

ORDINANCE NO. _____

**AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE
COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 235-
30.00-58.02 (PORTION OF)**

WHEREAS, on August 28th, 2020, the Sussex County Planning and Zoning Office received an application for Change of Zone No. 1929

WHEREAS, the Sussex County Council will consider Change of Zone No. 1929 from an AR-1 Agricultural Residential District to a C-3 Heavy Commercial District for a certain parcel of land lying and being in Broad Kill Hundred, Sussex County, containing 1.4563 acre, more or less (A portion of Tax Parcel No. 235-30.00-58.02) (the "Property"); and

WHEREAS, the Property is designated as being within the Low Density Area as set forth in the Future Land Use Map identified as Figure 4.5-1 in the Plan, and the Low Density does not permit such C-3 Zoning; and

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 part of Sussex County Parcel. No. 235-30.00-58.02 from the Low Density Area to the Commercial Area. The portion of Sussex County Parcel. No. 235-30.00-58.02 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.





Sussex County

Exhibit A
Ryan Lehmann Future Land Use Map Amendment
235-30.00-58.02



Legend

 Subject Property

 Tax Parcels

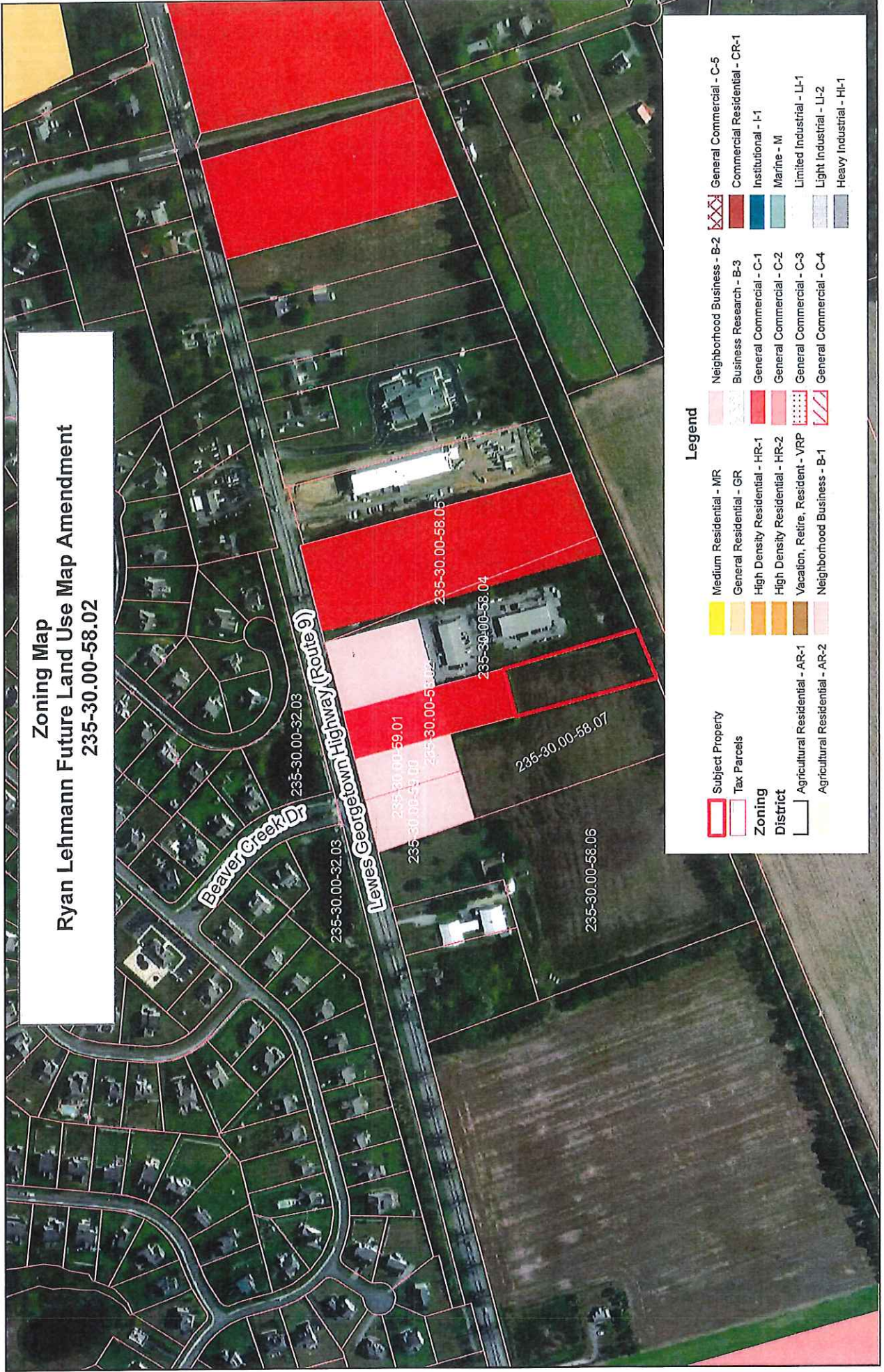




Sussex County



Zoning Map Ryan Lehmann Future Land Use Map Amendment 235-30.00-58.02



0 250 500 1,000 Feet



**STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF STATE PLANNING COORDINATION**

January 17, 2020

Jamie Whitehouse, AICP
Sussex County
Department of Planning and Zoning
P.O. Box 589
Georgetown, DE 19947

RE: PLUS review 2020-12-07; Sussex County Comprehensive Plan Amendment

Dear Mr. Whitehouse:

Thank you for meeting with State agency planners on December 16, 2020 to discuss the proposed Comprehensive Plan Amendment for Sussex County. This amendment would change the Future Land Use Map for one parcel from Low Density to Commercial in anticipation of a zoning change from AR-1 to C-3. Per the application, Parcel 235-30.00-58.02 is the parcel which is seeking to have the back half changed from AR-1 to C-3.

Please note that additional changes to the plan could result in additional comments from the State. Additionally, the comments below reflect only issues that are the responsibility of the agencies that were represented at the meeting.

Office of State Planning Coordination – Contact Dorothy Morris 739-3090

- This parcel is within a Level 4 area according to the 2020 Strategies for State Policies and Spending. In Investment Level 4 Areas, the State's investments and policies should retain the rural landscape, preserve open spaces and farmlands, support farmland-related industries, and establish defined edges to more concentrated development. Your comprehensive plan was considered when the Strategy maps were completed and is, at least in part, why they are Level 4.

Currently the front portion of the lot is zoned C-1. It is also noted that this this parcel and parcel 235-30.00-58.07 were a part of a lot line revision that gave the back portion of 58.07 to 58.02, so 58.02 now extends all the way from Route 9 to the railroad tracks. Because of this recent change to add to the lot and because the front portion of this lot is already zoned commercial, bringing the entire parcel under commercial zoning may

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make sense; however, approval of the comprehensive plan amendment does not change our Strategy Level. The strategies are only updated every 5 years; the next update will be 2025.

If the back portion of this site is developed and reviewed through PLUS it will be evaluated based on the Investment Level at the time of the PLUS meeting and if the subject parcel is still within a Level 4 area, the state may not support new development.

- In addition, the state asks that the County consider creating a process to review comprehensive plan amendments on a scheduled basis, possible once or twice a year. While the state understands that the counties will, from time to time, have amendments that need to be considered we remind the County that this is a 10 year planning document that was adopted after a much input from municipalities, business, developers, and residents within the county. The plan that was ultimately adopted was intended to be a guide book to show the developers and residents of Sussex County how and where the County intends to grow. To amend the document sporadically can undermine that process.

Department of Transportation – Contact Bill Brockenbrough 760-2109

- DelDOT has no comments on the subject comprehensive plan amendment but offers the following comments as information about what DelDOT will require if the County approves the plan amendment and the rezoning and a developer subsequently submits a plan to change or replace the existing use.
 - The subject land is located within the control zone of a Delaware Scenic and Historic Byway (Historic Lewes Byway). Delaware State Code Title 17, Chapter 1, Sections 190-194 and Title 17, Chapter 11, Sections 1101-1120 with applicable amendments apply.
 - The site access on US Route 9 must be designed in accordance with DelDOT's Development Coordination Manual, which is available at <http://www.deldot.gov/Business/subdivisions/index.shtml?dc=changes>.
 - As necessary, in accordance with Section 3.2.5 and Figure 3.2.5-a of the Manual, DelDOT would require dedication of right-of-way along the site's frontage. By this regulation, this dedication is to provide a minimum of 50 feet of right-of-way from the physical centerline of US Route 9. The following right-of-way dedication note is required, "An X-foot wide right-of-way is hereby dedicated to the State of Delaware, as per this plat."
 - In accordance with Section 3.2.5.1.2 of the Manual, DelDOT will require the establishment of a 15-foot wide permanent easement across the property frontage on US Route 9. The location of the easement shall be outside the limits of the ultimate right-of-way. The easement area can be used as part of the open space

calculation for the site. The following note is required, "A 15-foot wide permanent easement is hereby established for the State of Delaware, as per this plat."

- DelDOT is developing a rail-with-trail design for the segment of the Georgetown to Lewes rail line along which the subject land is situated. DelDOT has yet to determine on which side of the track the trail would be located in this area but if a compatible use is to be developed, DelDOT would like to plan for a connection to it. For updates on the location and design of the trail, the developer may contact DelDOT's Bicycle and Pedestrian Coordinator, Mr. Anthony Aglio, at (302) 760-2509 or Anthony.Aglia@Delaware.gov.

Department of Natural Resources and Environmental Control – Beth Krumrine 735-3480

The application indicates rezoning of this parcel, located in Delaware State Strategies Level 4 lands, from Agricultural Residential (AR-1) Zoning District to a Heavy Commercial Zoning District (C-3). The parcel of interest lies east of Route 5 and Harbeson, along Route 9 (south side of Lewes-Georgetown Highway). According to Sussex County Code § 115-83.17, C-3 Heavy Commercial Zoning District is "generally intended for larger scale auto-oriented retail and service businesses along major arterial roads that serve local and regional residents as well as the travelling public. In addition to most commercial uses found in this zone, automobile, truck, recreational vehicle and boat sales, rental and major repair facilities may also be located in this district."

The 2019 comprehensive plan did not propose commercial development in this area. Rezoning to Heavy Commercial Zoning should also be addressed in the comprehensive plan or master plan. Please consider further collaboration and dialogue with other entities about the proposed zoning in Level 4 lands and infrastructure investments that would be necessary to support heavy commercial activities in this area. Please consider further discussion and collaboration about the infrastructure investments that would be necessary to support industrial activities in this area. This includes the potential secondary effects of industrial development, as well as potential public transit needs, job centers, and pike paths/trails.

Likewise, existing neighborhoods are located immediately to the north of the area of interest. Local residents should be afforded opportunities to engage in designing the future uses of these areas in a robust and meaningful way. For this reason, rezoning of this area should be contemplated in the comprehensive development plan or a separate master planning process.

In summary, DNREC reviewers feel that additional planning efforts are necessary before proceeding with a rezoning of this area for the following reasons:

- Located in level 4
- Need to address such changes in the comp plan
- Existing neighborhoods nearby

Wastewater Permitting – Small Systems

Expired permits held with the DNREC Ground Water Discharges Section exist on the site. There is an expired Gravity System permit and an expired Authorization to Connect permit on file with the Department. These systems must be abandoned properly if no longer in use. Notify DNREC Groundwater Discharges Section of any changes by reaching out to the Sussex County Branch at (302) 856-4561 (<https://dnrec.alpha.delaware.gov/water/groundwater/septic-systems/>).

For any future permitting of Small Wastewater Systems, site evaluations must be performed by a Delaware licensed Class D Soil Scientist to determine the type of disposal system allowed under current regulations and site conditions. A list of licensed Class D soil scientists can be found at the following website:

<http://www.dnrec.delaware.gov/wr/Information/GWDInfo/Documents/Class%20D%20list.pdf>

Once a decision has been reached on this proposed comprehensive plan amendment, please forward a copy of the plan amendment to the Office of State Planning Coordination for our records. The plan amendment must include the adopting resolution or ordinance, a revised version of any maps that were updated as well as any text that was approved in amending the comprehensive plan. If the amendment is not approved by the town, please notify the office so we can update our records.

Thank you for the opportunity to review this Comprehensive Plan amendment. If you have any questions, please contact me at 302-739-3090.

Sincerely,

A handwritten signature in cursive script that reads "Constance C. Holland".

Constance C. Holland, AICP
Director, Office of State Planning Coordination