



Sussex County Council Public/Media Packet

**MEETING:
January 10, 2023**

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**Sussex County Council
2 The Circle | PO Box 589
Georgetown, DE 19947
(302) 855-7743**

COUNTY COUNCIL

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



Sussex County

DELAWARE
sussexcountyde.gov
(302) 855-7743

SUSSEX COUNTY COUNCIL

A G E N D A

JANUARY 10, 2023

10:00 A.M.

Call to Order

Approval of Agenda

Approval of Minutes – January 3, 2023

Reading of Correspondence

Public Comments

Todd Lawson, County Administrator

1. Recognition of the Laurel High School Football Team
2. Discussion and presentation by the Bay Beach Association
3. Administrator's Report

Gina Jennings, Finance Director

1. Bank Accounts Resolution

Robert Bryant, Airport Manager

1. Airport Advisory Committee Member Appointments Discussion and Recommendation



10:15 a.m. Public Hearings

1. **Black Oak Annexation of the Sussex County Unified Sanitary Sewer District (West Rehoboth Area)**
2. **Coral Lakes Annexation of the Sussex County Unified Sanitary Sewer District (Chapel Branch Area)**

John Ashman, Director of Utility Planning & Design Review

1. **Public Hearing Results for Warwick Park Area**

Hans Medlarz, County Engineer

1. **Davis, Bowen & Friedel, Inc. – 2019 Miscellaneous Engineering Base Contract**
 - A. **Amendment No. 8 – Countryside Hamlet, Project S23-01**
2. **Cannon Road – Inland Bays Road Drainage Improvements and Constructed Wetlands**
 - A. **Project S22-05 Award**

Old Business

“AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 235-23.00-2.02 (PORTION OF), 235-23.00-1.00, 235-23.00-1.04, 235-23.00-2.00, AND 235-23.00-2.01”

Grant Requests

1. **Springboard Collaborative, Inc. for their Pallet Shelter Village**

Introduction of Proposed Zoning Ordinances

Council Members' Comment

1:30 p.m. Public Hearings

Conditional Use No. 2328 filed on behalf of Sunrise Solar

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A 5.8 MEGAWATT GROUND-MOUNTED SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 32.90 ACRES, MORE OR LESS” (property lying on the north side of Fleatown Road [S.C.R. 224] and on the west side of Clendaniel Pond Road [S.C.R. 38], approximately 0.50 mile east of Greentop Road [S.C.R. 225]) (911 Address: N/A) (Tax Parcel: 230-13.00-121.00)

Conditional Use No. 2329 filed on behalf of Thomas Drgon Trustee

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BOAT RESTORATION BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 6.20 ACRES, MORE OR LESS” (property lying on the southwest side of Dirickson Creek Road [S.C.R. 364B], approximately 0.23 mile southeast of the intersection of Millers Neck Road [S.C.R. 364A] and Dirickson Creek Road [S.C.R. 364B]) (911 Address: 37230 Dirickson Creek Road, Frankford) (Tax Parcel: 134-21.00-14.07)

Conditional Use No. 2331 filed on behalf of Sweet Meadows Riding Academy

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 (AGRICULTURAL RESIDENTIAL DISTRICT) FOR A HORSE-RIDING ACADEMY WITH OVERNIGHT ACCOMODATIONS AND ASSOCIATED AGRICULTURAL ACTIVITIES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS” (property lying on Sweet Meadow Lane on the north side of Deer Run Road [S.C.R. 388], approximately 0.5 mile southwest of Zion Church Road [Rt. 20]) (911 Address: 37033 Sweet Meadow Lane, Selbyville) (Tax Parcel: 533-11.00-27.04)

Conditional Use No. 2335 filed on behalf of Joseph Kraft

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A GUNSMITHING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 5.12 ACRES, MORE OR LESS” (property lying on the northeast side of Utica Road [S.C.R. 632], approximately 0.24 mile south of Lighthouse Lane) (911 Address: 12559 Utica Road, Greenwood) (Tax Parcel: 430-6.00-4.03)

Conditional Use No. 2339 filed on behalf of Ron Sutton

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM RESIDENTIAL DISTRICT FOR MULTI-FAMILY (60 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 14.45 ACRES, MORE OR LESS” (property lying on the southeast side of Central Avenue [Rt. 84], approximately 0.17-mile northeast of the intersection of Peppers Corner Road [S.C.R. 365] and Central Avenue [Rt. 84]) (911 Address: 34667 Central Avenue, Frankford) (Tax Parcel: 134-19.00-24.00)

Change of Zone No. 1969 filed on behalf of Ron Sutton

“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 14.45 ACRES, MORE OR LESS” (property lying on the southeast side of Central Avenue [Rt. 84] approximately 0.17-mile northeast of the intersection of Peppers Corner Road [S.C.R. 365] and Central Avenue [Rt. 84]) (911 Address: 34667 Central Avenue, Frankford) (Tax Parcel: 134-19.00-24.00)

Adjourn

-MEETING DETAILS-

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on January 3, 2023 at 4:15 p.m. and at least seven (7) days in advance of the meeting.

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

Agenda items may be considered out of sequence.

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

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

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

To join the meeting via telephone, please dial:

Conference Number: 1-302-394-5036

Conference Code: 570176

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

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

#

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JANUARY 3, 2023

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, January 3, 2023, at 10:00 a.m., in Council Chambers, with the following present:

Michael H. Vincent	President
John L. Rieley	Vice President
Cynthia C. Green	Councilwoman
Douglas B. Hudson	Councilman
Mark G. Schaeffer	Councilman
Todd F. Lawson	County Administrator
Gina A. Jennings	Finance Director
J. Everett Moore, Jr.	County Attorney
Vincent Robertson	Assistant County Attorney

Call to Order	The Invocation and Pledge of Allegiance were led by Mr. Vincent. Mr. Vincent called the meeting to order.
M 001 23 Approve Agenda	A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, to approve the Agenda, as presented. Motion Adopted: 5 Yeas. Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea; Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Vincent, Yea
Election of Officers	Mr. Lawson noted the requirement that the County Council must elect officers for 2023.
M 002 23 Appoint President	A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, that Mr. Vincent serve as President of the Sussex County Council in 2023. Motion Adopted: 5 Yeas. Vote by Roll Call: Mr. Rieley, Yea; Mr. Hudson, Yea; Mr. Schaeffer, Yea; Mrs. Green, Yea; Mr. Vincent, Yea
M 003 23 Appoint Vice President	A Motion was made by Mr. Hudson that Mr. Rieley serve as Vice President of the Sussex County Council in 2023. Motion Adopted: 5 Yeas. Vote by Roll Call: Mr. Hudson, Yea; Mr. Schaeffer, Yea;

**Mrs. Green, Yea; Mr. Vincent, Yea;
Mr. Rieley, Yea**

**Council
Member
Appoint-
ments**

Mr. Lawson noted the requirement that Council appoint members to the various boards and committees and he referenced the recommendations included in Council packets for this meeting, as follows: Cynthia Green to the Delaware Association of Counties (County Director); Doug Hudson to the Delaware Association of Counties (Executive Board); Michael Vincent to the Delaware League of Local Governments; Michael Vincent to the Salisbury/Wicomico MPO (District Specific); John Rieley to the Sussex Conservation District Board; Doug Hudson to the Sussex County Airport Committee; and John Rieley and Mark Schaeffer to the Sussex County Land Trust.

**M 004 23
Approve
Council
Member
Appoint-
ments**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, that the Sussex County Council approves the 2023 Council Member appointments, as presented.

Motion Adopted: 5 Yeas.

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

**Legal
Counsel
Appoint-
ments**

Mr. Lawson referenced the appointment of Legal Counsel and the recommendation included in Council packets for this meeting, as follows: County Attorney – J. Everett Moore, Jr.; Assistant County Attorney – Vincent Robertson; and legal representation for the Board of Adjustment, Bond Issuance, Personnel Matters, Planning and Zoning Commission, and Sussex County Council/Government, as follows: Moore & Rutt, P.A.; Parkowski, Guerke and Swayze, P.A.; Ballard Spahr, LLP; Young Conaway Stargatt & Taylor, LLP and Barnes, and Thornburg for specific purposes of ARPA funding.

**M 005 23
Approve
Appoint-
ment of
Legal
Counsel**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, that the Sussex County Council approves the 2023 appointment of Legal Counsel, as presented.

Motion Adopted: 5 Yeas

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

**Rules of
Procedure**

Mr. Lawson presented for consideration, the Rules of Procedure which were included in Council packets for this meeting, and he reviewed the recommended changes.

Rule 12, “Conduct During Meetings” by Council members was expanded to

Rules of Procedure (continued) include Rule 12.4 with language limiting a member's conduct towards another member. This language comes from the Rules of the Delaware State Senate.

Rule 17 involves the "Standards by Conduct" by persons attending County Council meetings and was updated at Rule 17.6 to reflect current State law. The General Assembly recently passed legislation requiring public comment during all public meetings.

Rule 20 involves the "Code of Conduct" by which Council members are subject to in Delaware Code. Rule 20 is new to the Council's Rules of Procedure and was inserted to specify the County's Code of Conduct and the requirement that a Council member shall not participate in a manner when a personal or private interest in the matter exists.

M 006 23 A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, that the
Approve Sussex County Council approves the 2023 Rules of Procedure, as presented.
2023

Rules of Procedure Motion Adopted: 5 Yeas.

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

Minutes The meeting minutes of December 13, 2022 were approved by consent.

Corre- Mr. Moore read correspondence received from Good Samaritan Aid
spondence Organization, New Hope Center, Sussex County Habitat for Humanity, Food Bank of Delaware, and the Seaford School District thanking Council for their support.

Public Public comments were heard and the following spoke:
Comments

Ms. Linda Lucido spoke about the contaminated water and sewer issues in the Pine Haven development.

Ms. Joy Kaiser spoke about water and other issues that people are dealing with in the Pine Haven development.

Mr. Mike Murphy spoke about the water and septic issues that the residents in the Pine Haven development are experiencing.

Mr. Devin V. spoke about issues that are occurring with his property in the Pine Haven development.

Ms. Gwendolyn Clark spoke about water and sewage issues in the Pine Haven development.

Mr. Frank Knotts spoke about development in Sussex County.

Public Comments (continued)	<p>The Honorable Senator Dave Wilson spoke about the issues that were occurring in the Pine Haven development.</p> <p>Hans Medlarz, County Engineer spoke about the authority that the County has in the Pine Haven community situation. Mr. Medlarz explained that the County has no authority without creating a sewer district or water district. He noted that there is no legal authority unless a district is established per the Delaware Code.</p>
Recognition of Retiree	<p>The Council recognized Vanessa Pettyjohn, Billing Analyst, who is retiring after 46 years of service with the County.</p>
Decision of Appeal Ordinance	<p>Mr. Lawson discussed a Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 99, § 99-39B.(2)(c) OF THE CODE OF SUSSEX COUNTY RELATING TO THE TIME PERIOD FOR COUNCIL TO RENDER A DECISION ON APPEAL”.</p> <p>Mr. Lawson explained that currently, the Council must act within 60 days on an appeal that has come through the process. The Proposed Ordinance will change the time period for the Council to render its decision on an appeal from a decision of the Planning and Zoning Commission from 60 days to 120 days from the receipt of the transcript.</p>
Introduction of Proposed Ordinance	<p>Mr. Hudson introduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 99, § 99-39B.(2)(c) OF THE CODE OF SUSSEX COUNTY RELATING TO THE TIME PERIOD FOR COUNCIL TO RENDER A DECISION ON APPEAL”.</p>
Administrator’s Report	<p>Mr. Lawson read the following information in his Administrator’s Report:</p> <ol style="list-style-type: none"><u>Delaware State Police Activity Report</u><p>The Delaware State Police year-to-date activity report for November 2022 is attached listing the number of violent crime and property crime arrests, as well as total traffic charges and corresponding arrests. In addition, DUI and total vehicle crashes investigated are listed. In total, there were 191 troopers assigned to Sussex County for the month of November.</p><u>Project Receiving Substantial Completion</u><p>Per the attached Engineering Department Fact Sheet, Marsh Island – Phase 4 (Construction Record) received Substantial Completion effective December 2nd.</p><u>Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County</u>

**Administrator's
Report
(continued)**

The Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County will meet January 9th at 10:00 a.m. at the Sussex County Administrative Offices West Complex, 22215 North DuPont Boulevard, in Georgetown. A copy of the agenda is attached.

4. Building Code Virtual Meeting – IBC/IRC Review

The Sussex County Building Code staff will host a virtual meeting to review the newly adopted International Building Code (IBC) and International Residential Code (IRC) and to answer any questions stakeholders may have on the Code changes. The virtual meeting is scheduled for Wednesday, January 4, 2023 at 2:00 PM. For meeting information including log-on instructions, please visit sussexcountyde.gov.

5. John “Jack” Johnson

It is with great sadness that we note the passing of County Employee John “Jack” Johnson on Saturday, December 17, 2022. Jack began his career with Sussex County in May 2006 in the Environmental Services Department. His last position held was Lead Laboratory Technician at the Wolfe Neck Wastewater Treatment facility. We would like to extend our condolences to the Johnson family.

6. William “Bill” Townsend

It is with great sadness that we inform you that William C. Townsend passed away on Saturday, December 10, 2022. Bill began his career with Sussex County in October 1990 where he worked until July 2009 for a total of 18 years of service. His last position with the County was Financial Coordinator in Finance. We would like to extend our condolences to the Townsend family.

7. Grace Parry

It is with great sadness that we inform you that Grace Parry passed away on Wednesday, December 21, 2022. Grace began her career with Sussex County in November 1999 where she worked until January 2019 for a total of 19 years of service. Her last position with the County was Library Assistant II at the Milton Library. We would like to extend our condolences to the Parry family.

[Attachments to the Administrator's Report are not attached to the

minutes.]

**Old
Business/
CU2321**

Under Old Business, Jamie Whitehouse, Planning and Zoning Director discussed a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A KITCHEN AND BATHROOM SHOWROOM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.248 ACRES, MORE OR LESS” filed on behalf of Coastal Properties, LLC.

Mr. Whitehouse reminded Council that a public hearing was held before them during the October 18, 2022 meeting. As a recommendation had not yet been received from the Planning & Zoning Commission, Council left the record open for receipt of a recommendation. On October 27, 2022, the Commission recommended denial of the application for the six reasons provided.

**M 007 23
Adopt
CU2321/
DENIED**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to Adopt a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A KITCHEN AND BATHROOM SHOWROOM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.248 ACRES, MORE OR LESS”

Motion Denied: 1 Yea, 4 Nays

Vote by Roll Call: Mrs. Green, Nay based on Planning and Zoning’s recommendation;

Mr. Schaeffer, Yea it is surrounded by commercial properties and seems to be appropriate;

Mr. Hudson, Nay based on Planning and Zoning’s recommendation;

Mr. Rieley, Nay with concerns with the parking and access and it is primarily a residential area, based on the Planning and Zoning’s recommendation

Mr. Vincent, Nay based on Planning and Zoning’s recommendation.

**Grant
Requests**

Mrs. Jennings presented grant requests for the Council’s consideration.

**M 008 23
Lewes
Historical
Society**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, to give \$1,500 (\$1,500 from Mr. Schaeffer’s Councilmanic Grant Account) to the Lewes Historical Society for installation of their inclusive signage at all of the historical properties in Lewes.

Motion Adopted: 5 Yeas.

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

M 009 23 A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, to give
Cape \$3,000.00 (\$1,000.00 from Mr. Schaeffer's Councilmanic Grant Account,
Henlopen \$500.00 from Mrs. Green's Councilmanic Grant Account, \$500.00 from Mr.
High School Rieley's Councilmanic Grant Account, \$500.00 from Mr. Vincent's
Councilmanic Grant Account and \$500.00 from Mr. Hudson's
Councilmanic Grant Account) to Cape Henlopen High School Coed
Cheerleading for the Cheerleading NCA nationals.

Motion Adopted: 5 Yeas.

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

Introduction Mr. Schaeffer introduced a Proposed Ordinance entitled "AN
of Proposed ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF
Ordinances SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL
DISTRICT AND C-1 GENERAL COMMERCIAL DISTRICT TO AN MR-
RPC MEDIUM-DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL
PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING
AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX
COUNTY, CONTAINING 61.39 ACRES, MORE OR LESS" filed on behalf
of Janice CRP3, LLC

Mr. Schaeffer reintroduced a Proposed Ordinance entitled "AN
ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE
COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NOS. 334-
5.00-153.00 & 334-5.00-153.02"

Mr. Hudson introduced a Proposed Ordinance entitled "AN ORDINANCE
TO AMEND THE SUSSEX COUNTY SEWER TIER MAP OF THE
COMPREHENSIVE PLAN IN RELATION TO TAX PARCELS 533-
11.00-23.00, 23.03 & 23.04"

Mr. Hudson introduced a Proposed Ordinance entitled "AN ORDINANCE
TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1
AGRICULTURAL RESIDENTIAL DISTRICT FOR
STORAGE/WAREHOUSE BUILDINGS, A CAR WASH, & CLUBHOUSE
WITH SWIMMING POOL TO BE LOCATED ON A CERTAIN PARCEL
OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX
COUNTY, CONTAINING 31.83 ACRES, MORE OR LESS" filed on
behalf of Zion Church Ventures, LLC

Mr. Rieley introduced a Proposed Ordinance entitled "AN ORDINANCE
TO GRANT A CONDITIONAL USE OF LAND IN AN AGRICULTURAL

Introduction of Proposed Ordinances (continued) **RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (106 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 50.80 ACRES, MORE OR LESS” filed on behalf of Leeward Chase DE, LLC**

Mr. Rieley reintroduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCELS 135-15.00-98.00 & 98.01.

The Proposed Ordinances will be advertised for Public Hearings.

Council Members’ Comments **Mr. Schaeffer wished everyone a Happy New Year and success in the upcoming year.**

M 010 23 Go into Executive Session **At 10:57 a.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley to recess the Regular Session and go into Executive Session to discuss matters relating to land acquisition.**

Motion Adopted: 5 Yeas.

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

Executive Session **At 11:05 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the purpose of discussing matters relating to land acquisition. The Executive Session concluded at 11:39 a.m.**

M 011 23 Reconvene **At 11:43 a.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley, to come out of Executive Session and reconvene the Regular Session.**

M 012 23 ES Action – Parcel 2022-Q **A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer to grant the authority to the County Administrator to negotiate, enter into a contract and proceed to closing on a parcel identified as 2022-Q.**

Motion Adopted: 5 Yeas.

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

M 013 22 Adjourn **A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley to adjourn at 11:44 a.m.**

Motion Adopted: 5 Yeas.

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

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

Respectfully submitted,

**Tracy N. Torbert
Clerk of the Council**

{An audio recording of this meeting is available on the County's website.}

GINA A. JENNINGS, MBA, MPA
FINANCE DIRECTOR

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Sussex County
DELAWARE
sussexcountyde.gov

Memorandum

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

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

DATE: January 4, 2023

RE: **Bank Resolution**

When there is a change in County Council leadership the signers on the County's financial institutional and investment accounts need to change. The signers are the President and Vice President of County Council and the Finance Director. To have the signers changed, a formal authorization is needed by County Council. The authorization is done through a resolution. The resolution's short title, which will be read into the record with the appropriate names, is as follows:

BE IT RESOLVED THAT THE SUSSEX COUNTY COUNCIL IS AUTHORIZING THE SIGNATURES ON THE ACCOUNTS OF THE SUSSEX COUNTY COUNCIL WITH VARIOUS FINANCIAL INSTITUTIONS AND INVESTMENT FIRMS TO BE MICHAEL H. VINCENT, PRESIDENT; JOHN L. RIELEY, VICE PRESIDENT; AND GINA A. JENNINGS, FINANCE DIRECTOR/CHIEF OPERATING OFFICER

Thank you for your consideration. Please let me know if you have any questions.

Attachment

pc: Mr. Todd F. Lawson



RESOLUTION NO. R --- 23

AUTHORIZING THE SIGNATURES ON THE ACCOUNTS OF THE SUSSEX COUNTY COUNCIL WITH VARIOUS FINANCIAL INSTITUTIONS AND INVESTMENT FIRMS TO BE MICHAEL H. VINCENT, PRESIDENT; JOHN L. RIELEY, VICE PRESIDENT; AND GINA A. JENNNINGS, FINANCE DIRECTOR/CHIEF OPERATING OFFICER

BE IT RESOLVED by the Sussex County Council that the accounts of the Sussex County Council be open or kept with financial institutions and investment firms for deposit to the credit of Sussex County Council from time to time of any and all moneys, checks, drafts, notes, acceptances, or other evidences of indebtedness, whether belonging to the Sussex County Council or otherwise, which may or hereafter come into its possession; and

BE IT FUTHER RESOLVED by Sussex County Council that all accounts opened at the financial institutions and investment firms are administered using the investment policies adopted by County Council; and

BE IT FURTHER RESOLVED by the Sussex County Council that the financial institutions and investment firms be and is hereby authorized to make payment from the funds on deposit with it and according to the checks, drafts, notes or acceptances of the Sussex County Council signed by any two of the following individuals:

Michael H. Vincent – President

John L. Rieley – Vice President

Gina A. Jennings – Finance Director/Chief Operating Officer

and a signature may be a facsimile, resembling the facsimile specimens filed with the financial institution and investment firms by the Clerk of the Sussex County Council.

BE IT FURTHER RESOLVED that the effective date of this Resolution shall be January 10, 2023.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF RESOLUTION NO. R ---23 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 10th DAY OF JANUARY 2023.

**TRACY TORBERT
CLERK OF THE COUNCIL**

ROBERT L. BRYANT, A.A.E.
AIRPORT MANAGER
robert.bryant@sussexcountyde.gov



(302) 855-7774 T
(302) 855-7773 F
www.delawarecoastalairport.com

DELAWARE COASTAL AIRPORT ADVISORY COMMITTEE

2023 Committee Appointments

One representative of the Fixed Base Operator	Garrett Dernoga
One non-commercial Airport tenant	Larry Kelley
One commercial Airport tenant	Jeff Reed
Two Airport-based aircraft owners	Rick Garner
	Ezra Rickards
One Industrial Business/Business Park tenant representative	Mark Ryan
One tourism industry representative	Scott Thomas
One representative at large	Ray Hopkins



AIRPORT TERMINAL BUILDING
21553 RUDDER LANE | PO BOX 589
GEORGETOWN, DE 19947

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
sussexcountype.gov

HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING

Proposed Black Oak Expansion of the Sussex County Unified Sanitary Sewer District

PUBLIC HEARING FACT SHEET

- County Council approved permission to prepare and post notices for the public hearing on December 6, 2022, for an expansion of the Sussex County Unified Sanitary Sewer District (West Rehoboth Area)
- The Engineering Department has received a request from Davis, Bowen & Friedel, Inc. on behalf of their client Leslie Gay Knapp Marini, Successor Trustee Under Revocable Trust Agreement of Halsey G. Knapp and Joan D. Knapp the owners/developers of parcel 335-7.00-6.00 along New Road.
- The project is proposed at 127 single family homes with pool & clubhouse on 77.22 acres and has P & Z preliminary approval.
- The project will be responsible for System Connection Charges of \$6,600.00 per EDU based on current rates and subject to an Infrastructure Use Agreement.
- The Engineering Department advertised December 28, 2022 and January 4, 2023 and on the County webpage.
- The area was posted on December 20, 2022.
- To date we have had no correspondence either in support or opposition.



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

Proposed Annexation
Black Oak Expansion of the SCUSSD

Existing SSD Parcel 335-7.00-6.00



0 155 310 620
Feet



12/7/2022

GROOME MEMORIAL
METH. CHURCH

The proposed annexation is scheduled to be discussed January 10, 2023 at 10:15 AM
at the regularly scheduled Sussex County Council meeting.
For more information please visit: <https://www.sussexcountycle.gov/legal-notice/ sewer-water>
Or call Sussex County Utility Planning at 302-855-7370

PUBLIC NOTICE

PROPOSED BLACK OAK EXPANSION OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (WEST REHOBOTH AREA)

NOTICE IS HEREBY GIVEN that the Sussex County Council voted on **December 6, 2022**, to consider extending the boundary of the Sussex County Unified Sanitary Sewer District (SCUSSD), West Rehoboth Area, to include a parcel on the northwest side of New Road (SCR 266), being situate in Lewes & Rehoboth Hundred, Sussex County, Delaware.

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

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

Beginning at a point, said point being the northeasternmost property corner of lands Now or Formerly (N/F) of Halsey G. Knapp, Trustee, said point also being the southernmost property corner of the Ashburn subdivision, said point further being on the northwesterly Right-of-Way (ROW) of New Road; thence continuing by and with said Knapp lands in a southwesterly, northwesterly, southwesterly, southeasterly, southwesterly, northwesterly, southwesterly and northwesterly direction respectively a total distance of 2,939'± to a point, said point being the centerline of Black Hog Gut; thence continuing with said Knapp lands and the centerline of Black Hog Gut in a generally northerly direction a total distance of 3,031'± to a point, said point being a on the southwestern property line of lands N/F JG Townsend Jr. & Co.; thence continuing by and with said Knapp and Townsend lands in a southeasterly direction a distance of 1,143'± to a point, said point being the westernmost property corner of lands N/F of CMF Tower Hill, LLC; thence proceeding by and with said Knapp and Tower Hill lands in a southeasterly direction a distance of 550'± to a point, said point being on the northernmost property corner of the Ashburn subdivision; thence proceeding by and with said Knapp and Ashburn lands in a generally southerly direction a distance of 1,528'± to a point, said point being the **Point of Beginning**.

NOTE: The above description has been prepared using Sussex County Tax Map 335-7.00 and Sussex County property assessment records. The annexation contains 77.22 acres more or less.

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

The public hearing will be held on this issue at 10:15 a.m. on January 10, 2023 in the Sussex County Council Chambers, County Administrative Offices, 2 The Circle, Georgetown, Delaware. All interested persons, officials, residents, voters, taxpayers, property owners, or corporations in any way affected by this boundary extension are welcome to attend. There will be an opportunity for questions and answers. The Sussex County Council following the hearing, at one of their regularly scheduled meetings, will make the final decision on the boundary extension.

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

Hans M. Medlarz, P.E.
County Engineer

PROPOSED BLACK OAK EXPANSION
AFFIDAVIT FOR PUBLIC HEARING

STATE OF DELAWARE)(

:

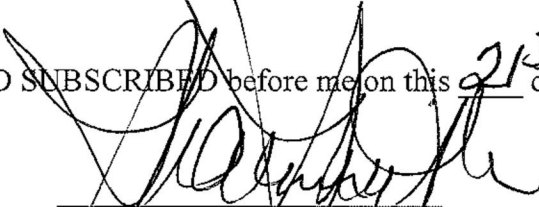
COUNTY OF SUSSEX)(

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

- A. On December 20, 2022 he was a Planning Tech for the Sussex County Engineering Department, Sussex County, State of Delaware; and
- B. On December 20, 2022 he did post the attached "Public Notice," prepared by the Sussex County Engineering Department, at the following locations:
 - 1. On a post in front of a STOP sign in the southerly Right-Of-Way (ROW) of Peach Tree Ln. at the intersection with Old Orchard Rd.,
 - 2. On a post in front of DEC Pole 87783 in the southerly ROW of New Road 75'± northeast of Peach Tree Lane,
 - 3. On a post in the northerly ROW of New Road 528'± southwest of Old Orchard Road,
 - 4. On a post in the northerly ROW of New Road 628'± southwest of Old Orchard Road,
 - 5. On a post in the northerly ROW of New Road 728'± southwest of Old Orchard Road,
 - 6. On a post in the northerly ROW of New Road 828'± southwest of Old Orchard Road,
 - 7. On a post in front of a STOP sign at the intersection of New Road and Kansas Ct.,
 - 8. On a post in front of a STOP sign at the intersection of New Road and Arkansas Court.


PHILLIP C. CALIO

SWORN TO AND SUBSCRIBED before me on this 21st day of Dec, A.D., 2022


NOTARY PUBLIC

My Commission Expires 6/14/2024



RESOLUTION

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

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

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

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

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

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

NOW, THEREFORE,

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

Beginning at a point, said point being the northeasternmost property corner of lands Now or Formerly (N/F) of Halsey G. Knapp, Trustee, said point also being the southernmost property corner of the Ashburn subdivision, said point further being on the northwesterly Right-of-Way (ROW) of New Road; thence continuing by and with said Knapp lands in a southwesterly, northwesterly, southwesterly, southeasterly, southwesterly, northwesterly, southwesterly and northwesterly direction respectively a total distance of 2,939'± to a point, said point being the centerline of Black Hog Gut; thence continuing with said Knapp lands and the centerline of Black Hog Gut in a generally northerly direction a total distance of 3,031'± to a point, said point being a on the southwestern property line of lands N/F JG Townsend Jr. & Co.; thence continuing by and with said Knapp and Townsend lands in a southeasterly direction a distance of 1,143'± to a point, said point being the westernmost property corner of lands N/F of CMF Tower Hill, LLC; thence proceeding by and with said Knapp and Tower Hill lands in a southeasterly direction a distance of 550'± to a point, said point being on the northernmost property corner of the Ashburn subdivision; thence proceeding by and with said Knapp and Ashburn lands in a generally southerly direction a distance of 1,528'± to a point, said point being the **Point of Beginning**.

NOTE: The above description has been prepared using Sussex County Tax Map 234-6.00 and Sussex County property assessment records.

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

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

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

ENGINEERING DEPARTMENT

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



Sussex County

DELAWARE
sussexcountype.gov

HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING

Proposed Coral Lakes Expansion of the Sussex County Unified Sanitary Sewer District

PUBLIC HEARING FACT SHEET

- County Council approved permission to prepare and post notices for the public hearing on December 6, 2022, for an expansion of the Sussex County Unified Sanitary Sewer District (Chapel Branch Area)
- The Engineering Department had a request from George, Miles & Buhr on behalf of their client Schell Brothers, LLC the owners/developers of parcels 234-6.00-84.00 & 234-6.00-67.00 along Robinsonville Road.
- The project is proposed at 304 single family homes on 157.12 acres and has P & Z preliminary approval.
- The project will be responsible for System Connection Charges of \$6,600.00 per EDU based on current rates and subject to an Infrastructure Use Agreement.
- The Engineering Department advertised December 28, 2022 and January 4, 2023 and on the County webpage.
- The area was posted on December 20, 2022.
- To date we have had no correspondence either in support or opposition, just questions on how it will affect the neighboring communities.



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

Proposed Annexation Coral Lakes Expansion of the SCUSSD

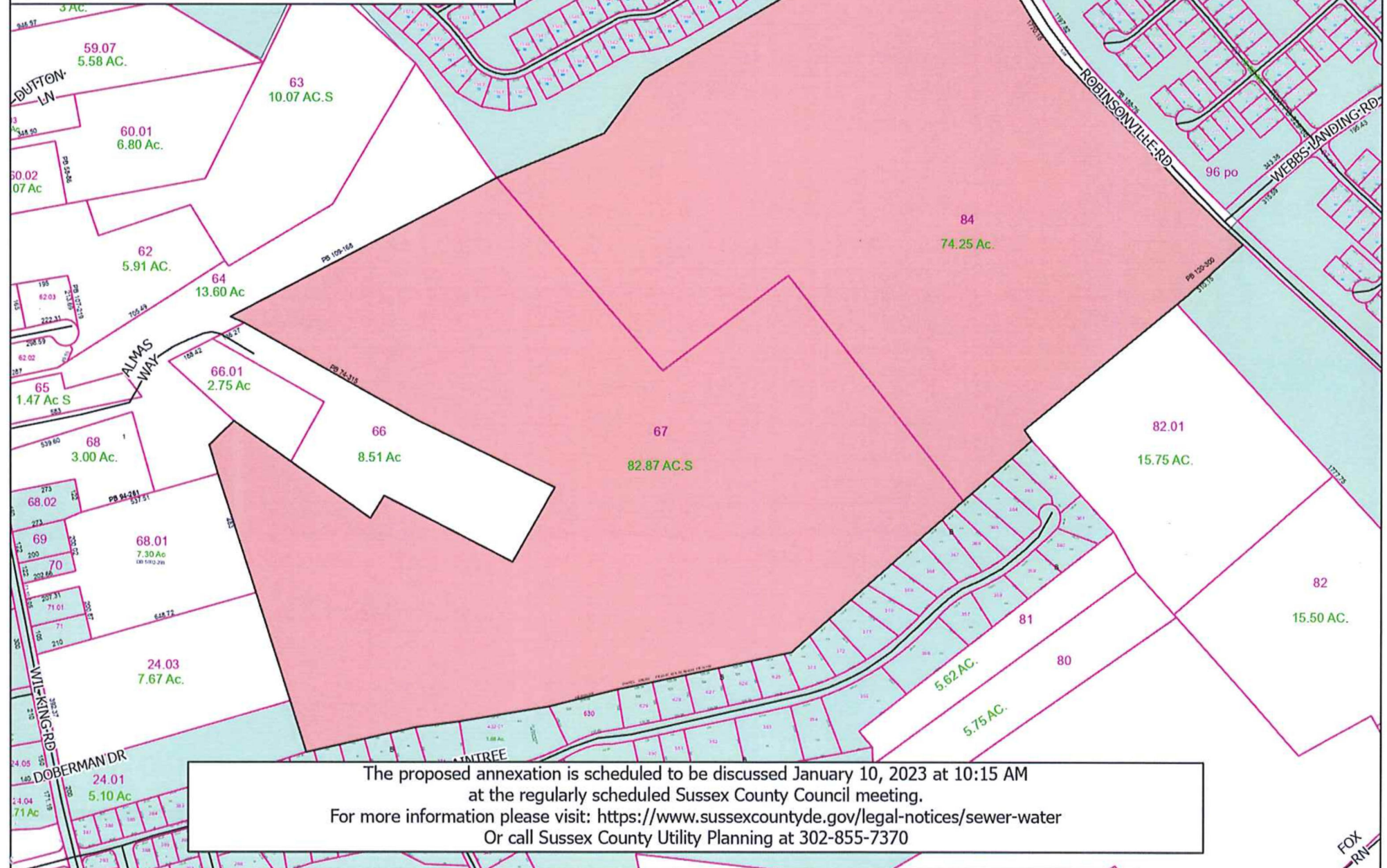
Existing SSD Parcels of Interest



0 165 330 660
Feet



12/7/2022



The proposed annexation is scheduled to be discussed January 10, 2023 at 10:15 AM
at the regularly scheduled Sussex County Council meeting.
For more information please visit: <https://www.sussexcountyde.gov/legal-notices/sewer-water>
Or call Sussex County Utility Planning at 302-855-7370

PUBLIC NOTICE

PROPOSED CORAL LAKES EXPANSION OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (CHAPEL BRANCH AREA)

NOTICE IS HEREBY GIVEN that the Sussex County Council voted on **December 6, 2022**, to consider extending the boundary of the Sussex County Unified Sanitary Sewer District (SCUSSD), Chapel Branch Area, to include (2) two parcels on the southwest side of Robinsonville Road (SCR 277), being situate in Indian River Hundred, Sussex County, Delaware.

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

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

Beginning at a point, said point being on the SCUSSD boundary, said point also being the northernmost corner of Chapel Green subdivision, said point further being the northeasternmost property corner of lands Now-or-Formerly (N/F) of Alan & Pamela Waldron; thence proceeding with said SCUSSD boundary in a southwesterly and northwesterly direction a distance of 3,312'± to a point, said point being the easternmost property corner of lands (N/F) of Diane Loekle, and a point on the boundary of lands N/F of Schell Brothers, LLC; thence leaving said SCUSSD boundary and continuing with said lands of Schell Brothers in a northwesterly, northeasterly, southeasterly, northeasterly, southeasterly, northeasterly and northwesterly, northeasterly directions respectively a distance of 5,286'± to a point, said point being the easternmost property corner of lands N/F of Donald R. Daisey and the northwesternmost property corner of other land N/F of Schell Brothers, LLC; thence continuing with other lands of Schell Brothers in a generally northeasterly direction 2,100'± to a point, said point being on the westerly Right-of-Way (ROW) of Robinsonville Road (SCR 277); thence continuing in a northeasterly direction 80'± crossing Robinsonville Road to a point, said point being on the easterly ROW of Robinsonville Road and a point on the existing SCUSSD boundary. proceeding with said SCUSSD boundary southeasterly, southwesterly, southeasterly, southwesterly directions respectively a distance of 2,100'± to a point, said point being a property corner of lands N/F Chase Oaks DE, LLC and lands N/F of William D. Marsh; thence proceeding with said lands of Marsh in a generally southwesterly direction a distance of 810'± to a point, said point being the **Point of Beginning**.

NOTE: The above description has been prepared using Sussex County Tax Map 234-6.00 and Sussex County property assessment records. The annexation contains 157.12 acres more or less.

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

The public hearing will be held on this issue at 10:15 a.m. on January 10, 2023, in the Sussex County Council Chambers, County Administrative Offices, 2 The Circle, Georgetown, Delaware. All interested persons, officials, residents, voters, taxpayers, property owners, or corporations in any way affected by this boundary extension are welcome to attend. There will be an opportunity for questions and answers. The Sussex County Council following the hearing, at one of their regularly scheduled meetings, will make the final decision on the boundary extension.

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

Hans M. Medlarz, P.E.
County Engineer

PROPOSED CORAL LAKES EXPANSION
AFFIDAVIT FOR PUBLIC HEARING

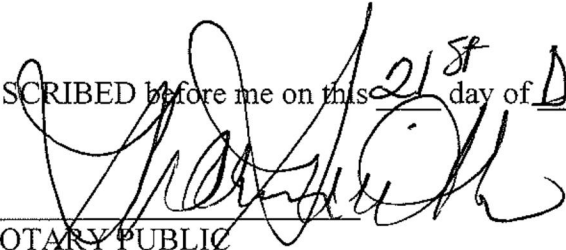
STATE OF DELAWARE)(:
COUNTY OF SUSSEX)(

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

- A. On December 20, 2022 he was a Planning Tech for the Sussex County Engineering Department, Sussex County, State of Delaware; and
- B. On December 20, 2022 he did post the attached "Public Notice," prepared by the Sussex County Engineering Department, at the following locations:
 - 1. On a post in the westerly Right-of-Way (ROW) of Robinsonville Road, across from DEC Pole 32326,
 - 2. On a post in the westerly ROW of Robinsonville Road across from DEC pole 32324,
 - 3. On a post in the westerly ROW of Robinsonville Road in front of DEC Pole 32300,
 - 4. On a post in the westerly ROW of Robinsonville Road in front of DEC Pole 32299,
 - 5. On a post in front of a STOP sign at the intersection of Robinsonville Road and Webbs Landing Road,
 - 6. On a post in front of a STOP sign at the intersection of Robinsonville Road and Fieldfare Road,
 - 7. On a post in front of a STOP sign at the intersection of Robinsonville Road and Barnwell Drive,
 - 8. On a post in front of a STOP sign at the intersection of Robinsonville Road and Kendale Road


PHILLIP C. CALIO

SWORN TO AND SUBSCRIBED before me on this 21st day of Dec, A.D., 2022


NOTARY PUBLIC
6/14/2024

My Commission Expires _____



RESOLUTION

A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) CHAPEL BRANCH AREA, TO INCLUDE A PARCEL ON THE WEST SIDE OF ROBINSONVILLE ROAD LOCATED IN THE INDIAN RIVER HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE.

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

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

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

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

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

NOW, THEREFORE,

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

Beginning at a point, said point being on the SCUSSD boundary, said point also being the northernmost corner of Chapel Green subdivision, said point further being the northeasternmost property corner of lands Now-or-Formerly (N/F) of Alan & Pamela Waldron; thence proceeding with said SCUSSD boundary in a southwesterly and northwesterly direction a distance of 3,312'± to a point, said point being the easternmost property corner of lands (N/F) of Diane Loekle, and a point on the boundary of lands N/F of Schell Brothers, LLC; thence leaving said SCUSSD boundary and continuing with said lands of Schell Brothers in a northwesterly, northeasterly, southeasterly, northeasterly, southeasterly, northeasterly and northwesterly, northeasterly directions respectively a distance of 5,286'± to a point, said point being the easternmost property corner of lands N/F of Donald R. Daisey and the northwesternmost property corner of other land N/F of Schell Brothers, LLC; thence continuing with other lands of Schell Brothers in a generally northeasterly direction 2,100'± to a point, said point being on the westerly Right-of-Way (ROW) of Robinsonville Road (SCR 277); thence continuing in a northeasterly direction 80'± crossing Robinsonville Road to a point, said point being on the easterly ROW of Robinsonville Road and a point on the existing SCUSSD boundary. proceeding with said SCUSSD boundary southeasterly, southwesterly, southeasterly, southwesterly directions respectively a distance of 2,100'± to a point, said point being a property corner of lands N/F Chase Oaks DE, LLC and lands N/F of William D. Marsh; thence proceeding with

said lands of Marsh in a generally southwesterly direction a distance of 810'± to a point, said point being the **Point of Beginning**.

NOTE: The above description has been prepared using Sussex County Tax Map 234-6.00 and Sussex County property assessment records.

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

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

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

ENGINEERING DEPARTMENT

HANS M. MEDLARZ
COUNTY ENGINEER

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

hans.medlarz@sussexcountype.gov



Sussex County

DELAWARE
sussexcountype.gov

Memorandum

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

FROM: Hans Medlarz, County Engineer
John J. Ashman, Director of Utility Planning

RE: **Warwick Park Area**
Sussex County Unified Sanitary Sewer District
OOS-11.14

DATE: January 10, 2023

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

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

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

There appeared to be strong support from the Warwick Cove and Warwick Park residents in attendance however there was minimal attendance from Gull Point. Following the meeting, the Department was asked to attend a separate meeting for Gull Point to explain to those not



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GEORGETOWN, DELAWARE 19947

in attendance the information shared at the Public Hearing as the community was unaware of the 2012 DNREC letter and were under the impression their system was in compliance.

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

The property owners and the Board engaged in a lengthy Q&A discussion with the County Engineer and then called for a vote on the desire of the community to be included in the project. The result was unanimous on the part of the members present for Gull Point to remain in the expansion area and be part of the project. Therefore, the Engineering Department is recommending that County Council approve the expansion of the Sanitary Sewer District Boundary to include the Warwick Park area, as proposed.

Public Hearing Warwick Park Area

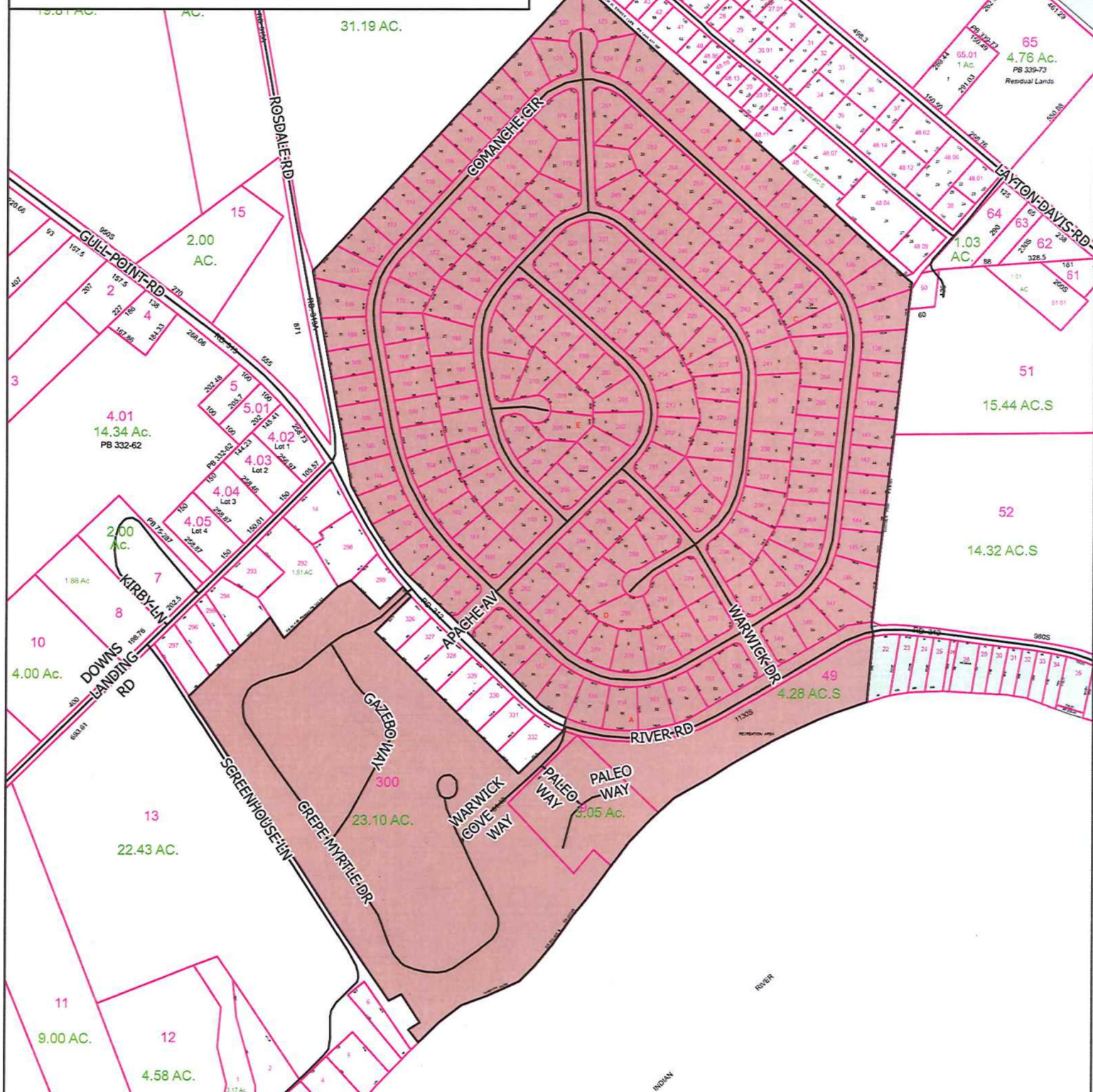
Existing SSD Warwick Park Area



0 155 310 620
Feet



9/22/2022



The public hearing is scheduled to be held on October 29, 2022 at 9:00 AM
at the Indian River Fire Hall, 32628 Oak Orchard Road, Oak Orchard, DE 19966.
For more information please visit: <https://www.sussexcountysde.gov/legal-notice/sewer-water>
Or call Sussex County Utility Planning at 302-855-7370

PUBLIC NOTICE

PROPOSED WARWICK PARK AREA EXPANSION OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (OAK ORCHARD AREA)

NOTICE IS HEREBY GIVEN that the Sussex County Council voted on **August 23, 2022** to consider extending the boundary of the Sussex County Unified Sanitary Sewer District (SCUSSD), Oak Orchard Area, to include the Warwick Park, Warwick Cove and Gull Point subdivisions, being situate in Indian River Hundred, Sussex County, Delaware.

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

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

Beginning at a point, said point being on the SCUSSD boundary, said point also being on the northerly Right-of-Way (ROW) of River Road (SCR 312), said point also being a property corner of lands N/F Warwick Park Owners Association Inc., said point further being the southwesternmost property corner of lands N/F of Linda Johnson; thence leaving said ROW and proceeding in a southerly direction with said SCUSSD boundary a distance of 50'± to a point, said point being on the southerly ROW of River Road; thence leaving said ROW and proceeding by and with said SCUSSD boundary in a southerly direction a distance of 230'± to a point, said point being the high water line of Indian River; thence leaving said SCUSSD boundary and proceeding by and with the high water line of Indian River in a generally westerly direction a distance of 2025'± to a point, said point being the southwesternmost property corner of lands N/F Owners of Gull Point Condominium Assoc., said point also being the southeasternmost property corner of lands N/F Judith A Messick TTEE, Richard Wayne Rogers TTEE, and Mable Rogers ETAL REV TR; thence leaving said high water line and proceeding by and with said the western boundary of Gull Point lands, as found in Plot Book 50 Page 186, in a northerly direction a distance of 1,474'± to a point, said point being the southernmost property corner of lands N/F of Mark J. Avens; thence continuing with said Gull Point lands the following courses and distances, (1) N53°45'06"E 391.35', (2) S25°36'48"E 93.90, (3) N55°27'38"E 292.20', (4) S34°37'37"E 149.57', (5) N55°22'23"E 137.46', (6) S31°40'17"E 50.07', (7) S55°22'23"W 200.37', (8) S34°37'37"E 709.08' to a point, said point being the southernmost property line of Gerald & Sandra Peters; thence proceeding by and with said Peters lands in a northeasterly direction a distance of 201.24' to a point, said point being on the southerly ROW of River Road; thence crossing River Road in a northeasterly direction a distance of 50'± to a point, said point being on the northerly ROW of River Road, said point also being on the boundary of Warwick Park, said point further being the southeasternmost property corner of lands N/F of Joyce A. Riolo & Ann M. Jackson; thence proceeding by and with said ROW in a generally northwesterly direction a total distance of 1,913'± to a point, said point being on the easterly ROW of Rosedale Road (SCR 313A), said point also being on the boundary line of Warwick Park; thence proceeding by and with said Warwick Park boundary the following 3 courses and distances (1) N42°20'50"E 1,407.82, (2) S47°26'E 1584.15', (3) S06°03'30"W 1,204.81' to a point, said point being that of the **BEGINNING**.

NOTE: The above description has been prepared using Sussex County Tax Map 234-34.00 & 34.09 and Sussex County property assessment records. The annexation contains 120 acres more or less.

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

The public hearing will be held on this issue at 9:00 a.m. on October 29, 2022 at the Indian River Fire Hall, 32628 Oak Orchard Road, Oak Orchard, Delaware 19966. All interested persons, officials, residents, voters, taxpayers, property owners, or corporations in any way affected by this boundary extension are welcome to attend. There will be an opportunity for questions and answers. The Sussex County Council following the hearing, at one of their regularly scheduled meetings, will make the final decision on the boundary extension.

For further information, please call or write the Sussex County Engineering Department, 2 The Circle, Post Office Box 589, Georgetown, DE 19947 – (302) 855-1299).

Hans M. Medlarz, P.E.
County Engineer

SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT
WARWICK PARK AREA EXPANSION
AFFIDAVIT FOR PUBLIC HEARING

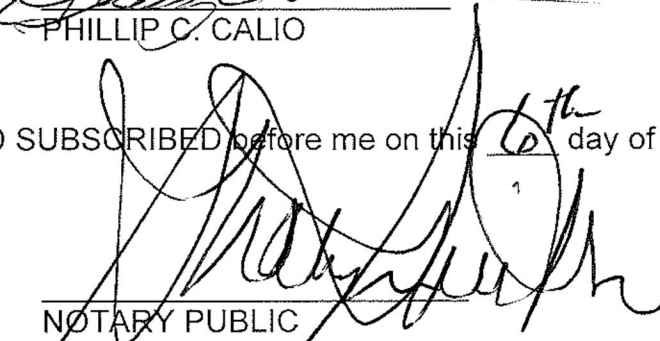
STATE OF DELAWARE)(:
COUNTY OF SUSSEX)(

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

- A. On October 6, 2022 he was a Utility Planner for the Sussex County Engineering Department, Sussex County, State of Delaware; and
- B. On October 6, 2022 he did post the attached "Public Notice," prepared by the Sussex County Engineering Department, at the following locations:
1. On a post in front of a stop sign @ the intersection of Apache Avenue and River Road,
 2. On a post in front of a stop sign on Warwick Cove Way near guard shack,
 3. On a post in front of a stop sign @ the intersection of Paleo Way and Warwick Cove Way,
 4. On a post in front of stop sign @ the intersection of Warwick Drive and River Road,
 5. On a post in front of a stop sign @ the intersection of Layton Davis Road and River Road,
 6. On a post in front of a stop sign @ the intersection of Chief Road and River Road,
 7. On a post in front of a stop sign @ the intersection of Delaware Avenue and Oak Orchard Road,
 8. On a post in front of a stop sign @ the intersection of Chief Road and Oak Orchard Road.


PHILLIP C. CALIO

SWORN TO AND SUBSCRIBED before me on this 6th day of Oct., A.D., 2022


NOTARY PUBLIC

My Commission Expires 6/14/2024





STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES &
ENVIRONMENTAL CONTROL
DIVISION OF WATER
89 KINGS HIGHWAY
DOVER, DELAWARE 19901

Commercial and Government Services Section

Telephone: (302) 739-9946

December 9, 2022

Matt Kendzierski, President
Gull Point Homeowners Association
30895 Crepe Myrtle Dr.
Unit 66
Millsboro, DE 19966

RE: Operations Permit Renewal Required, Gull Point Homeowners Association Large On-Site Treatment and Disposal System, State of Delaware Permit C4013-91S

Dear Mr. Kendzierski:

On November 24, 1993, the Division of Water, Delaware Department of Natural Resources and Environmental Control (the Department) issued a State of Delaware Large On-site Wastewater Treatment and Disposal Permit (State Permit No. C4013-91S) to Utility Systems, Inc. authorizing the treatment and disposal of up to 42,020 gallons per day (GPD) of domestic wastewater collected from the Gull Point Community. Wastewater is treated by a sequencing batch reactor (SBR) treatment system and discharged via pressurized dosed beds. The Permit includes operational, monitoring, and reporting requirements. At the time of issuance, the Permit did not include an expiration date. The Gull Point Homeowners Association (HOA) is currently responsible for the operation and maintenance the community's large on-site wastewater treatment and disposal system (OWTDS) and complying with permit and regulatory requirements.

On January 11, 2014, the Department promulgated an amended *Regulations Governing the Design, Installation and Operation of On-site Wastewater Treatment and Disposal Systems* (the Regulations). Section 6.5.8 of the Regulations (Sunset Requirement) states: "Operation permits for large [OWTDS] systems that were issued without a permit expiration date shall expire five (5) years following the promulgation date of these Regulations." On November 15, 2012, the Department sent a courtesy notice (enclosed) to the community's property management company (Wilgus Associates, Inc.) to inform the Gull Point Homeowners Association (HOA) that the then proposed Regulations had the Sunset Requirement. In accordance with the Regulation's adoption on January 11, 2014, State Permit No. C4013-91S was set to expire on January 10, 2019.

In addition, the Department's letter also provided notification that pursuant to 7 DE Admin. Code § 7403 - State of Delaware *Regulations Governing the Pollution Control Strategy for the Indian River, Indian River Bay, Rehoboth Bay and Little Assawoman Bay Watersheds* ("the Inland Bays Watershed PCS") the community's existing large OWTDS would need to be upgraded to provide a higher level of treatment because the Gull Point community is located within the environmentally sensitive Inland Bays Watershed.

Specifically, Section 8.3.3 of the Inland Bays Watershed PCS states: "when the operation and maintenance permit expires for an existing system, the Department will require the system to meet Performance Standard Nitrogen level 2 (PSN2). If the Department deems that the [on-site treatment and disposal system] OWTDS must be redesigned to meet PSN2, the owner or operator of the system will have up to 60 months from the permit expiration date to bring the OWTDS into compliance with the new standard." PSN2 requirements can be found in the Regulations at <https://documents.dnrec.delaware.gov/wr/Information/GWDInfo/Documents/delaware-on-site-regulations-with-exhibits.pdf> [page 17]. In accordance with this regulatory requirement, the Gull Point HOA's OWTDS must be upgraded by January 9, 2024.

To comply with the regulatory requirements highlighted above, the Department requires the Gull Point HOA to renew the expired OWTDS permit by completing the following actions in accordance with Section 6.5.4 of the Regulations.

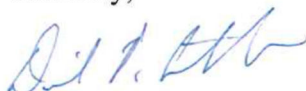
1. Within 45 days of date of this letter (by January 23, 2023), a permit renewal application (enclosed) and applicable fees must be submitted to the Department in accordance with the Regulations. The application must include a plan to address the requirements of Section 8.3.3 of the Inland Bays Watershed PCS. The plan must include either:
 - a. A proposed plan and schedule for connection to central sewer, or
 - b. A proposed plan for upgrading or replacing the community's large OWTDS to achieve Performance Standard Nitrogen level 2 (PSN2) including a proposed construction schedule and the upgrade or replacement completion date.
 - i. Please note an Operations Permit for a new or upgraded OWTDS would require (at a minimum) quarterly influent, effluent, and monitoring well sampling requirements as well as system operation under the direct supervision of a Delaware Certified Operator (level to be determined by the Department). The permit would also need to be renewed every five (5) years with a renewal application to be submitted prior to permit expiration.
 - ii. In addition, please note that in accordance with 3.31.11 of the Regulations "when a central wastewater [sewer] system is deemed [by the Department] both physically and legally available, as outlined in Sections 3.31.9 and 3.31.10 [of the Regulations], the connection must occur within a timeframe as set forth by the wastewater [sewer] system owner" and "the existing [OWTDS] system must be abandoned in accordance with Section 5.4.8 [of the Regulations]. Any consideration of upgrading or replacing the community's large OWTDS should include the possibility that a situation may arise that would require sewer connection in the future.

2. Within 45 days of date of this letter (by January 23, 2023), analytical results of OWTDS treated effluent sampling must be submitted to the Department. Treated effluent must be sampled for the following parameters: Total Nitrogen, Ammonia Nitrogen, Nitrate/Nitrite as Nitrogen, pH, Total Phosphorous, Biochemical Oxygen Demand (BOD₅), Total Suspended Solids (TSS), Total Dissolved Solids (TDS), and Chloride.

The purpose of this letter is to highlight specific permit and regulatory requirements the Gull Point HOA must comply with to protect public health and the environment. The letter is also the Department's attempt to gain your voluntary compliance with regulatory requirements. Please note that failure to comply with this letter may result in enforcement actions.

If you have questions regarding this matter, please feel free to contact me at (302) 739-9946 or via email at Derrick.Caruthers@delaware.gov or John Rebar Jr., at (302) 739-9327 or via email at john.rebar@delaware.gov.

Sincerely,



Derrick Caruthers, P.E.
Environmental Engineer
Division of Water

Electronic CC:

Matt Kendzierski, Gull Point HOA
Hal Godwin, Gull Point HOA
Kelly Stanford, Gull Point HOA
Mary Giordana, Gull Point HOA
Kristin Dangelo, Gull Point HOA
Steven Smaller, P.G., DNREC
Jennifer Roushey, DNREC
John Rebar Jr., DNREC
Hans Medlarz, Sussex County
John Ashman, Sussex County



STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES &
ENVIRONMENTAL CONTROL
DIVISION OF WATER
89 KINGS HIGHWAY
DOVER, DELAWARE 19901

November 15, 2012

Wilgus Associates, Inc.
c/o Veronica Radalin
PO Box 309
Bethany Beach, DE 19930

RE: Regulations Governing the Pollution Control Strategy for On-Site Wastewater Treatment
Disposal System (OWTDS) at the Gull Point Subdivision
Permit # C4013-91S

Dear Ms. Radalin,

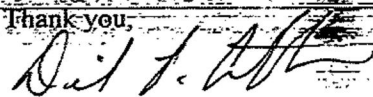
The Operating Permit for the Gull Point OWTDS was issued without a permit expiration date. The proposed Regulations Governing the Design, Installation, and Operation of On-site Wastewater Treatment and Disposal Systems state that "Operation Permits for large systems that were issued without a permit expiration date shall expire five (5) years following the promulgation of these Regulations".

The OWTDS for the Gull Point Subdivision is located within the Inland Bay Watershed. According to the Regulations Governing the Pollution Control Strategy for the Inland Bays Watersheds, when the Operation and Maintenance permit expires for an existing system within the Inland Bays Basin, the system must be upgraded to meet specific Performance Standards as specified in Section 8.0 of the Inland Bays Pollution Control Strategies. A copy of Section 8.0 is attached for your reference.

The design flow for the Gull Point OWTDS is 42,020 gallons per day. Consequently, the OWTDS must be upgraded to meet Performance Standard Nitrogen level 2 (PSN2) standards within 60 months of the September 11, 2016 expiration date of the current OWTDS operating permit.

Please feel free to contact me to discuss any questions you have as well as options that may be available for the upgrade of this system. I can be reached at (302) 739-9948 or Derrick.Caruthers@state.de.us if you have any questions.

Thank you,


Derrick Caruthers
Environmental Engineer
Ground Water Discharge Section

Delaware's good nature depends on you!

RESOLUTION

A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) OAK ORCHARD AREA, TO INCLUDE THE WARWICK PARK AREA, ON THE NORTH AND SOUTH SIDE OF RIVER ROAD LOCATED IN THE INDIAN RIVER HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE.

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

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

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

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

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

NOW, THEREFORE,

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

Beginning at a point, said point being on the SCUSSD boundary, said point also being on the northerly Right-of-Way (ROW) of River Road (SCR 312), said point also being a property corner of lands N/F Warwick Park Owners Association Inc., said point further being the southwesternmost property corner of lands N/F of Linda Johnson; thence leaving said ROW and proceeding in a southerly direction with said SCUSSD boundary a distance of 50'± to a point, said point being on the southerly ROW of River Road; thence leaving said ROW and proceeding by and with said SCUSSD boundary in a southerly direction a distance of 230'± to a point, said point being the high water line of Indian River; thence leaving said SCUSSD boundary and proceeding by and with the high water line of Indian River in a generally westerly direction a distance of 2025'± to a point, said point being the southwesternmost property corner of lands N/F Owners of Gull Point Condominium Assoc., said point also being the southeasternmost property corner of lands N/F Judith A Messick TTEE, Richard Wayne Rogers TTEE, and Mable Rogers ETAL REV TR; thence leaving said high water line and proceeding by and with said the western boundary of Gull Point lands, as found in Plot Book 50 Page 186, in a northerly direction a distance of 1,474'± to a point, said point being the southernmost property corner of lands N/F of Mark J. Avens; thence continuing with said Gull Point lands the following courses and distances, (1) N53°45'06"E 391.35', (2) S25°36'48"E 93.90, (3) N55°27'38"E 292.20', (4) S34°37'37"E 149.57', (5) N55°22'23"E 137.46', (6)

S31°40'17"E 50.07', (7) S55°22'23"W 200.37', (8) S34°37'37"E 709.08' to a point, said point being the southernmost property line of Gerald & Sandra Peters; thence proceeding by and with said Peters lands in a northeasterly direction a distance of 201.24' to a point, said point being on the southerly ROW of River Road; thence crossing River Road in a northeasterly direction a distance of 50'± to a point, said point being on the northerly ROW of River Road, said point also being on the boundary of Warwick Park, said point further being the southeasternmost property corner of lands N/F of Joyce A. Riolo & Ann M. Jackson; thence proceeding by and with said ROW in a generally northwesterly direction a total distance of 1,913'± to a point, said point being on the easterly ROW of Rosedale Road (SCR 313A), said point also being on the boundary line of Warwick Park; thence proceeding by and with said Warwick Park boundary the following 3 courses and distances (1) N42°20'50"E 1,407.82, (2) S47°26'E 1584.15', (3) S06°03'30"W 1,204.81' to a point, said point being that of the **BEGINNING.**

NOTE: The above description has been prepared using Sussex County Tax Map 234-34.00 & 34.09 and Sussex County property assessment records. The annexation contains 120 acres more or less.

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

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

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

ENGINEERING DEPARTMENT

HANS M. MEDLARZ
COUNTY ENGINEER

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

hans.medlarz@sussexcountyde.gov



Sussex County
DELAWARE
sussexcountyde.gov

Memorandum

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

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

DATE: January 10, 2023

RE: ***Davis, Bowen & Friedel, Inc. – 2019 Miscellaneous Engineering Base Contract A. Amendment No. 8 – Countryside Hamlet***

On May 14, 2019, County Council awarded a five (5) year base contracts for miscellaneous engineering services to Davis, Bowen & Friedel, Inc. (DBF) as well as two others. Since then, Council utilized the DBF base contract by approving 7 amendments totaling \$1,662,500.00. Previously on April 16, 2019, County Council had already awarded a five year (5) professional service contract to DBF for survey and mapping services.

On July 17, 2020, the Engineering Department received an email letter from the property owner of the Countryside Hamlet Mobile Home Park (Parcel 533-4.00-20.00) on Lazy Lagoon Lane in Frankford, Delaware requesting that the County consider the annexation of the community into the Unified Sanitary Sewer District. The community is an existing (47) space mobile home park served by a failing private on-site community septic system. The community is listed on DNREC's under-served communities list.

The Engineering Department made a presentation to County Council to request permission to prepare and post notices for a Public Hearing on September 22, 2020. Permission was granted and the Department proceeded to the Public Hearing held on October 27, 2020. Immediately following the hearing, County Council voted in the affirmative to approve the annexation of Countryside Hamlet into the County's Unified Sanitary Sewer District.

In December of 2021, we received notification that the project was included in the Delaware Water Pollution Revolving Loan Fund (WPCRF) Revised 2021 Intended Use Plan and that DNREC, Office of the Secretary, Environmental Finance would be soliciting loan applications for project funding consideration through the WPCRF. In February of 2022, the Engineering Department finalized the Preliminary Engineering Report and the Environmental Information Documents required for submittal of the funding application to Delaware State Revolving Fund (SRF). On February 21, 2022, these Documents were combined with the overall funding application prepared



by the Finance Department and filed with DNREC for \$1,840,400.00. On October 3, 2022, the County received the Binding Commitment Letter from DNREC Environmental Finance and on the same day the County Administrator accepted the Binding Commitment Offer and the obligating documents associated in the loan amount of \$1,840,400.00 with 100% of principal forgiveness.

On November 15, 2022, the associated debt ordinance authorizing the issuance of up to \$1,840,400.00 of general obligation bonds of Sussex County in connection with the construction and equipping of the Countryside Hamlet Area of the Unified Sanitary Sewer District was adopted.

With the funding in place the Department solicited a proposal from DBF for survey and basic design services. The selection was made since DBF was already under contact with the Artesian Water Company to provide the same services on the water supply side.

In summary, the Department requests approval of Amendment No. 8 of DBF's Engineering Base Contract providing survey and design services for the Countryside Hamlet Project in the aggregate amount of \$124,500.00 contingent on DNREC concurrence.

This is **EXHIBIT K**, consisting of [6] pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated 08/13/2019.

**AMENDMENT TO OWNER-ENGINEER AGREEMENT
Amendment No. 8**

The Effective Date of this Amendment is: January 10, 2023

Background Data

Effective Date of Owner-Engineer Agreement: 08/13/2019

Owner: Sussex County

Engineer: Davis, Bowen & Friedel, Inc.

Project: Countryside Hamlet

Nature of Amendment:

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

Description of Modifications:

This Amendment includes modifications to Exhibit A – Engineer's Services, to include work per DBF Proposal dated December 14, 2022, and the selection and use of Exhibit C, Compensation Packet AS-1, for Standard Hourly Rates.

Agreement Summary:

Original Agreement Amount:	\$ <u>0</u>
Net Change for prior amendments:	\$ <u>1,662,500.00</u>
This amendment amount:	\$ <u>124,500.00</u>
Adjusted Agreement amount:	\$ <u>1,787,000.00</u>

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

OWNER:

ENGINEER:

By: _____
Print
name: _____

Title: _____

Date Signed: _____

DAVIS, BOWEN & FRIDEL, INC

By: RL
Print
name: Ring L. LARSON

Title: PRINCIPLE

Date Signed: 1/4/2023

PREVIOUSLY APPROVED FORM

ATTEST:

Ms. Tracy Torbert
Clerk of the County

December 14, 2022

Sussex County Engineering
Sussex County Administrative Office
2 The Circle
P.O. Box 589
Georgetown, Delaware 19947

Attn: Mr. Hans Medlarz, P.E.
County Engineer

RE: **Proposal for Professional Engineering Services**
Countryside Hamlet Sanitary Sewer
Sussex County, Delaware
DBF #P1897B22.005

*Ring W. Lardner, P.E.
W. Zachary Crouch, P.E.
Michael E. Wheedleton, AIA, LEED GA
Jason P. Loar, P.E.
Jamie L. Sechler, P.E.
Michael R. Wigley, AIA, LEED AP*

Dear Mr. Medlarz:

Davis, Bowen & Friedel, Inc., (DBF) is pleased to submit this proposal to Sussex County Engineering (County) for providing Survey, Design, Permitting, and Bidding Phase services for the above-referenced project. This project will consist of new sanitary sewer gravity collection system within the Countryside Hamlet mobile home park located on Lazy Lagoon Road in Frankford, Delaware, new wastewater pumping station located on Delaware Avenue across Vines Creek, and associated forcemain on Delaware Avenue discharging to an existing sanitary sewer manhole located approximately half (1/2) mile north on Delaware Avenue.

A description of our proposed scope of services and associated fees for each portion of the work is as follows.

A. SURVEY SERVICES

Our office will perform boundary survey of Parcel 19.00 and prepare an easement plat for the proposed pump station, perform right-of-way (ROW) and deed research necessary to establish the ROW on Delaware Avenue related to the new forcemain alignment as well as property lines within Countryside Hamlet mobile home park. There are approximately 47 mobile home lots of which we will locate each's septic tank and/or service connection for connection to the new gravity collection system. Our office will also complete a topographic survey of the project site and forcemain alignment. Our office and/or Countryside Hamlet owner will call in Miss Utility design tickets to determine utility locations. The final product will be a complete boundary and topographic survey of the project site and forcemain alignment.

B. DESIGN AND PERMITTING

Utilizing the survey information identified in Item A along with design information provided by the County, our office will prepare the project construction documents and obtain construction permits for the project as described in the introductory section of this proposal. This work shall

include:

- Preparation of site plans showing the gravity collection system, pump station, and forcemain. Our office will prepare profiles for the gravity collection system and forcemain as well as show all necessary details for the proposed project. All design work will be in accordance with the latest manufacturer, Sussex County and/or State standards and specifications.
- Preparation of site, entrance, and grading plans for the proposed pump station.
- Our office will prepare a schematic plan showing the initial locations of the proposed infrastructure which will be submitted to Sussex County for review. Upon review we would meet with the County to review and receive comments. Semi-Final Plans will be prepared addressing previous comments. The semi-final plans will be submitted to the County for review. Upon review we would meet with the County to review and receive comments. Final Design Plans will be prepared addressing all previous comments needed for agency submissions.
- The final design plans will be submitted to Sussex County, Sussex Conservation District (Standard Plan Application), Delaware Department of Natural Resources and Environmental Control (DNREC) (WWCP, NOI, and Wetlands & Subaqueous), Delaware Department of Transportation (DelDOT) (Utility Permit and Entrance Permit), and other agencies as necessary to obtain construction permits. *(Please note the County will be responsible for any fees associated with agency submittals.)*
- Our office will address any agency comments received and resubmit for obtaining final plan approval and/or permit.
- Our office will prepare specifications to be used by the County for public bidding purposes.

C. BID ASSISTANCE

Our office will assist the County during the bid process. Our services may include, attending a pre-bid meeting, responding to requests for information, bid tabulation, bid review and award recommendation.

D. GEO-TECHNICAL INVESTIGATION

The proposed pump station will require soil borings for foundation design and will be completed by our geotechnical subconsultant John D. Hynes and Associates. Note, this will be completed once the proposed pump station location has been confirmed.

E. WETLAND / WATERWAY INVESTIGATION / PERMITTING

The proposed gravity sewer will cross Vines Creek of which permits will likely be required from DNREC Subaqueous Lands Section. Our office will coordinate with a subcontractor,

Environmental Resources, Inc., for the permitting requirements.

F. UNIT PRICE – EASEMENT ASSISTANCE

Our office will assist with easement exhibits and legal descriptions should they be needed for this project.

G. EXCLUDED SERVICES

Excluded from our above scope of services is work associated with the following services. If required, this work can be performed on a unit price basis or under a separate proposal to the County.

- Archeological studies
- Phase 1 or 2 Environmental Assessments or Permitting
- Additional Easement Acquisition Services not identified above
- Detailed E&S Plan (It is anticipated that only standard erosion and sediment permitting will be needed.)
- Stormwater Management Design
- Building Permits
- Construction Administration/Inspection Services
- Construction Survey Services
- As-Built Surveys
- Application and Permit Fees
- Financial Administration Services
- Reimbursable Expenses

FEES

- Survey Services (Item A):	\$12,500.00
- Design and Permitting (Item B):	\$95,000.00
- Bid Assistance (Items C):	\$7,000.00
- Geotechnical & Wetlands Services (Items D and E):	<u>\$10,000.00</u>

Total Estimated Fee: \$124,500.00

Unit Price Easement (Item F): \$1,500.00 per Easement

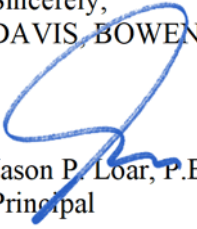
We propose to perform this work on an hourly/unit price basis with a not-to-exceed fee amount as noted above. Billing will be based upon work completed during the previous month. Additional services and/or direct or reimbursable expenses will be provided on an hourly basis and invoiced for work completed during the previous month in accordance with our master on-call engineering contract.

Mr. Hans Medlarz, P.E.
December 14, 2022
Page 4

Should you find this proposal acceptable, please execute below and return one (1) copy to us and retain one (1) copy for your files. Receipt of the signed copy will be considered our authorization to proceed.

On behalf of Davis, Bowen & Friedel, Inc., we are fully committed to provide a product that will meet or exceed your expectations. We look forward to completing this project with you and appreciate the opportunity to be of continued service to Sussex County. Should you have any questions, comments, concerns, or would like to discuss this further please give me a call at your convenience.

Sincerely,
DAVIS, BOWEN & FRIEDEL, INC.



Jason P. Loar, P.E.
Principal

JPL
\\ATLAS\sai\ADMIN\Promotional\Proposals\2022\P1897B22.005 Sussex County Countryside Hamlet.docx

ACCEPTED BY:

Signature

Date

Printed Name

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

Memorandum

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

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

RE: ***Cannon Road –Inland Bays Road Drainage Improvements and Constructed Wetlands, Project S22-05***
A. Recommendation to Award

DATE: January 10, 2023

The County's five (5) year capital plan, as approved in the FY 23 Capital Budget, contains several projects at the Inland Bays Regional Wastewater Facility. One is the constructed wetland the other one the Cannon – Inland Bays Roads site improvements are part of the treatment plant expansion project. The latter will reduce runoff discharges to Guinea Creek as well as reduce nuisance flooding in the Cannon Road area and within the spray fields. Both 48 hours extended detention and traditional constructed wetland best management practices will address runoff quality and offsite quantity discharges by managing runoff from over 600 acres. This portion of the project is creating a significant water quality credit which will be used as a stormwater management offset for future projects including the treatment plant expansion.

The initial design for the constructed wetlands portion of the project was first submitted to the Delaware Department of Natural Resources and Environmental Control (DNREC) in 2020. As a result of DNREC's comments additional data acquisition, soil testing, hydrogeologic evaluations and surface water assessments were conducted summarized in the October 2022 Hydrogeological Report. The wetland is an innovative land application enhanced polishing and disposal option for wastewater effluent and groundwater with elevated nutrient levels.

The wetland was designed in coordination with DNREC under a 5-year "operational testing" program. Once wetland dosing commences spray irrigation on the North Burton Field will cease and the center pivot equipment removed. This project will utilize a portion of the Council approved American Rescue Plan Act (ARPA) funding and therefore the bid documents were set up in full APRA compliance.



On November 17, 2022, invitations to bid for the Cannon Road/Inland Bays Road Drainage Improvements and Constructed Wetlands, Project S22-05 were publicly advertised, forwarded directly to contractors and made available on the County website. Ten (10) plan holders attended the pre-bid and on December 21, 2022, six (6) bids were received.

The initial low bid read aloud was from Zack Excavating, Inc. However, subsequent review of the bid revealed imbalances and mathematical errors. Considering these errors and irregularities, Zack Excavating, Inc. chose to withdraw their bid, which the County Engineer allowed along with release of their bid bond.

Kinsley Construction, Inc. of Dagsboro, Delaware submitted the lowest, responsive base bid total of \$11,467,000.00. The bid is within the budget; therefore, the Engineering Department recommends awarding the project to Kinsley Construction, Inc. in the amount of \$11,467,000.00.

Inland Bays Road/Cannon Road				Kinsley Construction		Chesapeake Turf		George & Lynch, Inc.		A-Del Construction		Mumford & Miller	
Bid Item	Description of Work	Quantity	Unit	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
PART A - DRAINAGE AND STORMWATER IMPROVEMENTS													
1	Mobilization (Max 5% of A1 Base Bid Total)	1	LS	\$537,000.00	\$537,000.00	\$145,000.00	\$145,000.00	\$360,812.00	\$360,812.00	\$569,400.00	\$569,400.00	\$741,210.00	\$741,210.00
2	Construct Drainage & Stormwater Improvements along Cannon Road and Inland Bays Road	1	LS	\$6,340,000.00	\$6,340,000.00	\$7,335,000.00	\$7,335,000.00	\$10,242,128.00	\$10,242,128.00	\$10,375,000.00	\$10,375,000.00	\$18,400,000.00	\$18,400,000.00
3	Construct Inland Bays Road Improvements	1	LS	\$150,000.00	\$150,000.00	\$240,000.00	\$240,000.00	\$125,639.00	\$125,639.00	\$252,000.00	\$252,000.00	\$176,750.00	\$176,750.00
4	Furnish and Install Wetland Plantings and Seeding	1	LS	\$144,000.00	\$144,000.00	\$182,400.00	\$182,400.00	\$201,375.00	\$201,375.00	\$218,000.00	\$218,000.00	\$244,030.00	\$244,030.00
5	Temporary Irrigation Allowance for Wetland 1	1	EA	\$50,000.00	\$50,000.00	\$50,000.00	\$50,000.00	\$50,000.00	\$50,000.00	\$50,000.00	\$50,000.00	\$50,000.00	\$50,000.00
A-1 - BASE BID TOTAL (ITEMS 1 THRU 5)					\$7,221,000.00	\$7,952,400.00		\$10,979,954.00		\$11,464,400.00		\$19,611,990.00	
A-2 - ALTERNATE BID													
1	Performance Bond	1	LS	\$52,427.00	\$52,427.00	\$238,572.00	\$238,572.00	\$89,736.00	\$89,736.00	\$69,000.00	\$69,000.00	\$114,318.00	\$114,318.00
PART B - DIRECTIONAL PIPE DRILLING													
B1 - BASE AND ALTERNATE BID													
1A	Mobilization (Max 5% of B1 Base Bid Total)	1	LS	\$19,000.00	\$19,000.00	\$29,800.00	\$29,800.00	\$14,665.00	\$14,665.00	\$10,000.00	\$10,000.00	\$41,300.00	\$41,300.00
1B	Mobilization (Max 5% of B1 Alternate Bid Total)	1	LS	\$20,000.00	\$20,000.00	\$29,800.00	\$29,800.00	\$14,665.00	\$14,665.00	\$10,000.00	\$10,000.00	\$23,100.00	\$23,100.00
2A	Directional Drill Pipes	1	LS	\$610,000.00	\$610,000.00	\$598,270.00	\$598,270.00	\$448,856.00	\$448,856.00	\$600,000.00	\$600,000.00	\$814,000.00	\$814,000.00
2B	Directional Drill Pipes Alternate Inland Bays Road Crossing	1	LS	\$426,000.00	\$426,000.00	\$534,990.00	\$534,990.00	\$302,639.00	\$302,639.00	\$460,000.00	\$460,000.00	\$573,000.00	\$573,000.00
3	Furnish & Install Terminal Drainage Structures	14	EA	\$4,100.00	\$57,400.00	\$5,060.00	\$70,840.00	\$4,061.00	\$56,854.00	\$4,900.00	\$68,600.00	\$4,300.00	\$60,200.00
B1- BASE BID TOTAL (ITEMS 1A + 2A + 3)					\$686,400.00	\$698,910.00		\$520,375.00		\$678,600.00		\$915,500.00	
B1 - ALTERNATE BID TOTAL (ITEMS 1B + 2B + 3)					\$503,400.00	\$635,630.00		\$374,158.00		\$538,600.00		\$656,300.00	
B2 - ALTERNATE BID													
1	Performance Bond	1	LS	\$5,565.00	\$5,565.00	\$20,967.30	\$20,967.30	\$8,520.00	\$8,520.00	\$4,000.00	\$4,000.00	\$5,510.00	\$5,510.00
PART C CONSTRUCTED WETLANDS													
1	Mobilization (Max 5% of C1 Base Bid Total)	1	LS	\$164,200.00	\$164,200.00	\$71,500.00	\$71,500.00	\$169,587.00	\$169,587.00	\$185,000.00	\$185,000.00	\$174,000.00	\$174,000.00
2	Construct Submerged Gravel Wetland Facility excl. Liner	1	LS	\$1,840,000.00	\$1,840,000.00	\$3,125,000.00	\$3,125,000.00	\$1,774,238.00	\$1,774,238.00	\$2,065,000.00	\$2,065,000.00	\$2,034,000.00	\$2,034,000.00
3	Establish Engineered Soil Liner	200	Crew-HR	\$417.00	\$83,400.00	\$1,200.00	\$240,000.00	\$503.49	\$100,698.00	\$575.00	\$115,000.00	\$560.00	\$112,000.00
4	Construct Grassed Channel	1	LS	\$30,100.00	\$30,100.00	\$186,420.00	\$186,420.00	\$59,638.00	\$59,638.00	\$11,600.00	\$11,600.00	\$114,000.00	\$114,000.00
5	Construct Access Road	1	LS	\$260,000.00	\$260,000.00	\$148,800.00	\$148,800.00	\$71,909.00	\$71,909.00	\$19,000.00	\$19,000.00	\$222,000.00	\$222,000.00
6	Furnish and Install Wetland Plantings	1	LS	\$537,000.00	\$537,000.00	\$668,000.00	\$668,000.00	\$593,513.00	\$593,513.00	\$720,000.00	\$720,000.00	\$648,000.00	\$648,000.00
7	Install Submerged Gravel Wetland Groundwater & Effluent Amentities	1	LS	\$256,000.00	\$256,000.00	\$553,025.00	\$553,025.00	\$196,219.00	\$196,219.00	\$326,000.00	\$326,000.00	\$637,600.00	\$637,600.00
8	Pump Enclosure and Control Equipment Allowance	2	EA	\$100,000.00	\$200,000.00	\$100,000.00	\$200,000.00	\$100,000.00	\$200,000.00	\$100,000.00	\$200,000.00	\$100,000.00	\$200,000.00
9	Temporary Irrigation Allowance	1	EA	\$100,000.00	\$100,000.00	\$100,000.00	\$100,000.00	\$100,000.00	\$100,000.00	\$100,000.00	\$100,000.00	\$100,000.00	\$100,000.00
C1 - BASE BID TOTAL (ITEMS 1 THRU 9))					\$3,470,700.00	\$5,292,745.00		\$3,265,802.00		\$3,741,600.00		\$4,241,600.00	
C2 - ALTERNATE BID													
1	Performance Bond	1	LS	\$26,745.00	\$26,745.00	\$158,782.35	\$158,782.35	\$35,000.00	\$35,000.00	\$22,500.00	\$22,500.00	\$24,567.00	\$24,567.00
PART D - LANDSCAPE BUFFER													
1	Mobilization (Max 5% of D1 Base Bid Total)	1	LS	\$1,900.00	\$1,900.00	\$16,000.00	\$16,000.00	\$14,600.00	\$14,600.00	\$11,000.00	\$11,000.00	\$13,300.00	\$13,300.00
2	Furnish & Install Landscape Buffer Plantings along Cannon Road	1	LS	\$210,000.00	\$210,000.00	\$302,900.00	\$302,900.00	\$302,166.00	\$302,166.00	\$212,000.00	\$212,000.00	\$271,000.00	\$271,000.00
D1 - BASE BID TOTAL (ITEMS 1 + 2)					\$211,900.00	\$318,900.00		\$316,766.00		\$223,000.00		\$284,300.00	
D2 - ALTERNATE BID													
1	Performance Bond	1	LS	\$1,718.00	\$1,718.00	\$9,567.00	\$9,567.00	\$5,000.00	\$5,000.00	\$1,400.00	\$1,400.00	\$1,658.00	\$1,658.00
TOTAL PROJECT BASE BID (BID PARTS A1 + B1 + C1 + D1)					\$11,590,000.00	\$14,262,955.00		\$15,082,897.00		\$16,107,600.00		\$25,053,390.00	
BASE BID DEDUCT FOR JOINT AWARD OF PARTS A + C					\$123,000.00	\$655,000.00		\$0.00		\$0.00		-\$125,000.00	
Math Error on Bid Form													



Memorandum

To: Sussex County Council
The Honorable Michael H. Vincent
The Honorable Cynthia C. Green
The Honorable Douglas B. Hudson
The Honorable John L. Rieley
The Honorable Mark G. Schaeffer

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

CC: Everett Moore, County Attorney

Date: January 6, 2023

RE: County Council Report for Ordinance to Amend the Future Land Use Map of the Comprehensive Plan in Tax Parcel No. 235-23.00-2.02 (Portion Of), 235-23.00-1.00, 235-23.00-1.04, 235-23.00-2.00, and 235-23.00-2.01

On February 25, 2021, the Planning and Zoning Department received a request on behalf of the property owner(s) to consider a potential revision to the Future Land Use Map element of the Comprehensive Plan in relation to Tax Parcel No. 235-23.00-2.02 (Portion of), 235-23.00-1.00, 235-23.00-1.04, 235-23.00-2.00, and 235-23.00-2.0. The total area of the parcels is approximately 247 acres. The parcels are located on the northeast side of SR.1, east of the intersection of SR.1 and Cave Neck Rd.

The request was for the Future Land Use Map identified as Figure 4.5-1 of the Sussex County Comprehensive Plan to be amended to change the Area designation part of Sussex County Parcel. 235-23.00-2.02 (Portion of), 235-23.00-1.00, 235-23.00-1.04, 235-23.00-2.00, and 235-23.00-2.01 from the Low Density Area to the Coastal Area. The parcels to be considered are identified in Exhibit A.

The revisions were submitted to the Office of State Planning for PLUS review in June 2021. Following the PLUS review and receipt of the PLUS comments (included in Council's Paperless Packet), and following discussions with the Cabinet Committee on State Planning Issues at its meeting of September 30, 2021, an Ordinance was introduced by the County Council at its meeting of October 19, 2021.

The Planning and Zoning Commission held a public hearing on November 18, 2021. At the meeting of December 9, 2021, the Commission recommended the adoption of the Ordinance for the 14 reasons outlined within the motion (included below).



The County Council held a public hearing at its meeting of December 14, 2021. At the conclusion of the meeting, County Council left the record open until its meeting of January 4, 2022 for the submission of additional comments. Below is a link to the minutes of the December 14, 2021 County Council meeting

[Link to the December 14, 2021 County Council Meeting Minutes](#)

The County Council considered the Ordinance at its meeting of January 11, 2022 and a motion was passed to defer action on the Ordinance until the next County Council meeting, and to leave the Public Record open for the receipt of additional comments.

At the County Council meeting of January 25, 2022 staff summarized the total number of responses that had been received and that one hundred fifty-two (152) responses were received in opposition, fifty three (53) in support for a total of two hundred five (205) comments received. A motion was then made and passed to close the public record on this Ordinance Amendment.

Below are the minutes from the Planning & Zoning Commission meeting of November 18, 2021, and the minutes of the Planning & Zoning Commission meeting of December 9, 2021.

Minutes of the November 18, 2021, Planning & Zoning Commission Meeting

AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 235-23.00-2.02 (PORTION OF), 235-23.00-1.00, 235-23.00-1.04, 235-23.00-2.00, AND 235-23.00-2.01

Mr. Whitehouse advised the Commission that submitted into the record a copy of the staff's application submitted to the State Planning Office as part of the PLUS process, the comments of the PLUS review, a letter from the landowner, a copy of the Ordinance for the Application file, a copy of the land owner's exhibit booklet, a copy of the Applicant's exhibit maps, a copy of Sussex County's exhibit maps as part of the Ordinance, 51 letters of opposition, four letters in support, and the responses which were not included in the paperless packet have been circulated to the Commission.

Mr. Whitehouse stated this is an Ordinance to amend the Future Land Use Map of Sussex County; that there are five parcels; that an area of 247 acres would potentially be affected by the Ordinance; that the parcels are located on the northeast side of Coastal Hwy., opposite the intersection of Cave Neck Rd.; that the yellow hatching on the plan shows the proposed extension of the Coastal Area within the Future Land Use Map; that they are currently all within the low density area; that the low density areas are reflected as non-shaded areas on the map; that the yellow areas are reflected in yellow on the map; that the request was received in February 2021 to consider a potential amendment of the Future Land Use Map; that following that request it was reported to the State Planning Office; that it was then heard at the PLUS process meeting in June 2021; that following the PLUS meeting, Planning & Zoning staff have received written comments from the State Planning Office and he then introduced Mr. David Edgell and Ms. Dorothy Morris from the Delaware State Planning Office.

Mr. Thompson recused himself and left the dais.

The Commission found that Mr. David Edgell spoke in opposition to the Ordinance request; that he is the Director of the Office of State Planning Coordination; that the Strategies for State Policies and

Spending were first developed in 1999 under the Governor Carper Administration; that they have been a policy of the State Government since that time; it is updated every five years; that the five year cycle is to keep up with the Comprehensive Plans of all the 57 municipalities and 3 county governments; that there are many things that go into the State Strategies; that it is not just the local government Comprehensive Plans; that the local government Comprehensive Plans are a foundational element; that there are 30 different data layers within the analysis of what designation Investment Level to give a parcel or area; that Level 1-2 are built-up urban and suburbanized areas; that Level 3 is considered for newer growth areas which are emerging; that Level 4 are for the more rural areas; that this is an area where they expect a continuation of rural, agricultural, industrial and natural resource types of activities; that the subject parcel is near Cave Neck Rd.; that there are many data layers which are performed with mapping; that these layers relate to things that are favored in growth; that these indicated areas which are more likely to be a positive growth area; that there are a number of layers that indicated favored preservation; that those areas tend to be environmental in nature; that if they favor toward growth, it receives a positive one; that if it favors toward preservation it receives a negative one; that the totals are summed up by layering maps on top of each other; that in this application's case there is a fire station within three miles and a hospital within five miles; that the application property is not located within the County growth area according to the Comprehensive Plan; that the subject property is not located within a municipality, annexation area or transferable development of right receiving area; that the property is not located in an urban area according to the census; that the property is not located within a Transportation Improvement District; that the property is not in proximity to bus stops, bike paths, trails, public libraries, public schools, State service centers, freestanding EMS and local police departments; that the property is not connected to County sewer service; that the property is located near wetlands; that the property is located with the Delaware Ecological Network; that the property is located within the Coastal Zone; that portions of the subject property are located within the 100 Year Flood Plain; that he does believe the rear property has been amended and removed from the Application submitted to PLUS; that if the property was removed, it may no longer be a specific issue; that the property is located within a low density area, subject to sea level rise inundation and in close proximity to tidal wetlands; that these are all areas of criteria analyzed through the process; that per the process, the property is designated Level 4; that this designation is not determined by drawing a line on a map; that the designation is not based completely off Sussex County's Comprehensive Plan; that they perform a very detailed analysis of all the different data layers previously mentioned; that the subject properties have been through the PLUS process multiple times for various applications; that he appreciated the presentation for the previous application; that he was not present for all of the meetings to construct the Comprehensive Plan; that he was not aware of the history of the previous applications parcel; that we must conform to what is stated within the Comprehensive Plan which was approved by the local government, legislative body and certified by the Governor; that they review about nine application to a packet; that of the nine applications, the two current applications were the two they found concerns with; that the amendment to the Coastal Area would open up a large number of options for the zoning of the property; that the low density area is limited to two units per acre; that in the Coastal Area the density could go as high as 12 units per acre, as well as allow heavy commercial uses; that they object to the current request; that the process would be in the same with the current public hearing being held and a public hearing before County Council; that should County Council agree to move forward, the application would need to be referred back to Cabinet Committee of State Planning Issues for consideration; that his office and

the agencies they work with are very interested in working with Sussex County as the county grows, develops and change; that they are committed to working with Sussex County as they move forward; that this is an example of unusual and difficult situation at the end of a Comprehensive Plan period; that this went through a very long and thorough process and he understands that there were some changes made at the last minute.

The Commission found Mr. David Hutt, Esq. spoke on behalf of the Ordinance; that also present were Ms. Alice Robinson, along with her two children, Thomas and Mary Beth; that Mr. Joe Reed and his son Mr. Brent Reed were present; that they are the principals of the ownership groups for the properties; that proposed is an Ordinance to amend the Future Land Use Map designation for five parcels consisting of approximately 247 acres; that the Mr. Chapel, who was a previous owner of one of the parcels, considered selling the property; that he learned his property was not located within Sussex County's growth areas; that it was characterized as low density; that this came as a surprise, as the area was shown within a growth area according to the 2008 Future Land Use Plan; that this was shown in the Environmentally Sensitive Overlay Zone; that the Comprehensive Plan was updated in 2018; that the Comprehensive Plan was signed by the Governor in 2019; that the property owners participated in the process; that as previously discussed in the last public hearing, there was a recommended Future Land Use Plan, which was amended by the Planning & Zoning Commission to County Council; that County Council did amend significant changes to the Future Land Use Map and area designations; that the Environmentally Sensitive Overlay Zone was renamed to Coastal Area; that County Council placed the property within the Coastal Area; that the owners were very satisfied with this as the Coastal Area was located more east than it originally did on the 2008 Future Land Use Plan; that the process after County Council released their recommended version is where the unknown elements and surprises come into play; that County Council's recommended version went to a public hearing on October 23, 2018; that at the public hearing Mr. Robertson, on behalf of the Planning Commission and Ms. Cornwell, made a presentation to County Council regarding the Comprehensive Plan and the specific chapters within the Plan; that if his notes are correct and the Sussex County minutes are correct, thirteen people spoke about the Comprehensive Plan at the October 23, 2018 public hearing; that at least two of those speakers or groups are present at the subject public hearing, that he was one of the speakers; that he was present and spoke at the public hearing in October 2018; that SARG Sussex Alliance for Responsible Growth spoke at the meeting as well; that during the October 23, 2018 public hearing there were three groups of properties discussed; that he was not present on behalf of the subject property; that the other comments largely dealt with implementation and other aspects of the plan; that there were comments regarding the need for affordable housing; that there were a number of things that occurred aside from people seeking changes to the Future Land Use Plan; that at the conclusion of the public hearing, it was closed by County Council; that Council deferred the decision on the Ordinance to approve the Comprehensive Plan, certify and send it to the Governor for his signature; that the next meeting is no longer considered a public hearing; that this means the public can view, but not provide comment, on the actions taken by the County Council; that the meeting of October 30, 2018 a number of properties, including the subject properties, were discussed; that for the first time, the Future Land Use categorization came into question; that the concern regarding the categorization of the Future Land Use Plan was unknown to the property owners; the land owners had participated in the process and assumed the recommended version would be the plan to be sent to the Governor for certification; that the Future Land Use Plan which was certified contained a significant change; that the subject 247 acres is no longer located in

the Coastal Area; that the 247 acres is now located in a low density area; that he read the comments within the supplemental packet; that he feels there was some irony; that there were some comments about the amount of time people had to consider the Ordinance; that there were comments stating there was not enough time for people to adequately consider their positions or make time to attend the meeting; that the irony is the public is in a far better position than his client; that his client participated in the process for 18 months or more; that during the public process, his client was always shown a map that showed their land as being within a growth area; that when the public process was concluded, the plan was changed and sent to the Governor with the change; that regardless of one's position on a land use matter, a fundamental, logical and orderly process is an opportunity to know what is occurring and be able to comment on the matter; that anything else has the appearance of being arbitrary; that ultimately the change occurred and was certified by the Governor; that as part of the process the property owners did not go back to check at that time; that this was indicated in the Applicant's initial letter of December 2020 to County Council; that the letter stated they acknowledge the responsibility to check, but they thought due to the history of the property, as well as the history of the recommendations from Planning & Zoning and County Council that double checking was not necessary; that the change from Growth Area to Low Density Area was discovered during the sales process; that the process of amending the Future Land Use Plan is a fairly new process; that in this new process the Office of State Planning Coordination considered the Application from Sussex County at their June 2021 meeting; that it is a public process, but it is the Applicant and various agencies who participate in the process; that this on the subject Application, there are significant gaps and differences between what the Office of State Planning thought they were considering and what the Application is; that when a letter states to the effect of there was no good reason given for the Application, the reason is the Applicant did not have enough time to provide a reason; that the Applicant would have been happy to provide a reason and would have liked to have been asked to participate in the process in June through the PLUS review process; that technically Sussex County is the Applicant and the Applicant was not allowed to participate in the process; that he feels this is pouring salt in the open wound of how this situation began in the first place; that it was hard for the Applicant after the public process was closed, realizing the map had been changed and then not being able to participate in the process after requesting for it to be amended; that an explanation from the Applicant may or may not have made any difference to the Office of State Planning; that an example, if one of the first comments within the PLUS report; that the comments reference other projects they are familiar with; that in the report it was described as being an active part during the Comprehensive Plan amendment process; that the only activity occurred on the subject properties were they maintained being in a growth area; that the growth area actually expanding the growth area with a recommendation from County Council; that in addition, the Office of State Planning Coordination response indicated there are tidal wetlands contiguous to the parcel; that Director Whitehouse indicated that the State Planning Office may have been considering a larger application than the application actually is; that the nearest tidal wetlands are 625 ft. away; that the bulk of the tidal wetlands are almost a half mile away from the site; that another comment provided in the PLUS response was the parcels are not close to public services, such as water sewer, police, fire and schools; that the Applicant disputes those comments; that there was another comment that the area is a Level 4 area; that as indicated in Mr. Edgell's comments, the foundational piece used is the underlying designation on the local government's Future Land Use Plan; that once the property is in low density, being designated in Level 4 is not a surprise; that it creates a self-fulfilling prophecy for the property; that

there also seemed to be confusion about the actual land; that it was thought the land extended all the way back; that there was a reference to 415 acres; that in the reference it goes on to state it would be further away from public services and utilities; that part of the difficulty in presenting on an Ordinance in this situation, is that he does not want anyone to think that this is an attack on the Office of State Planning Coordination; that they just happen to be the body that puts the information together; that in the case of this PLUS item, he does not feel the Office of State Planning Coordination had the whole picture when the information was put together; that his clients would have welcomed the opportunity to help provide a better glimpse of the overall picture; that in Sussex County's Future Land Use Plan, Chapter 4, the first basis for consideration of Future Land Use in Sussex County is to direct development to areas that have existing infrastructure or where it can be secured cost effectively; that the Application requesting to change the designation fully recognizes that basis and is consistent with the basis through both the planned transportation improvements of Cave Neck Rd. and Rt. 1 intersection and the existence of utilities and infrastructure; that further into Chapter 4 there are guidelines for when to consider an area in a growth area or not; that a few of those guidelines are the presence of existing public sewer and water service nearby, plans by Sussex County to provide public sewage service within five years, location on and near a major road or intersection, the character and intensity of surrounding development, including proposed development and the areas environmental character; that each of the guidelines also supports the conclusion the parcels should be located in a growth area; that the parcel should be located in the Coastal Area based upon the environmental considerations; that one of the primary issues with most Applications is transportation and traffic; that being on or near a major roadway or intersection is a listed guideline; that DelDOT's proposed grade separated interchange for Rt. 1 and Cave Neck Rd. is part of the Capital Transportation Program; that the State is estimating spending \$69,000,000.00 on the project, with \$54,000,000.00 in improvements and \$15,000,000.00 is for the right-of-way acquisition; that it is stated throughout the Comprehensive Plan and the Zoning Code that projects should be located near intersections and major arterials; that this is one of the reasons the property should be located in a growth area; that the public hearing is the very beginning of the process; that there is no concept plan and nothing has been submitted to the Office of State Planning Coordination to consider; that there are years to go on whatever the process may be; that there are few years to go before the DelDOT CPT project for Cave Neck Rd and Rt. 1 takes place; that another factor in considering growth area was the existence of public water and sewer service nearby; that the property is located within wastewater service territory for Sussex County; that there are three wastewater service providers within the properties area of Sussex County; that on the map presented, Artesian is represented in red, Tidewater Utilities is represented in green and the other colors represent the various tiers Sussex County has assigned to the area; that on the eastern side of Rt. 1 Tidewater has a 12 inch water main which runs across the frontage of a portion of the property; that on the western side of Rt. 1 Artesian has an 8 inch sewer force main which is available to provide water to the property; that another growth area guideline is environmental features; that on the presented map, non-tidal wetlands are represented in blue and represented in green are tidal wetlands; that the property is 625 ft. for from the closest point to tidal wetlands; that there are many other Coastal Areas within Sussex County that extend right to the edge of present wetlands, even at times including the wetlands; that there is a significant distance between the property and the wetlands; that the bulk of the property is located over .5 mile away from the wetlands; that the proposed buffer Ordinance will further protect the wetlands on anything that would occur beyond the proposed Application for the growth area; that another characteristic and intensity of surrounding

development, including proposed development; that there is already commercial zoning across the eastern side of Rt. 1 right up to the property; that directly across the property is C-1 areas and other areas which are zoned commercially; that across from the northern parcel there is a recent rezoning of MR and C-3 located at the intersection; that anticipated as part of the rezoning were the future improvements which were planned for the intersection; that what was described in the Ordinances for the rezoning equally apply to the subject properties; that the Application is not for a rezoning but the same characteristics apply regarding the appropriateness of being within a growth area; that in Ordinance 2783, which is the Medium Residential Change of Zone application; that the Ordinance states both central water and central sewer will be available; that the Ordinance states the site is the location of a grade separated interchange or overpass which will be constructed by DelDOT with on ramps and off ramps; that proposed is one of the first great separated intersections in Sussex County; that the Ordinance states the great separated intersection gives the location an urban character; that the Ordinance states given the properties location adjacent to the interchange MR Zoning is appropriate for the property; that the Ordinance stated the property is adjacent to a property with C-1 Zoning, with other commercially zoned properties across Cave Neck Rd. from the site; that all of the characteristics are the same for the subject properties; that many of the same comments were made in Ordinance 2784 for the C-3 Change of Zone; that the Ordinance states the site has frontage along Rt. 1, at a location that is next to an existing C-1 property with various commercial uses; that this characteristic is identical to what is occurring on the eastern side of Rt. 1; that the Ordinance stated is was across Cave Neck Rd. and other commercially zoned properties and the location is appropriate for the proposed zoning; that a very similar description is given regarding the proposed grade separated interchange and the change it will bring to the property, area and character of the area; that the Coastal Area is appropriate as it has been the historic designation for the properties previously and best reflects the characteristics of the property; that according to Chapter 4 of the Comprehensive Plan the Coastal Area has two primary characteristics; that one characteristic being it is among of the most desirable locations in Sussex County; that the second characteristic is contains ecologically important and sensitive characteristics; that both characteristics are true of the subject properties; that the report from the PLUS office mentioned concern about the permitted uses for the properties; that the same concern was referenced in a number of letters and emails submitted to the Planning & Zoning Office; that this is the significance of the property being in the Coastal Area the environmental characteristics and sensitivities, authorizing the Planning Commission and County Council to ensure those items are appropriately protected; that as indicated for the bulk of the site the sensitive area are at least .5-mile away from the proposed growth area; that within Chapter 4 it mentions the need for the property to be near transportation, shopping center and office parks, located on arterial roads; that the property is located near Rt. 1 which is a major arterial road; that this characteristic was a reason stated for the approval of the previously mentioned Change of Zone; that density was a proposed concern; that within a Coastal Area there is a possibility of an increase to the base density of two units to the acre; that the Coastal Area describes when it is appropriate for the higher densities to occur; that where it is appropriate to occur is similar to the characteristics previously mentioned; that higher densities are appropriate where central water and sewer are provided, when near sufficient commercial uses and employment centers, where it keeps within the character of the area, where it is located along a main road or at or near a major intersection and where these is an adequate level of service; that the site has central water and sewer; that the site is located near many commercial uses and employment centers; that the site keeps with the characteristics of the area, and has many similar characteristics to

the nearby approved Change of Zone; that the site is located along a main road and nearby intersection; that one of the basis for the Future Land Use Plan is to direct development to areas which have existing infrastructure or where it can be secured cost effectively; that when you look at the basis and consider the stated guidelines, they weigh heavily in favor for the entire four parcels and first portion of the fifth parcel being designated to the Coastal Area on the Future Land Use Map; that the Applicant request the proposed Ordinance be adopted when sending a recommendation to County Council and the requested designation would return the designation on the Future Land Use Map to the original recommended version from Planning Commission to County Council as part of the Comprehensive Plan update process.

Mr. Hopkins questioned if the site was located in the growth area, prior to the Planning Commission reviewing as part of the Comprehensive Plan update; that he stated the site was located within the Coastal Area when it was recommended to County Council; that there were many meetings held by the Planning & Zoning Commission, as well as County Council; that the public perception after the meetings was the site would remain in the growth area; he questioned if there is an idea of what happened once the recommendation left the Planning & Zoning Commission; that he questioned if there was some same on the Commission for not alerting the land owner of the change; that he stated with many years of being located within a growth zone he finds it strange the designation would go backwards, being removed from the growth area; that the Commission spends a lot of time figuring out where growth should be; that growth should be where there is infrastructure; that there is infrastructure near the site being near Rt. 1 and near the health centers at Milford and Beebe; that he does not understand what happened and why there is a need to spend so much time hashing out something that seems so obvious.

Mr. Hutt stated that when County Council issued its recommended version, the site was shown within the Coastal Area, and regarding the process, it was incredibly disappointing to a property owner, who participated in the process, to be informed of the change, without any chance to impact the change.

The Commission found Mr. Jeff Stone spoke on behalf of the Sussex Alliance for Responsible Growth (SARG), in opposition to the proposed Ordinance; that the Great Marsh and eastern Sussex County quality of life area under attack again; that this attack has profound ramifications far beyond the parcels in question; that in keeping with Mr. Hopkins' comment regarding notifying property owners, the proposal was submitted nine months ago; that there was no notice to many communities nearby and the thousands of residents in the area; that the proposed change was placed on the agenda; that the developers get nine months to work things out but the citizens are given seven day notice by way of an opaque item of a publish agenda; that he feels this is not an advertisement in transparency in government; that he feels Mr. Hutt's comment also follow along with that statement; that he feels there must be a better way of getting these applications done and to get information out; that the proposed request would make a major modification to the County's Comprehensive Plan vision and intent; that within the most recent Comprehensive Plan update, completed in 2018, County Council designated the land and most other properties north of Willow Creek Rd., on the east side of Rt. 1, as low density; that the State designates the area as Level 4 with the State Strategies; that 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; that stated is a precise and correct description to the nature of the area;

that less than three years into a 10 year plan, the new owners are requesting to change the designation to Coastal; that this designation change would allow much more intense development which would not be limited to residential; that the current low density land use designation within the AR-1 Agricultural Residential Zoning, would permit approximately 484 single-family homes based on the gross acreage; that two residential subdivisions have been approved on the property; that if the proposed change in land use is adopted it could result in potentially 2,900 single and/or multi-family residences based on gross acreage; that it would also potentially permit a wide variety of commercial uses; that this would include retail and car dealers which are heavy commercial; that none of those things are present in the area currently; that the Delaware Office of State Planning has officially stated the position of opposition; that also opposed to the request is the Delaware Department of Natural Resources and Environmental Control; that the acreage was designated low density for good and sound reason; that it abuts an area of significant tidal wetlands, which is a critical ecological and economic resource; that he is sure the Commission, at the time of the Overbrook Town Center proposal for rezoning, will recall that many, if not all of the same issues and concerns raised then are just as relevant and applicable today; that they provided the rationale for the County Council to deny the application twice and keep the designation as low density development; that the Comprehensive Plan has barely begun to be implemented; that now a major change, impacting thousands of residents and visitors is proposed; that Sussex County has not yet prepared an implementation plan, which is required by the Comprehensive Plan; that he recently uncovered a July 2021 Comprehensive Plan update provided by Planning & Zoning to the State; that this Comprehensive Plan update was not found on the Sussex County website; that this update shows Sussex County is apparently working on no less than 23 Comprehensive Plan Strategies regarding open space, wetlands, waterway protection, well head protection and recharge areas; that these are all issues cited by DNREC in their statement of opposition; that Sussex County's strategy efforts cited have just begun; that the adoption of this proposal would render those strategy efforts irrelevant; that Sussex County has been losing areas designated low density to development at an astonishing rate; that according to the State Planning Office, between 2016 – 2020, 93% of residential units were approved state-wide in Level 4 areas through development applications in Sussex County; that the Comprehensive Plan was prepared; that the preparation costed hundreds to thousands of dollars; that it included significant citizen input; that the Future Land Use section stated one of the goals is to protect critical and natural resources, such as inland bays and others by guarding against overdevelopment and permanently preserving selected lands; that to large measure, the resulting document, unanimously approved by County Council, responded to the concerns of citizens seeking to preserve open space, while allowing low density residential development to happen while keeping with the character of the area; that he questioned how it makes sense to throw away two years of efforts by the Sussex County government and the citizens before serious implementation efforts have begun; that he feels it makes sense to implement the plan and measure the effects on the County before making major changes; that he knows what the proposed change will lead to if approved; that other owners of low density lands will be encouraged to seek different designations which allow more intense development; that the owners and developers will file to rezone properties to allow for high density residential; that one rationale is the site is already adjacent to land already designated as Coastal Area; that this is precisely the reason County Council made the choice they did; that how often through the Comprehensive Plan process did we hear the need to preserve the rural character of Sussex County; that land use designations must begin and end somewhere; that the opportunity to provide additional protection to the Great Marsh, as well as

preserving some of the rural character of the County helped County Council make the choice; that the characteristics of a Level 4 area are defined as rural in nature, open space natural areas, agribusiness activities and farm complexes; that all of these uses precisely describe the area; that State Growth Strategies for growth areas include, retain the rural related and farm related industries, establish defined edges to more concentrated development among others; that he questioned what could be more appropriate than a low density area providing a buffer between the Great Marsh, one of the State's most valuable natural areas, and a growth area west of Rt. 1; that clearly County Council sought to preserve the east side of Rt. 1 to balance and establish a defined edge to the anticipated growth on the west side, which is already apparent; that he questioned what the rationale is for changing the Future Land Use Map only three years into the plan; that the Applicant has cited the fact the new great separate interchange will be constructed over Rt. 1 and Cave Neck Rd.; that the developer states this is the most appropriate area for high density development; that he feels this may be true in New Castle, Montgomery County Maryland, or southeastern Pennsylvania, but not in Sussex County; that the improvements now being performed along Rt. 1, under the Corridor Capacity program are a response to safety, congestion and accident concerns which were caused by inadequate infrastructure that cannot safely handle the volumes of traffic already flowing as well as the anticipated traffic in the future; that the improvements are not for the purpose of new high density development; that DelDOT's plans are based on the Comprehensive Plan; that the Comprehensive Plan designates the east side of Rt. 1 as low density; that there currently is serious capacity and safety issues west of Rt. 1, along Rt 16 and Cave Neck Rd.; that there is no capacity issue east of Rt. 1 currently; that if a low density designation is maintained there will not be; that allowing heavy commercial and high-density housing on the east side will create new and significant capacity issues on both sides; that the traffic generated will overwhelm the millions of dollars the State is investing in improvements; that this will put residents and visitors back into traffic hell; that he questions if it makes sense to create more traffic, before the improvements are even underway; that we do not know if the improvements will relieve any of the current problems; that the public has been disappointed before; that the proposal also stated it will lead to the creation of jobs; that the pandemic caused profound and fundamental change to the nation's economy; that 4,000,000 people quit their jobs nationwide last August; that unemployment in Sussex County is just above 4%; that this is slightly above historic norms; the newspapers Help Wanted sections are overflowing with advertisements; that Sussex County employers are having difficulty recruiting employees; that according to a report from Stateline, which is an initiative of The Pew Charitable Trusts, dated November 12, 2021, stated a record number of job openings and fewer workers to fill the openings, have left 42 states with more available jobs than people looking for work; that Delaware is listed as one of the 42 mentioned states with 1.3 jobs available for every job seeker; the development projects do not create jobs; that the economy and employers create jobs; that the same jobs will be created if the project were located in a more appropriate area of the County; that it is a specious argument which will sacrifice a finite resource to gain jobs; that smart planning allows places to have both; that if the proposal is approved the Commission might as well include all properties on the eastside of Rt. 1, from Willow Creek to Milford; that once one of the properties changes, especially a property as ecologically critical as the subject property, all of the dominos must fall; that he has heard the justification time and time again; that if you give it to him, you must give it to me; that this does not seem apparent in Sussex County, developers have no right to develop anything more than the land use designation and zoning allow; that there is no right to change a land use designation because it does not fit a business model; there

is no right to rezoning because the yield of the current zoning does not have enough return; that Sussex County has the sole authority to determine what land use best serves the community at large; that in this case, the decision by County Council responding to the clear desire of the citizens was that the most appropriate use of lands east of Rt. 1 is low density residential and open space; that there is no evidence showing that the decision by County Council to designate the land low density was incorrect, except for the fact it does not provide a developer with a high enough margin; that the developers knew what they were getting when they bought the land; that the developers are depending on the Sussex County government to bail them out; that within the Application documents they admit they dropped the ball, now requesting the County to fix it; that there are already approved subdivisions on the properties; that the fact is they can build hundreds of homes on the property in question without changing the land use designation or rezoning while still making a profit; that the Comprehensive Plan also permits, in addition to AR-1, business community, marine district and institutional district; that there is no need to change the land use designation to provide for commercial units to serve the residential developments there; that the County recently approved commercial development west of Rt. 1 which would easily serve the areas communities; that to his knowledge the house development has already been approved and met no opposition; that while these options may not generate as much profit as developers would like it is not the County's responsibility to maximize the developers return; that he requests the Commission not repeat the mistakes of the past, creating another Five Points, or duplicate the situation along Rt. 1 near the outlets south of Five Points; that he requested the Commission protect the Great Marsh and the rural character of Sussex County; that one positive which could result from the proposal is to strongly encourage the County, specifically the Planning & Zoning Commission, to engage in a long range quarter planning effort to better determine how to achieve the Comprehensive Plan vision by specifying the specific types of development the County should encourage and where it should be located; that if this is done in cooperation with DelDOT, it would be game changing; that the new Comprehensive Plan gives the County the opportunity to change course from haphazard overdevelopment patterns over the last 10 years to a balance between rational growth which would serve the community and the preservation of the quality of life, history and environment of Sussex County; that we need to take advantage of the opportunity and not cut it off before it begins; that the Commission should give the Comprehensive Plan a chance to be implemented; that the Commission may like the results; that if the Commission begins making changes now, we will never know what is missed; that he states it is a simple choice; that the Commission can take the old road and continue to lose the things that make Sussex County, Sussex County; that the Commission can choose a new path which would enhance the things that make Sussex County special; that he states the decision is in the Planning & Zoning Commission's hands; that Sussex Alliance for Responsible Growth request the Commission choose to preserve the rural character of the county by recommending denial of the Application and he requests the Commission keep the record open for a reasonable time; that there were a lot of people who were surprised by the Ordinance request; that they were notified of the request late last week; that members of the public wanted to have the opportunity to speak and comment but did not have the information available and due to this they request for a reasonable amount of time be set for the record to remain open.

Chairman Wheatley stated he believes most of Delaware's rural area is located within Sussex County; that he feels 93% of residential units were approved state-wide in Level 4 areas through development applications in Sussex County is an impactful statistic; that he questioned what percentage of rural land is located within Sussex County and believes it is a fairly large amount.

Chairman Wheatley questioned Mr. Whitehouse if the current public hearing was advertised the way every other public hearing has been previously advertised.

Mr. Whitehouse stated a notices were published, in advance, in two newspapers within general circulation within the County; that notice was published on the Sussex County website when the Ordinance was introduced in October, and on the County's noticeboard; that this request, prior to being introduced as an Ordinance, went through the PLUS process, which is required to be noticed on the State of Delaware's website; that the only difference being an Ordinance to amend the Comprehensive Plan is not considered in the same way as a development application; that postcard notifications are not sent out and a site notice not displayed.

Chairman Wheatley questioned when the map was first sent to County Council, if the entire parcel, including the piece extending to the Great Marsh, was located in the Environmentally Sensitive Developing District Overlay Zone (ESDDOZ); that he believes the Commission was trying to avoid zone splitting on parcels; that the way he understands the request is to be a compromise between the original recommendation of the map and the map which was certified by the Governor and the current request is only for the front parcels, not the parcel extending back to the Great Marsh.

Mr. Whitehouse stated he believes the way Planning & Zoning staff had packaged the Application when submitting for the PLUS process had created some confusion; that the PLUS submission did refer to the entirety of the parcels; that to clarify the blue line, shown on the map, is the parcel boundary; that the hatched yellow area on the map is the subject area of the current Application.

Chairman Wheatley questioned who the current owners of the parcels are, as there was a reference to new owners, and questioned if the site was under contract to a developer subject to the outcome of the Application request.

Mr. Hutt stated that Mr. Chapel owned the northern portion of the property; that Mr. Chapel did sell the property to Seaside of Lewes, LLC; that there is another piece of property which has another LLC name; that the southern piece of the property is owned by the Robinson family and there are various heirs and LLC's associated with the subject properties.

The Commission found Mr. David Green spoke in opposition to the Application on behalf of Mr. Keith Steck, Vice President of DELCOG Delaware Coalition For Open Government; that he stated the area is designated low density and should stay as such; that he mentioned concerns with transparency and the method of notification by Sussex County to residents and feels the major change to the Comprehensive Plan should be handled by the State Cabinet Committee, not by Sussex County.

Chairman Wheatley stated the State of Delaware has delegated Land Use authority to Sussex County for the last 80 years and which is the reason Sussex County is involved in the matter.

Ms. Stevenson questioned if Mr. Edgell still presented with the same concerns after learning the Application did not include the entire parcel.

Mr. Edgell stated Mr. Whitehouse had clarified the distinction at the Cabinet Committee meeting in September 2021; that the Cabinet Committee of State Planning issues did receive a similar presentation, at their meeting of September 30, 2021, to what he presented to the Planning & Zoning Commission; that the Cabinet Committee voted unanimously to support the PLUS comments, the

position of the State and its agencies; that he feels it is noteworthy to mention Ms. Nicole Majeski, Secretary of Transportation, made the motion to support the States position and comments; that the planned transportation infrastructure was planned based on the current Sussex County Comprehensive Plan and is not anticipating any additional development on the site.

Chairman Wheatley states the public hearing is part of a process; that the process was placed for a reason; that the reason being the Commission may not get the maps correct every time; that is why the process exists to be able to go back to look at things; that it is important to remember the State is not their enemy in the process; that he has been doing the job for 25 years; that they are currently enjoying the best relationship with the State the County has ever had; that it has been a good thing; that there are nine Comprehensive Plan amendment requests in front of the State currently; that the State only has issues with the two requests subject to the current public hearing; that the State is mostly agreeing with the County; that the County and the State will not always agree; that interests of the County and State do not always coincide; that the idea is to persevere though; that he does feel there are processing issues; that he feels the process issues are with Sussex County based on the way some of the previous processes were done and the way decisions were made; that at the end of the day it is Sussex County's map that is submitted to the State; that is the reason Sussex County becomes the Applicant when submissions are made to the State; that the process may be something the County needs to work out with the State, as the property owner is not as involved in the process as they would like to be and possibly should be; that they are all finding their way through the situation and he feels it has been a good exchange of information.

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

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

In relation to the Ordinance. Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to defer action for further consideration. Motion carried 5-0.

Minutes of the December 9, 2021 Planning & Zoning Commission Meeting

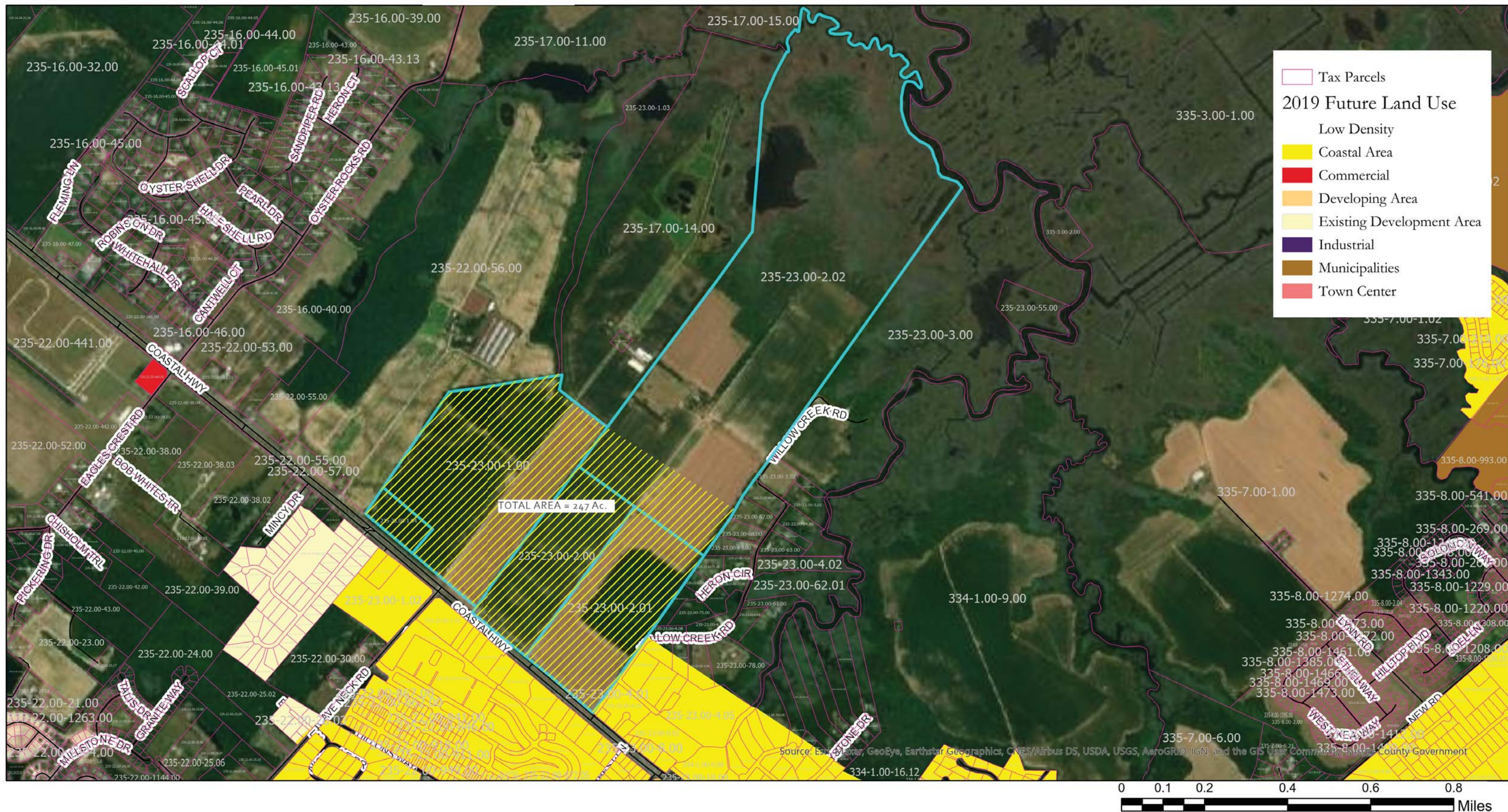
The Commission discussed the Ordinance which had been deferred since November 18, 2021.

Mr. Hopkins moved that the Commission recommend approval of the Ordinance to amend the Future Land Use Map in the current Sussex County Comprehensive Plan for Parcels 235-23.00-2.02 (portion of), 235-23.00-1.00, 235-23.00-1.04, 235-23.00-2.00, and 235-23.00-2.01 from a Low Density Area to a Coastal Area based on the record made during the public hearing and for the following reasons:

1. The parcels are currently designated as "Low Density" but were previously designated in the 2008 Comprehensive Plan as "Environmentally Sensitive Development Area" – which is a term that has since been changed to "Coastal Area." When the Planning & Zoning Commission vetted the current Comprehensive Plan, the Commission recommended that these parcels be designated as "Coastal Area", which is a growth area. However, after the final public hearing on the 2018 Future Land Use Map in the Sussex County Comprehensive Plan, County Council removed the parcels from the growth area and designated the parcels as "Low Density"; which was the designation later certified by Governor John Carney in 2019.

- Returning the subject properties to the Developing Area is consistent with the prior plan and map.
2. This application seeks to convert the front portion of Parcel 235-23.00-2.02 and the entirety of the remaining parcels as Coastal Area. The rear portion of Parcel 235-23.00-2.02 would remain as Low Density.
 3. The parcels, with the exception of Parcel 235-23.00-2.02, have frontage along Route 1. Parcel 235-23.00-2.02 is located immediately to the rear of Parcels 235-23.00-2.00 and 235-23.00-2.01.
 4. These parcels are located nearby a planned grade separated intersection (or overpass) at the Route 1 / Cave Neck Road intersection that is being constructed by DelDOT with on-ramps and off-ramps.
 5. There are multiple public water service providers in the area.
 6. While opposition noted concerns about the proximity to tidal wetlands, the nearest tidal wetlands are 625 feet away and most tidal wetlands are approximately a half mile away from the areas proposed to be designated as Coastal Area.
 7. The parcels are located adjacent to other lands designated as Coastal Area on the Future Land Use Map. Other nearby lands are also zoned C-1, C-3, and MR.
 8. Lands to the south and west are designated as Coastal Area on the Future Land Use Map.
 9. This proposed Map amendment satisfies the criteria set forth in Section 4.4.2.1 of the Comprehensive Plan for a Growth Area, since: (a) the properties are near the presence of existing public sewer and public water service; (b) the properties are within the County's Tier 2 for sewer planning; (c) the properties are near the Route 1 corridor; (d) the properties are near the planned overpass for the Cave Neck Road / Route 1 intersection; (e) the Map change will enable development that is in character with what exists or may occur in the area; (f) the subject properties do not contain any tidal wetlands; and (g) the Map change will not adversely impact any major preserved lands.
 10. By the terms of the Delaware Strategies for State Policies and Spending document, all land use authority remains vested with Sussex County. This is reiterated within the current Sussex County Comprehensive Plan. While the County certainly takes into account the State's recommendations with regard to a Map amendment, the circumstances that have been presented with this application justify a revision to the Map.
 11. This recommendation is consistent with the Commission's prior recommendation for this Future Land Use Map as part of the process to adopt the current Comprehensive Plan. That prior recommendation identified these properties as being within the Developing Areas.
 12. This revision to the Future Land Use Map will not adversely affect neighboring properties, area roadways, or future land-use planning in the area.
 13. Any proposed use under the Developing Area designation will still require public hearings and site plan approvals. This will enable the County, with ample public participation, to determine whether any specific use or type of development is appropriate here.
 14. This revision of the Future Land Use Map is appropriate given the particular circumstances involved at this location. When several factors like these exist, the consideration and approval of an amendment to the Future Land Use Map is appropriate.

Motion by Mr. Hopkins, seconded by Mr. Mears to recommend approval of the Ordinance. By roll call vote: Mr. Hopkins – yea, Mr. Mears – yea, Ms. Wingate – nay, Ms. Stevenson - nay, Mr. Wheatley - yea. Motion carried 3-2



Introduced 10/19/21

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 235-23.00-2.02 (PORTION OF), 235-23.00-1.00, 235-23.00-1.04, 235-23.00-2.00, AND 235-23.00-2.01

WHEREAS, on February 25, 2021, the Sussex County Planning and Zoning Office received a request to consider an amendment to the Future Land Use Map identified as Figure 4.5-1 in the Comprehensive Plan in relation to Tax Parcel No. 235-23.00-2.02 (Portion of), 235-23.00-1.00, 235-23.00-1.04, 235-23.00-2.00, and 235-23.00-2.01 (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 request received is to amend the Area designation of the Property to the Coastal Area; 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. 235-23.00-2.02 (Portion of), 235-23.00-1.00, 235-23.00-1.04, 235-23.00-2.00, and 235-23.00-2.01 from the Low Density Area to the Coastal Area. The parcels so changed are 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.

Rieley
yes 12/28.

Council Grant Form

Legal Name of Agency/Organization	The Springboard Collaborative, Inc.
Project Name	Springboard Pallet Shelter Village
Federal Tax ID	85-3335151 ✓
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 Springboard Collaborative (TSC) is a nonprofit 501(c)(3) organization working to help the rising unsheltered homeless population in Delaware achieve permanent housing and self-sufficiency.
Address	411 Kimmey Street
Address 2	
City	Georgetown
State	DE
Zip Code	19947
Contact Person	Judson Malone

Contact Title Executive Director

Contact Phone Number 302-864-5220

Contact Email Address judson@the-springboard.org

Total Funding Request \$20,000.00

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

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

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

If YES, approximately what percentage of the project's funding does the Council grant represent? 1

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

Program Category**Other****Primary Beneficiary
Category**

Homeless

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

120

Scope

The requested funds will go toward the cost of a 12x18 shed, 2 8x20 shipping containers, and lumber for shelving. The shed will be operated as a commissary for the Pallet Village participants where they can get items such as soap and shampoo, blankets and towels, hygiene products, and other basic needs. The shipping containers will provide additional storage for participants' personal items.

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

1,880,000.00

Description

Personell

Amount	487,000.00
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Description	Operating Costs
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Amount	811,000.00
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Description	Construction/Site Improvements
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Amount	1,500,000.00
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Description	
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Amount	0.00
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Description	
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Amount	0.00
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Description	
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Amount	0.00
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Description	
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Amount	0.00
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Description	
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Amount	
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TOTAL EXPENDITURES	2,798,000.00
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TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	-918,000.00
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Name of Organization The Springboard Colaborative

**Applicant/Authorized
Official** Judson Malone

Date 12/27/2022

**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: 01/10/23

Council District 5: Mr. Rieley

Tax I.D. No. 234-15.00-1.00

911 Address 22901 Gravel Hill Road, Georgetown

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 12.06 ACRES, MORE OR LESS

WHEREAS, on the 14th day of February 2022, a conditional use application, denominated Conditional Use No. 2351 was filed on behalf of Jose Velasquez; and

WHEREAS, on the ____ day of _____ 2023, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2351 be _____; and

WHEREAS, on the ____ day of _____ 2023, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2351 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 Gravel Hill Road (Rt. 30) approximately 1.1 mile north of Zoar Road (S.C.R. 48) and being more particularly described in the attached legal description prepared by Fuqua, Willard, Stevens, & Schab, PA, said parcel containing 12.06 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: 1/10/23

Council District 1: Mr. Vincent
Tax I.D. No.: 532-20.00-14.00
911 Address: N/A

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT) FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 21.42 ACRES, MORE OR LESS

WHEREAS, on the 23rd day of February 2022, a Conditional Use Application, denominated Conditional Use No. 2354 was filed on behalf of Sussex CSG 1, LLC; and

WHEREAS, on the ____ day of _____ 2023, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2354 be _____; and

WHEREAS, on the ____ day of _____ 2023, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2354 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 Little Creek Hundred, Sussex County, Delaware, and lying on south side of Old Racetrack Road (S.C.R. 502), approximately 0.75 mile east of Delmar Road (Route 54) and being more particularly described in the attached legal description prepared by Pennoni Associates Inc., said parcel containing 21.42 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: 01/10/23

Council District 4: Mr. Hudson
Tax I.D. No. 533-20.00-22.00 & (p/o) 20.00
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 A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 9.2 ACRES, MORE OR LESS

WHEREAS, on the 27th day of April 2022, a Zoning Application, denominated Change of Zone No. 1984 was filed on behalf of Carl M. Freeman Companies; and

WHEREAS, on the ____ day of _____ 2023, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1984 be _____; and

WHEREAS, on the ____ day of _____ 2023 a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County,

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article II, Subsection 115-7, Code of Sussex County, be amended by deleting from the Comprehensive Zoning Map of Sussex County the zoning classification of [Agricultural Residential District] and adding in lieu thereof the designation Medium 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 Baltimore Hundred, Sussex County, Delaware, and lying on the north side of Lighthouse Road (Route 54) and the west side of Bennett Avenue approximately 350 ft. west of Madison Avenue and being more particularly described in the attached legal description prepared by Scott and Shuman, P.A., said parcel containing 9.2 ac., more or less.

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

To Be Introduced: 1/10/23

Council District 4: Mr. Hudson
Tax I.D. No. 234-35.09-6.00
911 Address 32768 Oak Orchard Road, Millsboro

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY (10 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.84 ACRE, MORE OR LESS

WHEREAS, on the 8th day of February 2022, a conditional use application, denominated Conditional Use No. 2349 was filed on behalf of Lessard Builders; and

WHEREAS, on the ____ day of _____ 2023, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2349 be _____; and

WHEREAS, on the ____ day of _____ 2023, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article V, Subsection 115-31, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2349 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 northwest side and the southeast side of Oak Orchard Road (Route 5) approximately 300 feet east of River Road (S.C.R. 312) and being more particularly described in the attached legal description prepared by Davis, Bowen & Friedel, Inc., said parcel containing 0.84 acre, more or less.

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

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE SUSSEX COUNTY SEWER TIER MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCELS 533-11.00-23.00, 23.03 & 23.04

WHEREAS, on September 27th, 2022, the Sussex County Planning and Zoning Office received an Application for a requested Comprehensive Plan Amendment to amend the Sussex County Sewer Tier Map element of the Comprehensive Plan to change the Sewer Tier designation of Sussex County Parcel Nos. 533-11.00-23.00, 23.03 and 23.04; and

WHEREAS, the Parcels comprise 31.83 acres of land, more or less, lying and being within Baltimore Hundred, and are located on the north side of Deer Run Road (S.C.R. 388) and the southwest side of Zion Church Road (Route 20), approximately 0.42 mile south of the intersection of Evans Road (S.C.R. 383) and Zion Church Road (Route 20);

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

WHEREAS, a portion of Parcel 23.00 contains the Future Land Use Map designation of Developing Area as set forth in the Sussex County 2045 Future Land Use Map identified as Figure 4.5-1 of the Sussex County Comprehensive Plan; and

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

WHEREAS, the remainder of the Parcels within this 31.83 acres of land contain the Future Land Use Map designation of Coastal Area as set forth in the Sussex County 2045 Future Land Use Map identified as Figure 4.5-1 of the Sussex County Comprehensive Plan; and

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

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

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

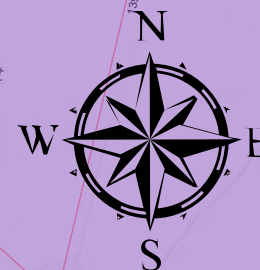
Section 1. The Sussex County Sewer Tier Map identified as Figure 7.3-2 of the Sussex County Comprehensive Plan is hereby amended to change the Parcels currently classified as Tier 4 – System Optional Areas for Sussex County Parcel Nos. 533-11.00-23.00, 23.03 and 23.04 from the Tier 4 – System Optional Areas Sewer Tier designation to the Tier 2 – Sussex County Planning Area designation; Sussex County Parcel Nos. 533-11.00-23.00, 23.03 and 23.04 so changed as identified in Exhibit A, attached hereto and incorporated herein.

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

TO BE REINTRODUCED



Exhibit A
Ord. 22-10 - Proposed Sewer Tier Amendment from
Tier 4 "System Optional Areas" to Tier 2 "Sussex
County Planning Area"
Tax Parcels: 533-11.00-23.00, 23.03 & 23.04



Sewer Tiers

Sewer Tiers

- Tier 1 - Sussex County Unified Sanitary Sewer District
- Tier 2 - Sussex County Planning Area
- Tier 3 - Coordinated CPCN Areas
- Tier 4 - System Optional Areas
- Tier 5 - Regulated On-site Area

ParcelsWithOwnerFeature

- TaxParcels

ROW DB 4266-125 & 128

0 0.02 0.04 0.08 0.12 0.16 Miles

Parcel B

Sussex County, Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap and the GIS user community, Sussex County Mapping and Addressing, Sources: Esri, HERE, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community

To Be Introduced: 01/10/23

Council District 4: Mr. Hudson
Tax I.D. No. 533-20.00-22.00 & p/o 20.00
911 Address: N/A

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (23 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 9.20 ACRES, MORE OR LESS

WHEREAS, on the 27th day of April 2022, a Conditional Use Application, denominated Conditional Use No. 2368 was filed on behalf of Carl M. Freeman Companies; and

WHEREAS, on the ____ day of _____ 2023, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2368 be _____; and

WHEREAS, on the ____ day of _____ 2023, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article V, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2368 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on the north side of Lighthouse Road (Route 54) and the west side of Bennett Avenue, approximately 350 feet west of Madison Avenue and being more particularly described in the attached legal description prepared by Scott and Shuman, P.A., said parcel containing 9.2 acres, more or less.

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



Memorandum

To: Sussex County Council
The Honorable Michael H. Vincent
The Honorable Cynthia C. Green
The Honorable Douglas B. Hudson
The Honorable John L. Rieley
The Honorable Mark G. Schaeffer

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

CC: Everett Moore, County Attorney

Date: January 6, 2023

RE: County Council Report for C/U 2328 filed on behalf of Sunrise Solar

The Planning and Zoning Department received an application (C/U 2328 filed on behalf of Sunrise Solar) for a Conditional Use for parcel 230-13.00-121.00 for a 5.8 megawatt ground-mounted solar farm. The property is located at on the north side of Fleatown Road (S.C.R 224) and on the west side of Clendaniel Rd (S.C.R. 38), approximately 0.5 mile east of Greentop Road (S.C.R. 225). The parcel size is 32.9 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on November 3, 2022. At the meeting of November 17, 2022, the Planning & Zoning Commission recommended approval of the application for the 8 reasons stated and subject to the 10 recommended conditions as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meetings of November 3, 2022 and November 17, 2022.

Minutes of the November 3, 2022 Planning & Zoning Commission Meeting

C/U 2328 Sunrise Solar

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A 5.8-MEGAWATT GROUND-MOUNTED SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 32.90 ACRES, MORE OR LESS. The property is lying on the north side of Fleatown Road (S.C.R. 224) and on the west side of Clendaniel Pond Road (S.C.R. 38), approximately 0.50 mile east of Greentop Road (S.C.R. 225). 911 Address: N/A. Tax Parcel: 230-13.00-121.00.



Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Exhibit Booklet, Site Plan, Staff Analysis, a letter from Sussex County Engineering Department Utility Planning Division, and a letter from the Department of Fish & Wildlife. Mr. Whitehouse advised the Commission that one mail return and no comments were received for the Application.

The Commission found that Mr. Richard Stoltzfus, CEO of Sunrise Solar, spoke on behalf of his Application; that also present were Mr. Tony Stefon with Standard Solar, Mr. Julian Pellegrini, P.E. with PELSA Company, Inc., as well as Mr. Bob Smith and Mrs. Doris Smith who are the owners of the property; that Standard Solar is the investor of the project; that the proposed use is for a community solar project; that community solar in Delaware is fairly new; that the proposed solar project will service approximately 865 homes; that a portion of the project will be for low-income and there are three different tiers the solar project will cover.

The Commission found that Mr. Julian Pellegrini spoke on behalf of the Application; that he is the Project Engineer for the Application; that the property is approximately 57-acres; that the property is located on the northside of Flea Town Rd., just west of Cedar Creek Estates; that the site is slightly past Clendaniel Pond Rd.; that the proposal is for a 5.8-megawatt, ground mounted, community solar field; that the project would be capable of powering approximately 850 homes; that there will be a gravel entrance off of Clendaniel Pond Rd.; that the entrance has already been approved by DelDOT; that there is a small area of trees located in the center of the site, where the solar field is proposed; that the trees are required to be removed for the proposed use; that they propose to add a landscape buffer to the southern and eastern boarder of the site; that wildflowers and/or agrovoltaic farming are proposed to be planted under the solar panels; that agrovoltaic farming is likely to include sheep on the site and the sheep will keep the grass levels down on the site.

Mr. Mears questioned the life expectancy of the solar panels and the plan for the removal of the equipment.

Mr. Tony Stefon stated the life expectancy for the project is 30 years to 35 years; that typically, inverters are most likely to require replacement, as they have a 15-year life expectancy; that Standard Solar provides the financing, as well as some of the engineering and permitting for the project; that the solar panels degrade slightly, at .6% annually; that the solar panels do not typically need replacing, unless there is an economic benefit from retrofitting equipment and an economic decision would be in the circumstance more advance technology became available.

Ms. Wingate questioned if the project would generate noise and fencing was proposed around the entire project.

Mr. Stoltzfus stated the noise generated by the project would be minimal; that the only equipment that would make noise would be the inverters; that the generated noise would be a very low hum; that the noise would not be able to be heard from individual houses; that they are required to have a fence; that they currently have a facility located at the packing plant for Fifers Orchard in Woodside, Delaware; that the facility has had a lot of success with sheep at that property and there is a local business in Sussex County, who will provide the agrovoltaic service and the management of the sheep.

Chairman Wheatley stated the agrovoltaic farming with sheep was an interesting idea and that the use of a pasture would be permitted in the AR-1 (Agricultural Residential) Zoning District.

The Commission found that Mr. Robert Smith spoke in support of the Application; that he is the current owner of the property; that he is in a trust with his daughters; that he has had many propositions to purchase his land for housing development and chicken houses; that they do not wish to have a housing development or chicken houses located behind them; that they are in favor of the proposed use for solar panels; that it will provide income for himself, his children, his grandchildren, and great-grandchildren and at the end of 35 years, his family will still own the property.

The Commission found that Mr. Derek Jones spoke with some concerns about the project; that he had concerns regarding any harmful impacts from glaring; that he questioned if the project would create any additional heat toward his home; that he is not in opposition to the Application; that he does feel the Application is a good idea; that he questioned if a landscape buffer could be placed along the north side of the project; that he did have concerns to noise generated by the project and the location of the regulators.

Mr. Stefon stated they are required to file with the FAA (Federal Aviation Administration) who will perform a desktop analysis for the site, and he will need to discuss Mr. Jones' concerns with the engineers to see if any testing can be performed in regard to the concerns.

Mr. Stoltzfus stated solar farms are frequently constructed around airports; that glaring is not typically an issue; that there are trees, approximately 60-ft. in height, currently located on Mr. Jones's property, along the north side of the site; that they would be willing to address the issue if Mr. Jones would like additional landscaping to be placed along the north side of the property; that they are open to discussion regarding the issue; that the solar panels put off very little heat; that the sheep will typically spend the majority of their day underneath the solar panels, even on a 100-degree day; that if there was an issue with excessive heat, there would be no presence of vegetation under the panels and that the solar panels track from east to west.

The Commission found that Mr. John Poulson spoke with questions regarding the Application; that he believes the topography of the site a high point near the center of the property; that the property slopes to the low point, with his property being the lowest point adjacent to the site; that all of the current property is farmland; that the property is currently impervious soil; that all of the water runoff would penetrate the soil and be absorbed; that he has had three to four occasions where the low area became flooded; that he questioned if the water runoff from the solar panels would become concentrated, creating more of a runoff; that he questioned if there was a grading plan proposed; that he had concern regarding electromagnetic frequencies; that electromagnetic frequencies can cause headaches, difficulty sleeping and nausea; that he did have concern to noise from the project; that he had concern to the landscape buffer; that he questioned the impact the use would have on adjacent property values; that he questioned if a study had been performed in regards to property values adjacent to solar farms; that he questioned if the only maintenance will be performed by the sheep; that he questioned the stability of the developer and he questioned if there were any benefits to adjacent property owners.

Chairman Wheatley stated the Applicant will be required to submit a site plan for approval, which will require a grading plan.

The Commission found that Mr. Terry Jester spoke with questions regarding the Application; that he stated there is a large difference if the topography where the solar panels are proposed to be placed;

that there has been flooding in the past with large amounts of rain; that he questioned if any improvements are proposed for the topography of the site and how it would impact his property; that he expressed concern to the noise generated from the project and there is a right-of-way, located on his property, adjacent to the site.

The Commission found there was no one present by teleconference who wished to speak in support or opposition to the Application.

Chairman Wheatley questioned if there was any community outreach or community meeting to discuss the proposed use with nearby properties.

Mr. Stoltzfus stated no community meeting was held related to the Application.

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 2328 Sunrise Solar. Motion by Mr. Hopkins to defer action for further consideration, seconded by Mr. Mears and carried unanimously. Motion carried 3-0.

Draft Minutes of the November 17, 2022 Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since November 3, 2022.

Mr. Robertson read Mr. Hopkins' prepared motion per Mr. Hopkins' request.

Mr. Hopkins moved that the Commission recommend approval of C/U 2328 Sunrise Solar for a solar farm in the AR-1 District based on the record made during the public hearing and for the following reasons:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
2. The owner of the property has testified that this is an adaptive use of his farmland that will preserve it from more intensive development. It will remain open and maintain its fundamental agricultural function through sheep grazing on the property to maintain vegetation.
3. The proposed facility promotes Goal 7.9 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar farms.
4. With the conditions imposed in this recommendation, the proposed use will not have any adverse impact on the neighboring or adjacent properties.
5. The proposed solar generation facility will not result in any noticeable increase in traffic on adjacent and neighboring roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
6. Based upon the testimony in the record, it is evident that no significant noise, dust, or odor will be generated by the facility.

7. There will be a buffer to screen the view of the solar farm from the nearby residential properties while allowing the solar arrays to function properly.
8. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
9. This recommendation is subject to the following conditions:
 - a. The use shall be for a ground-mounted solar farm. No other types of electric generation shall be permitted at the site.
 - b. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. All lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - c. One unlighted sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.
 - d. The site shall be secured by fencing with a gate with a “Knox Box” or similar device to accommodate emergency access by the local fire company or other emergency responders. The fence line shall be shown in the Final Site Plan.
 - e. Any transformers or similar equipment shall be centrally located on the site away from any nearby residential uses.
 - f. All of the grounds, including the area outside of the fence, shall be maintained so that they do not become overgrown.
 - g. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated in a manner consistent with Best Management Practices.
 - h. The Final Site Plan shall include the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
 - i. The site’s boundaries that are adjacent to residential uses shall have a buffer planted and maintained in such a manner as to screen the view of the solar farm from the residential properties while allowing the solar arrays to function properly. This buffer and the landscaping within it shall be shown in the Final Site Plan.
 - j. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Hopkins, seconded by Ms. Wingate and carried unanimously to recommend approval of C/U 2328 Sunrise Solar for the reasons and conditions stated in the motion. Motion carried 4-0. Ms. Stevenson abstained.

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

PLANNING & ZONING COMMISSION

ROBERT C. WHEATLEY, CHAIRMAN
KIM HOEY STEVENSON, VICE-CHAIRMAN
R. KELLER HOPKINS
J. BRUCE MEARS
HOLLY J. WINGATE



Sussex County

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JAMIE WHITEHOUSE, MRTPI, AICP
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: November 3rd, 2022

Application: C/U 2328 Sunrise Solar

Applicant: Sunrise Solar (c/o: Dan Baugher)
6408 Church Hill Road
Chestertown, MD 21620

Owner: Donna Smith
19325 Fleatown Road
Lincoln, DE 19960

Site Location: Clendaniel Pond Road, Lincoln, Delaware 19960. The property is lying on the north side of Fleatown Road (S.C.R. 224) and on the west side of Clendaniel Pond Road (S.C.R. 38), approximately 0.50 mile east of Greentop Road (S.C.R. 255).

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

Proposed Use: 5.8-Megawatt ground mounted Solar Array for a Community Solar Project

Comprehensive Land
Use Plan Reference: Low Density

Councilmanic
District: Ms. Green

School District: Milford School District

Fire District: Ellendale Fire Department

Sewer: N/A

Water: N/A

Site Area: 22 acres +/- (per C/U Site Plan)

Tax Map ID.: 230-13.00-121.00





Memorandum

To: Sussex County Planning and Zoning Commission Members
From: Chase Phillips, Planner II
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: October 25th, 2022
RE: Staff Analysis for CU 2328

The purpose of this memo is to provide background and analysis for the Planning and Zoning Commission to consider as a part of Application CU 2328 (Sunrise Solar) to be reviewed during the November 3rd, 2022, Planning and Zoning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcel: 230-13.00-121.00 to allow for a 5.8MW solar farm. The property is lying on the north side of Fleatown Road (S.C.R. 224) and on the west side of Clendaniel Pond Road (S.C.R. 38), approximately 0.50 east of Greentop Road (S.C.R. 225). This solar farm will be established on a 22-acre portion of a parcel that is approximately 57 acres in 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 "Low Density." The adjoining parcels to the north, west, east, and south also have a Future Land Use Map designation of "Low Density".

As outlined in the 2018 Sussex County Comprehensive Plan, Low Density Areas are intended to support agricultural uses and low-density single-family housing. Specifically, the Comprehensive Plan states that single family homes have a density of up to two dwelling units to the acre. It is envisioned that the Low-Density Areas allow for businesses that support nearby residents and the agricultural economy. More intense commercial uses could be limited in scale and impact. While residential growth is expected, the Comprehensive Plan intends for the rural landscape to be maintained and for farmland to be preserved in select locations.

Zoning Information

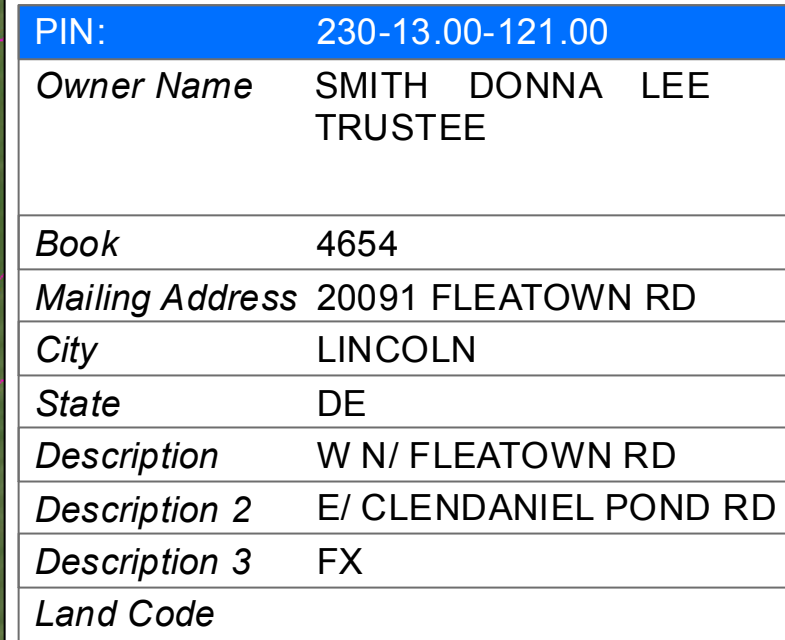
The subject property is zoned Agricultural Residential (AR-1) District. All adjacent properties to the north, west, east, and south of the subject property are zoned Agricultural Residential (AR-1) District.

Existing Conditional Uses within the Vicinity of the Subject Property

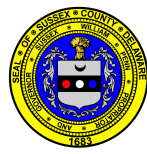
Since 1972, there have been three (3) Conditional Use applications within a one (1) mile radius of the application site.

Conditional Use No. 2047, which allows for equipment storage and a contracting business, was approved by the Sussex County Council on June 21st, 2016, through Ordinance No. 2454. This is located on Tax Parcel 230-13.00-148.00. Conditional Use No. 362, which allows for a radio tower and equipment building, was approved by the Sussex County Council on July 13th, 1976. Conditional Use No. 186, which extended a Mobile Home Park, was approved by the Sussex County Council on February 5th, 1974. This is the Cedar Village Mobile Home Park.

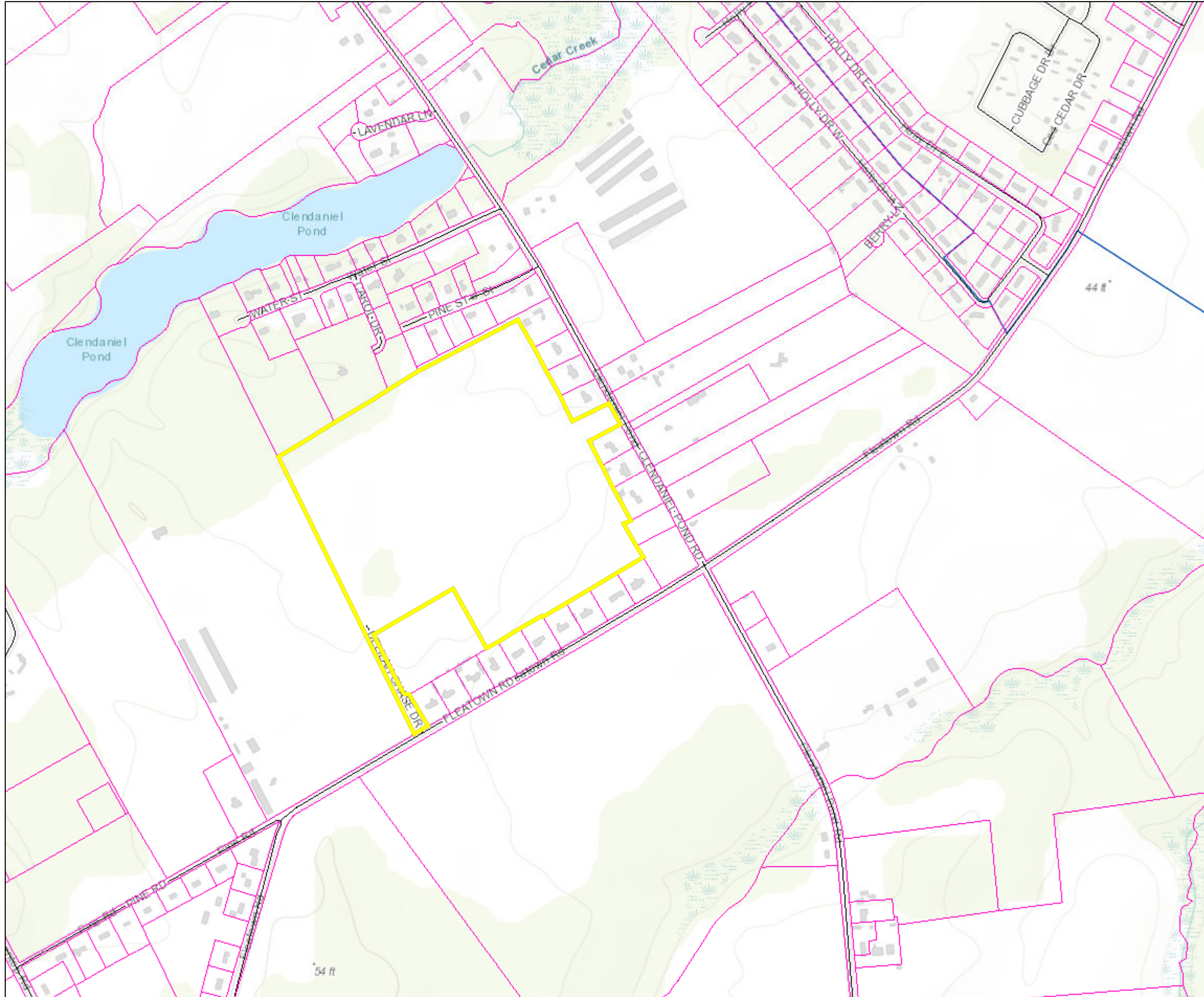
Based on the analysis provided, the Conditional Use to allow for a gunsmithing business in this location could be considered as being consistent with the surrounding land use, zoning, and uses, subject to considerations of scale and impact.



DOE School Districts

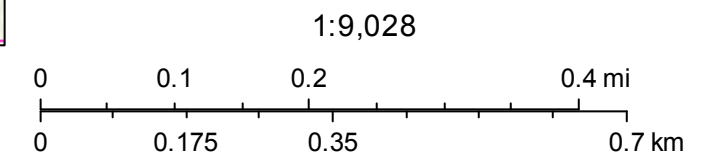


Sussex County



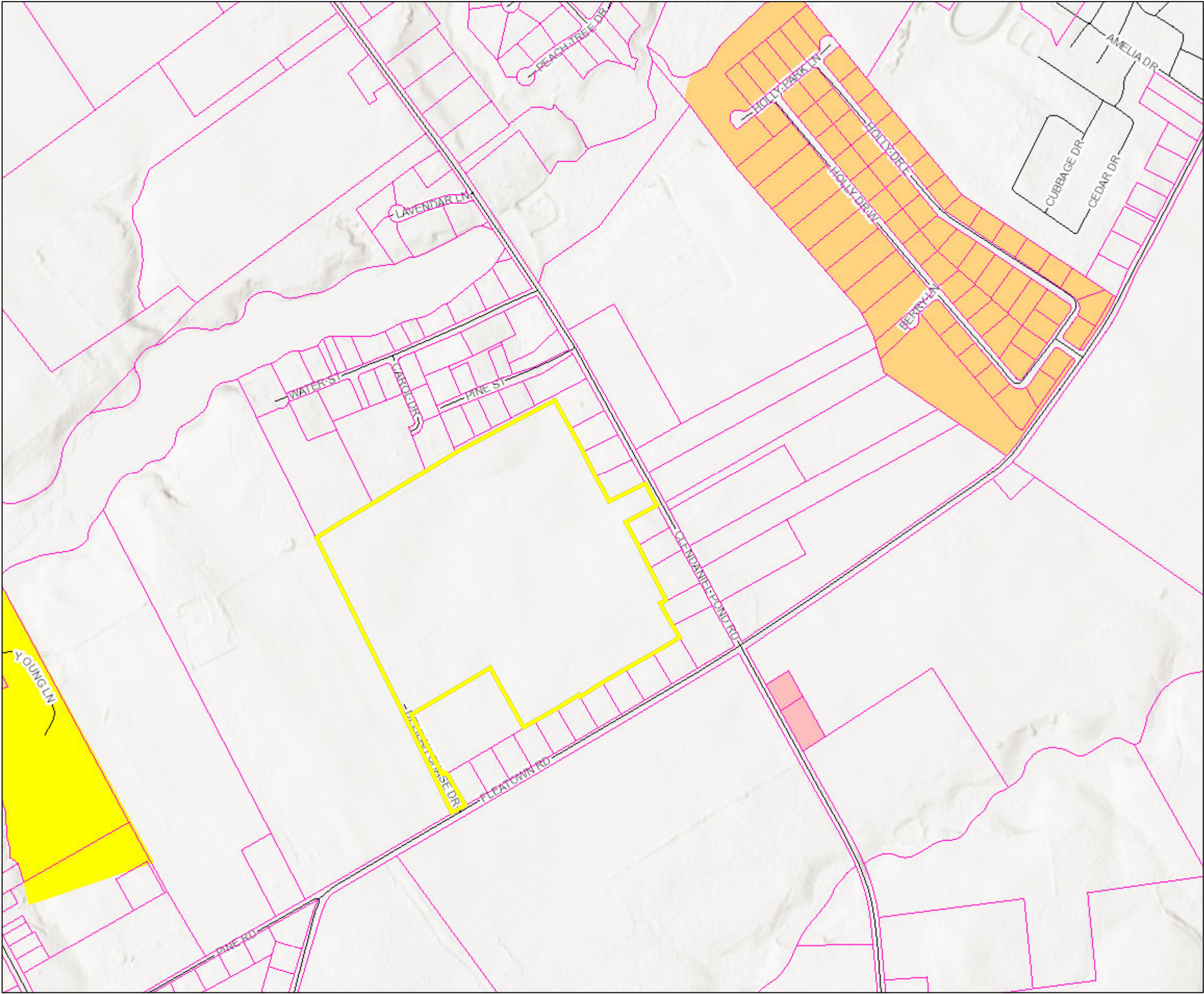
PIN:	230-13.00-121.00
Owner Name	SMITH DONNA LEE TRUSTEE
Book	4654
Mailing Address	20091 FLEATOWN RD
City	LINCOLN
State	DE
Description	W N/ FLEATOWN RD
Description 2	E/ CLENDANIEL POND RD
Description 3	FX
Land Code	

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





Sussex County

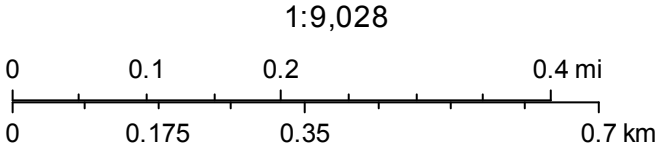


PIN:	230-13.00-121.00		
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- polygonLayer

Override 1
- polygonLayer

Override 1
- Tax Parcels
- Streets



Reintroduced: 10/11/22

**Council District 2: Mrs. Green
Tax I.D. No.: 230-13.00-121.00
911 Address: N/A**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A 5.8 MEGAWATT GROUND MOUNTED SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 32.90 ACRES, MORE OR LESS

WHEREAS, on the 24th day of November 2021, a conditional use application, denominated Conditional Use No. 2328 was filed on behalf of Sunrise Solar; and

WHEREAS, on the ____ day of _____ 2022, 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. 2328 be _____; and

WHEREAS, on the ____ day of _____ 2022, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2328 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Cedar Creek Hundred, Sussex County, Delaware, and lying on the north side of Fleatown Road (S.C.R. 224) and on the west side of Clendaniel Pond Road (S.C.R. 38), approximately 0.50 mile east of Greentop Road (S.C.R. 225) and being more particularly described in the attached legal description prepared by The Pelsa Company, said parcel containing 32.90 acres, more or less.

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



Memorandum

To: Sussex County Council
The Honorable Michael H. Vincent
The Honorable Cynthia C. Green
The Honorable Douglas B. Hudson
The Honorable John L. Rieley
The Honorable Mark G. Schaeffer

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

CC: Everett Moore, County Attorney

Date: January 6, 2023

RE: County Council Report for C/U 2329 filed on behalf of Thomas Drgon Trustee

The Planning and Zoning Department received an application (C/U 2329 filed on behalf of Thomas Drgon Trustee) for a Conditional Use for parcel 134-21.00-14.07 for a boat restoration business. The property is located at 37230 Dirickson Creek Road, Frankford. The parcel size is 6.2 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on November 3, 2022. At the meeting of November 17, 2022, the Planning & Zoning Commission recommended denial of the application for the 7 reasons as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meetings of November 3, 2022 and November 17, 2022.

Minutes of the November 3, 2022 Planning & Zoning Commission Meeting

C/U 2329 Thomas Drgon Trustee

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BOAT RESTORATION BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 6.20 ACRES, MORE OR LESS. The property is lying on the southwest side of Dirickson Creek Road (S.C.R. 364B), approximately 0.23 mile southeast of the intersection of Millers Neck Road (S.C.R. 364A) and Dirickson Creek Road (S.C.R. 364B). 911 Address: 37230 Dirickson Creek Road, Frankford. Tax Parcel: 134-21.00-14.07.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Conceptual Site Plan, the Staff Analysis, Exhibit Book, the DelDOT Service Level Evaluation



Response, the Applicant's proposed Findings, and Conditions, and a letter from Sussex County Engineering Department Utility Planning Division. Mr. Whitehouse advised the Commission that two mail returns and 24 letters of opposition had been received and that all comments received after the publication of the paperless packet had been physically circulated to the Commission.

The Commission found that Mr. Tim Willard, Esq., with Fuqua, Willard & Schab, P.A., spoke on behalf of the Application; that also present were Mr. Thomas Drgon, owner of the property and Mr. Edward Launay, with Environmental Resources, Inc.; that the request is for a Conditional Use; that a Conditional Use does allow for a use which is not permitted by right, to be performed subject to compliance to the Conditions set by the Commission; that the property consists of 6.46 acres, located on Dirickson Rd.; that there are tidal and non-tidal wetlands located on the property; that historically the front of the property was farmed; that the land did lie dormant for some time; that the Army Corp of Engineers did review the property, per the Applicant's request when purchasing; that the Army Corp of Engineers did determine that a portion of the wetlands had been filled by the previous owner; that the Applicant did receive a permit to remove soil from the filled wetlands; that the Applicant used the removed soil to fill other areas on the property; that the Applicant originally purchased the property with a pre-existing issue and took the measures necessary to correct the issue, after obtaining permission from the U.S. Army Corp of Engineers; that the Applicant improved the property; that the Applicant has lived within Sussex County for 25 years, where he has performed work on boats; that the Applicant currently rents a property along the canal in Rehoboth; that the Applicant also works for Indian River Marina; that the Applicant does not perform work to boat engines; that the Applicant does restore boats; that the boat work does include fiberglass, restoration, wiring and detailing; that the Applicant desires to perform his boat work, for his private customers at the subject property; that an accessory building is currently being constructed on the site; that the Applicant intends to construct a dwelling on the property as well; that the accessory building is 48' x 100' pole building; that the accessory building is where the boat work and restoration would be performed; that the property is unique as it is adjacent to Dirickson Creek; that the dwelling would be located closer to the water on pilings; that the pole building will be climate controlled with insulation; that the property is located within the Coastal Area according to the Future Lands Use Map; that the Coastal Area allows for light commercial uses when located to convenient nearby demand; that the Comprehensive Plan encourages tourism, recognizing recreation as a key industry to eastern Sussex County; that the Applicant's request is a modest business, which compliments all the boating activity in the area; that there is a high demand for boating in the area; that the Coastal Area is considered a Growth Area; that in the previous recommended approval for C/U 2237, the Commission found that the Comprehensive Plan stated that *the eastern portion of Sussex County is characterized by popular oceanside, seasonal, and vacation towns, that Sussex County is draw for seasonal visitors and tourism, which has become an indispensable part of local economy*; that the Future Land Plan encourages tourism; that in 2015, tourism spent 1.8 billion dollars; that the tourism sector employees 19,000 individuals; that the Future Land Use Plan also encourages recreation; that Sussex County is famous for beaches, boating launches and access to the ocean and Island Bays; that the C/U 2237 Samuel Warrington, III was a similar Conditional Use request and was previously approved; that the zoning is AR-1 (Agricultural Residential) in the immediate nearby areas; that there is MR (Medium-Density Residential) Zoning located across Dirickson Creek; that GR (General Residential) is located to the north side of Millers Rd.; that north of Dirickson Creek is the Estuary community, which is a large subdivision; that there are a lot of residents in the area, which support the demand for the boat repair and restoration in the

area; that the property is surrounded by residential homes; that the Commission previously recommended approval for C/U 2100 permitting the use of a flower shop in the nearby area; that the Applicant does perform some fiberglass work; that the Applicant does not mold boats; that there is some grinding and solvents involved in the work; that the pole building will be able to house five to ten boats; that the boats will be trailered to the property; that the boats are intended to be 25-ft or less; that the pole building will be insulated with foam; that if sanding or grinding of fiber glass is required, the Applicant has a five horse powered cyclone dust collector; that the Applicant has been performing his work for years using the dust collector; that the Applicant denies having any side effects or health issues from his work; that the Applicant will not house any solvents over five gallons; that all chemicals are stored in a secured area within the pole building; that there were letters of opposition submitted with concern to traffic; that all boats being brought to the property will be by appointment only; that the hours of operation will be limited to 8:00 am to 5:00 pm; that the Applicant proposes the condition that no more than 10 boats may be stored on the property; that the majority of the boats would be stored in the pole building; that there was some opposition submitted regarding the Applicant's rented property in Rehoboth; that the landlord is McGinnis, who is a contractor/mechanic who has been at the location for a long time; that the Applicant rents portions of the property; that there is equipment which has been stored there for many years, which is not owned by the Applicant, as he only rents the property; that the Applicant does not have total control of what is located on his rented property; that this is a reason for the Applicant's Conditional Use request; that he did submit amended proposed Conditions of Approval, which include the use shall be limited to the restoration repair of boats within a 100' x 48' accessory building and in the designated boat parking areas within the designated business hours as provided on the site plan; that all work shall be performed with accepted environmental practices; that a raised berm shall be constructed and planted with evergreens along the frontage of the property; that no more than 10 boats, on trailers, shall be parked outside of the accessory building or the designated parking areas; that all business hours shall be by appointment; that hours of operations would be 8:00 am to 6:00 pm, seven days per week; that one lighted and permitted sign shall be located at the entrance of the property and located on the site plan; that one fenced dumpster shall be located on the site plan; that all security lighting shall be shielded and downward screened; that no hazardous material will be stored outside of the secured accessory building; that all necessary agency approvals and permitting shall be obtained; that the Final Site Plan shall be submitted for the review and approval by the Planning & Zoning Commission; that there is a bed & breakfast located across the street from the property; that the Applicant does understand and respect the concerns of his neighbors and the Applicant desires to be a good neighbor while providing his service to the area.

The Commission found that Mr. Edward Launay, with Environmental Resources, Inc. spoke on behalf of the Application; that he is an Environmental Consultant and Wetland Scientist; that he previously obtained the necessary permits from the U.S. Army Corp of Engineers for the property; that as part of the consultation for the Army Corp of Engineers permit, he did contact U.S Fish & Wildlife and DNREC; that there were no concerns regarding rare, endangered or threatened species on the site; that in his work dealing with marinas, he is familiar with environmental concerns; that a marina is considered anything over four boats; that marinas are required to comply with DNREC operations and maintenance plans; that in circumstances where boat sanding or grinding is performed outdoors, a tarp is required to be placed underneath of the boat the work is being performed on; that once the work is completed, the material is swept up from the tarp, or the tarp is folded up, brought indoors

to be cleaned; that the tarp placement is the current standard for best management practices for outdoor work to boats; that the tarp practice is performed in many boatyards throughout the County; that there is not a large concern regarding runoff as the majority of the matter is contained on the tarp; that the subject site is fairly impervious; that the pole barn is a long distance from the waters of Dirickson Creek; that there is a good amount of integrating woods and wetlands; that he does not feel there is a great deal of runoff from the subject property and does not have any particular environmental concerns.

The Commission found that Mr. Thomas Drgon spoke on behalf of his Application; that he is the owner of the property, and he agreed that the statements made by Mr. Willard were true to the best of his knowledge.

Mr. Mears questioned if there were any hazards related to fiberglass resin, hardener, fiberglass cleaning chemicals, such as acetone, if there is any recommended common practice when using those types of chemicals, where most of the work is performed, if the Applicant will have an air filtration system, hours of operations, the total numbers of boats on the property at a time and the number of employees.

Ms. Wingate stated photos were submitted of flooding on the property; that she questioned when the fill work was performed on the property; that she questioned if there had been flooding on the property since the grade changes had been made, if the Applicant had a service scheduled to remove chemical waste from the property, if DelDOT had any requirements for the project and she had concerns regarding the size of the roadway and with the road being a dead-end.

Mr. Hopkins questioned the location of the Cyclone exhaust, the frequency that Mr. Drgon may use a tarp outside for work, if adjacent properties would be able to view the boats stored on the site, and if a sign is proposed.

Mr. Launay stated the common practice is that the chemicals be stored within an secure, locked, indoor area; that the Applicant does not propose to have a large amount of material onsite; that the majority of the work will be performed inside the building; that he understood the Applicant had invested over \$10,000 for the specialized equipment to clean and control the dust while working; that if the Applicant were to perform work outside, the best management practice is to place a tarp underneath of the boat; that this is the required practice the Applicant currently performs when working for the State marina; that when the Applicant purchased the property, the previous owner had placed fill on the property; that the property was farmed previously, and would not be considered wetlands at that time; that farming became abandoned for a significant amount of time; that the Army Corp of Engineers then began to consider the property differently; that the field area, as you move further away from the road, can pond from time to time; that the property does not have ditches to convey the water properly; that this is not an issue in the area of the pole barn; that the previous owner had filled the rear of the property without a permit; that Mr. Drgon then purchased the property; that the Army Corp inspected the property; that an agreement was made regarding the wetland boundary; that the fill placed within the designated wetland area was removed; that the Army Corp of Engineers did provide a letter stating the designated wetland boundary and stating any violation found on the property had been resolved; that Mr. Launay then applied and obtained on the Applicant's behalf, a permit from the Army Corp of Engineers to fill 1/10 acre of the property; that the filled area is the

location where the driveway will access the house; that the house will be placed on pilings and some fill placed to construct the driveway around the pole building.

Mr. Drgon stated most of his work is performed within the pole building, that he does have the Cyclone air purifier vacuum system; that the system has a large filter; that generally his work hours are from 8:00 am until 5:00 pm; that the work proposed on Saturdays and Sundays would be for clients delivering or picking up their boats; that he proposed eight to ten boats be located on the property at one time; that he will not have any employees; that the fill work was performed upon obtaining the permit in February 2022; that any used liquid products are catalyzed into a solid; that this allows him to discard the material into the trash; that these materials can be compared to a fiberglass bathtub in a residential home; that he has a large entrance to the property; that he did have the State place the maximum sized pipe allowed; that the Cyclone exhaust is located inside; that the Cyclone filters the air, recycling the air back into the building; that the Cyclone is a vacuum system located in close proximity to grinding work; that he intends to perform mostly wet-sanding and buffing work; that he does perform grinding and sanding work for Indian River Marina; that the boat parking area is reflected in yellow on the submitted conceptual site plan; that the pole barn is 48' x 100' and one unlit sign is proposed for the property.

Mr. Willard stated DelDOT did provide a letter stating no Traffic Impact Study (TIS) was required, as less than 50 vehicle trips were proposed; that the property entrance is designed to enter one way and exit from another; that the Final Site Plan is required to be reviewed by DelDOT prior to approval and the adjacent property, located to the south, is approximately 500-ft. away from the property at its closest point and the dwelling to the north is located in closer proximity.

The Commission found that Ms. Theresa Stevens spoke in opposition to the Application; that she also spoke on behalf of Ms. Dawn McGee; that her property is located within 200 yards of the proposed business; that the proposed Conditional Use will create substantial adverse impact on all adjacent and neighboring properties; that the proposed use is far outside of any permitted use, special use, accessory use or Conditional Use as described within the §115-28 of the Code; that she requested the Commission recommend denial of the Application as it will have an adverse impact on the physical, economic and social environment of her property, as well as other surrounding properties; that Dirickson Creek Rd. is a quiet, secluded, dead-end street; that all of the development on Dirickson Creek Rd. is mostly single-family residential with small children and pets; that there is one small, short-term rental Air B&B across the street; that the majority of the nearby homes, have some acreage associated with the home; that she and her neighbors often walk Dirickson Creek Rd. as it is a dead-end street with little traffic; that the only traffic on the road are the traveling neighbors; that the proposed business use would negatively impact and alter the quiet essential character of the neighborhood; that the proposed use will create significant traffic and loud noise; that the proposed use will be detrimental to the public welfare; that boat restoration businesses are known to use huge amounts of highly toxic chemicals, creating odors and high levels of dust that contain known hazardous particulates; that some of the chemicals associated with the proposed use are gasoline, antifreeze, cleaners, paints, organic peroxides, acid ketone peroxide, cobalt compounds and acetone; that although the Applicant will not be performing work to engines, the boats being delivered will have gasoline; that a 19-ft boat has a 50 gallon tank for gas; that she questioned how many gallons of gasoline will be stored within the 10 boats proposed to be onsite; that it was mentioned the dust from

the fiberglass sanding will be catalyzed; that catalyst is performed by a hazardous resin; that the chemicals are toxic, with some being carcinoids; that exposure to the chemicals can cause damage to the skin, lungs, nervous system and more; that workers in similar businesses wear full body suits, respirators and goggles while working; that when she is out in her yard, she will not be wearing the protective equipment; that she will be inhaling the chemicals on a regular basis; that she does have personal knowledge of the property; that a previous owner of the property lived in Florida; that she cut the property, every other week, from March until October, for almost three years; that the property is constantly under water; that the water runoff runs into Dirickson Creek and the tax ditch along all of the residential properties; that a boat restoration business will devastate nearby property values; that nearby residents do not have industrial infiltration systems; that it is unacceptable for boat restoration dust to settle on and in nearby homes; that in §115 of the Code, light commercial is referred to as a marina or horse-riding facilities; that a boat restoration business was not included as a light commercial use; that the Air B&B located across the street, is closer to a residential use than any other commercial use; that the residents of Dirickson Creek argued against the Air B&B holding parties on a regular basis due to concerns of noise and traffic; that the previous request for an event venue was denied; that the current proposed use is greater than the use which was previously denied; that the boat restoration proposal is not desirable for the general convenience and welfare of the public and does not rise to the level of requiring allowance by the Commission or County Council.

Chairman Wheatley recused himself from the meeting and left Council Chambers. Ms. Wingate was appointed Madam Chair for the remainder of the meeting.

The Commission found that Mr. Walt Mitchell spoke in opposition to the Application; that the subject property currently has an approximately 5,000 sf steel building within 100-ft. of their back deck; that he does not consider the building to be a pole building; that the steel building has cement footers and iron girders; that he considered the building a commercial warehouse; that Dirickson Creek Rd. is a short road and a dead-end street, with 25 single-family homes and one bed & breakfast located along the street; that the residents are made up of families with small children and retired couples; that they own a business within the local area; that the proposed property is the worst possible area for the placement of an industrial fiberglass repair business; that they are concerned about the noise from grinding and repair and the odor from the chemicals; that the placement of the dumpster will be located across from their living room; that the garage doors will also be facing their living room; that they are concerned about the decrease in their property value; that he does believe the proposed use would negatively impact the property values for everyone along Dirickson Creek Rd.; that he does not feel a boat restoration business will promote tourism for the area and the proposed use is no comparison to the use of a flower shop.

The Commission found that Mrs. Jenifer Adams-Mitchell spoke in opposition to the Application; that the Applicant's property is 6.4 acres; that the Applicant's 4,000 sf commercial garage is located less than 100 ft from her house; that the commercial dumpster will be located even closer to her home; that at 5:00 am, the trash truck will rumble up the driveway, beeping as it backs up, lifting and banging while dumping the trash and then compacted, less than 100 ft. from her home; that a fiberglass repair business hardly qualifies as a light commercial use; that she is concerned with potential noise, dust and exposure to toxic chemicals; that fiberglass dust is flammable; that all residents along Dirickson Creek Rd. are on well water; that the Applicant's property is extremely prone to flood; that the property

drains to Little Assawoman Bay; that any business using toxic chemicals should not be allowed on land that drain into the Inland Bays; that there are existing commercial areas, zoned for the proposed use and those areas are where the Applicant's business belongs.

The Commission found that Mr. Garth Troescher spoke in opposition to the Application; that he and his wife previously applied and were denied a Conditional Use for the use of an event venue; that at the time of their public hearing, all the neighbors along Dirickson Creek Rd. attended in opposition to a wedding venue; that he learned later to respect what his neighbors wanted; that he owns a construction business; that his office and business are located at another location; that the proposed business does not belong within a residential neighborhood; that he feels the proposed use is a much more intense use and should not be permitted if his lesser use could not be permitted; that he believes two culvert pipes have been placed, not one as stated by the Applicant; that there are two entrances to the property; that he also agrees with the concerns previously stated; that he questioned if the Commission had reviewed the building permit for the garage currently being constructed on the property; that he questioned the need for a sign if the proposed use is for private clients only and a sign would only increase the traffic and issues.

The Commission took a two-minute recess from 6:44 pm until 6:46 pm.

The Commission found that Mr. Pat Welch spoke in opposition to the Application; that he can clearly hear the noise created by the current construction of the steel building; that sounds echo and carry across the water; that they will be able to hear the noise generated by the proposed work; that he owns a construction company that performs carbon fiber work; that the chemical smell does carry; that his employees do wear suits and respirators; that he also has containment units for the dust created from grinding; that there is nothing to prevent the smells traveling to other properties; that he chose his property for the quiet and peaceful nature of the area; that he previously spoke in opposition to Mr. Troescher's application for a wedding venue; that he questioned if the steel building was permitted; that the description of a pole barn is constructed of wood with metal coverings; that the current building does not meet the pole barn description and the proposed use is not appropriate for the area.

The Commission found that Mr. Joe Smith spoke in opposition to the Application; that he frequently walks the road with his dog and his two grandsons; that the resident's safety should not be put at risk; that the area is residential; that there is no room for the proposed use; that he agrees with all the other concerns previously mentioned and the property frequently floods.

The Commission found that Ms. Dawn McGee spoke in opposition to the Application; that her property is located east of the site; that she recently went to France; that before leaving, she was under the assumption, there would a pole barn with an apartment placed on the property; that when she arrived home, she saw the construction of an industrial warehouse; that the building is 100-ft. in length adjacent to her property; that she is 300-ft from the building; that her neighbors are approximately 100-ft. from the building; that the building is inappropriate being placed in the middle of a neighborhood; that she questioned how a warehouse was built before the house; that the property floods about 10 times per year; that at times the flooding is so severe, it adjoins all six of their properties under water and all the runoff from the proposed use will go into the bay; that the creek floods constantly and she was upset that a warehouse could be built without input from the neighbors.

The Commission found that Ms. Maria Lopez spoke in opposition to the Application; that there is no way the proposed business can be located so close to the water; that she owns six acres; that the rear portion of her property is wetlands, which prohibits her from developing the area; that her property is located adjacent to the Assawoman Preserve; that three of her children take the bus to school; that the bus stop is located at the end of Dirickson Creek Rd.; that the children walk to and from the bus stop; that the Applicant stated more pick up and deliveries will be on the weekends; that the children are off from school on the weekends, often walking or riding along the road; that the area is for residential, not for commercial use; that the chemicals will runoff into the water and will spread through the air and she requested the Conditional Use be denied.

The Commission found that Mr. Robert Luca and Ms. Kimberly Flynn spoke via teleconference agreeing to the mentioned concerns, as well as concerns regarding consistency with the character of the area, environmental impacts, and the inconvenience and mess created by tractor trailers currently using their yards to turn around on the street.

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 2329 Thomas Drgon Trustee. Motion by Mr. Mears to defer action for further consideration, seconded by Mr. Hopkins and carried unanimously. Motion carried 3-0.

Draft Minutes of the November 17, 2022 Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since November 3, 2022.

Mr. Mears moved that the Commission recommend denial of C/U 2329 Thomas Drgon Trustee for a boat restoration business based on the record made during the public hearing and for the following reasons:

1. The Applicant is proposing a boat restoration business along Dirickson Creek Road. The use is proposed to occur within a large 48-foot by 100-foot metal building with outdoor storage of boats awaiting service.
2. There was testimony in the record that Dirickson Creek Road is a dead-end residential street and there are no other businesses or similar uses located along this roadway. It is not suitable for the volume of commercial boat and trailer traffic that would be generated by this use.
3. The proposed use is a fairly intensive commercial use that will generate noise, dust, and possibly odors from the chemicals and compounds used. This would occur within close proximity to adjacent homes. This use, and the activities and noise generated by it, are not compatible with the surrounding residential community.
4. This recommendation for denial is consistent with the Board of Adjustment's denial of a much less intensive use in Case No. 12430. In that case, the Board denied a bed and breakfast and a wedding venue on this same road. Although that proposed use was much less intensive than boat restoration, the Board denied the variance because of concerns about noise, traffic, the character of the use, and other factors having an adverse effect on the neighborhood. Those same concerns exist with regard to this Application and support a denial of this Application.

5. There are other locations that are more appropriate for this use, including properties that are specifically zoned for Industrial, Commercial or Marine use. This intensive use is not appropriate within this residentially zoned area.
6. There was substantial testimony in the record, including testimony from a neighbor who resides in a home approximately 100 feet from the proposed building, that the use would adversely affect the character of the neighborhood based on traffic, noise, dust, and other similar concerns. I found this testimony to be compelling and that it supports a denial of this application.
7. For all of these reasons and others in the record, this application should be denied.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend denial of C/U 2329 Thomas Drgon Trustee for the reasons stated in the motion. Motion carried 4-0. Ms. Stevenson abstained.

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

PLANNING & ZONING COMMISSION

ROBERT C. WHEATLEY, CHAIRMAN
KIM HOEY STEVENSON, VICE-CHAIRMAN
R. KELLER HOPKINS
J. BRUCE MEARS
HOLLY J. WINGATE



Sussex County

DELAWARE
sussexcountyde.gov
302-855-7878 T
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: November 3rd, 2022

Application: C/U 2329 Thomas Scott Drgon, Trustee

Applicant: Thomas Scott Drgon (Trustee for the Tom Drgon Revocable Trust)
37230 Dirickson Creek Road
Frankford, DE 19945

Owner: Thomas Scott Drgon (Trustee for the Tom Drgon Revocable Trust)
37230 Dirikson Creek Road
Frankford, DE 199445

Site Location: 37230 Dirickson Creek Road, Frankford, Delaware 19945. The property is lying on the southwest side of Dirickson Creek Road (S.C.R. 364B), approximately 0.23 mile southeast of the intersection of Millers Neck Road (S.C.R. 364A) and Dirickson Creek Road (S.C.R. 364B).

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

Proposed Use: Boat Restoration Business

Comprehensive Land
Use Plan Reference: Coastal Area

Councilmanic
District: Mr. Hudson

School District: Indian River School District

Fire District: Roxana Fire Department

Sewer: Private (On-Site, Septic)

Water: Private (On-Site, Well)

Site Area: 6.20 acres +/-

Tax Map ID.: 134-21.00-14.07



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



Sussex County

DELAWARE
sussexcountye.gov

Memorandum

To: Sussex County Planning Commission Members
From: Ms. Lauren DeVore, AICP, Planner III
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: October 27th, 2022
RE: Staff Analysis for C/U 2329 Thomas Scott Drgon, Trustee

This memo is to provide background and analysis for the Planning Commission to consider as a part of application C/U 2329 Thomas Scott Drgon, Trustee to be reviewed during the November 3rd, 2022, 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.

The request is for a Conditional Use for Tax Parcel 134-21.00-14.07 to allow a boat restoration business. The property is lying on the southwest side of Dirickson Creek Road (S.C.R. 364B), approximately 0.23 mile southeast of the intersection of Millers Neck Road (S.C.R. 364A) and Dirickson Creek Road (S.c.R. 364B). The property is located at 37230 Dirickson Creek Road. The property consists of 6.20 acres +/-.

Further Site Considerations

Staff note that per the County's Online Mapping System that the rear of the parcel appears to be encumbered by federally regulated tidal wetlands. A supplemental map has been provided to the Commission noting the nature and location of these areas.

Additionally, the southernmost property line shares a border with Dirickson Creek and therefore the applicable tidal wetlands buffer must be provided for the use of which no structures may be located.

Lastly, staff note that the property is located within the "AE" Flood Zone (Areas subject to inundation by the one-percent annual chanced flood) and of which Base Flood Elevations are projected to be approximately 5-ft.

Comprehensive Plan Analysis

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



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

Zoning Information

The 2018 Sussex County Comprehensive Plan outlines Zoning Districts by their applicability to each Future Land Use category. Under Table 4.5-2 “Zoning Districts Applicable to Future Land Use Categories,” the Agricultural Residential (AR-1) District is listed as an Applicable Zoning District within the “Coastal Area.” (Sussex County Comprehensive Plan, 4-25).

The adjacent parcels to the north, south, east and west of the subject property are all zoned Agricultural Residential (AR-1) District.

The property on the opposite side of Dirickson Creek consisting of The Refuge at Dirickson Creek subdivision is zoned Medium Density Residential (MR) District. There is also an area of General Residential (GR) District located on the north side of Millers Neck Road (S.C.R. 364A) which intersects with Dirickson Creek Road (S.C.R. 364B) and Camp Barnes Road (S.C.R. 364A) to the northwest of the subject property.

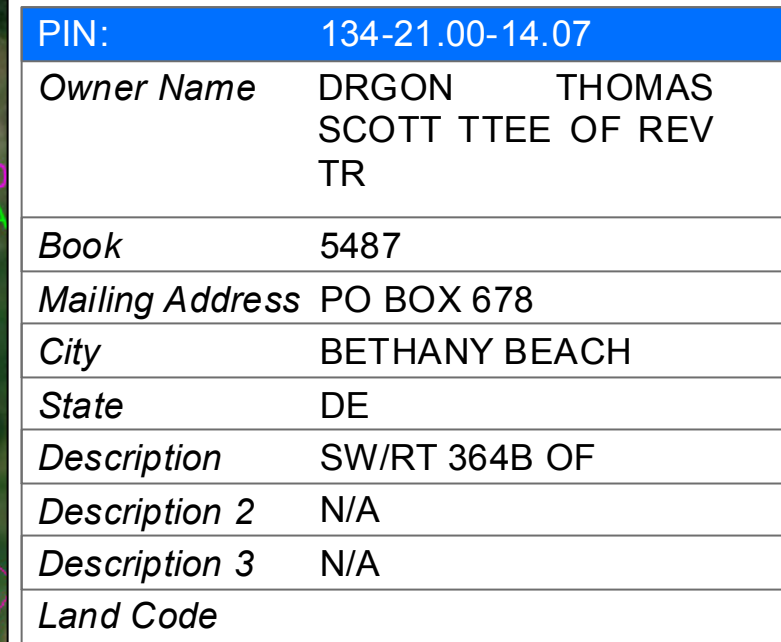
Existing Conditional Uses within the Vicinity of the Subject Site

Since 1970, there have been three (3) Conditional Use applications within a 1-mile radius of the application site. The first application is for C/U 2100 Catherine Schultz to allow for a retail flower shop to be located within an Agricultural Residential (AR-1) District. The Planning and Zoning Commission recommended approval for the use at their meeting of Thursday, October 12, 2017. The Sussex County Council approved the use at their meeting of Tuesday, October 31, 2017, and the change was adopted through Ordinance No. 2530. The second application is for C/U 2170 Old Mill Bridge, LLC to allow multifamily dwellings to be located within an Agricultural Residential (AR-1) District. This Application was subsequently withdrawn and submitted as a separate proposal for a single-family Coastal Area Cluster Subdivision known as Bridgewater (2019-13) (F.K.A. Bent Creek & Old Mill Landing North). The third application is for C/U 2174 Madeline Troescher to allow for an event venue to be located within an Agricultural Residential (AR-1) District. This application was also subsequently withdrawn on June 25th, 2019.

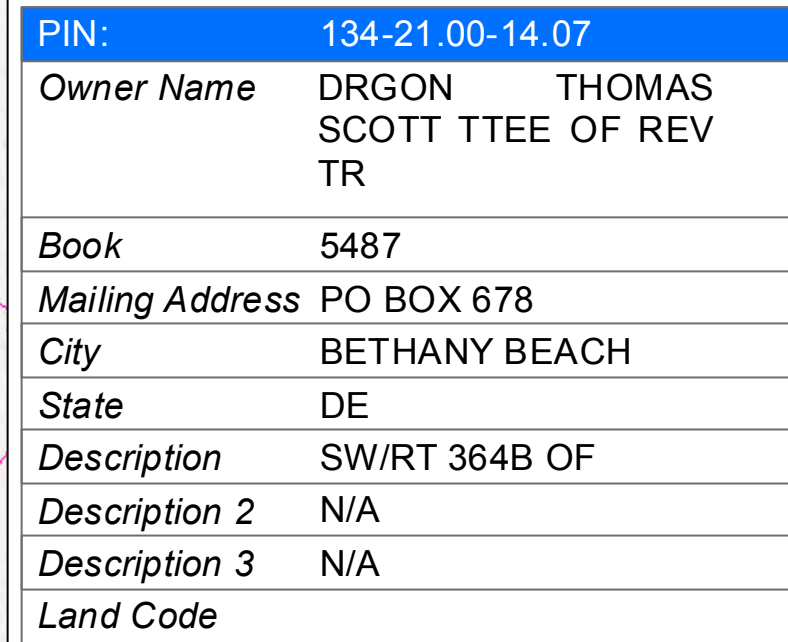
A Supplemental Map has been supplied which provides the location of all other Conditional Uses which are greater than 1 mile distance from the subject site.

Based on the analysis of the land use, surrounding zoning and uses, the Conditional Use to allow for a boat restoration business, 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 (w/in a 1 mile radius of the subject site)*								
Application Number	Application Name	Current Zoning	Proposed Use	P&Z Decision	P&Z Decision Date	CC Decision	CC Decision Date	Ordinance Number
C/U 2100	Catherine Schultz	AR-1	Retail Flower Shop	Recommended Approval	10/12/2017	Approved	10/31/2017	2530
C/U 2170	Old Mill Bridge, LLC	AR-1	Multifamily Proposal	Application Withdrawn (Resubmitted as County Project 2019-13)	W/D	Application Withdrawn	W/D	N/A
C/U 2174	Madeline Troescher	AR-1	Event Venue	Application Withdrawn (on 6/15/19)	W/D	Application Withdrawn	W/D	N/A




 County Boundaries



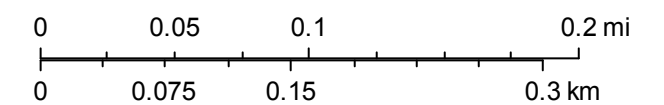
Override 1

Override 1

— Streets

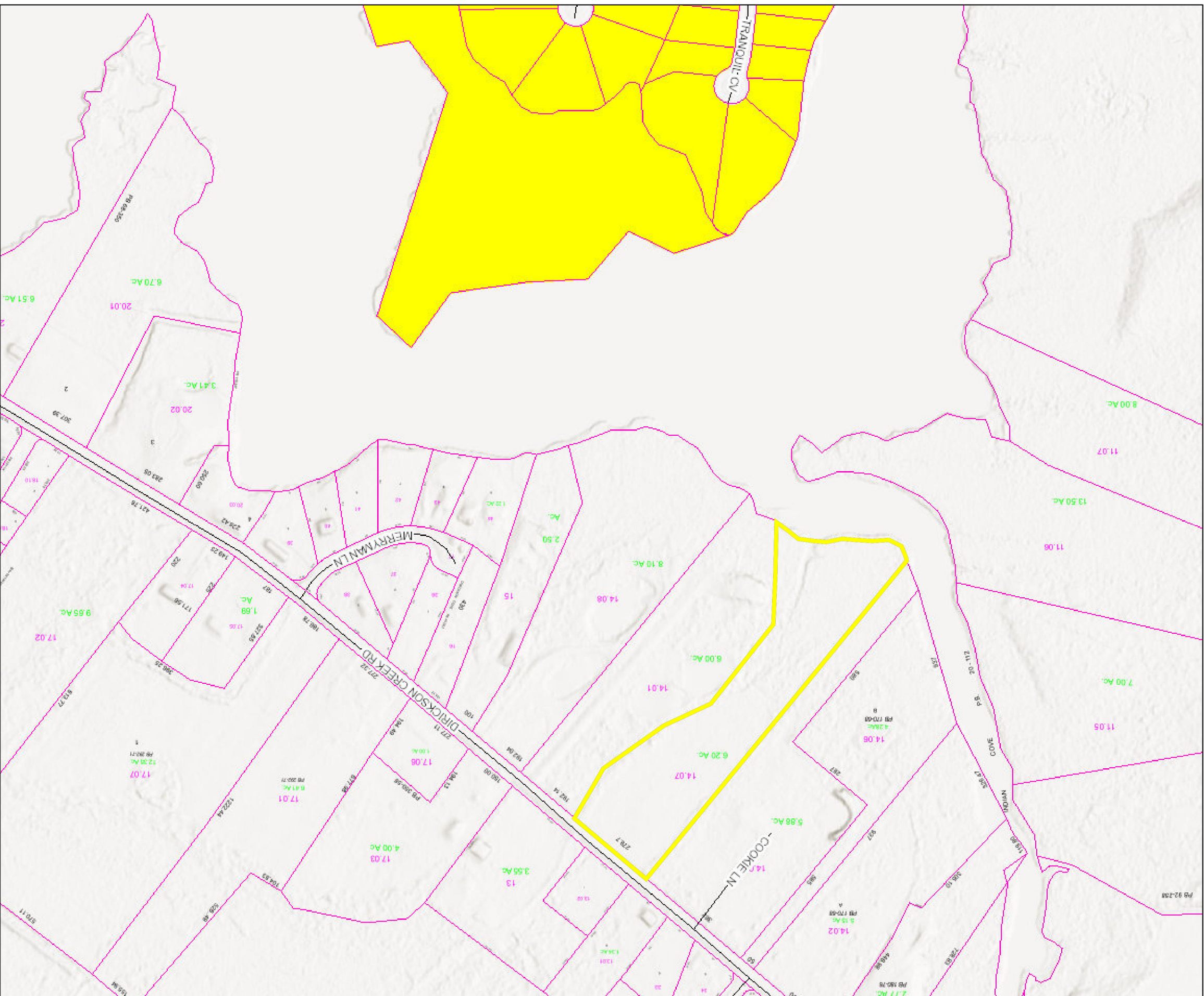
 County Boundaries

1:4,514



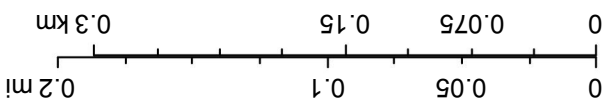


Sussex County



Streets
Tax Parcels
polygonLayer
Override 1
Override 1

1:4,514



PIN: 134-21.00-14.07		Owner Name	DRGON THOMAS
5487		Book	
PO BOX 678		Mailing Address	
BETHANY BEACH		City	
DE		State	
SW/RT 364B OF		Description	
N/A		Description 2	
N/A		Description 3	
		Land Code	

Introduced: 05/10/2022

Council District 4: Mr. Hudson

Tax I.D. No.: 134-21.00-14.07

911 Address: 37230 Dirickson Creek Road, Frankford

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR BOAT RESTORATION BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 6.20 ACRES, MORE OR LESS

WHEREAS, on the 29th day of November 2021, a conditional use application, denominated Conditional Use No. 2329 was filed on behalf of Thomas Scott Drgon, Trustee; and

WHEREAS, on the ____ day of _____ 2022, 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. 2329 be _____; and

WHEREAS, on the ____ day of _____ 2022, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2329 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece, or parcel of land, lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on southwest side of Dirickson Creek Road (S.C.R. 364B), approximately 0.23 mile southeast of the intersection of Millers Neck Road (S.C.R. 364A) and Dirickson Creek Road (S.C.R. 364B) and being more particularly described in the attached deed and legal description prepared by Hudson, Jones, Jaywork & Fisher, said parcel containing 6.20 acres, more or less.

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



Memorandum

To: Sussex County Council
The Honorable Michael H. Vincent
The Honorable Cynthia C. Green
The Honorable Douglas B. Hudson
The Honorable John L. Rieley
The Honorable Mark G. Schaeffer

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

CC: Everett Moore, County Attorney

Date: January 6, 2023

RE: County Council Report for C/U 2331 filed on behalf of Sweet Meadows Riding Academy

The Planning and Zoning Department received an application (C/U 2331 filed on behalf of Sweet Meadows Riding Academy) for a Conditional Use for parcel 533-11.00-27.04 for a horse-riding academy with overnight accommodations and associated agricultural activities. The property is located at 37033 Sweet Meadow Lane, Selbyville. The parcel size is 5.0 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on November 3, 2022. At the meeting of November 17, 2022, the Planning & Zoning Commission recommended approval of the application for the 9 reasons stated and subject to the 7 recommended conditions as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meetings of November 3, 2022 and November 17, 2022.

Minutes of the November 3, 2022 Planning & Zoning Commission Meeting

C/U 2331 Sweet Meadows Riding Academy

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 (AGRICULTURAL RESIDENTIAL DISTRICT) FOR A HORSE-RIDING ACADEMY WITH OVERNIGHT ACCOMMODATIONS AND ASSOCIATED AGRICULTURAL ACTIVITIES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS. The property is lying on Sweet Meadow Lane on the north side of Deer Run Road (S.C.R. 388), approximately 0.5 mile southwest of Zion Church Road (Rt. 20). 911 Address: 37033 Sweet Meadow Lane, Selbyville. Tax Parcel: 533-11.00-27.04.



Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Exhibit Booklet, the Applicant's Conceptual Site Plan, Applicant Exhibits, Staff Analysis, and the DelDOT Service Level Evaluation Response. Mr. Whitehouse advised the Commission that one letter in opposition was received.

The Commission found that Mr. Mark Davidson, with Pennoni Associates, Inc. spoke on behalf of the Application; that also present was Ms. Shelly Lynn Wright-Estellam; that the proposed Application is for a Conditional Use within the AR-1 (Agricultural Residential) Zoning District, on five acres of land; that the property is located on the north side of Deer Run Rd. (S.C.R. 388); that the property is located directly across the road from Bearhole Rd. (S.C.R. 390); that the property is owned by Ms. Wright, her husband and three children; that they currently live on the property; that under Tab 2 of the Exhibit Booklet are four letters and 200 signatures submitted in support of the Application; that Ms. Wright founded Sweet Meadow Riding Academy in 2003; that Sweet Riding Academy has been operating under an existing Special Use Exception under Case No. 8287-2003, which was approved by the Board of Adjustment on August 18, 2003; that the use was approved for a riding academy, for the purpose of boarding horses and teaching equestrian skills; that the property consists of the existing dwelling and an office; that he had submitted an existing Conditions Plan and a Site Plan; that the office does have an individual address; that there are existing barns, sheds, run-ins, lean-tos, parking and pastures; that the facility is currently gated with a key-code entrance; that customers are granted a key-code to access the site; that the subject area is located down the lane, past the existing dwelling; that the Applicant does have security cameras on the site; that the Applicant has two horses, one miniature house, an alpaca, two goats, a Hyland bull, six chickens and one peacock; that the Applicant does proposed to expand the horse riding academy by offering overnight accommodations and associated agricultural activities; that the overnight accommodations would consist of 10 individual-style guest accommodations, for temporary occupancy, for person engaged only for the specific use of the riding academy; that the Applicant proposes four cabins, two yurts, three A-style framed tents; that there is an existing barn on the property; that the Applicant proposes to offer a barn-style sleeping quarters; this will allow guests to sleep closer to the animals; that the Applicant proposes the different style accommodations for the different style, wants and experiences of her guests; that the proposed use will allow guests to ride horses and taking care of the animals; that the largest part of the Applicant's business plan is education and teach the different styles of care for the animals; that the Applicant does propose a bathhouse; that all proposed structures will be permitted and reviewed by Sussex County Building Code; that some of the cabins will provide built-in bathroom facilities; that the agricultural activities will be centered around the horsemanship for the visiting guest, by offering education and an unforgettable farm-like experience; that proposed activities will include, classes on horses and other farm animals, daily chore schedules, dude ranch living and style riding, cowboy camp, English riding, equine-based demonstration, animal yoga, and horse whispering; that the properties are bordered on the north and east by an existing residential dwelling and a previously used chicken house; that the property owners for the chicken house have provided a letter in support of the Application; that the property is bordered in the south by a residential dwelling, who have also provided a letter in support; that an agricultural field borders the property to the west; that the Applicant has planted a vegetated buffer, starting from behind the residence, down the easternly property line and the northern property line; that the Applicant has placed a six foot high privacy fence adjacent to her neighbor to the south; that at this time, the Applicant is not proposing a buffer on the western property line; that there currently is an existing swale along the property line; that the

property is adjacent to an agricultural field; that the Applicant feels the relationship between the two agricultural uses is beneficial when performing education classes; that Applicant has proposed a condition stating, if the farm field should be developed, she will plant a buffer along that property line; that the surrounding area to the property is a mixture of AR-1 (Agricultural Residential) and a large portion of GR (General Residential) land; that the Conditional Use is not out of character for the neighborhood as there are several other Conditional Use properties within the vicinity of the site; that the Conditional Use request is agricultural based in nature; that the Conditional Use request will be subject to the provisions of Sussex County Code; that the purpose of a Conditional Use is to provide for certain uses which cannot otherwise be well adjusted by environment and particular location with full protection offered to surrounding properties by the ridged application and district regulations; that the horse riding academy, with the overnight accommodations and associated agricultural activity uses is of a public and semi-public character and is essential and desirable to the general convenience and welfare of the community; that the site is within a Developing Area according to the 2019 Comprehensive Plan; that the Developing Area is considered one of the seven Growth Areas; that the site is surrounded by areas designated within the Coastal Area; that the site is in close proximity to a Commercial Area; that the Comprehensive Plan promotes tourism, related services and economic growth within designated Growth Areas, which offer employment opportunities, economic benefits to the area business, consistent with the character of the zoning and development in the area, subject to there being no negative impact on schools and other public facilities; that the Comprehensive Plan states permitted uses within the farm rich use development, with careful a careful mixture of homes, with light commercial is appropriate to provide for desired services; that §9.2.1 of the Comprehensive Plan states that agriculture is an important sector for the overall economy of Sussex County, providing a strong economic foundation; that there is a large potential for agritourism within Sussex County; that Sweet Meadows Riding Academy is designated agritourism with the Delaware Department of Agriculture; that the property is found within Investment Level 3 according to the State Strategies for Policies and Spending Map; that the property has an existing entrance to the site; that the site will have access to Deer Run Rd. by the existing access and existing driveway; that DelDOT confirmed the Conditional Use will not adversely affect the traffic congestion of the roads; that DelDOT stated the traffic impact for the proposed use would be diminutive, as the use would generate less than 50 vehicle trips per day; that DelDOT did not require a traffic impact study; that the opposition letter was submitted by the neighbor across the street; that the opposition letter mentioned concerns to increased traffic; that the Applicant feels, by offering the overnight accommodations, it will reduce traffic; that currently guests may arrive and depart the site; that if guests are able to stay overnight, it will decrease the flow of traffic; that there are no wetlands located on the site; that an Environmental Review was performed as the site is in close proximity to the Coastal Area; that there are no threatened or endangered species located on the site; that the property is located under the Tier I Sussex County Unified Sanitary Sewer District; that the property is currently served by sewer; that water is provided by private commercial wells, which are currently servicing the property; that the property is not located within any Excellent Groundwater Recharge or Wellhead Protection areas; that the property is outside of the 100 Year Flood Plain; that the Roxanna Fire Department, Station No. 90, will provide fire protection services for the site; that the project will be subject to Conditions of Approval; that the use will be limited to the horse riding academy, with overnight accommodations and associated agricultural uses; that there will be a maximum of 10 overnight accommodations for persons engaged only with the specific use of the horse riding academy

and associated agricultural uses; that the property has an existing sign, being under 32 sf on each side, which the Applicant would like to keep as is; that the facility has programs scheduled for year round use; that there is a proposed condition for quiet hours, being from 8:00 pm until 7:00 am daily; that any security lighting on the property will have downward illumination; that the Applicant does have security cameras surrounding the property; that all buffers will be maintained by the Applicant; that if and when Parcel 28 were to become developed by residential homes, the Applicant has proffered to place a required vegetated buffer on her portion of the shared boundary line; that the Applicant has received approvals from DelDOT, Sussex Conservation District and the Delaware State Fire Marshal's Office; that the Applicant did provide her vision, goals and overview of the use within the submitted Exhibit Booklet; that the proposed use meets the general purpose of the Zoning Ordinance and is located in an appropriate location.

Mr. Hopkins requested more information regarding the bathhouse.

Ms. Wingate questioned if the yurts will be temporary, being removed during winter months.

Mr. Davidson stated due to the proposal for tents and yurts, there is a need for a bathhouse; that there is a bathhouse proposed to the right of the existing entrance; that the bathhouse will be connected to the public facilities of the Sussex County Unified Sanitary Sewer; that the bathhouse will service the four nearby tents and yurts, but will also service the entire academy as well and the yurts are proposed to be permanent.

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

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 2331 Sweet Meadows Riding Academy. Motion by Mr. Mears to defer action for further consideration, seconded by Mr. Hopkins and carried unanimously. Motion carried 3-0.

Draft Minutes of the November 17, 2022 Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since November 3, 2022.

Mr. Mears moves that the Commission recommend approval of C/U 2331 Sweet Meadows Riding Academy, for a horse-riding academy with overnight accommodations based on the record made during the public hearing and for the following reasons:

1. The site is a 5.00-acre parcel of land owned by the Applicant that is currently used as a small farm. In 2003, the Sussex County Board of Adjustment granted a Special Use Exception to operate a riding academy on this property. This Application seeks to expand that use to allow campers to stay overnight.
2. The use is an extension of the Riding Academy and the agricultural zoning of this property, and it is consistent with the surrounding uses.
3. The Applicant intends to allow campers to stay overnight as part of the overall equestrian and agricultural experience associated with the riding academy.
4. The property shall be served by central sewer from Sussex County.

5. This is an appropriate Agri-Tourism use within the AR-1 Zoning District.
6. The site is in the Developing Area and in close proximity to the Coastal and Commercial Areas according to the County Future Land Use Map. This small Agri-Tourism Use is appropriate in this location according to the Plan.
7. There was no opposition to this Application and there was one letter in support of it.
8. With the conditions and limitations placed upon the Conditional Use, it will not adversely affect neighboring or adjacent properties or area roadways.
9. This use promotes agricultural activities in Sussex County and is an innovative Agri-Tourism destination.
10. This recommendation is subject to the following conditions:
 - a. The accommodations associated with this use shall be used in conjunction with the approved riding academy on the site by guests engaged in the specific use of the horse-riding academy.
 - b. The location of the overnight accommodations shall be shown on the Final Site Plan. There shall be no more than ten (10) cabins or “yurt” structures on the site.
 - c. All entrance locations shall be subject to the review and approval of DelDOT.
 - d. One lighted sign shall be permitted. It shall not exceed 32 square feet per side.
 - e. An existing buffer has been established along the north and east boundary along Parcel 27.02 and a 6-foot-tall privacy fence has been installed along the south and west property lines along Parcel 27.06. This buffer and fencing shall be shown on the Final Site Plan. No buffer is currently required along Parcel 28.00 given the agricultural use of that property. Should Parcel 28.00 ever be developed, the Applicant shall install a buffer along that common boundary line.
 - f. All dumpsters and other trash containers shall be outside of the setback lines and screened from the view of neighboring properties and roadways.
 - g. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of C/U 2331 Sweet Meadow Riding Academy for the reasons and conditions stated in the motion. Motion carried 4-0. Ms. Stevenson abstained.

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

PLANNING & ZONING COMMISSION

ROBERT C. WHEATLEY, CHAIRMAN
KIM HOEY STEVENSON, VICE-CHAIRMAN
R. KELLER HOPKINS
J. BRUCE MEARS
HOLLY J. WINGATE



Sussex County

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

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: November 3rd, 2022

Application: CU 2331 Sweet Meadow Riding Academy

Applicant: Sweet Meadows Riding Academy
37033 Sweet Meadow Lane
Selbyville, DE 19975

Owner: Shelly Wright
37033 Sweet Meadow Lane
Selbyville, DE 19975

Site Location: Located on the north side of Deer Run Road (S.C.R. 388),
approximately 0.49-miles southwest of the intersection of Deer Run
Road and Zion Church Road (Rt. 20).

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

Proposed Use: Horse riding academy with overnight accommodations

Comprehensive Land
Use Plan Reference: Developing Area

Councilmanic
District: Mr. Hudson

School District: Indian River School District

Fire District: Roxanna Fire Co.

Sewer: Sussex County

Water: On-site Well

Site Area: 5.00 ac. +/-

Tax Map ID.: 533-11.00-27.04



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



Sussex County

DELAWARE
sussexcountye.gov

Memorandum

To: Sussex County Planning and Zoning Commission Members
From: Mr. Elliott Young, Planner I
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: October 25th, 2022
RE: Staff Analysis for CU 2331 Sweet Meadows Riding Academy

The purpose of this memo is to provide background and analysis for the Planning and Zoning Commission to consider as a part of Application CU 2331 Sweet Meadows Riding Academy to be reviewed during the November 3rd, 2022, Planning and Zoning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcel: 533-11.00-27.04, to allow for a horse-riding academy with overnight accommodations and associated Agricultural activities, to be located at 37033 Sweet Meadow Lane Selbyville, Delaware. The property is lying on the north side of Deer Run Road (S.C.R. 388), approximately 0.49-miles southwest of the intersection of Zion Church Road (Rt. 20)) and Deer Run Road (S.C.R. 388). The parcel consists of 5.00 acres +/-.

Comprehensive Plan Analysis

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use Map in the plan indicates that the parcel has a designation of "Developing Area." The adjoining parcels to the north, west, and east also have a Future Land Use Map designation of "Developing Area." The parcels to the south, across Deer Run Road (S.C.R. 388) also have a Future Land Use Map designation of "Developing Area" as well as "Coastal Area"

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



Zoning Information

The subject property is zoned Agricultural Residential (AR-1) District. All adjacent properties to the north, west, and east of the subject property are zoned Agricultural Residential (AR-1) District. The parcels to the south of the subject property, on the opposite side of Deer Run Road (S.C.R. 388), are also zoned Agricultural Residential (AR-1) District as well as General Residential (GR).

Existing Conditional Uses within the Vicinity of the Subject Property

Though there are several existing Conditional Uses in the area, since 2011, there has been two (2) Conditional Use application within a one (1) mile radius of the application site. The first application was Conditional Use No. 1929 for Everett Dennis & David Harbin to allow for a farm tractor and auto repair shop to be permitted within an Agricultural Residential (AR-1) Zoning District. This application was approved by the Sussex County Council on Tuesday, June 5th, 2012 and this change was adopted through Ordinance No. 2258. The second application is Conditional Use No. 2389 for AWH Properties, LLC to allow for Boat & RV storage to be permitted within an Agricultural Residential (AR-1) Zoning District. This application has yet to be introduced to County Council.

Based on the analysis provided, the Conditional Use to allow for a horse-riding academy with overnight accommodations and other agricultural activities, could be considered as being consistent with the surrounding land use, zoning, and uses, subject to considerations of scale and impact.



Sussex County



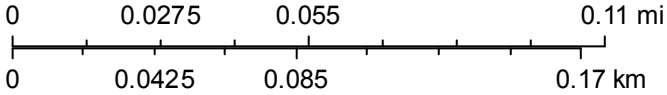
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Owner Name	WRIGHT LYNN	SHELLY
Book	2914	
Mailing Address	37033 SWEET MEADOW LN	
City	SELBYVILLE	
State	DE	
Description	N/RD 388	
Description 2	LOT 6 CT	
Description 3	N/A	
Land Code		

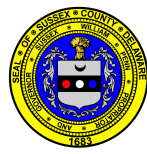
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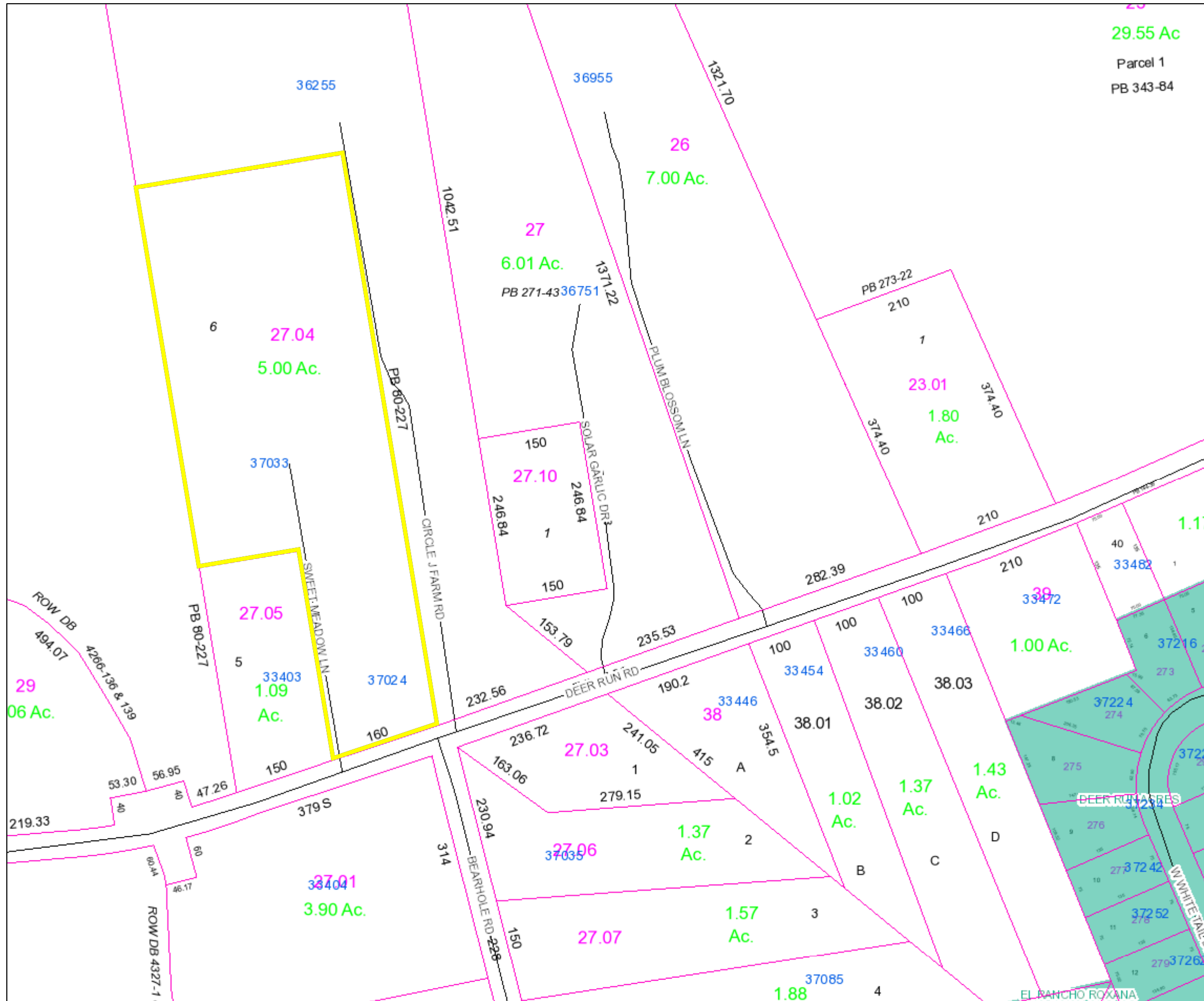
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- 911 Address
- Streets
- County Boundaries
- Subdivisions

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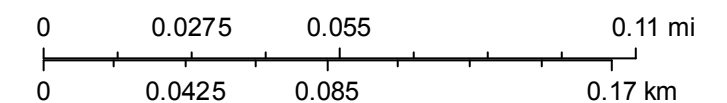
Sussex County

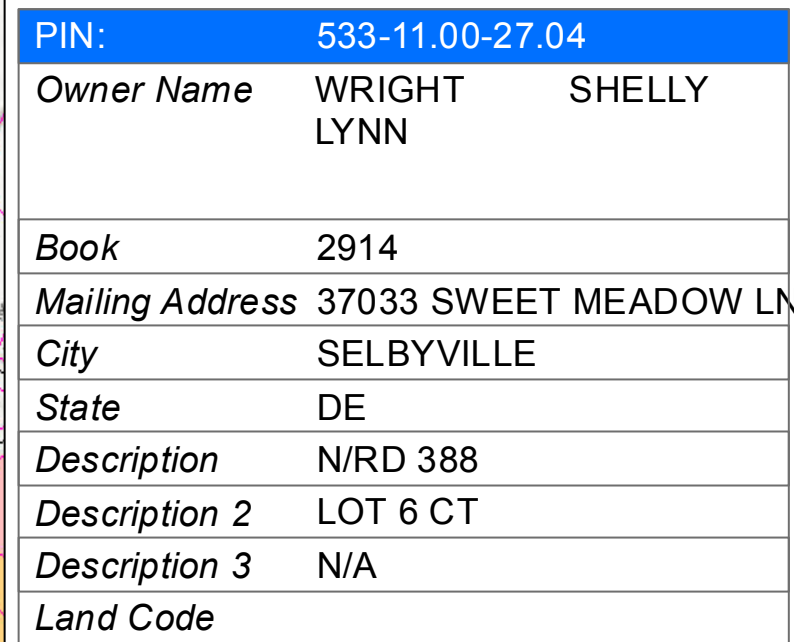


PIN:	533-11.00-27.04	
Owner Name	WRIGHT LYNN	SHELLY
Book	2914	
Mailing Address	37033 SWEET MEADOW LN	
City	SELBYVILLE	
State	DE	
Description	N/RD 388	
Description 2	LOT 6 CT	
Description 3	N/A	
Land Code		

- polygonLayer
Override 1
- polygonLayer
Override 1
- Tax Parcels
 - 911 Address
 - Streets
 - County Boundaries
 - Subdivisions

1:2,257





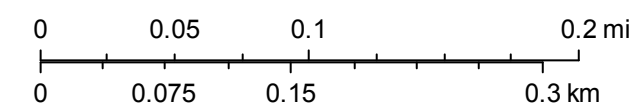
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⬢ ⬢ Tax Parcels

— Streets

1:4,514



Introduced: 6/7/22

Council District 4: Mr. Hudson

Tax I.D. No.: 533-11.00-27.04

911 Address: 37033 Sweet Meadow Lane, Selbyville

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 (AGRICULTURAL RESIDENTIAL DISTRICT) FOR A HORSE-RIDING ACADEMY WITH OVERNIGHT ACCOMODATIONS AND ASSOCIATED AGRICULTURAL ACTIVITIES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS

WHEREAS, on the 20th day of December 2022, a conditional use application, denominated Conditional Use No. 2331 was filed on behalf of Sweet Meadows Riding Academy; and

WHEREAS, on the ____ day of _____ 2022, 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. 2331 be _____; and

WHEREAS, on the ____ day of _____ 2022, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2331 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on Sweet Meadow Lane on the north side of Deer Run Road (S.C.R. 388) approximately 0.5 mile southwest of Zion Church Road (Rt. 20) and being more particularly described in the attached legal description prepared by Parsons & Weidman, P.A., said parcel containing 5.0 acres, more or less.

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



Memorandum

To: Sussex County Council
The Honorable Michael H. Vincent
The Honorable Cynthia C. Green
The Honorable Douglas B. Hudson
The Honorable John L. Rieley
The Honorable Mark G. Schaeffer

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

CC: Everett Moore, County Attorney

Date: January 6, 2023

RE: County Council Report for C/U 2335 filed on behalf of Joseph Kraft

The Planning and Zoning Department received an application (C/U 2335 filed on behalf of Joseph Kraft) for a Conditional Use for parcel 430-6.00-4.03 for a gunsmithing business. The property is located at 12559 Utica Rd, Greenwood. The parcel size is 5.12 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on November 3, 2022. At the meeting of November 17, 2022, the Planning & Zoning Commission recommended approval of the application for the 7 reasons stated and subject to the 5 recommended conditions as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meetings of November 3, 2022 and November 17, 2022.

Minutes of the November 3, 2022 Planning & Zoning Commission Meeting

C/U 2335 Joseph Kraft

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A GUNSMITHING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 5.12 ACRES, MORE OR LESS. The property is lying on the northeast side of Utica Road (S.C.R. 632), approximately 0.24 mile south of Lighthouse Lane. 911 Address: 12559 Utica Rd, Greenwood. Tax Parcels: 430-6.00-4.03.



Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Conceptual Site Plan, the DelDOT Service Level Evaluation Response, and the Staff Analysis. Mr. Whitehouse advised the Commission that zero comments had been received.

The Commission found that Mr. Joseph Kraft spoke on behalf of his Application; that he is the owner of Send It Precision, LLC; that he was a hobbyist when he was in the Marine Corp; that his interest was in long rang shooting; that he performed in 1,000 yard competitions; that he worked in armories as a firearms instructor; that his hobby was firearms and creating them to shoot better; that due to the political climate, there was an ammunition shortage; that he is now interested in turning his hobby into a small business; that he has an existing small pole barn on the property, that he uses as his shop; that he has been hand loading ammunition since the age of 12; that he wanted to make sure he stayed in compliance and legal in all his activities; that he currently works for the Department of Corrections; that he currently has a Class 1 FFL license, for the sale of firearms, which has already been approved by the County; that he understands that the proposal to provide gunsmithing, manufacturing ammunition and custom load development would require a Conditional Use; that he is more interested in providing custom load development services; that currently he does not have intentions to sell firearms; that he and his family live on the property; that obtaining a Class 1 FFL does create public notice; that in having a Class 1 FFL could attract negative attention, creating safety concerns for his family; that due to this, he is interested in getting away from the Class 1 FFL license; that the Conditional Use would permit him to enter back into the custom tailoring of ammunition, which would be performed within his shop; that the proposed use would not bring any additional attention or traffic to the area; that he only has two days a off of work a week; that all work is performed by appointment only and the proposed use would be a very small business.

Mr. Hopkins questioned the number of employees and if a sign is desired.

Mr. Mears questioned the proposed hours of operation.

Ms. Wingate questioned if the shooting of firearms would be performed on the property.

Mr. Whitehouse advised the Commission that the proposed use is very nearly considered a home occupation and as with other previous gunsmithing applications, the staff thought it better to bring the proposed use through as a Conditional Use.

Mr. Kraft stated he would not have any employees; that all work would be performed by himself; that he does not desire a sign; that all business has been done by word of mouth; that he does not wish to draw any additional attention to his property; that business would be conducted by appointment only; that is only available on Mondays and Tuesdays; that he performs all the shooting of firearms at the ranges he belongs to; that many of the adjacent properties perform shooting of their own firearms; that he and the neighbors have an unwritten rule that most shooting takes place between the hours of 10:00 am until 4:00 pm and there have previously been no issue.

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

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 2335 Joseph Kraft. Motion by Mr. Hopkins to defer action for further consideration, seconded by Mr. Mears and carried unanimously. Motion carried 3-0.

Draft Minutes of the November 17, 2022 Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since November 3, 2022.

Mr. Hopkins moved that the Commission recommend approval of C/U 2335 Joseph Kraft for a gunsmithing business based on the record made during the public hearing and for the following reasons:

1. The use is for a gunsmithing business located on the property where the Applicant resides.
2. The use is small in nature and the Applicant is the only person involved in the use. It is very nearly a home occupation which would be a permitted use on this property.
3. The Applicant has stated that there will be very little direct interaction with the public. All business will be conducted by appointment only.
4. The use will not adversely affect neighboring properties or roadways.
5. The Applicant has stated that there will not be a firing range located on the premises.
6. The use provides a needed service for residents of Sussex County who own firearms. As a result, the use has a public or semi-public character.
7. No parties appeared in opposition to the application.
8. This recommendation is subject to the following conditions:
 - a. The use shall be for professional gunsmithing. There shall not be a firing range on the premises.
 - b. The Applicant must comply with all Federal and State licenses and regulations for the use.
 - c. As stated by the Applicant, the use shall occur within the Applicant's existing building on the site.
 - d. As stated by the Applicant, there shall not be any sign associated with this use.
 - e. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Hopkins, seconded by Mr. Mears and carried unanimously to recommend approval of C/U 2335 Joseph Kraft for the reasons and conditions stated in the motion. Motion carried 4-0. Ms. Stevenson abstained.

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

PLANNING & ZONING COMMISSION

ROBERT C. WHEATLEY, CHAIRMAN
KIM HOEY STEVENSON, VICE-CHAIRMAN
R. KELLER HOPKINS
J. BRUCE MEARS
HOLLY J. WINGATE



Sussex County

DELAWARE
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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: November 3rd, 2022

Application: CU 2335 Joseph Kraft

Applicant: Joseph Kraft
12559 Utica Road
Greenwood, DE 19950

Owner: Joseph Kraft
12559 Utica Road
Greenwood, DE 19950

Site Location: 12559 Utica Road, Greenwood, DE 19950. The property is lying on the northeast side of Utica Road (S.C.R. 632), approximately 0.24 miles southwest of Lighthouse Lane.

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

Proposed Use: Gunsmithing business

Comprehensive Land
Use Plan Reference: Low Density Area

Councilmanic
District: Ms. Green

School District: Woodbridge School District

Fire District: Greenwood Fire Company

Sewer: Septic

Water: On-site Well

Site Area: 5.12 ac. +/-

Tax Map ID.: 430-6.00-4.03





Memorandum

To: Sussex County Planning and Zoning Commission Members
From: Mx. Jesse Lindenberg, Planner I
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: October 25th, 2022
RE: Staff Analysis for CU 2335 Joseph Kraft

The purpose of this memo is to provide background and analysis for the Planning and Zoning Commission to consider as a part of Application CU 2335 Joseph Kraft to be reviewed during the November 3rd, 2022, Planning and Zoning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcel: 430-6.00-4.03 to allow for a gunsmithing business. The property is lying on the east side of Utica Road, approximately 0.24 miles southwest of Lighthouse Lane. The parcel consists of 5.12 acres +/-.

Comprehensive Plan Analysis

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

As outlined in the 2018 Sussex County Comprehensive Plan, Low Density Areas are intended to support agricultural uses and low-density single-family housing. Specifically, the Comprehensive Plan states that single family homes have a density of up to two dwelling units to the acre. It is envisioned that the Low-Density Areas allow for businesses that support nearby residents and the agricultural economy. More intense commercial uses could be limited in scale and impact. While residential growth is expected, the Comprehensive Plan intends for the rural landscape to be maintained and for farmland to be preserved in select locations.

Zoning Information

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

Existing Conditional Uses within the Vicinity of the Subject Property

Since 2011, there have been zero (0) Conditional Use applications within a one (1) mile radius of the application site.

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



Sussex County



PIN:	430-6.00-4.03
Owner Name	KRAFT JOSEPH E
Book	5195
Mailing Address	12559 UTICA RD
City	GREENWOOD
State	DE
Description	NE/RD 632
Description 2	3110' N/RD 611
Description 3	PARCEL A
Land Code	

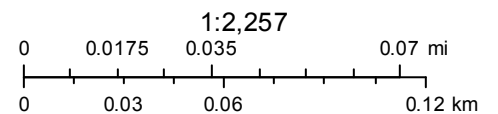
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Override 1

polygonLayer

Override 1



- ☐ Tax Parcels
- ☐ 911 Address
- ☐ Streets
- ☐ County Boundaries





Sussex County

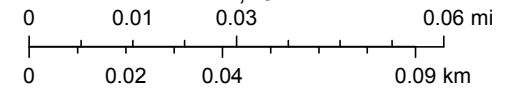


September 30, 2022

 Override 1
  Tax Parcels
 Streets

 Override 1
  County Boundaries

1:2,257



Sussex County Government, Sussex County Mapping and Addressing, Esri
Community Maps Contributors, County of Sussex, DE, Delaware FirstMap,

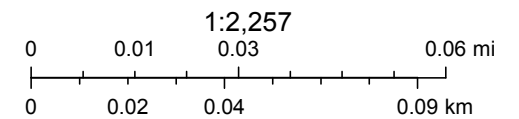
Sussex County



September 30, 2022

- Override 1
- Override 1
- Tax Parcels
- 911 Address
- Streets
- 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



Sussex County. Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen, Rijkswaterstaat, GSA,

Introduced: 03/29/22

Council District 2: Mrs. Green

Tax I.D. No.: 430-6.00-4.03

911 Address: 12559 Utica Rd, Greenwood

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A GUNSMITHING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 5.12 ACRES, MORE OR LESS

WHEREAS, on the 28th day of December 2021, a conditional use application, denominated Conditional Use No. 2335 was filed on behalf of Joseph Kraft; and

WHEREAS, on the ____ day of _____ 2021, 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. 2335 be _____; and

WHEREAS, on the ____ day of _____ 2021, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2335 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Nanticoke Hundred, Sussex County, Delaware, and lying on the northeast side of Utica Road (S.C.R. 632), approximately 0.24 mile south of Lighthouse Lane, and being more particularly described in the attached legal description prepared by Haller & Hudson, said parcel containing 5.12 acres, more or less.

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



Memorandum

To: Sussex County Council
The Honorable Michael H. Vincent
The Honorable Cynthia C. Green
The Honorable Douglas B. Hudson
The Honorable John L. Rieley
The Honorable Mark G. Schaeffer

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

CC: Everett Moore, County Attorney

Date: January 6, 2023

RE: County Council Report for C/U 2339 filed on behalf of Ron Sutton

The Planning and Zoning Department received an application (C/U 2339 filed on behalf of Ron Sutton) for a Conditional Use for parcel 134-19.00-24.00 for multi-family (60 units). The property is located at 34667 Central Avenue, Frankford. The parcel size is 14.45 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on November 3, 2022. At the meeting of November 17, 2022, the Planning & Zoning Commission recommended approval of the application for the 9 reasons stated and subject to the 17 recommended conditions as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meetings of November 3, 2022 and November 17, 2022.

Minutes of the November 3, 2022 Planning & Zoning Commission Meeting

C/U 2339 Ron Sutton

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM RESIDENTIAL DISTRICT FOR MULTI-FAMILY (60 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 14.45 ACRES, MORE OR LESS. The property is lying on the southeast side of Central Avenue (Rt. 84), approximately 0.17-mile northeast of the intersection of Peppers Corner Road (S.C.R. 365) and Central Avenue (Rt. 84). 911 Address: 34667 Central Avenue, Frankford. Tax Parcels: 134-19.00-24.00.



Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Exhibit Booklet, Conceptual Site Plan, Staff Analysis, a letter from the Sussex County Engineering Department Utility Planning Division, and the PLUS comments. Mr. Whitehouse advised the Commission that one letter in opposition was received for the Application.

The Commission found that Ms. Mackenzie Peet, Esq. with Baird Mandalas Brockstedt Federico & Cardea, spoke on behalf of the Applicant and Developer, Gulfstream Development, LLC; that also present was Mr. Ron Sutton, P.E. with Civil Engineering Associates, LLC, and Mr. Alan Ruble, the Developer's Project Manager; that the project is known as the Wilson Property; that the Applicant proposes to rezone the property from AR-1 (Agricultural Residential) to MR (Medium-Density Residential), in addition to a Conditional Use request for 60 townhome lots; that the property currently consists of a single-family dwelling, gazebo, barn and gravel driveway; that the property consists of 14.45-acres, located on the southeast side of Central Avenue; that the property is near the intersection of Peppers Corner Rd. and Central Avenue; that the property is located in the vicinity of a number of residential developments, which include, single-family and multi-family townhome developments; that they consider the duplex option a positive option, being different from single-family homes; that they feel the townhome option may be a more affordable option; that the Applicant did submit an Exhibit Booklet for each Application, which included the Applicant's land use applications, a list of property owners within 200-ft. of the site, as well as property and deed information, confirming the property is presently owned by Ms. Peggy Toomey and Mr. Ronald Wilson, that the exhibit confirms the developer is the equitable owner of the property, under contract to purchase, subject to granted land use approvals; that the Exhibit Booklets also included a copy of State Strategies for Policies and Spending Map and Sussex County Future Land Use Map; that these maps confirm the property to be located within Investment Level 3 and the Coastal Area; that additionally, aerial maps, a record plan for the adjacent Sycamore Chase community, relevant sections of the Zoning Code, Application Preliminary Plan, staff review and PLUS review, the Coastal Area and Environmental Assessment and Public Facility Evaluation Report, were included within the Exhibit Booklets; that the Coastal Area is a designated Growth Area; that Growth Areas generally includes areas on the southeastern side of Sussex County; that this area was previously referred to as Environmentally Sensitive Development Area; that the proposed townhome development is permitted within the Coastal Area; that the project is consistent with the Comprehensive Plan; that the plan complies with all Coastal Area requirements of §115-194.3; that the project is located within Investment Level 3, where growth is anticipated by local, County and State future plans; that §115-194.3 requires that the Applicant submit an Environmental Assessment, Public Facility Report and sketch plan for the proposed project, as it proposes over 50 dwelling units; that Civil Engineering Associates, LLC prepared the required assessment and report; that the assessment does meet all of the Code requirements, addressing each requirement point by point; that the property is currently zoned AR-1 (Agricultural Residential); that properties immediately adjacent to the subject property are also zoned AR-1; that the property located across the street from the property is zoned C-1 (General Commercial); that nearby properties are zoned AR-1 (Agricultural Residential), MR (Medium-Density Residential) and C-1 (General Commercial); that the MR Zoning provides for medium-density residential development, in areas that are, or are expected to become, generally urban in character, where sanity sewer and public water supply may or may not be available at the time of construction, where churches, recreational facilities and accessory uses may be necessary and compatible with residential surroundings; that the proposed rezoning is compatible with surrounding residential land uses, inclusive of multi-family dwellings; that

Table 2 for Height, Area and Bulk Code requirements, confirms that multi-family units, located within MR Zoning are subject to similar height, area and bulk requirements of the nearby commercially zoned property; that the proposed rezoning from AR-1 to MR is consistent with the Comprehensive Plan and Future Land Use Map; that the Coastal Area is a region which is most desirable new housing, as it permits a range of housing types, including townhome units as proposed; that medium and higher density, between four to 12 units per acre, is appropriate and supported within the Coastal Area, where there is central sewer, access and proximity to nearby commercial uses and employment centers, where the use is compatible with the character of the area, where located along a main road, or located at or near a major intersection and where there is an adequate level of service; that central water will be provided by Artesian; that central sewer is anticipated to be provided by Sussex County; that there is access and proximity to nearby commercial uses and employment centers; that the use is compatible with the character of the area in the immediate vicinity, with other medium density residential developments; that Table 4.5-2 for Zoning Districts Applicable to Future Land Use Categories confirms that a Medium-Density Residential Districts is an applicable zoning district within the Coastal Area; that for the reasons stated the proposed re-zoning from AR-1 to MR is compatible with surrounding land uses, compliant with the Zoning Code, and consistent with the Comprehensive Plan and Future Land Use Map; that the Applicant seeks a Conditional Use for the development of 60 townhome units, subject to the approval of the Change of Zone request from AR-1 to MR; that the proposal is specifically for 30 duplexes and individual townhome unit lots; that the amenities will include a pool and bath house; that the proposed use is consistent with the Comprehensive Plan; that nearby properties, in all directions, are also located within the Coastal Area; that medium and higher density is appropriate within the Coastal Areas; that the memorandum prepared by the Planning & Zoning staff confirmed that a Conditional Use was approved nearby which allowed for 135 townhome units; that the nearby areas are consistent with the land use the developer is trying to accomplish; that §115-188 for Townhomes and Multi-Family Dwellings, provide that each multi-family dwelling unit must comply with the minimum lot area per dwelling unit specification and the table of district regulations reflected in Article 20; that the dwelling units of a multi-family dwelling unit may be separated in ownership, if separate utilities are provided; that dwelling units on individual lots of a townhome, may be held in separate ownership, subject that all separate lots, for all dwelling units within the building, are created at the same time, compliance with the Subdivision Ordinance and require separate utility systems be provided; that the proposed development has taken into consideration and complies with all items listed within Chapter 99-9C of the Code; that the subject property currently consists of active agriculture fields, with an existing residential dwelling and outbuildings located to the northcentral portion of the property; that former chicken houses exist across Central Avenue; that the Sycamore Chase subdivision is located to the south; that the Woodlands subdivision is located to the east; that the project is in the vicinity of other residential developments, which include The Estuary, Forest Landing and Plantation Park; that the property is surrounded by an existing landscape buffer along the project's border, which will be maintained; that the required 20-ft. landscape buffer will also be provided; that there will be a minimal use of wetlands; that wetlands were delineated, which discovered .08-acre of wetlands exist on the site; that no disturbance is proposed to the wetland area; that there are no known existing natural or historical features on the site; that the project will comply with the Code's open space requirements; that the proposed open space is well above the 10% open space requirement; that 36.3%, or 5.2-acres, of open space is proposed for the project; that the existing dwelling and associated driveway will be removed;

that tree and soil removal will be kept at a minimum to what is necessary to construct the development; that efforts will be made to preserve the existing vegetation; that if preservation of vegetation is not possible where significant vegetation exists, vegetative planting is proposed in compliance with the Code requirements; that water will be provided by Artesian; that sanitary sewer will be provided by Sussex County; that surface and groundwater pollution will be prevented by an onsite stormwater management system; that the proposed layout of internal roads consist of 12-ft. wide travel lanes, which will be designed in accordance with Sussex County and DelDOT standards; that it is anticipated that property values within the surrounding areas will remain the same or increase in value; that the proposed subdivision will not adversely impact adjacent properties; that no negative impacts are anticipated to the school district, public buildings or the community; that the project is anticipated to generate 413 vehicle trips daily; that based upon the 2021 DelDOT Traffic Count, Central Avenue currently carries an average of 2,900 annual and daily vehicles; that therefore it is not anticipated the project will cause any major adverse traffic impacts; that the proposed use is compatible with other surrounding land uses; that the project is not anticipated to have any impact on any area waterways and subject to the Change of Zone and Conditional Use request approvals, the proposed project will comply with all MR District, Coastal Area, and Subdivision Code requirements.

Ms. Wingate questioned if there was any proposal for emergency access to the property and she suggested placing a landscape buffer along Central Avenue.

Mr. Ron Sutton stated emergency access at the dead-end road, along Central Avenue was not intended for the project, however, they could provide emergency access in that area if the Commission required it.

The Commission found there was no one present in the room or by teleconference who wished to speak in support or opposition to C/Z 1969 and C/U 2339 Ron Sutton.

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

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

In relation to C/Z 1969 Ron Sutton. Motion by Mr. Mears to defer action for further consideration, seconded by Mr. Hopkins and carried unanimously. Motion carried 3-0.

In relation to C/U 2339 Ron Sutton. Motion by Mr. Mears to defer action for further consideration, seconded by Mr. Hopkins and carried unanimously. Motion carried 3-0.

Draft Minutes of the November 17, 2022 Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since November 3, 2022.

Mr. Robertson read Mr. Mears' prepared motion per Mr. Mears' request.

Mr. Mears moved that the Commission recommend approval of C/U 2339 Ron Sutton for 60 Multi-Family Units in an MR Medium-Density Residential District based on the record made during the public hearing and for the following reasons:

1. This application seeks the approval of 60 multi-family structures on approximately 14.45 acres. The units will be duplex-style units with individual lots.
2. The property is in an area where a variety of development has generally occurred. There is commercially zoned land across the street and there are properties with GR zoning and townhomes in the area.
3. The site is in the Coastal Area according to the Sussex County Comprehensive Plan. This type of development is appropriate in this Area according to the Plan, which states that “a range of housing types” are acceptable here, including medium and high densities when a site is near commercial areas, is served by central water and sewer, where the use is in keeping with the character of the area and other similar factors. These types of considerations exist with regard to this site.
4. An Environmental Assessment and Public Facility Report” was submitted by the Applicant in support of this project.
5. Approximately 5.25 acres or 36.3% of the site will remain as open space, which exceeds the minimum Code requirement for this project.
6. The proposed development will not have an adverse impact on the neighboring properties or community.
7. The project will not have an adverse impact on traffic or roadways.
8. The development will be served by central sewer provided by Sussex County.
9. The development will be served by central water.
10. This recommendation is subject to the following conditions:
 - a. The maximum number of residential units shall be 60.
 - b. The developer and then the condominium association shall be responsible for the perpetual maintenance of the development roadways, buffers, stormwater management facilities, erosion, and sedimentation control facilities, and other common areas.
 - c. All entrance, intersection, roadway, and multi-modal improvements shall be completed by the developer in accordance with all DelDOT requirements
 - d. The project shall be served by Sussex County sewer. The developer shall comply with all Sussex County Engineering Department requirements including any offsite upgrades necessary to provide service to the project.
 - e. The project shall be served by central water to provide drinking water and fire protection.
 - f. There shall be a vegetated or forested buffer of at least 20 feet in width along the perimeter of this development adjacent to lands of other ownership and 30 feet in width along the adjacent Agricultural property that is currently farmed. This buffer shall utilize existing forest or similar vegetation if it exists in the buffer area. Where trees currently exist in the buffer area, stump removal or construction activities that disturb the existing grade of the area within the buffer shall be prohibited. All silt fencing shall be located along the interior limit of the buffer area (the edge of the buffer nearest the interior development) and the Final Site Plan shall identify the “Limit of Disturbance” to prevent disturbance of the buffer area.
 - g. Construction activities, including site work and deliveries, shall only occur between 7:30 am and 7:00 pm Monday through Friday, and between 8:00 am and 2:00 pm on Saturdays. There shall be no construction activities at the site on Sundays. A 24-inch by 36-inch “NOTICE” sign in English and Spanish confirming these hours shall be prominently displayed at all entrances to the site during construction.

- h. Street naming and addressing shall be subject to the review and approval of the County Geographic Information Office.
- i. The Final Site Plan shall contain the approval of the Sussex County Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
- j. The Amenities on this site shall include a pool and bath house. These amenities shall be constructed and open to use by the residents of this community on or before the issuance of the 30th residential Building Permit.
- k. Any streetlights shall be downward screened so that they do not shine on neighboring properties or roadways.
- l. The interior street design shall meet or exceed Sussex County's Street design requirements, and there shall be sidewalks on at least one side of all streets.
- m. If requested by the local school district, a school bus stop shall be provided. The location of the bus stop shall be shown on the Final Site Plan
- n. In addition to the main entrance onto Central Avenue, there shall be a second point of vehicular access to Central Avenue for emergency use only. The location and details of this emergency access shall be shown on the Final Site Plan.
- o. The Final Site Plan shall include a Grading Plan for the site. No building permits shall be issued until an individual lot grading plan has been supplied to and approved by Sussex County. No certificate of occupancy shall be issued until a grading certificate is submitted to the Building Code Department demonstrating general conformity with the individual site grading plan.
- p. Failure to comply with any of these conditions may be grounds for termination of the Conditional Use approval.
- q. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of C/U 2339 Ron Sutton for the reasons and conditions stated in the motion. Motion carried 4-0. Ms. Stevenson abstained.

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

PLANNING & ZONING COMMISSION

ROBERT C. WHEATLEY, CHAIRMAN
KIM HOEY STEVENSON, VICE-CHAIRMAN
R. KELLER HOPKINS
J. BRUCE MEARS
HOLLY J. WINGATE



Sussex County

DELAWARE
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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: November 3rd, 2022

Application: C/U 2339 Ron Sutton

Applicant: Ron Sutton
55 W. Main Street
Middletown, DE 19709

Owner: Gulfstream Development, LLC
27 Atlantic Avenue
Ocean View, DE 19970

Site Location: Located on the southeast side of Central Avenue (Rt. 84), approximately 0.17-mile northeast of the intersection of Peppers Corner Road (S.C.R. 365 and Central Avenue (Rt. 84)

Current Zoning: Medium Residential (MR) District

Proposed Use: Multi-Family (60 Units)

Comprehensive Land
Use Plan Reference: Coastal Area

Councilmanic
District: Mr. Hudson

School District: Indian River School District

Fire District: Millville Fire Department

Sewer: Sussex County

Water: Tidewater

Site Area: 14.45 acres +/-

Tax Map ID: 134-19.00-24.00



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: Mrs. Christin Scott, Planner II
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: October 27, 2022
RE: Staff Analysis for C/U 2339 Ron Sutton

This memo is to provide background and analysis for the Planning Commission to consider as a part of application C/U 2339 Ron Sutton to be reviewed during the November 3rd, 2022, 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.

The request is for a Conditional Use for Tax Parcel 134-19.00-24.00 to allow for Multi-Family (60 Units). The property is lying on the southeast side of Central Avenue (RT. 84), approximately 0.17-mile northeast of the intersection of Peppers Corner Road (S.C.R. 365) and Central Avenue (Rt. 84). The property consists of 14.45 acres +/-.

Further Site Considerations

County records indicate that there is a Tax Ditch and related Tax Ditch Rights-of-Way (ROW) located on the property. The Tax Ditch is located on the east side with a Tax Ditch Right-of-Way of 80-ft from the top of bank.

The property is not located within any established Transportation Improvement District (TID).

The property is located within Flood Zone "X" – Areas determined to be outside of the 0.2 Percent Annual Chance Flood Zone.

Comprehensive Plan Analysis

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

As outlined in the 2018 Sussex County Comprehensive Plan, Coastal Areas are areas that can accommodate development provided that special environmental concerns are addressed. A range of housing types should be permitted in Coastal Areas, including single-family homes, townhouses, and multi-family units. Retail and office uses are appropriate, but larger shopping centers and office parks should be confined to selected locations with access along arterial roads. Appropriate mixed-



use development should all be allowed. In doing so, careful mixtures of homes with light commercial, office and institutional uses can be appropriate to provide for convenient services and to allow people to work close to home. Major new industrial uses are not proposed in these areas. (Sussex County Comprehensive Plan, 4-15).

Zoning Information

The 2018 Sussex County Comprehensive Plan outlines Zoning Districts by their applicability to each Future Land Use category. Under Table 4.5-2 “Zoning Districts Applicable to Future Land Use Categories,” the Agricultural Residential (AR-1) District is listed as an Applicable Zoning District within the “Coastal Area.” (Sussex County Comprehensive Plan, 4-25).

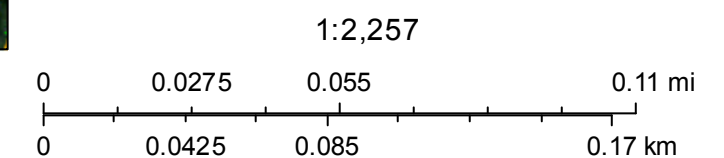
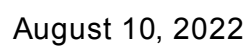
The adjacent parcels to the south, west and east of subject property are zoned Agricultural Residential (AR-1) District. The property immediately to the northwest of the subject property is zoned General Commercial (C-1) District. It should also be noted that a single parcel to the south is zoned Neighborhood Business (B-1) District.

The properties further east and north on the opposite side of Old Church Cemetery Road (S.C.R. 367) and Lizard Hill Road (367A) are zoned General Residential (GR) District.

Existing Conditional Uses within the Vicinity of the Subject Site

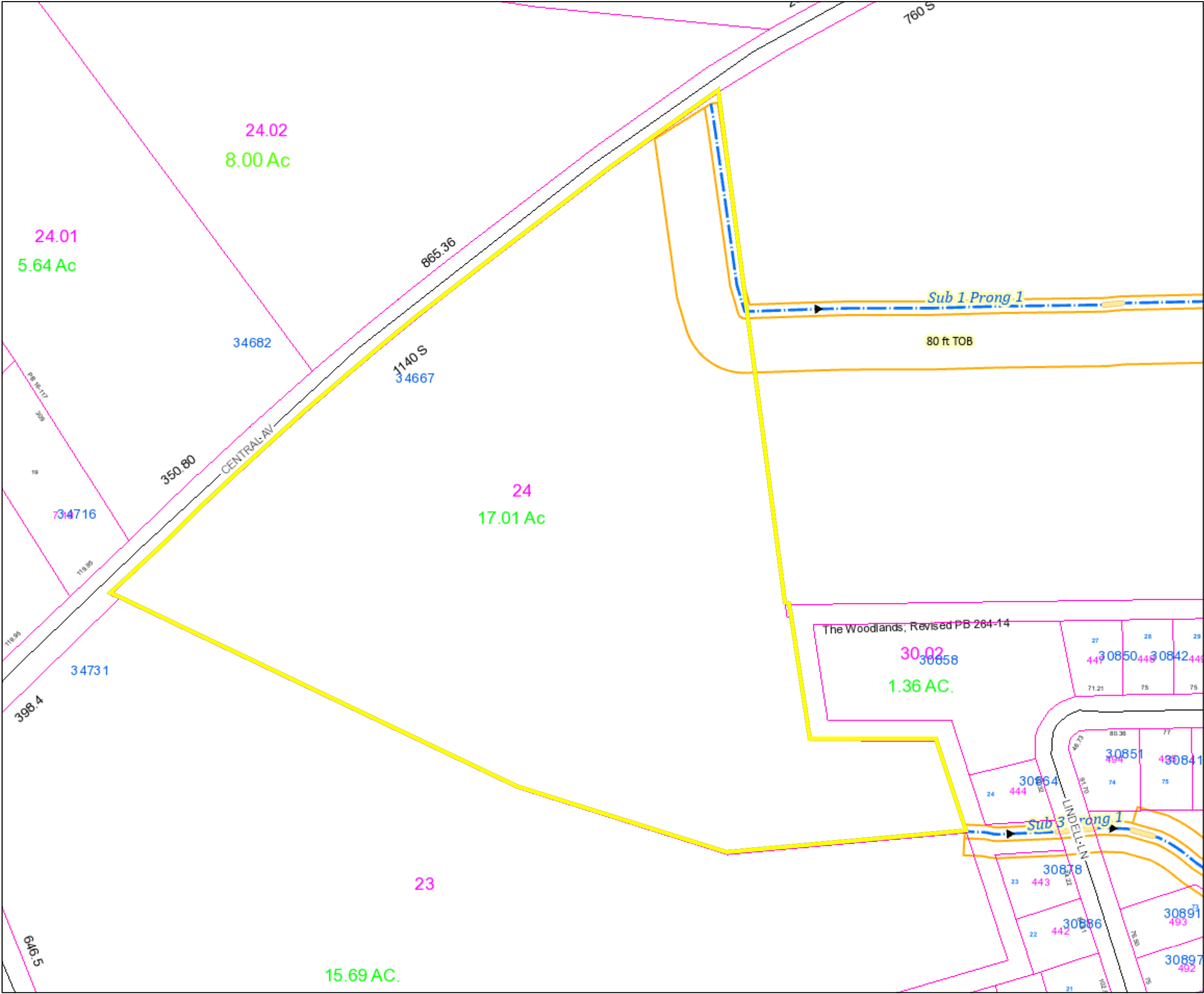
Since 2011, there have been three (3) Conditional Use applications within a 1.0-mile radius of the application site. The first application is for C/U 1896 Timothy S. Miller to allow for mulch & boat/RV Storage which was approved by the Sussex County Council at their meeting of Tuesday, August 2, 2011, and the change was adopted through Ordinance No. 2206. The second application is for C/U 2095 Sposato Investments, LLC to amend conditions of approval for a landscape business which was denied by the Sussex County Council at their meeting of Tuesday, September 19, 2017. The third application is for C/U 2142 RH Orr, LLC to allow for Multi-Family (135 Townhouses) which was approved by the Sussex County Council at their meeting of Tuesday, November 13, 2018, through Ordinance No. 2612.

Based on the analysis of the land use, surrounding zoning and uses, the Conditional Use to allow for Multi-Family (60 Units), subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.





Sussex County



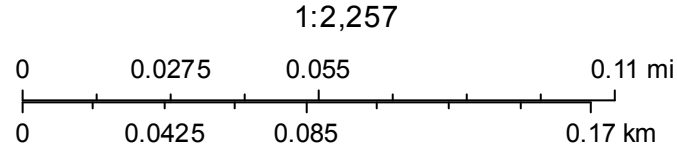
PIN:	134-19.00-24.00
Owner Name	TOOMEY PEGGY W
Book	5453
Mailing Address	36003 BURBAGE RD
City	FRANKFORD
State	DE
Description	HWY BAYARD TO
Description 2	OCEAN VIEW
Description 3	FX
Land Code	

- polygonLayer

Override 1
- polygonLayer

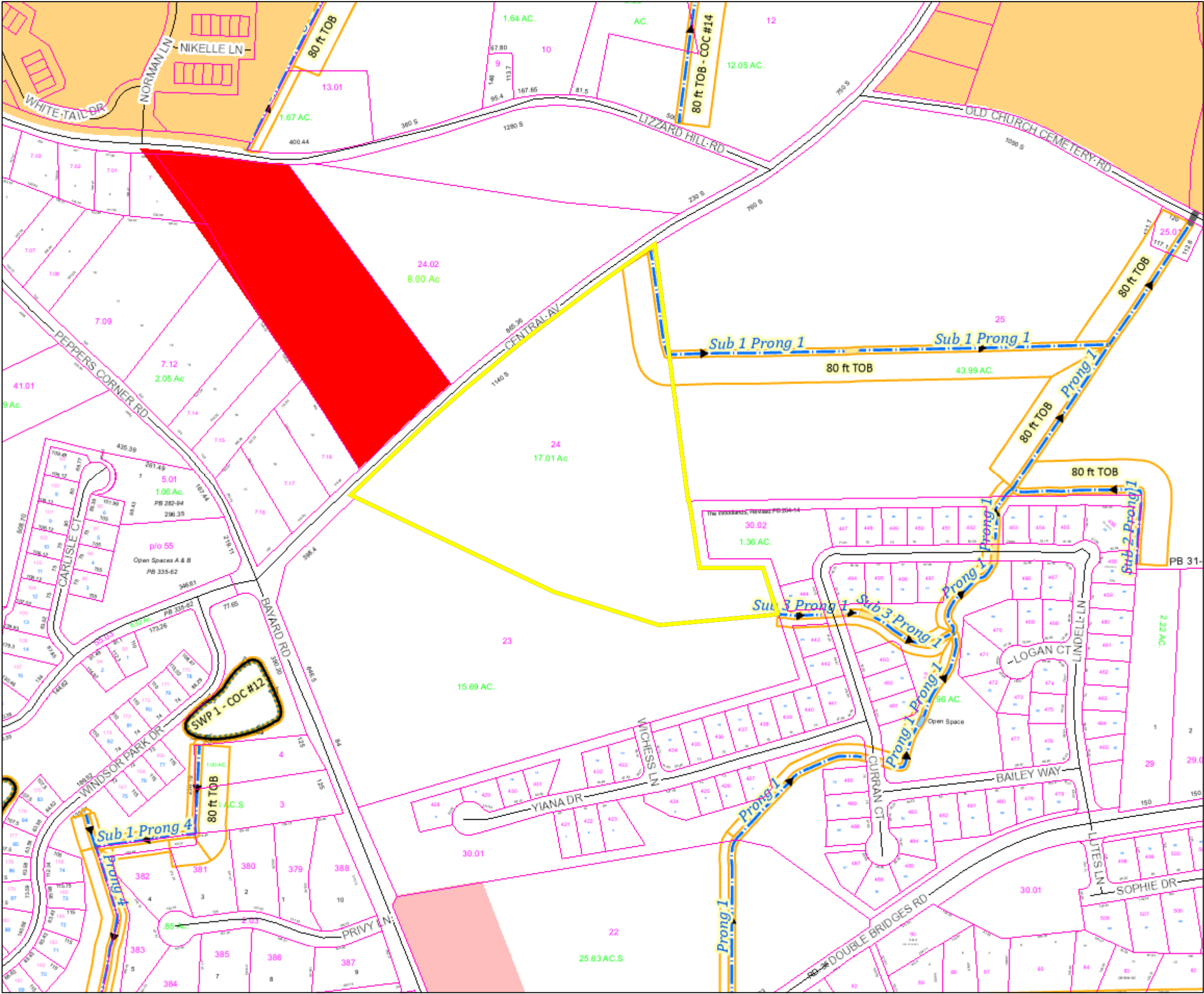
Override 1
- Tax Parcels
- 911 Address
- Streets
- County Boundaries
- Flood Zones 2018

0.2 PCT ANNUAL CHANCE FLOOD HAZARD
- A
- AE
- AO
- OPEN WATER
- VE





Sussex County

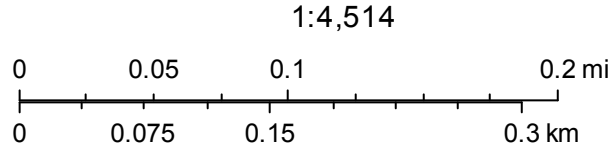


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Introduced: 4/26/22

**Council District 4: Mr. Hudson
Tax I.D. No. 134-19.00-24.00
911 Address 34667 Central Avenue, Frankford**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM RESIDENTIAL DISTRICT FOR MULTI-FAMILY (60 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 14.45 ACRES, MORE OR LESS

WHEREAS, on the 11th day of January 2022, a conditional use application, denominated Conditional Use No. 2339 was filed on behalf of Ron Sutton; and

WHEREAS, on the ____ day of _____ 2022, 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. 2339 be _____; and

WHEREAS, on the ____ day of _____ 2022, 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. 2339 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on the southeast side of Central Avenue (Rt. 84). approximately 0.17-mile northeast of the intersection of Peppers Corner Road (S.C.R. 365) and Central Avenue (Rt. 84) and being more particularly described in the attached legal description prepared by W. W. Edinger, said parcel containing 14.45 acres, more or less.

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



Memorandum

To: Sussex County Council
The Honorable Michael H. Vincent
The Honorable Cynthia C. Green
The Honorable Douglas B. Hudson
The Honorable John L. Rieley
The Honorable Mark G. Schaeffer

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

CC: Everett Moore, County Attorney

Date: January 6, 2023

RE: County Council Report for C/Z 1969 filed on behalf of Ron Sutton

The Planning and Zoning Department received an application (C/Z 1969 filed on behalf of Ron Sutton) for a Change of Zone of parcel 134-19.00-24.00 from the AR-1 Agricultural Residential Zoning District to an MR Medium Density Residential Zoning District. The property is located at 34667 Central Avenue, Frankford. The parcel size is 14.45 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on November 3, 2022. At the meeting of November 17, 2022, the Planning & Zoning Commission recommended approval of the application for the 8 reasons as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meetings of November 3, 2022 and November 17, 2022.

Minutes of the November 3, 2022 Planning & Zoning Commission Meeting

C/Z 1969 Ron Sutton

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 14.45 ACRES, MORE OR LESS. The property is lying on the southeast side of Central Avenue (Rt. 84), approximately 0.17-mile northeast of the intersection of Peppers Corner Road (S.C.R. 365) and Central Avenue (Rt. 84). 911 Address: 34667 Central Avenue, Frankford. Tax Parcels: 134-19.00-24.00.



Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Exhibit Booklet, Conceptual Site Plan, Staff Analysis, a letter from the Sussex County Engineering Department Utility Planning Division, DelDOT Service Level Evaluation Response, and the PLUS comments. Mr. Whitehouse advised the Commission that one letter in support and one letter in opposition were received for the Application.

The Commission found that Ms. Mackenzie Peet, Esq. with Baird Mandalas Brockstedt Federico & Cardea, spoke on behalf of the Applicant and Developer, Gulfstream Development, LLC; that also present was Mr. Ron Sutton, P.E. with Civil Engineering Associates, LLC, and Mr. Alan Ruble, the Developer's Project Manager; that the project is known as the Wilson Property; that the Applicant proposes to rezone the property from AR-1 (Agricultural Residential) to MR (Medium-Density Residential), in addition to a Conditional Use request for 60 townhome lots; that the property currently consists of a single-family dwelling, gazebo, barn and gravel driveway; that the property consists of 14.45-acres, located on the southeast side of Central Avenue; that the property is near the intersection of Peppers Corner Rd. and Central Avenue; that the property is located in the vicinity of a number of residential developments, which include, single-family and multi-family townhome developments; that they consider the duplex option a positive option, being different from single-family homes; that they feel the townhome option may be a more affordable option; that the Applicant did submit an Exhibit Booklet for each Application, which included the Applicant's land use applications, a list of property owners within 200-ft. of the site, as well as property and deed information, confirming the property is presently owned by Ms. Peggy Toomey and Mr. Ronald Wilson, that the exhibit confirms the developer is the equitable owner of the property, under contract to purchase, subject to granted land use approvals; that the Exhibit Booklets also included a copy of State Strategies for Policies and Spending Map and Sussex County Future Land Use Map; that these maps confirm the property to be located within Investment Level 3 and the Coastal Area; that additionally, aerial maps, a record plan for the adjacent Sycamore Chase community, relevant sections of the Zoning Code, Application Preliminary Plan, staff review and PLUS review, the Coastal Area and Environmental Assessment and Public Facility Evaluation Report, were included within the Exhibit Booklets; that the Coastal Area is a designated Growth Area; that Growth Areas generally includes areas on the southeastern side of Sussex County; that this area was previously referred to as Environmentally Sensitive Development Area; that the proposed townhome development is permitted within the Coastal Area; that the project is consistent with the Comprehensive Plan; that the plan complies with all Coastal Area requirements of §115-194.3; that the project is located within Investment Level 3, where growth is anticipated by local, County and State future plans; that §115-194.3 requires that the Applicant submit an Environmental Assessment, Public Facility Report and sketch plan for the proposed project, as it proposes over 50 dwelling units; that Civil Engineering Associates, LLC prepared the required assessment and report; that the assessment does meet all of the Code requirements, addressing each requirement point by point; that the property is currently zoned AR-1 (Agricultural Residential); that properties immediately adjacent to the subject property are also zoned AR-1; that the property located across the street from the property is zoned C-1 (General Commercial); that nearby properties are zoned AR-1 (Agricultural Residential), MR (Medium-Density Residential) and C-1 (General Commercial); that the MR Zoning provides for medium-density residential development, in areas that are, or are expected to become, generally urban in character, where sanity sewer and public water supply may or may not be available at the time of construction, where churches, recreational facilities and accessory uses may be necessary and compatible with residential surroundings; that the proposed

rezoning is compatible with surrounding residential land uses, inclusive of multi-family dwellings; that Table 2 for Height, Area and Bulk Code requirements, confirms that multi-family units, located within MR Zoning are subject to similar height, area and bulk requirements of the nearby commercially zoned property; that the proposed rezoning from AR-1 to MR is consistent with the Comprehensive Plan and Future Land Use Map; that the Coastal Area is a region which is most desirable new housing, as it permits a range of housing types, including townhome units as proposed; that medium and higher density, between four to 12 units per acre, is appropriate and supported within the Coastal Area, where there is central sewer, access and proximity to nearby commercial uses and employment centers, where the use is compatible with the character of the area, where located along a main road, or located at or near a major intersection and where there is an adequate level of service; that central water will be provided by Artesian; that central sewer is anticipated to be provided by Sussex County; that there is access and proximity to nearby commercial uses and employment centers; that the use is compatible with the character of the area in the immediate vicinity, with other medium density residential developments; that Table 4.5-2 for Zoning Districts Applicable to Future Land Use Categories confirms that a Medium-Density Residential Districts is an applicable zoning district within the Coastal Area; that for the reasons stated the proposed re-zoning from AR-1 to MR is compatible with surrounding land uses, compliant with the Zoning Code, and consistent with the Comprehensive Plan and Future Land Use Map; that the Applicant seeks a Conditional Use for the development of 60 townhome units, subject to the approval of the Change of Zone request from AR-1 to MR; that the proposal is specifically for 30 duplexes and individual townhome unit lots; that the amenities will include a pool and bath house; that the proposed use is consistent with the Comprehensive Plan; that nearby properties, in all directions, are also located within the Coastal Area; that medium and higher density is appropriate within the Coastal Areas; that the memorandum prepared by the Planning & Zoning staff confirmed that a Conditional Use was approved nearby which allowed for 135 townhome units; that the nearby areas are consistent with the land use the developer is trying to accomplish; that §115-188 for Townhomes and Multi-Family Dwellings, provide that each multi-family dwelling unit must comply with the minimum lot area per dwelling unit specification and the table of district regulations reflected in Article 20; that the dwelling units of a multi-family dwelling unit may be separated in ownership, if separate utilities are provided; that dwelling units on individual lots of a townhome, may be held in separate ownership, subject that all separate lots, for all dwelling units within the building, are created at the same time, compliance with the Subdivision Ordinance and require separate utility systems be provided; that the proposed development has taken into consideration and complies with all items listed within Chapter 99-9C of the Code; that the subject property currently consists of active agriculture fields, with an existing residential dwelling and outbuildings located to the northcentral portion of the property; that former chicken houses exist across Central Avenue; that the Sycamore Chase subdivision is located to the south; that the Woodlands subdivision is located to the east; that the project is in the vicinity of other residential developments, which include The Estuary, Forest Landing and Plantation Park; that the property is surrounded by an existing landscape buffer along the project's border, which will be maintained; that the required 20-ft. landscape buffer will also be provided; that there will be a minimal use of wetlands; that wetlands were delineated, which discovered .08-acre of wetlands exist on the site; that no disturbance is proposed to the wetland area; that there are no known existing natural or historical features on the site; that the project will comply with the Code's open space requirements; that the proposed open space is well above the 10% open space requirement; that 36.3%, or 5.2-acres, of open

space is proposed for the project; that the existing dwelling and associated driveway will be removed; that tree and soil removal will be kept at a minimum to what is necessary to construct the development; that efforts will be made to preserve the existing vegetation; that if preservation of vegetation is not possible where significant vegetation exists, vegetative planting is proposed in compliance with the Code requirements; that water will be provided by Artesian; that sanitary sewer will be provided by Sussex County; that surface and groundwater pollution will be prevented by an onsite stormwater management system; that the proposed layout of internal roads consist of 12-ft. wide travel lanes, which will be designed in accordance with Sussex County and DelDOT standards; that it is anticipated that property values within the surrounding areas will remain the same or increase in value; that the proposed subdivision will not adversely impact adjacent properties; that no negative impacts are anticipated to the school district, public buildings or the community; that the project is anticipated to generate 413 vehicle trips daily; that based upon the 2021 DelDOT Traffic Count, Central Avenue currently carries an average of 2,900 annual and daily vehicles; that therefore it is not anticipated the project will cause any major adverse traffic impacts; that the proposed use is compatible with other surrounding land uses; that the project is not anticipated to have any impact on any area waterways and subject to the Change of Zone and Conditional Use request approvals, the proposed project will comply with all MR District, Coastal Area, and Subdivision Code requirements.

Ms. Wingate questioned if there was any proposal for emergency access to the property and she suggested placing a landscape buffer along Central Avenue.

Mr. Ron Sutton stated emergency access at the dead-end road, along Central Avenue was not intended for the project, however, they could provide emergency access in that area if the Commission required it.

The Commission found there was no one present in the room or by teleconference who wished to speak in support or opposition to C/Z 1969 and C/U 2339 Ron Sutton.

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

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

In relation to C/Z 1969 Ron Sutton. Motion by Mr. Mears to defer action for further consideration, seconded by Mr. Hopkins and carried unanimously. Motion carried 3-0.

In relation to C/U 2339 Ron Sutton. Motion by Mr. Mears to defer action for further consideration, seconded by Mr. Hopkins and carried unanimously. Motion carried 3-0.

Draft Minutes of the November 17, 2022 Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since November 3, 2022.

Mr. Robertson read Mr. Mears' prepared motion per Mr. Mears' request.

Mr. Mears moved that the Commission recommend approval of C/Z 1969 Ron Sutton, 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 are available.
2. The stated purpose of the MR District is satisfied for this site. Both central water and central sewer will be available.
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 property is in the vicinity of a commercially zoned parcel and there are GR-zoned properties in the general area. In the case of the C-1 Zoning, a wide variety of commercial uses are permitted, and that District also allows residential development of up to 12 units an acre. This rezoning is consistent with other zoning and land uses in the area.
5. 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.
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. There is a letter in support of this Application in the record from a neighboring property owner stating that the change to MR zoning is appropriate for this parcel of land.
8. For all of these reasons, MR zoning is appropriate for this site.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of C/Z 1969 Ron Sutton for the reasons and conditions stated in the motion. Motion carried 4-0. Ms. Stevenson abstained.

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

PLANNING & ZONING COMMISSION

ROBERT C. WHEATLEY, CHAIRMAN
KIM HOEY STEVENSON, VICE-CHAIRMAN
R. KELLER HOPKINS
J. BRUCE MEARS
HOLLY J. WINGATE



Sussex County

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JAMIE WHITEHOUSE, MRTPI, AICP
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: November 3rd, 2022

Application: C/Z 1969 Ron Sutton

Applicant: Ron Sutton
55 W. Main Street
Middletown, DE 19709

Owner: Gulfstream Development, LLC
27 Atlantic Avenue
Ocean View, DE 19970

Site Location: Located on the southeast side of Central Avenue (Rt. 84), approximately 0.17-mile northeast of the intersection of Peppers Corner Road (S.C.R. 365 and Central Avenue (Rt. 84)

Current Zoning: AR-1 Agricultural Residential District

Proposed Zoning: MR Medium Residential District

Comprehensive Land
Use Plan Reference: Coastal Area

Councilmanic
District: Mr. Hudson

School District: Indian River School District

Fire District: Millville Fire Company

Sewer: Sussex County

Water: Tidewater

Site Area: 14.45 acres +/-

Tax Map ID.: 134-19.00-24.00



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Sussex County

DELAWARE
sussexcountye.gov

Memorandum

To: Sussex County Planning Commission Members
From: Christin Scott, Planner II
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: October 27, 2022
RE: Staff Analysis for C/Z 1969 Ron Sutton

This memo is to provide background and analysis for the Planning Commission to consider as a part of application C/Z 1969 Ron Sutton to be reviewed during the November 3rd, 2022, 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.

The request is for a Change of Zone for Tax Parcel 134-19.00-24.00 to allow for a change of zone from an Agricultural Residential District (AR-1) to a Medium Density Residential District (MR). The property is lying on the southeast side of Central Avenue (Rt. 84), approximately 0.17-mile northeast of the intersection of Peppers Corner Road (S.C.R. 365) and Central Avenue (Rt. 84). The property consists of 14.45 acres +/-.

Comprehensive Plan Analysis

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

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

Zoning Information

The 2018 Sussex County Comprehensive Plan outlines Zoning Districts by their applicability to each Future Land Use category. Under Table 4.5-2 "Zoning Districts Applicable to Future Land Use Categories," the Medium Density Residential (MR) District is listed as an Applicable Zoning District within the "Coastal Area." (Sussex County Comprehensive Plan, 4-25).



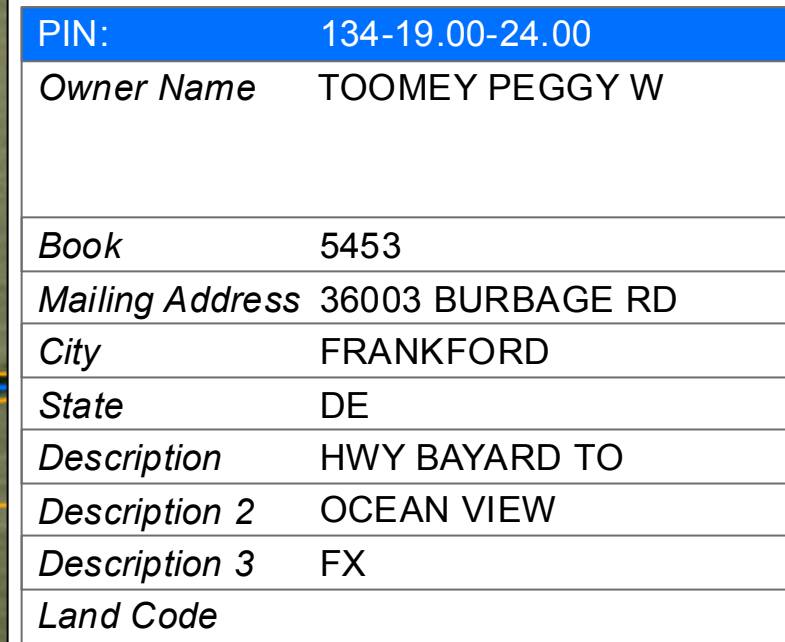
The adjacent parcels to the south, west and east of subject property are zoned Agricultural Residential (AR-1) District. The property immediately to the northwest of the subject property is zoned General Commercial (C-1) District. It should also be noted that a single parcel to the south is zoned Neighborhood Business (B-1) District.

The properties further east and north on the opposite side of Old Church Cemetery Road (S.C.R. 367) and Lizard Hill Road (367A) are zoned General Residential (GR) District.

Existing Change of Zones within the Vicinity of the Subject Site

Since 2011, there has been three (3) Change of Zone applications within a 1-mile radius of the application site. Change of Zone No. 1761 for a change of zone from a General Commercial (C-1) District to an Agricultural Residential (AR-1) District, which was approved by the Sussex County Council at their meeting of Tuesday, November 18, 2014, through Ordinance No. 2373. Change of Zone No. 1841 for a change of zone from an Agricultural Residential (AR-1) District to a Neighborhood Business (B-1) District, which was denied by the Sussex County Council at their meeting of Tuesday, February 20, 2018. Change of Zone No. 1925 for a change of zone from an Agricultural Residential (AR-1) District to a Business Community (B-2) District, which was approved by the Sussex County Council at their meeting of Tuesday, November 10, 2020, through Ordinance No. 2753.

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 Density Residential (MR) District could be considered as being consistent with the land use, area zoning and surrounding uses.



Override 1

Override 1

911 Address

 County Boundaries

0.2 PCT ANNUAL CHANCE FLOOD HAZARD

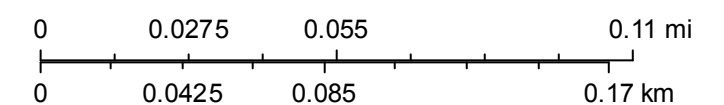
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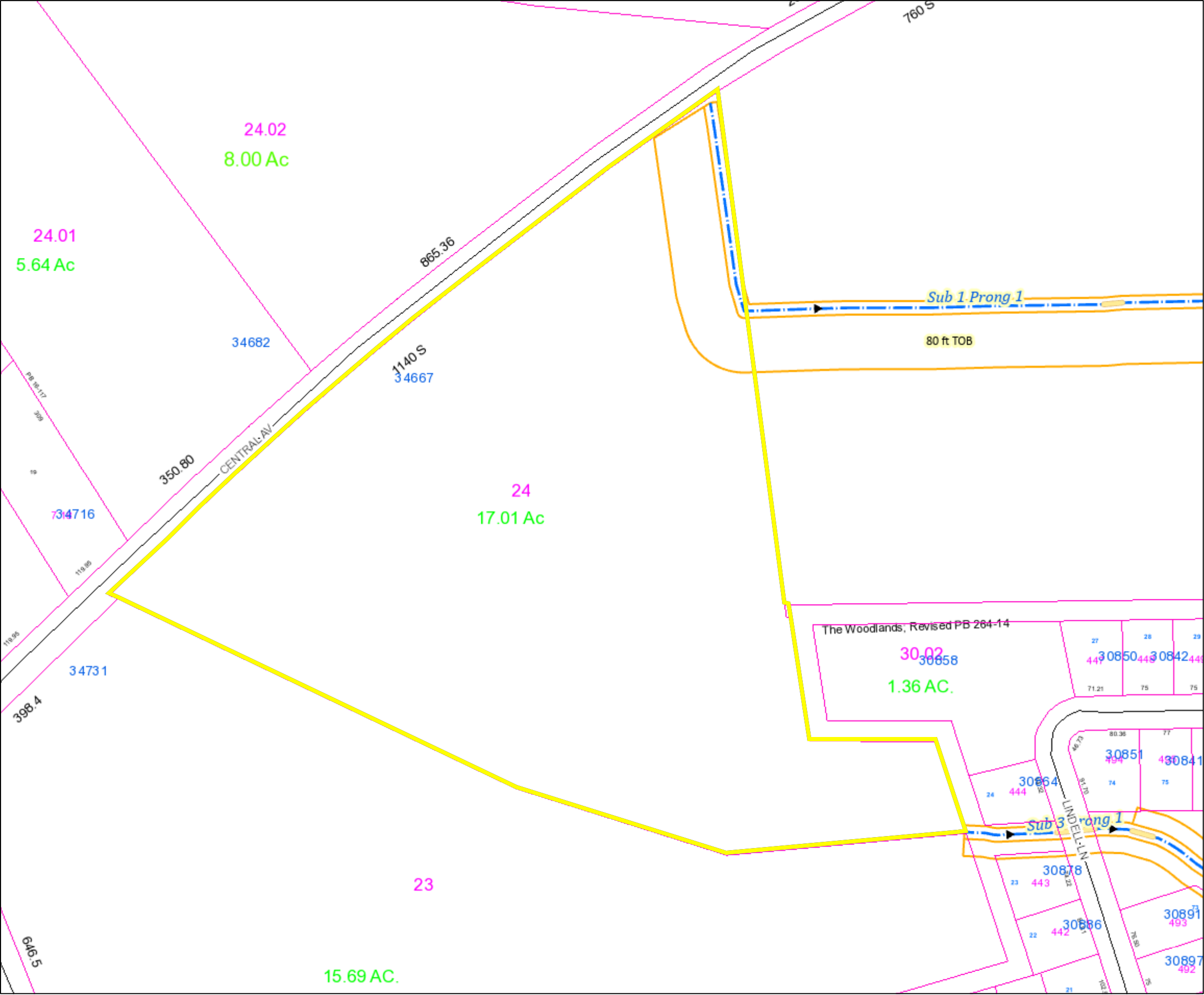
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Sussex County



PIN:	134-19.00-24.00
Owner Name	TOOMEY PEGGY W
Book	5453
Mailing Address	36003 BURBAGE RD
City	FRANKFORD
State	DE
Description	HWY BAYARD TO
Description 2	OCEAN VIEW
Description 3	FX
Land Code	

polygonLayer

Override 1

polygonLayer

Override 1

..... Tax Parcels

..... 911 Address

— Streets

..... County Boundaries

Flood Zones 2018

..... 0.2 PCT ANNUAL CHANCE FLOOD HAZARD

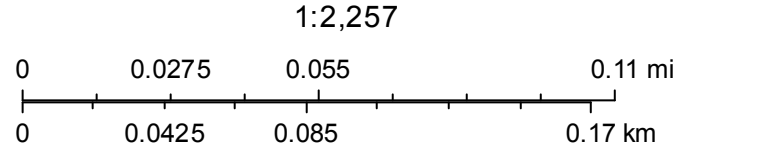
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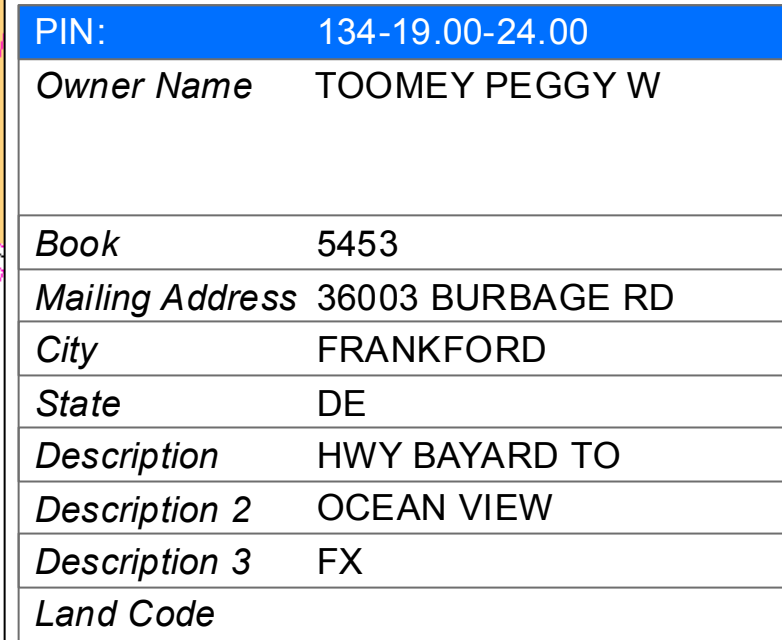
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⋮ Tax Parcels

— Streets

Introduced: 04/26/22

Council District 4: Mr. Hudson

Tax I.D. No. 134-19.00-24.00

911 Address: 34667 Central Avenue, Frankford

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 14.45 ACRES, MORE OR LESS

WHEREAS, on the 11th day of January 2022, a zoning application, denominated Change of Zone No. 1969 was filed on behalf of Ron Sutton; and

WHEREAS, on the ____ day of _____ 2022, 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. 1969 be _____; and

WHEREAS, on the ____ day of _____ 2022, 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 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 Baltimore Hundred, Sussex County, Delaware, and lying on the southeast side of Central Avenue (Rt. 84). approximately 0.17-mile northeast of the intersection of Peppers Corner Road (S.C.R. 365) and Central Avenue (Rt. 84) and being more particularly described in the attached legal description prepared by W. W. Edinger, said parcel containing 14.45 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.