

PLANNING & ZONING COMMISSION

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



Sussex County

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

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: January 7th, 2021

Application: CZ 1910 Brickyard Apartments, LLC

Applicant: Brickyard Apartments, LLC
1080 Pittsford Victor Road
Suite 202
Pittsford, NY 14534

Owner: Brickyard Apartments, LLC
1080 Pittsford Victor Road
Suite 202
Pittsford, NY 14534

Site Location: 9329 Brickyard Road, Seaford, DE. The property is on the northwest side of Brickyard Road, approximately 0.3 mile southeast of Sussex Highway (Route 13).

Current Zoning: AR-1 - Agricultural Residential Zoning District & GR – General Residential Zoning District

Proposed Zoning: GR – General Residential Zoning District

Comprehensive Land
Use Plan Reference: Low Density & Existing Development Area

Councilmanic
District: Mr. Vincent

School District: Seaford School District

Fire District: Blades Fire Department

Sewer: Public – Mobile Gardens Public Water System

Water: Public – Mobile Gardens Wastewater Treatment Facility

Site Area: 3.093 acres +/-

Tax Map ID.: 132-2.00-264.00





Sussex County







PIN:	132-2.00-264.00	
Owner Name	BRICKYARD LLC	APTS
Book	5105	
Mailing Address	1080 PITTSFORD VICTOR P	
City	PITTSFORD	
State	NY	
Description	STATE RD 481	
Description 2	N/A	
Description 3	N/A	
Land Code		

polygonLayer

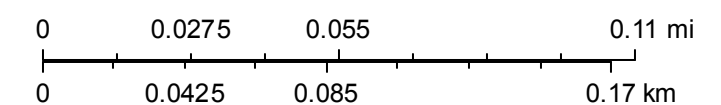
Override 1

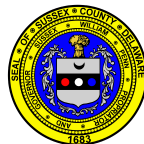
polygonLayer

Override 1

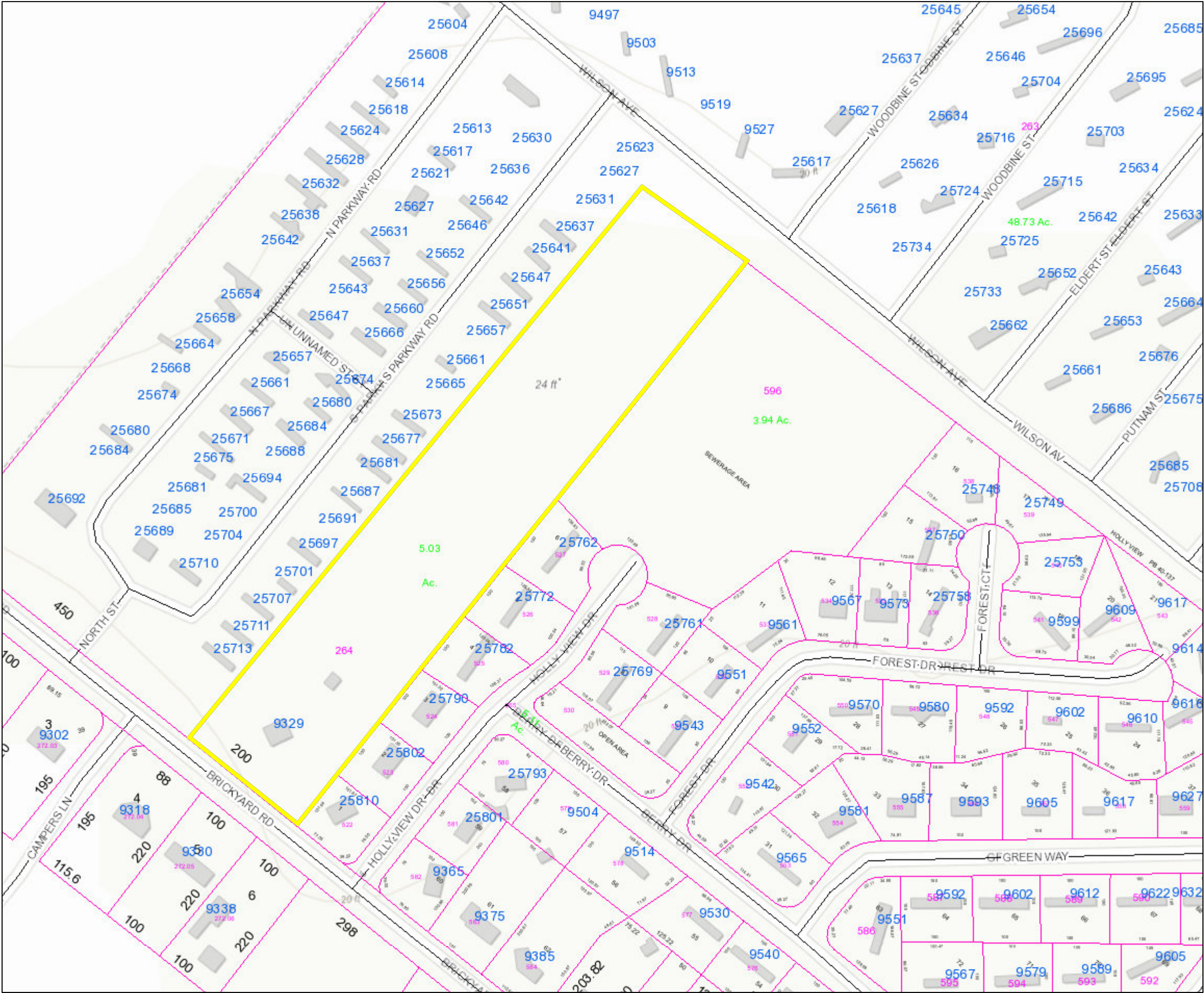
-  Tax Parcels
-  911 Address
-  Streets
-  County Boundaries

1:2,257



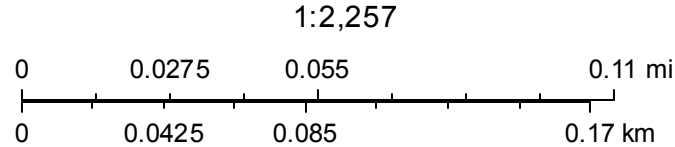


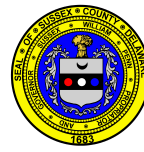
Sussex County



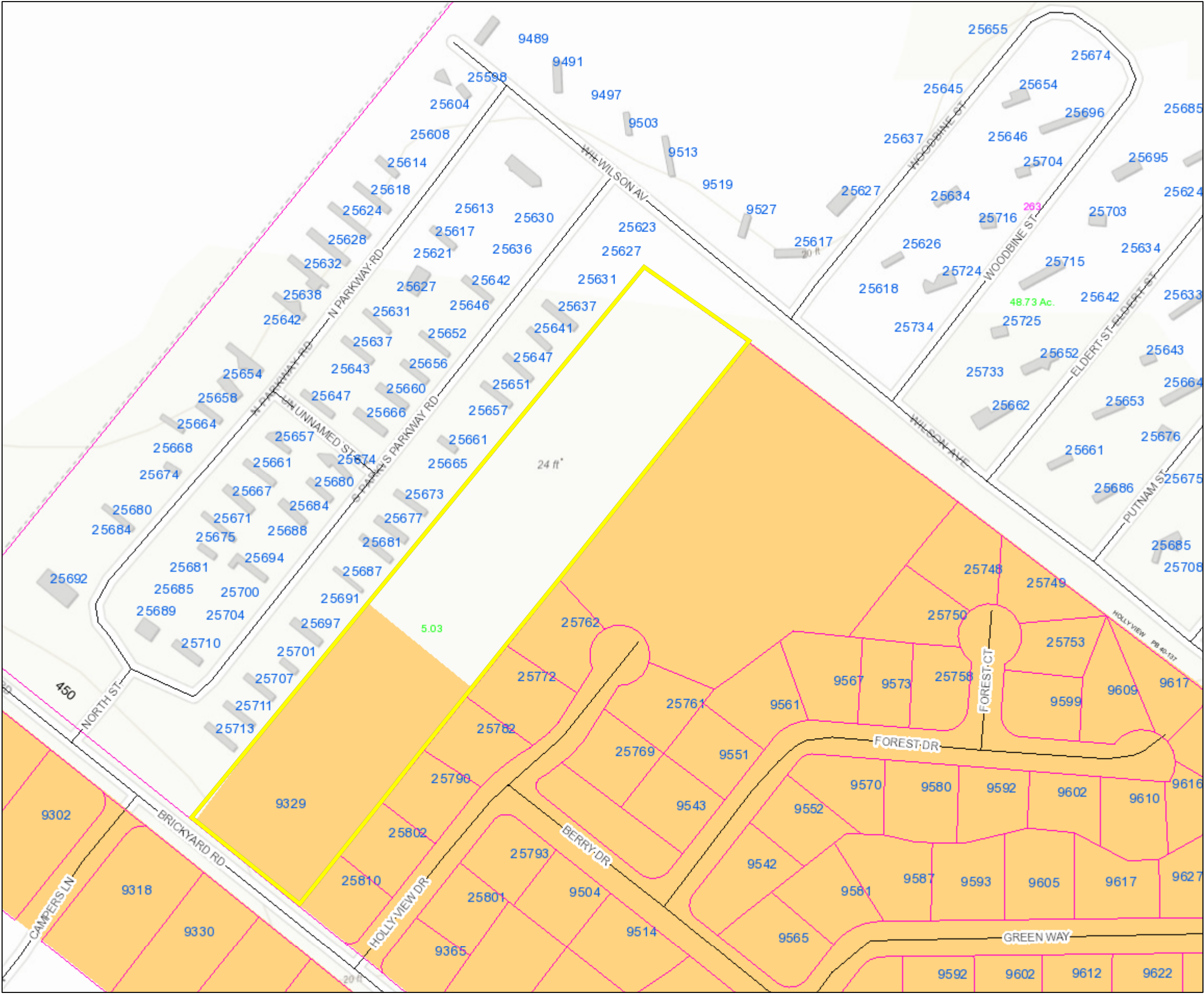
PIN:	132-2.00-264.00	
Owner Name	BRICKYARD	APTS
	LLC	
Book	5105	
Mailing Address	1080 PITTSFORD VICTOR P	
City	PITTSFORD	
State	NY	
Description	STATE RD 481	
Description 2	N/A	
Description 3	N/A	
Land Code		

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





Sussex County



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



Sussex County

DELAWARE
sussexcountype.gov

Memorandum

To: Sussex County Planning Commission Members
From: Lauren DeVore, Planner III
CC: Vince Robertson, Assistant County Attorney and applicant
Date: December 21, 2020
RE: Staff Analysis for CZ 1910 Brickyard Apartments, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1910 Brickyard Apartments, LLC to be reviewed during the January 7, 2021 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Change of Zone for Tax Parcel 132-2.00-264.00 to allow for a change of zone from an Agricultural Residential (AR-1) Zoning District to a General Residential (GR) Zoning District. The parcel is located on the northwest side of Brickyard Road (Route 481) approximately 0.3 mile southeast of Sussex Highway (Route 13). The portion of the parcel to be rezoned contains 3.093 acres +/-.

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

Existing Development Areas consist primarily of existing residential development under the current General Residential and Medium Density Residential Zoning Districts, as well as some commercial uses. The Existing Development Area permits a full range of housing types which are appropriate in these residential areas, including single-family homes, townhouses, and multi-family units.

The primary uses envisioned in Low Density Areas are agricultural activities and homes. Business development should be largely confined to businesses addressing the needs of these two uses. More intense commercial uses should be avoided in these areas. The properties to the north and northwest of the subject property also have the land use designation of Low Density.

The 2018 Sussex County Comprehensive Plan outlines Zoning Districts by their applicability to each Future Land Use category. Under Table 4.5-2 "Zoning Districts Applicable to Future Land Use Categories," the General Residential (GR) Zoning District is listed as an applicable zoning district in the "Existing Development Area."



Additionally, the subject property is split-zoned with the northern half of the parcel being zoned Agricultural Residential (AR-1) and the southern half of the parcel being zoned General Residential (GR).

The property to the south as well as the properties on the opposite (western) side of Brickyard Road (Route 481) are zoned General Residential. The properties to the north and northwest of the subject site are zoned Agricultural Residential (AR-1).

Since 2011, there have been no Change of Zone applications within a 2-mile radius of the application site.

It is noted that there is a pending Ordinance to revise the Future Land Use Map to change a portion of the parcel's Future Land Use designation from the Low Density Area to the Developing Area. Based on the analysis of the land use, surrounding zoning and uses, the Change of Zone from an Agricultural Residential (AR-1) Zoning District to a General Residential (GR) Zoning District could be considered as being consistent with the land use, area zoning and surrounding uses.

File #: C21910
201913692

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

NOV 26 2019

SUSSEX COUNTY
PLANNING & ZONING

Type of Application: (please check applicable)

Conditional Use ☐

Zoning Map Amendment ☒

Site Address of Conditional Use/Zoning Map Amendment

9329 Brickyard Road, Seaford, DE

Type of Conditional Use Requested:

Change zoning of parcel to single designation. It is currently zoned AR-1 in the back half of the property and GR in the front half of the property. Applicant is seeking to have the entire parcel rezoned to GR.

Tax Map #: 132-2.00-264.00

Size of Parcel(s): 5.05± ac

Current Zoning: AR1/GR

Proposed Zoning: GR

Size of Building: 60,456± SF footprint

Land Use Classification: Residential, Single

Water Provider: Mobile Gardens Public Water System

Sewer Provider: Mobile Gardens WWTP

Applicant Information

Applicant Name: Brickyard Apartments, LLC

Applicant Address: 1080 Pittsford Victor Road, Suite 202

City: Pittsford

State: NY

Zip Code: 14534

Phone #: (585) 381-0570

E-mail: georged@kdmdevelopment.com

Owner Information

Owner Name: Brickyard Apartments, LLC

Owner Address: 1080 Pittsford Victor Road, Suite 202

City: Pittsford

State: NY

Zip Code: 14534

Phone #: (585) 381-0570

E-mail: georged@kdmdevelopment.com

Agent/Attorney/Engineer Information

Agent/Attorney/Engineer Name: Nicole Faries/ Baird Mandalas Brockstedt

Agent/Attorney/Engineer Address: 2711 Centerville Rd., Suite #401

City: Wilmington

State: DE

Zip Code: 19808

Phone #: (302) 327-1100

E-mail: nfaries@bmbde.com



Check List for Sussex County Planning & Zoning Applications

The following shall be submitted with the application

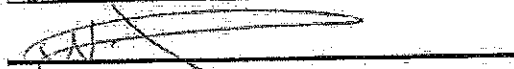
- ✓ Completed Application
- ✓ Provide eight (8) copies of the Site Plan or Survey of the property
 - Survey shall show the location of existing or proposed building(s), building setbacks, parking area, proposed entrance location, etc.
 - Provide a PDF of Plans (may be e-mailed to a staff member)
 - Deed or Legal description
- ✓ Provide Fee \$500.00
- ✓ Optional - Additional information for the Commission/Council to consider (ex. architectural elevations, photos, exhibit books, etc.) If provided submit 8 copies and they shall be submitted a minimum of ten (10) days prior to the Planning Commission meeting.
- ✓ Please be aware that Public Notice will be sent to property owners within 200 feet of the subject site and County staff will come out to the subject site, take photos and place a sign on the site stating the date and time of the Public Hearings for the application.
- ✓ DeIDOT Service Level Evaluation Request Response

N/A PLUS Response Letter (if required)

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

I also certify that 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: 11/21/19

Signature of Owner



Date: 11/19/19

For office use only:

Date Submitted: 11-26-19

Staff accepting application: SR

Location of property: _____

Fee: \$500.00 Check #: 126

Application & Case #: 201913692

Subdivision: _____

Date of PC Hearing: _____

Date of CC Hearing: _____

Recommendation of PC Commission: _____

Decision of CC: _____



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

RECEIVED

NOV 26 2019

SUSSEX COUNTY
PLANNING & ZONING

JENNIFER COHAN
SECRETARY

April 15, 2019

Ms. Janelle Cornwell, Director
Sussex County Planning & Zoning
P.O. Box 417
Georgetown, DE 19947

Dear Ms. Cornwell:

The Department has completed its review of a Service Level Evaluation Request for the **KDM Development Corp. c/o Billy Betts** rezoning application, which we received on March 15, 2019. This application is for a 5.03-acre parcel (Tax Parcel: 132-2.00-264.00). The subject land is located on the northeast side of Brickyard Road (Sussex Road 481), approximately 1,600 feet southeast of the intersection of US Route 13 and Brickyard Road. The subject land is currently split-zoned as AR-1 (Agricultural Residential) and GR (General Residential), and the applicant is seeking to rezone the entire land to GR to develop 48 multi-family houses.

Per the 2017 Delaware Vehicle Volume Summary, the annual average daily traffic volume along the segment of Brickyard Road where the subject land is located, which is from Airport Road (Sussex Road 488) to Delaware Route 20, is 5,137 vehicles per day.

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

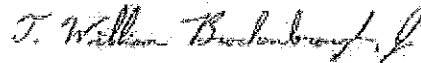


Ms. Janelle M. Cornwell
Page 2 of 2
April 15, 2019

Because proposed development would generate more than 200 vehicle trips per day, a Traffic Operational Analysis (TOA) may be required as part of the site plan review, in accordance with Chapter 2 of the Development Coordination Manual.

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

Sincerely,



T. William Brockenbrough, Jr.
County Coordinator
Development Coordination

TWB:cjm

cc: Constance C. Holland, Coordinator, Cabinet Committee on State Planning Issues
KDM Development Corp. c/o Billy Betts, Applicant
J. Marc Coté, Assistant Director, Development Coordination
Gemez Norwood, South District Public Works Manager, Maintenance and Operations
Susanne Laws, Sussex County Subdivision 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
Troy Brestel, Project Engineer, Development Coordination
Claudy Joinville, Project Engineer, Development Coordination

558-569 AFFECTS PROPERTY UTILITY POLES PLOTTED
558-570 AFFECTS PROPERTY UTILITY POLES PLOTTED
558-571 DOES NOT AFFECT PROPERTY, NOT PLOTTED
1635-266 DOES NOT AFFECT PROPERTY, NOT PLOTTED
2123-138 AFFECTS PROPERTY AS PLOTTED
3834-328 DOES NOT AFFECT PROPERTY, NOT PLOTTED
3835-192 DOES NOT AFFECT PROPERTY, NOT PLOTTED

1. SOURCE OF TITLE: DEED BOOK 5105, PAGE 152, DATED AUGUST 15, 2019. MOBILE GARDENS MHP SALES TO LLC. THERE ARE NO GAPS OR OVERLAPS.
2. THE 911 ADDRESS OF THE PROPERTY IS 9329 BRICKYARD ROAD, FARMINGTON, DE 19937
3. FLOOD ZONE CLASSIFICATION IS "X" BASED ON FEMA MAP #1000500264L, DATED JUNE 20, 2018.
4. GROSS LAND AREA: 5.061 ACRES, 220,441 SQ. FT.
5. THE BUILDING SETBACK RESTRICTIONS ARE AS FOLLOWS:
GR ZONING: 427' DEPTH, FRONT 40', SIDES 10', REAR 10'
AR-1 ZONING: REMAINING, FRONT 40', SIDES 15', REAR 20' (LOT FRONTS ON WILSON AVE.)
6. SEWER AND WATER UTILITIES ARE PRIVATE.
7. SUBJECT PARCEL HAS DIRECT ACCESS TO BRICKYARD ROAD, A PUBLIC DEDICATED STREET MAINTAINED BY THE STATE OF DELAWARE AND WILSON AVENUE A PRIVATELY MAINTAINED STREET.
8. EXISTING STRUCTURES ON PROPERTY IN DISREPAIR AND NOT CONSIDERED IMPROVEMENTS.

DEED BOOK 5105, PAGE 152 AUGUST 15, 2019
PARCEL ID No. 132-2.00-264

PARCEL ONE

ALL that certain piece, or parcel of land, situate, lying and being in Broad Creek Hundred, Sussex County, Delaware, more particularly described as follows, to wit:

BEGINNING on the center of Brick Yard Road, State Route No. 481, a corner for this land and lands of R. E. Bowland; thence North 47 degrees East 750 feet along the Bowland line to a point which is a corner for this land and other lands now or formerly of John A. Moore, Jr. and Helen M. Moore and R. E. Bowland; thence North 43 1/2 degrees West 150 feet; thence South 47 degrees West 750 feet back to State Road 481; thence South 43 1/2 degrees East 150 feet back to the place of beginning.

PARCEL TWO

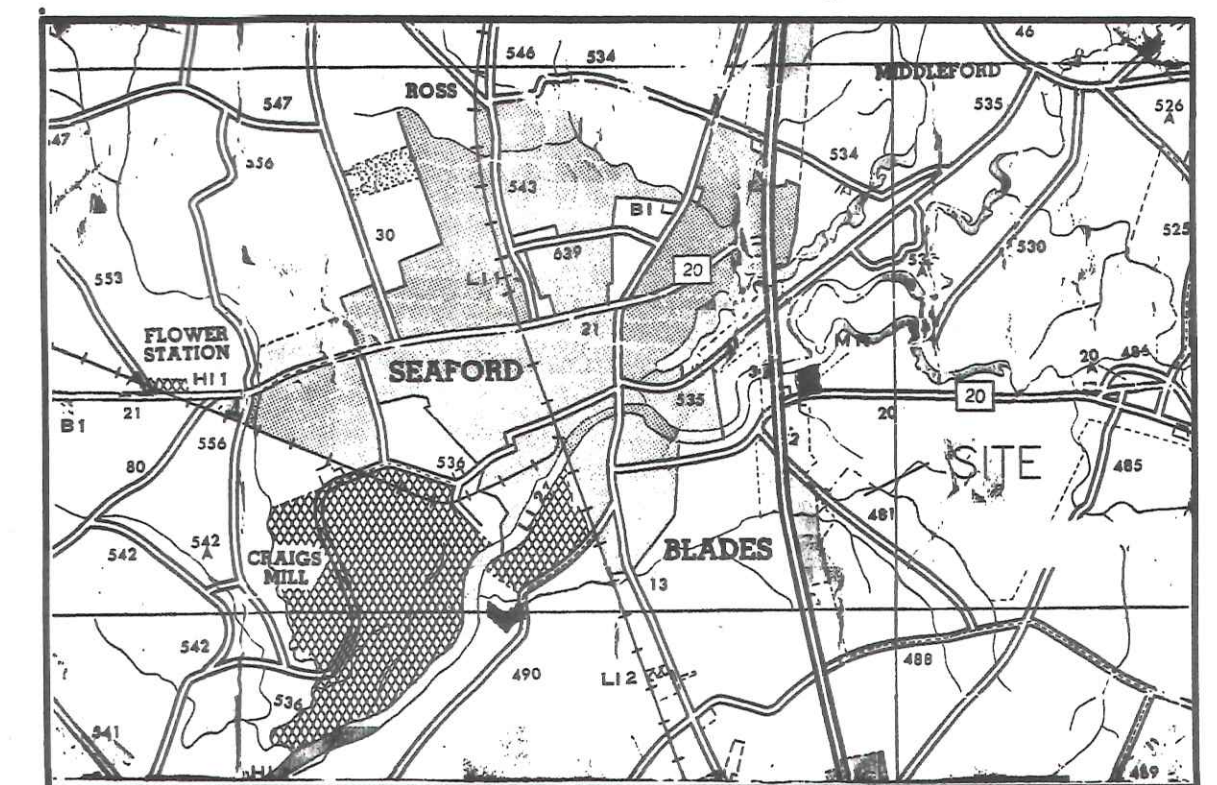
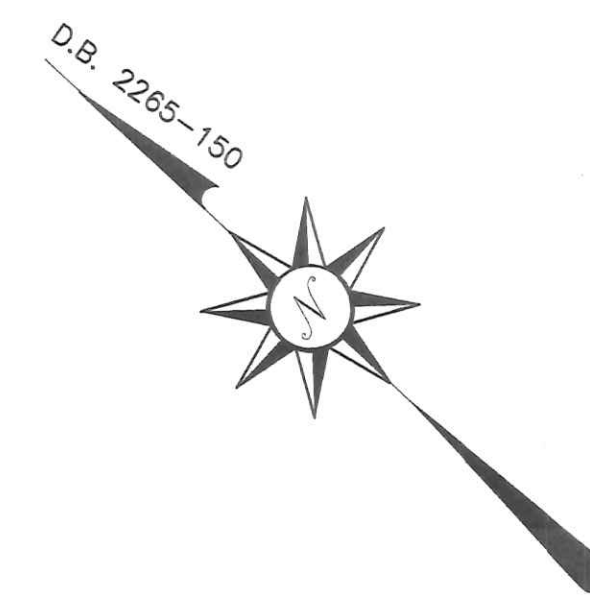
ALL that certain lot, piece, or parcel of land, situate, lying and being in Broad Creek Hundred, Sussex County, Delaware, adjoining other lands of Rufus E. Bowland, Jr. and Louise w. Bowland and more particularly described as follows, to wit:

BEGINNING on the eastern right of way line of the road leading to Route 13, a corner for this land and other lands now or formerly of Charles M. Walls and Virginia E. Walls; thence North 47 degrees East 1088 feet to Lot 67 and lands of John A. Moore, Jr.; thence South 43 1/2 degrees East along Lot 67, 50 feet; thence South 47 degrees West 1088 feet along other lands now or formerly of Rufus E. Bowland, Jr. and Louise W. Bowland to the aforementioned lot; thence North 43 1/2 degrees West 50 feet along the right of way to the place of beginning.

PARCEL THREE

ALL that certain lot, piece, or parcel of land, situate, lying and being in Broad Creek Hundred, Sussex County, Delaware, adjoining on the south other lands now or formerly of Charles M. Walls and Virginia E. Walls and adjoining on the east lands now or formerly conveyed to Charles M. Walls and Virginia E. Walls from Rufus Bowland and wife, more particularly described as follows, to wit:

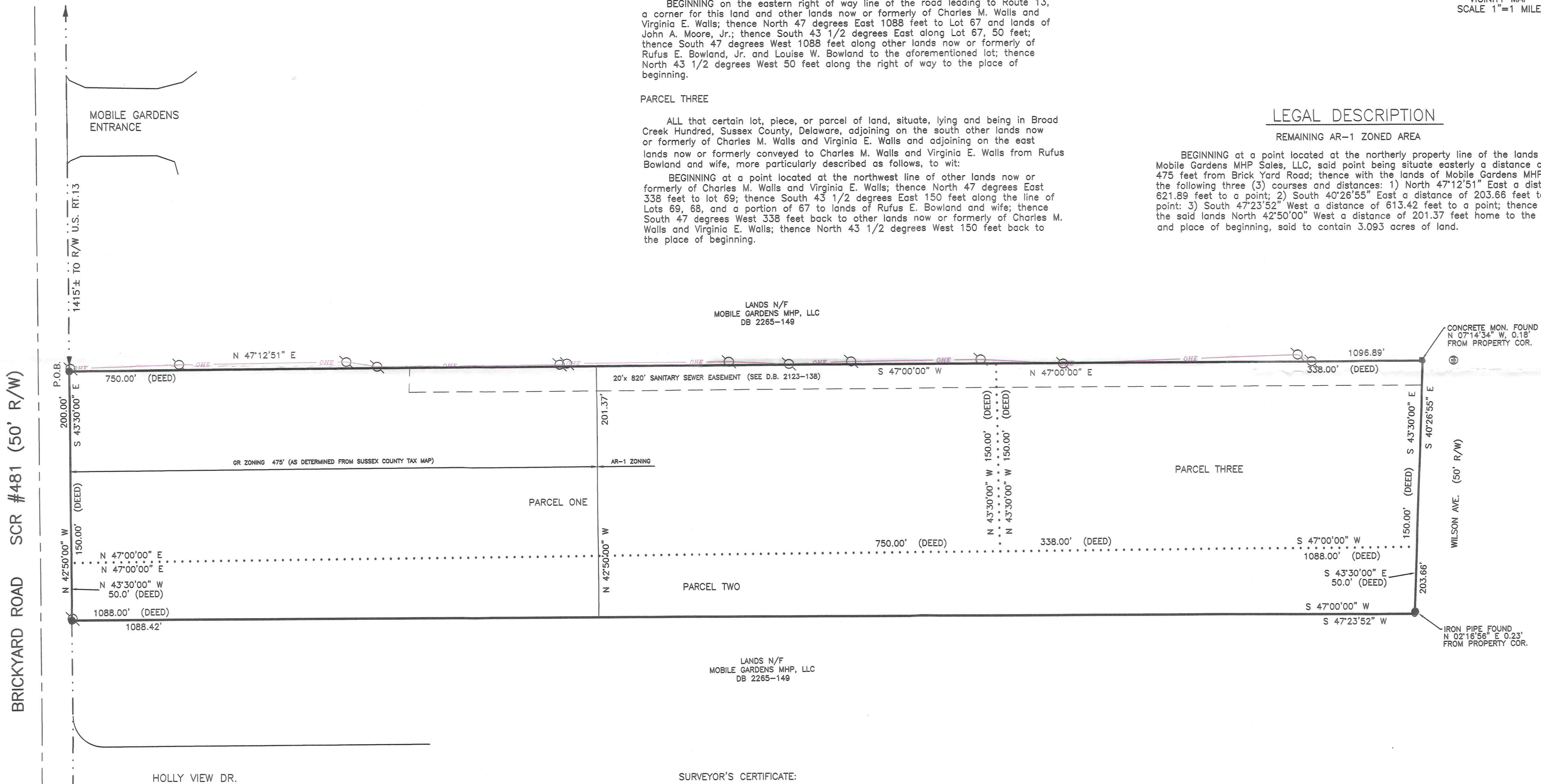
BEGINNING at a point located at the northwest line of other lands now or formerly of Charles M. Walls and Virginia E. Walls; thence North 47 degrees East 338 feet to lot 69; thence South 43 1/2 degrees East 150 feet along the line of Lots 69, 68, and a portion of 67 to lands of Rufus E. Bowland and wife; thence South 47 degrees West 338 feet back to other lands now or formerly of Charles M. Walls and Virginia E. Walls; thence North 43 1/2 degrees West 150 feet back to the place of beginning.



VICINITY MAP
SCALE 1"=1 MILE

REMAINING AR-1 ZONED AREA

BEGINNING at a point located at the northerly property line of the lands of Mobile Gardens MHP Sales, LLC, said point being situate easterly a distance of 475 feet from Brick Yard Road; thence with the lands of Mobile Gardens MHP, LLC the following three (3) courses and distances: 1) North 47°12'51" East a distance 621.89 feet to a point; 2) South 40°26'55" East a distance of 203.66 feet to a point; 3) South 47°25'52" West a distance of 613.42 feet to a point; thence through the said lands North 42°50'00" West a distance of 201.37 feet home to the point and place of beginning, said to contain 3.093 acres of land.



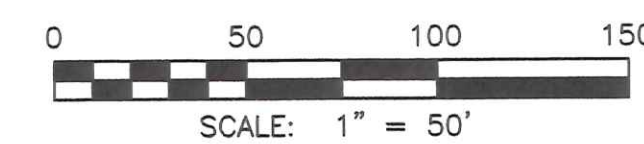
SURVEYOR'S CERTIFICATE:

TO BRICKYARD APTS, LLC

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2016 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 1,2,3,4,6(a),11,12,18,19 of Table A thereof. The field work was completed on July 10, 2019.

Date of Plat or Map: July 10, 2019

Donald K. Miller, PLS 407



BRICKYARD APTS, LLC

9329 BRICKYARD ROAD, SEAFORD, DE 19973

DATE	REVISION

MILNER
LEWIS, INC.
LAND SURVEYING
1560 MIDDLEFORD RD.
SEAFORD, DELAWARE 19973
PH: 302-629-9895 FAX: 302-629-2398



HUNDRED	COUNTY
BROAD CREEK	SUSSEX
STATE	DRAWN BY
DELAWARE	D.K. MILLER
REF.	FILE NO.
DB 4579-293	MOBILE GARDENS

MONUMENTATION

- IRON PIPE (FOUND)
- CONCRETE MONUMENT (FOUND)
- UTILITY POLE
- POINT



BRICKYARD APARTMENTS

Subdivision # _____
TAX MAP PARCEL 132-2.00-264.00

Proposed Re-zoning from AR-1 to GR Proposed Conditional use: Multi-Family Apartments in GR Zone

November 2019



GMB Project No. 170218



GEORGE, MILES & BUHR, LLC

ARCHITECTS/ENGINEERS

400 High Street
Seaford, DE 19971
302-628-1421

SALISBURY/BALTIMORE/SEAFORD



BRICKYARD APARTMENTS
TAX MAP PARCEL 132-2.00-264.00
Subdivision # _____

INFORMATION FOR PUBLIC RECORD
November 2019
Updated September 2020

TABLE OF CONTENTS

1. EXECUTIVE SUMMARY

2. PLANNING & ZONING REZONING AND CONDITIONAL USE APPLICATION

- *Sussex County Rezoning Application*
 - Planning and Zoning Commission Application.
 - Project Contact List
 - Mailing List Application Form
 - Service Level Evaluation Response from DelDOT, dated April 15, 2019
- *Sussex County Conditional Use Application*
 - Planning and Zoning Commission Application
 - Project Contact List
 - Mailing List Application Form
 - Service Level Evaluation Response from DelDOT, dated April 15, 2019

3. SITE SPECIFIC MAPS, PLANS AND DOCUMENTATION

- *Site Maps & Plans*
 - Zoning Map
 - Proximity Map
 - Site Plan Rendering
 - Conditional Use Site Plan
 - Tax Map
 - List of Adjoining Property Owners
 - Boundary & Topo ALTA Survey
 - Deed
 - FEMA Map – Map #10005C0264L
 - USGS Quad Map
 - Soils Map
 - Seaford School District Map

4. TRAFFIC AND SITE CIRCULATION

- DelDOT Letter of No Objection, dated January 13, 2020
- DelDOT Entrance Plan Approval Letter, dated February 11, 2020

5. UTILITY PROVIDERS

- Mobile Gardens Public Water System
 - Water Calculations
- Mobile Gardens Wastewater Treatment Facility

- Sewer Capacity Calculations

6. WETLANDS

- State Wetlands Map which shows no wetlands onsite

7. THREATENED AND ENDANGERED SPECIES

- US Fish and Wildlife Service Determination Letter, dated July 16, 2019

8. SUSSEX COUNTY COMPREHENSIVE MAPS

- Sussex County Comprehensive Plan – Existing Land Use Map
- Sussex County Comprehensive Plan – Future Land Use Map
- Sussex County Comprehensive Plan Strategies for State Policies and Spending Map
- Sussex County Comprehensive Plan Developed & Protected Lands
- Sussex County Comprehensive Plan County Water Service Areas
- Sussex County Comprehensive Plan Water Supply Wellhead & Excellent Recharge Areas
- Sussex County Comprehensive Plan County Wastewater Service Areas-2007
- Sussex County Comprehensive Plan Wastewater Service Areas that have Received Certificates of Public Convenience and Necessity
- Sussex County Comprehensive Plan – Floodplains & Wetlands Map
- Sussex County Comprehensive Plan – Woodlands & Natural Areas

9. FINDINGS OF FACT

- Rezoning
- Conditional Use

10. OTHER PLAN APPROVALS

- Notice of Intent for Storm Water Discharge - #6021, dated May 31, 2019
- Sussex Conservation District Approval, dated February 13, 2020

EXECUTIVE SUMMARY

Brickyard Apartments
Subdivision # _____

Executive Summary

It is the intention of Brickyard Apartments, LLC to develop the subject parcel (Tax Map Parcel 132-2.00-264.00) as a multi-family apartment development. Total project area is 5.05 acres.

The parcel is currently zoned AR-1 and GR. The project will be developed as 12 apartment buildings, 6 buildings will be 1-bedroom apartments with 4 apartments per building. The other 6 buildings will be 2-bedroom apartments with 4 apartments per building. The gross square footage for all 12 buildings (48 apartments) is 54,194±SF. Overall density is 9.5 units/acre.

The project is surrounded by existing developed areas along Brickyard Road, consisting of single-family residential development and manufactured home parks.

While no amenities are proposed onsite, the management office and playground within the adjacent Mobile Gardens manufactured home park is to be shared. The management office and playground are within walking distance of the proposed apartments.

Stormwater management will meet the requirements of the Sussex Conservation District.

The project will be accessed off Brickyard Road via a new entrance, which shall meet the requirements of DelDOT.

Central sewer will be provided by the Mobile Gardens Wastewater Treatment Facility. Central water will be provided via the Mobile Gardens Public Water System and a new well.

A Site Plan Rendering and Conditional Use Site Plan are included for reference.

**PLANNING & ZONING REZONING AND CONDITIONAL USE
APPLICATION**

File #: _____

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

9329 Brickyard Road, Seaford, DE

Type of Conditional Use Requested:

Change zoning of parcel to single designation. It is currently zoned AR-1 in the back half of the property and GR in the front half of the property. Applicant is seeking to have the entire parcel rezoned to GR.

Tax Map #: 132-2.00-264.00

Size of Parcel(s): 5.05± ac

Current Zoning: AR1/GR

Proposed Zoning: GR

Size of Building: 60,456± SF footprint

Land Use Classification: Residential, Single

Water Provider: Mobile Gardens Public Water System

Sewer Provider: Mobile Gardens WWTF

Applicant Information

Applicant Name: Brickyard Apartments, LLC

Applicant Address: 1080 Pittsford Victor Road, Suite 202

City: Pittsford

State: NY

Zip Code: 14534

Phone #: (585) 381-0570

E-mail: georged@kdmdevelopment.com

Owner Information

Owner Name: Brickyard Apartments, LLC

Owner Address: 1080 Pittsford Victor Road, Suite 202

City: Pittsford

State: NY

Zip Code: 14534

Phone #: (585) 381-0570

E-mail: georged@kdmdevelopment.com

Agent/Attorney/Engineer Information

Agent/Attorney/Engineer Name: Nicole Faries/ Baird Mandalas Brockstedt

Agent/Attorney/Engineer Address: 2711 Centerville Rd., Suite #401

City: Wilmington

State: DE

Zip Code: 19808

Phone #: (302) 327-1100

E-mail: nfaries@bmbde.com



Check List for Sussex County Planning & Zoning Applications

The following shall be submitted with the application

- ✓ **Completed Application**
- ✓ **Provide eight (8) copies of the Site Plan or Survey of the property**
 - Survey shall show the location of existing or proposed building(s), building setbacks, parking area, proposed entrance location, etc.
 - Provide a PDF of Plans (may be e-mailed to a staff member)
 - Deed or Legal description
- ✓ **Provide Fee \$500.00**
- ✓ **Optional - Additional information for the Commission/Council to consider** (ex. architectural elevations, photos, exhibit books, etc.) If provided submit 8 copies and they shall be submitted a minimum of ten (10) days prior to the Planning Commission meeting.
- ✓ **Please be aware that Public Notice will be sent to property owners within 200 feet of the subject site and County staff will come out to the subject site, take photos and place a sign on the site stating the date and time of the Public Hearings for the application.**
- ✓ **DeIDOT Service Level Evaluation Request Response**
- N/A **PLUS Response Letter** (if required)

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

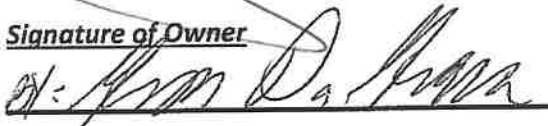
I also certify that I or an agent on my behalf shall attend all public hearing before the Planning and Zoning Commission and the Sussex County Council and any other hearing necessary for this application and that I will answer any questions to the best of my ability to respond to the present and future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

Signature of Applicant/Agent/Attorney



Date: 11/21/19

Signature of Owner



Date: 11/19/19

For office use only:

Date Submitted: _____
Staff accepting application: _____
Location of property: _____

Fee: \$500.00 Check #: _____
Application & Case #: _____

Subdivision: _____
Date of PC Hearing: _____ Recommendation of PC Commission: _____
Date of CC Hearing: _____ Decision of CC: _____

Planning & Zoning Project Contact List

Applicant Information

Applicant Name: _____

Applicant Address: _____

City: _____ State: _____ Zip: _____

Phone #: _____ E-mail: _____

Owner Information

Owner Name: _____

Owner Address: _____

City: _____ State: _____ Zip: _____

Phone #: _____ E-mail: _____

Engineer/Surveyor Information

Engineer/Surveyor Name: _____

Engineer/Surveyor Address: _____

City: _____ State: _____ Zip: _____

Phone #: _____ E-mail: _____

Agent/Attorney Information

Agent/Attorney Name: _____

Agent/Attorney Address: _____

City: _____ State: _____ Zip: _____

Phone #: _____ E-mail: _____

Other

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone #: _____ E-mail: _____



Mailing List Application Form

For Applications requiring a Public Hearing in Sussex County

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

Application Information:

Site Address:

Parcel #:

Site Address:

Parcel #:

Applicant Name:

Owner Name:

Type of Application:

Conditional Use:

Change of Zone:

Subdivision:

Board of Adjustment:

Date Submitted:

For office use only:

Date of Public Hearing: _____

File #: _____

Date list created: _____ List created by: _____

Date letters mailed: _____ Letters sent by: _____



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

JENNIFER COHAN
SECRETARY

April 15, 2019

Ms. Janelle Cornwell, Director
Sussex County Planning & Zoning
P.O. Box 417
Georgetown, DE 19947

Dear Ms. Cornwell:

The Department has completed its review of a Service Level Evaluation Request for the **KDM Development Corp. c/o Billy Betts** rezoning application, which we received on March 15, 2019. This application is for a 5.03-acre parcel (Tax Parcel: 132-2.00-264.00). The subject land is located on the northeast side of Brickyard Road (Sussex Road 481), approximately 1,600 feet southeast of the intersection of US Route 13 and Brickyard Road. The subject land is currently split-zoned as AR-1 (Agricultural Residential) and GR (General Residential), and the applicant is seeking to rezone the entire land to GR to develop 48 multi-family houses.

Per the 2017 Delaware Vehicle Volume Summary, the annual average daily traffic volume along the segment of Brickyard Road where the subject land is located, which is from Airport Road (Sussex Road 488) to Delaware Route 20, is 5,137 vehicles per day.

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



File #: _____

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

9329 Brickyard Road, Seaford, DE

Type of Conditional Use Requested:

Multi-Family Residence in a GR zone for 12 apartment buildings consisting of 6 buildings with 1-bedroom apartments containing 4 apartments per building and consisting of 6 buildings with 2-bedroom apartments with 4 apartments per building.

Tax Map #: 132-2.00-264.00

Size of Parcel(s): 5.05± ac

Current Zoning: AR1/GR

Proposed Zoning: GR

Size of Building: 60,456± SF footprint

Land Use Classification: Residential, Single

Water Provider: Mobile Gardens Public Water System

Sewer Provider: Mobile Gardens WWTF

Applicant Information

Applicant Name: KDM Development, LLC

Applicant Address: 25713 South Parkway Rd.

City: Seaford

State: DE

Zip Code: 19973

Phone #: (302) 629-4959

E-mail: billyb@kdmdevelopment.com

Owner Information

Owner Name: Brickyard Apartments, LLC

Owner Address: 1080 Pittsford Victor Road, Suite 202

City: Pittsford

State: NY

Zip Code: 14534

Phone #: (585) 381-0570

E-mail: georged@kdmdevelopment.com

Agent/Attorney/Engineer Information

Agent/Attorney/Engineer Name: Nicole Faries/ Baird Mandalas Brockstedt

Agent/Attorney/Engineer Address: 2711 Centerville Rd., Suite #401

City: Wilmington

State: DE

Zip Code: 19808

Phone #: (302) 327-1100

E-mail: nfaries@bmbde.com



Check List for Sussex County Planning & Zoning Applications

The following shall be submitted with the application

- ✓ **Completed Application**
- ✓ **Provide eight (8) copies of the Site Plan or Survey of the property**
 - Survey shall show the location of existing or proposed building(s), building setbacks, parking area, proposed entrance location, etc.
 - Provide a PDF of Plans (may be e-mailed to a staff member)
 - Deed or Legal description
- ✓ **Provide Fee \$500.00**
- ✓ **Optional - Additional information for the Commission/Council to consider** (ex. architectural elevations, photos, exhibit books, etc.) If provided submit 8 copies and they shall be submitted a minimum of ten (10) days prior to the Planning Commission meeting.
- ✓ **Please be aware that Public Notice will be sent to property owners within 200 feet of the subject site and County staff will come out to the subject site, take photos and place a sign on the site stating the date and time of the Public Hearings for the application.**
- ✓ **DeIDOT Service Level Evaluation Request Response**
- N/A **PLUS Response Letter** (if required)

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

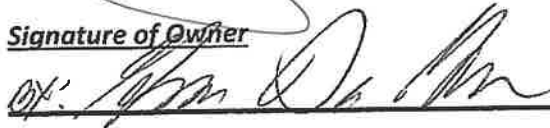
I also certify that I or an agent on my behalf shall attend all public hearing before the Planning and Zoning Commission and the Sussex County Council and any other hearing necessary for this application and that I will answer any questions to the best of my ability to respond to the present and future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

Signature of Applicant/Agent/Attorney



Date: 11/21/19

Signature of Owner



Date: 11/19/19

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: _____

Ms. Janelle M. Cornwell

Page 2 of 2

April 15, 2019

Because proposed development would generate more than 200 vehicle trips per day, a Traffic Operational Analysis (TOA) may be required as part of the site plan review, in accordance with Chapter 2 of the Development Coordination Manual.

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

Sincerely,

A handwritten signature in cursive script, reading "T. William Brockenbrough, Jr.", enclosed in a rectangular box.

T. William Brockenbrough, Jr.
County Coordinator
Development Coordination

TWB:cjm

cc: Constance C. Holland, Coordinator, Cabinet Committee on State Planning Issues
KDM Development Corp. c/o Billy Betts, Applicant
J. Marc Coté, Assistant Director, Development Coordination
Gemez Norwood, South District Public Works Manager, Maintenance and Operations
Susanne Laws, Sussex County Subdivision 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
Troy Brestel, Project Engineer, Development Coordination
Claudy Joinville, Project Engineer, Development Coordination

Planning & Zoning Project Contact List

Applicant Information

Applicant Name: _____

Applicant Address: _____

City: _____ State: _____ Zip: _____

Phone #: _____ E-mail: _____

Owner Information

Owner Name: _____

Owner Address: _____

City: _____ State: _____ Zip: _____

Phone #: _____ E-mail: _____

Engineer/Surveyor Information

Engineer/Surveyor Name: _____

Engineer/Surveyor Address: _____

City: _____ State: _____ Zip: _____

Phone #: _____ E-mail: _____

Agent/Attorney Information

Agent/Attorney Name: _____

Agent/Attorney Address: _____

City: _____ State: _____ Zip: _____

Phone #: _____ E-mail: _____

Other

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone #: _____ E-mail: _____



Mailing List Application Form

For Applications requiring a Public Hearing in Sussex County

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

Application Information:

Site Address:

Parcel #:

Site Address:

Parcel #:

Applicant Name:

Owner Name:

Type of Application:

Conditional Use:

Change of Zone:

Subdivision:

Board of Adjustment:

Date Submitted:

For office use only:

Date of Public Hearing: _____

File #: _____

Date list created: _____ List created by: _____

Date letters mailed: _____ Letters sent by: _____



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

JENNIFER COHAN
SECRETARY

April 15, 2019

Ms. Janelle Cornwell, Director
Sussex County Planning & Zoning
P.O. Box 417
Georgetown, DE 19947

Dear Ms. Cornwell:

The Department has completed its review of a Service Level Evaluation Request for the **KDM Development Corp. c/o Billy Betts** rezoning application, which we received on March 15, 2019. This application is for a 5.03-acre parcel (Tax Parcel: 132-2.00-264.00). The subject land is located on the northeast side of Brickyard Road (Sussex Road 481), approximately 1,600 feet southeast of the intersection of US Route 13 and Brickyard Road. The subject land is currently split-zoned as AR-1 (Agricultural Residential) and GR (General Residential), and the applicant is seeking to rezone the entire land to GR to develop 48 multi-family houses.

Per the 2017 Delaware Vehicle Volume Summary, the annual average daily traffic volume along the segment of Brickyard Road where the subject land is located, which is from Airport Road (Sussex Road 488) to Delaware Route 20, is 5,137 vehicles per day.

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



Ms. Janelle M. Cornwell

Page 2 of 2

April 15, 2019

Because proposed development would generate more than 200 vehicle trips per day, a Traffic Operational Analysis (TOA) may be required as part of the site plan review, in accordance with Chapter 2 of the Development Coordination Manual.

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

Sincerely,



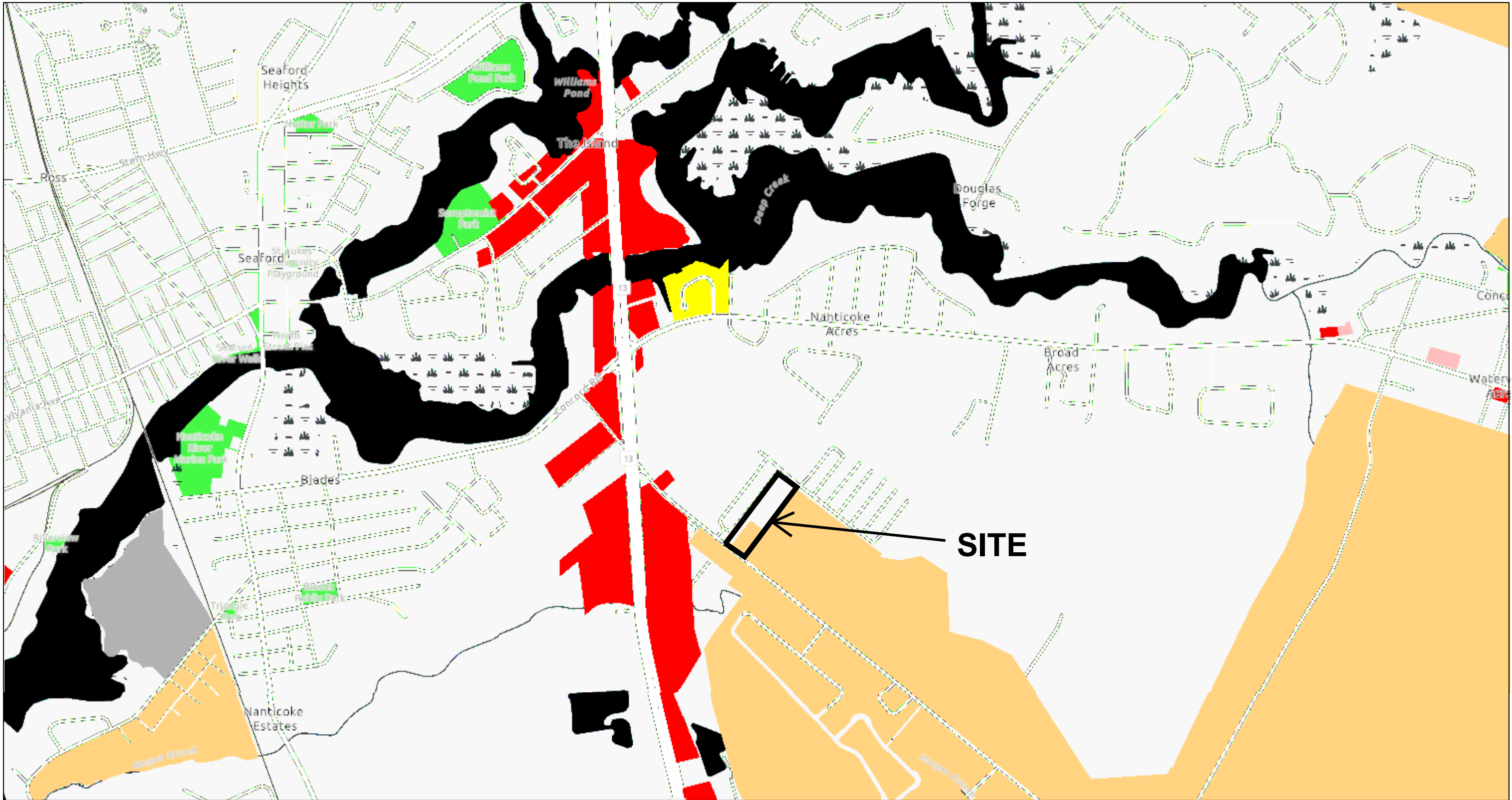
T. William Brockenbrough, Jr.
County Coordinator
Development Coordination

TWB:cjm

cc: Constance C. Holland, Coordinator, Cabinet Committee on State Planning Issues
KDM Development Corp. c/o Billy Betts, Applicant
J. Marc Coté, Assistant Director, Development Coordination
Gemez Norwood, South District Public Works Manager, Maintenance and Operations
Susanne Laws, Sussex County Subdivision 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
Troy Brestel, Project Engineer, Development Coordination
Claudy Joinville, Project Engineer, Development Coordination

SITE SPECIFIC MAPS, PLANS AND DOCUMENTATION

Sussex County - Zoning Map

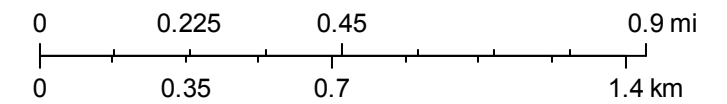


July 11, 2019

1:18,056

Zoning

- | | | | | | |
|--|---------------------------------|---|----------------------------------|---|---------------------------|
|  | Agricultural Residential - AR-1 |  | Vacation, Retire, Resident - VRP |  | Limited Industrial - LI-2 |
|  | Agricultural Residential - AR-2 |  | Neighborhood Business - B-1 |  | Heavy Industrial - HI-1 |
|  | Medium Residential - MR |  | General Commercial - C-1 | | |
|  | General Residential - GR |  | Commercial Residential - CR-1 | | |
|  | High Density Residential - HR-1 |  | Marine - M | | |



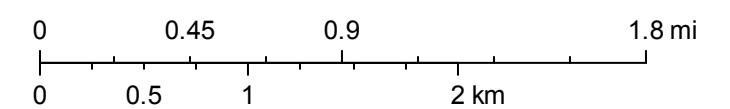
Sussex County

Sussex County Proximity Map



July 30, 2019

1:36,112



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics,
CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User
Community
Sussex County Government
FirstMap



BRICKYARD ROAD

SOUTH STREET

N/F MOBILE GARDENS MHP, LLC
TM # 132-2.00-263.00
EX. ZONE: AR-1

15' SWM ESMT

FOREBAY

FOREBAY

COMMUNITY SIGN

10' SETBACK

GR ZONE
AR-1 ZONE

MARTIN LANE

10' SETBACK

COMMUNITY MAILBOXES

COMMUNITY MAILBOXES

10' SETBACK

WILSON AVENUE

N/F MOBILE GARDENS MHP, LLC
TM # 132-2.00-522.00
EX. ZONE: GR

DELDOT SHARED
USE PATH

N/F MOBILE GARDENS MHP, LLC
TM # 132-2.00-523.00
EX. ZONE: GR

HOLLYVIEW DRIVE

N/F MOBILE GARDENS MHP, LLC
TM # 132-2.00-524.00
EX. ZONE: GR

N/F MOBILE GARDENS MHP, LLC
TM # 132-2.00-525.00
EX. ZONE: GR

N/F MOBILE GARDENS MHP, LLC
TM # 132-2.00-526.00
EX. ZONE: GR

N/F MOBILE GARDENS MHP, LLC
TM # 132-2.00-527.00
EX. ZONE: GR

N/F BRICKYARD APTS, LLC
TM # 132-2.00-264.00
5.06± AC
EX. ZONE: GR/AR-1
PROP. ZONE: GR

N/F MOBILE GARDENS MHP, LLC
TM # 132-2.00-596.00
3.94± AC
EX. ZONE: GR

EXTENDED
DETENTION
SWM BASIN

15' SWM ESMT

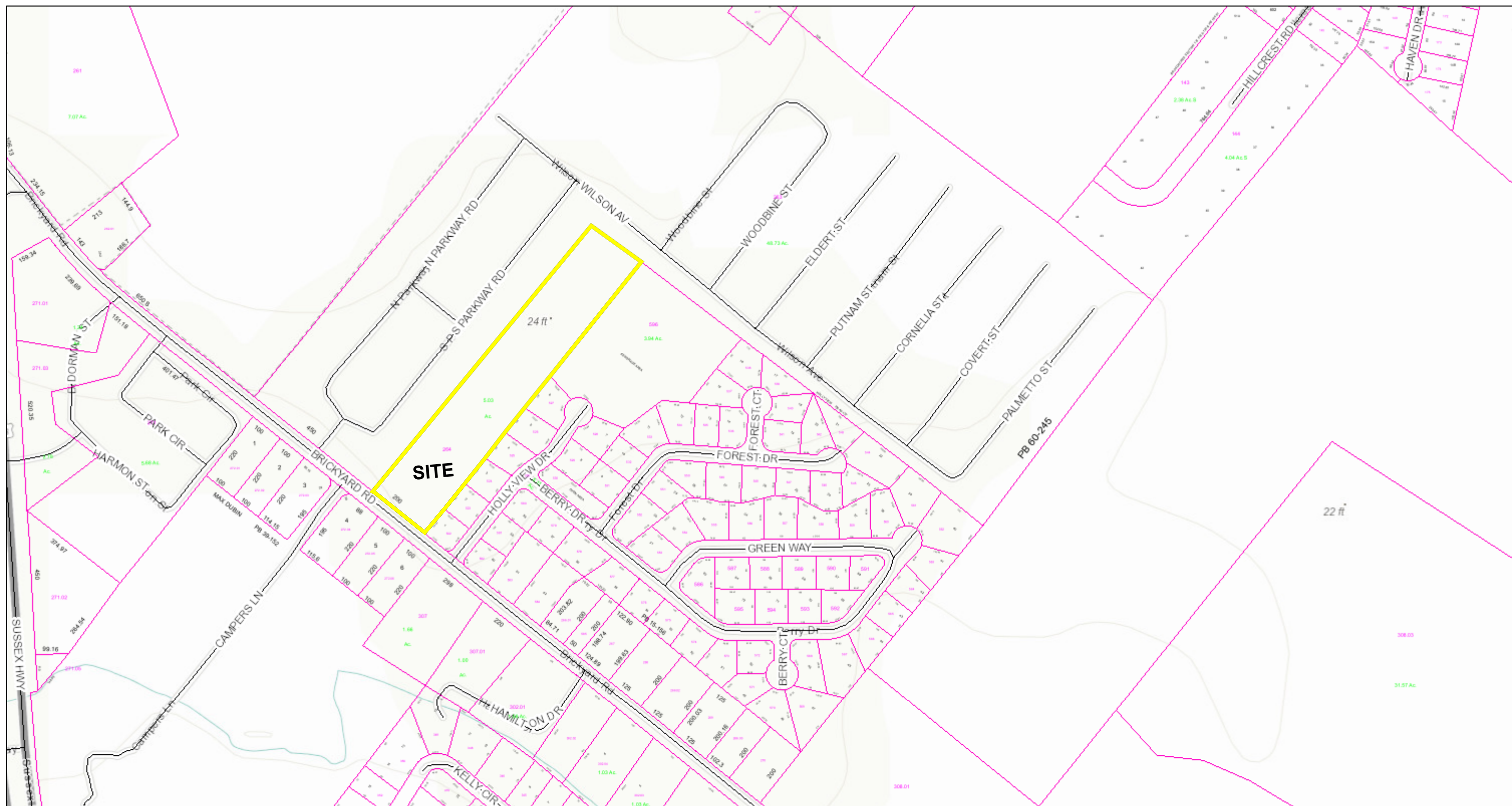
15' SWM ESMT

15' SWM ESMT

**BRICKYARD APARTMENTS
SUSSEX COUNTY, DELAWARE**



Sussex County - Tax Map



July 11, 2019

polygonLayer County Boundaries

Override 1

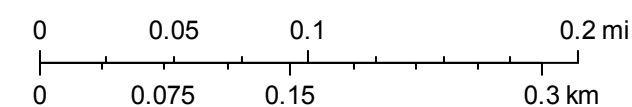
polygonLayer

Override 1

 Tax Parcels

— Streets

1:4,514



Delaware Department of Education
DNREC, Division of Watershed Stewardship, Drainage Program,
john.inkster@state.de.us
Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO,
USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance

ADJOINING PROPERTY OWNERS

132-2.00-522.00

Mobile Gardens, MPH LLC
108 Pittsford Victor RD
Suite 202
Pittsford, NY 14534

132-2.00-532.00

Mobile Gardens, MPH LLC
108 Pittsford Victor RD
Suite 202
Pittsford, NY 14534

132-2.00-524.00

Mobile Gardens, MPH LLC
108 Pittsford Victor RD
Suite 202
Pittsford, NY 14534

132-2.00-525.00

Mobile Gardens, MPH LLC
108 Pittsford Victor RD
Suite 202
Pittsford, NY 14534

132-2.00-526.00

Mobile Gardens, MPH LLC
108 Pittsford Victor RD
Suite 202
Pittsford, NY 14534

132-2.00-527.00

Mobile Gardens, MPH LLC
108 Pittsford Victor RD
Suite 202
Pittsford, NY 14534

132-2.00-263.00

Mobile Gardens, MPH LLC
108 Pittsford Victor RD
Suite 202
Pittsford, NY 14534

132-2.00-596.00

Mobile Gardens, MPH LLC
108 Pittsford Victor RD
Suite 202
Pittsford, NY 14534

EASEMENTS

558-569 AFFECTS PROPERTY UTILITY POLES PLOTTED
558-570 AFFECTS PROPERTY UTILITY POLES PLOTTED
558-571 DOES NOT AFFECT PROPERTY, NOT PLOTTED
1635-266 DOES NOT AFFECT PROPERTY, NOT PLOTTED
2123-138 AFFECTS PROPERTY AS PLOTTED
3834-328 DOES NOT AFFECT PROPERTY, NOT PLOTTED
3835-192 DOES NOT AFFECT PROPERTY, NOT PLOTTED

GENERAL NOTES

- SOURCE OF TITLE: DEED BOOK 5105, PAGE 152, DATED AUGUST 15, 2019. MOBILE GARDENS MHP SALES TO LLC. THERE ARE NO GAPS OR OVERLAPS.
- THE 911 ADDRESS OF THE PROPERTY IS 9329 BRICKYARD ROAD, SEAFORD, DE 19973
- FLOOD ZONE CLASSIFICATION IS "X" BASED ON FEMA MAP #10005C0264L, DATED JUNE 20, 2018.
- GROSS LAND AREA: 5.061 ACRES, 220,441 SQ. FT.
- THE BUILDING SETBACK RESTRICTIONS ARE AS FOLLOWS:
GR ZONING: 427' DEPTH, FRONT 40', SIDES 10', REAR 10'
AR-1 ZONING: REMAINING, FRONT 40', SIDES 15', REAR 20' (LOT FRONTS ON WILSON AVE.)
- SEWER AND WATER UTILITIES ARE PRIVATE.
- SUBJECT PARCEL HAS DIRECT ACCESS TO BRICKYARD ROAD, A PUBLIC DEDICATED STREET MAINTAINED BY THE STATE OF DELAWARE AND WILSON AVENUE A PRIVATELY MAINTAINED STREET.
- EXISTING STRUCTURES ON PROPERTY IN DISREPAIR AND NOT CONSIDERED IMPROVEMENTS.

LEGAL DESCRIPTION

DEED BOOK 5105, PAGE 152 AUGUST 15, 2019
PARCEL ID No. 132-2.00-264

PARCEL ONE

ALL that certain piece, or parcel of land, situate, lying and being in Broad Creek Hundred, Sussex County, Delaware, more particularly described as follows, to wit:

BEGINNING on the center of Brick Yard Road, State Route No. 481, a corner for this land and lands of R. E. Bowland; thence North 47 degrees East 750 feet along the Bowland line to a point which is a corner for this land and other lands now or formerly of John A. Moore, Jr. and Helen M. Moore and R. E. Bowland; thence North 43 1/2 degrees West 150 feet; thence South 47 degrees West 750 feet back to State Road 481; thence South 43 1/2 degrees East 150 feet back to the place of beginning.

PARCEL TWO

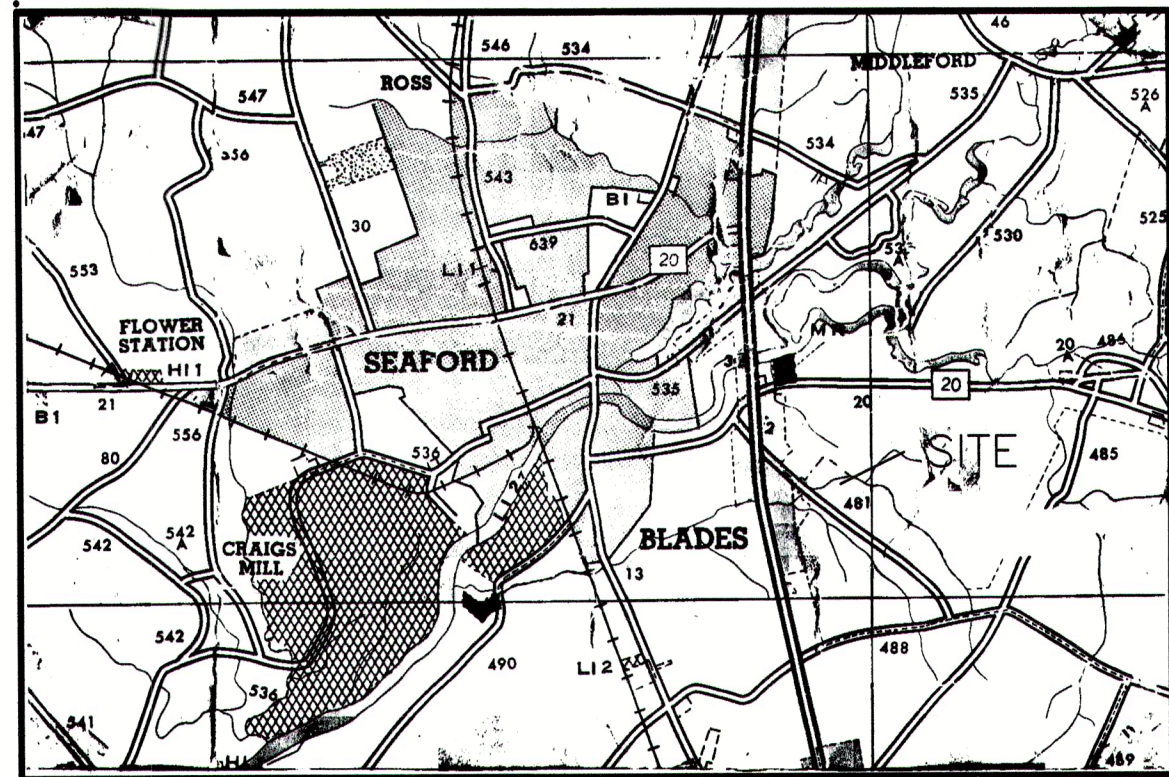
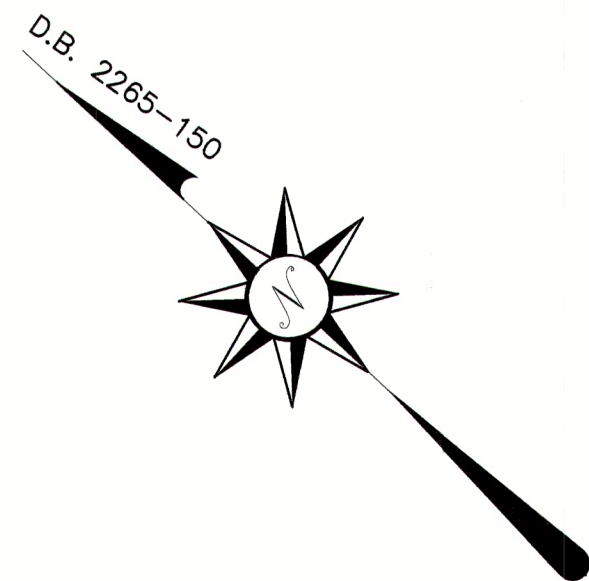
ALL that certain lot, piece, or parcel of land, situate, lying and being in Broad Creek Hundred, Sussex County, Delaware, adjoining other lands of Rufus E. Bowland, Jr. and Louise w. Bowland and more particularly described as follows, to wit:

BEGINNING on the eastern right of way line of the road leading to Route 13, a corner for this land and other lands now or formerly of Charles M. Walls and Virginia E. Walls; thence North 47 degrees East 1088 feet to Lot 67 and lands of John A. Moore, Jr.; thence South 43 1/2 degrees East along Lot 67, 50 feet; thence South 47 degrees West 1088 feet along other lands now or formerly of Rufus E. Bowland, Jr. and Louise W. Bowland to the aforementioned lot; thence North 43 1/2 degrees West 50 feet along the right of way to the place of beginning.

PARCEL THREE

ALL that certain lot, piece, or parcel of land, situate, lying and being in Broad Creek Hundred, Sussex County, Delaware, adjoining on the south other lands now or formerly of Charles M. Walls and Virginia E. Walls and adjoining on the east lands now or formerly conveyed to Charles M. Walls and Virginia E. Walls from Rufus Bowland and wife, more particularly described as follows, to wit:

BEGINNING at a point located at the northwest line of other lands now or formerly of Charles M. Walls and Virginia E. Walls; thence North 47 degrees East 338 feet to lot 69; thence South 43 1/2 degrees East 150 feet along the line of Lots 69, 68, and a portion of 67 to lands of Rufus E. Bowland and wife; thence South 47 degrees West 338 feet back to other lands now or formerly of Charles M. Walls and Virginia E. Walls; thence North 43 1/2 degrees West 150 feet back to the place of beginning.

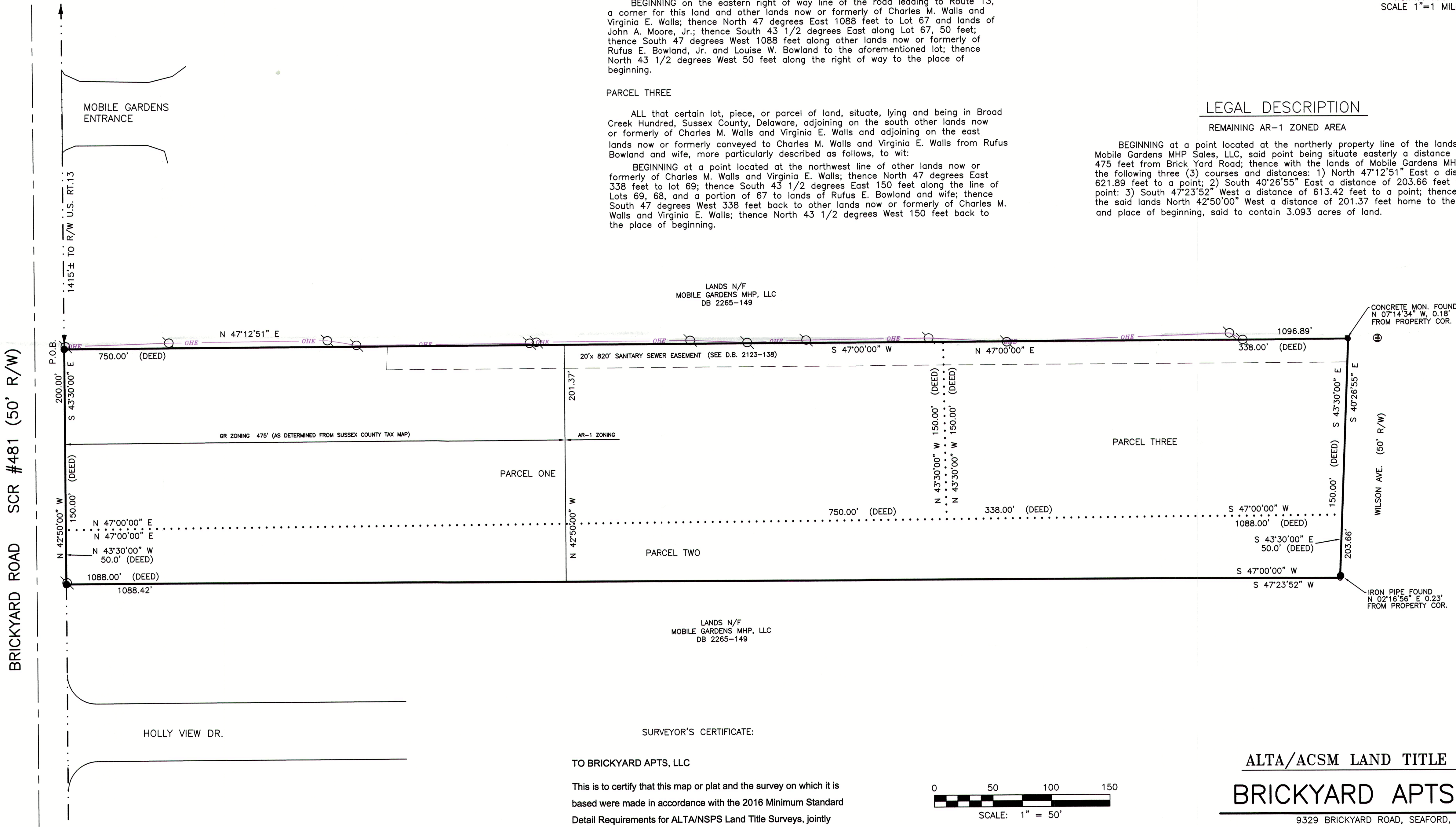


VICINITY MAP
SCALE 1"=1 MILE

LEGAL DESCRIPTION

REMAINING AR-1 ZONED AREA

BEGINNING at a point located at the northerly property line of the lands of Mobile Gardens MHP Sales, LLC, said point being situate easterly a distance of 475 feet from Brick Yard Road; thence with the lands of Mobile Gardens MHP, LLC the following three (3) courses and distances: 1) North 47°12'51" East a distance 621.89 feet to a point; 2) South 40°26'55" East a distance of 203.66 feet to a point; 3) South 47°23'52" West a distance of 613.42 feet to a point; thence through the said lands North 42°50'00" West a distance of 201.37 feet home to the point and place of beginning, said to contain 3.093 acres of land.



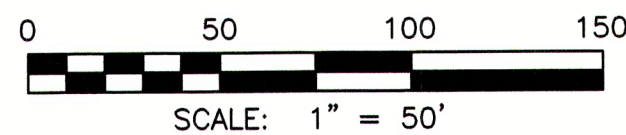
SURVEYOR'S CERTIFICATE:

TO BRICKYARD APTS, LLC

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2016 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 1,2,3,4,6(a),11,12,18,19 of Table A thereof. The field work was completed on July 10, 2019.

Date of Plat or Map: July 10, 2019

Donald K. Miller
Donald K. Miller, PLS 407



ALTA/ACSM LAND TITLE SURVEY

BRICKYARD APTS, LLC

9329 BRICKYARD ROAD, SEAFORD, DE 19973

MONUMENTATION

- IRON PIPE (FOUND)
- CONCRETE MONUMENT (FOUND)
- UTILITY POLE
- POINT

DATE	REVISION

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



HUNDRED	COUNTY
BROAD CREEK	SUSSEX
STATE	DRAWN BY
DELAWARE	D.K. MILLER
REF.	FILE NO.
DB 4579-293	MOBILE GARDENS

Return To/Prepared By:
Kristen L. Cavatassi, Esq.
Morgenstern DeVoesick PLLC
1080 Pittsford Victor Road
Pittsford, New York 14534

THIS DEED, made this 14th day of July, 2019,

- BETWEEN -

MOBILE GARDENS MHP SALES, LLC, a New York limited liability company having an address of 1080 Pittsford Victor Road, Suite 202, Pittsford, New York, party of the first part

- AND -

BRICKYARD APTS LLC, a Delaware limited liability company having an address of 1080 Pittsford Victor Road, Suite 202, Pittsford, New York, party of the second part

WITNESSETH: That the said party of the first part, for and in consideration of the sum of ONE DOLLAR (\$1.00) and other valuable consideration, lawful money of the United States of America, the receipt whereof is hereby acknowledged, hereby grants and conveys unto the party of the second part, and its heirs and assigns, in fee simple, the following described lands, situate, lying and being at 9329 Brickyard Road, Sussex County, State of Delaware:

PARCEL ONE

ALL THAT piece or parcel of land situate, lying and being in Broad Creek Hundred, Sussex County, Delaware, more particularly described as follows, to wit:

BEGINNING on the center line of Brick Yard Road, State Route No. 481, a corner for this land and lands of R. E. Bowland; thence North 47 degrees East 750 feet along the Bowland line to a point which is a corner for this land and other lands now or formerly of John A. Moore, Jr. and Helen M. Moore and R. E. Bowland; thence North 43 1/2 degrees West 150 feet; thence South 47 degrees West 750 feet back to State Road 481; thence South 43 1/2 degrees East 150 feet back to the place of beginning.

PARCEL TWO

ALL THAT certain lot, piece or parcel of land situate, lying and being in Broad Creek Hundred, Sussex County, Delaware, adjoining other lands now or formerly of Rufus E. Bowland, Jr. and Louise W. Bowland and more particularly described as follows, to wit:

BEGINNING on the eastern right of way line of the road leading to Route 13, a corner for this land and other lands now or formerly of Charles M. Walls and Virginia E. Walls; thence North 47 degrees East 1088 feet to Lot 67 and lands of John A. Moore, Jr.; thence South 43 1/2 degrees East along Lot 67, 50 feet; thence South 47 degrees West 1088 feet along other lands now or formerly of Rufus E. Bowland, Jr. and Louise W. Bowland to the aforementioned lot; thence North 43 1/2 degrees West 50 feet along the right of way line of said road back to the place of beginning.

PARCEL THREE

ALL THAT certain lot, piece or parcel of land situate, lying and being in Broad Creek Hundred, Sussex County, Delaware, adjoining on the south other lands now or formerly of Charles M. Walls and Virginia E. Walls and adjoining on the east lands now or formerly conveyed to Charles M. Walls and Virginia E. Walls from Rufus Bowland and wife, more particularly described as follows, to wit:

BEGINNING at a point located at the northwest line of other lands now or formerly of Charles M. Walls and Virginia E. Walls; thence North 47 degrees East 338 feet to Lot 69; thence South 43 1/2 degrees East 150 feet along the line of Lots 69, 68, and a portion of 67 to lands of Rufus E. Bowland and wife; thence South 47 degrees West 338 feet back to other lands now or formerly of Charles M. Walls and Virginia E. Walls; thence North 43 1/2 degrees West 150 feet back to the place of beginning.

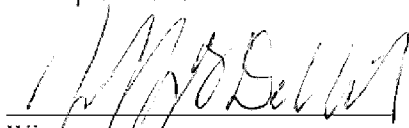
Parcels 1, 2, AND 3 - Being and intending to describe the same premises conveyed to party of the first part by deed dated July 21, 2016 and recorded in the Sussex County Clerk's Office on August 9, 2016 in Book 4579 at Page 293.


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

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

Signed, Sealed and Delivered
in the presence of:

BRICKYARD APTS LLC


Witness
Name: Jeffrey F. DeVoerick

By: 
Name: Kristin C. Burnham
Its: Member

STATE OF New York, COUNTY OF Monroe: to-wit:

BE IT REMEMBERED, that on July 17, 2019, personally came before me the subscriber Kristin C. Burnham, party of the first part to this Indenture known to me personally to be such, and acknowledged this Indenture to be her act and deed.

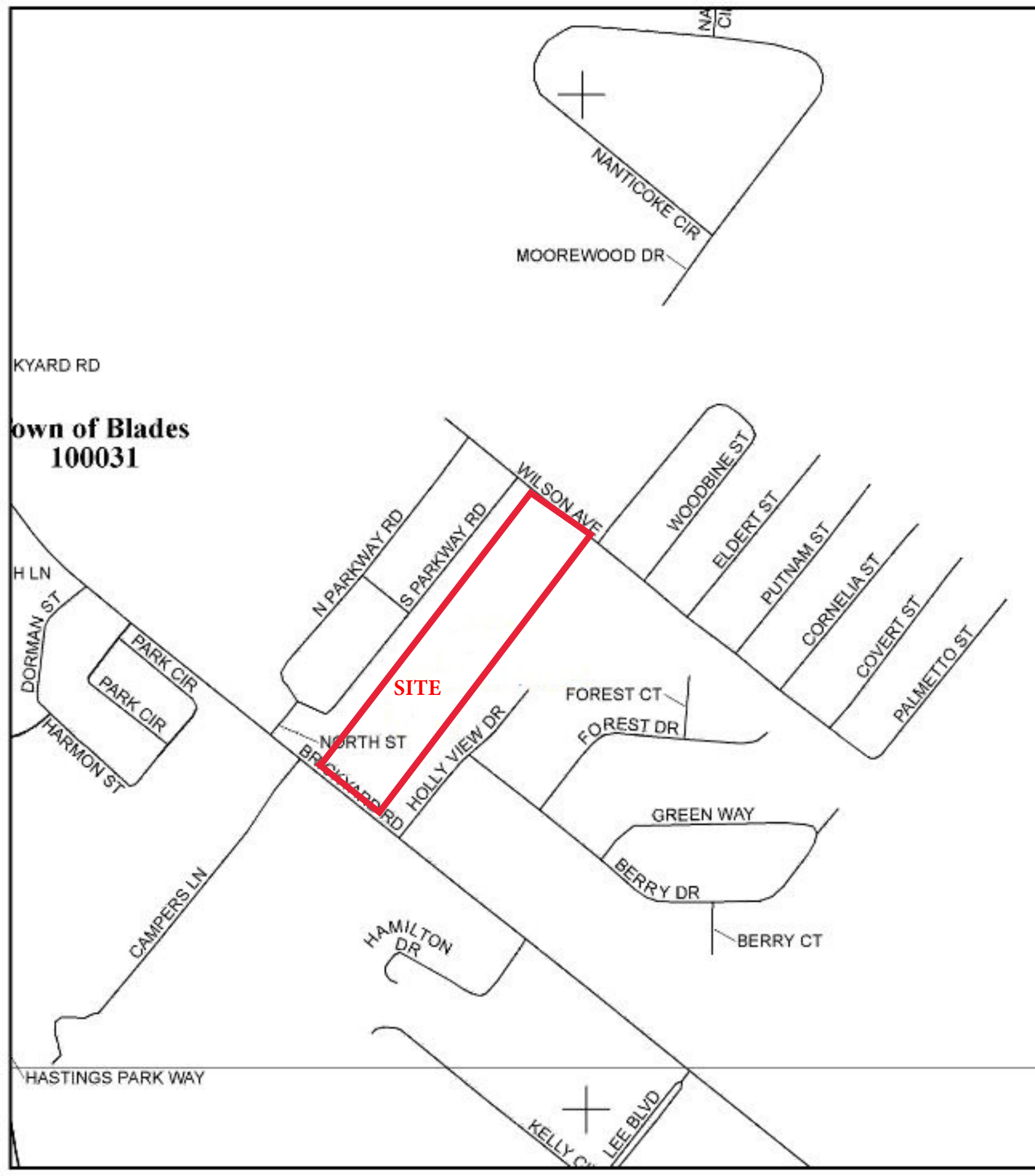
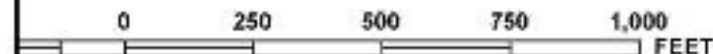
GIVEN under my Hand and Seal of Office the day and year aforesaid/


Notary Public
My Commission Expires: 7/29/21

KRISTEN L. CAVATASSI
NOTARY PUBLIC, State of New York
Reg. # 02CA6286766
Registered in Ontario County
Commission Expires July 29, 2021



MAP SCALE 1" = 500'



NFIP

PANEL 0264L

FIRM

FLOOD INSURANCE RATE MAP
SUSSEX COUNTY,
DELAWARE
AND INCORPORATED AREAS

PANEL 264 OF 660

(SEE MAP INDEX FOR FIRM PANEL LAYOUT)

CONTAINS:

COMMUNITY	NUMBER	PANEL	SUFFIX
BLADES, TOWN OF	10005	0264	L
SEAFORD, CITY OF	100046	0264	L
SUSSEX COUNTY	100028	0264	L

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
10005C0264L

MAP REVISED
JUNE 20, 2018

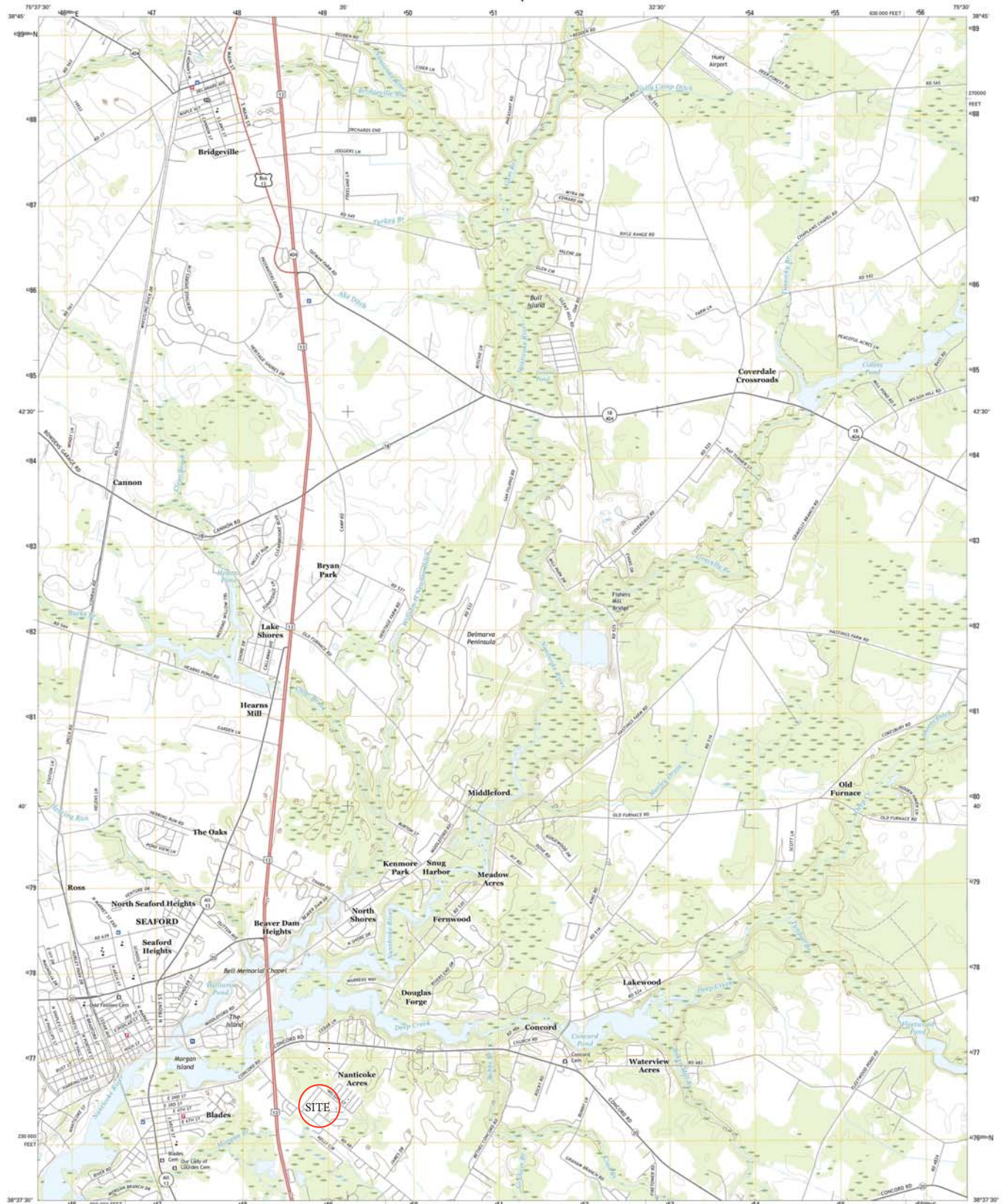
Federal Emergency Management Agency



U.S. DEPARTMENT OF THE INTERIOR
U.S. GEOLOGICAL SURVEY



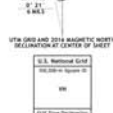
SEAFORD EAST QUADRANGLE
DELAWARE-SUSSEX CO.
7.5-MINUTE SERIES



Produced by the United States Geological Survey
North American Datum of 1983 (NAD83)
World Geodetic System of 1984 (WGS84). Projection and
1:500,000 scale Universal Transverse Mercator, Zone 18S
10 000-foot UTM (Universal Transverse Mercator) System of 1983.

This map is not a legal document. Boundaries may be
generalized for this map scale. Private lands within government
reservations may not be shown. Obtain permission before
entering private lands.

Image: NAD83, September 2015
Roads: U.S. Census Bureau, 2015
Hydrography: National Hydrography Dataset, 2015
Contours: National Elevation Dataset, 2015
Boundaries: Multiple sources; see metadata file 1972-2014
Wetlands: FWS National Wetlands Inventory 1977-2014



CONTOUR INTERVAL: 5 FEET
NORTH AMERICAN VERTICAL DATUM OF 1988
This map was produced to conform with the
National Geospatial Program US Topo Product Standards, 2015.
A metadata file associated with this product is available at www.usgs.gov



ROAD CLASSIFICATION	
Expressway	Local Road
Secondary Hwy	Local Road
Ramp	Interstate Route
	US Route
	State Route

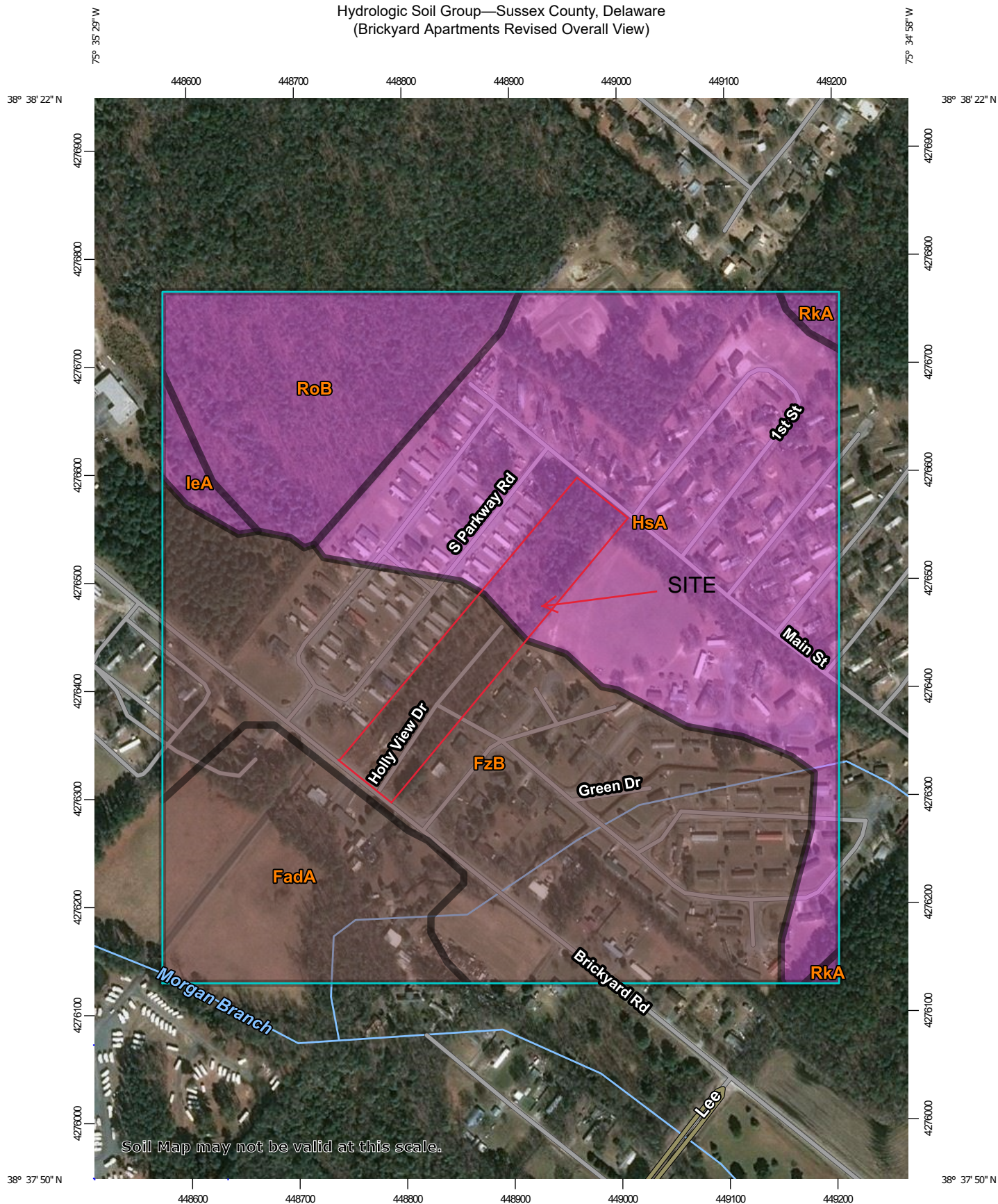
1	2	3
4	5	6
7	8	9

1 Hickman
2 Greenwood
3 Dismal
4 Seaford West
5 Seaford East
6 Seaford
7 Laurel
8 Truitt

SEAFORD EAST, DE
2016



Hydrologic Soil Group—Sussex County, Delaware (Brickyard Apartments Revised Overall View)



Map Scale: 1:4,880 if printed on A portrait (8.5" x 11") sheet.

0 50 100 200 300 Meters

0 200 400 800 1200 Feet

Map projection: Web Mercator Corner coordinates: WGS84 Edge tics: UTM Zone 18N WGS84



Natural Resources
Conservation Service

Web Soil Survey
National Cooperative Soil Survey

5/28/2019
Page 1 of 4

MAP LEGEND

Area of Interest (AOI)

 Area of Interest (AOI)

Soils

Soil Rating Polygons

 A
 A/D
 B
 B/D
 C
 C/D
 D
 Not rated or not available

Soil Rating Lines


 A
 A/D
 B
 B/D
 C
 C/D
 D
 Not rated or not available

Soil Rating Points

 A
 A/D
 B
 B/D

 C
 C/D
 D
 Not rated or not available

Water Features

 Streams and Canals

Transportation

 Rails
 Interstate Highways
 US Routes
 Major Roads
 Local Roads

Background

 Aerial Photography

MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:24,000.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service
 Web Soil Survey URL:
 Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Sussex County, Delaware
 Survey Area Data: Version 19, Sep 14, 2018

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Nov 21, 2018—Mar 12, 2019

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Hydrologic Soil Group

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
FadA	Fallsington sandy loams, 0 to 2 percent slopes, Northern Tidewater Area	B/D	12.6	12.6%
FzB	Fallsington-Urban land complex, 0 to 5 percent slopes	B/D	36.7	36.7%
HsA	Henlopen-Rosedale-Urban land complex, 0 to 2 percent slopes	A	36.7	36.7%
IeA	Ingleside loamy sand, 0 to 2 percent slopes	A	1.0	1.0%
RkA	Rockawalkin loamy sand, 0 to 2 percent slopes	A	0.6	0.6%
RoB	Rosedale loamy sand, 2 to 5 percent slopes	A	12.4	12.4%
Totals for Area of Interest			99.9	100.0%

Description

Hydrologic soil groups are based on estimates of runoff potential. Soils are assigned to one of four groups according to the rate of water infiltration when the soils are not protected by vegetation, are thoroughly wet, and receive precipitation from long-duration storms.

The soils in the United States are assigned to four groups (A, B, C, and D) and three dual classes (A/D, B/D, and C/D). The groups are defined as follows:

Group A. Soils having a high infiltration rate (low runoff potential) when thoroughly wet. These consist mainly of deep, well drained to excessively drained sands or gravelly sands. These soils have a high rate of water transmission.

Group B. Soils having a moderate infiltration rate when thoroughly wet. These consist chiefly of moderately deep or deep, moderately well drained or well drained soils that have moderately fine texture to moderately coarse texture. These soils have a moderate rate of water transmission.

Group C. Soils having a slow infiltration rate when thoroughly wet. These consist chiefly of soils having a layer that impedes the downward movement of water or soils of moderately fine texture or fine texture. These soils have a slow rate of water transmission.

Group D. Soils having a very slow infiltration rate (high runoff potential) when thoroughly wet. These consist chiefly of clays that have a high shrink-swell potential, soils that have a high water table, soils that have a claypan or clay layer at or near the surface, and soils that are shallow over nearly impervious material. These soils have a very slow rate of water transmission.

If a soil is assigned to a dual hydrologic group (A/D, B/D, or C/D), the first letter is for drained areas and the second is for undrained areas. Only the soils that in their natural condition are in group D are assigned to dual classes.

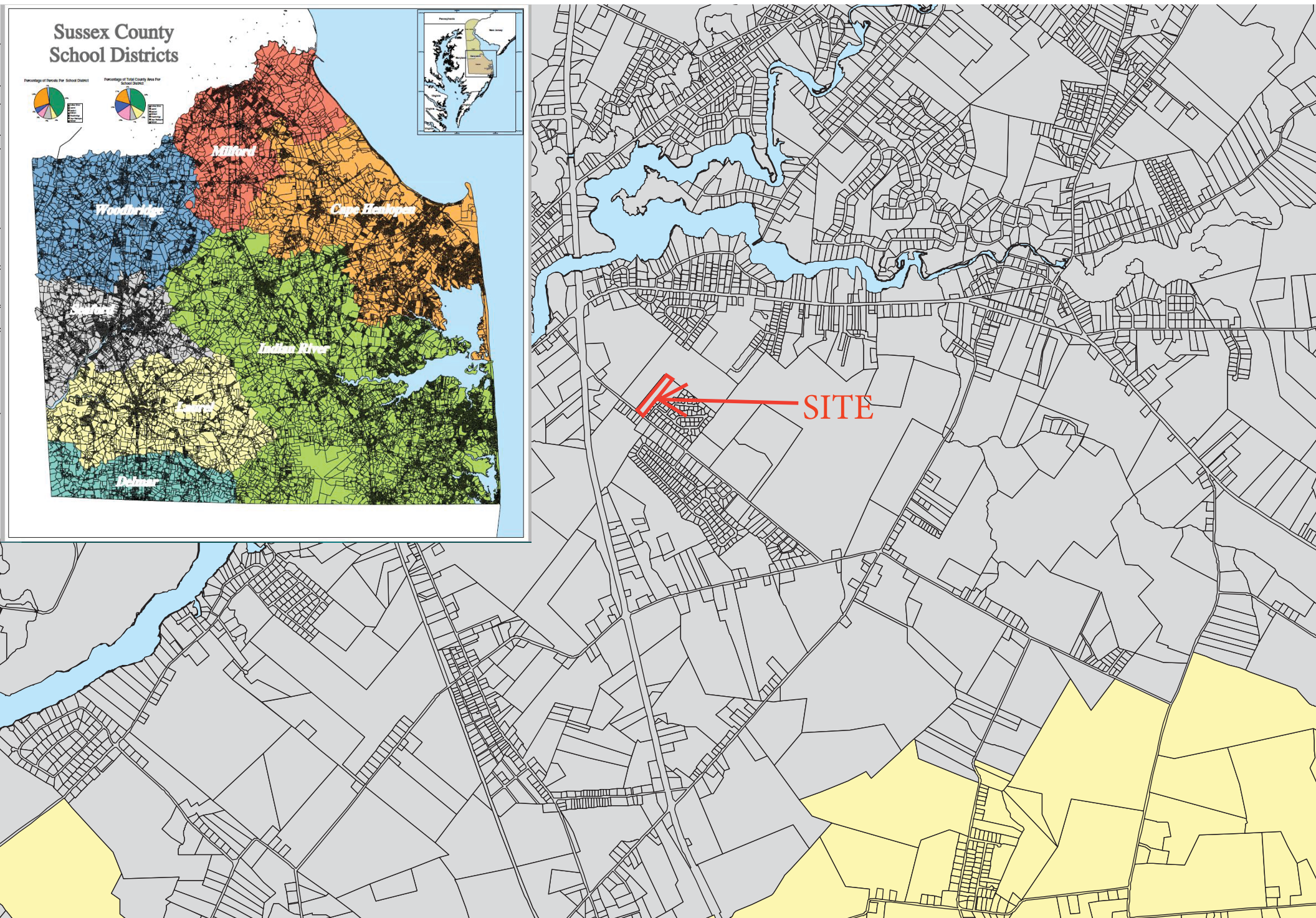
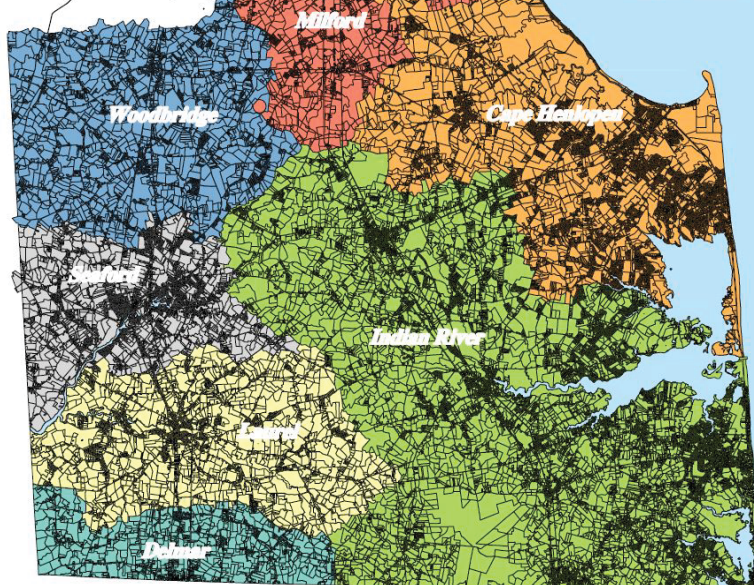
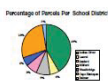
Rating Options

Aggregation Method: Dominant Condition

Component Percent Cutoff: None Specified

Tie-break Rule: Higher

Sussex County School Districts



Seaford School District Map

TRAFFIC AND SITE CIRCULATION



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

JENNIFER COHAN
SECRETARY

January 13, 2020

Ms. Janelle Cornwell, Director
Sussex County Planning & Zoning Commission
Sussex County Administration Building
P.O. Box 417
Georgetown, Delaware 19947

SUBJECT: Letter of No Objection to Recordation
Mobile Gardens Apartments
Tax Parcel # 132-2.00-264.00
SCR481-BRICKYARD ROAD
Broad Creek Hundred, Sussex County

Dear Ms. Cornwell:

The Department of Transportation has reviewed the Site Plan, dated March 2019 (last revised January 2020), for the above referenced site, and has no objection to its recordation as shown on the enclosed drawings. This "No Objection to Recordation" approval shall be valid for a period of **five (5) years**. If the Site Plan is not recorded prior to the expiration of the "No Objection to Recordation", then the plan must be updated to meet current requirements and resubmitted for review and approval.

This letter does not authorize the commencement of entrance construction. Entrance plans shall be developed in accordance with DelDOT's [Development Coordination Manual](#) and submitted to the Development Coordination Section for review and approval.

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

Mobile Gardens Apartments
Ms. Janelle Cornwell
Page 2
January 13, 2020

that jurisdiction to modify or reject this proposed plan even though DelDOT has established that these enumerated transportation improvements are acceptable.

If I can be of any further assistance, please call me at (302) 760-2266.

Very truly yours,



Susanne K. Laws
Sussex County Review Coordinator
Development Coordination

cc: Billy Betts, KDM Development
Judy Schwartz, George, Miles & Buhr, LLC
William Kirsch, South District Entrance Permit Supervisor
Rusty Warrington, Sussex County Planning & Zoning
Jessica L. Watson, Sussex Conservation District
Gemez W. Norwood, South District Public Work Manager
Jennifer Pinkerton, Chief Materials & Research Engineer
Peter Haag, Chief of Traffic Engineering
Linda Osiecki, Consistency Control Engineer
John Fiori, Bicycle Coordinator
Maria Andaya, Pedestrian Coordinator
Mark Galipo, Traffic Development Coordination Engineer
Tim Phillips, Maintenance Support Manager
Dan Thompson, Safety Officer North District
Joseph Ellis, Contech Manager
Jared Kaufman, DTC Planner
James Kelley, JMT
Todd Sammons, Subdivision Engineer
John Andrescavage, Sussex County Reviewer



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

JENNIFER COHAN
SECRETARY

February 11, 2020

Ms. Judy Schwartz
George, Miles & Buhr, LLC
400 High St.
Seaford, Delaware 19973

SUBJECT: Entrance Plan Approval Letter
Mobile Gardens Apartments
Tax Parcel #132-2.00-264.00
SCR481-BRICKYARD ROAD
Broad Creek Hundred, Sussex County

Dear Ms. Schwartz:

The Department of Transportation has reviewed the Commercial Entrance Plans dated March 2019 (last revised February 2020) for the referenced project and determined that they are in general conformance with the Department's current regulations, specifications and standard details. By signing and sealing the plan set, the developer's engineer is responsible for accuracy of content. Any errors, omissions or required field changes will be the responsibility of the developer. This plan approval shall be valid a period of **three (3) years**. If an entrance permit has not been obtained within three years, then the plans must be updated to meet current requirements and resubmitted for review and approval.

This letter does not authorize the commencement of entrance construction. The following items will be required prior to the permit being issued. A pre-construction meeting may be required as determined by the South District Public Works office.

1. A copy of the recorded Site Plan which is consistent with the DeIDOT "No Objection to Recordation" stamped plan and all appropriate signatures, seals, plot book and page number.
2. Three (3) copies of the approved entrance plans.
3. Completed permit application.
4. Executed agreements (i.e. construction, signal, letter).
5. An itemized construction cost estimate.
6. A 150% security based upon an approved itemized construction cost estimate and W-9 form (if providing escrow).
7. A letter of source of materials, work schedule, list of subcontractors, emergency telephone numbers and names of contact persons.

Mobile Gardens Apartments
Ms. Schwartz
Page 2
February 11, 2020

Please contact the South District Public Works office (302) 853-1340 concerning any questions you may have relative to the aforementioned required items.

Sincerely,



Susanne K. Laws
Sussex County Review Coordinator
Development Coordination

cc: Billy Betts, KDM Development
Jamie Whitehouse, Sussex County Planning & Zoning Commission
Rusty Warrington, Sussex County Planning & Zoning
Jessica L. Watson, Sussex Conservation District
Gemez Norwood, South District Public Work Manager
James Argo, South District Project Reviewer
William Kirsch, South District Entrance Permit Supervisor
Jerry Nagyiski, Safety Officer Supervisor
Chris Sylvester, Pedestrian Coordinator
Jennifer Pinkerton, Chief Materials & Research Engineer
Linda Osiecki, Consistency Control Engineer
John Fiori, Bicycle Coordinator
Mark Galipo, Traffic Development Coordination Engineer
Tim Phillips, Maintenance Support Manager
Dan Thompson, Safety Officer North District
Jared Kaufman, DTC Planner
James Kelley, JMT
Todd Sammons, Subdivision Engineer
John Andrescavage, Sussex County Reviewer

UTILITY PROVIDERS



ARCHITECTS
ENGINEERS

400 HIGH STREET
SEAFORD, DE 19973
PH: 302.628.1421
FAX: 302.628.8350

SALISBURY
BALTIMORE
SEAFORD

www.gmbnet.com



Mobile Gardens Public Water System Water Calculations

Brickyard Apartments will be served by an extension of the central water system in the adjacent Mobile Gardens Mobile Home Park (MHP). The Mobile Gardens MHP water system is fed by a 6-inch well, 369 feet deep, pumping at 150 gpm. The well water is chlorinated to provide disinfection. A new well is proposed as part of the Brickyard Apts project, along with a ground level storage tank and fire pump. The existing well will remain as a backup.

Design Data:

No. of Existing Homes – 208 lots x 90% occupancy=187 (includes Mobile Gardens only)

Proposed Apartment Units – 48

Total No. of Units – 187 + 48 = 235 occupied units

Proposed Water Demand – 235 x 200 gpd/unit = 47,000 gpd = 33 gpm

Peak Water Demand = 198 gpm [Per Uniform Plumbing Code]

Fire Flow Requirement – 500 gpm for 1 hour [Per DE State Fire Marshal]

Proposed Well – 225 gpm

Proposed Storage Tank – 34,000 gallons

Storage Tank Fill Time – 2.6 hrs



ARCHITECTS
ENGINEERS

400 HIGH STREET
SEAFORD, DE 19973
PH: 302.628.1421
FAX: 302.628.8350

SALISBURY
BALTIMORE
SEAFORD

www.gmbnet.com



Mobile Gardens Public Water System Sewer Capability Calculations

Brickyard Apartments will be served by central sewer discharging to the adjacent Mobile Gardens Mobile Home Park (MHP). Mobile Gardens MHP operates a 60,000 gallons per day (GPD) Purestream Biologically Engineered Single Sludge Treatment (BESST) Plant in conjunction with Rapid Infiltration Beds (RIB's) to provide for wastewater treatment and disposal. The WWTF currently receives domestic wastewater via gravity sewer from the Mobile Gardens MHP and the Holly View MHP. The wastewater treatment process includes a bar screen, pre-equalization chamber, anoxic zone, aeration zone, clarifier, UV disinfection, and sand filtration. The WWTF discharges treated wastewater to an unnamed tributary of the Nanticoke River under NPDES Permit No. DE0050725 (State Number WPCC 3014G/77) via one (1) outfall. Waste sludge is stored in an on-site tank and hauled to the Seaford WWTP for disposal.

The Mobile Gardens WWTF is designated as a minor facility. Mobile Gardens MHP has filed application for reissuance of NPDES Permit No. DE0050725 (State Number WPCC 3014G/77). This permit is expired and administratively continued (i.e., still enforceable). The new permit is scheduled to be reissued in September 2019.

Design Data:

Existing WWTF Capacity – 60,000 gpd

Current Treated Flow – 40,000 gpd max day

No. of existing homes – 280 lots x 90% occupancy=252 (include Mobile Gardens and Hollyview)

Unit Flowrate – $40,000 / 252 = 159$ gpd/unit [Round to 160]

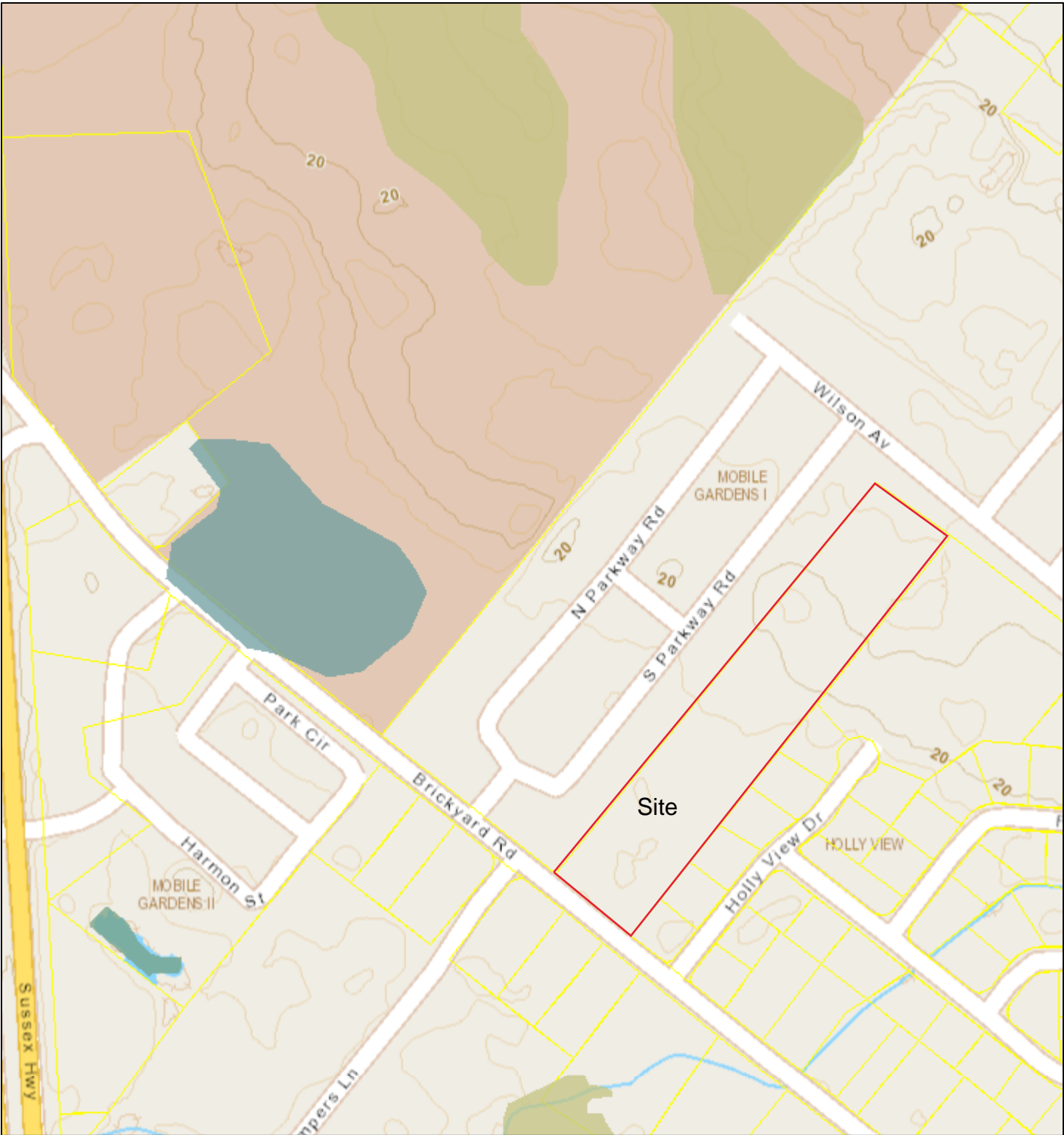
Proposed Additional Flow – $48 \text{ units} \times 160 \text{ gpd} = 7,680 \text{ gpd}$

Proposed WWTF Flow – $40,000 + 7,680 = 47,680 \text{ gpd}$

Proposed Connection Point – Intersection of South St and Wilson Ave, within Mobile Gardens

WETLANDS

Wetlands

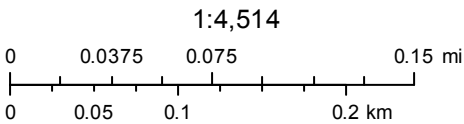


12/6/2018 9:16:34 AM

State Wetlands Mapping Project

- Palustrine Forested Deciduous
- Palustrine Forested Evergreen
- Palustrine Open Water/ Flats

Parcels



FirstMap 2017

THREATENED AND ENDANGERED SPECIES



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Chesapeake Bay Ecological Services Field Office
177 Admiral Cochrane Drive
Annapolis, MD 21401-7307
Phone: (410) 573-4599 Fax: (410) 266-9127

<http://www.fws.gov/chesapeakebay/>
<http://www.fws.gov/chesapeakebay/endsppweb/ProjectReview/Index.html>

In Reply Refer To:

July 16, 2019

Consultation Code: 05E2CB00-2019-SLI-1754

Event Code: 05E2CB00-2019-E-04385

Project Name: Brickyard Apartments

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. This species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

Please be aware that bald and golden eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*), and projects affecting these species may require development of an eagle conservation plan (http://www.fws.gov/windenergy/eagle_guidance.html). Additionally, wind energy projects should follow the wind energy guidelines (<http://www.fws.gov/windenergy/>) for minimizing impacts to migratory birds and bats.

Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g., cellular, digital television, radio, and emergency broadcast) can be found at: <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/towers.htm>; <http://www.towerkill.com>; and <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List
 - USFWS National Wildlife Refuges and Fish Hatcheries
 - Wetlands
-

Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Chesapeake Bay Ecological Services Field Office

177 Admiral Cochrane Drive

Annapolis, MD 21401-7307

(410) 573-4599

Project Summary

Consultation Code: 05E2CB00-2019-SLI-1754

Event Code: 05E2CB00-2019-E-04385

Project Name: Brickyard Apartments

Project Type: DEVELOPMENT

Project Description: Multi-Family Apartments with Re-zoned GR Zone

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/38.635067637481015N75.58743878853006W>



Counties: Sussex, DE

Endangered Species Act Species

There is a total of 0 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

-
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

USFWS National Wildlife Refuge Lands And Fish Hatcheries

Any activity proposed on lands managed by the [National Wildlife Refuge](#) system must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

THERE ARE NO REFUGE LANDS OR FISH HATCHERIES WITHIN YOUR PROJECT AREA.

Wetlands

Impacts to [NWI wetlands](#) and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local [U.S. Army Corps of Engineers District](#).

Please note that the NWI data being shown may be out of date. We are currently working to update our NWI data set. We recommend you verify these results with a site visit to determine the actual extent of wetlands on site.

THERE ARE NO WETLANDS WITHIN YOUR PROJECT AREA.

SUSSEX COUNTY COMPREHENSIVE MAPS

Figure 4.2-1 Existing Land Use

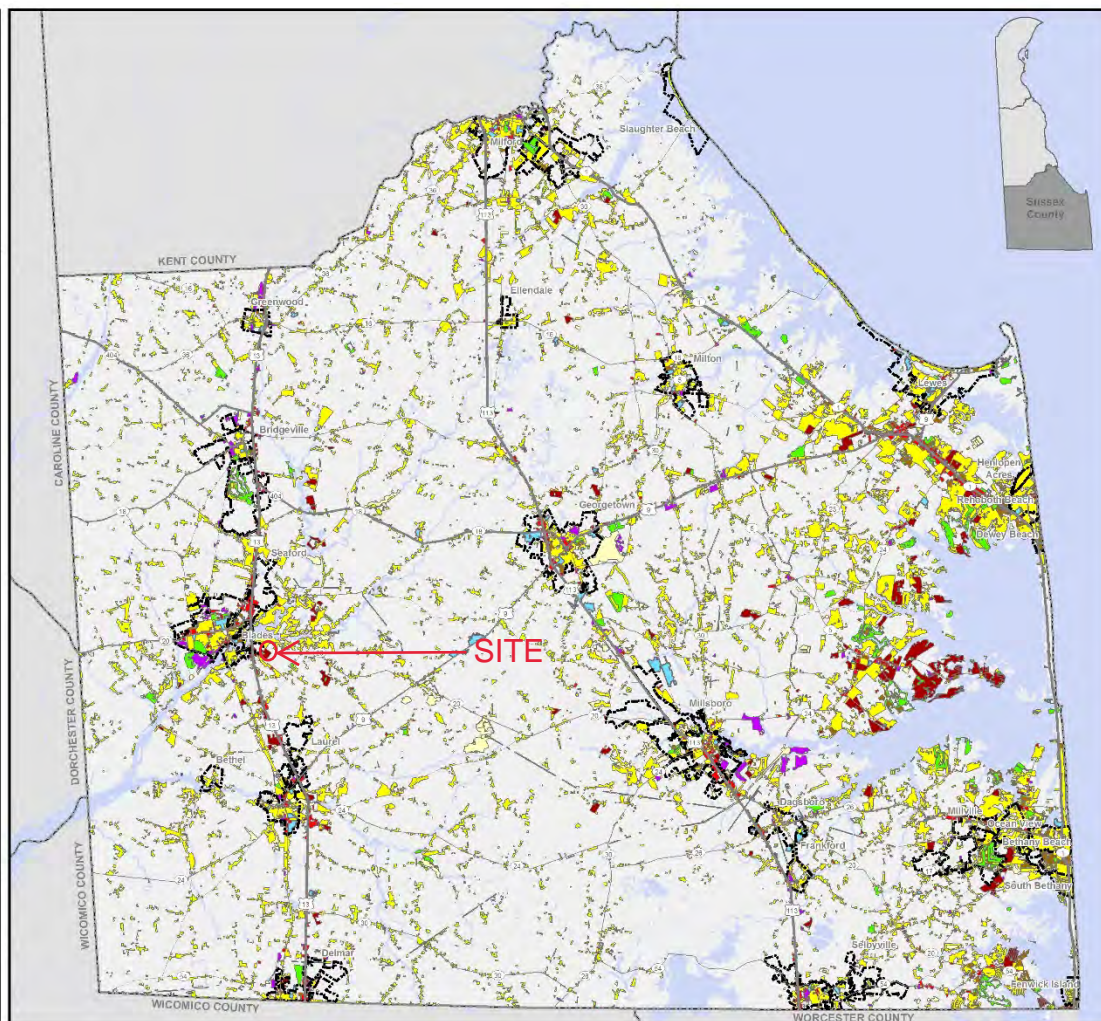


Figure 4.5-1 Sussex County 2045 Future Land Use

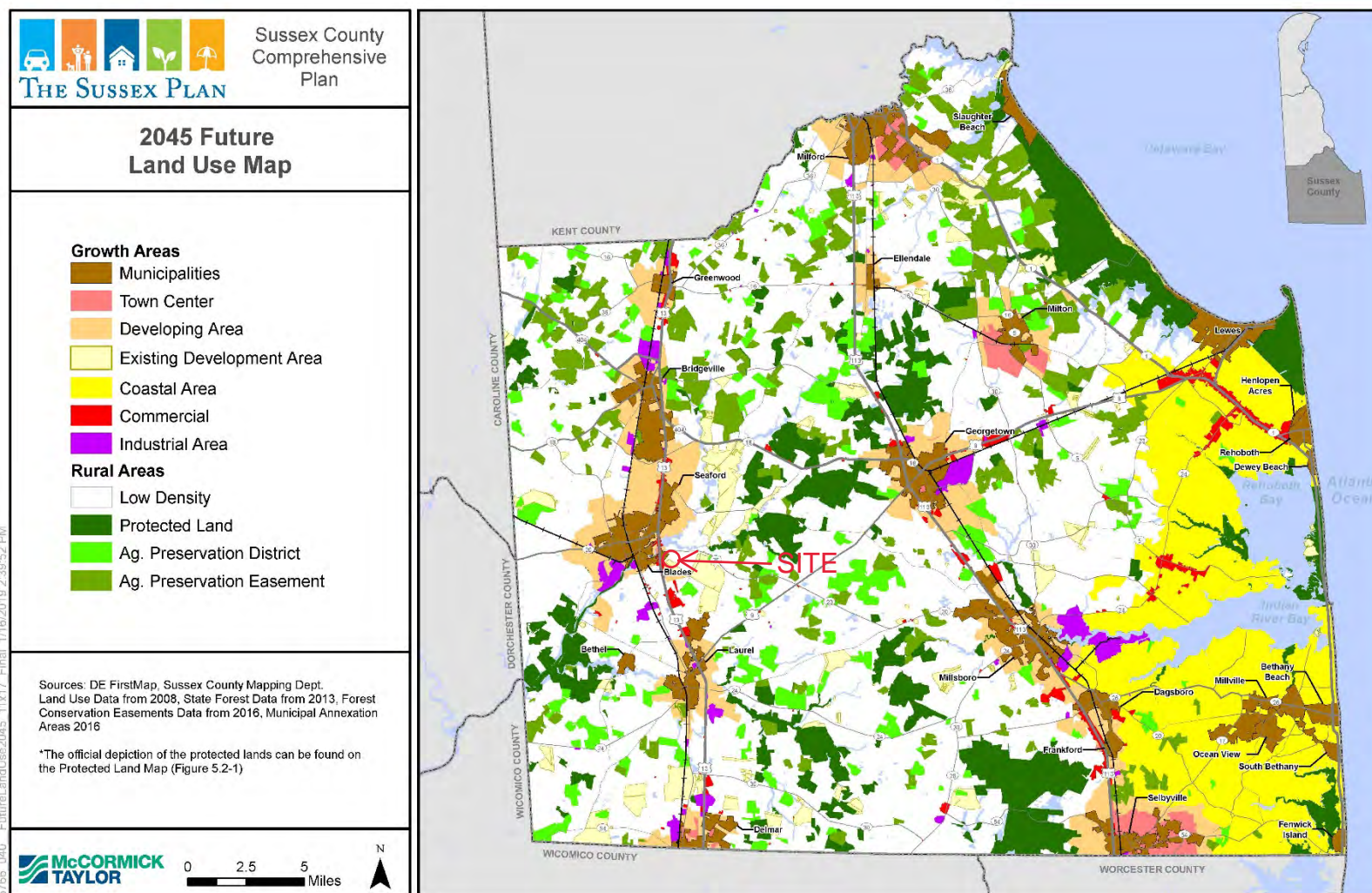


Figure 4.4-1 Strategies for State Policies and Spending

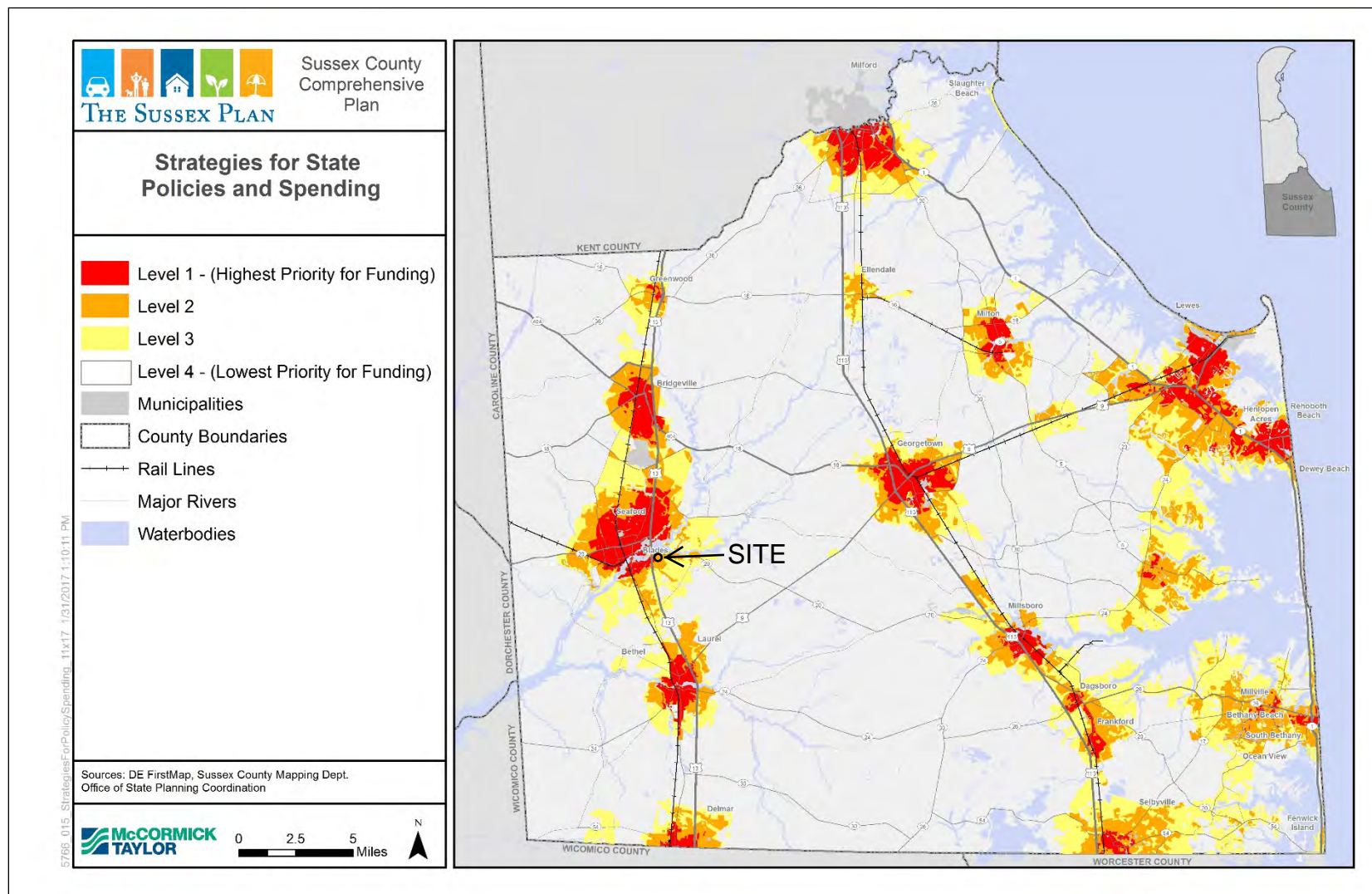
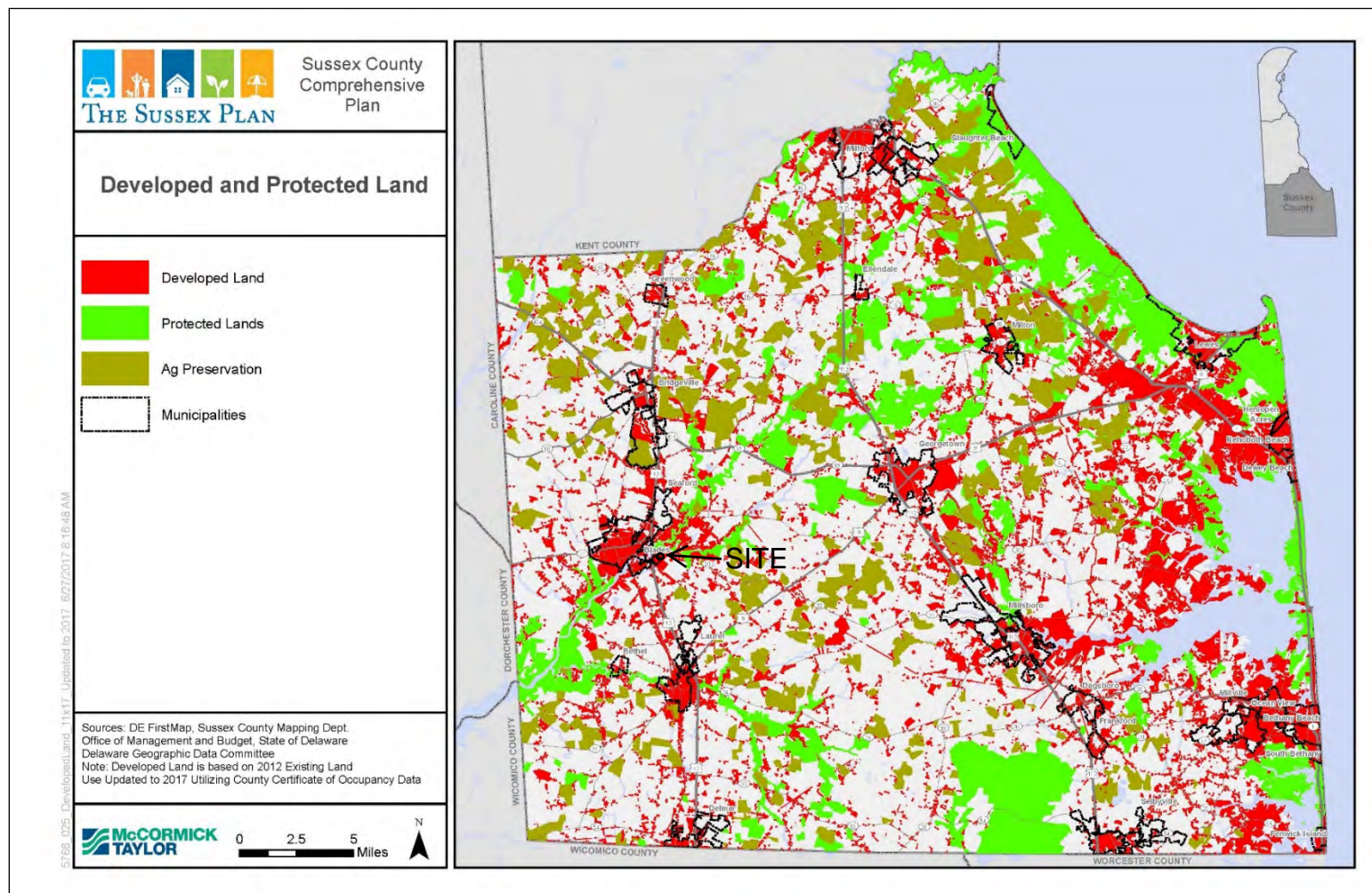


Figure 4.2-2 Developed and Protected Land *



* Parcels enrolled in the State's Agricultural Lands Preservation Program change frequently and that the Delaware Department of Agriculture can be contacted for latest update.

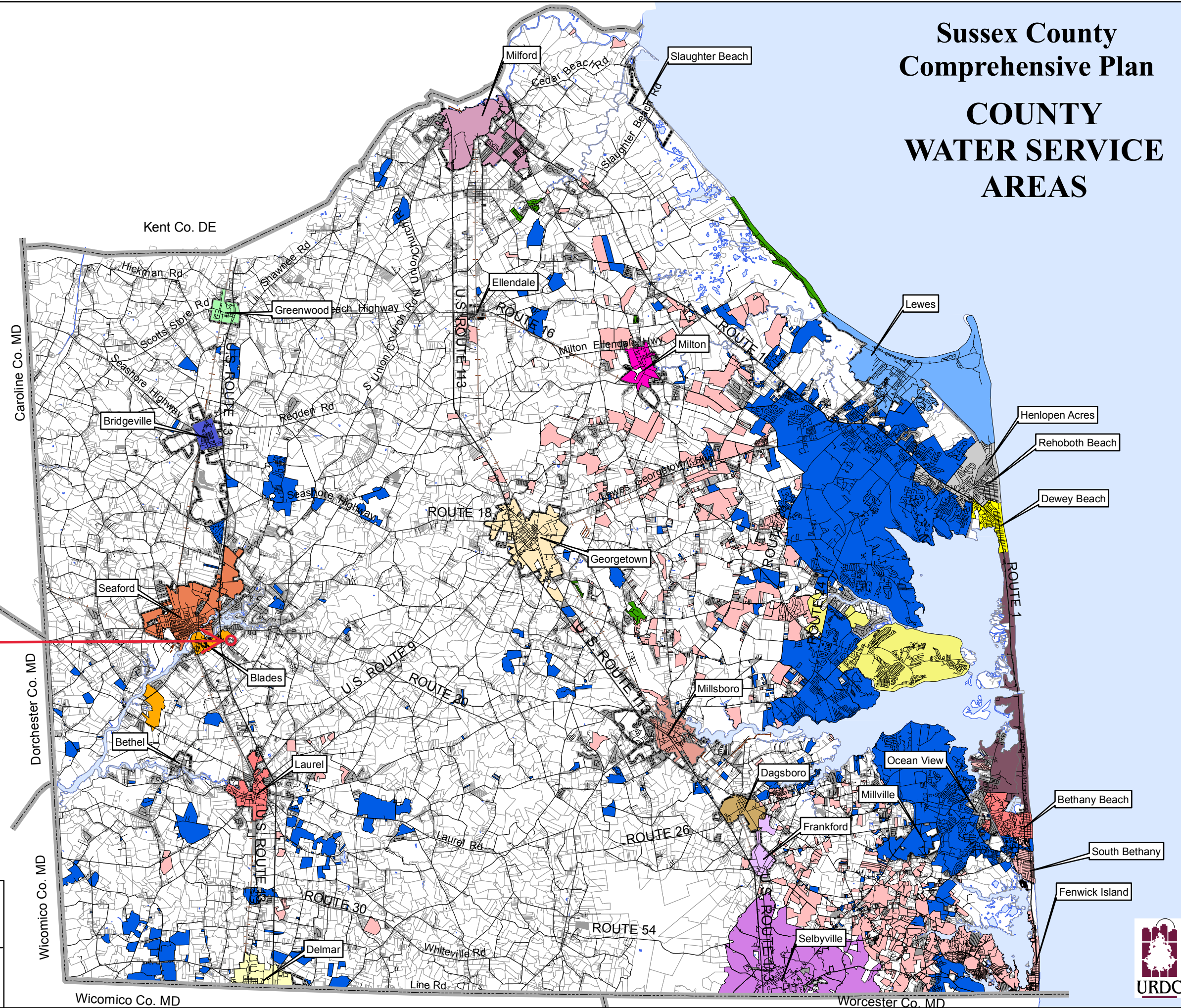
Sussex County Comprehensive Plan

COUNTY WATER SERVICE AREAS

Water Providers

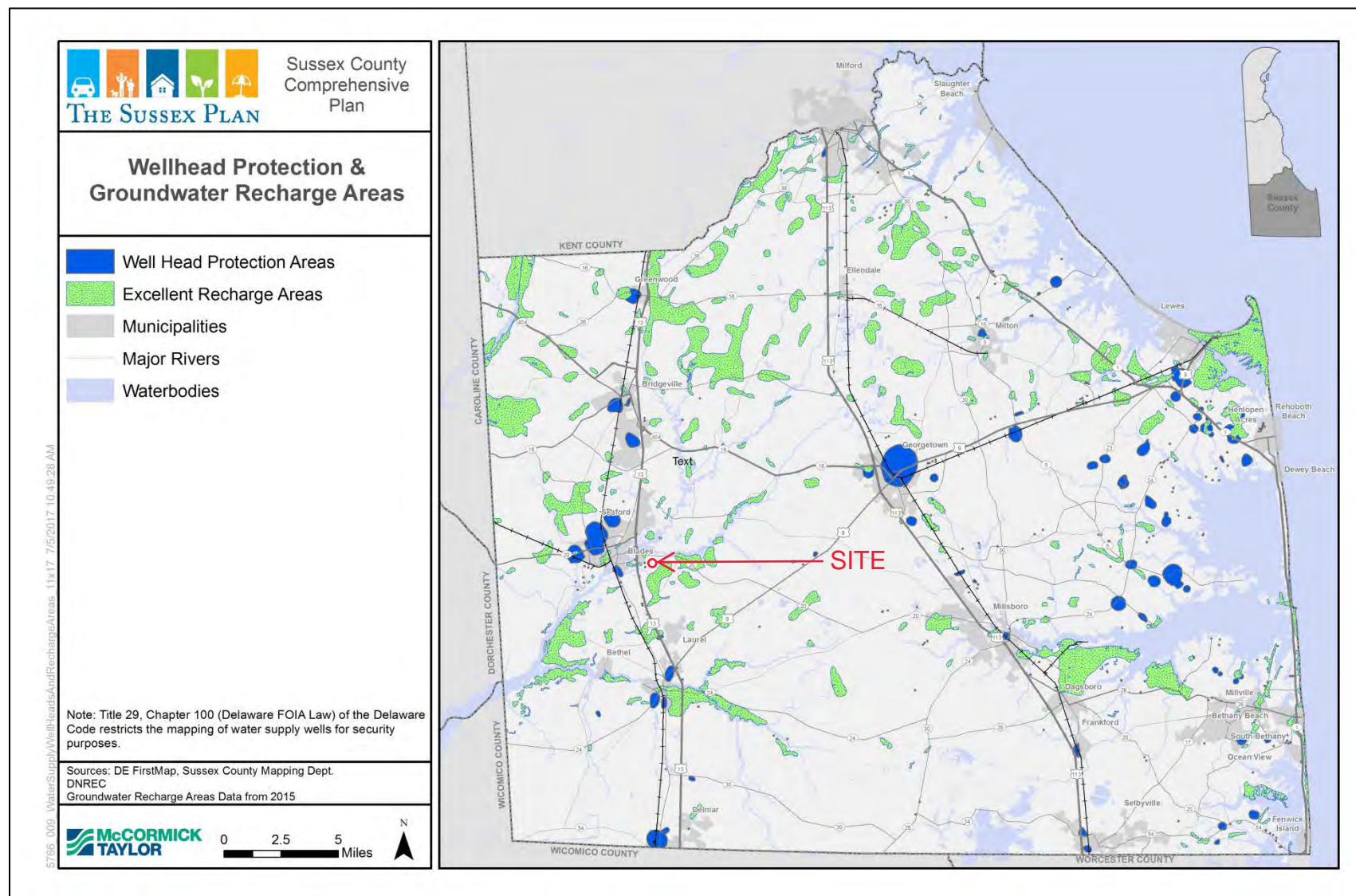
- Unknown
- Artesian Water Company
- Bethany Beach
- Blades
- Bridgeville
- Dagsboro
- Delmar
- Frankford
- Georgetown
- Greenwood
- J.H. Wilkerson & Son
- Laurel
- Lewes
- Long Neck Water Co.
- Milford
- Millsboro
- Milton
- Rehoboth
- Seaford
- Selbyville
- Sussex County Council
- Sussex Shores Water Co.
- Tidewater Utilities

SITE



<p>0 9,000 18,000 36,000</p> <p>1 inch equals 18,000 feet</p>	
<p>Base Map Provided By: Sussex County Mapping Department</p>	
<p>Sources: DNREC Sussex County Mapping Department</p>	










Figure 7.2-2 Wellhead Protection & Excellent Recharge Areas



Sussex County Comprehensive Plan



COUNTY WASTEWATER SERVICE AREAS

2007

-  Environmentally Sensitive Development Area (ESDA)
-  Roads
-  Boundaries of Sewer Planning Areas
-  Existing County Sewer Districts
-  Primary County Service Areas
-  Secondary County Service Areas
-  Unclassified Service Areas
-  Town/City Potential Annexation Areas (intended to be eventually served by Town/City in most cases.)
-  Municipal Boundaries

Please see text for planning area and service area definitions.

SITE —————

<p>0 9,000 18,000 36,000</p>  <p>1 inch equals 18,000 feet</p>	
<p>Base Map Provided By: Sources: Sussex County Engineering Department Mapping Department</p>	

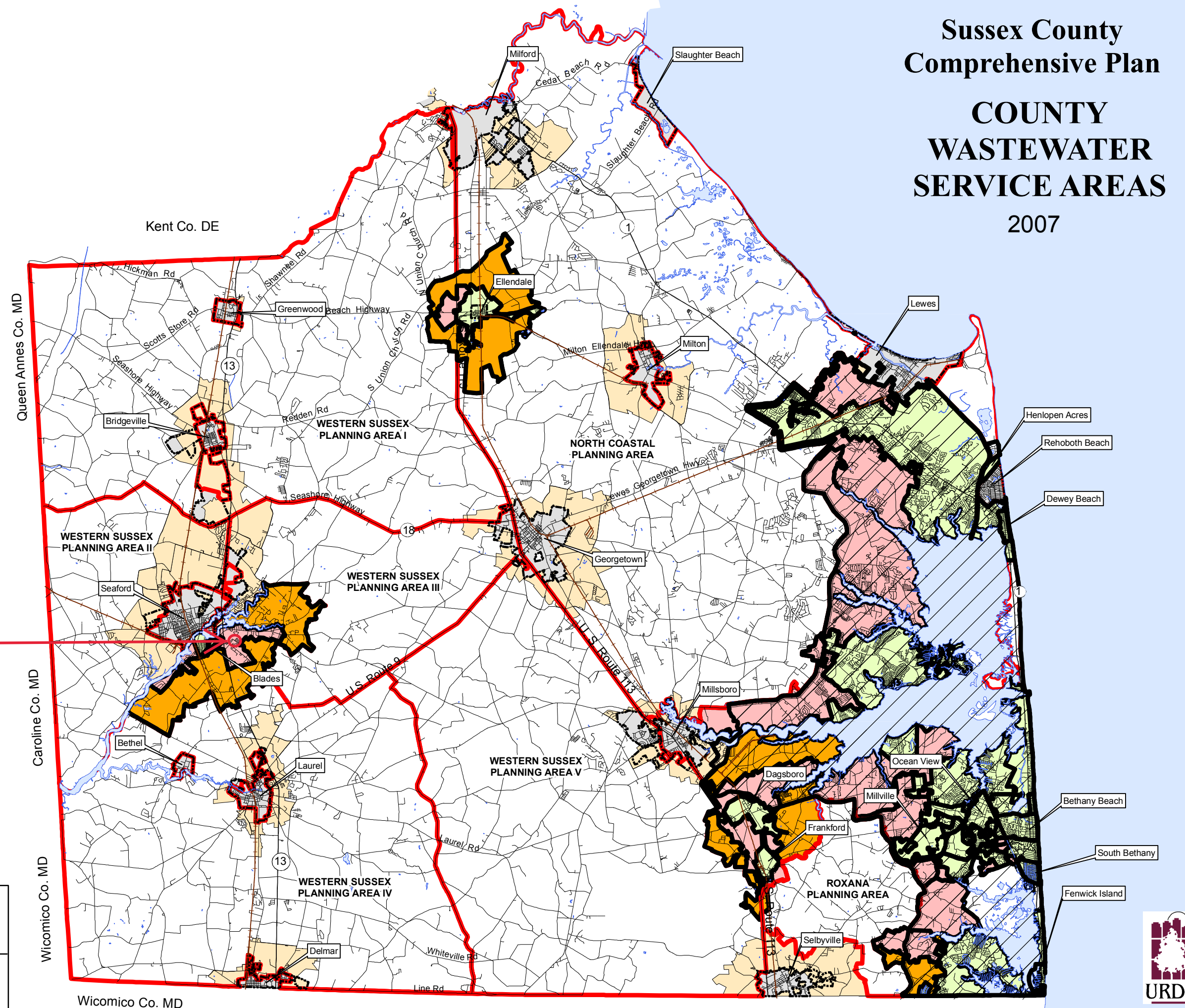


Figure 7.3-1 Wastewater Service Areas that have Received Certificates of Public Convenience and Necessity

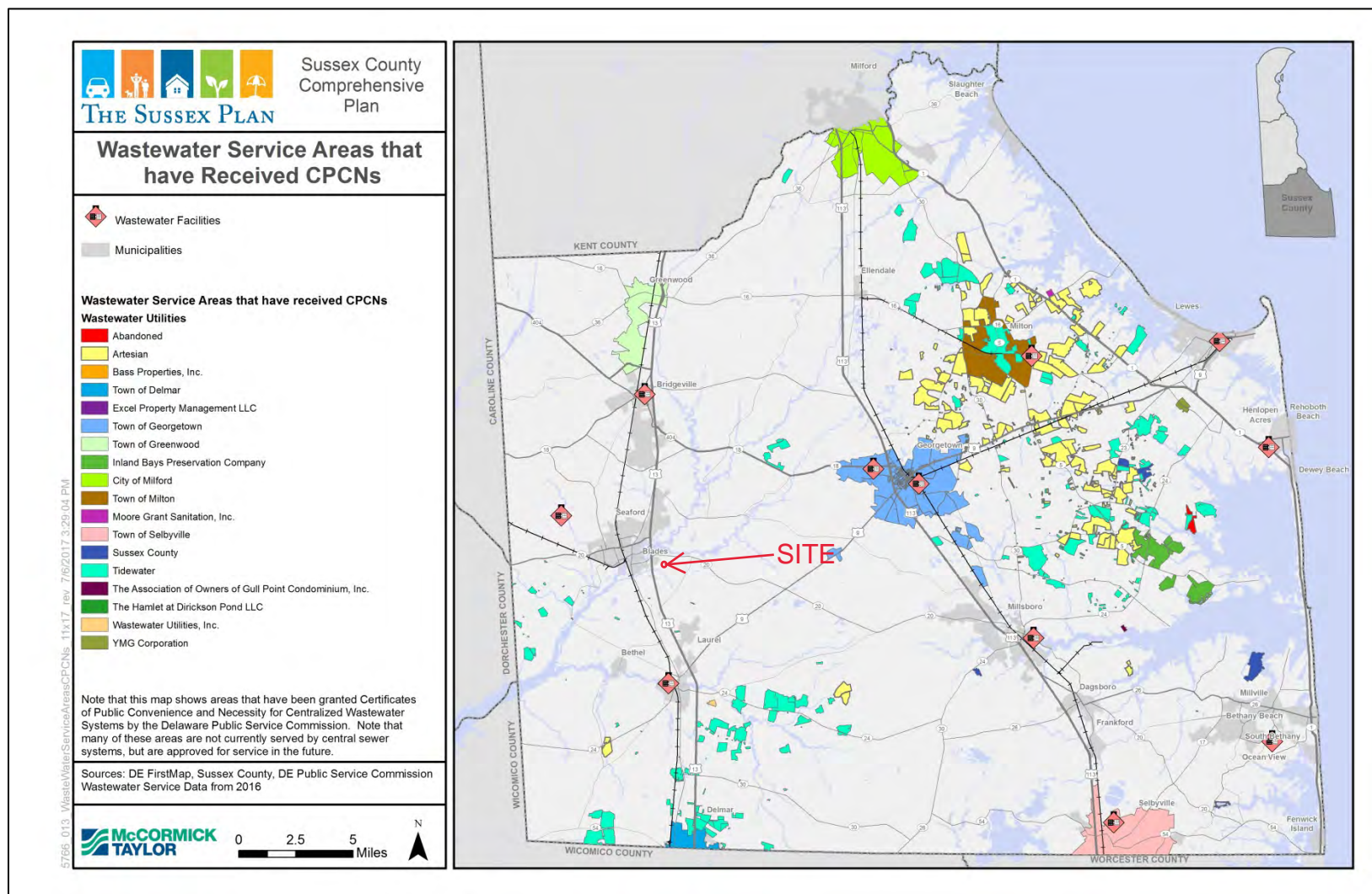
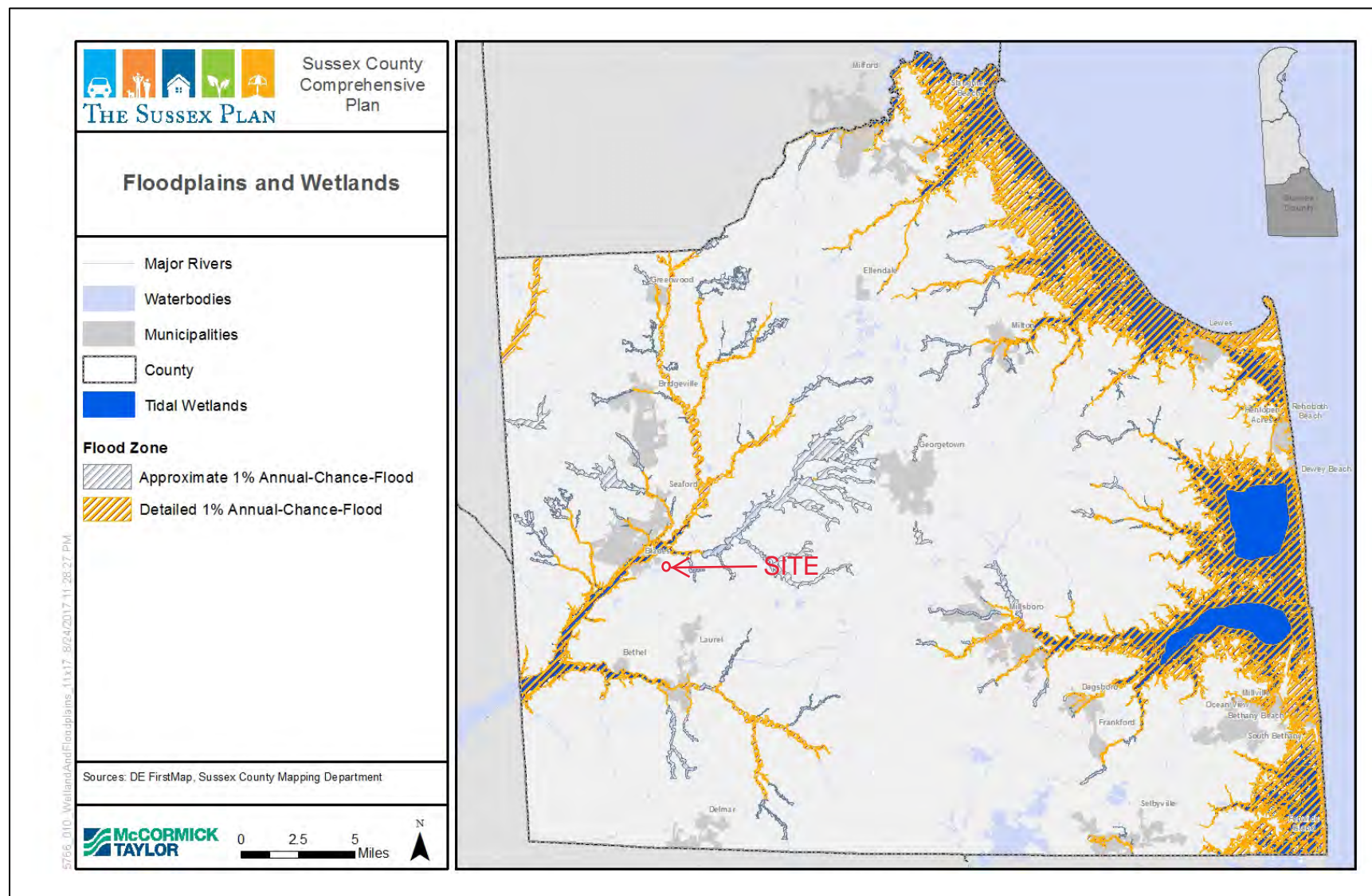


Figure 5.2-4 Wetlands and Floodplains

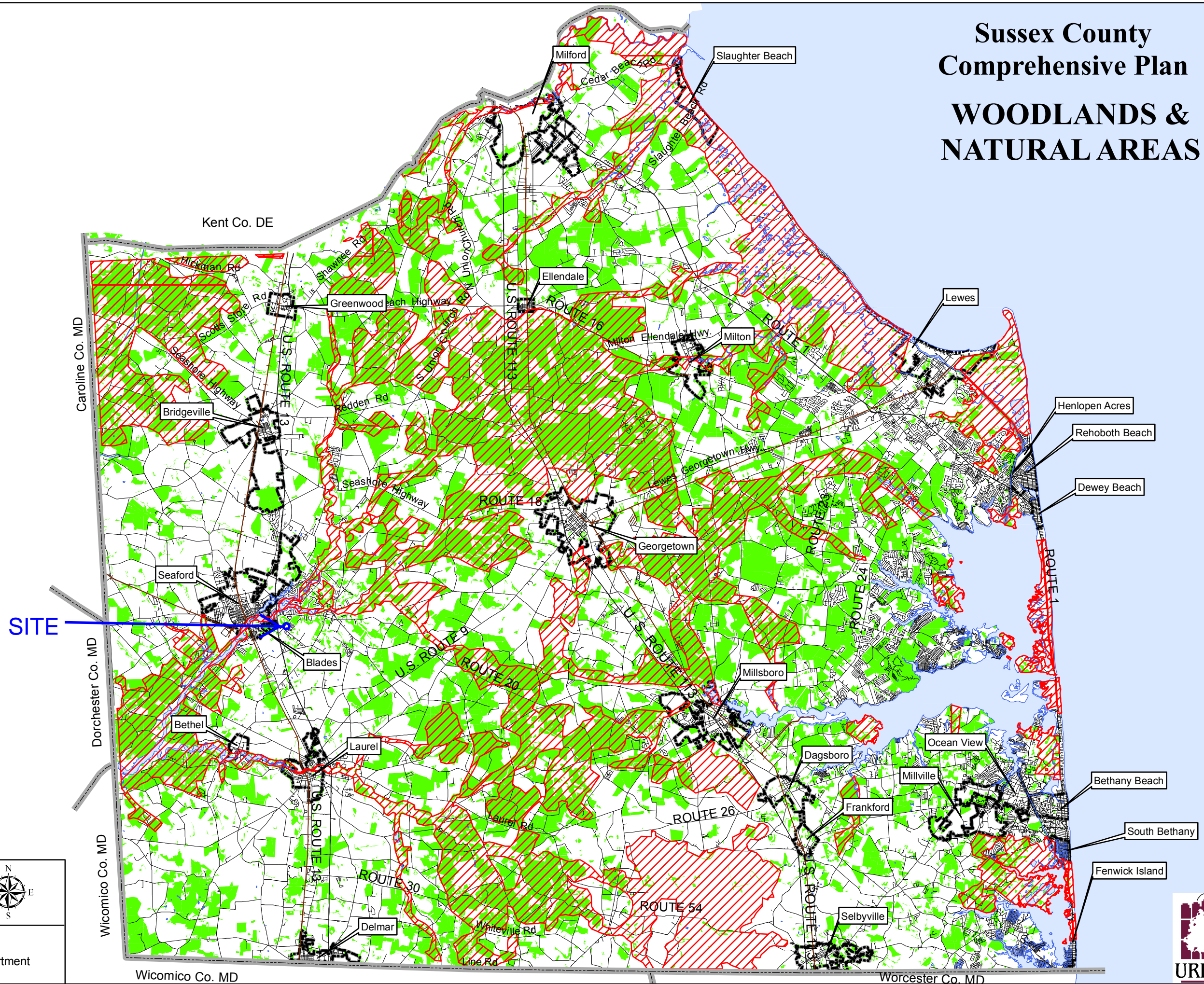



Sussex County Comprehensive Plan

WOODLANDS & NATURAL AREAS

 **Woodlands**

 **Natural Areas**



<p>0 9,000 18,000 36,000</p> <p>1 inch equals 18,000 feet</p>	
<p>Base Map Provided By: Sussex County Mapping Department</p>	<p>Sources: DNREC Sussex County Mapping Department</p>



FINDINGS OF FACT

Sussex County Planning and Zoning Commission
PROPOSED FINDINGS & CONCLUSIONS

WHEREAS, Brickyard Apartments, LLC (the “Applicant”) has requested that the Board of Adjustment render an official determination, pursuant to Section 115-209 of the Sussex County Code, as to the rezoning of the property to be known as “Brickyard Apartments”, located on or adjacent to Brickyard Road in Sussex County, Delaware and more particularly identified as Tax Parcel #132-2.00-264.00 (the “Property”);

WHEREAS, based upon the undisputed evidence and testimony presented to the Board during hearings held on _____, the Applicant has demonstrated that the Property is currently a mixed zoned property consisting of AR-1 and GR; and

WHEREAS, applicant has shown that it proposes to erect an apartment complex consisting of 12 apartment buildings made up of 6 buildings with 1-bedroom apartments containing 4 apartments per building and 6 buildings with 2-bedroom apartments with 4 apartments per building on the Property.

NOW, THEREFORE, the Commission does hereby adopt the following findings of fact and conclusions of law:

1. The Applicant’s change of zoning request would harmonize the zoning on the property so that the Property would be singly zoned GR.
2. The Applicant proposes to use the Property for a single purpose to house multifamily dwelling facilities (the “Use”), which is a consistent use of the land in the surrounding area.
3. The proposed Use of the Property, in accordance with Section 115-39 of the Sussex County Code, is a conditional use permitted for a property zoned GR.
4. The GR zoning is consistent with and related to the uses in the immediate vicinity.
5. The Property should be change to single zoning classified as GR.

IT IS SO ORDERED this _____ day of _____, 2020.

Sussex County Planning and Zoning Commission:

BY: _____
Robert C. Wheatly, Chairman

BY: _____
Kim Hoey Stevenson, Vice-Chairman

BY: _____
R. Keller Hopkins

BY: _____
J. Bruce Mears

BY: _____
Holly Wingate

BY: _____
John Williamson

BY: _____
E. Brent Workman

Sussex County Planning and Zoning Commission
PROPOSED FINDINGS & CONCLUSIONS

WHEREAS, Brickyard Apartments, LLC (the “Applicant”) has requested that the Planning and Zoning Commission render an official determination, pursuant to Section 115-39 of the Sussex County Code, as to the permitted conditional use of the property to be known as “Brickyard Apartments”, located on or adjacent to Brickyard Road in Sussex County, Delaware and more particularly identified as Tax Parcel #132-2.00-264.00 (the “Property”); and

WHEREAS, the applicant has shown that it proposes to use the Property as an apartment complex consisting of 12 apartment buildings made up of 6 buildings with 1-bedroom apartments containing 4 apartments per building and 6 buildings with 2-bedroom apartments with 4 apartments per building is consistent with the use of the surrounding properties containing manufactured home communities;

WHEREAS, the applicant has agreed to erect a landscaping barrier along the property line to buffer the Property from the surrounding manufactured home communities;

WHEREAS, the applicant has coordinated with Seaford School District to add a school bus stop at the Property;

WHEREAS, the applicant has obtained easements for maintenance and drainage relating to the stormwater management of the Property and the adjacent properties;

WHEREAS, based upon the undisputed evidence and testimony presented to the Commission during hearings held on _____, the Applicant has demonstrated that multifamily dwelling structures are permitted conditional uses on lands zoned GR;

NOW, THEREFORE, the Commission does hereby adopt the following findings of fact and conclusions of law:

1. The Applicant proposes to use the Property for a single purpose to house multifamily dwelling facilities (the “Use”), which is a consistent use of the land in the surrounding area.

3. The proposed Use of the Property, in accordance with Section 115-39 of the Sussex County Code, is a conditional use permitted for a property zoned GR.

4. The Applicant's proposed Use has the same or similar density as the surrounding parcels.

5. The Applicant has agreed to the following conditions:
_____.

6. The proposed Use shall be permitted.

IT IS SO ORDERED this _____ day of _____, 2020.

Sussex County Planning and Zoning Commission:

BY: _____
Robert C. Wheatly, Chairman

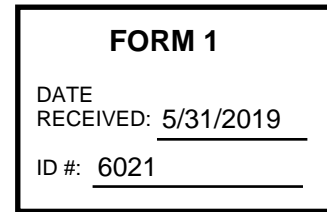
BY: _____
Kim Hoey Stevenson, Vice-Chairman

BY: _____
R. Keller Hopkins

BY: _____
J. Bruce Mears

BY: _____
Holly Wingate

OTHER PLAN
APPROVALS

☐ No



Notice of Intent (NOI) for Storm Water Discharges Associated With CONSTRUCTION ACTIVITY Under a NPDES General Permit

II. Project Information (continued)

Plan Approval Agency: Sussex Conservation District

Total Land Area of Site (tenths of acres): 5.05

Estimated Area to be Disturbed (tenths of acres): 6.70

Estimated Construction Start Date: 4/1/2020

Estimated Construction Completion Date: 4/1/2021



February 13, 2020

Mr. George Dragaca
c/o George, Miles, & Buhr, LLC
400 High Street
Seaford, DE 19973

RE: Brickyard Apartments

Dear Mr. Dragaca:

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

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

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

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

Sincerely,
Jessica Watson
Jessica Watson
Program Manager

JW/jmg

cc: Janelle Cornwell

CONDITIONS OF APPROVAL

NOTIFICATION

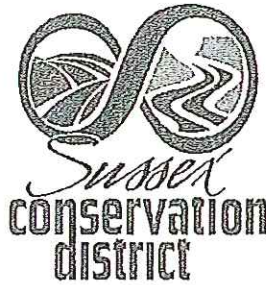
1. This approved plan will remain valid for 5 years from the date of this approval. If construction does not begin within five years, the approved plan will be considered to have expired, and must be resubmitted to the District for a new review. In addition, if work is not completed within the five-year timeframe, the District must be contacted and a request for an extension submitted. Depending on regulation changes, a new plan may need to be submitted to ensure that all stormwater management facilities are constructed to the most recent standards.
2. Submittal of the Notice of Intent (NOI) for Storm Water Discharges Associated with Construction Activities together with this approval of the detailed Sediment and Stormwater Plan provide this project with Federal permit coverage to be authorized to discharge storm water associated with construction activities. It is the owner's responsibility to ensure that permit coverage remains valid throughout construction by submitting the NOI fee annually as requested. The developer is responsible for weekly self-inspection reporting to be retained onsite.
3. Notify the Sussex Conservation District Sediment and Stormwater Management Section of your intent to begin construction in writing five (5) days prior to commencing. Failure to do so constitutes a violation of the approved plan.

CHANGES

4. This project is to be undertaken in accordance with the plans submitted and as approved. If changes are necessary at any time during the completion of the project, submit revised plans, prior to further construction, to the Sussex Conservation District Sediment and Stormwater Program for review and approval of the revision.
5. Should ownership change during the construction period, a revised plan must be submitted for approval showing the new owner's signature on the owner's certification. In addition, a Transfer of Authorization form must be submitted to DNREC to transfer Federal permit coverage to the new owner.

CONSTRUCTION AND CLOSEOUT

6. A pre-construction meeting must take place before any land disturbing activity begins. The meeting may take place on site and be attended by the owner, contractor, design consultant, Certified Construction Reviewer and Sussex Conservation District Sediment and Stormwater Program Construction Reviewer. The owner or the owner's designee shall contact the Sussex Conservation Construction Reviewer to schedule the pre-construction meeting.
7. Keep available onsite, during all phases of construction, a copy of the approved Sediment and Stormwater Management Plan.
8. Keep available onsite, during all phases of construction, copies of the Developers weekly self-inspection reports and/or the CCR Reports.
9. Any sediment transported off-site to roads or road rights-of-way including ditches shall be removed. Any damage to ditches shall be repaired and stabilized to original condition.
10. Grading shall not impair surface drainage, create an erosion hazard, or create a source of sediment to any adjacent watercourse or property owner.
11. Failure to implement the permanent stormwater management practices as mentioned herein constitutes a violation of the conditions of this plan approval; it may result in the suspension or revocation of building permits or grading permits issued by the local jurisdiction; and it may result in legal action by the DNREC to bring the site into compliance with the approved Sediment and Stormwater Management Plan and the *Delaware Sediment and Stormwater Regulations*.
12. The permanent stormwater management facility or facilities must be constructed and accepted by the Sussex Conservation District Sediment and Stormwater Program prior to final closeout of the project site. Post construction verification documentation of the stormwater management facility or facilities must be completed as soon as construction of the facility or facilities is complete so that any necessary modifications may be made during the construction period.



DETAILED SEDIMENT AND STORMWATER MANAGEMENT PLAN APPLICATION

NAME OF PROJECT: Brickyard Apartments
PROJECT DESCRIPTION: Proposed 24 units (2-br apartments) and 24 units (1-br apartments), associated utilities, access, and stormwater management
LOCATION OF PROJECT: 9329 Brickyard Rd., Seaford, DE 19973
PROJECT TAX MAP NUMBER: 132-2.00-264.00
PROJECT COORDINATES (center of site-decimal degrees) LAT: 38.6353773° LONG: -075.5871631°
TYPE OF PROJECT: Residential WATERSHED: Nanticoke River
NUMBER OF LOTS: 1 TOTAL ACRES: 5.05± ac DISTURBED ACRES: 6.70± ac

APPLICANT'S CONTACT INFORMATION

FIRST NAME: George LAST NAME: Dagraca
COMPANY NAME: Brickyard Apts, LLC
ADDRESS: 1080 Pittsford Victor Road, Suite 202
CITY: Pittsford STATE: NY ZIP: 14534
PHONE NUMBER: (585)381-0570 FAX NUMBER: N/A
EMAIL ADDRESS: georged@kdmdevelopment.com

CONSULTANT CONTACT INFORMATION

CONSULTANT/ENGINEER NAME: George, Miles, & Buhr, LLC
CONTACT PERSON/PROJECT MANAGER: Judy Schwartz, P.E.
PHONE #: (302) 628-1421 FAX #: (302) 628-8350
EMAIL ADDRESS: JSchwartz@gmbnet.com

SUSSEX CONSERVATION DISTRICT APPROVAL

REVIEWER: *John J. Buhr* DATE: 2-13-20
APPROVAL: *Judy Schwartz* DATE: 2/13/20

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

OWNER/DEVELOPER CERTIFICATION

- I/We certify that the information on this form and the attached plans are true and accurate to the best of my/our knowledge.
- I/We understand that DNREC/Delegated Agency may request information in addition to that set forth herein as may be deemed appropriate in considering this application.
- I/We will abide by the conditions of this approval as issued.
- I/We hereby certify that all clearing, grading, construction and/or development will be done pursuant to the approved plan, and that all responsible personnel involved in the land disturbing activities will have a Sediment and Stormwater Management Certification from DNREC/Delegated Agency.
- I/We hereby authorize the right of entry for periodic on site inspection by DNREC/Delegated Agency personnel and/or authorized agents.

OWNER/DEVELOPER SIGNATURE: BY: George D. Dagraca DATE: 10/14/19
OWNER/DEVELOPER PRINTED NAME: George Dagraca

AGENT AUTHORIZATION

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

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

AGENT NAME: _____

AGENT ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

AGENT PHONE #: () _____ FAX #: _____

EMAIL ADDRESS: _____

OWNER/DEVELOPER SIGNATURE: _____ DATE: _____

AGENT SIGNATURE: _____ DATE: _____

Please attach project Supplemental BMP Data Sheet to the Detailed Sediment and Stormwater Management Plan Application.

PROJECT BMP DATA SHEET

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

BMP NAME	BMP TYPE	ACRES TREATED	BMP LOCATION COORDINATES (@ BMP release point - decimal degrees)	
			LATITUDE	LONGITUDE
ED-2	Wet pond	10.113	38.6359116°	-075.5861445°
	No BMP selected			
	No BMP selected			
	No BMP selected			
	No BMP selected			
	No BMP selected			
	No BMP selected			
	No BMP selected			