

COUNTY COUNCIL

MICHAEL H. VINCENT, PRESIDENT
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DOUGLAS B. HUDSON
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Sussex County

DELAWARE
sussexcountysde.gov
(302) 855-7743

SUSSEX COUNTY COUNCIL

A G E N D A

July 16, 2024

1:00 P.M.

Call to Order

Approval of Agenda

Approval of Minutes - June 25, 2024

[Draft Minutes 062524](#)

Reading of Correspondence

Public Comments

Gina Jennings, Finance Director

1. Recognition of Retirees
 - a. Denise Burns
 - b. Thomas Jefferson, Jr.
2. Administrator's Report

Andrea Wall, Manager of Accounting

1. Federal Payment in Lieu of Taxes
[Federal Payment](#)



Hans Medlarz, County Engineer, Ret.

1. **Wolfe Runne, Project S20-13**
A. Reject all bids
[Wolfe Runne Reject Bids](#)
2. **Inland Bays Regional Wastewater Treatment Facility (IBRWF)**
A. Engineer of Record Designation for the IBRWF Phase 2 Project
B. Selection of the IBRWF Phase 2 Project Implementation Method
C. GHD, Inc. - Amendment 26
[Inland Bays Regional WWTF](#)
3. **South Coastal WRF Treatment Process Upgrade No.3 & Rehoboth Beach WTP Capital Improvement Program, Phase 2**
A. M.F. Ronca – Change Order 35, General Construction, Project C19-11
[SCRWF CO No. 35](#)
4. **Delivery of Seed and Chemicals, Project M23-06**
A. Motion Clarification
[Seed and Chemicals Delivery](#)

Mark Parker, Assistant County Engineer

1. **Starlight Meadows Road Improvements, Project T24-07**
A. Substantial Completion & Balancing Change Order
[Starlight Meadows Substantial Completion & Balancing CO](#)

Grant Requests

1. **Off Street Sports Performance, Inc. for their Off Street Sports Performance program**
[Off Street Sports Performance Inc](#)
2. **Harry K Foundation for their Desert Oasis Feeding program**
[Harry K Foundation](#)
3. **Mispiration Performance Series for their concert series**
[Mispiration Performance Series](#)
4. **Autism Delaware, Inc. for their Snowflake Soiree event**
[Autism Delaware](#)
5. **Town of Delmar for their State Street park shade project**
[Town of Delmar](#)

6. **Chamber of Commerce for Greater Milford, Inc. for their Riverwalk Freedom Festival**
[Chamber of Commerce for Greater Milford, Inc.](#)

Introduction of Proposed Zoning Ordinances

[Ord Intros CU2539 CU2522 CU2517 CZ2030](#)

Council Members' Comments

1:30 p.m. Public Hearings

1. **Jefferson Lodge Annexation of the Sussex County Unified Sanitary Sewer District (West Rehoboth Area)**
[Public Hearing Jefferson Lodge](#)
2. **Bayard Commons Annexation of the Sussex County Unified Sanitary Sewer District (Miller Creek Area)**
[Public Hearing Bayard Commons](#)
3. **Marvel Minor Subdivision Annexation of the Sussex County Unified Sanitary Sewer District (Holts Landing Area)**
[Public Hearing Marvel Minor](#)
4. [**Conditional Use No. 2427 filed on behalf of Joshua L. Wharton**](#)

“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” (property lying at the end of Alma’s Way, approximately 0.25 mile east of Wil King Road [S.C.R. 288]) (911 Address: N/A) (Tax Map Parcel: 234-6.00-66.00)

[Public Hearing CU2427](#)

5. [**Conditional Use No. 2418 filed on behalf of Nanticoke Indian Association**](#)

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MODIFICATION OF CONDITIONS OF APPROVAL RELATING TO CONDITIONAL USE NO. 1018 TO MODIFY BUILDING SIZE LIMITATIONS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.915 ACRE MORE OR LESS” (property lying on the south side of John J. Williams Highway [Rt. 24] approximately 200 ft. west of Layton Davis Road [S.C.R. 312A]) (911 Address: 27073 John J. Williams Highway, Millsboro) (Tax Map Parcel: 234-29.00-53.00)

[Public Hearing CU2418](#)

6. [Conditional Use No. 2422 filed on behalf of Garden Estates, Inc](#)

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO MODIFY CONDITIONAL USE NO. 1094 (ORDINANCE 998) TO ALLOW FOR THE ADDITION OF TWO WAREHOUSES, IN ADDITION TO THE RETAIL SALE OF WHOLESALE NURSERY PRODUCTS, FARM PRODUCTS, FERTILIZERS, POTS, GARDENING EQUIPMENT, ETC., TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 5.01 ACRES, MORE OR LESS” (property lying on south side of Seashore Highway [Rt. 18], approximately 0.83 mile northwest of State Forest Rd. [S.C.R.579]) (911 Address: 13418 Seashore Highway, Georgetown) (Tax Map Parcel: 231-6.00-24.02)

[Public Hearing CU2422](#)

7. [Conditional Use No. 2414 filed on behalf of Justice Boyz Properties, LLC](#)

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONTRACTOR OFFICE AND STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 4.72 ACRES MORE OR LESS” (property lying on the east side of Millsboro Highway [Rt. 30], approximately 0.89 mile south of Laurel Road [Rt. 24]) (911 Address: 32605 Millsboro Highway, Millsboro) (Tax Map Parcel: 233-13.00-1.04)

[Public Hearing CU2414](#)

8. [Conditional Use No. 2463 filed on behalf of Chickberry Farms Events, LLC](#)

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EVENT VENUE TO BE LOCATED ON A 5.0 ACRE PORTION, MORE OR LESS, OF A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 140.12 ACRES, MORE OR LESS” (property lying on the east side of Jestice Farm Road [S.C.R. 449A], approximately 0.25 mile north of Laurel Road [Rt. 24]) (911 Address: 32099 Jestice Farm Road, Laurel) (Tax Map Parcel: 232-19.00-45.00 [p/o])

[Public Hearing CU2463](#)

9. [Conditional Use No. 2431 filed on behalf of Play It Safe, LLC](#)

“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 LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.26 ACRE, MORE OR LESS” (property lying on the east side of Savannah Road [Rt. 9] at the intersection of Savannah Road [Rt. 9] and Quaker Road, approximately 0.33-mile northeast of Westcoats Road [Rt. 12]) (911 Address: 1510 Savannah Road, Lewes) (Tax Map Parcel: 335-12.06-10.00)

[Public Hearing CU2431](#)

Adjourn

-MEETING DETAILS-

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

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

Agenda items may be considered out of sequence.

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

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

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

To join the meeting via telephone, please dial:

Conference Number: 1-302-394-5036

Conference Code: 570176

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

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

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 25, 2024

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, June 25, 2024, at 10:00 a.m., in Council Chambers, with the following present:

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|------------------------------|-----------------------------|
| 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 A. Jennings | Finance Director |
| J. Everett Moore, Jr. | County Attorney |

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| | The Invocation and Pledge of Allegiance were led by Mr. Vincent. |
| Call to Order | Mr. Vincent called the meeting to order. |
| M 344 24 Approve Agenda | A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, 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 of June 18, 2024, were approved by consent. |
| Correspondence | Mr. Moore reported that correspondence was received from Shoes that Fit thanking Council for their donation. |
| Public Comments | Public comments were heard. Dr. Michelle Williams spoke about the Accessory Dwelling Unit Ordinance. Mrs. Kim Hoey-Stevenson spoke about the work being done on Ordinances including the Buffer and ADU Ordinances. Mr. Gawan Curtis spoke about housing in Sussex County and a land use permit application. |
| Presentation /Blue Zone project | A presentation was given by Ms. Kim Blanch regarding the Blue Zone project. Ms. Blanch provided an overview of Blue Zone projects and how they have impacted areas where they have been implemented. |

**Brown
Appeal**

Mr. Moore reminded the Council that the hearing on the appeal was heard last week that was presided over by Judge Toliver. After that, the Council went into Executive Session where the matter was discussed.

**M 345 24
Brown
Subdivision
Appeal
Decision**

A Motion was made by Mr. Vincent, seconded by Mrs. Green, that in the matter of the Lorraine Brown Appeal, I move that the Council affirm the Planning and Zoning Commission's decision to deny the Subdivision Plan Application filed by Ms. Brown, the Appellant in this matter. I will provide reasons which are based on the standard of review read by our attorney, Mr. Moore, at the start of the hearing which are incorporated herein by reference. This is a summary only, which will not include citations and more expansive reasoning. Those can be found in the comprehensive written findings given to the Clerk of the Council with this motion to publish in the record and are incorporated by reference. Madam Clerk, here are the written findings for introduction into the record which are incorporated by reference and deemed part of this motion.

The Record Created Below Does Not Support Approval

Although Appellant's Notice of Appeal referenced various deeds, plots and information for the Council's consideration, these items were not presented to the Commission at the public hearing and, therefore, are not part of the record. Council is only permitted to consider evidence presented below. As such, all new evidence presented by Appellant cannot be considered by the Council in making its determination on the appeal.

While Council is sympathetic to Appellant's desire to create a lot for her daughter, if the Commission engaged in an orderly and logical review of the evidence, Council cannot substitute its findings for those of the Commission. The Commission provided numerous reasons to support its decision to deny the Application. Specifically, it is incumbent upon Appellant to provide substantial evidence at the Commission hearing that the Application is compliant with Sussex County Code § 99-9C. Unfortunately, Appellant did not address the seventeen (17) mandatory considerations for all subdivision applications outlined in Sussex County Code, § 99-9C.

In addition, as set forth in the Commission's response to the Appeal ("Commission's Response"), Appellant did not provide any evidence as to confirm the following information regarding the "undersized and unmaintained" Victory Lane:

(a) the ownership of Victory Lane; (b) [Appellant's] easement rights in Victory Lane; (c) whether [Appellant] has any right to burden Victory Lane with an additional lot; (d) whether there is currently any organized maintenance for Victory Lane or how a new lot owner would join in any maintenance obligations; (e) the safety of Victory Lane; or (f) compliance with the applicable setbacks and buffers for the new lot.

**M 345 24
Brown
Subdivision
Appeal
Decision
(continued)**

This was compounded by the preliminary site plan's lack of perimeter buffer and fifty-foot setbacks from surrounding agricultural lands, testimony in opposition to the subdivision due to the potential of exacerbating an existing runoff issue and encroachments onto the adjacent farmland. The Commission found that, without additional evidence, the record was insufficient to warrant approval and that, due to the extensive number of ongoing issues, this Application did not lend itself to approval subject to the imposition of reasonable conditions.

Conclusion

Based on the foregoing, there is substantial evidence in the record to deny the Plan based solely on Appellant's inability to comply with Sussex County Code § 99-9C, as well as the many unanswered questions regarding Victory Lane. The Commission's decision was the result of an orderly and logical review of the evidence, there was substantial evidence in the record to support its decision and it engaged in the proper interpretation and application of the chapter. The Commission's findings include detailed, thorough, and well-thought-out reasons for its unanimous vote to deny the Plan. Therefore, Council is required to uphold the Commission's decision.

Motion Adopted: 5 Yeas

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

Retirement

Paula Marvel was recognized for her upcoming retirement.

**Adminis-
trator's
Report**

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

1. Deputy Director of Public Safety - Emergency Management

I am pleased to announce that the County has named Timothy R. Cooper, a onetime paramedic with Sussex County EMS, as the new Deputy Director of Public Safety - Emergency Management. Mr. Cooper will lead the County's disaster preparedness efforts, while also coordinating with a variety of partners, including the Delaware Emergency Management Agency, the Delaware National Guard, and other agencies. Mr. Cooper holds dual degrees in emergency preparedness and homeland security and brings more than 30 years of experience in public safety. He will begin his new duties July 1st.

2. Government Finance Officers Association Triple Crown Award

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

I am pleased to announce that Sussex County is the first government in Delaware to receive the Triple Crown Award from the Government Finance Officers Association of the United States and Canada. The GFOA's Triple Crown Award recognizes governments that have received GFOA's Certificate of Achievement for Excellence in Financial Reporting, Popular Annual Financial Reporting Award, and the Distinguished Budget Presentation Award. Sussex County is now 1 of 356 local governments across the United States that have received this award. Please join me in congratulating Finance Director Gina Jennings and her staff for another job well done.

3. Holiday and Council Meeting Schedule

A reminder that County offices will be closed on Thursday, July 4th, to observe the Independence holiday. In addition, Council will not meet on Tuesday, July 2nd or Tuesday, July 9th. The next regularly scheduled Council meeting will be on Tuesday, July 16th.

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

**Artesian
WW MOU**

Hans Medlarz, County Engineer, Ret. presented a Memorandum of Understanding for Artesian Wastewater Management, Inc. for Council's consideration.

**M 346 24
Approve
Artesian
WW MOU**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, be it moved, based upon the recommendation of the Sussex County Engineering and Finance Departments, that the Sussex County Council approve the Memorandum of Agreement between Sussex County and Artesian Wastewater Management, Inc., 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**

**WS
Substantial
Completion**

Hans Medlarz, County Engineer, Ret. presented a substantial completion request for Western Sussex Unified Sewer District: Contract 5, project S19-29 for Council's consideration.

**M 347 24
WS
Substantial
Completion**

A Motion was made by Mrs. Green, seconded by Mr. Hudson, be it moved based upon the recommendation of the Sussex County Engineering Department, that substantial completion for contract S19-29, Western Sussex Unified Sewer District, Segment 5A be approved effective June 10, 2024, with any held retainage released in accordance with the contract documents.

Motion Adopted: 5 Yeas

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

**Permission
to Prepare &
Post Notices/
Winding
Creek
Village/
Individual
Water
Meters**

John Ashman, Director of Utility Planning & Design Review presented a request to prepare and post notices for Winding Creek Village Water District – Individual Water Meters. Mr. Ashman reported that in September 2017, eligible voters in the optimized water district boundary approved the creation of the Winding Creek Village Water District, based on a uniform service charge. The County has completed the design of the system, received the bids, applied for the supplemental funding and the apparent low bidder has agreed to maintain the price until the decision is made on the funding.

There has been multiple inquiries to revise the uniform service charge and introducing a metered component. The Engineering Department has explained that there would be additional costs associated with the metered system and the vote was made on a uniform service charge similar to the existing Dewey Beach water district. The change to the metered system would require another referendum. Members of the community advanced with their request for the addition of the metered component and the department informed them of the process and information needed. The first item was the need for 50 valid petitions from within the existing boundary. On June 4, 2024, the residents provided the department with a binder containing 69 petitions. Two were found to be ineligible resulting in 67 valid petitions. Therefore, the department would like permission to prepare and post notices for a public hearing explaining the impacts of the metered component.

Mr. Schaeffer questioned if the original vote was to ask if they wanted meters or if they did not want meters. Mr. Ashman replied that he does not believe that they were asked if they wanted meters. The proposal was for the unified rate because that is how most of the rates are established. He added that the County does not have a meter reading division.

Mr. Schaeffer stated that in his experience, it seems that a utility would always encourage meters to cut down on waste of water. He feels that it makes economic and environmental sense to put meters in.

Mr. Medlarz stated that there are no objections, however, the meter component was not discussed during the original public hearing. He added that they have a bid from the original proposal that does not include meters. When the public hearing is presented for the meter component, it will have to be provided by the individual owners up front. The County cannot go back for a second supplemental because it will not happen in time and the bid will expire.

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| <p>Permission to Prepare & Post Notices/Winding Creek</p> | <p>Mr. Lawson stated that this subdivision does not have water service proposed to the whole community. As previously discussed, the request for meters was a late request that we are now working to consider. The Engineering Department is going to come up with a rate and then put that in front of the community for a vote.</p> |
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| Individual Water Meters (continued) | Mrs. Jennings added that the County does not have a meter reading system, a billing system, or staff. So, to bear an additional cost for the County to create a metered system will most likely shock the customers of the cost. This is due to the fact that we are sewer utility, not a water utility. |
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M 348 24 **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, that be it**
Permission **moved by Sussex County Council that the Sussex County Engineering**
to Prepare & **Department is authorized to prepare and post notices for the revised billing**
Post Notices/ **method for the Winding Creek Village water district as presented.**

Motion Adopted: 5 Years

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

FAA Airport Program Robert Bryant, Airport Manager presented information related to the FAA Airport Improvement program for discussion. Mr. Bryant provided background and information relating to the proposed project.

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| M 349 24 Approve FAA Improve- ment | <p>A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, that be it moved based upon the recommendation of the Sussex County Engineering Department that the Sussex County Council authorize the execution of a Federal Aviation Administration Airport Improvement program grant for new construction Taxiway Bravo, Phase 2 in the amount of \$3,473,464.00.</p> |
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Motion Adopted: 5 Years

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

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| <p>Old Business/ Ord. 24-02/ ADU</p> | <p>Under Old Business, Jamie Whitehouse, Planning & Zoning Director presented a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 110, ARTICLE III, SECTIONS 110-9 AND CHAPTER 115, ARTICLES I, IV, V, VI, VII, VIII, IX AND XXVII SECTIONS 115-4, 115-20, 115-23, 115-29, 115-32, 115-40, 115-48, 115-53, 115-56, 115-64, AND 115-210 REGARDING ACCESSORY DWELLING UNITS”.</p> |
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**Old
Business/
Ord. 24-02/
ADU
(continued)**

Mr. Whitehouse, Planning and Zoning Director reminded Council that a Public Hearing was held at the meeting of June 11, 2024. At the conclusion of the Public Hearing, Council deferred action on the Ordinance for further consideration.

Mr. Schaeffer questioned what was decided about owner occupancy of the main structure on the property. Mr. Robertson responded that the way that the Ordinance was introduced and has been discussed, staff concluded that it is difficult to enforce. It is tough to know who the owner is and verify that the person living there is actually the owner who is on the title. There are some many different issues, staff realizes that this is a concern. Mr. Roberson added that there may be some situations where it may not be owner occupied dwellings and ADUs, however, it is hoped that the large majority of the ADUs are owner occupied homes to provide more affordable housing units.

Mr. Robertson added that individual developers or homeowners' associations will still have the ability to self-govern when it comes to ADUs. If there is a restrictive conveyance that prohibit additional dwelling units on a lot within a subdivision, they will still exist and be enforceable.

**M 350 24
Amend Ord.
No. 24-02**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, to confirm that ADU can include the conversion of existing interior space in a ADU such as a basement, garage, or bonus room in lines 68-71 revise the sentence so that it now states "The dwelling unit may be attached to, or detached from the primary dwelling on the property and it may also include existing interior space such as finished basements that is converted into a separate dwelling unit".

Motion Adopted: 5 Yeas

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

**M 351 24
Amend Ord
No. 24-02**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, at line 70, after "servant quarters", insert "recreational vehicles (as that term is defined in Title 21, Section 101(60) of the Delaware Code)". This will ensure that the Accessory Dwelling Units are not merely vehicles or campers and are constructed to be used as dwelling units.

Motion Adopted: 5 Yeas

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

M 352 24

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, to delete any reference to the ADUs lot coverage. This is an unnecessary requirement

Amend Ord. No. 24-02 given the other dimensional requirements of an ADU including the maximum ADU size of 1,000 square feet and the limitations that the ADU cannot be large than 50% of the floor area of the primary dwelling. So, at lines 105 to 106, delete the sentence, “An accessory dwelling shall not have a lot coverage that is greater than 50%.”

Motion Adopted: 5 Yeas

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

M 353 24 Amend Ord. No. 24-02 A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, to delete the proposed new language inserted at Lines 116 through 119 and replace that proposed new language with the following instead: An accessory dwelling unit shall not encroach into the front, side or rear yard setbacks required by this Chapter. On a lot less than three acres in size, a detached accessory dwelling unit shall be located behind the single-family dwelling on the same lot.

Motion Adopted: 5 Yeas

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

M 354 24 Amend Ord. No. 24-02 A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, to revise the minimum lot size requirement contained in lines 122 by deleting the reference to “one-half acre in size” and replace it with “20,000 square feet”.

Motion Adopted: 5 Yeas

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

M 355 24 Amend Ord. No. 24-02 A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, during the public hearing before the Planning & Zoning Commission and County Council, there were concerns stated that while the Ordinance makes a ADU a permitted use for lots above a certain size, it eliminated the existing ability in County Code to seek approval of a ADU for smaller lots by special exemption by the Board of Adjustment that should remain in the Code. Therefore, Section 4, lines 130-140, Section 6, lines 171-173, Section 7, lines 188-190, Section 8, lines 205-207, Section 10, lines 240-242, Section 11, lines 257-259 and Section 12, lines 280-282 should be amended so that the existing language in the Code which is shown as deleted in Ordinance stating “garage/studio apartment when not approved administratively by the Director of his or her designee, provided that at least one space for the

exclusive use of the tenant is included on the premises”, is replaced in each of those sections with “Accessory Dwelling Units, subject to the dimensional requirements of Section 115A (15(c), (d) and (e).

Motion Adopted: 5 Yeas

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

**M 356 24
Adopt
Ordinance
No. 3027/
ADU**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to Adopt Ordinance No. 3027 entitled “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 110, ARTICLE III, SECTIONS 110-9 AND CHAPTER 115, ARTICLES I, IV, V, VI, VII, VIII, IX AND XXVII SECTIONS 115-4, 115-20, 115-23, 115-29, 115-32, 115-40, 115-48, 115-53, 115-56, 115-64, AND 115-210 REGARDING ACCESSORY DWELLING UNITS” for the reasons given by the Planning & Zoning Commission as follows and as amended by this Council:

- 1. There is a need for this Code change, and there is the need for additional housing options in Sussex County. This Ordinance will enable more housing options to become available throughout Sussex County.**
- 2. The current Code provisions are outdated and unduly burdensome. For example, the Code currently refers to “Garage/Studio Apartments” which is term with unnecessary restrictions. “Accessory Dwelling Unit” is a broader and more widely accepted term.**
- 3. This Ordinance eliminates the discretionary review of a potential “Garage/Studio Apartment” that currently exists and makes an Accessory Dwelling Unit a permitted use in all residential zoning districts if the minimum requirements are met.**
- 4. This Ordinance creates greater clarity and certainty with regard to the ability to establish Accessory Dwelling Units in appropriately sized locations.**
- 5. The minimum standards in this Ordinance are appropriate for the following reasons:**
 - A. No Accessory Dwelling Unit can exceed 1,000 square feet in size, and it cannot be larger than 50% of the floor area of the primary dwelling on a property. This is necessary to maintain appropriate densities in the residential zoning districts and not overburden existing internal and external roadways, utilities and other factors. Without this reasonable limitation, an Accessory Dwelling Unit could potentially become a full-sized second dwelling or duplex on a property (and therefore potentially double the density of the property or development), which is not the intention of this housing initiative and Ordinance.**
 - B. There must be at least one off-street parking space set aside for each Accessory Dwelling Unit. Many subdivisions are at capacity**

M 356 24

**Adopt
Ordinance
No. 3027/
ADU
(continued)**

given their roadway and on-and off-street parking designs for the existing homes. They cannot absorb the parking of additional vehicles associated with an Accessory Dwelling Unit. Therefore, requiring one additional off-street parking space for an Accessory Dwelling Unit is appropriate and reasonable.

- C. A property must be at least 20,000 square feet in size to accommodate an Accessory Dwelling Unit. This ensures that there is sufficient land area available for the primary dwelling, parking and compliance with setbacks. In addition, this minimum size avoids the special provisions of Ordinance No. 2557 regarding setbacks in small lots.
6. This Ordinance does not impact existing or proposed private restrictive covenants that may regulate the existence, use and/or location of an Accessory Dwelling Unit within a private development.

Motion Adopted: 5 Years

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

**Old
Business/
Ord. No.
24-03/
Perimeter
Buffers**

Under Old Business, Jamie Whitehouse, Planning & Zoning Director presented a Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 99, ARTICLES I, III, IV, V AND VI SECTIONS 99-5, 99-6, 99-23, 99-26, 99-27, 99-30, 99-31 AND 99-32 AND BY ADDING A NEW SECTION 99-21a, AND CHAPTER 115, ARTICLES IV, V, VI, VII, VIII AND XXVIII SECTIONS 115-20, 115-25, 115-29, 115-37, 115-45 115-53 AND 115-218 REGARDING PERIMETER BUFFERS AROUND RESIDENTIAL DEVELOPMENT”.

The County Council held a Public Hearing on the Ordinance at its meeting on June 11, 2024. At the conclusion of the Public Hearing, the Council closed the Public Record and deferred action on the Ordinance for further consideration.

Mr. Robertson reviewed proposed changes to the Ordinance.

The first proposed change was to simply the definition of clearing or cleared; it previously referred to Stormwater Management rules of DNREC. The suggestion was to simply that to state “The removal of trees and other vegetation by any means. “Clearing” or “cleared” does not include selectively removing dead or diseased trees or invasive species”.

Another proposed change was in regard to forest assessment. A definition of

**Old
Business/
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Perimeter
Buffers
(continued)**

forest assessment report is added to clarify what the product of that assessment would be. In addition, forest inventory and groupings of trees were added as discussed.

In the definition of perimeter buffer, there was a comment that the purpose of a perimeter buffer was not clear. So, language was added to read “The Perimeter Buffer shall function to filter views from and into a subdivision in such a manner that improves the screening than if no landscaping was provided”. In the Perimeter Buffer landscape plan, it clarifies who will prepare that plan.

The next proposed changes discusses the requirements for planting trees within in the buffer. There was language added to state “shall be a species that typically achieves a height of at least ten feet”. In addition, there was language added to state that they should be planted “throughout the entire width of the Perimeter Buffer”.

On lines 360, 368-369, it is proposed to remove invasive species as presented by the Center of Inland Bays.

The next proposed change discussed what can and what cannot happen within the Woodlands Area of a Perimeter Buffer and Perimeter Buffer protection area. It was recommended to ensure that the Perimeter Buffer protection area also cannot be disturbed so that was added. In addition, it is being recommended to add “Permitted stump removal shall only occur by stump grinding that does not disturb the surrounding area or vegetation”.

A clarification was added in case there was mitigation requirements or offsite planning, that the plantings have to comply with the specific requirements as stated in the Code.

There was a specific line item added that states “Removal of any invasive species from the Woodlands is permitted”.

On line 428, a suitable grass mix was discussed for the ground cover, there was a suggestion to add wildflowers to allow more flexibility.

On line 466, it provides clarification of a date certain when it starts the two-year guarantee period. In addition, later the homeowner’s association reference was taken out.

In Section H which starts on line 475, it discusses more creative landscaping

**Old
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(continued)**

that can be done along the development's frontage. The following language was added "This authorization shall only apply to a subdivision's roadway frontage where its entrance is located. All other roadway frontages shall comply with the requirements of Subsections A, B and C above, as applicable".

In line 503, the following language was added "The portion of any non-Woodland Perimeter Buffer within the entirety of the development that is adjacent to other existing or approved dwellings, or lots shall be planted in accordance with the requirements of §99-21A.A and C within 12 months of the issuance a Notice to Proceed for the first phase of the development".

There were comments about making sure that this complied with C-4 projects because they are mixed use projects where they can be commercial and residential. Therefore, that section was deleted, and the following language was added "Any conditional use for attached or detached single-family or multi-family dwellings' a residential planned community; or the permitted residential portion of a development in any zoning district shall comply with the requirements of §99-21A".

**M 357 24
Defer
Action/
Ord. No.
24-03**

A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley to defer action on a Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 99, ARTICLES I, III, IV, V AND VI SECTIONS 99-5, 99-6, 99-23, 99-26, 99-27, 99-30, 99-31 AND 99-32 AND BY ADDING A NEW SECTION 99-21a, AND CHAPTER 115, ARTICLES IV, V, VI, VII, VIII AND XXVIII SECTIONS 115-20, 115-25, 115-29, 115-37, 115-45 115-53 AND 115-218 REGARDING PERIMETER BUFFERS AROUND RESIDENTIAL DEVELOPMENT".

Motion Adopted: 5 Years

**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 358 24
Town of
Delmar**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give \$3,000 (\$3,000 from Mr. Vincent's Councilmanic Grant Account) to the Town of Delmar for their State Street park shade project.

Motion Adopted: 5 Years

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

Mr. Vincent, Yea

M 359 24 **A Motion was made by Mr. Green, seconded by Mr. Hudson to give \$1,000**
Town of **(\$1,000 from Mrs. Green's Councilmanic Grant Account) to Town of**
Bridgeville **Bridgeville for their Back-to-School bash.**

Motion Adopted: 5 Yeas

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

M 360 24 **A Motion was made by Mrs. Green, seconded by Mr. Hudson to give \$6,000**
Town of **(\$6,000 from Mrs. Green's Councilmanic Grant Account) to the Town of**
Greenwood **Greenwood for their Downtown Revitalization plan/town square.**

Motion Adopted: 5 Yeas

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

M 361 24 **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give \$9,925**
Make-A- **(\$2,150 from Countywide Youth Grant Account, \$500 from Mr. Schaeffer's**
Wish **Councilmanic Grant Account, \$2,775 from Mr. Vincent's Councilmanic**
Grant Account, \$2,950 from Mr. Hudson's Councilmanic Grant Account,
\$1,150 from Mr. Rieley's Councilmanic Grant Account and \$400 from Mrs.
Green's Councilmanic Grant Account) to Make-A-Wish Foundation of
Philadelphia, Delaware & Susquehanna Valley for their Wishes
Transforming Lives program.

Motion Adopted: 5 Yeas

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

Proposed
Ord. Intro **There were no Proposed Zoning Ordinances for introduction.**

CC
Comments **There were no Council Member comments.**

M 362 24 **At 11:59 a.m., A Motion was made by Mr. Hudson, seconded by Mr.**
Go Into **Schaeffer to recess the Regular Session and go into Executive Session to**
Executive **discuss matter relating to pending & potential litigation and land acquisition.**
Session

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 12:00 p.m. an Executive Session of the Sussex County Council was held in the Council Chambers to discuss matters related to pending & potential litigation and land acquisition. The Executive Session concluded at 12:14 p.m.**

M 363 24 Reconvene **At 12:15 p.m., a Motion was made by Mr. Rieley, seconded by Mr. Schaeffer 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**

E/S Action **There was no action related to Executive Session matters.**

M 364 24 Adjourn **A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley, to adjourn at 12:15 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.}

**APPEAL OF SUBDIVISION PLAN DENIAL
FOR LORRAINE BROWN, APP. NO. 2023-09**

This is an appeal of the Planning and Zoning Commission's (the "Commission") denial of a Subdivision Application No. 2023-09 (the "Application") filed by Lorraine Brown (the "Appellant") which was presented to the Commission at a hearing on February 21, 2024. The Application was to subdivide Sussex County Tax Parcel No. 430-5.00-5.02, a 4.57-acre parcel, into 2 single-family lots. The Application was unanimously denied on March 20, 2024. I move that the Council affirm the Commission's denial of the Application for the following reasons:

Standard Of Review

The standard of review for appeals from Commission decisions does not permit Council to substitute its own opinion for that of the Commission, nor does it permit a rehearing of what was before the Commission. There was a hearing of record and the Council's review is limited to that record. In addition, the Council is not permitted to consider any issues and arguments raised by Appellant on appeal that were not raised below as such issues are considered waived on appeal. *See, e.g., Hartigan v. Sussex County Bd. of Adjustment*, 2018 WL 1559938 *3 (Del. Super.); *Rehoboth Art League*, 991 A.2d at 1166.

In reviewing the Commission's decision on appeal, Sussex County Code, § 99-39B.(2) states that:

"[t]he Council shall review the record of the hearing before the Commission and shall make a determination as to whether the Commission's decision was the result of an orderly and logical review of the evidence and involved the proper interpretation and application of the chapter...."

The Delaware Supreme Court held that the Commission's consideration of subdivision plan application acts in a manner that is "partly in a ministerial and partly in a judicial capacity" [and, therefore, on appeal the appealing body must] determine whether the decision is supported by substantial evidence and is free from legal error. Substantial evidence 'means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.'" *Tony Ashburn & Son, Inc. v. Kent County Regional Planning Comm'n*, 962 A.2d 235, 239 (Del. 2008). The Council's review is "limit[ed] to correcting errors of law and determining whether substantial evidence exists to support the [Commission's] findings of fact" and that "[w]hen substantial evidence exists, [the Council] will not reweigh it or substitute [its] own judgment for that of the [Commission]." *See Rehoboth Art League, Inc. v. Board of Adjustment of the Town of Henlopen Acres*, 991 A.2d 1163, 1166 (Del. 2010).

Therefore, if there is substantial evidence that demonstrates the Commission's decision was based on an orderly and logical review of the evidence and the law was accurately applied,

the Council must uphold the Commission's approval. In the event Council determines that the Commission made an error in its application or interpretation of the law, Council's remedies are limited to remanding the application to the Commission for further review and consideration or reversing the Commission's decision. Sussex County Code, § 99-39B.(2)(a) and (b).

The Record Created Below Does Not Support Approval

Although Appellant's Notice of Appeal referenced various deeds, plots and information for the Council's consideration, these items were not presented to the Commission at the public hearing and, therefore, are not part of the record. Council is only permitted to consider evidence presented below. As such, all new evidence presented by Appellant cannot be considered by the Council in making its determination on the appeal.

While Council is sympathetic to Appellant's desire to create a lot for her daughter, if the Commission engaged in an orderly and logical review of the evidence, Council cannot substitute its findings for those of the Commission. The Commission provided numerous reasons to support its decision to deny the Application. Specifically, it is incumbent upon Appellant to provide substantial evidence at the Commission hearing that the Application is compliant with Sussex County Code § 99-9C¹. Unfortunately, Appellant did not address the seventeen (17) mandatory considerations for all subdivision applications outlined in Sussex County Code, § 99-9C.

In addition, as set forth in the Commission's response to the Appeal ("Commission's Response"), Appellant did not provide any evidence as to confirm the following information regarding the "undersized and unmaintained" Victory Lane:

- (a) the ownership of Victory Lane; (b) [Appellant's] easement rights in Victory Lane;
- (c) whether [Appellant] has any right to burden Victory Lane with an additional lot; (d)

¹ Sussex County Code, § 99-9C requires consideration of the following factors prior to subdivision approval:

- (1) Integration of the proposed subdivision into existing terrain and surrounding landscape.
- (2) Minimal use of wetlands and floodplains.
- (3) Preservation of natural and historical features.
- (4) Preservation of open space and scenic views.
- (5) Minimization of tree, vegetation and soil removal and grade changes.
- (6) Screening of objectionable features from neighboring properties and roadways.
- (7) Provision for water supply.
- (8) Provision for sewage disposal.
- (9) Prevention of pollution of surface and groundwater.
- (10) Minimization of erosion and sedimentation, minimization of changes in groundwater levels, minimization of increased rates of runoff, minimization of potential for flooding and design of drainage so that groundwater recharge is maximized.
- (11) Provision for safe vehicular and pedestrian movement within the site and to adjacent ways.
- (12) Effect on area property values.
- (13) Preservation and conservation of farmland.
- (14) Effect on schools, public buildings and community facilities.
- (15) Effect on area roadways and public transportation.
- (16) Compatibility with other area land uses.
- (17) Effect on area waterways.

whether there is currently any organized maintenance for Victory Lane or how a new lot owner would join in any maintenance obligations; (e) the safety of Victory Lane; or (f) compliance with the applicable setbacks and buffers for the new lot.

Commission's Response at p.3. This was compounded by the preliminary site plan's lack of perimeter buffer and fifty-foot setbacks from surrounding agricultural lands, testimony in opposition to the subdivision due to the potential of exacerbating an existing runoff issue and encroachments onto the adjacent farmland. *Id.* The Commission found that, without additional evidence, the record was insufficient to warrant approval and that, due to the extensive number of ongoing issues, this Application did not lend itself to approval subject to the imposition of reasonable conditions.

Conclusion

Based on the foregoing, there is substantial evidence in the record to deny the Plan based solely on Appellant's inability to comply with Sussex County Code § 99-9C, as well as the many unanswered questions regarding Victory Lane. The Commission's decision was the result of an orderly and logical review of the evidence, there was substantial evidence in the record to support its decision and it engaged in the proper interpretation and application of the chapter. The Commission's findings include detailed, thorough and well-thought-out reasons for its unanimous vote to deny the Plan. Therefore, Council is required to uphold the Commission's decision.

FINANCE DEPARTMENT
ACCOUNTING DIVISION

ANDREA M. WALL
MANAGER
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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 Green
The Honorable Douglas B. Hudson
The Honorable Mark Schaeffer

FROM: Andrea Wall, Manager of Accounting

DATE: July 6, 2024

RE: Federal Payments in Lieu of Taxes

A check in the amount of \$38,898 has been received from the United States Department of the Interior, Fish and Wildlife Service, as a federal payment in lieu of taxes for the Prime Hook National Wildlife Refuge. This check represents payments under the Refuge Revenue Sharing Act covering Fiscal Year 2023.

The amount is calculated by the U.S. Fish and Wildlife Service by prorating the total funds available for payment. This check is funded through revenues generated from the Prime Hook National Wildlife Refuge and from a supplemental congressional appropriation. Sussex County may use these funds for any governmental purpose.

The County does not collect property taxes from the Federal Government for the Prime Hook National Wildlife Refuge. In return, the Federal Government gives the County this payment in lieu of taxes. In the past, these funds have been allocated in the same percentage as the other County tax collections. The attached spreadsheet shows the recommended allocation of these funds based on assessed value of the Prime Hook Refuge. I will be presenting this allocation for Council's authorization on July 16, 2023.

Please feel free to contact me with any questions.

| TAXING AUTHORITY | TAX RATE | % OF TOTAL | GRANT AMOUNT | |
|--------------------------------|-----------------|-------------------|---------------------|-------------|
| MILFORD SCHOOL DISTRICT | | | | |
| Sussex County | 0.3983% | 7.1634% | \$644.78 | \$9,001.00 |
| Library | 0.0467% | 0.8399% | \$75.60 | |
| Sussex Tech | 0.4514% | 8.1184% | \$730.74 | |
| Milford School | 4.6638% | 83.8783% | \$7,549.88 | |
| | 5.5602% | 100.0000% | \$9,001.00 | |
| CAPE HENLOPEN DISTRICT | | | | |
| Sussex County | 0.3983% | 8.0880% | \$2,418.06 | \$29,897.00 |
| Library | 0.0467% | 0.9483% | \$283.51 | |
| Sussex Tech | 0.4514% | 9.1662% | \$2,740.43 | |
| Cape School District | 4.0282% | 81.7975% | \$24,455.00 | |
| | 4.9246% | 100.0000% | \$29,897.00 | \$38,898.00 |
| SUMMARY | | | | |
| Sussex County | \$3,062.84 | | | |
| Library | \$359.11 | | | |
| Vocational School | \$3,471.17 | | | |
| Milford School | \$7,549.88 | | | |
| Cape School District | \$24,455.00 | | | |
| | \$38,898.00 | | | |

NOTE:

Per Chris Keeler, Director of Assessment, 23.14% of the Primehook National Wildlife Refuge land assessed value in Sussex County is within the Milford School District and 76.86% is within the Cape Henlopen School District. Appropriate shares have been determined based on these percentages

A deposit from US Dept of Interior for \$38,898 was deposited to the general fund 6/03/2024



Memorandum

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

FROM: Hans Medlarz, P.E., County Engineer, Ret.

RE: ***Wolfe Runne Sewer Expansion***
A. Reject all Bids

DATE: July 16, 2024

The Wolfe Runne community has been included in the Sussex County Unified Sanitary Sewer District (West Rehoboth Area) since March 1990. One December 16, 2017 and January 27, 2018, the Engineering Department made presentations to the Community which outlined the potential costs associated with connecting to the County Sewer System. Subsequently, the Department received a letter from the Wolfe Runne Homeowners Association (HOA) dated March 6, 2018, which provided results of a formal ballot vote conducted by the HOA. The HOA reported that 81% of lot owners voted in favor of transitioning from private on-site septic systems to the central County sewer. Based on this outcome the HOA requested, on behalf of the residents, that a capital project be pursued.

The Department presented the information on April 17, 2018, and Council authorized a United States Department of Agriculture (USDA) funding application. On September 27, 2019, USDA issued a letter of conditions outlining loan and grant funding associated with the Wolfe Runne Sewer Extension Project in the amount of \$3,092,000.00 obligated as of September 30, 2019.

In January 2019, the Engineering Department issued RFP 19-22, Miscellaneous Engineering Services. Subsequently, Council selected three (3) firms to provide professional services: Davis, Bowen & Friedel (DBF); George Miles and Buhr (GMB); and KCI Technologies, Inc. (KCI). Additionally, the motion authorized the Engineering Department to negotiate Base Professional Service Agreements for a five-year period of July 1, 2019, through June 30, 2024. Project-based contract amendments under the base agreements, or individual project-specific agreements if required by a funding source, were each to be brought to Council for authorization.

As required by USDA's letter of conditions, GMB provided the EJCDC type base professional services agreement for a traditional gravity sewer design and permitting services associated with the Wolfe Runne Sewer Expansion Project S20-13. On November 19, 2019, Council approved George, Miles & Buhr, Inc.'s agreement with a not-to-exceed value of \$204,003.00.



The project area proved difficult to serve with gravity sewer since it has two low points at the end of separate cul-de-sacs Ketch and Cutter Courts. To maximize the reach of the existing system a key easement was required on the unimproved lot 66. Contact was made and an appraisal prepared culminating in a final meeting with the owner and his professional representative on August 4, 2021. In the end the easement could not be secured and with HOA Board's input on February 17, 2022, the effort shifted to the adjacent fully improved lot 65. The owners were cooperative, but utility conflicts forced an alignment not approved by their mortgage company. The ultimate failure of the original design approach was communicated to the Board at their April 27, 2022, meeting. Several members followed up at a subsequent meeting when the County committed to investigate alternative design options.

The results of this investigation were presented at another Board / open Membership meeting on September 14, 2022. During said meeting the Board expressed support of the presented alternative vacuum system approach. On October 26, 2022, the Engineering Department conveyed the desired design change to USDA staff who were generally supportive but advised that the environmental & engineering reports had to be updated as well as a supplemental funding application to be filed. The documents were filed by the end of 2022 and USDA issued comments which were reviewed in a meeting with the Agency on January 10, 2023.

The supplemental funding has tight underwriting deadlines requiring the alternative design and permitting to be completed in no more than three (3) months. GMB reviewed the available staffing and declined to design the alternate. Subsequently, DBF indicated they were able to meet the anticipated schedule and on January 31, 2023, County Council approved GMB's Amendment No. 1 in the amount of \$29,057.72 to close out the original design contract and DBF's EJCDC agreement for the alternate vacuum system design.

The County Team met Wolfe Runne HOA representatives on February 9th and April 13th to present the vacuum system concept. Ultimately the HOA rejected the system and requested the County to pursue the original design shifting the easement to lot 67. Said easement was recorded on June 7th and the Department engaged with the archeological consultant to clear the revised alignment. His report was received July 20th and submitted to the Agencies for concurrence. The Department received and reviewed GMB's Amendment No. 2 which covers the redesign as well as construction services.

On August 15, 2023, Council approved GMB's Amendment No. 2 in the amount of \$325,188.00 for redesign and construction related services which was concurred by USDA. The design was completed in early 2024 and invitations to Bid were advertised in the local newspaper, as well as available to view on the County website in early April 2024. In addition, the information was directly forwarded to several contractors. Five (5) contractors attended the pre-bid meeting on April 22, 2024, and on May 15, 2024, four (4) bids were received.

The bids received were very competitive. However, the overall project funding was still \$1,400,000 or 45% over budget. Applying to USDA for supplemental funding cannot be accomplished within the bid validation time lines of the contract documents. Therefore, the Engineering Department recommends rejection of all bids.

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: Hans Medlarz, P.E., County Engineer, Ret.

RE: **Inland Bays Reginal Wastewater Treatment Facility (IBRWF)**
A. Engineer of Record Designation for the IBRWF Phase 2 Project
B. Selection of the IBRWF Phase 2 Project Implementation Method
C. GHD, Inc. - Amendment 26

DATE: July 16, 2024

GHD, Inc., held the County's engineering services contract associated with the SCRWF since December 7, 2001. Council reaffirmed GHD as the "Engineer of Record" for South Coastal in 2016 and again on May 14, 2019, at which time Council also included professional services associated with the City of Rehoboth Beach's Treatment Plant.

GHD's 2001 base contract established the engineering report associated with South Coastal's RWF Treatment Process Upgrade No.2 which established the extended aeration process, including the biological nutrient reduction (BNR) component. Due to their expertise in BNR designs, GHD was also engaged for the Inland Bays RWF Phase 2A upgrades converting the aerated lagoons to an extended aeration BNR type process as a subconsultant. They furthermore lead the latest response to DNREC's 2022 request for additional information.

Amendments 11 - 13 were associated with South Coastal's RWF Treatment Process Upgrade No.3 design. The 11th amendment covering planning and conceptual design was approved by Council on October 25, 2016, and used in the 2018 budgeting process. The 12th amendment was approved August 22, 2017, for development of construction documents excluding any construction phase services and on July 11, 2017, Council awarded the 13th one for electrical value engineering design and constructability reviews.



Amendments 14 - 18 were associated with the City of Rehoboth Beach's Wastewater Treatment Plant Phase 2 Project and the design services associated with the County's wastewater transmission line crossing of the Lewes-Rehoboth Canal allowing Pump Stations No. 202 & 204 to be diverted to the City's treatment plant.

On June 18, 2019, Council approved the 19th Amendment covering development of South Coastal bid alternates associated mostly with the influent forcemains, the fiber optic network and the pre-cast concrete construction. On February 4, 2020, Council approved Amendment 20 for construction phase and inspection services, as well as control programming services and comprehensive site mapping efforts during construction. On August 24, 2021, Council approved the 20th Amendment for ocean outfall cathodic protection upgrades.

On August 15, 2023, Council approved the 22nd Amendment for advanced design services associated with the Electrical Service and Switchgear Replacement Project and the 23rd Amendment for the expansion of the joint long-range study with Lewes BPW. On February 13, 2024, Council approved the 24th Amendment for extended construction phase services under the South Coastal project. On June 11, 2024, Council approved the 25th Amendment for construction phase services for the Wolfe Neck RWF Electrical Service and Switchgear Replacement Project.

As of June 30, 2024, GHD's Engineer of Record affirmation expired. Their past performance has been exemplary and warrants retention of GHD for future complex treatment design services. Therefore, the Engineering Department requests reaffirmation of GHD, Inc. as "Engineer of Record" for the County's wastewater treatment process related projects at all facilities for an additional five years, through June 30, 2029.

The County 5-year capital plan approved in the FY 24 Capital Budget anticipated several large projects at the Inland Bays Regional Wastewater Facility (IBRWF). The Inland Bays Loop, Project S24-01 which is already awarded, will ultimately provide treated effluent distribution **after** completion of the Inland Bays RWF Phase 2 Project to County agricultural partners, forested spray sites under DNREC permitting, and a rapid infiltration basin to be constructed and maintained by Artesian Wastewater Resources on leased County property.

The permitting timeline below allows Council to see the progression and complexity of the DNREC construction permitting process.

- February 25, 2017, Soil Investigation Report - Spray Expansion Project, Rev. May 2017
- December 6, 2018, DNREC Permit Application Form and Legal Notice Fee
- January 11, 2019, Hydrogeo Report - Spray Expansion Project, dated October 26, 2017
- January 31, 2019, Surface Water Assessment Report, dated January 28, 2019
- July 17, 2019, Design Engineering Report for Inland Bays RWF Phase 2 Project (Contract S19-10) with initial drawings

- August 03, 2020, DNREC Letter Requesting Additional Information
- October 22, 2020, Revised Design Engineering Report for the Inland Bays RWF Phase 2 Project
- December 11, 2020, revised drawings for the Inland Bays RWF Phase 2
- December 17, 2020, Effluent Disposal/ Spray Expansion Construction Plans
- February 24, 2021, Design Engineer Report for Distribution of Treated Wastewater for Agricultural Use
- January 28, 2022, Hydrogeologic Report for Submerged Gravel Wetland
- April 18, 2022, Submerged Gravel Wetland Construction Plans
- August 24, 2022, DNREC Letter Requesting Additional Information
- October 21, 2022, County's detailed response to DNREC's 2nd Request

DNREC issued the associated construction and operations permits on **June 17, 2024**. Permit compliance is effective July 1, 2024, putting significant strain on the existing facility which should have been upgraded several years earlier. Furthermore, the County's responses to DNREC's 2020 & 2022 requests for additional information necessitates significant design modifications. In combination, these circumstances require an innovative project implementation approach to establish the critical implementation path and construct individual components out of sequence to assure the best possible permit compliance.

South Coastal's multi prime construction team of M.F. Ronca & Sons, Inc. and BW Electric, Inc. have successfully and effectively executed the highly complex South Coastal's RWF Treatment Process Upgrade No.2. In addition, they both already worked on a couple of critical capital components at the Inland Bays RWF. The Engineering Department and GHD met with them on two occasions to discuss a staged project implementation for the Inland Bays RWF Phase 2 Project. Both expressed their willingness to continue work with the County providing constructability input in the design modification process and pricing of the subsequent series of change orders to bring the most critical elements online in sequential order. Therefore, the Engineering and Finance Departments request Council's concurrence in a staged construction implementation process of the Inland Bays RTF Phase 2 Project with M.F. Ronca & Sons, Inc. and BW Electric, Inc. under a series of change orders based on critical path implementation.

The Engineering Department met with GHD on several occasions to develop a scope of services for Amendment 26 matching the Inland Bay RWF Phase 2 Project implementation method. The approach is to break it down in components and develop a critical baseline schedule which will be updated regularly, based on contractor and equipment supplier input. In addition, long lead time equipment items will be singled out for advanced direct County procurement. The scope has eight subcategories grouped in five cost centers. However, the individual cost centers are

fluid and funds can be exchanged between them as the priorities shift. GHD committed to transition their cohesive South Coastal design team to the Inland Bays RTF Phase 2 Project.

Therefore, the Engineering Department requests approval of GHD's Amendment 26 in the not to exceed amount of \$5,000,000.00 applied across the entire outlined scope for engineering services associated with the Inland Bays RTF Phase 2 Project fast track implementation.

SOUTH COASTAL REGIONAL WASTEWATER FACILITIES

SUSSEX COUNTY, DELAWARE

CONTRACT AMENDMENT NO. 26

This contract amendment, **Contract Amendment No. 26** dated _____, **2024** amends our original contract dated December 7, 2001, between Sussex County, a political subdivision of the State of Delaware, as First Party, hereinafter referred to as the COUNTY and GHD Inc., a State of Maryland Corporation, hereinafter referred to as CONSULTANT, whose address is 16701 Melford Boulevard, Suite 221, Bowie, Maryland 20715. Except as specifically amended herein, the provisions of the Original Contract dated December 7, 2001, as thereafter amended, remain in effect and fully valid.

By execution of this Amendment, the following sections are hereby added as new sections to the Original Contract, as respectfully numbered below.

ARTICLE FOUR

FEE STRUCTURE

- 4.4.1 The previous versions of Section 4.4 as set forth in **Contract Amendment Nos. 1 to 25** are hereby incorporated by reference. Notwithstanding any language to the contrary in such Amendments, the parties agree that those Amendments are intended to be additions to the Original Contract between the parties dated December 7, 2001.
- 4.4.2 In accordance with the method of fee determination described in Articles 4.3.1, 4.3.2, 4.3.3, and 4.3.4 of this Agreement, the total compensation and reimbursement obligated and to be paid the CONSULTANT by the COUNTY for the CONSULTANT's Scope of Services for **Engineering Services for the Inland Bays RWF Expansion** as set forth in **Attachment A**, which is attached hereto and incorporated by reference, shall not exceed **Five Million dollars (\$5,000,000.00)**. In the event of any discrepancy or inconsistency between the amounts set forth in this Article 4.4.2 and any appendices, exhibits, attachments or other sections of this Agreement, the amounts set forth in this Article 4.4.2 shall govern.

ARTICLE FOURTEEN

INCORPORATED DOCUMENTS

- 14.2 **Attachment A: Consultant's Scope of Services, Engineering Services for the Inland Bays RWF Expansion. (Contract Amendment No. 26).**

By execution of this Agreement, the following sections are amended as set forth below:

- 2.4 The CONSULTANT shall perform the Scope of Services attached hereto as Attachment A and all additional Scopes of Services as may be set forth in consecutively numbered subsets of Attachment A.
- 4.3 The COUNTY shall pay the CONSULTANT for the satisfactory completion of the Scope of Services specified herein before in Attachment A and all additional Scopes of Services as may be set forth in consecutively numbered subsets of Attachment, based on and limited to the following method of determination....”

IN WITNESS WHEREOF, the parties hereunto have caused this Amendment No. **26** to this Agreement to be executed on the day and year first written hereof by their duly authorized officers.

SEAL

FOR THE COUNTY:
SUSSEX COUNTY

President, Sussex County Council

PREVIOUSLY APPROVED FORM

Date

ATTEST:

Clerk of the Sussex County Council

FOR THE CONSULTANT:

GHD Inc.



Vince Maillard, P.E.

WITNESS:



Attachment A

Your ref:
Our ref: 12645844

July 08, 2024

Mike Harmer P.E., Hans Medlarz P.E.
Sussex County
2 The Circle
Georgetown, DE 19947

Engineering Services Proposal for the Inland Bays Regional Wastewater Facility Expansion

Dear Mr. Harmer & Mr. Medlarz

GHD is pleased to submit this proposal for Engineering Services for the Inland Bays Regional Wastewater Facility (IBRWF) Expansion.

Introduction

The treatment and disposal systems of the IBRWF are at capacity and in need of expansion. An expansion project has been long planned, but unable to be realized by Sussex County without the necessary construction and operations permits. DNREC issued these permits in June 2024, allowing Sussex County to pursue construction. To expedite project completion, Sussex County has decided to contract with GHD for design and construction administration services.

Project Delivery Model

Sussex County has decided to form separate contracts with GHD and the South Coastal RWF Contractors, M.F. Ronca & Sons and BW Electric (South Coastal RWF Contractors, M.F. Ronca & Sons and BW Electric are collectively referred to as "Contractors"), to complete the project using an alternative delivery model.

1. In this model, GHD will work for Sussex County as the Engineer of Record, and in collaboration with the Contractors to expedite completion of the work.
2. After completion of pre-requisite preliminary engineering tasks, GHD will work with Sussex County, and the Contractors to establish an overall schedule, identify critical path activities, and define delivery packages for construction.
3. Sussex County, GHD, and the Contractors will establish mechanisms and procedures for the Contractors to provide pricing to Sussex County and receive payment from Sussex County. These mechanisms and procedures will be for the Contractors, specific to this project.
4. GHD will provide design packages to the Contractors for review, procurement and construction. It is anticipated that this will include:
 - a. Nominally 30% complete design documentation will be provided for preliminary review by Sussex County and the Contractors.

- b. Nominally 60% complete design documentation will be provided for final review by Sussex County and the Contractors.
 - c. Nominally 80-90% complete design documentation will be provided for pricing, procurement and construction.
5. It is anticipated that pricing provided by the Contractors will be reviewed jointly by Sussex County and GHD, that the Contractors might complete various procurement and work tasks prior to final pricing for specific scope components and that the Contractors will complete various procurement and work tasks for multiple scope components prior to providing final pricing for the overall project.
 6. Sussex County should be aware there may be instances where construction costs exceed the initial pricing provided by the Contractors for the nominally 80-90% complete design packages, due to additional detailing, concept refinement and scope changes that may be incorporated in the development of 100% design packages.
 7. The Contractors will procure equipment and materials based on GHD's drawings, specifications, and submittal reviews at the appropriate stage for each scope component. Procurement will commence prior to completion of 100% design, and prior to the whole project scope being known. The Contractors will be responsible for the performance of their vendors and subcontractors as they would be under a traditional design-bid-build delivery model.
 8. GHD will provide a Resident Project Representative (RPR) to serve as the County's Authorized Representative during construction activities. The RPR roles and responsibilities are described in the exhibit.

Scope of Services

GHD will provide the following services:

1. Preliminary Engineering Tasks
 - a. Review of the Construction and Operations Permits issued by DNREC: DNREC has made changes since issuance of draft permits, and the final permits need to be reviewed to clearly identify all effluent quality requirements, compliance requirements for the project, and ongoing compliance requirements for the County. Any clarifications obtained from DNREC will be reviewed as part of this effort. The information distilled from this review will be a basis for verifying adequacy of the proposed liquid stream treatment process improvements.
 - b. Liquid stream treatment process verification:
 - i. Review flows and loads derived from plant influent, as well as flows and loads derived from the recycle streams generated by the onsite sludge processing facilities (which receive sludge from other facilities).
 - ii. Verify adequacy of selected processes to treat the identified flows and loads to the requirements of the operations permit and meet the requirements of the effluent disposal systems.
 - c. Design Review: The previously prepared design documents do not reflect the final project concept documented in the final construction and operations permits. GHD will review the design documents after completion of the liquid stream process verification to identify potential improvements for unit process areas and specific scope items that will generally be retained in the project as designed (to reduce cost, improve constructability, or improve operations), and to identify unit process areas and specific scope items which need to be redesigned or added to meet the requirements of the permits.
 - d. Biosolids treatment process review: Sussex County is considering options for biosolids treatment. The current system has become challenging and expensive to operate. GHD will lead a review that considers options ranging from decommissioning and hauling cake to landfill, to upgrading to include additional treatment such as pyrolysis. This review will also aim to identify process and operations

improvements that could be implemented for the existing system to reduce operational challenges and costs.

- e. **Utility Service Review:** It is understood that the IBRWF has multiple utility power services, and that Sussex County would prefer to have these services consolidated as part of this project. GHD will review existing services, existing power consumption data, anticipated loads, and coordinate with the utility provider to determine if a service consolidation can be achieved. If a viable concept is identified and approved by Sussex County, it will be designed and constructed as part of the plant expansion.
- f. **Identification of Major Equipment and Long-Lead Time Equipment and Materials:** GHD will review the design to identify major equipment requirements, and then collaborate with the Contractors to identify which of this equipment, and what other materials and equipment could have procurement lead-times that could be considered significant, or have a significant bearing on the construction schedule critical path. This information will be a basis for development of the baseline schedule as described below.
- g. **Geotechnical Investigations:** GHD will review available geotechnical reports, solicit similar review from the Contractors, and make recommendations to the County as to whether the existing reports appear adequate for the expansion project. Sussex County will determine the extent to which existing reports can be relied upon. Based on this determination, GHD will solicit supplemental or new geotechnical investigations as required for the proposed expansion.
- h. **Site survey and site plan review:** Sussex County has expressed concerns about the accuracy of the existing site survey and site plans. GHD will review the existing site plans, and if deemed most appropriate for the project, complete a new site survey and create new site plans as required.
- i. **Collection System Inflow and Infiltration Investigations:** It is understood that Sussex County is separately soliciting engineering services to investigate and identify major sources of inflow and infiltration to the collection system for the IBRWF. GHD may be asked to assist in the development of strategy for this investigation, or consider data obtained by discrete sampling in the collection system when completing flows and loads analysis or verifying the adequacy of the liquid stream treatment processes.

2. Baseline Schedule Development and Schedule Updates

- a. GHD will work with the Contractors to develop a baseline schedule for the project in consideration of:
 - i. The time required to prepare preliminary and detailed engineering inputs
 - ii. Materials and equipment lead-times
 - iii. Contractor production capacity and effective utilization of manpower.
 - iv. Sequencing requirements and any scheduling constraints
 - v. Minimizing overall time for project completion
- b. GHD and the Contractors will meet regularly to review and make updates to the baseline schedule to incorporate new information, actual progress, changes to the time required to complete individual tasks, and sequence logic improvements.
- c. The baseline schedule will be dependent on many assumptions and is expected to be updated regularly over the course of the project. Time allocations for engineering tasks will be particularly dependent on assumptions, many outside of GHD's control, such as the time required to obtain information from vendors and providers, and the time required to address issues identified during execution of preliminary and detailed engineering tasks. GHD will not be liable for delays resulting from preliminary design, detailed design, or construction phase engineering tasks requiring more time than originally assumed.

3. Design and Documentation

- a. It is anticipated that the final project will include the following new and modified facilities. However, final scope will not be known until completion of the relevant prerequisite preliminary design tasks noted above:

- i. New influent flow metering
- ii. Expanded screening and grit removal systems
- iii. Conversion of an existing lagoon into two additional aeration lagoons.
- iv. New sludge pumping and aeration building.
- v. Two additional clarifiers and expansion of the clarifier distribution box.
- vi. Modifications to the chlorine contact tank.
- vii. New filtration facility
- viii. New effluent management system including:
 - A. Automated diversion system to allow flow to Lagoon 1 or 2 depending on effluent turbidity.
 - B. Converting an existing irrigation pumping system to the unlimited access pumping station (for the new storage tank and distribution loop)
 - C. Covering Lagoon 1
 - D. New overflow from Lagoon 1 to Lagoon 2
 - E. Converting an existing irrigation pumping system to the limited access pumping station (for the existing spray fields)
- ix. New elevated storage tank complete with connections to the new distribution loop currently under construction.
- x. Communications, controls, and connections for each meter vault being provided on the new distribution loop, including piping through the vault and to the customer piping, control valves, flow meters, utility connections, fiber loop (in ducts currently under construction), and control panels.
- xi. Completion of County owned disposal systems, including remaining work such as provision of nozzles on piping currently being installed in the woodland irrigation area.
- xii. New distribution piping in the existing spray field area for the limited access disposal system.
- xiii. Spray rig connections and modifications to suit the final piping and disposal arrangements.
- xiv. Expansion of sludge dewatering facilities
- xv. Improvements to sludge handling and drying systems.
- xvi. New utility connection and MV power distribution system.
- b. Design will make allowances for a future expansion, in which the sludge storage lagoons would be converted to fifth and sixth aeration lagoons, and in which all other treatment systems would be expanded commensurately.
- c. GHD will provide design documentation to Sussex County and the Contractors for individual unit process areas and other specific scope components for review, procurement and construction (as described above). Documentation will be prepared such that it is sufficient for Contractor pricing, and could include:
 - i. Explanatory and instructional documents
 - ii. Drawings, figures, and/or sketches
 - iii. Specifications
 - iv. Markups of a manufacturer's literature
- d. Geotechnical Evaluation
 - i. If existing geotechnical reports are available, they may be used or relied upon as agreed between Sussex County, GHD, and the Contractors. GHD will not be liable for errors or omissions in geotechnical reports provided by other parties.

- ii. Depending on the availability and adequacy of existing geotechnical reports, GHD may obtain supplemental geotechnical report(s) or a new geotechnical report(s) by utilization of a subconsultant.
- e. Permits
 - i. Construction and Operations permits have been obtained by Sussex County. Sussex County may decide to appeal or seek clarification on aspects of these permits. GHD will review these permits and any changes or clarifications to identify any other permits that may be required.
 - ii. GHD will also evaluate permit requirements during review and development of design to identify if modifications or additional permits are required. Relevant permits could include those assigned by the Sussex Conservation District and air permits for any new emergency generators.
- 4. Construction Administration
 - a. Contract Coordination and Project Management: Contract coordination will involve routine communication with the County, County's Authorized Representative, and the Contractors to discuss overall project issues, help resolve conflicts or discrepancies, make contract interpretations, and assist in resolution of certain field-related construction issues. Project management tasks include contract administration, invoicing, resource scheduling, and communications.
 - b. Construction Meetings: Attend pre-construction meeting, monthly construction progress meetings, weekly coordination meetings, pre-final inspection meetings, and final inspection meetings with the Contractors and the County. Prepare agendas and minutes.
 - c. Establishment of pricing and payment procedures for the Contractors. Provide written comments and recommendations to Sussex County.
 - d. Shop Drawings and Submittals: Review shop drawings and submittals for conformance with Contract Documents. Request modifications, where required. Submittals will be stored and tracked using a software database hosted by GHD.
 - e. Requests for Information (RFI): Respond to Contractor's written requests for clarification in a written format. RFI's will also be stored and tracked using a software database hosted by GHD.
 - f. Operations & Maintenance (O&M) Submittals: Review operations and maintenance submittals furnished by the Contractor for conformance with Contract Documents. Request modifications, where required. Three separate stages of O&M manuals are required including Preliminary O&M manuals, Final Draft O&M manuals, and Final O&M manuals.
 - g. Materials Testing Results: GHD will review and analyze the results of field and materials testing results. The field testing requirements will be coordinated with GHD's Resident Project Representative.
 - h. Field Engineering: Engineering of solutions to construction issues and as potential value engineering opportunities are identified.
 - i. Testing and Startup: Engineering assistance during testing and startup of major equipment and systems by lead engineers involved in the design.
 - j. Training: Provide five (5) days of interactive on-site training for Sussex County operations staff on the operation of the facility including overviews of each process, and review of recommended field data collection procedures.
 - k. Witness Factory Acceptance Test for Process Control Systems: GHD will witness Factory Acceptance Testing of critical Process Control Systems at the Control System Integrator's panel fabrication facility. The Factory Acceptance Test shall be successfully completed when all of the required functions have been demonstrated to GHD. GHD will then sign the acceptance documents for system delivery to project site.
 - l. GHD will host a project database utilizing PROCORE software.

5. Inspection Services (Owner's Authorized Representative)
 - a. GHD will provide Resident Project Representative (RPR) to serve as the County's Authorized Representative during construction activities.
 - b. The RPR shall work out of GHD's field office located at IBRWF and shall be onsite for 40 hours per week (except for Observed Holidays).
 - c. It is anticipated that Sussex County will provide furnished office space in the IBRWF Administration Building to serve as GHD's field office, and that Sussex County will also provide high speed internet access at the field office for use by GHD. If this is not the case, the Contractors will provide these facilities.
 - d. Responsibilities and limitations for the RPR shall be as described in the exhibit.
6. Materials Testing and Special Inspections
 - a. GHD will contract with a third-party materials testing and inspection subconsultant to complete concrete testing, masonry testing, soils testing, and Special Inspections as necessary to meet the requirements of the Contract Documents.
 - b. Field and laboratory services performed by the third-party materials testing and inspection subconsultant will be billed to the County at direct cost.
7. PLC Programming and Process Control System Development
 - a. GHD will work with Sussex County, the Control System Integrator, and any packaged control system vendors to provide programming services associated with the new PCS Cabinets being provided at the facility. While it is anticipated that conventions will generally follow those developed for ongoing work at SCRWF, GHD will also meet and review with Sussex County prior to commencing programming services to review County preferences for this facility and any recent developments in policy or preference.
 - b. Deliverables: GHD anticipates providing the following deliverables for the control systems:
 - i. Complete and Annotated Programmable Logic Controller (PLC) Logic.
 - ii. Complete and Annotated Supervisory Software (SCADA/HMI) Development.
 - iii. Programming of any PLC panel-mounted local operator interfaces (OIT).
 - iv. Specific Ancillary Software Programming.
 - v. Preliminary Testing.
 - vi. Startup/Commissioning.
 - vii. Training
8. Record Documents
 - a. GHD will develop and revise drawings over the course of construction to allow pricing and procurement, support construction and ultimately provide a record of as-built conditions.
 - b. Field staff will collect GPS location data for new underground utilities, as well as existing underground utilities exposed over the course of construction. RPRs will utilize a Trimble RTK GPS unit purchased for a previous Sussex County project, with a KeyNetGPS subscription renewed annually for the duration of construction.
 - c. GHD will regularly import and manage data in AutoCAD format, and at the completion of work incorporate the data into the project's record drawings.
 - d. At the completion of data collection, GHD will also export data from AutoCAD format into a GPS platform as agreed with the County to create a model of underground utilities at IBRWF and submit to the County.

Schedule

Overall project schedule will be determined after project planning with Sussex County and the Contractors.

Exceptions

This amendment is not based on a defined scope of work. GHD will provide additional engineering services beyond what is described above as required to complete the project and will engage additional subconsultants as necessary to meet any specific needs not identified herein. However, if the cost of total services reaches the budget of this amendment, a future amendment would be required to cover the costs of remaining services.

County Responsibilities

1. Provide any documents which GHD may rely upon (such as geotechnical reports).
2. Provide record documentation for the piping and conduit installed as part of the Loop project.
3. Provide office space and high-speed internet access for use by GHD field staff.
4. Establish separate contracts with the Contractors, M.F. Ronca & Sons and BW Electric.

GHD Subconsultants

1. Geotechnical Investigations, Materials Testing and Inspection: John D. Hynes and Associates

Assumptions

1. GHD shall perform the services consistent with the level of care, diligence, and skill ordinarily exercised by professional consultants performing the same or similar services under the same or similar circumstances at the same time and geographic location that the services are provided by GHD. GHD makes no warranty, express or implied, with respect to the performance of any service under this Agreement. The professional services to be provided by GHD will be provided in a manner that meets the applicable standard of care.
2. Neither GHD nor County shall be liable to the other for any consequential, special, indirect, incidental or punitive damages arising from this project including but not limited to loss of use, revenue, profits and goodwill. For any damage caused by negligence, including errors, omissions or other acts, any damages based in contract, or in connection with any obligations of GHD or County, or for any other cause of action, irrespective of any insurance requirements under this Agreement, neither GHD's nor County's liability, including that of their employees, agents, directors, officers and subcontractors, shall exceed \$5,000,000, except as to damage resulting from the gross negligence or willful misconduct of that Party.
3. Quantities and final costs determined after final design are expected to vary from preliminary estimates. As a result of the Contractors pricing construction of the project prior to 100% completion of design, GHD does not accept responsibility for any construction costs which exceed the pricing provided by the Contractors for the nominally 80-90% complete design packages, due to scope changes, additional detailing, and concept refinement incorporated in the development of 100% design. The Contractors shall compute or independently verify costs as accurately as possible and will estimate the anticipated tolerance for each item in their pricing. Contractors will be ultimately responsible for the determination of costs to be included in their pricing.
4. GHD will not enter any contracts nor provide construction services, nor will GHD contract with the Contractors. GHD's scope is limited to professional services as the Engineer of Record, contracted directly to the County. .
5. GHD will develop an Influent Flows and Loads technical memorandum during the initial phases of the project. Once agreed with Sussex County, this will be the basis of design for the project. GHD will not be responsible for performance issues arising from influent flows and/or loads that differ from those established in the technical memorandum or from improper operation of the existing or expanded facility.

Similarly, GHD will not be responsible for failure to meet any quantity obligations established in agreements with any disposal partners arising from same.

Engineering Fee

GHD proposes to provide engineering services based on direct hourly payroll costs paid to technical staff engaged on the project plus FAR overhead costs of 1.83 times actual payroll costs billed plus out-of-pocket and subconsultant expenses at cost, plus a fixed fee of 10% on direct costs plus FAR overhead costs. Payroll rates presented on invoices will be constrained by the maximums specified in the attached rate schedule. This rate schedule is valid until June 30, 2025, and subject to adjustment at that time and on an annual basis thereafter. Total cost for this amendment shall not exceed the total identified in the following table. However, these costs and the total are considered preliminary estimates only, given the significant uncertainty and assumptions made in the scope described herein. If the cost of total services reaches the budget of this amendment, a future amendment would be required to cover the costs of remaining services.

Table 1 Engineering Fee

| Description | Cost |
|--|----------------|
| Preliminary Engineering & Scheduling Tasks | \$ 250,000.00 |
| Design and Documentation | \$2,000,000.00 |
| Construction Administration, Baseline Schedule Development and Schedule Updates | \$1,450,000.00 |
| Inspection Services, Materials Testing and Special Inspections, Record Documents | \$1,100,000.00 |
| PLC Programming and Process Control System Development | \$ 200,000.00 |
| Total | \$5,000,000.00 |

Please contact me if you have any questions or comments regarding this proposal.

Regards



Steven Clark
Project Manager

443-875-5061
steven.clark@ghd.com

Responsibilities of Resident Project Representatives

1. The RPR responsibilities shall be similar to those outlined in Article 2 of the EJCDC's 2013 General Conditions of the Contract Documents for Construction. These responsibilities are described below:
 - a. RPR will be GHD's employee or agent at the Site, will act as directed by and under the supervision of GHD's Project Manager, and will confer with GHD's Project Manager regarding RPR's actions. RPR's dealings in matters pertaining to the Work in general shall be with GHD's Project Manager and the Contractors. RPR's dealings with Subcontractors shall be through or with the full knowledge and approval of the applicable Contractor. The RPR shall:
 - i. Schedules: Review progress schedules, schedules of Shop Drawing and Sample submittals, and the schedules of values prepared by the Contractors, and consult with GHD's Project Manager concerning acceptability.
 - ii. Conferences and Meetings: Attend meetings with the Contractors, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and circulate copies of minutes thereof.
 - b. Liaison:
 - i. Serve as GHD's liaison with the Contractors, working principally through the Contractors' authorized representatives, assist in providing information regarding the intent of the Contract Documents.
 - ii. Assist GHD in serving as OWNER's liaison with the Contractors when Contractors' operations affect the County's on-site operations.
 - iii. Assist in obtaining from Sussex County additional details or information, when required for proper execution of the Work.
 - c. Interpretation of Contract Documents: Report to GHD's Project Manager when clarifications and interpretations of the Contract Documents are needed and transmit to Contractor clarifications and interpretations as issued by GHD.
 - d. Shop Drawings and Samples:
 - i. Record date of receipt of Samples and approved Shop Drawings.
 - ii. Receive Samples which are furnished at the Site by the Contractors and notify GHD's Project Manager of availability of Samples for examination.
 - e. Modifications: Consider and evaluate the Contractors' suggestions for modifications in Drawings or Specifications and report such suggestions, together with RPR's recommendations, to GHD's Project Manager. Transmit to the Contractors in writing decisions as issued by GHD.
 - f. Review of Work and Rejection of Defective Work:
 - i. Conduct on-site observations of Contractor's work in progress to assist GHD's Project Manager in determining if the Work is in general proceeding in accordance with the Contract Documents.
 - ii. Report to GHD's Project Manager whenever RPR believes that any part of Contractor's work in progress will not produce a completed Project that conforms generally to the Contract Documents or will imperil the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise GHD's Project Manager of that part of work in progress that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.
 - iii. Inspections, Tests, and System Startups:

- A. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate County personnel, and that Contractor maintains adequate records thereof.
 - B. Observe, record, and report to GHD's Project Manager appropriate details relative to the test procedures and systems start-ups.
 - g. Records:
 - i. Record names, addresses, fax numbers, e-mail addresses, web site locations, and telephone numbers of all Contractors, Subcontractors, and major Suppliers of materials and equipment.
 - ii. Maintain records for use in preparing Project documentation.
 - h. Reports:
 - i. Furnish to GHD's Project Manager periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.
 - ii. Immediately notify GHD's Project Manager of the occurrence of any Site accidents, emergencies, acts of God endangering the Work, damage to property by fire or other causes, or the discovery of any Hazardous Environmental Condition.
 - i. Payment Requests: Review quantities of installed and stored materials on Contractor's Applications for Payment and forward with recommendations to GHD's Project Manager for processing.
 - j. Certificates, Operation and Maintenance Manuals: During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Specifications to be assembled and furnished by the Contractors are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to GHD for review and forwarding to County prior to payment for that part of the Work.
 - k. Completion:
 - i. Participate in a Substantial Completion inspection, assist in the determination of Substantial Completion and the preparation of lists of items to be completed or corrected.
 - ii. Participate in a final inspection in the company of GHD's Project Manager, the County, and the Contractors and prepare a final list of items to be completed and deficiencies to be remedied.
 - iii. Observe whether all items on the final list have been completed or corrected and make recommendations to GHD's Project Manager concerning acceptance and issuance of the Notice of Acceptability of the Work.
2. The RPR shall not:
- a. Authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items).
 - b. Exceed limitations of GHD's authority as set forth in the Contract Documents.
 - c. Undertake any of the responsibilities of Contractor, Subcontractors, Suppliers, or Contractor's superintendent.
 - d. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of the Contractors' work unless such advice or directions are specifically required by the Contract Documents.
 - e. Advise on, issue directions regarding, or assume control over safety practices, precautions, and programs in connection with the activities or operations of the County or the Contractors.
 - f. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by GHD's Project Manager.
 - g. Accept Shop Drawing or Sample submittals from anyone other than the Contractors.
 - h. Authorize the County to occupy the Project in whole or in part.

GHD, Inc.
Hourly Direct Rate Ranges By Classification
Amendment 26

| Personnel Category | Hourly Rate (\$/Hr) | |
|--------------------------|---------------------|---------|
| | Minimum | Maximum |
| Principal | 75.00 | 88.00 |
| Associate | 60.00 | 84.00 |
| Senior Engineer | 55.00 | 82.00 |
| Project Manager | 45.00 | 70.00 |
| Project Engineer | 40.00 | 60.00 |
| Engineer | 26.00 | 40.00 |
| Managing Designer | 46.00 | 65.00 |
| Senior Designer | 36.00 | 46.00 |
| Designer | 25.00 | 36.00 |
| Drafter | 20.00 | 25.00 |
| Senior Rep | 30.00 | 46.00 |
| Project Rep | 24.00 | 30.00 |
| Administrative Assistant | 22.00 | 32.00 |

Rates are subject to annual adjustment
First adjustment on 7/1/2025
Rates do not include overhead and profit

ENGINEERING DEPARTMENT

MIKE HARMER, P.E.
SUSSEX COUNTY ENGINEER

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mike.harmer@sussexcountype.gov



Sussex County
DELAWARE
sussexcountype.gov

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, P.E., County Engineer, ret.

RE: *South Coastal WRF Treatment Process Upgrade No.3 &
Rehoboth Beach WTP Capital Improvement Program, Phase 2
A. M.F. Ronca – Change Order 35, General Construction Project C19-11*

DATE: July 16, 2024

The South Coastal WRF Treatment Process Upgrade No.3 was designed and bid in conjunction with the Rehoboth Beach WTP Capital Improvement Program, Phase 2. The latter has been completed and only the South Coastal component is still ongoing. It encompasses the following components and statuses:

- a. Effluent Forcemain Relocation/Replacement; Completed in fall of 2019.
- b. Influent Forcemain Consolidation; Completed in May of 2020.
- c. Drainage Network Rerouting;

This scope was not included in the base bid. After cost comparison between the General Labor & Equipment Contract versus a change order under Ronca's general construction contract; Council awarded the stand alone Change Order Request 554-001 to Ronca & Sons, Inc. in the amount of \$104,592.96 on March 10, 2020. The construction was completed in July 2020.

- d. General Construction Project C19-11; awarded on December 17, 2019, to M.F. Ronca & Sons, Inc.



On March 10, 2020, Council authorized Change Order No.1 in the net amount of \$97,294.31 for deletion of the record drawing requirement and the modification of the RBWTF influent forcemains.

On May 12, 2020, Council authorized credit Change Order No. 2 in the amount of (\$12,705.00) eliminating an explosion proof motor requirement.

On July 28, 2020, Council approved credit Change Order No. 3 in the combined amount (\$9,764.30) for use of County surplus materials.

Change Order No.4 in the amount of \$871,000.00 for the repairs of partial failures at the two City of Rehoboth's wastewater treatment plant oxidation ditch systems was also approved on July 28, 2020. M.F. Ronca & Sons, Inc. completed the scope in May of 2021 and the County increased the flow contribution to the City's plant.

On December 15, 2020, County Council approved Change Order No. 6 for steel framing repairs in the first oxidation ditch on a time & material basis up to \$10,500.00 in addition to the concrete repairs conducted per the awarded contingent unit price schedules.

The County initiated RFP-019 for interior headworks piping modifications and RFP-023 covering the addition of a cross connection between the existing 14-inch process drain header for Aeration Tank Nos. 1-4 and the new header for the Aeration Tank Nos. 5-8. On September 22, 2020, Council approved Change Order No.5 in the combined amount of \$32,991.66.

GHD issued RFP-031 for the installation of plug valves on each of the 12-inch recycle influent pipes to be connected to the existing Aeration Tank Nos. 1-4 and to the new Aeration Tank Nos. 7-8. On December 15, 2020, Change Order No. 7 was approved for said shut off valves in the amount of \$31,974.51.

The new South Coastal aeration basin had to be connected to the existing large diameter sludge return piping requiring a forward flow stoppage. Minimizing the joint risk M. F. Ronca proposed a line stop approach under Change Order No. 8. Since it also gained construction efficiency, they offered to only charge for the subcontractor work.

In the spring of 2021, the Rehoboth Beach WTP oxidation ditch rehabilitation was receiving expansive attention including:

- Contingent Unit Price Concrete Repairs, Bid Items F-19 & F-20
- Steel Repairs authorized under Change Order No. 6
- Steel Coatings authorized as part of Change Order No. 4

In addition, all of the leaking expansion joints have been repaired under a time & material approach. On March 9, 2021, County Council approved Change Order Nos. 8 and 9 in the respective amounts of \$34,765.50 and \$45,600.00.

Only one of the two headworks vertical influent pipes has a shut off valve and Environmental Services requested a second valve. In addition, two of the existing headworks slide gates were

compromised in need of replacement. On May 25, 2021, Council approved Change Order No. 10 in the aggregate amount of \$34,160.64.

The County initiated RFP-039 addressing modifications to two slide gates avoiding conflict with the new air piping. In addition, it was discovered during the rehabilitation work in the grit tanks, that the existing influent chutes to the stacked tray grit removal systems were significantly compromised. On June 22, 2021, Council approved Change Order No. 11 in the aggregate amount of \$59,557.16.

The design team-initiated RFP-038 for exhaust duct modifications associated with the new turbo blowers and RFP-041 correcting the elevation difference in the headworks cross channel. On July 13, 2021, Council approved Change Order No. 12 to M.F. Ronca & Sons in the aggregate amount of \$14,700.07.

The contract as bid included concrete repairs to the City's headworks and influent splitter box. With the structures by-passed and accessible, the full extent of the damage required an alternative approach detailed in RFP-037 including full demolition of the upper level as well as the channel between it and the splitter box. GHD, the City Engineer and the County Engineer supported the approach, and the change order was within budget of the City's financing arrangements previously approved by the City and County elected officials. Therefore, Council approved Change Order No. 13 to M.F. Ronca & Sons in the amount of \$1,043,243.92 on August 10, 2021.

The City requested M.F. Ronca & Sons' assistance in the wetwell cleaning of the State Rd. pump station to allow a full evaluation in preparation of the upgrade design. In addition, the City requested to modify the air intake for B-10 Building ventilation from a roof mount to an existing window opening. On November 30, 2022, County Council approved Change Order No. 14 in the aggregate amount of \$7,380.37.

Upon exposure of the normally submerged piping at the oxidation ditches, GHD formulated an initial repair scope for the influent, return sludge & air piping including replacement of valves and fittings. It was subsequently reduced and Michael F. Ronca & Sons, Inc. proposed to perform the modified repair scope for \$324,996.81. GHD, the City Engineer and the County Engineer supported the modified approach. However, this amount is not within budget of the City's financing arrangements previously approved. The City will pay for this change order directly out of City funds. County Council approved Change Order No. 15 on January 11, 2022, subject to direct payment by the City. Since then, it was determined that the pipe support configuration for the replacement of oxidation ditch influent piping at the City's WTP required additional supports and RFP-056 was issued. Michael F. Ronca & Sons, Inc. proposed to perform the expanded repair scope for \$8,992.49. County Council approved Change Order No. 17 to M.F. Ronca & Sons in the amount of \$8,992.49 on January 25, 2022.

GHD's design scope included a separate task for the hydraulic transient analysis of the South Coastal effluent force under various pumping scenarios.

After County approval of the findings, GHD issued RFP-052 for replacing air valves on the effluent force main and installing additional air valves at new locations. This work scope was not known at time of base bid and hence not included. On January 11, 2022, County Council issued Change Order No. 16 to M.F. Ronca & Sons in the amount of \$88,132.23.

The South Coastal RWF's return sludge pumping station has three (3) pumps, two of which have been upgraded. The third unit recently experienced a failure, and the Environmental Services requested replacement of the pump and piping to be integrated in the project as per RFP-053. Michael F. Ronca & Sons, Inc. proposed Change Order No. 18 in the amount of \$31,101.61, which Council approved on January 25, 2022.

Under RFP-053 the Environmental Services staff requested replacement of two (2) compromised pumps and rail systems in the existing filtrate return pump station in the filter building. Under RFP-057 the City staff requested new fiberglass baffles and a guide bracket assembly to replace the original wooden baffle assembly located in the flow splitter box. M.F. Ronca & Sons proposed to complete the work for \$90,081.84 and \$8,132.66 respectively which Council approved on February 8, 2022, via Change Order 19.

The City requested M.F. Ronca & Sons' assistance in the installation of a lintel above the screen chute complete with control joints limiting vertical cracking. Ronca proposed to complete this work for \$7,426.59.

Starting in 2021, Environmental Services started experiencing more frequent malfunctions and alarm call outs with the influent screens at the Inland Bays RWF. In addition, a reduction in screen bar opening from ¼-inch to 3/16-inch opening will help the facilities sludge accumulation. The units were commissioned in the fall of 2010 and normally have a 15-year service life. The Engineering Department requested the assistance of Michael F. Ronca & Sons, Inc. and their investigation revealed that a full replacement could be accomplished for \$253,417.58, which was only 10% more expensive than a full rebuilt. Therefore, County Council approved Change Order No. 20 in the aggregate amount of \$260,844.17 on March 8, 2022 for the replacement in kind of two screens at Inland Bays and the masonry work at the City's plant.

The South Coastal facility requires alkalinity adjustments. In the past caustic soda was used however with the upgrade project the approach was switched to magnesium hydroxide. The as bid design included an innovative low energy consumption type Enviromix gas mixing system with a performance guarantee which was not met at start up. Therefore, the design approach was switched to a traditional impeller type mixing system. Michael F. Ronca & Sons, priced the modification including the full contract credits relating to the original Enviromix system and on March 29, County Council approved Change Order No. 21 in the aggregate amount of \$45,989.72.

The FY2022 Environmental Services budget included roof repairs of the South Coastal administration building and conversion of an existing pole building to an electrical panel shop. M. F. Ronca & Sons already has subcontractors in their scope of work who perform this

type of work. They priced the building modification and selectively investigated the roof conditions. The roof dating to the original construction needs full replacement and has areas of compromised decking. Due to market volatility, long lead times and anticipated incremental increases in roofing material (membrane & tapered insulation) costs, pricing includes a material escalation allowance.

Upon delivery of roofing materials final costs will be incorporated in a corrective change order reflecting actual material increases. Roof decking replacement will be performed at a unit cost of \$25.00 per SF incorporated into the corrective change order. On May 10, 2022, Council approved Change Order No. 22 in the aggregate amount of \$306,692.52 for pole building enclosure and admin building roof replacement followed by a later corrective change order adjusting unit costs and material pricing.

Environmental Services initiated RFP-067 for painting of the original 1970s mechanical building pump room and M. F. Ronca & Sons proposed to perform the work for \$7,893.90. On June 7, 2022, Council approved Change Order No. 23 in the amount of \$7,893.90.

Environmental Services initiated RFPs-072 & 073. The first deals with a new isolation valve on the existing 8-inch equalization return line in the Mechanical Building Pump Room. The second one modifies the PLC control logic in motor circuit protection of the new turbo blowers and the human machine interfaces graphic displays. On August 23, 2022, Council approved Change Order No. 24 to M.F. Ronca & Sons in the aggregate amount of \$12,829.83.

The headworks at the SCRWF are covered and the ventilated air treated for odors. The contract included unit pricing repair items for the headworks. The damage discovered during the rehabilitation work in the headworks and grit tanks indicated corrosion way above the anticipated levels. Therefore, the Engineering Department initiated RFP-071 for improvements to the headworks ventilation. After value engineering by M. F. Ronca & Sons they proposed to perform the work for \$126,590.76. On October 11, 2022, Council approved Change Order No. 25, significantly extending the asset life of the headworks in the amount of \$126,590.76.

Upon condition exploration of the City's main system pump station on State Street, GHD formulated an initial repair scope and subsequently issued RFP-075 for the repairs. This station also carries the County's Henlopen Acres Sewer District Area flows, and the County participates in the repair effort. With the urgency of the repair evident, the City requested inclusion in the project. M. F. Ronca & Sons, Inc. proposed to perform the modified repair scope for \$2,270,000.00. GHD, the City Engineer and the County Engineer supported the modified approach. On December 6, 2022, Council approved Change Order No. 26 to Michael F. Ronca & Sons, Inc. to perform the expanded State Street Pump Station repair scope for \$2,270,000.00. The City will pay for this change order directly out of City funds with separate invoice by contractor. In addition, with concurrence of the City, County Council granted Substantial Project Completion for the Rehoboth Beach WTP Capital Improvement Program, Phase 2 as of November 14, 2022.

In January of 2023, GHD conducted a factory acceptance test of the new turbo blower system controls. The test revealed that modifications to the PLC and HMI programs were necessary. All parties agreed that the quantity of the desired modifications would trigger RFP-079. M. F. Ronca & Sons, Inc. proposed to perform the additional scope for \$4,412.55.

The original bid contained a unit cost for grit removal from the sludge holding lagoons. For Lagoon B a hydraulic removal was considered but due to the quantity of grit a mechanical removal was analyzed. It would result in the destruction of the 20-years+ old liner. However, despite the replacement cost of the liner in the amount of \$84,375.17 the overall approach proved to be more cost effective and resulted in a new liner. On March 21, 2023 Council concurred and approved M. F. Ronca & Sons, Inc.'s Change Order No. 27 in the aggregate amount of \$88,787.72.

The project includes a new aeration basin and the associated above ground air supply piping. The air supplied by the turbo blowers is compressed and heats up in the process. Therefore, the piping has to balance the expansion and contraction via a specialized support system. GHD conducts routine construction phase QC inspections. During the last one in April, GHD identified opportunities to further reduce pipe stress and increase service life summarized in the attached RFP-081. The additional made to order components were administratively authorized after review of preliminary pricing to maintain the project schedule. On June 6, 2023, Council approved M. F. Ronca & Sons, Inc.'s Change Order No. 28 in the amount of \$108,583.52.

During the start-up of the upgraded mechanical plant pump station a one-time pressure transient was experienced. In an abundance of caution GHD recommended under RFP-088 to replace the gauge with a pressure transmitter in the same location. M. F. Ronca & Sons, Inc. proposes to install the modified tap and piping for \$1,656.00.

The original project bid included a complex winch system moving biosolids containers back and forth under the belt press shoots to allow for uniform loading. Staff has been operating the regional biosolids system for two years and found the occasional moving of the containers to be unproblematic. This allows for the elimination of the winch system under RFP-088. M. F. Ronca & Sons, Inc. proposes a credit of (-\$282,145.60).

On July 18, 2023, Council approved Change Order No. 29 for M. F. Ronca & Sons, Inc. in the aggregate credit amount of (-\$280,489.60).

Environmental Services initiated RFPs-096 & 098. The first creates a hydraulic bypass for each of the two effluent filter banks allowing part of the filtration system to stay in operation during maintenance. The second one deals with the replacement of the compromised 40-year-old LTS Digester Building roof. M. F. Ronca & Sons proposes to accomplish the tasks for \$68,284.99 and \$24,675.00 respectively.

The original bid contains a walkway from the mechanical building to the equalization tanks. It was in part supported by the original parapet wall. When the wall cap was removed it was

determined that the wall was completely compromised and had to be rebuilt. M. F. Ronca & Sons is proposing to complete this task for \$71,547.30.

The original bid only contained trench hot mix restoration resulting in a patchwork of pavement conditions as depicted on the attachment. The Engineering Department requested the contractor to provide an alternate road reclamation based base course proposal combined with a site wide 2-inch hot mix overlay. M. F. Ronca & Sons agreed to limit the mark up on the cost delta only and is proposing to complete this task for \$149,674.16.

On September 12, 2023, Council approved Change Order No. 30 in the aggregate amount of \$314,181.45.

The original bid contained a \$315.00 per ton unit cost for grit removal & disposal from the existing aeration basins. The bid quantity was based on pictures provided by Environmental Services, but the actual quantity is close to three times the estimate. Therefore, the Engineering Department and M. F. Ronca developed an alternate on-site grit storage approach which as a side benefit provides for new aeration diffusers in the existing tanks at a \$219.61 per ton unit price. On September 12, 2023 Council's concurred with the modified unit cost pricing of item C-6 Grit Removal.

The FY24 environmental services budget contains \$75k funding for the repair of the existing influent screen. The quotation for the parts alone amounted to >\$30K, once the labor and crane services were added the repair far exceeded 50% of the new screen offered by M. F. Ronca & Sons at \$89,762.10. A replacement screen will match the new one provided under the project and will represent the better asset value over the service life.

The project includes a full rebuild of the existing four-cell Effluent Filter No. 2. The project included removing the sand from cell one and stockpiling it while using sand from cell two to refill cell one and so on. Once the filter cells were drained it became apparent that approximately 40% of the sand had been lost in the backwash process over the last twelve years. M.F. Ronca & Sons proposed to utilize the County's bagged sand on site in combination with additional manufacturer supplied sand and complete the process in one step rather than four. The contractor can streamline the labor, speed up the process and agreed not to mark up the supplemental sand. M.F. Ronca & Sons offer of \$142,745.34 includes hauling costs but landfill fees will be paid directly by the County at the discounted rate.

The County requested HVAC equipment and control replacements under RFPs 093 & 095 for three of the original 1970s smaller buildings. All of the units have been repaired before and are not fully functional. M.F. Ronca & Sons proposes to perform the replacements and mechanical tie-ins for \$56,155.84.

On October 17, 2023, Council approved Change Order No. 31 in the aggregate amount of \$288,663.28.

Upon the request of Environmental Services Ronca priced out additional switches (i) two (2) Hydraulic Oil Pressure Switches for the belt filter press per RFP-110 (ii) four (4) Blower Inlet Isolation Valve Limit Switches per RFP-111 and (iii) two (2) Conveyor Pull Cord emergency shut off switches. On February 6, 2024, Council approved Change Order No. 32 to M.F. Ronca & Sons in the aggregate amount of \$16,608.23.

The South Coastal project essentially duplicates the almost twenty-year-old gravity filter arrangement. All the actuated control valves in the process are pneumatic due to the high moisture environment which is not conducive to electrical actuation. The Environmental Services team brought to the Department's attention that the pneumatic control system is nearing the end of its service life which was confirmed by GHD the County's consultants. Therefore, they solicited a proposal from M.F. Ronca & Sons under RFP-112 for the in kind replacement. On February 20, 2024, Council approved M.F. Ronca & Sons' Change order No. 33 in the amount of \$62,212.29

A nuisance alarm issue from an e-stop arose during the operation of the new sludge conveyor. Due to differing software versions, Serpentix the manufacturer was 'unable to remotely connect to its control panel in the sludge building triggering a return site visit to add a delay timer to the alarm and programming changes to the control system. M. F. Ronca & Sons proposed to address the issue at a cost of \$5,750.00.

In October of 2023 GHD issued RFP-105 affecting the as bid headworks odor covers. Changes in channel geometry arising from the extensive concrete repair work completed under a previous change order require sections of the odor control covers upstream and downstream and the manual bar screen, and over the screened effluent channel to be replaced. M. F. Ronca & Sons proposed to address the issue at a cost of \$46,943.00.

In the spring of 2024 GHD issued RFP-115 modifying the compressed air piping. EnviroMix, the manufacturer provided two regulators for the compressed air system, intended to be placed at each of the receiver tanks. EnviroMix wanted to set a lower value for maximum allowable compressed air pressure than that stated in the specifications. Despite an attempt to manage both regulators through carefully selected settings, nuisance alarms continue to plague operations. Therefore, a piping change was requested moving the regulators in more stable locations. M. F. Ronca & Sons proposed to address the issue at a cost of \$ 3,124.09.

In the fall of 2023, the sludge dewatering operations resumed. However, a temporary forcemain had to be laid allowing decant and dewatering filtrate to be returned to the Mechanical Building pump station when peak flows exceeded the capacity of the existing primary force main and recycle systems. Under RFP-116 GHD asked the contractor to replace this temporary line with a permanent force main. M. F. Ronca & Sons proposed to address the issue at a cost of \$ 26,166.34.

In addition, Michael F. Ronca & Sons, Inc.'s submitted a no cost contract time extension request of Three Hundred Eighty Two (382) Calendar Days, thereby extending the current substantial completion date to from September 13, 2023 to September 30, 2024, and final

completion date from December 14, 2023 to December 30, 2024. The Department reviewed the back-up documentation and concurred with the requested number of days.

On June 4, 2024, Council approved Change Order No. 34 in the aggregate amount of \$81,983.43 as well as the revised completion dates.

Later on, in June, unit 1 of the two clarifier drives at the Inland Bays RWF failed. With an emergency repair it was made temporarily operational. The permanent replacement of unit 1 with a new identical unit, refurbishment, and reinstallation of refurbished drive for unit 2 was covered under RFP-117a. M.F. Ronca & Sons performed two similar repairs at the Inland Bays RWF under Changer Order 20 for the influent screens and under a direct purchase order for the dryer unit bearing maintenance.

The Department requests Council's concurrence in issuance of Change Order No. 35 in the amount of \$121,235.07.

Electrical Construction Project C19-17; awarded on December 17, 2019, to BW Electric, Inc.

On February 4, 2020, Council awarded Change Order No.1 in the credit amount of (\$759,374.80) mostly for changes to the conduit materials. A second credit change order was approved on March 10, 2020, in the amount of (\$6,800.00) for ductbank modifications.

On April 7, 2020, Council approved Change Order No.3 in the not to exceed amount of \$235,637.33 for DP&L requested changes to the utility power service entrance location at the RBWTP.

On May 12, 2020, Council authorized Change Order No.4 in the amount of \$11,350.00 for reconstruction of the original electrical equipment in South Coastal's sludge handling building electrical room.

On July 28, 2020, Council approved Change Order No.5 in the combined amount of \$37,830.00 for the removal of an existing electrical handhole and duct bank and the modification of the duct bank between the DP&L utility switching pedestal and the transformer.

On September 22, 2020, Council approved Change Order No.6 in the amount of \$16,550.00 for the change of the sewer service for the return sludge building No. 2 from a gravity drain to a pumped approach.

On September 22, 2020, Council approved Change Order No. 7 in the not to exceed amount of \$307,300.00 for the City's oxidation ditch complete electrical equipment replacement. This change order had an allowance for sensor replacements which proved too low and required an increase of \$6,582.80. Council approved the modification to Change Order No. 7 on November 10, 2020.

On November 10, 2020, Council approved Change Order No. 8 in the aggregate amount of \$2,249.00 covering RFP-027, RFP-028, RFP-029 & RFP-030. GHD has concluded that RFP-029 can be rescinded in its entirety. Therefore, the scope of work in the Sludge Building reverts to the Drawings, as modified by Change Order No. 4 associated with RFP-016. However, on December 15, 2020, Council approved the modification reducing Change Order No. 8 by \$9,040.00 for a modified net total credit of (\$6,791.00).

On February 9, 2021, Council approved Change Order No. 9 in the aggregate amount of \$30,554.00 covering RFPs-032 & 033. The first RFP provided upsized control panels, conduit and conductors associated with the two (2) Jet Mixing Pump VFDs while the second dealt with a modified temporary electrical feeder arrangement and a redirection of the medium voltage loop.

On August 10, 2021, Council approved Change Order No. 10 in the aggregate amount of \$7,320.00 covering RFP- 035 for waterproofed convenience receptacles at the return sludge building's pump room and RPP-040 for additional site lighting in the area of the generator and blower buildings.

On October 12, 2021, Council approved Change Order No. 11 in the aggregate amount of \$47,328.70 covering the City's initiated RFPs-042 & 44. The first one replaces the deteriorated pull box at building B-10 with a stainless steel one and the second one addresses modifications to the garage feeder.

Also on October 12, 2021, Council approved Change Order No. 12 in the amount of \$4,779.38 covering RFP-045 for modification to the aeration basin lighting out of operational safety concerns.

On January 11, 2022, County Council issued Change Order No. 13 in the aggregate amount of \$20,018.56 for City initiated RFPs -043 & 049. The first one relates to the electrical control requirements for a booster pump in Building T-1. The second one addresses rewiring of the two (2) level sensors and dissolved oxygen probes at the oxidation ditches.

Also On January 11, 2022, County Council issued Change Order No. 14 in the credit amount of (\$6,485.87) for the elimination of four valve actuators.

The City's lighting in the headworks building and the panelboard in the chemical building are compromised by corrosion and City staff requested replacement as per RFP-050. The County Environmental Services and IT staff reanalyzed the facility's fiber optic cabling needs and requested inner duct modifications under RFP-059. BW Electric proposed to make the changes for \$12,018.72 and \$16,100.70 respectively and on February 8, 2022, Council issued Change Order No. 15 in the aggregate amount of \$28,119.42.

On March 29, 2022, County Council issued Change Order No. 16 in the aggregate amount of \$52,003.13 for the DP&L metering modifications at the City's plant and dedicated VFD cabinet ventilation.

The following RFPs were requested by Environmental Services:

1. RFP-064 for float-controlled effluent pump backup control panel in the event of a failure in the digital pump control system or level transmitter in the amount of \$29,895.13.
2. RFP-065 for the demolition and replacement of the original 1970s lighting in the Headworks Pump Room, Headworks Grit Dewatering Room, Mechanical Building Pump Room, and outdoor wallpacks around perimeter of Mechanical Building in the amount of \$80,099.11.
3. RFP-066 for additional circuits and conduits associated with a conveyor warning alarm in the Cake Storage Building, and for separation of 120 VAC circuits from 24 VDC circuits originating in Cake Storage Building in the amount of \$3,090.30.
4. RFP-068 for the electrical work associated with replacing the compressed gas mixing system with a mechanical mixing system in the amount of \$83,738.84. This is the companion change order to Michael F. Ronca & Sons' Change Order No. 21 for the mechanical work.
5. RFP-069 for a change in the existing 6-way DB-5A allowing for the MH-47 to be eliminated at a credit of (\$7,500.00).

On May 10, 2022, Council approved BW Electric, Inc.'s Change Order No. 17 in the aggregate amount of \$189,323.38.

The pumps and rail systems in the existing filtrate return pump station were upgraded under Change Order No. 18 by M. F. Ronca & Sons. RFP-060 covers the electrical and control upgrades associated with that station. This work was not part of the original plant upgrade scope. BW Electric, Inc. proposed to complete the work for \$92,713.82. In order to address operator safety and access cameras, as well as network access points, proposals were requested at aeration tanks 5-8 requiring a series of additional conduits and pull boxes. BW Electric, Inc. proposed to complete the work for \$50,362.91. On June 7, 2022, Council approved Change Order No. 18 to BW Electric, Inc in the aggregate amount of \$143,076.73.

Provide a credit proposal to remove the Off-Site Manufacturer Course Training specified in the construction documents. This will be conducted as part of the startup process resulting in a credit of \$17,758.13. On October 11, 2022, Council approved Change Order No. 19 in the amount of \$17,758.13.

On October 11, 2022, Council approved M. F. Ronca & Sons' Change Order No. 25 for the SCRWF for improvements to the headworks ventilation. GHD issued the companion RFP-077 for the odor control electrical modifications. In response BW Electric, Inc. proposed to complete the work for \$19,401.62.

GHD also issued companion RFP-076 for the electrical components associated with City's State Street pump station repair scope. In response BW Electric, Inc. proposed to complete the work for \$462,938.82. The City has concurred in the issuance and again will pay for this change order directly out of city funds with separate invoice by the electrical contractor.

On December 6, 2022, Council approved Change Orders No. 20 in the amount of \$19,401.62 & 21 in the amount of \$462,938.82 to BW Electric, Inc. for the headworks ventilation and the expanded State Street Pump Station electrical repair scope. The latter paid for by the City via direct reimbursements to the contractor.

BW Electric, Inc. submitted RFI-102 questioning the absence of a neutral bonding conductor in the electrical feeder 5A. GHD investigated the information request and concluded that the least costly solution to achieve the NEC required bonding was to add a conductor. Since this was an omission in the original documents, all of GHD's work associated with this item was not billed. On March 21, 2023 Council concurred and approved BW Electric's Change Order No. 22 in the amount of \$33,342.10.

The following RFPs were requested by Environmental Services:

1. RFP-082 deals with now required generator building feeder replacement since the "spare" shown on record drawings turned out to be already occupied. BW Electric proposes to complete the task for \$4,736.24.
2. RFP-083 for the shop feeder conductor replacements required due County's equipment changes. BW Electric proposes to complete the task at no cost.
3. RFP-084 covers the complete replacement of original 1970s lagoon sludge lighting system. It is largely inoperative, and the poles and fixtures are heavily corroded. BW Electric proposes to complete the task for \$86,480.73.
4. RFP-085 for the welder receptacles upgrades. BW Electric proposes to complete the task at no cost.
5. RFP-087 for the electrical components and signal wiring associated with the pressure sensor in the mechanical pump station. This is the electrical companion scope to Michael F. Ronca & Sons' RFP-088 for the mechanical work. BW Electric proposes to complete the task for \$10,340.23.

On July 18, 2023, Council approved Change Order No. 23 for BW Electric, Inc. in the aggregate amount of \$101,557.20.

BW Electric priced RFP-089 for the electrical credit associated with the winch system elimination at (\$10,134.30). In addition, an electrical safety issue at the SC administration building was identified under RFP-091. It required removing the existing PLC cabinet located in the Administration Building's electrical room, and replacing it with a new PCS cabinet, PCS-AB in its place. BW Electric has now priced RFP-091 at \$68,103.21. The last RFP-092 was associated with HVAC related issues in the Sodium Hypochlorite Building electrical room replacing it with a new power circuit and DS for a heat pump as well as providing new

outdoor receptacle and associated power circuit. BW Electric has priced RFP-092 at \$8,554.77. The General Contractor is still pricing the mechanical components under RFP-093.

On August 1, 2023, Council approved BW Electric, Inc.'s Change Order No. 24 in the aggregate amount of \$66,523.68.

The County requested HVAC equipment and control replacements under RFPs 093 & 095 for three of the original 1970s smaller buildings. All the units have been repaired before and are not fully functional. On October 10, 2023 Council approved M.F. Ronca & Sons' proposal to perform the replacements and mechanical as part of Change Order No. 31. RFP-094 addresses the electrical side of these HVAC improvements. On December 5, 2023, Council approved BW Electric, Inc.'s Change Order No. 25 in the aggregate amount of \$17,939.03.

The Environmental Services staff requested a new exterior a freestanding EMR for the sludge building between the overhead doors. Council approved BW Electric, Inc.'s Change Order No. 26 in the amount of \$9,636.87 on February 6, 2024.

Under M.F. Ronca & Sons' Change order No. 33 Council approved the pneumatic control system replacement for the existing filter which was at the end of its service. Therefore, GHD issued RFP-114 to BW Electric, Inc. for five (5) new equipment cabinet power circuits, four (4) existing pole mounted light fixtures circuits and various receptacles all mounted on Effluent Filter No. 2. On June 4, 2024, Council approved BW Electric, Inc's Change Order No. 27 in the aggregate amount of \$20,137.99.

- e. Mobile Belt Filter Press; awarded on January 7, 2020, Council to Kershner Environmental Technologies. The unit is currently stationed at South Coastal in anticipation of the aeration basin transfer.
- f. DP&L direct expenses; on February 4, 2020, Council approved the electric utility service relocation contract with the utility.
- g. The Rehoboth Beach WTP was built on a municipal landfill and Council approved a stand-alone competitive purchase order to Melvin L. Joseph Construction Company, Inc. for material hauling & screening on July 14, 2020.

The updated expenses associated with the South Coastal WRF Treatment Process Upgrade No.3 & Rehoboth Beach WTP Capital Improvement Program; Phase 2 are summarized in the attached spreadsheet.



**SUSSEX COUNTY
CHANGE ORDER REQUEST**

A. ADMINISTRATIVE:

1. Project Name: **SCRWF Treatment Process Upgrade No. 3 & RBWTP Capital Improvement Program, Phase 2 – General Construction**
2. Sussex County Project No. C19-11
3. Change Order No. 35
4. Date Change Order Initiated - 7/16/24
5.
 - a. Original Contract Sum \$39,526,400.00
 - b. Net Change by Previous Change Orders \$6,634,266.26
 - c. Contract Sum Prior to Change Order \$46,160,666.26
 - d. Requested Change \$ 121,235.07
 - e. Net Change (No. of days) 0
 - f. New Contract Amount \$46,281,901.33
6. Contact Person: Hans Medlarz, P.E.
Telephone No. (302) 855-7718

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):

C. BRIEF DESCRIPTION OF CHANGE ORDER:


Replacement of unit 1 and the refurbishment and reinstallation for unit 2 of the clarifier drives.

D. JUSTIFICATION FOR CHANGE ORDER INCLUDED?

Yes X No

E. APPROVALS

1. M.F. Ronca & Sons, Inc., Contractor

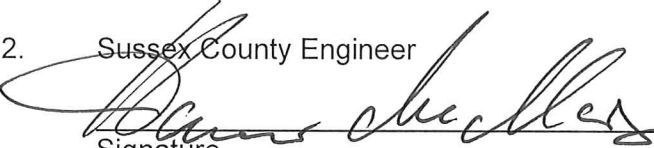


Signature Date 7/11/2024

David A. Ronca, CEO & General Manager

Representative's Name in Block Letters

2. Sussex County Engineer



Signature Date 7/11/27

3. Sussex County Council President

Signature Date



Request for Proposal

| | | | |
|---|--|------------------------|------------|
| Project Title | SCRWF Upgrade No. 3 & RBWWTP CIP Upgrade Phase 2 | | |
| Owner | Sussex County, Delaware | | |
| Contract No. | C19-11: General Construction | GHD Project No. | 11121182 |
| Contractor is requested to provide a Change Proposal for the following proposed modifications to the Work. This request alone neither directs nor approves any change to the Work nor any adjustments to the Contract Price or Contract Times. Contractor's proposal shall be submitted to Engineer for review and shall adhere to all requirements of the Contract Documents. If found acceptable to Owner and Engineer, Contractor's Change Proposal will be incorporated into the Work via Change Order. | | | |
| RFP No. | RFP-117a | | |
| RFP Subject | IBRWF Secondary Clarifier Refurbishment | | |
| Issued By | S. Clark | Issue Date | 06/26/2024 |

Description of proposed changes:

Contractor is requested to perform the following work at Inland Bays RWF for refurbishment of the existing secondary clarifiers:

1. Provide one replacement drive unit for Secondary Clarifier No. 1, including the gear assemblies, drive motor, speed reducer, and torque sensor:
 - a. Clarifier manufacturer is Ovivo. Primary contact is Vanessa Vann
Vanessa.Vann@ovivowater.com
+1 385-449-8764
 - b. The drive unit shall generally be an in-kind replacement of the existing unit, but shall also be provided in accordance with Section 11335, including but not limited to:
 - i. Submittal requirements (relating to the drive unit)
 - ii. Shop testing requirements
 - iii. Static Torque Test
 - iv. Mechanical Performance and Operation Test
 - c. Upon delivery of the drive unit, coordinate the installation schedule with the Owner and EC to complete the installation at an agreeable time while minimizing the outage duration. The existing drive unit will be retrieved and sent to the manufacturer for refurbishment.
 - d. Submittal for the replacement drive shall clearly note any differences between the proposed drive unit and the existing drive unit as well as any departures from Section 11335.
2. Retrieve the existing drive unit for Secondary Clarifier No. 1 and ship to the manufacturer for refurbishment. The refurbishment and return shipping costs will be paid directly by Sussex County to the manufacturer.
3. Upon receipt of the refurbished drive unit from Secondary Clarifier No. 1, install the refurbished drive unit on Secondary Clarifier No. 2. Coordinate the installation schedule with the Owner and EC to complete the installation at an agreeable time while minimizing the outage duration. The existing drive unit will be retrieved and sent to the manufacturer for refurbishment.
4. Retrieve the existing drive unit for Secondary Clarifier No. 2 and ship to the manufacturer for refurbishment. The refurbishment and return shipping costs will be paid directly by Sussex County to the manufacturer.
5. Upon receipt of the refurbished drive unit from Secondary Clarifier No. 2, hand over to Sussex County for storage.
6. Provide 4 replacement skimmer wiper blades in accordance with Section 11335, to provide for a future complete replacement of the wiper blades on each scum skimming arm in the two clarifiers.
7. Provide 4 replacement scraper squeegees in accordance with Section 11335, to provide for a future complete replacement of the squeegees on each sludge scraping arm in the two clarifiers.



TELEPHONE 610/759-5100
FACSIMILE 610/746-0974

CONTRACTORS

179 Mikron Road, Bethlehem, PA 18020

June 28, 2024

Mr. Steven Clark, P.E.
GHD
16701 Melford Boulevard, Suite 330
Bowie, MD 20715

Re: Sussex County
SCRWF-RBWWTP CIP Phase 2 Upgrades
Proposed Change Order Request No. 554-063
Inland Bays Clarifier Refurbishments

Dear Mr. Clark:

Please consider this writing to be Michael F. Ronca & Sons, Inc.'s formal change order request for performance of the above referenced work, in the amount of One Hundred Twenty One Thousand Two Hundred Thirty Five Dollars and 07 Cents.....(\$121,235.07).

Enclosed for your review is a corresponding breakdown of costs.

Should this change order request be acceptable as provided, please prepare the appropriate change order documentation, and forward the same to our office for further processing. Until then, should you have any questions, or require additional information, please do not hesitate to contact me.

Regards,

Scott Wachinski

Project Manager

cc: HO file 554
Hans M. Medlarz, P.E. – Sussex Co.
David A. Ronca – M.F. Ronca

Sussex County - SCRWF-RBWWTP CIP Phase 2 Upgrades

PCOR 554-063 Inland Bays Clarifier Refurbishments

6/28/2024

CHANGE ORDER SUMMARY

| | |
|--------|--|
| Item 1 | Clarifier No. 1 - Retrieve & Ship Ex. Drive to Ovivo for Refurbishment, Install New Replacement Drive, Furnish Replacement Skimmer Wiper Blades & Squeegees for Future Installation and Vendor Startup/Test of New Clarifier Drive per RFP-117A. |
|--------|--|

| | |
|--|--------------------|
| Labor | \$7,379.50 |
| Materials | \$77,375.00 |
| Equipment | \$1,913.90 |
| Subcontract | \$0.00 |
| Subtotal | \$86,668.40 |
| Contractor Overhead & Profit @ 15% | \$13,000.26 |
| Contr. Overhead & Profit on Subcontr. @ 5% | \$0.00 |
| Item Total | \$99,668.66 |

| | |
|--------|--|
| Item 2 | Clarifier No. 2 - Retrieve & Ship Ex. Drive to Ovivo for Refurbishment, Install Refurbished Drive Unit and Vendor Startup/Test Clarifier per RFP-117A. |
|--------|--|

| | |
|--|--------------------|
| Labor | \$7,379.50 |
| Materials | \$9,460.00 |
| Equipment | \$1,913.90 |
| Subcontract | \$0.00 |
| Subtotal | \$18,753.40 |
| Contractor Overhead & Profit @ 15% | \$2,813.01 |
| Contr. Overhead & Profit on Subcontr. @ 5% | \$0.00 |
| Item Total | \$21,566.41 |

| | |
|--------------------|---------------------|
| Change Order Total | \$121,235.07 |
|--------------------|---------------------|

Sussex County - SCRWF-RBWWTP CIP Phase 2 Upgrades

PCOR 554-063 Inland Bays Clarifier Refurbishments

6/28/2024

| Item | Description | | | | | | |
|--------|--|-------|------|-------------|-------------|--------------------|-------------|
| Item 1 | Clarifier No. 1 - Retrieve & Ship Ex. Drive to Ovivo for Refurbishment, Install New Replacement Drive, Furnish Replacement Skimmer Wiper Blades & Squeegees for Future Installation and Vendor Startup/Test of New Clarifier Drive per RFP-117A. | | | | | | |
| | Labor: | Qty | Unit | Unit Cost | Total | | |
| | Mechanic/Fitter | 40.00 | MH | \$122.18 | \$4,887.20 | | |
| | Operating Engineer | 10.00 | MH | \$106.59 | \$1,065.90 | | |
| | Laborer | 20.00 | MH | \$71.32 | \$1,426.40 | | |
| | | | | | | Labor Total: | \$7,379.50 |
| | Materials: | Qty | Unit | Unit Cost | Total | | |
| | New Replacement Drive, Squeegees & Wipers | 1.00 | LS | \$64,211.00 | \$64,211.00 | | |
| | New Drive, Squeegees & Wipers Freight | 1.00 | LS | \$3,704.00 | \$3,704.00 | | |
| | Freight for Drive to Ovivo for Refurbishment | 1.00 | LS | \$3,701.00 | \$3,701.00 | | |
| | Clarifier Vendor Startup Services | 1.00 | LS | \$5,759.00 | \$5,759.00 | | |
| | | | | | | Material Total: | \$77,375.00 |
| | Equipment: | Qty | Unit | Unit Cost | Total | | |
| | 75 T RT Crane | 10.00 | HR | \$160.07 | \$1,600.70 | | |
| | STS | 20.00 | HR | \$15.66 | \$313.20 | | |
| | | | | | | Equipment Total: | \$1,913.90 |
| | Subcontract: | Qty | Unit | Unit Cost | Total | | |
| | | | | \$0.00 | \$0.00 | | |
| | | | | | | Subcontract Total: | \$0.00 |
| | | | | | | Item Total: | \$86,668.40 |
| Item 2 | Clarifier No. 2 - Retrieve & Ship Ex. Drive to Ovivo for Refurbishment, Install Refurbished Drive Unit and Vendor Startup/Test Clarifier per RFP-117A. | | | | | | |
| | Labor: | Qty | Unit | Unit Cost | Total | | |
| | Mechanic/Fitter | 40.00 | MH | \$122.18 | \$4,887.20 | | |
| | Operating Engineer | 10.00 | MH | \$106.59 | \$1,065.90 | | |
| | Laborer | 20.00 | MH | \$71.32 | \$1,426.40 | | |
| | | | | | | Labor Total: | \$7,379.50 |
| | Materials: | Qty | Unit | Unit Cost | Total | | |
| | Freight for Drive to Ovivo for Refurbishment | 1.00 | LS | \$3,701.00 | \$3,701.00 | | |
| | Clarifier Vendor Startup Services | 1.00 | LS | \$5,759.00 | \$5,759.00 | | |
| | | | | | | Material Total: | \$9,460.00 |
| | Equipment: | Qty | Unit | Unit Cost | Total | | |
| | 75 T RT Crane | 10.00 | HR | \$160.07 | \$1,600.70 | | |
| | STS | 20.00 | HR | \$15.66 | \$313.20 | | |
| | | | | | | Equipment Total: | \$1,913.90 |
| | Subcontract: | Qty | Unit | Unit Cost | Total | | |
| | | | | \$0.00 | \$0.00 | | |
| | | | | | | Subcontract Total: | \$0.00 |
| | | | | | | Item Total: | \$18,753.40 |

- Notes:
- N1

Proposal Assumes Draining and Cleaning of Clarifier by Sussex Co.
- N2

Proposal Includes Freight for New Clarifier Drive and Freight to Ovivo for the 2 EA Drives to be Returned for Refurbishment Only. Return Freight for Refurbished Drives and Drive Refurbishment Costs to be Paid Direct by Sussex to Ovivo per RFP.
- N3

PCOR Excludes Electrical/Control Disconnection/Reconnection of Drives. To be by Others.



PROPOSAL
Q2024028-CL

6/18/2024

INLAND BAYS WWTP MILLSBORO, DE

**ATTENTION: SCOTT WACHINSKI
RONCA CONTRACTORS**

PROJECT

(2) C40HT Drive Unit Rebuilds & (1) C40HT Drive Unit Replacement for
(2) 85' dia. C4-FTS Clarifiers
Serial #CSW560-01 A/B

AREA REPRESENTATIVE

Sherwood Logan & Associates
Ed Zalewski
(610) 207-3200
ezalewski@sherwoodlogan.com

NOTES

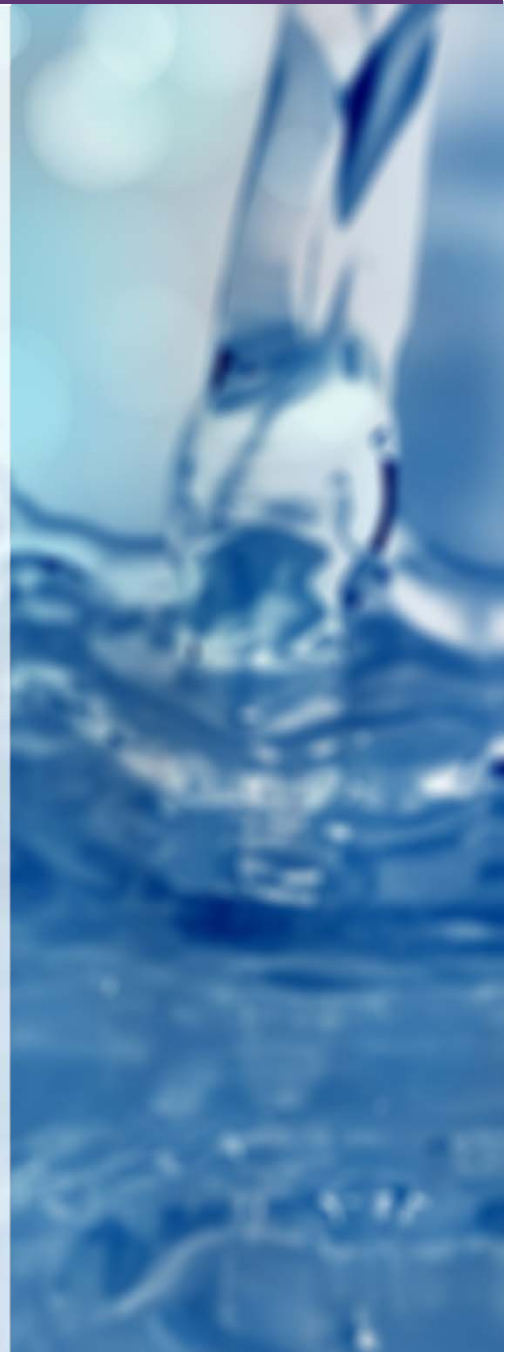
Pricing is only valid through the Expiration Date listed in this proposal. Ovivo will not accept purchase orders for this proposal past that date without reviewing pricing and delivery of items proposed.

Proposal Pricing Expiration Date: 8/2/2024

PREPARED BY

Chad Layton
Phone (801) 931-3240
chad.layton@ovivowater.com

Ovivo USA, LLC
4246 Riverboat Road – Suite 300
Salt Lake City, Utah 84123-2583



PROJECT SUMMARY:

Ovivo USA, LLC is pleased to submit a proposal for the following equipment (the “Products”) on the project indicated above (the “Project”). This proposal, either in its original form or in its “as sold” format, constitutes Ovivo’s contractual offer of goods and services in connection with the Project.

Ovivo USA, LLC is pleased to offer the following proposal to provide two (2) C40HT drive unit rebuilds at our authorized rebuild shop in Daytona Beach, FL. Ovivo is also providing one (1) C40HT drive unit as direct replacement in kind. This is for two (2) existing 85’ dia. C4-FTS clarifiers installed in 2010 under serial #CSW560-01 A/B.

(2) C40HT Drive Unit Rebuilds**Disassembly and Inspection**

- Completely disassemble drive into individual parts and components
- Steam clean and inventory all parts

Standard Rebuild

- Blast clean bases, main gear, housings, covers, and end cap. Machined surfaces are protected or are not blasted
- Replace all wear items i.e. bearings, bearing strip liners, bearing balls, seals, gaskets, keys, retaining rings, grease fittings, gauges, piping, and fasteners
- Deburr and hand dress teeth of gearing, pinions, worm gear assemblies, worms, shafts
- Polish all shafts
- Ovivo paint scheme - (2) coats of Tnemec N69F epoxy @ 6-8 mils DFT (sky blue color)
 - Top coated with (1) coat of Tnemec 73 Endura Shield urethane @ 2-3 mils DFT
 - Top coat is highly resistant to abrasion, wet conditions, corrosive fumes, chemical contact, and weathering
- Replace shear pin sprocket
- Replace drive control torque indication device
- Replace motor drive pkg.
 - 3/4 hp TEFC motor, reducer, sprockets, chain, and 304SS chain guard
- One (1) year mechanical warranty for new components only - 12 months from initial operation, not to exceed 18 months from delivery. Ovivo is not providing any sort of guarantee or warranty regarding process or performance as part of this proposal

Non-Standard Rebuild items – NOT included

- Submittals
- Removal or installation services
- Drive unit freight to/from Ovivo rebuild shop in FL
- Drive unit load/off-load from truck
- Finish paint
- Touch up paint

- Lubricants or drive unit oil
- Disposal of any old lubricants/fluids
- Replacement of gears, pinions or housings if required
- O & M manual
- Startup/checkout services
- Any other components not expressly listed above

To be Paid by Sussex
Co. Direct to Ovivo Per
RFP

Price for two (2) C40HT drive unit rebuilds \$ 92,072.⁰⁰

Lead time is 6-8 weeks after drive unit arrives at Ovivo rebuild shop

Drive units to be rebuilt one at a time

50% by Ronca for Shipment of Units
to Ovivo. 50% by Sussex Co. to
Ovivo for Return Freight to Jobsite
per RFP

Price for C40HT drive unit #1 rebuild freight..... \$ 7,402.⁰⁰

Price for C40HT drive unit #2 rebuild freight..... \$ 7,402.⁰⁰

Startup/Checkout Service for (1) C40HT Drive Unit (Rebuilt)

- Startup/checkout services – one (1) Ovivo serviceman visit for one (1) trip of one (1) day each on site to perform checkout (start-up), inspect rebuilt C40HT drive unit installation and provide operator training as needed

Price for startup/checkout service \$ 5,759.⁰⁰

In Proposal by Ronca.

(1) C40HT Drive Unit Replacement (New)

Ovivo will manufacture and supply one (1) complete C40HT drive unit to include the following:

- C40HT drive unit
- Drive torque control unit with micro switches and actuating pin
- Shear pin sprocket
- Motor drive package
 - 3/4 hp TEFC motor, reducer, sprockets, chain, and 304SS chain guard
- Ovivo paint scheme - (2) coats of Tnemec N69F epoxy @ 6-8 mils DFT (sky blue color)
 - Top coated with (1) coat of Tnemec 73 Endura Shield urethane @ 2-3 mils DFT
 - Top coat is highly resistant to abrasion, wet conditions, corrosive fumes, chemical contact, and weathering
- Installation fasteners & shim kit (304 SS)
- O & M manual
- Engineering
- Submittals
- One (1) year mechanical warranty for new components only - 12 months from initial operation, not to exceed 18 months from delivery. Ovivo is not providing any sort of guarantee or warranty regarding process or performance as part of this proposal

Replacement Squeegees & Neoprene Wipers

- Four (4) full trough skimmer squeegees (neoprene) – two (2) per clarifier
- Two (2) complete sets of rake arm squeegees (304SS) – one (1) set per clarifier

Items NOT Included

- Removal or installation services
- FCA freight
- Finish paint
- Touch up paint
- Lubricants or drive unit oil
- Disposal of any old lubricants/fluids
- Any other components not expressly listed above

Price for one (1) C40HT drive unit replacement & clarifier components \$ 64,211.⁰⁰
Lead time is 10-12 weeks after receipt of PO & Ovivo acknowledgement

In Proposal by Ronca



Price for C40HT drive unit replacement freight..... \$ 3,704.⁰⁰

In Proposal by Ronca



Startup/Checkout Service for (1) C40HT Drive Unit (New)

- Startup/checkout services – one (1) Ovivo serviceman visit for one (1) trip of one (1) day each on site to perform checkout (start-up), inspect new C40HT drive unit installation and provide operator training as needed

In Proposal by Ronca



Price for startup/checkout service \$ 5,759.⁰⁰

Prices quoted are FCA surface point of shipment, with freight included to an accessible point nearest the jobsite. Federal, state, or local sales, use or other taxes are not included in the sales price.

Any additional duties and tariffs invoked after the date of its proposal will be added to the total proposed price.

GENERAL NOTES

The dates of drawing submission and shipment of the Products represent Ovivo's best estimate, but is not guaranteed, and Ovivo shall not be liable for any damages due to late delivery, including but not limited to liquidated damages. The Products shall be delivered to the delivery point or points in accordance with the delivery terms stated in this proposal. If such delivery is prevented or postponed by reason of Force Majeure, as defined in Ovivo's standard terms and conditions of sale, Ovivo shall be entitled at its option to tender delivery to Purchaser at the point or points of manufacture, and in default of Purchaser's acceptance of delivery, to cause the Products to be stored at such a point or points of manufacture at Purchaser's expense. Such tender, if accepted, or such storage, shall constitute delivery for all purposes of this proposal. If shipment is postponed at request of Purchaser, or due to delay in receipt of shipping instructions, payment of

the purchase price shall be due on notice from Ovivo that the Products are ready for shipment. Handling, moving, storage, insurance, and other charges thereafter incurred by Ovivo with respect to the Products shall be for the account of Purchaser and shall be paid by Purchaser when invoiced.

BUY AMERICAN REQUIREMENTS

The Infrastructure Investment and Jobs Act signed into law on November 15, 2021, includes substantive changes to Buy America requirements compared to those specified in the preceding American Iron and Steel Act. While Ovivo fabricates and procures the vast majority of steel domestically for our equipment for the United States market, there are certain components that are either unavailable domestically or impractical to procure domestically through long-established supply chains, while meeting other project specifications, internal requirements, and project schedules. This challenge is further exacerbated by supply chain and labor shortages in pandemic and post pandemic times. As with previous legislation, we are awaiting any additional guidance from the US Environmental Protection Agency or other Agencies for further clarification relating to current Buy America requirements. As of now, the industry at large is unable to ascertain the parameters of the Buy America requirement. Thus, Ovivo cannot make any guarantee that its scope of supply will be in compliance with any Buy America requirements under the Infrastructure Investment and Jobs Act. Accordingly, any offer for sale, proposal, or budgetary quote/estimate submitted by or on behalf of Ovivo should not be construed as meeting such Buy America requirements unless explicitly stated otherwise.

ADDITIONAL FIELD SERVICE

When included and noted in the Product pricing of each proposal item, Ovivo will supply the service of a competent field representative to inspect the completed installation and adjustment of equipment, supervise initial operation, and instruct Owner's personnel in the operation and maintenance of each proposal item for the number of eight (8) hour days. Notwithstanding Ovivo's performance of the above-referenced services, Ovivo shall not be held liable for any faulty workmanship or other defects in the Products' installation, or for other goods and/or services, performed by third parties unless such goods and/or services are expressly included under Ovivo's scope of work.

If additional service is required, it will be furnished to the Purchaser and billed to him at the current rate for each additional day required, plus travel and lodging expenses incurred by the service personnel during the additional service days.

It shall be the Purchaser's responsibility to provide for all necessary lubrication of all equipment prior to placing equipment in operation. All equipment must be in operating condition and ready for the Field Service Engineer when called to the project location. Should the Purchaser/Owner not be ready when the Field Service Engineer is requested or if additional service is requested, the Ovivo current service rates will apply for each additional day required, plus travel and lodging expenses incurred by the service personnel during the additional service days.

SURFACE PREPARATION AND PAINTING GENERAL INFORMATION

If painting the Products is included under Ovivo's scope of work, such Products shall be painted in accordance with Ovivo's standard practice. Shop primer paint is intended to serve only as minimal protective finish. Ovivo will not be responsible for condition of primed or finished painted surfaces

after equipment leaves its shops. Purchasers are invited to inspect painting in our shops for proper preparation and application prior to shipment. Ovivo assumes no responsibility for field service preparation or touch-up of shipping damage to paint. Painting of fasteners and other touch-up to painted surfaces will be by Purchaser's painting contractor after mechanism erection.

Clarifier motors, gear motors and center drives shall be cleaned and painted with manufacturer's standard primer paint only.

It is our intention to ship major steel components as soon as fabricated, often before drives, motors, and other manufactured components. Unless you can insure that shop primed steel shall be field painted within thirty (30) days after arrival at the jobsite, we encourage you to purchase these components in the bare metal (no surface prep or primer) condition.

Ovivo cannot accept responsibility for rusting or deterioration of shop applied prime coatings on delivered equipment if the primed surfaces have not been field painted within thirty (30) days of arrival at the jobsite using manufacturers' standard primers. Other primers may have less durability.

PAYMENT TERMS

Payment terms are as follows:

| Milestone | Cumulative Percent Invoiced |
|---|--------------------------------|
| Equipment Delivery/Ready to Ship ¹ | 90% |
| Field Service Trips Per Contract | 100% |

¹This milestone will only be invoiced if delays from Purchaser or due to parties other than Ovivo occur. Additional storage and other terms may apply per paragraphs below.

Invoice will be billed at **100%** of the work complete in accordance with the schedules above. No more than 5% retention shall be withheld from each invoice. The final 5% (Retention) shall be invoiced at Substantial Completion of Ovivo's Scope, which may be different that Substantial Completion of the overall project, not to exceed **sixty (60) days** from equipment delivery of the Major Item.

Purchaser shall remit payment for proper invoices received from Ovivo in accordance with the payment terms stated above even if the Purchaser has not been paid by the Purchaser's customer (the "Owner") if Purchaser is not the end-user of the Products. Payments are due within thirty (30) days after Purchaser's receipt of invoice. Overdue and unpaid invoices are subject to a service charge of 2% per month until paid.

Credit is subject to acceptance by Ovivo's Credit Department.

TAXES

Federal, State, or local sales, use or other taxes are not included in the sales price. Such taxes, if applicable, shall be for Purchaser's account.

BONDS

Any performance and/or payment bond agreed to be provided by Ovivo will extend to supply of equipment and services for a period not to exceed the first twenty-four (24) months of the service or warranty period, and for a value not to exceed the total price of this Proposal.

BACKCHARGES

In no event shall Purchaser/Owner do or cause to be done any work, purchase any services or material or incur any expense for the account of Ovivo, nor shall Ovivo be responsible for such work or expenses, until after Purchaser/Owner has provided Ovivo's PROJECT MANAGER full details (including estimate of material cost and amount and rate of labor required) of the work, services, material or expenses, and Ovivo has approved the same in writing. Ovivo will not accept Products returned by Purchaser/Owner unless Ovivo has previously accepted the return in writing and provided Purchaser/Owner with shipping instructions.

****PURCHASE ORDER SUBMISSION****

In an effort to ensure all purchase orders are processed timely and efficiently, please submit all purchase order documentation to the following department and address. If customer sends PO by mail, Customer shall also notify Ovivo electronically.

Ovivo USA, LLC
4246 Riverboat Road, Suite 300
Salt Lake City, Utah 84123

Attn: Chad Layton
Tel. #: 801-931-3240
Email: chad.layton@ovivowater.com

GENERAL ITEMS NOT INCLUDED

Unless specifically and expressly included above, prices quoted by Ovivo do not include unloading, hauling, erection, installation, piping, valves, fittings, stairways, ladders, walkways, grating, wall spools, concrete, grout, sealant, dissimilar metal protection, oakum, mastic, field painting, oil or grease, electrical controls, wiring, mounting hardware, welding, weld rod, shims, leveling plates, protection against corrosion due to unprotected storage, special engineering, or overall plant or system operating instructions or any other products or services.

Performance and payment security, including but not limited to bonds, letters of credit, or bank guarantees, are not included, but can be provided if purchased for an additional cost.

MANUALS

The content of any and all installation, operation and maintenance or other manuals or documents pertaining to the Products are copyrighted and shall not be modified without the express prior written consent of Ovivo. Ovivo disclaims any liability for claims resulting from unauthorized

modifications to any such manuals or other documents provided by Ovivo in connection with the Project.

WARRANTY AND CONDITIONS

Ovivo standard Terms and Conditions of Sale are attached and made an essential part of this proposal. These terms and conditions are an integral part of Ovivo's offer of Products and related services and replace and supersede any terms and conditions or warranty included in Purchaser or Owner requests for quotation or specifications and cannot be changed without written approval from an authorized representative of Ovivo.

PERFORMANCE WARRANTY DISCLAIMER

The performance of the Products is dependent upon many factors, including, but not limited to, the influent or feed quality and quantity, additives required, time, temperature, rates of change, sizing criteria used, operating conditions, etc. Therefore, Ovivo cannot assume any liability or responsibility for performance or process results that Purchaser is expecting or has predicted. No verbal or written information or advice given by any personnel of the Ovivo shall create a warranty or in any way increase the scope of the warranties.

THE PARTIES AGREE THAT OTHER THAN ITS MECHANICAL WARRANTY SET FORTH IN THIS PROPOSAL, OR ANY PERFORMANCE WARRANTY SET FORTH ON OVIVO'S STANDARD, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY PROCESS OR PERFORMANCE RELATED WARRANTIES OR WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND MERCHANTABILITY, WHETHER WRITTEN, ORAL, OR STATUTORY, ARE EXCLUDED TO THE FULLEST EXTENT PERMISSIBLE BY LAW.

CONFIDENTIALITY

This document is not to be reproduced or submitted to any third party without the written consent of Ovivo.

This document contains, or Ovivo may have previously disclosed to Purchaser, certain technical and business information of Ovivo and/or Ovivo's affiliated entities, including certain copyrighted material, which is considered to be confidential. Such information, hereinafter referred to individually and collectively as the "Information", may include, without limitation, ideas, concepts, development plans for new or improved products or processes, data, formulae, techniques, flow sheets, designs, sketches, know-how, photographs, plans, drawings (regardless of what name, if any, is stated on the title block), specifications, samples, test specimens, reports, customer lists, price lists, findings, studies, computer programs and technical documentation, trade secrets, diagrams, and inventions, notes, and all information pertaining thereto and/or developed there from. This Information is disclosed in good faith solely for the purposes of our proposal, and in addition on the understanding that its confidentiality will be properly maintained and safeguarded.

Neither this proposal, the Information nor any part thereof may be copied, reproduced, or used for any purpose other than that for which it is disclosed by Ovivo. Except as reasonably necessary for the evaluation of this proposal, no part thereof may be disclosed to any other person, without Ovivo's prior consent in writing.

Ovivo will retain the rights to any intellectual property rights (“IPR”) related to the Products. Ovivo will grant a non-exclusive royalty free license to use the IPR for the sole purposes of operating and maintaining the equipment supplied by Ovivo.

The duties, obligations, restrictions, and responsibilities described hereinabove shall apply to the Purchaser, their agents, affiliates, and all related parties regardless of whether any transaction occurs between Ovivo and Purchaser, and shall survive termination, cancellation, and expiration of any transaction between Ovivo and Purchaser.

In the event of a breach of the terms herein, Ovivo maintains the right to seek any and all remedies and damages available to it, including but not limited to the amount, including interest, by which Purchaser profited from the breach, any gains made by Purchaser or any third party who received Information from Purchaser, compensation for all Ovivo loss or injury, and the value of Ovivo's expectation created by the promise of Purchaser. The parties agree Ovivo would suffer irreparable harm in the event of any breach of these terms, and therefore Ovivo shall be entitled to any and all injunctive relief available.

As an equipment supplier, Ovivo's scope of responsibility is limited to the equipment that it supplies and its ability to meet the agreed upon project specifications. Unless expressly stated in its proposal document, Ovivo is not responsible for a treatment plant's process performance, engineering decisions in relation to the plant's construction or operation nor the appropriateness or compatibility of Ovivo's equipment within such plant.

US MUNICIPAL & INDUSTRIAL FIELD SERVICE RATE SHEET

Effective January 2024

| | | |
|----------------------------------|----------------------------|-------------|
| Standard (Travel) | Daily Rate (8-hour day) | \$ 1,200.00 |
| Hourly Rate (4 hour minimum) | | \$ 150.00 |
| Standard (Labor) | Daily Rate (8-hour day) | \$ 1,200.00 |
| Hourly Rate (4 hour minimum) | | \$ 150.00 |
| Saturday | Daily Rate (8-hour day) | \$ 1,800.00 |
| Hourly Rate (4 hour minimum) | | \$ 225.00 |
| Sundays/Holidays * | Daily Rate (8-hour day) | \$ 2,400.00 |
| Hourly Rate (4 hour minimum) | | \$ 300.00 |
| Overtime ** | Hourly Rate - Standard Day | \$ 225.00 |
| Hourly Rate – Sundays & Holidays | | \$ 300.00 |

** For all hours worked over eight (8) hours per standard day and Saturdays
Sunday & Holiday requests will be billed at the double-time rate

UNLESS OTHERWISE ARRANGED; EXPENSES ARE CHARGED AT ACTUAL COST PLUS 10%

Please Note:

- All of the rates provided are portal to portal. In addition, travel and living expenses will be invoiced at **actual cost** PLUS 10 % and documentation will be provided for these expenses. Travel/Labor on Saturday will be billed at the overtime rate. Travel/Labor on Sunday or Holidays will be billed at the double-time rate. ***If a fixed Per Diem rate is required, it will be charged at \$250.00 per day (lodging and meals) with the exception of the East Coast where the price will be \$300.00***
- Use of **Ovivo USA** Fleet vehicles for travel will be charged at the rate of \$0.67 per mile.

TERMS AND CONDITIONS OF SALE

1. ACCEPTANCE. The proposal of **Ovivo USA, LLC** ("SELLER"), as well as these terms and conditions of sale (collectively the "Agreement"), constitutes SELLER's contractual offer of goods and associated services, and PURCHASER's acceptance of this offer is expressly limited to the terms of the Agreement. The scope and terms and conditions of this Agreement represent the entire offer by SELLER and supersede all other solicitations, discussions, agreements, understandings and representations between the parties. Any scope or terms and conditions included in PURCHASER's acceptance/purchase order that are in addition to or different from this Agreement are hereby rejected.

2. DELIVERY. Any statements relating to the date of shipment of the Products (as defined below) represent SELLER's best estimate, but is not guaranteed, and SELLER shall not be liable for any damages due to late delivery. The Products shall be delivered to the delivery point or points in accordance with the delivery terms stated in SELLER's proposal. If such delivery is prevented or postponed by reason of Force Majeure (as defined below), SELLER shall be entitled at its option to tender delivery to PURCHASER at the point or points of manufacture, and in default of PURCHASER's acceptance of delivery to cause the Products to be stored at such a point or points of manufacture at PURCHASER's expense. Such tender, if accepted, or such storage, shall constitute delivery for all purposes of this agreement. If shipment is postponed at request of PURCHASER, or due to delay in receipt of shipping instructions, payment of the purchase price shall be due on notice from SELLER that the Products are ready for shipment. Handling, moving, storage, insurance and other charges thereafter incurred by SELLER with respect to the Products shall be for the account of PURCHASER and shall be paid by PURCHASER when invoiced. Delivery by SELLER of the Products shall constitute acceptance of the Products by PURCHASER, unless written notice of defect or nonconformity is received by SELLER within thirty (30) days of SELLER's delivery of the Products.

3. TITLE AND RISK OF LOSS. SELLER shall retain the fullest right, title, and interest in the Products to the extent permitted by applicable law, including a security interest in the Products, until the full purchase price has been paid to SELLER. The giving and accepting of drafts, notes and/or trade acceptances to evidence the payments due shall not constitute or be construed as payment so as to pass SELLER's interests until said drafts, notes and/or trade acceptances are paid in full. Risk of loss shall pass to PURCHASER at the delivery point.

4. PAYMENT TERMS. SELLER reserves the right to ship the Products and be paid for such on a pro rata basis, as shipped. If payments are not made by the due date, interest at a rate of two percent (2%) per month, calculated daily, shall apply from the due date for payment. PURCHASER is liable to pay SELLER's legal fees and all other expenses in respect of enforcing or attempting to enforce any of SELLER's rights relating to a breach or threatened breach of the payment terms by PURCHASER. In the event of nonpayment SELLER reserves the further right to seek compensation from any third party in possession of the Products.

5. TAXES. Unless otherwise specifically provided in SELLER's quotation/proposal; PURCHASER shall pay and/or reimburse SELLER, in addition to the price, for all sales, use and other taxes, excises and charges which SELLER may pay or be required to pay to any government directly or indirectly in connection with the production, sale, transportation, and/or use by SELLER or PURCHASER, of any of the Products or services dealt with herein (whether the same may be regarded as personal or real property). PURCHASER agrees to pay all property and other taxes which may be levied, assessed or charged against or upon any of the Products on or after the date of actual shipment, or placing into storage for PURCHASER's account.

6. MECHANICAL WARRANTY. Solely for the benefit of PURCHASER, SELLER warrants that new equipment and parts manufactured by it and provided to PURCHASER (collectively, "Products") shall be free from defects in material and workmanship. The warranty period shall be twelve (12) months from startup of the equipment not to exceed eighteen (18) months from the earliest of the notice of readiness to ship or the actual shipment. If any of SELLER's Products fail to comply with the foregoing warranty, SELLER shall repair or replace free of charge to PURCHASER, EX WORKS SELLER's FACTORIES or other location that SELLER designates, any Product or parts thereof returned to SELLER, which examination shall show to have failed under normal use and service operation by PURCHASER within the Warranty Period; provided, that if it would be impracticable for the Product or part thereof to be returned to SELLER, SELLER will send a representative to PURCHASER's job site to inspect the Product. If it is determined after inspection that SELLER is liable under this warranty to repair or replace the Product or part thereof, SELLER shall bear the transportation costs of (a) returning the Product to SELLER for inspection or sending its representative to the job site and (b) returning the repaired or replaced Products to PURCHASER; however, if it is determined after inspection that SELLER is not liable under this warranty, PURCHASER shall pay those costs. For SELLER to be liable with respect to this warranty, PURCHASER must make its claims to SELLER with respect to this warranty in writing no later than thirty (30) days after the date PURCHASER discovers the basis for its warranty claim and in no event more than thirty (30) days after the expiration of the Warranty Period. In addition to any other limitation or disclaimer with respect to this warranty, SELLER shall have no liability with respect to any of the following: (i) failure of the Products, or damages to them, due to PURCHASER's negligence or willful misconduct, abuse or improper storage, installation, application or maintenance (as specified in any manuals or written instructions that SELLER provides to the PURCHASER); (ii) any Products that have been altered or repaired in any way without SELLER's prior written authorization; (iii) The costs of dismantling and reinstallation of the Products; (iv) any Products damaged while in transit or otherwise by accident; (v) decomposition of Products by chemical action, erosion or corrosion or wear to Products or due to conditions of temperature, moisture and dirt; or (vi) claims with respect to parts that are consumable and normally replaced during maintenance such as filter media, filter drainage belts and the like, except where such parts are not performing to SELLER's estimate of normal service life, in which case, SELLER shall only be liable for the pro rata cost of replacement of those parts based on SELLER's estimate of what the remaining service life of those parts should have been; provided, that failure of those parts did not result from any of the matters listed in clauses (i) through (v) above. With regard to third-party parts, equipment, accessories or components not of SELLER's design, SELLER's liability shall be limited solely to the assignment of available third-party warranties. **THE PARTIES AGREE THAT ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND MERCHANTABILITY, WHETHER WRITTEN, ORAL OR STATUTORY, ARE EXCLUDED TO THE FULLEST EXTENT PERMISSIBLE BY LAW.** All warranties and obligations of SELLER shall terminate if PURCHASER fails to perform its obligations under this Agreement including but not limited to any failure to pay any charges due to SELLER. SELLER's quoted price for the Products is based upon this warranty. Any increase in warranty obligation may be subject to an increase in price.

7. CONFIDENTIAL AND PROPRIETARY INFORMATION. All nonpublic or proprietary information and data furnished to PURCHASER hereunder, including but not limited to price, size, type, design and other technical or business information relating to the Products is the sole property of SELLER and submitted for PURCHASER's own confidential use solely in connection with this Agreement and is not to be made known or available to any third party without SELLER's prior written consent.

8. SURFACE COATING. All Product coating provided by SELLER shall be in accordance with SELLER's standard practice, unless otherwise agreed in writing.

9. DRAWINGS AND TECHNICAL DOCUMENTATION. When PURCHASER requests to approve drawings before commencement of manufacture, shipment may be delayed if approved drawings are not returned to SELLER within fourteen (14) days of receipt by PURCHASER of such drawings for approval. SELLER will furnish only general arrangement, general assembly, and if required, wiring diagrams, erection drawings, installation and operation-maintenance manuals for SELLER's equipment (in English language). SELLER will supply six (6) complete sets of drawings and operating instructions. Additional sets will be paid for by PURCHASER. Electronic files, if requested from SELLER, will be provided in pdf, jpg or tif format only.

10. SET OFF. This Agreement shall be completely independent of all other contracts between the parties and all payments due to SELLER hereunder shall be paid when due and shall not be setoff or applied against any money due or claimed to be due from SELLER to PURCHASER on account of any other transaction or claim.

11. SOFTWARE. PURCHASER shall have a nonexclusive and nontransferable license to use any information processing program supplied by SELLER with the Products. PURCHASER acknowledges that such programs and the information contained therein is Confidential Information and agrees: a) not to copy or duplicate the program except for archival or security purposes; b) not to use the program on any computer other than the computer with which it is supplied; and c) to limit access to the program to those of its employees who are necessary to permit authorized use of the program. PURCHASER agrees to execute and be bound by the terms of any software license applicable to the Products supplied.

12. PATENT INDEMNITY. SELLER will defend at its own expense any suit instituted against PURCHASER based upon claims that SELLER's Product hereunder in and of itself constitutes an infringement of any valid apparatus claims of any United States patent issued and existing as of the date of this Agreement, if notified promptly in writing and given all information, assistance, and sole authority to defend and settle the same, and SELLER shall indemnify the PURCHASER against such claims of infringement. Furthermore, in case the use of the Products is enjoined in such suit or in case SELLER otherwise deems it advisable, SELLER shall, at its own expense and discretion, (a) procure for the PURCHASER the right to continue using the Products, (b) replace the same with non-infringing Products, (c) modify the Product so it becomes non-infringing, or (d) remove the Products and refund the purchase price less freight charges and depreciation. SELLER shall not be liable for, and PURCHASER shall indemnify SELLER for, any claim of infringement related to (a) the use of the Products for any purpose other than that for which it was furnished by SELLER, (b) compliance with equipment designs not furnished by SELLER or (c) use of the Products in combination with any other equipment. The foregoing states the sole liability of SELLER for patent infringement with respect to the Products.

13. GENERAL INDEMNITY. Subject to the limitations of liabilities of the parties set forth in this Agreement, each party shall protect and indemnify the other party, its parent and their respective officers, directors, employees and agents, from and against all claims, demands and causes of action asserted by, or in favor of, any entity to the extent of the indemnifying party's negligence or willful misconduct in connection with the performance of this agreement.

14. DEFAULT, TERMINATION. In the event that PURCHASER becomes insolvent, commits an act of bankruptcy or defaults in the performance of any term or condition of this Agreement, the entire unpaid portion of the purchase price shall, without notice or demand, become immediately due and payable. SELLER at its option, without notice or demand, shall be entitled to sue for said balance and for reasonable legal fees, plus out-of-pocket expenses and interest; and/or to enter any place where the Products are located and to take immediate possession of and remove the Products, with or without legal process; and/or retain all payments made as compensation for the use of the Products; and/or resell the Products, without notice or demand, for and on behalf of the PURCHASER, and to apply the net proceeds from such sale (after deduction from the sale price of all expenses of such sale and all expenses of retaking possession, repairs necessary to put the Products in saleable condition, storage charges, taxes, liens, collection and legal fees and all other expenses in connection therewith) to the balance then due to SELLER for the Products and to

receive from the PURCHASER the deficiency between such net proceeds of sale and such balance. PURCHASER hereby waives all trespass, damage and claims resulting from any such entry, repossession, removal, retention, repair, alteration and sale. The remedies provided in this paragraph are in addition to and not limitations of any other rights of SELLER.

15. CANCELLATION. PURCHASER may terminate this Agreement for convenience upon giving SELLER thirty (30) days prior written notice of such fact and paying SELLER for all costs and expenses (including overhead) incurred by it in performing its work and closing out the same plus a reasonable profit thereon. All such costs and expenses shall be paid to SELLER within ten (10) days of the termination of the Agreement, or be subject to an additional late payment penalty of five percent (5%) of the total amount of costs and expenses owed.

16. REMEDIES. The rights and remedies of the PURCHASER in connection with the goods and services provided by SELLER hereunder are exclusive and limited to the rights and remedies expressly stated in this Agreement.

17. INSPECTION. PURCHASER is entitled to make reasonable inspection of Products at SELLER's facility. SELLER reserves the right to determine the reasonableness of the request and to select an appropriate time for such inspection. All costs of inspections not expressly included as an itemized part of the quoted price of the Products in this Agreement shall be paid by PURCHASER.

18. WAIVER. Any failure by SELLER to enforce PURCHASER's strict performance of any provision of this Agreement will not constitute a waiver of its right to subsequently enforce such provision or any other provision of this Agreement.

19. COMPLIANCE WITH LAWS. If applicable laws, ordinances, regulations or conditions require anything different from, or in addition to that called for by this Agreement, SELLER will satisfy such requirements at PURCHASER's written request and expense.

20. FORCE MAJEURE. If SELLER is rendered unable, wholly or in material part, directly or indirectly, by reason of Force Majeure, to carry out any of its obligations hereunder, then on SELLER's notice in writing to PURCHASER within a reasonable time after the occurrence of the cause relied upon, such obligations shall be suspended. "Force Majeure" shall include, but not be limited to, acts of God, epidemics and pandemics, acts of or delays caused by governmental authorities, changes in laws and regulations, strikes, civil disobedience or unrest, lightning, fire, flood, washout, storm, communication lines failure, delays of the PURCHASER or PURCHASER's subcontractors, breakage or accident to equipment or machinery, wars, police actions, terrorism, embargos, and any other causes that are not reasonably within the control of the SELLER. If the delay is the result of PURCHASER's action or inaction, then in addition to an adjustment in time, SELLER shall be entitled to reimbursement of costs incurred to maintain its schedule. For the avoidance of doubt, if the cause relied upon has commenced prior to the Parties entered into a contracting relationship, it shall not render the cause void and/or not capable of being included within the definitions of Force Majeure, as listed within this Article 20.

21. DISPUTE RESOLUTION. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be exclusively determined by final and binding arbitration administered by the American Arbitration Association ("AAA") under its Commercial Arbitration Rules and Mediation Procedures ("Commercial Rules") including, if appropriate, the Procedures for Large, Complex Commercial Disputes. The seat or place of arbitration shall be Salt Lake City, Utah. The arbitration shall be conducted and the award shall be rendered in English. There shall be one arbitrator agreed to by the parties within twenty (20) days of receipt by respondent(s) of the request for arbitration or in default thereof appointed by the AAA in accordance with its Commercial Rules. If more than one arbitration is commenced under this Agreement and any party contends that two or more arbitrations are substantially related and that the issues should be heard in one proceeding, the arbitrator selected in the first-filed proceeding shall determine whether, in the interests of justice and efficiency, the proceedings should be consolidated before that arbitrator. The Parties are bound to each other by this arbitration clause. Each related party may be joined as an additional party to an arbitration involving other parties under this Agreement. The award rendered by the arbitrator shall be final, non-appealable and binding on the parties and may be entered and enforced in any court where a party or its assets is located. Each party shall be responsible for its own attorney fees and other legal costs associated with the dispute resolution process.

22. INDEPENDENT CONTRACTOR. It is expressly understood that SELLER is an independent contractor, and that neither SELLER nor its principals, partners, parents, subsidiaries, affiliates, employees or subcontractors are servants, agents, partners, joint ventures or employees of PURCHASER in any way whatsoever.

23. SEVERABILITY. Should any portion of this Agreement, be held to be invalid or unenforceable under applicable law then the validity of the remaining portions thereof shall not be affected by such invalidity or unenforceability and shall remain in full force and effect. Furthermore, any invalid or unenforceable provision shall be modified accordingly within the confines of applicable law, giving maximum permissible effect to the parties' intentions expressed herein.

24. CHOICE OF LAW, CHOICE OF VENUE. This Agreement shall be governed and construed in accordance with the laws of the State of Utah, without regard to its rules regarding conflicts or choice of law. The parties submit to the exclusive jurisdiction and venue of the state and federal courts located in Salt Lake City, Utah.

25. ASSIGNMENT. PURCHASER shall not assign or transfer this Agreement without the prior written consent of SELLER. Any attempt to make such an assignment or transfer shall be null and void. SELLER shall have the authority to assign, or otherwise transfer, its rights and obligations in connection with this Agreement, in whole or in part, upon prior written notice to PURCHASER.

26. LIMITATION ON LIABILITY, TO THE EXTENT PERMISSIBLE BY LAW, SELLER SHALL HAVE NO FURTHER LIABILITY IN CONNECTION WITH THIS AGREEMENT IN EXCESS OF THE AMOUNT PAID BY PURCHASER FOR THE PRODUCTS GIVING RISE TO SUCH LIABILITY, NOTWITHSTANDING ANY LIABILITIES OR RESPONSIBILITIES ASSUMED BY SELLER HEREUNDER, SELLER SHALL IN NO EVENT BE RESPONSIBLE TO PURCHASER OR ANY THIRD PARTY, WHETHER ARISING UNDER CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE, FOR LOSS OF ANTICIPATED PROFITS, LOSS BY REASON OF PLANT SHUTDOWN, NON-OPERATION OR INCREASED EXPENSE OF OPERATION, LOSS OF DATA, SERVICE INTERRUPTIONS, COST OF PURCHASED OR REPLACEMENT POWER, COST OF MONEY, LOSS OF USE OF CAPITAL OR REVENUE OR ANY OTHER INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL LOSS OR DAMAGE, WHETHER ARISING FROM DEFECTS, DELAY, OR FROM ANY OTHER CAUSE WHATSOEVER.

27. PRIVACY AND DATA PROTECTION. Seller has put in place rigorous safeguards and procedures regarding privacy and data protection, notably the Ovivo Privacy Policy (www.ovivowater.com/privacy-policy), and requires that Purchaser adhere to its data protection principles to the extent applicable to Purchaser.

28. DATA COLLECTION. PURCHASER consents to the collection of the Product's operational data and to the use of such data for the purpose of improving the Products and other purposes stated herein. PURCHASER further agrees that such data collection does not constitute a performance monitoring service or duty by SELLER.

29. INSURANCE. SELLER shall maintain that its current levels of insurance for the duration of the Project, as set forth in its standard certificate of insurance, available upon request.

30. BONDS. Upon PURCHASER request within fifteen (15) calendar days of SELLER's receipt of an order, SELLER shall provide a bond in favor of PURCHASER, at PURCHASER's expense, by an institution, and in a form, approved in advance by SELLER. Any performance and/or payment bond agreed to be provided by SELLER will extend to supply of equipment and services for a period not to exceed the first twenty four (24) months of the service or warranty period, and for a value not to exceed the total price of the contract.

31. PERMITS. PURCHASER shall be solely responsible to obtain and maintain in force all necessary permits with respect to any products to be provided by SELLER hereunder and any intended use by PURCHASER.

REVISED – April 2024

South Coastal RWF & Rehoboth Beach WTF Upgrade

7/16/2024

| Vendor/Contract | Description | Contract Value |
|-------------------------------------|---|----------------|
| Michael F. Ronca & Sons, Inc. | SCRWF/RBWTP General Construction | 46,281,901.33 |
| BW Electric Inc. | SCRWF/RBWTP Electrical Construction | 22,541,321.80 |
| BW Electric Inc. CO#3 | DP&L Service Entrance Modification Conduit System | 235,637.33 |
| BW P.O. | Soil Screening @ Rehoboth Plant | 4,504.50 |
| City of Rehoboth | Direct Payment for repairs to piping in oxidation ditches | 324,996.81 |
| | State Street Pump Station Repair | 2,732,938.82 |
| GHD | Amd 11 - SCRWF Expansion to 10mgd - Planning & Concept | 241,938.68 |
| | Amd 12 - SCRWF Expansion Construction Docs | 2,240,280.73 |
| | Amd 13 - Value Engineering | 95,080.15 |
| | Amd 14 - Rehoboth WTP Capital Improvement Program Upgrade Phase 2/Joint Project with SCRWF Expansion | 398,410.63 |
| | Amd 16 - Ocean Outfall Discharge Modeling & Wetlands Delineation for SCRWF and Add'l Design Services for Rehoboth WTP Capital Improvement Program | 181,089.72 |
| | Amd 18 - RBWTP CIP Upgrade Phase 2 - Add'l Design | 172,153.01 |
| | Amd 19 - SCRWF Upgrade 3 Add'l Design | 108,073.71 |
| | Amd 20 - SCRWF Upgrade 3/RBWTP Upgrade Phase 2 Construction Engineering | 6,589,558.49 |
| Core & Main | Influent FM Consolidation Materials | 339,944.59 |
| Core & Main | Effluent FM Pipeline Materials | 227,603.39 |
| Delmarva Power | Improve service entrances for both projects. Payment not distributed. | 175,000.00 |
| G&L | FM Consolidation & Influent Consolidation Phase II | 973,229.04 |
| G&L Work- Effluent Relocation | | 316,635.20 |
| G&L Work - RB Treatment Plant | Parking Lot Repavement | |
| Kershner Environmental Technologies | Belt Press | 295,000.00 |
| Melvin Joseph | Material Screening | 80,000.00 |
| DSWA | Loading, Hauling & Disposal of Debris | 33,000.00 |
| | Hauling of Rehoboth Oxidation Ditch Remnants | 39,663.15 |
| Totals | | 84,627,961.08 |

ENGINEERING DEPARTMENT

MIKE HARMER, P.E.
SUSSEX COUNTY ENGINEER

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Sussex County
DELAWARE
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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 Green
The Honorable Douglas B. Hudson
The Honorable Mark Schaeffer

FROM: Hans Medlarz, P.E., County Engineer, ret.

RE: ***Delivery of Seed & Chemicals, Project M23-06***
A. Motion Clarification

DATE: July 16, 2024

The County continues to successfully perform agricultural activities at the Wolfe Neck and Inland Bays' Regional Wastewater Facility's irrigated lands with inhouse staff. This approach has significantly reduced the loss of irrigation days due to scheduling conflicts with required agricultural activities.

The costs for the purchase and delivery of seed and chemicals associated with farming rises to the procurement threshold for material purchases. Therefore, a two (2) year contract was first publicly advertised in 2017 with Council awarding the contract on September 19, 2017 to the low bidder, Growmark FS, LLC, in the first year FY18 amount of \$81,766.46.00.

On June 4, 2019, Council approved re-establishing a base contract for FY20 & 21 with Growmark FS, LLC for bid items 1,2 & 4-6 in the aggregate amount of \$77,150.50 per year.

On February 2, 2021, a change order was presented for the Environmental Services Division to perform farming operations at the Inland Bays Facility. Council approved Change Order No. 1 in the amount of \$111,828.80 for a new contract total of \$188,979.30 per year for the remainder of the contract term, ending June 30, 2022. However, a changeover in chemical and seed vendors mid-growing season is detrimental to farming operations. Therefore, Council extended the contract on February 22, 2022 through December 31, 2022, to allow for the new contract bid to be advertised during the off season and to establish calendar year contracts.



To re-establish a base contract for FY23 & 24, with all potential farming necessities as an option, invitations to bid were advertised in two (2) newspapers, viewable on the Sussex County website, and directly sent to businesses on the Department's supplier list. Under this solicitation, the Department broke out basic services of seed delivery and labor for chemical applications in Bid Schedule A and the purchase of chemicals under Bid Schedule B. The purchase under Schedule B established a worst case scenario cost ceiling, but actual purchases of the various chemicals are expected to come in at a significantly lower cost.

On January 30, 2023, bids for the Delivery of Seed and Chemical, Project M23-06 were due and one (1) bid was received. On February 21, 2023, Council approved award of the project to Growmark FS, LLC for bid schedules A & B in the combined, not to exceed amount of **\$420,845.50 per year** for FY23 & 24.

Since the Growmark FS, LLC contract is valid through December 31, 2025, the Engineering Department requests approval of a modified motion of award to Growmark FS, LLC for bid schedules A & B in the combined annual, not to exceed amount of \$420,845.50 for calendar years 2023 & 2024.

ENGINEERING DEPARTMENT

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ASSISTANT COUNTY ENGINEER

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Sussex County

DELAWARE
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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: ***Starlight Meadows Road Improvements – Chapter 96 Sussex Community Improvements***
A. Substantial Completion & Balancing Change Order

DATE: July 16, 2024

Starlight Meadows is a community consisting of thirty-four (34) assessable parcels located off Williams Farm Road just north of the Town of Milton. The community by letter dated January 11, 2023, requested assistance from the County to repair and improve their existing roads through the Sussex Community Improvement (SCI) Program as defined in Chapter 96 of Sussex County Code. Following the provisions of the Code, the Engineering Department to date has performed the following actions:

- Determined that the community meets eligibility criteria as defined in the Code;
- Petitioned all assessable property owners within the Community regarding inclusion in the SCI Program
- Provided a preliminary cost estimate for road repair and improvements
- Provided the approximate costs to property owners in both lump sum and 10-year repayment options
- Provided advance notification and conducted a community meeting to discuss and receive comments regarding the SCI Program, estimated project costs, and subsequent election process necessary for project implementation

Resolution R015 23 was subsequently presented and approved by Council on August 15, 2023. The resolution accepted the subdivision into the Chapter 96 program and outlined an Election process to determine if the proposed project and estimated cost was or was not favorable to the Starlight Meadows property owners. The Election was held in accordance with Code and the Resolution on September 19, 2023 at the Engineering Administration office, with the Election results certified shortly thereafter.



There were a total of twenty (20) votes cast in the Election, with a total of seventeen (17) YES votes and three (3) NO votes. The vote total of Twenty (20) indicates a fifty-nine (59) percent owner participation in the Election.

Based on the affirmative results of the Election and at the recommendation of the Engineering Department, Council approved Resolution R019 23 on October 24, 2023 authorizing the Engineering Department to proceed with the next implementation step of the project. The Engineering Department subsequently developed a set of Bidding Documents for the proposed road improvements and publicly advertised the project on December 13, 2023. On January 24, 2024, a total of four (4) bids were received and opened publicly in Council Chambers. The low bidder was George & Lynch, Inc. in the amount of \$190,166.50 which include three (3) contingency items, and based on the recommendation of the Engineering Department, Council awarded the project to George & Lynch, Inc. on February 27, 2024.

The project construction phase was subsequently completed in June 2024 and Substantial Completion was issued on July 8, 2024. The construction phase generally went well and there were a number of site contingency items that were not used based on favorable field conditions. In addition, several measured “as-constructed” quantities came in lower than original estimate and associated bid. A Balancing Change Order reflecting final quantities used was crafted reflecting a the credit amount of \$16,459.22, thereby reducing the overall cost of the project to \$173,707.28.

The Engineering Department recommends acceptance of Substantial Completion and Project Closeout and approval of the final Balancing Change Order. The next step in the Chapter 96 process is completion of the final Assessment Roll and holding of a Public Hearing for adoption.

Attachment: Substantial Completion
Balancing Change Order

ENGINEERING DEPARTMENT

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Sussex County

DELAWARE
sussexcountyde.gov

July 8, 2024

Preston Ayars, Sr. Project Manager
George & Lynch, Inc.
150 Lafferty Lane
Dover, DE 19901
via e-mail only

**RE: Starlight Meadows Road Improvements Project T24-07
Sussex Community Improvement (SCI) Project
Substantial Completion & Acceptance**

Dear Mr. Ayars:

Based on a final field review performed by Sussex County staff on 7/1/24, we are confirming that all contract work is complete and the project has been accepted as part of the County's Chapter 96 SCI Program. As e-mailed to you last week, attached is the final quantity summary based on agreed upon item measurements – please proceed with final project billing at your earliest convenience.

It was a pleasure working with you and your construction staff, and appreciate the cooperation in making this project a success!

Sincerely,

SUSSEX COUNTY ENGINEERING DEPARTMENT

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



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

APPLICATION AND CERTIFICATION FOR PAYMENT

AIA DOCUMENT G702

PAGE ONE OF

2 PAGES

TO OWNER Sussex County Engineering Dept.
2 The Circle
PO Box 589
Georgetown, DE 19947

PROJECT: Starlight Meadows Rd.
Improvements

APPLICATION NO: 1
INVOICE NO: 24-0362
PERIOD TO: June 26, 2024
INVOICE DATE: July 8, 2024
PROJECT NOS: 240046000

Distribution to:

☐ OWNER
☐ ARCHITECT
☐ CONTRACTOR
☐
☐

FROM CONTRACTOR:

George & Lynch, Inc.
150 Lafferty Lane
Dover, DE. 19901

CONTRACT DATE: April 27, 2024

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract.
Continuation Sheet, AIA Document G703, is attached.

| | | |
|---|----|-------------|
| 1. ORIGINAL CONTRACT SUM | \$ | 190,166.50 |
| 2. Net change by Change Orders | \$ | (16,459.22) |
| 3. CONTRACT SUM TO DATE (Line 1 ± 2) | \$ | 173,707.28 |
| 4. TOTAL COMPLETED & STORED TO DATE (Column G on G703) | \$ | 173,707.28 |
| 5. RETAINAGE: | | |
| a. 0 % of Completed Work (Column D + E on G703) | \$ | 0 |
| b. 0 % of Stored Material (Column F on G703) | \$ | 0 |
| Total Retainage (Lines 5a + 5b or Total in Column I of G703) | \$ | 0.00 |
| 6. TOTAL EARNED LESS RETAINAGE (Line 4 Less Line 5 Total) | \$ | 173,707.28 |
| 7. LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 from prior Certificate) | \$ | 0.00 |
| 8. CURRENT PAYMENT DUE | \$ | 173,707.28 |
| 9. BALANCE TO FINISH, INCLUDING RETAINAGE (Line 3 less Line 6) | \$ | 0.00 |

| CHANGE ORDER SUMMARY | ADDITIONS | DEDUCTIONS |
|--|---------------|-------------|
| Total changes approved in previous months by Owner | \$0.00 | |
| Total approved this Month | \$0.00 | \$16,459.22 |
| TOTALS | \$0.00 | \$16,459.22 |
| NET CHANGES by Change Order | (\$16,459.22) | |

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR:

By:

Date:

State of: Delaware
Subscribed and sworn to before me this 9th day of July, 2024.
Notary Public: Mary M. Rispoli
My Commission expires: 7/30/2024

County of: Kent
day of: July, 2024

ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising the application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED \$

(Attach explanation if amount certified differs from the amount applied. Initial all figures on this Application and on the Continuation Sheet that are changed to conform with the amount certified.)
ARCHITECT:

By:

Date:

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.



CONTINUATION SHEET

AIA DOCUMENT G703

PAGE 2 OF 2 PAGES

AIA Document G702, APPLICATION AND CERTIFICATION FOR PAYMENT, containing

Contractor's signed certification is attached.

In tabulations below, amounts are stated to the nearest dollar.

Use Column I on Contracts where variable retainage for line items may apply.

Invoice No.: 24-0362

Date: 6/26/2024

Period Ending: 6/26/2024

| A | B | C | | | | D | | E | F | G | | H |
|-------------------|-------------------------------------|--------------------|-----------------|------|----------------|---|----------------------------|--------------------------|---------------------------------------|--|------------------|---------------------------------|
| PO ITEM NO. | DESCRIPTION OF WORK | SCHEDULED VALUE | BID QUANTITY | UNIT | UNIT PRICE | WORK COMPLETED | | | STORED MAT'L (NOT IN D OR E) | TOTAL COMPLETED & STORED TO DATE (D+E+F) | TO DATE UNITS | BALANCE TO FINISH (C - G) |
| | | | | | | AMOUNT FROM PREVIOUS APPLICATION (D + E) | QUANTITY THIS PERIOD | AMOUNT THIS PERIOD | | | | |
| | | | | | | | | | | | | |
| 10 | MOBILIZATION | \$ 9,200.00 | 1.00 | LS | \$ 9,200.00 | \$ - | 1.00 | \$ 9,200.00 | | \$ 9,200.00 | - | \$ - |
| 20 | PAVEMENT MILLING, VARIABLE DEPTH | \$ 910.00 | 130.00 | SY | \$ 7.00 | \$ - | 52.00 | \$ 364.00 | | \$ 364.00 | - | \$ 546.00 |
| 30 | PAVEMENT MILLING, 4" DEPTH | \$ 38,227.50 | 8495.00 | SY | \$ 4.50 | \$ - | 8,495.00 | \$ 38,227.50 | | \$ 38,227.50 | - | \$ - |
| 40 | TYPE C HOT-MIX PAVEMENT | \$ 98,802.00 | 998.00 | TN | \$ 99.00 | \$ - | 984.40 | \$ 97,455.60 | | \$ 97,455.60 | - | \$ 1,346.40 |
| 50 | DRIVEWAY TIE-IN - HOT MIX/ST | \$ 10,250.00 | 25.00 | EA | \$ 410.00 | \$ - | 21.00 | \$ 8,610.00 | | \$ 8,610.00 | - | \$ 1,640.00 |
| 60 | DRIVEWAY TIE-IN - CONCRETE | \$ 915.00 | 3.00 | EA | \$ 305.00 | \$ - | 0.00 | \$ - | | \$ - | - | \$ 915.00 |
| 70 | TOPSOIL, SEED & MULCH | \$ 14,664.00 | 1410.00 | SY | \$ 10.40 | \$ - | 1,114.44 | \$ 11,590.18 | | \$ 11,590.18 | - | \$ 3,073.82 |
| 80 | PAVEMENT STRIPING | \$ 1,260.00 | 1.00 | LS | \$ 1,260.00 | \$ - | 1.00 | \$ 1,260.00 | | \$ 1,260.00 | - | \$ - |
| 90 | MAINTENANCE OF TRAFFIC | \$ 7,000.00 | 1.00 | LS | \$ 7,000.00 | \$ - | 1.00 | \$ 7,000.00 | | \$ 7,000.00 | - | \$ - |
| 100 | PAVEMENT PATCH | \$ 2,490.00 | 30.00 | CY | \$ 83.00 | \$ - | 0.00 | \$ - | | \$ - | - | \$ 2,490.00 |
| 110 | GABC TYPE B | \$ 4,256.00 | 56.00 | TN | \$ 76.00 | \$ - | 0.00 | \$ - | | \$ - | - | \$ 4,256.00 |
| 120 | INDEPENDENT TESTING | \$ 2,192.00 | 16.00 | HR | \$ 137.00 | \$ - | 0.00 | \$ - | | \$ - | - | \$ 2,192.00 |
| CO 1 | FINAL BALANCING CHANGE ORDER | \$ (16,459.22) | 1.00 | LS | \$ (16,459.22) | \$ - | 0.00 | \$ - | | \$ - | - | \$ (16,459.22) |
| | TOTALS: | \$ 173,707.28 | | | | \$ - | | \$ 173,707.28 | \$0.00 | \$ 173,707.28 | | \$ 0.00 |

Users may obtain validation of this document by requesting of the license a completed AIA Document D401 - Certification of Document's Authenticity



**SUSSEX COUNTY
CHANGE ORDER REQUEST**

A. ADMINISTRATIVE:

1. Project Name: **Starlight Meadows Road Improvements**
2. Sussex County Project No. T24-07
3. Change Order No. 1
4. Date Change Order Initiated - 07/08/2023
5.
 - a. Original Contract Sum \$190,166.50
 - b. Net Change by Previous Change Orders \$0
 - c. Contract Sum Prior to Current Change Order \$190,166.50
 - d. Requested Change (\$16,459.22)
 - e. Net Change (No. of days) 0
 - f. New Contract Amount \$173,707.28
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

Casey Hall

Yes. 6/25.
HUDSON.

From: notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE
<notifications@d3forms.com>
Sent: Tuesday, June 4, 2024 6:41 PM
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**

Off Street Sports Performance Inc. ✓

Project Name

Off Street Sports Performance

Federal Tax ID

37-1649526 ✓

Non-Profit

Yes

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

No

**Organization's
Mission**

Off Street Sports Performance (OSSP) is a 501C3 non-profit organization dedicated to empowering, teaching, and supporting underprivileged youth to prepare them for post-graduation success. OSSP's after- school and summer programs allow students to receive necessary academic enrichment and tutoring, performance training, and character coaching while thriving in a positive and safe environment during out-of- school time hours.

Address

709 Buckingham Circle

City

Salisbury

| | |
|-----------------------|--|
| State | MD |
| Zip Code | 21804 |
| Contact Person | Dominick Flora |
| Contact Title | President, Founder OSSP |
| Contact Phone Number | 443-783-3585 |
| Contact Email Address | coachdom@cspathlete.com |

Total Funding Request

\$1,500

Has your organization received other grant funds from Sussex County Government in the last year?

No

If YES, how much was received in the last 12 months?

N/A

Are you seeking other sources of funding other than Sussex County Council?

Yes

If YES, approximately what percentage of the project's funding does the Council grant represent?

24

| | |
|---|---|
| Program Category (choose all that apply) | Educational Health and Human Services |
| Primary Beneficiary Category | Youth |
| Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program | 100 |
| Scope | <p>Off Street Sports Performance (OSSP) is a 501c3 non-profit organization dedicated to empowering, teaching, and supporting underprivileged youth to prepare them for post-graduation success since 2012. OSSP's after school and summer programs allow students to receive necessary academic enrichment and tutoring, mentorship, physical fitness performance training, nutrition regimen, fitness apparel, healthy snacks/hydration and character coaching while thriving in a positive and safe environment during out of school hours. Through OSSP's mentoring programs, students have been able to exercise integrity, responsibility, humility, discipline, honesty, and citizenship in school, on the playing fields, in the community, and at home. OSSP's goal is to address the healthy development and promotion of positive physical, emotional, and social-well-being of underprivileged youth after-school and in the summer months. There is a growing need to help underprivileged at risk youth who struggle with mental and physical wellness. Studies indicate there is large numbers of youth who struggle with mental illness such as depression, anxiety, ADD/ADHD as well as the physical; youth obesity. OSSP targets youth who struggle with mental and physical wellness who are on the free or reduced lunch school meal plan and low income families who can not afford after school hour youth programs for their children in Sussex County.</p> |

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

0.00

Description

45 UNDERPRIVLEDGED YOUTH SCHOLARSHIPS- a year scholarship includes necessary academic enrichment and tutoring, mentorship, physical fitness performance training, nutrition regimen, fitness apparel, healthy snacks/hydration and character coaching while thriving in a positive and safe environment during out of school hours.

Amount

112,500.00

TOTAL EXPENDITURES

112,500.00

TOTAL DEFICIT FOR PROJECT OR ORGANIZATION

-112,500.00

Name of Organization

Off Street Sports Performance

Applicant/Authorized Official

Dominick Flora

Date

05/30/2024

Affidavit Acknowledgement

Yes

Casey Hall

From: Dominick Flora <coachdom@cspathlete.com>
Sent: Wednesday, June 5, 2024 11:51 AM
To: Casey Hall
Subject: Re: 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.

Good morning,
Our target is the 14 Indian River School district schools. This is closest to the facility with hopes of us providing transportation as well. Let me know if I can answer any further questions.
Thanks
Dominick Flora
OSSP/CSP president
www.osspathlete.com

On Wed, Jun 5, 2024, 8:48 AM Casey Hall <casey.hall@sussexcountysde.gov> wrote:

Good morning.

Sussex County is in receipt of your councilmanic grant application. Can you specify which areas of youth in Sussex County your organization will be benefitting?

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 <notifications=d3forms.com@mg.d3forms.com> **On Behalf Of**
Sussex County DE
Sent: Tuesday, June 4, 2024 6:41 PM

Yes 6/18.
Schaeffer.

Casey Hall

From: notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE
<notifications@d3forms.com>
Sent: Monday, June 17, 2024 6:24 PM
To: Casey Hall
Subject: Form submission from: Council Grant Form

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Council Grant Form

**Legal Name of
Agency/Organization** Harry K Foundation ✓

Project Name Desert Oasis Feeding Program

Federal Tax ID 46-2934019 ✓

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 mission of the Harry K Foundation is to halt hunger and food insecurity among underprivileged children in the State of Delaware. The foundation's objectives are to: 1) Support the Public School Backpack Program, and 2) Establish Food Pantries throughout Delaware public schools and other facilities. The School Backpack program provides under-served children with backpacks full of food to supplement what is available in their households. The food pantry program establishes pantries in public schools across the state so that parents can access nourishing food as needed, helping them to better meet their budgets and adequately feed their children.

| | |
|-----------------------|--|
| Address | 313 S. Boardwalk |
| City | Rehoboth Beach |
| State | DE |
| Zip Code | 19971 |
| Contact Person | Laura Glascoe |
| Contact Title | Executive Director |
| Contact Phone Number | 302-212-8801 |
| Contact Email Address | laura3173@gmail.com |

Total Funding Request

\$2,600

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?

2125

Are you seeking other sources of funding other than Sussex County Council?

Yes

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

23

**does the Council
grant represent?**

**Program Category
(choose all that
apply)**

Health and Human Services

**Primary Beneficiary
Category**

Youth

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

5000

Scope

In addition to our food pantry and food backpack programs, the Harry K Foundation operates Desert Oasis Food Distribution sites at various locations in Sussex County. During the summer months when schools are not open, vulnerable children who had relied upon Harry K Foundation feeding programs during the school year are particularly vulnerable to hunger and food insecurity. These children often reside in "desert oasis" locations where it is hard for them to gain access to feeding programs, and their parents - many of whom are employed in low income jobs - are unable to travel to centers where they are able to get food bags or prepared meals.

To continue to support these youth during the summer months, the Harry K Foundation established what are called Desert Oasis Sites in partnership with the Delaware Food Bank, where we distribute bagged groceries to children and their families who are the most vulnerable once weekly, and distribute food backpacks twice weekly. The Backpacks are filled with enough food to last for 3 days and contain supplemental, nutritional food similar to what children receive through the School lunch program. The Harry K Foundation currently has 6 Desert Oasis sites across the

State of Delaware, with three having been established in Sussex County. Each site costs \$3,000 to set up and \$1,300 per month to stock with food.

The Harry K Foundation is seeking a grant of \$2,600 from the Sussex County Council to stock one Desert Oasis Site in Sussex County during the summer months of July and August, when schools are closed. We are grateful for the past support of the Council and hope that the Council will partner with the Foundation once again so that we can continue our summer feeding programs for vulnerable children and families.

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

8,670.00

Description

Open One (1) New Desert Oasis Location in Sussex County

Amount

3,000.00

Description

Replenish 5 Existing Locations @1,300 each for 3 months

Amount

1,950.00

Description

Harry K Foundation Staff Support

Amount

3,320.00

Description

Travel to Desert Oasis Distribution Locations

Amount

3,000.00

TOTAL EXPENDITURES

11,270.00

**TOTAL DEFICIT FOR
PROJECT OR
ORGANIZATION**

-2,600.00

Name of Organization Harry K Foundation

**Applicant/Authorized
Official** Laura Glascoe

Date 06/17/2024

**Affidavit
Acknowledgement** Yes

yes 6/11

Schaeffer

Casey Hall

From: notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE
<notifications@d3forms.com>
Sent: Monday, June 10, 2024 8:55 PM
To: Casey Hall
Subject: Form submission from: Council Grant Form

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Council Grant Form

| | |
|---|---|
| Legal Name of Agency/Organization | Misphillion Performance Series |
| Project Name | Concert Series Funding |
| Federal Tax ID | 84-4618816 |
| Non-Profit | Yes |
| Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.) | No |
| Organization's Mission | Our mission is to "Keep Classical Music Alive by Making it Accessible to All." We are a 501(c)(3) organization that features high caliber, professionally trained classical musicians that present culturally diverse programs to the communities in Sussex County, free to all. We plan to present 3 programs in the fall, and 2-3 programs in the spring, depending upon funding. |
| Address | 16925 Ketch Court |
| City | Lewes |

| | |
|--|--|
| State | DE |
| Zip Code | 19958 |
| Contact Person | Ms. Jody Stein |
| Contact Title | Director |
| Contact Phone Number | 703-598-1860 |
| Contact Email Address | jodye.stein@gmail.com |
| Total Funding Request | \$4,000 |
| 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? | 2000 |
| Are you seeking other sources of funding other than Sussex County Council? | Yes |
| If YES, approximately what percentage of the project's funding does the Council grant represent? | 50 |

| | |
|--|--|
| Program Category (choose all that apply) | Cultural |
| Primary Beneficiary Category | Elderly Persons (62 +) |
| Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program | 500 |
| Scope | <p>We are a 501(c)(3) organization that features high caliber, professionally trained classical musicians that present culturally diverse programs to the communities in Sussex County, free to all. We present 2-3 programs in the fall, and 2-3 programs in the spring. Our mission is to "Keep Classical Music Alive by Making it Accessible to All." We have no employees and no expenses other than the honorarium fees we pay to our musicians. Many of our concert-goers are elderly, and have expressed so much appreciation that these types of concert programs are available to them, close to home, and without a high ticket price. The only comparable concert series in the County charges approximately \$40 per ticket, which is prohibitively expensive for many in our communities.</p> |
| Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request) | 0.00 |
| Description | Langley Winds Quintet-US Air Force Band - service bands are not allowed to charge |

| | |
|--|--|
| Amount | 0.00 |
| Description | Guilherme Andreas & Matthieu Cognet, flute & piano |
| Amount | 1,500.00 |
| Description | Dancing Heart "Mozart to Milonga" flute, trombone, piano |
| Amount | 1,500.00 |
| Description | Cathedral Brass "Home for the Holidays" brass ensemble |
| Amount | 1,500.00 |
| Description | Spring 2025 TBD depending upon grants rec'd |
| TOTAL EXPENDITURES | 4,500.00 |
| TOTAL DEFICIT FOR PROJECT OR ORGANIZATION | -4,500.00 |
| Name of Organization | Misphillion Performance Series |
| Applicant/Authorized Official | Jody E. Stein |
| Date | 06/10/2024 |
| Affidavit Acknowledgement | Yes |

Casey Hall

Yes 6/26.
Schaeffer

From: notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE
<notifications@d3forms.com>
Sent: Monday, June 24, 2024 10:46 AM
To: Casey Hall
Subject: Form submission from: Council Grant Form

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Council Grant Form

**Legal Name of
Agency/Organization**

Autism Delaware Inc. ✓

Project Name

Snowflake Soiree

Federal Tax ID

20-2110190 ✓

Non-Profit

Yes

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

No

**Organization's
Mission**

Autism Delaware's mission is to help people and families affected by autism.

Address

924 Old Harmony Road

Address 2

Suite 201

City

Newark

State

DE

Zip Code

19713

| | |
|---|--|
| Contact Person | Dan Getman |
| Contact Title | Director of Development |
| Contact Phone Number | 3022246020 |
| Contact Email Address | dan.getman@autismdelaware.org |
| Total Funding Request | 2500 |
| Has your organization received other grant funds from Sussex County Government in the last year? | No |
| If YES, how much was received in the last 12 months? | N/A |
| Are you seeking other sources of funding other than Sussex County Council? | Yes |
| If YES, approximately what percentage of the project's funding does the Council grant represent? | 3 |
| 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

2800

Scope

On November 15, 2024, Autism Delaware will host its inaugural Snowflake Soiree in Rehoboth Beach. The event will feature local Sussex County restaurants, a live band, auction, and much more. Funds raised from the evening will support Autism Delaware's programs and services in Sussex County.

* Our Lewes office is home to our Family Support team, who is responsible for providing guidance, counsel, and advocacy for families affected by autism in the local community. Our programs begin at diagnosis (typically between ages 2-4) and continue for the life of the individual. We also employ a number of young adults in Sussex County through our Adult Services program.

Requested funds from the Sussex County Council will be utilized to ensure the success of the event, thereby enabling us to continue our year-round services, uninterrupted, to the Delaware families that need them.

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

10,000.00

Description

Venue

Amount

1,000.00

Description

Invitation

| | |
|--|----------------------------------|
| Amount | 5,000.00 |
| Description | Decor |
| Amount | 4,000.00 |
| Description | Entertainment |
| Amount | 10,000.00 |
| Description | Food and beverage |
| Amount | 10,000.00 |
| Description | Rentals (tables, chairs, linens) |
| Amount | 10,000.00 |
| Description | Marketing |
| Amount | 10,000.00 |
| TOTAL EXPENDITURES | 50,000.00 |
| TOTAL DEFICIT FOR PROJECT OR ORGANIZATION | -40,000.00 |
| Name of Organization | Autism Delaware |
| Applicant/Authorized Official | Dan Getman |
| Date | 06/21/2024 |
| Affidavit Acknowledgement | Yes |

Casey Hall

yes 6/11
vincent.

From: notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE
<notifications@d3forms.com>
Sent: Monday, June 3, 2024 7:20 AM
To: Casey Hall
Subject: Form submission from: Council Grant Form

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Council Grant Form

| | |
|---|---------------------------------|
| Legal Name of Agency/Organization | Town of Delmar |
| Project Name | State Street Park Shade |
| Federal Tax ID | 5260002077 |
| Non-Profit | Yes |
| Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.) | No |
| Organization's Mission | Serve the citizens of Delmar DE |
| Address | 100 S Pennsylvania Ave |
| City | Delmar |
| State | MD |
| Zip Code | 21875 |
| Contact Person | Jeffrey T Fleetwood |

| | |
|---|--|
| Contact Title | Town Manager |
| Contact Phone Number | 4108962777 |
| Contact Email Address | jfleetwood@townofdelmar.us |
| Total Funding Request | \$10,000 |
| Has your organization received other grant funds from Sussex County Government in the last year? | No |
| If YES, how much was received in the last 12 months? | N/A |
| Are you seeking other sources of funding other than Sussex County Council? | Yes |
| If YES, approximately what percentage of the project's funding does the Council grant represent? | 33 |
| Program Category (choose all that apply) | Other |
| Program Category Other | Parks |

Primary Beneficiary Category Youth

Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program 5000

Scope Currently our young children playground area does not have any shade. Looking to install a sun shade sail to provide shade for children playing at the State Street Park and our West Tot Lot locations.

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

Description materials and installation of shade sails Gordy Park

Amount 31,999.00

Description materials and installation of shade sails West Tot Lot

Amount 17,800.00

TOTAL EXPENDITURES 49,799.00

TOTAL DEFICIT FOR PROJECT OR ORGANIZATION -39,799.00

Name of Organization Town of Delmar

**Applicant/Authorized
Official** Jeff Fleetwood

Date 06/02/2024

**Affidavit
Acknowledgement** Yes

Casey Hall

From: notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE
<notifications@d3forms.com>
Sent: Friday, June 28, 2024 9:48 AM
To: Casey Hall
Subject: Form submission from: Council Grant Form

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Council Grant Form**Legal Name of
Agency/Organization**

Chamber of Commerce for Greater Milford, Inc.

Project Name

Riverwalk Freedom Festival

Federal Tax ID

51-0319055

Non-Profit

Yes

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

No

**Organization's
Mission**

Each year since 2001 (9/11) the Milford Chamber has featured the Riverwalk "Freedom" Festival. where on Saturday this year September 21st from 9:00AM until dusk where we have fireworks. During the day we feature a Patriotic Pet Parade, Duck Dash with 1,000+ little ducks floating down the Mispillion River, Kids Korner with games, horse riding, fire engine rides, face painting, will be over 120 vendors from all over Delmarva, food vendors, four live bands playing all during the day. This is a day for the Milford community to come together and fireworks to complete the festivities. Your support of this event will be greatly appreciated.

Address 24 NW Front Street Suite 101

Kent

City Milford

State DE

Zip Code 19963

Contact Person JoAnne Schmeiser

Contact Title Executive Director

Contact Phone Number 3022422459

Contact Email Address milford@milfordchamber.com

Total Funding Request

1000

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?

14000

Are you seeking other sources of funding other than Sussex County Council?

Yes

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

10

does the Council
grant represent?

Program Category
(choose all that
apply)

Other

Program Category
Other

Festival Fireworks

Primary Beneficiary
Category

Other

Beneficiary Category
Other

The festival benefits the whole Milford Community.

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

8000

Scope

Each year since 2001 (9/11) the Milford Chamber has sponsored the Riverwalk "Freedom" Festival. This year again we will be featuring the Riverwalk "Freedom" Festival on Saturday September 21st from 9:00AM until after the fireworks at dusk. During the day we feature a Pet Park and a Patriotic Pet Parade, Duck Dash where we release over 1000 little ducks into the Mispillion River, Kids Korner with horse riding, fire engine rides, games and face painting, over 120 vendors, food vendors, four live bands playing during the day.

* This is day for the Milford community to come together and fireworks complete the festivities. Your support at this event will be greatly appreciated.

Please enter the
current support your
organization receives

10,000.00

for this project (not
entire organization
revenue if not
applicable to request)

Description Fireworks Cost

Amount 20,000.00

TOTAL EXPENDITURES 20,000.00

**TOTAL DEFICIT FOR
PROJECT OR
ORGANIZATION** -10,000.00

Name of Organization Chamber of Commerce for Greater Milford

**Applicant/Authorized
Official** JoAnne Schmeiser

Date 06/28/2024

**Affidavit
Acknowledgement** Yes

To Be Introduced: 7/16/24

Council District 5: Mr. Rieley

Tax I.D. No.: 135-6.00-4.00

911 Address: 18293 & 18313 DuPont Boulevard, Georgetown

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A DIESEL MECHANIC, PARTS SHOP, AND TRUCK PARKING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 5.46 ACRES, MORE OR LESS

WHEREAS, on the 27th day of June 2024, a Conditional Use application, denominated Conditional Use No. 2539 was filed on behalf of BCB Management LLC; and

WHEREAS, on the ____ day of _____ 2024, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2539 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article V, Subsections 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2539 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 side of Dupont Boulevard (Rt. 113), approximately 0.42 mile south of East Redden Road (S.C.R. 565), and being more particularly described in the attached legal description prepared by Fuqua, Willard & Schab, P.A., said parcel containing 5.46 ac., more or less.

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

To Be Introduced: 7/16/24

Council District 2: Mrs. Green

Tax I.D. No.: 530-14.00-17.00

911 Address: 14326 Cart Branch Road, Greenwood

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR THE EXPANSION OF UTILITY OPERATIONS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 9.85 ACRES, MORE OR LESS

WHEREAS, on the 22nd day of March 2024, a Conditional Use application, denominated Conditional Use No. 2522 was filed on behalf of Delaware Electric Cooperative; and

WHEREAS, on the ____ day of _____ 2024, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County, and said Planning and Zoning Commission recommended that Conditional Use No. 2522 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsections 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2522 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 Northwest Fork Hundred, Sussex County, Delaware, and lying on the west side of Cart Branch Road (S.C.R. 583A), northwest of the intersection of Cart Branch Road (S.C.R. 583A) and Adams Road (S.C.R. 583), and being more particularly described in the attached legal description prepared by Hudson, Jones, Jaywork & Fisher, LLC said parcels containing 30.31 acres, more or less.

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

To Be Introduced: 7/16/24

Council District: Mr. Hudson

Tax I.D. No.: 233-10.00-46.00

911 Address: 28000 Nine Foot Road, Dagsboro

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ON-PREMISE ELECTRONIC MESSAGE CENTER SIGN TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 19.30 ACRES, MORE OR LESS

WHEREAS, on the 1st day of March 2024, a Conditional Use application, denominated Conditional Use No. 2517 was filed on behalf of High Tide Church, Inc.; and

WHEREAS, on the ____ day of _____ 2024, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2517 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsections 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2517 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece, or parcel of land, lying and being situate in Dagsboro Hundred, Sussex County, Delaware, and lying on the south side of Nine Foot Road (Rt. 26), approximately 949 feet southwest of DuPont Boulevard (Rt. 113), and being more particularly described in the attached legal description prepared by Susan Shivers Fink, Esq., said parcel containing 19.30 acres, more or less.

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

To Be Introduced: 7/16/24

Council District: Mr. Rieley

Tax I.D. No.: 135-23.00-24.00

911 Address: 22035 Zoar Road, Georgetown

ORDINANCE NO. ____

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 GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 3.080 ACRES, MORE OR LESS

WHEREAS, on the 8th day of April 2024, a zoning application, denominated Change of Zone No. 2030 was filed on behalf of ACR Auto Center, 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. 2030 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 District] and adding in lieu thereof the designation C-3 Heavy Commercial District 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 side of Zoar Road (S.C.R.48), approximately 0.238 of a mile south of Sussex Pines Road (S.C.R. 324), and being more particularly described in the attached deed prepared Tunnell & Raysor P.A., said parcels containing 3.080 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.



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

PUBLIC HEARING FACT SHEET

- County Council granted approval to prepare and post notices for the public hearing on May 14, 2024 for the Jefferson Lodge Expansion of the Sussex County Unified Sanitary Sewer District (West Rehoboth Area)
- The Engineering Department 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 requested 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.
- Public Hearing Notices were posted on July 3rd, placed on the County website and advertised the week of July 3rd and July 10th.
- To date we have had no correspondence either in support or opposition to this proposed annexation.



PUBLIC NOTICE

PROPOSED JEFFERSON LODGE EXPANSION OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (WEST REHOBOTH AREA)

NOTICE IS HEREBY GIVEN that the Sussex County Council voted on **May 14, 2024**, to consider expanding the boundary of the Sussex County Unified Sanitary Sewer District (SCUSSD), West Rehoboth Area to include the Jefferson Lodge situated on the west side of Sweetbriar Road, being situate in Lewes & Rehoboth Hundred, Sussex County, Delaware.

BEGINNING at a point, said point being the northeasternmost property corner of lands Now or Formerly (N/F) of Masonic Hall Company of Lewes DE, said point also being on the SCUSSD (West Rehoboth Area) boundary, said point further being on the westerly Right-of-Way (ROW) of Sweetbriar Road; thence proceeding with said boundary in a northeasterly direction across Sweetbriar Road a distance of 50'± to a point, said point being on the easterly ROW of Sweetbriar Road, said point also being on the western property line of The Villages at Red Mill Pond North; thence proceeding by and with said ROW in a southerly direction for a distance of 1,609'± to a point, thence leaving said ROW and boundary and proceeding in a westerly direction a distance of 50'± to a point, said point being on the westerly ROW of Sweetbriar Road, said point also being the southeasternmost property corner of lands N/F of Sussex County; thence proceeding by and with said County lands in a southwesterly, northwesterly, and northeasterly direction respectively a total distance of 3,774'± to a point, said point being on the SCUSSD boundary; thence proceeding by and with said boundary in a generally northeasterly direction a distance of 1,464'± to a point, said point being that of the **BEGINNING**.

NOTE: The above description has been prepared using Sussex County tax map numbers 334-4.00 and Sussex County property assessment records. The annexation contains 60.00 acres more or less.

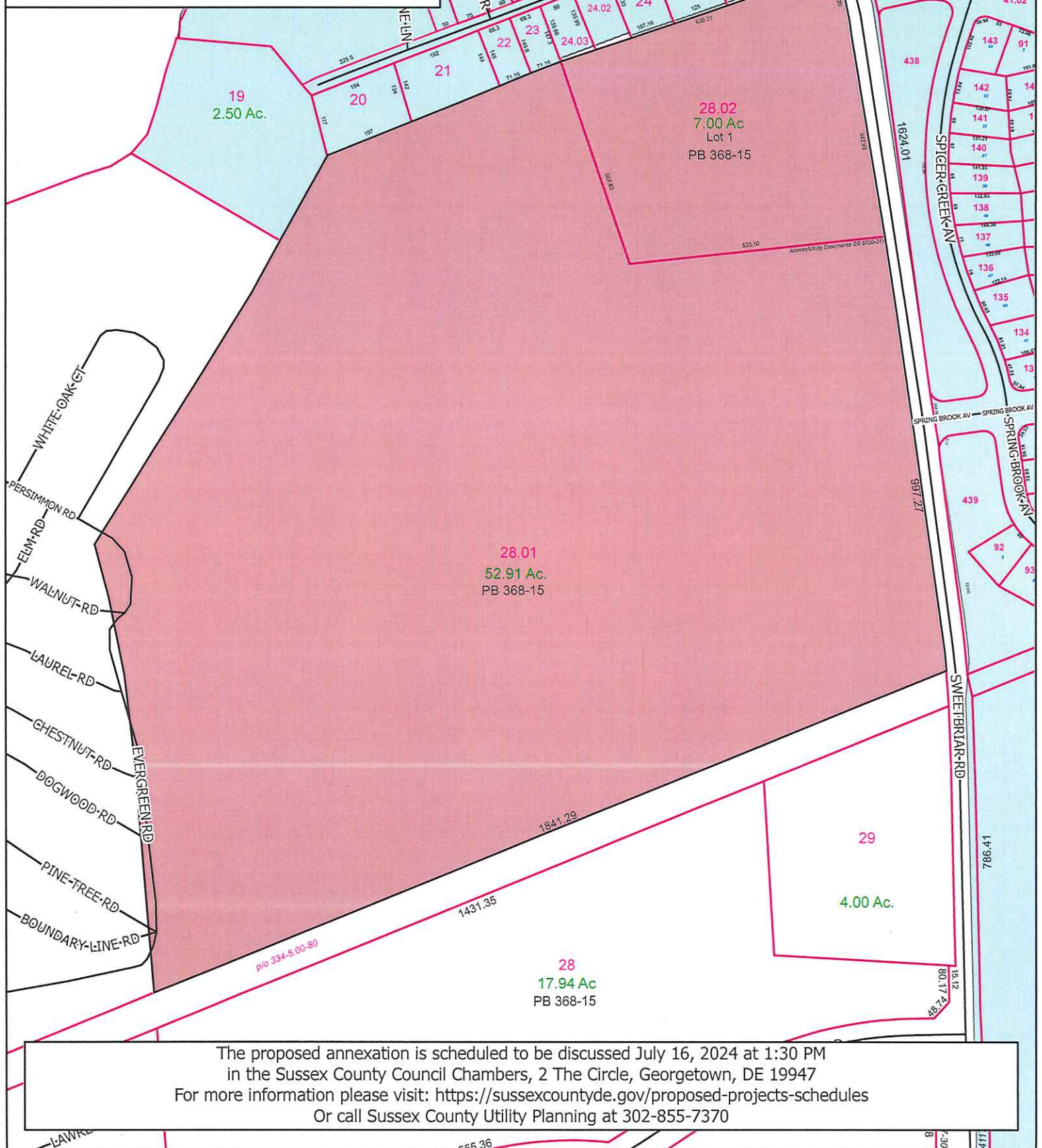
A map outlining and describing the extension to the SCUSSD is attached. The area involved is crosshatched.

The public hearing will be held on this issue at 1:30 pm on July 16, 2024, in the Sussex County Council Chambers, 2 The Circle, Georgetown, Delaware 19947. All interested persons, officials, residents, voters, taxpayers, property owners, or corporations in any way affected by this boundary extension are welcome to attend. There will be an opportunity for questions and answers. The Sussex County Council following the hearing, at one of their regularly scheduled meetings, will make the final decision on the boundary extension.

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

Mike Harmer, P.E.
County Engineer

0 80 160 320 Feet
Map created: 6/4/2024



PROPOSED JEFFERSON LODGE EXPANSION
AFFIDAVIT FOR PUBLIC HEARING

STATE OF DELAWARE)(

:

COUNTY OF SUSSEX)(

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

- A. On June 27, 2024 he was a Planning Tech for the Sussex County Engineering Department, Sussex County, State of Delaware; and
- B. On June 27, 2024 he did post the attached "Public Notice," prepared by the Sussex County Engineering Department, at the following locations:
1. On a post in the westerly Right-of-Way (ROW) of Sweetbriar Road in front of DEC Pole 40912, 150' +/- south of Pine Town Road,
 2. On a post in the westerly ROW of Sweetbriar Road in front of DEC Pole 40911, 311' +/- south of Pine Town Road,
 3. On a post in the westerly ROW of Sweetbriar Road in front of DEC Pole 40909, 669' +/- south of Sweetbriar Road,
 4. On a post in the westerly ROW of Sweetbriar Road in front of DEC Pole 40906, 539' south of Spring Brook Avenue,
 5. On a post in front of a STOP sign at the intersection of Sweetbriar Road and Breezeway Drive,
 6. On a post in front of a STOP sign at the intersection of Sweetbriar Road and Pine Town Road,
 7. On a post in front of a STOP sign at the intersection of Sweetbriar Road and Spring Brook Blvd.,
 8. On a post in the easterly ROW of Sweetbriar Road in front of DEC Pole 40907, 539' +/- south of Spring Brook Avenue.


PHILLIP C. CALIO

SWORN TO AND SUBSCRIBED before me on this 3rd day of July A.D., 2024


NOTARY PUBLIC

My Commission Expires

6/14/2026



RESOLUTION

A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD), TO INCLUDE THE JEFFERSON LODGE ON THE WEST SIDE OF SWEET BRIAR ROAD. THE PARCEL IS LOCATED IN THE LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE.

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

WHEREAS, in the best interests of the present district and to enhance the general health and welfare of that portion of Sussex County in the vicinity of Sweet Briar Road, the inclusion of this area will be beneficial; and

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

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

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

NOW, THEREFORE,

BE IT RESOLVED the Sussex County Council hereby revises the boundary of the SCUSSD to encompass the lands mentioned above situated on the west side of Coastal Highway, as follows:

BEGINNING at a point, said point being the northeasternmost property corner of lands Now or Formerly (N/F) of Masonic Hall Company of Lewes DE, said point also being on the SCUSSD (West Rehoboth Area) boundary, said point further being on the westerly Right-of-Way (ROW) of Sweetbriar Road; thence proceeding with said boundary in a northeasterly direction across Sweetbriar Road a distance of 50'± to a point, said point being on the easterly ROW of Sweetbriar Road, said point also being on the western property line of The Villages at Red Mill Pond North; thence proceeding by and with said ROW in a southerly direction for a distance of 1,609'± to a point, thence leaving said ROW and boundary and proceeding in a westerly direction a distance of 50'± to a point, said point being on the westerly ROW of Sweetbriar Road, said point also being the southeasternmost property corner of lands N/F of Sussex County; thence proceeding by and with said County lands in a southwesterly, northwesterly, and northeasterly direction respectively a total distance of 3,774'± to a point, said point being on the SCUSSD boundary; thence proceeding by and with said boundary in a generally northeasterly direction a distance of 1,464'± to a point, said point being that of the **BEGINNING**.

NOTE: The above description has been prepared using Sussex County Tax Map 334-4.00 and Sussex County property assessment records.

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

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

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

ENGINEERING DEPARTMENT

ADMINISTRATION
AIRPORT & INDUSTRIAL PARK
ENVIRONMENTAL SERVICES
PUBLIC WORKS
RECORDS MANAGEMENT
UTILITY ENGINEERING
UTILITY PERMITS
UTILITY PLANNING
FAX

(302) 855-7718
(302) 855-7774
(302) 855-7730
(302) 855-7703
(302) 854-5033
(302) 855-7717
(302) 855-7719
(302) 855-1299
(302) 855-7799



Sussex County

DELAWARE
sussexcountye.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**

PUBLIC HEARING FACT SHEET

- County Council granted approval to prepare and post notices for the public hearing on May 14, 2024 for the Bayard Commons Expansion of the Sussex County Unified Sanitary Sewer District (Miller Creek Area)
- The Engineering Department 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.
- Public Hearing Notices were posted on July 3rd, placed on the County website and advertised the week of July 3rd and July 10th.
- To date we have had no correspondence either in support or opposition to this proposed annexation.



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

PUBLIC NOTICE

PROPOSED BAYARD COMMONS EXPANSION OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (MILLER CREEK AREA)

NOTICE IS HEREBY GIVEN that the Sussex County Council voted on **May 14, 2024**, to consider extending the boundary of the Sussex County Unified Sanitary Sewer District (SCUSSD), Miller Creek Area, to include the Bayard Commons on Double Bridges Road and Bayard Road, being situate in Baltimore Hundred, Sussex County, Delaware.

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

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

Beginning at a point, said point being on the SCUSSD (Miller Creek Area) boundary, said point also being on the westerly Right-of-Way (ROW) of Bayard Road, said point further being the southeasternmost property corner of The Meadows at Bayard subdivision; thence proceeding in a northerly direction a distance of 284'± to a point; thence proceeding in an easterly direction, crossing Bayard Road a distance of 50'± to a point, said point being on the easterly ROW of Bayard Road, said point also being the northwesternmost property corner of lands Now or Formerly (N/F) of Dianne H. Archut, Trustee; thence proceeding with said Archut lands in a northeasterly, and southeasterly direction a total distance of 1,502'± to a point, said point being on the northerly ROW of Double Bridges Road; thence proceeding in a southeasterly direction across Double Bridges Road a distance of 50'± to a point, said point being on the southerly ROW of Double Bridges Road; thence proceeding in a southwesterly direction a distance of 406'± to a point, said point being the intersection of the southerly ROW of Double Bridges Road and the easterly ROW of Camp Barnes Road; thence proceeding in a westerly direction across Camp Barnes Road a distance of 50'± to a point, said point being on the intersection of the southerly ROW of Double Bridges Road and the westerly ROW of Camp Barnes Road; said point also being a property corner of other lands of Archut; thence proceeding by and with said other lands of Archut in a southeasterly, southwesterly, and northwesterly direction respectively a total distance of 1,755'± to a point, said point being the southerly ROW of Bayard Road; thence proceeding in a northwesterly direction across Bayard Road a distance of 50'± to a point, said point being on the northerly ROW of Bayard Road; thence proceeding by and with said ROW in a northeasterly and northwesterly direction respectively a total distance of 542'± to a point, said point being that of the **BEGINNING**.

NOTE: The above description has been prepared using Sussex County Tax Map 134-19.00 and Sussex County property assessment records. The annexation contains 26.63 acres more or less.

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

The public hearing will be held on this issue at 1:30 p.m. on July 16, 2024, in the Sussex County Council Chambers, 2 The Circle, Georgetown, Delaware 19947. All interested persons, officials, residents, voters, taxpayers, property owners, or corporations in any way affected by this boundary extension are welcome to attend. There will be an opportunity for questions and answers. The Sussex County Council following the hearing, at one of their regularly scheduled meetings, will make the final decision on the boundary extension.

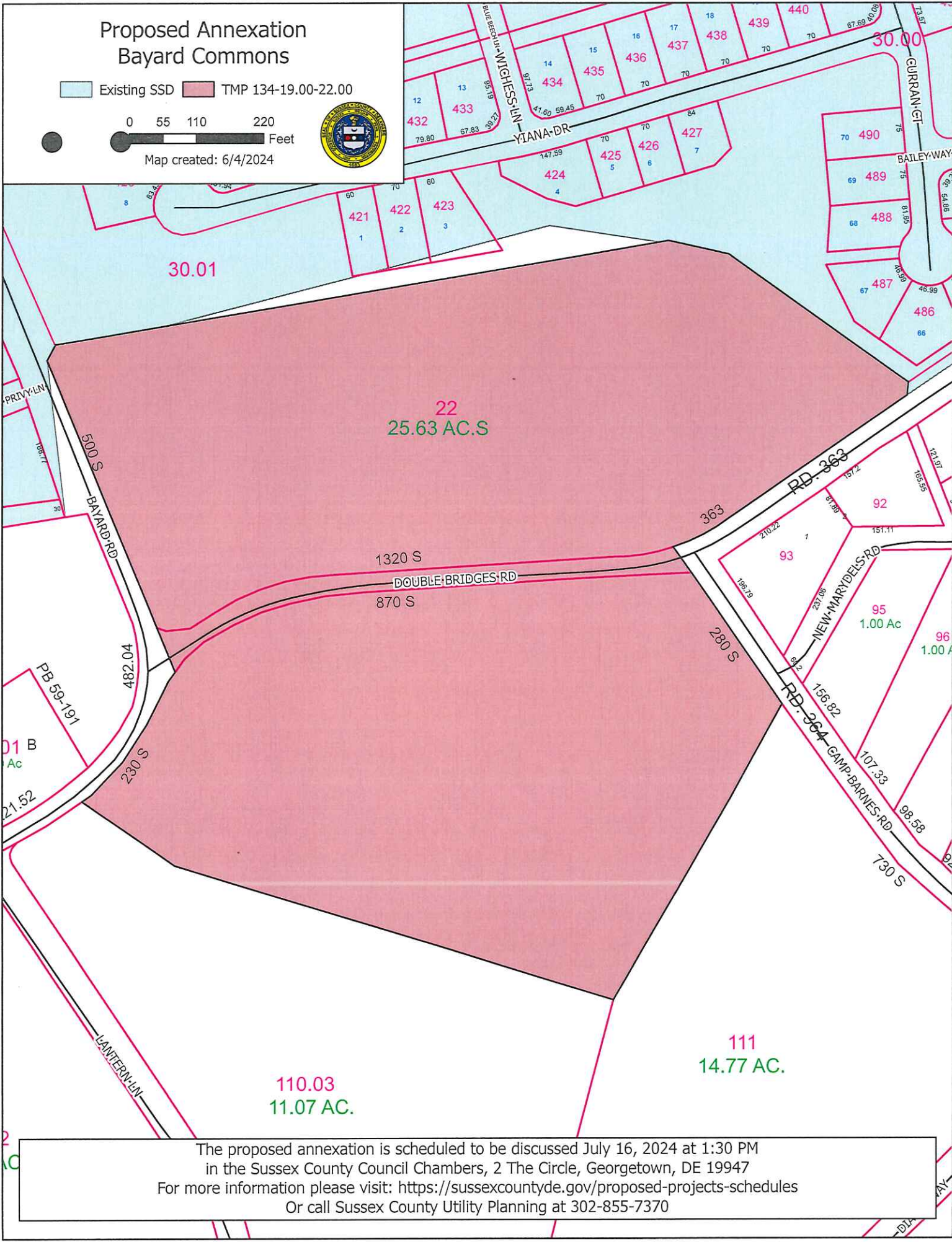
For further information, please call or write the Sussex County Engineering Department, 2 The Circle, Post Office Box 589, Georgetown, DE 19947 – (302) 855-8384.

Mike Harmer, P.E.
County Engineer

Proposed Annexation
Bayard Commons

Existing SSD TMP 134-19.00-22.00

0 55 110 220 Feet
Map created: 6/4/2024



The proposed annexation is scheduled to be discussed July 16, 2024 at 1:30 PM
in the Sussex County Council Chambers, 2 The Circle, Georgetown, DE 19947
For more information please visit: <https://sussexcountyde.gov/proposed-projects-schedules>
Or call Sussex County Utility Planning at 302-855-7370

SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT
BAYARD COMMONS EXPANSION
AFFIDAVIT FOR PUBLIC HEARING

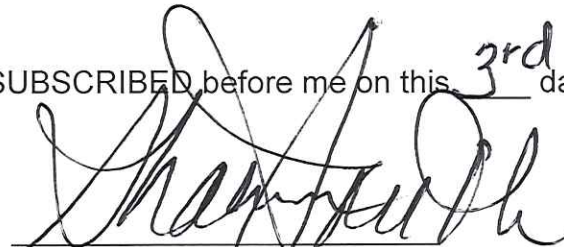
STATE OF DELAWARE)(:
COUNTY OF SUSSEX)(

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

- A. On June 27, 2024, he was a Utility Planner for the Sussex County Engineering Department, Sussex County, State of Delaware; and
- B. On June 27, 2024, he did post the attached "Public Notice," prepared by the Sussex County Engineering Department, at the following locations:
1. On a post in the easterly Right-of-Way (ROW) of Bayard Road across the road from DEC Pole 14499,
 2. On a post in the southerly of Double Bridges Road Across the road from DEC Pole 32004,
 3. On a post in the northerly ROW of Double Bridges Road in front of DEC Pole 32004,
 4. On a post in the northerly ROW of Camp Barners Road approximately 200' southeast of Double Bridges Road,
 5. On a post in front of a STOP sign at the intersection of Peppers Corner Road and Windsor Park Drive,
 6. On a post in front of a STOP sign at the intersection of Bayard Road and Privy Drive,
 7. On a post in front of a STOP sign at the intersection of Double Bridges Road and Lutes Lane,
 8. On a post in front of a STOP sign at the intersection of Double Bridges Road and Lindell Lane.


PHILLIP C. CALIO

SWORN TO AND SUBSCRIBED before me on this 3rd day of July A.D., 2024


NOTARY PUBLIC



My Commission Expires 6/14/2026

RESOLUTION

A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) MILLER CREEK AREA, TO INCLUDE PARCEL 134-19.00-22.00 ON BOTH SIDES OF DOUBLE BRIDGES ROAD LOCATED IN THE BALTIMORE HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE.

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

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

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

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

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

NOW, THEREFORE, BE IT RESOLVED the Sussex County Council hereby revises the boundary of the SCUSSD to encompass the lands mentioned above in the Miller Creek area and further described as follows:

Beginning at a point, said point being on the SCUSSD (Miller Creek Area) boundary, said point also being on the westerly Right-of-Way (ROW) of Bayard Road, said point further being the southeasternmost property corner of The Meadows at Bayard subdivision; thence proceeding in a northerly direction a distance of 284'± to a point; thence proceeding in an easterly direction, crossing Bayard Road a distance of 50'± to a point, said point being on the easterly ROW of Bayard Road, said point also being the northwesternmost property corner of lands Now or Formerly (N/F) of Dianne H. Archut, Trustee; thence proceeding with said Archut lands in a northeasterly, and southeasterly direction a total distance of 1,502'± to a point, said point being on the northerly ROW of Double Bridges Road; thence proceeding in a southeasterly direction across Double Bridges Road a distance of 50'± to a point, said point being on the southerly ROW of Double Bridges Road; thence proceeding in a southwesterly direction a distance of 406'± to a point, said point being the intersection of the southerly ROW of Double Bridges Road and the easterly ROW of Camp Barnes Road; thence proceeding in a westerly direction across Camp Barnes Road a distance of 50'± to a point, said point being on the intersection of the southerly ROW of Double Bridges Road and the westerly ROW of Camp Barnes Road; said point also being a property corner of other lands of Archut; thence proceeding by and with said other lands of Archut in a southeasterly, southwesterly, and northwesterly direction respectively a total distance of 1,755'± to a point, said point being the southerly ROW of Bayard Road; thence proceeding in a northwesterly direction across Bayard Road a distance of 50'± to a point, said point being on the northerly ROW of Bayard Road; thence proceeding by and with said ROW in a northeasterly and northwesterly direction respectively a total distance of 542'± to a point, said point being that of the **BEGINNING**.

NOTE: The above description has been prepared using Sussex County Tax Map 134-19.00 and Sussex County property assessment records.

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

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

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

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 Marvel Minor Subdivision Expansion
of the Sussex County Unified Sanitary Sewer District**

PUBLIC HEARING FACT SHEET

- County Council granted approval to prepare and post notices for the public hearing on June 11, 2024, for the Marvel Minor Subdivision Expansion of the Sussex County Unified Sanitary Sewer District (Holt's Landing Area)
- The Engineering Department received a request from Foxlane Homes the developers of a project to be known as Marvel Minor Subdivision.
- The request includes parcels 134-7.00-162.00 & 162.01.
- The project is proposed at 3 lots.
- The project will be responsible for System Connection Charges of \$7,700.00 per EDU based on current rates.
- Public Hearing Notices were posted on July 3rd and placed on the County website.
- To date we have had no correspondence either in support or opposition to this proposed annexation.



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

PUBLIC NOTICE

PROPOSED MARVEL MINOR SUBDIVISION EXPANSION OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (HOLTS LANDING PLANNING AREA)

NOTICE IS HEREBY GIVEN that the Sussex County Council voted on **JUNE 11, 2024** to consider extending the boundary of the Sussex County Unified Sanitary Sewer District (SCUSSD), Holts Landing Planning Area, to include two parcels at the north of the intersection of Iron's Lane and Hoot Owl Lane, being situate in the Baltimore Hundred, Sussex County, Delaware.

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

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

BEGINNING at a point situate on the eastern right of way (ROW) of Irons Lane, said point being $\pm 195'$ north of the intersection of the centerlines of Irons Lane and Hoot Owl Lane, said point also being the northwest corner of lands, now or formerly (N/F) of Robert and Ruth McClintock; thence by and with said lands of McClintock $\pm 115.64'$ to a point, said point being the northeast most corner of said lands of McClintock, and the northeastern most point on the subdivision boundary of Iron's Acres; thence by and with said boundary, in an easterly direction $\pm 268.96'$ to a point, said point being the southwestern most corner of lands N/F of Foxlane Homes at the Knoll; thence by and with said lands of Foxlane Homes at the Knoll in the following directions and distances: (1) in a northwesterly direction $\pm 310.12'$ to a point, and (2) in a westerly direction $\pm 384.9'$ to a point, said point being on the western ROW of Irons Lane; thence by and with said ROW in a southerly direction $\pm 314.8'$ to a point, said point being that of the **BEGINNING**.

NOTE: The above description has been prepared using Sussex County Tax Map 134-7.00 and Sussex County property assessment records. The annexation contains 2.74 acres more or less.

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

The public hearing will be held on this issue at 1:30 p.m. on July 16, 2024, in the Sussex County Council Chambers, 2 The Circle, Georgetown, Delaware 19947. All interested persons, officials, residents, voters, taxpayers, property owners, or corporations in any way affected by this boundary extension are welcome to attend. There will be an opportunity for questions and answers. The Sussex County Council following the hearing, at one of their regularly scheduled meetings, will make the final decision on the boundary extension.

For further information, please call or write the Sussex County Engineering Department, 2 The Circle, Post Office Box 589, Georgetown, DE 19947 – (302) 855-8384.

Mike Harmer, P.E.

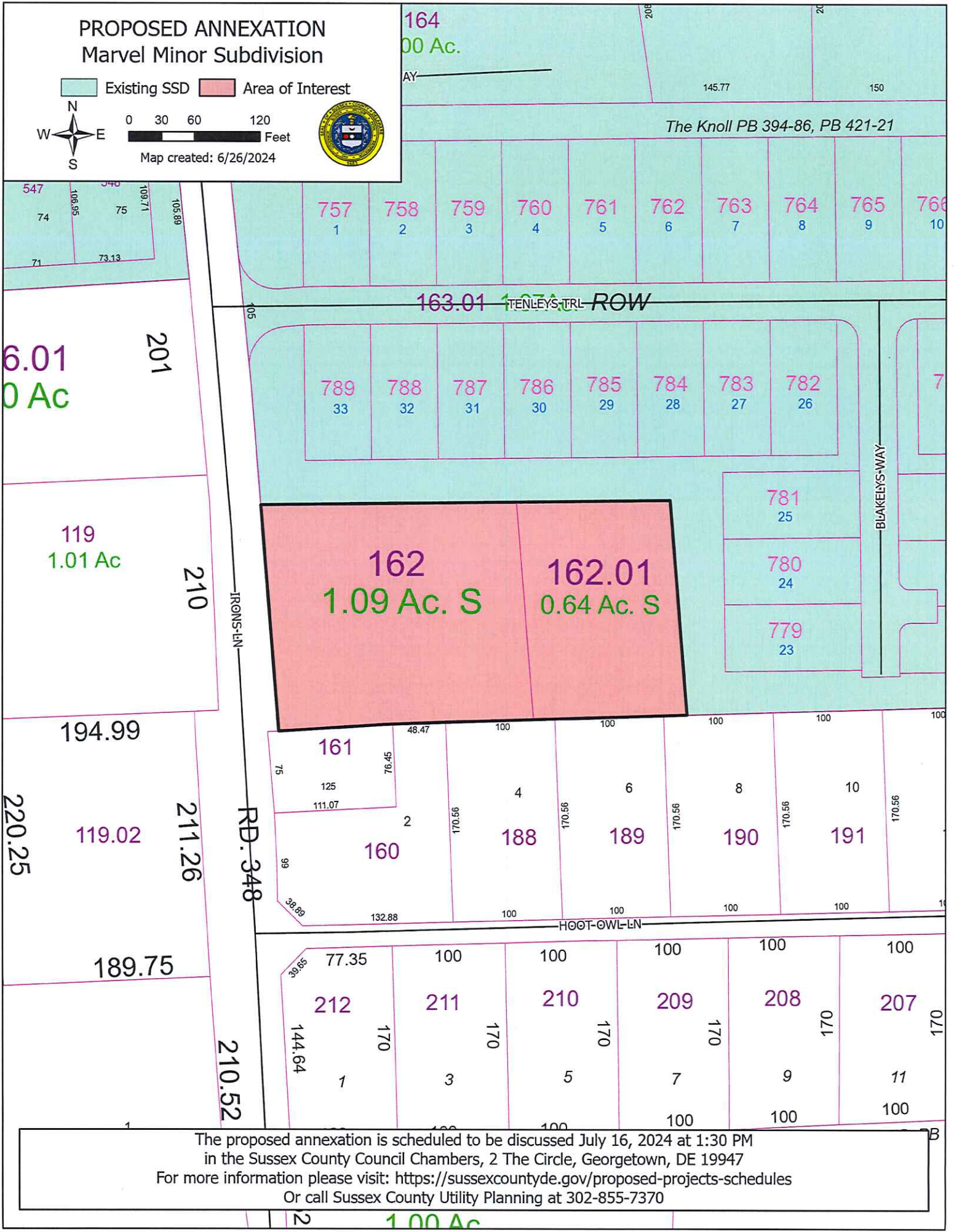
County Engineer

PROPOSED ANNEXATION
Marvel Minor Subdivision

Existing SSD Area of Interest



0 30 60 120
Feet
Map created: 6/26/2024



SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT
MARVEL MINOR SUBDIVISION EXPANSION
AFFIDAVIT FOR PUBLIC HEARING

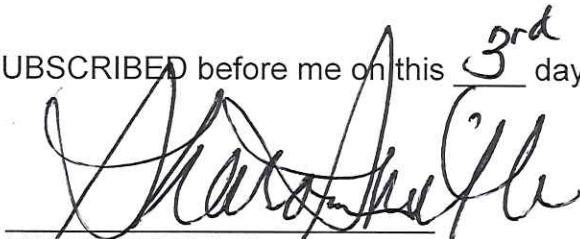
STATE OF DELAWARE)(:
COUNTY OF SUSSEX)(

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

- A. On June 27, 2024, he was a Utility Planner for the Sussex County Engineering Department, Sussex County, State of Delaware; and
- B. On June 27, 2024, he did post the attached "Public Notice," prepared by the Sussex County Engineering Department, at the following locations:
 - 1. On a post in the southerly Right-of-Way (ROW) of Irons Lane in front of DEC Pole 16546,
 - 2. On a post in the southerly ROW of Irons Lane across the road from DEC Pole 16548,
 - 3. On a post in the southerly ROW of Irons Lane 120' +/- north of DEC Pole 16546,
 - 4. On a post in the southerly ROW of Irons Lane in front of Telecommunications PED BF/37,
 - 5. On a post in front of a STOP sign at the intersection of Irons Lane and Winward Way,
 - 6. On a post in front of a STOP sign at the intersection of Irons Lane and Cripple Creek Drive,
 - 7. On a post in front of a STOP sign at the intersection of Irons Lane and Manor Drive,
 - 8. On a post in front of a STOP sign at the intersection of Irons Lane and Preserve Lane.


PHILLIP C. CALIO

SWORN TO AND SUBSCRIBED before me on this 3rd day of July A.D., 2024


NOTARY PUBLIC

My Commission Expires 6/14/2026



RESOLUTION

A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) HOLTS LANDING AREA, TO INCLUDE THE PROPOSED THE MARVEL MINOR SUBDIVISION, LOCATED IN THE BALTIMORE HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE.

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

WHEREAS, in the best interests of the present district and to enhance the general health and welfare of that portion of Sussex County in the vicinity of the proposed Marvel Minor subdivision, the inclusion of this area will be beneficial; and

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

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

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

NOW, THEREFORE,

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

BEGINNING at a point situate on the eastern right of way (ROW) of Irons Lane, said point being $\pm 195'$ north of the intersection of the centerlines of Irons Lane and Hoot Owl Lane, said point also being the northwest corner of lands, now or formerly (N/F) of Robert and Ruth McClintock; thence by and with said lands of McClintock $\pm 115.64'$ to a point, said point being the northeast most corner of said lands of McClintock, and the northeastern most point on the subdivision boundary of Iron's Acres; thence by and with said boundary, in an easterly direction $\pm 268.96'$ to a point, said point being the southwestern most corner of lands N/F of Foxlane Homes at the Knoll; thence by and with said lands of Foxlane Homes at the Knoll in the following directions and distances: (1) in a northwesterly direction $\pm 310.12'$ to a point, and (2) in a westerly direction $\pm 384.9'$ to a point, said point being on the western ROW of Irons Lane; thence by and with said ROW in a southerly direction $\pm 314.8'$ to a point, said point being that of the **BEGINNING**.

NOTE: The above description has been prepared using Sussex County Tax Map 134-7.00 and Sussex County property assessment records.

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

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

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



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: July 11, 2024

RE: County Council Report for C/U 2427 filed on behalf of Joshua L. Wharton

The Planning and Zoning Department received an application (C/U 2427 filed on behalf of Joshua L. Wharton) for a Conditional Use for a landscaping business in an AR-1 Agricultural Residential Zoning District, to be located at Tax Parcel 234-6.00-66.00. The property is located at the end of Alma's Way, approximately 0.25 mile east of Wil King Road (SCR 288). The parcel size is 8.51 acres +/-

The Planning & Zoning Commission held a Public Hearing on the application on June 5, 2024. At the meeting of June 26, 2024, the Planning & Zoning Commission recommended approval of the application for the 5 reasons stated and subject to the 12 recommended conditions as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meetings of June 5, 2024, and June 26, 2024.

Minutes of the June 5, 2024, Planning & Zoning Commission Meeting

C/U 2427 Joshua L. Wharton

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.

The property is lying at the end of Alma's Way, approximately 0.25 mile east of Wil King Road (S.C.R. 288). 911 Address: N/A. Tax Map Parcel: 234-6.00-66.00.



Mr. Whitehouse advised the Commission that submitted into record were a copy of the applicants conceptual site plan, a copy of the staff analysis, a copy of the DelDOT SLER, a copy of the notice of violation that is issued by the county and zero comments.

Mr. Joshua Wharton, the Applicant, spoke on behalf of himself, that he has operated a landscape business for 25 years; that he is not putting up any buildings, he is just utilizing the property for where the guys come, leave their personal cars, get in their work trucks; that they load them and leave from the main business, the landscape Garden Center in Rehoboth; that this site is mainly where trucks are kept; that hours of operation are Monday through Friday 7:30am-5:00pm and Saturday 8:00am-12:00pm; that they do snow removal so some hours are weather dependent; that clippings are brought back to the site and another contractor comes in and grinds it for them and then he uses it as their own topsoil.

Mr. Mears asked if there was any storage of materials or sale of materials being done on site or if there was a plan do so in the future?

Mr. Wharton stated that there is some material stored on the property, fertilizers which have their own building and some equipment as it is an old farm; that there are no sales on this property and he does not plan on doing any from this location as his Rehoboth Beach locations is where he does all of that and this property is too far out of the way to do sales from.

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 2427 Joshua L Wharton. Motion by Ms. Wingate to defer action for further consideration, seconded by Mr. Mears and carried unanimously. Motion carried 5-0.

Minutes of the June 26, 2024, Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since June 5, 2024.

Ms. Wingate moved that the Commission recommend approval of Conditional Use # 2427 for Joshua L. Wharton for a landscaping business based on the record made during the public hearing and for the following reasons:

1. The site is located within the Coastal Area according to the Sussex County Comprehensive Plan. This use is appropriate within this Area.
2. The property is zoned AR-1 Agricultural Residential. The use of the property as a landscaping business is consistent with the underlying agricultural zoning of the property.
3. The use will not adversely affect area roadways or neighboring properties.
4. A landscaping company provides a service to a wide variety of Sussex County residents and businesses, and it has a public or semi-public character that will benefit the residents and businesses of Sussex County.
5. There was no opposition to this application.
6. This recommendation is subject to the following conditions:
 - A. This use shall be limited to a landscaping business.

- B. No manufacturing shall occur on the site. This prohibition includes the shredding or grinding of any materials and also includes the dyeing of mulch or similar materials.
- C. As stated by the Applicant, there shall not be any retail sales occurring from the site.
- D. One lighted sign, not to exceed 32 square feet per side, shall be permitted.
- E. The hours of operation shall be limited to 7:00 am through 5:00 pm, Monday through Friday, and from 7:00 am until 3:00 pm on Saturdays. There shall not be any Sunday hours. The Applicant shall be able to operate beyond these hours on an as - needed basis for limited situations such as snow removal, storm damage cleanup, and similar events.
- F. Any areas to be used for the storage of dirt, topsoil, mulch, stone or similar shall be shown on the Final Site Plan with the type of containment used to keep them in place.
- G. Any lighting on the site shall be screened so that it does not shine on neighboring properties or roadways.
- H. Any dumpsters on the site shall be screened from the view of neighboring properties and roadways. The dumpster locations shall be shown on the Final Site Plan.
- I. The applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.
- J. The Final Site Plan shall clearly show all areas for vehicle and equipment storage and parking, and these areas shall be clearly marked on the site itself. There shall not be any parking or storage within the property's setbacks.
- K. Failure to comply with any of these conditions may be grounds for termination of the Conditional Use approval.
- L. 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 2427 Joshua L. Wharton for the reasons and the conditions stated in the motion. Motion carried 5-0.

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

PLANNING & ZONING COMMISSION

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



Sussex County

DELAWARE
sussexcountype.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: June 5, 2024

Application: CU 2427 Joshua Wharton

Applicant: Joshua L. Wharton
31714 Alma's Way
Lewes, DE 19958

Owner: Joshua L. Wharton
31714 Alma's Way
Lewes, DE 19958

Site Location: Located at the end of Alma's Way approximately 0.25 mile east of Wil King Road (S.C.R. 288)

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

Proposed Use: Landscaping Business

Comprehensive Land
Use Plan Reference: Coastal Area

Councilmanic
District: Mr. Rieley

School District: Cape Henlopen School District

Fire District: Lewes Fire Department

Sewer: N/A

Water: N/A

Site Area: 8.51-acre(s) +/-

Tax Map ID.: 234-6.00-66.00





Memorandum

To: Sussex County Planning and Zoning Commission Members
From: Ann Lepore, Planner I
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: May 6, 2023
RE: Staff Analysis for CU 2427 Joshua L. Wharton

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 2427 (Joshua L. Wharton) to be reviewed during the June 5th, 2024, Planning and Zoning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcel: 234-6.00-66.00 to allow for a landscape business. The property is lying at the end of Alma's Way approximately 0.25 mile east of Wil King Road (S.C.R. 288). The applicant is applying for 8.51-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 subject property has land use designation of "Coastal Area." All surrounding properties to the north, south, east, and west of the subject site contain the Future Land Use Map designation of "Coastal Area."

As outlined in the 2018 Sussex County Comprehensive Plan, Coastal Areas are areas that can accommodate development provided that special environmental concerns are addressed. A range of housing types should be permitted in Coastal Areas, including single-family homes, townhouses, and multi-family units. Retail and office uses are appropriate, but larger shopping centers and office parks should be confined to selected locations with access along arterial roads. Appropriate mixed-use development should all be allowed. In doing so, careful mixtures of homes with light commercial, office and institutional uses can be appropriate to provide for convenient services and to allow people to work close to home. Major new industrial uses are not proposed in these areas. (Sussex County Comprehensive Plan, 4-15).

Zoning Information

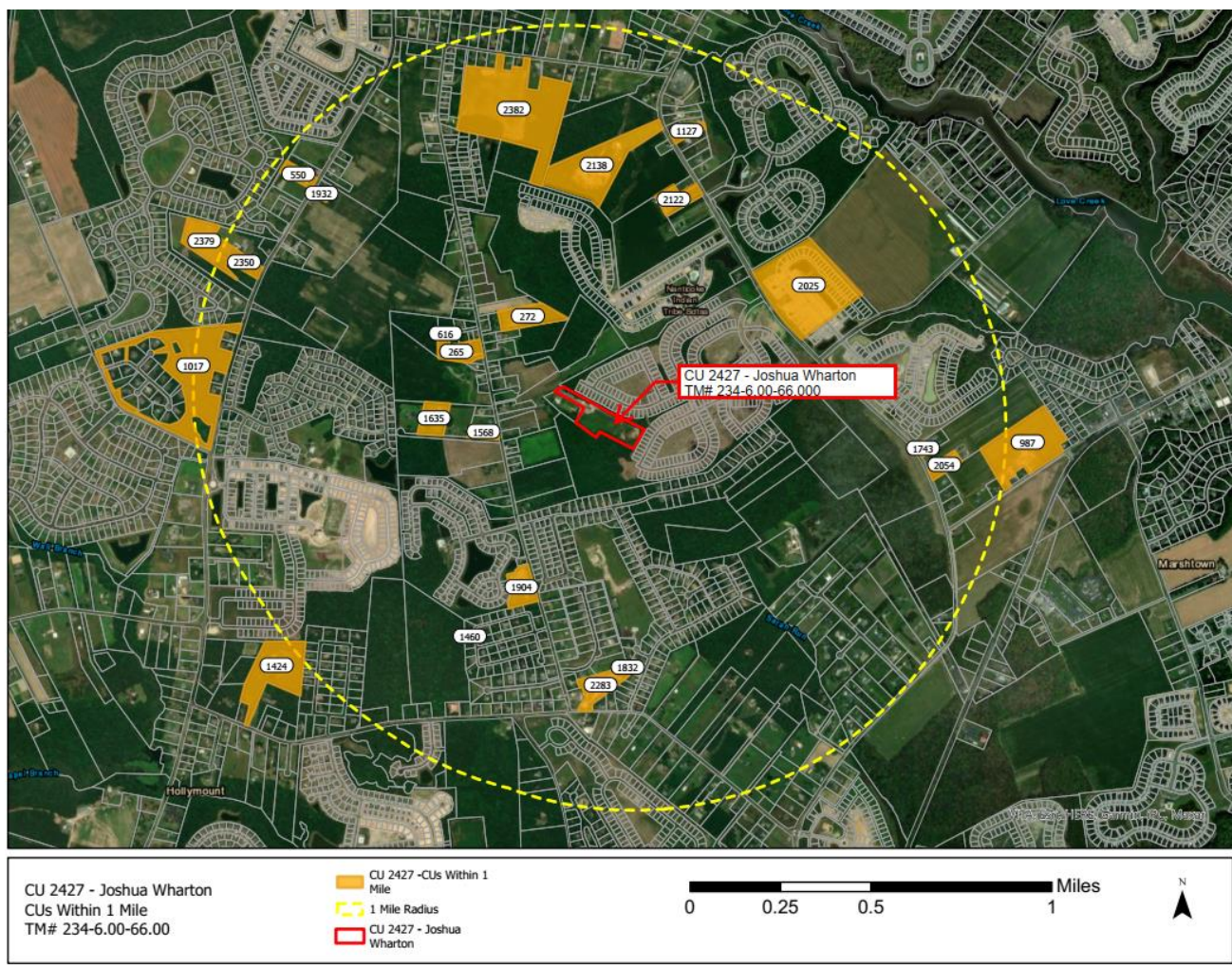
The subject property is zoned Agricultural Residential (AR-1) District. All adjoining properties to the south, east, west, and north are also zoned Agricultural Residential (AR-1) District.

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 "Coastal Area" Future Land Use Map Designation.

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 one (1) mile radius from the subject site.

| Conditional Use No. | Applicant | Proposed Use | CC Decision Date | Ordinance No. |
|---------------------|------------------------------------|--|------------------|---------------|
| 265 | Leroy Lucas | Manufactured Home Park | 4/29/1975 | N/A |
| 272 | Melvin Gollub & Ada | FM Radio Station & Tower | 6/10/1975 | N/A |
| 550 | John & Barbara Clark | Upholstery Shop/Antique & used furniture sales | 10/16/1979 | N/A |
| 616 | John R. Metcalf | Manufactured Home Park | | Withdrawn |
| 987 | Charlotte Nelte | Model Home Sales Office | 11/12/1991 | 800 |
| 1017 | Townsend Inc. | Sludge Application to Forested Land | | Withdrawn |
| 1127 | Delaware Electric Cooperative, Inc | Electrical Substation | 8/29/1995 | 1045 |
| 1424 | L. Thomas Harmon | Retail Sales & Landscaping Supplies | 12/18/2001 | N/A (Denied) |
| 1460 | D. Angley Rummel | Place Manufactured Home | 9/24/2002 | N/A (Denied) |
| 1568 | Douglas W. Brockway | Boat Repair & Accessory | 3/15/2005 | 1759 |
| 1635 | Thomas N. & Marion L. Rossi | Landscaping Business | 2/14/2006 | 1825 |
| 1743 | John & Michelle Beaver | Auto Repair/Towing/Sales | 12/2/2008 | 2012 |

| | | | | |
|------|---------------------------------------|--|------------|-----------------|
| 1832 | Hazzard Auto Repair | Auto Repair Shop/Contractors Storage | 9/28/2010 | N/A (Denied) |
| 1904 | Joseph Mocchi | Equipment Storage | 10/11/2011 | 2224 |
| 1932 | Tanya & Kimwuan Gibbs | Automotive Sales Lot | 1/15/2013 | N/A (Denied) |
| 2025 | Rudy South c/o T&C Properties | Boat Sales, Service and Storage | 12/15/2013 | N/A (Denied) |
| 2054 | Utilisite, Inc. | Office, Equipment Storage & Parking for a Construction Company | 9/20/2016 | 2463 |
| 2122 | Richard Thurman Jr. (Arbor Care) | Plant, Tree and Lawn Care Diagnostic Center | 4/17/2018 | 2573 |
| 2138 | Walker Construction, Inc. | Site Contracting Excavation Services, with Storage, Repair, Maintenance & Light Material Storage with Office | 8/21/2018 | 2596 |
| 2350 | Anton Balakin | Multi-Family | 12/12/2023 | 2967 |
| 2379 | Lewes Saddle Ridge Solar 1, LLC | Solar Farm | 12/12/2023 | 2968 |
| 2382 | Consolidated Edison Development, Inc. | Solar Farm | 2/6/2024 | 2981 |



Site Considerations

- **Density:** N/A
- **Open Space Provisions:** N/A
- **Agricultural Areas:** N/A
- **Interconnectivity:** N/A
- **Transportation Improvement District (TID):** The site lies within the Henlopen TID.
- **Forested Areas:** N/A
- **Wetlands Buffers/Waterways:** N/A

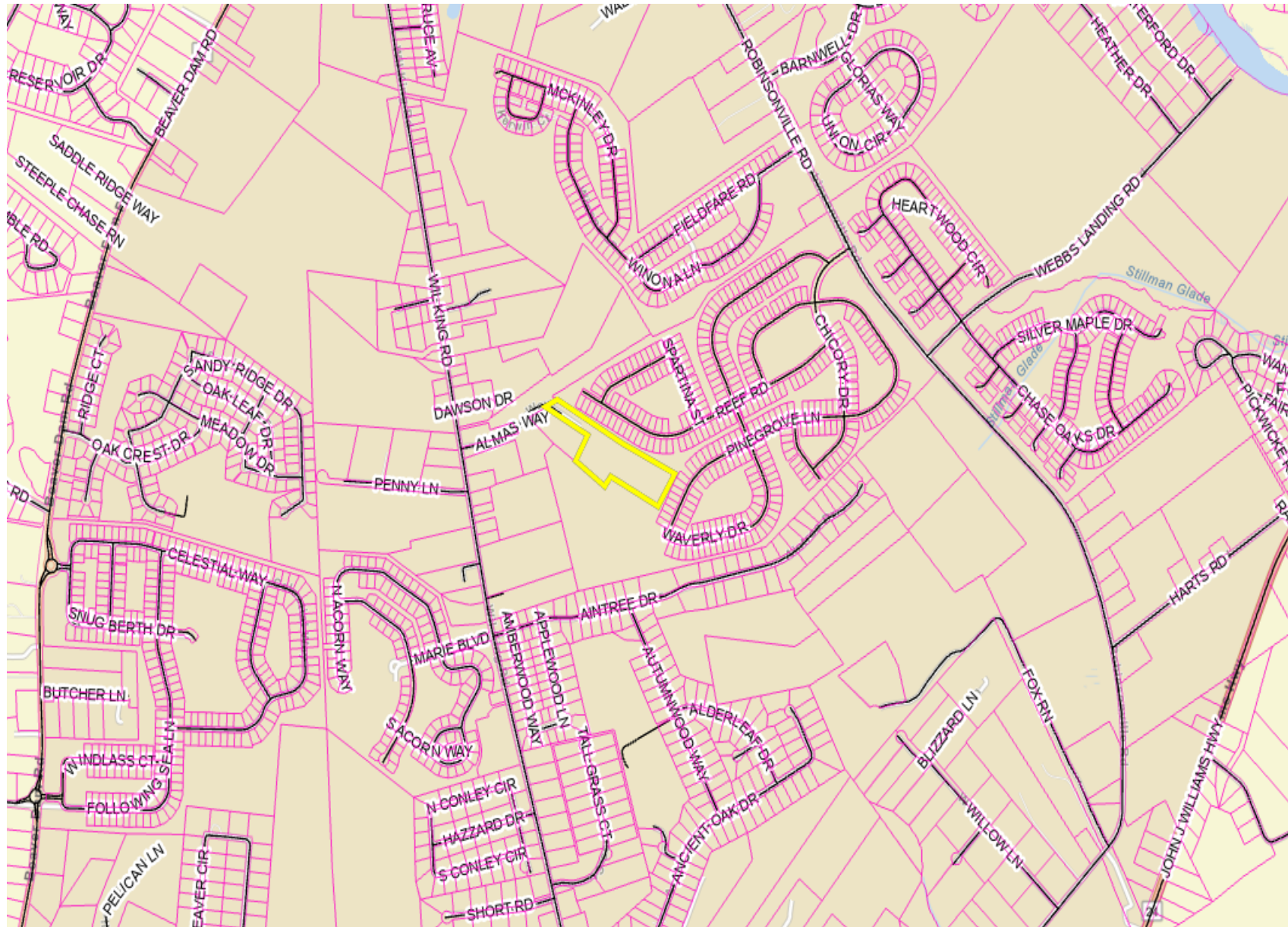
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** Parcel is located within the “X” Flood Zone. The parcel is located within an area of fair groundwater recharge.

Based on the analysis provided, the Conditional Use to allow for a Landscaping 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.

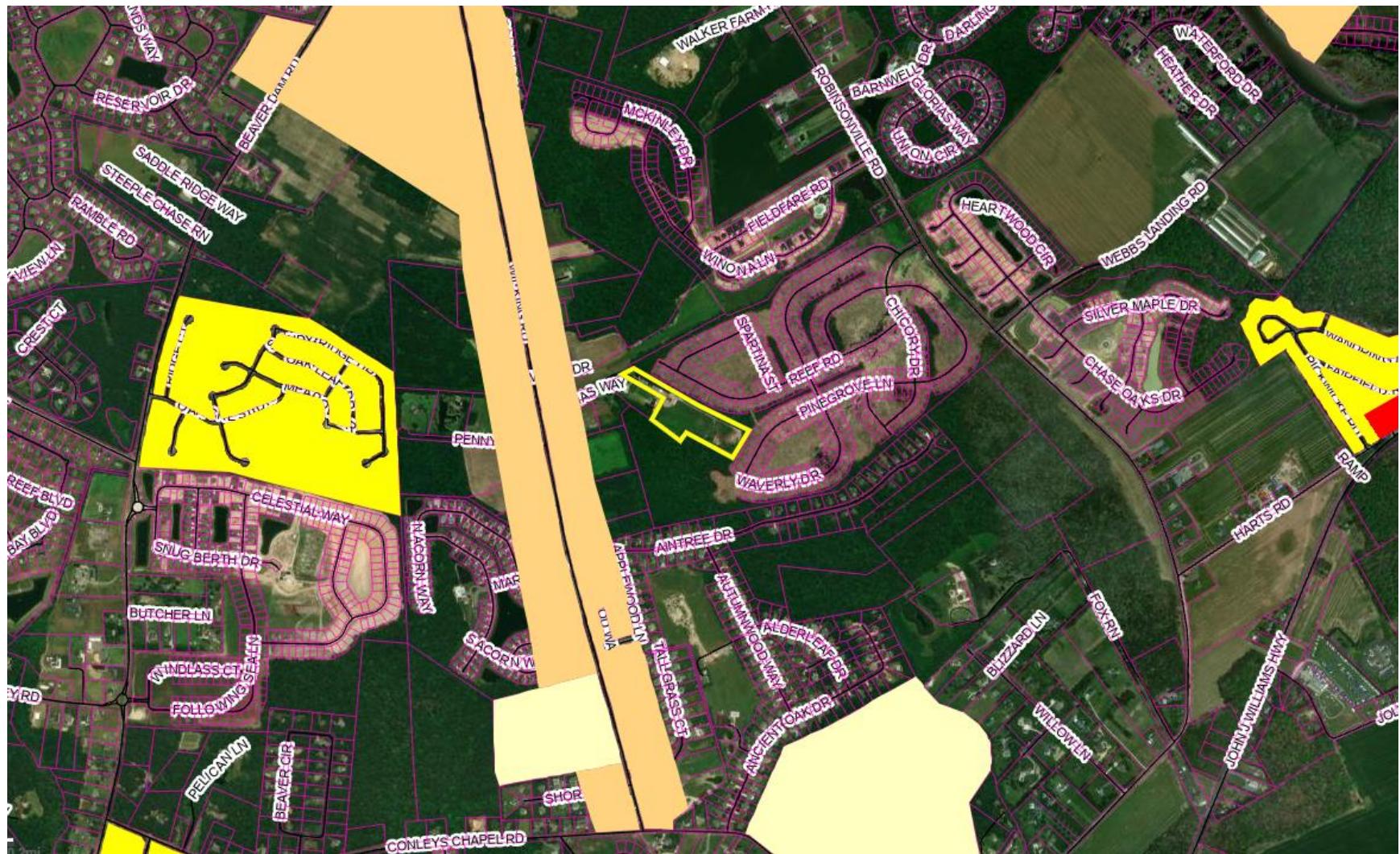
CU 2427 – Joshua L. Wharton – Aerial Map



CU 2427 – Joshua L. Wharton – Street Map



CU 2427 – Joshua L. Wharton – Zoning Map



Introduced: 5/7/24

Council District 5: Mr. Rieley

Tax I.D. No.: 234-6.00-66.00

911 Address: N/A

ORDINANCE NO. ____

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

WHEREAS, on the 13th day of March 2023, a conditional use application, denominated Conditional Use No. 2427 was filed on behalf of Joshua L. Wharton; and

WHEREAS, on the ____ day of _____ 2024, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2427 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2427 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 Indian River Hundred, Sussex County, Delaware, and lying at the end of Alma's Way approximately 0.25 mile east of Wil King Road (S.C.R. 288) and being more particularly described in the attached legal description prepared by Smith O'Donnell Feinberg & Berl, LLP, said parcel containing 8.51 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: July 11, 2024

RE: County Council Report for C/U 2418 filed on behalf of Nanticoke Indian Association

The Planning and Zoning Department received an application (C/U 2418 filed on behalf of Nanticoke Indian Association) for a Conditional Use to modify the Conditions of Approval relating to Conditional Use No. 1018 to modify building size limitations in an AR-1 Agricultural Residential Zoning District, to be located at Tax Parcel 234-29.00-53.00. The property is located at 27073 John J. Williams Highway. The parcel size is 0.91 acres +/-

The Planning & Zoning Commission held a Public Hearing on the application on June 5, 2024. At the meeting of June 5, 2024, the Planning & Zoning Commission recommended approval of the application for the 6 reasons stated and subject to the 1 recommended condition revision as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meeting of June 5, 2024.

Minutes of the June 5, 2024, Planning & Zoning Commission Meeting

C/U 2418 Nanticoke Indian Association

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MODIFICATION OF CONDITIONS OF APPROVAL RELATING TO CONDITIONAL USE NO. 1018 TO MODIFY BUILDING SIZE LIMITATIONS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.915 ACRE MORE OR LESS. The property is lying on the south side of John J. Williams Highway (Rt. 24) approximately 200 ft. west of Layton Davis Road (S.C.R. 312A). 911 Address: 27073 John J. Williams Highway, Millsboro. Tax Map Parcel: 234-29.00-53.00.



Mr. Whitehouse advised the Commission that submitted into the record were a copy of the applicant's conceptual site plan, a copy of the applicant's exhibit booklet, a copy of the staff analysis, a copy of the DelDOT SLER, a copy of the applicant's legal description for the property, a copy of a letter we received from the Sussex County Engineering Department Utility Planning Division and no comments.

Mr. David Hutt, Esq., of Morris James, spoke on behalf of the Applicant, Nanticoke Indian Association, in regards to the Conditional Use for the property at about 200 feet West of the intersection of Layton Davis Rd. and Route 24; that the property contains a little less than an acre about 9/10 of an acre and it will be reduced a little further as part of this process, should this be favorably acted upon by County Council as DelDOT is receiving a dedication of some additional right of way; that in 1929, Isaac and Vina Harmon conveyed the property to the Indian River School District for the descendants of the Nanticoke tribe of Indians; that in 2006 the Indian River School District for the descendants of the Nanticoke tribe of Indians conveyed the property to the Nanticoke Indian Association as it's presently titled today; that the deed has a possibility of reversion, what that means in the context of this property is that the property will revert to the Indian River School district in the event that the property ceases to be used by the Nanticoke Indian Association as a social or cultural center for the advancement of history, culture and tribal heritage of the Nanticoke Indians; that the cultural community center on that parcel houses the Tribal Affairs Office which provides programs and services that include a food bank, Community Center, community dinners, cultural arts and crafts lessons, native drum and dance programs, educational programs, heritage and cultural activities, youth and senior programs, elder programs, healthcare services and mental health and domestic violence services; that the property is zoned AR-1 and in 1992 an ordinance was passed by County Council Ord. 859 as part of C/U 1018 and that conditional use was for in Indian Center Tribal Office and meeting place; that ordinance was amended by C/U 2115, when County Council adopted Ord. 2554 to allow for an electronic message center sign on the property; that conditional use and ordinance is within your project book materials, and it had five conditions; that the application seeks to amend the first condition regarding the size of the building; that the zoning map shows a mixture of zoning classifications with areas of agricultural, residential and commercial all within a small distance of the property; that there are nine approved Conditional Uses within a mile of the property; that this property resides in a Level 2 area on the state strategies map and according to the state and the Office of State Planning Coordination, Level 2 areas of the state investments and policy should support and encourage a wide range of uses and densities, promote other transportation options, foster efficient use of existing public and private investments, and enhance community identity and integrity; that this application certainly helps to support the community identity of Sussex County and particularly in this area of Sussex County; that there are no wetlands located on the property, water is provided by Tidewater Utilities, sanitary sewer is through an on-site wastewater disposal system; that the property is within a tier one level within the Sussex County Unified Sanitary Sewer District and the Sussex County Engineering Department indicated that there is capacity for the Cultural Community Center to become part of and connect it to county sewer if the easements are granted; that a SLER was filed with DelDOT who responded that pursuant to the terms of its Memorandum of Understanding with Sussex County, the traffic impact for the expansion of the Community Center would be negligible; that means that it anticipates less than 50 vehicle trips per hour and less than 500 vehicle trips per day; that there is a letter of no objection to recordation from DelDOT, State Fire Marshall approval and approval from the Sussex Conservation District and entrance approval from DelDOT; that this

application is asking to amend the existing conditions in C/U 1018; that the first condition says the conditional use shall be limited to a 20 foot by 50 foot addition to the existing structure; that when the Association acquired this property there was a 1250 square foot 25 by 50 building on it and then there was an addition of 20 feet by 50 feet made to that which added another 1000 square feet to this so that the building was allowed to be under that conditional use of 2250 square feet; that the proposed addition involves additional structures on both sides with the combined square footage of those two parts of the building additions would be 2613 square feet, bringing the total building to 4859 square feet; that the request is to amend square footage of the building to 5000 square feet; that the purpose of the addition is to double the size of the existing Community Center and allow it to accommodate new restrooms, a food bank, expanded food bank, flex space for children's area and classroom, additional meeting, arts and craft room and to extensively renovate the entire exterior with a new roof, new siding, etc.; that they added parking areas, walkways, native artwork, new lighting and landscaping for the property; that the support that this project has been received throughout, including financial support from the State Legislature and our federal government, there was support for a bond bill and funding through the bond bill, and signatures of many area residents for this Cultural Center; that this property meets the general purpose of the zoning ordinance, and specifically as it's a conditional use, section 115-171, as it is a public Community Center use that is essential and desirable for the general convenience and welfare, orderly growth, prosperity and welfare of Sussex County.

Mr. Robertson asked if it makes sense to just strike the condition completely because ordinarily, we don't require a building size, it's governed by setbacks, parking, and other geometric matters; if we strike the first one, it's still going to be it has enough coverage in there because adequate off-street parking should be provided and staff is going to make sure that it complies with the parking counts and it still requires the site plan approval by the Planning & Zoning Commission and they're going to have to come back with the site plan to make sure everything fits; that by deleting that condition, if you're inclined to do that, it makes it cleaner for everybody.

Mr. Jeff Hilovsky, the 4th District Representative, spoke in favor of the application that the comments and interactions with the public are in complete favor of this project and it will add value to the, to the community and to the county in many ways.

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

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

Mr. Robertson read the motion at the request of Mr. Mears.

Mr. Mears moved that the Commission recommend approval of C/U 2418 Nanticoke Indian Association to amend condition number one of existing C/U 1018 by deleting that condition for the following reasons:

1. Nanticoke Indian Association operates its Nanticoke Indian Cultural Community Center at the location. The center offers a variety of services to the association and the community in general, including a food bank and Community Center, heritage and cultural activities.
2. This use was approved by C/U 1018 in 1992, but with condition #1, which stated that it shall be limited to a 20 by 50-foot addition to the existing structure.

3. The center exists in a building that is about 75 years old and has served the Association well, but an update in renovation of the building at its site is needed.
4. The 75 years this building has been in use and in the 30 years since C/U 1018 was approved, much has changed in this area since this county, for instance, there are now several businesses in the area and there are multiple different residential business and commercial zoning districts in the area. Also, DelDOT is now designated Route 24 as a major collector road it is also now in the coastal area under the county's Comprehensive Land Use Plan. Under all these circumstances, condition number one of C/U 1018 is no longer necessary or appropriate.
5. With the elimination of this condition, the Association will be able to renovate and expand its existing building to enable it to install new restrooms, new food bank, flex space for children's areas, classrooms, a new commercial kitchen, a renovated office and community computer workspace areas.
6. DelDOT stated that the expansion of the building will have a negligible impact on traffic in the area.
7. There was no opposition to this application and eight condition number one of C/U 1018 should be deleted in its entirety. There is no need for a limitation on the building size, it will still be governed by the relevant parking, stormwater management access and set back requirements that will govern the site and the new building. Additionally, any new building will be subject to site plan review and approval by the Planning and Zoning Commission.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of C/U 2418 Nanticoke Indian Association 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

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JAMIE WHITEHOUSE, MRTPI, AICP
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: June 5, 2024

Application: CU 2418 Nanticoke Indian Association

Applicant: Nanticoke Indian Association
27073 John J. Williams Highway
Millsboro, DE 19966

Owner: Nanticoke Indian Association
27073 John J. Williams Highway
Millsboro, DE 19966

Site Location: Located on the southside of John J. Williams Highway (Rt. 24),
approximately 220-feet east of the intersection of John J. Williams
Highway and Rosedale Road (S.C.R. 313A).

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

Proposed Use: Amend Conditions of Approval

Comprehensive Land
Use Plan Reference: Coastal Area

Councilmanic
District: Mr. Hudson

School District: Indian River School District

Fire District: Indian River Fire Co.

Sewer: On-site septic

Water: Tidewater Utilities, Inc.

Site Area: 0.915-acre(s) +/-

Tax Map ID.: 234-29.00-53.00





Memorandum

To: Sussex County Planning and Zoning Commission Members
From: Ann Lepore, Planner I
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: May 6, 2024
RE: Staff Analysis for CU 2418 Nanticoke Indian Association

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 2418 (Nanticoke Indian Association) to be reviewed during the June 5th, 2024, Planning and Zoning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcel: 234-29.00-53.00 to allow for amendments to current Conditions of Approval, regarding Conditional Use No. 1018. The property is lying on the south side of John J. Williams Highway (Rt. 24), approximately 220-feet east of the intersection of John J. Williams Highway (Rt. 24) and Rosedale Road (S.C.R. 313A). The applicant is applying for 0.915-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 subject property has land use designation of "Coastal Area." All surrounding properties to the north, south, east, and west of the subject site contain the Future Land Use Map designation of "Coastal Area."

As outlined in the 2018 Sussex County Comprehensive Plan, Coastal Areas are areas that can accommodate development provided that special environmental concerns are addressed. A range of housing types should be permitted in Coastal Areas, including single-family homes, townhouses, and multi-family units. Retail and office uses are appropriate, but larger shopping centers and office parks should be confined to selected locations with access along arterial roads. Appropriate mixed-use development should all be allowed. In doing so, careful mixtures of homes with light commercial, office and institutional uses can be appropriate to provide for convenient services and to allow people to work close to home. Major new industrial uses are not proposed in these areas. (Sussex County Comprehensive Plan, 4-15).

Zoning Information

The subject property is zoned Agricultural Residential (AR-1) District. All adjoining properties to the south, east, west, and north across John J. Williams Highway 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 “Coastal 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 eleven (11) Conditional Use applications within a one (1) mile radius of the Application Site.

| Conditional Use No. | Applicant | Proposed Use | CC Decision Date | Ordinance No. |
|---------------------|------------------------------|---|------------------|-----------------|
| 1893 | Toby L. Schlick | Lawn/Tree Service | 6/7/2011 | 2209 |
| 2019 | JB Builders, LLC | Construction Company Office Storage | 8/4/2015 | 2409 |
| 2045 | Robert & Deborah Reed Remax | 142 Townhomes (Riverview Plaza) | 5/3/2016 | 2447 |
| 2049 | Blue Claw, LLC | Boat Storage Facility | 9/20/2016 | N/A (Denied) |
| 2068 | Charles L. Short | Auto Repair Shop | 4/25/2017 | 2493 |
| 2077 | Joy Marshall Ortiz | Campground (Tiny Homes) | 6/20/2017 | N/A (Denied) |
| 2115 | Nanticoke Indian Association | Amend Conditions of Approval | 3/13/2018 | 2554 |
| 2125 | RS Cordrey Farms, LLC | Landscaping Business, Sales, and Storage (Extension of CU 1242) | 5/22/2018 | 2578 |
| 2148 | Sussex Farms, LLC | Mini Storage with Caretaker Residence and Office | 11/13/2018 | 2615 |

| | | | | |
|------|--|-------------------------------------|-----------|------|
| 2268 | Staci C. & Winfield S. Walls Jr. | Boat Shrink Wrapping Business | 11/9/2021 | 2810 |
| 2394 | Wayne Development, LLC | RV/Boat Storage | 1/23/2024 | 2974 |



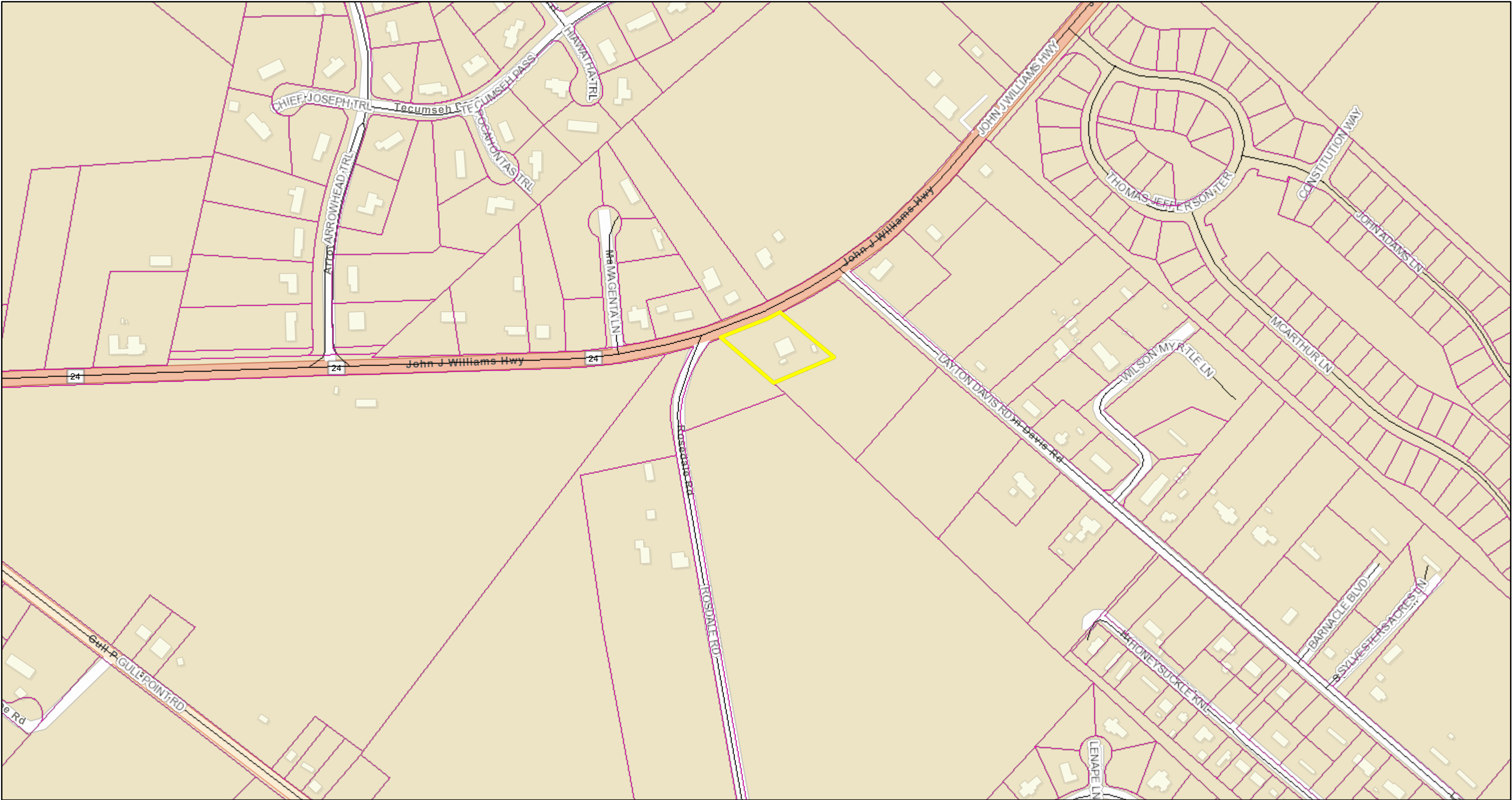
Site Considerations

- **Density:** N/A
- **Open Space Provisions:** N/A
- **Agricultural Areas:** The subject parcel adjoins parcels actively used for Agricultural purposes.
- **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 an amendment to existing Conditions of Approval in this location could be considered as being consistent with the surrounding land use, zoning, and uses, subject to considerations of scale and impact.

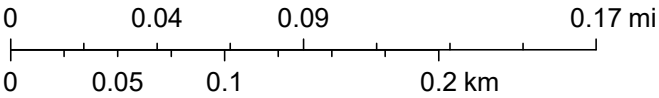
Sussex County



October 30, 2023

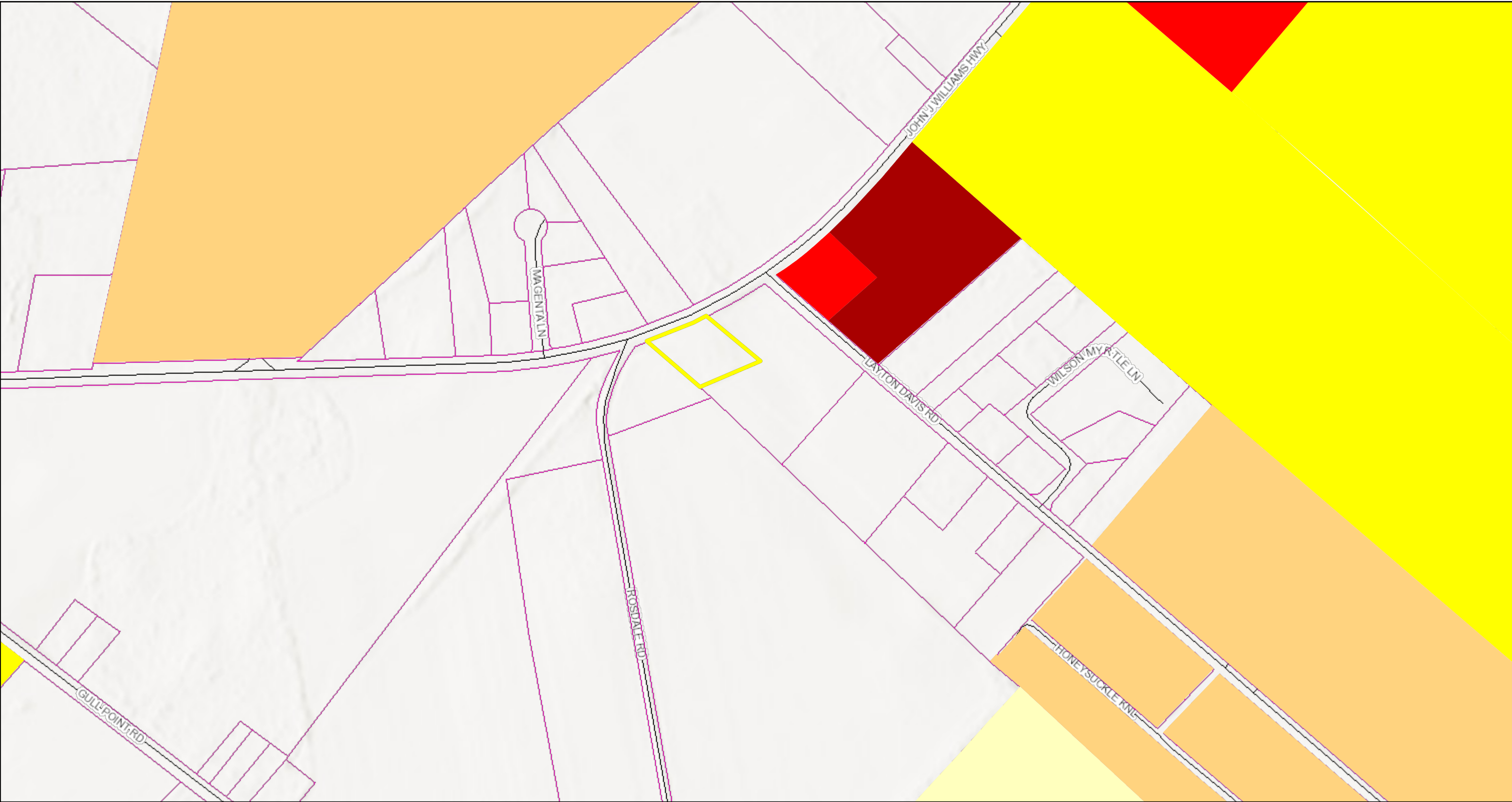
- Override 1
- Tax Parcels
- County Boundaries
- Override 1
- Streets
- DOE School Districts

1:4,514



Delaware Department of Education, 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

Sussex County



October 30, 2023

polygonLayer

Override 1

Override 2

Zoning

Agricultural Residential - AR-2

Medium Residential - MR

General Residential - GR

General Commercial - C-1

Commercial Residential - CR-1

Tax Parcels

Streets

County Boundaries

DOE School Districts

layer46

Red: Band_1

Green: Band_2

Blue: Band_3

layer47

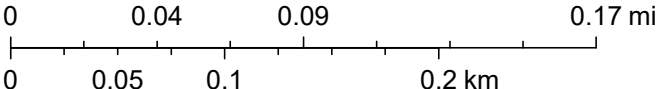
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Green: Band_2

Blue: Band_3

World Hillshade

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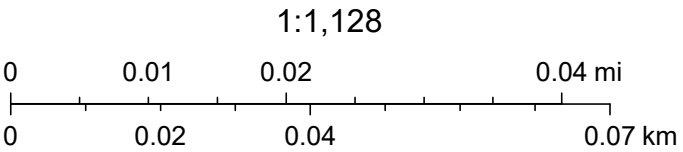
Delaware Department of Education, Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap and the GIS user community, Sussex County Government

Sussex County



October 30, 2023

- Override 1
- 911 Address
- DOE School Districts
- Override 1
- Streets
- Tax Parcels
- County Boundaries



Introduced: 8/15/23

Council District 4: Mr. Hudson

Tax I.D. No. 234-29.00-53.00

911 Address 27073 John J. Williams Highway, Millsboro

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MODIFICATION OF CONDITIONS OF APPROVAL RELATING TO CONDITIONAL USE NO. 1018 TO MODIFY BUILDING SIZE LIMITATIONS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.915 ACRE MORE OR LESS

WHEREAS, on the 20th day of December 2022, a conditional use application, denominated Conditional Use No. 2418 was filed on behalf of the Nanticoke Indian Association.; 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. 2418 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. 2418 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 south side of John J. Williams Highway (Rt. 24) approximately 200 ft. west of Layton Davis Road (S.C.R. 312A) and being more particularly described in the attached legal description prepared by Merestone Consultants, Inc. said parcel containing 0.915 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: July 11, 2024

RE: County Council Report for C/U 2422 filed on behalf of Garden Estates, Inc.

The Planning and Zoning Department received an application (C/U 2422 filed on behalf of Garden Estates, Inc.) for a Conditional Use to modify Conditional Use No. 1094 (Ordinance No. 998) to allow for the addition of two warehouses, in addition to the retail sale of wholesale nursery products, farm products, fertilizers, pots, gardening equipment, etc., in an AR-1 Agricultural Residential Zoning District, to be located at Tax Parcel 231-6.00-24.02. The property is located at 13418 Seashore Highway, Georgetown. The parcel size is 5.01 acres +/-

The Planning & Zoning Commission held a Public Hearing on the application on June 5, 2024. At the meeting of June 5, 2024, the Planning & Zoning Commission recommended approval of the application for the 6 reasons stated and subject to the 1 recommended condition revision as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meeting of June 5, 2024.

Minutes of the June 5, 2024, Planning & Zoning Commission Meeting

C/U 2422 Garden Estates, Inc

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO MODIFY CONDITIONAL USE NO. 1094 (ORDINANCE 998) TO ALLOW FOR THE ADDITION OF TWO WAREHOUSES, IN ADDITION TO THE RETAIL SALE OF WHOLESALE NURSERY PRODUCTS, FARM PRODUCTS, FERTILIZERS, POTS, GARDENING EQUIPMENT, ETC., TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 5.01 ACRES, MORE OR LESS. The



property lying on south side of Seashore Highway (Rt. 18), approximately 0.83 mile northwest of State Forest Rd. (S.C.R.579). 911 Address: 13418 Seashore Highway, Georgetown. Tax Map Parcel: 231-6.00-24.02.

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the applicant's conceptual site plan, a copy of the applicant's exhibit booklet, which includes a copy of the previous conditional use, C/U 1094 dated November 17th, 1994, a copy of the DelDOT SLER, a copy of the applicants proposed findings of fact, the proposed conditions of approval and zero comments.

Ms. Shannon Carmen Burton Esq., of Servic, Carmine, Weidman, McCartney, and Owens, spoke on behalf of the Applicant, in regards to an Ordinance to amend an existing C/U 1094, Ord. 998 which is requesting to add two 9000 square foot warehouses on a property in an AR-1 zoned parcel; that the property located at 13418 Seashore Hwy. Georgetown DE and is approximately 5 acres of land; that this property received a C/U in December of 1994 for retail and wholesale of nursery products, farm products, fertilizers, pots, gardening equipment, etc.; that the C/U approval was subject to six conditions, being the site plan was subject to review and approval by the planning and Zoning Commission, all appropriate agency approvals and permits shall be submitted with the final site plan, all buildings shall be set back a minimum of 150 feet from the front property line, no parking shall be permitted within 40 feet of the right of way of Route 18, one sign not exceeding 32 square feet on both sides may be permitted and items for sale shall be limited to nursery stock, produce and farm products, fertilizer, pots and related gardening and landscaping equipment and items; that the property is currently utilized by the applicants tenant plant retrievers for those purposes that are permitted under the existing conditional use; that There is currently a 1 story building located on the property surrounded by a large gravel lot used for display of items and materials to be sold; that the amendment to the existing C/U is to allow for the warehouse use that would enable the existing tenant as well as the applicant to expand operations to meet the needs of the expanding population in the county and to provide storage space for the tenant or third parties such as contractors to store equipment and materials on site; that the property is located in the AR-1 zoning district and adjoining parcels to the North-South, East-West are also zoned. AR-1: that the purpose of the AR-1 zoning district is to provide for a full range of agricultural activities and to protect agricultural lands as one of the county's most valuable natural resources; that C/U allowed within AR-1 district are agricultural related industries, residential business, commercial or industrial uses, when the purposes of the chapter are more fully met by issuing the conditional use permit, so the proposed use is a permitted conditional use under the code; that including the existing conditional use, there are 8 conditional uses that have been approved within a one mile radius of the property; that the 2018 Sussex County Comprehensive Plan update future land use map indicates that the property has a land use designation of low density along with adjoining parcels to the North-South and East-West; that low density area is a rural area where the county envisions a predominantly rural landscape where farming coexists with appropriate residential uses and permanently preserve prop. 30 in the comprehensive plan; that the primary uses envisioned in the low density areas include agricultural related activities and residential uses; that business development should be confined to businesses that address the needs of agricultural or residential uses; that the Comprehensive Plan provides that Industrial and Ag business uses that support or depend on agriculture, should be permitted, and the focus of retail and office uses in low density areas should be providing convenience goods and services to nearby residents; that the current use and the proposed warehouse use are for agricultural related activities that service residents and

businesses nearby and throughout the county is appropriate and compatible with the goals and the directions of the low density area; that the proposed warehouse use will not have an adverse impact on the neighboring properties as the buildings will be located at the rear of the property with a mature buffer trees; that the use is of a public or semipublic character and is desirable for the general convenience and welfare of neighboring properties and uses in the area; that it will have no significant impact on traffic, DelDOT said that it was negligible and did not require or recommend that a traffic impact study be performed for the proposed use for the reasons presented

Mr. Tom Schrier, a registered landscape architect, spoke on behalf of the Applicant in regard to the site, the majority of the site is covered with asphalt and we are proposing two 9,000-square-foot warehouses in the rear of the property which will fit within some of the existing circulation patterns that the patrons of the property utilize; that the buildings are within the required setbacks associated with the underlying zoning district, providing a 24-foot drive aisle between them, along with 18 feet of parking space in front of each building; that they are proposing gravel driveways, no asphalt, covering over the top of existing impervious areas; that they would be 60 ft by 150 ft, single story with an interior height of 14 ft.; that there would be enough room between buildings to accommodate emergency vehicles, including firetrucks.

Mr. Butler asked about the State Fire Marshall approval and to make sure that there is enough clearance within the buildings and site plan that allows for firetrucks to get back to the rear of the property and be able to easily turn around.

Mr. Collins asked for clarification on the use of storage for outside people, not just being the current businesses on site with concern to protect the people that are there now, because if you had other people using the storage facilities and they go in at any time who is there to protect the current businesses.

Mr. Andrew Hussey, the Secretary/Treasurer of Garden Estates, Inc., responded that they have been in communication with their current tenant who is there now and most of the storage will be current customers of their business, who store their trailers and stock in the buildings; that if they decide to rent to outside customers they are in discussion already about posting security fencing.

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

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

Mr. Roberston read the motion at the request of Mr. Butler.

Mr. Butler moved that the Commission recommend approval of C/U 2422 Garden Estates, Inc. to amend existing C/U 1094 by amending that Conditional Use for the following reasons:

1. Under C/U 1094, a wholesale and retail facility for the sale of nursery products, is permitted to this location and has been utilized that way for years.
2. This application seeks to add the ability to install warehousing in the form of two new warehouse buildings at the rear of the property. The current conditions of C/U 1094 do not permit warehousing.
3. In the 30 years since C/U 1094 was approved, much has changed in this area. Sussex County,

for instance, there are now several businesses in the area, including eight other conditional uses within one mile of the location. The addition of existing warehousing on this site is appropriate at this location.

4. The applicant has stated that the warehousing may be used by the existing landscaping business or by third parties.
5. DelDOT stated that expansion will have a negligible impact on traffic in the area.
6. There was no opposition to this application.
7. Condition number six of C/U 1094 should be amended to add warehousing as a permitted use. It will still be governed by the relevant parking, stormwater management access and set back requirements that will govern the site and the new building, as well as all agency approvals. Additionally, any new building will still be subject to site plan review and approval by the planning and zoning commission. There should not be any new office space within the warehouse, uses in the building shall be limited to storage and warehousing only.

Motion by Mr. Butler, seconded by Mr. Collins and carried unanimously to recommend approval of C/U 2422 Garden Estates, Inc., 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

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JAMIE WHITEHOUSE, MRTPI, AICP
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: June 5, 2024

Application: CU 2422 Garden Estates, Inc

Applicant: Garden Estates, Inc
21232 Greenway Place
Georgetown, DE 19947

Owner: Garden Estates, Inc
21232 Greenway Place
Georgetown, DE 19947

Site Location: Located on south side of Seashore Highway (Rt. 18) approximately
0.35 mile east of Fat Daddy's Boulevard.

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

Proposed Use: Modify Conditional Use No. 1094 (Ordinance 998) to allow for the
addition of two warehouses, in addition to the uses permitted by CU 1094
which provided for "the retail sale of wholesale nursery products, farm
products, fertilizers, pots, gardening equipment and etc." on the site.

Comprehensive Land
Use Plan Reference: Low Density Area

Councilmanic
District: Ms. Green

School District: Indian River School District

Fire District: Seaford Fire Co.

Sewer: On-site septic

Water: On-site Well

Site Area: 5.01-acres +/-

Tax Map ID.: 231-6.00-24.02



PLANNING & ZONING COMMISSION

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



Sussex County

DELAWARE
SUSSEXCOUNTYDE.GOV
302-855-7878 T
302-854-5079 F
JAMIE WHITEHOUSE, AICP MRTPI
PLANNING & ZONING DIRECTOR

Memorandum

To: Sussex County Planning Commission Members
From: Mr. Michael Lowrey, Planner III
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: May 29th, 2024
RE: Staff Analysis for C/U 2422 Garden Estates, Inc

This memo is to provide background and analysis for the Planning Commission to consider as a part of Application CU 2422 Garden Estates, Inc to be reviewed during the June 5th, 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: 231-6.00-24.02

Proposal: The request is for a Conditional Use for Tax Parcel 231-6.00-24.02 to allow for a two (9,000) square feet warehouses on a parcel lying on south side of Seashore Highway (Rt. 18) approximately 0.83 mile northwest of State Forest Road (S.C.R. 579). Sussex County Council previously approved Conditional Use (C/U 1094 - Ord. No. 998) on the same parcel for use as "Retail Sale of Wholesale Nursery Products, Farm Products, Fertilizers, Pots, Gardening Equipment and etc." subject to six (6) Conditions of Approval at their meeting on December 13, 1994. Conditional Use (C/U 1094 - Ord. No. 998) as approved by County Council with the Conditions of Approval has been included in the Record for this Application. The subject of this current Application is the proposed addition of the "Warehouse" use to the existing uses approved via C/U 1094. The parcel is comprised of 5.01 acres +/-.

Zoning: The Parcel is zoned Agricultural Residential (AR-1) District with all parcels adjacent to the subject property also zoned Agricultural Residential (AR-1) District.

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

Applicability to Comprehensive Plan: The project lies within the Rural Area classifications of "Low Density Area" (per the 2018 Comprehensive Plan). Low Density Areas are lands currently zoned AR-1 that the County "hopes to retain the rural environment" and "set aside significant open space" (2018 Sussex County Comprehensive Plan, 4-18).

In terms of commercial improvements, the Plan additionally notes:



(2018 Sussex County Comprehensive Plan, 4-19)

- Industrial and agribusiness uses that support or depend on agriculture should be permitted
- The focus of retail and office uses in Low Density Areas should be providing convenience goods and services to nearby residents.
- Commercial uses in these residential areas should be limited in their location, size and hours of operation.
- More intense commercial uses should be avoided in these areas. Institutional and commercial uses may be appropriate depending on surrounding uses

Further Site Considerations:

- **Density:** N/A
- **Open Space Provisions:** N/A
- **Agricultural Areas:** The site is within the vicinity of active agricultural lands.
- **Interconnectivity:** Staff recommend the Plan incorporate as much directional connectivity as possible in the design in order to accommodate future development potential adjacent to the property along the Seashore Highway (Route 18) Corridor.
- **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.):** The property is located within Flood Zone X and in an areas of “Good” and “Fair” Groundwater Recharge Potential. A Tax Ditch (Shorts Ditch) including a 50 ROW exists along the western boundary of the Parcel.

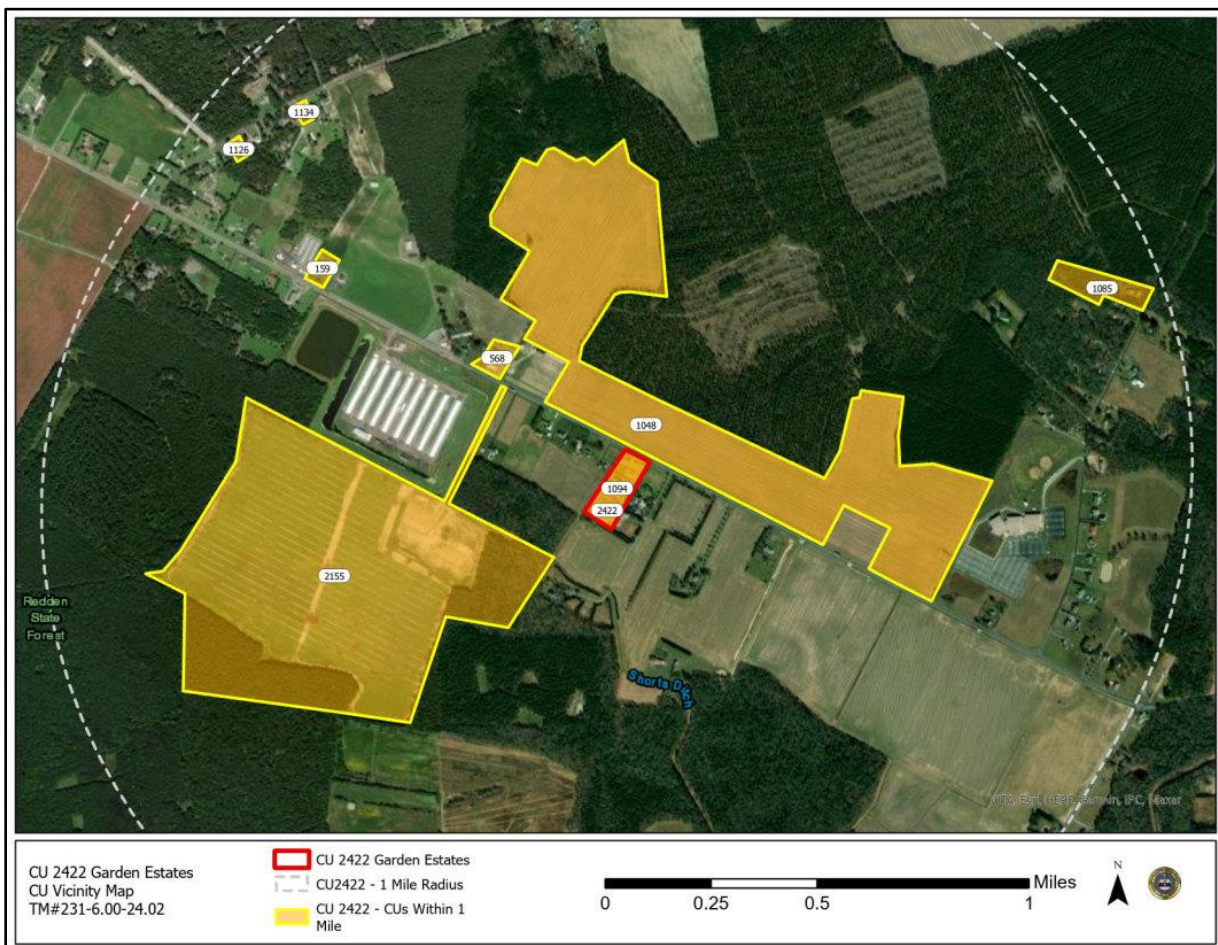
Based on the analysis of the land use, surrounding zoning and uses, a Conditional Use Application to allow for the addition of the warehouse uses to the current permitted uses, permitted via the previously approved Conditional Use (C/U 1094), subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.

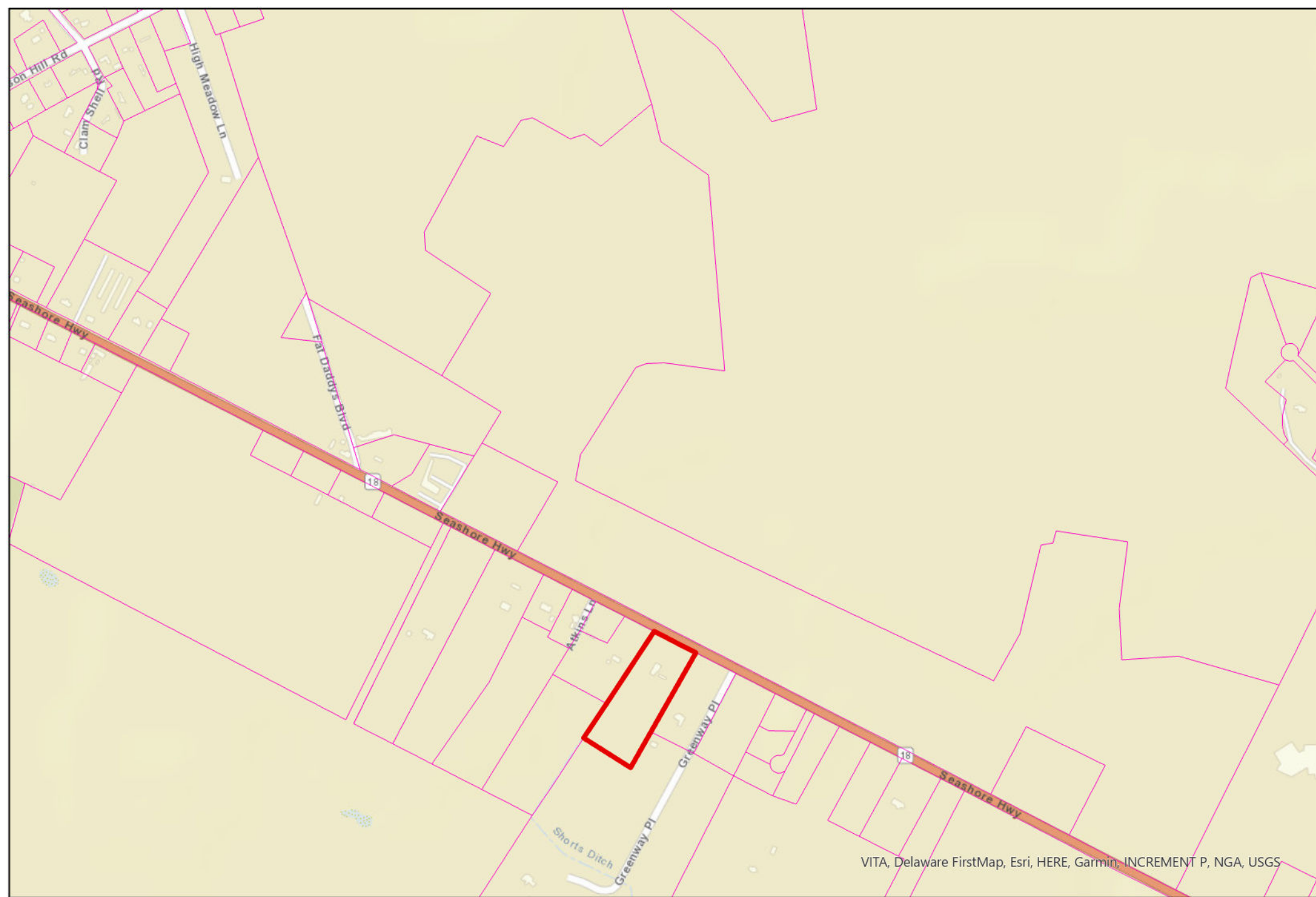
Existing Conditional Uses within the Vicinity of the Subject Site: A Data Table and Supplemental Map have been supplied which provide further background regarding the approval status of Applications in the area, including the location of all other Conditional Use Applications that are less than 1 mile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

Conditional Use Applications

(Within a 1-mile radius of the subject site)

| Application CU Number | Application Name | Zoning District | Proposed Use | CC Decision | CC Decision Date | Ordinance Number |
|--------------------------|----------------------------------|--------------------|---|------------------------|---------------------|---------------------|
| 159 | George Bunnell | AR-1 | Furniture Shop | Approved | 9/4/1973 | N/A |
| 568 | John A. Hamstead | AR-1 | Retail Fruit Stand | Approved | 4/15/1980 | N/A |
| 1048 | John Hamstead | AR-1 | Expansion Parking/Food Sales | Approved | 8/10/1993 | 914 |
| 1085 | Stanley & Constance Walker | AR-1 | Truck/Farm Equipment Repair Shop | Approved | 8/30/1994 | 983 |
| 1094 | Ernest & Nelsa Hosse | AR-1 | Retail/Wholesale of Produce & Related Items | Approved | 12/13/1994 | 998 |
| 1126 | Merrill R. Baker, Jr. | AR-1 | Auto Repair & Towing Service | Approved | 8/29/1995 | 1044 |
| 1134 | William W. Truitt | AR-1 | Small Engine Repair & Auto Repair | Approved | 10/31/1995 | 1060 |
| 2155 | Stockley Materials, LLC | AR-1 | Borrow Pit | Approved | 2/19/2019 | 2633 |
| 2422 | Garden Estates, Inc. | AR-1 | Amend C/U No. 1094, Ordinance No. 998 to Add 2 Warehouses That Will Be Used by The Tenant & Rented to Third Parties | Pending Application | N/A | N/A |


























CU 2422 Garden Estates
Street Map
TM#231-6.00-24.02

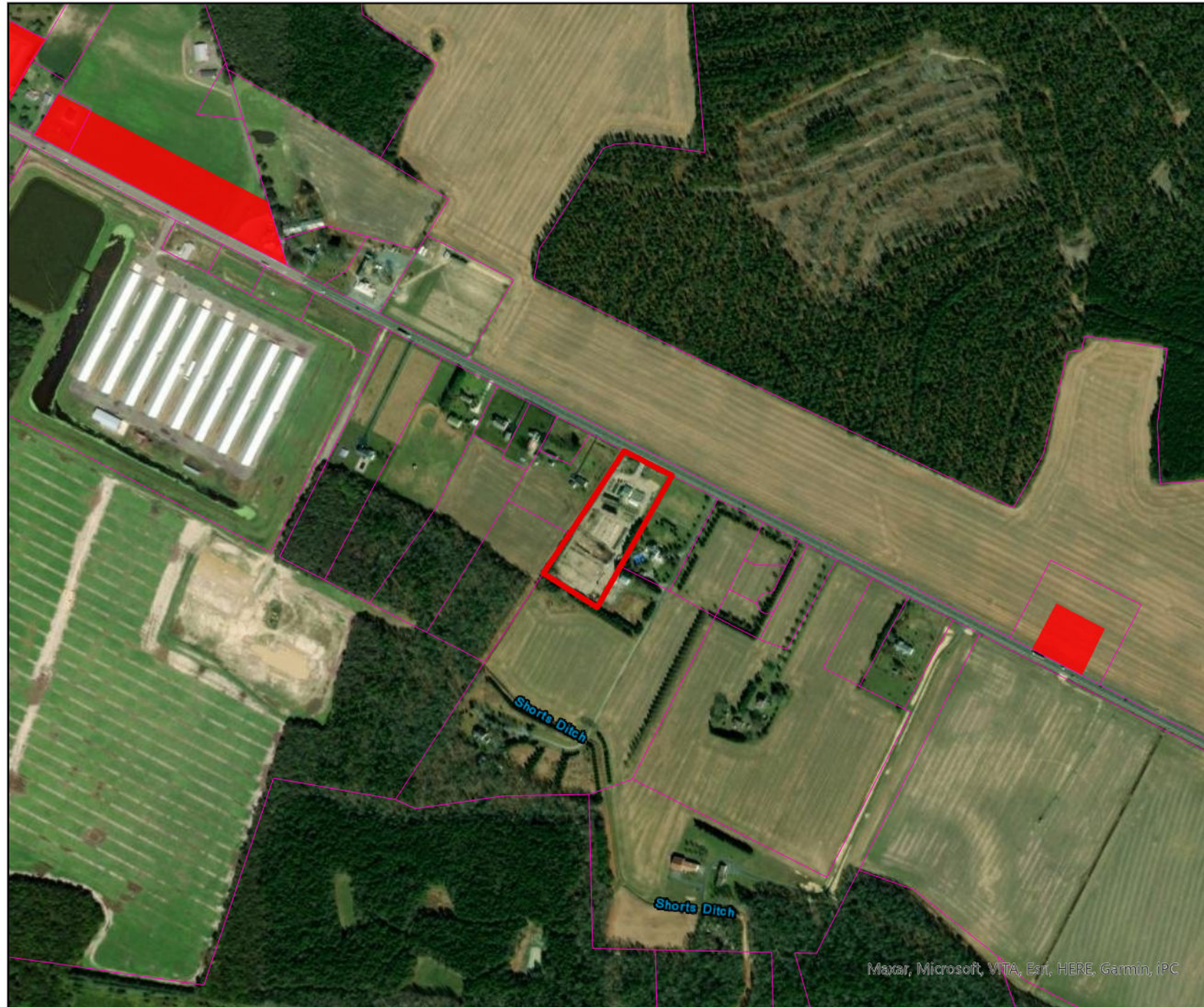
 CU 2422 Garden Estates

0 500 1,000 2,000 Feet



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



CU 2422 Garden Estates
Zoning Map
TM#231-6.00-24.02

 CU 2422 Garden Estates

0 0.13 0.25 0.5 Miles



CU 2422 Aerial Map 2




02/27/2023



Map data: Maxar, Microsoft, VTA, Esri, HERE, Garmin, iPC

CU 2422 Garden Estates
Aerial Map
TM#231-6.00-24.02

 CU 2422 Garden Estates

 Feet
0 125 250 500



Introduced: 8/15/23

Council District 2: Mrs. Green

Tax I.D. No.: 231-6.00-24.02

911 Address: 13418 Seashore Highway, Georgetown

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO MODIFY CONDITIONAL USE NO. 1094 (ORDINANCE 998) TO ALLOW FOR THE ADDITION OF TWO WAREHOUSES, IN ADDITION TO THE RETAIL SALE OF WHOLESALE NURSERY PRODUCTS, FARM PRODUCTS, FERTILIZERS, POTS, GARDENING EQUIPMENT AND ETC., TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 5.01 ACRES, MORE OR LESS

WHEREAS, on the 18th day of January 2023, a conditional use application, denominated Conditional Use No. 2422 was filed on behalf of Garden Estates, Inc.; 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. 2422 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. 2422 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 Nanticoke Hundred, Sussex County, Delaware, and lying on south side of Seashore Highway (Rt. 18) approximately 0.83 mile northwest of State Forest Road (S.C.R. 579) and being more particularly described in the attached legal description prepared by Lawrence B. Steele, III P.A., said parcel containing 5.01 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.



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: July 11, 2024

RE: County Council Report for C/U 2414 filed on behalf of Justice Boyz Properties, LLC

The Planning and Zoning Department received an application (C/U 2414 filed on behalf of Justice Boyz Properties, LLC) for a Conditional Use for a contractor's office and storage in an AR-1 Agricultural Residential Zoning District, to be located at Tax Parcel 233-13.00-1.04. The property is located at 32605 Millsboro Highway, Millsboro. The parcel size is 4.72 acres +/-

The Planning & Zoning Commission held a Public Hearing on the application on June 5, 2024. At the meeting of June 26, 2024, the Planning & Zoning Commission recommended approval of the application for the 6 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 June 5, 2024, and June 26, 2024.

Minutes of the June 5, 2024, Planning & Zoning Commission Meeting

C/U 2414 Justice Boyz Properties, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONTRACTOR OFFICE AND STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 4.72 ACRES MORE OR LESS. The property is lying on the east side of Millsboro Highway (Rt. 30), approximately 0.89 mile south of Laurel Road (Rt. 24). 911 Address: 32605 Millsboro Highway, Millsboro. Tax Map Parcel: 233-13.00-1.04.



Mr. Whitehouse advised the Commission that submitted into record were a copy of the applicant's conceptual site plan and survey, a copy of the elevation plans for the building on the parcel, a copy of the staff analysis, a copy of the DelDOT SLER, a copy of the notice of violation letter that was served by the county and zero comments.

Mr. Travis Justice, owner of Justice Boyz Properties, LLC., spoke on behalf of himself in regards to gaining Conditional Use so that he can continue to rent to a landscaping business that is looking to purchase the property from him; that currently the landscaping company is utilizing the buildings in the rear of the property to run their business out of and he is living in the home in the front of the property; that the plan is for the landscaping business to move their offices into the house once he moves out in about two months and continue to use the buildings in the back for storage; that the business stores some debris on the property, but mostly it is contained in a dumpster and regularly hauled away; that the business does snow removals for developments in Millville, but no grinding a trees/shrubs; that there is some lawn mower maintenance being done on site with proper oil storage containers and a 300 gallon fuel tank that they utilize for the company vehicles; that they have several employees and about 15 vehicles with approximately an acre of land to utilize the parking of all vehicles; that once the business office is moved into the house there will be a rearrangement of how everything will be stored in the back buildings; that the landscaping business will not be selling any materials out of the property and the only thing stored back there will be a concrete pad of salt for the snow removal; that the normal business hours are Monday through Friday 7:00am – 5:00pm and Saturdays 8:00am-12:00pm with the exception of snow removals which are storm dependent.

Mr. Steve Starkey spoke in general about the application that he would like to know how to go about addressing the passing zone that starts right in front of this property; that with the trucks coming and going from the business it is dangerous to have people trying to speed up in that area since the entrance is a blind driveway.

Chairman Wheatley informed the speaker that the concern is viable and a good piece of information to take into consideration, but unfortunately that is a task that DelDOT or a State Representative will need to address.

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 2414 Justice Boyz Properties, LLC. Motion by Ms. Wingate to defer action for further consideration, seconded by Mr. Mears and carried unanimously. Motion carried 5-0.

Minutes of the June 26, 2024, Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since June 5, 2024.

Ms. Wingate moved that the Commission recommend approval of C/U #2414 for Justice Boyz Properties, LLC for a contractor's office and storage based upon the record made during the public hearing and for the following reasons:

1. The site is located along Route 30, approximately a mile from its intersection with Route 24. This use is appropriate for this location.
2. The Applicant has stated that the contractors using the site may include landscaping businesses. That is also an appropriate use at this location.
3. Traffic generated by the proposed use will be minimal and will not have a negative impact on the neighboring properties or roadways.
4. The use is of a public or semi-public character that is desirable for the general convenience and welfare of the area and the County. It is also a location along Route 30 that is convenient for small businesses.
5. No parties appeared in opposition to the application, and the next-door neighbor appeared in favor of it.
6. This recommendation is subject to the following conditions:
 - A. The project shall be used for a contractor's office with storage. This may include a landscaping contractor. The office shall be located within the dwelling that currently exists on the site.
 - B. There shall be no retail sales from the property.
 - C. No vehicle repair or fueling operations shall be performed on site.
 - D. There shall be no manufacturing on the site. This prohibition includes the shredding or grinding of any materials and also includes the dyeing of mulch or similar materials.
 - E. Any areas to be used for the storage of dirt, topsoil, mulch, stone or similar items shall be shown on the Final Site Plan with the type of containment used to keep them in place.
 - F. All lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.
 - G. Any dumpsters on the site are to be screened from the view of neighboring properties and roadways. The dumpster locations shall be shown on the Final Site Plan.
 - H. The applicant shall comply with all DelDOT requirements for entrance and roadway improvements.
 - I. The hours of operation shall be from 7:00 a.m. until 5:00 p.m., Monday through Friday, and between 8:00 a.m. and 12:00 p.m. on Saturdays. No Sunday hours are permitted.
 - J. The parking areas shall be clearly shown on the Final Site Plan and on the site itself. No parking shall be located within the site's front-yard setbacks.
 - K. One lighted sign shall be permitted. It shall not be larger than 32 square feet per side.
 - L. Failure to comply with these conditions of approval may result in this Conditional Use becoming null and void.
 - 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. Mears and carried unanimously to recommend approval of C/U 2414 Justice Boyz Properties, LLC for the reasons and the conditions stated in the motion. Motion carried 5-0.

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

PLANNING & ZONING COMMISSION

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



Sussex County

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JAMIE WHITEHOUSE, AICP MRTPI
PLANNING & ZONING DIRECTOR

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: June 5th, 2024

Application: C/U 2414 Justice Boyz Properties, LLC

Applicant: Justice Boyz Properties, LLC
32605 Millsboro Highway
Millsboro, Delaware 19966

Owner: Mr. Travis Justice
32605 Millsboro Highway
Millsboro, Delaware 19966

Site Location: The property is lying on the east side of Millsboro Highway (Rt. 30), approximately 0.89 mile south of Laurel Road (Rt. 24). 911 Address: 32605 Millsboro Highway, Millsboro

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

Proposed Use: A Contractor Office & Storage

Comprehensive Land
Use Plan Reference: Low-Density Area

Councilmanic
District: District 5 - Mr. Rieley

School District: Indian River School District

Fire District: Gumboro Fire Department

Sewer: Private On-Site Septic

Water: Private On-Site Well

Site Area: 4.72 acres +/-

Tax Map ID: 233-13.00-1.04



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



Sussex County

DELAWARE
sussexcountye.gov

Memorandum

To: Sussex County Planning Commission Members
From: Mrs. Christin Scott, Planner II
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: May 29th, 2024
RE: Staff Analysis for C/U 2414 Justice Boyz Properties, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of Application C/U 2414 Justice Boys Property, LLC. to be reviewed during the June 5th, 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: 233-13.00-1.04

Proposal: The request is for a Conditional Use for Tax Parcel 233-13.00-1.04 for a contractor's office and storage. The property is lying on the east side of Millsboro Highway (Rt. 30), approximately 0.89 mile south of Laurel Road (Rt. 24) Millsboro, Delaware. The Conditional Use area consists of 4.72 acres +/-.

Zoning: The Parcel is zoned Agricultural Residential (AR-1) District. The adjacent Parcels to the north, south, east, and west of the subject Parcel are also zoned Agricultural Residential (AR-1) District.

Future Land Use Map Designation w/in Comprehensive Plan: The subject property is located within the "Low Density" 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 Future Land Use designation of "Low Density." The properties to the north, south, east, and west also have a Future Land Use designation of "Low Density."

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



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 “Low Density” Future Land Use Map Designation (2018 Sussex County Comprehensive Plan, 4-25).

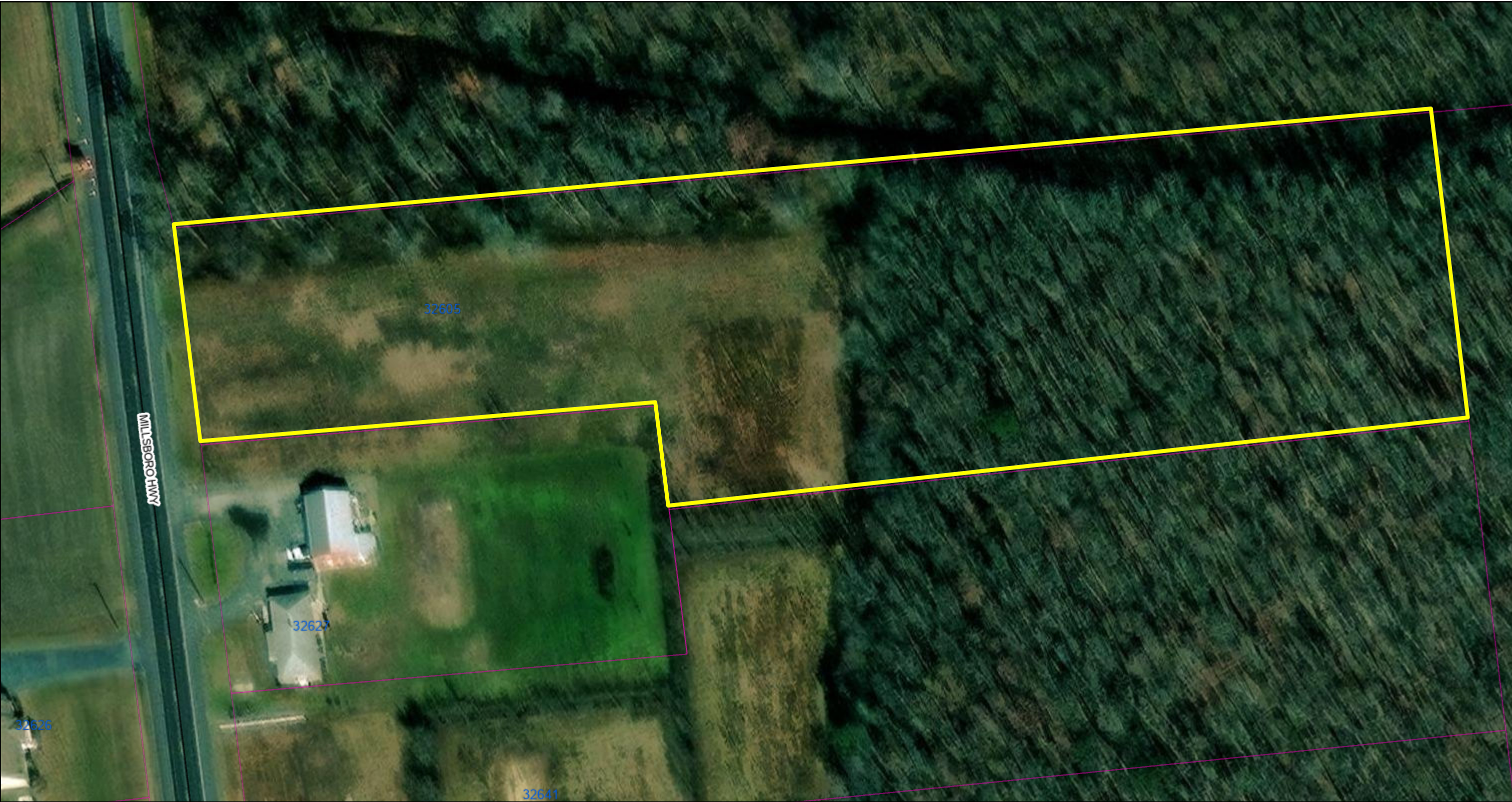
Further Site Considerations:

- **Density:** N/A
- **Open Space Provisions:** N/A
- **Agricultural Areas:** Staff note that the Site is located within the vicinity of lands that are actively farmed, including the property itself.
- **Interconnectivity:** N/A
- **Transportation Improvement District (TID):** The Parcel is not located within any established Transportation Improvement Districts.
- **Forested Areas:** The property is located within the vicinity of heavily forested areas. A portion of the property is forested.
- **Wetlands Buffers/Waterways:** N/A
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** The property is not located within any Flood Zone; however, A tax ditch runs along the north side of the property with a Tax Ditch Right-of-Way of 80-ft from the centerline of the ditch. 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 “Fair” Groundwater Recharge Potential.

Existing Conditional Uses within the Vicinity of the Subject Site: There are zero (0) Conditional Use Applications, since 2011, that are within a 1.0-mile distance from the subject site.

Based on the analysis of the land use, surrounding zoning and uses, a Conditional Use Application to allow for a contractor’s office and storage, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.

Sussex County



May 20, 2024

polygonLayer

Override 1

Override 2

Tax Parcels

911 Address

Streets

County Boundaries

Fire Districts



DOE School Districts

World Imagery

Low Resolution 15m Imagery

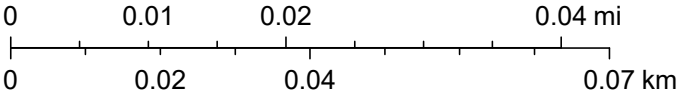
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High Resolution 30cm Imagery

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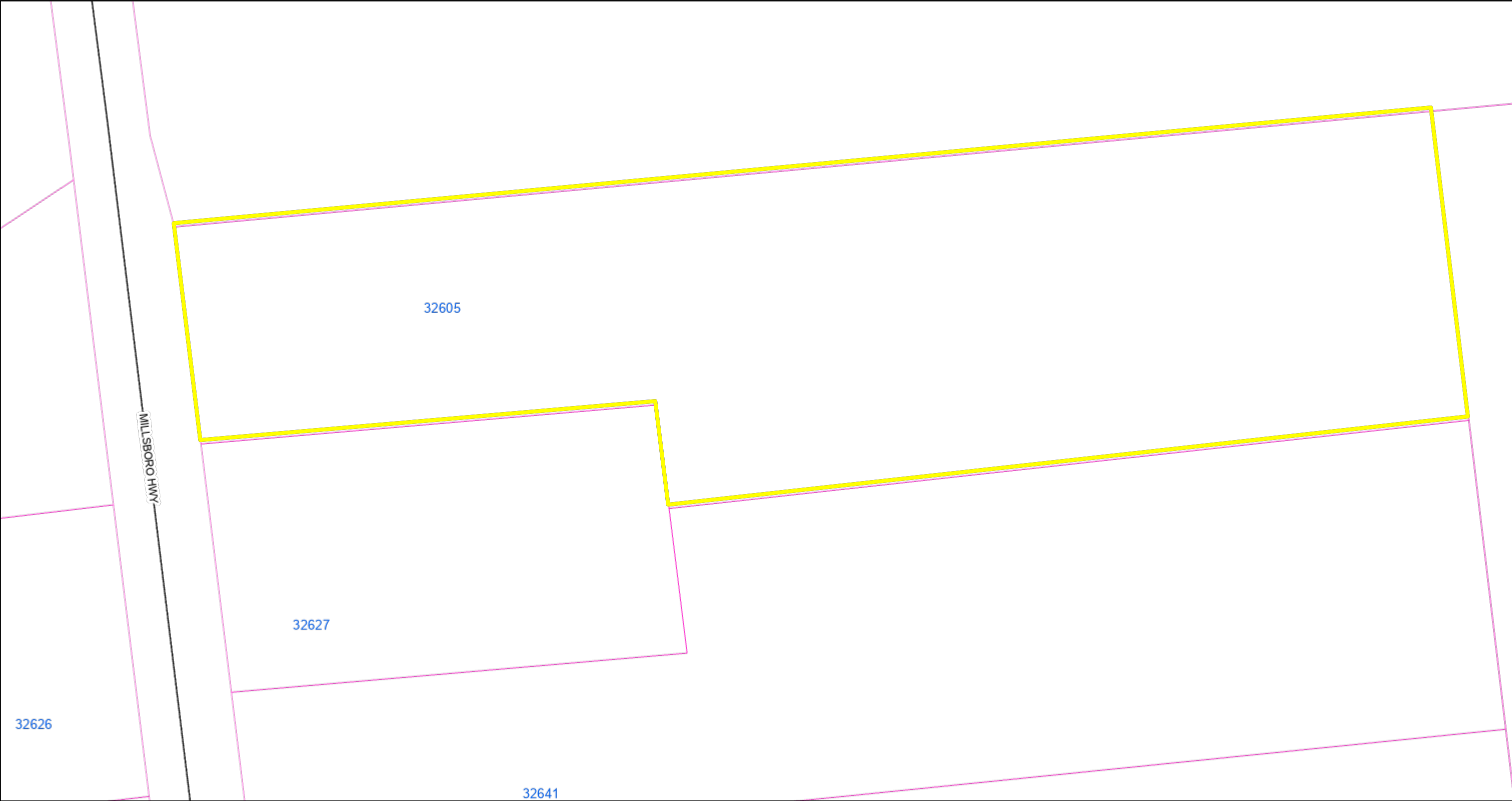
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Delaware Department of Education, Maxar, Microsoft, Sussex County Government, Sussex County Mapping and Addressing

Sussex County



May 20, 2024

polygonLayer

Override 1

Override 2

Tax Parcels

911 Address

Streets

County Boundaries

Fire Districts

DOE School Districts

layer43

Red: Band_1

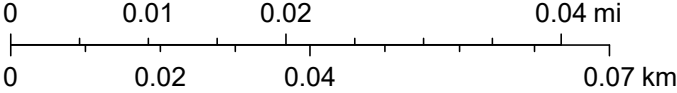
Fire Districts

DOE School Districts

Green: Band_2

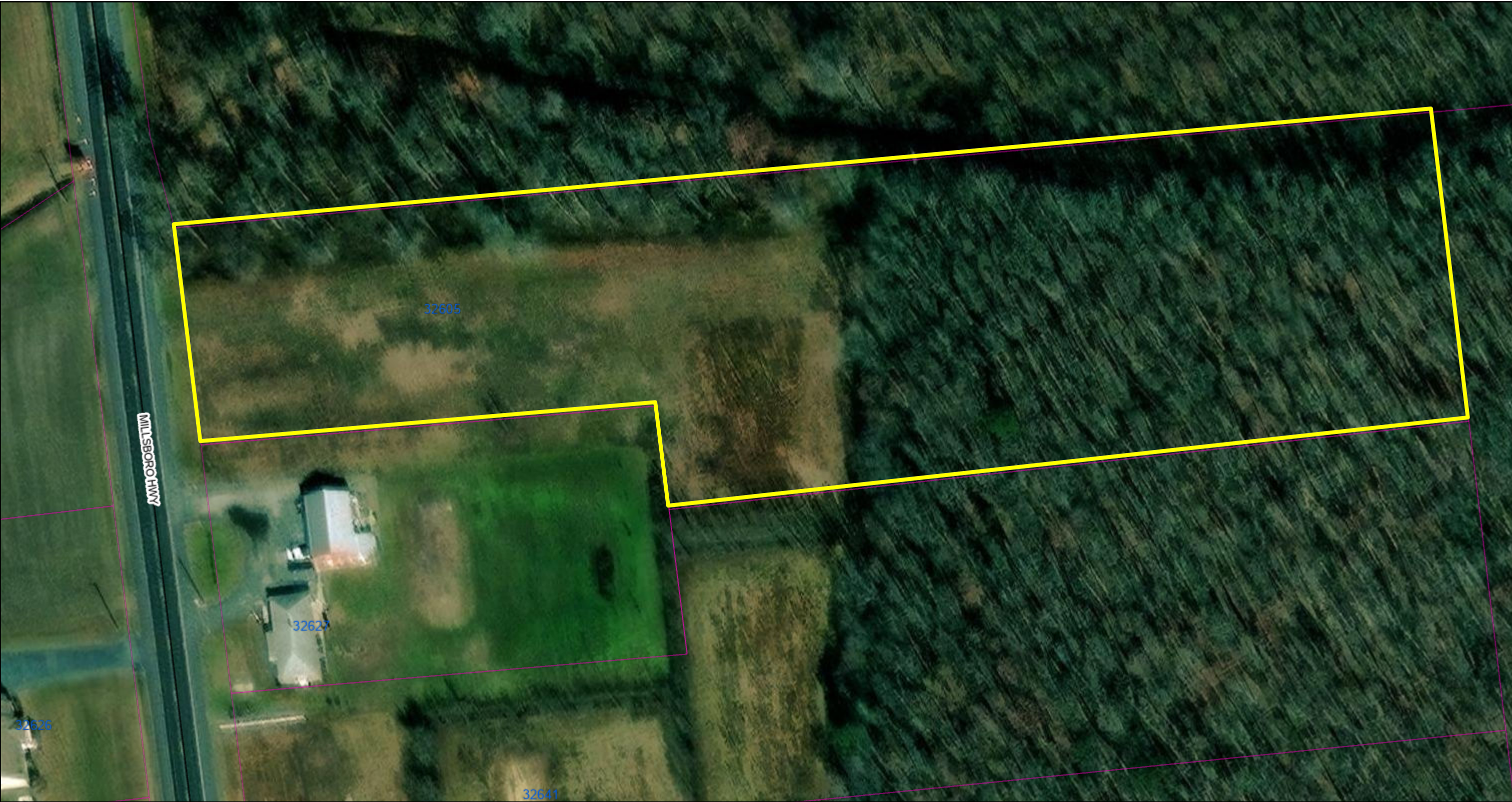
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Delaware Department of Education, Sussex County, Sussex County Government, Sussex County Mapping and Addressing

Sussex County



May 20, 2024

polygonLayer

Override 1

Override 2

Tax Parcels

911 Address

Streets

County Boundaries

Fire Districts



DOE School Districts

World Imagery

Low Resolution 15m Imagery

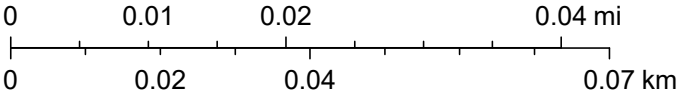
High Resolution 60cm Imagery

High Resolution 30cm Imagery

Citations

30cm Resolution Metadata

1:1,128



Delaware Department of Education, Maxar, Microsoft, Sussex County Government, Sussex County Mapping and Addressing

Introduced: 4/16/24

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

ORDINANCE NO. ____

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

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

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

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

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

Section 2. The subject property is described as follows:

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

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



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: July 11, 2024

RE: County Council Report for C/U 2463 filed on behalf of Chickberry Farms Events, LLC

The Planning and Zoning Department received an application (C/U 2463 filed on behalf of Chickberry Farms Events, LLC) for a Conditional Use for an event venue in an AR-1 Agricultural Residential Zoning District, to be located at Tax Parcel 232-19.00-45.00. The property is located at 32099 Jestice Farm Road, Laurel. The parcel size is 140.12 acres +/-

The Planning & Zoning Commission held a Public Hearing on the application on May 22, 2024. At the meeting of June 5, 2024, the Planning & Zoning Commission recommended approval of the application for the 6 reasons stated and subject to the 6 recommended conditions as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meetings of May 22, 2024, and June 5, 2024.

Minutes of the May 22, 2024, Planning & Zoning Commission Meeting

C/U 2463 Chickberry Farms Events, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EVENT VENUE TO BE LOCATED ON A 5.0 ACRE PORTION, MORE OR LESS, OF A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 140.12 ACRES, MORE OR LESS. The property is lying on the east side of Jestice Farm Road (S.C.R. 449A), approximately 0.25 mile north of Laurel Road (Rt. 24). 911 Address: 32099 Jestice Farm Road, Laurel. Tax Map Parcel: 232-19.00-45.00 (p/o).

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the applicants conceptual site plan, a copy of a letter received from the Sussex County Engineering Department Utility Planning Division, a copy of the deed for the property, a copy of the DelDOT SLER and zero comments.

Ms. Melinda Bonniwell, owner of Chickberry Farms, spoke on behalf of herself in regard to the application; that she has lived at Chickberry Farms her entire life and bought the business from her family in 2014; that her parents originally had the established farm for strawberry picking and did events such as school tours, birthday parties and reunions; that currently there is no longer the strawberry picking, but they still operate 5 poultry houses on the property; that in 2015 they decided to begin doing larger scale venues such as weddings; that her family are the ones who work the events, her parents doing the trash and maintenance, her brother with the maintenance of the poultry and her husband who is trooper medic helps run the events; that there is plenty of parking available and they have a letter from DelDOT; that there are two street lights on Justice Farm Rd., parking lot lights, a sign for the property and approval was received from the Fire Marshall for the plans and design of the parking; that there are lights all around the property, not just in the parking lot; that the hours of operation are by appointment only in terms of scheduling events, but events are mostly on Saturdays and Sundays, but they want to expand hours to Monday through Thursday 9:00AM – 9:00PM and continue with weekend events as normal running until 11:00PM; that larger scale events normally have an average of 100-130 guests and smaller scale normally run between 30-60 guests, but the Fire Marshall has stated that they could hold up to 205 guests; that she does not intend to have that many guests at any one event as it is more than she can handle; that noise complaints are limited as the closest neighbors are approximately 1/4 acre away and they are all family; that they are running 4H programs during the week through the business in which they are teaching kids about agriculture, animals and completing projects that get submitted to the Delaware State Fair; that the client must book all outside vendors and have them brought in; that there are 2 restrooms within the facility for the clients to use.

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 2463 Chickberry Farms Events, LLC. Motion by Ms. Wingate to defer action for further consideration, seconded by Mr. Mears and carried unanimously. Motion carried 4 - 0.

Minutes of the June 5, 2024, Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since May 22, 2024.

Ms. Wingate moved that the Commission recommend approval of C/U 2463 Chickberry Farms Events, LLC for an Event Venue based upon the record made during the public hearing and for the following reasons:

1. The use will occur within a 140.12-acre parcel that is also used as a farm. Chickberry Farms has been used for a variety of events including children's birthday parties, school trips, dances and weddings for decades. This application simply seeks to confirm the long-standing use of the property with improvements proposed by the Applicants.

2. This use is an extension of ongoing agricultural use of the property and agricultural uses that occur on the surrounding farmland. The use can also be considered as “agritourism” that promotes the agricultural industry in Sussex County.
3. The Applicant intends to hold events that include weddings, birthday parties, 4H events, educational events, parties, and similar functions with limited hours.
4. The site will have sufficient areas for parking.
5. With the conditions and limitations placed upon this Conditional Use, it will not adversely affect neighboring properties or area roadways.
6. No parties appeared in opposition to the Application.
7. This recommendation is subject to the following conditions:
 - A. The area shall be an events venue for weddings, benefits, 4H and educational events, dinners, festivals, parties, and similar activities.
 - B. The area set aside for conditional use, including all areas to be used for parking, shall be clearly shown on the Final Site Plan.
 - C. The consumption of alcoholic beverages shall be permitted during events on the site subject to the approval from the Delaware Office of the Alcoholic Beverage Control Commissioner.
 - D. All parking areas shall be shown on the Final Site Plan and clearly marked on the site itself. The interior driveways and parking areas shall contain sufficient space for vehicles and shuttle buses to turn around completely on the site.
 - E. All activities on the premises shall comply with Fire Marshal, parking capacity and general permitting requirements.
 - F. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to recommend approval of C/U 2463 Chickberry Farms Events, LLC 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

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JAMIE WHITEHOUSE, MRTPI, AICP
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: May 22nd, 2024

Application: C/U 2463 Chickberry Farms Events, LLC

Applicant: Chickberry Farms Events, LLC
32099 Jestice Farm Road
Laurel, DE 19956

Owner: Melinda Bonniwell
32099 Jestice Farm Road
Laurel, DE 19956

Site Location: Located on the east side of Jestice Farm Road (S.C.R. 449A), approximately 0.25 mile north of Laurel Road (Rt. 24) at 32099 Jestice Farm Road, Laurel.

Current Zoning: Agricultural Residential (AR-1) District

Proposed Use: Event Venue

Comprehensive Land
Use Plan Reference: Low Density

Councilmanic
District: Mr. Vincent

School District: Laurel School District

Fire District: Laurel Fire Company

Sewer: Septic

Water: Well

Site Area: 5.00 acre +/- portion of a 140.12 acre +/- parcel

Tax Map ID.: 335-12.06-10.00 (p/o)



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



Sussex County

DELAWARE
sussexcountye.gov

Memorandum

To: Sussex County Planning Commission Members
From: Mrs. Christin Scott, Planner II
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: April 29th, 2024
RE: Staff Analysis for C/U 2463 Chickberry Farms Events, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of Application C/U 2463 Chickberry Farms Events, LLC. to be reviewed during the May 22nd, 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: 232-19.00-45.00

Proposal: The request is for a Conditional Use for Tax Parcel 232-19.00-45.00 for an event venue. The property is lying on the east side of Jestice Farm Road (S.C.R. 449A), approximately 0.25 mile north of Laurel Road (Rt. 24) Laurel, Delaware. The Conditional Use is proposed to be on a 5.00 acre +/- portion of a property that consists of 140.12 acres +/-.

Zoning: The Parcel is zoned Agricultural Residential (AR-1) District. The adjacent Parcels to the north, south, east, and west of the subject Parcel are also zoned Agricultural Residential (AR-1) District.

Future Land Use Map Designation w/in Comprehensive Plan: The subject property is located within the "Low Density" 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 Future Land Use designation of "Low Density." The properties to the north, south, east, and west also have a Future Land Use designation of "Low Density."

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



operation” and “more intense commercial uses should be avoided” and commercial uses “may be appropriate depending on surrounding uses” (Sussex County Comprehensive Plan, 4-19).

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 “Low Density” Future Land Use Map Designation (2018 Sussex County Comprehensive Plan, 4-25).

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 are actively farmed, including the property itself.
- **Interconnectivity:** N/A
- **Transportation Improvement District (TID):** The Parcel is not located within any established Transportation Improvement Districts.
- **Forested Areas:** N/A
- **Wetlands Buffers/Waterways:** Adjacent to Pepper Branch in the rear
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** The property is not located within any Flood Zone; however, Pepper Branch borders the rear property line and is located within Flood Zone “A”.

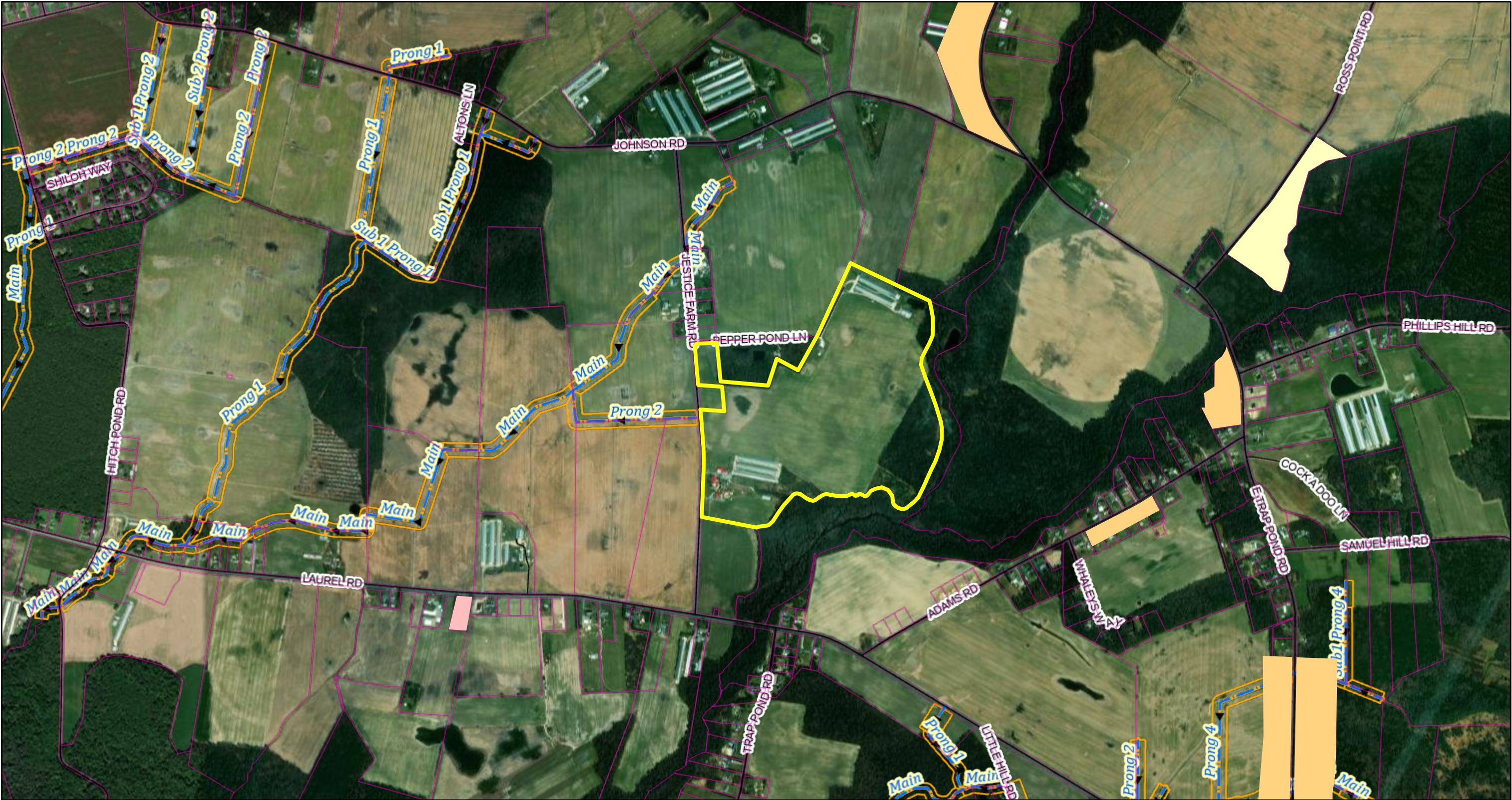
The property does not lie within any established Tax Ditch Areas. Additionally, the County’s Online Mapping System indicates that there are no Well Head Protection Areas present on the site and that the property is located within an area of “Good” Groundwater Recharge Potential.

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, since 2011, that are within a 0.5-mile distance from the subject site.

| Conditional Use Applications (Within a 1-mile radius of the subject site) | | | | | | |
|--|----------------------------|--------------------|--------------------------------------|----------------|------------------------|---------------------|
| Application Number CU # | Application Name | Zoning District | Proposed Use | CC Decision | CC Decision Date | Ordinance Number |
| 2296 | Michael Milligan | AR-1 | Towing Business | Approved | 7/12/2022 | 2871 |
| 2178 | Steven & Carrie Coleman | AR-1 | Welding & Fabrication Business | Approved | 7/16/2019 | 2667 |

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

Sussex County



May 15, 2024

layer43

Red: Band_1 Zoning

Green: Band_2

Blue: Band_3

polygonLayer

Override 1



Override 2

Zoning

Agricultural Residential - AR-2

General Residential - GR

B-1: Neighborhood Business



Tax Parcels



Streets



County Boundaries

Tax Ditch Segments



Tax Ditch Channel



Pipe - DelDOT



Pipe - Tax Ditch



Special Access ROW



Extent of Right-of-Way

World Imagery

Low Resolution 15m Imagery

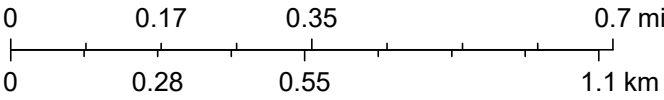
High Resolution 60cm Imagery

High Resolution 30cm Imagery

Citations

4.8m Resolution Metadata

1:18,056



DNREC, Division of Watershed Stewardship, Drainage Program,
john.inkster@state.de.us, Sussex County Government, Maxar

Sussex County



May 15, 2024

layer43

- Red: Band_1
- Green: Band_2
- Blue: Band_3

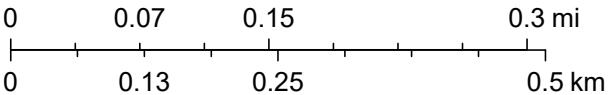
polygonLayer

- Override 1
- Override 2
- Tax Parcels
- Streets

- County Boundaries
- Tax Ditch Segments
- Tax Ditch Channel
- Extent of Right-of-Way
- World Imagery

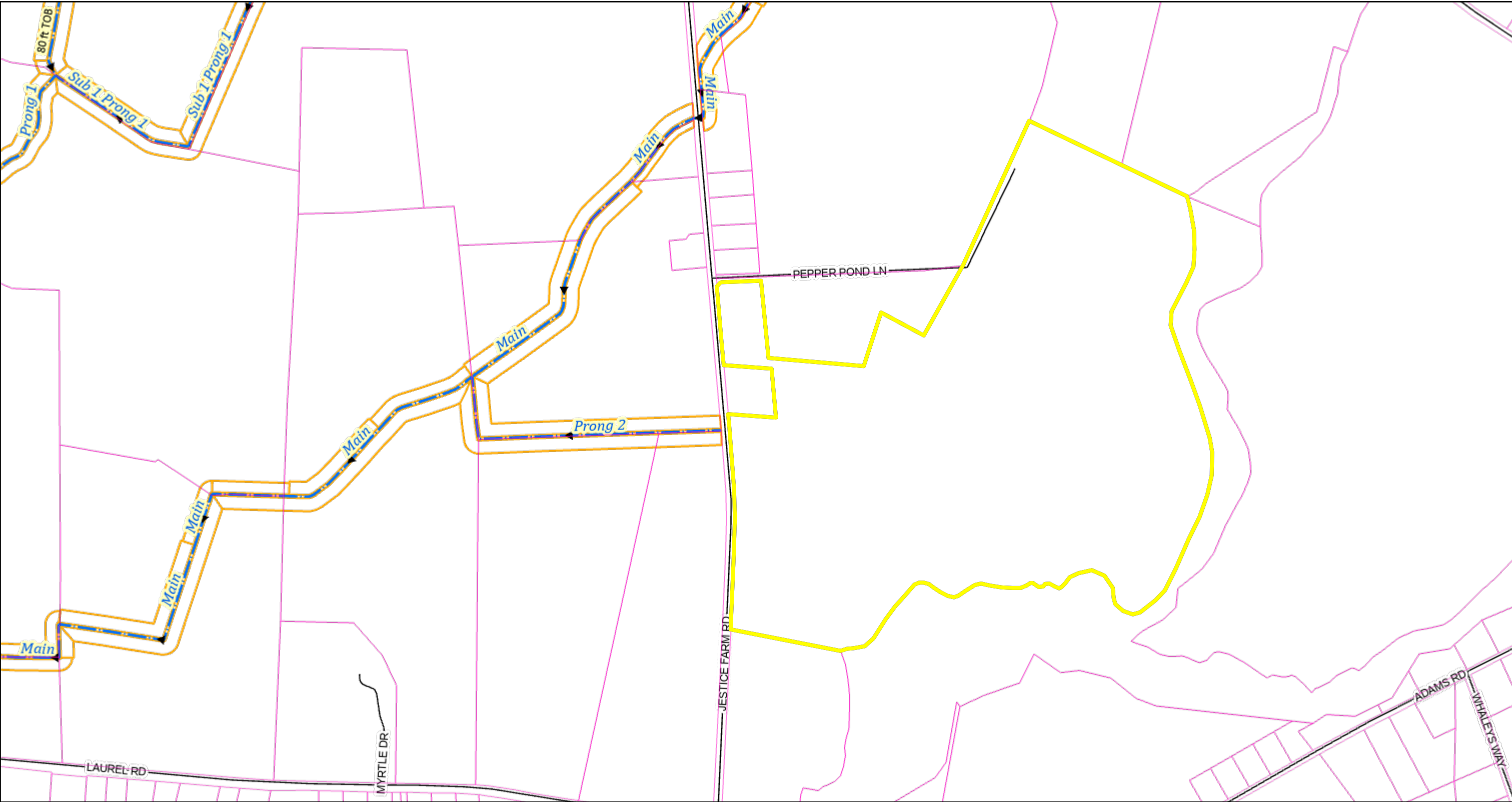
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- High Resolution 60cm Imagery
- High Resolution 30cm Imagery
- Citations
- 2.4m Resolution Metadata

1:9,028



DNREC, Division of Watershed Stewardship, Drainage Program,
john.inkster@state.de.us, Sussex County, Sussex County
Government, Maxar

Sussex County



May 15, 2024

- polygonLayer

Override 1

Override 2

Tax Parcels
- Streets

County Boundaries

Tax Ditch Segments

Tax Ditch Channel
- Extent of Right-of-Way

layer44

Red: Band_1

Green: Band_2
- Blue: Band_3

DNREC, Division of Watershed Stewardship, Drainage Program,
john.inkster@state.de.us, Sussex County, Sussex County
Government

Introduced: 4/30/24

**Council District 1: Mr. Vincent
Tax I.D. No.: 232-19.00-45.00 (p/o)
911 Address: 32099 Jestice Farm Road, Laurel**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EVENT VENUE TO BE LOCATED ON A 5.00 ACRE PORTION, MORE OR LESS, OF A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 140.12 ACRES, MORE OR LESS

WHEREAS, on the 12th day of July 2023, a conditional use application, denominated Conditional Use No. 2463 was filed on behalf of Chickberry Farms Events, LLC; and

WHEREAS, on the ____ day of _____ 2024, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2463 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsections 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2463 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 Broad Creek Hundred, Sussex County, Delaware, and lying the east side of Jestice Farm Road (S.C.R. 449A) approximately 0.25 mile north of Laurel Road (Rt. 24) and being more particularly described in the attached legal description prepared by Street & Ellis, P.A., said parcel containing 5.00 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: July 11, 2024

RE: County Council Report for C/U 2431 filed on behalf of Play It Safe, LLC

The Planning and Zoning Department received an application (C/U 2463 filed on behalf of Play It Safe, LLC) for a Conditional Use for a professional office in an AR-1 Agricultural Residential Zoning District, to be located at Tax Parcel 335-12.06-10.00. The property is located at 1510 Savannah Road, Lewes. The parcel size is 0.26 acres +/-

The Planning & Zoning Commission held a Public Hearing on the application on May 22, 2024. At the meeting of June 5, 2024, the Planning & Zoning Commission recommended approval of the application for the 7 reasons stated and subject to the 12 recommended conditions as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meetings of May 22, 2024, and June 5, 2024.

Minutes of the May 22, 2024, Planning & Zoning Commission Meeting

C/U 2431 Play It Safe, LLC

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 LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.26 ACRE, MORE OR LESS. The property is lying on the east side of Savannah Road (Rt. 9) at the intersection of Savannah Road (Rt. 9) and Quaker Road, approximately 0.33-mile northeast of Westcoats Road (Rt. 12). 911 Address: 1510 Savannah Road, Lewes. Tax Map Parcel: 335-12.06-10.00.

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the applicant's



conceptual site plan, a copy of the DelDOT SLER, a copy of the DelDOT letter of no objection to approval, a copy of a letter received from the state Fire Marshall, a copy of a letter received from the Sussex Conservation District, the applicants proposed conditions of approval and 12 written responses a mixture of support and opposition.

Ms. MacKenzie Pete, Esq., from the law firm of Saul Ewing, spoke on behalf of Dr. Mary Vaughn the applicant/owner of Play It Safe, LLC.; that they are seeking a conditional use of land in an AR-1 district for the operation of a professional office; that Doctor Vaughan is a licensed psychologist who holds a doctorate in clinical psychology, works with children, adolescents, adults, and families in various settings; that her practice focuses on difficulties related to depression, anxiety, relationship issues, anger problems, personality disorders, trauma, grief and behavioral difficulties; that Doctor Vaughn also provides psychological evaluations for the courts and offers services such as parent coordination, reunification, therapeutic visitation and custody evaluation; that the applicant filed its supplemental exhibit booklet, which included its current conditional use plan, 1510 Savannah Rd., outside the City of Lewes, tax map parcel 335-12.06-10.00; that 14 conditional uses have been sought within a one mile radius, 13 of them being approved, nine of those uses are office related, indicating a demand for offices in this area; that this suggests that the site is located in area experiencing growth and development, especially in terms of office space; that currently Dr. Vaughn is operating in an office space at 1518 Savannah Rd and she is in need of an upgraded space to better serve her clients and team; that currently her office serves approximately 1000 patients and hope to continue to support their existing and growing client base; that Dr. Vaughn's use is semipublic and character is consistent with other existing businesses in the area where office type and residential uses coexist along Savannah Rd.; that this use is certainly and can be consistent with zoning district and future land use map, and will offer the residents of Sussex County much needed psychology services; that currently the new office is under renovations, but they are strictly interior renovations that have been permitted as necessary; that the only exterior changes to the building will be primarily landscaping; that access will be provided off of Quaker Rd. into the site and then exit only onto Savannah as dictated by DelDOT; that a letter of no impact was submitted into record; that addressing traffic concerns, we anticipate minimal traffic generated by the office, the Delaware Department of Transportation has already confirmed that Doctor Vaughn's proposal does not create any transportation impacts; that her current practice sees an average of 55 clients a week and an average of 11 clients a day that actually come into the office with a balance of clients taking advantage of telehealth appointments; that the maximum number of clients in the office at one time is generally 4, but more consistent actually with between zero and two clients; that this show that there's very little traffic to and from the site and parking has been considered with 11 spaces being provided, one more than required; that the prior daycare use had overflow parking on Quaker Rd., but I would put neighbors at ease with the on site parking it is intended to address their concern about any overflow parking on Quaker Rd.; that as more spaces have been provided on site than required by code; that the proposed two spaces in the back are for employee use only; that not a lot of traffic coming in and out of those two spaces particularly as they will only be employees arriving a leaving; that the applicant's also agreeable to installing no parking signs on her property to confirm that patients can't park along Quaker Road or to put a notice on the door to strictly park in the provided spots; that the site is served by a private well and is on county sewer; that the proposed hours of operation are from 7:00AM to 8:00PM Monday through Friday and between 8:00AM and 4:00PM on Saturdays, which is consistent with her current practice hours; that sometimes she sees patients outside of normal business hours to accommodate her patients schedules; that Doctor Vaughn mailed a letter to certain residents that she thought were most impacted; that Mr. David Green, who is located immediately behind the site and is also here today, suggested that the Quaker Rd. residents were the most impacted and in should have also been sent a letter; that there

was no intention to exclude, we selected immediately adjacent and one over neighbors; that we have been communicating directly with Mr. Green since July of 2023; that Mr. Green was provided an initial plan on July 24, 2023, our application on July 25, 2023, an amended plan that was shared with him on September 1st, 2023, that showed the parking spaces in the rear, and then finally the plan that was submitted to the county and was posted on the docket on May 10, 2024; that the link to the docket was sent to Mr. Green on Monday, on May 13, 2024; that some concerns have been raised by the neighbors, which include DelDOT's allowance of an entrance off Quaker Rd., parking proposed in the rear yard and on Quaker Rd. and hours of operation; that in response the office is a positive change from the daycare that was there, DelDOT requires access from Quaker Rd. and exit onto Savannah, and signage will be confirmed; that the proposed hours of operation are consistent with the current practice and that of other nearby offices; that the application received positive responses from relevant agencies, DelDOT has issued its letter of no impact, the Sussex Conservation District has confirmed exemption from the Delaware sediment and stormwater regulations and the fire Marshall has also approved the proposal; that there's an existing fence in place to provide some screening along the back of the property; that if the fence was damaged the applicant would replace it to maintain the screening.

Mr. Collins asked what percentage of patients are seen in office after hours?

Dr. Mary Vaughn responded that for the month of April she saw 6 patients after hours out of her 55 appointments, so approximately 10% of her clients.

Ms. Janet Burns, of 1508 Savannah Rd., spoke on behalf of herself in opposition to the application that she lives right next door to the office and is concerned about the hours of operation expanding past what the business website states the hours are; that online it states that hours are Monday through Thursday 9am to 5pm and now they are being told they will be Monday through Friday 7am to 8pm and Saturday 8am to 4pm; that the extension into the late evening is not necessary; that as a person who lives alone, I don't feel comfortable with that and my neighbor on the other side is also a single woman and she doesn't feel comfortable with that; that 8:00pm would be not necessary, if it's an emergency telehealth would be acceptable; that if it's somebody in an extreme emergency meeting in person could be a danger, in my opinion; that the concern is there about living next to a large parking lot from all of the spaces proposed.

Ms. Wingate stated that the parking spots within the site are determined by DelDOT and that is their requirement so the applicant cannot change the number of spaces that they will need to provide.

Mr. David Green, who resides behind the office, spoke on behalf of himself in opposition to the application; that Mr. Green has been in contact with Dr. Mary Vaughn and Ms. Mackenzie Peet, Esq. directly over the past year about his concerns and questions regarding the application; that the biggest issues are the extra hours of operation, the no parking in the side and back yards and no parking along Quaker Rd.; that a request on conditions of approval to consider is the accessory structure in the rear be utilized per code as it is currently being used you can hear people working out there from his property; that clarification on the responsibility of the fence be on the applicant if anything was to happen to the fencing; that under the old business the parking on Quaker Rd. was a major issue and there is concern that it will continue under the new business; that with most of the opposition stemming from parking and traffic along Quaker Rd., that why can't the 2 spots that are designated for the rear of the building be moved up front considering there is enough room; that by allowing the

parking in the rear and having an entrance to the lot it will allow for people to use that as a place to turn around if they needed to; that by allowing parking on the side of the building will encourage more people to park along Quaker Rd. making it more problematic for the residents of that area.

Mr. Robertson stated that that the difference between the previous business (the daycare) and the new proposed one is that a daycare goes before the Board of Adjustment and is approved through them; that the Board of Adjustment has the ability to put conditions on an approval, but they typically don't, like Planning & Zoning and County Council do; that the daycare is not under a Conditional Use and if this application get approved there will be an Ordinance that allows for many conditions to be in place and enforced where the daycare was not required to do so; that under a Conditional Use it is more black and white on what can be enforced and the Constable will be the one to do that.

Chairman Wheatley stated that Quaker Rd. is a public road that anyone can drive up and down and park along as long as they are not blocking the flow and traffic and not blocking any driveways; that if there is concern about the ability of people being parked on the road then it would need to be addressed through State of Delaware and they would need to make it a no parking on road, as that is not governed by the County.

Mr. Robertson asked about the parking parallel to Quaker Rd. and the building; that the site plan shows the removal of the existing driveway, but the plan is to put it back?

Ms. Peet responded that the driveway will be removed and replacing it with clamshell material so that they employees can pull through there to the rear and also park parallel to the building; that there is a space along Quaker Rd., there are five that are designated up front, four designated adjacent to Miss Burns property, one running parallel to the property, marked as one, and one space in the back; that we left space between the fence line along Mr. Green's property and the site is so that someone isn't parking in that potential space, most adjacent to Mr. Green's; that there is two spots in the back of the building, but to try and avoid conflict they chose to utilize only one and one on the side of the building; that DelDOT has requested that there be a break in the fence that runs along Quaker Rd. so that there can be an entrance to that rear parking; that DelDOT's plan is to have three entrance/exits, two of which are on Quaker Rd. and an EXIT ONLY on Savannah Rd.

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 2431 Play It Safe, LLC. Motion by Mr. Collins to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 4 - 0.

Minutes of the June 5, 2024, Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since May 22, 2024.

Mr. Collins moved that the Commission recommend approval of C/U 2431 Play It Safe, LLC for a professional office based upon the record made during the public hearing and for the following reasons:

1. This application seeks to allow the conversion of an existing day care facility into a professional office.
2. The use of this property as an office is in character with the development trend of medical and professional office space along Savannah Road. For example, there are approximately 14 other conditional uses within a one-mile radius of this site. Many of these are office uses very similar to what is sought here.
3. The use as a professional office is supported by the Sussex County Comprehensive Plan.
4. The use, with the conditions and limitations placed upon it, will not adversely affect neighboring properties or roadways. In fact, it is likely to have less of an impact on neighboring properties and roadways than the prior more intensive use as a day care facility.
5. DelDOT will review the proposed entrance locations and may require design changes for the entrances as well as roadway improvements.
6. There is sufficient space on the property for parking to serve the office building.
7. The Applicant has stated the intention to maintain the residential appearance of the building that currently exists on the site.
8. This recommendation is subject to the following conditions:
 - A. The building shall be used for office use only. No retail sales or other commercial uses shall occur on the site.
 - B. The building shall be permitted to have one lighted sign. The sign shall not exceed 32 square feet in size on each side.
 - C. All security lighting shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.
 - D. The business hours shall be limited to 7:00 am until 8:00 pm, Monday through Friday, and 8:00 am until 4:00 pm on Saturdays. Additional hours for emergency services are permitted, but only on a limited “as-needed” emergency basis.
 - E. All entrances and roadway improvements shall be modified or installed as required by DelDOT. All required DelDOT improvements or modifications shall be shown or documented on the Final Site Plan.
 - F. The Applicant shall install “no parking” signs along both Savannah Road and Quaker Road. All parking shall occur on site and in accordance with the requirements of the County Zoning Code for this use. The parking spaces located at the rear of the site shall only be utilized by employees of the use of the site. All parking shall be clearly shown on the Final Site Plan and on the site itself.
 - G. The existing fence located on the property that separates this site from the adjacent property to the rear along Quaker Road shall remain in its current configuration and location, including restoration or repair as needed by the owner of this site.
 - H. All trash receptacles shall be of a residential type and design. No commercial dumpsters shall be utilized on this site.
 - I. The existing outbuilding on the rear of the site shall only be used for storage.
 - J. As stated by the Applicant during the public hearing, the residential appearance of the structure shall be maintained.
 - K. Failure to abide by any of these conditions of approval may result in the revocation of this Conditional Use.

- L. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Mr. Collins, seconded by Ms. Wingate and carried unanimously to recommend approval of C/U 2431 Play It Safe, LLC 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

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JAMIE WHITEHOUSE, MRTPI, AICP
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: May 22nd, 2024

Application: C/U 2431 Play It Safe, LLC

Applicant: Mary Vaughn Moor
139 East Buckingham Drive
Rehoboth Beach, DE 19971

Owner: Play It Safe, LLC
1510 Savannah Road
Lewes, DE 19958

Site Location: Located on the northeast corner of the intersection of Savannah Road (Rt. 9) and Quaker Road, Lewes, at 1510 Savannah Road.

Current Zoning: Agricultural Residential (AR-1) District

Proposed Use: Professional Office

Comprehensive Land
Use Plan Reference: Coastal Area

Councilmanic
District: Mr. Schaeffer

School District: Cape Henlopen School District

Fire District: Lewes Fire Department

Sewer: Sussex County

Water: Public

Site Area: 11,722 s.f. +/-

Tax Map ID.: 335-12.06-10.00



JAMIE WHITEHOUSE, AICP MRTPI
PLANNING & ZONING DIRECTOR
(302) 855-7878 T
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Sussex County

DELAWARE
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Memorandum

To: Sussex County Planning Commission Members
From: Mrs. Christin Scott, Planner II
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: April 29th, 2024
RE: Staff Analysis for C/U 2431 Play It Safe, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of Application C/U 2431 Play It Safe, LLC to be reviewed during the May 22nd, 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: 335-12.06-10.00

Proposal: The request is for a Conditional Use for Tax Parcel 335-12.06-10.00 for Professional Offices. The property is lying on the east side of Savannah Road (Rt. 9), at the intersection of Savannah Road (Rt. 9) and Quaker Road in Lewes, Delaware. The property consists of 0.26 acres +/-

Zoning: The Parcel is zoned Agricultural Residential (AR-1) District. The adjacent Parcels to the north, south, east and west of the subject Parcel are also zoned Agricultural Residential (AR-1) District. Further north and west, properties are zoned General Commercial (C-1), Neighborhood Business, and Medium Density Residential (MR) Zoning Districts.

Future Land Use Map Designation w/in Comprehensive Plan: The subject property is located within the "Low Density" 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 Future Land Use designation of "Coastal Area." The properties to the north, south, east, and west also have a Future Land Use designation of "Coastal Area."

As outlined in the 2018 Sussex County Comprehensive Plan, the "Coastal Area" are areas that "contain ecologically important and sensitive characteristics" and are "areas that can accommodate development provided special environmental concerns are addressed" (2018 Sussex County Comprehensive Plan, 4-15). The Plan further notes that, "a range of housing types should be permitted in Coastal Areas, including single-family homes, townhouses, and multi-family units"



(2018 Sussex County Comprehensive Plan, 4-15). Furthermore, the Plan notes, “Medium and higher density could be supported in areas where there is central water and sewer” of which this property has sewer connectivity available (2018 Sussex County Comprehensive Plan, 4-16).

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 “Coastal Area” Future Land Use Map Designation (2018 Sussex County Comprehensive Plan, 4-25).

Further Site Considerations:

- **Density:** N/A
- **Open Space Provisions:** N/A
- **Agricultural Areas:** Staff note that the Site is not located within the vicinity of lands that are actively farmed.
- **Interconnectivity:** N/A
- **Transportation Improvement District (TID):** The Parcel is not located within any established Transportation Improvement Districts.
- **Forested Areas:** N/A
- **Wetlands Buffers/Waterways:** N/A
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** The property is located within Flood Zone “X” – Areas subject to inundation from the 0.2% annual chance Flood Zone.

The property does not lie within any established Tax Ditch Areas.

The County’s Online Mapping System indicates that the property is located within a Well Head Protection Area and that the property is located within an area of “Excellent” Groundwater Recharge Potential. The provisions outlined within Chapter 89 sections 6 and 7 will apply.

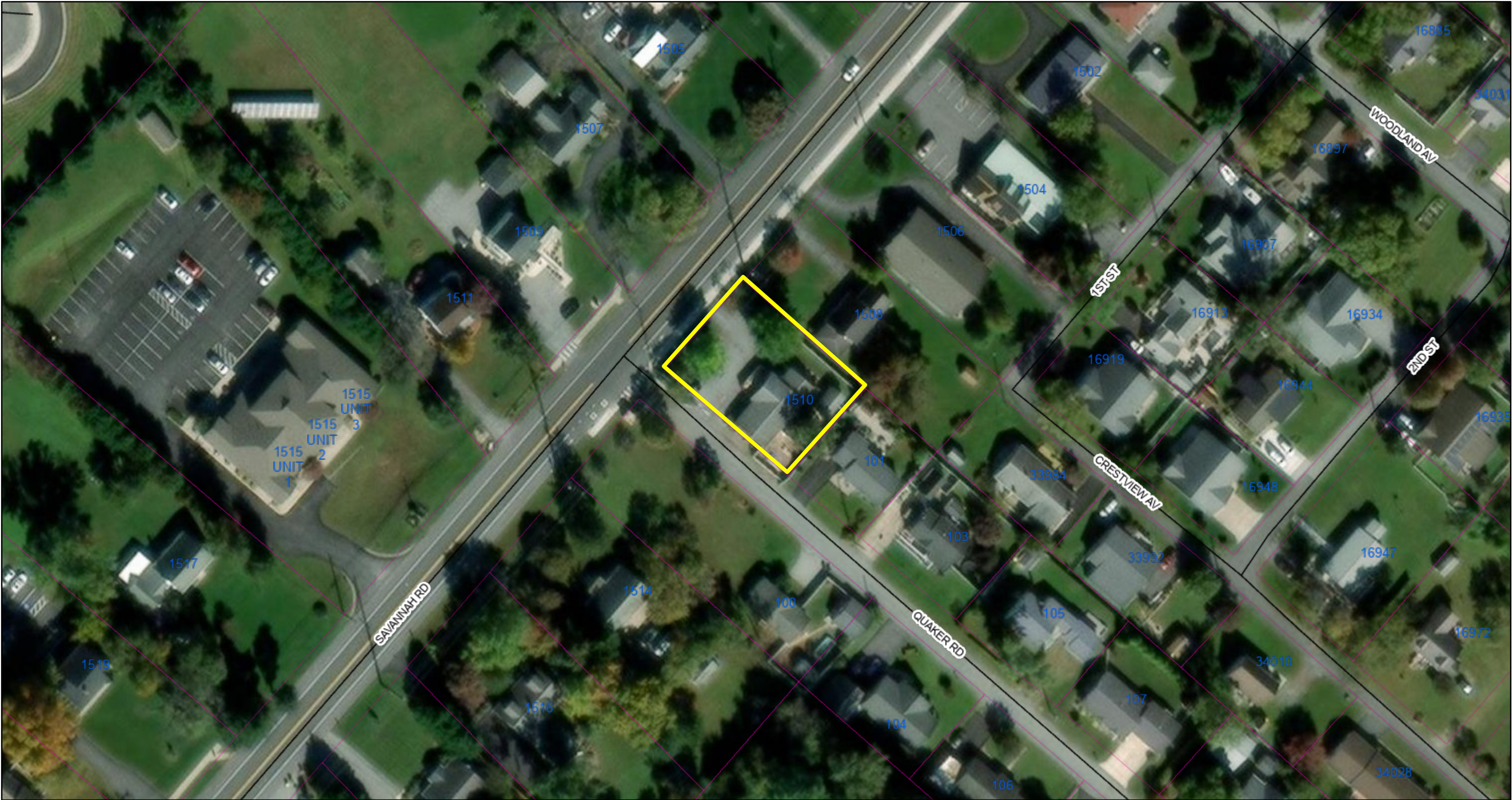
Existing Conditional Uses within the Vicinity of the Subject Site: A Data Table and Supplemental Map have been supplied which provide further background regarding the approval status of Applications in the area, including the location of all other Conditional Use Applications, since 2011, that are within a 0.5-mile distance from the subject site.

| Conditional Use Applications (Within a 1-mile radius of the subject site) | | | | | | |
|--|---|--------------------|--------------------------------|----------------|------------------------|---------------------|
| Application Number CU # | Application Name | Zoning District | Proposed Use | CC Decision | CC Decision Date | Ordinance Number |
| 2313 | John Ford | AR-1 | Reality Office | Approved | 9/20/2022 | 2885 |
| 2264 | Laudan Investments, LLC | AR-1 | General Office Use | Approved | 11/16/2021 | 2813 |
| 2169 | Robert & Deborah Reed | AR-1 | Multi-Family | Approved | 6/18/2019 | 2663 |
| 2160 | Procino, Wells, and Woodland, P.A. | AR-1 | Professional Office | Approved | 3/19/2019 | 2638 |
| 2159 | Elisabeth Ann Burkhardt | AR-1 | Professional Office | Approved | 1/15/2019 | 2628 |
| 2136 | Christine Degnon | AR-1 | Medical Office | Approved | 10/23/2018 | 2608 |
| 2137 | John W. Ford | AR-1 | Professional Office | Approved | 7/31/2018 | 2592 |
| 2132 | Dorothy Darley | AR-1 | Hair Studio | Approved | 7/31/2018 | 2590 |
| 2116 | William and Stacey Smith | AR-1 | Professional Office | Approved | 3/20/2018 | 2569 |
| 2074 | Quail Valley 1525, LLC (Midway Fitness) | AR-1 | Therapy & Fitness Center | Denied | 8/8/2017 | |
| 2069 | Rudolph Joseph Johnson | AR-1 | Workout Studio | Approved | 4/25/2017 | 2494 |
| 2064 | R & K Partners | AR-1 | Medical Office | Approved | 3/7/2017 | 2484 |

| | | | | | | |
|------|---|------|------------------------|----------|-----------|------|
| 1974 | Sara Kay I. Phillips | AR-1 | Hair Salon | Approved | 1/14/2014 | 2334 |
| 1912 | Wm. A. Bell & Kathleen M. Sperl- Bell | AR-1 | Professional Office | Approved | 11/8/2011 | 2226 |

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

Sussex County



May 15, 2024

layer46

Red: Band_1

Green: Band_2

Blue: Band_3

Override 1

Override 2

Tax Parcels

911 Address

polygonLayer

Override 1

Override 2

Tax Parcels

Streets

County Boundaries

World Imagery

Low Resolution 15m Imagery

High Resolution 60cm Imagery

High Resolution 30cm Imagery

Citations

30cm Resolution Metadata

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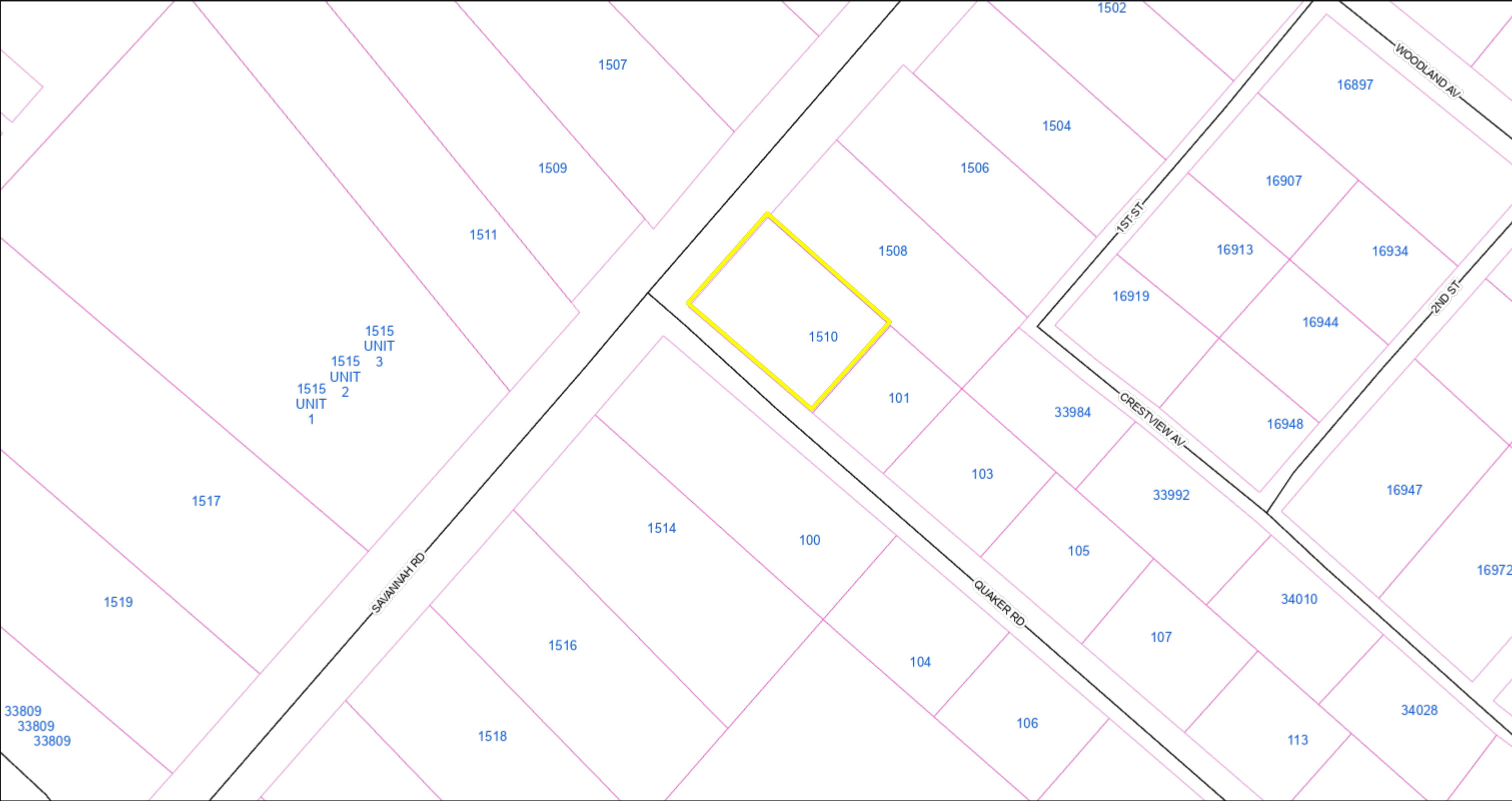
mi

00.020.040.07

km

Maxar, Microsoft, DNREC, Division of Watershed Stewardship, Drainage Program, john.inkster@state.de.us, Sussex County, Sussex County Government, Sussex County Mapping and Addressing

Sussex County



May 15, 2024

polygonLayer

Override 1

Override 2

Tax Parcels

911 Address

Streets

County Boundaries

layer47

Red: Band_1

Green: Band_2

Blue: Band_3

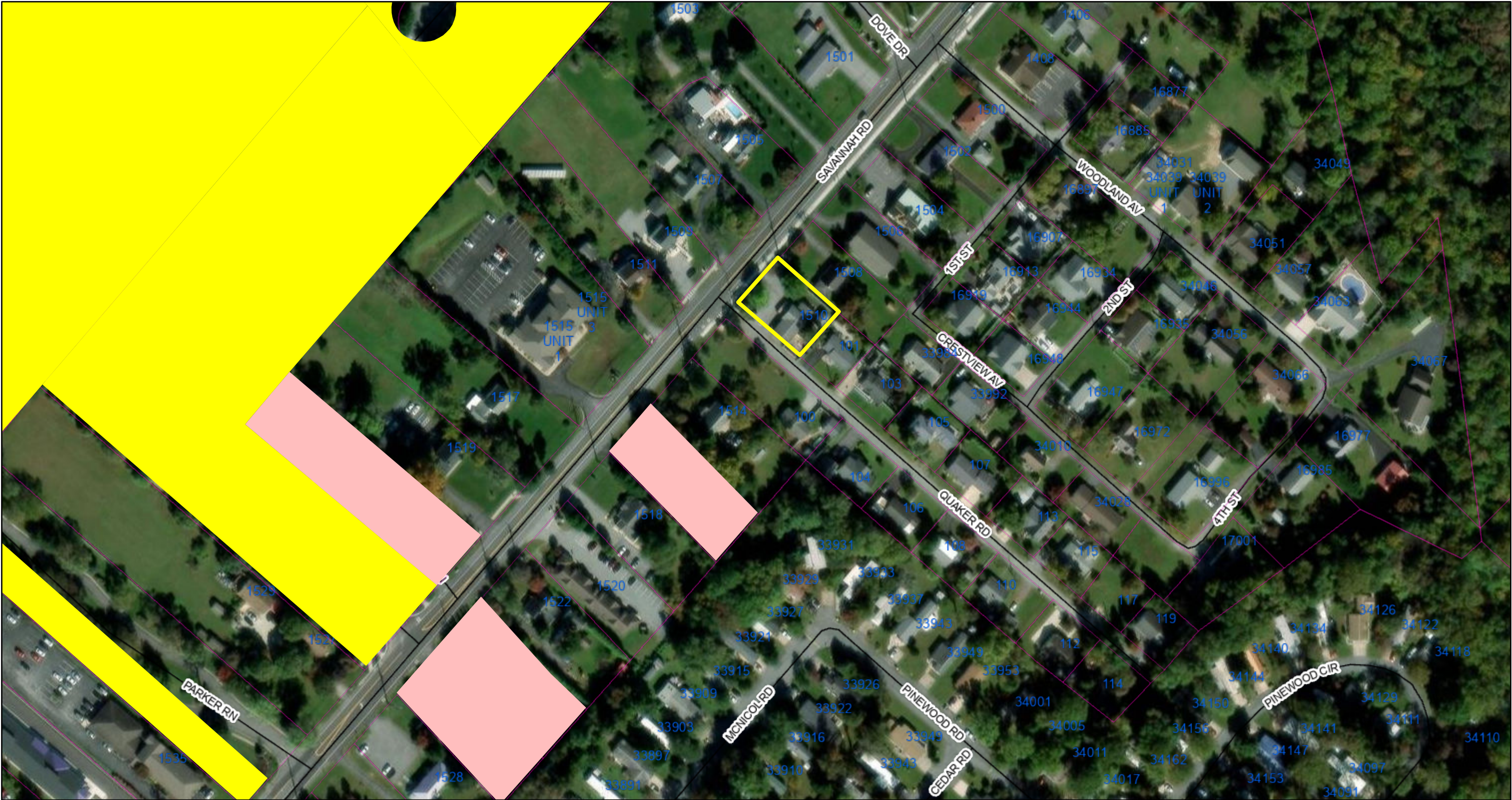
1:1,128

0 0.01 0.02 0.04 mi

0 0.02 0.04 0.07 km

DNREC, Division of Watershed Stewardship, Drainage Program,
john.inkster@state.de.us, Sussex County, Sussex County
Government, Sussex County Mapping and Addressing

Sussex County



May 15, 2024

layer46

- Red: Band_1
- Green: Band_2
- Blue: Band_3
- polygonLayer
- Override 1

- Override 2
- Zoning
- Medium Residential - MR
- B-1: Neighborhood Business
- Tax Parcels

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

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

1:2,257

00.020.040.08 mi

00.040.070.14 km

Maxar, Microsoft, DNREC, Division of Watershed Stewardship, Drainage Program, john.inkster@state.de.us, Sussex County, Sussex County Government, Sussex County Mapping and Addressing

Introduced: 4/30/24

**Council District 3: Mr. Schaeffer
Tax I.D. No.: 335-12.06-10.00
911 Address: 1510 Savannah Road, Lewes**

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 LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.26 ACRE, MORE OR LESS

WHEREAS, on the 27th day of March 2023, a Conditional Use Application, denominated Conditional Use No. 2431 was filed on behalf of Play It Safe, LLC; and

WHEREAS, on the ____ day of _____ 2024, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2431 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2431 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 Lewes & Rehoboth Hundred, Sussex County, Delaware, and lying on the east side of Savannah Road (Rt. 9) at the intersection of Savannah Road (Rt. 9) and Quaker Road approximately 0.33 mile northeast of Westcoats Road (Rt. 12) and being more particularly described in the attached legal description prepared by Wilson, Halbrook & Bayard, P.A., said parcel containing 0.26 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.