

COUNTY COUNCIL

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



Sussex County

DELAWARE
sussexcountyde.gov
(302) 855-7743

SUSSEX COUNTY COUNCIL

AGENDA

September 17, 2024

1:00 PM

Call to Order

Approval of Agenda

Approval of Minutes - August 27, 2024

[Draft Minutes 082724](#)

Reading of Correspondence

Public Comments

Todd Lawson, County Administrator

1. Administrator's Report

Karen Brewington, Human Resources Director

1. Third Quarter Employee Recognition Awards

Hans Medlarz, Project Engineer

1. Lochwood Sewer Expansion, Project S22-07

A. Change Order No. 2

[Lochwood CO 2](#)



2. Artesian Bulk Wastewater Agreement

A. Addendum No. 8

[Artesian Addendum 8](#)

John Ashman, Director of Utility Planning & Design Review

1. **Permission to Prepare and Post Notices for Woods at Angola Beach Annexation into the Sussex County Unified Sanitary Sewer District (Angola Neck Area)**

[Prepare & Post Notices Woods at Angola Beach](#)

2. **Permission to Prepare and Post Notices for Leeward Chase II Annexation into the Sussex County Unified Sanitary Sewer District (Airpark Area)**

[Prepare & Post Notices Leeward Chase II](#)

Grant Requests

1. **Friends of Prime Hook National Wildlife Refuge, Inc. for their Summer Intern program for nesting shorebirds**

[Friends of Prime Hook National Wildlife Refuge, Inc.](#)

2. **Nanticoke River Arts Council for operating expenses**

[Nanticoke River Arts Council](#)

Introduction of Proposed Zoning Ordinances

[Ord Intro CZ2011 CU2444 CU2457 CU2454 CU2528 Ord. 23-12](#)

Council Members' Comments

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

Possible action on Executive Session Items

1:30 p.m. Public Hearings

1. **“AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$9,236,846 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE NORTH ELLENDALE SEWER FLOW DIVERSION PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH”**

[Public Hearing North Ellendale Sewer](#)

2. **[Change of Zone No. 2005 filed on behalf of Cherner Development Group](#)**

“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 LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.58 ACRES, MORE OR LESS” (property lying on the southwest corner of the intersection of John J. Williams Highway [Rt. 24] and Warrington Road [Rt. 1D]) (911 Address: 19101 John J. Williams Highway, Rehoboth) (Tax Map Parcel: 334-12.00-115.00)

[Public Hearing CZ2005](#)

3. **[Conditional Use No. 2539 filed on behalf of BCB Management LLC](#)**

“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” (property lying on the northeast side of DuPont Boulevard [Rt. 113], approximately 0.42 mile south of East Redden Road [S.C.R. 565]) (911 Address: 18293 & 18313 DuPont Boulevard, Georgetown) (Tax Map Parcel: 135-6.00-4.00)

[Public Hearing CU2539](#)

Adjourn

-MEETING DETAILS-

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on September 10, 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, AUGUST 27, 2024

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, August 27, 2024, at 12:30 p.m., in Council Chambers, with the following present:

Michael H. Vincent	President
John L. Rieley	Vice President
Cynthia C. Green	Councilwoman
Douglas B. Hudson	Councilman
Mark G. Schaeffer	Councilman
Todd Lawson	County Administrator
Vince Robertson	Assistant County Attorney

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 439 24
Approve
Agenda**

Mr. Lawson reported that under the Consent Agenda, Item Nos. 2 and 3 can be removed. A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, to approve the agenda as amended.

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 August 13, 2024, were approved by consent.

**Correspond-
ence**

Mr. Robertson reported that correspondence was received from Mispillion Performance Series and Autism Delaware thanking Council for their donation.

**Public
Comments**

There were no public comments.

**M 440 24
Approve
Consent
Agenda**

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

**Use of Existing Wastewater Infrastructure Agreement – IUA 1266
Channel Pointe Villas, Fenwick Island Area**

**Use of Existing Wastewater Infrastructure Agreement – IUA 1257
Justice Property, Millville Area**

Motion Adopted: 5 Yeas

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

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

**Adminis-
trator's
Report**

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

1. Delaware State Police Activity Report

The Delaware State police year-to-date activity report for July 2024 is attached listing the number of violent crime and property crime arrests, as well as total traffic charges and corresponding arrests. In addition, DUI and total vehicle crashes investigated are listed. In total, there were 195 troopers assigned to Sussex County for the month of July.

2. Project Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, Osprey Point – Phase 3C (Construction Record) received Substantial Completion effective August 16, 2024.

3. Ronald Heck

It is with great sadness that we inform you that County Pensioner, Ronald “Ronnie” Heck passed away on Monday, August 19, 2024. Mr. Heck began his career with Sussex County in May 2006 where he worked until May 2015 for a total of 9 years of service. His last position with the County was Public Works Technician II. We would like to extend our condolences to the Heck family.

4. Ronald G. McCabe

It is with great sadness that we inform you that Ronald G. McCabe passed away on Thursday, August 22, 2024. Mr. McCabe served on the Sussex County Board of Adjustment for 27 years. We would like to extend our condolences to the McCabe family.

5. Thomas Berry III

Sussex County continues to mourn the loss of County employee and volunteer firefighter Thomas W. Berry III, who was tragically lost, August 13th while on the scene of a motor vehicle crash outside Georgetown. Mr. Berry began his career with Sussex County in 2022. He was a Logistics Technician in our Emergency Medical Services division. We would like to extend our condolences to Thomas' family,

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

friends, coworkers, and fellow first responders in this difficult time, and we thank the community for the tremendous outpouring in honor of Thomas and his sacrifice.

6. Holiday and Council Meeting Schedule

A reminder that County offices will be closed on Monday, September 2nd, to observe the Labor Day holiday. In addition, Council will not meet on Tuesday, September 3rd or Tuesday, September 10th. The next regularly scheduled Council meeting will be held on Tuesday, September 17th at 10:00 a.m.

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

**Old
Business/
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".

Mr. Robertson explained that there have been substantial discussions related to the Ordinance and public hearings have been held. As a result of the feedback and input from the public and staff, there are several proposed amendments.

**M 441 24
Amend Ord.
24-03**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to amend lines 39-44 of the highlighted version to revise the current definition of "Clearing or Cleared" to be streamlined. Delete the existing definition and replace it with: "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".

Motion Adopted: 5 Yeas

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

**M 442 24
Amend Ord.
24-03**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend line 159 of the highlighted version to add "forest inventory" before "tree survey" so that it now states "a forest inventory/tree survey".

Motion Adopted: 5 Yeas

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

M 443 24 A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley to amend line
Amend Ord. 159 of the highlighted version to add “groupings of trees or” before
24-03 “individual tress”. Groupings of trees may be determined to have a high
habitat value in addition to individual trees. At the end of this sentence, insert
the phase “within the Perimeter Buffer and Perimeter Buffer Protection
Area” so that it is clear what areas are covered by the Forest Assessment.

Motion Adopted: 5 Yeas

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

M 444 24 A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley to amend line
Amend Ord. 163 of the highlighted version to add a new definition of “Forest Assessment
24-03 Report”: “A report detailing the findings of a Forest Assessment prepared
and certified by a licensed landscape architect, certified arborist, or licensed
forester or a forester designated by the Society of American Foresters as a
“certified forester”.

Motion Adopted: 5 Yeas

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

M 445 24 A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend
Amend Ord. line 228 of the highlighted version to add a new sentence that better defines
24-03 the purpose of the Perimeter Buffer within its definition: “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”.

Motion Adopted: 5 Yeas

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

M 446 24 A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend
Amend Ord. line 236 of the highlighted version to change the word “prepared” to
24-03 “submitted” so that the definition of the Perimeter Buffer Landscape Plan
now states, “A plan submitted by a developer depicting compliance with the
Perimeter Buffer and Perimeter Buffer Protection Area ...”.

Motion Adopted: 5 Yeas

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

M 447 24 A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley to amend lines
**Amend Ord. 240 and 575 of the highlighted version to delete the reference to “certified
24-03 nursery professional”.**

Motion Adopted: 5 Yeas

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

M 448 24 A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley to amend line
**Amend Ord. 315 of the highlighted version to insert “as well as shrubs” after the tree
24-03 planting requirement. The number of shrubs is undefined, but this clarifies
that the buffer areas are not limited to just the required trees and other
plantings can and should occur there.**

Motion Adopted: 5 Yeas

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

M 449 24 A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend
**Amend Ord. line 318 of the highlighted version regarding the anticipated height of trees
24-03 planted within the Perimeter Buffer, change the reference to “obtain a
minimum height of ten feet” to “shall be a species that typically achieves a
height of at least ten 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 450 24 A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend
**Amend Ord. line 320 of the highlighted version, there should be more clarity in the Code
24-03 that new vegetation needs to be planted throughout the buffer area and not
just within ten 10 feet of the 30-foot width of it. It already requires staggering,
but we have seen developments try to manipulate this requirement. To
further clarify this, add a new phrase “throughout the entire width of the
Perimeter Buffer” into the existing sentence so that it now states that the trees
shall be “...arranged in a staggered and natural manner throughout the**

entire width of the Perimeter Buffer to effectively achieve a visual landscaped screening which will filter views from and into the subdivision”.

Motion Adopted: 5 Yeas

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

M 451 24 Amend Ord. 24-03 A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend lines 341 and 344 of the highlighted version to change the reference from “Forest Assessment” to “Forest Assessment Report”.

Motion Adopted: 5 Yeas

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

M 452 24 Amend Ord. 24-03 A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley to amend lines 341 through 344 of the highlighted version to delete the phrase “prepared and certified by a licensed landscape architect, certified arborist, certified nursery professional, or licensed forester or forester designated by the Society of American Foresters as a “certified forester”. This phrase becomes unnecessary since it will now be included within the new definition of “Forest Assessment Report”.

Motion Adopted: 5 Yeas

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

M 453 24 Amend Ord. 24-03 A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend line 361 of the highlighted version, the CIB wanted to be clear that invasive species should not be introduced into the Buffer Areas, and that invasive species can be removed from the Buffer Areas. To accomplish this, relocate the sentence “Removal of any invasive species from the Woodlands is permitted” to a new item 12 at the end of the current list so that there is a new §99-21A.B.12 that states “12. Removal of any invasive species from the Perimeter Buffer or Perimeter Buffer Protection Area is permitted”. For that same reason, insert “(with the exception of the removal of invasive species)” after “Perimeter Buffer Protection Area”, at line 369 of the highlight version so that it is clear that the removal of invasive species can occur even though no other disturbance is allowed. And for the same reason, at line 480 of the highlighted version add the term “non-invasive” before the reference to “ornamental grasses and/or trees” in the language that allows design flexibility along the road frontage.

Motion Adopted: 5 Yeas

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

M 454 24 A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend
Amend Ord. lines 372 through 373 of the highlighted version to insert “or the Perimeter
24-03 Buffer Protection Area” after “Perimeter Buffer” in the existing sentence. This makes it clear that no disturbance can occur in either the Buffer Area or the Protection Area. Also, add a new sentence at the end of the section: “Permitted stump removal shall only occur by stump grinding that does not disturb the surrounding area or vegetation”.

Motion Adopted: 5 Yeas

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

M 455 24 A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend
Amend Ord. lines 392 through 394 of the highlighted version, If the Buffer areas are
24-03 cleared during the 5-year lookback period, the replanting requirements should be more clear to confirm that in addition to the greater tree density that is required, they still must conform to the percentages and sizes at the time of planting. The existing sentence at part (e) that currently states, “The planted Perimeter Buffer and new Woodlands shall meet the tree and shrub requirements of this Chapter” should be replaced with a new one that states: “The planted Perimeter Buffer and new Woodlands shall comply with the sizes and percentages required by §99-21A.A2 and 3.”.

Motion Adopted: 5 Yeas

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

M 456 24 A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend
Amend Ord line 399 of the highlighted version to replace the reference to the “Planning
24-03 and Zoning Commission” as the entity reviewing the replacement plantings after a timber harvest to “the Director”.

Motion Adopted: 5 Yeas

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

M 457 24 **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend**
Amend Ord. **line 429 of the highlighted version, CIB suggested that in addition to topsoil**
24-03 **or grass as the ground covering within the Buffer, “or wildflowers” should**
 also be permitted. So, insert the word “wildflowers” after “suitable grass
 mix” in this sentence.

Motion Adopted: 5 Yeas

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

M 458 24 **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend**
Amend Ord. **line 437 of the highlighted version to replace the reference to “Woodlands”**
24-03 **with “Perimeter Buffer and Perimeter Buffer Protection Area”. This just**
 clarifies the correct terms to be used.

Motion Adopted: 5 Yeas

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

M 459 24 **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend**
Amend Ord. **line 467 of the highlighted version, for consistency with other parts of the**
24-03 **Ordinance, delete the phrase “for any trees, shrubs or existing woodlands”**
 and add language confirming the duration of the developer’s guaranty so that
 the note required to guaranty the full cost of replacement now states, “(f) a
 note confirming that a developer guarantees the full cost of replacement of
 the Perimeter Buffer for two years after the determination of substantial
 completion in according with Section 99-31.”

Motion Adopted: 5 Yeas

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

M 460 24 **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend**
Amend Ord. **line 479 of the highlight version, during the Council hearing there was**
24-03 **concerns about the types of buffer alternatives that could be used along the**
 frontage of a development. To address this concern, delete the word “fences”
 and replace it with the phrase “ornamental fences that are not used as
 screens” and delete the word “walls”.

Motion Adopted: 5 Yeas

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

M 461 24 A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend
Amend Ord. line 490 of the highlight version, during the Council hearing, there were
24-03 photographic examples of fencing or other landscaping that was installed
along a development's road frontage where that frontage was not the same
frontage where the development's entrance existed. I.e., the back side of a
subdivision that shares a boundary with a road but has no entrance there.
That is not the intention of this section that allows design flexibility (with the
Commission's approval) at subdivision entrance. To clarify this, add a new
sentence at the end of this section that states "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".

Motion Adopted: 5 Yeas

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

M 462 24 A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend
Amend Ord. line 503 of the highlight version (Timing of buffer installation): There was a
24-03 lot of discussion about when the buffer must be installed in relation to other
work going on in a subdivision. There is not a so-called "drop dead date"
current Ordinance; instead, there are limitations on moving forward in the
development until prior buffers are installed (no building permits until
buffers are installed in the given phase; cannot move to the next phase until
the buffers are installed in the prior phase). The current Code in the
definition at part F (which is being replaced) stated: "The forested and/or
landscaped buffer shall be installed within 18 months from the date site work
is authorized to commence, as documented by a notice to proceed letter from
the Commission". This timeframe and protection to adjacent properties is
not a concern where there are existing woodlands, since 50 feet of woodlands
along the property boundary cannot be disturbed. It is only applicable when
new plantings are required. Staff has suggested including the following
language to create a clear deadline for new planting adjacent to existing or
approved homes. To address this, add the following sentence at Line 503 of
the highlighted version "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
requirement of §99-21A.A and C within 12 months of the issuance a Notice
to Proceed for the first phase of the development".

Motion Adopted: 5 Yeas

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

M 463 24 A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend
Amend Ord. lines 516-517 of the highlighted version, the developer should be required to
24-03 remove and replace any dead, diseased or dying trees within the Buffer Areas
prior to the conclusion of the two-year guaranty period. To confirm this, add
the phrase “removal and replacement of any dead, dying or diseases trees”
in this sentence so that it now states, “The developer shall be responsible for
the removal and replacement of any dead, dying or diseased trees and for the
removal form the site of all stakes, guy wires”.

Motion Adopted: 5 Yeas

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

M 464 24 A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend
Amend Ord. lines 535-537 of the highlight version, for consistency with other parts of the
24-03 Ordinance and similar existing provisions in the Code, eliminate reference to
the turnover to the HOA, which the County neither tracks nor has control
over by revising the language about bonding timeframes so that it now states,
“The bonds for the Perimeter Buffer shall thereafter remain in place until
two years after the determination of substantial completion in accordance
with Section 99-31.”

Motion Adopted: 5 Yeas

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

M 465 24 A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend
Amend Ord. line 566 of the highlight version, for clarity and consistency, insert “Perimeter
24-03 Buffer” after the word “Woodlands”.

Motion Adopted: 5 Yeas

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

M 466 24 A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend
Amend Ord. line 572 of the highlighted version, delete the phrase “in the form of newly
24-03 created Woodlands”. The specific requirements of the remedy following

damage or removal of trees is defined in the subsections that follow, so this phrase is not necessary.

Motion Adopted: 5 Yeas

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

**M 467 24
Amend Ord.
24-03**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend lines 904-913 of the highlighted version, there were questions and comments during the Council hearing about whether the buffer requirements apply to residential conditional uses or developments in the C-4 Zoning District. This is currently addressed in the Code in Section 115-218. However, it is currently only discretionary if conditioned as part of an approval of a development. This should instead be a mandatory requirement. At line 904 of the highlighted version, delete this entire sentence so that it is clear that compliance with the Buffer requirements are mandatory so that it now states “E. 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 §99-21.A.”

Motion Adopted: 5 Yeas

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

**M 468 24
Adopt
Ordinance
No. 3038/
Ord. No. 24-
03**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to Adopt Ordinance No. 3038 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” as amended by this Council.

Motion Adopted: 5 Yeas

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

**Grant
Requests**

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

M 469 24 **A Motion was made by Mrs. Green, seconded by Mr. Hudson to give \$1,000**
Town of **(\$1,000 from Mrs. Green’s Councilmanic Grant Account) to the Town of**
Greenwood **Greenwood for their 2024 Greenwood Day event.**

Motion Adopted: 5 Yeas

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

M 470 24 **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give \$500**
Unique **(\$500 from Mr. Schaeffer’s Councilmanic Grant Account) to Unique Minds**
Minds **Changing Lives Inc. for their Community Support Center.**
Changing
Lives Inc . **Motion Adopted: 5 Yeas**

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

M 471 24 **A Motion was made by Mr. Scheaffer, seconded by Mr. Hudson to give \$5,000**
Boys Scouts **(\$5,000 from Countywide Youth Grant Account) to Boys Scouts of America**
of America **Delmarva Council for their Sussex County 2024 Distinguished Citizen Award**
Event.

Motion Adopted: 5 Yeas

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

M 472 24 **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give \$500**
Ocean **(\$500 from Mr. Schaeffer’s Councilmanic Grant Account) to Ocean Waves**
Waves Guild **Guild for their Quilts of Valor 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 **Mr. Rieley introduced a Proposed Ordinance entitled “AN ORDINANCE**
Ordinance **TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1**
Introduc- **AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AMENDMENT**
tion **OF CONDITION “C” CONTAINED WITHIN CONDITIONAL USE NO.**
2414 (ORDINANCE NO. 3031) REGARDING THE ALLOWANCE OF
MAINTENANCE/REPAIR ON COMPANY EQUIPMENT/VEHICLES
AND THE INCLUSION OF FUEL TANKS TO BE LOCATED ON A

Proposed Ordinance Introduction (continued)

CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 4.72 ACRES, MORE OR LESS” filed on behalf of Justice Boyz Properties, LLC.

Mr. Vincent introduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-2 BUSINESS COMMUNITY DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 4.86 ACRES, MORE OR LESS” filed on behalf of Samuel J. Petersheim and Glenda G. Petersheim.

Mrs. Green introduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN MR MEDIUM RESIDENTIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.53 ACRES, MORE OR LESS” filed on behalf of James Yerkie, II.

Mr. Hudson introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A NAIL SALON BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.55 ACRE, MORE OR LESS” filed on behalf of Tayra Trinidad.

Mr. Hudson introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A RESTAURANT AND FARMERS MARKET TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 71.3 ACRES, MORE OR LESS” filed on behalf of H & M Johnson Farms, LLC.

The Proposed Ordinances will be advertised for a public hearing.

**CC
Comments**

There were no Council Member comments.

**M 473 24
Go Into
Executive
Session**

At 1:25 p.m., a Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to recess the Regular Session and go into Executive Session to discuss matter relating to pending & potential litigation and land acquisition.

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 1:28 p.m. an Executive Session of the Sussex County Council was held in the Basement Caucus Room to discuss matters related to pending & potential litigation and land acquisition. The Executive Session concluded at 1:45 p.m.

M 474 24 Reconvene At 1:48 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley to come out of Executive Session back into Regular Session.

Motion Adopted: 3 Yeas, 2 Absent

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

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

Rules Mr. Robertson read the rules and procedures for Public Hearings.

**Public Hearing/
CU2522** A Public Hearing was held on a Proposed Ordinance entitled “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” (property 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]) (911 Address: 14326 Cart Branch Road, Greenwood) (Tax Map Parcel: 530-14.00-17.00) filed on behalf of Delaware Electric Cooperative.

Mr. Robertson left the room; Mr. Rutt stepped in to assist with the hearing.

The Planning & Zoning Commission held a Public Hearing on the application on August 7, 2024. At the meeting of August 21, 2024, the Planning & Zoning Commission recommended approval of the application for the 8 reasons stated and subject to the 3 recommended conditions as outlined.

Jamie Whitehouse, Planning & Zoning Director presented the application.

The Council found that Ms. Dana Dunphy from Century Engineering was present on behalf of the Applicant Delaware Electric Cooperative (DEC); that the application is to allow DEC to expand their headquarters site located on Cart Branch Road; that they are proposing two new buildings with gravel and asphalt paving; that they are aware of the conditions given by the Planning & Zoning Commission.

There were no public comments.

The Public Hearing and public record were closed.

**M 475 24
Adopt
Ordinance
No. 3039/
CU2522**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to Adopt Ordinance No. 3039 entitled “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” for the reasons and conditions given by the Planning & Zoning Commission as follows:

- 1. This conditional use is for the expansion of the Delaware Electric Cooperative’s facility near Greenwood. This is the location of the Cooperative’s headquarters facility, which includes office space, warehouse and storage space, equipment storage, and vehicular parking.**
- 2. Over the years the Cooperative’s service needs and network have expanded as Sussex County has also expanded. As a result, the Cooperative has determined that its headquarters operations must also expand to keep pace with this growth. This conditional use is a reasonable expansion of the existing use at this location.**
- 3. This conditional use for the expansion of the Cooperative’s headquarters is necessary to maintain and improve its electrical operations and service for current and future residents of Sussex County.**
- 4. This location is designated as being within the “Industrial Area” designation on the County Comprehensive Plans Future Land Use Map. The expansion of the Cooperative’s headquarters facility is appropriate in this Area according to the Plan.**
- 5. The Conditional Use to expand the Cooperative’s headquarters facility is of a public nature, and it promotes the health, safety and welfare of the residents of Sussex County.**
- 6. The expansion of the Cooperative’s existing headquarters facility will not adversely affect neighboring properties or roadways.**
- 7. No parties appeared in opposition to this application.**
- 8. This Conditional Use is subject to the following conditions:**
 - a. The perimeter of the site shall be fenced with privacy slats. The location and type of fencing shall be shown on the Final Site Plan.**
 - b. Any security lighting shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.**
 - c. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

Motion Adopted: 5 Years

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

**Public
Hearing/
CZ2009 &
CU2440**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM-DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (108 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 37.52 ACRES, MORE OR LESS” (property lying on the southeast side of Lighthouse Road [Rt. 54] approximately 0.50 mile northeast of Williamsville Road [S.C.R. 395]) (911 Address: 35090 Lighthouse Road, Selbyville) (Tax Map Parcel: 533-19.00-47.00) filed on behalf of Double H Development, LLC.

The Planning & Zoning Commission held a Public Hearing on the application on July 24, 2024. At the meeting of August 21, 2024, the Planning & Zoning Commission recommended approval of the application for the 11 reasons stated and subject to the 18 recommended conditions as outlined.

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN MR MEDIUM RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 37.52 ACRES, MORE OR LESS” (property lying on the southeast side of Lighthouse Road [Rt. 54] approximately 0.50-mile northeast of Williamsville Road [S.C.R. 395]) (911 Address: 35090 Lighthouse Road, Selbyville) (Tax Map Parcel: 533-19.00-47.00) filed on behalf of Double H Development, LLC.

The Planning & Zoning Commission held a Public Hearing on the application on July 24, 2024. At the meeting of August 21, 2024, the Planning & Zoning Commission recommended approval of the application for the 7 reasons as outlined.

Jamie Whitehouse, Planning & Zoning Director presented the applications.

The Council found that Mr. David Hutt. Esq., spoke on behalf of the application; that also present was Bobby Horsey, Cliff Mumford with Davis, Bowen & Freidel and Tom Noble, Professional Wetland Scientist; that there is a CVS, McDonald’s, a water tower, Sound United Methodist Church, Breasure’s Auto, Breasure’s carpet store are all in the area of this property; that Bay Knolls and Megee Farms in the area of the property; the property totals 37.5 acres which is currently used for agricultural purposes; that as was indicated, are two applications, a change of zone application seeking to

**Public
Hearing/
CZ2009 &
CU2440
(continued)**

change the designation of that property on the county zoning map from agricultural residential district to the medium density residential district and the second application is a multifamily conditional use application that seeks to have 108 single family homes in a multifamily use, which is a condominium style single family home project; that the 2020 state strategies maps that are promulgated by the Office of State Planning Coordination has the property centered on the image and is primarily within a Level 3 area; that the Office of State Planning Coordination says that growth is anticipated in a Level 3 area; that the property is within the County's growth area; that Table 4.5-2 within Chapter 4 identifies categories on the Future Land Use Map and Zoning Districts that are appropriate; that Chapter 4 states that coastal areas are areas that can accommodate development provided special environmental concerns are addressed, a range of housing types should be permitted in coastal areas, including single family homes, townhomes and multi-family units; that this application certainly would meet that stated permitted purpose; that there is a wide range of various zoning classifications that exist along this area of Route 54; that in addition to all those various zoning classifications, the County Staff Memo identified 29 conditional uses within a one mile radius of this site; that the property that to the East is owned by the Tull family and is in an agricultural preservation easement; that this easement has been designated as the Country Rooster expansion of the Williamsville District.

Mr. Cliff Mumford an engineer with Davis, Bowen & Friedel spoke on behalf of the application; that the property has frontage along Lighthouse Road to the north, Route 54; that there are two DNREC tax ditches; that the Peach Creek Main defines the southern property boundary with an 80-foot right of way; that the western boundary follows the edge of the woods line and runs adjacent with Americana Bayside Melson and there is a right away with Lighthouse Road that completes the loop around the property boundary; that there is approximately 8.3 acres of existing woods with the hatched area inside the woods that are the wetlands that were delineated by Tom Noble; that those wetlands are not classified as resources as defined by Sussex County Code because they are not contiguous to tidal waters or wetlands, and they do not include a surface water connection to adjacent wetlands; that the proposed neighborhood will have an entrance on Lighthouse Rd. (Route 54), which is classified as a major collector roadway by DelDOT; that Lighthouse Rd. includes 12 foot travel lanes and eight foot shoulders, which meets DelDOT standards for a major collector; that the entrance has been sighted to align with New Road which intersects Lighthouse Road from the North; that left and right turn lanes will be provided into the site along with a left turn lane onto New Road based on DelDOT's requirements; that regarding their due diligence with DelDOT, they have submitted an SLER to which they responded that the development site traffic would have a minor impact on area roadways and the project is eligible to pay an area wide study fee in lieu of performing a TIS; that the project is not within a TID; that a presubmittal meeting was held with DelDOT on June 10, 2024; that an area wide study fee memo was issued by DelDOT on June 25, 2024; that at the

**Public
Hearing/
CZ2009 &
CU2440
(continued)**

entrance, a 10 foot wide shared use path will be along the property frontage; that the closest house will be 70 feet from the right of way of Route 54, and all but two houses at the entrance are greater than 100 feet from any adjacent property lines; that the internal streets will include concrete, curb and gutter and a closed drainage system, 5 foot wide sidewalk on both sides of the streets; that the road and drainage will be designed to meet the requirements of the Sussex County Engineering Department and will be subject to their review and approval; that a Community Center with a square footage of at least 2,000 square feet and a pool with a minimum water surface area of 1,000 square feet; that the tax ditch's proposed alignment will relocate the Perch Creek Prong 4 tax ditch and it will connect to Perch Creek Main tax ditch; that the tax ditch right of ways will be maintained by a DNREC tax ditch section in a meadow like manner; that no structures are proposed within the tax ditch right of ways other than the stormwater outfall pipes; that the western boundary the project proposes a 30 foot landscape and wooded buffer in areas where one does not already exist; that the western boundary line is existing woods which will remain and supplement that existing woods line with a 30 foot landscape buffer to the right away or the permanent easement; that 5.5 acres will be preserved, which represents roughly 65% of the existing woods; that the wooded wetlands will not be impacted and a 30 foot voluntary buffer will be provided around them; that open space provided throughout the site includes amenity areas, existing woods, voluntary landscape and wetlands buffers, tax ditch right of ways and stormwater areas that total roughly 18 acres or 49% of the site; that stormwater management will be provided to meet the requirements of Sussex Conservation District; that the project is in tier one of the Sussex County Unified Sanitary Sewer District and they issued a sewer service concept evaluation to demonstrate capacity and provide a connection point near the entrance for sanitary sewer; that's there's an existing gravity sanitary sewer manhole in this location at our entrance that will connect to water service which will be provided by Artesian water company and electricity will be provided by Delaware Electric Cooperative; that the project was presented to PLUS on February 7, 2023; that an environmental assessment and public facility report is included in the booklet provided.

Mr. David Hutt stated that the change of zone application to the MR medium density residential district is the nature and character of this area and multifamily dwellings are a conditional use within the MR district; that the purpose of a conditional use as it's set forth in the code is to provide items that are of public or semipublic character that are essential and desirable for the general convenience and welfare of the county and then being able to place certain limitations and conditions on those; that the density that's proposed is slightly lower than those neighboring, with 108 units, is 2.89 units per acre; that Americana, Bayside, the density is 3.35 units to the acre and that excludes the apartments and the Americana Melson portion of it, the density of that is 3.67 units to the acre, and Bay Knolls community has a density of 3.87 units to the acre; that the Bay Knolls project came in four separate applications at two different time periods; that in January of 2020,

**Public
Hearing/
CZ2009 &
CU2440
(continued)**

County Council adopted Ordinance No. 2700 which adopted CZ1986 and CU2197 was adopted by Ordinance No. 2701; that was for the first 13 acres of the Bay Knolls future community; that in September of 2021, County Council adopted Ordinance No. 2803 and Ordinance No. 2804 which is CZ1945 and CU2292 for about 8 acres of the site; that those applications are identical to the pair of applications being presented today; that the Comprehensive Plan discusses when medium and higher density are appropriate; that four of the factors for higher density is appropriate include when there is central water and sewer, need a significant number of commercial uses and employment centers, whether or not it is keeping in character of the area, whether it is situated along a main road or near a major intersection; that the property is bordered by two tax ditches along the eastern and southern boundary; that there are significant tax ditch right of ways that exist; that the tax ditch on the eastern boundary has a 80-foot right-of-way from the top of bank; that a voluntary 30-foot buffer will be provided around the wetlands; that this type of planning that the Comprehensive Plan had in mind when discussing Coastal Areas; that there would be a condominium association for the operation and maintenance of the Community properties and amenities; that what's proposed is that the tax ditch right of ways be maintained in a Meadow like manner consistent with DNREC's requirements for tax ditches and on the eastern, western and southern boundary it would be your typical 30 foot wide perimeter, wooded or landscape buffer; that the Planning Commission's recommendation of CU2440 conditions contained Conditions A-R; that one of those conditions, Condition B was requested a modification; that the purpose of this modification is to make clarification for when the applicant comes through for final site plan approval; that the concern is that the successful relocation may indicate that the applicant has to physically move that tax ditch as the condition of approval; that the proposed language will make it clear that the applicant has to receive approval from DNREC to relocate it which would allow final site plan be granted by the Planning Commission and then construction will occur.

Public comments were heard.

Mr. Ken Schroyer questioned the layout of the houses.

The Public Hearing and public record were closed.

**M 476 24
Adopt
Ordinance
No. 3040/
CZ2009**

A Motion was made by Mr. Hudson seconded by Mr. Rieley to Adopt Ordinance No. 3040 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN MR MEDIUM RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 37.52 ACRES, MORE OR LESS" the reasons given by the Planning & Zoning Commission as follows:

**M 476 24
Adopt
Ordinance
No. 3040/
CZ2009
(continued)**

- 1. This application seeks a change in zone from AR-1 to MR. The purpose of the MR zone is to provide housing in an area which is expected to become urban in character and where central water and sewer is available. The stated purpose of the MR District is satisfied for this site. Both central water and central sewer will be available, and the site is in the vicinity of other properties with the MR zoning designation and higher density residential developments.**
- 2. The proposed MR Zoning meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County in an appropriate location.**
- 3. The property in the vicinity of a commercially zoned parcel and there are MR-zoned properties in the immediate area. This rezoning is consistent with other zoning and land uses in the area.**
- 4. The site is located within the Coastal Area according to the Sussex County Comprehensive Plan. The Coastal Area is a “Growth Area” according to the Plan. MR Zoning is appropriate in this Area according to the Plan.**
- 5. The Comprehensive Plan suggests that higher densities such as those permitted in the MR District can be appropriate where there is water and sewer available, there are appropriate roadways to handle the density, and there are nearby commercial or employment centers. All of those factors are satisfied with regard to this application.**
- 6. The future residential development of this property will require the review and approval of the site plan by Sussex County, the Sussex Conservation District for stormwater management and design. DelDOT for roadway improvements, DNREC for environmental concerns and other State and local agencies with jurisdiction over the project.**
- 7. For all of these reasons, MR zoning is appropriate for this site.**

Motion Adopted: 5 Years

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

**M 477 24
Amend
Condition B/
CU2440**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to amend Condition B to read “There is an existing tax ditch with a right of way that crosses through the eastern portion of this site. This approval is conditioned upon the Applicant receiving approval from DNREC to relocate that Tax Ditch and its right of way to a location along the boundary of the site as proposed on the Preliminary Site Plan and keeping the relocated Tax Ditch and its right of way entirely within this site and not upon lands of other ownership”.

Motion Adopted: 5 Yeas

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

**M 478 24
Adopt
Ordinance
No. 3041/
CU2440**

A Motion was made by Mr. Hudson seconded by Mr. Rieley to Adopt Ordinance No. 3041 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM-DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (108 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 37.52 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows and as amended by this Council:

- 1. The purpose of the MR zone is to provide housing in an area which is expected to become urban in character and where central water and sewer is available. This conditional use application for multi-family units appearing as single-family structures is in compliance with the purposes of the MR zone.**
- 2. Both central water and central sewer will be available to this site.**
- 3. The property is in the vicinity of other properties with a variety of business, commercial and residential uses. The site is also adjacent to two sections of the Americana Bayside development, being the Melson Property at 3.67 units per acre and Phase 4 and 6B at 3.35 units per acre. Across the road from Americana Bayside is Bay Knolls with a density of 3.87 units per acre. This conditional use at approximately 2.89 units per acre is consistent with other zoning, uses and multi-family developments in the area.**
- 4. The eastern boundary of the Property is adjacent to an Agricultural Easement area that is identified as the “Country Rooster Expansion of the Williamsville District.” No lots are located closer than 100-feet to the Agricultural Easement Area.**
- 5. The Property contains approximately 2.477 acres of non-jurisdictional, non-tidal wetlands all of which shall be protected with a thirty-foot (30’) buffer as shown on the Preliminary Site Plan. The Army Corps of Engineers issued a Non-Permit Required Letter and an Approved Jurisdictional Determination for the Property on October 12, 2023.**
- 6. Environmental Resource Insights and Davis Bowen & Friedel, Inc. completed a review of the Property pursuant to Section 115-193 of the County Zoning Code and determined that the Property does not contain “Resources” as defined by the County Code that require a Resource Buffer Management Plan. In addition, an Environmental Assessment has been provided as part of the application materials.**

**M 478 24
Adopt
Ordinance
No. 3041/
CU2440
(continued)**

- 7. DelDOT has reviewed the proposed project and has determined that the development's traffic impact will be Minor. When DelDOT determines that traffic impact will be minor, a project is eligible to pay an Area Wide Study Fee instead of obtaining a Traffic Impact Study. Paying this fee does not eliminate the developer's obligation to construct or pay for offsite road improvements that are required by DelDOT.**
- 8. As shown on the Preliminary Site Plan, approximately 18 acres, or 49% of the site, will remain as open space. Within that open space, approximately 5 acres or 65% of the existing woodlands will also be preserved.**
- 9. The proposed multi-family conditional use meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County in an appropriate location.**
- 10. The proposed use is consistent with the County's Comprehensive Land Use Plan. It is in the Coastal Area according to the Plan, which is a Growth Area. The Plan states that medium and higher densities can be appropriate where, like here, there are features such as central water and sewer and nearby commercial uses and employment centers. The Plan also states that a range of housing types should be permitted in the Coastal Area, including single family homes, townhouses and multifamily units.**
- 11. There is no evidence that this project will adversely affect the neighboring properties, area roadways or community facilities.**
- 12. This recommendation is subject to the following conditions:**
 - a. There shall be no more than 108 Units within the development.**
 - b. There is an existing tax ditch with a right of way that crosses through the eastern portion of this site. This approval is conditioned upon the Applicant receiving approval from DNREC to relocate that Tax Ditch and its right of way to a location along the boundary of the site as proposed on the Preliminary Site Plan and keeping the relocated Tax Ditch and its right of way entirely within this site and not upon lands of other ownership.**
 - c. All entrances, intersections, roadways and multimodal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's determination.**
 - d. The active recreational amenities for the project shall include a community center/clubhouse with a minimum square footage of 2,000 square feet and a pool with a minimum water surface area of 1,000 square feet. Both of these amenities shall be completed in compliance with Section 115-194.5 of the Zoning Code.**
 - e. Central sewer shall be provided to the development by Sussex County. The developer shall comply with all requirements and specifications of the Sussex County Engineering Department.**
 - f. The development shall be served by a central water system providing adequate drinking water and fire protection as required by applicable regulations.**

**M 478 24
Adopt
Ordinance
No. 3041/
CU2440
(continued)**

- g. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements, and the project shall utilize Best Management Practices to construct and maintain these fixtures. The Final Site Plan shall contain the approval of the Sussex Conservation District.**
- h. Interior street design shall comply with or exceed Sussex County standards. In addition, there shall be sidewalks on both sides of all streets with interconnection between the sidewalks and DelDOT-mandated multi-modal paths.**
- i. Road naming and addressing shall be subject to the review and approval of the Sussex County Geographical Information Office.**
- j. The Applicant shall consult with the local school district's transportation manager to determine if a school bus stop is appropriate. The location of such a bus stop shall be shown on the Final Site Plan.**
- k. A forested and/or vegetated buffer strip that is at least thirty feet wide shall be maintained or installed along the western boundary of the property except where it would interfere with the right-of-way for the Perch Creek Main tax ditch. This buffer shall utilize existing forest or similar vegetation where it exists. Where trees currently exist in the buffer area, stump removal or construction activities that disturb the existing grade of the area within the buffer shall be prohibited. The tax ditch rights-of-way shown on the Preliminary Site Plan shall be maintained in a meadow-like manner consistent with DNREC's requirements for tax ditches. Along the western boundary and when adjacent to trees, silt fencing shall be located at least 10 feet from the interior limit of the buffer area (the edge of the buffer nearest the interior development) and the Final Site Plan shall identify this "Limit of Disturbance" to prevent disturbance of the buffer area. Signage identifying this perimeter buffer as a "non-disturbance area" shall be installed along the buffer at 300-foot intervals.**
- l. Approximately 49% of the site shall remain as open space, which shall include the preservation of approximately 65% of the existing woods on the site.**
- m. Construction, site work, and deliveries shall only occur on the site between the hours of 7:00 a.m. through 6:00 p.m., Monday through Friday and between 8:00 a.m. and 2:00 p.m. on Saturday. No Sunday hours are permitted. A 24-inch by 36-inch "NOTICE" sign confirming these hours in English and Spanish shall be prominently displayed at the site entrance during construction.**
- n. The Final Site Plan shall include a landscape plan for the development showing the proposed tree and shrub landscape design, including the buffer areas and the woodlands that must be preserved.**
- o. The Applicant shall form a Condominium Association that shall be responsible for the maintenance of all interior roadways and**

**M 478 24
Adopt
Ordinance
No. 3041/
CU2440
(continued)**

parking areas, buildings, buffers, stormwater management areas, recreational amenities and open space.

- p. All lighting on the site shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.**
- q. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.**
- r. The Final Site Plan shall depict or note these conditions of approval and it shall be subject to the review and approval of the Sussex Planning & Zoning Commission.**

Motion Adopted: 5 Years

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

**Public
Hearing/
CU2518**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AMEND CONDITION A OF ORDINANCE NO. 2853 TO ALLOW FOR A CONVENIENCE STORE WITH FUELING STATIONS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 2.98 ACRES, MORE OR LESS” (property lying on the southeast side of John J. Williams Highway [Rt. 24], on the southwest side of Mulberry Knoll Road [S.C.R. 284], and the southeast corner of the intersection of John J. Williams Highway [Rt. 24] and Mulberry Knoll Road [S.C.R. 284]) (911 Address: N/A, Rehoboth Beach) (Tax Map Parcel: 334-12.00-108.00) filed on behalf of V&M, LLC.

The Planning & Zoning Commission held a Public Hearing on the application on July 24, 2024. At the meeting of July 24, 2024, the Planning & Zoning Commission recommended approval of the application for the 6 reasons stated and subject to the recommended revised condition as outlined.

Jamie Whitehouse, Planning & Zoning Director presented the application.

The Council found that Mr. Zach Crouch, of Davis, Bowen & Friedel, spoke on behalf of the applicant that the application is a revision to Condition A of Ordinance 2853, which was approved on May 17, 2022; that the Planning Commission recommended approval with 10 conditions on April 28, 2022; that they went before County Council on May 17, 2022, and the same conditions were approved; that the request is to increase the square footage of the convenience store; that currently, the convenience store is approved to be 5,000 square feet along with an office building of 12,000 square feet; that they are requesting an amendment to Condition. A, to increase the

convenience store from 5,000 square feet to 5,915 square feet, and to remove the 12,000 square foot office building; that they have received site plan approval.

There were no public comments.

The Public Hearing and public record were closed.

**M 479 24
Adopt
Ordinance
No. 3042/
CU2518**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to Adopt Ordinance No. 3042 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AMEND CONDITION A OF ORDINANCE NO. 2853 TO ALLOW FOR A CONVENIENCE STORE WITH FUELING STATIONS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 2.98 ACRES, MORE OR LESS” for the reasons and revised condition as given by the Planning & Zoning Commission as follows:

1. This application seeks an amendment to Condition A of Ordinance No. 2853, which permitted a convenience store with fueling stations and a separate office building. Condition A limited the size of the convenience store to 5,000 square feet and the office building to 12,000 square feet.
2. The existing Conditional Use has received preliminary and final site plan approval.
3. The applicant seeks to delete the office building from the conditional use, but increase the size of the convenience store to 5,915 square feet, or 915 feet more than what is currently permitted under Condition A.
4. Because this is an overall reduction in the intensity of the uses on this property, it is an appropriate amendment to Ordinance No. 2853 and it will lessen any impact of the use on area roadways and nearby properties and uses.
5. For all of these reasons, Condition A of Ordinance No. 2853 should be amended to state, “A. The use shall be for a convenience store that does not exceed 6,000 square feet in size with fueling stations.”
6. The Final Site Plan shall be amended to reflect this amendment.

Motion Adopted: 5 Yeas

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

**Public
Hearing/
CZ2008**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-2 BUSINESS COMMUNITY DISTRICT FOR A

**Public
Hearing/
CZ2008
(continued)**

CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.50 ACRE, MORE OR LESS” (property lying on the east side of Muddy Neck Road [S.C.R. 361], at the intersection of Muddy Neck Road [S.C.R. 361] and Butler Boulevard, approximately 200 feet north of Parker House Road [S.C.R. 362]) (911 Address: 37985 Muddy Neck Road, Ocean View) (Tax Map Parcel: 134-17.00-6.00) filed on behalf of DTN Properties, LLC.

The Planning & Zoning Commission held a Public Hearing on the application on July 24, 2024. At the meeting of August 21, 2024, the Planning & Zoning Commission recommended approval of the application for the 8 reasons as outlined.

The Council found that Ms. Mackenzie Peet, of Saul Ewing, spoke on behalf of the applicant; that the applicant received a recommendation of approval from the Planning & Zoning Commission; that this a request to rezone 1/2-acre property designated as tax parcel 134-17.00-6.00 from AR-1 to B-2; that currently there is a produce market located on the site that has been operating since 1968; that the family has continued to operate the market at the site since their purchase in 2019, and they have a couple of satellite vendor stands, one location on Route 26 and one at Middlesex Beach; that they are looking to expand current offerings; that this is consistent with what is happening within the area; that it is located just outside of the Town of Ocean View; that it is located near the intersection of Muddy Neck Road and Route 26; that there are many uses in the area; that there were 219 letters of support submitted into the record; that currently, they are limited to produce; that they are looking to expand the offerings; that this will not affect the parking.

There were no public comments.

The Public Hearing and public record were closed.

**M 480 24
Adopt
Ordinance
No. 3043/
CZ2008**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to Adopt Ordinance No. 3043 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-2 BUSINESS COMMUNITY DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.50 ACRE, MORE OR LESS” for the reasons given by the Planning & Zoning Commission as follows:

- 1. This property has been in use as a produce market since 1968. It is grandfathered for that use but is limited to produce and farm products. The Applicant has sought a B-2 Zoning to allow the sale of additional items such as meats, cheeses, seafood and other products.**
- 2. B-2 Business Community Zoning is designed to allow office, retail shopping and personal service uses that serve a relatively small area, including low density and medium density neighborhoods.**

**M 480 24
Adopt
Ordinance
No. 3043/
CZ2008**

- 3. The site is in the Coastal Area according to the current Sussex County Comprehensive Plan.B-2 zoning, and the uses permitted in that District are appropriate in the Coastal Area according to the Plan.**
- 4. This location is centrally located in an area that contains a lot of existing and new low-and medium-density residential development. It will provide a convenient location for B-2 uses on a property that has been used as a market for decades.**
- 5. The rezoning will not adversely affect area roadways or traffic.**
- 6. The rezoning will also not adversely affect nearby properties or property values.**
- 7. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity and welfare of the County.**
- 8. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.**

Motion Adopted: 5 Yeas

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

**M 481 24
Adjourn**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to adjourn at 2:58 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.}

ENGINEERING DEPARTMENT

MIKE HARMER, P.E.
SUSSEX COUNTY ENGINEER

(302) 855-7370 T

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mike.harmer@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.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, Retired

DATE: September 17, 2024

RE: *Lochwood Community Area Unified Sewer District Expansion Project
A. Change Order No. 2*

In October of 2018 the Lochwood Property Owners Association requested the County distribute a polling letter. The responses to the polling letter being favorable the Engineering Department conducted a public hearing on September 7, 2019. The results were presented to County Council on September 17, 2019, and Council voted to extend the Unified Sanitary Sewer District.

On May 14, 2020, the Preliminary Engineering Report and the Environmental Information Documents were combined with the overall funding application prepared by the Finance Department and filed with USDA/Rural Development for \$8,440,000. On May 21, 2021, the County accepted the letter of conditions and on May 24, 2021, approved the obligating documents associated in the loan amount of \$4,723,000 and \$3,717,000 of grant funding.

On June 15, 2021, Council approved the USDA Loan Resolution and introduction of the debt ordinance authorizing the issuance of up to \$4,287,000 of general obligation bonds which was approved on July 13, 2021. On September 19, 2023, the Engineering & Finance Department submitted a supplemental funding request to USDA/Rural Development for \$844,000.00.

On May 14, 2019, County Council awarded a five (5) year base contract for miscellaneous engineering services to Davis, Bowen & Friedel, Inc. (DBF) Since then, Council has approved five amendments for various projects, as well as a standalone agreement for the Ellendale Water District. The Engineering Department determined that DBF was the most suitable on-call firm to implement the design of the project. On October 26, 2021, Council authorized the agreement for the Lochwood sewer area expansion design project in the not to exceed amount of \$179,850.00. In the spring of 2023, the Department requested DBF to revise the agreement to include construction phase services. On July 25, 2023, with the construction awarded, Council approved the revised, all-inclusive agreement in the not to exceed amount of \$554,000.00.



Invitations to Bid were advertised, five (5) contractors attended the pre-bid meeting on March 29, 2023, and on April 19, 2023, four (4) bids were received. All bids were significantly higher than the available funding. The Engineering Department debriefed the contractors and concluded that several value engineering options could be incorporated in a rebid. One of the recommendations was to break out the scope in two contracts with the piping under contract A and the vacuum station under contact B. On May 16, 2023, Council rejected all bids and approved the contract be value engineered and rebid.

Invitations for the Re-Bid were advertised, four (4) contractors attended the pre-bid meeting on June 21, 2023, and on July 7, 2023, four (4) bids were received. Lindstrom Excavating submitted the lowest bid of \$5,749,640.00 for Construction Contract A and on July 25, 2023 Council awarded Contract A to Lindstrom Excavating, Inc.

The only bidder for Contract B was Chesapeake Turf in the amount of \$1,809,470.00 and their bid was higher than the average bids for this scope item from the original bid. Therefore, Council rejected Chesapeake Turf's bid and authorized the pursuit of a pre-purchase agreement for the equipment. After the \$417,000.00 purchase order for the AirVac equipment was issued on August 15, 2023, the Engineering Department requested a change order for the building and equipment installation from Lindstrom Excavating.

The vacuum station was included in the first round of Lochwood bidding and resulted in a four-bid average of \$1,631,682.25 (bid item 3) not including a portion of the mobilization (bid item 1). The rebid amount was \$1,809,470.00 and Lindstrom change order proposal was \$1,221,350.00. This approach allowed the County (i) to provide competitive pricing below the average cost during the first round of bidding and (ii) advance the supplemental funding request in federal FY 23 for <10% of original budget.

Change Order No. 1 for Lindstrom Excavating in the amount of \$1,221,350.00, for award of the building portion of the Lochwood Project was approved on September 26, 2023.

In Mid-August, Lindstrom Excavating performed test pits in preparation for the excavation of the most challenging section of vacuum mains on Lake Shore Drive next to Burton Pond. They encountered ground water table elevations were one to two feet higher than anticipated, based on the 2022 Geotechnical Report. The approved design called for 8-foot deep set sectional vacuum pits along Lake Shore Drive. Due to the high groundwater conditions the installation will require dewatering under a DNREC permit. The entire project area is in the groundwater management zone of the County's legacy landfill prohibiting groundwater extraction.

This led to a discussion of this subject between the contractor and the Department. The proposed solution was to return fifteen (15) of 8-foot deep set sectional vacuum pits and purchase 15 of the 6-foot one-piece units. The attached documentation details the additions and deletions. Lindstrom Excavating agreed, in the spirit of cooperation, to waive any of the contractually allowed mark-ups bringing the total price increase under Change Order No. 2 to \$8,907.18. The Engineering Department recommends approval of Change Order No. 2 in said amount, contingent upon USDA concurrence.

CHANGE ORDER NO.: 2

Owner:	Sussex County Engineering	Owner's Project No.:	S22-07
Engineer:	Davis, Bowen & Friedel, Inc.	Engineer's Project No.:	1897B023.A01
Contractor:	Lindstrom Excavating Inc.	Contractor's Project No.:	
Project:	Lochwood Sewer Expansion Project		
Contract Name:			
Date Issued:	August 7, 2024	Effective Date of Change Order:	August 20, 2024

The Contract is modified as follows upon execution of this Change Order:

Description:

Return 15 of the 8-foot two-piece units for 15 of the single piece 6-foot units.

- Reduce the AirVAC PO from 23 valves to the new quantity to 8. (-\$29,100 plus sales tax \$1,746 = \$30,846)
- The 15 returned pits (8', 2-piece), minus the 20% restocking fee, will be a credit of \$36,900 (plus sales tax \$2,214.00 = \$39,114)
- The 15 replacement (6.5', 1-piece) pits (currently in-stock), plus the additional spares and special tools, will be \$74,403 (this includes shipping but not sales tax... which is \$4,464.18 = \$78,867.18).
- \$78,867.18 - 39,114.00 - 30,846.00 = \$ 8 ,907.18

This amount constitutes a net change without Contractor mark-up and associated freight costs.

Attachments:

Original AirVac quotations and email

Change in Contract Price	Change in Contract Times
Original Contract Price: \$ 5,749,640.00	Original Contract Times: Substantial Completion: 330 Ready for final payment: 360
Increase from previously approved Change Orders No. 1 to No. 1: \$ 1,221,350.00	Increase from previously approved Change Orders No.1 to No. 1: Substantial Completion: 90 Ready for final payment: 90
Contract Price prior to this Change Order: \$ 6,970,990.00	Contract Times prior to this Change Order: Substantial Completion: 420 Ready for final payment: 450
Increase this Change Order: \$ 8,907.18	Increase this Change Order: Substantial Completion: 0 Ready for final payment: 0
Contract Price incorporating this Change Order: \$ 6,979,897.18	Contract Times with all approved Change Orders: Substantial Completion: 420 Ready for final payment: 450

Recommended by Engineer

Accepted by Contractor

By: As W Lher

[Signature]

Title: Principal

President

Date: 08/22/2024

8/22/2024

Authorized by Owner

Approved by Funding Agency

By: _____

Title: _____

Date: _____

On Thursday, August 15, 2024, 5:06 PM, Wilson, Adam <adam.wilson@airvac.com> wrote:

Kyle,

I'm sorry for the delay at getting this request to you. We've been dealing with IT upgrades / issues here the last couple of days.

I'm going to do my best to make things as clear as possible:

- Airvac change order for the 23 valves and breathers on the current PO, reducing the new quantity to 8. (-\$29,100 plus sales tax \$1,746 = \$30,846)
- The 15 returned pits (8', 2-piece), minus the 20% restocking fee, will be a credit of \$36,900 (plus sales tax \$2,214.00 = \$39,114) You will also be responsible for return freight from DE to Airvac.
- The 15 replacement (6.5', 1-piece) pits (currently in-stock), plus the additional spares and special tools, will be \$74,403 (this includes shipping but not sales tax... which is \$4,464.18 = \$78,867.18).

$\$78,867.18 - 39,114.00 - 30,846.00 = \$8,907.18$

The difference to exchange the pits is **\$8,907.18** (plus freight from DE to Airvac).

The spares (1 each) are:

TOOLAP – Sump Breather and Suction Pipe Installation / Removal Tool

APTESTPLUG – Sump Breather Test Plug

AVV3RBK – Sump Breather Rebuild Kit

ASP-D – Surge Suppressor

AP2040 – Gasket for Suction Pipe

AP2041 – Gasket for Sump Breather

AP2043 – 3" Seal for Service Lateral

AP2044 – Seal for Cover Frame

AP2051 – Suction Pipe for 6.5" One-Piece Pit

LUB-PIPE – Lubrication for One-Piece Seals, Suction Pipe, and Sump Breather (1 gal. pail)

Sincerely,

Adam Wilson

Project Manager

Main: +1 574-208-5912

Cell: +1 574-835-0557

Email: adam.wilson@airvac.com

Airvac, Inc.
 4217 N. Old US Highway 31
 Rochester, IN 46975
 Tel# 574.223.3980
 Tax ID#:35-2749561



Sold-to address

Lindstrom Excavating Contractors
 25820 Still Pond Neck Rd.
 Worton MD 21678-1523

Ship-to address

Lindstrom Excavating Contractors
 UNKNOWN AT THIS TIME

Quotation
Number/Date 20138598 / 08/15/2024
Reference no./Date
Sold-To 10028692
Validity period 08/15/2024 to 12/29/2024
Sales person name North East
Entered by Julie Kotterman

We deliver according to the following conditions:

Currency USD

Terms of payment: Within 30 days without deduction

Terms of delivery: CIP ???

LOCHWOOD
 CASTINGS NOT INCLUDED AS CASTING ON SITE WILL BE USED
 FREIGHT INCLUDED TO JOBSITE

Item	Material Description	Qty	UoM	Price	Value
000010	VP4830WTB VALVE/BREATHER - 1PC 6.5' PIT	15.000	EA	1,985.00 USD	29,775.00
000020	VP4830WTA 1 PC PIT PACK, 6.5'	15.000	EA	2,877.00 USD	43,155.00
000030	TOOLAP 1PC PIT BREATHER/SP TOOL	1.000	EA	199.00 USD	199.00
000040	APTESTPLUG BREATHER TEST PLUG FOR 1PC PIT	1.000	EA	169.00 USD	169.00
000050	AVV3RBK AVV3 SUMP BREATHER REBUILD KIT	1.000	EA	23.00 USD	23.00
000060	ASP-D 'E' MODEL SURGE SUPPRESSOR	1.000	EA	52.00 USD	52.00

Item	Material Description	Qty	UoM	Price	Value
000070	AP2040 SEAL, FOR AP SUCTION PIPE	1.000	EA	27.00 USD	27.00
000080	AP2041 SEAL, FOR AP BREATHER UNIT	1.000	EA	43.00 USD	43.00
000090	AP2043 O-RING SEAL, FOR AP OUTLET PIPE	1.000	EA	27.00 USD	27.00
000100	AP2044 U-SEAL, FOR TOP OF PE PIT	1.000	EA	37.00 USD	37.00
000110	AP2051 SUCTION PIPE FOR 6-1/2 FT. PIT	1.000	EA	104.00 USD	104.00
000120	LUB-PIPE 8# PAIL, 3005 LUBRICANT	1.000	EA	322.00 USD	322.00
000130	AVV3-ASM-1 SUMP BREATHER FOR 6.5' 1PC PIT	1.000	EA	367.00 USD	367.00
000140	AVV3-PB INTERNAL BREATHER PARTS BAG	1.000	EA	103.00 USD	103.00
Items total					74,403.00
Tax Jur Code Level 1		6.000	%	74,403.00	4,464.18
Final amount					78,867.18

Airvac, Inc. on behalf of its designated affiliates and subsidiaries (such term shall include any subsidiary, division or affiliate of Airvac, Inc. as designated [hereinafter Airvac]) will furnish requested equipment, materials or service (hereinafter Goods) to buyer. Such provision shall be governed by Airvac's terms and conditions published at: www.airvac.com/en/terms-and-conditions and/or that are forwarded with the order request [hereinafter Terms]. These Terms shall control and govern all transactions between Buyer and Airvac, whether under subsequent verbal and/or written requests, unless subject to an express, duly executed agreement which is not a pre-printed form) for the particular subject matter effective either upon buyer signing the Terms or order confirmation or quote, or upon Airvac shipping the Goods or otherwise commencing performance, whichever occurs first. The Terms, together with the specifications, drawings and other requirements specified, constitutes the entire agreement between the parties, and all prior negotiations are proposals related thereto are superseded and of no effect. Any written confirmation by buyer containing additional or different terms from the Terms shall be of no effect, unless Airvac expressly agrees, in writing, to such additional or different terms.

Airvac, Inc.
4217 N. Old US Highway 31
Rochester, IN 46975
Tel# 574.223.3980
Tax ID#:35-2749561



Sold-to address

Lindstrom Excavating Contractors
25820 Still Pond Neck Rd.
Worton MD 21678-1523

Ship-to address

Lindstrom Excavating Contractors
25820 Still Pond Neck Rd.
Worton MD 21678-1523

Repeat printout

Quotation for return of items	
Number/Date	20138587 / 08/15/2024
Reference no./Date	
Sold-To	10028692
Validity period	08/15/2024 to 12/29/2024
Sales person name	North East
Entered by	Julie Kotterman

We deliver according to the following conditions:

Currency USD

Terms of payment: Within 30 days without deduction

Terms of delivery: CIP ???

ITEMS POSSIBLY BEING RETURNED

COMPONENTS FOR 8' PITS 2PC

CUSTOMER WILL ARRANGE & PAY FOR SHIPPING BACK TO AIRVAC

QC DEPT WILL ACCESS RETURNED ITEMS AND ADVISE WHETHER THEY CAN BE RETURNED TO STOCK AND CREDIT TO BE ISSUED.

**REGARDING THE VALVES AND BREATHERS, NOT YET SHIPPED, WE NEED A CHANGE ORDER FROM LINDSTROM DUE TO THE THE QUANTITY REDUCTION.

Item	Material Description	Qty	UoM	Price	Value
000005	NS NON-STOCK PART 960000009 - 8 Ft. - Non-Insulated items listed below make up the above	15.000	EA	3,075.00 USD	46,125.00

Item	Material Description	Qty	UoM	Price	Value
000010	VPC-NG VP W/3" & 1/8" HOLE - NO GROM	15.000	EA	USD	
000020	SP54 3" SUCTION PIPE FOR 54" TANK	15.000	EA	USD	
000030	CS24-54 CLNOUT/SENSOR PIPE FOR 54"TANK	15.000	EA	USD	
000040	GROM3B GROMMET, 3" WITH .55 GAP	30.000	EA	USD	
000050	PVC6PLUGTEMP 6" PIPE TEMPORARY PLUG	15.000	EA	USD	
000060	FIBABC ANTI-BUOYANCY COLLAR FRP RESIN	15.000	EA	USD	
000070	GROM4B GROMMET, 4" WITH .55 GAP	15.000	EA	USD	
000080	960100000 54" PE TAPERED SUMP/7IN HOLE	15.000	EA	USD	
000090	GROM6B GROMMET, 6" WITH .55 GAP	15.000	EA	USD	
000100	NS NON-STOCK PART 20% RESTOCKING FEE	1.000	EA	-9,225.00 USD	-9,225.00
Items total					36,900.00
Tax Jur Code Level 1		6.000	%	36,900.00	2,214.00
Final amount					39,114.00

Airvac, Inc. on behalf of its designated affiliates and subsidiaries (such term shall include any subsidiary, division or affiliate of Airvac, Inc. as designated [hereinafter Airvac]) will furnish requested equipment, materials or service (hereinafter Goods) to buyer. Such provision shall be governed by Airvac's terms and conditions published at: www.airvac.com/en/terms-and-conditions and/or that are forwarded with the order request [hereinafter Terms]. These Terms shall control and govern all transactions between Buyer and Airvac, whether under subsequent verbal and/or written requests, unless subject to an express, duly executed agreement which is not a pre-printed form) for the particular subject matter effective either upon buyer signing the Terms or order confirmation or quote, or upon Airvac shipping the Goods or otherwise commencing performance, whichever occurs first. The Terms, together with the specifications, drawings and other requirements specified, constitutes the entire agreement between the parties, and all prior negotiations are proposals related thereto are superseded and of no effect. Any written confirmation by buyer containing additional or different terms from the Terms shall be of no effect, unless Airvac expressly agrees, in writing, to such additional or different terms.

ENGINEERING DEPARTMENT

MIKE HARMER, P.E.
SUSSEX COUNTY ENGINEER

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mike.harmer@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.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, Retired

RE: *Artesian Wastewater Management, Inc.*
A. Bulk Wastewater Services Agreement – Addendum No. 8

DATE: September 17, 2024

In 2016, Sussex County Council started a proactive wastewater infrastructure interconnection process in the service area north of the Indian River Inlet with the goal of “best practice” utility coordination between wastewater service providers avoiding duplication of capital expenditures by utilizing existing sewer transmission and treatment capacity up to its permitted limits. The Council’s efforts resulted in several agreements with other wastewater service providers for the utilization of available, existing wastewater treatment capacity as well as the creation of a regional County biosolids facility.

The approach of allowing the most cost-effective transmission and treatment of wastewater, represented by the tier style service system has been incorporated by ordinance in the County Code, Chapter 110 and the 2018 Sussex County Comprehensive Plan.

The base agreement with Artesian Wastewater Management, Inc. was approved by Council on August 30, 2016. On January 29, 2019, Council approved Addendum No. 1, expanding the exchange to treated effluent under a 4 to 1 ratio between effluent and wastewater. On September 10, 2019, Council approved Addendum No. 2 making the County’s pretested land available for a spare Artesian disposal area in exchange for utilization of Artesian full effluent disposal quantity at the Stonewater Facility up to 450,000 gpd. In addition, it extended the term to twenty-five-years, matching the term at the Wolfe Neck lease with the State.



The physical connection to Artesian’s Stonewater facility was completed and tested in January of 2020. Prior to commencement of the discharge, DNREC requested Artesian to file an authorization to operate, which was submitted on February 11, 2020. In addition, DNREC required a technical memorandum of understanding between the utilities on how to share operational responsibilities which was submitted on February 22, 2020. On July 1, 2020, DNREC issued the modified operations permit. Due to the extended time required to obtain the permit modifications, Council on June 2, 2020, approved Addendum No.3 delaying the required annual true up of flows until the end of fiscal year 2021.

All DNREC operating permits contain general statements about the “source” of the wastewater to be treated such as a specific County sewer district area or a specific subdivision. With all utilities moving towards regionalization of their respective systems this identification is obsolete and DNREC suggested updating the “wastewater” definition in the 2016 Bulk Wastewater Services Agreement. On November 10, 2020, County Council approved Addendum No.4 revising the definition accordingly.

In early June 2021, Artesian Wastewater Management, Inc. submitted a letter outlining their challenges to obtain DNREC construction permits under the State and Federal Covid-19 mandates. The delays in the construction of wastewater infrastructure resulted in difficulties to further interconnect the systems and better balancing of flows between the parties. In response Council approved Addendum No.5, extending the true up until the end of fiscal year 2022.

The Delaware Coastal Business Park, as well as the entities located at the Coastal Airport along Rudder Lane, currently received wastewater treatment services from the Town of Georgetown under a May 15, 2018 agreement. Given the limited availability of municipal sewer capacity, it had an allowance for the surrender of capacity under Article VIII by redirecting it to alternate wastewater service provider with twelve (12) months prior notice.

In the summer of 2018, the Town and County Councils approved an addendum to the Agreement regarding the potential capacity surrender for both parties allowing the Town the option to also gain capacity beyond the County flows without initial capital contribution, while allowing the County to recuperate all capital funds over the life of the investment.

The Engineering Department presented a 3-way Bulk Wastewater Services Agreement with Artesian Wastewater Resources, Inc. providing alternate transmission and treatment at the same metered user rate as the Town of Georgetown. The County would not be subject to any sewer connection charges but instead contribute \$750,000 towards the extension of Artesian’s transmission system. Once the capacity is transferred, it will trigger the issuance of the applicable sewer impact fee credits as set forth in the Town of Georgetown Code at the time of the Notice to Surrender. The 3-way Agreement was approved by Council and the Town and executed in February of 2019.

In late summer of 2021, the Inland Bays RWF experienced significant algae growth in the effluent storage lagoons. Algae causes matting in rapid infiltration systems such as the one utilized by Artesian. Not being able to discharge as much effluent as anticipated further impeded the flow imbalance. Therefore, Artesian suggested the following two actions:

1. Adjustment of the amounts owed by Artesian Wastewater Management, Inc. to Sussex County under the 2016 Bulk Services Agreement for the period from July 1, 2019, through June 30, 2022, by the sum owed by Sussex County under paragraph 3(a) "Connection Fees" of the 2019 3-way Bulk Services Agreement.
2. Approve Addendum No. 6 to the 2016 the Bulk Wastewater Services Agreement with Artesian addressing possible future impairment to the Artesian RIB system(s).

The adjustment actions were approved by Council on June 7, 2022.

In January of 2022, Artesian Wastewater Management, Inc. acquired Tidewater Environmental Services, Inc. of which five (5) systems (Plantations, The Ridings, Bay Front, Retreat & Harts Landing) will be permanently connected to County facilities.

Artesian is constructing the treatment portion of the Sussex Regional Recharge Facility near Milton, which is well equipped to serve the County's needs. The Slaughter Beach and North Ellendale projects will permanently connect to it while the Georgetown airport and business park will permanently connect to Artesian's Beaver Creek facility.

In order to streamline the tracking process, the Engineering Department suggested Addendum No.7, tracking permanently connected EDUs rather than flows which Council approved on July 11, 2023.

The Bulk Wastewater Services Agreement to date addressed the connection of fully built out service areas of either party with the intent of balancing the respective flow contributions. However, if flows from new certificated service areas within the Sewer Tier Areas 3 & 4 were to be connected the County should be receiving the associated Sewer System Connection Charges (SSC) as per County Code. Artesian agreed and the Department developed Addendum No. 8 creating Direct Treatment Customers subject to the County's SCCs in the amount established at the time. The flows associated with that customer class will be subject to the flow balancing requirements. The Engineering Department recommends approval of Addendum No. 8 as presented.

**ADDENDUM NO. 8 TO THE
BULK WASTEWATER SERVICES AGREEMENT
Between
ARTESIAN WASTEWATER MANAGEMENT, INC.
And
SUSSEX COUNTY**

WHEREAS, on August 30, 2016 the parties entered into a Bulk Wastewater Services Agreement (“Agreement”) regarding exchange of Wastewater; and

WHEREAS, on February 7, 2019 the parties signed Addendum No. 1 to the Agreement; and

WHEREAS, on or about September 19, 2019 the parties signed Addendum No. 2 to the Agreement; and

WHEREAS, on or about June 9, 2020 the parties signed Addendum No. 3 to the Agreement; and

WHEREAS, on or about December 10, 2020 the parties signed Addendum No. 4 to the Agreement; and

WHEREAS, on or about July 12, 2021 the parties signed Addendum No. 5 to the Agreement; and

WHEREAS, on or about June 13, 2022 the parties signed Addendum No. 6 to the Agreement; and

WHEREAS, on or about July 11, 2023 the parties signed Addendum No. 7 to the Agreement; and

WHEREAS, both parties desire to further amend the Agreement as set forth herein;

NOW THEREFORE, Sussex County Council (“County”) and Artesian Wastewater Management, Inc. (“Artesian”) agree to further amend the Agreement as follows:

1. By deleting subparagraph e. under Section 2. Purpose in its entirety and replacing it as follows:

- e. On June 30th of each calendar year beginning on June 30, 2017 and ending June 30, 2019, the parties shall exchange all reports of their metered flows for the previous year (July 1 to June 30) measured at the parties’ respective

connection points and compare the annual totals for each party in order to engage in an annual true-up process. Effective July 1, 2019, the parties shall exchange metered flows on a three-year basis, with the first triannual true-up process ending on June 30, 2022. If either party's flows to the other party exceeds 500,000 gallons, then that party shall be responsible for paying for the amount of annual flow exceeding 500,000 gallons at the rate of \$8.00 per thousand gallons, it being understood that the measurement of Effluent flows shall be divided by four (4) for purposes of performing the true-up calculations in accordance with Section 2.c. as amended previously. Such payment shall be made to the other party within thirty (30) days of receiving notice thereof of the amount of such exceedance. Other than the payments required by this subsection 2(e), it is the intention of the parties that this Agreement shall be substantially revenue neutral.

Notwithstanding the foregoing, the parties agree to a permanent equivalent dwelling unit ("EDU") exchange beginning July 1, 2023, as set forth herein. For purposes of determining unmetered flows, an EDU shall be defined as 250 gallons per day (GPD) of wastewater, the characterization of which is approximately that of residential waste generated by single family homes. Each party shall identify its own EDUs that are permanently served by the other party. An EDU tracking document is attached hereto as Exhibit 1. The intent is to maintain a balance of a substantially equal number of EDUs which shall be **excluded** from the flow-based calculations or payments identified in the immediately foregoing paragraph. Every five (5) years, beginning on July 1, 2028, the parties shall review the balance to confirm continued equivalence, defined as +/- 100 EDUs. Should an EDU imbalance occur, the party with more EDUs in the exchange as of the date of the review shall move the excess EDUs (the excess EDUs meaning the number of EDUs over the permissible margin of 100 EDUs) to the flow-based calculations and payments identified in the immediately foregoing paragraph. The payment for such excess EDUs shall be based upon actual flow for metered EDUs and unmetered EDUs shall be calculated at 250 GPD, each for the period from (a) the later of (1) the date the EDUs were added to the EDU exchange and (2) the last review date, to (b) the current review date. Should either party wish to remove EDUs from the EDU exchange, it may do so upon 30 days written notice.

Notwithstanding the foregoing, the parties acknowledge that the flows from certain new residential and commercial Artesian customers will be directly and permanently treated by the County at County facilities. Those customers are herein referred to as "Direct Treatment Customers" and the flows from Direct Treatment Customers are herein referred to as "Direct Treatment Customer Flows". Before Artesian accepts any new Direct Treatment Customers, Artesian and the County shall mutually agree upon and designate such customers as Direct Treatment Customers. The developer of the property for each Direct Treatment Customer shall pay to Artesian the Artesian connection fee and the County Sewer System Connection Charge per EDU determined in accordance with County Code § 110-88 and in the amount established for the fiscal year at the time of connection. Artesian will remit the County Sewer System Connection Charges actually received to the County quarterly. Artesian will retain the Artesian connection fee. Direct Treatment Customer Flows will be subject to the provisions of the first paragraph of this subsection 2(e).

2. All other terms and conditions of the Agreement as previously amended remain unchanged.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties have set their hands and seals the day stated below.

Attest:

ARTESIAN WASTEWATER
MANAGEMENT, INC.

Joseph A. DiNunzio
Joseph A. DiNunzio, Secretary
STATE OF DELAWARE :

By: David B. Spacht (SEAL)
David B. Spacht, President

: SS.

COUNTY OF NEW CASTLE :

BE IT REMEMBERED, that on the 10th day of September, 2024, personally came before me, the Subscriber, a Notary Public for the State and County aforesaid, David B. Spacht, known to me personally to be the President of Artesian Wastewater Management, Inc. and, in that capacity, he executed this Addendum No. 8 To the Bulk Wastewater Services Agreement in his own hand for the corporation.

Crystal Lynn Gibson
Notary Public



Attest:

SUSSEX COUNTY, DELAWARE

Clerk, Sussex County Council

By: _____ (SEAL)
Michael H. Vincent, President

STATE OF DELAWARE :

: SS.

COUNTY OF SUSSEX :

BE IT REMEMBERED, that on the _____ day of _____, 2024, personally came before me, the Subscriber, a Notary Public for the State and County aforesaid, Michael H. Vincent, known to me personally to be the President of Sussex County Council and, in that capacity, he executed this Addendum No. 8 To the Bulk Wastewater Services Agreement in his own hand for the corporation.

Notary Public

Exhibit 1

**Tracking Sheet for Permanent EDU Exchange
Between Sussex County and Artesian Wastewater Management, Inc.**

Sussex County EDUs			Artesian EDUs		
Date Added	EDU Description	Number of EDUs	Date Added	EDU Description	Number of EDUs

List to be reviewed for continued equivalence every five years beginning July 1, 2028.

ENGINEERING DEPARTMENT

JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING & DESIGN REVIEW

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



Sussex County

DELAWARE
sussexcountyde.gov

MIKE HARMER, P.E.
SUSSEX COUNTY ENGINEER

Proposed Woods at Angola Beach Expansion of the Sussex County Unified Sanitary Sewer District

PERMISSION TO POST FACT SHEET

- Expansion of the Sussex County Unified Sanitary Sewer District (Angola Neck Area).
- The Engineering Department has received a request from Mill Brook Engineering, LLC on behalf of their client, Hometown Angola Land, LLC owners of parcel 234-12.00-7.01, adjacent to the existing Angola Neck Area of the SCUSSD.
- Undeveloped land abutting the existing Angola Beach & Estates with (90) lots proposed for this site.
- The project will be responsible for System Connection Charges of \$7,700.00 per EDU based on current rates.
- The Engineering Department would like to request permission to prepare and post notices for a Public Hearing on the annexation of the area.





**MILL BROOK
ENGINEERING, LLC**

July 22, 2024

Mr. John Ashman
Sussex County Engineering Department
Utility and Planning Division
2 The Circle, PO Box 589
Georgetown, DE 19947

PO Box 966
Dover, DE 19903

302.312.4716

MILLBROOKENG.COM

**RE: Agreement 1252 Annexation – Angola Neck Sanitary Sewer District
(TP: 234-12.00-7.01)**

Dear Mr. Ashman:

On behalf of Hometown Angola Land, LLC, we would like to request an extension of the sanitary sewer district boundaries for the above referenced property. Currently, the undeveloped land abuts the northern portion of the Angola Beach & Estates Residential Community. The community is located within the area of the Angola Neck Sanitary Sewer District. Ninety (90) EDUs, consisting of $\geq 7,500$ square feet residential lots, are proposed for this site. We anticipate approximately 18,000 GPD of average flow.

Project Name: The Woods at Angola Beach
Tax Map & Parcel(s): 234-12.00-7.01
Acreage: 31.17 Acres

A check for the application is attached for your reference. Please notify me if you require any additional data.

Sincerely,


Michaelena M. Hayes, PE

cc: File
Hometown Angola Land, LLC (Christopher Coleman)

Enclosures:
Check # _____ - \$1,500

REGIONAL OFFICES:

SCHAGHTICOKE, NY
LANCASTER, PA
MATAMORAS, PA
HAMPTON, VA

ENGINEERING DEPARTMENT

JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING & DESIGN REVIEW

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



Sussex County

DELAWARE
sussexcountyde.gov

MIKE HARMER, P.E.
SUSSEX COUNTY ENGINEER

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

PERMISSION TO POST FACT SHEET

- Expansion of the Sussex County Unified Sanitary Sewer District (Airpark Area).
- The Engineering Department has received a request from Solutions IPEM on behalf of the owners of parcels 135-15.00-96.00 & 97.00, adjacent to the Leeward Chase project.
- The parcels contain an existing liquor store and an existing church. The parcels will be responsible for System Connection Charges of \$7,700.00 per EDU based on current rates.
- The Engineering Department would like to request permission to prepare and post notices for a Public Hearing on the annexation of the area.



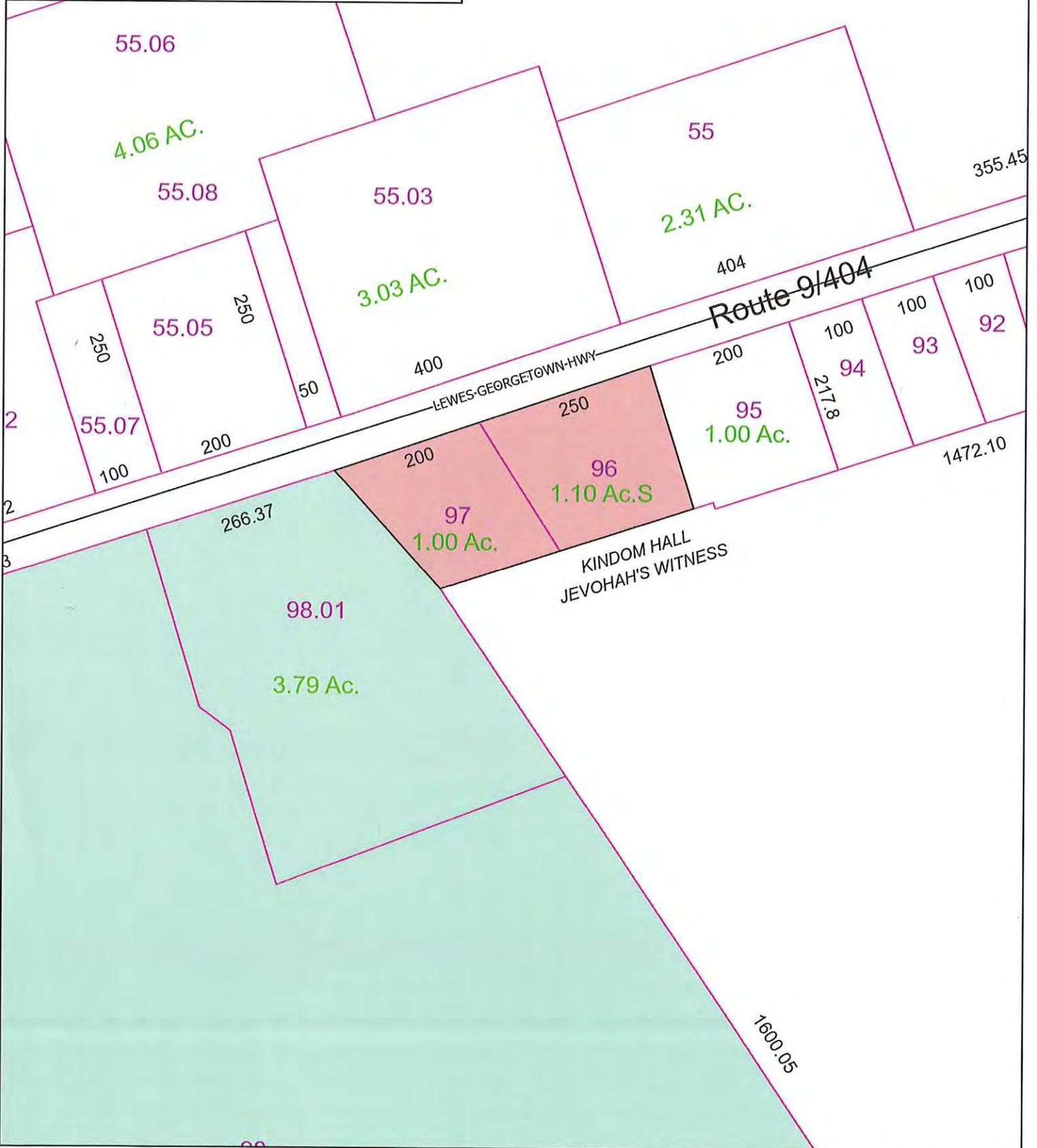
PERMISSION TO PREPARE AND POST NOTICES
Leeward Chase II

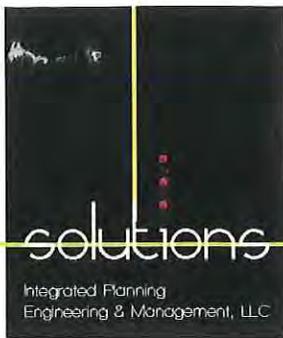
Existing SSD Area To Be Annexed



0 50 100 200
Feet

Map created: 8/21/2024





June 12, 2024

Mr. John Ashman
Sussex County Engineering
2 The Circle
PO Box 589
Georgetown, DE 19947

RE: Parcels 135-15.00-96.00 & 97.00

Dear John:

Solutions IPEM is seeking to have a Sewer Service Concept Evaluation performed for parcels 135-15.00-96.00 and 135-15.00-97.00. These parcels are located on Route 9 in the Georgetown area, adjacent to the Leeward Chase project that was recently annexed into the County's Sewer District. The parcels are currently developed, and the uses are not changing. The anticipated connections would be coordinated with the Leeward Chase project.

Engineer Info

Name: Solutions IPEM
Address: 303 N. Bedford Street
Georgetown, DE 19947
Contact Person: Jim Eriksen, PE
Phone #: 302-297-9215

Owner Info – Parcel 135-15.00-96.00

Name: Jehovah's Witness Congregation Georgetown DE
Address: 23404 Cinnamon Road
Lewes, DE 19958
Contact Person: Dan Smith
Phone #: 302-448-6746

Proposed EDU's

1 Church (approximately 4,581 sqft)
1 EDU

Current/Proposed Zoning

AR-1

Acreage

1.05 (+/-) AC

Owner Info – Parcel 135-15.00-97.00

Name: SA SI Inc.
Address: 22276 Lewes Georgetown Hwy
Georgetown, DE 19947
Contact Person: Ravish Patel
Phone #: 302-858-4349

Proposed EDU's

1 Commercial Retail Store (Liquor Store) – 4,778 sqft (+/-)
 $1/3000 * 4,778 = 1.59 \text{ EDU} = 2 \text{ EDU's}$

Current/Proposed Zoning

AR-1

Acreage

0.94 (+/-) AC

Also enclosed with this letter is an identical letter with the owner of parcel 97.00's signature, Boundary Surveys and legal descriptions for each parcel, an evaluation fee in the amount of \$500.00 and a letter of no objection from the Town of Georgetown. Should you have any questions on this submittal or if you require any additional information, please do not hesitate to contact me.

Thanks,

Solutions, IPEM



Jim Eriksen, PE



Signature

Treasurer
Printed Name and Title
Jehovah's Witnesses Congregation
Georgetown, DE
(Owner – Parcel 135-15.00-96.00)

Casey Hall

From: notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE <notifications@d3forms.com>
Sent: Tuesday, August 27, 2024 12:26 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	Friends of Prime Hook National Wildlife Refuge
Project Name	Summer Intern, Monitoring and Protecting nesting shorebirds, particularly Piping Plovers, within Prime Hook NWR
Federal Tax ID	51-0380294
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 Friends of Prime Hook NWR, Inc. was founded in 1998 as a 501(c)(3) non-profit organization supporting educational and recreational activities at Prime Hook NWR to increase public awareness of the role the Refuge and that the U.S. Fish and Wildlife Service play in preserving habitat for native plants and animals.
Address	11978 Turtle Pond Rosd
City	Milton

State	DE
Zip Code	19968
Contact Person	Carol Knapp
Contact Title	Treasurer
Contact Phone Number	201-230-0230
Contact Email Address	njraven@me.com
Total Funding Request	1000.00
Has your organization received other grant funds from Sussex County Government in the last year?	No
If YES, how much was received in the last 12 months?	N/A
Are you seeking other sources of funding other than Sussex County Council?	No
If YES, approximately what percentage of the project's funding does the Council grant represent?	N/A

Program Category (choose all that apply)	Educational Other
Program Category Other	Preservation
Primary Beneficiary Category	Other
Beneficiary Category Other	All of the general public
Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program	8600
Scope	The Piping Plover Nesting Program, a federally endangered species, annually nest at Fowler Beach within the boundaries of Prime Hook National Refuge. This is a primary nesting location within Delaware for the Piping Plover. Additionally other nesting shorebirds use this beach, prime habitat, during the season. The intern assisted in the study of nesting species to determine just how Fowler Beach should be protected to maintain this important nesting location, as well as assisting in the construction of nest enclosures, predator deterrents, and statistical reports. . The public is not allowed access to Fowler Beach during nesting to prevent stress and possible injury to the parents and chicks. Educational postings for the public are posted and the refuge intern and staff are available to educate the visitors.
Please enter the current support your organization receives for this project (not	0.00

entire organization revenue if not applicable to request)	
Description	DORMITORY/HOUSING FOR SEASON
Amount	2,400.00
TOTAL EXPENDITURES	2,400.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	-2,400.00
Name of Organization	Friends of Prime Hook National Wildlife Refuge, Inc
Applicant/Authorized Official	Carol Knapp
Date	08/27/2024
Affidavit Acknowledgement	Yes

If you feel this is not a valid submission please log into D3Forms to update this submissions status. Please feel free to email clientservices@d3corp.com with any questions.

Casey Hall

From: notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE <notifications@d3forms.com>
Sent: Thursday, September 5, 2024 11:05 AM
To: Casey Hall
Subject: Form submission from: Council Grant Form

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

Council Grant Form

Legal Name of Agency/Organization Nanticoke River Arts Council

Project Name General operating expenses

Federal Tax ID 74-3259770

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 Nanticoke River Arts Council is dedicated to promoting the appreciation, practice, and enjoyment of all visual and performance art in western Sussex County, and to advance creative endeavors, educate, and engage our community in cultural experiences. We continue to be actively involved and work to bolster our downtown encouraging a robust vibrant community.

Address 324 High Street

City Seaford

State	Delware
Zip Code	19973
Contact Person	Christina Darby
Contact Title	President
Contact Phone Number	302-628-2787
Contact Email Address	chrisdarby@att.net
Total Funding Request	\$1000
Has your organization received other grant funds from Sussex County Government in the last year?	No
If YES, how much was received in the last 12 months?	N/A
Are you seeking other sources of funding other than Sussex County Council?	No
If YES, approximately what percentage of the project's funding does the Council grant represent?	N/A

Program Category (choose all that apply)	Cultural Educational
Primary Beneficiary Category	Other
Beneficiary Category Other	children, residents, tourists
Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program	400
Scope	Gallery 107 remains the only art venue in the area serving to provide classes for children and adults, plus a place for established and new artists to display their work. The gallery also serves as a destination for residents and tourists inviting them to explore our downtown. We continue to be an active member in our community.
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	0.00
Description	Rent
Amount	25,865.52
Description	Utilities
Amount	2,246.93

Description	Internet
Amount	1,125.96
Description	Security
Amount	652.16
Description	Telephone
Amount	746.77
Description	Insurance
Amount	938.00
Description	Miscellaneous, including office supplies
Amount	2,458.98
TOTAL EXPENDITURES	34,034.32
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	-34,034.32
Name of Organization	Nanticoke River Arts Council
Applicant/Authorized Official	Christina Darby
Date	09/05/2024
Affidavit Acknowledgement	Yes

If you feel this is not a valid submission please log into D3Forms to update this submissions status.
Please feel free to email clientservices@d3corp.com with any questions.

To Be Introduced: 9/17/24

Council District 2: Mrs. Green
Tax I.D. No.: 235-14.00-122.00
911 Address: 24795 Broadkill Road, Milton

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS

WHEREAS, on the 9th day of April 2023, a zoning application, denominated Change of Zone No. 2011 was filed on behalf of Connie & Thomas W. Lynch, III; 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 Change of Zone No. 2011 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 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-2 Medium 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 parcels of land, lying and being situate in Broadkill Hundred, Sussex County, Delaware, and lying on the north side of Broadkill Road (Rt. 16), approximately 120 feet east of Country Road (S.C.R. 22A) and being more particularly described in the attached legal description prepared by Schab & Barnett, said parcels containing 5.0 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: 9/17/24

Council District 2: Mrs. Green
Tax I.D. No.: 330-11.13-19.00
911 Address: 6709 Marshall Street, Milford

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A RETAIL STORE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 2.82 ACRES, MORE OR LESS

WHEREAS, on the 14th day of April 2023, a Conditional Use Application, denominated Conditional Use No. 2444 was filed on behalf of Michael & Mary Rawl; 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. 2444 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. 2444 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Cedar Creek Hundred, Sussex County, Delaware, and lying on the east side of Marshall Street (S.C.R. 225) at the intersection of Marshall Street (S.C.R. 225) and Elks Lodge Road (S.C.R. 211) and being more particularly described in the attached legal description prepared by Lisa M. Andersen, Esq., said parcel containing 2.82 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: 9/17/24

Council District 2: Mrs. Green
Tax I.D. No.: 230-6.00-20.02
911 Address: 8913 Clendaniel Road, Lincoln

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SMALL BUSINESS TO SERVICE GAS STATIONS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.29 ACRES, MORE OR LESS

WHEREAS, on the 23rd day of June 2023, a Conditional Use Application, denominated Conditional Use No. 2457 was filed on behalf of Dean Vincent JBM Petroleum Services, 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. 2457 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. 2457 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 Cedar Creek Hundred, Sussex County, Delaware, and lying on the northeast side of Clendaniel Road (Rt. 38) approximately 0.50 mile southeast of Greentop Road (S.C.R. 225), and being more particularly described in the attached legal description prepared by Walter G. Feindt, P.A., said parcel containing 1.29 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: 9/17/24

Council District 1: Mr. Vincent
Tax I.D. No. 232-8.00-44.01
911 Address N/A

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BORROW PIT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 309.59 ACRES, MORE OR LESS

WHEREAS, on the 26th day of May 2023, a conditional use application, denominated Conditional Use No. 2454 was filed on behalf of H&K Group, 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. 2454 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. 2454 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 on northwest side of Shiloh Church Road (Rt. 74) approximately 0.38 mile west of East Trap Pond Road (Rt. 62), and being more particularly described in the attached deed prepared by Susan Pittard Weidman, P.A., said parcel containing 309.59 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: 9/17/24

Council District 5: Mr. Rieley
Tax I.D. No.: 234-11.00-75.01 (p/o)
911 Address: 30764 Conleys Chapel Road, Lewes

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR INDOOR STORAGE OF WATERCRAFT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.26 ACRES, MORE OR LESS

WHEREAS, on the 13th day of February 2024, a Conditional Use application, denominated Conditional Use No. 2528 was filed on behalf of Holdren, 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. 2528 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. 2528 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 on the south side of Conleys Chapel Road (Rt. 280B), southeast of the intersection of Conleys Chapel Road (Rt. 280B) and Tuckey Grove, and being more particularly described in the attached legal description prepared by Ward & Taylor, LLC said parcel containing 2.26 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.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE SUSSEX COUNTY SEWER TIER MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCELS 433-11.00-17.00 & 17.01

WHEREAS, on August 31st, 2023, the Sussex County Planning and Zoning Office received an Application for a requested Comprehensive Plan Amendment to amend the Sussex County Sewer Tier Map element of the Comprehensive Plan to change the Sewer Tier designation of Sussex County Parcel Nos. 433-11.00-17.00 and 17.01; and

WHEREAS, the Parcels comprise 0.96 acres of land, more or less, lying and being within Dagsboro Hundred, and are located on the east side of Dupont Boulevard (Route 113) on the north and south sides of Delaware Avenue (S.C.R. 54A), at the intersection of Dupont Boulevard (Route 113) and Delaware Avenue (S.C.R. 54A);

WHEREAS, The Properties are designated as being within the Tier 4 – System Optional Areas (Parcel #17.00) and undesignated (Parcel #17.01) as set forth in the Sussex County Sewer Tier Map as Figure 7.3-2 in the 2018 Comprehensive Plan for Sussex County;

WHEREAS, the Parcels contains the Future Land Use Map designation of Developing Area as set forth in the Sussex County Future Land Use Map identified as Figure 4.5-1 of the Sussex County Comprehensive Plan; and

WHEREAS, as noted in the Sussex County Comprehensive Plan, central sewer facilities are “strongly encouraged” within the Developing Area; and

WHEREAS, Sussex County Council desires to adopt this Ordinance amending the Sussex County Sewer Tier Map element of the Plan with minor amendments; and

WHEREAS, in accordance with the required process for public hearings on Ordinances such as this one, both the Sussex County Planning & Zoning Commission and the Sussex County Council will hold public hearings on this Ordinance but limited in scope to this specific proposed Amendment to the Sussex County Sewer Tier Map contained in the Plan.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. The Sussex County Sewer Tier Map identified as Figure (7.3-2) of the Sussex County Comprehensive Plan is hereby amended to change the Parcels currently classified as Tier 4 – System Optional Areas for Sussex County Parcel No. 433-11.00-17.00 and currently unclassified for Sussex County Parcel No. 433-11.00-17.01 from the Tier 4 – System Optional Areas Sewer Tier designation and unclassified designation to the Tier 2 – Sussex County Planning Area designation; Sussex County Parcel Nos. 433-11.00-17.00 and 17.01 so changed as identified in Exhibit A, attached hereto and incorporated herein.

Section 2. This Ordinance shall also take effect following its adoption by majority vote of all members of the County Council of Sussex County, Delaware, and upon certification by the State of Delaware.

ENGINEERING DEPARTMENT

MIKE HARMER, P.E.
SUSSEX COUNTY ENGINEER

(302) 855-7370 T

(302) 854-5391 F

mike.harmer@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.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: Mike Harmer, P.E., County Engineer
Gina A. Jennings, MPA, MBA, Finance Director
Paul Mauser, P.E., MBA, Assistant County Engineer

DATE: September 17, 2024

RE: *S23-08 North Ellendale Flow Diversion Project*
Public Hearing

The Engineering Department identified transmission limitation in the Ellendale Sewer District Area. This is in addition to the limited treatment capacity of the Town of Georgetown which receives the area flow. The combination of these two issues significantly limits the ability of the Town of Ellendale to accept future development projects within the town limits. The Engineering Department examined potential alternate options and concluded that the diversion of the North Ellendale sewer flow to the Artesian Wastewater Management, Inc. SRRF facility would alleviate capacity issues at the Georgetown treatment facility as well as eliminating a transmission bottleneck. This approach enables both Ellendale and Georgetown to accept new projects, the County to collect the sewer connection charges while at the same time provide treatment services via flow exchange with Artesian Wastewater Management, Inc. versus cash payment to Georgetown.

The proposed project would provide improvements to two pumpstations, install 3,500 feet of 6-inch forcemain (FM) extension from pumpstation #91 west and manifold with the existing 6-inch FM coming from pumpstation #92. We will reverse the flow in this FM and convey all effluent from pumpstation #91 to the gravity infrastructure in New Market Village. Pumpstation #92, located within New Market Village, will be rebuilt and 16,500 feet of new 8-inch FM will be installed from #92 along Reynolds Pond Road to Isaacs Road. The FM will extend south on Isaacs Road to the Artesian Wastewater Management, Inc. (AWMI) owned and operated SRRF facility for treatment and disposal. Depending on the timing of the project the forcemain could manifold to the FM coming from Slaughter Beach.



Based on the current agreement with Artesian, Sussex County submitted a Notice of Intent to the Delaware Water Pollution Control Revolving Loan Fund (WPCRF) for consideration on the 2023 Intended Use Plan in the amount of \$4,239,236.00. Prior to making application we reviewed recent bids received for other projects and determined the request for funding needed to be increased. In May of 2023, the Engineering Department finalized the Preliminary Engineering Report and the Environmental Information Documents required for submittal of the funding application to Delaware State Revolving Fund (SRF). These documents were combined with the overall funding application prepared by the Finance Department and filed with DNREC on June 16, 2023, for \$9,236,846.00. On July 3, 2024, the County received the Binding Commitment Letter from DNREC Environmental Finance, and the County accepted the offer on that same day. The obligating documents associated identify a loan amount of \$9,236,846.00 with the County paying semi-annual interest payments during construction. Upon completion of the project the outstanding balance will be amortized over 25 years at 2% interest and will require semi-annual principal and interest payments.

On July 30, 2024, the Finance and Engineering Departments recommend introduction and approval of the associated debt ordinance authorizing the issuance of up to \$9,236,846.00 of general obligation bonds of Sussex County in connection with the construction and equipping of the North Ellendale Flow Diversion Project.

The Engineering Department now recommends approval of up to \$9,236,846.00 of general obligation bonds of Sussex County in connection with the construction and equipping of the North Ellendale Flow Diversion Project.

ORDINANCE NO. [_____]

AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$9,236,846 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE NORTH ELLENDALE SEWER FLOW DIVERSION PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH

WHEREAS, pursuant to Title 9, Delaware Code, Section 7001(a) Sussex County (the “County”) has “all powers which, under the Constitution of the State, it would be competent for the General Assembly to grant by specific enumeration, and which are not denied by statute” (the “Home Rule Power”);

WHEREAS, acting pursuant to its Home Rule Power, and pursuant to Title 9, Delaware Code, Chapters 65 and 67, the County has authorized the design, construction and equipping of the North Ellendale Sewer Flow Diversion Project, which will finance the upgrades and renovations to pump stations 91 and 92, and the installation of approximately 14,000 linear feet of six- and eight-inch diameter force main (collectively, the “Project”);

WHEREAS, pursuant to Title 9, Delaware Code, Section 6706, the County is authorized to issue its bonds and to pledge its full faith and credit thereto, to finance the cost of any object, program or purpose for which the County is authorized to raise, appropriate or expend money under Chapter 67 of Title 9; and

WHEREAS, acting pursuant to the aforesaid authority, the County desires to authorize the issuance of general obligations of the County to finance the costs of the Project and for the other purposes described herein.

NOW THEREFORE THE COUNTY OF SUSSEX HEREBY ORDAINS (AT LEAST FOUR FIFTHS OF THE MEMBERS OF COUNCIL CONCURRING HEREIN):

Section 1. Amount and Purpose of the Bonds. Acting pursuant to Title 9, Delaware Code, Chapters 65 and 67, Sussex County shall issue its negotiable general obligations in the maximum aggregate principal amount not to exceed \$9,236,846 (the “Bonds”) to finance or reimburse the County for a portion of the cost of the design, construction and equipping of the Project.

The monies raised from the sale of the Bonds (including the investment earnings thereon) after the payment of the costs of issuance, shall be held in one or more Project accounts and shall be expended only for the purposes authorized herein or as may otherwise be authorized by subsequent action by County Council. Authorized purposes include the costs of planning, constructing, acquiring and equipping the Project or any portion thereof; interest on the Bonds and any interim financing during the construction period and for a period of up to one year following the estimated date of completion; the reasonable costs of issuance of the Bonds and any interim financing; the repayment of temporary loans incurred with respect to the Project; and the reimbursement of authorized costs previously expended by the County from other funds.

Section 2. Security for the Bonds. The principal, interest and premium, if any, on the Bonds may be paid by ad valorem taxes on all real property subject to taxation by the County without limitation as to rate or amount, except as limited by Title 9, Delaware Code Section 8002 (c). Pursuant to Title 9, Delaware Code, Section 6706, the full faith and credit of the County is pledged to such payment. The Bonds shall contain a recital that they are issued pursuant to Title 9, Delaware Code, Chapter 67, which recital shall be conclusive evidence of their validity and of the regularity of their issuance. The Bonds are backed by the County's full faith and credit.

Section 3. Terms of the Bonds. The Bonds shall be sold at such prices and upon such other terms and conditions consistent with the provisions of this Ordinance and otherwise as the County Administrator shall determine to be in the best interests of the County. The Bonds shall bear interest at such rate or rates and shall mature in such amounts and at such times, but not exceeding twenty-five (25) years from the date of completion of the Project, and shall be subject to redemption, as the County Administrator shall determine.

Section 4. Sale of the Bonds. The Bonds may be issued in one or more series and shall be sold in one or more public sales or private negotiated transactions upon such terms and conditions as the County Administrator shall determine shall be in the best interest of the County. It is anticipated that the Bonds will be sold to the State of Delaware Water Pollution Control Revolving Fund (acting by and through the Delaware Department of Natural Resources and Environmental Control) (or any successor agency).

Section 5. Details of the Bonds. The County Administrator is authorized to determine the details of the Bonds including the following: the date or dates of the Bonds; provisions for either serial or term bonds; sinking fund or other reserve fund requirements; due dates of the interest thereon; the form of the Bonds; the denominations and designations of the Bonds; registration, conversion and transfer provisions; provisions for the receipt, deposit and investment of the proceeds of the Bonds; provisions for the replacement of lost, stolen, mutilated or destroyed Bonds; and provisions for issuing uncertificated obligations and all procedures appropriate for the establishment of a system of issuing uncertificated debt. The Bonds shall be executed by the manual or facsimile signature of the County Administrator, shall contain an impression of the County seal or a facsimile thereof and shall be attested by the manual signature of the County Clerk. The County Administrator shall determine the form of the Bonds.

Section 6. Debt Limit. It is hereby determined and certified, as of the effective date hereof, that the issuance of the Bonds is within the legal debt limit of the County.

Section 7. Further Action. The President of the County Council, the County Administrator, the Finance Director and the County Clerk are authorized and directed to take such other action on behalf of the County, as may be necessary or desirable to effect the adoption of this Ordinance and the issuance and sale of the Bonds and to provide for their security and to carry out the intent of this Ordinance, including the publication of notices and advertisements and the execution and delivery of customary closing certificates.

Section 8. Effective Date. This Ordinance shall become effective immediately upon its passage.

The County Clerk is hereby directed to publish a notice of the adoption hereof in accordance with Section 7002(m)(2) of Title 9 of the Delaware Code, as amended.

ADOPTED this ____ day of July, 2024.

SUSSEX COUNTY, DELAWARE

Tracy Torbert
Clerk of the Council

SYNOPSIS: This Ordinance provides for the issuance of up to \$9,236,846 of Sussex County General Obligation Bonds in order to finance or reimburse the County for a portion of the costs for the design, construction and equipping of the North Ellendale Sewer Flow Diversion Project, which will finance the upgrades and renovations to pump stations 91 and 92, and the installation of approximately 14,000 linear feet of six- and eight-inch diameter force main (collectively, the “Project”).



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: September 13, 2024

RE: County Council Report for C/Z 2005 filed on behalf of Cherner Development Group

The Planning and Zoning Department received an application (C/Z 2005 filed on behalf of Cherner Development Group) for a Change of Zone from an AR-1 Agricultural Residential Zoning District to a C-3 Heavy Commercial Zoning District, for Tax Parcel 334-12.00-115.00. The property is located at 19101 John J. Williams Highway, Rehoboth. The parcel size is 1.58 acres +/-

The Planning & Zoning Commission held a Public Hearing on the application on August 7, 2024. At the meeting of August 21, 2024, the Planning & Zoning Commission recommended approval of the application for the 9 reasons as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meetings of August 7, 2024, and August 21, 2024.

Minutes of the August 7, 2024, Planning & Zoning Commission Meeting

C/Z 2005 Cherner Development Group

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 LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.58 ACRES, MORE OR LESS. The property is lying on the southwest corner of the intersection of John J. Williams Highway (Rt. 24) and Warrington Road (Rt. 1D). 911 Address: 19101 John J. Williams Highway, Rehoboth Tax Map Parcel: 334-12.00-115.00.



Mr. Whitehouse advised the Commission that submitted into record were a copy of the staff analysis, copies of the Applicants exhibits and concept plan, and a copy of DelDOT’s Service Level Evaluation Response. There was one comment.

The Commission found that Mr. Tom Carney, Esq. was present on behalf of the Applicant, Cherner Development Group; that also present are Mr. Brian Parker and Mr. Jonathan Ackaoui from the Cherner Development Group, and Mr. Jamie Sechler, P.E. with Davis, Bowen, and Friedel, Inc. Mr. Carney stated that the Cherner Development Group have roots in Sussex County and that they are the owners of the Lewes Waves Car Wash; that they are seeking to establish a second location of Waves in Rehoboth Beach at 19101 John J. Williams Highway at the corner of Route 24 and Warrington Road; that it is a 1.58 acre tract of land currently zoned AR-1 that the Applicant seeks to rezone to C-3; that the rezoning is in keeping with the Sussex County Comprehensive Plan as the Future Land Use Map shows this as Commercial Area; that the Commercial Area defines C-3 as being a permitted zoning classification as well as proposed uses including a carwash; that the C-3 zoning classification is generally intended for larger auto oriented retail and service businesses along major arterial roads that serve local and regional residents as well as the traveling public; that the proposed rezoning is in keeping with the vicinity of the general area; that the area around it includes medical facilities, banks, hotels, restaurants, and shopping centers and this use would be in keeping with the surrounding area; that DelDOT stated that the impact on traffic is negligible and no traffic impact study would be required; and that there is no known opposition to the Application.

There were no questions from the Commission members.

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

Upon there being no further questions Acting Chair Wingate closed the public hearing.

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

In relation to C/Z 2005 Cherner Development Group. Motion by Mr. Collins to defer action for further consideration, seconded by Mr. Butler and carried unanimously. Motion carried 4-0.

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

The Commission discussed this application which has been deferred since August 7, 2024.

Mr. Collins moved that the Commission recommend approval of C/Z 2005 CHERNER DEVELOPMENT GROUP for a change in zone from AR-1 to C-3 “Heavy Commercial” based upon the record made during the public hearing and for the following reasons:

1. C-3 Heavy Commercial Zoning is designed to allow auto-oriented retail and service businesses that serve local and regional residents. Permitted Uses include retail uses, restaurants, offices and vehicle service stations.

2. The site is located at the intersection of Route 24 and Warrington Road, which is opposite from Plantation Road. Route 24 has been designated as a “Major Collector” by DelDOT. The intersection is also in close proximity to the Route One commercial corridor, and Route 24 has developed with other commercial uses between Route One and this intersection. The intersection is heavily traveled, and it is an appropriate location for auto-oriented retail and service businesses. It is an appropriate location for C-3 zoning.
3. This property has been used residentially for several decades. However, with the growth of this intersection, the residential use of the property is no longer practical. Instead, this corner is better suited for commercial uses.
4. The site will be served by central water and sewer.
5. The property is located in the Coastal Area according to the current Sussex County Land Use Plan. This proposed C-3 commercial zoning is appropriate in this Area according to the Plan.
6. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity and welfare of the County.
7. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.
8. No parties appeared in opposition to this Application.
9. For all of these reasons, it is appropriate to recommend approval of this Change in Zone from AR-1 to C-3 at this location.

Motion by Mr. Collins, seconded by Ms. Wingate and carried unanimously to recommend approval of C/Z 2005 Cherner Development Group 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
KIM HOEY STEVENSON, VICE-CHAIRMAN
R. KELLER HOPKINS
J. BRUCE MEARS
HOLLY J. WINGATE



Sussex County

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

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: August 7, 2024

Application: C/Z 2005 Cherner Development Group

Applicant: Thomas P. Carney, Esq. – Carney Sussex Law, LLC

Owner: Cherner Development Group

Site Location: The property is lying on the southwest corner of the intersection of John J. Williams Highway (Rt. 24) and Warrington Road (Rt. 1D). 911 Address: 19101 John J. Williams Highway, Rehoboth Beach.

Current Zoning: AR-1 (Agricultural Residential)

Proposed Zoning: C-3 (Heavy Commercial)

Comprehensive Land Use Plan Reference: Commercial

Councilmanic District: District 3 – Mr. Mark Schaeffer

School District: Cape Henlopen School District

Fire District: (86) Rehoboth Beach Fire Company

Sewer: N/A

Water: Tidewater

Site Area: 1.58 acres +/-

Tax Map ID.: 334-12.00-115.00



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



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Planning Commission Members
From: Mrs. Christin Scott, Planner II
CC: Vince Robertson, Assistant County Attorney, and applicant
Date: July 31, 2024
RE: Staff Analysis for C/Z 2005 Cherner Development Group

The purpose of this memo is to provide background and analysis for the Planning & Zoning Commission to consider as a part of Application C/Z 2005 – Cherner Development Group to be reviewed at the August 7th, 2024, Planning & Zoning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

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: 334-12.00-115.00

Proposal: The request is for a Change of Zone for Tax Parcel 334-12.00-115.00 to allow for a change of zone from an Agricultural Residential (AR-1) District to a Heavy Commercial (C-3) District to accommodate an automatic car wash and car detailing service. The property is lying on the southeast corner of the intersection of John J. Williams Highway (Rt. 24) and Warrington Road (Rt. 1D) in Lewes. The Parcel contains 1.58 acres +/-.

Comprehensive Plan Analysis: The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use Map in the plan indicates that the parcel has a Growth Area designation of “Commercial Area.” The adjoining parcel to south is also within the “Commercial Area.” Parcels across from the site on the northwest side John J. Williams Highway have the classification of “Commercial Area.” Parcels across from the site on the north side of Warrington Road have the classification of “Coastal Area.”

As outlined within the 2018 Sussex County Comprehensive Plan, Commercial Areas are growth areas that include concentrations of retail and service uses and are primarily located “arterials, and highways.” (Sussex County Comprehensive Plan, 4-17) The Plan specifically notes that these areas include commercial corridors geared towards vehicular traffic and recommends they be located along “main roads or near major intersections.” While the Plan’s Commercial Area category dominates this portion the John J. Williams Highway (Route 24) corridor, much of the surrounding area is designated as “Coastal Area.” Coastal Areas are areas that can accommodate development provided special environmental concerns are addressed, noting that commercial and office uses



“can be appropriate to provide for convenient services.” (Sussex County Comprehensive Plan, 4-15)

Zoning Information: The parcel is zoned Agricultural Residential (AR-1) District. Adjacent parcels to the south are zoned Agricultural Residential (AR-1) District. Parcels across John J. Williams Highway are zoned Agricultural Residential (AR-1) District and parcels across Warrington Road are zoned Institutional (I) and Medium Density (MR) Residential.

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

Site Considerations:

- **Density:** N/A
- **Open Space Provisions:** N/A
- **Agricultural Areas:** Parcel is located within the vicinity of lands used primarily for agriculture
- **Interconnectivity:** N/A
- **Transportation Improvement District (TID):** Parcel is located within the Henlopen Transportation Improvement District
- **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 “good” Groundwater Recharge Potential. The parcel is located within a well-head protection area.

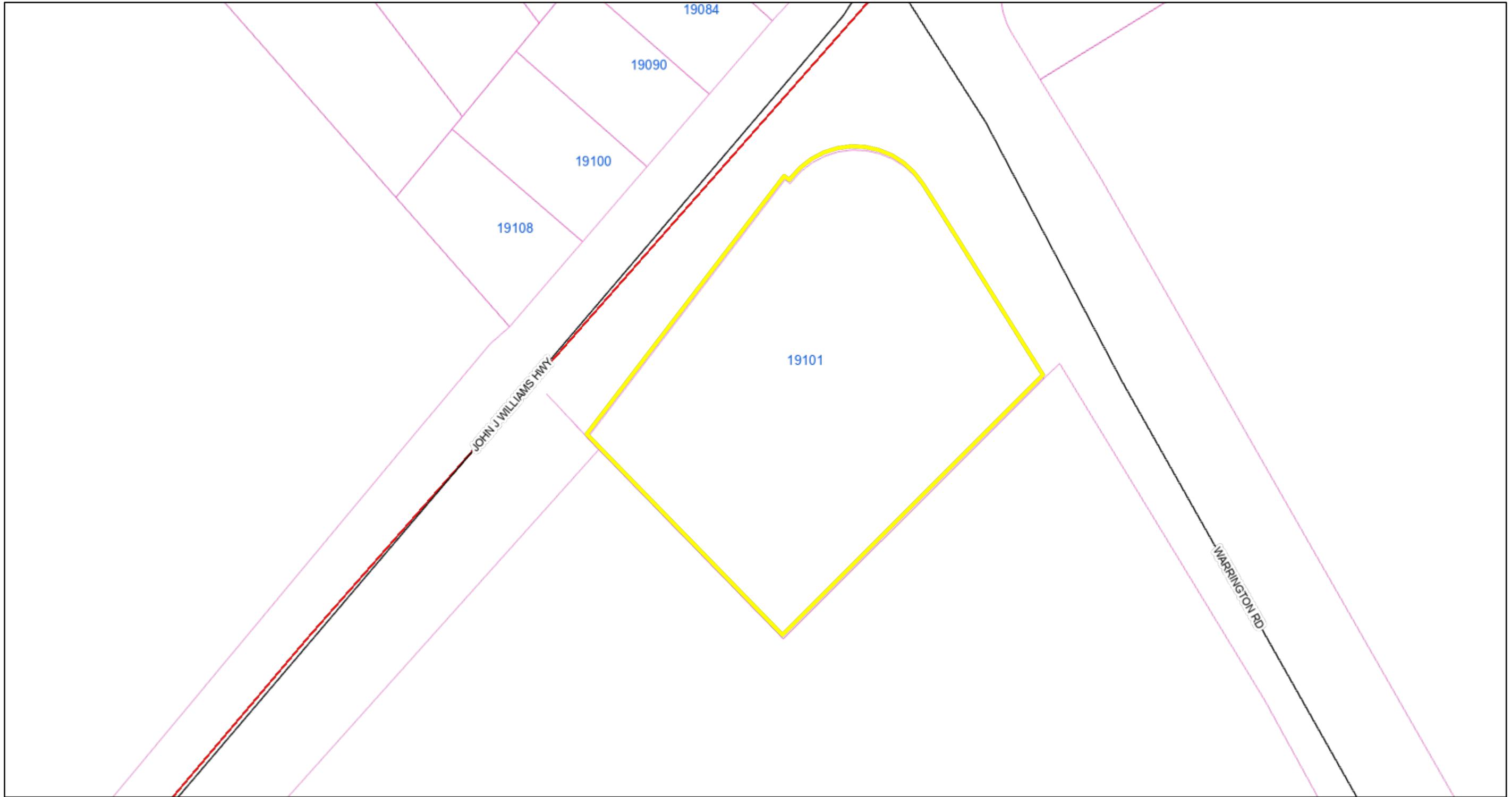
Based on the analysis of the land use, surrounding zoning and uses, a Change of Zone from an Agricultural Residential (AR-1) District to a Heavy Commercial (C-3) District could be considered as being consistent with the land use, based on size and scale, with area zoning and surrounding uses.

Existing Change of Zones within the Vicinity of the Subject Property:

Since 2011, there have been nine (9) Change of Zone Applications within a 1-mile radius of the Application site.

Change of Zone Applications (Within a 1.0-mile radius of the subject site)						
Application Number	Application Name	Zoning District	Proposed Zoning	CC Decision	CC Decision Date	Ordinance Number
2015	G&M Route 24, LLC	AR-1	I-1	Approved	10/17/2023	
1949	J.G. Townsend, Jr. & Co.	AR-1	MR	Denied	5/16/2023	
1928	Plantation Partners, LLC	AR-1	C-2	Approved	11/17/202	2754
1853	Beebe Healthcare	AR-1	I-1	Approved	9/11/2018	2597
1845	LMHT, LLC	AR-1	B-1	Approved	3/13/2018	2556
1835	HKLS, LLC	AR-1	B-1	Approved	1/9/2018	2546
1796	Lockwood Design& Construction	AR-1	MR	Approved	9/20/2016	2462
1732	Herola Family, LLC & Articans' Bank	AR-1	CR-1	Approved	9/24/2013	2318
1725	Jack Lingo Asset Management	GR	CR-1	Denied	12/9/2014	

Sussex County



July 3, 2024

polygonLayer

Override 1

Override 2

Tax Parcels

911 Address

Streets

County Boundaries

Fire Districts

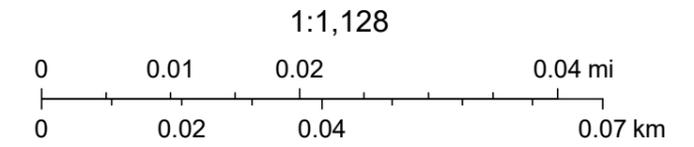
DOE School Districts

layer43

Red: Band_1

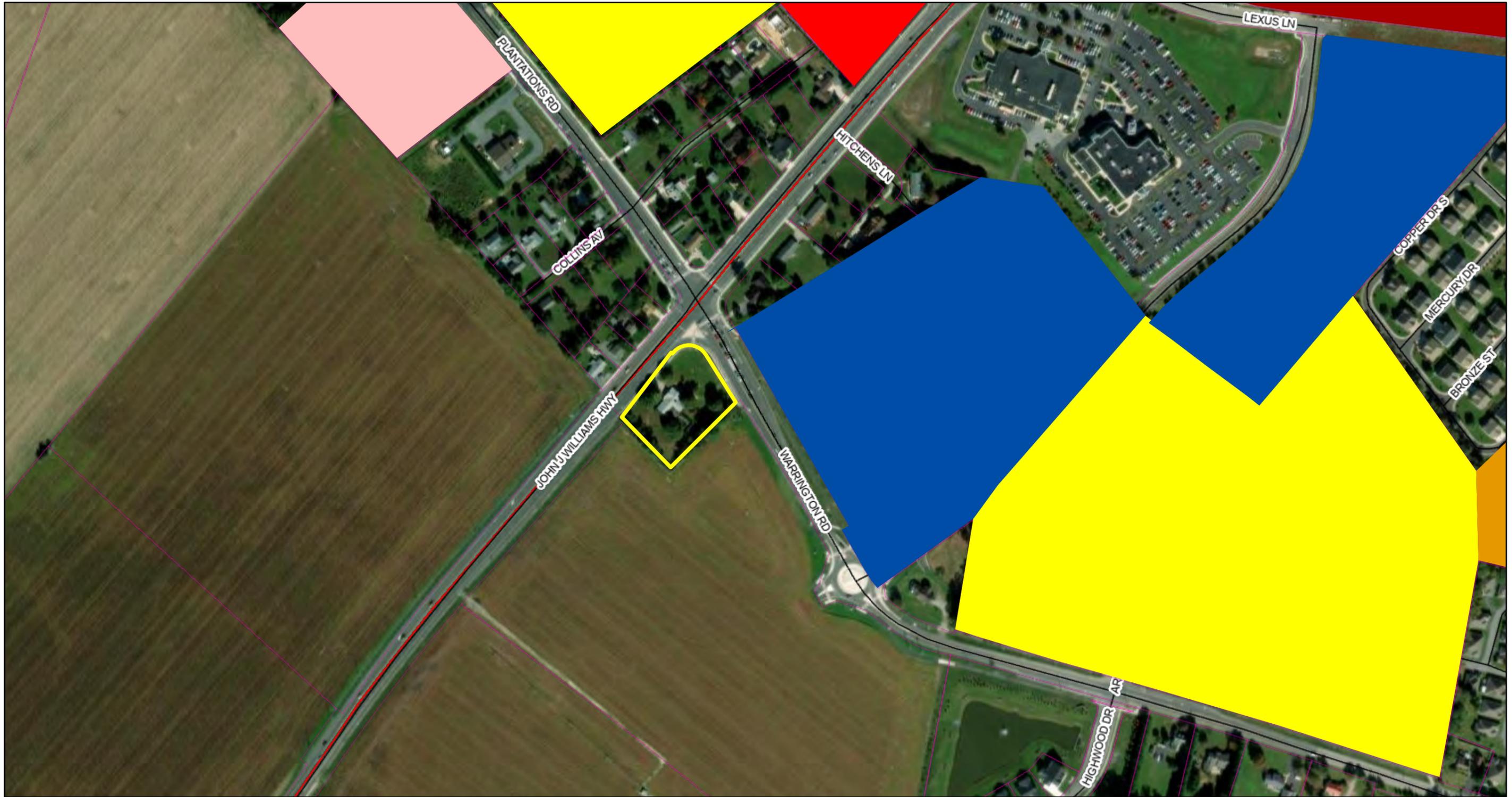
Green: Band_2

Blue: Band_3



Delaware Department of Education, Sussex County, Sussex County Government, Sussex County Mapping and Addressing

Sussex County



July 3, 2024

polygonLayer

Override 1

Override 2

Zoning

Medium Residential - MR

High Density Residential - HR-2

Commercial Residential - CR-1

Institutional - I-1

C1: General Commercial

B-1: Neighborhood Business

Tax Parcels

Streets

County Boundaries

Fire Districts

DOE School Districts

World Imagery

Low Resolution 15m Imagery

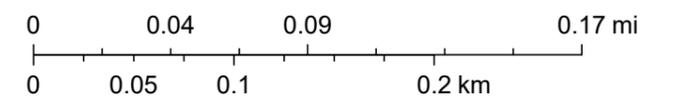
High Resolution 60cm Imagery

High Resolution 30cm Imagery

Citations

1.2m Resolution Metadata

1:4,514



Delaware Department of Education, Sussex County, Sussex County Government, Maxar

Layers Search Basemaps Select Area Eagleview Print



Eagleview Search Results

Selected Features: Parcels (1)

▼ 1) 334-12.00-115.00 Zoom

BOOK	5511
PAGE	124
FULLNAME	PATEL AYAN S JIGNESH J DESAI
Second_Owner_Name	SANJAY PATEL RUCHIT H DESAI
MAILINGADDRESS	32860 OCEAN REACH DR
CITY	LEWES
STATE	DE
a_account	
DESCRIPTION	E SD RT 24 CORNER
DESCRIPTION2	S SD RT 275
DESCRIPTION3	W/IMP
LUC	999
SCHOOL	
MUNI	00
CAP	0
APRBLDG	38500
APRLAND	15800
PINWASSEMENTUNIT	334-12.00-115.00
PIN	334-12.00-115.00
ZIPCODE	19958
FRONTFOOT	0
DEPTH	0
IRREGULAR	
SCALED	
FLOOD	
FIRE	86
COUNCILMAN	

Selected Features (1)

Clear Selected

POWERED BY esri

Introduced: 9/19/23

Council District 3: Mr. Schaeffer

Tax I.D. No.: 334-12.00-115.00

911 Address: 19101 John J. Williams Highway, Rehoboth Beach

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 LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.58 ACRES, MORE OR LESS

WHEREAS, on the 27th day of January 2023, a zoning application, denominated Change of Zone No. 2005 was filed on behalf of Cherner Development Group; 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 Change of Zone No. 2005 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 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 Lewes & Rehoboth Hundred, Sussex County, Delaware, and lying on the southwest corner of the intersection of John J. Williams Highway (Route 24) and Warrington Road (Route 1D) and being more particularly described in the attached legal description prepared by Tunnell & Raysor, P.A., said parcel containing 1.58 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: September 13, 2024

RE: County Council Report for C/U 2539 filed on behalf of BCB Management, LLC

The Planning and Zoning Department received an application (C/U 2539 filed on behalf of BCB Management, LLC) for a Conditional Use for a diesel mechanic, parts shop, and truck parking in an AR-1 Agricultural Residential Zoning District, to be located at Tax Parcel 135-6.00-4.00. The property is located at 18293 and 18313 Dupont Boulevard, Georgetown. The parcel size is 5.46 acres +/-

The Planning & Zoning Commission held a Public Hearing on the application on August 7, 2024. At the meeting of August 21, 2024, the Planning & Zoning Commission recommended approval of the application for the 4 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 August 7, 2024, and August 21, 2024.

Minutes of the August 7, 2024, Planning & Zoning Commission Meeting

C/U 2539 BCB Management LLC

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. The property is lying on the northeast side of DuPont Boulevard (Rt. 113), approximately 0.42 mile south of East Redden Road (S.C.R. 565). 911 Address: 18293 & 18313 DuPont Boulevard, Georgetown. Tax Map Parcel: 135-6.00-4.00.



Mr. Whitehouse advised the Commission that submitted into record were a copy of the staff analysis, a copy of the property deed, and a copy of a letter received from the Sussex County Engineering Department Utility Planning Division. There were no comments submitted.

The Commission found that Mr. Tim Willard, Esq. was present on behalf of the Applicant, BCB Management, LLC, that also present are Mr. Mohan and Ms. Sandra Singh the owners of BCB Management, LLC. Mr. Willard stated that the application to operate a diesel parts and repair store in addition to having chicken feed trucks stored on the property; that the applicants have been residents of Sussex County since 1990 and have ran a chicken farm which grew into this business of running the feed trucks for Perdue and Mountaire; that the business has grown; that there are approximately 10 – 12 trucks and they run 24 hours a day, seven days a week; that the parking for the trucks will be located to the rear of the property; that the old building on the north side of the property was removed and the proposed parts shop would be constructed in the location; that there is a dwelling on the property and that would be occupied by the business manager; that the repair shop would be constructed to the center of the property; that the pictures submitted by the applicant show the commercial uses in the area; that there is a wooded property to the south and to the rear of the property is Redden Forest; that this is an agricultural related business; that the Staff Analysis states that within the 2018 Sussex County Comprehensive Plan, the primary uses envisioned in Low Density Areas are agricultural activities and homes. Business development should be largely confined to businesses addressing the needs of these two uses. Industrial and agribusiness uses that support or depend on agriculture should be permitted; that the property is also located on a major arterial road; that the use is a semi-public use and will not affect the use of neighboring properties; that it serves a need in Sussex County; that the applicant has submitted proposed conditions which were distributed to the Commission members; and that hours of operation would be 7 am – 5 pm Monday through Friday and 7 am – 2 pm on Saturday.

Mr. Mohan Singh stated that the representation by Mr. Willard is true and correct; that he did not have any additional information to present.

Mr. Butler asked about the storage of waste oil on the property and if a sign is required.

Mr. Singh stated that they will have a waste oil furnace which will heat the shop; and that a lighted sign is being requested.

Mr. Butler stated that the applicant should show on the Site Plan where the waste oil storage will be stored on the property.

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

Upon there being no further questions Acting Chair Wingate closed the public hearing.

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

In relation to C/U 2539 BCB Management, LLC. Motion by Mr. Butler to defer action for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 4-0.

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

The Commission discussed this application which has been deferred since August 7, 2024.

Mr. Butler requested that Mr. Robertson read the motion on his behalf.

Mr. Butler moved that the Commission recommend approval of C/U 253 BCB MANAGEMENT, LLC for a diesel mechanic, parts shop, and truck parking business based upon the record made at the public hearing and for the following reasons:

1. The proposed facility is located upon a 5.46-acre tract, and with the conditions and stipulations placed upon it, it will not have an adverse impact on the neighboring properties or community. Also, it will not negatively impact traffic or nearby roadways.
2. The property is situated along Route 113 near the intersection with East Redden Road. There are a variety of other business and commercial uses nearby and this use will be consistent with those other uses.
3. The Applicant has stated that the truck parking area is largely going to be utilized by trucks involved in poultry farming operations. This use will support agricultural operations and the agricultural economy of Sussex County.
4. No parties appeared in opposition to this application.
5. This recommendation for approval is subject to the following conditions and stipulations:
 - A. The use shall be limited to a diesel mechanic and parts shop with truck parking.
 - B. One lighted sign shall be permitted. It shall not exceed 32 square feet in size on each side.
 - C. Security lighting shall be shielded and downward screened and shall be directed away from neighboring properties and roadways.
 - D. Any dumpsters shall be screened from the view of neighbors and roadways. The dumpster locations shall be shown on the Final Site Plan.
 - E. No junked, unregistered or permanently inoperable vehicles, trucks or trailers shall be stored on the site. No equipment or materials shall be stored outside either.
 - F. There shall be no more than 12 trucks or trailers parked on the site at any time and no more than 9 customer vehicles awaiting repair and parked outside on the property at any one time.
 - G. There shall not be any parking in the front yard setback.
 - H. The parking and repair areas shall be shown on the Final Site Plan and clearly marked on the site itself. Vehicles, trucks and trailers shall only be parked and worked on within these designated areas.
 - I. All oils and other fluids shall be properly stored indoors in appropriate containers. The applicant shall also comply with all state and federal requirements for the disposal of these fluids.
 - J. The site shall be subject to all DelDOT entrance and roadway requirements.

- K. Hours of operation for the repair and parts shop shall be from 7:00 a.m. until 5:00 p.m., Monday through Friday, and between 8:00 a.m. and 2:00 p.m. on Saturdays. There shall not be any Sunday hours of operation.
- L. Any violation of these conditions may be grounds for termination of this conditional use.
- M. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Butler, seconded by Mr. Collins and carried unanimously to recommend approval of C/U 2539 BCB Management, 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
KIM HOEY STEVENSON, VICE-CHAIRMAN
R. KELLER HOPKINS
J. BRUCE MEARS
HOLLY J. WINGATE



Sussex County

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

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: August 7, 2024

Application: C/U 2539 BCB Management, LLC

Applicant: BCB Management, LLC

Owner: BCB Management, LLC

Site Location: The property is lying on the northeast side of DuPont Boulevard (Rt. 113), approximately 0.42 mile south of East Redden Road (S.C.R. 565). 911 Address: 18293 & 18313 DuPont Boulevard, Georgetown.

Current Zoning: AR-1 (Agricultural Residential)

Proposed Use: A diesel mechanic, parts shop and truck parking

Comprehensive Land Use Plan Reference: Low-Density

Councilmanic District: (5) Mr. John Rieley

School District: Indian River School District

Fire District: (77) Georgetown Fire Company

Sewer: N/A

Water: Private On Site

Site Area: 5.46 acres +/-

Tax Map ID.: 135-6.00-4.00



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

Memorandum

To: Sussex County Planning Commission Members
From: Mrs. Christin Scott, Planner II
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: July 31st, 2024
RE: Staff Analysis for CU 2539 BCB Management, LLC

This memo is to provide background and analysis for the Planning & Zoning Commission to consider as a part of Application (CU 2539) BCB Management, LLC to be reviewed during the August 7th, 2024, Planning & Zoning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

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

Tax Parcel ID: 135-6.00-4.00

Proposal: The request is for a Conditional Use for Tax Parcel 135-6.00-4.00 to allow for a diesel mechanic and parts shop and truck parking on a Parcel lying on the northeast side of DuPont Boulevard (Rt. 113), approximately 0.42 mile south of East Redden Road (S.C.R. 565) in Georgetown. The parcel is comprised 5.46 acres +/-.

Zoning: The Parcel is zoned Agricultural-Residential (AR-1) District with the adjacent parcels to the north, south, and east in the Agricultural-Residential (AR-1) Zoning District. Parcels across DuPont Boulevard to the west are zoned Agricultural-Residential (AR-1) Zoning District. Parcels further north are zoned General Commercial (C-1) District.

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

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 land use designation of "Low Density." The properties adjacent & surrounding the subject Parcel are also categorized as "Low Density."

As outlined within the 2018 Sussex County Comprehensive Plan, the primary uses envisioned in Low Density Areas are agricultural activities and homes. Business development should be largely confined to businesses addressing the needs of these two uses. 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. (Sussex County Comprehensive Plan, 4-19).

Further Site Considerations:

- **Density:** N/A
- **Open Space Provisions:** N/A
- **Agricultural Areas:** The site is located within the vicinity of parcels which appear to be actively farmed.
- **Interconnectivity:** N/A
- **Transportation Improvement District (TID):** N/A
- **Forested Areas:** The Site Plan provided as part of the Application indicates that there are wooded areas one site the parcel is in the vicinity of forested areas, including Redden Forest.
- **Wetlands Buffers/Waterways:** N/A
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** The property is located within Flood Zones “X” and “AE”, with the “X” area concentrated in the northeast portion of the site where the tax ditch is. There is a Tax Ditch Right-of-Way of 52-ft from the centerline of the ditch.

Based on the analysis of the land use, surrounding zoning and uses, a Conditional Use Application to allow for a diesel mechanic and parts shop and truck parking at the site, 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)						
CU Number	Application Name	Zoning Dist.	Proposed Use	CC Decision	CC Decision Date	Ord Number

110	135-9.00-25.00	Francis R. Moore	DuPont Blvd	AR-1	manufactured concrete septic tanks & associated uses	
157	135-8.00-12.00	Ivins E Nott	Hunting Club Rd	AR-1	poultry house on less than 5-acres	
168	135-6.00-21.00	Frank A King	Murphy Ln	AR-1	poultry house on less than 5-acres	
532	135-6.00-3.01	Harry Veasey	DuPont Blvd	AR-1	automobile sales & minor service facility	
735	135-5.00-112.00	Lewis, Jerome F.	Deer Forest Rd	MR	multi-family	5/26/1983
841	135-5.00-38.01	Church of Christ	duPont Blvd	AR-1	cemetery	11/21/1985
901	135-5.00-46.00	Harvey A. & Betty Ann Warrington	Redden Rd	GR	retail sale of sporting goods	12/22/1988
949	135-5.00-100.02	Eugene & Susan Spatz	Deer Forest Rd	AR-1	auto repair shop	9/13/1990
978	135-5.00-38.14	Charles Daisey	McColleys Chapel Rd	AR-1	Used Car Sales Facility	8/8/1991
1102	135-5.00-38.14	Charles Daisey	McColleys Chapel Rd	AR-1	used cars sales/no maximum # of cars	2/9/1995
1176	135-5.00-38.14	Charles Daisey	McColleys Chapel Rd	AR-1	amend used car lot to allow larger sign	2/27/1997
1637	135-5.00-38.02	Redden Development Group LLC	DuPont Blvd & Redden Rd	AR-1	business use office park	2/9/2006
1754	135-5.00-38.19	John J. Stryholuk	Deer Forest Rd.	AR-1	Boat Storage Facility	12/11/2008



Selected Features: Parcels (1)

1) 135-6.00-4.00 Zoom

BOOK	5876
PAGE	195
FULLNAME	BCB MANAGEMENT LLC
Second_Owner_Name	
MAILINGADDRESS	32930 CURLEY DR
CITY	MILLSBORO
STATE	DE
a_account	
DESCRIPTION	NE/DUPONT BLVD
DESCRIPTION2	W/EXISTING IMPROVEMENT
DESCRIPTION3	
LUC	999
SCHOOL	
MUNI	00
CAP	0
APRBLDG	60600
APRLAND	18400
PINWASSEMENTUNIT	135-6.00-4.00
PIN	135-6.00-4.00
ZIPCODE	19966
FRONTFOOT	0
DEPTH	0
IRREGULAR	
SCALED	
FLOOD	
FIRE	77
COUNCILMAN	



Selected Features (1)

Clear Selected

Sussex County

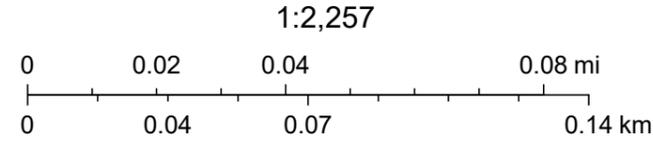


July 3, 2024

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| <p>polygonLayer</p> <p> Override 1</p> <p> Override 2</p> | <p>Zoning</p> <p> C1: General Commercial</p> <p> Tax Parcels</p> <p>911 Address</p> |
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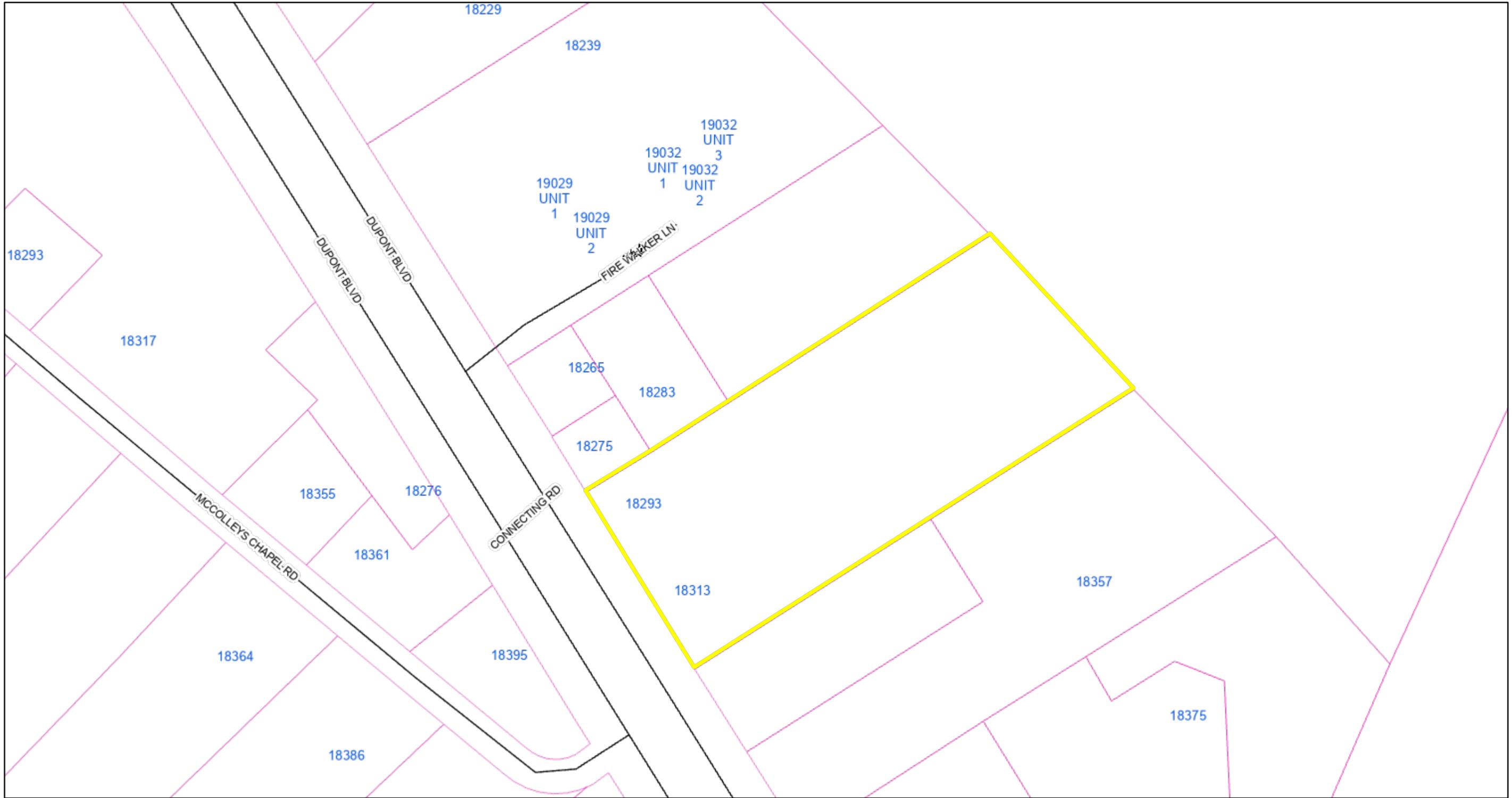
- Streets
- County Boundaries
- World Imagery
- Low Resolution 15m Imagery

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



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

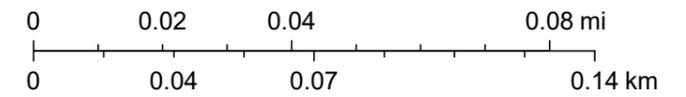
Sussex County



July 3, 2024

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| <p> Override 1
 Override 2 </p> | <p> Tax Parcels
 911 Address
 Streets </p> | <p> County Boundaries
 layer43
 Red: Band_1 </p> | <p> Green: Band_2
 Blue: Band_3 </p> |
|---|---|--|---|

1:2,257



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.