



Sussex County Council Public/Media Packet

**MEETING:
January 28, 2020**

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**Sussex County Council
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COUNTY COUNCIL

MICHAEL H. VINCENT, PRESIDENT
IRWIN G. BURTON III, VICE PRESIDENT
DOUGLAS B. HUDSON
JOHN L. RIELEY
SAMUEL R. WILSON JR.



Sussex County

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SUSSEX COUNTY COUNCIL

AGENDA

JANUARY 28, 2020

10:00 A.M.

Call to Order

Approval of Agenda

Approval of Minutes

Reading of Correspondence

Public Comments

Presentation by Bill Andrew, President & CEO, Delaware Electric Cooperative

Todd Lawson, County Administrator

1. Administrator's Report

10:30 a.m. Public Hearing

Memorandum of Understanding (MOU) between Sussex County and DelDOT regarding the process of land use applications.

Grant Requests

1. Eastern Shore AFRAM Festival for MLK Day of Celebration
2. Greater Millsboro Chamber of Commerce for Stars & Stripes Celebration
3. Cape Henlopen Educational Foundation for Teacher Grant Program

Introduction of Proposed Zoning Ordinances

Council Members' Comments

Executive Session – Personnel pursuant to 29 Del.C. §10004(b)



Possible Action on Executive Session Items

1:30 p.m. Public Hearings

Conditional Use No. 2199 filed on behalf of OA-Rehoboth, LLC

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY (224 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 18.793 ACRES, MORE OR LESS” (lying on the south side of John J. Williams Highway (Route 24) approximately 0.29 mile east of Warrington Road) (Tax I.D. No. 334-12.00-127.01 and 127.10) (911 Address: Not Available)

Change of Zone No. 1900 filed on behalf of Michael P. Justice, Trustee

“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A GR-RPC GENERAL RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 16.1 ACRES, MORE OR LESS” (lying on the west side of Parker House Road, approximately 0.35 mile south of Beaver Dam Road) (Tax I.D. No. 134-16.00-51.00) (911 Address: None Available)

Change of Zone No. 1901 filed on behalf of Mary and Victor Rico

“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 INDIAN RIVER HUNDRED AND LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.927 ACRES, MORE OR LESS” (lying on the east side of Sunset Lane on the north side of John J. Williams Highway (Route 24) approximately 0.28 mile northeast of Camp Arrowhead Road) (Tax I.D. No. 234-7.00-100.00) (911 Address: 20797 Sunset Lane, Lewes)

Conditional Use No. 2200 filed on behalf of Mary and Victor Rico

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM-DENSITY RESIDENTIAL DISTRICT) FOR MULTI-FAMILY (7 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED AND LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY CONTAINING 0.927 ACRES, MORE OR LESS” (lying on the east side of Sunset Lane on the north side of John J. Williams Highway (Route 24) approximately 0.28 mile northeast of Camp Arrowhead Road) (Tax I.D. No. 234-7.00-100.00) (911 Address: 20797 Sussex Lane, Lewes)

Adjourn

Sussex County Council meetings can be monitored on the internet at www.sussexcountyde.gov.

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on Tuesday, January 21, 2020 at 4:45 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.

###

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JANUARY 7, 2020

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, January 7, 2020, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Michael H. Vincent	President
Irwin G. Burton III	Vice President
Douglas B. Hudson	Councilman
John L. Rieley	Councilman
Samuel R. Wilson Jr.	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 001 20
Approve
Agenda**

A Motion was made by Mr. Wilson, seconded by Mr. Burton, to approve the Agenda, as posted.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

Election of Officers

Mr. Lawson stated that, in accordance with Delaware Code and Sussex County Code, the County Council must elect officers for 2020.

**M 002 20
Elect
President**

A Motion was made by Mr. Wilson, seconded by Mr. Rieley, for the nomination and election of Michael H. Vincent to serve as President of the Sussex County Council in 2020.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

**M 003 20
Elect
Vice
President**

A Motion was made by Mr. Wilson, seconded by Mr. Hudson, for the nomination and election of I.G. Burton III to serve as Vice President of the Sussex County Council in 2020.

Motion Adopted: 5 Yeas.

**M 003 20
(continued)**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Vincent, Yea;
Mr. Burton, Yea**

**2020
Council
Member
Appoint-
ments**

Mr. Lawson noted the requirement that Council appoint members to the various boards and committees and he referenced the recommendations included in Council packets for this meeting, as follows: Michael Vincent to the Delaware League of Local Governments; I.G. Burton as the Council's representative on the National Association of Counties Board of Directors; John Rieley to the Salisbury/Wicomico County MPO (District 5); Sam Wilson as the Council's representative on the Sussex Conservation District Board of Directors; Doug Hudson as the Council's representative on the Sussex County Airport Committee; and I.G. Burton and John Rieley as the Council's representatives on the Sussex County Land Trust.

**M 004 20
Approve
the 2020
Council
Member
Appoint-
ments**

A Motion was made by Mr. Vincent, seconded by Mr. Burton, that the Sussex County Council approves the 2020 Council Member appointments, as presented.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

**2020
Legal
Counsel
Recommen-
dations**

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

**M 005 20
Approve
2020
Legal
Counsel
Appoint-
ments**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, that the Sussex County Council approves the 2020 appointment of Legal Counsel, as presented.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

**Rules of
Procedure/
Proposed
Change**

Mr. Lawson reviewed a proposed change to the Rules of Procedure which includes a new paragraph (10A.4) to codify the manner in which the County Council must deal with an Applicant who fails to appear during a public hearing; this information, which is listed in the County Code, states that the County Council must deny an application for the lack of a record; however,

**Rules of Procedure/
Proposed Change
(continued)**

it does provide the applicant the ability to submit a petition for reconsideration within fifteen (15) days.

The new Paragraph 10A.4 stated that “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.” Mr. Lawson noted that this paragraph codifies what the Code requires and reflects the County’s current practice.

**M 006 20
Approve
2020
Rules of
Procedure**

A Motion was made by Mr. Rieley, seconded by Mr. Burton, that the Sussex County Council approves the 2020 Rules of Procedure, as presented.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

Minutes

The minutes of December 17, 2019 were approved by consent.

**Corre-
spondence**

Mr. Moore reported on correspondence received from the following: Girl Scouts of the Chesapeake Bay, Southern Delaware Therapeutic Riding, Del-Mar-Va Council – Boy Scouts of America, Multiplying Good, Dr. Martin Luther King, Jr. Celebration Organization, and West Side New Beginnings.

**Public
Comments**

A public comment period was held and the following spoke: Paul Reiger, Dan Kramer, and D.J. Hughes.

**Retiree
Rob Davis**

The Council recognized Rob Davis, Engineering – Utility Planning, who is retiring after 31 years and 10 months of service to Sussex County.

**Public
Hearing/
Proposed
EDU
Ordinance/
Clarified**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO RESTATE AND CLARIFY THE CODE OF SUSSEX COUNTY, CHAPTER 110, ARTICLE XIII, SECTION 110-88, SUBSECTION D RELATING TO THE ESTABLISHMENT OF ANNUAL SERVICE CHARGES; DETERMINATION OF AMOUNT OF CHARGE”.

Mr. Medlarz reported that this Draft Ordinance clarifies and restates the contents of Ordinance No. 2677 adopted on August 20, 2019. The Draft Ordinance’s effective date shall relate back to the August 20, 2019 adoption date of Ordinance No. 2677. Mr. Medlarz noted that the adopted Ordinance on August 20, 2019 was introduced and voted on in a slightly different format than the one which was posted on the website. The correction pertains to medical facilities (1.0 EDU per overnight bed capacity and treatment room listed under Hospitals).

There were no public comments.

(continued) **The Public Hearing and public record were closed.**

M 007 20
Adopt
Ordinance
No. 2698 **A Motion was made by Mr. Burton, seconded by Mr. Wilson, to Adopt Ordinance No. 2698 entitled “AN ORDINANCE TO RESTATE AND CLARIFY THE CODE OF SUSSEX COUNTY, CHAPTER 110, ARTICLE XIII, SECTION 110-88, SUBSECTION D RELATING TO THE ESTABLISHMENT OF ANNUAL SERVICE CHARGES; DETERMINATION OF AMOUNT OF CHARGE”.**

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
 Mr. Wilson, Yea; Mr. Burton, Yea;
 Mr. Vincent, Yea**

Adminis-
trator’s
Report **Mr. Lawson read the following information in his Administrator’s Report:**

1. Delaware State Police Activity Report

The Delaware State Police year-to-date activity report for November 2019 is attached listing the number of violent crime and property crime arrests, as well as total traffic charges and corresponding arrests. In addition, DUI and total vehicle crashes investigated are listed. In total, there were 194 troopers assigned to Sussex County for the month of November.

2. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets, The Estuary – Phase 2-3 (Construction Record) and Governors – Phase 3B received Substantial Completion effective December 12, 2019.

[Attachments to the Administrator’s Report are not attachments to the minutes.]

Private
Activity
Bond
Volume
Cap
Reassign-
ment **Mrs. Jennings reported that the County has received correspondence from the State of Delaware Department of Finance requesting that the unused portion of the County’s Annual Private Activity Bond Volume Cap be reassigned back to the State. The State plans to request that the federal government carry the unused portion for an additional three years to be used for the State Housing for qualified mortgage bonds. The annual allotment of private activity bond allocation expires annually from the federal government but can be carried forward up to three years for certain purposes if requested by the State issuer. Private Activity Bonds (PABs) are tax-exempt bonds issued by public entities to provide low cost financing for private projects that serve a public purpose. Typically, every year, the County reassigns the unused portion back to the State and in return, the State will reassign the funds back to the County in a similar amount.**

M 008 20
Reassign
Private
Activity
Bond
Volume
Cap

A Motion was made by Mr. Burton, seconded by Mr. Rieley, that the Sussex County Council reassigns the County's 2019 unused Private Activity Bond Volume Cap of \$31,765,000.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

Airport
Advisory
Committee
Members

Eric Littleton, Airport Manager, presented for Council's approval the Delaware Coastal Airport Advisory Committee members for the Year 2020.

M 009 20
Appoint-
ments to
Airport
Advisory
Committee

A Motion was made by Mr. Burton, seconded by Mr. Hudson, that the Sussex County Council appoints Gus Croll, Garrett Dernoga, Rick Garner, Larry Kelley, Jeff Reed, Mark Ryan, Ray Hopkins and Scott Thomas to the Delaware Coastal Airport Advisory Committee for 2020.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

Sussex
County
EMS/
CAAS
Accredi-
tation

Robert Stuart, Director of EMS, and Robert Mauch, EMS Manager of Quality & Standards, announced that Sussex County Emergency Medical Services has earned accreditation from the Commission on Accreditation of Ambulance Services (CAAS), one of the highest marks a pre-hospital EMS service can receive when evaluating its operation and the level of service it provides to patients. The accreditation was awarded in late December 2019, recognizing that Sussex County EMS meets or exceeds nationally-accepted high standards for patient care in the industry. This accreditation is the first ever for Sussex County EMS and is only the second advance life support (ALS) system in Delaware to earn such a distinction. With an estimated 21,000 EMS agencies in the United States alone, SCEMS is now among the 1% that have met the highest standards developed by the EMS industry leaders and have successfully proven this to the satisfaction of the CAAS Panel of Commissioners.

Draft
GOB
Ordinances

Hans Medlarz, County Engineer, presented Draft Ordinances providing for the issuance of Sussex County General Obligation Bonds to finance or reimburse the County for all or a portion of the costs of the extension of sanitary sewer services to Wolfe Runne and Mallard Creek.

Introduction
of Proposed
Ordinances/

Mr. Rieley introduced the Proposed Ordinance entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$1,701,000 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE EXTENSION OF SANITARY SEWER SERVICES TO WOLFE

Introduction of Proposed GOB **RUNNE AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH”.**

Ordinances/ Wolfe Runne and Mallard Creek (continued) **Mr. Burton introduced the Proposed Ordinance entitled “AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$1,526,000 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE EXTENSION OF SANITARY SEWER SERVICES TO MALLARD CREEK AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH”.**

The Proposed Ordinances will be advertised for Public Hearing.

Western Sussex Transmission Facilities **Hans Medlarz, County Engineer, presented a recommendation to award the Western Sussex Transmission Facilities, Contract 3, RT-13 Alt. & Herring Run Road Force Mains, Project 19-27.**

M 010 20 Award Bid for Western Sussex Transmission Facilities/ Contract 3 **A Motion was made by Mr. Burton, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that Contract 19-27, Western Sussex Transmission Facilities: Contract 3: RT-13 Alternate & Herring Run Road Force Mains, be awarded to A-Del Construction Co., for their base bid of \$2,980,602.00, contingent upon DNREC concurrence.**

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Wilson, Yea; Mr. Burton, Yea; Mr. Vincent, Yea

Western Sussex District Area Exp. **Hans Medlarz, County Engineer, presented a supplemental DNREC funding request for the Western Sussex District Area Expansion.**

M 011 20 Western Sussex District Area Exp. Project/ DNREC Funding Request **A Motion was made by Mr. Burton, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department and Finance Departments, that the Sussex County Council authorizes the submission of a supplemental funding request to DNREC in the amount of \$600,000.00 for the Western Sussex District Area Expansion Project under the same affordability standard as the original funding package.**

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Wilson, Yea; Mr. Burton, Yea; Mr. Vincent, Yea

Building Demolition and Site Restoration **Hans Medlarz, County Engineer, presented a Balancing Change Order and request to grant Substantial Completion for Building Demolition and Site Restoration, Project C20-03.**

M 012 20 Grant Balancing Change Order/ Building Demolition and Site Restoration A Motion was made by Mr. Burton, seconded by Mr. Rieley, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 1 for Contract C20-03, Building Demolition and Site Restoration, be approved, increasing the contract amount by \$2,200.00, for a new contract total of \$62,148.75 and that Substantial Completion be granted effective December 19, 2019, and any held retainage be released in accordance with the contract documents.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Wilson, Yea; Mr. Burton, Yea; Mr. Vincent, Yea

Belt Press Procurement Project Bid Results Hans Medlarz, County Engineer, presented a recommendation to award the Belt Press Procurement Project (Project M20-15). Mr. Medlarz noted that this is a South Coastal project; however, the equipment would be used in several situations.

M 013 20 Award Bid/ Belt Press Procurement Project A Motion was made by Mr. Burton, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that Contract M20-15, Belt Press Procurement, be awarded to Kershner Environmental Technologies, for their Alternate Bid 1 in the amount of \$295,000.00 contingent upon a successful on-site inspection.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Wilson, Yea; Mr. Burton, Yea; Mr. Vincent, Yea

Report and Close Record/ CU 2186 Janelle Cornwell, Planning and Zoning Director, reported on Conditional Use No. 2186 filed on behalf of Mountaire Farms of Delaware, Inc. stating that, at the December 17, 2019 Council meeting, the Council extended the date for comments from the public (until December 26, 2019). Ms. Cornwell reported that comments were received and included in Council's packet for this meeting. The record was officially closed.

Old Business/ CU 2190 Under Old Business, the Council considered Conditional Use No. 2190 filed on behalf of Steven and Helene Falcone.

The Planning and Zoning Commission held a Public Hearing on this application on September 26, 2019; on October 10, 2019, the Commission recommended denial of the application.

The County Council held a Public Hearing on this application on October 29, 2019 at which time action was deferred and the record was left open for the submission of a new site plan. Janelle Cornwell, Planning and Zoning Director, reported that a new site plan was submitted. On December 17,

**Old
Business/
CU 2190
(continued)**

2019, the Council deferred action again for further consideration. At that meeting, Mr. Burton expressed concern that, if Council approves this application, the Applicant could still submit an application to the Board of Adjustment for a variance. Also, at that meeting, Mr. Moore stated that he would have to look into whether or not the Council can make it a condition that an applicant cannot go to the Board of Adjustment for a variance. Additionally, Mr. Moore stated that since the Commission recommended denial, no conditions were prepared for the Council to consider.

**M 014 20
Adopt
Ordinance
No. 2699/
CU 2190**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, to Adopt Ordinance No. 2699 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.26 ACRE, MORE OR LESS” (Conditional Use No. 2190) filed on behalf of Steven and Helene Falcone, based upon the record made at the Planning and Zoning Commission’s public hearing and the record made at the Sussex County Council’s public hearing, and for the following reasons and with the following conditions:

- 1. The site location is appropriate for the Applicant’s proposed use as an accounting office.**
- 2. DelDOT did not require a Traffic Impact Study because the use would have a de minimus effect on traffic.**
- 3. The use, with the conditions and limitations placed upon it, will not adversely affect neighboring properties or roadways.**
- 4. The proposed improvements will significantly improve the aesthetics of the intersection at Beaver Dam and Church Roads.**
- 5. The property is located in a Sussex County-operated and maintained sanitary sewer and/or water district and the proposed wastewater capacity is available for the project.**
- 6. The use as a professional office is of a public or semi-public character that will benefit present and future residents of Sussex County by providing such a use in a convenient location.**
- 7. No one spoke in favor of or in opposition to the application.**
- 8. This approval is subject to the following conditions and stipulations:**
 - a. The use shall be limited to professional offices.**
 - b. This Conditional Use is approved subject to the Applicant’s newly submitted site plan entitled, “Lands H&S Properties, LLC”**

**M 014 20
Adopt
Ordinance
No. 2699/
CU 2190
(continued)**

prepared by The Kercher Group, Inc. dated November 11, 2019 which shows the site contains sufficient space for the use and required parking.

- c. The hours of operation shall be limited to 7:00 a.m. to 7:00 p.m., Monday through Saturday, and by appointment during tax season.**
- d. The current structure is nonconforming and shall not be permitted for this use (business vs. residential). All future improvements on the property shall comply with all setbacks. The size and characteristics of this property may pose challenges to designing a building for the use that conforms with the setbacks on the property, and variances may need to be sought from the Board of Adjustment. The approval of this Conditional Use is not determinative of whether any variances should or should not be granted for this property.**
- e. No parking shall be permitted in the front yard setbacks. All parking shall be shown on the Final Site Plan.**
- f. All parking and entrances shall be in compliance with DelDOT requirements and the Sussex County Zoning Code. DelDOT approval shall be required before the Applicant receives Final Site Plan approval.**
- g. One unlighted sign shall be permitted on the property. The sign shall not exceed 36" by 36" and shall not be permitted in the front yard setback.**
- h. All exterior lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
- i. All stormwater management shall meet DNREC standards and shall be shown on the Final Site Plan.**
- j. The Applicant shall be required to remove all dead trees on the site and all landscaping shall be shown on the Final Site Plan.**
- k. 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: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

**Old
Business/
CU 2176**

The Council considered Conditional Use No. 2176 filed on behalf of KH Sussex, LLC.

The Sussex County Council held a Public Hearing on this application on September 17, 2019 at which time action was deferred and the record was left open for comments from agencies and responses from the public. The record was closed on December 17, 2019.

The Planning and Zoning Commission recommended approval of this application with stipulations.

**M 015 20
Adopt
Proposed
Ordinance/
CU 217/6
Denied**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, to Adopt the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONVENIENCE STORE WITH FUELING STATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 3.51 ACRES, MORE OR LESS” (Conditional Use No. 2176) was filed on behalf of KH Sussex, LLC.

Motion Denied: 4 Nays, 1Yea.

**Vote by Roll Call: Mr. Hudson, Nay; Mr. Rieley, Nay;
Mr. Wilson, Yea; Mr. Burton, Nay;
Mr. Vincent, Nay**

**Introduction
of Proposed
Ordinances**

Mr. Rieley introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SPECIAL NEEDS SCHOOL TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 32.43 ACRES, MORE OR LESS” (Conditional Use No. 2211) filed on behalf of Indian River School District (Tax I.D. No. 133-7.00-8.01) (911 Address: Not Available).

Mr. Vincent introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY (48 APARTMENTS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.05 ACRES, MORE OR LESS” (Conditional Use No. 2212) filed on behalf of Brickyard Apartments, LLC (Tax I.D. No. 132-2.00-264.00) (911 Address: 9329 Brickyard Road, Seaford).

Mr. Wilson introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A 15-ACRE BORROW PIT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX

**Introduction
of Proposed
Ordinances
(continued)**

COUNTY, CONTAINING 220.38 ACRES, MORE OR LESS” (Conditional Use No. 2213) filed on behalf of Whitetail Lane, LLC (Tax I.D. No. 135-20.00-137.00) (911 Address: 17471 Whitetail Lane, Georgetown).

Mr. Vincent introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A GR GENERAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 3.093 ACRES, MORE OR LESS” (Change of Zone No. 1910) filed on behalf of Brickyard Apartments, LLC (Tax I.D. No. 132-2.00-264.00) (911 Address: 9329 Brickyard Road, Seaford).

Mr. Burton introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.92 ACRE, MORE OR LESS” (Change of Zone No. 1912) filed on behalf of Kyle Norwood and Katie Davidson (Tax I.D. No. 334-6.00-58.00) (911 Address: 16816 and 16820 Kings Highway, Lewes).

Mr. Rieley introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A HI-1 HEAVY INDUSTRIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 3.60 ACRES, MORE OR LESS” (Change of Zone No. 1913) filed on behalf of FW & SW Thoroughgood Family Limited Partnership (Tax I.D. No. 233-5.00-70.00) 911 Address: 30512 and 30540 Thorogoods Road, Dagsboro.

The Proposed Ordinances will be advertised for Public Hearing.

Council Members’ Comments

Mr. Rieley commented on his first year as a Sussex County Councilmember.

**M 016 20
Go Into
Executive
Session**

At 11:14 a.m., a Motion was made by Mr. Hudson, seconded by Mr. Wilson, to recess the Regular Session and go into Executive Session for the purpose of discussing matters relating to personnel, pending litigation, and land acquisition.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

Executive Session **At 11:18 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room to discuss matters relating to personnel, pending litigation and land acquisition. The Executive Session concluded at 1:17 p.m.**

M 017 20 Reconvene Regular Session **At 1:19 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley, to come out of Executive Session and reconvene the Regular Session.**

Motion Adopted: 3 Yeas, 2 Absent.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Absent; Mr. Burton, Absent;
Mr. Vincent, Yea**

E/S Action **There was no action on Executive Session matters.**

M 018 20 Adjourn **A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to adjourn at 1:20 p.m.**

Motion Adopted: 3 Yeas, 2 Absent.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Absent; Mr. Burton, Absent;
Mr. Vincent, Yea**

Respectfully submitted,

**Robin A. Griffith
Clerk of the Council**

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

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JANUARY 14, 2020

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, January 14, 2020, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Irwin G. Burton III	Vice President
Douglas B. Hudson	Councilman
John L. Rieley	Councilman
Samuel R. Wilson Jr.	Councilman
Gina A. Jennings	Finance Director
J. Everett Moore, Jr.	County Attorney

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

**Call to
Order**

Mr. Burton called the meeting to order.

**M 019 20
Amend
and
Approve
Agenda**

A Motion was made by Mr. Hudson, seconded by Mr. Wilson, to amend the Agenda by deleting "Approval of Minutes" and to approve the Agenda, as amended.

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Absent**

**Corre-
spondence**

Mr. Moore reported on correspondence received from the following: Good Samaritan Aid Organization, Love INC of Mid-Delmarva, and New Hope Recreation and Development Center.

**Public
Comments**

A public comment period was held and the following spoke: Paul Reiger, Keith Steck and Eul Lee.

**Recognition/
Cape
Henlopen**

The Sussex County Council recognized the Cape Henlopen High School Field Hockey Team for winning the 2019 DIAA Division I Championship. The coach and representatives of the team were in attendance.

**Adminis-
trator's
Report**

Mrs. Jennings read the following information in the County Administrator's Report:

1. Council Meeting Schedule

A reminder that Council will not meet on Tuesday, January 21st. The next regularly scheduled Council meeting will be held on January 28th at 10:00 a.m.

**Cherry
Creek
Valley
Expansion/
Request to
Post
Notices**

John Ashman, Utility Planning Director, presented a request to prepare and post notices for the Cherry Creek Valley Expansion of the Sussex County Unified Sanitary Sewer District. This expansion would include parcels along Camp Arrowhead Road north of Waterview Road. The Engineering Department has received requests from several property owners interested in having the County extend the Sewer District Boundary. The requests resulted in the Engineering Department distributing a polling letter to the area. The results received from the polling letter were mixed and the Engineering Department has prepared the current boundary based on those requests for service and the requirement to maintain a contiguous boundary.

**M 020 20
Authorize
Posting of
Notices/
Cherry
Creek
Valley
Expansion**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, that the Sussex County Engineering Department is authorized to prepare and post notices for the Cherry Creek Valley Expansion of the Sussex County Unified Sanitary Sewer District to include parcels along Camp Arrowhead Road north of Waterview Road, as presented.

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Absent**

**Blackwater
Village
Area
Boundary/
Request to
Post
Notices**

John Ashman, Utility Planning Director, presented a request to prepare and post notices for the proposed boundary of the Blackwater Village Area of the Sussex County Unified Sanitary Sewer District. The Engineering Department received petitions from the Blackwater Village Homeowners Association along with a Resolution supporting the petition for extending sewer service to Blackwater Village. A sufficient number of valid petitions were received. The Engineering Department would like to prepare and post notices for a public hearing to establish a final boundary. The Engineering Department will evaluate any requested revisions to the boundary and final boundary recommendations will be presented to Council for approval at a future meeting.

**M 021 20
Authorize
Posting of
Notices/
Blackwater
Village
Area
Boundary**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, based upon the receipt of petitions submitted pursuant to 9 Del. C. §6503, the Sussex County Council hereby grants permission for the Sussex County Engineering Department to prepare and post notices for a public hearing to establish a boundary for the Proposed Blackwater Village Area of the Sussex County Unified Sanitary Sewer District.

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Absent**

The Owl's Nest Pavement Improvements Project

Hans Medlarz, County Engineer, presented Change Order No. 1 for The Owl's Nest Paving Improvements Project, Project T20-01. This Change Order provides for an amendment of the contract item schedule to include a new Item C-1, Furnish & Install Paving Fabric with PG Asphalt, for no increase or decrease in total contract amount; and for a no-cost contract time extension of an additional 30 calendar days.

M 022 20 Approve Change Order/ The Owl's Nest Pavement Improvements Project

A Motion was made by Mr. Hudson, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 1 for Contract T20-01, The Owl's Nest Paving Improvements, be approved to amend the unit item scheduled and provided at a no cost time extension in accordance with the contract documents.

Motion Adopted: 4 Yeas, 1 Absent.

Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Wilson, Yea; Mr. Burton, Yea; Mr. Vincent, Absent

Concord Road Utility Upgrade Project/ Blades SSD/ Change Order

Hans Medlarz, County Engineer, reported on the Blades Sanitary Sewer District, Concord Road Utility Upgrades, Project 15-03, close-out. The close-out Change Order No. 5 balances out all unit price bid items for the entire contract as well as two minor lump sum adjustments to the fencing of the pump station. The extension to the Little Meadows PS#64 increased by approximately \$38,000 as per Attachment B, almost entirely caused by the expanded dewatering requirement based on unfavorable weather conditions. The net decrease to the overall contract is (\$217,404.10). The Engineering Department recommends acceptance of Change Order No. 5, contingent upon USDA concurrence, as well as granting of final project completion.

M 023 20 Approve Change Order/ Concord Road Utility Upgrade Project/ Blades SSD

A Motion was made by Mr. Rieley, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 5 for Contract 15-03, Concord Road Utility Upgrade Expansion of the Blades Sanitary Sewer District, be approved which decreases the contract amount by \$217,404.10 for a new total of \$2,523,448.86, contingent upon USDA approval, and that Substantial Completion be granted and any held retainage be released in accordance with the contract documents.

Motion Adopted: 4 Yeas, 1 Absent.

Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Wilson, Yea; Mr. Burton, Yea; Mr. Vincent, Absent

Concord Road Utility Upgrade Project

Hans Medlarz, County Engineer, reported on the Blades Sanitary Sewer District, Davis Bowen & Friedel, Inc. 2019 EJCDC Base Agreement, Amendment No. 1 – Route 13 Extension, Additional Services Request. On

Concord Road Utility Upgrade Project/ EJCDC Base Agmt./ Contract Amend-ment/ (continued)

May 14, 2019, after expiration of the original contract, the Council authorized the execution of new five-year professional service agreements for miscellaneous consultant services to, among two others, Davis Bowen & Friedel. In order to complete RT-13 Commercial Extension design for the two runs on each side of the highway south of the crossing, the Engineering Department is requesting Contract Amendment No. 1 under the reauthorized Base Contract in the not to exceed amount of \$10,000.00. Mr. Medlarz noted that it is a new Amendment No. 1 because it is a new Base Contract.

M 024 20 Approve Contract Amend-ment/ EJCDC Base Agreement/ Blades SSD Expansion

A Motion was made by Mr. Rieley, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that Amendment No. 1 to the 2019 Base EJCDC Agreement with Davis Bowen & Friedel, Inc. be approved in the amount not to exceed \$10,000.00 for the final design of the Southern Route 13 Commercial Sewer Extension in the Blades District Area.

Motion Adopted: 4 Yeas, 1 Absent.
Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Wilson, Yea; Mr. Burton, Yea; Mr. Vincent, Absent

IBRWF Biosolids & Septage Facilities Project

Hans Medlarz, County Engineer, presented three (3) change orders to the Inland Bays Regional Wastewater Facility (IBRWF) Biosolids and Septage Facilities, Project 18-19.

M 025 20 Approve Change Order #2/ IBRWF Biosolids & Septage Facilities Project

A Motion was made by Mr. Hudson, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 2 for Contract 18-19, Inland Bays Regional Wastewater Facility (IBRWF), Regional Biosolids & Septage Facilities, be approved, which increases the contract amount by \$258,451.63 for a new contract total of \$13,926,476.16.

Motion Adopted: 4 Yeas, 1 Absent.
Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Wilson, Yea; Mr. Burton, Yea; Mr. Vincent, Absent

M 026 20 Approve Change Order #3/ IBRWF Biosolids & Septage Facilities Project

A Motion was made by Mr. Wilson, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 3 for Contract 18-19, Inland Bays Regional Wastewater Facility, Regional Biosolids & Septage Facilities, be approved which increases the contract amount by \$61,878.66 for a new contract total of \$13,988,354.82.

Motion Adopted: 4 Yeas, 1 Absent.

**M 026 20
(continued)**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Absent**

**M 027 20
Approve
Change
Order #4/
IBRWF
Biosolids &
Septage
Facilities
Project**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 4 for Contract 18-19, Inland Bays Regional Wastewater Facility, Regional Biosolids & Septage Facilities, be approved which decreases the contract amount by \$77,000.00 for a new contract total of \$13,911,354.82.

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Absent**

**Old
Business/
CZ 1896
and
CU 2197**

Under Old Business, the Council considered Change of Zone No. 1896 and Conditional Use No. 2197 filed on behalf of Fenwick Commons, LLC.

The Planning and Zoning Commission held a Public Hearing on these applications on November 14, 2019 at which time action was deferred. On December 12, 2019, the Commission recommended approval of the Change of Zone and recommended approval of the Conditional Use, with the following conditions:

- A. The maximum number of residential units shall be 52.**
- B. All entrances, intersection, roadway and multi-modal improvements shall be completed by the developer in accordance with all DeIDOT requirements.**
- C. 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.**
- D. The project shall be served by central water to provide drinking water and fire protection.**
- E. Interior Street design shall meet or exceed the Sussex County street design requirements.**
- F. As proffered by the applicant, there shall be sidewalks on both sides of all streets and roadways.**
- G. The applicant shall submit as part of the Final Site Plan a landscape plan showing the proposed tree and shrub landscape design, including any buffer areas. The landscape plan shall clearly designate all existing**

Old
Business/
CZ 1896
and
CU 2197
(continued)

forested areas that will be preserved (68% of the existing forested area, according to the Applicant). The landscape plan shall also include landscaping along the property's entire Route 50 frontage.

- H. All construction and site work on the property, including deliveries of materials to or from the property, shall only occur between 7 a.m. and 6 p.m. Monday through Saturday.
- I. Street naming and addressing shall be subject to the review and approval of the County Mapping and Addressing Departments.
- J. The applicant shall form a homeowners' or condominium association responsible for the perpetual maintenance, repair and replacement of the roads, any buffers and landscaping, stormwater management facilities, erosion and sediment control facilities and other common elements.
- K. The stormwater management system shall meet or exceed the requirements of the State and County. It shall be constructed and maintained using best management practices.
- L. 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.
- M. The developer, and then the HOA or Condo Association shall protect and preserve the Hudson Family Cemetery on the property by installing a perimeter fence around the cemetery made of wrought iron or anodized aluminum. Parking shall also be provided for the Hudson family members wishing to visit the cemetery. Access to the cemetery shall be shown on the Final Site Plan.
- N. The applicant shall coordinate with the Indian River School District to establish a school bus stop area, which shall be shown on the Final Site Plan if required by the District.
- O. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

The County Council held a Public Hearing on these applications on December 17, 2019 at which time action was deferred.

The Council considered Change of Zone No. 1896.

M 028 20
Adopt
Ordinance
No. 2700/
CZ 1896

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to Adopt Ordinance No. 2700 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

**M 028 20
(continued)**

LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 13.33 ACRES, MORE OR LESS” (Change of Zone No. 1896) filed on behalf of Fenwick Commons, LLC.

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Absent**

The Council considered Conditional Use No. 2197.

**M 029 20
Amend
Condition
Recommended
by P&Z
Commission
/ CU 2197**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to amend Condition G recommended by the Planning and Zoning Commission to read as follows: “The applicant shall submit as part of the Final Site Plan a landscape plan showing the proposed tree and shrub landscape design, including any buffer areas. The landscape plan shall clearly designate all existing forested areas that will be preserved (68% of the existing forested area, according to the Applicant). The landscape plan shall also include landscaping along the property’s entire Route 54 frontage which shall include trees to screen the view from Route 54.”

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Absent**

**M 030 20
Amend
Condition
Recommended
by P&Z
Commission
/ CU 2197**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to amend Condition L recommended by the Planning and Zoning Commission to read as follows: “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. The ditch on the property shall be cleaned and maintained pursuant to Sussex Conservation District guidance and standards.”

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Absent**

**M 031 20
Adopt
Ordinance
No. 2701/
CU 2197**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to Adopt Ordinance No. 2701 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY (62 DUPLEX UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 13.33 ACRES, MORE OR LESS” (Conditional Use No. 2197) filed on

**M 031 20
Adopt
Ordinance
No. 2701/
CU 2197
(continued)**

behalf of Fenwick Commons, LLC, with the following conditions, as amended:

- A. The maximum number of residential units shall be 52.**
- B. All entrances, intersection, roadway and multi-modal improvements shall be completed by the developer in accordance with all DeIDOT requirements.**
- C. 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.**
- D. The project shall be served by central water to provide drinking water and fire protection.**
- E. Interior Street design shall meet or exceed the Sussex County street design requirements.**
- F. As proffered by the applicant, there shall be sidewalks on both sides of all streets and roadways.**
- G. The applicant shall submit as part of the Final Site Plan a landscape plan showing the proposed tree and shrub landscape design, including any buffer areas. The landscape plan shall clearly designate all existing forested areas that will be preserved (68% of the existing forested area, according to the Applicant). The landscape plan shall also include landscaping along the property's entire Route 54 frontage which shall include trees to screen the view from Route 54.**
- H. All construction and site work on the property, including deliveries of materials to or from the property, shall only occur between 7 am and 6 pm Monday through Saturday.**
- I. Street naming and addressing shall be subject to the review and approval of the County Mapping and Addressing Departments.**
- J. The applicant shall form a homeowners' or condominium association responsible for the perpetual maintenance, repair and replacement of the roads, any buffers and landscaping, stormwater management facilities, erosion and sediment control facilities and other common elements.**
- K. The stormwater management system shall meet or exceed the requirements of the State and County. It shall be constructed and maintained using best management practices.**

**M 031 20
Adopt
Ordinance
No. 2701/
CU 2197
(continued)**

- L. 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. The ditch on the property shall be cleaned and maintained pursuant to Sussex Conservation District guidance and standards.**
- M. The developer, and then the HOA or Condo Association shall protect and preserve the Hudson Family Cemetery on the property by installing a perimeter fence around the cemetery made of wrought iron or anodized aluminum. Parking shall also be provided for the Hudson family members wishing to visit the cemetery. Access to the cemetery shall be shown on the Final Site Plan.**
- N. The applicant shall coordinate with the Indian River School District to establish a school bus stop area, which shall be shown on the Final Site Plan if required by the District.**
- O. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Absent**

**Introduction
of Proposed
Zoning
Ordinances**

Mr. Hudson introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR A FOOD TRUCK TO BE OPERATED FOR A PERIOD EXCEEDING THREE DAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.115 ACRE, MORE OR LESS” (Conditional Use No. 2214) filed on behalf of Anthony Crivella and Harold E. Dukes, Jr. (Tax I.D. No. 334-13.20-25.00) (911 Address: Not Available).

Mr. Rieley introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR PROFESSIONAL OFFICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.56 ACRES, MORE OR LESS” (Conditional Use No. 2215) filed on behalf of BZ Land, LLC (Tax I.D. No. 533-19.00-26.00) (911 Address: 37116 and 37124 Lighthouse Road, Selbyville).

Mr. Burton introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR HOME REMODELING AND REPAIR SERVICES, STORAGE REPAIR AND

**Introduction
of Proposed
Zoning
Ordinances
(continued)**

MAINTENANCE, LIGHT BUILDING MATERIAL AND STORAGE AND GENERAL OFFICE FOR QUALITY CARE HOMES AND MANAGERS RESIDENCE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 3.57 ACRES, MORE OR LESS” (Conditional Use No. 2216) filed on behalf of Kenneth Dominic Alton Drummond (Tax I.D. No. 234-5.00-46.04 (part of) (911 Address: 20366 Hopkins Road, Lewes).

Mr. Wilson introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR STORAGE OF UTILITIES EQUIPMENT AND VEHICLES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 6.16 ACRES, MORE OR LESS” (Conditional Use No. 2217) filed on behalf of Israel Bravo (Tax I.D. No. 331-2.00-44.07) (911 Address: 20871 Sanfilippo Road, Bridgeville).

Mr. Wilson introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SMALL MACHINE SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 0.76 ACRE, MORE OR LESS” (Conditional Use No. 2218) filed on behalf of Edward and Laurie Dampman (Tax I.D. No. 230-13.00-429.00) (911 Address: 10321 Greentop Road, Lincoln)

Mr. Hudson introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MEDIUM DENSITY RESIDENTIAL DISTRICT AND A CR-1 COMMERCIAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 43.463 ACRES, MORE OR LESS” (Change of Zone No. 1911) filed on behalf of Schiff Land Development Co., LLC (Patriots Glen) (Tax I.D. No. 234-29.00-67.00) (911 Address: Not Available).

Mr. Hudson introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY (200 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 48.36 ACRES, MORE OR LESS” (Conditional Use No. 2206) filed on behalf of Linder & Company, Inc. (Evans Farm) (Tax I.D. No. 134-12.00-74.00) (911 Address: 31434 Railway Road, Ocean View).

**Introduction
of Proposed
Zoning
Ordinances
(continued)**

Mr. Wilson introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BORROW PIT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 220.38 ACRES, MORE OR LESS” (Conditional Use No. 2213) was filed on behalf of Whitetail Lane, LLC (Tax I.D. No. 135-20.00-137.00) (911 Address: 17471 Whitetail Lane, Georgetown).

The Proposed Ordinances will be advertised for Public Hearing.

**M 032 20
Adjourn**

A Motion was made by Mr. Hudson, seconded by Mr. Wilson, to adjourn at 11:22 a.m.. The meeting was adjourned by consensus.

Respectfully submitted,

**Robin A. Griffith
Clerk of the Council**

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

JAMIE WHITEHOUSE, AICP
PLANNING & ZONING MANAGER
(302) 855-7878 T
(302) 854-5079 F
Jamie.whitehouse@sussexcountyde.gov



Sussex County
DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Council
The Honorable Michael H. Vincent, President
The Honorable Irwin G. Burton III, Vice President
The Honorable Douglas B. Hudson
The Honorable John L. Rieley
The Honorable Samuel R. Wilson, Jr.

From: Jamie Whitehouse, AICP, Planning & Zoning Manager

CC: Everett Moore, County Attorney

Date: January 24, 2020

RE: Memorandum of Understanding Between Sussex County and Delaware Department of Transportation (DelDOT)

The Planning and Zoning Commission held a Public Hearing in relation to the Memorandum of Understanding (“MOU”) between Sussex County and Delaware Dept. of Transportation on December 12, 2019. Due to the length of the December 12 meeting, Chairman Wheatley announced that the record would be left open and that the public hearing would be continued at the meeting of January 9, 2020 to allow any additional speakers an opportunity to speak before the Commission.

The Public Hearing was continued at the Planning and Zoning Commission meeting of January 9, 2020, after which the record was closed.

The following are the draft minutes for the Planning and Zoning Commission meetings:

December 12, 2019 Planning and Zoning Commission Meeting

The MOU describes the coordination process between Sussex County and DelDOT regarding the process of land use applications.

Ms. Cornwell outlined that three written responses had been received in relation to the MOU and were part of the record for this Application. Mr. Mark Cote from DelDOT was also present to answer any questions from the Commission.

Mr. Robertson and Mr. Cote provided a brief overview of the background to the MOU and what was included within it. That Title 9 of the Delaware Code requires a MOU to be created, and that the previous version of the MOU dates back to 1988; that an update was/is required.



(A copy of the Mr. Robertson and Mr. Cote’s presentation is appended to these minutes).

The Commission found that Mr. Jeff Stone on behalf of the group SARG was present to speak to the proposed MOU; that this is an extraordinary opportunity to transform the development process. Mr. Stone gave a presentation regarding the 40 comments from SARG, copies of which were submitted into the record. A copy of the presentation is appended to these minutes.

The Commission found that Ms. Yul Lee of Lewes was present to speak to the proposed MOU; that she is concerned that DelDOT can make recommendation but that the County is under no obligation to follow DelDOT’s recommendations; that she agrees with Mr. Jeff Stone that the County should have its own Transportation Advisor(s) independent of DelDOT;

The Commission found that Mr. Keith Steck of the Delaware Coalition for Open Government was present to speak about the proposed MOU; that he recognizes the work that has gone into the document so far; that he does have comments; that the document should be clear as to which county entity is in charge, as this is not clear; that the document has a heavy emphasis on road transportation and does not mention other modes of transport such as DART; that the document should make reference to land use settings such as residential, commercial and industrial, and the size of these developments that the MOU applies to; that it does not appear to apply to industrial parks; that there are no exclusions within the document; that there is no definition of what types of vehicles are considered; that there needs to be further discussion on the types of vehicles and their definitions; that the document should include a timeframe for its lifetime so that it can be reviewed, such as every five years; that the document does not have a strong enough emphasis on safety of pedestrians and bicycle traffic, especially in light of the cyclist and pedestrian deaths in the County over the past several years; that the volume of traffic should also consider emergency response times; that these factors should be included in the MOU.

The Commission found that Mr. Tom Ford was present to speak to the proposed MOU; that on pg. 9, item 5; he thinks the words “*and bonded*” should be added; that in item 16, he thinks that it should be strengthened to require County Council to be provided with updates on progress on major project; that a threshold should be defined for this; that Public Hearings before the County should be required for major projects;

The Commission found that Ms. Betty Tustin, a professional traffic engineer, was present to speak to the proposed MOU; that she appreciates that this is a work in progress; that she has written comments that she has submitted; that she requested that the MOU be subject to a further public hearing prior to being considered by County Council; that she agrees with Mr. Cote that Level of Service ‘F’ is not necessarily failing; that Sussex County is unique with an influx of seasonal traffic; that this is hard to accommodate; that the MOU should reflect this; that the approach to TIS preparation is changing as society changes and that the MOU should reflect this; that Sussex County’s trip generation patterns and rates are changing as people retire and people start to work more flexible hours in the workplace; that workers are allowed to work from home now; that these factors change the traffic flow; that GPS systems are becoming more advanced and that this allows motorists to be re-routed.

The Commission found that Mr. Robert Horsey was present to speak to the proposed MOU; that he asked if the Commission could provide or public a comparison with the 1988 MOU; that on pg. 5 he urges the Commission not to tie the TIS to phasing of developments and instead tie it to Building

Permits; that this will add a level of complexity; that he strongly urges the Commission to consider the insertion of the words “Substantial Completion” or similar into the document; that he does not consider the document to be a fix-all for the County; that reliance should not be placed solely on Developers to fix the County’s problems; that believes a State-wide initiative should be considered, such as a gasoline tax for all motorists; that he requests that the record be left open to allow others to comment;

The Commission found that Mr. David Hutt, Attorney was present and gave a presentation (a copy is appended to these minutes); that he recognizes a common theme in public comments is the need for more clarity in the document; that the ownership of “the TIS” needs to be more clearly defined to ensure that the preparer of the TIS is made clear ‘i.e. ‘the Developer’s TIS’; that the Commission may wish to consider revising or deleting paragraph 3; that there are some areas of the County that do no experience seasonal traffic; that ‘requirements by DelDOT’ needs to be more clearly defined; that the document should be more clear that Sussex County is the final decision maker on land-use matters;

The Commission found that Mr. Bob Viscount of Lewes was present to speak to the proposed MOU. That he lives in the Villages of Five Points; that he supports the comments of Mr. Stone; that the lack of a Transportation expert within the County is a defect in the process; that the County should enhance the application process by exploring this; that the whole issue of phasing should not be deferred to DelDOT and that this is the County’s responsibility; that any ambiguous processes should be clarified.

The Commission found that Mr. Kevin Rosenberg of Lewes wished to speak to the MOU; that on Pg.6 the text of the old MOU had been retained; that this causes some confusion; that he would support its removal; that he isn’t sure whether this is tied to other agencies; that on Pg. 9 No. 4 he thinks that there is some unnecessary repetition in the text that the County may wish to consider removed; that he is concerned that it may just be stating the obvious; that is concerned that the document uses strong language as to when Building Permits may be withheld and that this text could be more flexible to account for unusual circumstances; that a discretion to withhold Certificates of Occupancy and/or Building Permits would seem to be a more reasonable wording.

Chairman Wheatley noted that, due to the late hour of the meeting, that the Commission may wish to leave the hearing open to allow potential additional speakers an opportunity to speak at a future meeting of the Commission. The Commission would, however, only allow new speakers to speak when the Public Hearing is continued.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to table the discussion and leave the public hearing open until the next regular meeting of the Commission (January 9th, 2020). Motion carried 5-0.

Mr. Robertson clarified that the record is open until that meeting if anyone wishes to submit additional comments.

January 9, 2020 Public Hearing - Draft Minutes

The MOU describes the coordination process between Sussex County and DelDOT regarding the process of land use applications. Continuation of Public Hearing.

Ms. Cornwell stated that staff did receive some additional comments that were provided and sent via email regarding some changes from seven different people. Also, staff have received a letter from the American Council of Engineers, Delaware Chapter, who are supporting the MOU comments provided by members of the Property Business Alliance.

Chairman Wheatley stated that everyone is allowed one trip to the podium. Since this is a continuation of last hearing, if someone spoke the last time, then they have already had their trip.

The Commission found that Mr. Joe Caloggerro with the Traffic Group, Vice President, Baltimore, MD was present to comment on the MOU. He represents the working group that sent information to the Commission on January 7th. The working group is comprised of engineers and developers. On January 7th he submitted a revised MOU with a letter outlining the requested modifications and he had copies for everyone. Ms. Cornwell asked to have it emailed to the Commission.

Mr. Caloggerro stated that the goal of the revised MOU is to modify and document the process so that is more similar to the DelDOT process and that would provide more clarity to the government staff, consultants, developers and especially the general public.

The Commission found that Mr. Richard. Barasso from Milton, speaking as a private citizen not representing any group, was present to comment on the MOU. Mr. Barasso stated that the last public hearing resulted in a number of suggestions regarding the draft MOU for land development coordination. Mr. Barasso supports the County in exercising its authority and to fully develop its capabilities to best leverage the MOU as an instrument to help protect, preserve and enhance public welfare and safety. The best examples of the County meeting this responsibility was the work and implementation during the 2019 Comprehensive Plan process; that growth is putting pressure on the County’s transportation system; that responding to this pressure requires combination of capacity improvements, implementation of better approaches to land use, and transportation coordination; that there are more than fifty strategies outlined in the transportation element in the Comprehensive Plan; that County Government was clear in acknowledging that change was needed; that additionally, over the next five years over a billion dollars on infrastructure will be spent in Sussex County; that the County’s responsibility for direct oversight and engagement will be critical to ensure the maximum turn on investment for all who live here; that for years we have been told that the County had no authority over roads; that this was DelDOT’s responsibility; that, in the words of the draft MOU, Sussex County is solely responsible for land use in the County; that land use decisions drive and determine traffic levels; that traffic is the direct result of land use; that the County is therefore responsible for traffic; that his responsibility cannot be met without the responsibility to act; that this is why laws and regulations have been adopted over the years granting County government the authority to act on behalf of the residents in many areas; that until last year, the current MOU was unknown to the public and to many officials at both the County and State levels; that when it did come to light, it became much clearer that the County actually did have a great deal of unused authority to influence traffic impact decisions at least in certain circumstances; that in Paragraph B it states that the local government can specify what if any comments they have with regard to the Level of Service;

that in the section regarding the basis of requirement Paragraph C, it states local agencies have more stringent TIS requirements than those provided in this section; that lastly, in the section entitled “Future Traffic in Paragraph D”, DelDOT and the local zoning land development agency will collaborate on roads and developments will be used to generate and distribute vehicle trips; that it is clear that the County has the authority to impose requirements as it relates to traffic impact studies; that to this point, Mr. Barrasso suggests in Paragraph 7 the MOU draft needs to be strengthened beyond just stating Sussex County conduct the TIS; that this section must be expanded to identify greater inclusion input by County agencies who, at the end of the day, are most knowledgeable about local issues; that at the very least, reference back to Chapter II in the manual is warranted; that the fact that Sussex County is responsible for the traffic in the County and have the authority to ensure that the traffic studies and improvements are done in the best interest of the residents; that beyond this MOU draft, there is the issue of capability in the county; that in public hearings, the County has previously admitted that it lacks the knowledge and the expertise and the capability to best understand and review and scrutinize the traffic analysis improvement recommended by DelDOT; that considering the fact that Sussex County is the fastest growing county in the State, with severe traffic safety and issues, and has the largest backlog of improvements and as mentioned earlier that a billion dollars is needed to spend on infrastructure; that it is time for the County to resolve this lack of capability; that stating that the County does not have the capability, is viewed by many as an excuse; that the issues facing citizens could be more benefited by the investment in a contract traffic planner or consultant.; that Delaware State Police data for Sussex County, outlined that 2019 fatal traffic accidents have increased 36%; that combined with the 13% increase in personal injury crashes; that he draft MOU must be revised to reflect these realities; that the Commission must fulfill their obligations to its responsibilities, exercise its authority, develop capabilities to protect, to preserve and enhance community and individual property rights; that the public is looking forward to the details in the Commission’s recommendations to Council resulting from these public hearings.

Upon their being no one else wishing to speak, Chairman Wheatley announced that the public hearing was closed for the MOU.

Planning and Zoning Commission Meeting of January 23, 2020

The Commission discussed the Memorandum of Understanding which was deferred from the January 9, 2020 meeting.

Mr. Robertson outlined that, based upon the input at those meetings, that a number of revisions had been made to the draft MOU document, and that a ‘red line’ version had been prepared showing the changes; that this version includes line numbers to assist in understanding where changes have been made. Mr. Robertson outlined that the ‘red line’ version will be made available online prior to the County Council Public Hearing scheduled for January 28, 2020.

Mr. Hopkins moved that the Commission recommend approval of the MOU between Sussex County and the Delaware Department of Transportation for the following reasons, but also subject to the following recommendations:

1. The DelDOT MOU is required by Title 9 of the *Delaware Code*. Title 9 also requires Sussex County to establish a traffic Level of Service, or “LOS” suitable to both DelDOT and Sussex County.
2. Our current MOU dates back to 1988, and a review and update of the MOU is appropriate at this time. Several of the terms and processes identified in the current MOU have been revised. It is necessary for a new MOU to incorporate these revisions.
3. The prior MOU only addressed rezonings. The proposed revised MOU addresses not only rezoning decisions, but also Major Subdivisions, Residential Planned Communities and Residential Conditional Uses.
4. The new MOU is the result of significant work and discussions between representatives of Sussex County and representatives of DelDOT.
5. Constructive public comment was received through a hearing spread over two different Planning & Zoning Meetings. That information was taken into account while looking at appropriate recommendations to Council for possible revisions to the draft MOU.
6. It is clear in the MOU, and with the recommended revisions, that Sussex County retains control over land use decisions within its jurisdiction.
7. Based on the information provided during the public hearings, this recommendation for approval is subject to the following recommendations. For ease of tracking, many of them reference line numbering. A line-numbered version of the MOU should be utilized during the public hearing at County Council. A redlined version of these changes will also be forwarded to County Council with these recommendations. The recommendations are as follows:
 1. In the 6th “WHEREAS” clause at line 25, the word “the” should be deleted.
 2. Paragraph 3 at lines 103 to 107 should be deleted. While it is necessary to take into account seasonal traffic volumes in all traffic analyses, this is already undertaken as part of DelDOT’s mandated methods of analysis. The rest of the paragraphs should be renumbered accordingly.
 3. At Paragraph 5, line 110, add the word “Diminutive” prior to “Negligible”. Both are defined terms, and in neither case should additional traffic analysis be required.
 4. In Paragraph 7, at line 128, the following sentence should be added for clarity about how a TIS is reviewed by DelDOT: “DelDOT shall provide a technical evaluation of the TIS in the form of written comments in a Traffic Impact Study Review Letter (TISRL).” Then, the next sentence should be revised so that it states: “DelDOT’s scoping requirements for the TIS and its TISRL should consider the effects of active or proposed transportation improvements in the adopted Six (6) Year Capital Improvements Program, Current Transportation Plans and Committed Off-Site Improvements, the current Sussex County Comprehensive Plan and recommend phasing for development as may be appropriate given the location of the project.”
 5. In Paragraph 10, at line 154, letter (d) should be revised so that it states “(d) the application will have a diminutive, negligible or minor impact (with no requirement

for a TIS) as described above.” This way it is clear that such smaller land use applications can proceed to a public hearing without the need for a TIS.

6. In Paragraph 11, at line 156, change the word at the beginning of the first sentence from “When” to “if”.
7. In Paragraph 12, at line 164, delete the first sentence of Paragraph 12 in its entirety, and revise the remaining sentences of Paragraph 12 so that the paragraph now states: “If, in DelDOT’s opinion, there are appropriate conditions of approval that it recommends should be imposed upon a land use decision, DelDOT shall offer those conditions as part of the TISRL or as part of its Technical Advisory Committee review for consideration by Sussex County. Any such proposed conditions shall be clearly summarized by DelDOT in its analysis of the TOA, the TISRL or other written comments. Sussex County shall consider the proposed conditions but shall not be obligated to include them as part of any approval.”
8. In Paragraph 13, at line 174, change “required by DelDOT” to “recommended by DelDOT”. In the same Paragraph, at lines 174-177, change the second sentence to state: “To accomplish this, DelDOT should clearly and concisely state what phasing is appropriate for the subject land use application so that Sussex County may impose that recommendation into its various approvals as appropriate.” At line 188, change “TIS” to reference “TISRL” and add the word “process” after “TISRL”.
9. Delete Paragraph 14 at lines 193-194 in its entirety.
10. Under the heading “Site Plan Coordination”, at Paragraph 4 at line 275, add the words “Unless bonded in accordance with DelDOT requirements” to the beginning of the sentence to confirm that DelDOT may grant an entrance permit if certain construction work is bonded.
11. Under the heading “Site Plan Coordination”, at Paragraph 5 lines 278-280, add a similar reference to bonding, so that the sentence now states: “Sussex County will withhold issuance of the Certificate of Compliance until DelDOT has received appropriate bonding or has accepted the entrance construction and issued the notice to the owner that the entrance construction permit has been issued.”
12. Under the heading “Site Plan Coordination”, add a new Paragraph 6: “The coordination described in this Section shall take into consideration any phasing of the land use project.”
13. In addition to recommendations 1-12, the following more general recommendations should also be considered by Council:
 - a. A comment was received that “Fee In Lieu” should be changed to “Area Wide Study Fee” at line 46, with the following new definition: “A fee collected to complete an Area Wide Study that includes the proposed land use or transportation improvements that benefit the proposed land use. Payment of an Area Wide Study Fee in lieu of a TIS will not preclude a developer’s responsibility for funding and/or construction of its share of off-site improvements. Those improvements may be determined to be needed by the Area Wide Study or other studies including TIS’s received

for other nearby developments.” DelDOT was unable to comment on this suggestion; County Council should consult with DelDOT as to whether this is an appropriate revision.

- b. Comments were received about re-organizing the MOU for clarity. The proposed MOU is organized so that it follows the general format and order of the 1988 MOU, rather than completely re-writing the document. However, County Council, with staff, should consider re-organizing parts of the document for clarity.

Motion by Mr. Hopkins and seconded by Mr. Mears to recommend approval of the Memorandum of Understanding, as revised, and based upon the reasons outlined in the motion. Motion carried unanimously 5-0.

2019

SUSSEX COUNTY/DELAWARE DEPARTMENT OF TRANSPORTATION
MEMORANDUM OF UNDERSTANDING
FOR LAND DEVELOPMENT COORDINATION

WHEREAS, Title 9, Section 6962 of the *Delaware Code* “Highway Capacity” obligates Sussex County to “establish an agreement with the Department of Transportation to provide a procedure for analysis by the Department of Transportation (“DeIDOT”) of the effects on traffic of each rezoning application; and

WHEREAS, This Memorandum of Understanding is intended to comply with the foregoing requirements of Title 9, Section 6962 of the Delaware Code; and

WHEREAS, Land development has the potential to impact adjacent highways and Sussex County and DeIDOT recognize that an analysis of the effects upon traffic is important in all types of land use decisions (Residential Planned Communities, Major Subdivisions, Conditional Uses) and not just rezoning applications; and

WHEREAS, The 2018 Sussex County Comprehensive Plan promotes greater coordination between DeIDOT and Sussex County in land use decisions; and

WHEREAS, Sussex County is solely responsible for land use decisions in Sussex County; and

WHEREAS, the DeIDOT is responsible for the operation, maintenance, and construction of State-maintained roads as well as the regulation of all entrance and roadway improvements required as part of new development; and

WHEREAS, it is the desire of Sussex County and DeIDOT to coordinate land development with transportation needs.

NOW, THEREFORE,

BE IT RESOLVED that Sussex County Council and DeIDOT hereby adopt the following Memorandum of Understanding:

DEFINITIONS

COMMITTED OFF-SITE IMPROVEMENTS – Road improvements for the benefit of safety and/or capacity that are generally beyond the limits of the site entrance and frontage that are required to be built by an approved land development project. Such improvements do not include auxiliary lanes that serve the site entrance, but may include roadway widening along the frontage of the site.

46 FEE IN LIEU - DeIDOT regulations define an Area Wide Study Fee that, under certain conditions,
47 DeIDOT may accept when it would otherwise require a TIS. The fees accepted are used by
48 DeIDOT to subsidize the preparation of studies of larger areas than a TIS would normally address;
49 they are not used to build improvements. Payment of the fee does not relieve a developer of
50 responsibility to build or contribute toward transportation.

51
52 LEVEL OF SERVICE (LOS) - A quantitative stratification of a performance measure or measures
53 representing how well a transportation facility or service operates from a traveler's perspective.
54 For each type of facility or service there are six levels of service, ranging from A to F, with A
55 representing the best operating condition and F the worst operating conditions. Except as may be
56 specified by DeIDOT, LOS shall be determined in accordance with the current edition of the
57 Highway Capacity Manual, a publication of the Transportation Research Board.

58
59 PRELIMINARY TRAFFIC ANALYSIS - An evaluation by DeIDOT, in terms of the proposed
60 trip generation, to determine whether a Traffic Impact Study is necessary with regard to a proposed
61 land use approval.

62
63 TRAFFIC IMPACTS:

64
65 DIMINUTIVE - The change in land use is expected to increase the trip generation of the
66 subject land by fewer than 50 vehicle trips per day.

67
68 NEGLIGIBLE - The change in land use is expected to increase the trip generation of the
69 subject land by fewer than 50 vehicle trips in any hour and fewer than 500 vehicle trips per day.

70
71 MINOR - The change in land use is expected to increase the trip generation of the subject
72 land by at least 50 but fewer than 200 vehicle trips in any hour and at least 500 vehicle trips per
73 day.

74 MAJOR - The change in land use is expected to increase the trip generation of the subject
75 land by more than 200 vehicle trips in any hour or more than 2,000 vehicle trips per day.

76
77 TRAFFIC IMPACT STUDY (TIS) – A study conducted during the development approval process,
78 in accordance with applicable DeIDOT regulations, to determine the impacts that traffic generated
79 by the proposed development will have on the surrounding street network and the improvements
80 needed to the transportation system in order to mitigate those impacts.

81
82 TRAFFIC OPERATIONAL ANALYSIS (TOA) – An evaluation, or series of evaluations,
83 conducted during the review of subdivision, land development and entrance plans, in accordance
84 with applicable DeIDOT regulations, primarily intended to determine site entrance location and
85 movements to be allowed at the site entrance. These evaluations may include; Queuing Analysis,
86 Highway Capacity Manual Analysis, and Crash Analysis.

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92 **LAND USE COORDINATION**

- 93
- 94 1. Sussex County will make the final decisions on all matters of land use.
- 95 2. The Sussex County Planning and Zoning Department will request a Preliminary Traffic
- 96 Analysis from DelDOT for each land use application to determine if the resulting traffic
- 97 impact will be negligible, minor, or major. This shall not be required where the County
- 98 Planning and Zoning staff, in concurrence with DelDOT staff, finds that the proposed
- 99 change in land use will have a diminutive impact upon the road system. Unless more time
- 100 is required given the size or complexity of the land use application, DelDOT shall endeavor
- 101 to provide a Preliminary Traffic Analysis within twenty days after receiving the Analysis
- 102 request.
- 103 3. Given the seasonal nature of high-volume traffic volume in Sussex County, and since the
- 104 “season” has expanded beyond just Memorial Day through Labor Day, with very high
- 105 traffic volumes on seasonal weekends, it is important for DelDOT to take into account
- 106 these high volumes in any analysis that it performs. To be effective, low-volume off season
- 107 volumes should not be utilized where they will artificially lower average traffic volumes.
- 108 4. Unless waived as set forth in Paragraph 2 above, Sussex County will not consider an
- 109 application until DelDOT supplies Sussex County with the above information.
- 110 5. When it is determined that the traffic impact would be negligible, no further traffic analysis
- 111 will be necessary. DelDOT has the authority to make such a determination where (based
- 112 on the full development of the property as limited by either the zoning code or other factors)
- 113 the expected average daily traffic (ADT) of the site will not exceed five hundred (500)
- 114 trips. When DelDOT determines negligible impact will occur, they will provide projected
- 115 traffic volumes in support. Sussex County may approve land use applications with
- 116 negligible impact at its discretion.
- 117 6. When DelDOT determines the traffic impact to be minor, the traffic analysis shall include
- 118 the feasibility of providing safe access and the condition, pavement, and the geometry of
- 119 the nearby roadways and intersections relative to the traffic the subject property could
- 120 generate. Where any of these are deemed inadequate, DelDOT shall comment to this effect,
- 121 and identify roadway improvements that shall be required by the Developer. An Area
- 122 Wide Study Fee (AWSF) letter will be generated to document the developer’s obligations

123 to construct identified roadway improvements or fund road improvements as required by
124 DelDOT. In addition, DelDOT may require further study if necessary.

125 7. When DelDOT determines that the traffic impact will be major, the developer will be
126 required to conduct an in-depth Traffic Impact Study (TIS) (at the developer's expense) to
127 DelDOT standards. In addition, Sussex County, at its own initiative, may require a
128 developer to conduct a TIS. The TIS will also consider the effects of active or proposed
129 transportation improvements in the adopted Six (6) Year Capital Improvements Program,
130 Current Transportation Plans, and Committed Off-Site Improvements, and the current
131 Sussex County Comprehensive Plan and establish staging for development as needed.
132 DelDOT will provide a technical evaluation of the TIS. Alternatively DelDOT may allow
133 a Traffic Operational Analysis (TOA) instead of a TIS.

134 8. As an alternative to the TIS or TOA process set forth above, when DelDOT has determined
135 that the area in question has already been the subject of sufficient study, a new TIS or TOA
136 may not be required. Instead, DelDOT may require a "Fee in Lieu" to be paid by the
137 developer to DelDOT to recoup all or a portion of the cost of the prior studies relied upon
138 by DelDOT in lieu of a new TIS or TOA. The "Fee in Lieu" is unrelated to the developer's
139 subsequent obligations to construct or fund road improvements as required by DelDOT
140 and the "Fee in Lieu" is not a waiver of those requirements. A TIS or AWSF letter will be
141 generated to document the developer's obligations.

142 9. Sussex County and DelDOT shall endeavor, where possible, to maintain a Level of Service
143 of D on roads and intersections affected by a land use application. However, Sussex
144 County and DelDOT recognize that: (a) a Level of Service of D is not always attainable;
145 (b) that this threshold may create an undue burden on a property owner looking to develop
146 a property given the prior development that has occurred in an area contributing to the
147 existing Level of Service; or (c) other relevant factors (such as the size of the property, type
148 or importance of the development) may mitigate against maintaining a Level of Service D.
149 If the existing Level of Service is below D prior to the impact of the proposed land use, the
150 existing Level of Service must at least be maintained.

151 10. No public hearing on the land use application shall occur until: (a) Sussex County receives
152 the approved TIS from DelDOT; (b) Sussex County receives the approved TOA from
153 DelDOT; (c) DelDOT advises that a "Fee in Lieu" (described in Paragraph 8 above) is

154 appropriate instead of a TIS; or (d) the application will have a diminutive impact as
155 described above.

156 11. When DelDOT determines, on the basis of a TIS or TOA or studies previously performed
157 as part of the “Fee in Lieu” process, that a land use decision could cause the threshold level
158 of service to be exceeded, the County will not approve the land use application unless the
159 developer takes appropriate measures to maintain operations at the threshold level or unless
160 Sussex County finds that there are sufficient reasons why the developer should not be
161 responsible for all or part of the measures necessary to maintain the threshold level of
162 service. Sussex County, in the latter case, shall set forth in writing their reasons for
163 approving the land use application.

164 12. Sussex County does not have the ability to determine what, if any, conditions of approval
165 related to roadway improvements or traffic would be appropriate in a given land use
166 application. Therefore, if, in DelDOT’s opinion, there are appropriate conditions of
167 approval that should be imposed upon a land use decision, DelDOT shall offer those
168 conditions as part of its TIS or as part of its Technical Advisory Committee review for
169 consideration by Sussex County. Any such proposed conditions shall be clearly
170 summarized by DelDOT in its Preliminary Traffic Analysis. After considering all relevant
171 information regarding the land use application, Sussex County shall consider the proposed
172 conditions but shall not be obligated to include them as part of any approval.

173 13. Phasing of land development with highway capacity and safety improvements to restore
174 and maintain a level of service “D” may be required by DelDOT. To accomplish this,
175 DelDOT should state what phasing is appropriate for the subject land use application and
176 clearly state that phasing requirement to Sussex County so that Sussex County can clearly
177 incorporate it into its various approvals as appropriate. Sussex County may then impose
178 that phasing requirement as part of its approval of a land use application. Phasing of the
179 project can include (but is not limited to) a consideration the following:

- 180 a. A delay of all or part of the development until specific highway improvements are
181 made by DelDOT or others;
- 182 b. Whether the required highway improvements are being funded or constructed at the
183 developer’s own expense;

184 c. Whether the developer is participating in, and/or funding, transit or traffic
185 mitigation strategies.

186 The phasing requirements shall be included as a Plan Sheet at the time of Final Site Plan
187 approval. However, whenever possible, DelDOT shall endeavor to state whether a phasing
188 recommendation is likely (with specific details to follow) as part of the TIS process prior
189 to the Preliminary Site Plan or other public hearing process so that Sussex County, the
190 developer and the public can have an expectation that phasing may be considered as part
191 of the project development. Phasing tied to other types of site plan approval is addressed
192 in a following Section of this MOU regarding Site Plan Coordination.

193 14. Where measures to maintain operations are agreed upon by a developer, both DelDOT and
194 Sussex County shall assure that these measures are carried out.

195 15. When Sussex County believes that expert testimony regarding transportation issues is
196 required to make a land use decision (such as a rezoning, major subdivision, conditional
197 use or Residential Planned Community), DelDOT will provide a suitable representative to
198 attend meetings of the Planning and Zoning Commission and/or County Council. The
199 representative should be someone with specific technical knowledge of the project in
200 particular and also ongoing projects in the area of Sussex County where the project is to
201 occur.

202 16. In addition to the project-specific information referenced in the preceding paragraph,
203 DelDOT shall provide regular updates to Sussex County about the status of ongoing and
204 future roadway and transportation projects in the County, so that County Council and the
205 Planning & Zoning Commission have an up-to-date understanding of their status. This
206 shall include both developer-funded and DelDOT-initiated and -funded projects. During
207 these updates, Sussex County will also have an opportunity to discuss other transportation
208 improvements that may be needed in the future.

209 17. Whenever possible during the implementation of the foregoing items, Sussex County and
210 DelDOT should encourage master planning for large scale developments on large parcels
211 or groups of parcels in the Town Center, Coastal Area, Developing Area and commercial
212 areas as set forth in the Comprehensive Land Use Plan to provide greater flexibility in
213 design and/or the installation of additional roadways and interconnectivity.

214 18. The Sussex County Planning and Zoning Department is responsible for coordinating all
215 required information with Sussex County Council and the Planning and Zoning
216 Commission.

217 19. Sussex County shall be entitled to participate in any negotiations between a developer and
218 DelDOT as to roadway improvements. Sussex County may provide input into those
219 negotiations, but DelDOT shall be entitled to make the final determination as to all required
220 roadway improvements and negotiated agreements with a developer. Any agreement
221 reached between a developer and DelDOT as to roadway improvements, phasing of a
222 development, funding of roadway improvements, etc. shall be immediately forwarded to
223 Sussex County for its records with regard to the development. Any subsequent changes or
224 amendments to a DelDOT/developer agreement shall likewise be immediately forwarded
225 to Sussex County. Provided, however, that DelDOT recognizes that if a specific
226 requirement (such as phasing) is incorporated into a land use decision (such as a major
227 subdivision, conditional use or Residential Planned Community), this may not be
228 enforceable by Sussex County without an amendment to the subdivision approval or the
229 ordinance that approved a Residential Planned Community, Conditional Use or certain
230 other rezonings where conditions can be imposed.

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232

233 **REZONINGS (WITHOUT SITE PLANS OR CONDITIONS OF APPROVAL)**

234 1. Sussex County and DelDOT acknowledge that on a rezoning to a new zoning district where
235 a specific site plan is not under consideration, and where the County cannot impose
236 conditions as part of the rezoning approval, a TIS may not be possible (with the exception
237 of rezonings to Residential Planned Communities and C-4, where specific site plans are
238 considered and conditions can be imposed). This is because the various zoning districts
239 have several permitted uses that are allowed once a rezoning occurs; as a result DelDOT
240 cannot determine, at the time of rezoning, what the actual use will be nor what the traffic
241 and possible roadway improvements will be as a result of it. This requires greater
242 coordination on the part of both Sussex County and DelDOT.

243 2. Whenever possible, DelDOT shall endeavor to provide as much information about the
244 general impacts of the rezoning upon area traffic and roadways as required in the preceding

245 Section prior to the public hearing before Sussex County Council and the Planning &
246 Zoning Commission.

247 3. Whenever DelDOT is approached by a developer with a specific project in mind, DelDOT
248 and that developer may enter into an agreement to obtain a TIS for the project as part of
249 the rezoning process so that the information required as part of the TIS may be included in
250 the record of the public hearings of the rezoning application. Because other possible uses
251 of the property may be permitted under the proposed new zoning, Sussex County is not
252 bound by this information in making its decision on the rezoning. However, if the use that
253 the TIS is based upon changes after the rezoning occurs, another TIS shall be required and
254 Sussex County shall not approve any Preliminary or Final Site Plan for the property until
255 the new TIS is completed with all necessary traffic and roadway improvements determined
256 by DelDOT. Alternatively, if no TIS is performed on a specific project, DelDOT or Sussex
257 County shall have the ability to request a TIS based upon the most impactful permitted use
258 available under the new zoning classification that is sought.

259

260 **SITE PLAN COORDINATION**

261

262 1. Section 115-220D of the Sussex County Zoning Code allows Sussex County to approve
263 certain site plans “subject to conditions”. In any site plan reviewed pursuant to Section
264 115-220 of the Sussex Zoning Code, Sussex County, with the assistance of DelDOT, may
265 impose conditions regarding phasing and the timing of building permits in conjunction
266 with completion of necessary roadway improvements.

267 2. In all site plan reviews, DelDOT will review the site plans in accordance with its rules and
268 regulations for access and roadway improvements. Sussex County will withhold any site
269 plan approval until DelDOT has approved all necessary roadway improvements and
270 entrance design requirements. Provided, however, that this requirement may be waived by
271 Sussex County for minor amendments to existing site plans that changes the trip generation
272 by less than 50 trips per day.

273 3. Sussex County shall withhold the issuance of any building permit until DelDOT has issued
274 the entrance construction permit associated with the project.

275 4. DelDOT will withhold an entrance permit until the developer has agreed to construct the
276 access point(s) to Department standards and to provide off-site improvements as may be
277 required to maintain acceptable traffic operation on highways.

278 5. Sussex County will withhold issuance of the Certificate of Compliance until DelDOT has
279 accepted the entrance construction and issued the notice to the owner that the entrance
280 construction permit has been satisfied.

281

282 **TRANSPORTATION IMPROVEMENT DISTRICTS**

283 1. In the event that a land use application falls within a Transportation Improvement District
284 (“TID”), the requirements of the TID, as set forth in the TID Agreement, shall supersede
285 the requirements set forth in this MOU.

286

287 IT IS FURTHER RESOLVED that the Secretary of the Delaware Department of Transportation
288 and The County Administrator will affirm this agreement by affixing their signature to the
289 Resolution.

290

291

292 Adopted by the County Council of Sussex County on _____, 2019.

293

294

President of the County Council of Sussex County

296

297

298

299 The following signatures concurring herein:

300

301 **For Sussex County:**

Todd Lawson, Sussex County Administrator

303

304

Robert Wheatley, Chairman, Sussex County
Planning & Zoning Commission

307

308

Janelle Cornwell, Director of Planning & Zoning

310

311 **For the Department of**
312 **Transportation:**

Jennifer Cohan, Secretary

313

2019

SUSSEX COUNTY/DELAWARE DEPARTMENT OF TRANSPORTATION
MEMORANDUM OF UNDERSTANDING
FOR LAND DEVELOPMENT COORDINATION

WHEREAS, Title 9, Section 6962 of the *Delaware Code* “Highway Capacity” obligates Sussex County to “establish an agreement with the Department of Transportation to provide a procedure for analysis by the Department of Transportation (“DeIDOT”) of the effects on traffic of each rezoning application; and

WHEREAS, This Memorandum of Understanding is intended to comply with the foregoing requirements of Title 9, Section 6962 of the Delaware Code; and

WHEREAS, Land development has the potential to impact adjacent highways and Sussex County and DeIDOT recognize that an analysis of the effects upon traffic is important in all types of land use decisions (Residential Planned Communities, Major Subdivisions, Conditional Uses) and not just rezoning applications; and

WHEREAS, The 2018 Sussex County Comprehensive Plan promotes greater coordination between DeIDOT and Sussex County in land use decisions; and

WHEREAS, Sussex County is solely responsible for land use decisions in Sussex County; and

WHEREAS, ~~the~~ DeIDOT is responsible for the operation, maintenance, and construction of State-maintained roads as well as the regulation of all entrance and roadway improvements required as part of new development; and

WHEREAS, it is the desire of Sussex County and DeIDOT to coordinate land development with transportation needs.

NOW, THEREFORE,

BE IT RESOLVED that Sussex County Council and DeIDOT hereby adopt the following Memorandum of Understanding:

DEFINITIONS

COMMITTED OFF-SITE IMPROVEMENTS – Road improvements for the benefit of safety and/or capacity that are generally beyond the limits of the site entrance and frontage that are required to be built by an approved land development project. Such improvements do not include auxiliary lanes that serve the site entrance, but may include roadway widening along the frontage of the site.

46 FEE IN LIEU - DeIDOT regulations define an Area Wide Study Fee that, under certain conditions,
47 DeIDOT may accept when it would otherwise require a TIS. The fees accepted are used by
48 DeIDOT to subsidize the preparation of studies of larger areas than a TIS would normally address;
49 they are not used to build improvements. Payment of the fee does not relieve a developer of
50 responsibility to build or contribute toward transportation.

51
52 LEVEL OF SERVICE (LOS) - A quantitative stratification of a performance measure or measures
53 representing how well a transportation facility or service operates from a traveler's perspective.
54 For each type of facility or service there are six levels of service, ranging from A to F, with A
55 representing the best operating condition and F the worst operating conditions. Except as may be
56 specified by DeIDOT, LOS shall be determined in accordance with the current edition of the
57 Highway Capacity Manual, a publication of the Transportation Research Board.

58
59 PRELIMINARY TRAFFIC ANALYSIS - An evaluation by DeIDOT, in terms of the proposed
60 trip generation, to determine whether a Traffic Impact Study is necessary with regard to a proposed
61 land use approval.

62
63 TRAFFIC IMPACTS:

64
65 DIMINUTIVE - The change in land use is expected to increase the trip generation of the
66 subject land by fewer than 50 vehicle trips per day.

67
68 NEGLIGIBLE - The change in land use is expected to increase the trip generation of the
69 subject land by fewer than 50 vehicle trips in any hour and fewer than 500 vehicle trips per day.

70
71 MINOR - The change in land use is expected to increase the trip generation of the subject
72 land by at least 50 but fewer than 200 vehicle trips in any hour and at least 500 vehicle trips per
73 day.

74 MAJOR - The change in land use is expected to increase the trip generation of the subject
75 land by more than 200 vehicle trips in any hour or more than 2,000 vehicle trips per day.

76
77 TRAFFIC IMPACT STUDY (TIS) – A study conducted during the development approval process,
78 in accordance with applicable DeIDOT regulations, to determine the impacts that traffic generated
79 by the proposed development will have on the surrounding street network and the improvements
80 needed to the transportation system in order to mitigate those impacts.

81
82 TRAFFIC OPERATIONAL ANALYSIS (TOA) – An evaluation, or series of evaluations,
83 conducted during the review of subdivision, land development and entrance plans, in accordance
84 with applicable DeIDOT regulations, primarily intended to determine site entrance location and
85 movements to be allowed at the site entrance. These evaluations may include; Queuing Analysis,
86 Highway Capacity Manual Analysis, and Crash Analysis.

87
88
89
90
91

92 **LAND USE COORDINATION**

- 93
- 94 1. Sussex County will make the final decisions on all matters of land use.
- 95 2. The Sussex County Planning and Zoning Department will request a Preliminary Traffic
- 96 Analysis from DelDOT for each land use application to determine if the resulting traffic
- 97 impact will be negligible, minor, or major. This shall not be required where the County
- 98 Planning and Zoning staff, in concurrence with DelDOT staff, finds that the proposed
- 99 change in land use will have a diminutive impact upon the road system. Unless more time
- 100 is required given the size or complexity of the land use application, DelDOT shall endeavor
- 101 to provide a Preliminary Traffic Analysis within twenty days after receiving the Analysis
- 102 request.

103 ~~3. Given the seasonal nature of high volume traffic volume in Sussex County, and since the~~

104 ~~“season” has expanded beyond just Memorial Day through Labor Day, with very high~~

105 ~~traffic volumes on seasonal weekends, it is important for DelDOT to take into account~~

106 ~~these high volumes in any analysis that it performs. To be effective, low volume off season~~

107 ~~volumes should not be utilized where they will artificially lower average traffic volumes.~~

108 4.3. Unless waived as set forth in Paragraph 2 above, Sussex County will not consider an

109 application until DelDOT supplies Sussex County with the above information.

110 5.4. When it is determined that the traffic impact would be diminutive or negligible, no further

111 traffic analysis will be necessary. DelDOT has the authority to make such a determination

112 where (based on the full development of the property as limited by either the zoning code

113 or other factors) the expected average daily traffic (ADT) of the site will not exceed five

114 hundred (500) trips. When DelDOT determines negligible impact will occur, they will

115 provide projected traffic volumes in support. Sussex County may approve land use

116 applications with negligible impact at its discretion.

117 6.5. When DelDOT determines the traffic impact to be minor, the traffic analysis shall include

118 the feasibility of providing safe access and the condition, pavement, and the geometry of

119 the nearby roadways and intersections relative to the traffic the subject property could

120 generate. Where any of these are deemed inadequate, DelDOT shall comment to this effect,

121 and identify roadway improvements that shall be required by the Developer. An Area

122 Wide Study Fee (AWSF) letter will be generated to document the developer’s obligations

123 to construct identified roadway improvements or fund road improvements as required by
124 DelDOT. In addition, DelDOT may require further study if necessary.

125 ~~7.6.~~When DelDOT determines that the traffic impact will be major, the developer will be
126 required to conduct an in-depth Traffic Impact Study (TIS) (at the developer’s expense) to
127 DelDOT standards. In addition, Sussex County, at its own initiative, may require a
128 developer to conduct a TIS. DelDOT shall provide a technical evaluation of the TIS in
129 the form of written comments in a Traffic Impact Study Review Letter (TISRL).
130 DelDOT’s scoping requirements for the TIS and its TISRL should ~~The TIS will also~~
131 consider the effects of active or proposed transportation improvements in the adopted Six
132 (6) Year Capital Improvements Program, Current Transportation Plans, and Committed
133 Off-Site Improvements, and the current Sussex County Comprehensive Plan and
134 recommend phasing for development as may be appropriate given the location of the
135 project. ~~establish staging for development as needed. DelDOT will provide a technical~~
136 ~~evaluation of the TIS.~~ Alternatively DelDOT may allow a Traffic Operational Analysis
137 (TOA) instead of a TIS.

138 ~~8.7.~~As an alternative to the TIS or TOA process set forth above, when DelDOT has determined
139 that the area in question has already been the subject of sufficient study, a new TIS or TOA
140 may not be required. Instead, DelDOT may require a “Fee in Lieu” to be paid by the
141 developer to DelDOT to recoup all or a portion of the cost of the prior studies relied upon
142 by DelDOT in lieu of a new TIS or TOA. The “Fee in Lieu” is unrelated to the developer’s
143 subsequent obligations to construct or fund road improvements as required by DelDOT
144 and the “Fee in Lieu” is not a waiver of those requirements. A TIS or AWSF letter will be
145 generated to document the developer’s obligations.

146 ~~9.8.~~Sussex County and DelDOT shall endeavor, where possible, to maintain a Level of Service
147 of D on roads and intersections affected by a land use application. However, Sussex
148 County and DelDOT recognize that: (a) a Level of Service of D is not always attainable;
149 (b) that this threshold may create an undue burden on a property owner looking to develop
150 a property given the prior development that has occurred in an area contributing to the
151 existing Level of Service; or (c) other relevant factors (such as the size of the property, type
152 or importance of the development) may mitigate against maintaining a Level of Service D.

153 If the existing Level of Service is below D prior to the impact of the proposed land use, the
154 existing Level of Service must at least be maintained.

155 ~~10.9.~~ No public hearing on the land use application shall occur until: (a) Sussex County
156 receives the approved TIS from DelDOT; (b) Sussex County receives the approved TOA
157 from DelDOT; (c) DelDOT advises that a “Fee in Lieu” (described in Paragraph 8 above)
158 is appropriate instead of a TIS; or (d) the application will have a diminutive, negligible or
159 minor impact (with no requirement for a TIS) as described above.

160 ~~11.10.~~ ~~When-If~~ DelDOT determines, on the basis of a TIS or TOA or studies previously
161 performed as part of the “Fee in Lieu” process, that a land use decision could cause the
162 threshold level of service to be exceeded, the County will not approve the land use
163 application unless the developer takes appropriate measures to maintain operations at the
164 threshold level or unless Sussex County finds that there are sufficient reasons why the
165 developer should not be responsible for all or part of the measures necessary to maintain
166 the threshold level of service. Sussex County, in the latter case, shall set forth in writing
167 their reasons for approving the land use application.

168 ~~12.11.~~ ~~Sussex County does not have the ability to determine what, if any, conditions of~~
169 ~~approval related to roadway improvements or traffic would be appropriate in a given land~~
170 ~~use application. Therefore, if, If,~~ in DelDOT’s opinion, there are appropriate conditions of
171 approval that it recommends should be imposed upon a land use decision, DelDOT shall
172 offer those conditions as part of its TISRL or as part of its Technical Advisory Committee
173 review for consideration by Sussex County. Any such proposed conditions shall be clearly
174 summarized by DelDOT in its analysis of the TOA, the TISRL or other written comments
175 it provides. Preliminary Traffic Analysis. After considering all relevant information
176 regarding the land use application, Sussex County shall consider the proposed conditions
177 but shall not be obligated to include them as part of any approval.

178 ~~13.12.~~ Phasing of land development with highway capacity and safety improvements to
179 restore and maintain a level of service “D” may be required-recommended by DelDOT.
180 To accomplish this, DelDOT should clearly and concisely state what phasing is appropriate
181 for the subject land use application ~~and clearly state that phasing requirement to Sussex~~
182 ~~County~~ so that Sussex County ~~can clearly incorporate it may impose that recommendation~~
183 into its various approvals as appropriate. Sussex County may then impose that phasing

184 requirement as part of its approval of a land use application. Phasing of the project may
185 include (but is not limited to) a consideration the following:

- 186 a. A delay of all or part of the development until specific highway improvements are
187 made by DelDOT or others;
- 188 b. Whether the required highway improvements are being funded or constructed at the
189 developer's own expense;
- 190 c. Whether the developer is participating in, and/or funding, transit or traffic
191 mitigation strategies.

192 The phasing requirements shall be included as a Plan Sheet at the time of Final Site Plan
193 approval. However, whenever possible, DelDOT shall endeavor to state whether a phasing
194 recommendation is likely (with specific details to follow) as part of the TISRL process
195 prior to the Preliminary Site Plan or other public hearing process so that Sussex County,
196 the developer and the public can have an expectation that phasing may be considered as
197 part of the project development. Phasing tied to other types of site plan approval is
198 addressed in a following Section of this MOU regarding Site Plan Coordination.

199 ~~14. Where measures to maintain operations are agreed upon by a developer, both DelDOT and~~
200 ~~Sussex County shall assure that these measures are carried out.~~

201 15.13. When Sussex County believes that expert testimony regarding transportation issues
202 is required to make a land use decision (such as a rezoning, major subdivision, conditional
203 use or Residential Planned Community), DelDOT will provide a suitable representative to
204 attend meetings of the Planning and Zoning Commission and/or County Council. The
205 representative should be someone with specific technical knowledge of the project in
206 particular and also ongoing projects in the area of Sussex County where the project is to
207 occur.

208 16.14. In addition to the project-specific information referenced in the preceding
209 paragraph, DelDOT shall provide regular updates to Sussex County about the status of
210 ongoing and future roadway and transportation projects in the County, so that County
211 Council and the Planning & Zoning Commission have an up-to-date understanding of their
212 status. This shall include both developer-funded and DelDOT-initiated and -funded
213 projects. During these updates, Sussex County will also have an opportunity to discuss
214 other transportation improvements that may be needed in the future.

215 ~~17.15.~~ Whenever possible during the implementation of the foregoing items, Sussex
216 County and DelDOT should encourage master planning for large scale developments on
217 large parcels or groups of parcels in the Town Center, Coastal Area, Developing Area and
218 commercial areas as set forth in the Comprehensive Land Use Plan to provide greater
219 flexibility in design and/or the installation of additional roadways and interconnectivity.

220 ~~18.16.~~ The Sussex County Planning and Zoning Department is responsible for
221 coordinating all required information with Sussex County Council and the Planning and
222 Zoning Commission.

223 ~~19.17.~~ Sussex County shall be entitled to participate in any negotiations between a
224 developer and DelDOT as to roadway improvements. Sussex County may provide input
225 into those negotiations, but DelDOT shall be entitled to make the final determination as to
226 all required roadway improvements and negotiated agreements with a developer. Any
227 agreement reached between a developer and DelDOT as to roadway improvements,
228 phasing of a development, funding of roadway improvements, etc. shall be immediately
229 forwarded to Sussex County for its records with regard to the development. Any
230 subsequent changes or amendments to a DelDOT/developer agreement shall likewise be
231 immediately forwarded to Sussex County. Provided, however, that DelDOT recognizes
232 that if a specific requirement (such as phasing) is incorporated into a land use decision
233 (such as a major subdivision, conditional use or Residential Planned Community), this may
234 not be enforceable by Sussex County without an amendment to the subdivision approval
235 or the ordinance that approved a Residential Planned Community, Conditional Use or
236 certain other rezonings where conditions can be imposed.

237
238

239 **REZONINGS (WITHOUT SITE PLANS OR CONDITIONS OF APPROVAL)**

240 1. Sussex County and DelDOT acknowledge that on a rezoning to a new zoning district where
241 a specific site plan is not under consideration, and where the County cannot impose
242 conditions as part of the rezoning approval, a TIS may not be possible (with the exception
243 of rezonings to Residential Planned Communities and C-4, where specific site plans are
244 considered and conditions can be imposed). This is because the various zoning districts
245 have several permitted uses that are allowed once a rezoning occurs; as a result DelDOT

246 cannot determine, at the time of rezoning, what the actual use will be nor what the traffic
247 and possible roadway improvements will be as a result of it. This requires greater
248 coordination on the part of both Sussex County and DelDOT.

249 2. Whenever possible, DelDOT shall endeavor to provide as much information about the
250 general impacts of the rezoning upon area traffic and roadways as required in the preceding
251 Section prior to the public hearing before Sussex County Council and the Planning &
252 Zoning Commission.

253 3. Whenever DelDOT is approached by a developer with a specific project in mind, DelDOT
254 and that developer may enter into an agreement to obtain a TIS for the project as part of
255 the rezoning process so that the information required as part of the TIS may be included in
256 the record of the public hearings of the rezoning application. Because other possible uses
257 of the property may be permitted under the proposed new zoning, Sussex County is not
258 bound by this information in making its decision on the rezoning. However, if the use that
259 the TIS is based upon changes after the rezoning occurs, another TIS shall be required and
260 Sussex County shall not approve any Preliminary or Final Site Plan for the property until
261 the new TIS is completed with all necessary traffic and roadway improvements determined
262 by DelDOT. Alternatively, if no TIS is performed on a specific project, DelDOT or Sussex
263 County shall have the ability to request a TIS based upon the most impactful permitted use
264 available under the new zoning classification that is sought.

265
266 **SITE PLAN COORDINATION**

267
268 1. Section 115-220D of the Sussex County Zoning Code allows Sussex County to approve
269 certain site plans “subject to conditions”. In any site plan reviewed pursuant to Section
270 115-220 of the Sussex Zoning Code, Sussex County, with the assistance of DelDOT, may
271 impose conditions regarding phasing and the timing of building permits in conjunction
272 with completion of necessary roadway improvements.

273 2. In all site plan reviews, DelDOT will review the site plans in accordance with its rules and
274 regulations for access and roadway improvements. Sussex County will withhold any site
275 plan approval until DelDOT has approved all necessary roadway improvements and
276 entrance design requirements. Provided, however, that this requirement may be waived by

277 Sussex County for minor amendments to existing site plans that changes the trip generation
278 by less than 50 trips per day.

279 3. Sussex County shall withhold the issuance of any building permit until DelDOT has issued
280 the entrance construction permit associated with the project.

281 4. Unless bonded in accordance with DelDOT requirements, DelDOT will withhold an
282 entrance permit until the developer has agreed to construct the access point(s) to
283 Department standards and to provide off-site improvements as may be required to maintain
284 acceptable traffic operation on highways.

285 5. Sussex County will withhold issuance of the Certificate of Compliance until DelDOT has
286 received appropriate bonding or has accepted the entrance construction and issued the
287 notice to the owner that the entrance construction permit has been satisfied.

288 ~~5.6.~~The coordination described in this section shall take into consideration any phasing of the
289 land use project.

290

291 **TRANSPORTATION IMPROVEMENT DISTRICTS**

292 1. In the event that a land use application falls within a Transportation Improvement District
293 (“TID”), the requirements of the TID, as set forth in the TID Agreement, shall supersede
294 the requirements set forth in this MOU.

295

296 IT IS FURTHER RESOLVED that the Secretary of the Delaware Department of Transportation
297 and The County Administrator will affirm this agreement by affixing their signature to the
298 Resolution.

299

300

301 Adopted by the County Council of Sussex County on _____, 2019.

302

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304

President of the County Council of Sussex County

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307

308 The following signatures concurring herein:

309

310 **For Sussex County:**

311

Todd Lawson, Sussex County Administrator

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**For the Department of
Transportation:**

Robert Wheatley, Chairman, Sussex County
Planning & Zoning Commission

Janelle Cornwell, Director of Planning & Zoning

Jennifer Cohan, Secretary



SUSSEX COUNTY GOVERNMENT
GRANT APPLICATION

Ch. Payable to: Eastern Shore AFRAM Festival

SECTION 1 APPLICANT INFORMATION

ORGANIZATION NAME: MLK Day of Celebration

PROJECT NAME: DBA: Community Day for Dr. Martin Luther King Jr

FEDERAL TAX ID: 050 59 5124 NON-PROFIT: YES NO

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

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

ORGANIZATION'S MISSION: Dream it
Believe it
Achieve it

ADDRESS: P.O. Box 687
721 3rd Street
Seaford De 19973
(CITY) (STATE) (ZIP)

CONTACT PERSON: Pat A Jones
TITLE: Executive Director

PHONE: 302 628-1908 EMAIL: Councilwomanpj@comcast.net

TOTAL FUNDING REQUEST: \$500.00

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

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

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

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

If YES, approximately what percentage of the project's funding does the Council grant represent? 25%



SECTION 2: PROGRAM DESCRIPTION

PROGRAM CATEGORY (choose all that apply)

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

BENEFICIARY CATEGORY

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

BENEFICIARY NUMBER

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

approx 250 ppl

SECTION 3: PROGRAM SCOPE

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

Dr. King's National Holiday commemorated locally help us celebrate the life and achievements of Martin Luther King Jr. an influential American civil rights leader. Dr King was most well known for his campaigns to end racial segregation on public transport and for racial equality in the United States.

This family friendly celebration begins with a Community Prayer Breakfast, Keynote Speaker, Recognition Award and spiritual uplifting entertainment.

The latter day will be a Peace March led by local students. Then the Youth Achievement Expo will feature Keynote Speaker, MBE Trivia, essay contest, arts and crafts and much more!!

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

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

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

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

SECTION 4: BUDGET

REVENUE	
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	
TOTAL REVENUES	1,300
EXPENDITURES	
Please enter the total projected budget for the project (not entire organization expense if not applicable to request). Example of expenditure items: PERSONNEL-one lump sum that would include benefits, OPERATING COSTS-supplies, equipment, rent/lease, insurance, printing telephone, CONSTRUCTION/ACQUISITION-acquisition, development, rehab hard cost, physical inspections, architectural engineering, permits and fees, insurance, appraisal. (Put amounts in as a negative)	
Buffet Breakfast	1,250
Entertain ment	485
Speakers 4	500
Decoratoin	500
TOTAL EXPENDITURES	1,835 \$ 0.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	535 \$ 0.00

SECTION 5: STATEMENT OF ASSURANCES

If this grant application is awarded funding, the MLK Day & Celebration agrees that:
(Name of Organization)

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

SECTION 5: STATEMENT OF ASSURANCES (continued)

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

Pat A. Jones

Applicant/Authorized Official Signature

1-15-20

Date

[Signature]

Witness Signature

1-15-20

Date

Completed application can be submitted by:

Email: gjennings@sussexcountyde.gov

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

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

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

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

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

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

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

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

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

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

Pat A. Jones
Applicant/Authorized Official Signature

[Handwritten Signature]
Witness Signature

Executive Director
Title

1/15/2020
Date

Vincent
Rev. 02/2019
1/17/2020



SUSSEX COUNTY GOVERNMENT

GRANT APPLICATION

SECTION 1 APPLICANT INFORMATION

ORGANIZATION NAME: Greater Millsboro Chamber of Commerce

PROJECT NAME: Millsboro Stars & Stripes

FEDERAL TAX ID: 51-0270976 NON-PROFIT: YES NO

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

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

ORGANIZATION'S MISSION: The Mission of the Greater Millsboro Chamber of Commerce (GMCC) is to help make the greater Millsboro / Dagsboro area a better place to live and work by fostering economic development; and by providing enhancements to community life.

ADDRESS: P.O. Box 187

Millsboro DE 19966
(CITY) (STATE) (ZIP)

CONTACT PERSON: Kevin Turner

TITLE: Board President

PHONE: 302-934-6777 EMAIL: info@millsborochamber.com

TOTAL FUNDING REQUEST: \$3,000

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

If YES, how much was received in the last 12 months? \$1,500

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

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

If YES, approximately what percentage of the project's funding does the Council grant represent? 10%

SECTION 2: PROGRAM DESCRIPTION

PROGRAM CATEGORY (choose all that apply)

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

BENEFICIARY CATEGORY

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

BENEFICIARY NUMBER

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

SECTION 3: PROGRAM SCOPE

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

The GMCC is planning its 4th Annual Stars & Stripes celebration on June 27th, 2020. The event has the full support of the Town of Millsboro and its Town Council. The Town has committed \$10,000 to support us in this event. We are pursuing additional funding through sponsorships from local businesses. Last year we were able to raise \$30,000 and more than 3000 people attended Cupola Park, among thousands throughout the streets of our Town. The event once again will be held the Saturday prior to the 4th of July and according to the tentative schedules of the surrounding towns we will be the only ones celebrating that night! Brothers Pyro from Bridgeville, DE will be providing and setting off the pyrotechnics, and this year (2020) we would like to add additional pyrotechnics to enhance the display. The event will also offer entertainment in the form of music, food & craft vendors, and the event will be free to attendees. The fireworks will be launched on Millsboro Pond, and spectators will gather at Cupola Park, as well as other locations throughout the Town. We appreciate your consideration of this grant; our goal is to bring people from Millsboro and the surrounding areas together to enjoy our show and our small town charm.

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

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

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

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

SECTION 4: BUDGET

REVENUE	
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	
TOTAL REVENUES	-10,000.00
EXPENDITURES	
Please enter the total projected budget for the project (not entire organization expense if not applicable to request). Example of expenditure items: PERSONNEL-one lump sum that would include benefits, OPERATING COSTS-supplies, equipment, rent/lease, insurance, printing telephone, CONSTRUCTION/ACQUISITION-acquisition, development, rehab hard cost, physical inspections, architectural engineering, permits and fees, insurance, appraisal. (Put amounts in as a negative)	
Pyrotechniqcs	\$ 20,000.00
Musical Accompaniment	\$ 5,000.00
DJ	\$ 1,000.00
Insurance	\$ 2,000.00
Advertising	\$ 2,000.00
Porta Potties	\$ 1,500.00
Personnel	\$ 500.00
TOTAL EXPENDITURES	\$ 32,000.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	\$ 22,000.00

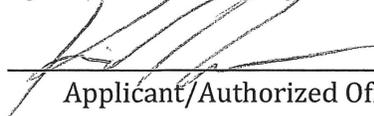
SECTION 5: STATEMENT OF ASSURANCES

If this grant application is awarded funding, the Greater Millsboro Chamber of Commerce agrees that:
(Name of Organization)

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

SECTION 5: STATEMENT OF ASSURANCES (continued)

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



Applicant/Authorized Official Signature

01/13/2020

Date



Witness Signature

01/13/2020

Date

Completed application can be submitted by:

Email: gjennings@sussexcountyde.gov

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



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

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

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

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

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

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

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

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

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



Applicant/Authorized Official Signature



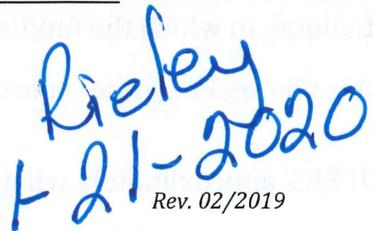
Witness Signature

BOARD PRESIDENT

Title

01/13/2020

Date


Rieley
1-21-2020
Rev. 02/2019



SUSSEX COUNTY GOVERNMENT

GRANT APPLICATION

SECTION 1 APPLICANT INFORMATION

ORGANIZATION NAME: Cape Henlopen Educational Foundation
PROJECT NAME: Teacher Grant Program
FEDERAL TAX ID: EIN 51-0403370 NON-PROFIT: YES NO

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

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

ORGANIZATION'S MISSION: The Cape Henlopen Educational Foundation (CHEF) exists to develop resources and increase community awareness for the Cape Henlopen School District. Our joint mission is to prepare each student for a healthy, creative, productive life in a diverse and global society.

ADDRESS: 1470 Kings Highway
Lewes Delaware 19958
(CITY) (STATE) (ZIP)

CONTACT PERSON: Rick Griener-Reynolds
TITLE: President
PHONE: 302-529-0534 EMAIL: Rgrienerreynolds@gmail.com

TOTAL FUNDING REQUEST: \$ 2000

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

If YES, how much was received in the last 12 months? \$1000

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

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

If YES, approximately what percentage of the project's funding does the Council grant represent? 4%

SECTION 2: PROGRAM DESCRIPTION

PROGRAM CATEGORY (choose all that apply)

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

BENEFICIARY CATEGORY

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

BENEFICIARY NUMBER

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

5500

SECTION 3: PROGRAM SCOPE

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

Section Three: Program Scope

This year the Cape Henlopen Educational Foundation has budgeted \$45,000 for Teacher Grants, field trips, scholarships for students in the performing arts, Teacher of the Year awards, support of the Dolly Parton Imagination Library pre-kindergarten reading program and the Caravan of Caring Program, which provides school supplies for low income and homeless students.

The Teacher Grant program allows teachers to create opportunities for students that otherwise aren't supported in the normal operating budgets.

Our Teacher Grant program is built upon a thorough vetting process and fiscal accountability. All teachers must submit a grant that requires them to identify the specific education expectations via the state standards, are reviewed by school district administrators and reviewed by the entire CHEF board. All teachers are expected to submit receipts and a final report.

Attached are two exhibits to support this application. One is the CHEF brochure, which overviews our 2018-19 activities and the 2018-19 Grant overview sheet.

Let's INSPIRE LEARNING Together!



Cape Henlopen Educational Foundation (CHEF) invites you to Inspire Learning at our 9 Cape Henlopen School District locations.

We're asking you to become a "Friend of Cape" and support the growth and development of our 5,000+ Cape students.

A LITTLE BACKGROUND ABOUT CHEF...

Since 2006, we've worked closely with Cape District teachers and administrators to identify student needs, with a special focus on STEM, the arts, personal and career development, and ensuring limited income young people have equal opportunities for growth.

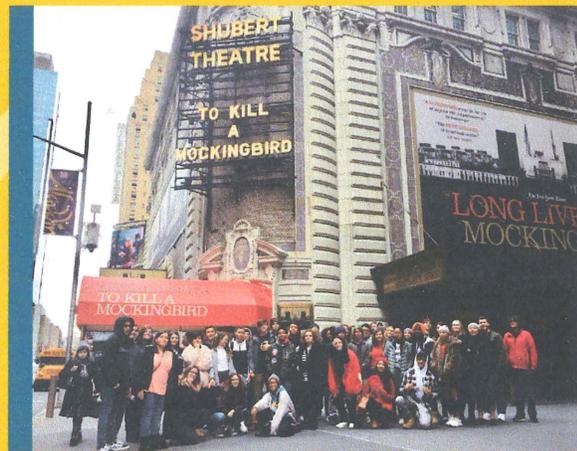
We are one of only two nonprofit foundations in Delaware that supports public education, and we're the principal funding source for "beyond the textbook" Cape programs. Our mission is to prepare students for productive lives in a diverse society. To accomplish this we need to engage the entire community in providing students with the tools they need to excel.

Here's how we're partnering with the Cape District, and why we need your help...

Be a "Friend of Cape"



The Hook Book Series was purchased for the 2nd Graders at HOB, with funding from CHEF.



With CHEF's support, 52 At-Risk and Special Education students from Cape High School were selected to see 'To Kill A Mockingbird' in NYC with their English class.



With help from CHEF, students from Mariner Middle School performed Aladdin Jr. at the Milton Theatre for an authentic theatre performance experience.



CHEF Provides Funds That Make STEM and the Arts “Come Alive” at Cape

A majority of the jobs of the future will be in science and technology, so we’re funding opportunities for Cape students to discover and develop their skills in these areas. In 2018 we helped H.O. Brittingham ES start a Robotics Club, and they represented Delaware at the World Championships this year. **We continue to contribute to skills-building initiatives like science fairs and field trips, math competitions and computer software programs.**

We are strong advocates for arts education, and encourage students to explore their creative talents.

Our grants support visual and performing arts activities at all grade levels: **elementary school theatre productions; band and choral competitions for middle school; Cape Chorale, mainstage theatre, Jazz Band, crafts resources (recently a new potters wheel) and many other opportunities for creative expression.** We also fund summer arts scholarships for young artists nominated by Cape faculty.



Students from the HOB Robotics Club were invited to attend the VexIQ World Championships in Louisville, KY., which CHEF helped make possible.



CHEF helped the 3rd Grade students from Love Creek Elementary visit the Lewes Wastewater Reclamation Plant to have a hands-on experience learning about water filters for Science.



CHEF helped make it possible for Cape High School's Cape Chorale to go to Washington, DC to sing at the National Christmas Tree on the South White House lawn.



CHEF Promotes Diversity and Equal Opportunities for Participation

CHEF provides resources for a wide range of initiatives which promote diversity and inclusion, build self-esteem and ensure that limited income students can participate fully in class activities. These include the following...

Our funding for Odyssey of the Mind and other state and national competitions ensures that all student participants can attend, regardless of family income.

We contribute to DigiGirlz Day at DelTech, which encourages 8th and 9th grade girls to engage in lively discussions about careers in science, technology and math.

CHEF supports "Girl Talk", which connects middle school girls with high school girls who serve as their mentors.

We also partner with Cape High's Department of Homeless Services to provide homeless students with supplies to begin the school year (Caravan of Caring) and family holiday gifts.



CHEF held a school supply drive for all the schools in the Cape school district so that they would have supplies for children that were in need in their classrooms. This photo is from Love Creek Elementary.



Winners from the Regional Odyssey of the Mind competition. The winners represented several different Cape district elementary schools. CHEF supports Odyssey of the Mind every year.

CHEF Engages the Entire Community in Providing Tools to Help Students Excel

- Our popular annual “Winter Jam ‘19” fundraiser, sponsored by 60 local businesses (including principal sponsor Jack Lingo REALTOR®) was a great expression of support from the community.
- We “pool resources” with local foundations, churches and individual donors to support educational initiatives at our Lewes, Rehoboth and Milton-based public schools

However, as student enrollments continue to grow dramatically, it’s becoming more and more difficult to fund all the quality requests we receive.

That’s why it’s important to continue to expand our “circle of friends”. **To sign up as a “Friend of Cape”, please click on the link below**, which will connect you to our website. We hope you’ll encourage your family and friends to participate as well and join us at CHEF events.

www.chef-cape.org

Your support for our public school students and future leaders will be greatly appreciated!

With sincerest thanks!

Rick Grier-Reynolds

Bob Fulton
Superintendent,
Cape Henlopen School District

Rick Grier-Reynolds
President,
Cape Henlopen Educational Foundation



With funding support from CHEF, Plant Science/Horticulture students were able to complete a real-world project to enhance Cape High School’s courtyard area.



Two students from the Cape district PreK program, Little Vikings, enjoy new play materials purchased by CHEF for their classrooms.



1270 Kings Highway | Lewes, DE 19958

CHEF is a 501(c)(3) not-for-profit organization
(tax code 501-0403370)



Our annual Winter Jam event which is the largest fundraiser of the year for CHEF.

CAPE HENLOPEN EDUCATIONAL FOUNDATION

2018-2019 Grants

#	Teacher	Applicant Title	Email Address	Project Name	Requested	Students	Approved	Funds Used	Report	Receipts	Pictures
JULY											
1	Eileen Springfield	English Teacher	eileen.springfield@cape.k12.de.us	"To Kill a Mockingbird" on Broadway	\$1,000.00	49	\$1,000.00	\$1,000.00	X	X	X
SEPTEMBER											
2	Nikki Miller	Principal	nikki.miller@cape.k12.de.us	iPad Insurance Help for Needy Students	\$500.00	16	\$500.00	\$452.00	X	X	X
3	Gabriel Martinez	Marketing Teacher	gabriel.martinez@cape.k12.de.us	School Environment Improvement	\$500.00	120	\$500.00	\$0.00			
4	Gabriel Martinez	Marketing Teacher	gabriel.martinez@cape.k12.de.us	Cape Communications and Publications	\$2,000.00	30	\$1,716.00	\$676.00	X	X	X
5	Amy Soni	8th Grade LA Teacher	amy.soni@cape.k12.de.us	Literature Alive!	\$2,500.00	200	\$2,500.00	\$2,500.00	X	X	X
OCTOBER											
6	Shawna Steinmann	Assistant MV Liaison	shawna.steinmann@cape.k12.de.us	Community Caring	\$1,000.00	300	\$1,000.00		X		X
7	Kristian Schmidt	Mock Trial Advisor	kristian.schmidt@cape.k12.de.us	Mock Trial Competition	\$1,500.00	15	\$1,500.00	\$1,500.00	X	X	X
8	Mark Morey	Robotics Coach	mark.morey@cape.k12.de.us	Robotics Competition	\$1,100.00	20	\$1,100.00	\$1,100.00	X	X	X
9	Esther Kernosh	Science Olympiad Coach	esther.kernosh@cape.k12.de.us	Science Olympiad Competition	\$1,489.95	30	\$1,489.95	\$1,169.51	X	X	X
10	Marian Sunnergren	Choir Director	marian.sunnergren@cape.k12.de.us	Cape Chorale Goes to Washington DC	\$2,000.00	23	\$2,000.00	\$2,000.00	X	X	X
NOVEMBER											
44	Carly Zych	8th Grade SS Teacher	carly.zych@cape.k12.de.us	Florida Trip	\$2,500.00	65	\$1,250.00	\$0.00			
12	Michelle Frederick	1st Grade Teacher	michelle.frederick@cape.k12.de.us	I Can Read	\$1,200.00	125	\$1,200.00	\$1,200.00	X	X	X
13	Kaitlin Kresse	Music Teacher	kaitlin.kresse@cape.k12.de.us	"Link Up" with Delaware Symphony Orchestra	\$800.00	131	\$800.00		X		X
DECEMBER											
14	Nicole Mohacey	Special Education Teacher	nicole.mohacey@cape.k12.de.us	Social Skills Development	\$500.00	78	\$500.00	\$481.66	X	X	X
15	Chris Burkhart	Music Teacher	christopher.burkhart@cape.k12.de.us	Cape Jazz to Shenandoah Conservatory	\$3,265.00	5	\$710.00	\$693.73	X	X	X
JANUARY											
16	Julie Keefer	Chorus/Music Teacher	julie.keefer@cape.k12.de.us	Shrek the Musical, Jr.	\$500.00	50	\$500.00	\$500.00	X	X	X
17	Kellyann Palladino	Art Teacher	kellyann.palladino@cape.k12.de.us	African Photography	\$600.00	100	\$600.00		X		X
18	Brian Mahoney	Music Teacher	brian.mahoney@cape.k12.de.us	All-County Honors Band	\$400.00	90	\$400.00	\$400.00	X	X	X
FEBRUARY											
19	Juleeann Schlitter	Music Teacher	juleeann.schlitter@cape.k12.de.us	8th Grade Chorus Trip	\$500.00	44	\$500.00	\$500.00	X	X	X
MARCH											
20	Bruce Leibu	High School Teacher	bruce.leibu@cape.k12.de.us	Student Television Network National	\$3,195.00	2	\$200.00	\$200.00	X	X	X
21	Jacqueline Kisiel	5th Grade Teacher	jacqueline.kisiel@cape.k12.de.us	5th Grade Science Fair	\$1,000.00	450	\$500.00	\$500.00	X	X	X
22	Alfredo Rodriguez	Elementary Teacher	alfredo.rodriguez@cape.k12.de.us	Love Creek "Cape Gents"	\$326.63	12	\$200.00	\$176.30	X	X	X
23	Pam Willmot	Special Education Teacher	pamela.willmot@cape.k12.de.us	Field of Dreams	\$500.00	54	\$500.00	\$500.00	X	X	X
24	Mark Morey	Robotics Coach	mark.morey@cape.k12.de.us	Vex IQ World Championship	\$975.00	4	\$400.00				
25	Suzanne McKone	Library Media Specialist	suzanne.mckone@cape.k12.de.us	Book Club Literacy	\$460.00	42	\$460.00				
APRIL											
26	William Geppert	Robotics Teacher	bill.geppert@cape.k12.de.us	2019 VEX Robotics World Championship	\$1,500.00	15	\$150.00				
27	Cheryl Baldwin	OM Coordinator	cheryl.baldwin@cape.k12.de.us	Odyssey of the Mind World Pins and T-Shirts	\$7,280.00	56	\$800.00		X		X
28	Carly Zych	8th Grade SS Teacher	carly.zych@cape.k12.de.us	8th Grade Washington DC Trip	\$500.00	200	\$500.00	\$0.00			
29	Robin Corrozi	STEAM Coordinator	robin.corrozi@cape.k12.de.us	Girls Who STEAM	\$500.00	25	\$300.00	\$246.10	X	X	X
30	Lillian Williams	Student - BMS	melissawilliams@outlook.com	Lessons at NEMC	\$1,400.00	1	\$500.00	\$500.00	N/A	X	N/A
31	Isaac Weathersby	Student - CHHS	elizabethweathersby@comcast.net	Lessons and Gas at B&B, Dover, DE	\$500.00	1	\$330.00	\$330.00	N/A	X	N/A
32	Adrianna Powell	Student - MMS	katina.bell@cape.k12.de.us	Three Lessons at Clear Space	\$1,050.00	1	\$350.00	\$350.00	N/A	X	N/A
TOTALS					\$43,041.58	2344	\$24,955.95	\$16,975.30			
			Did Not Submit to CHEF								
			\$0.00 Returned the CHEF Grant Money								

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

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

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

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

N/A

SECTION 4: BUDGET

REVENUE	
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	
TOTAL REVENUES	45,000
EXPENDITURES	
Please enter the total projected budget for the project (not entire organization expense if not applicable to request). Example of expenditure items: PERSONNEL-one lump sum that would include benefits, OPERATING COSTS-supplies, equipment, rent/lease, insurance, printing telephone, CONSTRUCTION/ACQUISITION-acquisition, development, rehab hard cost, physical inspections, architectural engineering, permits and fees, insurance, appraisal. (Put amounts in as a negative)	
TOTAL EXPENDITURES	45,000 \$ 0.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	\$ 0.00

SECTION 5: STATEMENT OF ASSURANCES

If this grant application is awarded funding, the CAPE HANLOREN EDUCATIONAL FOUNDATION agrees that:
(Name of Organization)

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

SECTION 5: STATEMENT OF ASSURANCES (continued)

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

Robin Reynolds
Applicant/Authorized Official Signature

1/13/20
Date

Joshua Green-Teppold
Witness Signature

Date

Completed application can be submitted by:

Email: gjennings@sussexcountyde.gov

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

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

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

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

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

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

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

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

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

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

RSBui-Reynolds

Applicant/Authorized Official Signature

Jacquel Jiri-Reynolds

Witness Signature

President CHEF

Title Cape Henlopen Educational Foundation

1/13/20

Date

Hudson
1-16-2020

To Be Re-Introduced 01/28/20

Council District No. 4 – Hudson

Tax I.D. No. 134-12.00-74.00

911 Address: 31434 Railway Road, Ocean View

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY (200 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 50.62 ACRES, MORE OR LESS

WHEREAS, on the 17th day of September 2019, a conditional use application, denominated Conditional Use No. 2206, was filed on behalf of Linder & Company, Inc. (Evans Farm); and

WHEREAS, on the ____ day of _____ 2020, 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. 2206 be _____; and

WHEREAS, on the ____ day of _____ 2020, 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 115-39, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2206 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 corner of Old Mill Road and Railway Road, also being on the south side of Railway Road approximately 696 feet northeast of Old Mill Road, and being more particularly described in the attached legal description prepared by Pennoni Associates, Inc., said parcel containing 50.62 acres, more or less.

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

To Be Introduced 01/28/20

Council District No. 3 – Burton

Tax I.D. No. 230-20.00-9.09

911 Address: 11412 Holly Tree Road, Lincoln

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FENCE CONSTRUCTION BUSINESS AND FOR OUTDOOR STORAGE OF CONSTRUCTION MATERIALS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 6.00 ACRES, MORE OR LESS

WHEREAS, on the 7th day of January 2020, a conditional use application, denominated Conditional Use No. 2220, was filed on behalf of Sussex Land Company; and

WHEREAS, on the ____ day of _____ 2020, 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. 2220 be _____; and

WHEREAS, on the ____ day of _____ 2020, 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. 2220 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Cedar Creek Hundred, Sussex County, Delaware, and lying on the west side of Holly Tree Road, approximately 0.21 mile south of Fleatown Road, and being more particularly described in the attached legal description prepared by The Smith Firm, LLC, said parcel containing 6.00 acres, more or less.

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

To Be Introduced 01/28/20

**Council District No. 5 – Rieley
Tax I.D. No. 134-15.00-20.06
911 Address: Not Available**

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-2 BUSINESS COMMUNITY DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 10.06 ACRES, MORE OR LESS

WHEREAS, on the 9th day of December 2019, a zoning application, denominated Change of Zone No. 1914, was filed on behalf of Ronald E. and M. Candice Gray; and

WHEREAS, on the ____ day of _____ 2020, 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. 1914 be _____; and

WHEREAS, on the ____ day of _____ 2020, 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 of B-2 Business Community 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 northwest side of Roxana Road, and being more particularly described in the attached legal description prepared by Tomasetti Law, LLC, said parcel containing 10.06 acres, more or less.

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

To Be Introduced 01/28/20

**Council District No. 5 – Rieley
Tax I.D. No. 533-11.00-78.04
911 Address: Not Available**

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-3 BUSINESS RESEARCH DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 17.15 ACRES, MORE OR LESS

WHEREAS, on the 19th day of December 2019, a zoning application, denominated Change of Zone No. 1915, was filed on behalf of Fisher’s Popcorn Fenwick, LLC; and

WHEREAS, on the ____ day of _____ 2020, 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. 1915 be _____; and

WHEREAS, on the ____ day of _____ 2020, 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 of B-3 Business Research District as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on the north side of Zion Church Road, and being more particularly described in the attached legal description prepared by Sarah L. Ford of Land Design, Inc., said parcel containing 17.15 acres, more or less.

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

To Be Introduced 01/28/20

**Council District No. 3 – Burton
Tax I.D. No. 235-23.00-54.01, 54.02, and 54.05
911 Address: Not Available**

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 3.03 ACRES, MORE OR LESS

WHEREAS, on the 2nd day of January 2020, a zoning application, denominated Change of Zone No. 1916, was filed on behalf of Alice P. Robinson, Trustee; and

WHEREAS, on the ____ day of _____ 2020, 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. 1916 be _____; and

WHEREAS, on the ____ day of _____ 2020, 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 of C-2 Medium Commercial 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 Broadkill Hundred, Sussex County, Delaware, and lying on the southwest side of Coastal Highway (Route 1), approximately 458 feet south of Cave Neck Road, and being more particularly described in the attached legal description prepared by Pennoni, said parcel containing 3.03 acres, more or less.

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

To Be Introduced 01/28/20

**Council District No. 5 – Rieley
Tax I.D. No. 533-18.00-28.01
911 Address: 33175 Lighthouse Road, Selbyville**

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.504 ACRE, MORE OR LESS

WHEREAS, on the 7th day of January 2020, a zoning application, denominated Change of Zone No. 1917, was filed on behalf of Iacchetta Development Corporation; and

WHEREAS, on the ____ day of _____ 2020, 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. 1917 be _____; and

WHEREAS, on the ____ day of _____ 2020, 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 of C-2 Medium Commercial District as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on the north side of Lighthouse Road (Route 54), approximately 293.7 feet west of W Line Road, and being more particularly described in the attached legal description prepared by Raymond E. Tomasetti, Jr., said parcel containing 0.504 acre, more or less.

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

To Be Introduced 01/28/20

**Council District No. 4 – Hudson
Tax I.D. No. 234-33.00-55.00
911 Address: 28517 Warwick Road, Millsboro**

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 7.10 ACRES, MORE OR LESS

WHEREAS, on the 7th day of January 2020, a zoning application, denominated Change of Zone No. 1918, was filed on behalf of Mark A. Casey; and

WHEREAS, on the ____ day of _____ 2020, 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. 1918 be _____; and

WHEREAS, on the ____ day of _____ 2020, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article II, Subsection 115-7, Code of Sussex County, be amended by deleting from the Comprehensive Zoning Map of Sussex County the zoning classification of [MR Medium Density Residential District] and adding in lieu thereof the designation of AR-1 Agricultural Residential District as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Indian River Hundred, Sussex County, Delaware, and lying on the southeast corner of Warwick Road and Downs Landing Road, and being more particularly described in the attached legal description prepared by Tomasetti Law, LLC, said parcel containing 7.10 acres, more or less.

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

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



Sussex County
DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Council
The Honorable Michael H. Vincent, President
The Honorable Irwin G. Burton III, Vice President
The Honorable Douglas B. Hudson
The Honorable John L. Rieley
The Honorable Samuel R. Wilson, Jr.

From: Jamie Whitehouse, AICP, Planning & Zoning Manager

CC: Everett Moore, County Attorney

Date: January 23, 2020

RE: County Council Report for CU 2199 OA Rehoboth, LLC

The Planning and Zoning Department received an application (CU 2199 OA Rehoboth, LLC) for a Conditional Use for parcels 334-12.00-127.01 and 127.10 for multi-family (224 Units) to be located on an 18.792 ac. parcel of land lying on the south side of John J. Williams Hwy (Rt. 24), approximately 0.29 mile east of Warrington Rd. The Planning and Zoning Commission held a public hearing on December 12, 2019. The following are the draft minutes for the Conditional Use application from the Planning and Zoning Commission meetings.

C/U 2199 OA – Rehoboth, LLC

An Ordinance to grant a Conditional Use of land in a CR-1 Commercial Residential District for multi-family (224 units) to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 18.793 acres, more or less. The property is lying on the south side of John J. Williams Hwy. (Rt. 24), approximately 0.29 mile east of Warrington Rd. 911 Address: N/A. Tax Parcels: 334-12.00-127.01 and 127.10.

Mr. Robertson recused himself for this application, and Mr. Jamie Sharp conducted the hearing.

Ms. Cornwell advised the Commission that submitted into the record were an Exhibit Booklet, Site Plan, comments from DelDOT regarding the Service Level Evaluation, comments from the Sussex Conservation District, and comments and responses back to the PLUS letter. There was one letter in opposition to this Application.

That the Commission found that Mr. James Fuqua, Esquire, was present on behalf of the application and was representing the Applicant OA – Rehoboth, LLC., that present are Preston Schell, member of OA – Rehoboth, LLC, and Zach Crouch of Davis, Bowen and Friedel; that an Exhibit Book was submitted into the record; that this is an application for a Conditional Use for 224-unit apartment



development, comprised of seven buildings containing 32 residential units each; that the development would be located on part of an 18.793 parcel; that the land is located behind the Rehoboth Mall on the west side of Route 1; that the parcel would be an infill parcel surrounded by existing development; that there are two partially-developed roads in this area; one is a private access road and the other is a connector road to the Beebe Medical facility which will become a public road maintained by DelDOT and will connect Route 24 to Old Landing Road; that the land is zoned CR-1 (Commercial Residential Zoning District); that the land can be developed for any use in the CR-1 Zoning District; that the Applicant plans to develop an apartment development on the eastern portion of the site and retain approximately 4.7 acres for future non-residential development; that the proposed 224 residential units will use all the maximum allowable residential density there will be no residential development on the 4.7 acre portion of the site; that the apartment development will allow for an appropriate transition from the residential uses to the south and the commercial and medical uses to the north and west; that the residential development will result in less traffic than a commercial development; that under the strategies for State policies in spending, the property is designated as being in Investment Level II and is an area where growth is anticipated; that the office of State Planning has no objection to the proposed development; that under the Sussex County Zoning Ordinance the land is zoned Commercial Residential which permits a variety of commercial uses in addition to residential use; that multi-family units are a permissible use if a Conditional Use is obtained; that the Sussex County Comprehensive Plan states that this area is designated as the Coastal Area and is surrounded by other Coastal Area lands and other Commercially zoned lands; that the Comprehensive Plan states that there should be a range of housing types in the Coastal Area; that the Comprehensive Plan states that the higher density of 4 – 12 units per acre can be appropriate in certain locations; that the Comprehensive Plan states that the higher density is appropriate in areas that are served by central water and sewer, areas close to commercial uses and employment centers, sites that would be consistent with the character of the area, sites along main roads or near major intersections, and sites with adequate DelDOT service; that the Applicant's request for a Conditional Use meets the standards put forth in the Comprehensive Plan; that the site is currently cleared; that there are no wetlands on the property; that the site is not in the 100-year flood plain; that it is located in flood zone X; that there are not archaeological sites or historical registered buildings associated with the property; that stormwater management will be designed to DNREC's specifications; that the site is in the Cape Henlopen School District and the Rehoboth Beach volunteer fire company; that 403 parking spaces are being provided; that street lighting will be non-intrusive; that sidewalks will be located next to the buildings and will extend out to the access road; that there will be a community building, a deck, a swimming pool, a playground and an enclosed dog park; that there will be a central mailbox; that there will be a school bus stop, the location would be coordinated with the School District; that there are three DART bus stops in close proximity; that there will be a landscape plan for the property and will be submitted as part of the site plan process; and that this proposal at this location is in accordance with the provisions of the State Strategies Plan; the Sussex County Zoning Ordinance, the 2019 Comprehensive Plan and is located in an area defined by the Delaware State Housing Authority as an area of opportunity and strongly supports.

Ms. Stevenson asked for clarification about the uses allowed on the 4.7 acres of the property which will not be developed at this time. Mr. Fuqua responded that the 4.7-acre parcel will not be for residential use as the apartment units will take all the residential density allowed for the property; that at some time in the future the 4.7 acres could be developed for any permitted use in the CR-1 Zoning

District. Mr. Schell gave some examples of mixed-use development in the area and stated that this is a smart use of this type of land. Ms. Stevenson asked when the access road would be developed. Mr. Fuqua stated that the onus to complete the access road will be on whichever development moves forward first, that it could be the Applicant, Artisan's Bank or a combination of both. Mr. Schell stated that before the first building is completed that the road must be completed to make the connection. Ms. Stevenson asked which direction water would run on the property as it is at a higher elevation than the adjacent property. Mr. Crouch responded that there will be catch basins on the access road which connect to the DelDOT system.

Ms. Wingate asked for clarification regarding the number of parking spaces. Mr. Fuqua stated that there will be 403 parking spaces.

Marc Cote, Assistant Director of Planning for Delaware Department of Transportation stated that he is available to answer any questions from the Commission; that Mr. Cote confirmed that Mr. Fuqua has correctly outlined the level of coordination between the Applicant and DelDOT; that the Route 24 project will begin in the spring (2020); that DelDOT is working with the Applicant on the alignment of the connector road from Old Landing up to Route 24 which is part of DelDOT's six-year Capital Transportation Program (CTP).

The Commission found that one person spoke in favor to and none in opposition to the Application.

Ms. Kathleen Baker stated that she is representing the Sterling Crossing Community; that the Community endorses this Application and they appreciate the new connector road.

Upon there being no one else wishing to speak, Chairman Wheatley closed the public hearing for this Application.

At the conclusion of the public hearings, the Commission discussed this Application.

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

Planning and Zoning Commission Meeting – January 9, 2020

The Commission discussed the application which has been deferred since December 12, 2019.

Ms. Stevenson moved that the Commission recommend approval of Conditional Use 2199 for OA REHOBOTH, LLC for multi-family units based on the record made during the public hearing and for the following reasons:

1. The Applicant is proposing a Conditional Use to develop a residential rental apartment containing 224 units on land located between Route 24 and Old Landing Road behind the Rehoboth Mall on the west side of Route 1.
2. Under the 2018 Sussex County Comprehensive Plan, the site is in the Coastal Areas and is surrounded by Coastal and Commercial Areas which are "growth areas" as designated on the future land use map.
3. The plan states that a range of housing types should be permitted in Coastal Areas and that higher density residential development of up to 12 units per acre can be appropriate

- in locations where: 1) Central water and sewer are utilized, 2) the site is near sufficient commercial uses and employment centers, 3) it is in keeping with the character of the area, 4) it is along a main road or near a major intersection, 5) there is an adequate level of service, or 6) where there are other relevant considerations.
4. Central water will be provided by Tidewater Utilities and central sewer will be provided as part of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District. The County Engineering Department indicated that adequate wastewater capacity is available to serve the proposed development.
 5. The site is centrally located in the Route 1 commercial corridor near numerous retail and service, commercial uses and employment centers. The site is adjacent to the Rehoboth Mall, Delaware Eye Institute, and Beebe Hospital Campus and there are 3 DART bus stops within walking distance of the site.
 6. The site is an undeveloped "infill" parcel predominantly surrounded by commercial uses and commercially zoned land with residential uses to the south. The site is currently zoned CR-1 which permits by right any of the permitted uses listed in the CR-1 district.
 7. The site is located near the intersection of Route 1 and Route 24, two principal roadways in Eastern Sussex County and will have access to Route 24.
 8. DelDOT determined that the developer could contribute to an area wide study fee in lieu of a Traffic Impact Study. The estimated vehicle trips per day generated by the proposed use is less than traffic that would be generated by other uses currently permitted by the existing CR-1 zoning. The Applicant will dedicate land and contribute to the cost of a DelDOT planned connector road from Route 24 to Old Landing Road.
 9. The proposed apartment development will provide a local housing option for moderate income residents who constitute a significant percentage of the workforce in the Lewes-Rehoboth area but, because of the high price of homes and lack of rental units, are unable to live near their place of employment. This results in long commuting time, increased transportation costs, and increased traffic.
 10. The proposed development at this location is in accordance with the goals of the housing element of the Comprehensive Plan and is consistent with the recommendations of the Sussex County Housing Opportunities and Market Evaluation Report.
 11. The proposed development is strongly supported by the Delaware State Housing Authority since it will provide a more affordable housing product in the coastal resort area where the need for workforce housing exists. Based on the site's location in a DSHA defined "Area of Opportunity", where employment opportunities, major roadways, and supportive infrastructure exist, DSHA deems the site an excellent location for more affordable housing product and rental units are vital to any well-balance community.
 12. The Applicant has addressed the items to be considered by Section 99-9(c) of the Subdivision Code and the Environmental Assessment and Public Facility Evaluation Report.
 13. With the conditions imposed, the proposed Conditional Use meets the purposes of the Zoning Ordinance, the Comprehensive Plan and Title 9 Chapter 69 of the Delaware Code in that the proposed Conditional Use is essential and desirable for the general convenience and welfare and promotes the health, safety, morale, convenience, order, prosperity, and welfare of the present and future residents of Sussex County.
 14. There was no evidence that the use will adversely affect neighboring properties.
 15. No parties appeared in opposition to this application. Rather, the Commission received evidence of support from the neighboring Sterling Crossing community.

16. This recommendation is subject to the following conditions which will serve to minimize any potential impacts on the surrounding area and adjoining properties:
 - A) The maximum number of residential apartment units shall not exceed 224 units located in no more than 7 buildings.
 - B) All entrances, intersections, interconnections, roadways, and multi-modal improvements required by DelDOT shall be completed in accordance with DelDOT's requirements.
 - C) The Applicant shall dedicate land and contribute to the cost of a DelDOT planned connector road from Route 24 to Old Landing Road.
 - D) The development shall be served as part of a Sussex County Sanitary District. The developer shall comply with all requirements and specifications of the County Engineering Department.
 - E) The development shall be served by central water.
 - F) 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 which is consistent with Best Management Practices.
 - G) Recreational amenities, including a community clubhouse, outdoor swimming pool, playground, and enclosed dog park shall be completed prior to the issuance of a building permit for the 4th multi-family building.
 - H) Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Departments.
 - I) If required by the school district, the location for a school bus shelter shall be coordinated with the local school district's transportation manager. The location of the bus stop shelter shall be shown on the Final Site Plan.
 - J) No outdoor construction activities or deliveries of dirt, fill, or similar material shall occur at the site except between the hours of 7:30 am through 7:30 p.m. Monday through Friday and between 8:00 am through 5:00 pm on Saturdays. There shall be no construction, site work, grading, or deliveries at the site on Sundays.
 - K) The design of interior drives shall meet or exceed Sussex County road design standards and requirements.
 - L) The use shall comply with all Sussex County parking requirements.
 - M) One lighted entrance sign, not to exceed 32 square feet per side, shall be permitted.
 - N) Space in the community clubhouse or in 1 unit shall be permitted as an on-site management office.
 - O) The Applicant or its assigns shall be responsible for the maintenance of interior drives, parking areas, buildings, buffers, stormwater management, recreational amenities, and all open space.
 - P) A revised Preliminary Site Plan either depicting or noting these conditions must be submitted to the Sussex County Office of Planning and Zoning. The Staff shall approve the Revised Preliminary Site Plan upon confirmation that the Conditions of Approval have been depicted or noted on it.
 - Q) The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
 - R) The Final Site plan shall include a landscape plan for all buffer areas showing all the landscaping and vegetation to be included in the buffer areas.

- S) The Final Site Plan shall be subject to the review and approval of the Planning & Zoning Commission.

Motion by Ms. Stevenson and seconded by Mr. Hopkins to approve CU 2199 – OA Rehoboth LLC for the reasons and the conditions as stated in the motion. Motion carried 5-0.

PLANNING & ZONING

JANELLE M. CORNWELL, AICP
DIRECTOR

(302) 855-7878 T
(302) 854-5079 F



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Planning Commission Members
From: Jamie Whitehouse, Planning & Zoning Manager
CC: Vince Robertson, Assistant County Attorney and Applicant
Date: December 5, 2019
RE: Staff Analysis for CU 2199 OA Rehoboth, LLC

This memo is to provide background and analysis for the Planning Commission to consider as part of application CU 2199 OA Rehoboth, LLC to be reviewed during the December 12, 2019 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 parcels 334-12.00-127.01 & 127.10 to allow for Multi-Family (224 Units). The size of the property to be used as the Conditional Use is 18.7 Acres +/-.

The application site forms part of a lands associated with application CZ 1732, which was approved for a Change of Zone from AR-1 (Agricultural Residential Zoning District) to CR-1 (Commercial Residential Zoning District) on September 24, 2013.

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 indicates that the property has the land use designation of "Coastal Area". The Coastal Areas land use designation recognizes that *"a range of housing types should be permitted in Coastal Areas, including single family homes, townhouses, and multi-family units."*

The adjoining lands to the north, north-east and south-west are all designated on the Future Land use Map as Commercial Areas. Many of these parcels contain commercial uses.

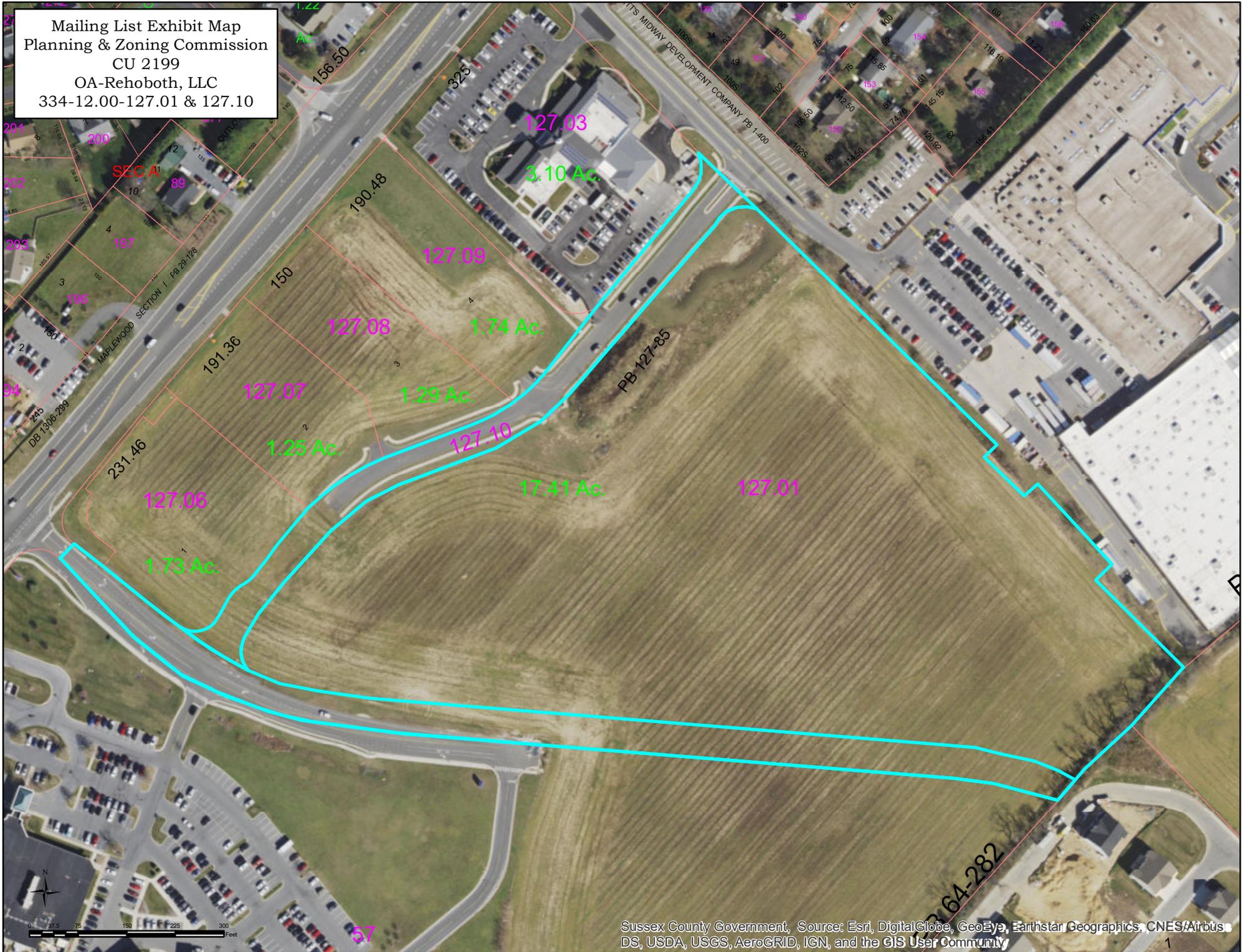
The application property, and the four parcels to the north west along John J. Williams Highway are all zoned CR-1 (Commercial Residential Zoning District). The properties to the north and north-east are zoned C-1 (General Commercial Zoning District). The parcels to the south, which include the Beebe Medical Center, are zoned AR-1 (Agricultural Residential District).

There are other Conditional Use approvals within a 1-mile radius of the application site. Since 2011, there has been one Conditional Use approval (CU 2072) for multi-family dwelling structures (20 units) on a 5.1 acre parcel of land (Tax Parcel 334-13.00-27.00) that was approved on May 23, 2017, subject to conditions of approval.

Based on the analysis of the land use, surrounding zoning and uses, the Conditional Use to allow for multi-family dwellings, subject to consideration of the scale and impact of the use, could be considered as being consistent with the land use, area zoning and adjoining uses.



Mailing List Exhibit Map
Planning & Zoning Commission
CU 2199
OA-Rehoboth, LLC
334-12.00-127.01 & 127.10



Introduced 10/29/19 (Reintroduction)

**Council District No. 4 – Hudson
Tax I.D. No. 334-12.00-127.01 and 127.10
911 Address: Not Available**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY (224 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 18.793 ACRES, MORE OR LESS

WHEREAS, on the 8th day of August 2019, a conditional use application, denominated Conditional Use No. 2199, was filed on behalf of OA-Rehoboth, LLC; and

WHEREAS, on the ____ day of _____ 2020, 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. 2199 be _____; and

WHEREAS, on the ____ day of _____ 2020, 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 XIA, Subsection 115-83.5, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2199 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 and Rehoboth Hundred, Sussex County, Delaware, and lying south of John J. Williams Highway (Route 24), approximately 0.29 mile east of Warrington Road, and being more particularly described in the attached legal description prepared by Davis, Bowen & Friedel, Inc., said parcel containing 18.793 acres, more or less.

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

JAMIE WHITEHOUSE, AICP
PLANNING & ZONING MANAGER
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jamie.whitehouse@sussexcountyde.gov



Sussex County
DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Council
The Honorable Michael H. Vincent, President
The Honorable Irwin G. Burton III, Vice President
The Honorable Douglas B. Hudson
The Honorable John L. Rieley
The Honorable Samuel R. Wilson, Jr.

From: Jamie Whitehouse, AICP, Planning & Zoning Manager

CC: Everett Moore, County Attorney

Date: January 23, 2020

RE: County Council Report for CZ 1900 Michael P. Justice, Trustee

The Planning and Zoning Department received an application (CZ 1900 filed on behalf of Michael P. Justice, Trustee) to amend the Comprehensive Zoning Map for parcel 134-16.00-51.00 from a GR General Residential District to a General Residential District – Residential Planned Community (GR-RPC). The Parcel is located on a certain parcel of land lying west of Parker House Road, approximately 0.35 mile south of Beaver Dam Road. The Planning and Zoning Commission held a public hearing on December 12, 2019. The following are the draft minutes for the Change of Zone from the Planning and Zoning Commission meetings.

C/Z 1900 Michael P. Justice, Trustee

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from a GR General Residential District to a GR-RPC General Residential District – Residential Planned Community for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 16.1 acres, more or less. The property is lying on the west side of Parker House Rd., approximately 0.35 mile south of Beaver Dam Rd. 911 Address: N/A. Tax Parcel: 134-16.00-51.00.

Ms. Cornwell advised the Commission that submitted into the record were a Site Plan, an exhibit booklet, comments from DelDOT, comments from Sussex Conservation District and one letter in opposition to the Application.

That the Commission found that Mr. John Sergovic, Esquire, was present on behalf of the Application and was representing the Applicant Michael P. Justice, Trustee, that present are Michael Justice and Ken Christenbury, P. E. with Axiom Engineering



Mr. Sergovic stated that although this is a Change of Zone application, it really is a design application because it is zoned GR. That one of the means to achieve enhanced design is to go with a Residential Planned Community (RPC) because there isn't a cluster option in GR as there is with AR-1. This Application is of the cluster subdivision and overlay with the RPC.

A Booklet was distributed. Tab 4 of the Booklet outlines Chapter 4 of Coastal Areas. Mr. Sergovic stated that permitted uses must address special development concerns including single family townhouses, multi-family units. The criteria are central water and central sewer. The Comprehensive Plan specifically addresses a mixture of housing types, enhancing preservation open spaces, natural area resources and infrastructure; that there are to be some restricted covenants to which Mr. Justice is committed such as having no manufactured homes in the development. Per the restrictions, only stick-built or modular homes will be permitted. There are some areas of the site that may be reduced a little as the design process continues. Currently, the Applicant is in negotiations with a builder about the 1,800 sq. ft. minimum size for a single-family dwelling. Potentially, they could drop that down to 1,600 sq. ft. because of the nature of the housing market which is mostly a retirement age area.

Mr. Christenbury, of Axiom Engineering, explained that Evergreen RPC is a single-family, 45-unit development. In Tab 1 of the Exhibit Booklet, the summary includes a context of the project. Mr. Christenbury cited other developments in the surrounding area such as the expansion of Silver Wood Phase I with 2.264 units per acre, Ocean Air is 2.74, Plantation 2.97 and Kensington 3.0. Across the street there is state land that is being preserved. He believes that Evergreen is in character with what is currently in the surrounding area. He referred to the Zoning Map, noting that before the nearby sites were annexed into the city, the land was zoned GR. In fact, there was a plan for a trailer park that was never constructed. There is a commercial property on the corner that is also owned by Mr. Justice, but most of the area is GR except for the land being preserved by the State of Delaware.

Tab 3 shows the Actual Site Plan. The project has a single access from Parker House Rd. and tees off into two roads with turnarounds. There are walking trails around the open spaces and a sidewalk on one side. The stormwater waste management area buffer in several areas has been increased 20'; that there would be a strip woods that is 40-50' wide instead of 20'; that there were 2 letters in the file from neighbors that were concerned about drainage. He pointed to an existing ditch that doesn't seem to be maintained. The plans that were brought to the Corps of Engineers for now include the ditch on the Applicant's property to the extent that it can be; that the Applicant would prefer that the neighbors would be open to granting an easement to improve the existing ditch and allow temporary access which could possibly enhance the drainage; that the Applicant can't assume that they would want that to happen on their land: that the Applicant is going to do the best he can.

Mr. Christenbury outlined that the development will have a gazebo, some park benches, and some modest passive type of amenities because it is not a large project. It is 45 units in total. When you have a modest project, the amenities are kept in line with that. Minimal use of wetlands is limited based on what investigation in the area and in and around the ditch on the southern end of the property. 1.45 acres of forest will be preserved along with .62 acres for buffers. 39% site will be owned by the HOA as open space at the end of this project. The actual breakout is listed in Tab 3. Tidewater Utilities will be located, at the developer's expense, a quarter mile north of the property. County already has a sewer manhole at the front of the property. Mr. Christenbury thinks that the modular or stick built houses would pull up the property values.

Regarding the preservation of farmland, he asked that they look back at the photo in Tab 1 of the Exhibit Booklet. There is no farmland left in this area. It has slowly become residential since the 1970's when the map was drawn up. Impact on schools is expected to be positive because the market for this area is for retirees and the number of students living in these 45 homes is expected to be minimal. At the property line there is an existing ditch which is well defined and could use some maintenance. The Applicant will go as far down stream as is allowed to the outfall for the property. Mr. Christenbury pointed to where the outfall has been historically. Any improvements will be submitted to Army Corps of Engineers as required. The Applicant should have a more detailed report by the time they go to County Council next month. The intent is to clean out this ditch parallel to the Applicant's property with an expansion of the ditch. Mr. Christenbury thinks from an engineering standpoint that the drainage improvements would be significant if there were an interest by other property owners to cooperate by granting an easement of some kind. The Applicant understands that you can't compel anyone to participate in those kinds of improvements. This plan has been submitted to the Army Corps of Engineers. There were a lot of questions about the wetlands in the PLUS comments. The State maps show about 80% of the property as wetlands. State maps are notoriously inaccurate. They are based on a State-wide flyover, satellite imagery and things of that nature. No one from the State has set foot on this property to determine if there are wetlands there. PLUS comments are non-site-specific, and based on State-wide data. Tab 13 shows actual information about investigating the soils of vegetation and hydrology on the property with what criteria were met.

The State spending strategies put this site in Level 3 (yellow on the map). The reviewer at the State planning office noted that is surrounded by Level 2 but that it is Level 3 most likely because of the wetlands on the site that were derived from a state-wide satellite image that wasn't verified. So, when the ground indicated that the wetlands were limited to less than an acre the reality is probably, in Mr. Christenbury's view, should have been mapped as Level 2 (orange on the map).

The Future Land Use Map references that the site is near major sources of commercial development and major intersections and the town center adjoining the site.

Referring to the Town of Ocean View the nearby lands that front onto Beaver Dam Rd. do include commercial zoning and multifamily zoning; the area closer to the application site is the single-family area of the mixed-use planned community. When Mr. Christenbury pulled the record plan, commercial and multifamily were not planned yet. They were blocked out in acreage and the land use defined; that this is all that has been recorded to date and there is a developer currently selling single-family homes, or at least working on the infrastructure for this for quite a while; that there is a mix of commercial uses in the area but predominantly medium density residential. Due to the County's Zoning, the entire area was zoned GR when the zoned maps were first published in the 1970s. Water, sewer, utilities are laid out in Tab 8 and include a soil map. The public map that shows the wetlands was mapped by the State. A study letter from the wetland's scientist, along with covenants and proposed restrictions are published in the back of the Exhibit Book in Tab 15.

Mr. Sergovic commented that the Commission might wish to explore a minimum housing size of 1,600 sq. ft. which would be compatible with the market anticipated by the Applicant. Mr. Robertson commented that the Commission does not typically impose those types of conditions. This is because

it is difficult for the County to police. Mr. Sergovic noted that other suggested conditions include proposed sidewalks on one side of the street and overhead street lighting. The Applicant has a list of suggested conditions of approval and suggested that the Commission can look over to see if they would wish to add anything.

Mr. Christenbury noted that, in a GR-RPC you can reduce setbacks and minimum lot areas, so we are essentially mimicking what the AR-1 cluster tends to look like. We can't do that as a cluster subdivision because property is not zoned AR-1. It does have a density similar to GR zoning for property of this size.

Michael Justice, Applicant, was asked if he concurred with the statements made by Mr. Sergovic and Mr. Christenbury. He replied in the affirmative.

The Commission found that no one spoke in favor to and three parties spoke in opposition to the Application.

Norman Welsch stated that he is not completely opposed to the Application but has concerns about stormwater management, the elevation of the subject property, and clearing the trees.

Steve Maternick stated that he is not opposed to the development of the subject property but has concerns about drainage, flooding potential and the lack of a buffer on the property line. He has photographs of the flooding issues. He was advised that he could submit them for the record.

Mr. Christenbury responded that there is approximately 20 ft. buffer area that includes a drainage ditch, that improving the draining ditch would be a benefit to the residents in Silver Woods and the new development.

Eric Forell stated that there is a flooding issue and that he has concerns that the development of the Applicant's property will increase flooding.

At the conclusion of the public hearings, the Commission discussed this Application.

Motion by Mr. Mears, seconded by Ms. Stevenson and carried unanimously to defer action for further consideration. Motion carried 5-0.

Planning and Zoning Commission Meeting – January 9, 2020

The Commission discussed the application which has been deferred since December 12, 2019.

Mr. Mears moved that the Commission recommend approval of C/Z 1900 for **MICHAEL P. JUSTICE** for a change in zoning from GR-General Residential to a GR-RPC based upon the record and for the following reasons:

1. The property is currently zoned GR – General Residential.
2. The proposed development will not have more than 45 single-family units on 16.1 acres. This proposed density is 2.82 units per acre, which is less than the maximum density permitted by GR zoning. This density is also similar to other nearby developments.
3. The applicant has stated that he is essentially requesting approval for what would be a cluster subdivision in the AR-1 Zone. But, since clustering is not available in the GR

- District, he is seeking approval of a similar design through an RPC.
4. The County Engineering Department has indicated that adequate wastewater capacity is available for the development. Central water will also be provided.
 5. With the conditions and stipulations placed upon it, the RPC designation is appropriate, since it allows the creation of a superior environment through design ingenuity while protecting existing and future uses. This project will maintain 39%, or almost 6 acres of the site, as open space. This includes nearly 1.5 acres of existing forest that will be retained.
 6. The project will not adversely affect the neighborhood or surrounding communities. There are existing developments in the immediate area with similar characteristics.
 7. According to the County's current Comprehensive Plan, the project is in the Coastal Area. Development such as this GR-RPC is appropriate in this Area according to the Plan.
 8. While there were concerns expressed during the public hearing about drainage, the Sussex Conservation District will perform a thorough review of the project with the project's engineers to address stormwater and drainage on the site and how it leaves the site. This should result in a drainage improvement for the area from what currently occurs on the undeveloped land that does not have any stormwater system in place.
 9. The Applicant has favorably addressed the items set forth in Section 99-9C of the Subdivision Code.
 10. This recommendation is subject to the following conditions:
 - A. The maximum number of dwelling units shall not exceed 45 single family units.
 - B. A homeowners association shall be formed to provide for the perpetual maintenance, repair and replacement of buffers, stormwater management facilities, streets, amenities and other common areas.
 - C. All entrances, intersections, interconnections, roadways and multi-modal improvements required by DelDOT shall be completed in accordance with DelDOT's requirements or in accordance with any further modifications required by DelDOT based on its review of the Traffic Impact Study.
 - D. The RPC shall be served by Sussex County sewer. The Developer shall comply with all requirements and specifications of the County Engineering Department.
 - E. The RPC shall be served by central water for drinking water and fire protection, as required by applicable regulations.
 - F. 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 that is consistent with Best Management Practices.
 - G. Interior street design shall meet or exceed Sussex County's street design requirements. There shall also be street lighting and sidewalks on at least one side of the streets within the RPC.
 - H. A 20-foot-wide vegetated or forested buffer shall be established along the perimeter of the site. This may include the existing trees. There was testimony during the hearing about the need to improve the drainage along the northwest boundary of the site in an area that is currently wooded. In this area, the buffer shall be located outside of the area needed for these drainage improvements.
 - I. If requested by the local school district, a school bus stop shall be provided by

the entrance to the development, with the location and any related parking to be approved by the school district's transportation supervisor. The location of the bus stop area shall be shown on the Final Site Plan.

- J. Road naming and addressing shall be subject to the review and approval of Sussex County Mapping and Addressing Departments.
- K. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
- L. The Final Site Plan shall include a landscape plan for all of the buffer areas, showing all of the landscaping and vegetation to be included in the buffer areas. The landscape plan shall also include the existing forested areas that will be maintained.
- M. The Final Site Plan shall include a grading plan that shall be submitted to County Staff for review and approval.
- N. Construction, site work, grading, and deliveries of construction materials shall only occur from Monday through Saturday and only between the hours of 7:00 a.m. and 6:00 p.m.
- O. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Mr. Mears and seconded by Ms. Wingate to recommend approval of C/Z 1900 Michael P. Justice, Trustee for the reasons and conditions as stated in the motion. Motion carried 5-0.

PLANNING & ZONING

JANELLE M. CORNWELL, AICP
DIRECTOR

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Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Planning Commission Members
From: Jamie Whitehouse, Planning & Zoning Manager
CC: Vince Robertson, Assistant County Attorney and Applicant
Date: December 5, 2019
RE: Staff Analysis for CZ 1900 Michael P. Justice

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1900 Michael P. Justice to be reviewed during the December 12, 2019 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 parcel 134-16.00-51.00 to facilitate a change from the General Residential (GR) Zoning District to a General Residential (GR) Zoning District with a Residential Planned Community (RPC) Overlay and is located on the west side of Parker House Rd, approximately 0.35 mile south of Beaver Dam Rd. The size of the property is 16.1 acres +/-.

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 property has the land use designation of "Coastal Areas."

The surrounding land use to the north, west and east are also designated as "Coastal Areas." Coastal Areas support a range of housing types including single-family homes, townhouses, and multi-family units provided that any relevant special environmental concerns are addressed.

The property is zoned GR (General Residential District.) The properties directly to the north, west and south of the application site are all also zoned General Residential District (GR). To the immediate south of the application site there is a triangular shaped parcel of land that is zoned C-1 (General Commercial Zoning District).

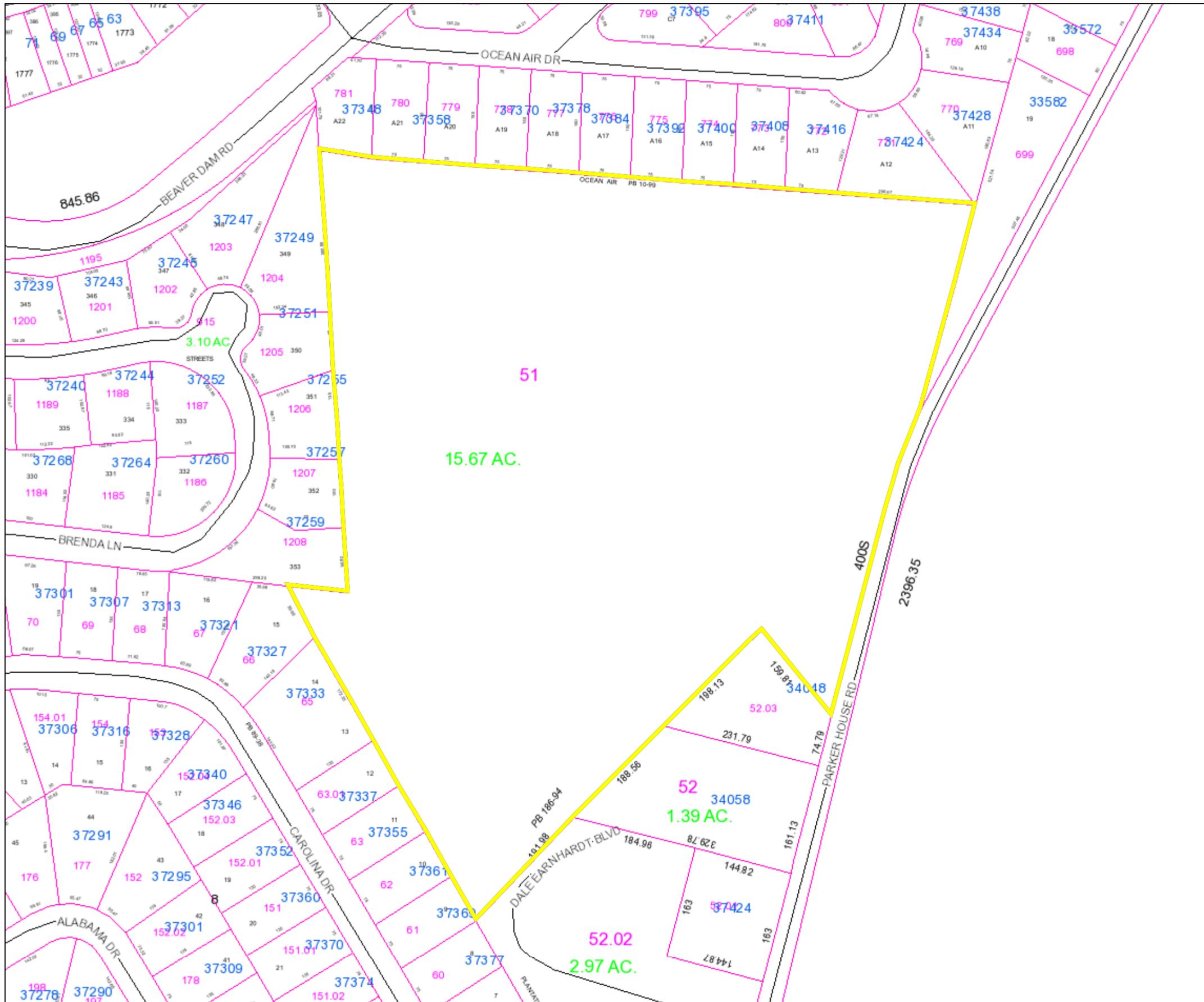
Since 2011, there has been 1 change of zone application within a 1-mile radius of the application site. CZ 1758 for a change of zone from AR-1 to MR on a 7.2035 acre parcel (134-19.00-19.00) was approved by County Council at its meeting of December 2nd 2014.

Based on the analysis of the land use, surrounding zoning and uses, a change of zone to allow for a GR-RPC in this location, subject to considerations of scale and impact, could be considered as being consistent with the surrounding land use, area zoning, and uses.





Sussex County



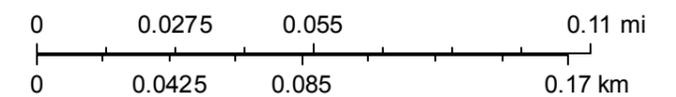
PIN:	134-16.00-51.00
Owner Name	JUSTICE MICHAEL P TTEE REV TR
Book	4741
Mailing Address	29687 SAW MILL DR
City	DAGSBORO
State	DE
Description	OCEAN VIEW TO
Description 2	DOUBLE BRIDGES
Description 3	N/A
Land Code	

- polygonLayer

Override 1
- polygonLayer

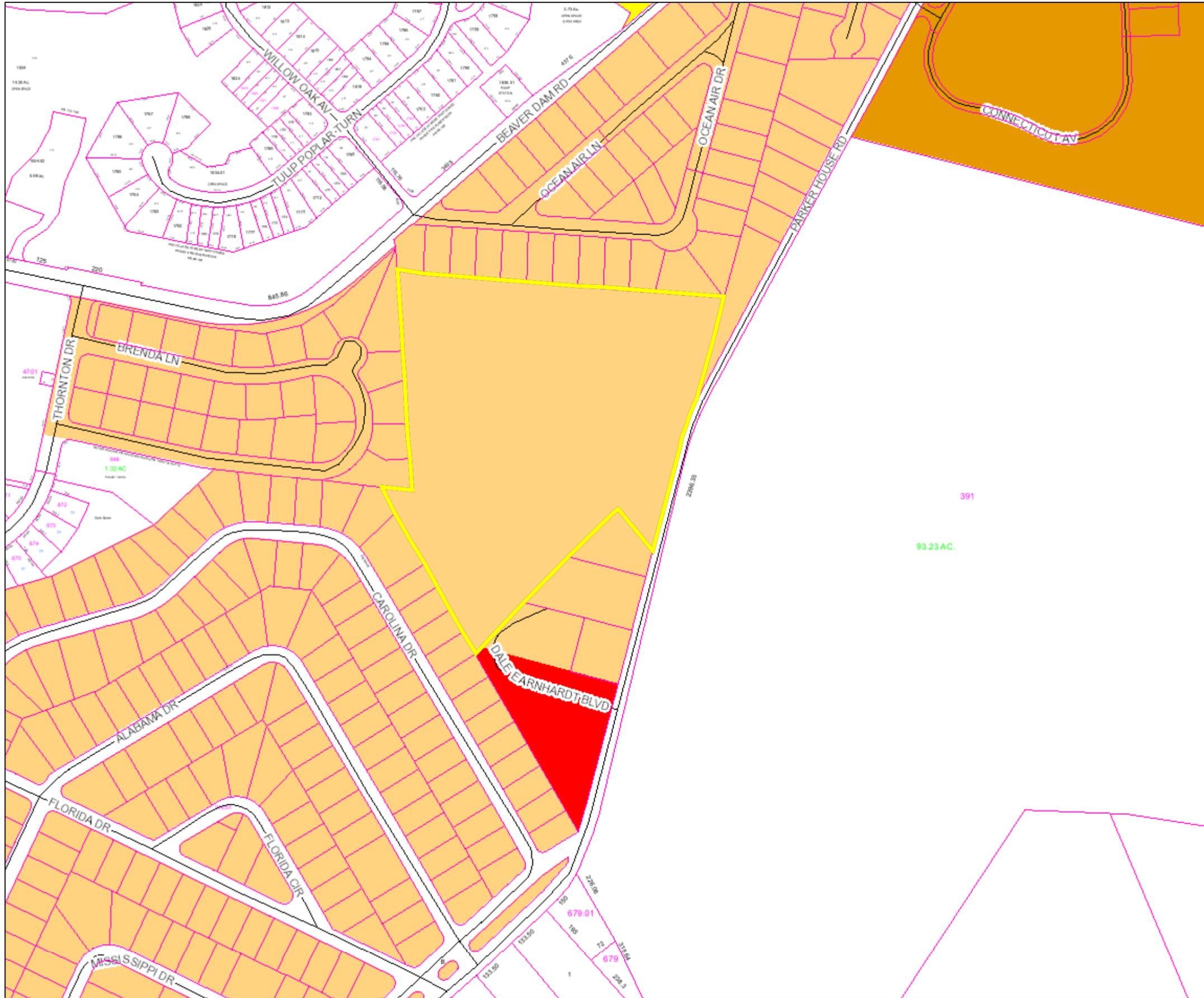
Override 1
- Tax Parcels
- 911 Address
- Streets
- County Boundaries

1:2,257





Sussex County



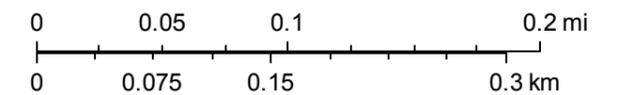
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Book	4741
Mailing Address	29687 SAW MILL DR
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State	DE
Description	OCEAN VIEW TO
Description 2	DOUBLE BRIDGES
Description 3	N/A
Land Code	

- polygonLayer**

 - Override 1
- polygonLayer**

 - Override 1
-  Tax Parcels
-  Streets

1:4,514



Introduced 9/17/19

**Council District No. 5 - Rieley
Tax I.D. No. 134-16.00-51.00
911 Address: None Available**

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A GR-RPC GENERAL RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 16.1 ACRES, MORE OR LESS

WHEREAS, on the 5th day of August 2019, a zoning application, denominated Change of Zone No. 1900, was filed on behalf of Michael P. Justice, Trustee; and

WHEREAS, on the ____ day of _____ 2020, 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. 1900 be _____; and

WHEREAS, on the ____ day of _____ 2020, 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 [GR General Residential District] and adding in lieu thereof the designation of GR-RPC General Residential District – Residential Planned Community as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on the west side of Parker House Road, approximately 0.35 mile south of Beaver Dam Road, and being more particularly described in the attached legal description prepared by Axiom Engineering, LLC, said parcel containing 16.1 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.

PROPOSED

JAMIE WHITEHOUSE, AICP
PLANNING & ZONING MANAGER
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Sussex County
DELAWARE
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Memorandum

To: Sussex County Council
The Honorable Michael H. Vincent, President
The Honorable Irwin G. Burton III, Vice President
The Honorable Douglas B. Hudson
The Honorable John L. Rieley
The Honorable Samuel R. Wilson, Jr.

From: Jamie Whitehouse, AICP, Planning & Zoning Manager

CC: Everett Moore, County Attorney

Date: January 24, 2020

RE: County Council Report for CZ 1901 Mary & Victor Rico

The Planning and Zoning Department received an application (CZ 1901 Mary & Victor Rico) for a Change of Zone for parcel 234-7.00-100.00 to allow for a change from an AR-1 Agricultural Residential District to a MR Medium-Density Residential District to be located at 20797 Sunset Ln, Lewes. The Planning and Zoning Commission held a public hearing on December 12, 2019. The following are the draft minutes for the Change of Zone application from the Planning and Zoning Commission meetings.

At the request of the Applicant, Chairman Wheatley announced that the Commission would hear a combined public hearing for application C/Z 1901 and application C/U 2200. Whilst the hearings would be combined, the Commission would ultimately vote on each application separately.

C/Z 1901 Mary and Victor Rico

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 Indian River Hundred and Lewes and Rehoboth Hundred, Sussex County, containing 0.927 acres, more or less. The property is lying on east side of Sunset Ln. north side of John J. Williams Hwy. (Rt. 24), approximately 0.28 miles northeast of Camp Arrowhead Rd. 911 Address: 20797 Sunset Ln., Lewes. Tax Parcel: 234-7.00-100.00.

Mr. Whitehouse advised the Commission that submitted into the record were a Site Plan, an Exhibit Booklet, comments from DelDOT, comments from Sussex Conservation District and one letter in opposition to the Application. Two letters in opposition were received.



C/U 2200 Mary and Victor Rico

An Ordinance to grant a Conditional Use of land in a MR Medium-Density Residential District) for multi-family (7 units) to be located on a certain parcel of land lying and being in Indian River Hundred and Lewes and Rehoboth Hundred, Sussex County containing 0.927 acres, more or less. The property is lying on the east side of Sunset Ln. on the north side of John J. Williams Hwy (Rt. 24), approximately 0.28 miles northeast of Camp Arrowhead Rd. 911 Address: 20797 Sunset Ln., Millsboro. Tax Parcel: 234-7.00-100.00.

Mr. Whitehouse advised the Commission that submitted into the record were a Site Plan, an Exhibit Booklet, comments from DelDOT indicating that a TIS is not required, comments from Sussex Conservation District and one letter in opposition to the Application. Mr. Whitehouse noted that an additional letter had been received in opposition, containing signatures from 6 property owners.

Chairman Wheatley asked about whether the development is already in situ. Ms. Cornwell confirmed that the four existing buildings that are on the property have been there a long time and are considered to be non-conforming. At one point two of the buildings were purchased and converted into multiple dwelling units within those buildings. There are no permits for that conversion. Ms. Cornwell noted that these applications flow from a violation on the property and that the Application seeks to address this. Ms. Cornwell noted that the age of the existing buildings is what makes them non-conforming. There are four buildings and two of them have been converted into additional units so now we have several units instead of the original four units.

Chairman Wheatley questioned when they were converted, and whether they had building permits. Ms. Cornwell stated there were no permits for the creation of new units and nor were they reviewed by Building Code for that.

Chairman Wheatley asked whether, if this does receive approval, will the units built then have to be permitted and inspected. Ms. Cornwell replied they will have to go through Building Code review to make sure they are meeting the necessary requirements.

Mr. Willard spoke as representative for Victor and Mary Rico. They did receive a violation letter stating they could not have these units there and need to apply for a Conditional Use if they wish to retain them; that Mr. Willard has reviewed the file to see if there was any opposition or input and there wasn't any as of yesterday; that there are people that have been identified from Sunset Lane; that the Applicant is not asking for anything other than the status quo; that it might not be legal, and he is not sure of the full history of the property; that the lot with four houses pre-existed and they all on one lot; that they are considered to be, "*legally non-conforming*".

Mr. Willard outlined that the four houses are known as Unit 1, 2, 3 and 4, and they are an evolution of the lot as they were cut up by the owner of that property who maintained the road and that all the people on Sunset Road have the right to use that road; that in 2001 the property owners of Parcel 100 "*condominiumized*" the property. They declared it was a condominium and filed/recorded documents in 2001 identifying this together with their bylaws and how they operate; that they each had their own parking area but with not much common area.

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Mr. Willard asked Mr. Victor Rico if he heard his presentation tonight and if it was true and accurate. Mr. Rico replied in the affirmative and he was asked if there was anything he would like to add. Mr. Rico added that the properties were run down at the time of purchase. We wanted to make the best of this and make them rentable as these types of property are in high demand. He has fixed up a lot of houses in his career. The property was very bad inside; that the properties had already been split; that the Applicant's saw, on the bottom floor, there was a potential for studio apartments and that they could offer low-income housing in this location.

Mr. Rico was asked by Mr. Willard if any of the units on the bottom floor had kitchens. He replied that they had counters and cabinets; that they each had their own bathroom, and that there were hookups available.

Mr. Willard asked Mr. Rico to explain whether he has been paying his own sewer fees. Mr. Rico confirmed that he had and that the properties were assessed for unit 1 and 2 in terms of pumping.

Mr. Willard asked if central sewer is available. Mr. Rico replied that they certainly would want to hook up if they get permission for this. That this is how this situation came to a head. They were trying to hook up to the sewer and the County identified that they can't without the necessary approvals.

Chairman Wheatley noted that good thing with a Conditional Use application is that the decision maker can place conditions, and this certainly issue could be one.

Mr. Rico noted that he has wonderful tenants that have been there for a few years now; that they are very happy there and they don't want to move.

Ms. Stevenson asked would the change of zoning allow them to continue what they are doing?

Ms. Cornwell replied that based on the density of the housing in situ, that the Change of Zone application is needed as the density currently exceeds what is permitted.

Mr. Willard commented that the issue is that the lot is so small. A lot of the calculation is the road and they cannot do anything there.

Ms. Stevenson noted that a Change in Zoning is more permanent than a Conditional Use.

Ms. Cornwell noted that, with the current Conditional Use, the Applicant can ask for more in the future, but they are already quite close to asking for the most that would fit on this parcel. Ms. Stevenson noted that this is the kind of density that is currently desirable along Rt. 1. That this is what she grew up with, where landowners can make an apartment on the second floor so it can provide accommodation to visitors.

Mr. Willard circulated a photo of the auction picture for the first house, Unit 2; that the owner had a steel frame in there, so the property actually has good bones.

Mr. Hopkins stated that, basically, the units were all there and he fixed them up and has decent tenants; that it appears that it was discovered when he came in to talk about the sewer hook-up and he had to circle back and make things right with P&Z.

Mr. Willard confirmed that he understands that you do not want someone to get away with something and then come in and say, "Oh, I got caught". That he believes that this situation is a little different; that all the facts lead to them trying to do the right thing.

There were no more questions from Commission.

Chairman Wheatley asked if anyone was present to speak in favor or opposition to CU 2200 and CZ 1901 Mary & Victor Rico. The Commission found that there were no speakers in support to either Application, and that there were two speakers in opposition to the Applications.

Mr. Tom O'Neill, property owner at 20758 Sunset Lane spoke in opposition. These four properties Unit 1, Unit 2, 3 and 4 were all summer fishing cabins. They all had the same well and cesspool. They had a kitchen in them, bedroom and bathroom. There was no insulation and no heating system to any of the units; that in the early 90's a gentleman bought all four properties and made them into a condominium association and had access to the road; that when Mr. Moore died, all units were grandfathered in; that it is a dirt road that backs up into Sunset Lane; that Unit 2, when bought by the Applicant, was a single-family house; that the gentlemen who lived there put on a second floor and was trying to make his home bigger and better; that he put a new kitchen up there and more rooms; that this was his thing; that the gentleman came in and made it 3 units with 3 families. Then when Unit 1 came up for sale at auction, it was a single-family home with a two-car garage; that the Applicant took this house and made it into two units; that the original two-car garage is now a unit with a bathroom, bedroom; that these are the five units he bought; that this is a single-family development and has been since the 60's. Mr. O'Neill asked the Commission if they can put themselves in the shoes of the residents; that this has been a single-family development for over 50 years; that when you come into Sunset Lane now, there is a house that sits on the corner of 24 and Unit 1. At Unit 1 now there are 2-3 cars parked there because now it is a 2-unit; that between Unit 1 and 2 there is a dumpster twice the size of the unit that has been there for 2 years now; that it sits right on Sunset Lane and then there is Unit 3 where 4 families live, and 4 cars spread across the front yard squeezed in; that in Unit 3 is Ms. J. Murphy who is part of this condo association; that she is not here tonight and is 100% against this; that there are these folks here with condo association have more voting rights than Ms. J. Murphy; that she was up against the wall; that her lawyer told her that if she voted against it didn't matter because there was a majority vote needed.

The Commission noted that a "J. Murphy" had signed the document submitted with the Application.

Mr. O'Neill stated that, when he called to complain a year ago, Ms. Kelly Passwaters was the Inspector and he talked with her on the phone and she said it was all going to be cleaned up and no tenants would be removed over the Christmas holidays but immediately after the first of the year; that he asked when the tenants will get moved out of there and if this matter would be straightened out: that he has repeatedly called P&Z and, to this day, nothing has been done down there; that it is still the same thing; that everyone who lives on Sunset Lane has had to hook up to the sewer; that it was mandated by Spring of last year that every home had to be hooked up to sewer; that is except for these 2 units that are still not hooked up.

Mr. O'Neill stated that the Applicant's went in here, did this; that single-family homes were turned into a 2-unit and a 3-unit and then got caught; that it is a residential neighborhood; that there are twelve homes in this neighborhood and that they are now looking to change four of them into medium zoning; that this is one third of the neighborhood; that all of this is being done for the benefit one individual and not the neighborhood as a whole; that there are five rental units right in the middle of the neighborhood; that not one permit was ever applied for and not one inspection was ever done.

Larry Fisher, a resident at 27085 Sunset Lane, stated that he has major concerns; that Mr. Rico admitted earlier in conversations that he also does other homes; that he is a contractor; that he never pulled [Building] Permits; that he is laughing at the system; that this situation should be treated as being criminal in nature; that he asked about whether the density calculation includes the area of the street itself; that he has no access to it. Mr. Fisher asked how much property is really involved; that

Mr. Rico talked about the sewer system that he can't hook up to: that Mr. Rico didn't tell the Commission about the cesspool that has been running over and flooding neighbors' properties for about a year and half.

Chairman Wheatley commented that Mr. Rico had implied in his testimony that there was a problem, and that he appeared to be responding to that.

Mr. Fisher commented that the problem really boils down to the fact that the Applicant has five units contributing to a cesspool; that this was never the case before because it was all single family dwellings; that the gentleman saw two access points to the house assumed it was a two-family dwelling; that this Application affects not only the two units the Applicant owners has but also affects the other units also in this condominium; that there could be another potential problems down the road.

Chairman Wheatley asked Ms. Cornwell to confirm the size of the parcel, which Ms. Cornwell confirmed as being 0.927 Ac. in size. Ms. Cornwell confirmed that, under the current zoning, that one dwelling is permitted in terms of density; that there are 4 dwellings there currently; that the 4 single family units may be legally non-confirming; that the Commission does have the ability to impose conditions should the Application be recommended for approval.

The Commission asked Mr. Willard to outline the voting rights of residents within the community. As per the Condominium Association. Mr. Robertson asked Mr. Willard if he knew why the auction particulars listed the property as a single-family dwelling with none of the improvements referred to by the Applicant. Mr. Robertson asked for clarification as to what the Applicant purchased. Mr. Willard said that the Applicant purchased "what is there", which for Unit 2 was a house that had 2 bedrooms on the first floor and two bedrooms with attempted renovated apartments on the second floor; that the Auction did not list the kitchens; that Mr. Willard had asked his client what he purchased and it included the separate kitchens.

Chairman Wheatley asked Mr. Rico as to his current profession; that Mr. Rico said that he is a handyman; that he fixed up the property; that he believes that he was permitted to re-model a house; that he lived in Unit 2 after purchasing it from auction; that he worked on it; that he then got married; that they then purchased other properties in the Seaford area; that he used sub-contractors for those works; that the properties were all 'condominiumized' prior to his purchase of the first house in 2016.

Chairman Wheatley asked Mr. Rico what it was that he thought he way purchasing. Mr. Rico stated that he saw potential in the second unit; that he went into the property and saw that everything was separated; that the units had separate walls and entrances; that the spaces within the building are small with a low number of occupants;

Mr. Robertson noted that the auction listing, a copy of which is part of the record, does not mention this, and refers to the property as being a single-family dwelling. Mr. Rico commented that there were no stoves in the property at the time of purchase; that there were counters and cabinets, and electric stove hook-ups; but no gas hook-ups and no actual stoves.

Chairman Wheatley asked Ms. Cornwell to confirm what actions would likely result if the applications were to be denied. Ms. Cornwell stated that action would likely require the removal of the kitchens and a requirement for verification that the properties were being used as single-family dwellings; that

hook-up to the sewer could then proceed; that Building Permits would need to be obtained and the County's requirements would be met for the buildings.

Mr. Robertson noted that, as a Condominium, the other properties owners could also potentially be responsible and or burdened by any potential conditions that might be imposed by the Condition. Mr. Robertson also noted that he also has a potential 'clean hands' concern with the Applications, especially if the Applicant has not pulled Building Permits.

Ms. Wingate asked whether there was a shared maintenance agreement in place. Mr. Robertson stated that the Condominium documents would have some provisions within them for this.

Upon there being no one else wishing to speak, Chairman Wheatley closed the public hearings for the Applications. Chairman Wheatley noted that there is an opportunity for further public speaking as part of the upcoming public hearing before County Council.

At the conclusion of the public hearings, the Commission discussed the Applications. The Commission discussed their concerns with the impacts of the development and that, if the Commission were minded to recommend denial, that they would likely wish to allow a period of time to allow the occupiers an opportunity to find alternative places to live.

In relation to Application CZ 1901 Mary & Victor Rico, motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to defer action for further consideration. Motion carried 5-0.

In relation to Application to Application CU 2200 Mary & Victor Rico, motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to defer action for further consideration. Motion carried 5-0.

January 09, 2020 Planning and Zoning Commission Meeting

The Commission discussed applications CZ 1901 and CU 2200 which have been deferred since December 12, 2019.

Ms. Stevenson moved that the Commission recommend denial of Change in Zone #1901 for **Mary and Victor Rico** for a change in zone from AR-1 to MR based upon the record and for the following reasons:

1. This rezoning application is combined with a Conditional Use application to allow multi-family units within existing structures that were previously single-family condominium units.
2. Based on the record, the applicant bought both of the single-family units and then converted them to multi-family units without proper zoning or other permits.
3. The Applicant is not seeking MR zoning because it is an appropriate land classification for the area. Instead, the Applicant is primarily seeking MR Zoning to correct or ratify his illegal construction activities on the property.
4. There is no other MR zoning in this immediate area.
5. This property is less than an acre in size. And, a lot of the property area is taken up by the roadway that serves the other existing units and adjacent properties. The property is much too small for a stand-alone rezoning to MR and the density that would be

permitted under the MR zoning, or the 7 units that this Applicant is seeking along with the parking requirements for those units under the Zoning Code.

6. These units are located along a private road that other nearby properties use. This road cannot handle the additional traffic that would be possible under MR Zoning.
7. The rezoning to MR would have significant adverse impacts upon the other units within this four-unit condominium as well as other neighboring and adjacent properties.
8. This denial affects innocent people and families who may be living in the units that the Applicant has illegally constructed. Presumably these people are occupying the units with the assumption that they are legal. For that reason, it is also recommended that the County not take any enforcement action to remove the illegal units until July 1 of 2020. This will allow the people occupying the units plenty of time to find other housing and will not disrupt families with school-age children during the school year.

Motion by Ms. Stevenson and seconded by Ms. Wingate to recommend denial of C/Z 1901 Mary and Victor Rico for the reasons stated in the motion. Motion carried unanimously 5-0.

PLANNING & ZONING

JANELLE M. CORNWELL, AICP
DIRECTOR

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Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Planning Commission Members

From: Lauren DeVore, Planner III

CC: Vince Robertson, Assistant County Attorney and applicant

Date: December 3, 2019

RE: Staff Analysis for CZ 1901 Mary and Victor Rico

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1901 Mary and Victor Rico to be reviewed during the December 12, 2019 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 parcel 234-7.00-100.00 to facilitate a change from the Agricultural Residential (AR-1) Zoning District to a Medium-Density Residential (MR) Zoning District and is located at 20797 Sunset Lane in Lewes, DE 19958. The size of the property is 0.927 acres +/-.

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 property has the land use designation of "Commercial Areas."

The surrounding land use to the north and east are designated "Coastal Areas." Coastal Areas support a range of housing types including single-family homes, townhouses, and multi-family units provided that special environmental concerns are addressed. The adjacent parcels to the west and south of the subject parcel are designated "Commercial Areas." "Commercial Areas include concentrations of retail and service uses, commercial corridors, shopping centers, hotels, motels, car washes and auto dealers. This includes other medium and larger scale commercial uses as well as mixed-use buildings.

Table 4.5-2 "Zoning Districts Applicable to Future Land Use Categories" of the 2018 Sussex County Comprehensive Plan states that the Medium Density Residential Zoning District may be appropriate within the Coastal Areas designation. However, the Medium Density Residential Zoning District is not specifically listed as an applicable Zoning District in the Commercial Area.

The property is zoned AR-1 (Agricultural Residential District.) The property directly to the north of the application site is zoned Agricultural Residential District (AR-1). Properties to the east and south are zoned Agricultural Residential (AR-1) and existing properties on the opposite side of John J. Williams Highway (Route 24) are zoned Marine (M). The parcels to the west reflect a variety



of zoning districts and include a mixture of Agricultural Residential (AR-1), Neighborhood Business (B-1) and Medium Density Residential (MR).

Since 2011, there have not been any other Change of Zone applications considered within a 1-mile radius of the application site.

Based on the analysis of the land use, surrounding zoning and uses, a change of zone to allow for a property zoned Medium Density Residential (MR) in this location may be considered consistent with the surrounding land use, area zoning, and uses.

Introduced 10/01/19

**Council District No. 3 - Burton
Tax I.D. No. 234-7.00-100.00
911 Address: 20797 Sunset Lane, Lewes**

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM-DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED AND LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.927 ACRES, MORE OR LESS

WHEREAS, on the 12th day of August 2019, a zoning application, denominated Change of Zone No. 1901, was filed on behalf of Mary and Victor Rico; and

WHEREAS, on the ____ day of _____ 2020, 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. 1901 be _____; and

WHEREAS, on the ____ day of _____ 2020, 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 of MR Medium-Density Residential District as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Indian River Hundred and Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying on the east side of Sunset Lane on the north side of John J. Williams Highway (Route 24) approximately 0.28 mile northeast of Camp Arrowhead Road and being more

particularly described in the attached legal description prepared by Haller & Hudson, said parcel containing 0.927 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.

PROPOSED

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



Sussex County
DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Council
The Honorable Michael H. Vincent, President
The Honorable Irwin G. Burton III, Vice President
The Honorable Douglas B. Hudson
The Honorable John L. Rieley
The Honorable Samuel R. Wilson, Jr.

From: Jamie Whitehouse, AICP, Planning & Zoning Manager

CC: Everett Moore, County Attorney

Date: January 23, 2020

RE: County Council Report for CU 2200 Mary & Victor Rico

The Planning and Zoning Department received an application (CU 2200 Mary & Victor Rico) for a Conditional Use for parcel 234-7.00-100.00 to allow for multi-family (7 units) to be located at 20797 Sunset Ln., Lewes. The Planning and Zoning Commission held a public hearing on December 12, 2019. The following are the draft minutes for the Conditional Use from the Planning and Zoning Commission meetings.

At the request of the Applicant, Chairman Wheatley announced that the Commission would hear a combined public hearing for application C/Z 1901 and application C/U 2200. Whilst the hearings would be combined, the Commission would ultimately vote on each application separately.

C/Z 1901 Mary and Victor Rico

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 Indian River Hundred and Lewes and Rehoboth Hundred, Sussex County, containing 0.927 acres, more or less. The property is lying on east side of Sunset Ln. north side of John J. Williams Hwy. (Rt. 24), approximately 0.28 miles northeast of Camp Arrowhead Rd. 911 Address: 20797 Sunset Ln., Lewes. Tax Parcel: 234-7.00-100.00.

Mr. Whitehouse advised the Commission that submitted into the record were a Site Plan, an Exhibit Booklet, comments from DelDOT, comments from Sussex Conservation District and one letter in opposition to the Application. Two letters in opposition were received.



C/U 2200 Mary and Victor Rico

An Ordinance to grant a Conditional Use of land in a MR Medium-Density Residential District) for multi-family (7 units) to be located on a certain parcel of land lying and being in Indian River Hundred and Lewes and Rehoboth Hundred, Sussex County containing 0.927 acres, more or less. The property is lying on the east side of Sunset Ln. on the north side of John J. Williams Hwy (Rt. 24), approximately 0.28 miles northeast of Camp Arrowhead Rd. 911 Address: 20797 Sunset Ln., Millsboro. Tax Parcel: 234-7.00-100.00.

Mr. Whitehouse advised the Commission that submitted into the record were a Site Plan, an Exhibit Booklet, comments from DelDOT indicating that a TIS is not required, comments from Sussex Conservation District and one letter in opposition to the Application. Mr. Whitehouse noted that an additional letter had been received in opposition, containing signatures from 6 property owners.

Chairman Wheatley asked about whether the development is already in situ. Ms. Cornwell confirmed that the four existing buildings that are on the property have been there a long time and are considered to be non-conforming. At one point two of the buildings were purchased and converted into multiple dwelling units within those buildings. There are no permits for that conversion. Ms. Cornwell noted that these applications flow from a violation on the property and that the Application seeks to address this. Ms. Cornwell noted that the age of the existing buildings is what makes them non-conforming. There are four buildings and two of them have been converted into additional units so now we have several units instead of the original four units.

Chairman Wheatley questioned when they were converted, and whether they had building permits. Ms. Cornwell stated there were no permits for the creation of new units and nor were they reviewed by Building Code for that.

Chairman Wheatley asked whether, if this does receive approval, will the units built then have to be permitted and inspected. Ms. Cornwell replied they will have to go through Building Code review to make sure they are meeting the necessary requirements.

Mr. Willard spoke as representative for Victor and Mary Rico. They did receive a violation letter stating they could not have these units there and need to apply for a Conditional Use if they wish to retain them; that Mr. Willard has reviewed the file to see if there was any opposition or input and there wasn't any as of yesterday; that there are people that have been identified from Sunset Lane; that the Applicant is not asking for anything other than the status quo; that it might not be legal, and he is not sure of the full history of the property; that the lot with four houses pre-existed and they all on one lot; that they are considered to be, "*legally non-conforming*".

Mr. Willard outlined that the four houses are known as Unit 1, 2, 3 and 4, and they are an evolution of the lot as they were cut up by the owner of that property who maintained the road and that all the people on Sunset Road have the right to use that road; that in 2001 the property owners of Parcel 100 "*condominiumized*" the property. They declared it was a condominium and filed/recorded documents in 2001 identifying this together with their bylaws and how they operate; that they each had their own parking area but with not much common area.

Mr. Willard outlined that Unit 2 first went up for auction in 2016 and Mr. Rico purchased it. Apparently, it was an auction and Emmert Auction indicated that the police were involved and the property was not in great condition. Mr. Rico went into the property and it was already divided into 3 units within the property. The first-floor property had only one entrance in the front and it was a studio apartment. In the back of the unit, there was a separate door that the previous owner added without permits. On the second floor there are two bedrooms and a stairway to get up there and a kitchen as well. The property layout is designed for three units. There are two studios on the first floor and one on the second floor. After purchase, Mr. Rico started fixing it up; that this is a situation that is not right legally, but where the owner and his wife really didn't know better; that since that time, the Applicants have rented it and had tenants including single people living in both first-floor units and a couple who lives upstairs; that the Applicant's got to know the gentlemen next door who lives in a single-family home; that he fixed that up and rented it. The only reason they are asking for the Change in Zone is to get the Conditional Use to bless the use. That the Applicant is not trying to change anything or do more than what is already there. That these two applications are not inconsistent with the zoning or Comprehensive Plan. This area is a designated growth area. The growth area is designated for higher residency development. The subcategory of the area is a commercial area. Clearly the future Comprehensive Plan calls for more density and that is why the Applicant thinks the use and proposed zoning are appropriate.

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Mr. Willard commented that the issue is that the lot is so small. A lot of the calculation is the road and they cannot do anything there.

Ms. Stevenson noted that a Change in Zoning is more permanent than a Conditional Use.

Ms. Cornwell noted that, with the current Conditional Use, the Applicant can ask for more in the future, but they are already quite close to asking for the most that would fit on this parcel. Ms. Stevenson noted that this is the kind of density that is currently desirable along Rt. 1. That this is what she grew up with, where landowners can make an apartment on the second floor so it can provide accommodation to visitors.

Mr. Willard circulated a photo of the auction picture for the first house, Unit 2; that the owner had a steel frame in there, so the property actually has good bones.

Mr. Hopkins stated that, basically, the units were all there and he fixed them up and has decent tenants; that it appears that it was discovered when he came in to talk about the sewer hook-up and he had to circle back and make things right with P&Z.

Mr. Willard confirmed that he understands that you do not want someone to get away with something and then come in and say, "Oh, I got caught". That he believes that this situation is a little different; that all the facts lead to them trying to do the right thing.

There were no more questions from Commission.

Chairman Wheatley asked if anyone was present to speak in favor or opposition to CU 2200 and CZ 1901 Mary & Victor Rico. The Commission found that there were no speakers in support to either Application, and that there were two speakers in opposition to the Applications.

Mr. Tom O'Neill, property owner at 20758 Sunset Lane spoke in opposition. These four properties Unit 1, Unit 2, 3 and 4 were all summer fishing cabins. They all had the same well and cesspool. They had a kitchen in them, bedroom and bathroom. There was no insulation and no heating system to any of the units; that in the early 90's a gentleman bought all four properties and made them into a condominium association and had access to the road; that when Mr. Moore died, all units were grandfathered in; that it is a dirt road that backs up into Sunset Lane; that Unit 2, when bought by the Applicant, was a single-family house; that the gentlemen who lived there put on a second floor and was trying to make his home bigger and better; that he put a new kitchen up there and more rooms; that this was his thing; that the gentleman came in and made it 3 units with 3 families. Then when Unit 1 came up for sale at auction, it was a single-family home with a two-car garage; that the Applicant took this house and made it into two units; that the original two-car garage is now a unit with a bathroom, bedroom; that these are the five units he bought; that this is a single-family development and has been since the 60's. Mr. O'Neill asked the Commission if they can put themselves in the shoes of the residents; that this has been a single-family development for over 50 years; that when you come into Sunset Lane now, there is a house that sits on the corner of 24 and Unit 1. At Unit 1 now there are 2-3 cars parked there because now it is a 2-unit; that between Unit 1 and 2 there is a dumpster twice the size of the unit that has been there for 2 years now; that it sits right on Sunset Lane and then there is Unit 3 where 4 families live, and 4 cars spread across the front yard squeezed in; that in Unit 3 is Ms. J. Murphy who is part of this condo association; that she is not here tonight and is 100% against this; that there are these folks here with condo association have more voting rights than Ms. J. Murphy; that she was up against the wall; that her lawyer told her that if she voted against it didn't matter because there was a majority vote needed.

The Commission noted that a "J. Murphy" had signed the document submitted with the Application.

Mr. O'Neill stated that, when he called to complain a year ago, Ms. Kelly Passwaters was the Inspector and he talked with her on the phone and she said it was all going to be cleaned up and no tenants would be removed over the Christmas holidays but immediately after the first of the year; that he asked when the tenants will get moved out of there and if this matter would be straightened out: that he has repeatedly called P&Z and, to this day, nothing has been done down there; that it is still the same thing; that everyone who lives on Sunset Lane has had to hook up to the sewer; that it was mandated by Spring of last year that every home had to be hooked up to sewer; that is except for these 2 units that are still not hooked up.

Mr. O'Neill stated that the Applicant's went in here, did this; that single-family homes were turned into a 2-unit and a 3-unit and then got caught; that it is a residential neighborhood; that there are twelve homes in this neighborhood and that they are now looking to change four of them into medium zoning; that this is one third of the neighborhood; that all of this is being done for the benefit one individual and not the neighborhood as a whole; that there are five rental units right in the middle of the neighborhood; that not one permit was ever applied for and not one inspection was ever done.

Larry Fisher, a resident at 27085 Sunset Lane, stated that he has major concerns; that Mr. Rico admitted earlier in conversations that he also does other homes; that he is a contractor; that he never pulled [Building] Permits; that he is laughing at the system; that this situation should be treated as being criminal in nature; that he asked about whether the density calculation includes the area of the street itself; that he has no access to it. Mr. Fisher asked how much property is really involved; that

Mr. Rico talked about the sewer system that he can't hook up to: that Mr. Rico didn't tell the Commission about the cesspool that has been running over and flooding neighbors' properties for about a year and half.

Chairman Wheatley commented that Mr. Rico had implied in his testimony that there was a problem, and that he appeared to be responding to that.

Mr. Fisher commented that the problem really boils down to the fact that the Applicant has five units contributing to a cesspool; that this was never the case before because it was all single family dwellings; that the gentleman saw two access points to the house assumed it was a two-family dwelling; that this Application affects not only the two units the Applicant owners has but also affects the other units also in this condominium; that there could be another potential problems down the road.

Chairman Wheatley asked Ms. Cornwell to confirm the size of the parcel, which Ms. Cornwell confirmed as being 0.927 Ac. in size. Ms. Cornwell confirmed that, under the current zoning, that one dwelling is permitted in terms of density; that there are 4 dwellings there currently; that the 4 single family units may be legally non-confirming; that the Commission does have the ability to impose conditions should the Application be recommended for approval.

The Commission asked Mr. Willard to outline the voting rights of residents within the community. As per the Condominium Association. Mr. Robertson asked Mr. Willard if he knew why the auction particulars listed the property as a single-family dwelling with none of the improvements referred to by the Applicant. Mr. Robertson asked for clarification as to what the Applicant purchased. Mr. Willard said that the Applicant purchased "what is there", which for Unit 2 was a house that had 2 bedrooms on the first floor and two bedrooms with attempted renovated apartments on the second floor; that the Auction did not list the kitchens; that Mr. Willard had asked his client what he purchased and it included the separate kitchens.

Chairman Wheatley asked Mr. Rico as to his current profession; that Mr. Rico said that he is a handyman; that he fixed up the property; that he believes that he was permitted to re-model a house; that he lived in Unit 2 after purchasing it from auction; that he worked on it; that he then got married; that they then purchased other properties in the Seaford area; that he used sub-contractors for those works; that the properties were all 'condominiumized' prior to his purchase of the first house in 2016.

Chairman Wheatley asked Mr. Rico what it was that he thought he way purchasing. Mr. Rico stated that he saw potential in the second unit; that he went into the property and saw that everything was separated; that the units had separate walls and entrances; that the spaces within the building are small with a low number of occupants;

Mr. Robertson noted that the auction listing, a copy of which is part of the record, does not mention this, and refers to the property as being a single-family dwelling. Mr. Rico commented that there were no stoves in the property at the time of purchase; that there were counters and cabinets, and electric stove hook-ups; but no gas hook-ups and no actual stoves.

Chairman Wheatley asked Ms. Cornwell to confirm what actions would likely result if the applications were to be denied. Ms. Cornwell stated that action would likely require the removal of the kitchens and a requirement for verification that the properties were being used as single-family dwellings; that

hook-up to the sewer could then proceed; that Building Permits would need to be obtained and the County's requirements would be met for the buildings.

Mr. Robertson noted that, as a Condominium, the other properties owners could also potentially be responsible and or burdened by any potential conditions that might be imposed by the Condition. Mr. Robertson also noted that he also has a potential 'clean hands' concern with the Applications, especially if the Applicant has not pulled Building Permits.

Ms. Wingate asked whether there was a shared maintenance agreement in place. Mr. Robertson stated that the Condominium documents would have some provisions within them for this.

Upon there being no one else wishing to speak, Chairman Wheatley closed the public hearings for the Applications. Chairman Wheatley noted that there is an opportunity for further public speaking as part of the upcoming public hearing before County Council.

At the conclusion of the public hearings, the Commission discussed the Applications. The Commission discussed their concerns with the impacts of the development and that, if the Commission were minded to recommend denial, that they would likely wish to allow a period of time to allow the occupiers an opportunity to find alternative places to live.

In relation to Application CZ 1901 Mary & Victor Rico, motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to defer action for further consideration. Motion carried 5-0.

In relation to Application to Application CU 2200 Mary & Victor Rico, motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to defer action for further consideration. Motion carried 5-0.

January 09, 2020 Planning and Zoning Commission Meeting

The Commission discussed applications CZ 1901 and CU 2200 which have been deferred since December 12, 2019.

Ms. Stevenson moved that the Commission recommend denial of Conditional Use #2200 for **Mary and Victor Rico** for a Conditional use to allow 7 Multi-Family Units on 0.927 acres of land based upon the following reasons:

1. This recommendation is based upon the record and it is also based upon the reasons and the recommended denial of CZ #1901 seeking to rezone the property from AR-1 to MR. Because the Commission recommended denial of the MR Zoning, the Conditional Use is not possible in the AR-1 District. As a result, this Conditional Use should be denied.
2. As stated in the denial of the MR Rezoning, the denial of this Conditional Use affects innocent people and families who may be living in the units that the Applicant has illegally constructed. Presumably these people are occupying the units with the assumption that they are legal. For that reason, it is also recommended that the County not take any enforcement action to remove the illegal units until July 1 of 2020. This will allow the people occupying the units plenty of time to find other housing and will not disrupt families with school-age children during the school year.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to recommend denial of Conditional Use #2200 for the reasons stated in the motion. Motion carried 5-0.

PLANNING & ZONING

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Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Planning Commission Members
From: Jennifer Norwood, Planner I
CC: Vince Robertson, Assistant County Attorney and applicant
Date: December 5, 2019
RE: Staff Analysis for CU 2200 Mary and Victor Rico

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2200 Mary and Victor Rico to be reviewed during the December 12, 2019 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 parcel 234-7.00-100.00 to allow for multi-family (7 units) to be located at 20797 Sunset Lane, Lewes. The size of the property is 0.927 ac. +/-.

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. Also included as part of the Comprehensive Plan is the Future Land Use Map to help determine how land should be zoned and to ensure responsible future development. The Future Land Use Map indicates that the property has the land use designation of "Commercial Areas."

The surrounding land use to the north and east are designated as "Coastal Areas." Coastal Areas support a range of housing types including single-family homes, townhouses, and multi-family units provided that special environmental concerns are addressed. The adjacent parcels to the west and south of the subject parcel are designated "Commercial Areas." "Commercial Areas include concentrations of retail and service uses, commercial corridors, shopping centers, hotels, motels, car washes and auto dealers. This includes other medium and larger scale commercial uses as well as mixed-use buildings.

The property is zoned AR-1 (Agricultural Residential District.) The property directly to the north of the application site is zoned Agricultural Residential District (AR-1). Properties to the east and south are zoned Agricultural Residential (AR-1) and existing properties on the opposite side of John J. Williams Highway (Route 24) are zoned Marine (M). The parcels to the west reflect a variety of zoning districts and include a mixture of Agricultural Residential (AR-1), Neighborhood Business (B-1) and Medium Density Residential (MR).

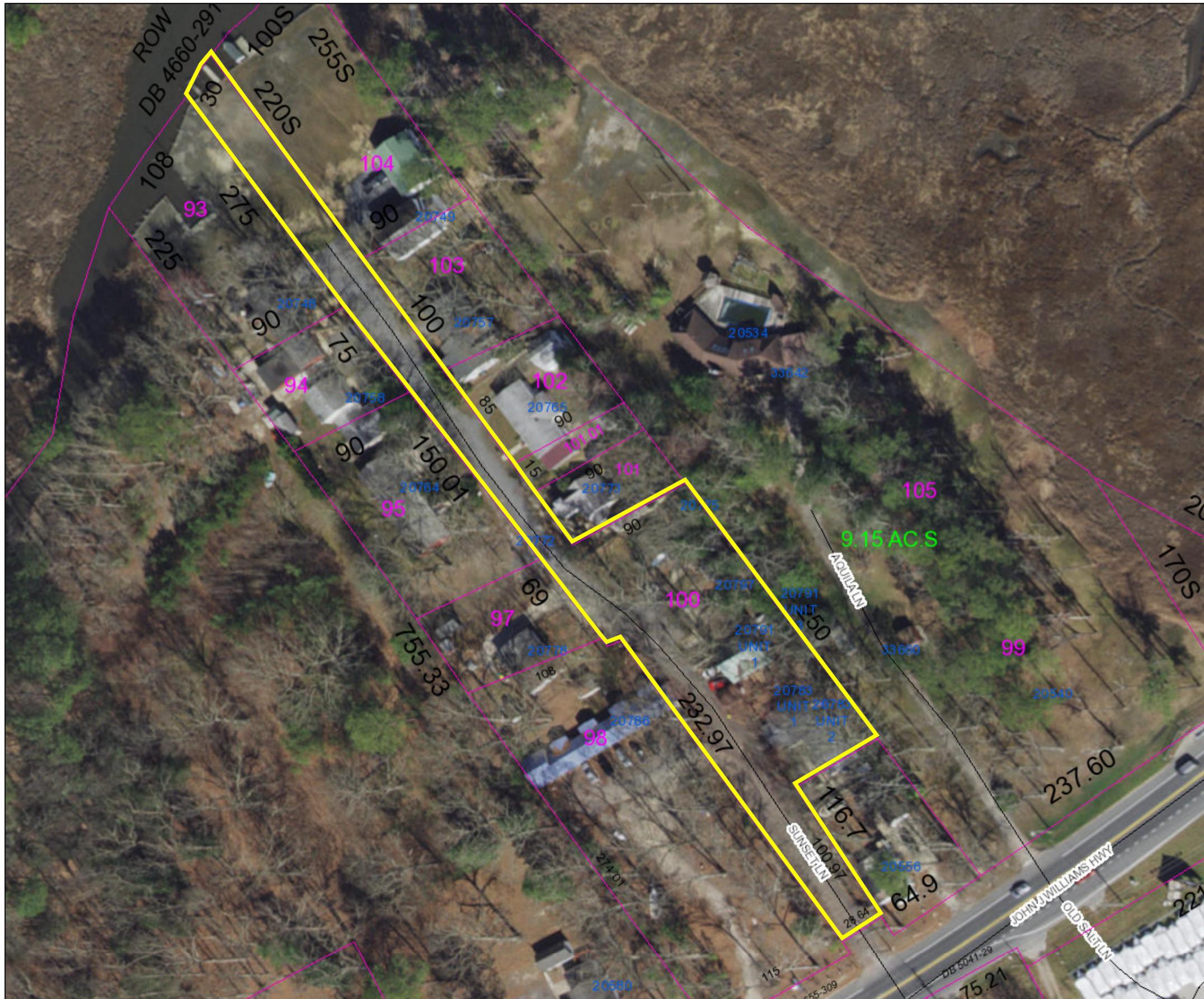
Since 2011, there have not been any other Conditional Use application within a 1-mile radius of the application site.

Based on the analysis of the land use, surrounding zoning and uses, the Conditional Use to allow for multi-family (7 units) may be considered consistent with the land use, area zoning and uses.



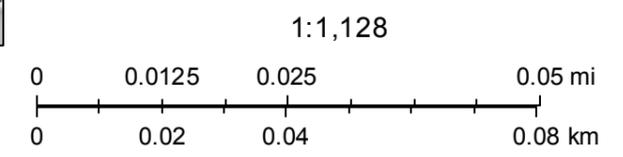


Sussex County



PIN:	234-7.00-100.00-1
Owner Name	RICO VICTOR A
Book	4725
Mailing Address	32183 POWELL FARM RD
City	FRANKFORD
State	DE
Description	LOVE CREEK COTTAGES
Description 2	CONDO UNIT 1
Description 3	N/A
Land Code	

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



Introduced 10/01/19

**Council District No. 3 – Burton
Tax I.D. No. 234-7.00-100.00
911 Address: 20797 Sussex Lane, Lewes**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM-DENSITY RESIDENTIAL DISTRICT) FOR MULTI-FAMILY (7 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED AND LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY CONTAINING 0.927 ACRES, MORE OR LESS

WHEREAS, on the 12th day of August 2019, a conditional use application, denominated Conditional Use No. 2200, was filed on behalf of Mary and Victor Rico; and

WHEREAS, on the ____ day of _____ 2020, 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. 2200 be _____; and

WHEREAS, on the ____ day of _____ 2020, 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. 2200 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Indian River Hundred and Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying on the east side of Sunset Lane on the north side of John J. Williams Highway (Route 24) approximately 0.28 mile northeast of Camp Arrowhead Road and being more particularly described in the attached legal description prepared by Haller & Hudson, said parcel containing 0.927 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.