Application: CZ 1925 Lemuel H. Hickman GST Exempt Trust fbo Brenton Archut

Applicant/Owner: Lemuel H. Hickman GST Exempt Trust fbo Brenton Archut

Site Location: Northeast corner of Bayard Road (S.C.R. 84) and Double Bridges Road (S.C.R. 363)

Current Zoning: AR-1 (Agricultural Residential District)

Proposed Zoning: B-2 (Business Community District)

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Rieley

School District: Indian River School District

Fire District: This parcel is split between Millville Fire Company and Roxana Fire Company, with the subject portion of the site falling within the jurisdiction of the Millville Fire Company

Sewer: Currently on private septic with proposed connection to the Sussex County Central Sewer System in the future

Water: Private (On-site)

Site Area: 25.63 acres +/-

Tax Map ID.: 134-19.00-22.00
Sussex County

PIN: 134-19.00-22.00
Owner Name: ARCHUT DIANNE H TRUSTEE

Book: 3648
Mailing Address: 36219 OLD CHURCH CEMETERY RD
City: FRANKFORD
State: DE
Description: RD HALL SCH HSE
Description 2: TO DOUBEL BR
Description 3: T#55018
Land Code:  

polygonLayer
Override 1

tax parcels
streets
fire districts
County boundaries
Memorandum

To: Sussex County Planning Commission Members
From: Chase Phillips, Planner I
CC: Vince Robertson, Assistant County Attorney and applicant
Date: September 15, 2020
RE: Staff Analysis for CZ 1925 Lemuel H. Hickman GST Exempt Trust fbo Brenton Archut

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1925 Lemuel H. Hickman GST Exempt Trust fbo Brenton Archut to be reviewed during the October 8, 2020 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Change of Zone for Tax Parcel 134-19.00-22.00 to allow for a change of zone from an Agricultural Residential (AR-1) Zoning District to a Business Community (B-2) District. The parcel is located on the northeast corner of Bayard Road (S.C.R. 84) and Double Bridges Road (S.C.R. 363). The parcel is divided by Double Bridges Road and is located at 35910 Double Bridges Road. The size of the property is approximately 25.63 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 the land use designation of “Coastal Area.” Each property to the north, south, east, and west also have the “Coastal Area” designation. The Coastal Area is designated to encourage growth and development provided that environmental concerns are addressed. The Coastal Area may include various types of housing, small-scale retail and office, light commercial, and institutional land uses. Sussex County’s base density of two (2) units per acre is standard. Medium and higher densities (4-12 units per acre) may be appropriate in select locations.

The 2018 Sussex County Comprehensive Plan outlines Zoning Districts by their applicability to each Future Land Use category. Under Table 4.5-2 “Zoning Districts Applicable to Future Land Use Categories”, the Community Business (B-2) Zoning District is listed as an applicable zoning district in the “Coastal Area.”

Additionally, the subject property is currently within an Agricultural Residential (AR-1) Zoning District. Each parcel to the north, south, east, and west is also within the Agricultural Residential Zoning District.

Since 2011, there have been two Change of Zone applications within a one-mile radius of the subject property. Change of Zone No. 1841 was a previous Change of Zone application for the subject site (i.e. this same tax parcel). It was denied by the Sussex County Council on January 30, 2018. Change of Zone No. 1761, which proposed a change from a General Commercial (C-1)
District to an Agricultural Residential (AR-1) District, was approved by the Sussex County Council on November 18, 2014. It was adopted through Ordinance No. 2373.

Based on the analysis of the surrounding zoning and uses, a Change of Zone to a Community Business (B-2) Zoning District could be considered as being consistent with the land use, area zoning and surrounding uses.
# SETBACK INFORMATION REQUEST

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<tr>
<td>Zoning District</td>
<td>GR</td>
</tr>
<tr>
<td>Customer Name</td>
<td>Mr. Willis Miller</td>
</tr>
<tr>
<td>Customer Contact</td>
<td><a href="mailto:wrmillerIIC@gmail.com">wrmillerIIC@gmail.com</a> 302-272-8084</td>
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<tr>
<td>Tax Parcel ID</td>
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<tr>
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<tr>
<td>Parcel Address</td>
<td>22928 Pine Road, Lewes</td>
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<tr>
<td>Front Yard Setback</td>
<td>/ See Notes</td>
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<tr>
<td>Side Yard Setback</td>
<td>/ See Notes</td>
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<tr>
<td>Rear Yard Setback</td>
<td>/ See Notes</td>
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<tr>
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<tr>
<td>Maximum Height</td>
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</table>

The Customer was provided general zoning setbacks, as a specific parcel was not identified. Therefore, the setbacks provided may not be for a specific parcel. The setbacks could be different based on the specific nature of the property.

**Additional Notes:**

- ***Revised setbacks (see Chase)***
- This request is for setbacks for an accessory structure that is proposed to be 24'X25' which is to equal 600 square feet precisely.
- 151-185(F) states that "accessory buildings and structures which are not a part of the main buildings may be constructed in a rear yard provided that such accessory building does not contain more than 600 square feet of area, and may be located five feet from a side lot line and five feet from a rear lot line."
- Subject to any potential HOA regulations (Angola Neck Park; Lot 20)

**Name of Staff Member** Chase Phillips, Planner I

**Checked By** Chase Phillips

This proposed accessory structure is suggested to be in compliance with setbacks as long as it does not encroach the five (5) foot setbacks.
April 21, 2020

Mr. Jamie Whitehouse, Director
Sussex County Planning & Zoning
P.O. Box 417
Georgetown, DE 19947

Dear Mr. Whitehouse:

This letter is to revise and replace my letter earlier today regarding the Brenton Archut rezoning application, which we received on March 23, 2020. While the letter referenced the correct parcel number, the information describing the location and acreage of the parcel incorrectly referred to another parcel. The letter is being revised to correctly describe the location and acreage of parcel 134-19.00-22.00. A copy of our previous letter is attached.

This revised application is for a 3.00-acre portion of a 25.63-acre parcel (Tax Parcel 134-19.00-22.00). The subject land is located on the northeast and southeast corners of the intersection of Bayard Road (Sussex Road 84) and Double Bridges Road (Sussex Road 363). The subject land is currently zoned AR-1 (Agricultural Residential), and the applicant is seeking to rezone the land to B-2 (Neighborhood Business) to develop a 7,500 square-foot office/retail complex.

Per the 2019 Delaware Vehicle Volume Summary, the annual average daily traffic volume along the segment of Bayard Road where the subject land is located, which is from Double Bridges Road (Sussex Road 363) to South Ocean View Limits, is 3,060 vehicles per day. As the subject land also has frontage along Double Bridges Road, the annual average daily traffic volume on that road segment, which is from Bayard Road to Camp Barnes Road (Sussex Road 364), is 3,645 vehicles per day.

Our volume-based criteria for requiring a traffic impact study (TIS), addressed in Section 2.2.2.1 of the Development Coordination Manual, are that a development generates more than 500 trips per day or 50 trips during a weekly peak hour. While it seems that the above criteria could be met, we presently cannot predict the site’s trip generation with enough accuracy to make a TIS useful. Thus, we recommend that this rezoning application be considered without a TIS and that the need for a TIS be evaluated when a subdivision or land development plan is proposed.
Mr. Jamie Whitehouse  
Page 2 of 2  
April 21, 2020  

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

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

Sincerely,  

T. William Brockenbrough, Jr.  
County Coordinator  
Development Coordination  

TWB: cjm  
Enclosure  
cc: Constance C. Holland, Coordinator, Cabinet Committee on State Planning Issues  
Brenton Archut, Applicant  
J. Marc Coté, Director, DelDOT Planning  
Gemez Norwood, South District Public Works Manager, Maintenance & Operations  
Susanne K. Laws, Sussex County Review Coordinator, Development Coordination  
Derek Sapp, Subdivision Manager, Development Coordination  
Kevin Hickman, Subdivision Manager, Development Coordination  
Brian Yates, Subdivision Manager, Development Coordination  
John Andrecavage, Subdivision Manager, Development Coordination  
James Argo, South District Project Reviewer, Maintenance & Operations  
Troy Brestel, Project Engineer, Development Coordination  
Claudy Joinville, Project Engineer, Development Coordination
TO: Jamie Whitehouse

REVIEWER: Chris Calio

DATE: 9/21/2020

APPLICATION: CZ 1925 Lemuel H. Hickman GST Exempt Trust fbo Brenton Archut

APPLICANT: Lemuel H. Hickman GST Exempt Trust fbo Brenton Archut

FILE NO: SPS-5.04

TAX MAP & PARCEL(S): 134-19.00-22.00

LOCATION: Northeast corner of Bayard Road (SCR 84), and Double Bridges Road (SCR 363).

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

GROSS ACREAGE: 25.63 +/-

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

SEWER:

(1). Is the project in a County operated and maintained sanitary sewer and/or water district?  
   Yes □ No ☑
   a. If yes, see question (2).
   b. If no, see question (7).

(2). Which County Tier Area is project in? Tier 2

(3). Is wastewater capacity available for the project? Yes If not, what capacity is available? N/A.

(4). Is a Construction Agreement required? Yes If yes, contact Utility Engineering at (302) 855-7717.

(5). Are there any System Connection Charge (SCC) credits for the project? No If yes, how many? N/A. Is it likely that additional SCCs will be required? Yes If yes, the current System Connection Charge Rate is Unified $6,390.00 per EDU. Please contact Choose an item. at 302-855-7719 for additional information on charges.
(6). Is the project capable of being annexed into a Sussex County sanitary sewer district? Yes

Attached is a copy of the Policy for Extending District Boundaries in a Sussex County Water and/or Sanitary Sewer District.

(7). Is project adjacent to the Unified Sewer District? Yes

(8). Comments: The proposed Change of Zone is contiguous to the Sussex County Unified Sanitary Sewer District and shall connect to said sewer system.

(9). Is a Sewer System Concept Evaluation required? Yes, Contact Utility Planning at 302-855-1299 to apply

(10). Is a Use of Existing Infrastructure Agreement Required? Yes

UTILITY PLANNING APPROVAL:

John J. Ashman
Director of Utility Planning

Xc: Hans M. Medlarz, P.E.
Jayne Dickerson
Noell Warren
Policy for Extending District Boundaries

1. Property owner (developer) and/or his representative shall make a request to the Utility Planning Division for a Sewer System Concept Evaluation.

2. Property owner (developer) and/or his representative shall meet with the applicable planning and zoning agency to determine if zoning is appropriate for the development being planned.

3. With appropriate zoning, property owner (developer) and/or his representative shall send a letter (with appropriate application fee as listed below) requesting the Sussex County Council to consider extending the water and/or sanitary sewer district boundaries. (Sussex County Code)

<table>
<thead>
<tr>
<th>Application Fees</th>
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<tr>
<td>Less than 2 acres</td>
<td>$500.00</td>
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<tr>
<td>2.1 - 9.99 acres</td>
<td>$750.00</td>
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<tr>
<td>10 - 150.00 acres</td>
<td>$1,500.00</td>
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<tr>
<td>Greater than 150.00 acres</td>
<td>$2,500.00</td>
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</tbody>
</table>

4. The Sussex County Engineering Department shall present, for Sussex County Council's consideration, posting of notices for the proposed extension of the district boundaries.

5. The Sussex County Council approves posting notices for the proposed extension of the boundaries. (If approval to post the notices is not given, the appropriate fee is refunded.)

6. Within ninety days of the posting of the notices, the Sussex County Council approves/disapproves extending the boundaries.

7. The Sussex County Council approves/disapproves of the extension of the water and/or sanitary sewer pipelines under the appropriate Sussex County Ordinance.
Mr. Jamie Whitehouse, Planning Director  
Sussex County Planning and Zoning Commission  
2 The Circle  
P.O. Box 417  
Georgetown, DE 19947  
302-855-7878

Re: C/Z 1925 - Brenton Archut  
Change of Zone  
Tax Parcel 134-19.00-22.00

Dear Mr. Whitehouse,

As nearby property owners, we are writing to express our support of the above referenced application. Our primary residence is located just over a mile from the parcel in question and we travel past the site on a daily basis.

Watching our area grow over the last 30+ years we have seen thousands upon thousands of new single family homes being developed with limited corresponding commercial development. The inland area between Bethany Beach and Fenwick Island is in need of sensibly limited commercial development to support the continued residential growth. The site in question lies at what is currently a significant crossroad along the most direct inland route between Bethany Beach and Fenwick Island, making it ideal for supporting a commercial parcel.

In addition to the suitability of the parcel for commercial use, the owner's intent should be taken into account. We have known Mr. Archut for 20 years. He and his family have owned several agricultural and commercial parcels in coastal Sussex County for generations. While many of the old farming families have sold their land to developers and walked away from the area, Mr. Archut and his family have retained their land, and developed it sensibly with care for the local community while continuing to farm the majority of it. They are the type of landowners Sussex County needs behind development like this.

Sincerely yours,

[Signature]

Russell & Michelle Hall
Date: September 25, 2020

Re: CZ #1925

Dear Mr. Whitehouse,

Attached is a booklet to support the application to amend the Comprehensive Zoning Map from AR-1 Agricultural Residential District to B-2 Business Community District for 2.99 Acres, more or less in Baltimore Hundred.

We believe the request will:
1. Provide a convenient location for services needed by our growing area;
2. Reduce congestion on area roads and streets by providing nearby services;
3. Provide opportunities for local businesses and local business owners; and
4. Meet the goals outlined in the Sussex County Land Use Plan.

We look forward to presenting this application for public consideration.

Respectfully Submitted,

Brenton H. Archut
Table of Contents

1. Application
2. Aerial Photo of the site (about 2017)
3. Survey and Concept Plan
4. Copy of Deed to the Property
5. SCED (sewer) service letter
6. Sewer easement
7. Tidewater Utilities (water) service letter
8. DelDOT Service Level Evaluation Request Response letter
9. Sussex County Future Land Use map
10. Current zoning and non-residential uses in the area
11. Map showing historical provision of general services to the area
12. Examples of Light Commercial Service Centers
13. Is Selling the only option?
14. Planning and Zoning Staff Analysis Report
15. CZ #1925 application informational summary
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
Northeast Corner at the Intersection of Bayard Rd and Doubles Bridges Rd

Type of Conditional Use Requested:

________________________________________

Tax Map #: 134-19.00-22.00(p6)  Size of Parcel(s): 2.99 a +/-
Current Zoning: AR-1  Proposed Zoning: B-2  Size of Building: Total 7,056 +/-

Land Use Classification: __________________________________________

Water Provider: On-Site  Sewer Provider: SCED

Applicant Information
Applicant Name: Lenneil H. Hickman GST Exempt Trust the Brenton Archt
Applicant Address: 36219 Old Church Cemetery Rd
City: Frankford  State: DE  Zip Code: 19945
Phone #: (302) 245-3056  E-mail: brechtan@bhplaza.com

Owner Information
Owner Name: Name
Owner Address: ________________________  State: ____________  Zip Code: ____________
Phone #: __________________________  E-mail: __________________________

Agent/Attorney/Engineer Information
Agent/Attorney/Engineer Name: Tom Ford
Agent/Attorney/Engineer Address: 53 Atlantic Ave Oak Square Suite 3
City: Ocean View  State: DE  Zip Code: 19970
Phone #: (302) 597-1919  E-mail: tford51@aol.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
  o Survey shall show the location of existing or proposed building[s], building setbacks, parking area, proposed entrance location, etc.
  o Provide a PDF of Plans (may be e-mailed to a staff member)
  o Deed or Legal description

✔ Provide Fee $500.00

___ Optional - Additional information for the Commission/Council to consider (ex. architectural elevations, photos, exhibit books, etc.) If provided submit 8 copies and they shall be submitted a minimum of ten (10) days prior to the Planning Commission meeting.

___ Please be aware that Public Notice will be sent to property owners within 200 feet of the subject site and County staff will come out to the subject site, take photos and place a sign on the site stating the date and time of the Public Hearings for the application.

✔ DelDOT Service Level Evaluation Request Response

___ PLUS Response Letter (if required)

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

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

Signature of Applicant/Agent/Attorney

Date: 7/10/2020

Signature of Owner (Trustee)

Date: 7/10/2020

For office use only:
Date Submitted: 7/10/2020
Fee: $500.00  Check #: 115
Staff accepting application: CCR
Application & Case #: 202001885  160 1925
Location of property:

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

Sussex County P & Z Commission application

Page 2  last updated 3-17-16
Tax Parcel No: 1-34-19.00-22.00
Prepared by and Return to:
Mark D. Olson, Esquire
Morris James LLP
500 Delaware Avenue, Suite 1500
P.O. Box 2306
Wilmington, DE 19899

NO TITLE SEARCH OR SURVEY WAS REQUESTED OR PERFORMED

THIS CORRECTIVE DEED, made this 24th day of December, 2008 by and between:

LEMUEL H. HICKMAN MARITAL TRUST U/RTA dated APRIL 6, 1992, DIANNE H.
ARCHUT, TRUSTEE, DIANNE H. ARCHUT, individually, and DIANNE H. ARCHUT
REVOCABLE TRUST u/a dated MAY 3, 2006, DIANNE H. ARCHUT, TRUSTEE, hereinafter
referred to as the "Grantors",

and

LEMUEL H. HICKMAN GST EXEMPT TRUST 5% BRENTON ARCHUT U/RTA
dfd APRIL 6, 1992, DIANNE H. ARCHUT, TRUSTEE, of 36219 Old Church Cemetery Road,
Frankford, Delaware 19945, hereinafter referred to as the "Grantee",

WITNESSETH

That for and in consideration of the sum of One Dollar ($1.00), current lawful money of
the United States of America, and other good and valuable consideration, the receipt of which is
hereby acknowledged, Lemuil H. Hickman Marital Trust hereby grants and conveys unto
Grantee, its successors and assigns, and Dianne H. Archut, individually and as Trustee of the
Dianne H. Archut Revocable Trust, hereby quitclaims unto the Grantee, its successors and
assigns:

ALL THAT parcel, piece or tract of land being and lying on the East side of the County
Road leading from Hall School House to the Double Bridges adjoining lands now or formerly
of Eunice Murray, Harry Evans and Charles Holloway in Baltimore Hundred, County of Sussex
and State of Delaware, described as follows to wit:

BEGINNING at a Holly Tree a corner for this land and the lands of Charles Holloway,
then running Northerly until it comes to a County Road thence running Easterly to a Red Oak;
thence commencing and running in a Westerly direction to the center of the County Road leading from Hall School House to the house of John D. Farmaus; thence running Southerly with said road to the lands of Charles Holloway then with the lands of Charles Holloway to the place of beginning, and is said to contain thirty acres be the same more or less.


LEMUER H. HICKMAN MARITAL TRUST
URTA DATED APRIL 6, 1992

By: Dianne H. Archut, Trustee (SEAL)

Dianne H. Archut, Trustee

By: Dianne H. Archut (SEAL)

DIANNE H. ARCHUT

DIANNE H. ARCHUT REVOCABLE TRUST
U/A DATED MAY 3, 2006

By: Dianne H. Archut, Trustee (SEAL)

Dianne H. Archut, Trustee

Witness

Witness

Witness
STATE OF DELAWARE  
| SS. |

SUSSEX COUNTY  

BE IT REMEMBERED, That on this 24th day of 12, 2008, personally appeared before me, the Subscriber, a Notary Public for the State and County aforesaid, DIANNE H. ARCHUT, Trustee of the Lemoel H. Hickman Marital Trust URTA dated April 6, 1992, party 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.

[Signature]
Notary Public / Attorney at Law
State of Delaware

STATE OF DELAWARE  
| SS. |

SUSSEX COUNTY  

BE IT REMEMBERED, That on this 24th day of 12, 2008, personally appeared before me, the Subscriber, a Notary Public for the State and County aforesaid, DIANNE H. ARCHUT, party 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.

[Signature]
Notary Public / Attorney at Law
State of Delaware

DEBBIE A. CRAIG
Notary Public - State of Delaware
My Comm. Expires Feb. 23, 2010
STATE OF DELAWARE

) SS.

SUSSEX COUNTY

BE IT REMEMBERED, That on this ___ day of ____, 2008, personally appeared before me, the Subscriber, a Notary Public for the State and County aforesaid, DIANNE H. ARCHUT, Trustee of the Dianne H. Archut Revocable Trust UA dated May 3, 2006, party 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.

[Signature]
Notary Public / Attorney at Law
State of Delaware

DEBBIE A. CRAGO
Notary Public - State of Delaware
My Comm. Expires Feb. 23, 2010

RECEIVED
JAN 09 2009
ASSESSMENT DIVISION
OF SUSSEX COUNTY

Consideration: $0.00

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</table>

Received & filed Jan 8 Jan 09, 2009
September 21, 2020

Mr. Russell Archut
30219 Old Church Cemetery Road
Frankford, Delaware 19945

REF: SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (BAYARD PLANNING AREA)
TAX MAP 134-19.00-22.00
ABILITY TO SERVE
FILE: SPS-5.03BK

Dear Mr. Archut:

This is response to your request for a letter confirming Sussex County’s ability to provide wastewater service for a project on the above-mentioned parcel. The parcel is in a Tier 2 service area for Sussex County and is contiguous to the existing sewer district boundary.

Sussex County does have the ability and is willing to provide sewer service for parcel 22.00 noted above. In order for the parcel to receive sewer service certain administrative procedures must be completed. First, the developer must receive preliminary site plan approval, then submit a written request for annexation along with the appropriate fee based on the acreage of the parcel. The Engineering Department will then establish a date and time for a Public Hearing before County Council. If County Council approves the annexation the developer would then need to install the necessary pipelines to the approved connection point. System connection charges will apply to the parcel after annexation, the current rate is $6,350.00 per equivalent dwelling unit.

Should you have additional needs or questions, please call (302) 855-1299.

Sincerely,

SUSSEX COUNTY ENGINEERING DEPARTMENT

John J. Ashman
Director of Utility Planning
DEED OF EASEMENT

THIS DEED OF EASEMENT, Made this 12th day of March, A.D. 2019

BETWEEN

ACTA, LLC, of 11001 Huntover Drive Rockville, Maryland 20852 party of the first part, hereinafter referred to as Grantor,

- A N D -

LEMUEL H. HICKMAN GST EXEMPT TRUST f/b/o BRENTON ARCHUT urta
DATED April 6, 1992, of 36219 Old Church Cemetery Road, Frankford DE 19945, party of the second part, hereinafter referred to as the Grantee.

WITNESSETH:

FOR AND IN CONSIDERATION of the sum of ONE DOLLAR ($1.00), cash in hand paid, the receipt of which is hereby acknowledged, and other good and valuable consideration, the Grantor has this day bargained and sold, and by these presents does bargain, sell, convey, transfer, and deliver unto the Grantee a permanent easement and right-of-way, including the perpetual right to enter upon the real estate herein after described, at any time that it may seem fit and construct, maintain and repair underground pipelines and/or mains for the purpose of conveying sewage and/or water over, across, through and under the lands of the Grantor, together with the right to excavate and the duty to refill ditches and/or trenches for the location of said pipelines and/or mains; the right to remove trees, bushes, undergrowth, and other obstructions interfering with the location, construction, and maintenance of said pipelines and/or mains; and to keep the area within permanent easement perpetually free and clear of all construction including garages, storage sheds, fences, etc., that would obstruct in any way the repair or replacement of said pipeline.

A permanent easement is hereby granted, more particularly described as follows:

ALL those certain tract, piece or parcel of land, lying and being situate in Baltimore Hundred,
Sussex County, State of Delaware, more particularly designated and described as follows, to wit: a 20’ wide proposed utility easement for a proposed force main to the lands of Grantee beginning at MH 15 in Yianna Drive and running in a southerly direction to the lands of the Grantee (TM No. 1-34-19.00-22.00) as more particularly shown on Utility Easement Plan for Sussex County File S.P.S.-5.03hy The Woodlands Subdivision Phase 3, prepared by Civil Engineering Associates, LLC, dated March 24, 2017, and last revised August 6, 2019, at attached hereto as Exhibit A and made a part hereof.

BEING a portion of those lands conveyed unto the above named Grantors by deed of ACTA, LLC, dated December 17, 2015, and of record in the Office of the Recorder of Deeds, in and for Sussex County, Delaware, in Deed Book 4486, at page 270.

At the termination of any construction, repair, or restoration, the Grantee agrees to restore said areas of construction to its present condition and otherwise agrees to pay reasonable costs of restoration.

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

ACTA, LLC

Nancy E. Smith

Witness

By:  

Member/Manager

E. C. Walker, Jr.
STATE OF DELAWARE

COUNTY OF SUSSEX

BE IT REMEMBERED, That on the 12th day of March, A.D. 2019, personally appeared before me, the Subscriber, a Notary Public for the State and County aforesaid, E.C. Yegen Jr., Member/Manager of ACTA, LLC, party to this indenture, known to me personally to be such, and acknowledged this Indenture to be his act and deed and the act and deed of the company.

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

NANCY ELLEN SMITH
NOTARY PUBLIC
MONTGOMERY COUNTY
MARYLAND
My Commission Expires January 13, 2022

My Commission Expires: January 13, 2022
September 16, 2020

Sent Via E-Mail
Dianne H. Archut Trustee
c/o Brenton Archut
Assistant Manager
Hickman Beach Plaza

RE: Willing & Able Letter – Parcel 134-19.00-22.00

Dear Mr. Archut:

Tidewater Utilities, Inc. (Tidewater) is willing and able to serve public water to the following parcel, identified as Tax Map & Parcel 134-19.00-22.00 based on the terms and conditions of a water service agreement to be negotiated and agreed upon by Tidewater and the owner(s) of these parcels. This parcel is located outside of Tidewater’s Certificate of Public Convenience and Necessity (CPCN) franchised area. Thus, in order to serve water to this parcel, TUI must apply for and receive a CPCN from the Public Service Commission. Once the CPCN is granted and a water service agreement is finalized, TUI is legally able to provide water service to this parcel.

Enclosed please find a sheet entitled “Petition for Inclusion in Tidewater Utilities, Inc. Water Service Territory”. Please have the current owner(s) of parcels 134-19.00-22.00 sign the petition and return the original to Tidewater, Attn: Joe Cuccinello. The signed petition from the landowner is an important and necessary first step in the CPCN application submittal process.

Please feel free to contact me at 302-747-1308 if you should have any questions.

Sincerely,

Joseph C. Cuccinello
CPCN Coordinator

Tidewater Utilities, Inc. 1100 South Little Creek Road, Dover, DE 19901 www.tuiwater.com  (877) 720-9272
April 21, 2020

Mr. Jamie Whitehouse, Director
Sussex County Planning & Zoning
P.O. Box 417
Georgetown, DE 19947

Dear Mr. Whitehouse:

This letter is to revise and replace my letter earlier today regarding the Brenton Archut rezoning application, which we received on March 23, 2020. While the letter referenced the correct parcel number, the information describing the location and acreage of the parcel incorrectly referred to another parcel. The letter is being revised to correctly describe the location and acreage of parcel 134-19.00-22.00. A copy of our previous letter is attached.

This revised application is for a 3.00-acre portion of a 25.63-acre parcel (TaxParcel 134-19.00-22.00). The subject land is located on the northeast and southeast corners of the intersection of Bayard Road (Sussex Road 84) and Double Bridges Road (Sussex Road 363). The subject land is currently zoned AR-1 (Agricultural Residential), and the applicant is seeking to rezone the land to B-2 (Neighborhood Business) to develop a 7,500 square-foot office/retail complex.

Per the 2019 Delaware Vehicle Volume Summary, the annual average daily traffic volume along the segment of Bayard Road where the subject land is located, which is from Double Bridges Road (Sussex Road 363) to South Ocean View Limits, is 3,060 vehicles per day. As the subject land also has frontage along Double Bridges Road, the annual average daily traffic volume on that road segment, which is from Bayard Road to Camp Barnes Road (Sussex Road 364), is 3,645 vehicles per day.

Our volume-based criteria for requiring a traffic impact study (TIS), addressed in Section 2.2.2.1 of the Development Coordination Manual, are that a development generates more than 500 trips per day or 50 trips during a weekly peak hour. While it seems that the above criteria could be met, we presently cannot predict the site’s trip generation with enough accuracy to make a TIS useful. Thus, we recommend that this rezoning application be considered without a TIS and that the need for a TIS be evaluated when a subdivision or land development plan is proposed.
Mr. Jamie Whitehouse
Page 2 of 2
April 21, 2020

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

Please contact 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
Enclosure
cc: Constance C. Holland, Coordinator, Cabinet Committee on State Planning Issues
    Brenton Archut, Applicant
    J. Marc Coté, Director, DeIDOT Planning
    Genev Norwood, South District Public Works Manager, Maintenance & Operations
    Susanne K. Laws, Sussex County Review Coordinator, Development Coordination
    Derek Sapp, Subdivision Manager, Development Coordination
    Kevin Hickman, Subdivision Manager, Development Coordination
    Brian Yates, Subdivision Manager, Development Coordination
    John Andresavage, Subdivision Manager, Development Coordination
    James Argo, South District Project Reviewer, Maintenance & Operations
    Troy Brestel, Project Engineer, Development Coordination
    Claudy Joinville, Project Engineer, Development Coordination
2045 Future Land Use Map

Growth Areas
- Municipalities
- Town Center
- Developing Area
- Existing Development Area
- Coastal Area
- Commercial
- Industrial Area

Rural Areas
- Low Density
- Protected Land
- Ag. Preservation District
- Ag. Preservation Easement

Sources: DE FirstMap, Sussex County Mapping Dept. Land Use Data from 2008, State Forest Data from 2013, Conservation Easements Data from 2016, Municipal Annex Areas 2016

*The official depiction of the protected lands can be found in the Protected Land Map (Figure 5.2-1)
Examples of Light Commercial Service Centers

Williamsville Country Plaza Shopping Center

Derrickson Plaza Shopping Center
The Trend in Our Area
Memorandum
To: Sussex County Planning Commission Members
From: Chase Phillips, Planner I
CC: Vince Robertson, Assistant County Attorney and applicant
Date: September 15, 2020
RIF: Staff Analysis for CZ 1925 Lemuel H. Hickman GST Exempt Trust fbo Brenton Archut

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1925 Lemuel H. Hickman GST Exempt Trust fbo Brenton Archut to be reviewed during the October 8, 2020 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Change of Zone for Tax Parcel 134-19.00-22.00 to allow for a change of zone from an Agricultural Residential (AR-1) Zoning District to a Business Community (B-2) District. The parcel is located on the northeast corner of Bayard Road (S.C.R. 84) and Double Bridges Road (S.C.R. 363). The parcel is divided by Double Bridges Road and is located at 35910 Double Bridges Road. The size of the property is approximately 25.63 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 the land use designation of “Coastal Area.” Each property to the north, south, east, and west also have the “Coastal Area” designation. The Coastal Area is designated to encourage growth and development provided that environmental concerns are addressed. The Coastal Area may include various types of housing, small-scale retail and office, light commercial, and institutional land uses. Sussex County’s base density of two (2) units per acre is standard. Medium and higher densities (4-12 units per acre) may be appropriate in select locations.

The 2018 Sussex County Comprehensive Plan outlines Zoning Districts by their applicability to each Future Land Use category. Under Table 4.5-2 “Zoning Districts Applicable to Future Land Use Categories”, the Community Business (B-2) Zoning District is listed as an applicable zoning district in the “Coastal Area.”

Additionally, the subject property is currently within an Agricultural Residential (AR-1) Zoning District. Each parcel to the north, south, east, and west is also within the Agricultural Residential Zoning District.

Since 2011, there have been two Change of Zone applications within a one-mile radius of the subject property. Change of Zone No. 1841 was a previous Change of Zone application for the subject site (i.e. this same tax parcel). It was denied by the Sussex County Council on January 30, 2018. Change of Zone No. 1761, which proposed a change from a General Commercial (C-1)
District to an Agricultural Residential (AR-1) District, was approved by the Sussex County Council on November 18, 2014. It was adopted through Ordinance No. 2373.

Based on the analysis of the surrounding zoning and uses, a Change of Zone to a Community Business (B-2) Zoning District could be considered as being consistent with the land use, area zoning and surrounding uses.
Change of Zone #1925
Summary

Ownership: Lemuel H. Hickman GST Exempt Trust f/b/o Brenton H. Archut. It is a third generation locally owned property.

Property description and location: 24.8 acres located at the intersection of Double Bridges Road (County Road 363) and Bayard Road (County Road 84), near Bayard, Delaware.

Current Zoning: Agricultural Residential (AR-1)

Current Use: Farmland with an existing single family dwelling

Proposed Zoning Request: Business Community District (B-2) for a portion of the parcel.

Purpose of B-2 Zoning: To provide primarily for office, retail shopping, and personal service uses, to be developed either as a unit or on an individual parcel, to serve the needs of a relatively small area, primarily nearby rural, low-density, or medium density residential neighborhoods.

Amount of land to be rezoned: 2.99 acres, or 12% of the parcel.

Proposed Use: Light retail and office to provide convenience goods and services to nearby residents and business opportunities for local business owners. Less than 7,500 square feet of rentable space is proposed.

Land Use Plan designation: Coastal Area, which is considered a "Growth Area" where where additional considerations should be taken into account.

Comprehensive Plan criteria (Future Land Use):
• Coastal Area section
  - states "Retail and office uses are appropriate."
  - states "careful mixtures of homes with light commercial office and institutional uses can be appropriate to provide for convenient services and to allow people to work close to home."
• Low Density Rural Areas section
  - encourages maintaining the rural landscape and sustaining reasonable development rights
  - emphasizes that retail and office uses in Low Density Areas should be providing convenience goods and services to nearby residents

Sewer availability: Per the Sussex County Engineering Department, it is in a sewer planning area and contiguous to an existing sanitary sewer district boundary.

Water availability: Tidewater Utilities has provided an Ability to Serve letter. Water lines are currently located along the property frontage.

Approved Development within a 1 mile radius:
• Number of new and approved homes since 2008 - 1000+
• Number of potential homes in near future - 135