

COUNTY COUNCIL

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JOHN L. RIELEY, VICE PRESIDENT
JANE GRUENEBaum
MATT LLOYD
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Sussex County

DELAWARE
sussexcountyde.gov
(302) 855-7743

SUSSEX COUNTY COUNCIL

AGENDA

February 4, 2025

1:00 P.M.

Call to Order

Approval of Agenda

Approval of Minutes - January 28, 2025

[Draft Minutes 012825](#)

Reading of Correspondence

Public Comments

Consent Agenda

1. **Use of Existing Wastewater Infrastructure Agreement
The Estates at Bridgewater, Miller Creek Area**
[Consent Agenda](#)

Todd Lawson, County Administrator

1. **Caroling on the Circle Food Drive Recognition**
2. **Administrator's Report**



Gina Jennings, Finance Director

1. **Discussion and Possible Introduction of an Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 103 (“TAXATION”) OF THE CODE OF SUSSEX COUNTY TO ADD A NEW ARTICLE VIII, ENTITLED “BOARD OF ASSESSMENT REVIEW” TO GRANT THE BOARD OF ASSESSMENT REVIEW AUTHORITY TO ADOPT RULES AND PROCEDURES TO CARRY OUT ITS DUTIES AS OUTLINED IN 9 DEL. C. §7004”**

[BOAR Ordinance](#)

Paul Mauser, Assistant County Engineer

1. **Discussion and Possible Introduction of an Ordinance entitled “AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$9,963,400 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE WARWICK PARK PHASE II PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH”**

[Warwick Park Ordinance](#)

Hans Medlarz, Project Engineer

1. **Winding Creek Village Water District, Project S20-10**
 - A. **Whitman, Requardt & Associates Amendment 6 - Close-Out**
2. **South Coastal WRF Treatment Process Upgrade no. 3 & Rehoboth Beach WTP Capital Improvement Program, Phase 2**

A. **GHD Amendment 29 – Final Completion**

[GHD Admendment 29](#)

Grant Request

1. **ReTemp Development Center for their food project for seniors & homeless**

[ReTemp Development Center](#)

Introduction of Proposed Zoning Ordinances

Council Members' Comments

1:30 p.m. Public Hearings

1. **Love Creek Manufactured Home Community Annexation of the Sussex County Unified Sanitary Sewer District (Angola North Area)**

[Public Hearing Love Creek](#)

2. **[Conditional Use No. 2504 filed on behalf of Living Hope Fellowship](#)**

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CEMETERY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 7.2 ACRES MORE OR LESS” (parcel is lying on the west side of Staytonville Road [S.C.R. 224], approximately 0.42 mile northwest of Blacksmith Shop Road [S.C.R. 44]) (911 Address: 13848 Staytonville Road, Greenwood) (Tax Map Parcel: 430-1.00-13.06)

[Public Hearing CU2504](#)

3. **[Change of Zone No. 2041 filed on behalf of James Yerkie, II](#)**

“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” (property is lying on the east side of Old Shawnee Road [S.C.R. 619] approximately 0.35 mile northeast of Shawnee Road [Rt. 36]) (911 Address: N/A) (Tax Map Parcel: 130-3.00-170.04)

[Public Hearing CZ2041](#)

4. **[Conditional Use No. 2464 filed on behalf of James Yerkie, II](#)**

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR OUTDOOR STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.5 ACRES, MORE OR LESS” (property is lying the east side of Old Shawnee Road [S.C.R. 619] approximately 0.35 mile northeast of Shawnee Road [Rt. 36]) (911 Address: N/A) (Tax Map Parcel: 130-3.00-170.04)

[Public Hearing CU2464](#)

5. **[Conditional Use No. 2469 filed on behalf of Rehoboth Family Storage, LLC](#)**

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MINI-STORAGE FACILITY WITH OFFICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 6.68 ACRES, MORE OR LESS” (properties are lying on the west side of John J. Williams Highway [Rt. 24] and the east side of Robinsonville Road [S.C.R. 277], approximately 0.95 mile northeast of the intersection of John J. Williams Highway [Rt. 24] and Robinsonville Road [S.C.R. 277]) (911 Address: N/A) (Tax Map Parcels: 234-6.00-104.00, 104.02, 104.03, & 104.04)

[Public Hearing CU2469](#)

Adjourn

-MEETING DETAILS-

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on January 28, 2025 at 4:30 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, JANUARY 28, 2025

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, January 28, 2025, at 10:00 a.m., in Council Chambers, with the following present:

Douglas B. Hudson	President
John L. Rieley	Vice President
Jane Gruenebaum	Councilwoman
Matt Lloyd	Councilman
Steve C. McCarron	Councilman
Todd F. Lawson	County Administrator
Gina A. Jennings	Finance Director
J. Everett Moore, Jr.	County Attorney

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

**Call to
Order**

Mr. Hudson called the meeting to order.

**M 026 25
Approve
Agenda**

Mr. Lawson reported that Executive Session – Land Acquisition and possible action on Executive Session Items can be removed from today’s agenda. A Motion was made by Mr. McCarron, seconded by Ms. Gruenebaum, to approve the Agenda as amended.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

Minutes

The minutes from January 14, 2025 were approved by consensus.

**Corre-
spondence**

Mr. Moore read correspondence received from Good Samaritan Aid Organization, Nanticoke River Arts Council, Southern Delaware Therapeutic Riding and Off-Street Sports Performance thanking Council for their donation.

**Public
Comments**

Public comments were heard, and the following people spoke:

Mr. David Marks spoke about changes that are being submitted for the Osprey Point community.

Mr. Michael Falk spoke about changes that are being submitted for the Osprey Point community.

Mr. Keith Steck spoke about overdevelopment and lack of services.

**Public
Comments
(continued)**

Mr. Greg Kordal spoke about the elections and potential changes.

Ms. Susan Anderheggen spoke about allowing public comments by telephone for Planning Commission meetings and a letter she submitted about an application.

**County
Council
priorities**

Mr. Lawson led a discussion relating to the County Council's priorities. Mr. Lawson explained that Council Members submitted their priorities to President Hudson. Mr. Lawson grouped the priorities into select topics to measure the level of interest in each topic. The topics included: land development, affordable & workforce housing, open space & farmland preservation, strategy, public safety, impact fees, school funding, code updates, economic development and environment. Based on the grouping, the two topics with the most submissions was Land Development followed by Affordable and Workforce Housing. The Council Members submissions were presented and discussed.

After a discussion among the Council Members of the topics presented and discussion, Mr. Hudson proposed that a working group be put together.

**Adminis-
trator's
Report**

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

1. Project Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, Bay Knolls – Phase 3 (Construction Record) received Substantial Completion effective January 13th.

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

**Board of
Assessment
Review**

Mrs. Jennings reported that in December, Council appointed 5 board members and 3 alternates to the Board of Assessment Review. Unfortunately, one of the alternates has resigned due to commitments outside of the state. Therefore, Council needs to appoint a new alternate to the board per state code. A public interview was held for Mr. Jeffrey Howard to serve as an alternate to the Board of Assessment Review.

**M 027 25
Approve
Board of
Assessment
Member**

A Motion was made by Mr. McCarron, seconded by Mr. Rieley be it moved that the Sussex County Council appoints Mr. Jeffrey Howard to the Board of Assessment Review as an alternate for a term of three years.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

Development Activity Presentation **Jamie Whitehouse, Planning & Zoning Director led a discussion relating to development activity. Mr. Whitehouse reported that 14 of the municipalities in Sussex County go through the Sussex County Building Code Department. Mr. Whitehouse presented information including various maps showing the number of applications submitted to the Planning & Zoning Department, building permit locations for several years and percentage distribution of building permits for residential dwellings by the 2020 State Spending Strategies.**

DTCC Agreement **Bill Pfaff, Director of Economic Development presented a lease agreement with Delaware Technical Community College for the kitchen incubator for Council's consideration.**

M 028 25 Approve DTCC Kitchen Incubator Lease **A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum that the Sussex County Council approves the lease agreement between Delaware Technical & Community College and Sussex County Government for the purpose of operating a kitchen incubator, known as Sussex Kitchen DE, located at 21179 College Drive, Georgetown, DE.**

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

Paramedic Station CO **Mark Parker, Assistant County Engineer presented change order no. 4 for paramedic station 103 for Council's consideration.**

M 029 25 Approve CO No. 4/ Paramedic Station 103 **A Motion was made by Mr. McCarron, seconded by Mr. Lloyd that based on the recommendation of the Sussex County Engineering Department, that change order no. 4 be approved for contract C21-18, Paramedic Station 103 increasing the contract amount by \$4,504.50 to \$1,833,009.06.**

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

Dump Truck RFP **Paul Mauser, Assistant County Engineer presented a recommendation to award for a dump truck for Council's consideration.**

M 030 25 Approve Dump Truck RFP **A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum that based on the recommendation of the Sussex County Engineering Department, that Sussex County award and enter into an agreement with One Nation Distribution, LLC for the dump truck procurement, alternate bid 2 in the amount of \$259,989.00.**

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea

SCRWF Change Orders Hans Medlarz, Project Engineer presented change order nos. IB-002, IB-003 (Ronca) and IB-003 (electric) for the SCRWF treatment process upgrade no. 3 – Inland Bays extension for Council’s consideration.

M 031 25 Approve CO No. IB-002/ SCRWF A Motion was made by Mr. Lloyd, seconded by Mr. Rieley, that be it moved based up the recommendation of the Sussex County Engineering Department that M.F. Ronca & Sons & Inc., Inland Bays Phase 2 project, change order no. IB-002 in the amount of \$208,250.00, with a monthly amount of \$116,000.00 beginning with the first invoice for on-site work under IB-002, be approved.

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea

M 032 25 Approve CO No. IB-003/ SCRWF A Motion was made by Mr. Lloyd, seconded by Mr. Rieley, that be it moved based up the recommendation of the Sussex County Engineering Department that BW Electric, Inc.’s change order no. IB-003 for the Inland Bays phase 2 project, be approved in the initial amount of \$57,417.94 and a monthly amount of \$3,421.40, starting with the February 2025 invoice.

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea

Amendment 1/PS 207 Hans Medlarz, Project Engineer presented amendment no. 1 for PS 207 forcemain interconnect for Council’s consideration.

M 033 25 Approve Amendment No. 1/PS 207 A Motion was made by Mr. McCarron, seconded by Mr. Lloyd, be it moved based upon the recommendation of the Sussex County Engineering Department, that Amendment No. 1 to the 2024 Miscellaneous Engineering base agreement with Davis, Bowen & Friedel, Inc., be approved in the amount not to exceed \$111,000.00 for survey and design services associated with the PS207 FM interconnect project.

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea

Grant Requests

Mrs. Jennings presented grants for Council’s consideration.

**M 034 25
Autism
Delaware**

A Motion was made by Mr. Rieley, seconded by Mr. McCarron to give \$2,000 (\$200 from Mr. Rieley’s Councilmanic Grant Account and \$1,800 from Mr. Hudson’s Councilmanic Grant Account) to Autism Delaware for their 2025 Walk for Autism event.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

**M 035 25
Rev. Dr.
Martin
Luther
King, Jr.**

A Motion was made by Mr. Rieley, seconded by Mr. McCarron to give \$1,500 (\$750 from Mr. Hudson’s Councilmanic Grant Account and \$750 from Mr. Rieley’s Councilmanic Grant Account) to the Reverend Dr. Martin Luther King Jr. celebration organization of Sussex County, Inc. for their together we make the dream work program.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

Introduction of Proposed Ordinances

Mr. Lloyd introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR THE DEVELOPMENT, CONSTRUCTION, AND OPERATION OF A COMMERCIAL BATTERY ENERGY STORAGE SYSTEM (BESS) FACILITY, AND ASSOCIATED SUBSTATION TO BE LOCATED ON A 6.22 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING, AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 52.34 ACRES, MORE OR LESS” filed on behalf of Blue Hen Storage, LLC.

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 CAMPGROUND TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 30.76 ACRES, MORE OR LESS” filed on behalf of David A. & Sandra W. Blank.

Mr. Rieley introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (2 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED,

Introduction of Proposed Ordinances (continued)

SUSSEX COUNTY, CONTAINING 20 ACRES, MORE OR LESS” filed on behalf of George Bailey.

Mr. Rieley 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 C-2 MEDIUM COMMERCIAL DISTRICT FOR A 9.99 ACRE PORTION OF CERTAIN PARCELS OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 11.00 ACRES, MORE OR LESS” filed on behalf of Citation Rentals, LLC.

The Proposed Ordinances will be advertised for a Public Hearing.

Council Members’ Comments

There were no Council Member comments.

M 036 25 Recess

At 12:27 p.m., a Motion was made by Mr. McCarron, seconded by Mr. Lloyd to recess until 1:30 p.m. Public Hearings.

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Yea; Mr. Hudson, Yea

M 037 25 Reconvene

At 1:30 p.m., a Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum to reconvene.

Motion Adopted: 4 Yeas, 1 Absent

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Absent; Mr. Rieley, Yea; Mr. Hudson, Yea

Rules

Mr. Moore read the rules of procedure for public hearings.

Public Hearing/ CU2520

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 A FARM WINERY WITH TASTING ROOM AND EVENTS VENUE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD KILL HUNDRED, SUSSEX COUNTY, CONTAINING 38.66 ACRES, MORE OR LESS” (property is lying on the west side of Twin Branch Road, approximately 0.89 mile south of the intersection of Saw Mill Road [S.C.R. 238] and Twin Branch Road) (911 Address: 14756 Twin Branch Road, Milton) (Tax Map Parcels: 235-19.00-11.00 & 11.01) filed on behalf of Twin Branches, LLC.

Jamie Whitehouse, Planning & Zoning Director presented the application.

**Public
Hearing/
CU2520
(continued)**

The Planning & Zoning Commission held a Public Hearing on the application on November 20, 2024. At the meeting of December 11, 2024, the Planning & Zoning Commission recommended approval of the application for the 6 reasons and 7 recommended conditions of approval as outlined.

The Council found that Mr. Tim Willard, Esq., of Willard, Fuqua & Schab, spoke on behalf of the applicant Shauna Thompson and Wayne Hawkins, owners of Twin Branches, LLC; that they got their license for the business and they own the land it is on and then they got their liquor license and a farm winery license in 2020; that they were operating and the building permit issue kind of drove things that they needed a commercial permit; that the farm winery license gives them the opportunity to manufacture, sell and do other stuff and have a tasting room; the ABC Commissioner has jurisdiction over alcohol and the County has jurisdiction over land use; that they want to continue the farm winery, which means manufacturing, selling, tasting and have food and sell merchandise; that they want to do more, maybe have some weddings, or private parties; that in terms of the property itself, it is located on a 25 foot road located on the West side of Twin Branch Rd. approximately .89 miles South of the intersection of Sawmill Road and Twin Branch Rd.; that there is a 10 acre meadow in the middle of the property that comes into a culvert and a pond on the right with the building that was built where they'd have guests in that parking lot right next to it and to the look to the left, there's 10 acres of vineyards, which at least six or eight acres are planted; that if you bear off to the left of the road there is a farm warehouse, but all the way down to the left is where the winery building is, and there are six big cylinder tanks; that if you are in the vineyards looking back towards the tasting room there's a patio out front and they've used much of the hardwood surrounding the forest to make the bar and the tables; that the building has Fire Marshall approval for 90-92 people and it's on 2,700 square feet; that the applicant's plan was approved by the Fire Marshall on April 1, 2024; that they put in the sprinkler system and that they got final approval from the Fire Marshall for what has been completed; that the parking area has space with designated parking that can handle about 25 cars along the outside of the road and another space for about 25 where that horseshoe and another 25 in the grass; that DeIDOT stated that the traffic impact is negligible and the engineering report that there is no county infrastructure for sewer water as it has septic and well; that the findings and conditions are as follows:

- 1. The use will occur within a 38.66-acre parcel that is used to grow grapes for making wine. The Applicant also owns most of the land that surrounds the parcel that is the subject of this Conditional Use.**
- 2. This use is an extension of ongoing agricultural use of the property and agricultural uses that occur on the surrounding farmland. The use can also be considered as "agritourism" that promotes the agricultural industry in Sussex County. This type of use is appropriate in the Low-Density Area according to the Sussex**

**Public
Hearing/
CU2520
(continued)**

County Comprehensive Plan.

- 3. The Applicant intends to hold events that include weddings, birthdays, parties, craft shows, and similar functions with limited hours.**
- 4. The site will have sufficient areas for parking. According to the site plan there are at least 75 parking spaces available.**
- 5. No parties appeared in opposition to this Application.**
- 6. With the conditions and limitations placed upon this Conditional Use, it will not adversely affect neighboring properties or area roadways.**
- 7. This recommendation is subject to the following conditions:**
 - a. The area shall be used as a farm winery, tasting room, and events venue.**
 - b. The area set aside for conditional use, including all areas to be used for parking, shall be clearly shown on the Final Site Plan.**
 - c. The consumption, manufacture, and sale of alcoholic beverages shall be permitted subject to the approval of the Delaware Office of the Alcoholic Beverage Control Commissioner.**
 - d. The hours of operation for the tasting room shall be 7 days a week, with hours of operation from noon until 9:00 p.m., with the exception of Sundays, which shall be from noon until 6:00 p.m. The hours for events may vary but shall not begin before 11:00 a.m. nor extend past 11:00 p.m.**
 - e. All parking areas shall be shown on the Final Site Plan and clearly marked on the site itself. The interior driveways and parking areas shall contain sufficient space for vehicles and shuttle buses to turn around completely on the site.**
 - f. All activities on the premises shall comply with Fire Marshal, parking capacity and general permitting requirements.**
 - g. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.**

Mrs. Thompson stated that as the owner of Twin Branches, she is a Sussex County native; that this was farmland; that farming is no longer suitable for the land; that the equipment became too big to get over the branch; that the property is a gem.

There were no public comments.

The Public Hearing and public record were closed.

**M 038 25
Amend
Condition
7C/CU2520**

A Motion was made by Mr. McCarron, seconded by Mr. Lloyd to amend condition 7C to read “The consumption, manufacture, and sale of alcoholic beverages shall be permitted subject to the approval of the Delaware Office of the Alcoholic Beverage Control Commissioner”.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

**M 039 25
Amend
Condition
CU2520**

A Motion was made by Mr. McCarron, seconded by Mr. Lloyd to amend condition 7D to read “The hours of operation for the tasting room shall be 7 days a week, with hours of operation from noon until 9:00 p.m., with the exception of Sundays, which shall be from noon until 6:00 p.m. The hours for events may vary but shall not begin before 11:00 a.m. nor extend past 11:00 p.m.”.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

**M 040 25
Adopt
Ordinance
No. 3069/
CU2520**

A Motion was made by Mr. McCarron, seconded by Mr. Lloyd to Adopt Ordinance No. 3069 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FARM WINERY WITH TASTING ROOM AND EVENTS VENUE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD KILL HUNDRED, SUSSEX COUNTY, CONTAINING 38.66 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning and Zoning Commission as follows and as amended by this Council:

- 1. The use will occur within a 38.66-acre parcel that is used to grow grapes for making wine. The Applicant also owns most of the land that surrounds the parcel that is the subject of this Conditional Use.**
- 2. This use is an extension of ongoing agricultural use of the property and agricultural uses that occur on the surrounding farmland. The use can also be considered as “agritourism” that promotes the agricultural industry in Sussex County. This type of use is appropriate in the Low-Density Area according to the Sussex County Comprehensive Plan.**
- 3. The Applicant intends to hold events that include weddings, birthdays, parties, craft shows, and similar functions with limited hours.**
- 4. The site will have sufficient areas for parking. According to the site plan there are at least 75 parking spaces available.**
- 5. No parties appeared in opposition to this Application.**
- 6. With the conditions and limitations placed upon this Conditional Use, it will not adversely affect neighboring properties or area roadways.**

**M 040 25
Adopt
Ordinance
No. 3069/
CU2520
(continued)**

- 7. This recommendation is subject to the following conditions:**
 - a. The area shall be used as a farm winery, tasting room, and events venue.**
 - b. The area set aside for conditional use, including all areas to be used for parking, shall be clearly shown on the Final Site Plan.**
 - c. The consumption, manufacture, and sale of alcoholic beverages shall be permitted subject to the approval of the Delaware Office of the Alcoholic Beverage Control Commissioner.**
 - d. The hours of operation for the tasting room shall be 7 days a week, with hours of operation from noon until 9:00 p.m., with the exception of Sundays, which shall be from noon until 6:00 p.m. The hours for events may vary but shall not begin before 11:00 a.m. nor extend past 11:00 p.m.**
 - e. All parking areas shall be shown on the Final Site Plan and clearly marked on the site itself. The interior driveways and parking areas shall contain sufficient space for vehicles and shuttle buses to turn around completely on the site.**
 - f. All activities on the premises shall comply with Fire Marshal, parking capacity and general permitting requirements.**
 - g. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.**

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

**Public
Hearing/
CU2270**

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 OPERATE AN OUTDOOR RACETRACK TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 35.00 ACRES, MORE OR LESS” (properties are lying on the northwest side of the intersection of Hastings Farm Road [S.C.R. 526] and Coverdale Road [S.C.R. 525]) (911 Addresses: 22372, 22378 & 22382 Coverdale Road, Seaford) (Tax Map Parcels: 231-9.00-4.00, 5.00 & 5.01) filed on behalf of Gregory Mitchell.

Jamie Whitehouse, Planning & Zoning Director presented the application.

The Planning & Zoning Commission held a Public Hearing on the application on November 20, 2024. At the meeting of December 11, 2024, the Planning & Zoning Commission recommended approval of the application for the 4 reasons and subject to the 10 recommended conditions as outlined.

The Council found that Mr. David Hutt, Esq., of Morris James, spoke

**Public
Hearing/
CU2270
(continued)**

on behalf of the applicant Greg Mitchell; that this application is for conditional use to allow other racing classes to race at the outdoor racetrack situated at the northwest corner of Coverdale Rd. and Hastings Farm Road; that there is a pre-existing non-conforming outdoor race track, that exists on this property and as long as the pre-existing non-conforming use hasn't been suspended and it's actively going on regardless of what happens, there will be racing that continues at the Middleford Speedway based upon the pre-existing non-conforming use; that Lawrence Lank sent a letter to two owners that preceded Mr. Mitchell in his purchase of the track with concerns about the types of vehicles that were racing there in 2010; that the raceway is non-conforming and was limited to go-kart and motorcycle racing and micro-midget racing were permitted since the engines were of a motorcycle type; that there are numerous types of vehicles that race on the raceway; that the racing will continue regardless of the action today due to the preexisting nonconforming use; that Mr. Lank's letter also talks about, in addition to identifying what the non-conforming use was, it said that the owner at that time should consider filing a conditional use for other types of racing if that was their goal; that the ownership of the track has changed twice in order for us to reach this hearing; that when the survey was being prepared, two things were noted, that the entrance to the racetrack was not the applicants property, it has been off of Coverdale Road on an adjacent property and parking that exists is not on Mr. Mitchell's property; that when things like ownership of property and rights of way have not been fully investigated and determined prior to coming to a public hearing it makes it difficult to bring the application forward; that earlier this year Mr. Mitchell was able to acquire this property and own the property with the entrance and parking on it; that the property is located in a rural area; that the property timeline shows that it went from agricultural and wooded in 1937, then burrow activity showed up between 1954 and 1961 and then racing on the burrows around 1968; that in 1992 there are motorcross tracks and then a full racetrack beginning in 2002; that racing has occurred on the property from 1970 and forward; that the ownership has changed about five times; that the property is zoned AR-1, as are the properties to the North, West and the South of it; that this is a very large GR General Residential zone property and almost everything on the opposite side of Coverdale Rd. is zoned GR General Residential; that this is a low density area; that water is provided through onsite well and porta johns are used as sanitary sewer services; that this is a gated site and can only gain access when it is open for race events/practice; that there is a ticket booth and parking once you enter the site; that the track itself is an oval ¼ mile lighted dirt track that has events on Friday and Saturday evenings (sometimes Sunday if weather pushes them over but is rare) between the months of April and November; that when a race event is scheduled the track is open for practice runs during the week with only one car permitted at a time; that the track employs approximately 20-25 people, there is no sale of alcohol at the races, the race events normally start around 6:00 p.m. - 7:00 p.m. and

**Public
Hearing/
CU2270
(continued)**

conclude around 11:00 p.m. to midnight; that some events can go past the 11:00 p.m. time due to weather or other difficulties with the track; that outdoor race tracks as a conditional use, in the AR-1 District are permitted and the historic use of this racetrack since 1970 is certainly a public or semipublic use for the convenience of those in the County; that it supports local businesses, and individuals who participate in the events are employed at those events, and the vendors sell things at those events to folks here in Sussex County; that unlike many of the applications before the Council, typically the primary concerns are things like density and traffic for land use development applications; that as an outdoor race track that is not the primary concern, DelDOT referred to the traffic impact as negligible so one of the primary considerations for an outdoor racetrack is the sound or noise generated by the racing activity at the site; that an expert was retained to conduct a sound study, analyzing the sound, by the name of Vince Daliessio, a certified industrial hygienist and senior industrial hygienist with Penonni; that the sound that was attributed to the vehicles that fall into the category of things that our pre-existing non-conforming uses.

Mr. Vincent Daliessio, a Certified Industrial Engineer, spoke on behalf of the applicant that his job is to anticipate, recognize, evaluate, control and confirm protection from environmental stressors; that he is certified in community noise enforcement and in using the equipment, sound level meters to evaluate noise appropriately against noise codes where they exist; that he went out to the site to collect sound level readings during a racing exhibition which ran all the classes that are currently running at the site, as well as a couple of additional classes that the applicant would like to run; that for the types that are currently running, the L Max numbers are the junior slingshots at 72DB, the mod lights at 82DB and the 600 sprints at 84DB and the new classes of engines being proposed are the Super Trucks at 79DB, the Little Lincoln at 81DB, the Modified 5.7 liter Chevy V8 engine at 85DB and Late Model 5.7.Liter Chevy V8 autotype engine at 87DB; that this was completed during an exhibit event; that the added uses were added when the test was completed; that the super trucks were measured at 79 DB; that the little Lincoln were measured at 81 DB; that the two types that are more modern race cars measured at 85DB; that the late model measured at 87DB; that it is a type 2 meter that was used; that the data indicates a 3 decimal difference between the loudest vehicles that are permitted to race there and the vehicles that are being proposed; that the late models did not have a muffler; that if a muffler is required, a reduction of 3-5DB would be estimated; that one of the conditions given by the PZ Commission was that the vehicles have mufflers; that it has been noted that Sussex County does not have a noise ordinance, but there is a section in DNREC's code that limits the noise levels with an exemption for recreational sports and musical activities; that a formula was explained regarding the noise to the nearest residences.

**Public
Hearing/
CU2270
(continued)**

Mr. Hutt stated that the application is to allow outdoor racing and additional classes of racing to occur on a ¼ mile dirt track; that this is a multi-generational tradition; that the pit crews are often family members and friends; that it is a sport that has all ages and genders that participate; that a Conditional Use is the appropriate tool for this; that there are events that are sponsored here; that over \$30,000 has been raised for breast cancer and other causes over the years; that the conditions were reviewed; that Condition E as proposed by the Planning Commission states that there is a 11:00 p.m. end time for Friday and Saturday evenings; that things have to go just right for that to occur; that it is hoped that there can be flexibility to allow additional time until 11:30 p.m. on Friday and Saturday; that the applicant believes that the recommendation from the Commission is appropriate.

Mr. McCarron asked if racing could still occur at this location regardless of today's hearing. Mr. Whitehouse replied that there is a non-conforming use that the applicant can revert to, but it would just limit the vehicles if the Conditional Use were not granted. Mr. McCarron questioned what the restrictions would have on the grandfathered classes that are already in place. He added that the applicant has done a good job on putting conditions on themselves. In addition, what has been proposed and being discussed today is more than what they currently have in place. Mr. Whitehouse added that the restrictions would include all of the vehicles.

Public comments were heard.

Mr. Chris Martinez spoke in favor of the application; that it is a family friendly atmosphere; that it promotes a family atmosphere and gives the youth something to do; that it is way to keep the kids motivated.

Mr. John Jones spoke in favor of the application; that he started racing there in 1978; that his family races there; that there has been famous people that have race there; that the sport keeps growing; that this place needs to stay running and be the best it can be.

Mr. Jason Dean spoke in favor of the application; that he lives 5 miles north of the speedway; that he started racing there in 1993; that he attended before that as a child; that his son races there; that his son has been racing since he was 4 ½ years old; that this is important to him, his son and his friends that race there; that this gives the kids and adults something to do; that he would rather have his son learn values of racing and going to the racetrack rather than being on the wrong side; that this keeps his son out of trouble; that the track is depressed; that it is built in a hole in a borrow pit; that there are walls, woods and barriers that stop the sound and the track operator tries to control the dust; that he asked for the support of the application.

**Public
Hearing/
CU2270
(continued)**

Mr. Wayne Lee spoke in favor of the application; that this is like high school sports; that the kids are involved; that the track is a family-oriented track; that it is a form of sports for kids.

Mr. Howard Mullens spoke in favor of the application; that his family is a three-generation family that has attended the speedway; that his mom was 87 years old and went every night to watch the races; that they do events to raise money for good causes; that they need the support to keep this going.

Mr. Mark Allen spoke in opposition of the application; that he lives about 6,000 feet from the speedway; that he has watched this evolve over the years; that a go-cart track that was built in 1976, well after zoning started; that this is in the middle of a residential community; that the people in the community have complained; that it has been identified as a non-conforming use and the complaints were not heard; that he tried to have a conversation in a neighbors yard and he had to yell to be able to communicate with them; that there are people in the area that have sleeping issues, PTSD, people with small children; that the people in the area have given up; that there are other race tracks that are out there; that there is one in Georgetown and Delmar that have full size automobiles that have been around for many years; that he could not find in the code that the Planning Director could identify this as non-conforming; that it was shut down in 2012; that from 2012 to 2020 there was not an oval track there; that his neighbor played a tape for the Planning Commission and they replied to “turn that mess off”; that he is wondering how it is possible to bring a use such as this in this neighborhood into conformity.

Mr. Whitehouse questioned the period of no activity that was referenced by the prior speaker and requested more clarification from the applicant. Mr. Hutt stated that Mr. Mitchell has owned the track since 2017 so he can only speak from that point forward.

The Public Hearing and public record were closed.

**M 041 25
Amend
Condition
CU2270**

A Motion was made by Mr. McCarron, seconded by Ms. Gruenebaum to amend Condition 5E to read “Race events may only occur on Friday, Saturday and Sunday from April 1st through November 30th. At the events, racing may only occur between the hours of 6:00 p.m. until 11:30 p.m. on Friday and Saturday and between the hours of 12:00 p.m. until 9:00 p.m. on Sunday. Practices shall be allowed whenever a race is not occurring but only during the hours of 12:00 p.m. until 9:00 p.m. and shall be limited to one automobile on an outdoor racetrack so no racing occurs”.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

**M 042 25
Adopt
Ordinance
No. 3070/
CU2270**

A Motion was made by Mr. McCarron, seconded by Ms. Gruenebaum to Adopt Ordinance No. 3070 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO OPERATE AN OUTDOOR RACETRACK TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 35.00 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows and as amended by this Council:

- 1. This is a use that has existed at this location for many years. It was recognized as an existing, legal nonconforming use by a prior Director of Planning & Zoning in 2010 with limitations.**
- 2. This Conditional use further confirms the legal, nonconformity of the use and establishes appropriate conditions upon the use.**
- 3. Dirt-track racing has a long history in Sussex County on this site and at other locations. Several people testified that they have enjoyed the racing events that occur at this site for years if not decades and that it is a family sport. As a result, it has a benefit for Sussex County residents and visitors.**
- 4. With the conditions imposed by this recommendation of approval, any adverse impacts upon traffic, area roadways or the community will be substantially reduced from what currently exists at the location since there are basically no conditions associated with its legal nonconforming status other than engine size.**
- 5. This recommendation is subject to the following conditions:**
 - a. The use shall be limited to the existing outdoor dirt racetrack and related facilities as shown on the Preliminary Site Plan.**
 - b. All pit areas and parking areas shall be clearly marked on the Final Site Plan and the site itself.**
 - c. The applicant shall comply with all DelDOT entrance and roadway improvement requirements.**
 - d. One lighted sign shall be permitted along the perimeter of the property. It shall not exceed 32 square feet in size. The location of the sign shall be shown on the Final Site Plan. This prohibition shall not apply to sponsor signs on the interior of the racetrack itself.**
 - e. Race events may only occur on Friday, Saturday and Sunday from April 1st through November 30th. At the events, racing may only occur between the hours of 6:00 p.m. until 11:30 p.m. on Friday and Saturday and between the hours of 12:00 p.m. until 9:00 p.m. on Sunday. Practices shall be allowed whenever a race is not occurring but only during the hours of 12:00 p.m. until 9:00 p.m. and shall be limited to one automobile on an outdoor racetrack so no racing occurs.**
 - f. The property and racetrack may be lighted for nighttime use. All of the lighting shall be screened so that it does not shine onto neighboring properties or roadways.**
 - g. All of the racecars using the racetrack shall be operated with**

M 042 25
Adopt
Ordinance
No. 3070/
CU2270
(continued)

- mufflers.
- h. The racetrack shall be operated with appropriate safety and EMS measures in place while racing is underway.**
 - i. Any violation of these conditions shall be grounds for termination of the conditional use.**
 - j. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.**

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea

M 043 25
Allow
Withdraw/
CU2455

A Motion was made by Mr. McCarron, seconded by Mr. Lloyd to allow the applicant to withdraw and resubmit a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A TIRE AND BRAKE SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 10.96 ACRES, MORE OR LESS” and to direct Planning & Zoning to cease the operations there until it is resubmitted.

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea

Ms. Gruenebaum stated that she will miss next Tuesday’s meeting due to eye surgery. Mr. Rieley stated that he will be in Florida next meeting but plans to listen virtually.

M 044 25
Adjourn

A Motion was made by Mr. Rieley, seconded by Mr. Lloyd to adjourn at 3:29 p.m.

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, 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

JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING & DESIGN REVIEW

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




Sussex County

DELAWARE
sussexcountype.gov

MIKE HARMER, P.E.
SUSSEX COUNTY ENGINEER

Memorandum

TO: Sussex County Council
The Honorable Douglas B. Hudson, President
The Honorable John L. Rieley, Vice President
The Honorable Jane Gruenebaum
The Honorable Matthew R. Lloyd
The Honorable Steven C. McCarron

FROM: John J. Ashman 
Director of Utility Planning & Design Review

RE: *Existing Wastewater Infrastructure Use Agreement*
The Estates at Bridgewater
File: OM 9.01

DATE: February 4, 2025

The Existing Wastewater Infrastructure Use Agreement is an arrangement that collects financial contributions based on development built out flows for available capacity in the existing wastewater transmission infrastructure previously funded by the County while at the same time eliminating the granting of "oversizing" credits.

The Engineering Department requests approval of an agreement for the existing wastewater infrastructure use with **SB Old Mill Bridge, LLC** for **The Estates at Bridgewater** project in the **Miller Creek Area**. Such an arrangement does not modify the underlying land use decision in any form. However, it allows the wastewater originating from the approved project to be conveyed through the existing transmission system previously constructed by the County.

Under the proposed arrangement, **The Estates at Bridgewater** project will connect to the existing County owned wastewater infrastructure. In return for utilization of said, **SB Old Mill Bridge, LLC** will contribute **\$118,752.00** for the financial catch-up contribution of the existing infrastructure to serve **161.00** Equivalent Dwelling Units. Payments of the contribution will be required prior to a connection permit being issued.



EXISTING WASTEWATER INFRASTRUCTURE USE AGREEMENT

THE ESTATES AT BRIDGEWATER IUA-1121

THIS AGREEMENT (“Agreement”), made this _____ day of _____ 2025, by and between:

SUSSEX COUNTY, a political subdivision of the State of Delaware, hereinafter called the “County,” and;

SB OLD MILL BRIDGE, LLC. a Limited Liability Corporation and developer of a project known as **The Estates at Bridgewater (Bent Creek Estates/Old Mill Landing South)**, hereinafter called the “Developer.”

WITNESSETH:

WHEREAS, Developer is developing a tract of land identified as Tax Map parcels P/O 134-21.00-6.00 be known as **The Estates at Bridgewater** (“Project”) and;

WHEREAS, the Project is within the boundary of the Sussex County Unified Sanitary Sewer District (Miller Creek Area) and;

WHEREAS, the Project will utilize available capacity in existing wastewater infrastructure previously funded by Sussex County.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, which is hereby acknowledged by both parties as sufficient consideration, the parties hereby agree as follows:

- (1) Developer is proposing to utilize County’s existing collection and transmission capacity by connecting to existing regional infrastructure used by multiple pump stations.
- (2) In exchange for permission to connect up to **161** additional equivalent dwelling units to County’s existing system and to utilize the existing capacity in said system, Developer agrees to financial catch-up contribution in the amount of **\$118,752.00** for said existing facilities.
- (3) The contribution amount in the case of multiple pump stations using an existing collection and transmission system is based on the ratio of average flow capacity utilization of said transmission facilities.
- (4) **Payment of the contribution must be submitted prior to a connection permit being issued.**
- (5) If the Project (as currently submitted) is amended and County determines in its sole discretion that such amendments materially affect this Agreement, this Agreement

may be declared by County to be null and void, and any unused payments made pursuant to this Agreement shall be returned to Developer, unless the parties otherwise agree. Nothing herein shall prevent the parties from the negotiation of a new agreement with respect to the amended Project, as the parties may deem appropriate.

- (6) The contribution is to be placed in County's sewer capital fund and expended towards overall debt reduction or at such time when any transmission infrastructure in County's Unified Sanitary Sewer District requires capital improvements (See Chapter 110-96 of the Sussex County Code).
- (7) Developer shall be responsible for payment of any and all undiscounted system connection charges in accordance with and pursuant to the requirements of the *Sussex County Code* for all lots, due at such time the Developer receives the sewer connection permit.
- (8) Developer shall comply in all aspects with the *Sussex County Code* and any other local, state, county, or federal laws, regulations, or policies that may be applicable and as such may be hereinafter amended.
- (9) Prior to the commencement of construction of any sanitary sewer facilities for the Project, Developer shall obtain a project construction permit from the County in accordance with and pursuant to the requirements of the *Sussex County Code*.
- (10) In order to allow the opportunity for a County representative to be present as the County so chooses, Developer shall send written notice to County of the date upon which connection to the County regional transmission system will be made. Developer shall follow County's written or verbal instructions in making said connection to the County sanitary sewer system.
- (11) Developer may assign this Agreement in whole or in part to any entity controlled directly or indirectly by Developer or to any third party who purchases, leases or otherwise controls any portion of Developer's property without the consent of County. Developer, and any subsequent assignees or successors shall provide County at least ten (10) days' written notice of any such assignment. Any other assignments, transfers, or conveyances with respect to this Agreement are prohibited without prior written consent of County.
- (12) To the extent permitted by law, Developer shall indemnify and hold harmless County, and its appointed and elected officials, employees, licensees, and agents for any claims, losses, liabilities, suits, or damages, including but not limited to reasonable attorneys' fees, professional engineering fees, and any other costs of litigation, arising out of Developer's negligence in connection with its performance of this Agreement, including but not limited to damage to the County's infrastructure

in making connection to County's regional transmission system. The obligations of this Paragraph shall survive the termination of this Agreement.

- (13) All the terms, covenants, and conditions of this Agreement shall in all respects be governed and construed under and pursuant to the Laws of the State of Delaware without respect to its conflict of law provisions. This Agreement may only be amended, supplemented or modified by a subsequent written agreement executed by all the parties hereto.
- (14) This Agreement and exhibits constitute the final, entire and exclusive agreement between the parties with respect to the subject matter of all matters discussed in it and supersedes all prior or contemporaneous discussions, statements, representations, warranties or agreements, whether written or oral, made in connection with the Agreement described herein.
- (15) It is mutually agreed between the parties that no review, approval, acceptance, and/or payment made under this Agreement shall be conclusive evidence of the performance of the Agreement, either wholly or in part, and that no review, approval, acceptance, and/or payment shall be construed as acceptance of defective work by County, nor in any way relieve Developer of its responsibility for the adequacy of its work.
- (16) The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach. Neither party shall be deemed to have waived any rights under this Agreement unless such waiver is expressly given in writing and signed by the waiving party. No delay or omission on the part of either party in exercising any right shall operate as a waiver of such right or any other right.
- (17) This Agreement shall be executed in duplicate, any copy of which shall be considered and construed as and for the original.
- (18) If any provision of this Agreement shall be deemed invalid or unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not render invalid or unenforceable any of the other provisions of this Agreement which may be given effect without such invalid or unenforceable provision, and to this end, the provisions of this Agreement are hereby deemed to be severable.
- (19) Any notice required to be delivered to or by either party under this Agreement shall be sent by U.S. first class mail. For purposes of this provision, the address of the County is 2 The Circle, P.O. Box 589, Georgetown, Delaware, 19947, and the address of the Developer is **20184 Phillips Street, Rehoboth Beach Delaware 19971.**

IN WITNESS, WHEREOF, the respective parties hereto have affixed their hands
and seals the day and year aforesaid.

FOR THE COUNTY:

{Seal}

By: _____
(President - Sussex County Council)
_____ (DATE)

ATTEST:

Tracy N. Torbert
Clerk of the County Council

FOR SB OLD MILL BRIDGE, LLC

By: Tim Green (Seal)
Tim Green - Authorized Signatory
1/10/25 (DATE)

WITNESS:



GINA A. JENNINGS, MBA, MPA
FINANCE DIRECTOR

(302) 855-7741 T
(302) 855-7749 F
gjennings@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

MEMORANDUM:

TO: Sussex County Council
The Honorable Douglas B. Hudson, President
The Honorable John L. Rieley, Vice President
The Honorable Jane Gruenebaum
The Honorable Matt Lloyd
The Honorable Steve C. McCarron

FROM: Gina A. Jennings
Finance Director/Chief Operating Officer

RE: **Board of Assessment Review Ordinance**

DATE: January 31, 2025

As we move closer to receiving the assessment data from Tyler Technologies, we are continuing to ramp up our processes to begin the assessment appeals process.

In October, we gave Council a reassessment update that provided some of our next steps. We have completed appointing members to the Board of Assessment Review as established in Title 9 of Delaware State Code. The next step is for Council to adopt an ordinance that allows that Board to carry out the required duties outlined in code.

On Tuesday, I will ask you to introduce an ordinance that will allow the Board to establish their own rules of procedure. The rules of procedure provides an overview of the appeals process and the steps the Board will follow during an assessment appeal. A copy of the tentative rules has been placed on our reassessment website for review and is attached to this memo. These rules are subject to change but gives the public the opportunity to see what the new Board will potentially adopt at their first meeting before the first appeals are held. Being able to adopt their own rules is consistent with Title 9 in State Code for New Castle County and Chapter 9 in Kent County Code for Kent County.

The public hearing for this ordinance will be scheduled on February 25th. This will be the first meeting after Tyler Technology has released their data to us. Therefore, at that same meeting, we will be able to talk about the data we received and release a tax calculator that will allow the public to estimate their taxes.

If you have any questions, please feel free to contact me.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 103 (“TAXATION”) OF THE CODE OF SUSSEX COUNTY TO ADD A NEW ARTICLE VIII, ENTITLED “BOARD OF ASSESSMENT REVIEW” TO GRANT THE BOARD OF ASSESSMENT REVIEW AUTHORITY TO ADOPT RULES AND PROCEDURES TO CARRY OUT ITS DUTIES AS OUTLINED IN 9 DEL. C. § 7004.

1 WHEREAS, 9 Del. C. § 7004 mandates that Sussex County maintain a Board of
2 Assessment Review to hear and decide tax appeals; and

3 WHEREAS, 9 Del. C. § 7004(f) authorizes the Board of Assessment Review to
4 “[p]erform all functions as established by Sussex County Council through ordinance and
5 as otherwise provided in this title”; and

6 WHEREAS, the Sussex County Council has determined that the Board of
7 Assessment Review should be empowered to create and adopt Rules and Procedures to
8 govern its action as a board, which may be amended from time to time; and

9 WHEREAS, the Sussex County Council deems it necessary to amend Chapter
10 103 to add a new Article VIII, entitled “Board of Assessment Review” which shall grant
11 the Board of Assessment Review the authority to create and adopt such Rules and
12 Procedures, and such other powers to carry out its duties as outlined in 9 Del. C. § 7004.

13 NOW THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

14 Section 1. Chapter 103 (“Taxation”) of the Sussex County Code is hereby
15 amended by inserting a new Article VIII, entitled “Board of Assessment Review” by
16 inserting the underlined language in quotes as follows:

17 “Article VIII Board of Assessment Review

18 § 103-48 Board of Assessment Review.

19 This Article shall govern the Board of Assessment Review of Sussex County which
20 is established and authorized under 9 Del. C. § 7004.

21 § 103-49 Procedure.

22 The Board shall establish rules and regulations for its operation and procedure and
23 shall perform all functions stated therein.”

24 Section 2. Effective Date. This Ordinance shall become effective upon its
25 adoption.

26

27

Synopsis

28 Pursuant to 9 *Del. C.* § 7004(f)(4), the Sussex County Council is authorized to
29 adopt an ordinance to authorize the Board of Assessment Review to “[p]erform all
30 functions as established by Sussex County Council through ordinance and as otherwise
31 provided in this title.” This Ordinance amends Chapter 103 by adding a new Article VIII.,
32 entitled, “Board of Assessment Review” to the Sussex County Code which grants the
33 Board of Assessment Review the authority to adopt rules and procedures to carry out its
34 duties as outlined in 9 *Del. C.* §7004.

35 No text has been deleted. All new text is underlined and in quotations marks.

BOARD OF ASSESSMENT REVIEW
SUSSEX COUNTY, RULES OF PROCEDURE

Article I. Authorization

The Board of Assessment Review of Sussex County (hereinafter referred to as "the Board") is established and authorized under 9 Del. C. § 7004.

Article II. Functions

Section 1. The Board shall hear timely and properly filed appeals from any property owner who alleges that their property has been improperly assessed for the purposes of taxation. The Board, on the basis of the evidence presented at the appeal hearing, shall determine whether the assessment is correct. If the Board finds that the assessment is greater than it should be, the Board shall order the Sussex County Department of Assessment (hereinafter "Assessment") to reduce the assessment to the amount established by the Board. The Board shall not increase any assessment established by Assessment.

Article III. Duties of Assessment

Assessment shall, at the direction of the Board, receive and docket all appeals, prepare and mail all official correspondence of the Board, send out all notices required by law and by these Rules, keep records of all official actions of the Board, and perform all duties required by law and these Rules.

Article IV. Board Members

Section 1. The Board shall consist of five regular members and three alternate members, appointed in accordance with and serving terms as established by 9 *Del. C.* § 7004.

Article V. Chairperson

Section 1. The Chairperson shall preside at all meetings of the Board, decide all points of order or procedure, and perform all duties required by law or these Rules.

Section 2. In the absence of the Chairperson, those members of the Board who are present shall designate a member to serve as Acting Chairperson, who shall preside and who may exercise all powers with which the Chairperson is vested by law or these Rules.

Section 3. The Chairperson shall be permitted to vote on any motion pending before the Board or a panel thereof.

Article VI. Meetings and Hearings

Section 1. The Board shall meet at some public and convenient place in Sussex County from March 1 to May 31 of each year or until all appeals have been heard and acted upon during a year of reassessment to hear assessment appeals and to perform any other functions required by law or to conduct any administrative business. The Board and Assessment, in conjunction, may schedule additional meetings as needed. If there are no appeals or no other business before the Board for any designated month, the Board and Assessment, in conjunction, may cancel meetings for that month. The Board's hearing schedule may be modified as necessary to respond to scheduling conflicts or exigencies.

Section 2. A quorum of the Board is necessary to transact business at any meeting or hearing. A quorum shall consist of three (3) members appointed to the Board.

Section 3. The vote of a majority of the members present at any meeting or hearing of the Board shall be necessary to carry a motion.

Section 4. Any person desiring to take an appeal before the Board shall, within the periods established by law or Assessment, file written notice thereof with the Board on such forms as the Board may prescribe. Appeals of separate tax parcels shall be submitted on separate appeal forms. Appeals for separate tax parcels set forth on a single appeal form will not be considered.

Section 5.

- a. Each appellant and counsel or representative of record shall be notified of the date, place, and time that the hearing will be held.
- b. In addition to the notice to appellants required under subsection (a) of this section, Assessment shall, on behalf of the Board, give sufficient public notice of all meetings by the Board to comply with the provisions of the State Freedom of Information Act (29 *Del. C.* Ch. 100).

Section 6. The procedure for hearing before the Board shall be as follows:

- a. The Chairperson will read into the record a statement identifying the appellant, their property, and the amount of the assessment being appealed. The Chairperson shall also advise all parties of any time limitation applicable to the appeal hearing, in accordance with Section 8 of this Article.
- b. All witnesses who wish to testify before the Board shall testify under oath. Any form of attestation by which a witness signifies that they are bound in conscience to testify truthfully shall be sufficient. The Chairperson shall administer all oaths.
- c. The appellant shall present testimony, including any legally admissible documentation or other evidence, in support of a lower assessment, so long as such evidence was disclosed in the appellant's appeal form.
- d. An Assessment representative may then cross-examine the appellant concerning the testimony and evidence presented.
- e. Board members may question the appellant on appellant's evidence.
- f. If the appellant has not presented any competent evidence of substantial overvaluation, the Board may, either on the motion of Assessment or a board member, deny the appeal without receiving further testimony.
- g. If the appellant has presented competent evidence of substantial overvaluation, an Assessment representative will present evidence in support of the assessment of record or any lower value they believe accurately reflects the fair market value of the property in issue as of the County's base date of July 1, 2023. Assessment shall not present any document not previously provided to any appellant who timely requests the production of Assessment's documents as provided for in these rules.
- h. If an Assessment representative has presented evidence, the appellant shall have the opportunity to cross-examine them concerning that evidence.
- i. After cross-examination by the appellant, Board members may question the Assessment representative on Assessment's evidence.

- j. The appellant may then rebut any evidence presented by Assessment.
- k. Assessment will be given an opportunity to cross-examine the appellant on any rebuttal evidence.
- l. Upon the conclusion of the presentation of the evidence, the appellant and the Assessment representative may each make a short closing statement to the Board summarizing their positions but introducing no further evidence.
- m. Following the presentation of evidence by both sides within the time limits established at the outset of the hearing, the Board will consider all evidence submitted. A member of the Board will make a motion to close the hearing and the Chairman will then take a roll-call Vote on the motion.
- n. Within five business days following the date of the hearing, the Board will issue a written statement of its decision.

Section 7. If the appellant or their representative fails to appear at the appeal hearing within 15 minutes after the time scheduled, unless the appeal hearing has been continued, the appeal shall be deemed abandoned.

Section 8. Unless additional time is requested by the appellant, Assessment or a member of the Board, appellants and Assessment shall each be limited to fifteen (15) minutes to present evidence and argument regarding the assessment of residential property when neither appellant nor Assessment present the opinion of an expert (including an appraiser). In its discretion, the Board may establish time limits for all other appeal hearings. If the Board does establish such a time limit, it shall advise the appellant and Assessment of the limit at the time the appeal is noticed for hearing and shall equally divide the time allocated between the appellant and Assessment. The Board may, in the interests of justice, expand the time allocated to any party.

Section 9. If, as a result of delays experienced by the Board, an appellant's appeal cannot be heard within one-half hour after the time scheduled, the appellant shall be given a choice of waiting until the Board reaches their case or of receiving a continuance to the next available hearing date.

Section 10. All meetings, hearings, and proceedings of the Board, with the exception of executive sessions for the purposes set forth in 29 *Del. C.* §10004(b), shall be open to the public. A record of all public proceedings shall be maintained.

Article VII. Panel and Referees

Section 1. Whenever Sussex County has chosen under 9 *Del. C.* 7004 to authorize the appointment of Referees to hear appeals, all hearings shall conform to the procedures outlined in Article VI of these rules, with the following exceptions:

- a. Any referee shall maintain a summary record.
- b. The decision of a referee shall not be final but shall serve merely as a recommendation to the entire Board.
- c. At a meeting called in conformity with all applicable notice requirements of State law, a quorum of the Board shall meet to consider all recommendations by the referees.
- d. At such meetings, the Board shall not permit the introduction of further testimony or further evidence and shall determine if the assessment is correct on the basis of the record of the appeal hearing and the recommendation of the referee.

Article VIII. Data Requirements

Section 1. An appellant shall file for an assessment appeal on an official application form provided by Assessment. Unless otherwise directed by the Board or agreed by Assessment an appellant shall file one original copy of their application and all supporting documentation with the Board by the Assessment Department at assessmentappeals@sussexcountyde.gov or delivering them to the office of the Department of Assessment, PO Box 589, Georgetown, DE 19947 not later than 4:30PM on the date established by law. For the purposes of this Rule, an application shall be considered late if it is not electronically received in Assessment's inbox, or physically received in the offices of Assessment by the aforesaid deadline, regardless of any postmark or other evidence of the date or time of the submission. Late applications shall be received but shall not be docketed, processed, or scheduled for hearing until the next annual appeal period, and any reduction in assessment shall not become effective until the commencement of the next tax year.

Section 2. With respect to any application that Assessment believes is deficient in that it does not contain competent evidence of substantial overvaluation, Assessment shall advise the appellant in writing of the deficiency and provide the appellant a period of no fewer than ten (10) days for its correction, and further advise the appellant that if the deficiency is not corrected, that Assessment shall present that appeal to the Chairperson for designation as a deficient filing. After the expiration of the correction period provided by Assessment, if Assessment believes that the deficiency has not been cured, Assessment may notify the Board Chairperson of its determination that the appeal is deficient. If the Chairperson agrees that the appeal is deficient, the appeal will be scheduled for a hearing solely for the Board to vote on whether the appeal should be dismissed as deficient. If the Chairperson disagrees that the appeal is deficient, the appeal shall be scheduled for a hearing on the merits. If the Board determines the appeal is deficient, the appeal shall be denied.

Section 3.

- a. An appellant relying on the comparable sales approach may cite only comparable sales, not allegedly comparable assessments. Comparable sales to be cited or otherwise relied upon by the appellant at an appeal hearing must be identified with specificity in the appellant's appeal form. The appellant will not be permitted to testify concerning any comparable sale not cited in their appeal form.
- b. An appellant asserting that Assessment must consider any relevant factor affecting the value of a property must identify through a supplemental filing submitted prior to the scheduled hearing all factors the appellant asserts the Board must consider. Factors not so identified shall be deemed waived by the appellant and shall not be considered by the Board.
- c. All appraisals presented by either an appellant or Assessment shall be prepared by an appraiser licensed or permitted to practice in the State of Delaware by the State Council on Real Estate Appraisers pursuant to 24 Del. C. §§ 4001 et seq.

Section 4. An appellant shall cite at least three but not more than six comparable sales on their appeal form or at the hearing. In the event that an appellant's appeal form cites more than six comparable sales, they will be permitted at the hearing to discuss only the first six listed on the form. This limitation shall not apply to appraisals prepared pursuant to Article VIII, Section 3(c).

Section 5.

- a. If the appellant wishes to rely upon any appraisal report at the appeal hearing, they must provide one copy of that report to Assessment and additional copies upon request by the Board. Upon a showing of good cause, the period for filing an appraisal report may be extended by the Chairperson; in no case, however, will Assessment schedule an appeal for hearing until the appellant has provided the appraisal report if the Chairperson grants an extension. If the appellant does not provide an appraisal report in the time allowed by the Chairperson, the Chairperson may grant an additional extension or direct Assessment to schedule the appeal for hearing.
- b. If Assessment intends to rely upon an appraisal report or other expert opinion (other than that of an employee of Assessment), Assessment shall produce the report and identify such expert to the Board and the appellant before the first scheduled date of the appeal hearing.
- c. The Board shall not permit the introduction of any appraisal report, or the evidence contained therein, unless the report has been previously provided as required under these Rules and the author of the report is present and available for cross-examination.

Section 6. Any appellant who files a timely appeal shall be provided a statement, substantially in the form set forth in Appendix I, outlining the legal standards applicable to assessment, the burdens of proof on assessment appeals, and the procedures followed by the Board.

Section 7.

- a. Any potential witness who may testify on the appellant's behalf shall be identified on the appellant's appeal form. If requested by the appellant either on the appeal form or before the first scheduled date of the appeal hearing, Assessment shall identify all witnesses who may testify on its behalf prior to the hearing. The Board shall not permit any witness to testify at the hearing unless previously identified as required under these Rules.
- b. An appellant may request that Assessment disclose each exhibit that it intends to present in its case-in-chief in support of the assessment. Such requests shall be made on the appeal form by checking a box on the form indicating that appellant seeks the production of Assessment's documents. Upon receipt of an appeal form indicating appellant's request for disclosure, Assessment shall make one copy of each exhibit available to the appellant at the Department of Assessment, during regular business hours, or by e-mail prior to the hearing. The receipt of documents in compliance with these Rules shall not serve as the basis for a continuance. Until the Board has determined that the appellant has presented competent evidence of substantial overvaluation, the Board shall not consider, or permit the appellant to reference, Assessment's exhibits. Assessment shall not be required to disclose any exhibit it may submit as impeachment evidence during the appellant's case-in-chief. Disclosure shall not be required for a hearing on deficiency held under Article VIII, Section 2. Documents not disclosed in compliance with these Rules shall not be considered at any hearing.

Article IX. Formal Decisions

Following each hearing, the Board shall forward to Assessment a brief written statement of its decision and the basis therefor. Assessment shall, in accordance with the provisions of State law, provide a copy of that statement to the appellant or the representative who appeared on their behalf at any hearing.

Article X. Judicial Review of Board Decisions

Section 1. At the conclusion of any hearing, the Chairperson shall advise the appellant of the right to seek judicial review in the Superior Court.

Section 2. In the event of an appeal to the Superior Court, Assessment shall prepare and file with the Prothonotary a transcript of all proceedings and a record of all evidence submitted to the Board. The party taking an appeal from the Board's decision shall reimburse Assessment for the actual costs of preparing the transcript and evidence filed with the Prothonotary. Unpaid invoices may be referred to the Sussex County Constable for enforcement. Interest will accrue on unpaid invoices at the rate of 1 percent per month. Subsequent appeals by appellants with outstanding under this section shall be deemed deficient and shall be denied.

Article XI. Application and Amendments

Section 1. The purpose of these Rules is to fairly and efficiently administer the appeals process. The Board, upon motion and approval by a majority of the members attending any meeting of the Board, may temporarily suspend any procedural or temporal rule set forth herein for good cause shown on a case-by-case basis.

Section 2. These Rules may be amended upon the motion of a quorum of the Board.

Appendix I

Summary of the Rules and Procedures on Appeals to The Board of Assessment Review of Sussex County

This is to acquaint you with the procedures followed by the Board of Assessment Review (the "Board") in assessment appeals, so that you will better understand the manner in which your case will be handled.

The Board sits to hear appeals from the assessed values placed on real property in Sussex County. To file an appeal, you must present an appeal form, to the Director of the Department of Assessment ("Assessment") by the deadline established by law. **Your appeal form must be completed fully and you must timely submit all required documentation in accordance with the Board's rules, or the Board may deny your appeal without a hearing on the merits of your appeal.**

You will be notified of the date, time, and place of your hearing.

Hearings are held before the Board, composed of five members, none of whom are Sussex County employees. If warranted, Sussex County may authorize the appointment of Referees to hear appeals; if it does so, the Referees' recommendation will be presented to the full Board at a later meeting which you may attend but at which no further testimony or evidence will be received.

At the beginning of the hearing, the Chairperson of the Board will read into the record a statement identifying you, your property, and the amount of the assessment under appeal. The Chairperson will also advise all parties of any time limitations for the hearing.

After being sworn, you may present to the Board testimony or evidence to support your claim that your assessment should be reduced. To prevail, you must convince the Board that the fair market value of your property, as of the County's base date of July 1, 2023, is less than the amount of your assessment. To do this, you may present evidence of sales of comparable properties. The assessed values of other properties, or the taxes paid by other property owners, are not acceptable as competent evidence of overvaluation. Do not cite the assessed values of other properties in your appeal.

If you are an individual, you may present your case yourself or through an attorney. If you are an entity, you may present your case yourself or through an attorney, or employee, but not through a non-employee third-party. If you wish to discuss sales of comparable properties in your area to demonstrate your claim of overvaluation, you must state specific parcel numbers, owners' names, and exact addresses in your appeal form; you may not testify concerning properties that were not included in your appeal form. You may also present evidence through qualified witnesses, if they have been identified in your appeal form. Written information such as appraisal reports will be considered only if the report has been previously provided to Assessment and the Board and the person who prepared the document is present at the hearing and available for cross-examination. After you have completed your testimony and presented your evidence, the County's representative may cross-examine you on the evidence you presented. Then, the members of the Board may also ask you questions.

If you are appealing the assessment of residential property and you are not presenting the testimony of an appraiser, you and Assessment will each be limited to 15 minutes to present your evidence. Requests for additional time must be made to the Chairperson prior to the hearing and may be granted at the Chairperson's discretion.

You may request that Assessment disclose its witnesses and exhibits to you. Requests for the disclosure of exhibits must be made on the appeal form by checking the appropriate box. Any request for the disclosure of witnesses must be made before the first scheduled date of your appeal hearing.

Under State law, there is a presumption Assessment has correctly valued your property. **YOU HAVE THE BURDEN OF SHOWING THAT YOUR ASSESSMENT IS INCORRECT.** If you fail to meet that initial burden, then Assessment may refuse to present any evidence in support of its assessment. Assessment is required to justify its assessment only after you have presented competent evidence of substantial overvaluation.

After you have presented your evidence and met your initial burden of showing substantial overvaluation, Assessment's representative will be sworn and will present evidence in support of the assessment. After Assessment has presented its evidence, you may cross-examine Assessment's representative about their testimony. Thereafter, the Board may also question Assessment's representative.

You will be given a final opportunity to rebut Assessment's evidence. Should you offer any rebuttal evidence, Assessment will be allowed to cross-examine you on that evidence.

After both sides have fully presented their positions within the time limits established at the outset of the hearing, the Board will consider all the evidence submitted. A member of the Board will make a motion and the Chairperson will then take a roll call vote on the motion to close the hearing. Following the hearing, you will be sent a written statement of the Board's ruling.

The Board's decision may be appealed to the Superior Court within thirty (30) days after written notice of the decision has been issued. Superior Court appeals are based on the record presented before the Board. Ordinarily, no new evidence or testimony can be presented. The Board's decision will be upheld on appeal unless the Court is convinced that the Board acted "contrary to law, fraudulently, arbitrarily or capriciously."

The same procedures apply in a quarterly or supplemental tax appeal. The only difference between an annual appeal and a supplemental appeal is the scope of the Board's review. In an annual appeal, you may challenge your entire assessment. In a supplemental appeal, you may challenge only the amount by which your assessment was increased during that quarter.

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 Douglas B. Hudson, President
The Honorable John L. Rieley, Vice President
The Honorable Matt Lloyd
The Honorable Steve C. McCarron
The Honorable Jane Gruenebaum

FROM: Mike Harmer, P.E., County Engineer
Paul Mauser, P.E., Assistant County Engineer

RE: Warwick Park Septic Elimination Project – Phase 2, S24-20
A. Recommendation of Introduction of Debt Ordinance

DATE: February 4, 2025

Project Background Information: In August of 2022, County Council granted Permission to Prepare and Post Notices for an expansion of the Sussex County Unified Sanitary Sewer District (Oak Orchard Area) to include Warwick Park, Warwick Cove, and Gull Point. The Engineering Department distributed polling letters to all residents of the communities. The Warwick Cove & Warwick Park returns were positive but the returns for Gull Point initially were not.

During the background investigation, the Engineering Department discovered that DNREC had contacted Gull Point in 2012, notifying the community that their operating permit would expire in 5 years and plant upgrades would be required following the promulgation of the Pollution Control Strategy (PCS) Regulations.

The Public Hearing was held on October 29, 2022, at Indian River Fire Hall in Oak Orchard. The presentation included the annexation process and the estimated rates, which were presented as a 2-part project, one for Warwick Cove and Gull Point having existing community systems and one for Warwick Park which will require a full collection system.

There appeared to be strong support from the Warwick Cove and Warwick Park residents in attendance however there was minimal attendance from Gull Point. Following the meeting, the Department was asked to attend a separate meeting for Gull Point to explain to those not in attendance the information shared at the Public Hearing as the community was unaware of the 2012 DNREC letter and were under the impression their system was in compliance.



The Gull Point special general membership meeting was held on December 10, 2022. At that point, the Board shared that DNREC had recently notified Gull Point to come into compliance with the PCS and make an official application for a new operating permit. The Engineering Department then presented the information from the Public Hearing to the larger congregation of Gull Point property owners and the Board.

The property owners and the Board engaged in a lengthy Q&A discussion with the County Engineer and then called for a vote on the desire of the community to be included in the project. The result was unanimous on the part of the members present for Gull Point to remain in the expansion area and be part of the project. On January 10, 2023 County Council approved the recommendation of the Engineering Department to expand the Sanitary Sewer District Boundary to include the Warwick Park area.

Proposed Septic Elimination Project: The connection of the Warwick Park community (established approximately 1974, currently 192 lots) to the County’s sewer system will eliminate an estimated 7,200 pounds of Total Nitrogen (TN) per year from the Indian River and Indian River Bay. The County proposes to install a gravity collection system with an extension to the new Pump Station for Gull Point and Warwick Cove (to be constructed as part of Warwick Park Phase 1 project). This Pump Station will convey the wastewater to the Inland Bays Regional Wastewater Facility (IBRWF).

The estimated project cost is \$9,963,400.00. The County will provide each Property Owner with a sewer connection at the property line. The Property Owner will be responsible for engaging the services of a licensed plumber to install the piping from the County owned lateral cleanout to the house, as well as pumping out and filling the existing septic tank.

Delaware Water Pollution Control Revolving Loan Fund (WPCRF): Sussex County staff completed the Preliminary Engineering Report (PER) and the Environmental Information Documents (EID) in May 2024. The PER and EID are required for submittal of the funding application to Delaware State Revolving Fund (SRF). On December 16, 2024, the County received a Binding Commitment Letter (BCL) from DNREC Environmental Finance for the Warwick Park Septic Elimination Project – Phase 2. The County acknowledged and accepted the DNREC BCL the same day on December 16, 2024. The BCL identifies a loan amount of \$9,963,400.00 for a term of thirty (30) years. Upon completion of the project, up to \$5,470,360.00 of principal forgiveness will be applied and the remaining balance will be amortized over 30 years at 2% interest and will require semi-annual principal and interest payments.

Sussex County Engineering Recommendation for County Council: The Engineering Department recommends introduction of the associated debt ordinance authorizing the issuance of up to \$9,963,400.00 of general obligation bonds of Sussex County in connection with the construction and equipping of the Warwick Park Septic Elimination Project – Phase 2.

ORDINANCE NO. [_____]

AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$9,963,400 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE WARWICK PARK PHASE II 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 Warwick Park Phase II Project, which will finance the installation of a central gravity sanitary sewer conveyance system to serve the Warwick Park community (192 Lots) in phase two of an overall two-phase project where the Gull Point (165 lots) and Warwick Cove (14 lots) subdivisions are to be connected in phase one. The project discharge will go to the phase one sub-regional pump station located adjacent to Warwick Cove. An expansion of Sussex County’s unified sanitary sewer district to Warwick Park, Gull Point and Warwick Cove has already been approved (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 \$9,963,400 (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 thirty (30) 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 March, 2025.

SUSSEX COUNTY, DELAWARE

Tracy Torbert
Clerk of the Council

SYNOPSIS: This Ordinance provides for the issuance of up to \$9,963,400 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 Warwick Park Phase II Project, which will finance the installation of a central gravity sanitary sewer conveyance system to serve the Warwick Park community (192 Lots) in phase two of an overall two-phase project where the Gull Point (165 lots) and Warwick Cove (14 lots) subdivisions are to be connected in phase one. The project discharge will go to the phase one sub-regional pump station located adjacent to Warwick Cove. An expansion of Sussex County’s unified sanitary sewer district to Warwick Park, Gull Point and Warwick Cove has already been approved (collectively, the “Project”).

ENGINEERING DEPARTMENT

MIKE HARMER, P.E.
SUSSEX COUNTY ENGINEER

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

mike.harmer@sussexcountyde.gov



Sussex County

DELAWARE
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Memorandum

TO: Sussex County Council
The Honorable Douglas B. Hudson, President
The Honorable John L. Rieley, Vice President
The Honorable Matt Lloyd
The Honorable Steve C. McCarron
The Honorable Jane Gruenebaum

FROM: Hans Medlarz, P.E., Project Manager

RE: **Winding Creek Water District, Project S20-10**
A. WRA Amendment 6 Closeout – Winding Creek Village Water District

DATE: February 4, 2025

On August 2, 2016, County Council approved the addition of the Herring Creek area to the Unified Sewer District. On March 20, 2017, the Finance & Engineering Departments filed a funding application with USDA/Rural Development and by September of 2018 all the associated loans/grants related to the sewer expansion were in place. On September 14, 2017, the voters in the proposed Winding Creek Village Water District Area approved the creation of the water district which was officially created by County Council on October 3, 2017.

On June 13, 2018, the Finance and Engineering Departments filed an initial application with the Delaware Drinking Water SRF for \$2,000,000 for the Winding Creek Village Water District Area. On April 2, 2019, Council accepted the funding offer and issued the associated ordinance authorizing up to \$2,000,000 of general obligation bonds, with the \$1,000,000 of principal forgiveness.

On January 24, 2014, County Council awarded a five (5) year, cost plus fixed fee type, base contract regarding engineering services for the North Coastal Planning Area to Whitman, Requardt and Associates, LLP (WRA). On November 1, 2016, Council approved WRA's EJDC Base Agreement for the Herring Creek Sanitary Sewer District, in the amount of \$102,649.00, for aerial mapping and environmental assessment issues.

Subsequently Council awarded seven (7) amendments to WRA's base engineering contract:

- October 2, 2018, Amendment No. 1 for the design of the Herring Creek Sanitary Sewer District Pump Stations, Force Main, Project S20-06.
- November 19, 2019, Amendment No. 2 in a "not to exceed" amount of \$307,304.00 for construction administration and project inspection of Project S20-06.



- February 16, 2021, Amendment No. 3 in the not to exceed amount of \$448,676.00 for construction administration & inspection services associated with Herring Creek Sanitary Sewer System Expansion Phases South and North, Projects S20-07 & S20-08.
- August 31, 2021, Amendment No. 4 in the not to exceed amount of \$68,852.00 for additional construction administration and inspection services associated with Project S20-06 for delays beyond pandemic related and weather delays.
- December 13, 2022, Amendment No. 5 in a not to exceed amount of \$ 359,704.00 for construction administration and inspection services associated with the Winding Creek Village Phase of the Herring Creek Sanitary Sewer System Expansion, Project S20-09.
- January 24, 2023, Amendment No. 6 in the not to exceed amount of \$370,287.00 for design, permitting, bidding, construction administration, and inspection services associated with Contract S20-10, Winding Creek Water District.
- January 23, 2024, Amendment No.7 in the not to exceed amount of \$259,551.00 for construction administration & inspection associated with the contract time extensions associated with Projects S20-07, 20-08 & 20-09.

In the spring of 2024 the Winding Creek Water District project, designed under Amendment No. 6 was publicly advertised and on April 30, 2024, eight (8) bids were received. The low bidder was Atlantic Contracting & Material Co. at \$4,042,722.00 and on September 24, 2024 Council awarded the project contingent upon receipt of supplemental from the Delaware Drinking Water SRF Program.

On September 30, 2024, the County received the Binding Commitment Letter from DNREC Environmental Finance for \$2,413,059.00 based on the County's supplemental funding request. Upon completion of the project, up to \$1,663,059.00 of principal forgiveness will be applied and the remaining balance will be amortized over 30 years at 2.831% interest.

The Engineering Department conducted some value engineering measures to ensure the actual costs of the Winding Creek Water District project will not exceed the available funding. The above referenced January 24, 2023 Amendment No. 6 with Whitman, Requardt & Associates LLP (WRA) includes an amount of \$226,541.00 in Construction Administration & Inspection cost which the Engineering Department proposes to self-perform for significant cost savings. The Department has sufficient staff available for the duration of the project.

In addition to the financially motivated assumption of contract administrative and inspection services of the water contract, the County experienced a few professional disagreements during previous projects contracted with Whitman, Requardt & Associates, LLP. The most recent concerns centered around the consultant's strict adherence to corporate processes which were not in the Country's best interest.

Therefore, the Engineering Department recommends amending Whitman, Requardt & Associates, LLP's Amendment No. 6 by removing (\$273,000.00) and closing out Amendments No. 3, 5 & 7 after Council's granting of substantial completion of Project S20-07.

This is **EXHIBIT K**, consisting of [] pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated [] .

AMENDMENT TO OWNER-ENGINEER AGREEMENT
Amendment No. 6 Modified

The Effective Date of this Amendment is: 1/22/25.

Background Data

Effective Date of **Scope of Services**:

Owner: Sussex County

Engineer: Whitman, Requardt & Associates

Project: Winding Creek Village Design - HCSSD

Nature of Amendment: [Check those that are applicable and delete those that are inapplicable.]

- Additional Services to be performed by Engineer
- Modifications to services of Engineer
- Modifications to responsibilities of Owner
- Modifications of payment to Engineer
- Modifications to time(s) for rendering services
- Modifications to other terms and conditions of the Agreement

Description of Modifications:

See Attachment A included herein.

Agreement Summary:

Original agreement amount:	<u>\$ 370,287.00</u>
Net change for prior amendments:	<u>\$ (273,000.00)</u>
This amendment amount:	<u>\$ 9,416.00</u>
Adjusted Agreement amount:	<u>\$ 106,703.00</u>

Change in time for services (days or date, as applicable): _____

The foregoing Agreement Summary is for reference only and does not alter the terms of the Agreement, including those set forth in Exhibit C.

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment. All provisions of the Agreement not modified by this or previous Amendments remain in effect.

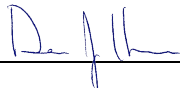
OWNER:

ENGINEER:

Sussex County Council

Whitman, Requardt and Associates, LLP

By: _____
Print
name: _____

By:  _____
Print
name: Dennis J. Hasson, PE, BCEE

Title: President, Sussex County Council

Title: Partner

Date Signed: _____

Date Signed: January 30, 2025

(SEAL)

PREVIOUSLY APPROVED FORM

ATTEST:

Ms. Tracy Torbert
Clerk of the County



ATTACHMENT A

SCOPE OF SERVICES

WINDING CREEK VILLAGE (WCV) WATER DISTRICT DISTRIBUTION SYSTEM

This attachment outlines the deletions and additions to Amendment No. 6 dated 1/24/23 Winding Creek Village Design – HCSSD.

REMOVE: PART G – CONSTRUCTION ADMINISTRATION

PART H – PROJECT INSPECTION

**ADD NEW: PART G – UPDATE WINDING CREEK VILLAGE WATER DISTRICT
DISTRIBUTION SYSTEM FINAL DESIGN DRAWINGS**

1. Update the Winding Creek Village Water District Distribution System Final Design Drawings by incorporating record drawing information from the Herring Creek Sanitary Sewer District.

PROJECT NAME: Winding Creek Village Water System									REVISION				
MANHOUR ESTIMATE AND PROPOSAL									DATE 1/22/2025				
CLIENT: Sussex County Engineering Department									BY DJH/WFH				
TASK	PROJECT DESCRIPTION: Construction Administration	Civil Associate / Project Engineer	Civil Engineer	Civil Designer / CADD	Geotech. Assoc. / Proj. Engr.	Geotech Engineer	Resident Inspector	WR&A TOTALS	WR&A EXPENSES	Subcontractor hours	Subcontractor Payroll	Subcontractor Expenses	
Phase A - Construction Administration Services									T, R, E	T, R, E			
Use Labor Cost Rates for year: 2025									S, or L (See Legend)	S, or L (See Legend)			
A1	Incorporate Sewer Record Drawing Information into Contract Documents	10	50					60	T			- \$	
								0	T			- \$	
								0	T			- \$	
PHASE A SUBTOTALS =		10	50	0	0	0	0	60	\$0	Subcontractor Total		\$0	
PHASE A SUB-TOTAL DOLLARS =		\$2,006	\$7,410	\$0	\$0	\$0	\$0	\$9,416		Profit on Sub		0.0%	
		60	Civil	\$9,416	0	Geotech	0			WR&A Total		\$9,416	
											PHASE A TOTAL		\$9,416

		Project Manager	Civil Engineer	Civil Designer / CADD	Geotech. Assoc. / Proj. Engr.	Geotech Engineer	Resident Inspector
Bare Labor Cost rates for year	2025	\$88.00	\$65.00	\$43.00	\$80.00	\$60.80	\$46.00
Contract Rates - LOADED LABOR AT A FACTOR OF:	2.28	\$200.64	\$148.20	\$98.04	\$182.40	\$138.62	\$104.88
Bare Labor Cost rates for year	2017						
Contract Rates - LOADED LABOR AT A FACTOR OF:	2.28	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Bare Labor Cost rates for year	2017						
Contract Rates - LOADED LABOR AT A FACTOR OF:	2.28	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

WR&A EXPENSES

- T = Travel @.48 mile
- R = Reproduction
- E = Equipment Rental
- S = Subcontractor
- L = laboratory Cost

Total \$9,416



ENGINEERING DEPARTMENT

MIKE HARMER, P.E.
SUSSEX COUNTY ENGINEER

(302) 855-7370 T
(302) 854-5391 F
mike.harmer@sussexcountype.gov



Sussex County

DELAWARE
sussexcountype.gov

Memorandum

TO: Sussex County Council
The Honorable Douglas B. Hudson, President
The Honorable John L. Rieley, Vice President
The Honorable Jane Gruenebaum
The Honorable Matt Llyod
The Honorable Steve C. McCarron

FROM: Hans Medlarz, P.E., Project Engineer

RE: ***South Coastal WRF Treatment Process Upgrade No.3 & Rehoboth Beach WTP Capital Improvement Program, Phase 2 A. GHD Amd. 29 – Integration Completion***

DATE: February 4, 2025

GHD, Inc., held the County's engineering services contract associated with the SCRWF since December 7, 2001. They also held the City of Rehoboth Beach's engineering services contract associated since 2000. Council reaffirmed GHD as the "Engineer of Record" South Coastal in 2016 and again on May 14, 2019, at which time Council also included professional services associated with the City's Wastewater Treatment Plant. Since contract inception, Sussex County awarded nineteen (25) amendments under this base contract.

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

Amendments 14 - 18 were associated with the City's Wastewater Treatment Plant. On July 24, 2018, Council approved the 14th for design services of the Phase 2 capital upgrade project. On October 2, 2018, Council approved the 15th for design services associated with the wastewater transmission line crossing of the Lewes-Rehoboth Canal allowing Pump Station No. 202 to be diverted to the City's treatment plant. On February 5, 2019 Council approved the 16th Amendment incorporating scope changes to the electrical motor control center design scope, as part of the City's WTP Phase 2 project. On March 26, 2019, Council approved the



17th Amendment for a flow diversion of Pump Station No. 204 to the gravity sewer on the opposite side of SR-1 and ultimately to the City's plant. On June 4, 2019, Council approved the 18th for the design of the headworks improvements under an expanded scope of the Phase 2 project.

On June 18, 2019, Council approved the 19th Amendment covering development of South Coastal bid alternates associated mostly with the influent forcemains, the fiber optic network and the pre-cast concrete construction. The consolidation of thirteen (13) influent forcemains outside of the South Coastal plant headworks into two (2) eliminated a complex cast-in-place concrete riser box expansion offering overall construction cost savings. In summary, award of the amendments associated with the various design aspects of the SCRWF and the City's WTP totaled \$3,437,247.32.

Council approved award of construction phase and inspection services to GHD, Inc under a "not to exceed" the 20th in the amount of \$6,589,558.49 on February 4, 2020. In addition to professional services, it includes a significant 3rd party material testing allowance of \$400,000. Merging of the timelines for both projects allowed the total compensation of the professional services to be held at 15% of the overall project construction costs well within the customary professional services range for a highly complex project.

However, the pandemic with the associated supply chain interruptions caused project delays outside of the control of either the contractors or the consulting engineers. The construction has exceeded the original contract times continuing through the fall of 2024 and subsequently exhausting GHD's original construction management and inspection budget. As a result, the Engineering Department requested the 24th Amendment for mostly construction management, engineering, inspection, and programming services to continue supporting the project based on previous months' efforts of \$150,000 per month. On February 13, 2024, Council approved GHD's 24th Amendment in the not to exceed amount of \$900,00.00 for the extension of construction services through September of 2024.

At the time the 24th Amendment was issued, the schedule for remaining construction was not known and substantial completion for the general construction part was not granted until December of 2024 with punch list work still ongoing on the electrical side exhausting GHD's budget. Subsequently County Council approved GHD's Amendment 27 in the not to exceed amount of \$350,000.00 on September 24, 2024 for engineering services mostly associated with on-site representation, programming, equipment startup, developing punch lists and undertaking associated inspections.

The equipment integration for several process areas not yet fully available to GHD (BB1, RSB1, Headworks, Equalization, Filtration) will require continued process and programming support for full integration and functionality provided by highly specialized engineering team members.

Therefore, the Engineering Department requests approval of GHD's Amendment 29 in the not to exceed amount of \$468,000.00 concentrated on process control and equipment logic integration services associated with the South Coastal WRF Treatment Process Upgrade No.3.

SOUTH COASTAL REGIONAL WASTEWATER FACILITIES

SUSSEX COUNTY, DELAWARE

CONTRACT AMENDMENT NO. 29

This contract amendment, **Contract Amendment No. 29** dated _____, **2025** amends our original contract dated December 7, 2001, between Sussex County, a political subdivision of the State of Delaware, as First Party, hereinafter referred to as the COUNTY and GHD Inc., a State of Maryland Corporation, hereinafter referred to as CONSULTANT, whose address is 16701 Melford Boulevard, Suite 221, Bowie, Maryland 20715. Except as specifically amended herein, the provisions of the Original Contract dated December 7, 2001, as thereafter amended, remain in effect and fully valid.

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

ARTICLE FOUR

FEE STRUCTURE

- 4.4.1 The previous versions of Section 4.4 as set forth in **Contract Amendment Nos. 1 to 28** are hereby incorporated by reference. Notwithstanding any language to the contrary in such Amendments, the parties agree that those Amendments are intended to be additions to the Original Contract between the parties dated December 7, 2001.
- 4.4.2 In accordance with the method of fee determination described in Articles 4.3.1, 4.3.2, 4.3.3, and 4.3.4 of this Agreement, the total compensation and reimbursement obligated and to be paid the CONSULTANT by the COUNTY for the CONSULTANT's Scope of Services for **Extension of Construction Engineering Services for the SCRWF Treatment Upgrade No. 3** as set forth in **Attachment A**, which is attached hereto and incorporated by reference, shall not exceed **Four Hundred Sixty-Eight Thousand dollars (\$468,000.00)**. In the event of any discrepancy or inconsistency between the amounts set forth in this Article 4.4.2 and any appendices, exhibits, attachments or other sections of this Agreement, the amounts set forth in this Article 4.4.2 shall govern.

ARTICLE FOURTEEN

INCORPORATED DOCUMENTS

- 14.2 **Attachment A: Consultant's Scope of Services, Extension of Construction Engineering Services for the SCRWF Treatment Upgrade No. 3. (Contract Amendment No. 29).**

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

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

IN WITNESS WHEREOF, the parties hereunto have caused this Amendment No. **29** to this Agreement to be executed on the day and year first written hereof by their duly authorized officers.

SEAL

FOR THE COUNTY:
SUSSEX COUNTY

President, Sussex County Council

PREVIOUSLY APPROVED FORM

Date

ATTEST:

Clerk of the Sussex County Council

FOR THE CONSULTANT:

GHD Inc.



Vince Maillard, P.E.

WITNESS:



Attachment A

Your ref:
Our ref: 11209168

January 22, 2025

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

Construction Phase Engineering Services Extension Proposal for the SCRWF Treatment Upgrade No. 3

Dear Mr. Medlarz

GHD is pleased to submit this proposal for ongoing Construction Phase Engineering Services for the South Coastal Regional Wastewater Facilities Treatment Upgrade No. 3 project.

Scope of Services

Construction of the South Coastal Regional Wastewater Facilities Treatment Upgrade No. 3 commenced in 2020, and GHD was engaged to provide construction management and inspection services under Amendment 20 with previous extensions to services under Amendments 24 and 27. While construction has recently achieved substantial completion, GHD will have an ongoing role at the site, including:

1. Process support
2. Programming support
3. Record documentation

This amendment has a total value of \$468,000. A subsequent amendment would be requested if GHD services are required after this budget is exhausted.

Subconsultants

It is not anticipated to require any subconsultants.

Engineering Fee

GHD proposes to provide engineering services based on direct hourly payroll costs paid to technical staff engaged on the project plus overhead and fringe benefit costs of 1.83 times actual payroll costs billed plus out-of-pocket and subconsultant expenses at cost, plus a fixed fee of 10% on direct costs plus overhead and fringe benefit costs. Total cost shall not exceed the following:

Table 1 *Engineering Fee*

Description	Cost
Construction Phase Services	\$468,000.00
Total	\$468,000.00

Please let us know if you have any questions or comments regarding this proposal.

Regards



Steven Clark
Project Manager

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

GHD, Inc.
Hourly Direct Rate Ranges By Classification
Amendment 29

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

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



SUSSEX COUNTY GOVERNMENT

GRANT APPLICATION

LLOYD.

SECTION 1 APPLICANT INFORMATION

ORGANIZATION NAME: ReTemp Development Center ✓

PROJECT NAME: Food Project for Seniors & Homeless Laurel Sussex County

FEDERAL TAX ID: 31-1763077 ✓ NON-PROFIT: YES NO

DOES YOUR ORGANIZATION OR ITS PARENT ORGANIZATION HAVE A RELIGIOUS AFFILIATION?

YES, NO *IF YES, FILL OUT SECTION 3B.

ReTemp Development Center, Inc. (RTDC) has adopted as its purpose, to inspire and implement social action. The organization's quest is to champion community economic development strategies—coordinating individuals and organizations in the community to work together to change the lives of residents, regardless of status, one person at a time. RTDC provides services and programs to create and perpetuate healthy families and communities. These services include: food programs, educational training including computer hardware and software classes, youth enrichment, drug intervention, job skills training and prisoner re-entry programs.

ADDRESS: 31824 Gordy Road
Laurel Delaware 19956
(CITY) (STATE) (ZIP)

CONTACT PERSON: Leon J. Wilson

TITLE: President

PHONE: (410)365-8639 EMAIL: overseerL@aol.com

TOTAL FUNDING REQUEST: \$1,500.00

Has your organization received other grant funds from Sussex County Government in the last year? YES NO

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

If you are asking for funding for building or building improvements, do you own the building in which the funding will be used for? YES NO

Are you seeking other sources of funding other than Sussex County Council? YES NO

If YES, approximately what percentage of the project's funding does the Council grant represent? 0% _____

SECTION 2: PROGRAM DESCRIPTION

PROGRAM CATEGORY (choose all that apply)

- | | | |
|--|--|--------------------------------------|
| <input type="checkbox"/> Fair Housing | <input type="checkbox"/> Health and Human Services | <input type="checkbox"/> Cultural |
| <input type="checkbox"/> Infrastructure ¹ | <input checked="" type="checkbox"/> Other Food Program _____ | <input type="checkbox"/> Educational |

BENEFICIARY CATEGORY

- | | | |
|---|---|--|
| <input type="checkbox"/> Disability & Special Needs | <input type="checkbox"/> Victims of Domestic Violence | <input checked="" type="checkbox"/> Homeless |
| <input type="checkbox"/> Elderly Persons | <input checked="" type="checkbox"/> Low to Moderate Income ² | <input type="checkbox"/> Youth |
| <input type="checkbox"/> Minority | <input type="checkbox"/> Other _____ | |

BENEFICIARY NUMBER

Approximately the total number of Sussex County Beneficiaries served annually by this program:

SECTION 3: PROGRAM SCOPE

- A. Briefly describe the program for which funds are being requested. The narrative should include the need or problem to be addressed in relation to the population to be served or the area to benefit.

ReTemp Development Center is requesting financial support for our food program in our Laurel Delaware community. I am a board member of the Laurel Senior Center and in our last meeting we found that many seniors in Laurel and surrounding areas do not receive Social Security because they worked as farm workers and do not qualify for Social Security. Many of the seniors only receive SSI. Many must select between heat, medicine, or food. ReTemp provides breakfast for the seniors who attend the senior center in Laurel, Delaware also. ReTemp Development Center supports 27 (families) monthly with food.

B. IF RELIGIOUS AFFILIATION WAS CONFIRMED ABOVE IN SECTION 1, PLEASE FILL OUT THE FOLLOWING SECTION. IF RELIGIOUS AFFILIATION WAS NOT CHECKED IN SECTION 1, THIS SECTION MAY BE LEFT BLANK.

A faith-based nonprofit organization is eligible to receive and apply for a grant on the same basis as other nonprofit organizations, with respect to programs which are eligible. In the selection of grantees, the County will not discriminate for or against an organization on the basis of the organization's religious characterization or affiliation. However, certain requests to utilize funding for programs with religious purposes may not be eligible due to constitutional principles of the United States and/or the State of Delaware.

Briefly describe the components of the program that involve religious purposes and the components that involve secular purposes, or non-religious purposes. If both non-religious and religious purposes are involved in the program, this narrative must include the specific actions that will be implemented in order to ensure that the funding is solely used for non-religious purposes and will not be used to advance or inhibit religious or faith-based activities.

After the awarded funds have been made, receipts of the non-religious purchases shall be submitted in accordance with Section 5 below before funds will be disbursed.

REVENUE	
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	
TOTAL REVENUES	\$500.00
EXPENDITURES	
Please enter the total projected budget for the project (not entire organization expense if not applicable to request). Example of expenditure items: PERSONNEL-one lump sum that would include benefits, OPERATING COSTS-supplies, equipment, rent/lease, insurance, printing telephone, CONSTRUCTION/ACQUISITION-acquisition, development, rehab hard cost, physical inspections, architectural engineering, permits and fees, insurance, appraisal. (Put amounts in as a negative)	
The Total Annual projected Budget for this Project (Food Program) is projected to be \$7,500.00. This also includes part of the cost or electricity & transportation to reach those who are unable to come to the center. We have 100% Volunteers (No-Paid Staff) to run this project.	\$7,500.00
TOTAL EXPENDITURES	\$7,500.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	\$7,500.00

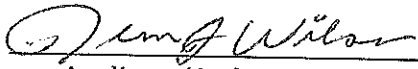
SECTION 5: STATEMENT OF ASSURANCES

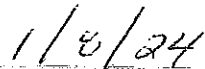
If this grant application is awarded funding, the ReTemp Development Center agrees that:
(Name of Organization)

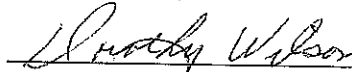
- 1) For non-religious organizations, all expenditures must have adequate documentation and must be expended within one (1) year of receipt of award funds. The funding awarded to the organization must be used in substantial conformity with the anticipated expenditures set forth in the submitted application. All accounting records and supporting documentation shall be available for inspection by Sussex County within thirty (30) days after the organization's expenditure of the awarded funding, or within one year after the receipt of the awarded funds, whichever first occurs.
- 2) For religious organizations, all accounting records and supporting documentation shall be provided for inspection by Sussex County after the award has been made by County Council but before the funding is released.
- 3) No person, on the basis of race, color, or national origin, should be excluded from participation in, be denied the benefit of, or be otherwise subjected to discrimination under the program or activity funded in whole or in part by these Grant funds.

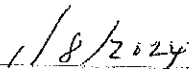
SECTION 5: STATEMENT OF ASSURANCES (continued)

- 4) All information and statements in this application are accurate and complete to the best of my information and belief.
- 5) All funding will benefit only Sussex County residents.
- 6) All documents submitted by the applicant are defined as public documents and available for review under the Freedom of Information Act of the State of Delaware.
- 7) All funding will be used exclusively for secular purposes, i.e., non-religious purposes and shall not be used to advance or inhibit religious purposes.
- 8) **In the event that the awarded funding is used in violation of the requirements of this grant, the awarded funding shall be reimbursed to Sussex County within a timeframe designated by Sussex County by written notice.**


Applicant/Authorized Official Signature


Date


Witness Signature


Date

Completed application can be submitted by:

Email: gjennings@sussexcountyde.gov

Mail: Sussex County Government
Attention: Gina Jennings
PO Box 589
Georgetown, DE 19947

SUSSEX COUNTY COUNCIL NON-PROFIT GRANT PROGRAM
GUIDELINES FOR SUBMITTAL AND AFFIDAVIT OF UNDERSTANDING

The Sussex County Council makes available a limited amount of funding to non-profit organizations that serve the citizens of Sussex County. Each application for funding shall be evaluated by Sussex County administrative staff and shall be subject to final approval from Sussex County Council.

In the attached application, each organization must outline its intended uses for the awarded funding and provide a detailed breakdown of the expenses and costs for such uses. Any funding awarded to the organization must be used in substantial conformity with anticipated expenditures of the submitted application.

All expenditures must have adequate documentation and must be expended within one (1) year of award of funds.

For non-religious organizations, all accounting records and supporting documentation shall be available for inspection by Sussex County within thirty (30) days after the organization's expenditure of the awarded funding, or within one year after the receipt of the awarded funds, whichever first occurs.

For religious organizations, all accounting records and supporting documentation shall be provided for inspection by Sussex County after the award has been made by County Council but before funding is released. Grant is relinquished if supporting documentation is not provided within one year of County Council award.

Certain programs are not eligible for funding pursuant to United States Constitution and State of Delaware Constitution. Those constitutional principles prohibit the use of funding to advance or inhibit religious activities. By signing below, the organization acknowledges that the funding shall be used exclusively for secular purposes, i.e., non-religious purposes and shall not be used to advance or inhibit religious activities.

In the event that such funding is used in violation of the requirements and assurances contained in this grant application, the awarded funding shall be reimbursed to Sussex County within a timeframe designated by Sussex County by written notice.

I acknowledge and represent on behalf of the applicant organization that I have read and understand the above statements.

Leon J. Wilson
Applicant/Authorized Official Signature

Shirley Wilson
Witness Signature

President

Title

1/8/24

Date

Sussex County Engineering Department

Proposed Annexation of the Love Creek MHC to the
Angola North Area of the
Sussex County Unified Sanitary Sewer District



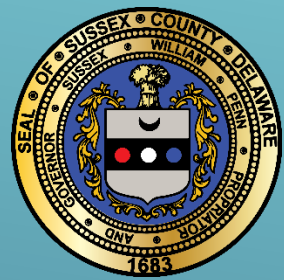
Public Hearing

February 4th, 2025

Sussex County Council Chambers

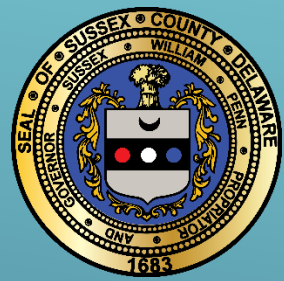
2 The Circle

Georgetown DE 19947

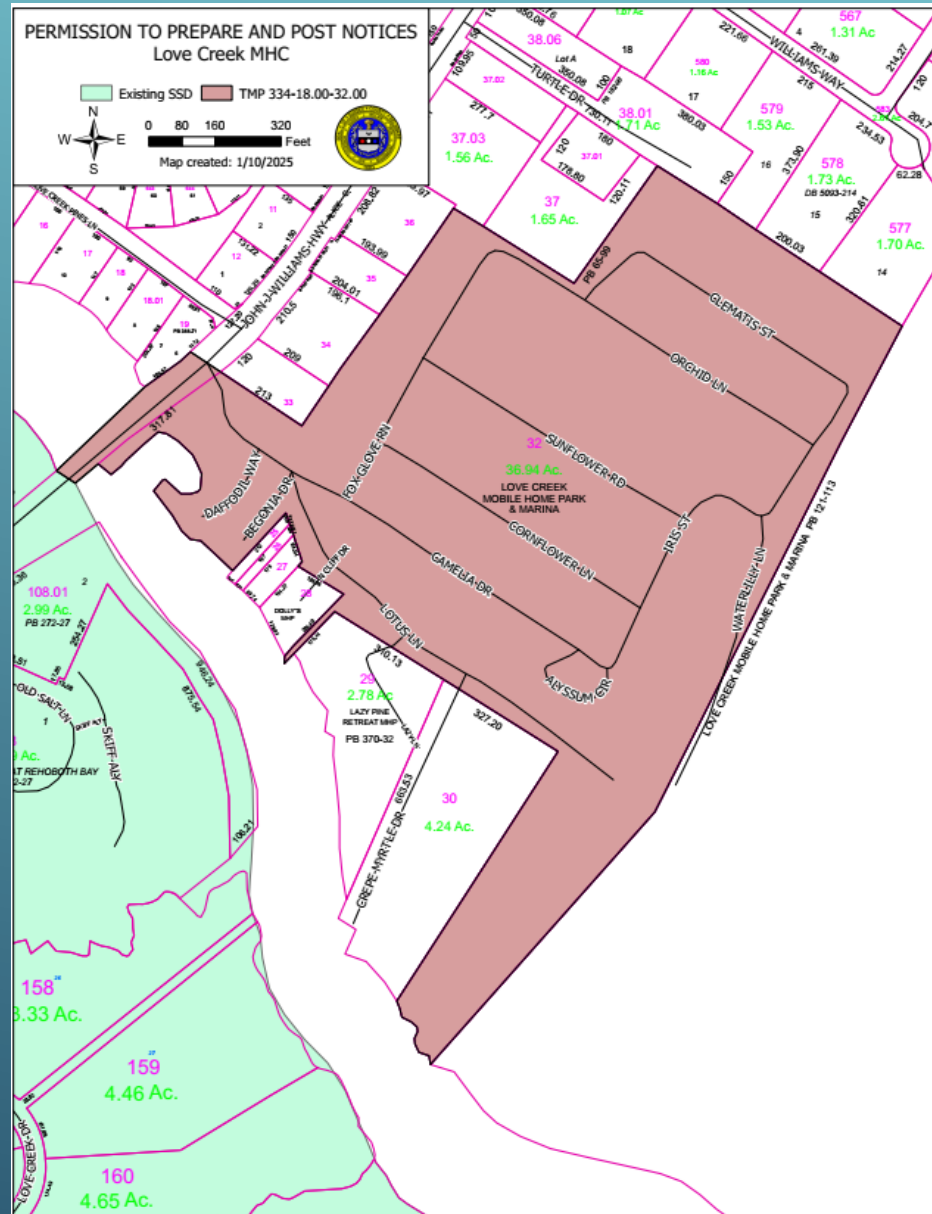


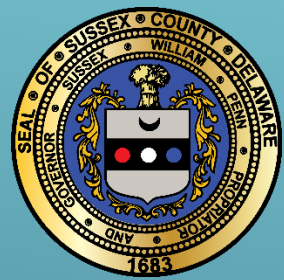
Project Background/Information

1. The County has received a request from the Owner of the Love Creek MHC expressing interest in annexation into the Sussex County Unified Sanitary Sewer District (SCUSSD) for the purpose of providing central sewer service.
2. On January 14th, County Council, upon the Engineering Department's request, agreed to post notices for a Public Hearing on the question of annexing the community into the SCUSSD.
3. This is the official Public Hearing on the proposed annexation required under Title 9 DelCode.
4. If County Council votes in the affirmative, the County will apply for State & Federal project funding.
5. The project implementation will only start if a suitable (comparable to the figures presented at the hearing) funding offer has been received and accepted by County Council.
6. Consultant Engineers, approved by County Council will develop biddable construction documents.
7. Engineering Department will advertise the project and County Council may award contract based the department's recommendation.
8. Since the advertisement of the Public Heating the Department received a request for inclusion from Lazy Pine Retreat LLC Tax Map 334-18.00-29.00



Proposed Annexation Area





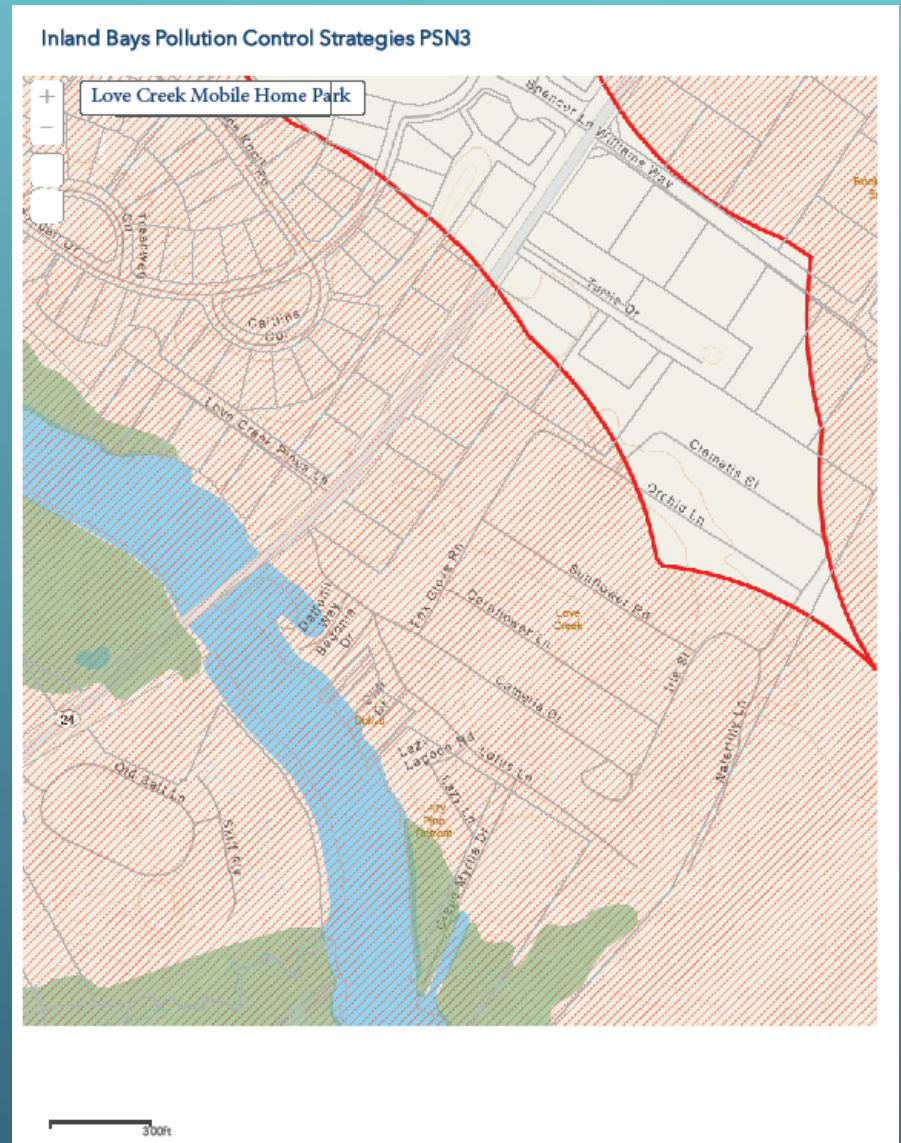
Pollution Control Strategy Information

Codified Regulations Governing The Pollution Control Strategy For The Indian River, Indian River Bay, Rehoboth Bay And Little Assawoman Bay Watersheds

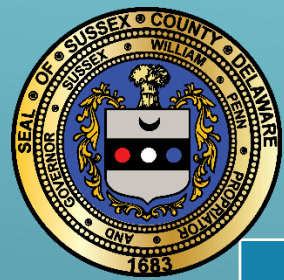
7.2 For all properties utilizing an OWTDS that are sold or otherwise transferred to other ownership, the owner or trustee shall have their systems pumped out and inspected prior to the completion of the sale.

8.4 Requirements for OWTDSs having flows less than or equal to 2,500 gpd:

8.4.1 All new and replacement systems shall meet a Performance Standard Nitrogen level 3 (PSN3).



The Area in Red hatch was part of the 2008 "early" implementation area

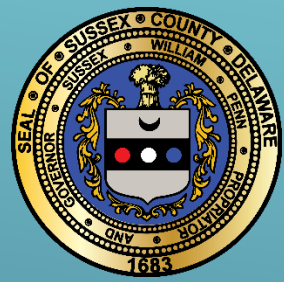


Proposed Project Schedule

Time Frame	
January 14, 2025	County Council approval to prepare & post notices for the public hearing on annexation
February 4, 2025	Public Hearing
February 12, 2025	Submit Notice of Intent for SRF Funding
Spring 2025	Complete SRF Funding Application *
Fall 2025	Close on Loan Portion of Funding Offer and select Engineering Firm
Spring 2026	Advertising/Bidding Phase
Summer 2026	Begin Construction
Sommer 2027	Project Start-up and individual Home Connections

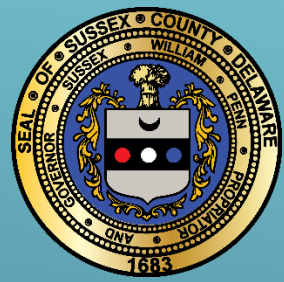
5

* Depends on the terms of the SRF Funding Offer



DISCUSSION POINTS

1. The Engineering Department will evaluate different methods, using life cycle costs, for providing sewer service to Love Creek MHC and summarized in a Preliminary Engineering Report in support of the funding application.
2. The Engineering Department anticipates the most cost-effective way to provide central sewer service will be via a low pressure forcemain throughout the community piped to a designated wastewater partner's connection point on the opposite side of RT-24.
3. Most of the individual mobile homes will be served by grinder pumps installed in the existing septic tanks a designated grinder pump plastic well will only be used if the septic tank is compromised.
4. Roadways, disturbed by the sewer construction, will be replaced with hot mix in accordance with current County private road standards.
5. The existing septage drain fields do not require remediation and can be abandoned in place. However, cesspools must be pumped and filled.
6. After low pressure system connection, individual mobile home septic tank conversions will commence. The conversions will be a project expense but will require a temporary suspension of sewer service to the home.



General County Rate Structure

A. Annual

1. Service Charge – Billed Quarterly– Uniform across all Areas

Recovers the costs of operating and maintaining the collection system, transmission system, and treatment facilities. It also recovers all debt service for the regional facilities.

2. Assessment Charge – Billed Quarterly – Per EDU

Recovers the cost of constructing the sewer system based on the annual bond payments.

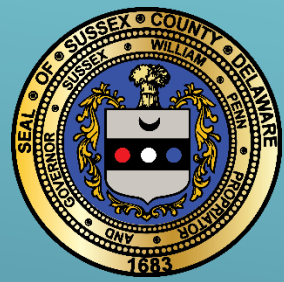
B. One-time

1. System Connection Charge – (“Impact Fee.”) - Uniform across all Districts

Paid before hookup for existing homes or before building permits for new homes. Contributes towards debt retirement & expansion or replacement of transmission and treatment.

2. Permit Fee – Uniform across all Districts

Paid at the time of sewer permit application covering sewer connection inspection and creation of billing records.



Love Creek MHC Area Specific Estimated Rates

Current Annual Service Charge *:

\$340.00/year per Equivalent Dwelling Unit (subject to change in the annual budget process).

Estimated Annual Assessment Range *:

\$360.00 – 600.00/year per Equivalent Dwelling Unit (fixed for the term of the financing)

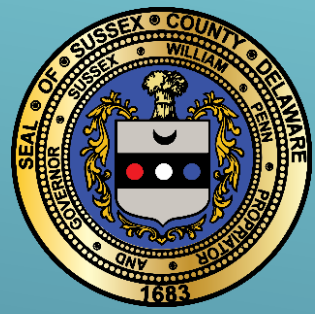
System Connection Charge:

\$0.00 for homes existing at the time of substantial completion*. The one-time System Connection Charge (SCC) fee will be included in the financing. Any future connection will be charged the SCC fee in effect at that time.

Estimated Connection Expenses:

Plumbing costs will be zero based on the most likely hook-up scenario, but a \$130 one time permit fee will apply.

* Federal recommendations state the total annual cost should not exceed 1.5% of Median Household Income (MHI) as reported in an income survey (\$45,000) or the latest available Sussex County wide Census Data.



Sussex County Engineering Department

P.O. Box 589

Georgetown, DE 19947

www.sussexcountyde.gov

Project Questions:

Utility Planning & Design Review Division: 302-855-7370

John Ashman (Division Director)

jashman@sussexcountyde.gov

Assessment & Billing Questions:

Billing Division: 302-855-7871

Katrina Mears (Billing Service & Collections Manager)

kmears@sussexcountyde.gov



Memorandum

To: Sussex County Council
The Honorable Douglas B. Hudson
The Honorable Jane Gruenebaum
The Honorable Matt Lloyd
The Honorable Steve McCarron
The Honorable John L. Rieley

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

CC: Everett Moore, County Attorney

Date: January 30, 2025

RE: County Council Report for C/U 2504 filed on behalf of Living Hope Fellowship

The Planning and Zoning Department received an application (C/U 2504 filed on behalf of Living Hope Fellowship) for a cemetery, to be located in an AR-1 Agricultural Residential Zoning District at Tax Parcel 430-1.00-13.06. The property is located at 13848 Staytonville Road, Greenwood. The parcel size is 7.2 ac. +/-

The Planning & Zoning Commission held a Public Hearing on the application on December 4, 2024. At the meeting of December 4, 2024, the Planning & Zoning Commission recommended approval of the application for the 5 reasons and 3 recommended conditions of approval as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meeting on December 4, 2024.

Minutes of the December 4, 2024, Planning & Zoning Commission Meeting

C/U 2504 Living Hope Fellowship

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CEMETERY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 7.2 ACRES MORE OR LESS. The parcel is lying on the west side of Staytonville Road (S.C.R. 224), approximately 0.42-mile northwest of Blacksmith Shop Road (S.C.R. 44). 911 Address: 13848 Staytonville Road, Greenwood. Tax Map Parcel: 430-1.00-13.06.



Mr. Whitehouse advised the Commission that submitted into the record were a copy of the applicant's conceptual site plan, a copy of the DelDOT SLER, a copy of the Staff Analysis report, a copy of a letter from the Sussex County Engineering Department Utility Planning Division and zero comments.

Mr. Allan Warfel, Chair of the Church Council for the Living Hope Fellowship, spoke in regards to the application that they are requesting to build a cemetery on their land; that the church has been operating in this location for approximately five years and they are looking to put a cemetery in for the parishioners; that the church has approximately 110-120 people in attendance and they are looking to put in about 200 gravesites; that the access to the cemetery will be through the church entrance and behind the church itself, there will be no need for a sign as the church has one out front already and there will be no storage of any kind.

Mr. Whitehouse stated for the record that there were no known wetlands on this parcel.

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

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

Mr. Butler moved the Commission to recommend approval of C/U 2504 LIVING HOPE FELLOWSHIP based on the record made during the public hearing and for the following reasons:

1. It is appropriate for a church to include a cemetery on its property for its congregation.
2. This property is large enough to accommodate a cemetery in addition to the existing church. The cemetery will have about 200 gravesites and will be limited to people affiliated with the church.
3. The proposed cemetery will not adversely affect traffic, roadways, neighboring properties or neighboring uses.
4. There are no wetlands on the proposed site.
5. No parties appeared in opposition to the application.
6. This recommendation is subject to the following conditions:
 - A. The cemetery area shall be at least 30 feet from all property lines.
 - B. The access road and parking areas for the cemetery area shall be clearly shown on the site plan.
 - C. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Butler, seconded by Mr. Collins and carried unanimously to recommend approval of C/U 2504 Living Hope Fellowship for the reasons and the conditions stated in the motion. Motion carried 4 -0.

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

PLANNING & ZONING COMMISSION

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



Sussex County

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302-855-7878

JAMIE WHITEHOUSE, MRTPI, AICP
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: December 4, 2024

Application: CU 2504 Living Hope Fellowship Church

Applicant: Allan Warfel
246. S. Rehoboth Boulevard
Milford, DE 19963

Owner: Living Hope Fellowship
13848 Staytonville Road
Greenwood, DE 19950

Site Location: 13848 Staytonville Road, Greenwood

Site Location: Located on the west side of Staytonville Road (S.C.R. 224),
approximately 0.42 mile northwest of Blacksmith Shop Road (S.C.R. 44).

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

Proposed Use: Cemetery

Comprehensive Land
Use Plan Reference: Low Density

Councilmanic
District: District 2 – Mr. McCarron

School District: Woodbridge School District

Fire District: Greenwood Fire Department

Sewer: N/A

Water: N/A

Site Area: 7.20-acre(s) +/-

Tax Map ID.: 430-1.00-13.06



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

jamie.whitehouse@sussexcountyde.gov



Sussex County

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sussexcountyde.gov

Memorandum

To: Sussex County Planning Commission Members
From: Ms. Ann Lepore, Planner I
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: December 4th, 2024
RE: Staff Analysis for C/U 2504 Living Hope Fellowship

This memo is to provide background and analysis for the Planning Commission to consider as a part of Application C/U 2504 Living Hope Fellowship to be reviewed during the December 4th, 2024, Planning Commission Meeting. This analysis should be included in the record of this Application and is subject to comments and information that may be presented during the Public Hearing.

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

Tax Parcel ID: 430-1.00-13.06

Proposal: The request is for a Conditional Use for Tax Parcel 430-1.00-13.06 to allow for a Cemetery. The property is lying on the west side of Staytonville Road (S.C.R. 224), approximately 0.42 mile northwest of Blacksmith Shop Road (S.C.R. 44). The Parcel consists of 7.20 acres +/-.

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

Future Land Use Map Designation w/in Comprehensive Plan: The subject property is located within the "Low Density Area" as outlined in the Sussex County's 2018 Comprehensive Plan.

Applicability to Comprehensive Plan: The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible and thoughtful development. The Future Land Use Map in the Plan indicates that the subject property has a Future Land Use designation of "Low Density Area." All surrounding Parcels to the north, south, east and west contain a Future Land Use designation of "Low Density Area."

As outlined in the 2018 Sussex County Comprehensive Plan, Low Density Areas are areas "Sussex County hopes to retain the rural environment and set aside significant open space" and where the County "supports State and local land use policies that will preserve the value of farmland" (Sussex County Comprehensive Plan, 4-18).

Further Site Considerations:

- **Density:** N/A



- **Open Space Provisions:** N/A
- **Agricultural Areas:** The site is within the vicinity of active agricultural lands.
- **Interconnectivity:** N/A
- **Transportation Improvement District (TID):** N/A
- **Forested Areas:** Forested areas exist on properties to the west and south of the subject property.
- **Wetlands Buffers/Waterways:** No wetlands are located on the property.
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** The site is not located in a Wellhead Protection Area.

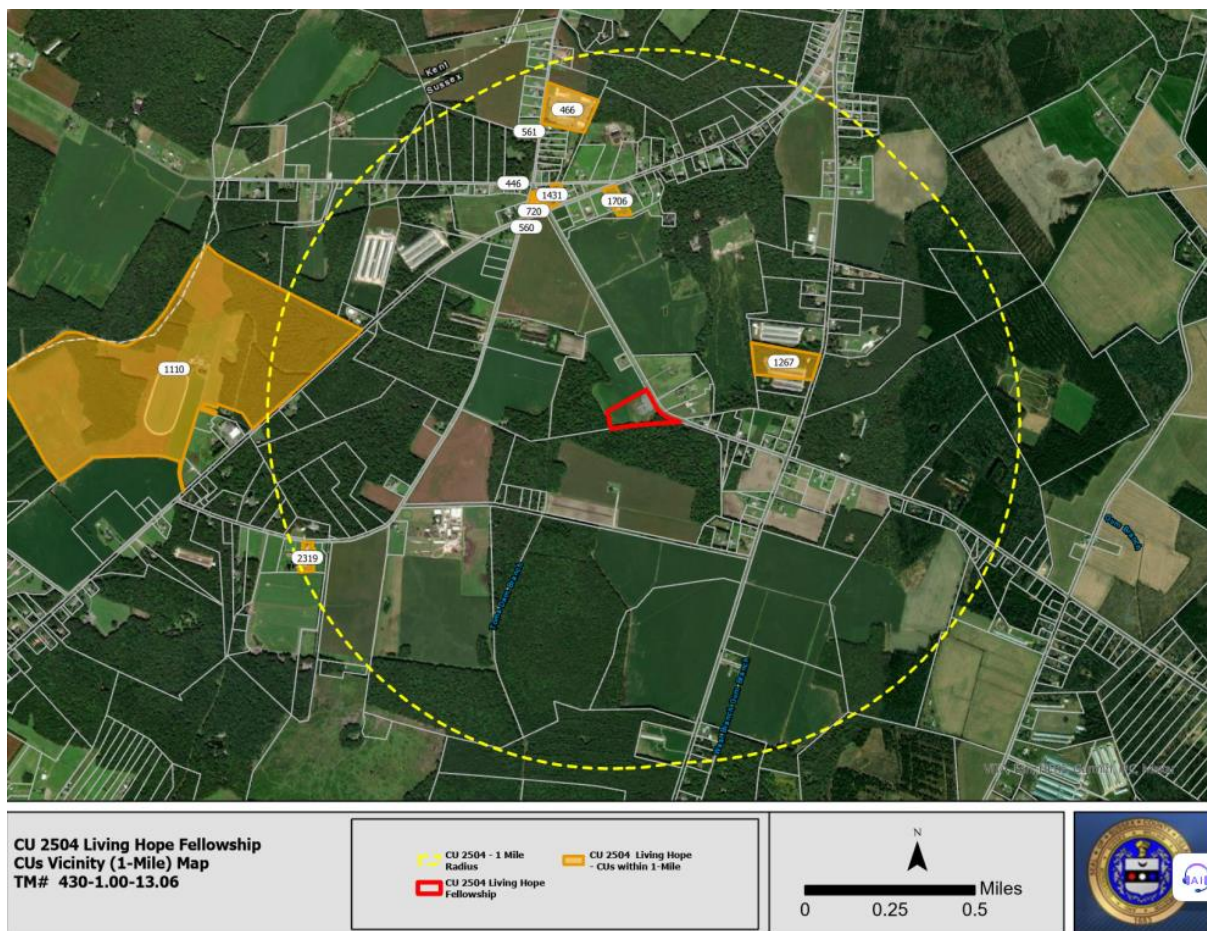
Based on the analysis of the land use, surrounding zoning and uses, a Conditional Use Application to allow for a cemetery, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.

Existing Conditional Uses within the Vicinity of the Subject Site: A Data Table and Supplemental Maps 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.

Since 1970, there have been 11 Conditional Use Applications within a 1-mile radius of the Application Site.

Conditional Use Applications						
(Within 1-mile radius of the subject property)						
Application Number	Application Name	Zoning District	Proposed Use	CC Decision	CC Decision Date	Ordinance Number
446	William Lewis	AR-1	Auto Sales, Office & Repairs	Approved	11/29/1977	N/A
466	Lena Yoder	AR-1	Manufacture roof trusses & Component	Approved	5/2/1978	N/A
560	Sam Yoder	AR-1	Hardware Store	Approved	12/18/1979	N/A
561	Dwain Kunch	AR-1	Welding Shop	Approved	2/19/1980	N/A
720	Sam Yoder	AR-1	Office Building	Approved	5/3/1983	N/A
1110	John Wagenhoffer	AR-1	Private Grass Air Strip	Approved	4/25/1995	1022

1267	Orville & Ida Syester	AR-1	Auto body Repair	Approved	3/9/1999	1290
1431	Randy Wilson	AR-1	Mason Contractor, office, & storage	Approved	1/15/2002	1517
1706	Jack Strader	AR-1	Auto Upholstery	Approved	11/13/2007	1940
2225	Living Hope Fellowship	AR-1	Cemetery	Withdrawn	N/A	N/A
2319	Austin & Megan Embleton	AR-1	AirB&B, Hair Salon, Event Venue	Approved	10/18/2022	2890
2504	Living Hope Fellowship (Alan Warfel)	AR-1	Cemetery	Pending		





Maxar, Microsoft, VTA, Esri, HERE, Garmin, IPC

CU 2504 Living Hope Fellowship
Aerial Map
TM# 430-1.00-13.06



CU 2504 Living Hope Fellowship




0 250 500 Feet






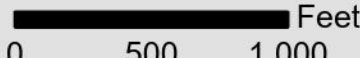
CU 2504 Living Hope Fellowship
Street Map
TM# 430-1.00-13.06

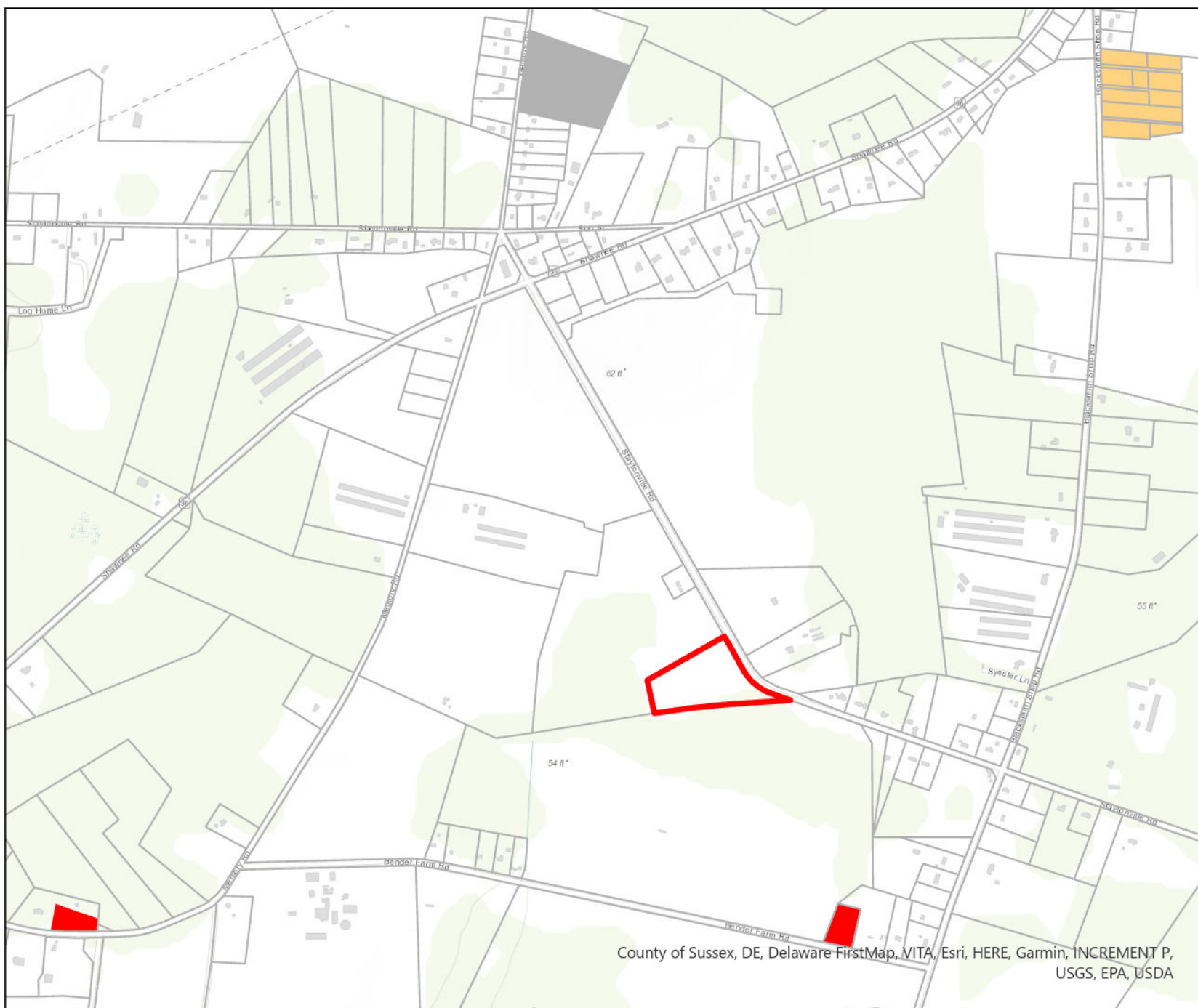
 **CU 2504 Living Hope Fellowship**

N



0 500 1,000 Feet





Zoning

- Agricultural Residential - AR-1
- Agricultural Residential - AR-2
- Medium Residential - MR
- General Residential - GR
- High Density Residential - HR-1
- High Density Residential - HR-2
- Vacation, Retire, Resident - VRP
- Commercial Residential - CR-1
- Institutional - I-1
- Marine - M
- Limited Industrial - LI-1
- Light Industrial - LI-2
- Heavy Industrial - HI-1
- C1: General Commercial
- C2: Medium Commercial
- C3: Heavy Commercial
- C4: Planned Commercial
- C5: Service/Limited Manufacturing
- B-1: Neighborhood Business
- B-2: Business Community District
- B-3: Business Research

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

CU 2504 Living Hope Fellowship Street Map
TM# 430-1.00-13.06

CU 2504 Living Hope Fellowship

N

0 0.13 0.25 0.5 Miles



Introduced: 5/21/24

Council District 2: Mr. McCarron
Tax I.D. No. 430-1.00-13.06
911 Address: 13848 Staytonville Road, Greenwood

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CEMETERY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 7.2 ACRES MORE OR LESS

WHEREAS, on the 28th day of December 2023, a conditional use application, denominated Conditional Use No. 2504 was filed on behalf of Living Hope Fellowship Church; 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. 2504 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. 2504 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 Nanticoke Hundred, Sussex County, Delaware, and lying on the west side of Staytonville Road (S.C.R. 224), approximately 0.42 mile northwest of Blacksmith Shop Road (S.C.R. 44), and being more particularly described in the attached legal description prepared by Walter G. Feindt, P.A., said parcels containing 7.20 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.

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



Sussex County

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Memorandum

To: Sussex County Council
The Honorable Jane Gruenebaum
The Honorable Douglas B. Hudson
The Honorable Matt Lloyd
The Honorable Steve McCarron
The Honorable John L. Rieley

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

CC: Everett Moore, County Attorney

Date: January 30, 2025

RE: County Council Report for C/Z 2041 filed on behalf of James Yerkie, II

The Planning and Zoning Department received an application (C/Z 2041 filed on behalf of James Yerkie, II) for a Change of Zone from an MR Medium Density Residential District to an AR-1 Agricultural Residential Zoning District, for a 1.53 ac. parcel, to be located at Tax 130-3.00-170.04. The property is located on the east side of Old Shawnee Road (SCR 619) approximately 0.35 mile northeast of Shawnee Road (Rt. 36).

The Planning & Zoning Commission held a Public Hearing on the application on December 4, 2024. At the meeting of January 8, 2025, the Planning & Zoning Commission recommended approval of the application for the 5 reasons as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meeting on December 4, 2024 and January 8, 2025.

Minutes of the December 4, 2024, Planning & Zoning Commission Meeting

C/Z 2041 James Yerkie, II

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. The property is lying on the east side of Old Shawnee Road (S.C.R. 619) approximately 0.35-mile northeast of Shawnee Road (Rt. 36). 911 Address: N/A. Tax Map Parcel: 130-3.00-170.04.



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

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the applicant's conceptual site plan, a copy of the soils evaluation, a copy of the Staff Analysis report, a copy of a letter received from the Sussex County Engineering Department Utility Planning Division, a copy of the DelDOT SLER and one letter of opposition.

Mr. James Yerkie, II, spoke on behalf of himself, the applicant, that this hearing is to allow for storage containers to remain on his vacant lot in a MR (Medium Residential District); that his plan is to eventually build a home on the property, but in the meantime keep storage containers that hold extra vehicles and building materials.

The Commission discussed the application and the complaint that brought about this case and if it was related to the storage containers or the cars on the property.

Mr. Whitehouse stated for the record that this case came in as a complaint to the Constables Office for the storage containers on a vacant property in an MR district; that in order for the applicant to keep those containers on the property until the time in which a home is built he would need to do a Change in Zone downgrade to an AR-1 (Agricultural Residential) district with a Conditional Use.

Mr. Mears stated that with the Conditional Use case that it will clearly state what can and cannot take place on the site and that he needs to make sure that there are no business activities occurring pertaining to his HVAC business unless he states that ahead of time.

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

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

In relation to C/Z 2041 James Yerkie, II. Motion by Mr. Butler to defer action for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 4-0.

Minutes of the January 8, 2025, Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since December 4, 2024.

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

Mr. Butler moved the Commission to recommend approval of C/Z 2041 JAMES YERKIE, II for a change in zone from MR Medium Density Residential to AR-1 Agricultural Residential based on the record made during the public hearing and for the following reasons:

1. The property is currently a 1.5-acre lot. The applicant is requesting this change in Zone to AR-1 so that a conditional use can be sought to allow the applicant to store vehicles and equipment on his property before he constructs a home there. As stated by the Applicant, the primary use of the property will ultimately remain residential. This type of conditional use is not possible in the MR-1 Zoning District.
2. Downzoning this property to AR-1 is consistent with the Sussex County Comprehensive Plan and its Future Land Use Map.

3. Should the conditional use not be approved, or should it expire, the AR-1 zoning will remain in place, which is a less-intensive zoning district than the MR District.
4. There was no opposition to this rezoning application.
5. For all of these reasons, the rezoning of this property from MR to AR-1 is appropriate.

Motion by Mr. Butler, seconded by Mr. Collins and carried unanimously to recommend APPROVAL of C/Z 2041 James Yerkie, II for the reasons and the conditions stated in the motion. Motion carried 5-0.

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

PLANNING & ZONING COMMISSION

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



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

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET Planning
Commission Public Hearing Date: December 4th, 2024
Sussex County Council Public Hearing Date: February 4th, 2025

Application: C/Z 2041 James Yerkie II

Applicant: Mr. James Yerkie II
10 Delaware Avenue
Milford, DE 19963

Owner: Mr. James Yerkie II
10 Delaware Avenue
Milford, DE 19963

Site Location: The property is located on the east side of Old Shawnee Road (S.C.R. 42), approximately 0.40-mile northeast of the intersection of Old Shawnee Road and Shawnee Road (Route 36) in Milford, Delaware.

Current Zoning: Medium Residential (MR) Zoning District

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

Comprehensive Land Use Plan Reference: Developing Area

Councilmanic District: District 2 – Mr. McCarron

School District: Milford School District

Fire District: Carlisle Fire Department

Sewer: Private Septic

Water: Private Well

Site Area: 1.53 acres +/-

Tax Map ID: 130-3.00-170.04



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



Sussex County

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Memorandum

To: Sussex County Planning and Zoning Commission Members
From: Ms. Ann Lepore, Planner I
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: November 25th, 2024
RE: Staff Analysis for CZ 2041 James Yerkie II

The purpose of this memo is to provide background and analysis for the Planning and Zoning Commission to consider as a part of Application CZ 2041 (James Yerkie II) to be reviewed at the December 4th, 2024, Planning and Zoning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcel: 130-3.00-170.04 to allow for a change of zone (down-zoning) from a Medium-Density Residential (MR) District to an Agricultural Residential (AR-1) District. The property is lying on the east side of Old Shawnee Road (Rt. 619), approximately 0.40-mile(s) northeast of the intersection of Old Shawnee Road and Shawnee Road (Rt. 36). The applicant is applying for 1.53-acre(s) +/- to be included in the Change of Zone application.

Comprehensive Plan Analysis

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use Map in the plan indicates that the parcel has a designation of “Developing Area.” All adjoining parcels to the north, south, east, and west across Old Shawnee Road also have a Future Land Use Map designation of “Developing Area.”

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



Zoning Information

The subject property is zoned Medium-Density Residential (MR) District. All adjacent properties to the north, east, south, and west across Old Shawnee Road are also zoned Medium-Density Residential (MR) District.

Table 4.5-2 “Zoning Districts Applicable to Future Land Use Categories” in the 2018 Sussex County Comprehensive Plan notes that the Medium-Density Residential District as well as the proposed zoning of Agricultural Residential (AR-1) are applicable Zoning Districts within the “Developing Area” Future Land Use Map Designation.

It should be noted that there is a separate Application for a Conditional Use (Conditional Use No. 2464) to allow for a storage business to consist of a proposed business building, two (2) storage containers on a concrete pad and associated parking to be located on the subject property.

Existing Conditional Uses within the Vicinity of the Subject Property

Since 2011, there have been zero (0) Change of Zone applications within a one (1) mile radius of the Application Site.

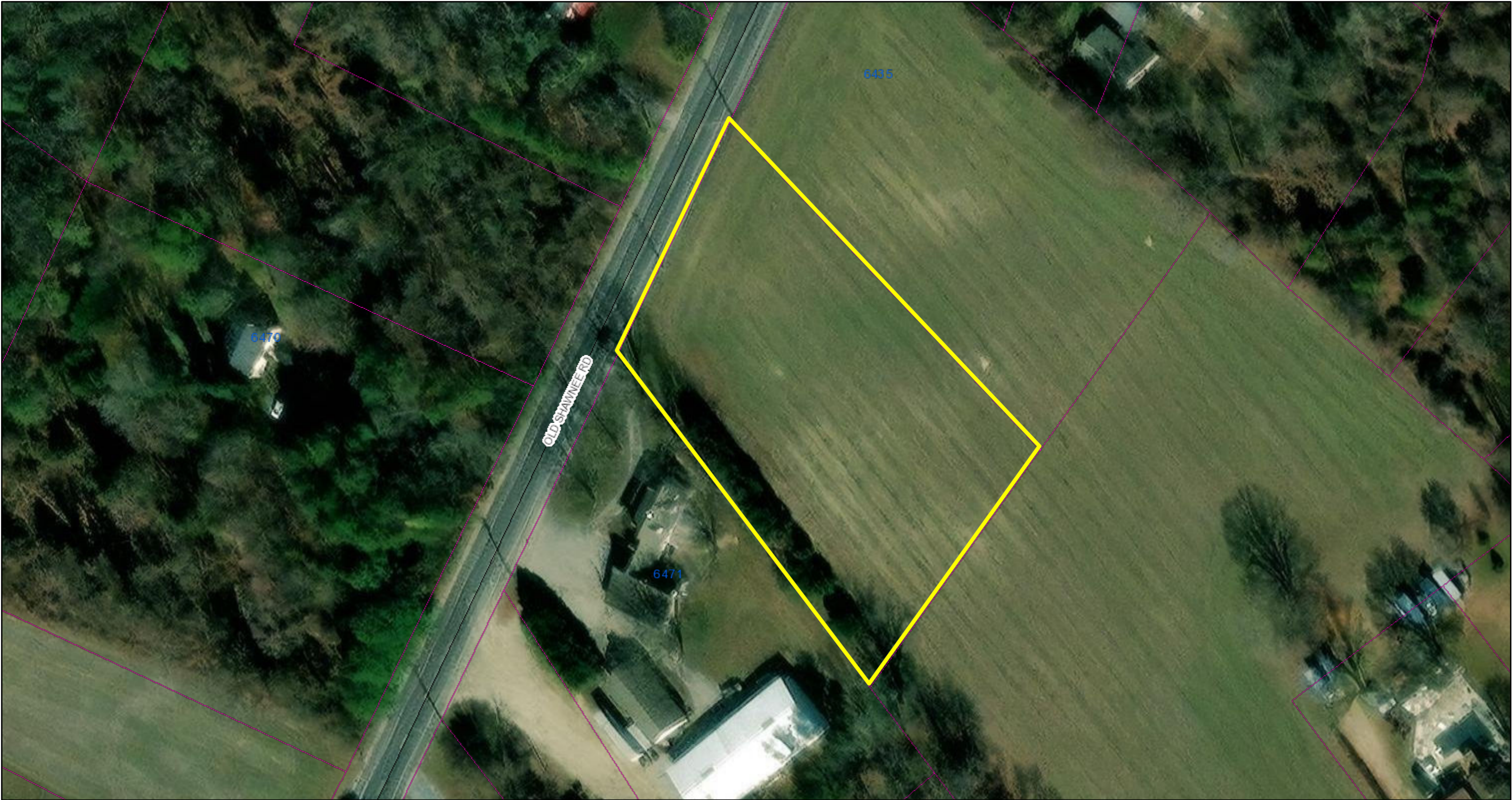


Site Considerations

- **Density:** N/A
- **Open Space Provisions:** N/A
- **Agricultural Areas:** The subject parcel currently adjoins parcels that are actively used for agricultural purposes.
- **Interconnectivity:** N/A
- **Transportation Improvement District (TID):** N/A
- **Forested Areas:** N/A
- **Wetlands Buffers/Waterways:** N/A
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** Parcel is located within the “X” Flood Zone. There are no Tax Ditch Rights-Of-Way (ROW) on the subject property. The parcel is located within an area of “Good” and mostly “Excellent” Groundwater Recharge and shall be subject to the provisions of Chapter 89 “Source Water Protection” Section 7 of the Sussex County Code (§89-7).

Based on the analysis provided, the Application to allow for a Change of Zone from a Medium-Density Residential (MR) District to an Agricultural Residential (AR-1) District in this location could be considered as being consistent with the surrounding land use, zoning, and uses, subject to considerations of scale and impact.

Sussex County

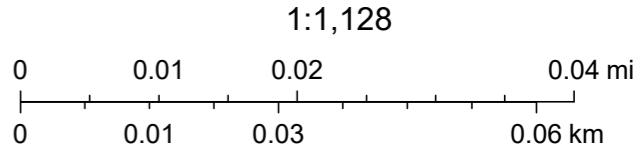


October 31, 2023

- Override 1
 Override 2
 Tax Parcels
 911 Address
 Streets
 County Boundaries
 DOE School Districts

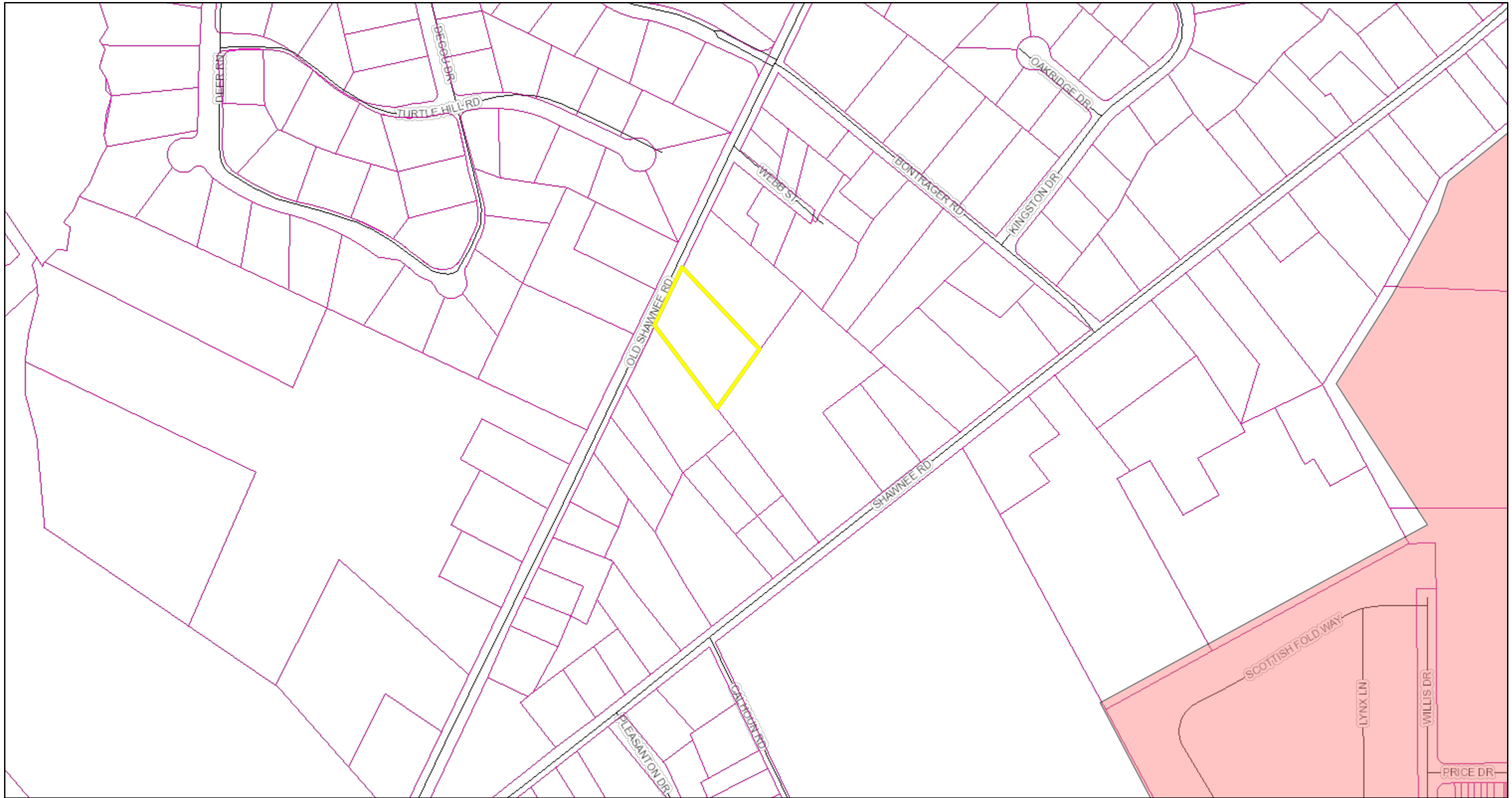
- World Imagery
 Low Resolution 15m Imagery
 High Resolution 60cm Imagery
 High Resolution 30cm Imagery

- Citations
 30cm Resolution Metadata



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Sussex County



October 31, 2023

polygonLayer

Override 1

Override 2

Municipal Boundaries

Tax Parcels

Streets

County Boundaries

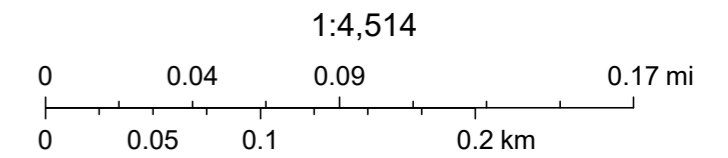
DOE School Districts

layer51

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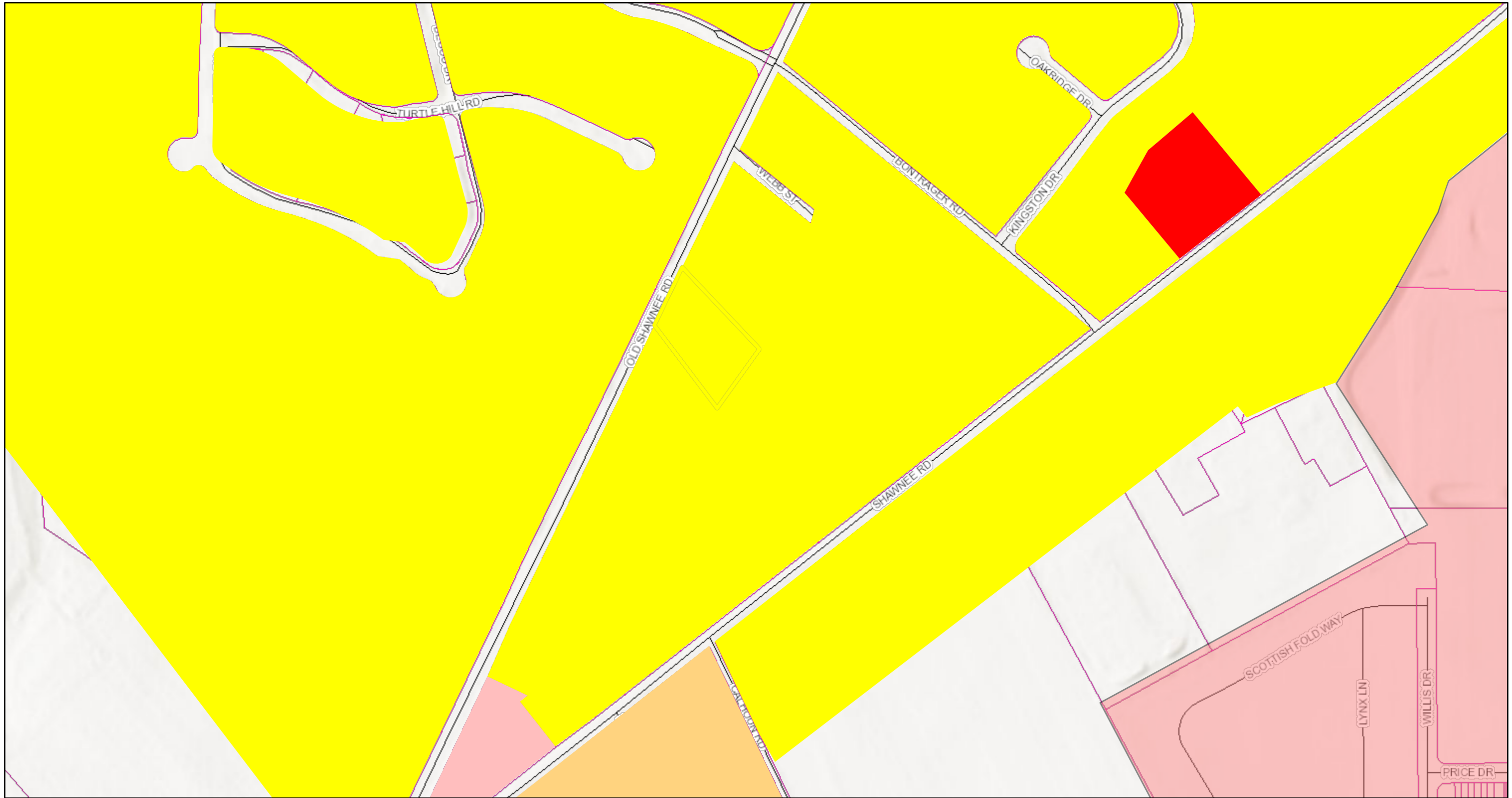
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Blue: Band_3



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Sussex County



October 31, 2023

polygonLayer

Override 1

Override 2

Zoning

Medium Residential - MR

General Residential - GR

Neighborhood Business - B-1

General Commercial - C-1

Municipal Boundaries

Tax Parcels

Streets

County Boundaries

DOE School Districts

layer50

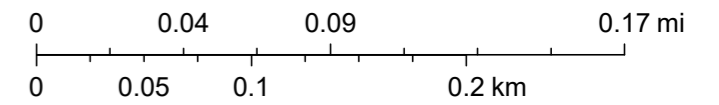
Red: Band_1

Green: Band_2

Blue: Band_3

World Hillshade

1:4,514



Delaware Department of Education, Wetland mapping is supported with funding provided by the Environmental Protection Agency, FEMA, DNREC, Division of Watershed Stewardship, Drainage Program, john.inkster@state.de.us, Sussex County, Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS,

Introduced: 11/12/24

Council District: Mr. McCarron

Tax I.D. No.: 130-3.00-170.04

911 Address: N/A

ORDINANCE NO. ____

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

WHEREAS, on the 29th day of October 2024, a zoning application, denominated Change of Zone No. 2041 was filed on behalf of James Yerkie, II; and

WHEREAS, on the ____ day of _____ 2024, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 2041 be _____; and

WHEREAS, on the ____ day of _____ 2025, 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 [MR Medium Residential District] and adding in lieu thereof the designation AR-1 Agricultural Residential 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 Cedar Creek Hundred, Sussex County, Delaware, and lying on the east side of Old Shawnee Road (S.C.R. 619) approximately 0.35 mile northeast of Shawnee Road (Rt. 36) and being more particularly described in the attached legal description prepared by Walter G. Feindt, P.A., said parcel containing 1.53 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.

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



Sussex County

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Memorandum

To: Sussex County Council
The Honorable Douglas B. Hudson
The Honorable Jane Gruenebaum
The Honorable Matt Lloyd
The Honorable Steve McCarron
The Honorable John L. Rieley

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

CC: Everett Moore, County Attorney

Date: January 30, 2025

RE: County Council Report for C/U 2464 filed on behalf of James Yerkie, II

The Planning and Zoning Department received an application (C/U 2464 filed on behalf of James Yerkie, II) for outdoor storage, to be located in an AR-1 Agricultural Residential Zoning District at Tax Parcel 130-3.00-170.04. The property is located on the east side of Old Shawnee Road, approximately 0.35 mile northeast of Shawnee Road. The parcel size is 1.5 ac. +/-

The Planning & Zoning Commission held a Public Hearing on the application on December 4, 2024. At the meeting of January 8, 2025, the Planning & Zoning Commission recommended approval of the application for the 4 reasons and 9 recommended conditions of approval as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meeting on December 4, 2024, and January 8, 2025.

Minutes of the December 4, 2024, Planning & Zoning Commission Meeting

C/U 2464 James Yerkie, II

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR OUTDOOR STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.5 ACRES, MORE OR LESS. The property is lying the east side of Old Shawnee Road (S.C.R. 619) approximately 0.35-mile northeast of Shawnee Road (Rt. 36). 911 Address: N/A. Tax Map Parcel: 130-3.00-170.04.



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

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the applicant's conceptual site plan, a copy of the soils evaluation, a copy of the Staff Analysis report, a copy of a letter received from the Sussex County Engineering Department Utility Planning Division, a copy of the DelDOT SLER and one letter of opposition.

Mr. James Yerkie, II, spoke on behalf of himself, the applicant, that this hearing is to allow for storage containers to remain on his vacant lot in a MR (Medium Residential District); that his plan is to eventually build a home on the property, but in the meantime keep storage containers that hold extra vehicles and building materials.

The Commission discussed the application and the complaint that brought about this case and if it was related to the storage containers or the cars on the property.

Mr. Whitehouse stated for the record that this case came in as a complaint to the Constables Office for the storage containers on a vacant property in an MR district; that in order for the applicant to keep those containers on the property until the time in which a home is built he would need to do a Change in Zone downgrade to an AR-1 (Agricultural Residential) district with a Conditional Use.

Mr. Mears stated that with the Conditional Use case that it will clearly state what can and cannot take place on the site and that he needs to make sure that there are no business activities occurring pertaining to his HVAC business unless he states that ahead of time.

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

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

In relation to C/U 2464 James Yerkie, II. Motion by Mr. Butler to defer action for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 4-0.

Minutes of the January 8, 2025, Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since December 4, 2024.

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

Mr. Butler moved the Commission to recommend an approval of C/U 2464 JAMES YERKIE, II for outdoor storage within the AR-1 District based upon the record made during the public hearing and for the following reasons:

1. The Applicant owns this property and intends to build his home with a large garage on the property at some point in the future. In the meantime, the Applicant seeks approval for this conditional use to allow the outdoor storage of his vehicles, equipment, and other items until such time as he can build his own home and garage upon the property.
2. The use will be very limited, and the Applicant has stated that there will be no public access to the property. It will not be used as a commercial storage facility. As a result, the use will not have any impact upon area roadways.

3. The project, with the conditions and stipulations imposed upon it, will not have an adverse impact upon the neighboring properties or community.
4. No parties appeared in opposition to this Application.
5. This recommendation for approval is subject to the following conditions:
 - A. The use shall be limited to the outdoor storage of vehicles, equipment, and similar items.
 - B. The property shall not be accessible to the public.
 - C. No maintenance or repair activities shall occur on the site, and no equipment, parts or materials associated with HVAC systems shall be stored on the site.
 - D. Any security lighting shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.
 - E. No hazardous materials or fuel shall be stored on the property other than what may be in the tanks of the vehicles, equipment, and similar items located on the site.
 - F. The areas to be used for outside storage, including driveways, parking areas, pad sites, and bins shall be clearly marked on the Final Site Plan and on the site itself. There shall not be any storage, bins, pad sites or parking within the property's setbacks.
 - G. This conditional use shall expire upon the sale or transfer of title to the property or upon the issuance of a Certificate of Occupancy to the Applicant for a home that is constructed on the property. If a home is constructed, the Conditional Use is no longer necessary since the use will be accessory to the primary residential use of the property.
 - H. The failure to abide by any of these conditions may be grounds for the revocation of this Conditional Use.
 - I. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Mr. Butler, seconded by Mr. Collins and carried unanimously to recommend APPROVAL of C/U 2464 James Yerkie, II for the reasons and the conditions stated in the motion. Motion carried 5-0.

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

PLANNING & ZONING COMMISSION

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



Sussex County

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

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: December 4th, 2024

Sussex County Council Public Hearing Date: February 4th, 2025

Application: C/U 2464 James Yerkie II

Applicant: Mr. James Yerkie II
10 Delaware Avenue
Milford, DE 19963

Owner: Mr. James Yerkie II
10 Delaware Avenue
Milford, DE 19963

Site Location: The property is located on the east side of Old Shawnee Road (S.C.R. 42), approximately 0.40-mile northeast of the intersection of Old Shawnee Road and Shawnee Road (Route 36) in Milford, Delaware.

Current Zoning: Medium Residential (MR) Zoning District

Proposed Use: A Storage Business to consist of a proposed business building, two (2) storage containers on a concrete pad and associated parking.

Comprehensive Land Use Plan Reference: Developing Area

Councilmanic District: Mr. McCarron

School District: Milford School District

Fire District: Carlisle Fire Company (Milford)

Sewer: Private (On-site septic)

Water: Private (On-site well)

Site Area: 1.53-acres +/-

Tax Map ID.: 130-3.00-170.04



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



Sussex County

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Memorandum

To: Sussex County Planning and Zoning Commission Members
From: Ms. Lauren DeVore, AICP; Planner III
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: October 28th, 2024
RE: Staff Analysis for C/U 2464 James Yerkie II

The purpose of this memo is to provide background and analysis for the Planning and Zoning Commission to consider as a part of Application Conditional Use No. 2464 (James Yerkie II) to be reviewed at the December 4th, 2024, Planning and Zoning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcel: 130-3.00-170.04 to allow for a storage business to consist of a proposed business building, two (2) storage containers on a concrete pad and associated parking. The property is lying on the east side of Old Shawnee Road (S.C.R. 42), approximately 0.40-mile northeast of the intersection of Old Shawnee Road (S.C.R. 42) and Shawnee Road (Route 36). The Applicant is applying for 1.53-acre(s) +/- to be included in the Conditional Use area.

Comprehensive Plan Analysis

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use Map in the plan indicates that the parcel has a Growth Area Future Land Use designation of “Developing Area.” All adjoining parcels to the north, south, east, and west across Old Shawnee Road (S.C.R. 42) also have a Future Land Use Map designation of “Developing Area.”

As outlined within the 2018 Sussex County Comprehensive Plan, “Developing Areas” are “newer, emerging growth areas that demonstrate the characteristics of developmental trends. Most of the proposed Developing Areas are adjacent to municipalities, within or adjacent to potential future annexation areas of a municipality, or adjacent to Town Centers” (2018 Sussex County Comprehensive Plan, 4-14). The Plan further notes that, “In selected areas and at appropriate intersections, commercial uses should be allowed” and that “a variety of office uses would be appropriate in many areas” (2018 Sussex County Comprehensive Plan, 4-14). Lastly, the Plan provides that “Appropriate mixed-use development should also be allowed. In doing so, careful mixtures of homes with light commercial and institutional uses can be appropriate to provide for convenient services and to allow people to work close to home” which would appear to encompass this sort of use (2018 Sussex County Comprehensive Plan, 4-14).



Zoning Information

The subject property is zoned Medium-Density Residential (MR) District. All adjacent properties to the north, east, south, and west across Old Shawnee Road (S.C.R. 42) are also zoned Medium-Density Residential (MR) District. It is noted that the property is in proximity to the incorporated limits of the City of Milford, which lie to the northwest of the subject site.

Table 4.5-2 “Zoning Districts Applicable to Future Land Use Categories” in the 2018 Sussex County Comprehensive Plan notes that the Medium-Density Residential (MR) District is an applicable Zoning District within the “Developing Area” Future Land Use Map Designation.

It should be noted that there is a separate Application for a Change of Zone (Change of Zone No. 2041) for a down-zoning of the subject property from Medium Density Residential (MR) District to an Agricultural Residential (AR-1) District and that the Agricultural Residential (AR-1) District is an applicable Zoning District within the “Developing Area” Future Land Use Map Designation under Table 4.5-2 “Zoning Districts Applicable to Future Land Use Categories” in the 2018 Sussex County Comprehensive Plan (2018 Sussex County Comprehensive Plan, 4-24).

Existing Conditional Uses within the Vicinity of the Subject Property

Although there have been multiple applications in this area, since 2011, there have been four (4) Conditional Use applications within a one (1) mile radius of the Application Site.

Conditional Use No.	Applicant	Proposed Use	CC Decision Date	Ordinance No.
1909	Thomas P. Collins	Beauty Salon	9/20/2011 (Approved)	2220
2081	Rafael Arias	Used Car Sales and Computer Repair Business	N/A (Withdrawn)	N/A
2298	Freeman Solar, LLC	Solar Farm	6/14/2022 (Approved)	2864
2397	Misphillion Solar Farm, LLC	Solar Farm	2/20/2024 (Approved)	N/A



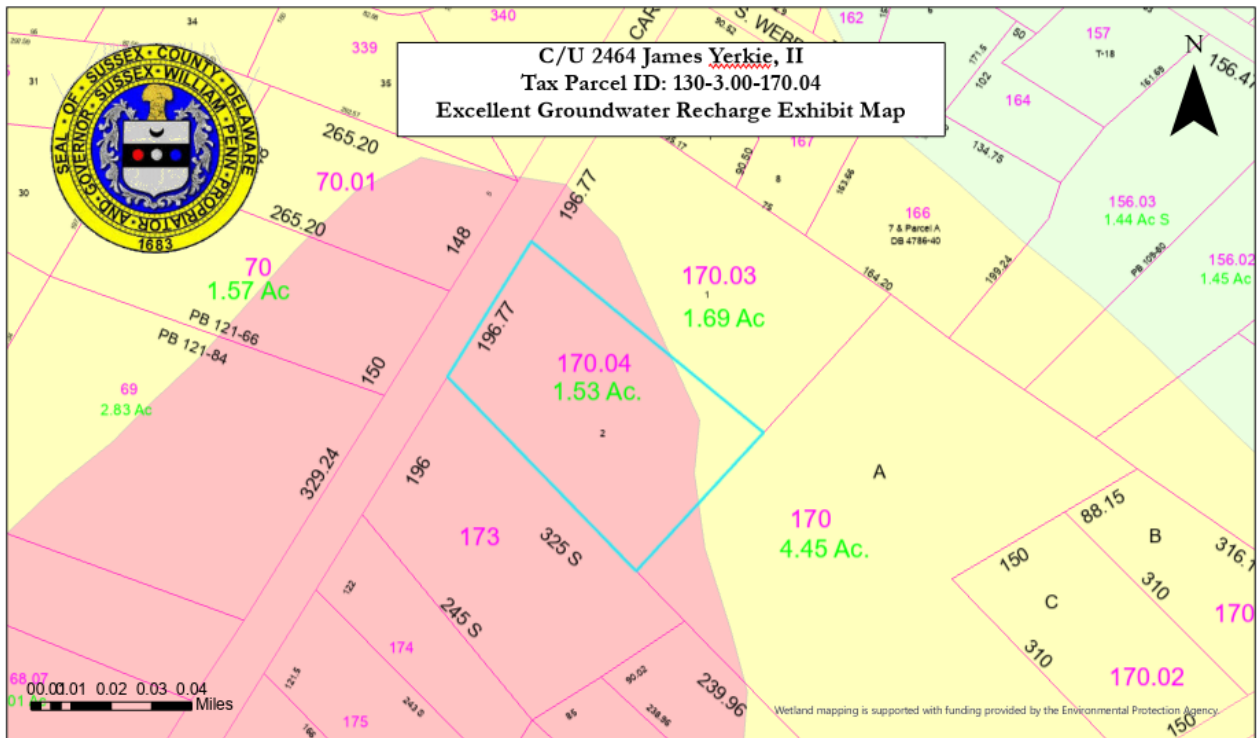
Site Considerations

- **Density:** N/A
- **Open Space Provisions:** N/A
- **Agricultural Areas:** The subject parcel currently adjoins parcels that appear to be within active agricultural use (actively farmed).
- **Interconnectivity:** N/A
- **Transportation Improvement District (TID):** The DelDOT Service Level Evaluation Response (SLER) indicates that the proposal has an anticipated “diminutive” traffic impact in the context of DelDOT’s Memorandum of Understanding (MOU) with the County.
- **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 Flood Zone “X: - Areas determined to be outside the 1% annual chance flood and outside the 500-year floodplain.

There are no Tax Ditches or associated Tax Ditch Rights-Of-Way (ROW) on the subject property.

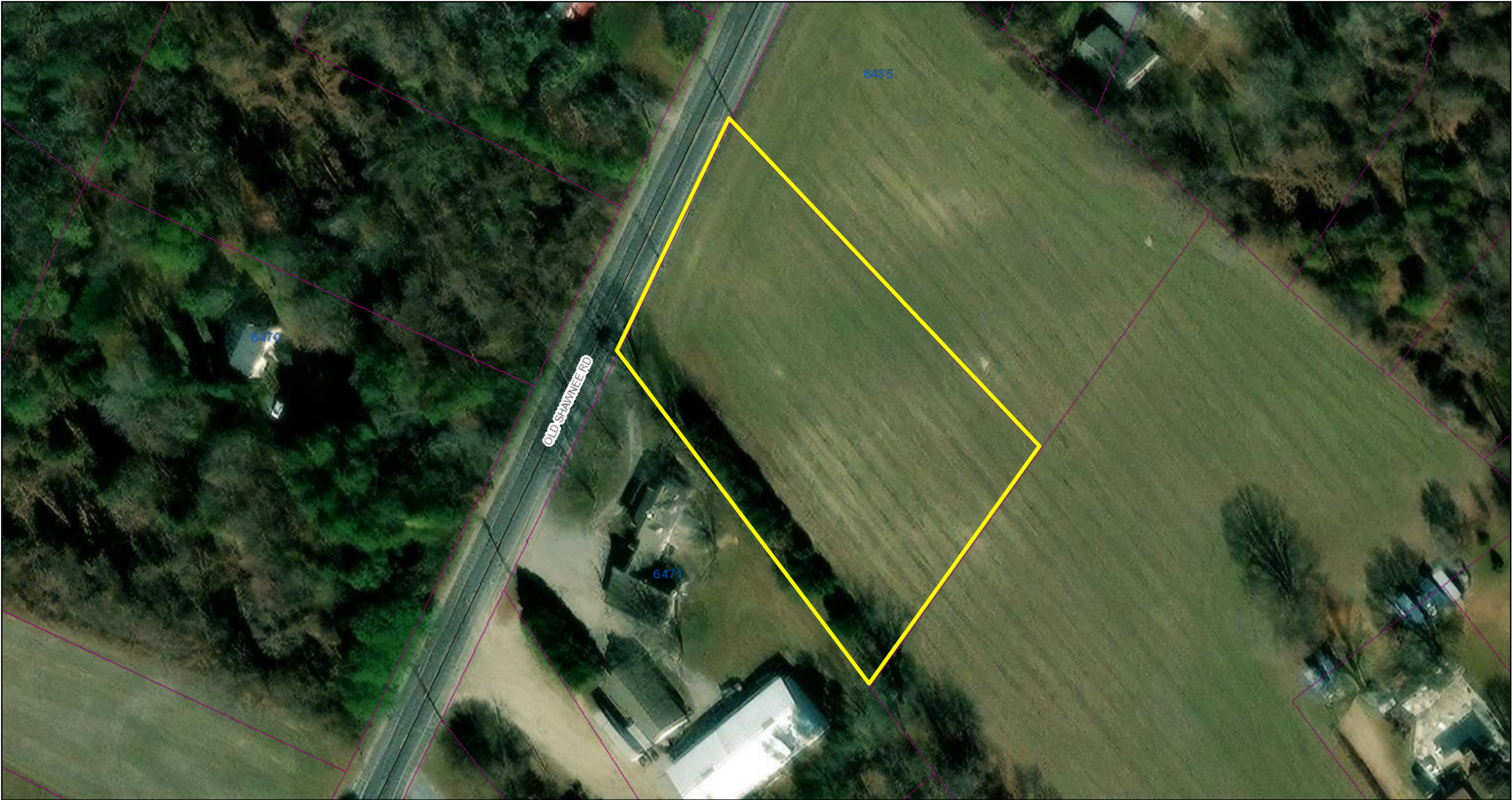
There also do not appear to be any wetlands on the subject property according to the information available on the County's Online Mapping System.

The parcel is not located within any Wellhead Protection Areas and is location within an area of almost exclusively "Excellent" Groundwater Recharge Potential and shall therefore be subject to the provisions of Chapter 89 "Source Water Protection" Section 7 of the Sussex County Code (§89-7) which requires that the impervious cover of any portion of tax parcel located within the excellent groundwater recharge area be 35% or less. A recharge of up to 60% is permitted provided that the Applicant demonstrates through an Environmental Assessment Report that post development recharge will meet or exceed pre-development recharge levels.



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

Sussex County

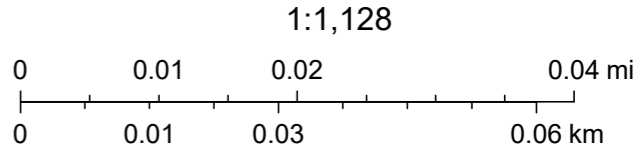


October 31, 2023

- Override 1
- Override 2
- Tax Parcels
- County Boundaries
- DOE School Districts
- Streets
- 911 Address

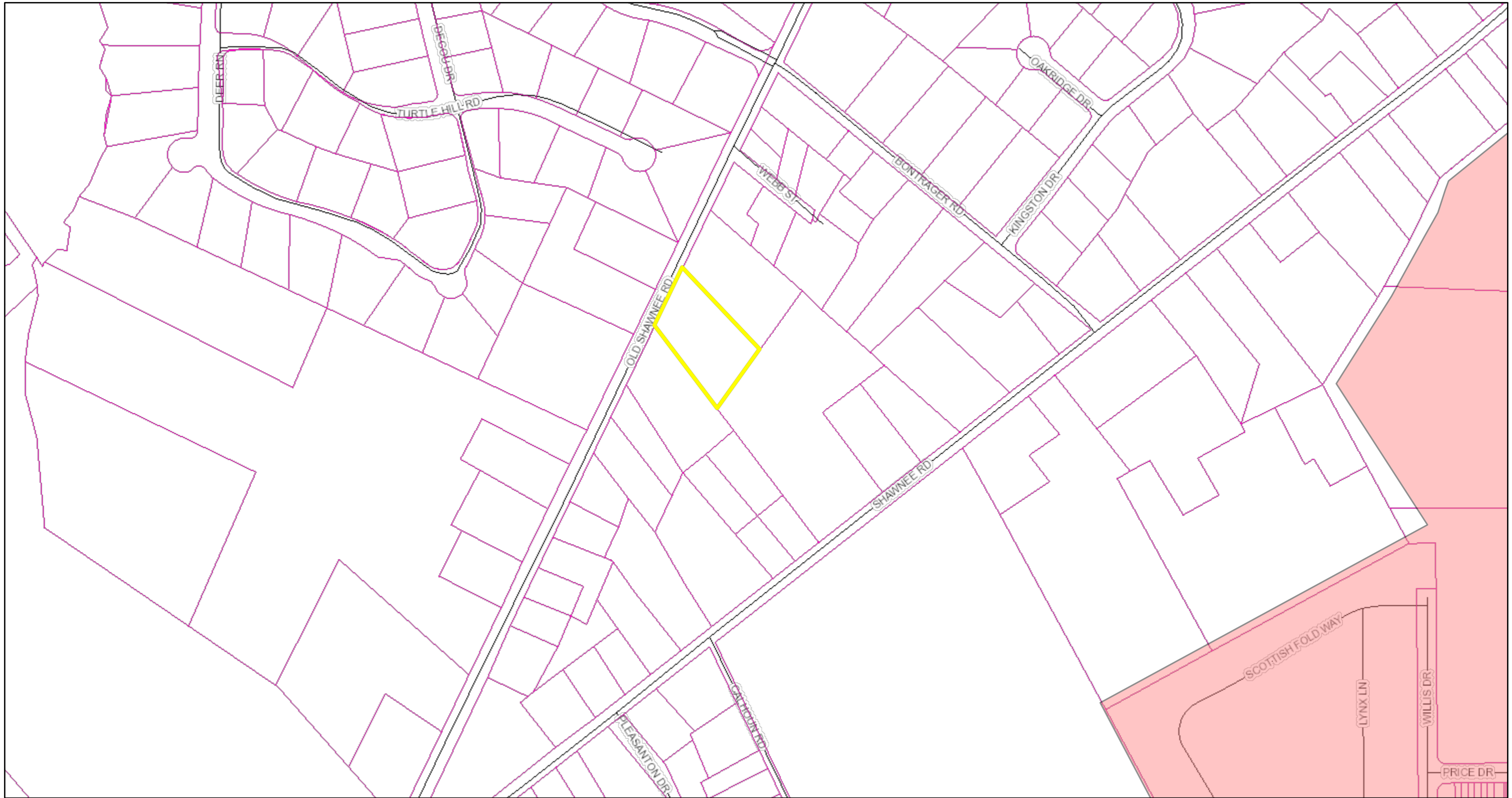
- World Imagery
- Low Resolution 15m Imagery
- High Resolution 60cm Imagery
- High Resolution 30cm Imagery

- Citations
- 30cm Resolution Metadata



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Sussex County



October 31, 2023

polygonLayer

Override 1

Override 2

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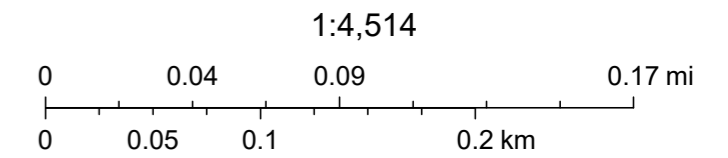
DOE School Districts

layer51

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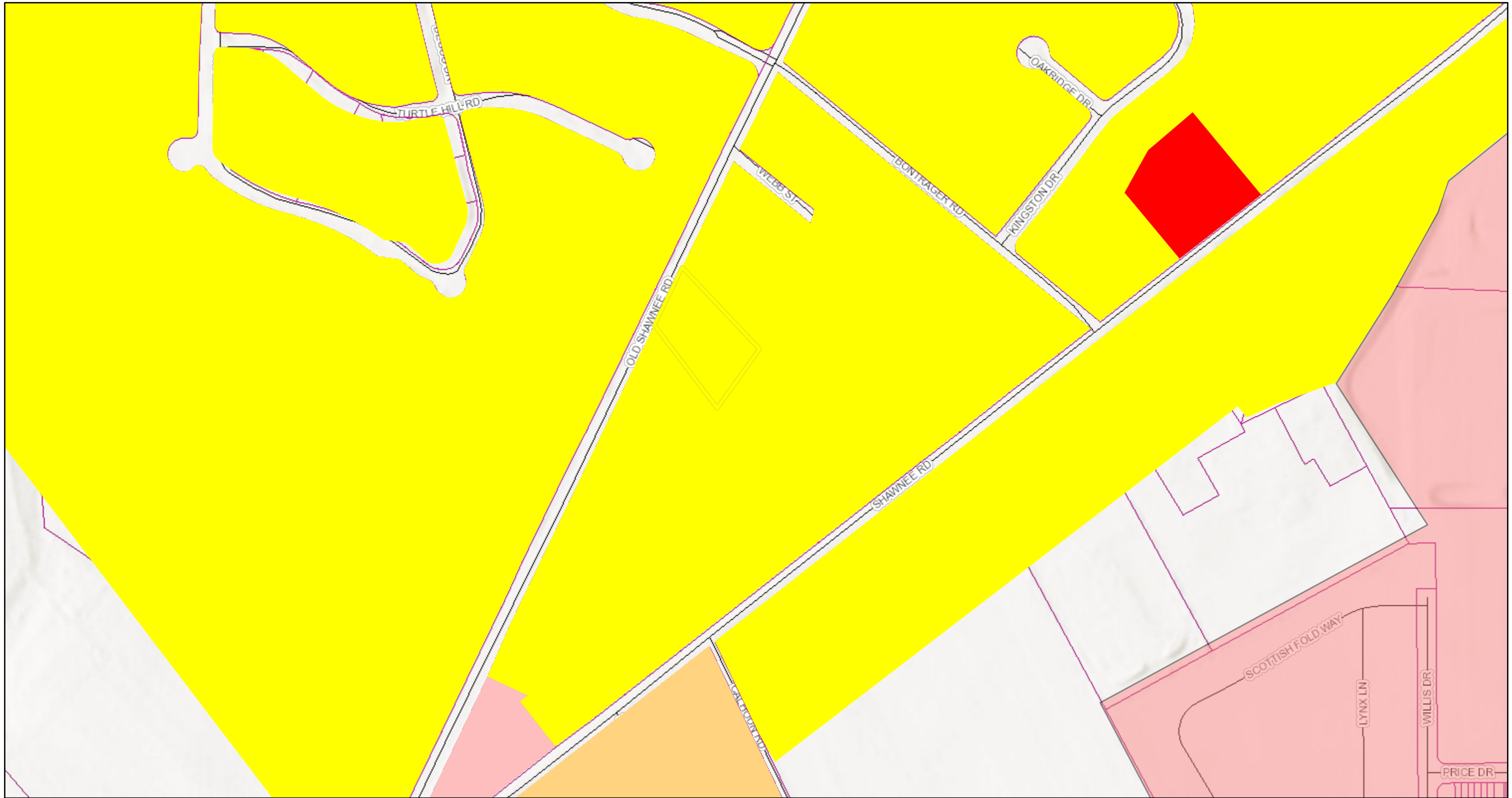
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Blue: Band_3



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Sussex County



October 31, 2023

polygonLayer

Override 1

Override 2

Zoning

Medium Residential - MR

General Residential - GR

Neighborhood Business - B-1

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layer50

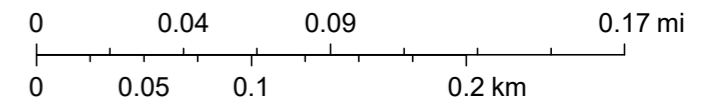
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Introduced: 9/24/24

Council District 2: Mr. McCarron
Tax I.D. No.: 130-3.00-170.04
911 Address: N/A

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR OUTDOOR STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.5 ACRES, MORE OR LESS

WHEREAS, on the 13th day of July 2023, a conditional use application, denominated Conditional Use No. 2464 was filed on behalf of James Yerkie, II; and

WHEREAS, on the ____ day of _____ 2025, 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. 2464 be _____; and

WHEREAS, on the ____ day of _____ 2025, 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. 2464 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 the east side of Old Shawnee Road (S.C.R. 619) approximately 0.35 mile northeast of Shawnee Road (Rt. 36) and being more particularly described in the attached legal description prepared by Walter G. Feindt, P.A., said parcel containing 1.53 acres, more or less.

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



Memorandum

To: Sussex County Council
The Honorable Douglas B. Hudson
The Honorable Jane Gruenebaum
The Honorable Matt Lloyd
The Honorable Steve McCarron
The Honorable John L. Rieley

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

CC: Everett Moore, County Attorney

Date: January 30, 2025

RE: County Council Report for C/U 2469 filed on behalf of Rehoboth Family Storage, LLC

The Planning and Zoning Department received an application (C/U 2469 filed on behalf of Rehoboth Family Storage, LLC) for a mini-storage facility to be located in an AR-1 Agricultural Residential Zoning District at Tax Parcel 234-6.00-104.00, 104.02, 104.03 and 104.04. The property is located on the west side of John J. Williams Highway (Rt. 24) approximately 0.95 mile northeast of Robinsonville Road (SCR 277). The parcel size is 6.68 ac. +/-

The Planning & Zoning Commission held a Public Hearing on the application on December 4, 2024. At the meeting of January 8, 2025, the Planning & Zoning Commission recommended approval of the application for the 8 reasons and 13 recommended conditions of approval as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meeting on December 4, 2024, and January 8, 2025.

Minutes of the December 4, 2024, Planning & Zoning Commission Meeting

C/U 2469 Rehoboth Family Storage, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MINI-STORAGE FACILITY WITH OFFICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 6.68 ACRES, MORE OR LESS. The properties are lying on the west side of John J. Williams Highway (Rt. 24) and the east side of Robinsonville Road (S.C.R. 277), approximately 0.95-mile northeast of



the intersection of John J. Williams Highway (Rt. 24) and Robinsonville Road (S.C.R. 277). 911 Address: N/A. Tax Map Parcels: 234-6.00-104.00, 104.02, 104.03, & 104.04.

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the applicants exhibit booklets which includes the applicant's environmental assessment and Public Facilities Evaluation report, a copy of the applicant's conditional use site plan, a copy of a rendering of the site plan, a copy of the applicant submitted photographs, a copy of the Staff Analysis report, a copy of the DelDOT SLER, a copy of a letter received from the Sussex County Engineering Department Utility Planning Division and 15 written comments.

Ms. Mackenzie Peet, Esq., introduced her client, the applicant, to the Commission to give some history on himself and his business.

Mr. Bill Soltesz spoke on behalf of himself that he is the managing member of Rehoboth Family Storage, LLC, and he has been in the self-storage business for 29 years and currently owns six facilities; that the goal is to set a new standard for self-storage facilities by providing exterior colors to match the environment, outstanding landscaping, high tech security and relaxing music within the buildings; that they want to be a "good neighbor" and provide a positive asset to the community; that there will be no 24 hour facilities and all rental offices are closed on Sundays.

Ms. Mackenzie Peet, Esq., of Saul Ewing, spoke on behalf of the Applicant, Mr. Bill Soltesz, principal owner of Rehoboth Family Storage, LLC.; that Mr. Soltesz has successfully developed and currently own six self-storage facilities; that the current project proposes three one story buildings consisting of 891 units each to include a mix of interior, climate controlled units and perimeter drive up non climate controlled units; that there will be no outdoor storage and the total building area will consist of approximately 125,000 square feet, with building one consisting of approximately 28,745 square feet, building two, consisting of approximately 56,600 square feet and building three consisting of 40,125 square feet; that each building is a one story low profile design that seamlessly integrates into the surrounding landscape and the design minimizes the visual impact of the project on nearby land uses, and enhances the overall aesthetics of the area; that extensive buffering from adjacent properties in the form of perimeter trees, which will consist of as many trees as possible while supplementing with additional plantings as needed and each building will have a sprinkler system as required by the Fire Marshal; that the Applicant is seeking three signs, an illuminated wall sign on the front of Building one, an illuminated monument sign located along Route 24 in the landscaping bed and another along Robinsonville Rd.; that the property is located in an AR-1 zoning district and the proposed use aligns with the character of the surrounding community, which consists of both a mix of residential and commercial properties; that there is a significant demand for self-storage solutions in Sussex County and especially in the Rehoboth Lewes area.

Mr. Edward Launay, a professional wetlands scientist, of Environmental Resource Insights spoke on behalf of the Applicant that the site is a 6.68 acre site and based on the USDA maps it is considered a well drained, sandy soil site; that soils he found on site are well suited to all types of developments with very few development limitations; that the site is not within any DNREC mapped wellhead area protection area or within any special ground water recharge area and the sites not within any 100 year floodplain; that there is no presence of any state or federally regulated wetlands on the site or adjacent to it; that the site is wooded and was clear cut in 2010; that there's a few scattered old growth trees along Robinsonville Rd. and the rest is a relatively young forested area consisting of Tulip Poplar Lava,

Early Pine and an occasional Red Maple; that the project proposes to retain 1.62 acres of forest around the perimeter of the site a retention of 24.3% of the entire site.

Ms. Peet stated that the public has noted some concern with the entrance being on Robinsonville Rd, but it should be noted that the developer has no control over the entrance as that is determined by DelDOT and they restricted the access from Route 24; that traffic generated by the facility is characterized as low, stable and predictable due to their operational nature and based on the gate access logs of Mr. Soltesz's other facilities, suggest an average of approximately 30 vehicle trips per day; that the location was selected as to draw traffic away from Route One and was placed within a three mile radius of the nearest storage facility; that the applicant has received an approved site evaluation from DNREC; that this site will be secured with a fence around the perimeter as well as a gate, security cameras will be provided, hours of operation, unlike typical storage facilities in the area, this facility will not offer 24 hour access; that gate access will only be available from 6:00 AM to 10:00 PM seven days a week, additionally, office hours will be from 9:00 AM to 6:00 PM Monday through Saturday, with no Sunday office hours.

Mr. Cliff Mumford, P.E., of Davis, Bowen & Friedel, spoke on behalf of the Applicant, that the correspondence with DelDOT determined that the site's traffic does not warrant and TIS, but it is located within the TID and the applicant is required to pay a fee of \$406,000, based on the square footage of the buildings; that at the May 17, 2023, meeting the applicant proposed to have the entrance on Route 24, but DelDOT's policy states that access be provided from the lower functional classification roadway, which is Robinsonville Rd.; that when meeting with Sussex Conservation District, a stormwater assessment study was done and to be in compliance with their requirements an infiltration pond will be used to control runoff; that the pre-application meeting with the Fire Marshal determined that all buildings will have fire sprinklers and a knox box will be provided on the gate so the fire department will have access into the site; that a fire hydrant flow test was performed by Tidewater Utilities that confirmed sufficient flow for fire suppression, and there's an existing water main and a fire hydrant in front of the site on Robinsonville Rd.

Ms. Mary Sheehan spoke in support of the application as with the growth of Sussex County, many new retirees are downsizing there homes and/or renting out their homes for an extra income and need to store the belongings somewhere; that there is a large shortage of storage facilities within the County and this one not only provides a needed service, but it is also an aesthetically pleasing building to add to a community.

Mr. Brendan O'Toole spoke in favor of the application that the area needs more storage facilities within a reasonable distance of the area; that his parents recently lost their home to a storm and when they went to find a storage facility for their belongings and the contractor supplies, they were forced to find a facility over 90 minutes away.

Mr. Buddy Webb spoke in opposition to the application that he owns the property adjacent to this proposed site and he wants the area to remain undeveloped for the good of the neighborhood.

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

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

In relation to C/U 2469 Rehoboth Family Storage, LLC. Motion by Mr. Collins to defer action for further consideration, holding the record open for documentation from the applicant regarding the meeting with DelDOT, seconded by Mr. Mears and carried unanimously. Motion carried 4-0.

Minutes of the January 8, 2025, Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since December 4, 2024.

Mr. Collins moved the Commission to recommend approval of C/U 2469 REHOBOTH FAMILY STORAGE, LLC to operate a mini-storage facility based upon the record made at the public hearing and for the following reasons:

1. The use as an indoor storage facility is of a public or semi-public character and is desirable for the general convenience and welfare of neighboring properties and uses in the area.
2. The use is to be located along Route 24 with access from Robinsonville Road. It is in an area along Route 24 where several businesses exist. This is an appropriate location for this type of low-intensity use.
3. The use will be a self-storage facility with an office. No outside storage will be allowed and no manufacturing, assembling, fabrication, or similar activities will be permitted.
4. There was testimony in the record that there is a need for self-storage facilities in this part of Sussex County. This type of use compliments the residential development that is occurring in this area of Sussex County, and it will reduce the amount of traffic traveling to Route One for storage needs.
5. Although the site is currently wooded, it was clearcut in 2010, so the existing trees are mainly newer growth. The Applicant has committed to preserving approximately 1.62 acres of the existing woodlands.
6. There are no wetlands on the site.
7. This type of storage facility generates a relatively minor amount of traffic when compared with other types of uses. It will not adversely affect traffic on area roadways. There was testimony about the location of the entrance onto Robinsonville Road and not Route 24, but that location has been directed by DelDOT.
8. The project, with the conditions and stipulations placed upon it, will not have an adverse impact on the neighboring properties or community.
9. This recommendation for approval is subject to the following conditions and stipulations:
 - A. There shall not be any outside storage on the premises. This includes the prohibition against outside storage of building materials, construction materials, boats and RVs within the site.
 - B. Any security lights shall be screened with downward illumination so that they do not shine on any neighboring properties or roadways.
 - C. The perimeter of the Storage area shall be fenced and gated and the fencing shall be vinyl coated or utilize a similar material. The location and type of fencing shall be shown on the Final Site Plan.

- D. There shall be only two indirectly lit signs allowed on the site of no more than 32 square feet per side. One may be located on Robinsonville Road and the other on Route 24. In addition, one directly lit wall sign shall be permitted.
- E. Stormwater management shall be maintained on site, using Best Management Practices.
- F. The hours of operation for the facility will be as follows: gate access will be available daily from 6:00 A.M. to 10:00 P.M.; office hours will be from 9:00 A.M. to 6:00 P.M., Monday through Saturday.
- G. A perimeter landscape buffer shall be established at varying widths, consisting of existing trees to the greatest extent possible, as shown on the preliminary site plan. The Final Site Plan shall also include details of the perimeter landscape buffer.
- H. Any trash receptacles associated with the use shall be screened from neighboring properties and roadways.
- I. The Final Site Plan shall indicate all parking and drive aisles.
- J. The use shall be subject to all DelDOT requirements regarding entrance and roadway improvements necessary to provide access to the site.
- K. As stated by the Applicant, approximately 1.62 acres of the existing woodlands shall be preserved. Those preservation areas shall be shown on the Final Site Plan.
- L. Any violations of the conditions of approval of this Conditional Use may result in the termination of this Conditional Use.
- M. The Final Site Plan shall be subject to approval of the Planning and Zoning Commission.

Motion by Mr. Collins, seconded by Mr. Butler and carried unanimously to recommend APPROVAL of C/U 2469 Rehoboth Family Storage, LLC for the reasons and the conditions stated in the motion. Motion carried 5-0.

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

PLANNING & ZONING COMMISSION

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



Sussex County

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

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: December 4th, 2024

Sussex County Council Public Hearing Date: February 4th, 2025

Application: C/U 2469 Rehoboth Family Storage, LLC

Applicant: Rehoboth Family Storage, LLC
18752 Upper Meadow Drive
Leesburg, VA 20176

Owner: Rehoboth Family Storage, LLC
18752 Upper Meadow Drive
Leesburg, VA 20176

Site Location: The property is lying on the west side of John J. Williams Highway (Route 24) and the east side of Robinsonville Road (S.C.R. 277), approximately 0.95-mile northeast of the intersection of John J. Williams Highway (Route 24) and Robinsonville Road (S.C.R. 277).

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

Proposed Use: A Storage Business to consist of three (3) proposed Buildings totaling 125,200 square feet of storage buildings and a 900 square foot Office Building.

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Ms. Gruenebaum

School District: Cape Henlopen School District

Fire District: Lewes Fire Company

Sewer: Private (On-site septic)

Water: Tidewater Utilities, Inc.

Site Area: 6.68 +/-

Tax Map IDs: 234-6.00-104.00, 104.02, 104.03 & 104.04



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



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Planning and Zoning Commission Members
From: Ms. Lauren DeVore, AICP; Planner III
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: October 28th, 2024
RE: Staff Analysis for C/U 2469 Rehoboth Family Storage, LLC

The purpose of this memo is to provide background and analysis for the Planning and Zoning Commission to consider as a part of Application Conditional Use No. 2469 Rehoboth Family Storage, LLC to be reviewed at the December 4th, 2024, Planning and Zoning Commission Meeting. This analysis should be included in the record of this Application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcels: 234-6.00-104.00, 104.02, 104.03 & 104.04 to allow for a storage business to consist of three (3) proposed storage Buildings totaling 125,200 square feet +/- of storage buildings and a 900 square foot Office Building. The property is lying on west side of John J. Williams Highway (Route 24) and the east side of Robinsonville Road (S.C.R. 277), approximately 0.95-mile northeast of the intersection of John J. Williams Highway (Route 24) and Robinsonville Road (S.C.R. 277). The property consists of 6.68 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 Future Land Use designation of “Coastal Area.” All adjoining parcels to the north, south, east, and west across Robinsonville Road (S.C.R. 277) and John J. Williams Highway (Route 24) also have a Future Land Use Map designation of “Coastal Area.”

As outlined within the 2018 Sussex County Comprehensive Plan, “Coastal Areas” are areas where the County encourages only appropriate forms of concentrated new development in these areas, especially when environmental features are in play” (2018 Sussex County Comprehensive Plan 4-9). Additionally, Coastal Areas are “areas that can accommodate development provided special environmental concerns are addressed” (2018 Sussex County Comprehensive Plan, 4-15).

The Plan further notes that, “office uses are appropriate,” and that “Appropriate mixed-use development should also be allowed. In doing so, careful mixtures of homes with light commercial, office and institutional uses can be appropriate to provide for convenient services and to allow people to work close to home” (2018 Sussex County Comprehensive Plan, 4-15).



Zoning Information

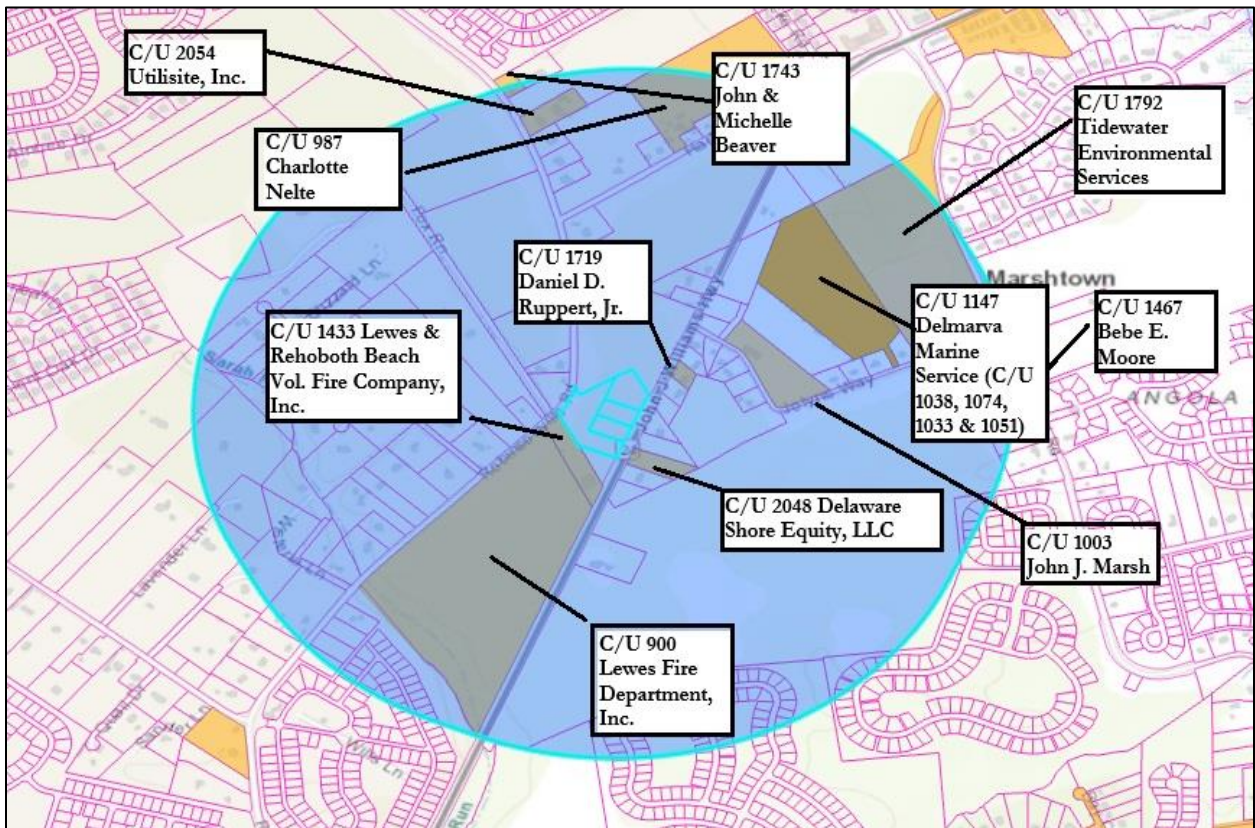
The subject property is zoned Agricultural Residential (AR-1) District. All adjacent properties to the north, east, south, and west across Robinsonville Road (S.C.R. 277) and John J. Williams Highway (Route 24) are also zoned Agricultural Residential (AR-1) District. The property is located within proximity of “The Willows” Subdivision to the southwest of the subject property.

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

Existing Conditional Uses within the Vicinity of the Subject Property

Although there have been multiple applications in this area, since 2011, there have been eleven (11) Conditional Use applications within a 0.5-mile radius of the Application Site.

APPLICANT	Tax Parcel #	Current Zoning	Proposed Use	CC Decision Date	CC Decision	Ordinance Number
John J. Marsh	234-7.00-126.05	AR-1	Boat Storage & Repair with Office	6/16/1992	Approved	837
Utilisite, Inc	234-6.00-99.01	AR-1	office, equipment storage, and parking for a construction company	9/20/2016	Approved	2463
Lewes Fire Department, Inc.	234-11.00-48.00	AR-1	substation for fire department	2/28/1989	Approved	614
Lewes & Rehoboth Beach Vol. Fire. Co., Inc.	234-11.00-48.01	AR-1	fire station	11/27/2001	Approved	1511
Delaware Shore Equity, LLC	234-11.00-502.00	AR-1	warehouse and office to receive and store HVAC equipment	6/21/2016	Approved	2455
Daniel D. Ruppert, Jr.	234-6.00-105.03	AR-1	Professional Office Space	3/18/2008	Approved	1956
Delmarva Marine Service	234-7.00-126.00	AR-1	boat showroom/office & related uses	3/12/1996	Approved	1080
John J. Marsh	234-7.00-126.00	AR-1	Expansion of Boat Storage Area	N/A	N/A	N/A
John J. Marsh	234-7.00-126.00	AR-1	expansion of CU 1003 sale of boats & parts	8/31/1993	Approved	918
John J. Marsh	234-7.00-126.00	AR-1	additional boat/trailer storage expand CU 1003	5/17/1994	Approved	967
John J. Marsh	234-7.00-126.00	AR-1	Expansion	N/A	Withdrawn	N/A



Site Considerations

- **Density:** N/A
- **Open Space Provisions:** N/A
- **Agricultural Areas:** The subject parcel currently adjoins parcels that appear to be within active agricultural use (actively farmed).
- **Interconnectivity:** N/A
- **Transportation Improvement District (TID):** The subject property is located within the Henlopen Transportation Improvement District (TID) and shall be subject to any improvements or payment of any fees as may be required by the Delaware Department of Transportation (DelDOT).

The Service Level Evaluation Response (SLER) notes that the anticipated traffic impact for the project is “negligible” within the context of DelDOT’s Memorandum of Understanding (MOU) with the County.

- **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 Flood Zone “X: - Areas determined to be outside the 1% annual chance flood and outside the 500-year floodplain. The parcel is not located within any Wellhead Protection Areas and is location within an area of “Fair” Groundwater Recharge Potential.











Based on the analysis provided, the Conditional Use to allow for a storage business (mini storage) in this location could be considered as being consistent with the surrounding land use, zoning, and uses, subject to considerations of scale and impact.

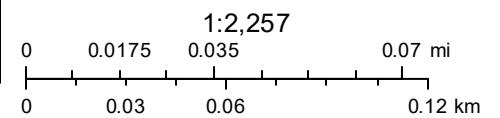


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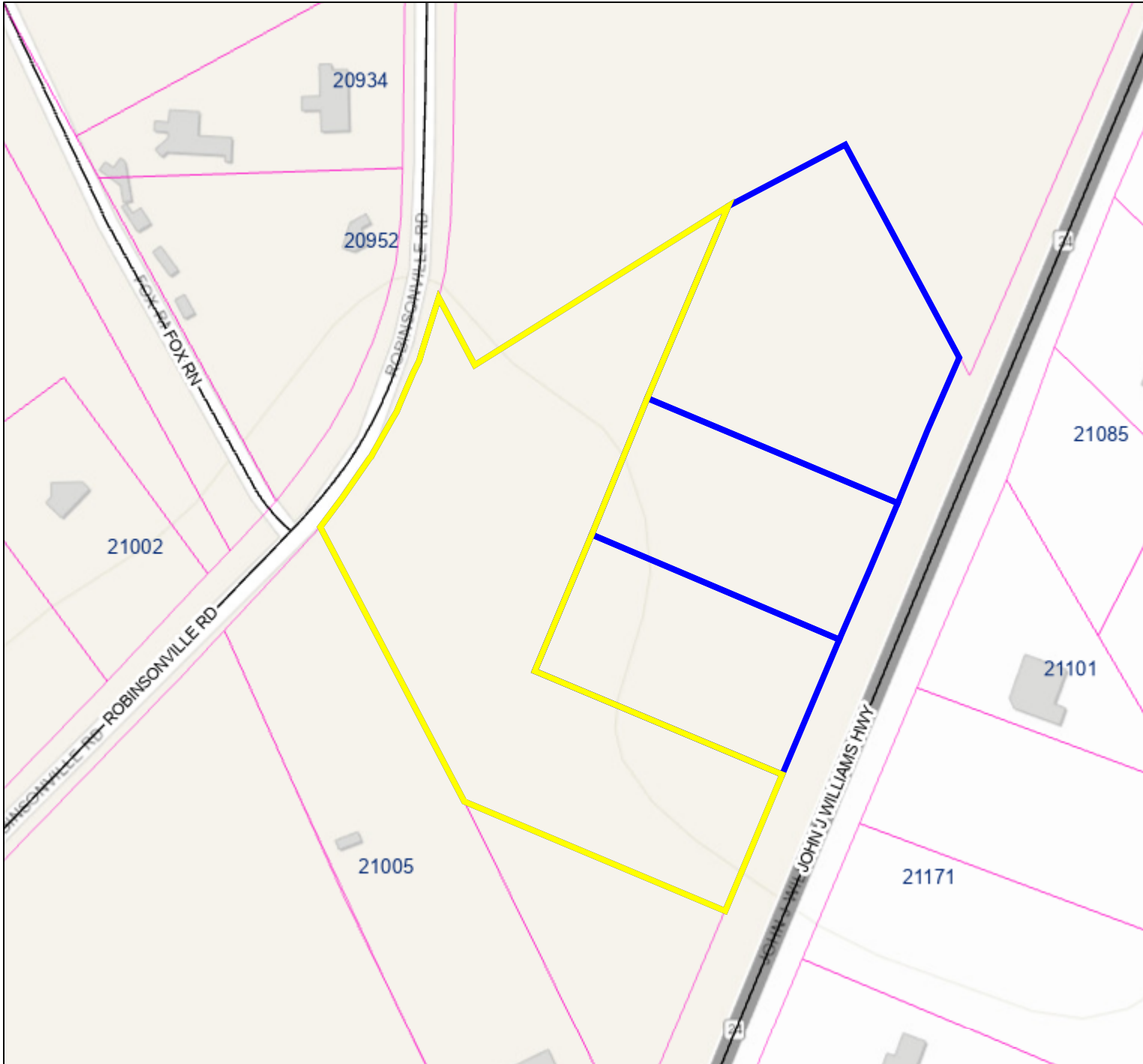
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Owner Name	REHOBOTH FAMILY STORAGE LLC
Book	5883
Mailing Address	18752 UPPER MEADOW DR
City	LEESBURG
State	VA
Description	NW/RT 24
Description 2	RESIDUAL LANDS
Description 3	
Land Code	

-  Tax Parcels
-  911 Address
-  Streets
-  County Boundaries
-  World Imagery
-  Low Resolution 15m Imagery
-  High Resolution 60cm Imagery
-  High Resolution 30cm Imagery
-  Citations
-  60cm Resolution Metadata







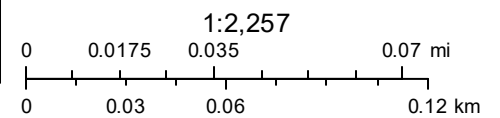


Sussex County



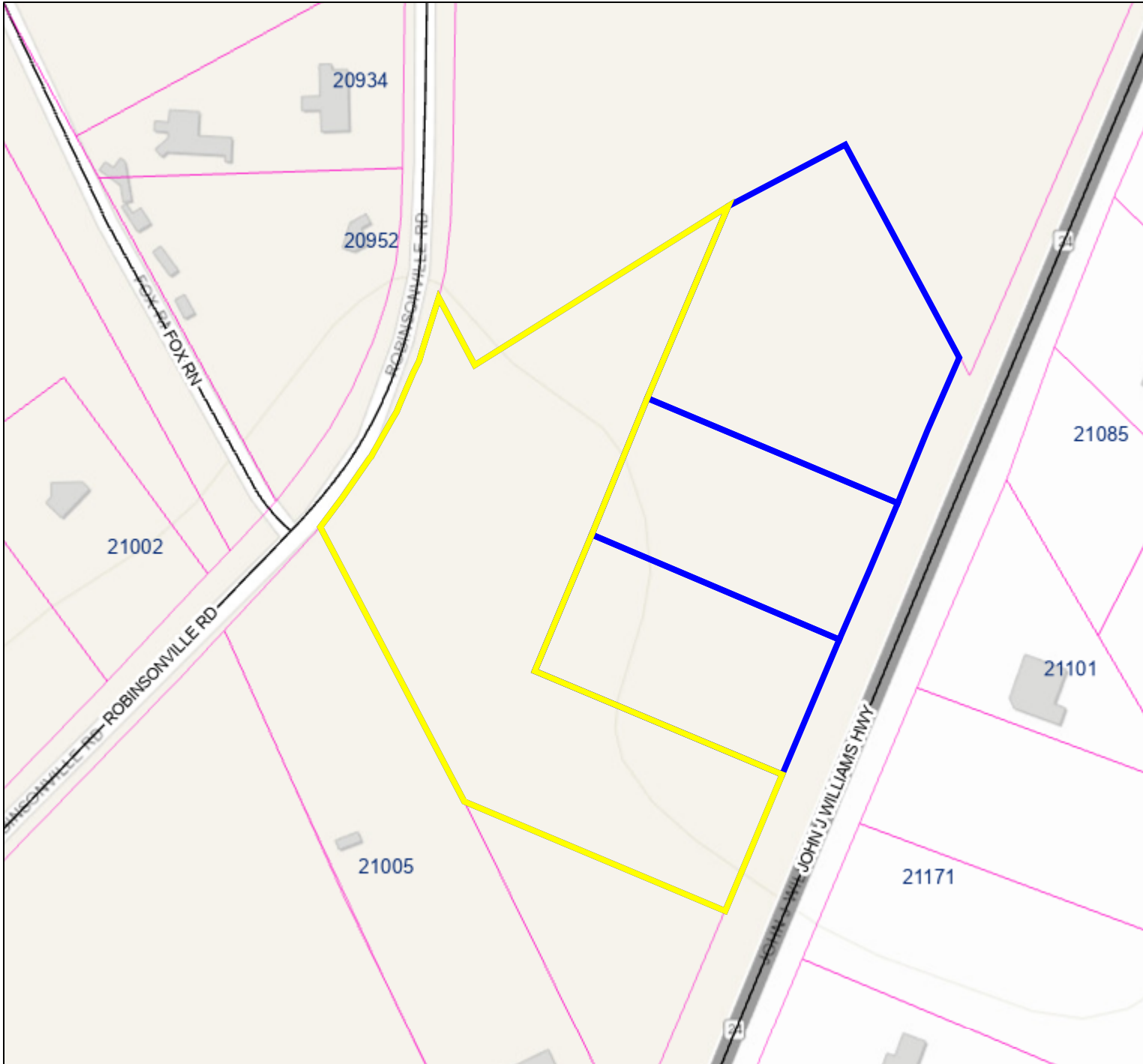
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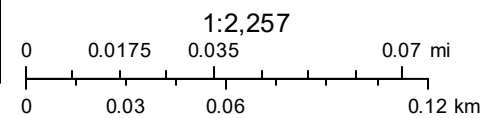


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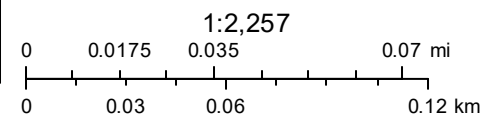


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- World Imagery
- Low Resolution 15m Imagery
- High Resolution 60cm Imagery
- High Resolution 30cm Imagery
- Citations
- 60cm Resolution Metadata



Introduced: 11/12/24

Council District 3: Ms. Gruenebaum
Tax I.D. No.: 234-6.00-104.00, 104.02, 104.03, & 104.04
911 Addresses: N/A

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MINI-STORAGE FACILITY OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 6.68 ACRES, MORE OR LESS

WHEREAS, on the 21st of July 2023, a conditional use application, denominated Conditional Use No. 2469 was filed on behalf of Rehoboth Family Storage, LLC; and

WHEREAS, on the ____ day of _____ 2023, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2469 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. 2469 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece, or parcel of land, lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on the west side of John J. Williams Highway (Rt. 24) and the east side of Robinsonville Road (S.C.R. 277), approximately 0.95 mile northeast of the intersection of John J. Williams Highway (Rt. 24) and Robinsonville Road (S.C.R. 277), and being more particularly described in the attached legal description prepared by Scott and Shuman, P.A., containing 6.68 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.