

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



Sussex County

DELAWARE
sussexcountyde.gov

PLEASE NOTE

This paperless packet is published on the County's website for convenience purposes, and only includes information received up to the close of business on the day before a public hearing. Documents received after this, or documents submitted during the public hearing are not uploaded to the Paperless Packet. The legal record is the paper record maintained in the Offices of the Planning & Zoning Department.



COUNTY ADMINISTRATIVE OFFICES
2 THE CIRCLE | PO BOX 417
GEORGETOWN, DELAWARE

PLANNING & ZONING COMMISSION

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



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

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: December 9th, 2021

Application: CZ 1944 Executive Lawn Property Management, LLC

Applicant: Executive Lawn Property Management, LLC c/o John Huss
P.O. Box 91
Nassau, DE 19969

Owner: Executive Lawn Property Management, LLC, a Delaware LLC
P.O. Box 91
Nassau, DE 19969

Site Location: The property is lying on the north side of Lewes Georgetown Highway (Route 9), approximately 0.55 mile west of Prettyman Road (S.C.R. 254).

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

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

Comprehensive Land
Use Plan Reference: Low Density Area

Councilmanic
District: Mr. Schaeffer

School District: Indian River School District

Fire District: Georgetown Fire Department

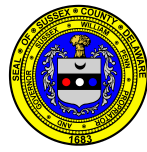
Sewer: Private (On-Site Septic)

Water: Private (On-Site Well)

Site Area: 3.68 acres +/-

Tax Map ID.: 235-30.00-6.20





Sussex County

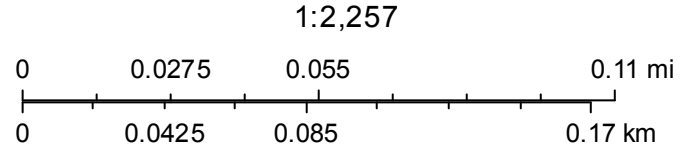


| | | |
|-----------------|------------------------|------|
| PIN: | 235-30.00-6.20 | |
| Owner Name | EXECUTIVE PROPERTY | LAWN |
| Book | 4899 | |
| Mailing Address | PO BOX 91 | |
| City | NASSAU | |
| State | DE | |
| Description | LOT 1 W / IMPROVEMENTS | |
| Description 2 | N/A | |
| Description 3 | N/A | |
| Land Code | | |

- polygonLayer

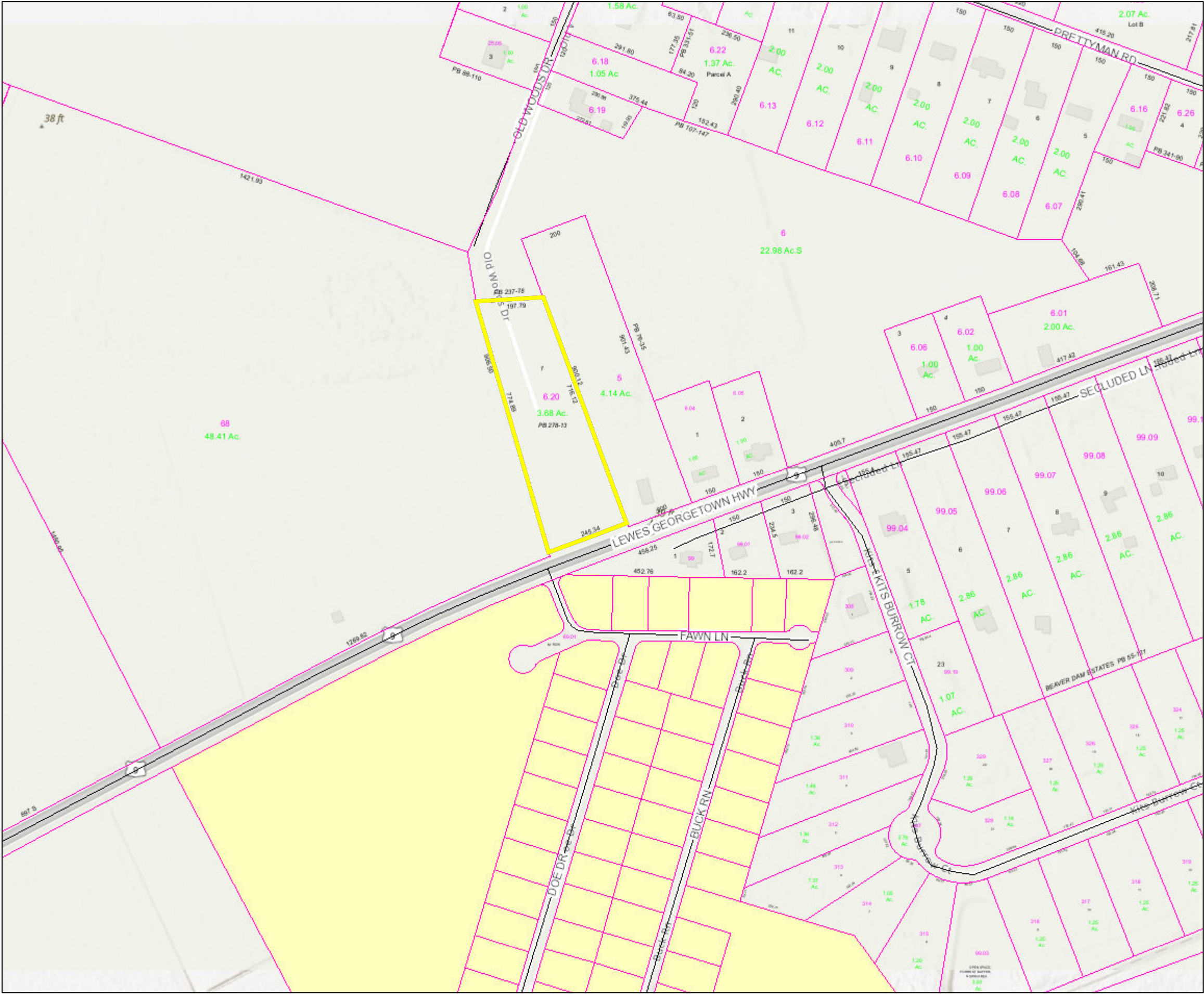
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- polygonLayer

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





Sussex County



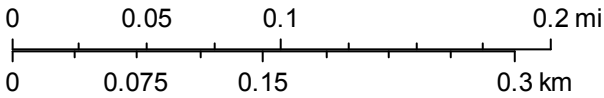
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| Description 2 | N/A | |
| Description 3 | N/A | |
| Land Code | | |

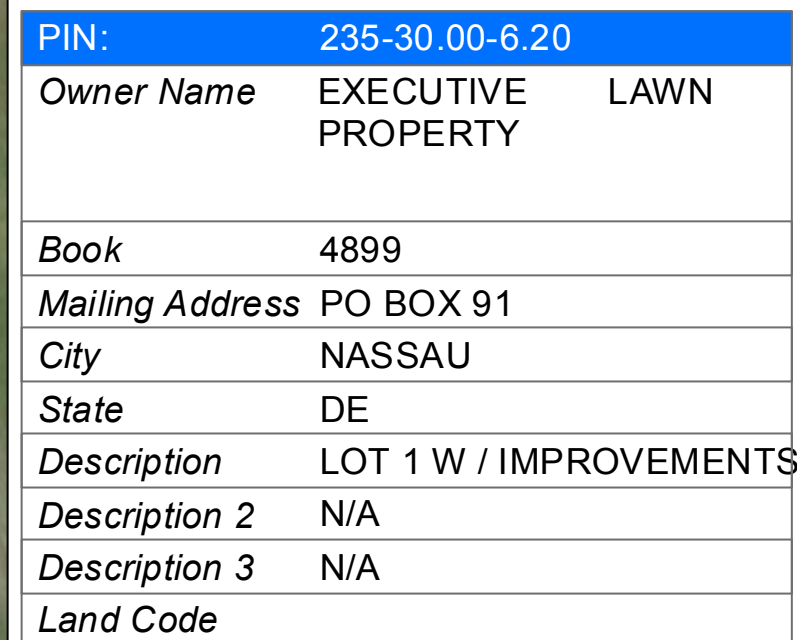
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- polygonLayer

Override 1
- Tax Parcels
- Streets

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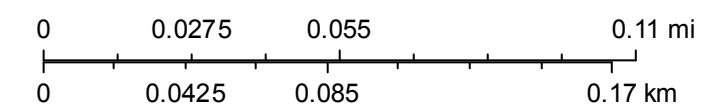
Override 1

Override 1

911 Address

County Boundaries

1:2,257



| FULLNAME | Second_Owner_Name | MAILINGADD | CITY | STATE | ZIPCODE | PIN |
|-------------------------------------------|--------------------------------------------|----------------------------|-------------|-------|---------|------------------|
| EXECUTIVE LAWN PROPERTY | MANAGEMENT LLC | PO BOX 91 | NASSAU | DE | 19969 | 235-30.00-6.20 |
| JOHN FLOYD LINGO III TRUSTEE | ROBERTA ANNE LINGO TRUSTEE REVOCABLE TRUST | 24877 LEWES GEORGETOWN HWY | GEORGETOWN | DE | 19947 | 135-11.00-68.00 |
| LESLIE K. ELLIOTT TRUSTEE REVOCABLE TRUST | JESSICA VIOLA HAMMOND | 24849 LEWES GEORGETOWN HWY | GEORGETOWN | DE | 19947 | 135-11.00-69.01 |
| GEORGETOWN BUSINESS PLAZA LLC | | 859 GOLF LINKS LN | MAGNOLIA | DE | 19962 | 235-30.00-6.00 |
| PRETTYMAN ROAD DEVELOPMENT LLC | | 16255 SUSSEX HWY | BRIDGEVILLE | DE | 19933 | 235-29.00-25.00 |
| ISLAMIC CENTER OF EASTERN SHORE INC | | 16500 SEASHORE HWY | GEORGETOWN | DE | 19947 | 235-30.00-5.00 |
| LAUREN & SAMMIE PRICE | | 25921 FAWN LANE | GEORGETOWN | DE | 19947 | 235-30.00-100.00 |
| SHIRLEY J. WILLEY | | 14114 S UNION CHURCH RD | ELLENDALE | DE | 19941 | 235-30.00-101.09 |
| DARRIN J. & DAWN SINGLEY | | 26447 SECLUDED LN | GEORGETOWN | DE | 19947 | 235-30.00-99.00 |

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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: December 3, 2021
RE: Staff Analysis for CZ 1944 Executive Lawn Property Management, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1944 Executive Lawn Property Management, LLC to be reviewed during the December 9, 2021, Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Change of Zone for Tax Parcel 235-30.00-6.20 to allow for a change of zone from an Agricultural Residential Zoning District (AR-1) to a Medium Commercial District (C-2). The property is lying on the north side of Lewes-Georgetown Highway (Route 9), approximately 0.55 mile west of Prettyman Road (S.C.R. 254) at 25141 Lewes-Georgetown Highway in Georgetown, Delaware. The parcel to be rezoned contains 3.68- acres +/-.

It is worth noting that the property was also the subject of a previously approved Conditional Use application (C/U 2093 John Huss & DA Huss, Inc. (Executive Lawns)) to permit a landscape business with equipment storage to be located on the property. The Sussex County Council approved this application at their meeting of September 26, 2017 through Ordinance No. 2521.

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 "Low Density Area." The properties to the north, south, east, and west also have the land use designation of Low Density Area.

As outlined within the 2018 Sussex County Comprehensive Plan, Developing Areas are newer, emerging growth areas that demonstrate the characteristics of developmental pressures. The primary uses envisioned in Low Density Areas are agricultural activities and homes. Business development should be largely confined to businesses addressing the needs of these two uses. Industrial and agribusiness uses that support or depend on agriculture should be permitted. The focus of retail and office uses in Low Density Areas should be providing convenience goods and services to nearby residents. Commercial uses in these residential areas should be limited in their location, size, and hours of operation. More intense commercial uses should be avoided in these areas. Institutional and commercial uses may be appropriate depending on surrounding uses.

The property is zoned Agricultural Residential (AR-1) Zoning District. Adjacent parcels to the north, east and west are also zoned Agricultural Residential (AR-1) Zoning District. The properties



to the south on the opposite side of Route 9 are all zoned Agricultural Residential (AR-2). To the east, at the intersection of Lewes-Georgetown Highway (Route 9) and Harbeson Road (Route 5) are several parcels with various zoning designations including General Commercial (C-1), Commercial Residential (CR-1), Medium Density Residential (MR) and Heavy Industrial (HI-1).

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 Low Density Area.

Since 2011, there have been (6) Change of Zone application within a 0.5-mile radius of the application site. The first application is Change of Zone 1726 Robert M. and Sandra E. Davidson for a change of zone from an Agricultural Residential Zoning District (AR-1) to a Commercial Residential District (CR-1) which was approved by the Sussex County Council on Tuesday, March 26, 2013 and adopted through Ordinance No. 2298. The second application is Change of Zone 1778 John Floyd Lingo for a change of zone from an Agricultural Residential Zoning District (AR-1) to a Commercial Residential District (CR-1) which was approved by the Sussex County Council on Tuesday, August 11, 2015 and adopted through Ordinance No. 2412. The third application is Change of Zone 1838 Two Farms, Inc. for a change of zone from an Agricultural Residential Zoning District (AR-1) to a Neighborhood Business District (B-1) which was approved by the Sussex County Council on Tuesday, January 9, 2018 through Ordinance No. 2539. The fourth application is Change of Zone 1868 Ronald Nanney for a change of zone from an Agricultural Residential Zoning District (AR-1) to a Medium Commercial District (C-2) which was denied by the Sussex County Council on Tuesday, April 30, 2019.

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

File #: CZ 1944
202107720

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

25141 Lewes Georgetown Highway, Georgetown, DE 19947

Type of Conditional Use Requested:

N/A; Request for change of zone from AR-1 Agricultural Residential to C2 Medium Commercial District for operation of landscape business with equipment storage.

Tax Map #: 235-30.00-6.20

Size of Parcel(s): +/-3.68 Acres

Current Zoning: AR-1

Proposed Zoning: C-2

Size of Building:

Land Use Classification: Commercial

Water Provider:

Sewer Provider:

Applicant Information

Applicant Name: Executive Lawn Property Management LLC c/o John Huss

Applicant Address: PO Box 91

City: Nassau

State: DE

Zip Code: 19969

Phone #: (302) 664-1439

E-mail: executivelawns1@gmail.com

Owner Information

Owner Name: Executive Lawn Property Management LLC, a Delaware LLC

Owner Address: PO Box 91

City: Nassau

State: DE

Zip Code: 19969

Phone #: (302) 664-1439

E-mail: executivelawns1@gmail.com

Agent/Attorney/Engineer Information

Agent/Attorney/Engineer Name: Baird Mandalas Brockstedt LLC c/o Glenn Mandalas, Esquire

Agent/Attorney/Engineer Address: 1314 Savannah Road, Suite 1

City: Lewes

State: DE

Zip Code: 19958

Phone #: (302) 645-2262

E-mail: mackenzie@bmbde.com



Check List for Sussex County Planning & Zoning Applications

The following shall be submitted with the application

- ☒ **Completed Application**
- ☒ **Provide eight (8) copies of the Site Plan or Survey of the property**
 - Survey shall show the location of existing or proposed building(s), building setbacks, parking area, proposed entrance location, etc.
 - Provide a PDF of Plans (may be e-mailed to a staff member)
 - Deed or Legal description
- ☒ **Provide Fee \$500.00**
- ☒ **Optional - Additional information for the Commission/Council to consider** (ex. architectural elevations, photos, exhibit books, etc.) If provided submit 8 copies and they shall be submitted a minimum of ten (10) days prior to the Planning Commission meeting.
- ☒ **Please be aware that Public Notice will be sent to property owners within 200 feet of the subject site and County staff will come out to the subject site, take photos and place a sign on the site stating the date and time of the Public Hearings for the application.**
- ☒ **DeIDOT Service Level Evaluation Request Response**
- ☐ **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: 4/14/21

Signature of Owner



Date: 4/14/21

For office use only:

Date Submitted: 5/19/21

Staff accepting application: NT

Location of property: _____

Fee: \$500.00 Check #: 3004

Application & Case #: C21944 / 202107720

Subdivision: _____

Date of PC Hearing: _____

Date of CC Hearing: _____

Recommendation of PC Commission: _____

Decision of CC: _____

ORDINANCE NO. 2521

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPE BUSINESS WITH EQUIPMENT STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 3.740 ACRES, MORE OR LESS

WHEREAS, on the 31st day of March 2017, a conditional use application, denominated Conditional Use No. 2093, was filed on behalf of John Huss; and

WHEREAS, on the 24th day of August 2017, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 14th day of September 2017, said Planning and Zoning Commission recommended that Conditional Use No. 2093 be approved with conditions; and

WHEREAS, on the 26th day of September 2017, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2093 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 Broadkill Hundred, Sussex County, Delaware, and lying on the northwest corner of Lewes Georgetown Highway (Route 9) and Prettyman Road, and being more particularly described per the attached deed prepared by Tunnell & Raysor, P.A., said parcel containing 3.740 acres, more or less.

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

This Ordinance was adopted subject to the following conditions:

- A. This use shall be limited to a landscaping business with equipment storage. No retail sales shall be conducted from the site.**
- B. No manufacturing shall occur on the site. This prohibition includes the shredding or grinding of any materials, and also includes the dyeing of mulch or similar materials.**
- C. One lighted sign, not to exceed 32 square feet, located on the side of the building, shall be permitted.**
- D. The hours of operation shall be limited to 6:30 a.m. through 6:00 p.m. Monday through Saturday.**
- E. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.**
- F. The Applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.**
- G. All stormwater management facilities shall be subject to the review and approval of the Sussex Conservation District. The Final Site Plan shall include the approval of the Sussex Conservation District for the design and location of the stormwater management areas.**
- H. As stated by the Applicant, there shall be no dumping on the site, and any dumpsters on the site shall be screened from view of neighboring properties and roadways.**
- I. The Final Site Plan shall clearly show all areas for equipment storage, and parking in these areas shall be clearly marked on the site itself; there shall not be any parking or storage within 60 feet of the front right-of-way line.**
- J. Several nearby property owners wanted the dirt road that runs along the western side of the property to be closed. The Applicant has stated that the area of the existing dirt roadway along the western boundary of the property shall be removed within his property. This shall be shown on the Final Site Plan.**
- K. The Final Site Plan shall be designed to allow interconnectivity with adjacent properties along Route 9 if those properties are developed in the future.**
- L. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.**
- M. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2521 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 26TH DAY OF SEPTEMBER 2017.

**ROBIN A. GRIFFITH
CLERK OF THE COUNCIL**

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

- A. This is the application of John Huss for the consideration of a Conditional Use of land in an AR-1 Agricultural Residential District for a landscape business with equipment storage be located on certain parcel of land lying and being in Broadkill Hundred, Sussex County containing 3.740 acres, more or less (located on the northwest corner of Lewes Georgetown Highway (Route 9) and Prettyman Road) (Tax I.D. No. 235-30.00-6.20) (911 Address: None Available).**
- B. Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that Glen Mandalas, Esquire, with Baird Mandalas Brockstedt, LLC, and Mr. John Huss were present on behalf of the application; that they are proposing a 3,200 square foot building for equipment storage; that vehicles will be stored in the back of the property; that three (3) vehicles will not be located within the building and will be stored behind the building; that he has thirteen (13) employees; that he would like to keep hours of operation of 7 a.m. – 5:00 p.m.; that employees show up on site and pick up a work vehicle and leave so there is not a lot of traffic during the day; that there is no storage of chemicals on the site; that there are no major deliveries to the site; and that they typically load and unload lawn mowers on trucks in the morning that may create some noise.**
- C. Council also found that the Delaware Turkish Educational Foundation is located to the east of the site where they plan to plant an evergreen buffer; that the Deerwood subdivision with approximately sixty-five (65) homes is across the street with some buffer; that to the west of the site is a 48-acre wooded area; that the use is consistent with uses and zonings along Route 9; that there will be no manufacturing or drying of mulch on site; that they will screen the dumpsters; that the applicant is typically on site around 6:30 a.m. to do paperwork and employees show up on site at 7 a.m., leave by 7:30 a.m. and come back no later than 5:30 p.m.; that work on equipment is done elsewhere and not on the site; that they have no mechanic on staff; that they would like a sign on the building; that they will provide low voltage lighting for night; that the Route 9 entrance will be the only access to the site; that he has eight (8) trucks and most are stored within the building; that no materials are stored onsite; that he purchases the material from Stockley Materials and dump at the end of the day there; that he keeps a clean site; that he recognizes the potential for interconnectivity with the adjacent properties; and that there are no deed restrictions regarding the operation of a business on the site.**
- D. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 5) and Conditions (6a. – m.), as amended, Council found that:**
 - 1. The property is located along Route 9, which is an appropriate location for this limited type of use.**
 - 2. The property is zoned AR-1 Agricultural Residential. The use of the property as a landscaping business with equipment storage is consistent with the underlying agricultural zoning of the property.**
 - 3. The applicant has stated that all landscaping work is performed offsite, and that there will not be any dumping on the site. Also, there will not be any major deliveries to the site as part of the business.**

4. There will be no retail sales from the property, and the use is limited in nature. It will not adversely affect neighboring properties, roadways or traffic.
5. The applicant has stated that his landscaping company provides a service to a wide variety of Sussex County residents and businesses. This intended use is of a public or semi-public character that will benefit the residents and businesses of Sussex County.
6. Based on the record and recommendation of the Planning & Zoning Commission, the Conditional Use is approved subject to thirteen (13) conditions (A - M), as amended, which will serve to minimize any potential impacts on the surrounding area and adjoining properties.



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

NICOLE MAJESKI
SECRETARY

March 31, 2021

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

Dear Mr. Whitehouse:

The Department has completed its review of a Service Level Evaluation Request for the **Executive Lawn Property Management LLC, a Delaware LLC** proposed land use application, which we received on March 23, 2021. This application is for an approximately 3.68- acre parcel (Tax Parcel: 235-30.00-6.20). The subject land is located north of Lewes Georgetown Highway (Sussex Road 18). The subject land is currently zoned AR- 1 (Agricultural Residential) with a proposed zoning of C-2 (Medium Commercial) for a landscaping business with equipment storage.

Per the 2019 Delaware Vehicle Volume Summary, the annual average and summer average daily traffic volumes along Lewes Georgetown Highway (Sussex Road 18), from Steiner Road (Sussex Road 320) to Harbeson Road (Sussex Road 22), are 16,128 vehicles per day and 20,738 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
March 31, 2021

Please contact Ms. Annamaria Fumato, at (302) 760-2710, if you have questions concerning this correspondence.

Sincerely,



T. William Brockenbrough, Jr.
County Coordinator
Development Coordination

TWB:aff

cc: Executive Lawn Property Management LLC, a Delaware LLC, Applicant
Russell Warrington, Sussex County Planning & Zoning
Constance C. Holland, Coordinator, Cabinet Committee on State Planning Issues
Todd Sammons, Assistant Director, Development Coordination
Scott Rust, South District Public Works Manager, Maintenance & Operations
Steve McCabe, Sussex County Review Coordinator, Development Coordination
Derek Sapp, Subdivision Manager, Development Coordination
Kevin Hickman, Subdivision Manager, Development Coordination
Brian Yates, Subdivision Manager, Development Coordination
John Andrescavage, Subdivision Manager, Development Coordination
James Argo, South District Project Reviewer, Maintenance & Operations
Troy Brestel, Project Engineer, Development Coordination
Claudy Joinville, Project Engineer, Development Coordination
Annamaria Fumato, Project Engineer, Development Coordination

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

TO: **Jamie Whitehouse**

REVIEWER: **Chris Calio**

DATE: **11/23/2021**

APPLICATION: **CZ 1944 Executive Lawn Property Management, LLC**

APPLICANT: **Executive Lawn Property Management, LLC**

FILE NO: **NCPA-5.03**

TAX MAP &
PARCEL(S): **235-30.00-6.20**

LOCATION: **Lying on the northwest corner of Lewes-Georgetown Highway
(Rt. 9) and Prettyman Road**

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

GROSS
ACREAGE: **3.68**

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 3**
- (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? **N/A** If yes, how many? **N/A**. Is it likely that additional SCCs will be required? **N/A** If yes, the current System Connection Charge Rate is **Unified \$6,600.00** per EDU. Please contact **N/A** at **302-855-7719** for additional information on charges.

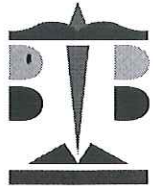
- (6). Is the project capable of being annexed into a Sussex County sanitary sewer district? **N/A**
- ☐ Attached is a copy of the Policy for Extending District Boundaries in a Sussex County Water and/or Sanitary Sewer District.
- (7). Is project adjacent to the Unified Sewer District? **No**
- (8). Comments: **The proposed CZ is not in an area where the Sussex County Engineering Department has a schedule to provide sanitary sewer service at this time.**
- (9). Is a Sewer System Concept Evaluation required? **Not at this time**
- (10). Is a Use of Existing Infrastructure Agreement Required? **Not at this time**
- (11). **All residential roads must meet or exceed Sussex County minimum design standards.**

UTILITY PLANNING & DESIGN REVIEW APPROVAL:



John J. Ashman
Sr. Manager of Utility Planning & Design Review

Xc: Hans M. Medlarz, P.E.
Lisa Walls
No Permit Tech Assigned



BAIRD
MANDALAS
BROCKSTEDT LLC

EXHIBIT A

Property and Deed Information

Property Information

| | |
|------------------------|----------------------------|
| Property Location: | 25141 LEWES GEORGETOWN HWY |
| Unit: | |
| City: | GEORGETOWN |
| State: | DE |
| Zip: | 19947 |
| Class: | COM-Commercial |
| Use Code (LUC): | CO-COMMERCIAL |
| Town: | 00-None |
| Tax District: | 235 -- BROAD KILL |
| School District: | 1 - INDIAN RIVER |
| Council District: | 3-Schaeffer |
| Fire District: | 77-Georgetown |
| Deeded Acres: | 3.6800 |
| Frontage: | 0 |
| Depth: | .000 |
| Irr Lot: | |
| Zoning 1: | - |
| Zoning 2: | - |
| Plot Book Page: | 278 13/PB |
| 100% Land Value: | \$18,400 |
| 100% Improvement Value | \$24,500 |
| 100% Total Value | \$42,900 |

Legal

| | |
|-------------------|------------------------|
| Legal Description | LOT 1 W / IMPROVEMENTS |
|-------------------|------------------------|

Owners

| | | | | | |
|-------------------------|----------------|-----------|--------|-------|-------|
| Owner | Co-owner | Address | City | State | Zip |
| EXECUTIVE LAWN PROPERTY | MANAGEMENT LLC | PO BOX 91 | NASSAU | DE | 19969 |

Sales

| | | | | | |
|------------|-----------|--------------|-------------|--------------|-------------------------|
| Sale Date | Book/Page | Sale Price | Stamp Value | Parcels Sold | Grantee/Buyer |
| 06/06/2018 | 4899/79 | \$185,000.00 | | | EXECUTIVE LAWN PROPERTY |

Owner History

| | | | | | | | |
|-----------|-------------------------|----------------|--------------|--------|--------|-------|-----------------|
| Tax Year: | Owner: | Co-owner | Address: | City: | State: | Zip: | Deed Book/Page: |
| 2020 | EXECUTIVE LAWN PROPERTY | MANAGEMENT LLC | PO BOX 91 | NASSAU | DE | 19969 | 4899/79 |
| 2019 | EXECUTIVE LAWN PROPERTY | MANAGEMENT LLC | PO BOX 91 | NASSAU | DE | 19969 | 4899/79 |
| 2018 | EXECUTIVE LAWN PROPERTY | MANAGEMENT LLC | 113 FALLS RD | MILTON | DE | 19968 | 4899/79 |
| 2017 | EXECUTIVE LAWN PROPERTY | MANAGEMENT LLC | 113 FALLS RD | MILTON | DE | 19968 | 4899/79 |

Land

| | | | | | | |
|------|-------|---------------|-----------|-------|--------------|----|
| Line | Class | Land Use Code | Act Front | Depth | Deeded Acres | Ag |
| 1 | RES | CO | 0 | 0 | 3.6800 | |

Land Summary

| | |
|-----------------|--------|
| Line | 1 |
| 100% Land Value | 18,700 |

100% Values

100% Land Value
\$18,400

100% Improv Value
\$24,500

100% Total Value
\$42,900

50% Values

50% Land Value,
\$9,200

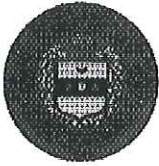
50% Improv Value
\$12,250

50% Total Value
\$21,450

Permit Details

| Permit Date: | Permit #: | Amount: | Note 1 |
|--------------|-----------|----------|--------------------------------------------------------|
| 05-SEP-2018 | 201805920 | \$50,000 | EXECUTIVE LAWNS PROPERTY MANAGEMENT LLC - STORAGE BLDG |

***** Electronically Recorded Document *****

**Sussex County**

Scott Dailey
Recorder of Deeds
Georgetown, DE 19947

Instrument Number: 2018-20515

Parties:

Recorded As: EREC-DEED

Direct- PRETTYMAN SANDRA M

Recorded On: June 06, 2018

Indirect- EXECUTIVE LAWN PROPERTY MANAGEMENT LLC

Recorded At: 02:50:14 pm

Receipt Number: 871971

Number of Pages: 4

Processed By: Sue D

Book-VI/Pg: Bk-D VI-4899 Pg-79

Total Rec Fee(s): \$7,458.00

** Examined and Charged as Follows **

RECEIVED ASSESSMENT DIVISION OF SUSSEX COUNTY

Erec-D \$ 58.00

| | Tax Amount | Consid Amt | RS#/CS# | | |
|----------------------------|------------|--------------|---------|-------------------|------------|
| STATE AND COUNTY OF SUSSEX | \$ 7400.00 | \$ 185000.00 | | State of Delaware | \$ 4625.00 |
| | | | | Sussex County | \$ 2775.00 |

Tax Charge: \$ 7400.00

I hereby certify that the within and foregoing was recorded in the Recorder's Office in Sussex County

DO NOT REMOVE - THIS PAGE IS PART OF THE RECORDED DOCUMENT

TAX MAP AND PARCEL #: 2-35 30.00 6.20
PREPARED BY & RETURN TO:
Baird Mandalas Brockstedt
6 S. State Street
Dover, DE 19901
File No. RE18-0005/MW

NO NEW SURVEY MADE OR REQUESTED

THIS DEED, made this 31st day of May, 2018,

- BETWEEN -

SANDRA M. PRETTYMAN, of 26068 Prettyman Road, Georgetown, DE 19947, party of the first part,

- AND -

EXECUTIVE LAWN PROPERTY MANAGEMENT LLC, a Delaware Limited Liability Company, of 113 Falls Road, Milton, DE 19968, party of the second part.

WITNESSETH: That the said party of the first part, for and in consideration of the sum of **One Hundred Eighty-Five Thousand and 00/100 Dollars (\$185,000.00)**, lawful money of the United States of America, the receipt whereof is hereby acknowledged, hereby grants and conveys unto the party of the second part, and its heirs and assigns, in fee simple, the following described lands, situate, lying and being in Sussex County, State of Delaware:

ALL that certain lot, piece or parcel of land, lying and being situated in Broadkill Hundred, Sussex County, State of Delaware, being designated as Lot 1, "Subdivision Survey Plan Prepared for Sandra M. Prettyman", prepared by Adams-Kemp Associates, Inc., Professional land Surveyors, as per Survey Plan No. 160615-D recorded in Plot Book 237, Page 78 in the Office of the Recorder of Deeds in and for Sussex County in the County Administration Building in Georgetown, Delaware, more particularly described as follows to wit:

BEGINNING at a found concrete monument along the northerly right of way line of U.S. Route 9 (A.K.A. Seashore Highway at 60 feet wide) at a corner for this lot and lands now or formerly of the American Turkish Friendship Association; said found concrete monument being located 2,728 feet in a Westerly direction from County Road 254; thence along the Northerly right of way line of U.S. Route 9, South 69 deg. 27 min. 03 sec. West 246.07 feet to a found concrete monument at a corner for this lot and lands now or formerly of John Floyd Lingo,

Trustee, et al.; Thence along the line of lands now or formerly of John Floyd Lingo, Trustee, et al., North 16 deg. 21 min. 03 sec. West 774.89 feet to a set iron bar; thence along a new line, North 86 deg. 06 min. 39 sec. East 197.79 feet to a set iron bar along the line of lands now or formerly of the American Turkish Friendship Association; Thence along the line of lands now or formerly of the American Turkish Friendship Association, South 20 deg. 32 min. 14 sec. East 716.12 feet to the point and place of beginning. Containing with described metes and bounds 3.740 acres of lands be the same more or less.

BEING part of the same lands conveyed to Francis H. Prettyman and Sandra Prettyman from Francis H. Prettyman, Jr. and Francis H. Prettyman and Sandra M. Prettyman, by deed dated February 11, 2014 and recorded in the Office of the Recorder of Deeds in and for Sussex County, Delaware in Deed Book 4226, Page 280.

Francis H. Prettyman did depart this life on or about February 22, 2015 leaving Sandra Prettyman as the surviving joint tenant.

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

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

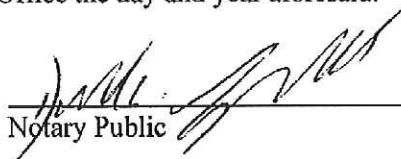
Signed, Sealed and Delivered
in the presence of:

 (SEAL)
Sandra M. Prettyman

STATE OF FLORIDA, COUNTY OF Miami : to-wit

BE IT REMEMBERED, that on ^{31st} June 31, 2018, personally came before me, the subscriber, Sandra M. Prettyman, party of the first part to this Indenture, known to me personally to be such, and acknowledged this Indenture to be her act and deed.

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



Notary Public



DAVID C. SHEPHERD
MY COMMISSION # GG 052274
EXPIRES: December 4, 2020
Bonded Third Budget Notary Services

My Commission Expires: 12-4-2020

ORDINANCE NO. 2521

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPE BUSINESS WITH EQUIPMENT STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 3.740 ACRES, MORE OR LESS

WHEREAS, on the 31st day of March 2017, a conditional use application, denominated Conditional Use No. 2093, was filed on behalf of John Huss; and

WHEREAS, on the 24th day of August 2017, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 14th day of September 2017, said Planning and Zoning Commission recommended that Conditional Use No. 2093 be approved with conditions; and

WHEREAS, on the 26th day of September 2017, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2093 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 Broadkill Hundred, Sussex County, Delaware, and lying on the northwest corner of Lewes Georgetown Highway (Route 9) and Prettyman Road, and being more particularly described per the attached deed prepared by Tunnell & Raysor, P.A., said parcel containing 3.740 acres, more or less.

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

This Ordinance was adopted subject to the following conditions:

- A. This use shall be limited to a landscaping business with equipment storage. No retail sales shall be conducted from the site.**
- B. No manufacturing shall occur on the site. This prohibition includes the shredding or grinding of any materials, and also includes the dyeing of mulch or similar materials.**
- C. One lighted sign, not to exceed 32 square feet, located on the side of the building, shall be permitted.**
- D. The hours of operation shall be limited to 6:30 a.m. through 6:00 p.m. Monday through Saturday.**
- E. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.**
- F. The Applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.**
- G. All stormwater management facilities shall be subject to the review and approval of the Sussex Conservation District. The Final Site Plan shall include the approval of the Sussex Conservation District for the design and location of the stormwater management areas.**
- H. As stated by the Applicant, there shall be no dumping on the site, and any dumpsters on the site shall be screened from view of neighboring properties and roadways.**
- I. The Final Site Plan shall clearly show all areas for equipment storage, and parking in these areas shall be clearly marked on the site itself; there shall not be any parking or storage within 60 feet of the front right-of-way line.**
- J. Several nearby property owners wanted the dirt road that runs along the western side of the property to be closed. The Applicant has stated that the area of the existing dirt roadway along the western boundary of the property shall be removed within his property. This shall be shown on the Final Site Plan.**
- K. The Final Site Plan shall be designed to allow interconnectivity with adjacent properties along Route 9 if those properties are developed in the future.**
- L. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.**
- M. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2521 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 26TH DAY OF SEPTEMBER 2017.

**ROBIN A. GRIFFITH
CLERK OF THE COUNCIL**

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

- A. This is the application of John Huss for the consideration of a Conditional Use of land in an AR-1 Agricultural Residential District for a landscape business with equipment storage be located on certain parcel of land lying and being in Broadkill Hundred, Sussex County containing 3.740 acres, more or less (located on the northwest corner of Lewes Georgetown Highway (Route 9) and Prettyman Road) (Tax I.D. No. 235-30.00-6.20) (911 Address: None Available).**
- B. Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that Glen Mandalas, Esquire, with Baird Mandalas Brockstedt, LLC, and Mr. John Huss were present on behalf of the application; that they are proposing a 3,200 square foot building for equipment storage; that vehicles will be stored in the back of the property; that three (3) vehicles will not be located within the building and will be stored behind the building; that he has thirteen (13) employees; that he would like to keep hours of operation of 7 a.m. – 5:00 p.m.; that employees show up on site and pick up a work vehicle and leave so there is not a lot of traffic during the day; that there is no storage of chemicals on the site; that there are no major deliveries to the site; and that they typically load and unload lawn mowers on trucks in the morning that may create some noise.**
- C. Council also found that the Delaware Turkish Educational Foundation is located to the east of the site where they plan to plant an evergreen buffer; that the Deerwood subdivision with approximately sixty-five (65) homes is across the street with some buffer; that to the west of the site is a 48-acre wooded area; that the use is consistent with uses and zonings along Route 9; that there will be no manufacturing or drying of mulch on site; that they will screen the dumpsters; that the applicant is typically on site around 6:30 a.m. to do paperwork and employees show up on site at 7 a.m., leave by 7:30 a.m. and come back no later than 5:30 p.m.; that work on equipment is done elsewhere and not on the site; that they have no mechanic on staff; that they would like a sign on the building; that they will provide low voltage lighting for night; that the Route 9 entrance will be the only access to the site; that he has eight (8) trucks and most are stored within the building; that no materials are stored onsite; that he purchases the material from Stockley Materials and dump at the end of the day there; that he keeps a clean site; that he recognizes the potential for interconnectivity with the adjacent properties; and that there are no deed restrictions regarding the operation of a business on the site.**
- D. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 5) and Conditions (6a. – m.), as amended, Council found that:**
 - 1. The property is located along Route 9, which is an appropriate location for this limited type of use.**
 - 2. The property is zoned AR-1 Agricultural Residential. The use of the property as a landscaping business with equipment storage is consistent with the underlying agricultural zoning of the property.**
 - 3. The applicant has stated that all landscaping work is performed offsite, and that there will not be any dumping on the site. Also, there will not be any major deliveries to the site as part of the business.**

4. There will be no retail sales from the property, and the use is limited in nature. It will not adversely affect neighboring properties, roadways or traffic.
5. The applicant has stated that his landscaping company provides a service to a wide variety of Sussex County residents and businesses. This intended use is of a public or semi-public character that will benefit the residents and businesses of Sussex County.
6. Based on the record and recommendation of the Planning & Zoning Commission, the Conditional Use is approved subject to thirteen (13) conditions (A - M), as amended, which will serve to minimize any potential impacts on the surrounding area and adjoining properties.

THE MINUTES OF THE REGULAR MEETING OF OCTOBER 1, 2019

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, October 1, 2019, in the County Council Chamber, Sussex County Administration Office Building, Georgetown, Delaware.

The meeting was called to order at 6:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Ms. Kim Hoey-Stevenson, Mr. Keller Hopkins, Ms. Holly Wingate, Mr. J. Bruce Mears, with Mr. Vincent Robertson – Assistant County Attorney, Ms. Janelle Cornwell – Director of Planning & Zoning, Mr. Jamie Whitehouse – Planning & Zoning Manager and Mrs. Samantha Bulkilvish – Planner I.

Chairman Wheatley announced that the hearing for C/U 2189 Grace Malone, would not be heard by the Commission at this meeting and would be re-advertised for a future meeting of the Planning & Zoning Commission. Motion by Ms. Wingate, seconded by Mr. Hopkins and carried unanimously to approve the Agenda as posted and circulated and with the removal of case C/U 2189 Grace Malone. Motion carried 5-0.

PUBLIC HEARINGS

Mr. Robertson described the procedures for the public hearings before the Planning and Zoning Commission.

C/U 2189 Grace Malone

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for an events venue to be located on a certain parcel of land lying and being in Little Creek Hundred, Sussex County, containing 4.59 acres. The property being a landlocked parcel of land lying on the south side of Laurel Road, approximately 0.38 miles east of Sussex Highway (Route 13). 911 Address: N/A. Tax Parcel: 332-2.00-75.00.

Chairman Wheatley announced that the hearing for C/U 2189 Grace Malone, would not be heard by the Commission at this meeting and would be re-advertised for a future meeting of the Planning & Zoning Commission.

C/Z 1890 W&B Hudson Family Ltd

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District and an MR Medium Density Residential District to a C-3 Heavy Commercial District for a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 37.08 acres, more or less. The property is lying on the south side of Lewes-Georgetown Highway (Route 9), approximately 340 feet east of Harbeson Road (Route 5) and on the east side of Harbeson Road (Route 5), approximately 456 feet south of Lewes-Georgetown Highway (Route 9). 911 Address: N/A. Tax Parcels: 235-30.00-62.00, 64.00, 66.00, 67.00, 70.00, & 72.00.

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, a Site Plan, and Exhibit Booklet, the Applicant's response back to the Preliminary Land Use Service

S-19-31 Lands of Robert & Debora Reed

Preliminary Site Plan

Ms. Bulkilvish advised the Commission that this is a Preliminary Site Plan for 24 single-family condominium units, parking and other site improvements to be located off Savannah Road. A Conditional Use for multi-family dwellings in a Medium Residential Zoning District was approved on June 18, 2019, by the Sussex County Council. The Preliminary Site Plan complies with the Zoning Code. Tax Parcel: 335-12.06-1.00. Zoning: MR (Medium Residential District). Staff are awaiting agency approvals.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to approve the Preliminary Site Plan with final by staff subject to receipt of all agency approval. Motion carried 5-0.

2018-03 Fox Haven II Subdivision

Preliminary Amenities Plan

Ms. Bulkilvish advised the Commission that this is a Preliminary Amenity Site Plan for the construction of a clubhouse, swimming pool, and other site improvements. The Planning and Zoning Commission approved Phase 1 of the Fox Haven Subdivision on February 28, 2019, for 47 lots of the 95 single-family lots. The Planning and Zoning Commission approved the request to amend the wording of Condition H, *"The development shall be served by its own on-site active amenities such as pool and clubhouse. The developer shall begin construction of the active amenities before the issuance of the 30th residential Building Permit and the developer shall complete all amenities prior to the issuance of the 60th residential Building Permit"*. The Preliminary Amenities Site Plan complies with the Zoning Code. Tax Parcel: 533-11.00-48.02. Zoning: GR (General Residential Zoning District). The staff is in receipt of all necessary agency approvals.

Motion by Mr. Hopkins, seconded by Ms. Stevenson and carried unanimously to approve the Preliminary Amenities Plan and Final Amenities Plan. Motion carried 4-0. Ms. Wingate abstained.

2017-15 Kindleton

Preliminary Amenities Plan

Ms. Bulkilvish advised the Commission that this is a Preliminary Amenities Site Plan for the construction of a bathhouse, swimming pool, and other site improvements. The Final Subdivision Plan was approved for 90-lots by the Planning and Zoning Commission on March 14, 2019. The approval included Condition K *"The developer shall complete all amenities within 2 years of the issuance of the first residential Building Permit."* The Preliminary Amenities Site Plan complies with the Zoning Code. Tax Parcel: 334-11.00-81.06. Zoning: AR-1 (Agricultural Residential Zoning District). The staff is in receipt of all agency approvals.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously to approve the Preliminary Amenities Plan and a Final. Motion carried 5-0.

Jay Huss (CU 2093)

Request for Clarification of Conditions of Approval

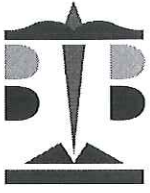
Mr. Whitehouse advised the Commission that this is a request for clarification of Conditions of approval associated with Conditional Use 2093 approved by County Council on September 26, 2017. Condition 'A' requires that *"This use shall be limited to a landscaping business with equipment storage. No retail sales shall be conducted from the site"*. Following discussions with Staff, the Applicant is requesting clarification as to two matters. The first matter is whether the proposed additional business activity falls within the definition of *"nursery"* and the second matter is whether the effect of Condition 'A' is to prevent use of part of the site for the activities proposed. The Applicant has stated that, in addition to the landscape business, they would like to acquire a stock of plants off-premises to be kept, maintained, nurtured, treated, and possibly re-potted on-premises. Mature plants would eventually be used in connection with Mr. Huss' lawn care and landscaping business or sold to the public from the premises. The Applicant does not propose the sale of any gardening tools or hardscaping materials and does not desire to construct any additional permanent structures on the property. The Applicant has submitted a supporting letter, outlining that they believe the activity described to fall within the definition of a *"nursery"*, and that case law suggests that Conditions of Approval for a Conditional Use cannot prohibit use that is otherwise permitted within the AR-1 Zoning District. Tax Parcel 235-30.00-6.20. Zoning: AR-1 (Agricultural Residential Zoning District).

Mr. Robertson stated can they have a nursery on the site that has a Conditional Use on the site; that a nursery is a permitted use in AR-1 (Agricultural Residential District) just like farming or placing a house on the site; that the Commission cannot through the Conditional Use process effectively 'un-permit' something that is permitted by the Zoning Code; that Chairman Wheatley stated a Conditional Use is for something additional; that if it is permitted under the AR-1 District then it is permitted; that there was a prohibition on retail sales but that would be the type of things that would not be permitted through the underlying AR-1 Zone; that the extra activity would include the sale of materials; that Mr. Robertson stated yes it would be an extra activity for the sales of materials; that the Applicant would still have to comply with what a nursery is; that it was approved as a landscape with equipment storage business and if there are plants on the site, it would be used as part of the landscaping business; that there is a definition for nurseries that talks about growing plants, trees, and shrubs; that if they can do a nursery that is permitted in a AR-1 District, the question is whether they are just brining in truck loads of nursery products and putting them out for sale the site and whether is that a nursery or not; that if truck loads of plants are being brought to the property and the plants are not then planted, is that a nursery or not; that for an example, like a commercial garden center such as Lowes; that if a nursery is permitted, then they would have to operate like a nursery; that Ms. Stevenson asked if the Applicant would have to plant all the plants that are on the property; that Mr. Robertson stated that not all the plants would need to be planted; that there has to be some element of growing the plants; that whether it is making the plants larger or growing the plants from a seed; that they cannot just pull the plants off the truck and sell them; that there would have to be some agricultural step in the process; that Chairman Wheatley asked what the Applicant is representing that he would be doing; that Mr. Robertson stated the Applicant would like to *"acquire stocks of plants off premise to be kept and maintained, nurtured, treated, and possibly repotted on the premises; that the mature plants would eventually be used in connection with the Applicants lawn care and landscaping business or sold to the public"*; that Chairman Wheatley stated that if it was a wholesale retail activity it would likely be a violation; that the way it was presented to the Commission, it appears that it conforms to the underlying Zoning; that Ms. Stevenson questioned the reasoning for originally prohibiting

retail sales and whether this was because the Commission did not want this to be a spot that people were pulling into and out of all the time; that Mr. Robertson stated there was an access road from Route 9 all the way back to Prettyman Road and one of the conditions imposed was that access road be closed off because the residents behind the property wanted the access road closed; and that there were some neighbor concerns and the concerns went away once the road was closed. The Commission agreed that wholesale retail activities were no, however, permitted.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to clarify that the nursery operations described by the Applicant would be permitted on this property, with the clarification that there is a prohibition on direct wholesaling/retail activity, for Jay Huss Conditional Use 2093. Motion carried 5-0.

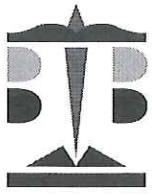
Meeting adjourned at 7:57 p.m.



BAIRD
MANDALAS
BROCKSTEDT LLC

EXHIBIT B

Survey



BAIRD
MANDALAS
BROCKSTEDT LLC

EXHIBIT C

County Code

Chapter 115. Zoning

Article XXVIII. Administration and Enforcement

§ 115-216. Changes and amendments.

- A. Initiation of change. The County Council may from time to time amend, supplement or change, by ordinance, the boundaries of the districts or the regulations herein established. Any such amendment may be initiated by resolution of the County Council or by motion of the Planning and Zoning Commission or by petition of any property owner addressed to the County Council. Petitions for change or amendment shall be on forms and filed in a manner prescribed by the Planning and Zoning Commission.
- B. Report from Planning and Zoning Commission. Before taking any action on any proposed amendment, supplement or change, the County Council shall submit the same to the Planning and Zoning Commission for its recommendations and report. Failure of the Commission to report within 45 days after the first meeting of the Planning and Zoning Commission after the proposal has been referred to the Planning and Zoning Commission shall be deemed approval.
- C. Notice and hearings. The Planning and Zoning Commission shall hold a public hearing on any proposed amendment, supplement or change before submitting its report to the County Council and, for this purpose, may request the submission of all pertinent data and information by any person concerned. Before acting on any report by the Planning and Zoning Commission concerning a proposed amendment, supplement or change, the County Council shall hold a public hearing thereon.
- D. Reconsideration, one-year limitation. Whenever a petition requesting an amendment, supplement or change has been denied by the County Council, such petition or one substantially similar shall not be reconsidered sooner than one year after the previous denial; provided, however, that if a petitioner, applicant or appellant fails to appear, or appear by agent, at the scheduled hearing for reasons beyond his control, the applicant may submit a petition for reconsideration as set forth in the County Council's Rules of Procedure. The petition shall be submitted within 15 days and contain facts sufficient to demonstrate the failure to appear was beyond applicant's control. After discussion, if the failure to appear occurred before the Planning and Zoning Commission, the Planning and Zoning Commission shall vote to approve or deny the request for reconsideration or, if the failure to appear occurred before the County Council, the Council shall vote to approve or deny the request for reconsideration; provided, however, that the County Council shall not act upon any matter in which the applicant failed to appear before the Planning and Zoning Commission. If a majority of members of the Planning and Zoning Commission or the County Council, as applicable, vote to approve reconsideration of the application, the public hearing will be rescheduled.
[Amended 5-5-2015 by Ord. No. 2396]
- E. Withdrawal. A petition requesting an amendment, supplement or change, by ordinance, of the boundaries of a zoning district of the county's zoning regulations may not be withdrawn within two business days prior to the day of the holding of the public hearing before the County Council;

provided, however, that a petition may be withdrawn thereafter for good cause shown if a majority of the members of the County Council shall vote to allow such withdrawal.

[Added 11-26-1991 by Ord. No. 804]

- F. Failure to appear. If a petitioner, applicant or appellant fails to appear, or appear by agent, or fails to withdraw his application as provided for in Subsection **E** hereof, a petition requesting an amendment, supplement or change substantially similar shall not be reconsidered sooner than one year after the previous failure to appear or failure to withdraw, unless the applicant's failure to appear was beyond his control and the applicant's petition for reconsideration is approved in accordance with Subsection **D** hereof.

[Added 11-26-1991 by Ord. No. 804; amended 5-5-2015 by Ord. No. 2396]

Chapter 115. Zoning

Article XIB. C-2 Medium Commercial District

[Added 2-27-2018 by Ord. No. 2550]

§ 115-83.10. Purpose.

This district supports uses that include retail sales and performance of consumer services. It permits a variety of retail, professional and services businesses. The district shall be primarily located near arterial and collector streets. It accommodates community commercial uses that do not have outside storage or sales.

§ 115-83.11. Permitted uses.

A. A building or land shall only be used for the following purposes or uses:

(1) Agricultural-related uses.

(a) Wholesale, retail nurseries for sale of products produced on site.

(2) Residential uses.

(a) Bed-and-breakfast (tourist homes).

(b) Hotel, motel or motor lodge.

(3) Sales and rental of goods, merchandise and equipment.

(a) Convenience store.

(b) Convenience store, fuel station (one to six fuel dispensers; no restrictions on number of nozzles).

(c) Retail sales establishments 75,000 square feet or less.

(d) Pharmacy or related uses 35,000 square feet or less.

(e) Restaurants.

(f) Brew pubs.

(g) Wholesale trade establishments.

(4) Office, clerical, research, personal service and similar enterprises not primarily related to goods.

(a) Business service establishments.

- (b) Banks.
- (c) Professional offices.
- (d) Personal service establishments.
- (e) Entertainment establishments.
- (f) Social service establishments.
- (5) Manufacturing, assembling, processing.
 - (a) Winery, brewery or distillery under 7,500 square feet.
- (6) Educational, cultural, religious, philanthropic, social, fraternal.
 - (a) Recreational facility (indoor).
 - (b) Club indoor, private, such as clubs, lodges, and other annual membership clubs.
 - (c) Places of worship.
- (7) Institutional, residence, care, confinement and medical facilities.
 - (a) Family day-care center (one to six children).
 - (b) Large family child-care homes (seven to 12 children).
 - (c) Early care and education and school-age centers (13+ children).
 - (d) Residential child-care facilities and day treatment programs.
 - (e) Child placing agencies.
 - (f) Medical clinics.
 - (g) Independent care facility.
 - (h) Assisted living facility.
 - (i) Extended care facility.
 - (j) Intermediate care facility.
 - (k) Long-term care facility.
 - (l) Fitness/wellness center.
 - (m) Museums, non-profit art galleries.
 - (n) Community centers.
- (8) Storage and parking.
 - (a) Self-storage facility.
 - (b) Warehouse.
- (9) Public, semi-public, utilities, emergency.

- (a) Government facilities and services.
 - (b) Parks.
 - (c) Public safety facilities including ambulance, fire, police, rescue and national security.
 - (d) Utility service facilities.
 - (e) Communication towers.
 - (f) Recreational facilities, government.
- (10) Not grouped elsewhere.
- (a) Funeral home.
 - (b) Animal hospital and veterinary clinics.
 - (c) Use of a manufactured-home-type structure for any business, commercial or industrial use that is administratively approved by the Director or his or her designee, and subject to the requirements set forth in Article IV, § 115-20A(16).
[Added 10-22-2019 by Ord. No. 2684]
- B. Where, in the judgment of the Commission, a use is not specifically referenced but is similar to those listed as permitted, it may be permitted by approval of the Commission.
- C. No outside storage or sales are permitted in this district.

§ 115-83.12. Permitted accessory uses.

Permitted accessory uses are as follows:

- A. Residential within structure commercial or business uses.
- B. Garage, public or commercial parking.
- C. Temporary buildings, including manufactured home type structures, the use of which is incidental to construction operations or sale of lots during development being conducted on the same or adjoining tract or subdivision and which shall be removed upon completion or abandonment of such construction or upon expiration of a period of two years of the time of erection of the temporary building, whichever is sooner. If construction operations or the initial sale of lots remain actively underway, the Director may grant extensions to this time period.
[Added 10-8-2019 by Ord. No. 2683]

§ 115-83.13. Special use exceptions.

Special use exceptions may be permitted by the Board of Adjustment and in accordance with the provisions of Article XXVII of this chapter, and may include:

- A. Exceptions to parking and loading requirements, as follows:
 - (1) Off-street parking areas, adjacent to or at a reasonable distance from the premises on which parking areas are required by the parking regulations of Article XXII, where practical difficulties, including the acquisition of property, or undue hardships are encountered in locating such parking areas on the premises and where the purpose of these regulations to relieve congestion in the streets would be best served by permitting such parking off the premises.

- (2) Waiver or reduction of the parking and loading requirement in any district whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities.
- (3) Waiver or reduction of loading space requirements where adequate community loading facilities are provided.
- (4) Waiver or reduction of loading space requirements for uses which contain less than 10,000 square feet of floor area where construction of existing buildings, problems of access or size of lot make impractical the provision of required loading space.

B. Temporary and conditional permits for a period not to exceed five years, such period to be determined by the Board, for the following uses:

[Added 10-22-2019 by Ord. No. 2684]

- (1) Use of a manufactured-home-type structure for any business, commercial or industrial use when not approved administratively by the Director or his or her designee.

§ 115-83.14. Permitted signs.

See Article **XXI**, §§ **115-159.5** for signs permitted in the C-2 District and other regulations relating to signs.

§ 115-83.15. Height, area and bulk requirements.

A. Minimum lot sizes. Minimum lot sizes shall be as follows:

| Use | Minimum Area** (square feet) | Maximum Area** (square feet) | Width* (feet) | Depth (feet) |
|---------------|---------------------------------|---------------------------------|------------------|-----------------|
| All permitted | 15,000 | — | 75 | 100 |

* NOTE: A lot fronting on a numbered road shown on the General Highway Map for Sussex County of 1964, as revised, shall have a minimum lot width of 150 feet.

** NOTE: Any lot which is not connected to a central sewer system, as defined by § **115-194A**, or which is located within a planning area as defined by a sewer planning study approved by the Sussex County Council, shall have a minimum area of 3/4 acre.

B. Minimum yard requirements.

- (1) Minimum yard requirements shall be as follows, except that, in addition, the requirements relating to minimum buffers and setbacks contained in § **115-194.1E** of this Code shall apply to all uses other than single-family dwellings and multifamily structures:

| Use | Depth of Front Yard (feet) | Width of Side Yard (feet) | Depth of Rear Yard (feet) |
|---------------|-------------------------------|------------------------------|------------------------------|
| All permitted | 60 | 5 | 5 |

- (2) There shall be a side yard not less than 20 feet in width on the side of the lot adjoining a residential district, and there shall be a rear yard not less than 30 feet in depth on the rear side of a lot adjoining a residential district.

C. Maximum floor area requirement. Maximum floor area requirements shall be as follows:

| Use | Maximum Floor Area (square feet) |
|---------------|---------------------------------------------|
| All permitted | 75,000 |

D. Maximum height requirement. Maximum height requirements shall be as follows:

| Use | Feet |
|---------------|-------------|
| All permitted | 42 |

§ 115-83.16. Reference to additional regulations.

The regulations contained in this article are supplemented or modified by regulations contained in other articles of this chapter, especially the following:

Article I, § 115-4, Definitions and word usage

Article XX, Tables

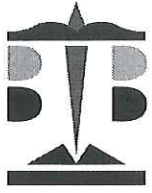
Article XXI, Signs

Article XXII, Off-Street Parking

Article XXIII, Off-Street Loading

Article XXV, Supplementary Regulations

Article XXVII, Board of Adjustment



BAIRD
MANDALAS
BROCKSTEDT LLC

EXHIBIT D

Zoning Map

Sussex County

A horizontal scale bar with two sets of markings. The top set is labeled 'mi' and has markings at 0, 0.45, 0.9, and 1.8. The bottom set is labeled 'km' and has markings at 0, 0.5, 1, and 2. The scale bar is used to indicate the distance between the two sampling locations.

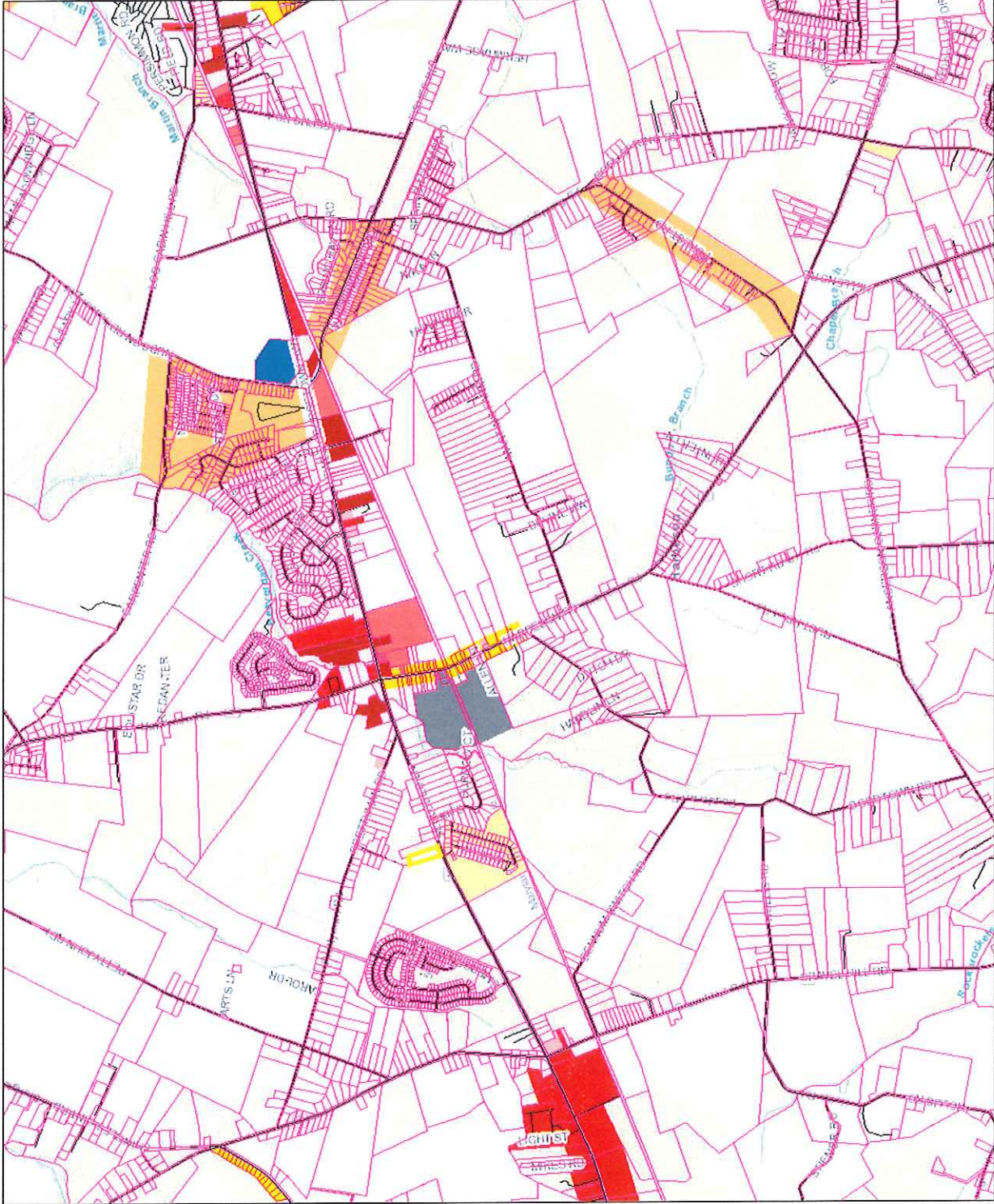
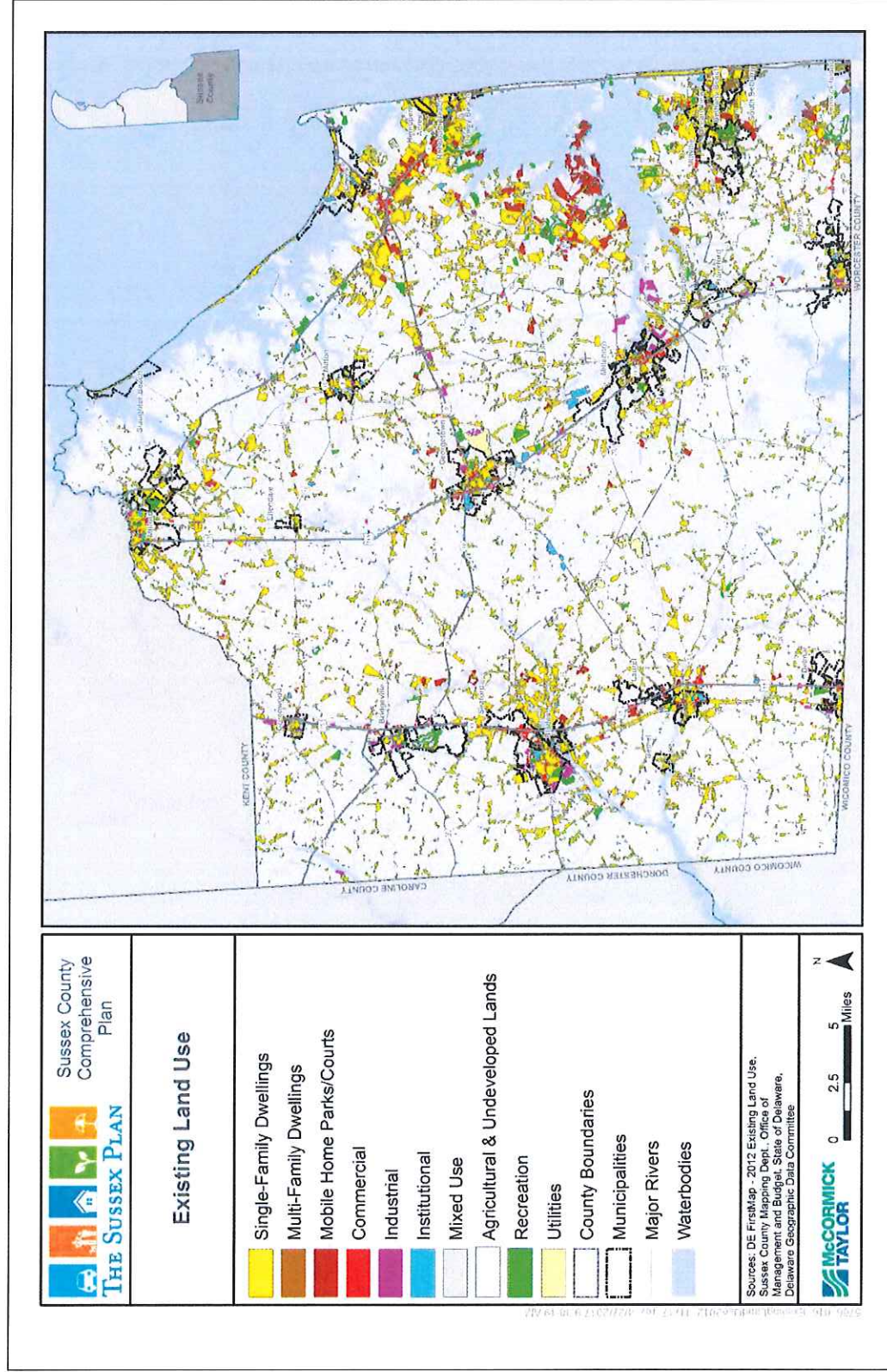
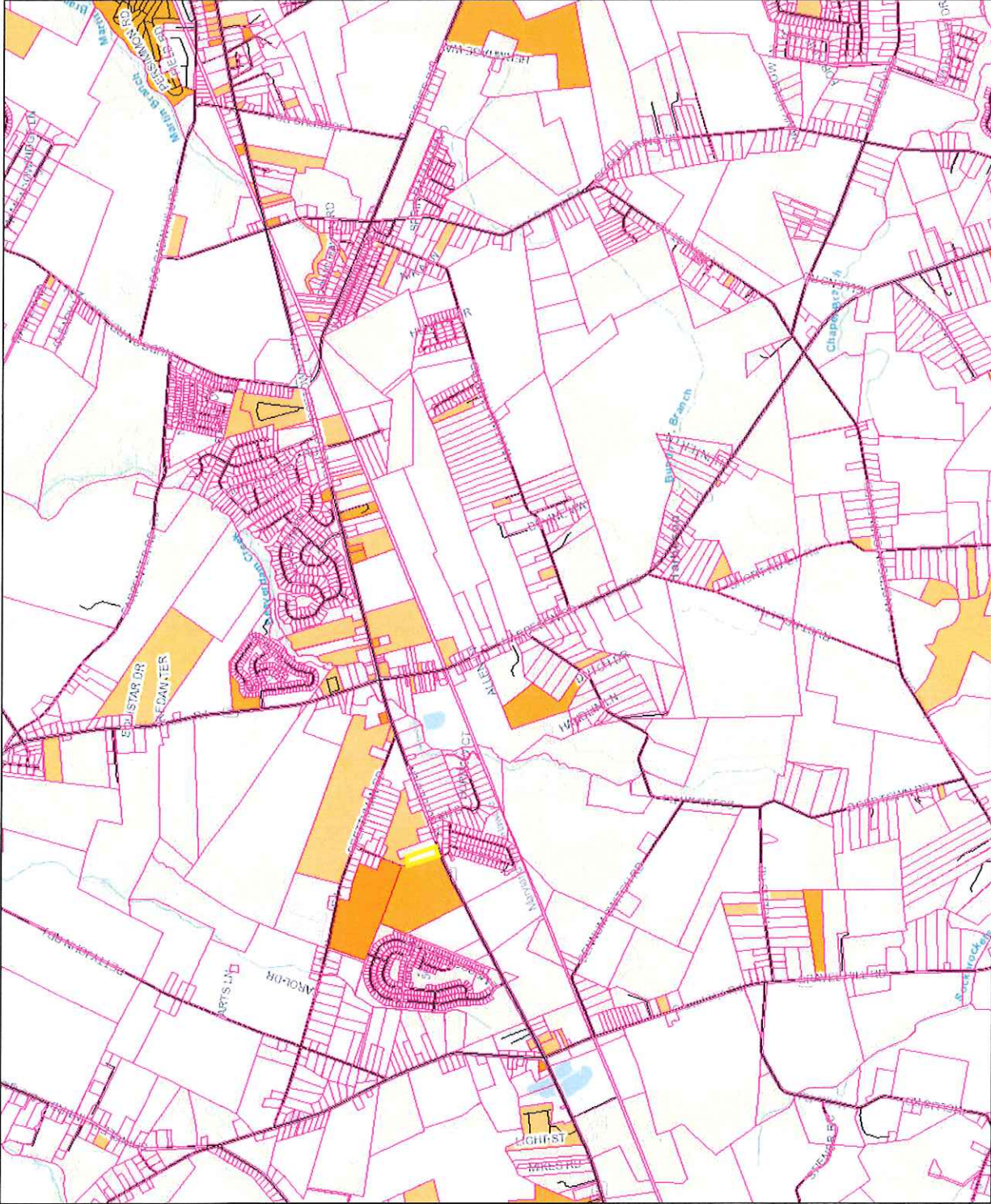


Figure 4.2-1 Existing Land Use



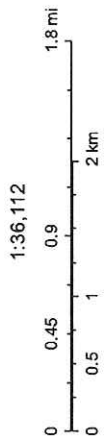


Sussex County



| | |
|-----------------|-------------------------|
| PIN: | 235-30.00-6.20 |
| Owner Name | EXECUTIVE LAWN PROPERTY |
| Book | 4899 |
| Mailing Address | PO BOX 91 |
| City | NASSAU |
| State | DE |
| Description | LOT 1 W / IMPROVEMENTS |
| Description 2 | N/A |
| Description 3 | N/A |
| Land Code | |

- polygonLayer
Override 1
- polygonLayer
Override 1
- Tax Parcels
- Streets
- County Boundaries
- Municipal Boundaries
- TID
- Conditional Use



Future

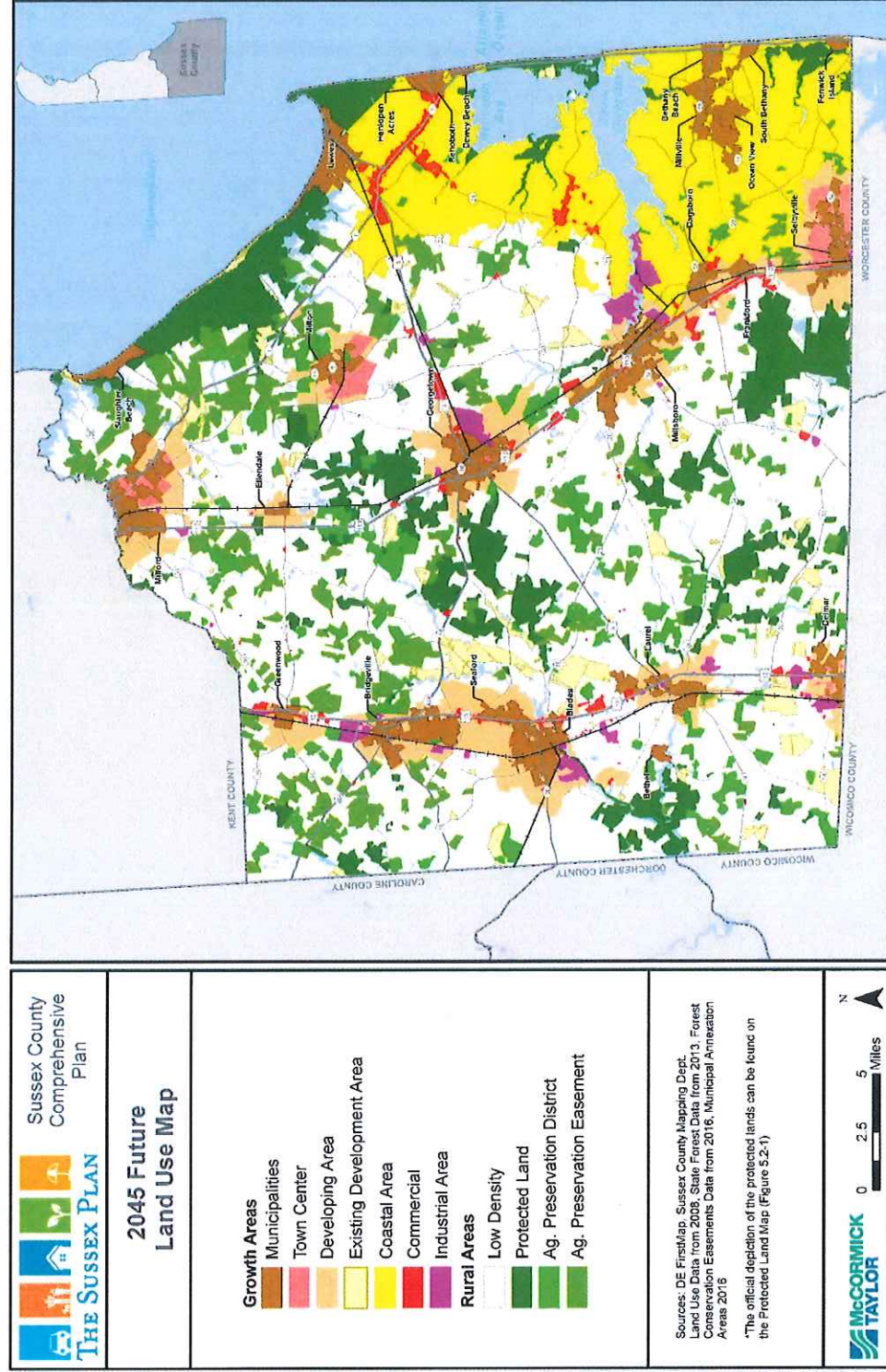


Sussex County



| | |
|-----------------|------------------------|
| PIN: | 235-30.00-6.20 |
| Owner Name | EXECUTIVE PROPERTY |
| | LAWN |
| Book | 4899 |
| Mailing Address | PO BOX 91 |
| City | NASSAU |
| State | DE |
| Description | LOT 1 W / IMPROVEMENTS |
| Description 2 | N/A |
| Description 3 | N/A |
| Land Code | |

Figure 4.5-1 Sussex County 2045 Future Land Use





Since the comprehensive plan is a guide for the future use of land, the County's official zoning map must be consistent with the uses and intensities of uses provided for in the Future Land Use Plan. Table 4.5-2 is provided below to provide a tool for assisting with determining which zoning districts are applicable to each future land use category.

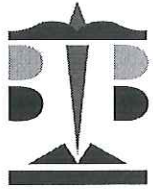
According to state law, the County must amend its official zoning map to be consistent with the Future Land Use Map within 18 months of the date of adoption of the Comprehensive Plan. Additionally, future rezonings should also generally be consistent with the Future Land Use Plan.

| Table 4.5-2 Zoning Districts Applicable to Future Land Use Categories | |
|-----------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| FUTURE LAND USE PLAN CATEGORY | APPLICABLE ZONING DISTRICT |
| GROWTH AREAS | |
| Municipalities | N/A - town zoning applies |
| Town Center | Agricultural Residential District (AR-1) Medium Density Residential District (MR) General Residential District (GR) High Density Residential District (HR-1 & HR-2) Business Community District (B-2) Business Research (B-3) Medium Commercial District (C-2) Heavy Commercial District (C-3) Planned Commercial District (C-4) Service/Limited Manufacturing District (C-5) Institutional District (I-1) Marine District (M) Limited Industrial District (LI-1) Light Industrial District (LI-2) New Zoning Districts |
| Developing Area | Agricultural Residential District (AR-1) Medium Density Residential District (MR) General Residential District (GR) High Density Residential District (HR-1 & HR-2) Business Community District (B-2) Business Research (B-3) Medium Commercial District (C-2) Heavy Commercial District (C-3) Planned Commercial District (C-4) Service/Limited Manufacturing District (C-5) Institutional District (I-1) Marine District (M) Limited Industrial District (LI-1) Light Industrial District (LI-2) Heavy Industrial District (HI-1) New Zoning Districts |

Table 4.5-2 Zoning Districts Applicable to Future Land Use Categories

| FUTURE LAND USE PLAN CATEGORY | APPLICABLE ZONING DISTRICT |
|----------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Coastal Area | Agricultural Residential District (AR-1) Medium Density Residential District (MR) General Residential District (GR) High Density Residential District (HR-1 & HR-2) Business Community District (B-2) Business Research (B-3) Medium Commercial District (C-2) Heavy Commercial District (C-3) Planned Commercial District (C-4) Service/Limited Manufacturing District (C-5) Institutional District (I-1) Marine District (M) New Zoning Districts |
| Existing Development Area | Medium Density Residential District (MR) General Residential District (GR) |
| Commercial Area | Agricultural Residential District (AR-1) Business Community District (B-2) Business Research (B-3) Medium Commercial District (C-2) Heavy Commercial District (C-3) Planned Commercial District (C-4) Service/Limited Manufacturing District (C-5) Institutional District (I-1) Marine District (M) New Zoning Districts |
| Industrial Area | Agricultural Residential District (AR-1) Limited Industrial District (LI-1) Light Industrial District (LI-2) Heavy Industrial District (HI-1) Service/Limited Manufacturing District (C-5) New Zoning Districts |
| RURAL AREAS | |
| Low Density | Agricultural Residential District (AR-1) Business Community District (B-2) Medium Commercial District (C-2) Marine District (M) Institutional District (I-1) New Zoning Districts |
| Protected Lands | N/A - permanently protected Federally-owned, State-owned, or other land preserves, and conservation easements |
| Agricultural Preservation Easements and Districts | Agricultural Preservation Easements and Districts through the State's Farmland Preservation Program in Agricultural Residential District (AR-1) |

Notes: Agricultural Residential District (AR-2), Neighborhood Business District (B-1), General Commercial District (C-1), Commercial Residential District (CR-1), Vacation Retirement Residential Park District (VRP), and Urban Business District (UB) are closed districts. These zoning may be located within any of the land use designations.



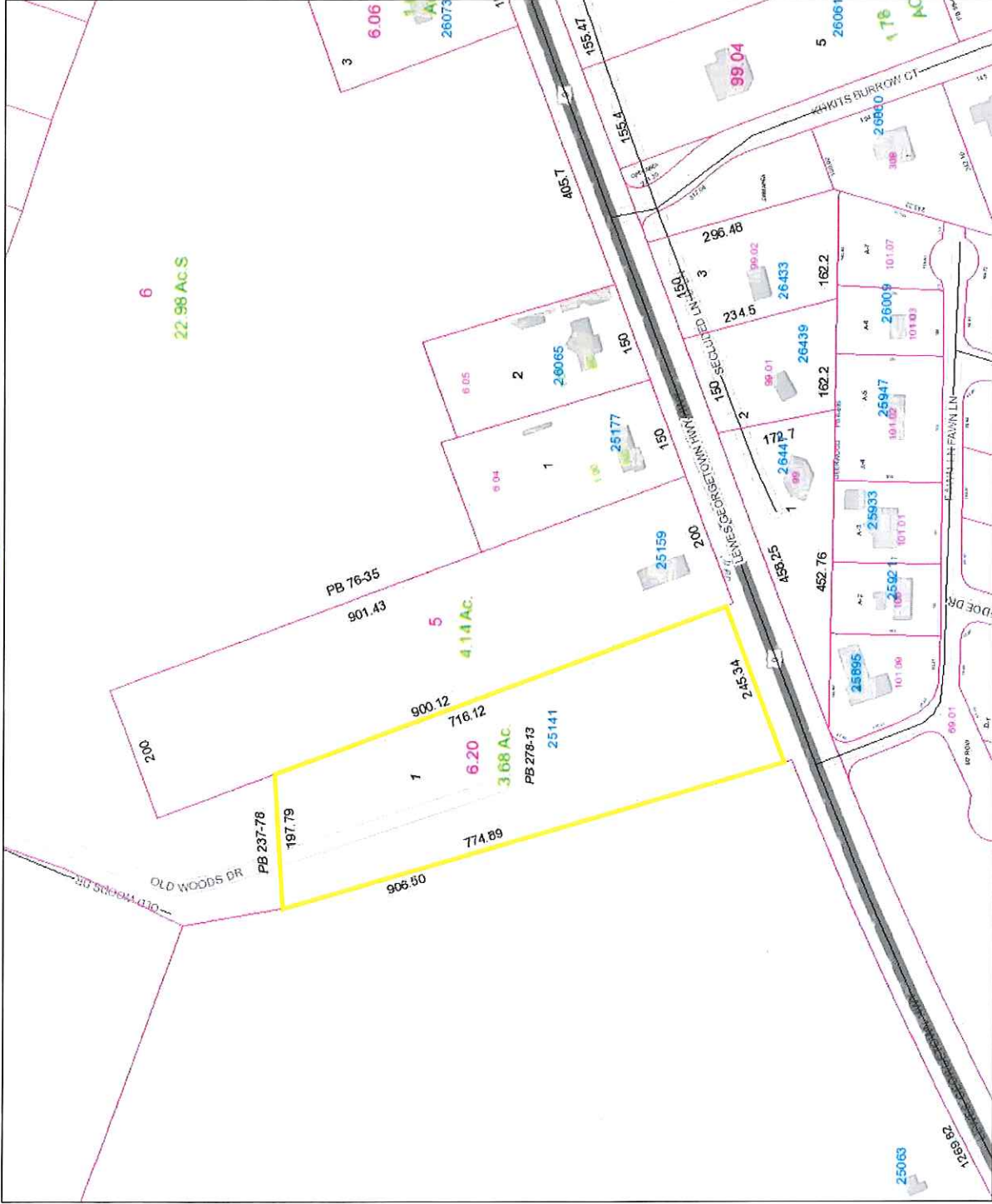
BAIRD
MANDALAS
BROCKSTEDT LLC

EXHIBIT E

Aerial Maps



Sussex County



| | |
|-----------------|------------------------|
| PIN: | 235-30.00-6.20 |
| Owner Name | EXECUTIVE PROPERTY |
| Book | 4899 |
| Mailing Address | PO BOX 91 |
| City | NASSAU |
| State | DE |
| Description | LOT 1 W / IMPROVEMENTS |
| Description 2 | |
| Description 3 | |
| Land Code | |

- polyonLayer
Override 1
polyonLayer
Override 1
Tax Parcels
911 Address
Streets
County Boundaries

