

Sussex County Council Public/Media Packet

**MEETING:
January 24, 2023**

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**Sussex County Council
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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 24, 2023

10:00 A.M.

Call to Order

Approval of Agenda

Approval of Minutes – January 10, 2023

Reading of Correspondence

Public Comments

Todd Lawson, County Administrator

1. Rules of Procedure Review related to Tributes, Resolutions, & Proclamations
2. Administrator's Report

John Ashman, Director of Utility Planning & Design Review

1. 2022 Mass Annexation Request

Hans Medlarz, County Engineer

1. Herring Creek Sanitary Sewer District
 - A. Amendment 6 – Winding Creek Village Water Design



Old Business

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. 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)

Grant Requests

- 1. Delaware Manufactured Home Owners Association for their Educating and Aiding Manufactured Owners program**
- 2. Race4warriors, Inc. for their Race4warroiors event**
- 3. Nicmar Youth Connection Enterprises, Inc. for their Eastern Shore Alumni Basketball Classic**

Introduction of Proposed Zoning Ordinances

Council Members' Comments

1:30 p.m. Public Hearings

Conditional Use No. 2336 filed on behalf of Community Power Group, LLC

“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 PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 25.012 ACRES, MORE OR LESS” (property lying on the north side of Woodland Ferry Road [S.C.R. 78] 0.15 mile east of the intersection of Woodland Ferry Road [S.C.R. 78] and Bethel Road [S.C.R. 493] and on the east side of Bethel Road [S.C.R. 493] 0.2 mile north of the intersection of Woodland Ferry Road [S.C.R. 78] and Bethel Road [S.C.R. 493]) (911 Address: N/A) (Tax Parcel: 232-5.00-11.03 [p/o])

Conditional Use No. 2325 filed on behalf of David & Sandra Blank

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CAMPGROUND TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 30.76 ACRES MORE OR LESS” (property lying on the northeast side of Jay Patch Road [S.C.R. 376A], approximately 0.5-mile southeast of Pepper Road [S.C.R. 376]) (911 Address: N/A) (Tax Parcel: 533-9.00-58.00)

Conditional Use No. 2327 filed on behalf of Howard L. Ritter & Sons, Inc.

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 DISTRICT TO ALLOW THE CONTINUED SALES AND STORAGE OF STONE, MULCH, SOIL, AND RELATED OUTDOOR PRODUCTS AT THE PROPERTY WITH THE EXISTING, NON-CONFORMING BORROW PIT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 50.90 ACRES, MORE OR LESS” (property lying on the southwest side of Plantations Road [Rt. 1D], approximately 0.18 mile southeast of Robinsonville Road [S.C.R. 277]) (911 Address: 33508 Ritter Lake Road, Lewes) (Tax Parcel: 334-12.00-7.00)

Adjourn

-MEETING DETAILS-

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on January 17, 2023 at 4:30 p.m. and at least seven (7) days in advance of the meeting.

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

Agenda items may be considered out of sequence.

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

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

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

To join the meeting via telephone, please dial:

Conference Number: 1-302-394-5036

Conference Code: 570176

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

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

#

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JANUARY 10, 2023

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, January 10, 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

Call to Order	The Invocation and Pledge of Allegiance were led by Mr. Vincent. Mr. Vincent called the meeting to order.
M 014 23 Approve Agenda	A Motion was made by Mr. Rieley, 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
Minutes	The minutes from January 3, 2023, were approved by consensus.
Corre- spondence	Mr. Moore read correspondence received from The Crisis House thanking Council for their donation.
Public Comments	Public comments were heard and the following people spoke: Mr. Rich Borrasso representing SARG spoke about the SR1 Corridor project and development in Sussex County. Mr. Bill Kinnick spoke about sewage and drinking water issues in Sussex County.
Recognition/ Laurel HS Football Team	The Council recognized members of the Laurel High School Football Team for winning the 2022 DIAA Class 1A Championship.
Bay Beach	Mr. Ted Becker, representing the Bay Beach Association came forward for a presentation. Mr. Becker introduced those that were in attendance in

**Association
Presentation**

support.

Mr. Becker discussed the legislation that was recently passed, the Water Resources Development Act. The legislation is aimed to help with ongoing issues along the 27-mile Delaware Bayshore line.

The Bay Beach Association is made up of the three incorporated communities along the Bay including Slaughter Beach, Bowers Beach, and Lewes. All of the incorporated areas will be represented by Kent County and Sussex County.

Mr. Becker explained that the legislation authorizes the Army Corps to make emergency repairs and restoration along the shoreline for a period of up to ten years. It also requires that within ten years, the Army Corps would have engineered beaches that are consistent with the shoreline as we know it today. In addition, it requires that a feasibility study be conducted regarding the beneficial use of dredge materials. Mr. Becker discussed the federal and state matches that would change as a result of this legislation. Currently, 65% of the funds are federal and 35% are state funds for Army Corps projects. This has been changed to 90% federal and 10% state funds.

Mr. Becker shared how the Bay Beach Association was formed; the association has been working with the three communities, Slaughter, Bowers, and Lewes. Each of those communities have pledged \$1,000 and Kent County Levy Court has authorized \$30,000 towards this effort. The funds will be used to work with a consultant that would take the legislation and interface with the Army Corps to make sure that the Bay Beach Communities and the entire Delaware shore on the Bay would be represented in a unified voice.

Mr. Becker outlined the goals of the Bay Beach Association. These goals are to develop MOUs with the participating partners, have quarterly meetings and work with the Greater Lewes Foundation. In addition, hire a consultant to work with the association to make sure that the interest and concerns are recognized by the Army Corps and working with legislators to make sure funding is available.

Mr. Becker asked Council for consideration of a \$30,000 one-year contribution to Bay Beach Association's efforts to coordinate this program and to move it forward.

Mrs. Jennings explained that this is not a budgeted item, therefore, the funding would come out of contingency funds if desired.

**Adminis-
trator's
Report**

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

1. Council Meeting/Holiday Schedule

County offices will be closed on Monday, January 16th for the Martin

**Administrator's
Report
(continued)**

Luther King Jr. Holiday. Offices will reopen on Tuesday, January 17th, at 8:30 a.m. Council will not meet on January 17th. The next regularly scheduled Council meeting will be on Tuesday, January 24th at 10:00 a.m.

2. Beatrice Ennis

It is with great sadness that we inform you that Beatrice Ennis passed away on Saturday, December 31, 2022. Beatrice began her career with Sussex County in June 1978 where she worked until December 1994 for a total of 16 years of service. Her last position with the County was Librarian I. We would like to extend our condolences to the Ennis family.

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

**Bank
Resolutions**

Mrs. Jennings presented for Council's consideration a Proposed Resolution authorizing signatures on the accounts of Sussex County Council with various financial institutions and investment firms.

**M 015 23
Adopt R
001 23
Bank
Resolutions**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to Adopt Resolution No. R 001 23 entitled "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".

Motion Adopted: 5 Yeas

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

**Airport
Advisory
Committee
Appointme-
nts**

Mr. Bob Bryant, Airport Manager, presented for Council's approval the Delaware Coastal Airport Advisory Committee members for the Year 2023: Garrett Dernoga, Larry Kelley, Jeffrey Reed, Rick Garner, Ezra Richards, Mark Ryan, Scott Thomas, and Ray Hopkins. Mr. Bryant noted that the Committee members also include one County Council member, the County Administrator, the County Engineer, and the Director of Economic Development.

**M 016 23
Approve
Airport**

A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley, that the Sussex County Council appoints Garrett Dernoga, Larry Kelley, Jeffrey Reed, Rick Garner, Ezra Richards, Mark Ryan, Scott Thomas and Ray

Advisory Committee Appointments	Hopkins to the Delaware Coastal Airport Advisory Committee for 2023. Motion Adopted: 5 Yeas Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea; Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Vincent, Yea
Rules	Mr. Moore read the rules of procedure for public hearings.
Public Hearing/ Black Oak Annexation into SCUSSD	A Public Hearing was held on the Black Oak Annexation of the Sussex County Unified Sanitary Sewer District (West Rehoboth Area). John Ashman, Director of Utility Planning and Design Review reported that 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 in the West Rehoboth Area. The Engineering Department had 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 a pool and clubhouse on 77.22 acres and has P&Z preliminary approval. The project will be responsible for System Connection Charges of \$6,600 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. In addition, the area was posted on December 20, 2022. To date, there has been no correspondence either in support or opposition to this project. There were no public comments. The Public Hearing and public record were closed.
M 017 23 Adopt Resolution No. 002 23/ Black Oak	A Motion was made by Mr. Rieley, seconded by Mr. Hudson to Adopt Resolution No. R 002 23 entitled “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 IS 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”. Motion Adopted: 5 Yeas Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea; Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Vincent, Yea

**Public
Hearing/
Coral Lakes
Annexation
Into
SCUSSD**

A Public Hearing was held on the Coral Lakes Annexation of the Sussex County Unified Sanitary Sewer District (West Rehoboth Area).

John Ashman, Director of Utility Planning and Design Review reported that 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. The Engineering Department has received 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 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, no correspondence either in support or opposition, just questions on how it will affect the neighboring communities have been received.

Public comments were heard.

Ms. Susan Petze-Rosenblum expressed concern about the installation of the new sewer pipe being installed and the possibility of disturbance to tree roots. Mr. Medlarz replied that the proposed sewer line is more than 20 feet away from her property line; it is expected to not cause any damage to her trees.

The Public Hearing and public record were closed.

**M 018 23
Adopt
Resolution
No. R 003 23
Coral Lakes**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to Adopt Resolution No. R 003 23 entitled “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”

Motion Adopted: 5 Yeas

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

**Warwick
Park Area
PH Results**

John Ashman, Director of Utility Planning and Design Review presented the Public Hearing results for Warwick Park Area. On August 23, 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.

**Warwick
Park Area
PH Results
(continued)**

The Engineering Department received a request from the Warwick Cove Condominium Association for information and petitions. Within a few days, interest was expressed from Warwick Park Co-President. The Engineering Department distributed polling letters to all residents of the communities and the results were in favor of proceeding with the potential expansion.

During the background investigation by the Department, it was 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 Engineering Department held a Public Hearing 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 GullPoint. Following the meeting, the Department was asked to attend a separate meeting for GullPoint to explain to those not in attendance. The information shared at the Public Hearing as the community was unaware of the 2012 DNREC letter and were under the impression their system was in compliance. The Gull Point special general membership meeting was held on December 10, 2022. At that point, the Board shared that DNREC had recently notified GullPoint 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 to be a part of the project. Therefore, the Engineering Department is recommending that County Council approve the expansion of the Sanitary Sewer District Boundary to include Warwick Park area, as proposed.

**M 019 23
Adopt
Resolution
R 004
23/Warwick
Park**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to Adopt Resolution No. R 004 23 entitled “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”.

Motion Adopted: 5 Yeas

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

Countryside Hamlet/No. 8 Amendment Hans Medlarz, County Engineer presented Amendment No. 8 for Countryside Hamlet, Project S23-01 for Council's consideration. Mr. Medlarz explained that 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.

M 020 23 Approve Amendment No. 8/ Countryside Hamlet A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley, be it moved based upon the recommendation of the Sussex County Engineering Department, that Amendment No. 8 to the 2019 Miscellaneous Engineering Base Agreement with Davis, Bowen and Friedel, be approved in the amount not to exceed \$124,500.00, for survey and design services associated with the Countyside Hamlet project, contingent upon DNREC concurrence.

Motion Adopted: 5 Yeas

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

Cannon Rd/ Inland Bays/ Constructed Wetlands project Hans Medlarz, County Engineer presented Cannon Road – Inland Bays Road Drainage Improvements and Constructed Wetlands project award recommendation for Council's consideration. Mr. Medlarz reported that many bids were received, and it is being recommended to award to the lowest responsive bid.

M 021 23 Approve Contract S22-05 A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, be it moved based on the recommendation of the Sussex County Engineering Department, that Contract S22-05, Cannon Road/Inland Bays Road Drainage Improvements and Constructed Wetland project, be awarded to Kinsley Construction, Inc. for their total bid in the amount of \$11,467,000.00.

Motion Adopted: 5 Yeas

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

Old Business/ FLUM Under Old Business, Jamie Whitehouse, Planning and Zoning Director discussed a Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN

Ordinance **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 reminded Council that a public hearing was held 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. The additional comments were reported to Council.

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. A motion was then made and passed to close the public record.

M 022 23 **A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley to Adopt a**
Adopt **Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE**
FLUM **FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN**
Ordinance/ **RELATION TO TAX PARCEL NO. 235-23.00-2.02 (PORTION OF), 235-**
DENIED **23.00-1.00, 235-23.00-1.04, 235-23.00-2.00, AND 235-23.00-2.01”.**

Motion Denied: 2 Yeas, 3 Nays

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

Grant
Requests **Mrs. Jennings presented a grant request for the Council’s consideration.**

M 023 23 **A Motion was made by Mr. Rieley, seconded by Mrs. Green, to give**
Springboard **\$5,250.00 (\$2,000.00 from Mr. Rieley’s Councilmanic Grant Account, \$250**
Collabora- **from Mr. Schaeffer’s Councilmanic Grant Account, \$2,000 from Mrs.**
tive **Green’s Councilmanic Grant Account, \$500 from Mr. Vincent’s and Mr.**
Inc. for their Pallet Shelter Village.

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. Rieley introduced a Proposed Ordinance entitled “AN ORDINANCE**
of Proposed **TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1**
Ordinances **AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING**
BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND

Introduction of Proposed Ordinances (continued) **LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 12.06 ACRES, MORE OR LESS”**

Mr. Vincent introduced a Proposed Ordinance entitled “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”

Mr. Hudson introduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A 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”

Mr. Hudson introduced a Proposed Ordinance entitled “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”

Mr. Hudson reintroduced 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 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”

The Proposed Ordinances will be advertised for Public Hearings.

Council Members’ Comments **Mr. Vincent commented about requests for changes to the Future Land Use Map. He asked that Mr. Lawson and Mr. Whitehouse review the process and potentially review these requests every six months rather than one at a time.**

Mr. Vincent commented about the Tribute and Proclamation request process. He reported that when he first came on Council, the requests were approved by the Council. He would like to review this process to see if it should be used again or if there is another method that needs to be used.

M 024 23 **At 10:59 a.m., a Motion was made by Mr. Hudson, seconded by Mr.**
Recess **Schaeffer to recess until 1:30 p.m. Public Hearings.**

Motion Adopted: 5 Yeas.

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

M 025 23 **At 1:30 p.m., a Motion was made by Mr. Hudson, seconded by Mr.**
Reconvene **Schaeffer to reconvene.**

Motion Adopted: 5 Yeas.

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

Rules **Mr. Moore read the rules and procedures for public hearings.**

Public **A Public Hearing was held on a Proposed Ordinance entitled “AN**
Hearing/ **ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-**
CU2328 **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) filed on behalf of Sunrise Solar

Jamie Whitehouse, Planning and Zoning Director presented the application.

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 eight reasons stated and subject to the ten recommended conditions as outlined within the motion.

The Council found that Mr. Julian Pellegrini spoke on behalf of the Application; that he is the Project Engineer for the Application; that the proposal is for a 5.8-megawatt, ground mounted, community solar field; that there will be a gravel entrance; that there is a small area of trees located in the center of the site, where the solar field is proposed; that they propose to add a landscape buffer.

Mr. Hudson inquired where the easement would be located.

**Public
Hearing/
CU2328
(continued)**

Mrs. Green asked if the property owner understood that the property taxes will change on the property.

Public comments were heard.

Mr. Robert Smith, owner of the property commented that all property owners in the trust fund are in agreement to move this forward.

The Public Hearing and public record were closed.

**M 026 23
Adopt
Ordinance
No. 2898/
CU2328**

A Motion was made by Mrs. Green, seconded by Mr. Schaeffer to Adopt Ordinance No. 2898 entitled “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” for the reasons and conditions given by Planning and Zoning as follows:

- 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.**

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No. 2898/
CU2328
(continued)**

- 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 Adopted: 5 Yeas

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

**Public
Hearing/
CU2329**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A 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-

**Public
Hearing/
CU2329
(continued)**

14.07) filed on behalf of Thomas Drgon Trustee

Jamie Whitehouse, Planning and Zoning Director presented the application.

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.

The Council found that Mr. Tim Willard, Esq., with Fuqua, Willard & Schab, P.A., spoke on behalf of the Application; that also present was Mr. Thomas Drgon, owner of the property and Mr. Edward Launay, with Environmental Resources, Inc.; that the request is for a Conditional Use; that the request is to allow Mr. Drgon to live on his property and work on boats; that Mr. Drgon has worked to develop a valuable trade for this area; 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 during the Planning Commission meeting, the opposition did a good job developing this project as a larger industrial use; that a condition that is being offered is that any and all work will be done inside and there will be no boat storage on the property; 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 restores boats and does not do any engine work; 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 zoning is AR-1 (Agricultural Residential) in the immediate nearby areas; that it is in a Coastal Zone in the Future Land Use Plan that allows like commercial and convenient; that this is an area that the County is recognizing for mixed use as described in the Future Land Use Plan; that in Ordinance No. 2756, the County Council decided that tourism is a big part of Sussex County; that the letters of opposition received seemed to focus of noise, traffic and the environment; that exhibit books were distributed and those issues were addressed in those books; that Mr. Willard discussed home occupations; that there is information relating to traffic included in the exhibit booklet; that there will be a limited number of customers coming to the location; that the Applicant also does some work at the nearby marinas and boat yards; that the average

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Hearing/
CU2329
(continued)**

number of customers at the applicants current site is averaged at 3 to 5 per month over the last 2 ½ years; that information is based on the applicant's financial records; that since the last hearing, a forensic sound specialist was engaged to verify any noise generated by the applicant's loudest activity; that the report was distributed to the Council members and a witness was present today that was present when the report was conducted; that all grinding will be conducted inside the building; that the noise is no louder than a lawnmower or a leaf blower; that the accessory building is 100' x 48' and is insulated; that the test was completed in that building with the doors open and the doors shut; that all work shall be performed with accepted environmental practices; 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 there are other businesses located along Dirickson Road; that the Applicant has valuable clients; that some of those clients submitted letters of support; that the resident and shop consists of 6.74 acres; that there is a tree line to provide privacy from the road; that a raised berm shall be constructed and planted with evergreens along the frontage of the property; that the only boats that will be stored outside are for pick up or drop off; that in Tab 2 of the exhibit booklet showed the site plan for the proposed building; that the distance to the closest house is unknown; that the landscaping plan was discussed and provided to Mr. Moore.

The Council 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 the larger box in the front of the property is the raised wastewater; that the area next to it is a reserve area; that the area would be the replacement area if needed; that the layout has been approved by DNREC.

Mr. Willard stated that in AR, marinas and yacht clubs are permitted uses; that permitted uses allows for home occupations and the permitted use in AR is boat storage; that boat storage is not being asked for at this time; that a TIS is not needed; that a letter from the applicant's accountant was provided in the exhibit booklet outlining the number of visits per month; that the applicant is not selling boats; that he is taking them for a time; that a noise analyze was done and the report was provided in the exhibit book; that the firm was hired to give a reading of noise and how it compares to other uses, in particular lawn mowers and leaf blowers; that Mr. Arnold West recommended a witness be there during the experiment; that Gordon Bowers came forward; that Gordon Bowers witnessed the test; that the readings were videotaped; that Mr. Willard reviewed the forensic test that was completed on December 17, 2022; that Mr. Willard asked Mr. Bowers questions about how the test was conducted; that during the test, it was videotaped and the equipment was operated by the applicant; that Mr. Willard reviewed the report that was included in the exhibit booklet; that Mr. Bowers noted he is noise sensitive; that he did the test and the noise was barely noticeable especially with the garage doors down; that pictures were taken while at the site; that pictures were shown of how far the building is

**Public
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CU2329
(continued)**

from the roadway; that it has been questioned if there are doors on the building yet; that the test was completed at the other location; that the test was completed at the Rehoboth location when the test was done with the door closed; that all of the testes were done on that property; that the testes were done at a warehouse similar to the proposed warehouse and 100 feet away; that the doors were shut and it was done inside; that it is unknown if the building where the test was done was insulated; that pictures were shown of the properties located near the proposed property.

The Council found that Mr. Jeff Perno came forward; that he is a banker; that he financed the applicant's project here; that he is a customer of the applicant's; that the test was done at the applicant's shop that he currently runs; that there are no doors on the new shop; that there is not a point to put doors and insulation in the new garage until an approval is received; that construction was stopped once this issue came about; that the test was done at his current shop that is a smaller shop at 100 feet back; that the closest neighbor is about 100 feet from the proposed shop; that is why the test was completed at 100 feet due to the concern of the neighbors; that the shop where the test was completed is insulated; that until it is known that the Conditional Use is approved, installation and doors will not be done.

Mr. Willard read a letter from Teresa Moser, a marina manager that was dated December 2022; that the letter explained the work that the applicant completed; that it explained that he is an approved vendor; that Mr. Drgon explained that fiberglass will be grinded; that small repairs will be completed; that a picture of the vacuum being used was included in the Exhibit Booklet; that in Tab No. 8, the nearby businesses were listed with the locations of each of them; that an explanation of the businesses was provided; that in Tab No. 9, various letters of support were provided; that Mr. Willard read some of the letters of support; that Mr. Willard stated the proposed conditions; that the conditional use shall be limited to restoration and repair of boats within 100 by 48 accessory business; that no repairs will be completed outside; 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 customer boats or trailers should be parked outside the accessory building unless being dropped off or picked up; that customer business hours shall be by appointment only during the hours of 8:00 a.m. to 6:00 p.m. seven days per week; that one lighted and permitted sign shall be located at the entrance of the property; 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 language was quoted from the Future Land Use Plan.

Public comments were heard.

**Public
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CU2329
(continued)**

Mr. Garth Troescher spoke in opposition of the application. Mr. Troescher commented that he and his wife have tried on two attempts, one to have a wedding venue which was denied and for a bed and breakfast which they decided to withdraw their application because they knew they would be turned down; that he has a proper business on Route 17 next to Bebee Medical Hospital; that he only receives his mail at his house; that he does not have company trucks or a lumber yard or anything coming in and out of his house; that he is unsure how many businesses are permitted on this street; however, the applicant was assuming based on websites and pictures; that the bed and breakfast has been there for many years, probably before any house was built there; that the use cannot be controlled if this is approved; that the test that was completed in regard to sound was done at another location; that the one person in support was a future neighbor; that he is aware what the kayak owners do; that he has a granddaughter that lives with him full time; that he worries about the trucks and big boats coming and going; that he is concerned about the air quality.

Mrs. Jennifer and Mr. Walt Mitchell spoke in opposition of the application. They described the nature of Dirickson Creek Road and addressed some of the discrepancies and misleading claims put out by the applicant; that Dirickson Creek Road is a very short quiet dead end street with about 25 single family homes and one business which is a bed and breakfast; that most of the residents purchased here for peace and quiet and the nature of the area; that he believes this is a bad location for type of business; that the new building has been constructed about 100 feet from their back deck; that his commercial dumpster will be even closer; that there is no amount of installation that can be done for them not to hear or smell his operation; that the applicant's house is about 100 feet away from their house; that the noise report is extremely misleading; that there are no doors on the building located on the site; that the report was done at another location, therefore, the report has zero value; that each building is built differently; that they did not specific what they were griding during the reading or what type of disc they were using; that many of the compared objects done during the test were very misleading; that of the seven businesses the applicant listed as being nearby, only one actually operates on Dirickson Creek Road; that business is the bed and breakfast; that he listed them as having two businesses; that they only use their home address for mailing; that they are not allowed to store their equipment on State property in the off season; that they bring the equipment to their house during that time; that they have insured that the vegetation around their property is thick enough so that the neighbors do not notice the equipment in the winter; that the applicant cut and trimmed some of the trees and removed almost all of the vegetation next to their property so he could construct his building closer to the property line; that since that has been cut, he may be able to see some of the kayaks; that they do not transact any business on their property and no customers come to their property; that in the PZ meeting, the applicant misrepresented a flower business being on Dirickson Creek Road and being comparable to a fiberglass business; that the florist shop is on Camp Barnes Road; that none of the people that submitted letters of support live on

**Public
Hearing/
CU2329
(continued)**

Dirickson Creek Road; that only one person even owns property on Dirickson Creek Road which is a vacant lot; that many of the people that submitted letters are boat captains; that the home occupation business was discussed; that his building plan shows a living area of 1,800 square feet; that the applicant has already constructed a 4,800 foot workshop; that a sizable loan was taken out by the applicant according to the Sussex County Recorder of Deeds; that according to the documents, the applicant was supposed to be living on the property within 60 days of the loan; that it has been over 550 days and he has not even started on his house; that the applicant acknowledged in those documents that he would not be using hazardous materials in his business; that the applicant dropped it down from a 5 to 1 horse power dust collector; that there is a ditch on the property; that there is a wildlife area nearby the property; that there are rare species in the area; that a fiberglass repair business would not help tourism; that a boat storage business is different than this type of business; that the proposal has been written with minimal limits and conditions.

Mr. Pat Welch spoke in opposition of the application. Mr. Welch stated that he is the President of the Dirickson Cove HOA; that he sent a letter yesterday addressing the problems that occurred early on with the construction; that trucks were backing into properties because they could not turn around; that they were asked not to do it; that he owns a construction company that does fiberglass work; that there was no mention of the size of the grinder of vacuum system when the test was completed; that there was no mention of venting that would come out of the warehouse; that lighting will be an annoyance; that he moved here to be in a secluded area and not to be near a commercial property; that the bed and breakfast is now run as an AirB&B; that the neighborhood is very quiet; that the septic area has an area next to it listed as reserve; that being in the construction business, those areas are typically meant for expansion; that he is concerned that other areas will be completed if this is approved.

Ms. Teresa Stevens spoke in opposition of the application. Ms. Stevens stated that she believes there are more appropriate places for him to have his business; that she started a small business herself as a dog and cat boarding business; that she looked for more than two years to find an appropriate spot that would not impact any neighbors; that there will be pollutants and hazardous chemicals; that she can see the building that has been constructed clear as day when she walks outside of her home; that the building is very tall and very big; that she sent a letter in on January 4th letter to the Council and asked that it be incorporated into the minutes; that the letter has been attached; that she also submitted pictures that she took from the road of the property; that she has concerns of the dust that may be generated while doing his business that would flow into the water which would flow into the creeks and nearby areas; that all of the boats that will be on the property are going to be outside of the building and all of the boats being worked on will be inside the building based on the testimony by the applicant; that she calls that storage; that the applicant gave conflicting testimony; that the noise test was not conducted on site; that she has a large

**Public
Hearing/
CU2329
(continued)**

property where she cuts her grass weekly; that the comparison of his equipment to her grasscutter is not comparable; that a marina is not comparable to what is being proposed; that there is already a boat restoration business within four miles of Dirickson Creek Road; that bringing this business here does not enhance any marina type use; that she assumes that the applicant and his employees use protective gear to protect themselves; that she will not be using that protective gear and will be subject to all of the sounds, noise and chemicals; that several of the businesses mentioned by the applicant are not located on Dirickson Creek Road; that the only business is the Air B&B; that she suggests that if a party venue or wedding venue is not suitable for this street, than an industrial business is also not suitable on this street; that of the letters of support only consists of one person that owns property but does not live on the street; that she pulled the permit that the applicant got for the structure; that in the permit, it states that it would be used for a home, business and ancillary structure; that they did not in any place note that it would be used for commercial purposes; that she has concerns that if this request is denied, the applicant will still run his business and she wonders what ramifications her and her neighbors would then have.

Mr. Bob Ferrugson spoke in opposition of the application. He spoke about property values; that no impact studies have been done on that; that he has concerns on where this will end; that if this type of business is approved on this road; that what would be next; that what would that do to the street and the property values; that he asked that this request be denied.

Ms. Gloria Marryman spoke in opposition of the application. She stated that she looks at the area that needs to be preserved; that the road is tiny and is still be preserved; that she does not reside on the road, however, she owns two pieces of property; that it is a peaceful area; that she purchased the properties in 1987; that it ends on the water and there is no way to turn around.

Mr. Robert Luca spoke in opposition of the application. Mr. Lucca stated that if this goes through what would happen next; that the quality of life would be impacted; that he has concerns about the property value; that he is concerned that the applicant took for granted an approval because he has already started construction on his building.

Mr. Henry Altevogt spoke in opposition of the application. He expressed concerns of the water and the chemicals; that the wildlife is right next to it; that the pollution would be terrible; that if it is approved, who would enforce it.

Ms. Maria Lopez spoke in opposition of the application. Ms. Lopez stated that she owns six acres on the road; that her and her husband attempted to find a property to raise their children; that it is beautiful and peaceful; that a business like this would be hard for everyone; that children ride bicycles and people walk their dogs which is nice; that her and her husband worked

**Public
Hearing/
CU2329
(continued)**

for a long time to purchase this property; that it is sad for her that someone is trying to convert this peaceful place into a industrial street; that the property is close to the water; that this type of business would not be good for anyone on the street; that it would decrease the value of the properties; that she is concerns about animals and health issues.

The Public Hearing and public record were closed.

**M 027 23
Defer
Action/
CU2329**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to defer action on a Proposed Ordinance entitled “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”

Motion Adopted: 5 Yeas

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

**Public
Hearing/
CU2331**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 (AGRICULTURAL RESIDENTIAL DISTRICT) FOR A 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) filed on behalf of Sweet Meadows Riding Academy

Jamie Whitehouse, Planning and Zoning Director presented the application.

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.

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

**Public
Hearing/
CU2331
(continued)**

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 Sussex County 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 and has security cameras; 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 up to 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 the Applicant does propose a bathhouse; that all proposed structures will be permitted and reviewed by Sussex County Building Code; 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

**Public
Hearing/
CU2331
(continued)**

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 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; 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 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 500 Year Flood Plain; that the Roxanna Fire Department, Station, will provide fire protection services for the site; that the applicant discussed the goals and business plan for the property; that the applicant would like to continue to grow and serve the community.

There were no public comments.

The Public Hearing and public record were closed.

**M 028 23
Adopt
Ordinance
No. 2899/
CU2331**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to Adopt Ordinance No. 2899 entitled "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

**M 028 23
Adopt
Ordinance
No. 2899/
CU2331
(continued)**

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” based on the following reasons and conditions given by the Planning and Zoning Commission as follows:

- 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**

**M 028 23
Adopt
Ordinance
No. 2899/
CU2331
(continued)**

- 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 Adopted: 5 Yeas

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

**Public
Hearing/
CU2335**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A 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) filed on behalf of Joseph Kraft

Jamie Whitehouse, Planning and Zoning Director presented the application.

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

The Council found that Mr. Joseph Kraft spoke on behalf of his Application; that he is the owner of Send It Precision, LLC; that he has been approved previously for fire arm sales; that he is a Class 1 FFL licensed dealer; that his original plan was gunsmithing and ammunition reloading and manufacturing; that he has no intention to do sales; that he has a family that lives there; that he tunes rifles for hunters and develops custom ammunition for hunters; that he works out of a 24 x 30 pole building; that there would be no additional noise or traffic; that everything he does is appointment based; that he currently works for the prison; that he only has two days off of work a week; that the proposed use would be a very small business.

There were no public comments.

The Public Hearing and public record were closed.

M 029 23

A Motion was made by Mrs. Green, seconded by Mr. Schaeffer to Adopt

**Adopt
Ordinance
No. 2900/
CU2335**

Ordinance No. 2900 entitled “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” for the reasons and conditions provided by the Planning and Zoning Commission as follows:

- 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 Adopted: 5 Yeas

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

**Public
Hearing/
CU2339 &
CZ1969**

A Public Hearing was held on a Proposed Ordinance entitled “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

Public

**Hearing/
CU2339 &
CZ1969
(continued)**

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) and a Proposed Ordinance entitled “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)

Jamie Whitehouse, Planning and Zoning Director presented the applications.

For CZ1969, 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

For CU2339, 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.

The Council found that Ms. Mackenzie Peet, Esq. with Baird Mandalas Brockstedt Federico & Cardea, spoke on behalf of the Applicant; that also present was Mr. Ron Sutton, P.E. with Civil Engineering Associates, LLC, Robert Harris 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 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; the property to be located within Investment Level 3 and the Coastal Area; that the proposed rezoning and use is consistent with and in character with the surrounding uses and Sussex County’s Comprehensive Plan and if the property is rezoned from AR-1 to MR and ultimately developed into a townhome development the project will comply with all MR District Coastal Area and subdivision of lands requirements as the record confirms.

There were no public comments.

The Public Hearing and public record were closed.

**M 030 23
Defer
Action/
CZ1969**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to defer action on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A 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”

Motion Adopted: 5 Yeas

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

**M 031 23
Defer
Action/
CU2339**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to defer action on a Proposed Ordinance entitled “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”

Motion Adopted: 5 Yeas

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

**M 032 23
Adjourn**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to adjourn at 3:58 p.m.

Motion Adopted: 5 Yeas

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

Respectfully submitted,

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

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

From: Doug Hudson
Sent: Fri, 6 Jan 2023 00:19:58 +0000
To: Jamie Whitehouse
Subject: Fwd: Letter Requesting Denial of Application for Boat Restoration Business on Dirickson Creek at upcoming Council Meeting on January 10

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From: Theresa Stevens <terri.stevens@outlook.com>

Sent: Thursday, January 5, 2023 4:21 PM

To: Doug Hudson

Subject: Letter Requesting Denial of Application for Boat Restoration Business on Dirickson Creek at upcoming Council Meeting on January 10

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

RE: Letter in OPPOSITION to Application C/U 2329 submitted by Thomas Drgon Trustee For Boat Restoration Business at Property located at 37230 Dirickson Creek Road, Frankford DE: Tax Parcel 134-21.00-14.07

Dear Sussex County Council Members,

I am a property owner within 200 feet of the subject site. Having received a notice of upcoming public hearing before the Sussex County Council (hereinafter the "Council"), I wish to notify the Council that I am OPPOSED to this conditional use. Such a Conditional Use will substantially and adversely impact the uses of all adjacent and neighboring properties. The requested Conditional Use lies far outside any uses, special uses, conditional uses, or even accessory uses as contemplated by any sections of 115 of Article XXVIII of the Code regulating Administration and Enforcement of Permits.

Further, I herein request that the Council DENY the application because the operation of this business WILL have a negative impact on the physical, economic and social environment of my property as well as all surrounding properties on Dirickson Creek Road – as further explained below.

1. Negative Social Environment Impact

Dirickson Creek Road is a secluded, quiet, dead-end street with all developed land being residential properties – mostly single families with small children and/or

pets. There is 1 short-term rental residential property (Dirickson Creek B&B). I personally looked for a suitable property for more than 2 years before finding Dirickson Creek Road. I bought here particularly due to its quiet nature, with very large, spread-out lots and the low traffic nature of a dead-end street, so that I could enjoy my property without too many neighbors, without too much noise and without too much traffic on the road. I and all my neighbors walk our dogs and /or children regularly on the road because of the low traffic nature of the dead-end street. Additionally, the quiet nature of the street is enhanced by Camp Barnes which backs up to Dirickson Creek Road, with its vast undeveloped property bringing wild birds and other wild-life and adds to the beauty of our street. The properties that are not yet developed are small acreage lots that have no agricultural businesses currently operating on them and will most likely be developed (if at all) for residential purposes. It is clear that Dirickson Creek property owners, including myself, want to protect the quiet enjoyment of our property. As further evidence, Dirickson Creek Road owners have previously opposed 2 other applications for special exceptions, which thankfully were denied by this Council; one was for use as an occasional wedding venue and the other was where the B&B wanted to add a party venue. Allowing a Boat Restoration Business will absolutely destroy and disrupt the quiet enjoyment and social environment of our properties. This business will bring, among other nuisances, significant traffic and endless loud noise and a total disruption of our quiet nature-filled street. The Conditional Use WILL alter the essential character of the neighborhood in which this property is located and WILL be detrimental to the public welfare.

2. Negative Physical Impact

Notwithstanding the addition of significantly more traffic, Boat Restoration Businesses are known to use huge amounts of highly toxic chemicals spreading noxious odors and high levels of dust containing known hazardous particulates. Some of the chemicals used by this type of business include, but are not limited to gas; diesel; motor oil; anti-freeze, cleaners, paints, Styrene monomer; organic peroxide - the most common is methyl ethyl ketone peroxide; Cobalt compounds; and Acetone, even the polymer that would be used by Applicant to turn the dust into a solid for waste disposal (as explained in his testimony before the P&Z Commission). All of these chemicals are toxic, noxious, and several are known carcinogens. Exposure to which causes damage to the skin, lungs, nervous systems, among others. Even workers at these businesses must wear full protective gear including respirators – yet as a neighbor I and my dogs would be exposed regularly, constantly to these same toxic chemicals without any protective gear.

Additionally, there is a tremendous amount of water runoff on this property which would carry toxic chemicals and fiberglass dust from the power washing, sanding and cleaning operation to seep into the ground or runoff into the waterways of Dirickson Creek and Little Assawoman Bay. This property regularly floods during high water events (see for example several attached pictures taken just last month on

December 16, 2022). Such an operation would have a significant detrimental physical impact on the health of our residents.

3. Negative Economic Impact

A Boat Restoration Business will devastate our property values. As stated above, we are a quiet residential street. It is unacceptable to have constant noise, hazardous fumes and abundant dust particles from a Boat Restoration Business settling on the exterior and interior of our homes and yards, not to mention our lungs. It is equally unacceptable to have polluted water runoff spewing from such an operation penetrating our ground water and lands where wildlife and fowl currently abound. This would immediately and permanently cause a reduced property value and may make it impossible for me or my neighbors to ever sell our property. Thus, such a business will have a significant economic impact, and would NOT be a great selling point for our community nor a safe, healthy and tranquil environment for our residents.

4. Untruthful Application

I would also like to point out to the Council that the Applicant was untruthful in his application for a permit to build the structure that is almost completely finished on the property. In the building permit application, he submitted that this would be a garage for personal use. Yet in his testimony at the public hearing for the application of conditional use in front of the Planning and Zoning Commission on November 3, 2022, both the Applicant and his attorney stated that this 100' x 40' x 20' steel beamed steel wall structure was intended to be used for the Boat Restoration Business. Thus, I have no faith that he will be law abiding and not run such a business on this property even if the Council does deny the application. I am concerned what my (and my neighbors) repercussions might be if this happens.

Lastly, this Boat Restoration Business is NOT desirable nor essential for the general convenience and welfare of the public because there are numerous other Boat Restoration Businesses available in nearby areas, and there are numerous other more suitable properties where this Applicant can build his business. This quiet residential street is no place for a quasi-industrial commercial business. Therefore, this purpose does not rise to the level of requiring allowance by the Council or County Council.

Thus, for the reasons stated above, I hereby OPPOSE this application and REQUEST that the Council DENY the subject Application.

Respectfully submitted,

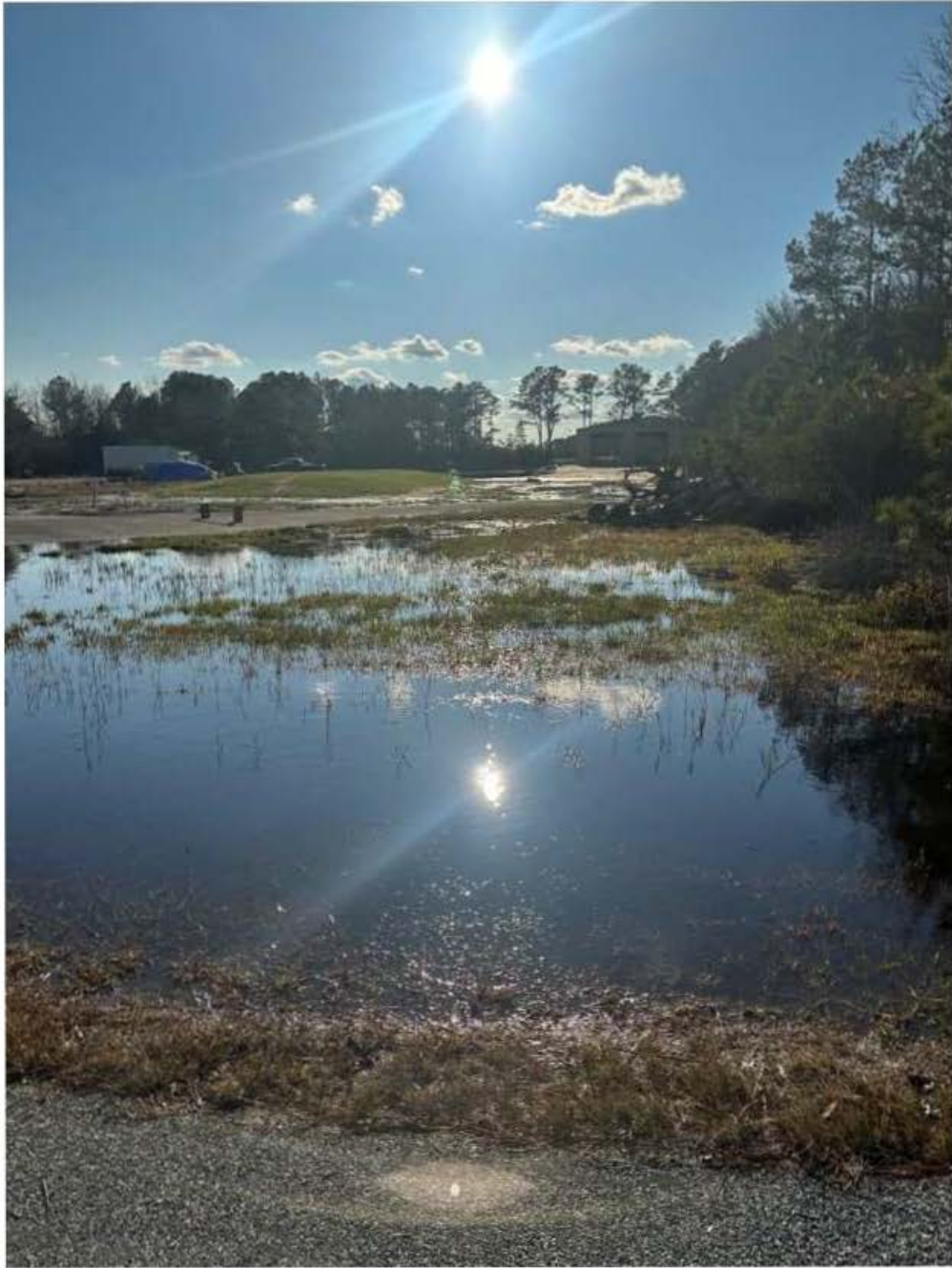
Theresa M Stevens

37292 Dirickson Creek Road

Frankford DE 19945










TODD F. LAWSON
COUNTY ADMINISTRATOR
(302) 855-7742 T
(302) 855-7749 F
tlawson@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: Todd F. Lawson
County Administrator 

RE: **COUNTY COUNCIL RULES OF PROCEDURE AMENDMENT –
TRIBUTES & PROCLAMATIONS**

DATE: January 20, 2023

During Tuesday's meeting, Council is scheduled to review and approve an amendment to the 2023 Rules of Procedure for County Council. The request was brought forth by President Vincent during a recent County Council meeting.

The updated Rules have been reviewed by County staff and the legal team and a copy is attached.

It is helpful to provide some background related to the documents of recognition issued by the County Council. The three forms of documents include Resolutions, Proclamations and Tributes. By Code, Resolutions are akin to Ordinance and require review and approval by a vote of the County Council. Unlike Ordinances, Resolutions do not require a public hearing. Alternatively, Proclamations and Tributes are often issued by the Council in recognition of exemplary services or a momentous occasion. Proclamations and Tributes do not trigger Council review and approval, however, rarely is the entire Council aware of the issuance of a Proclamation and Tribute.

The amendment to the current Rules aims to address this potential issue.

In previous Rules of Procedure, the steps to approve and issue a County Council Proclamation were listed in the Rules at Rule 11. However, references to Proclamations were removed from Rule 11 in 2017 to reflect the County's practice.



In this updated version, a new Rule – Rule 11A – was added to keep the process for issuing Proclamations and Tributes separate from Resolutions. As you will see, Rule 11A is very similar to Rule 11.

The intent is to have all requests for Proclamations and Tributes be submitted in writing and staff will circulate the request to the entire County Council. Should a Member wish to have the request reviewed during a County Council meeting, the Member will ask to have the request placed on a future agenda. At that point, the Council will review and approve or disapprove of the Proclamation or Tribute. If no Member requests to have the Proclamation or Tribute placed on an agenda, the document will be processed and issued accordingly.

A new feature in Rule 11.3A includes a reference to a unique numeric series for all Proclamations and Tributes to identify the document and its content.

I will review Rules during Tuesday's meeting. Please let me know if you have any questions.

Sussex



County

RULES OF PROCEDURE OF THE COUNTY COUNCIL
OF SUSSEX COUNTY, DELAWARE

These rules shall govern the procedure of the County Council of Sussex County, Delaware.

Definitions

“Agenda” includes but is not limited to a general statement of the major issues expected to be discussed at a public meeting, as well as a statement of intent to hold an executive session and the specific ground or grounds therefore.

“County” means Sussex County, Delaware, unless otherwise specified.

“County Council” means the Sussex County Council of Sussex County, Delaware.

“Meeting” means the formal or informal gathering of a quorum of the members of the Sussex County Council for the purpose of discussion or taking action on public business.

“President” means the president of the Sussex County Council.

“Presiding Officer” means the President of the Sussex County Council, or such other person who presides over the meetings of the Sussex County Council, pursuant to the Rules of the Sussex County Council.

“Public business” means any matter over which the Sussex County Council has supervision, control, jurisdiction or advisory power.

“Public record” is information of any kind, owned, made, used, retained, received, produced, composed, drafted or otherwise compiled or collected by the Sussex County Council, relating in any way to public business, or in any way of public interest, or in any way related to public purposes, regardless of the physical form or characteristic by which such information is stored, recorded or reproduced. Records not deemed public under 29 Del. C. §10002 (d) are not deemed public under the Rules of the Sussex County Council.



Rule 1 – Order of Business

- 1.1 The order of business at each regular meeting of the County Council shall be as follows:**

**Invocation
Pledge of Allegiance
Call to Order
Amendments to Agenda
Adoption of Agenda
Approval of Minutes
Reading of Correspondence
Public Comments
Report of County Administrator
Reports of County Departments
Public Hearings
Introduction of Ordinances
Council Members' Comments
Recess
Additional Public Hearings
Adjournment**

- 1.2 The order of business can be altered at any duly constituted meeting by an affirmative vote of a majority of all the members of the County Council. The privilege of the floor may be granted to the public at any time by the presiding officer.**
- 1.3 During public hearings, the presiding officer may set reasonable time limits on public comments. An individual may submit a written statement in lieu of or in addition to verbal comments.**
- 1.4 Every attempt will be made to complete all business scheduled. In the event that the presentation of a scheduled agenda item takes longer than reasonably anticipated, the presentation may be suspended by approval of a majority of all of the members of the County Council. A motion to suspend a presentation should include the date and time at which the remainder of the presentation will be heard.**

Rule 2 – Meetings of the County Council

- 2.1 Regular meetings shall be held in the Sussex County Administration Building or such other location as designated by majority vote of all the members of the County Council.**
- 2.2 Regular business meetings shall convene on Tuesdays.**

- 2.3** Special meetings may be held in any public location in Sussex County, provided that 24 hours advance public notice is given. The notice shall include an explanation as to why the notice required by Rule 3 could not be given.
- 2.4** Special meetings may be held at the call of the President or by a majority of all of the members of the County Council, and shall convene at a time and place determined to be appropriate by a majority of all of the members of the County Council.
- 2.5** Emergency meetings may be called without notice to address any emergency regarding the immediate preservation of the public peace, health or safety.
- 2.6** Except for executive sessions, all meetings shall be open to the public.
- 2.7** On the affirmative vote of a majority of all of the members of the County Council present at any duly constituted meeting, an executive session may be held and closed to the public for any of the purposes set forth in the Title 29, Chapter 100 of the Delaware Code.
- 2.8** A vote to hold an executive session must be taken at a public meeting prior to the executive session, and the purpose for the executive session shall be announced publicly. The results of the vote shall be made public and shall be recorded in the minutes.
- 2.9** Discussions in executive session shall be limited to the purposes for which an executive session was called.
- 2.10** Minutes of all meetings, including executive sessions, shall be kept and made available for public inspection and copying. At a minimum, the minutes shall include a record of attendance and a record, by individual members of the County Council, of each vote taken and each action agreed upon. Such minutes, or portions thereof, relating to executive sessions, may be withheld from public disclosure in those cases where such disclosure would defeat the lawful purpose of the executive session, but no longer.

Rule 3 – Posting of Meeting Notices

- 3.1** Public notices of all meetings shall be posted on the public bulletin board located in the Sussex County Council Administrative Office, except as noted in 3.4 below.
- 3.2** Notices of regular meetings and of the intent to hold an executive session closed to the public shall be posted at least 7 days in advance thereof.
- 3.3** Notices of special or rescheduled meetings shall be posted at least 24 hours in advance thereof.

- 3.4** Public notice is not required for any emergency meeting which is necessary for the immediate preservation of the public peace, health or safety.
- 3.5** Meeting notices shall include the agenda, if such has been determined at the time, and the dates, times and places of such meetings. However, the agenda shall be subject to change to include items which arise at the time of the County Council's meeting, or to delete items, including executive sessions. A reasonable number of copies of meeting agenda shall be available to the public.
- 3.6** When the agenda is not available at the time of the initial posting of the public meeting notice, it shall be added to the notice at least 6 hours in advance of said meeting. The reasons for the delay in posting shall be briefly set forth on the agenda.

Rule 4 – Agenda

- 4.1** The agenda for regular and special County Council meeting shall be available to the members of the County Council at least one day prior to the scheduled meeting.
- 4.2** The County Administrator shall be responsible for the preparation and contents of the agenda. Any member of the County Council may place items on the agenda by contacting the County Administrator, either verbally or in writing, prior to the posting of the agenda. Any other person may request to have items placed on the County Council agenda by notifying the County Administrator, in writing, prior to the close of business on the Tuesday prior to the Tuesday County Council meeting; provided, however, that items requested to be placed on the agenda that are not, in the opinion of the County Administrator, of County Council jurisdiction will not be placed on the posted agenda. Those items that do not qualify as County Council business will be responded to by the County Administrator and copied to the members of the County Council.
- 4.3** During a meeting, items which arise at the time of the County Council's meeting may be added to the agenda, and items may be deleted from the agenda, by a majority vote of all of the members of the County Council.

Rule 4A. – Consent Agenda

- 4A.1** The County Administrator or any member of the County Council may propose only Wastewater Agreements to be considered on an agenda for the inclusion on a Consent Agenda. The Consent Agenda shall list the matters so included and a brief description of each.
- 4A.2** An item may be removed from a Consent Agenda if any member of the County Council requests that it be given separate individual consideration. If an item is removed from the Consent Agenda, it shall be considered as a separate item under the appropriate section of that meeting's agenda.

- 4A.3 All items on a Consent Agenda shall be read and voted on as a single group.**

Rule 5 – Attendance of Members of the County Council at Meetings; Quorums

- 5.1 No members of the County Council shall be absent from scheduled meetings or from other official duties without cause. When unable to attend a scheduled meeting, a member of the County Council shall be responsible for notifying one of the following: the President, the County Administrator, another County Council member, or a staff member of the County Council.**
- 5.2 The presence of no less than three (3) members of the County Council shall constitute a quorum.**
- 5.3 When a quorum is not present at any properly called meeting, the members of the County Council present may adjourn.**
- 5.4 If no members of the County Council are present, the Clerk of the County Council may adjourn the meeting.**
- 5.5 Three (3) affirmative votes shall be required to pass any motion, unless otherwise provided herein or provided by law.**
- 5.6 A matter to be voted on may be placed on the table with three (3) affirmative votes. However, an ordinance for a change of zone or a conditional use may be placed on the table by the County Council member representing the district in which the application is located for a period of up to forty-five (45) days, without the need for three (3) affirmative votes.**

Rule 6 – Roll Calls

- 6.1 On each motion duly made and seconded, the presiding officer shall call the roll or determine the vote in some other manner, and announce the results.**
- 6.2 A written record shall be made by the Clerk of the vote by each member of the County Council on each vote taken. Said record shall also reflect the number of “aye” votes, the number of “nay” votes, and the number of “abstaining” votes.**

Rule 7 – Record Keeping

- 7.1 A file shall be kept in the Office of the Clerk of the County Council of all County Council business meetings. The file shall include copies of meeting notices (including the time, date and place where they were posted), the agenda and the minutes of the meeting.**

Rule 8 – Minutes of Sussex County Council Meetings

8.1 Minutes shall be taken of each meeting of the County Council, and shall reflect the following:

- a. Kind of meeting.
- b. Date and place of meeting.
- c. Name of the presiding officer.
- d. Members of County Council present.
- e. Whether the minutes of the previous meeting were approved.
- f. The proceedings of the County Council, briefly and accurately stated, including titles of ordinances and titles of resolutions considered. The minutes shall record what was done rather than what was said. However, a member of the County Council may request that a statement or written material be attached to the minutes and made a part thereof.
- g. All motions voted upon and the results of said motions.
- h. Names of members of County Council making motions and those making secondary motions.
- i. A record by individual members of County Council, of each vote taken and action agreed upon.
- j. Time of convention and adjournment.

8.2 Minutes shall be taken, prepared and presented by the Clerk of the County Council in written form for approval as written or as amended. The minutes as approved shall be filed in the minute book of the County Council. Copies of the approved minutes shall be made available to the general public.

8.3 Recordings will be made of all public County Council business meetings at which County business is transacted. The recordings shall be under the custody of the Clerk of the County Council and shall be open to inspection and copying in accordance with applicable law regarding access to public records.

Rule 9 – Records

9.1 The approved minutes of each public meeting, together with a copy of each ordinance or resolution introduced at the meeting which is not set forth in full in the minutes thereof and a copy of each communication presented at the meeting, shall be kept in the office of the Clerk of the County Council and shall be made available for inspection by the public.

Rule 10 – Ordinances in General

- 10.1** Any member of the County Council may request a staff member or a County Council retained consultant or the County Attorney to draft an ordinance for introduction. The proposed ordinance shall be drafted pursuant to the requirements of 9 Del. C. § 7002. The member shall notify all members of the County Council at the time the request is made. Upon drafting of the proposed ordinance, it shall be placed on the agenda for discussion and possible introduction.
- 10.2** In accordance with 9 Del. C. § 7002, a proposed ordinance drafted pursuant to Rule 10.1 above, may be introduced in writing by any member of County Council at any duly constituted meeting.
- 10.3** The proposed ordinance shall contain no more than one subject, which shall be stated in its title.
- 10.4** When a proposed ordinance is introduced, the Clerk of the County Council shall:
- a.** Assign an Introduction Number to the proposed ordinance;
 - b.** Distribute a copy of the proposed ordinance to each elected County official;
 - c.** Comply with all public advertisement requirements as mandated by applicable law;
- 10.5** The President or other presiding officer, or his or her designee, shall designate a date, time, and place for the public hearing for a proposed ordinance.
- 10.6** Following the public hearing, the County Council may:
- a.** Adopt the ordinance as introduced;
 - b.** Adopt the ordinance with amendments;
 - c.** Place the ordinance on the table, prior to voting; or
 - d.** Reject the ordinance.
- 10.7** If the ordinance is amended in any substantial manner not included in the title of the ordinance, the amended portion thereof shall be introduced by the procedures set forth in Rules 10.2 – 10.6.
- 10.8** Upon the adoption of an ordinance, the Clerk of the County Council shall assign a permanent number to the ordinance and publish the title of the ordinance, with notice of its adoption.

- 10.9** Unless the effective date is included in the body of the ordinance, the ordinance shall become effective upon adoption.

Rule 10A – Change of Zone and Conditional Use Ordinances

- 10A.1** In the event the Planning and Zoning Commission has not provided its recommendation report to the County Council prior to the County Council’s hearing on a change of zone or conditional use application, the County Council shall accept and consider written comments only from the public on the Planning and Zoning Commission’s recommendations to the County Council for a period of 5 calendar days following the Planning and Zoning Commission’s issuance of its recommendations. This does not preclude the County Council from requesting additional information as otherwise permitted.
- 10A.2** The Rules of Procedure for County Council Zoning Hearings, as approved by the County Council, shall be announced prior to the commencement of the zoning hearings.
- 10A.3** Following the placement of an ordinance for a change of zone or a conditional use on the table, the matter shall be placed on the agenda again only by the County Council member representing the district in which the application is located. If an ordinance for a change of zone or a conditional use is not placed on the agenda and acted upon within forty-five (45) days of the County Council’s public hearing on the application, the matter may be placed on the agenda by the President.
- 10A.4** If the applicant for a change of zone or conditional use fails to appear at the County Council hearing, the County Council shall deny the application for lack of a record. The applicant may submit a petition for reconsideration within fifteen (15) days and demonstrate the failure to appear was beyond the applicant’s control.

Rule 11 – Resolutions

- 11.1** All resolutions shall be in writing and submitted to the members of the County Council prior to consideration by the Sussex County Council.
- 11.2** Any member of the County Council may request that a resolution be placed on the County Council agenda by submission of the resolution to the County Administrator, in accordance with Rule 4.
- 11.3** No resolution shall contain more than one subject which shall be clearly expressed in its title.
- 11.4** Each resolution shall bear a title which shall clearly express its subject matter. At the time of its consideration and prior to a motion for its adoption, a resolution may be read by title only.

- 11.5 A resolution may be amended without resubmission unless such resubmission is desired by a majority of all of the members of County Council.

Rule 11A – Proclamations and Tributes

- 11.1A All requests for Sussex County proclamations and tributes recognizing exemplary occasions or persons shall be in writing and submitted to the members of the County Council for review.
- 11.2A Any member of the County Council may request that a proclamation or tribute be placed on the County Council agenda for review and approval by submission of a proclamation or tribute to the County Administrator, in accordance with Rule 4. All proclamations and tributes not placed on an agenda shall be processed and issued.
- 11.3A No proclamation or tribute shall contain more than one subject which shall be clearly expressed in its title. Each tribute and proclamation shall contain a unique numeric series identifying the document.
- 11.4A Each proclamation and tribute shall bear a title which shall clearly express its subject matter. If placed on the County Council agenda for consideration and prior to a motion for its adoption, a proclamation or tribute may be read by title only.
- 11.5A A proclamation or tribute may be amended without resubmission unless such resubmission is desired by a majority of all of the members of County Council.

Rule 12 – Conduct During Meetings

- 12.1 When a member of County Council desires to speak, that member shall address the presiding officer and shall not proceed until recognized and granted the privilege of the floor. The presiding officer shall recognize the member of County Council who is the first to address the presiding officer.
- 12.2 No member of the County Council shall interrupt another in debate without the consent of the other. To obtain such consent, the member shall first address the presiding officer.
- 12.3 If any member of County Council, in speaking or otherwise, transgresses the Rules of the County Council, the presiding officer shall, or any member of County Council may call the errant member to order. When a member shall be called to order, that member shall not proceed without the permission of the presiding officer.
- 12.4 A member of County Council may not, directly or indirectly, by any form of words or conduct, impute to another member any conduct or motive unworthy or unbecoming a member. Provided, however, that this shall not apply to a complaint or request for an advisory opinion made to the State

Rule 13 – Change or Suspension of Rules

- 13.1 Any rule of the County Council may be changed or suspended by the approval of a majority of all of the members of the County Council.

Rule 14 – Rules of Order

- 14.1 All rules of parliamentary procedure not covered or provided for by the RULES OF PROCEDURE OF THE SUSSEX COUNTY COUNCIL OF SUSSEX COUNTY, DELAWARE, or by the laws of the State of Delaware, shall be decided in accordance with MASON’S MANUAL OF LEGISLATIVE PROCEDURE.

Rule 15 – Vice-President and Other Presiding Officer

- 15.1 In the absence of the President, the presiding officer, with all powers and duties of the President enumerated herein, shall be the Vice-President as elected by a majority vote of all of the members of County Council. In the absence of the Vice-President, the presiding officer, with all powers and duties of the President enumerated herein, shall be such other member of the County Council as is elected by a majority vote of all of the members of County Council.

Rule 16 – Appointments

- 16.1 The President, with the concurrence of a majority of all of the members of the County Council, may appoint any member to represent the County Council on any committee, board or commission or at any event.
- 16.2 A member of the County Council so appointed shall inform the County Council of issues discussed at those meetings or events which impact County government.

Rule 16.A – Appointments to the Planning & Zoning Commission and the Board of Adjustment

- 16A.1 All appointments to the Planning & Zoning Commission and the Board of Adjustment shall be governed by 9 Del. C. § 6803.
- 16A.2 With respect to new appointments of members to the Planning & Zoning Commission and the Board of Adjustment (collectively referred to in this provision as “board members”), the Councilperson in whose district a board member’s term is set to expire shall submit the name of a nominee to the

County Administrator along with the nominee's resume during the month of May of the year in which said board member's term is set to expire. The County Administrator shall forward copies of the nominee's resume to all Council members and place the matter on the Council's agenda for public session at an upcoming Council meeting. With Council's input, the County Administrator shall provide interview questions to the nominee for written answer to be submitted to the Council by no later than the Friday preceding the aforesaid Council meeting at which the nominee shall be in attendance for a public interview.

- 16.A.3** With respect to reappointment of board members, the Councilperson in whose district a board member's term is set to expire shall provide notice of the Councilperson's intention to reappoint the board member to the County Administrator during the month of May of the year in which said board member's term is set to expire. The County Administrator shall place the matter on the Council's agenda for public session at an upcoming Council meeting.
- 16.A.4** With respect to new appointments and reappointments of board members, in the event a nominee is not approved by a Council majority, nominations for the position will be opened up to all Councilpersons regardless of the district they represent; however, at no time shall there be more than 2 members appointed for the same Council district.
- 16.A.5** In the event a board member resigns or is removed prior to the expiration of his or her term, the Councilperson, in whose district the vacancy has occurred, shall submit the name and resume of a nominee to the County Administrator as soon as is practicable. All other application procedures above shall thereafter apply.

Rule 17 – Standards of Conduct

- 17.1** Persons attending County Council meetings shall observe appropriate dress standards and standards of conduct. Attire that may distract from the proceedings shall not be permitted.
- 17.2** Persons attending County Council meetings may wear one (1) "cause supporting sign" affixed to their clothing. The size of such "sign" may not exceed three (3) inches by five (5) inches. Signs offensive to the members of the County Council or to participants, and signs that may distract from the proceedings, shall not be permitted. No placards shall be permitted at any meeting of the County Council.
- 17.3** The County Administrator shall, from time to time, prescribe by policy reasonable and appropriate attire and conduct for persons attending meetings of the County Council.
- 17.4** Members of the news media shall conduct themselves in such a manner as to not be disruptive of the proceedings of the County Council.

17.5 **Persons attending County Council meetings shall at all times conduct themselves in an orderly manner and follow the direction of the presiding officer. The presiding officer shall be responsible for ensuring that reasonable and appropriate dress standards and standards of conduct are observed at meetings of the County Council.**

17.6 **The right to make public comment shall be subject to the following procedures, which shall be enforced by the presiding officer of Council:**

- A. Each speaker shall place their name and address on a sign-up sheet. Each speaker shall only speak from the podium after being recognized and shall first identify themselves and give their residence address within the County. Each speaker shall be limited to 3 minutes and the time shall be kept by electronic clock and displayed to the speaker. At the end of that time, the presiding officer will either inform the speaker that their time is up or grant the speaker up to an additional 2 minutes.**
- B. Each speaker shall confine his or her comments to matters which are clearly within the jurisdiction of Council and are matters of legitimate County business.**
- C. Public comment is not intended to provide a means for a member of the public to appeal a decision made by a County employee or subcontractor during the course of their official duties. Matters of that nature must be brought to the attention of the County Administrator or his or her designee.**
- D. Public comment shall be addressed to the Council as a body and not to a specific member of Council. After a person is recognized and allowed to speak, they should not be interrupted except by the presiding officer whose purpose is to enforce these policies. The presiding officer shall have the discretion to stop a speaker from further comment if the speaker digresses from the restrictions as to time or matters within the County's business or jurisdiction or if the speaker becomes so willfully and seriously disruptive as to prevent Council from accomplishing its business in a reasonable manner.**
- E. The presiding officer may, but is not required to, respond to a speaker or to a question or an issue raised by a speaker. In situations where the presiding officer responds, the response shall not indicate the position of Council as a body and to the extent possible, be limited to informing the speaker, if appropriate, of the proper person within the County government to whom their concerns should be addressed.**
- F. Nothing in this Rule shall be construed to prohibit Council from seeking comments from persons with particular knowledge on a matter before them and to prohibit public comment if Public Comment is not included on the agenda.**

Rule 18 – Delaware Freedom of Information Act

- 18.1** All procedures of the County Council shall comply with the Delaware Freedom of Information Act, as contained in Title 29, Chapter 100 of the Delaware Code. To the extent that any provision herein shall conflict with the provisions of the Delaware Freedom of Information Act, the more restrictive provision shall apply.

Rule 19 – Adoption and Effective Date

- 19.1** These rules shall become effective upon adoption by a majority vote of all of the members of the County Council. These rules shall be adopted annually by the members of the County Council.

Rule 20 – Code of Conduct

- 20.1** Members of the County Council are subject to the Code of Conduct under Title 29, Chapter 58, Subchapter I of the Delaware Code and the oversight of the State Public Integrity Commission.
- 20.2** A member of the County Council who has a personal or private interest in an ordinance or any measure requiring Council's consideration shall not participate in the hearing, discussion, debate or vote on the ordinance or measure.

Date of Adoption: January 3, 2023

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
sussexcountye.gov

HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING

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: John J. Ashman 
Director of Utility Planning

RE: *Mass Annexation of Individual Parcels*
2022 Connections
File: ADM 2.02-A

DATE: January 24, 2023

Under the direction of the County Engineer and under his authority according to County Code §110-98 & §110-99 the Sussex County Engineering Department has been accepting annexation fees and connecting individual parcels on an as-needed basis. The Engineer may grant connections to scattered parcels at the equivalent dwelling unit (EDU) density of the abutting property but cannot exceed 12 EDUs per acre. The connection of the scattered parcels must be determined to not overload the capacity in the existing sewer system taking into account the full development capacity of other parcels within the area.

This is an all-encompassing annexation of those parcels previously requesting annexation, meeting the above requirements and submitting the appropriate annexation fee for the following parcels:

234-12.00-210.00	234-12.00-211.00
234-12.00-212.00	134-7.00-118.0

All parcels were able to be served by previously installed infrastructure or fairly simple lateral adjustments.



ENGINEERING DEPARTMENT

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Sussex County

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HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING

Mass Annexation 2022 for the Sussex County Unified Sanitary Sewer District

- Under the authority of the County Engineer the Engineering Department has been accepting annexation fees and connecting individual parcels on an as-needed basis.
- The County Engineer may grant connections to scattered parcels at the EDU density of the abutting property but cannot exceed 12 EDUs per acre, parcels must be able to become contiguous.
- The connection must be evaluated and determined to not overload capacity in the existing infrastructure.
- The department is submitting this list of parcels as an all-encompassing annexation for those parcels previously requesting, paying the appropriate annexation fee and meeting the previously stated requirements.
- The parcels are:
 - 234-12.00-212.00
 - 234-12.00-211.00
 - 234-12.00-210.00
 - 134-7.00-118.00
- The Engineering Department would like to request permission to adjust the Sewer Tier maps to reflect the addition of these parcels.



ENGINEERING DEPARTMENT

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



Sussex County

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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: ***Herring Creek Sanitary Sewer District***
A. WRA Amendment 6 – Winding Creek Village Water District

DATE: January 24, 2023

On August 2, 2016, County Council approved the addition of the Herring Creek area to the Unified Sewer District. On March 20, 2017, the Finance & Engineering Departments filed a funding application with USDA/Rural Development and by September of 2018 all the associated loans/grants related to the sewer expansion were in place.

On September 14, 2017, the voters in the proposed Winding Creek Village Water District Area approved the creation of the water district. On October 3, 2017, Council issued a determination and officially created the Winding Creek Water District. On June 13, 2018, the Finance and Engineering Departments followed filed an application with the Delaware Drinking Water SRF for \$2,000,000 for the Winding Creek Village Water District Area. The request was approved by the Water Infrastructure Advisory Council and an offer was extended to the County. On April 2, 2019, Council accepted the funding offer and issued the associated ordinance authorizing up to \$2,000,000 of general obligation bonds, with the expectation that up to \$1,000,000 of principal forgiveness will be applied.

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



Subsequently Council awarded the following four (4) sewer construction projects and five (5) amendments to WRA's base engineering contract:

- October 8, 2019, Chesapeake Turf, LLC was awarded Project S20-06 in the amount of \$5,256,760.00.
- August 11, 2020, JJID, Inc. was awarded Project S20-07 in the amount of \$5,091,000.00.
- July 13, 2022, Teal Construction, Inc. was awarded Project S20-08 in the amount of \$4,242,738.00.
- March 29, 2022, George & Lynch, Inc. was awarded Project S20-09 in the amount of \$6,095,549.00.
- October 2, 2018, Amendment No. 1 for the design of the Herring Creek Sanitary Sewer District Pump Stations, Force Main, Project S20-06.
- November 19, 2019, Amendment No.2 in a "not to exceed" amount of \$307,304.00 for construction administration and project inspection of Project S20-06.
- February 16, 2021, WRA's Amendment No. 3 in the not to exceed amount of \$448,676.00 for construction administration & inspection services associated with Projects S20-07 & S20-08.
- August 31, 2021, Amendment No. 4 in the not to exceed amount of \$68,852.00 for additional construction administration and inspection services associated with Project S20-06 for delays beyond reasons justified by the pandemic and weather-related delays.
- December 13, 2022, Amendment No. 5 in the not to exceed amount of \$ 359,704.00 for construction administration and inspection services associated with contract S20-09.

The construction of the Winding Creek Village Water District infrastructure is to immediately follow the completion of sewer Project S20-09. So far, WRA used the base survey and background existing utility information for the preliminary water system layout. The Engineering Department is now requesting issuance of Amendment No. 6 for the final design, construction administration and inspection services in the not to exceed amount of \$370,287.00.

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

AMENDMENT TO OWNER-ENGINEER AGREEMENT
Amendment No. 6

The Effective Date of this Amendment is: 1/24/23.

Background Data

Effective Date of **Scope of Services**:

Owner: Sussex County

Engineer: Whitman, Requardt & Associates

Project: Winding Creek Village Design - HCSSD

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

X Additional Services to be performed by Engineer

X 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:

Agreement Summary:

Original agreement amount:	<u>\$ 0.00</u>
Net change for prior amendments:	<u>\$ 0.00</u>
This amendment amount:	<u>\$ 370,287.00</u>
Adjusted Agreement amount:	<u>\$ 370,287.00</u>

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

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

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

OWNER:

Sussex County Council

By: _____
Print
name: _____

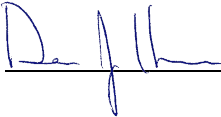
Title: President, Sussex County Council

Date Signed: _____

(SEAL)

ENGINEER:

Whitman, Requardt, and Associates, LLP

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

Title: Partner

Date Signed: 1/18/2023

PREVIOUSLY APPROVED FORM

ATTEST:

Ms. Tracy Torbert
Clerk of the County



ATTACHMENT A

SCOPE OF SERVICES

WINDING CREEK VILLAGE (WCV) WATER DISTRICT DISTRIBUTION SYSTEM DESIGN AND CONSTRUCTION ADMINISTRATION

This attachment outlines the required Scope of Services for the Final Design of the Winding Creek Village Water District Distribution System. This work effort includes the production of contract documents (plans and specifications) for the **Winding Creek Village Water District Distribution System** which consists of approximately 16,000 linear feet (LF) of water main and appurtenances within Winding Creek Village and construction administration/inspection services for the water system.

This project involves the preparation of the contract documents (plans and specifications) and permit forms. The Derivation of Man-hours and Estimated Fee for these tasks are provided in summary spreadsheets included with this document. Also included with this document is a list of drawings.

PART A: PROJECT MANAGEMENT

1. Attend Design Related Project Progress Meetings (Assumes Three (3) meetings via conference call for the Project Manager) and generate meeting minutes.
2. Attend (1) Utility Coordination meeting with Tidewater Utilities.

PART B: SURVEYS

1. Flight and Processing of Aerial topography for the Study Area has already been completed for the sewer project. It is assumed no additional surveys will be completed as part of this contract.

PART C: SUBSURFACE INVESTIGATION

1. Borings have already been completed for the sewer project. It is assumed no additional borings will be completed.

PART D: FINAL DESIGN PIPELINES

1. Complete field review to locate existing wells in project area.
2. Develop a water model of the proposed distribution system to verify pressures under max day and fire flow conditions. The model will use a single connection to the existing Tidewater distribution system as the boundary condition. The boundary condition will be based on a

hydrant flow test provided by Tidewater to confirm the available flow and pressure at the connection point.

3. Prepare **90% Plan**. Develop plans.
4. Prepare **90% Profiles** as required for the Office of Drinking Water Permit.
5. Incorporate Sussex County 90% review comments. Prepare final plans and profiles.
6. Prepare final project manual inclusive of specifications, front end, and funding agency requirements.

PART E: PERMITTING

1. Permits will be prepared for submission by the Sussex County Engineering Department. The following permit applications will be prepared:
 - a. Fire Marshall Permit
 - b. Sediment and Erosion Control Permit
 - c. Office of Drinking Water Permit
 - d. A DelDOT Utility Construction Permit is assumed to not be required.

PART F: ADVERTISE/BIDDING SERVICES

The following items will be performed during the Advertise and Bidding Phase:

1. Reproduce contract documents for bidding. Reproduction costs for all bidders will be included in the sale of the plans and specifications.
2. Attend pre-bid meeting.
3. Prepare Addendum based on questions from Contractors. It is assumed that only one addendum will be required.
4. Maintain bidders list.
5. Review bids and make recommendations to Sussex County for award of bid.

PART G - CONSTRUCTION ADMINISTRATION

1. **General Construction Administration.** WRA will consult with Sussex County and act as the County's representative. This effort involves the day to day coordination of in-house and field personnel during the construction phase. This proposal assumes approximately 2 hours/week for general construction administration by the Construction Manager for an assumed 10 month construction duration, with one additional month for closeout.
2. **Monthly Progress Meetings.** WRA will prepare meeting agendas, conduct monthly progress meetings and issue meeting minutes. It is assumed that there will be one progress meeting day per month during the durations noted above, which will be attended by the construction manager and resident project representative. It is assumed that 8 of the 10 progress meetings are virtual conference calls, with the remaining 2 being on-site.

3. ***Specialized Site Visits by Specialized Inspectors.*** WRA will make visits to the site by specialized inspectors (geotechnical) when requested by Sussex County. WRA will produce a project completion list for use by the County. It is assumed that the Contractor will be responsible for all soils testing.
4. ***Requests for Information (Clarifications).*** When requested by Sussex County, respond to Requests for Information (RFIs) relating to the contract documents. This proposal assumes a total of six (6) RFIs total will be required.
5. ***Change Orders and Work Change Directives.*** Upon the request of Sussex County, WRA will review the Contractor's change order requests. WRA will document its findings in a memorandum to Sussex County. It is assumed that no more than three (3) change order requests in total (including the final balancing change order submitted by the Contractor for each contract) will be required per contract.
6. ***Shop Drawings and Samples.*** It is assumed all shop drawing review will be performed by the County. WRA will be responsible for review of all American Iron and Steel documentation for the project.
7. ***Operation and Maintenance Manuals.*** It is assumed that no O&M manuals will be required.
8. ***Applications for Payment.*** Based on WRA's observations and on a review of the Contractor's Monthly Applications for Payment and accompanying supporting documentation, determine the amounts that WRA recommends the Contractor be paid by Sussex County. Such observations and review, mean that, to the best of WRA's knowledge, information and belief, the Contractor's work has progressed to the point indicated, the quality of such work is generally in accordance with the Contract Documents, subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, and the conditions precedent to the Contractor being entitled to such payment appear to have been fulfilled insofar as it is WRA's responsibility to observe the Contractor's Work. In the case of unit price work, WRA's recommendations of payment will include final determinations of quantities and classifications of Contractor's Work (subject to any subsequent adjustments allowed by the Contract Documents).
9. ***Substantial Completion.*** At the request of the County, WRA will assist the County in conducting an inspection to determine if the Work is Substantially Complete.
10. ***Contractor's Completion Documents.*** At the completion of the Construction Phase, WRA will coordinate with the Contractor to obtain as-built information and will provide the County with final electronic CADD files from the original contracts, as well as the Contractors electronic as-builts. The County will generate final as-builts from the information provided.

PART H - PROJECT INSPECTION

WRA shall furnish one Resident Project Inspector who will observe the work done by the Contractor and promptly inform the County of deviations from the Contract Documents. The Resident Project

Inspector will serve as WRA's representative in the field, providing information on the daily progress of the job to WRA technical personnel. It is assumed that a notice to proceed for construction will be issued by September 2023, and that the Resident Project Inspector will provide inspection for 45 hours per week for a 10 month period through June 2024 for construction with 1 additional month for project closeout, with inspection supplemented by the County as needed.



**ATTACHMENT B
WINDING CREEK VILLAGE (WCV)
WATER DISTRICT**

LIST OF DRAWINGS

<u>Sheet No.</u>	<u>Title</u>
G-1	Title Sheet / Location Plan
G-2	Legend and Notes
G-3	Project Key Sheet
G-4	Survey Control Sheet
C-1 through C-11	Water Main Plans
PR-1 through PR-7	Water Main Profiles
SC-1 through SC-3	Erosion and Sediment Control Notes and Details
DT-1 through DT-2	Detail Sheets

PROJECT NAME: Winding Creek Village Water System									REVISION	
MANHOUR ESTIMATE AND PROPOSAL									DATE	11/23/2022
CLIENT: Sussex County Engineering Department									BY	DJW/WFH
TASK	PROJECT DESCRIPTION: Final Design and Construction Administration/Inspection	Civil Associate / Project Engineer	Civil Engineer	Civil Designer / CAD	Geotech. Assoc./ Prof. Engr.	Geotech. Engineer	Resident Inspector	WR&A TOTALS	WR&A EXPENSES	Subcontractor Hours
										Subcontractor Payment
										Subcontractor Expenses
Phase A - Project Management									T, R, E	T, R, E
Use Labor Cost Rates for year: 2023									S, or L (See Legend)	S, or L (See Legend)
A1	Attend Progress Meetings (3 Assumed)	9						9	T	- \$
A2	Utility Coordination Meetings (1)	3						3	T	- \$
								0	T	- \$
PHASE A SUBTOTALS =		12	0	0	0	0	0	12	\$0	Subcontractor Total \$0
PHASE A SUB-TOTAL DOLLARS =		\$2,189	\$0	\$0	\$0	\$0	\$0	\$2,189		Profit on Sub 0.0%
		12	Civil	\$2,189	0	Geotech	0			WR&A Total \$2,189
										PHASE A TOTAL \$2,189

Phase B - Surveys										T, R, E	T, R, E
Use Labor Cost Rates for year: 2023										S, or L (See Legend)	S, or L (See Legend)
NA								0		-	S
								0		-	S
PHASE B SUBTOTALS =		0	0	0	0	0	0	0	\$0	Subcontractor Total	
PHASE B SUB-TOTAL DOLLARS =		\$0	\$0	\$0	\$0	\$0	\$0	\$0		Profit on Sub	
		0	Civil	\$0	0	Geotech	0			WR&A Total	
										PHASE B TOTAL	

Phase C - Subsurface Investigation										T, R, E	T, R, E
Use Labor Cost Rates for year: 2023										S, or L (See Legend)	S, or L (See Legend)
NA								0		-	\$
								0		-	\$
PHASE C SUBTOTALS =		0	0	0	0	0	0	0	\$0	Subcontractor Total	
PHASE C SUB-TOTAL DOLLARS =		\$0	\$0	\$0	\$0	\$0	\$0	\$0		Profit on Sub	
		0	Civil	\$0	0	Geotech	0			WR&A Total	
										PHASE C TOTAL	

Phase D - Final Design Pipelines										T, R, E	T, R, E
Use Labor Cost Rates for year: 2023										S, or L (See Legend)	S, or L (See Legend)
D1	Field Review to locate existing wells in project area	2					40	42		-	\$
D2	Hydraulic Model for Fire flow evaluation	4	16	24				44		-	\$
D3	Prepare 90% Plans	12	40	100				152		-	\$
D4	Develop 90% Profiles	16	40	200				256		-	\$
D5	Prepare Final for Construction Documents	12	20	60				92		-	\$
D6	Prepare Final Specifications and Bid Manual	20	40					60		-	\$
PHASE D SUBTOTALS =		66	156	384	0	0	40	646	\$0	Subcontractor Total	
PHASE D SUB-TOTAL DOLLARS =		\$12,038	\$21,696	\$37,647	\$0	\$0	\$4,195	\$75,577		Profit on Sub	
		606	Civil	\$71,362	0	Geotech	40			WR&A Total	
										PHASE D TOTAL	

Phase E - Permitting										T, R, E	T, R, E
Use Labor Cost Rates for year: 2023										S, or L (See Legend)	S, or L (See Legend)
E1 a.	Prepare and Submit Fire Marshall Permit	2	12					14	R		-
E1 b.	Prepare and Submit Sediment and Erosion Control Permit	4	12					16	R		-
E1 c.	Prepare and Submit Office of Drinking Water Permit Application	1	3					4	R		-
								0	R		-
PHASE F SUBTOTALS =		7	27	0	0	0	0	34	\$0	Subcontractor Total	
PHASE F SUB-TOTAL DOLLARS =		\$1,277	\$3,755	\$0	\$0	\$0	\$0	\$5,032		Profit on Sub	
		34	Civil	\$5,032	0	Geotech	0			WR&A Total	
										PHASE F TOTAL	

Phase F - Advertise-Bidding Services										T, R, E	T, R, E
Use Labor Cost Rates for year: 2023										S, or L (See Legend)	S, or L (See Legend)
F1	Reproduce Contract Documents for bidding		6					6	R \$100		-
F2	Attend pre-bid meeting		8					8	R \$100		-
F3	Prepare Addendum from Contractors questions	4	8					12	R \$100		-
F4	Maintain bidders List		6					6	-		-
F5	Review bids and make recommendations	2	6					8	-		-
								0	-		-
PHASE F SUBTOTALS =		6	28	6	0	0	0	40	\$300	Subcontractor Total	
PHASE F SUB-TOTAL DOLLARS =		\$1,094	\$3,694	\$568	\$0	\$0	\$0	\$5,577		Profit on Sub	
		40	Civil	\$5,577	0	Geotech	0			WR&A Total	
										PHASE F TOTAL	

Phase G - Advertise-Bidding Services										T, R, E	T, R, E
Use Labor Cost Rates for year: 2023										S, or L (See Legend)	S, or L (See Legend)
G1	General construction administration	96						96	R \$1,000		-
G2	Monthly progress meetings	80						80	T \$280		-
G3	Specialized site visits by specialized inspectors	8				16		24	-		-
G4	Request for information (clarifications)	24						24	-		-
G5	Change orders and work change directives	16						16	-		-
G6	Shop drawings and samples (NA)							0	-		-
G7	Operation and Maintenance Manuals (NA)	0						0	-		-
G8	Application for Payment	20						20	-		-
G9	Substantial Completion	16						16	-		-
G10	Contractors Completion Documents	2		8				10	-		-
								0	-		-
PHASE G SUBTOTALS =		262	0	8	0	16	0	286	\$1,280	Subcontractor Total	
PHASE G SUB-TOTAL DOLLARS =		\$47,789	\$0	\$784	\$0	\$2,216	\$0	\$50,791		Profit on Sub	
		270	Civil	\$48,573	16	Geotech	0			WR&A Total	
										PHASE G TOTAL	

Phase G - and H Construction Administration and Inspection										T, R, E	T, R, E
Use Labor Cost Rates for year: 2023										S, or L (See Legend)	S, or L (See Legend)
H1	Inspection							2160	T \$3,000		-
								0	-		-
PHASE K SUBTOTALS =		0	0	0	0	0	2160	2160	\$3,000	Subcontractor Total	
PHASE K SUB-TOTAL DOLLARS =		\$0	\$0	\$0	\$0	\$0	\$226,541	\$226,541		Profit on Sub	
		0	Civil	\$0	0	Geotech	2,160			WR&A Total	
										PHASE K TOTAL	

	Project Manager	Civil Engineer	Civil Designer / CAD	Geotech. Assoc./ Prof. Engr.	Geotech. Engineer	Resident Inspector
Bare Labor Cost rates for year	2023	\$80.00	\$61.00	\$43.00	\$80.00	\$46.00
Contract Rates - LOADED LABOR AT A FACTOR OF:	2.28	\$182.40	\$139.08	\$98.04	\$182.40	\$104.88
Bare Labor Cost rates for year	2017					
Contract Rates - LOADED LABOR AT A FACTOR OF:	2.28	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Bare Labor Cost rates for year	2017					
Contract Rates - LOADED LABOR AT A FACTOR OF:	2.28	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

WR&A EXPENSES

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

Total \$370,287





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 20, 2023

RE: County Council Old Business 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).

The County Council held a Public Hearing on the application at its meeting of January 10, 2023. At the conclusion of the Public Hearing a motion was made and passed to defer action on the application for further consideration.

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

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: 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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Sussex County

DELAWARE
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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.

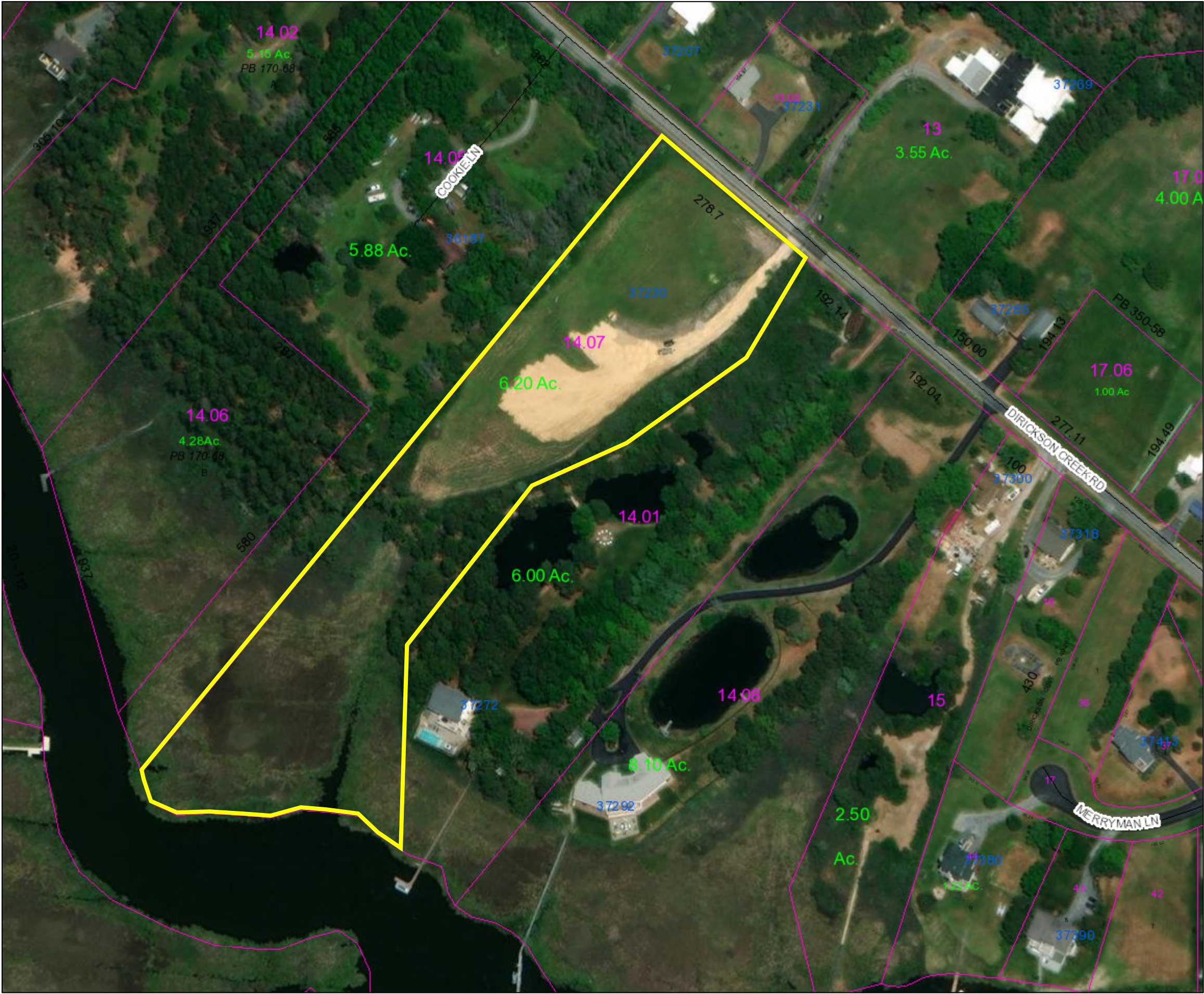
A Supplemental Map has been supplied which provides the location of all other Conditional Uses which are greater than 1 mile distance from the subject site.

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



Sussex County



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

polygonLayer

Override 1

polygonLayer

Override 1

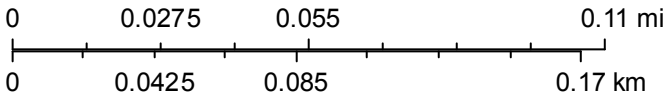
⋮ Tax Parcels

911 Address

— Streets

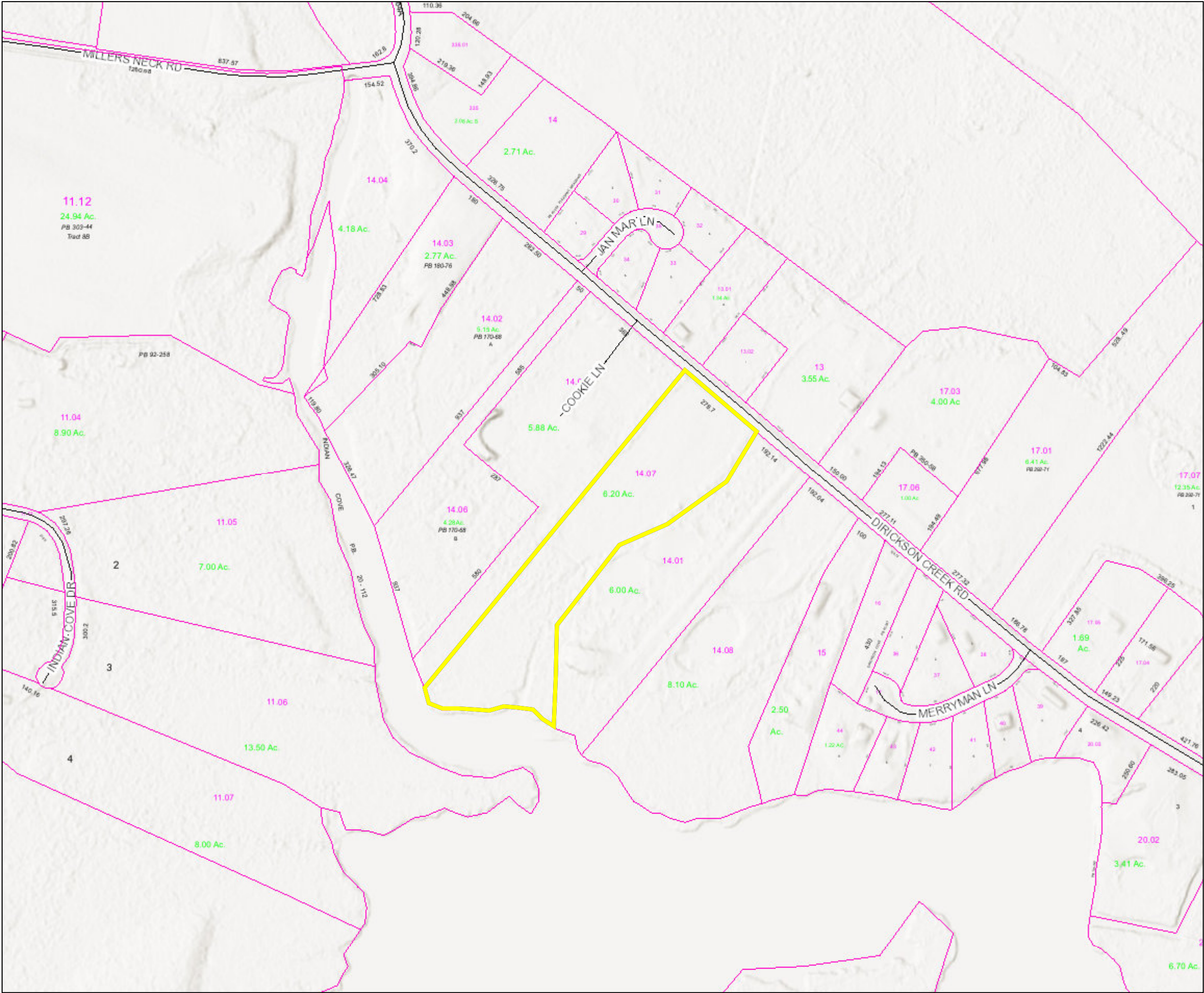
County Boundaries

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Sussex County

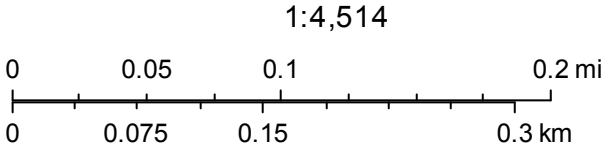


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- polygonLayer

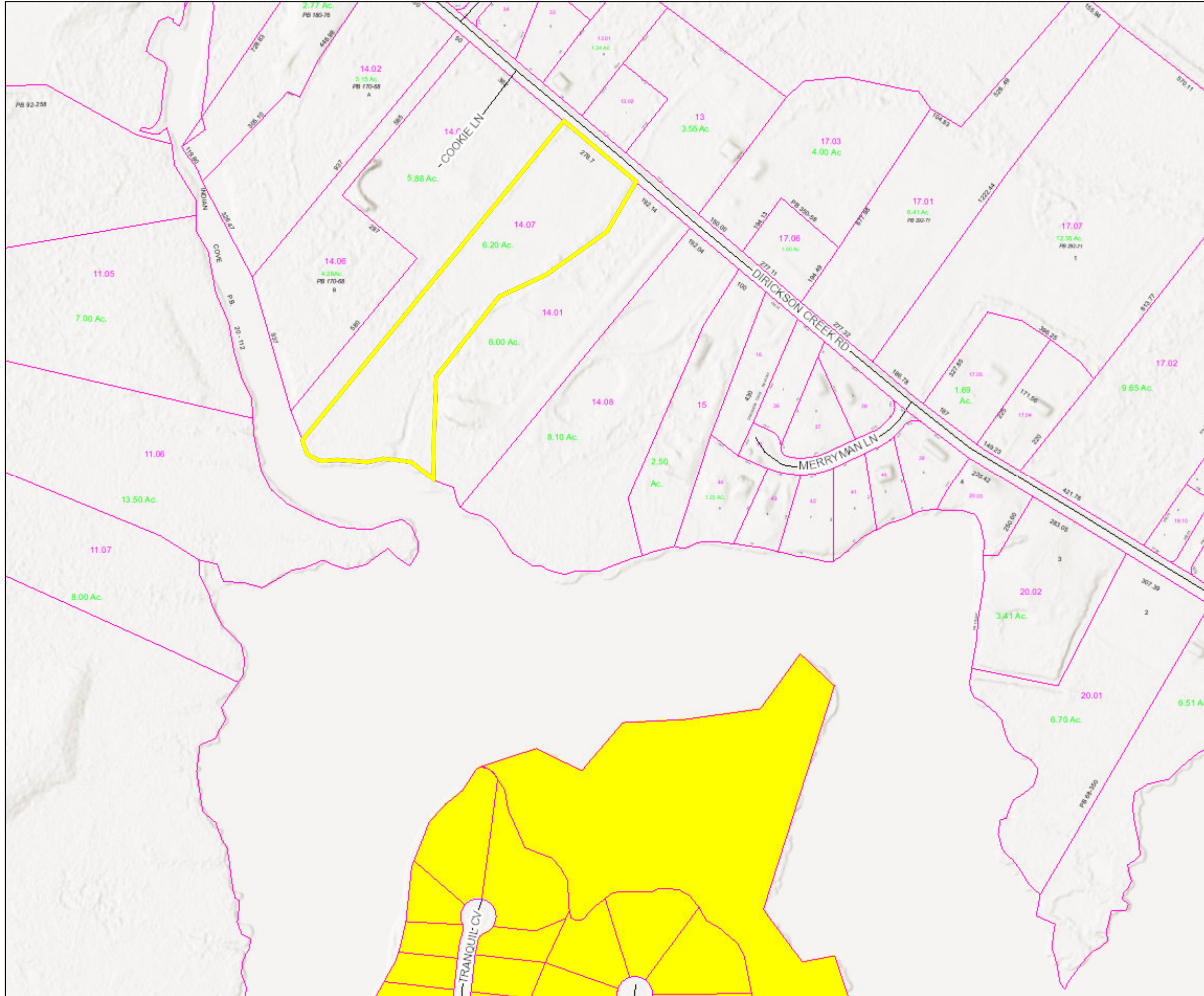
Override 1
- polygonLayer

Override 1
- Tax Parcels
- Streets
- County Boundaries





Sussex County



PIN:	134-21.00-14.07	
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Description	SW/RT 364B OF	
Description 2	N/A	
Description 3	N/A	
Land Code		

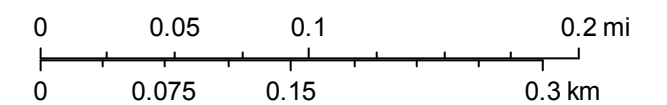
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Override 1

⋯ Tax Parcels

— Streets

1:4,514



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 20, 2023

RE: County Council Old Business 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).

The County Council held a Public Hearing on January 10, 2023 and deferred. 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
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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 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



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Memorandum

To: Sussex County Planning Commission Members
From: Mrs. Christin Scott, Planner II
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: 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.

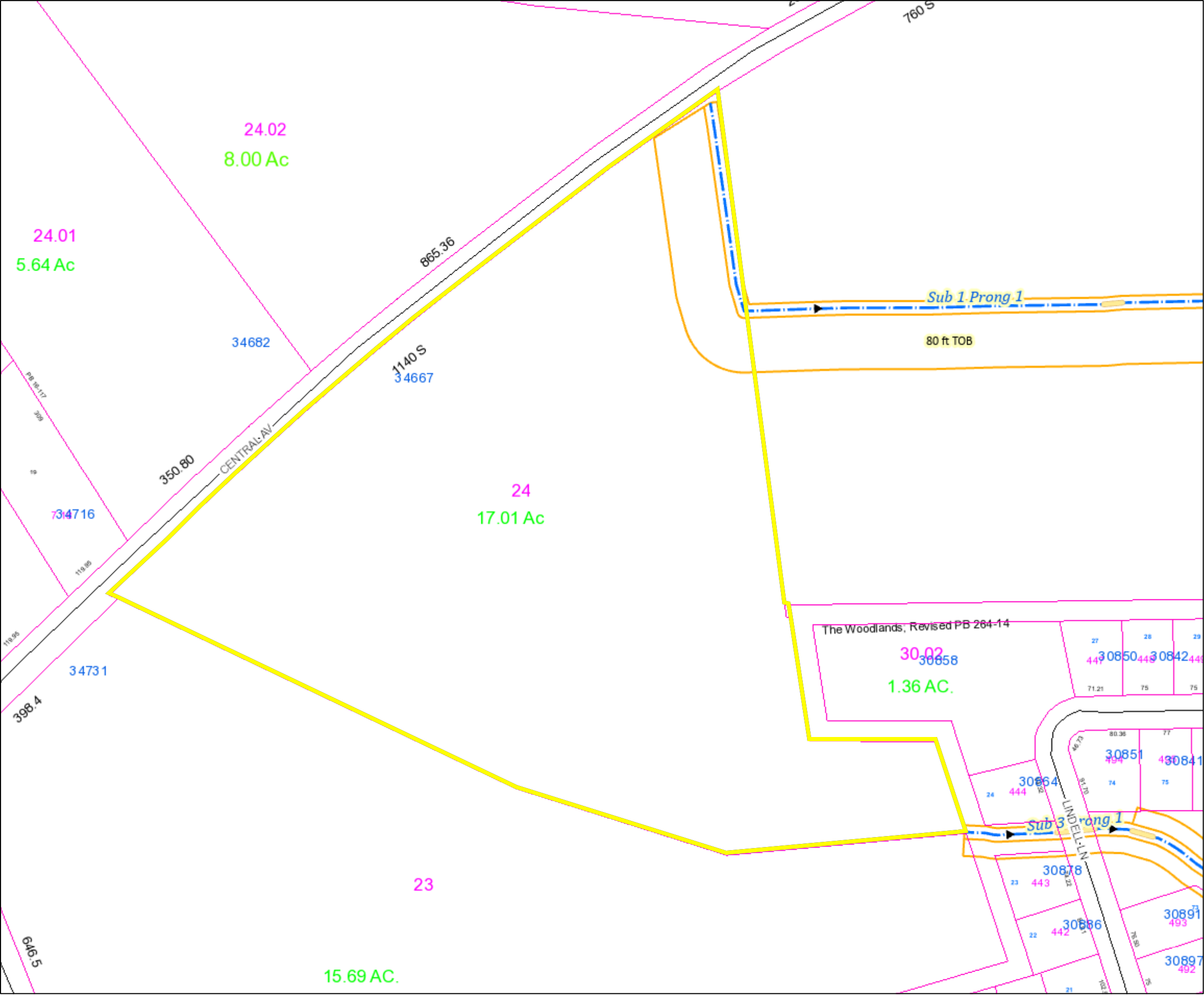
Existing Conditional Uses within the Vicinity of the Subject Site

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



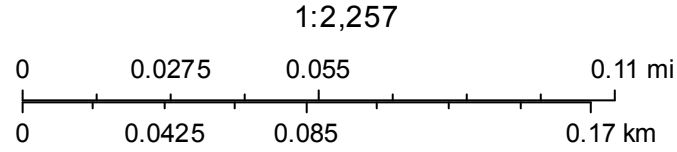
PIN:	134-19.00-24.00
Owner Name	TOOMEY PEGGY W
Book	5453
Mailing Address	36003 BURBAGE RD
City	FRANKFORD
State	DE
Description	HWY BAYARD TO
Description 2	OCEAN VIEW
Description 3	FX
Land Code	

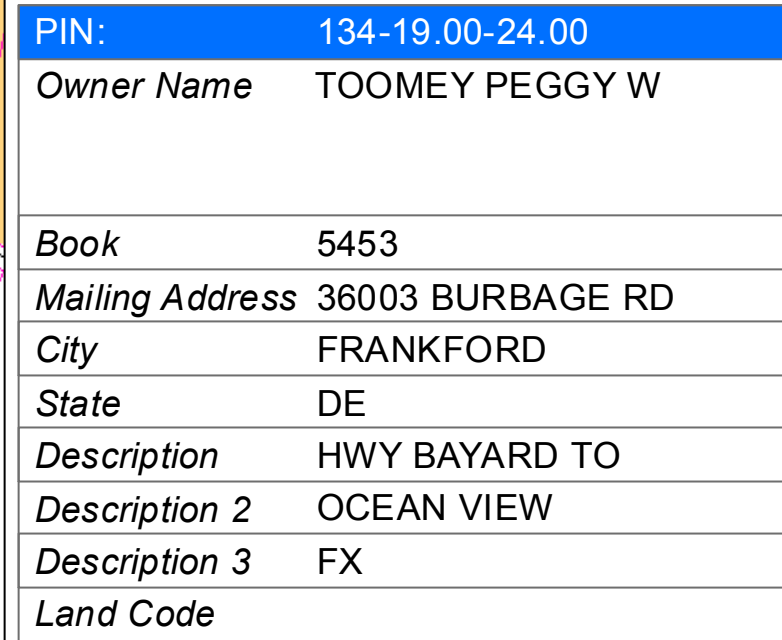
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Override 1
- Tax Parcels
- 911 Address
- Streets
- County Boundaries
- Flood Zones 2018

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





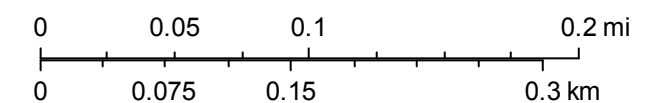
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⋮ Tax Parcels

— Streets

1:4,514



To Be 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 20, 2023

RE: County Council Old Business 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).

The County Council held a Public Hearing on the application at its meeting of January 10, 2022. At the conclusion of the Public Hearing, a motion was made and passed to defer action on the application for further consideration.

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.

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

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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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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).



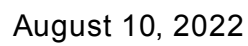
The adjacent parcels to the south, west and east of subject property are zoned Agricultural Residential (AR-1) District. The property immediately to the northwest of the subject property is zoned General Commercial (C-1) District. It should also be noted that a single parcel to the south is zoned Neighborhood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



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	

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Override 1

polygonLayer

Override 1

- Tax Parcels

911 Address

— Streets

County Boundaries

Flood Zones 2018

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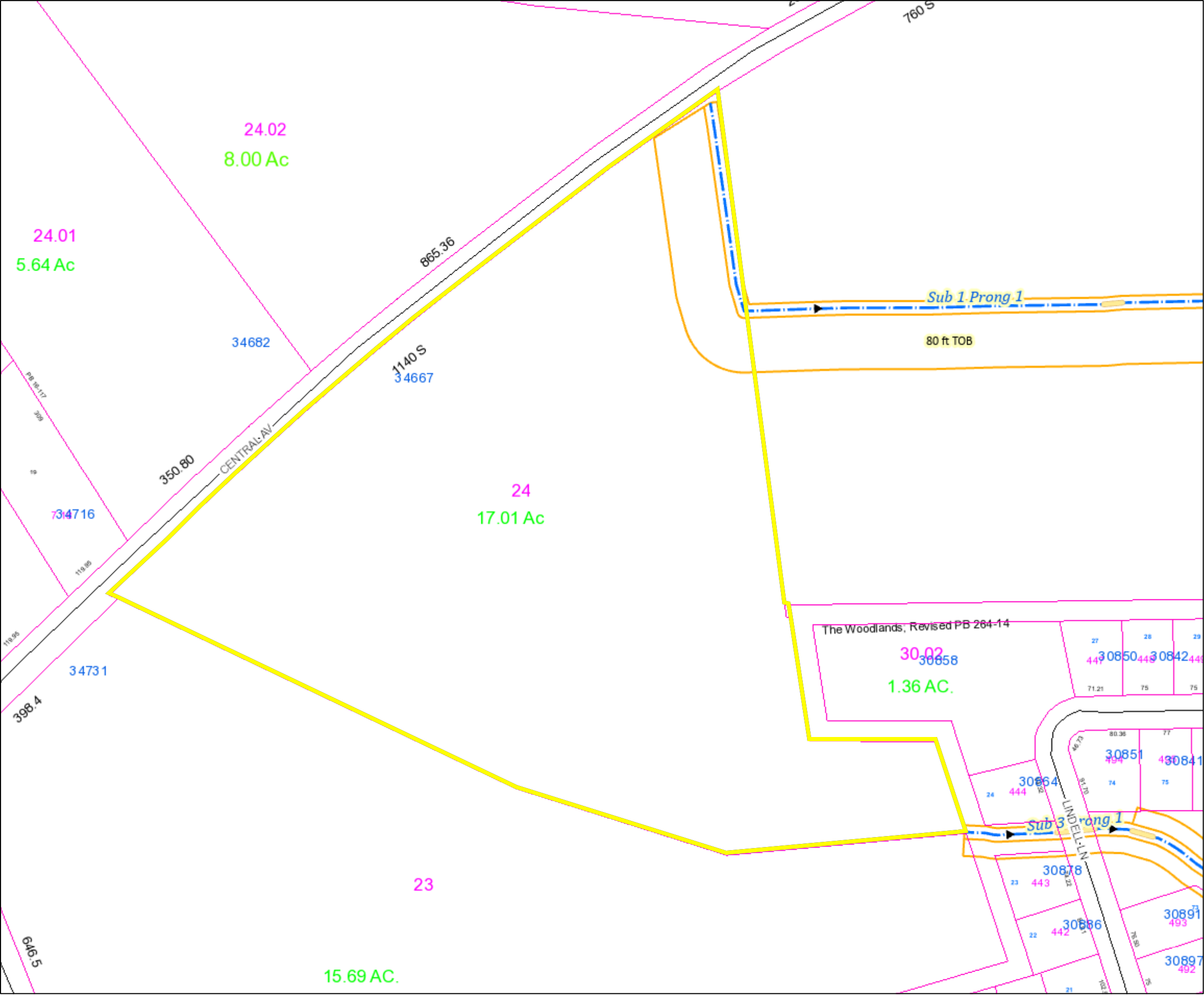
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Sussex County



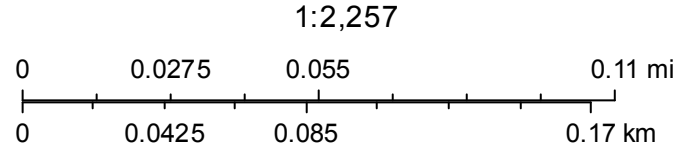
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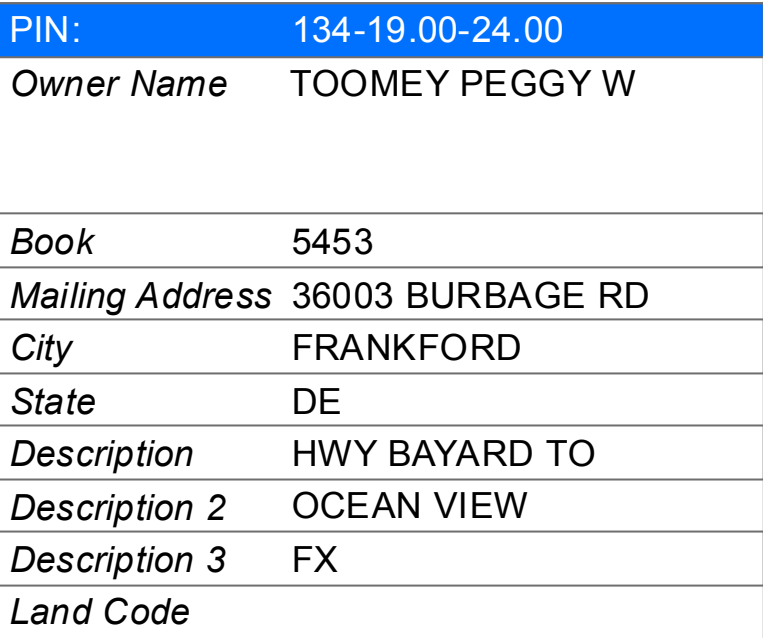
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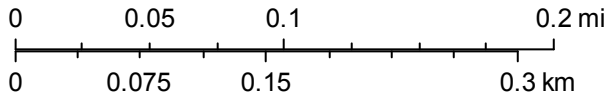
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- 0.2 PCT ANNUAL CHANCE FLOOD HAZARD
- A
- AE
- AO
- OPEN WATER
- VE





polygonLayer Override 1
polygonLayer Override 1
 :: Tax Parcels
 — Streets

1:4,514



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. 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.

Schaeffer
yes. 1/9

Council Grant Form

Legal Name of Agency/Organization	Delaware Manufactured Home Owners Association, Inc. ✓ (DMHOA)
Project Name	Educating and Aiding Manufactured Home Owners on leased land and Legislators about their rights and obligations.
Federal Tax ID	34-1975388 ✓
Non-Profit	Yes
Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	No
Organization's Mission	DMHOA's mission is to educate the 25,000 Delawareans manufactured home owners on leased land about their rights and obligations under current laws and regulations. As part of the mission, DMHOA also works to keep our legislators informed about our concerns needs to try and protect our home owners from evictions.
Address	22911 Winter Dove Drive
Address 2	
City	Lewes
State	DE
Zip Code	19958

Contact Person vincent robert rice

Contact Title Director of GRANTS

Contact Phone Number 2158057783

Contact Email Address patnvin@gmail.com

Total Funding Request

\$2,000.00

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?

5.7

Program Category (choose all that apply)

Fair Housing

Program Category
Other

Primary Beneficiary Category Elderly Persons (62 +)

Beneficiary Category
Other

Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program 10000

Scope DMHOA, Inc. works to educate manufactured home owners on leased land about their rights and obligations under current laws and regulations. DMHOA also provides legislators information about the homeowners' concerns and needs to be able to maintain and keep their homes. DMHOA has begun working with "Habitat For Humanity" to keep manufactured home on leased land repair and livable to try and prevent EVICTIONS.

Religious Components N/A

Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request) 20,800.00

Description Operating Costs

Amount 4,590.00

Description Travel/Training

Amount 3,100.00

Description Fund Raising Expenses

Amount 1,000.00

Description Membership Dues (National ORG.)

Amount 1,000.00

Description Advertising

Amount 12,000.00

Description Assistance to Individual Home Owners (Habitat For
Humanity)

Amount 10,000.00

Description Professional Fees

Amount 3,000.00

Description

Amount

TOTAL EXPENDITURES 34,690.00

**TOTAL DEFICIT FOR
PROJECT OR
ORGANIZATION** -13,890.00

Name of Organization DMHOA, Inc.

**Applicant/Authorized
Official** County Coun.- M. Vincent/M. Schaeffer by V.Rice

Date 01/01/2023

Affidavit Yes

Acknowledgement

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.

Rieley.
yes. 1/13.

Council Grant Form

**Legal Name of
Agency/Organization**

RACE4WARRIORS, inc. ✓

Project Name

RACE4WARRIORS ✓

Federal Tax ID

83-0579793 ✓

Non-Profit

Yes

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

No

Organization's Mission

MISSION STATEMENT

The orchestration of an annual Race4Warriors event to honor veterans who have served in the Middle East.

To provide support to our Wounded Warriors and Homeless Veterans, while educating our communities and strengthening their bonds with our veterans.

VISION STATEMENT

Connect education with community involvement to enhance our support of veterans who have served in the Middle East.

Address

26183 Tuscany Drive

Address 2

City

Millsboro

State

DE

Zip Code	19966
Contact Person	CMSgt (Ret) First Sgt Michael Bellerose
Contact Title	CEO
Contact Phone Number	603-391-8685
Contact Email Address	<u>Bellerose@Race4Warriors.org</u>
Total Funding Request	2,000
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?	8
Program Category (choose all that apply)	Health and Human Services, Other

Program Category Veteran Support
Other

Primary Beneficiary Category Other

Beneficiary Category Wounded Warriors in DE/ Homeless Vets in DE
Other

Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program 5000

Scope

The Race4Warriors is not just another race to raise money to support our veterans. It is an event that captures our mission and vision through Competition, Education, and Celebration. Everyone who attends will have a better understanding and appreciation of what our veterans have accomplished and endured while deployed to the Middle East. Only .5% of the U.S. population serves in the military. Our event honors our veterans through two races (5k & half marathon) which incorporate the beach. We race in the sand, because they run, walk, and work in the sand every day. Our Middle East Exhibit, sponsored by USAA, educates our civilian population on how we live when deployed. The FREE concert (3 bands 1100-1800) brings everyone together to talk, learn, and appreciate each other.

The funds requested will be used to support Emergency Medical Services to support the entire event.

Religious Components

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

10,700.00

Description Cape Henlopen State Park Fees

Amount 3,500.00

Description Sussex County EMS

Amount 2,000.00

Description Race (Operational Cost)

Amount 5,000.00

Description Concert (Operational Cost)

Amount 9,000.00

Description Insurrence

Amount 1,200.00

Description Marketing

Amount 2,500.00

Description

Amount

Description

Amount

TOTAL 23,200.00
EXPENDITURES

TOTAL DEFICIT FOR -12,500.00
PROJECT OR
ORGANIZATION

Name of Organization RACE4WARRIORS

Applicant/Authorized Dr. Michael Bellerose
Official

Date 01/12/2023

Affidavit Yes

Acknowledgement

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.

Green
yes. 1/11

Council Grant Form

Legal Name of Agency/Organization	Nicmar Youth Connection Enterprises, Inc ✓
Project Name	Eastern Shore Alumni Basketball Classic
Federal Tax ID	11-3787936 ✓
Non-Profit	Yes
Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	No
Organization's Mission	Nicmar Youth Connection, Entp.(NYCE-pronounced "nice"), a 501 C (3) non profit organization, is dedicated to connecting youth to positive environments to help boost self-esteem, self-confidence as well as strengthen their desires in community involvement, academic growth, physical fitness, and youth empowerment opportunities.
Address	4623 Dublin Hill Rd
Address 2	
City	Bridgeville
State	DE
Zip Code	19933
Contact Person	Nick Johnson

Contact Title President

Contact Phone Number 202-236-8266

Contact Email Address nick@nicmaryouthconnection.org

Total Funding Request \$1,000

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? 40

Program Category (choose all that apply) Other

Program Category Youth Sports Development
Other

Primary Beneficiary Category Youth

Beneficiary Category
Other

Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program 500

Scope Nicmar Youth Connection Enterprises (NYCE) has created the "Another Level" development program for youth ages 6 to 17 to focus on boosting self-esteem, academic achievement, mentoring and athletic development to keep them in a positive environment to deter them from drug usage, gang involvement and delinquent tendencies.

Religious Components

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

0.00

Description

Amount

Description

Amount

Description

Amount

Description

Amount

Description

Amount

Description

Amount

Description

Amount

Description

Amount

TOTAL EXPENDITURES 0.00

TOTAL DEFICIT FOR 0.00
PROJECT OR
ORGANIZATION

Name of Organization Nicmar Youth Connection Enterprises, Inc

**Applicant/Authorized
Official** Nick Johnson

Date 01/02/2023

Affidavit Yes

Acknowledgement

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

Casey Hall

From: Nicmar Youth Connection Entprs. <nick@nicmaryouthconnection.org>
Sent: Thursday, January 5, 2023 9:33 AM
To: Casey Hall
Subject: Re: County Council grant request.

Follow Up Flag: Follow up
Flag Status: Completed

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

Good morning Casey,

Below you will find the itemized expenses for the fundraiser event:

Amount: \$300
Description: Gym usage (4 hours)

Amount: \$150
Description: Custodian Worker

Amount: \$300
Description: Referees (2)

Amount: \$1,000
Description: Radio Advertisement (2 weeks prior)

Amount: \$300
Description: For DJ/Master of Ceremonies setup

Amount: \$450
Description: T-Shirts for Alumni players (4 teams with approximately 12 players each)

TOTAL EXPENDITURES: \$2500

**TOTAL DDFICIT FOR PROJECT
OR ORGANIZATION: \$2500**

Thank you for your consideration towards helping to make this event a success!

Nick Johnson, President
NYCE

On Jan 4, 2023, at 8:16 AM, Casey Hall <casey.hall@sussexcountyde.gov> wrote:

Good morning.

We are in receipt of your grant request for the Eastern Shore Alumni Basketball Classic program, in the amount of \$1,000. However, the application does not list the expenditures in which the funds will be used for. Can you please give us an itemized list of the expense(s) that the funds will go towards.

Thank you,

Casey Hall

Casey Hall, Clerk III

Administration | Sussex County Government

P.O. Box 589 | 2 The Circle | Georgetown, DE 19947

Tel: 302.855.7743 x7937 Fax: 302.855.7749

<Nicmar Youth Connection Enterprise, Inc..pdf>

To Be Introduced: 01/24/23

Council District 3: Mr. Schaeffer

Tax I.D. No.: 334-6.00-2.00

911 Address: 17581 Coastal Highway, Lewes

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR A YEAR-ROUND FOOD VENDOR TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.12 ACRES MORE OR LESS

WHEREAS, on the 18th day of November 2022, a conditional use application, denominated Conditional Use No. 2409 was filed on behalf of Bryan Stewart; 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. 2409 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 VI, Subsection 115-79, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2409 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcels of land lying and being situate in Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying on the north side of Coastal Highway (Route 1), approximately 0.15 mile east of Savannah Road (Route 9), and being more particularly described in the attached deed prepared by Young, Conaway, Stargatt & Taylor, LLP., said parcel containing 1.12 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 20, 2023

RE: County Council Report for C/U 2336 filed on behalf of Community Power Group, LLC

The Planning and Zoning Department received an application (C/U 2336 filed on behalf of Community Power Group, LLC) for a Conditional Use for parcel 232-5.00-11.03 for a solar farm. The property is located on the north side of Woodland Ferry Road (SCR. 78) 0.15 mile east of the intersection of Woodland Ferry Road (SCR.78) and Bethel Road (SCR. 493). The parcel size is 25.012 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on November 17, 2022. At the meeting of December 15, 2022, the Planning & Zoning Commission recommended approval of the application for the 9 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 17, 2022 and December 15, 2022.

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

C/U 2336 Community Power Group, LLC

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 PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 25.012 ACRES, MORE OR LESS. The property is lying on the north side of Woodland Ferry Road (S.C.R. 78) 0.15 miles east of the intersection of Woodland Ferry Road (SCR 78) and Bethel Road (SCR 493) and on the east side



of Bethel Road (SCR 493) 0.2 miles north of the intersection of Woodland Ferry Road (SCR 78) and Bethel Road (SCR 493). 911 Address: N/A. Tax Parcel: 232-5.00-11.03 (p/o).

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Site Plan, Applicant Exhibits, the property deed, and the DelDOT Service Level Evaluation Response. Mr. Whitehouse advised the Commission zero comments were received.

The Commission found that Mr. Michael Borkowski, President of Community Power Group, LLC spoke on behalf of the Application; that Community Power Group, LLC has been established since 2010; that they have operations in Maryland, Delaware, Virginia, New York, Illinois, Massachusetts, Connecticut and Colorado; that they are community solar experts; that they are headquartered in Maryland; that the company emphasizes using local labor on all their projects; that the company uses domestic equipment, pollinator friendly ground covers and game fences when possible; that the proposed project is a three megawatt community solar project; that the Delaware DOT review was completed, which stated the project would have a diminutive impact on local traffic; that they did make recent revisions to the site plan; that they added double layered buffers in certain areas; that the extended buffering in other areas; that the owner of the land lives in the nearby area; that the owner and Community Power Group, LLC did field a few calls from neighbors regarding the Application; that there were neighbors located to the north who expressed concerns regarding buffering; that they had not proposed buffer in the area, as there was a robust buffer already in existence; that future development may be happening on that property; that due to this and the concern of the owner, they added landscaping to that area; that another property owner to the north, located across the street, approximately three football fields away from the property; that their porch did face the proposed project; that due to this the Applicant requested Community Power Group back up the project and place additional screening to remedy the concern; that the Application meets and/or exceeds all zoning requirements of the County; that the proposed landscaping will consist of deciduous and evergreen trees, which provides variety to the buffer zone; that they proposed to use polycrystalline panels; that thin-film panels do contain Cadmium in them; that there has been some negative feedback on thin-film panels; that polycrystalline panels have no adverse chemicals in them; that they will use Single Axis Trackers (SAT) racking system; that in the morning the trackers will face east, slowly moving throughout the day to face west; that Community Power Group did submit FAA approved glare studies; that they did submit noise studies; that solar fields generate less noise than the transformers attached to telephone poles; that telephone poles have a louder buzz than solar farm equipment; that the closest building to the project is located 520-ft. away from the site; that there will be no audible noise near any dwellings; that they propose pollinator-friendly ground cover for the site; that they propose game fencing to surround the site; that game fencing consist of wooden pole with wire fencing; that the game fencing makes a huge difference in how solar fields are presented to the public; that when someone sees a chain-link fence, they think industrial; that the view of game fencing gives the area an agricultural activity orientation, blending the use into the area; that they have received a lot of positive feedback regarding game fencing; that a decommissioning plan was submitted; that a bond will be in place; that they do have financial security; that salvage costs tend to be more than the equipment; that the do have insurance in the event of natural disasters; that the solar panels can withstand three inch hail; that solar farms tend to be the most valuable asset of bankruptcy proceedings, as solar farms only require the sun to operate and generate revenue; that community solar is fairly new to Delaware; that there is a meter placed, which spins backward; that the solar farm

will receive a negative invoice; that subscribers will subscribe to the farm; that if a person's electric bill is \$300, they will subscribe to the farm for \$300 worth of credits; that Community Power Group will obtain the persons meter number and will allocate the credits to the meter; that a person may see a 10% to 20% discount on their electric bill; that a person would also be able to claim they are using all renewable energy; that Cohenreznick did a study on property values near solar projects and the study found there was no negative impact on property values near solar farms; that property values can also be verified on Zillow.com.

Mr. Hopkins questioned if sheep would be placed on the property for maintenance.

Mr. Borkowski stated they have used sheep for their projects; that they will be placing sheep on a site they have in New York; that they requested the sheep not be included within the conditions, as there is no guarantee to the accessibility of sheep farmers in the future; that they do feel it is a great viable option for their sites and they are utilizing sheep at locations where sheep grazers are located nearby.

Mr. Robertson questioned if a Decommissioning Plan is a standard term within the industry.

Mr. Borkowski stated the Decommissioning Plan is a standard within the industry; that the Community Power Group plan is the best in class; that the plan has been improved by recent requirements in Virginia and a Decommissioning Plan is provided to all landowners within their lease.

Mr. Glen Jones spoke in support of the Application; that he is the currently land owner for the project; that his family has farmed the property and in the area since 1950s; that over the years their farming has created many local jobs; that they have a fruit stand in the nearby area of the project; that they chose to take a small portion of their operation, to offer some diversification; that diversification is important in any operation to help with the risk of farming; that the property was selected due to its necessary location to the power grid; that other properties considered, they did not feel would be as accepted by the community; that the farm is on the lower end of production scale due to the low percentage of irrigated land; that the property already had existing buffers; that they will place additional buffering where needed; that he felt the impact would be beneficial to the neighborhood; that the project will not create additional traffic, odors, or noise and he felt the proposed use would be good for the community as well as his farming operation.

The Commission found that Ms. Chasity Tolbert spoke in opposition to the Application; that she also was speaking on behalf of her parents who could not be present; that she did request to submit a petition in opposition; that she and her parents live on Jay Run Dr.; that her father owns a business near the property; that her parents purchased their property in 2015; that she will see the solar farm from bedroom window; that her father had concern that if he needed to sell the business, the presence of a solar farm be an issue; that she does not want sheep next to her home; that her dog would not appreciate sheep next door; that she is opposed to game fencing, as she feels it does not look nice; that she questioned who is responsible for the maintenance of the property; that she felt the biggest concern for the community, is the placement of the project; that the Applicant has a lot of other farmland; that the community feels the Applicant is placing the project in the middle of residential area and other locations would allow for less visualization of the solar farm.

The Commission found that Mr. Travis Hastings spoke in opposition to the Application; that he is a farmer in the community; that he owns land adjacent to the subject property; that he is not as opposed to the particular application, as he is concerned for solar farms in general Sussex County; that he questioned if solar farms, located on agricultural land, is something Sussex County needs to promote; that he feels agricultural lands should be for open space and agricultural purposes and he does not feel solar panels are an agricultural operation.

The Commission found that Mr. Danny LeCates spoke in opposition to the Application; that he resides across the street from the property; that he has lived there since 1979; that he sits on his porch every afternoon; that he feels solar farms are very ugly; that the placement of small trees for a buffer will take years before the trees grow to provide a full buffer from the solar panels and he requested a fence be placed should the solar farm be approved.

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

Ms. Stevenson questioned what trees are used to construct the buffer areas.

Ms. Wingate questioned if the Applicant would be agreeable to placing a topsoil berm to place the trees on.

Mr. Mears questioned what a game fence was constructed of.

Mr. Borkowski stated he had previously spoken with Mr. LeCates and appreciated his concern; that the buffer would be a mix of evergreens and deciduous trees; that they will be able to go a bit higher with the trees due to the proposed location; that in mixing the species, and the placement of double rows, it will keep from the monotonous look of the trees; that they would not desire to place a berm, as they do not want to disrupt the soil on the farm; that to get a meaningful berm, the berm would need to be five feet in height and the game fencing is constructed of wooden poles and chicken wire.

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 2336 Community Power Group. Motion by Ms. Wingate to defer for further consideration, seconded by Ms. Stevenson and carried unanimously. Motion carried 5-0.

Minutes of the December 15, 2022 Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since November 17, 2022.

Mr. Mears moved that we recommend approval of C/U 2336 for Community Power Group, LLC 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. This is an adaptive use of farmland that will preserve it from more intensive development.
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 area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
6. The entire site is 39.45 acres in size. The solar farm will only utilize approximately 25 acres of the property.
7. Based upon the testimony in the record, it is evident that no significant noise, dust, or odor will be generated by the facility.
8. 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.
9. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
10. 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 on the Final Site Plan.
 - e. Any transformers or similar equipment shall be centrally located on the site away from any nearby residential uses.
 - f. The entire site, including the area outside the fence, shall be maintained so that it does 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 using Best Management Practices.
 - h. There shall be a vegetated buffer that is at least 15 feet wide planted with deciduous and evergreen trees and shrubs around the perimeter of the solar arrays wherever there is not an existing vegetated buffer. These buffers shall screen solar arrays while allowing the solar arrays to function properly. These plantings shall include a double row of screening along the western boundary and the existing screening shall be bolstered along the southern and eastern boundaries.

- i. The Final Site Plan shall identify a Decommissioning Plan that includes financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.
- j. 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. Stevenson and carried unanimously to recommend approval of C/U 2336 Community Power Group, LLC for the reasons and conditions stated in the motion. Motion carried 4-0.

Vote by roll call: Mr. Hopkins – yea, Ms. Stevenson – 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, AICP, MRTPI
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: November 17th, 2022

Application: CU 2336 Community Power Group, LLC

Applicant: Community Power Group, LLC c/o Michael Borkowski
5636 Connecticut Ave., #42729
Washington, DC 20015

Owner: Jade Run Farm, LLC c/o Glen & Laurie Jones
8268 Snake Road
Bethel, DE 19931

Site Location: Lying on the north side of Woodland Ferry Road (S.C.R. 78) about 800 feet east of the intersection with Bethel Road (S.C.R. 493) and on the east side of Bethel Road about 1,000 feet north of the intersection with Woodland Ferry Road.

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

Proposed Use: Solar Farm consisting of photovoltaic electric generation facility with a capacity of generating up to 4 megawatts per acre on approximately 25 acres of the parcel.

Comprehensive Land
Use Plan Reference: Low Density Area

Councilmanic
District: Mr. Vincent

School District: Laurel School District

Fire District: Laurel Fire Department

Sewer: N/A

Water: N/A

Site Area: 52.23 acres +/- (p/o 25 acres +/-)

Tax Map ID: 232-5.00-11.03



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: Mr. Michael Lowrey, Planner III
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: October 6, 2022
RE: Staff Analysis for C/U 2336 Community Power Group, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application C/U 2336 Community Power Group, LLC to be reviewed during the November 17th, 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: 232-5.00-11.03 to allow for a solar farm consisting of a photovoltaic electric generation facility which may generate up to 4 megawatts per acre on approximately 25 acres of the parcel. The property is located on the north side of Woodland Ferry Road (S.C.R. 78) about 800 feet east of the intersection with Bethel Road (S.C.R. 493) and on the east side of Bethel Road about 1,000 feet north of the intersection with Woodland Ferry Road. The parcel is comprised of a total area of 39.45 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 parcel has a designation of "Low Density Area". The adjacent parcels surrounding the subject property retain the Future Land Use Map designation of "Low Density Area." The properties on the opposite side of Woodland Ferry Road (S.C.R. 78) are also designated as "Low Density Areas." The parcels to the north and to the west on the opposite side of Bethel Road (S.C.R. 493) also have a Future Land Use Map designation of "Low Density Area."

As outlined within the 2018 Sussex County Comprehensive Plan, the primary uses envisioned in Low Density Areas are agricultural activities and homes. Business development should be largely confined to businesses addressing the needs of these two uses. Industrial and agribusiness uses that support or depend on agriculture should be permitted. The focus of retail and office uses in Low Density Areas should be providing convenience goods and services to nearby residents. Commercial uses in these residential areas should be limited in their location, size, and hours of operation. More intense commercial uses should be avoided in these areas. Institutional and commercial uses may be appropriate depending on surrounding uses. (Sussex County Comprehensive Plan, 4-19). Additionally, the Plan notes that Sussex County "hopes to retain the rural environment" in Low Density Areas and adds that "Sussex County Council supports land use State and local land use policies that will preserve the value of farmland" noting the County's



approach emphasizes sustaining “reasonable development rights” (Sussex County Comprehensive Plan, 4-18).

Zoning Information

The subject properties are zoned Agricultural Residential (AR-1) District. The adjacent properties on both sides of Bethel Road (S.C.R. 493) are zoned Agricultural Residential (AR-1) District. The adjacent properties on the both sides of Woodland Ferry Road (S.C.R. 78) are zoned Agricultural Residential (AR-1) District. The parcels to the east of the subject property are zoned Agricultural Residential (AR-1) District.

Existing Conditional Uses within the Vicinity of the Subject Site

Since 1970, there have been six (6) Conditional Use applications within less than a 1-mile radius of the application site. The first application is Conditional Use No. 1580 Crawford and David Matthews to allow for a lumber business/equipment storage within an Agricultural Residential (AR-1) Zoning District. The Application was approved by the Sussex County Council at their meeting of Tuesday, January 18, 2005 and the change was adopted through Ordinance No. 1746. The second application is Conditional Use No. 998 Jade Run Sod Farm to allow for the sale & service of agricultural irrigation systems within an Agricultural Residential (AR-1) Zoning District. The Application was approved by the Sussex County Council at their meeting of Tuesday, May 12, 1992 and the change was adopted through Ordinance No. 827. The third application is Conditional Use No. 739 Steven & Dorothy Cucinotta to allow for a chicken house on less than 5 acres to be located within the Agricultural Residential (AR-1) Zoning District. The Application was denied by the Sussex County Council at their meeting of Tuesday, January 17, 1984. The fourth application is Conditional Use No. 377 Herbert C. and Bonnie B. Carey to allow for a beauty salon within an (MR) Medium Density Residential District. The Application was approved by the Sussex County Council at their meeting of Tuesday, October 12, 1976. The fifth application is Conditional Use No. 1062 Excel Leasing Corp to operate an equipment leasing company within an Agricultural Residential (AR-1) Zoning District. The Application was approved by the Sussex County Council at their meeting of Tuesday, February 1, 1994, and the change was adopted through Ordinance No. 951. The sixth application is Conditional Use No. 2383 Consolidated Edison Development, Inc to operate a solar farm within an Agricultural Residential (AR-1) Zoning District. The Application was received by the Sussex County Planning & Zoning Department on June 29th, 2022.

Based on the analysis of the land use, surrounding zoning and uses, the Conditional Use to allow for the placement of a photovoltaic electric generation facility in this location, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.

Conditional Use Applications (Within a 1.0-mile radius of the subject site)						
Application Number	Application Name	Zoning District	Proposed Use	CC Decision	CC Decision Date	Ordinance Number
CU 1580	Crawford and David Matthews	AR-1	Lumber Business / Equipment Storage	Approved	1/18/2005	1746
CU 998	Jade Run Sod Farm	AR-1	Sale & Service of Agricultural Irrigation Systems	Approved	5/12/1992	827
CU 739	Steven & Dorothy Cucinotta	AR-1	Chicken House on Less Than 5 Acres	Denied	1/17/1984	N/A
CU 377	Herbert C. Carey & Bonnie B.	MR	Beauty Salon	Approved	10/12/1976	N/A
CU 1062	Equipment Leasing Company	AR-1	Equipment Leasing Company	Approved	2/1/1994	951
CU 2383	Consolidated Edison Development, Inc	AR-1	Solar Farm	Pending	N/A	N/A



Sussex County



PIN:	232-5.00-11.03
Owner Name	JADE RUN FARM LLC
Book	3413
Mailing Address	8268 SNAKE RD
City	BETHEL
State	DE
Description	S RT 493
Description 2	E RT 78
Description 3	N/A
Land Code	

polygonLayer

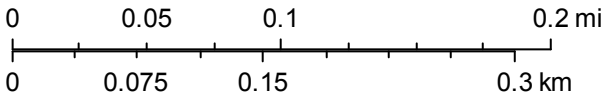
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Override 1

- ⋯ Tax Parcels
- Streets

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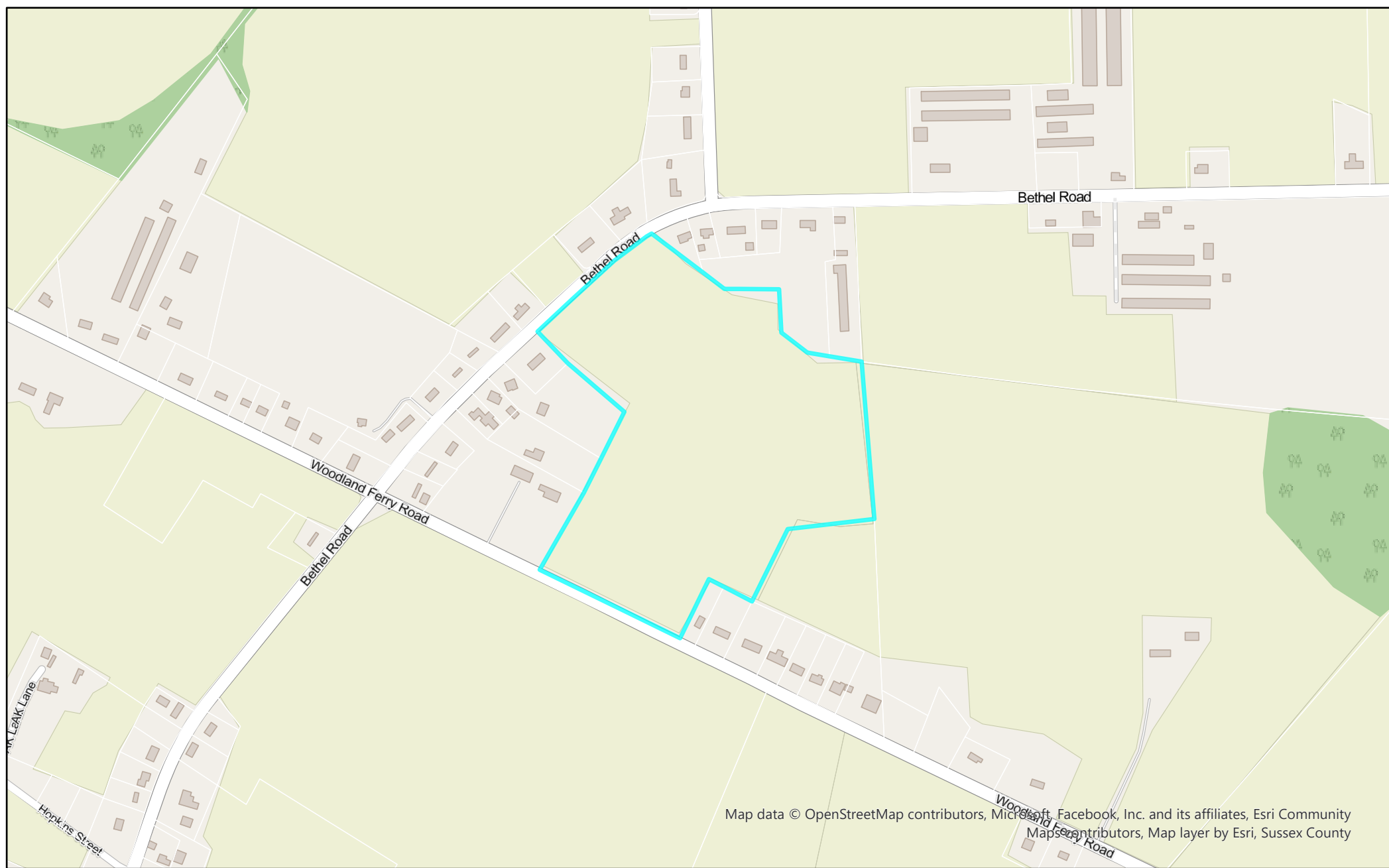
CU 2336 Community Power Group, LLC

Tax Map # 232-5.00-11.03



CU 2336 Community Power Group, LLC - Woodland Ferry Rd
Street Map
TP#232-5.00-11.03
Planning Commission Hearing Date: November 17, 2022

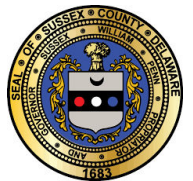
03/07/2021 - 06/11/2021



Map data © OpenStreetMap contributors, Microsoft, Facebook, Inc. and its affiliates, Esri Community Map contributors, Map layer by Esri, Sussex County

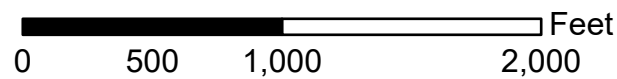
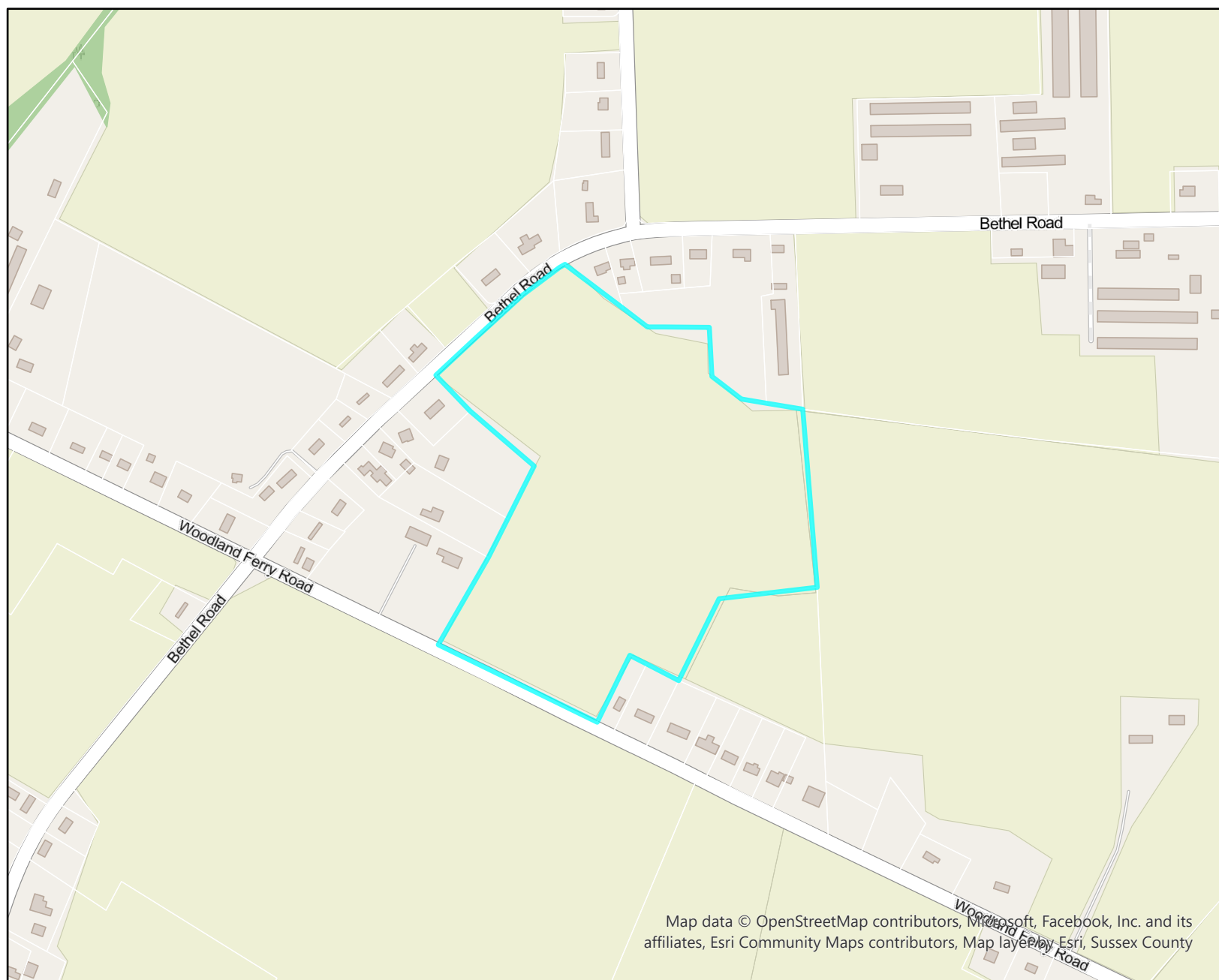
CU 2336 Community Power Group, LLC - Woodland Ferry Rd -
Street Map
TP#232-5.00-11.03
Planning Commission Hearing Date: November 17, 2022

0 500 1,000 2,000 Feet



Zoning

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



CU 2336 Community Power Group, LLC - Woodland Ferry Rd -
 Street Map
 TP#232-5.00-11.03
 Planning Commission Hearing Date: November 17, 2022

To Be Reintroduced: 10/11/22

Council District 1: Mr. Vincent
Tax I.D. No.: 232-5.00-11.03 (p/o)
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 PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 25.012 ACRES, MORE OR LESS

WHEREAS, on the 11th eleventh day of January 2022, a conditional use application, denominated Conditional Use No. 2336 was filed on behalf of Community Power Group LLC; 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. _____ 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. 2336 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

A PORTION OF that certain tract, piece or parcel of land, lying and being situate in Broad Creek Hundred, Sussex County, Delaware, and lying on the north side of Woodland Ferry Road (SCR 78) 0.15 miles east of the intersection of Woodland Ferry Road (SCR 78) and Bethel Road (SCR 493) and on the east side of Bethel Road (SCR 493) 0.2 miles north of the intersection of Woodland Ferry Road (SCR 78) and Bethel Road (SCR 493) being more particularly described in the attached legal description prepared by Steven M. Adkins Land Surveying, LLC, said parcel containing 25.012 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 20, 2023

RE: County Council Report for C/U 2325 filed on behalf of David & Sandra Blank

The Planning and Zoning Department received an application (C/U 2325 filed on behalf of David & Sandra Blank) for a Conditional Use for parcel 533-9.00-58.00 for a campground. The property is located on the northeast side of Jay Patch Road (S.C.R 376A), approximately 0.5-mile southeast of Pepper Road (S.C.R 376). The parcel size is 30.76 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on November 17, 2022. At the meeting of December 8, 2022, the Planning & Zoning Commission recommended approval of the application for the 3 reasons stated and subject to the 14 recommended conditions as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meetings of November 17, 2022 and December 8, 2022.

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

C/U 2325 David & Sandra Blank

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CAMPGROUND TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 30.76 ACRES MORE OR LESS. The property is lying on the northeast side of Jay Patch Road (S.C.R. 376A), approximately 0.5-miles southeast of Pepper Road (S.C.R. 376). 911 Address: N/A. Tax Parcel: 533-9.00-58.00.



Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Site Plan, a letter from Sussex Conservation District, a letter from Sussex County Engineering Department Utility Planning Division, the Staff Analysis, and the DelDOT Service Level Evaluation Response. Mr. Whitehouse advised the Commission that five letters were received in opposition to the Application.

The Commission found that Mr. David Blank spoke on behalf of his Application; that also present was his wife, Ms. Sandra Blank; that he and his wife had moved to India in 1992 for the U.S. State Department Professor Exchange; that in India he began working on a technical solution for Asia's most serious health and climate problem; that his work led to a breakthrough, which led him to Sussex County to commercialize vehicular engines to operate more efficiently without creating air pollution; that eight years ago, they established a research laboratory in Williamsville Industrial Park; that at the same time, they purchased their property along Jay Patch Rd., with the intention of placing a single-family home on the property; that the technology they are attempting to pioneer will benefit the planet; that the technology is a disruptive technology in which car manufacturers and energy companies would want to put on the shelf; that due to this, they have had to finance the commercialization of the technology themselves; that this has caused a delay in building their house on Jay Patch Rd.; that they are currently seeking to establish a non-commercial campground to live on until their funds become adequate to complete their house; that after the home is constructed, they hope to continue the use of a private campground for their family and close friends; that their intention is to semi-permanently place one travel-trailer on each of the two campsites; that DelDOT stated the proposed use of the private campground on Jay Patch Rd. will not add to traffic; that their plan accounts for more than adequate off road parking; that in discussions with the Planning & Zoning Department, they have considered the nine Ordinance requirements for their Conditional Use application; that their request is in compliance with all of the Ordinance requirements, as well as the design standards for Jay Patch Rd.; that their request is simply for two, 2,000 sf, private campsites and they have no intension of moving the trailers on and off the property as they desire to have the trailers placed semi-permanently.

Mr. Mears questioned that the campground use would be private use by the Applicant until their home is constructed; that he questioned how much time would be required for the campsite until the home is completed and he questioned if the presence of the two campers could create difficulty when attempting to build their home.

Mr. Robertson stated he will need to perform more research; that he does not believe it would cause difficulty as the Conditional Use would be granted and worded in addition to the house; that campgrounds do have a distance requirement from dwellings of other owners, and he believes the Applicant would be fine.

Ms. Stevenson questioned the reason for the Conditional Use and questioned if the campers would ever be rented out.

Mr. Whitehouse advised the Commission that a Conditional Use is required due to the number of dwellings located on one parcel and within AR-1 (Agricultural Residential) there are restrictions to the

placement of single-wide mobile homes and size restrictions to dwellings constructed within the district.

Mr. Banks stated the campsite would be for private use by them until their home is complete; that they wished to keep the campground after their home is complete but if a condition must be placed, he estimated it would be two to three years before their home was completed; that they have a son, who is a Navy Seal; that they are both veterans; that they wish to keep the campground for occasional private use by their family and close friends; that based on DNREC requirements, they did modify Ordinance 9 related to a campground managers residence; that there proposed single-family home would be considered as the campground managers residence; that the site plan will be modified to include their home as part of the campground; that they have no intention to rent out the campers and they have no intention to make the campground for commercial purposes.

The Commission found that Mr. Mark Meckes spoke in opposition to the Application; that the Application stated the proposed use is for a campground for mobile homes, trailers, tents, camper trailers and travel vans; that after hearing the Applicant's testimony, he believes the proposed use is different than that stated on the Application; that his property is located within the AR-1 (Agricultural Residential) Zoning District; that he purchased his property in 2014 for peaceful and quiet nature to build his retirement home, which is almost complete; that he does not want to hear or see a campground, across the road, when sitting on his front porch, located less than 100 ft. away; that the campground would cause additional traffic to Jay Patch Rd., which is a dead-end road; that Jay Patch Rd. is barely wide enough to pass oncoming passenger cars and pick-up trucks without difficulty; that that if any large tractor trailers were to enter Jay Patch Rd., the trailers would need to back out completely to Pepper Rd. as there is no place along Jay Patch Rd. to turn around; that he and his wife have concern to strangers coming and going, all different hours of the day and night, all year long; that the idea of campfires burning is concerning as there have been two major fires on the subject property since 2014; that one of the previous fires destroyed a camper located on the property a few years ago; that there was a fire in the woods; that the Selbyville Fire Company was dispatched for both fires; that Jay Patch Rd. is a no outlet road; that no commercial use should be permitted in an area that is not zoned from commercial use; that after hearing the Applicant's testimony, he is still opposed to the proposed use; that once the Conditional Use is granted, it will allow the Applicant to use the campground for commercial use in the future; that one the site place the access road goes to the two campsites; that he questioned if a site plan would be revised to reflect the campsites versus the house; that he also had concerns regarding septic and if DNREC had confirmed requirements for septic.

Chairman Wheatley stated if the Conditional Use is approved the site plan will be required to have Final Site Plan review and approval as well as obtain approvals from all required agencies.

The Commission found that Ms. Karen Tyre spoke in opposition to the Application; that there was a lot of conflicting information as to what was proposed on the Application and what was currently presented; that she did submit a letter into the record; that she stated concerns regarding the increased vehicle and foot traffic, the interruption of wetlands, safety concerns due to the limited width of the road and the cul-de-sac, the potential to bring a "party scene" to a quiet neighborhood, insufficient septic and water facilities; that there is no other campground in the area; that the presence of a

campground would negatively impact nearby property values; that there is no commercial uses within the area; that she has owned her residential property for 37 years; that her family and herself have been the owners of Jay Patch Farm for 80 years; that Jay Patch Farm is a well-maintained working farm; that the campground is not welcome in the area and the campground is totally out of character.

The Commission found Mr. Glenn Campbell spoke in opposition to the Application; that he purchased his property in 2006 with plans to retire; that he wants to retire in a nice, quiet neighborhood, and does not want a campground located across the street from him.

The Commission found that Mr. Matt Mitchell spoke in opposition to the Application; that he built his home in 2007; that he and his family perform a lot of target practice in his backyard; that despite warning signs, he has had numerous people trespass onto his property and he had concerns regarding the campground will create increased foot traffic and hikers, which may create safety concerns.

Ms. Wingate expressed concern that if the Applicant did not build their home, would there be two campgrounds now available to be used by others besides friends and family.

Mr. Mears stated the Application is not for commercial use, but rather for Conditional Use and the Commission can limit and condition the proposed Conditional Use.

The Commission found that Mr. Robert Hammond spoke in opposition to the Application; that Mr. Blank purchased the property approximately seven years ago; that the Applicant moved a trailer on the site; that he does not believe there is any water or sewage service to the area; that he has never seen a sanitation truck access the property; that the Applicants have not built their proposed house in the seven years they have owned the property; that he does not want trailers placed on the property that could be rented out to others and since the Applicant has owned the property there have been two unexplained fires.

The Commission found that Ms. Rachel Hockstedtler spoke in opposition to the Application; that there have been fires previously on the property; that she had concerns about the location of the septic system as it proposed in close proximity to her property; that her property and for as long as she has ownership of it will remain a wildlife property; that when the previous camper caught on fire, all of the burnt items and debris sat on the property for a year and she is opposed to the Application as she does not believe the use will benefit the area.

The Commission found that Mr. Dave Wiley spoke in opposition to the Application; that there was confusion about the proposed use; that he stated as long as the Applicant would not be permitted to rent the campers out or have multiple campers come and go from the site, he would have no opposition with the Applicants living in a camper located on their 30 acres of land.

The Commission found that Ms. Jessica Tyre spoke in opposition to the Application; that she requested clarification on the Applicant's proposed use; that she stated there is already an RV located on the property and questioned if the two proposed sites would include the RV already existing on the site, or would the existing RV be in addition to the two campsites and proposed home.

Mr. Whitehouse advised the Commission that it was his understanding the provided description was taken directly from the Code, and he believes the provided description encompassed more than what the Applicant is proposing.

The Commission found that Mr. Stewart McGee spoke in opposition to the Application; that he questioned concerns about the registration of a campground; that if the public were to perform a Google search, they may come looking for the campground; that Jay Patch Rd. only has a 30-ft. right-of-way and has no cul-de-sac; that there is no area to construct a cul-de-sac and traffic may be increased in attempts to located the campground.

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

Mr. Whitehouse advised the Commission that a dwelling, absent of all kitchen facilities, could be permitted as an accessory structure, by right, subject to obtaining a building permit and compliance with setbacks; that a campground would not receive the same accessory use; that a dwelling would have to be placed on the property first and an RV is not a permitted dwelling.

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 2325 David & Sandra Blank. Motion by Mr. Mears to defer for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 5-0.

Minutes of the December 8, 2022 Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since November 17, 2022.

Mr. Mears moved that the Commission approval of C/U 2325 David & Sandra Blank for a small campground consisting of only two campsites based on the record made during the public hearing and for the following reasons:

1. This conditional use for the creation of a 2-campsite campground located on a 30-acre property. Because the Applicants are seeking to install campsites for RVs or tents, this small campground still falls under the requirements for a campground conditional use. This use is so small that with the conditions imposed, it will not have any adverse impact on neighboring properties or roadways.
2. The proposed conditional use will not adversely affect the congestion of roads or streets as confirmed by DelDOT. In accordance with the MOU between Sussex County and DelDOT, the campground would only have a diminutive impact on area roadways.
3. The two proposed campsites will comply with the requirements of Section 115-172H of the Sussex County Zoning Code for the approval, design, and operation of campgrounds.
4. This recommendation is subject to the following conditions:

- a. There shall be no more than two campsites located on the property, in addition to the property owners' residence.
- b. The applicants shall comply with all DelDOT requirements associated with the use.
- c. The two campsites and other facilities shall be connected to adequate on-site wastewater treatment facilities approved by the Department of Natural Resources and Environmental Control. The type and location of the approved on-site wastewater facilities shall be shown on the Final Site Plan.
- d. Stormwater Management and sediment and erosion control facilities shall be constructed as required by State and County requirements.
- e. The two campsites shall be surrounded by a 50-foot landscaped buffer. This buffer may include existing vegetation. The buffer shall be shown on the Final Site Plan.
- f. Because the Applicants have stated that this use will not be operated as a commercial enterprise, no signage or advertising (including print, electronic, or social media) shall be permitted.
- g. There shall be no accessory buildings located on the two campsites.
- h. All units to be used for the purpose of human habitation on the campsites shall be tents, travel trailers, recreation vehicles, or equipment manufactured specifically for camping purposes.
- i. The Applicant shall identify all "dwellings" in the vicinity of the property that require a 400-foot buffer pursuant to Section 115-172H (3) of the Sussex County Code. The campsites shall be a minimum of 400 feet away from any dwelling that exists at the time of the Final Site Plan approval.
- j. The two campsites must be 2,000 square feet in size and at least 40 feet wide. The location of the campsites shall be clearly marked on the site plan and the site itself.
- k. Neither campsite shall have direct access to any road outside of the boundaries of the campground. Access to the campsites shall be restricted so that they are not accessible when not in use.
- l. The campground shall comply with all of the requirements of Section 115-172H.
- m. This Conditional Use shall be reviewed for compliance and continued compatibility with the area by the Planning & Zoning Commission 4 years after County Council has approved the use.
- n. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Mears, seconded by Mr. Hopkins and carried unanimously to recommend approval for C/U 2325 David & Sandra Blank for the reasons and conditions stated in the motion. Motion carried 3-0.

Vote by roll call: Mr. Hopkins – 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 17th, 2022

Application: CU 2325 David Blank Campground

Applicant: David & Sandra Blank
37509 Mahogany Street
Ocean View, DE 19970

Owner: David & Sandra Blank
37509 Mahogany Street
Ocean View, DE 19970

Site Location: Located on the north side of Jay Patch Road (S.C.R. 376A),
approximately 0.5-miles southeast of the intersection of Jay Patch Road
and Pepper Road (S.C.R. 376).

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

Proposed Use: Year-round campground

Comprehensive Land
Use Plan Reference: Developing Area

Councilmanic
District: Mr. Hudson

School District: Indian River School District

Fire District: Selbyville Fire Co.

Sewer: On-site septic

Water: On-site Well

Site Area: 30.76

Tax Map ID.: 533-9.00-58.00



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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: November 7, 2022
RE: Staff Analysis for CU 2325 David Blank

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 2325 for David Blank to be reviewed during the November 17th, 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: 533-9.00-58.00, to allow for a campground, to be located off Jay Patch Road (S.C.R. 376A), Selbyville, Delaware. The property is lying on the north side of Jay Patch Road (S.C.R. 376A), approximately 0.50-miles southeast of the intersection of Jay Patch Road and Pepper Road (S.C.R. 376). The parcel consists of 30.77-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", one adjoining parcel to the northeast has the Future Land Use Map designation of "Coastal Area". The parcels to the south, across Jay Patch Road (S.C.R. 376A) also have a Future Land Use Map designation of "Developing Area".

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



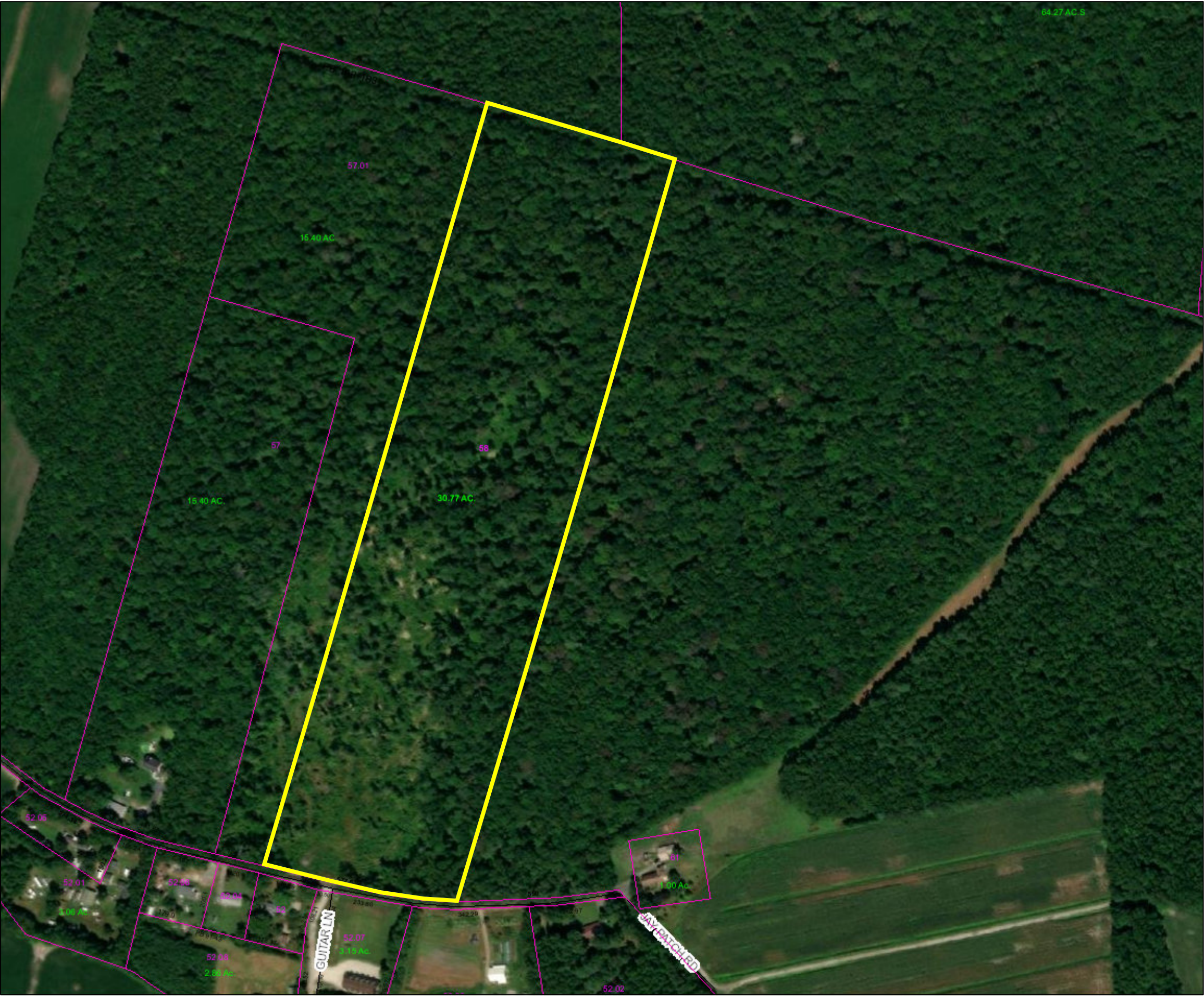
Zoning Information

The subject property is zoned 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 Jay Patch Road (S.C.R. 376A), are also zoned Agricultural Residential (AR-1) District.

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 zero (0) Conditional Use application within a one (1) mile radius of the application site.

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



PIN:	533-9.00-58.00
Owner Name	BLANK DAVID A
Book	4354
Mailing Address	38288 LONDON AVE UNIT 9
City	SELBYVILLE
State	DE
Description	N/RD FRANKFORD TO
Description 2	SELBYVILLE
Description 3	N/A
Land Code	

polygonLayer

Override 1

polygonLayer

Override 1

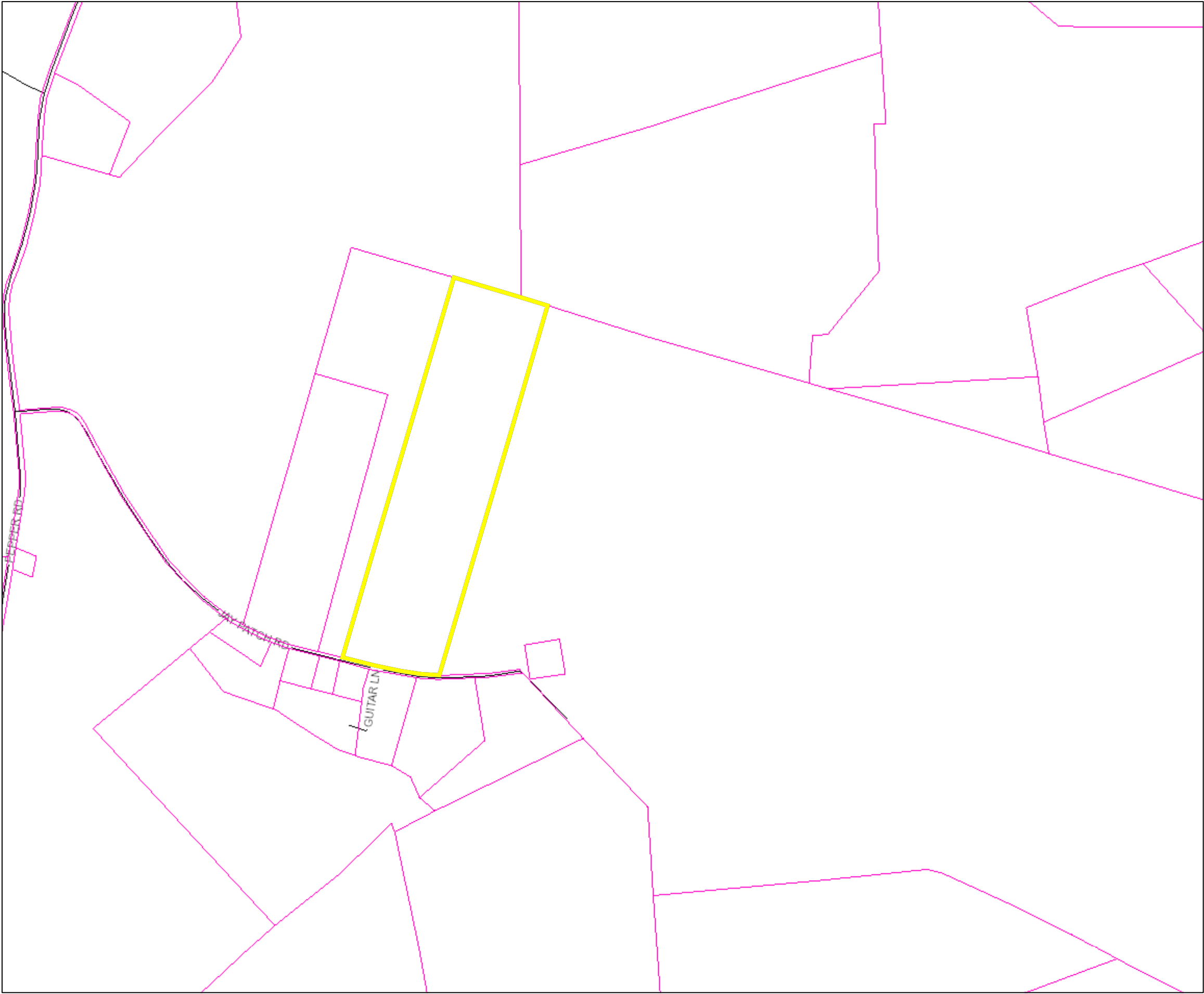
Tax Parcels

Streets

County Boundaries



Sussex County

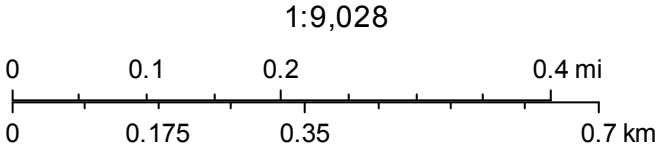


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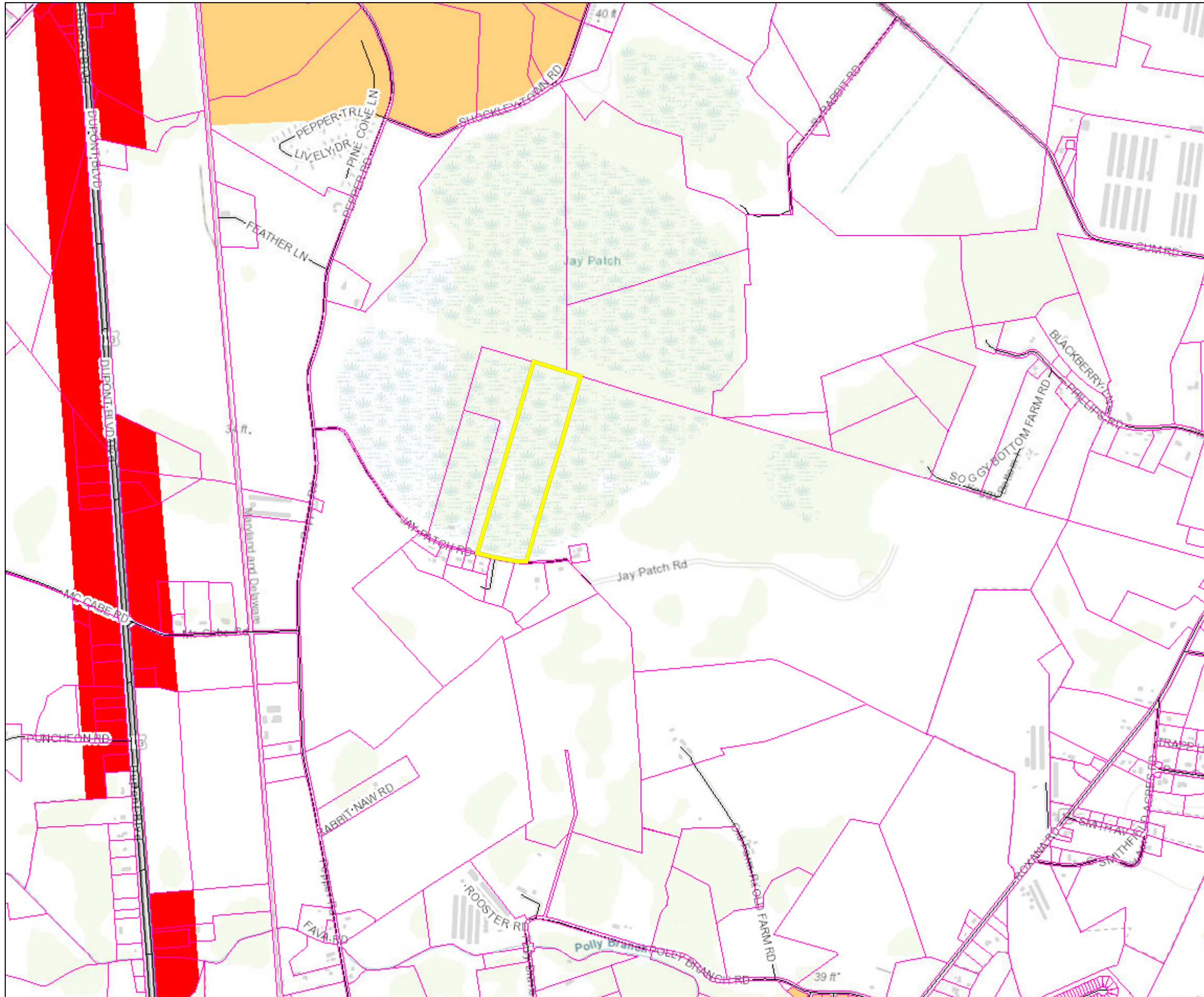
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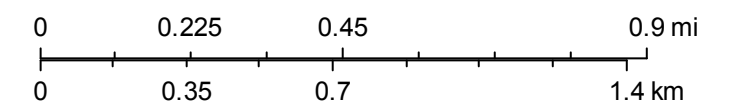
polygonLayer
Override 1

polygonLayer
Override 1

--- Tax Parcels

— Streets

1:18,056



Introduced: 2/8/22

Council District 5: Mr. Rieley
Tax I.D. Nos. 533-9.00-58.00
911 Address: Jay Patch Road, Selbyville

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CAMPGROUND TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 30.76 ACRES MORE OR LESS

WHEREAS, on the 17th day of November 2021, a conditional use application, denominated Conditional Use No. 2325 was filed on behalf of David & Sandra Blank; 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. 2325 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. 2325 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 northeast side of Jay Patch Road (S.C.R. 376A) approximately 0.5 miles southeast of Pepper Road (S.C.R. 376) and being more particularly described in the attached legal descriptions prepared by Elzufon Austin Tarlov & Mondell, P.A., said parcels containing 30.76 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 20, 2023

RE: County Council Report for C/U 2327 filed on behalf of Howard L. Ritter & Sons, Inc.

The Planning and Zoning Department received an application (C/U 2327 filed on behalf of Howard L. Ritter & Sons, Inc.) for a Conditional Use for parcel 334-12.00-7.00 for an expansion of a non-conforming borrow pit to include outdoor processing and recycling (Grinding, crushing, storage and sale) of tree/yard waste and concrete, as well as sales and storage of stone, mulch, soil, and related outdoor products. The property is located at 33508 Ritter Lake Road, Lewes. The parcel size is 50.90 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on November 17, 2022. At the meeting of December 15, 2022, the Planning & Zoning Commission recommended approval of the application for the 7 reasons stated and subject to the 9 recommended conditions as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meetings of November 17, 2022, December 8, 2022, and December 15, 2022.

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

C/U 2327 Howard L. Ritter & Sons, Inc.

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EXPANSION OF A NON-CONFORMING BORROW PIT TO INCLUDE OUTDOOR PROCESSING AND RECYCLING (GRINDING, CRUSHING, STORAGE AND SALE) OF TREE/YARD WASTE AND CONCRETE, AS WELL AS SALES AND STORAGE OF STONE, MULCH, SOIL, AND RELATED OUTDOOR PRODUCTS TO BE LOCATED ON A CERTAIN



PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 50.90 ACRES, MORE OR LESS. The property is lying on the southwest side of Plantations Road (Rt. 1D), approximately 0.18 mile southeast of Robinsonville Road (S.C.R. 277). 911 Address: 33508 Ritter Lake Road, Lewes. Tax Parcel: 334-12.00-7.00.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Exhibit Booklet, Conceptual Site Plan, the Staff Analysis, DNREC Inspection Report, a letter from Sussex County Engineering Department Utility Planning Division, and the DelDOT Service Level Evaluation Response. Mr. Whitehouse advised the Commission that a petition of 36 signatures in opposition, 30 written letters in opposition to the Application, 42 letters in support of the Application, and five mail returns.

The Commission found that Mr. David Hutt, Esq. with Morris James, spoke on behalf of the Application; that also present were two of the principals of Howard L. Ritter & Sons, Inc., Mr. Ronnie Ritter and Ms. Susan Ritter and Mr. Mark Davidson with Pennoni; that the Conditional Use request is for the continued sale and storage of stone, mulch, soil and related outdoor products, which he would generally refer to as "landscape materials"; that the property is situated just off of Plantations Rd.; that there is a pre-existing, non-conforming borrow pit on the site; that historically the sale of landscaping material has been performed from the property; that the current Application is not requesting the use for concrete crushing, the grinding of trees and stumps, or the dying of products for the creation of mulch products; that at one time, those activities were part of the Application; that after careful consideration of the requested Application, the Ritters amended their Application, to remove the request to grind, shred or dye material; that concrete crushing is no longer requested; that there has been multiple cases of misinformation provided by flyers, radio statements, social media posts; that there have been statements made stating the property has a history with DNREC's Environmental Crimes Unit; that the proof for these statements seemed to stem from a FIOA request filed with DNREC requesting a list of all prior complaints; that seven items were listed as prior complaints for the property; that the document provided listed received complaints; that the submitted complaints do not confirm that any environmental crime was committed or found on the property; that the submitted complaints do not confirm a Notice of Violation, charge or fine was issued to the property owner; that the Planning & Zoning Department would lodge a complaint, if the complaint was filed with the office properly; that a good example would be, if five of his neighbors filed a complaint on him or his property, the Planning & Zoning staff would document and process the complaint; that in filing the complaint, does not confirm a violation was found; that a submitted complaint would not confirm a history of zoning violations for his property; that it would confirm his property had a history of neighbors complaining, not of violations; that the example of this, is the circumstance for the first five complaints submitted; that for the first five items listed, DNREC did not contact the property owner to issue any type of violation; that there was no charge assessed for Howard L. Ritter & Sons, Inc.; that the other two complaint items were for a permit check and public notice; that this was for a site visit, conducted by DNREC, by the neighbors request; that there were a few minor violations found and a permit which needed to be applied for; that all of these issues were promptly complied with by the Applicant; that these issues do not create a history with DNREC's Environmental Crimes Unit; that the second example of misinformation is an allegation that on March 18, 2021, Ms. Susan Ritter stated that an industrial discharge to Goslee Creek had occurred; that this allegation was not true; that it appears the allegation was based upon a reference to the Notice of

Intent (NOI) Stormwater Discharge Application, which is an application Howard L. Ritter & Sons filed with DNREC as part of the required permitting process; that on the application there are multiple boxes for the applicant's name, address, etc.; that one of the required boxes, request a response for "Discharges To:"; that the response provided within that box was, two onsite ponds and Goslee Creek; that the response provides the location where the stormwater ultimately discharges to; that the Commission often uses the pylon, "the outfall"; that the provided response does not indicate there was an industrial discharge to Goslee Creek; that at no time did any of the Ritters state there was an industrial discharge to Goslee Creek; that the Ritters would not have made that statement, as the event never occurred; that there are no DNREC Notice of Violation, charges or arraignments for the property; that although the concrete crushing, grinding, shredding and dying will not be taking the place at the site, it is unfortunate, as the activities are greatly needed within Sussex County; that the many of the facilities, within the Henlopen Transportation District, to perform these activities will be located within Georgetown; that a person will have to travel to Georgetown to have their concrete processed and transport it back as a base material; that this activity will occur more frequently as DelDOT now allows the material, which is a result of crushing concrete, to be a substitute the roads; that this is a result for the difficulty of obtaining the stone-base material, which was previously required; that the property in 1937 was primarily agricultural land; that in the 1940s the borrow pit operations began on the site; that by 1954, the borrow pit activities continued and the property continued to be surrounded by farmland; that by 1961, the borrow pit activities continued to increase; that in 1968, there was an expansion to the borrow pit activities; that the business for Howard L. Ritter & Sons began in 1975, where they leased the property; that the Ritters did not originally start the use of the borrow pit; that in 1975 the Ritters business included operating the borrow pit and the sale of items, such as stone and mulch, that were delivered to the site; that within the Code, there are special requirements for borrow pits which state material cannot be brought to them; that all of the material must be mined and distributed from the site; that it was unusual to have a site that provided both the importing of landscaping material and the exporting of mined materials; that both activities had been occurring for the Ritters since 1975; that Howard L. Ritter & Sons became incorporated in 1976; that in 1979 Howard L. Ritter & Sons, Inc. purchased the subject property; that in 1989, development began along Plantations Rd.; that Plantations West began construction to the west of the property; that by 2002 the surrounding area had experienced significant growth of residential housing which continued to increase up to present day; that the customers who have patronized the Ritters facility have included the State of Delaware, Sussex County, many municipalities located on the eastern side of the County, hundreds of local businesses and thousands of local residents and property owners within Sussex County; that the property totals a little over 50 acres; that two ponds have been excavated on the site as part of the borrow pit operations; that access to the site is from Ritter Lake Rd.; that Ritter Lake Rd. intersects with Plantations Rd.; that a Service Level Evaluation Request was filed with DelDOT; that the DelDOT response indicated the proposed use will have a diminutive impact, being it will generate less than 50 vehicle trips per day; that when DelDOT provided their response, the concrete crushing and mulch operations were considered; that the current proposed use will provide less operations than that reviewed by DelDOT; that Plantations Rd. is within Phase 1 of DelDOT's planned improvements; that the property is zoned AR-1 (Agricultural Residential); that the properties located to the north, west and south are within the AR-1 Zoning District; that the properties to the east are located within MR (Medium-Density Residential); that there have been a number of Conditional Uses within the greater area; that two of those Conditional Uses are for the same use the

Applicant is currently requesting; that over the past decade, Stockley Materials received two Conditional Uses for the same proposed use; that the 2045 Future Land Use Map, referenced in the 2019 Comprehensive Plan, reflects the property being within the Coastal Area; that the Coastal Area is one of the County's Growth Areas; that all the surrounding areas are also located within the Coastal Area; that reflected on the 2020 State Strategies Map, the property is mostly within the Investment Level 2 area; that the location of the second pond, it located within the Investment Level 3 area; that the Level 2 areas are where the State anticipates growth in the near future; that the immediate neighbor to the east is a wastewater treatment facility, which was formally operated by Tidewater Environmental Services, Inc. (TESI); that now TESI is under ownership of Artesian; that immediately south of the wastewater treatment facility is a portion of the Plantations condominiums; that along the southern boundary of the site there is an agricultural area and wooded area, with single-family residences in that area; that along the western side of the property there is more agricultural land; that to the northwest side of the property there are two single-family residential communities, being Morning View and a more recent community, Maritima; that the property water service is provided by an onsite well; that sanity sewer service has been provided by porta johns for the history of the site; that the Sussex County Engineering Department has identified the property as being within the Tier II Service Area; that the Sussex County Engineering Department indicated there is capacity within the system to service the property, should the property owner wish to be annexed into the Sussex County Unified Sanitary Sewer System; that should County Council act favorably on the Application, the property will continue its present look, as the use has existed for decades; that storages bins are located at the end of Ritter Lake Rd.; that the storage bins are used for overflow and/or surplus for the primary components of the business; that at the rear of the site, there are additional storage bins which house different types of stone, mulch and other landscape materials; that there is a scale on the site, which is used to weigh materials; that all of the buildings would remain as the currently are; that the Plantations Condominiums are the closest residential dwellings located to the primary component of the business; that the Plantation Condominiums are located approximately 300-ft away from the proposed use; that there is approximately 800-ft. between the business activities and the residential dwellings located to the southwest; that the communities of Morning View and Maritima, located to the north, are located 1,000-ft, away from the proposed activities and storage area; that Conditional Uses are defined as uses of a public or semi-public character, which require the exercise of planning judgement regarding location and site plan; that as part of the Commission's analysis, is to consider if the proposed use is desirable for the general convenience, orderly growth, prosperity and welfare of the County; that the historic use of the site, by thousands of consumers from government bodies to businesses and homeowners confirms the public or semi-public character of the uses; that the use is not uncommon, as it is performed by other businesses such as McCarthy Stone, The Rock Pile, Stockley Materials, LLC, and Mr. Mulch, which are located in various areas throughout Sussex County; that the Applicant did proposed conditions; that one of the conditions proposed states that *the Conditional Use shall be limited to landscaping material, storage and sales*; that it is noted that the pre-existing non-conforming borrow pit operations continue; that another proposed condition states, *there shall be no manufacturing which shall occur on the site*; that *the prohibition includes the crushing, shredding, or grinding of any materials and also includes the dying of mulch or similar materials*; that concrete was not listed in the condition, however, the condition is broader as it states *any* materials; that there was a significant number of letters and emails submitted in support of the Application; that one of the letters stated, *that this is an economic engine for the community and should not be impeded, but helped to grow and prosper*; that another letter stated *that this is an integrable part*

of local business community here in Sussex County and has been for decades; that an email stated it is a local loyal business; that he believes actions speak louder than words; that when the neighbors protested the concrete crushing and the shredding and grinding of mulch, the Ritters revised their Application; that they made this revision despite being at that property, performing the proposed use for decades, prior to those neighbors coming to the area; that the Ritters agreed to discontinue a very profitable part of their business and the Ritter family requested the Commission recommend approval of the Conditional Use with the conditions proposed, allowing the business to continue to provide the valuable services to all of the various consumers, of government agencies, local businesses or property owners within Sussex County.

Ms. Wingate stated she is aware of the great need for the proposed services, and she felt the Ritters were great neighbors for revising their original application to accommodate the concerns of their neighbors.

Mr. Mears and Ms. Stevenson stated they agreed with Ms. Wingate's statements.

The Commission found that Mr. Michael Robertson spoke in support of the Application; that he lives along Plantation Rd.; that he retired from the United States Government, where he cared for all surplus and excess of precious metals and hazardous waste; that it upsets him that the business has been performing the work at the location for 50 years with no complaints; that DNREC does not check out each individual business; that the contractor purchased the property, knowing it was adjacent to the Ritter property; that this issue has been seen before with existing chicken houses and sewer plants; that most recent complaints are being received regarding leaves blowing into yards; that when entering the subject property, there is hardly any trash or debris; that according to the flyers he had seen, there was incorrect information being given regarding sodium hydroxide; that sodium hydroxide goes into concrete; that separated from concrete, sodium hydroxide can cause burns; that once sodium hydroxide is placed, it becomes contained within the concrete; that an example of this would be asbestos contained in linoleum; that there is no run off of sodium hydroxide from concrete; that the only runoff produced by concrete is lime; that no water samples were ever taken to confirm the statements; that there were statements regarding the silicone particulates, running as far down as Henlopen Landing; that he finds that statement to be true, because a silicate is very small and light; that the metric weight of a silicate does not register on a scale; that the Ritters were providing a good service; that the amount of concrete required to build homes and business in Sussex County is substantial; that the trucks do have a runoff; that he is very much in favor of Mr. Ritter being permitted to return to his business and he felt it was a bit heavy handed to shut the business down completely with little or no guidance from DNREC.

The Commission found that Mr. John Davidson spoke in favor of the Application; that he is a local contractor; that he has been in business for 47 years; that he had done business with the Ritters since the late 1970s; that the Ritters are a nucleus many small businesses within the area; that the Ritters services are greatly needed; that the Ritters have been performing their business a long time and were established first.

The Commission found that Mr. Chris Clemson, Esq. with Gordon Fournaris & Mammarella; that he spoke in opposition to the Application on behalf of Aurora Homes, who is the developer of the Maritima community; that Maritima is located directly northwest of the subject property; that he did appreciate the presentation and the amendment to the Application; that the removal of concrete crushing does ease the chief concern of his client; that he did not have objection to the current Application; that he requested the Commission supplement Mr. Hutt's conditions to provide that no crushing of pre-existing concrete be performed within the borrow pit site; that while the Applicant is permitted to engage in the pre-existing non-conforming borrow pit operations, he requested the Commission to require excavation of the concrete the pre-existing concrete within and surrounding the borrow pit area and the ponds therein; that the pre-existing concrete give rise to the health and nuisance concerns of the surrounding community members; that he requested the Commission consider some additional conditions; that he requested additional landscaping and buffers be placed to the surrounding communities, which go above the minimum requirements outlined in §115-72(B) with respect to the borrow pit operations and an industrial use, located within a Level 2 Investment Area, surrounded by a Level 1 Investment Area to the north, and being within a Coastal Area, should be significantly limited to protect the interest of the community.

Ms. Wingate questioned which community Mr. Clemson was representing and when the community was developed.

Mr. Clemson stated he is representing the Maritima community, located directly to the northwest and the community is recent, with sales ongoing.

Ms. Stevenson stated Maritima was developed within the last five years.

The Commission found that Mr. Steven John spoke in support of the Application; that he is a resident of Maritima; that he owned his own construction business years ago; that he supports the Application, with imposed reasonable conditions; that he lives 250-ft away from Ritter Lake Dr.; that he is concerned about the heavy duty traffic accessing and exiting the property; that the heavy duty trucks will kick up dust and dirt; that he was concerned the dust and dirt will billow onto the Maritima and Morning View communities, specifically to the northwest section of the property; that six Maritima homes are parallel to Ritter Lake Dr.; that the buffer is only about five to 10-ft; that the buffer is very narrow; that the heavy duty trucks will be blowing dust and dirt into the Maritima residents' back doors and windows; that a reasonable setback of 150-ft to 200-ft should be placed from the property line of Maritima, Morning View and Plantations; that a setback will act as a natural buffer, reducing the nuisance dust, dirt and noise; that there should be an industrial water-based sprayer system, that will also reduce dust and dirt created by the commercial trucks; that a fence is another reasonable condition; that Atlantic Concrete has all of the proposed conditions; that Atlantic Concrete is a good neighbor to his knowledge; that he would request the Commission to provide a condition which prohibits concrete crushing, jackhammering and composting of any kind; that there is a 1979 deed restriction prohibiting landfill, dump or related uses on the property, which he requested to ensure is not being violated; that with his suggested conditions, he is in support of the Application; that the Planning & Zoning Commission did approve the subdivision of Maritima; that Maritima is very close to the Ritter property; that it was not necessarily the developers fault the subdivision was approved;

that they wish to have a good neighbor relationship with the Ritters and that is why the natural buffer, spray systems and fence are so important.

Ms. Stevenson questioned the requirement for Maritima's buffer; that Mr. John stated the buffer was only five feet and she questioned why Maritima did not have a larger buffer.

Mr. Robertson stated that Maritima is a recent community and should have a buffer placed that meets the Code requirements.

Mr. Whitehouse advised the Commission that staff had recently inspected the Maritima buffer, as part of the Phase 1 landscaping; that Phase 2 of Maritima is under construction; that he is unsure of the landscape buffer status for Phase 2; that he does believe the requirement to be 20-ft for the landscape buffer and there was a bond release requested within the last 12 months.

Mr. Mears stated that staff notified the Maritima buffer was not found to be in compliance with Code requirements.

Ms. Wingate stated as a resident of the Maritima community, residents are allowed to go back to the developer regarding the noncompliance of the buffer; that the burden should not be put on the Ritters as they were at their location first and residents within the communities purchased their properties knowing the Ritter property and use were already established prior to them purchasing their properties.

Mr. Mears stated the developer should be providing the proper buffer.

Mr. Robertson stated another element to the situation is the developer designed the community, with knowledge of the Ritters' established property and use; that the Commission only has the authority to deny applications that do not comply with Code requirements; that they cannot prohibit development next to the property; that the Planning & Zoning Commission granted approval based on the design and plans submitted by the developer of Maritima and that developer sold the lots adjacent to the subject property.

Mr. Hopkins offered the example of a similar circumstance being, a person purchases a property adjacent to a chicken house; that the person builds their house as close as possible to the chicken house; that once the house is built the person realizes the chicken house exhaust fans are blowing on their house; that this would not be a burden to the owner of the chicken house and would not warrant the owner to take the chicken houses down.

Mr. John stated he felt Atlantic Concrete would be a good example of a pre-existing non-conforming business; that Atlantic Concrete existed prior to the creation of Five Points and despite Atlantic Concrete's pre-existence, they voluntarily placed the spray system, fence, and other environmental controls to be a good neighbor.

The Commission found that Ms. Andi Buehler spoke in opposition to the Application; that she is a resident of Maritima; that she has lived in Maritima for 18 months; that she is a real estate agent, who has been licensed in Delaware for over a decade; that there have been multiple incidences of noise created by trucks and heavy equipment which are loud enough to wake one up; that she is a sound sleeper; that there is ground shaking disruption; that the most recent occurrence of this took place the first week of June 2022; that the sound was ground shattering disruptions, which shook the glasses and dishes in her kitchen cabinets; that the dishes were shaking and rattling; that she has witnessed multiple sightings of garbage trucks heading back and forth from the property; that it is not a sand and gravel borrow pit; that DNREC does not make seven complaints on record if they are of no concern; that one of the complaints implied there was dumping on the property; that she has seen the bright green garbage trucks access and exit the property; that she does not know for certain if there is dumping happening on the property; that she does feel the things she had stated needed to be investigated before the Application went on any further; that she is pro-business and pro-small business; that she wanted to see the Ritters thrive; that she understood the Ritters serve the community and the needs of the community; that everyone in the area is residentially zoned; that as a licensed realtor, she requested to bring up a legal point and disclosure law; that the disclosure requirement would be the requirement of her seller only if he knew; that there are issues of noise, dust and environmental concerns before the Commission; that buyers are allowed to come back to the seller with issues that were not disclosed; that she questioned the issue of composting; that the Applicant amended their Application on October 24, 2022; that the Applicant has failed to disclose the details related to the proposed outdoor products; that she questioned if the outdoor products consisted of smelly composting; that the representative only referred to the materials as “landscape materials”; that she questioned if the Applicant had a permit to crush concrete prior to the Applicant being shut down; that there were lapses in many of the Applicant’s permits; that she questioned if the property was not found under the Coastal Area within the Comprehensive Plan; that she questioned if the Coastal Area provided environmental protection more so than non-coastal areas; that she feels the Ritters have not been good neighbors and until she can be assured that the Ritters will comply with their permitting, zoning, environmental conditions and the safety and welfare of the neighborhoods and residential areas surrounding them, she will remain opposed to the use and based on the past history, she feels she cannot trust the Ritters.

Mr. Hopkins stated it is common for businesses to use roll-off cans to deliver and pick up materials.

Mr. Robertson stated the disclosure requirement would have been on Ms. Buehler’s seller; that would not be an issue for Sussex County and he advised the Commission and public that the public hearing is not for the consideration of the borrow pit operations; that the borrow pit operations are a legal non-conforming use, which pre-dated the Zoning Code; that the borrow pit use is therefore grandfathered and the subject of the current proceeding is limited to the landscape material sales and storage on the site, without any type of crushing, grinding, shredding and dying of mulch and the Coastal Area designation is a land use overlay, not an environmental classification.

Chairman Wheatley stated Ms. Buehler does not know for a fact that composting is being performed on the property; that Ms. Buehler is not the only licensed realtor in the room; that there is a lack of knowledge related to Ms. Buehler’s accusations; that Ms. Buehler is guessing what is being performed

on the property; that the sight of trucks, with no knowledge of what material is in them, leaves nothing to disclose; that at the beginning of the Applicant's presentation, Mr. Hutt had enumerated the proposed landscape items, also stating he would refer to the materials as "landscape materials" for the sake of his presentation; that he proposed this to keep from having to repeat the list of materials numerous times; that the proposed materials were already stated into the record; that the concrete crushing permit is not an issue related to the current proceeding and the seven complaints submitted to DNREC, were investigated and their findings were explained into the record.

Mr. Hopkins stated he believes the Ritters had been performing concrete crushing many years before the many residential adjacent lots were created; that it was a failure on the Applicant's part to ensure their pre-existing concrete crushing use was legalized under current permits which are not required; that he believed the Applicant was under the impression their concrete crushing use was grandfathered; that the borrow pit operations are non-negotiable; that the Applicant's request is to store and sell landscape materials, much like the materials seen at Stockley Materials; that the Applicant has been performing this use for years; that due to the Applicant's failure to get the correct concrete crushing permit 20 years ago, the Applicant is now conceding and if the Applicant had gotten that permit, residents would still be hearing the crusher three to four times a year.

Ms. Wingate stated concrete crushing permits have changed and it is difficult to keep up with the required permits as they are ever-changing; that the property being within the Coastal Area would warrant a great need for the Ritters' services and the Ritters are trying to be good neighbors.

The Commission found that Ms. Tagrid Maher spoke in opposition to the Application; that she is a future resident of Maritima; that her lot is located on the corner of Four Leaf Dr. and Lucky Charm Lane; that her view will be of the borrow pit; that she is new to the area; that she wants to build her retirement home, which she worked very hard for; that all she sees is an ugly big hole; that she never noticed the borrow pit until after she purchased her home; that she does not oppose the Ritters' business; that she requested the Commission support the conditions mentioned by Mr. John, which will allow them to be a good neighbor and she recommended there be conditions placed to traffic, the size of vehicles permitted to access the site and the assurance the borrow pit is not being filled with dumping.

The Commission found that Ms. Kristine Carper presented with questions regarding the landscape buffer; that she is a resident within Maritima; that she appreciated the Ritters removing concrete crushing from their Application; that she feels the Ritters are good neighbors by doing so; that the concrete crushing was the use she had opposition to; that her home is the closest to the Ritters property; that during the hearing she learned who is responsible for the buffer between Maritima and the Ritters property; that she did purchase her home with the knowledge that it was adjacent to the Ritters property; that at the time, she did not understand what concrete crushing was; that if the buffer responsibility is on Mr. Scott Dailey and Maritima, she wants the buffer completed and she requested the Commission look into the issue.

Mr. Whitehouse advised the Commission that the Planning & Zoning staff had inspected the 20-ft. required buffer for Phase 1 of Maritima in March 2022; that Phase 2 has not been completed; that the

Applicant intends to build the buffer as the lots are graded and completed; that the developer has been working with staff as they monitor the buffer requirement; that building permits are linked to the completion of the buffer and the owner of the buffer areas is currently Red Clover Walk, LLC.

The Commission found there was no one present 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 2327 Howard L. Ritter & Sons, Inc. Motion by Ms. Stevenson to defer for further consideration, seconded by Mr. Hopkins and carried unanimously. Motion carried 5-0.

Minutes of the December 8, 2022 Planning & Zoning Commission Meeting

The Commission discussed application C/U 2327 which has been deferred since November 17, 2022.

In relation to C/U 2327 Howard L. Ritter & Sons, Inc. Motion by Mr. Mears to defer action for further consideration, seconded by Mr. Hopkins and carried unanimously. Motion carried 3-0.

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

Minutes of the December 15, 2022 Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since November 17, 2022.

Ms. Stevenson moved that the Commission recommend approval of C/U 2327 Howard L. Ritter & Sons, Inc. to allow the continued use of the site for the sales and storage of stone, mulch, soil, and other related outdoor products in addition to the existing legally non-conforming borrow pit that exists on the property based on the record made during the public hearing and for the following reasons:

1. There is an existing legally non-conforming, or grandfathered, borrow pit in operation on this property. This use as a borrow pit has been in existence for decades and pre-dated the Sussex County Zoning Code. This application does not affect these borrow pit operations, which are allowed to continue.
2. This Conditional Use is for the sales and storage of stone, mulch, soil, and other related outdoor materials. There was evidence in the record that this use has also been in existence for years, and that it is closely related to the borrow pit operations. The continued sales and storage of these materials is appropriate in this location where the borrow pit also operates.
3. This use provides a needed location for those types of materials for Sussex County residents and businesses, and they are important to the economy of Sussex County.

4. There was opposition to this application regarding noise and traffic. However, most of this opposition was directed at the borrow pit operations, and those operations existed long before any residential development occurred nearby, and they are not part of this application. There must be an expectation of the potential for noise, dust, and traffic when building or moving into a house near an active borrow pit. There was no compelling testimony that this Conditional Use for the storage and sales of stone, dirt, and mulch will create a significant increase in noise, dust, or traffic from their site.
5. This Conditional Use will not significantly increase the congestion of roads or streets in the area. DelDOT has stated that this use will only have a “diminutive” impact, which means that it will create less than 50 vehicle trips per day.
6. Because the borrow pit is a legal, pre-existing and non-conforming use under the Zoning Code, it is not appropriate to impose conditions on those activities on this site.
7. With appropriate Conditions of Approval, this use will not affect the nature of the area or neighboring properties.
8. This recommendation is subject to the following conditions:
 - a. This Conditional Use shall be limited to the storage and sale of mulch, stone, soil, and other related landscaping materials, in addition to the legally non-conforming, or grandfathered, borrow pit operations.
 - b. The location of the storage areas for stone, mulch, soil, and related materials shall be identified on the Final Site Plan and clearly marked on the site itself.
 - c. No manufacturing or industrial processes shall occur on the site. This prohibition includes the crushing, shredding, or grinding of any materials including specifically rock, stone, or concrete, and also includes the dyeing of mulch or similar materials.
 - d. One lighted sign not to exceed 32 square feet per side shall be permitted.
 - e. The hours of operation shall be from 7:00 a.m. to 7:00 p.m. Monday through Friday and 7:00 a.m. to 1:00 p.m. on Saturdays. No receiving of materials before 8:00 a.m. shall be permitted.
 - f. Any security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - g. The Applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.
 - h. All materials shall be stored in bins on a concrete or hot-mix base. All runoff from the bins shall be controlled so that it does not travel to neighboring or adjacent properties or adversely affect groundwater on the site.
 - i. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Ms. Stevenson, seconded by Mr. Mears and carried unanimously to recommend approval of C/U 2327 Howard L. Ritter & Sons, Inc. for the reasons and conditions stated in the motion. Motion carried 4-0.

Vote by roll call: Mr. Hopkins – yea, Ms. Stevenson – 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 17th, 2022

Application: CU 2327 Howard L. Ritter & Sons, Inc.

Applicant: Howard L. Ritter & Sons, Inc.
330 Market Street
Lewes, DE 19958

Owner: Howard L. Ritter & Sons, Inc.
330 Market Street
Lewes, DE 19958

Site Location: Located on the southwest side of Plantations Road (Rt. 1D),
approximately 0.18 mile southeast of Robinsonville Road (S.C.R. 277)

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

Proposed Use: Expansion of the non-conforming borrow pit to include outdoor
processing and recycling (grinding, crushing, storage and sale) of
tree/yard waste and concrete as well as sales and storage of stone,
mulch, soil, and related outdoor products

Comprehensive Land
Use Plan Reference: Coastal Area

Councilmanic
District: Mr. Hudson

School District: Cape Henlopen School District

Fire District: Lewes Fire Co.

Sewer: On-site septic

Water: On-site Well

Site Area: 50.90

Tax Map ID.: 334-12.00-7.00



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: Mrs. Christin Scott, Planner II
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: November 10th, 2022
RE: Staff Analysis for C/U 2327 Howard L. Ritter & Sons, Inc.

This memo is to provide background and analysis for the Planning Commission to consider as a part of application C/U 2327 Howard L. Ritter & Sons, Inc. to be reviewed during the November 17th, 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 334-12.00-7.00 to allow the continued sales and storage of stone, mulch, soil, and related outdoor products at the property with the existing, non-conforming borrow pit. The property is lying on the southwest side of Plantations Road (Rt. 1D), approximately 0.18-mile southeast of Robinsonville Road (S.C.R. 277). The property is located at 33508 Ritter Lake Road, Lewes. The property consists of 50.90 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 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, east and west of the subject property are all zoned Agricultural Residential (AR-1) District. The adjacent parcel to the north of the subject property is zoned Medium Residential (MR) District.

Existing Conditional Uses within the Vicinity of the Subject Site

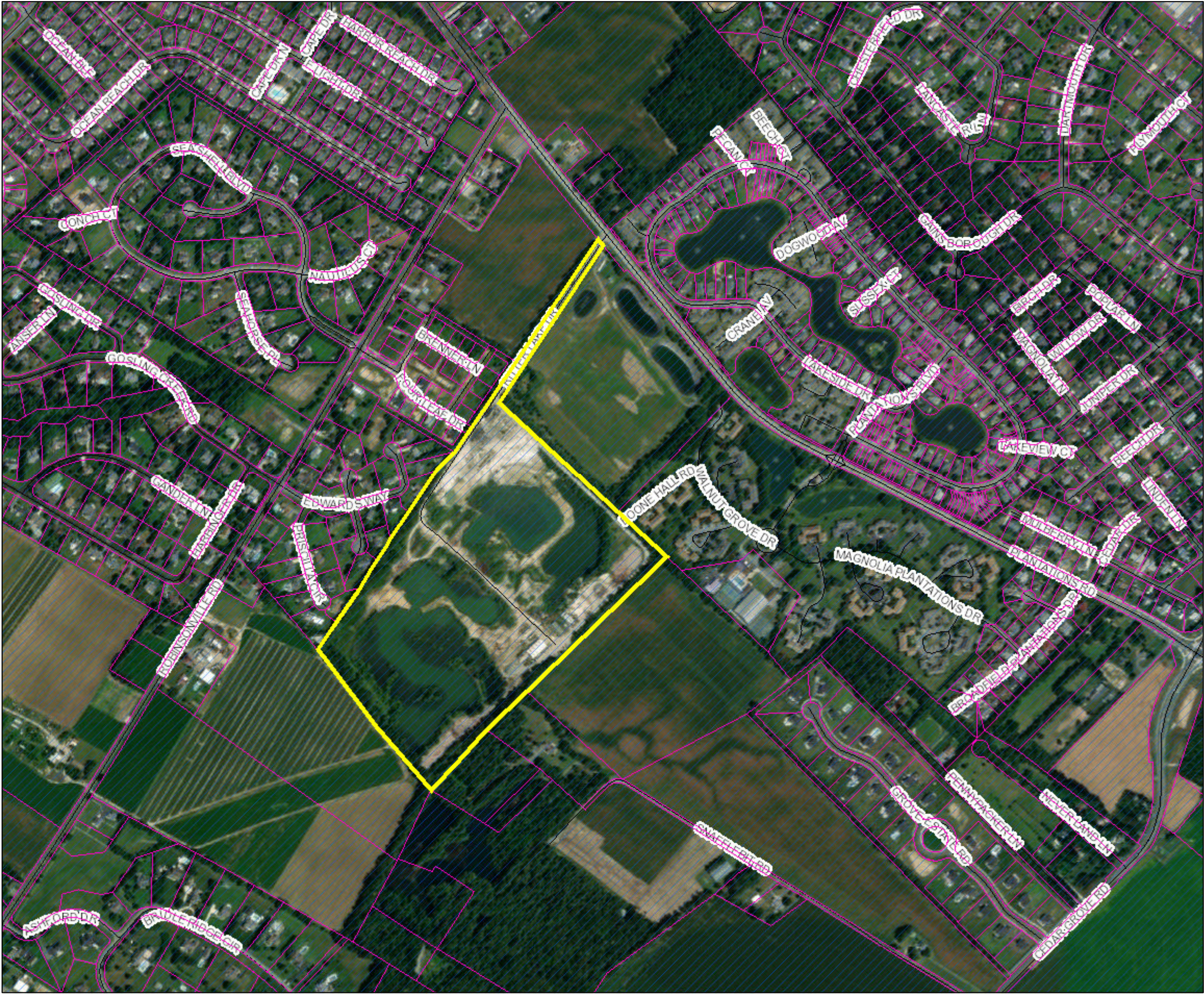
Since 2011, there have been twenty-nine (29) Conditional Use applications within a 1-mile radius of the application site. A spreadsheet has been provided below.

Based on the analysis of the land use, surrounding zoning and uses, the Conditional Use to allow the continued sales and storage of stone, mulch, soil, and other related outdoor products at the property with the existing, non-conforming borrow pit, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.

Conditional Use Number	APPLICANT	Current Zoning	Proposed Use	P&Z Decision	P&Z Decision Date	CC Decision Date	CC Decision	Ordinance Number
1868	Old Towne Pointe, L.L.C.	AR-1	pharmacy/community service	Recommended Denial	2/25/2011	5/24/2011	Approved	2196
1928	Devin Rice	AR-1	Storage of Equipment and a Home Office	Recommended Approval	5/10/2012	5/15/2012	Approved	2256
1951	Jack Lingo Asset Management	AR-1	RV resort and campground	Recommended Approval	8/22/2013	12/9/2014	Denied	
1967	Tidewater Environmental Services	MR	Wastewater treatment plant to treat offsite waste			10/1/2013	Denied	
2012	Ocean Atlantic Communities (Covered Bridge Trails)	MR	Multi-family - Townhouses and Condo Units	Recommended Approval	4/9/2015	12/15/2015	Approved	2430
2024	Stockley Materials, LLC	AR-1	Commerical landscaping materials, storage and sales	Recommended Approval	8/13/2015	9/15/2015	Approved	2417
2034	Beachfire Brewery Co., LLC	AR-1	Restaurant and Brewery	Recommended Approval	12/10/2015	3/8/2016	Approved	2438
2033	BDRP, LLC	MR	Multi-family Dwelling Structures (Duplexes)	Recommended Denial	12/10/2015	2/12/2016	Withdrawn	
2064	R & K Partners	AR-1	medical offices	Recommended Approval	2/9/2017	3/7/2017	Approved	2484
2073	Delmarva Power & Light Co.	C-1	Expansion to an existing electrical station	Recommended Approval	2/23/2017	3/7/2017	Approved	2486
2067	Stockley Materials, LLC	AR-1	Landscaping material sales and storage	Recommended Approval	2/23/2017	4/11/2017	Approved	2492
2069	Rudolph Joseph Johnson	AR-1	Workout Studio	Recommended Approval	3/23/2017	4/25/2017	Approved	2494
2106	MDI Investment Group, LLC (C/O Doug Compher)	MR	multi-family (52 townhouses)	Recommended Approval	12/14/2017	3/20/2018	Approved	2566
2132	Dorothy Darley	AR-1	Hair Studio	Recommended Approval	6/14/2018	7/31/2018	Approved	2590
2149	Covered Bridge Trails, LLC	MR	Amended Condition of Approval of CU 2012	Recommended Approval	6/28/2018	7/24/2018	Approved	2588
2137	John W. Ford	AR-1	professional offices	Recommended Approval	7/26/2018	7/31/2018	Approved	2592
2179	Joseph & Patricia Prettyman	AR-1/C-1	multi-family, storage facility, lawn mower repair business, public stable and riding lessons	Recommended Approval	7/18/2019	8/13/2019	Approved	2674
2184	Linda Ann Yupco-Connors	GR	office with equipment storage	Recommended Denial	4/25/2019	11/12/2019	Denied	
2188	Donovan's Painting and Drywall, LLC	AR-1	contractor's office with storage	Recommended Approval	10/10/2019	10/29/2019	Approved	2686
2190	Steven & Helene Falcone	AR-1	Office	Recommended Approval	10/10/2019	1/7/2020	Approved	2699
2209	Matthew C. Hete	MR	Multi-Family (14 Units)	Recommended Denial	7/9/2020	7/28/2020	Denied	
2237	Sam Warrington II	AR-1	Outside Boat & RV Storage	Recommended Approval	10/22/2020	12/1/2020	Approved	2756
2252	Delaware Electric Co-Op	MR	Substation	Recommended Approval	5/27/2021	7/13/2021	Approved	2788
2281	Susan Riter	AR-1	Borrow Pit	Withdrawn	6/8/2021	6/8/2021	Withdrawn	
2261	What Is Your Voice, Inc.	AR-1	Use Existing Garage for Office uses and one-story pole building for rental storage facilities (4 units) in connection w/ Applicant's non-profit corporation	Recommended Approval	8/26/2021	9/14/2021	Approved	2800
2262	Matthew Hete	AR-1	Multi-family (4-units)	Recommended Approval	10/13/2021	11/16/2021	Approved	2812
2313	John Ford	AR-1	Realty Office	Recommended Approval	8/25/2022	9/20/2022	Approved	2885
2316	Lighthouse Construction, LLC	AR-1	Office Building	Recommended Approval	9/8/2022	9/27/2022	Approved	2888
2321	Coastal Construction, LLC	AR-1	Kitch/Bathroom Showroom	Recommended Denial	10/27/2022			



Sussex County



PIN:	334-12.00-7.00
Owner Name	RITTER HOWARD L SONS INC
Book	0
Mailing Address	PO BOX 36
City	LEWES
State	DE
Description	INT PLANTATIONS RD/RITT
Description 2	W/IMP
Description 3	
Land Code	

polygonLayer

Override 1

polygonLayer

Override 1

••• Tax Parcels

— Streets

••• County Boundaries

Tax Ditch Segments

— Tax Ditch Channel

— DeIDOT Maintained

— HOA Maintained

— Pipe - DeIDOT

— Pipe - Tax Ditch

— Pipe - Private

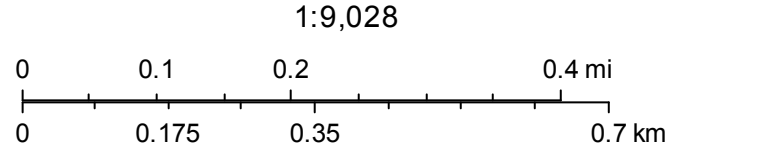
— Pond Feature

÷ Special Access ROW

••• Extent of Right-of-Way

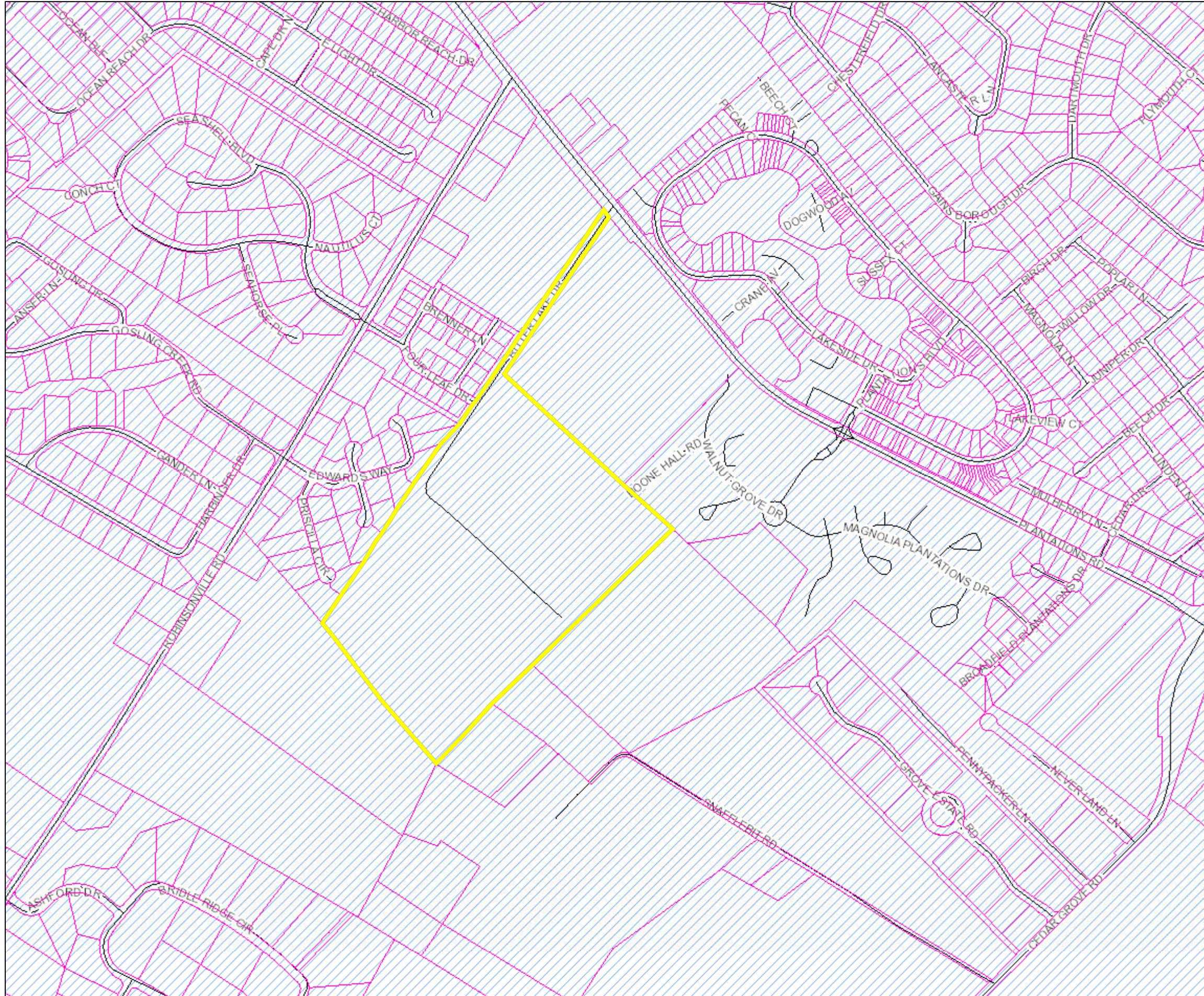
— Municipal Boundaries

••• TID





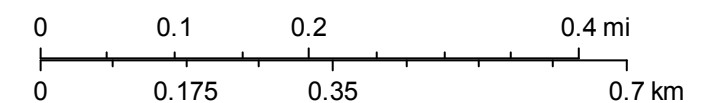
Sussex County

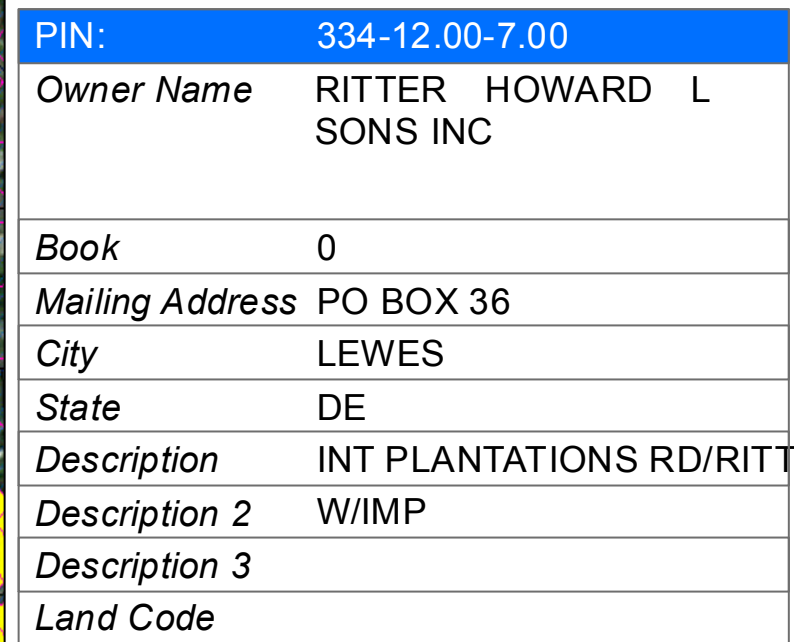


PIN:	334-12.00-7.00
Owner Name	RITTER HOWARD L SONS INC
Book	0
Mailing Address	PO BOX 36
City	LEWES
State	DE
Description	INT PLANTATIONS RD/RITT
Description 2	W/IMP
Description 3	
Land Code	

polygonLayer	HOA Maintained
Override 1	Pipe - DeIDOT
polygonLayer	Pipe - Tax Ditch
Override 1	Pipe - Private
Tax Parcels	Pond Feature
Streets	Special Access ROW
County Boundaries	Extent of Right-of-Way
Tax Ditch Segments	Municipal Boundaries
Tax Ditch Channel	TID
DeIDOT Maintained	

1:9,028





Override 1

Override 1

— Streets

Introduced: 3/1/22

Council District 3: Mr. Schaeffer
Tax I.D. No. 334-12.00-7.00
911 Address 33508 Ritter Lake Road, Lewes

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EXPANSION OF A NON-CONFORMING BORROW PIT TO INCLUDE OUTDOOR PROCESSING AND RECYCLING (GRINDING, CRUSHING, STORAGE AND SALE) OF TREE/YARD WASTE AND CONCRETE AS WELL AS SALES AND STORAGE OF STONE, MULCH, SOIL AND RELATED OUTDOOR PRODUCTS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 50.90 ACRES, MORE OR LESS

WHEREAS, on the 22nd day of November 2021, a conditional use application, denominated Conditional Use No. 2327 was filed on behalf of Howard L. Ritter & Sons, Inc.; 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. 2327 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. 2327 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Lewes & Rehoboth Hundred, Sussex County, Delaware, and lying on the southwest side of Plantations Road (Rt. 1D), approximately 0.18 mile southeast of Robinsonville Road (S.C.R. 277) and being more particularly described in the attached legal description prepared by Maull & Maull, P.A., said parcel containing 50.90 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.