

COUNTY COUNCIL

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



Sussex County

DELAWARE
sussexcountye.gov
(302) 855-7743

SUSSEX COUNTY COUNCIL

AGENDA

May 14, 2024

12:30 P.M.

Call to Order

Approval of Agenda

Approval of Minutes - May 7, 2024

[Draft Minutes 050724](#)

Reading of Correspondence

Public Comments

Todd Lawson, County Administrator

1. Administrator's Report

Hans Medlarz, County Engineer, Ret.

1. Bulk Delivery of Polymer, Project M24-11

A. Recommendation to Award

[Bulk Delivery of Polymer Project M24-11](#)



Mark Parker, Assistant County Engineer

1. **Millsboro Paramedic Station 103, Project C21-18**
 - A. **Change Order No. 1**
[Millsboro Paramedic Station 103 - CO 1](#)

2. **Consultant Selections**
RFP 24-17 Miscellaneous Engineering Consultant
RFP 24-18 for Land Survey & Mapping Services
RFP 24-19 for Geotechnical Engineering Services
 - A. **Recommendation to Award Professional Service Contracts**
[Consultant Selections](#)

3. **General Labor & Equipment Contract, Project 25-01**
 - A. **Recommendation to Award**
[GL&E Contract Project 25-01](#)

John Ashman, Director of Utility Planning & Design Review

1. **Permission to Prepare and Post Notices for Bayard Commons Annexation into the Sussex County Unified Sanitary Sewer District (Miller Creek Area)**
[Bayard Commons](#)

2. **Permission to Prepare and Post Notices for Jefferson Lodge Annexation into the Sussex County Unified Sanitary Sewer District (West Rehoboth Area)**
[Eng Prepare Post Notice Jefferson Lodge](#)

Grant Requests

1. **Parkinson's Education and Support Group of Sussex County for their Parkinson's caregivers wellness education series**
[Parkinsons Education and Support Group of Sussex County](#)

2. **Rehoboth Summer Children's Theatre for their Outreach Tour – Robin Hood**
[Rehoboth Summer Children's Theatre](#)

Introduction of Proposed Zoning Ordinances

Council Members' Comments

Executive Session - Land Acquisition, Personnel & Job Applicants' Qualifications to 29 Del.C.§10004(b)

Possible action on Executive Session Items

1:30 p.m. Public Hearings

1. **[Conditional Use No. 2412 filed on behalf of Marco Morales](#)**

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PROFESSIONAL OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 0.459 ACRE, MORE OR LESS” (property lying on the northeast corner of the intersection of Wilkins Lane and Lewes Georgetown Highway [Rt. 9]) (911 Address: 22163 Lewes Georgetown Highway) (Tax Map Parcel: 135-15.00-49.00)

[CU 2412 Marco Morales](#)

2. **[Change of Zone No. 2002 Sadie Properties, LLC](#)**

“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT, A CR-1 COMMERCIAL RESIDENTIAL DISTRICT, AND AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT, A CR-1 COMMERCIAL RESIDENTIAL DISTRICT, AND A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 21.11 ACRES, MORE OR LESS” (property lying on west side of DuPont Boulevard [Rt. 113] approximately 0.40 mile south of Nine Foot Road [Rt. 26]) (911 Address: 32602 Dupont Boulevard, Dagsboro) (Tax Map Parcel: 233-16.00-26.00)

[CZ 2002 Sadie Properties LLC](#)

3. **[Conditional Use No. 2411 filed on behalf Joshua Zuppo](#)**

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A TREE SERVICE BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.94 ACRES, MORE OR LESS” (property lying on the east side of Gravel Hill Road [Rt. 30] approximately 0.35 mile north of the intersection of Gravel Hill Road [Rt. 30] and John J. Williams Highway [Rt. 24]) (911 Address: 28121 Gravel Hill Road, Millsboro) (Tax Map Parcel: 234-32.00-30.00)

[CU 2411 Joshua Zuppo](#)

4. **[Ordinance No. 24-01](#)**

“AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES I, IV, XI, XIA, XIC, XIII, XIV, AND XV, AND XXV, SECTIONS 115-4, 115-20, 115-77, 115-83.2, 115-83.18, 115-83.19A 115-94, 115-102 AND 115-194.6 TO REGULATE MARIJUANA ESTABLISHMENTS IN SUSSEX COUNTY”

[Ord 24-01](#)

Adjourn

-MEETING DETAILS-

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on May 7, 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

BUDGET WORKSHOP

MAY 7, 2024

The Sussex County Council held a Budget Workshop on May 7, 2024, beginning at 9:00 a.m. at the Sussex County Emergency Operations Center in Georgetown for the purpose of discussing the Proposed FY 2025 Budget.

The following were present:

| | |
|---------------------------|--------------------------------|
| Michael H. Vincent | President |
| John L. Rieley | Vice President |
| Douglas B. Hudson | Councilman |
| Cynthia C. Green | Councilwoman |
| Mark G. Schaeffer | Councilman |
| Todd F. Lawson | County Administrator |
| Gina A. Jennings | Finance Director |
| Kathy Roth | Deputy Finance Director |
| Andrea Wall | Accounting Manager |

Mr. Lawson stated that the purpose of the Budget Workshop was to hold an open discussion among the County Council, County Administrator, and staff regarding budget matters and initiatives which will affect the FY 2025 Budget.

An overview of FY 2024 Budget accomplishments and highlights of the Proposed FY 2025 Budget were presented.

Department presentations were provided by the following departments: Paramedics and Engineering - Water and Sewer (Operating and Capital). Presentations were also given on Grants and Capital projects.

No action was taken.

The workshop concluded at 12:05 p.m.

Respectfully submitted,

**Tracy N. Torbert
Clerk of the Council**

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MAY 7, 2024

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, May 7, 2024, at 1:30 p.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 |
| Mark G. Schaeffer | 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 220 24
Approve
Agenda**

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

Motion Adopted: 5 Yeas

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

Minutes

The minutes from April 30, 2024, were approved by consensus.

Correspondence

Mr. Moore reported that correspondence was received from Love, Inc. and Delaware Technical Community College thanking Council for their support.

**Public
Comments**

There were no public comments.

**Adminis-
trator's
Report**

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

1. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets, the following projects have received Substantial Completion: Cattail Villas (F/K/A Warrington Multi-Family Townhomes) effective April 12th and Ingram Village – Phase 3 effective April 17th.

**Adminis-
trator’s
Report
(continued)**

2. Rodney T. Marvel Jr.

It is with great sadness that we inform you that County pensioner, Rodney Marvel, passed away on Monday, May 6, 2024. Mr. Marvel began his career with Sussex County in 1993 where he worked until May 2023 for a total of 30 years of service. His last position with the County was Assistant Director of Environmental Services – Electrical Division. We would like to extend our condolences to the Marvel family.

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

**Old
Business/
CU2386**

Under Old Business, Mr. Whitehouse presented a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A SOLAR FARM ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 53.891 ACRES, MORE OR LESS” filed on behalf of Consolidated Edison Development, Inc.

The County Council held a public hearing on the application at its meeting on December 5, 2023. At the conclusion of the public hearing, action on the application was deferred for further consideration.

**M 221 24
Adopt
Ordinance
No. 3004/
CU2386**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to Adopt Ordinance No. 3004 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A SOLAR FARM ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 53.891 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows:

- 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 array will be located on approximately 23.35 acres of a larger 53.89-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 arrays. There was testimony that this solar array would benefit residential, business, and municipal subscribers with lower power costs.**
- 4. This Application was submitted prior to the adoption of Ordinance No. 2920 regarding solar arrays. However, with the**

**M 221 24
Adopt
Ordinance
No. 3004/
CU2386
(continued)**

- recommendations it will comply with many parts of the Ordinance.
5. The solar array is set back 350 feet from Bacons Road and another side of it is adjacent to a railroad. Most of the site is surrounded by woods. 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 array 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. In addition to all of the existing vegetation, there will be a buffer of planted vegetation along the boundary of the array facing Bacons Road to screen it from view.
 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 ground-mounted solar arrays. 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 array as well as the remaining acreage that is not part of this Conditional Use.
 - c. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. Any 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 and a “Knox Box” or similar device to accommodate emergency access by the local fire company or other emergency responders. The fencing shall include interwoven screening along the north and eastern sides of the array area. The fence line and type of screening 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 30-foot-wide buffer of planted vegetation along the northern and northeastern boundary of this site. These areas shall be clearly shown on the Final Site Plan. The Final Site Plan

**M 221 24
Adopt
Ordinance
No. 3004/
CU2386
(continued)**

- shall include a landscape plan showing the proposed tree and shrub landscape design in the buffer area.
- j. The Final Site Plan shall include 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.**
 - k. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.**

Motion Adopted: 5 Yeas

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

**Old
Business/
CU2387**

Under Old Business, Jamie Whitehouse, Planning & Zoning Director presented a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 17.04 ACRES, MORE OR LESS” filed on behalf of Consolidated Edison Development, Inc.

The County Council held a public hearing on the application at its meeting on December 5, 2023. At the conclusion of the public hearing, action on the application was deferred for further consideration.

**M 222 24
Amend
Condition I/
CU2387**

A Motion was made by Mr. Vincent, seconded by Mr. Hudson to amend Condition I to now read “There shall be a 30-foot-wide buffer of planted vegetation along the western, and southern boundary of the array area. There should be a setback of 100 feet from the eastern boundary of the array area 30 feet of which should be a vegetative buffer. 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”.

Motion Adopted: 5 Yeas

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

**M 223 24
Adopt
Ordinance
No. 3005/
CU2387**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to Adopt Ordinance No. 3005 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 17.04 ACRES,

**M 223 24
Adopt
Ordinance
No. 3005/
CU2387
(continued)**

MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows and as amended by this Council:

- 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 array will be located on approximately 16.94 acres of a larger 54.49-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 arrays. There was testimony that this solar array would benefit residential, business, and municipal subscribers with lower power costs.**
- 4. This Application was submitted prior to the adoption of Ordinance No. 2920 regarding solar arrays. However, the recommended conditions will make it comply with many parts of that Ordinance.**
- 5. The solar array is located approximately 410 feet from the County Road. With the buffering and 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 eastern, western, and southern boundaries of this site to screen it from the view of the neighboring residential properties.**
- 10. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.**
- 11. This recommendation is subject to the following conditions:**
 - a. The use shall be for ground-mounted solar arrays. 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 array as well as the remaining acreage that is not part of this Conditional Use.**
 - c. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. Any 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 and a “Knox Box” or**

**M 223 24
Adopt
Ordinance
No. 3005/
CU2387
(continued)**

similar device to accommodate emergency access by the local fire company or other emergency responders. The fencing shall be installed inside of the vegetated buffer, and it shall include interwoven screening along the western and southern boundaries of the array area. The fence line and type of screening shall be shown on the Final Site Plan.

- f. All transformers and similar equipment shall be centrally located within the array. 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 30-foot-wide buffer of planted vegetation along the western, and southern boundary of the array area. There should be a setback of 100 feet from the eastern boundary of the array area 30 feet of which should be a vegetative buffer. 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. The Final Site Plan shall include a Decommissioning Plan that includes 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.
- k. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion Adopted: 5 Yeas

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

**Old
Business/
CU2390**

Under Old Business, Jamie Whitehouse, Planning & Zoning Director presented a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 79.59 ACRES, MORE OR LESS” filed on behalf of Taylor Mill Road Solar 1, LLC.

The County Council held a Public Hearing at its meeting on December 12, 2023. At the conclusion of the Public Hearing, action on the application was deferred for further consideration.

**M 224 24
Adopt**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to Adopt Ordinance No. 3006 entitled “AN ORDINANCE TO GRANT A

**Ordinance
No. 3006/
CU2390**

CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 79.59 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows:

- 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 of and welfare of Sussex County residents.**
- 2. This is an adaptive use of farmland that will preserve it from more intensive development. The solar array will be located on approximately 18.64 acres of a larger 79.5-acre parcel.**
- 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 arrays. There was testimony that this solar array would benefit residential, business, and municipal subscribers with lower power costs.**
- 4. The proposed solar array is located outside of the Town of Laurel, next to one of Laurel’s Fire Stations and agricultural uses. The land is designated as being within the “Low-Density Area” according to Sussex County’s Future Land Use Map. This is an appropriate location for this solar array.**
- 5. This Application generally complies with Ordinance No. 2920 regarding solar arrays. Therefore, specific conditions regarding its operation and screening are not necessary.**
- 6. The solar array is located in an area that primarily consists of agricultural land. With the conditions imposed by the operation of Ordinance No. 2920 including separation distances and buffering, the proposed use will not have any adverse impact on the surrounding property.**
- 7. 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.**
- 8. Based on the record there is no significant noise, glare, dust, or odor that will be generated by the facility.**
- 9. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.**
- 10. This recommendation is subject to the conditions set forth in Ordinance No. 2920 and the following additional conditions:**
 - a. The use shall be for ground-mounted solar arrays. 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 array, as well as the remaining acreage that is not part of the Conditional Use.**
 - c. All required fencing shall include interwoven screening. The**

**M 224 24
Adopt
Ordinance
No. 3006/
CU2390
(continued)**

- fence location and type of screening shall be shown on the Final Site Plan.
- d. Any lighting at the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - e. 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 an emergency.
 - f. The location of all transformers or similar equipment or structures shall be shown on the Final Site Plan.
 - g. 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.
 - h. No chemicals or herbicides shall be applied to the land where the solar arrays will be located.
 - i. The Final Site Plan shall include 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.
 - j. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion Adopted: 5 Yeas

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

**Old
Business/
CU2393**

Under Old Business, Jamie Whitehouse, Planning & Zoning Director presented a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A SOLAR ARRAY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 134.61 ACRES, MORE OR LESS” filed on behalf of Sunrise Solar, Inc.

The County Council held a Public Hearing at its meeting on December 12, 2023. At the conclusion of the Public Hearing, action on the application was deferred for further consideration.

**M 225 24
Adopt
Ordinance
No. 3007/
CU2393**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to Adopt Ordinance No. 3007 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A SOLAR ARRAY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 134.61 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning

**M 225 24
Adopt
Ordinance
No. 3007/
CU2393
(continued)**

Commission as follows:

- 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 of and welfare of Sussex County residents.**
- 2. This is an adaptive use of farmland that will preserve it from more intensive development. The solar array will be located on approximately 22 acres of a larger 134.61-acre parcel.**
- 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 arrays. There was testimony that this solar array would benefit residential, business, and municipal subscribers with lower power costs.**
- 4. The proposed solar array is located in a rural area, which is largely surrounded by tilled lands and forest. The land is designated as being within the “Existing Development Area” according to Sussex County’s Future Land Use Map. This is an appropriate location for this solar array.**
- 5. This Application generally complies with Ordinance No. 2920 regarding solar arrays. Therefore, specific conditions regarding its operation and screening are not necessary.**
- 6. The solar array is located in an area that primarily consists of agricultural land. With the conditions imposed by the operation of Ordinance No. 2920 including separation distances and buffering, the proposed use will not have any adverse impact on the surrounding property.**
- 7. 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.**
- 8. Based on the record there is no significant noise, glare, dust, or odor that will be generated by the facility.**
- 9. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.**
- 10. There was no opposition to this Application.**
- 11. This recommendation is subject to the conditions set forth in Ordinance No. 2920 and the following additional conditions:**
 - a. The use shall be for ground-mounted solar arrays. 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 array, as well as the remaining acreage that is not part of the Conditional Use.**
 - c. All required fencing shall include interwoven screening. The fence location and type of screening shall be shown on the Final Site Plan.**
 - d. Any lighting at the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward**

**M 225 24
Adopt
Ordinance
No. 3007/
CU2393
(continued)**

- screened so that it does not shine on neighboring properties or roadways.
- e. 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 an emergency.
 - f. The location of all transformers or similar equipment or structures shall be shown on the Final Site Plan.
 - g. 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.
 - h. The Final Site Plan shall include 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.
 - i. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion Adopted: 5 Yeas

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

**Old
Business/
CU2447**

Under Old Business, Jamie Whitehouse, Planning & Zoning Director presented a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 51.83 ACRES, MORE OR LESS” filed on behalf of Elk Development, LLC.

The County Council held a Public Hearing at its meeting on January 9, 2024. At the conclusion of the Public Hearing, action on the application was deferred for further consideration, and to receive the recommendation of the Planning & Zoning Commission.

**M 226 24
Amend
Condition C/
CU2447**

A Motion was made by Mr. Vincent, seconded by Mr. Rieley to add Condition C to read “The Final Site Plan should show the location of all solar arrays, inventors, cabling, fencing and equipment. None of the solar arrays, inventors, cabling, fencing or equipment shall be located within the existing forested area shown on the drawing E-100 dated January 9, 2023. The extend of the forest area is to be retained and shall be clearly shown on the Final Site Plan and shall be retained as such for the lifetime of the solar arrays hereby approved”.

Motion Adopted: 5 Yeas

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;

**Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**M 227 24
Adopt
Ordinance
No. 3008/
CU2447**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to Adopt Ordinance No. 3008 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 51.83 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows and amended by this Council:

- 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. The solar array will be located on approximately 40.7 acres of a larger 51-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 arrays. There was testimony that this solar array will benefit residential, business, and municipal subscribers with lower power costs.**
- 4. The proposed solar array is located on a parcel of land that is partially used for agricultural purposes and partly wooded. It is located at the rear of other land used for agricultural purposes, including poultry houses. Although there are residential properties to the south of this site, the arrays are at least 225 feet from the closest dwelling and the nearby properties will also be protected by the conditions set forth in the Code and in this recommendation.**
- 5. The land is designated as being within the “Low Density Area” according to Sussex County’s Future Land Use Map; this is an appropriate location for a solar array.**
- 6. This Application generally complies with Ordinance No. 2920 regarding solar arrays.**
- 7. 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.**
- 8. Based on the record there is no significant noise, glare, dust, or odor that will be generated by the facility.**
- 9. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.**
- 10. This recommendation is subject to the conditions set forth in Ordinance No. 2920 and the following additional conditions:**
 - a. The use shall be for ground-mounted solar arrays. 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 array as well as the remaining**

**M 227 24
Adopt
Ordinance
No. 3008/
CU2447
(continued)**

- acreage that is not part of this Conditional Use.
- c. **The Final Site Plan should show the location of all solar arrays, inventors, cabling, fencing and equipment. None of the solar arrays, inventors, cabling, fencing or equipment shall be located within the existing forested area shown on the drawing E-100 dated January 9, 2023. The extend of the forest area is to be retained and shall be clearly shown on the Final Site Plan and shall be retained as such for the lifetime of the solar arrays hereby approved.**
 - d. **All required fencing shall include interwoven screening. The fence location and type of screening shall be shown on the Final Site Plan. In addition, there was opposition from residential property owners immediately adjacent to the southern boundary of this facility about its impact upon the use and enjoyment of their properties and impacts upon their property values. For this reason, the solar arrays shall be separated at least 100 feet from these residential properties, and there shall be a landscaped buffer that is at least 50 feet wide along the common boundary with these residential properties. The landscaping shall include at least fifteen trees within every fifty linear feet of the buffer. Wherever trees exist within the buffer areas, they shall be preserved, and these non-disturbed forested areas shall be shown on the Final Site Plan. The Final Site Plan shall also include a landscape plan confirming these planting requirements.**
 - e. **Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
 - f. **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.**
 - g. **All transformers or similar equipment or structures shall be centrally located within the solar array, and they shall be shown on the Final Site Plan.**
 - 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. **The Final Site Plan shall include 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.**
 - j. **The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.**

Motion Adopted: 5 Yeas

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

Mr. Vincent, Yea

**Old
Business/
CU2456**

Under Old Business, Jamie Whitehouse, Planning & Zoning Director presented a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 67.72 ACRES, MORE OR LESS” filed on behalf of Elk Development, LLC.

The County Council held a Public Hearing at its meeting on January 9, 2024. At the conclusion of the Public Hearing, action on the application was deferred for further consideration.

**M 228 24
Adopt
Ordinance
No. 3009/
CU2456**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to Adopt Ordinance No. 3009 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 67.72 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows:

- 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 array will be located on approximately 26 acres of a larger 67-acre parcel.**
- 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 arrays. There was testimony that this solar array would benefit residential, business, and municipal subscribers with lower power costs.**
- 4. The proposed solar array is located adjacent to a railroad, and next to new chicken houses, with woods to the east. It is also next to the Bio Energy site, which recycles poultry waste. The closest array is located at least 500 feet from the county road. The land is also designated as being within the Low-Density Area, according to Sussex County’s Future Land Use Map, and there are nearby Industrial Areas according to the map as well.**
- 5. This Application generally complies with Ordinance No. 2920 regarding solar arrays. Therefore, specific conditions regarding its operation and screening are not necessary.**
- 6. The solar array is located in an area that primarily consists of agricultural and industrial land. With the conditions imposed by the operation of Ordinance No. 2920 including separation distances and buffering, the proposed use will not have any adverse impact on the**

**M 228 24
Adopt
Ordinance
No. 3009/
CU2456
(continued)**

- surrounding property.
7. 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. DelDOT has determined that the proposed Conditional Use would have a “Diminutive” impact on traffic.
 8. Based on the record there is no significant noise, glare, dust, or odor that will be generated by the facility.
 9. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
 10. This recommendation is subject to the conditions set forth in Ordinance No. 2920 and the following additional conditions:
 - a. The use shall be for a ground-mounted solar array. 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 array, as well as the remaining acreage that is not part of the Conditional Use.
 - c. All existing wooded buffers shall remain and shall be identified as non-disturbance areas on the Final Site Plan. Additional buffering shall be provided as shown on the Becker Morgan Group Site Plan, dated September 14, 2023, as submitted during the public hearing. In addition, all required fencing shall include interwoven screening. The fence location and type of screening shall be shown on the Final Site Plan.
 - d. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - e. 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 an emergency.
 - f. The location of all transformers, similar equipment, or structures, shall be shown on the Final Site Plan.
 - g. 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 by Best Management Practices.
 - h. The Final Site Plan shall include a Decommissioning Plan that includes 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.
 - i. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion Adopted: 5 Yeas

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

Mr. Vincent, Yea

**Old
Business/
CZ1997**

Under Old Business, Jamie Whitehouse, Planning & Zoning Director presented a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.219 ACRES, MORE OR LESS” filed on behalf of Waste Management of Delaware, Inc.

The County Council held a Public Hearing on the application at its meeting on January 23, 2024, at the conclusion of the Public Hearing, action on the application was deferred for further consideration.

**M 229 24
Adopt
CZ1997/
DENIED**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to Adopt a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.219 ACRES, MORE OR LESS” for the reasons given by the Planning and Zoning Commission.

Mr. Vincent stated that while the Planning & Zoning Commission recommended approval of this Change of Zone, in his opinion, he does not feel that this location is appropriate for a C-3 Heavy Commercial Zoning District. Mr. Vincent added that his motion is to deny this application for the following reasons: the purpose of the C-3 district is to provide larger scale, auto-oriented, retail and service businesses. This may be an appropriate location for a smaller scale business that serve the community and neighborhood, but this property is not appropriate for large scale retail and service businesses permitted in the C-3 zoning. C-3 is too intensive of a zoning for the area located between C-1 and residential properties with dwellings. The Change of Zone would potentially allow more intense uses that are not compatible with the surrounding area. The Change of Zone to C-3 would create a precedent for future C-3 zoning applications and approvals not only in this area but other areas where the site is located near residential property. The rezoning to C-3 would be out of character with the surrounding properties and does not promote the orderly growth of the County. The parcel is located between General Commercial District to the west and General Residential/Agricultural to the east. Due to the proximity of the general residential zoning districts, less intensive commercial districts zoning districts such as C-2 and B-2 would be more suitable for this location than a C-3 zoning district.

All Members voted no based on the reasons provided by Mr. Vincent.

Motion DENIED: 5 Nays

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

**Old
Business/
CU2408**

Under Old Business, Jamie Whitehouse, Planning & Zoning Director presented a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A CAR DEALERSHIP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.06 ACRES MORE OR LESS” filed on behalf of Efren Fernando Acevedo.

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

**M 230 24
Amend
Condition I/
CU2408**

A Motion was made by Mr. Vincent, seconded by Mr. Hudson to amend Condition I to read “The Final Site Plan shall specifically show the area of the Conditional Use, which shall only be extended 200 feet from the front boundary. No vehicles shall be located outside of the Conditional Use area”.

Motion Adopted: 5 Yeas

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

**M 231 24
Adopt
Ordinance
No. 3010/
CU2408**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to Adopt Ordinance No. 3010 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A CAR DEALERSHIP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.06 ACRES MORE OR LESS” for the reasons and conditions given by the Planning and Zoning Commission as follows and as amended by this Council:

- 1. The Applicant proposes to redevelop this site with a small used car dealership.**
- 2. There are other small business uses and home occupations in the general area. This small use is consistent with the area.**
- 3. The use of a car sales facility at this location is of a public or semi-public character and is desirable for the general convenience and welfare of the area.**
- 4. This use, with the conditions and stipulations placed upon it, will not adversely affect the neighborhood or area roadways.**
- 5. This recommendation for approval is subject to the following conditions and stipulations:**
 - a. One lighted sign shall be permitted. It shall not exceed 24 square**

**M 231 24
Adopt
Ordinance
No. 3010/
CU2408
(continued)**

- feet in size.
- b. Security lighting shall be downward screened and shall be directed away from neighboring properties and roadways.
 - c. Any dumpsters shall be screened from view of neighbors and roadways. The dumpster locations shall be shown on the Final Site Plan.
 - d. No repairs other than very basic maintenance like oil changes or tire replacements shall occur on this site.
 - e. No junked, unregistered, or permanently inoperable vehicles or trailers shall be stored on the site.
 - f. The site shall be subject to all DelDOT entrance and roadway requirements.
 - g. No vehicles shall be parked within the setback areas on the property. The Final site plan shall clearly show the areas designated for vehicle parking and display.
 - h. No more than 20 vehicles shall be located on the site at any one time. This includes all vehicles, such as the Applicant’s personal vehicles, vehicles being stored or prepared for sale, or vehicles actively displayed for sale.
 - i. The Final Site Plan shall specifically show the area of the Conditional Use, which shall only be extended 200 feet from the front boundary. No vehicles shall be located outside of the Conditional Use area.
 - j. The entire boundary of the conditional use area other than the road frontage shall be fenced to screen the use from the neighboring properties. The location and type of fencing shall be shown on the Final Site Plan.
 - k. The hours of operation shall be from 9:00 a.m. through 5:00 p.m., Monday through Saturday. There shall not be any Sunday hours.
 - l. Failure to comply with these conditions of approval may result in a 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 Adopted: 5 Yeas

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

**Old
Business/
CU2413**

Under Old Business, Jamie Whitehouse, Planning & Zoning Director presented a Proposed Ordinance entitled “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” filed on behalf of Blue Hen Rental Company, LLC.

The County Council held a Public Hearing on the application at its meeting of April 16, 2024. At the conclusion of the Public Hearing, action on the application was deferred for further consideration.

**M 232 24
Amend
Condition C
& H
CU2413**

A Motion was made by Mr. Vincent, seconded by Mr. Hudson to amend Condition C to read “Events shall only be permitted on Saturdays and Sundays. The hours of operation shall be limited to 7:00 a.m. through 9:00 p.m. and for Condition H to read “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. Parking shall be prohibited on Old Stage Road and Route 54. Prior to the applicants first use of the property no parking signs should be placed along the applicant’s property adjacent to Old Stage Road and Route 54. The applicant should install permanent non-fold down fixed posts to prevent any parking on these areas.”

Motion Adopted: 5 Yeas

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

**M 233 24
Adopt
Ordinance
No. 3011/
CU2413**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to Adopt Ordinance No. 3011 entitled “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” for the reasons and conditions given by the Planning and Zoning Commission as follows and as amended by this Council:

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

**M 233 24
Adopt
Ordinance
No. 3011/
CU2413
(continued)**

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. Events shall only be permitted on Saturdays and Sundays. The hours of operation shall be limited to 7:00 a.m. through 9:00 p.m.**
 - 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 DeIDOT 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. Parking shall be prohibited on Old Stage Road and Route 54. Prior to the applicants first use of the property no parking signs should be placed along the applicant’s property adjacent to Old Stage Road and Route 54. The applicant should install permanent non-fold down fixed posts to prevent any parking on these areas.**
 - 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 Adopted: 5 Yeas

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

**Old
Business/
CU2445**

Under Old Business, Jamie Whitehouse, Planning & Zoning Director presented a Proposed Ordinance entitled “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” filed on behalf of Deihm’s Trucking, Inc.

The County Council held a Public Hearing on the application at its meeting of April 16, 2024. At the conclusion of the Public Hearing, action on the application was deferred for further consideration.

M 234 24
Amend
Condition J/
CU2445

A Motion was made by Mr. Vincent, seconded by Mr. Rieley to amend Condition J to read “There shall be a 50-foot 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.”

Motion Adopted: 5 Yeas

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

M 235 24
Adopt
Ordinance
No. 3012/
CU2445

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to Adopt Ordinance No. 3012 entitled “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” for the reasons and conditions given by the Planning and Zoning Commission as follows and as amended by this Council:

- 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.**

**M 235 24
Adopt
Ordinance
No. 3012/
CU2445
(continued)**

- 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 50-foot 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 Adopted: 5 Yeas

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

**Grant
Requests**

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

**M 236 24
Lord
Baltimore
Elementary**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to give \$1,000 (\$1,000 from Mr. Hudson’s Councilmanic Grant Account) to Lord Baltimore Elementary for Blue Ribbon Sign and T-Shirts.

Motion Adopted: 5 Yeas

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

**M 237 24
Delaware
Community
Foundation**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to give \$1,000 (\$1,000 from Mr. Rieley’s Councilmanic Grant Account) to Delaware Community Foundation for Flags for Heroes 2024.

Motion Adopted: 5 Yeas

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

**M 238 24
History
Book
Festival**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give \$2,000 (\$1,000 from Mr. Schaeffer's Councilmanic Grant Account, \$500 from Mr. Hudson's Councilmanic Grant Account and \$500 from Mr. Rieley's Councilmanic Grant Account) to History Book Festival Educational Outreach for their History Book Educational Outreach.

Motion Adopted: 5 Yeas

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

**Proposed
Ordinance
Introducti-
ons**

Mr. Rieley introduced a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 8.51 ACRES, MORE OR LESS" filed on behalf of Joshua L. Wharton.

Mr. Hudson introduced a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR BOAT REPAIR & STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 5.54 ACRES, MORE OR LESS" filed on behalf of Albert Fanelli Living Trust.

Mrs. Green introduced a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A TIRE AND BRAKE SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 10.96 ACRES, MORE OR LESS" filed on behalf of James L. Sturgis.

Mr. Rieley introduced a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO TIRE CENTER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 1.0 ACRE, MORE OR LESS" filed on behalf of DJ Tire Center, LLC.

Proposed Ordinance Introductions (continued)

Mrs. Green introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL FOR LAWN MOWER, YARD, GARDEN EQUIPMENT ENGINE REPAIR SERVICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 3.20 ACRES, MORE OR LESS” filed on behalf of Wade R. Hudson, Sr. & Jacqueline L. Hudson, TTEES.

Mr. Schaeffer introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BEAUTY SALON TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.56 ACRE, MORE OR LESS” filed on behalf of Simon Fares & Lorne Crawford.

Mr. Rieley introduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN MR MEDIUM-DENSITY RESIDENTIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.26 ACRES, MORE OR LESS” filed on behalf of Holdren, LLC.

The Proposed Ordinances will be advertised for a Public Hearing.

CC Member Comments

Mr. Rieley commended the Finance Department on the good work that was done on the budget.

M 239 24 Go Into Executive Session

At 2:04 p.m., a Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to go into Executive Session for the purpose of discussing matters related to land acquisition, personnel & job applicants’ qualifications.

Motion Adopted: 5 Yeas

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

Executive Session

At 2:05 p.m., an Executive Session of the Sussex County Council was held in the Council Chambers to discuss matters related to land acquisition, personnel & job applicants’ qualifications. The Executive Session concluded at 3:05 p.m.

M 240 24 Reconvene

At 3:06 p.m., a Motion was made by Mr. Schaeffer, seconded Mr. Rieley to come out of Executive Session back into Regular Session.

Motion Adopted: 5 Yeas

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

M 241 24 A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer to authorize
Authorize the County Administrator to negotiate, enter into contracts and proceed to
Parcel 2024- closing on Parcel 2024-G.
G

Motion Adopted: 4 Yeas, 1 Nay

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

M 242 24 A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley to adjourn at
Adjourn 3:07 p.m.

Motion Adopted: 5 Yeas

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
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.}

DIVISION OF ENVIRONMENTAL SERVICES

DIRECTOR (302) 855-7730
FAX (302) 539-0981
SOUTH COASTAL WASTEWATER FACILITY (302) 855-7730
INLAND BAYS FACILITY (302) 947-0864
WOLFE NECK FACILITY (302) 644-2761
PINEY NECK FACILITY (302) 732-9540
WATER DEPARTMENT (302) 855-7374
WATER & SEWER EMERGENCY (302) 855-7379



Sussex County

DELAWARE
sussexcountyde.gov

MIKE HARMER
COUNTY ENGINEER

MARK PARKER
ASSISTANT COUNTY ENGINEER

PARKER BURDELL
DIRECTOR OF ENVIRONMENTAL SERVICES

Memorandum

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

FROM: Hans Medlarz, County Engineer, Ret.

RE: ***Bulk Delivery of Polymer***
A. Recommendation to Award

DATE: May 14, 2024

Sussex County utilizes polymer at the South Coastal and Inland Bays Facilities in the sludge dewatering. Polymers improve solids coagulation for a better separation of solids from liquids. Environmental Services mainly uses them to thicken sludge upstream of the belt filter presses for easier handling and disposal. However, the type of polymer is dependent on the chemical characteristics of the sludge. Therefore, independent testing is needed for every application.

In the past the County had multi-year contract but more recently price fluctuations move the procurement of polymer into an annual timeframe. The 2024 invitations to bid were advertised in the newspaper, viewable on the Sussex County website, and directly sent to businesses on our supplier list. Interested parties were required to perform preliminary laboratory tests on County sludge to determine best suited polymer. On February 16th, 2024, six (6) bids were received.

Each polymer was field tested on a full-scale trial to determine its effectiveness to remove solids from wastewater. The polymer feed rates from the trial and bid prices were used to calculate the cost to treat 1 dry ton of sludge. Additionally, usage of polymer product per ton produced and technical support/services offered were considered in the attached field-testing point score matrix.

Pollu-Tech's Alternative Bid for South Coastal and Water Tech's Bid for Inland Bays proved to be the lowest price of product per gallon in addition to least amount used per dry ton of sludge.

The Engineering Department recommends the first contract year of the base bid for delivery of polymer at South Coastal RWF be awarded to Pollu-Tech's Alternative Bid Item 1 at the unit price of \$18.81 per gallon and Inland Bays RWF be awarded to Water Tech's Bid Item 2 at the unit price of \$14.94 per gallon. If both suppliers perform satisfactorily, the contract allows for a one-year extension at the discretion of the Engineering Department.



SOUTH COASTAL RWF Field Test Results

| Cost (normalized per Dry Ton) | | |
|-------------------------------|----------|--------|
| Company | Price | Points |
| 1.) Pollu-Tech (B) 888 | \$28.75 | 80 |
| 2.) Marubeni | \$40.31 | 57 |
| 3.) Water Tech | \$42.20 | 54 |
| 4.) Coyne | \$57.63 | 39 |
| 5.) Pollu-Tech (A) 981FI | \$65.12 | 35 |
| 6.) Univar | \$111.48 | 20 |

A

| Polymer Performance (belt press % solids) | | |
|---|---------|-------|
| 1.) Water Tech | 17.4% | 12.5 |
| 2.) Coyne | 16.92 % | 12.16 |
| 3.) Univar | 16.37 % | 11.76 |
| 4.) Pollu-Tech (B) 888 | 16.24 % | 11.67 |
| 5.) Pollu-Tech (A) 981 | 16.01 % | 11.50 |
| 6.) Pollu-Tech (A) 186 | 15.91% | 11.43 |
| 7.) Marubeni | 14.18% | 10.19 |

B

| Polymer Usage (gal per Dry Ton) | | |
|---------------------------------|----------|------|
| 1.) Pollu-Tech (B) 888 | 1.6 gal | 12.5 |
| 2.) Water Tech | 2.83 gal | 7.07 |
| 3.) Marubeni | 2.85 gal | 7.02 |
| 4.) Coyne | 3.11 gal | 6.43 |
| 5.) Pollu-Tech (A) 981 FI | 4.45 gal | 4.49 |
| 6.) Univar | 5.45 gal | 3.67 |

A / B

| | |
|-----------------------|---------------------|
| Pollu-Tech (B) | 91.67 / 92.5 |
| Marubeni | 67.19 / 64.02 |
| Water Tech* | 66.5 / 61.07 |
| Coyne | 51.16 / 45.43 |
| Pollu-Tech (A) | 46.5 / 39.49 |
| Univar | 31.79 / 23.67 |

*Possible 7.5 bonus points

INLAND BAYS RWF Field Test Results

| Cost (normalized per Dry Ton) | | |
|-------------------------------|----------|--------|
| Company | Cost | Points |
| 1.) Water Tech | \$41.46 | 80 |
| 2.) Coyne | \$55.19 | 60.10 |
| 3.) Marubeni | \$67.88 | 48.86 |
| 4.) Pollu-Tech (A&B) | \$88.57 | 37.45 |
| 5.) Univar | \$162.87 | 20.36 |

A

| Polymer Performance (belt press % solids) | | |
|---|--------|-------|
| 1.) Pollu-Tech | 18.8 % | 12.5 |
| 2.) Univar | 18.6 % | 12.37 |
| 3.) Marubeni / Water Tech | 16.7% | 11.10 |
| 4.) Coyne | 14.1 % | 9.38 |

B

| Polymer Usage (gal/Dry Ton) | | |
|-----------------------------|----------|------|
| 1.) Water Tech | 2.78 gal | 12.5 |
| 2.) Coyne | 3.79 gal | 9.17 |
| 3.) Pollu-Tech (B) | 4.45 gal | 7.81 |
| 4.) Marubeni | 4.80 gal | 7.24 |
| 5.) Pollu-Tech (A) | 6.05 gal | 5.74 |
| 6.) Univar | 7.96 gal | 4.37 |

A / B

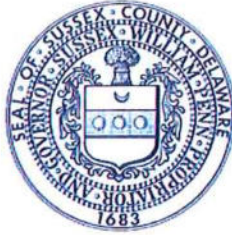
| | |
|-------------------|--------------------|
| Pollu-Tech (B) | 49.95 / 45.26 |
| Marubeni | 59.96 / 56.1 |
| Water Tech | 91.1 / 92.5 |
| Coyne | 69.48 / 69.27 |
| Pollu-Tech (A) | 49.95 / 43.19 |
| Univar | 32.73 / 24.73 |

ENGINEERING DEPARTMENT

J. MARK PARKER, P.E.
ASSISTANT COUNTY ENGINEER

(302) 855-7370 T
(302) 854-5391 F

mark.parker@sussexcountyde.gov



Sussex County

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

FROM: J. Mark Parker, P.E., Assistant County Engineer

RE: ***Paramedic Station 103, Project C21-18***
A. Change Order No. 1

DATE: May 14, 2024

The new Paramedic Station 103 was programmed to replace the current temporary EMS location in Dagsboro, and to support the new station a 0.92-acre parcel of land was purchased in February 2020 off Dickerson Road just outside of Millsboro Town limits. The Engineering Department coordinated to have the parcel annexed into the Town in order to have public water and sewer service, and the annexation was officially approved in April 2023.

In coordination with our EMS Team, our Design Consultant George, Miles and Buhr, Inc. (GMB) spearheaded the development of a Building Prototype for the new EMS Station, in part based on the building layout that was implemented for the Seaford Station completed in 2022. The Building Prototype was adapted to fit the Millsboro site, and was approved by the EMS/Engineering Teams in February 2023 which in turn kicked-off the detailed design phase for the project.

Final Bidding Documents were subsequently developed and the project was advertised for public bid on December 15, 2023, and on January 24, 2024 a total of five (5) bids were received. The low bidder was The Whayland Company with a total bid of \$1,812,700.00 which included three (3) Bid Alternates and eight (8) Site Contingent Items. Based on a recommendation for award by the Engineering Department following a detailed review of all bids, Council approved award of the project to Whayland Company in the amount of \$1,812,700.00 on February 6, 2024. Notice to Proceed was subsequently issued by the Engineering Department and project construction officially commenced on February 20, 2024.



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

The Engineering Department has been tracking a number of minor changes to the project scope over the past 3-4 weeks. Some changes were based on Owner direction and/or Contractor request, and others were based on changed field conditions. Since the overall Contract was bid on a Lump Sum basis, project scope changes require Council approval of individual Change Orders.

The following is a summary of items comprising Change Order No. 1:

- Delete concrete foundation waterproofing (Contractor request) – **Credit \$4,000**
- Expand sediment pond/reshape for final conversion (field condition) – **Charge \$6,000**
- Abandon existing two 2” water line services/altered tap location (field condition) – **Charge \$3,500**
- Delete compost logs (field condition) – **Credit \$1,260**
- Delete paving and pipe culvert at driveway entrance (Owner direction) – **Credit \$2,500**
- Modify alignment of forcemain (Contractor request) – **Credit \$3,500**
- Delete emergency lite in sprinkler room (Owner direction) – **Credit \$186**

Tabulation of all items contained in Change Order No. 1 results in a **credit of \$1,946.00** and a reduction in the overall Contract amount from \$1,812,700.00 to \$1,810,754.00. Based on the above, the Engineering Department recommends approval of Change Order No. 1 as submitted.



*SUSSEX COUNTY
CHANGE ORDER REQUEST*

A. ADMINISTRATIVE:

1. Project Name: **Millsboro Paramedic Station 103**
2. Sussex County Project No. C21-18
3. Change Order No. 1
4. Date Change Order Initiated - 04/29/2024
5.
 - a. Original Contract Sum \$1,812,700.00
 - b. Net Change by Previous Change Orders \$0
 - c. Contract Sum Prior to Current Change Order \$1,812,700.00
 - d. Requested Change (\$1,946.00)
 - e. Net Change (No. of days) 13
 - f. New Contract Amount \$1,810,754.00
6. Contact Person: Mark Parker, P.E.
Telephone No. (302) 855-7382

B. REASON FOR CHANGE ORDER (CHECK ONE)

1. Differing Site Conditions
2. Errors and Omissions in Construction Drawings and Specifications
3. Changes Instituted by Regulatory Requirements
4. Design Change
5. Overrun/Underrun in Quantity

- 6. Factors Affecting Time of Completion
- 7. Other (explain below): altered Contractor means & methods

C. **BRIEF DESCRIPTION OF CHANGE ORDER:**


- Delete concrete waterproofing
- Expand sediment pond and reshape for conversion
- Abandon existing 2" water service lines
- Delete compost logs
- Delete paving and pipe culvert at driveway entrance
- Modify alignment of forcemain
- Delete emergency lite in sprinkler room

D. **JUSTIFICATION FOR CHANGE ORDER INCLUDED?**

Yes No

E. **APPROVALS**

1. The Whayland Company, Contractor


Steven Hentschel (Apr 29, 2024 16:27 EDT) 4/29/2024
Signature Date
Steve Hentschel

Representative's Name in Block Letters

2. Sussex County Assistant Engineer


Mark Foraker 8 MAY 2024
Signature Date

3. Sussex County Council President

Signature Date

CHANGE ORDER (Owner)

CHANGE ORDER #

1R

DATE: 04/15/24

Owner:
Sussex County Council
PO Box 589
Georgetown, DE 19947

From:
The Whayland Company, LLC
100 West 10th Street
Laurel, DE. 19956

PROJECT: 2024-05 Millsboro Paramedic Station 103

Our Contract dated, 02/16/2024 , is hereby modified in accordance with the below listed changes:

| DESCRIPTION OF WORK | AMOUNT | CODE |
|--|---------------|-------|
| Remove concrete waterproofing from the contract. | \$ (4,000.00) | 7110 |
| Expand sediment pond/ reshape to convert | \$ 6,000.00 | 2040 |
| Abandon existng 2" water lines. | \$ 3,500.00 | 2040 |
| Delete 3 rows of 70' compost logs | \$ (1,260.00) | 2040 |
| Deduct pipe and paving at existing entrance | \$ (2,500.00) | 2040 |
| Deduct forcemain direction | \$ (3,500.00) | 2040 |
| Delete EM Light in Sprinkler room. | \$ (186.00) | 16010 |

Added days to substantial completion.

13 Days

TOTAL THIS CHANGE ORDER

-\$1,946.00

NOTE: Unless specifically modified by this Change Order, all other terms and conditions of the "Contract" remain unchanged

| | |
|---|-----------------------|
| Original Contract Amount: | \$1,812,700.00 |
| Net Change by Previous Change Orders | \$0.00 |
| Revised Contract Amount Prior to This Change Order: | \$1,812,700.00 |
| Amount of this Change Order: | (\$1,946.00) |
| New Contract Amount: | \$1,810,754.00 |

OWNER:
Sussex County Council

General Contractor:
The Whayland Company, LLC

By: _____


Steven Hentschel (Apr 29, 2024 10:24 EDT)

By: Steve Hentschel, President

Date: _____

Date: 4/29/2024

PLEASE SIGN & RETURN ORIGINAL TO WHAYLAND

Revision in Forcemain Direction

1. Direct drill starting approximately 30' south of designed turn toward the tie in manhole and drill on a 45o angle for a direct shot at the tie in manhole
2. Leaves more room to get under the existing ditch and up to the tie in elevation where current design would leave us at 9' depth to install 2 additional 45o fitting and drill a second shot to the tie in manhole elevation
3. Reduces the length of 1.25" forcemain pipe by 20' and reduces the number of fittings in the run from 4 to 2
4. Reduces the amount of excavation and restoration

Savings \$ 3,500.00

Tri-County Electrical Service

P.O. Box 644
Sharptown, MD 21861
(443) 359-1542 (410) 883-3968 Fax

Change Order Request

TO: THE WHAYLAND COMPANY DATE: 5-8-2023

100 WEST 10st.
LAUREL, DELAWARE 19956

ATTENTION: Mike Cassell

PROJECT: Millsboro EMS 103

SUBJECT: COR TCES #1 Delete EM Light in Sprinkler room

Gentlemen,

We propose to decrease our contract total in the amount of \$ -186.00

One Hundred and Eighty-Six-----00/100

Proposal:

Delete one Emergency Light from sprinkler room.

In order to incorporate this change, we estimate that we will require additional time for completion and have based our proposal upon receiving calendar day's extension. This proposal is form for acceptance within 30 days. We cannot proceed with the work covered by the proposed change until we are so directed in writing approving costs, or until we receive your change authorization, which must be by _____ to prevent additional costs.

This proposal is based upon the usual cost elements necessary to perform the changed work such as labor, material, and normal markups, plus allowances for additional labor, overtime, and inefficiency, special handling and other costs which may be incurred in order that the changed work may be performed.

The foregoing shall not be construed as a release or an accord and satisfaction with respect to claims for delays, schedule impact, or so called ripple effect costs due to the cumulative effect of multiple change orders on the project. Tri-county Electric Company reserves the right to assert a claim for these costs and acknowledges that any such claim must comply with the terms of the contract between the parties.

To substantiate our proposal, we are enclosing one (1) set of our pricing sheets.

C. L. Booze Jr.
PROJECT MANAGER

Michael Reinhart dba Atlantic Caulking

34582 Main St.
P.O. Box 447
Pittsville, MD 21850

Phone # 443-235-0855 mreinhart@atlanticcaulking.net

Estimate

| Date | Estimate # |
|-----------|------------|
| 1/22/2024 | 1084 |

| Name / Address |
|--|
| Whayland 100 West 10th Street Laurel, DE 19956 |

| | | | Project |
|--|-----|--------------|-----------------|
| | | | Paramedic St... |
| Description | Qty | Rate | Total |
| <p>Apply Bituthene to foundation 5 - 66.7ft rolls of Bituthene needed @ \$205/roll = \$1025</p> <p>Bituthene primer coverage: Coverage area ~700ft² 325ft²/gal. 700/325=2.15 gal. 5 gal. bucket is smallest container. Cost=\$518</p> <p>Bituthene Liquid Membrane: Fillet coverage=1 gal/100ft. Perimeter=316ft. ~4gal. needed. Flashing coverage = 1gal/17ft² Coverage area = .5ft x 316ft=158ft² 158/17=9.3gal....10gal. needed. Total of 14 gal. needed @ \$130/1.5 gal. 14/1.5=9.3...10 buckets needed. Cost=\$1300.</p> <p>Total material cost = \$2843</p> | | 4,000.00 | 4,000.00 |
| Thank you for your business. | | Total | \$4,000.00 |

ENGINEERING DEPARTMENT

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Sussex County

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Memorandum

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

FROM: Mark Parker, P.E., Assistant County Engineer

RE: ***RFP 24-17 Miscellaneous Engineering Services***
RFP 24-18 Land Survey & Mapping Services
RFP 24-19 Geotechnical Engineering Services
A. Recommend to Award Professional Service Contracts

DATE: May 14, 2024

The Engineering Department undertakes a variety of improvement projects each year concurrent with annual operation, maintenance, and expansion of County assets. Related efforts can range from multi-year planning, design, and construction of public infrastructure by consultant engineers to utilizing unique disciplines like land survey and geotechnical engineering by task orders to compliment the Department's work. As such, we maintain professional service contracts with multiple firms to support and supplement the Department over five-year periods. All contracts currently in place will expire at the of June 2024.

In February the County Administrator approved the procurement of professional engineering services with three (3) Request for Proposals (RFPs) covering scopes of work for Miscellaneous Engineering, Land Survey & Mapping, and Geotechnical Engineering. The Selection Committee of Mike Harmer, Mark Parker, John Ashman, and Patrick Brown was approved for the Miscellaneous Engineering RFP. The Selection Committee of Mark Parker, Valerie Thompson and Patrick Brown was approved for both the Land Survey & Mapping RFP and the Geotechnical Engineering RFP.

All three RFPs were publicly advertised on March 1, 2024.

RFP 24-17 Miscellaneous Engineering Services

Fourteen (14) firms responded by the RFP deadline of April 5, 2024.



Each selection committee member received a copy of the submitted proposals along with a scoring sheet for their use in evaluating and ranking firms. As per the County Consultant Selection Policy and Delaware Code, proposals were evaluated based on approved Consultant Rating Criteria. The Criteria was weighted by distributing percentage points as published in the RFP: 20% Experience and Reputation; 20% Capacity to meet Requirements; 15% Location; 20% Demonstrated Ability; and 25% Familiarity with Public Work and its Requirements.

The selection committee met on Friday, April 26, 2024, to discuss the proposals, proposal rating criteria and whether in their discretion a shortlisting and request for oral presentations be made to supplement the evaluation process. It was agreed interviewing individual firms in person was not necessary for the evaluation of their services and qualifications.

Evaluation sheets were reviewed and summarized by the selection committee. The committee recommends contracts with the highest scoring four (4) firms providing a variety of qualifications and service strengths believed to best serve the interests of the County. The highest scoring four (4) firms are summarized as follows:

| Firm | Average Committee Rank | Overall Ranking |
|--|-------------------------------|------------------------|
| Davis, Bowen & Friedel, Inc. (DBF) | 1.0 / 14 | 1 |
| George, Miles and Buhr, LLC (GMB) | 2.0 / 14 | 2 |
| Johnson, Mirmiran & Thompson, Inc. (JMT) | 3.5 / 14 | 3 |
| Arcadis U.S., Inc. | 3.75 / 14 | 4 |

The selection committee recommends County Council authorize the Engineering Department to negotiate and execute five-year professional service agreements for Miscellaneous Engineering Services with the four (4) highest ranking firms: DBF, GMB, JMT and Arcadis U.S. In conjunction with guidance by the Finance Department, award of individual assignments performed under established base service agreements, or any stand-alone task assignments, will be brought to Council for authorization if the cost exceeds \$250,000.00.

RFP 24-18 Land Survey & Mapping Services

Five (5) firms responded by the RFP deadline of April 5, 2024.

Each selection committee member received a copy of the submitted proposals along with a scoring sheet for their use in evaluating and ranking firms. As per the County Consultant Selection Policy and Delaware Code, proposals are evaluated based on approved Consultant Rating Criteria. The Criteria was weighted by distributing percentage points as published in the RFP: 15% Experience and Reputation; 20% Expertise; 20% Capacity to meet Requirements; 20% Location; 15% Demonstrated Ability; and 10% Familiarity with Public Work and its Requirements.

The selection committee met on Thursday, April 25, 2024, to discuss the proposals, rating criteria and whether in their discretion shortlisting for oral presentations should be requested to supplement the evaluation process. It was agreed firm short-listing with interviews was not necessary given the scope of services and qualifications of responding firms.

Evaluation sheets were reviewed and summarized by the selection committee. The committee recommends contracting the two (2) highest scoring firms to provide service strengths and expanded responsiveness believed to best serve the interests of the County. The two (2) highest scoring firms are summarized as follows:

| Firm | Average Committee Rank | Overall Ranking |
|------------------------------------|-------------------------------|------------------------|
| Davis, Bowen & Friedel, Inc. (DBF) | 1.33 / 5 | 1 |
| Greenman-Pedersen, Inc (GPI) | 2.0 / 5 | 2 |

It is the recommendation of the selection committee that County Council authorize the Engineering Department to negotiate and execute Professional Service Agreements with both DBF and GPI for on-call Land Survey and Mapping Services to supplement and support the Department over a five (5) year contract period, with combined annual Contract costs not to exceed \$100,000.00.

RFP 24-19 Geotechnical Engineering Services

Three (3) firms responded by the RFP deadline of April 5, 2024.

Each selection committee member received a copy of the proposals received along with a scoring sheet for their use in evaluating and ranking firms. As per the County Consultant Selection Policy and Delaware Code, proposals are evaluated based on approved Consultant Rating Criteria. The Criteria was weighted by distributing percentage points as published in the RFP: 20% Experience and Reputation; 20% Expertise; 20% Capacity to meet Requirements; 15% Location; 15% Demonstrated Ability; and 10% Familiarity with Public Work and its Requirements.

The selection committee met on Thursday, April 25, 2024, to discuss the proposals, rating criteria and whether in their discretion shortlisting for oral presentations should be requested to supplement the evaluation process. It was agreed short-listing with interviews was not necessary given the scope of services and qualifications of responding firms.

Evaluation sheets were reviewed and summarized by the selection committee. The committee recommends a single contract with the highest scoring firm to best serve the interests of the County. The highest scoring firm is summarized as follows:

| Firm | Average Committee Rank | Overall Ranking |
|---------------|-------------------------------|------------------------|
| Verdantas LLC | 1.0 / 3 | 1 |

It is the recommendation of the selection committee that County Council authorize the Engineering Department to negotiate and execute a Professional Service Agreement with Verdantas LLC for on-call Geotechnical Engineering Services to supplement and support the Department over a five (5) year contract period, with an annual Contract cost not to exceed \$100,000.00.

ENGINEERING DEPARTMENT

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Memorandum

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

FROM: Mark Parker, P.E., Assistant County Engineer

RE: ***FY 2025 GENERAL LABOR & EQUIPMENT CONTRACT***
A. Recommendation to Award

DATE: May 14, 2024

Prior to FY 2017, Sussex County followed a traditional design, bid and build approach. Over the years, increased capital project load associated with aging infrastructure required a more efficient delivery system. In response, the Engineering Department developed a competitively selected time and equipment, best value bid process consistent with the County Procurement Policy.

The first General Labor & Equipment (GL&E) Contract for FY 2017 was awarded to George & Lynch, Inc., on June 21, 2016, and was renewed on June 13, 2017, for an additional one-year period based on performance. Throughout this initial two (2) year timeframe, a significant workload was completed with considerable cost and time savings. Therefore, the Engineering Department re-advertised the contract in the spring of 2018 again using the “best value” approach. On April 24, 2018, Council awarded the FY 2019 General Labor & Equipment Contract to George & Lynch, Inc. This contract award was valid for one year, and Council voted to extend it, based on contractor performance, for two (2) additional one-year periods at the same unit prices.

The GL&E Contract was again readvertised on June 1, 2021 for FY 2022 and was structured with a two independent bid packages to break out specialty contracting services. On July 2, 2021 a total of two bids were received, and following review and recommendation by the Engineering Department, Council approved on July 13, 2021 a joint award of Bid Package A to George & Lynch, Inc. and JJID, Inc, and singular award of Bid Package B to George & Lunch, Inc.



With FY 2022 GL&E Contract set to expire at the end of June, The Engineering Department readvertise the contract on April 2, 2024 with the same time performance of one-year with two (2) possible one-year extensions. The FY 2022 was structured with only one Bid Package based on anticipated needs of the Engineering Department, and again incorporated a “best value” approach in consideration of the following factors:

- Unit Bid Pricing 80 points
- Qualification of Staff 7.5 points
- Equipment & Labor Availability 12.5 points

In addition, similar to past GL&E Contract qualifications, bidders had to demonstrate emergency response capabilities via mobilization tests in order to be considered for Bid award. A mandatory Pre-Bid meeting was held on April 11, 2024 with only two Contractors in attendance: George & Lynch, Inc. and A-Del Construction. Following the Pre-Bid meeting, both Contractors participated in and successfully completed the mobilization tests. On May 1, 2024 bids were received by the same two Contractors.

Following review and evaluation by the Engineering Department of the submitted bids, it was determined that George & Lynch, Inc. submitted the most responsive and highest scoring bid. Based on the anticipated needs in both the capital project and emergency response support areas, the Department feels that only one award is justified. Therefore, the Engineering Department recommends award of the FY 2025 GL&E Contract to George & Lynch, Inc. in the amount of \$4,949,784.00.

GEORGE & LYNCH

| | Point Value |
|---|--------------|
| Price | |
| \$4,949,784.00 | 80.00 |
| Qualification of Staff | |
| Preston Ayers | 7.5 |
| Russell Reed | 7.5 |
| Christina Funk | 7.5 |
| Michael Henrich | 7.3 |
| Paul Martin | 7.5 |
| James Gray | 7.3 |
| Larry Zuchelli | 7.5 |
| Bryon Warren (BW Electric) | 7.3 |
| Staffing Total | 59.4 |
| Staffing Average Point Value | 7.43 |
| Equipment & Labor Availability | |
| Heavy Equipment | 94.00 |
| Labor | 73.68 |
| AVG Percentage | 83.84 |
| | 12.50 |
| Total Point Score | 99.93 |

A-DEL CONSTRUCTION

| | Point Value |
|---|--------------|
| Price | |
| \$6,469,440.00 | 61.21 |
| Qualification of Staff | |
| Scott Whitt | 5.3 |
| Ivan Bonneville | 7.2 |
| Rick Shelton | 7.2 |
| Wayne Fields | 6.8 |
| Steven Thompson | 6.7 |
| Brook Merillo | 7.2 |
| Tom Moore | 6.8 |
| Byron Patton | 7.3 |
| Tehron Shorts | 6.8 |
| Staffing Total | 61.3 |
| Staffing Average Point Value | 6.81 |
| Equipment & Labor Availability | |
| Heavy Equipment | 100.00 |
| Labor | 63.00 |
| AVG Percentage | 81.50 |
| | 12.15 |
| Total Point Score | 80.17 |

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 Bayard Commons Expansion of the Sussex County Unified Sanitary Sewer District

PERMISSION TO POST FACT SHEET

- Expansion of the Sussex County Unified Sanitary Sewer District (Miller Creek Area)
- The Engineering Department has received a request from George, Miles & Buhr, LLC (GMB) on behalf of their client Bayard Commons, LLC the owners/developers of a project known as Bayard Commons for parcel 134-19.00-22.00.
- The proposed site will consist of 3,000 SF strip mall on 3.00 acres within the B-2 Zoning District.
- The project will be responsible for System Connection Charges of \$7,700.00 per EDU based on current rates.
- The Engineering Department would like to request permission to prepare and post notices for a Public Hearing on the annexation of the area.
- A tentative Public Hearing is currently scheduled for June 25, 2024, at the regular County Council meeting.



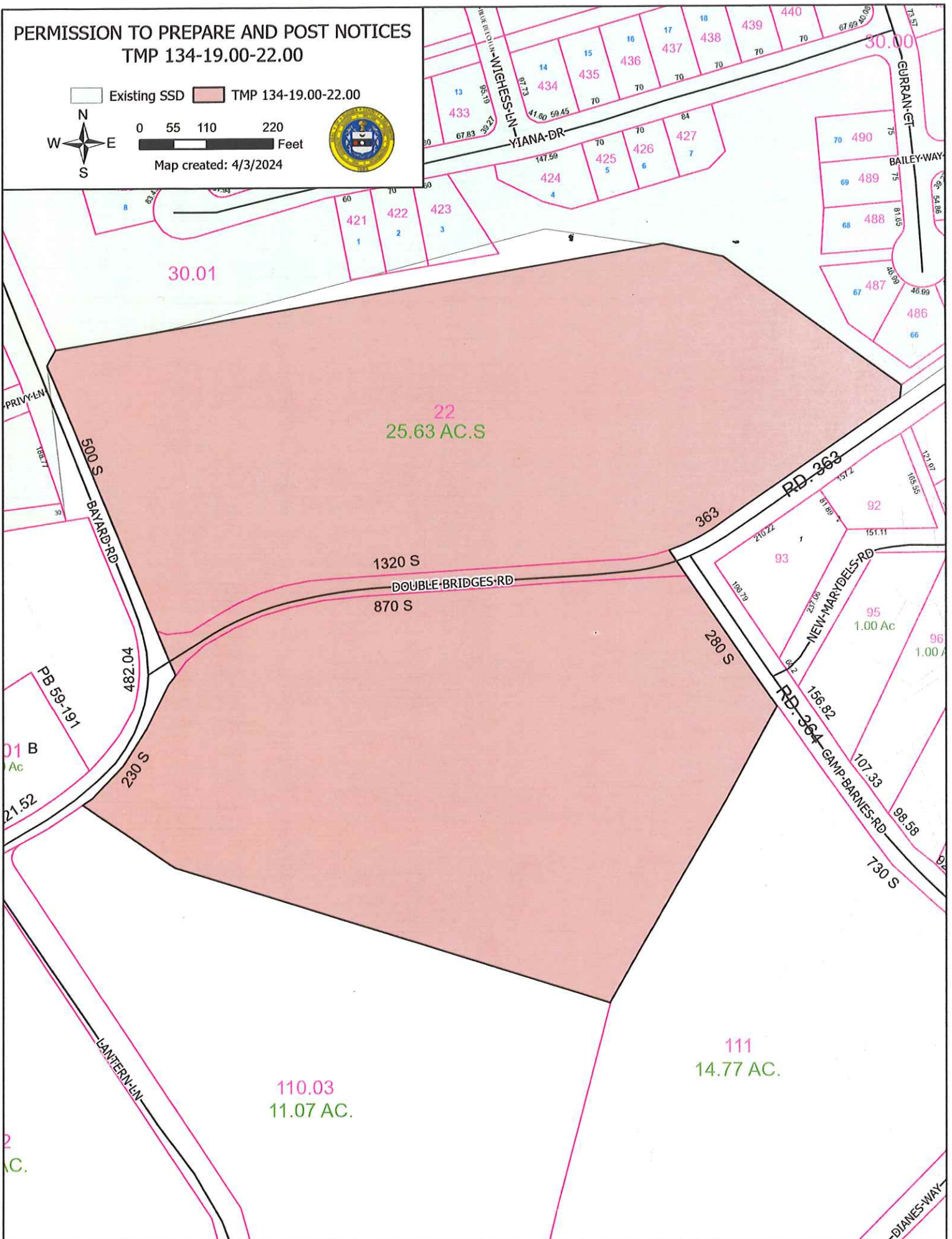
PERMISSION TO PREPARE AND POST NOTICES
TMP 134-19.00-22.00

Existing SSD TMP 134-19.00-22.00



0 55 110 220
Feet

Map created: 4/3/2024



■ ■ ■ ■

ARCHITECTS
ENGINEERS

206 WEST MAIN STREET
SALISBURY, MD 21801
PH: 410.742.3115
PH: 800.789.4462
salisbury@gmbnet.com

SALISBURY
BALTIMORE
SEAFORD
LEWES
OCEAN VIEW

www.gmbnet.com

■ ■ ■ ■

March 25, 2024

Sussex County Engineering Department
Utility Planning
Sussex County Administrative
Office Building, 3rd Floor
2 The Circle, P.O. Box 589
Georgetown, DE 19947

Attn: Mr. John Ashman

Re: Bayard Commons
Tax Map Parcel Number: 134-19.00-22.00
Sewer System Extension Request
GMB Job No. 230058

Dear Mr. Ashman:

Please accept this letter and fee (\$1,500 based on 25.63 total parcel acres) as our request for the above reference parcel to be annexed into the Sussex County Unified Sanitary Sewer District.

This proposed site will consist of 3,000 SF strip retail, located on 3.00 acres within the B-2 Zoning District.

If you should have any questions, please feel free to contact me at 410-742-3115.

Sincerely,



Christopher J. Pfeifer, P.E.
Vice President/Sr. Project Manager

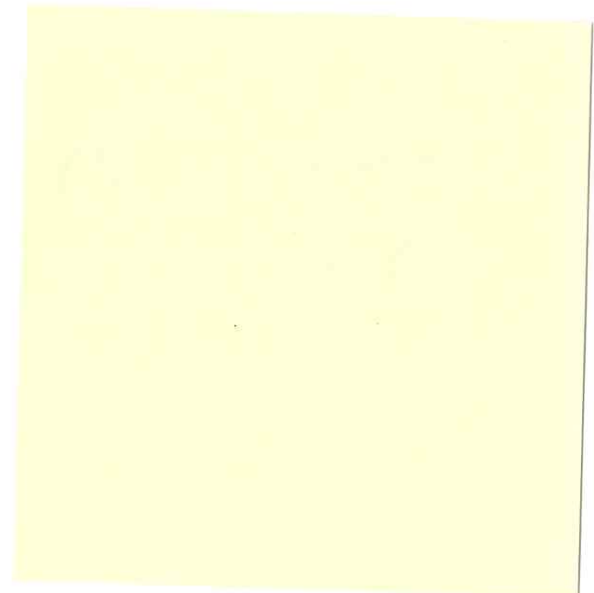
CJP/cl

Enclosures

JAMES H. WILLEY, JR., P.E.
CHARLES M. O'DONNELL, III, P.E.
A. REGGIE MARINER, JR., P.E.
JAMES C. HOAGSON, P.E.
STEPHEN L. MARSH, P.E.
DAVID A. VANDERBEEK, P.E.
ROLAND E. HOLLAND, P.E.
JASON M. LYTLE, P.E.
CHRIS B. DERBYSHIRE, P.E.
MORGAN H. HELFRICH, AIA
KATHERINE J. MCALLISTER, P.E.
W. MARK GARDOCKY, P.E.
ANDREW J. LYONS, JR., P.E.

PETER A. BOZICK, JR., P.E.
JUDY A. SCHWARTZ, P.E.
W. BRICE FOXWELL, P.E.

JOHN E. BURNSWORTH, P.E.
VINCENT A. LUCIANI, P.E.
AUTUMN J. BURNS
CHRISTOPHER J. PFEIFER, P.E.
BENJAMIN K. HEARN, P.E.



ENGINEERING DEPARTMENT

JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING & DESIGN REVIEW

(302) 855-7370 T
(302) 854-5391 F
jashman@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

MIKE HARMER, P.E.
SUSSEX COUNTY ENGINEER

Proposed Jefferson Lodge #15 Expansion of the Sussex County Unified Sanitary Sewer District

PERMISSION TO POST FACT SHEET

- Expansion of the Sussex County Unified Sanitary Sewer District (West Rehoboth Area)
- The Engineering Department has received a request from Baird, Mandalas, Brockstedt & Federico, LLC on behalf of their client Jefferson Lodge #15 (Masonic Hall of Lewes DE) in connection with its initiative to relocate to parcel 334-4.00-28.02 on Sweetbriar Road just south of Pinetown Road.
- The project is proposed as a new Masonic Lodge. The Engineering Department would like to include the adjacent County owned parcel 334-4.00-28.01.
- The project will be responsible for System Connection Charges of \$7,700.00 per EDU based on current rates.
- The Engineering Department would like to request permission to prepare and post notices for a Public Hearing on the annexation of the area.
- A tentative Public Hearing is currently scheduled for June 25, 2024, at the regular County Council meeting.



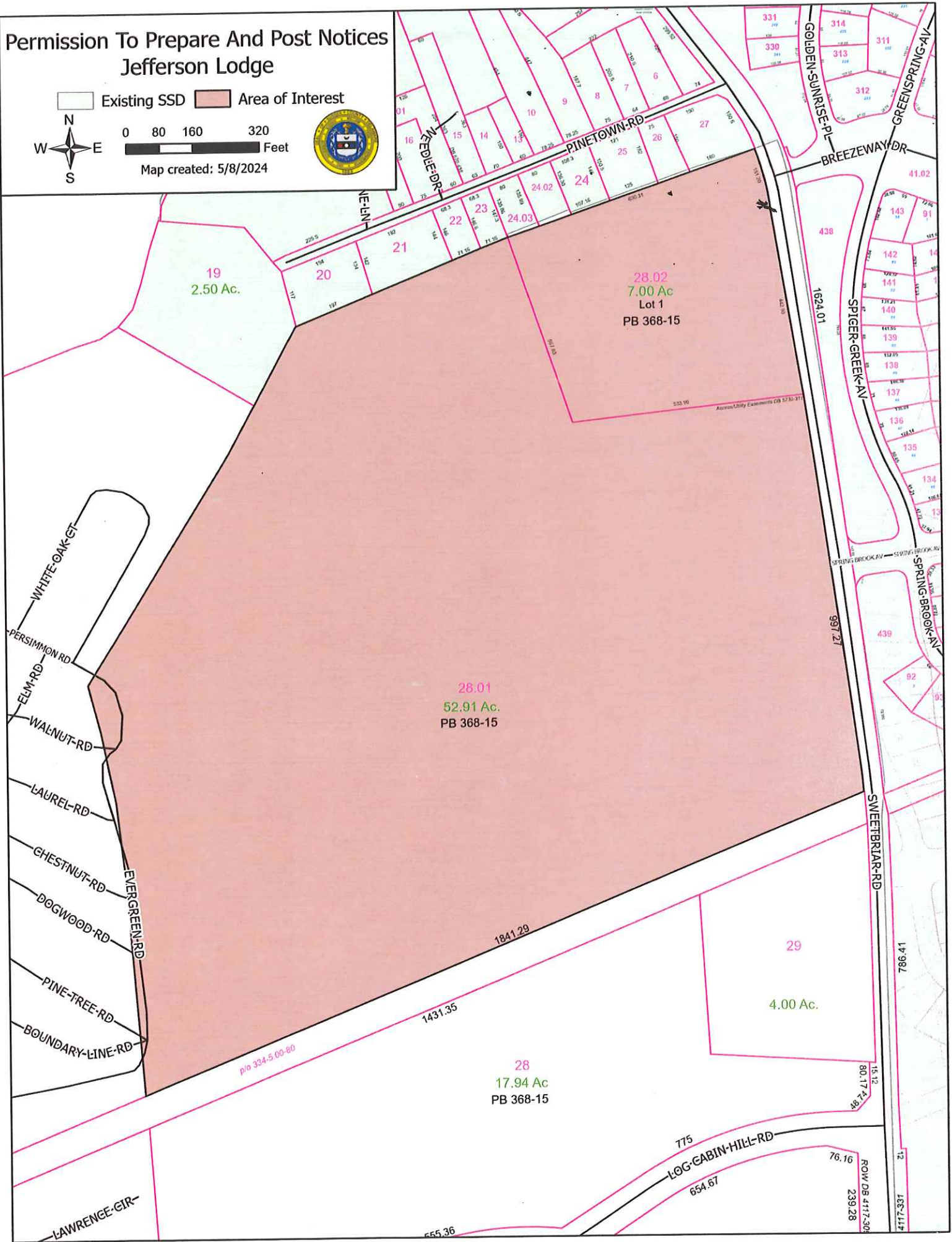
Permission To Prepare And Post Notices Jefferson Lodge

Existing SSD Area of Interest



0 80 160 320
Feet

Map created: 5/8/2024





Glenn C. Mandalas, Esquire
(302) 645-2262
Glenn@bmbde.com

April 26, 2024

VIA REGULAR MAIL AND EMAIL

Mr. John J. Ashman
Director of Utility Planning & Design Review
Sussex County Engineering Department
2 The Circle
Georgetown, DE 19947

**RE: Request for Extension of Sanitary Sewer District Boundary
TMP 334-4.00-28.02**

Dear Mr. Ashman:

I represent Jefferson Lodge #15 (Masonic Hall Company of Lewes DE) in connection with its initiative to relocate to tax parcel 334-4.00-28.02 (the "Property") on Sweetbriar Road, adjacent to the Hopkins Preserve parcel. In connection with that initiative, and pursuant to County Code Section 110-77, please allow this correspondence to serve as my client's request that the Sussex County Unified Sanitary Sewer District boundary be extended to include the Temple's parcel.

The Property is zoned Agricultural Residential (AR-1), which is appropriate for the planned improvements and use, and is currently in the Tier 2, Sewer Planning Area. We understand the fee for this request has been waived.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Glenn", written in a cursive, flowing style.

Glenn C. Mandalas, Esquire

CC: Mr. Carlton Savage, Jr., PE (Scaled Engineering)
Mr. Eric Evans (Jefferson Lodge #15)
Mr. Walter Hopkins (Jefferson Lodge #15)

From: notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE
 <notifications@d3forms.com>
Sent: Wednesday, May 1, 2024 8:43 AM
To: Casey Hall
Subject: Form submission from: Council Grant Form

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 Parkinson's Education and Support Group of Sussex County

Project Name Parkinson's Caregivers Wellness Education Series

Federal Tax ID 800386508
~~80 3086508/~~

Non-Profit Yes

Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.) No

Organization's Mission The Parkinson's Education and Support Group of Sussex County (PESGSC) is a diverse group made up of people with Parkinson's Disease (PD), caregivers, loved ones, healthcare providers, PD certified exercise trainers, and individual volunteers who come together for a common mission: to improve the lives of those living with Parkinson's Disease through exercise, education, and support. PESGSC has *partnered with a local, Rehoboth-based gym, Rise Fitness + Adventure, to host our PD fitness class offerings. Our support group serves residents of Sussex County, it has grown to become one of the largest nonprofit Parkinson's Disease organizations in Delaware.

| | |
|------------------------------|--|
| Address | P.O. Box 56 |
| City | Lewes |
| State | DE |
| Zip Code | 19958 |
| Contact Person | Denise Demback |
| Contact Title | Treasurer |
| Contact Phone Number | 410-241-7467 |
| Contact Email Address | ddemback@gmail.com |

Total Funding Request

2,550

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?

No

If YES, approximately what percentage of the project's funding

N/A

does the Council grant represent?

Program Category (choose all that apply)

Health and Human Services

Primary Beneficiary Category

Disability & Special Needs

Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program

145

Scope

A 10-week Caregivers Support program to help those who care for someone with Parkinson's Disease reduces stress, manage emotions, and create a community of support. The program would be conducted in a group format, that would also be available as a livestream via Zoom during the scheduled meeting time. Each group meeting would be 90-minutes, led by an integrative mental health specialist, and would be designed to serve as psycho-educational and emotional support resources for participants. Implementation: The program would be held at the Lewes Library and also livestreamed via Zoom. Rental for the rooms in the library would be \$250 for the entire series, \$25 per session. Materials consisting of a printed spiral bound handbook for each caregiver, pens, easel pads and other supplies will total approximately \$500. Payment for the services of the integrative mental health specialist will be \$1,800 to conduct the ten 90-minute sessions. \$180 per 90 minute session.

Religious Components

not applicable

Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)

0.00

Description

Integrative mental health specialist (10 x \$180)

Amount

1,800.00

Description

Printed spiral handbooks each participant, pens, easel pads

Amount

500.00

Description

Library room rental, total sessions (10 x \$25)

Amount

250.00

TOTAL EXPENDITURES

2,550.00

TOTAL DEFICIT FOR PROJECT OR ORGANIZATION

-2,550.00

Name of Organization

Parkinson's Education and Support Group of Sussex County

Applicant/Authorized Official

Denise Demback

Date

04/30/2024

Affidavit Acknowledgement

Yes

Casey Hall

From: Denise Demback <ddemback@gmail.com>
Sent: Thursday, May 2, 2024 8:34 AM
To: Casey Hall
Subject: Re: Form submission from: Council Grant Form
Attachments: PESGSC IRS Letter.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

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.

Good Morning,

Sorry, it was a typo. Our Federal Tax ID is: 80-0386508. I've attached our IRS letter.

--Denise Demback

On Thu, May 2, 2024 at 8:18 AM Casey Hall <casey.hall@sussexcountyde.gov> wrote:

Good morning.

Sussex County is in the process of reviewing your grant application, see below. The non-profit tax ID number is not showing registered with the IRS. Can you provide an updated tax ID?

Thank you,

Casey Hall

Casey Hall, Administrative Secretary

Sussex County Government

P.O. Box 589 | 2 The Circle | Georgetown, DE 19947

Tel: 302.855.7741 Fax: 302.855.7749

From: notifications@d3forms.com@mg.d3forms.com on behalf of Sussex County DE
 <notifications@d3forms.com>
Sent: Monday, April 22, 2024 11:04 AM
To: Casey Hall
Subject: Form submission from: Council Grant Form

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

Rehoboth Summer Children's Theatre ✓

Project Name

Outreach Tour of Robin Hood

Federal Tax ID

510292158 ✓

Non-Profit

Yes

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

No

Organization's Mission

The Rehoboth Summer Children's provides programs of enrichment, education and entertainment for family audiences of all ages. Activities include film and theatre camps for ages 8-14 and an annual tour of a professional theatre production.

Address

PO Box 153

City

Oreland

State

PA

| | |
|---|--|
| Zip Code | 19075 |
| Contact Person | Steve Seyfried |
| Contact Title | Managing Director |
| Contact Phone Number | 302-227-6766 |
| Contact Email Address | rehobothchildrenstheatre@gmail.com |
| Total Funding Request | 1350 |
| Has your organization received other grant funds from Sussex County Government in the last year? | Yes |
| If YES, how much was received in the last 12 months? | 1480 |
| 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? | 12 |
| Program Category (choose all that apply) | Cultural Educational |

Primary Beneficiary Category Youth

Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program 1500

Scope Each year the Rehoboth Summer Children’s Theatre produces a play with professional actors that travels to locations throughout Sussex County. The performances take place in libraries, parks and community centers and are free and open to the public. In 2024 (our 43rd year!) there will be a minimum of seventeen performances of Jack and the Beanstalk in July and August. The shows will take place in these communities: Bridgeville, Seaford, Greenwood, Georgetown, Milton, Rehoboth Beach, Bethany Beach, Selbyville, Millsboro and Frankford. These delightful productions provide a wonderful opportunity for family members of all ages to enjoy the excitement and magic of live theatre!

Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request) 10,000.00

Description Actors

Amount 4,000.00

Description Director

Amount 1,200.00

| | |
|--|------------------------------------|
| Description | Actors Housing |
| Amount | 3,000.00 |
| Description | Props & Costumes |
| Amount | 1,200.00 |
| Description | Travel |
| Amount | 850.00 |
| Description | Marketing |
| Amount | 400.00 |
| Description | Administrative |
| Amount | 700.00 |
| TOTAL EXPENDITURES | 11,350.00 |
| TOTAL DEFICIT FOR PROJECT OR ORGANIZATION | -1,350.00 |
| Name of Organization | Rehoboth Summer Children's Theatre |
| Applicant/Authorized Official | Steve Seyfried |
| Date | 04/22/2024 |
| Affidavit Acknowledgement | Yes |



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: May 9, 2024

RE: County Council Report for C/U 2412 filed on behalf of Marco Morales

The Planning and Zoning Department received an application (C/U 2412 filed on behalf of Marco Morales) for a professional office, to be located at Tax Parcels 135-15.00-49.00. The property is located on the 22163 Lewes Georgetown Highway. The parcel size is 0.459 acres +/-

The Planning & Zoning Commission held a Public Hearing on the application on April 10, 2024. At the meeting of April 24, 2024, the Planning & Zoning Commission recommended approval of the application for the 5 reasons stated and subject to the 8 recommended conditions as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meetings of April 10, 2024, and April 24, 2024.

Minutes of the April 10, 2024, Planning & Zoning Commission Meeting

C/U 2412 Marco Morales

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PROFESSIONAL OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 0.459 ACRE, MORE OR LESS. The property is lying on the northeast corner of the intersection of Wilkins Lane and Lewes Georgetown Highway (Rt. 9). 911 Address: 22163 Lewes Georgetown Highway. Tax Map Parcel: 135-15.00-49.00.

Mr. Whitehouse advised the Commission that submitted into record were a copy of the applicant survey plan, a copy of the staff analysis and a copy of the DeIDOT Service Level Evaluation Response.



Mr. Marco Morales spoke on his own behalf in regards to the application that he is requesting to put in an office building to have his construction business office in; that his business is in operation 7:00AM – 5:00PM Monday through Friday, there are only 5 employees for his business and he would like a sign for the business if the case is approved.

Mr. Mears asked if the business meets with clients and contractors and if so, how many a day are they in and out?

Mr. Morales responded that he does meet with both clients and contractors and there are approximately 5 people a day that he meets with in the office; that in the neighborhood there are several other businesses and some residential dwellings so the office would fit in with the surrounding development.

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 2412 Marco Morales. Motion by Ms. Wingate to defer action for further consideration, seconded by Mr. Mears and carried unanimously. Motion carried 5-0.

Minutes of the April 24, 2024, Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since April 10, 2024.

Ms. Wingate moved that the Commission recommend approval of C/U 2412 Marco Morales for a Professional Office based upon the record made during the public hearing and for the following reasons:

1. The property is located along Route 9 on the outskirts of the Town of Georgetown. Route 9 is one of the main cross-county roadways in Sussex County and this area of it has developed with a variety of business and commercial uses including Sports at the Beach, contractor facilities, stores and other offices. This location is appropriate for this business use.
2. The Applicant has stated that this site will only be for office purposes. No retail sales, storage or construction activities (aside from construction associated with the site itself) will occur on the premises.
3. The proposed use will not generate a significant amount of traffic, and it will not have any adverse effect on area roadways.
4. The proposed use is very limited in nature, and it will not have any adverse impact on neighboring properties or the community.
5. No parties appeared in opposition to the application.
6. This recommendation is subject to the following conditions:
 - A. The use shall be limited to use as an office.
 - B. One lighted sign shall be permitted. It shall not exceed 32 square feet per side.
 - C. The applicant shall comply with any DelDOT entrance and roadway improvement requirements.
 - D. Parking areas for all vehicles shall be shown on the Final Site plan and clearly marked on the site itself.

- E. All outdoor trash receptacles shall be screened from view of neighboring properties and roadways.
- F. All security lighting shall be directed downward so that it does not shine on neighboring properties or roadways.
- G. Failure to comply with these conditions may result in the revocation of the Conditional Use approval.
- H. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to recommend approval of C/U 2412 Marco Morales for the reasons and the conditions stated in the motion. Motion carried 5 - 0.

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

PLANNING & ZONING COMMISSION

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



Sussex County

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

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: April 10th, 2024

Application: C/U 2412 Marco Morales

Applicant: Mr. Marco Morales
7 Swain Avenue
Georgetown, DE 19947

Owner: Morales Builders, LLC
7 Swain Avenue
Georgetown, DE 19947

Site Location: The property is lying on the northeast corner of the intersection of Wilkins Lane and Lewes Georgetown Highway (Route 9). The property is located at 22163 Lewes Georgetown Highway in Georgetown, Delaware.

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

Proposed Use: Professional Office

Comprehensive Land Use Plan Reference: Developing Area

Councilmanic District: Mr. Rieley

School District: Indian River School District

Fire District: Georgetown Fire Company

Sewer: Private, on-site (Septic)

Water: Private, on-site (Well)

Site Area: 0.46-acres +/-

Tax Map ID.: 135-15.00-49.00



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



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Planning Commission Members
From: Ms. Lauren DeVore, AICP, Planner III
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: March 11th, 2024
RE: Staff Analysis for C/U 2412 Marco Morales

This memo is to provide background and analysis for the Planning Commission to consider as a part of Application C/U 2412 Marco Morales to be reviewed during the April 10th, 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: 135-15.00-49.00

Proposal: The request is for a Conditional Use for Tax Parcel 135-15.00-49.00 to allow for use of an existing dwelling on the property as a professional construction services office, parking and associated site improvements. The property is lying on the northeast corner of the intersection of Wilkins Lane and Lewes Georgetown Highway (Route 9) and consists of 0.46-acres +/- . The property is located at 22163 Lewes Georgetown Highway in Georgetown, Delaware.

Zoning: The majority of the balance of the Parcel is zoned Agricultural Residential (AR-1) District. The adjacent Parcels to east, west (on the opposite side of Wilkins Lane) and south (on the south side of Lewes Georgetown Highway (Route 9) are also zoned Agricultural Residential (AR-1) District. The properties to the northeast which border Lewes Georgetown Highway (Route 9) are also zoned General Commercial (C-1) District. Staff further note that there is a single Parcel to the northwest of the subject property along Sand Hill Road (S.C.R. 319) that is also zoned General Commercial (C-1) District.

Future Land Use Map Designation w/in Comprehensive Plan: The subject property is located within the “Developing Area” as outlined in the Sussex County’s 2018 Comprehensive Plan.

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 has a Growth Area Future Land Use designation of “Developing Area.” The



properties to north, south (on the south side of Lewes Georgetown Highway (Route 9)), east and west also have a Future Land Use designation of “Developing Area.”

As outlined in the 2018 Sussex County Comprehensive Plan, the “Developing Area” are “newer, emerging growth areas that demonstrate the characteristics of developmental pressures” and “are adjacent to municipalities, potential future annexation areas of a municipality, or to Town Centers” (2018 Sussex County Comprehensive Plan, 4-14). The Plan further notes that “in selected areas and at appropriate intersections, commercial uses should be allowed” and “a variety of office uses would be appropriate in many areas” (2018 Sussex County Comprehensive Plan, 4-14).

Additionally, Staff note that there is an area of “Commercial Area” to the east on the north and south sides of Lewes Georgetown Highway (Route 9). The Plan notes that “Commercial Areas” “include concentrations of retail and service uses that are mainly located along arterials and highways” and “include commercial corridors, shopping centers” and serve as “primary shopping destinations” (2018 Sussex County Comprehensive Plan, 4-17).

The subject property is to the east of the municipal limits of the Town of Georgetown which lies within the “Municipalities” Future Land Use Map designation.

Table 4.5-2 “Zoning Districts Applicable to Future Land Use Categories” in the 2018 Sussex County Comprehensive Plan notes that the existing Agricultural Residential (AR-1) District is an applicable Zoning District within the “Developing Area” Future Land Use Map Designation (2018 Sussex County Comprehensive Plan, 4-24).

Further Site Considerations:

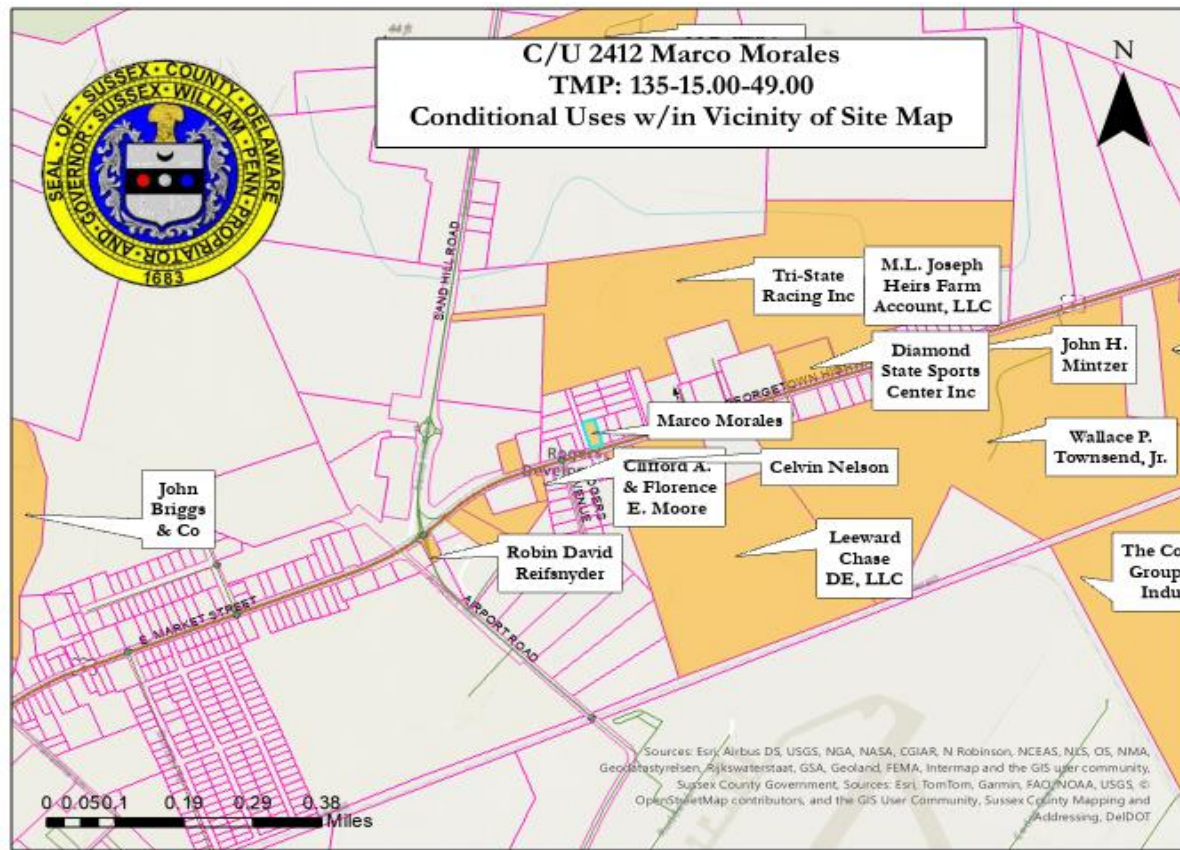
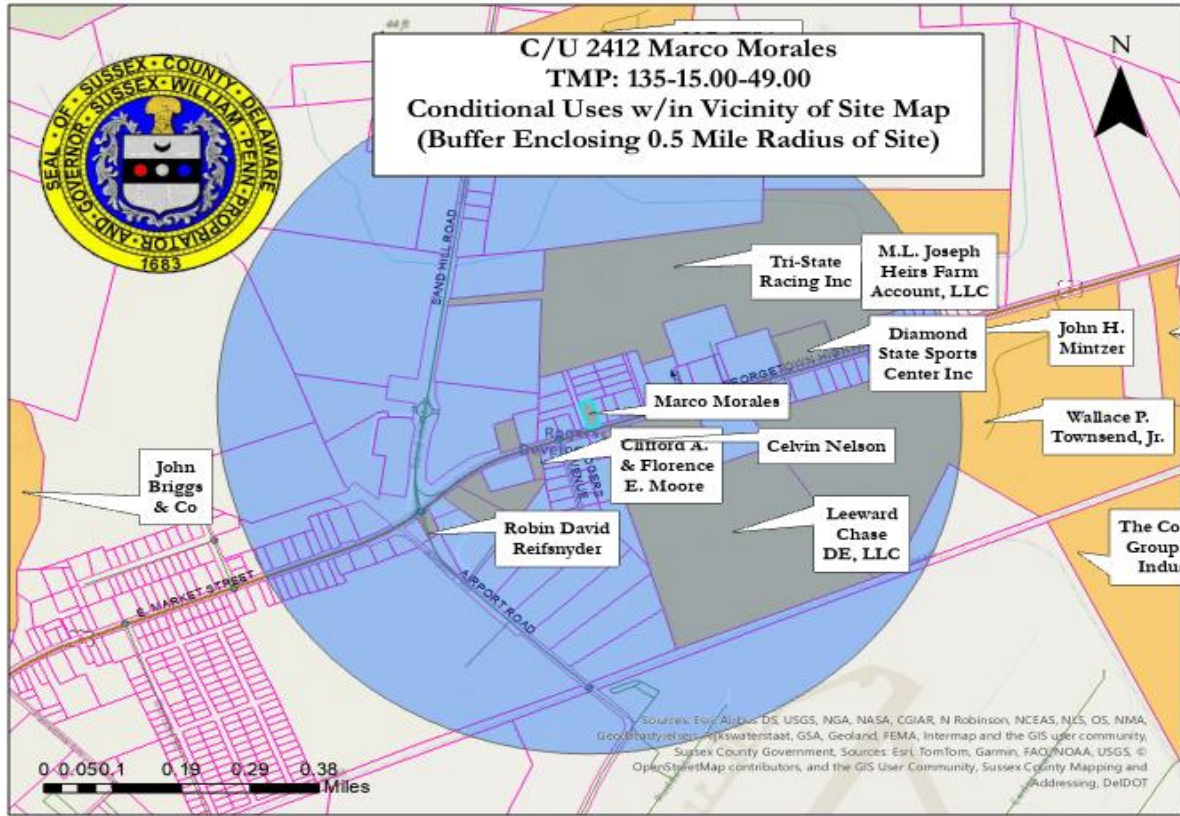
- **Density:** N/A
- **Open Space Provisions:** N/A
- **Agricultural Areas:** Staff note that the Site is located within the vicinity of lands that appear to be actively farmed.
- **Interconnectivity:** N/A
- **Transportation Improvement District (TID):** The Parcel is not located within any established Transportation Improvement Districts. Staff further note that the Delaware Department of Transportation (DelDOT) has indicated in their Service Level Evaluation Response (SLER) that the development’s traffic impact is anticipated to be “negligible” in the context of the “Sussex County/Delaware Department of Transportation Memorandum of Understanding (MOU) for Land Development Coordination.”
- **Forested Areas:** N/A
- **Wetlands Buffers/Waterways:** The County’s Online Mapping System does not indicate the presence of any wetlands on the property. The County’s Online Mapping System does not reflect the presence of any blue-lined streams which encumber the property.

- Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** The property is located within Flood Zone “X” – Areas determined to be outside the 1% annual chance flood and outside the 500-year floodplain. DNREC’s Flood Planning Tool notes that the property is located within the Broadkill River – Delaware Bay Watershed and the Round Pole Branch – Broadkill River Subwatershed. The Flood Planning Tool also notes that the approximate Ground Elevation Height at the Parcel is approximately 47-ft. The property does not lie within any established Tax Ditch Areas.

Additionally, the County’s Online Mapping System indicates that there are no Well Head Protection Areas present on the site and that the property is located within an area of “Good” Groundwater Recharge Potential.

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 within a 0.5-mile distance from the subject site.

| Conditional Use Applications (w/in a 0.5-mile radius of the Application Site) | | | | | | | | |
|---|-------------------------------------|--------|---|------------|----------------------|------------|-------------|---------------|
| Application Number | Applicant Name | Zoning | Proposed Use | P&Z Date | P&Z Recommendation | CC Date | CC Decision | Ordinance No. |
| C/U 329 | Diamond State Sports Center, Inc. | AR-1 | Race Track | N/A | Withdrawn | N/A | Withdrawn | — |
| C/U 421 | Tri-State Racing, Inc. | AR-1 | Dog Racing | N/A | N/A | 5/2/1979 | Denied | N/A |
| C/U 979 | Clifford A. & Florence E. Moore | AR-1 | Gift Shop & Yard Sale | 8/8/1991 | Recommended Denial | 8/27/1991 | Withdrawn | — |
| C/U 1241 | Carlton R. Moore | B-1 | Mini Storage | 4/23/1998 | Recommended Approval | 5/12/1998 | Approved | 1234 |
| C/U 1287 | Ken Shapter | B-1 | Mini Storage Buildings | 6/10/1999 | Recommended Denial | 6/15/1999 | Denied | N/A |
| C/U 1421 | Wallace P. Townsend, Jr. | AR-1 | Athletic Facility | 11/8/2001 | Recommended Approval | 11/27/2001 | Approved | 1507 |
| C/U 1465 | Charles H. Hayes, Jr. | AR-1 | Go-carts, repair, parts building material | 10/24/2002 | Recommended Approval | 11/19/2002 | Approved | 1571 |
| C/U 1515 | Robin David Reifsnyder | AR-1 | Classroom/Studio Pottery & Crafts | 12/18/2003 | Recommended Denial | 1/13/2004 | Denied | N/A |
| C/U 1814 | Celvin Nelson | AR-1 | Auto-Repair Shop | 1/14/2010 | Recommended Denial | 2/2/2010 | Denied | N/A |
| C/U 2079 | Clean Bay Renewables, LLC Sussex II | AR-1 | Electrical Generation and Nutrient Recovery Facility | 7/13/2017 | Recommended Denial | 7/18/2017 | Withdrawn | — |
| C/U 2080 | Clean Bay Renewables, LLC Sussex I | AR-1 | Electrical Generation and Nutrient Recovery Facility | 7/13/2017 | Recommended Denial | N/A | Withdrawn | — |
| C/U 2119 | Chad Hayes | AR-1 | Automotive Sales with Minor Repair and Contractor Office with Storage | 3/22/2018 | Recommended Approval | 4/17/2018 | Approved | 2571 |
| C/U 2228 | M.L. Joseph Heirs Farm Account, LLC | AR-1 | Campground | 11/12/2020 | Recommended Approval | 11/17/2020 | Approved | 2755 |
| C/U 2369 | Leeward Chase DE, LLC | AR-1 | Multifamily (106 Units) | 2/23/2023 | Recommended Approval | 6/27/2023 | Approved | 2936 |



Based on the analysis of the land use, surrounding zoning and uses, a Conditional Use Application to allow for use of the existing dwelling structure on the premises as a professional construction services office, parking and associated site improvements, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.

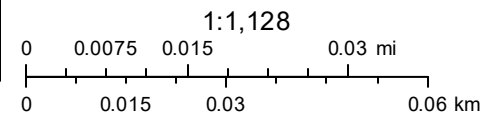


Sussex County



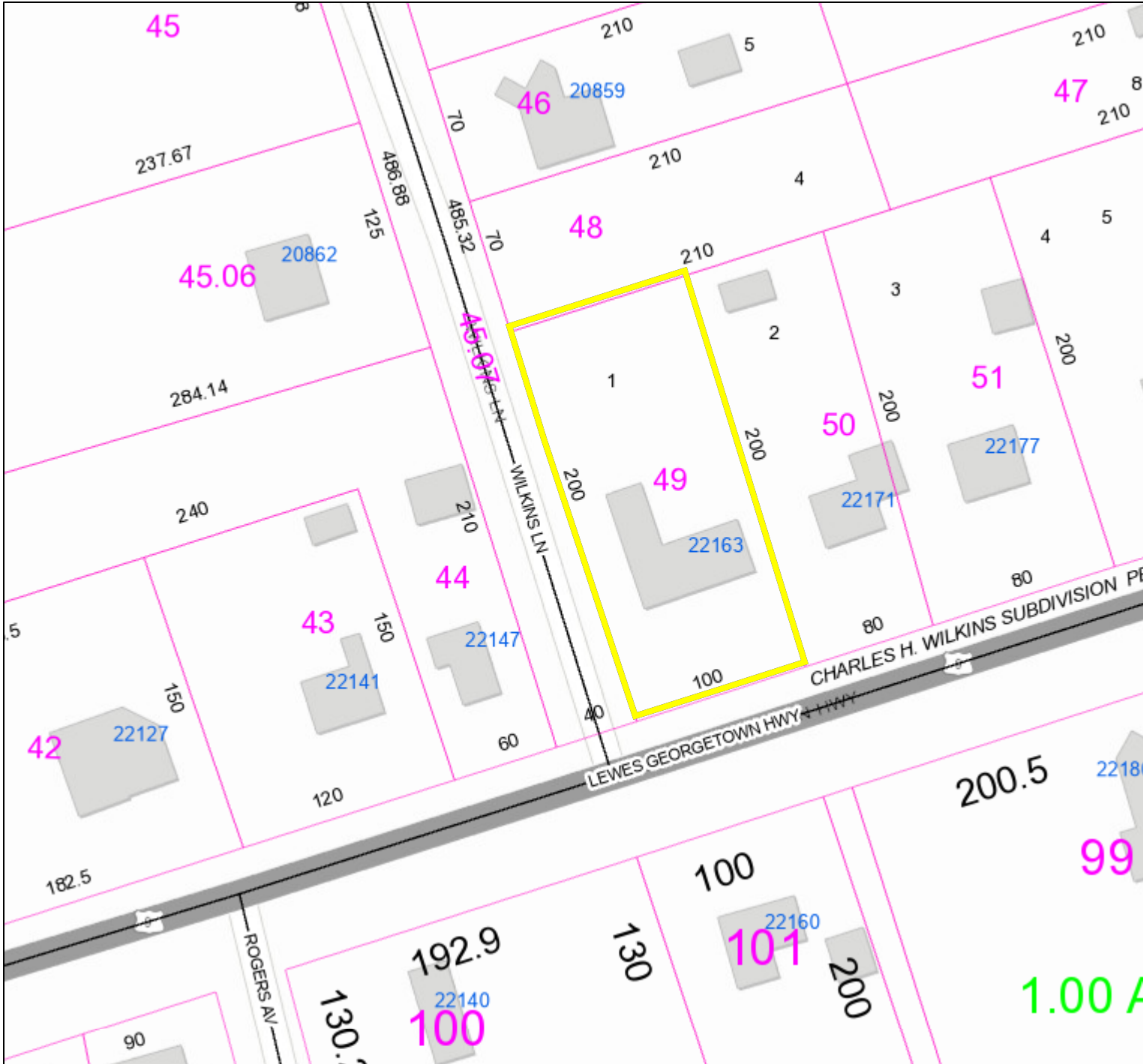
| | |
|------------------------|----------------------|
| PIN: | 135-15.00-49.00 |
| Owner Name | MORALES BUILDERS LLC |
| Book | 5935 |
| Mailing Address | 7 SWAIN AVE |
| City | GEORGETOWN |
| State | DE |
| Description | CHARLES WILKINS SUB |
| Description 2 | LOT 1 |
| Description 3 | N/RT 18 |
| Land Code | |

- 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



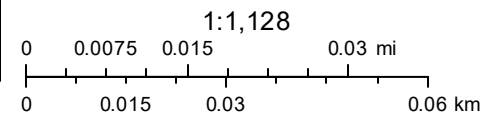


Sussex County



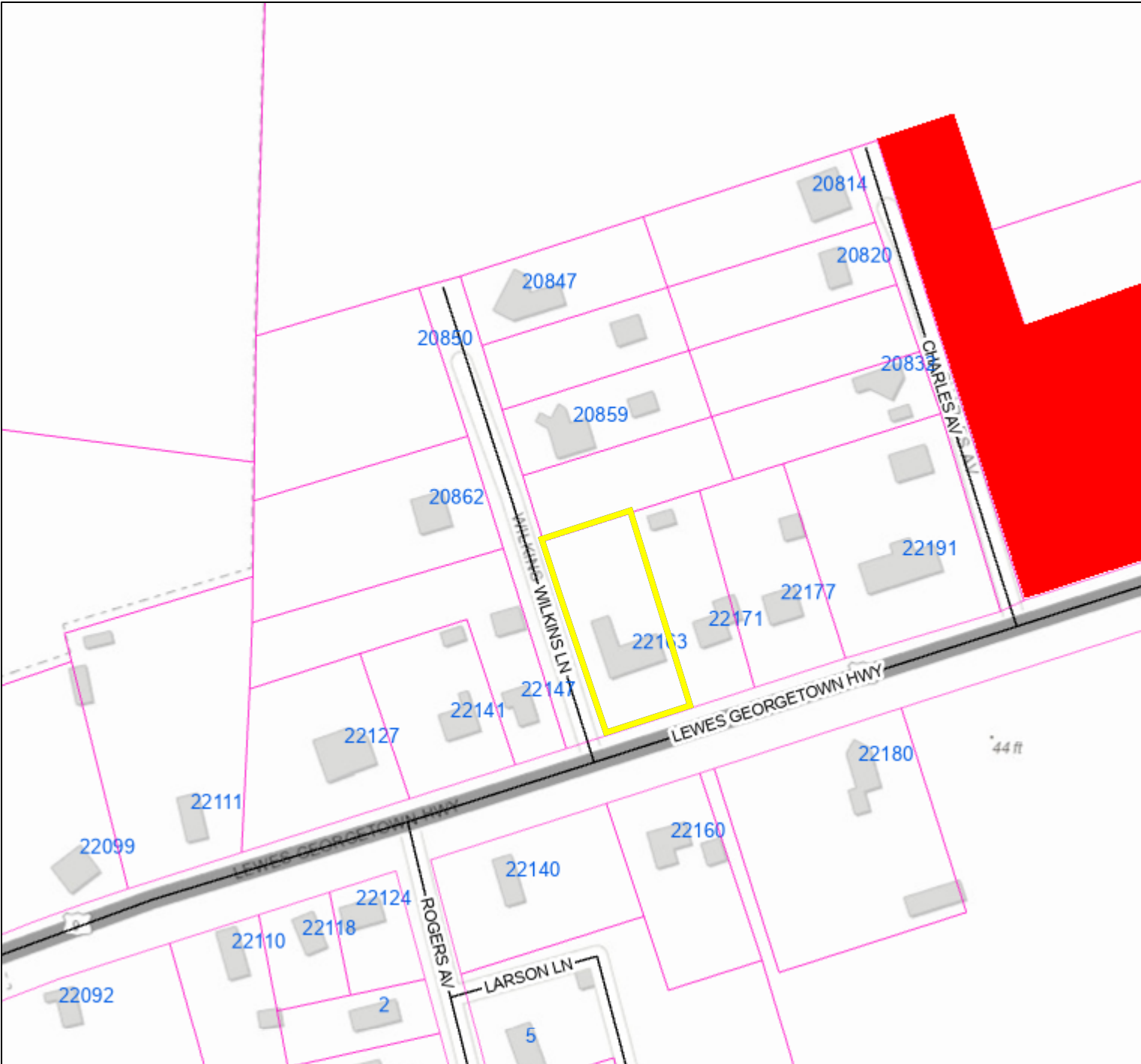
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- Tax Parcels
- 911 Address
- Streets
- County Boundaries



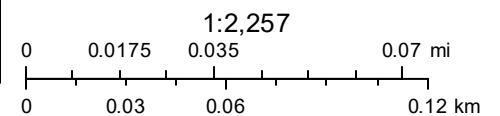


Sussex County



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| Description | CHARLES WILKINS SUB |
| Description 2 | LOT 1 |
| Description 3 | N/RT 18 |
| Land Code | |

- Tax Parcels
- 911 Address
- Streets
- County Boundaries



Introduced: 5/9/23

Council District 5: Mr. Rieley
Tax I.D. No. 135-15.00-49.00
911 Address 22163 Lewes Georgetown Hwy, Georgetown

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PROFESSIONAL OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 0.459 ACRE, MORE OR LESS

WHEREAS, on the 11th day of November 2022, a conditional use application, denominated Conditional Use No. 2412 was filed on behalf of Marco Morales; 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. 2412 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, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2412 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 Georgetown Hundred, Sussex County, Delaware, and lying on the northeast corner of the intersection of Wilkins Lane and Lewes Georgetown Highway (Rt. 9) and being more particularly described in the attached legal description prepared by Wolfe & Associates LLC, said parcel containing 0.459 acre, 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: May 10, 2024

RE: County Council Report for C/Z 2002 filed on behalf of Sadie Properties, LLC

The Planning and Zoning Department received an application (C/Z 2002 filed on behalf of Sadie Properties, LLC) for a Change of Zone for Tax Parcel 233-16.00-26.00 from a C-1 General Commercial District, A C-1 Commercial Residential District, and an AR-1 Agricultural Residential District to a C-1 General Commercial District, a CR-1 Commercial Residential District, and a C-3 Heavy Commercial District. The property is located at 32602 Dupont Boulevard, Dagsboro. The parcel size is 21.11 acres +/-

The Planning & Zoning Commission held a Public Hearing on the application on April 10, 2024. At the meeting of April 24, 2024, the Planning & Zoning Commission recommended approval of the application for the 9 reasons as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meetings of April 10, 2024, and April 24, 2024.

Minutes of the April 10, 2024, Planning & Zoning Commission Meeting

C/Z 2002 Sadie Properties, LLC

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT, A CR-1 COMMERCIAL RESIDENTIAL DISTRICT, AND AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT, A CR-1 COMMERCIAL RESIDENTIAL DISTRICT, AND A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 21.11 ACRES, MORE OR LESS. The property lying on west side of DuPont



Boulevard (Rt. 113) approximately 0.40 mile south of Nine Foot Road (Rt. 26). 911 Address: 32602 Dupont Boulevard, Dagsboro. Tax Map Parcel: 233-16.00-26.00.

Mr. Whitehouse advised the Commission that submitted into record were a copy of the applicant conceptual site plan, a copy of the applicants exhibit booklet, a copy of the DelDOT SLER and the applicants exhibit booklet includes the environmental assessment and Public Facility evaluation reports and no comments.

Mr. Bob Palmer, of Beacon Engineering, spoke on behalf of the Applicant that they are looking for a change in zone tax parcel 233-16.00-26.00 which is located on the southbound side of DuPont Blvd just outside of Dagsboro; that the businesses surrounding the property are zoned commercial; that currently the property is C-1/CR-1 and that portion is used for boat sales, service and storage, while the AR-1 portion is used for just boat storage; that expansion would continue to support the recreational boating and watercraft activities in our region; that a wetland delineation was done in 2016 and there are no regulated wetlands on the property; that the first land acquisition that Mr. Rudloff obtained was to get stormwater access to the Pepper Creek Tax Ditch; that in 2018, he purchased the six acres east of that clearing and surrounding the parcel that is CR-1 land; that the Applicant chose to change zoning to C-3 for the AR-1 portion because it was the least impactful commercial zone that would allow the Applicant to continue his expansion; that this district is intended for larger scale auto oriented retail and service businesses along major arterial roads that serve local, regional residents and the traveling public; that most commercial uses found in this zone are automobile, truck, recreational vehicle and boat sales, rentals and major repair facilities; that the property is Level 2, 3 and 4 in the investment strategies and the area subject to the rezone is actually Level 3 and the Counties comp plan notes that lands in investment Level 3 areas are those in the long term growth plans for counties or municipalities where development is not necessary to accommodate expected or growth population within the next five years or longer; that Investment Level 3 areas also include lands adjacent to or intermingled with fast growing areas within counties or municipalities that are otherwise categorized as investment levels; that the front half of the property is Level 2 investment area which in chapter four of the comp plan, the future land use MAP identifies the AR-1 piece as commercial or developing areas; that the reason for the developing area is because the property is on the fringe of the Dagsboro comp plan; that the comp plan says that developing areas are newer emerging growth areas that demonstrate the characteristics of developmental pressures; that most of the proposed developing areas are adjacent to municipalities, within adjacent to or potential future annexation areas of municipality or located next to town centers; that the purpose for requesting the C-3 is not only to eliminate the AR-1 piece but also to allow Mr. Rudloff to continue to build service base and service buildings much like you see on the preliminary site plan.

Mr. Robertson wanted to clarify that the changing of the zoning map was just an amendment from the existing AR-1 to C-3.

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/Z 2002 Sadie Properties, 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 April 24, 2024, Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since April 10, 2024.

Mr. Mears moved that the Commission recommend approval of C/Z 2002 Sadie Properties, LLC for a change in zone from AR-1 to C-3 (Heavy Commercial) based upon the record made during the public hearing and for the following reasons:

1. The entire property currently has three zoning designations. The area of the property that fronts along Route 113 is zoned C-1 while one portion behind that is zoned CR-1 the remainder of the property is zoned AR-1. The Applicant seeks to convert the AR-1 area to the C-3 Zoning District.
2. The commercially zoned portions of this site are currently used in the Applicant's boat storage, sales and repair business known as "Rudy South". This rezoning will permit the reasonable expansion of the Applicant's business. The C-3 zoning for the rear portion of the property is consistent with the existing use of the property.
3. C-3 Heavy Commercial Zoning is designed to allow auto-oriented retail and service businesses that serve local and regional residents. Permitted Uses include retail uses, restaurants, offices and vehicle service stations. Although a number of uses are permitted, this Applicant intends to use the site for roadside services and auto repair.
4. This property has frontage along Route 113. Route 113 is considered to be a Principle Arterial Roadway according to DelDOT's roadway classification. This is the highest roadway classification issued by DelDOT and it is an appropriate location for C-3 Zoning.
5. The parcel is in an area of Route 113 where there are a variety of zoning districts. This includes HI-1, C-1, CR-1 and GR and AR-1 zoning districts. There is other business, commercial, and industrial uses in the area as well. This rezoning is consistent with the surrounding zoning districts and uses.
6. This property is located in the Commercial Area according to the current Sussex County Land Use Plan. This proposed C-3 Zoning is appropriate in this Area according to the Plan.
7. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity and welfare of the County.
8. No parties appeared in opposition to this rezoning application.
9. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of C/Z 2002 Sadie Properties, LLC for the reasons stated in the motion. Motion carried 5 - 0.

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

PLANNING & ZONING COMMISSION

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



Sussex County

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

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: April 10th, 2024

Application: CZ 2002 Sadie Properties, LLC

Applicant: Sadie Properties, LLC – Thomas Rudloff
32606 Dupont Boulevard
Dagsboro, DE 19939

Owner: Sadie Properties, LLC – Thomas Rudloff
32606 Dupont Boulevard
Dagsboro, DE 19939

Site Location: Lying on west side of DuPont Boulevard (Rt. 113) approximately 0.40 mile south of Nine Foot Road (Rt. 26)

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

Proposed Zoning: A Change of Zone from General Commercial (C-1) Zoning District, Commercial Residential (CR-1) District, & Agricultural Residential (AR-1) Zoning District to General Commercial (C-1) Zoning District, Commercial Residential (CR-1) District, & Heavy Commercial (C-3) Zoning District

Comprehensive Land Use Plan Reference: Commercial Area, Developing Area & Low Density Area. The portion proposed to be rezoned is within the Commercial Area & Developing Area exclusively.

Councilmanic District: Mr. Hudson

School District: Indian River School District

Fire District: Dagsboro Fire Department

Sewer: Private (On-Site Septic)

Water: Private (On-Site Well)

Site Area: 21.11 acres +/-

Tax Map ID: 233-16.00-26.00



JAMIE WHITEHOUSE, AICP MRTPI
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Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Planning Commission Members
From: Mr. Michael Lowrey, Planner III
CC: Vince Robertson, Assistant County Attorney, and applicant
Date: April 1, 2024
RE: Staff Analysis for C/Z 2002 Sadie Properties, LLC

The purpose of this memo is to provide background and analysis for the Planning & Zoning Commission to consider as a part of Application C/Z 2002 Sadie Properties, LLC to be reviewed at the April 10th, 2024, Planning & 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 Change of Zone from Agricultural Residential (AR-1) to Heavy Commercial (C-3) for the (AR-1) portion of Tax Parcel 233-16.00-26.00 to allow for expansion the existing uses (boat sales, service, and storage facility) and additional services. The Parcel is currently split-zoned General Commercial (C-1), Commercial Residential (CR-1), & Agricultural Residential (AR-1) Zoning Districts. The property is lying on the west side of Dupont Boulevard (Rt. 113), approximately .33 miles south of Nine Foot Road (Route 26) at 32602 Sussex Highway (Route 13) in Dagsboro. The Parcel contains 21.011 acres +/- with the (AR-1) portion of the Parcel to be rezoned comprised of 7.42 acres +/-.

Zoning Information

The Parcel is currently split-zoned General Commercial (C-1), Commercial Residential (CR-1), & Agricultural Residential (AR-1) Zoning Districts. This Application seeks a Change of Zone from Agricultural Residential (AR-1) to Heavy Commercial (C-3) for the 7.42 +/- acre portion of the Parcel which is currently zoned Agricultural Residential (AR-1). Parcels to the north are zoned General Commercial (C-1) & Commercial Residential (CR-1) with the parcels to the south and west zoned General Commercial (C-1), General Residential (GR), and Agricultural Residential (AR-1). The Parcels across Dupont Boulevard (Route 113) are zoned General Commercial (C-1).

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 Growth Area designations of "Developing Area" and "Commercial Area." The adjoining parcels to the north, south, and west are classified "Developing Area," "Commercial Area," and "Low Density Area" with parcels across Route 113) within the "Developing Area" and "Commercial Area."



As outlined in the 2018 Sussex County Comprehensive Plan, “Developing Areas” are “newer, emerging growth areas that demonstrate the characteristics of developmental pressures” and are generally “adjacent to municipalities, within or adjacent to potential future annexation areas of a municipality, or adjacent to Town Centers.” (Sussex County Comprehensive Plan, 4-14).

Regarding Commercial improvements in “Developing Areas,” the Plan notes that “in selected areas and at appropriate intersections, commercial uses should be allowed” and “portions of the Developing Areas with good road access and few nearby homes should allow for business and industrial parks” (Sussex County Comprehensive Plan, 4-19).

Regarding Commercial improvements in “Commercial Areas,” the Plan notes, “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.” (Sussex County Comprehensive Plan, 4-17).

The 2018 Sussex County Comprehensive Plan outlines Zoning Districts by their applicability to each Future Land Use category. Under Table 4.5-2 “Zoning Districts Applicable to Future Land Use Categories,” the proposed Heavy Commercial (C-3) District is currently listed as Applicable Zoning Districts within the “Developing Area” and the “Commercial Area” Future Land Use Map categories.

Site Considerations

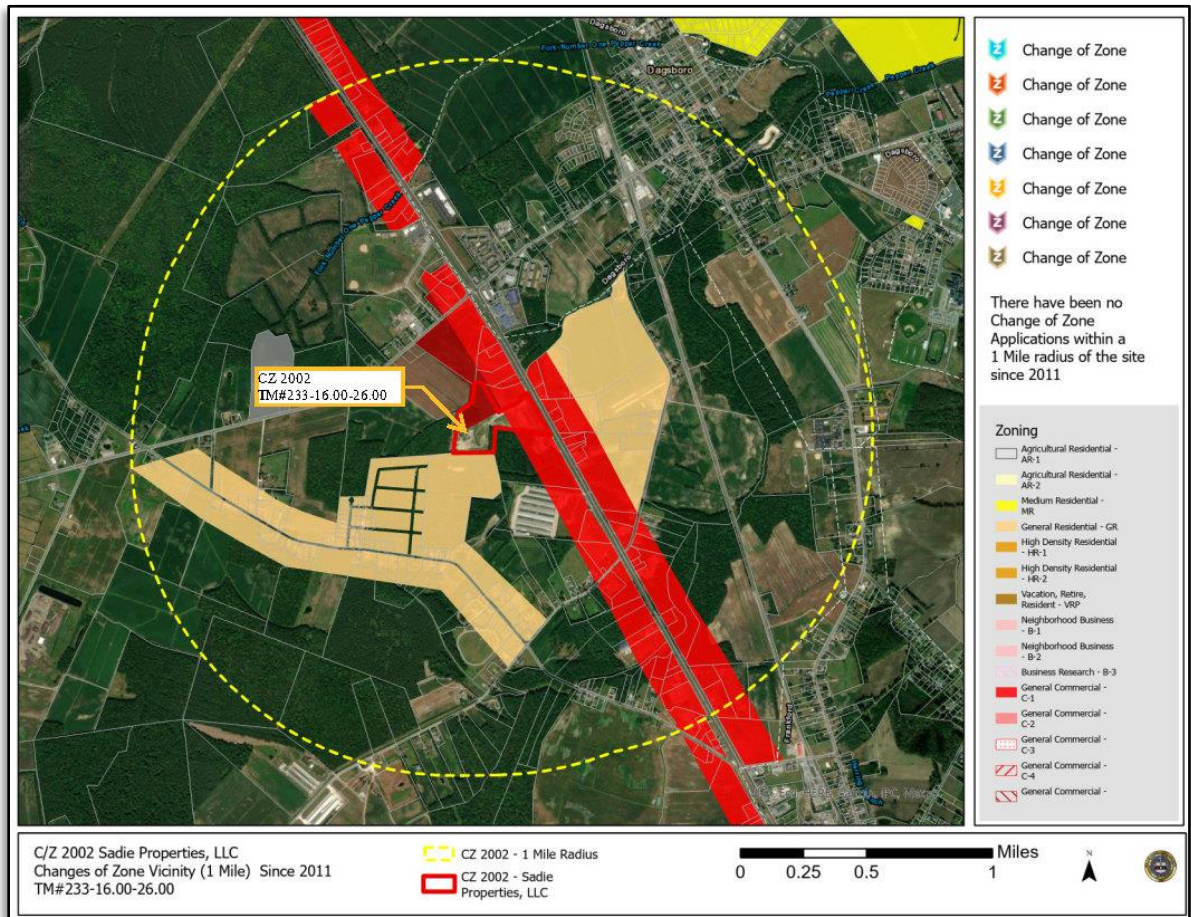
- **Density:** N/A
- **Open Space Provisions:** N/A
- **Agricultural Areas:** The site is located within the vicinity of parcels which appear to be actively farmed. Please include on any Plans submitted the Agricultural Use Protection notice located in (§99-6(G)(1)) of the County Code. This language shall also be included within any subsequent deed restrictions, leases, or agreements of sale for the property.
- **Interconnectivity:** Any new improvements will be required to meet the connectivity requirements in County Zoning Code related to both the (C-3) design requirements and the CHCOZ (§115-194.1).
- **Transportation Improvement District (TID):** N/A
- **Forested Areas:** N/A
- **Wetlands Buffers/Waterways:** The data available to the County indicates isolated wetlands may be present on the site. Please note that it is required that all wetlands be denoted on any plan submitted for review.

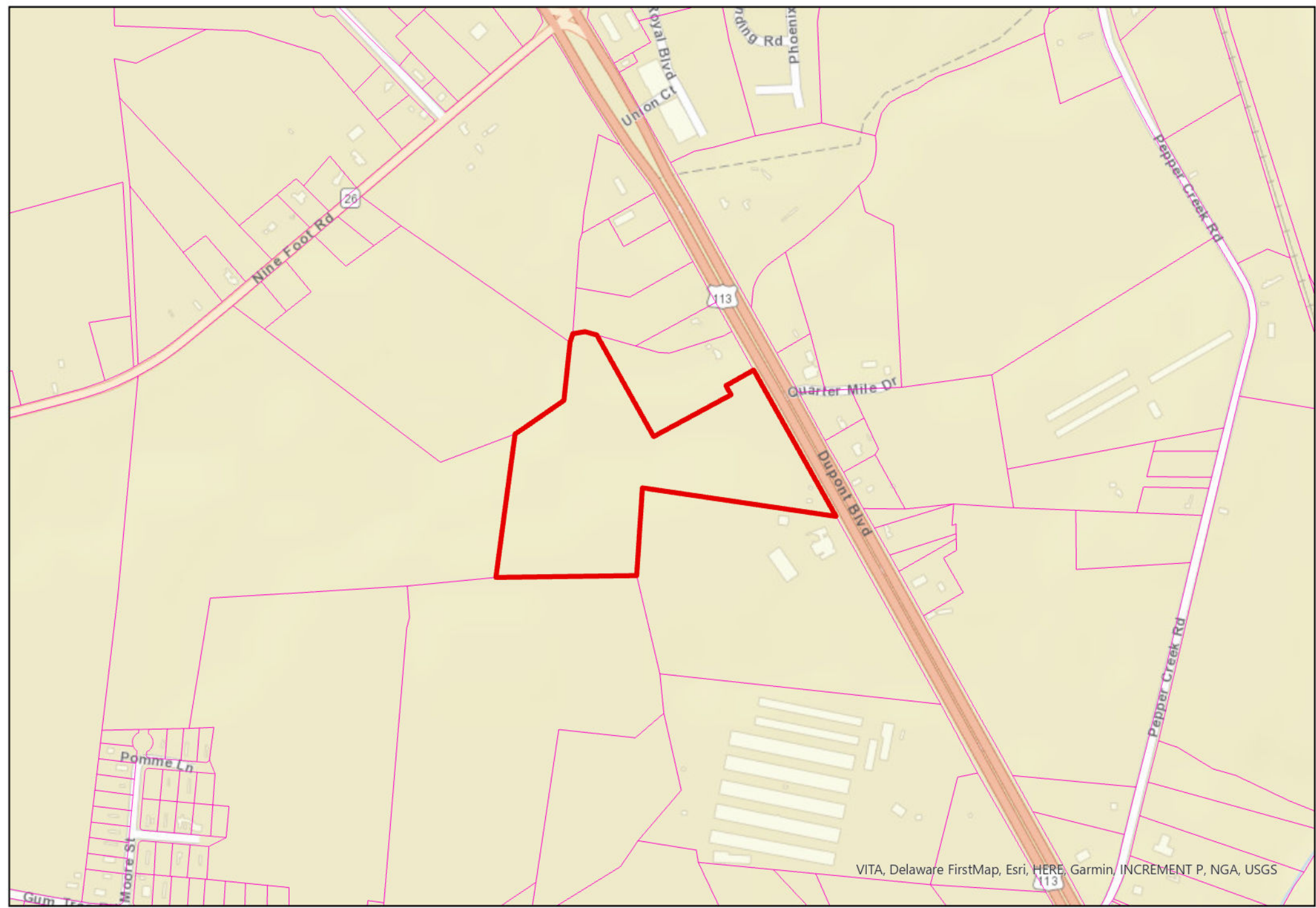
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** Parcel is located within the “X” Flood Zone. The parcel is located within an area of “fair” and “poor” Groundwater Recharge Potential.

Based on the analysis of the land use, surrounding zoning and uses, a Change of Zone from an Agricultural Residential (AR-1) District to a Heavy Commercial (C-3) District to accommodate the expansion of the existing uses (boat sales, service, and storage facility) and the additional services could be considered as being consistent with the land use, based on size and scale, with area zoning and surrounding uses.

Existing Change of Zones within the Vicinity of the Subject Property

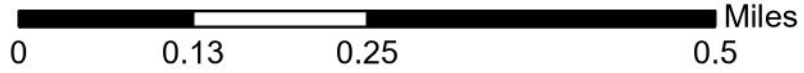
Since 2011, there have been no (0) Change of Zone Applications within a 1-mile radius of the Application site.

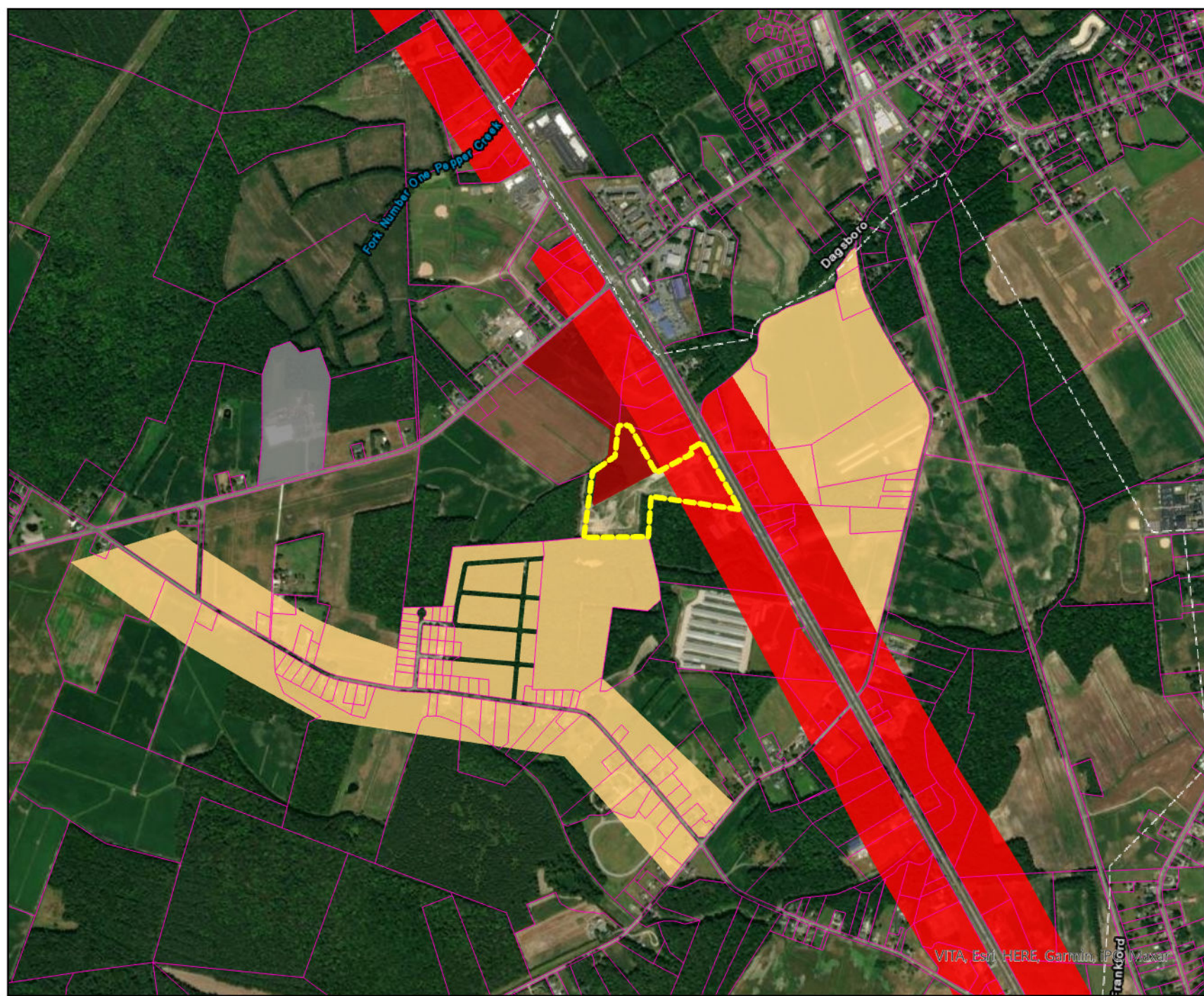




C/U 2002 - Sadie Properties, LLC
Streets Map
TM# 233-16.00-26.00

 CU 2002 - Sadie
Propoerties, LLC

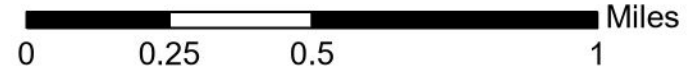




- ### Zoning
- Agricultural Residential - AR-1
 - Agricultural Residential - AR-2
 - Medium Residential - MR
 - General Residential - GR
 - High Density Residential - HR-1
 - High Density Residential - HR-2
 - Vacation, Retire, Resident - VRP
 - Neighborhood Business - B-1
 - Neighborhood Business - 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

C/U 2002 - Sadie Properties, LLC
 Zoning Map
 TM# 233-16.00-26.00

CU 2002 - Sadie Properties, LLC

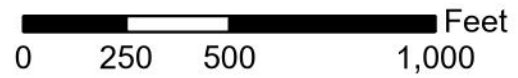




Maxar, Microsoft, VITA, Esri, HERE, Garmin, IPC

C/U 2002 - Sadie Properties, LLC
Aerial Map
TM# 233-16.00-26.00

 CU 2002 - Sadie
Propoerties, LLC



Introduced: 3/19/24

Council District 4: Mr. Hudson
Tax I.D. No.: 233-16.00-26.00
911 Address: 32602 DuPont Boulevard, Dagsboro

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT, A CR-1 COMMERCIAL RESIDENTIAL DISTRICT, AND AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT, A CR-1 COMMERCIAL RESIDENTIAL DISTRICT, AND A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 21.11 ACRES, MORE OR LESS

WHEREAS, on the 8th day of December 2022, a zoning application, denominated Change of Zone No. 2002 was filed on behalf of Sadie 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 Change of Zone No. 2002 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 has determined, based on the findings of facts, that said change of zone 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,

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article II, Subsection 115-7, Code of Sussex County, be amended by deleting from the Comprehensive Zoning Map of Sussex County the zoning classification of [AR-1 Agricultural Residential] and adding in lieu thereof the designation and C-3 Heavy Commercial District as it applies to the properties 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 west side of DuPont Boulevard (Rt. 113) approximately 0.40 mile south of Nine Foot Road (Rt. 26) and being more particularly described in the attached deed prepared by Gordon, Foumaris & Mammarella, P.A said parcels containing 21.11 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.



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: May 10, 2024

RE: County Council Report for C/U 2411 filed on behalf of Joshua Zuppo

The Planning and Zoning Department received an application (C/U 2411 filed on behalf of Joshua Zuppo) for a tree service business, to be located at Tax Parcels 234-32.00-30.00. The property is located at 28121 Gravel Hill Road, Millsboro. The parcel size is 1.94 acres +/-

The Planning & Zoning Commission held a Public Hearing on the application on April 10, 2024. At the meeting of April 24, 2024, the Planning & Zoning Commission recommended approval of the application for the 7 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 meetings of April 10, 2024, and April 24, 2024.

Minutes of the April 10, 2024, Planning & Zoning Commission Meeting

C/U 2411 Joshua Zuppo

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A TREE SERVICE BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.94 ACRES, MORE OR LESS.

The property is lying on the east side of Gravel Hill Road (Rt. 30) approximately 0.35 mile north of the intersection of Gravel Hill Road (Rt. 30) and John J. Williams Highway (Rt. 24) 911 Address: 28121 Gravel Hill Road, Millsboro Tax Map Parcel: 234-32.00-30.00.

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the applicant's boundary survey plan, a copy of the DelDOT SLER, and a copy of the applicant's exhibits.



Mr. Whitehouse stated that there were 10 comments, 7 in favor of the application and 3 in opposition.

Mr. David J. Weidman, Esq., spoke on behalf of Mr. Joshua Zuppo in regards to the application that they would like to operate a tree business within the AR-1 zoning district; that currently their already is another tree business located directly behind the parcel in question today; that with the exception to the small sign out front of the property there is no way to tell that there is a tree business even located on the property; that within about ¼ of a mile surrounding this parcel is several other businesses, including another tree business, archery place, and a pole barn building with several bays; that the immediate area around the parcel is zoned AR-1 so it is primarily residential; that the neighbors of the adjacent properties have written letters of support and that there is no adverse impact on them; that the owner currently has the sides of the property well buffered to limit disturbance to the neighbors; that the property is set in a developing area; that they are proposing the business hours be Monday through Friday 7:45AM - 6:00 PM; that during emergencies, we would ask that those times be flexible due to storms or emergency calls in the middle of the night; that the use of chainsaws and power equipment be limited to 6hrs per day from 9:00AM - 3:00PM Monday through Saturday; that after cutting down trees the business brings them back to the property and cuts them into logs to sell or mulches them down;

Ms. Wingate asked Mr. Weidman to clarify what is on the applicants property as when she visited the site there appeared to be a large amount of trees, debris, trash and containers filled with some liquid, possibly oil or chemicals not being properly disposed of; that they wanted to know how many employees the business has, do they want to put up a larger sign of 32sq-ft and how long does the logs sit outside of the property as the concern of an overwhelming amount of storage is prevalent.

Mr. Mears asked about the traffic being impacted by his work vehicles and that fact that there is a small driveway to get into his property and the property sits on a curve.

Mr. Joshua Zuppo, of 28121 Gravel Hill Rd Millsboro, spoke on behalf of himself in response to the Commissions questions that containers filled with liquid is motor oil that he sends up to a mechanic who burns it in his heater; that currently he has 3 employees plus himself and they all arrive at his property and then take the work trucks out to jobs daily; that he would be interested in putting up a larger sign than he already has; that the piles of logs normally do not last long as he sells approximately 100 chords per month and sometimes the turnaround time on those logs could be greater as they are sold to the local camps; that he has no issues with traffic or trucks gaining access to the property since being there.

Mr. Leo Schamberger, of 28161 Gravel Hill Rd, spoke in opposition to the application in regards to the noise and having issues with the company for two years now; that he has replaced his windows and his stepson moved out due to the inability to sleep because of the noise from the chainsaws running; that he has video of noise to show the Commission; that not only does the noise pose a problem, but there is concern about the traffic, the air quality and water pollution.

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 2411 Joshua Zuppo. Motion by Ms. Wingate to defer action for further consideration, seconded by Mr. Mears and carried unanimously. Motion carried 5-0.

Minutes of the April 24, 2024, Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since April 10, 2024.

Ms. Wingate moved that the Commission recommend approval of C/U 2411 Joshua Zuppo for a tree service based on the record made during the public hearing and for the following reasons:

1. The property is a 1.94-acre parcel located on Gravel Hill Road. The Applicant testified that many of his neighbors have no objection to the use as a tree service. The approval of this Conditional Use will confirm the existence of the Applicant's tree service, but with conditions that further protect the neighborhood from the impacts of this business.
2. This property is located in the "Developing Area" according to Sussex County's Comprehensive Plan. There are also other small businesses out in this area. This small business will be consistent with those other uses.
3. There will be no retail sales from the property and the proposed use is limited. With the conditions imposed by the County, the use will not adversely affect neighboring properties, roadways, or traffic.
4. This is an agricultural-type use, and it is consistent with the underlying AR-1 zoning of the property.
5. The business provides a service to a wide variety of Sussex County residents, farmers, and businesses. It has a public or semi-public character that will benefit the residents, farmers, and businesses of Sussex County.
6. The Applicant's property contains natural buffers in the form of tree lines that will screen this use from the adjacent properties.
7. The proposed use will have no significant impact upon traffic and DelDOT did not require a TIS.
8. This recommendation is subject to the following conditions:
 - A. This use shall be limited to a tree service business. No other business shall be conducted from the site.
 - B. No retail sales shall be conducted from the site.
 - C. No dyeing of mulch or other materials shall occur on the site.
 - D. A small, lighted sign shall be permitted. It shall not exceed 24 square feet per side.
 - E. The hours of operation shall be limited to 8:00 am through 6:00 pm, Monday through Friday. The use of chainsaws, log splitters, grinders or other power equipment shall only be used between 9:00 am and 1:00 pm, Monday through Friday. There shall not be any Saturday or Sunday hours of operation except in the very limited case of weather emergencies.
 - F. The natural tree buffers shall remain in place along the property's side boundaries to screen the use from the view of neighboring properties.
 - G. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.
 - H. The applicant shall comply with any DelDOT requirements, including any entrance or roadway improvements.

- I. The Final site plan shall clearly show all areas set aside for the temporary storage of logs, timber, firewood or woodchips. These storage areas shall be no closer than 20 feet to the property's boundaries.
- J. All cars, trucks, trailers, and equipment shall be parked at the rear of the property, behind the improvements. This parking area shall be shown on the Final Site Plan.
- K. All dumpsters shall be screened from the view of neighboring properties and roadways. The location of all dumpsters shall be shown on the Final Site Plan.
- L. Failure to comply with any of these conditions may be grounds for termination of the Conditional Use approval.
- M. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Ms. Wingate, seconded by Mr. Butler and carried unanimously to recommend approval of C/U 2411 Joshua Zuppo for the reasons and conditions stated in the motion. Motion carried 3-2.

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

PLANNING & ZONING COMMISSION

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



Sussex County

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

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: April 10, 2024

Application: CU 2411 Joshua Zuppo

Applicant: Joshua Zuppo
28121 Gravel Hill Road
Millsboro, DE 19966

Owner: Joshua Zuppo
28121 Gravel Hill Road
Millsboro, DE 19966

Site Location: Located on the east side of Gravel Hill Road (Rt. 30), approximately 0.35-mile(s) north of the intersection of Gravel Hill Road and John J. Williams Highway (Rt. 24).

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

Proposed Use: Tree Company

Comprehensive Land Use Plan Reference: Developing Area

Councilmanic District: Mr. Rieley

School District: Indian River School District

Fire District: Millsboro Fire Co.

Sewer: On-site septic

Water: On-site Well

Site Area: 1.94-acres +/-

Tax Map ID.: 234-32.00-30.00



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



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Planning and Zoning Commission Members
From: Elliott Young, Planner I
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: October 30, 2023
RE: Staff Analysis for CU 2411 Joshua Zuppo

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 2411 (Joshua Zuppo) to be reviewed at a not yet determined 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: 234-32.00-30.00 to allow for a tree business. The property is lying on the east side of Gravel Hill Road (Rt. 30), approximately 0.35-mile(s) north of the intersection of Gravel Hill Road and John J. Williams Highway (Rt. 24). The applicant is applying for 1.94-acre(s) +/- 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 "Developing Area." All adjoining parcels to the north, south, east, and west across Gravel Hill Road also have a Future Land Use Map designation of "Developing Area."

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).

Zoning Information

The subject property is zoned Agricultural Residential (AR-1) District. All adjacent properties to the north, east, south, and west across Gravel Hill 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 “Developing Area” 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 have been two (2) Conditional Use applications within a one (1) mile radius of the Application Site.

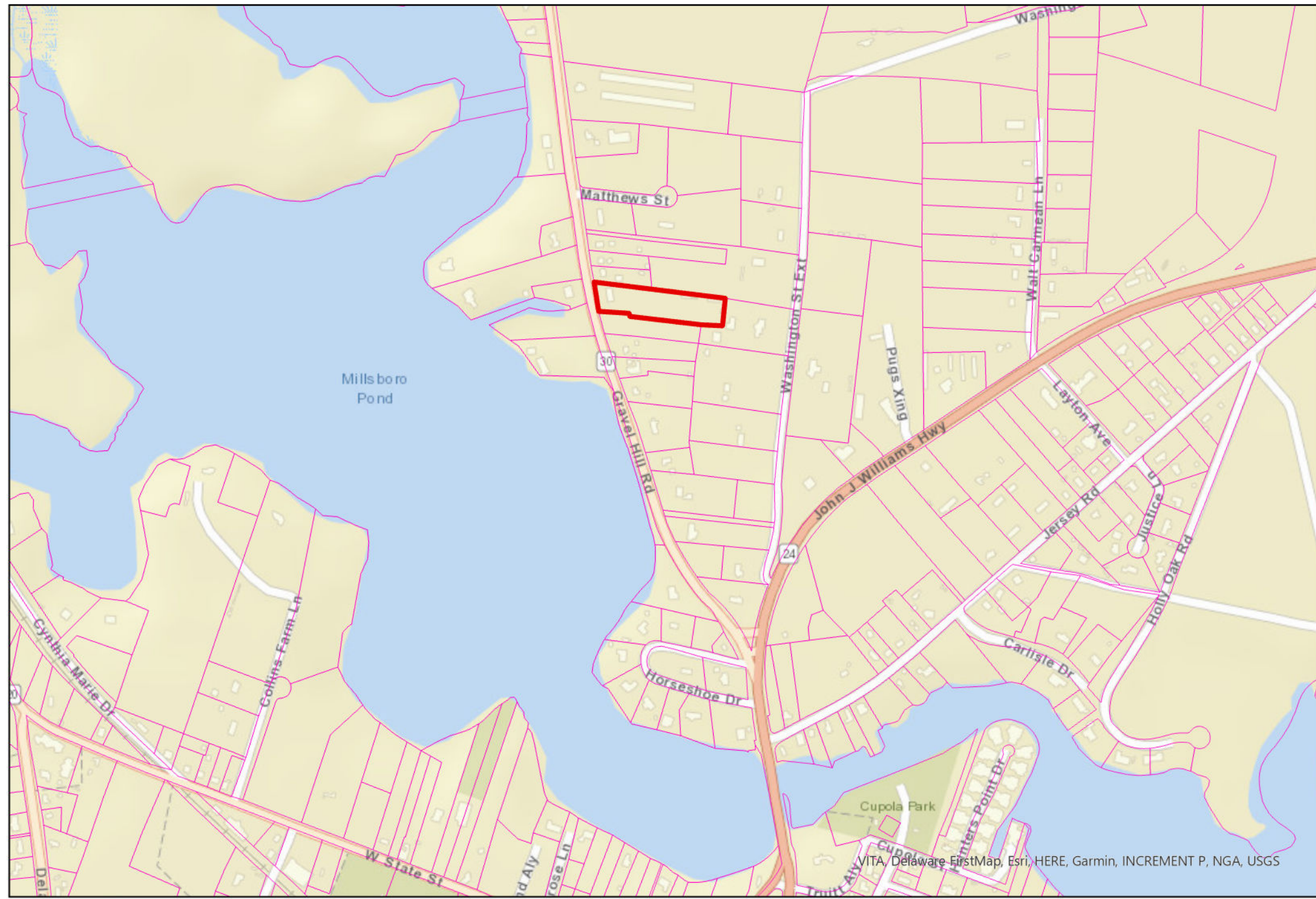
| Conditional Use No. | Applicant | Proposed Use | CC Decision Date | Ordinance No. |
|---------------------|---------------------|----------------|------------------|-----------------|
| 1977 | Matthew T. Favinger | Doctors Office | 1/7/2014 | 2333 |
| 2303 | Antonia Lopez | Food Vendor | 8/23/2022 | N/A (Denied) |




Site Considerations

- **Density:** N/A
- **Open Space Provisions:** N/A
- **Agricultural Areas:** N/A
- **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 tree business in this location could be considered as being consistent with the surrounding land use, zoning, and uses, subject to considerations of scale and impact.



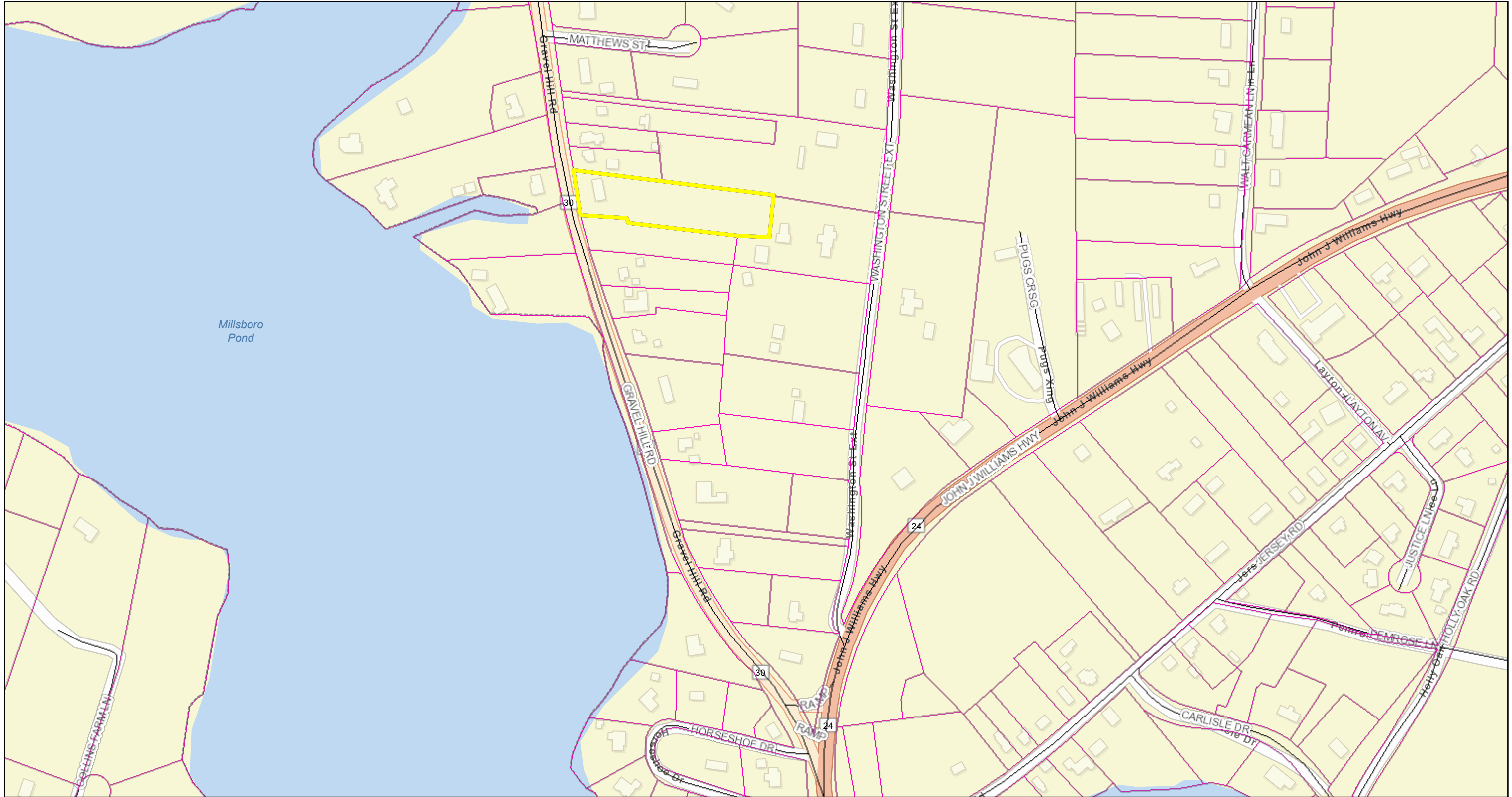
C/U 2411 - Joshua Zuppo
Streets Map
TM# 23432.00-30.00

 CU 2411 - Joshua Zuppo








VITA, Delaware FirstMap, Esri, HERE, Garmin, INCREMENT P, NGA, USGS

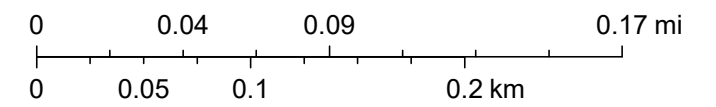
Sussex County



October 30, 2023

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

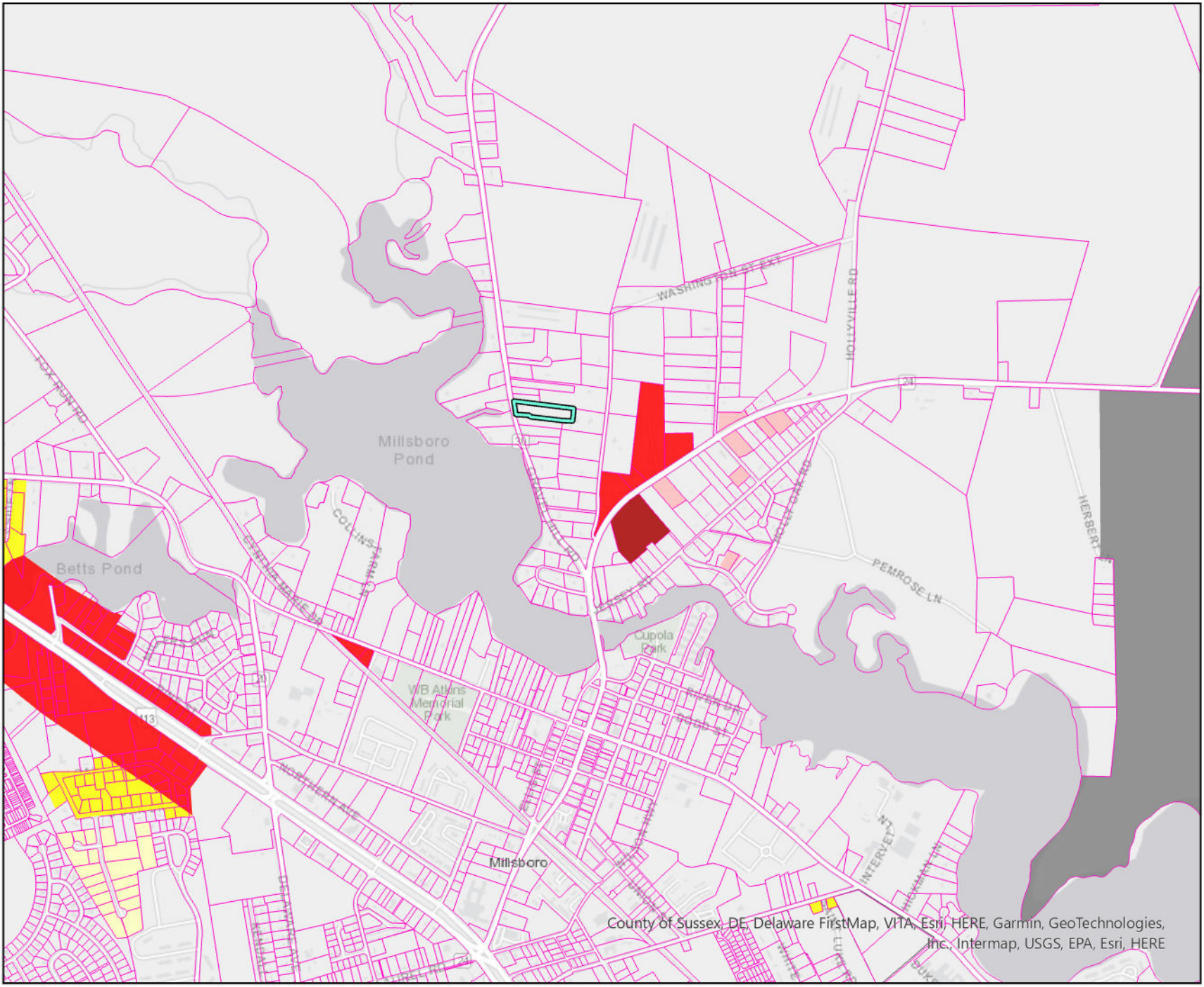
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Sussex County Government, Esri Community Maps Contributors, County of Sussex, DE, Delaware FirstMap, VGIN, © OpenStreetMap, Microsoft, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA


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



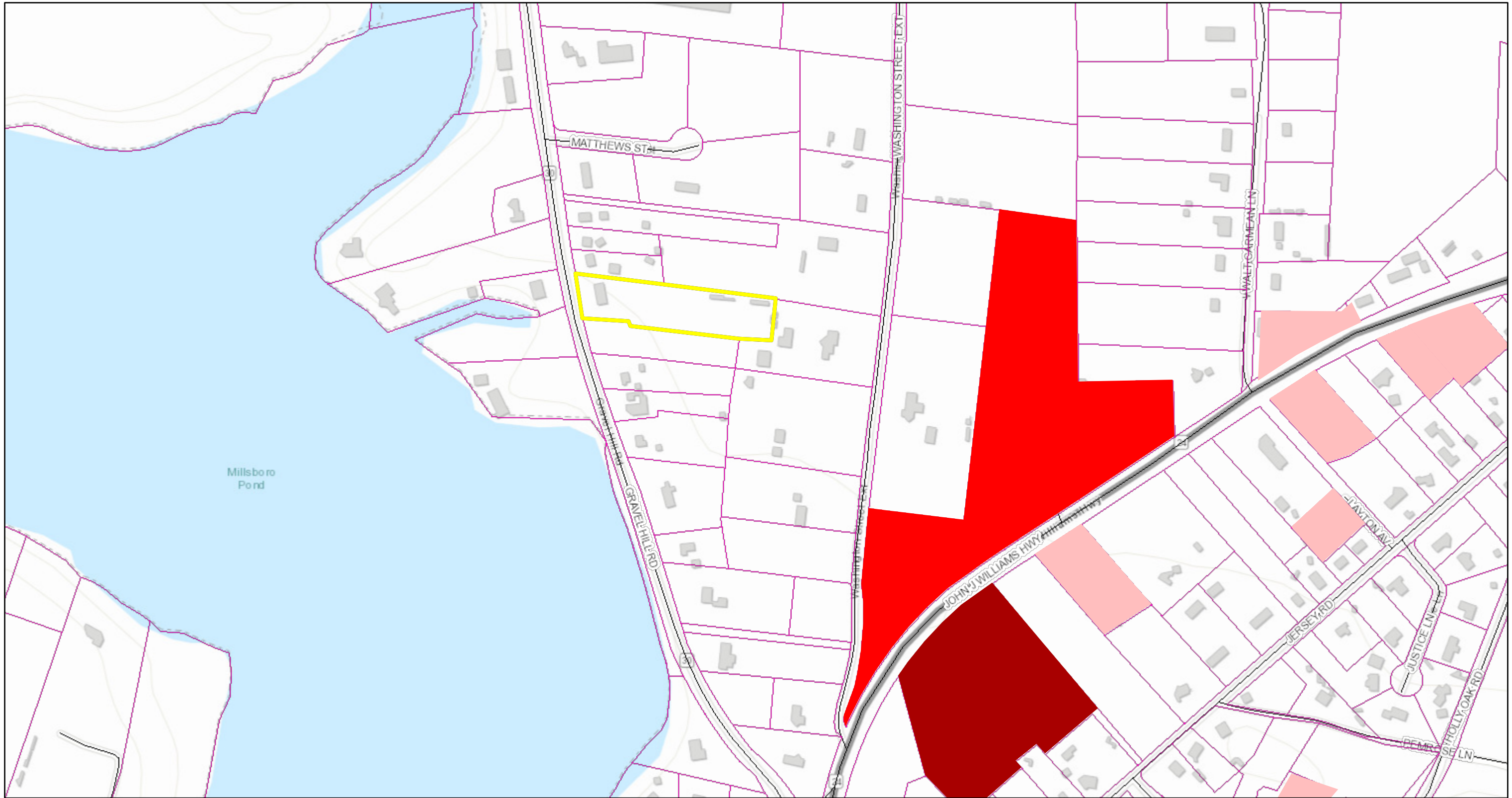
County of Sussex, DE, Delaware FirstMap, VITA, Esri, HERE, Garmin, GeoTechnologies, Inc., Intermap, USGS, EPA, Esri, HERE

C/U 2411 - Joshua Zuppo
 Zoning Map
 TM# 234-32.00-30.00

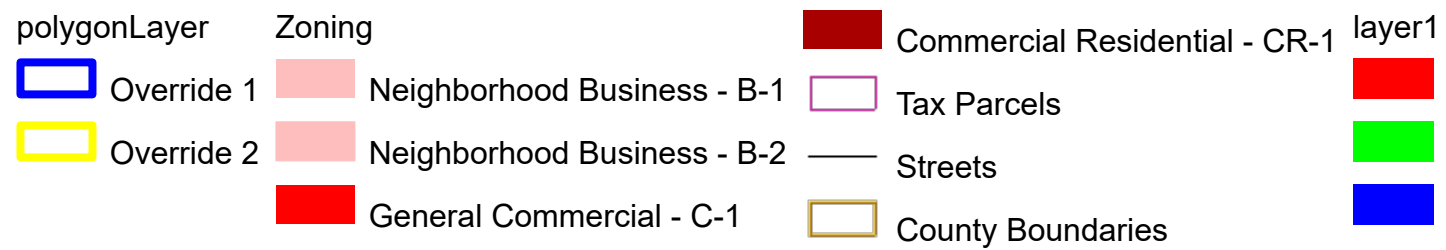
 CU 2411 - Joshua Zuppo



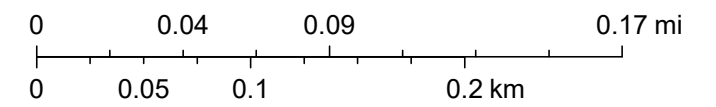
Sussex County



October 30, 2023



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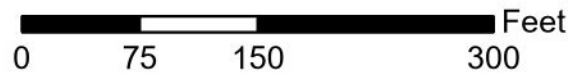
County of Sussex, DE, Delaware FirstMap, VITA, Esri, HERE, Garmin, INCREMENT P, USGS, EPA, USDA, Sussex County Government



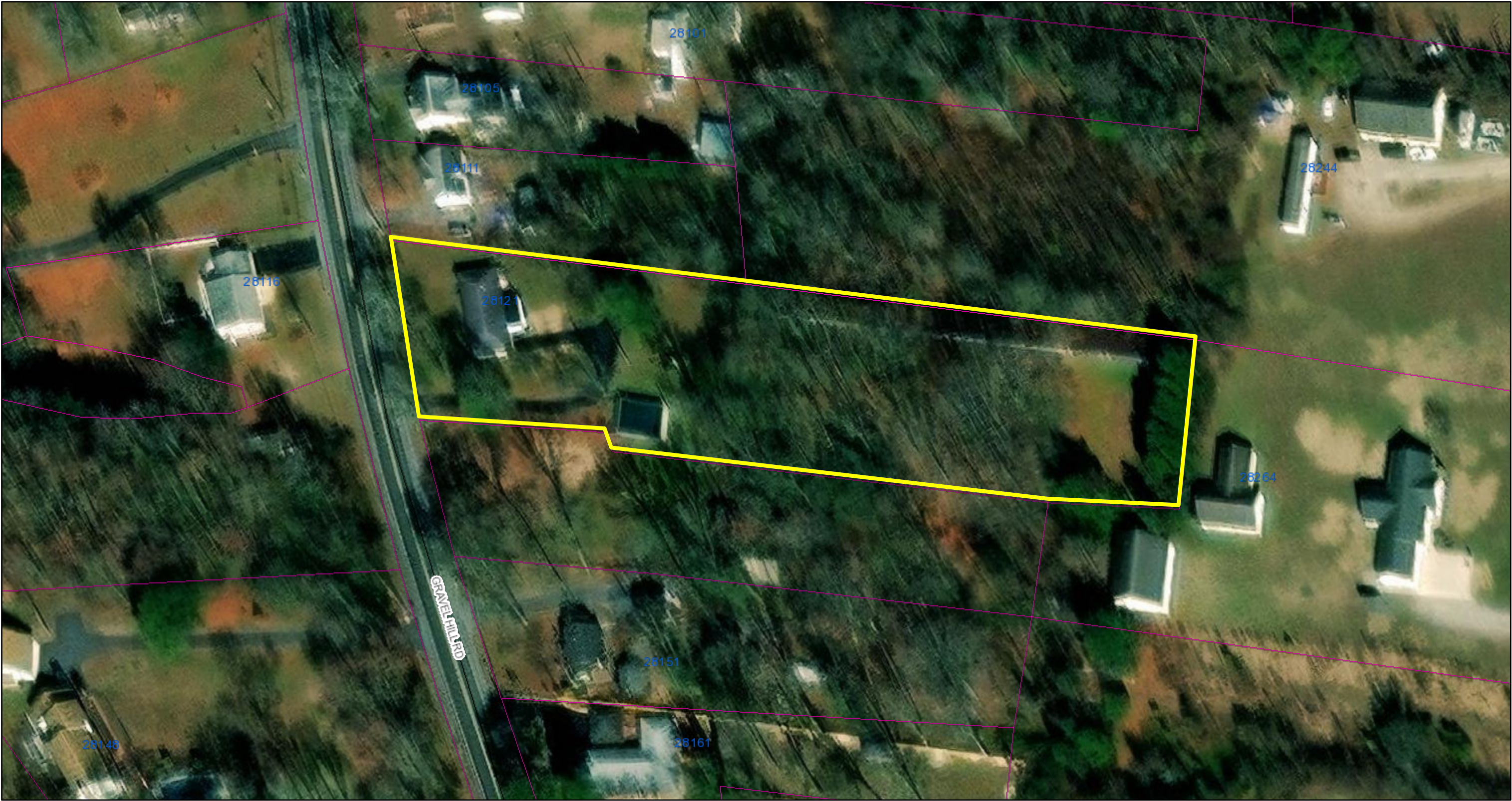
State of Delaware, Maxar, Microsoft, WTA, Esri, HERE, Garmin, iPC

C/U 2411 - Joshua Zuppo
Aerial Map
TM# 23432.00-30.00

 CU 2411 - Joshua Zuppo

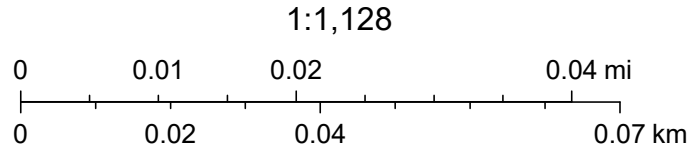


Sussex County



October 30, 2023

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



Maxar, Microsoft, Sussex County Government

Introduced: 10/24/23

Council District 5: Mr. Rieley
Tax I.D. No.: 234-32.00-30.00
911 Address: 28121 Gravel Hill Road, Millsboro

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A TREE SERVICE BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.94 ACRES MORE OR LESS

WHEREAS, on the 18th day of November 2022, a conditional use application, denominated Conditional Use No. 2411 was filed on behalf of Joshua Zuppo; 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. 2411 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, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2411 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 Indian River Hundred, Sussex County, Delaware, and lying on the east side of Gravel Hill Road (Rt. 30) approximately 0.35 mile north of the intersection of Gravel Hill Road (Rt. 30) and John J. Williams Highway (Rt. 24) and being more particularly described in the attached legal description prepared by Susan Pittard Weidman, P.A. said parcels containing 1.94 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.



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: May 10, 2024

RE: County Council Report for Ord. 24-01 relating to the Regulation of Marijuana Establishments in Sussex County

On February 6, 2024, the County Council introduced Ordinance No. 24-01 relating to the Regulation of Marijuana Establishments in Sussex County.

The Planning & Zoning Commission held a Public Hearing on the Ordinance on April 10, 2024. At the meeting of April 24, 2024, the Planning & Zoning Commission recommended adoption of the Ordinance for the 6 reasons as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meetings of April 10, 2024, and April 24, 2024.

Minutes of the April 10, 2024, Planning & Zoning Commission Meeting

Ord. 24-01

AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES I, IV, XI, XIA, XIC, XIII, XIV, AND XV, AND XXV, SECTIONS 115-4, 115-20, 115-77, 115-83.2, 115-83.18, 115-83.19A 115-94, 115-102 AND 115-194.6 TO REGULATE MARIJUANA ESTABLISHMENTS IN SUSSEX COUNTY.

Mr. Whitehouse advised the Commission that submitted into record were a copy of the Ordinance as it was introduced by Council a copy of the legal notices in terms of advertising the application and we received zero comments.



Mr. Robertson spoke on behalf of the Ord. 24-01 in regard to state legislation that was adopted that made it legal for adults 21 or over to possess, use, purchase or transport marijuana in personal use quantities; that the legislation also stated that it's not legal to consume in public or in a moving vehicle, and that a person cannot grow, sell or manufacture unless a licensed; that the legislation has an effective date of July 5th of 2023, which created the Office of the Marijuana Commissioner, who is Rob Coupe; that this is new to Delaware and he has been a big help as this ordinance was reviewed by him and his staff; that he explained the State's role in this Ordinance and how highly this industry is going to be regulated on the State level; that the assumption when we started this was that it was going to be an agricultural crop like soybeans, in the field; that's sort of an oversimplification, but that was the assumption was when in reality given not only the security, but the purity requirements, testing and tracking that the state does is more complex; that the cultivation, manufacturing, testing facilities are not open to the public, they're secure and highly regulated; that the legislation created not only the Office of the Marijuana Commissioner, but also authorized the issuance of 125 new business licenses for these facilities; that the legislation established a 15% sales tax on everything to cover the costs of implementing all of this and created an implementation timeline; that the legislation provided the municipalities with the ability to prohibit the cultivation, manufacturing and sale of marijuana, but the counties cannot can only regulate it; that Sussex County must establish its regulations before the State regulations take effect; that as of a month ago Rehoboth, Dewey, Bethany Beach, Millville, Seaford, Ocean View, Fenwick Island, Millsboro, Dagsboro, Middletown and Delmar all prohibited these facilities within those towns and that that's relevant to one of the distance requirements that we have proposed in our code; that it created multiple state agency positions within the Office of Marijuana Commission; that there's five commissioners, Commissioner Coupe, a Deputy Commissioner, an Attorney General, a Community relations officer and administrative specialists; that there's 14 new positions within DATE, 7 new positions within the Division of Revenue, two positions within the Department of Agriculture and six positions within the Department of Health; that timeline for implementation is as follows: July 5th date is the date that the regulations for licensing are going to become official, September 1, 2024 is when the state will begin accepting license applications, October 1, 2024 is when the state will begin to issue the license, November 1, 2024 is when the state will begin to issue up to 60 cultivation facility licenses, December 1, 2024 is when they'll begin issuing up to 30 manufacturing facility licenses, March 1, 2025 is when they will begin to issue up to 30 retail store licenses statewide and March 1, 2025 is when they begin to issue up to 5 testing facility licenses; that the 60 cultivation licenses has two categories of a large one and a small one with the state regulations; that the county has 30 product manufacturing facility licenses, 30 retail store licenses and five testing facility licenses that make up the 125 license cases statewide; that the regular samples collected by the regulators testing includes mold, yeast and bacteria, cannabinoid profile, THC, CBD and CBG, terpene profiles, heavy metals, pesticides and mycotoxin; that Commissioner Coupe stated that Delaware's levels for those are more stringent or equal to the most stringent of any other state in the country; that Delaware wouldn't accept a product that has met adjacent states requirements because they aren't as stringent as ours and it's going to be very highly regulated; that Commissioner Coupe provided an example of an industrial site that was vacant and it was redeveloped as a cultivation facility and a manufacturing facility licensed by the state under our medicinal marijuana regulations; that it's totally closed with no public access, there's no signage to indicate what's occurring; that it can happen any number of places, a converted poultry house that's completely sealed and totally environmentally enclosed, sealed and purified; that it could be the redevelopment of an existing place

in a commercial, industrial or an AR1 zone, a converted greenhouse or poultry house as long as the purity and environmental requirements are satisfied; that after talking to Commissioner Coupe, staff and County Council, the ordinance was introduced so that the cultivation, manufacturing and testing facilities could be a permitted use in a AR-1, C-1, CR-1, C-3 and three industrial zones, L-1, L-2 and H-1; that stores could only be approved in the C-3 Zoning District with a conditional use; that C-3 is generally intended for larger scale auto oriented retail and service businesses along major arterial roads that serve local and regional residents, as well as the traveling public; that the location part made sense looking at the other types of permitted uses in C-3, you can have agriculture related industries, sales and rental of goods and merchandise and equipment; that County Council wanted it to be a conditional use so there would at least be a public hearing on it, so they would know where these facilities are going and the neighbors would have an opportunity to comment; that there are 4 conditions that are governed conditional uses: first, is no retail marijuana store shall be located within 3 miles of a municipal boundary, two, no retail marijuana store shall be located within 3 miles of any other retail marijuana store, three, no retail marijuana store shall be located within 3 miles of any church, school, college, or substance abuse treatment facility is defined in the Delaware Code and 4, retail. Marijuana stores shall only operate between the hours of 7:00 AM and 9:00 PM.; that Commissioner Coupe stated that the state currently allows sales from 9:00AM to 1:00AM, and that is undergoing a proposed change to 9:00AM to 10:00PM and the County should follow the states guidelines; that the regulation of the operation of these facilities, the number of the facilities, the investigation and inspections and all of the tracking, the taxes and everything else, is all regulated at the state level; that the county level is where is the permitted uses for the manufacturing, cultivation and testing in those five or six zoning districts, and then the other part is the stores which is C-3 with the conditional use.

Mr. Bob Palmer spoke on behalf of the application in a neutral response that he thinks the three-mile radius of separation of businesses is a good idea, but that maybe their can be a consideration on the next comprehensive plan to adjust that size. This way it can accommodate some of the larger municipalities that are against the marijuana being within their limits.

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 Ord. 24-01 (Relating to Marijuana Establishments). Motion by Ms. Wingate to defer action for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 5-0.

Minutes of the April 24, 2024, Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since April 10, 2024.

Ms. Wingate moved that the Commission recommend approval of the Ordinance (Ord. 24-01) proposing to amend Chapter 115 of the Sussex County Code to identify the appropriate standards and locations for Marijuana Establishments in Sussex County based on the record made during the public hearing on this ordinance and for the following reasons:

1. The State legislature enacted legislation that permits the licensure of Marijuana Establishments in the State of Delaware. A “Marijuana Establishment” includes Cultivation Facilities, Manufacturing Facilities, Testing Facilities and Stores. As part of that state legislation, municipalities are able to ban Marijuana Establishments within their jurisdiction. Sussex County cannot ban them, but Sussex County can permit them with certain regulations through zoning.
2. The Ordinance strikes a reasonable balance between allowing these Establishments in appropriate locations under certain circumstances while respecting the decision of many municipalities to prohibit them within their boundaries.
3. The Ordinance also creates reasonable distance and separation requirements between the Establishments and other sensitive existing uses including schools, colleges, churches and rehabilitation facilities. There is also an appropriate separation requirement between Establishments.
4. It is appropriate for Cultivation, Manufacturing and Testing Facilities to be a permitted use within the AR-1, C-1, CR-1, C-3, LI-1 and LI-2 Districts. Based on the evidence presented, including information provided to staff by the Marijuana Commissioner, it is most likely that cultivation, manufacturing and testing will occur entirely indoors because of the purity, testing and security requirements that are in place. These operations will be very similar to greenhouses that are already a permitted use in AR-1 and other zoning districts. Likewise, based on that same information, the Testing and Manufacturing Operations will most likely occur entirely within a commercial or industrial building that is identical to what is permitted in the commercial and industrial districts. And none of these uses are open to the public, so their impact upon neighboring or adjacent properties should be minimal. In fact, one example provided by the Office of the Marijuana Commissioner included the adaptive redevelopment of a derelict manufacturing or industrial facility that improved the property significantly.
5. It is appropriate for Marijuana Stores to be located in the C-3 Heavy Commercial District with a conditional use and subject to separation locations. This use is consistent with the “Purpose” of the C-3 District and it is similar to other uses listed within this District. Also, with a conditional use for Marijuana Stores, the County and the public will be made aware of the proposed use and have an opportunity to comment upon it as part of a public hearing process.
6. After the Ordinance was introduced, the Office of the Marijuana Commissioner commented that an amendment should be made to the hours of operation for Marijuana Stores so that there is not an inconsistency with State Code. Therefore, this recommendation is subject to the further recommendation that Section 115-194.6F be amended so that it now states, “*Retail Marijuana Stores may only operate between the hours established for them by Title 4 of the Delaware Code.*” Similarly, Section 115-194F should be amended to state, “*Any licensed and approved pre-existing, legally nonconforming Retail Marijuana Store shall be subject to the hours of operation established for them by Title 4 of the Delaware Code.*”

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to recommend approval of (Ord 24-01) the Ordinance to amend the Code of Sussex County to regulate marijuana establishments in Sussex County. Motion carried 5 -0.

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

1 **AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY,**
2 **CHAPTER 115, ARTICLES I, IV, XI, XIA, XIC, XIII, XIV, AND**
3 **XV, AND XXV, SECTIONS 115-4, 115-20, 115-77, 115-83.2, 115-**
4 **83.18, 115-83.19A 115-94, 115-102 AND 115-194.6 TO REGULATE**
5 **MARIJUANA ESTABLISHMENTS IN SUSSEX COUNTY.**
6

7 WHEREAS, House Bill No. 2 was enacted by the General Assembly of
8 the State of Delaware as an amendment to Titles 4, 11, 16 and 30 of the
9 *Delaware Code* with an effective date of July 5, 2023; and

10 WHEREAS, House Bill No. 2 authorized, among other things, the
11 creation of the State Office of the Marijuana Commissioner, the issuance
12 of a total of 125 State-Wide Open, Microbusiness and Social Equity
13 Licenses for the cultivation and/or sale of marijuana, and authorized the
14 promulgation of Rules and Regulations for the cultivation, distribution
15 and sale of marijuana; and

16 WHEREAS, there is an existing medical marijuana industry in Delaware
17 with approximately 17,000 patients currently participating in that
18 industry; and

19 WHEREAS, of the total 125 State-wide Open, Microbusiness and Social
20 Equity Licenses, 60 of them will be for Marijuana Cultivation Facilities,
21 30 of them will be for Marijuana Product Manufacturing Facilities, 30 of
22 them will be for Retail Marijuana Stores and 5 of them will be for
23 Marijuana Testing Facilities as set forth in Title 4, Section 1343 of the
24 *Delaware Code*; and

25 WHEREAS, Title 4, Section 1351(a) of the *Delaware Code* authorizes
26 municipalities in Sussex County, to “prohibit the operation of marijuana
27 cultivation facilities, marijuana product manufacturing facilities,
28 marijuana testing facilities or retail marijuana stores” as those terms are
29 defined and many, but not all, municipalities in Sussex County have
30 adopted ordinances containing such prohibitions; and

31 WHEREAS, Sussex County acknowledges that many municipalities have
32 prohibited Marijuana Establishments and as a result thereof this
33 Ordinance creates reasonable distance separation requirements from any
34 municipal boundary so that municipalities that have prohibited Marijuana
35 Establishments are not circumvented by having them immediately
36 adjacent to their municipal boundaries; and

37 WHEREAS, unlike municipalities, pursuant to Title 4, Section 1351(b) of
38 the *Delaware Code*, Sussex County is not permitted to prohibit Marijuana
39 Establishments, but instead may enact Ordinances such as this one
40 governing the time, place, manner and number of Marijuana
41 Establishment operations; and

42 WHEREAS, it is the intention of Sussex County to permit Marijuana
43 Establishments in an appropriate zoning district, with reasonable
44 requirements concerning the proximity to schools, churches, substance
45 abuse treatment facilities and other Marijuana Establishments; and

46 WHEREAS, Sussex County has determined that it can be appropriate for
47 Retail Marijuana Stores to operate in the C-3 Heavy Commercial District
48 with a Conditional Use; and

49 WHEREAS, Sussex County has a rich agricultural history, and the
50 cultivation of marijuana is not entirely unlike the propagation of other
51 crops, therefore Sussex County deems it appropriate that Marijuana
52 Cultivation, Manufacturing and Testing may be a permitted use in the AR-
53 1 Agricultural Residential Zoning District; and

54 WHEREAS, Because Marijuana Cultivation, Product Manufacturing and
55 Marijuana Testing Facilities are heavily regulated (including, but not
56 limited to, tracking, security and environmental controls) by the State of
57 Delaware and are generally conducted indoors, it is appropriate for them
58 to also operate in the C-1, CR-1, C-3, LI-1, LI-2 and HI-1 Districts as a
59 permitted use; and

60 WHEREAS, it has been determined that this Ordinance promotes and
61 protects the health, safety, convenience, orderly growth and welfare of
62 the inhabitants of Sussex County.

63
64 **NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY**
65 **ORDAINS:**

66
67 **Section 1. The Code of Sussex County, Chapter 115, Article I, § 115-**
68 **4 is hereby amended by inserting the italicized language**
69 **alphabetically within the definitions as follows:**

70
71 **§ 115-4. Definitions and Word Usage.**

72 . . .

73
74 **B.**

75 General definitions. For the purpose of this chapter, certain terms and
76 words are hereby defined as follows:

77
78 . . .

79
80 ***Marijuana Commissioner***

81 *The person appointed by the Governor and confirmed by the Senate who*
82 *serves as the Marijuana Commissioner for the State of Delaware.*

83
84 ***Marijuana Cultivation Facility***

85 *An entity licensed by the Marijuana Commissioner to cultivate, prepare,*
86 *and package marijuana and sell marijuana to retail marijuana stores, to*
87 *marijuana product manufacturing facilities, and to other marijuana*
88 *cultivation facilities, but not to consumers. A marijuana cultivation*
89 *facility may not produce marijuana concentrates, tinctures, extracts, or*
90 *other marijuana products.*

91

92 ***Marijuana Establishment***

93 *An entity licensed by the Marijuana Commissioner as a marijuana*
94 *cultivation facility, a marijuana testing facility, a marijuana product*
95 *manufacturing facility, or a retail marijuana store.*

96
97 ***Marijuana Product Manufacturing Facility***

98 *An entity licensed by the Marijuana Commissioner to purchase*
99 *marijuana; manufacture, prepare, and package marijuana products; and*
100 *sell marijuana and marijuana products to other marijuana product*
101 *manufacturing facilities and retail marijuana stores, but not to*
102 *consumers.*

103
104 ***Marijuana Products***

105 *Products that are comprised of marijuana, including concentrated*
106 *marijuana, and other ingredients and are intended for use or*
107 *consumption, such as edible products, ointments, and tinctures.*

108
109 ***Marijuana Testing Facility***

110 *An entity licensed by the Marijuana Commissioner to test marijuana for*
111 *potency and contaminants.*

112
113 . . .

114
115 ***Retail Marijuana Store***

116 *An entity licensed by the Marijuana Commissioner to purchase marijuana*
117 *from marijuana cultivation facilities; to purchase marijuana and*
118 *marijuana products from marijuana product manufacturing facilities;*
119 *and to sell marijuana and marijuana products to consumers.*

120
121 **Section 2. The Code of Sussex County, Chapter 115, Article IV, §**
122 **115-20 is hereby amended by inserting the italicized language therein**
123 **as follows:**

124

125 **§ 115-20. Permitted Uses.**
126

127 A. A building or land shall only be used for the following purposes:
128

129 . . .
130

131 *(18) Marijuana Cultivation Facilities, Marijuana Product*
132 *Manufacturing Facilities or Marijuana Testing Facilities.*
133

134 **Section 3. The Code of Sussex County, Chapter 115, Article XI, §**
135 **115-77 is hereby amended by inserting the italicized language therein**
136 **as follows:**
137

138 **§ 115-77. Permitted Uses.**
139

140 A. A building or land shall only be used for the following purposes:
141

141 . . .
142

143 *Marijuana Cultivation Facilities, Marijuana Product Manufacturing*
144 *Facilities or Marijuana Testing Facilities.*
145

146 **Section 4. The Code of Sussex County, Chapter 115, Article XIA, §**
147 **115-83.2 is hereby amended by inserting the italicized language**
148 **therein as follows:**
149

150 **§ 115-83.2. Permitted Uses.**
151

152 A. A building or land shall only be used for the following purposes:
153

153 . . .

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Marijuana Cultivation Facilities, Marijuana Product Manufacturing Facilities or Marijuana Testing Facilities.

Section 5. The Code of Sussex County, Chapter 115, Article XIC, § 115-83.18 is hereby amended by inserting the italicized language therein as follows:

§ 115-83.18. Permitted Uses.

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

. . .

- (1) Agriculture-related uses.
 - (a) Greenhouse, commercial
 - (b) Wholesale, retail nurseries for sale of products produced on site.
 - (c) *Marijuana Cultivation Facilities, Marijuana Product Manufacturing Facilities or Marijuana Testing Facilities.*

Section 6. The Code of Sussex County, Chapter 115, Article XIC, is hereby amended by inserting a new § 115-83.19A “Conditional Uses” as follows:

§ 115-83.19A. Conditional Uses.

The following uses may be permitted as conditional uses when approved in accordance with Article XXIV of this Chapter:

Retail Marijuana Store, subject to the requirements of §115-194.6.

184 **Section 7. The Code of Sussex County, Chapter 115, Article XIII, §**
185 **115-94 is hereby amended by inserting the italicized language therein**
186 **as follows:**

187
188 **§ 115-94. Permitted Uses.**
189

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

191 . . .

192
193 *(U) Marijuana Cultivation Facilities, a Marijuana Product*
194 *Manufacturing Facilities or Marijuana Testing Facilities.*

195
196 **Section 8. The Code of Sussex County, Chapter 115, Article XIV, §**
197 **115-102 is hereby amended by inserting the italicized language**
198 **therein as follows:**

199
200 **§ 115-102. Permitted Uses.**
201

202 A. A building or land shall be used for the following purposes, consisting
203 of general light industrial, warehousing and storage uses, including
204 certain open or enclosed storage of products, materials and vehicles,
205 and including the following uses and any similar uses which are not
206 likely to create any more offensive noise, vibration, dust, heat, smoke,
207 odor, glare or other objectionable influences than the minimum amount
208 normally resulting from other uses listed, such listed uses being
209 generally wholesale establishments, service industries and light
210 industries that manufacture, process, store and distribute goods and
211 materials and are, in general, dependent on raw materials refined
212 elsewhere, and manufacture, compounding, processing, packaging or
213 treatment, as specified, of the following products or similar products:

214 . . .

215

216 *Marijuana Cultivation Facilities, Marijuana Product Manufacturing*
217 *Facilities or Marijuana Testing Facilities.*

218

219 **Section 9. The Code of Sussex County, Chapter 115, Article XV, §**
220 **115-110 is hereby amended by inserting the italicized language**
221 **therein as follows:**

222

223 **§ 115-110. Permitted Uses.**

224

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

226 A. General enumeration.

227 . . .

228

229 *Marijuana Cultivation Facilities, Marijuana Product Manufacturing*
230 *Facilities or Marijuana Testing Facilities.*

231

232 **Section 10. The Code of Sussex County, Chapter 115, Article XXV**
233 **“Supplementary Regulations”, is hereby amended by inserting the**
234 **italicized language therein as a new § 115-194.6 therein as follows:**

235

236 **§ 115-194.6. *Marijuana Establishments.***

237

238 *All Marijuana Establishments shall be subject to the following*
239 *requirements:*

240

241 *A. No Retail Marijuana Store shall be located within three miles of any*
242 *municipal boundary.*

243 *B. No Retail Marijuana Store shall be located within three miles of any*
244 *other Retail Marijuana Store.*

245 *C. No Retail Marijuana Store shall be located within three miles of any*
246 *church, school, college, or substance abuse treatment facility as*
247 *defined under §2203 of Title 16 of the Delaware Code.*

248 *D. Retail Marijuana Stores may only operate between the hours of 7:00*
249 *a.m. and 9:00 p.m.*

250 *E. Any approved and licensed Marijuana Establishment in existence*
251 *as of the date of adoption of this Ordinance shall be considered a*
252 *legal, nonconforming use. Any licensed and approved pre-existing,*
253 *legally nonconforming Retail Marijuana Store shall be subject to*
254 *the hours of operation set forth in subsection D. herein.*

255

256

257 **Section 11. The Code of Sussex County, “115 Attachment 4, Sussex**
 258 **County, Table IV Permitted Uses Commercial”, is hereby amended**
 259 **by inserting the italicized language therein as follows:**

260

| Blank = Not Permitted P = Permitted Use SUE =Special Use Exception CU = Conditional Use A = Permitted Accessory Use, see section D =Definition, see section | Zone B- 2 | Zone B-3 | Zone C-2 | Zone C-3 | Zone C-4 | Zone C-5 | Zone I-1 |
|---|--------------|-------------|----------|-----------------------|----------|----------|----------|
| Agriculture-Related Uses | | | | | | | |
| <i>Marijuana Cultivation Facilities</i> | | | | <i>P</i> | | | |
| <i>Marijuana Product Manufacturing Facilities</i> | | | | <i>P</i> | | | |
| <i>Marijuana Testing Facilities</i> | | | | <i>P</i> | | | |
| Sales and Rental of Goods, Merchandise, and Equipment | | | | | | | |
| <i>Retail Marijuana Store</i> | | | | <i>CU⁵</i> | | | |

261

262 ⁵ *Subject to the requirements of §115-194.6.*

263

264 **Section 12. Severability.**

265

266 The provisions of this Ordinance are severable and if any of its provisions
 267 or any sentence, clause, or paragraph or the application thereof to any
 268 person or circumstance shall be held unconstitutional or violative of the
 269 Laws of the State of Delaware by any court of competent jurisdiction, the
 270 decision of such court shall not affect or impair any of the remaining
 271 provisions which can be given effect without the invalid provision or
 272 application.

273

274

275 **Section 13. Effective Date.**

276

277 This Ordinance shall take effect immediately upon its adoption by Sussex
278 County Council.

279