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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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JAMIE WHITEHOUSE, MRTPI, AICP
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PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: April 28th, 2022

Application: CZ 1980 Mars-Re, LLC

Applicant: MARS-RE, LLC C/O Roger Schwandtner
35637 Central Park Circle
Dagsboro, DE 19939

Owner: MARS-RE, LLC C/O Roger Schwandtner
35637 Central Park Circle
Dagsboro, DE 19939

Site Location: Lying on southwest side of Atlantic Ave. (Rt. 26) approximately 350' east of the 4-way intersection of Powell Farm Road (S.C.R. 365), Omar Road (Rt. 54), Vines Creek Road (Rt. 26) and Atlantic Avenue.

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

Proposed Zoning: Heavy Commercial (C-3) Zoning District

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Hudson

School District: Indian River School District

Fire District: Millville Fire Department

Sewer: Sussex County

Water: Tidewater Utilities

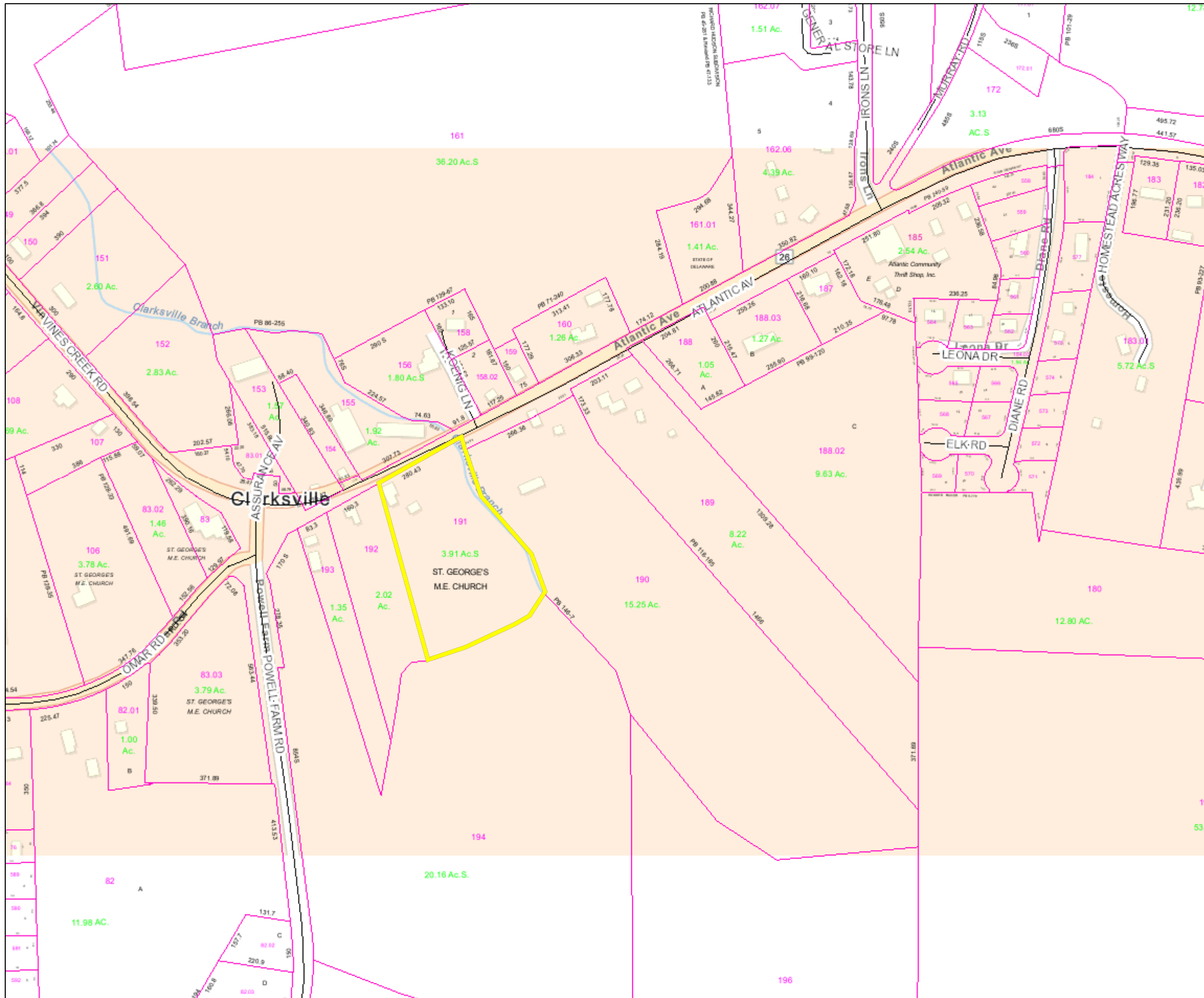
Site Area: 3.826 acres +/-

Tax Map ID.: 134-11.00-191.00





Sussex County



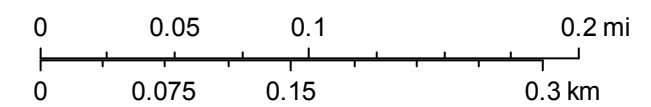
PIN:	134-11.00-191.00
Owner Name	MARS-RE LLC
Book	5146
Mailing Address	35637 CENTRAL PARK CIR
City	DAGSBORO
State	DE
Description	SE/RT 26
Description 2	330' NE/RD 365
Description 3	12950
Land Code	

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Override 1
- polygonLayer**

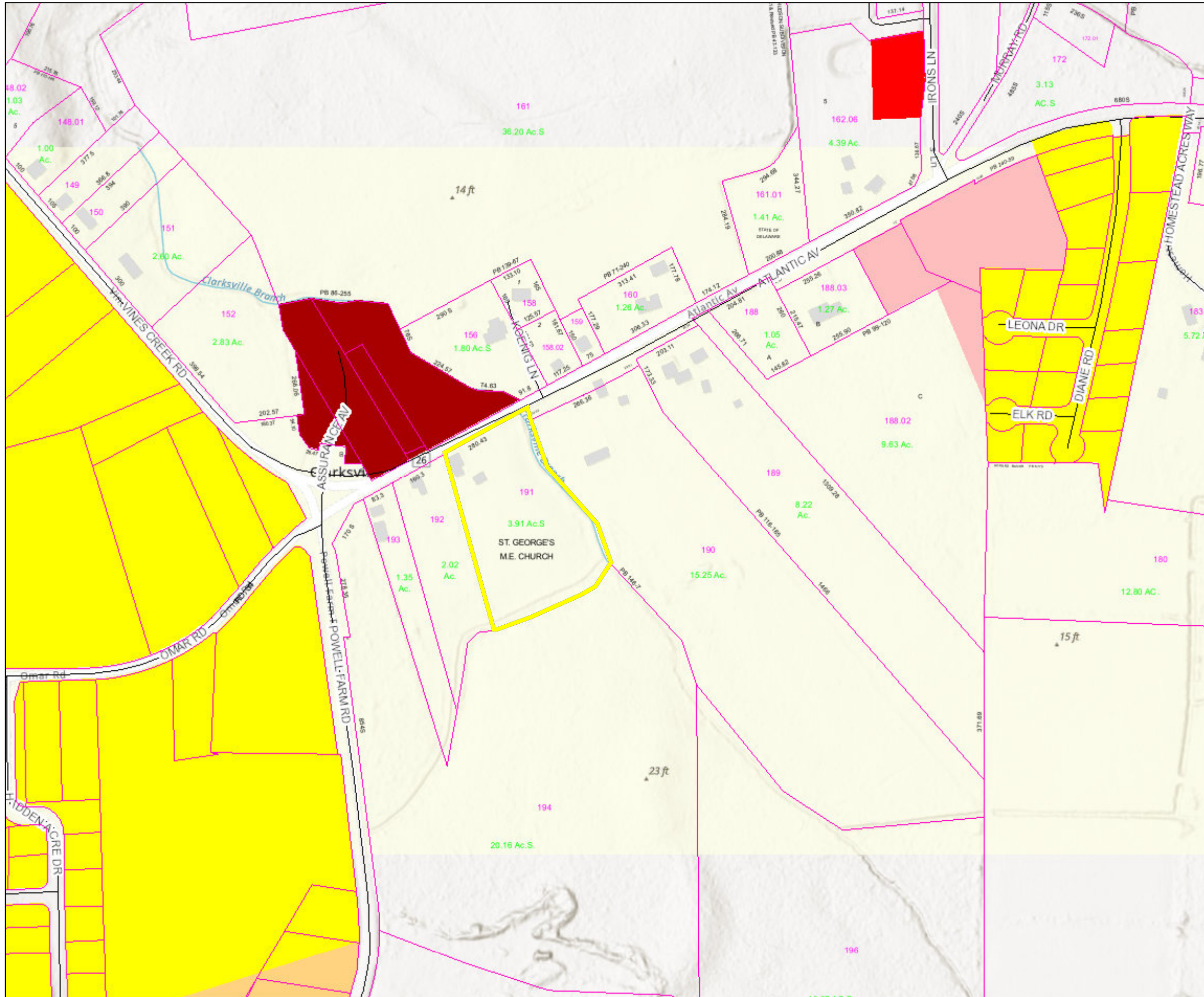
Override 1
- ⋯ Tax Parcels
- Streets
- ⋯ County Boundaries

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Sussex County



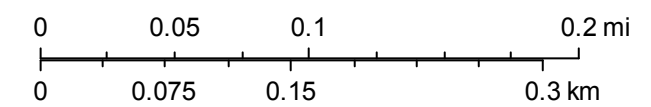
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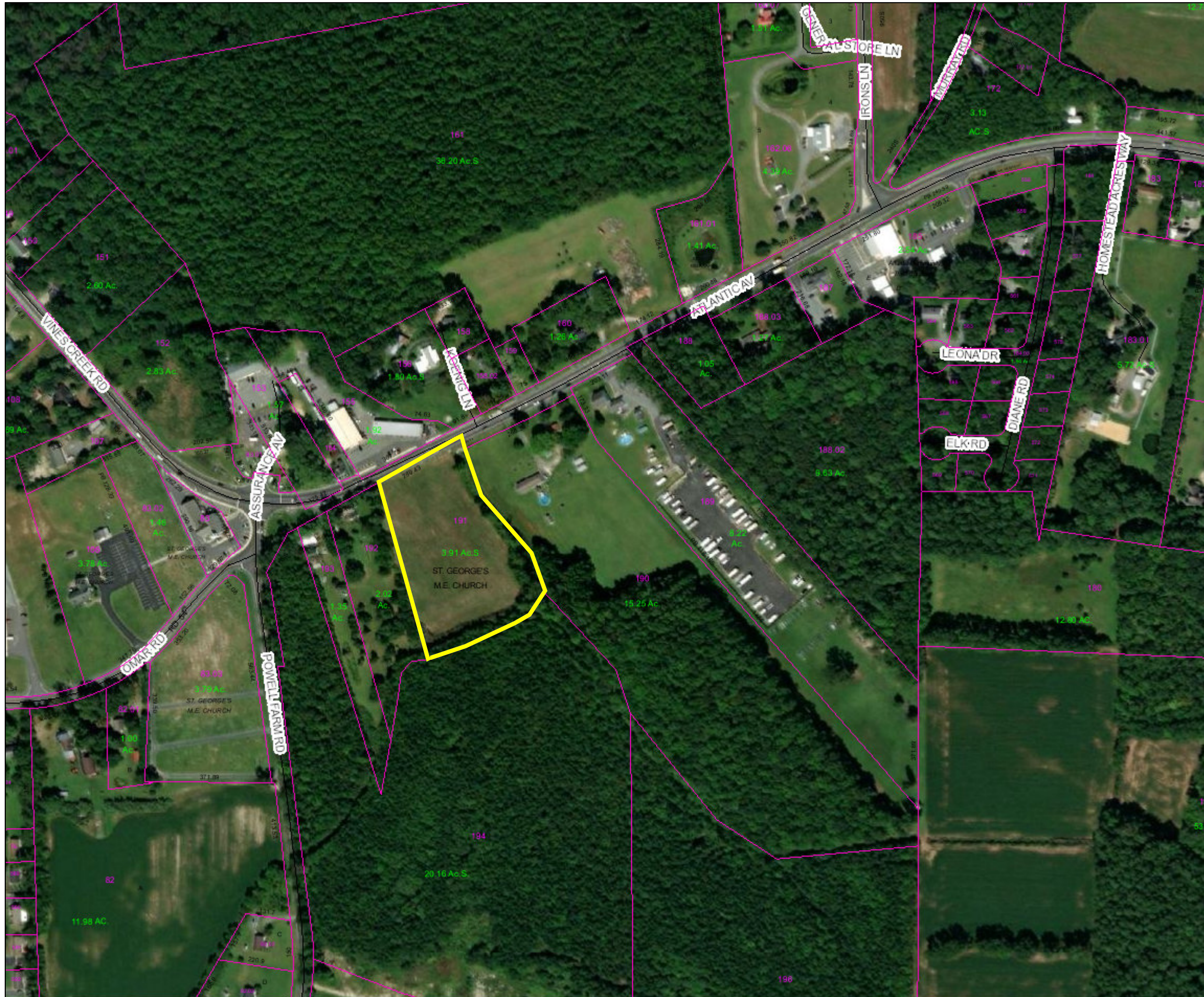
 - Override 1
- Tax Parcels
- Streets

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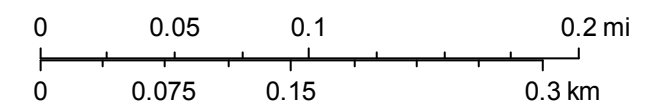
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Memorandum

To: Sussex County Planning Commission Members
From: Christin Scott, Planner I
CC: Vince Robertson, Assistant County Attorney
Date: April 20th, 2022
RE: Staff Analysis for CZ 1980 Mars-Re, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1980 Mars-Re, LLC to be reviewed during the April 28th, 2022, Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Change of Zone for Tax Parcel 134-11.00-191.00 to allow for a change of zone from an Agricultural Residential Zoning District (AR-1) to a Heavy commercial District (C-3). The property is lying on the south side of Atlantic Avenue (Rt. 26), approximately 475 feet east of Powell Farm Road (S.C.R. 365). The parcel to be rezoned contains 3.826 acres +/-.

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map in the plan indicates that the subject property has a land use designation of "Coastal Area". The properties to the north, south, east, and west also have the land use designation of "Coastal Area".

As outlined in the 2018 Sussex County Comprehensive Plan, the Coastal Areas are areas that can accommodate development provided that special environmental concerns are addressed. A range of housing types should be permitted in Coastal Areas, including single-family homes, townhouses, and multi-family units. Retail and office uses are appropriate, but larger shopping centers and office parks should be confined to selected locations with access along arterial roads. Appropriate mixed-use development should all be allowed

The property is zoned Agricultural Residential (AR-1) Zoning District. The adjacent parcels to the east, south and west are all zoned Agricultural Residential (AR-1) Zoning District. Across Atlantic Avenue (Rt. 26) the property is zoned Commercial Residential (CR-1) Zoning District. Properties further east and west are zoned Medium Density Residential (MR) Zoning District, Neighborhood Business (B-1) Zoning District and General Commercial (C-1) Zoning District.

The 2018 Sussex County Comprehensive Plan outlines Zoning Districts by their applicability to each Future Land Use category. Under Table 4.5-2 "Zoning Districts Applicable to Future Land Use Categories," the Heavy Commercial District (C-3) is listed as an applicable zoning district in the "Coastal Area".



Since 2011, there have been six (6) Change of Zone applications within a 1-mile radius of the application site. Change of Zone 1735 for a change of zone from an Agricultural Residential Zoning District (AR-1) to a Commercial Residential Zoning District (CR-1) was approved by the Sussex County Council on Tuesday, September 24, 2013 through Ordinance No. 2321. Change of Zone 1738 for a change of zone from an Agricultural Residential Zoning District (AR-1) to a Neighborhood Business Zoning District (B-1) was approved by the Sussex County Council on Tuesday, December 3, 2013 through Ordinance No. 2331. Change of Zone 1789 for a change of zone from an Agricultural Residential Zoning District (AR-1) to a Commercial Residential Zoning District (CR-1) was approved by the Sussex County Council on Tuesday, April 5, 2016 through Ordinance No. 2439. Change of Zone 1798 for a change of zone from an Agricultural Residential Zoning District (AR-1) and General Commercial Zoning District to a Commercial Residential Zoning District (CR-1) was approved by the Sussex County Council on Tuesday, June 21, 2016, through Ordinance No. 2457. Change of Zone 1825 for a change of zone from an Agricultural Residential Zoning District (AR-1) to a Commercial Residential Zoning District (CR-1) was approved by the Sussex County Council on Tuesday, September 19, 2017, through Ordinance No. 2518. Change of Zone 1840 for a change of zone from an Agricultural Residential Zoning District (AR-1) to a Commercial Residential Zoning District (CR-1) was approved by the Sussex County Council on Tuesday, January 30, 2018 through Ordinance No. 2544.

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 Heavy Commercial Zoning District (C-3) could be considered as being consistent with the land use, based on size and scale, with area zoning and surrounding uses.

File #: 42 1980

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

RECEIVED

FEB 22 2022

SUSSEX COUNTY
PLANNING & ZONING

Type of Application: (please check applicable)

Conditional Use

Zoning Map Amendment

Site Address of Conditional Use/Zoning Map Amendment

34464 Atlantic Avenue, Ocean View, DE 19970

Type of Conditional Use Requested:

Seeking change of zone from agricultural residential (AR-1) to Heavy Commercial District (C3) for a mixed use development (45 condominiums & 5,741 s.f. Retail/Restaurant)

Tax Map #: 134-11.00-191.00

Size of Parcel(s): 3.826 Ac.

Current Zoning: AR-1

Proposed Zoning: C3

Size of Building: 20,131 s.f. footprint

Land Use Classification: Mixed Residential

Water Provider: Tidewater Utilities

Sewer Provider: Sussex County

Applicant Information

Applicant Name: MARS-RE, LLC C/O Roger Schwandtner

Applicant Address: 35637 Central Park Circle

City: Dagsboro

State: DE

Zip Code: 19939

Phone #: (302) 604-1333

E-mail: Roger@ardllc.net

Owner Information

Owner Name: Same as Applicant

Owner Address: _____

City: _____

State: _____

Zip Code: _____

Phone #: _____

E-mail: _____

Agent/Attorney/Engineer Information

Agent/Attorney/Engineer Name: Baird Mandalas Brockstedt, LLC (C/o Mackenzie Peet)

Agent/Attorney/Engineer Address: 1413 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: 2/22/2022

Signature of Owner

Date: _____

For office use only:

Date Submitted: _____ Fee: \$500.00 Check #: _____
Staff accepting application: _____ Application & Case #: _____
Location of property: _____

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



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

NICOLE MAJESKI
SECRETARY

February 4, 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 **Mars-RE, LLC C/O Roger Schwandtner** proposed land use application, which we received on February 3, 2021. This application is for an approximately 3.8-acre parcel (Tax Parcel: 134-11.00-191.00). The subject land is located on the south side of Atlantic Avenue, east of the intersection with Omar Road. The subject land is currently zoned AR-1 (Agricultural Residential) with a proposed zoning of HR-1 (High-Density Residential District) and a conditional use approval requested to permit 45 condo units and 5741 square feet of Retail/Restaurant uses.

Per the 2019 Delaware Vehicle Volume Summary, the annual average daily traffic volume along the segment of Atlantic Avenue where the subject land is located, which is from Stephen Drive to Roxana Road (SR 17), is 11,632 vehicles per day.

Based on our review, we estimate that the proposed land use will generate more than 50 vehicle trips per peak hour or 500 vehicle trips per day, and would be considered to have a **Minor** impact to the local area roadways. In this instance, the Department considers a Minor impact to be when a proposed land use would generate more than either 50 vehicle trips per peak hour and / or 500 vehicle trips per day but fewer than 200 vehicle trips per a weekly peak hour and 2,000 vehicle trips per day. Because of this impact, we recommend that the applicant be required to perform a Traffic Impact Study (TIS) for the subject application. However, our Development Coordination Manual provides that where a TIS is required only because the volume warrants are met, and the projected trip generation will be fewer than 200 vehicle trips per a weekly peak hour and fewer than 2,000 vehicle trips per day, DelDOT may permit the developer to pay an Area-Wide Study Fee of \$10 per daily trip in lieu of doing a TIS. For this application, if the County were agreeable, we would permit the developer to pay an Area-wide Study Fee.



Mr. Jamie Whitehouse
Page 2 of 2
February 4, 2021

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

Please contact 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: Roger Schwandtner, 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

PLANNING & ZONING
Jamie Whitehouse, AICP, MRTPI
Director
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Service Level Evaluation Request Form

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

Date: 2/2/21

Site Information:

Site Address/Location: 34464 Atlantic Avenue, Ocean View, DE 19970

Tax Parcel Number: 134-11.00-191.00

Current Zoning: AR-1

Proposed Zoning: HR-2

Land Use Classification: Mixed Residential

Proposed Use(s): 45 Condo Units &
5,741 s.f. Retail/Restaurant

Square footage of any proposed buildings or number of units: 20,131 s.f. footprint (71,129 s.f. total)

Applicant Information:

Applicant's Name: MARS-RE, LLC C/O Roger Schwandtner

Applicant's Address: 35637 Central Park Circle

City: Dagsboro

State: DE

Zip Code: 19939

Applicant's Phone Number: (302) 604-1333

Applicant's e-mail address: Roger@ardllc.net



COUNTY ADMINISTRATIVE OFFICES
2 THE CIRCLE | PO BOX 417
GEORGETOWN, DELAWARE 19947

Last updated 3-12-20



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF STATE PLANNING COORDINATION

April 22, 2021

Kevin Smith
The Kercher Group, Inc.
37385 Rehoboth Ave Ext, Unit #11
Rehoboth Beach, DE 19971

RE: PLUS review 2021-03-03; 34464 Atlantic Avenue

Dear Mr. Smith:

Thank you for meeting with State agency planners on March 24, 2021 to discuss the proposed plans for the 34464 Atlantic Avenue project. According to the information received you are seeking review of a proposed rezoning of 3.826 acres from AR-1 to HR-2 in anticipation of a site plan for 45 residential units and 5,741 square feet of commercial space along Atlantic Ave in Sussex County.

Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. **The developers will also need to comply with any Federal, State, and local regulations regarding this property. We also note that as the County is the governing authority over this land, the developers will need to comply with any and all regulations/restrictions set forth by the County.**

Strategies for State Policies and Spending

This project is located in Investment Levels 2 and 3 according to the Strategies for State Policies and Spending. Investment Level 2 reflects areas where growth is anticipated by local, county, and State plans in the near-term future. Investment Level 3 reflects areas where growth is anticipated by local, county, and state plans in the longer-term future, or areas that may have environmental or other constraints to development. State investments may support future growth in these areas but may have other priorities for the near future.

Our office has no objections to the proposed rezoning and development of this project provided it is in compliance with Sussex County Comprehensive plan and all applicable codes and ordinances.

We do ask that you work to preserve the environmental features on the site if the plan moves forward.

Code Requirements/Agency Permitting Requirements

Department of Transportation – Contact Bill Brockenbrough 760-2109

- The site access on Atlantic Avenue (Delaware Route 26) must be designed in accordance with DelDOT's Development Coordination Manual, which is available at <http://www.deldot.gov/Business/subdivisions/index.shtml?dc=changes>.
- Pursuant to Section 1.3 of the Manual, a Pre-Submittal Meeting is required before plans are submitted for review. The form needed to request the meeting and guidance on what will be covered there and how to prepare for it is located at https://www.deldot.gov/Business/subdivisions/pdfs/Meeting_Request_Form.pdf?08022017.
- Section 1.6.1 of the Manual addresses the location of proposed entrances. Preliminarily, DelDOT anticipates requiring that the entrance be aligned directly opposite the entrance from which it is presently proposed to be slightly offset.
- Section 1.7 of the Manual addresses fees that are assessed for the review of development proposals. DelDOT anticipates collecting the Initial Stage Fee when the record plan is submitted for review and the Construction Stage Fee when construction plans are submitted for review.
- Per Section 2.2.2.1 of the Manual, Traffic Impact Studies (TIS) are warranted for developments generating more than 500 vehicle trip ends per day or 50 vehicle trip ends per hour in any hour of the day. From the PLUS application, the total daily trips are estimated at 486 vehicle trip ends per day. DelDOT confirms this number as being correctly calculated for the Saturday Average Daily Traffic if the first-floor commercial uses are treated as a Shopping Center. However, DelDOT finds that it may be more appropriate to break out the proposed restaurant use and treat it separately. Using the 10th edition of the Institute of Transportation Engineers' Trip Generation Manual and floor areas from the parking space calculation shown on the site plan, as shown in the table below, DelDOT calculates 1,041 vehicle trip ends per day for this number and estimates the weekday morning and evening peak hour trip ends at 30 and 99, respectively. Therefore, a TIS would normally be required.

	Land Use Code	Floor Area (sf) / Dwellings	Average Daily Traffic	AM Peak Hour		PM Peak Hour	
				In	Out	In	Out
Retail	820	3,860	146	2	2	7	8
Restaurant	931	1,881	158	1	0	10	5
Multifamily Housing (Mid-Rise)	221	45	244	4	12	13	8
Total			548	7	14	30	21

Section 2.2.2.2 of the Development Coordination Manual provides that for developments generating less than 2,000 vehicle trip ends per day and less than 200 vehicle trip ends per hour in any hour of the day, DelDOT may accept an Area Wide Study (AWS) Fee in lieu of the TIS if the local government does not require a TIS. The AWS Fee is calculated as \$10 per daily trip or, in this case, \$5,480. AWS Fees are used to fund traffic studies, not to build improvements.

The purpose of a TIS is to determine what off-site improvements are needed to support a proposed development. DelDOT has not identified any capital projects in which they would require the developer to participate but reserves the right to do so. DelDOT does anticipate requiring the developer to improve Route 26, within the limits of their projected frontage, to meet DelDOT’s Minor Arterial Road standards, which include 12-foot lanes and 8-foot shoulders.

Questions regarding the site’s trip generation should be directed to the County Coordinator, Mr. T. William Brockenbrough. Mr. Brockenbrough may be reached at Thomas.Brockenbrough@delaware.gov or (302) 760-2109. Questions regarding the requirement to improve the site frontage should be directed to the Sussex County Review Coordinator, Mr. R. Stephen McCabe. Mr. McCabe may be reached at Richard.mccabe@delaware.gov or (302) 760-2276.

- As necessary, in accordance with Section 3.2.5 and Figure 3.2.5-a of the Manual, DelDOT will require dedication of right-of-way along the site’s frontage on Route 26. By this regulation, this dedication is to provide a minimum of 40 feet of right-of-way from the physical centerline. The following right-of-way dedication note is required, **“An X-foot wide right-of-way is hereby dedicated to the State of Delaware, as per this plat.”**
- In accordance with Section 3.2.5.1.2 of the Manual, DelDOT will require the establishment of a 15-foot wide permanent easement across the property frontage. The location of the easement shall be outside the limits of the ultimate right-of-way. The easement area can be used as part of the open space calculation for the site. The following note is required, **“A 15-foot wide permanent easement is hereby established for the State of Delaware, as per this plat.”**

- Referring to Section 3.4.2.1 of the Manual, the following items, among other things, are required on the Record Plan:
 - A Traffic Generation Diagram. See Figure 3.4.2-a for the required format and content.
 - Depiction of all existing entrances within 450 feet of the entrance on Route 26.
 - Notes identifying the type of off-site improvements, agreements (signal, letter) contributions and when the off-site improvements are warranted.
- Section 3.5 of the Manual provides DelDOT's requirements with regard to connectivity. The requirements in Sections 3.5.1 through 3.5.3 shall be followed for all development projects having access to state roads or proposing DelDOT maintained public streets for subdivisions. In response to the discussion at the PLUS meeting, DelDOT recommends that the plan be modified to provide for a future interconnection with the parcel to the west (Tax Parcel No. 134-11.00-192.00) if it is proposed for redevelopment with a compatible use.
- Section 3.5.4.2 of the Manual addresses requirements for Shared Use Paths (SUP) and sidewalks. For projects in Level 2 Investment Areas, installation of paths or sidewalks along the frontage on State-maintained roads is mandatory. DelDOT anticipates requiring the developer to build an SUP along their frontage on Route 26.
- Section 3.5.4.3 of the Manual addresses requirements for walkways. A walkway is a path connecting the interior of a development to the frontage sidewalk or SUP. DelDOT anticipates requiring a walkway to connect the interior of the site to Route 26.
- In accordance with Section 3.8 of the Manual, storm water facilities, excluding filter strips and bioswales, shall be located a minimum of 20 feet from the ultimate State right-of-way along Route 26.
- In accordance with Section 5.2.9 of the Manual, the Auxiliary Lane Worksheet should be used to determine whether auxiliary lanes are warranted at the site entrances and how long those lanes should be. The worksheet can be found at <http://www.deldot.gov/Business/subdivisions/index.shtml>. DelDOT anticipates requiring a right turn lane with a five-foot bicycle lane into the site from Route 26. The volumes shown on the Traffic Generation Diagram on the site plan may not warrant a right turn lane but, as mentioned above, DelDOT questions the proposed trip generation. DelDOT also questions the proposed trip distribution. A relatively small change in either regard would cause a right turn lane to be warranted. Trip generation and distribution will need to be agreed upon before the Pre-Submittal Meeting and the need for a right turn lane should be discussed at the meeting.

- In accordance with Section 5.4 of the Manual, sight distance triangles are required and shall be established in accordance with American Association of State Highway and Transportation Officials (AASHTO) standards. A spreadsheet has been developed to assist with this task. It can be found at <http://www.deldot.gov/Business/subdivisions/index.shtml>.
- In accordance with Section 5.14 of the Manual, all existing utilities must be shown on the plan and a utility relocation plan will be required for any utilities that need to be relocated.

Department of Natural Resources and Environmental Control – Beth Krumrine 735-3480

Concerns Identified Within the Development Footprint

Stormwater Management

This project/site has met the minimum threshold of 5000 square feet of land disturbing activity under the DNREC Sediment and Stormwater Program.

- A Sediment and Stormwater Plan must be developed, then approved by the appropriate plan review agency prior to any land disturbing activity taking place on the site. For this project, the plan review agency is the Sussex Conservation District.
- Additionally, construction activities that exceed 1.0 acre of land disturbance require Construction General Permit coverage through submittal of an electronic Notice of Intent for Stormwater Discharges Associated with Construction Activity. This form must be submitted electronically (<https://apps.dnrec.state.de.us/eNOI/default.aspx>) to the DNREC Division of Watershed Stewardship, along with the \$195 fee.
- Schedule a project application meeting with the appropriate agency prior to moving forward with the stormwater and site design. As part of this process, you must submit a Stormwater Assessment Study.

Plan review agency contact: Sussex Conservation District at (302) 856-2105 or (302) 856-7219. Website: <https://www.sussexconservation.org/>

- General stormwater contact: DNREC Sediment and Stormwater Program at (302) 739-9921. E-mail: DNREC.Stormwater@delaware.gov. Website: <https://dnrec.alpha.delaware.gov/watershed-stewardship/sediment-stormwater/>

Water Quality (Pollution Control Strategies)

Pollution Control Strategies have been developed for the following watersheds in Delaware: Christina, Appoquinimink, Broadkill, Mispillion and Cedar Creek, Murderkill, Saint Jones, Inland Bays (Rehoboth Bay, Indian River Bay, and Little Assawoman Bay), Nanticoke, and Upper Chesapeake. Such strategies were created because surface water failed to meet water quality standards for nutrients and sediment.

- This site lies within the Indian River Bay Watershed. Consult with the appropriate plan review agency to determine if stricter stormwater management standards may apply for development projects in this area.
- Contact: Sussex Conservation District at (302) 856-2105 or (302) 856-7219. Website: <https://www.sussexconservation.org/>

Tax Ditches

The parcel (134-11.00-191.00) of the proposed project is located within the St. Georges Tax Ditch Watershed. The Main Prong and Prong 3 of the St. Georges Tax Ditch are located within or along the parcel boundary. Tax Ditch channels have associated Tax Ditch Rights-of-Way (ROW) that are utilized for access as well as sediment and debris disposal during tax ditch maintenance. Permanent obstructions are not permitted in the ROW. Tax Ditch ROWs vary by channel size and location. For this particular site, both channels have an existing ROW of 80' from centerline.

- The preliminary plans show a proposed ROW of 30' from top of bank. To reduce Tax Ditch ROWs, a Court Order Change must be submitted by the DNREC Drainage Program. The associated Land Development Project Review Request form is attached, as well as the aerial drainage map.
- If the site and/or stormwater management features are designed to discharge into the Main Prong or Prong 3, comparison of existing conditions versus the proposed design specifications for each should be considered. Please consult with the DNREC Drainage Program for As-Built design information if necessary.
- Permanent obstructions including, but not limited to, stormwater management facilities, buildings, sheds, streets, wells, and septic systems are not allowed within the Tax Ditch ROW.
- All precautions should be taken to ensure the project does not hinder any off-site drainage upstream or create any off-site drainage problems downstream due to increases in stormwater.

- Contact: DNREC Drainage Program at (302) 855-1930.
Website: <https://dnrec.alpha.delaware.gov/drainage-stormwater/>
Tax Ditch Mapper: de.gov/taxditchmap

Wetlands

Maps from the Statewide Wetlands Mapping Project indicate the presence of riverine wetlands on the site. According to the project application, the wetland delineation has been completed, with 0.45 acres of non-tidal wetlands present.

- If the project proposes to disturb (dredge or fill) jurisdictional wetlands under the U.S. Army Corps of Engineers, a delineation of waterways and wetlands is required. In certain circumstances, additional certifications from DNREC Wetlands & Subaqueous Lands Section will be required as part of the U.S. Army Corps of Engineers permit process.
- Contact: U.S. Army Corps of Engineers (Dover Office) at (267) 240-5278.

Vegetated Buffer Zones

Vegetated buffer zones placed adjacent to waterways and wetlands help improve water quality by reducing sediment and pollutants loads. They also provide valuable habitat and can help prevent encroachment of human activities into ecologically sensitive areas. Vegetated buffers are not equivalent to setbacks, as residential lots, walkways, and stormwater management facilities should not be contained within the vegetated buffer zone.

- The applicant must comply with minimum vegetated buffer widths as identified within county and municipal codes.

Wastewater Permitting – Large Systems

Sussex County holds existing permits with the DNREC Groundwater Discharges Section's Large Systems Branch.

- It is the responsibility of the permittee (Sussex County) to notify the Large Systems Branch if the capacity of the rate of wastewater disposal is to be updated.
- Contact: DNREC Large Systems Branch at (302) 739-9948.
Website: <https://dnrec.alpha.delaware.gov/water/groundwater/>

State Historic Preservation Office – Contact Carlton Hall 736-7400

- Prehistoric archaeological potential is low on the eastern side, and moderate on the western side. Western portion has well-drained soils and it is within favorable distance to Clarksville Branch. Eastern portion is poorly drained soils. Deforestation that occurred in 2002 and subsequent tilling may have disturbed the integrity of any sites.
- Historic potential is low to moderate. Two (?) houses along the northern edge of the parcel are shown in early 20th century topos, but they may not have significant archaeological value. The rest of the parcel is low.
- If any project or development proceeds, the developer should be aware of the Unmarked Human Burials and Human Skeletal Remains Law (Del. C. Title 7, Ch. 54).
- If there is federal involvement, in the form of licenses, permits, or funds, the federal agency, often through its client, is responsible for complying with Section 106 of the National Historic Preservation Act (36 CFR 800) and must consider their project's effects on any known or potential cultural or historic resources. For further information or additional details pertaining to the Section 106 process and the Advisory Council's role; please review the Advisory Council's website at the following: www.achp.gov

Recommendations/Additional Information

This section includes a list of site-specific suggestions that are intended to enhance the project. These suggestions have been generated by the State Agencies based on their expertise and subject area knowledge. **These suggestions do not represent State code requirements.** They are offered here in order to provide proactive ideas to help the applicant enhance the site design, and it is hoped (**but in no way required**) that the applicant will open a dialogue with the relevant agencies to discuss how the suggestions can benefit the project.

Department of Transportation – Contact Bill Brockenbrough 760-2109

- The site plan presented shows a group of nine head-in parking spaces on the east side of the building, accessed by a drive aisle that will be relatively busy. DelDOT suggests that the developer consider placing parallel parking spaces there and designating them as handicap spaces, or possibly as pick-up spaces for the proposed restaurant.
- The applicant should expect a requirement that any substation and/or wastewater facilities will be required to have access from an internal driveway with no direct access to Route 26.
- The applicant should expect a requirement that all PLUS and Technical Advisory Committee (TAC) comments be addressed prior to submitting plans for review.
- Please be advised that the Standard General Notes have been updated and posted to the DelDOT website. Please begin using the new versions and look for the revision dates of

March 21, 2019 and March 25, 2019. The notes can be found at <https://www.deldot.gov/Business/subdivisions/>.

Department of Natural Resources and Environmental Control – Beth Krumrine 735-3480
Concerns Identified Within the Development Footprint

Stormwater Management

- Where the site and soil conditions allow, integrate runoff reduction techniques including infiltration basins, bioretention (rain gardens), filter strips, and pavers to encourage on-site stormwater infiltration and reduce runoff.

Drainage

- Environmental permits or exemptions may be required by the County Conservation District (Standard Plan), the DNREC Sediment and Stormwater Program (eNOI/NOT), Army Corp of Engineers, and/or DNREC Wetlands and Subaqueous Lands Section prior to clearing and/or excavating ditch channels.

Wetlands

- Recommendations for buffers are prescribed below under the heading, Vegetated Buffer Zones.

Vegetated Buffer Zones

- A 25-foot vegetated buffer has been included in the preliminary plans. Incorporate a 100-foot vegetated buffer zone from the edge of tax ditches and wetlands to protect water quality and to provide an additional margin of safety from flooding.
- Vegetated buffer zones should be left undisturbed during construction and should be identified outside of the Limit of Disturbance (LOD) on the engineering plans. In some instances, stormwater outfalls, conveyances, and emergency spillways may cross through these zones, and will require temporary disturbance during construction.
- Vegetated buffer zones should be deeded as community open space. Signage should be installed at the edge and within the buffer zones to deter residents from encroaching into these common areas.
- Maintain vegetated buffer zones as either grasslands/meadows or forest. Buffer zones should be planted exclusively with native trees and plants. Native plants are well-suited to our climate and require limited maintenance. They also provide an increasingly important role in the survival of native birds and beneficial insects whose habitat is

shrinking due to development and climate change.

- In general, grass cutting for vegetated buffer zones if maintained as meadow should not occur between April 1st to July 31st to reduce impacts to nesting birds and other wildlife species that utilize meadows and grasslands for breeding habitat.
- Contact: DNREC Wildlife Species Conservation & Research Program at (302) 735-3600. Website: <https://dnrec.alpha.delaware.gov/fish-wildlife/contact-information/>

Additional Sustainable Practices

- Install electric vehicle charging stations for residents and visitors. Electric vehicles are rapidly becoming commonplace. Installing the infrastructure to serve electric vehicles during initial construction will prevent costly upgrades later and provide a marketing tool for your project. Funding for charging stations and technical assistance are available from the DNREC Division of Climate, Coastal and Energy at: <https://dnrec.alpha.delaware.gov/climate-coastal-energy/clean-transportation/ev-charging-equipment-rebates/>.
- Consider using renewable energy infrastructure such as solar to reduce energy costs and further reduce pollution created from offsite generation. Grant funds and incentives may be available through the DNREC Green Energy Fund, which includes several funding types through the state's major electric utilities. Grants may be available for qualifying renewable energy systems installed in Delaware by applicants whose electricity provider collects funds for the program and offers a grant program for renewable energy projects. Additional information can be found at: <https://dnrec.alpha.delaware.gov/climate-coastal-energy/renewable/assistance/>.
- Incorporate nonmotorized connectivity and install bicycle racks where feasible to help facilitate non-vehicular travel modes.
- Use efficient Energy Star rated products and materials in construction and redevelopment to lessen the power source emissions of the project and costs. Every percentage of energy efficiency translates into a percent reduction in pollution.
- Air pollution from new construction is generated through the use of maintenance equipment, paints, and consumer products like roof coatings and primers. Use of structural paint coatings that are low in Volatile Organic Compounds will help protect air quality.
- The applicant should consider the use of recycled materials, such as reclaimed asphalt pavement, to reduce landfill waste, heat island effects on paved surfaces, and pavement costs.

Sussex County Planning & Zoning – Contact Lauren DeVore 855-7878

- Sussex County encourages the applicant to participate in a pre-application meeting with Planning and Zoning staff. Please include a note on the plans which indicates that the proposed project is not located within the Henlopen Transportation Improvement District (TID). Following submission to the County, staff undertake review of the Preliminary Site Plan, where more detailed comments are provided to the applicant. At the PLUS stage of review, staff wish to limit comments to high-level comments only.

For the Change of Zone, a Service Level Evaluation Request form must be completed and submitted to the Office of Planning and Zoning. Once the Office receives the completed Service Level Evaluation Response from DelDOT, the applicant may submit all documentation and materials pertaining to their Conditional Use application. Please note on the plans that the parcels are not located within a Wellhead Protection Area in order to comply with Chapter 89 “Source Water Protection” of the Sussex County Code (§ 89-6). Please note on the plans that the parcels are located within an area of “fair/good” groundwater recharge potential in order to comply with Chapter 89 “Source Water Protection” of the Sussex County Code (§89-7). Staff note that there is only one-way-in, one-way-out access to the property. The Planning and Zoning Commission desire more than one entrance or an easement for emergency access purposes in the event of an emergency occurring on the parcel. The proposed parking appears to meet Code requirements as well as ADA requirements regarding the provision of handicap spaces per total number of parking spaces (§115-162). Additionally, the proposal will have to comply with the site plan requirements of §115-220 and the multifamily requirements of §115-188 of the Sussex County Code.

Sussex County Housing – Contact: Brandy Nauman 855-7779

- Sussex County endeavors to promote non-discrimination and affordable housing whenever possible throughout the County. In this regard, the developer and associated financial institutions are encouraged to provide and finance affordable housing opportunities to Sussex County residents in all new developments, and affirmatively market those affordable housing units to diverse populations.
- For questions about opportunities available for affordable housing projects within Sussex County, please consult Sussex County’s “Affordable Housing Support Policy”. The policy along with other resources are available on the County’s Affordable & Fair Housing Resource Center website: www.sussexcountyde.gov/affordable-and-fair-housing-resource-center. The County’s Community Development & Housing Department can advise about existing affordable housing opportunities in Sussex County and the appropriate County Department to contact regarding specific development issues concerning future affordable housing projects within Sussex County.

- The Community Development & Housing Department can also explain and assist with any financial support or incentives that may be available to a project from federal, state and county sources, as well as private funding sources that also promote affordable housing in Sussex County.
- Please understand that all residential projects, including Affordable Housing Projects are subject to the applicable provisions of the Sussex County Subdivision and Zoning Codes, and the approval processes set forth in those Codes.
- On behalf of Sussex County, we look forward to cooperating with you and your project as it moves forward.

Following receipt of this letter and upon filing of an application with the local jurisdiction, the applicant shall provide to the local jurisdiction and the Office of State Planning Coordination a written response to comments received as a result of the pre-application process, noting whether comments were incorporated into the project design or not and the reason therefore.

Thank you for the opportunity to review this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,

A handwritten signature in cursive script that reads "Constance C. Holland".

Constance C. Holland, AICP
Director, Office of State Planning Coordination

CC: Sussex County Planning Department

Attachments

Date Received: _____

Date Submitted: _____

Land Development Project Review Request Form

Project Name: _____

Attach Site Plan of proposed request(s), include all structures, easements, setbacks, etc. that make your proposal as requested necessary. Include existing tax ditch channel and rights-of-way for comparison. Check out <https://de.gov/taxditchmap> for planning and illustrating purposes.

Owner(s) Contact Information:

Name: _____

Phone Number: _____

Email: _____

Authorized Signer(s) Contact Information:

Name and Title: _____

Phone Number: _____

Email: _____

Project Representative/Consultant Information:

Name and Title: _____

Phone Number: _____

Email: _____

Tax Ditch Organization(s) Affected: _____

Tax Parcel(s) Affected: _____

Request of Tax Ditch Organization (Check all that apply):

<input type="checkbox"/>	Outfall/Discharge Into Tax Ditch Channel(s)
<input type="checkbox"/>	Relocate/Eliminate Tax Ditch Channel(s)
<input type="checkbox"/>	Reduce/Increase Tax Ditch Rights-of-Way
<input type="checkbox"/>	Change Tax Ditch Watershed Boundary _____

Please specify Tax Ditch Channel(s) affected, existing and requested tax ditch rights-of-way extents whenever applicable please use space below and attach additional pages as appropriate.

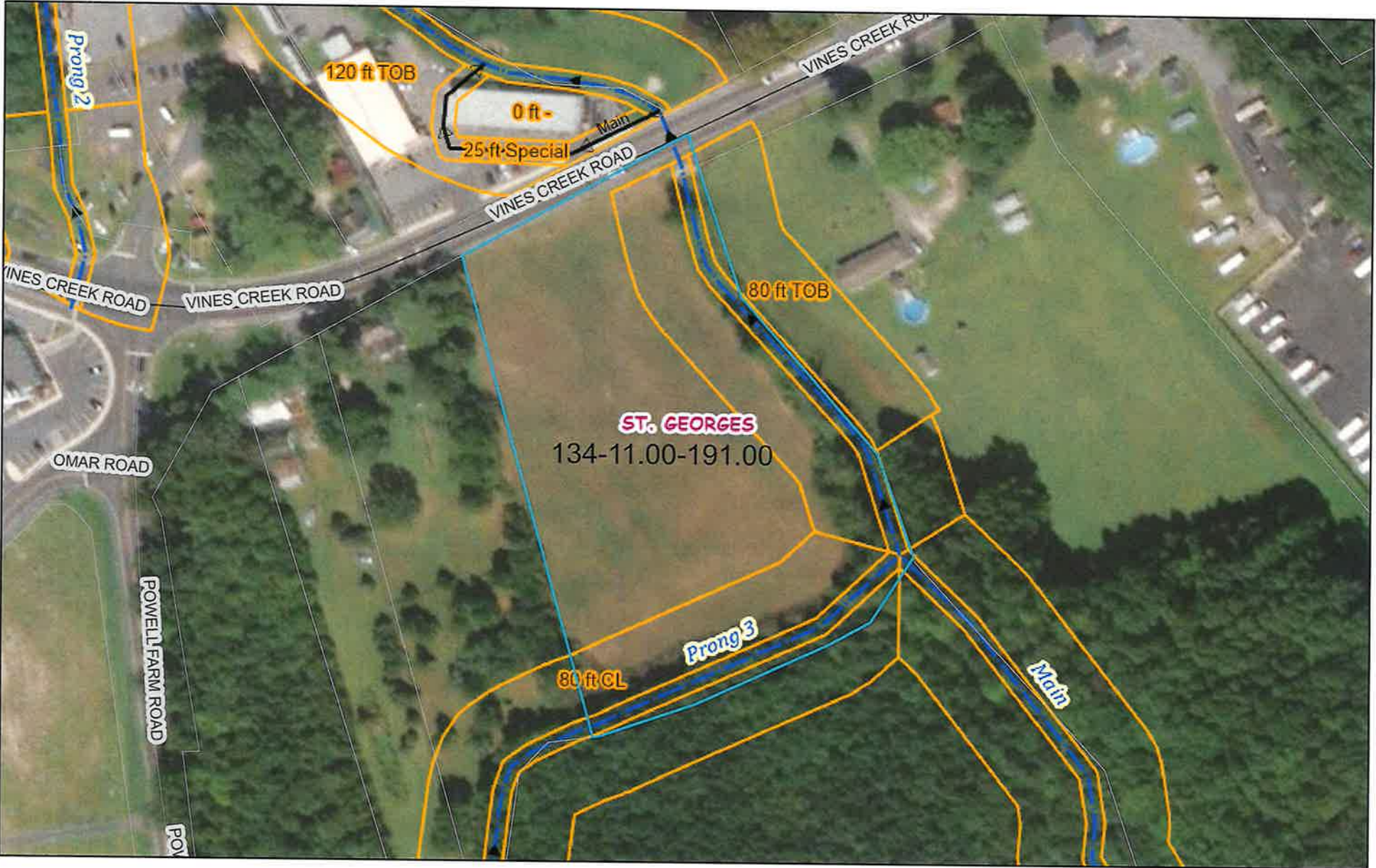
Date Received:

Date Submitted: _____

For Internal Use Only:

COC Required	COC Receipt from Prothonotary	LONO Required
COC Drafted	COC Instructions for Filing to Owner	S&S Plans Received Date:
COC Reviewed		Plans Reviewed by PM
COC Out of Signature		Plans Reviewed by Engineer
COC Signed. Date _____		Plans Approved by TD Officer
		LONO Issued Date:

Tax Ditch Web Map



3/9/2021, 8:18:27 AM

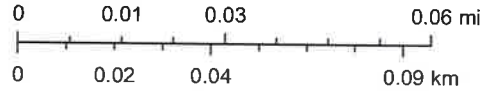
1:2,257

DE_Road_Inventory - Road Inventory
 — Minor Arterial
 — Local

DE_StateParcels - Sussex
 — Approx. Watershed Boundary
 — Extent of Right-of-Way

Tax Ditch Segments
 — Tax Ditch Channel
 — Special Access ROW

Municipalities
 — Communities
 — State and County Boundaries



Delaware Office of State Planning Coordination, GeoEye, Maxar, Microsoft

DNREC, Division of Watershed Stewardship, Drainage Program

These maps do not replace the official documents on file in the Prothonotary's Office, and are not to be used for engineering purposes.

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

TO: **Jamie Whitehouse**

REVIEWER: **Chris Calio**

DATE: **4/4/2022**

APPLICATION: **CZ 1980 Mars-Re, LLC**

APPLICANT: **MARS-RE, LLC (c/o Roger Schwandtner)**

FILE NO: **NM-1.03**

TAX MAP &
PARCEL(S): **134-11.00-191.00**

LOCATION: **Lying on the southwest side of Atlantic Ave. (Rt. 26),
approximately 350' east of Powell Farm Road (SCR 365)**

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

GROSS
ACREAGE: **3.826**

SYSTEM DESIGN ASSUMPTION, MAXIMUM NO. OF UNITS/ACRE: **4**

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 1**
- (3). Is wastewater capacity available for the project? **Yes** If not, what capacity is available? **N/A.**
- (4). Is a Construction Agreement required? **Yes** If yes, contact Utility Engineering at (302) 855-7717.
- (5). Are there any System Connection Charge (SCC) credits for the project? **No** If yes, how many? **N/A.** Is it likely that additional SCCs will be required? **Yes** If yes, the current System Connection Charge Rate is **Unified \$6,600.00** per EDU. Please contact **Denise Burns** 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? **N/A**
- (8). Comments: **Click or tap here to enter text.**
- (9). Is a Sewer System Concept Evaluation required? **Yes, Contact Utility Planning at 302-855-7370 to apply**
- (10). Is a Use of Existing Infrastructure Agreement Required? **Yes**
- (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
Denise Burns

