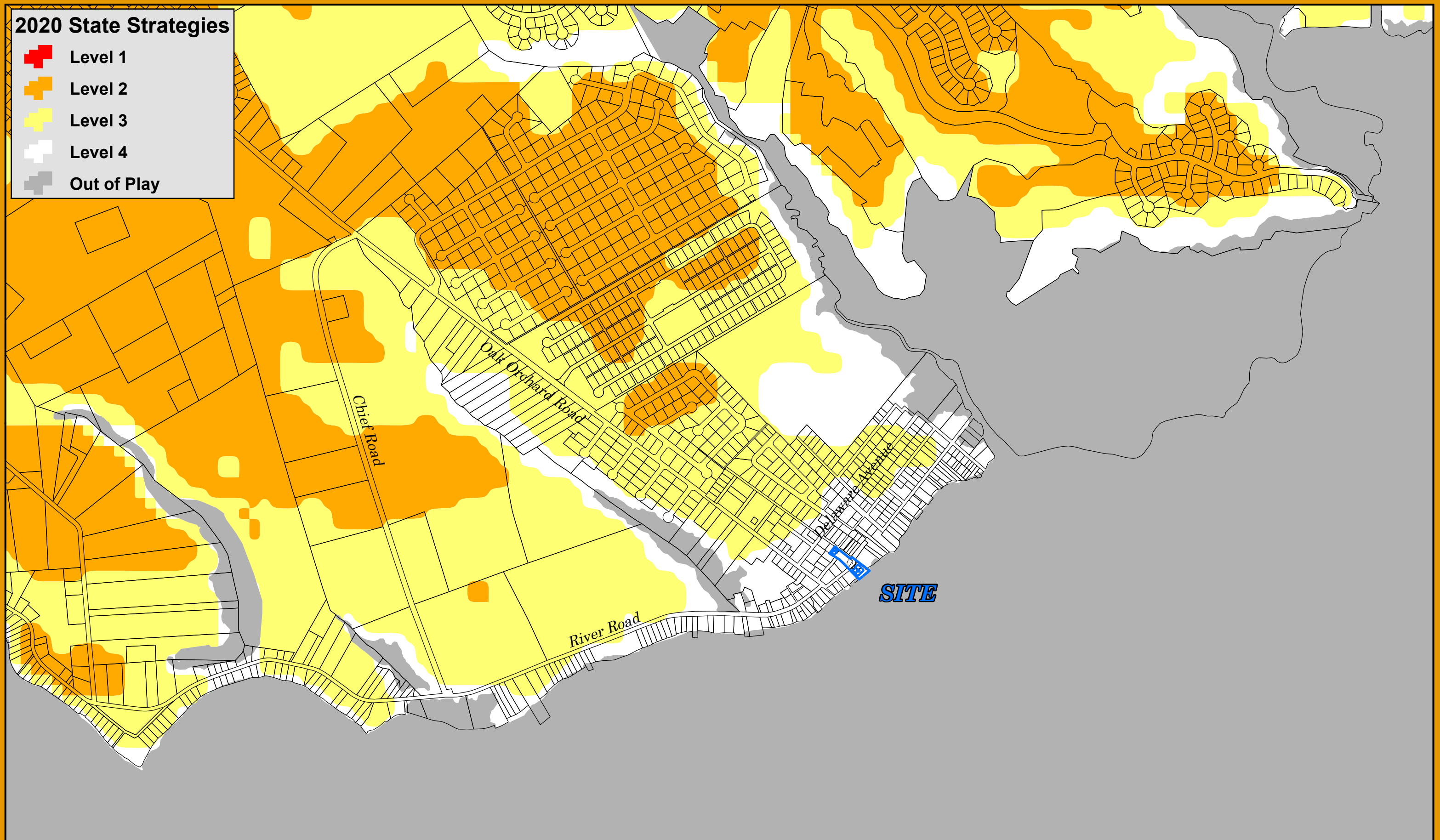


**MAP NUMBER**  
**10005C0481K**  
**MAP REVISED**  
**MARCH 16, 2015**  
**Federal Emergency Management Agency**

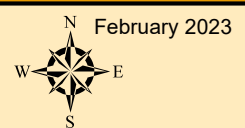


**2020 State Strategies**

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

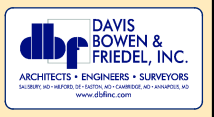
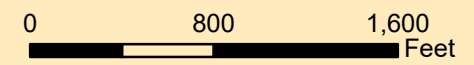











Sources:  
Tax Parcels per Sussex County

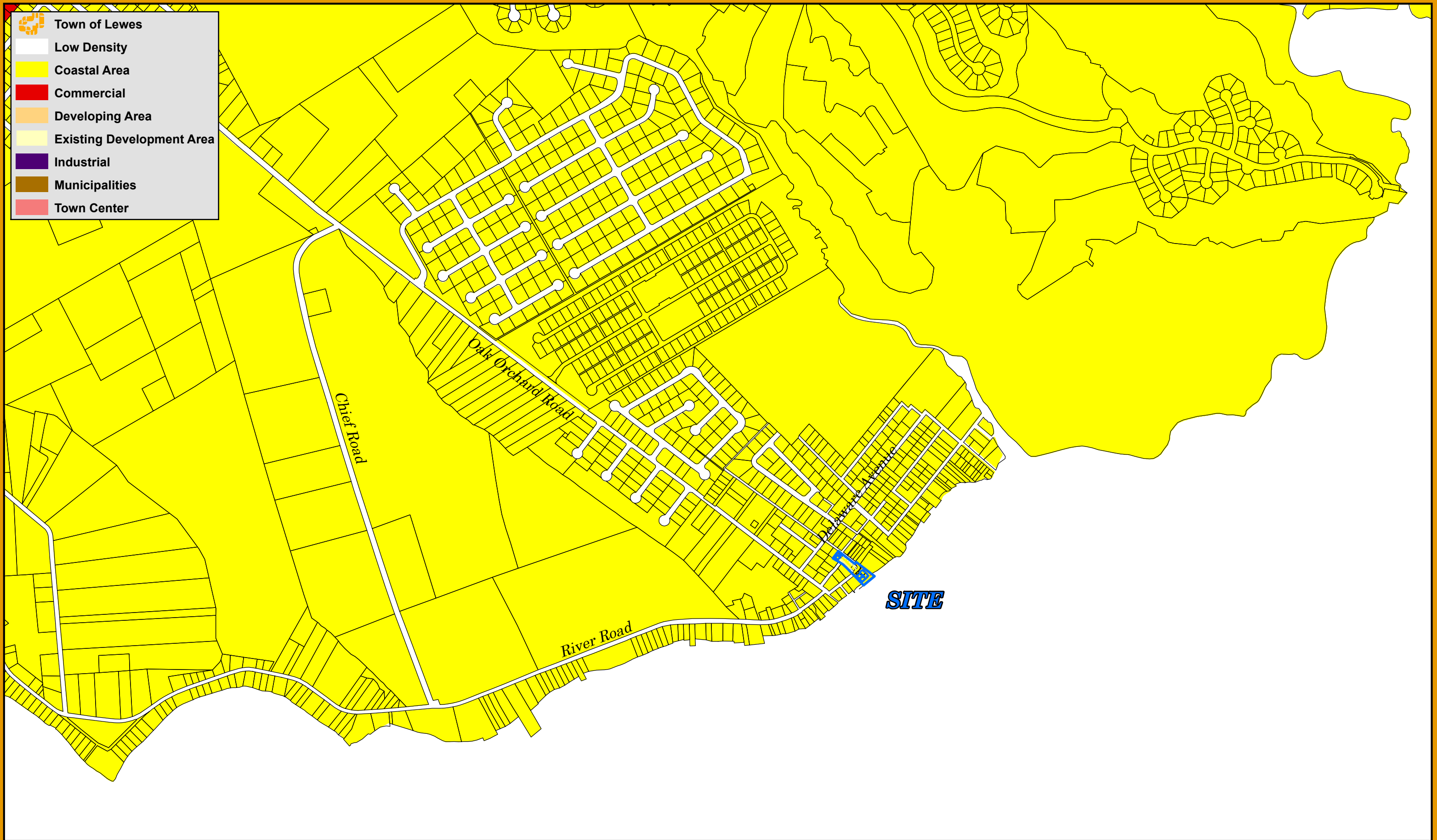


February 2023

**2020 State Strategies**  
**Walton Property**  
Sussex County, Delaware



|   |                           |
|---|---------------------------|
|   | Town of Lewes             |
|  | Low Density               |
|  | Coastal Area              |
|  | Commercial                |
|  | Developing Area           |
|  | Existing Development Area |
|  | Industrial                |
|  | Municipalities            |
|  | Town Center               |



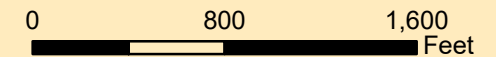
Sources:  
Tax Parcels per Sussex County



February 2023

# Sussex County 2045 Future Land Use Map

Walton Property  
Sussex County, Delaware





Zoning District

Agricultural Residential - AR-1

Agricultural Residential - AR-2

Medium Residential - MR

General Residential - GR

High Density Residential - HR-1

High Density Residential - HR-2

Vacation, Retire, Resident - VRP

Neighborhood Business - B-1

Neighborhood Business - B-2

Business Research - B-3

General Commercial - C-1

General Commercial - C-2

General Commercial - C-3

General Commercial - C-4

General Commercial - C-5

Commercial Residential - CR-1

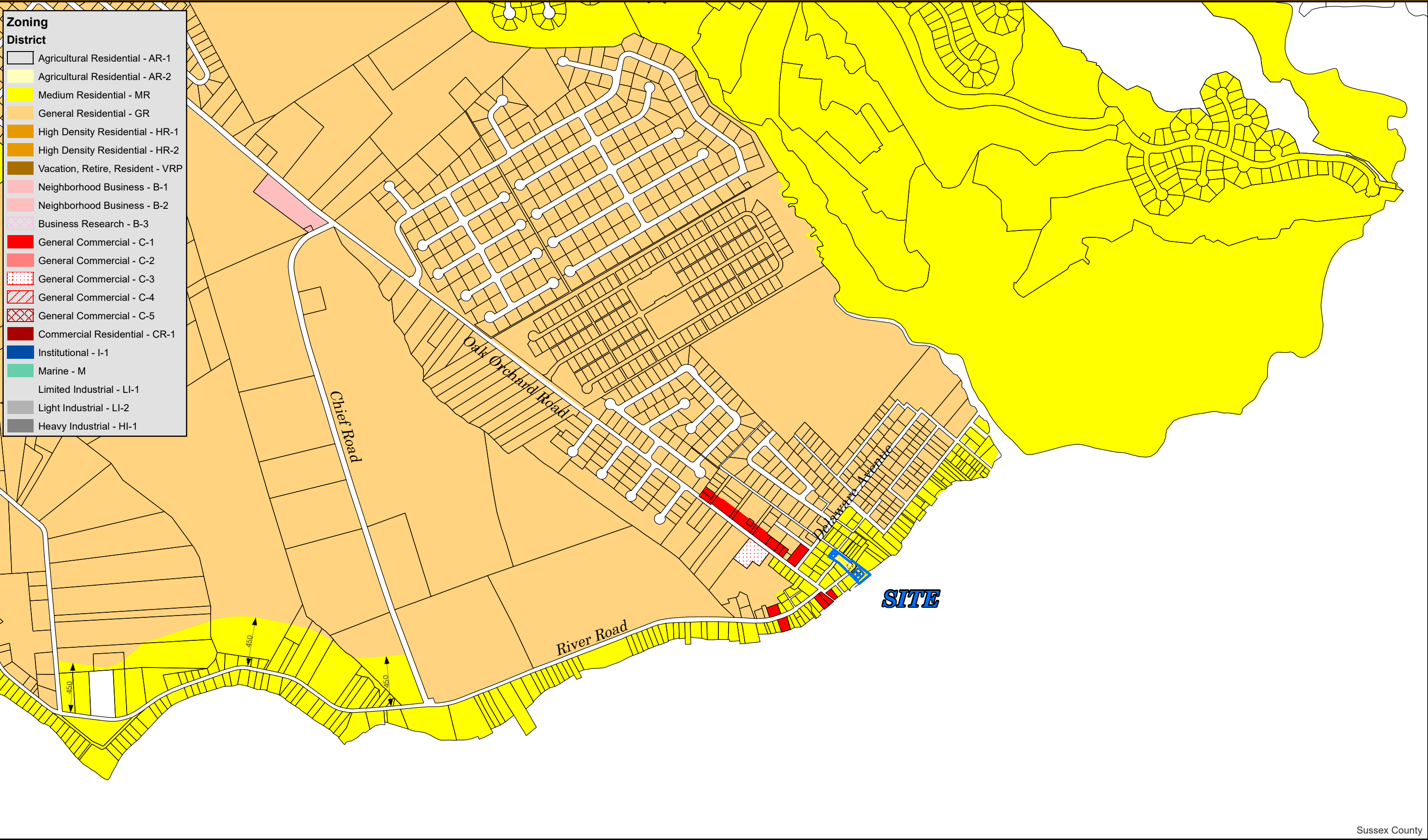
Institutional - I-1

Marine - M

Limited Industrial - LI-1

Light Industrial - LI-2

Heavy Industrial - HI-1







Spring 1992  
Aerial Photo

Sources:  
Tax Parcels per Sussex County



February 2023

# 1992 Aerial Photo

Walton Property  
Sussex County, Delaware

0 800 1,600  
Feet







Summer 2021  
Aerial Photo

Sources:  
Tax Parcels per Sussex County



February 2023

**2021 Aerial Photo**  
**Walton Property**  
Sussex County, Delaware

0 800 1,600  
Feet









Summer 2021  
Aerial Photo




**Wellhead Protection Area**


**Excellent Recharge Area**



Spring 2017  
Aerial Photo





Summer 2021  
Aerial Photo



# Exhibit 2



100008009  
PK03553 PG00244

Tax Parcel No. 2-34 35.09 6.00

PREPARED BY : ROGER L. TRUEMPER  
Elzufon Austin Reardon Tarlov & Mondell, P.A.  
2500 Wrangle Hill Road  
Building 1, Suite 210  
Bear, DE 19701

RETURN TO:  
E. Andrew Walton & Carol H. Walton  
32768 Oak Orchard Road  
Millsboro, DE 19966

(J08-00052

THIS DEED, made this 28th day of February, 2008.

Between

CLYDE A. HULL, party of the first part.

AND

E. ANDREW WALTON AND CAROL H. WALTON, husband and wife,  
parties of the second part,

WITNESSETH:

That the said party of the first part, for and in consideration of the sum of **ONE MILLION ONE HUNDRED EIGHTY SEVEN THOUSAND FIVE HUNDRED AND 00/100 DOLLARS (\$1,187,500.00)** lawful money of the United States of America, the receipt whereof is hereby acknowledged, hereby grants and conveys unto the said parties of the second part, their heirs, successors and assigns, as tenants by the entirety:

ALL that certain lot, piece or parcel of land, with the buildings thereon erected, situate in Indian River Hundred, Sussex County and State of Delaware, known as 32768 Oak Orchard Road, being Lot No. 15, on the Plan of Bookhammer's Addition to Oak Orchard, as the Plan thereof is of record in the Office of the Recorder of Deeds, in and for Sussex County in Microfilm No. Plot Book 2, Page 77, and being more particularly bounded and described in accordance with a survey prepared by Coast Survey, Inc., Professional Land Surveyors, dated February 21, 2008, as follows to-wit:

BEGINNING at an iron pipe found at the northeast corner of the end of the right-of-way of Pine Street (30' wide), a corner for Lot "C" of Plat Book #50, Page #283 and along the line of Lot #15 of this parcel; thence crossing said end of Pine St., N 49-23-07 W, 31.26' to an iron pipe found, the corner of Pine St. and Lot #14 of "Bookhammer's Addition to Oak Orchard", thence with Lot #14, in part, N 49-32-51 W, 60.60' to a 1" square shaft, a corner for this parcel and land of Linda Walls and along the line of Lot #14, thence turning and with said Walls, N 47-

*Handwritten initials*

p. 6  
subject



53 10 E, 83.28' to a crimped iron pipe found on the southwesterly right-of-way line of Oak Orchard Road (20' wide); thence with said Oak Orchard Rd., S 42-18-40 E, 189.06' to a gear spike set in the paving; thence turning and crossing the end of the right-of-way, N 47-41-20 E, 20.00' to an iron pipe with cap set, a corner for this parcel and land of Susan Steward and land of Daniel P. Reuter; thence turning and with said Reuter and land of John Paul Hutcoe, S 42-18-40 E, 146.89' (passing over iron pipes found at 39.42' and an additional 69.00') to a gear spike set in a bulkhead; thence continuing with said Hutcoe, with said bulkhead and with waters of the Indian River Bay, S 42-42-00 E, 62.95' (passing over a spike at 62.29') to the corner of the bulkhead; thence turning and with said bulkhead and said Indian River Bay, S 60-21-00 W, 129.93' to the southerly corner of the bulkhead; and with said Indian River Bay, thence turning and with said bulkhead, N 33-11-43 W, 23.79' to a point; thence with land of Ralph & Donna Appuzzio, N 34-11-08 W, 98.82' to a concrete monument found; thence continuing with same bearing and crossing another end of Oak Orchard Road (formerly Bay Road - 30' wide), 30.06' to an iron pipe recovered, a corner for aforesaid Lot "C"; thence continuing with same bearing and with Lot "C", 68.10' to an iron pipe recovered; thence continuing with Lot "C", N 36-50-43 W, 47.50' to an iron pipe recovered (1.12' westerly from a shaft found); thence still with Lot "C", N 48-40-23 W, 13.90' to the point of beginning. Be the contents thereof what they may

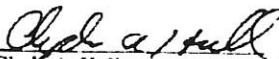
SUBJECT TO ALL other covenants, conditions, restrictions and easements of record, this reference to which shall not be construed to reimpose the same.

BEING the same lands and premises which Wilmington Trust Company, by Deed dated July 22, 1993, and recorded in the Office of the Recorder of Deeds in and for Sussex County, State of Delaware, as Book 1925, Page 10, did grant and convey unto Clyde A. Hull, in fee.

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

SIGNED, SEALED AND DELIVERED  
IN THE PRESENCE OF:

Witness

 (Seal)  
Clyde A. Hull

Grantee's Mailing Address:

32768 Oak Orchard Road  
Millsboro, DE 19966

STATE OF DELAWARE )  
 ):  
COUNTY OF NEW CASTLE )

000008002  
PK03775 F600246

S.S.

BE IT REMEMBERED, that on this 28th day of February, 2008, came before me, the Subscriber, a Notary Public in and for the State and County aforesaid, Clyde A. Hull, party to this Indenture, known to me personally to be such, and acknowledged this Indenture to be his act and deed.

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

(Seal)  
Notary Public or Notarial Officer  
Print Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_  
HAS NO COMPETITION

RECORDER OF DEEDS  
JOHN F. BRADY  
03/03/2008 11:27A  
SUSSEX COUNTY  
DOC. SURCHARGE PAID

|                |                  |                  |
|----------------|------------------|------------------|
| Consideration: | \$1187500.0      | External Code: A |
| County         | State            | Total            |
| 17812.50       | 17812.50         | 35625.00         |
| Doc. Fee       | Date: 03/03/2008 |                  |

**RECEIVED**

MAR 04 2008

ASSESSMENT DIVISION  
OF SUSSEX COUNTY



Gerald G. Friedel, P.E.  
Michael R. Wigley, AIA  
Randy B. Duplechain, P.E.  
Charles R. Woodward, Jr., LS  
Jo Anne Williams, P.E.  
Charles A. Hauser, P.E.  
W. Zachary Crouch, P.E.

**LEGAL DESCRIPTION  
LANDS OF  
E. ANDREW & CAROL H. WALTON  
234-35.09-6.00**

June 30, 2008

**ALL** that piece or parcel of land, hereinafter described, situate, lying and being on the southerly side of Oak Orchard Road, (20 feet wide), and being located in Indian River Hundred, Sussex County, Delaware, as shown on a plat entitled "BOUNDARY SURVEY OF THE LANDS OF E. ANDREW & CAROL H. WALTON" completed by Davis, Bowen & Friedel, Inc., June 2008; said piece or parcel being more particularly described as follows:

**BEGINNING** at an iron rod & cap set at a point formed by the intersection of the southeasterly corner of the end of the right-of-way of Oak Orchard Road, with the southwesterly line of lands of, now or formerly Susan Stewart, as recorded in the Office of the Recorder of Deeds in and for Sussex County and the State of Delaware in Deed Book 2648 Page 45,

- 1) Thence, leaving said Oak Orchard Road and coincident partially with said Stewart lands, also lands of, now or formerly Daniel P. Reuter, as recorded in the Office of the Recorder of Deeds in Deed Book 3057 Page 77, and lands of, now or formerly Cynthia W. Battles, as recorded in the Office of the Recorder of Deeds in Deed Book 3468 Page 171 the following (2) course and distances, South 52 degrees 20 minutes 15 seconds East 146.89 feet to a gear spike found in a wooden bulkhead,
- 2) Thence, South 52 degrees 43 minutes 35 seconds East passing over a timber spike found in said wooden bulkhead at 62.30 feet, a total distance of 62.95 feet to a point on the northwesterly side of the Indian River Bay,
- 3) Thence, coincident with said bulkhead and Indian River Bay South 50 degrees 19 minutes 25 seconds West 129.93 feet to a point on the northeasterly line of lands of, now or formerly Ralph L. Appuzzio and Donna M. Appuzzio Trustees Under The Ralph L. Appuzzio, D.D.S. and Associates Pension Plan, as recorded in the Office of the Recorder of Deeds,
- 4) Thence, leaving said Indian River Bay and coincident with said Appuzzio lands, crossing another end of Oak Orchard Road (formerly Bay Road 30 feet wide) and coincident with lands of, now or formerly Rodney J. Russell, as recorded in the Office of the Recorder of Deeds in Deed Book 1931 Page 109, the following (4) courses and

distances North 43 degrees 13 minutes 18 seconds West passing over a timber spike found in aforementioned wooden bulkhead at 0.64 feet, a total distance of 23.79 feet to a point at the end of said wooden bulkhead,

5) Thence, North 44 degrees 12 minutes 43 seconds West 196.98 feet to an iron pipe found,

6) Thence, North 46 degrees 52 minutes 18 seconds West 47.50 feet to an iron pipe found,

7) Thence, North 58 degrees 41 minutes 58 seconds West 13.90 feet to a point at the northeast corner of the end of the right-of-way of Pine Street (30 feet wide),

8) Thence, leaving aforementioned Russell lands and coincident with said end of Pine Street, North 59 degrees 24 minutes 42 seconds West 31.26 feet to a point on the northeasterly line of lands of, now or formerly Margaret A. Hurt, as recorded in the Office of the Recorder of Deeds in Deed Book 2427 Page 122,

9) Thence, leaving said Pine Street and coincident with said Hurt lands North 59 degrees 34 minutes 26 seconds West 60.58 feet to an iron rod found at a point on the southeasterly line of lands of, now or formerly Linda J. Walls, as recorded in the Office of the Recorder of Deeds in Deed Book 3229 Page 86,

---

10) Thence, leaving said Hurt lands and coincident with said Walls lands North 37 degrees 51 minutes 35 seconds East 83.23 feet to a point on the southwesterly right-of-line of aforementioned Oak Orchard Road,

11) Thence, leaving said Walls lands and coincident with said Oak Orchard Road, South 52 degrees 20 minutes 15 seconds East 189.06 feet to a gear spike found at point at the southerly corner of the end of the right-of-way of said Oak Orchard Road,

4) Thence, coincident with said end of Oak Orchard Road North 37 degrees 39 minutes 45 seconds East 20.00 feet to the point and place of beginning; **CONTAINING** 36,628 square feet of land.



# Exhibit 3



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

NICOLE MAJESKI  
SECRETARY

December 15, 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 **Lessard Builders** proposed land use application, which we received on December 3, 2021. This application is for an approximately 1.30-acre parcel (Tax Parcel: 234-35.09-6.00). The subject land is located on the north and south of Oak Orchard Road (Sussex Road 312) about 290 ft east of the intersection with River Road (Sussex Road 312). The subject land is currently zoned MR (Medium Density Residential), and the applicant seeks a conditional use approval to build condo style beach homes.

Per the 2019 Delaware Vehicle Volume Summary, the annual average daily traffic volume along River Road, is 263 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 DelDOT's minimum warrants for determining that a Traffic Impact Study (TIS) should be required for a particular development. Because the proposed land use would not meet these warrants, we consider the development's traffic impact to be **negligible** in the context of our agreement with the County regarding land development coordination and we do not recommend that the applicant be required to perform a TIS for the subject application. DelDOT's description of this application as negligible with regard to warranting a TIS does not mean that it is negligible in other respects. We recommend that the applicant not be required to perform a TIS for the subject application.



Mr. Jamie Whitehouse

Page 2 of 2

December 15, 2021

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

Please contact Ms. Annamaria Fumato, at [Annamaria.Fumato@delaware.gov](mailto:Annamaria.Fumato@delaware.gov), if you have questions concerning this correspondence.

Sincerely,



T. William Brockenbrough, Jr.  
County Coordinator  
Development Coordination

TWB:afm

cc: Brian Lessard, Applicant  
Sussex Reviewer, 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  
Claudy Joinville, Project Engineer, Development Coordination  
Annamaria Fumato, Project Engineer, Development Coordination

# Exhibit 4



## WETLAND STATEMENT

On June 27, 2008, Environmental Resources, Inc. inspected Tax Parcel 234-35.09-6.00 (Walton Property) along Oak Orchard Road, and fronting on Indian River, Sussex County, Delaware, for the presence of Corps jurisdictional waters, including nontidal wetlands, at the request of DBF. This investigation was completed according to the *Corps of Engineers Wetlands Delineation Manual* (1987), regulations, associated guidance at the time and best professional judgment. ERI concluded that landward of the bulkhead line the property is uplands; data was collected during the visit to document these conditions. A jurisdictional determination request has not been filed with the Corps of Engineers at this time.

Thomas D. Nobile  
Professional Wetland Scientist: 000389  
Certified Wetland Delineator through the Corps of Engineers  
# WDCP93MD0310001A

# Exhibit 5



January 30, 2023

Michael R. Wigley, AIA, LEED AP  
W. Zachary Crouch, P.E.  
Michael E. Wheedleton, AIA, LEED GA  
Jason P. Loar, P.E.  
Ring W. Lardner, P.E.  
Jamie L. Sechler, P.E.

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

Attn: Mr. Jamie Whitehouse  
Director of Planning

RE: Walton Property  
Chapter 99-9 C Response  
Tax Parcel No.: 234-35.09-6.00  
DBF #2039A002.C01

Dear Mr. Whitehouse:

On behalf of our client, Walton Commercial Properties, LLC. , we are pleased to provide you with our written response to the items listed in Chapter 99-9C.

**1. Integration of the proposed subdivision into the existing terrain and surrounding landscape.**

- a. The site plan is a redevelopment of an existing building once used as a restaurant and hotel.
- b. The project is located in the center of the oak orchard community.
- c. The property has been used as a short cut for Oak Orchard Avenue traffic through private property. The site plan allows for permanent street enhancement and proper road design according to DelDOT standards
- d. All landscaping will use native species to aid in the proposed subdivisions fitting in and enhancing surrounding scenery.

**2. Minimal use of wetlands and floodplains.**

- a. The site borders Indian River Bay and an existing bulkhead marks the border of the property.
- b. No wetlands encroach onto the site.

- c. As with the majority of Oak Orchard Community, the property lies within the 100-yr flood zone with a flood elevation of 8'. The building will be elevated above acceptable flood risks.

**3. Preservation of natural and historical features.**

- a. The existing building is relatively new (does not show on the 1992 aerials) and therefore provide little historical value.
- b. The 1992 aerial show a vacant dirt lot on majority of the site. No natural features exist.
- c. Native landscaping is proposed to enhance the sites aesthetics.

**4. Preservation of open space and scenic views.**

- a. Street upgrades, landscaping and cleanup of the vacant lot will enhance the surrounding views and improve the communities value.
- b. With replacement of the existing hotel/restaurant, changes to scenic views will be limited

**5. Minimization of tree, vegetation and soil removal and grade changes.**

- a. The existing is a dirt and grass lot, no trees or vegetation exist on site.
- b. Grade changes will be minimized to the extent necessary to provide road construction to meet design requirements, flood protection and to ensure proper lot drainage.
- c. The addition of stormwater facilities and proper drainage will greatly improve direct runoff from the vacant dirt lot into Indian River Bay.

**6. Screening of objectionable features from neighboring properties and roadways.**

- a. Landscaping and a 4' vinyl fence will provide screening and enhance the properties aesthetics.
- b. Outbuildings and dumpster will be landscaped so not to be viewable from neighboring properties.

**7. Provision for water supply.**

- a. Tidewater Utilities, Inc. will supply water services.



**8. Provision for sewage disposal.**

- a. Sussex County will provide sanitary sewer conveyance and treatment for the proposed building. The property is located within the Oak Orchard Sanitary Sewer District. The building will be served by gravity sewer to an existing manhole on site.

**9. Prevention of pollution of surface and groundwater.**

- a. The storm drainage system will capture drainage from the site.
- b. Best Available Technologies (BATs) will be used during the design and construction of the property.
- c. Best Management Practices (BMPs) will be used during the design and construction of the property.

**10. Minimization of erosion and sedimentation, minimization of changes in groundwater levels, minimization of increased rates of runoff, minimization of potential for flooding and design of drainage so that groundwater is maximized.**

- a. The stormwater management areas will be designed to meet all local, state and federal guidelines for sediment and nutrient removal.
- b. An Erosion and Sediment Control Plan will be developed and implemented as required by the Sussex Conservation District and DNREC. The plan will specify in detail how the project is to be constructed to limit the amount of sediment and other pollutants from leaving the site during construction.
- c. All storms will be controlled and discharged at the pre-development rate. The 100-year storm will be safely routed through this site.

**11. Provision for safe vehicular and pedestrian movement within the site and to adjacent roadways.**

- a. The existing roadway is not a DelDOT street but is being used by the public as a connection of Oak Orchard Avenue. The existing roadway is not up to standards and exists of rough pavement and loose gravel. Improving the roadway to DelDOT standards will increase vehicular and pedestrian safety.
- b. The road design will conform to Sussex County standards and specifications.
- c. Street lighting will be provided for this project.
- d. Sidewalks, lighting and road crossing will provide safer pedestrian movement.

**12. Effect on area property values.**

- a. The project's development should have a positive effect on property values in the area.

**13. Preservation and conservation of farmland.**

- a. Farmland does not exist on site or in the immediate area.

**14. Effect on schools, public buildings and community facilities.**

- a. The increase in tax revenue to the school district will assist in the maintenance and operations of schools within the Indian River School District.

**15. Effect on area roadways and public transportation.**

- a. The existing roadway is not a DelDOT street but is being used by the public as a connection of Oak Orchard Avenue. The existing roadway is not up to standards and exists of rough pavement and loose gravel.
- b. The roadway will be improved to DelDOT standards and the streets will be designed to Sussex County standards and specifications.

**16. Compatibility with other area land uses.**

- a. The site plan is a redevelopment of an existing building once used as a restaurant and hotel.
- b. The project is located within the center of the oak orchard community.
- c. The site is surrounded by residential uses in a MR Zoning

**17. Effect on area waterways.**

- a. The existing vacant dirt lot provided no treatment of stormwater currently and allowed direct runoff into Indian River Bay. The site will be designed to improve the quality of runoff from the site.
- b. The site will comply with all TMDLs and PCS's as adopted by the State.



On behalf of our client, we thank you for your review and consideration of this response. If you should have any questions or concerns, please contact me at (302) 424-1441

Sincerely,  
DAVIS, BOWEN & FRIEDEL, INC.

W. Zachary Crouch, P.E.  
Principal

# Exhibit 6



February 3, 2022

Sussex County Administrative Buildings  
Planning and Zoning Department  
2 The Circle  
P.O. Box 589  
Georgetown, DE 19947

Attn: Mr. Jamie Whitehouse  
Planning Director

RE: Walton Property  
PLUS Review Comment Response  
Tax Parcel No. 234-35.09-6.00  
DBF No: 2039A001.A01

Michael R. Wigley, AIA, LEED AP  
W. Zachary Crouch, P.E.  
Michael E. Wheedleton, AIA, LEED GA  
Jason P. Loar, P.E.  
Ring W. Lardner, P.E.  
Jamie L. Sechler, P.E.

Dear Mr. Whitehouse,

I appreciated the opportunity to meet with representatives of the various agencies at the PLUS meeting held on October 27, 2021. This letter is in response to comments received from State Planning Coordination dated November 18, 2021. We offer the following in response to those comments:

**Strategies for State Policies and Spending**

*The State recognizes that this parcel is within the Coastal area according to the Sussex County comprehensive plan; however, this project represents a major land development that will result in 10 residential units in an Investment Level 4 area according to the 2020 Strategies for State Policies and Spending.*

*Investment Level 4 indicates where State investments will support agricultural preservation, natural resource protection, and the continuation of the rural nature of these areas. New development activities and suburban development are not supported in Investment Level 4. These areas are comprised of prime agricultural lands and environmentally sensitive wetlands and wildlife habitats, which should be, and in many cases have been preserved.*

*From a fiscal responsibility perspective, development of this site is likewise inappropriate. The cost of providing services to development in rural areas is an inefficient and wasteful use of the State's fiscal resources. Over the longer term, the unseen negative ramifications of this development will become even more evident as the community matures and the cost of maintaining infrastructure and providing services increases.*

*In addition, the development of this site may be environmentally inappropriate due to the following:*

- *The entirety of this site is vulnerable to permanent inundation from sea level rise. By 2050, mean sea levels are projected to rise by 0.7 - 1.9 feet; by end of the century sea levels are projected to increase by 1.7 - 5.0 feet. Homes and roadways are proposed on land subject to inundation by sea level rise between 1 and 5 feet. In addition to permanent inundation, as mean sea levels rise, the frequency and severity of tidal flooding events are expected to increase.*
- *In areas within 5 feet of mean sea level, avoid construction of permanent structures and infrastructure. All infrastructure and structures on the site should incorporate the effects of sea level rise through the expected lifespan of the structures. This may include increasing the freeboard of structures, ensuring that critical infrastructure is elevated to withstand future sea level rise, construction of flood control measures, and incorporating green infrastructure for flood control.*
- *This site lies within the Indian River Bay Watershed. Surface water quality in this watershed does not meet Federal and/or State Water Quality Standards and a Pollution Control Strategy is in place for this watershed.*

**Thank you for clarification on the state strategies level. While the majority of Level 4 is rural, this property falls in an area where the surrounding county zoning is MR, GR, & C-1 allowing for higher density development. The site is in the middle of the Oak Orchard Sanitary sewer district and is currently being served with existing water and sewer infrastructure. Building design and elevation will incorporate the risks of tidal flooding and the effects of sea level rise.**

**Department of Transportation - Contact Bill Brockenbrough 760-2109**

- *The site access on Oak Orchard Avenue (Sussex Road 312, also known variously as River Road, Oak Orchard Road, and Bay Road) 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>.*

**Access will be designed in accordance with DelDOT's Development Coordination Manual.**

- *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](https://www.deldot.gov/Business/subdivisions/pdfs/Meeting_Request_Form.pdf?08022017).*

**A pre-submittal meeting will be set up prior to plans being submitted for review.**

- *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.*

**Developer will work with DelDot and provide the required fees when appropriate.**



- *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 from the proposed development are estimated at 54 vehicle trip ends per day. Using the 10<sup>th</sup> edition of the Institute of Transportation Engineers' Trip Generation Manual, DelDOT confirms this number and estimates the weekday a.m. and p.m. peak hour volumes at 4 and 5 vehicle trip ends per hour, respectively. Therefore, the plan does not meet the warrants for a TIS.*

*The purpose of a TIS, per DelDOT regulations, is to determine the offsite improvements for which the developer should be responsible to build or contribute toward. DelDOT anticipates requiring the developer to improve Oak Orchard Avenue, within the limits of their frontage, to meet DelDOT's standards associated with its Functional Classification. Oak Orchard Avenue is a Local Road, for which the standard includes 11-foot lanes and 5-foot shoulders. Frontage, as defined in Section 1.8 of the Development Coordination Manual, includes the length of roadway perpendicular to lines created by the projection of the outside parcel corners to the roadway. Given the character of the area, DelDOT anticipates receiving a request for a Design Deviation in this regard.*

**The Developer and engineer will work closely with DelDOT to determine any improvements warranted along Oak Orchard Avenue.**

*Section 3.2.5 and Figure 3.2.5-a of the Manual provide that DelDOT should require dedication of right-of-way along the site's frontage on Oak Orchard Avenue. By this regulation, this dedication is to provide a minimum of 30 feet of right-of-way from the physical centerline of Oak Orchard Avenue. 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." Given the character of the area, DelDOT anticipates receiving a request for a Design Deviation in this regard.*

**The Developer and engineer will work closely with DelDOT in determining the amount of dedication required. Existing right-of-way of only 20' and 30' and the existing road configuration will most likely lead to a Design Deviation request. Plans will be submitted to DelDOT for their review and approval.**

- *Section 3.2.5.1.2 of the Manual provides that DelDOT should 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." Given the character of the area, DelDOT anticipates receiving a request for a Design Deviation in this regard.*

**The Developer and engineer will work closely with DelDOT in determining requirements for a 15' wide permanent easement. Adjacent homes and their distance off the roadway prohibit the construction of a shared use path along Oak Orchard Road. A Design**

**Deviation request may be needed. Plans will be submitted to DelDOT for their review and approval.**

- *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 300 feet of the proposed entrance on Oak Orchard Avenue.*
  - *Notes identifying the type of off-site improvements, agreements (signal, letter) contributions, and when the off-site improvements are warranted.*

**The final Record plan will include the required Traffic Generation Diagram, existing entrances within 300', and all notes regarding improvements/agreements.**

- *Section 3.5.4.2 of the Manual addresses requirements for Shared Use Paths (SUP) and sidewalks. For projects in Level 3 and 4 Investment Areas, installation of paths or sidewalks along the frontage on State-maintained roads is required where there is an existing path with which to connect. While there are no paths or sidewalks immediately adjoining the subject land, DelDOT supports the proposed sidewalk on the south side of Oak Orchard Avenue and may require sidewalk on the north side in the area of the parking lot entrance.*

**The Developer will work with DelDOT in determining any sidewalk requirements.**

- *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 Oak Orchard Avenue.*

**Stormwater will meet DelDOT's setback requirements.**

- *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>.*

**The auxiliary lane worksheet will be used to determine auxiliary lanes. With only 10 units and a 15mph speed limit we do not anticipate the need for any auxiliary lanes.**

- *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.*

**Existing and proposed utilities will be shown on the plans. Should utilities need to be relocated a utility relocation plan will be submitted to DelDOT**

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



### Concerns Identified Within the Development Footprint

#### *Special Flood Hazard Area*

According to the newest Flood Insurance Rate Maps (FIRM), the entirety of this parcel and all areas surrounding this parcel are 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(s) AE and VE. 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. Homeowners with mortgages may be required to purchase flood insurance.

- The applicant must comply with the local floodplain ordinance and regulations applicable to development or construction within the 100-year floodplain. The site plans refer to outdated FEMA Floodplain Maps dated January 6, 2005. In determining the boundary of the floodplain, use the most recent FIRM maps available, which can be found at <https://floodplanning.dnrec.delaware.gov/>

Contact: DNREC Shoreline and Waterway Management Section at (302) 739-9921. Website: <https://dnrec.alpha.delaware.gov/watershed-stewardship/waterways/floodplains/>

**Building design and base floor elevation will be designed based on the 100-yr flood elevation. The building construction will comply with all county floodplain ordinances and regulations.**

#### *Stormwater Management*

This application proposes greater than 5000 square feet of land disturbing activities, therefore, this project will be subject to Delaware's Sediment and Stormwater Regulations.

- 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, to address federal requirements, 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.delaware.gov/enoi/>, select Construction Stormwater General Permit) to the DNREC Division of Watershed Stewardship, along with the \$195 fee.
- Schedule a project application meeting with the appropriate plan review 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.sussexconseration.org/>

General stormwater contact: DNREC Sediment and Stormwater Program at (302) 739-9921. E-mail: [DNREC.Stormwater@delaware.gov](mailto:DNREC.Stormwater@delaware.gov).

Website: <https://dnrec.alpha.delaware.gov/watershed-stewardship/sediment-stormwater/>

**A detailed sediment and stormwater plan will be prepared and submitted to the Sussex Conservation District for their review and approval. The project consists of 0.84 acres, we do not anticipate the requirement for a NOI permit.**

#### *Excellent Groundwater Recharge Area*

*The majority of the site is in an Excellent Groundwater Recharge Area. These areas have soils that are conducive to water infiltrating downward from surface water into groundwater. Preservation of these areas is important for replenishing groundwater supplies and ensuring drinking water for future generations.*

- *The applicant must comply with all county and municipal requirements for construction and uses in Excellent Groundwater Recharge Areas.*

Contact: DNREC Source Water Assessment and Protection Program at (302) 739-9945.

Website: <https://dnrec.alpha.delaware.gov/water/supply/ground-water-protection/>

**The development will comply with all county regulations for construction and uses in excellent groundwater recharge areas.**

#### *Wastewater Disposal Permitting-Large Systems*

*There is a record of an abandoned system within the Small Systems Database. Tidewater holds existing permits with the DNREC Groundwater Discharges Section's Large Systems Branch for wastewater disposal.*

- *If additional flows to Sussex County's system will require capacity updates, it is the responsibility of the permittee (Tidewater) to notify the Large Systems Branch.*

Contact: DNREC Large Systems Branch at (302) 739-9948. Website:

<https://dnrec.alpha.delaware.gov/water/groundwater/>

**With the establishment of Sussex Counties Oak Orchard Sanitary Sewer District and only proposing 10 units, we do not anticipate any capacity issues or upgrades.**

#### *State Historic Preservation Office - Contact Carlton Hall 736-7400*

- *The Delaware SHPO does not support development in Level 4 areas. There are no known archaeological sites on the parcel and two known sites within a half-mile radius of the project area. The proposed parcel is composed of excessively drained soils and is within a favorable distance to fresh water. Despite favorable conditions, there is low archaeological potential. Historic maps show at least one building on the parcel by 1938 and aerials show the entire area developed sometime after 1961. Due to past disturbance, there is low archaeological potential on this parcel.*

**Thank you for your archaeological review of the site.**



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

*At the time of formal submittal, the applicant shall provide; completed application, fee, and three sets of plans depicting the following in accordance with the Delaware State Fire Prevention Regulation Regulations (DSFPR):*

*Fire Protection Water Requirements:*

- *Water distribution system capable of delivering at least 1000 gpm for a 1-hour duration, at 20-psi residual pressure is required. Fire hydrants with 800 feet spacing on centers.*
- *Where a water distribution system is proposed for (business/educational/assembly/healthcare/multi-family) sites, the infrastructure for fire protection water shall be provided, including the size of water mains for fire hydrants and sprinkler systems.*

**Water distribution will be provided by Tidewater Utilities, Inc. using existing infrastructure that meets flow and duration requirements.**

*Fire Protection Features:*

- *All structures over 10,000 Sq. Ft. aggregate will require automatic sprinkler protection installed.*
- *Buildings occupied as apartments (multi-family living units comprising of 3 or more units) will require automatic sprinkler protection installed.*
- *Buildings greater than 10,000 sq ft, 3-stories or higher, over 35 feet in height, or classified as High Hazard, are required to meet fire lane marking requirements*
- *Show Fire Department Connection location (must be within 300 feet of fire hydrant), and detail as shown in the DSFPRs.*
- *Show Fire Lanes and Sign Detail as shown in DSFPRs.*

**Sprinkler protection will be installed. Fire lanes will be marked according to requirements. Fire department connections, fire lanes and sign details will be provided on plans and submitted to the Fire Marshal's office for their review and approval.**

*Accessibility:*

- *All premises, which the fire department may be called upon to protect in case of fire, and which are not readily accessible from public roads, shall be provided with suitable gates and access roads, and fire lanes so that all buildings on the premises are accessible to fire apparatus. This means that the access road to the subdivision from Oak Orchard Road must be constructed so fire department apparatus may negotiate it.*
- *Any dead-end road more than 300 feet in length shall be provided with a turn-around or cul-de-sac arranged such that fire apparatus will be able to turn around by making not more than one backing maneuver. The minimum paved radius of the cul-de-sac shall be 38 feet. The dimensions of the cul-de-sac or turn-around shall be shown on the final plans. Also, please be advised that parking is prohibited in the cul-de-sac or turn around.*

- *The use of speed bumps or other methods of traffic speed reduction must be in accordance with Department of Transportation requirements.*
- *The local Fire Chief, prior to any submission to our Agency, shall approve in writing the use of gates that limit fire department access into and out of the development or property.*

**The site plan will comply with all Fire Department access requirements.**

*Gas Piping and system Information*

- *Provide type of fuel proposed, and show locations of bulk containers on plan.*

**There will be no fuel stored on site.**

*Required Notes:*

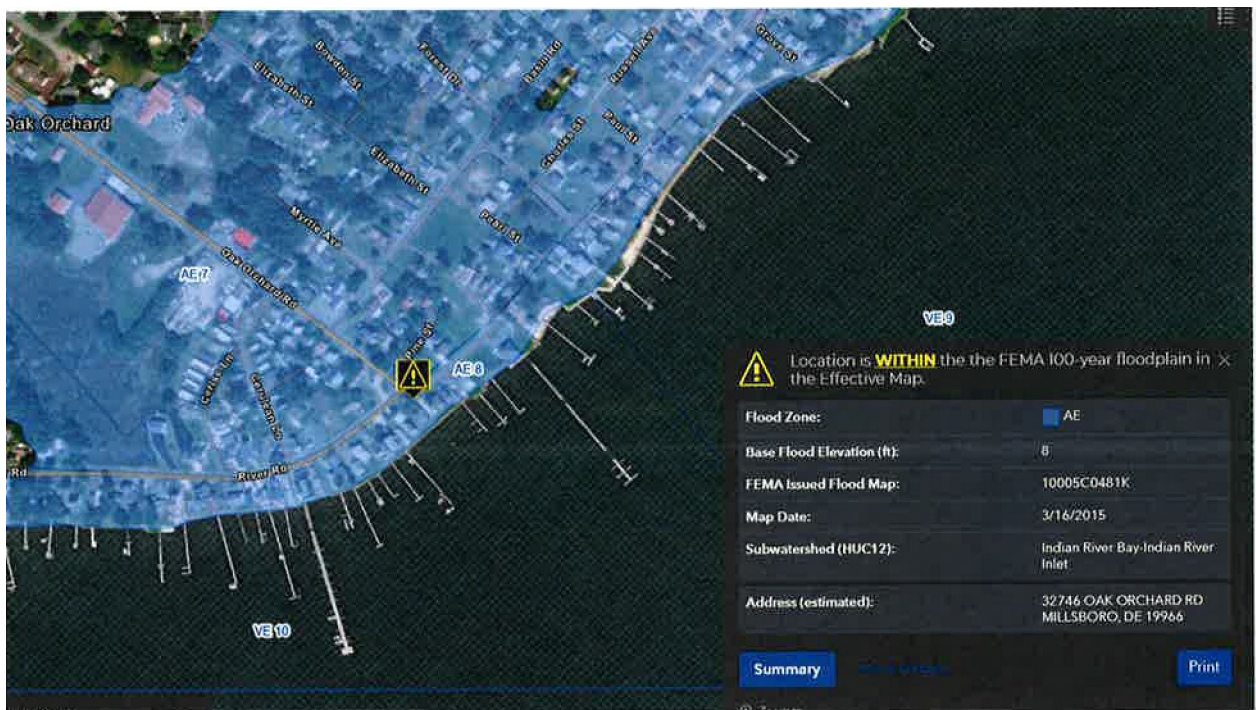
- *Provide a note on the final plans submitted for review to read "All fire lanes, fire hydrants, and fire department connections shall be marked in accordance with the Delaware State Fire Prevention Regulations"*
- *Proposed Use*
- *Alpha or Numerical Labels for each building/unit for sites with multiple buildings/units*
- *Square footage of each structure (Total of all Floors)*
- *National Fire Protection Association (NFPA) Construction Type*
- *Maximum Height of Buildings (including number of stories)*
- *Note indicating if building is to be sprinklered*
- *Name of Water Provider*
- *Letter from Water Provider approving the system layout*
- *Provide Lock Box Note (as detailed in DSFPR) if Building is to be sprinklered*
- *Provide Road Names, even for County Roads*

**The required information and notes will be provided on the plans and submitted to the Fire Marshal for their review and approval.**



*Delaware Emergency Management Agency-Contact Philip Cane 659-2325*

*This property is located within FEMA's 100-year flood zone identified as AE 7 and AE 8, and is within a 3-foot and higher coastal flooding inundation zone in accordance with NOAA's MHHW maps. DEMA strongly encourages the homes to be elevated at the identified flood level plus freeboard in preparation for unknown future conditions. Further utilization of wet/dry floodproofing in accordance with FEMA recommendations on same. DEMA encourages the use of high-efficiency mechanics and utilities in new homes, as well as reusable energies where legal and appropriate. DEMA further encourages examining new and modern technologies to potentially include in homes (electric vehicle potential in garages, etc.).*



**Thank you for the information regarding flood elevations and flood proofing. Building design and base floor elevation will be designed based on the 100-yr flood elevation. The building construction will comply with all county floodplain ordinances and regulations.**

If you have any questions or need additional information, please contact me at (302) 424-1441 or via email at [wzc@dbfinc.com](mailto:wzc@dbfinc.com).

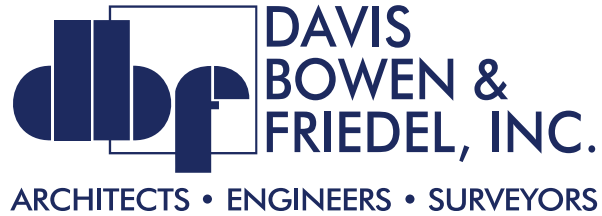
Sincerely,  
DAVIS, BOWEN & FRIEDEL, INC.

Sincerely,

W. Zachary Crouch  
Principal

CC: Dorothy Morris, AICP, Office of State Planning





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Easton, MD 21601  
(410) 770-4744

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Ashley Paugh

Q1V 2349

**From:** bscarbro@comcast.net  
**Sent:** Tuesday, January 31, 2023 10:09 AM  
**To:** Ashley Paugh  
**Subject:** Fwd: Objection to Rezoning of White Caps Restaurant, Oak Orchard, DE

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Opposition  
Exhibit

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Corrected typo of spelling of Restaurant!

Please let me know that you have received this letter of objection and that it will be filed for the hearing.

Thanks!

Becky Scarborough

----- Original Message -----

From: bscarbro@comcast.net  
To: Ashley Paugh <ashley.paugh@sussexcountype.gov>  
Date: 01/31/2023 9:58 AM  
Subject: Objection to Rezoning of White Caps Restaurant, Oak Orchard, DE

Dear Sussex County Planning and Zoning Commission Members,

I am registering my objection to the conditional use rezoning of the plot of land on Indian River Bay in Oak Orchard from an MR to Multi family density for the building of 10 units on a sensitive, flood prone area . This is where White Caps Restaurant presently stands and where the former historical Oak Orchard or old Indian River Hotel used to stand.

Such a rezoning not only would endanger the future residents of the 10 units to occupy the plot, but it also would significantly change the surrounding neighborhood of small, well-kept cottages that have been there for almost a hundred years.

Oak Orchard and surrounding area is an historically rich area and one of the earliest beach towns in all of Delaware. It is being negatively impacted by the uncontrolled growth of development sprawl all around it. Route 24 and what has happened to that once colorful country road is but one example of the exploitation of greedy developers responsible for changing the face of Sussex County for the worse! Such irresponsible development must come to a halt before the whole county becomes a megalopolis!

Sincerely,



Rebecca Scarborough  
3068 Andrews Lake Road,  
Frederica, Delaware 19946  
and  
32116 River Road  
Millsboro, Delaware 19966  
(302) 335-5027 (home)  
(302) 668-7403 (cell)  
(302) 945-5327 (cottage)

RECEIVED

FEB 01 2023

SUSSEX COUNTY  
PLANNING & ZONING



Station #1 – 32628 Oak Orchard Road  
Millsboro, DE 19966  
Phone: (302) 945-2800 \* Fax: (302) 945-1130

Station #2 – 25375 Banks Road  
Millsboro, DE 19966  
Phone: (302) 945-2801 \* Fax: (302) 947-9447

January 30, 2023

Sussex County Planning & Zoning Commission  
County Administrative Offices  
2 The Circle  
Georgetown, DE 19947

RE: Public Hearing – Conditional Use Application – C/U 2349 – Lessard Builders

Dear Commissioners of the Sussex County Planning & Zoning Commission,

On behalf of the Board of Directors, Officers, and Members of the Indian River Volunteer Fire Company, we hereby submit this communication regarding the Application for Conditional Use by Lessard Builders. The synopsis of the Conditional Use Application is proposing a MR Medium Density Residential District for multi-family (10 units) structure to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 0.84 acre, more or less. The property is lying on the northwest side and the southeast side of Oak Orchard Road (Rt. 5), approximately 300 feet east of River Road (S.C.R. 312). 911 Address: 32768 Oak Orchard Road, Millsboro. Tax Parcel: 234-35.09-6.00

As you may be aware, the Indian River Volunteer Fire Company has been working with many entities within the State of Delaware, Sussex County, elected officials, and many others regarding the coastal drainage issues along this respective area of the Indian River Bay and its related tributaries. Please review the identified link for further information with specific emphasis on the Oak Orchard Study area: [https://documents.dnrec.delaware.gov/swc/Drainage/Documents/Oak\\_Orchard\\_Coastal\\_Drainage\\_Engineering\\_Evaluation\\_Report.pdf](https://documents.dnrec.delaware.gov/swc/Drainage/Documents/Oak_Orchard_Coastal_Drainage_Engineering_Evaluation_Report.pdf)

As specified in the previously identified report, the Oak Orchard community is composed primarily of single-family homes, mobile (manufactured) homes, and crop lands of which are diminishing quickly. Our localized drainage issues and flooding concerns result from both the hydrology and hydraulics of the area. The hydrology of the area is dependent on topography, existing land use, impervious area, soil types, and the precipitation amounts. Runoff increases when changes in land use reduce pervious area or when precipitation rates increase. The hydraulic systems include stormwater conveyance structures (e.g., pipes, ditches) that collect and transport stormwater runoff to receiving streams and/or other bodies of water. Where there are no stormwater conveyance systems, or where they are inadequate, runoff travels via concentrated flows, or ponds prior to infiltrating into the soils.



It would be a grave disparity not to highlight and mention some of the drainage deficiencies that continue to plague this specific area during periods of inclement weather and tidal flooding conditions. These deficiencies for the most part remain outstanding with minimal corrective action for any remedy in the designated area of this proposed conditional use application. This proposed conditional use application lies within 300 feet of the Oak Orchard Road and River Road intersection which has been identified as one of the areas for storm drain upgrades at the intersection. Ironically, this parcel's water run-off currently contributes to the drainage concerns at the specified area and is further compounded during periods of inclement weather and tidal conditions. Additionally, any significant increase in impervious surfaces could potentially exasperate this already strained drainage system.

Furthermore, approximately north on Oak Orchard Road passing the neighboring parcel #234-34.08-73.00 (Lands of now or formerly Linda J. Walls) is the intersection of Delaware Avenue and Oak Orchard Road is another High Priority Drainage Concern(s) with minimal to no correction action thus far. Therefore, it is more than likely that the proposed twenty-five (25) parking facility with any impervious parking surfaces will potentially compound and further exasperate an already strained drainage system this clearly documented as "High Priority Drainage Concerns" in need of corrective action.

In addition to the drainage and tidal flooding concerns, the Indian River Volunteer Fire Company wishes to clearly identify some of our other operational concerns that need consideration. There operational concerns include but not limited to:

- (1) Apparatus Access to all sides of the proposed residential complex - Apparatus Access is paramount to an already existing strained facility with limited aerial access because of overhead electrical wiring within the immediate vicinity of the proposed structure. Tentatively, the current and proposed building initiatives within this parcel and immediately neighboring parcel(s) necessitate a good deal of planning and forethought regarding emergency apparatus response, staging, and placement should an emergency incident occur. During previous times when fire struck the previous structures at and immediately adjacent to this location, apparatus placement and aerial devices were limited and stretched because of identified accessibility issues.
- (2) Residential Sprinkler Capabilities / Water Supply Access Concern -The proposed 10 unit residential structure is located in an area with public water service but not any fire hydrants and it would be paramount to incorporate residential sprinklers with fire external fire department connections. This would be essential in conjunction with #1 above should an unfortunate incident occur. Installation of an improved dry hydrant system with an intake BELOW the normal low tide mark with perpetual arrangements for maintenance of water intakes.
- (3) On-street parking prohibition based upon the narrow nature of Oak Orchard Road in this area, the prohibition of on-street parking is essential for safe passage and placement of emergency apparatus during periods of need.
- (4) Perpetual Roadway Through based upon the insinuation of previous owners of this specific parcel that the roadway openness is indicative of ownership preference. Apparatus access to this designated parcel and that of the Smith Landing needs greater entranceways, good turning radius and access from multiple directions.

The proposed conditional use application clearly lies between or near significant areas of roadway drainage and tidal flooding concerns which could preclude successful passage of emergency apparatus during these tidal flooding conditions. The Indian River Volunteer Fire Company can provide some photographs of these areas to highlight our concerns should you desire. Additionally, these concerns are being mentioned to highlight these flooding conditions which could impact passage of prospective residents to and from these areas until flooding concerns subside.

The Indian River Volunteer Fire Company is responsible to respond and mitigate any emergency incident within this designated area regardless of tidal concerns and other conditions; however, with adequate planning and resource allocation many of these deficiencies could be ameliorated.

If there are any questions, please do not hesitate to contact us at your earliest convenience.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Patrick C. Miller', with a long, sweeping horizontal stroke extending to the right.

Patrick C. Miller, President

ATTACHMENT

PCM:p



# OAK ORCHARD COASTAL DRAINAGE ENGINEERING EVALUATION



*Prepared for:*



Delaware Department of Natural Resources and  
Environmental Control  
Division of Watershed Stewardship  
89 Kings Highway  
Dover, DE 19901

February 2015

## URS

URS Corporation  
12420 Milestone Center Drive, Suite 150  
Germantown, MD 20876

|  |             |
|--|-------------|
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|        |  |
|--------|--|
| DelDOT | Delaware Department of Transportation                              |
| DGS    | Delaware Geologic Survey   |
| DNREC  | Delaware Department of Natural Resources and Environmental Control |
| GIS    | Geographic Information System                                      |
| NAVD88 | North American Vertical Datum of 1988                              |
| NED    | National Elevation Dataset   |
| NGVD29 | National Geodetic Vertical Datum of 1929                           |
| NRCS   | Natural Resources Conservation Service                             |
| URS    | URS Corporation  |
| USACE  | U.S. Army Corps of Engineers                                       |
| USGS   | U.S. Geological Survey   |



This report summarizes URS Corporation's (URS') analysis of the drainage and flooding concerns in the Oak Orchard community in Delaware and identifies opportunities to address these concerns.

The coastal Oak Orchard community is located east of the town of Millsboro, south of John J Williams Highway (Delaware Route 24), and north of the Indian River Bay in Sussex County, Delaware. The study area encompasses approximately 2 square miles, including approximately 1 mile of Indian River Bay shoreline.

The Delaware Department of Natural Resources and Environmental Control (DNREC) contracted URS to evaluate the drainage problems in the community and to develop and prioritize potential solutions.

As a part of this study, URS reviewed information provided by DNREC, including responses to a questionnaire sent to property owners (created in coordination with URS), information from two public meetings hosted and facilitated by DNREC, and geographic information system (GIS) data.

URS reviewed 76 questionnaires provided by DNREC and performed a site investigation at the location of each drainage concern. URS proposed 31 solutions and prioritized them based on:

- The questionnaires
- Field observations
- GIS data
- Community input from the public meetings

The solutions were prioritized using a variation of the DNREC prioritization matrix modified for the scope of coastal drainage projects. The prioritization matrix was used to help DNREC select high priority projects under DNREC jurisdiction for further analyses. For the high priority projects, URS developed conceptual designs that include a preliminary description of the recommended improvements, design considerations, feasibility, and planning level cost estimates. Prior to receiving the selection of high priority projects, a hydrologic analysis was performed for the Oak Orchard study area to estimate the runoff for the upland areas of the community. The results of this analysis were used to develop the conceptual designs.

Solutions that are under the jurisdiction of agencies other than DNREC are also identified (i.e., Delaware Department of Transportation [DelDOT] and homeowner associations). DNREC intends to forward information for these potential improvements to the respective agencies for implementation. Lastly, a summary of recommendations that can be implemented by homeowners on individual properties is provided that DNREC can use to assist to homeowners.

## **SECTION ONE: INTRODUCTION**

### **1.1 Authorization**

The Delaware Department of Natural Resources and Environmental Control (DNREC) retained URS Corporation (URS) to develop a detailed drainage and flooding report for Oak Orchard, an unincorporated community in Sussex County, Delaware. The project was funded by DNREC.

### **1.2 Background and Purpose**

The coastal Oak Orchard community is located between John J Williams Highway (Delaware Route 24) and the Indian River Bay in Sussex County, Delaware. Residents of this community consist of both year-round and seasonal residents.

The Indian River Bay is coastally influenced and impacts several marsh areas within the community. The community is susceptible to frequent flooding due to coastal effects from the Indian River Bay and localized stormwater runoff.

Changes in development and the natural environment have intensified flooding issues for the community. In particular, residential and commercial areas have been built in the community over several decades, resulting in an increase in impervious area and therefore an increase in flooding frequency from localized runoff for several of the areas. Residential properties and roads also flood frequently from local runoff because of stormwater, drainage, and transportation infrastructure that is undersized or in disrepair. This flooding can range from nuisance flooding of yards and residential roads to severe flooding of access roads, which affects access to homes and businesses. Drainage and flooding mitigation in Oak Orchard was identified as a priority of the Delaware Governor and Legislature due to the frequency and severity of flooding.

The purpose of this study is to evaluate existing drainage problems and provide recommendations to DNREC for drainage improvements in the Oak Orchard community. The focus of this study is on developing small- to medium-scale drainage solutions to reduce the frequency and duration of flooding.

### **1.3 Related DNREC Studies**

URS provided a Coastal Drainage Engineering Evaluation for the Delaware Bay Beach communities to DNREC in December 2014. The Bay Beach communities include three beaches in Kent County (Pickering Beach, Kitts Hummock, and South Bowers Beach) and four communities in Sussex County (Slaughter Beach, Prime Hook Beach, Broadkill Beach, and Lewes Beach). This Oak Orchard Coastal Drainage Engineering Evaluation report structure and study methodology closely follow that of the Bay Beach Study. These similarities include:

- Questionnaire numbering scheme
- Ranking criteria for proposed solutions
- Solution identification numbering
- Recommendations for homeowner implementations



## SECTION TWO: STUDY AREA CHARACTERISTICS

### 2.1 Study Area Location

The coastal Oak Orchard community is located east of the town of Millsboro, south of the John J Williams Highway (Delaware Route 24), and north of the Indian River Bay in Sussex County, Delaware. The study area encompasses approximately 2 square miles, including approximately 1 mile of Indian River Bay shoreline (Figure 2.1).

River Road runs parallel to the Indian River Bay shoreline, with several marsh areas to the north. Oak Orchard Road and the John J Williams Highway are major collectors; all other roads in the community are local roads.

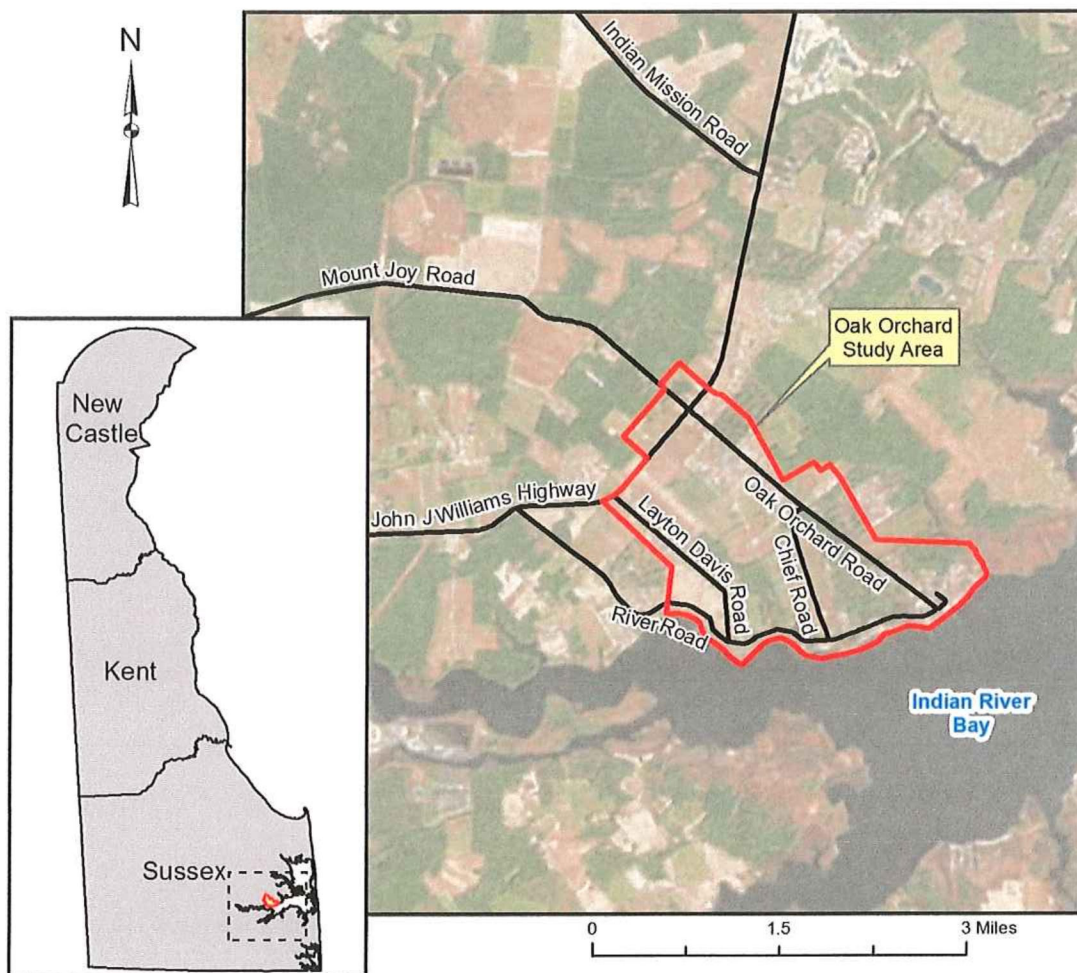


Figure 2.1: Oak Orchard Drainage Study Vicinity Map

### 2.2 Topography and Terrain

Contour data were provided by the Delaware Geological Survey (DGS), and the National Elevation Dataset (NED) 1/9-arc second (3-meter) raster was acquired from the U.S. Geological Survey (USGS). The vertical datum for both data sets is the North American Vertical Datum of 1988 (NAVD88).

The Oak Orchard community contains flat coastal lowland areas to the south, and steeper upland areas to the north. The lowland area extends from the Indian River Bay, north past River Road, with several marsh areas north of River Road connected to the bay via culverts. The maximum elevations north of the Indian River Bay in this lowland area typically range from 3 to 6 feet NAVD88, while the marsh elevations range from -1 to 2 feet NAVD88. The elevations of the upland areas generally range from 6 to 24 feet NAVD88.

### 2.3 Land Use

Land use data were provided by the Delaware Office of Management and Budget (2007) and aerial imagery (2011 and 2012). The Oak Orchard community is composed primarily of single-family homes, mobile home parks, and crop lands. The community is bounded to the south by the Indian River Bay, and there are both tidal and non-tidal wetlands adjacent to forested or residential areas north of River Road. The northeastern extent of the study area (at the intersection of Oak Orchard Road and John J Williams Highway) is a commercial area.

### 2.4 Soil and Groundwater

Soil data were obtained from the 2009 Soil Survey Geographic database of the Natural Resources Conservation Service (NRCS). The Oak Orchard study area is composed primarily of Fort Mott loamy sand and Downer loamy sand, which are hydrologic group A and B soils, respectively, that drain rapidly. The marsh areas on the landward side of River Road are primarily made up of Purnell peat. These soils are flooded frequently by tidal water and are hydrologic group D soils with poor infiltration and high clay content.

Digital water-table data were obtained from DGS. The normal water table is approximately 2 to 5 feet below the land surface elevation in the southern portion of the Oak Orchard community adjacent to the Indian River Bay and areas adjacent to the wetland areas. The normal water table depth is approximately 5 to 9 feet below the land surface for the upland areas.



## **2.5 Indian River Bay Water Surface Elevation**

The USGS Indian River stream gage at Rosedale Beach (Gage 01484540) is less than one mile from the Oak Orchard community, and was used to estimate average low tide, average high tide, and overall average water surface elevations for the Indian River Bay (USGS, 2015). The data from the gage are in National Geodetic Vertical Datum of 1929 (NGVD29), and were converted to NAVD88 by applying a -0.78 foot correction to the NGVD29 elevation. According to daily data from 2006 to 2015, the average low tide elevation is -0.83 foot, the average high tide elevation is 1.83 feet, and the average water surface elevation is approximately 0.5 foot.

### SECTION THREE: MAJOR DRAINAGE AND FLOODING CAUSES

#### 3.1 Local Drainage and Flooding

In general, localized drainage issues and flooding result from both the hydrology and hydraulics of a drainage area. The hydrology of a drainage area is dependent on topography, existing land use, impervious area, soil types of the area, and the amount of precipitation. Runoff increases when changes in land use reduce pervious area or when precipitation rates increase (as has been the case throughout the United States in recent years).

Hydraulic systems include stormwater conveyance structures (e.g., pipes, ditches) that collect and transport stormwater runoff to receiving streams and other bodies of water. Where there are no stormwater conveyance systems, or where they are inadequate, runoff travels via concentrated flow, or it ponds prior to infiltrating into the soil. Catch basins, stormwater inlets, ditches, pipes, gates, culverts, and other stormwater conveyance structures must be cleaned on a regular basis to maintain hydraulic function. Materials that can hinder hydraulic function include accumulated sediments, debris, vegetation, log jams, trash, and fallen trees.

Coastal areas are also heavily influenced by coastal water bodies. The Oak Orchard community is bounded by the Indian River Bay to the south, with occasional coastally influenced marsh areas that extend north of River Road. The coastal water bodies can cause flooding directly by overflowing onto land surfaces, or indirectly by preventing runoff from draining through the conveyance systems. Significant coastal events such as nor'easters and hurricanes often overwhelm existing conveyance systems. The marsh areas, which are coastally influenced, can provide storage for runoff draining through conveyance systems; however, if the water surface elevations in the marsh are high due to high tides or previous rainfall events, the storage capacities may be compromised.

#### 3.2 Sea Level Rise

The global mean sea level increased throughout the twentieth century, and this trend is expected to continue in the near future based on climate-related phenomena (IPCC, 2007). The two primary causes of global mean sea level rise are the thermal expansion of saltwater as it warms and melt-water from ice on land (e.g., glaciers). The published rates of sea level rise at Lewes Beach, Delaware and Ocean City, Maryland are approximately 3 millimeters/year (0.1 inch/year) and 5.5 millimeters/year (0.2 inch/year), respectively, although the rate is expected to increase throughout this century (DNREC, 2013). The DNREC Sea Level Rise Technical Work Group suggests planning scenarios for sea level increases ranging from 1.6 feet to 5 feet by 2100.

The Delaware coast is a vital ecologic resource and is a key component of the state's economy because it provides jobs and recreation (DNREC, 2013). Sea level rise can increase the rate of shoreline erosion, damaging dunes and other environmental features that protect the inland areas from coastal flooding. Overall, sea level rise is anticipated to exacerbate local drainage issues and flooding.



## **SECTION FOUR: STUDY METHODOLOGY**

The purpose of this study was to evaluate existing drainage problems and provide recommendations to DNREC for future drainage improvements in the Oak Orchard community (including prioritization) while meeting the goals and expectations of DNREC and community residents. The focus of this study was on developing the most appropriate small- to medium-scale drainage solutions to reduce the frequency and duration of flooding that would also complement expected future projects (e.g., a DelDOT storm drain upgrade at the intersection of Oak Orchard Road and River Road). Structure-based flood mitigation measures (e.g., raising houses and flood proofing) were not considered in this study.

URS performed the following tasks as a part of this project:

1. **Evaluate Public Input:** This task included analyzing questionnaires from residents and notes from two public meetings between Oak Orchard residents and DNREC (Section 5).
2. **Review Existing Data:** This task involved a desktop analysis using GIS (Section 2).
3. **Field Reconnaissance:** This task involved investigating the location of drainage concerns identified by the public (Section 6).
4. **Identify Drainage Concerns:** This task involved consolidating information from the data review, public meetings, and field reconnaissance (Section 6).
5. **Develop Initial Recommendations for Improvements:** This task included developing recommendations for each of the drainage concerns, as well as identifying design considerations (Section 6).
6. **Prioritize Drainage Solution:** This task involved ranking each proposed recommendation using the criteria established in coordination with DNREC (Section 6).
7. **Conduct Hydrologic Analysis:** This task involved performing a hydrologic analysis of the Oak Orchard study area used for concept design hydraulic calculations (Section 6).
8. **Develop Concept Design Plans:** This task involved developing schematic concept plans for five recommended improvements selected by DNREC for additional analyses (Section 7).

The remaining sections of this report describe the analyses performed for this project.

## **SECTION FIVE: COMMUNITY INPUT**

### **5.1 Questionnaires**

As part of this study, URS and DNREC created a questionnaire to solicit information on drainage and flooding observations from residents of the Oak Orchard community. The questionnaire requested that residents provide:

- Resident contact information (i.e., name, address, and ownership information);
- Description of flooding and drainage concerns;
- The location of drainage and flooding concerns;
- The probable cause of drainage and flooding concerns (e.g., poor drainage system or low-lying area);
- When the drainage and flooding problems typically occur (e.g., during high tides, after every rain event, after large rain events, or during hurricanes); and
- Frequency of drainage and flooding issues.

DNREC distributed the questionnaire to the property owners in the study area in 2014. A blank questionnaire is provided in Appendix A. The completed questionnaires received by DNREC are available on the CD provided with this report. A total of 76 questionnaires were received in March 2014 and were reviewed for this study.

### **5.2 Public Meetings**

DNREC and Delaware House of Representative Ruth Briggs-King hosted and facilitated two public meetings with members of the Oak Orchard community on July 16, 2013 and October 9, 2013. These meetings were held prior to the initiation of this study because the mitigation in Oak Orchard was identified as a priority of the Delaware Governor and Legislature. The intent of these meetings was to discuss drainage problems in the area. Information gathered from these meetings was used to supplement the questionnaires received and to identify additional drainage problems. Detailed notes from these meetings were provided by DNREC to URS on August 20, 2014.



### SECTION SIX: IDENTIFICATION OF DRAINAGE DEFICIENCIES AND SOLUTIONS

#### 6.1 Desktop Analysis

GIS data were compiled from DNREC and other state agencies. Data compiled included topography, land use, transportation, parcel, and groundwater data (as discussed in Section 2).

#### 6.2 Identification of Drainage Deficiencies

The information from the questionnaires was input into a GIS database to spatially represent the data. For each questionnaire received, a unique 3-digit identification number was assigned and a point in the GIS database denotes the respondent's local address. When a resident had a drainage concern at a location other than his or her home address, a point was placed at the location of the identified concern (in addition to the point at the home address) and a decimal added to the identification number. Appendix B contains maps of the community showing the location of drainage concerns, as well as the location of homeowner addresses where there are no drainage concerns (over 150 total data points). A key for the identification numbers for each questionnaire is also provided in Appendix B. Figure 6.1 shows the spatial distribution of the drainage concerns received.

The drainage concerns were grouped based on apparent cause of the problem (e.g., undersized culvert west of the intersection of Chief Road and River Road). This was completed with the understanding that some of the groupings would change following field reconnaissance verification. These groupings were used to organize the potential drainage solutions described in Appendix C.

Drainage deficiencies include undersized or non-existent storm drain systems, storm drain systems that require maintenance, and low ground surface elevations. These deficiencies result in problems such as localized flooding, backwater flooding from inland marsh, or coastal inundation directly from the Indian River Bay.

Several of the drainage deficiencies are triggered or intensified by the flooding causes described in Section 3. For example, sea level rise can reduce storage for runoff by causing marsh levels to rise. Sea level rise also reduces the flow through culverts due to higher water surface elevations at the outlet.



## Identification of Drainage Deficiencies and Solutions

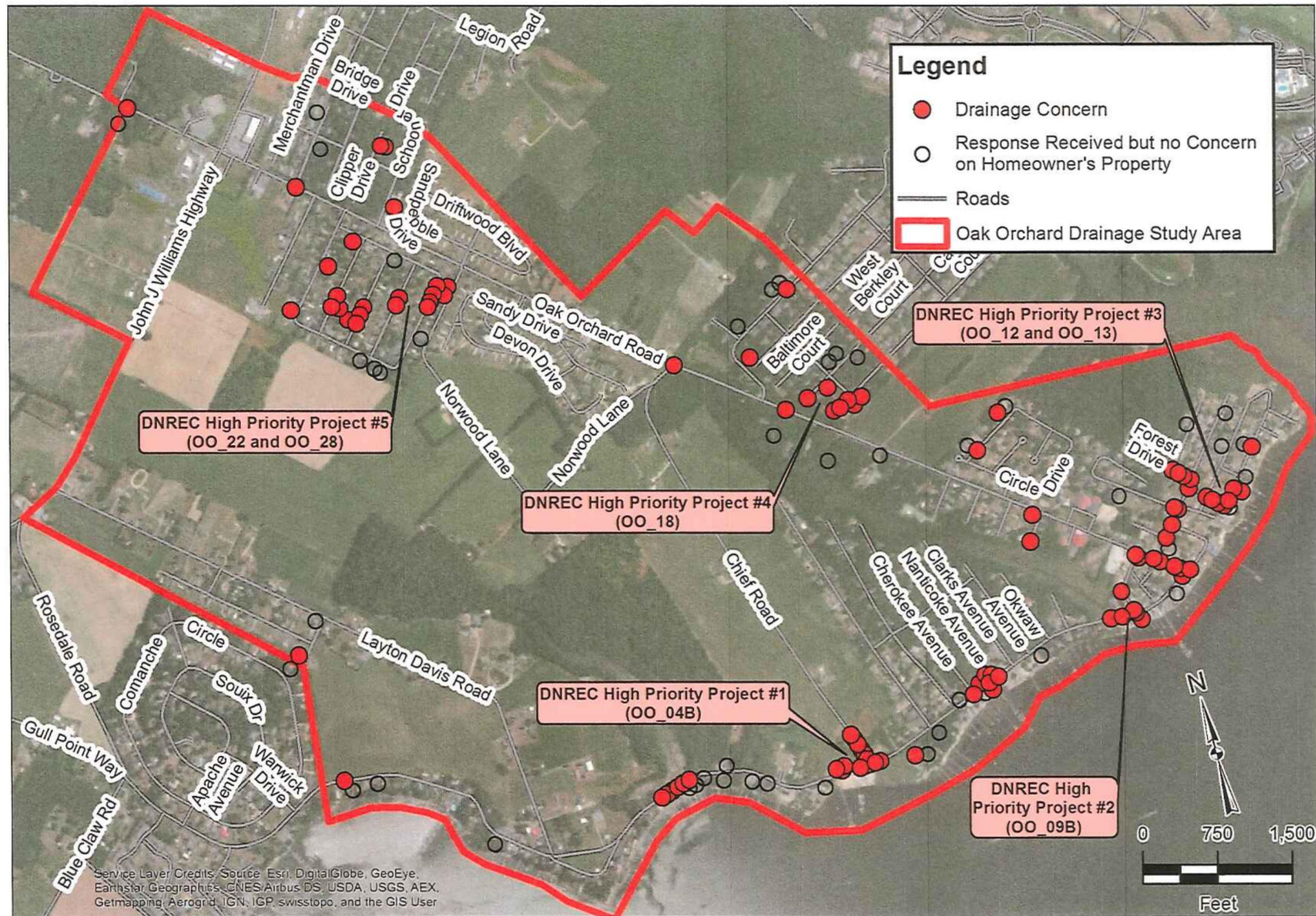


Figure 6.1: Oak Orchard Locations of Drainage Concerns and Approximate Locations of DNREC High Priority Projects



### 6.3 Field Reconnaissance

URS performed the initial field reconnaissance in September 2014. Field maps displayed contours, the locations of drainage concerns from the questionnaires, and infrastructure that could affect drainage. The team of engineers used these maps in tandem with the questionnaires to investigate each drainage concern described in the questionnaires and public meetings. Photographs from the field investigation are provided in Appendix D.

URS completed a field data form for each drainage concern group to capture the existing site conditions and potential drainage improvements including:

- Type of flooding (e.g., road, yard, coastal);
- Apparent cause of the problem (e.g., elevation, debris, ponding, ditch);
- Site ownership (e.g., state, private); and
- Design constraints (e.g., utility and environmental impacts).

Based on this information, URS identified at least one solution (e.g., re-grade road, ditch maintenance, upgrade culvert, install storm drain pipes, install bulkhead) for each site. Sketches of existing and proposed conditions at each drainage concern were developed and photographs were taken. A blank field data form is available in Appendix E. The completed field data forms are on the CD provided with this report.

### 6.4 Development of Drainage Solutions

The potential solutions identified in the field for each drainage concern were further developed following the field investigation. A total of 31 potential solutions were identified.

The solutions were labeled using the two-letter identifier “OO” (Oak Orchard) followed by a two-digit number. The two-letter identifier is used for consistency with the Bay Beach Drainage Study nomenclature. For each solution, the proposed project location, source of flooding, existing site conditions, recommendations, constraints, effectiveness, and property ownership were analyzed. Where two solutions were recommended at the same location, an “A” or “B” was added to the solution label. The solutions are discussed in Section 7.

Appendix C provides a summary of each identified drainage problem, potential solution, possible constraints, and expected effectiveness, cross referenced to questionnaire number. Existing drainage deficiencies are organized by proposed solution. Each proposed solution is also cross referenced to the drainage concerns from the questionnaires. Appendix B provides maps of each community showing the location of drainage concerns and approximate locations of the proposed solutions.

### 6.5 Hydrologic Analysis

To accurately assess the potential drainage improvements, hydrologic analyses are necessary to estimate runoff volume present in or conveyed by natural and engineered water systems such as channels, ditches, and culverts. A hydrologic analysis was performed for the contributing drainage areas in the Oak Orchard Study area using HEC-HMS (USACE, 2010) to develop hydrographs for the 2-, 10-, 25-, 50-, and 100-year storm events for existing land use conditions. Figure 6.2 displays the 8 watersheds and 31 sub-basins included in the hydrologic analysis. Figure 6.3 displays the sub-basins, 24 junctions, 8 outfalls, and the routing reaches modeled using HEC-HMS.

The peak flows were calibrated using a nearby stream gage outside the watershed, and were validated using the USGS Scientific Investigations Report 2006-5146 (Ries, 2006) regression equations. Table 6.1 presents the results of the hydrologic analysis. Appendix F is the hydrologic report summarizing the methods and results of the hydrologic analysis.

The results of the hydrologic analysis were used to develop solutions for the recommendations selected for concept design. In addition, the results of this study can be used by DNREC for future stormwater management improvements.



## Identification of Drainage Deficiencies and Solutions

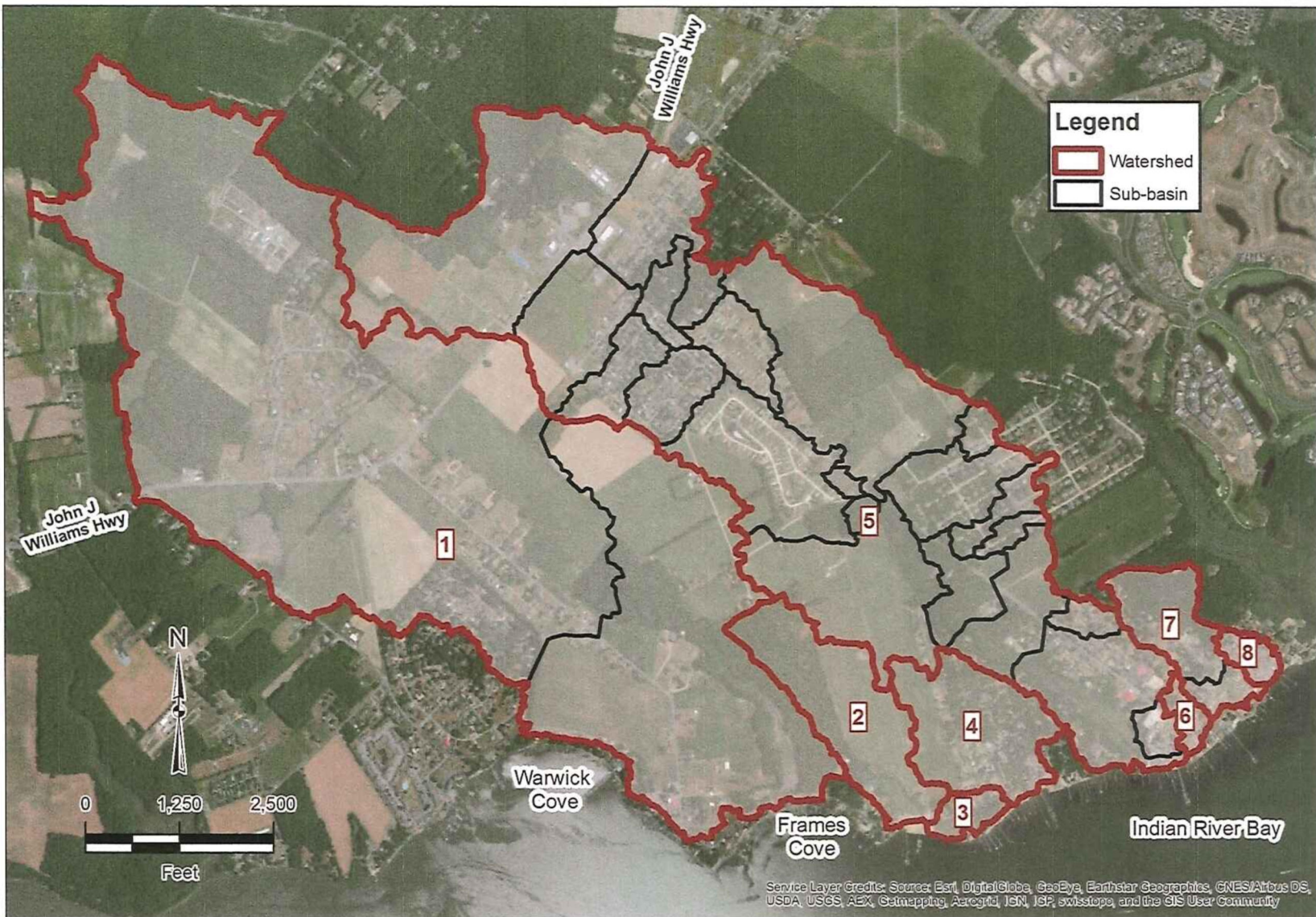
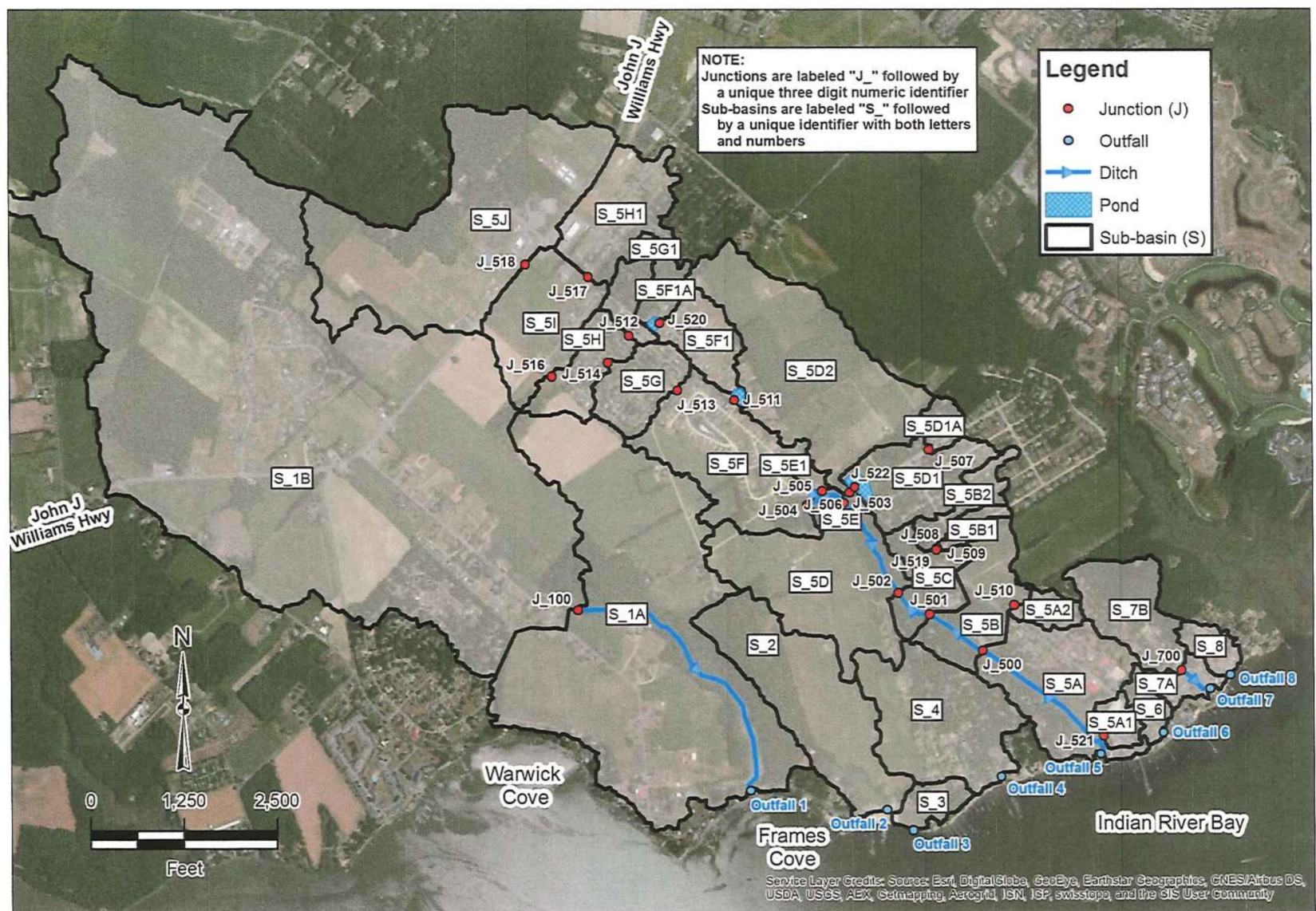


Figure 6.2: Oak Orchard Drainage Divide Map



## Identification of Drainage Deficiencies and Solutions



**Figure 6.3: Oak Orchard Hydrologic Analysis Map**



## Identification of Drainage Deficiencies and Solutions

Table 6.1: Summary of Hydrologic Analysis

| Name      | Drainage Area, mi <sup>2</sup> | Storm Event Flows<br>(cubic feet per second) |         |         |         |          |
|-----------|--------------------------------|--|---------|---------|---------|----------|
|           |                                | 2-year                                       | 10-year | 25-year | 50-year | 100-year |
| J_100     | 1.10                           | 56   | 122     | 178     | 230     | 289      |
| J_500     | 1.14                           | 64   | 156     | 246     | 334     | 436      |
| J_501     | 1.07                           | 71   | 168     | 259     | 345     | 445      |
| J_502     | 1.04                           | 71   | 174     | 268     | 356     | 457      |
| J_503     | 0.89                           | 65   | 150     | 233     | 307     | 389      |
| J_504     | 0.64                           | 48   | 109     | 160     | 207     | 261      |
| J_505     | 0.01                           | 3  | 5       | 8       | 10      | 13       |
| J_506     | 0.24                           | 23   | 52      | 77      | 100     | 127      |
| J_507     | 0.01                           | 2  | 5       | 8       | 10      | 13       |
| J_508     | 0.02                           | 4  | 10      | 15      | 20      | 26       |
| J_509     | 0.01                           | 3  | 6       | 9       | 12      | 16       |
| J_510     | 0.01                           | 4  | 8       | 12      | 16      | 21       |
| J_511     | 0.05                           | 3  | 15      | 25      | 34      | 43       |
| J_512     | 0.02                           | 4  | 9       | 13      | 17      | 21       |
| J_513     | 0.48                           | 42   | 91      | 134     | 174     | 220      |
| J_514     | 0.44                           | 39   | 87      | 128     | 167     | 211      |
| J_516     | 0.39                           | 35   | 77      | 114     | 149     | 190      |
| J_517     | 0.07                           | 10   | 23      | 34      | 44      | 56       |
| J_518     | 0.25                           | 18   | 40      | 61      | 80      | 103      |
| J_519     | 0.03                           | 7  | 16      | 24      | 31      | 40       |
| J_520     | 0.02                           | 1  | 5       | 8       | 11      | 14       |
| J_521     | 0.01                           | 4  | 9       | 13      | 17      | 22       |
| J_522     | 0.01                           | 6  | 26      | 41      | 54      | 70       |
| J_700     | 0.05                           | 4  | 10      | 16      | 22      | 28       |
| Outfall 1 | 1.53                           | 77   | 169     | 253     | 328     | 413      |
| Outfall 2 | 0.12                           | 10   | 22      | 33      | 44      | 57       |
| Outfall 3 | 0.02                           | 4  | 10      | 14      | 19      | 24       |
| Outfall 4 | 0.11                           | 15   | 33      | 49      | 64      | 81       |
| Outfall 5 | 1.25                           | 57   | 146     | 224     | 297     | 381      |
| Outfall 6 | 0.01                           | 3  | 6       | 9       | 12      | 15       |
| Outfall 7 | 0.07                           | 6  | 13      | 21      | 28      | 36       |
| Outfall 8 | 0.01                           | 2  | 5       | 8       | 10      | 13       |

### 6.6 Prioritization

The Bay Beach Workgroup developed an extensive drainage project prioritization ranking criteria in 2011. This worksheet included 38 prioritization categories in eight groups (public safety impacts, economic impacts, technical criteria, environmental/ecological impacts, agricultural impacts, public health impacts, societal impacts, and miscellaneous impacts). The Workgroup criteria were tailored for coastal drainage projects as part of the Bay Beach Coastal Drainage Study.

In an August 20, 2014 meeting, DNREC recommended that the prioritization matrix created for the Bay Beach Drainage Study be used for the Oak Orchard Coastal Drainage Study. Table 6.2 lists the ranking criteria URS used to score the proposed solutions. The criteria include 12 prioritization categories in six groups (the economic and societal impacts are incorporated into the ingress-egress prioritization category).

URS ranked the proposed engineering solutions using the DNREC approved ranking criteria. Solutions that did not require an engineering solution (i.e., maintenance or homeowner solutions) or solutions that would be solved by ongoing projects (e.g., ongoing DelDOT project at the intersection of Oak Orchard Road and River Road) were not ranked at this time. Appendix C shows the prioritization of the proposed solutions.



## Identification of Drainage Deficiencies and Solutions

**Table 6.2: Ranking Criteria for Proposed Solutions**

| Prioritization Category  | Description   | Score |
|--|---|-------|
| <b>PUBLIC SAFETY IMPACTS</b>                                   |   |       |
| Number of Questionnaires with Observations                     | 0 to 3  | 0     |
|  | 4 to 9  | 6     |
|  | 10 or more  | 12    |
| Ingress and Egress   | Does not affect   | 0     |
|  | Small vehicles may not be able to pass (6 inches or less of water) <sup>1,2</sup>                     | 6     |
|  | Road impassible (6 inches or greater) <sup>1,2</sup>  | 12    |
| <b>TECHNICAL CRITERIA</b>                                      |   |       |
| Frequency of Drainage/Flooding (as reported in questionnaires) | Occurs less frequently than every 10 years  | 2     |
|  | Every 2-10 years  | 4     |
|  | Yearly  | 6     |
|  | Several times per year  | 8     |
|  | Monthly   | 10    |
| Flooding Severity  | Yard/driveway flooding  | 4     |
|  | Nuisance road flooding  | 8     |
|  | Structural flooding/road closure  | 12    |
| Complexity of Solution   | Significant impact to utilities, roads (closure), business (closure or interruption), or drainage     | 0     |
|  | Minor impact to utilities, roads (partial closure), or drainage                                       | 4     |
|  | No impact to utilities, roads, or drainage  | 8     |
| Easement/Right of Way Requirement                              | Solution entirely on private property, or requiring more than four easements through private property | 0     |
|  | Solution primarily on public property, with one to three easements through private property           | 4     |
|  | Solution entirely public property (e.g., DelDOT, DNREC, U.S. Department of Interior)                  | 8     |
| <b>ENVIRONMENTAL/ECOLOGICAL IMPACTS</b>                        |   |       |
| Environmental Impact of Proposed Solution                      | Construction in wetlands or streams, or involves removal of more than 10 trees                        | 0     |
|  | Construction on edge of wetlands or streams, or involves removal of 1-9 trees                         | 3     |
|  | No impact   | 6     |
| Environmental Permitting                                       | Required  | 0     |
|  | Not required  | 6     |
| <b>AGRICULTURAL IMPACTS</b>                                    |   |       |
| Agricultural Impact  | Long term   | 0     |
|  | Short term  | 4     |
|  | None  | 8     |
| <b>PUBLIC HEALTH IMPACTS</b>                                   |   |       |
| Septic System Impact   | Long term   | 0     |
|  | Short term  | 4     |
|  | None  | 8     |
| <b>MISCELLANEOUS IMPACTS</b>                                   |   |       |
| Project Cost   | High  | 0     |
|  | Medium  | 4     |
|  | Low   | 8     |
| Maintenance Cost   | High  | 0     |
|  | Medium  | 4     |
|  | Low   | 8     |

<sup>1</sup> If there are two or more access roads, multiply score by 0.5

<sup>2</sup> If there is one access road, multiply score by 1

### 6.7 DNREC Selection of High Priority Drainage Solutions

URS submitted the identified drainage deficiencies and initial solutions along with the ranking of the solutions to DNREC on October 17, 2014. URS discussed the potential solutions with DNREC at a meeting held on November 12, 2014, and comments were incorporated into the recommendations by URS.

DNREC selected five high priority projects to proceed to the concept design phase. DNREC based its selection on the prioritization matrix, responsible agency, and engineering judgment. Additional factors DNREC considered in the selection process included:

- Agency with jurisdiction over the project area;
- Ongoing or planned DNREC projects in the vicinity of the proposed projects;
- The complexity of the project;
- Whether a concept design for a similar project could be adapted for multiple sites; and
- The interdependence of proposed projects (e.g., improving the conveyance at Oak Meadows [OO\_12] would likely worsen flooding at River Road [OO\_09] if the existing culvert were not upgraded).

The development of the concept designs is discussed in Section 7.



## SECTION SEVEN: POTENTIAL SOLUTIONS

The goal for this study is to identify, evaluate, and recommend potential solutions for drainage deficiencies in the Oak Orchard community. To facilitate implementation, the projects have been organized by the agency having jurisdiction of the project area (Table 7.1). The complete potential drainage solution table organized by community is available in Appendix C.

**Table 7.1: Summary of Proposed Drainage Solutions by Agency**

| Agency   | Number of Solutions |
|--|---------------------|
| DNREC  | 19                  |
| Delaware Department of Transportation (DelDOT)     | 3                   |
| Homeowner Solution (DNREC Technical Assistance)    | 7                   |
| Homeowner Association (DNREC Technical Assistance) | 2                   |

### 7.1 DNREC Projects

The majority of the recommended drainage solutions are within DNREC jurisdiction. The DNREC projects are further subdivided into high priority projects, for which a concept design was developed, and lower priority drainage solutions.

#### 7.1.1 High Priority Drainage Solutions

Concept designs were developed for the five high priority recommendations selected by DNREC. The approximate location of each high priority drainage solution site is shown in Figure 6.1. Appendix G contains concept design packages for each of the sites that were analyzed in detail. The package for each high priority site includes:

- A description of the existing problem;
- A description of potential solutions;
- Existing and proposed site condition graphics;
- Typical cross sections;



**Collapsed headwall at River Road culvert during high tide, approximately 2,000 feet west of Chief Road (OO\_04).**

- Pertinent computations;
- Analysis of proposed improvements and benefits;
- Analysis of the feasibility of the solutions;
- A description of required plans and permits; and
- Cost estimates.

An additional field investigation was performed in February 2015 for the five high priority projects selected by DNREC. The purpose of this investigation was to acquire additional data on each site to establish a more detailed solution based on the preliminary recommendations provided in Appendix C.

The concept design packages include preliminary hydraulic calculations using the hydrologic data from the Oak Orchard hydrology report (Appendix F). Hydraulic calculations were performed using HY-8, Manning's equation, or Bentley Pond Pack software. The water surface elevation data for Indian River Bay, discussed in Section 2.5, were considered for culverts crossing River Road (OO\_04B, OO\_09B, and OO\_12).

The feasibility of each proposed solution was assessed by considering:

- **Soil and Groundwater:** Most of the proposed solutions are in areas with hydrologic group A soils (sand) and groundwater depths of 5 feet or less. The effects of these soil and groundwater conditions were considered.
- **Construction Access:** Construction access to the proposed improvement site was identified. The proximity to roads, private property, and potential heavy equipment parking are noted.
- **Maintenance Considerations:** Activities required to maintain the function of the proposed improvements are described.
- **Utility Conflicts:** Potential utility conflicts, such as water, sewer, electric, cable, and power lines, were identified based on field observations, and data from the Sussex County Engineering Department.
- **Effectiveness:** The ability of the proposed solution to solve the existing problem is evaluated.
- **Environmental Issues:** Potential impacts to trees and wetlands are noted.
- **Easements:** Potential easements necessary for project construction are noted.
- **Plans and Permitting:** Anticipated construction documentation and plans are listed.

The conceptual costs were developed based on engineering judgment. The cost estimates include engineering, permitting, and construction costs. Typical unit costs are based on contractors' estimates and on unit price data for Anne Arundel County, Maryland and other



areas. Costs reflect current rates and geographic conditions. A qualitative cost-benefit analysis was performed by comparing the cost of each project with the expected benefits. The concept design data for each solution is provided in Appendix G, and a summary of each solution is presented in Table 7.2.

**Table 7.2: Summary of Proposed High Priority Solutions Selected for Concept Design**

| Solution ID     | Proposed Project Location  | Recommendation   | Cost      |
|-----------------|--|--|-----------|
| OO_04B          | River Road, approximately 2,000 feet west of Chief Road            | Install 1,000 feet of bulkhead north of River Road, and install three 30-inch culverts crossing River Road. Install backwater control check valves for each pipe. Repair the upstream and downstream face of the existing culvert, and slip line the pipe if needed. Install a headwall and tide gate at the downstream face of the existing culvert to allow saltwater flow to the marsh during low and average tides (promoting the biologic function of the marsh) while preventing inundation during high tide. Install three at-grade drainage inlets with one-way check valves to drain the roadway. | \$945,000 |
| OO_09B          | The intersection of Cerise Avenue and River Road, and Roberta Lane | Install 700 feet of bulkhead north of River Road, and install three 36-inch culverts crossing River Road. Install backwater control check valves for each pipe. Slip line the existing culvert if needed. Install a headwall and tide gate at the downstream face of the existing culvert to allow saltwater flow to the marsh during low and average tides (promoting the biologic function of marsh) while preventing inundation during high tide. Install three at-grade drainage inlets with one-way check valves to drain the roadway.  | \$951,000 |
| OO_12 and OO_13 | Mercer Avenue and Forest Drive                                     | Clean 650 feet of existing grass ditch along Mercer Avenue and Delaware Street and replace 400 feet of existing damaged storm drain system. Extend pipe into the Bay and install backflow prevention. Install two catch basins by the intersection of Forest Avenue with Delaware Street, and install 150 feet of storm drain pipe to the existing Mercer Avenue ditch.  | \$218,000 |

| Solution ID     | Proposed Project Location   | Recommendation  | Cost      |
|-----------------|---|---|-----------|
| OO_18           | West Fairfax Court and West James Court (southwest corner of Captains Grant), and Oak Orchard Road west of Captains Grant | Regrade 600 feet of grass ditch northeast of Oak Orchard Road from Fairfax Court to the 24-inch corrugated metal pipe culvert crossing Captains Way that flows to the existing wet pond. Install 400 feet of grass ditch northeast of Oak Orchard Road from West James Court to the existing ditch. Replace the existing culvert crossing Oak Orchard Road, and implement sediment reduction practice at existing catch basin.  | \$76,000  |
| OO_22 and OO_28 | Oak Meadow Drive  | Resize and replace 2,500 feet of existing storm drain pipes, and replace with a storm drain system. Pipes should be replaced from Briar Lane to the outlet into the Amber Drive wet pond. Install/upgrade ditches as needed, including from the driveway of 27706 Oak Meadows Drive to the existing catch basin. Install a ditch north of Briar Lane from the intersection of Oak Meadow Drive and Briar Lane to the existing catch basin. Install storm drain pipes under driveways as needed. | \$918,000 |

### 7.1.2 Additional DNREC Drainage Solutions

In addition to the high priority drainage solutions described in Section 7.1.1, there are lower priority engineering drainage solutions that are recommended for implementation. The most frequently recommended engineering solutions in this study involve improving existing stormwater conveyance systems. These stormwater conveyance systems include drainage ditches, storm drain pipes, and valley gutters. The improvements recommended in this study include:

- **Installing Storm Drain Systems that Drain to Non-Tidal Area:** At-grade inlets and storm drain pipes are common in flat and urban areas. It is recommended that the inlets and pipes be placed in low-lying areas adjacent to roadways and connected to existing stormwater management facilities, or non-tidal marshes. Examples of recommendations to install or upgrade existing at-grade inlets and storm drain pipes that drain to non-tidal outfalls include OO\_10, OO\_16, and OO\_21.



Catch Basin at River View Avenue



- **Installing Storm Drain Systems That Drain to Tidal Area:** Installing at-grade inlets and storm drain pipes that drain to tidal areas requires additional components to prevent inlet surcharging during abnormally high tides. Backwater prevention equipment is recommended in areas where storm drain pipes drain to the Indian River Bay or a tidally influenced marsh. Backwater prevention will allow localized runoff to drain lower tides and will deter flooding from the marsh during higher tides. Examples of recommendations to install or upgrade existing at-grade inlets and storm drain pipes that drain to tidal outfalls include OO\_08 and OO\_38.



Existing Grass Ditch at the Corner of Oak Orchard Road and Caravel

- **Installing or Upgrading Existing Ditches:** Drainage ditches are shallow channels that allow water to drain to storm drain pipes, culverts, stormwater management ponds, or backwater marsh areas. Ditch drainage is limited by the water surface elevation of downstream water bodies. Examples of recommendations to install new ditches or improve existing ditches include OO\_21 and OO\_32.
- **Installing Valley Gutters:** Valley gutters are “v” shaped channels in the roadway that convey flow over a road or driveway without affecting traffic. Valley gutters are applicable when conveyance is required from a low point in the roadway to a ditch, catch basin, or sloped segment of roadway. This study recommends two valley gutters (OO\_36 and OO\_37) to convey ponded water.
- **Constructing a Stormwater Management Facility:** Stormwater management facilities such as wet ponds and dry ponds reduce the peak flow of a watershed by temporarily storing runoff. One stormwater management facility is recommended for this study (OO\_34) to reduce the flow downstream. Stormwater management facilities are often costly, and typically have a relatively large footprint.



The intersection of Myrtle Avenue and Delaware Street with standing water



River Road near the intersection with Chief Road

## 7.2 DelDOT Projects

Three of the recommended drainage solutions in this study involve modifications to DelDOT roads. URS recommends raising River Road at several locations



(OO\_04A, OO\_06, and OO\_09A) where the road is frequently flooded from Indian River Bay to the south or from marshland to the north. In these situations, the existing hydraulic conveyance capacity needs to be maintained or improved by adding culverts or other means to convey water. Both OO\_04A, and OO\_09A overlap with high priority DNREC projects and may require coordination between DelDOT and DNREC. The projects under DelDOT jurisdiction are summarized in Table 7.3 and will be shared with DelDOT to assist in their capital planning efforts.

**Table 7.3: Summary of Proposed Solutions under DelDOT Jurisdiction**

| Solution ID         | Proposed Project Location                                   | Recommendation   |
|---------------------|---|--|
| OO_04A <sup>1</sup> | River Road, approximately 2,000 feet west of Chief Road     | Raise approximately 400 linear feet of River Road from elevation 2 feet NAVD88 to a finished elevation of 3 to 4 feet NAVD88 (an increase of 1 to 2 feet) from 32026 River Road to 31362 River Road. Install ditch north of River Road if needed to connect to existing ditch system. Replace existing pipe, and install backflow prevention on the bay side of the pipe. If the marsh north of River Road is a salt water marsh, a tide gate may be required to allow saltwater flow to maintain environmental functions.   |
| OO_06               | Intersection of Chief Road. and River Road                  | Raise approximately 500 linear feet of River Road from an elevation of approximately 2 feet NAVD88 to a finished elevation of 4 feet NAVD88 (an increase of 1 to 2 feet) from 400 feet west of the intersection of River Road and Chief Road to 100 feet east of the intersection. Install approximately 300 feet of bulkhead to tie existing bulkhead south of existing parking lot to elevation of 4 feet NAVD88. Regrade boat ramp to keep tidewater from flooding the parking lot. Possibly replace existing storm drain pipe with a larger pipe with a backflow prevention valve on the bay side of pipe. If the marsh north of River Road is a saltwater marsh, a tide gate may be required to allow saltwater flow to maintain environmental functions. |
| OO_09A <sup>1</sup> | Intersection of Cerise Avenue, River Road, and Roberta Lane | Raise approximately 600 linear feet of River Road from an elevation of approximately 2 feet NAVD88 to a finished elevation of 3 feet NAVD88 (an increase of 0.5 to 1 foot). Resize the existing 30-inch storm drain pipe and install backflow prevention on the bayside of the pipe. If the marsh north of River Road is a saltwater marsh, a tide gate may be required to allow saltwater flow to maintain environmental functions.   |

<sup>1</sup> This solution is at the same location as a DNREC high priority project, and any future improvements may require coordination between DelDOT and DNREC

### 7.3 Recommendations for Homeowner Implementation

During the field investigation, URS identified drainage solutions that homeowners or homeowner associations could implement. Structure-based mitigation options (e.g., flood proofing) are not discussed in this report. Solutions that are recommended for homeowner implementation fall into several general categories that are consistent with the homeowner solutions recommended for the Bay Beach Coastal Drainage Engineering Evaluation. Table 7.4 lists potential solutions for each type of problem that were developed for the Bay Beach Coastal Drainage Engineering Evaluation that are also applicable for residents of Oak Orchard. The



DNREC Homeowners Handbook (2011) and Prince George's County Department of Environment Resources Homeowner's Guide to Drainage Problems and Solutions (1998) were used to help generalize proposed solutions. In addition to the general solutions listed below, specific recommendations for the homeowner sites are included in Appendix C.

**Table 7.4: Potential Solutions for Homeowner Implementation**

| Solution Type               | Problem   | Potential Solution   | Applicability / Comments   |
|-----------------------------|---|--|--|
| Yard grading                | Ponding areas in yards, swampy yards, backyard that remain wet long after rainfall events | <ul style="list-style-type: none"> <li>Grade yard to eliminate ponding areas and ensure water is directed away from home (e.g., fill low areas)</li> <li>Direct sump pump discharge and gutter discharge away from home using a pipe and/or ditch</li> </ul>   | <ul style="list-style-type: none"> <li>Backfill with non-organic and root-free soil that is more pervious, for best results</li> <li>Eliminating ponding areas may reduce mosquito population</li> <li>The proposed practices would be expected to reduce nuisance flooding from storm events, particularly when the yards are raised above the marsh elevation</li> </ul> |
| Driveway grading            | Ponding areas in driveway, water entering garage from driveway                            | <ul style="list-style-type: none"> <li>Raise driveway to provide positive drainage to road</li> <li>Regrade driveway to eliminate low points or sags that collect water</li> <li>For driveways sloped toward the house, install a lip / speed-bump to prevent water from entering garage/house and direct drainage away from house via sheet flow, ditch, or pipe</li> </ul> | <ul style="list-style-type: none"> <li>The proposed practices would be expected to reduce nuisance flooding from storm events</li> </ul>   |
| Removal of debris/obstacles | Restricted conveyance of stormwater, ponding upstream of conveyance system                | <ul style="list-style-type: none"> <li>Clear debris, trash, sediment, etc. from culverts, channels, and ditches to ensure adequate conveyance</li> <li>Remove structures or other objects, such as landscape materials, sheds, and man-made obstacles that inhibit the flow of water</li> </ul>  | <ul style="list-style-type: none"> <li>The effectiveness of conveyance systems are reduced substantially when clogged</li> </ul>   |

## Potential Solutions

| Solution Type          | Problem                     | Potential Solution   | Applicability / Comments  |
|------------------------|-----------------------------|--|---|
| Gutter improvements    | Ponding of water near house | <ul style="list-style-type: none"> <li>• Direct gutter downspouts away from house (ideally to pervious areas via splash block)</li> <li>• Add plastic pipe to downspout outfalls or create ditch to divert water away from house</li> <li>• Maintain gutters and downspouts by cleaning them out twice a year or as needed</li> <li>• Inspect gutters to make sure that they are securely attached to the house and that the joints are not leaking</li> <li>• Direct gutter runoff to rain garden or rain barrel</li> </ul> | <ul style="list-style-type: none"> <li>• Infiltration is limited when there is a high water table</li> </ul>  |
| Rain garden            | Ponding of water near house | <ul style="list-style-type: none"> <li>• Provide a vegetated area adjacent to house or driveway to capture runoff</li> <li>• Rain gardens require excavation, planting soil, and a thin mulch layer, and should be 2 feet above the seasonal high water table elevation</li> </ul>   | <ul style="list-style-type: none"> <li>• This is an infiltration option and should be considered only if the water table is at least 2 feet below the ground surface or if it is impossible to create positive drainage by another option (e.g., if garage is at a lower area than surrounding driveway/yard)</li> <li>• Rain gardens provide storage within the engineered soil bed</li> </ul> |
| Waterproofing          | Basement flooding           | <ul style="list-style-type: none"> <li>• Caulk gaps and cracks and seal joints and connections in basement walls and floors</li> <li>• Repaint interior of basement with a waterproofing agent</li> <li>• Professionally waterproof basement</li> </ul>  | <ul style="list-style-type: none"> <li>• These practices should be considered in tandem with surface drainage improvements</li> </ul>   |
| Sump pump improvements | Basement flooding           | <ul style="list-style-type: none"> <li>• Inspect/maintain sump pumps regularly per manufacturers' recommendations</li> <li>• Install a generator, back-up battery, or redundant pump that is powered by water pressure that turns on when the power goes out</li> <li>• Evaluate the size of the sump pump for adequacy and upgrade if needed</li> <li>• Verify that the sump pump discharges to an adequate outfall that provides positive drainage away from the house and that it will not result in erosion</li> </ul>   | <ul style="list-style-type: none"> <li>• These practices should be considered in tandem with surface drainage improvements</li> </ul>   |



## Potential Solutions

| Solution Type          | Problem  | Potential Solution  | Applicability / Comments   |
|------------------------|--|---|--|
| Perimeter French drain | Basement flooding  | <ul style="list-style-type: none"> <li>• Install perimeter French drain (e.g., gravel trench with permeable pipe) around house</li> <li>• Install sump pump (see "sump pump improvement" recommendations above) to pump water away from the property</li> <li>• The French drain can drain to a dry well where the water table is low</li> </ul>  | <ul style="list-style-type: none"> <li>• Applicable when a residential flooding is due to a raised groundwater table</li> <li>• These practices should be considered in tandem with surface drainage improvements</li> </ul> |
| Yard Erosion Control   | Eroding yards, lack of topsoil, small channels forming in yard | <ul style="list-style-type: none"> <li>• Plant vegetation (e.g., grass) to stabilize soil</li> <li>• Send a soil sample to the University of Delaware Soiling Testing Program for soil testing and follow recommendations on the type of vegetation to plant and/or required soil improvements</li> <li>• Provide erosion protection (e.g., straw mulch, jute matting, or straw bales) while the vegetation is growing</li> <li>• Where severe erosion is occurring construct timber or rock erosion check dams to trap soil before it leaves the property</li> </ul> | <ul style="list-style-type: none"> <li>• The proposed practices would be expected to reduce erosion from storm events and prevent impedance of downstream drainage</li> </ul>  |
| Ditch Erosion Control  | Eroding ditch, meandering ditch                                | <ul style="list-style-type: none"> <li>• Place riprap (Class I or larger) over filter fabric on eroded face of ditch with a minimum slope of 2 to 1 (horizontal to vertical) and extend at least 1 foot into the base of the ditch</li> <li>• Install retaining wall on eroding face of ditch using timber, pre-packaged concrete, or other suitable material</li> </ul>  | <ul style="list-style-type: none"> <li>• Retaining walls greater than 3 feet in height require structural design</li> </ul>  |
| General practices      | As appropriate   | <ul style="list-style-type: none"> <li>• Consider the effect of all improvements on adjacent properties and discuss alternatives with other homeowners</li> <li>• Avoid encroachment of public land, especially wetland areas</li> </ul>  | <ul style="list-style-type: none"> <li>• Improvements installed in coordination with neighbors can be more effective than improvements installed individually</li> </ul>   |

### SECTION EIGHT: IMPLEMENTATION PLAN AND CONCLUSIONS

This report presents an analysis of the existing drainage issues for the Oak Orchard community. The evaluation of the drainage deficiencies and solutions is based on community input (i.e., questionnaires and public meetings), field reconnaissance, and GIS data. Potential solutions for the sites investigated in this study are described in Appendix C. A list of solutions that homeowners can implement is presented in Table 7.4, and detailed conceptual level designs for the five DNREC high priority projects are provided in Appendix G. Additional technical analyses, such as detailed design, geotechnical analyses, and field survey are required to confirm that solutions are feasible and constructible.

This report is intended to help the Oak Orchard community identify, prioritize, and implement solutions to drainage problems. The implementation plans for projects under the jurisdiction of each agency identified in this study are as follows:

- **DNREC:** The high priority projects will be considered for capital improvement projects in the 2015 fiscal year, and the low priority projects will be considered for future years.
- **DelDOT:** DNREC will provide DelDOT with recommended solutions under their jurisdiction to assist in capital planning.
- **Homeowners and Homeowner Associations:** DNREC will share potential solutions for homeowner implementation with residents of the Oak Orchard community and provide technical assistance as needed.

Implementing the solutions recommended can reduce the frequency of flooding in the Oak Orchard Community.



## **SECTION NINE: REFERENCES**

- Delaware Office of Land Management, 2007, *statewide update of Land Use and Land Cover data*.
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