

Planning & Zoning Office  
PO Box 417  
Georgetown, DE 19947

Sussex County Planning and Zoning Commission  
Robert C. Wheatley, Chairperson  
Kim Hoey Stevenson, Vice-Chairperson  
R. Keller Hopkins  
J. Bruce Mears  
Holly Wingate

Dear Members of the Commission:

Please consider this letter during your deliberations on three applications from Henlopen Properties, two zoning changes (CZ 1967 and CZ 1968) and approval of a subdivision (S-2022-1). Deliberations will be on March 10, 2022.

We have followed the progress of the proposals for development of the Mitchell property (also known as Zwaanendael) as they have moved through the county and state process. To remind the commission's members, a portion of Bay Breeze Estates is immediately adjacent to a section of the former Mitchell farm. Five of the lots along Surf Ave. back up to the proposed subdivision, but all Bay Breeze residents will be impacted from residential and commercial development on this property.

Rezoning 43.777 acres from AR-1 to MR to accommodate 267 lots will produce a dramatic increase in residential density in this section of the Kings Hwy corridor. An earlier proposal called for single-family homes, duplexes, town homes and apartments. We agree with the overall goal of making affordable housing available in the Lewes area, but we are concerned about the high density expected in the proposed development, a future which was most evident during the PLUS review. Our calculations show that the new subdivision will have about 6.1 residential units per acre. We realize this is within the allowable range under MR zoning, but that does not make it a wise idea.

We have two specific concerns. First, the high concentration of residents and additional office space will increase traffic congestion on Kings Hwy, a problem that may be adequately addressed by the changes to Kings Hwy proposed and previewed by DeIDOT during a virtual workshop on February 23, 2022. Optimistically, DeIDOT expects two additional lanes and five traffic circles to meet the corridor's needs through 2050, but serious work does not begin until 2026. As we all know, what is proposed in one plan may not be disposed in final form, nor are the engineers' projections always right. We request that development of the Mitchell property be phased in gradually so that the full traffic impact is not felt until the changes on Kings Hwy are completed.

Second, we are concerned about the proposals' likely impact on water quality. We share the concerns expressed by the Lewes Board of Public Works during the PLUS review. Although only about one-third of the proposals' acreage is part of the Lewes water wells' recharge area, surface water from the full subdivision will be drained into a stormwater holding pond that is unquestionably located within the recharge area. (As of March 2, the map associated with the public announcement of this meeting incorrectly located the office building on Gills Neck Rd, not Kings Hwy as discussed during the PLUS meeting. This directly impacts the holding pond's location.) The proposed development provides for very little green space and relies heavily on paved surfaces. Surface water directed to the holding pond will

carry nearly all of the residents' cleaning chemicals, car oil, lawn care products, and winter salt. This will have a direct adverse impact on the City of Lewes water supply.

Even a modest reduction in the proposed subdivision's density will mitigate both of these problems. We suggest that the unit density of this subdivision be closer to that found in Admiral's Chase (3.27), Bay Breeze (2.96), and the recently approved Olde Town at White's Pond (2.33) than to Jefferson Apartments (7.32). The developer should aim for no more than 5 units/acre, preferably 4/acre, a reduction from current projected rate of 6.1.

Finally, we have one request. We ask that the developers work closely with our HOA Board in designing the 20-foot natural buffer between the immediately adjacent Bay Breeze properties and the new residential units. We hope to rely on native plants that require minimal attention but provide considerable privacy to residents on both sides of the buffer. We also hope that responsibility for maintaining the new buffer will be clearly assumed by the new community's HOA. We will do our share and hope that our new neighbors will do theirs. The Bay Breeze contact person for this discussion will be Trevor Bradshaw, HOA president. Mr. Bradshaw can be contacted at tbradshaw5521@gmail.com.

Very truly yours,

**Bay Breeze Estates Homeowners Association Board**

Trevor Bradshaw, President

Rich Dreasen, Vice President

Kathy Quinn, Treasurer

Diane Barlow, Secretary

Joseph Pika, Development Committee Chair

**Jesse Lindenberg**

---

**From:** Gail Van Gilder <gailvangilder@gmail.com>  
**Sent:** Wednesday, March 9, 2022 4:01 PM  
**To:** Planning and Zoning; Kim Hoey Stevenson; Jamie Whitehouse; Holly Wingate  
**Cc:** Gail Van Gilder  
**Subject:** Comments Mitchell Farm/Henlopen Properties,LLC Rezoning Application

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March 8, 2022

To: Sussex County Planning & Zoning Commissioners:  
Chairman, Robert Wheatley, Kim Hoey Stevenson, Holly Wingate, J. Bruce Mears,  
R. Keller Hopkins

From: Gail Van Gilder  
516 East Cape Shores Drive, Lewes DE 19958

**SUPPORT EXHIBIT**

Re: Mitchell Farm/Henlopen Properties, LLC Rezoning Application  
Corner of Kings Highway and Gills Neck Rd.  
Tax Parcel: 335-8.00-37.00

Comments on application to rezone approximately 48 acres from AR-1 to Medium Residential(MR) zoning and 3 acres to Commercial (C-2) zoning along with a conditional use (MR parcel).

The 2018 Sussex County Comprehensive plan begins with the following vision statement:  
“Sussex County offers a unique quality of life for its residents and visitors alike. We appreciate and seek to preserve its unique natural, historical and agricultural character while fostering new economic opportunities, community vitality, and desirable growth through strategic investments and efficient use of County resources. To accomplish this, Sussex County will balance the welfare of its citizens and its role as an agricultural, tourism, and business leader with the most appropriate future uses of land, water and other resources.”

To begin, please note that this project sits on Kings Highway, a state designated Scenic and Historic Byway. This designation is a DelDOT program. It is located at a major intersection along this Gateway/Byway entrance to the City of Lewes and it’s significant tourist attractions: Cape Henlopen State Park, Cape May Lewes Ferry, downtown historic Lewes, two historic lighthouses, World War II Fort Miles Museum, the Overfalls Lightship, Lewes History Museum, Zwaanendael Museum and the City of Lewes beaches and natural areas. As a premier tourist destination in the State of Delaware, it is imperative that Sussex County preserve and enhance this Byway corridor to maintain the Lewes area as a desirable tourist destination.

Landscaping and Berms

To enhance this corridor the frontage along Kings Highway must be appropriately landscaped as shown in the Kings Highway/Gills Neck Road Master Plan. I am strongly recommending that you insure that promises made by the developer to include landscaping (see project rendering submitted by developer) are included as a condition of approval and that they receive the approval of the Historic Lewes Byway Committee.

To achieve the desired landscaping require that ditches are eliminated from the design and use “Closed Drainage” instead. This will provide enough space to appropriately landscape this corridor. Currently this project is being designed with open ditches along the roadside for stormwater control. Ditches are appropriate for rural roads and not the urban/suburban environment that is being built along Kings Highway. These ditches takes up valuable space, require ongoing maintenance and remove the opportunity to landscape the roadside frontage. Instead require

curb and gutter (closed drainage) with underground storage for stormwater. Note that the project rendering does not show ditches.

Include berms in the landscape design to screen views of townhomes and commercial buildings on Kings Highway.

Include street trees recommended in the Kings Highway Master Plan to create a tree lined boulevard along this significant "Gateway to Lewes". Street trees will provide shade for walkers and bikers on the required 10 ft wide shared use path along the frontage of this property. Warren buffet once said: "Someone sits in the shade today because someone planted a tree long ago".

#### Interconnectivity

There is no connectivity between this development and adjoining parcels of land such as the Moorings Retirement Home, the Baptist Church, Jefferson apartments, etc. To reduce traffic and encourage walking and biking add connectivity to nearby parcels.

#### Open Space

Increase the amount of Open space provided in this site plan.

#### Parking

Parking should be behind the buildings that face Kings Highway, not in front as now shown on site plans. Moving parking to behind buildings will improve the view along the Kings Highway Byway. Backyards of townhomes should not face Kings highway for the same reason. Buildings should front on Kings Highway to create the look of old historic Lewes. The goal of the Lewes byway as stated in the Kings Highway/Gills Neck Road Master Plan is to bring the look of old Lewes out to Route 1, not to bring the design of Route 1 into Lewes. This old town charm is a major reason why so many people are attracted to Lewes.

#### Context

Efforts to improve the architecture of this project are greatly appreciated. However, keeping the architecture more in keeping with Cape Henlopen High School is more in context with old Lewes. The suggestion to design in keeping with the medical building on the corner of Kings Highway and Gills Neck Road has less merit as it is totally out of context with historic Lewes. We cannot fix that corner, but we can screen it with an enhanced landscape plan. I recommend using more of the outstanding design done at the high school that is in keeping with historic Lewes rather than transitioning from the existing corner medical building as suggested in the statement on architecture (included in the application packet of information). Lighting, signage and bus stops should also be in context with historic Lewes. But, again I appreciate the fact that you are working to improve the architecture going forward. Hats off to the designers of this project! Good design is good for business and will keep the Sussex County tourist economy strong for years to come.

#### Well Head Protection Area

The three story commercial building sits on a well head protection area. Compliance with state well head protection requirements are not enough given the proximity of this development to the City of Lewes/Board of Public Works wells that supply water to the entire City of Lewes and other areas in close proximity to Lewes. Before approving this project I ask that you work with the Lewes Board of Public Works and add conditions to this development to meet their recommendations. We must insure that our water supply does not become contaminated with pollutants.

#### Density

Estimating that the density of this project is about 6 units per acre, that is a big increase from what is allowed under AR-1 zoning. Using a cluster plan 4 units per acre would be allowed.

At the Governors development the property owners paid one million dollars to the County for a bonus density. It was used to purchase open space at the Jones Farm on Kings Highway. What benefit is the community receiving by giving bonus density to this developer? Traffic improvements are required and should not be considered the same as donating funds to preserve open space.

#### Traffic and Safety

Traffic needs to be considered holistically and not just for this project. I strongly recommend that you consider all the combined projects both built and to be built in the short term. We have Governors, Senators, the Cottages, the Lodge Retirement Home, Cape Henlopen High School expansion, the Moorings Retirement Home, White's Pond, Dutchman's Harvest, Big Oyster Brewery expansion, Baptist Church expansion, Vegetable Farm store at Lingo Barn,

Lingo Townsend shopping center, new dental offices and other small expansions. In addition this is the major gateway for travel to Cape Henlopen State Park, Lewes Beaches, Cape May Lewes Ferry and Beebe hospital for emergency vehicles.

Given the unacceptable traffic back ups and congestion we are living with today on Kings Highway, this project should not move forward until Sussex County can demonstrate that we will have less traffic backups than we have today when this development is built out. Note that there is a DelDOT project referred to as the "interim road improvement project" at the intersection of Kings Highway and Gills Neck Rd (at the high school) to be built with developer funding. To keep traffic moving we need to have assurances that this will be built before construction starts.

However, I am not yet convinced that this "interim DelDOT project" agreed to by DelDOT and the developer, is sufficient to meet travel demand and emergency access to the above locations given the large number of additional new projects. In addition, I see that DelDOT, according to the recent TIS letter issued by DelDOT on February 28, 2022, is now requiring Henlopen Properties, LLC to contribute funding to the Old Orchard/Savannah Rd/Wescoats Corner project that I thought was already funded. These developer funds should go to the Kings Highway, SR9, Dartmouth Drive to Freeman Highway Capital Transportation Boulevard Plan now in design and presented to the community on February 23, 2022 with a start date of 2026. Otherwise we could be living with the "interim project" for a long time.

The interim DelDOT project has not been presented to the public, but I am told it adds an additional left hand turn lane from Gills Neck Rd to southbound Kings Highway and an additional lane southbound on Kings Highway from just north of Gills Neck Road and ending at Clay Rd. **What is not clear in the application is that the existing shoulder from just north of Gills Neck Road to Clay Rd is going to become the second travel lane by restricting the road. The shoulder is being eliminated. It will not be available for experienced bikers who prefer biking on the road or for use by emergency vehicles to access Cape Henlopen High School, or for ambulances to get to Beebe Hospital, or State Park.**

Look at the projected dates of completion for the various development projects and road projects:

Completion of Henlopen Properties, LLC (Mitchels Corner/Zwaanendael Farm) project: 2027

Completion of DelDOT interim improvements - no date found in recent DelDOT TIS letter to Ring Lardner (2-28-22). See the original TIS letter dated 10-7-2021 for more information. Note this earlier letter was for the recently withdrawn project at this site and completion date was tied to 117,000 sq ft of medical buildings. This needs to be evaluated and corrected before approval since the square footage and number of units has changed.

Start date of US 9, Kings Highway, Dartmouth Drive to Freeman Highway: 2026  
Capital Transportation boulevard project to provide two thru lanes in each direction  
(This assumes that all Right of Way acquisitions are completed by that date and enough funding is available.)

Completion date of US 9, Kings Highway, Dartmouth Drive to Freeman Highway: 2028  
Capital Transportation boulevard project above.  
(It is highly unlikely that this major road construction project will be completed by 2028;)

The fact that DelDOT is requiring temporary improvements tells me that they may not be planning on having the larger Capital Transportation Boulevard Plan completed by 2028. Why would they lay down concrete only to have it ripped up a year or two later?

Contributing more developer funding to the major Capital Transportation Plan already in design would insure that this project design is locked in and moving forward as promised. Consider that instead of having the developer pay to remove the interim plan these funds could go towards building parts of the larger Boulevard Capital Plan that could be in place before development proceeds. If this major project is started sooner rather than later we would be much more likely to have it completed in a timely way. The interim plan will surely delay the larger plan to improve all of Kings Highway for all development projects and all users. It is a quick fix or band aid approach to allow this

development to proceed, rather than a plan to do what is actually needed. Please take the time to review all the detailed traffic information before making a decision. We will have to live with your planning decisions for a long time.

Residents, visitors, workers, and students on their way to school, medical offices, businesses, major tourism attractions and the hospital will have to navigate Kings Highway under construction along with large developments under construction congruently. Road improvements on Kings Highway should precede development construction to insure adequate road capacity and keep traffic moving over the many years of construction that visitors and residents will have to endure. These start dates and completion dates must be synchronized with construction to limit the negative impacts of construction that could affect the Lewes economy and quality of life.

I appreciate the effort the developer and DelDOT has made to reduce the size of this project and hope that we can work together to add conditions to address the above concerns, especially the traffic, landscaping, water quality and open space. Thank you for your consideration and review of this information.



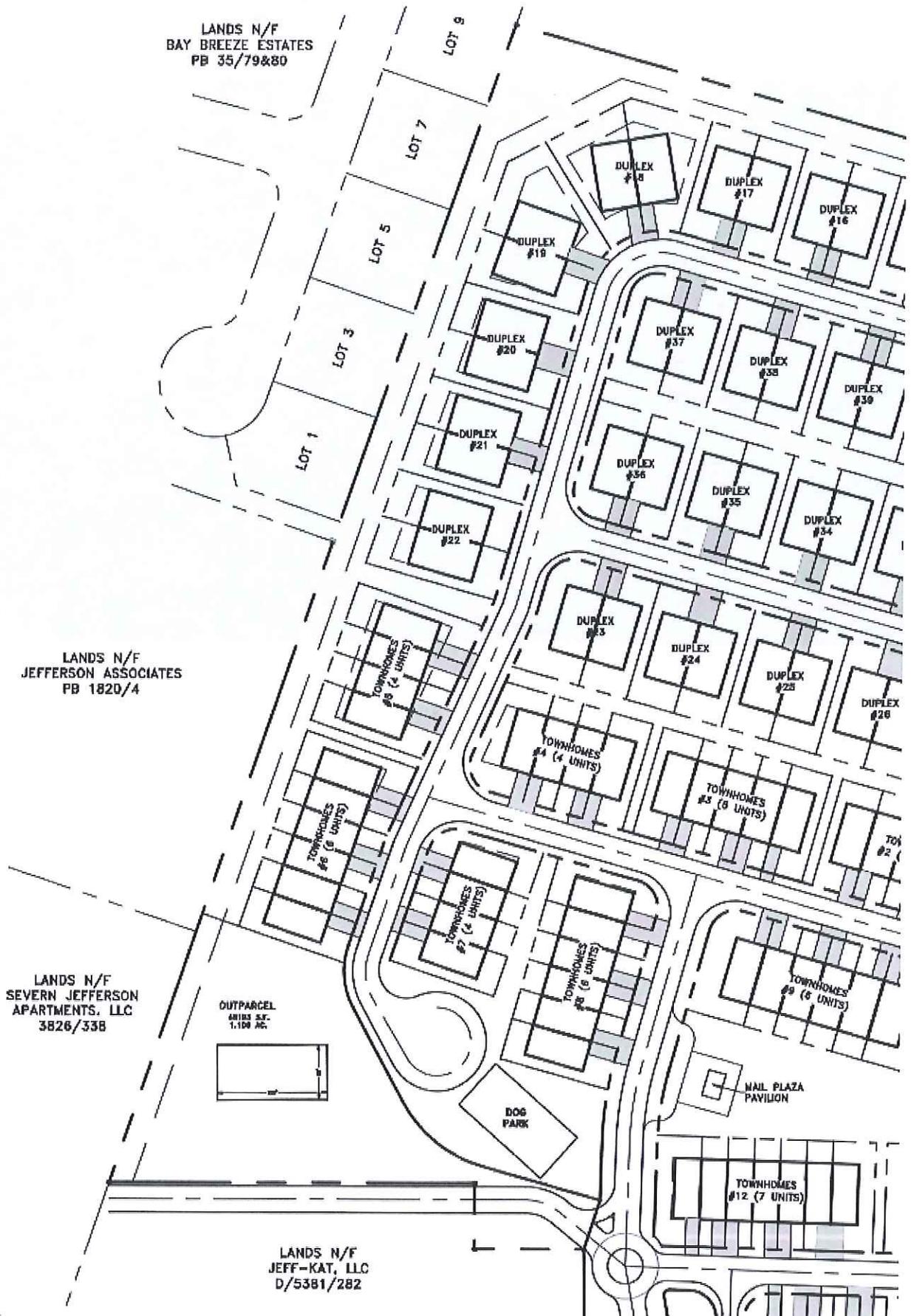
LANDS N/F  
BAY BREEZE ESTATES  
PB 35/79&80

LANDS N/F  
JEFFERSON ASSOCIATES  
PB 1820/4

LANDS N/F  
SEVERN JEFFERSON  
APARTMENTS, LLC  
3826/338

OUTPARCEL  
4193 SF.  
1.104 AC.

LANDS N/F  
JEFF-KAT, LLC  
D/5381/282



## Jesse Lindenberg

**From:** Jay Tomlinson <jaythrrep@gmail.com>  
**Sent:** Wednesday, March 9, 2022 2:48 PM  
**To:** Planning and Zoning  
**Cc:** Jay Tomlinson  
**Subject:** Mitchells Corner Zoning Applications - 3/10, 5PM Public Hearing

**Categories:** Jesse



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**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Planning & Zoning Commissioners:

Zoning applications for the parcel now known as Mitchell's Corner (Henlopen Properties LLC, Mitchell Farm, Zwannendael Farm) have been in the works for what seems like, forever. I attended the PLUS in Dover on 1/23/2019.

Since that time, the project has evolved to what we have today, 267 Duplexes and Townhouses and one new three-story, 43K Sq. Ft. commercial building to be built on Kings Highway next to the existing two-story medical building. It appears that retail is planned for the first floor of the 3-story commercial building. The project to be developed consists of 47+/- acres at Kings Highway and Gills Neck Road across from Cape Henlopen High School and the under construction Lodges at Lewes. Across Gills Neck, new projects like the Village Center Cottages and Village Center Shopping Center are in the planning stages.

Having worked with representatives from Sussex County, DeIDOT, Office of State Planning Coordination, City of Lewes, Historic Lewes Byway and other groups, I know that all i's are dotted and t's crossed in preparation for Thursday's public hearing.

Many of the subjects you will be asked to consider to approve the applications are extensively addressed in the voluminous public hearing materials: Traffic, Water protection, Safety, Project Density Comparisons, Community Design Context, Interconnectivity and public transportation and more. IMO we need to count on our appointed and elected officials to insure that all of the complex details and interactions of a project of this scale, are executed fairly and equitably for all, including placing appropriate conditions of approval where necessary to commit the developer to a written standard for many of the items just listed.

I'll ask that the Commission to deeply consider how the project will integrate with all the other development now occurring or proposed. Mitchell's Corner needs to meld with DeIDOT's "interim" TIS plans to absorb traffic created by Mitchell as well as surrounding projects and hold off gridlock until DeIDOT's capital project can be fully implemented in 2028. Hopefully the Commission has reviewed the [DeIDOT US9, Kings Highway, Dartmouth Drive to Freeman Highway project portal](#).

Assuming everyone does their part during the approval process, I would like to advocate for two items for your consideration. First, given the project density at about 6 units per acre, I would like to see a Developer contribution for what I will call bonus density or a reduction in the number of units from 267 to provide more open space within the project. You would know better than I how this could be accomplished.

Second, I would like to advocate for the Developer to commit to improvements to the Kings Highway and Gills Neck Road frontage to include berms, landscaping and trees that will buffer or hide Mitchell's Corner development from the roadway view-sheds. Although these issues will be addressed by the 2026-28 DeIDOT capital construction

improvements, I would like to ensure the drainage ditches/swales are closed along the highway frontage to allow for additional landscaping. Utilities should be buried or hidden, where possible.

These are my comments after all this time has passed. I would be happy to answer questions for which I have answers or direct you to others that may have more complete information.

Thank you for your service,

Jay Tomlinson

Citizens for Responsible Kings Highway Development

32715 Hastings Drive

Lewes, DE 19958

856-906-0605

[jaythrep@gmail.com](mailto:jaythrep@gmail.com)

**Ashley Paugh**

CU 2334

**From:** Joseph Pika <jpika@udel.edu>  
**Sent:** Wednesday, March 9, 2022 10:16 AM  
**To:** Planning and Zoning; Kim Hoey Stevenson  
**Cc:** m\_pika@yahoo.com  
**Subject:** Mitchells Corner zoning and development applications

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PLANNING & ZONING

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

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Members of the Planning and Zoning Commission:

My wife and I are owners of a home at 17 Surf Ave, Bay Breeze Estates in Lewes. A portion of our development is immediately adjacent to the Mitchell property, and our home abuts the acreage that was previously bought by The Moorings, the retirement community, as a buffer. Five lots on our street back up to the proposed development, and all our community's residents will be impacted by the increased traffic and potential water pollution that the development portends.

We have followed the progress (and non-progress) of the proposed development at the corner of Kings and Gills Neck since its earliest stages. We knew the Mitchells and have been intensely interested in the proposals to develop the land that he fought for so long to maintain as a family farm.

We are relieved that the commercial development proposed for this property has been scaled back dramatically. Not only was this proposal inconsistent with the Byways Master Plan for Kings Hwy and Gills Neck Rd, but it would also have brought severe increases in traffic volume. Scaling back the office buildings reduces the traffic impact by nearly 50%, for which we are thankful. But is that enough? Could or should more be done? Are there other concerns?

We point to two issues: traffic (as always) and wellhead protection. Both are adversely affected by the density of housing proposed for this site.

No one knows how the state's proposed "improvements" for Kings Highway will ultimately play out. What we do know is that traffic on this corridor will increase dramatically over the next decade. Prudent, responsible planning calls for a series of decisions that will moderate additional traffic flows rather than maximize them. Although the reduced commercial footprint at Mitchells Corner has that effect, the dense residential development does not.

A similar argument can be made for water quality. Both Mitchells Corner and the Village Center shopping center will have adverse impacts on the Lewes water supply, an argument made during the PLUS review by a spokesperson for the Lewes Board of Public Works. There is very little green space that remains of the 47 acre Mitchell property whose rezoning is at issue. And the most important green space--the storm water holding pond that is proposed behind the existing office building--will receive virtually all the surface runoff from the total development, surface water that will include motor oil, road salt, sidewalk salt, and yard herbicides. The pond is smack dab over the well recharge area. With the impending changes triggered by the Village Center, even less of the natural recharge area will exist. We need to protect what little green space remains and take opportunities to increase it.

We propose requiring the developer to reduce the density of residential housing on the site from the 6.1 units per acre to 4-5 units per acre. This change will reduce the traffic impact and increase the green space available on this parcel to

Opposition  
Exhibit

help with water quality. Although we understand that the zoning change sought by the developer would allow up to 12 units per acre, we believe that this reasonable reduction will prove to be beneficial to all and will ensure that housing at Mitchells Corner is more consistent with neighboring developments (Bay Breeze 2.96, Governors 3.58, Olde Town at Whites Pond 2.33) while still providing greater density.

Thanks for your consideration.

Joseph and Mary Pika

--

Joseph A. Pika  
James R. Soles Professor Emeritus  
University of Delaware

Planning & Zoning Office  
PO Box 417  
Georgetown, DE 19947

Opposition  
Exhibit

Sussex County Planning and Zoning Commission  
Robert C. Wheatley, Chairperson  
Kim Hoey Stevenson, Vice-Chairperson  
R. Keller Hopkins  
J. Bruce Mears  
Holly Wingate

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MAR 07 2022

SUSSEX COUNTY  
PLANNING & ZONING

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We have two specific concerns. First, the high concentration of residents and additional office space will increase traffic congestion on Kings Hwy, a problem that may be adequately addressed by the changes to Kings Hwy proposed and previewed by DeIDOT during a virtual workshop on February 23, 2022. Optimistically, DeIDOT expects two additional lanes and five traffic circles to meet the corridor's needs through 2050, but serious work does not begin until 2026. As we all know, what is proposed in one plan may not be disposed in final form, nor are the engineers' projections always right. We request that development of the Mitchell property be phased in gradually so that the full traffic impact is not felt until the changes on Kings Hwy are completed.

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Very truly yours,

**Bay Breeze Estates Homeowners Association Board**

Trevor Bradshaw, President

Rich Dreasen, Vice President

Kathy Quinn, Treasurer

Diane Barlow, Secretary

Joseph Pika, Development Committee Chair

**Cape Henlopen Medical Center, LLC**  
**859 Golf Links Lane**  
**Magnolia, DE 19962**

March 8, 2022

Sussex County Planning and Zoning  
2 The Circle  
Georgetown, DE 19947

RE: Re-Zoning of Henlopen Properties, LLC

To Whom It May Concern,

The purpose of this letter is to inform you that the Cape Henlopen Medical Center LLC is in support of Henlopen Properties, LLC proposed rezoning from AR-1 to C-2, and AR-1 to MR on the property surrounding our facility. We were initially hesitant, however after meeting with the Development Group and their Engineering firm to review the preliminary plans on the proposed development of the remaining acreage we are no longer hesitant. The proposed plan incorporates an additional office building as well as the residential component on the remaining property which would fit the use of the area.

Sincerely,



Megan M. Glick  
Managing Member

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MAR 10 2022

SUSSEX COUNTY  
PLANNING & ZONING

## Michael Lowrey

---

**From:** Lauren DeVore  
**Sent:** Friday, April 22, 2022 9:18 AM  
**To:** Michael Lowrey  
**Subject:** Fw: Mitchell's Corner Applications - SCC Public Comment

Mike,

Please see the attached email below.

Best Regards,

-Lauren

*Lauren DeVore*

Planner III  
Department of Planning & Zoning  
(302) 855-7878  
2 The Circle  
P.O. Box 417  
Georgetown, DE 19947



---

**From:** Jay Tomlinson <jaythrrrep@gmail.com>  
**Sent:** Wednesday, April 20, 2022 1:31 PM  
**To:** Michael H. Vincent <mvincent@sussexcountyde.gov>; Cynthia Green <cgreen@sussexcountyde.gov>; Mark Schaeffer <mschaeffer@sussexcountyde.gov>; Doug Hudson <doug.hudson@sussexcountyde.gov>; John Rieley <jlrieley@sussexcountyde.gov>  
**Cc:** Tracy Torbert <tracy.torbert@sussexcountyde.gov>; Todd F. Lawson <tlawson@sussexcountyde.gov>; Jamie Whitehouse <jamie.whitehouse@sussexcountyde.gov>; Lauren DeVore <lauren.devore@sussexcountyde.gov>  
**Subject:** Mitchell's Corner Applications - SCC Public Comment

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Sussex County Council Members:

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Since that time, the project has evolved to what we have today, 267 Duplexes and Townhouses and one new three-story, 43K Sq. Ft. commercial building to be built on Kings Highway next to the existing two-story medical building. The project to be developed consists of 47+/- acres at Kings Highway and Gills Neck Road across from Cape Henlopen High School and the under construction Lodges at Lewes. Across Gills Neck, new projects like the Village Center Cottages and Village Center Shopping Center are in the planning stages.

Along the way, having talked with representatives from Sussex County, DeIDOT, Office of State Planning Coordination, City of Lewes, Historic Lewes Byway, BPW and other groups, individually I know that all have i's dotted and t's crossed in preparation for Tuesday's SCC public hearing.

Many of the subjects you will be asked to consider to approve the applications are extensively addressed in the voluminous (741 pages) public hearing materials: Traffic, Water protection, Safety, Project Density Comparisons, Community Design Context, Interconnectivity and public transportation and more. At this point our appointed and elected officials can insure that all of the complex details and interactions of a project of this scale, are executed fairly and equitably for all. Fairness includes placing appropriate conditions of approval where necessary, defined project benefit to County taxpayers and a project that does not reduce quality of life or access to services.

I'll ask that the Council deeply consider how the project will integrate with all the other development along the corridor now occurring or proposed. Mitchell's Corner needs to meld with DeIDOT's "interim" TIS plans to absorb traffic created by Mitchell as well as surrounding projects and hold off gridlock until DeIDOT's capital project can be fully implemented in 2028. Council may review the [DeIDOT US9, Kings Highway, Dartmouth Drive to Freeman Highway project portal](#) for further information about the projects design features. The [DeIDOT Traffic Review Letter](#) provides details about the interim plans.

Assuming all entities do their part during the application approval process, and appropriate conditions are placed on approval, I trust issues such as traffic, project density/parking, interconnectivity, design context and public transportation will be incorporated and documented in Council's decisions.

My comments emphasize two issues that I would like to hear Council address during the approval process, first is primarily an aesthetic corridor design feature. I would like to formalize the Developer's commitment to improvements to the Kings Highway and Gills Neck Road frontage to include berms, landscaping and trees that will buffer or hide Mitchell's Corner development from the roadway view-sheds. Although these improvements will be addressed by the 2026-28 DeIDOT capital construction improvements, I would like to ensure the necessary ROW is preserved for full implementation of the capital project and that drainage ditches/swales are closed along the highway frontage to allow for landscaping. Utilities should be buried or hidden, where possible and light pollution minimized.

My second, and by far most important comment, is about water protection. We must not miss an opportunity to coordinate a comprehensive solution to address and preserve water sources and the wellhead protection areas (WPA) once and for all-time. This should not be a BAU issue that should be pushed to a future date. Negotiation to address City and BPW concerns to WPA issues should be included in this process. Mitchell and Lingo-Townsend have common interests and the means to agree. Maps (which may need update) show a portion of the WPA falling on the Mitchell's Corner property with the bulk of the undeveloped WPA across the street on the Lingo-Townsend parcel. I understand BPW and the City of Lewes are advancing their concerns about water issues.

If I am not mistaken, at the 4/14 P&Z meeting, Mitchell's Corner, in a positive step, agreed to implement a system that provides some protection from contamination on the Mitchell parcel. I have no idea if this is the best or only solution, but the system goes beyond Sussex requirements as I understand the feature and the inclusion demonstrated positive intent on the part of Mitchell.

We would all be well served by coordinated agreements and solutions to water protection that includes Mitchell, Lingo-Townsend, Jones parcel and other nearby WPA properties. We should ensure development on these parcels does not

cause irreparable harm or jeopardize water quality and safety. The BPW website says BPW provides service for over 3,500 customers and based on nearby development, 1,000's more will be added to their customer base soon. Water sources must be protected, available and clean.

Cooperation between the Developer, BPW, City of Lewes, Sussex County and others is necessary to incorporate an agreeable and effective comprehensive water management strategy for the WPA for today and the future that allows for safe development and mitigates its risk. The strategy must be part of the approval process.

These are my comments after all this time has passed. I would be happy to answer questions for which I have answers or direct you to others that may have more complete information.

Jay Tomlinson

[Citizens for Responsible Kings Highway Development](#)

32715 Hastings Drive

Lewes, DE 19958

856-906-0605

[jaythrrep@gmail.com](mailto:jaythrrep@gmail.com)

## Amy Hollis

---

**From:** Terry Bartley <bartleyterry@gmail.com>  
**Sent:** Saturday, April 2, 2022 10:35 PM  
**To:** Planning and Zoning  
**Subject:** Notice of Appeal: CU # 2344 and S-2022-01, Henlopen Properties, LLC  
**Attachments:** Henlopen Properties 3.docx

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Please find a Word document attached of the text below. Please advise if there is a standardized form for appeals and any fees.

April 1, 2022  
Jamie Whitehouse  
Planning and Zoning Director  
Sussex County, Delaware  
2 The Circle  
P.O. Box 417  
Georgetown, DE 19947  
Via email: [pandz@sussexcountyde.gov](mailto:pandz@sussexcountyde.gov)  
RE: **Notice of Appeal:** CU # 2344 and S-2022-01, Henlopen Properties, LLC

Opposition  
Exhibit

RECEIVED  
AFTER  
PUBLIC HEARING

Dear Director Jamie Whitehouse:

Please accept this correspondence as a notice of appeal to the Board of Adjustment and grounds thereof, of the Director's non-fulfillment of the requirements of Sussex County Zoning Code § 115-219 Site Plan Review required for certain Uses B. for applications CU # 2344 and S-2022-01, Henlopen Properties, LLC. The director failed in the administration § 115-219 in that he omitted to review the applicant's preliminary site plans for compliance with the Zoning Code regulations. A review of the site plans would have led to the determination that they contained substantive non-compliant errors of the zoning regulations, outlined below. Therefore, the director would have been compelled (shall) to report to the Commission the zoning regulation inaccuracies. (Ground 1, CU#2344) (Ground 1, S-2022-1)

Henlopen Properties preliminary site plan is not in compliance with Sussex County Zoning Code § 115-188 Townhouses and multifamily dwellings. The deficiencies are in the following text of the code: "For the purpose of the side yard regulations, a townhouse building shall be considered as one building on one lot with side yards of 20 feet. Depth of front and rear yards of a townhouse must have an aggregate of not less than 40 feet. The outside wall dimensions of the townhouse building shall not exceed 170 feet in width measured linearly from the outer edge of the townhouse building end units." (Ground 2, CU#2344) (Ground 2, S-2022-1)

Henlopen Properties preliminary site plan is not in compliance with Sussex County Zoning Code § 115-83.15 Height, area and bulk requirements. The deficiencies are in the following text of the C-2 Medium Commercial District regulations: "There shall be a rear yard not less than 30 feet in depth on the rear side of a lot adjoining a residential district." (Ground 3, S-2022-1)

Henlopen Properties preliminary site plan is not in compliance with Sussex County Zoning Code § 115-13 Encroachments; reduction of lot area. The deficiencies are in the following text of the zoning code: "The minimum yards for any building erected shall not be encroached upon or considered as required yard for any other building." (Ground 3, CU#2344) (Ground 4, S-2022-1)

The remedy I propose is for the Director to conduct a timely review of the preliminary site plans and forward a report to the application's record of any non-compliance with the zoning regulations.

Best Regards  
Terry Bartley

Terry Bartley  
33118 Seahorse Place  
Lewes, Delaware 19958  
302-245-8753  
[Bartleyterry@gmail.com](mailto:Bartleyterry@gmail.com)

April 1, 2022  
Jamie Whitehouse  
Planning and Zoning Director  
Sussex County, Delaware  
2 The Circle  
P.O. Box 417  
Georgetown, DE 19947  
Via email: [pandz@sussexcountyde.gov](mailto:pandz@sussexcountyde.gov)  
RE: **Notice of Appeal:** CU # 2344 and S-2022-01, Henlopen Properties, LLC

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The remedy I propose is for the Director to conduct a timely review of the preliminary site plans and forward a report to the application's record of any non-compliance with the zoning regulations.

Best Regards  
Terry Bartley

## Jamie Whitehouse

---

**From:** Jay Tomlinson <jaythrep@gmail.com>  
**Sent:** Thursday, March 17, 2022 12:23 PM  
**To:** Jamie Whitehouse  
**Subject:** Mitchell's Corner 3/10 Public Hearing - DeIDOT Interim Plan  
**Attachments:** DeIDOT Response to Mitchell Farm (Zwaanendael Farm) TIS Review Letter 02282022.pdf

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Jamie,

Bringing this to your attention to avoid some confusion later...I'll be brief here but let me know if you need more detail.

At the Mitchell's Corner public hearing on Thursday night, Commissioner Kim Hoey Stevenson asked a question about the interim plans for Kings Highway southbound at Gills Neck Road. Ring Lardner responded to the question that there "would be shoulders".

Pages 20, 27 and 28 of the 2/28/2022 DeIDOT review letter (attached) address the use of the existing shoulders as travel lanes. In an email back and forth with Bill Brockenbrough, Bill said that the review letter is correct, no shoulders, but the Developer is welcome to offer additional upgrades.

I'm thinking the public record may need to be clarified and if shoulders are included with interim improvements, a writing should exist confirming the improvements as well as a timeline for completing those improvements? Don't we normally see roadway improvements tied to development milestones? I am a bit concerned DeIDOT is not fully integrating the interim plans with the coming capital project.

Overall, I am in support of the Mitchell's Corner project with some modifications.

Thanks, Jay

Jay Tomlinson  
32715 Hastings Drive  
Lewes, DE 19958  
856-906-0605  
jaythrep@gmail.com

**FILE COPY**

**Southbound Approach:** (Savannah Road) Existing on left turn lane and one shared through/right turn lane

**7. Kings Highway/Atlantic Drive**

**Type of Control:** Existing two-way stop-controlled intersection (T-intersection)

**Eastbound Approach:** (Atlantic Drive) Existing one shared left-turn/right-turn lane, stop-controlled

**Northbound Approach:** (Kings Highway) Existing one shared left-turn/through lane

**Southbound Approach:** (Kings Highway) Existing one shared through/right-turn lane

**8. Kings Highway/Gills Neck Road/Cape Henlopen High School Entrance**

**Type of Control:** Existing signalized intersection (four-legged)

**Eastbound Approach:** (Cape Henlopen High School Entrance) Existing one shared left turn/through lane and one right turn lane

**Westbound Approach:** (Gills Neck Road) Existing one left turn lane, one through lane, and one right turn lane

**Northbound Approach:** (Kings Highway) Existing one left turn lane, one through lane, and one right turn lane

**Southbound Approach:** (Kings Highway) Existing one left turn lane, one through lane, and one right turn lane

**9. Kings Highway/Clay Road (Sussex Road 269)**

**Type of Control:** Existing two-way stop-controlled intersection (T-intersection)

**Eastbound Approach:** (Clay Road) Existing one shared left turn/right turn lane, stop-controlled

**Northbound Approach:** (Kings Highway) Existing one shared left turn/through lane

**Southbound Approach:** (Kings Highway) Existing one shared through/right turn lane

**10. Clay Road (Sussex Road 269) and Marsh Road (Sussex Road 269B)**

**Type of Control:** Existing two-way stop-controlled intersection (T-intersection)

**Eastbound Approach:** (Clay Road) Existing one shared through/right turn lane

**Westbound Approach:** (Clay Road) Existing one shared through/left turn lane

**Northbound Approach:** (Marsh Road) Existing one left-turn lane and one right-turn lane, stop-controlled.

**11. Kings Highway (Sussex Road 268) and Dartmouth Drive (Sussex Road 268A)**

**Type of Control:** Existing two-way stop-controlled intersection

**Eastbound Approach:** (Dartmouth Drive) Existing one shared left turn/right turn lane, stop-controlled

**Alan J. Roth**

437 Kings Highway

Lewes, Delaware 19958

RECEIVED  
AFTER  
PUBLIC HEARING  
(202) 669-1650

March 23, 2022

Sussex County Planning & Zoning Commission  
P.O. Box 417  
Georgetown, DE 19947

RECEIVED

MAR 28 2022

SUSSEX COUNTY  
PLANNING & ZONING

RE: 2022-01 Henlopen Properties, LLC a/k/a Mitchell's Corner  
C/Z 1967 Henlopen Properties, LLC  
C/Z 1968 Henlopen Properties, LLC  
C/U 2334 Henlopen Properties, LLC

Dear Commission Members:

I respectfully submit these comments in follow-up to the Commission's March 10, 2022 public hearing on the four above-referenced applications, comprising the proposed Mitchell's Corner development at the intersection of Kings Highway and Gills Neck Road in Lewes.

As a resident of Kings Highway within the City of Lewes, I took special interest in a March 18, 2022 Cape Gazette article in which Vice Chairman Kim Hoey Stevenson was described as expressing concern "about the entrance along Gills Neck Road and additional traffic turning left to use the road as an access road into Lewes [to] bypass Kings Highway." According to the article:

"We shouldn't be encouraging 400 or 500 more people to ride into Lewes on Gills Neck Road," she said.

She suggested that there should be no left turns from the entrance until all other road improvements are completed. She said vehicles should be forced to use Kings Highway.

DelDOT's Bill Brockenbrough, who was attending the meeting with other DelDOT officials, said the proposal is possible.

Because I did not want to rely solely on a newspaper report, I watched the video of the relevant portion of meeting in question so that I could hear the entire discussion. In general, I found the Gazette's report of Vice Chairman Stevenson's comments to be accurate. Her proposal is very troubling.

Once northbound traffic on Kings Highway passes the Lewes Public Library and Community Center, it flows into an entirely residential neighborhood with only one 25 mph lane in each direction. Nearly every home from that point all the way to E. Third Street in the center of town has a private driveway. At many times of day, exiting one's own driveway into traffic on Kings Highway is already a challenge, even in the off-season. Making a left turn across traffic from the side streets is likewise difficult during those busy times. Again, I am speaking of the off-season, not high-season traffic.

The prospect of adding hundreds of additional vehicles each day to the existing traffic load is daunting. I noted from the applicant's documentation that its traffic studies only address the traffic load up to the junction of Kings Highway and Freeman Highway, not beyond that point. This is disappointing. It is also reasonable to expect that much of the traffic "forced" to enter the City via Kings Highway will return to Mitchell's Corner via the same route.

Looking closely at the application and accompanying drawings, it struck me that the density and scale of this proposed project is simply too large for both the available and planned infrastructure along Kings Highway. It is not appropriate to add 400-500 vehicles south of the Kings Highway/Freeman Highway junction without also taking into account the impact this massive development would have on the small streets of the City of Lewes.

None of us can predict how individual drivers in particular circumstances will choose to drive into downtown Lewes from this new Mitchell's Corner development. While a reduction in the overall size of this project seems appropriate given the overall circumstances, that is not the focus of this letter. But if this project is to be approved at the proposed scale, it seems only fair that all of its neighbors share evenly in the burden of this new traffic, whether they live off Gills Neck Road or in the City of Lewes itself.

I appreciated that not every Commissioner shared the same perspective on this issue at the March 10<sup>th</sup> meeting, and that Mr. Brockenbrough did not seem particularly enthusiastic about the proposal either. I hope that Ms. Stevenson might reevaluate her thinking about this particular aspect of the project, and that the Commission as a whole would not "force" all this additional traffic onto Kings Highway as a condition of approving the applications.

Thank you for your consideration.

Sincerely,



Alan J. Roth

cc: T. Wm. Brockenbrough, Jr., DelDOT  
Janelle Cornwell, City of Lewes Planning and Development Officer



A Middlesex Water Company Affiliate

March 1, 2022

FILE COPY

Applicant Exhibit

Received at Public Hearing 3.10.2022

Ring Lardner  
Davis, Bowen, & Friedel, Inc.  
1 Park Avenue  
Milford, DE 19963

RECEIVED

MAR 10 2022

SUSSEX COUNTY  
PLANNING & ZONING

**RE: Willing & Able Letter – Tax Map Parcel No. 335-8.00-37.00**

Dear Mr. Lardner,

Tidewater Utilities, Inc. (Tidewater) is willing and able to serve public water, *including fire protection*, to the following parcel identified as Tax Map Parcel No. 335-8.00-37.00. Water service is contingent on the terms and conditions of a Water Service Agreement by and between Tidewater and the Project Owner.

This parcel is located outside of Tidewater’s water Certificate of Public Convenience and Necessity (CPCN) franchise area. In order for Tidewater to be the water service provider to this project, Tidewater must apply for and receive a CPCN from the Delaware Public Service Commission. Enclosed is a “Petition for Inclusion in Tidewater Utilities, Inc. Water Service Territory”. Please have the Owner of Tax Map Parcel No. 335-8.00-37.00 sign the enclosed petition and return original to Tidewater. The petition can also be emailed to Joe Cuccinello, CPCN Coordinator, at [jcuccinello@middlesexwater.com](mailto:jcuccinello@middlesexwater.com). The signed petition is an important and necessary first step for Tidewater to be the water service provider.

Please send a site plan and construction schedule to Tidewater. Please feel free to contact me at 302-747-1304 if you have any questions or concerns regarding this matter. Tidewater looks forward to meeting the water needs of this project.

Sincerely,

Kelly Bailey  
Manager, Contract Administration

cc: Joe Cuccinello, Tidewater  
Brian Carbaugh, Tidewater  
Kirsten Higgins, Tidewater

RECEIVED

MAR 10 2022

SUSSEX COUNTY  
PLANNING & ZONING

FINDINGS OF FACT & CONDITIONS OF APPROVAL  
(Proposed)

MITCHELLS CORNER

CU#2334

FILE COPY  
Applicant  
Exhibit

1. This is an application for a conditional use to develop 43.777± acres with two hundred sixty-seven (267) multifamily dwellings on a property located in Lewes and Rehoboth Hundred, Sussex County, being situated on the northeast quadrant of the intersection of Kings Highway (U.S. Route 9, Sussex County Road 268) and Gills Neck Road (Sussex County Road 267), also being a part of Tax Parcel 335-8.00-37.00 (the “Property”).

2. The Property is owned by Mitchell Family, LLC.

3. The applicant is Henlopen Properties, LLC, the contract purchaser of the Property.

4. The Property is presently used for agricultural purposes.

5. The Property is the subject of a Change of Zone Application (CZ 1967) seeking to change the designation of the Property on Sussex County’s comprehensive zoning map from AR-1 (Agricultural Residential District) to MR (Medium Residential District).

6. In the 2019 Sussex County Comprehensive Plan update, the Property is identified for purposes of future land use as being part of the Coastal Area, a “growth area.” The proposed project is consistent with the guidelines for projects within the Coastal Area.

7. The properties that surround this Property are also in the Coastal Area or within the municipal limits of the City of Lewes.

8. The 2020 Delaware Strategies for State Policies and Spending identify the Property as being in an Investment Level 1 area. According to Delaware’s Strategies for State Policies and Spending in Investment Level 1 areas, “[i]t is the State’s intent to use its spending and management tools to maintain and enhance community character, to promote well-designed and efficient new growth, and to facilitate redevelopment.”

9. The Property lies within a mixture of commercial and residentially zoned properties, including medium and high density communities. More specifically, the zoning classifications around the Property include the following: (1) Residential Zoning Districts: MR (Medium Residential District) and AR-1 (Agricultural Residential District) in Sussex County and R-5 Mixed Residential and R-2 Residential Low Density in the City of Lewes; and (2) Commercial Zoning Districts: C-1 (General Commercial District), C-3 (Heavy Commercial District) and B-1 (Neighborhood Business District) in Sussex County and GC (General Commercial) and CF(HC) Community Facilities (Health Care) in the City of Lewes. According to the City of Lewes Zoning Code, the purpose of the R-5 Mixed Residential District is to “[p]rovide for a mix of housing types to include multifamily and affordable housing alternatives.”

10. Consistent with the requested conditional use, in the immediate area there is a range of medium and higher density zonings and uses, including densities ranging from 17.7 units (acre) at Dutchman's Harvest (City of Lewes), 9.8 units per acre at Jefferson Apartments (City of Lewes), 6.4 units per acre at The Moorings at Lewes (Sussex County), 5.5 units per acre at Henlopen Gardens (City of Lewes) to 3.0 units per acre at Bay Breeze Estates (City of Lewes).

11. The Property is not within a floodplain based upon FEMA Map Number 10005C0325L, dated June 20, 2018, as it is in an area designated as Zone "X," which is an area determined to be outside the 500-year floodplain.

12. There are no wetlands located on the Property.

13. A small portion of the Property is located within a Wellhead Protection Area and will comply with the Climatic Water Budget requirements found in Chapter 89 of the Sussex County Code.

14. Potable water will be provided to the Property by either the Tidewater Utilities, Inc. or the City of Lewes Board of Public Works.

15. Tidewater Utilities, Inc. has indicated that it is willing and able to provide public water, including fire protection, to the project.

16. Sussex County Engineering identified the Property as being in a Tier 1 Sewer District Area located within the Sussex County Unified Sanitary Sewer District and will collect, treat and dispose of sanitary sewerage from the site.

17. Sussex County's Engineering Department has indicated that adequate wastewater capacity is available for the 267 multifamily unit project.

18. Through Sussex County and Tidewater Utilities, Inc./City of Lewes Board of Public Works adequate public water and sewage treatment is available to support the proposed project.

19. DelDOT responded to the Service Level Evaluation Request and, pursuant to its Memorandum of Understanding for Land Development Coordination with Sussex County, found that the proposed conditional use would have a Minor impact on the local area roadways and that the Developer may have been permitted to pay an Area-Wide Study Fee in lieu of doing a Traffic Impact Study. However, as part of the overall project for the Property, a Traffic Impact Study was completed.

20. On October 7, 2021 issued, DelDOT issued its Traffic Impact Study review letter for the project, and on February 28, 2022, DelDOT issued a revised Traffic Impact Study review letter taking into account the revisions to the project as well as DelDOT's *US9, Kings Highway, Dartmouth Drive to Freeman Highway* (DelDOT Contract No. T202212901) project, describing several required off-site improvements, including, but not limited to:

- a. Design and construction of interim improvements on Kings Highway;
- b. Dedication of substantial right-of-way, including an additional 30' from the right-of-way dedication required by the functional classification of Kings Highway;
- c. An equitable contribution to the *US9, Kings Highway, Dartmouth Drive to Freeman Highway* (DelDOT Contract No. T202212901) project; and
- d. An equitable contribution to the *Realignment of Old Orchard Road/Savannah Road/Wescoats Road* (DelDOT Contract No. T201609601) project.

21. As the site plan is finalized, DelDOT's approval, will be required to provide for safe vehicular and pedestrian movement within the site and onto Gills Neck Road and Kings Highway.

22. As a part of final site plan approval, stormwater management design and permitting will be required; thus assuring neighboring lands will be protected from the development and use of the Property.

23. The 2019 Comprehensive Plan and its Future Land Use Map approved by Sussex County Council identifies the Coastal Area as a Growth Area where "[a] range of housing types should be permitted..., including single-family homes, townhouses, and multi-family units."

24. In addition, the 2019 Sussex County Comprehensive Plan update states that,

...medium and higher density (4-12 units per acre) can be appropriate in certain locations. Medium and higher density could be supported in areas: where there is central water and sewer; near sufficient commercial uses and employment centers; where it is in keeping with the character of the area; where it is along a main road or at/or near a major intersection; where there is adequate Level of Service; or where other considerations exist that are relevant to the requested project and density.

25. The proposed project creates additional residential housing options at an appropriate density in an area served by County sewer and central water, which is near a significant number of commercial uses and employment centers, is in keeping with the character of the area, situated along a main road—a Principal Arterial (Kings Highway), where DelDOT has a project on the Capital Transportation Program to address Level of Service consistent with the purpose of both the MR (Medium Residential District) and the Coastal Area designated on the Comprehensive Plan.

This recommendation of approval is subject to the following proposed conditions:

- A. The maximum number of multifamily units shall not exceed 267.
- B. Any entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's requirements and time periods.

- C. The site will be served with public sanitary sewer via a connection to the Sussex County regional wastewater transmission, treatment and disposal Unified District facilities. The applicant shall comply with all requirements and specifications of the County Engineering Department.
- D. The site will be served with public water for both potable and fire protection use via connection to Tidewater Utilities, Inc. or the City of Lewes Board of Public Works.
- E. Street naming and addressing shall be subject to the review and approval of Sussex County Mapping and Addressing Departments.
- F. Interior street design shall meet or exceed Sussex County's street design requirements.
- G. Sidewalks shall be placed on both sides of the streets except Road C and shall connect with the multi-modal paths required by DelDOT.
- H. If requested by the local school district, a school bus stop shall be provided. The location of the bus stop area shall be shown on the Final Site Plan.
- I. A twenty-foot (20') forested buffer shall be installed along the perimeter of the subdivision adjacent to Jefferson Apartments, Bay Breeze Estates and The Moorings.
- J. The Applicant shall submit as part of the Final Site Plan a landscape plan showing the proposed tree and shrub landscape design, including any buffer areas. The landscape plan shall also identify all "Limits of Disturbance" within the site. These "Limits of Disturbance" shall be clearly marked on the site itself.
- K. The recreational amenities for the project shall include and be completed within the project as follows:
  - a. Community center/clubhouse, pool, and sports courts shall be completed on or before the 125<sup>th</sup> Certificate of Compliance/Occupancy; and
  - b. The dog park shall be completed on or before the 150<sup>th</sup> Certificate of Compliance/Occupancy.
- L. The existing Mitchell family buildings shall be documented by an archeologist prior to removal from the Property.
- M. The applicant, its successors and/or assigns, shall cause a property owners association to be formed and be responsible for the maintenance of the streets, roads, buffers, open spaces, stormwater management facilities and other common areas.
- N. The restrictive covenants shall require the property owners association to retain qualified professionals to maintain the open space through the community as well as the permanent easement along Kings Highway

- O. The Restrictive Covenants and Final Site Plan shall state that agricultural activities exist nearby, and they shall include the Agricultural Use Protection Notice.
- P. All construction and site work on the property, including deliveries of materials to or from the property, shall only occur between 7:00 a.m. and 6:00 p.m. Monday through Saturday. There shall be no construction activities at the site on Sundays. A 24-inch by 36-inch "NOTICE" sign in English and Spanish confirming these hours shall be prominently displayed at all entrances to the site during construction.
- Q. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated in a manner that is consistent with Best Management Practices.
- R. The Final Site Plan shall include the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
- S. The Final Site Plan shall depict or note these conditions and shall be subject to the review and approval of the Planning and Zoning Commission.