

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: November 12th, 2020

Application: CZ 1932 Jeff-Kat, LLC

Applicant: Jeff-Kat, LLC
113 Draper Dr
Rehoboth Beach, DE 19971

Owner: First Baptist Church of Lewes
P.O. Box 25
Lewes, DE 19958

Site Location: The east side of Kings Highway (Route 9) approximately 900 feet southeast of Theodore C. Freeman Highway (S.C.R 23)

Current Zoning: AR-1 Agricultural Residential Zoning District

Proposed Zoning: C-3 Heavy Commercial Zoning District

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Burton

School District: Cape Henlopen School District

Fire District: Lewes Fire Department

Sewer: Lewes BPW

Water: Lewes BPW

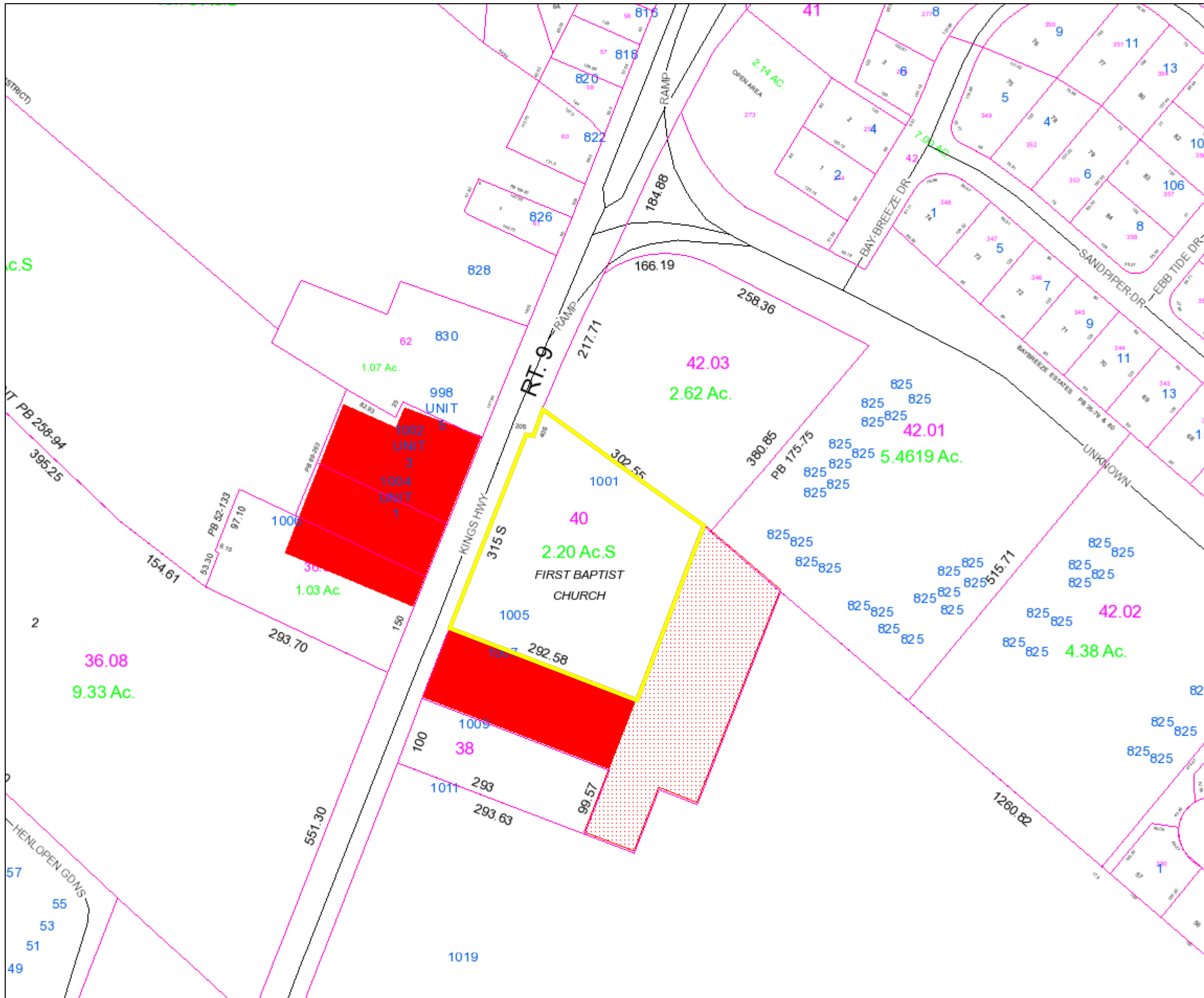
Site Area: 0.78 acre +/-

Tax Map ID.: 335-8.00-40.00 (part of)





Sussex County



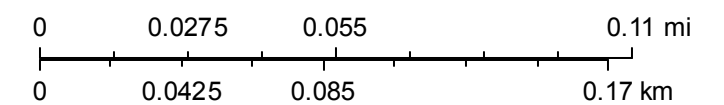
PIN:	335-8.00-40.00	
Owner Name	CHURCH	FIRST BAPTIST OF LEWES
Book	0	
Mailing Address	PO BOX 25	
City	LEWES	
State	DE	
Description	KING ST. RD.	
Description 2	LOT W/IMP 2.2 AC.S.	
Description 3	64150	
Land Code		

- polygonLayer

Override 1
- polygonLayer

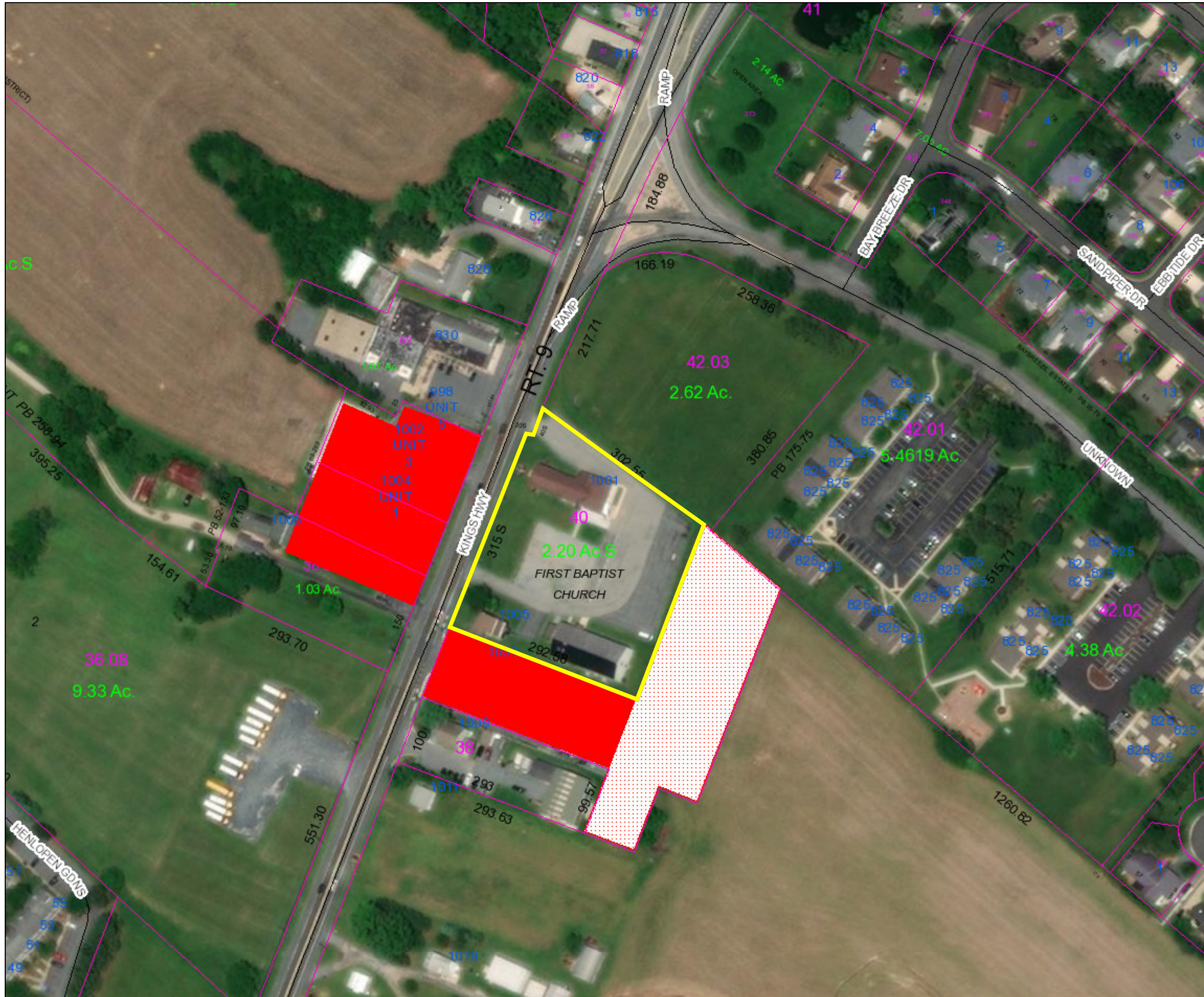
Override 1
- Tax Parcels
- 911 Address
- Streets

1:2,257



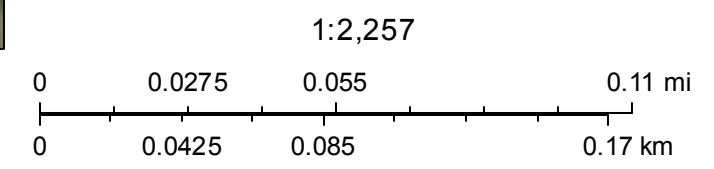


Sussex County



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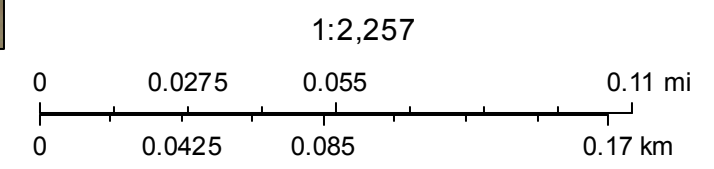


Sussex County



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Description 3	64150	
Land Code		

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





Memorandum

To: Sussex County Planning Commission Members
From: Nick Torrance, Planner I
CC: Vince Robertson, Assistant County Attorney and applicant
Date: November 6th, 2020
RE: Staff Analysis for CZ 1932 Jeff-Kat, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1932 Jeff-Kat, LLC to be reviewed during the November 12th, 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 335-8.00-40.00 (portion of) to allow for a change of zone from an Agricultural Residential (AR-1) Zoning District to a Heavy Commercial (C-3) District. The property is lying on the east side of Kings Hwy. (Route 9) 900 feet southeast of Theodore C. Freeman Highway (S.C.R 23). The size of the property is approximately 0.78 acre +/-.

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 south, east, and west also has the "Coastal Area" designation. The property to the north is located within town limits of Lewes and therefore has a future land use classification of Municipality. 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 Heavy Commercial (C-3) 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. The parcels to the south and west are currently zoned C-1 (general commercial), the parcel to the east is currently C-3 (Heavy commercial) and the parcels to the north are located within town limits.

Since 2011, there has been one Change of Zone applications within a one-mile radius of the subject property. Change of Zone No. 1875, which proposed a change from Agricultural Residential (AR-1) District to Heavy Commercial (C-3) District, was approved by County Council on May 14th, 2019. It was adopted through Ordinance No. 2654.



Based on the analysis of the surrounding zoning and uses, a Change of Zone to a Heavy Commercial (C-3) Zoning District could be considered as being consistent with the land use, area zoning and surrounding uses.

File #: C12 1932
2020 11437

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

1005 Kings Highway, Lewes, Delaware

Type of Conditional Use Requested:

N/A (Rezoning)

Tax Map #: p/o 335 8.00 40.00

Size of Parcel(s): _____

Current Zoning: AR-1

Proposed Zoning: C-3

Size of Building: Existing

Land Use Classification: _____

Water Provider: Lewes BPW

Sewer Provider: Lewes BPW

Applicant Information

Applicant Name: Jeff-Kat, LLC

Applicant Address: 113 Draper Drive

City: Rehoboth Beach

State: DE

Zip Code: 19971

Phone #: 302-745-0875

E-mail: jeffatfins@comcast.net

Owner Information

Owner Name: First Baptist Church of Lewes

Owner Address: PO Box 25

City: Lewes

State: DE

Zip Code: 19958

Phone #: _____

E-mail: _____

Agent/Attorney/Engineer Information

Agent/Attorney/Engineer Name: N/A

Agent/Attorney/Engineer Address: _____

City: _____

State: _____

Zip Code: _____

Phone #: _____

E-mail: _____



Check List for Sussex County Planning & Zoning Applications

The following shall be submitted with the application

___ Completed Application

___ Provide eight (8) copies of the Site Plan or Survey of the property

- Survey shall show the location of existing or proposed building(s), building setbacks, parking area, proposed entrance location, etc.
- Provide a PDF of Plans (may be e-mailed to a staff member)
- Deed or Legal description

___ Provide Fee \$500.00

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

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

___ DeIDOT Service Level Evaluation Request Response

___ PLUS Response Letter (if required)

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

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

Signature of Applicant/Agent/Attorney



Date: 07/09/2020

Signature of Owner

Date: _____

For office use only:

Date Submitted: _____

Fee: \$500.00 Check #: _____

Staff accepting application: _____

Application & Case #: _____

Location of property: _____

Subdivision: _____

Date of PC Hearing: _____

Recommendation of PC Commission: _____

Date of CC Hearing: _____

Decision of CC: _____



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

JENNIFER COHAN
SECRETARY

August 20, 2020

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

Dear Mr. Whitehouse:

The Department has completed its review of a Service Level Evaluation Request for the **Jeff-Kat, LLC** rezoning application, which we received on July 27, 2020. This application is for a portion of a 2.20-acre parcel (Tax Parcel: 335-8.00-40.00). The subject land is located on the east side of Kings Highway (Sussex Road 268), approximately 900 feet southeast of the intersection of Kings Highway and Theodore C. Freeman Highway (Sussex Road 23). The subject land is currently zoned as AR-1 (Agricultural Residential), and the applicant is seeking to rezone the land to C-3 (Heavy Commercial) to utilize the facility for offices and expansion of brewpub operations.

Per the 2019 Delaware Vehicle Volume Summary, the annual average and summer average daily traffic volumes along the segment of Kings Highway where the subject land is located, which is from Gills Neck Road (Sussex Road 267) to Freeman Highway, are 12,019 and 15,468 vehicles per day, respectively.

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

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

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

TO: **Jamie Whitehouse**

REVIEWER: **Chris Calio**

DATE: **10/27/2020**

APPLICATION: **CZ 1932 Jeff-Kat LLC**

APPLICANT: **Jeff-Kat LLC**

FILE NO: **NCPA-5.03**

TAX MAP &
PARCEL(S): **335-8.00-40.00 (part of)**

LOCATION: **The east side of Kings Highway (Rt. 9), approximately 900 feet southeast of Theodore C. Freeman Highway (SCR 23).**

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

GROSS
ACREAGE: **0.78**

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? **Municipal Growth & annexation Area**
- (3). Is wastewater capacity available for the project? **N/A** If not, what capacity is available? **N/A**.
- (4). Is a Construction Agreement required? **No** If yes, contact Utility Engineering at (302) 855-7717.
- (5). Are there any System Connection Charge (SCC) credits for the project? **No** If yes, how many? **N/A**. Is it likely that additional SCCs will be required? **No** If yes, the current System Connection Charge Rate is **Unified \$6,360.00** per EDU. Please contact **N/A** at **302-855-7719** for additional information on charges.

- (6). Is the project capable of being annexed into a Sussex County sanitary sewer district? **No**
- Attached is a copy of the Policy for Extending District Boundaries in a Sussex County Water and/or Sanitary Sewer District.
- (7). Is project adjacent to the Unified Sewer District? **No**
- (8). Comments: **The proposed Change of Zone is with the boundaries of the City of Lewes' Growth and Annexation Area. Therefore, the Sussex County Engineering Department has no schedule to provide sanitary sewer service.**
- (9). Is a Sewer System Concept Evaluation required? **No**
- (10). Is a Use of Existing Infrastructure Agreement Required? **No**

UTILITY PLANNING APPROVAL:



John J. Ashman
Director of Utility Planning

Xc: Hans M. Medlarz, P.E.
Jayne Dickerson
No Permit Tech Assigned

Jeff-Kat, LLC
Jeff Hamer
113 Draper Drive
Rehoboth Beach, DE 19971

Via Hand Delivery

Mr. Jamie Whitehouse, Director
Office of Planning & Zoning
2 The Circle
Georgetown, DE 19947

RE: Rezoning of P/O 335-8.00-40.00 from AR-1 to C-3
Jeff-Kat, LLC

Dear Mr. Whitehouse,

We are pleased to enclose the following with regard to our request to rezone this property from AR-1 to C-3:

- The Application Form
- 8 copies of a survey of the property to be rezoned
- A metes and bounds description of the property to be rezoned
- A check payable to Sussex County in the amount of \$500.00
- A summary of the reasons we are seeking the rezoning
- A copy of Ordinance # 2654 approving C-3 Zoning adjacent to this property

Because this rezoning seeks to be a minor expansion of our existing Big Oyster Brewpub operations next door to this property, we are respectfully requesting that it be exempted from the PLUS process.

Thank you in advance for your attention and cooperation with regard to this matter. If you have any questions or need any additional information to process this request, please do not hesitate to contact us.

Respectfully Submitted,
Jeff-Kat, LLC Jeff Hamer

SUMMARY OF REZONING REQUEST

The Applicant is Jeff-Kat, LLC, an LLC owned by Jeff and Kim Hamer. Jeff-Kat is the owner of the Big Oyster Brewpub immediately next door to this property. Jeff and Kim Hamer also own the Fins Restaurants in Rehoboth Beach, Bethany Beach and Berlin, Maryland, along with CLAWS Restaurant in Rehoboth Beach.

This application seeks to rezone this small adjacent lot along Kings Highway from its current AR-1 Zoning to C-3 Zoning so that it can be utilized as an improvement and expansion of the brewpub operations.

As a bit of background, the subject property is currently owned by The First Baptist Church of Lewes. The property is improved by a home and a multi-purpose building that has been used for church gatherings, basketball and other similar uses. The church sanctuary is not located on this parcel.

The Church and Big Oyster have had a good relationship over the years, and when the Church discussed plans to sell this parcel so that it could use the proceeds to construct a new sanctuary on the existing field owned by it on the other side of its property, an agreement was reached to sell this property to the Church's neighbor, Jeff-Kat.

The purchase and use of this property is beneficial to Jeff-Kat and the Big Oyster Brewpub because it will allow a better overall configuration and use of the property, including vehicular and pedestrian movement on the site. Right now, vehicular access to the rear of the current brewpub is difficult, at best. By adding this property, it will significantly improve vehicular movement and parking within the entire site.

It is the intention to retain the existing buildings on the property (the residential structure and metal multi-purpose/gym). The residence will likely be used for office operations associated with the brewpub and Jeff-Kat's other restaurants. The multi-purpose building will likely be used to relocate and house part of the brewpub operations. This reconfiguration will also free up space within the existing brewpub property for use by patrons. One of the goals is to increase the outdoor, or "backyard" area at the rear of the brewpub for outdoor enjoyment by the brewpub's patrons.

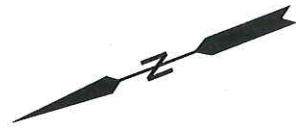
If this rezoning is approved, it will not adversely affect the neighbors or the neighborhood, and it is very important to continue to be good neighbors with the Church. The brewpub uses will not be materially different from what is currently

occurring on the site and there will not be any noise or odors generated by the expansion of operations onto the rezoned property. Traffic patterns and parking within the site will be improved, and this will benefit traffic on Kings Highway by creating more space within the site and eliminate cars waiting to pull in (as sometimes currently occurs).

C-3 Zoning is appropriate for this site for several reasons. C-3 Zoning is consistent with the County's recent approval of C-3 Zoning for the land behind both the Big Oyster Brewery and the entire Church property. This rezoning application is an appropriate expansion of the existing C-3 Zoning. The existing brewpub site is zoned C-1. C-1 Zoning is no longer available in Sussex County, and C-3 Zoning is the most compatible for the expansion of the brewpub site. The site is also in the Coastal Area according to the Sussex County Comprehensive Plan. The Plan indicates that C-3 zoning is appropriate in the Coastal Area.

As the owners of The Big Oyster Brewery, we hope that you will look favorably upon this rezoning request.

TM #335-8.00-39.00



1/2" IRON PIPE

S 21°02'58" W 115.75'

3/4" IRON PIPE

TM #335-8.00-40.00
LANDS N/F
FIRST BAPTIST CHURCH
OF LEWES

TM #335-8.00-40.00
LANDS TO BE
CONVEYED TO
JEFF-KAT, INC.

TM #335-8.00-39.00
LANDS N/F
JEFF-KAT, LLC.

S 68°43'52" E 292.32'

N 69°10'18" W 292.80'

1/2" CAPPED IRON PIPE

CAPPED REBAR

N 21°17'13" E 118.00'

KINGS HIGHWAY (ROAD 268)

NOT VALID WITHOUT SIGNATURE AND EMBOSSED SEAL OF PETER E. LOEBLINSKY
Peter E. Loebinsky
PETER E. LOEBLINSKY
SURVEYOR
OR
VENON M. WALCH
H/T/M

ATLANTIC
SURVEYING &
MAPPING, L.L.C.

P.O. BOX 247
HARBESON, DE 19951
PH. 302-684-2980

Boundary Survey Plan with Improvements
 FIRST BAPTIST CHURCH OF LEWES 2.1438 AC. PARCEL ON
 KINGS HWY, PARTIALLY IN THE CITY OF LEWES, SUSSEX CO., DELAWARE
 Plat Ref.: Bk. 48, Pg. 104
 Scale: 1" = 50'
 Class "B" Survey
 Client: FIRST BAPTIST CHURCH
 TAX MAP: 335-8.00-40.00

No recorded rights-of-way, easements or other encumbrances affecting these lands have been provided to the Surveyor by the Client. No warranty as to title to any lands depicted hereon is explicitly or implicitly provided.

SURVEYED BY:	VW
DRAWN BY:	AK
CHECKED BY:	VW
PROJECT #:	N/A
DATE:	3/23/2020
SHEET NO:	1

Jeff-Kat, LLC. Rezoning

RE-ZONING APPLICATION

Sussex County, Delaware

3007A002.A01

OCTOBER 2020



Jeff-Kat, LLC. Rezoning
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Exhibits

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2. Data Column
3. Rezoning Submission/Application
4. Maps
 - a. Surrounding Communities Map
 - b. Firmette from FEMA
 - c. 2020 State Strategies Map
 - d. Sussex County 2045 Future Land Use Map
 - e. Sussex County Zoning Map
 - f. 1992 Aerial Map
 - g. Current Aerial Map
5. Deed of Record
6. DelDOT Support Facilities Report
7. Rezoning Plan

Exhibit 1

Jeff-Kat, LLC. Rezoning
Project Information

A. Land Use & Zoning

1. The Owner's name is First Baptist Church of Lewes, Delaware, Inc.
2. The Applicant is Jeff-Kat, LLC.
3. The property is located at 1005 Kings Highway in Lewes, Delaware.
4. The property is currently zoned AR (Agricultural / Residential).
5. The property is located in the Level 1 Area of the 2015 State Strategies Map.
6. The property is located within the Coastal Area per the Comprehensive Plan.

B. Land Utilization

1. The total acreage of land to be rezoned is approximately 0.77 +/- acres of land.
2. The land to be rezoned was used for parking and buildings to support Church ministries.

C. Environmental

1. The property does not contain federal wetlands as indicated on the National Wetland Inventory Map.
2. The project is not located in the floodplain.
3. There are no known archaeological sites or National Register-listed properties on the parcels of land.

D. Traffic

1. A Support Facilities Report was completed for this project.
2. A Traffic Impact Study is not required for the rezoning according to DelDOT.

Exhibit 2

Jeff-Kat, LLC. Rezoning
Data Sheet

Owner / Developer: First Baptist Church of Lewes
Applicant: Jeff-Kat, LLC
Engineer: Davis, Bowen & Friedel, Inc.

Project Description

Physical Location: 1005 Kings Highway, Lewes, Delaware
Tax Parcel #: 3-35-8.00-40.00 (part of)
Acreage: 0.77 +/- Acres
Current Zoning: AR-1
Proposed Zoning: C-3
Land Use: Big Oyster Brewery Operations

Minimum Zoning Requirements

	<u>AR-1</u>	<u>C-3</u>
Front Yard Setback:	30'	60'
Side Yard Setback:	15'	5'
Rear Yard Setback:	20'	5'

Exhibit 3

Jeff-Kat, LLC
Jeff Hamer
113 Draper Drive
Rehoboth Beach, DE 19971

Via Hand Delivery

Mr. Jamie Whitehouse, Director
Office of Planning & Zoning
2 The Circle
Georgetown, DE 19947

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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

1005 Kings Highway, Lewes, Delaware

Type of Conditional Use Requested:

N/A (Rezoning)

Tax Map #: Size of Parcel(s): _____

Current Zoning: Proposed Zoning: Size of Building:

Land Use Classification: _____

Water Provider: Sewer Provider:

Applicant Information

Applicant Name:
Applicant Address:
City: State: Zip Code:
Phone #: E-mail:

Owner Information

Owner Name:
Owner Address:
City: State: Zip Code:
Phone #: _____ E-mail: _____

Agent/Attorney/Engineer Information

Agent/Attorney/Engineer Name:
Agent/Attorney/Engineer Address: _____
City: _____ State: _____ Zip Code: _____
Phone #: _____ E-mail: _____



Check List for Sussex County Planning & Zoning Applications

The following shall be submitted with the application

___ Completed Application

___ Provide eight (8) copies of the Site Plan or Survey of the property

- Survey shall show the location of existing or proposed building(s), building setbacks, parking area, proposed entrance location, etc.
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___ Optional - Additional information for the Commission/Council to consider (ex. architectural elevations, photos, exhibit books, etc.) If provided submit 8 copies and they shall be submitted a minimum of ten (10) days prior to the Planning Commission meeting.

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

___ DeIDOT Service Level Evaluation Request Response

___ PLUS Response Letter (if required)

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Signature of Applicant/Agent/Attorney

Date: _____

Signature of Owner

Date: _____

For office use only:

Date Submitted: _____

Fee: \$500.00 Check #: _____

Staff accepting application: _____

Application & Case #: _____

Location of property: _____

Subdivision: _____

Date of PC Hearing: _____

Recommendation of PC Commission: _____

Date of CC Hearing: _____

Decision of CC: _____

TM #335-8.00-39.00

1/2" IRON PIPE

S 21°02'58" W 115.75'

3/4" IRON PIPE



TM #335-8.00-40.00
LANDS N/F
FIRST BAPTIST CHURCH
OF LEWES

TM #335-8.00-40.00
LANDS TO BE
CONVEYED TO
JEFF-KAT, INC.

TM #335-8.00-39.00
LANDS N/F
JEFF-KAT, LLC.

S 68°43'52" E 292.32'

N 69°10'18" W 292.80'

1/2" CAPPED IRON PIPE

N 21°17'13" E 118.00'

CAPPED REBAR

KINGS HIGHWAY (ROAD 268)



ATLANTIC
SURVEYING &
MAPPING, L.L.C.

P O BOX 247
HARBESON DE 19951
PH 302-684-2960

Boundary Survey Plan with Improvements

FIRST BAPTIST CHURCH OF LEWES 2.1438 AC. PARCEL ON
KINGS HWY, PARTIALLY IN THE CITY OF LEWES, SUSSEX CO., DELAWARE

Plat Ref.: Bk. 48, Pg. 104

Scale: 1" = 50'

Class "B" Survey

Client: FIRST BAPTIST CHURCH

TAX MAP: 335-8.00-40.00

No recorded rights-of-way, easements
or other encumbrances affecting these
lands have been provided to the Surveyor
by the Client. No warranty as to title to
any lands depicted hereon is explicitly or
implicitly provided.

SURVEYED BY: VW

DRAWN BY: AK

CHECKED BY: VW

PROJECT #: N/A

DATE: 3/23/2020

SHEET NO: 1

ALL THAT CERTAIN lot, piece and parcel of land, lying and being in Lewes and Rehoboth Hundred, Sussex County and State of Delaware fronting on the southeasterly side of Kings Highway (Road 268) and being further described as follows:

BEGINNING at a capped rebar set in the southeasterly right of way of Kings Highway (Road 268), said point being the common corner of these lands and lands now or formerly of Jeff-Kat, LLC; thence running by and with said right of way North 21 degrees 17 minutes 13 seconds East 118.00 feet to a ½ inch capped rebar, said point being the common corner of these lands and lands now or formerly of The First Baptist Church of Lewes; thence by and with said Church lands South 68 degrees 43 minutes 52 seconds East 292.32 feet to a ½ inch iron pipe; thence South 21 degrees 02 minutes 58 seconds West 115.75 feet to a ¾ inch iron pipe, said point being the common corner of these lands and the aforesaid lands of Jeff-Kat; thence by and with said lands of Jeff-Kat North 69 degrees 10 minutes 18 seconds West 292.80 feet to the point and place of beginning, as further depicted on a survey prepared by Atlantic Surveying & Mapping, LLC dated March 23, 2020.

SUMMARY OF REZONING REQUEST

The Applicant is Jeff-Kat, LLC, an LLC owned by Jeff and Kim Hamer. Jeff-Kat is the owner of the Big Oyster Brewpub immediately next door to this property. Jeff and Kim Hamer also own the Fins Restaurants in Rehoboth Beach, Bethany Beach and Berlin, Maryland, along with CLAWS Restaurant in Rehoboth Beach.

This application seeks to rezone this small adjacent lot along Kings Highway from its current AR-1 Zoning to C-3 Zoning so that it can be utilized as an improvement and expansion of the brewpub operations.

As a bit of background, the subject property is currently owned by The First Baptist Church of Lewes. The property is improved by a home and a multi-purpose building that has been used for church gatherings, basketball and other similar uses. The church sanctuary is not located on this parcel.

The Church and Big Oyster have had a good relationship over the years, and when the Church discussed plans to sell this parcel so that it could use the proceeds to construct a new sanctuary on the existing field owned by it on the other side of its property, an agreement was reached to sell this property to the Church's neighbor, Jeff-Kat.

The purchase and use of this property is beneficial to Jeff-Kat and the Big Oyster Brewpub because it will allow a better overall configuration and use of the property, including vehicular and pedestrian movement on the site. Right now, vehicular access to the rear of the current brewpub is difficult, at best. By adding this property, it will significantly improve vehicular movement and parking within the entire site.

It is the intention to retain the existing buildings on the property (the residential structure and metal multi-purpose/gym). The residence will likely be used for office operations associated with the brewpub and Jeff-Kat's other restaurants. The multi-purpose building will likely be used to relocate and house part of the brewpub operations. This reconfiguration will also free up space within the existing brewpub property for use by patrons. One of the goals is to increase the outdoor, or "backyard" area at the rear of the brewpub for outdoor enjoyment by the brewpub's patrons.

If this rezoning is approved, it will not adversely affect the neighbors or the neighborhood, and it is very important to continue to be good neighbors with the Church. The brewpub uses will not be materially different from what is currently

occurring on the site and there will not be any noise or odors generated by the expansion of operations onto the rezoned property. Traffic patterns and parking within the site will be improved, and this will benefit traffic on Kings Highway by creating more space within the site and eliminate cars waiting to pull in (as sometimes currently occurs).

C-3 Zoning is appropriate for this site for several reasons. C-3 Zoning is consistent with the County's recent approval of C-3 Zoning for the land behind both the Big Oyster Brewery and the entire Church property. This rezoning application is an appropriate expansion of the existing C-3 Zoning. The existing brewpub site is zoned C-1. C-1 Zoning is no longer available in Sussex County, and C-3 Zoning is the most compatible for the expansion of the brewpub site. The site is also in the Coastal Area according to the Sussex County Comprehensive Plan. The Plan indicates that C-3 zoning is appropriate in the Coastal Area.

As the owners of The Big Oyster Brewery, we hope that you will look favorably upon this rezoning request.

ORDINANCE NO. 2654

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.317 ACRES, MORE OR LESS

WHEREAS, on the 28th day of December 2018, a zoning application, denominated Change of Zone No. 1875, was filed on behalf of L. W. & J. T. Mitchell Family, LP; and

WHEREAS, on the 11th day of April 2019, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 25th day of April 2019, said Planning and Zoning Commission recommended that Change of Zone No. 1875 be approved; and

WHEREAS, on the 14th day of May 2019, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article II, Subsection 115-7, Code of Sussex County, be amended by deleting from the Comprehensive Zoning Map of Sussex County the zoning classification of [AR-1 Agricultural Residential District] and adding in lieu thereof the designation of C-3 Heavy Commercial District as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying on the southeast side of Kings Highway, approximately 0.3 miles northeast of Gills Neck Road and being more particularly described in the attached legal description prepared by Davis, Bowen & Friedel, Inc., said parcel containing 1.317 acres, more or less.

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

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2654 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 14TH DAY OF MAY 2019.

ROBIN A. GRIFFITH
CLERK OF THE COUNCIL

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

- A. This is the application of L.W. & J.T. Mitchell Family L.P. (Big Oyster) to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a C-3 Heavy Commercial District for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 1.317 acres, more or less (land lying on the southeast side of Kings Highway, approximately 0.3 miles northeast of Gills Neck Road) (Tax I.D. No. 335-8.00-37.00 (portion of) (911 Address: None Available).**
- B. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that David C. Hutt, Esquire, with Morris James LLP, Jeff Hamer, Principal of Big Oyster Brewery, Bob Mitchell and Jerry Mitchell, property owners, and Ring Lardner, with Davis, Bowen, & Friedel, Inc., were present on behalf of the application; that the property is located in the area behind Big Oyster Brewery, Lane Builders, and First Baptist Church; that the project is not the entire Mitchell farm property; that the property was farmed up until 2019; that the farming operation has stopped and there has been a “For Sale” sign on the property for many years; that Big Oyster Brewery was looking to expand the existing business site to add more parking and storage; and that Big Oyster Brewery has arrangements with people across the street to be able to have off-site parking, but it requires customers to cross Kings Highway.**
- C. Council also found that the site is not in a floodplain and there are no wetlands on the site; that there are no known historic or cultural features on the site; that the site has access to public utilities and is currently served by the Lewes Board of Public Works for sewer and water; that the property is located in the Delaware State Strategies for Spending Level 1 Area; that the property is located within the Lewes Fire District and the Cape Henlopen School District; that the Land Use Classification per the 2008 Comprehensive Plan is that the site is located in the Environmentally Sensitive Developing Area and, according to the 2018 Comprehensive Plan, it is located in the Coastal Area; that the site is located in a designated growth area; that C-1 zoned property is located behind the site and across the street; that there is B-1 zoning nearby, Conditional Uses, and many business uses in the City of Lewes; that the Applicant applied for C-3 zoning classification because it most closely resembles the front portion of the property that is zoned C-1; that the C-3 zoning has fewer permitted uses than C-1 (General Commercial) zoning would allow for; that the setbacks are the same; that the parcel would meet the minimum 1-acre lot size for C-3 zoning; that if the rezoning is approved, a lot line adjustment would occur between the farm and the Big Oyster Brewery; that Kings Highway is a busy well-traveled road; and that Route 9 is a major arterial road per County Code.**
- D. Council further found that the Cape Henlopen Medical Office is beginning its construction of the offices and the Mitchell family is putting in its entrance; that the Conditional Use for Lot 1 is for the Cape Henlopen Office Building, and the supporting infrastructure is located on the Mitchell property which is providing the access from Gills Neck Road further away from Kings Highway; that the internal road which will serve the Cape Henlopen Building and the road could potentially serve the residual land; and that a road would be put in and built to Sussex County standards.**
- E. Based on the Findings (1 through 8) of the Planning & Zoning Commission, Council found that:**

1. **C-3 (Heavy Commercial Zoning) is designed to allow auto-oriented retail and service businesses that serve local and regional residents. Permitted uses include retail uses, restaurants, offices, and vehicle service stations.**
 2. **The site is at the rear of a property fronting Kings Highway that is currently used for a restaurant and a church. This location is appropriate for this type of zoning.**
 3. **This location is currently vacant. The Applicant has stated that this will be used for centralization and expansion of its restaurant and brewery.**
 4. **As stated by the Applicant, there will be interconnectivity between this site and the existing brewpub restaurant that is next to it.**
 5. **The site will be served by central water and sewer.**
 6. **The site is in the Environmentally Sensitive Developing Area (now identified as the Coastal Area) according to the prior and current Sussex County Land Use Plans. This type of commercial use is appropriate in these areas according to the Plan.**
 7. **The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order, prosperity and welfare of the County.**
 8. **Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.**
- F. Based on the record created before the Planning and Zoning Commission and the Sussex County Council, the Council approved this application.**

Exhibit 4



eSummer 2017
Aerial Photo



November 2020

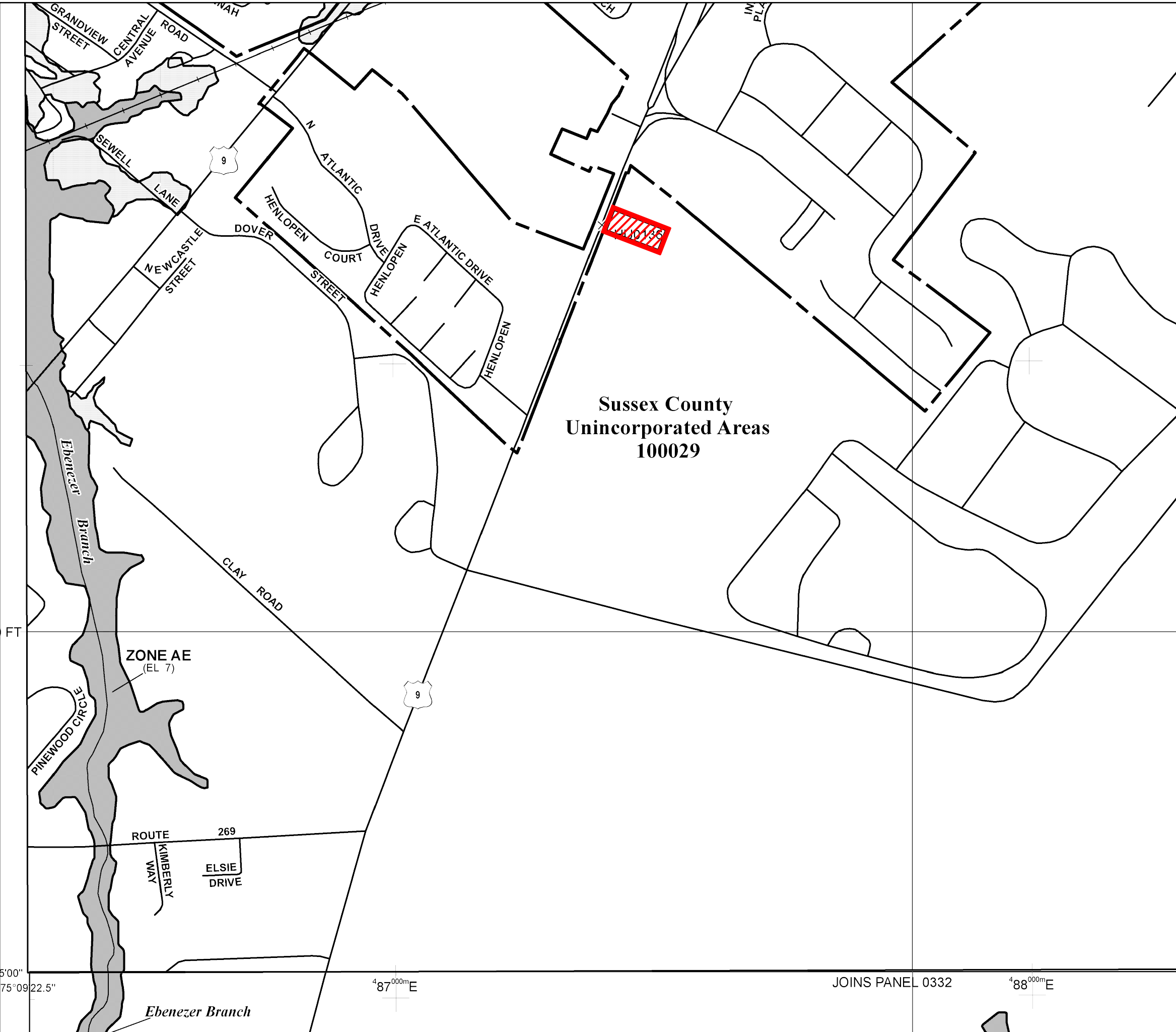
Surrounding Communities Map

Jeff-Kat, LLC. Rezoning

Sussex County, Delaware

Sources:
Tax Parcels per Sussex County





NATIONAL FLOOD INSURANCE PROGRAM

PANEL 0194K

FIRM
FLOOD INSURANCE RATE MAP

**SUSSEX COUNTY,
 DELAWARE
 AND INCORPORATED AREAS**

PANEL 194 OF 660

(SEE MAP INDEX FOR FIRM PANEL LAYOUT)

CONTAINS:

COMMUNITY	NUMBER	PANEL	SUFFIX
LEWES, CITY OF	100041	0194	K
SUSSEX COUNTY	100029	0194	K

- NOTE -
 THIS MAP INCLUDES BOUNDARIES OF THE COASTAL BARRIER RESOURCES SYSTEM ESTABLISHED UNDER THE COASTAL BARRIER RESOURCES ACT OF 1982 AND/OR SUBSEQUENT ENABLING LEGISLATION.

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.



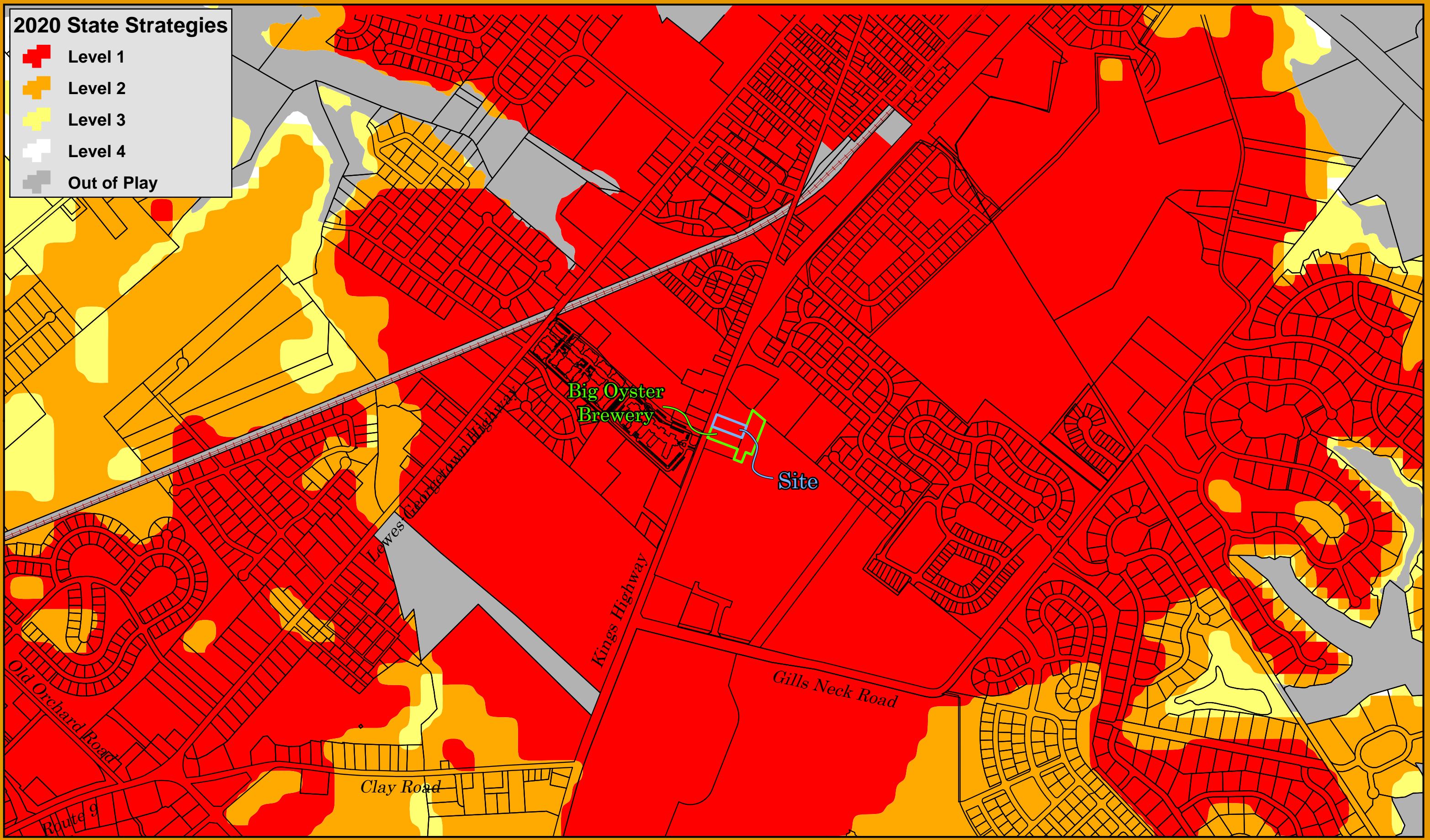
**MAP NUMBER
 10005C0194K**

**MAP REVISED
 MARCH 16, 2015**

Federal Emergency Management Agency

2020 State Strategies

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



Sources:
Tax Parcels per Sussex County

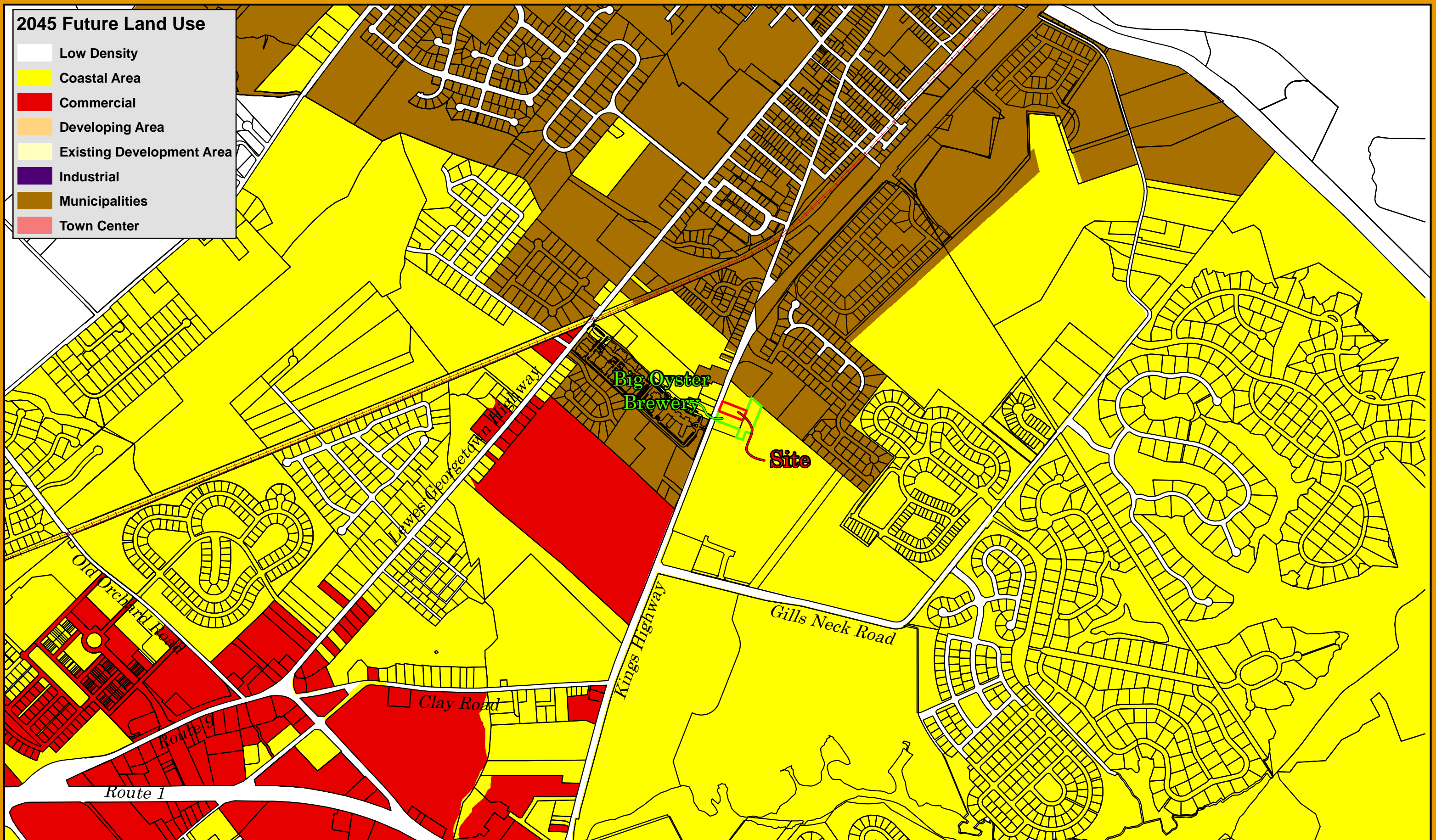


2020 State Strategies Jeff-Kat, LLC. Rezoning Sussex County, Delaware



2045 Future Land Use

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



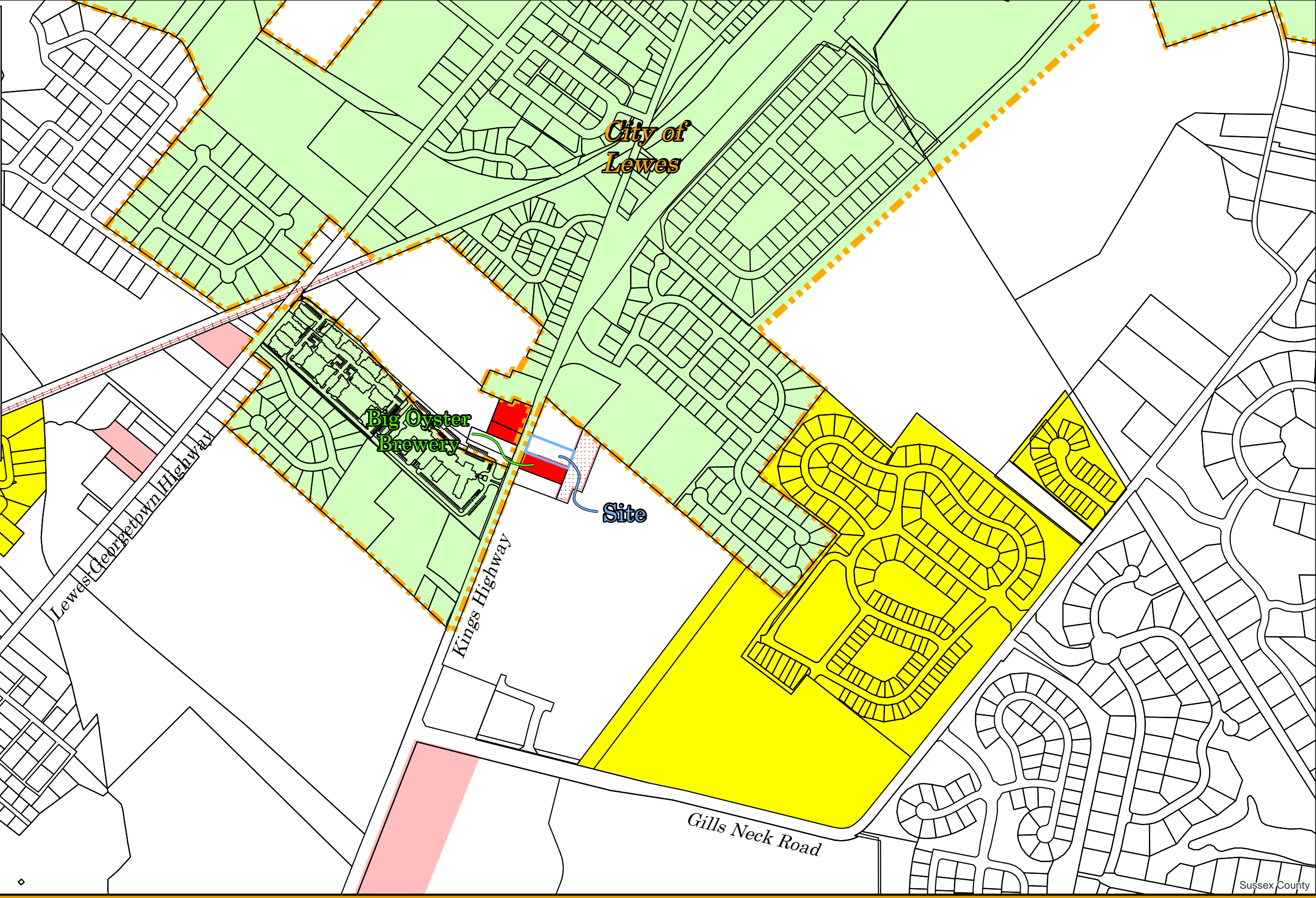
Land Use per 2018 Sussex County Comprehensive Plan
 Entire Site is within the
 Environmental Sensitive Developing Area

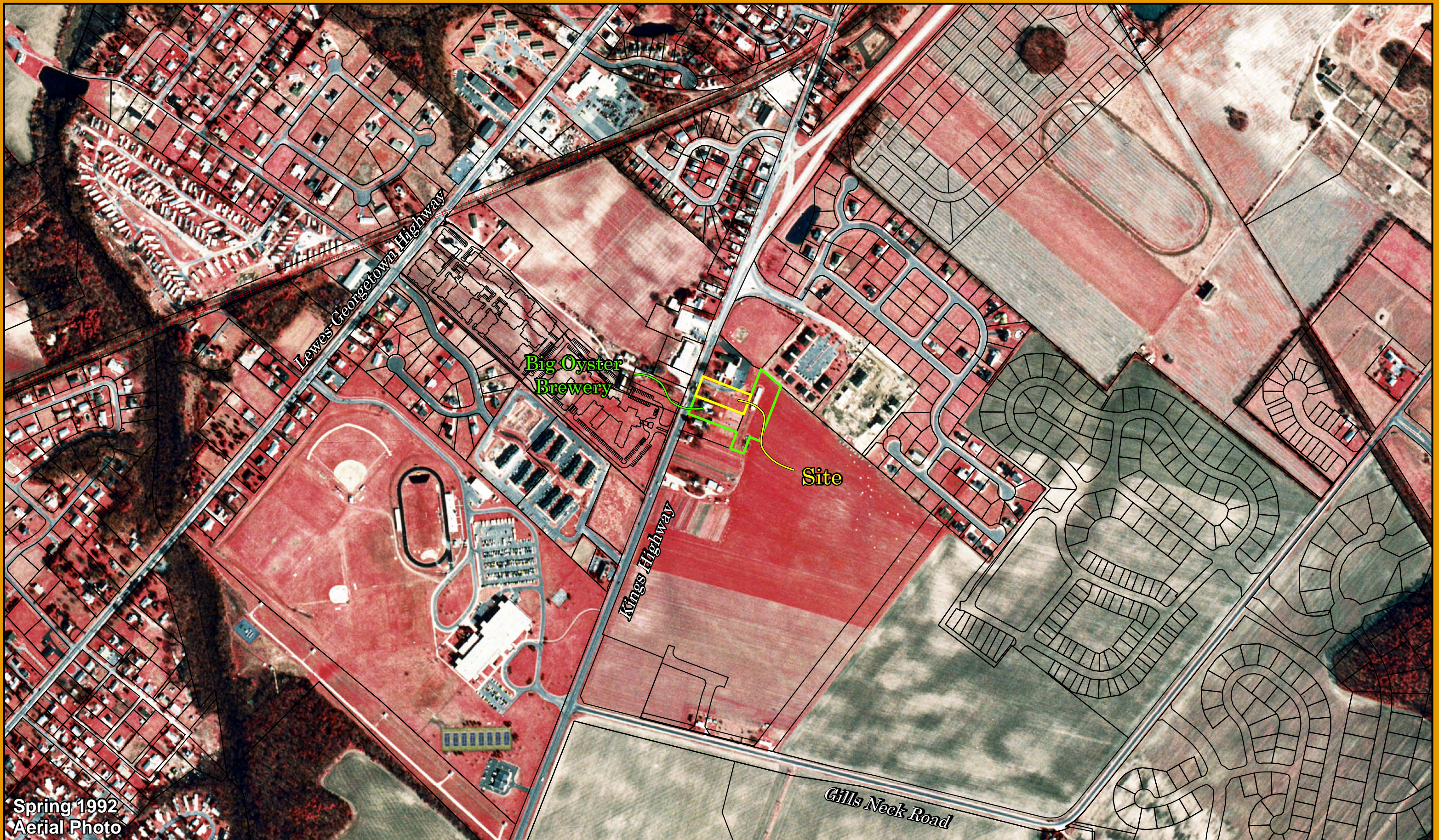


Sussex County 2045 Future Land Use
Jeff-Kat, LLC. Rezoning
 Sussex County, Delaware



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





Spring 1992
Aerial Photo

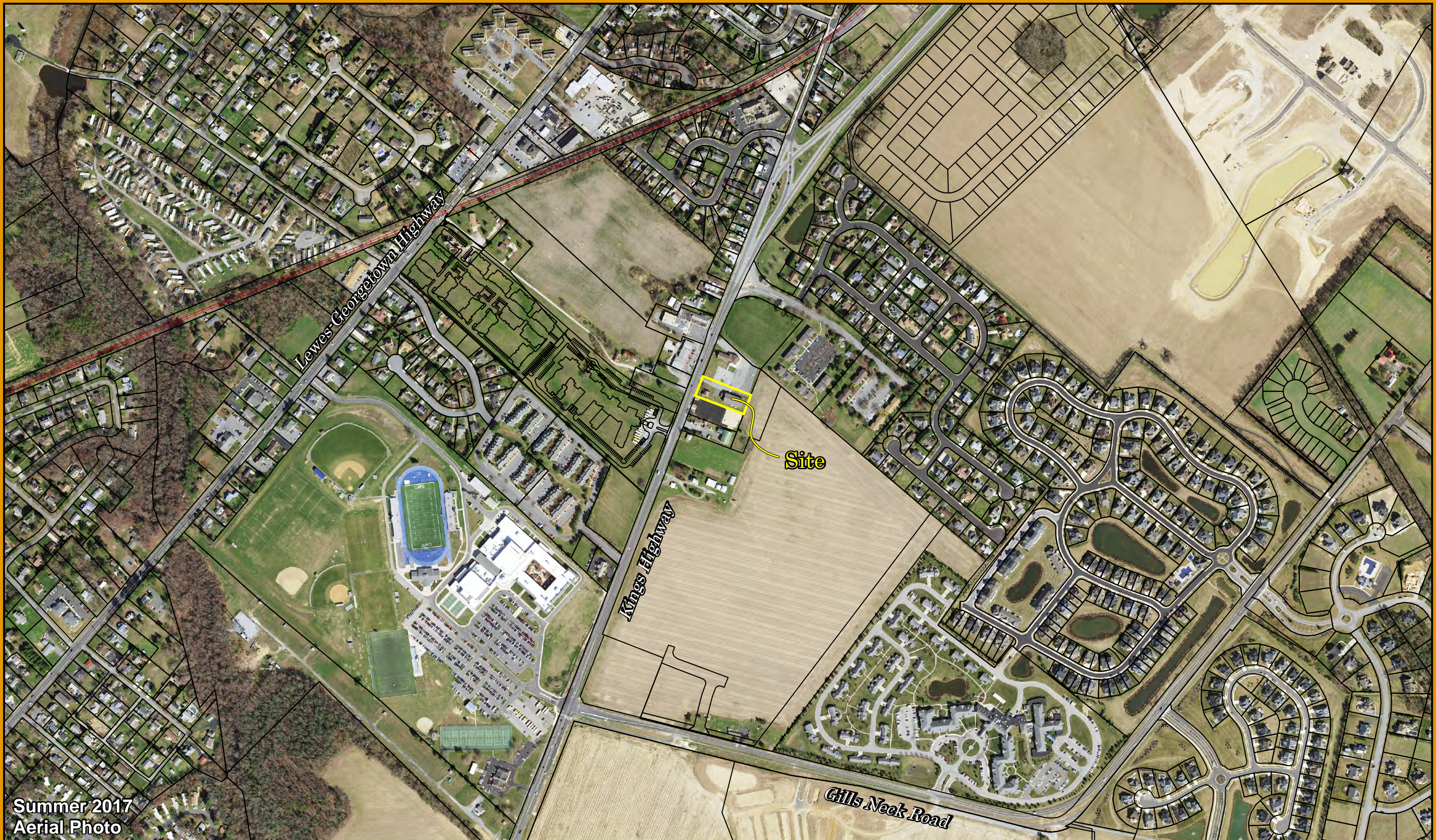


Sources:
Tax Parcels per Sussex County

1992 Aerial Photo
Jeff-Kat, LLC. Rezoning
Sussex County, Delaware

0 500 1,000
Feet





Summer 2017
Aerial Photo

Sources:
Tax Parcels per Sussex County



November 2020

2017 Aerial Photo Jeff-Kat, LLC. Rezoning Sussex County, Delaware

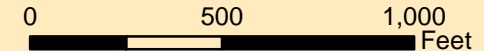


Exhibit 5

8555

BOOK 701 PAGE 362

This Deed, made this

Third day of March in the year of
our LORD one thousand nine hundred and seventy three.

BETWEEN, Ralton H. Dennis and Richard Dennis, executors of the
Estate of Virgil L. Dennis, deceased; Bessie Dennis, widow;
Ralton H. Dennis and Dorothy L. Dennis, his wife; Richard Dennis
and Genevieve E. Dennis, his wife, parties of the first part;

and

First Baptist Church of Lewes, Delaware, Inc., a Religious
Corporation of the State of Delaware, party of the second part:

Witnesseth, That the said parties of the first part, for and in consideration of
the sum of \$37,500.00 lawful money of the United
States of America, the receipt whereof is hereby acknowledged, hereby grant
and convey unto the said party of the second part,

ALL

That certain tract, piece, and parcel of land, located in Lewes and Rehoboth
Hundred, Sussex County, Delaware, near the town of Lewes, Delaware,
described as follows, to wit: Beginning on the old county road known as the
King Street Road, being road #288, at the corner now or formerly of the
Robinson Homestead, marked by a Chestnut post, and running along and
with the Robinson line south $61\frac{1}{4}^{\circ}$ east a distance of 299 feet 6 inches to a cedar
post; thence turning and running south $28\frac{1}{2}^{\circ}$ west a distance of 115 feet 9 inches to
a post in line of lands now or formerly of Fred C. Marshall; thence turning
and running along and with lands now or formerly of Marshall, North $81\frac{1}{4}^{\circ}$ west
a distance of 300 feet to the edge of the King Street Road; thence turning and
running in a northeasterly direction along and with the King Street road 118
feet, home to the place of beginning, be the contents what they may, with all
improvements thereon.

Being same lands conveyed to Virgil L. Dennis and Bertha E. Dennis, his wife,
by George W. Robinson, widower, by deed dated the 13th day of April, 1939,
said deed now of record in the office of the Recorder of Deeds, in and for Sussex
County, Delaware, in deed book no. 316, page 528.

The said Bertha E. Dennis predeceased her husband, Virgil L. Dennis, therefor
said lands descended to the said Virgil L. Dennis absolutely.

The said Virgil L. Dennis later remarried and his wife is known as Bessie Dennis.

The said Virgil L. Dennis died testate, on or about 19th day of September, 1972, and in
and by his Last Will and Testament of record in the office of the Register of Wills,
in and for Sussex County, Delaware, he ordered that the residue of his property
be sold by his executors and divided between his wife, Bessie Dennis and two sons,
Ralton H. Dennis and Richard Dennis.

In Witness Whereof, The said parties of the first part have hereunto set their hands and seals, the day and year aforesaid.

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

Henry J. Williams
Barbara M. Jordan

Ralton H. Dennis (SEAL)

Richard Dennis, executors of Estate of Virgil L. Dennis, deceased.

Bessie Dennis (Seal)

Ralton H. Dennis (Seal)

Dorothy L. Dennis (Seal)

Richard Dennis (Seal)

Genevieve E. Dennis (SEAL)

State of Florida
County of BROWARD

BE IT REMEMBERED, that on this 3 day of March A. D. 1973, personally appeared before me, a Notary Public of the State and County aforesaid, Richard Dennis, executor of the estate of Virgil L. Dennis, deceased; and Richard Dennis and Genevieve E. Dennis, his wife, parties to this indenture, known to me personally to be such and they acknowledged this indenture to be their act and deed. Given under my hand and seal of office the day and year aforesaid.

Henry J. Williams Notary Public.

NOTARY PUBLIC, STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES FEB 13, 1974
BONDED THRU FRED W. DISTENFELD

STATE OF DELAWARE,

Sussex

County, ss.

BE IT REMEMBERED, that on this 17th day of March in the year of our Lord one thousand nine hundred and seventy three, personally came before me, a Notary Public in and for the State and County aforesaid, Ralton H. Dennis, executor of the Estate of Virgil L. Dennis, deceased, and Bessie Dennis, widow; Ralton H. Dennis and Dorothy L. Dennis, his wife,

21st March 1973

State of Delaware
REALTY TRANSFER TAX
00.00

Part tea to this Indenture, known to me personally to be such, and they acknowledge this Indenture to be their Deed.

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

RECEIVED
JAMES H. BAXTER JR.
MAR 19 3 47 PM '73
REG. DIV. OF DEEDS
SUSSEX COUNTY

Ruth E. Welkins
Notary Public

LAW OFFICES OF
Maull & Maull
EAST MARKET STREET
GEORGETOWN, DELAWARE 19611

Exhibit 6



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

JENNIFER COHAN
SECRETARY

August 21, 2020

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

Dear Mr. Whitehouse:

The Department has completed its review of a Service Level Evaluation Request for the **Jeff-Kat, LLC** rezoning application, which we received on July 27, 2020. This application is for a 0.7-acre portion of a 2.20-acre parcel (Tax Parcel: 335-8.00-40.00). The subject land is located on the east side of Kings Highway (Sussex Road 268), approximately 900 feet southeast of the intersection of Kings Highway and Theodore C. Freeman Highway (Sussex Road 23). The subject land is currently zoned as AR-1 (Agricultural Residential), and the applicant is seeking to rezone the land to C-3 (Heavy Commercial) to utilize the existing facility for the expansion of brewpub operations.

Per the 2019 Delaware Vehicle Volume Summary, the annual average and summer average daily traffic volumes along the segment of Kings Highway where the subject land is located, which is from Gills Neck Road (Sussex Road 267) to Freeman Highway, are 12,019 and 15,468 vehicles per day, respectively.

Based on our review and information provided by the applicant, 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.

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



Mr. Jamie Whitehouse

Page 2 of 2

August 21, 2020

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

Sincerely,



T. William Brockenbrough, Jr.
County Coordinator
Development Coordination

TWB:cjm

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

Exhibit 7

TM #335-8.00-39.00

1/2" IRON PIPE

S 21°02'58" W 115.75'

3/4" IRON PIPE



TM #335-8.00-40.00
LANDS N/F
FIRST BAPTIST CHURCH
OF LEWES

TM #335-8.00-40.00
LANDS TO BE
CONVEYED TO
JEFF-KAT, INC.

TM #335-8.00-39.00
LANDS N/F
JEFF-KAT, LLC.

S 68°43'52" E 292.32'

N 69°10'18" W 292.80'

1/2" CAPPED IRON PIPE

N 21°17'13" E 118.00'

CAPPED REBAR

KINGS HIGHWAY (ROAD 268)



ATLANTIC
SURVEYING &
MAPPING, L.L.C.

P O BOX 247
HARBESON DE 19951
PH 302-684-2960

Boundary Survey Plan with Improvements

FIRST BAPTIST CHURCH OF LEWES 2.1438 AC. PARCEL ON
KINGS HWY, PARTIALLY IN THE CITY OF LEWES, SUSSEX CO., DELAWARE

Plat Ref.: Bk. 48, Pg. 104

Scale: 1" = 50'

Class "B" Survey

Client: FIRST BAPTIST CHURCH

TAX MAP: 335-8.00-40.00

No recorded rights-of-way, easements
or other encumbrances affecting these
lands have been provided to the Surveyor
by the Client. No warranty as to title to
any lands depicted hereon is explicitly or
implicitly provided.

SURVEYED BY: VW

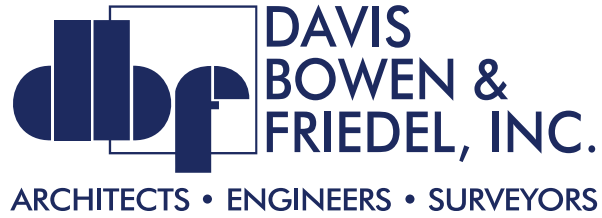
DRAWN BY: AK

CHECKED BY: VW

PROJECT #: N/A

DATE: 3/23/2020

SHEET NO: 1



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Salisbury, MD 21804
(410) 543-9091

106 Washington Street, Suite 103
Easton, MD 21601
(410) 770-4744

www.dbfinc.com