

PLANNING & ZONING COMMISSION

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KIM HOEY STEVENSON, VICE-CHAIRMAN
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Sussex County

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

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: January 27th, 2022

Application: CZ 1943 Shirley & Gordon Price, Jr.

Applicant: Shirley & Gordon Price, Jr.
34861 Atlantic Avenue
Ocean View, DE 19970

Owner: Shirley & Gordon Price, Jr.
34861 Atlantic Avenue
Ocean View, DE 19970

Site Location: 34861 Atlantic Avenue, Ocean View, DE 19970. The property is lying on the north side of Atlantic Avenue (Route 26), approximately 0.13 mile northwest of Roxanna Road (Route 17).

Current Zoning: Agricultural Residential (AR-1) Zoning District

Proposed Zoning: Medium Commercial (C-2) Zoning District

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Hudson

School District: Indian River School District

Fire District: Millville Fire Department

Sewer: Private (On-Site Septic)

Water: Sewer (Sussex County Unified Sanitary Sewer District)

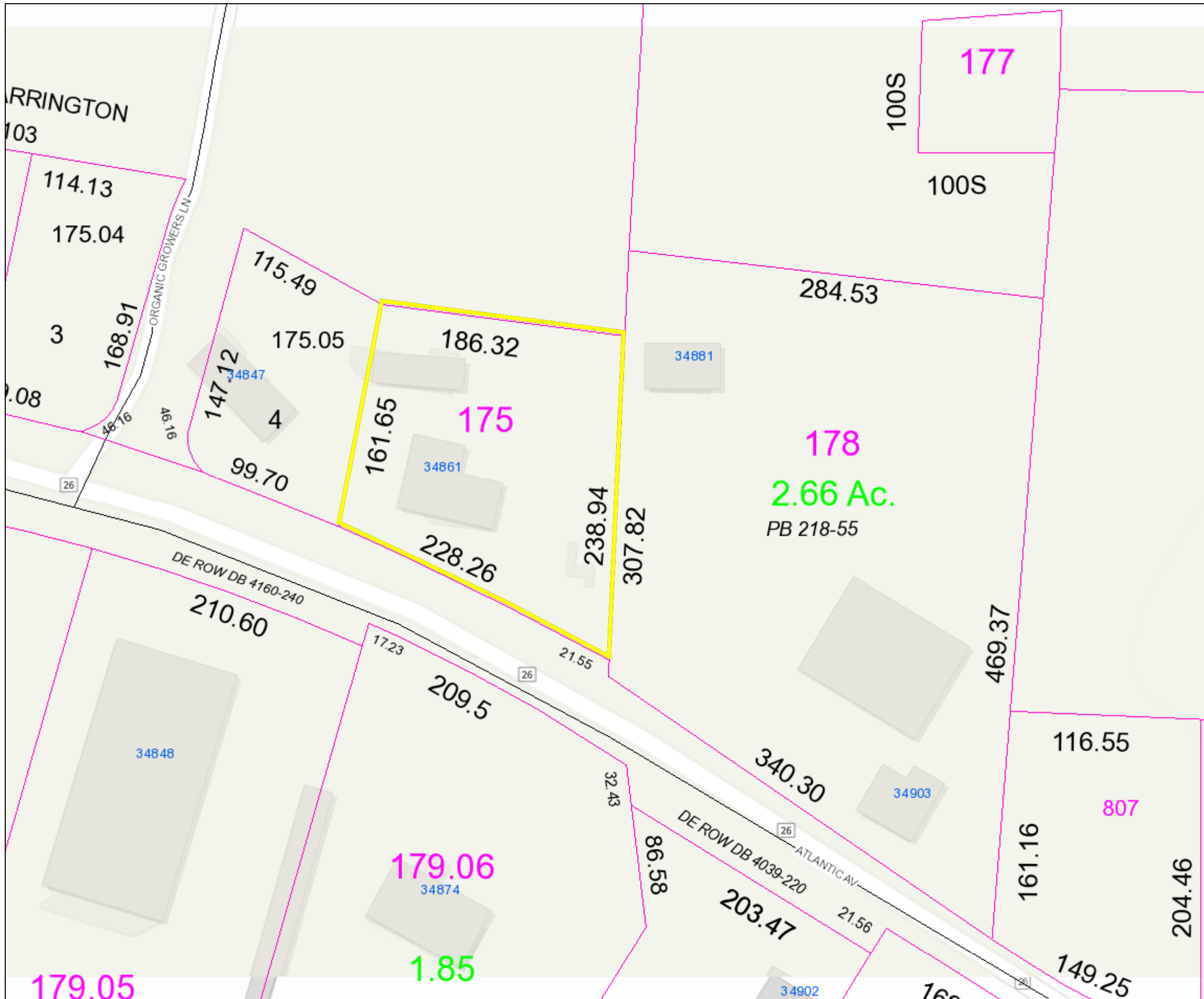
Site Area: 0.91 acres +/-

Tax Map ID.: 134-11.00-175.00



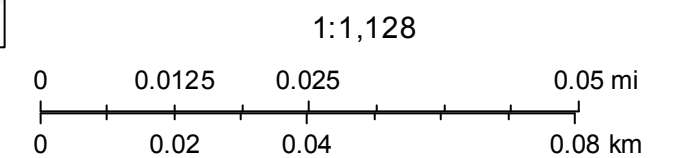


Sussex County



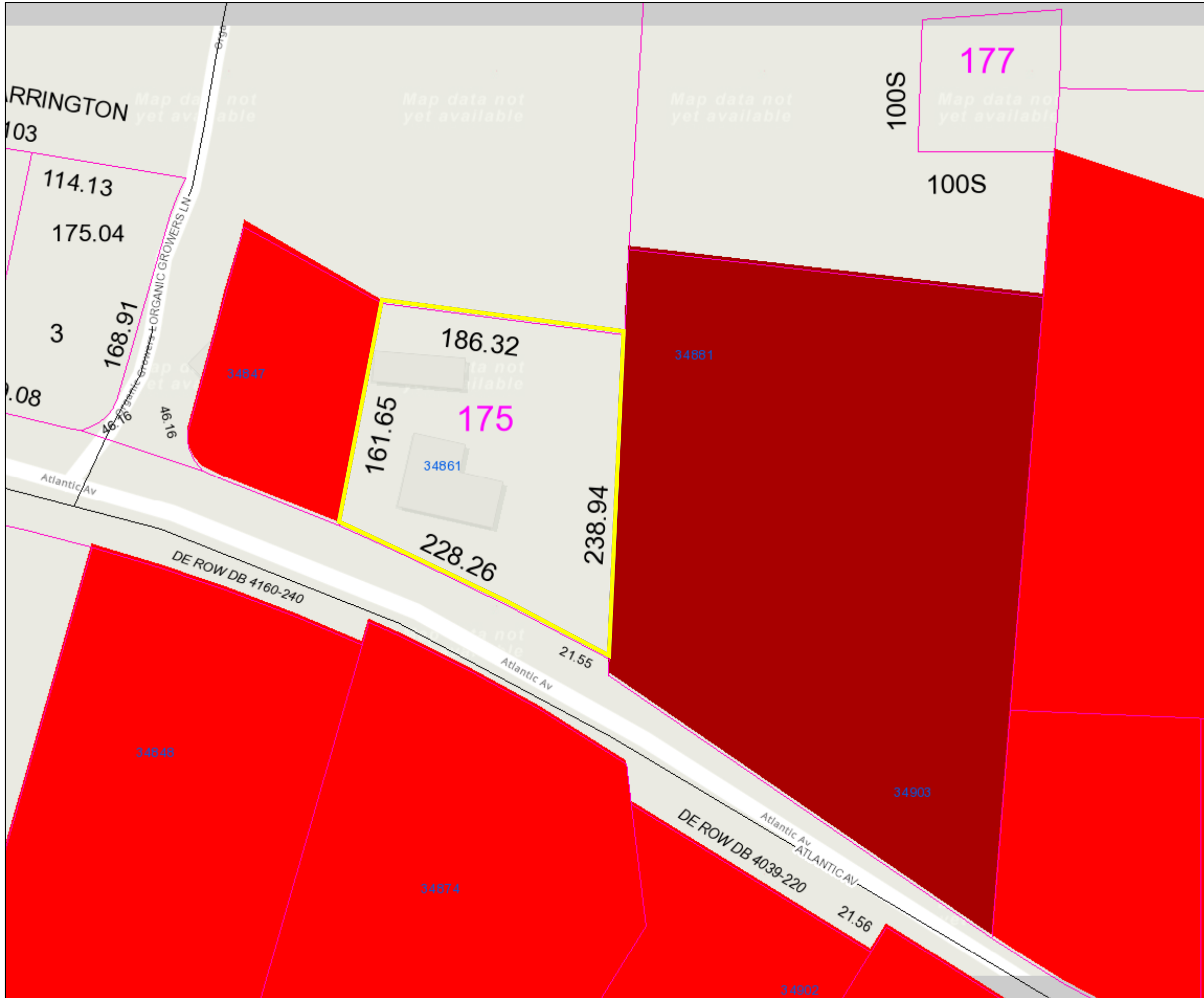
PIN:	134-11.00-175.00	
Owner Name	PRICE	GORDON BENT JR TRUSTEE
Book	4292	
Mailing Address	34861 ATLANTIC AVE	
City	OCEAN VIEW	
State	DE	
Description	NE/RT 26	
Description 2	500' NW/RT 17	
Description 3	N/A	
Land Code		

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| | Tax Parcels |
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| | 911 Address |
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| | County Boundaries |
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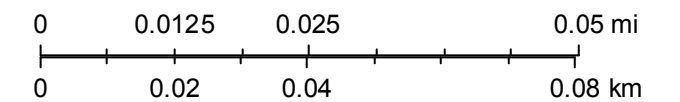
Sussex County



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 Override 1
- Tax Parcels
- 911 Address
- Streets

1:1,128



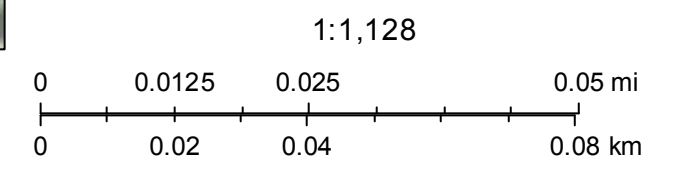


Sussex County



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



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Memorandum

To: Sussex County Planning Commission Members
From: Lauren DeVore, Planner III
CC: Vince Robertson, Assistant County Attorney, and applicant
Date: January 20, 2022
RE: Staff Analysis for CZ 1943 Shirley and Gordon Price, Jr.

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1943 Shirley and Gordon Price, Jr. to be reviewed during the January 27, 2022, 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 134-11.00-175.00 to allow for a change of zone from an Agricultural Residential (AR-1) Zoning District to a Medium Commercial (C-2) Zoning District. The property is lying on the north side of Atlantic Avenue (Route 26), approximately 0.13 mile northwest of Roxana Road (Route 17). The parcel to be rezoned consists of 0.91 acres +/-.

Staff note that a PLUS waiver letter was obtained from the Office of State Planning to waive PLUS review requirements which applied due to the fact that the proposal is an upzoning within the Coastal Area. The letter was received electronically by the Department of Planning and Zoning on Wednesday, January 19, 2022, and notes that the following conditions have been met: “1.) The rezoning is of a unique circumstance and would not set precedence for other lands in the vicinity of the rezoning, 2.) The relative size of the rezoning or the variation from the land use recommended by the Comprehensive Plan is so minor that it would have no impact on the goals and objectives of the Comprehensive Plan, 3.) The proposed zoning is adjacent to or in the immediate vicinity of other similarly zoned lands and would not alter the pattern of development in the area.”

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 land use designation of “Coastal Area.” The properties to the north, south (on the opposite side of Atlantic Avenue), east and west of the subject property also contain the Future Land Use Designation of “Coastal Area.”

As outlined within the 2018 Sussex County Comprehensive Plan, Coastal Areas are areas that can accommodate development provided special environmental concerns are addressed. A range of housing types should be permitted in Coastal Areas, including single-family homes, townhouses, and multi-family units. Retail and office uses are appropriate but larger shopping centers and office parks should be confined to selected locations with access along arterial roads. Appropriate mixed-use development should also be allowed. In doing so, 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. Major new industrial uses are not proposed in these areas.

The property is zoned Agricultural Residential (AR-1) Zoning District. Adjacent parcels to the north are also zoned Agricultural Residential (AR-1) Zoning District. The properties to the south on the opposite side of Atlantic Avenue (Route 26) and the adjacent property to the west are zoned General Commercial (C-1) District. The property to the east is zoned Commercial Residential (CR-1) Zoning District.

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 Medium Commercial (C-2) Zoning District is listed as an applicable zoning district in the Coastal Area.

Since 2011, there have been four (4) Change of Zone applications within a 0.5 mile radius of the application site. The first application is Change of Zone 1738 Atlantic Community Thrift Shop, Inc. for a change of zone from a Medium Density Residential Zoning District (MR) to a Neighborhood Business District (B-1) which was recommended approval by the Planning and Zoning Commission at their meeting of Thursday, November 14, 2013. The application was also approved by the Sussex County Council at their meeting of Tuesday, December 3, 2013 and adopted through Ordinance No. 2331. The second application is Change of Zone 1789 Good Earth Market, LLC for a change of zone from an Agricultural Residential District (AR-1) to a Commercial Residential Zoning District (CR-1) which was recommended approval by the Planning and Zoning Commission at their meeting of Thursday, December 10, 2015. The application was also approved by the Sussex County Council on Tuesday, April 5, 2016 and adopted through Ordinance No. 2439. The third application is Change of Zone 1840 Preston and Brenda Brasure for a change of zone from an Agricultural Residential District (AR-1) to a Commercial Residential District (CR-1) which was recommended approval by the Planning and Zoning Commission at their meeting of Thursday, January 11, 2018. The application was also approved by the Sussex County Council on Tuesday, January 30, 2018 and adopted through Ordinance No. 2544. The fourth application is Change of Zone 1863 Triumph I, LLC for a change of zone from an Agricultural Residential District (AR-1) to a Commercial Residential District (CR-1) which was recommended approval by the Planning and Zoning Commission at their meeting of Thursday, November 29, 2018. The application was also approved by the Sussex County Council on Tuesday, January 8, 2019 and adopted through Ordinance No. 2624.

Based on the analysis of the land use, surrounding zoning and uses, a Change of Zone from a Agricultural Residential Zoning District (AR-1) to a Medium Commercial Zoning District (C-2) could be considered as being consistent with the land use, based on the size, scale, zoning and surrounding uses.



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

JENNIFER COHAN
SECRETARY

November 13, 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 **Shirley and Gordon Price** rezoning application, which we received on October 14, 2020. This application is for an approximately 1.9-acre parcel (Tax Parcel: 134-11.00-175.00). The subject land is located on the north side of Atlantic Avenue, approximately 600 feet west of Roxana Road (Sussex Road 52). The subject land is currently zoned as AR-1 (Agricultural Residential), and the applicant is seeking to rezone the land to C-2 (Medium Commercial) to utilize the parcel as business office.

Per the 2019 Delaware Vehicle Volume Summary, the annual average and summer average daily traffic volumes along the segment of Atlantic Avenue (Sussex Road 26) where the subject land is located, which is from Stephen Drive to Roxana Road (Sussex Road 52), are 9,280 and 11,943 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 land development 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.



Mr. Jamie Whitehouse
Page 2 of 2
November 13, 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
Shirley and Gordon Price, Applicant
Russell Warrington, Sussex County Planning & Zoning
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

PLANNING & ZONING
Jamie Whitehouse, AICP, MRTPI
Director
(302) 855-7878 T
(302) 854-5079 F



Sussex County
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sussexcountyde.gov

Service Level Evaluation Request Form

This form **shall** be submitted to the Planning and Zoning Office and a response **shall** be received back from DelDOT prior to the applicant being able to submit an application to the Planning and Zoning Office.

Date: 10/4/20

Site Information:

Site Address/Location: 34861 ATLANTIC AVE, OCEAN VIEW, DE 19970

Tax Parcel Number: 134-11.00-175.00

Current Zoning: AR-1

Proposed Zoning: C-2

Land Use Classification: _____

Proposed Use(s): BUSINESS OFFICE

Square footage of any proposed buildings or number of units: NO NEW BUILDINGS

Applicant Information:

Applicant's Name: SHIRLEY & GORDON PRICE

Applicant's Address: 34861 ATLANTIC AVE

City: OCEAN VIEW State: DE Zip Code: 19970

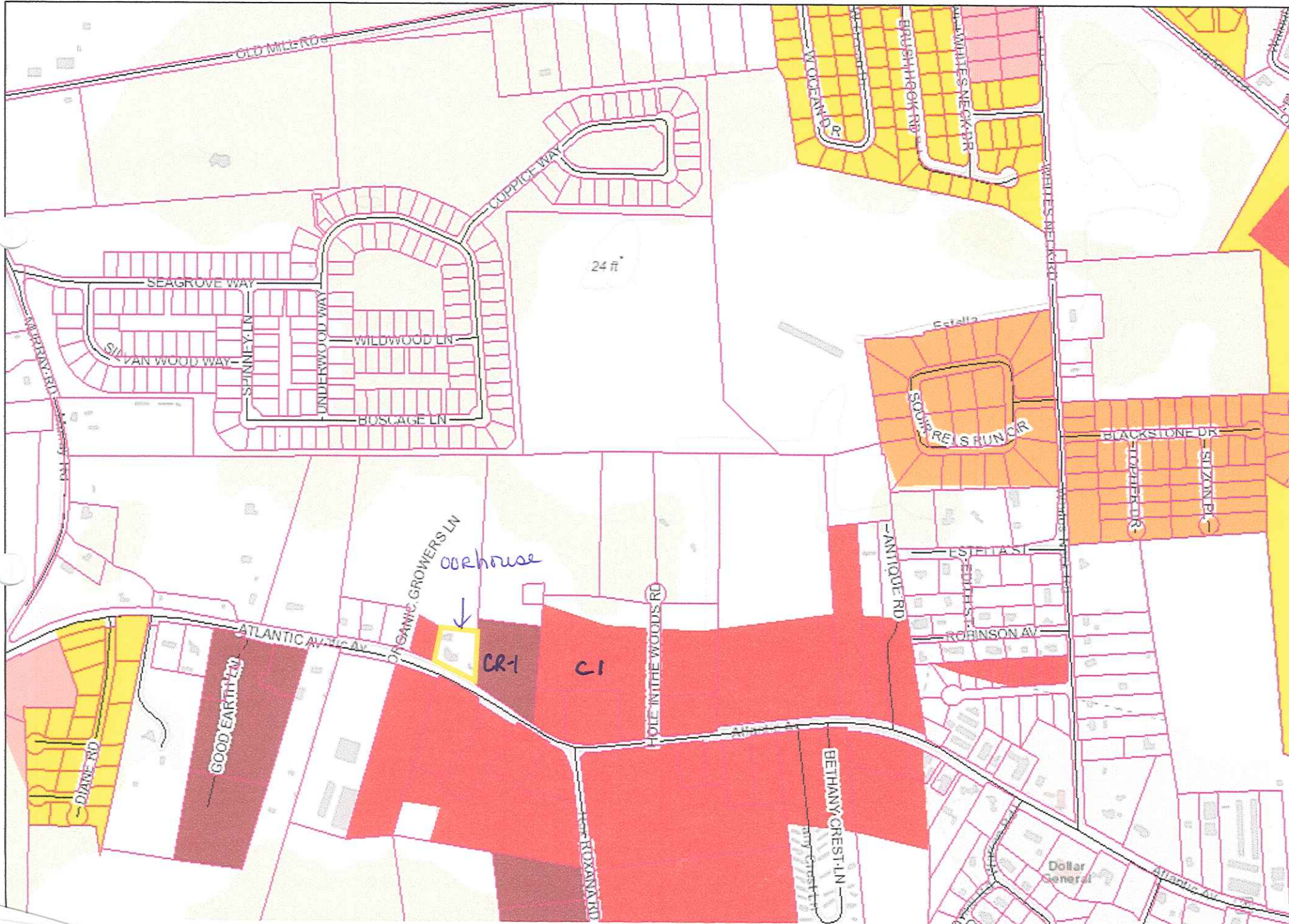
Applicant's Phone Number: (302) 236-7046

Applicant's e-mail address: ShirleyPrice@mchsi.com





Sussex County



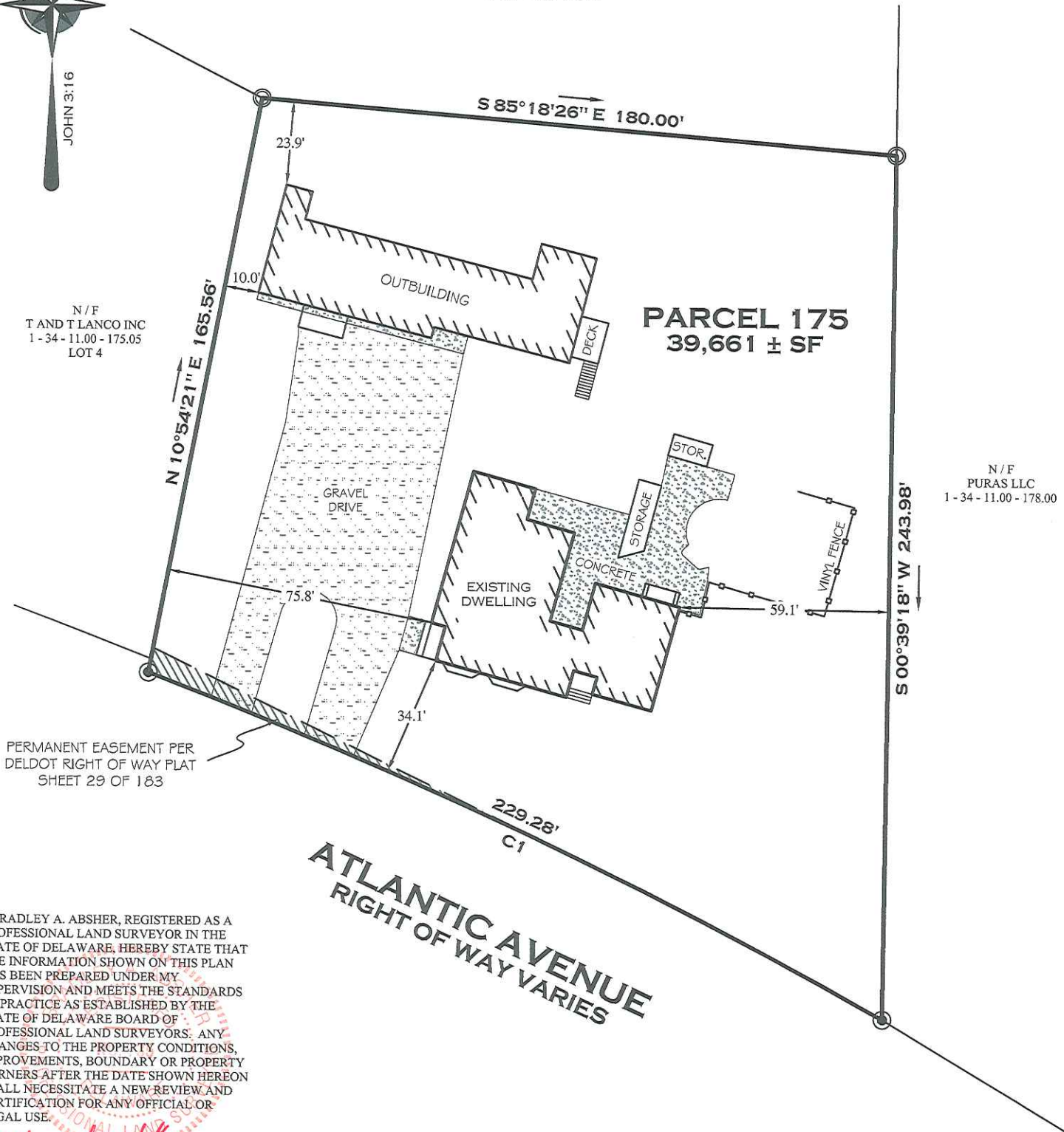


N/F
J&J ORCHARDS LLC
1 - 34 - 11.00 - 175.01

N/F
T AND T LANCO INC
1 - 34 - 11.00 - 175.05
LOT 4

PARCEL 175
39,661 ± SF

N/F
PURAS LLC
1 - 34 - 11.00 - 178.00



PERMANENT EASEMENT PER
DELDOT RIGHT OF WAY PLAT
SHEET 29 OF 183

**ATLANTIC AVENUE
RIGHT OF WAY VARIES**

I, BRADLEY A. ABSHER, REGISTERED AS A PROFESSIONAL LAND SURVEYOR IN THE STATE OF DELAWARE, HEREBY STATE THAT THE INFORMATION SHOWN ON THIS PLAN HAS BEEN PREPARED UNDER MY SUPERVISION AND MEETS THE STANDARDS OF PRACTICE AS ESTABLISHED BY THE STATE OF DELAWARE BOARD OF PROFESSIONAL LAND SURVEYORS. ANY CHANGES TO THE PROPERTY CONDITIONS, IMPROVEMENTS, BOUNDARY OR PROPERTY CORNERS AFTER THE DATE SHOWN HEREON SHALL NECESSITATE A NEW REVIEW AND CERTIFICATION FOR ANY OFFICIAL OR LEGAL USE.

Bradley A. Absher
BRADLEY A. ABSHER, DE PLS # 735
DATE 2.5.21

NOTES

1. CLASSIFICATION OF SURVEY: SUBURBAN
2. NO TITLE REPORT WAS PROVIDED FOR OUR USE, THEREFORE THIS BOUNDARY SURVEY IS SUBJECT TO ANY ENCUMBRANCES, RESTRICTIONS, EASEMENTS, AND/OR RIGHTS OF WAY THAT MIGHT BE REVEALED BY A THOROUGH TITLE SEARCH.

CURVE	RADIUS	ARC LENGTH	CHORD BEARING	CHORD LENGTH
C1	1545.00'	229.28'	N 65°11'25" W	229.07'

TAX MAP	1-34 - 11.00 - 175.00
STATE	DELAWARE
COUNTY	SUSSEX
HUNDRED	BALTIMORE
TOWN	—
AREA	39,661 ± SQ. FT.
DEED REF.	4292 / 20
PLAT REF.	—
DRAWN BY	CJP
DATE	02 / 05 / 2021
SCALE	1" = 40'
SURVEY #	DE - 07451

**BOUNDARY SURVEY
PLAN**

LANDS OF
**GORDON BRENT PRICE, TRUSTEE
& SHIRLEY ANN PRICE, TRUSTEE**

34861 ATLANTIC AVENUE, MILLVILLE, DE 19967

LEGEND

- IRON PIPE FOUND
- IRON ROD W/ CAP SET

TRUE NORTH



LAND SURVEYING

118 ATLANTIC AVENUE, SUITE 202
OCEAN VIEW, DE 19970
DE: 302-539-2488
MD: 410-430-2092



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF STATE PLANNING COORDINATION

January 13, 2022

Ms. Lauren Devore
Sussex County Planning and Zoning
2 The Circle
Georgetown, DE 19947

RE: PLUS review – Shirley and Gordon Price rezoning; 34861 Atlantic Avenue
Tax Parcel 134-11.00-75.00

Dear Ms. Devore:

Thank for your email dated January 12, 2022 regarding clarification on a PLUS review for the above referenced zoning. We reviewed the materials to determine if this rezoning and comp plan amendment for .91 acres from AR-1 to C-2 warrants a PLUS review. We reviewed this amendment using the criteria we use for “minor variations” from comprehensive plans, which is established in the PLUS MOUs of several other jurisdictions.

A rezoning is generally considered a minor variation from the comprehensive plan when one or more of the following conditions are met:

- a) The rezoning is of a unique circumstance and would not set precedence for other lands in the vicinity of the rezoning.
- b) The relative size of the rezoning or the variation from the land use recommended by the Comprehensive Plan is so minor that it would have no impact on the goals and objectives of the Comprehensive Plan.
- c) The proposed zoning is adjacent to or in the immediate vicinity of other similarly zoned lands and would not alter the pattern of development in the area.

We have determined that this rezoning does meet the definition of a minor variation; therefore, PLUS review is waived for this applicant. This does not waive the applicant or developer from contacting State agencies to determining code requirements and permitting issues. Any development on the site will still be required to follow all relevant codes and permitting procedures set forth by the State of Delaware.

The Office of State Planning is currently working with the County to update the PLUS Memorandum of Understanding. Until that document is updated, please feel free to reach out to discuss similar plan amendments so we can determine if a PLUS waiver can be granted.

If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Edgell', written in a cursive style.

David L. Edgell, AICP
Director, Office of State Planning Coordination

File #: CZ 1943
202104389

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

34861 Atlantic Ave, Ocean View, De 19970

Type of Conditional Use Requested:

Tax Map #: 134-11.00-175.00 Size of Parcel(s): ~~1.9 acre~~ 0.91 acre

Current Zoning: AR-1 Proposed Zoning: C-2 Size of Building: 2700

Land Use Classification: Residential

Water Provider: well Sewer Provider: Sussex County

Applicant Information

Applicant Name: Shirley and Gordon Price Jr
Applicant Address: 34861 Atlantic Ave
City: Ocean View State: DE Zip Code: 19970
Phone #: (302) 236-7046 E-mail: shirleyprice@mchsi.com

Owner Information

Owner Name: Shirley and Gordon Price Jr
Owner Address: 34861 Atlantic Ave
City: Ocean View State: DE Zip Code: 19970
Phone #: (302) 236-7046 E-mail: shirleyprice@mchsi.com

Agent/Attorney/Engineer Information

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



0.13 NW Roxana Rd

Shirley Price

From: Shirley Price
Sent: Tuesday, January 25, 2022 9:59 AM
To: 'Lauren.devore@sussexcountyde.gov'
Subject: FW: CZ 1943
Attachments: Planning and Zoning coments 1.27.22.docx

RECEIVED
JAN 25 2022
SUSSEX COUNTY
PLANNING & ZONING

From: Shirley Price
Sent: Monday, January 24, 2022 9:45 PM
To: 'LAUREN.DEVORE@SUSSEXCOUNTYDE.GOV' <LAUREN.DEVORE@SUSSEXCOUNTYDE.GOV>
Subject: CZ 1943

Hi Lauren,

We haven't spoken for a while but it looks like I am on the agenda Thursday night @ 5 Pm. When we last spoke I think the only thing lacking was my statement to the council. I have attached it. Will I need to bring copies ?

If you need to talk to me, it is best to give me a call. I am in Baltimore for the next two days for a follow up to Gordon's kidney transplant surgery.

Shirley



Check out my commercial

! <https://www.youtube.com/watch?v=XCRUHzecOmc&feature=youtu.be>

Shirley Price

P.S. I am never too busy for your referrals!

302-236-7046 cell/ text

REALTOR, Associate Broker, SRES, GRI, CRS, e-PRO
Long and Foster Real Estate, Inc.
33298 Coastal Highway
Bethany Beach, DE 19930

Top Producer Eastern Shore

Written submission on behalf

Of Shirley and Gordon Price.

In 1981 when we purchased our home on the Route 26 corridor it was much different than we find it today. Of course all of coastal Sussex County was different forty-one years ago. At the time of our purchase it seemed perfect, it was something we could afford and provided us a place to raise our family, work and be involved in our community. We did not give any thought to what the future might look like.

When we first bought our house the only commercial area was a small Mom and Pop liquor store next door, Holts Dispensary and everything else was fields and some houses.

Of course as the years went by things changed bit by bit. The first major, oh my gosh moment came in the form of an 84 Lumber application coming across the street. We negotiated with them and the county to make them the best neighbors we could and to minimize their impact on 26. Many others followed we now have Good Earth Market who added Dickens Theater to their footprint, my neighbor to my west a heating and air company, to my immediate east is the most recent addition, the new and more modern Holts Liquor Store with the very well-lit parking lot. Across the street and next to 84 Lumber is Parsell's Funeral Home perhaps one of the quietest of neighbors, and then several other small businesses occupy the Travalini property and the commercial goes on.

I went home one day to see a double decker billboard almost on our property line. A billboard on 26 was very out of place at that time and I could not believe that we were not given any notice that it was coming. So I picked up the phone and spoke with Lawrence Lank, it appears the state was controlling signs and it was decided that the county needed

to take some control. So a committee was put together and I was appointed to help with the process. So no more surprises for other home owners and the county has more control over signage.

As the years went by Gordon and I knew we could not stop the inevitable and in the world of land use planning Route 26 is the logical location for commercial. Our property is no longer a residential area, and it can never be that again. Its highest and best use is commercial.

I am here tonight to ask that you give our property the necessary zoning it needs to fit in, to achieve its highest and best use. We have no plans to add anything more than we have now. I know if that changes someday it would need to come back before the county and it should.

Thank you for your consideration,

Respectfully,

Shirley and Gordon Price