

COUNTY COUNCIL

MICHAEL H. VINCENT, PRESIDENT
JOHN L. RIELEY, VICE PRESIDENT
CYNTHIA C. GREEN
DOUGLAS B. HUDSON
MARK G. SCHAEFFER



Sussex County

DELAWARE
sussexcountyde.gov
(302) 855-7743

SUSSEX COUNTY COUNCIL

AGENDA

April 16, 2024

1:00 P.M.

Call to Order

Approval of Agenda

Approval of Minutes - April 9, 2024

[Draft Minutes 040924](#)

Reading of Correspondence

Public Comments

Todd Lawson, County Administrator

1. Proclamation – Fair Housing Month
2. Administrator’s Report

Old Business

1. [Conditional Use No. 2365 filed on behalf of Frankford Community Energy Initiative II, LLC](#)

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT AND AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 42.95 ACRES, MORE OR LESS” (property lying on the east side of DuPont Boulevard [Rt. 113], approximately 250 feet south of Lazy Lagoon Road [S.C.R. 380]) (911 Address: N/A) (Tax Map Parcel: 533-4.00-23.00)

[CU2365](#)



Grant Request

1. **Nicmar Youth Connection Enterprises, Inc. for their performing arts gala**
[Nicmar Youth Connection Enterprises, Inc.](#)

Introduction of Proposed Zoning Ordinances

[Ord Intros CU2414 CU2426 CU2497 CU2514](#)

Council Members' Comments

Executive Session - Land Acquisition pursuant to 29 Del.C.§10004(b)

Possible action on Executive Session Items

1:30 p.m. Public Hearings

1. **Leeward Chase Annexation of the Sussex County Unified Sanitary Sewer District (Airpark Area)**
[Leeward Chase](#)
2. **Bosch Berries Annexation of the Sussex County Unified Sanitary Sewer District (Western Sussex Area)**
[Bosch Berries](#)
3. **[Conditional Use No. 2413 filed on behalf of Blue Hen Rental Company, LLC](#)**

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OUTDOOR VENUE FOR SEASONAL VENDORS AND SERVICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 2.84 ACRES MORE OR LESS” (property lying on the north side of Line Road [Rt. 54] and the east side of Old Stage Road [S.C.R. 68], at the intersection of Line Road [Rt. 54] and Old Stage Road [S.C.R. 68]) (911 Address: 38397 Old Stage Road, Delmar) (Tax Map Parcel: 532-20.00-107.01)

[CU2413](#)

4. **[Conditional Use No. 2445 filed on behalf of Deihm's Trucking, Inc.](#)**

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR TRUCK PARKING, STORAGE, & MAINTENANCE AND AN OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.06 ACRES, MORE OR LESS” (property lying on the west side of Old Hickory Road [S.C.R. 497], at the intersection of Old Hickory Road [S.C.R. 497] and White Pines Lane, approximately 250 ft. northwest of Sharptown Road [Rt. 24]) (911 Address: 33124, 7496 & 7506 Old Hickory Road, Laurel) (Tax Map Parcel: 432-11.00-40.03)

[CU2445](#)

Adjourn

-MEETING DETAILS-

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on April 9, 2024 at 4:15 p.m. and at least seven (7) days in advance of the meeting.

This Agenda was prepared by the County Administrator and is subject to change to include the addition or deletion of items, including Executive Sessions, which arise at the time of the meeting.

Agenda items may be considered out of sequence.

The meeting will be streamed live at <https://sussexcountyde.gov/council-chamber-broadcast>.

The County provides a dial-in number for the public to comment during the appropriate time of the meeting. **Note, the on-line stream experiences a 30-second delay.**

Any person who dials in should listen to the teleconference audio to avoid the on-line stream delay.

To join the meeting via telephone, please dial:

Conference Number: 1-302-394-5036

Conference Code: 570176

Members of the public joining the meeting on the telephone will be provided an opportunity to make comments under the Public Comment section of the meeting and during the respective Public Hearing.

The Council meeting materials, including the “packet”, are electronically accessible on the County’s website at: <https://sussexcountyde.gov/agendas-minutes/county-council>.

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, APRIL 9, 2024

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, April 9, 2024, at 10:00 a.m., in Council Chambers, with the following present:

| | |
|------------------------------|-----------------------------|
| Michael H. Vincent | President |
| John L. Rieley | Vice President |
| Cynthia C. Green | Councilwoman |
| Douglas B. Hudson | Councilman |
| Todd F. Lawson | County Administrator |
| Gina Jennings | Finance Director |
| J. Everett Moore, Jr. | County Attorney |

The Invocation and Pledge of Allegiance were led by Mr. Vincent.

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 158 24
Approve
Agenda**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to approve the Agenda, as presented.

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

Minutes

The minutes from March 19, 2024, were approved by consensus.

**Correspon-
dence**

Mr. Moore reported that there was no correspondence.

There were no public comments.

**Public
Comments**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to approve the following items under the Consent Agenda:

**M 159 24
Approve
Consent
Agenda**

Use of Existing Infrastructure Agreement – IUA-08 01 270.1

Beebe Healthcare – Long Neck Campus, Long Neck Area

Use of Existing Infrastructure Agreement – IUA-1267

Chapel Branch Apartments, Angola Neck Area

Proclamation Request – Fair Housing Month

Motion Adopted: 4 Yeas, 1 Absent

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea

Presentation A presentation was given by Ms. Margaret Hughes, Director of Delaware 250. Ms. Hughes provided the Council with information regarding the upcoming celebration of Delaware's 250th anniversary.

Recognition Robert Moore was recognized for his upcoming retirement.

Board of Adjustments & Appeals Appointments Mr. Lawson reported that there are two appointments being recommended for the Board of Adjustments and Appeals, one for District 5 and one for District 3. For District 5, Mr. Rieley would like to appoint Mr. Daniel Betts and Mr. Schaeffer would like to appoint Mr. Andrew Staton for District 3.

M 160 24 Approve Board of Adjustments & Appeals Appointment A Motion was made by Mr. Rieley, seconded by Mr. Hudson, that be it moved that the Sussex County Council appoint Mr. Daniel Betts to the Sussex County Board of Adjustments and Appeals effective immediately for a term of four years.

Motion Adopted: 4 Yeas, 1 Absent

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea

M 161 24 Approve Board of Adjustments & Appeals Appointment A Motion was made by Mrs. Green, seconded by Mr. Hudson, that be it moved that the Sussex County Council appoint Mr. Andrew Staton to the Sussex County Board of Adjustments and Appeals effective immediately for a term of four years.

Motion Adopted: 4 Yeas, 1 Absent

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea

Administrator's Report Mr. Lawson read the following information in his Administrator's Report:

1. Department of Public Safety

Sussex County is reorganizing its emergency services divisions, including its 9-1-1 operations, emergency management, and paramedic programs and creating the new Department of Public Safety.

The County Council recognizes that now is the time to reorganize the government's public safety apparatus into one, centralized department of three divisions with a unified management structure guiding the public safety mission. This change will enhance collaboration, improve

**Administrator's
Report
(continued)**

efficiency, and put the County in line with the standard found elsewhere in Delaware and across the nation.

Robert W. Murray Jr. will serve as the first-ever director of the County's Department of Public Safety. As you know, Robbie currently serves as the director of Emergency Medical Services and the County could think of no one more qualified and prepared to lead this new Department. Each division will be managed by a newly titled Deputy Director of Public Safety, with Mr. Robert Mauch serving as Deputy Director of Public Safety-EMS and Mr. Richard Short serving as Deputy Director of Public Safety-Emergency Operations/9-1-1. The County intends to advertise and hire a candidate to serve as Deputy Director of Public Safety-Emergency Management.

Since 2023, all three of the County's public safety branches have been housed at the expanded Sussex County Emergency Operations Complex, next to Delaware Coastal Airport outside Georgetown. The paramedic service relocated into a nearly 20,000-square-foot addition last summer. That, coupled with the recent retirement of the longtime emergency management director, Mr. Joe Thomas, prompted us to re-evaluate the organizational model at this time. This change is a logical step in our organization's evolution, and we are certain the men and women who serve the County in our Department of Public Safety will continue to provide the world-class care we have all become accustomed to.

Today's announced changes will take effect immediately with Director Murray serving in this capacity until the County Personnel Code is updated to include the new position of Director of Public Safety.

[Attachments to the Administrator's Report are not attached to the minutes.]

**Stormwater
BMP**

Hans Medlarz, County Engineer, Ret. presented a recommendation to award for the stormwater BMP O&M on-call for Council's consideration.

**M 162 24
Approve
Stormwater
BMP**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, that be it moved based upon the recommendation of the Sussex County Engineering Department that contract G24-03 for the stormwater operations and maintenance services on-call contract be awarded to Tributaries, LLC for a total bid not to exceed \$254,000.00.

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**IBRWF
Loop Proj.**

Hans Medlarz, County Engineer, Ret. presented a recommendation to award for the IBRWF loop project for Council's consideration.

M 163 24
Approve
IBRWF
Loop
Project

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, that be it moved based upon the recommendation of the Sussex County Engineering Department that contract S24-01 for the Inland Bays Regional Wastewater Facility loop project be awarded to Atlantic Contracting & Material Co., Inc. for their base amount with Alternate Bid 9A in the total of \$7,649,916.00.

Motion Adopted: 4 Yeas, 1 Absent

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea

Tanglewood/
Oak Acres

Hans Medlarz, County Engineer, Ret. presented a recommendation to award and amendment no. 1 for Tanglewood/Oak Acres for Council's consideration.

M 164 24
Approve
Tanglewood/
Oak Acres

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, that be it moved based upon the recommendation of the Sussex County Engineering Department that contract S22-24 for the Tanglewood and Oak Acres sanitary sewer expansion be awarded to Teal Construction for the total bid of \$1,891,891.00 contingent upon DNREC approval.

Motion Adopted: 4 Yeas, 1 Absent

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea

M 165 24
Approve
Engineering
Services

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, that be it moved based upon the recommendation of the Sussex County Engineering Department that Amendment No. 1 for the engineering services agreement with George, Miles & Buhr, Inc. for Tanglewood and Oak Acres sanitary sewer district expansion S22-24 be approved in the amount not to exceed \$206,076.00 for construction and resident project fee services.

Motion Adopted: 4 Yeas, 1 Absent

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea

Resolution/
Waterside
Community
Road

Patrick Brown, Project Engineer III presented a project resolution for Waterside Community Road Improvements – Chapter 96 Sussex Community Improvements for Council's consideration.

M 166 24
Adopt

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to Adopt Resolution No. R 007 24 entitled "A RESOLUTION ESTABLISHING THE DATE, TIME, PLACE AND JUDGE FOR AN ELECTION TO BE HELD

Resolution No. R 007 24/Water-side Community **TO CONSIDER THE CHAPTER 96 SUSSEX COMMUNITY IMPROVEMENT PROJECT FOR WATERSIDE AS AMENDED WITH PROPER NOTIFICATION OF ANY DATE, TIME, AND PLACE CHANGES”.**

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

Old Business/ CU2407 **Under Old Business, Jamie Whitehouse, Director of Planning & Zoning presented a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 3.50 ACRES MORE OR LESS” filed on behalf of Lori & Jose Solis Martin.**

The County Council held a Public Hearing on the application at its meeting on March 12, 2024. At the conclusion of the Public Hearing action on the application was deferred for further consideration.

M 167 24 Approve CU2407/ DENIED **A Motion was made by Mr. Rieley, seconded by Mr. Hudson to approve a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 3.50 ACRES MORE OR LESS”.**

Motion DENIED: 4 Nays, 1 Absent

**Vote by Roll Call: Mrs. Green, Nay; Mr. Schaeffer, Absent;
Mr. Hudson, Nay; Mr. Rieley, Nay;
Mr. Vincent, Nay**

Old Business/ Ord. No. 23-09 **Under Old Business, Jamie Whitehouse, Director of Planning & Zoning presented a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE SUSSEX COUNTY SEWER TIER MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL 533-11.00-23.02”.**

At the meeting of March 5, 2024, the required PLUS comments were presented to the County Council. The record was then left open for a period of 30 calendar days for receipt of any additional written public comments on the PLUS comment letter.

M 168 24 **A Motion was made by Mr. Hudson, seconded by Mr. Rieley to close the**

**Close Public
Record/Ord.
No. 23-09**

public record.

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**M 169 24
Adopt
Ordinance
No. 2997/
Ord. No.
23-09**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to Adopt Ordinance No. 2997 entitled “AN ORDINANCE TO AMEND THE SUSSEX COUNTY SEWER TIER MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL 533-11.00-23.02”.

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Old
Business/
CU2389**

Under Old Business, Mr. Whitehouse presented a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COMMERCIAL STORAGE FACILITY INCLUDING RV/BOAT STORAGE, THE STORAGE OF COMMERCIAL VEHICLES, AND AN OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 6.95 ACRES, MORE OR LESS” filed on behalf of AWH Properties, LLC.

At the meeting of March 5, 2024, the County Council considered the application under Old Business, and a motion was made and passed to defer action on the application for further consideration.

**M 170 24
Amend
Condition
9B**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to amend Condition 9B to read “Other than picking up or dropping off a vehicle, trailer boat, or RV, the facility shall only be accessible from 6:00 a.m. until 10:00 p.m. and access to the site shall be locked to limit access accordingly”.

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**M 171 24
Amend
Condition
9D, 9K &
9M**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to amend Condition 9D, to read “No sales or maintenance of vehicles, trailers, motorcycles, boats or RVs shall occur on site”. Condition 9K would read “No hazardous materials or fuel shall be stored on the property other than what may be in the tanks of vehicles, trailers, motorcycles, boats and RVs

located on the site”. Condition 9M would read “No junked or unregistered vehicles, trailers, motorcycles, boats, boat trailers, or RVs shall be stored on the site”.

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**M 172 24
Amend
Condition
9A**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to amend Condition 9A to read “The use shall be limited to the outside storage (covered or uncovered) of vehicles, trailers, motorcycles, boats and RVs, a 2,500-square-foot building for self-storage and a 576-square-foot office building. No other outside storage of vehicles or equipment shall occur on the site”.

Motion Adopted: 3 Yeas, 1 Nay, 1 Absent

**Vote by Roll Call: Mrs. Green, Nay; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**M 173 24
Amend
Condition
9C**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to amend Condition 9C to read “The perimeter of the storage area and buildings shall be fenced with a 6-foot-high fence that screens the property from neighboring and adjacent properties and roadways. In addition, there shall be a landscaped berm along the property’s road frontage. The details of this berm shall be shown on the Final Site Plan”.

Motion Adopted: 3 Yeas, 1 Nay, 1 Absent

**Vote by Roll Call: Mrs. Green, Nay; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**M 174 24
Adopt
Ordinance
No. 2998/
CU2389**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to Adopt Ordinance No. 2998 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COMMERCIAL STORAGE FACILITY INCLUDING RV/BOAT STORAGE, THE STORAGE OF COMMERCIAL VEHICLES, AND AN OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 6.95 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows and as amended by this Council as follows:

1. The Applicant seeks approval for an RV and boat storage facility on approximately 6.95 acres.

**M 174 24
Adopt
Ordinance
No. 2998/
CU2389
(continued)**

2. The location is within the “Coastal Area” according to the Sussex County Comprehensive Plan. This type of use can be appropriate in this Area according to the Plan.
3. The site is in the vicinity of several areas that have developed with commercially and residential-zoned properties. This includes properties in the area with HR (High Density) Zoning, GR (General Residential) Zoning, AR-1 Zoning, and multiple business and commercial Zoning districts. This use is compatible with the surrounding uses and Zoning.
4. There is a need for the use proposed by the Applicant in this area of Sussex County. There are many nearby residential developments that prohibit the storage or parking of boats and RVs within them. This is an appropriate, convenient location that addresses the need for off-site storage of their boats and RVs.
5. The Applicant has stated that access will be limited and will be controlled by keycards. As a result, the use will not have a substantial impact on area roadways. DeIDOT has also stated that the use will have a “Diminutive” impact on area roadways.
6. The project, with the conditions and stipulations imposed upon it, will not have an adverse impact on the neighboring properties or community.
7. The use is of a public or semi-public character and is desirable for the general convenience and welfare of residents in this area of Sussex County.
8. No parties appeared in opposition to this Application.
9. This recommendation for approval is subject to the following conditions:
 - a. The use shall be limited to the outside storage (covered or uncovered) of vehicles, trailers, motorcycles, boats and RVs, a 2,500-square-foot building for self-storage and a 576-square-foot office building. No other outside storage of vehicles or equipment shall occur on the site.
 - b. Other than picking up or dropping off a vehicle, trailer boat, or RV, the facility shall only be accessible from 6:00 a.m. until 10:00 p.m. and access to the site shall be locked to limit access accordingly.
 - c. The perimeter of the storage area and buildings shall be fenced with a 6-foot-high fence that screens the property from neighboring and adjacent properties and roadways. In addition, there shall be a landscaped berm along the property’s road frontage. The details of this berm shall be shown on the Final Site Plan.
 - d. No sales or maintenance of vehicles, trailers, motorcycles, boats or RVs shall occur on site.
 - e. All security lighting shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.
 - f. Any wetlands shall be delineated on the Final Site Plan and there shall be a 25-foot buffer from those wetlands.
 - g. The site will be served with public sanitary sewer via a

**M 174 24
Adopt
Ordinance
No. 2998/
CU2389
(continued)**

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.

- h. The Final Site Plan shall clearly show all areas for parking and these areas shall be clearly marked on the property itself. There shall be no parking within the Property's setbacks.**
- i. 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.**
- j. The use shall be subject to all DelDOT requirements regarding the entrance and roadway improvements necessary to provide access to the site.**
- k. No hazardous materials or fuel shall be stored on the property other than what may be in the tanks of vehicles, trailers, motorcycles, boats and RVs located on the site.**
- l. One lighted sign shall be permitted on the site. It shall not exceed 32 square feet in size.**
- m. No junked or unregistered vehicles, trailers, motorcycles, boats, boat trailers, or RVs shall be stored on the site".**
- n. The final site plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.**

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Old
Business/
CU2392**

Under Old Business, Mr. Whitehouse presented a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR STORAGE/WAREHOUSE BUILDINGS, A CAR WASH, & CLUBHOUSE WITH SWIMMING POOL TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 31.83 ACRES, MORE OR LESS" filed on behalf of Zion Church Ventures, LLC.

The County Council held a Public Hearing on the application at its meeting of November 14, 2023. At the conclusion of the Public Hearing, the Council closed the Public Record and deferred action on the application for further consideration.

**M 175 24
Amend
Condition
9A/CU2392**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to amend Condition 9A to read "This conditional use shall be limited to 180,500 square feet of warehouse/storage area, a 2,500 square foot car wash area, and an optional pool and clubhouse amenity for the owners of the units. The amenities (car wash area, oil recycling and disposal facility, RV sewer clean

**M 175 24
Amend
Condition
9A/CU2392
(continued)**

and optional pool and clubhouse) shall be for the exclusive use of the owners and their families and guests; it shall not be operated commercially or as a club for persons not otherwise affiliated with the primary use of this project. No businesses that primarily involve or are similar to the following uses shall be permitted: retail; gyms or fitness centers; breweries or brewpubs; or food service”.

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**M 176 24
Amend
Condition
9D, 9N, 9O/
CU2392**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to amend Condition 9D to read “If a unit is used for business purposes, that business may only use the area for storage. The property shall not be used by a business for manufacturing or industrial purposes. In addition, the property may not be used by a business as a “mail-drop” or pick up or delivery location for customers” and to remove Condition 9N and Condition 9O.

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**M 177 24
Adopt
Ordinance
No. 2999/
CU2392**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to Adopt Ordinance No. 2999 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR STORAGE/WAREHOUSE BUILDINGS, A CAR WASH, & CLUBHOUSE WITH SWIMMING POOL TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 31.83 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission and as amended by this Council as follows:

1. The purpose of this application is to create climate-controlled storage and workspace areas for individuals with boats, recreational vehicles, motorcycles, cars, and collectibles including specific areas for a car wash, proper recycling, and disposal of automobile fluids to serve the many individuals in the area who do not have room within their home and property to store or work on such items. The use also includes a pool and clubhouse amenity for the owners of the units and their guests.
2. The site is in the vicinity of several areas that have developed with commercially and residential-zoned properties. This includes properties in the area with HR (High Density) Zoning, GR (General

**M 177 24
Adopt
Ordinance
No. 2999/
CU2392
(continued)**

- Residential) Zoning, AR-1 Zoning, and multiple business and commercial Zoning districts. This use is compatible with the surrounding uses and Zoning.**
- 3. Traffic generated by the proposed use will be minimal and will not have a negative impact on the neighboring properties or roadways. DelDOT has stated that the traffic generated by this use will be “negligible.”**
 - 4. The use is of a public or semi-public character that is desirable for the general convenience and welfare of the area and the County.**
 - 5. The property is located in the Coastal and Developing Areas, which are both “Growth Areas” according to the Sussex County Comprehensive Plan. The conditional use is consistent with the Plan’s guidelines for these areas since it will provide convenient areas for businesses, homeowners, and property owners in this area of Sussex County.**
 - 6. The site will be served by central water and sewer.**
 - 7. There are wetlands that have been preliminarily delineated on the Property and a 25-foot buffer is proposed from those wetlands except in two locations which will be mitigated with approval from the USACOE.**
 - 8. With conditions and limitations proposed by the applicant, the conditional use will not adversely affect the neighboring and adjacent properties.**
 - 9. This recommendation is subject to the following conditions:**
 - a. This conditional use shall be limited to 180,500 square feet of warehouse/storage area, a 2,500 square foot car wash area, and an optional pool and clubhouse amenity for the owners of the units. The amenities (car wash area, oil recycling and disposal facility, RV sewer clean and optional pool and clubhouse) shall be for the exclusive use of the owners and their families and guests; it shall not be operated commercially or as a club for persons not otherwise affiliated with the primary use of this project. No businesses that primarily involve or are similar to the following uses shall be permitted: retail; gyms or fitness centers; breweries or brewpubs; or food service.**
 - b. No unit or area within the conditional use shall be used as a dwelling or for housing. No overnight accommodation shall be allowed.**
 - c. There shall not be any outside storage, including boats, materials, RVs, or equipment within the site.**
 - d. If a unit is used for business purposes, that business may only use the area for storage. The property shall not be used by a business for manufacturing or industrial purposes. In addition, the property may not be used by a business as a “mail-drop” or pick up or delivery location for customers.**
 - e. An oil recycling and disposal facility shall be provided, and its location shall be shown on the Final Site Plan.**
 - f. An RV sewer cleanout shall be provided on the property and its location shall be shown on the Final Site Plan.**

**M 177 24
Adopt
Ordinance
No. 2999/
CU2392
(continued)**

- g. All lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.**
- h. A fence shall be installed along the perimeter of this project. The location and type of fencing shall be shown on the Final Site Plan.**
- i. Any dumpsters must be screened from the view of neighboring properties and roadways. The dumpster locations shall be shown on the Final Site Plan.**
- j. The applicant shall comply with all DelDOT requirements for entrance and roadway improvements.**
- k. There shall be adequate parking as required by the Code. The parking areas shall be clearly shown on the Final Site Plan and on the site itself. There shall be no parking within the property’s setbacks.**
- l. One lighted sign, not to exceed 32 square feet per side, shall be permitted along Zion Church Road.**
- m. The Applicant shall submit as part of the Final Site Plan a landscape plan showing all “Limits of Disturbance” within the Property. These “Limits of Disturbance” shall be clearly marked on the Property itself.**
- n. Any wetlands will be delineated on the Final Site Plan which shall also show a 25-foot buffer from those wetlands or a permit from the USACOE for mitigation (fill)in specific locations shown on the Final Site Plan.**
- o. The applicant, its successors, and/or assigns, shall cause a condominium association to be formed to be responsible for the maintenance of the roads, parking areas, amenities, stormwater management facilities, and other common areas, and the compliance with these conditions, which shall be incorporated into the condominium documents.**
- p. 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.**
- q. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Grant
Requests**

Mrs. Jennings presented grant requests for Council’s consideration.

**M 178 24
Red Bird
Legacy
Foundation**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to give \$2,000 (\$500 from Mr. Vincent’s Councilmanic Grant Account, \$500 from Mr. Hudson’s Councilmanic Grant Account, \$500 from Mr. Rieley’s Councilmanic Grant Account and \$500 from Mrs. Green’s Councilmanic Grant Account) to Red Bird Legacy Foundation for their kickoff event

featuring Bethany Hamilton.

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

M 179 24 A Motion was made by Mr. Hudson, seconded by Mrs. Green to grant \$500
West Side (\$500 from Mr. Schaeffer's Councilmanic Grant Account) to West Side New
New Beginnings, Inc. for project safe street lighting.
Beginnings,
Inc.

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

M 180 24 A Motion was made by Mr. Hudson, seconded by Mrs. Green to grant \$500
Developing (\$500 from Mr. Schaeffer's Councilmanic Grant Account) to Developing
Artist Artist Collaboration for their West Side creative market investment.
Collabora-
tion

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

M 181 24 A Motion was made by Mr. Hudson, seconded by Mr. Rieley to give \$8,500
Nanticoke (\$7,500 from Mr. Hudson's Councilmanic Grant Account and \$1,000 from
Indian Mr. Rieley's Councilmanic Grant Account) to Nanticoke Indian Association,
Association, Inc. for their 46th annual Nanticoke Indian Powwow.
Inc.

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

The grant for Greater Lewes Foundation was deferred.

M 182 24 A Motion was made by Mr. Rieley, seconded by Mr. Hudson to give \$1,500
Cape (\$500 from Mr. Hudson's Councilmanic Grant Account, \$500 from Mr.
Henlopen Rieley's Councilmanic Grant Account and \$500 from Mr. Schaeffer's
Senior Councilmanic Grant Account) to Cape Henlopen Senior Center for their
Center Rehoboth concert band fundraiser.

Motion Adopted: 4 Yeas, 1 Absent

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea

The grant for What is Your Voice Inc. was deferred.

M 183 24 A Motion was made by Mrs. Green, seconded by Mr. Hudson to give \$500
Lewes Lions (\$500 from Mr. Schaeffer's Councilmanic Grant Account) to Lewes Lions
Foundation Foundation for their beach bowl event.

Motion Adopted: 4 Yeas, 1 Absent

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea

M 184 24 A Motion was made by Mr. Rieley, seconded by Mr. Hudson to give \$750
Laurel (\$750 from Mr. Vincent's Councilmanic Grant Account) to Laurel School
School District (Laurel High BPA) for their Business Professionals of America
District program.

Motion Adopted: 4 Yeas, 1 Absent

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea

M 185 24 A Motion was made by Mr. Rieley, seconded by Mr. Hudson to give \$750
Seaford (\$750 from Mr. Vincent's Councilmanic Grant Account) to Seaford School
School District (Seaford High Drama Club) for their drama club program.
District

Motion Adopted: 4 Yeas, 1 Absent

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea

Proposed Mr. Hudson introduced a Proposed Ordinance entitled "AN ORDINANCE
Ordinance TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1
Introduction AGRICULTURAL RESIDENTIAL DISTRICT FOR A WATERSPORT
RECREATIONAL FACILITY TO BE LOCATED ON CERTAIN
PARCELS OF LAND LYING AND BEING IN BALTIMORE HUNDRED,
SUSSEX COUNTY, CONTAINING 3.13 ACRES, MORE OR LESS" filed
on behalf of Kelly Benson.

The Proposed Ordinance will be advertised for a Public Hearing.

CC Member There were no Council Member comments.
Comments

M 186 24
Go Into
Executive
Session

At 11:01 a.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley to go into Executive Session for the purpose of discussing matters related to land acquisition.

Motion Adopted: 4 Yeas, 1 Absent

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea

Executive
Session

At 11:07 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room to discuss matters related to land acquisition. The Executive Session concluded at 12:00 p.m.

M 187 24
Reconvene

At 12:08 p.m., a Motion was made by Mr. Hudson, seconded Mr. Rieley to come out of Executive Session back into Regular Session.

Motion Adopted: 4 Yeas, 1 Absent

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea

M 188 24
Parcel 2024-
E

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to authorize the County Administrator the ability to negotiate, enter into a contract and go to closing on parcel 2024-E.

Motion Adopted: 4 Yeas, 1 Absent

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea

M 189 24
Adjourn

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to adjourn at 12:09 p.m.

Motion Adopted: 4 Yeas, 1 Absent

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea

Respectfully submitted,

Tracy N. Torbert
Clerk of the Council

{An audio recording of this meeting is available on the County's website.}



Memorandum

To: Sussex County Council
The Honorable Michael H. Vincent
The Honorable Cynthia C. Green
The Honorable Douglas B. Hudson
The Honorable John L. Rieley
The Honorable Mark G. Schaeffer

From: Jamie Whitehouse, AICP, Director of Planning & Zoning

CC: Everett Moore, County Attorney

Date: April 12, 2024

RE: County Council Report for C/U 2365 filed on behalf of Frankford Community Energy Initiative II, LLC

The Planning and Zoning Department received an application (C/U 2365 filed on behalf of Frankford Community Energy Initiative II, LLC) for a solar farm to be located at tax parcel 533-4.00-23.00. The property is located on the east side of DuPont Boulevard (Rt. 113), approximately 250 feet south of Lazy Lagoon Road (S.C.R. 380). The parcel size is 42.95 acres +/-

The Planning & Zoning Commission held a Public Hearing on the application on July 13, 2023. At the meeting of July 27, 2023, the Planning & Zoning Commission recommended approval of the application for the 11 reasons stated and subject to the 12 recommended conditions as outlined within the motion (copied below).

The County Council held a Public Hearing on the application at its meeting on August 15, 2023. At the conclusion of the Public Hearing, action on the application was deferred for further consideration.

Below is a link to the minutes of the County Council meeting of August 15, 2023:

[Link to the Minutes of the August 15, 2023, County Council Meeting](#)

The item was last considered by the County Council at its meeting on August 29, 2023.

Below are the minutes from the Planning & Zoning Commission meeting of July 13, 2023, and July 27, 2023.



Minutes of the July 13, 2023, Planning & Zoning Commission Meeting

C/U 2365 Frankford Community Energy Initiative II, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT AND AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 42.95 ACRES, MORE OR LESS. The property is lying on the east side of DuPont Boulevard (Rt. 113), approximately 250 feet south of Lazy Lagoon Road (S.C.R. 380). 911 Address: N/A. Tax Map Parcel: 533-4.00-23.00.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Preliminary Site Plan, the Applicant's Exhibit Booklet, the Staff Analysis, a letter from the Sussex County Engineering Department Utility Planning Division, a letter received from Watershed Eco, LLC in relation to wetland delineation, and a copy of the DelDOT Service Level Evaluation Response. Mr. Whitehouse stated zero comments and two mail returns had been received for the Application.

The Commission found that Mr. Mike Riemann, with Becker Morgan Group, Inc., presented on behalf of the Applicant; that also present was Mr. Michael Redding with ECA Solar. Mr. Riemann stated the applications are under two different LLCs, however, ECA Solar is the Applicant for both Applications; that Becker Morgan Group was the engineer for both applications as well.

Mr. Riemann stated the property for C/U 2365 Frankford Community Energy Initiative II, LLC, is located just south of Frankford, along Rt. 113; that the total area of the site consists of 42.95 acres; that the Conditional Use area consists of 17.73 acres; that the property has split zoning being, C-1 (General Commercial) and AR-1 (Agricultural Residential); that the C-1 zoning runs along the front portion of site; that the property also falls within the CHCOZ (Combined Highway Corridor Overlay Zone); that the property does contain some existing forest; that the property is a combination of agricultural open land, and some existing woods; that the arrays are accessed by Rt. 113; that the wooded area is approximately 31.85 acres; that they proposed to clear approximately 15.47 acres of the total 48.6 acres of woods; that there is a small area of wetlands located in the middle of the site; that the wetland area consists of approximately 1,000 sq. ft.; that they have received a permit issued from the Army Corp of Engineers to fill the area, as it was an isolated wetland area; that he believed there was some debate regarding if the area would still be considered a wetland, but nonetheless, they have obtained a permit; that the project will have some mitigation areas around the perimeter of the property that consist of some pollinator gardens and habitat supplements which were part of the permit; that this area is reflected in dark green color, surrounding the property on the rendering; that in this area, the woods will be cut down, however, the stumps will remain; that this was required to ensure shading from the trees did not cause issues with the functionality of the arrays; that by leaving the stumps in the vegetation, it will allow the trees to come back, at which time the owner will maintain the tree at a consistent height of approximately 10 ft., which will still allow the facility to work properly; that additional landscape is provided along Rt. 113, and the adjacent residential property; that no additional landscaping is proposed in areas where the perimeter is already sufficiently screened from neighboring areas; that the project overview is the same as the previous application; that the proposed Conditional Use is for utility solar; that both applications were filed in April 2022; that the applications submissions were made prior to the adoption of Ordinance No. 2920, being the recent Ordinance

adopted by the County regarding solar projects; that this solar application does comply with all of the requirements set forth in the newly adopted Solar Ordinance; that the application is for a community solar facility, which is a ground mounted, three megawatt, tracking system; that these types of solar projects do not generate traffic other than a couple maintenance visits per month; that the project is a renewable energy resource, which create no odors, gas, smoke or fumes; that the project will create low noise, which will mostly come from the power inverters; that the inverters are to be centrally located in the facility, which is a requirement within the new Solar Ordinance; that stormwater runoff tends to be reduced as the land is moved from an agricultural activity to the placement of pollinator grasses and plantings across the facility; that they propose a 25 ft. landscape buffer and perimeter fencing, which will have Knox Box access for the Fire Marshal; that the project will include a Decommissioning Plan and bonding to provide financial assurance of the project; that the solar facility is a public utility use under the County Code; that the project meets the purpose of a Conditional Use in that it is of public or semi-public character, it is essential and desirable for the general community and welfare of the County; that the proposed facility promotes the Goal 7.3 of the Sussex County Comprehensive Plan, which encourages the use of renewable energy options, such as solar farms; that the proposed use will not have an impact on neighboring property with provided adequate landscape buffering and fencing; that the facility will not generate increased traffic on area roadways; that there are no regular employees at the site; that there will only be periodic visits for maintenance; that the project will not generate noise, dust, or odors; that the project is in general conformance with the newly adopted Solar Ordinance No. 2920, that submitted in the Exhibit Booklet there were property value studies provided; that the studies did not look at the two subject sites, however they did look at solar valuations and the impact on property values; that there have been a lot of studies done, which demonstrate there are no negative impacts to surrounding property values, and with the proposed types of solar facilities, especially in rural areas, they did provide Findings of Facts and recommended Conditions of Approval for the Commission's review and consideration. Mr. Riemann presented the Commission with project renderings and visuals for reference.

The Commission found that Mr. Michael Redding, Director of Civil Engineering with ECA Solar, presented on behalf of Applicant. Mr. Redding stated ECA Solar's main purpose of business is community power and the development of community-powered solar facilities; that ECA Solar has been in business since 2013; that they have worked in fairly large regional areas from the northeast down through the Mid-Atlantic and out west; their main purpose is to bring community solar facilities to places like Delaware; that they currently have several facilities in development in Delaware; that the two subject applications will be part of the Community Power Program in Delaware, which allows for local businesses and residents to benefit from solar power at a reduced electric cost, and the program also requires ECA Solar to set aside a certain percentage for low to moderate income residents who can also benefit from the solar power.

Mr. Mears questioned if the proposed eight-foot fence would require approval from the Sussex County Board of Adjustment.

Mr. Whitehouse stated the property is commercial, and the residential maximum height is seven feet, and he did not believe a variance would be required.

Ms. Wingate requested confirmation on the number of trees proposed to be cleared for the Frankford property.

Mr. Riemann stated they propose to clear 15.47 acres out of the 31.85 acres which make up the array area.

Mr. Robertson questioned the width of the area proposed for tree cutting and leaving of the stumps.

Mr. Riemann stated he believed the area to be approximately 100 feet.

The Commission found that there was no one present in the room who wished to speak in support of, or in opposition to the Application.

Upon there being no further questions, Chairman Wheatley closed the public hearing.

At the conclusion of the public hearing, the Commission discussed the Application.

In relation to C/U 2365 Frankford Community Energy Initiative II, LLC. Motion by Mr. Mears to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 4-0.

Minutes of the July 27, 2023, Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since July 13, 2023.

Mr. Mears moved that the Commission recommend approval of C/U 2365 Frankford Community Energy Initiative II, LLC for a solar farm in the AR-1 and C-1 Districts based on the record made during the public hearing and for the following reasons:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
2. This is an adaptive use of farmland that will preserve it from more intensive development. The solar farm will be located on approximately 17.68 acres of a larger 42.95-acre tract.
3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar farms. There was testimony that this solar farm will benefit residential, business, and municipal subscribers with lower power costs.
4. Although this Application was submitted prior to the adoption of Ordinance No. 2920 regarding solar farms, this proposed conditional use complies with the buffer and setback requirements of that Ordinance.
5. With the conditions imposed in this recommendation, the proposed use will not have any adverse impact on the neighborhood.
6. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
7. The Applicant has included a Decommissioning Plan in the record for when their solar farm is no longer in use.
8. Based on the record there is no significant noise, glare, dust, or odor that will be generated by the facility.
9. There will be a buffer of planted vegetation along the boundary of this site facing Route 113 to screen it from view from the highway. In addition, there will be a 100-foot-wide cleared

area beyond the perimeter fence that will remain in a natural state once trees are removed from this open space to allow the solar panels to function.

10. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
11. There was no opposition to this Application.
12. This recommendation is subject to the following conditions:
 - A. The use shall be for a ground-mounted solar farm. No other types of electric generation shall be permitted at the site.
 - B. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar farm as well as the remaining acreage that is not part of this Conditional Use. The site plan shall also clearly show the forested areas within the entire property that will remain undisturbed.
 - C. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. All lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - D. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.
 - E. The site shall be secured by gated fencing with interwoven screening with a “Knox Box” or similar device to accommodate emergency access by the local fire company or other emergency responders. The fence line shall be shown on the Final Site Plan.
 - F. The location of all transformers or similar equipment or structures shall be shown on the Final Site Plan.
 - G. The entire site, including the area outside the fence, shall be maintained so that it does not become overgrown.
 - H. 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 using Best Management Practices.
 - I. There shall be a 25-foot-wide buffer of planted vegetation along the boundary of this site facing Route 113. These areas shall be clearly shown on the Final Site Plan. The Final Site Plan shall include a landscape plan showing the proposed tree and shrub landscape design in the buffer area.
 - J. In addition, there shall be a 100-foot-wide cleared area around the fenced perimeter of the site.
 - K. The Final Site Plan shall identify a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.
 - L. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Mr. Robertson provided suggestions to revise Reason No. 9 and Condition J of Mr. Mears' motion to allow for additional clarification.

Mr. Mears motioned to revise his motion as suggested by Mr. Robertson.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval for C/U 2365 Frankford Community Energy Initiative II, LLC for the reasons and conditions stated in the amended motion. Motion carried 4-0. Mr. Butler abstained.

Vote by roll call: Ms. Wingate – yea, Mr. Mears – yea, Mr. Collins – yea, Chairman Wheatley – yea

PLANNING & ZONING COMMISSION

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



Sussex County

DELAWARE
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302-855-7878 T
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JAMIE WHITEHOUSE, AICP, MRTPI
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: July 13, 2023

Application: CU 2365 Frankford Community Energy Initiative II LLC

Applicant: Frankford Community Energy Initiative II LLC c/o Michael Redding P.E.
282 Moody Street #202
Waltham, MA 06379

Owner: Robert B. Wilgus, Viola Hagberg, Edward B. Wilgus c/o Viola Hagberg
700 Mease Plaza
Dunedin, FL 34698

Site Location: Lying on the east side of DuPont Boulevard (Rt. 113), 300-ft south of the intersection of DuPont Boulevard (Rt. 113) and Lazy Lagoon Road (S.C.R. 380)

Current Zoning: General Commercial (C-1) Zoning District & Agricultural Residential (AR-1) Zoning District

Proposed Use: Solar Farm consisting of photovoltaic electric generation facility

Comprehensive Land Use Plan Reference: Commercial Area & Developing Area

Councilmanic District: Mr. Hudson

School District: Indian River School District

Fire District: Frankford Fire Department

Sewer: N/A

Water: N/A

Site Area: 42.95 acres +/-

Tax Map ID: 533-4.00-23.00



JAMIE WHITEHOUSE, AICP MRTPI
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Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Planning and Zoning Commission Members
From: Mrs. Christin Scott, Planner II
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: July 5th, 2023
RE: Staff Analysis for C/U 2365 Frankford Community Energy Initiative II LLC

The purpose of this Memo is to provide background and analysis for the Planning and Zoning Commission to consider as a part of Application C/U 2365 Frankford Community Energy Initiative II LLC to be reviewed during the July 13th, 2023, Planning and Zoning 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 Conditional Use for Tax Parcel 533-4.00-23.00 to allow for a Solar Energy Facility to exist on a portion of the parcel containing 17.726-acres +/- . The property is located on the east side of DuPont Boulevard (Rt. 113), approximately 250-ft south of Lazy Lagoon Road (S.C.R. 380) in Frankford Delaware. The subject property contains 42.95-acres +/- .

Site Considerations

The DelDOT Service Level Evaluation Response indicates that the proposed use will generate fewer than 50 vehicle trips per day and that the development's traffic impact is considered "diminutive" in the context of DelDOT's agreement with the County regarding land development coordination. Therefore, no TIS is required for this proposal.

It should be further noted that the subject property is not located within any established Transportation Improvement Districts.

Additionally, the County's Online Mapping System confirms that the site is located within Flood Zone "X" – Areas determined to be outside the 1% annual chance flood and outside the 500-year floodplain.

Comprehensive Plan Analysis

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 land use designation of "Commercial" and "Developing Area." The properties to the south, east, and west (across Dupont Boulevard (Rt. 113)) all have a land use designation of "Developing Area" with properties to the north having a land use designation of "Commercial" and "Industrial."



As outlined within the 2018 Sussex County Comprehensive Plan, The Developing Areas are newer, emerging growth areas that demonstrate the characteristics of developmental trends. Most of the proposed Developing Areas are adjacent to municipalities, within or adjacent to potential future annexation areas of a municipality, or adjacent to Town Centers. – A range of housing types are appropriate in Developing Areas, including single family homes, townhouses, and multi-family units. In selected areas and at appropriate intersections, commercial uses should be allowed. A variety of office uses would be appropriate in many areas. Portions of the Developing Areas with good road access and few nearby homes should allow for business and industrial parks. Appropriate mixed-use development should also be allowed. In doing so, careful mixtures of homes with light commercial and institutional uses can be appropriate to provide for convenient services and to allow people to work close to home (Sussex County Comprehensive Plan, 4-14).

Commercial Areas include concentrations of retail and service uses that are mainly located along arterials, and highways. As opposed to small, traditional downtown areas that are often historic and pedestrian-friendly, Commercial Areas include commercial corridors, shopping centers, and other medium and large commercial vicinities geared towards vehicular traffic. In addition to primary shopping destinations, this area would also be the appropriate place to locate hotels, motels, car washes, auto dealerships, and other medium and larger scale commercial uses not primarily targeted to the residents of immediately adjacent residential areas. These more intense uses should be located along main roads or near major intersections. Institutional and commercial uses may be appropriate depending on surrounding uses. Mixed-use buildings may also be appropriate for these areas.

Zoning Information

The property contains the zoning classifications of General Commercial (C-1) District and Agricultural Residential (AR-1) District.

All lands to the east of the subject property are zoned General Residential (GR) District. Lands to the west (across DuPont Boulevard (Rt. 113)) are zoned General Commercial (C-1) District. Lands to the north are zoned General Commercial (C-1) District and Heavy Industrial (HI-1) District. All adjacent lands to the south of the subject site are zoned Agricultural Residential (AR-1) District.

Existing Conditional Uses within the Vicinity of the Subject Property

Since 2011, there have been two (2) Conditional Uses within a 1-mile radius of the Application site.

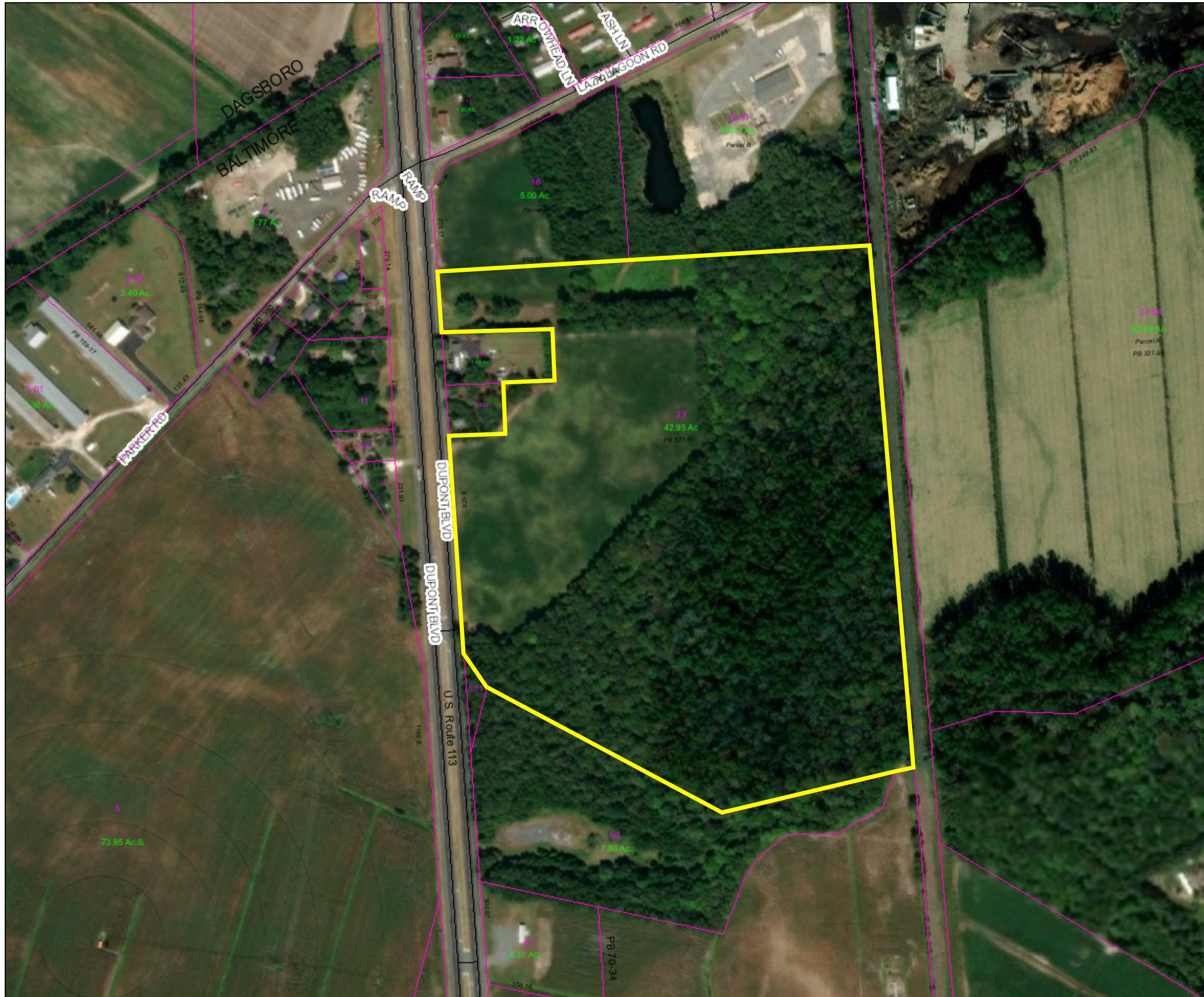
A Supplemental Table has been provided which contains further information regarding the abovementioned Conditional Use Applications which are located within a 1-mile radius of the Application site.

Based on the analysis provided, the Conditional Use to allow for a Solar Energy Facility, to exist on 17.726-acres +/-, in this location could be considered as being consistent with the surrounding land use, zoning, and uses, subject to consideration of scale and impact.

| Conditional Use Number | Tax Parcel # | APPLICANT | Current Zoning | Proposed Use | CC Decision Date | CC Decision | Ordinance Number |
|------------------------|----------------|------------------------|----------------|--------------|------------------|-------------|------------------|
| 2325 | 533-9.00-58.00 | David Blank | AR-1 | Campground | <Null> | Deferred | <Null> |
| 1996 | 533-4.00-13.00 | Hector Patraca Carmona | C-1 | Food Vendor | 10/28/2014 | Approved | 2375 |



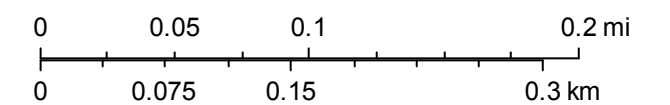
Sussex County

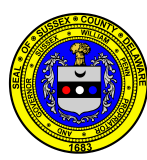


| | |
|------------------------|---|
| PIN: | 533-4.00-23.00 |
| Owner Name | GREENPATH DUPONT FRANKFORD LANDCO LLC |
| Book | 5791 |
| Mailing Address | PO BOX 13 |
| City | OCEAN VIEW |
| State | DE |
| Description | E/DUPONT BLVD |
| Description 2 | RESIDUAL LANDS |
| Description 3 | FX |
| Land Code | |

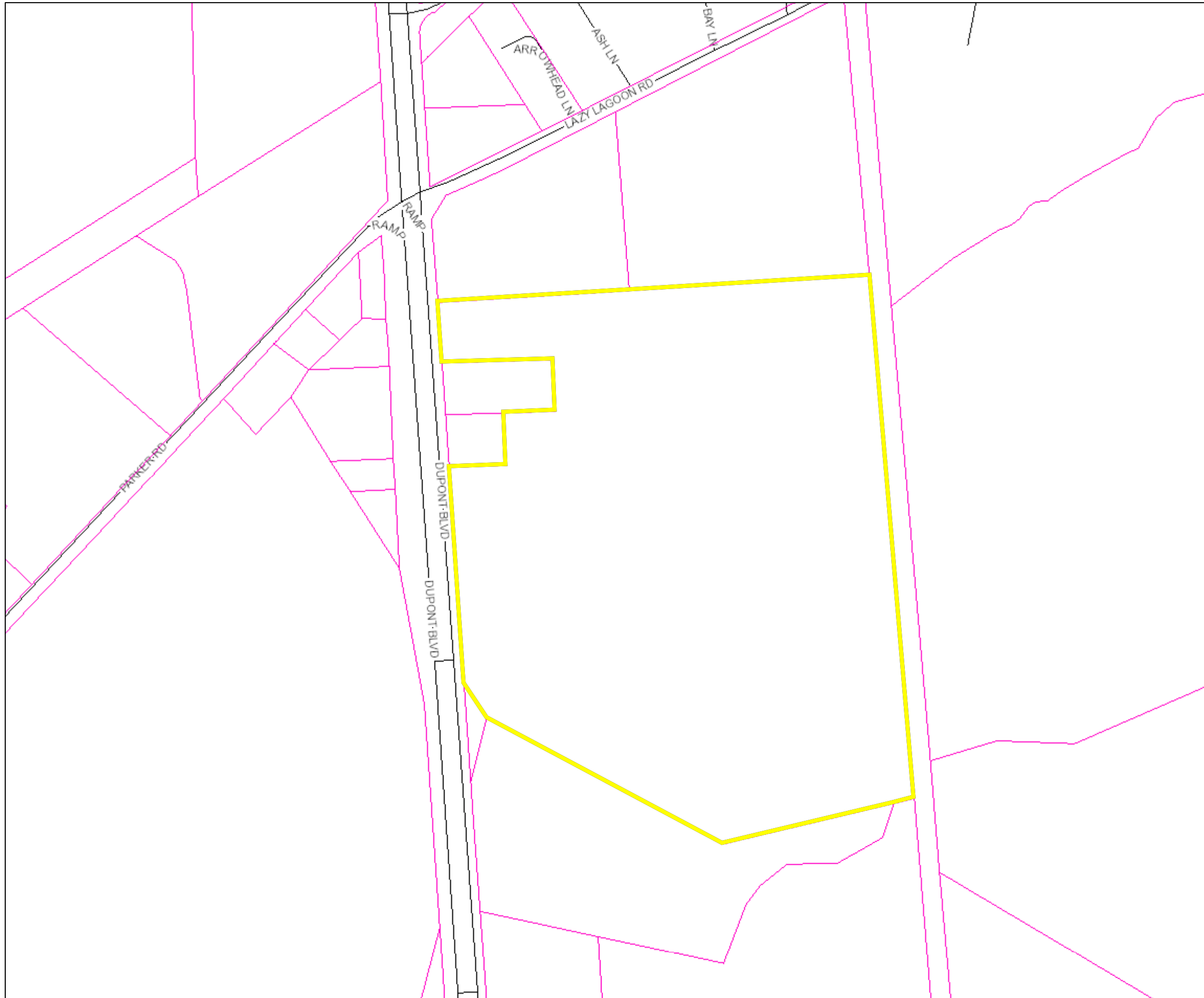
- polygonLayer**
Override 1
- polygonLayer**
Override 1
- Tax Parcels
- Streets
- County Boundaries

1:4,514





Sussex County



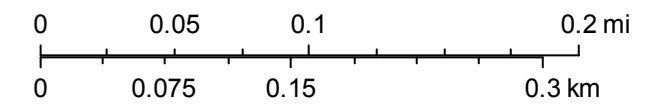
| | |
|------------------------|---|
| PIN: | 533-4.00-23.00 |
| Owner Name | GREENPATH DUPONT FRANKFORD LANDCO LLC |
| Book | 5791 |
| Mailing Address | PO BOX 13 |
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| State | DE |
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| Description 2 | RESIDUAL LANDS |
| Description 3 | FX |
| Land Code | |

- polygonLayer**

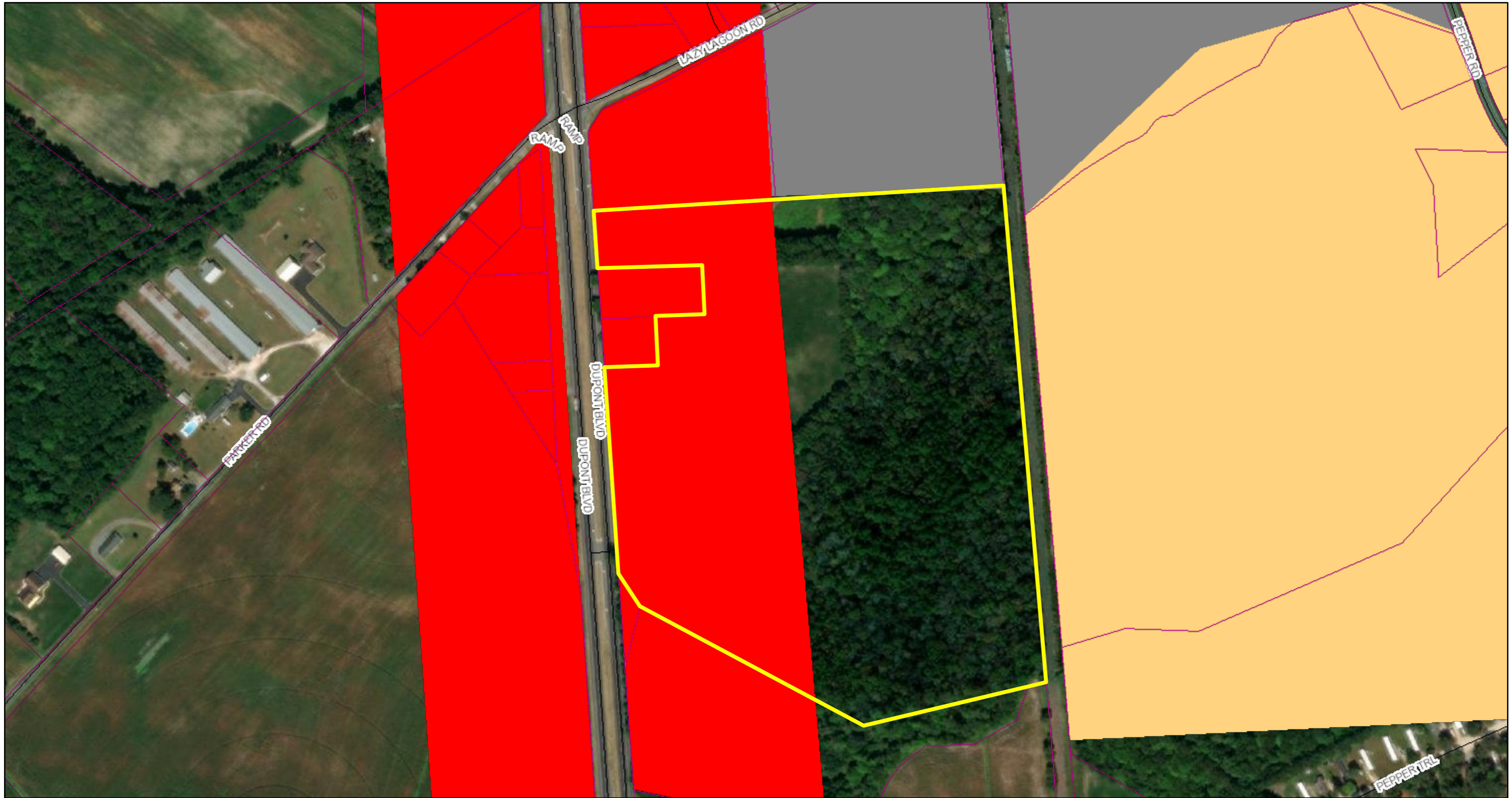
 - Override 1
- polygonLayer**

 - Override 1
- Tax Parcels
- Streets
- County Boundaries

1:4,514



Sussex County



June 12, 2023

- Override 1
- Override 1
- Tax Parcels
- Streets
- Zoning
- Agricultural Residential - AR-1

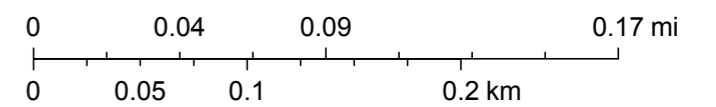
- Agricultural Residential - AR-2
- Medium Residential - MR
- General Residential - GR
- High Density Residential - HR-1
- High Density Residential - HR-2
- Vacation, Retire, Resident - VRP

- Neighborhood Business - B-1
- Neighborhood Business - B-2
- Business Research - B-3
- General Commercial - C-1
- General Commercial - C-2
- General Commercial - C-3

- General Commercial - C-4
- General Commercial - C-5
- Commercial Residential - CR-1
- Institutional - I-1
- Marine - M
- Limited Industrial - LI-1

- Light Industrial - LI-2
- Heavy Industrial - HI-1
- County Boundaries

1:4,514



Sussex County, Sussex County Government, Maxar

Introduced: 01/31/23

**Council District 4: Mr. Hudson
Tax I.D. No. 533-4.00-23.00
911 Address N/A**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT AND AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 42.95 ACRES, MORE OR LESS

WHEREAS, on the 11th day of April 2022, a conditional use application, denominated Conditional Use No. 2365 was filed on behalf of Frankford Community Energy Initiative II, LLC; and

WHEREAS, on the ____ day of _____ 2023, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2365 be _____; and

WHEREAS, on the ____ day of _____ 2023, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Articles XI and IV, Subsection 115-22 and 115-79, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2365 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on the east side of Dupont Boulevard (Rt. 113), approximately 250 feet south of Lazy Lagoon Road (S.C.R. 380) and being more particularly described in the attached legal description prepared by Becker Morgan Group, Inc., said parcel containing 49.25 acres, more or less.

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

Casey Hall

Yes. 4/9.
Green.

From: notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE
<notifications@d3forms.com>
Sent: Saturday, March 16, 2024 2:57 PM
To: Casey Hall
Subject: Sussex County DE - Council Grant Form: Form has been submitted

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.

Council Grant Form

Legal Name of Agency/Organization

Nicmar Youth Connection Enterprises, Inc ✓

Project Name

Performing Arts On The Eastern Shore Gala

Federal Tax ID

11-3787936 ✓

Non-Profit

Yes

Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)

No

Organization's Mission

Nicmar Youth Connection, Entp.(NYCE-pronounced "nice") is dedicated to connecting youth to positive environments to help boost self-esteem, self-confidence as well as strengthen their desires in community involvement, academic growth, physical fitness, performing arts and youth empowerment opportunities.

Address

4623 Dublin Hill Rd

City

Bridgeville

State

DE

| | |
|---|--|
| Zip Code | 19933 |
| Contact Person | Nick Johnson |
| Contact Title | President |
| Contact Phone Number | 202-236-8266 |
| Contact Email Address | nick@nicmaryouthconnection.org |
| Total Funding Request | 3500 |
| Has your organization received other grant funds from Sussex County Government in the last year? | No |
| If YES, how much was received in the last 12 months? | N/A |
| Are you seeking other sources of funding other than Sussex County Council? | Yes |
| If YES, approximately what percentage of the project's funding does the Council grant represent? | 50 |
| Program Category (choose all that apply) | Other |

| | |
|--|--|
| Program Category Other | Youth Development |
| Primary Beneficiary Category | Youth |
| Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program | 500 |
| Scope | Nicmar Youth Connections Enterprises, Inc has teamed up with a local film production company to provide training and coaching for youth ages 5 to 17 that want to pursue modeling and acting careers. The program will provide guidance from a national talent scout and film director. This is again another platform to keep the Sussex County youth in a positive environment to deter from drug usage, gang involvement and delinquent behavior. The other program which we held last year with success is the "Another Level" development program which allows the youth to build self confidence various Sports and fitness development. |
| Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request) | 0.00 |
| Description | Event Venue |
| Amount | 1,000.00 |
| Description | Event Entertainment |
| Amount | 4,000.00 |

| | |
|--|--|
| Description | Event Security |
| Amount | 2,000.00 |
| TOTAL EXPENDITURES | 7,000.00 |
| TOTAL DEFICIT FOR PROJECT OR ORGANIZATION | -7,000.00 |
| Name of Organization | Nicmar Youth Connection Enterprises, Inc |
| Applicant/Authorized Official | Nick Johnson |
| Date | 03/16/2024 |
| Affidavit Acknowledgement | Yes |

To Be Introduced: 4/16/24

Council District 5: Mr. Rieley
Tax I.D. No. 233-13.00-1.04
911 Address 32605 Millsboro Highway, Millsboro

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONTRACTOR OFFICE AND STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 4.72 ACRES MORE OR LESS

WHEREAS, on the 6th day of December 2022, a conditional use application, denominated Conditional Use No. 2414 was filed on behalf of Justice Boyz Properties, LLC; and

WHEREAS, on the ____ day of _____ 2024, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2414 be _____; and

WHEREAS, on the ____ day of _____ 2024, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2414 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcels of land lying and being situate in Dagsboro Hundred, Sussex County, Delaware, and lying on the east side of Millsboro Highway (Rt. 30) approximately 0.89 mile south of Laurel Road (Rt. 24) and being more particularly described in the attached legal description prepared by Tomasetti Law, LLC said parcels containing 4.72 ac. more or less.

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

To Be Introduced: 4/16/24

Council District 2: Mrs. Green
Tax I.D. No.: 130-8.00-30.00
911 Address: N/A

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EVENTS VENUE AND AGRICULTURAL EDUCATION CENTER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 70 ACRES, MORE OR LESS

WHEREAS, on the 9th day of February 2023, a conditional use application, denominated Conditional Use No. 2426 was filed on behalf of Jody Vasey; and

WHEREAS, on the ____ day of _____ 2024, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2426 be _____; and

WHEREAS, on the ____ day of _____ 2024, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2426 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Cedar Creek Hundred, Sussex County, Delaware, and lying on west side of Horse Cart Lane approximately 0.38 mile southwest of Appels Road (S.C.R. 626) and being more particularly described in the attached legal description prepared by Sergovic Carmean Weidman McCartney & Owens, P.A., said parcel containing 70 acres, more or less.

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

To Be Introduced: 4/16/24

Council District 4: Mr. Hudson
Tax I.D. No.: 134-5.00-4.00
911 Address: N/A

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM-DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (6 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.28 ACRES, MORE OR LESS

WHEREAS, on the 22nd day of November 2023, a Conditional Use application, denominated Conditional Use No. 2497 was filed on behalf of Bethany Court Ventures, LLC; and

WHEREAS, on the ____ day of _____ 2024, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County, and said Planning and Zoning Commission recommended that Conditional Use No. 2497 be _____; and

WHEREAS, on the ____ day of _____ 2024, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article V, Subsections 115-31, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2497 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece, or parcel of land, lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on the east side of Coastal Highway (Rt. 1), approximately 0.19 mile north of the intersection of Coastal Highway (Rt. 1) and Indian Harbor Villas Drive, and being more particularly described in the attached legal description prepared by Archer & Greiner, P.C. said parcel containing 1.28 acres, more or less.

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

To Be Introduced: 4/16/24

Council District 5: Mr. Rieley
Tax I.D. No.: 133-16.00-73.03
911 Address: N/A

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SMALL ENGINE & LAWN MOWER REPAIR BUSINESS AND SALES SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 42,961 SQUARE FEET, MORE OR LESS

WHEREAS, on the 21st day of February 2024, a Conditional Use application, denominated Conditional Use No. 2514 was filed on behalf of Bruce Sentman Jr.; and

WHEREAS, on the ____ day of _____ 2024, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2514 be _____; and

WHEREAS, on the ____ day of _____ 2024, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsections 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2514 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece, or parcel of land, lying and being situate in Dagsboro Hundred, Sussex County, Delaware, and lying on the east side of Sheep Pen Road (S.C.R 328), approximately 250 feet northeast of Godwin School Road (S.C.R. 410), and being more particularly described in the attached legal description prepared by Sergovic, Carmean & Weidman, P.A., said parcel containing 42,961 square feet, more or less.

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

ENGINEERING DEPARTMENT

| | |
|---------------------------|----------------|
| ADMINISTRATION | (302) 855-7718 |
| AIRPORT & INDUSTRIAL PARK | (302) 855-7774 |
| ENVIRONMENTAL SERVICES | (302) 855-7730 |
| PUBLIC WORKS | (302) 855-7703 |
| RECORDS MANAGEMENT | (302) 854-5033 |
| UTILITY ENGINEERING | (302) 855-7717 |
| UTILITY PERMITS | (302) 855-7719 |
| UTILITY PLANNING | (302) 855-1299 |
| FAX | (302) 855-7799 |



Sussex County

DELAWARE
sussexcountyde.gov
HANS M. MEDLARZ, P.E.
COUNTY ENGINEER
JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING

Proposed Leeward Chase Expansion of the Sussex County Unified Sanitary Sewer District

PUBLIC HEARING FACT SHEET

- County Council granted permission to prepare and post notices on January 23, 2024 for an expansion of the Sussex County Unified Sanitary Sewer District (Airpark Area)
- The Engineering Department had received a request from Solutions IPEM on behalf of their client Leeward Chase DE, LLC the owners/developers of a project known as Leeward Chase for parcels 135-15.00-98.00 & 98.01.
- Otherwise known as Moore's Meadow Farm.
- The project is proposed at 106.00 units and will be responsible for System Connection Charges of \$7,700.00 per EDU based on current rates.
- The Engineering Department added to the County website and posted notices on March 6, 2024. Advertised the week of April 3rd and 10th.
- To date we have had no correspondence either in support or opposition to this proposed annexation.



COUNTY ADMINISTRATIVE OFFICES
2 THE CIRCLE | PO BOX 589
GEORGETOWN, DELAWARE 19947

SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT
LEEWARD CHASE EXPANSION
AFFIDAVIT FOR PUBLIC HEARING

STATE OF DELAWARE)(

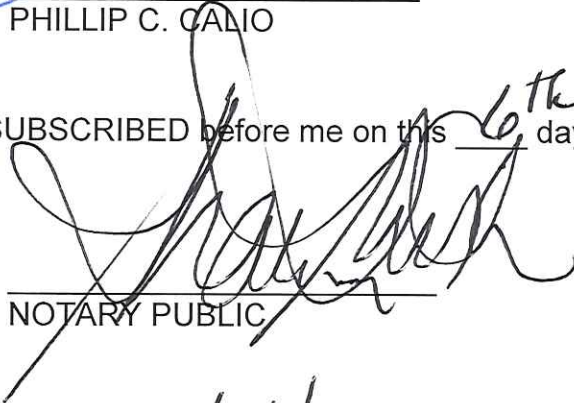
COUNTY OF SUSSEX)(

BE IT REMEMBERED, That the subscriber, PHILLIP C. CALIO, personally appeared before me and known to me personally to be such, who being by me duly sworn to law did depose and say as follows:

- A. On March 6, 2024 he was a Utility Planner for the Sussex County Engineering Department, Sussex County, State of Delaware; and
- B. On March 6, 2024 he did post the attached "Public Notice," prepared by the Sussex County Engineering Department, at the following locations:
 - 1. On a post in the southerly Right-of-Way of Lewes-Georgetown Highway across from Charles Avenue,
 - 2. On a post in the southerly ROW of Lewes-Georgetown Highway in front of pole V/Z 24,
 - 3. On a post in the southerly ROW of Lewes-Georgetown Highway across the road from DXI Construction office,
 - 4. On a post in the southerly ROW of Lewes-Georgetown Highway, 10' west of Delmarva Power pole 53758/05365,
 - 5. On a post in front of a STOP sign at the intersection of Baltimore Avenue and Park Avenue, 4,677' southwest of Lewes-Georgetown Highway,
 - 6. On a post in front of a STOP sign at the intersection of Nanticoke Avenue and Park Avenue, 990' southwest of Springfield Road,
 - 7. On a post in front of a STOP sign at the intersection of Rudder Lane, Airport Road and Railroad Avenue,
 - 8. On a post in front of a STOP sign at the intersection of Rudder Lane & Airport Road


PHILLIP C. CALIO

SWORN TO AND SUBSCRIBED before me on this 6th day of March A.D., 2024


NOTARY PUBLIC



My Commission Expires 6/14/2024

REVISED PUBLIC NOTICE

PROPOSED LEEWARD CHASE EXPANSION OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (AIRPARK AREA)

NOTICE IS HEREBY GIVEN that the Sussex County Council voted on **January 23, 2024** to consider extending the boundary of the Sussex County Unified Sanitary Sewer District (SCUSSD), Airpark Area, to include the lands of Wakefield Development, LLC on Lewes Georgetown Highway, being situate in Georgetown Hundred, Sussex County, Delaware.

This action is in conformity with 9 Del.C §6502.

A description of the area, which is contiguous to and to be added to the SCUSSD is described as follows:

Beginning at a point, said point being on the SCUSSD (Airpark Area) boundary, said point being on the northerly property line of the lands Now or Formerly (N/F) of Sussex County (Delaware Coastal Airport), said further being on the southerly Right of Way (ROW) of the Maryland & Delaware Railroad (66 feet wide); thence proceeding by and with said County land and ROW in a southwesterly direction a distance of 1,518'± to a point; thence leaving said County land and ROW and proceeding in a northwesterly direction a distance of 66'± to a point, said point being on the northerly ROW of Maryland & Delaware Railroad, said point also being the southwesternmost property corner of lands N/F of Moore's Meadowood Farm LLC; thence proceeding by and with said Moore's lands in the following 11 courses and distances (1) North 16°46'37" West, a distance of 735.18 feet to a point, (2) North 17°51'56" West, a distance of 922.69 feet to an iron rebar, (3) North 18°38'22" West a distance of 201.04 feet to an iron pipe, (4) North 72°06'33" East, a distance of 15.51 feet to an iron pipe, (5) South 17°53'27" East, a distance of 218.00 feet to an iron pipe, (6) North 72°06'33" East, a distance of 200.50 feet to an iron pipe, (7) North 17°53'27" West, a distance of 218.00 feet to an iron pipe, (8) North 72°06'33" East, a distance of 772.45 feet to a point, (9) South 34°00'15" East, a distance of 216.22 feet to an iron pipe, (10) South 34°19'36" East, a distance of 1,600.94 feet to a brass disk, (11) South 67°44'41" West, a distance of 1,517.92 feet to an iron rebar with cap, said cap is the southeasternmost property corner of lands N/F of Moore's Meadowood Farm LLC, said cap also being on the northerly ROW of Maryland & Delaware Railroad; thence proceeding in a southeasterly direction a distance of 66'± to a point, said point being that of the **BEGINNING**.

NOTE: The above description has been prepared using Sussex County Tax Map 135-15.00 and Sussex County property assessment records. The annexation contains 50.80 acres more or less.

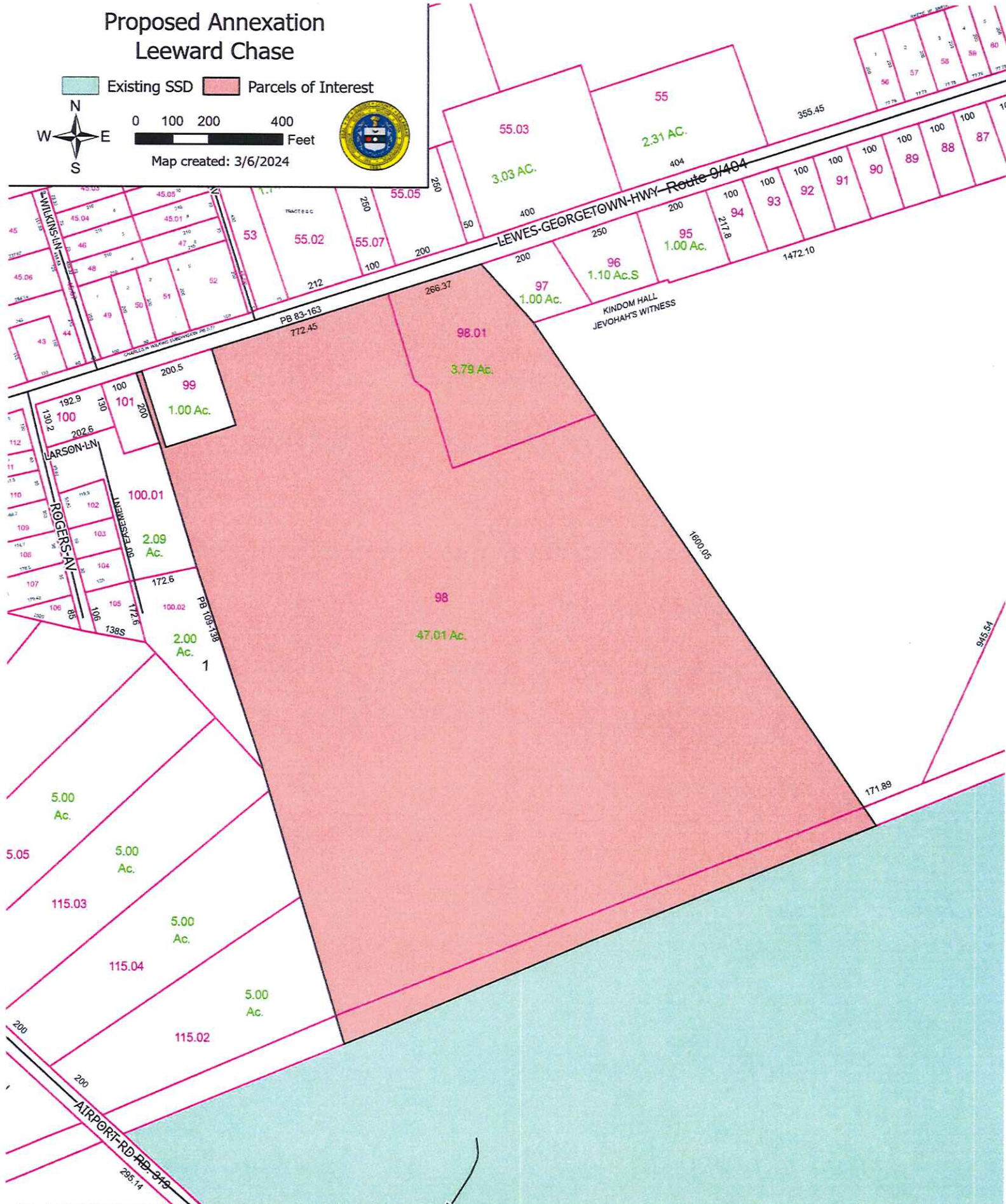
A map outlining and describing the extension of the SCUSSD is attached. The area involved is

Proposed Annexation Leeward Chase

Existing SSD Parcels of Interest



0 100 200 400 Feet
Map created: 3/6/2024



The proposed annexation is scheduled to be discussed April 16, 2024 at 1:30 PM
in the Sussex County Council Chambers
For more information please visit: <https://sussexcountyde.gov/proposed-projects-schedules>
Or call Sussex County Utility Planning at 302-855-7370

RESOLUTION

A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) DELAWARE COASTAL AIRPORT AREA, TO INCLUDE THE LEEWARD CHASE SUBDIVISION AREA, ON THE SOUTH SIDE OF LEWES-GEORGETOWN HIGHWAY LOCATED IN THE GEORGETOWN HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE.

WHEREAS, Sussex County has established the Sussex County Unified Sanitary Sewer Sanitary Sewer District (SCUSSD); and

WHEREAS, in the best interests of the present district and to enhance the general health and welfare of that portion of Sussex County in the vicinity of Lewes-Georgetown Highway, the inclusion of this area will be beneficial; and

WHEREAS, in accordance with 9 Del.C., Section 6502 (a), the Sussex County Council may, upon request of the County Engineer, revise the boundary of an established sewer district when 50 or more houses have been connected by posting a public notice in four public places in the district describing the new or revised boundary; and

WHEREAS, the Sussex County Council has caused to be posted a public notice in at least four public places in the district, as verified by the affidavit of Phillip C. Calio, a copy of which affidavit and public notice is attached hereto and made a part hereof; and

WHEREAS, in accordance with 9 Del.C., Section 6502 (b), the Sussex County Council shall, within ninety days after posting the public notices pass a formal resolution establishing the new boundary of the district;

NOW, THEREFORE,

BE IT RESOLVED the Sussex County Council hereby revises the boundary of the SCUSSD to encompass the lands mentioned above in the Leeward Chase Subdivision area and further described as follows:

Beginning at a point, said point being on the SCUSSD (Airpark Area) boundary, said point being on the northerly property line of the lands Now or Formerly (N/F) of Sussex County (Delaware Coastal Airport), said further being on the southerly Right of Way (ROW) of the Maryland & Delaware Railroad (66 feet wide); thence proceeding by and with said County land and ROW in a southwesterly direction a distance of 1,518'± to a point; thence leaving said County land and ROW and proceeding in a northwesterly direction a distance of 66'± to a point, said point being on the northerly ROW of Maryland & Delaware Railroad, said point also being the southwesternmost property corner of lands N/F of Moore's Meadowood Farm LLC; thence proceeding by and with said Moore's lands in the following 11 courses and distances (1) North 16°46'37" West, a distance of 735.18 feet to a point, (2) North 17°51'56" West, a distance of 922.69 feet to an iron rebar, (3) North 18°38'22" West a distance of 201.04 feet to an iron pipe, (4) North 72°06'33" East, a distance of 15.51 feet to an iron pipe, (5) South 17°53'27" East, a distance of 218.00 feet to an iron pipe, (6) North 72°06'33" East, a distance of 200.50 feet to an iron pipe, (7) North 17°53'27" West, a distance of 218.00 feet to an iron pipe, (8) North 72°06'33" East, a distance of 772.45 feet to a point, (9) South 34°00'15" East, a distance of 216.22 feet to an iron pipe, (10) South 34°19'36" East, a distance of

1,600.94 feet to a brass disk, (11) South 67°44'41" West, a distance of 1,517.92 feet to an iron rebar with cap, said cap is the southeasternmost property corner of lands N/F of Moore's Meadowood Farm LLC, said cap also being on the northerly ROW of Maryland & Delaware Railroad; thence proceeding in a southeasterly direction a distance of 66'± to a point, said point being that of the **BEGINNING**.

NOTE: The above description has been prepared using Sussex County Tax Map 135-15.00 and Sussex County property assessment records. The annexation contains 50.80 acres.

A map outlining and describing the extension of the SCUSSD is attached. The area involved is crosshatched and highlighted.

BE IT FURTHER RESOLVED that the Sussex County Council directs the County Engineer and the Attorney for the County Council to procure the necessary lands and right-of-way by purchase, agreement, or condemnation in accordance with the existing statutes; and

BE IT FURTHER RESOLVED that the County Engineer is hereby authorized to prepare maps, plans, specifications, and estimates, let contracts for and supervise the construction and maintenance of, or enlarging and remodeling of, any and all structures required to provide for the safe disposal of sewage in the sanitary sewer district, as amended.

ENGINEERING DEPARTMENT

| | |
|---------------------------|----------------|
| ADMINISTRATION | (302) 855-7718 |
| AIRPORT & INDUSTRIAL PARK | (302) 855-7774 |
| ENVIRONMENTAL SERVICES | (302) 855-7730 |
| PUBLIC WORKS | (302) 855-7703 |
| RECORDS MANAGEMENT | (302) 854-5033 |
| UTILITY ENGINEERING | (302) 855-7717 |
| UTILITY PERMITS | (302) 855-7719 |
| UTILITY PLANNING | (302) 855-1299 |
| FAX | (302) 855-7799 |



Sussex County

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HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING

Proposed Bosch Berries Expansion of the Sussex County Unified Sanitary Sewer District

PUBLIC HEARING FACT SHEET

- County Council granted permission to prepare and post notices on February 20, 2024 for an expansion of the Sussex County Unified Sanitary Sewer District (Western Sussex Area)
- The Engineering Department had received a request from Davis, Bowen & Friedel, Inc. (DBF) on behalf of their client Tijmen & Wouter Van Den Bosch the owners/developers of a project known as Bosch Berries for parcel 131-6.00-1.00.
- The parcel is zoned AR-1, Agricultural Residential and adjacent to the existing town boundary and the Sussex County Unified Sanitary Sewer District. **The property will be required to annex into the Town of Bridgeville.**
- The project will be responsible for System Connection Charges of \$7,700.00 per EDU based on current rates.
- The Engineering Department added to the County website and posted notices on March 19, 2024. Advertised the week of March 27th & April 3rd.
- To date we have had no correspondence either in support or opposition to this proposed annexation.



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2 THE CIRCLE | PO BOX 589
GEORGETOWN, DELAWARE 19947

SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT
PROPOSED BOSCH BERRIES
AFFIDAVIT FOR PUBLIC HEARING

STATE OF DELAWARE)(

COUNTY OF SUSSEX)(

BE IT REMEMBERED, That the subscriber, PHILLIP C. CALIO, personally appeared before me and known to me personally to be such, who being by me duly sworn to law did depose and say as follows:

- A. On March 19, 2024, he was a Utility Planner for the Sussex County Engineering Department, Sussex County, State of Delaware; and
- B. On March 19, 2024, he did post the attached "Public Notice," prepared by the Sussex County Engineering Department, at the following locations:
1. On a post in the easterly Right-of-Way (ROW) of Adams Road across the road from DEC Pole 100978, 1,138' south of Newton's Road,
 2. On a post in the easterly ROW of Adams Road across the road from DEC Pole 100976, 587' south of Newtons Road,
 3. On a post in the easterly ROW of Newton's Road in front of DEC Pole 12246, 2,142' west of Adams Road,
 4. On a post in the easterly ROW of Newton's Road in front of DEC Pole 113811, 1,735' west of Adams Road,
 5. On a post in front of a STOP sign in the southerly ROW of Passwaters Farm Road,
 6. On a post in front of a STOP sign in the northerly ROW of Passwaters Farm Road at the intersection with Main Street,
 7. On a post in front of a STOP sign in the northerly ROW of Rifle Range Road at the intersection with Main Street.
 8. Bridgeville Town Hall, 101 North Main Street, Bridgeville, DE 19933.


PHILLIP C. CALIO

SWORN TO AND SUBSCRIBED before me on this 19th day of March A.D., 2024


NOTARY PUBLIC

My Commission Expires 6/14/2024



PUBLIC NOTICE

PROPOSED BOSCH BERRIES EXPANSION OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (WESTERN SUSSEX AREA)

NOTICE IS HEREBY GIVEN that the Sussex County Council voted on **February 20, 2024** to consider extending the boundary of the Sussex County Unified Sanitary Sewer District (SCUSSD), Western Sussex Area, to include one parcel at the intersection of West Newton Road and Adams Road, being situate in Northwest Fork Hundred, Sussex County, Delaware.

This action is in conformity with 9 Del. C §6502.

A description of the area, which is contiguous to and to be added to the SCUSSD is described as follows:

Beginning at a point, said point being on the westerly Right-of-Way (ROW) of Adams Road, said point also being on the SCUSSD boundary, said point further being a shared property corner of lands Now-or-Formerly (N/F) of Newton Farms LLC etal. and lands N/F Helena Agri-Enterprises, LLC, thence proceeding by and with said Agri-Enterprises lands and SCUSSD boundary, in a southwesterly direction a distance of 2,159.92' to a point, said point being on the northeasterly property line lands N/F of Adams Family Bennett Farm, LLC; thence leaving said Agri-Enterprise lands and SCUSSD boundary and proceeding with said Bennett Farm lands in a northwesterly, northeasterly, northwesterly and southwesterly direction respectively a total distance of 965'± to a point, said point being a property corner of lands N/F W. J. Conaway Limited Partnership; thence leaving said Bennett Farm lands and proceeding by and with said Conaway lands in a northwesterly direction a distance of 1,810.28' to a point, said point being a shared property corner of lands N/F of aforementioned Conaway lands and N/F aforementioned Newton Farm lands, said point also being on the southeasterly ROW of West Newton Farm Road; thence leaving said Conaway lands and proceeding by and with said Newton Farm lands in a northeasterly, a curve to the right along W. Newton Farm Road and Adams Road and a southeasterly direction respectively a total distance of 4,386.45 feet to a point, said point being the **Point of Beginning**.

NOTE: The above description has been prepared using Sussex County Tax Map 131-6.00 and Sussex County property assessment records. The annexation contains 102.49 acres more or less.

A map outlining and describing the extension of the SCUSSD is attached. The area involved is crosshatched.

The public hearing will be held on this issue at 1:30 p.m. on April 16, 2024, at the regularly scheduled Sussex County Council meeting. All interested persons, officials, residents, voters, taxpayers, property owners, or corporations in any way affected by this boundary extension are welcome to attend. There will be an opportunity for questions and answers. The Sussex County Council following the hearing, at one of their regularly scheduled meetings, will make the final decision on the boundary extension.

For further information, please call or write the Sussex County Engineering Department, 2 The Circle, Post Office Box 589, Georgetown, DE 19947 – (302) 855-7370).

Mike Harmer, P.E.
County Engineer

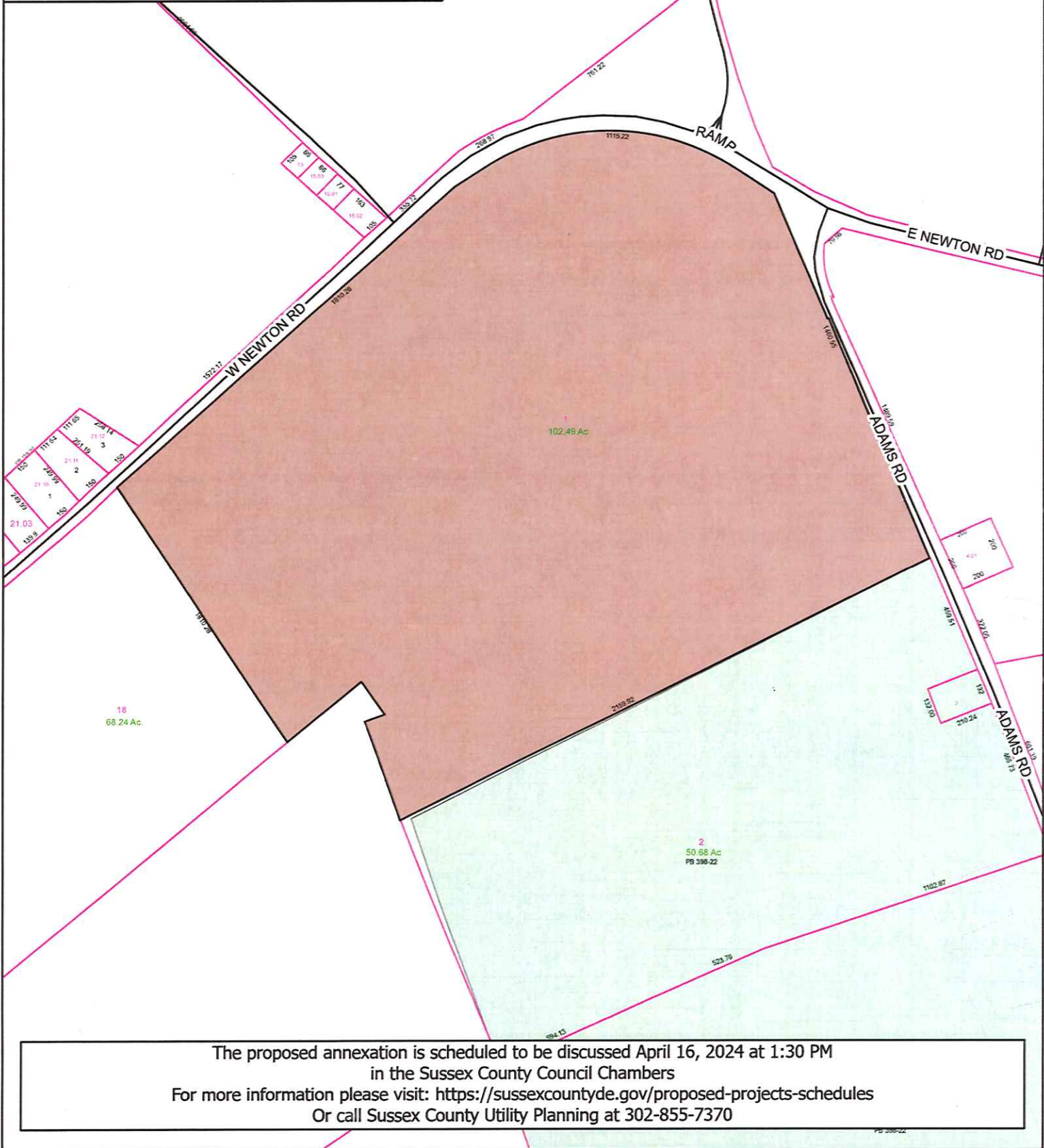
Proposed Annexation Bosch Berries

Existing SSD Parcel 131-6.00-1.00



0 140 280 560 Feet

Map created: 3/13/2024



The proposed annexation is scheduled to be discussed April 16, 2024 at 1:30 PM
in the Sussex County Council Chambers
For more information please visit: <https://sussexcountyde.gov/proposed-projects-schedules>
Or call Sussex County Utility Planning at 302-855-7370

RESOLUTION

A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD), TO INCLUDE PARCEL 131-6.00-1.00 ON THE WEST SIDE OF ADAMS ROAD. THE PARCEL IS LOCATED IN THE NORTHWEST FORK HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE.

WHEREAS, Sussex County has established the Sussex County Unified Sanitary Sewer Sanitary Sewer District (SCUSSD); and

WHEREAS, in the best interests of the present district and to enhance the general health and welfare of that portion of Sussex County in the vicinity of Sussex Highway (Rt. 13), the inclusion of this area will be beneficial; and

WHEREAS, in accordance with 9 Del.C., Section 6502 (a), the Sussex County Council may, upon request of the County Engineer, revise the boundary of an established sewer district when 50 or more houses have been connected by posting a public notice in four public places in the district describing the new or revised boundary; and

WHEREAS, the Sussex County Council has caused to be posted a public notice in at least four public places in the district, as verified by the affidavit of Phillip C. Calio, a copy of which affidavit and public notice is attached hereto and made a part hereof; and

WHEREAS, in accordance with 9 Del.C., Section 6502 (b), the Sussex County Council shall, within ninety days after posting the public notices pass a formal resolution establishing the new boundary of the district;

NOW, THEREFORE,

BE IT RESOLVED the Sussex County Council hereby revises the boundary of the SCUSSD to encompass the lands mentioned above situated on the west side of Adams Road, north of the Town of Bridgeville, as follows:

Beginning at a point, said point being on the westerly Right-of-Way (ROW) of Adams Road, said point also being on the SCUSSD boundary, said point further being a shared property corner of lands Now-or-Formerly (N/F) of Newton Farms LLC etal. and lands N/F Helena Agri-Enterprises, LLC, thence proceeding by and with said Agri-Enterprises lands and SCUSSD boundary, in a southwesterly direction a distance of 2,159.92' to a point, said point being on the northeasterly property line lands N/F of Adams Family Bennett Farm, LLC; thence leaving said Agri-Enterprise lands and SCUSSD boundary and proceeding with said Bennett Farm lands in a northwesterly, northeasterly, northwesterly and southwesterly direction respectively a total distance of 965'± to a point, said point being a property corner of lands N/F W. J. Conaway Limited Partnership; thence leaving said Bennett Farm lands and proceeding by and with said Conaway lands in a northwesterly direction a distance of 1,810.28' to a point, said point being a shared property corner of lands N/F of aforementioned Conaway lands and N/F aforementioned Newton Farm lands, said point also being on the southeasterly ROW of West Newton Farm Road; thence leaving said Conaway lands and proceeding by and with said Newton Farm lands in a northeasterly, a curve to the right along W. Newton Farm Road and Adams Road and a southeasterly direction respectively a total distance of 4,386.45 feet to a point, said point being the **Point of Beginning**.

NOTE: The above description has been prepared using Sussex County Tax Map 131-6.00 and Sussex County property assessment records

A map outlining and describing the extension of the SCUSSD is attached. The area involved is crosshatched.

BE IT FURTHER RESOLVED that the Sussex County Council directs the County Engineer and the Attorney for the County Council to procure the necessary lands and right-of-way by purchase, agreement, or condemnation in accordance with the existing statutes; and

BE IT FURTHER RESOLVED that the County Engineer is hereby authorized to prepare maps, plans, specifications, and estimates, let contracts for and supervise the construction and maintenance of, or enlarging and remodeling of, any and all structures required to provide for the safe disposal of sewage in the sanitary sewer district, as amended.

JAMIE WHITEHOUSE, AICP
DIRECTOR OF PLANNING & ZONING
(302) 855-7878 T
pandz@sussexcountyde.gov



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Memorandum

To: Sussex County Council
The Honorable Michael H. Vincent
The Honorable Cynthia C. Green
The Honorable Douglas B. Hudson
The Honorable John L. Rieley
The Honorable Mark G. Schaeffer

From: Jamie Whitehouse, AICP, Director of Planning & Zoning

CC: Everett Moore, County Attorney

Date: April 12, 2024

RE: County Council Report for C/U 2413 filed on behalf of Blue Hen Rental Company, LLC

The Planning and Zoning Department received an application (C/U 2413 filed on behalf of Blue Hen Rental Company, LLC) for an outdoor venue to be located at tax parcel 532-20.00-107.01. The property is located at 38397 Old Stage Road, Delmar. The parcel size is 2.84 acres +/-

The Planning & Zoning Commission held a Public Hearing on the application on February 21, 2024. At the meeting of March 20, 2024, the Planning & Zoning Commission recommended approval of the application for the 7 reasons stated and subject to the 10 recommended conditions as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meeting of February 21, 2024, and March 20, 2024.

Minutes of the February 21, 2024, Planning & Zoning Commission Meeting

C/U 2413 Blue Hen Rental Company, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OUTDOOR VENUE FOR SEASONAL VENDORS AND SERVICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 2.84 ACRES MORE OR LESS. The property is lying on the north side of Line Road (Rt. 54) and the east side of Old Stage Road (S.C.R. 68), at the intersection of Line Road (Rt. 54) and Old Stage Road (S.C.R. 68). 911 Address: 38397 Old Stage Road, Delmar. Tax Map Parcel: 532-20.00-107.01.

Mr. Whitehouse advised the Commission that submitted into the record were the Deed, the



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Applicant's Conceptual Site Plan, the Staff Analysis, and the DelDOT Service Level Evaluation Response. Mr. Whitehouse stated that six comments in support of the Application had been submitted.

The Commission found that Mr. Chad Lingenfelder, Esq., from the Smith firm spoke on behalf of the Applicant, Blue Hen Rental Company, LLC; that also present was Mr. Doug Marshall, a managing member of Blue Hen Rental Company, LLC. Mr. Lingenfelder stated that the application is for a conditional use of the property to have a farmers market, outdoor venue services and seasonal vendors; that the property is situated within the area of Delmar which is one of the fastest growing towns in the county and it holds dual purposes as it is in both the state of Delaware and the state of Maryland; that there is an old home situated on the property and with that there is a well that would be used primarily for the vendor services and to have portable toilets for the general public while in season; that the plan is to have a fabric canopy tent approximately 50 ft. x 80 ft., which would be a semi-permanent structure that could be taken down if needed, but yet strong enough to sustain winds and provide coverage for rain, snow or sleet; that there would be food trucks and vendors similar, with more festive from scratch vendors including a barbeque brick oven pizza; that the location of the property is along Rt. 54, which is a very busy intersection, but the plan is to make the entrance to the farmers market on Old Stage Rd. after talking it over with DelDOT; that in the letter from DelDOT the Impact Study as well as the preliminary approval for a small commercial entrance, would be on Old Stage Rd. and would not have any interference with Rt. 54 or the traffic patterns; that the ingress and egress for this venue would be on Old Stage Rd. as it was approved by DelDOT and that it would be a negligible impact on Old Stage Rd.

Mr. Doug Marshall spoke on behalf of Blue Hen Rental Company, LLC in regard to the application. Mr. Marshall stated that the plan is to have vendors and food trucks set up on weekends to give the locals things to do; that the structure would remain up year round with a concrete floor and have parking within the grass where they would place stone around it; that they would utilize the same parking area that was there last year for a produce stand since there is already drain footage there; that DelDOT recently reduced the speed limit on Rt. 54 in front of this property to 35 mph; that DelDOT provided a Letter of No Contention stating that putting the entrance on Old Stage Rd would be sufficient; that it is in the process of working with the Department of Health to utilize the well on the property for the food truck and vendors; that the market would be open Spring, Summer, and Fall and they would most likely close for the Winter; that there was a possibility of doing a Christmas market if the need is there; that they would request the Commission to not put a timeline restriction as a condition, but rather make it weather dependent; that the hours of operation would be 7:00 AM to 9:00 PM, in the hopes of possibly holding some performances from the local schools or church choirs under the tent.

Mr. Robertson informed the Applicant that their application does not allow for the introduction of music and performances as it is beyond the scope of the application; that if they want to do things of that nature then they could apply for a special event application in addition to the conditional use.

Mr. Chairman informed the Applicant that the Commission is very interested in the hours and plans for the actual market because the process for a conditional use gives great latitude in placing conditions, restrictions, and stipulations on the application; that the Commission would like to accommodate the Applicant to the best of their ability and make sure all avenues have been addressed; that a concern would be parking along Old Stage Rd. and that signage is placed to inform the public that there will be no parking there; that he would rather see it put in for a year-round usage rather than

limit it to only the specified seasons or dates.

Mr. Mears asked the Applicant if he was interested in putting up a sign for the farmers market and if the sign would be lit; that if there would be lights throughout the property; that if there would be alcohol sales on the property and if there would be trash receptacles clearly stated on the Final Site Plan.

Mr. Marshall stated that eventually, the idea would be to put up a sign, that there would be lights throughout the property and that they would like the option to be able to sell alcohol without restrictions.

Mr. Robertson stated that they would need to coordinate with the Alcoholic Beverage Control Commission before acquiring any licenses to sell alcohol on the premises and that they should include the standard for parking within the conditional use for example, no parking within the setbacks.

The Commission found that there was no one present in support of or in opposition to the Application.

Upon there being no further question, Chairman Wheatley closed the public hearing.

At the conclusion of the public hearing, the Commission discussed the Application.

In relation to C/U 2413 Blue Hen Rental Company, LLC. Motion by Mr. Mears to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 5-0.

Minutes of the March 20, 2024, Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since February 21, 2024.

Mr. Mears moved that the Commission recommend approval of C/U 2413 Blue Hen Rental Company, LLC for seasonal vendors and services with similar activities based on the record made during the public hearing and for the following reasons:

1. This property is located very near the intersection of Route 13 and Line Road at Delmar, with all of the intensive commercial uses that exist there. It is also at the intersection of Old Stage Road and Line Road, and it is bounded on the north by existing C-1 property. This is an appropriate location for a conditional use such as this.
2. This use will be compatible with all of the other business and commercial uses in this immediate area.
3. The use is a benefit to the entire community, providing an outlet for local artisans, musicians, and other small businesses.
4. With the conditions imposed by the County, the use will not adversely affect neighboring properties, roadways, or traffic.
5. The use has a public or semi-public character that is a benefit to residents of nearby communities and Sussex County.

6. As part of this use, food service in the form of food trucks or similar temporary stands shall be permitted. Also, the service of alcoholic beverages shall be permitted, subject to the receipt of all required approvals from the Delaware Alcoholic Beverage Control Commission.
7. No parties appeared in opposition to this Application, and several letters were submitted in support of this application.
8. This recommendation is subject to the following conditions:
 - A. This use shall be limited to an outdoor marketplace, which may include food and beverage service and live music.
 - B. One lighted sign shall be permitted. It shall not exceed 32 square feet per side.
 - C. The hours of operation shall be limited to 7:00 am through 9:00 pm.
 - D. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.
 - E. The Applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.
 - F. There shall not be any dumping on the site. Also, no junk or unsold items shall accumulate outdoors on the site.
 - G. Any dumpsters associated with the use shall be screened from view from neighboring properties or roadways.
 - H. The Final Site Plan shall clearly show all parking areas and structures associated with the use as well as the areas set aside for the outdoor sales. There shall also be signage along the property frontage prohibiting parking along the state road right of ways.
 - I. Failure to comply with any of these conditions may be grounds for termination of the Conditional Use approval.
 - J. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of C/U 2413 Blue Hen Rental Company, LLC for the reasons and the conditions stated in the motion. Motion carried 5-0.

Vote by roll call: Ms. Wingate – yea, Mr. Mears – yea, Mr. Collins – yea, Mr. Butler – yea, Chairman Wheatly - yea

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



Sussex County

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Memorandum

To: Sussex County Planning Commission Members
From: Mrs. Christin Scott, Planner III
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: February 14, 2024
RE: Staff Analysis for C/U 2413 Blue Hen Rental Company, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application C/U 2413 Blue Hen Rental Company, LLC to be reviewed during the February 21st, 2024, 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.

Please note that the following staff analysis is for informational purposes only and does not prejudice any decision that the Sussex County Planning & Zoning Commission or Sussex County Council may wish to make as part of any Application submitted to the Department.

Tax Parcel ID: 532-20.00-107.01

Proposal: The request is for a Conditional Use for Tax Parcel 532-20.00-107.01 to allow for an outdoor venue for seasonal vendors and services. The property is located on the northeast side of the intersection of Line Road (Rt. 54) and Old Stage Road (S.C.R. 68). The parcel is comprised of a total area of 2.84 acres +/-.

Zoning: The Parcel is zoned Agricultural Residential (AR-1) District. The adjacent parcels to the east of the subject property are zoned Agricultural Residential (AR-1) District and parcels to the north are zoned General Commercial (C-1) District. Parcels across Old Stage Road are located within the town limits of Delmar and properties across Line Road are located within the state of Maryland.

Future Land Use Map Designation w/in Comprehensive Plan: Developing Area

Applicability to Comprehensive Plan: 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 is designated as a Growth Area and has a land use designation of “Developing Area.” The properties surrounding the subject Parcel are also categorized as “Developing Area” with properties across Old Stage Road being designated as “Municipalities.” Properties further east are designated as “Town Center.”

As outlined in the 2018 Sussex County Comprehensive Plan, the Developing Areas are newer, emerging growth areas that demonstrate the characteristics of developmental trends. Most of the proposed Developing Areas are adjacent to municipalities, within or adjacent to potential future



annexation areas of a municipality, or adjacent to Town Centers. – A range of housing types are appropriate in Developing Areas, including single family homes, townhouses, and multi-family units. In selected areas and at appropriate intersections, commercial uses should be allowed. A variety of office uses would be appropriate in many areas. Portions of the Developing Areas with good road access and few nearby homes should allow for business and industrial parks. Appropriate mixed-use development should also be allowed. In doing so, careful mixtures of homes with light commercial and institutional uses can be appropriate to provide for convenient services and to allow people to work close to home (Sussex County Comprehensive Plan, 4-14).

Further Site Considerations:

- **Density: N/A**
- **Open Space Provisions: N/A**
- **Agricultural Areas:** The site is not within the vicinity of active agricultural lands.
- **Interconnectivity: N/A**
- **Transportation Improvement District (TID):** The parcels are not within the Henlopen Transportation Improvement District.
- **Forested Areas: N/A**
- **Wetlands Buffers/Waterways:** There are no known wetlands or waterways located on the site.
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** The property is not located within any Flood Zones. The Parcel is in an area of “Fair” Groundwater Recharge Potential. A Tax Ditch borders the east property line with a Tax Ditch Right of Way of 75-feet from the centerline of the ditch.

Based on the analysis of the land use, surrounding zoning and uses, a Conditional Use Application to allow for an outdoor venue for seasonal vendors and services, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.

Existing Conditional Uses within the Vicinity of the Subject Site: A Data Table and Supplemental Map have been supplied which provide further background regarding the approval status of Applications in the area, including the location of all other Conditional Use Applications that are less than 1 mile distance from the subject site.

| <p style="text-align: center;">Conditional Use Applications (Within a 1.0-mile radius of the subject site)</p> | | | | | | |
|--|--------------------------------------|-----------------|--|-------------|------------------|------------------|
| Application Number | Application Name | Zoning District | Proposed Use | CC Decision | CC Decision Date | Ordinance Number |
| 4 | William J. Cathell | AR-1 | Automobile Raceway | Approved | <Null> | <Null> |
| 82 | Houlihan Real Estate INC | AR-1 | extension to existing manufactured home park | Approved | <Null> | <Null> |
| 85 | St. Stephens United Methodist Church | AR-1 | extension to cemetary | Approved | <Null> | <Null> |
| 88 | Delmar Volunteer Fire Co | UB | fire house | Approved | <Null> | <Null> |
| 114 | Robert Baysinger | AR-1 | extend manufactured home park | Approved | <Null> | <Null> |
| 416 | Granville Eskridge | AR-1 | general store | Approved | <Null> | <Null> |
| 525 | Earl D Hudson | AR-1 | beauty salon | Approved | <Null> | <Null> |
| 82 | Houlihan Real Estate INC | AR-1 | extension to existing manufactured home park | Approved | <Null> | <Null> |



CU 2413 Blue Hen Rentals
CU Vicinity Map (1-Mile)
TM#s 532-20.00-107.01

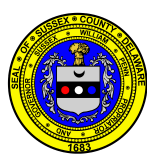
 CU 2413 - CUS Within 1-Mile
 CU 2413 1-Mile Buffer

 CU 2413 - Blue Hen Rentals

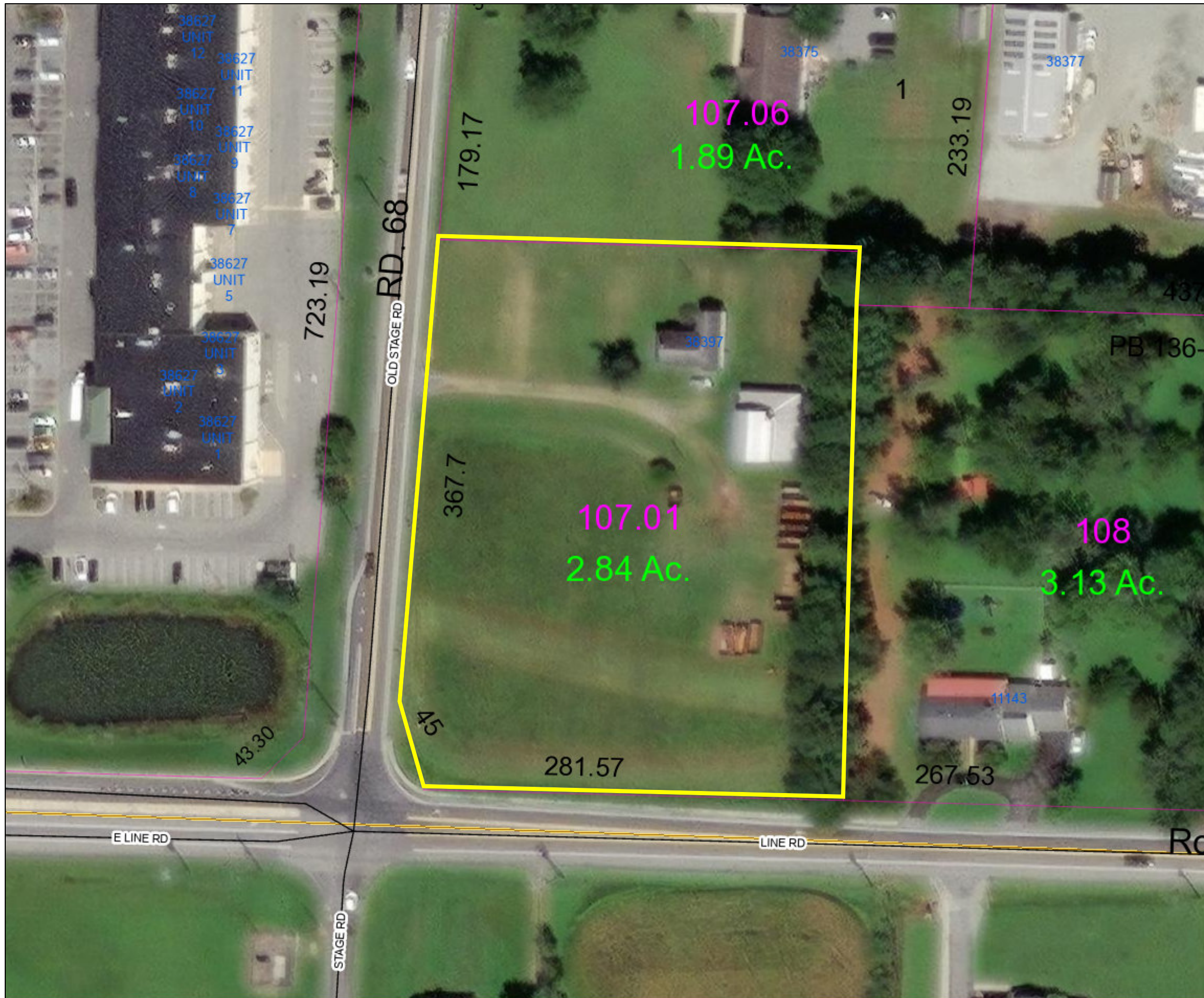
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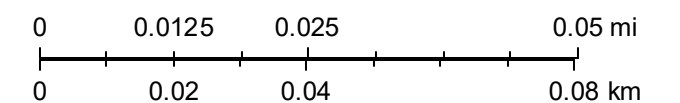
Sussex County



| | |
|------------------------|------------------------|
| PIN: | 532-20.00-107.01 |
| Owner Name | BLUE HEN RENTAL CO LLC |
| Book | 5491 |
| Mailing Address | PO BOX 3682 |
| City | SALISBURY |
| State | MD |
| Description | N.E.INTERSECTION RTS |
| Description 2 | 419 68 |
| Description 3 | 2.84 ACRES W/IMP |
| Land Code | |

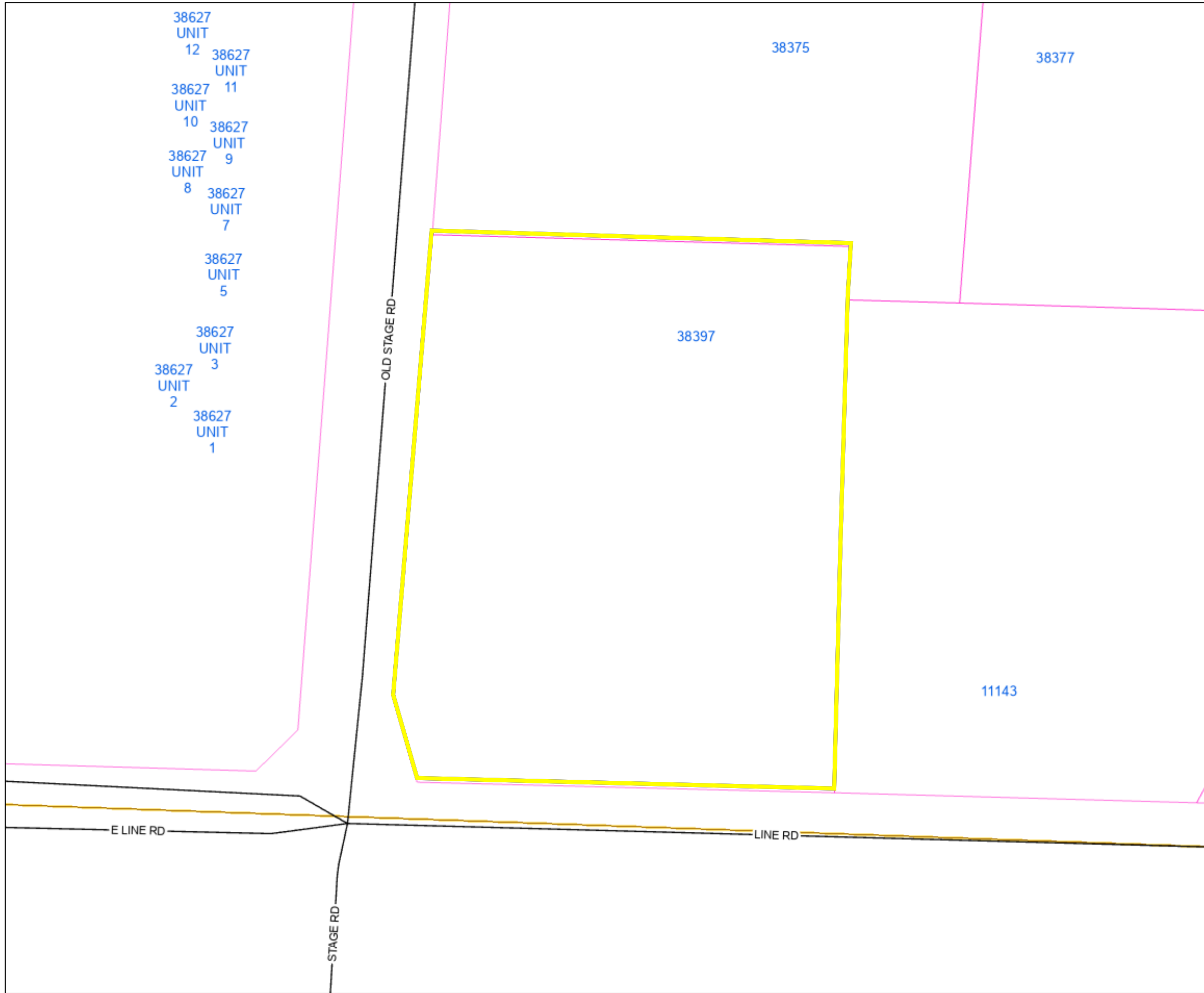
- polygonLayer**
- Override 1
- polygonLayer**
- Override 1
- Tax Parcels
- 911 Address
- Streets
- County Boundaries

1:1,128





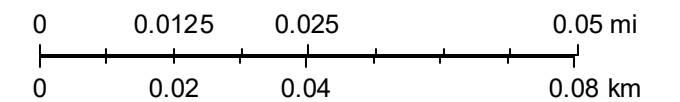
Sussex County



| | |
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- polygonLayer
 - Override 1
- polygonLayer
 - Override 1
 - Tax Parcels
 - 911 Address
 - Streets
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1:1,128



Sussex County

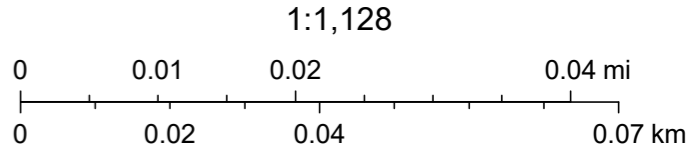


January 25, 2024

- | | |
|--|---|
| <ul style="list-style-type: none"> Override 1 Override 2 | <p>Zoning</p> <ul style="list-style-type: none"> C1: General Commercial Tax Parcels <p>911 Address</p> |
|--|---|

- Streets
- County Boundaries
- World Imagery
- Low Resolution 15m Imagery

- High Resolution 60cm Imagery
- High Resolution 30cm Imagery
- Citations
- 30cm Resolution Metadata



Maxar, Microsoft, Sussex County Government, Sussex County Mapping and Addressing

Introduced: 1/30/24

Council District 1: Mr. Vincent
Tax I.D. No. 532-20.00-107.01
911 Address 38397 Old Stage Road, Delmar

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OUTDOOR VENUE FOR SEASONAL VENDORS AND SERVICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 2.84 ACRES MORE OR LESS

WHEREAS, on the 1st day of December 2022, a conditional use application, denominated Conditional Use No. 2413 was filed on behalf of Blue Hen Rental Company, LLC; and

WHEREAS, on the ____ day of _____ 2024, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2413 be _____; and

WHEREAS, on the ____ day of _____ 2024, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2413 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcels of land lying and being situate in Little Creek Hundred, Sussex County, Delaware, and lying on the north side of Line Road (Rt. 54) and the east side of Old Stage Road (S.C.R. 68) at the intersection of Line Road (Rt. 54) and Old Stage Road (S.C.R. 68) and being more particularly described in the attached legal description prepared by The Smith Firm, LLC. said parcels containing 2.84 ac., more or less.

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

JAMIE WHITEHOUSE, AICP
DIRECTOR OF PLANNING & ZONING
(302) 855-7878 T
pandz@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Council
The Honorable Michael H. Vincent
The Honorable Cynthia C. Green
The Honorable Douglas B. Hudson
The Honorable John L. Rieley
The Honorable Mark G. Schaeffer

From: Jamie Whitehouse, AICP, Director of Planning & Zoning

CC: Everett Moore, County Attorney

Date: April 12, 2024

RE: County Council Report for C/U 2445 filed on behalf of Deihm's Trucking, Inc.

The Planning and Zoning Department received an application (C/U 2445 filed on behalf of Deihm's Trucking, Inc.) for truck parking, storage & maintenance, and an office, to be located at tax parcel 432-11.00-40.03. The property is located at 33124, 7496 & 7506 Old Hickory Road, Laurel. The parcel size is 5.06 acres +/-

The Planning & Zoning Commission held a Public Hearing on the application on February 21, 2024. At the meeting of March 20, 2024, the Planning & Zoning Commission recommended approval of the application for the 5 reasons stated and subject to the 13 recommended conditions as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meeting of February 21, 2024, and March 20, 2024.

Minutes of the February 21, 2024, Planning & Zoning Commission Meeting

C/U 2445 Deihm's Trucking, Inc.

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR TRUCK PARKING, STORAGE, & MAINTENANCE AND AN OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.06 ACRES, MORE OR LESS. The property is lying on the west side of Old Hickory Road (S.C.R. 497), at the intersection of Old Hickory Road (S.C.R. 497) and White Pines Lane, approximately 250 ft. northwest of Sharptown Road (Rt. 24). 911 Address: 33124, 7496 & 7506 Old Hickory Road, Laurel. Tax Map Parcel: 432-11.00-40.03.



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

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant’s Conceptual Site Plan, the Staff Analysis, and the DelDOT Service Level Evaluation Response. Mr. Whitehouse stated no comments were submitted for the Application.

The Commission found that Mr. Bryan Deihm spoke on behalf of his application; that also present was his wife, Ms. Amy Deihm. Mr. Deihm stated he is looking for a conditional use for his property as he runs a trash disposal company and needs to store his trucks here: that he has been in business since November 2022; that he has 88 employees and has several letters of support; that the business operates from approximately 3:00 AM until 11:00/12:00 PM for the trash trucks; that the larger dumpster trucks operate from 7:00 AM until about 5:00/6:00 PM; that there is nothing stored at the property as all dumpsters are usually brought in and back out to the streets right away; that no neighbors have complained about the business to him in regards to the noise or operations of the business; that his goal is to plant Evergreens or Green Giants this year along the property line; that when they purchased the property the realtor told them that there was a Conditional Use on the property and that they would need to reapply because once the conditions change (i.e.; sale or business change) it is required that a new conditional use application is applied for if they want to continue operating outside of the means of the current zone.

Mrs. Deihm stated that when they bought the property their real estate agent told them that the whole property was zoned commercial and it was not until they started calling the County did they found out that it was not zoned commercial, and that was how the whole process began; that the property consists of three addresses, one which is 33124 Old Hickory Lane is a rental property, and the other two in the back are where they are operating the Diehm’s Disposal Company.

Mr. Whitehouse stated that there was a previous conditional use (C/U 1486) on this property which was approved as Ordinance No. 1603 to allow the storage of race car parts and frames from 2003.

The Commission found that there was no one present who wished to speak in support of or in opposition to the Application.

Upon there being no further questions, Chairman Wheatley closed the public hearing.

At the conclusion of the public hearing, the Commission discussed the Application.

In relation to C/U 2445 Deihm’s Trucking, Inc. Motion by Mr. Mears to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 5-0.

Minutes of the March 20, 2024, Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since February 21, 2024.

Mr. Robertson read Mr. Mears' prepared motion per Mr. Mears' request.

Mr. Mears moved that the Commission recommend approval of C/U 2445 Deihm’s Trucking, Inc. for a truck parking, storage, and maintenance facility with an office based upon the record made at the public hearing and for the following reasons:

1. The proposed facility is small, and with the conditions and stipulations placed upon it, it will not have an adverse impact on the neighboring area. It is also small enough that it will not negatively impact traffic or nearby roadways.
2. The property previously had a small business conditional use approved for it. This use is consistent with the prior small-business use that has existed on the site.
3. The location is mostly surrounded by farms and other large tracts of land.
4. The Applicants live on the site and the Applicants intend to keep the residential appearance of the property.
5. No parties appeared in opposition to this application.
6. This recommendation for approval is subject to the following conditions and stipulations:
 - A. One unlighted sign shall be permitted. It shall not be larger than 32 square feet on each side.
 - B. Security lighting shall be shielded and downward screened and shall be directed away from neighboring properties and roadways.
 - C. Any dumpsters or roll-offs shall be screened from the view of neighbors and roadways. The dumpster and roll-off locations shall be shown on the Final Site Plan.
 - D. No junked, unregistered, or permanently inoperable vehicles, trucks or trailers shall be stored on the site.
 - E. There shall be no more than 20 trucks or trailers on the site at any time.
 - F. There shall not be any parking or storage in the front yard setback.
 - G. The parking and repair areas shall be shown on the Final Site Plan and clearly marked on the site itself. Vehicles, trucks, and trailers shall only be parked and worked on within these designated areas. All maintenance activities shall occur inside of a building on the site.
 - H. All oils and other fluids shall be properly stored indoors in appropriate containers. The applicant shall also comply with all state and federal requirements for the disposal of these fluids.
 - I. The site shall be subject to all DelDOT entrance and roadway requirements.
 - J. There shall be a vegetated buffer planted and maintained to screen the use from neighboring properties and roadways and to suppress noise. The location and details of this vegetated buffer shall be shown on the Final Site Plan.
 - K. This conditional use is on a property that is more than 4 acres in size, and not all of it is intended for use as part of the conditional use business. Therefore, the Final Site Plan shall clearly show the area set aside under the Conditional Use and the remaining portion of the property that is not part of the Conditional Use.
 - L. Any violation of these conditions may be grounds for termination of this conditional use.
 - M. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of C/U 2445 Deihm’s Trucking, Inc. for the reasons and the conditions stated in the motion. Motion carried 5-0.

Vote by roll call: Ms. Wingate – yea, Mr. Mears – yea, Mr. Collins – yea, Mr. Butler – yea, Chairman Wheatly - yea

PLANNING & ZONING COMMISSION

ROBERT C. WHEATLEY, CHAIRMAN
HOLLY J. WINGATE, VICE-CHAIRMAN
SCOTT COLLINS
J. BRUCE MEARS
BRIAN BUTLER



Sussex County

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JAMIE WHITEHOUSE, MRTPI, AICP
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: February 21, 2024

Application: CU 2445 Deihm's Trucking, Inc.

Applicant: Deihm's Trucking, Inc
31479 Dogwood Lane
Laurel, DE 19956

Owner: Deihm's Trucking, Inc
31479 Dogwood Lane
Laurel, DE 19956

Site Location: Located on the west side of Old Hickory Road (S.C.R. 497),
approximately 325-feet north of the intersection of Old Hickory Road
and Sharptown Road (Rt. 24).

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

Proposed Use: Truck Parking, Storage, and Office for Waste Company

Comprehensive Land
Use Plan Reference: Low Density

Councilmanic
District: Mr. Rieley

School District: Laurel School District

Fire District: Laurel Fire Co.

Sewer: On-site septic

Water: On-site well

Site Area: 5.06-acre(s) +/-

Tax Map ID.: 432-11.00-40.03



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Sussex County

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Memorandum

To: Sussex County Planning and Zoning Commission Members
From: Ann Lepore, Planner I
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: January 23, 2024
RE: Staff Analysis for CU 2445 Deihm's Trucking, Inc.

The purpose of this memo is to provide background and analysis for the Planning and Zoning Commission to consider as a part of Application CU 2445 (Deihm's Trucking, Inc.) to be reviewed February 21, 2024, Planning and Zoning 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 Conditional Use for Tax Parcel: 432-11.00-40.03 to allow for a waste company parking, storage, and maintenance of equipment and trucks, and for an office. The property is lying on the west side of Old Hickory Road (S.C.R. 497), approximately 325-feet north of the intersection of Old Hickory Road and Sharptown Road (Rt. 24). The applicant is applying for 5.06-acres +/- to be included in the Conditional Use area.

Comprehensive Plan Analysis

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 parcel has a designation of "Low Density." The adjoining parcels to the north, south, west, and east across Old Hickory Road also have a Future Land Use Map designation of "Low Density."

As outlined in the 2018 Sussex County Comprehensive Plan, Low Density Areas are areas that the County envisions as "a predominantly rural landscape where farming co-exists with appropriate residential uses and permanently preserved property" (Sussex County Comprehensive Plan, 4-18). The Plan also notes that commercial uses "should be limited in their location, size and hours of operation" and "more intense commercial uses should be avoided" and commercial uses "may be appropriate depending on surrounding uses" (Sussex County Comprehensive Plan, 4-19).

Zoning Information

The subject property is zoned Agricultural Residential (AR-1) District. All adjacent properties to the north, south, west, and east across Old Hickory Road are also zoned Agricultural Residential (AR-1) District.

Table 4.5-2 "Zoning Districts Applicable to Future Land Use Categories" in the 2018 Sussex County Comprehensive Plan notes that the Agricultural Residential District is an applicable Zoning District within the "Low Density" Future Land Use Map Designation.



Existing Conditional Uses within the Vicinity of the Subject Property

Although there have been multiple applications in this area, since 2011, there has been one (1) Conditional Use application within a one (1) mile radius of the Application Site.

| Conditional Use No. | Applicant | Proposed Use | CC Decision Date | Ordinance No. |
|---------------------|---------------------|--------------|------------------|-----------------|
| 1869 | John & Nicole Scott | Multi-Family | 3/15/2011 | N/A (Denied) |



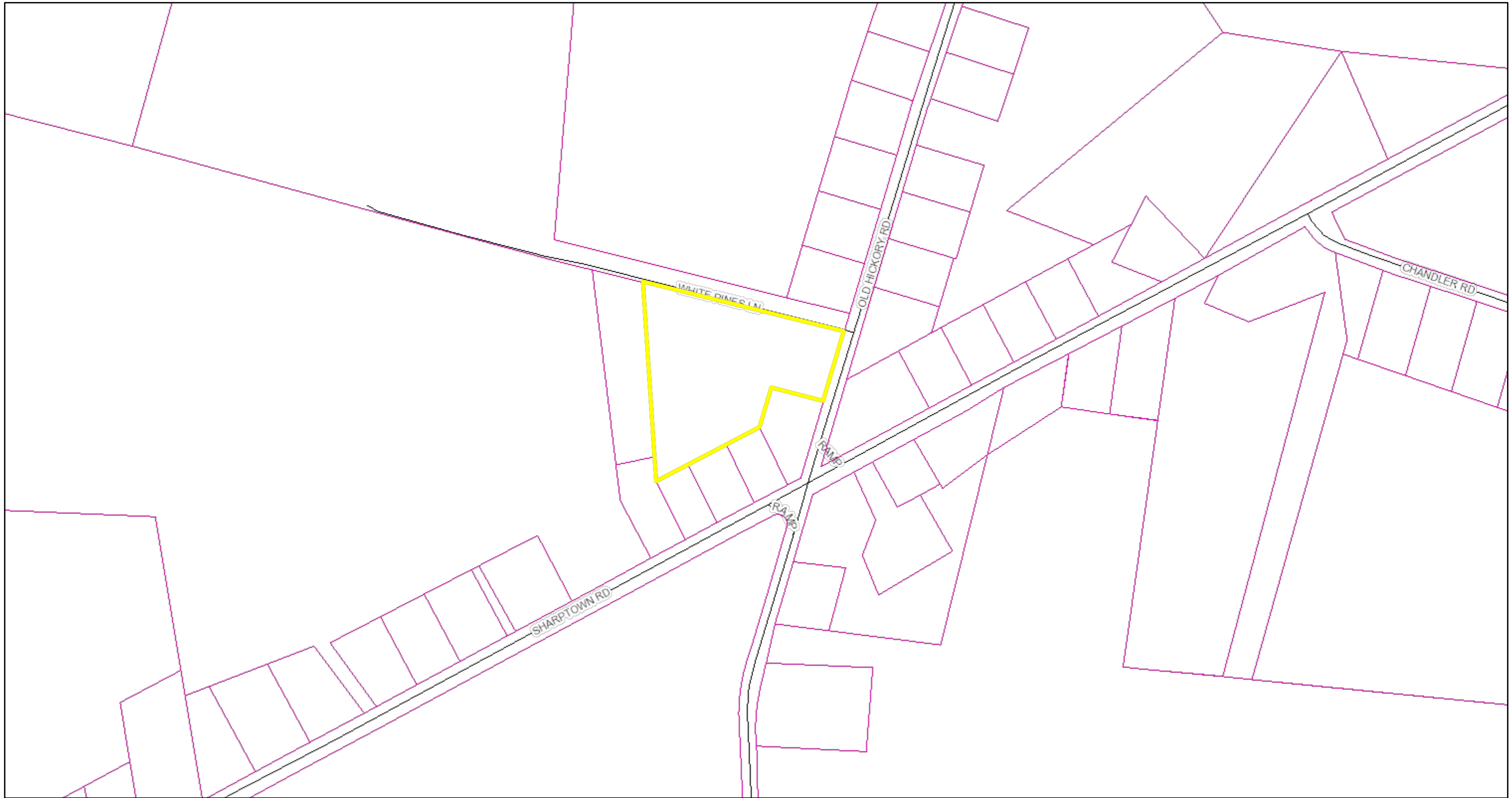
Site Considerations

- **Density:** N/A
- **Open Space Provisions:** N/A

- **Agricultural Areas:** This parcel is located near parcels that are actively used for agricultural purposes but does not adjoin the agricultural lands directly.
- **Interconnectivity:** N/A
- **Transportation Improvement District (TID):** N/A
- **Forested Areas:** N/A
- **Wetlands Buffers/Waterways:** N/A
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** Parcel is located within the "X" Flood Zone. The parcel is located within an area of fair groundwater recharge.

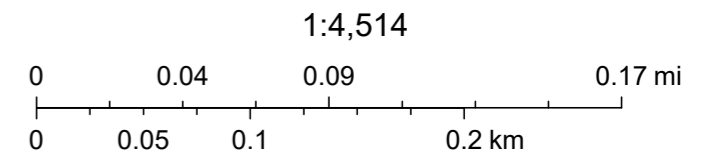
Based on the analysis provided, the Conditional Use to allow for a waste company with an office and storage for equipment and trucks in this location could be considered as being consistent with the surrounding land use, zoning, and uses, subject to considerations of scale and impact.

Sussex County



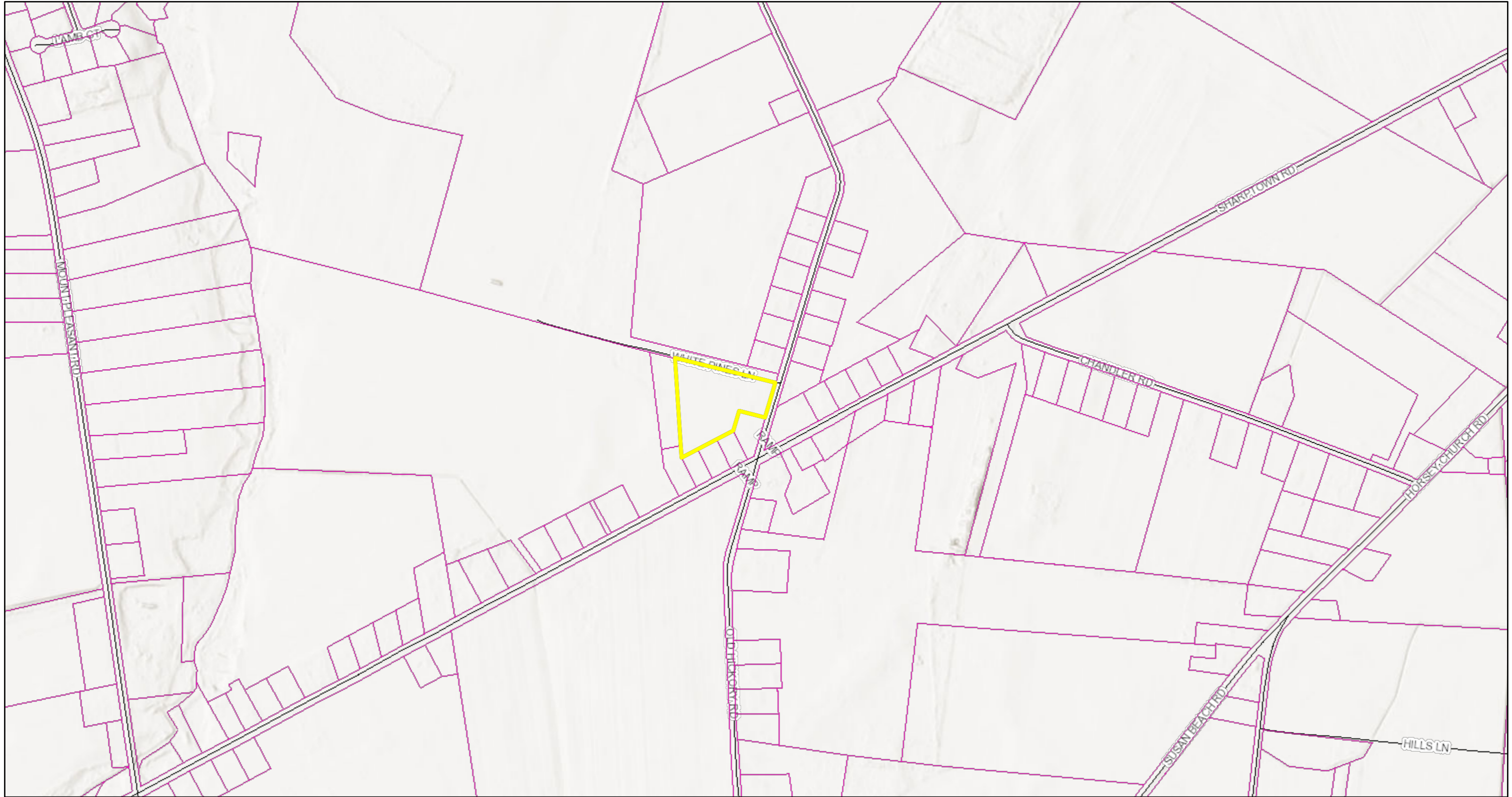
November 6, 2023

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|--------------|-------------|-------------------|---------------|
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| Override 2 | | Red: Band_1 | |



Sussex County Government

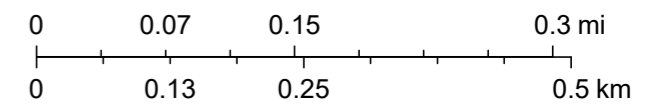
Sussex County



November 6, 2023

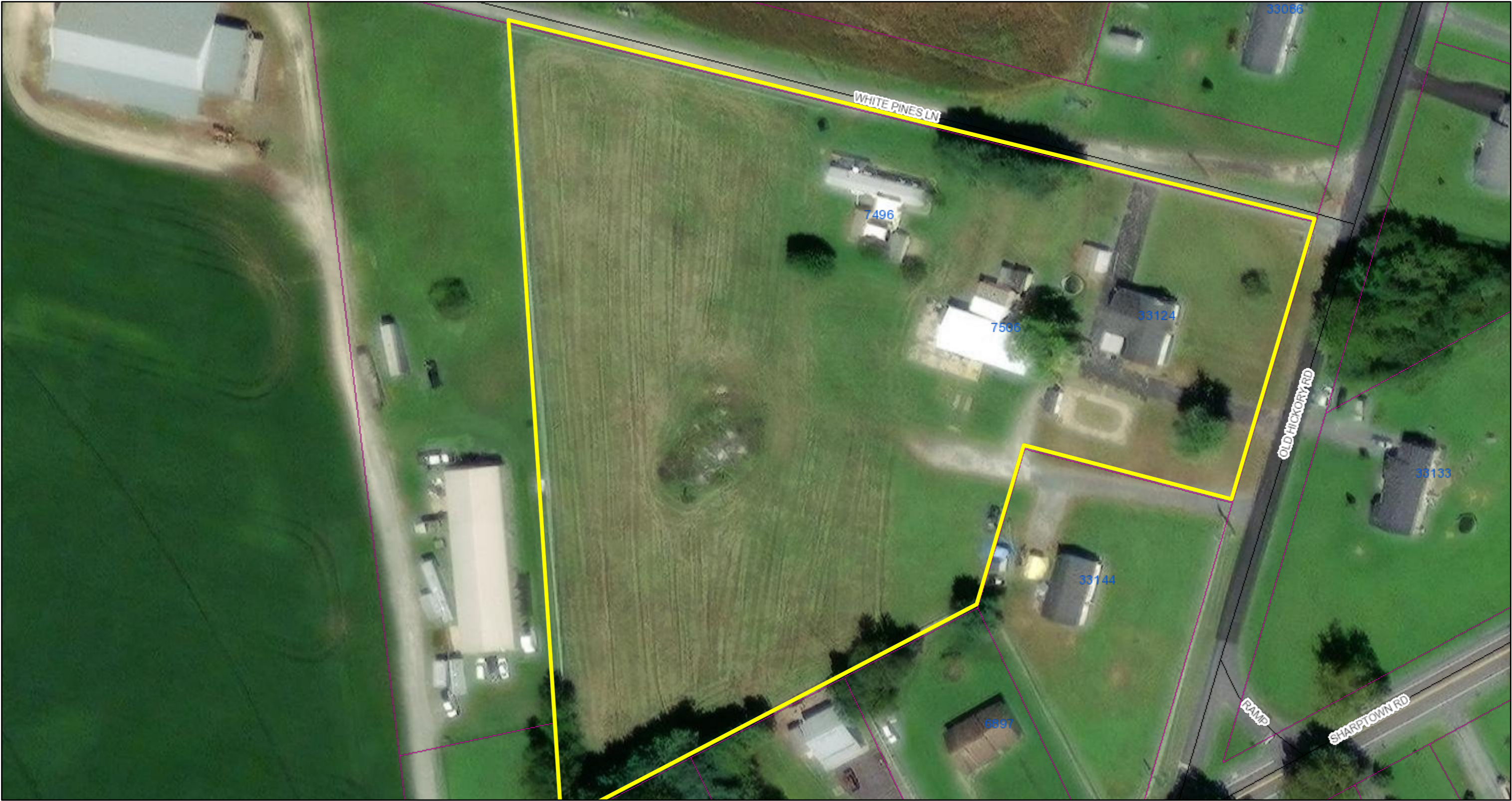
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| Override 1 | Streets | Red: Band_1 | World Hillshade |
| Override 2 | County Boundaries | Green: Band_2 | |

1:9,028



Esri, NASA, NGA, USGS, FEMA, Sussex County Government

Sussex County

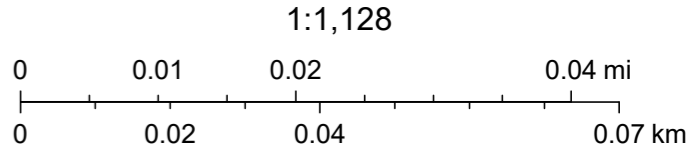


November 6, 2023

- polygonLayer
- Override 1
- Override 2
- Tax Parcels
- 911 Address

- Streets
- County Boundaries
- World Imagery
- Low Resolution 15m Imagery

- High Resolution 60cm Imagery
- High Resolution 30cm Imagery
- Citations
- 30cm Resolution Metadata



Maxar, Microsoft, Sussex County Government

Introduced: 1/30/24

Council District 1: Mr. Vincent
Tax I.D. No.: 432-11.00-40.03
911 Address: 33124 Old Hickory Road, Laurel

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR TRUCK PARKING, STORAGE, & MAINTENANCE AND AN OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.06 ACRES, MORE OR LESS

WHEREAS, on the 14th day of April 2023, a Conditional Use Application, denominated Conditional Use No. 2445 was filed on behalf of Deihm's Trucking Inc.; and

WHEREAS, on the ____ day of _____ 2024, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2445 be _____; and

WHEREAS, on the ____ day of _____ 2024, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2445 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Little Creek Hundred, Sussex County, Delaware, and lying on the west side of Old Hickory Road (S.C.R. 497) at the intersection of Old Hickory Road (S.C.R. 497) and White Pines Lane approximately 250 ft. northeast of Sharptown Road (Rt. 24) and being more particularly described in the attached legal description prepared by Haller & Hudson, said parcel containing 5.06 acres, more or less.

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