

COUNTY COUNCIL

DOUGLAS B. HUDSON, PRESIDENT
JOHN L. RIELEY, VICE PRESIDENT
JANE GRUENEBAUM
MATT LLOYD
STEVE C. McCARRON



Sussex County

DELAWARE
sussexcountysde.gov
(302) 855-7743

SUSSEX COUNTY COUNCIL

A G E N D A

May 20, 2025

10:00 AM

AMENDED on May 14, 2025 at 2:30 P.M. ***

Call to Order

Approval of Agenda

Approval of Minutes - May 13, 2025

[Draft Minutes 05 13 25](#)

Reading of Correspondence

Public Comments

Consent Agenda

1. Proclamation Request - Community Action Month

Todd Lawson, County Administrator

1. Fiscal Year 2026 – Budget Presentation



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

2. **Discussion and Possible Introduction of Proposed Ordinances:**

“AN ORDINANCE ESTABLISHING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2026”

“AN ORDINANCE ESTABLISHING ANNUAL SERVICE CHARGES, ANNUAL ASSESSMENT RATES FOR COLLECTION AND TRANSMISSION AND/OR TREATMENT, AND CONNECTION CHARGES FOR ALL SUSSEX COUNTY WATER AND SANITARY SEWER DISTRICTS”

“AN ORDINANCE TO AMEND CHAPTER 62, ARTICLE IV, § 62-15 OF THE CODE OF SUSSEX COUNTY TO INCREASE VARIOUS FEES CHARGED BY THE SHERIFF”

3. **Administrator’s Report**

Mike Harmer, County Engineer

1. **General Labor & Equipment Contract, Project 25-01**

A. FY 25 Change Order 1

B. One-year extension

[General Labor & Equip CO 1](#)

Hans Medlarz, Project Manager

1. **DE Coastal Business Park Wastewater Interconnection, Project A21-02**

A. 2nd Addendum to the Town of Georgetown Agreement for Wastewater Services

[DE Coastal Business Park 2nd Amend](#)

2. **Herring Creek Sanitary Sewer District, Project S20-08*****

A. Teal Construction, Inc. – Change Order 5 and Substantial Completion

[Herring Creek CO No. 5](#)

Old Business

1. [Change of Zone No. 2026 filed on behalf of Northstar Property, LLC](#)

“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A 7.882-ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 433.071 ACRES AS RECENTLY SURVEYED OR 419.64 ACRES AS SCALED AND SHOWN ON THE SUSSEX COUNTY TAX MAP, MORE OR LESS” (property lying on the southeast side of Lewes-Georgetown Highway [Rt. 9], and the northwest and southeast sides of Beaver Dam Road [S.C.R. 285/Rt. 23] approximately 2.4 miles southwest of Coastal Highway [Rt. 1]) (Address: N/A) (Tax Map Parcel: 334-5.00-175.00 [p/o])

[Old Business CZ2026](#)

2. [Conditional Use No. 2499 filed on behalf of Northstar Property, LLC](#)

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR - MEDIUM DENSITY RESIDENTIAL DISTRICT TO ALLOW FOR MULTI-FAMILY DWELLINGS (94 UNITS) TO BE LOCATED ON A 7.882 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 433.071 ACRES AS RECENTLY SURVEYED OR 419.64 ACRES AS SCALED AND SHOWN ON THE SUSSEX COUNTY TAX MAP, MORE OR LESS” (property lying on the southeast side of Lewes-Georgetown Highway [Rt. 9] and the northwest and southeast sides of Beaver Dam Road [S.C.R. 285/Rt. 23] approximately 2.4 miles southwest of Coastal Highway [Rt. 1]) (911 Address: N/A) (Tax Map Parcel: 334-5.00-175.00 [p/o])

[Old Business CU2499](#)

3. [Change of Zone No. 2012 filed on behalf of Rudder Road, LLC](#)

“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 30.57 ACRES, MORE OR LESS” (properties are lying on the east side of Banks Road [S.C.R. 298], approximately 0.61 mile northeast of Long Neck Road [Rt. 23]) (911 Addresses: 25352 Rudder Road, Millsboro, 25071 Banks Road, Millsboro, & N/A) (Tax Map Parcels: 234-23.00-276.00, 276.01, & 277.00)

[Old Business CZ2012](#)

4. **[Conditional Use No. 2449 filed on behalf of Rudder Road, LLC](#)**

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (116 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 30.57 ACRES, MORE OR LESS” (properties are lying on the east side of Banks Road [S.C.R. 298], approximately 0.61 mile northeast of Long Neck Road [Rt. 23]) (911 Address: 25352 Rudder Road, Millsboro, 25071 Banks Road, Millsboro, & N/A) (Tax Map Parcels: 234-23.00-276.00, 276.01, & 277.00)
[Old Business CU2449](#)

Grant Requests

1. **First State Community Action Agency for their 10th Annual Miniature Golf Tournament**
[First State Community Action Agency, Inc](#)
2. **Town of Millsboro for the acquisition of a K-9 Unit for the Millsboro Police Department**
[Town of Millsboro](#)
3. **Town of Greenwood for their National Night Out event**
[Town of Greenwood](#)
4. **Clothing Our Kids for their Clothe a Kid program**
[Clothing Our Kids](#)

Introduction of Proposed Zoning Ordinances

[Ord Intros CU2578 CU2584](#)

Council Members' Comments

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

Possible action on Executive Session Items

1:30 p.m. Public Hearings

1. **[Change of Zone No. 2049 filed on behalf of Toney Floyd Trucking, LLC](#)**

“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN B-2 COMMUNITY BUSINESS DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.95 ACRES, MORE OR LESS” (property is lying on the southeast side of John J. Williams Highway [Rt. 24], approximately 520 feet northeast of Layton Avenue) (911 Address: N/A) (Tax Map Parcel: 234-32.00-60.00)

[Public Hearing CZ2049](#)

2. **[Conditional Use No. 2580 filed on behalf of Toney Floyd Trucking, LLC](#)**

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR COMMERCIAL HAULING, GOODS AND MATERIALS DELIVERY SERVICES, AND DRIVEWAY INSTALLATION BUSINESS TOGETHER WITH STORAGE OF VEHICLES, EQUIPMENT, AND MATERIALS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.95 ACRES, MORE OR LESS” (property is lying on the southeast side of John J. Williams Highway [Rt. 24], approximately 520 feet northeast of Layton Avenue) (911 Address: N/A) (Tax Map Parcel: 234-32.00-60.00)

[Public Hearing CU2580](#)

3. **[Ordinance No. 24-04](#)**

“AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 135-11.00-65.00” (the parcel containing approximately 9.623 acres of land, lying and being within Georgetown Hundred, and located on the northeast side of Gravel Hill Road [Route 30], approximately 0.02 mile east of the intersection of Gravel Hill Road [Route 30] and Lewes Georgetown Highway [Route 9])

[Public Hearing Ord. 24-04](#)

Adjourn

*****Per 29 Del. C. §10004 (e) (5) and Attorney General Opinion No. 13-IB02, this agenda was amended to address a matter which arose after the initial posting of the agenda but before the start of the Council meeting.**

-MEETING DETAILS-

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on May 13, 2025 at 5:30 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, MAY 13, 2025

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, May 13, 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

Call to Order	The Invocation and Pledge of Allegiance were led by Mr. Hudson. Mr. Hudson called the meeting to order.
M 195 25 Approve Agenda	A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum, to approve the Agenda as presented. 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 April 29, 2025 and May 6, 2025 were approved by consensus.
Correspondence	There was no correspondence. Public comments were heard.
Public Comments	Ms. Blair Brown spoke about funding for schools. Ms. Kelly Kline spoke about impact fees and how they can help schools, libraries and fire departments. Ms. Lisa Hudson-Briggs spoke about funding for schools. Ms. Tammy Smith spoke about funding for schools. Mr. Jason Hale spoke about funding for schools.
Presentation Food Bank	Chad Robinson, Vice President of External Affairs, Food Bank of Delaware provided Council with an overview of the services that they offer. Mr.

of Delaware Robinson discussed the impact that their services have throughout the County. He explained how the food is distributed and highlighted how they receive all of the food.

School Funding Discussion Councilman McCarron led a discussion regarding school funding. Mr. McCarron stated that he empathizes with the schools and their needs due to the growth in the County. He added that he sees this as a way to offset the cost of new buildings. Mr. McCarron stated that today, it is not intended to decide if the Council is going to pass one or the other option. There is no enabling legislation whether it is the building permit fee or the VSA model in Dover to allow the Council to pass either option. He added that the task today is to establish if Council is going to direct County staff to work with local legislators to move forward to enable legislation. He added that he is a strong supporter of the Kent County building permit fee. To him, the VSA model reflects a certain segment, and he believes that the VSA model would have a negative effect vs. the building permit model that affects everyone. Mr. McCarron explained that the reason for the introduction is an effort to protect the equity of the people in the communities that have existing structures in their school districts. He noted that they have been paying for the existing buildings there. Mr. McCarron stated that the DOE has very specific guidelines on how you can obtain a certificate of need. He discussed the structure that Kent County currently has in place.

Mr. Lloyd commented that he understands the increased pressure due to development and growth that has been put on by all services. He added that he agrees with Councilman McCarron's idea that everyone that has been here and contributed to capital cost of construction are expected to go into a voting booth and vote for more taxes. By offsetting that financial burden though the VSA or impact fee model makes sense to him. When he compared the two, he sees more pros with the impact fee model. Mr. Lloyd stated that he likes a version that is tailored to the County and where the control remains with the County. He added that looking at Kent County language, he believes that it was well thought out and well written.

Ms. Gruenebaum commented that she is a strong supporter of a mechanism to ensure that the people that move into this County pay their fair share that it takes to build and manage our schools. During her campaign, this was a hot topic and at the time, she was a fan of the VSA model. She added that she is pleased and happy to join her other two colleagues to look further into the impact fee model as done by Kent County. She further commented that this is a way for people to pay their fair share and the County would still have some kind of control over how that is formulated and done.

Mr. Rieley stated that the Council just received a presentation on food insecurity and the fact that people are living on a knife's edge budget wise. In addition, testimony has been given in the last few months about the lack of affordable housing and the cost of rent. He added that we are trying to promote affordable and workforce housing. Mr. Rieley discussed transfer

School Funding Discussion (continued)	<p>tax and how the money is collected and then distributed. He stated that if the schools need more money, he suggests raising the percentage on transfer tax and keeping the County out of it. Mr. Rieley commented that it has never been the responsibility of the County to act as a fundraising mechanism for schools, roads, prisons, hospitals or police. These services are provided through the State not the County. He added that he agrees that the permit model is preferable since the County has more control.</p>
M 196 25 School Funding Legislation	<p>A Motion was made by Mr. McCarron, seconded by Ms. Gruenebaum to direct County staff to craft proposed legislation to present to local legislators reflecting the building permit fee allowed in Kent County in relation to school funding.</p> <p>Motion Adopted: 4 Yeas, 1 Nay</p> <p>Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Nay; Mr. Hudson, Yea</p>
Administrator's Report	<p>Mr. Lawson read the following information in his Administrator's Report:</p> <p>1. <u>Project Receiving Substantial Completion</u></p> <p>Per the attached Engineering Department Fact Sheet, the following project has received Substantial Completion: Sandpiper Cover (FKA Cobb Property) – Phase 3 (Construction Record) effective May 8th.</p> <p>[Attachments to the Administrator's Report are not attached to the minutes.]</p>
ERP to the Cloud	<p>Dwayne Kilgo, Director of Information Technology, presented an agreement to migrate the County's ERP to the Cloud for Council's consideration.</p>
M 197 25 Approve ERP to the Cloud migration	<p>A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum be it moved that Sussex County Council hereby approves entering into an agreement with Tyler Technologies to move to a SAS solution for the County's ERP financials.</p> <p>Motion Adopted: 5 Yeas</p> <p>Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Yea; Mr. Hudson, Yea</p>
Permission Prepare Post Notices/	<p>John Ashman, Director of Utility Planning & Design Review presented a request for permission to prepare and post notices for Hocker Property expansion of the Sussex County Unified Sanitary Sewer District (Millville</p>

- Hocker Property** Area, State Planning Area Level 2) for Council's consideration. Mr. Ashman reported that the Engineering Department received a request from Davis, Bowen & Friedel on behalf of their client, Hocker Millville, LLC owner of parcels 134-12.00-370.00 & 370.02 adjacent to the existing Millville Area of the SCUSSD. The parcels are located along Route 17 (Roxana Road) and in the State Planning Area Level 2. The project received preliminary site plan approval from the Town of Millville on June 13, 2024. The project will be responsible for System Connection Charges in place at the time of connection.
- M 198 25**
Approve
Permission
Prepare &
Post Notices
Hocker
Property A Motion was made by Mr. Rieley, seconded by Mr. McCarron, be it moved that the Sussex County Engineering Department is authorized to prepare and post notices for the Hocker Property expansion of the Sussex County Unified Sanitary Sewer District to include parcels 134-12.00-370.00 & 370.02 as presented.
- 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
- Wolfe Neck GC /CO No. 5** Hans Medlarz, Project Manager presented change order no. 5 for the Wolfe Neck Regional WWF electrical service and switchgear replacement for general construction for Council's consideration.
- M 199 25**
Approve CO
No. 5/Wolfe
Neck GC A Motion was made by Mr. McCarron, seconded by Ms. Gruenebaum, be it moved based on the recommendation of the Sussex County Engineering Department, that change order no. 5 for contract S24-10, Wolfe Neck Regional WWF electrical service & switchgear replacement – general construction, be approved, decreasing the contract by \$14,910.63.
- Motion Adopted:** 5 Yeas
- Vote by Roll Call:** Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea
- SCRWF CO**
Nos. IB 004,
005 & 006 Hans Medlarz, Project Manager presented change order IB 004, 005 and 006 for SCRWF treatment progress upgrade no. 3 – Inland Bay Extension for Council's consideration.
- M 200 25**
Approve CO
Nos. IB004,
005 & 006/
SWRWF A Motion was made by Mr. Lloyd, seconded by Ms. Gruenebaum that be it moved based upon the recommendation of the Sussex County Engineering Department, that M.F. Ronca & Sons, Inc., Inland Bays Phase 2 project, change order nos. IB-004, IB-005 and IB-006, be approved in the amounts of \$1,405,000.00, \$1,448,000.00 & \$1,637,000.00 respectively.
- Motion Adopted:** 5 Yeas

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

**Old
Business/
CU2468**

Under Old Business, Jamie Whitehouse, Planning & Zoning Director presented a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MOBILIZATION YARD FOR THE PARK AVENUE RELOCATION PROJECT TO INCLUDE THE STORAGE OF SOIL AND MATERIALS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 5.96 ACRES, MORE OR LESS” (property is lying on the southeast side of Lewes Georgetown Highway [Rt. 9], approximately 0.23 mile southwest of Park Avenue [S.C.R. 321]) (911 Address: 22592 Lewes Georgetown Highway, Georgetown) (Tax I.D. No.: 135-15.00-79.03) filed on behalf of Richard H. Bell, III.

The County Council held a Public Hearing on the application on April 8, 2025. At the conclusion of the meeting, the County Council closed the Public Record and deferred action on the application for further consideration.

**M 201 25
Amend
Condition
CU2468**

A Motion was made by Mr. Rieley, seconded by Mr. McCarron that the conditions adopted by Planning & Zoning be amended by removing and deleting Conditions 6 B-F and in its place add a new 6 B-F as follows:

B. This Conditional Use shall allow the property to be used for a temporary mobilization yard for DelDOT’s Park Avenue relocation project (phase 1 and phase 2).

C. Only organic materials may be brought to the property from the Park Avenue relocation project. No concrete, asphalt or millings may be brought to the property from the Park Avenue relocation project.

D. The organics on the property may be processed (ground and sifted) to create a bio mix of soil and organics. No other materials or processing may occur on the property. The hours of operation for any grinding, mixing or sifting of the organics shall be Monday-Friday 9:00 a.m. to 4:00 p.m.

E. All materials brought to the property as part of the Park Avenue relocation project shall be removed within 180 days of the conclusion of phase 2 of the Park Avenue relocation project.

F. The Final Site Plan showing the temporary storage area and types of materials stored in those areas 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 202 25
Adopt
Ordinance
No. 3090/
CU2468**

A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum to Adopt Ordinance No. 3090 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MOBILIZATION YARD FOR THE PARK AVENUE RELOCATION PROJECT TO INCLUDE THE STORAGE OF SOIL AND MATERIALS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 5.96 ACRES, MORE OR LESS” for the reasons given by the Planning & Zoning Commission and as amended by this Council as follows:

- 1. This property is already the subject of Conditional Use #2083, codified by Ordinance #2515. That prior conditional use permitted “an office, storage building, storage yard, and crushing of concrete for a contracting business”. That prior conditional use arose out of a violation issued for the concrete crushing operations and the approval required all concrete crushing operations to cease 45 days after the adoption of the ordinance. That prior conditional use also specifically prohibited “processing of wood” and stated that “No other wood or metal chipping or grinding shall occur and no other materials, including concrete, wood and metal shall be accepted at the site for crushing or recycling.”**
- 2. This pending conditional use arose out of a second violation issued against the property and this Applicant. Despite the prohibitions of the prior Ordinance, the Applicant has been accepting soils and other materials at the site including wood, trees and roots for storage, screening and grinding. According to the Applicant, all of this was in conjunction with the ongoing relocation of Park Avenue outside of Georgetown.**
- 3. The relocation of Park Avenue is an important project for the safety of vehicles and trucks that use the roadway and for the expansion of the airport and the County’s industrial park located there. The project also mitigates traffic issues in and around Georgetown. This use supports this road project, but it should be limited to this road project. Given its location next to other residential properties, the Sports at the Beach youth sports complex and the emerging commercial corridor along this area of Route 9, this industrial-type use should not become permanent.**
- 4. The Applicant has stated that the use is needed not only for Phase I of the Park Avenue Relocation Project but also Phase II if the current DelDOT contractor that is depositing materials on this site successfully wins the bid to perform work in Phase II. For that reason, the duration of this conditional use should be limited to this specific DelDOT work.**
- 5. This is an appropriate limited expansion of the existing conditional use for this property but with the conditions imposed with this recommendation, including the limited duration of the use.**
- 6. This recommendation is subject to the following conditions:**
 - A. All of the conditions of Conditional Use #2083 and Ordinance #2515**

M 202 25
Adopt
Ordinance
No. 3090/
CU2468
(continued)

- shall remain in effect unless specifically modified by these conditions.
- B. This Conditional Use shall allow the property to be used for a temporary mobilization yard for DelDOT's Park Avenue relocation project (phase 1 and phase 2).**
 - C. Only organic materials may be brought to the property from the Park Avenue relocation project. No concrete, asphalt or millings may be brought to the property from the Park Avenue relocation project.**
 - D. The organics on the property may be processed (ground and sifted) to create a bio mix of soil and organics. No other materials or processing may occur on the property. The hours of operation for any grinding, mixing or sifting of the organics shall be Monday-Friday 9:00 a.m. to 4:00 p.m.**
 - E. All materials brought to the property as part of the Park Avenue relocation project shall be removed within 180 days of the conclusion of phase 2 of the Park Avenue relocation project.**
 - F. The Final Site Plan showing the temporary storage area and types of materials stored in those areas 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

Old
Business/
CU2556

Under Old Business, Jamie Whitehouse, Planning & Zoning Director presented a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A PROFESSIONAL OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.82 ACRES, MORE OR LESS" (property is lying on the south side of Old Mill Road [S.C.R. 349], approximately 550 feet west of Railway Road [S.C.R. 350]) (911 Address: 36294 Old Mill Road, Ocean View) (Tax Map Parcel: 134-12.00-73.02) filed on behalf of William Melton.

The County Council held a Public Hearing on the application at its meeting on April 8, 2025. At the conclusion of the Public Hearing, the County Council closed the Public Record and deferred action on the application for further consideration.

M 203 25
Adopt
CU2556/
DENIED

A Motion was made by Mr. Rieley, seconded by Mr. McCarron to Adopt a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A PROFESSIONAL OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.82 ACRES, MORE OR LESS" for the reasons and conditions given by the Planning & Zoning

M 203 25 Adopt CU2556/ DENIED	Commission. Motion DENIED: 3 Nays, 2 Yeas Vote by Roll Call: Ms. Gruenebaum, Nay; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Nay; Mr. Hudson, Nay Mr. Rieley and Ms. Gruenebaum voted no based on the reasons provided by Mr. Hudson.
Proposed Ordinance Introduct- ions	Mr. Hudson introduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO A B-2 BUSINESS COMMUNITY DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 6.15 ACRES, MORE OR LESS” filed on behalf of Atlantic Coastal Smart Storage. Mr. Hudson 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 CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 0.39 ACRES, MORE OR LESS” filed on behalf of Randall Hall.
CM Comments	The Proposed Ordinances will be advertised for a Public Hearing. There were no Council Member comments.
M 204 25 Go Into Executive Session	At 11:17 a.m., a Motion was made by Mr. Lloyd, seconded by Mr. Rieley, to enter into an Executive Session for the purpose of discussing matters related to land acquisition and pending & potential litigation. Motion Adopted: 5 Yeas Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Yea; Mr. Hudson, Yea
Executive Session	At 11:25 a.m., an Executive Session was held in the Basement Caucus Room to discuss matters relating to land acquisition and pending & potential litigation. The Executive Session ended at 11:45 a.m.
M 205 25 Reconvene	At 11:47 a.m., a Motion was made by Mr. McCarron, seconded by Mr. Rieley to come out of Executive Session back into Regular Session. Motion Adopted: 5 Yeas

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

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

M 206 25 At 11:48 a.m., a Motion was made by Mr. Rieley, seconded by Mr.
Recess McCarron 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 207 25 At 1:30 p.m., a Motion was made by Mr. Rieley, seconded by Ms.
Reconvene Gruenebaum to come out of recess back into Regular Session.

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/
Millsboro
Martial Arts
Annexation
into
SCUSSD** A Public Hearing was held for the Millsboro Martial Arts Annexation of the Sussex County Unified Sanitary Sewer District (Dagsboro/Frankford Area).

John Ashman, Director of Utility Planning & Design Review reported that County Council granted permission on March 25th for the proposed expansion of the Sussex County Unified Sanitary Sewer District (Dagsboro/Frankford Area). The Engineering Department has received a request from Plitko Engineering, LLC on behalf of their client Dupont Properties, LLC owners/developers of parcels 233-16.00-22.00, 24.00 & 25.00 in the Tier 2 area of sewer service. The firm was informed the parcels were not contiguous to the existing area and that they would need to receive requests for annexation from the intervening parcels. The engineer provided signed letters from the owners of parcels 233-11.00-244.00, 233-11.00-240.00 & 233-11.00-240.01 making the project contiguous to the existing district. The project will be responsible for extending the sewer south along Route 113 to their project and providing a connection point for those parcels agreeing to be annexed along with the project parcels. The project will be responsible for system connection charges in place at the time of connection. To date, a call was received from the Mayor of the Town of Dagsboro questioning the annexation and the name of the project. Mr. Ashman requested written comments from the Town, to date, he has received none. Mr. Ashman did speak with Mr. Whitehouse; Planning & Zoning Director and he advised that the project is not adjacent to the existing town boundary.

There were no public comments.

The Public Hearing and public record were closed.

M 208 25
Adopt
Resolution
No. R 011 25
Millsboro
Martial Arts

A Motion was made by Mr. Rieley, seconded by Mr. Lloyd to Adopt Resolution No. R 011 25 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) TO INCLUDE SIX PARCELS (233-11.00-240.00, 240.01 & 244.00 AND 233-16.00-22.00 & 24.00 & 25.00) ON THE EAST SIDE OF DUPONT BOULEVARD (RT. 113) AND SOUTH OF THE TOWN OF DAGSBORO AND IS LOCATED IN THE DASGBORO HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE”.

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/
Crecent
Place
Annexation
into
SCUSSD

A Public Hearing was held on the Crescent Place annexation of the Sussex County Unified Sanitary Sewer District (Miller Creek Area).

John Ashman, Director of Utility Planning & Design Review reported that County Council granted permission on March 25th for the proposed expansion of the Sussex County Unified Sanitary Sewer District (Miller Creek Area). The Engineering Department received a request from Beacon Engineering, LLC on behalf of their client, The Evergreene Companies, LLC owners/developer of parcel 134-19.00-24.00, adjacent to the existing Miller Creek Area of the SCUSSD. Parcels are located along Central Avenue, the project is proposed for 57 single family lots plus a clubhouse. The project will be responsible for System Connection Charges in place at the time of connection. To date, there has been no correspondence received in support or opposition to this annexation.

There were no public comments.

The Public Hearing and public record were closed.

M 209 25
Adopt
Resolution
No. R 012
25/
Crecent
Place

A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum to Adopt Resolution No. R 012 25 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) MILLER CREEK AREA, TO INCLUDE THE CRESCENT PLACE ON THE SOUTHEASTERLY SIDE OF CENTRAL AVENUE LOCATED IN THE BALITMORE HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE”.

Motion Adopted: 5 Yeas

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

Rules Mr. Moore read the rules of procedure for zoning hearings.

**Public Hearing/
CU2474** 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 PRIVATE GARAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.46 ACRE, MORE OR LESS” (property is lying the south side of Butler Boulevard approximately 200 feet east of Muddy Neck Road [S.C.R. 361]) (911 Address: N/A) (Tax Parcel No.: 134-17.00-6.02) filed on behalf of John Elsishans.

The Planning & Zoning Commission held a Public Hearing on the application on March 5, 2025. At the meeting of March 5, 2025, the Planning & Zoning Commission recommended approval of the application for the 4 reasons stated and subject to the 9 recommended conditions as outlined.

Jamie Whitehouse, Planning & Zoning Director presented the application.

The Council found that John Elsishans spoke on behalf of his application; that the property is located behind a produce stand; that he plans to retire down here; that he would like to build a building to keep his items like cars and boats; that no hazardous materials will be stored on site.

There were no public comments.

The Public Hearing and public record were closed.

**M 210 25
Adopt
Ordinance
No. 3091/
CU2474** A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum to Adopt Ordinance No. 3091 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PRIVATE GARAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.46 ACRE, MORE OR LESS” for the reasons given by the Planning Commission as follows:

1. The Applicant owns this property and seeks to build a private garage on the property prior to constructing a home on the property. The private garage, which is an accessory structure, requires a conditional use because there is no primary use as a residence for the garage to be accessory to.

**M 210 25
Adopt
Ordinance
No. 3091/
CU2474
(continued)**

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 garage. 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. Although several neighbors appeared in opposition to this Application, they were not concerned about the use, but only improper access via a private roadway known as Butler Blvd. One of the conditions of approval of this recommendation will be the prohibition against using Butler Blvd. to access the property.
5. This recommendation for approval is subject to the following conditions:
 - a. The use shall be limited to the private garage presented on the preliminary site plan and during the public hearing.
 - b. The property shall not be accessible to the public.
 - c. Any security lighting shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.
 - d. 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.
 - e. Any areas to be used for outside storage, including driveways and parking areas, shall be clearly marked on the Final Site Plan and on the site itself.
 - f. This conditional use shall expire upon 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.
 - g. All access to this property and the conditional use shall via the private easement and roadway known as Cullen Drive. There shall not be any access to this property or the use upon it via Butler Blvd.
 - 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 Adopted: 5 Yeas

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

**Public
Hearing/**

**A Public Hearing was held on a Proposed Ordinance entitled “AN
ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF**

**CZ2017 &
CU2462**

SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN MR MEDIUM-DENSITY RESIDENTIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 12.32 ACRES, MORE OR LESS” (properties are lying on the north side of Burbage Road [S.C.R. 353] approximately 475 ft. west of Windmill Drive [S.C.R. 352]) (911 Addresses: 30835, 30839, 30845, 30853, 30873, 30879, 30885, 30889, 30895, 30899, 30903, 30911, 30910, 30896 Winfield Lane, Ocean View) (Tax Parcel No.: 134-12.00-374.01, 374.02, 375.00, & 3445.00 - 3460.00) filed on behalf of Gulfstream Glen Cove.

The Planning & Zoning Commission held a Public Hearing on the application on March 5, 2025. At the meeting of March 19, 2025, the Planning & Zoning Commission recommended approval of the application for the 6 reasons conditions as outlined.

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (50 UNITS) TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 12.32 ACRES, MORE OR LESS” (properties are lying on the north side of Burbage Road [S.C.R. 353] approximately 475 ft. west of Windmill Drive [S.C.R. 352]) (911 Addresses: 30835, 30839, 30845, 30853, 30873, 30879, 30885, 30889, 30895, 30899, 30903, 30911, 30910, 30896 Winfield Lane, Ocean View) (Tax Parcel No.: 134-12.00-374.01, 374.02, 375.00, & 3445.00 - 3460.00) filed on behalf of Gulfstream Glen Cove.

The Planning & Zoning Commission held a Public Hearing on the application on March 5, 2025. At the meeting of March 19, 2025, the Planning & Zoning Commission recommended approval of the application for the 9 reasons stated and subject to the 17 recommended conditions as outlined.

Jamie Whitehouse, Planning & Zoning Director presented the applications.

The Council found that Ms. Mackenzie Peet, Esq., of Saul Ewing, LLP, spoke on behalf of the Applicant that they are seeking to rezone from an AR-1 to MR and then a Conditional Use to allow for forty-six (46) single family detached dwellings in a multifamily arrangement; that the Commission recommended approval of the applications; that the applicant accepts the conditions as drafted and has no changes; that the site consists of 12.32 acres; that the site features mostly matured woodlands and some grassy areas with wetlands and a tax ditch that surrounds the site; that the parcels, excluding parcel 375, were approved as a major subdivision known as Glen Cove, intended for single family detached homes on individual lots, however that project was never realized due to unfavorable market conditions at the time; that the area has since developed

Public

Hearing/
CZ2017 &
CU2462
(continued)

significantly with multifamily dwellings and this represents a classic infill development; that this site lies next to the Town of Millville; that the applicant provided a booklet during the Commission hearing; that the Applicant seeks to rezone from AR-1 to MR and nearby properties are zoned AR-1, MR, C-1 and CR-1; that the site is located within the coastal area, which in Chapter 4 of the Comprehensive Plan is defined by it is one of the most desirable locations for new housing in the County and the coastal area encompasses ecologically important and sensitive characteristics; that the Comprehensive Plan explains that coastal area designation accommodates development provided that specific environmental concerns are addressed, a diverse range of housing types are also permitted within this area, including single family homes on individual lots, townhouses and multi family units; that the Applicant is proposing single family detached dwellings and a multifamily arrangement which would be permitted in the County and within the coastal area; that the project will benefit from central water and sewer, the County will provide sewer services to the project and Tidewater will provide water to the project; that the proximity to nearby commercial uses and employment centers such as those within the Town of Millville, the Town of Ocean View and nearby on Route 26, enhances the project's viability and accessibility; that the proposal also aligns with the existing character of the area, particularly with established development such as Bishops Landing nearby and this area has demonstrated a clear demand for multifamily housing, as evidenced by developments nearby; that by introducing additional single family detached homes in a multifamily regime this project contributes to the diversity of housing options in Sussex County; that the plan includes approximately 8.12 acres of open space or approximately 66% of the site, supporting the preservation of natural resources and proposing perimeter and resource buffers with on-site wetlands to remain undeveloped; that the site is located in Level 2; that there are tax ditch right of way that wrap around the property and are located on the property; that there may be an additional need for an amendment to accommodate an installation of a culvert between the wetland area and then into the larger pond to provide connection; that an average 30 foot resource buffer has been proposed, resulting in a total resource buffer of approximately 0.37 acres; that that buffer area varies in width from 15 feet up to 50.1 feet; that at its narrowest point, it's 15 feet due to the presence of the tax ditch, which abuts that buffer; that the site was cleared around 2012; that a 20 foot perimeter buffer has been established.

Mr. Ron Sutton came forward to discuss the buffer that was submitted; that an exhibit was put together showing existing homes; that the tax ditch was shown and the proposed buffer with proposed drainage areas; that there is almost 80-90 feet from the back of the new houses to the back of the old houses; that there will be a lot of trees remaining; that the tax ditch right of way is 25 feet top of bank and was established in 2012; that it is almost 45 feet off of the top of ditch.

**Public
Hearing/
CZ2017 &
CU2462
(continued)**

Mr. Whitehouse pointed out that this application was submitted prior to the code changes that occurred.

Ms. Peet stated that the site will be accessed from Burbage Road within a 50 foot right of way through the Windmill subdivision, with an alternate entrance considered however, DelDOT confirmed, that this entrance violated certain sections of DelDOT's Coordination Manual, specifically DCM 1.6.1 regarding entrance locations and a deceleration lane; that the existing right turn lane for the adjacent site did not meet the required spacing of 250 feet for a major collector as defined in DCM figure 1.5.1; that as a result the entrance was relocated per DelDOT; that according to DelDOT's response to the applicant's service level evaluation request dated August 19, 2024, the project is expected to generate fewer than 50 vehicle trips in any hour and fewer than 500 vehicle trips per day, determining the traffic impact to be negligible qualifying this project for an area wide study rather than a TIS; that additional improvements will include a 10 foot wide multimodal path; that the public expressed concerns about endangered species living amongst the woods of the property and the Applicant had an investigation done and determined there was no endangered species found to be living here; that the developer will follow best management practices, in that if a nest is encountered during the construction they will not disturb it; that there are two (2) stormwater management areas that all surface runoff will be directed with discharge flowing into the existing tax ditch system; that the amenities will include five (5) foot wide sidewalks along one (1) side of all internal streets, and a pool and pool house; that the Applicant's proposal to rezone from AR-1 to MR is appropriate for the following reasons:

- 1. The site's proximity to existing MR zoned developments.**
- 2. The zoning change will align with existing land use patterns and the character of the surrounding area.**
- 3. MR zoning is consistent with the Comprehensive Plan within a coastal area.**

The Applicant's proposal of Conditional Use is appropriate for the following reasons:

- 1. The single family detached dwellings in a multifamily regime meets the purpose of a conditional use.**
- 2. The demand for housing in the area will provide a housing option compatible with existing developments.**
- 3. Establishment of a resource buffer around the wetlands and will protect these sensitive areas.**
- 4. Contribute to the preservation of natural resources.**
- 5. The proposed development is located within a growth area next to a town's growth area.**

Ms. Peet stated that during the PZ hearing, a deed restriction was brought up; that the restriction states that "only attached dwellings shall be

**Public
Hearing/
CZ2017 &
CU2462
(continued)**

constructed upon the above premise; that a resident from the area raised a question about the proposed product type adhered for this restriction; that they maintain that the proposed product type meets the criteria of a single-family detached residential dwelling; that this has been discussed with Mr. Robertson and Mr. Moore was included; that the correspondence was submitted.

A discussion was held about open space and how it was calculated. In addition, the tax ditch was discussed.

There were no public comments.

The Public Hearing and public record were closed.

The gavel was handed to Mr. Rieley.

**M 211 25
Defer
Action/
CZ2017**

A Motion was made by Mr. Hudson, seconded by Mr. Lloyd to defer an Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN MR MEDIUM-DENSITY RESIDENTIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 12.32 ACRES, MORE OR LESS" for the reasons given by Planning & Zoning.

Motion Adopted: 5 Yeas

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

**M 212 25
Defer
Action/
CU2462**

A Motion was made by Mr. Hudson, seconded by Mr. Lloyd to defer an Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (50 UNITS) TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 12.32 ACRES, MORE OR LESS" for the reasons and conditions given by Planning & Zoning.

Motion Adopted: 5 Yeas

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

The gavel was given back to Mr. Hudson.

M 213 25

A Motion was made by Mr. McCarron, seconded by Mr. Rieley to adjourn

Adjourn at 2:27 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

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 Matthew R. Lloyd
The Honorable Steven C. McCarron

FROM: Mike Harmer, P.E., County Engineer

RE: ***FY 2025 GENERAL LABOR & EQUIPMENT CONTRACT, Project 25-01***
A. FY 25 Change Order 1
B. One-Year Extension

DATE: May 20, 2025

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

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

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



The Engineering Department readvertised the contract on April 2, 2024, with the same time performance of one-year with two (2) possible one-year extensions. The FY 2025 was structured with only one Bid Package based on anticipated needs of the Engineering Department, and again incorporated a “best value” approach in consideration of the following factors:

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

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

Following review and evaluation by the Engineering Department of the submitted bids, it was determined that George & Lynch, Inc. submitted the most responsive and highest scoring bid. Based on the anticipated needs in both the capital project and emergency response support areas, the Department felt that only one award was justified. Therefore, on May 14, 2024, County Council awarded the FY 2025 GL&E Contract to George & Lynch, Inc. in the amount of \$4,949,784.00.

As we near the end of the fiscal year, we have evaluated our current ongoing jobs and what our financial needs are based on average monthly payments and remaining work. The major ongoing jobs include, PS 245 - Rebuild PS 21 – Grinder Pump & FM Directional Drill, PS 51 & 52 & 53 – Rebuilds, and Pipe Failure/Liner 2,500 feet. Temporary repairs of two related sink holes and parts orders are expected in the current fiscal year. Therefore, the Engineering Department is requesting Council’s approval of Change Order No. 1 in the not to exceed amount of \$1,300,000.00.

George & Lynch’s contract expires June 30, 2025. Therefore, the Engineering Department recommends Council also approve the first one-year extension in the budgeted amount of \$5,000,000.00, contingent upon approval of the FY 26 budget.



**SUSSEX COUNTY
CHANGE ORDER REQUEST**

A. ADMINISTRATIVE:

1. Project Name: **FY 2025 G&L General Labor & Equipment Contract**

2. Sussex County Project No. 25-01

3. Change Order No. FY 25 - 1

4. Date Change Order Initiated - 5/14/25

5. a. Original Contract Sum \$4,949,784.00

b. Net Change by Previous
Change Orders \$ 0

c. Contract Sum Prior to
Change Order \$4,949,784.00

d. Requested Change \$1,300,000.00

e. Net Change (No. of days)

f. New Contract Amount \$6,249,784.00

6. Contact Person: Mike Harmer, P.E.

Telephone No. (302) 855-7370

B. REASON FOR CHANGE ORDER (CHECK ONE)

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

- ☐ 6. Factors Affecting Time of Completion
- ☒ 7. Other (explain below):

C. BRIEF DESCRIPTION OF CHANGE ORDER:


Funds for completion of current work and future emergency repairs to cover the remainder of FY 25.

D. JUSTIFICATION FOR CHANGE ORDER INCLUDED?

Yes ☒ No ☐

E. APPROVALS

1. George & Lynch, Inc., Contractor

 5/15/2025
Signature Date

Preston Ayars III
Representative's Name in Block Letters

2. Sussex County Engineer

Signature Date

3. Sussex County Council President

Signature Date

ENGINEERING DEPARTMENT

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



Sussex County

DELAWARE
sussexcountyde.gov

HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

JOSEPH WRIGHT, P.E.
ASSISTANT 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: Hans Medlarz, P.E., Project Manager

RE: ***DE Coastal Business Park Wastewater Interconnection, Project A21-02
A. 2nd Addendum - Town of Georgetown Agreement for Wastewater Services***

DATE: May 20, 2025

The Delaware Coastal Business Park, as well as the entities located at the Coastal Airport along Rudder Lane, receive wastewater treatment services from the Town of Georgetown under the April 23rd, 2008 Agreement. The Agreement allows discharges up to 30,000 gallons per day to the Town's facilities. On September 28, 2010, Council approved an amendment to the 2008 Agreement, extending the terms, as well as allowing for 13,725 gallons per day of additional capacity for the King Farm property, now known as the Delaware Coastal Business Park upon payment of associated impact fees.

The capacity limit of the 2008 Agreement had been reached, but no payments for additional capacity had been made. Therefore, County Administration and Engineering approached Town Management with a proposal to consolidate the agreements, simplify the billing and benchmark the "base flow volume" at the effective date of the new agreement.

The Agreement in this form was approved by Town Council on April 25, 2018. It is effective for ten (10) years and may be renewed for an additional ten (10) years at the choice of the County. Under the Agreement the County will be billed in bulk at the in-town rate for the Delaware Coastal Business Park. The individual Coastal Airport entities will be billed directly by the Town at the out-of-town rate.

Given the limited availability of municipal sewer capacity, the Agreement allowed for the surrender of capacity under Article VIII by redirecting it to alternate wastewater service providers. It currently reads: "Contract User has the option to surrender capacity below the Base Flow Volume with twelve (12) months prior written notice."

On August 14, 2018, County Council approved an Addendum to the Agreement regarding the



potential capacity surrender in the following form: “If Contract User surrenders 100% of the capacity, Owner has the option to request flow reversal from Owner to Contract User up to 200% of said capacity. Owner shall calculate applicable sewer impact fee credits for the actual capacity surrendered as set forth in the Town of Georgetown Code at the time of the Notice to Surrender.

This option allowed the Town to regain capacity beyond the contributing County flows without initial capital contribution, while allowing the County to recuperate capital funds over the life of the asset. Therefore, County Council approved the Town’s capacity surrender request as outlined in the Agreement on October 8, 2019.

Since then, the transmission system was designed, permitted, constructed and finally commissioned in the fall of 2024. The total project expense was \$3,142,781.00, if the reimbursement payments were to be billed based on the Addendum, the Town would end up paying the County more than the project cost. The Finance and Engineering Departments discussed this unanticipated phenomenon with the Town Administration and agreed to draft the attached 2nd Addendum based on percentage utilization of the wastewater transmission assets not to exceed \$2,093,092.00.

In summary, the Finance and Engineering Departments request Council’s approval of the 2nd Addendum to the Town of Georgetown Agreement for Wastewater Services.

**2nd ADDENDUM TO THE
AGREEMENT FOR WASTEWATER SERVICES**

Between

TOWN OF GEORGETOWN

and

SUSSEX COUNTY

for and on behalf of the

COASTAL BUSINESS PARK & COASTAL AIRPORT

Whereas, on April 25, 2018 the Town of Georgetown reviewed and approved an Agreement for Wastewater Services for and on behalf of the Coastal Business Park & Coastal Airport; and

Whereas, on May 15, 2018 the Sussex County Council reviewed and approved the Agreement; and

Whereas, on August 14, 2018, County Council approved an Addendum to the Agreement regarding the potential capacity surrender; and

Whereas, on October 8, 2019, County Council accepted the Town of Georgetown's capacity surrender request; and

Whereas, both parties agree to amend the Agreement for the 2nd time.

Now Therefore, the Town of Georgetown and Sussex County Council agree to amend the Agreement by removing the sentence in Article VIII – Wastewater Impact Fees reading:

[Owner shall calculate applicable sewer impact fee credits for the actual capacity surrendered as set forth in the Town of Georgetown Code at the time of the Notice to Surrender.]

With the following sentence:

Owner shall calculate applicable sewer impact fee credits based on the percentage utilization of the transmission assets not to exceed \$2,093,092.00.

Signature Page to Follow.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day first above-mentioned.

SUSSEX COUNTY

Witness

(Seal)
Douglas B. Hudson
President, Sussex County Council

STATE OF DELAWARE)
) ss.
SUSSEX COUNTY)

Be it remembered that on this _____ day of _____, 2025, personally came before me, a notary public in and for the State and County aforesaid, Douglas B. Hudson, known or satisfactorily proven to me to be the President and of the Sussex County Council, party to the foregoing Agreement, and acknowledged that, in his capacity as such, he executed this Agreement in his own hand for the County.

As given under my hand and seal of office this day and year aforesaid.

Notary Public
Name: _____

TOWN OF GEORGETOWN

Witness

(Seal)
William E. West, Mayor

STATE OF) DELAWARE
) ss.
SUSSEX COUNTY)

Be it remembered that on this _____ day of _____, 2025, personally came before me, a notary public in and for the State and County aforesaid, William E. West, known or satisfactorily proven to me to be the Mayor of Georgetown, party to the foregoing Agreement, and acknowledged that, in his capacity as such, he executed this Agreement in his own hand for the above-named entity.

As given under my hand and seal of office this day and year aforesaid.

Notary Public
Name: _____

DE Coastal Business Park Wastewater Interconnection, Project A21-02

PA JOURNAL EFFECTIVE DATE	PA JOURNAL AMOUNT	PA JOURNAL COMMENT	PA JOURNAL VENDOR NAME
03/30/2022	825.00	DNREC WPCC Permit - Georgetown	STATE DELAWARE
03/30/2022	575.00	SCD standard review plan - Geo	SUSSEX CONSERVATION
06/15/2022	300.00	Georgetown Interconnection Pub	STATE DELAWARE
12/06/2022	300.00	3035-22 TOWN OF GEORGETOWN	STATE DELAWARE
06/01/2023	24,329.03	RECL D DUERR WAGES	
12/11/2023	195.00	DNREC GEORGETOWN INTERCONNT	
10/08/2024	195.00	DNREC NOI FEE GRGETWN INTRCNT	
TTL Administrative Expense:	26,719.03		
06/30/2020	2,287.90	4" PVC CONDUIT	TUDOR ELECTRIC INC
05/25/2023	29,044.00	3 phase service for PS @ Airpo	DELMARVA POWER
Sub-total Electrical Expense:	31,331.90		
09/24/2020	64,206.03	FY 21 T&M Contract	GEORGE LYNCH INC
10/29/2020	14,888.33	FY 21 T&M Contract	GEORGE LYNCH INC
12/22/2020	5,014.63	FY 21 T&M Contract	GEORGE LYNCH INC
06/30/2022	21,521.59	FY 22 T&M G&L - Bid Package A	GEORGE LYNCH INC
06/30/2022	211,083.91	FY 22 T&M G&L - Bid Package A	GEORGE LYNCH INC
09/14/2022	189,879.64	FY 23 T&M G&L - Bid Package A	GEORGE LYNCH INC
10/19/2022	135,581.24	FY 23 T&M G&L - Bid Package A	GEORGE LYNCH INC
11/17/2022	93,150.19	FY 23 T&M G&L - Bid Package A	GEORGE LYNCH INC
12/14/2022	211,167.00	FY 23 T&M G&L - Bid Package A	GEORGE LYNCH INC
01/11/2023	34,521.68	FY 23 T&M G&L - Bid Package A	GEORGE LYNCH INC
02/08/2023	133,759.24	FY 23 T&M G&L - Bid Package A	GEORGE LYNCH INC
02/23/2023	126,313.77	FY 23 T&M G&L - Bid Package A	GEORGE LYNCH INC
03/30/2023	71,427.55	FY 23 T&M G&L - Bid Package A	GEORGE LYNCH INC
04/27/2023	27,237.69	FY 23 T&M G&L - Bid Package A	GEORGE LYNCH INC
06/07/2023	12,109.93	FY 23 T&M G&L - Bid Package A	GEORGE LYNCH INC
06/30/2023	37,599.25	FY 23 T&M G&L - Bid Package A	GEORGE LYNCH INC
06/30/2023	63,870.87	FY 23 T&M G&L - Bid Package A	GEORGE LYNCH INC
09/06/2023	40,391.35	FY 24 T&M G&L - Bid Package A	GEORGE LYNCH INC
10/11/2023	151,769.81	FY 24 T&M G&L - Bid Package A	GEORGE LYNCH INC
11/15/2023	41,919.27	FY 24 T&M G&L - Bid Package A	GEORGE LYNCH INC
12/13/2023	5,615.91	FY 24 T&M G&L - Bid Package A	GEORGE LYNCH INC
01/18/2024	222.99	FY 24 T&M G&L - Bid Package A	GEORGE LYNCH INC
02/21/2024	2,189.41	FY 24 T&M G&L - Bid Package A	GEORGE LYNCH INC
03/25/2024	14,342.22	FY 24 T&M G&L - Bid Package A	GEORGE LYNCH INC
04/10/2024	30,698.40	FY 24 T&M G&L - Bid Package A	GEORGE LYNCH INC
05/15/2024	12,517.32	FY 24 T&M G&L - Bid Package A	GEORGE LYNCH INC
06/18/2024	4,585.81	FY 24 T&M G&L - Bid Package A	GEORGE LYNCH INC
06/30/2024	3,647.16	FY 24 T&M G&L - Bid Package A	GEORGE LYNCH INC
06/30/2024	25,908.07	FY 24 T&M G&L - Bid Package A	GEORGE LYNCH INC
09/24/2024	20,708.20	FY 25 T&M G&L	GEORGE LYNCH INC
10/22/2024	119.14	FY 25 T&M G&L	GEORGE LYNCH INC
Sub-total T&M Expense:	1,807,967.60		
09/14/2022	382,450.00	Directional Drilling	TEAL CONSTRUCTION
02/20/2023	19,590.00	Directional Drilling	TEAL CONSTRUCTION
Sub-total Directional Drill Expense:	402,040.00		
TTL Construction Expense:	2,241,339.50		
11/24/2020	828.96	DBF - Amd 3 Town of G-town Wat	DAVIS BOWEN FRIEDEL
12/01/2020	4,655.00	DBF - Amd 3 Town of G-town Wat	DAVIS BOWEN FRIEDEL
01/05/2021	10,015.00	DBF - Amd 3 Town of G-town Wat	DAVIS BOWEN FRIEDEL
02/17/2021	1,340.00	DBF - Amd 3 Town of G-town Wat	DAVIS BOWEN FRIEDEL

03/03/2021	3,929.72	DBF - Amd 3 Town of G-town Wat	DAVIS BOWEN FRIEDEL
03/31/2021	2,509.54	DBF - Amd 3 Town of G-town Wat	DAVIS BOWEN FRIEDEL
04/28/2021	6,338.10	DBF - Amd 3 Town of G-town Wat	DAVIS BOWEN FRIEDEL
05/26/2021	5,412.50	DBF - Amd 3 Town of G-town Wat	DAVIS BOWEN FRIEDEL
06/29/2021	1,380.00	DBF - Amd 3 Town of G-town Wat	DAVIS BOWEN FRIEDEL
06/30/2021	7,847.50	DBF - Amd 3 Town of G-town Wat	DAVIS BOWEN FRIEDEL
08/26/2021	4,267.50	DBF - Amd 3 Town of G-town Wat	DAVIS BOWEN FRIEDEL
10/28/2021	11,650.00	DBF - Amd 3 & 5 G-town Water I	DAVIS BOWEN FRIEDEL
11/23/2021	5,940.48	DBF - Amd 3 & 5 G-town Water I	DAVIS BOWEN FRIEDEL
12/28/2021	1,910.00	DBF - Amd 3 & 5 G-town Water I	DAVIS BOWEN FRIEDEL
02/02/2022	6,618.29	DBF - Amd 3 & 5 G-town Water I	DAVIS BOWEN FRIEDEL
08/18/2022	27,944.23	DBF - Amd 3, 5 & 6 G-town Wate	DAVIS BOWEN FRIEDEL
10/05/2022	4,387.50	DBF - Amd 3, 5 & 6 G-town Wate	DAVIS BOWEN FRIEDEL
11/29/2022	1,510.00	DBF - Amd 3, 5 & 6 G-town Wate	DAVIS BOWEN FRIEDEL
12/27/2022	915.00	DBF - Amd 3, 5 & 6 G-town Wate	DAVIS BOWEN FRIEDEL
02/01/2023	1,954.00	DBF - Amd 3, 5 & 6 G-town Wate	DAVIS BOWEN FRIEDEL
04/05/2023	2,274.00	DBF - Amd 3, 5 & 6 G-town Wate	DAVIS BOWEN FRIEDEL
06/28/2023	792.50	DBF - Amd 3, 5 & 6 G-town Wate	DAVIS BOWEN FRIEDEL
06/30/2023	1,530.00	DBF - Amd 3, 5 & 6 G-town Wate	DAVIS BOWEN FRIEDEL
09/27/2023	900.00	DBF - Amd 3, 5 & 6 G-town Wate	DAVIS BOWEN FRIEDEL
01/24/2024	455.00	DBF - Amd 3, 5 & 6 G-town Wate	DAVIS BOWEN FRIEDEL
03/27/2024	250.02	DBF - Amd 3, 5 & 6 G-town Wate	DAVIS BOWEN FRIEDEL
03/27/2024	2,287.50	DBF - Amd 3, 5 & 6 G-town Wate	DAVIS BOWEN FRIEDEL
05/08/2024	1,200.00	DBF - Amd 3, 5 & 6 G-town Wate	DAVIS BOWEN FRIEDEL
TTL Engineering Expense:		121,042.34	

09/01/2021	1,150.00	Easement for 135-15.00-134.01	MCCAIN
10/14/2021	1,125.00	50% of Perm Easement for 135-1	BAKER
10/14/2021	1,125.00	50% of Perm Easement for 135-1	BAKER
12/06/2021	30.00	RECORD OCT -VE ROD ESCROW	
10/14/2021	125.00	50% of Temp Easement for 135-1	BAKER
10/14/2021	125.00	50% of Temp Easement for 135-1	BAKER
TTL Land/Rent Expense:		3,680.00	

TOTAL PROJECT EXPENSE:	2,392,780.87	150000	CAPACITY REDIRECTED in Gal./Day
DD: Artesian Connection Charge	750,000.00	666.7	EDU EQUIVALENT by TOWN CODE
IRAND TOTAL PROJECT EXPENSE	3,142,780.87	66.60%	TOWN SHARE
		\$3,285,600	TOWN CAPITAL CONTRIBUTION by Agreement
		\$2,093,092	TOWN CAPITAL CONTRIBUTION by % UTILIZATION

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 Matthew R. Lloyd
The Honorable Steven C. McCarron

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

RE: ***Herring Creek Sanitary Sewer District, Project S20-08***
A. Teal Construction, Inc. – Change Order No. 5 and Substantial Completion

DATE: May 20, 2025

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, the first scope of work for the EJCDC Herring Creek Sanitary Sewer District Agreement was approved, in the amount of \$102,649.00, for aerial mapping and environmental assessment issues.

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 were in place. Subsequently on October 2, 2018, Council approved WRA's Amendment No. 1 for the design of the Herring Creek Sanitary Sewer District Pump Stations, Force Main and Sewers was subsequently approved by Council.

Due to the size of the project USDA requested a phasing plan. Phase I encompassed the pump stations and pressure mains, Phase II the sewer collection system off Sloan Road, Phase III the collection system for all minor and major subdivisions off Banks Road and Phase IV the collection system in the Winding Creek Village subdivision.

The pump station contract was publicly advertised under Project S20-06 and on October 8, 2019, County Council awarded Project S20-06 to Chesapeake Turf, LLC. On November 19, 2019, Council approved WRA's Amendment No.2 to the EJCDC Base Agreement in a "not to exceed" amount of \$307,304.00 for construction administration and project inspection of Project S20-06.



Construction contracts associated with the other phases of the Herring Creek expansion were awarded by Council as follows:

- On August 11, 2020, JJID, Inc. was awarded the Phase II under Project S20-07
- On July 13, 2022, Teal Construction, Inc. was awarded Phase III under Project S20-08
- On March 29, 2022, George & Lynch, Inc. was awarded Phase IV under Proj. S20-09

On February 16, 2021, Council approved WRA's Amendment No. 3 in the not to exceed amount of \$448,676.00 for construction administration and inspection services associated with the gravity sewer construction Project S20-07 & 08.

Chesapeake Turf, LLC experienced significant delays beyond reasons justified by the pandemic and weather-related delays. This additional time triggered contract administration as well as inspection requirements and on August 31, 2021, Council approved Amendment No. 4 in the amount of \$68,852.00 for additional construction administration & inspection services.

The construction administration and inspection for Project S20-09 awarded to George & Lynch, Inc. was never covered under a standalone professional services amendment but instead WRA provided the services under Amendment No. 3. After these funds were depleted Council approved Amendment No. 5 on December 13, 2023, in the amount of \$ 359,704.00.

JJID, Inc. experienced significant delays and on August 12, 2022, submitted two claims one related to restoration requirements imposed "above & beyond" permit by DelDOT, the other one related to previously unknown cable interferences. The claims limited merit but nowhere near the compensation levels requested. Therefore, the Department and JJID, Inc. agreed to pause operations to allow review of this issue by Council. In order to achieve a mutually agreeable solution, the Department suggested seeking a "no-fault" contract close out balancing change order where both parties withdraw any and all claims, the County grants acceptance of the infrastructure installed and pays out any retainage held under the contract.

JJID completed all punch list items and executed the quantity adjustment Change Order No. 6 in the credit amount of (\$1,334,027.06) for a net reduction of the Project S20-07 cost in the amount of \$1,054,877.00. Teal Construction assumed the remainder of the infrastructure under the S20-07 Project at their unit prices bid with a non-compensable contract extension of 210-calendar days. Both change orders were approved by Council on July 11, 2023.

In the later part of 2023, Delaware utility construction companies experienced significant labor shortages. Consequently, Teal Construction requested a 210 day no cost time extension, 11 of which were weather related. The extended construction time depleted the available construction administration funds. Therefore, on January 23, 2024, Council approved Teal Construction's time extension Change Order No. 3 as well as WRA's Amendment No.7 in the amount of \$259,551.00 for construction administration & inspection under contract S20-08.

In July 2024, Teal Construction finished their original contract scope and restarted the remaining scope under the S20-07 Project. However, the local skilled labor shortages persist, and Teal Construction was forced to request another 112 day no cost extension, 13 of which were weather related. On August 13, 2024, Council approved the extension under Change Order 4, contingent upon USDA concurrence.

Change Order No. 5 is the balancing change order, adjusting all quantities to the actual field measurements resulting in a contract cost increase of \$237,013.31. The Sussex County Engineering Department recommends approval of Change Order 5 in the amount not to exceed \$237,013.31 and substantial completion as of December 12, 2024, contingent upon USDA concurrence.

Date of Issuance: 4/1/2025	Effective Date: 4/1/2025
Owner: Sussex County	Owner's Contract No.: S20-08
Contractor: Teal Construction Inc.	Contractor's Project No.: T-21018
Engineer: Whitman, Requardt & Associates	Engineer's Project No.: 14256.036
Project: Herring Creek Sanitary Sewer District: South Gravity Sewer and Force Main	Contract Name:

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

Addition of balancing change order quantities

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES [note changes in Milestones if applicable]
Original Contract Price: \$ 4,242,738.00	Original Contract Times: Substantial Completion: 3/21/2023 Ready for Final Payment: 365 calendar days
Increase from previously approved Change Orders No. <u>1</u> to No. <u>4</u> : \$1,054,877.00	Increase from previously approved Change Orders No. <u>1</u> to No. <u>4</u> : Substantial Completion: 12/12/2024 Ready for Final Payment: 997 calendar days
Contract Price prior to this Change Order: \$ 5,297,615.00	Contract Times prior to this Change Order: Substantial Completion: 12/12/2024 Ready for Final Payment: 997 calendar days
Increase of this Change Order: \$ 237,013.31	[Increase] [Decrease] of this Change Order: 0 days Substantial Completion: 12/12/2024 Ready for Final Payment: 997 calendar days
Contract Price incorporating this Change Order: \$ 5,534,628.31	Contract Times with all approved Change Orders: Substantial Completion: 12/12/2024 Ready for Final Payment: 997 calendar days

RECOMMENDED:		ACCEPTED:		ACCEPTED:	
By: 	By: _____	By: 			
Engineer (if required)	Owner (Authorized Signature)	Contractor (Authorized Signature)			
Title: Vice President	Title _____	Title PRESIDENT			
Date: 4/1/2025	Date _____	Date 4/1/2025			

Approved by Funding Agency (if applicable)

By: _____ Date: _____
Title: _____

Contract S20-08

**Herring Creek SSD- South Gravity Sewer and Force Main
C.O. No. 5- Final Bid Items Credit
(Includes Balancing of Quantities Change Order Cost Summary Sheet)**

Final Adjustment and Balancing (Overrun/Underrun) of Unit Price Items and Change Orders

Item No.	Description	Bid Quantity	Unit	Unit Price	Actual Quantity	ADD	DEDUCT
Part A - Utilities							
A-1	Mobilization	1	LS	\$120,679.00	1.00	\$ -	\$ -
A-2	Furnish and Install Precast Manholes - 4 VF	410	VF	\$399.00	368.52	\$ -	\$ (16,550.52)
A-3	Complete and In Place - 5' VF	49	VF	\$587.00	79.82	\$ 18,091.34	\$ -
A-4	Furnish and Install Drop Connection 8" EA	4	EA	\$1,582.00	4.00	\$ -	\$ -
A-5	Furnish and Install Terminal Cleanouts - 8" EA	2	EA	\$1,007.00	2.00	\$ -	\$ -
A-6	Furnish and Install House Lateral Cleanouts	179	EA	\$652.00	209.00	\$ 19,560.00	\$ -
A-7	Furnish & Install House 6" Dual Lateral Cleanouts	103	EA	\$1,245.00	66.00	\$ -	\$ (46,065.00)
A-8	Furnish & Install House 8" Single Lateral Cleanouts	9	EA	\$985.00	14.00	\$ 4,925.00	\$ -
A-9	Furnish & Install House Travel Trailer Dual Lateral Cleanouts	22	EA	\$764.00	11.00	\$ -	\$ (8,404.00)
A-10	Furnish and Install Frames and Covers - EA	57	EA	\$573.00	57.00	\$ -	\$ -
A-11	Furnish and Install PVC Laterals - 6" LF	5,900	LF	\$24.00	5,454.00	\$ -	\$ (10,704.00)
A-12	Furnish and Install PVC Laterals - 8" LF	1,200	LF	\$37.00	1,218.00	\$ 666.00	\$ -
A-13	Furnish & Install 8" SDR-35 Gravity Sewer	17,800	LF	\$80.00	18,756.00	\$ 76,480.00	\$ -
A-14	Furnish & Install 8" C-900 Gravity Sewer	950	LF	\$98.00	-	\$ -	\$ (93,100.00)
A-15	Furnish & Install 8" x 6" SDR-35 PVC Wye Branches	300	EA	\$276.00	268.00	\$ -	\$ (8,832.00)
A-16	Furnish & Install 8" x 6" C900 PVC Wye Branches	17	EA	\$506.00	-	\$ -	\$ (8,602.00)
A-17	Furnish & Install 8" x 8" SDR-35 PVC Wye Branches	5	EA	\$576.00	11.00	\$ 3,456.00	\$ -
A-18	Furnish and Install Combination ARV and Manholes - 2" EA	2	EA	\$10,964.00	2.00	\$ -	\$ -
A-19	Furnish and Install Simplex Grinder Pump (Complete) - EA	3	EA	\$12,032.00	4.00	\$ 12,032.00	\$ -
A-20	Furnish and Install Type C Hot Mix 1.5"	7,500	SY	\$13.50	7,166.00	\$ -	\$ (4,509.00)
A-21	Furnish and Install Type C Hot Mix 2"	13,600	SY	\$14.00	15,662.00	\$ 28,868.00	\$ -
A-22	Record Drawings - LS	1	LS	\$20,296.00	1.00	\$ -	\$ -
A-23	Furnish and Install PVC Force Main - 1.25"	650	LF	\$28.00	807.00	\$ 4,396.00	\$ -
A-24	Furnish and Install PVC Force Main - 1.5"	250	LF	\$30.00	265.00	\$ 450.00	\$ -
A-25	Furnish and Install Force Main - 4"	660	LF	\$31.00	597.00	\$ -	\$ (1,953.00)
A-26	Furnish and Install Force Main - 6"	2,750	LF	\$42.00	2,728.00	\$ -	\$ (924.00)
A-27	Furnish and Install Isolation Valve - 1.25"	3	EA	\$605.00	4.00	\$ 605.00	\$ -
A-28	Deep Lateral Connections	86	EA	\$471.00	18.00	\$ -	\$ (32,028.00)
A-29	Shawn's Hideaway Bath House Connection	1	LS	\$5,317.00	1.00	\$ -	\$ -
A-30	Remove & Replace Brick Driveway Columns	2	EA	\$1,770.00	1.00	\$ -	\$ (1,770.00)
A-31	Connection to Existing Septic Tank or Dump Station	7	EA	\$2,772.00	7.00	\$ -	\$ -
A-32	4" Stone Road Restoration	20,500	SY	\$11.00	11,390.00	\$ -	\$ (100,210.00)
A-33	Furnish & Install 4' Precast Manholes (DELDOT)	78	VF	\$508.00	66.32	\$ -	\$ (5,933.44)
A-34	Furnish & Install 8" Terminal Cleanouts (DELDOT)	3	EA	\$1,844.00	3.00	\$ -	\$ -
A-35	Furnish & Install 6" PVC Laterals (DELDOT)	530	LF	\$63.00	516.00	\$ -	\$ (882.00)
A-36	Furnish & Install 8" PVC Laterals (DELDOT)	30	LF	\$116.00	-	\$ -	\$ (3,480.00)
A-37	Furnish & Install 8" SDR-35 Gravity Sewer (DELDOT)	1,550	LF	\$256.00	1,649.00	\$ 25,344.00	\$ -
A-38	Furnish & Install Manhole Frame & Covers (DELDOT)	14	EA	\$1,578.00	14.00	\$ -	\$ -
A-39	Furnish & Install 4" PVC Force Main (DELDOT)	160	LF	\$288.00	129.00	\$ -	\$ (8,928.00)
A-40	Furnish & Install 6" PVC Force Main (DELDOT)	300	LF	\$182.00	275.00	\$ -	\$ (4,550.00)
Subtotals for Parts A:						\$ 194,873.34	\$ (357,424.96)

Item No.	Description	Bid Quantity	Unit	Unit Price	Actual Quantity	ADD	DEDUCT
Part B - Stipulated Contingent Bid Items							
B-1	Contingent Unclassified Excavation CY	100	CY	\$11.00	0.00	\$ -	\$ (1,100.00)
B-2	Contingent Aggregate Material (Crusher Run) Ton	500	Ton	\$40.00	33.00	\$ -	\$ (18,680.00)
B-3	Contingent Porous Fill Material (#57 Stone) Ton	1,000	Ton	\$45.00	0.00	\$ -	\$ (45,000.00)
B-4	Contractors Lateral (Small) Crew Down Time Per Hour	40	HR	\$525.00	48.00	\$ 4,200.00	\$ -
B-5	Contractors Main Line Crew Down Time Per Hour	30	HR	\$850.00	76.50	\$ 39,525.00	\$ -
B-6	Furnish and Place 5,000 PSI Concrete CY	20	CY	\$150.00	23.40	\$ 510.00	\$ -
B-7	Contingent Borrow Type C CY	2,000	CY	\$16.00	0.00	\$ -	\$ (32,000.00)
B-8	Replacement of Existing Storm Drain 18" or Less LF	60	LF	\$30.00	877.00	\$ 24,510.00	\$ -
B-9	Contingent Hot Mix Ton	100	Ton	\$125.00	973.40	\$ 109,175.00	\$ -
Subtotals for Part B:						\$ 177,920.00	\$ (96,780.00)

Contract S20-08 - Continued

Page 2 of 3

**Herring Creek SSD- South Gravity Sewer and Force Main
C.O. No. 5- Final Bid Items Credit
(Includes Balancing of Quantities Change Order Cost Summary Sheet)**

Item No.	Description	Bid Quantity	Unit	Unit Price	Actual Quantity	ADD	DEDUCT
Part C - Unstipulated Contingent Bid Items							
C-1	Soil Testing - Onsite	500	HR	\$60.00	31	\$ -	\$ (28,140.00)
C-2	Soil Testing - Lab	15	EA	\$178.00	2	\$ -	\$ (2,314.00)
C-3	Well Pointing - First 200'	1	LS	\$11,325.00	1	\$ -	\$ -
C-4	Well Pointing	6,000	LF	\$25.00	2,995	\$ -	\$ (75,125.00)
C-5	Tree Removal (< 6")	10	LF	\$550.00	-	\$ -	\$ (5,500.00)
C-6	Tree Removal (>= 6" and <20")	10	LF	\$1,000.00	4	\$ -	\$ (6,000.00)
C-7	Tree Removal (>=20")	10	LF	\$2,000.00	4	\$ -	\$ (12,000.00)
Subtotals for Part C:						\$ -	\$ (129,079.00)

Item No.	Description	Bid Quantity	Unit	Unit Price	Actual Quantity	ADD	DEDUCT
Part D - Finishing Contract							
D-1	Furnish & Install 4' Precast Manholes	130	VF	\$399.00	76.63	\$ -	\$ (21,294.63)
D-2	Furnish & Install 8" Drop Connection	1	EA	\$1,582.00	2.00	\$ 1,582.00	\$ -
D-3	Furnish & Install 8" Terminal Cleanouts	1	EA	\$1,007.00	2.00	\$ 1,007.00	\$ -
D-4	Furnish & Install House 6" Lateral Cleanouts	44	EA	\$652.00	52.00	\$ 5,216.00	\$ -
D-5	Furnish & Install Manhole Frame & Covers	12	EA	\$1,578.00	12.00	\$ -	\$ -
D-6	Furnish & Install 6" PVC Laterals	768	LF	\$24.00	1,289.00	\$ 12,504.00	\$ -
D-7	Furnish & Install 8" SDR-35 Gravity Sewer	4443	EA	\$80.00	4,349.00	\$ -	\$ (7,520.00)
D-8	Furnish & Install 8" x 6" SDR-35 PVC Wye Branches	62	EA	\$276.00	50.00	\$ -	\$ (3,312.00)
D-9	Furnish & Install Simplex Grinder Pump	17	EA	\$12,032.00	21.00	\$ 48,128.00	\$ -
D-10	Furnish & Install 2" Type C Hotmix	12907	SY	\$14.00	40,589.29	\$ 387,552.06	\$ -
D-11	Furnish & Install PVC Force Main 2" or less	2389	LF	\$28.00	3,499.00	\$ 31,080.00	\$ -
D-12	Furnish & Install PVC Force Main 2.5"	1380	LF	\$31.00	1,401.00	\$ 651.00	\$ -
D-13	Furnish & Install 4" PVC Force Main	1550	LF	\$31.00	1,508.00	\$ -	\$ (1,302.00)
D-14	Furnish & Install 1 1/4" Isolation Valve	15	EA	\$605.00	22.00	\$ 4,235.00	\$ -
D-15	Furnish & Install Terminal Flushing Connection	3	EA	\$3,257.00	3.00	\$ -	\$ -
Subtotals for Part D:						\$ 491,955.06	\$ (33,428.63)

Item No.	Description	Bid Quantity	Unit	Unit Price	Actual Quantity	ADD	DEDUCT
Part E - Unit Price Adjustments							
E-1	Credit for County TV Inspection of Shawns Hideaway Laterals and Sewers	0	LF	\$ 1.25	8818		\$ (11,022.50)

Subtotals for Part E: \$ - \$ (11,022.50)

Grand Total = Parts (A + B + C + D+E): \$ 864,748.40 \$ (627,735.09)

Balancing of Used/Unused S20-08 Bid Item Quantities for C.O. 5 - Final
(Total Change Based Upon All Final Quantities Part A through Part E)

Increase \$ 237,013.31



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: May 15, 2025

RE: County Council Report for C/Z 2026 filed on behalf of Northstar Property, LLC

The Planning and Zoning Department received an application (C/Z 2026 filed on behalf of Northstar Property, LLC) for a change of zone from an AR-1 Agricultural Residential District to an MR Medium Density Residential Zoning District at Tax Parcel 334-5.00-175.00. The property is located on the southeast side of Lewes-Georgetown Highway (Rt. 9) and the northwest and southeast sides of Beaver Dam Road (SCR 285/Rt 23), approximately 2.4 miles southwest of Coastal Highway (Rt.1). The parcel size is 419.64 Ac. +/- and the change of zone request relates to a 7.882-acre. portion.

The Planning & Zoning Commission held a Public Hearing on the application on July 17, 2024. At the meeting on October 9, 2024, the Planning & Zoning Commission recommended approval of the application for the 9 reasons as outlined within the motion (copied below).

The County Council held a Public Hearing on the application at the meeting on March 11, 2025. At the conclusion of the Public Hearing, the record was left open for a period of two weeks for Council to submit questions to Delaware Department of Transportation ("DelDOT"), and then for a period of two weeks for DelDOT to respond for the questions, followed by an additional period of two weeks for members of the public to submit any additional comments on the DelDOT response. The Public Record closed on April 22, 2025, at 4:30 pm.

Below is a link to the minutes of the March 11, 2025, County Council meeting:

[Link to the Minutes of the March 11, 2025, County Council Meeting](#)



Below are the minutes from the Planning & Zoning Commission meeting on July 17, 2024, and October 9, 2025. The minutes of the July 24, 2024, and September 11, 2024, are also included as the Northstar applications were discussed at these meetings also.

Minutes of the July 17, 2024, Planning & Zoning Commission Meeting

C/Z 2026 Northstar Property, LLC

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A 7.882-ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 433.071 ACRES AS RECENTLY SURVEYED OR 419.64 ACRES AS SCALED AND SHOWN ON THE SUSSEX COUNTY TAX MAP, MORE OR LESS. The property is and lying on the southeast side of Lewes-Georgetown Highway (Rt. 9), and the northwest and southeast sides of Beaver Dam Road (S.C.R. 285/Rt. 23) approximately 2.4 miles southwest of Coastal Highway (Rt. 1). Address: N/A. Tax Map Parcel: 334-5.00-175.00 (p/o).

Mr. Whitehouse advised the Commission that submitted into record were a copy of the Applicant's survey and rezoning plan, a copy of the Applicant's exhibit booklet, a copy of the Applicant's Environmental Assessment and Public Facilities Evaluation Report, a copy of the staff analysis and 31 comments, including a petition with 258 signatures.

Ms. Pamela Steinbach spoke on behalf of DelDOT, in reference to the Application and the processes behind the TID and how it relates to this group of applications; that a transportation improvement district is a geographical area defined for the purpose of securing required improvements to transportation facilities in that area to meet the demands and growth development consistent with a comprehensive plan; that means taking a proactive approach to transportation and land use and trying to forecast and accommodate what a growth area is going to be, making sure we have the appropriate traffic analysis and forecasting as it's related to the comprehensive plan; that DelDOT works closely with the County and can plan for growth in advance which makes the transportation planning easier; that it allows them to see what an area is supposed to grow to and allows DelDOT to plan for the associated transportation improvements; that the benefit to developers in the TID is that if their development is consistent with DelDOT and the County then they can forego having to do a TIS which takes a fair amount of time; that the TIS requires counts, average daily traffic and to analyze what intersections level of service is; that by having that information in advance and the developer building consistent with what the TID states; that if the developer pays a fee that has been agreed upon by the County and they'll complete any offsite improvements and are required to do all of their entrances it makes dealing with DelDOT a lot faster; that it's more predictable and we can then use those developer contributions to fund projects since we know where some funding coming from; that they take a master plan, a land use plan, a transportation plan or a comprehensive plan and determine parcel by parcel what the use of that parcel is and what the maximum number of trips for each of those parcels could generate; that once we do that then we determine what the infrastructure fee is based on whether its residential or commercial; that it's a certain amount per square foot for the commercial and then there are specific fees for whether it's single family, a townhouse, multifamily

condos or apartments; that every five years they update the study by confirming that the parcels are still the same and by doing a traffic analysis; that this helps determine how many trips each development is going to generate; that it can determine what the improvements to the roads are going to be, things like a shared multi model, shared use paths, sidewalks, widening the roads to the functional classification of the road is supposed to be; that it could be widening the lanes, widening the shoulders, it could be widening from 2 lanes to four lanes or it could be a new road, a roundabout or a signal; that once we have all of that information it is shared to any developer that wants to develop in the geographical area of the TID; that they have a much better idea when they do their planning as to what the max number of trips that they can accommodate as part of their development; that with the contributions that the developers make and the funding from the Feds and the State then we fund the Capital Transportation projects and they go into our six year capital transportation plan; that the Henlopen TID was established in 2020 and it took three years to complete as DelDOT worked with the County and went parcel by parcel basis and covering each intersection within a 24sq mile area; that there is about \$321 million in projects within this TID and as part of the fee structure the developers are contributing 24% of that money; that currently we have 28 agreements signed, about 7 in process and about 1.4 million has been collected and about \$800,000 are equated to the developer, in some instances it is required to dedicate right of way and then instead of paying lump sum TID fees they build some of the transportation improvements getting it done faster than if DelDOT were to do them.

Ms. Wingate asked about the construction of Mulberry Knoll Road and that it would be a separate contract from DelDOT and the developer would need to hire and contract that out separately; that with that being a separate contract what would the timing look like and would DelDOT require the developer to handle those improvements first? And will the money being contributed by the developer be utilized to help with this project's road improvements?

Ms. Steinbach stated that the developer has not entered into the phase of the record plans and entrance plans and until they do no time frame or phasing of improvements will be established; that the money contributed is held by the County and that money can only be used for any projects within the TID and its improvements.

Mr. Collins asked about the rest of the development of Mulberry Knoll Road and connecting it to the rest of the roads and what is the timeline on that?

Ms. Steinbach stated that one of the hardest parts is to get into the CTP because we have to be fiscally constrained in our CTP; that there are projects up and down the state, but this is CDP, so that is a project that will get funded, but it was just put in the last CTP; that the preliminary engineering is supposed to start around 2026; that the rest of that Mulberry Knoll Road is going to be built just no date is set yet..

Mr. Roberston stated that the original traffic analysis was done in 2018 and updated around 2022; that we get asked all the time, does the study take into account not only the baseline of assumptions of development for land based on its zoning, but does that also take into account approved but not yet built developments?

Ms. Steinbach stated that the TID is based on a full build out of the of all of those parcels so even as long as it is zoned to be built to grow up to be something then we have counted that as part of the

analysis.

Mr. Mears stated that it would be good to inform the public and have it on record as to how DelDOT decides whether or not the roads can handle large communities and how the Commission relies on DelDOT to advise if the infrastructure is capable of handling such increases.

Ms. Steinbach stated that when speaking in terms of developments for DelDOT's purpose it is concerned with the number of trips in and out of the parcels and that those number coincide with the zoning designation.

Mr. Todd Sammons, the Assistant Director of development coordination, for DelDOT stated that it is not DelDOT's prerogative to make those decisions as they are reactive to the land use decisions and with our analysis and information we then let Planning & Zoning and County Council make those determinations on whether they want to improve land uses or not

Ms. Steinbach stated that responsibility of DelDOT and as part of the division of planning is to do wider range planning that not only take into account what the Delaware Population Consortium estimates as to how many people are going to be here in the next 25-30 years, but also where they're going to be; that it is a collective approach trying to plan for what roads need to be widened, what roads need a roundabout, but it's a multi-faceted problem that is complex; that with TID's and TIS' we are making sure that the developer is doing what the transportation improvement requires it to do.

Mr. Mears stated that he would just like the public to have a firm position about whether or not a road that currently exists in its current state can handle and accommodate the additional traffic that new projects and developments will bring.

Ms. Steinbach stated that with the TID in place, the 33 projects that are planned throughout it have already pre-determined that the road is capable and supposed to be able to handle them based on the full build out of that geographic area.

Mr. Robertson stated that because this project is within the TID that it is different than other cases normally presented; that the TID is a geographically designed area in which DelDOT did the full build out of the roads, going into detail on intersection by intersection basis with redesigns of those roadways to accommodate the development of the properties as anticipated by the county's current zoning and the comp plan; that that's already been taken into account in the TID on this case, but it's a different process because we're not getting a TIS review letter that says what the impact is; that the bigger issue is whether this project or any other project in the TID stay within those projections that were based on the TID in the first place; that if it stays within those project projections, which were the roadway improvements necessary to accommodate the two units to the acre, then it has already been built into the designs that are in the TID; that the funding that was generated based on those designs and the developer and state contributions that go into it; that the County is stuck because the public may say that a project should not be built as it will have an adverse impact on traffic, but DelDOT doesn't have any objection to the project as long as the developer builds the necessary roadway improvements as stated within the TID; that this has been forecasted out in the TID and that the only concern then becomes, does the development stay within the confines of the original projection.

Ms. Wingate stated that she spoke with the Chief of the Lewes Fire Department, who stated that the completion of the Mulberry Knoll Rd. would be key to the response time for their emergency calls; that

it would be encouraged that the County, DelDOT and the developer work closely together on this piece of the project to ensure that it is a priority if the project is approved.

Mr. David Hutt, Esq., from Morris James firm, spoke on behalf of the applicant Northstar Property, LLC., that the applications were expedited at the request of the applicant in order to try to bring affordable housing to Eastern Sussex County as soon as possible; that the County has been trying to figure out answers to affordable housing; that the attention paid to affordable housing during the 2018 Comprehensive Plan Review process and the housing chapter of the comprehensive plan had a great deal of attention paid to it; that in 2019 Sussex County commissioned the housing opportunities and market evaluation by LSA and the impact of these two reports continues to this day; that the County has adopted amendments to the Sussex County Rental Program and most recently the County modified the Accessory Dwelling Unit Ordinance to address affordable housing in Sussex County; that the Sussex County Rental Program and the Accessory Dwelling Unit Ordinance, were both concerns raised and referenced in the home report that was commissioned in 2019, as well as the comprehensive plan; that the affordable housing opportunity that's presented by Northstar through the low income Housing Tax program will help in Eastern Sussex County; that given the scale of the Northstar project the developer recognized at the outset from the time it contracted to purchase this property that this land mass presented an opportunity for affordable housing in Eastern Sussex County, where the need is a very acute; that not being an expert in the best way to provide affordable housing opportunities, Northstar property sought out experts in the industry to see how best the property could be used and met with Ingerman, regarding affordable housing, being they are a leader in affordable housing in the Mid-Atlantic region; that during the meetings with Ingerman two concerns arose, the first concern with respect to creating affordable housing in Eastern Sussex County was the cost of the land and the second was the amount of time it takes to get through the entitlement process; that it is difficult to secure funding when there's an unknown with respect to the land use entitlements; that to address the first issue, the cost of land, Northstar Property, LLC offered to donate the land for the affordable housing section of the Northstar Project to provide a suitable location in Eastern Sussex County for affordable housing; that Northstar told Ingerman that it would handle the entitlement process and walk Ingerman through the entitlement process; that the second concern that was relayed by Ingerman, was the time of the entitlement process; that based upon the County's position on expediting applications through the Sussex County Rental program, a letter was submitted requesting that this application for the Northstar Project be expedited to help address affordable housing recognizing the necessity in Eastern Sussex County, the county, did agree to expedite the applications; that the Northstar Project is master planned infill in its compliance and consistency with the land use and planning tools that are provided by the State of Delaware and various agencies; that with all of those various agencies taken into account, this plan has been designed and structured to carefully comply with those codes; that the property totals 433 acres and is located just South of Lewes Georgetown Highway or Route 9; that the land South of Route 9 and parcels of the land that are on the opposite side of Beaver Dam Rd. are significant to this application; that the piece across Beaver Dam Rd. is residual lands that is not included in this acreage, so the area totals approximately 33 acres of residual, and the remaining 400 acres are the subject matter of this application.

Mr. Robertson asked for clarification for the record that the parcel that's considered residual lands, is not included in the acreage of any of the projects, therefore not used in any of the open space calculations, density calculations or anything of that nature.

Mr. Hutt stated that there is approximately 166 acres of open space and that does not include the 33 acres of those residual lands; that across Route 9 from the project is The Vineyards, which is a mixture of high

density residential and commercial properties, including professional offices and retail; that then the next community is Lewes Crossing, which is a single-family subdivision being on both sides of Beaver Dam Rd.; that along the Southern boundary of Northstar is the Gosling Creek subdivision which is single family homes; that then the Jintown community off of Jintown Rd. and the 33 acres of residual lands; that then the Coastal Club community ends the southern boundary of the project; that the project borders the lands of the Pam An Riding Stables and the Elks Lodge; that the Western border runs along with the Reserves at Lewes Landing another single family subdivision; that back at the Route 9 stretch there is the Sussex East and West manufactured home park and heading East is Seaspray Village, a single family subdivision; that Northstar is the property that connects all of these various communities physically and will provide important linkage amongst various communities; that the property consists of approximately 400 acres and four applications; that first, is the Cluster Subdivision application 2023-14 which is 379 acres with 758 proposed single family lots, then the C/Z 2025, a change of zone application seeking to change the designation of the portion of the property directly across from The Vineyards, this is 12.69 acres and is seeking a C-3 heavy designation zoning under the County's. Zoning ordinance; that directly across the proposed extension of Mulberry Knoll Rd. is C/Z 2026 which is a 7.88 acre parcel seeking a change in zoning designation from AR-1 to MR medium density residential district for the same 7.88 acres; then there's C/U 2499 seeking 94 affordable housing multifamily units for that site; that there are various land planning tools that exist to help the government and property owners know how to plan; that the Office of State Planning Coordination, a state agency that issues the strategies for state policies and spending every five years; that the last update was in 2020, which includes mapping the various investment levels in the state; that the map shows the Northstar property and the properties surrounding it; that the majority of the property is within the states investment Level 2, with a number of ribbons of area at various points in the project that are investment Level 3; that the state strategies for state policies and spendings specifically describes what a Level 2 area is, that like investment Level 1 areas, state investments and policy should support and encourage a wide range of uses and promote other transportation options, foster efficient use of existing public and private investments, and enhance community identity and integrity; that investments should encourage departure from the typical single family dwelling developments and promote a broader mix of housing types and commercial sites encouraging compact mixed-use development where applicable; that the state's intent is to use its spending and management tools to promote well designed development in these areas, such development provides for a variety of housing types, user friendly transportation systems, essential open spaces and recreation facilities, other public facilities and services to promote a sense of community; that based on that description of investment Level 2, under the Office of State Planning Coordination's state strategy maps, it's likely why that based on NorthStar's location in a Level 2 and Level 3 investment area, this project may be consistent with the 2020 strategies for state policies and spending; that not only is Northstar consistent with the state strategies that were just relayed, but is also consistent with the 2018 Comprehensive Plan; that Chapter 4 of the Comprehensive Plan, the future land use chapter includes Table 4.5-2, entitled Zoning Districts Applicable to Future Land Use categories; that both the requested C3 Heavy commercial district and the MR Medium density residential district are applicable zoning districts in the coastal area; that based on that table and the significance of their designation on the 2045 Future Land Use Map the comprehensive plan indicates what are permitted uses within each of the various growth areas with respect to the coastal area; that a range of housing types should be permitted in coastal areas including single family homes, townhouses and multifamily units, retail and office uses are appropriate, but larger shopping centers and office parks should be confined to selected locations with access along arterial roads; that appropriate mixed-use development should also be allowed; that a

mixture of homes with light commercial, office and institutional uses can be appropriate to provide convenience services and to allow people to work close to home; that the request for the C3 Heavy Commercial that is requested along Route 9, should be found along arterial highways and DelDOT would refer to Route 9 as a principal arterial; that the Sussex County Code refers to Route 9 as a major arterial highway and the commercial zoning that it proposed for this project aligns with the commercial zoning designation that exists presently in The Vineyards community; that it's an appropriate place, not only because of the highway, but because of the intersection, which presently an entrance into The Vineyards; that it's a signalized intersection and Mulberry Knoll Rd. will be extended and be a fourth leg of that intersection; that the commercial is proposed as a signalized intersection along a major arterial highway; that the planning for the MR portion mirrors what is across the street in The Vineyards with a high density residential and multi family style use with apartments and condominiums; that the proposed MR zoning portion of the property is consistent with what is in The Vineyards immediately across the street from there.

Mr. Ring Lardner, principal and professional engineer, from Davis, Bowen and Friedel, spoke on behalf of the applicant that in terms of the transportation portion of the project, the project has two road frontages, the East and West frontage or Lewes Georgetown Highway, Route 9 and the South West frontage or Beaver Dam Rd, Route 23; that the first is classified as a major arterial roadway per the County Code and the second is listed as a major collector per DelDOT's functional classification map; that the TID makes this project unique as typically a project this size would have been required to do studies analyzing dozens of intersections and roadways, including roads that are queued for signals and all of that has been done by DelDOT and their consultants; that Northstar per the TID, was assigned trips for 771 single family residential units and 96,188 square feet of commercial space in consultation with DelDOT; that this project as proposed, is within the threshold of the assigned and planned trips for this property; that the project will be required to enter into a recoupment agreement with DelDOT, and the agreement shall be recorded with Sussex County Recorder of Deeds prior to final plan approval; that there are several projects within the TID, but specifically the ones that are along our property limits are the widening of Lewes Georgetown Highway, US Route 9, and the widening of Beaver Dam Rd along the Northstar southern frontage as part of the Traffic Improvement District and will be done before 2045; that the creation of the Mulberry Knoll Rd, which would include two (2) eleven-foot wide travel lanes, 8-foot shoulders/shared use path and an open drainage ditch is the third project within the TID; that the portion of the Mulberry Knoll Rd that goes through the Northstar Project is not required to be completed by the developer; that the developer offered to build that road as part of this project, recognizing the need for the extension on Burnell Road and by building that up in lieu of paying cash; that this will help push along DelDOT to finish the other parts of the road that's been identified; that the review of the floodplain map shows no wetlands as of 2015, but when Mr. Ed Linnae completed a wetlands delineation he found some differences in the mapping; that those findings were submitted to the Army Corps of Engineers for review; that the soil survey was done and the soils on site are suitable for all four applications; that there is an Ag Preservation with the wetlands delineation plan in it; that due to the environmental features, a drainage assessment report was required to be completed, a resource buffer management plan was required to be prepared, and the resource buffers and other protections that are referenced in the preliminary plan are listed; that Conservation A is an area of non-regulated wetlands, then there is a proposed 35 foot wide buffer, of forestation, as we plan on a foresting that area and then additional land that would be forest staying protected as part of the conservation easement for the plan; that Conservation B contains some wetlands with a 30 foot wide existing forested buffer that will be retained in full and

other areas that will remain; that Conservation E contains regulated wetlands with an Ag crossing in it and we will improve it slightly as part of this project with a 30 foot wide resource buffer and expanded that to 45 foot wide as mitigation for the impact of the wetlands and the resource buffer that would not exist in that area; that there was a couple waivers requested this, first being a waiver regarding to signage for resource protection and buffers; that the code currently requires 100 foot spacing and we're requesting that increment be changed to be 200 feet versus the required 100 feet; that there's some forest in this area classified as Tier 3 forest; that the report found there were no specimen trees on the property, specimen trees are trees that are specific with certain caliber diameter or a species, none of those were found on this property; that an archaeological assessment was completed by Doctor Ed Otter, and the developer hired Foresight Associates to review this preliminary plan and their letter and the design intent is to create ecological corridors with natural landscaping to minimize the need for grass cutting and providing ecosystems and vibrant recreational areas throughout the site; that as for the site itself, the cluster subdivision with the perimeter buffer is this outer edge around the side including BJ Lane; that we provide a varying width buffer along that outer boundary with all lots located outside the 30 foot forested buffer where appropriate and/or the 50 foot agricultural buffer; that there are agricultural lands that require a 50 foot buffer per the code; that all lots except those along BJ Lane and those east of the stables are located at least 50 feet from the outer boundary, including areas that are both wooded and non-wooded, if you have a wooded parcel, we have a 30 foot forested buffer and another 20 foot space before lot line begins so the lots are at least 50 foot off the outer perimeter line; that the reason there's not a 30 foot landscape buffer along BJ Lane as the code only requires a 30 foot buffer where lots abut an agriculture area and where their dwellings are located within 50 foot of existing residential development, BJ Lane did not qualify for that; that we have a 20 foot buffer from BJ lane within that section of the roadway; that as the proposed buffer as defined with the number of trees will add over 2400 trees just in the buffer area alone; that the property contains approximately 28.1 acres of woodlands that are split into four areas and we are preserving approximately 23 acres of those woodlands and the areas that are being removed will be replenished, while preserving to the max and practical in those areas; that all lots abut open space throughout the community, there are no lots that are back-to-back and every lot will have open space as their backyards; that Mulberry Knoll Rd. extended will be built, designed, constructed and accepted by DelDOT and will be a state maintained roadway and all other roadways in the community will be designed for public use, but privately maintained and designed and approved in accordance with Chapter 99 of the Sussex County Code; that the East West spine route will not have any lots directly accessing it and will act like a boulevard; that it will consist of 28 foot wide paved roadways, eight foot wide shared use path, tree lined streets and a drainage channel with naturalized planning to provide stormwater management as it bisects the property; that stormwater will travel in a North South direction from Route 9 to Beaver Dam Rd.; that the rest of the roadway will be 24 foot wide with a shared use path on one side and on the other side a shared use path linkage from Mulberry Knoll Rd. extended all the way down to Beaver Dam Rd.; that all other roads will be 24 foot wide and have 5 foot sidewalks on both sides of the road; that the proposed open space is approximately 166.5 acres of land, or approximately 44% of the project area; that all active open space amenities include two clubhouses, one with the minimum size of 3000 square feet and the other minimum size of 5000 square feet; two pools, one with the minimum water surface area of 1800 square feet and the other minimum water surface area of 2250 square feet, a splash pad or kiddie pool, free sports courts, four playgrounds and four open play areas; that the locations of the active amenities will be shown on the final subdivision plans and those amenities will be separately approved through the site plan process; that there are several pedestrian connections throughout the

community that links all the way to that central open space, linking all the spaces together to create a pedestrian friendly neighborhood; that affordable community application site plan consists of four buildings for a total of 94 affordable housing units; that three buildings each have 24 units and one building has 22 units located on 12.69 acres of land; that the amenities for that project will include a playground, unorganized play area, bike lockers, maintenance shed and the backup generator; that building #4 is the 22 unit building that is designed as a resiliency center and also where they have areas for kids to join after school programs; that the resiliency center is provided with backup power, so the residents will have access to heat/air, kitchen equipment, plus the ability to charge cell phones, etc. and be able to subside and communicate during a power outage; that the site will be constructed in two phases, with two buildings constructed in each phase; that in discussing phasing. the residence cluster division will be approved and constructed in phases; that it will change as we get into conversation with DelDOT about improvements, sewer, water and light; that the reason why Mulberry Knoll Rd. is a separate project is because it's a lot of work to workout with DelDOT through that approval process; that this is why the phasing is going to change, the timing, etc.; that it will all be discussed during the plan approval process and the record plan phasing notes and products required, including the recruitment agreement as far as what's going to constructed in kind versus cash contribution; that it would be two years at least before the final plan approval would go through, but based on the economy there is no set time frame for the build out on this project; that the Mulberry Knoll Rd. phase of the project is currently scheduled as the 3rd phase of the project due to the numerous designs and various processes involved in building the road in conjunction with DelDOT; that the developers are committed to the road build out and this allows some cash flow to happen to help offset some of the costs alleviate the amount of upfront costs it takes to build more road; that the project has been designed to be pedestrian and bicycle friendly and connect with off-site buses and multimodal pass; that the DART Route 206 in the East West direction of Route 9 has linkages to Georgetown and Lewes to grab all the bus routes to go further into the state; that there are two existing bus stops that exist along this route on the Northstar frontage, there is one east of it and across the road at the Route 9 signal there are three other bus stops; that there's 6 bus stop right along our frontage or within a couple 100 feet of our frontage which is important to the affordable housing component as a lot of the residents there need access to public transportation; that is one of the reasons it is located in this portion of the project; that we'll be installing approximately 3.3 miles of shared use path, along Route 9, both sides of Mulberry Knoll Road, both sides Beaver Dam Rd.; that the developer will be installing 1.3 miles shared path along the East West Corridor linking Millburn Rd. East/West and back down to Beaver Dam Rd.; that there's another .8 miles of trail paths linking up to the central open spaces and 14 miles of sidewalks; that the residents can take walks on a one mile loop or up to a five mile loop or any other route of their choice; that there will be active play areas for varying ages of kids, unorganized play areas so it could be a wiffle ball field one day and lacrosse another; that there will be several viewing pavilions spread throughout the community, some place to go relax and view and enjoy nature; that a contemplation feature or art feature are going to be included somewhere within the community to provide some additional activities; that the coastal plain meadows intent is to provide natural plants throughout the community; that they want to put various things in meadow condition to help lower the maintenance and allow insects and ecology to grow and work together; that they want to link all these different wetlands together and then put a nature path through the forest to minimize tree disturbance by weaving it through; that the 2nd waiver we had asked for was regarding a grading plan, during the creation of Ordinance 2489 or the Grading and Drainage Ordinance; that the ordinance did not address the need for a grading plan during preliminary plan review as one of the code requirements,

nor did it describe the type of grading plan that's required; that we don't have the appropriate information to do the grading plan at that point because we don't have stormwater management numbers, we don't have storm pipes designed, we don't sewer pipes designed; that we've requested to submit bulk grading plans during the construction document approval process that will be reviewed and approved as part of the County Engineering Review; that we will be able to follow the natural contours of the natural drainage feature of the property; that there will be some recontouring but not a significant amount of Earth moving to achieve the grading to meet all the various requirements of Sussex County, DNREC Center stormwater regulations and DelDOT because they will all be reviewing parts of the drain with Mulberry Knoll Rd. extended and Route 9, Beaver Dam Rd.; that a portion of the major subdivision is located in excellent recharge area; that based on preliminary calculations and conservative calculations, we found that the impervious area may be around 38%, just above the requirement where nothing is required to be done per Chapter 89; that the impervious area will be verified during the design and the information required to demonstrate per Chapter 89 will be submitted to the engineering department for the review; that the commercial area does not require a site plan as part of rezoning application; that the subdivision includes over 166 acres of open space, approximately 81% of the wooded area will be preserved, a permanent buffer, excluding road frontages, will consist of a minimum planted or existing woodland width of 30 feet, water will be provided by Tidewater, sewer will be provided by Sussex County, the subdivision will meet sediment stormwater regulations, sidewalks and shared use paths will be located throughout the community and the project is located within the Henlopen Transportation Improvement District; that we identified the wetlands in the property as delineated by our office, we identified the woodland areas within the site and confirmed by Watershed Eco, we identified critical roadways, the first being Mulberry Knoll Rd. extended as stated by DelDOT through their study, we identified East/West roadway linking Mulberry Knoll Rd. to Beaver Dam Rd. and Route 9 with access points that would be preferred by DelDOT as they align with existing entrances on the opposite side of the road to create four way intersections; that under a cluster subdivision it is required to provide 30% of open space and with the 379 acres plus or minus, it would require 113.71 acres of land where we are providing 166.5 acres of land or 44%; that for this project, we chose the western portion which contains wetlands, woodlands and lands of conservation easement; it is contiguous and provides wildlife corridors linking the wooded area at The Reserves at Lewes Landing to the isolated wetlands then the wooded area and agriculture easement and on to additional wetlands and active open space; that the code allows a connection via one route crossing and thus connect; that the acres of the first area is 46.30 acres, which is 40% of the required 113.71 acres of open space and 27.80% of the proposed 166.5 acres of open space; that when including the second area, the connected open space is 63.60 acres, which is 55.93% of the required open space and 38.20% of the proposed open space; that one concern is the setbacks and buffering between Lewes Crossing, The Willows at Northstar; that the affordable home community provides a 30 foot wide forested buffer and when combined with the existing 30-foot buffer of Lewes Crossing results in a 60 foot wide forested buffer; that the building height for Willows at Northstar will be less than 42 feet with a setback of 50 feet is required; that the building close to Lewes Crossing will be a minimum of 100 feet from the shared property line with Lewes Crossing.

Mr. David Hutt stated that in reference to the C/Z 2025 application, the C1 General Commercial District across the street in the vineyards is consistent with the comprehensive plan and the zoning map for those parcels aligning and to stay within the character of the area; that there's a reference to 96,118 square feet of commercial space proposed; that if tenants or purchasers of that space want to construct a commercial business, they would be able to submit a site plan and then meet all of the various requirements, of

Chapter 89 or parking; that it would be considered by the Planning and Zoning staff and then go through the site plan review process for the County; that the 96,118 square feet of commercial space is the amount of commercial that was forecasted by DelDOT as part of the Henlopen. TID; that with 96,118 square feet of commercial area, when you look at the various components of the Sussex County Zoning Code, the only zoning classification that presently allows for that square footage of commercial area is the C3 zoning district; that the square footage proposed, being the land use forecast and recognizing the existing C1 across the property C3 is the most similar to the C1 zoning district which is the reason for the C3; that C/Z 2026 for 7.8 acres to be zoned as MR Medium Density Residential coordinates with the C/U 2499 seeking 94 affordable multifamily housing units; that this site was selected because of the multifamily uses that exist in The Vineyards and because of the wooded area that buffers a significant portion of the Lewes Crossing property and homes from that site; that multifamily dwellings are the conditional use within the MR Zoning District and in the code a good description of the multifamily conditional use states that these uses are generally of a public or semipublic character and are essential and desirable for the general convenience and welfare; that affordable housing is of a public or semipublic character and essential and desirable for the county; that the purpose of the MR Zoning District is to provide for medium density residential development in areas which are or expected to become generally urban in character, which describes Route 9; that there are apartments and condominiums directly across the street in The Vineyards and this demonstrates how these units integrate into the surrounding zoning and are compatible with the area uses; that medium and higher density is described as 4 to 12 units per acre with other considerations such as, there is central water and sewer, it's near a significant number of commercial uses and employment centers and it's keeping with the character of the area; that it is situated along a main road or at or near a major intersection and is there adequate level of service.

Mr. David Holden, spoke on behalf of the affordable housing aspect of the application; that the company's business portfolio includes affordable housing, low income, housing, luxury housing and senior housing in Delaware, Maryland, Pennsylvania and New Jersey; that company includes a development arm, a construction arm and a management company and they've built over \$100 billion worth of developments and we managed about 8000 units; that the nearest development to the Willows is in Millsboro, called Foster Commons, and that opened last year including 60 units of and similar to what we're what we're proposing; that The Willows will go through two phases that's driven by funding that's available to build affordable housing; that it's administered by the Delaware State Housing Authority and the statewide competitive program and basically the way that the funding is allocated, the project is broken it into the two phases; that The Willows will include a mix of 1,2 and three bedroom units, approximately 700 square feet for the ones 850 for the twos, and 1000 for the threes in the three story; that the buildings that have been mentioned the income levels are households earning between \$34,000 and \$68,000 annually and that's driven by the Sussex County median and incomes; that the rents will range between \$700.00 and \$1200 a month, not including utilities and will have full time staff, amenities that include a community room or clubhouse that will have a kitchenette and activity program that will have staff to coordinate programming for the residents; that there will be a resiliency center as a priority for the episodes where we've lost power or had flooding and it would be available to the residents of the Willows and beyond; that the units will all have Energy Star washer and dryers, an outdoor space either a porch or a patio and the ground floor units will all be handicapped accessible; that there is a letter from Sussex County Community Development and Housing identifying the need for affordable housing as well as the Neighborhood Good Partners, which is based in Dover at the statewide organization that finances and advocates for affordable housing throughout the State of Delaware; that currently there is

659 families on the waiting list for the affordable housing units in Millsboro, which shows they are in high demand.

Mr. David Hutt stated that Subdivision 2023-14 is to fill in the area in ways that are similar to the adjacent properties: that where there were single family communities on AR-1 land the goal is to be consistent with that; that all of the various communities in the area are either single family, multifamily or a mixture of both; that The Vineyards has a density of 11.88 units per acre, consistent with the MR zoning classification, similar to the 11.9 units per acre that's proposed for the Willow at Northstar, on the first side of Beaver Dam Rd. it's 2.17 units per acre, on the other side, it's 2.15 units per acre; that is consistent with the two units an acre that's proposed for Northstar; that on the opposite side of Lewes Crossing is an Henlopen Landing that's 2.63 units per acre; that Gosling Creek purchase is 1.25 units per acre, Coastal Club is 1.63 units per acre. The Reserves at Lewes Landing is 0.95 units per acre; that Sussex West is 3.51 units per acre, Sussex East is 4.59 units per acre and Seaspray Village is 2.39 units per acre; that it follows the consistency of 2 units per acre for the Northstar Subdivision and the purposeful design to putting the more intense C3 and higher density along a major arterial roadways; that the homes and amenities that are clustered on the most environmentally portioned, environmentally appropriate portions of the. It also results in improvements to the property of that avoid wetlands and the cluster subdivision design. As you saw on some of those maps, creates conservation areas around wetlands with setbacks in areas greater than those required by the Sussex County Code; that the cluster subdivision process includes extensive tree preservation by preserving almost 23 acres of existing woodlands or 81% of the trees on the property with approximately 166 acres of land and open space, or approximately 44% of the site; that exceeds the 30% required under the ordinance and exceeds the open space under a standard subdivision; that the design utilizes the existing topography for stormwater management and the cluster subdivision design allows for the open space to be integrated into the community with no back-to-back lots; that the project took resources, which have specific setbacks per Section 115-193, the plan has 9.86 acres of additional land outside of what's required under the Sussex County Code to further protect those environmental areas; that these conservation areas that are proposed as part of the resource buffer management plan become part of the restrictive covenants; that they become the responsibility of the future Property Owners Association to maintain and manage in keeping with the Sussex County codes requirements; that DelDOT sent an SFR response that stated "The intent of the TID is to plan comprehensively and thereby to enable both land development and the transportation improvements needed to support it for residential and nonresidential developments that are consistent with the land use and transportation plan developed for the TID. The applicant is required to pay a fee per dwelling unit and a fee per square foot of nonresidential space in lieu of doing a TIS and making offsite improvements in accordance therewith. The proposed development is consistent with the land use transportation plan. Therefore, the developer will be required to pay the TID fees"; that the developer is proffering that they would handle the construction of the first third of Mulberry Knoll Rd. extended; that the impact of interconnection with Lewes Crossing was discussed and the first set of preliminary subdivision plans that were filed had full interconnection proposed at Oakley St.; that one of the first meetings with the members of the board from Lewes Crossing identified a concern was that point of interconnection; that Northstar agreed that the community could tell us what it wanted to occur at that location; that the community conducted a vote and informed us that the Community did not want any interconnectivity between that portion of Lewes Crossing and the Northstar community; that the revised preliminary subdivision plan has been modified to remove that point of interconnection; that a benefit for the Lewes Crossing is that point of interconnection would have gone through a wooded

area of the property and now more woods remain in that area; that the effect on schools, public buildings and community facilities is often questioned and Northstar put together projections based on Ersi data as well as Census Bureau data, and Northstar retained the Sage Policy group to estimate the number of pupils for the Cape Henlopen High school district that would be generated by Northstar; that Sage Policy Group background states that they have done demographic analysis for Baltimore County public schools and Columbus, OH, City Schools; that they are familiar with estimating those numbers, and that's what its expertise is; that the demographic analysis undertaken by SAGE is that the single family homes and the affordable homes have different outcomes with respect to the number of children that would be contributed or added into the Cape Henlopen school district; that the estimate of school age children from 758 single family homes is 47 school age children as an estimate; that the estimate of school age children from the 94 affordable homes is 32 school aged children with a total of 79 school aged children, 40% of those children coming from the affordable housing units that are in the multifamily conditional use application; that that community opposition has historically prevented additional affordable housing from being built in Sussex County, particularly in the coastal areas where there are few affordable housing options but highly proficient schools, it's a description of the Cape Henlopen School District, it qualifies as a highly proficient school; that this affordable housing opportunity provides access to this highly proficient school for those students; that the Sage Policy group used the city of Lewes' average household size of for the analysis, rather than the statewide 2020 Census Bureau data that this was done by design to more accurately reflect the anticipated community of purchasers that would exist within Northstar; that there will be a number of second home buyers, seasonal home purchasers and many retirees, basically 1.99 people in a home are largely a retiree community; that in addition to considering those demographics, tax revenues were estimated using the values of local homes in the area; that tax revenues were conservatively calculated to add more than \$1.25 million to the Cape Henlopen School District and Sussex Technical High School; that tax bills also provide support to community facilities like the library system and those estimates are conservative as Sussex County is currently in a reassessment process and it is anticipated that those assessment rates and amounts may increase; that Northstar met with the Lewes Fire Department to determine what its needs are and they need more volunteers, hoping many people and residents from Northstar will volunteer for the Lewes Fire Department; that the other significant need is money for equipment; that Northstar is proffering an initial contribution to the Lewes Fire Department of \$150,000, paid in increments of \$50,000 over the first three years of the project; that, there'd be a \$500 contribution to the Lewes Fire Department for each of the single family home building permit that is issued for the project and when the first building permit is issued in the commercial area, there'd be \$150,000 contribution to the Lewes Fire department; that would be \$679,000 to the Lewes Fire Department; that the conditions for change through C/U 2499 are Condition A states that the maximum number of units shall not exceed 94, Condition B is how the county can enforce the affordable housing component of the project and it states the multifamily units shall be part of an affordable housing program, whether through a federal, state or county Low Income Housing Tax Program; that Condition J states that a 30 foot landscape buffer shall be installed along the perimeter of the property adjacent to Lewes Crossing to complement their existing 30 foot buffer, creating a 60 foot buffer; that Condition LL is when the amenities in the Community have to be constructed and pursuant to Section 115-194.5, where it's a 60% requirement; that the code says about 60% of the total residential building permits and for this project the amenities will be completed with the construction of the second building, that accomplishes that 60% again; that Condition K. Condition K is how the Planning Commission has started to refer to amenities by

minimum square footage of size and surface areas and pools; that the amenities in a particular phase shall be constructed and open to use by residents of the development on or before the issuance of the residential building permit, representing 60% of the total residential building permits for that phase of the development; that both pools and clubhouses shall be constructed and open to use by the residents of the development on or before the issuance of the residential building permit representing 60% of the total residential building permits for the entirety of the subdivision; that we're trying to make sure is that there's never a time you couldn't build one of the phases that didn't have a pool; that Condition N states that the conservation areas on the preliminary site plan would reference one of the waivers; that the request is for the signage required around resource buffers or their perimeter to be at 200 foot intervals rather than 100 foot intervals because what's proposed with these conservation areas is actually outside of the resource buffers that are required; that the conservation area would have signage at 200 foot intervals, the resource buffer would have signage at 100 foot intervals and the perimeter buffer requires signage at 300 foot intervals; that Northstar with the size of the perimeters and those other issues, would have a substantial amount of signage and what's proposed is to eliminate the signage; that they will have it around the conservation area, which again is outside of that perimeter buffer area; that Condition Q is the proffer by the applicant regarding contributions to the Lewes Fire Department; that Condition S is the second waiver which is the final site plan shall include a grading plan for each phase; that Comprehensive Plan Goal, 8.2 states that the County should ensure that a diversity of housing opportunities are available to meet the needs of residents of different ages, income levels, abilities, national origins and household configurations; that Objective 8.2 states that the county should affirmatively further affordable and fair housing opportunities in the county to better accommodate the housing needs for all residents; that the first strategy states that the county should explore ways for private developers to provide more multifamily and affordable housing opportunities like what's proposed with the Northstar project; that Objective 8.2.1 in the comprehensive plan talks about these objectives and goals of the County with respect to housing; that Objective 8.2.3 states that the County should facilitate and promote land use policies that enable an increase in supply of affordable housing; that the areas with adequate infrastructure under that objective states that it is to promote increasing affordable housing options, including the supply of rental units near employment centers, just as exists here; that this application demonstrates compliance and consistency with the comprehensive plan; that this plan is consistent with the state strategies, DelDOT's traffic agreement with the county and the Henlopen TID, the comprehensive plan and the zoning for properties across the street; that it is consistent with adjacent uses and density and it fills in missing pedestrian and vehicular linkages, providing 19.4 miles of new walkways in the Northstar project; that when you connect that with the existing shared use paths and multimodal paths this links those up to create more than 21 miles of walkways in this area; that it creates the first third of the extension of Mulberry Knoll Rd. much quicker than it would be accomplished by DelDOT and it's consistent with the county's affordable housing goals in a location where it's desperately needed.

Mr. Collins asked about the phasing of the building and the coordination between the developer and DelDOT to create Mulberry Knoll Rd along with a timeline of construction.

Mr. Hutt stated that if these applications were to be acted upon then it would begin a process with DelDOT to coordinate timeframes.

Mr. Lardner stated that there's the capital transportation program process before that process begins; that there's a ranking system where every two years, Delaware ranks the projects and has these rankings come into play, so that as these TID projects come online ranks change everything; that there is no

definitive timeline and there's going to be times where we may be headed down to certain applications depending where they are with funding, as some projects are more expensive than others and they have their own requirements to meet from a fiscal responsibility; that they have their process to go through and it kind of works together, but we may get ahead of them a little bit, but that's inevitable for district this big with the 2045 build out structure.

Mr. Collins asked if they would need to come back for individual site plan approvals for each phase of the project to ensure that the phases are aligning with the development.

Mr. Lardner stated that it would not be a public hearing, but a new payment plan with conditional approval, TIS notes and phasing notes with the final subdivision plan approval.

Mr. Robinson stated that you stated you can build Mulberry Knoll Rd. quicker and faster than DelDOT, but it's the third phase, but we're not sure when that phase is going to get done and there's nothing to guarantee or confirm that that would happen; that what if you start phase three and sit on it, then you move to Phase 4, 5 6 or 7; that how does the County and the Commission confirm your statements and proffers that you can do it faster and quicker.

Mr. Lardner stated that a separate phase is necessary because that Mulberry Knoll Rd. is DelDOT review approval only; that it is a separate parcel and it has to get deed transfer; that there is a review and approval process, their bonding process, their inspection agreement; that is why it's a separate phase and phasing can be constructed out of order; that when phase one comes back through for approval, there will be some type of phasing plan that will be agreed upon with DelDOT because they are going to have the same concern; that there will be a code planning period and in phase one, phasing notes have to be agreed upon, because you can't record phase one without having everything else already pre coordinated; that from a timing standpoint, phase one would not get approved without some type of agreement that this has to happen by X and that has to happen by Y&Z and that will be the check that will be the agreed upon improvements at that time.

Mr. Robinson stated that the County doesn't have any voice in that discussion with DelDOT at that point and you're putting emphasis on Mulberry Knoll Rd. being constructed in a timely fashion in support of your request for the County to approve this development, yet the discussion you just described, the County doesn't have a voice; that you would be saying this is what's been agreed upon with DelDOT and we have to live with it; that is there a condition involved with the timing or thresholds that can be made from the County's point of view with regard to the construction of Mulberry Knoll Road.

Ms. Wingate stated that DelDOT has held building permits before and I would like to see that happen for Mulberry Knoll Rd.; that the DelDOT entrance for the community is going to be the same standards and all the same procedures they have to go through to get that community done; that I would like to see Mulberry Knoll Road be a priority after speaking to the Chief of Lewes Fire Department.

Mr. Lardner stated that DelDOT has an interesting process going through review, construction, inspection and acceptance and if it takes two years to build the road and get it accepted, that's two years and we hit a threshold and we're done for two years and that's the concern; that issuing some type of condition that addresses this concern; that I propose something like, at the 39th permit if the road is not completed then do not issue any more permits; that maybe Mr. White House or some of

the staff could be part of this conversations is to represent the County, but I think you understand my hesitation of dealing with an unknown process we have not done before and I don't want to just define those type of things.

Chairman Wheatley stated that not only is the County a stakeholder in that conversation, we have the ability to place conditions and I suspect there will be a condition that at least addresses this issue, it may not be completely definitive, but it is going to give us some ability to affect the outcome; that that's a major piece of what you're what you're planning to do and everybody wants it; that DelDOT would be aware and understand that, and perhaps we could ask them to expedite their processing in order to accommodate, you know what everyone agrees is something that needs to happen.

Ms. Wingate stated that per the affordable housing letter from Brandy Nauman phase one is slotted to have 46 rental housing units and not the full 94 and that they will all be affordable housing not just the ones listed in phase one; that there is concern about the proposed number of students that they have projected as she spoke with the Director of Operations for the Cape Henlopen School District and they are at capacity; that when you reach 85% for the State of Delaware, that is their capacity currently, all five of the elementary schools, two of the three middle schools and the high school are operating at capacity.

Mr. Mears stated that for the record, affordable housing is not Section 8; that the public sometimes perceives it as that and just to ensure them that there is a difference; that there is concern about pedestrian safety and crossing of the road being that there is communities on both sides of the road and that there is a plan in place with DelDOT to ensure that they are safely crossing.

Mr. Robertson stated that he wanted to make it clear for the record that Sussex County does not discriminate against any types of housing, whether it's Section 8 with Sussex County's residential housing program, affordable housing of any type, it doesn't matter what type of housing it is.

Mr. Robertson stated that there was a lot of statement and emphasis on the affordable housing aspect of the project and then Condition B was proffered and the question is if they're all going to be affordable housing units, but the condition is the multifamily units shall be part of an affordable housing program, whether through a federal, state or county program; that there's a lot of reporting, accountability monitoring just to make sure that what is proffered and what's approved with our projects; that CRP projects get density bumps and that it's monitored; that I would suggest that you provide more clarity on the type of program and/or the duration of the program, when you get to County Council, because that that's a significant aspect; that we've had affordable housing projects that weren't CRP projects, but they also had substantial reporting requirements to make sure that they remain that way; that questions about the waivers have come up and I would ask that Mr. Medlarz, who is a retired Sussex County engineer and he now works with the county on a consultant basis, come to the podium and speak about them and the new resource buffer and the bulk grading plan waiver requirements.

Mr. Medlarz stated that with the drainage assessment report we reviewed the draft and commented on it and our comments were addressed; that we reviewed the final drainage assessment report and we find it to be in compliance with the current requirements; that we also looked at the buffer maintenance side and that is in compliance; that there was a general requirement of the preliminary plan submission which says submit a grading plan; that when we created the three tier grading plan requirements from bulk to detail to lot certification, which essentially is lot lines and grades

certification, we did not see that reference in the preliminary plans of metals; that we should seek a quick clarification to clarify that requirement; that the bulk grading plan would not be an appropriate tool to require for the preliminary plan; that when I reviewed the plan the engineering department is on record that “A”, it's an oversight from 2017 and “B” that the bulk grading plan is not the appropriate one and it's not asked for, it says a grading plan, so we need to tie it into our own three tier grading system; that for the record, that's what the engineering department and the Planning department agree upon; that the preferred way to show this at this level would be detailed existing grade, so you can gauge the impact of certain roadways, where they cross, where they get cut, where they have fields; that the bulk grading plan has very specific requirements, very detailed requirements in terms of what has to be shown on them and that gets submitted in the first engineering review; that if you have a multi-phase project you would get the bulk grading plan for the entire site and the detailed grading plan for phase one; that we have a common dashboard with DelDOT which tracks DelDOT off site and entrance plan requirements and permit requirements based on building permits; that Mulberry Knoll Rd. in all construction could be similar and could be tracked on our common dashboard; that for example, if the Commission adds a particular threshold we could track that on the common dashboard and the dashboard has in the past prevented building permits from being issued and we have checks and balances in place between the Department of Transportation and the County; that it's real time, as a building permit is issued, the dashboard is updated on both sides.

The Commission noted that they would not be waiving the bulk grading plan requirements, just the timing of what happens and at the same time, notwithstanding that, there's still a topographical requirement as part of a Preliminary Site Plan.

Recess

Mr. Joe Pika, a board member of Sussex Preservation Coalition, spoke in opposition to the application; that SPC is a grassroots organization of about 4000 supporters and followers with about 20 groups that are associated allies to us and we are committed to a number of issues, such as conserving natural resources, balancing growth with environmental sustainability and maintaining livable communities; that we have gone over the materials about this set of applications, we've looked at the county and state documents, the applicant file, we've had conversations with the applicants as well as state and county officials; that the developers have done their homework, they're very thorough, they're very professional and among the people that we spoke to David Hutt has been especially forthcoming in inviting us for a briefing about the development; that he's attended 6 months' worth of our public meetings where we have discussed Northstar; that because this is so complex, one of our important requests to the Commission is that you leave the record open for some period of time after today; that the discussion about school enrollment, I have an interest in that and I contacted Jason Hale and he did not have the opportunity to review the study that was completed by the applicant; that Jason's response was that he felt their projections for the overall population of the development when built out, were low and he initially gave an estimate of school age population five times greater than the one that the specialist the consultant provided; that the General Assembly delegated responsibility to the counties to preserve, promote and improve the quality of life on public health, safety and the general welfare; that county officials determine what is to be built and when; that as part of that decision process, making recommendations to the County Council, you are part of the process that determines the most appropriate use of land, water, and resources consistent with the public interest; that we have two principal concerns, one is traffic and the impact of the traffic generated by Northstar in the area on the health, safety and well-being of the current residents; that we are concerned about some design

flaws particularly about safety; that we are not challenging that there will be development at that location, it is not going to remain a cornfield; that our position is not to oppose any development, all development, that's not our argument; that the key issues for us is the level and volume of traffic on Route 9, Beaver Dam Rd. and we recognize that the new construction of the Mulberry Knoll extension is significant and will have impact on traffic and the access and well-being of residents and of other public services in the area; that the 2023 data that is available on DelDOT's interactive traffic counts states that on Route 9, the average annual daily traffic count is more than 17,000 vehicles and it jumps by at least 10%, possibly more, during the summer; that on Beaver Dam, the traffic is roughly 3710, so these are data that are a matter of a few months, perhaps a year; that Northstar is projected to generate 13,359 vehicle trips daily, which suggests that without improvements; that the context of the TID that allows for improvements, for coordination, volume and improvements; that DelDOT concluded that this project has a major impact to local area roadways; that as part of a memo that was sent to Mr. Whitehouse dated November 29, 2023; that the question is how well can that be accommodated? For how long will it be accommodated? And when will the improvements come along that make that accommodation more feasible?; that the impact of Northstar is not alone in terms of what will happen on Route 9 and Beaver Dam, Cool Springs impact would be primarily on Route 9 and other developments will have an impact on Beaver Dam; that the other unknown is the impact of the Mulberry Knoll extension; that it is intended to relieve the pressure on Route 1 and traffic would move from Route 24 on to Route 1 and then potentially want to go on to Route 9 will instead be able to come up the Mulberry Knoll extension; that the importance of Mulberry Knoll is for the development, but also will add an influx of traffic and no one knows how much; that they want to recommend that, 1.) Pause any decisions on Northstar until the completion of a new study from DelDOT on Route 9, 2.) NorthStar's residential and commercial construction needs to be coordinated with the operability of the area road improvements, on Route 9 and the widening of Beaver Dam Rd., 3.) the County should consider the unintended consequences to the TID and the impact on the general health, safety and welfare of residents and 4.) traffic impacts need to be viewed holistically as what is happening in general and what can be expected on that roadway; that there are design questions concerning open space, are the residents of the affordable housing going to be considered as part of the Northstar community, why this project isn't being treated as a RPC, the adverse impact on neighboring communities and safety issues for residents as the development straddles to busy roadways; that Commission should require Northstar to resubmit its application as an RPC and we recognize that that would delay the construction of the affordable Community Housing, but suggest that application be approved and move forward; that the cluster subdivision and the C3 applications be put back into the regular queue rather than to be expedited; that Northstar should be required to meet the standards for pedestrian and cyclist safety, which may happen when they meet with DelDOT, but we want a commitment; that the conditions that protect the adjacent properties in Lewes Crossing and the natural environment; that Northstar meet the letter of Open Space ordinance and we contest the C3 zoning as the appropriate for the commercial area; that it should more appropriately be B1 or C1.

Mr. Rich Barrasso, co-founder of SARG, spoke in opposition to the application in regards to transportation/traffic around the Northstar project; that they want to discuss the Henlopen TID, the Capital Transportation Program (CTP) and the Route 9/SR 16 corridor study; that there is confusion on why the 2018 (2021-2026 CTP) is used in relation to the Northstar project and not a newer one since 2 more have been completed; that the level of service that exists today for intersections in the proposed area is better, worse or the same as when this study was done; that in the coordination

manual Section 2.41, it state a Transportation Improvement District is a geographic area defined for the purpose of securing required improvements; that the first section in the manual with regards to transportation improvement districts refers to what is required as elements of the of the TID; that the first required element is that a land use, transportation plan or an LUTP be completed for the TID; that it is a forecast identifying the improvements needed to bring all the roads and other transparent facilities in the TID to applicable state or local standards; that the LUTP should consider what is the existing land use of a specific date?; that Development approved and/or recorded but not yet built as of that date. The development expected or in the land development process, but not approved as of that date and then develop and not proposed but projected; that the manual references the LUTP, is it the same thing that was referenced earlier relative to the 2022 analysis of the TID, because there was no reference by the developer or by DelDOT with regards to this requirement of an LUTP; that the LUTP speak to service standards as outlined in the manual; that it states that service standards must be established for the TID and the creation of the LUTP to specify what is considered adequate transportation infrastructure; that if you use the LUTP to update the TID, since it's five years since it was implemented, have you identified what the levels of standards are today or at the time that it was updated; that it establishes a baseline of what the level of standards at any intersection in the impact area; that the manual refers to a monitoring program that states it may be appropriate to make transportation improvements gradually overtime; that the TID agreement should include a program for monitoring conditions in the TID, involve tracking land development, transportation improvements, and the need for transportation improvements in the TID, and it will provide information necessary for updates of the LUTP; that the manual talks of a build out analysis and it states while it is possible to create a TID considering only a target horizon, examination of conditions when all land in the TID is considered to be fully developed can often be useful in the planning process; that if build out analysis is to be done, the TID agreement should specify what degree of development is considered to be the build out and what use is it to be made of in the results of the analysis; that does the LUTP have all the elements needed; that the TID agreement between DelDOT, the County and the developer states that in exchange for following the payment schedule, homes and commercial space constructed and the developer would get something in exchange; that two very important pieces of exchange were stated was that the developer would not be required to submit a TIS and the developer would not be required to phase, so construction could start immediately; that with a TIS there would be a queuing analysis and a safety analysis and because they are located within the TID none of that would be required by the County; that in terms of the Capital Transportation Program (CTP), what is the infrastructure plan for this area; that there are over 100 different projects that are in the DelDOT CTP program and Northstar is ranked #7 with the US9 widening Ward Ave. to old Mine Rd.; that preliminary engineering Right of Way is planned between 2025 and 2026 with construction to begin in 2027 and then completed around 2030; that Mulberry Knoll Rd. Cedar Grove Rd. To US 9. Old Vine and Vineyards extension, the preliminary engineering doesn't even start until 2028, with no construction on that based on the CTP until sometime into the early 2030s; that Beaver Dam Rd. widening SR.12 Farm Rd. has no construction, based on its rank at 88 in the 2025-2030 CTP, until after fiscal 2030; that the analysis says there is no phasing to be done which means 5-8 years of "D" or less level of service; that a level of service of "D" means barely acceptable; that DelDOT should state what phasing is appropriate for the subject land use application and clearly state those phasing requirements to Sussex County so that Sussex County can clearly incorporate them into its various approvals as appropriate; that the County cannot act alone on requiring phasing they would need DelDOT to say phasing is appropriate and allow the County to incorporate phasing as part of

the approval process; that the TID places restrictions on the ability of the County to require phasing and places restrictions in terms of how much of an impact study can be required; that the County in cooperation and guidance of DelDOT, can determine if phasing is appropriate; that the US9 SR16 Coastal Quarter study initiated in 2019 with the final report completed last month, which focused on identifying transportation solutions for East-West routes in Sussex County, including SR.16 US.9, 113 and SR.1; that these roadways are East-West corridors in the northern part of Sussex County that are currently congested or at risk for congestion based on anticipated growth; that this study was initiated in 2019 and was finalized in 2024 and is available to view on the State website; that there were three key recommendations, but the one that is relevant to this application, which is accommodating traffic growth on US.9; that US 9/SR.5 is the most congested signal lighted intersection in the planning area and is forecast to be at or near capacity by 2050 without improvements; that when DelDOT makes its projections they set the timeline into 2045; that their assumption on terms of traffic growth as stated in the study is 0.6% a year; that at 0.6% a year, you could be safe until 2045, but why would we use an assumption of 0.6% growth when we have information that traffic is increasing more than the 0.6%; that if we have current active applications that in terms of the impact, the threshold for dualizing a highway in Delaware is 20,000 vehicle trips a day and we're at 17 right now with current conditions and add 13,000 more; that DelDOT provided information through a software system called Synchro Delay Data; that there is data on US.9/SR.30, Sweetbriar/US9, Sweetbriar/Dairy Farm, Airport Rd/Park Ave./SR.5, Hudson and Fisher, but no sync data on Beaver Dam and the new roundabout that was just completed, Beaver Dam Road and Dairy Farm Road and the US.9 at Old Vine; that that's the type of information that a TIS would provide; that the Synchro Delay Data will be helpful in terms of land use on Route 9, but it's not the complete pick; that some specific recommendations have the likelihood to potentially require. Sussex County Land use code changes in the future; that one is widening US9 and at SR.5; that the study states it's near impossible to dualize Route 9 at the intersection of SR5 and US9; that DelDOT has real concerns about the ability to dualize Route 9 at that intersection, which includes a cemetery and it will have an impact on anything East or West of that intersection; that a second recommendation is to conduct an analysis to determine appropriate set back requirements along US9 between. Georgetown and SR1; that currently building setbacks along US 9 vary based on the zoning of the parcel, with a minimum front yard setbacks of 25 feet up to 60 feet; that the study is going to look at those setbacks relative to where they may widen and are we approving developments whose setbacks based on current codes are inappropriate; that the state is going to review what the setbacks should be based on their view and then come back to sizes can say what possibly can you do with regards to your zoning codes; that the third recommendation is to explore code revisions to reduce the extent to which parking and stormwater facilities are permitted in the front yard setback; that current subdivisions have these wet ponds that are too close to the road and in terms of the potential for widening roads going forward, there's likely to be some action coming down from these recommendations; that if commercial parking lots are too close to the road, there's probably going to be more stringent requirements for those going forward too; that our recommendation is to pause any decisions on the Northstar development until the completion of the US9 2024-2025 Coastal Quarter study; that the next 12 months they're going to be looking at US9 based on the original study; that NorthStar's residential commercial construction must be coordinated with completion and operability of barrier road improvements in the CTP; that any type of phasing puts a tremendous burden on the developer and the developers financiers, but not doing it puts an even more greater burden on the public.

Ms. Jill Hicks spoke on behalf of Sussex Preservation Coalition in opposition to the application; that she was entering into record a petition with 827 signatures in opposition to the application; that the letter from DelDOT states that they approve improvements needed for the area around the application but not the traffic impact over the entire corridor or roadway; that she going to walk through observations and recommendations regarding the application, the remarkable safety risks posed by the plan, why the plan does not meet superior design standards, the impact of the surrounding communities and the overkill of the C3 zoning request; that this plan asked us, scribed by its own application, as a mixed-use community should have been therefore submitted and reviewed as an RPC; that the staff review letter recommend that the applicant consider submittal of this project as a residential plan community, RPC, rather than a series of four separate applications; that the applicants response was this applicant considered and appreciated staff's recommendation, but intends to leave the project as four separate applications, with no reason given no explanation, not even a counter reply; that the developer applies as a Mixed-use Community, rides the coattails of the affordable housing units to expedite the so-called mixed-use project, and then after it receives the expedited status, separates the project into four separate pieces; that the affordable housing that was expedited in the first place will have no access to the amenities of the community and cannot be a part of the HOA; that it's a bait and switch, the ploy of offering something desirable to gain favor then thwarting expectations; that The Willows at Northstar is a part of the community by name only; that The Willows are segregated from the community, geographically and by conditions of exclusion; that what is the plan if the states workforce housing plan falls through? Does the entire project continue? Where does the connection begin? And what is the status of the funding after initial postponement of the P&Z hearing in March, where deadlines missed, according to a letter between developer and Ingerman dated December 4th, part of the funding is proposed to be accomplished through low income housing tax credits from the Delaware State Housing Authority and the applications are due in April 2024, which has come and gone; that having to wait a year or more to be able to seek the low income housing tax credits from the Delaware State Housing Authority would be a considerable setback in the timing of opening the doors to these proposed apartments for low and moderate income households in need of affordable housing; that will The Willows at Northstar be funded and built first, as promised by the developer? And what is the funding status?; that SPC recommends two options regarding this dilemma, first, is to expedite the entire project as an RPC, as requested by planning and zoning staff to provide a holistic approach to the mixed-use project as it should be a level playing field for all developers and second option would be to proceed with separate applications as filed, expedite the MR application for the affordable housing, but the cluster subdivision and the C3 go back into the queue 14 to 17 months after the filing date of December 4th to level the playing field for all developers; that it would allow The Willows at Northstar, to be expedited without precedent and the cluster subdivision and commercial projects could proceed regardless of securing affordable housing from the state program or any unforeseen circumstances; that there are remarkable safety concerns with this plan, and how can its design be considered superior if it's unsafe for its residents, the surrounding communities and/or the county at large?; that one main selling point and characteristic of a mixed-use community and RPC or the upcoming MPZ is that it is pedestrian and bike friendly; that it is supposed to promote community and belonging among its residents, divided into 5 fragments by two major state thoroughfares, Northstar is none of these; that this cluster subdivision is riddled with hazards, speed on Mulberry Knoll Rd. today is 50 mph and to believe that drivers will slow down or obey a lower speed limit through Northstar or Mulberry Knoll Rd. extension is unrealistic; that

speed limit on Beaver Dam Rd. which divides Northstar is 45 mph; that Northstar residents will have to cross Beaver Dam Rd. and Mulberry Knoll Rd. extension to reach the amenity centers or the commercial retail space; that not only is speed a factor, but what are the vehicle trip projections for the Mulberry Knoll Rd. extension? That there are no parking spaces shown for the amenity centers, so it is safe to assume that residents are expected to walk, ride bikes, scooters, motorized wheelchairs, etcetera to reach and enjoy these amenity centers; that Planning and Zoning staff noted on page ten of their review letter, please include location, dimensions and purposes of any and all crosswalks and easements to be provided on the plan specifically for the proposed 80 lots to be located on the South side of Beaver Dam Rd.; that there is no traffic light provided to safely cross Mulberry Knoll Rd. extension to reach the amenity center directly across; that the Affordable Housing residents must cross Mulberry Knoll Rd. extension or Lewes Georgetown Highway if they want to get over to The Vineyards to reach commercial retail areas; that pedestrians will undoubtedly cut through the buffer instead of trekking to the light and then cut back to the retail center; that according to the code, a cluster subdivision requires 30% open space, so Northstar must provide 114 acres of open space, and they have 166 acres of open space, and 9% of the site must be contiguous open space or in their case 34 acres; that only one area of this site is large enough for that amount, Open Space A is 46.3 acres; that Open Space A is actually six small fragmented open spaces connected by a perimeter buffer and this space does not meet the intent of the contiguous open space requirement to accept; that 115-25F(3A)(3B) states required open space must be designed to be beneficial to the residents or users of the open space it shall not be constituted of fragmented lands with little open space value. Accordingly, 30% of all required open space shall be located on one contiguous tract of land, except that such open space may be separated by water bodies with a maximum of one street; that the subdivision design appears to be fragmented and a better proposal would be that the parcel on the South side of Beaver Dam Rd. that contains wetlands and juts into Lewes Crossing should have been left for contiguous open space or put into conservation; that perimeter buffers for several lots appear insufficient, BJ Lane buffer is 20 feet, which should be 30 feet to meet cluster subdivision code; that the 30 foot buffer that is owned by Northstar LLC, is that wooded? This is the buffers between Lewes Crossing and Lewes Landing; that when they show the wooded buffers, is that the woods that already exist in Lewes Crossing or is it a 30 foot wooded buffer within that parcel; that security lighting is a concern as it will shine into Lewes Crossing as the parking area for the MR section is on the outside with the buildings in the middle; that a 50-100 foot forested buffer should be required in this area to prevent the lighting from affecting the residents of Lewes Crossing.

Mr. Hutt stated that the reasoning for the expedited application for the low-income housing is that the Ingerman Group applied for the Low-Income Tax Credit Program in the beginning, but due to the difficulty to qualify for those programs with no land use entitlements the opportunity was missed.

Mr. Holden stated that the application was submitted in April, as it's a competitive statewide process and they scored well, but there was no land use approval and they were told to return upon having that, which is the plan with this application.

Mr. Hutt stated that BJ Lane doesn't have a 30-foot perimeter buffer because the code doesn't require a 30-foot buffer in all circumstances in a cluster subdivision and the property owner who abuts this piece of the project submitted a letter of support with just a 20-foot buffer.

Mr. Ralph Patterson, spoke on behalf of the Members of the Cape Henlopen Elks Lodge, in opposition to the application due to the affect that the construction of this development will have on their lodge as the main entrance for Phase I will be about 40ft from their property line; that it is said that there will be a traffic signal placed at that entrance upon completion of construction and that will limit the accessibility of patrons to their location; that currently the closest traffic device is a three way stop sign at Beaver Dam Rd. and Dairy Farm Rd. and during busy times nearly every day, traffic to waiting to pass through that control device, it backs up to our property and to the property of our neighbors; that we are nearly one half mile from that sign and that's with today's traffic, add additional vehicle trips per day and it will only exacerbate the situation; that the bad traffic situation on Beaver Dam Rd. will not be improved by 800 new units and a worst case scenario, DelDOT will actually widen Beaver Dam Rd. in which case we would lose a third of our parking, a very nice sign that we just paid a lot of money for and a flagpole; that if developed they request that a vegetated buffer be put between our property and theirs; that the 30 foot standard should be strictly enforced and a much wider buffer should be considered; that the existing natural buffer to our North should not be taken down; that they are asking for a physical barrier to separate Northstar from our property, a privacy fence constructed and maintained by Northstar with a six foot height minimum should be considered sufficient to screen our property; that we would like to work with the developer and DelDOT to ensure that if Beaver Dam is widened, our parking, flagpole and electronic sign be preserved or relocated at NorthStar's expenses; that we would like to be good neighbors, but the Northstar development, if built, will present real problems for the Cape Henlopen Elks Lodge.

Mr. Johanes Sayer, of Red Mill Pond, spoke in opposition to the application in regards to the concern of the impact it will have on traffic; that he submitted a petition with 212 signatures from residents of his development that stated "We oppose the Northstar development Project 2023-14 as currently proposed, which would be located a short distance east of our community. Our community would be directly affected by the 13,359 daily vehicle trips Northstar is projected to add to area roads. Traffic on Route 9 now regularly backs up West to Minos Conway Rd. from the Route 5 intersection on off season weekdays outside of rush hour. Current plans to dualize Route 9 westward end at Sweetbriar Rd. making that intersection a choke point. We would have to transit to access our community. Area traffic is already often impassable as development would worsen that problem. Route 9 is the major emergency evacuation route westward from the Lewes area. Our community is in evacuation zones, B&D in an emergency, the additional traffic produced by this project would worsen congestion in the evacuation path, which can already be anticipated to be grave, to impassable. Local emergency responder agencies already report that they're understaffed to keep pace with local population growth. The fact that retirees are substantial proportion of new residents and as senior citizens contribute a higher number of calls for service per person compounds this problem. The population growth brought by the 852 residents as proposed by the project can be anticipated to have a similar demographic mix and will further exacerbate the problem. The same problems exist with the availability of health care for the same reasons and with the same expectation of future worsening and impacts from this project. Last, this project would add another projected 210 students to Cape Henlopen School District. That was the number we were working with in a time when the districts are already struggling to pay for infrastructure to support new student arrivals, which are currently increasing every year. Before property development projects are approved, particularly ones of the scale of Northstar, County government and all other stakeholders need to form and implement a practicable plan for limiting the population growth, such projects introduce to stay within the limits of available natural and municipal resources.

Ms. Sarita Hall, spoke on behalf of herself as a member of Coastal Club, in opposition to the application; that there are several questions that they have concerning the project; that DelDOT stated that they did a TID analysis in 2022, but was the potential build out considered into that analysis; that by rezoning this area does it change the impact; that the community is concerned with the water runoff, the idea that cluster subdivisions are in urban communities and they don't want Lewes to become urban and will the community have their property value affected due to the amount of traffic on Beaver Dam Rd.

Fern Goodhart spoke on behalf of herself in opposition to the application in regards to the impact the development will have on traffic and safety; that by adding 10's of thousands of vehicle trips will compound the risk of bicyclist and pedestrians, including bicycle clubs who have to travel in the bike lanes because the trails do not connect continuously; that not only are the roads being affected by the increase in the number of people and developments, but so are the bike trails being overwhelmed.

Mr. Melvin Mousley, owner of Pam Ann Stables, spoke on behalf of himself and his wife in opposition to the application in regards to the buffer separating his property and the Northstar development; that the concern is that the people are going to cross the buffer in order to see the horses and will either get bit or kicked and he will have a lawsuit on hand; that they suggest a 100 foot buffer and leave the existing tree buffer that's real thick and has high growth; that they also want to make a fence around it, like a stockade so you can't climb through it or see through it to make it safe for everybody; that placing no trespassing and do not pet the animals signs may help, but won't guarantee that it will keep people off of his property.

Mr. David Selby spoke on behalf of himself and his family in opposition to the application in regards to the impact the traffic will have on the people of Jimtown Rd and how it will ultimately become a shortcut for people trying to go down to Plantations Rd; that Council should request a traffic study be completed and include Jimtown Rd into it; that before widening the roads to consider the people of Jimtown Rd who have lived there for many years and most of their properties do not comply with the new setback codes and to widen those areas would hurt those families; that when you're putting houses of this magnitude in you're going to have a problem of you don't have as wetlands and somebody's going to be living next to a wetland because where is the water runoff from the ground disturbance going to go because that's now replaced by houses.

Dr. Lynn Carmen spoke on behalf of herself in opposition to the application in regard to life safety and the need for ambulance or immediate medical care being hindered by the volume of traffic; that the rise in the population makes the ability to get a physician near impossible and the number of older people that are within this area requires a lot of medical care, to which we are depleted.

Ms. Marian Utter spoke on behalf of herself in opposition to the application in regard to the idea that how the developers can forgo the TIS by paying a fee and the concern for the wellbeing of people in the area is disregarded.

Ms. spoke on behalf of herself in opposition to the application in regards to the health, safety and wellness of the surrounding communities; that the concern is the evacuation route during the hurricane season which appears to be the East/West corridor of 23/24; that maybe a shoulder for a paramedic to come through, or a cop to stop traffic or if there's an accident, somebody's got to go in a different direction; that the reality is most people just take the shoulder as if it's lane; that I would

like some consideration from the paramedics on the major corridors that we have to use to evacuate when the flooding happens.

Mr. John Miller spoke on behalf of himself in opposition to the application in regard to the traffic impact of such a large development; that all of the commercial development is along Route 1 which causes all of the traffic to push in that direction with nowhere else to go; that the concern of growth happening too fast is something that the County should look into as services for the people are not readily available.

Mr. Dale Sands spoke on behalf of himself in opposition to the application in regard to the possibility of the interconnectivity to Lewes Crossing and to be sure that it was on the record that the members of Lewes Crossing did not want that and that if there was ever an appeal process it was on the record.

Mr. Michael Johnson spoke on behalf of himself in regards to the affordable housing aspect and with it being separated from the rest of the Northstar development and not being considered as members of the Northstar Community; that there is a need for workforce housing, but what I'm hearing is affordable housing; that with workforce housing, if you have a nurse making decent money they probably wouldn't qualify under those guidelines of about \$28,000 to \$68,000; that maybe we need to rethink what that project really is going to be because there definitely is a need in this community for more affordable housing; that with the commercial properties along Route 9, there is concern that Route 9 is becoming another 24 or Route 1; that at what point is it going to be stop and go traffic on there, at what point you going to have people pulling in and out to get in and out of these stores or to get to the stores and what kind of traffic back up and accidents for that going to cost?; that we should designate all of Route 9 as commercial and just rezone both sides of it.

Mr. Dave Green spoke on behalf of himself in regard to the HOA and involvement of them in the affordable housing development; that it would not be feasible for an HOA to maintain that and there would need to be some other management company in charge of that aspect; that are the roads within the development private or public and who is maintaining them.

Mr. Matthew Puhalski spoke on behalf of himself in regard to the impact the development would have on traffic and how the infrastructure cannot handle the influx of people that are coming to the area; that in order to have a development like Northstar, there needs to be preparations done to handle it; that if Northstar was to be approved there would be an entrance to the development directly across from the entrance to Coastal Club in which there is only one way in and one way out of with 700 residents; that add the additional traffic from NorthStar's residents and the contractors, landscapers, etc. and it creates a huge impact of traffic.

Ms. Judy Rose Seibert spoke on behalf of herself in opposition to the application in regard to the traffic and the width of Beaver Dam Rd. specifically along the property line of the Northstar project; that she requests that a condition be put in place that requires the roads to be widened enough to accommodate safety personnel to travel with limited issues and that no building permits be issued until this has been done.

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 2026 Northstar Property, LLC. Motion by Mr. Collins to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 5 - 0.

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

The Commission discussed this application which has been deferred since July 17, 2024.

The Commission discussed the following points in reference to the application:

1. The design and configuration of the proposed “open space” and how it appears to be fragmented in the current plans. Mr. Whitehouse noted that the open space areas were large enough to enable them to be re-configured. For example, lots 221-226 could be reconfigured, along with Road, B, Road, C and Road E to achieve a contiguous and less fragmented open space.
2. How the open space is proposed to be maintained; that some areas may be proposed to be meadows that would not be mowed; that it is important that these areas be clarified so that property owners know which areas are to be left to grow as meadows.
3. Phasing and the time frame for the construction of Mulberry Knoll Road. and the ability to hold the developer accountable for maintaining said time frames within any potential conditions of approval. Mr. Roberston confirmed that he had reviewed the master agreement for TIDs between the County and DelDOT and that there is no prohibition against the imposition of conditions of approval relating to construction phasing in developments that were proceeding forward with a TID.
4. The Commission discussed the implementation and enforcement of any potential conditions and the potential penalties for any potential non-compliance.
5. The Commission discussed the potential mechanisms for the potential tracking of affordable housing and keeping the units affordable and asked about the penalties and enforcement mechanisms to ensure that affordable units continue to remain affordable.
6. The phasing of the development and whether the developer could be required to complete the affordable housing portions first.
7. The Commission discussed the overall integration of units within the proposed community as a whole, and inter-connectivity. Concerns were raised that some aspects of the community may be physically and/or functionally separate from some of the amenities. For example, would occupiers of the multi-family units be able to access HOA amenities.
8. That any Final site plan needs to be clear and precise to provide buyers predictability on what is intended for development.

Ms. Wingate moved that the Commission reopen the record for Subdivision 2023-14, C/Z 2026, CU 2499, and C/Z 2025, all regarding Northstar Property, LLC, for the limited purpose of officially notifying the Cape Henlopen School District about these four applications and to receive any official written comment that the district may have concerning the applications. The record shall be held open until the close of business on August 20th, 2024, for official written comment from the district on the applications. Then the record shall remain open until the close of business on September 4th, 2024, for written comment only from the applicant and the public and limited solely to comments received from the district with respect to the applications.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to reopen the record for the limited purpose on C/Z 2026 NORTHSTAR PROPERTY, LLC for the reasons stated. Motion carried 5 -0.

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

Minutes of the September 11, 2024, Planning & Zoning Commission Meeting

Mr. Whitehouse stated that the record was initially held up until the close of business on August 20, 2024, for the official written comments from the school district and then the record was left open until the close of business on September 4, 2024, for a written comment from the applicant and the public, and now that that has passed all of those documents are found in the paperless packet.

Chairman Wheatley stated that they are announcing today that the letter from the school district was received, related public comments have been received and the record closed on September 4 of 2024; that anyone who wishes to review the file, it is available online and these items will appear on an agenda for discussion and a possible vote at a later meeting.

Mr. Robertson stated that the letter from the school district, a letter from Mr. Hutt on behalf of the applicant in response to the School District's letter and a letter from the Sussex Preservation Coalition in response to the district's letter are all in the docket.

Minutes of the October 9, 2024, Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since September 11, 2024.

Mr. Collins moved the Commission to recommend approval of C/Z 2026 NORTHSTAR PROPERTY, LLC for a change in zone from AR-1 to MR based upon the record made during the public hearing and for the following reasons:

1. This application seeks a change in zone from AR-1 to MR. The purpose of the MR zone is to provide housing in an area which is expected to become urban in character and where central water and sewer is available.
2. The stated purpose of the MR District is satisfied for this site. Both central water and central sewer will be available. It is also in an area with a more urban character, including a variety of large and small business, commercial and office uses and higher density residential development across Route 9 from this site. The location along Route 9 is also in close proximity to Route One and the Five Points intersection and the commercial corridor of business and commercial uses there. It is also located along one of DART's bus routes. This rezoning is consistent with other zoning and land uses in the area.

3. The proposed MR Zoning meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County in an appropriate location.
4. The site is located within the Coastal Area according to the Sussex County Comprehensive Plan. MR Zoning is appropriate in this Area according to the Plan.
5. The intended use of this property will be to allow the development of it with affordably priced multi-family residential rental units. This is an appropriate use for this location given its surroundings.
6. The Comprehensive Plan suggests that higher densities such as those permitted in the MR District can be appropriate where there is water and sewer available, there are appropriate roadways to handle the density, and there are nearby commercial or employment centers. All of those factors are satisfied with regard to this application.
7. DelDOT has stated that the proposed rezoning to MR will have a “minor” impact upon local area roadways. However, the property is within the Henlopen Transportation Improvement District. Therefore, any future development will be required to enter into an infrastructure recoupment agreement and pay a TID “per-unit” fee prior to the issuance of every residential building permit.
8. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.
9. For all of these reasons, MR zoning is appropriate for this site.

Motion by Mr. Collins, seconded by Mr. Mears and carried unanimously to recommend approval of C/Z 2026 Northstar Property, 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
J. BRUCE MEARS
GREGORY SCOTT COLLINS
BRIAN BUTLER



Sussex County

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

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: July 17th, 2024

Application: C/Z 2026 Northstar Property LLC

Applicant: Northstar Property LLC
107 W. Market Street
Georgetown DE 19947

Owner: Delaware Farm LLC and RCTDE, LLC
1908 Cliff Valley Way NE
Atlanta GA 30329

Site Location: Lying on the southeast side of Lewes-Georgetown Highway (Rt. 9) and the northwest and southeast sides of Beaver Dam Road (S.C.R. 23) approximately 2.4 miles southwest of Coastal Highway (Rt. 1)

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

Proposed Zoning: Medium-Density Residential (MR) Zoning District

Comprehensive Land
Use Plan Reference: Coastal Area

Councilmanic
District: Ms. Gruenbaum

School District: Cape Henlopen School District

Fire District: Lewes Fire Department

Sewer: Sussex County

Water: Tidewater Utilities, Inc

TID: Henlopen Transportation Improvement District (TID)

Site Area: 7.882 acres +/-

Tax Map ID: 334-5.00-175.00 (p/o)





Memorandum

To: Sussex County Planning Commission Members
From: Mr. Michael Lowrey, Planner III
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: February 28, 2024
RE: Staff Analysis for C/Z 2026 - Northstar Property LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application C/Z 2026 – Northstar Property LLC to be during the July 17, 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: 334-5.00-175.00 (p/o)

Proposal: The request is for a Change of Zone for a portion of Tax Parcel: 334-5.00-175.00 from Agricultural Residential (AR-1) to Medium-Density Residential (MR) to allow for (4) multifamily dwellings structures comprised of (94) units on a portion of a parcel lying on the southeast side of Lewes-Georgetown Highway (Rt. 9) and the northwest and southeast sides of Beaver Dam Road (S.C.R. 23) and approximately 2.4 miles southwest of Coastal Highway (Rt. 1). The portion of the parcel is comprised of 7.882 acres +/-.

Zoning: The Parcel is zoned Agricultural Residential (AR-1) District. The adjacent parcels to the east and west of the subject property are zoned Agricultural Residential (AR-1) and parcels to the north are zoned Agricultural Residential (AR-1) and General Commercial (C-1). Parcels to the south are zoned Agricultural Residential (AR-1), Medium-Density Residential (MR-RPC), & General Residential (GR).



Additionally, a Change of Zone Application (C/Z 2025) (AR-1 - C-3) is included with the Applicant's submission. This is for the (12.696) acre portion across the Mulberry Knoll Road extension to west and fronting on Route 9 to allow for (≈96,000) square feet of commercial improvements.

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

Applicability to Comprehensive Plan: The project lies within the Growth Area and is categorized as “Coastal Area” (per the 2018 Comprehensive Plan).

Coastal Areas are growth areas that the County encourages only the appropriate forms of concentrated new development, especially when environmental features are in play. The Coastal Area designation is intended to recognize the characteristics of both anticipated growth and ecologically important and sensitive characteristics. The Plan also notes “a range of housing types should be permitted in Coastal Areas, including single-family homes, townhouses, and multi-family units” (2018 Sussex County Comprehensive Plan, 4-15) and “medium and higher density (4-12 units per acre) can be appropriate in certain locations” (2018 Sussex County Comprehensive Plan, 4-16).

The Plan recommends higher density development be situated in areas on “central water/sewer, near commercial/employment centers, keeping with the character of the area, along a main road/major intersection, and where there is adequate Level of Service” (2018 Sussex County Comprehensive Plan, 4-16).

The Plan’s proposed (MR) Medium-Density Residential Zoning District is listed as an Applicable Zoning District in the Coastal Area per Table 4.5-2 – *Zoning Districts Applicable to Future Land Use Categories* in the Plan (2018 Sussex County Comprehensive Plan, 4-16).

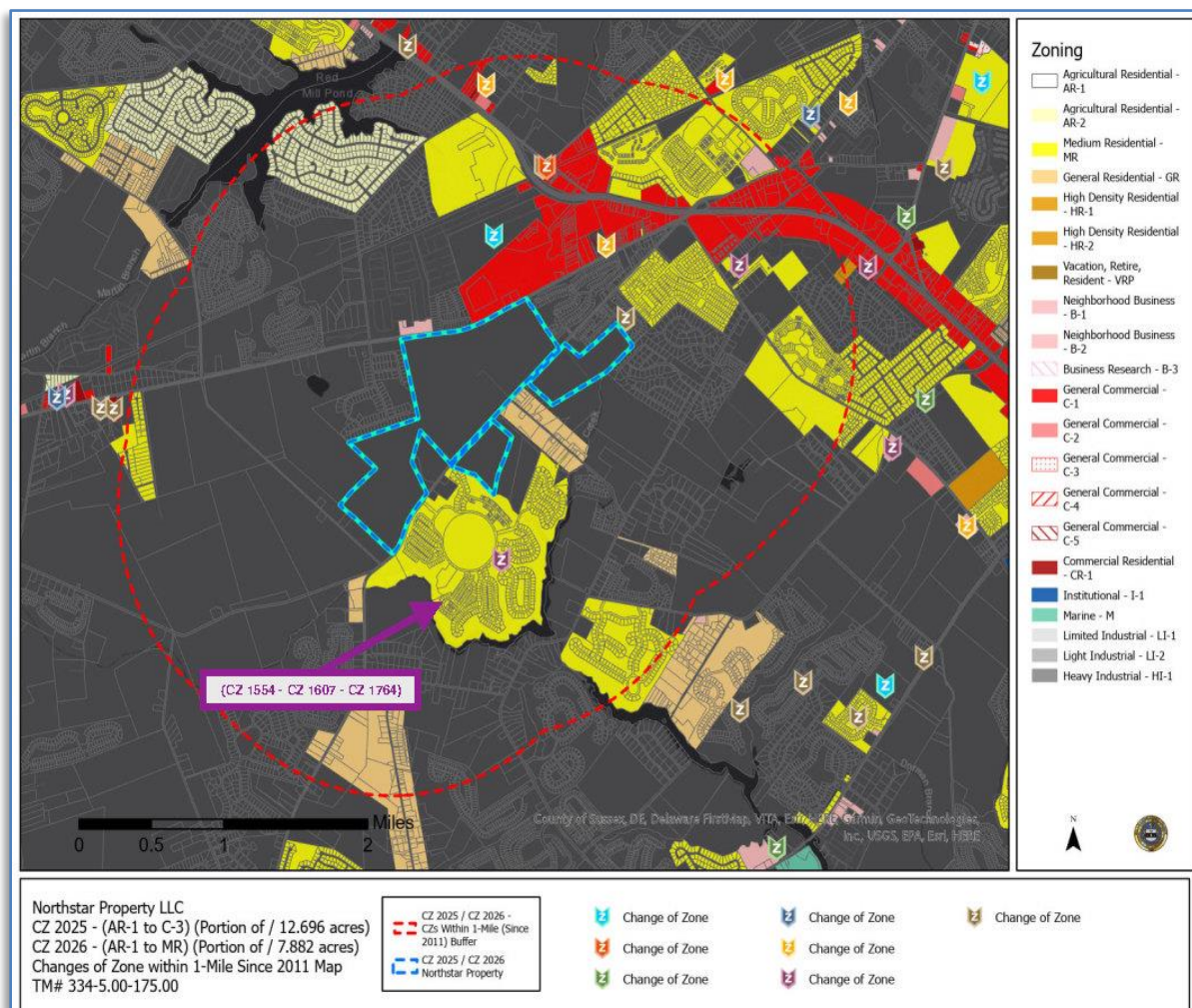
Further Site Considerations:

- **Density:** 11.9 DU/AC
- **Open Space Provisions:** (4.652) acres (59%)
- **Agricultural Areas:** The site is within the vicinity of active agricultural lands.
- **Interconnectivity:** The Plan does not provide for direct vehicular, multimodal, or pedestrian connection to the Lewes Crossing Subdivision which shares a common boundary to the east.
- **Transportation Improvement District (TID):** The parcel is located within the Henlopen Transportation Improvement District. Any Plan will require the Applicant to coordinate with DelDOT regarding the administration and payment of all required TID fees.
- **Forested Areas:** N/A
- **Wetlands Buffers/Waterways:** N/A

- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** The property is located within Flood Zone X and in an area of “Good” Groundwater Recharge Potential.

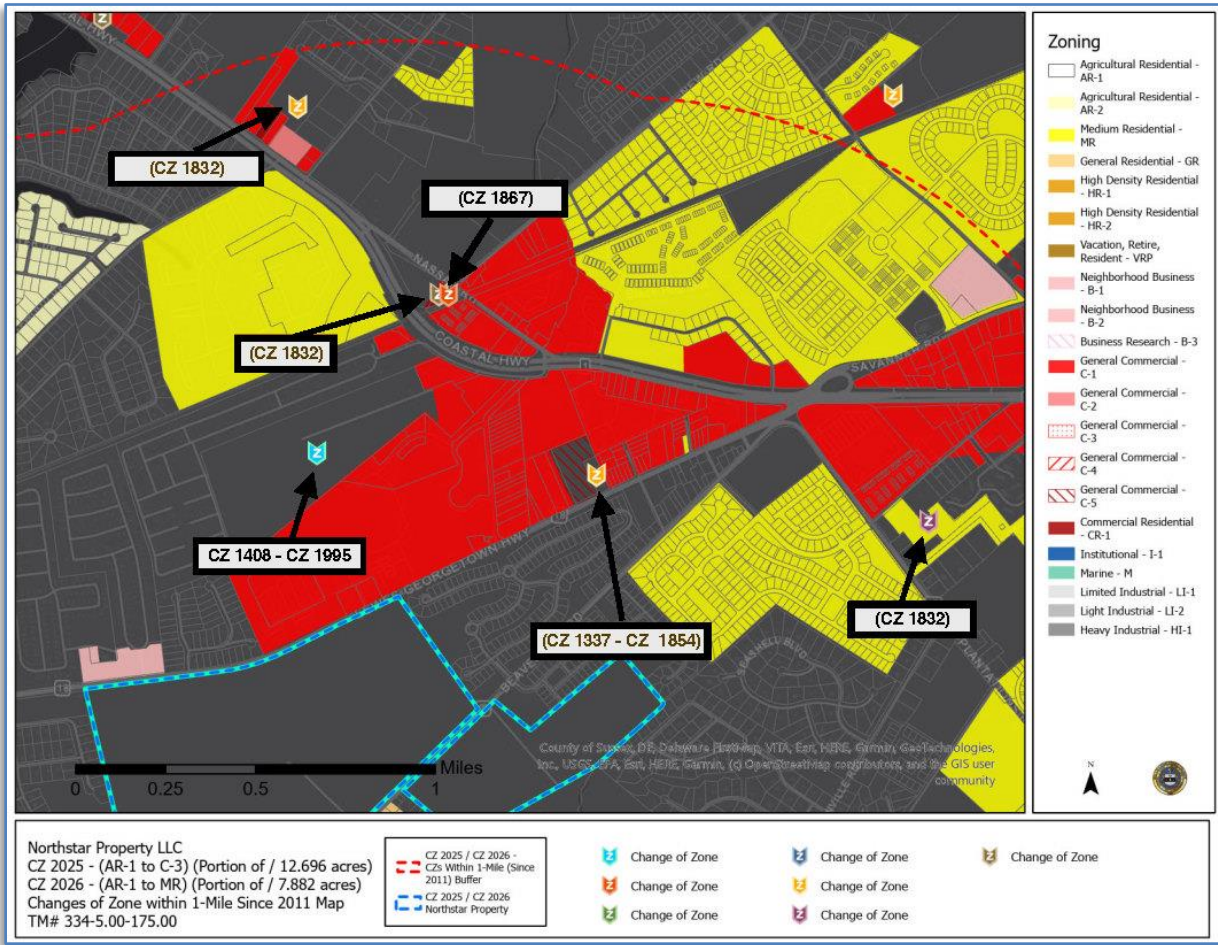
Based on the analysis of the land use, surrounding zoning and uses, a Change of Zone from an Agricultural Residential (AR-1) District to a Medium Commercial (MR) District to allow for multifamily dwellings (94 units) could be considered as having a degree of consistency with the land use, based on size and scale, with area zoning and surrounding uses.

Changes of Zone within the Vicinity of the Subject Site (Since 2011): 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.



Change of Zone Applications (Within a 1-mile radius of the subject site)						
Application CZ Number	Application Name	Zoning District	Proposed Zoning	CC Decision	CC Decision Date	Ordinance Number
1764	Coastal Club LLC	MR-RPC	MR-RPC	Approved	8/18/2015	2413
1554	Marine Farm L.L.C.	AR-1	MR/RPC	Approved	4/19/2005	1770
1607	Marine Farm LLC	MR/RPC	AR-1/RPC	Approved	6/27/2006	1857
1408	AAA Storage Limited	AR-1	C-1	Approved	8/8/2000	1389
1971	Janice CRP3, LLC	C-1	MR	Withdrawn	N/A	N/A
1972	Janice CRP3, LLC	AR-1	MR	Withdrawn	N/A	N/A
1995	Janice CRP3, LLC	AR-1/C- 1	MR-RPC	Denied	6/20/2023	N/A
1861	Nassau DE Acquisitions, LLC	AR-1	C-2	Approved	12/11/2018	2622
1860	Nassau DE Acquisitions, LLC	AR-1	MR	Denied	12/11/2018	N/A
1882	Nassau DE Acquisitions, LLC	AR-1 & C-2	HR-1- RPC	Withdrawn	9/24/2019	N/A
1749	Bruce & Cathy King	AR-1	CR-1	Approved	7/15/2014	2356
1867	Four C's Property, LLC	AR-1	C-2	N/A	N/A	N/A

1337	Hilda Louise Norwood & Delores P.N.	C-1	AR-1	Approved	6/2/1998	1237
1854	Ferguson Enterprises, Inc.	AR-1	C-5	Approved	9/11/2018	2598
1832	MDI Investment Group, LLC	AR-1	MR	Approved	3/20/2018	2565
1832	MDI Investment Group, LLC	AR-1	MR	Approved	3/20/2018	2565





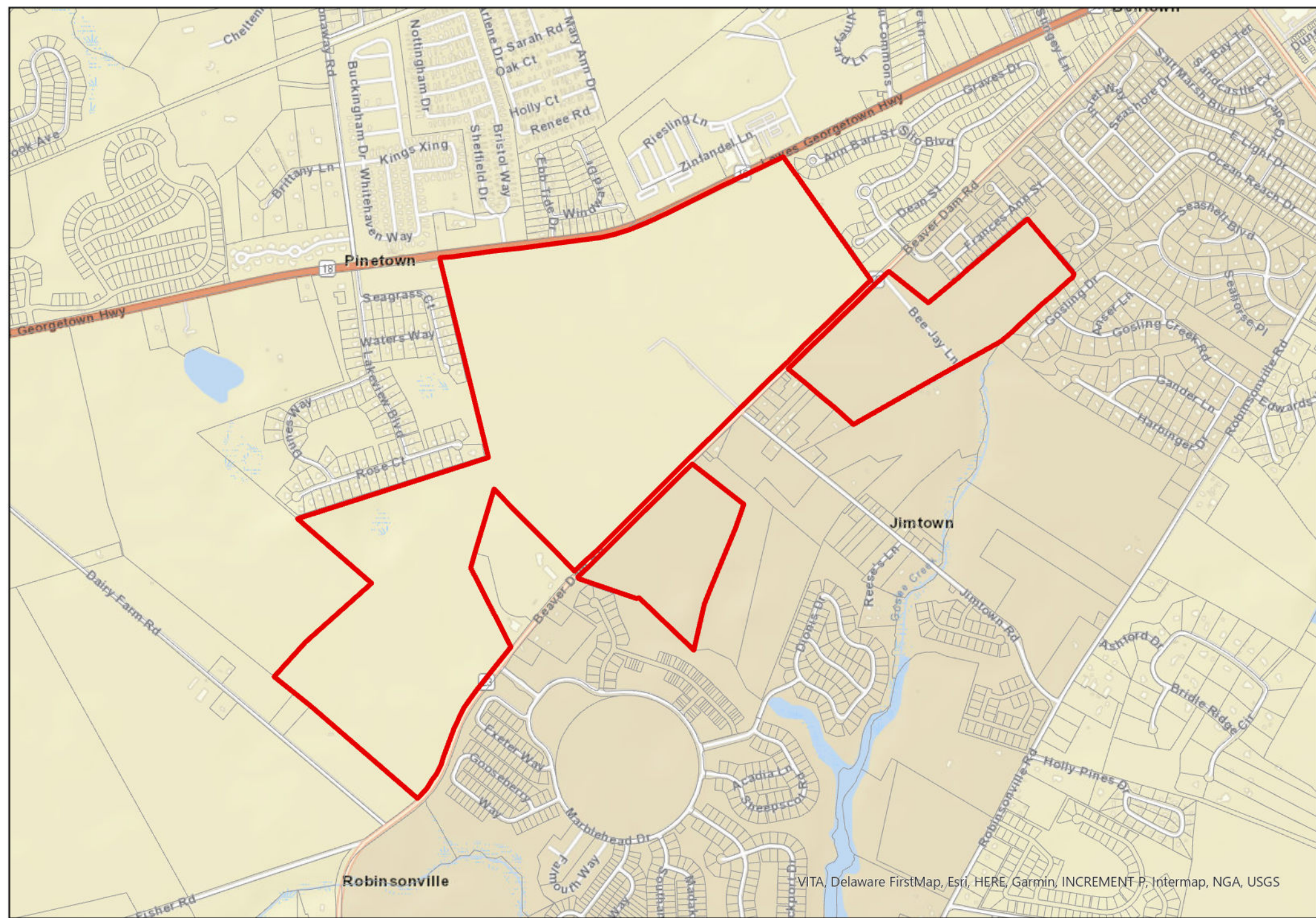
VITA, Esri, HERE, Garmin, IPC, Maxar

CZ 2026 - Northstar Property LLC - (AR-1 to MR)
Aerial Map
TM# 334-5.00-175.00
(Portion of / 7.882 acres)



CZ 2026 Northstar Property

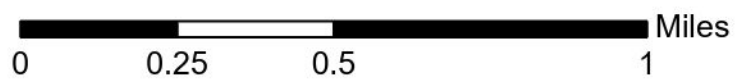




VITA, Delaware FirstMap, Esri, HERE, Garmin, INCREMENT P, Intermap, NGA, USGS

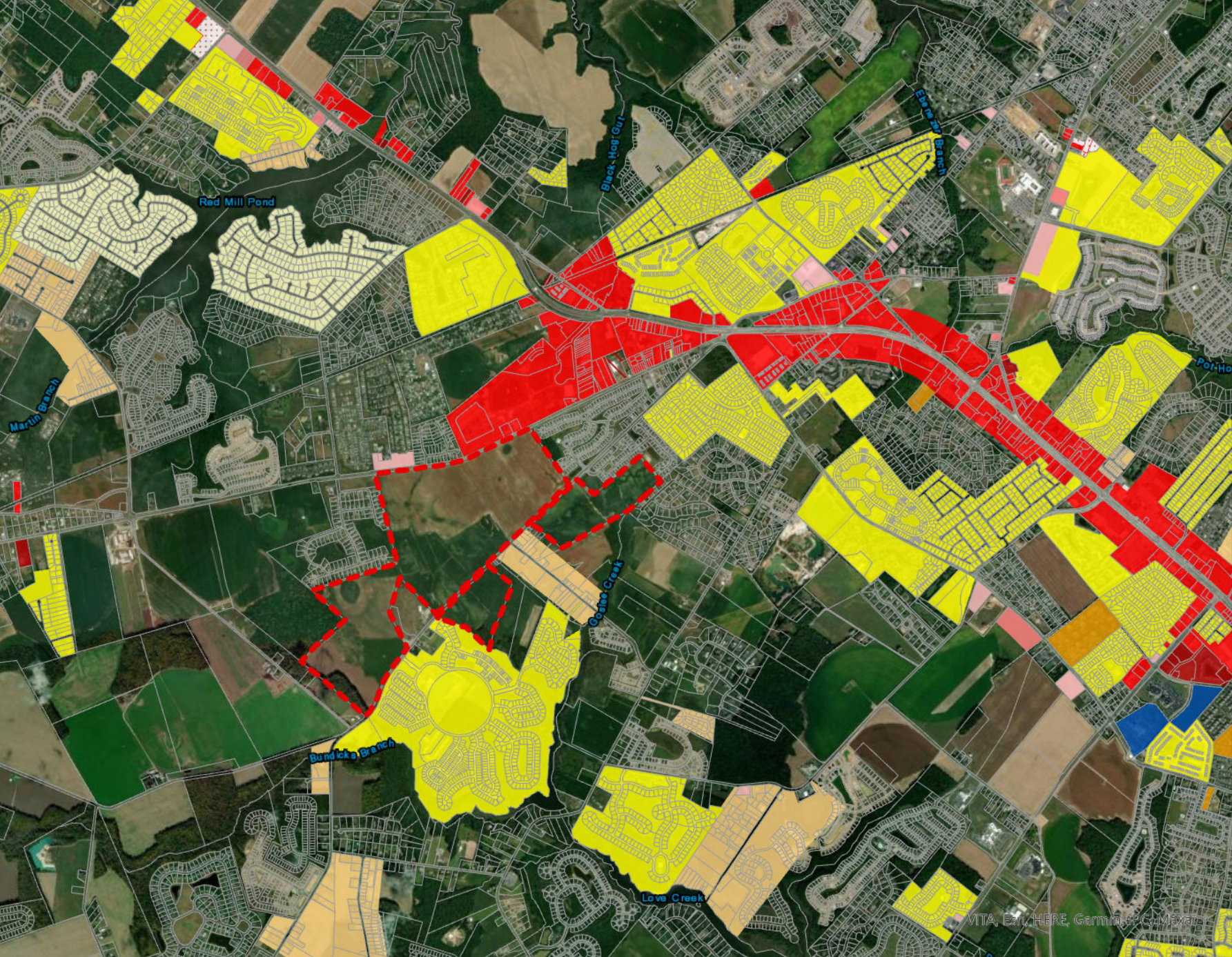
CZ 2026 - Northstar Property LLC - (AR-1 to MR)
Street Map
TM# 334-5.00-175.00
(Portion of / 7.882 acres)

 CZ 2026 Northstar Property



Zoning

-  Agricultural Residential - AR-1
-  Agricultural Residential - AR-2
-  Medium Residential - MR
-  General Residential - GR
-  High Density Residential - HR-1
-  High Density Residential - HR-2
-  Vacation, Retire, Resident - VRP
-  Neighborhood Business - B-1
-  Neighborhood Business - B-2
-  Business Research - B-3
-  General Commercial - C-1
-  General Commercial - C-2
-  General Commercial - C-3
-  General Commercial - C-4
-  General Commercial - C-5
-  Commercial Residential - CR-1
-  Institutional - I-1
-  Marine - M
-  Limited Industrial - LI-1
-  Light Industrial - LI-2
-  Heavy Industrial - HI-1



CZ 2026 - Northstar Property LLC - (AR-1 to MR)
 Zoning Map
 TM# 334-5.00-175.00
 (Portion of / 7.882 acres)

 CZ 2026 Northstar Property



Zoning

-  Agricultural Residential - AR-1
-  Agricultural Residential - AR-2
-  Medium Residential - MR
-  General Residential - GR
-  High Density Residential - HR-1
-  High Density Residential - HR-2
-  Vacation, Retire, Resident - VRP
-  Neighborhood Business - B-1
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-  Business Research - B-3
-  General Commercial - C-1
-  General Commercial - C-2
-  General Commercial - C-3
-  General Commercial - C-4
-  General Commercial - C-5
-  Commercial Residential - CR-1
-  Institutional - I-1
-  Marine - M
-  Limited Industrial - LI-1
-  Light Industrial - LI-2
-  Heavy Industrial - HI-1



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

0 0.5 1 2 Miles

Northstar Property LLC
 CZ 2025 - (AR-1 to C-3) (Portion of / 12.696 acres)
 CZ 2026 - (AR-1 to MR) (Portion of / 7.882 acres)
 Changes of Zone within 1-Mile Since 2011 Map
 TM# 334-5.00-175.00

-  CZ 2025 / CZ 2026 - CZs Within 1-Mile (Since 2011) Buffer
-  CZ 2025 / CZ 2026 Northstar Property

-  Change of Zone
-  Change of Zone
-  Change of Zone

-  Change of Zone
-  Change of Zone
-  Change of Zone

-  Change of Zone

Zoning



-  Agricultural Residential - AR-1
-  Agricultural Residential - AR-2
-  Medium Residential - MR
-  General Residential - GR
-  High Density Residential - HR-1
-  High Density Residential - HR-2
-  Vacation, Retire, Resident - VRP
-  Neighborhood Business - B-1
-  Neighborhood Business - B-2
-  Business Research - B-3
-  General Commercial - C-1
-  General Commercial - C-2
-  General Commercial - C-3
-  General Commercial - C-4
-  General Commercial - C-5
-  Commercial Residential - CR-1
-  Institutional - I-1
-  Marine - M
-  Limited Industrial - LI-1
-  Light Industrial - LI-2
-  Heavy Industrial - HI-1



County of Sussex, DE, Delaware FirstMap, VITA, Esri, HERE, Garmin, GeoTechnologies, Inc., USGS, EPA, Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community

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Northstar Property LLC
 CZ 2025 - (AR-1 to C-3) (Portion of / 12.696 acres)
 CZ 2026 - (AR-1 to MR) (Portion of / 7.882 acres)
 Changes of Zone within 1-Mile Since 2011 Map
 TM# 334-5.00-175.00

-  CZ 2025 / CZ 2026 - CZs Within 1-Mile (Since 2011) Buffer
-  CZ 2025 / CZ 2026 Northstar Property

-  Change of Zone
-  Change of Zone
-  Change of Zone

-  Change of Zone
-  Change of Zone
-  Change of Zone

-  Change of Zone

Introduced: 6/11/24

Council District 3: Ms. Gruenebaum

Tax I.D. No.: 334-5.00-175.00 (P/O)

911 Address: N/A

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A 7.882-ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 433.071 ACRES AS RECENTLY SURVEYED OR 419.64 ACRES AS SCALED AND SHOWN ON THE SUSSEX COUNTY TAX MAP, MORE OR LESS

WHEREAS, on the 5th day of December 2023, a zoning application, denominated Change of Zone No. 2026 was filed on behalf of Northstar Property, LLC; and

WHEREAS, on the ____ day of _____ 2024, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 2026 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article II, Subsection 115-7, Code of Sussex County, be amended by deleting from the Comprehensive Zoning Map of Sussex County the zoning classification of [AR-1 Agricultural Residential District] and adding in lieu thereof the designation MR Medium Density 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 Lewes & Rehoboth Hundred, Sussex County, Delaware, and lying on the southeast side of Lewes-Georgetown Highway (Rt. 9) and the northwest and southeast sides of Beaver Dam Road (S.C.R. 23) approximately 2.4 miles southwest of Coastal Highway (Rt. 1) and being more particularly described in the attached legal description prepared by Davis, Bowen, & Friedel, Inc., said parcel (portion of) containing 7.882 ac., more or less.

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



Memorandum

To: Sussex County Council
The Honorable 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: May 20, 2025

RE: County Council Report for C/U 2499 filed on behalf of Northstar Property, LLC

The Planning and Zoning Department received an application (C/U 2499 filed on behalf of Northstar Property, LLC) for a Conditional Use application in an MR Medium Density Residential District for multi-family dwelling units (94 units) at Tax Parcel 334-5.00-175.00. The property is located on the southeast side of Lewes-Georgetown Highway (Rt. 9) and the northwest and southeast sides of Beaver Dam Road (SCR 285/Rt 23), approximately 2.4 miles southwest of Coastal Highway (Rt.1). The parcel size is 419.64 Ac. +/- and the Conditional Use request relates to a 7.882-acre. portion.

The Planning & Zoning Commission held a Public Hearing on the application on July 17, 2024. At the meeting of October 9, 2024, the Planning & Zoning Commission recommended approval of the application for the 15 reasons and subject to the 18 recommended conditions as outlined within the motion (copied below).

The County Council held a Public Hearing on the application at the meeting on March 11, 2025. At the conclusion of the Public Hearing, the record was left open for a period of two weeks for Council to submit questions to Delaware Department of Transportation ("DelDOT"), and then for a period of two weeks for DelDOT to respond for the questions, followed by an additional period of two weeks for members of the public to submit any additional comments on the DelDOT response. The Public Record closed on April 22, 2025, at 4:30 pm.

Below is a link to the minutes of the March 11, 2025, County Council meeting:

[Link to the Minutes of the March 11, 2025, County Council Meeting](#)



Below are the minutes from the Planning & Zoning Commission meeting on July 17, 2024, and October 9, 2025. The minutes of the July 24, 2024, and September 11, 2024, are also included as the Northstar applications were discussed at these meetings also.

Minutes of the July 17, 2024, Planning & Zoning Commission Meeting

C/U 2499 Northstar Property, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR - MEDIUM DENSITY RESIDENTIAL DISTRICT TO ALLOW FOR MULTI-FAMILY DWELLINGS (94 UNITS) TO BE LOCATED ON A 7.882 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 433.071 ACRES AS RECENTLY SURVEYED OR 419.64 ACRES AS SCALED AND SHOWN ON THE SUSSEX COUNTY TAX MAP, MORE OR LESS. The property is lying on the southeast side of Lewes-Georgetown Highway (Rt. 9) and the northwest and southeast sides of Beaver Dam Road (S.C.R. 285/Rt. 23) approximately 2.4 miles southwest of Coastal Highway (Rt. 1). 911 Address: N/A. Tax Map Parcel: 334-5.00-175.00 (p/o).

Mr. Whitehouse advised the Commission that submitted into record were a copy of the Applicant's conceptual site plan, a copy of the Applicant's exhibit booklet that includes the State PLUS comments, a copy of the DelDOT SLER letter, a copy of a letter received from the Sussex County Engineering Department Utility Planning Division, a copy of the staff analysis and 32 comments, including a petition with 258 signatures.

Ms. Pamela Steinbach spoke on behalf of DelDOT, in reference to the Application and the processes behind the TID and how it relates to this group of applications; that a transportation improvement district is a geographical area defined for the purpose of securing required improvements to transportation facilities in that area to meet the demands and growth development consistent with a comprehensive plan; that means taking a proactive approach to transportation and land use and trying to forecast and accommodate what a growth area is going to be, making sure we have the appropriate traffic analysis and forecasting as it's related to the comprehensive plan; that DelDOT works closely with the County and can plan for growth in advance which makes the transportation planning easier; that it allows them to see what an area is supposed to grow to and allows DelDOT to plan for the associated transportation improvements; that the benefit to developers in the TID is that if their development is consistent with DelDOT and the County then they can forego having to do a TIS which takes a fair amount of time; that the TIS requires counts, average daily traffic and to analyze what intersections level of service is; that by having that information in advance and the developer building consistent with what the TID states; that if the developer pays a fee that has been agreed upon by the County and they'll complete any offsite improvements and are required to do all of their entrances it makes dealing with DelDOT a lot faster; that it's more predictable and we can then use those developer contributions to fund projects since we know where some funding coming from; that they take a master plan, a land use plan, a transportation plan or a comprehensive plan and determine parcel by parcel what the use of that parcel is and what the maximum number of trips for each of those parcels could generate; that once we do that then we determine what the infrastructure fee is based on whether its residential or commercial; that it's a certain amount per square foot for the commercial and then there are specific fees for whether it's single family, a townhouse, multifamily

condos or apartments; that every five years they update the study by confirming that the parcels are still the same and by doing a traffic analysis; that this helps determine how many trips each development is going to generate; that it can determine what the improvements to the roads are going to be, things like a shared multi model, shared use paths, sidewalks, widening the roads to the functional classification of the road is supposed to be; that it could be widening the lanes, widening the shoulders, it could be widening from 2 lanes to four lanes or it could be a new road, a roundabout or a signal; that once we have all of that information it is shared to any developer that wants to develop in the geographical area of the TID; that they have a much better idea when they do their planning as to what the max number of trips that they can accommodate as part of their development; that with the contributions that the developers make and the funding from the Feds and the State then we fund the Capital Transportation projects and they go into our six year capital transportation plan; that the Henlopen TID was established in 2020 and it took three years to complete as DelDOT worked with the County and went parcel by parcel basis and covering each intersection within a 24sq mile area; that there is about \$321 million in projects within this TID and as part of the fee structure the developers are contributing 24% of that money; that currently we have 28 agreements signed, about 7 in process and about 1.4 million has been collected and about \$800,000 are equated to the developer, in some instances it is required to dedicate right of way and then instead of paying lump sum TID fees they build some of the transportation improvements getting it done faster than if DelDOT were to do them.

Ms. Wingate asked about the construction of Mulberry Knoll Road and that it would be a separate contract from DelDOT and the developer would need to hire and contract that out separately; that with that being a separate contract what would the timing look like and would DelDOT require the developer to handle those improvements first? And will the money being contributed by the developer be utilized to help with this project's road improvements?

Ms. Steinbach stated that the developer has not entered into the phase of the record plans and entrance plans and until they do no time frame or phasing of improvements will be established; that the money contributed is held by the County and that money can only be used for any projects within the TID and its improvements.

Mr. Collins asked about the rest of the development of Mulberry Knoll Road and connecting it to the rest of the roads and what is the timeline on that?

Ms. Steinbach stated that one of the hardest parts is to get into the CTP because we have to be fiscally constrained in our CTP; that there are projects up and down the state, but this is CDP, so that is a project that will get funded, but it was just put in the last CTP; that the preliminary engineering is supposed to start around 2026; that the rest of that Mulberry Knoll Road is going to be built just no date is set yet..

Mr. Roberston stated that the original traffic analysis was done in 2018 and updated around 2022; that we get asked all the time, does the study take into account not only the baseline of assumptions of development for land based on its zoning, but does that also take into account approved but not yet built developments?

Ms. Steinbach stated that the TID is based on a full build out of the of all of those parcels so even as long as it is zoned to be built to grow up to be something then we have counted that as part of the

analysis.

Mr. Mears stated that it would be good to inform the public and have it on record as to how DelDOT decides whether or not the roads can handle large communities and how the Commission relies on DelDOT to advise if the infrastructure is capable of handling such increases.

Ms. Steinbach stated that when speaking in terms of developments for DelDOT's purpose it is concerned with the number of trips in and out of the parcels and that those number coincide with the zoning designation.

Mr. Todd Sammons, the Assistant Director of development coordination, for DelDOT stated that it is not DelDOT's prerogative to make those decisions as they are reactive to the land use decisions and with our analysis and information we then let Planning & Zoning and County Council make those determinations on whether they want to improve land uses or not

Ms. Steinbach stated that responsibility of DelDOT and as part of the division of planning is to do wider range planning that not only take into account what the Delaware Population Consortium estimates as to how many people are going to be here in the next 25-30 years, but also where they're going to be; that it is a collective approach trying to plan for what roads need to be widened, what roads need a roundabout, but it's a multi-faceted problem that is complex; that with 'TID's and 'TIS' we are making sure that the developer is doing what the transportation improvement requires it to do.

Mr. Mears stated that he would just like the public to have a firm position about whether or not a road that currently exists in its current state can handle and accommodate the additional traffic that new projects and developments will bring.

Ms. Steinbach stated that with the 'TID in place, the 33 projects that are planned throughout it have already pre-determined that the road is capable and supposed to be able to handle them based on the full build out of that geographic area.

Mr. Robertson stated that because this project is within the 'TID that it is different than other cases normally presented; that the 'TID is a geographically designed area in which DelDOT did the full build out of the roads, going into detail on intersection by intersection basis with redesigns of those roadways to accommodate the development of the properties as anticipated by the county's current zoning and the comp plan; that that's already been taken into account in the 'TID on this case, but it's a different process because we're not getting a 'TIS review letter that says what the impact is; that the bigger issue is whether this project or any other project in the 'TID stay within those projections that were based on the 'TID in the first place; that if it stays within those project projections, which were the roadway improvements necessary to accommodate the two units to the acre, then it has already been built into the designs that are in the 'TID; that the funding that was generated based on those designs and the developer and state contributions that go into it; that the County is stuck because the public may say that a project should not be built as it will have an adverse impact on traffic, but DelDOT doesn't have any objection to the project as long as the developer builds the necessary roadway improvements as stated within the 'TID; that this has been forecasted out in the 'TID and that the only concern then becomes, does the development stay within the confines of the original projection.

Ms. Wingate stated that she spoke with the Chief of the Lewes Fire Department, who stated that the completion of the Mulberry Knoll Rd. would be key to the response time for their emergency calls; that

it would be encouraged that the County, DelDOT and the developer work closely together on this piece of the project to ensure that it is a priority if the project is approved.

Mr. David Hutt, Esq., from Morris James firm, spoke on behalf of the applicant Northstar Property, LLC., that the applications were expedited at the request of the applicant in order to try to bring affordable housing to Eastern Sussex County as soon as possible; that the County has been trying to figure out answers to affordable housing; that the attention paid to affordable housing during the 2018 Comprehensive Plan Review process and the housing chapter of the comprehensive plan had a great deal of attention paid to it; that in 2019 Sussex County commissioned the housing opportunities and market evaluation by LSA and the impact of these two reports continues to this day; that the County has adopted amendments to the Sussex County Rental Program and most recently the County modified the Accessory Dwelling Unit Ordinance to address affordable housing in Sussex County; that the Sussex County Rental Program and the Accessory Dwelling Unit Ordinance, were both concerns raised and referenced in the home report that was commissioned in 2019, as well as the comprehensive plan; that the affordable housing opportunity that's presented by Northstar through the low income Housing Tax program will help in Eastern Sussex County; that given the scale of the Northstar project the developer recognized at the outset from the time it contracted to purchase this property that this land mass presented an opportunity for affordable housing in Eastern Sussex County, where the need is a very acute; that not being an expert in the best way to provide affordable housing opportunities, Northstar property sought out experts in the industry to see how best the property could be used and met with Ingerman, regarding affordable housing, being they are a leader in affordable housing in the Mid-Atlantic region; that during the meetings with Ingerman two concerns arose, the first concern with respect to creating affordable housing in Eastern Sussex County was the cost of the land and the second was the amount of time it takes to get through the entitlement process; that it is difficult to secure funding when there's an unknown with respect to the land use entitlements; that to address the first issue, the cost of land, Northstar Property, LLC offered to donate the land for the affordable housing section of the Northstar Project to provide a suitable location in Eastern Sussex County for affordable housing; that Northstar told Ingerman that it would handle the entitlement process and walk Ingerman through the entitlement process; that the second concern that was relayed by Ingerman, was the time of the entitlement process; that based upon the County's position on expediting applications through the Sussex County Rental program, a letter was submitted requesting that this application for the Northstar Project be expedited to help address affordable housing recognizing the necessity in Eastern Sussex County, the county, did agree to expedite the applications; that the Northstar Project is master planned infill in its compliance and consistency with the land use and planning tools that are provided by the State of Delaware and various agencies; that with all of those various agencies taken into account, this plan has been designed and structured to carefully comply with those codes; that the property totals 433 acres and is located just South of Lewes Georgetown Highway or Route 9; that the land South of Route 9 and parcels of the land that are on the opposite side of Beaver Dam Rd. are significant to this application; that the piece across Beaver Dam Rd. is residual lands that is not included in this acreage, so the area totals approximately 33 acres of residual, and the remaining 400 acres are the subject matter of this application.

Mr. Robertson asked for clarification for the record that the parcel that's considered residual lands, is not included in the acreage of any of the projects, therefore not used in any of the open space calculations, density calculations or anything of that nature.

Mr. Hutt stated that there is approximately 166 acres of open space and that does not include the 33 acres of those residual lands; that across Route 9 from the project is The Vineyards, which is a mixture of high

density residential and commercial properties, including professional offices and retail; that then the next community is Lewes Crossing, which is a single-family subdivision being on both sides of Beaver Dam Rd.; that along the Southern boundary of Northstar is the Gosling Creek subdivision which is single family homes; that then the Jimtown community off of Jimtown Rd. and the 33 acres of residual lands; that then the Coastal Club community ends the southern boundary of the project; that the project borders the lands of the Pam An Riding Stables and the Elks Lodge; that the Western border runs along with the Reserves at Lewes Landing another single family subdivision; that back at the Route 9 stretch there is the Sussex East and West manufactured home park and heading East is Seaspray Village, a single family subdivision; that Northstar is the property that connects all of these various communities physically and will provide important linkage amongst various communities; that the property consists of approximately 400 acres and four applications; that first, is the Cluster Subdivision application 2023-14 which is 379 acres with 758 proposed single family lots, then the C/Z 2025, a change of zone application seeking to change the designation of the portion of the property directly across from The Vineyards, this is 12.69 acres and is seeking a C-3 heavy designation zoning under the County's. Zoning ordinance; that directly across the proposed extension of Mulberry Knoll Rd. is C/Z 2026 which is a 7.88 acre parcel seeking a change in zoning designation from AR-1 to MR medium density residential district for the same 7.88 acres; then there's C/U 2499 seeking 94 affordable housing multifamily units for that site; that there are various land planning tools that exist to help the government and property owners know how to plan; that the Office of State Planning Coordination, a state agency that issues the strategies for state policies and spending every five years; that the last update was in 2020, which includes mapping the various investment levels in the state; that the map shows the Northstar property and the properties surrounding it; that the majority of the property is within the states investment Level 2, with a number of ribbons of area at various points in the project that are investment Level 3; that the state strategies for state policies and spendings specifically describes what a Level 2 area is, that like investment Level 1 areas, state investments and policy should support and encourage a wide range of uses and promote other transportation options, foster efficient use of existing public and private investments, and enhance community identity and integrity; that investments should encourage departure from the typical single family dwelling developments and promote a broader mix of housing types and commercial sites encouraging compact mixed-use development where applicable; that the state's intent is to use its spending and management tools to promote well designed development in these areas, such development provides for a variety of housing types, user friendly transportation systems, essential open spaces and recreation facilities, other public facilities and services to promote a sense of community; that based on that description of investment Level 2, under the Office of State Planning Coordination's state strategy maps, it's likely why that based on NorthStar's location in a Level 2 and Level 3 investment area, this project may be consistent with the 2020 strategies for state policies and spending; that not only is Northstar consistent with the state strategies that were just relayed, but is also consistent with the 2018 Comprehensive Plan; that Chapter 4 of the Comprehensive Plan, the future land use chapter includes Table 4.5-2, entitled Zoning Districts Applicable to Future Land Use categories; that both the requested C3 Heavy commercial district and the MR Medium density residential district are applicable zoning districts in the coastal area; that based on that table and the significance of their designation on the 2045 Future Land Use Map the comprehensive plan indicates what are permitted uses within each of the various growth areas with respect to the coastal area; that a range of housing types should be permitted in coastal areas including single family homes, townhouses and multifamily units, retail and office uses are appropriate, but larger shopping centers and office parks should be confined to selected locations with access along arterial roads; that appropriate mixed-use development should also be allowed; that a

mixture of homes with light commercial, office and institutional uses can be appropriate to provide convenience services and to allow people to work close to home; that the request for the C3 Heavy Commercial that is requested along Route 9, should be found along arterial highways and DelDOT would refer to Route 9 as a principal arterial; that the Sussex County Code refers to Route 9 as a major arterial highway and the commercial zoning that it proposed for this project aligns with the commercial zoning designation that exists presently in The Vineyards community; that it's an appropriate place, not only because of the highway, but because of the intersection, which presently an entrance into The Vineyards; that it's a signalized intersection and Mulberry Knoll Rd. will be extended and be a fourth leg of that intersection; that the commercial is proposed as a signalized intersection along a major arterial highway; that the planning for the MR portion mirrors what is across the street in The Vineyards with a high density residential and multi family style use with apartments and condominiums; that the proposed MR zoning portion of the property is consistent with what is in The Vineyards immediately across the street from there.

Mr. Ring Lardner, principal and professional engineer, from Davis, Bowen and Friedel, spoke on behalf of the applicant that in terms of the transportation portion of the project, the project has two road frontages, the East and West frontage or Lewes Georgetown Highway, Route 9 and the South West frontage or Beaver Dam Rd, Route 23; that the first is classified as a major arterial roadway per the County Code and the second is listed as a major collector per DelDOT's functional classification map; that the TID makes this project unique as typically a project this size would have been required to do studies analyzing dozens of intersections and roadways, including roads that are queued for signals and all of that has been done by DelDOT and their consultants; that Northstar per the TID, was assigned trips for 771 single family residential units and 96,188 square feet of commercial space in consultation with DelDOT; that this project as proposed, is within the threshold of the assigned and planned trips for this property; that the project will be required to enter into a recoupment agreement with DelDOT, and the agreement shall be recorded with Sussex County Recorder of Deeds prior to final plan approval; that there are several projects within the TID, but specifically the ones that are along our property limits are the widening of Lewes Georgetown Highway, US Route 9, and the widening of Beaver Dam Rd along the Northstar southern frontage as part of the Traffic Improvement District and will be done before 2045; that the creation of the Mulberry Knoll Rd, which would include two (2) eleven-foot wide travel lanes, 8-foot shoulders/shared use path and an open drainage ditch is the third project within the TID; that the portion of the Mulberry Knoll Rd that goes through the Northstar Project is not required to be completed by the developer; that the developer offered to build that road as part of this project, recognizing the need for the extension on Burnell Road and by building that up in lieu of paying cash; that this will help push along DelDOT to finish the other parts of the road that's been identified; that the review of the floodplain map shows no wetlands as of 2015, but when Mr. Ed Linnae completed a wetlands delineation he found some differences in the mapping; that those findings were submitted to the Army Corps of Engineers for review; that the soil survey was done and the soils on site are suitable for all four applications; that there is an Ag Preservation with the wetlands delineation plan in it; that due to the environmental features, a drainage assessment report was required to be completed, a resource buffer management plan was required to be prepared, and the resource buffers and other protections that are referenced in the preliminary plan are listed; that Conservation A is an area of non-regulated wetlands, then there is a proposed 35 foot wide buffer, of forestation, as we plan on a foresting that area and then additional land that would be forest staying protected as part of the conservation easement for the plan; that Conservation B contains some wetlands with a 30 foot wide existing forested buffer that will be retained in full and

other areas that will remain; that Conservation E contains regulated wetlands with an Ag crossing in it and we will improve it slightly as part of this project with a 30 foot wide resource buffer and expanded that to 45 foot wide as mitigation for the impact of the wetlands and the resource buffer that would not exist in that area; that there was a couple waivers requested this, first being a waiver regarding to signage for resource protection and buffers; that the code currently requires 100 foot spacing and we're requesting that increment be changed to be 200 feet versus the required 100 feet; that there's some forest in this area classified as Tier 3 forest; that the report found there were no specimen trees on the property, specimen trees are trees that are specific with certain caliber diameter or a species, none of those were found on this property; that an archaeological assessment was completed by Doctor Ed Otter, and the developer hired Foresight Associates to review this preliminary plan and their letter and the design intent is to create ecological corridors with natural landscaping to minimize the need for grass cutting and providing ecosystems and vibrant recreational areas throughout the site; that as for the site itself, the cluster subdivision with the perimeter buffer is this outer edge around the side including BJ Lane; that we provide a varying width buffer along that outer boundary with all lots located outside the 30 foot forested buffer where appropriate and/or the 50 foot agricultural buffer; that there are agricultural lands that require a 50 foot buffer per the code; that all lots except those along BJ Lane and those east of the stables are located at least 50 feet from the outer boundary, including areas that are both wooded and non-wooded, if you have a wooded parcel, we have a 30 foot forested buffer and another 20 foot space before lot line begins so the lots are at least 50 foot off the outer perimeter line; that the reason there's not a 30 foot landscape buffer along BJ Lane as the code only requires a 30 foot buffer where lots abut an agriculture area and where their dwellings are located within 50 foot of existing residential development, BJ Lane did not qualify for that; that we have a 20 foot buffer from BJ lane within that section of the roadway; that as the proposed buffer as defined with the number of trees will add over 2400 trees just in the buffer area alone; that the property contains approximately 28.1 acres of woodlands that are split into four areas and we are preserving approximately 23 acres of those woodlands and the areas that are being removed will be replenished, while preserving to the max and practical in those areas; that all lots abut open space throughout the community, there are no lots that are back-to-back and every lot will have open space as their backyards; that Mulberry Knoll Rd. extended will be built, designed, constructed and accepted by DelDOT and will be a state maintained roadway and all other roadways in the community will be designed for public use, but privately maintained and designed and approved in accordance with Chapter 99 of the Sussex County Code; that the East West spine route will not have any lots directly accessing it and will act like a boulevard; that it will consist of 28 foot wide paved roadways, eight foot wide shared use path, tree lined streets and a drainage channel with naturalized planning to provide stormwater management as it bisects the property; that stormwater will travel in a North South direction from Route 9 to Beaver Dam Rd.; that the rest of the roadway will be 24 foot wide with a shared use path on one side and on the other side a shared use path linkage from Mulberry Knoll Rd. extended all the way down to Beaver Dam Rd.; that all other roads will be 24 foot wide and have 5 foot sidewalks on both sides of the road; that the proposed open space is approximately 166.5 acres of land, or approximately 44% of the project area; that all active open space amenities include two clubhouses, one with the minimum size of 3000 square feet and the other minimum size of 5000 square feet; two pools, one with the minimum water surface area of 1800 square feet and the other minimum water surface area of 2250 square feet, a splash pad or kiddie pool, free sports courts, four playgrounds and four open play areas; that the locations of the active amenities will be shown on the final subdivision plans and those amenities will be separately approved through the site plan process; that there are several pedestrian connections throughout the

community that links all the way to that central open space, linking all the spaces together to create a pedestrian friendly neighborhood; that affordable community application site plan consists of four buildings for a total of 94 affordable housing units; that three buildings each have 24 units and one building has 22 units located on 12.69 acres of land; that the amenities for that project will include a playground, unorganized play area, bike lockers, maintenance shed and the backup generator; that building #4 is the 22 unit building that is designed as a resiliency center and also where they have areas for kids to join after school programs; that the resiliency center is provided with backup power, so the residents will have access to heat/air, kitchen equipment, plus the ability to charge cell phones, etc. and be able to subside and communicate during a power outage; that the site will be constructed in two phases, with two buildings constructed in each phase; that in discussing phasing. the residence cluster division will be approved and constructed in phases; that it will change as we get into conversation with DelDOT about improvements, sewer, water and light; that the reason why Mulberry Knoll Rd. is a separate project is because it's a lot of work to workout with DelDOT through that approval process; that this is why the phasing is going to change, the timing, etc.; that it will all be discussed during the plan approval process and the record plan phasing notes and products required, including the recruitment agreement as far as what's going to constructed in kind versus cash contribution; that it would be two years at least before the final plan approval would go through, but based on the economy there is no set time frame for the build out on this project; that the Mulberry Knoll Rd. phase of the project is currently scheduled as the 3rd phase of the project due to the numerous designs and various processes involved in building the road in conjunction with DelDOT; that the developers are committed to the road build out and this allows some cash flow to happen to help offset some of the costs alleviate the amount of upfront costs it takes to build more road; that the project has been designed to be pedestrian and bicycle friendly and connect with off-site buses and multimodal pass; that the DART Route 206 in the East West direction of Route 9 has linkages to Georgetown and Lewes to grab all the bus routes to go further into the state; that there are two existing bus stops that exist along this route on the Northstar frontage, there is one east of it and across the road at the Route 9 signal there are three other bus stops; that there's 6 bus stop right along our frontage or within a couple 100 feet of our frontage which is important to the affordable housing component as a lot of the residents there need access to public transportation; that is one of the reasons it is located in this portion of the project; that we'll be installing approximately 3.3 miles of shared use path, along Route 9, both sides of Mulberry Knoll Road, both sides Beaver Dam Rd.; that the developer will be installing 1.3 miles shared path along the East West Corridor linking Millburn Rd. East/West and back down to Beaver Dam Rd.; that there's another .8 miles of trail paths linking up to the central open spaces and 14 miles of sidewalks; that the residents can take walks on a one mile loop or up to a five mile loop or any other route of their choice; that there will be active play areas for varying ages of kids, unorganized play areas so it could be a wiffle ball field one day and lacrosse another; that there will be several viewing pavilions spread throughout the community, some place to go relax and view and enjoy nature; that a contemplation feature or art feature are going to be included somewhere within the community to provide some additional activities; that the coastal plain meadows intent is to provide natural plants throughout the community; that they want to put various things in meadow condition to help lower the maintenance and allow insects and ecology to grow and work together; that they want to link all these different wetlands together and then put a nature path through the forest to minimize tree disturbance by weaving it through; that the 2nd waiver we had asked for was regarding a grading plan, during the creation of Ordinance 2489 or the Grading and Drainage Ordinance; that the ordinance did not address the need for a grading plan during preliminary plan review as one of the code requirements,

nor did it describe the type of grading plan that's required; that we don't have the appropriate information to do the grading plan at that point because we don't have stormwater management numbers, we don't have storm pipes designed, we don't sewer pipes designed; that we've requested to submit bulk grading plans during the construction document approval process that will be reviewed and approved as part of the County Engineering Review; that we will be able to follow the natural contours of the natural drainage feature of the property; that there will be some recontouring but not a significant amount of Earth moving to achieve the grading to meet all the various requirements of Sussex County, DNREC Center stormwater regulations and DelDOT because they will all be reviewing parts of the drain with Mulberry Knoll Rd. extended and Route 9, Beaver Dam Rd.; that a portion of the major subdivision is located in excellent recharge area; that based on preliminary calculations and conservative calculations, we found that the impervious area may be around 38%, just above the requirement where nothing is required to be done per Chapter 89; that the impervious area will be verified during the design and the information required to demonstrate per Chapter 89 will be submitted to the engineering department for the review; that the commercial area does not require a site plan as part of rezoning application; that the subdivision includes over 166 acres of open space, approximately 81% of the wooded area will be preserved, a permanent buffer, excluding road frontages, will consist of a minimum planted or existing woodland width of 30 feet, water will be provided by Tidewater, sewer will be provided by Sussex County, the subdivision will meet sediment stormwater regulations, sidewalks and shared use paths will be located throughout the community and the project is located within the Henlopen Transportation Improvement District; that we identified the wetlands in the property as delineated by our office, we identified the woodland areas within the site and confirmed by Watershed Eco, we identified critical roadways, the first being Mulberry Knoll Rd. extended as stated by DelDOT through their study, we identified East/West roadway linking Mulberry Knoll Rd. to Beaver Dam Rd. and Route 9 with access points that would be preferred by DelDOT as they align with existing entrances on the opposite side of the road to create four way intersections; that under a cluster subdivision it is required to provide 30% of open space and with the 379 acres plus or minus, it would require 113.71 acres of land where we are providing 166.5 acres of land or 44%; that for this project, we chose the western portion which contains wetlands, woodlands and lands of conservation easement; it is contiguous and provides wildlife corridors linking the wooded area at The Reserves at Lewes Landing to the isolated wetlands then the wooded area and agriculture easement and on to additional wetlands and active open space; that the code allows a connection via one route crossing and thus connect; that the acres of the first area is 46.30 acres, which is 40% of the required 113.71 acres of open space and 27.80% of the proposed 166.5 acres of open space; that when including the second area, the connected open space is 63.60 acres, which is 55.93% of the required open space and 38.20% of the proposed open space; that one concern is the setbacks and buffering between Lewes Crossing, The Willows at Northstar; that the affordable home community provides a 30 foot wide forested buffer and when combined with the existing 30-foot buffer of Lewes Crossing results in a 60 foot wide forested buffer; that the building height for Willows at Northstar will be less than 42 feet with a setback of 50 feet is required; that the building close to Lewes Crossing will be a minimum of 100 feet from the shared property line with Lewes Crossing.

Mr. David Hutt stated that in reference to the C/Z 2025 application, the C1 General Commercial District across the street in the vineyards is consistent with the comprehensive plan and the zoning map for those parcels aligning and to stay within the character of the area; that there's a reference to 96,118 square feet of commercial space proposed; that if tenants or purchasers of that space want to construct a commercial business, they would be able to submit a site plan and then meet all of the various requirements, of

Chapter 89 or parking; that it would be considered by the Planning and Zoning staff and then go through the site plan review process for the County; that the 96,118 square feet of commercial space is the amount of commercial that was forecasted by DelDOT as part of the Henlopen. TID; that with 96,118 square feet of commercial area, when you look at the various components of the Sussex County Zoning Code, the only zoning classification that presently allows for that square footage of commercial area is the C3 zoning district; that the square footage proposed, being the land use forecast and recognizing the existing C1 across the property C3 is the most similar to the C1 zoning district which is the reason for the C3; that C/Z 2026 for 7.8 acres to be zoned as MR Medium Density Residential coordinates with the C/U 2499 seeking 94 affordable multifamily housing units; that this site was selected because of the multifamily uses that exist in The Vineyards and because of the wooded area that buffers a significant portion of the Lewes Crossing property and homes from that site; that multifamily dwellings are the conditional use within the MR Zoning District and in the code a good description of the multifamily conditional use states that these uses are generally of a public or semipublic character and are essential and desirable for the general convenience and welfare; that affordable housing is of a public or semipublic character and essential and desirable for the county; that the purpose of the MR Zoning District is to provide for medium density residential development in areas which are or expected to become generally urban in character, which describes Route 9; that there are apartments and condominiums directly across the street in The Vineyards and this demonstrates how these units integrate into the surrounding zoning and are compatible with the area uses; that medium and higher density is described as 4 to 12 units per acre with other considerations such as, there is central water and sewer, it's near a significant number of commercial uses and employment centers and it's keeping with the character of the area; that it is situated along a main road or at or near a major intersection and is there adequate level of service.

Mr. David Holden, spoke on behalf of the affordable housing aspect of the application; that the company's business portfolio includes affordable housing, low income, housing, luxury housing and senior housing in Delaware, Maryland, Pennsylvania and New Jersey; that company includes a development arm, a construction arm and a management company and they've built over \$100 billion worth of developments and we managed about 8000 units; that the nearest development to the Willows is in Millsboro, called Foster Commons, and that opened last year including 60 units of and similar to what we're what we're proposing; that The Willows will go through two phases that's driven by funding that's available to build affordable housing; that it's administered by the Delaware State Housing Authority and the statewide competitive program and basically the way that the funding is allocated, the project is broken it into the two phases; that The Willows will include a mix of 1,2 and three bedroom units, approximately 700 square feet for the ones 850 for the twos, and 1000 for the threes in the three story; that the buildings that have been mentioned the income levels are households earning between \$34,000 and \$68,000 annually and that's driven by the Sussex County median and incomes; that the rents will range between \$700.00 and \$1200 a month, not including utilities and will have full time staff, amenities that include a community room or clubhouse that will have a kitchenette and activity program that will have staff to coordinate programming for the residents; that there will be a resiliency center as a priority for the episodes where we've lost power or had flooding and it would be available to the residents of the Willows and beyond; that the units will all have Energy Star washer and dryers, an outdoor space either a porch or a patio and the ground floor units will all be handicapped accessible; that there is a letter from Sussex County Community Development and Housing identifying the need for affordable housing as well as the Neighborhood Good Partners, which is based in Dover at the statewide organization that finances and advocates for affordable housing throughout the State of Delaware; that currently there is

659 families on the waiting list for the affordable housing units in Millsboro, which shows they are in high demand.

Mr. David Hutt stated that Subdivision 2023-14 is to fill in the area in ways that are similar to the adjacent properties: that where there were single family communities on AR-1 land the goal is to be consistent with that; that all of the various communities in the area are either single family, multifamily or a mixture of both; that The Vineyards has a density of 11.88 units per acre, consistent with the MR zoning classification, similar to the 11.9 units per acre that's proposed for the Willow at Northstar, on the first side of Beaver Dam Rd. it's 2.17 units per acre, on the other side, it's 2.15 units per acre; that is consistent with the two units an acre that's proposed for Northstar; that on the opposite side of Lewes Crossing is an Henlopen Landing that's 2.63 units per acre; that Gosling Creek purchase is 1.25 units per acre, Coastal Club is 1.63 units per acre. The Reserves at Lewes Landing is 0.95 units per acre; that Sussex West is 3.51 units per acre, Sussex East is 4.59 units per acre and Seaspray Village is 2.39 units per acre; that it follows the consistency of 2 units per acre for the Northstar Subdivision and the purposeful design to putting the more intense C3 and higher density along a major arterial roadways; that the homes and amenities that are clustered on the most environmentally portioned, environmentally appropriate portions of the. It also results in improvements to the property of that avoid wetlands and the cluster subdivision design. As you saw on some of those maps, creates conservation areas around wetlands with setbacks in areas greater than those required by the Sussex County Code; that the cluster subdivision process includes extensive tree preservation by preserving almost 23 acres of existing woodlands or 81% of the trees on the property with approximately 166 acres of land and open space, or approximately 44% of the site; that exceeds the 30% required under the ordinance and exceeds the open space under a standard subdivision; that the design utilizes the existing topography for stormwater management and the cluster subdivision design allows for the open space to be integrated into the community with no back-to-back lots; that the project took resources, which have specific setbacks per Section 115-193, the plan has 9.86 acres of additional land outside of what's required under the Sussex County Code to further protect those environmental areas; that these conservation areas that are proposed as part of the resource buffer management plan become part of the restrictive covenants; that they become the responsibility of the future Property Owners Association to maintain and manage in keeping with the Sussex County codes requirements; that DelDOT sent an SFR response that stated "The intent of the TID is to plan comprehensively and thereby to enable both land development and the transportation improvements needed to support it for residential and nonresidential developments that are consistent with the land use and transportation plan developed for the TID. The applicant is required to pay a fee per dwelling unit and a fee per square foot of nonresidential space in lieu of doing a TIS and making offsite improvements in accordance therewith. The proposed development is consistent with the land use transportation plan. Therefore, the developer will be required to pay the TID fees"; that the developer is proffering that they would handle the construction of the first third of Mulberry Knoll Rd. extended; that the impact of interconnection with Lewes Crossing was discussed and the first set of preliminary subdivision plans that were filed had full interconnection proposed at Oakley St.; that one of the first meetings with the members of the board from Lewes Crossing identified a concern was that point of interconnection; that Northstar agreed that the community could tell us what it wanted to occur at that location; that the community conducted a vote and informed us that the Community did not want any interconnectivity between that portion of Lewes Crossing and the Northstar community; that the revised preliminary subdivision plan has been modified to remove that point of interconnection; that a benefit for the Lewes Crossing is that point of interconnection would have gone through a wooded

area of the property and now more woods remain in that area; that the effect on schools, public buildings and community facilities is often questioned and Northstar put together projections based on Ersi data as well as Census Bureau data, and Northstar retained the Sage Policy group to estimate the number of pupils for the Cape Henlopen High school district that would be generated by Northstar; that Sage Policy Group background states that they have done demographic analysis for Baltimore County public schools and Columbus, OH, City Schools; that they are familiar with estimating those numbers, and that's what its expertise is; that the demographic analysis undertaken by SAGE is that the single family homes and the affordable homes have different outcomes with respect to the number of children that would be contributed or added into the Cape Henlopen school district; that the estimate of school age children from 758 single family homes is 47 school age children as an estimate; that the estimate of school age children from the 94 affordable homes is 32 school aged children with a total of 79 school aged children, 40% of those children coming from the affordable housing units that are in the multifamily conditional use application; that that community opposition has historically prevented additional affordable housing from being built in Sussex County, particularly in the coastal areas where there are few affordable housing options but highly proficient schools, it's a description of the Cape Henlopen School District, it qualifies as a highly proficient school; that this affordable housing opportunity provides access to this highly proficient school for those students; that the Sage Policy group used the city of Lewes' average household size of for the analysis, rather than the statewide 2020 Census Bureau data that this was done by design to more accurately reflect the anticipated community of purchasers that would exist within Northstar; that there will be a number of second home buyers, seasonal home purchasers and many retirees, basically 1.99 people in a home are largely a retiree community; that in addition to considering those demographics, tax revenues were estimated using the values of local homes in the area; that tax revenues were conservatively calculated to add more than \$1.25 million to the Cape Henlopen School District and Sussex Technical High School; that tax bills also provide support to community facilities like the library system and those estimates are conservative as Sussex County is currently in a reassessment process and it is anticipated that those assessment rates and amounts may increase; that Northstar met with the Lewes Fire Department to determine what its needs are and they need more volunteers, hoping many people and residents from Northstar will volunteer for the Lewes Fire Department; that the other significant need is money for equipment; that Northstar is proffering an initial contribution to the Lewes Fire Department of \$150,000, paid in increments of \$50,000 over the first three years of the project; that, there'd be a \$500 contribution to the Lewes Fire Department for each of the single family home building permit that is issued for the project and when the first building permit is issued in the commercial area, there'd be \$150,000 contribution to the Lewes Fire department; that would be \$679,000 to the Lewes Fire Department; that the conditions for change through C/U 2499 are Condition A states that the maximum number of units shall not exceed 94, Condition B is how the county can enforce the affordable housing component of the project and it states the multifamily units shall be part of an affordable housing program, whether through a federal, state or county Low Income Housing Tax Program; that Condition J states that a 30 foot landscape buffer shall be installed along the perimeter of the property adjacent to Lewes Crossing to complement their existing 30 foot buffer, creating a 60 foot buffer; that Condition LL is when the amenities in the Community have to be constructed and pursuant to Section 115-194.5, where it's a 60% requirement; that the code says about 60% of the total residential building permits and for this project the amenities will be completed with the construction of the second building, that accomplishes that 60% again; that Condition K. Condition K is how the Planning Commission has started to refer to amenities by

minimum square footage of size and surface areas and pools; that the amenities in a particular phase shall be constructed and open to use by residents of the development on or before the issuance of the residential building permit, representing 60% of the total residential building permits for that phase of the development; that both pools and clubhouses shall be constructed and open to use by the residents of the development on or before the issuance of the residential building permit representing 60% of the total residential building permits for the entirety of the subdivision; that we're trying to make sure is that there's never a time you couldn't build one of the phases that didn't have a pool; that Condition N states that the conservation areas on the preliminary site plan would reference one of the waivers; that the request is for the signage required around resource buffers or their perimeter to be at 200 foot intervals rather than 100 foot intervals because what's proposed with these conservation areas is actually outside of the resource buffers that are required; that the conservation area would have signage at 200 foot intervals, the resource buffer would have signage at 100 foot intervals and the perimeter buffer requires signage at 300 foot intervals; that Northstar with the size of the perimeters and those other issues, would have a substantial amount of signage and what's proposed is to eliminate the signage; that they will have it around the conservation area, which again is outside of that perimeter buffer area; that Condition Q is the proffer by the applicant regarding contributions to the Lewes Fire Department; that Condition S is the second waiver which is the final site plan shall include a grading plan for each phase; that Comprehensive Plan Goal, 8.2 states that the County should ensure that a diversity of housing opportunities are available to meet the needs of residents of different ages, income levels, abilities, national origins and household configurations; that Objective 8.2 states that the county should affirmatively further affordable and fair housing opportunities in the county to better accommodate the housing needs for all residents; that the first strategy states that the county should explore ways for private developers to provide more multifamily and affordable housing opportunities like what's proposed with the Northstar project; that Objective 8.2.1 in the comprehensive plan talks about these objectives and goals of the County with respect to housing; that Objective 8.2.3 states that the County should facilitate and promote land use policies that enable an increase in supply of affordable housing; that the areas with adequate infrastructure under that objective states that it is to promote increasing affordable housing options, including the supply of rental units near employment centers, just as exists here; that this application demonstrates compliance and consistency with the comprehensive plan; that this plan is consistent with the state strategies, DelDOT's traffic agreement with the county and the Henlopen TID, the comprehensive plan and the zoning for properties across the street; that it is consistent with adjacent uses and density and it fills in missing pedestrian and vehicular linkages, providing 19.4 miles of new walkways in the Northstar project; that when you connect that with the existing shared use paths and multimodal paths this links those up to create more than 21 miles of walkways in this area; that it creates the first third of the extension of Mulberry Knoll Rd. much quicker than it would be accomplished by DelDOT and it's consistent with the county's affordable housing goals in a location where it's desperately needed.

Mr. Collins asked about the phasing of the building and the coordination between the developer and DelDOT to create Mulberry Knoll Rd along with a timeline of construction.

Mr. Hutt stated that if these applications were to be acted upon then it would begin a process with DelDOT to coordinate timeframes.

Mr. Lardner stated that there's the capital transportation program process before that process begins; that there's a ranking system where every two years, Delaware ranks the projects and has these rankings come into play, so that as these TID projects come online ranks change everything; that there is no

definitive timeline and there's going to be times where we may be headed down to certain applications depending where they are with funding, as some projects are more expensive than others and they have their own requirements to meet from a fiscal responsibility; that they have their process to go through and it kind of works together, but we may get ahead of them a little bit, but that's inevitable for district this big with the 2045 build out structure.

Mr. Collins asked if they would need to come back for individual site plan approvals for each phase of the project to ensure that the phases are aligning with the development.

Mr. Lardner stated that it would not be a public hearing, but a new payment plan with conditional approval, TIS notes and phasing notes with the final subdivision plan approval.

Mr. Robinson stated that you stated you can build Mulberry Knoll Rd. quicker and faster than DelDOT, but it's the third phase, but we're not sure when that phase is going to get done and there's nothing to guarantee or confirm that that would happen; that what if you start phase three and sit on it, then you move to Phase 4, 5 6 or 7; that how does the County and the Commission confirm your statements and proffers that you can do it faster and quicker.

Mr. Lardner stated that a separate phase is necessary because that Mulberry Knoll Rd. is DelDOT review approval only; that it is a separate parcel and it has to get deed transfer; that there is a review and approval process, their bonding process, their inspection agreement; that is why it's a separate phase and phasing can be constructed out of order; that when phase one comes back through for approval, there will be some type of phasing plan that will be agreed upon with DelDOT because they are going to have the same concern; that there will be a code planning period and in phase one, phasing notes have to be agreed upon, because you can't record phase one without having everything else already pre coordinated; that from a timing standpoint, phase one would not get approved without some type of agreement that this has to happen by X and that has to happen by Y&Z and that will be the check that will be the agreed upon improvements at that time.

Mr. Robinson stated that the County doesn't have any voice in that discussion with DelDOT at that point and you're putting emphasis on Mulberry Knoll Rd. being constructed in a timely fashion in support of your request for the County to approve this development, yet the discussion you just described, the County doesn't have a voice; that you would be saying this is what's been agreed upon with DelDOT and we have to live with it; that is there a condition involved with the timing or thresholds that can be made from the County's point of view with regard to the construction of Mulberry Knoll Road.

Ms. Wingate stated that DelDOT has held building permits before and I would like to see that happen for Mulberry Knoll Rd.; that the DelDOT entrance for the community is going to be the same standards and all the same procedures they have to go through to get that community done; that I would like to see Mulberry Knoll Road be a priority after speaking to the Chief of Lewes Fire Department.

Mr. Lardner stated that DelDOT has an interesting process going through review, construction, inspection and acceptance and if it takes two years to build the road and get it accepted, that's two years and we hit a threshold and we're done for two years and that's the concern; that issuing some type of condition that addresses this concern; that I propose something like, at the 39th permit if the road is not completed then do not issue any more permits; that maybe Mr. White House or some of

the staff could be part of this conversations is to represent the County, but I think you understand my hesitation of dealing with an unknown process we have not done before and I don't want to just define those type of things.

Chairman Wheatley stated that not only is the County a stakeholder in that conversation, we have the ability to place conditions and I suspect there will be a condition that at least addresses this issue, it may not be completely definitive, but it is going to give us some ability to affect the outcome; that that's a major piece of what you're what you're planning to do and everybody wants it; that DelDOT would be aware and understand that, and perhaps we could ask them to expedite their processing in order to accommodate, you know what everyone agrees is something that needs to happen.

Ms. Wingate stated that per the affordable housing letter from Brandy Nauman phase one is slotted to have 46 rental housing units and not the full 94 and that they will all be affordable housing not just the ones listed in phase one; that there is concern about the proposed number of students that they have projected as she spoke with the Director of Operations for the Cape Henlopen School District and they are at capacity; that when you reach 85% for the State of Delaware, that is their capacity currently, all five of the elementary schools, two of the three middle schools and the high school are operating at capacity.

Mr. Mears stated that for the record, affordable housing is not Section 8; that the public sometimes perceives it as that and just to ensure them that there is a difference; that there is concern about pedestrian safety and crossing of the road being that there is communities on both sides of the road and that there is a plan in place with DelDOT to ensure that they are safely crossing.

Mr. Robertson stated that he wanted to make it clear for the record that Sussex County does not discriminate against any types of housing, whether it's Section 8 with Sussex County's residential housing program, affordable housing of any type, it doesn't matter what type of housing it is.

Mr. Robertson stated that there was a lot of statement and emphasis on the affordable housing aspect of the project and then Condition B was proffered and the question is if they're all going to be affordable housing units, but the condition is the multifamily units shall be part of an affordable housing program, whether through a federal, state or county program; that there's a lot of reporting, accountability monitoring just to make sure that what is proffered and what's approved with our projects; that CRP projects get density bumps and that it's monitored; that I would suggest that you provide more clarity on the type of program and/or the duration of the program, when you get to County Council, because that that's a significant aspect; that we've had affordable housing projects that weren't CRP projects, but they also had substantial reporting requirements to make sure that they remain that way; that questions about the waivers have come up and I would ask that Mr. Medlarz, who is a retired Sussex County engineer and he now works with the county on a consultant basis, come to the podium and speak about them and the new resource buffer and the bulk grading plan waiver requirements.

Mr. Medlarz stated that with the drainage assessment report we reviewed the draft and commented on it and our comments were addressed; that we reviewed the final drainage assessment report and we find it to be in compliance with the current requirements; that we also looked at the buffer maintenance side and that is in compliance; that there was a general requirement of the preliminary plan submission which says submit a grading plan; that when we created the three tier grading plan requirements from bulk to detail to lot certification, which essentially is lot lines and grades

certification, we did not see that reference in the preliminary plans of metals; that we should seek a quick clarification to clarify that requirement; that the bulk grading plan would not be an appropriate tool to require for the preliminary plan; that when I reviewed the plan the engineering department is on record that “A”, it's an oversight from 2017 and “B” that the bulk grading plan is not the appropriate one and it's not asked for, it says a grading plan, so we need to tie it into our own three tier grading system; that for the record, that's what the engineering department and the Planning department agree upon; that the preferred way to show this at this level would be detailed existing grade, so you can gauge the impact of certain roadways, where they cross, where they get cut, where they have fields; that the bulk grading plan has very specific requirements, very detailed requirements in terms of what has to be shown on them and that gets submitted in the first engineering review; that if you have a multi-phase project you would get the bulk grading plan for the entire site and the detailed grading plan for phase one; that we have a common dashboard with DelDOT which tracks DelDOT off site and entrance plan requirements and permit requirements based on building permits; that Mulberry Knoll Rd. in all construction could be similar and could be tracked on our common dashboard; that for example, if the Commission adds a particular threshold we could track that on the common dashboard and the dashboard has in the past prevented building permits from being issued and we have checks and balances in place between the Department of Transportation and the County; that it's real time, as a building permit is issued, the dashboard is updated on both sides.

The Commission noted that they would not be waiving the bulk grading plan requirements, just the timing of what happens and at the same time, notwithstanding that, there's still a topographical requirement as part of a Preliminary Site Plan.

Recess

Mr. Joe Pika, a board member of Sussex Preservation Coalition, spoke in opposition to the application; that SPC is a grassroots organization of about 4000 supporters and followers with about 20 groups that are associated allies to us and we are committed to a number of issues, such as conserving natural resources, balancing growth with environmental sustainability and maintaining livable communities; that we have gone over the materials about this set of applications, we've looked at the county and state documents, the applicant file, we've had conversations with the applicants as well as state and county officials; that the developers have done their homework, they're very thorough, they're very professional and among the people that we spoke to David Hutt has been especially forthcoming in inviting us for a briefing about the development; that he's attended 6 months' worth of our public meetings where we have discussed Northstar; that because this is so complex, one of our important requests to the Commission is that you leave the record open for some period of time after today; that the discussion about school enrollment, I have an interest in that and I contacted Jason Hale and he did not have the opportunity to review the study that was completed by the applicant; that Jason's response was that he felt their projections for the overall population of the development when built out, were low and he initially gave an estimate of school age population five times greater than the one that the specialist the consultant provided; that the General Assembly delegated responsibility to the counties to preserve, promote and improve the quality of life on public health, safety and the general welfare; that county officials determine what is to be built and when; that as part of that decision process, making recommendations to the County Council, you are part of the process that determines the most appropriate use of land, water, and resources consistent with the public interest; that we have two principal concerns, one is traffic and the impact of the traffic generated by Northstar in the area on the health, safety and well-being of the current residents; that we are concerned about some design

flaws particularly about safety; that we are not challenging that there will be development at that location, it is not going to remain a cornfield; that our position is not to oppose any development, all development, that's not our argument; that the key issues for us is the level and volume of traffic on Route 9, Beaver Dam Rd. and we recognize that the new construction of the Mulberry Knoll extension is significant and will have impact on traffic and the access and well-being of residents and of other public services in the area; that the 2023 data that is available on DelDOT's interactive traffic counts states that on Route 9, the average annual daily traffic count is more than 17,000 vehicles and it jumps by at least 10%, possibly more, during the summer; that on Beaver Dam, the traffic is roughly 3710, so these are data that are a matter of a few months, perhaps a year; that Northstar is projected to generate 13,359 vehicle trips daily, which suggests that without improvements; that the context of the TID that allows for improvements, for coordination, volume and improvements; that DelDOT concluded that this project has a major impact to local area roadways; that as part of a memo that was sent to Mr. Whitehouse dated November 29, 2023; that the question is how well can that be accommodated? For how long will it be accommodated? And when will the improvements come along that make that accommodation more feasible?; that the impact of Northstar is not alone in terms of what will happen on Route 9 and Beaver Dam, Cool Springs impact would be primarily on Route 9 and other developments will have an impact on Beaver Dam; that the other unknown is the impact of the Mulberry Knoll extension; that it is intended to relieve the pressure on Route 1 and traffic would move from Route 24 on to Route 1 and then potentially want to go on to Route 9 will instead be able to come up the Mulberry Knoll extension; that the importance of Mulberry Knoll is for the development, but also will add an influx of traffic and no one knows how much; that they want to recommend that, 1.) Pause any decisions on Northstar until the completion of a new study from DelDOT on Route 9, 2.) NorthStar's residential and commercial construction needs to be coordinated with the operability of the area road improvements, on Route 9 and the widening of Beaver Dam Rd., 3.) the County should consider the unintended consequences to the TID and the impact on the general health, safety and welfare of residents and 4.) traffic impacts need to be viewed holistically as what is happening in general and what can be expected on that roadway; that there are design questions concerning open space, are the residents of the affordable housing going to be considered as part of the Northstar community, why this project isn't being treated as a RPC, the adverse impact on neighboring communities and safety issues for residents as the development straddles to busy roadways; that Commission should require Northstar to resubmit its application as an RPC and we recognize that that would delay the construction of the affordable Community Housing, but suggest that application be approved and move forward; that the cluster subdivision and the C3 applications be put back into the regular queue rather than to be expedited; that Northstar should be required to meet the standards for pedestrian and cyclist safety, which may happen when they meet with DelDOT, but we want a commitment; that the conditions that protect the adjacent properties in Lewes Crossing and the natural environment; that Northstar meet the letter of Open Space ordinance and we contest the C3 zoning as the appropriate for the commercial area; that it should more appropriately be B1 or C1.

Mr. Rich Barrasso, co-founder of SARG, spoke in opposition to the application in regards to transportation/traffic around the Northstar project; that they want to discuss the Henlopen TID, the Capital Transportation Program (CTP) and the Route 9/SR 16 corridor study; that there is confusion on why the 2018 (2021-2026 CTP) is used in relation to the Northstar project and not a newer one since 2 more have been completed; that the level of service that exists today for intersections in the proposed area is better, worse or the same as when this study was done; that in the coordination

manual Section 2.41, it state a Transportation Improvement District is a geographic area defined for the purpose of securing required improvements; that the first section in the manual with regards to transportation improvement districts refers to what is required as elements of the of the TID; that the first required element is that a land use, transportation plan or an LUTP be completed for the TID; that it is a forecast identifying the improvements needed to bring all the roads and other transparent facilities in the TID to applicable state or local standards; that the LUTP should consider what is the existing land use of a specific date?; that Development approved and/or recorded but not yet built as of that date. The development expected or in the land development process, but not approved as of that date and then develop and not proposed but projected; that the manual references the LUTP, is it the same thing that was referenced earlier relative to the 2022 analysis of the TID, because there was no reference by the developer or by DelDOT with regards to this requirement of an LUTP; that the LUTP speak to service standards as outlined in the manual; that it states that service standards must be established for the TID and the creation of the LUTP to specify what is considered adequate transportation infrastructure; that if you use the LUTP to update the TID, since it's five years since it was implemented, have you identified what the levels of standards are today or at the time that it was updated; that it establishes a baseline of what the level of standards at any intersection in the impact area; that the manual refers to a monitoring program that states it may be appropriate to make transportation improvements gradually overtime; that the TID agreement should include a program for monitoring conditions in the TID, involve tracking land development, transportation improvements, and the need for transportation improvements in the TID, and it will provide information necessary for updates of the LUTP; that the manual talks of a build out analysis and it states while it is possible to create a TID considering only a target horizon, examination of conditions when all land in the TID is considered to be fully developed can often be useful in the planning process; that if build out analysis is to be done, the TID agreement should specify what degree of development is considered to be the build out and what use is it to be made of in the results of the analysis; that does the LUTP have all the elements needed; that the TID agreement between DelDOT, the County and the developer states that in exchange for following the payment schedule, homes and commercial space constructed and the developer would get something in exchange; that two very important pieces of exchange were stated was that the developer would not be required to submit a TIS and the developer would not be required to phase, so construction could start immediately; that with a TIS there would be a queuing analysis and a safety analysis and because they are located within the TID none of that would be required by the County; that in terms of the Capital Transportation Program (CTP), what is the infrastructure plan for this area; that there are over 100 different projects that are in the DelDOT CTP program and Northstar is ranked #7 with the US9 widening Ward Ave. to old Mine Rd.; that preliminary engineering Right of Way is planned between 2025 and 2026 with construction to begin in 2027 and then completed around 2030; that Mulberry Knoll Rd. Cedar Grove Rd. To US 9. Old Vine and Vineyards extension, the preliminary engineering doesn't even start until 2028, with no construction on that based on the CTP until sometime into the early 2030s; that Beaver Dam Rd. widening SR.12 Farm Rd. has no construction, based on its rank at 88 in the 2025-2030 CTP, until after fiscal 2030; that the analysis says there is no phasing to be done which means 5-8 years of "D" or less level of service; that a level of service of "D" means barely acceptable; that DelDOT should state what phasing is appropriate for the subject land use application and clearly state those phasing requirements to Sussex County so that Sussex County can clearly incorporate them into its various approvals as appropriate; that the County cannot act alone on requiring phasing they would need DelDOT to say phasing is appropriate and allow the County to incorporate phasing as part of

the approval process; that the TID places restrictions on the ability of the County to require phasing and places restrictions in terms of how much of an impact study can be required; that the County in cooperation and guidance of DelDOT, can determine if phasing is appropriate; that the US9 SR16 Coastal Quarter study initiated in 2019 with the final report completed last month, which focused on identifying transportation solutions for East-West routes in Sussex County, including SR.16 US.9, 113 and SR.1; that these roadways are East-West corridors in the northern part of Sussex County that are currently congested or at risk for congestion based on anticipated growth; that this study was initiated in 2019 and was finalized in 2024 and is available to view on the State website; that there were three key recommendations, but the one that is relevant to this application, which is accommodating traffic growth on US.9; that US 9/SR.5 is the most congested signal lighted intersection in the planning area and is forecast to be at or near capacity by 2050 without improvements; that when DelDOT makes its projections they set the timeline into 2045; that their assumption on terms of traffic growth as stated in the study is 0.6% a year; that at 0.6% a year, you could be safe until 2045, but why would we use an assumption of 0.6% growth when we have information that traffic is increasing more than the 0.6%; that if we have current active applications that in terms of the impact, the threshold for dualizing a highway in Delaware is 20,000 vehicle trips a day and we're at 17 right now with current conditions and add 13,000 more; that DelDOT provided information through a software system called Synchro Delay Data; that there is data on US.9/SR.30, Sweetbriar/US9, Sweetbriar/Dairy Farm, Airport Rd/Park Ave./SR.5, Hudson and Fisher, but no sync data on Beaver Dam and the new roundabout that was just completed, Beaver Dam Road and Dairy Farm Road and the US.9 at Old Vine; that that's the type of information that a TIS would provide; that the Synchro Delay Data will be helpful in terms of land use on Route 9, but it's not the complete pick; that some specific recommendations have the likelihood to potentially require. Sussex County Land use code changes in the future; that one is widening US9 and at SR.5; that the study states it's near impossible to dualize Route 9 at the intersection of SR5 and US9; that DelDOT has real concerns about the ability to dualize Route 9 at that intersection, which includes a cemetery and it will have an impact on anything East or West of that intersection; that a second recommendation is to conduct an analysis to determine appropriate set back requirements along US9 between. Georgetown and SR1; that currently building setbacks along US 9 vary based on the zoning of the parcel, with a minimum front yard setbacks of 25 feet up to 60 feet; that the study is going to look at those setbacks relative to where they may widen and are we approving developments whose setbacks based on current codes are inappropriate; that the state is going to review what the setbacks should be based on their view and then come back to sizes can say what possibly can you do with regards to your zoning codes; that the third recommendation is to explore code revisions to reduce the extent to which parking and stormwater facilities are permitted in the front yard setback; that current subdivisions have these wet ponds that are too close to the road and in terms of the potential for widening roads going forward, there's likely to be some action coming down from these recommendations; that if commercial parking lots are too close to the road, there's probably going to be more stringent requirements for those going forward too; that our recommendation is to pause any decisions on the Northstar development until the completion of the US9 2024-2025 Coastal Quarter study; that the next 12 months they're going to be looking at US9 based on the original study; that NorthStar's residential commercial construction must be coordinated with completion and operability of barrier road improvements in the CTP; that any type of phasing puts a tremendous burden on the developer and the developers financiers, but not doing it puts an even more greater burden on the public.

Ms. Jill Hicks spoke on behalf of Sussex Preservation Coalition in opposition to the application; that she was entering into record a petition with 827 signatures in opposition to the application; that the letter from DelDOT states that they approve improvements needed for the area around the application but not the traffic impact over the entire corridor or roadway; that she going to walk through observations and recommendations regarding the application, the remarkable safety risks posed by the plan, why the plan does not meet superior design standards, the impact of the surrounding communities and the overkill of the C3 zoning request; that this plan asked us, scribed by its own application, as a mixed-use community should have been therefore submitted and reviewed as an RPC; that the staff review letter recommend that the applicant consider submittal of this project as a residential plan community, RPC, rather than a series of four separate applications; that the applicants response was this applicant considered and appreciated staff's recommendation, but intends to leave the project as four separate applications, with no reason given no explanation, not even a counter reply; that the developer applies as a Mixed-use Community, rides the coattails of the affordable housing units to expedite the so-called mixed-use project, and then after it receives the expedited status, separates the project into four separate pieces; that the affordable housing that was expedited in the first place will have no access to the amenities of the community and cannot be a part of the HOA; that it's a bait and switch, the ploy of offering something desirable to gain favor then thwarting expectations; that The Willows at Northstar is a part of the community by name only; that The Willows are segregated from the community, geographically and by conditions of exclusion; that what is the plan if the states workforce housing plan falls through? Does the entire project continue? Where does the connection begin? And what is the status of the funding after initial postponement of the P&Z hearing in March, where deadlines missed, according to a letter between developer and Ingerman dated December 4th, part of the funding is proposed to be accomplished through low income housing tax credits from the Delaware State Housing Authority and the applications are due in April 2024, which has come and gone; that having to wait a year or more to be able to seek the low income housing tax credits from the Delaware State Housing Authority would be a considerable setback in the timing of opening the doors to these proposed apartments for low and moderate income households in need of affordable housing; that will The Willows at Northstar be funded and built first, as promised by the developer? And what is the funding status?; that SPC recommends two options regarding this dilemma, first, is to expedite the entire project as an RPC, as requested by planning and zoning staff to provide a holistic approach to the mixed-use project as it should be a level playing field for all developers and second option would be to proceed with separate applications as filed, expedite the MR application for the affordable housing, but the cluster subdivision and the C3 go back into the queue 14 to 17 months after the filing date of December 4th to level the playing field for all developers; that it would allow The Willows at Northstar, to be expedited without precedent and the cluster subdivision and commercial projects could proceed regardless of securing affordable housing from the state program or any unforeseen circumstances; that there are remarkable safety concerns with this plan, and how can its design be considered superior if it's unsafe for its residents, the surrounding communities and/or the county at large?; that one main selling point and characteristic of a mixed-use community and RPC or the upcoming MPZ is that it is pedestrian and bike friendly; that it is supposed to promote community and belonging among its residents, divided into 5 fragments by two major state thoroughfares, Northstar is none of these; that this cluster subdivision is riddled with hazards, speed on Mulberry Knoll Rd. today is 50 mph and to believe that drivers will slow down or obey a lower speed limit through Northstar or Mulberry Knoll Rd. extension is unrealistic; that

speed limit on Beaver Dam Rd. which divides Northstar is 45 mph; that Northstar residents will have to cross Beaver Dam Rd. and Mulberry Knoll Rd. extension to reach the amenity centers or the commercial retail space; that not only is speed a factor, but what are the vehicle trip projections for the Mulberry Knoll Rd. extension? That there are no parking spaces shown for the amenity centers, so it is safe to assume that residents are expected to walk, ride bikes, scooters, motorized wheelchairs, etcetera to reach and enjoy these amenity centers; that Planning and Zoning staff noted on page ten of their review letter, please include location, dimensions and purposes of any and all crosswalks and easements to be provided on the plan specifically for the proposed 80 lots to be located on the South side of Beaver Dam Rd.; that there is no traffic light provided to safely cross Mulberry Knoll Rd. extension to reach the amenity center directly across; that the Affordable Housing residents must cross Mulberry Knoll Rd. extension or Lewes Georgetown Highway if they want to get over to The Vineyards to reach commercial retail areas; that pedestrians will undoubtedly cut through the buffer instead of trekking to the light and then cut back to the retail center; that according to the code, a cluster subdivision requires 30% open space, so Northstar must provide 114 acres of open space, and they have 166 acres of open space, and 9% of the site must be contiguous open space or in their case 34 acres; that only one area of this site is large enough for that amount, Open Space A is 46.3 acres; that Open Space A is actually six small fragmented open spaces connected by a perimeter buffer and this space does not meet the intent of the contiguous open space requirement to accept; that 115-25F(3A)(3B) states required open space must be designed to be beneficial to the residents or users of the open space it shall not be constituted of fragmented lands with little open space value. Accordingly, 30% of all required open space shall be located on one contiguous tract of land, except that such open space may be separated by water bodies with a maximum of one street; that the subdivision design appears to be fragmented and a better proposal would be that the parcel on the South side of Beaver Dam Rd. that contains wetlands and juts into Lewes Crossing should have been left for contiguous open space or put into conservation; that perimeter buffers for several lots appear insufficient, BJ Lane buffer is 20 feet, which should be 30 feet to meet cluster subdivision code; that the 30 foot buffer that is owned by Northstar LLC, is that wooded? This is the buffers between Lewes Crossing and Lewes Landing; that when they show the wooded buffers, is that the woods that already exist in Lewes Crossing or is it a 30 foot wooded buffer within that parcel; that security lighting is a concern as it will shine into Lewes Crossing as the parking area for the MR section is on the outside with the buildings in the middle; that a 50-100 foot forested buffer should be required in this area to prevent the lighting from affecting the residents of Lewes Crossing.

Mr. Hutt stated that the reasoning for the expedited application for the low-income housing is that the Ingerman Group applied for the Low-Income Tax Credit Program in the beginning, but due to the difficulty to qualify for those programs with no land use entitlements the opportunity was missed.

Mr. Holden stated that the application was submitted in April, as it's a competitive statewide process and they scored well, but there was no land use approval and they were told to return upon having that, which is the plan with this application.

Mr. Hutt stated that BJ Lane doesn't have a 30-foot perimeter buffer because the code doesn't require a 30-foot buffer in all circumstances in a cluster subdivision and the property owner who abuts this piece of the project submitted a letter of support with just a 20-foot buffer.

Mr. Ralph Patterson, spoke on behalf of the Members of the Cape Henlopen Elks Lodge, in opposition to the application due to the affect that the construction of this development will have on their lodge as the main entrance for Phase I will be about 40ft from their property line; that it is said that there will be a traffic signal placed at that entrance upon completion of construction and that will limit the accessibility of patrons to their location; that currently the closest traffic device is a three way stop sign at Beaver Dam Rd. and Dairy Farm Rd. and during busy times nearly every day, traffic to waiting to pass through that control device, it backs up to our property and to the property of our neighbors; that we are nearly one half mile from that sign and that's with today's traffic, add additional vehicle trips per day and it will only exacerbate the situation; that the bad traffic situation on Beaver Dam Rd. will not be improved by 800 new units and a worst case scenario, DelDOT will actually widen Beaver Dam Rd. in which case we would lose a third of our parking, a very nice sign that we just paid a lot of money for and a flagpole; that if developed they request that a vegetated buffer be put between our property and theirs; that the 30 foot standard should be strictly enforced and a much wider buffer should be considered; that the existing natural buffer to our North should not be taken down; that they are asking for a physical barrier to separate Northstar from our property, a privacy fence constructed and maintained by Northstar with a six foot height minimum should be considered sufficient to screen our property; that we would like to work with the developer and DelDOT to ensure that if Beaver Dam is widened, our parking, flagpole and electronic sign be preserved or relocated at NorthStar's expenses; that we would like to be good neighbors, but the Northstar development, if built, will present real problems for the Cape Henlopen Elks Lodge.

Mr. Johanes Sayer, of Red Mill Pond, spoke in opposition to the application in regards to the concern of the impact it will have on traffic; that he submitted a petition with 212 signatures from residents of his development that stated "We oppose the Northstar development Project 2023-14 as currently proposed, which would be located a short distance east of our community. Our community would be directly affected by the 13,359 daily vehicle trips Northstar is projected to add to area roads. Traffic on Route 9 now regularly backs up West to Minos Conway Rd. from the Route 5 intersection on off season weekdays outside of rush hour. Current plans to dualize Route 9 westward end at Sweetbriar Rd. making that intersection a choke point. We would have to transit to access our community. Area traffic is already often impassable as development would worsen that problem. Route 9 is the major emergency evacuation route westward from the Lewes area. Our community is in evacuation zones, B&D in an emergency, the additional traffic produced by this project would worsen congestion in the evacuation path, which can already be anticipated to be grave, to impassable. Local emergency responder agencies already report that they're understaffed to keep pace with local population growth. The fact that retirees are substantial proportion of new residents and as senior citizens contribute a higher number of calls for service per person compounds this problem. The population growth brought by the 852 residents as proposed by the project can be anticipated to have a similar demographic mix and will further exacerbate the problem. The same problems exist with the availability of health care for the same reasons and with the same expectation of future worsening and impacts from this project. Last, this project would add another projected 210 students to Cape Henlopen School District. That was the number we were working with in a time when the districts are already struggling to pay for infrastructure to support new student arrivals, which are currently increasing every year. Before property development projects are approved, particularly ones of the scale of Northstar, County government and all other stakeholders need to form and implement a practicable plan for limiting the population growth, such projects introduce to stay within the limits of available natural and municipal resources.

Ms. Sarita Hall, spoke on behalf of herself as a member of Coastal Club, in opposition to the application; that there are several questions that they have concerning the project; that DelDOT stated that they did a TID analysis in 2022, but was the potential build out considered into that analysis; that by rezoning this area does it change the impact; that the community is concerned with the water runoff, the idea that cluster subdivisions are in urban communities and they don't want Lewes to become urban and will the community have their property value affected due to the amount of traffic on Beaver Dam Rd.

Fern Goodhart spoke on behalf of herself in opposition to the application in regards to the impact the development will have on traffic and safety; that by adding 10's of thousands of vehicle trips will compound the risk of bicyclist and pedestrians, including bicycle clubs who have to travel in the bike lanes because the trails do not connect continuously; that not only are the roads being affected by the increase in the number of people and developments, but so are the bike trails being overwhelmed.

Mr. Melvin Mousley, owner of Pam Ann Stables, spoke on behalf of himself and his wife in opposition to the application in regards to the buffer separating his property and the Northstar development; that the concern is that the people are going to cross the buffer in order to see the horses and will either get bit or kicked and he will have a lawsuit on hand; that they suggest a 100 foot buffer and leave the existing tree buffer that's real thick and has high growth; that they also want to make a fence around it, like a stockade so you can't climb through it or see through it to make it safe for everybody; that placing no trespassing and do not pet the animals signs may help, but won't guarantee that it will keep people off of his property.

Mr. David Selby spoke on behalf of himself and his family in opposition to the application in regards to the impact the traffic will have on the people of Jimtown Rd and how it will ultimately become a shortcut for people trying to go down to Plantations Rd; that Council should request a traffic study be completed and include Jimtown Rd into it; that before widening the roads to consider the people of Jimtown Rd who have lived there for many years and most of their properties do not comply with the new setback codes and to widen those areas would hurt those families; that when you're putting houses of this magnitude in you're going to have a problem of you don't have as wetlands and somebody's going to be living next to a wetland because where is the water runoff from the ground disturbance going to go because that's now replaced by houses.

Dr. Lynn Carmen spoke on behalf of herself in opposition to the application in regard to life safety and the need for ambulance or immediate medical care being hindered by the volume of traffic; that the rise in the population makes the ability to get a physician near impossible and the number of older people that are within this area requires a lot of medical care, to which we are depleted.

Ms. Marian Utter spoke on behalf of herself in opposition to the application in regard to the idea that how the developers can forgo the TIS by paying a fee and the concern for the wellbeing of people in the area is disregarded.

Ms. spoke on behalf of herself in opposition to the application in regards to the health, safety and wellness of the surrounding communities; that the concern is the evacuation route during the hurricane season which appears to be the East/West corridor of 23/24; that maybe a shoulder for a paramedic to come through, or a cop to stop traffic or if there's an accident, somebody's got to go in a different direction; that the reality is most people just take the shoulder as if it's lane; that I would

like some consideration from the paramedics on the major corridors that we have to use to evacuate when the flooding happens.

Mr. John Miller spoke on behalf of himself in opposition to the application in regard to the traffic impact of such a large development; that all of the commercial development is along Route 1 which causes all of the traffic to push in that direction with nowhere else to go; that the concern of growth happening too fast is something that the County should look into as services for the people are not readily available.

Mr. Dale Sands spoke on behalf of himself in opposition to the application in regard to the possibility of the interconnectivity to Lewes Crossing and to be sure that it was on the record that the members of Lewes Crossing did not want that and that if there was ever an appeal process it was on the record.

Mr. Michael Johnson spoke on behalf of himself in regards to the affordable housing aspect and with it being separated from the rest of the Northstar development and not being considered as members of the Northstar Community; that there is a need for workforce housing, but what I'm hearing is affordable housing; that with workforce housing, if you have a nurse making decent money they probably wouldn't qualify under those guidelines of about \$28,000 to \$68,000; that maybe we need to rethink what that project really is going to be because there definitely is a need in this community for more affordable housing; that with the commercial properties along Route 9, there is concern that Route 9 is becoming another 24 or Route 1; that at what point is it going to be stop and go traffic on there, at what point you going to have people pulling in and out to get in and out of these stores or to get to the stores and what kind of traffic back up and accidents for that going to cost?; that we should designate all of Route 9 as commercial and just rezone both sides of it.

Mr. Dave Green spoke on behalf of himself in regard to the HOA and involvement of them in the affordable housing development; that it would not be feasible for an HOA to maintain that and there would need to be some other management company in charge of that aspect; that are the roads within the development private or public and who is maintaining them.

Mr. Matthew Puhalski spoke on behalf of himself in regard to the impact the development would have on traffic and how the infrastructure cannot handle the influx of people that are coming to the area; that in order to have a development like Northstar, there needs to be preparations done to handle it; that if Northstar was to be approved there would be an entrance to the development directly across from the entrance to Coastal Club in which there is only one way in and one way out of with 700 residents; that add the additional traffic from NorthStar's residents and the contractors, landscapers, etc. and it creates a huge impact of traffic.

Ms. Judy Rose Seibert spoke on behalf of herself in opposition to the application in regard to the traffic and the width of Beaver Dam Rd. specifically along the property line of the Northstar project; that she requests that a condition be put in place that requires the roads to be widened enough to accommodate safety personnel to travel with limited issues and that no building permits be issued until this has been done.

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 2499 Northstar Property, LLC. Motion by Mr. Collins to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 5 - 0.

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

The Commission discussed this application which has been deferred since July 17, 2024.

The Commission discussed the following points in reference to the application:

1. The design and configuration of the proposed “open space” and how it appears to be fragmented in the current plans. Mr. Whitehouse noted that the open space areas were large enough to enable them to be re-configured. For example, lots 221-226 could be reconfigured, along with Road, B, Road, C and Road E to achieve a contiguous and less fragmented open space.
2. How the open space is proposed to be maintained; that some areas may be proposed to be meadows that would not be mowed; that it is important that these areas be clarified so that property owners know which areas are to be left to grow as meadows.
3. Phasing and the time frame for the construction of Mulberry Knoll Road. and the ability to hold the developer accountable for maintaining said time frames within any potential conditions of approval. Mr. Roberston confirmed that he had reviewed the master agreement for TIDs between the County and DelDOT and that there is no prohibition against the imposition of conditions of approval relating to construction phasing in developments that were proceeding forward with a TID.
4. The Commission discussed the implementation and enforcement of any potential conditions and the potential penalties for any potential non-compliance.
5. The Commission discussed the potential mechanisms for the potential tracking of affordable housing and keeping the units affordable and asked about the penalties and enforcement mechanisms to ensure that affordable units continue to remain affordable.
6. The phasing of the development and whether the developer could be required to complete the affordable housing portions first.
7. The Commission discussed the overall integration of units within the proposed community as a whole, and inter-connectivity. Concerns were raised that some aspects of the community may be physically and/or functionally separate from some of the amenities. For example, would occupiers of the multi-family units be able to access HOA amenities.
8. That any Final site plan needs to be clear and precise to provide buyers predictability on what is intended for development.

Ms. Wingate moved that the Commission reopen the record for Subdivision 2023-14, C/Z 2026, CU 2499, and C/Z 2025, all regarding Northstar Property, LLC, for the limited purpose of officially notifying the Cape Henlopen School District about these four applications and to receive any official written comment that the district may have concerning the applications. The record shall be held open until the close of business on August 20th, 2024, for official written comment from the district on the applications. Then the record shall remain open until the close of business on September 4th, 2024, for written comment only from the applicant and the public and limited solely to comments received

from the district with respect to the applications.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to reopen the record for the limited purpose on C/U 2499 NORTHSTAR PROPERTY, LLC for the reasons stated. Motion carried 5 -0.

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

Minutes of the September 11, 2024, Planning & Zoning Commission Meeting

Mr. Whitehouse stated that the record was initially held up until the close of business on August 20, 2024, for the official written comments from the school district and then the record was left open until the close of business on September 4, 2024, for a written comment from the applicant and the public, and now that that has passed all of those documents are found in the paperless packet.

Chairman Wheatley stated that they are announcing today that the letter from the school district was received, related public comments have been received and the record closed on September 4 of 2024; that anyone who wishes to review the file, it is available online and these items will appear on an agenda for discussion and a possible vote at a later meeting.

Mr. Robertson stated that the letter from the school district, a letter from Mr. Hutt on behalf of the applicant in response to the School District's letter and a letter from the Sussex Preservation Coalition in response to the district's letter are all in the docket.

Minutes of the October 9, 2024, Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since September 11, 2024.

Mr. Collins moved that the Commission recommend approval of C/U 2499 NORTHSTAR PROPERTY, LLC, for 94 Multi-Family Units based upon the record made during the public hearing and for the following reasons:

1. The purpose of the MR zone is to provide housing in an area which is expected to become urban in character and where central water and sewer is available. Central water and sewer are available to this site, and this application for multi-family units is in compliance with the purposes of the MR zone.
2. The property is in an area with a more urban character, including a variety of large and small business, commercial and office uses and higher density residential development across Route 9 from this site. There is a wide variety of zoning in the immediate area, including AR-1, MR, GR, C-1, CR-1 and B-1. The C-1 property across Route 9 from this project is being developed with a mixed use including residential units at a density similar to what is proposed with this project. The location along Route 9 is also in close proximity to Route One and the Five

Points intersection and the commercial corridor of business and commercial uses there. It is also located along one of DART's bus routes. This conditional use is consistent with other zoning and land uses in the area. Multi-family development is appropriate for this property adjacent to these roadways and this intersection.

3. The proposed use is consistent with the County's Comprehensive Land Use Plan. It is in the Coastal Area according to the Plan, which is a Growth Area. The Plan states that medium and higher densities can be appropriate where, like here, there are features such as central water and sewer and nearby commercial uses and employment centers. The Plan also states that a range of housing types should be permitted in the Coastal Area, including single family homes, townhouses and multifamily units.
4. In this case the purpose of the development is to provide 94 affordably priced rental units upon 7.882 acres on the eastern side of Sussex County. Because of the high price of homes and rentals in much of eastern Sussex County, housing can be unaffordable for a lot of residents in this area of the County. Many County residents cannot afford to live near where they work, resulting in long commuting time and increased traffic on County roadways. The project will provide affordable housing at a convenient location to Sussex County residents with low to moderate income levels who are a large part of the workforce in eastern Sussex County.
5. The project has a density of 11.93 units per acre, which is consistent with the density that is permitted "by-right" under the Sussex County Rental Program. However, under that program, only a portion of the units must be dedicated to affordable housing. Here, all of the units are being dedicated to affordable housing.
6. According to information stated in the record, the rental units will be available to households with incomes with less than 60% of the Sussex County median income. To comply with this, the project will be managed by a property management company that specializes in affordable housing projects, with more than 30 years of experience developing affordable housing throughout Delaware, Pennsylvania and New Jersey.
7. County Council declared in Chapter 72, Section 18 of the County Code that it is the public policy of the County to:
 - A. Encourage the creation of a full range of housing choices, conveniently located in suitable living environments, for all incomes, ages and family sizes.
 - B. Encourage the production of affordable rental units to meet the existing and anticipated future employment needs in the County.
 - C. Assure that affordable rental units are dispersed throughout the County consistent with the Comprehensive Plan.
 - D. Encourage developments in Growth Areas as defined within the County's most current comprehensive plan and Areas of Opportunity as defined by the Delaware State Housing Authority to include a minimum percentage of affordable rental units on public water and sewer systems.
 - E. Provide incentives for developers to construct affordable rental units through tools such as the density incentive and expedited review.The proposed development is in accordance with this stated County Public Policy.
8. The development is consistent with the Goals set forth in Chapter 8 of the Sussex County Comprehensive Plan regarding Housing. For example:
 - A. Goal 8.2: "Ensure that a diversity of housing opportunities are available to meet the needs of residents of different ages, income levels, abilities, national origins and household configurations."

- B. Objective 8.2.1: “Affirmatively further affordable and fair housing opportunities in the County to better accommodate the housing needs of all residents.”
- C. Strategy 8.2.1.3: “Explore ways for private developers to provide more multi-family and affordable housing opportunities.”
- D. Objective 8.2.3: “Facilitate and promote land use policies that enable an increase in the supply of affordable housing in areas with adequate infrastructure.”
- E. Strategy 8.2.3.1: “Promote increasing affordable housing options, including the supply of rental units, near employment opportunities.”

This project is consistent with each of these goals, and it is located in an area where the use is consistent with the existing and planned infrastructure, and it is located near numerous employment opportunities with access to many more employment opportunities given its location on an established DART route.

- 9. This project received expedited treatment because of the affordable rental housing being sought as justified by the County Code and the Comprehensive Plan. This project was also considered wholistically at the same time as Subdivision #2023-14 and a C-3 Rezoning. Because the other applications benefitted from the expedited review of this one, there is a condition of approval requiring this affordable housing project to be built first.
- 10. There are no wetlands located on the property.
- 11. DelDOT has stated that the proposed multi-family conditional use will have a “minor” impact upon local area roadways. However, the property is within the Henlopen Transportation Improvement District. Therefore, any future development will be required to enter into an infrastructure recoupment agreement and pay a TID “per-unit” fee prior to the issuance of every residential building permit.
- 12. As part of the Final Site Plan approval process, the stormwater management design will be reviewed and approved by the Sussex Conservation District, ensuring that the drainage system will be adequately designed and constructed to protect adjoining developments.
- 13. The proposed multi-family conditional use meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County in an appropriate location.
- 14. There is no evidence that this project will adversely affect the neighboring properties, area roadways or community facilities.
- 15. With conditions imposed, including the requirement that all of the units will be only be available to qualified low and moderate income County residents, the proposed conditional use meets the purpose of the Zoning Code and Comprehensive Plan in that it promotes the orderly growth, convenience, order, prosperity, and welfare of the County and its residents.
- 16. This recommendation is subject to the following conditions:
 - A. There shall be no more than 94 Units within the development.
 - B. All of the units shall be rented and occupied as part of an officially recognized Federal, State or County affordable housing program. The project shall also be managed by a property management company that is recognized and specializes in the management of affordably priced residential projects operated under Federal, State or County affordable housing programs. The name and experience of the property management company, and the nature, type and economic details of the affordable housing program shall be provided to Sussex County’s staff for review prior to review and approval of the Final Site Plan. The units must be occupied as the primary residence of the tenants. Once constructed, on the first 12-month anniversary of the first unit being occupied, and on an annual basis thereafter, the property manager for the development shall submit a certified and notarized report to the Sussex County Director of Community

Development and Housing in a format acceptable to the Director, which shall include the following information: (i) the affordable housing program(s) utilized by the property; (ii) the eligibility criteria for tenants used by the program(s) at the property; (iii) the number of units, by bedroom count, that are leased to eligible tenants and those that are vacant; (iv) the monthly rent charged for each unit; (v) for each unit, the household size and total household income as of the effective date of the lease and any renewals thereof; (vi) a statement that, to the best of the landlord's information and knowledge, tenants who are leasing the units meet the established eligibility criteria; and (vii) a status report about the type and usage of the service amenities described in Condition J below.

- C. All entrances, intersections, roadways and multimodal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's determination. In addition, the property is within the Henlopen Transportation Improvement District. Therefore, any future development will be required to enter into an infrastructure recoupment agreement and pay a TID "per-unit" fee prior to the issuance of every residential building permit. The applicant shall provide a phasing schedule that shall coordinate and establish the construction timeframe of the off-site entrance and roadway improvements that DelDOT will require as a result of the development that are not covered by the TID. This phasing schedule shall be presented to the Planning and Zoning Commission as part of the Final Site Plan and shall demonstrate that the off-site improvements required by DelDOT will be completed prior to or simultaneous with this project reaching substantial completion.
- D. Central sewer shall be provided to the development by Sussex County. The developer shall comply with all requirements and specifications of the Sussex County Engineering Department.
- E. The development shall be served by a central water system providing adequate drinking water and fire protection as required by applicable regulations.
- F. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements, and the project shall utilize Best Management Practices to construct and maintain these fixtures. The Final Site Plan shall contain the approval of the Sussex Conservation District.
- G. Interior street design shall comply with or exceed Sussex County standards and sidewalks shall be installed that connect with the multi-modal paths required by DelDOT.
- H. Road naming and addressing shall be subject to the review and approval of the Sussex County Geographical Information Office.
- I. The Applicant shall consult with the local school district's transportation manager to determine if a school bus stop is appropriate. The location of such a bus stop shall be shown on the Final Site Plan.
- J. This community shall have both recreational amenities and service amenities. The recreational amenities shall include a clubhouse with a lounge, fitness center and management offices, bike storage lockers, a playground and play area. The size and details of these recreational amenities shall be shown on a separate amenities plan to be reviewed by the Commission as part of the Final Site Plan review. These recreational amenities shall be completed in accordance with Section 115-194.5 of the Code. In this instance, since the units are within larger buildings, this will require the recreational amenities to be completed prior to the issuance of the building permit for the third residential building. The service amenities shall include access to, and

assistance with, local facilities including but not limited to the YMCA and employment and educational opportunities and counseling. The status and use of these service amenities shall be provided in the annual report to the Sussex County Director of Community Development and Housing.

- K. Construction, site work, and deliveries shall only occur on the site between the hours of 7:00a.m. through 6:00p.m., Monday through Friday and between 7:00 am and 2:00 pm on Saturdays. No Sunday hours are permitted. A 24-inch by 36-inch “NOTICE” sign confirming these hours in English and Spanish shall be prominently displayed at the site entrance during construction.
- L. A 30-foot-wide forested buffer shall be installed along the perimeter of the development adjacent to Lewes Crossing. This buffer area shall comply with the planning requirements for such a buffer as contained in Section 99-5 of the Sussex County Code.
- M. The Final Site Plan shall include a landscape plan for the development showing the proposed tree and shrub landscape design, including the buffer areas. The landscape plan shall include the “Limits of Disturbance” within the site and these “Limits of Disturbance” shall be clearly marked on the site itself.
- N. All lighting on the site shall not exceed 18 feet in height and it shall be shielded and downward screened so that it does not shine on neighboring properties or roadways. In addition, the external lighting shall be located no closer than 100 feet from the common boundary with Lewes Crossing and shall face away from the Lewes Crossing community.
- O. The Final Site plan shall state that the agricultural activities exist nearby, and it shall include the Agricultural Use Protection Notice.
- P. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
- Q. Because this multi-family rental project was linked with Subdivision 2023-14 and the projects have both been expedited and considered simultaneously as a result, and because of the importance of providing affordable housing for Sussex County residents, construction of this project shall be substantially completed and receive its Certificate of Occupancy from Sussex County prior to the issuance of a Notice to Proceed for Phase Two of Subdivision 2023-14.
- R. The Final Site Plan shall depict or note these conditions of approval, and it shall be subject to the review and approval of the Sussex Planning & Zoning Commission.

Motion by Mr. Collins, seconded by Ms. Wingate and carried unanimously to recommend approval of C/U 2499 Northstar Property, 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
J. BRUCE MEARS
GREGORY SCOTT COLLINS
BRIAN BUTLER



Sussex County

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JAMIE WHITEHOUSE, AICP MRTPI
PLANNING & ZONING DIRECTOR

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: July 17th, 2024

Application: CU 2499 Northstar Property LLC

Applicant: Northstar Property LLC
107 W. Market Street
Georgetown DE 19947

Owner: Delaware Farm LLC and RCTDE, LLC
1908 Cliff Valley Way NE
Atlanta GA 30329

Site Location: Lying on the southeast side of Lewes-Georgetown Highway (Rt. 9) and the northwest and southeast sides of Beaver Dam Road (S.C.R. 23) approximately 2.4 miles southwest of Coastal Highway (Rt. 1)

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

Proposed Use: Multifamily Dwelling Structures – (Apartments / 94 Units)

Comprehensive Land
Use Plan Reference: Coastal Area

Councilmanic
District: Ms. Gruenbaum

School District: Cape Henlopen School District

Fire District: Lewes Fire Department

Sewer: Sussex County

Water: Tidewater Utilities, Inc

TID: Henlopen Transportation Improvement District (TID)

Site Area: 7.882 acres +/-

Tax Map ID: 334-5.00-175.00 (p/o)



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Memorandum

To: Sussex County Planning Commission Members
From: Mr. Michael Lowrey, Planner III
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: February 28th, 2024
RE: Staff Analysis for C/U 2499

This memo is to provide background and analysis for the Planning Commission to consider as a part of Application C/U 2499 Northstar Property LLC to be reviewed during the July 17, 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: 334-5.00-175.00 (p/o)

Proposal: The request is for a Conditional Use for Tax Parcel 334-5.00-175.00 to allow for multifamily dwellings (94 Units) on a portion of a parcel lying on the southeast side of Lewes-Georgetown Highway (Rt. 9) and the northwest and southeast sides of Beaver Dam Road (S.C.R. 23) approximately 2.4 miles southwest of Coastal Highway (Rt. 1). The portion of the parcel is comprised 7.882 acres +/-.

Zoning: The Parcel is zoned Agricultural Residential (AR-1) District. The adjacent parcels to the east and west of the subject property are zoned Agricultural Residential (AR-1) and parcels to the

north are zoned Agricultural Residential (AR-1) and General Commercial (C-1). Parcels to the south are zoned Agricultural Residential (AR-1), Medium-Density Residential (MR-RPC), & General Residential (GR).



Additionally, a Change of Zone Application (CZ 2025) (AR-1 - C-3) is included with the Applicant's submission. This is for the (12.696) acre portion across the Mulberry Knoll Road extension to west and fronting on Route 9 to allow for (≈96,000) square feet of commercial improvements.



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

Applicability to Comprehensive Plan: The project lies within the Growth Area and is categorized as “Coastal Area” (per the 2018 Comprehensive Plan).

Coastal Areas are growth areas that the County encourages only the appropriate forms of concentrated new development, especially when environmental features are in play. The Coastal Area designation is intended to recognize the characteristics of both anticipated growth and ecologically important and sensitive characteristics. The Plan also notes “a range of housing types should be permitted in Coastal Areas, including single-family homes, townhouses, and multi-family units” (2018 Sussex County Comprehensive Plan, 4-15) and “medium and higher density (4-12 units per acre) can be appropriate in certain locations” (2018 Sussex County Comprehensive Plan, 4-16).

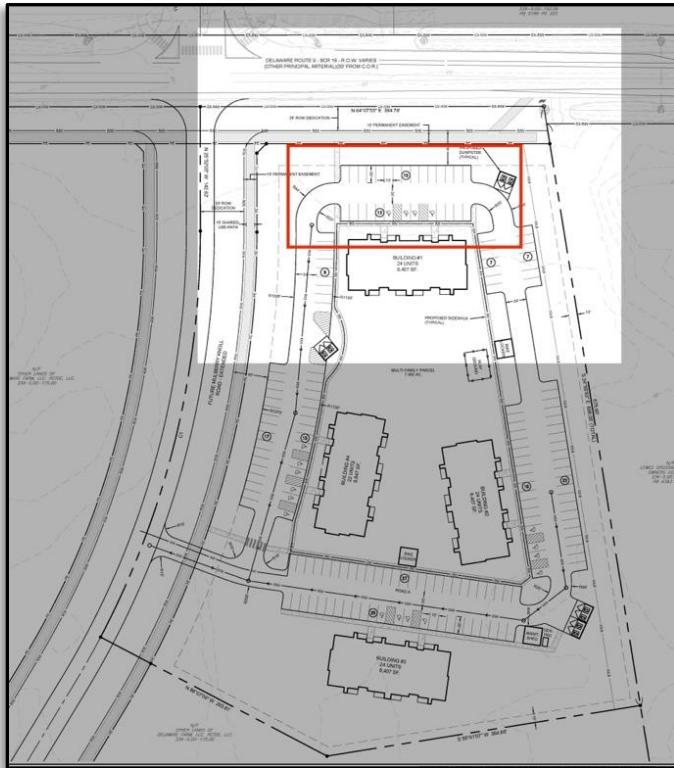
The Plan recommends higher density development be situated in areas on “central water/sewer, near commercial/employment centers, keeping with the character of the area, along a main road/major intersection, and where there is adequate Level of Service” (2018 Sussex County Comprehensive Plan, 4-16).

The Plan’s proposed (MR) Medium-Density Residential Zoning District is listed as an Applicable Zoning District in the Coastal Area per Table 4.5-2 – *Zoning Districts Applicable to Future Land Use Categories* in the Plan (2018 Sussex County Comprehensive Plan, 4-25).

Comprehensive Plan - Design & Development Items

Staff have included a selection of design goals and recommendations from the Comprehensive Plan which may inform the Planning & Zoning Commission’s review of the Plan.

Staff recommend that any commercial or multifamily use approved as part of the Applications include designs that prioritize open space, connectivity, and aesthetic character along the frontage on Route 9 in this area given its high visibility along an arterial route in the County.



12.3 DESIGN & DEVELOPMENT CHARACTERISTICS

12.3.4 Parking Location

Whenever practical, parking should be located to the rear or side of the buildings, so that the front yard can be landscaped. When parking and garages are placed to the rear of lots, with access using alleys (Sussex County Comprehensive Plan 12-5). Staff note that the multifamily and commercial improvements proposed as part of this Plan will have significant frontage on Lewes Georgetown Highway and recommend design considerations which serve to soften the visual impact along this corridor should be incorporated into the design.

13.3.5 Key Corridor Visions

- Together, agencies would need to consider techniques such as, parallel service roads, consolidated intersections and entrances, and increased setbacks. Buildings that front the through roads with rear parking along service roads, and the provision of transit, bicycle, and pedestrian connections are other techniques to be explored. PG 13-32
- Setbacks could be increased to allow for future capacity.
- Service roads could link local residents to commercial parking lots at the rear of the buildings. This would increase the aesthetic benefits to the community too. PG 13-33

Staff recommend the Applicant consider a design locating the parking to the rear of the multifamily buildings.

2.3.11 Landscaped Entrances

- Creation of well landscaped boulevard-style entrances can provide a great first impression.
- Open space should be provided along major roads to maintain some of the rural character and to reduce noise conflicts between homes and traffic. (Sussex County Comprehensive Plan 12-7).

Staff recommend the Plan include robust and thoughtful landscaping design along the frontages on both Route 9 and Mulberry Knoll Road as well as a gateway treatment at the intersection of Route 9 and Mulberry Knoll Road.

12.3.16 Buffering and Landscaping

- Forested buffers should continue to be provided within and around new residential developments. Buffering is also particularly important between new businesses and residential neighborhoods. A buffer yard in some cases can be strengthened with a berm. To minimize the amount of land that is consumed by a berm, a retaining wall could be used on the business side of the berm. The County should also encourage fencing when needed on the business side of buffer yard landscaping.

12.3.1 Trees

- The planting of street trees can improve aesthetics and eventually provide a canopy of shade over streets. Studies show that mature street trees can also increase the value of homes up to 10 percent. If it is not appropriate to have shade trees in the right-of-way, they can also be planted immediately outside of the right-of-way.

Due to the high community visibility of parking areas on a parcel with frontage on Route 9, Staff recommend parking islands with plantings as well as trees lining the linear parking bays in a manner similar to street trees.

Additionally, Staff have concerns about the lack of any detail related to buffering and/or screening (Landscaping, Fencing, Berm) to be provided between all proposed commercial zoning and both the proposed multifamily improvements and cluster subdivision.

Connectivity

- **Objective 12.1.4** Encourage development design that promotes increased access between developments and community facilities including parks, schools, and libraries.
Strategy 12.1.4.1 Encourage pedestrian connectivity between developments with sidewalks, paths, trails, and easements
- **13.2.6 Overview of Other Significant Issues - Disconnected Land Uses** - lack of street interconnectivity and segregation of land uses also contribute to sprawl and its impacts on access and mobility.

Staff note the Plan's location on the Route 9 Corridor across from Old Vines Boulevard (The Vineyards) and have included the design principles for Master Plans in 12.2.3 Master Planning and Small Area Plans in the Comprehensive Plan.

12.2.3 Master Planning and Small Area Plans

With goals to enhance quality of life, small area plans address elements of the built environment - housing, businesses, parks/open space, public improvements, and the transportation network that connects them. PG 12-3

- Greater attention is needed to the design of the open space to make sure it serves a valuable public purpose and is inter-connected. PG 12-10
- Wherever feasible, open space should be provided in locations that can connect to existing public or semi-public open spaces or preserve land along a waterway.

Staff recommend the Plan include stubs or easements for connection to the Lewes Crossing subdivision immediately to the east. Staff recommend connection be provided from both the multifamily apartments and the proposed cluster subdivision.

Staff recommend a design be considered which provides for a greenway/open space spanning from Route 9 to Beaver Dam Road as part of the overall design. The required open spaces across the Plans could be linked providing a multimodal linkage within a greenway from the multifamily portion (C/U 2026) to the natural resources in the far southwestern portion of the parcel on the south side of Beaver Dam Road (Page PL-21 - Subdivision Plan (2023-14)).

The project location provides a unique opportunity for the overall design to include a greenway corridor adjacent to the multimodal connection between the Route 9 and Beaver Dam Road along the Mulberry Knoll Road extension. Additionally, a greenway design which also connects the wetland resource area south of Beaver Dam Road would serve to meet the requirements of:

Coastal Area (§115-194.3(E)) Design consideration should be given by the applicant toward the establishment of a greenways system which utilizes schools, parks, wildlife habitat areas, river and stream corridors, wetlands, floodplains, historic sites, business parks, urban sidewalks, abandoned rail lines, roads, beach areas and vacant land. Greenways should provide benefits like safe pedestrian, bicycling and equestrian routes for recreationists and commuters; and natural wildlife corridors and biological reserves.

Cluster (§115-25)(F)(3)(a)(3)(b)) Required open space must be designed to be beneficial to the residents or users of the open space. It shall not be constituted of fragmented lands with little open space value. Accordingly, 30% of all required open space shall be located on one contiguous tract of land, except that such open space may be separated by water bodies and a maximum of one street.

Cluster (§115-25)(F)(3)(a)(3)(a)) The cluster development sketch plan and the preliminary plan of the cluster subdivision provides for a total environment and design which are superior, in the reasonable judgment of the Planning Commission, to that which would be allowed under the regulations for the standard option.

Cluster (§115-25)(F)(3)(a)(3)(a)(3)(c)[vi]) Open space in a cluster development shall include a pedestrian trail system accessible to residents. This trail system shall connect to an adjacent trail, adjacent neighborhood, adjacent commercial area, or adjacent public open space, if any such areas exist adjacent to the proposed cluster development.

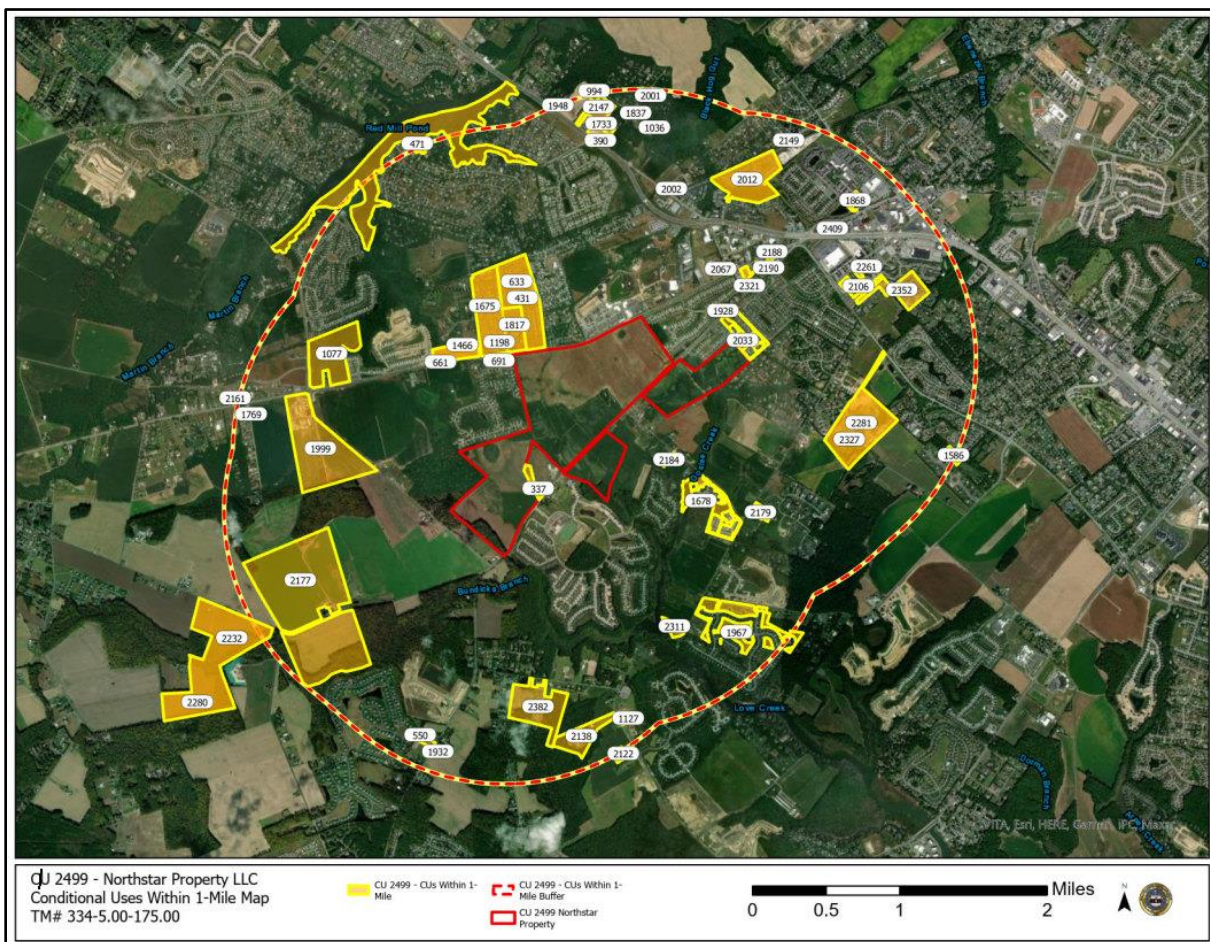


Further Site Considerations:

- **Density:** 11.9 DU/AC
- **Open Space Provisions:** (4.652) acres (59%)
- **Agricultural Areas:** The site is within the vicinity of active agricultural lands.
- **Interconnectivity:** The Plan does not provide for direct vehicular, multimodal, or pedestrian connection to the Lewes Crossing Subdivision which shares a common boundary to the east.
- **Transportation Improvement District (TID):** The parcel is located within the Henlopen Transportation Improvement District. Any Plan will require the Applicant to coordinate with DelDOT regarding the administration and payment of all required TID fees.
- **Forested Areas:** N/A
- **Wetlands Buffers/Waterways:** N/A
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** The property is located within Flood Zone X and in an area of “Good” Groundwater Recharge Potential.

Based on the analysis of the land use, surrounding zoning and uses, a Conditional Use Application to allow for a (94) multifamily units, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.

Conditional Use Applications 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.



Conditional Use Applications

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

Application CU Number	Application Name	Zoning District	Proposed Use	CC Decision	CC Decision Date	Ordinance Number
<u>337</u>	Cape Henlopen Elks Lodge #2540	AR-1	Private Club	Approved	4/27/76	N/A
<u>390</u>	Cape Henlopen Funeral Home	AR-1	Addition To Funeral Home	Approved	12/28/76	<Null>
<u>431</u>	Mildred A Reed	AR-1	Mobile Home Park	Approved	8/16/77	<Null>
<u>471</u>	Robert M Raley	AR-1	Water Skiing, Fishing & Recreational Rentals	Approved	5/16/78	<Null>

<u>550</u>	John & Barbara Clark	GR	Upholstery Shop/Antique & Used Furniture Sales	Approved	10/16/79	<Null>
<u>633</u>	Mildred A. Reed	AR-1	Manufactured Home Park	Approved	6/30/81	<Null>
<u>661</u>	Southern State Co-Op	AR-1	Retail Farm Implement Sales	Approved	12/29/81	<Null>
<u>691</u>	Southern States Co-Op	AR-1	<Null>	Withdrawn	N/A	N/A
<u>994</u>	Charles E. Turner, Jr.	AR-1	Boat Storage, Repairs & Sales	Approved	3/5/92	815
<u>1036</u>	Padula Construction	AR-1	Construction Storage Yard	Approved	11/23/93	937
<u>1077</u>	Barbara H. Hearl	AR-1	Retail Sales Of Antiques	Approved	5/31/94	971
<u>1127</u>	Delaware Electric Cooperative,	AR-1	Electrical Substation	Approved	8/29/95	1045
<u>1198</u>	Colonial East, Ltd.	AR-1	Expansion To Existing MHP	Approved	10/21/97	1187
<u>1466</u>	Bridle Ridge Properties LLC	AR-1	Duplex Units	Approved	12/16/03	1646
<u>1586</u>	Far East Capital, Inc.	AR-1	Small Engine Repair	Approved	3/1/05	1756
<u>1675</u>	Colonial East, Ltd	AR-1	Ext. Mobile Home Park	Approved	6/12/07	1906
<u>1678</u>	Marine Farm, LLC	AR-1	Equestrian Facility	Approved	6/27/07	1858
<u>1733</u>	Edward A. O'Brien & Janet	AR-1	Sports Facility	Approved	6/17/08	1978
<u>1769</u>	Thomas Kucharik	AR-1	Landscaping	Approved	3/31/09	2037

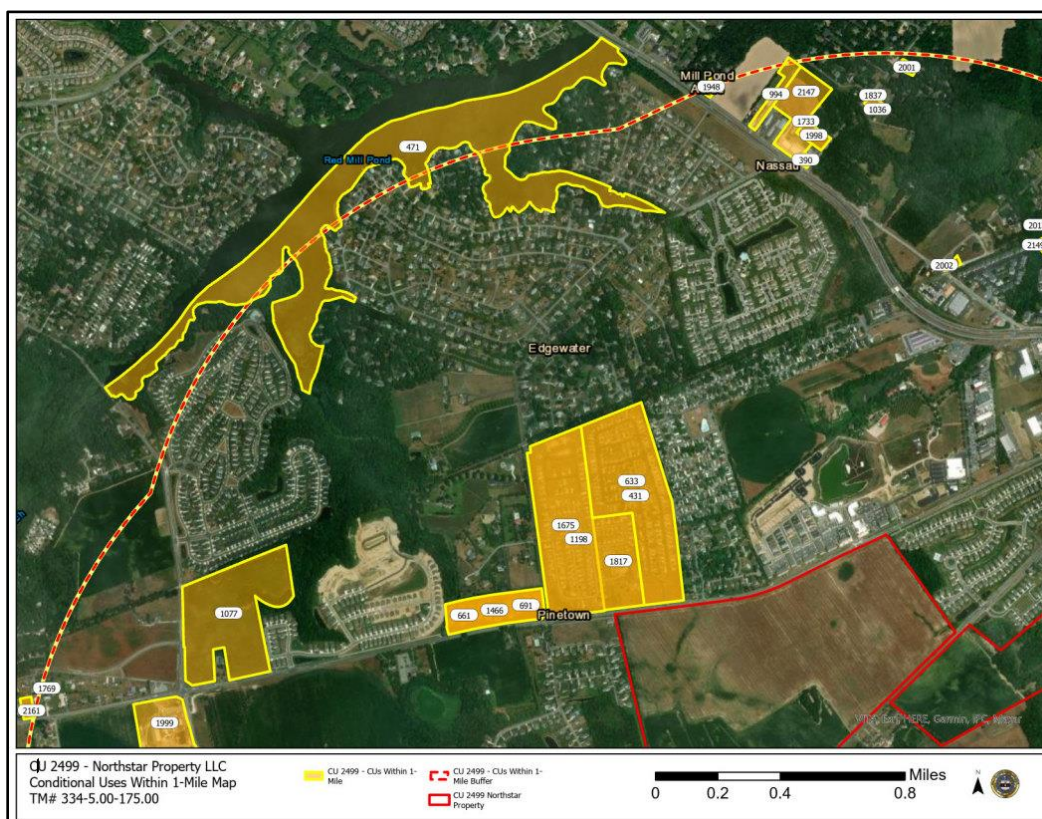
<u>1817</u>	Colonial East, L.P.	AR-1/B-1	Ext. Manufactured Home Park	Approved	12/2/08	2015
<u>1837</u>	Harold J. Bowden	AR-1	Contracting Yard	Approved	8/10/10	2139
<u>1868</u>	Old Towne Pointe, L.L.C.	AR-1	Pharmacy/Community Service	Approved	5/24/11	2196
<u>1928</u>	Devin Rice	AR-1	Storage Of Equipment and A Home Office	Approved	5/15/12	2256
<u>1932</u>	Tanya Gibbs & Kimwuan Gibbs	GR	Automotive Sales Lot	Denied	1/15/13	N/A
<u>1948</u>	Sharon L. Sherwood/ Van Sherwood	AR-1	Professional Office	Approved	12/11/12	2286
<u>1967</u>	Tidewater Environmental Services	MR	Wastewater Treatment Plant to Treat Offsite Waste	Denied	10/1/13	N/A
<u>1998</u>	Todd Fisher	AR-1	Self-Storage Facility	Denied	12/16/14	N/A
<u>1999</u>	Hopkins Farm Creamery, Inc.	AR-1	BBQ Vendor	Approved	12/16/14	2381
<u>2001</u>	Christina Aloramovicz	AR-1	Veterinary Practice	Approved	1/20/15	2385
<u>2002</u>	Beach Bum Distilling	C-1	Distillery With Tours/Tasting/Retail	Approved	12/16/14	2382
<u>2012</u>	Ocean Atlantic Communities (Covered Bridge Trails)	MR	Multi-Family - Townhouses and Condo Units	Approved	12/15/15	2430
<u>2024</u>	Stockley Materials, LLC	AR-1	Commercial Landscaping Materials, Storage and Sales	Approved	9/15/15	2417
<u>2033</u>	BDRP, LLC	MR	Multi-Family Dwelling Structures (Duplexes)	Withdrawn	2/12/16	N/A

<u>2034</u>	Beachfire Brewery Co., LLC	AR-1	Restaurant And Brewery	Approved	3/8/16	2438
<u>2067</u>	Stockley Materials, LLC	AR-1	Landscaping Material Sales and Storage	Approved	4/11/17	2492
<u>2106</u>	MDI Investment Group, LLC	MR	Multi-Family (52 Townhouses)	Approved	3/20/18	2566
<u>2122</u>	Richard Thurman Jr. (Arbor Care)	AR-1	Plant, Tree and Lawn Care Diagnostic Center	Approved	4/17/18	2573
<u>2138</u>	Walker Construction Inc.	AR-1	Site Contracting Excavating Services, With Storage, Repair and Maintenance & Light Material Storage With Office	Approved	8/21/18	2596
<u>2147</u>	Nassau DE Acquisition Co, LLC	MR	Multifamily (150 Units)	Denied	12/11/18	N/A
<u>2149</u>	Covered Bridge Trails,	MR	Amended Condition of Approval of CU 2012	Approved	7/24/18	2588
<u>2161</u>	Howard Weston Development Company, LLC	AR-1	Professional Office for Accounting, Tax Preparation and Booking Services	Approved	3/19/19	2639
<u>2177</u>	Ingrid Hopkins	AR-1	Events Venue	Approved	7/30/19	2670
<u>2179</u>	Joseph & Patricia Prettyman	AR-1/C-1	Multi-Family, Storage Facility, Lawn Mower Repair Business, Public Stable and Riding Lessons	Approved	8/13/19	2674
<u>2184</u>	Linda Ann Yupco- Connors	GR	Office With Equipment Storage	Denied	11/12/19	N/A
<u>2188</u>	Donovan's Painting and Drywall, LLC	AR-1	Contractor's Office with Storage	Approved	10/29/19	2686

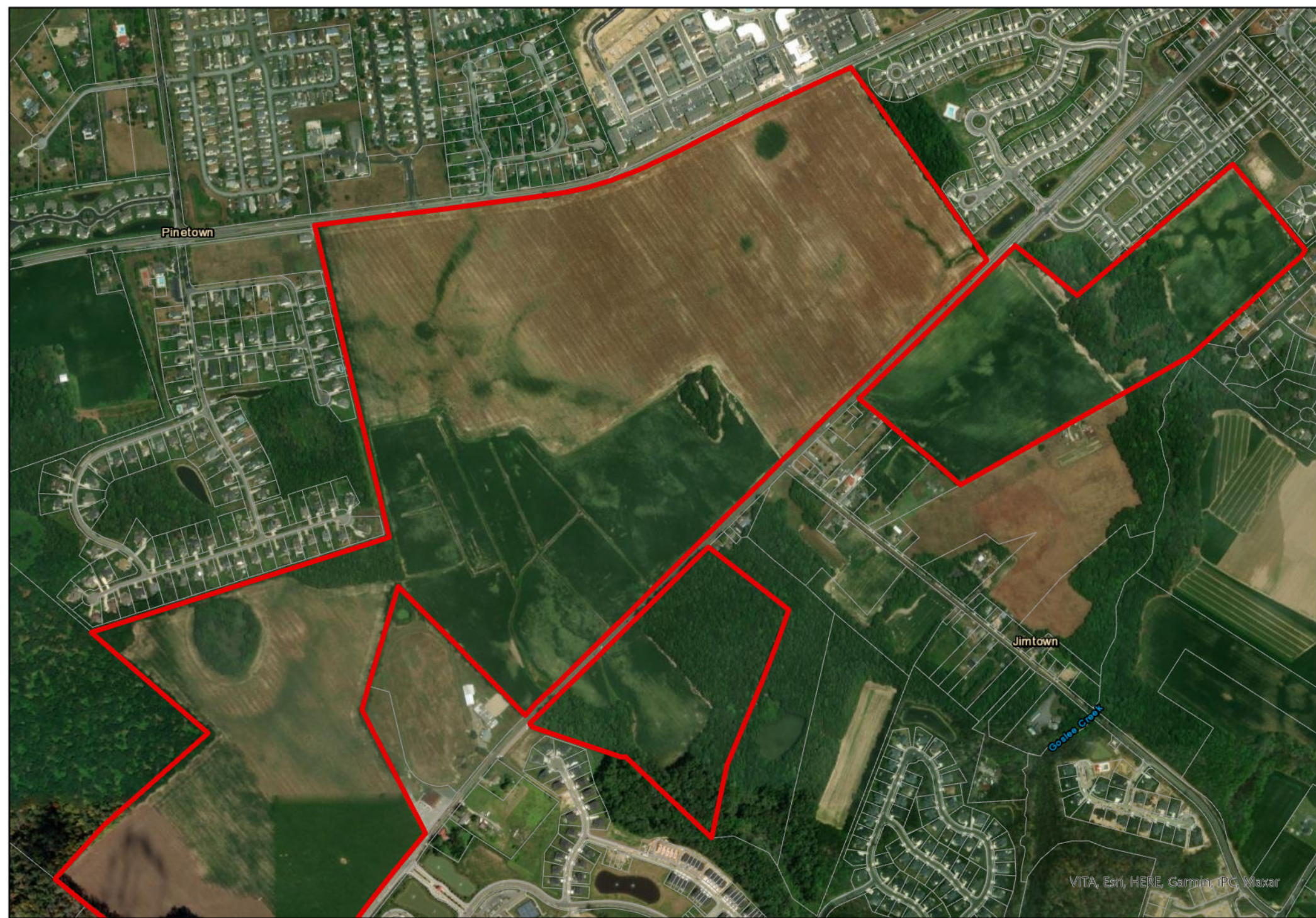
<u>2190</u>	Steven & Helene Falcone	AR-1	Office	Approved	1/7/20	2699
<u>2232</u>	Covered Bridge Inn	AR-1	Wedding Event Space	Withdrawn	12/29/20	N/A
<u>2261</u>	What Is Your Voice, Inc.	AR-1	Use Existing Garage Office Uses & One-Story Pole Building For Rental Storage Facilities (4 Units) W/ Non-Profit	Approved	9/14/21	2800
<u>2280</u>	Covered Bridge Inn, LLC	AR-1	Wedding Event Space (Resubmitted)	Approved	7/13/21	2790
<u>2281</u>	Susan Riter	AR-1	Borrow Pit	Withdrawn	6/8/21	N/A
<u>2311</u>	Phillip Jackson	AR-1	Tree Service Business	N/A	N/A	N/A
<u>2316</u>	Lighthouse Construction	AR-1	Office Building	Approved	9/27/22	2888
<u>2321</u>	Coastal Construction,	AR-1	Kitchen/Bathroom Showroom	Denied	1/3/23	N/A
<u>2327</u>	Howard L. Ritter & Sons, Inc.	AR-1	Expansion Of A Non-Conforming Borrow Pit	Approved	1/24/23	2901
<u>2352</u>	CB Lewes, LLC	MR	Multi-Family (30 Units)	Approved	6/14/22	2866
<u>2382</u>	Consolidated Edison	AR-1/GR	Solar Farm	N/A	N/A	N/A
<u>2409</u>	Bryan Stewart	C-1	Crab Shack Vendor	N/A	N/A	N/A



C/U
Applications
– 1-Mile
Radius
(Eastern
portion)




C/U
Applications
– 1-Mile
Radius
(Western
portion)



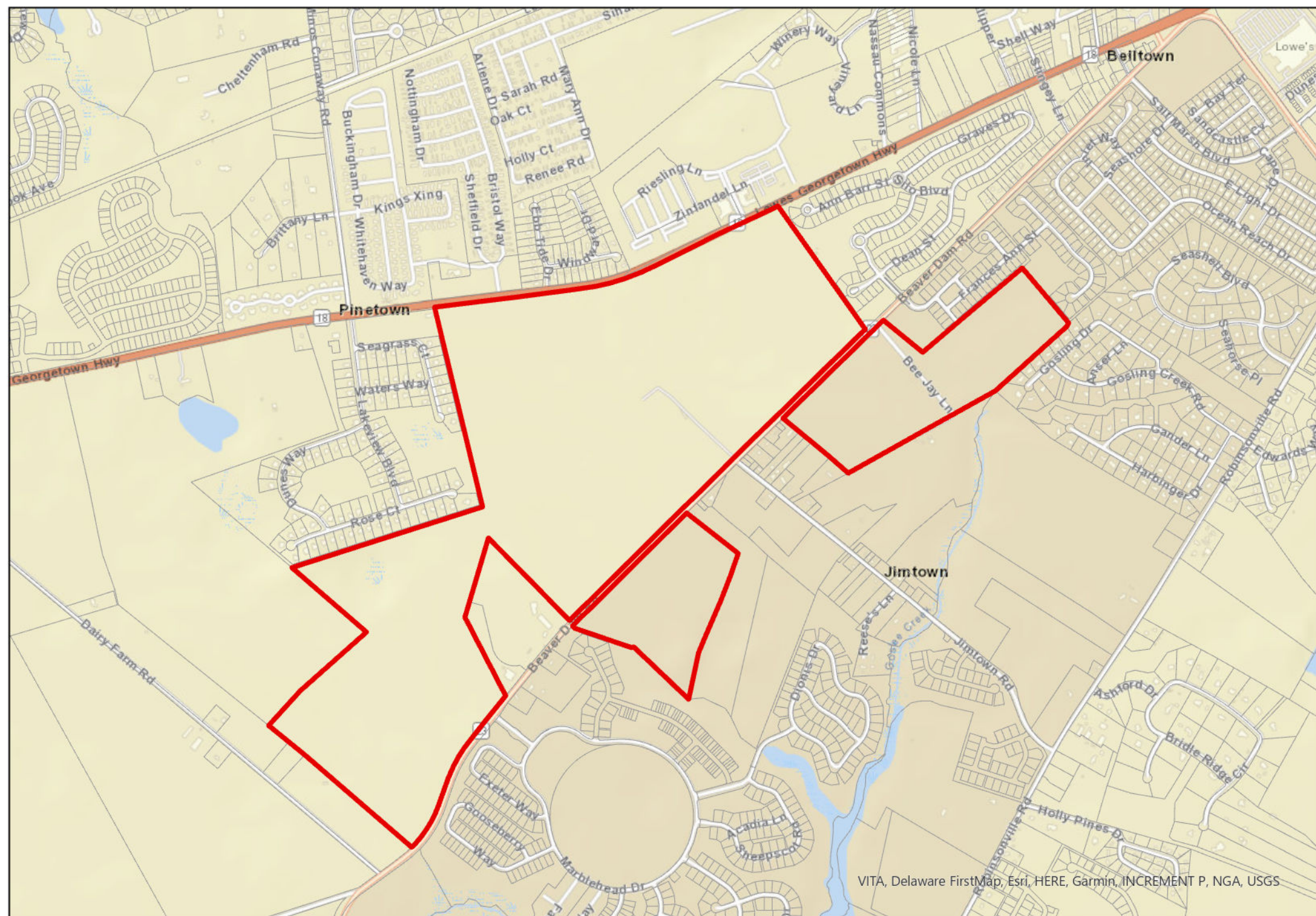
CU 2499 - Northstar Property LLC
Aerial Map
TM# 334-5.00-175.00

 CU 2499 Northstar Property

 Miles
0 0.13 0.25 0.5



VITA, Esri, HERE, Garmin, IGC, Maxar



CU 2499 - Northstar Property LLC
Street Map
TM# 334-5.00-175.00

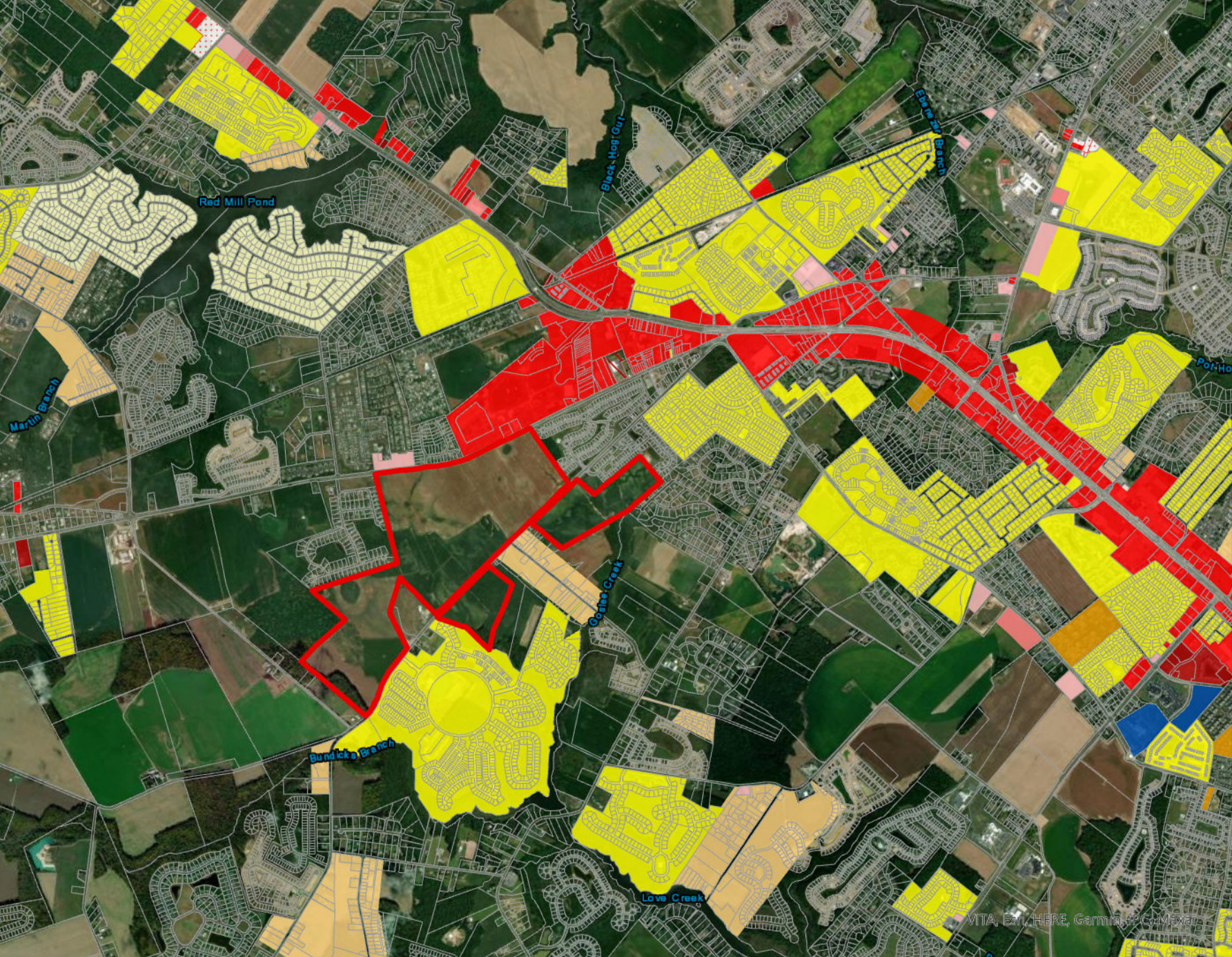
 CU 2499 Northstar Property

0 0.25 0.5 1 Miles




Zoning

-  Agricultural Residential - AR-1
-  Agricultural Residential - AR-2
-  Medium Residential - MR
-  General Residential - GR
-  High Density Residential - HR-1
-  High Density Residential - HR-2
-  Vacation, Retire, Resident - VRP
-  Neighborhood Business - B-1
-  Neighborhood Business - B-2
-  Business Research - B-3
-  General Commercial - C-1
-  General Commercial - C-2
-  General Commercial - C-3
-  General Commercial - C-4
-  General Commercial - C-5
-  Commercial Residential - CR-1
-  Institutional - I-1
-  Marine - M
-  Limited Industrial - LI-1
-  Light Industrial - LI-2
-  Heavy Industrial - HI-1



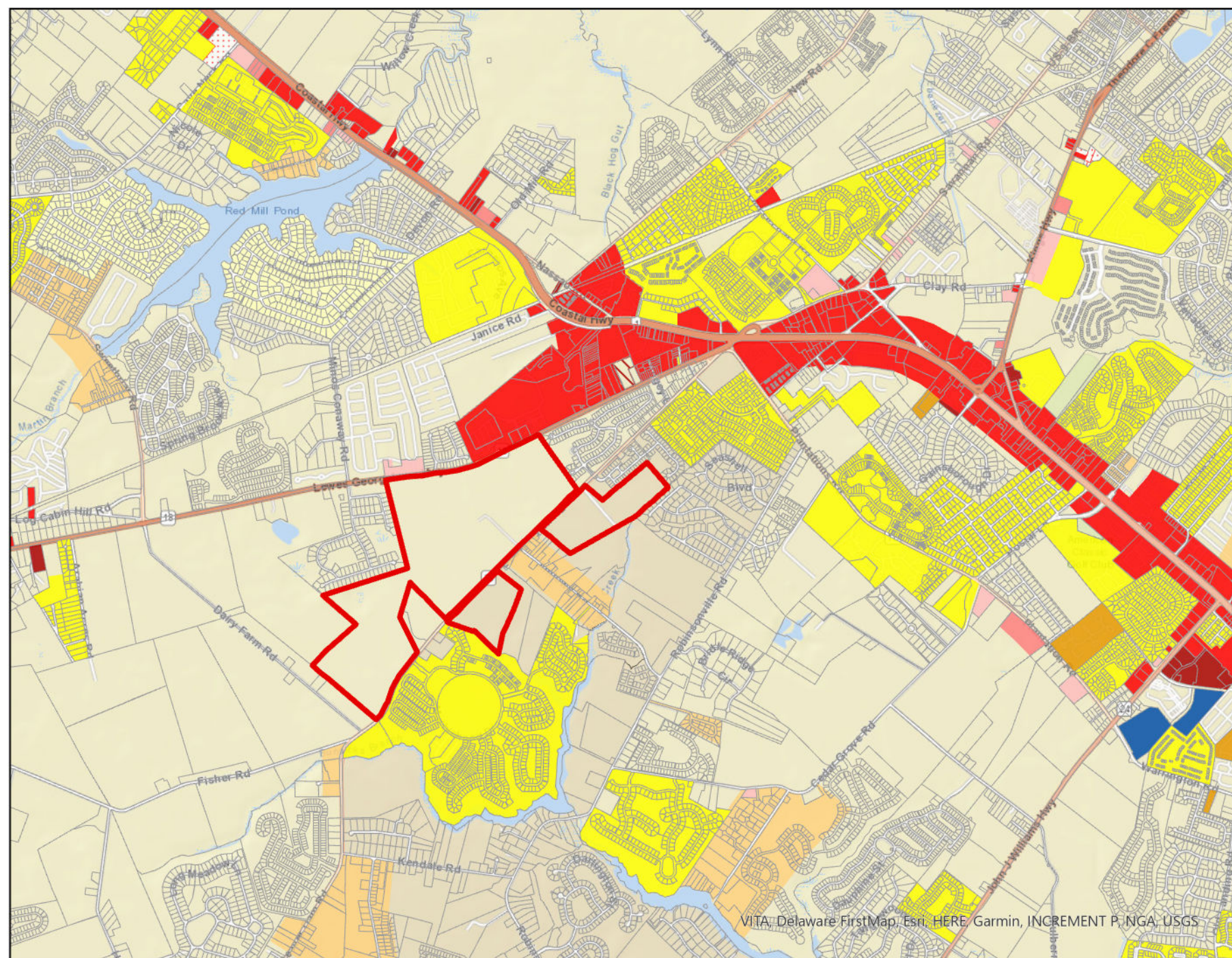
CU 2499 - Northstar Property LLC
 Zoning Map
 TM# 334-5.00-175.00

 CU 2499 Northstar Property




Zoning

-  Agricultural Residential - AR-1
-  Agricultural Residential - AR-2
-  Medium Residential - MR
-  General Residential - GR
-  High Density Residential - HR-1
-  High Density Residential - HR-2
-  Vacation, Retire, Resident - VRP
-  Neighborhood Business - B-1
-  Neighborhood Business - B-2
-  Business Research - B-3
-  General Commercial - C-1
-  General Commercial - C-2
-  General Commercial - C-3
-  General Commercial - C-4
-  General Commercial - C-5
-  Commercial Residential - CR-1
-  Institutional - I-1
-  Marine - M
-  Limited Industrial - LI-1
-  Light Industrial - LI-2
-  Heavy Industrial - HI-1



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

CU 2499 - Northstar Property LLC
Zoning Map
TM# 334-5.00-175.00

 CU 2499 Northstar
Property

 Miles
0 0.5 1 2



Introduced: 6/11/24

Council District 3: Ms. Gruenebaum

Tax I.D. No.: 334-5.00-175.00 (p/o)

911 Address: N/A

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR - MEDIUM RESIDENTIAL DISTRICT TO ALLOW FOR MULTI-FAMILY DWELLINGS (94 UNITS) USE TO BE LOCATED ON A 7.882 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 433.071 ACRES AS RECENTLY SURVEYED OR 419.64 ACRES AS SCALED AND SHOWN ON THE SUSSEX COUNTY TAX MAP, MORE OR LESS

WHEREAS, on the 5th day of December 2023, a conditional use application, denominated Conditional Use No. 2499 was filed on behalf of Northstar Property, LLC; and

WHEREAS, on the ____ day of _____ 2024, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2499 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article V, Subsection 115-31, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2499 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Lewes & Rehoboth Hundred, Sussex County, Delaware, and lying on the southeast side of Lewes-Georgetown Highway (Rt. 9) and the northwest and southeast sides of Beaver Dam Road (S.C.R. 23) approximately 2.4 miles southwest of Coastal Highway (Rt. 1) and being more particularly described in the attached legal description prepared by Davis, Bowen, & Friedel, Inc., said parcel (portion of) containing 7.882 ac., more or less.

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



Memorandum

To: Sussex County Council
The Honorable 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: May 15, 2025

RE: County Council Report for C/Z 2012 filed on behalf of Rudder Road, LLC

The Planning and Zoning Department received an application (C/Z 2012 filed on behalf of Rudder Road, LLC) for a change of zone from the AR-1 Agricultural Residential Zoning District to an MR Medium Density Residential Zoning District for Tax Parcels 234-23.00-276.00, 276.01 and 277.00. The property is located at 25352 Rudder Road Millsboro. The parcel size is 5.54 ac. +/-

The Planning & Zoning Commission held a Public Hearing on the application on January 22, 2025. At the meeting of March 5, 2025, the Planning & Zoning Commission recommended approval of the application for the 6 reasons stated as outlined within the motion (copied below).

The County Council held a Public Hearing on the application at the meeting on March 25, 2025. At the conclusion of the meeting, the record was closed and action on the application was deferred for further consideration. Below is a link to the minutes of the March 25, 2025, County Council Meeting.

[Link to the Minutes of the March 25, 2025, County Council Meeting](#)

Below are the minutes from the Planning & Zoning Commission meeting on January 22, 2025, February 5, 2025, and March 5, 2025.

[Minutes of the January 22, 2025, Planning & Zoning Commission Meeting](#)

Chairman Wheatley stated for the record that C/Z 2012 & C/U 2449 Rudder Road, LLC would be heard as one case for presentation purposes as they are in relation to each other.



C/Z 2012 Rudder Road, LLC

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 30.57 ACRES, MORE OR LESS. The properties are lying on the east side of Banks Road (S.C.R. 298), approximately 0.61-mile northeast of Long Neck Road (Rt. 23). 911 Addresses: 25352 Rudder Road, Millsboro, 25071 Banks Road, Millsboro, & N/A. Tax Map Parcels: 234-23.00-276.00, 276.01, & 277.00.

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the staff analysis, a copy of the Applicant's exhibits, a letter from Sussex County Engineering, the DelDOT SLER, and zero comments.

Mr. David Hutt, Esq., of Morris James LLP, spoke on behalf of the Applicant that the application relates to three tax parcels totaling a little over 30 1/2 acres of land and the two applications; that the first application is an application to change the zoning classification of the property from the AR-1 Agricultural Residential District to the MR Medium Density Residential District, the second application is a conditional use seeking to have a multi-family use on the property that would consist of 116 units, with a mixture of those units being seventy-five (75) townhomes and forty-one (41) single family lots; that the property is located off of Banks Road which is surrounded by a number of residential uses, single family homes, manufactured home communities and multi-family uses; that the Applicant hired Mr. Will Twupack with Watershed Eco, a DNR qualified forest professional, to conduct a forestation delineation report of the property; that it was determined that there was no Tier 1 or Tier 2 forest and habitat value on this property, 3 acres of Tier 3 forest and approximately twenty-seven (27) acres on non-forest area per the code; that there is an abandoned home on the corner of the property, that once was part of the Dupont Colored Schools Initiative, named the Friendship School; that the Applicant recognized the past history of the structure and reached out to the Nanticoke Indian Tribe Association to see if they would be interested in the dwelling being moved and they were not; that it is proposed that building will be removed and a place marker will be put on the property; that the property lies within a coastal area on the FLUM and Chapter 4 describes coastal areas as being an area where a range of housing types should be permitted, including single family homes, townhouses and multi-family units which is consistent with this application; that the predominant zoning district in this area is GR General Residential, but the applicant chose to request for a change to MR Medium Density Residential; that the zoning code defines the purpose of the MR Zoning District as being to provide for a medium density residential development in areas which are, or are expected to become generally urban in character and where sanitary sewers and public water supplies may or may not be available at a time of construction; that this is certainly a description of the Long Neck area; that there are several communities around this property with much higher densities of units per acre; that Bayshore is 8.9 units per acre, Shawn's Hideaway is 5.2 units per acre, Enchanted Acres is 3.9 units per acre; that the proposal of the Creekside development is 3.8 units per acre; that the layout was purposefully designed to reflect the area in which the property is located; that the Creeks End Community at the rear of the property was considered and the single family homes were aligned adjacent to the single family homes already within the Creeks End Community; that the townhomes will be placed at the entrance to the community approximately 125 feet off of Banks Road; that as you progress into the development there will be the forty-one (41) single family homes towards the rear and there will be approximately 12 acres or 40% of open space; that there will be a

pool, pool house and a dock with kayak launch on the Guinea Creek with walking trails along the Guinea Creek that would intersect with the community sidewalks; that the units along the Guinea Creek will have a proposed 30 foot landscape buffer with the closest homes sitting back more than 125 feet; that along the Guinea Creek there would be a resource buffer management plan per the County Code; that there are both Tidal and Non-Tidal wetlands associated with the boundary of the Guinea Creek and Mr. Launay has worked on the delineation, reporting and development of the resource buffer management plan; that there are public utilities available to the site with Tidewater indicating its willingness to provide central water to the property; that the Sussex County Engineering Department filed its report indicating that this property is in a Tier 1 Sewer District or planning area, and that it has capacity for the proposed project; that Mr. Launay stated in his report that there are no endangered species on the site, there would be a Homeowners Association created to manage and govern the common areas and the Indian River School District will determine a necessary bus stop within the development; that DelDOT's response to that Service Level Evaluation Request, indicated that this proposed community would have a minor impact on traffic which means more than fifty (50) vehicle trips in the peak hour, but less than 200, and more than 500 vehicle trips per day, but less than 2000; that the area wide study fee memo states when something qualifies as a minor impact, DelDOT indicates that a party can pay an area wide study fee and in addition to that fee the Applicant would be required to improve Banks Road in front of the property to its functional classification including 11 foot travel lanes and five foot shoulders for Banks Road; that it was determined that the site was not well situated for the construction of affordable housing options being it was 6/10 of a mile from the nearest collector road, but the developer wanted to commit to supporting affordable housing by contributing \$3500 per building permit that's issued to the Sussex County Housing Trust Fund, Habitat for Humanity or similar organizations that help and facilitate affordable housing within Sussex County; that the Applicant is proffering a \$500 contribution to the Indian River Fire Company per building permit issued and an additional \$10 per month per unit contribution to be made to the Indian River Fire Company possibly collected by the Property Owners Association; that Creekside submitted a letter of concern that has three points to address, first was the increase in traffic and DelDOT has noted that the traffic impact would be minor, second was the buffer between the two developments, which will be the 30 foot landscape buffer and third was the depth of the water in Guinea Creek to support a marina and dock; and that the marina and dock would need to get approval from DNREC through their permitting process and they will assess the plans and determine if that is suitable for this area.

Mr. Edward Launay, of Environmental Resource Insight, spoke on behalf of the Applicant that they worked on a buffer management plan for this project and there are two (2) buffers to deal with, the non-tidal wetland buffer and the tidal wetland buffer; that these two (2) buffers overlap each other and in total there is 100 feet wide of buffer along the shoreline edge; that under the buffer Ordinance there are exceptions to what is allowed and that would include the marina and parking for it as they are water-related activities; and that there will be a kayak launch at the end of the marina pier.

Ms. Lauren Devore asked how far the pool would be from the property line as it was stated that there would be a 30-foot buffer, and the code only requires a 6-foot rear setback so for clarity can you distinguish the distance the pool will be from the actual property line.

Mr. Jason Palkewicz stated that the pool and pool house appear to be lined up with the back of the homes that are proposed next to it.

Mr. Jason Shinn spoke in opposition to the application that the development will destroy the natural wildlife in that area, the traffic will increase significantly and the lack of ability for the Guinea Creek to handle a marina and dock for an entire community.

Ms. Linda Miller spoke in opposition to the application that the traffic is going to be an issue as it is already bad, especially with the school right down the road.

Mr. Steven Miller spoke in opposition to the application that the wildlife in the area is going to be displaced as this is the last area of refuge that they have as all the land around there has been developed; and that the traffic is an issue as Banks Road is not equipped for all the extra traffic and there are no turning lanes.

Mr. Lou Repa spoke in opposition to the application that currently he lives across from the site and he floods with hightide four to six times a year; that if they clear that land for buildings where will all that water go to; and that he is concerned that flooding will become a major issue as the development clears all the trees and vegetation.

Mr. Rob Yanos spoke in opposition to the application that the emergency services will have a difficult time reaching those in need due to traffic as there is already a delay in response times during the summer months and now this development will bring in even more vehicle traffic.

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

At the conclusion of the Chairman Wheatley stated for the record that C/Z 2012 & C/U 2449 Rudder Road, LLC would be heard as one case for presentation purposes as they are in relation to each other.

Minutes of the February 5, 2025, Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since January 22, 2025.

In relation to C/Z 24012 Rudder Road, LLC. Motion by Mr. Collins to defer action for further consideration, leaving the record open to allow for public comment, seconded by Mr. Butler and carried unanimously. Motion carried 4-0.

Minutes of the March 5, 2025, Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since January 22, 2025.

Mr. Collins moved the Commission to recommend approval of C/Z 2012 RUDDER ROAD, LLC, for a change in zone from AR-1 to MR based upon the record made during the public hearing and for the following reasons:

1. This application seeks a change in zone from AR-1 to MR. The purpose of the MR zone is to provide housing in an area which is expected to become urban in character and where

central water and sewer is available. Both central water and central sewer are available at this site. The purpose of the MR Zoning District is satisfied with this Application.

2. The site is located within the Coastal Area according to the Sussex County Comprehensive Plan. MR Zoning is appropriate in this Area according to the Plan. The Plan states that the Coastal Area is appropriate for a “wide range of housing types . . . including single family homes, townhouses, and multi-family units.”
3. The requested zoning change is consistent with the zoning of properties along this area of Banks Road. All of the properties immediately across Banks Road from the Property are zoned GR, which is a zoning district that is similar to the requested MR Zoning. The properties immediately behind the Property (the Creeks End community) are also zoned MR. Along Banks Road the adjacent properties are zoned GR, C-1 and AR-1. Along nearby Long Neck Road there are properties zoned C-1, CR-1, C-2, B-1, HR-1, MR, GR, and AR-1. MR zoning is appropriate in this location where these other uses and zoning districts exist.
4. DelDOT has stated that the proposed rezoning and the resulting residential use will have a “minor” impact on the local area roadways and that the Applicant will be required to pay an “Area-Wide Study Fee” in lieu of a Traffic Impact Study, or “TIS”.
5. The proposed MR Zoning meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County in an appropriate location.
6. For all of these reasons, MR zoning is appropriate for this site.

Motion by Mr. Collins, seconded by Mr. Mears and carried unanimously to recommend APPROVAL of C/Z 2012 Rudder Road, 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

JAMIE WHITEHOUSE, MRTPI, AICP
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: January 22, 2025

Application: CZ 2012 Rudder Road, LLC

Applicant: Rudder Road, LLC
850 New Burton Road, Suite 201
Dover, DE 19904

Owner: ABC Woodlands, LLC
919 North Market Street, Suite 950
Wilmington, DE 19801

Site Location: 25071 Banks Road, Millsboro, DE 19966

Site Location: Located on the southeast side of (S.C.R. 298), approximately 0.65-mile northeast of Long Neck Road (Rt. 23).

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

Proposed Zoning: Medium Density Residential (MR) Zoning District

Comprehensive Land
Use Plan Reference: Coastal Area

Councilmanic
District: District 3 – Ms.Gruenebaum

School District: Indian River School District

Fire District: Indian River Fire Department

Sewer: Sussex County

Water: Tidewater

Site Area: 30.57-acre(s) +/-

Tax Map ID.: 234-23.00-276.01, 276.01, & 277.00





Memorandum

To: Sussex County Planning Commission Members
From: Mrs. Christin Scott, Planner II
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: January 15, 2025
RE: Staff Analysis for C/Z 2012 Rudder Road, LLC

The purpose of this memo is to provide background and analysis for the Planning and Zoning Commission to consider as a part of Application C/Z 2012 Rudder Road, LLC to be reviewed during the January 22nd, 2025 Planning & Zoning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

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

Tax Parcel ID: 234-23.00-276.00, 276.01, & 277.00

Proposal: The request is for a Change of Zone for Tax Parcels 234-23.00-276.00, 276.01, & 277.00 from Agricultural Residential (AR-1) Zoning District to Medium Density Residential (MR) Zoning District. The Parcel is located on the east side of Banks Road (S.C.R. 298), approximately 0.61 northeast of Long Neck Road (Rt. 23) in Millsboro. The properties are comprised of 30.57 acres +/-.

Zoning: The Parcels are zoned Agricultural Residential (AR-1) District. The parcels to the southwest of the subject property are all Agricultural Residential (AR-1) District with parcels to the southeast being zoned Medium Density Residential (MR) District and immediately to the northwest across Banks Road are zoned General residential (GR) District.

Future Land Use Map Designation - (Comprehensive Plan): Coastal Area

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

As outlined in the 2018 Sussex County Comprehensive Plan, Coastal Areas are "areas that can accommodate development provided that special environmental concerns are addressed" (2018 Sussex County Comprehensive Plan, 4-15.) The Plan further notes that "a range of housing types

should be permitted in Coastal Areas, including single-family homes, townhouses, and multi-family units” and that “appropriate mixed-use development should all be allowed” (2018 Sussex County Comprehensive Plan, 4-15).

Additionally, the Comprehensive Plan notes that “central water and sewer facilities are strongly encouraged” within the Coastal Area, of which the Application indicates, is on central water and sewer (2018 Sussex County Comprehensive Plan, 4-16).

Site Considerations

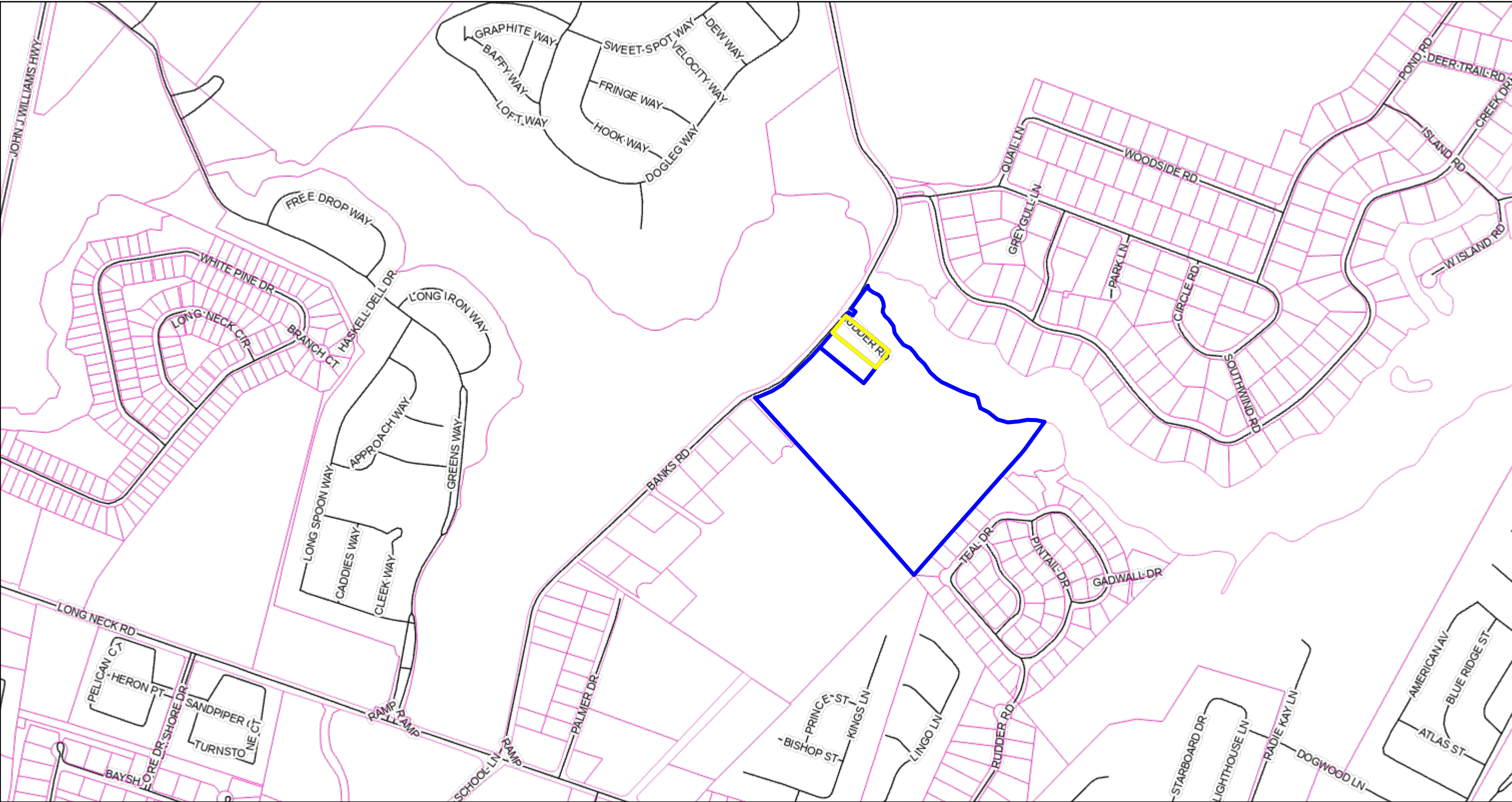
- **Density: 3.83 DU/Ac.**
- **Open Space Provisions: 12.29 Ac. (43.5%)**
- **Agricultural Areas:** The site is not within the vicinity of active agricultural areas. However, it is located within the vicinity of forested areas.
- **Interconnectivity: N/A**
- **Transportation Improvement District (TID):** The parcels are not within the Henlopen Transportation Improvement District.
- **Forested Areas:** As shown on the conditional use site plan, 1.55 Ac. of existing woods are to be removed with 3.56 Ac. to remain.
- **Wetlands Buffers/Waterways:** The properties are located adjacent to Guinea Creek. There are both tidal and non-tidal wetlands located on the northeastern side of the property.
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** The property is partially located within an “AE” Flood Zone and located within Flood Zones “X”, within an area of “Fair” Groundwater Recharge Potential, and Staff note there are no Wellhead Protection Areas on the site.

Based on the analysis provided, the application to allow for a change of zone from an Agricultural Residential (AR-1) zoning district to a Medium Density Residential (MR) zoning 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.

Existing Changes of Zone within the Vicinity of the Subject Site: A Data Table has been supplied which provides further background regarding the approval status of Applications in the area, including the location of all other Change of Zone Applications that are less than 1 mile distance from the subject site.

<div> <div>Change of Zone Applications</div> <div>(Within a 1- Mile Radius – Since 2011)</div> </div>						
Change of Zone No.	Applicant	Previous Zoning	Proposed Zoning	CC Decision	CC Decision Date	Ordinance No.
1788	Upesh Vyas	AR-1	CR-1	Approved	12/1/2015	2427
1801	Long Neck Road, LLC	AR-1	CR-1	Approved	7/26/2016	2459
1958	Boardwalk Development, LLC	GR	GR-RPC	Approved	7/12/2022	2873

Sussex County



December 18, 2024

1:9,028

polygonLayer

Override 1

Override 2

Tax Parcels

Streets

County Boundaries

layer44

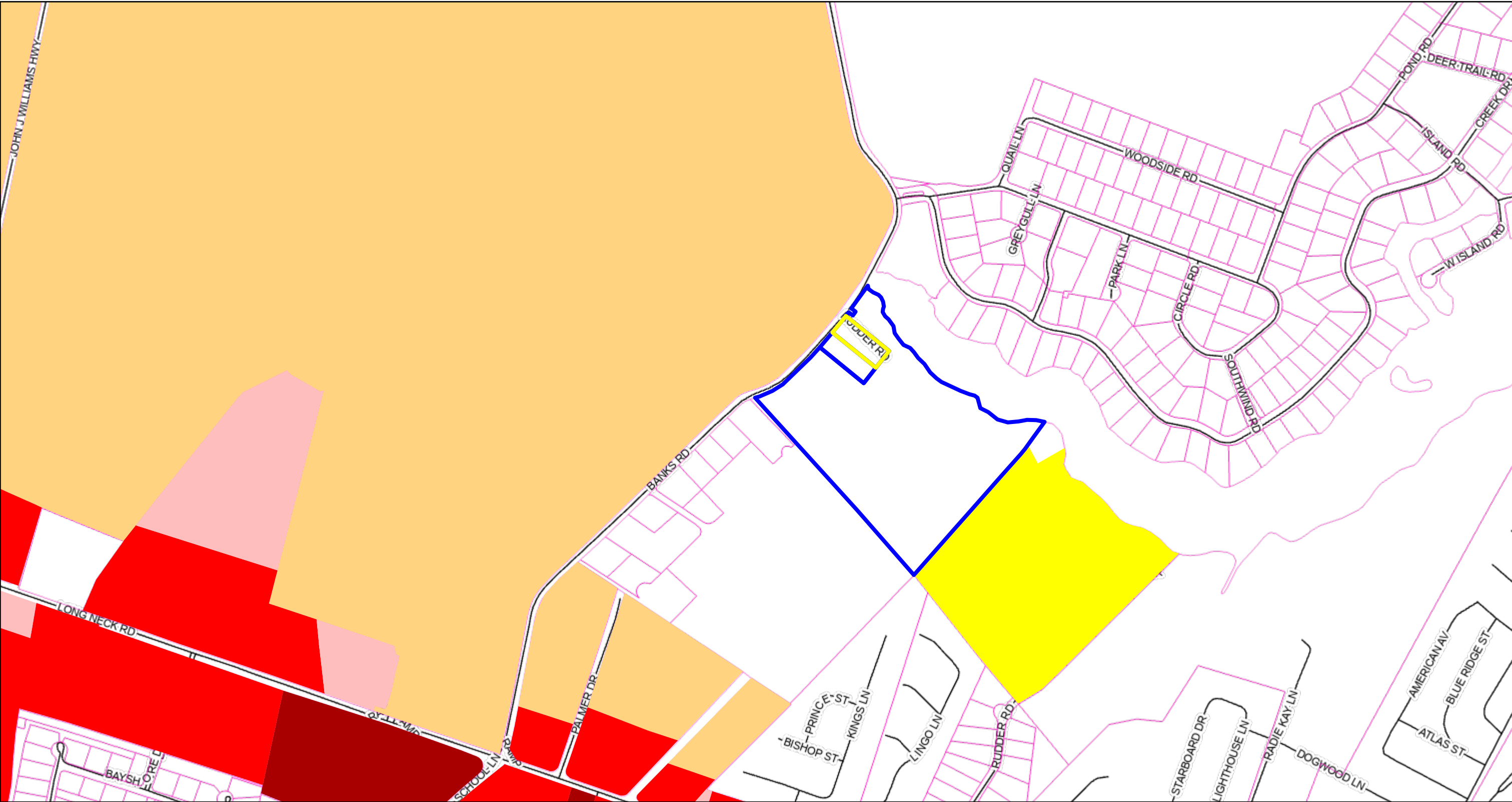
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Blue: Band_3

Red: Band_1

Sussex County Government

Sussex County



December 18, 2024

polygonLayer

Override 1

Override 2

Zoning

Medium Residential - MR

General Residential - GR

Commercial Residential - CR-1

C1: General Commercial

B-1: Neighborhood Business

Tax Parcels

Streets

County Boundaries

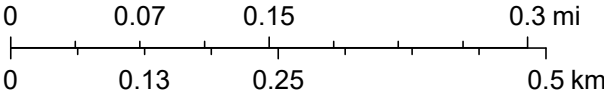
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Red: Band_1

Green: Band_2

Blue: Band_3

1:9,028



Sussex County Government

Sussex County



December 18, 2024

layer43



Red: Band_1



Green: Band_2



Blue: Band_3

polygonLayer



Override 1



Override 2



Tax Parcels



Streets



County Boundaries

World Imagery

Low Resolution 15m Imagery

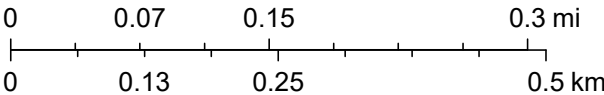
High Resolution 60cm Imagery

High Resolution 30cm Imagery

Citations

2.4m Resolution Metadata

1:9,028



Sussex County Government, Maxar

Introduced: 12/17/24

Council District 3: Ms. Gruenebaum

Tax I.D. No.: 234-23.00-276.00, 276.01, & 277.00

911 Address: 23352 Rudder Road, Millsboro, 25071 Banks Road, Millsboro, & N/A

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 30.57 ACRES, MORE OR LESS

WHEREAS, on the 8th day of May 2023, a zoning application, denominated Change of Zone No. 2012 was filed on behalf of Rudder Road, LLC; 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 Change of Zone No. 2012 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 [AR-1 Agricultural Residential District] and adding in lieu thereof the designation MR Medium Density Residential as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece, or parcel of land, lying and being situate in Indian River Hundred, Sussex County, Delaware, and lying on the east side of Banks Road (S.C.R. 298) approximately 0.61 mile northeast of Long Neck Road (Rt. 23) and being more particularly described in the attached legal description prepared by Brian D. Shirey P.A., said parcels containing 30.57 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: May 15, 2025

RE: County Council Report for C/U 2449 filed on behalf of Rudder Road, LLC

The Planning and Zoning Department received an application (C/U 2449 filed on behalf of Rudder Road, LLC) for multi-family dwellings (116 units) to be located in an MR Medium Density Residential District (if approved) at Tax Parcel 234-23.00-276.00, 276.01 and 277.00. The property is located at 25352 Rudder Road Millsboro. The parcel size is 5.54 ac. +/-

The Planning & Zoning Commission held a Public Hearing on the application on January 22, 2025. At the meeting of March 5, 2025, the Planning & Zoning Commission recommended approval of the application for the 10 reasons stated and subject to the 19 recommended conditions as outlined within the motion (copied below). The County Council Hearing was held on March 25, 2025.

Below are the minutes from the Planning & Zoning Commission meeting on January 22, 2025, February 5, 2025, and March 5, 2025.

Minutes of the January 22, 2025, Planning & Zoning Commission Meeting

Chairman Wheatley stated for the record that C/Z 2012 & C/U 2449 Rudder Road, LLC would be heard as one case for presentation purposes as they are in relation to each other.

C/U 2449 Rudder Road, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (116 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 30.57 ACRES, MORE OR LESS. The properties are lying on the east side of Banks Road (S.C.R. 298),



approximately 0.61-mile northeast of Long Neck Road (Rt. 23). 911 Address: 25352 Rudder Road, Millsboro, 25071 Banks Road, Millsboro, & N/A. Tax Map Parcels: 234-23.00-276.00, 276.01, & 277.00.

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the Applicant's conceptual site plan, a copy of the staff analysis, a copy of the Applicant's exhibit, a copy of the drainage assessment, a copy of the resource buffer management plan, a copy of a notification letter sent by staff to the relevant school district, a copy of the DelDOT SLER and four comments.

Mr. David Hutt, Esq., of Morris James LLP, spoke on behalf of the Applicant that the application relates to three tax parcels totaling a little over 30 1/2 acres of land and the two applications; that the first application is an application to change the zoning classification of the property from the AR-1 Agricultural Residential District to the MR Medium Density Residential District, the second application is a conditional use seeking to have a multi-family use on the property that would consist of 116 units, with a mixture of those units being seventy-five (75) townhomes and forty-one (41) single family lots; that the property is located off of Banks Road which is surrounded by a number of residential uses, single family homes, manufactured home communities and multi-family uses; that the Applicant hired Mr. Will Twupack with Watershed Eco, a DNR qualified forest professional, to conduct a forestation delineation report of the property; that it was determined that there was no Tier 1 or Tier 2 forest and habitat value on this property, 3 acres of Tier 3 forest and approximately twenty-seven (27) acres on non-forest area per the code; that there is an abandoned home on the corner of the property, that once was part of the Dupont Colored Schools Initiative, named the Friendship School; that the Applicant recognized the past history of the structure and reached out to the Nanticoke Indian Tribe Association to see if they would be interested in the dwelling being moved and they were not; that it is proposed that building will be removed and a place marker will be put on the property; that the property lies within a coastal area on the FLUM and Chapter 4 describes coastal areas as being an area where a range of housing types should be permitted, including single family homes, townhouses and multi-family units which is consistent with this application; that the predominant zoning district in this area is GR General Residential, but the applicant chose to request for a change to MR Medium Density Residential; that the zoning code defines the purpose of the MR Zoning District as being to provide for a medium density residential development in areas which are, or are expected to become generally urban in character and where sanitary sewers and public water supplies may or may not be available at a time of construction; that this is certainly a description of the Long Neck area; that there are several communities around this property with much higher densities of units per acre; that Bayshore is 8.9 units per acre, Shawn's Hideaway is 5.2 units per acre, Enchanted Acres is 3.9 units per acre; that the proposal of the Creekside development is 3.8 units per acre; that the layout was purposefully designed to reflect the area in which the property is located; that the Creeks End Community at the rear of the property was considered and the single family homes were aligned adjacent to the single family homes already within the Creeks End Community; that the townhomes will be placed at the entrance to the community approximately 125 feet off of Banks Road; that as you progress into the development there will be the forty-one (41) single family homes towards the rear and there will be approximately 12 acres or 40% of open space; that there will be a pool, pool house and a dock with kayak launch on the Guinea Creek with walking trails along the Guinea Creek that would intersect with the community sidewalks; that the units along the Guinea Creek will have a proposed 30 foot landscape buffer with the closest homes sitting back more than 125 feet; that along the Guinea Creek there would be a resource buffer management plan per the County Code; that there are both Tidal and Non-Tidal wetlands associated with the boundary of the Guinea Creek and Mr. Launay has worked on the delineation, reporting and development of the resource buffer management plan; that there are public utilities available to the site with Tidewater

indicating its willingness to provide central water to the property; that the Sussex County Engineering Department filed its report indicating that this property is in a Tier 1 Sewer District or planning area, and that it has capacity for the proposed project; that Mr. Launay stated in his report that there are no endangered species on the site, there would be a Homeowners Association created to manage and govern the common areas and the Indian River School District will determine a necessary bus stop within the development; that DelDOT's response to that Service Level Evaluation Request, indicated that this proposed community would have a minor impact on traffic which means more than fifty (50) vehicle trips in the peak hour, but less than 200, and more than 500 vehicle trips per day, but less than 2000; that the area wide study fee memo states when something qualifies as a minor impact, DelDOT indicates that a party can pay an area wide study fee and in addition to that fee the Applicant would be required to improve Banks Road in front of the property to its functional classification including 11 foot travel lanes and five foot shoulders for Banks Road; that it was determined that the site was not well situated for the construction of affordable housing options being it was 6/10 of a mile from the nearest collector road, but the developer wanted to commit to supporting affordable housing by contributing \$3500 per building permit that's issued to the Sussex County Housing Trust Fund, Habitat for Humanity or similar organizations that help and facilitate affordable housing within Sussex County; that the Applicant is proffering a \$500 contribution to the Indian River Fire Company per building permit issued and an additional \$10 per month per unit contribution to be made to the Indian River Fire Company possibly collected by the Property Owners Association; that Creekside submitted a letter of concern that has three points to address, first was the increase in traffic and DelDOT has noted that the traffic impact would be minor, second was the buffer between the two developments, which will be the 30 foot landscape buffer and third was the depth of the water in Guinea Creek to support a marina and dock; and that the marina and dock would need to get approval from DNREC through their permitting process and they will assess the plans and determine if that is suitable for this area.

Mr. Edward Launay, of Environmental Resource Insight, spoke on behalf of the Applicant that they worked on a buffer management plan for this project and there are two (2) buffers to deal with, the non-tidal wetland buffer and the tidal wetland buffer; that these two (2) buffers overlap each other and in total there is 100 feet wide of buffer along the shoreline edge; that under the buffer Ordinance there are exceptions to what is allowed and that would include the marina and parking for it as they are water-related activities; and that there will be a kayak launch at the end of the marina pier.

Ms. Lauren Devore asked how far the pool would be from the property line as it was stated that there would be a 30-foot buffer, and the code only requires a 6-foot rear setback so for clarity can you distinguish the distance the pool will be from the actual property line.

Mr. Jason Palkewicz stated that the pool and pool house appear to be lined up with the back of the homes that are proposed next to it.

RECESS: 5:43PM-5:50PM

Mr. Jason Shinn spoke in opposition to the application that the development will destroy the natural wildlife in that area, the traffic will increase significantly and the lack of ability for the Guinea Creek to handle a marina and dock for an entire community.

Ms. Linda Miller spoke in opposition to the application that the traffic is going to be an issue as it is already bad, especially with the school right down the road.

Mr. Steven Miller spoke in opposition to the application that the wildlife in the area is going to be displaced as this is the last area of refuge that they have as all the land around there has been developed; and that the traffic is an issue as Banks Road is not equipped for all the extra traffic and there are no turning lanes.

Mr. Lou Repa spoke in opposition to the application that currently he lives across from the site and he floods with hightide four to six times a year; that if they clear that land for buildings where will all that water go to; and that he is concerned that flooding will become a major issue as the development clears all the trees and vegetation.

Mr. Rob Yanos spoke in opposition to the application that the emergency services will have a difficult time reaching those in need due to traffic as there is already a delay in response times during the summer months and now this development will bring in even more vehicle traffic.

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

At the conclusion of the Chairman Wheatley stated for the record that C/Z 2012 & C/U 2449 Rudder Road, LLC would be heard as one case for presentation purposes as they are in relation to each other.

Minutes of the February 5, 2025, Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since January 22, 2025.

In relation to C/U 2449 Rudder Road, LLC. Motion by Mr. Collins to defer action for further consideration, leaving the record open to allow for public comment, seconded by Mr. Butler and carried unanimously. Motion carried 4-0.

Minutes of the March 5, 2025, Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since January 22, 2025.

Mr. Collins moved the Commission to recommend approval of C/U 2449 RUDDER ROAD, LLC, for 116 Multi-Family Dwellings based upon the record made during the public hearing and for the following reasons:

1. The purpose of the MR zone is to provide housing in an area which is expected to become urban in character and where central water and sewer is available. This conditional use application for multi-family units appearing as single-family structures is in compliance with the purposes of the MR zone.
2. Both central water and central sewer will be available to this site.
3. The property is in the vicinity of other properties with a variety of business, commercial and residential zonings and uses. The zoning classifications around the Property include primarily GR, MR, HR-1, AR-1, C-1, CR-1, C-2, and the B-1. The surrounding area along Banks Road contains a mixture of housing styles including manufactured home communities, single-family

detached homes, townhomes and multi-family units, including Lingo Estates (3.9 units/acre), Enchanted Acres (4.0 units/acre), Shawn's Hideaway (5.2 units/acre), Bayshore (8.9 units/acre), and Baywood Garden Villas (9.4 units/acre). This conditional use for 116 units at approximately 3.8 units per acre is consistent with other zoning, uses and residential development in the area.

4. The Property contains approximately 0.73 acres of non-tidal wetlands adjacent to Guinea Creek which will be protected with Resource Buffers as shown on the Preliminary and Final Site Plans.
5. DelDOT has reviewed the proposed project and has determined that the development's traffic impact will be Minor. When DelDOT determines that traffic impact will be minor, a project is eligible to pay an Area Wide Study Fee instead of obtaining a Traffic Impact Study. Paying this fee does not eliminate the developer's obligation to construct or pay for offsite road improvements that are required by DelDOT.
6. The conditional use meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County in an appropriate location.
7. The conditional use is consistent with the County's Comprehensive Land Use Plan. It is in the Coastal Area according to the Plan, which is a Growth Area. The Plan states that medium and higher densities can be appropriate where, like here, there are features such as central water and sewer and nearby commercial uses and employment centers. The Plan also states that a range of housing types should be permitted in the Coastal Area, including single family homes, townhouses and multifamily units.
8. The project creates residential housing options at an appropriate density in an area: (1) That is served by Sussex County sewer and central water; (2) That is near a significant number of commercial uses and employment centers; (3) That is in keeping with the character of the area; and (4) That is situated near a Major Collector Road (Long Neck Road) with another Major Collector (Route 24) in close proximity. All of these factors are consistent with the purpose of both the MR District in the Zoning Code and the Coastal Area designation in the Comprehensive Plan.
9. As part of the Application and during the public hearing before the Planning & Zoning Commission, the Applicant unilaterally promised to make financial contributions to address housing needs in Sussex County and also to support the local Fire Company. These promises are not required by Sussex County and have not influenced the decision to recommend approval of this application. Instead, they are being included as conditions to this recommendation to confirm the representations made by the Applicant so that they will be performed as stated.
10. There is no evidence that this project will adversely affect the neighboring properties, area roadways or community facilities.
11. This recommendation is subject to the following conditions:
 - A. There shall be no more than 116 Units within the development. These units shall consist of 75 attached dwellings in the form of townhomes and 41 single family detached homes. All of these units shall be condominium units. This approval does not constitute a subdivision creating any individual lots.
 - B. All entrances, intersections, roadways and multimodal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's determination.
 - C. The active recreational amenities for the project shall include a small pool house with a minimum square footage of 500 square feet and a pool with a minimum water surface

area of 1,200 square feet. There shall also be a dock with boat slips and a kayak launch (subject to all applicable DNREC approvals) for use by the residents of the community. These amenities shall be completed in compliance with Section 115-194.5 of the Zoning Code.

- D. Central sewer shall be provided to the development by Sussex County. The developer shall comply with all requirements and specifications of the Sussex County Engineering Department.
- E. The development shall be served by a central water system providing adequate drinking water and fire protection as required by applicable regulations.
- F. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements, and the project shall utilize Best Management Practices to construct and maintain these fixtures. The Final Site Plan shall contain the approval of the Sussex Conservation District.
- G. Interior street design shall comply with or exceed Sussex County standards. In addition, there shall be sidewalks on both sides of all streets with interconnection between the sidewalks and DelDOT-mandated multi-modal paths.
- H. Road naming and addressing shall be subject to the review and approval of the Sussex County Geographical Information Office.
- I. The Applicant shall consult with the local school district's transportation manager to determine if a school bus stop is appropriate. The location of such a bus stop shall be shown on the Final Site Plan.
- J. As shown on the Preliminary Site Plan, Resource Buffers required by Sussex County Code Section 115-193 shall be created to include waters, wetlands, their associated Resource Buffers and the additional areas shown on the Preliminary Site Plan, all of which shall be permanently protected, delineated and described on the Final Site Plan and within the Declaration of Covenants, Conditions, Easements, and Restrictions for the community.
- K. Approximately 12 acres or 40% of the site shall remain as open space.
- L. Construction, site work, and deliveries shall only occur on the site between the hours of 7:00a.m. through 6:00p.m., Monday through Friday and between 8:00 am and 2:00 pm on Saturday. No Sunday hours are permitted. A 24-inch by 36-inch "NOTICE" sign confirming these hours in English and Spanish shall be prominently displayed at the site entrance during construction.
- M. The Final Site Plan shall include a landscape plan for the development showing the proposed tree and shrub landscape design, including the buffer areas and the woodlands that must be preserved.
- N. The Applicant shall form a Condominium Association that shall be responsible for the maintenance of all interior roadways and parking areas, buildings, buffers, stormwater management areas, recreational amenities and open space.
- O. All lighting on the site shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.
- P. The Declaration of Covenants, Conditions, Easements and Restrictions for the subdivision and Final Site Plan shall state that agricultural and hunting activities exist nearby, and they shall include the Agricultural Use Protection Notice and a similar notice about hunting activities.
- Q. As proffered by the Applicant, prior to the issuance of a building permit for each residential unit, the applicant shall make: (1) A \$3,500 contribution to the Sussex County Housing Trust administered by the Sussex County Department of Community

Development and Housing to address housing needs in Sussex County. At the completion of this development the total contribution for housing will be \$406,000. (2) A \$500 contribution to the Indian River Volunteer Fire Company for a total contribution of \$58,000. Thereafter a monthly contribution of \$10 per completed dwelling unit shall be collected by the condominium association and paid over to the Indian Volunteer River Fire Company on a semi-annual basis for a total annual contribution once the project is completed in the amount of \$13,920. All of these contribution requirements shall be set forth on the Final Site Plan and in the recorded governing documents of the development. A copy of this Ordinance shall also be provided to the Indian River Volunteer Fire Company and the Sussex County Department of Community Development and Housing as a condition of Final Site Plan approval.

- R. The applicant shall prepare and establish a marker/plaque describing the history of the Friendship School on the Property. The location of the marker/plaque shall be shown on the Final Site Plan and the maintenance of the marker/plaque shall be the responsibility of the property owners association.
- S. The Final Site Plan shall depict or note these conditions of approval and it shall be subject to the review and approval of the Sussex Planning & Zoning Commission.

Motion by Mr. Collins, seconded by Mr. Butler and carried unanimously to recommend APPROVAL of C/U 2449 Rudder Road, LLC for the reasons and the conditions stated in the motion. Motion carried 5-0.

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

PLANNING & ZONING COMMISSION

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



Sussex County

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JAMIE WHITEHOUSE, MRTPI, AICP
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: January 22, 2025

Application: CU 2499 Rudder Road, LLC

Applicant: Rudder Road, LLC
850 New Burton Road, Suite 201
Dover, DE 19904

Owner: ABC Woodlands, LLC
919 North Market Street, Suite 950
Wilmington, DE 19801

Site Location: 25071 Banks Road, Millsboro, DE 19966

Site Location: Located on the southeast side of (S.C.R. 298), approximately 0.65-mile northeast of Long Neck Road (Rt. 23).

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

Proposed Use: 116 Multi-Family Dwelling Units (Townhomes & Single-Family Condos)

Comprehensive Land
Use Plan Reference: Coastal Area

Councilmanic
District: District 3 – Ms.Gruenebaum

School District: Indian River School District

Fire District: Indian River Fire Department

Sewer: Sussex County

Water: Tidewater

Site Area: 30.57-acre(s) +/-

Tax Map ID.: 234-23.00-276.01, 276.01, & 277.00



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Sussex County

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Memorandum

To: Sussex County Planning Commission Members
From: Mrs. Christin Scott, Planner II
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: January 15, 2025
RE: Staff Analysis for C/U 2449 Rudder Road, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of Application C/U 2449 Rudder Road, LLC to be reviewed during the January 22nd, 2025, 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: 234-23.00-276.00, 276.01, & 277.00

Proposal: The request is for a Conditional Use for Tax Parcel 234-23.00-276.00, 276.01, & 277.00 to allow for multi-family dwellings (116 units) on a parcel lying on the east side of Banks Road (S.C.R. 298), approximately 0.61 northeast of Long Neck Road (Rt. 23) in Millsboro. The properties are comprised of 30.57 acres +/-.

Zoning: The Parcels are zoned Agricultural Residential (AR-1) District. The parcels to the southwest of the subject property are all Agricultural Residential (AR-1) District with parcels to the southeast being zoned Medium Density Residential (MR) District and immediately to the northwest across Banks Road are zoned General residential (GR) District.

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

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

As outlined in the 2018 Sussex County Comprehensive Plan, Coastal Areas are "areas that can accommodate development provided that special environmental concerns are addressed" (2018 Sussex County Comprehensive Plan, 4-15.) The Plan further notes that "a range of housing types should be permitted in Coastal Areas, including single-family homes, townhouses, and multi-family



units” and that “appropriate mixed-use development should all be allowed” (2018 Sussex County Comprehensive Plan, 4-15).

Additionally, the Comprehensive Plan notes that “central water and sewer facilities are strongly encouraged” within the Coastal Area, of which the Application indicates, is on central water and sewer (2018 Sussex County Comprehensive Plan, 4-16).

Further Site Considerations:

- **Density: 3.83 DU/Ac.**
- **Open Space Provisions: 12.29 Ac. (43.5%)**
- **Agricultural Areas:** The site is not within the vicinity of active agricultural areas. However, it is located within the vicinity of forested areas.
- **Interconnectivity: N/A**
- **Transportation Improvement District (TID):** The parcels are not within the Henlopen Transportation Improvement District.
- **Forested Areas:** As shown on the conditional use site plan, 1.55 Ac. of existing woods are to be removed with 3.56 Ac. to remain.
- **Wetlands Buffers/Waterways:** The properties are located adjacent to Guinea Creek. There are both tidal and non-tidal wetlands located on the northeastern side of the property.
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** The property is partially located within an “AE” Flood Zone and located within Flood Zones “X”, within an area of “Fair” Groundwater Recharge Potential, and Staff note there are no Wellhead Protection Areas on the site.

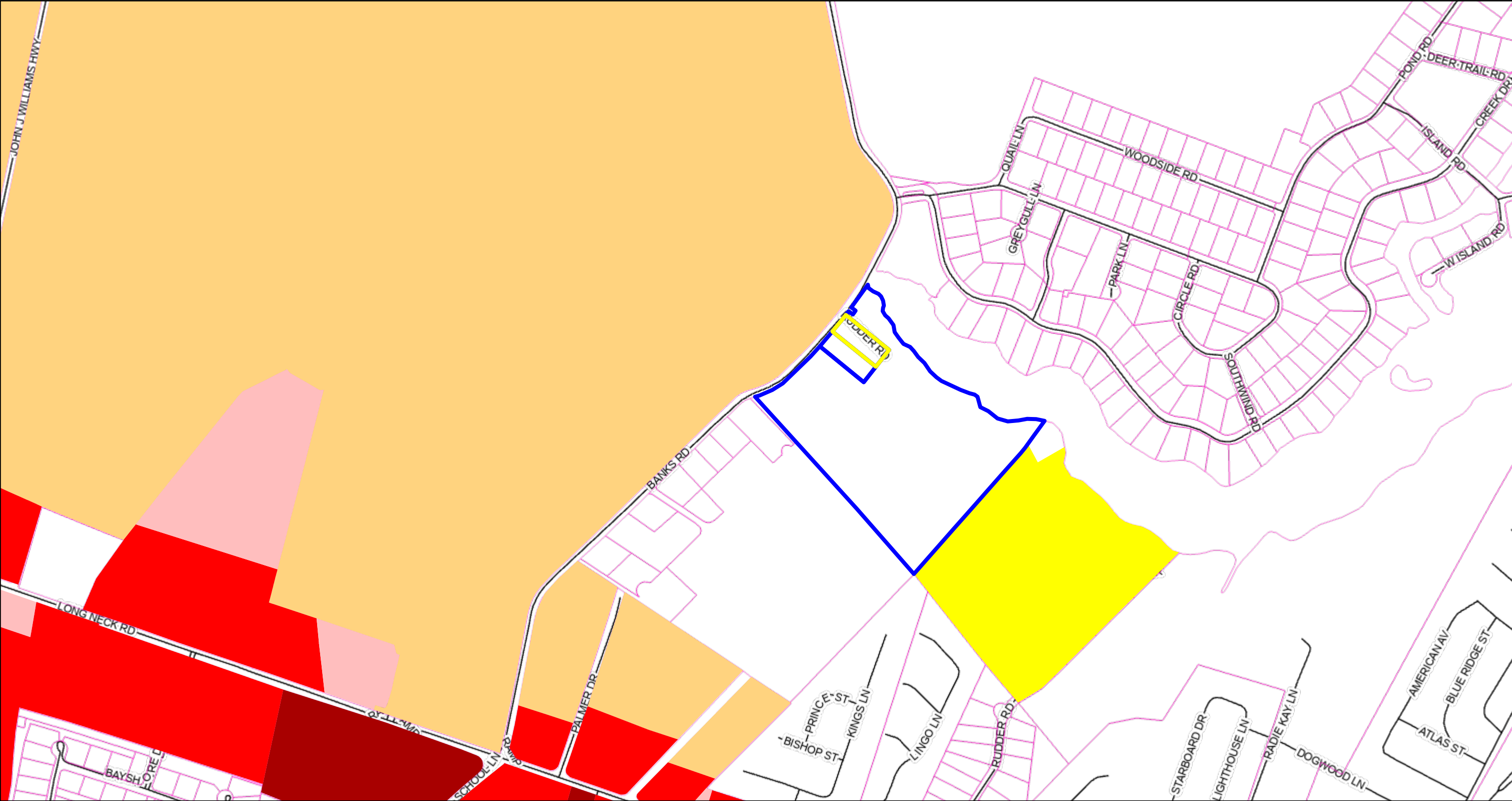
Based on the analysis of the land use, surrounding zoning and uses, a Conditional Use Application to allow for multi-family dwellings (116 units), subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.

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

Conditional Use Applications (Within a 1-mile radius of the subject site)						
Application CU Number	Application Name	Zoning District	Proposed Use	CC Decision	CC Decision Date	Ordinance Number
2340	Inland Bays Preservation Company	AR-1	Waste Water Treatment Facility	Approved	4/18/2023	2918
2326	Sun Leisure Point Resort, LLC	AR-1	Amend Condition of Approval Ord. No. 2766 from CU 2201	Approved	12/6/2022	2896
2201	Pine Acres Inc.	AR-1	Expansion of Campground	Approved	3/16/2021	2766
2167	Karen Ann Muller	AR-1	Yard Sales	Denied	5/14/2019	
1910	Charles Boehm	AR-1	Hot Dog Vendor	Approved	9/20/2011	2221
1797	Baywood, LLC	C-1/B- 1	MultiFamily	Approved	1/5/2010	2092
1786	Leon Burton	AR-1	Boat Storage	Approved	10/13/2009	2084
1786	Leon Burton	AR-1	Boat Storage	Approved	10/13/2009	2084
1742	Pine Acres, Inc.	AR-1	Expansion of Existing MHP/Campground	Approved	12/2/2008	2011
1738	Baywood, LLC (Equestrian Center)	AR-1	Equestrian Center	Approved	7/22/2008	1983
1581	Leon L. Burton	AR-1	boat storage	Approved	2/8/2005	1752

1554	Fulmer Enterprises Inc.	C-1	miniature golf	Approved	9/28/2004	1720
1505	David Ritter	AR-1	boat storage	Approved	12/9/2003	1644
1476	Elizabeth Little / Ed. Grimm TA Beach Fries	C-1	food vending trailer	Approved	1/28/2003	1581
1362	Timothy S. Johnson Oak Forest Park	AR-1	add lot to mhp	Approved	10/31/2000	1410
1302	Rick A. Willman	AR-1	bait & tackle shop	Approved	8/31/1999	1340
1230	B&M Builders, Inc.	AR-1	Manufactured Home Sales Lot	Approved	3/17/1998	1219
1179	Destination Development	AR-1	3 lot addition to mhp	Approved	5/13/1997	1135
1124	Tunnell Companies, L.P.	AR-1	expand mhp	Approved	9/26/1995	1054
1111	Trantino Norwood	AR-1	retail sales of gifts/crafts/collectibles	Approved	4/25/1995	1023
1103	Pine Acres, Inc.	AR-1	multi-family	Approved	2/28/1995	1013
1043	Indian River School District	AR-1	public school	Approved	6/29/1993	902
1034	Tunnell Companies, L.P.	AR-1	Manufactured Home Community/Golf Course	Approved	2/8/1994	954

Sussex County



December 18, 2024

polygonLayer

Override 1

Override 2

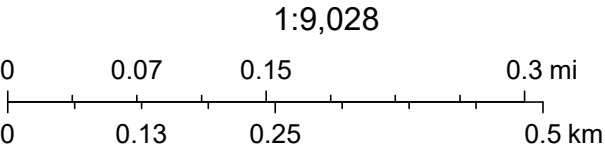
Zoning

Medium Residential - MR

- General Residential - GR
- Commercial Residential - CR-1
- C1: General Commercial
- B-1: Neighborhood Business

- Tax Parcels
- Streets
- County Boundaries

- layer44
- Red: Band_1
 - Green: Band_2
 - Blue: Band_3



Sussex County Government

PLANNING & ZONING COMMISSION

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PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: January 22, 2025

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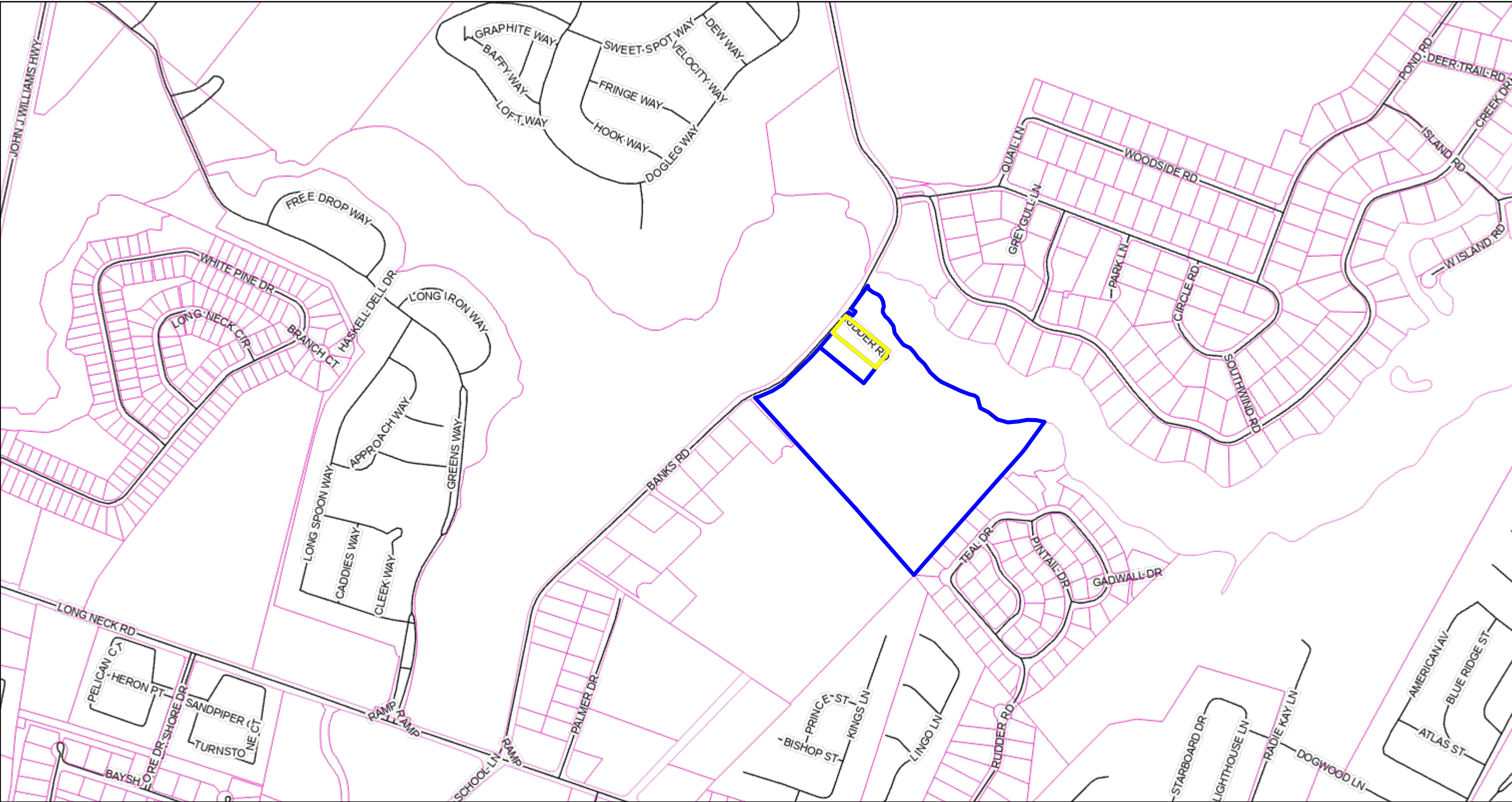
Water: Tidewater

Site Area: 30.57-acre(s) +/-

Tax Map ID.: 234-23.00-276.01, 276.01, & 277.00



Sussex County



December 18, 2024

1:9,028

polygonLayer

Override 1

Override 2

Tax Parcels

Streets

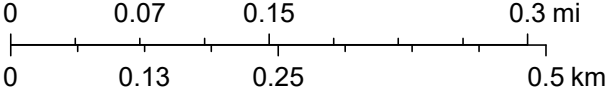
County Boundaries

layer44

Red: Band_1

Green: Band_2

Blue: Band_3



Sussex County



December 18, 2024

layer43



Red: Band_1



Green: Band_2



Blue: Band_3

polygonLayer



Override 1



Override 2



Tax Parcels

Streets



County Boundaries

World Imagery

Low Resolution 15m Imagery

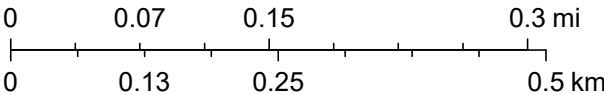
High Resolution 60cm Imagery

High Resolution 30cm Imagery

Citations

2.4m Resolution Metadata

1:9,028



Sussex County Government, Maxar

Introduced: 12/17/24

Council District 3: Ms. Gruenebaum

Tax I.D. No.: 234-23.00-276.00, 276.01 & 277.0

911 Address: 25352 Rudder Road, Millsboro, 25071 Banks Road, Millsboro & N/A

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MUTLI-FAMILY DWELLINGS (116 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 30.57 ACRES, MORE OR LESS

WHEREAS, on the 8th day of May 2023, a Conditional Use application, denominated Conditional Use No. 2449 was filed on behalf of Rudder Road, LLC; 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. 2449 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. 2449 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece, or parcel of land, lying and being situate in Indian River Hundred, Sussex County, Delaware, and lying the east side of Banks Road (S.C.R. 298), approximately 0.61 mile northeast of Long Neck Road (Rt. 23), and being more particularly described in the attached legal description prepared by Tunnell & Raysor, P.A. said parcel containing 30.57 acres, more or less.

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

Casey Hall

From: notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE
<notifications@d3forms.com>
Sent: Wednesday, April 16, 2025 11:53 AM
To: Casey Hall
Subject: Form submission from: Council Grant Form

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Council Grant Form

Legal Name of Agency/Organization	First State Community Action Agency, Inc.
Project Name	10th Annual Miniature Gold Tournament
Federal Tax ID	51-0104704
Non-Profit	Yes
Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	No
Organization's Mission	To work towards the elimination of poverty and lessen the effects of poverty on people with low incomes
Address	308 North Railroad Avenue
City	Georgetown
State	DE
Zip Code	19947
Contact Person	Jaime Lee Sayler

Contact Phone Number	3022452270
Contact Email Address	jsayler@firststatecaa.org
Total Funding Request	1000
Has your organization received other grant funds from Sussex County Government in the last year?	Yes
If YES, how much was received in the last 12 months?	54000
Are you seeking other sources of funding other than Sussex County Council?	Yes
If YES, approximately what percentage of the project's funding does the Council grant represent?	4
Program Category (choose all that apply)	Cultural Educational Fair Housing Health and Human Services
Primary Beneficiary Category	Low to Moderate Income
Approximately the total number of	10500

**Sussex County
Beneficiaries served,
or expected to be
served, annually by
this program**

Scope

First State Community Action Agency is excited to invite you to partner with us as a sponsor for our 10th Annual Miniature Golf Tournament, taking place on May19, 2025 at Jungle Jim's in Rehoboth. This well-established annual event directly benefits the vital youth programs we provide throughout Sussex County, empowering young people with the resources and support they need to thrive.

By becoming a sponsor, Sussex County Council will not only demonstrate its commitment to the well-being of our youth but also gain valuable visibility within the community. Your sponsorship includes:

Engaging Team Experience: A complimentary team entry to participate in the tournament, offering a fun and interactive opportunity for council members and staff.

On-Course Recognition: Prominent signage displayed at a hole during the tournament, ensuring visibility to all participants and attendees.

Print Material Recognition: Inclusion of the Sussex County Council's name and logo in all event-related print materials, such as brochures, flyers, and event programs.

Media and Public Relations: Recognition in any media outreach, press releases, and social media promotion surrounding the event, highlighting your support for youth development.

For six decades, First State Community Action Agency has been a cornerstone in Sussex County, providing comprehensive programs that address the diverse needs of our community. Our youth programs, in particular, focus on educational support, mentorship, and leadership development, fostering positive growth and brighter futures for young residents. Your financial support will directly enable us to expand the reach and impact of these crucial initiatives.

We believe this sponsorship offers a unique opportunity for Sussex County Council to showcase our ongoing partnership, showcase its dedication to youth development, and connect with the community in a meaningful and engaging way.

Thank you for considering this opportunity to partner with First State Community Action Agency and invest in the future of Sussex County's youth. We eagerly anticipate the possibility of your support.

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

7,450.00

Description

Event Expenses - venue, materials, contractual expenses

Amount

14,750.00

TOTAL EXPENDITURES

14,750.00

TOTAL DEFICIT FOR PROJECT OR ORGANIZATION

-7,300.00

Name of Organization

First State Community Action Agency, Inc.

Applicant/Authorized Official

Bernice M. Edwards

Date

04/16/2025

Affidavit Acknowledgement

Yes

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

Casey Hall

Rieley.

From: notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE
<notifications@d3forms.com>
Sent: Thursday, May 8, 2025 3:08 PM
To: Casey Hall
Subject: Form submission from: Council Grant Form

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Council Grant Form

Legal Name of Agency/Organization	Town of Millsboro
Project Name	Police Department Acquisition of K-9 Unit
Federal Tax ID	51-6000390
Non-Profit	Yes
Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	No
Organization's Mission	The Millsboro Police Department is committed to enhancing the quality of life by creating a safe environment in partnership with the community we serve. Members of the Millsboro Police Department will act with integrity to reduce fear and crime while treating all with respect, compassion, and fairness.
Address	120 W. Railroad Avenue
City	Millsboro
State	DE

Zip Code	19966
Contact Person	Ashleigh Sander
Contact Title	Assistant Town Manager
Contact Phone Number	302-934-8171
Contact Email Address	ashleighs@millsboro.org
Total Funding Request	10,436
Has your organization received other grant funds from Sussex County Government in the last year?	Yes
If YES, how much was received in the last 12 months?	7000
Are you seeking other sources of funding other than Sussex County Council?	Yes
If YES, approximately what percentage of the project's funding does the Council grant represent?	71
Program Category (choose all that apply)	Other

Program Category Other	Public Safety and Education
Primary Beneficiary Category	Other
Beneficiary Category Other	All of the above
Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program	150000
Scope	<p>To acquire a trained K9 for the purposes of drug detection, and community relations. Our department recognizes the significant value of a K9 unit in improving our operational capabilities, and we are seeking a partnership to obtain funding to help initiate this program. By creating a program that supports and complements surrounding agencies, Millsboro could become a leader in addressing drug abuse, with a focus on proactive and community-driven solutions. If the K-9 unit program is successful, it should also serve as a model for other towns facing similar challenges.</p> <p>Additionally, this K-9 program will be focused on community outreach and positive engagement to build trust between law enforcement and the public, while also promoting safety. By having a dog that isn't trained to bite, can reduce the intimidation factor and allow people to approach and interact with the K-9 more comfortably.</p> <p>In terms of community outreach, our agency will organize events like meet-and-greets at local parks, schools, or community centers, where residents can see the K-9 in action, learn about its training, and ask questions. This could also help demystify the role of K-9 units in law enforcement and build positive relationships. Additionally, featuring the K-9 at local events or even having it take part in educational programs about drug awareness could</p>

further connect it with the community. This K-9 would be available for use by other agencies within Sussex County as well.

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

0.00

Description K-9 Police Vehicle Partition

Amount 3,439.00

Description Police K-9 (Labrador)

Amount 7,000.00

Description Veterinary (year 1)

Amount 1,000.00

Description Dog Food (year 1)

Amount 1,000.00

Description Supplies (leashes, vests, toys, crate, etc)

Amount 1,200.00

Description Initial K9 Training Transportation

Amount 1,000.00

TOTAL EXPENDITURES 14,639.00

**TOTAL DEFICIT FOR
PROJECT OR
ORGANIZATION** -14,639.00

Name of Organization Town of Millsboro

**Applicant/Authorized
Official** Ashleigh Sander

Date 05/08/2025

**Affidavit
Acknowledgement** Yes

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

From: notifications@d3forms.com@mg.d3forms.com on behalf of Sussex County DE
<notifications@d3forms.com>
Sent: Wednesday, May 7, 2025 10:27 AM
To: Casey Hall
Subject: Form submission from: Council Grant Form

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Council Grant Form

Legal Name of Agency/Organization	Greenwood Police Department
Project Name	National Night Out 2025
Federal Tax ID	51-0107189
Non-Profit	Yes
Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	No
Organization's Mission	To conduct Community Policing within The Town of Greenwood. In addition we also assist other Law Enforcement Agencies throughout Sussex County.
Address	100 W Market St
City	GREENWOOD
State	Delaware
Zip Code	19950

Contact Person	Kevin Eickman
Contact Title	Administrative Assistant
Contact Phone Number	3023494822
Contact Email Address	kevin.eickman@cj.state.de.us
Total Funding Request	\$2000.00
Has your organization received other grant funds from Sussex County Government in the last year?	Yes
If YES, how much was received in the last 12 months?	50000
Are you seeking other sources of funding other than Sussex County Council?	Yes
If YES, approximately what percentage of the project's funding does the Council grant represent?	20
Program Category (choose all that apply)	Cultural Educational Health and Human Services Other

Program Category Other	Community Outreach
Primary Beneficiary Category	Other
Beneficiary Category Other	The Entire Community
Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program	400
Scope	The Annual National Night Out for Law Enforcement is an event that brings the community together, to build a greater understanding of each other. There are information tables and a wide variety of demonstrations by numerous State, County and Local agencies. In addition, local businesses within the community have a chance to contribute to the event.
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	2,000.00
Description	Food and refreshments and treats
Amount	1,500.00
Description	Gift bags
Amount	750.00

Description	Door Prizes
Amount	1,250.00
Description	Events, bounce house, game cart
Amount	500.00
Description	Custom T-Shirts
Amount	1,700.00
TOTAL EXPENDITURES	5,700.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	-3,700.00
Name of Organization	Greenwood Police Department
Applicant/Authorized Official	Kevin Eickman
Date	05/07/2025
Affidavit Acknowledgement	Yes

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

Casey Hall

Riley

From: notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE
<notifications@d3forms.com>
Sent: Thursday, December 12, 2024 11:06 AM
To: Casey Hall
Subject: Form submission from: Council Grant Form

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Council Grant Form

**Legal Name of
Agency/Organization**

Clothing Our Kids ✓

Project Name

Clothe A Kid

Federal Tax ID

45-4382079 ✓

Non-Profit

Yes

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

No

**Organization's
Mission**

The mission of Clothing Our Kids (COK) is to improve the lives of at-risk preschool, elementary, middle and now high school children by providing them with appropriate new school clothing. Lacking appropriate clothing has a negative impact on the child's self esteem, school attendance, ability to learn and can lead to bullying. Our goal is to help these children have an equal start in their early education and to help them become successful students, offering an equal opportunity for every child to achieve academic excellence. COK never wants to say no to a child in need due to a lack of resources.

Address 26582 John J. Williams Highway Suite 2

City MILLSBORO

State Delaware

Zip Code 19966

Contact Person Peter Thomas

Contact Title Grant Coordinator

Contact Phone Number 4842694890

Contact Email Address pt19610@gmail.com

Total Funding Request 5000

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

If YES, how much was received in the last 12 months? 2230

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

If YES, approximately what percentage of the project's funding 3

**does the Council
grant represent?**

**Program Category
(choose all that
apply)** Health and Human Services

**Primary Beneficiary
Category** Youth

**Approximately the
total number of
Sussex County
Beneficiaries served,
or expected to be
served, annually by
this program** 2000

Scope

Project Clothe A Kid provides new school clothing to children in need. School nurses identify the children lacking appropriate clothing, contact COK and our volunteers assemble a package of 3 to 5 tops and bottoms, undergarments, a hoody, PJ's and, in winter, hats, gloves and a scarf. The package is then returned to the school by our volunteers. We are an all volunteer organization with no paid staff- all grant monies go toward buying new clothing for the children. Since 2012, we have donated over 243,000 articles of clothing to over 38,000 kids.

We serve every elementary school in the county and now work with middle schools as well. We are currently expanding to serve high schools with Cape Henlopen high school being our first. There, the homeless coordinator tells us they have approximately 120 homeless children- clearly the need for clothing support is severe. We are expanding to serve three more high schools in 2025 with a goal of eventually serving all high schools in Sussex County.

Clothing for middle and high school children is much more expensive than clothes for elementary school kids. Our clothing expenses for fiscal year 2024 are up 53% over our clothing expenses for FY 2023. These financial challenges

lead us to aggressively pursue all available funding supports.

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

197,500.00

Description Clothing Purchases

Amount 170,000.00

Description Operating Expenses

Amount 82,330.00

Description Personnel

Amount 0.00

Amount 0.00

TOTAL EXPENDITURES 252,330.00

TOTAL DEFICIT FOR PROJECT OR ORGANIZATION -54,830.00

Name of Organization Clothing Our Kids

Applicant/Authorized Official Peter Thomas

Date 12/11/2024

Affidavit Acknowledgement Yes

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

To Be Introduced: 5/20/25

Council District 5: Mr. Rieley

Tax I.D. No.: 234-22.00-13.14

911 Address: 24771 Cannon Road, Millsboro

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ON-PREMISE ELECTRONIC MESSAGE CENTER SIGN TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 2.18 ACRES, MORE OR LESS

WHEREAS, on the 27th day of February 2024, a Conditional Use application, denominated Conditional Use No. 2578 was filed on behalf of New Life Bible Fellowship Church, 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. 2578 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. 2578 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece, or parcel of land, lying and being situate in Indian River Hundred, Sussex County, Delaware, and lying on the east side of Cannon Road (S.C.R. 307), 0.94 mile south of Indian Mission Road (Rt. 5), and being more particularly described in the attached legal description prepared by William E. Wright, Esq., said parcel containing 2.18 acres, more or less.

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

To Be Introduced: 5/20/25

Council District 2: Mr. McCarron

Tax I.D. No.: 331-2.00-18.19 & 18.20

911 Address: 20924 Camp Road, Bridgeville & N/A

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OUTDOOR ATHLETIC FIELD AND CONCESSION TRAILER/FOOD TRUCK TO BE LOCATED ON A CERTAIN PARCELS OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 8.07 ACRES, MORE OR LESS

WHEREAS, on the 20th day of March 2025, a Conditional Use application, denominated Conditional Use No. 2584 was filed on behalf of Martin Pacheco and Agustin Lee Pacheco-Quillen; 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. 2584 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. 2584 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 Seaford Hundred, Sussex County, Delaware, and lying on the west side of Camp Road (S.C.R. 532) approximately 915 ft. north of Eskridge Road (S.C.R. 531), and being more particularly described in the attached legal description prepared by Tunnell & Raysor, P.A. said parcel containing 8.07 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: May 15, 2025

RE: County Council Report for C/Z 2049 filed on behalf of Toney Floyd Trucking, LLC

The Planning and Zoning Department received an application (C/Z 2049 filed on behalf of Toney Floyd Trucking, LLC) for a change of zone from a B-2 Business Community District to an AR-1 Agricultural Residential Zoning District at Tax Parcel 234-32.00-60.00. The property is located at on the southeast side of John J. Williams Highway (Rt.24) approximately 520 feet northeast of Layton Ave. The parcel size is 0.95 ac. +/-

The Planning & Zoning Commission held a Public Hearing on the application on April 2, 2025. At the meeting of April 16, 2025, the Planning & Zoning Commission recommended approval of the application for the 7 reasons as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meeting on April 2, 2025, and April 16, 2025.

Minutes of the April 2, 2025, Planning & Zoning Commission Meeting

Chairman Wheatley stated for the record that C/Z 2049 Toney Floyd Trucking, LLC and C/U 2580 Toney Floyd Trucking, LLC would be heard as one case for presentation purposes as they are in relation to each other.

C/Z 2049 Toney Floyd Trucking, LLC

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A B-2 BUSINESS COMMUNITY DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.95 ACRES, MORE OR LESS. The property is lying on the southeast side of



John J. Williams Highway (Rt. 24), approximately 520 feet northeast of Layton Avenue. 911 Address: N/A. Tax Map Parcel: 234-32.00-60.00.

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the survey for the property, a copy of the Applicants exhibits, a copy of the conditional use site plan, a copy of the staff analyses, one for each application, a copy of the DelDOT SLER, a copy of letters received from Sussex County Engineering Department, Utility Planning Division and have received zero comments.

Ms. Mackenzie Peet, Esq., of Saul Ewing, LLP, spoke on behalf of the Applicant that the plan is to rezone the lot from a B2 to an AR-1 to allow for a Conditional Use for commercial hauling of goods and materials, delivery services and a driveway installation business; that this application comes as a result of a previously denied proposal for the same business at another location; that the new location is surrounded by commercial and residential properties and is currently zoned AR-1 (Agricultural Residential) and is within a developing area; that per the Comprehensive Plan growth areas are located near municipalities or town centers; that the proposed business aligns with this vision by promoting residential and commercial development in Sussex County; that it will facilitate the transportation of essential materials for construction and development projects in the County; that the applicant will keep necessary materials and vehicles on site enhancing the services into a developing area; that the concept plan has an access road proposed off of Route 24 for the trucks to be able to drive right in and directly into a parking space or right up to the material storage bins; that there is proposed fencing around the side and rear yards to serve as a visual screen, a 40'x80' building and material storage bins proposed to be placed on the property; that DelDOT reviewed the Service Level Evaluation Report and concluded that the proposed use would have a diminutive impact on local roadways; that there are less than fifty (50) vehicle trips per day expected to be generated; that public water and sewer are not available, but the applicant will likely install a well; that the rezoning request is to return the property to its prior designation of AR-1 (Agricultural Residential) from the B-2 (Business Community) because the current zoning does not allow the Conditional Use to occur; that the proposed use meets the purpose of a Conditional Use as outlined in the Code, given its public and semi-public character which serves the general convenience and welfare of the community; that the following Conditions of Approval were offered by the applicant:

1. Hours of Operation would be 6:30AM – 6:30PM, Monday through Friday and 8:00AM – 3:00PM on Saturday.
2. Deliveries of materials shall be made between 9:00AM – 4:00PM, Monday through Friday with no Sunday hours at all.
3. No stockpiling of materials, all associated materials with respect to the driveway installation business must be kept in orderly condition.
4. Parking shall be in compliance with the Code.
5. No junk or inoperable or unregistered vehicles, trailers or equipment shall be permitted.
6. No maintenance, except for minor mobile maintenance shall be performed.
7. No hazardous materials or fuel shall be stored on the property, except for limited quantities for routine vehicle and equipment maintenance.
8. Security lighting shall be installed.
9. Dumpsters and trash receptacles shall be screened.
10. One lighted sign not to exceed 32 square feet in size permitted.

There was a signed petition entered into the applicant's file with the support of all the neighboring property owners.

Mr. Tom Hickey, who lives directly behind the applicant's property, stated that he is in favor of this operation to be at this location.

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 2049 Toney Floyd Trucking, LLC. Motion by Ms. Wingate to defer action for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 4-0.

Minutes of the April 16, 2025, Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since April 2, 2025.

Ms. Wingate moved the Commission to recommend approval of Change of Zone #2049 for TONEY FLOYD TRUCKING, LLC for a change in zone from the B-2 Community Business District to AR-1 Agricultural Residential based on the record made during the public hearing and for the following reasons:

1. This property was recently rezoned from AR-1 to B-2 so that it could be used for business purposes in conjunction with the Applicant's existing business next door. The purpose of this down-zoning is to allow the Applicant to obtain a conditional use for an appropriate business at this location that is not specifically permitted in the B-2 District.
2. The property is located along Route 24 near the future intersection with the Millsboro Bypass. AR-1 zoning with a conditional use for the Applicant's business is appropriate at this location.
3. Downzoning this property to AR-1 is consistent with the Sussex County Comprehensive Plan and its Future Land Use Map.
4. The purpose of this downzoning is to enable a conditional use for the applicant's business. There will not be any public access, and the use will not have an adverse impact on the neighborhood.
5. 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 B-2 District.
6. The record includes a petition signed by many of the neighboring property owners supporting this rezoning. There was no opposition to this application.
7. For all of these reasons, the rezoning of this property from B-2 to AR-1 is appropriate.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to recommend APPROVAL of C/Z 2049 Toney Floyd Trucking, LLC for the reasons and the conditions stated in the motion. Motion carried 4-0.

Vote by roll call: Mr. Mears – yea, Ms. Wingate – yea, Mr. Collins – 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
sussexcountype.gov
302-855-7878 T
302-854-5079 F
JAMIE WHITEHOUSE, MRTPI, AICP
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: April 2nd, 2025

Application: C/U 2580 Toney Floyd Trucking, LLC

Applicant: Toney Floyd Trucking, LLC
c/o Toney Floyd & Charletta Speaks-Floyd
27346 William Street Road
Millsboro, Delaware 19966

Owner: Toney Floyd & Charletta Speaks-Floyd
27346 William Street Road
Millsboro, Delaware 19966

Site Location: The property is lying on the southeast side of John J. Williams Highway (Rt. 24), approximately 520 feet northeast of Layton Avenue.

Current Zoning: B-2 - Community Business District

Proposed Zoning: AR-1 – Agricultural Residential District

Proposed Use: A business providing commercial hauling, goods and materials delivery services, and driveway installation business, together with storage of vehicles, equipment, and materials.

Comprehensive Land
Use Plan Reference: Developing Area

Councilmanic
District: Mr. John Rieley

School District: Indian River School District

Fire District: Millsboro Fire Company

Sewer: On-Site Septic

Water: On-Site Well

Site Area: 0.9505 acres +/-

Tax Map ID.: 234-32.00-60.00



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



Sussex County

DELAWARE
sussexcountye.gov

Memorandum

To: Sussex County Planning Commission Members
From: Susan Isaacs, Planner I
CC: Vince Robertson, Assistant County Attorney, and applicant
Date: March 27, 2025
RE: Staff Analysis for C/Z 2049 Toney Floyd Trucking, LLC

The purpose of this memo is to provide background and analysis for the Planning & Zoning Commission to consider as a part of Application C/Z 2049 Toney Floyd Trucking, LLC to be reviewed at the April 2, 2025, Planning & Zoning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

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

Tax Parcel ID: 234-32.00-60.00

Proposal: The request is for a Change of Zone for Tax Parcel 234-32.00-60.00 to allow for a change of zone from a Business Community (B-2) District to an Agricultural Residential (AR-1) District. The property is lying on the southeast side of John J. Williams Highway (Route 24), approximately 520 feet northeast of Layton Avenue. The Parcel contains 0.95 acres +/-.

Staff note that a related Application (CU 2580) proposing a Conditional Use for commercial hauling, goods and materials delivery services, and driveway installation business together with storage of vehicles, equipment, and materials accompanies this application.

Zoning Information: The parcel is zoned B-2 Community Business District. Adjacent parcel to the west is zoned B-1 Neighborhood Business and parcels to the north, south and east are zoned Agricultural Residential (AR-1).

Future Land Use Map Designation - (Comprehensive Plan): Developing Area

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



Recommendations/Guidelines for land categorized as *Developing Area* per the Future land Use Classification in the Comprehensive Plan:

- *Developing Areas* are newer, emerging growth areas that demonstrate the characteristics of developmental pressures. 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 (Page 4-14).
- Permitted Uses: 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 (Page 4-14).

Site Considerations:

- **Density:** N/A
- **Open Space Provisions:** N/A
- **Agricultural Areas:** 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.):** The Parcel is located within the “X” Flood Zone with a small portion of the Parcel within a Well Head Protection Area at the northwest Boundary of Parcel.

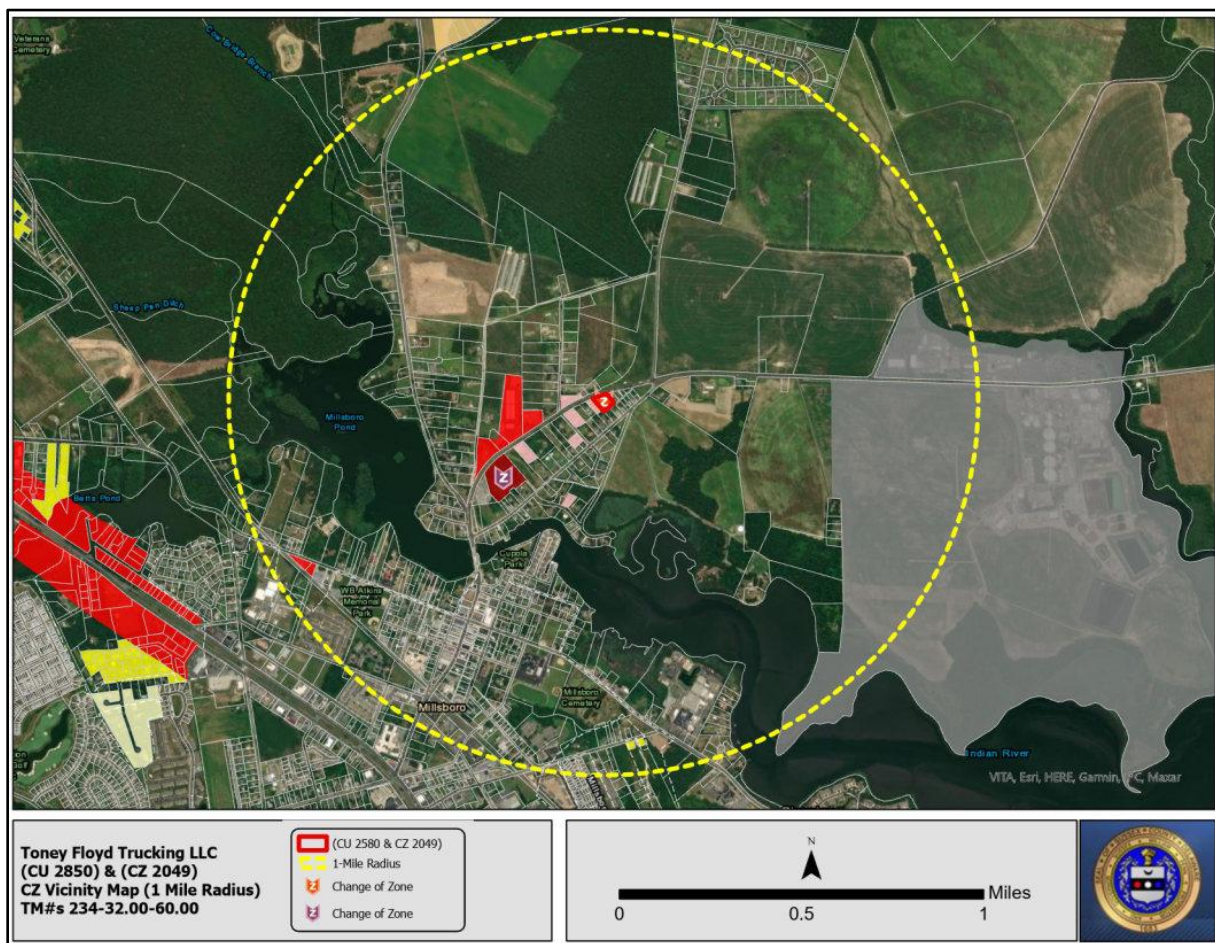
Based on the analysis of the land use, surrounding zoning and uses, a Change of Zone from B-2 Community Business District to Agricultural Residential (AR-1) District could be considered as being consistent with the land use, based on size and scale, with area zoning and surrounding uses.

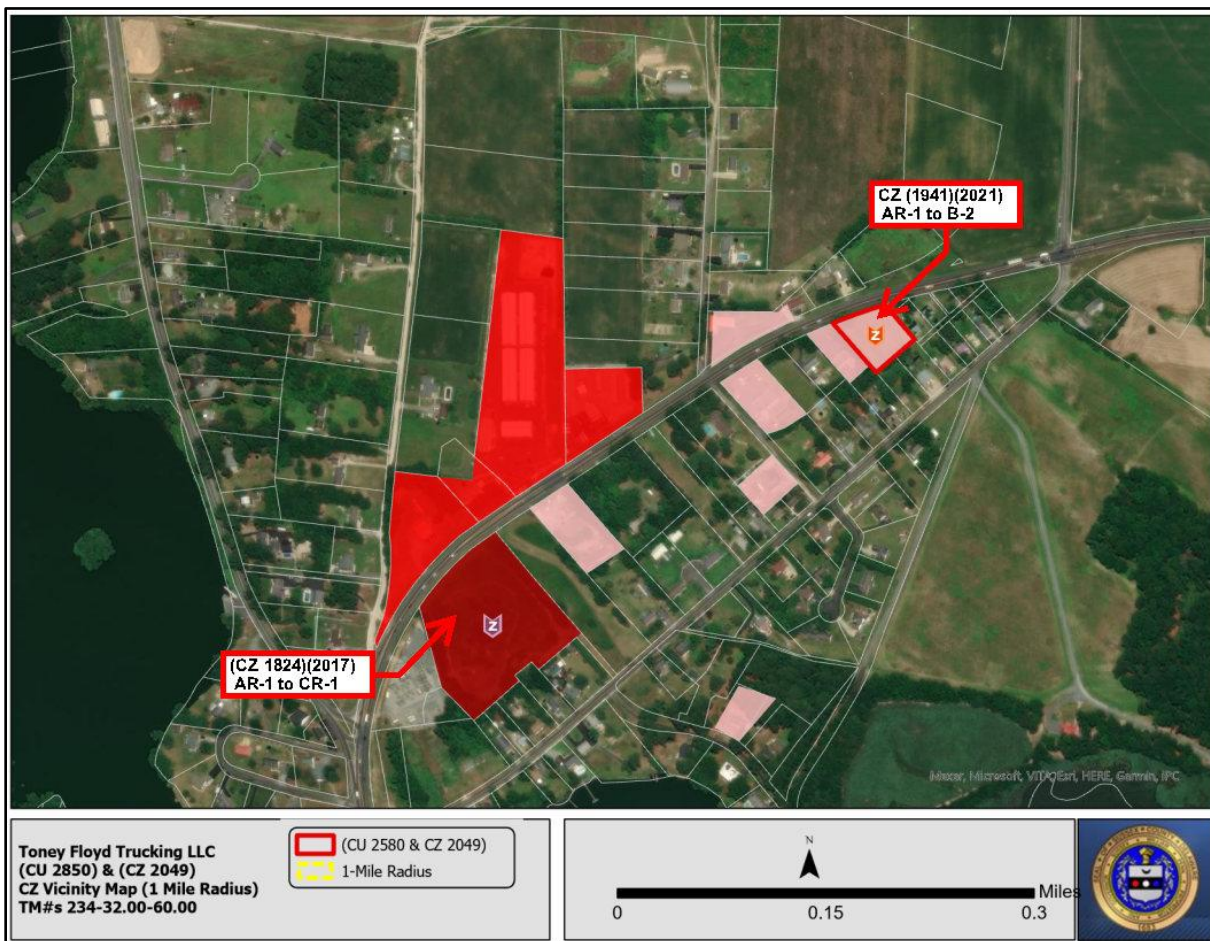
Existing Changes of Zone within the Vicinity of the Subject Site: A Data Table has been supplied which provides further background regarding the approval status of Applications in the area, including the location of all other Change of Zone Applications that are within 1 mile +/- distance from the subject site.

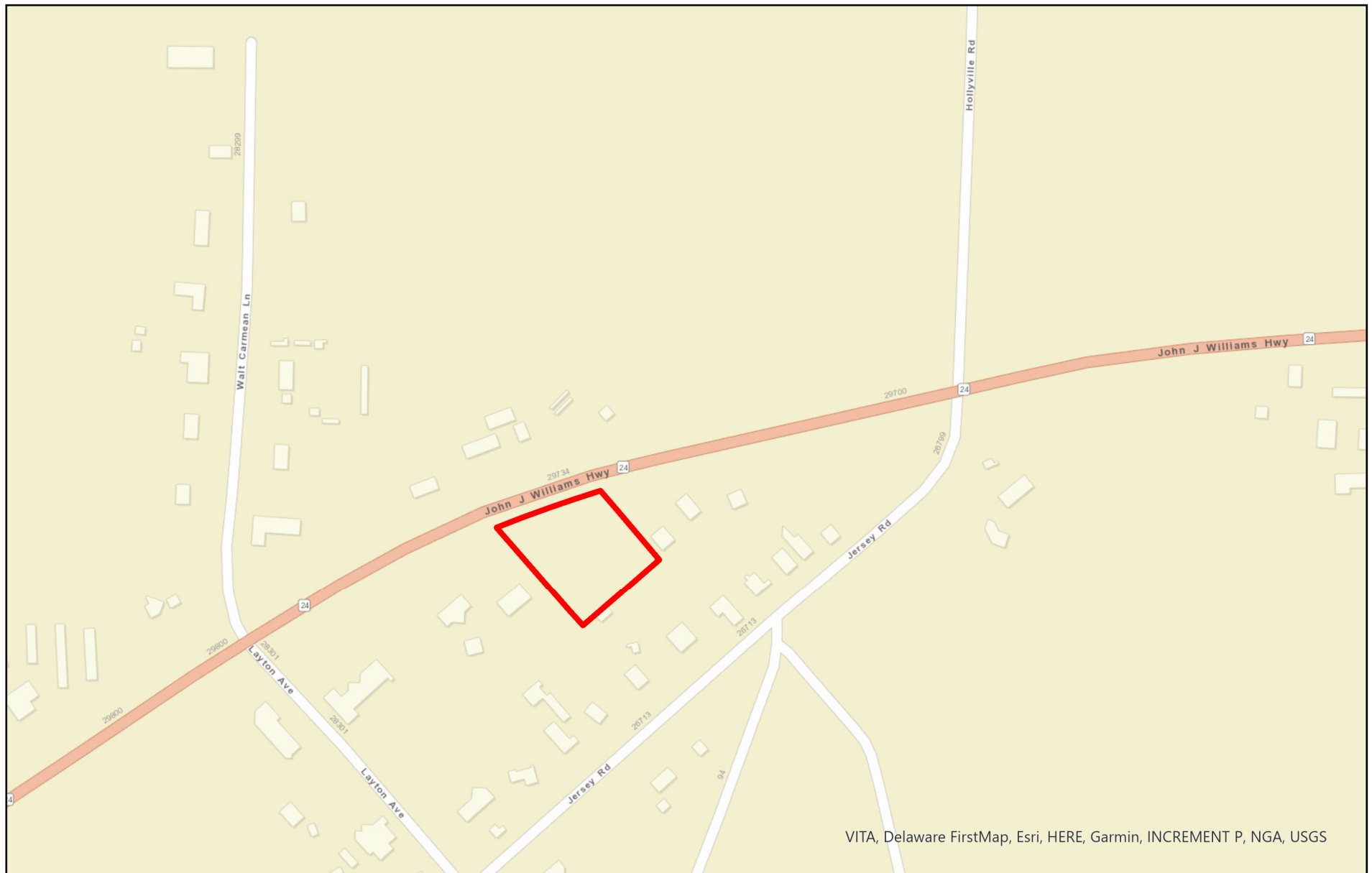
Changes of Zone

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


Application CZ Number	Application Name	Zoning District	Proposed Zoning	CC Decision	CC Decision Date	Ordinance Number
1824	Tomark, LLC	AR-1	CR-1	Approved	10/10/2017	2526
1941	Charletta Speaks-Floyd	AR-1	B-2	Approved	12/14/2021	2824

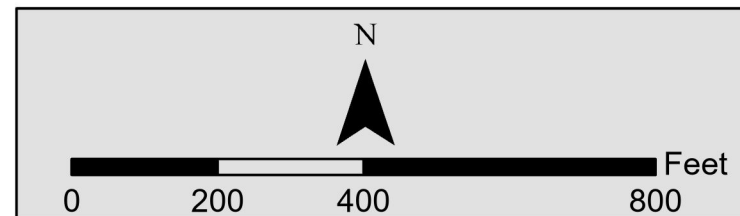


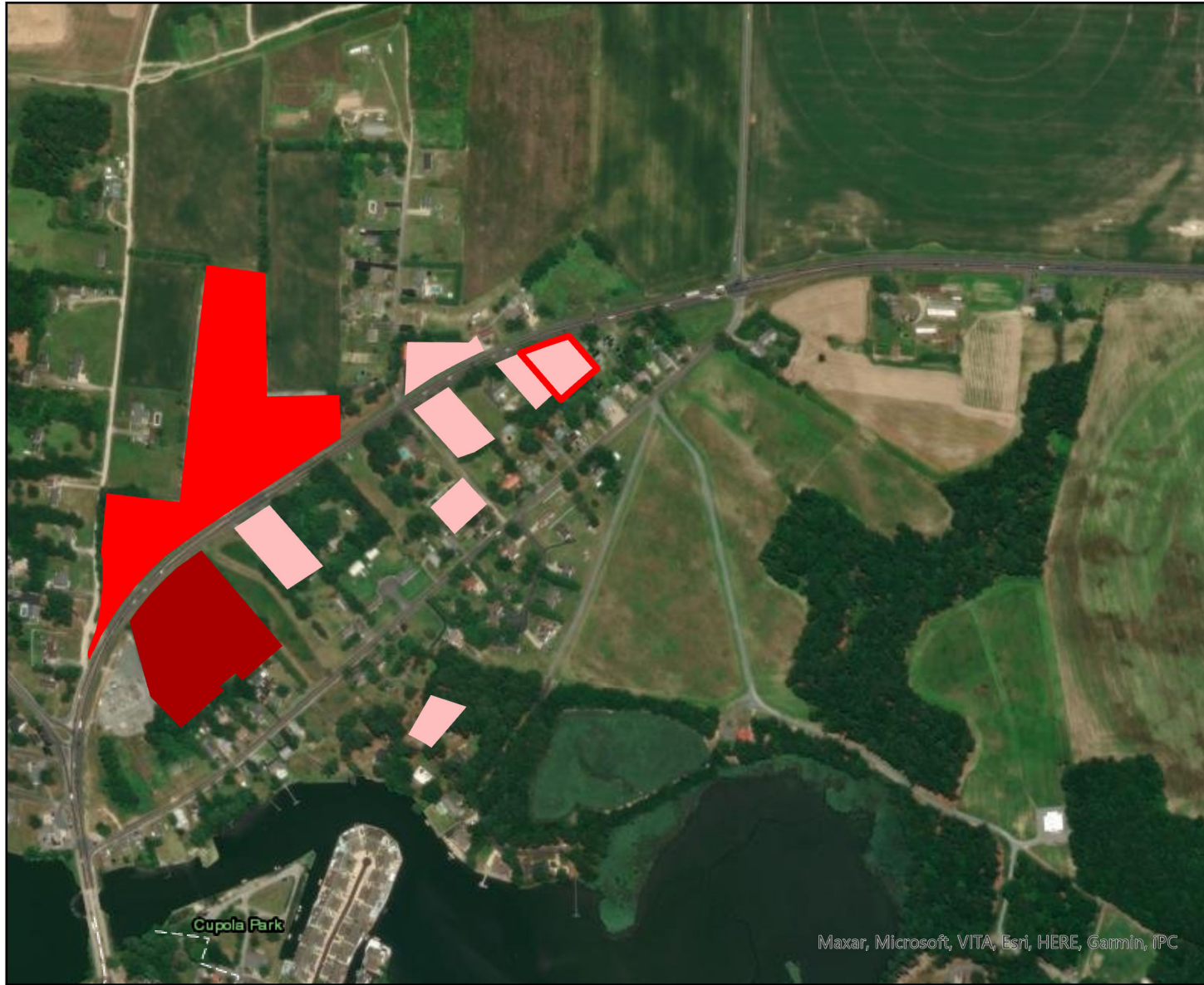




CZ 2049 Toney Floyd Trucking, LLC
Street Map
Tax Map No. 234-32.00-60.00

 CZ 2049 Toney Floyd
Trucking, LLC




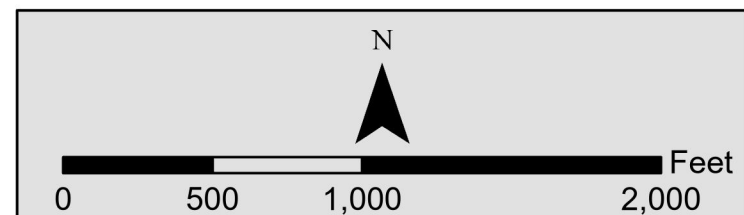


Zoning

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


CZ 2049 Toney Floyd Trucking, LLC
Zoning Map
TM# 234-32.00-60.00

 CZ 2049 Toney Floyd Trucking, LLC






CZ 2049 Toney Floyd Trucking, LLC
Street Map
Tax Map No. 234-32.00-60.00




CZ 2049 Toney Floyd
Trucking, LLC

N



0 200 400 800 Feet



Introduced: 3/11/25

Council District 5: Mr. Rieley

Tax I.D. No.: 234-32.00-60.00

911 Address: N/A

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A B-2 BUSINESS COMMUNITY DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.95 ACRES, MORE OR LESS

WHEREAS, on the 28th day of February 2025, a zoning application, denominated Change of Zone No. 2049 was filed on behalf of Toney Floyd Trucking, LLC; 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 Change of Zone No. 2049 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 [B-2 Community Business 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 Indian River Hundred, Sussex County, Delaware, and lying on the southeast side of John J. Williams Highway (Rt. 24), approximately 520 feet northeast of Layton Avenue and being more particularly described in the attached legal description prepared by Fuqua, Willard, Stevens & Schab, PA said parcel containing 0.9505 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: May 15, 2025

RE: County Council Report for C/U 2580 filed on behalf of Toney Floyd Trucking, LLC

The Planning and Zoning Department received an application (C/U 2580 filed on behalf of Toney Floyd Trucking, LLC) for a Conditional Use for a commercial hauling, goods and materials delivery services, and driveway installation business, to be located in an AR-1 Agricultural Residential Zoning District at Tax Parcel 234-32.00-60.00. The property is located on the southeast side of John J. Williams Highway (Rt.24), approximately 520 feet northeast of Layton Ave. The parcel size is 0.95 ac. +/-

The Planning & Zoning Commission held a Public Hearing on the application on April 2, 2025. At the meeting of April 16, 2025, the Planning & Zoning Commission recommended approval of the application for the 6 reasons and 15 recommended conditions of approval as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meeting on April 2, 2025, and April 16, 2025.

Minutes of the April 2, 2025, Planning & Zoning Commission Meeting

Chairman Wheatley stated for the record that C/Z 2049 Toney Floyd Trucking, LLC and C/U 2580 Toney Floyd Trucking, LLC would be heard as one case for presentation purposes as they are in relation to each other.

C/U 2580 Toney Floyd Trucking, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR COMMERCIAL HAULING, GOODS AND MATERIALS DELIVERY SERVICES, AND DRIVEWAY INSTALLATION



BUSINESS TOGETHER WITH STORAGE OF VEHICLES, EQUIPMENT, AND MATERIALS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.95 ACRES, MORE OR LESS. The property is lying on the southeast side of John J. Williams Highway (Rt. 24), approximately 520 feet northeast of Layton Avenue. 911 Address: N/A. Tax Map Parcel: 234-32.00-60.00.

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the survey for the property, a copy of the Applicants exhibits, a copy of the conditional use site plan, a copy of the staff analyses, one for each application, a copy of the DelDOT SLER, a copy of letters received from Sussex County Engineering Department, Utility Planning Division and have received zero comments.

Ms. Mackenzie Peet, Esq., of Saul Ewing, LLP, spoke on behalf of the Applicant that the plan is to rezone the lot from a B2 to an AR-1 to allow for a Conditional Use for commercial hauling of goods and materials, delivery services and a driveway installation business; that this application comes as a result of a previously denied proposal for the same business at another location; that the new location is surrounded by commercial and residential properties and is currently zoned AR-1 (Agricultural Residential) and is within a developing area; that per the Comprehensive Plan growth areas are located near municipalities or town centers; that the proposed business aligns with this vision by promoting residential and commercial development in Sussex County; that it will facilitate the transportation of essential materials for construction and development projects in the County; that the applicant will keep necessary materials and vehicles on site enhancing the services into a developing area; that the concept plan has an access road proposed off of Route 24 for the trucks to be able to drive right in and directly into a parking space or right up to the material storage bins; that there is proposed fencing around the side and rear yards to serve as a visual screen, a 40'x80' building and material storage bins proposed to be placed on the property; that DelDOT reviewed the Service Level Evaluation Report and concluded that the proposed use would have a diminutive impact on local roadways; that there are less than fifty (50) vehicle trips per day expected to be generated; that public water and sewer are not available, but the applicant will likely install a well; that the rezoning request is to return the property to its prior designation of AR-1 (Agricultural Residential) from the B-2 (Business Community) because the current zoning does not allow the Conditional Use to occur; that the proposed use meets the purpose of a Conditional Use as outlined in the Code, given its public and semi-public character which serves the general convenience and welfare of the community; that the following Conditions of Approval were offered by the applicant:

1. Hours of Operation would be 6:30AM – 6:30PM, Monday through Friday and 8:00AM – 3:00PM on Saturday.
2. Deliveries of materials shall be made between 9:00AM – 4:00PM, Monday through Friday with no Sunday hours at all.
3. No stockpiling of materials, all associated materials with respect to the driveway installation business must be kept in orderly condition.
4. Parking shall be in compliance with the Code.
5. No junk or inoperable or unregistered vehicles, trailers or equipment shall be permitted.
6. No maintenance, except for minor mobile maintenance shall be performed.
7. No hazardous materials or fuel shall be stored on the property, except for limited quantities for routine vehicle and equipment maintenance.
8. Security lighting shall be installed.
9. Dumpsters and trash receptacles shall be screened.

10. One lighted sign not to exceed 32 square feet in size permitted.

There was a signed petition entered into the applicants file with the support of all the neighboring property owners.

Mr. Tom Hickey, who lives directly behind the applicant's property, stated that he is in favor of this operation to be at this location.

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 2580 Toney Floyd Trucking, LLC. Motion by Ms. Wingate to defer action for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 4-0.

Minutes of the April 16, 2025, Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since April 2, 2025.

Ms. Wingate moved the Commission to recommend approval of Conditional Use #2580 for TONEY FLOYD TRUCKING, LLC for a business that performs commercial hauling, deliveries of goods and materials and driveway installations on land zoned AR-1 based upon the record made during the public hearing and for the following reasons:

1. As a result of a downsizing from B-2, this site will again have an AR-1 zoning. It is in a location where other small businesses exist. It is also located along Route 24 near the future intersection with the new Millsboro Bypass. These circumstances make this property an appropriate location for the Applicant's business.
2. The property is located within the Coastal Area according to the Sussex County Comprehensive Plan. Small business uses like this one are appropriate within this Area according to the Plan.
3. DelDOT has stated that the traffic generated by this use will be "diminutive".
4. The proposed use will not have a negative impact on the neighboring properties or roadways in this location.
5. The use is of a public or semi-public character that is desirable for the general convenience and welfare of the area and the County.
6. One neighbor testified in support of the Application and a petition was submitted in support of the Application signed by several neighbors. No parties appeared in opposition to the application.
7. This recommendation is subject to the following conditions:
 - A. This recommendation is conditioned upon the approval of Change in Zone #2049 to rezone this property from the B-2 District to the AR-1 District.

- B. The use shall be limited to a business for commercial hauling, goods and materials delivery services, and driveway installation business together with the storage of vehicles, equipment, and materials associated with these uses.
- C. There shall be no retail sales occurring on the property.
- D. The hours of operation shall be from 6:30 a.m. through 6:30 p.m., Monday through Friday, and 8:00 a.m. through 3:00 p.m. on Saturdays. Deliveries of materials shall only be made to the site between the hours of 9:00 a.m. through 4:00 p.m., Monday through Friday. There shall be no Sunday hours.
- E. All materials associated with the driveway installation aspect of the business shall be managed in a manner that prevents accumulation beyond necessary operational needs. The storage area shall be located on a stabilized surface. All materials stored onsite shall only be kept in a neat, clean and orderly condition. Materials shall be stored within designated storage bins that are clearly identified on the Final Site Plan.
- F. Parking shall be in compliance with Sussex County standards and be constructed with a stabilized surface. The parking areas shall be shown on the Final Site Plan and clearly marked on the site itself.
- G. No junked, inoperable or unregistered vehicles, trailers, or equipment shall be kept onsite.
- H. No maintenance of vehicles, trailers, or equipment shall occur onsite except for limited minor maintenance and repairs that can be reasonably conducted onsite, including those performed by mobile servicers. These services may include minor tasks such as battery replacement, tire changes, oil changes, air hose changes, and minor trailer repairs like those for tongues or hitches. Such maintenance services shall not involve extensive equipment that is only typically available at offsite repair shops or maintenance facilities.
- I. No hazardous materials or fuel shall be stored onsite, except for limited quantities necessary for routine vehicle and equipment maintenance, such as oil changes. All liquids, oils and hazardous materials shall be handled, contained and properly disposed of in accordance with federal, state and local requirements and industry practices.
- J. One lighted sign shall be permitted. It shall not exceed 32 square feet in size.
- K. There shall be perimeter fencing installed along all sides of the property other than the frontage along Route 24. The fencing shall be solid and with a height of 7 feet to screen this use from neighboring and adjacent properties. The design, height and location of the fence shall be shown on the Final Site Plan.
- L. All lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.
- M. Any dumpsters on the site shall be screened from the view of neighboring properties and roadways. The dumpster locations shall be shown on the Final Site Plan.
- N. The applicant shall comply with all DelDOT requirements for entrance and roadway improvements.
- O. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to recommend APPROVAL of C/U 2580 Toney Floyd Trucking, LLC for the reasons and the conditions stated in the motion. Motion carried 4-0.

Vote by roll call: Mr. Mears – yea, Ms. Wingate – yea, Mr. Collins – 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
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302-854-5079 F
JAMIE WHITEHOUSE, MRTPI, AICP
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: April 2nd, 2025

Application: C/U 2580 Toney Floyd Trucking, LLC

Applicant: Toney Floyd Trucking, LLC
c/o Toney Floyd & Charletta Speaks-Floyd
27346 William Street Road
Millsboro, Delaware 19966

Owner: Toney Floyd & Charletta Speaks-Floyd
27346 William Street Road
Millsboro, Delaware 19966

Site Location: The property is lying on the southeast side of John J. Williams Highway (Rt. 24), approximately 520 feet northeast of Layton Avenue.

Current Zoning: B-2 - Community Business District

Proposed Zoning: AR-1 – Agricultural Residential District

Proposed Use: A business providing commercial hauling, goods and materials delivery services, and driveway installation business, together with storage of vehicles, equipment, and materials.

Comprehensive Land
Use Plan Reference: Developing Area

Councilmanic
District: Mr. John Rieley

School District: Indian River School District

Fire District: Millsboro Fire Company

Sewer: On-Site Septic

Water: On-Site Well

Site Area: 0.9505 acres +/-

Tax Map ID.: 234-32.00-60.00





Memorandum

To: Sussex County Planning Commission Members
From: Susan Isaacs, Planner I
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: March 27, 2025
RE: Staff Analysis for C/U 2580 Toney Floyd Trucking, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of Application C/U 2580 Toney Floyd Trucking, LLC to be reviewed during the April 2, 2025, 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: 234-32.00-60.00

Proposal: The request is for a Conditional Use for Tax Parcel 234-32.00-60.00 to allow for commercial hauling, goods and materials delivery services, and driveway installation business together with storage of vehicles, equipment, and materials on a parcel lying on the southeast side of John J. Williams Highway (Rt. 24), approximately 520 feet northeast of Layton Avenue. The Parcel contains 0.95 acres +/-.

Zoning: The parcel is zoned Business Community (B-2) District. Adjacent parcel to the west is zoned Neighborhood Business (B-1) District and parcels to the north, south and east are zoned Agricultural Residential (AR-1) District.

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

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

Recommendations/Guidelines for land categorized as *Developing Area* per the Future land Use Classification in the Comprehensive Plan:

- *Developing Areas* are newer, emerging growth areas that demonstrate the characteristics of developmental pressures. 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 (Page 4-14).



- **Permitted Uses:** 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 (Page 4-14).

Site Considerations:

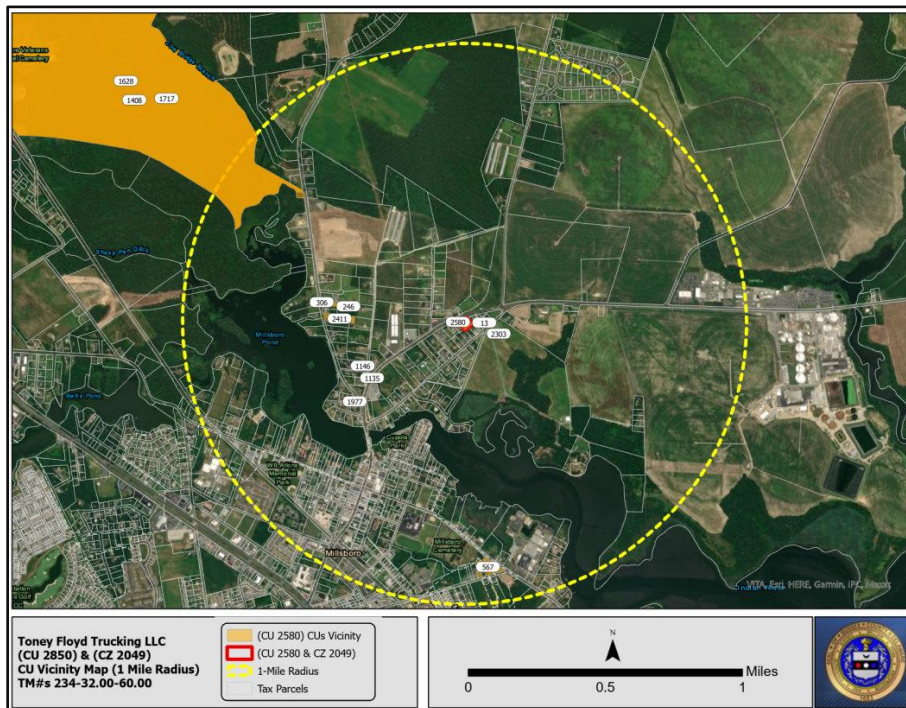
- **Density:** N/A
- **Open Space Provisions:** N/A
- **Agricultural Areas:** The site is not within the vicinity of active agricultural areas.
- **Interconnectivity:** N/A
- **Transportation Improvement District (TID):** The parcels are not within the Henlopen Transportation Improvement District.
- **Forested Areas:** N/A
- **Wetlands Buffers/Waterways:** There are no wetlands located on the property nor is the property adjacent to any waterways.
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** The Parcel is located within the “X” Flood Zone with a small portion of the Parcel within a Well Head Protection Area at the northwest Boundary of Parcel.

Based on the analysis of the land use, surrounding zoning and uses, a Conditional Use Application to allow for commercial hauling, goods and materials delivery services, and driveway installation business together with storage of vehicles, equipment, and materials subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.

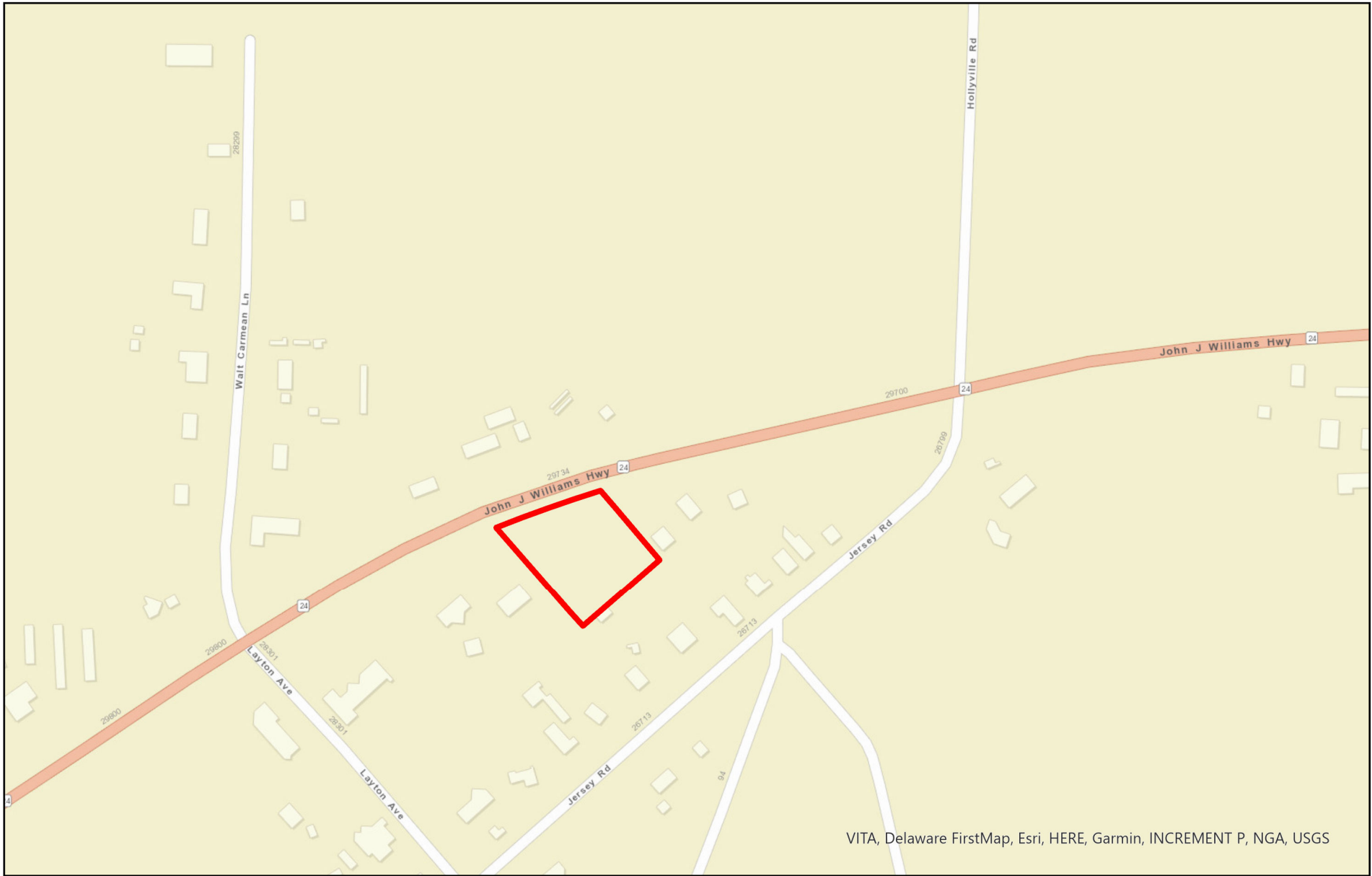
Existing Conditional Uses within the Vicinity of the Subject Site: A Data Table has been supplied which provides further background regarding the approval status of Applications in the area, including the location of all other Conditional Use Applications that are 1 mile +/- distance from the subject site.

Conditional Use Applications (Within a 1-mile radius of the subject site)						
Application CU Number	Application Name	Zoning District	Proposed Use	CC Decision	CC Decision Date	Ordinance Number
13	Dallas Wilkerson	AR-1	Beauty Salon	Approved	7/13/1971	N/A
246	Agnes M Goff	AR-1	Flower Shop	Approved	12/3/1974	N/A
306	Agnes M Goff	AR-1	Addition To Manufactured Home for Home Florist Shop	Approved	12/9/1975	N/A
567	Millsboro Cemetery, Inc.	AR-1	Addition To Existing Cemetery	Approved	4/29/1980	N/A
1135	Sandra Gordon	AR-1	Mini Storage	Withdrawn	N/A	N/A
1146	Sandra Gordon	AR-1	Mini-Storage	Withdrawn	N/A	N/A
1408	Indian River School District (Stockley Site)	AR-1	Public School	Approved	7/24/2001	1481
1626	Julie Bernick & Deborah Safee	AR-1	Dog Grooming	Approved	11/15/2005	1807
1628	State of Delaware	AR-1	Government Building	Approved	6/14/2005	1782
1717	State of Delaware	AR-1	State Health Care Facility	Approved	12/5/2006	1880


	Division of Facilities					
1977	Matthew T. Favinger	AR-1	Doctors Office	Approved	1/7/2014	2333
2303	Antonia Lopez	AR-1	Food Vendor	Denied	8/23/2022	N/A
2411	Joshua Zuppo	AR-1	Tree Business	Approved	5/14/2024	3015
2580	Toney Floyd Trucking, LLC	B-2	Commercial Hauling, Goods, & Material Delivery Service, Driveway Installation Co., Storage Of Vehicles, Equipment & Materials In Connection With The Business	N/A	N/A	N/A

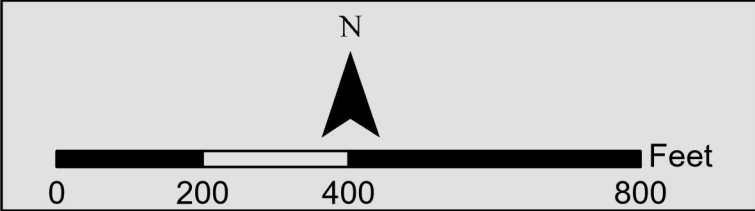






CU 2580 Toney Floyd Trucking, LLC
Aerial Map
Tax Map No. 234-32.00-60.00

 **CU 2580 Toney Floyd Trucking, LLC**




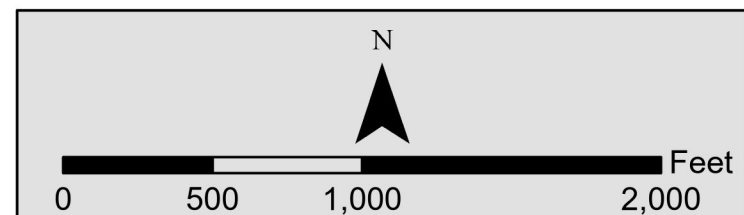


Zoning

-  Agricultural Residential - AR-1
-  Agricultural Residential - AR-2
-  Medium Residential - MR
-  General Residential - GR
-  High Density Residential - HR-1
-  High Density Residential - HR-2
-  Vacation, Retire, Resident - VRP
-  Commercial Residential - CR-1
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-  Marine - M
-  Limited Industrial - LI-1
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-  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

CZ 2049 Toney Floyd Trucking, LLC
Zoning Map
TM# 234-32.00-60.00

 CU 2580 Toney Floyd Trucking, LLC



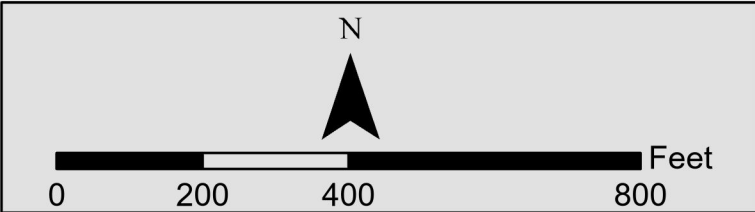


Maxar, Microsoft, VITA, Esri, HERE, Garmin, IPC

CU 2580 Toney Floyd Trucking, LLC
Aerial Map
Tax Map No. 234-32.00-60.00



CU 2580 Toney Floyd
Trucking, LLC



Introduced: 3/11/25

**Council District 5: Mr. Rieley
Tax I.D. No.: 234-32.00-60.00
911 Address: N/A**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR COMMERCIAL HAULING, GOODS AND MATERIALS DELIVERY SERVICES, AND DRIVEWAY INSTALLATION BUSINESS TOGETHER WITH STORAGE OF VEHICLES, EQUIPMENT, AND MATERIALS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.95 ACRES, MORE OR LESS

WHEREAS, on the 28th day of February 2025, a Conditional Use application, denominated Conditional Use No. 2580 was filed on behalf of Toney Floyd Trucking, LLC; 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. 2580 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. 2580 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece, or parcel of land, lying and being situate in Indian River Hundred, Sussex County, Delaware, and lying on the southeast side of John J. Williams Highway (Rt. 24), approximately 520 feet northeast of Layton Avenue and being more particularly described in the attached legal description prepared by Fuqua, Willard, Stevens & Schab, PA said parcel containing 0.9505 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: May 15, 2025

RE: County Council Report for Ordinance No. 24-04

On August 14, 2024, the Planning & Zoning Department received a request to consider a potential amendment of the Future Land Use Map element of the Comprehensive Plan in relation to Tax Parcel 135-11.00-65.00. Specifically, the requested amendment was to change the area designation of the parcel from a Low-Density Area to a Commercial Designation.

An Ordinance, to consider the potential amendment of the Comprehensive Plan, was introduced by the County Council at its meeting on March 4, 2025. In accordance with the Memorandum of Understanding with the Office of State Planning, the proposed Ordinance was also submitted for PLUS review by the State of Delaware, with the State's review being held on April 23, 2025.

The Planning & Zoning Commission held a Public Hearing on the Ordinance on March 19, 2025. At the meeting of April 16, 2025, the Planning & Zoning Commission recommended denial of the Ordinance for the 7 reasons as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meeting on March 19, 2025, and April 16, 2025.

Minutes of the March 19, 2025, Planning & Zoning Commission Meeting

ORD 24-04

AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 135-11.00-65.00. The Parcel containing approximately 9.623 acres of land, lying and being within Georgetown Hundred,



and located on the northeast side of Gravel Hill Road (Route 30), approximately 0.02 mile east of the intersection of Gravel Hill Road (Route 30) and Lewes Georgetown Highway (Route 9).

Mr. Whitehouse stated that this is a Future Land Use Map Amendment to change the area designation from the low-density area to the commercial area designation. Mr. Whitehouse advised the Commission that submitted into the record were a copy of the Applicants request letter to the County, a copy of the Applicants exhibits, including a request for the application, a copy of the land use history, a conceptual site plan and zero comments; that we do not have the PLUS comments from the State and per our agreement with the State Planning Office, the process as it exists today is that we will bring the application to the Planning and Zoning Commission, conduct the public hearing, create a record and then following this public hearing staff will take it through the PLUS process to the State and then those comments will be reported to County Council at the next stage in the process.

Ms. Mackenzie Peet, Esq., of Saul Ewing, LLP, spoke on behalf of the Applicant that is trying to amend the FLUM from low density to commercial to allow for the development of 108 units; that at least 25% of those units are being designated as Sussex County Rental Program units; that the land is approximately 9.72 acres and was asked to be expedited being the proposal seeks to enter the SCRP; that the current land is being used as the Silver Oaks Trailer Park and has been active since 1966, with an expansion in 1970 from twenty-one (21) to thirty-eight (38) units; that the property lies near the intersection of Route 9 and Route 30 with the Weston Willows apartment complex, which consists of 287 units on 27 acres and Azalea Woods, Hawthorne, Wynford Preserve and Deerwood Subdivisions all surrounding this property; that the surrounding properties have various zoning classifications, with a predominance of C1 (General Commercial), AR-1 (Agricultural Residential) and LI-1 (Light Industrial); that the plan consists of six (6) three-story buildings, each consisting of eighteen (18) units, a community pool and an amenity building; that based on Zoning Code 115-22, it permits a SCRP townhouse or multifamily development to mandate that at least 25% of those dwelling units be designated as SCRP units and the development must occur or be on the FLUM areas including Town Center, Developing Area, Commercial Area or Coastal Area; that the Applicants are seeking to redesignate the site from low density to commercial to align with these requirements; that to note, any project will ultimately need to undergo site plan review and approval; that the concept that was submitted has specifically been designed to comply with the requirements for SCRP units in AR-1 as outlined in Section 115-22, the Code specifically requires that the site must be located within 2,640 feet of a principal arterial, minor arterial, or major collector road which is fulfilled as the site is situated off of Route 9 and near Route 30; that the development must be served by central water and sewer, which will be provided by Artesian; that the proposed density is less than the maximum of twelve (12) units per acre, with the Applicant's plan seeking 11.4 units per acre; that as for setbacks, a 50 foot distance is proposed as the design incorporates three-story buildings instead of four-story buildings, reducing the required 100 foot set back to half; that sidewalks will be included on at least one side of the street, interconnectivity is proposed to an adjacent property and the sites open space will exceed 50%, all of which are requirements of Section 115-22; that an updated site plan that reflects what the acreage of the open space is presently with the concept plan and its approximately 7.33 acres; that the Applicant previously sought approval for three (3) applications at this site, which were ultimately denied; that these applications requested an amendment of the FLUM from Low Density to Developing Area, which was proposed Ord. 22-08; A rezoning from AR-1 to MR (C/Z 1959) and a

Conditional Use for a 42 unit multifamily development (C/U 2320); that these applications were presented to the Commission on December 8th, 2022, and to County Council on February 7, 2023, who then deferred their decision for approximately a year and ultimately denied the applications on December 5, 2023; that the primary reason for the denial was the lack of support for amending the FLUM to developing area with Mr. Riley emphasizing the importance of providing affordable housing options like what is proposed with this plan; that unlike the previous application, this request focuses solely on the FLUM amendment and any future development will require further review by the County through site plan approval process or otherwise; that the change of the FLUM is crucial, not only for the SCRP Units , but also aligns with broader goals of the community and the economic landscape including the provision for more affordable and workforce housing; that this request with the existing land use patterns, the proposed development is also consistent with the objectives established in the County's Comprehensive Plan, particularly regarding the commercial area and vision for Route 9; that Section 4-17 of the Plan, describes the commercial areas as follows: “Commercial areas include concentrations of retail and services that are mainly located along arterials and highways as opposed to small, traditional downtown areas that are often historic and pedestrian friendly. Commercial areas include commercial corridors, shopping centers and other medium and large commercial vicinities. Geared towards vehicular traffic in addition to primary shopping destinations, this area would also be appropriate to place an appropriate place to locate hotels, motels, car washes, auto dealerships and other medium and large scale commercial uses not primarily targeted to the residents of immediately adjacent residential areas, these more intense uses should be located along main roads or near major intersections. Institutional and commercial uses may be appropriate, depending on the surrounding uses. Mixed-use buildings may also be appropriate for these areas.”; that changing the properties designation to a commercial area is essential to support the proposed development which will provide critical housing options for local residents, while aligning with State goals for affordable housing; that the proposed development will play a significant role in realizing this vision by fostering residential growth in an area that can stimulate and support economic activity and support existing and future local businesses along Route 9; and that furthermore, if ultimately developed, the Community will offer a more affordable housing option for individuals who may find it challenging, for example, to afford homes on the eastern side of the county despite working on the eastern side of the county.

Ms. Wingate asked if there would be public transportation available for the development.

Ms. Peet stated that there is the DART bus available not far from the proposed development.

Chairman Wheatley asked Mr. Robertson, what would prevent the Applicant from selling the property after this approval and somebody else coming back with a totally different plan than what is being proposed through this expedited application.

Mr. Robertson stated that there is nothing really stopping that from happening, but a little bit more nuanced response would be that changing the Future Land Use Map to a commercial area does not change the underlying zoning, which remains AR-1; that under AR-1 you can either do the SCRP if you qualify with the required percentage of affordable units or you can get two (2) units per acre like you can anywhere else in the County, that really doesn't change; that the ultimate use for something different to happen it would still have to come back to you for a Conditional Use or Change of Zone;

and that the Commission and County Council are still gatekeepers, should it be sold and they decide to do something completely different.

Chairman Wheatley stated that the change in the Comprehensive Plan is being linked to this plan today and this public hearing; and that what is being shown, if approved can become a de facto approval of what we were presented today.

Ms. Diane Sponaule, owner of the Burns Pet Shop, spoke in opposition to the application that the roadways cannot handle the increase in traffic, especially right near the intersection.

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

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

In relation to ORD 24-04 . Motion by Ms. Wingate to defer action for further consideration, seconded by Mr. Mears and carried unanimously. Motion carried 5-0.

Minutes of the April 16, 2025, Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since March 19, 2025.

Ms. Wingate moved the Commission to recommend a denial of Ordinance # 24-04 to amend the Future Land Use Map from its current designation of being within the Low Density Area to the Commercial Area for the property identified as Sussex County Tax Map and Parcel #135-11.00-65.00 based on the record made during the public hearing and for the following reasons:

1. The property that is the subject of this Application is designated as being within the “Low Density Area” according to the Future Land Use Map in the current Sussex County Comprehensive Plan.
2. The property in question is surrounded by land with a “Low Density Area” designation. It is not adjacent to, or an expansion of, the Commercial Area at this location.
3. The State of Delaware, through its Office of State Planning Coordination, is currently updating its State Strategies Mapping. In addition, Sussex County will soon be embarking on the update to the Comprehensive Plan. The Future Land Use Mapping for this parcel should be reviewed comprehensively as part of both of these initiatives to determine whether it is appropriate to change the mapping designation for this entire area. Under these circumstances, it is not appropriate to change the mapping for this single isolated 9.6-acre parcel of land.
4. Given the Applicant’s stated residential plans for this property, I am not satisfied that the “Commercial Area” is the appropriate designation for the property. According to the Comprehensive Plan, the “Commercial Area” designation is intended to allow uses that primarily “include concentrations of retail and service uses” such as “commercial corridors, shopping centers and other medium and large commercial vicinities geared towards vehicular traffic” and it “would also be the appropriate place to locate hotels, motels, car washes, auto dealerships and other medium and larger scale commercial uses....”.

5. The Applicant has proposed a residential use for the property under the Sussex County SCRP Program. That is not the primary focus of the Commercial Area designation that the Applicant is seeking. Instead, the SCRP program can also occur in the Coastal Area and Developing Areas as well. Again, the appropriate Future Land Use Designation for this property can be achieved as part of the upcoming amendments to the Comprehensive Plan, when all appropriate possibilities and designations can be considered for the area as a whole, and not just this single property.
6. I am not satisfied that there are sufficient reasons to convert this property to a “Commercial I Area” designation on the Future Land Use Map under these circumstances and at this time.
7. For all of these reasons, I am recommending that this amendment to the Future Land Use Map be denied.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to recommend DENIAL of ORD 24-04 for the reasons and the conditions stated in the motion. Motion carried 4-0.

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



Introduced: 3/4/25

Council District 5: Mr. Rieley
Tax I.D. No.: 135-11.00-65.00

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL 135-11.00-65.00

WHEREAS, on August 16th, 2024, the Sussex County Planning and Zoning Office received an Application for a Comprehensive Plan Amendment Request to amend the Future Land Use Map element of the Comprehensive Plan to change the Area designation of Sussex County Parcel No. 135-11.00-65.00 from the Low Density Area to the Commercial Area; and

WHEREAS, the Parcel approximating 9.623 acres of land, lying and being within Georgetown Hundred, and located on the northeast side of Gravel Hill Road (Route 30), approximately 0.02 mile east of the intersection of Gravel Hill Road (Route 30) and Lewes Georgetown Highway (Route 9);

WHEREAS, The Property is currently designated as being within the Low Density Area as set forth in the “Sussex County 2045 Future Land Use Map” identified as Figure 4.5-1 in the 2018 Comprehensive Plan for Sussex County;

WHEREAS, the Low Density Area designation is not listed as an Applicable Future Land Use Designation for the development of Sussex County Rental Program (SCRP) units in §115-20(A)(17)(a) of the Sussex County Code;

WHEREAS, the Commercial Area is a Growth Area Designation and is recognized as an Applicable Future Land Use Designation for the development of Sussex County Rental Program (SCRP) units as outlined in §115-20(A)(17)(a) of the Sussex County Code;

WHEREAS, the Property is zoned Agricultural Residential (AR-1) District and Sussex County Rental Program (SCRP) units are a recognized as a Permitted Use within this Zoning District as referenced in §115-20(A)(17) of the Sussex County Code;

WHEREAS, the County seeks to better protect the health, safety and welfare of Sussex County's residents and workforce by stimulating the provision of affordable rental housing for residents with low and moderate incomes within the County;

WHEREAS, Sussex County Council desires to adopt this Ordinance amending the Future Land Use Map of the Plan with minor amendments; and

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

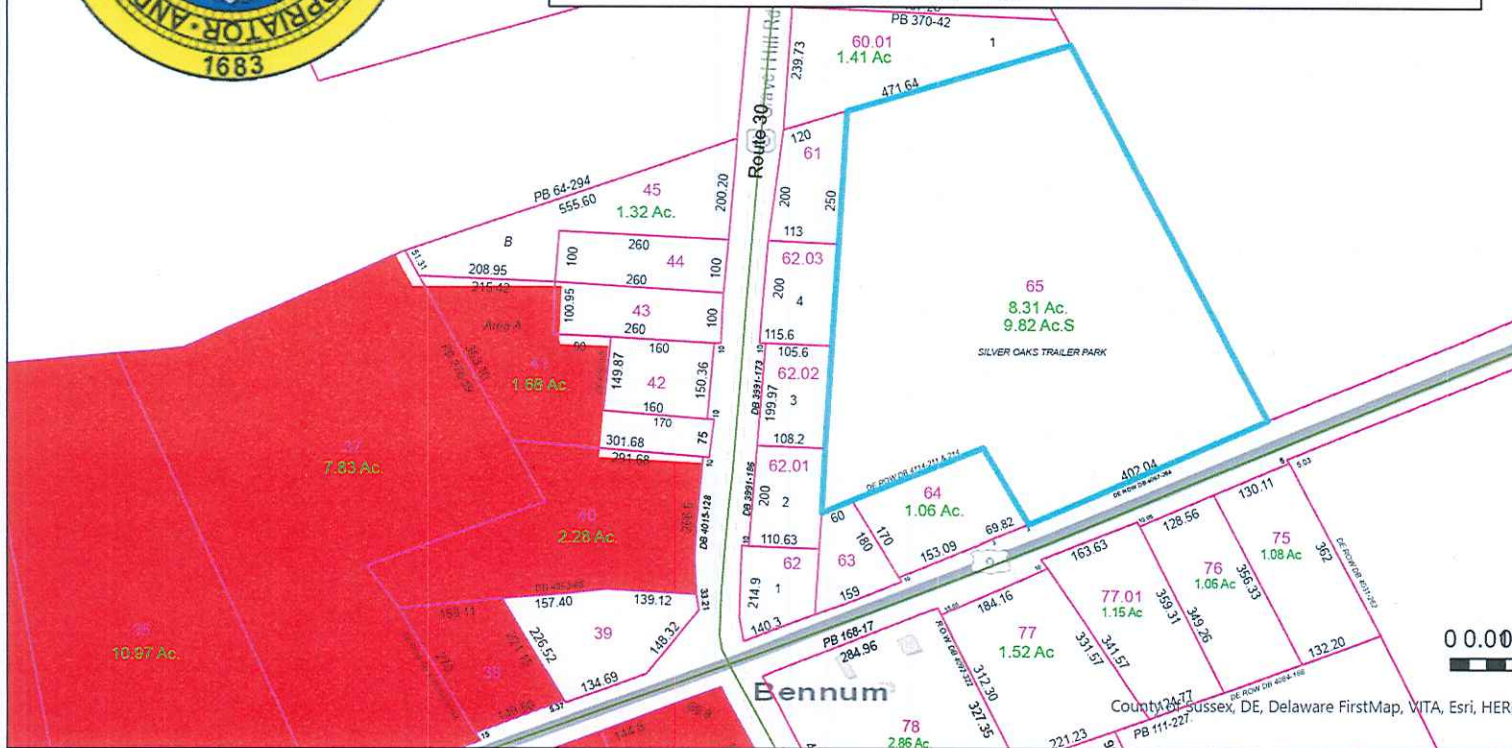
NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. The Future Land Use Map identified as Figure 4.5-1 of the Sussex County Comprehensive Plan is hereby amended to change the area designation of Sussex County Parcel No. 135-11.00-65.00 from the Low Density Area to the Commercial Area. The entirety of Sussex County Parcel No. 135-11.00-65.00 so changed is identified in Exhibit A, attached hereto, and incorporated herein.

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



Ordinance 24-04
Future Land Use Map Amendment
J AND C INVESTMENT PROPERTIES LLC
TMP: 135-11.00-65.00
Exhibit "A"
(Area to be amended from Low Density Area to Commercial
Area highlighted below)



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Miles

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