

Sussex County Council Public/Media Packet

**MEETING:
February 18, 2020**

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

COUNTY COUNCIL

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



Sussex County

DELAWARE
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(302) 855-7743 T
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SUSSEX COUNTY COUNCIL

A G E N D A

FEBRUARY 18, 2020

10:00 A.M.

Call to Order

Approval of Agenda

Approval of Minutes

Reading of Correspondence

Public Comments

Todd Lawson, County Administrator

1. Recognition of Retiree – Donna R. Stevenson
2. Administrator's Report

Gina Jennings, Finance Director

1. First Quarter Employee Recognition Awards
2. Pension Committee Appointments

10:15 a.m. Public Hearing

Cherry Creek Valley Annexation

Bill Pfaff, Economic Development Director

1. Delaware Coastal Business Park – Jaykal LED Solution, Inc.
 - A. Lease Addendum



Hans Medlarz, County Engineer

1. EMS 200/Medic 110 Station, Project C19-08
 - A. Amendment 2 – Additional Design Services
2. Love Creek Woods, Master Plumber Services
 - A. Balancing Change Order and Substantial Completion

John Ashman, Director of Utility Planning

1. Use of Existing Infrastructure Agreements
 - A. Walden – Herring Creek Area
 - B. Villas at Walden – Herring Creek Area
 - C. Robert M. & Deborah A. Reed – West Rehoboth Area

Old Business

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 Sunset Lane, Lewes)

Conditional Use No. 2186 filed on behalf of Mountaire Farms of Delaware, Inc.

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND GR GENERAL RESIDENTIAL DISTRICT FOR SLUDGE AND WASTEWATER SPRAY IRRIGATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 351.86 ACRES, MORE OR LESS” (lying on both sides of Mount Joy Road, approximately 52 feet west of Townsend Road, and being on both sides of Townsend Road, approximately 157 feet south of Mount Joy Road, and being on the southeast corner of Mount Joy Road and Townsend Road, the northeast corner of Maryland Camp Road and Townsend Road, and the southwest corner of Maryland Camp Road and William Street Road) (Tax I.D. No. 234-28.00-1.00, 2.00, and 3.00) (911 Address: None Available)

Grant Requests

1. Stronger After Cancer for free physical therapy for cancer survivors
2. Ocean View Historical Society for the Hall’s Store Visitors and Education Center

Introduction of Proposed Zoning Ordinances

Council Members’ Comments

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

Possible Action on Executive Session Items

1:30 p.m. Public Hearings

Conditional Use No. 2205 filed on behalf of Frank Passwaters

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AUTO-MOTORCYCLE REPAIR TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.8711 ACRES, MORE OR LESS” (lying on the southwest side of Railroad Avenue and Greely Avenue) (Tax I.D. No. 230-6.00-1.02) (911 Address: 8870 Railroad Avenue, Lincoln)

Change of Zone No. 1902 filed on behalf of John C. Stamato c/o Ribera Development, LLC

“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A CR-1 COMMERCIAL RESIDENTIAL DISTRICT TO A HI-1 HEAVY INDUSTRIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 15 ACRES, MORE OR LESS” (lying on the southeast corner of Lewes-Georgetown Highway (Route 9) and Steiner Road) (Tax I.D. No. 135-16.00-23.00 (portion of) (911 Address: Not Available)

Adjourn

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

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on February 11, 2020 at 4:30 p.m., and at least seven (7) days in advance of the meeting.

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

Agenda items may be considered out of sequence.

###

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, FEBRUARY 4, 2020

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, February 4, 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 049 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

Minutes

The minutes of January 28, 2020 were approved by consent.

**Corre-
spondence**

Mr. Moore reported on correspondence received from the following: The Ark of Delaware.

**Nemours
and
Bayhealth
Presen-
tation**

Cathy Kanefsky, Nemours Chief Development Officer, and Lindsay Rhodenbaugh, Bayhealth Foundation President, gave a presentation on the partnership between Bayhealth and Nemours Children's Health System to provide pediatric specialty care and senior care in Sussex County. The new medical facility currently under construction at Bayhealth's Sussex Campus is scheduled to open in Fall 2020. Ms. Kanefsky and Mr. Rhodenbaugh asked Council to give consideration to supporting this project.

Rules

Mr. Rutt read the rules of procedure for public hearings.

**Public
Hearing/
CDBG**

A Public Hearing was held on the development of the 2020 Community Development Block Grant application, which is to be submitted to the Delaware State Housing Authority. The Community Development Block

**Public
Hearing/
CDBG
(continued)**

Grant (CDBG) is a federal grant from the Department of HUD to the Delaware State Housing Authority (DSHA). Kent and Sussex Counties compete for the funding by making application to the DSHA.

Brad Whaley, Director of Sussex County Community Development & Housing, announced that the purpose of the Public Hearing is to give the citizens the opportunity to participate in the application process. Mr. Whaley stated that Sussex County's application will consist of projects in the County and in the municipalities. He reported that staff has met with all the municipalities who have asked for the County's assistance to make application to the DSHA and that the Department has held Public Hearings in all of the municipalities listed and the projects presented represent their requests.

Mr. Whaley reported that, over the past five years, the County and the communities within the County have received over \$8.1 million in Community Development Block Grant and HOME funding and have been able to assist 678 households and over 1,404 residents (primarily for housing rehabilitation, demolition, and sewer and water hook-ups).

Mr. Whaley advised that part of the CDBG requirements is that a status report be given. Mr. Whaley reported on the allocation of the funding during FY2018: approximately \$1,680,000 was received in CDBG and HOME funding and 137 low-to-moderate income households received assistance.

Mike Jones, Rehab Specialist, presented a program status update for 2019, showing some before and after pictures of projects completed.

Mr. Whaley reviewed the income guidelines and other requirements to qualify for housing rehabilitation.

Mr. Whaley reported on the prioritization plan of CDBG funds in rural communities.

Mr. Whaley noted that the public hearing on this date is held to collect information to make application for funding.

Mr. Whaley presented the FY20 CDBG request which includes municipality applications and the County application (scattered sites), a list of projects to be submitted to the Delaware State Housing Authority for CDBG funding. Projects include rehabs, sewer and water hookups, roofing and emergency home repair, The total requested amount is \$2,025,000.

Mr. Whaley noted that the total funding available is \$2,000,000 to \$2,500,000 for Sussex and Kent Counties and that the Delaware State Housing Authority will review the applications and determine how the funding will be awarded.

**Public
Hearing/
CDBG
(continued)**

Mr. Whaley stated that, over the years, the County Council has provided funding for emergency projects. Mr. Whaley reviewed the primary uses for this funding and the number of households assisted.

Brandy Nauman, Housing Coordinator & Fair Housing Compliance Officer, was in attendance and presented two proposed Resolutions for the Council's consideration.

There were no public comments.

The Public Hearing and public record were closed.

**M 050 20
Adopt
R 001 20**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, to Adopt Resolution No. R 001 20 entitled "Fair Housing Resolution".

Motion Adopted: 5 Yeas.

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

**M 051 20
Adopt
R 002 20**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, to Adopt Resolution No. R 002 20 entitled "Authorization to Submit Applications".

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
Wolfe
Runne/
Issuance
of GOBs**

A Public Hearing was held on 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 RUNNE AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH".

This Ordinance provides for the issuance of up to \$1,701,000 of Sussex County General Obligation Bonds in order to finance or reimburse the County for all or a portion of the costs of the extension of sanitary sewer services to Wolfe Runne (the "Project").

There were no public comments.

The public record and Public Hearing were closed.

**M 052 20
Adopt
Ordinance
No. 2703**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, to Adopt Ordinance No. 2703 entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$1,701,000 OF GENERAL OBLIGATION BONDS

M 052 20
(continued) **OF SUSSEX COUNTY IN CONNECTION WITH THE EXTENSION OF
SANITARY SEWER SERVICES TO WOLFE RUNNE AND
AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION
THEREWITH’.**

Motion Adopted: 5 Yeas.

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

M 053 20
Adopt
Loan
Resolution/
Wolfe
Runne **A Motion was made by Mr. Burton, seconded by Mr. Wilson, to Adopt the
Loan Resolution entitled “A RESOLUTION OF THE COUNTY COUNCIL
OF SUSSEX COUNTY COUNCIL AUTHORIZING AND PROVIDING
FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF
PROVIDING A PORTION OF THE COST OF ACQUIRING,
CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING
ITS SEWER SERVICES FACILITY TO SERVE AN AREA LAWFULLY
WITHIN ITS JURISDICTION TO SERVE”.**

Motion Adopted: 5 Yeas.

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

Public
Hearing/
Mallard
Creek/
Issuance
of GOBs **A Public Hearing was held on 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”.**

**This Ordinance provides for the issuance of up to \$1,526,000 of Sussex
County General Obligation Bonds in order to finance or reimburse the
County for all or a portion of the costs of the extension of sanitary sewer
services to Mallard Creek (the "Project").**

There were no public comments.

The public record and Public Hearing were closed.

M 054 20
Adopt
Ordinance
No. 2704 **A Motion was made by Mr. Burton, seconded by Mr. Wilson, to Adopt
Ordinance No. 2704 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’.**

**M 054 20
(continued)**

Motion Adopted: 5 Yeas.

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

**M 055 20
Adopt
Loan
Resolution/
Mallard
Creek**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, to Adopt the Loan Resolution entitled “A RESOLUTION OF THE COUNTY COUNCIL OF THE SUSSEX COUNTY COUNCIL AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING A PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS SEWER SERVICES FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO SERVE”.

Motion Adopted: 5 Yeas.

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

**Caroling
on The
Circle
Food Drive**

Mr. Lawson announced that over \$4,000 and 28,000 donated food items were collected during the Caroling on The Circle Food Drive held in December 2019. The Council recognized the participants who helped in this effort. Mr. Lawson reported that the food items were distributed to various food pantries throughout Sussex County.

**Board
Appoint-
ment**

Mr. Lawson announced that Mr. Stephen McCabe’s term on the Board of Assessment Review will expire this month. (District 5)

**M 056 20
Board of
Assessment
Review
Reappoint-
ment**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, that the Sussex County Council reappoints Mr. Stephen McCabe to the Sussex County Board of Assessment Review effective immediately for a term of five (5) years or until February 2025.

Motion Adopted: 4 Yeas, 1 Absent.

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

**Board
Appoint-
ment**

Mr. Lawson announced that Arthur Marvel has notified the County that he is resigning from the Board of Adjustment & Appeals (a/k/a Building Code Appeal Board and Housing Code Appeal Board) and that the position needs to be filled. Mr. Vincent has recommended that Mr. Greg Hill be appointed to fill the vacancy. (District 1)

**M 057 20
Board of
Adjustment
& Appeals
Appoint-
ment**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, that the Sussex County Council appoints Mr. Greg Hill to the Sussex County Building Code Board of Adjustments & Appeals effective immediately until such time as the term expires in December 2020.

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. Council Meeting Schedule

A reminder that Council will not meet on Tuesday, February 11th. The next regularly scheduled Council meeting will be held on February 18th at 10:00 a.m.

**SCRWF
and
RBWTP
Project**

Hans Medlarz, County Engineer, referenced the South Coastal Regional Wastewater Facility (SCRWF) Process Upgrade No. 3 and the Rehoboth Beach Wastewater Treatment Plant Capital Improvement Program (RBWTP CIP), Phase 2 and presented a Contract Amendment with GHD for Construction Engineering and Inspection Services, a Change Order to the Electrical Construction Project C19-17, and an Authorization to Proceed for DP&L with a power service relocation.

**M 058 20
Approve
GHD
Amend-
ment 20/
Base
Engineering
Contract**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering and Finance Departments, that Amendment No. 20 to the Base Engineering Contract with GHD, Inc. be approved in the amount not to exceed \$6,589,558.49 for Construction Engineering Services for the SCRWF Treatment Upgrade No. 3 and RBWTP CIP Upgrade Phase 2 Project.

Motion Adopted: 5 Yeas.

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

**M 059 20
Approve
C/O #1/
Electrical
Con-
struction**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 1 for Contract C19-17, SCRWF Treatment Process Upgrade No. 3 and RBWTP Capital Improvement Program, Phase 2 – Electrical Construction, be approved, decreasing the contract by \$759,374.80, for a new contract total of \$21,419,299.20.

Motion Adopted: 5 Yeas.

**M 059 20
(continued)**

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

**M 060 20
Authori-
zation to
Proceed/
DP&L
Power
Service
Relocation**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that the County Council approves Delmarva Power to perform work at the South Coastal Wastewater Facility and the Rehoboth Wastewater Treatment Plant in the not to exceed amount of \$175,000.00, for services provided by the Utility.

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
Contract 1/
Route 13
Force Main**

Hans Medlarz, County Engineer, presented Change Order No. 1 for Western Sussex Contract 1 – Route 13 Force Main, Project 18-12. The Change Order is for the Cannon Road concrete patch and contingent borrow material due to overrun on an item directed by DelDOT for trench backfill along Route 13.

**M 061 20
Approve
C/O #1/
Western
Sussex
Contract 1**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 1 for Contract 18-12, Western Sussex Transmission Facilities, Contract 1, Route 13 Force Main, be approved, increasing the contract by \$254,188.92, for a new contract total of \$3,479,008.92.

Motion Adopted: 5 Yeas.

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

**Admin.
Building
Cooling
Tower**

Hans Medlarz, County Engineer, presented the bid results and recommendation to award the bid for the Sussex County Administration Building Cooling Tower Project (Project C20-04).

**M 062 20
Award
Contract/
Admin.
Building
Cooling
Tower**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that Contract C20-04, Sussex County Administrative Building Cooling Tower, be awarded to Joseph T. Richardson, for their best value bid in the amount of \$120,000.00.

Motion Adopted: 5 Yeas.

**M 062 20
(continued)**

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

**Sycamore
Chase/
Request
to Post
Notices**

John Ashman, Director of Utility Planning, presented a request to prepare and post notices for the Sycamore Chase Expansion of the Sussex County Sanitary Sewer District (Miller Creek Area). Sycamore Chase is a proposed 104 lot subdivision. The Meadows at Bayard is a 10-lot subdivision that is currently restricted to 5 lots based on their existing on-site community septic system. The Sycamore Chase project will be providing a connection point for The Meadows at which point The Meadows owner will construct infrastructure to connect to that connection point and abandon the existing on-site system.

**M 063 20
Authorize
Posting
of Notices/
Sycamore
Chase**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, that the Sussex County Engineering Department is authorized to prepare and post notices for the Sycamore Chase Expansion of the Sussex County Unified Sanitary Sewer District to include Parcels 134-18.00-55.00, 134-19.00-5.00 and 134-19.00-6.00 and The Meadows at Bayard located along Bayard Road, 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

**Plantation
Medical
Annexa-
tion/
Request
to Post
Notices**

John Ashman, Director of Utility Planning, presented a request to prepare and post notices for the Plantation Medical Expansion of the Sussex County Unified Sanitary Sewer District (West Rehoboth Area). The expansion would include two parcels along Plantation Road north of Route 24. The Engineering Department sent letters to the neighboring parcels asking them if they wished to be included in the District at the same time. The Metropolitan Community Church parcel has requested to be included. The next parcel did not respond to two separate letters so they were notified that the County would be requiring an easement at some time in the future.

**M 064 20
Authorize
Posting
of Notices/
Plantation
Medical
Annexa-
tion**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, that the Sussex County Engineering Department is authorized to prepare and post notices for the Plantation Medical and Professional Center Expansion of the Sussex County Unified Sanitary Sewer District to include Parcels 334-12.00-53.02 and 53.03 located on Plantation Road, 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

Grant Request	Mrs. Jennings presented a grant request for the Council's consideration.
M 065 20 Councilmanic Grant	<p>A Motion was made by Mr. Wilson, seconded by Mr. Burton, to give \$300.00 from Mr. Wilson's Councilmanic Grant Account to the Friends of the Georgetown Public Library for library programming.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Wilson, Yea; Mr. Burton, Yea; Mr. Vincent, Yea</p>
Introduction of Proposed Ordinances	<p>Mr. Hudson introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR (MEDIUM DENSITY RESIDENTIAL DISTRICT) FOR MULTI-FAMILY (75 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 29.34 ACRES, MORE OR LESS" (Conditional Use No. 2207) filed on behalf of CBB Cedar Pines, LLC (Tax I.D. No. 134-9.00-21.00, 21.03, 21.04, 21.05 & 1227.00 – 1269.00) (911 Address: None Available).</p> <p>Mr. Rieley introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 (GENERAL COMMERCIAL DISTRICT) FOR STONE & GRANITE RETAIL, FABRICATION, CUTTING, DISPLAYING & SELLING OF GRANITE, STONE & QUARTZ TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 11.80 ACRES, MORE OR LESS" (Conditional Use No. 2219) filed on behalf of 32630 DuPont Boulevard, LLC (Tax I.D. No. 233-16.00-27.00 (portion of) (911 Address: 32630 DuPont Blvd., Dagsboro).</p> <p>The Proposed Ordinances will be advertised for Public Hearing.</p>
M 066 20 Go Into Executive Session	<p>At 11:24 a.m., a Motion was made by Mr. Hudson, seconded by Mr. Burton, to recess the Regular Session and go into Executive Session for the purpose of discussing matters relating to land acquisition and job applicants' qualifications.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Wilson, Yea; Mr. Burton, Yea; Mr. Vincent, Yea</p>
Executive Session	<p>At 11:28 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the purpose of discussing matters relating to land acquisition and job applicants' qualifications. The</p>

- (continued) **Executive Session concluded at 12:26 p.m.**
- M 067 20** **At 12:28 p.m., a Motion was made by Mr. Hudson, seconded by Mr.**
Reconvene **Burton, to come out of Executive Session and reconvene the Regular**
Regular **Session.**
Session
- Motion Adopted: 4 Yeas, 1 Absent.**
- Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;**
 Mr. Wilson, Absent; Mr. Burton, Yea;
 Mr. Vincent, Yea
- E/S Action** **No action was taken on Executive Session matters.**
- M 068 20** **At 12:29 p.m., a Motion was made by Mr. Burton, seconded by Mr.**
Recess **Hudson, to recess until 1:30 p.m.**
- Motion Adopted: 4 Yeas, 1 Absent.**
- Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;**
 Mr. Wilson, Absent; Mr. Burton, Yea;
 Mr. Vincent, Yea
- M 069 20** **At 1:30 p.m., a Motion was made by Mr. Burton, seconded by Mr. Wilson,**
Reconvene **to reconvene.**
- Motion Adopted: 5 Yeas.**
- Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;**
 Mr. Wilson, Yea; Mr. Burton, Yea;
 Mr. Vincent, Yea
- Rules** **Mr. Moore read the rules of procedure for zoning hearings.**
- Public** **A Public Hearing was held on the Proposed Ordinance entitled “AN**
Hearing/ **ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN**
CU 2202 **AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A**
 LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN
 PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK
 HUNDRED, SUSSEX COUNTY, CONTAINING 6.345 ACRES, MORE
 OR LESS” (Conditional Use No. 2202) filed on behalf of John H.
 Passwaters (Tax I.D. No. 131-15.00-17.00) (911 Address: 18956 Sussex
 Highway, Bridgeville).
- The Planning and Zoning Commission held a Public Hearing on this**
 application on December 19, 2019 at which time the Commission
 recommended approval with conditions.

**Public
Hearing/
CU 2202
(continued)**

(See the minutes of the Planning and Zoning Commission dated December 19, 2019.)

Jamie Whitehouse, Acting Director of Planning and Zoning, presented the application.

The Council found that John Passwaters was present and stated that his application is for operating a small landscaping company; that the subject property has been operating as a farm for 80+ years; that there will be similar equipment on-site but much smaller; that operating times are 8:00 a.m. to 4:00 p.m. Monday through Friday and in April through July, on Saturdays from 8:00 a.m. to 4:00 p.m.; that there are no Sunday hours; that they provide snow removal services in the winter months, as needed; that the building closest to the highway will be used as an office with one person working in there; and that he resides on the property.

There were no public comments.

The public record and Public Hearing were closed.

**M 070 20
Adopt
Ordinance
No. 2705/
CU 2202**

A Motion was made by Mr. Hudson, seconded by Mr. Wilson, to Adopt Ordinance No. 2705 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 6.345 ACRES, MORE OR LESS" (Conditional Use No. 2202) filed on behalf of John H. Passwaters, with the following conditions:

- A. This use shall be limited to a landscaping business.
- B. One lighted sign, not to exceed 32 square feet per side, shall be permitted.
- C. The hours of operation shall be limited to 6:00 a.m. through 9:00 p.m. Monday through Sunday.
- D. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.
- E. The Applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.
- F. The Final Site Plan shall clearly show all areas for vehicle equipment storage and parking, and these areas shall be clearly marked on the site itself. There shall not be any parking or storage within the property's setbacks.
- G. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.
- H. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion Adopted: 5 Yeas.

**M 070 20
(continued)**

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

**Public
Hearing/
CU 2203**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A TREE AND LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 1.227 ACRES, MORE OR LESS” (Conditional Use No. 2203) filed on behalf of Christopher Booth (Tax I.D. No. 433-7.00-13.01) (911 Address: 30725 Omar Road, Frankford).

The Planning and Zoning Commission held a Public Hearing on this application on December 19, 2019 at which time action was deferred. On January 9, 2020, the Commission recommended denial.

(See the minutes of the Planning and Zoning Commission dated December 19, 2019 and January 9, 2020.)

Jamie Whitehouse, Planning and Zoning Director, presented the application.

The Council found that Christopher Booth, Owner and Applicant, and wife Krystal were present on behalf of the application. Mr. Booth stated that he wants to continue to operate a small landscaping business on the property; that his wife’s family has owned the property for many years; that he has no employees; that he does have a sub-contractor that helps out; that there is no office on the property; that he lives on the site with his family; that he does cut and store firewood on the site; that they do have bonfires on the site; that he has cleaned up the site and will continue to do so; that he has removed a lot of metals and trash from the property; that the Constables have visited the site twice and found no violations during the last visit; that the Bennett’s peach orchard is located adjacent to his property and the Bennetts have no problem with the application; and that numerous commercial businesses are located in the area.

There were no public comments in support of the application.

Public comments were heard in opposition to the application. Steven Harding, who lives directly behind Mr. Booth’s property, stated that the Applicant works on the weekends running chainsaws and generators; that there are people working on the site seven days a week; that the Applicant builds fires no more than 50 feet from his property line; that he can see and smell the smoke all the time; that there is trash everywhere on the Applicant’s property; and that this use, if allowed to continue, would devalue property values in the area.

There were no additional public comments.

**Public
Hearing/
CU 2203
(continued)**

The public record and Public Hearing were closed.

Mr. Hudson and Mr. Rieley asked to defer action on the Proposed Ordinance. Mr. Rieley suggested that conditions be prepared for consideration.

**M 071 20
Defer
Action on
CU 2203**

A Motion was made by Mr. Rieley, seconded by Mr. Wilson, to defer action on Conditional Use No. 2203 filed on behalf of Christopher F. Booth.

Motion Adopted: 5 Yeas.

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

**M 072 20
Adjourn**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, to adjourn at 2:11 p.m.

Motion Adopted: 5 Yeas.

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

GINA A. JENNINGS, MBA, MPA
FINANCE DIRECTOR

(302) 855-7741 T
(302) 855-7749 F
gjennings@sussexcountype.gov



Sussex County
DELAWARE
sussexcountype.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: Gina A. Jennings
Finance Director/Chief Operating Officer

RE: **PENSION COMMITTEE APPOINTMENTS**

DATE: February 14, 2020

On Tuesday, I will be requesting your approval to appoint three members to our Pension Committee; one is a new appointment and two are reappointments. The Committee is made up of seven members. County employees who currently serve in the positions of Finance Director, County Administrator, and Human Resources Director are always members of the Committee. Two Sussex County community members, a current Sussex County employee and a retired Sussex County employee (who currently receives a County pension) are appointed by County Council for four-year terms. Mr. David Baker and Ms. Kathy Roth are the two reappointments. Mr. Baker serves on the Committee in the capacity as a current pensioner, and Ms. Kathy Roth serves as a current employee.

The third appointment to be filled is one of the two community member seats. I am recommending Mitchell Rogers. Mr. Rogers is a Financial Advisor with Edward Jones Investments. He has 20 years of investment advisor experience that includes portfolio analysis and retirement planning. His strong investment background, with experience in retirement planning services, will make him a valuable asset to the Committee. Mr. Rogers' resume' is attached for your reference.

If you have any questions, please feel free to contact me.

GAJ/nc

Attachment

Mitchell K. Rogers
Investment Representative
Edward Jones Investments
28587 Dupont Blvd., Unit 2
Millsboro, DE 19966
(302) 934-1938

Overview

- Twenty years investment advisor experience (for individuals and business owners) which includes portfolio analysis & design, diversification, retirement planning, and tax-smart investing
- Five years professional sales & marketing experience (to businesses, school districts, and government/non-profit agencies) which includes lead generation, proposal development and presentation, vertical market strategies, and vendor relationships
- Six years management experience which includes developing new initiatives, new analytical techniques, and managing networked and standalone PCs
- Strong computer and information technology skills

Experience

2000-Present Edward Jones Investments, Millsboro, DE

Financial Advisor – Responsible for managing a branch office and advising investors toward their goals in retirement, college savings, additional income, and tax-advantaged investments

- opened new branch office and solidified name recognition and reputation
- exceeded industry expectations in short timeframe with millions of dollars in investment assets
- advised hundreds of individual investors on appropriate mutual funds, corporate and tax-free bonds, unit investment trust, annuities, stocks, CDs, and long-term care & life insurance

1995-2000 CE Computers, Inc., Georgetown, DE

Sr. Account Executive – Responsible for leading sales team toward excellence in customer service & support so as to increase sales and gross margin for a value-added reseller & Internet service provider

- led team of 2-5 members, with sales increasing 300% to \$2.5MM and gross margin up 40%, in marketing of networking hardware & software, servers & operating systems, PCs, peripherals, application software, and Internet services
- increased customer base by 25% within diverse markets, including major accounts in education
- implemented new service contracts, outsourcing contracts, training resources, value-added reseller authorizations, and Internet services
- recruited new sales representatives who fit our “culture” of impeccable customer service

1989-1995 Office of Auditor of Accounts, State of Delaware, Dover, DE 19903

Deputy Auditor - Responsible for developing and coordinating the Performance Audit and EDP Audit functions, and directing the Information Technology unit; 12 staff members total

- directed performance audits of various state government operations which resulted in recommendations addressing millions of dollars in savings
- administered EDP audits of the major mainframe site and the major accounting applications, which resulted in numerous recommendations including improved controls over data security and access authorizations, contingency planning, reconciliations, and system documentation
- improved audit quality and productivity of audit staff through the automation of tasks (such as backup of audit files), and accessibility of on-line data (via computer network) while obtaining cost-savings through fewer hardware components
- introduced trend analysis and risk analysis for audit planning, which helped identify areas where audit efforts should be concentrated

Mitchell K. Rogers

Professor Experience:

Delaware Technical & Community College, Georgetown, DE
1990-97 COURSE: **Introduction to Computers/Applications**

Wilmington College, Georgetown, DE
1990 COURSE: **Planning, Organization, and Control**

Education:

2007	FINRA, Washington, DC	Uniform Combined State Law Exam, Series 66
2004	College for Financial Planning, La Crosse, WI	AAMS & AWMA Designations
2000	FINRA, Washington, DC	General Securities Rep. Exam,
Series 7		
1989	Wilmington College, Georgetown, DE	M.B.A. (4.0 GPA)
1986	University of the State of New York, Albany, NY	B.S. – Business
1979	Delaware Technical & Community College, Georgetown, DE	A.A.S. - Data Processing

ENGINEERING DEPARTMENT

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



Sussex County

DELAWARE
sussexcountyde.gov

HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING

Proposed Cherry Creek Valley Expansion of the Sussex County Unified Sanitary Sewer District

PUBLIC HEARING FACT SHEET

- Expansion of the Sussex County Unified Sanitary Sewer District (Angola Neck Area)
- Includes 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 caused us to create and distribute a polling letter to the area.
- The results from the polling letter were mixed and we have prepared the current boundary based on those requests for service and the requirement to maintain a contiguous boundary.
- One property has multiple mobile homes and campers that are currently connected to common septic systems and/or cesspools. They are currently working with DNREC in an attempt to clean up the site and central sewer would benefit the property as well as take care of some environmental issues.
- The County is currently in design for the Joy Beach area project which extends sewer service to the Happy Go Lucky Mobile Home Park and this would allow us the opportunity to take advantage of some economies of scale.
- The Engineering Department received permission to prepare and post notices for a Public Hearing on the annexation of the area on January 14th, 2020
- The notices were posted in the area on January 27, 2020. Advertised on February 5th & 12th.
- To date we have no responses either in support or opposition to the proposed boundary.



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

RESOLUTION

A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) ANGOLA NECK AREA, TO INCLUDE THE CHERRY CREEK VALLEY AREA AND SEVERAL PARCELS OF LAND ALONG THE EAST SIDE OF CAMP ARROWHEAD ROAD LOCATED IN THE INDIAN RIVER HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE.

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

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

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

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

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

NOW, THEREFORE,

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

NOTE: The above description has been prepared using Sussex County Tax Map 234-12.00 and Sussex County property assessment records.

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

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

Beginning at a point, said point being on the SCUSSD (Angola Neck Area) boundary, said point being the northwesternmost property corner of lands Now or Formerly (N/F) of Audrey R. Lord & J. Phillip Simmons, said point also being the southwesternmost property corner of lands N/F of Beonica L. Duffy, said point further being on the easterly Right of Way (ROW) of Camp Arrowhead Road; thence leaving said SCUSSD boundary and continuing by and with said ROW in a northerly direction a distance of 1,205'± to a point, said point being a property corner of lands N/F Cherry Creek Valley, Inc., said point also being the southernmost property corner of lands N/F of Melissa York; thence leaving said ROW and continuing by and with said Cherry Creek lands in a northerly, northeasterly, easterly, southerly, and southwesterly a distance of 4,168'± to a point, said point being the northeasternmost property corner of lands N/F of Michael A. & Loretta M. Olszweski; thence leaving said Cherry Creek lands and continuing by and with said Olszweski lands in a southerly direction a distance of 181'± to a point said point being the southwesternmost point of lands N/F of Andrew Clements; thence proceeding by and with said Clements lands in an easterly direction a distance of 8'± to a point, said point being at the western end of David Drive owned N/F of David J. & Nancy L. Wise; thence following said Wise lands in a southerly and easterly direction a distance of 83'± to a point, said point being on the northerly property line of Robert J. Harrison; thence

proceeding by and with said Harrison lands in an easterly and southerly direction a distance of 158'± to a point, said point being on the northerly property line of lands N/F of John H. Marsh, aka Cherry Walk Drive; thence proceeding by and with said Marsh lands following Cherry Walk Drive in an northeasterly, southeasterly and southwesterly direction a distance of 2,598'± to a point, said point being the northeasternmost property corner of lands N/F of John J. & Charlotte A. Mayes; thence proceeding by and with said Mayes lands in a southerly direction a distance of 80'± to a point, said point being on the northerly property line of lands N/F of Beonica L. Duffy; thence proceeding by and with said Duffy lands in a northeasterly, southeasterly and southwesterly direction a distance of 2,359'± to a point, said point being that of the BEGINNING.

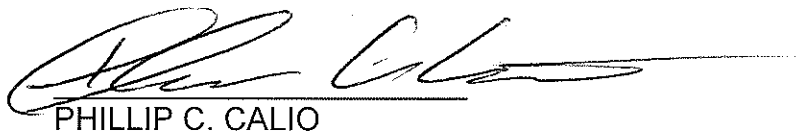
BE IT FURTHER RESOLVED that the County Engineer is hereby authorized to prepare maps, plans, specifications, and estimates, let contracts for and supervise the construction and maintenance of, or enlarging and remodeling of, any and all structures required to provide for the safe disposal of sewage in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

SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT
CHERRY CREEK VALLEY EXPANSION
AFFIDAVIT FOR PUBLIC HEARING

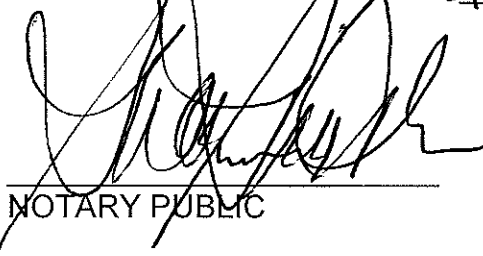
STATE OF DELAWARE)(:
COUNTY OF SUSSEX)(

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

- A. On January 27, 2020 he was a Utility Planner for the Sussex County Engineering Department, Sussex County, State of Delaware; and
- B. On January 27, 2020 he did post the attached "Public Notice," prepared by the Sussex County Engineering Department, at the following locations:
1. On a post in front of DEC Pole 14854 in the easterly Right-of-Way (ROW) of Camp Arrowhead Road, 60' east of Angola Road,
 2. On a post in front of a stop sign at the intersection of Waterview Road and Bookhammer Landing Road,
 3. On a post in front of a stop sign at the intersection of Waterview Road and Camp Arrowhead Road,
 4. On a post in the easterly ROW of Camp Arrowhead Road 82'± southeast of the centerline of John J. Williams Highway,
 5. On a post in the northerly ROW of Cherry Walk Drive 40'± east of the centerline of Camp Arrowhead Road,
 6. On a post in front of DEC Pole 113341 in the easterly ROW of Camp Arrowhead Road 259'± north of Cherry Walk Drive,
 7. On a post at the mailboxes for Cherry Creek Valley, 60'± east of the centerline of Camp Arrowhead Road.
 8. On a post in the easterly ROW of Camp Arrowhead Road 240'± from the entrance to Cherry Creek Valley.


PHILLIP C. CALIO

SWORN TO AND SUBSCRIBED before me on this 28th day of Jan A.D., 2020


NOTARY PUBLIC

SHARON E. SMITH
NOTARY PUBLIC
STATE OF DELAWARE
My Commission Expires on 6/14/22

My Commission Expires 6/14/2022

PUBLIC NOTICE

PROPOSED CHERRY CREEK VALLEY EXPANSION OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (ANGOLA NORTH AREA)

NOTICE IS HEREBY GIVEN that the Sussex County Council voted on **January 14, 2020** to consider extending the boundary of the Sussex County Unified Sanitary Sewer District (SCUSSD), Angola North Area, to include the Cherry Creek Valley Mobile Home Park and several adjoining properties along Camp Arrowhead Road, being situate in Indian River Hundred, Sussex County, Delaware.

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

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

Beginning at a point, said point being on the SCUSSD (Angola Neck Area) boundary, said point being the northwesternmost property corner of lands Now or Formerly (N/F) of Audrey R. Lord & J. Phillip Simmons, said point also being the southwesternmost property corner of lands N/F of Beonica L. Duffy, said point further being on the easterly Right of Way (ROW) of Camp Arrowhead Road; thence leaving said SCUSSD boundary and continuing by and with said ROW in a northerly direction a distance of 1,205'± to a point, said point being a property corner of lands N/F Cherry Creek Valley, Inc., said point also being the southernmost property corner of lands N/F of Melissa York; thence leaving said ROW and continuing by and with said Cherry Creek lands in a northerly, northeasterly, easterly, southerly, and southwesterly a distance of 4,168'± to a point, said point being the northeasternmost property corner of lands N/F of Michael A. & Loretta M. Olszweski; thence leaving said Cherry Creek lands and continuing by and with said Olszweski lands in a southerly direction a distance of 181'± to a point said point being the southwesternmost point of lands N/F of Andrew Clements; thence proceeding by and with said Clements lands in an easterly direction a distance of 8'± to a point, said point being at the western end of David Drive owned N/F of David J. & Nancy L. Wise; thence following said Wise lands in a southerly and easterly direction a distance of 83'± to a point, said point being on the northerly property line of Robert J. Harrison; thence proceeding by and with said Harrison lands in an easterly and southerly direction a distance of 158'± to a point, said point being on the northerly property line of lands N/F of John H. Marsh, aka Cherry Walk Drive; thence proceeding by and with said Marsh lands following Cherry Walk Drive in an northeasterly, southeasterly and southwesterly direction a distance of 2,598'± to a point, said point being the northeasternmost property corner of lands N/F of John J. & Charlotte A. Mayes; thence proceeding by and with said Mayes lands in a southerly direction a distance of 80'± to a point, said point being on the northerly property line of lands N/F of Beonica L. Duffy; thence proceeding by and with said Duffy lands in a northeasterly, southeasterly and southwesterly direction a distance of 2,359'± to a point, said point being that of the **BEGINNING**.

NOTE: The above description has been prepared using Sussex County Tax Map 234-12.00 and Sussex County property assessment records. The annexation contains 48 acres more or less.

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

The public hearing will be held on this issue at 10:15 a.m. on February 18, 2020 in the Sussex County Council Chambers, 2 The Circle, Georgetown, Delaware 19947. All interested persons, officials, residents, voters, taxpayers, property owners, or corporations in any way affected by this boundary extension are welcome to attend. There will be an opportunity for questions and answers. The Sussex County Council following the hearing, at one of their regularly scheduled meetings, will make the final decision on the boundary extension.

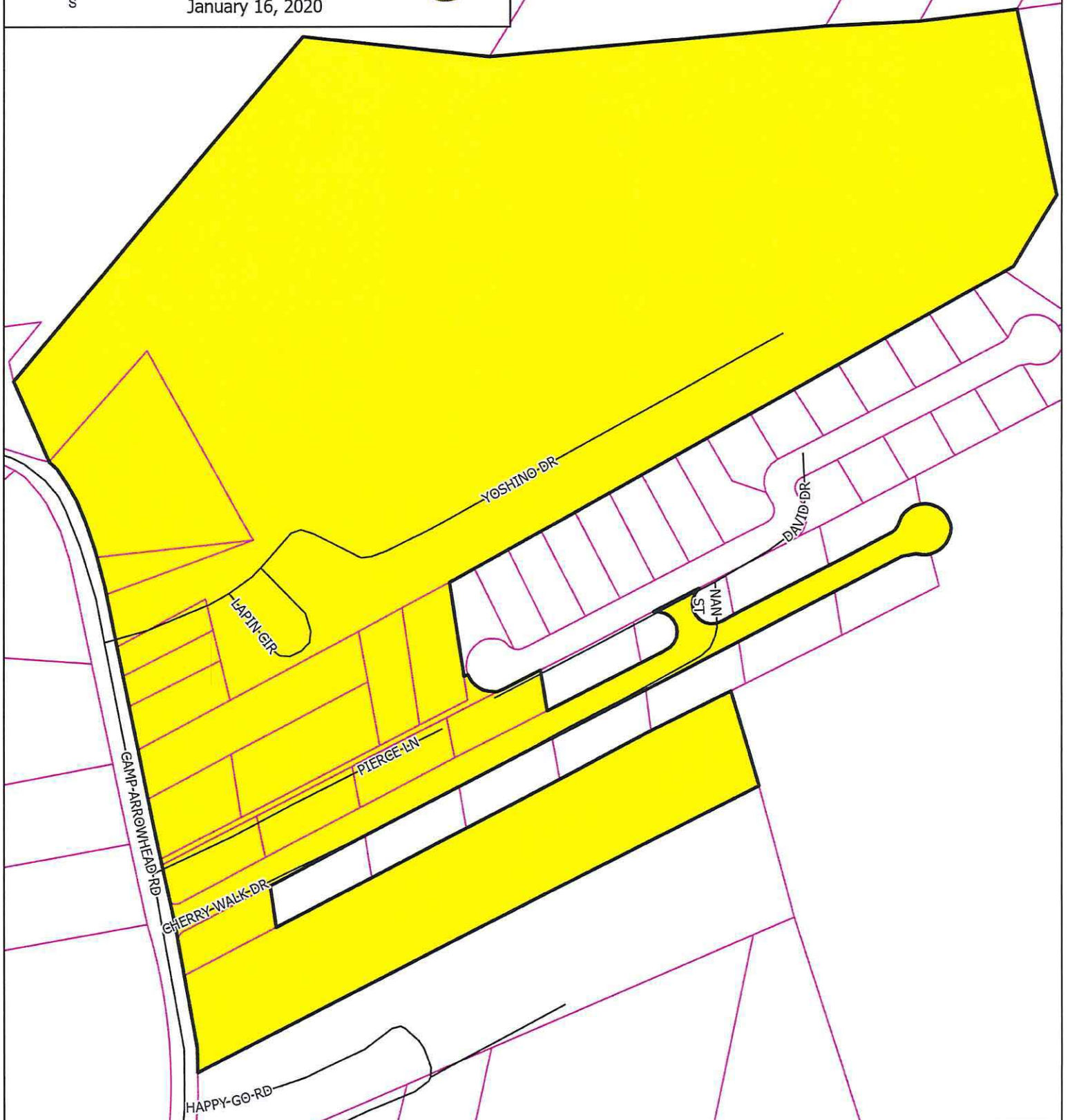
Public Hearing on the Proposed Boundary Cherry Creek Valley



0 80 160 320 Feet
January 16, 2020



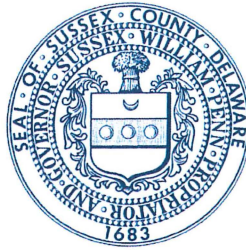
Proposed Area



The proposed annexation is scheduled to be discussed February 18, 2020 at 10:15 am in Sussex County Council Chambers
2 The Circle, Georgetown, DE 19947
For more information please visit: <https://www.sussexcountyde.gov/legal-notice/notice-sewer-water>
Or call Sussex County Utility Planning at 302-855-1299

WILLIAM PFAFF
ECONOMIC DEVELOPMENT DIRECTOR

(302) 855-7700 T
(302) 854-5383 F
william.pfaff@sussexcountype.gov



Sussex County
DELAWARE
sussexcountype.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: William Pfaff
Economic Development Director

RE: **Delaware Coastal Business Park Lease Addendum**

DATE: February 14, 2020

On the agenda Tuesday for approval is an Addendum to the lease with **JAYKAL LED SOLUTIONS, INC.** (copy attached), located on Lot 3 in the new section of the Delaware Coastal Business Park.

The purpose of the Addendum is to allow the Lessee the right, without Lessor's consent, to collaterally assign, pledge, and/or mortgage all the Lessee's rights and interests in the **IMPROVEMENTS** only constructed or to be constructed on the Leased Premises under this Lease (and NOT to the real estate upon which improvements are situated).

Attachment



ADDENDUM TO COMMERCIAL LEASE AGREEMENT
(30-Year Lease)

This is an Addendum to the Commercial Lease Agreement ("Lease") dated August 1, 2019, by and between SUSSEX COUNTY, a political subdivision of the State of Delaware, with an address of 2 The Circle, P.O. Box 589, Georgetown, DE 19947 ("Lessor"), and JAYKAL LED SOLUTIONS, INC., a Delaware corporation, with an address of 26832 Lewes Georgetown Highway, Building 2, Unit E, Harbeson, DE 19951 ("Lessee"), for the lease of a portion of the tract of land identified as Sussex County Tax Parcel No. 1-35-15.00-138.00, located on Baltimore Avenue and Park Avenue, being approximately 2.14 acres of land, more or less, and known as Lease Area 3 in the Delaware Coastal Business Park.

In consideration of the sum of One Dollar (\$1.00) and other good and value consideration, the parties hereby amend the Lease as follows:

1. Paragraph 12a., No Authority to Encumber, is hereby amended by inserting the following underlined language at the beginning of the first sentence:

"Except as otherwise stated in this paragraph 12, Lessee has no authority whatsoever to encumber the Leased Premises or any Improvements located thereon."

2. A new paragraph 12e., Leasehold Mortgage, is hereby inserted into the Lease as follows:

Notwithstanding the foregoing provisions of this paragraph 12, Lessee shall have the right, without Lessor's consent, to collaterally assign, pledge and/or mortgage all of Lessee's rights and interests in the Improvements only constructed or to be constructed on the Leased Premises under this Lease (and NOT the real estate upon which such Improvements are situate), its interest in any sublease of the Leased Premises, or the rental payments thereunder, to the ExciteSussex Fund, as may be amended from time to time, as the sole Lessor-approved provider of construction, interim, or long-term financing, or any refinancing thereof, and any trustee or agent acting on its behalf ("ExciteSussex Fund") as security for Lessee's obligations under all documents and instruments evidencing, guaranteeing or executed by Lessee in connection with any said financing ("Financing Documents"), on the following conditions that (i) the only lender for which this provision applies shall be ExciteSussex Fund, which is a Lessor-funded loan program overseen by The Grow America Fund (an affiliate of the National Development Council), the purpose of which is to make loans to businesses in Sussex County, Delaware to spur economic and job growth in Sussex County, (ii) Lessee's approval hereunder is limited to ExciteSussex Fund as the sole mortgagee, assignee or pledgee and the Lessee's principal loan amount under the ExciteSussex Fund shall not exceed Eight Hundred Fifty Thousand Dollars (\$850,000.00), (iii) Lessee shall provide Lessor with copies of all Financing Documents executed in conjunction with Lessee's ExciteSussex Fund financing, (iv) that any Lessor-approved assignees or subtenants shall NOT have the right to mortgage, assign or pledge this Lease, (v) the Financing Documents shall not alter the terms of this Lease, (vi) the ExciteSussex Fund, as the lender, shall have no greater rights for notice and cure of Lessee Events of Default except as otherwise stated in this Lease, and (vii) there be no uncured Events of Default hereunder. In the event of such a collateral assignment, pledge and/or mortgage and upon occurrence of an Event of Default by Lessee under this Lease or the Financing Documents, as the case may be, the

ExciteSussex Fund, as the lender, shall have the right (but not the obligation) to assume all of the rights, interests and obligations of Lessee thereafter arising under this Lease. Lessor or Lessee, upon request of the other, shall promptly execute and deliver to the requesting party, and/or ExciteSussex Fund, as the lender, a written consent to any such collateral assignment, pledge and/or mortgage of this Lease and such written certificates as to the due authorization, execution and delivery by the executing party, and enforceability against Lessor or Lessee of this Lease as Lessor or Lessee and/or ExciteSussex Fund, as the lender, may reasonably request. Notwithstanding the foregoing, whenever the Lessor shall send notice of default to Lessee, Lessor shall, at such time, also send notice of such default to ExciteSussex Fund, as the lender, (if adequate contact information has been provided to Lessor) in the same manner as notices are required hereunder and ExciteSussex Fund, as the lender, shall have the same period in which to cure as does Lessee plus five (5) days.

In witness whereof, the parties have hereunto set their hands and seals on the dates set forth below.

LESSOR:

SUSSEX COUNTY, a political subdivision of
the State of Delaware

By: _____
Michael H. Vincent, President
Sussex County Council

Attest: _____

Date

LESSEE:

JAYKAL LED SOLUTIONS, INC., a
Delaware corporation

By: _____
Sanjay Kapuria, President

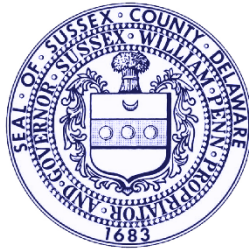
Attest: _____

Date

Print Name and Title of Officer

ENGINEERING DEPARTMENT

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



Sussex County

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HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

Memorandum

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

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

RE: ***EMS 200/Medic 110 Station, Project C19-08***
A. Approval of Amendment 2 – Additional Professional Services

DATE: February 18, 2020

The Emergency Medical Services Department has several capital projects in the five (5) year planning period. The new Medic 110/EMS 200 Station was programmed north of Seaford replacing the current location in Blades. It will accommodate a two-person medic unit and supervisor for 24/7 operation. The general location was selected based on historical dispatch data, allowing for an alternate response route into Seaford as well as forecasting direction of future requests for service. As a result, in June of 2018 Council approved the purchase of the new site formerly known as “Old Pet Emporium”.

The development required professional services and, after a publicly advertised request for proposal process, Council awarded on July 17, 2018, the EMS Department’s - Architectural Consulting Services base contract to the George, Miles and Buhr, Inc. for a five (5) year term. The task order no.1 covered professional services, including survey, full-service design, site approvals & permits and bid phase assistance for the North Seaford Paramedic with a not to exceed amount of \$150,000. The intent was to match the Rehoboth/Lewes station design. However, the State’s fire prevention code had changed since then requiring now a fire suppression sprinkler system in the building.

By the end of May 2019 all permits were in hand, in June of 2019 a building permit was issued and in addition, the County had received DNREC approval temporarily for use of the onsite septic system until the Western Sussex Sewer Services was available. Invitations to Bid were advertised and on July 15, 2019, four (4) bids were received. The station cost was significantly higher than the last station built, with the main drivers being the on-site fire



suppression system and the DelDOT entrance/site improvements. On August 20, 2019, Council rejected of all bids and authorization to rebid with a modified scope.

One of the cost saving measures was the break out of the demolition services as a standalone contract. With all utility services already terminated and asbestos remediated, the contract could proceed immediately. It was publicly advertised and on October 10, 2019, Council awarded the demolition contract to Swain Excavating, Inc. The contract was completed, and Council granted acceptance on December 16, 2019 with a final contract amount of \$62,148.75.

The availability of public water in conjunction with some value engineering design modifications could result in a better overall project with significantly less maintenance responsibility by the County. Therefore, the EMS and Engineering Departments had reached out to the City of Seaford to discuss the possibility of accelerating the extension of public water service to the site in exchange for a \$200,000 one-time capital contribution by the County. On October 22, 2019, Council gave final approval of the Utility Service Agreement, previously approved by City Council, providing capital as well as maintenance cost savings in comparison to the stand-alone fire protection option.

On August 20, 2019, Council also approved GMB's architectural Amendment No.1 covering rebidding, contract administration and inspection services not to exceed \$104,400.00. Prior to start of the redesign effort, the Council President and the local State Representative requested an investigation of the peak hour traffic on Swain Road. The resulting traffic operational analysis revealed a warrant for a right turn lane. The Team discussed this modified approach with DelDOT on January 20, 2020 and the Department concurred and invited a new entrance design submittal. GMB's Amendment No.2 covers the cost for the traffic analysis as well as the site entrance redesign in the amount not to exceed \$15,000.00.

In addition, the IT Department has brought forward an idea to collocate a County data center on the site. It is being evaluated by the County Administration. If implemented it would trigger additional site design modifications. Therefore, the Engineering Department recommends approval of Amendment No. 2 in an increased amount not to exceed \$25,000.00, which would allow for possible design modifications.

AIA® Document G802™ – 2017

Amendment to the Professional Services Agreement

PROJECT: *(name and address)*
North Seaford Paramedic Station
22410 Sussex Highway
Seaford, Delaware 19973

AGREEMENT INFORMATION:
Date: July 25, 2018

AMENDMENT INFORMATION:
Amendment Number: 002
Date: January 28, 2020

OWNER: *(name and address)*
Sussex County Engineering Department
PO Box 589

Georgetown, Delaware 19947

ARCHITECT: *(name and address)*
George Miles & Buhr, LLC (GMB)
206 West Main Street
Salisbury, Maryland 21801

The Owner and Architect amend the Agreement as follows:

This amendment covers revisions to the previously approved DelDOT entrance plans to include the addition of a right turn/bypass lane on Swain Road and elimination of the previously proposed entrance closest to Rt 13, in accordance with discussions at a Pre-Application Meeting with DelDOT on January 23, 2020. The redesign work also includes creation of a driveway loop entirely around the building to accommodate vehicle circulation and allow visitor access to the front door and parking from the single highway entrance off of Swain Road in addition to coordination of utility pole relocations (at least 3 poles) and redesign of storm drainage as needed. Reimbursable expenses to include traffic counts performed by a subconsultant.

The Architect's compensation and schedule shall be adjusted as follows:

Compensation Adjustment:

This amendment provides for a \$15,000.00 increase in the contract amount, not to exceed without approval.

Schedule Adjustment:

The work will commence immediately upon receipt of executed amendment. A timeframe of 3 - 4 months is anticipated to gain approval DelDOT approval of the revised entrance plans .

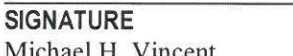
SIGNATURES:

GMB, LLC
ARCHITECT *(Firm name)*

Sussex County, Delaware
OWNER *(Firm name)*


SIGNATURE
Morgan H. Helfrich, AIA LEED AP
Vice President
PRINTED NAME AND TITLE

01-28-20
DATE


SIGNATURE
Michael H. Vincent
President
PRINTED NAME AND TITLE

DATE

ENGINEERING DEPARTMENT

ADMINISTRATION	(302) 855-7718
AIRPORT & INDUSTRIAL PARK	(302) 855-7774
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Sussex County

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HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

Memorandum

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

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

RE: ***Love Creek Woods – Master Plumbing Services Contract
Balancing Change Order and Substantial Completion***

DATE: February 18, 2020

The northern sewer extension of the Angola Neck area of the Unified Sewer District was approved by County Council via resolution on October 7, 2014. The extension area contains the Love Creek Woods subdivision and the “Boat Hole” and Pelican Point commercial parcels, the Fox Hall, Love Creek Woods, and Peddlers Village developments and other commercial parcels along John L. Williams Highway (S.R. 24).

On October 25, 2016, County Council approved the Love Creek Woods Sewer Participation Agreement and subsequently the associated “Boat Hole” easement was acquired from NSBM, LLC, the Developer of the Boat Hole property at the time. NSBM, LLC had contributed a lump sum of \$180,000 in exchange for an easement along the privately-owned roads in the Love Creek Woods subdivision. The Sewer Participation Agreement required connection, under a master plumber type approach by the County, of all Love Creek Woods residences using funds from the lump sum contribution by NSBM, LLC.

The Engineering Department had prepared bid documents, as per the Sewer Participation Agreement for the Love Creek Woods – Master Plumber Services contract and on April 17, 2018, Council awarded the project to WM Water & Sewer, LLC in the amount of \$101,180.00 covering the base bid and two bid alternates as needed.

Construction began on August 20, 2018 and was declared substantially complete on October 11, 2019. The Engineering Department now recommends approval of the balancing change order no. 1, reducing the contract value by \$6,452.99 and granting substantial completion for Project No. 14-10. Furthermore, the Department requests release of all remaining funds contributed by NSBM, LLC, not encumbered by the County’s expenses and services to the Love Creek Woods Home Owners Association.





***SUSSEX COUNTY
CHANGE ORDER REQUEST***

A. ADMINISTRATIVE:

1. Project Name: **Love Creek Woods – Master Plumber Services**
2. Sussex County Project No. 14-10
3. Change Order No. 1
4. Date Change Order Initiated - 2/12/20
5.
 - a. Original Contract Sum \$101,180.00
 - b. Net Change by Previous Change Orders \$ 0
 - c. Contract Sum Prior to Change Order \$101,180.00
 - d. Requested Change (\$6,452.99)
 - e. Net Change (No. of days)
 - f. New Contract Amount \$94,727.01
6. Contact Person: Hans Medlarz, P.E.
Telephone No. (302) 855-7718

B. REASON FOR CHANGE ORDER (CHECK ONE)

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

6. Factors Affecting Time of Completion

 X 7. Other (explain below):

C. BRIEF DESCRIPTION OF CHANGE ORDER:

Credits for unused quantities and one parcel restoration.

D. JUSTIFICATION FOR CHANGE ORDER INCLUDED?

Yes X No

E. APPROVALS

1. WM Water & Sewer, Contractor

Signature Date

Representative's Name in Block Letters

2. Sussex County Engineer

Signature Date

3. Sussex County Council President

Signature Date

ENGINEERING DEPARTMENT

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Sussex County


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HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING

Memorandum

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

FROM: John J. Ashman 
Director of Utility Planning

RE: *Use of Existing Infrastructure Agreement*
Walden
File: OM 9.01

DATE: February 18, 2020

The Use of Existing Infrastructure Agreement is an arrangement that collects financial contributions based on development built out flows for available capacity in the existing wastewater transmission infrastructure previously funded by the County while at the same time eliminating the granting of "oversizing" credits.

The Engineering Department requests approval of an agreement for the Use of Existing Infrastructure with **Burton's Pond, LLC** for the **Walden** project in the Herring Creek Area. Such an arrangement does not modify the underlying land use decision in any form. However, it allows the wastewater originating from the approved project to be conveyed through the existing transmission system previously constructed by the County.

Under the proposed arrangement, the **Walden** project will connect to the existing County owned infrastructure. In return for utilization of said infrastructure **Burton Pond, LLC** will contribute **\$74,524.00** for the financial catch-up contribution of the existing infrastructure to serve **270** additional Equivalent Dwelling Units. Payment will be required prior to receiving substantial completion of the on-site pumpstation. System Connection Charges in place at the time of building permit request will still apply.



USE OF EXISTING INFRASTRUCTURE AGREEMENT

INFRASTRUCTURE USE AGREEMENT IUA-711 / SINGLE FAMILY AREA

THIS AGREEMENT ("Agreement"), made this _____ day of _____ 2019, by and between:

SUSSEX COUNTY, a political subdivision of the State of Delaware, hereinafter called the "County," and;

BURTON'S POND, LLC, a Delaware Limited Liability Company and developer of a project known as **Walden**, hereinafter called the "Developer."

WITNESSETH:

WHEREAS, Developer is developing several tracts of land identified as Tax Map parcel 234-11.00-97.00 & 234-17.00-17.00 to be known as Walden (Project") and;

WHEREAS, the Project has been annexed into the Sussex County Unified Sanitary Sewer District (Herring Creek Area) and;

WHEREAS, County has determined by study known as North Coastal Planning Study, that the Project can be served by the regional infrastructure and;

WHEREAS, the Project will utilize available capacity in existing wastewater infrastructure previously funded by Sussex County.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, which is hereby acknowledged by both parties as sufficient consideration, the parties hereby agree as follows:

- (1) Developer is proposing to utilize County's existing transmission capacity by connecting to an existing regional pipeline used by multiple pump stations, therefore avoiding off-site facilities construction.
- (2) In exchange for permission to connect up to **270** equivalent dwelling units to County's existing transmission system and to utilize the existing capacity in said system, Developer agrees to a financial catch-up contribution towards the debt service of said transmission facilities in the amount of **\$74,524.00**.
- (3) The contribution amount in the case of multiple pump stations using an existing transmission system is based on the ratio of average flow capacity utilization of said transmission facilities.
- (4) **Payment of the contribution must be submitted prior to receiving substantial completion of the on-site pumpstation.**

- (5) If the Project (as currently approved) is amended and County determines in its sole discretion that such amendments materially affect this Agreement, this Agreement may be declared by County to be null and void, and any unused payments made pursuant to this Agreement shall be returned to Developer, unless the parties otherwise agree. Nothing herein shall prevent the parties from the negotiation of a new agreement with respect to the amended Project, as the parties may deem appropriate.
- (6) The contribution is to be placed in County's sewer capital fund and expended towards overall debt reduction or at such time when any transmission infrastructure in County's Unified Sanitary Sewer District requires capital improvements (See Chapter 110-96 of the Sussex County Code).
- (7) Developer shall be responsible for payment of any and all undiscounted system connection charges in accordance with and pursuant to the requirements of the *Sussex County Code* for all lots, due at such time the Developer receives the sewer connection permit.
- (8) Developer shall comply in all aspects with the *Sussex County Code* and any other local, state, county, or federal laws, regulations, or policies that may be applicable and as such may be hereinafter amended.
- (9) Prior to the commencement of construction of any sanitary sewer facilities for the Project, Developer shall obtain a project construction permit from the County in accordance with and pursuant to the requirements of the *Sussex County Code*.
- (10) In order to allow the opportunity for a County representative to be present as the County so chooses, Developer shall send written notice to County of the date upon which connection to the County regional transmission system will be made. Developer shall follow County's written or verbal instructions in making said connection to the County sanitary sewer system.
- (11) Developer may assign this Agreement in whole or in part to any entity controlled directly or indirectly by Developer or to any third party who purchases, leases or otherwise controls any portion of Developer's property without the consent of County. Developer, and any subsequent assignees or successors shall provide County at least ten (10) days' written notice of any such assignment. Any other assignments, transfers, or conveyances with respect to this Agreement are prohibited without prior written consent of County.
- (12) To the extent permitted by law, Developer shall indemnify and hold harmless County, and its appointed and elected officials, employees, licensees, and agents for any claims, losses, liabilities, suits, or damages, including but not limited to reasonable attorneys' fees, professional engineering fees, and any other costs of litigation, arising out of Developer's negligence in connection with its performance

of this Agreement, including but not limited to damage to the County's infrastructure in making connection to County's regional transmission system. The obligations of this Paragraph shall survive the termination of this Agreement.

- (13) All the terms, covenants, and conditions of this Agreement shall in all respects be governed and construed under and pursuant to the Laws of the State of Delaware without respect to its conflict of law provisions. This Agreement may only be amended, supplemented or modified by a subsequent written agreement executed by all the parties hereto.
- (14) This Agreement and exhibits constitute the final, entire and exclusive agreement between the parties with respect to the subject matter of all matters discussed in it and supersedes all prior or contemporaneous discussions, statements, representations, warranties or agreements, whether written or oral, made in connection with the Agreement described herein.
- (15) It is mutually agreed between the parties that no review, approval, acceptance, and/or payment made under this Agreement shall be conclusive evidence of the performance of the Agreement, either wholly or in part, and that no review, approval, acceptance, and/or payment shall be construed as acceptance of defective work by County, nor in any way relieve Developer of its responsibility for the adequacy of its work.
- (16) The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach. Neither party shall be deemed to have waived any rights under this Agreement unless such waiver is expressly given in writing and signed by the waiving party. No delay or omission on the part of either party in exercising any right shall operate as a waiver of such right or any other right.
- (17) This Agreement shall be executed in duplicate, any copy of which shall be considered and construed as and for the original.
- (18) If any provision of this Agreement shall be deemed invalid or unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not render invalid or unenforceable any of the other provisions of this Agreement which may be given effect without such invalid or unenforceable provision, and to this end, the provisions of this Agreement are hereby deemed to be severable.
- (19) Any notice required to be delivered to or by either party under this Agreement shall be sent by U.S. first class mail. For purposes of this provision, the address of the County is 2 The Circle, P.O. Box 589, Georgetown, Delaware, 19947, and the address of the Developer is **20184 Phillips Street, Rehoboth Beach DE 19971.**

IN WITNESS, WHEREOF, the respective parties hereto have affixed their hands
and seals the day and year aforesaid.

FOR THE COUNTY:

{Seal}

By: _____
(President - Sussex County Council)

(DATE)

ATTEST:

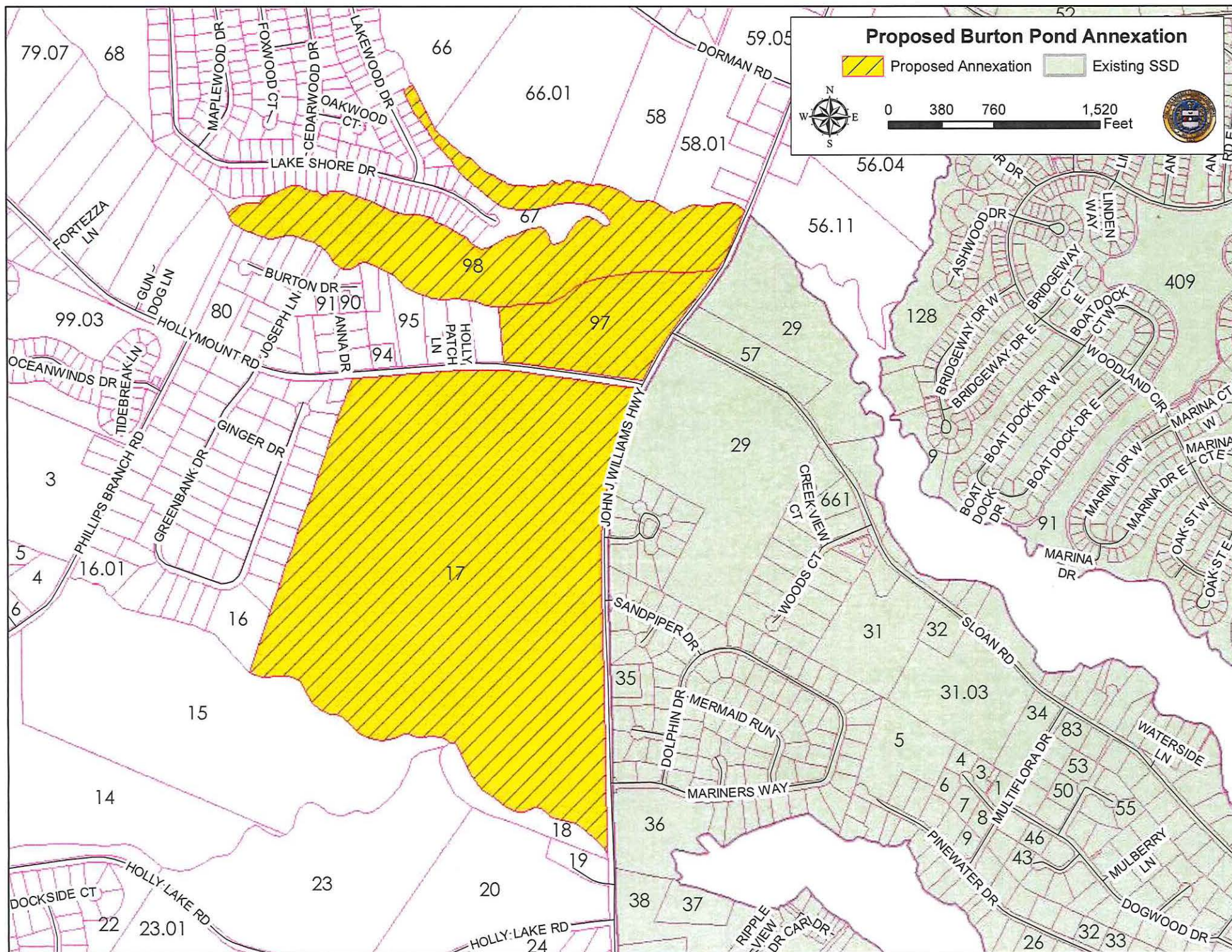
Robin A. Griffith
Clerk of the County Council

FOR BURTON'S POND, LLC

By:  (Seal)
Preston Schell, Managing Member

12-5-2019 (DATE)

WITNESS: Jill Lynn Burton



ENGINEERING DEPARTMENT

ADMINISTRATION	(302) 855-7718
AIRPORT & INDUSTRIAL PARK	(302) 855-7774
ENVIRONMENTAL SERVICES	(302) 855-7730
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Sussex County


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HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING

Memorandum

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

FROM: John J. Ashman 
Director of Utility Planning

RE: *Use of Existing Infrastructure Agreement*
Villas at Walden
File: OM 9.01

DATE: February 18, 2020

The Use of Existing Infrastructure Agreement is an arrangement that collects financial contributions based on development built out flows for available capacity in the existing wastewater transmission infrastructure previously funded by the County while at the same time eliminating the granting of "oversizing" credits.

The Engineering Department requests approval of an agreement for the Use of Existing Infrastructure with **Burton's Pond, LLC** for the **Villas at Walden** project in the Herring Creek Area. Such an arrangement does not modify the underlying land use decision in any form. However, it allows the wastewater originating from the approved project to be conveyed through the existing transmission system previously constructed by the County.

Under the proposed arrangement, the **Villas at Walden** project will connect to the existing County owned infrastructure. In return for utilization of said infrastructure **Burton Pond, LLC** will contribute **\$28,429.00** for the financial catch-up contribution of the existing infrastructure to serve **103** additional Equivalent Dwelling Units. Payment will be required prior to receiving substantial completion of the off-site pumpstation located on the neighboring Walden project. System Connection Charges in place at the time of building permit request will still apply.



USE OF EXISTING INFRASTRUCTURE AGREEMENT

INFRASTRUCTURE USE AGREEMENT IUA-711 / MULTI-FAMILY AREA

THIS AGREEMENT ("Agreement"), made this _____ day of _____ 2019, by and between:

SUSSEX COUNTY, a political subdivision of the State of Delaware, hereinafter called the "County," and;

BURTON'S POND, LLC, a Delaware Limited Liability Company and developer of a project known as Villas at Walden, hereinafter called the "Developer."

WITNESSETH:

WHEREAS, Developer is developing a tract of land identified as Tax Map parcel 234-17.00-29.00 to be known as Villas at Walden ("Project") and;

WHEREAS, the Project has been annexed into the Sussex County Unified Sanitary Sewer District (Herring Creek Area) and;

WHEREAS, County has determined by study known as North Coastal Planning Study, that the Project can be served by the regional infrastructure and;

WHEREAS, the Project will utilize available capacity in existing wastewater infrastructure previously funded by Sussex County.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, which is hereby acknowledged by both parties as sufficient consideration, the parties hereby agree as follows:

- (1) Developer is proposing to utilize County's existing transmission capacity by connecting to an existing regional pipeline used by multiple pump stations, therefore avoiding off-site facilities construction.
- (2) In exchange for permission to connect up to **103** equivalent dwelling units to County's existing transmission system and to utilize the existing capacity in said system, Developer agrees to a financial catch-up contribution towards the debt service of said transmission facilities in the amount of **\$28,429.00**.
- (3) The contribution amount in the case of multiple pump stations using an existing transmission system is based on the ratio of average flow capacity utilization of said transmission facilities.
- (4) **Payment of the contribution must be submitted prior to receiving substantial completion of the off-site pumpstation on the adjacent project.**

- (5) If the Project (as currently approved) is amended and County determines in its sole discretion that such amendments materially affect this Agreement, this Agreement may be declared by County to be null and void, and any unused payments made pursuant to this Agreement shall be returned to Developer, unless the parties otherwise agree. Nothing herein shall prevent the parties from the negotiation of a new agreement with respect to the amended Project, as the parties may deem appropriate.
- (6) The contribution is to be placed in County's sewer capital fund and expended towards overall debt reduction or at such time when any transmission infrastructure in County's Unified Sanitary Sewer District requires capital improvements (See Chapter 110-96 of the Sussex County Code).
- (7) Developer shall be responsible for payment of any and all undiscounted system connection charges in accordance with and pursuant to the requirements of the *Sussex County Code* for all lots, due at such time the Developer receives the sewer connection permit.
- (8) Developer shall comply in all aspects with the *Sussex County Code* and any other local, state, county, or federal laws, regulations, or policies that may be applicable and as such may be hereinafter amended.
- (9) Prior to the commencement of construction of any sanitary sewer facilities for the Project, Developer shall obtain a project construction permit from the County in accordance with and pursuant to the requirements of the *Sussex County Code*.
- (10) In order to allow the opportunity for a County representative to be present as the County so chooses, Developer shall send written notice to County of the date upon which connection to the County regional transmission system will be made. Developer shall follow County's written or verbal instructions in making said connection to the County sanitary sewer system.
- (11) Developer may assign this Agreement in whole or in part to any entity controlled directly or indirectly by Developer or to any third party who purchases, leases or otherwise controls any portion of Developer's property without the consent of County. Developer, and any subsequent assignees or successors shall provide County at least ten (10) days' written notice of any such assignment. Any other assignments, transfers, or conveyances with respect to this Agreement are prohibited without prior written consent of County.
- (12) To the extent permitted by law, Developer shall indemnify and hold harmless County, and its appointed and elected officials, employees, licensees, and agents for any claims, losses, liabilities, suits, or damages, including but not limited to reasonable attorneys' fees, professional engineering fees, and any other costs of litigation, arising out of Developer's negligence in connection with its performance

of this Agreement, including but not limited to damage to the County's infrastructure in making connection to County's regional transmission system. The obligations of this Paragraph shall survive the termination of this Agreement.

- (13) All the terms, covenants, and conditions of this Agreement shall in all respects be governed and construed under and pursuant to the Laws of the State of Delaware without respect to its conflict of law provisions. This Agreement may only be amended, supplemented or modified by a subsequent written agreement executed by all the parties hereto.
- (14) This Agreement and exhibits constitute the final, entire and exclusive agreement between the parties with respect to the subject matter of all matters discussed in it and supersedes all prior or contemporaneous discussions, statements, representations, warranties or agreements, whether written or oral, made in connection with the Agreement described herein.
- (15) It is mutually agreed between the parties that no review, approval, acceptance, and/or payment made under this Agreement shall be conclusive evidence of the performance of the Agreement, either wholly or in part, and that no review, approval, acceptance, and/or payment shall be construed as acceptance of defective work by County, nor in any way relieve Developer of its responsibility for the adequacy of its work.
- (16) The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach. Neither party shall be deemed to have waived any rights under this Agreement unless such waiver is expressly given in writing and signed by the waiving party. No delay or omission on the part of either party in exercising any right shall operate as a waiver of such right or any other right.
- (17) This Agreement shall be executed in duplicate, any copy of which shall be considered and construed as and for the original.
- (18) If any provision of this Agreement shall be deemed invalid or unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not render invalid or unenforceable any of the other provisions of this Agreement which may be given effect without such invalid or unenforceable provision, and to this end, the provisions of this Agreement are hereby deemed to be severable.
- (19) Any notice required to be delivered to or by either party under this Agreement shall be sent by U.S. first class mail. For purposes of this provision, the address of the County is 2 The Circle, P.O. Box 589, Georgetown, Delaware, 19947, and the address of the Developer is **20184 Phillips Street, Rehoboth Beach DE 19971**.

IN WITNESS, WHEREOF, the respective parties hereto have affixed their hands
and seals the day and year aforesaid.

FOR THE COUNTY:

{Seal}

By: _____
(President - Sussex County Council)

(DATE)

ATTEST:

Robin A. Griffith
Clerk of the County Council

FOR BURTON'S POND, LLC

By:  _____ (Seal)
Preston Schell, Managing Member
12-5-2019 (DATE)

WITNESS:

Julhyann Burton

ENGINEERING DEPARTMENT

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HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING

Memorandum

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

FROM: John J. Ashman 
Director of Utility Planning

RE: *Use of Existing Infrastructure Agreement
Lands of Robert & Deborah Reed
File: OM 9.01*

DATE: February 18, 2020

The Use of Existing Infrastructure Agreement is an arrangement that collects financial contributions based on development built out flows for available capacity in the existing wastewater transmission infrastructure previously funded by the County while at the same time eliminating the granting of "oversizing" credits.

The Engineering Department requests approval of an agreement for the Use of Existing Infrastructure with **Robert M. & Deborah A. Reed** for the **Lands of Robert M. & Deborah A. Reed** project in the West Rehoboth Area. Such an arrangement does not modify the underlying land use decision in any form. However, it allows the wastewater originating from the approved project to be conveyed through the existing transmission system previously constructed by the County.

Under the proposed arrangement, the **Lands of Robert M. & Deborah A. Reed** project will connect to the existing County owned infrastructure. In return for utilization of said infrastructure **Robert M. & Deborah A. Reed** will contribute **\$17,206.00** for the financial catch-up contribution of the existing infrastructure to serve **24** additional Equivalent Dwelling Units. Payment will be required at the time of execution of the agreement. System Connection Charges in place at the time of building permit request will still apply.



USE OF EXISTING INFRASTRUCTURE AGREEMENT

LANDS OF ROBERT M. & DEBORAH A. REED – IUA1145

THIS AGREEMENT (“Agreement”), made this 15th day of January 2020, by and between:

SUSSEX COUNTY, a political subdivision of the State of Delaware, hereinafter called the “County,” and;

ROBERT M. & DEBORAH A. REED developers of a project known as **Lands of Robert M. & Deborah A. Reed**, hereinafter called the “Developer.”

WITNESSETH:

WHEREAS, Developer is developing a tract of land identified as Tax Map parcels 335-12.06-1.00 to be known as **Lands of Robert M. & Deborah A. Reed** (“Project”) and;

WHEREAS, the Project is within the boundary of the Sussex County Unified Sanitary Sewer District (West Rehoboth Area) and;

WHEREAS, the Project will utilize available capacity in existing wastewater infrastructure previously funded by Sussex County.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, which is hereby acknowledged by both parties as sufficient consideration, the parties hereby agree as follows:

- (1) Developer is proposing to utilize County’s existing collection and transmission capacity by connecting to existing regional infrastructure used by multiple pump stations.
- (2) In exchange for permission to connect up to **24.00** additional equivalent dwelling units to County’s existing system and to utilize the existing capacity in said system, Developer agrees to financial catch-up contribution in the amount of **\$17,206.00** for said existing facilities.
- (3) The contribution amount in the case of multiple pump stations using an existing collection and transmission system is based on the ratio of average flow capacity utilization of said transmission facilities.
- (4) **Payment of the contribution must be submitted at the time of execution of the agreement.**
- (5) If the Project (as currently submitted) is amended and County determines in its sole discretion that such amendments materially affect this Agreement, this Agreement may be declared by County to be null and void, and any unused payments made

pursuant to this Agreement shall be returned to Developer, unless the parties otherwise agree. Nothing herein shall prevent the parties from the negotiation of a new agreement with respect to the amended Project, as the parties may deem appropriate.

- (6) The contribution is to be placed in County's sewer capital fund and expended towards overall debt reduction or at such time when any transmission infrastructure in County's Unified Sanitary Sewer District requires capital improvements (See Chapter 110-96 of the Sussex County Code).
- (7) Developer shall be responsible for payment of any and all undiscounted system connection charges in accordance with and pursuant to the requirements of the *Sussex County Code* for all lots, due at such time the Developer receives the sewer connection permit.
- (8) Developer shall comply in all aspects with the *Sussex County Code* and any other local, state, county, or federal laws, regulations, or policies that may be applicable and as such may be hereinafter amended.
- (9) Prior to the commencement of construction of any sanitary sewer facilities for the Project, Developer shall obtain a project construction permit from the County in accordance with and pursuant to the requirements of the *Sussex County Code*.
- (10) In order to allow the opportunity for a County representative to be present as the County so chooses, Developer shall send written notice to County of the date upon which connection to the County regional transmission system will be made. Developer shall follow County's written or verbal instructions in making said connection to the County sanitary sewer system.
- (11) Developer may assign this Agreement in whole or in part to any entity controlled directly or indirectly by Developer or to any third party who purchases, leases or otherwise controls any portion of Developer's property without the consent of County. Developer, and any subsequent assignees or successors shall provide County at least ten (10) days' written notice of any such assignment. Any other assignments, transfers, or conveyances with respect to this Agreement are prohibited without prior written consent of County.
- (12) To the extent permitted by law, Developer shall indemnify and hold harmless County, and its appointed and elected officials, employees, licensees, and agents for any claims, losses, liabilities, suits, or damages, including but not limited to reasonable attorneys' fees, professional engineering fees, and any other costs of litigation, arising out of Developer's negligence in connection with its performance of this Agreement, including but not limited to damage to the County's infrastructure in making connection to County's regional transmission system. The obligations of this Paragraph shall survive the termination of this Agreement.

- (13) All the terms, covenants, and conditions of this Agreement shall in all respects be governed and construed under and pursuant to the Laws of the State of Delaware without respect to its conflict of law provisions. This Agreement may only be amended, supplemented or modified by a subsequent written agreement executed by all the parties hereto.
- (14) This Agreement and exhibits constitute the final, entire and exclusive agreement between the parties with respect to the subject matter of all matters discussed in it and supersedes all prior or contemporaneous discussions, statements, representations, warranties or agreements, whether written or oral, made in connection with the Agreement described herein.
- (15) It is mutually agreed between the parties that no review, approval, acceptance, and/or payment made under this Agreement shall be conclusive evidence of the performance of the Agreement, either wholly or in part, and that no review, approval, acceptance, and/or payment shall be construed as acceptance of defective work by County, nor in any way relieve Developer of its responsibility for the adequacy of its work.
- (16) The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach. Neither party shall be deemed to have waived any rights under this Agreement unless such waiver is expressly given in writing and signed by the waiving party. No delay or omission on the part of either party in exercising any right shall operate as a waiver of such right or any other right.
- (17) This Agreement shall be executed in duplicate, any copy of which shall be considered and construed as and for the original.
- (18) If any provision of this Agreement shall be deemed invalid or unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not render invalid or unenforceable any of the other provisions of this Agreement which may be given effect without such invalid or unenforceable provision, and to this end, the provisions of this Agreement are hereby deemed to be severable.

Any notice required to be delivered to or by either party under this Agreement shall be sent by U.S. first class mail. For purposes of this provision, the address of the County is 2 The Circle, P.O. Box 589, Georgetown, Delaware, 19947, and the address of the Developer is ~~20495 Lincoln Street Rehoboth Beach DE 19971.~~

57 Tidewater Rd.

IN WITNESS, WHEREOF, the respective parties hereto have affixed their hands
and seals the day and year aforesaid.

FOR THE COUNTY:

{Seal}

By: _____
(President - Sussex County Council)

_____ (DATE)

ATTEST:

Robin A. Griffith
Clerk of the County Council

FOR ROBERT M. & DEBORAH A. REED

By:  (Seal)
Robert M. Reed, - Authorized Signatory

1/21/20 (DATE)

WITNESS: Karen B. Thomas

FOR ROBERT M. & DEBORAH A. REED

By:  (Seal)
Deborah A. Reed, - Authorized Signatory

_____ (DATE)

WITNESS: Karen B. Thomas

Use of Existing Infrastructure
Lands of Robert M. & Deborah A. Reed
Parcel 335-12.06-1.00

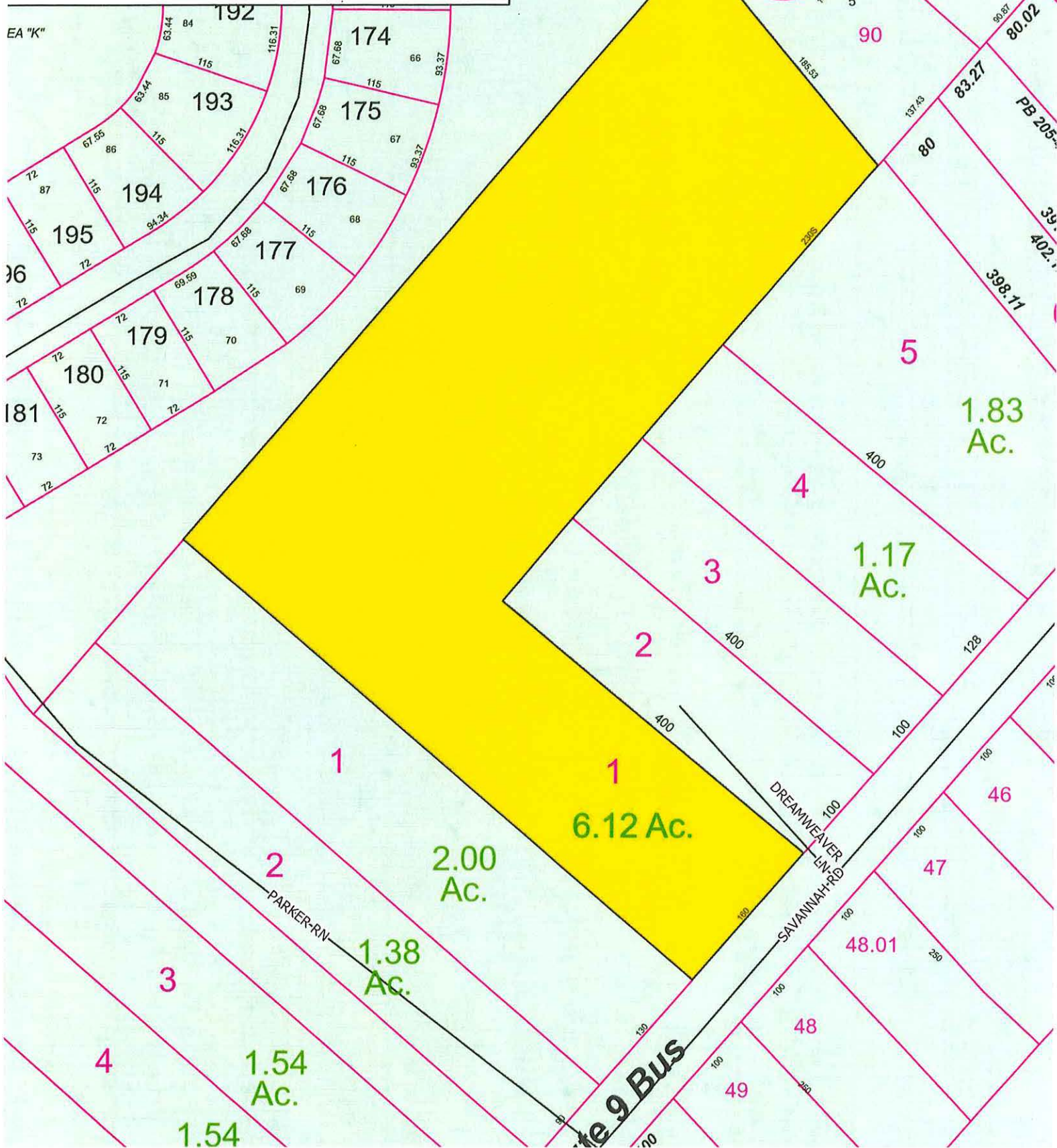
Parcel 335-12.06-1.00 Existing SSD



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2/11/2020



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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, Acting Director of Planning & Zoning

CC: Everett Moore, County Attorney

Date: February 14, 2020

RE: County Council Old Business Report for CZ 1901 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. On January 9, 2020, the Commission recommended denial of the application for the 8 reasons outlined in the motion (included below).

County Council held a public hearing for the application on January 28, 2020. At the conclusion of the public hearing, the application was deferred for further consideration.

Below are the minutes from the Planning & 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.



COUNTY ADMINISTRATIVE OFFICES
2 THE CIRCLE | PO BOX 417
GEORGETOWN, DELAWARE

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.

Mr. Willard outlined that the property is surrounded by Coastal Areas on the Future Land Use Map and that this area is designated commercial; that there is a Royal Farms, a liquor store, a restaurant, Love Creek and the marina and other commercial businesses in the area; that, as per the memo provided by the Director, there is mixed-use there and that is consistent with the change in zoning the Applicant is asking for. In relation to the Conditional Use, the best quality site plan available is the one that was recorded in as part of the Condominium, that the Applicant's do not want to change the footprint of what is already there. The Rico's have 20% and 35% of the whole condo development and have majority control. Mr. Willard explained that he has spoken to Ms. Murphy who has Unit 3 and Mr. Buckley who has Unit 4; that when the Applicant's first bought the house, Unit 1 had two meters for electric, Unit 2 only had 1 meter for electric; that they put in split systems for their tenants; that utility costs are part of the occupier's rent and they would like to continue this; that although this is not low-income or affordable housing, the type of housing proposed forms a niche in the area which in other areas they might not have; that if this type of housing is good for 900 units, then it should also be good for 3 units.

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 is 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 owns 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 was 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.

To Be 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
ACTING DIRECTOR OF PLANNING &
ZONING
(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, Acting Director of Planning & Zoning

CC: Everett Moore, County Attorney

Date: February 14, 2020

RE: County Council Old Business 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. On January 9, 2020, the Commission recommended denial of the application for the 2 reasons outlined in the motion (included below).

County Council held a public hearing for the application on January 28, 2020. At the conclusion of the public hearing, the application was deferred for further consideration.

The following are the 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.



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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.

Mr. Willard outlined that the property is surrounded by Coastal Areas on the Future Land Use Map and that this area is designated commercial; that there is a Royal Farms, a liquor store, a restaurant, Love Creek and the marina and other commercial businesses in the area; that, as per the memo provided by the Director, there is mixed-use there and that is consistent with the change in zoning the Applicant is asking for. In relation to the Conditional Use, the best quality site plan available is the one that was recorded in as part of the Condominium, that the Applicant's do not want to change the footprint of what is already there. The Rico's have 20% and 35% of the whole condo development and have majority control. Mr. Willard explained that he has spoken to Ms. Murphy who has Unit 3 and Mr. Buckley who has Unit 4; that when the Applicant's first bought the house, Unit 1 had two meters for electric, Unit 2 only had 1 meter for electric; that they put in split systems for their tenants; that utility costs are part of the occupier's rent and they would like to continue this; that although this is not low-income or affordable housing, the type of housing proposed forms a niche in the area which in other areas they might not have; that if this type of housing is good for 900 units, then it should also be good for 3 units.

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 is 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 owns 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 was 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.

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.

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Sussex County

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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, Acting Director of Planning & Zoning

CC: Everett Moore, County Attorney

Date: February 13, 2020

RE: County Council Report for CU 2186 Mountaire Farms Delaware, Inc.

The Planning and Zoning Department received an application (CU 2186 Mountaire Farms of Delaware, Inc.) for a Conditional Use for parcels 234-28.00-1.00, 2.00, and 3.00 to allow for sludge and wastewater spray irrigation to be located on Mount Joy Rd. and Townsend Rd. The Planning and Zoning Commission held a public hearing on October 10, 2019.

At the meeting of November 5, 2019, County Council left the record open for Council to ask questions of staff and agencies. Council gave agencies until the close of business on December 9, 2019 to provide responses to the questions raised. The responses were to be reported to Council at their meeting on December 10, 2019. The public were given 5 days to provide written responses to the responses from the agencies. At the December 17, 2019 Council meeting, the time period for comments was extended to December 26, 2019. The responses received from the public were then circulated to County Council members on January 2, 2020.

At the County Council meeting of January 7, 2020, County Council announced that the record for application CU 2186 was closed.

Minutes of the Planning & Zoning Commission Meetings of October 10 and October 24, 2019

The following are the minutes for the Conditional Use from the Planning and Zoning Commission meetings.

C/U 2186 Mountaire Farms of Delaware, Inc.

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District and GR General Residential District for sludge and wastewater spray irrigation to be located



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on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 351.86 acres, more or less. The property is lying on both sides of Mount Joy Rd., approximately 52 ft. west of Townsend Rd, and being on both sides of Townsend Rd., approximately 157 ft. south of Mount Joy Rd., and being on the southeast corner of Mount Joy Rd. and Townsend Rd, the northeast corner of Maryland Camp Rd and Townsend Rd, and the southwest corner of Maryland Camp Rd. and William Street Rd. 911 Address: N/A. Tax Parcels: 234-28.00-1.00, 2.00, and 3.00.

Ms. Cornwell advised the Commission that submitted into the record were results from the DelDOT Service Level Evaluation, comments from the Sussex Conservation District, an Exhibit Booklet which includes photographs, comments from the Sussex County Engineering Department Utility Planning Division; that Ms. Cornwell noted that there are seven letters in opposition to the application.

Mr. Robertson stated that he would not participate, and that Mr. Sharp would take his place for this case.

That the Commission found that Ms. Lisa McLaughlin, an Attorney with Phillips Goldman McLaughlin and Hall, Mr. Austin Pajda and Mr. Mike Tirrell, with Mountaire Farms appeared on behalf of the Applicant, that Ms. McLaughlin stated Mountaire Farms of Delaware, Inc. is requesting a Conditional Use; that Mountaire currently spray irrigates its treated poultry processed water on thirteen (13) fields; that there are five (5) fields for land application of sludge which are underutilized; that Mountaire wants to repurpose two (2) of the fields to allow spray irrigation on these fields; that when there is more acreage to spray, it is better for the environment; that Mountaire has no plans to increase production or to increase the amount of treated processed water applied to the fields; that this will be good for the County; and that it will help Mountaire achieve its objectives with the Department of Natural Resources and Environmental Control (DNREC); that Mr. Pajda referred to the map and stated that a Conditional Use is required for all bio solid application sites after May 1990; that the Rust and Thorogood Farms were permitted by DNREC through an agriculture utilization permit that began in June 1990; that Mountaire purchased this property in early 2000s and all active permits transferred with ownership; that the sludge application permits were renewed every five (5) years as required; that to be exempt from going through the Conditional Use process for application of sludge, Mountaire would have to prove that the use was in place and not interrupted for more than a two-year period; that after discussion with the County and DNREC bio solids program, Mountaire made the decision to apply for a Conditional Use to proceed with the renewal of the agricultural utilization permit; that in addition Mountaire is requesting a Conditional Use to use spray irrigation on these lands; that all locations will need to be approved by DNREC; that the spray irrigation is subject to strict regulations which considers nearby homeowners; that Mountaire currently has approximately 920 acres across thirteen (13) fields which are used for spray irrigation; that having the potential to increase the amount of land by thirty 30% would be strides forward to allow for better accommodations for Mountaire's spray irrigation operation; that this is not for the purpose of increasing production; that having more acres to spray with the same amount of water on the additional lands would allow operators to have more flexibility to rotate fields during harvest season; that it would allow fields to receive less water on a year round average, that it would allow crops to uptake nutrients at a more efficient rate; that it would cause overall loading at the site to decrease and that it would decrease the overall percolate for groundwater parameters; that Mr. Tirrell stated that

Mountaire Farms employs over 3,000 people in the Millsboro facility and over 5,000 people in the Delmarva area; that 35,000 indirect jobs are provided in the area; that Mountaire purchases services and goods from hundreds of goods from chicken farmers and grain growers; that the payments of wages in 2017 were over \$100 million, payments to farmers and growers were over \$77 million, utility payments over \$60 million and capital improvements over \$50 million; that in 2017, Mountaire invested over \$300 million into the local economy and donated several million dollars to charities; that approving this conditional use will allow Mountaire to continue with the programs and contributions to the community; and that Mountaire Farms is committed to getting their facility in complete compliance.

Mr. Hopkins asked about the cost of the new wastewater treatment plant; that Mr. Tirrell stated that the state-of-the-art plant will cost approximately \$50 million.

Ms. Wingate asked what sludge is; that Mr. Pajda stated that it is partially solid that has been treated through requirements set by DNREC; that it must go through pathogen reduction and a similar treatment process as the water; that Ms. Wingate asked what is being done with the sludge currently; that Mr. Pajda stated that a contractor is being paid to haul it away.

Mr. Mears asked if there were statistics about how pure the water being sprayed is; that Mr. Pajda stated that he did not have the statistics at this time but that the new plant would be state-of-the-art and will be pristine water; that Ms. Stevenson asked if the water which will be sprayed will all go through the treatment plant; that Mr. Pajda stated yes; and that Mr. Wheatley stated that the State regulates the water treatment process.

Mr. Sharp asked if all the sludge and water will be from Mountaire facilities; that Mr. Pajda stated that is correct; that Mr. Sharp asked if any sludge would be stockpiled on the site; that Mr. Pajda stated that there wouldn't be any stored and would be applied immediately; that Mr. Sharp asked about the hours of operation; that Mr. Pajda stated that DNREC has very strict guidelines about when spray irrigation can be done; that Mr. Sharp asked if there are buffers to neighboring non-Mountaire lands; that Mr. Pajda stated that there will be a 200 ft. buffer to the residential property to the east; that Mr. Sharp asked if this was to help offload spray irrigation that is being done elsewhere; that Mr. Pajda stated that this is correct and that sludge is currently being hauled away.

The Commission found that no one spoke in favor of and six parties spoke in opposition to the application.

Ms. Shelly Cohen, Mr. Ken Haynes, Ms. Cheryl Mathes, Ms. Jymayce Wescott, Mr. and Mrs. Keith Steck, and Ms. Joanne Haynes spoke in opposition to the application. Ms. Cohen read a statement and submitted it into the record. Ms. Cohen stated that the proposal is not an agricultural activity; that if it were agricultural a Conditional Use permit would not be necessary; that it is not business development and that the proposed use does not fall under the listings of Conditional Uses listed in Sussex County Code. Mr. Haynes stated that he is opposed to this application. Ms. Mathes stated that she is opposed to the application; that she has an air filter in her car which registers red when passing fields where spray irrigation is being operated. Ms. Wescott stated that homeowners want to know that spray irrigation and sludge do not affect the community; that information was not provided about how far that water and sludge will travel in the ground; that the community needs to understand exactly what this means for this the area.

Mr. Wheatley asked the representatives from Mountaire could respond to the questions raised by Ms. Wescott. Mr. Pajda stated that the infiltration rate is regulated by DNREC. Ms. Tanya Rogers-Vickers, Director of Environmental Compliance for Mountaire stated that the new wastewater plant and will meet all requirements set forth by DNREC; that there will be a certain amount of nitrogen and phosphorus in the water to help grow plants.

Mr. Hopkins asked if this plant would be able to more precisely deliver the nitrogen and phosphorous; that Ms. Rogers-Vickers stated that the amount applied to the land will be less than what is needed for crops and therefore all nitrogen and phosphorous will be absorbed by the crops; that Mr. Hopkins asked if Mountaire is willing to have a lesser yield of crop in order for the crop to soak up all the nitrogen and phosphorous; that Ms. Rogers-Vickers stated that this is correct; that Ms. Stevenson asked if the crops are sold; that Ms. Rogers-Vickers stated that corn, wheat, and soy beans are grown for Mountaire's use; that Ms. Stevenson asked how the groundwater levels are reported to DNREC; that Ms. Rogers-Vickers stated that the levels are reported monthly to DNREC in the Spray Monitoring Report (SMR); that Ms. Stevenson asked if DNREC ever perform checks on their own; that Ms. Rogers-Vickers stated yes.

Mr. Steck stated that he opposes the application and that he will submit his written comments into the record; that he had concerns about the online packet provided by the Planning and Zoning Department; that Ms. Cornwell stated that the application was omitted from the package but that all the documents provided were part of the online packet; that Mr. Steck stated that he believes there are inaccuracies in the packet; that he has a number of questions such as are there heavy metals in the sludge, if sanitary waste is co-mingled with processed waste, how do the wastewater and sludge get transported to the site; and that any decision should be put on hold until all documents have been reviewed.

Mr. Wheatley asked the Mountaire team to come forward to respond to the questions; that Ms. Rogers-Vickers stated that the sludge is hauled by truck with 2 – 3 trips transported off-site; that the wastewater is transported by a pipeline from the plant to the fields; that sludge is made when you treat wastewater and you separate the solids from the liquids; that the process does not have any heavy metals associated with it; that DNREC requires Mountaire to test for heavy metals. Ms. Haynes stated that DNREC did not allow Mountaire to spray when it rains; that now Mountaire sprays all the time; and that she is concerned about spraying when it is raining.

Ms. Rogers-Vickers stated that Mountaire does have wet weather fields with the stipulation that if they spray there is no ponding or runoff; and that there are operators on Mountaire staff that monitor this process 365 days a year.

Mr. Sharp asked what amount is being sprayed elsewhere and the amount that is being sprayed; that Ms. Cornwell stated that information is not available as it is not part of this application.

Ms. Stevenson asked if the Commission could ask DNREC about the monitoring process; that Mr. Sharp stated that the Commission could ask the Applicant what permits are required by DNREC; Mr. Wheatley asked the Applicant to address this issue; Ms. Rogers-Vickers stated that Mountaire monitors on a daily basis and submits to DNREC monthly on the SMR; that DNREC conducts visits both announced and unannounced; that Ms. Cornwell stated that DNREC requires monthly, quarterly and annual reports from anyone who holds a spray irrigation permit.

At the conclusion of the public hearing, the Commission discussed this application.

Ms. Stevenson asked if the property already sludge had been applied somewhere on the property; that Mr. Hopkins stated he thought the Applicant does have sludge on the property; that Ms. Cornwell stated she is not sure and it is not subject to this Conditional Use application; that the Applicant has been trucking sludge from the facility off to other sites; that the Applicant is proposing to have additional sludge, the property does have wastewater and spray irrigation; that Ms. Stevenson thought the Applicant was taking the sludge somewhere else; that Ms. Cornwell stated the Applicant is currently taking the sludge somewhere else; that Ms. Stevenson asked if it is not on the Sussex County property already put on the land; that Ms. Cornwell stated the Applicant has more than or can go on the property because they have spray irrigation on the rest of the farm; that Mr. Hopkins stated that when Townsend stated the poultry business it was all of Townsend's poultry operation; that they were growing corn, soybeans, and taking the sludge to injecting it and trucking it out; that the sprayer would irrigate the property; that it is the same land they have been using for years and they want to clean-up the water to grow; that the soybeans and corn you have to put some kind of nitrogen down on the site; that the Applicant may want to get rid of their wastewater in an effort to not over saturate the soil and that they are willing to pay the price to have a slightly lessor corn yield; that they are putting in a treatment plant to make sure they can control it; that Ms. Wingate stated that is a different application than the sludge; that Ms. Stevenson stated she would of like someone from DNREC to have attended the public hearing; that DNREC should monitor the site and she would like a letter from DNREC stating they are watching the site; that Mr. Mears stated he asked the question about the purification level of the water just so the people in opposition could hear the statement; that Chairman Wheatley stated that there is a difference between what the Applicant is doing and spray irrigation that is associated with a residential development; that the Applicant would like nitrogen and phosphorous in this water because they are going to grow crops; that in a residential subdivision who's wastewater is being sprayed or irrigated is not an issue; that Ms. Stevenson stated that in the summary it reads that specifics regarding spray irrigation such as rates overall acres, crops need to be discussed with DNREC once approval for Conditional Use is granted and details will be dependent on test results outlined in DNREC regulations; that some of the general protocol which will need to be conducted into determining the above includes soil sampling, installation approval of additional monitoring wells and marking applicable setbacks for appropriate buffer zone; and that Ms. Cornwell stated if the Planning and Zoning Commission so choose to approve the Conditional Use, and the condition of approval that the Commission would have to have a copy of the DNREC permits prior to the approval of the Final Site Plan.

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

At their meeting of October 24, 2019, the Commission discussed this application, which was deferred for further consideration at the meeting of October 10, 2019.

Ms. Stevenson moved that the Commission recommend approval of Conditional Use # 2186 for Mountaire Farms, Inc., for sludge and wastewater spray irrigation based upon the record made during the public hearing and for the following reasons:

1. The property is a large parcel consisting of approximately 351.86 acres more or less and is located in a Low-Density Area and Coastal Area. The Low-Density Area designation recognizes that business development should be largely confined to businesses that address the needs of single-family residences and agriculture. The Coastal Area designation recognizes that development can be accommodated provided that any special environmental concerns are addressed.
2. The Applicant seeks to use its property for sludge and wastewater spray irrigation. The Applicant currently spray-irrigates wastewater on other lands and seeks to spray irrigate wastewater on this property as well. The Applicant has no intention to increase the amount of wastewater it spray-irrigates and intends to use this property to allow for better load and nutrient management.
3. The Applicant will also use the property for sludge application. The application of sludge and wastewater spray irrigation will be used to assist in the growing of crops. This use is consistent with the underlying zoning of the property.
4. There were concerns raised by opposition about the effect of the sludge and wastewater spray irrigation application on water. The Applicant will be subject to regular monitoring by DNREC and will have to comply with DNREC's requirements. These monitoring requirements include monthly reports to DNREC and unannounced visits from DNREC to inspect the site. No ponding or runoff is allowed.
5. The Applicant will use an existing pipeline for wastewater transport and wastewater will not be trucked to the site thereby limiting the traffic impact. Sludge will be trucked to the site with an estimated 2-3 loads per day. As such, the traffic related to the sludge should be minimal. The sludge transport is regulated by DNREC permits as well.
6. There is no indication that the use, if in compliance with DNREC regulations, will have any adverse impact upon the area or neighboring or adjacent properties. To the contrary, it will be consistent with the agricultural uses on nearby properties which utilize wastewater spray irrigation and sludge application.
7. The use will not generate a significant amount of traffic, or otherwise have an adverse effect on traffic or area roadways.
8. The use is of a public or semi-public character that will be a benefit to Sussex County.
9. This use is subject to the following conditions:
 - a. The application of sludge and wastewater spray irrigation shall be subject to DNREC and other state and federal regulatory approvals.
 - b. The application of sludge and wastewater shall be limited to sludge and wastewater from Mountaire Farms.
 - c. There shall not be any stockpiling of sludge materials or wastewater on site.
 - d. The maximum number of sludge and wastewater applications on the property shall be subject to the approval of DNREC and other regulatory agencies with jurisdiction over this use.
 - e. This conditional use shall be valid concurrent with DNREC's permits for this use. If the DNREC permits shall be terminated or expire, this conditional use shall also terminate and expire.
 - f. All stormwater management facilities shall be subject to the review and approval of the Sussex Conservation District. The Final Site Plan shall include the approval

of the Sussex Conservation District for the design and location of the stormwater management areas.

- g. Prior to the submission of the Final Site Plan, the Applicant must provide copies of all active permits from DNREC demonstrating that the Applicant has received all necessary approvals and permits from DNREC to apply the sludge and wastewater spray irrigation on this property.
- h. The failure to abide by these conditions shall result in the termination of the conditional use approval.
- i. The Applicant shall submit a Final Site Plan, which shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Ms. Stevenson, seconded by Mr. Mears and carried to recommend approval for the reasons and conditions stated in the motion. Motion carried 4-1 with Ms. Wingate dissenting.

Introduced 06/04/19

**Council District Nos. 3 and 4 – Burton and Hudson
Tax I.D. No. 234-28.00-1.00, 2.00, and 3.00
911 Address: None Available**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND GR GENERAL RESIDENTIAL DISTRICT FOR SLUDGE AND WASTEWATER SPRAY IRRIGATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 351.86 ACRES, MORE OR LESS

WHEREAS, on the 13th day of May 2019, a conditional use application, denominated Conditional Use No. 2186, was filed on behalf of Mountaire Farms of Delaware, Inc.; and

WHEREAS, on the ____ day of _____ 2019, 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. 2186 be _____; and

WHEREAS, on the ____ day of _____ 2019, 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:

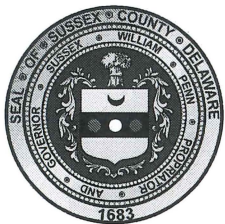
Section 1. That Chapter 115, Articles IV and VI, Subsections 115-22 and 115-39, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2186 as it applies to the property hereinafter described.

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 both sides of Mount Joy Road approximately 52 feet west of Townsend Road, and being on both sides of Townsend Road approximately 157 feet south of Mount Joy Road, and being on the southeast corner of Mount Joy Road and Townsend Road, the northeast corner of Maryland Camp Road and Townsend Road, and the southwest corner of Maryland Camp Road and William Street Road, and being more particularly described in the attached legal description prepared by Parkowski, Guerke & Swayze, P.A., said parcel containing 351.86 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



SUSSEX COUNTY GOVERNMENT

GRANT APPLICATION

SECTION 1 APPLICANT INFORMATION

ORGANIZATION NAME: Stronger After Cancer
PROJECT NAME: Free P.T For Cancer Survivors
FEDERAL TAX ID: 84-2702316 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: Provide Free Personal Training To Cancer Survivors.

ADDRESS:

101 Ewing Road

Ocean View

(CITY)

DE

(STATE)

19970

(ZIP)

CONTACT PERSON:

William Wisor

TITLE:

President

PHONE:

443-880-4959

EMAIL:

Billwisor@yahoo.com

TOTAL FUNDING REQUEST: \$1500

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? 15%

SECTION 2: PROGRAM DESCRIPTION

PROGRAM CATEGORY (choose all that apply)

- | | | |
|--|---|--------------------------------------|
| <input type="checkbox"/> Fair Housing | <input checked="" type="checkbox"/> Health and Human Services | <input 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 <u>Cancer Survivors</u> | |

BENEFICIARY NUMBER

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

20

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.

When cancer patients are released from the hospital they are often lacking strength, flexibility, endurance, confidence, and knowledge of what foods to eat. Unfortunately many are also in debt due to missed work and medical bills.

Our program provides each client with ten 60 minute sessions with a certified personal trainer at absolutely no cost to the patient. They will improve their quality of life and learn healthy habits that increase their chances of keeping cancer in remission.

This grant would help 3 cancer survivors in Sussex County, DE. We are hoping to raise enough funds to help many more.

I am an established certified personal trainer currently seeing clients at my Millville location. I have all the necessary equipment and so this application asks for funding for exercise/nutrition sessions only. As Stronger After Cancer grows we will be fund raising to cover other incidental costs. As our client base increases additional certified personal trainers will be hired. The beneficiary number of 20 is likely a low estimate for this first year.

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	none
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)	
Wages for trainer for 3 clients for 10 hours of training each	-1500.00
TOTAL EXPENDITURES	\$ 0.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	\$ 0.00

SECTION 5: STATEMENT OF ASSURANCES

If this grant application is awarded funding, the Stronger After Cancer, Inc 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.**

William Wilson
Applicant/Authorized Official Signature

1/21/20
Date

Elijah D. Venable
Witness Signature

1/21/20
Date

Completed application can be submitted by:

Email: gjennings@sussexcountyde.gov

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

EBJ

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.

William Wilson
Applicant/Authorized Official Signature

Elizabeth J. C. Kelly
Witness Signature

President
Title

1/21/20
Date

Hudson
Rev. 02/2019
2-04-2020



SUSSEX COUNTY GOVERNMENT

GRANT APPLICATION

SECTION 1 APPLICANT INFORMATION

ORGANIZATION NAME:	Ocean View Historical Society		
PROJECT NAME:	Hall's Store Visitors and Education Center		
FEDERAL TAX ID:	26-1719840	NON-PROFIT:	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
DOES YOUR ORGANIZATION OR ITS PARENT ORGANIZATION HAVE A RELIGIOUS AFFILIATION?			
<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO *IF YES, FILL OUT SECTION 3B.			
ORGANIZATION'S MISSION:	Our vision is to enrich historical resources and education for Ocean View and the Coastal Towns of Baltimore Hundred. Our ambitious endeavor includes completing the construction of our Visitor's Center and revamping the Evans West house into the Coastal Towns Museum, as well as maintaining our existing Historical Complex.		
ADDRESS:	PO Box 576		
	Ocean View	Delaware	19970
	(CITY)	(STATE)	(ZIP)
CONTACT PERSON:	Barbara Slavin		
TITLE:	President. OVHS		
PHONE:	3025938814	EMAIL:	ovhsociety@gmail.com

TOTAL FUNDING REQUEST:

#5,000

Has your organization received other grant funds from Sussex County Government in the last year?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
If YES, how much was received in the last 12 months?	6,000
If you are asking for funding for building or building improvements, do you own the building in which the funding will be used for?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
Are you seeking other sources of funding other than Sussex County Council?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
If YES, approximately what percentage of the project's funding does the Council grant represent?	20%

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 checked="" type="checkbox"/> Other <input type="text" value="Historical"/> | <input checked="" 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 <input type="text" value="Everyone"/> | |

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.

"Hall's Store" was the name of Ocean View from 1822 until 1889 when the newly formed Town Council voted to change it to "Ocean View." In remembrance and recognition of this fact, the Ocean View Historical Society has built a building on Ocean View Town parkland that will represent this important segment of its history. Why Ocean View when we are clearly 1 - 1.5 miles from the ocean? A local resident and member of the Council (my great grandfather Selby H. Evans, whose house I live in), said that he could see the ocean from his back yard. He said he could see the waves and the boats traveling by.

In order to share this and other interesting and educational historical facts, the new "Hall's Store" will be a small, authentic 1800's store in the front and a meeting hall with room for about 80 people in the back. There are bathroom facilities, a small kitchen, and a large meeting hall where chairs and tables can be set up for special events. We are planning to have it open by June 20th when the Historical Society will be presenting a new version of the Delmarva Chicken Festival called The Coastal Towns Chicken Festival.

When visitors come to the Village, they currently see an 1860's furnished house, the original 1889 freestanding post office from Ocean View, and a replica of Cecile Steele's chicken house which started the broiler industry in Delaware and the world. This store will add another dimension to the tour, telling the history of the town going back to its roots. We also are fortunate to have received a 1901 farmhouse across from the park where we are creating the Coastal Towns Museum, representing southeastern Sussex County. This part of Delaware has not previously told its story and we are planning that the history of Fenwick Island, South Bethany, Bethany, Ocean View, and Millville will soon be available.

In short, the Coastal Towns Village, as we are now calling the whole Complex, will cater to all local and visiting adults and children who have an interest in the local history of their town or the town that they are visiting. It will be a focal point of the students in fourth grade who study Delaware, but know nothing of their local culture.

- 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	We received a state bond bill grant of \$100,000 last year and a \$50,000 grant this past December from Crvstal Trust for the building.	
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)		
TOTAL REVENUES		
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)	+300,000	
Insurance	-2300	
Construction	-208,494	
Engineer	-35,952	
architect	-4627	
town and county fees	-5047	
remaining construction	-60,000	
TOTAL	-316,420	
TOTAL EXPENDITURES	-316,420	\$ 0.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	16,420	\$ 0.00

SECTION 5: STATEMENT OF ASSURANCES

If this grant application is awarded funding, the Ocean View Historical Society 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.**

Barbara E. Slawin
Applicant/Authorized Official Signature

1-30-2020
Date

Ruth M. [Signature]
Witness Signature

1-30-2020
Date

Completed application can be submitted by:

Email: gjennings@sussexcountyde.gov

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

862

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.

Barbara E. Slaven
Applicant/Authorized Official Signature

President OVHS
Title

Robert Malcolm Ross
Witness Signature

1-29-2020
Date

Hudson
Rev. 02/2019
2-04-2020

To Be Introduced 2/18/20

Council District 5 - Rieley

Tax I.D. No. 133-16.00-73.04

911 Address: 24169 Godwin School Rd., Millsboro

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SMALL AUTO REPAIR BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 0.75 ACRES, MORE OR LESS

WHEREAS, on the 27th day of January 2020, a conditional use application, denominated Conditional Use No. 2221 was filed on behalf of Dominic Lombardi; 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. 2221 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. 2221 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 Dagsboro Hundred, Sussex County, Delaware, and lying on the northeast corner of the intersection of Sheep Pen Road and Godwin School Road and being more particularly described in the attached legal description prepared by Foresight Services, said parcel containing 0.75 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.

**Council District 4 - Hudson
Tax I.D. No. 134-17.11-40.00
911 Address: 32967 Coastal Highway, Bethany Beach**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR AN OUTDOOR MINIATURE GOLF COURSE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.46 ACRES, MORE OR LESS

WHEREAS, on the 28th day of January 2020, a conditional use application, denominated Conditional Use No. 2222 was filed on behalf of Jessica Peake; 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. 2222 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 XI, Subsection 115-79, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2222 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 east side of Coastal Highway, approximately 212 feet south of Jefferson Bridge Road and being more particularly described in the attached legal description prepared by Tunnel & Raysor, P.A., said parcel containing 0.46 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.

**Council District 4 - Hudson
Tax I.D. No. 134-14.00-36.00 (Part of)
911 Address: 32855 Jones Road, Frankford**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR BOAT & RV STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.93 ACRES, MORE OR LESS

WHEREAS, on the 5th day of February 2020, a conditional use application, denominated Conditional Use No. 2223 was filed on behalf of A&W Burbage, 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. 2223 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. 2223 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 east corner of Burbage Road & Jones Road, approximately 0.72 miles east of Omar Road and being more particularly described in the attached legal description prepared by Delaware Surveying Services, said parcel containing 3.93 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.

**Council District 5 - Rieley
Tax I.D. No. 332-7.00-22.00
911 Address: 34590 Sussex Highway, Laurel**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A REAL ESTATE OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.75 ACRES, MORE OR LESS

WHEREAS, on the 5th day of February 2020, a conditional use application, denominated Conditional Use No. 2224 was filed on behalf of Pamela Price; 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. 2224 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. 2224 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Little Creek Hundred, Sussex County, Delaware, and lying on the west side of Sussex Highway (Rt. 13) approximately 0.25 miles north of the intersection of Whitesville Road and Sussex Highway (Rt. 13) and being more particularly described in the attached legal description prepared by David W. Baker, Esq., said parcel containing 1.75 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 2/18/20

**Council District 1 - Vincent
Tax I.D. No. 131-6.00-8.00
911 Address: None Available**

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT TO A LI-2 LIGHT INDUSTRIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 23.7021 ACRES, MORE OR LESS

WHEREAS, on the 30th day of January 2020, a zoning application, denominated Change of Zone No. 1919 was filed on behalf of Newton Farms, 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. 1919 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 [C-1 General Commercial District] and adding in lieu thereof the designation LI-2 Light Industrial 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 Northwest Fork Hundred, Sussex County, Delaware, and lying on the south side of E. Newton Road approximately 791 feet west of Sussex Highway (Route 13) and being more particularly described in the attached legal description prepared by Miller-Lewis, Inc. Land Surveying, said parcel containing 23.7021 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 2/18/20 (Reintroduction)

**Council District No. 3 - Burton
Tax I.D. No. 235-30.00-51.00
911 Address: None 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 10.88 ACRES, MORE OR LESS

WHEREAS, on the 1st day of October 2019, a zoning application, denominated Change of Zone No. 1904, was filed on behalf of Dry Acres, LLC (Jill Cicierski); 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. 1904 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 corner of Fisher Road and Lewes-Georgetown Highway (Route 9), and being more particularly described in the attached legal description prepared by Pennoni, said parcel containing 10.88 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
ACTING DIRECTOR OF PLANNING &
ZONING
(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, Acting Director of Planning & Zoning

CC: Everett Moore, County Attorney

Date: February 14, 2020

RE: County Council Report for CU 2205 Frank Passwaters

The Planning and Zoning Department received an application (CU 2205 Frank Passwaters) for a Conditional Use for parcel 230-6.00-1.02 to allow for an auto-motorcycle shop at 8870 Railroad Avenue, Lincoln. The parcel is zoned AR-1 Agricultural Residential Zoning District. The parcel size is 1.8711 acres, more or less.

The Planning and Zoning Commission held a public hearing on January 9, 2020. At the meeting of January 23, 2020, the Commission recommended approval of the application for the 4 reasons and 13 conditions outlined within the motion (included below).

Below are the draft minutes from the Planning & Zoning Commission meetings of January 9, 2020 and January 23, 2020.

C/U 2205 Frank Passwaters

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for an auto-motorcycle repair to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 1.8711 acres, more or less. The property is lying on the southwest side of Railroad Ave. and Greely Ave., 911 Address: 8870 Railroad Ave., Lincoln. Tax Parcel: 230-6.00-1.02

Mr. Whitehouse noted for the record that staff have received a site plan, a staff analysis and a response from DelDOT confirming that a Traffic Impact Study ("TIS") is not required.

Ms. Cornwell noted that, in addition, the Commission has just received a letter from an interested party raising concerns about the application and it will be entered into the record.



COUNTY ADMINISTRATIVE OFFICES
2 THE CIRCLE | PO BOX 417
GEORGETOWN, DELAWARE

The Commission found that Mr. Passwaters was present to speak regarding his application; that the use is operating and that a Conditional Use is needed to allow it to continue; that he keeps the property clean and tidy; that he has renovated the house and erected a pole barn; that there used to be chicken houses on the property; that there is an oil business on the adjoining parcel.

Mr. Hopkins questioned the acreage associated with the bike shop and Mr. Passwaters confirmed that the property is 4.9 acres and that includes the dwelling; that Mr. Passwaters has been in business for 14 years but not at that location; that he just purchased the property two years ago; that he worked in a shop on Calhoun Rd; that he is now in another facility in Milford; that he needs to get out of and get into his own place.

Mr. Passwaters was asked by Mr. Hopkins if it would also be cars in addition to bikes which Mr. Passwaters confirmed that it would be; that he has no employees; that he has a towing company, also; that he will not be towing cars onto the property; that he will just be repairing them; that he is expecting no more than 3-5 cars on the lot if the shop is full; that there will be no more than 10 in total; that he was asked if there would be a sign and he stated that he has no sign on the other facility; that he just does business by word of mouth; that he is also a crane operator for 38 years; that he will not be in there all the time; that the use would be from 7:30 to 4:30 Monday through Saturday work; that if approved, a 4x8 size sign is allowed; that he has one tow truck that will be parked on the property and actually in the building; that he has a containment unit for waste oil that will be inside the building and has a company that comes in and pumps it out; that there will be a bathroom but no dumpster; that he tries to recycle everything that he can including the old parts and cardboard.

Ms. Stevenson asked whether the work would be done under a roof. Mr. Passwaters replied yes and that his customers are drop offs; that there is an office building and a place to wait.

Mr. Mears asked if the crane ever came to the property. Mr. Passwaters stated yes but it will be parked at his house. Mr. Hopkins asked Ms. Cornwell if he can park the crane at his house. Mr. Passwaters noted that it doesn't come there every day, but the crane is a 350-ton crane. Ms. Cornwell said that staff would have to look into the Code further to determine if this is permitted.

The Commission noted that there was no one present wishing to speak in favor of this application.

The Commission found that Mr. Dean Jacobs was present in opposition to the application; that Mr. Jacobs lives across the street from the applicant; that he has no problems with him having a business; but that the only problem is there will be a lot of noise coming from Harley Davidson motorcycles; that he moved from Kent County in 1998 because he wanted to be in the country; that the Applicant's truck is a flat-bed diesel that smells.

Ms. Stevenson asked about the noise concerns that had been raised. Mr. Passwaters noted that there were railroad tracks nearby and he was not going to be racing the motorcycles; that there is also noise from an oil company nearby. Chairman Wheatley noted that there would be at least some noise associated with vehicles coming and going.

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

At the conclusion of the public hearings the Commission discussed this application. Mr. Robertson suggested that the Commission may wish to defer consideration to allow time to consider conditions.

Motion by Mr. Hopkins and seconded by Ms. Wingate to defer consideration of application CU 2205 Frank Passwaters. Motion carried 5-0.

Planning & Zoning Commission Meeting of January 23, 2020

Mr. Hopkins moved that the Commission recommend approval of C/U 2205 for Frank Passwaters for an auto and motorcycle repair shop based upon the record made at the public hearing and for the following reasons:

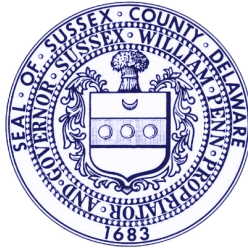
1. The repair facility will be small, and with the conditions and stipulations placed upon it, it will not have an adverse impact on the neighboring properties or community.
2. The site is located on Railroad Avenue, which is a fairly well-traveled roadway. There is also an active railway next to the roadway. This is an appropriate location for a small business such as this one.
3. This small business will not have a negative impact on traffic or nearby roadways.
4. The use as a repair facility is of a public or semi-public character and is desirable for the general convenience and welfare of the area.
5. This recommendation for approval is subject to the following conditions and stipulations:
 - A. One lighted sign, not to exceed 32 square feet per side, shall be permitted.
 - B. Security lighting shall be downward screened and shall be directed away from the neighboring properties and roadways.
 - C. Any dumpsters shall be screened from view of the neighbors and roadways. The dumpster locations shall be shown on the Final Site Plan.
 - D. All repairs shall be performed indoors. No automobile parts shall be stored outside.
 - E. No junked, unregistered or permanently inoperable vehicles, motorcycles or trailers shall be stored on the site.
 - F. There shall not be any parking in the front yard setback.
 - G. All parking areas shall be shown on the Final Site Plan and clearly marked on the site itself. Vehicles shall only be parked within these designated areas.
 - H. As stated by the Applicant, any tow trucks associated with the business shall be stored indoors when not in use.
 - I. All oils and other fluids shall be properly stored indoors in appropriate containers. The Applicant shall also comply with the state and federal requirements for the disposal of these fluids.
 - J. The site shall be subject to all DelDOT entrance and roadway requirements.
 - K. The hours of operation shall be 7:00 am through 5:00 pm, Monday through Friday, and 8:00 am until 5:00 pm on Saturdays. There shall not be any Sunday hours.
 - L. Any violation of these conditions may be grounds for termination of this Conditional Use.
 - M. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Hopkins, seconded by Ms. Stevenson, and carried unanimously to grant approval for the reason and conditions 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
sussexcountye.gov

Memorandum

To: Sussex County Planning Commission Members

From: Lauren DeVore, Planner III

CC: Vince Robertson, Assistant County Attorney and Applicant

Date: January 2, 2020

RE: Staff Analysis for CU 2205 Frank Passwaters

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2205 Frank Passwaters to be reviewed during the January 9, 2020 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 230-6.00-1.02 to allow for an auto-motorcycle shop to be located at 8870 Railroad Avenue southwest of the intersection of Greely Avenue (S.C.R. 38) and Railroad Avenue (S.C.R. 38A) and consisting of 1.8711 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 Low-Density Area.

The surrounding parcels located to the north, south, east and west are all designated on the Future Land Use Map as "Low Density Areas." Primary uses in Low Density Areas are agricultural activities and homes. Business and development should be largely confined to those addressing industrial and agri-businesses that support or depend on agriculture. Commercial uses should be limited in their size and scope.

The property is zoned AR-1 (Agricultural Residential Zoning District.) The adjoining and surrounding parcels to the north, south, east and west are all zoned Agricultural Residential (AR-1). There is also a single parcel to the north zoned Light Industrial (LI-2).

Since 2011, there have been no Conditional Use approvals within a 1-mile radius of the application site.

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



Mailing List Exhibit Map
Planning and Zoning Commission
CU 2205 Frank Passwaters
230-6.00-1.02

Frank A. Passwaters
8870 Railroad Avenue
Lincoln, DE 19960

Located at 8870 Railroad Avenue.



230-5.20-50.00

20-48.00

230-5.20-47.00

230-6.17-4.00

230-6.17-4.01

230-6.17-5.00

230-27.00-64.00

230-6.17-30.00

230-6.17-29.00

230-5.20-57.00

230-5.00-50.00

230-6.00-1.01

230-6.00-1.02

230-6.00-1.00

230-27.00-64.00

230-12.00-36.00

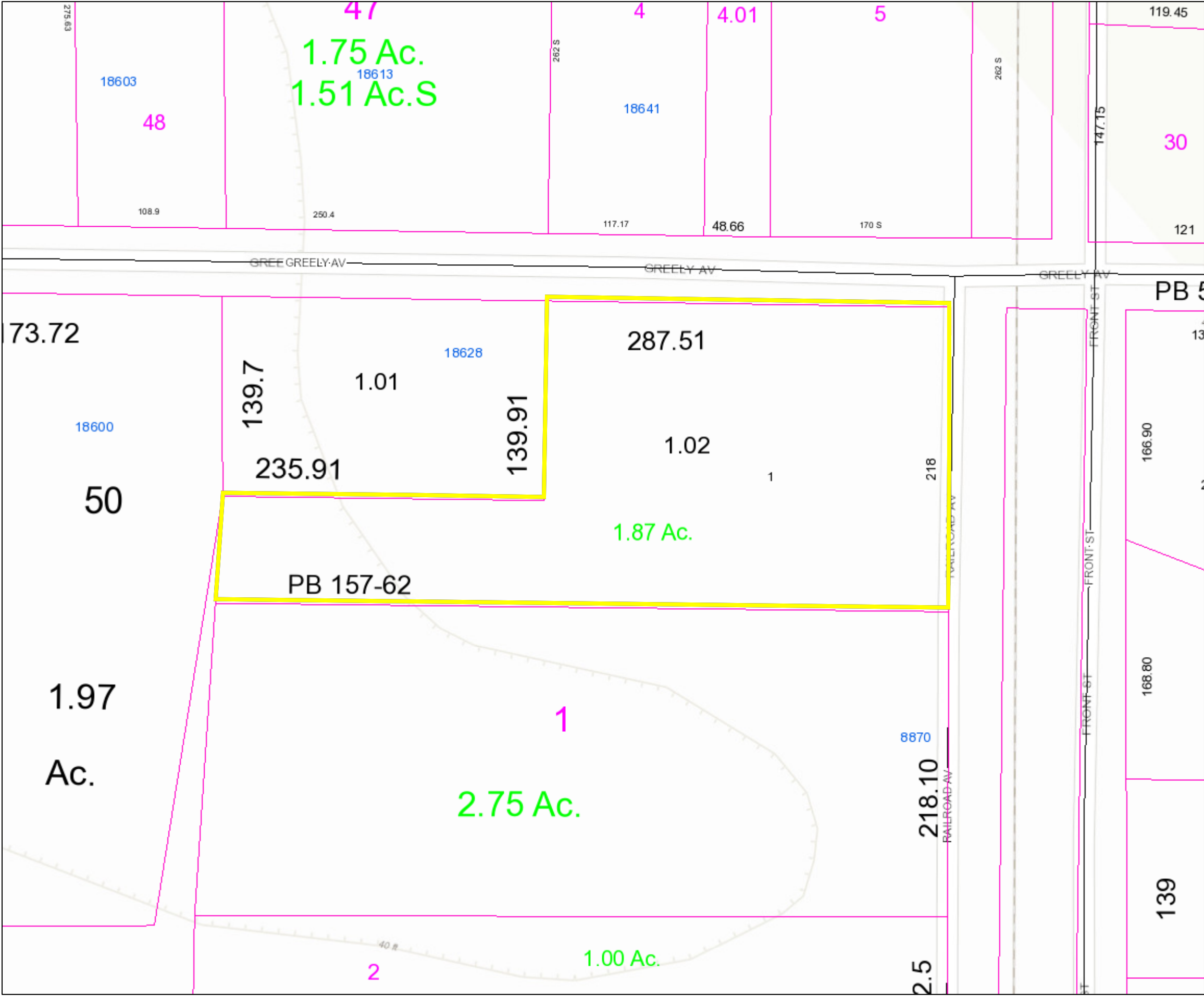
7-26-2018

0 15 30 60 90 120 Feet

Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community, Sussex County Government, Sussex County Mapping and Addressing, USDA Agricultural Stabilization and Conservation Service, Surdex Corp, 2017



Sussex County

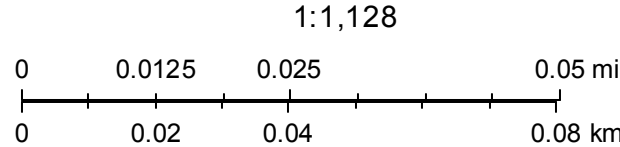


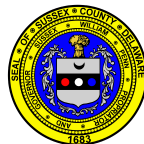
PIN:	230-6.00-1.02
Owner Name	PASSWATERS FRANK
Book	5001
Mailing Address	8870 RAILROAD AVE
City	LINCOLN
State	DE
Description	CRN/RD 38 38 A
Description 2	LOT 1
Description 3	N/A
Land Code	

- polygonLayer

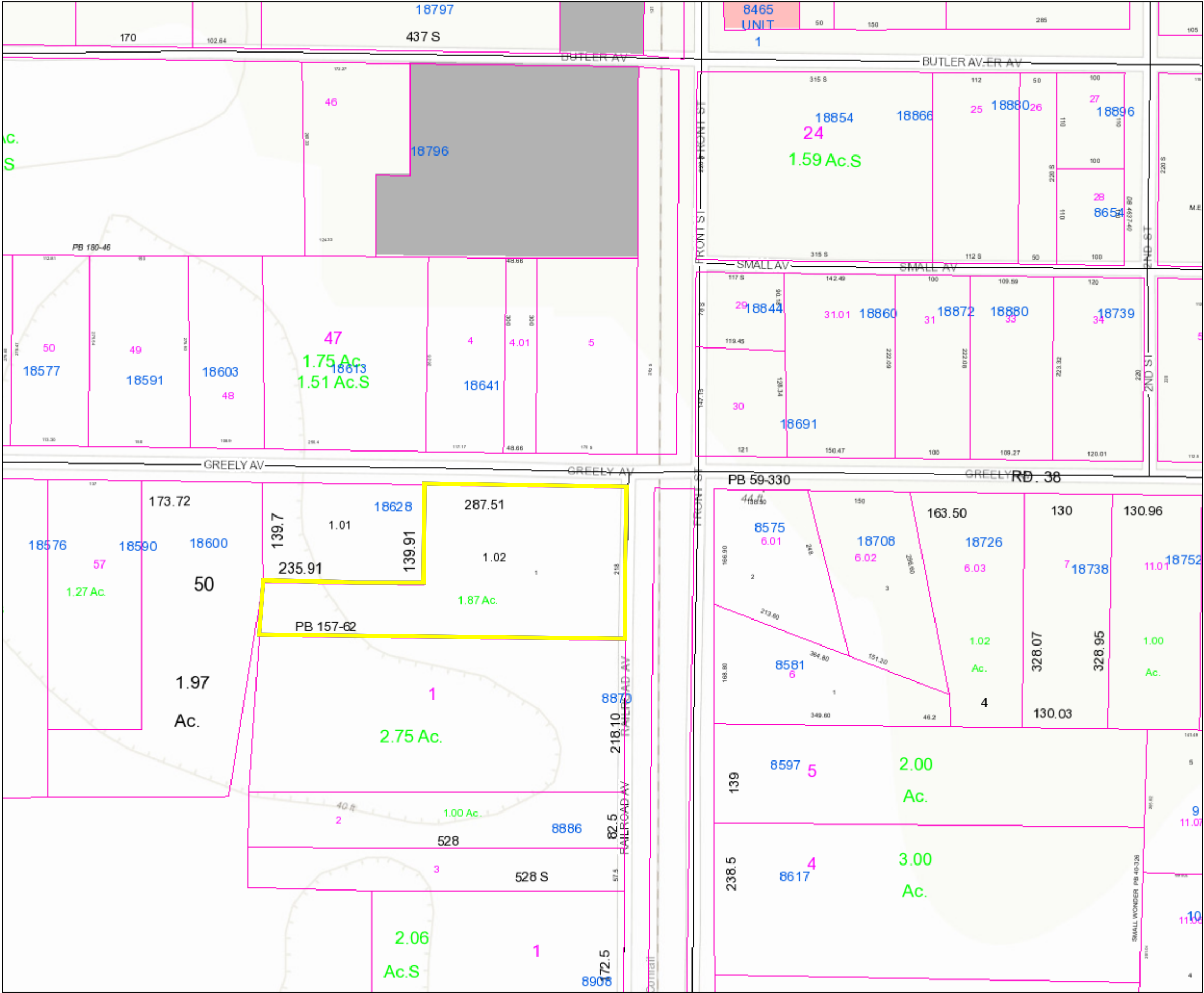
Override 1
- polygonLayer

Override 1
- Tax Parcels
- 911 Address
- Streets





Sussex County

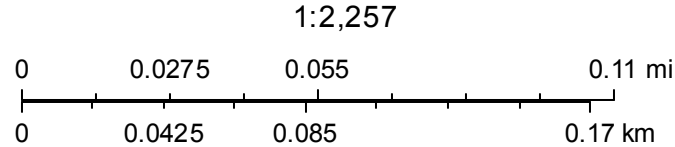


PIN:	230-6.00-1.02
Owner Name	PASSWATERS FRANK
Book	5001
Mailing Address	8870 RAILROAD AVE
City	LINCOLN
State	DE
Description	CRN/RD 38 38 A
Description 2	LOT 1
Description 3	N/A
Land Code	

- polygonLayer

Override 1
- polygonLayer

Override 1
- Tax Parcels
- 911 Address
- Streets



Introduced 09/24/19

Council District No. 2 – Wilson

Tax I.D. No. 230-6.00-1.02

911 Address: 8870 Railroad Avenue, Lincoln

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AUTO-MOTORCYCLE REPAIR TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.8711 ACRES, MORE OR LESS

WHEREAS, on the 10th day of September 2019, a conditional use application, denominated Conditional Use No. 2205, was filed on behalf of Frank Passwaters; 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. 2205 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. 2205 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 southwest side of Railroad Avenue and Greely Avenue, and being more particularly described in the attached legal description prepared by Hudson, Jones, Jaywork & Fisher, said parcel containing 1.8711 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
ACTING DIRECTOR OF PLANNING &
ZONING
(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, Acting Director of Planning & Zoning

CC: Everett Moore, County Attorney

Date: February 14, 2020

RE: County Council Report for CZ 1902 John C. Stomato c/o Ribera Development, LLC

The Planning and Zoning Department received an application (CZ 1902 John C. Stomato c/o Ribera Development, LLC) for a Change of Zone for a portion of parcel 135-16.00-23.00 from Commercial Residential (CR-1) Zoning District to Heavy Industrial (HI-1) Zoning District to be located at the south east corner of Lewes-Georgetown Highway (Rt. 9) and Steiner Road (SCR 320). The size of the property is 15.00 acres +/-.

The Planning and Zoning Commission held a public hearing on January 9, 2020. At the meeting of January 23, 2020, the Commission recommended approval of the application for the 9 reasons included in the motion (copy below).

Below are the draft minutes from the Planning & Zoning Commission meetings of January 9, 2020 and January 23, 2020.

C/Z 1902 - John C. Stamato c/o Ribera Development, LLC

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an CR1 Commercial Residential District to an HI-1 Heavy Industrial District for a certain parcel of land lying and being in Georgetown Hundred, Sussex County, containing 15 acres, more or less. The property is lying on the southeast corner of Lewes-Georgetown Hwy. (Rt. 9). and Steiner Rd. 911 Address: N/A. Tax Parcel: 135-16.00-23.00 (portion of)

Mr. Whitehouse noted that staff has received a concept plan and an exhibit booklet from the Applicants. There is a Staff analysis on file and results from the DelDOT Service Application confirming that a TIS is not required. Ms. Cornwell noted that there is also a letter from Mr. Keith. Steck raising concerns with the Application that was submitted earlier in the meeting.



COUNTY ADMINISTRATIVE OFFICES
2 THE CIRCLE | PO BOX 417
GEORGETOWN, DELAWARE

Mr. Fuqua spoke on behalf of the Applicant, John Stamato and Ribera Development, LLC. Mr. Fuqua noted that an Exhibit book was submitted containing relative information about the Application including an Environmental Assessment and Public Utilities Report; that this location is a little bit different with some interesting things in this Application; that this Application is requesting rezoning of an undeveloped 15-acre parcel of land from CR-1 Commercial Residential to HI-1 Heavy Industrial; that the land located approximately 2 miles east of the town of Georgetown; that it is near the intersection of Route 9 and Steiner Rd. and is 800' south of Route 9 and approximately 460' of frontage on the east side of Steiner Rd; that, as provided in the 2019 Comprehensive Plan, the land is running east from the town of Georgetown designated as being in the development area and mixed in there are a few parcels in the commercial area; that coming out of Georgetown there is the developing area up to Shingle Point Rd. and then again from Shingle Point east to Gravel Hill Rd., the lands are basically in the commercial area; that the exception to that is a 12-acre parcel on the north side of Route 9 which is in the industrial area; that there is also a very large area adjacent to the town limits of Georgetown that is designated as being in the Industrial Area and that is the location of the Delaware Coastal Airport and Coastal Business Park owned by Sussex County; that the goal of Sussex County is to encourage economic development and job creation; that, in addition, the County Business Park is set up for lease sites where this Application is creating sites that could be purchased.

Mr. Fuqua outlined that the lands on both the north and south sides of Route 9 are zoned C-1 General Commercial and that is to a depth of 600'; that the exception to this is the 12-acre parcel on the north side that is zoned LI-2 Light Industrial and the other exception is a 25-acre parcel with frontage on Steiner Rd. south of Route 9 which is zoned CR-1; that this 15-acre parcel is part of the CR-1 zoned 25-acre parcel; that the land is being purchased from Mr. & Mrs. D. Parsons who own a total of approximately 51 acres, 26 acres of which are zoned C-1; that 4 No. 2-acre lots have been carved out of that the front of Route 9; that the rear of that land is the 25-acre parcel that is zoned CR-1 and these 15 acres in the rear portion of the CR-1 zoned land; that the Applicant is requesting rezoning of that parcel to HI-1 Heavy Industrial which to his knowledge are fairly rare applications.

The HI-1 zoning is contained in Section 115-109 of the Zoning Code; that the purpose of that HI-1 Zoning District is to provide for a variety of industrial uses, but to restrict or prohibit industries which have characteristics that likely would produce serious and adverse effects; that the uses permitted by right includes any use permitted in the LI-2 Light Industrial District and also a specific list of uses that are found in the Zoning Ordinance Section 115-110 A, B, C; that the HI-1 District has a protective provision that requires that any potential hazardous use can only be permitted after a public hearing approval by the Board of Adjustment; that the Board of Adjustment is required to not permit such a use unless the public health, safety, morals and general welfare are properly protected, and the necessary safeguards are provided for the protection water areas of surrounding property and people; that there is a list of potentially hazardous uses Section 115-111 of the Ordinance; that while there is a variety of industrial operations permitted in the HI-1 District any type of use that is deemed potentially hazard has much more review level to it requiring a public hearing before the Board of Adjustment.

Mr. Fuqua outlined that the Application is a rezoning Application and there is no specific use being proposed for the site at this time; that even if there was a specific plan use for the property; that once the land is rezoned, any use permitted by the Zoning Code would be permitted on that land; that the issue before the Commission is not a specific use but whether this particular 15-acre parcel of land is appropriate for HI-1 zoning; that the Applicant believes it is appropriate for a number of substantial reasons; that the site is surrounded by lands of C-1, CR-1 and LI-2 and an extensive list of retail, storage and commercial uses are already permitted uses in the area surrounding the site and actually on the site itself; that in those lands zoned commercial, there is a much more intensive commercial use; that there a lot of construction or semi-industrial type of uses; that in the immediate vicinity of the site are the business locations of Magee Plumbing, AP Croll & Sons, Peninsula Paving, Route 9 Industrial Center, and the Gravel Hill DelDOT yard.

Mr. Fuqua outlined that the site has convenient access to Route 9 that connects to Steiner Rd: that this is significant under Section 99-5 of the Sussex County Subdivision Ordinance; that this section identifies the major arterial roadways in Sussex County; that Route 9 is the only major arterial roadway running east-west direction in all of eastern Sussex County.

Mr. Fuqua outlined that the 15-acre parcel is adjacent to, and has 1600' of frontage, along the railroad line operated by the Delmarva Central Railroad; that the rail line has an interesting history; that it was originally operated as the Queen Anne Railroad; that it started in 1894 and provided service between Queenstown, MD and Lewes, DE; that over the years there were a number of changes in ownership and changes in operation; that as of 2016, the rail service was being operated by the Delaware Coastline Railroad and provided rail service to the SPI facility that was at the end of the line next to entrance to Cape Henlopen State Park in Lewes, that in September 2016 the swing bridge that provided the track crossing over the Lewes-Rehoboth Canal was determined to be structurally unsound and closed to rail traffic by DelDOT; that the swing bridge was originally built in 1869 and unique in that when closed, it was parallel to the canal and manually cranked out and would extend across the canal and connect the north and south side; that after closure, DelDOT determined that the repairs to the bridge would be too costly and since there was no need for rail service into Lewes, the entire railroad line from the entrance from Cape Henlopen State Park to Cool Springs was discontinued and abandoned as a railroad line, that the railroad right-of-way was incorporated into the Lewes-Georgetown Rails to Trails project; that a paved bike path now exists from the State Park almost to Route 9 Cool Springs and that trail will eventually extend all the way to Georgetown, that, in January 2019, Delmarva Central Railroad took over operations of the rail under contract from the State of Delaware and that includes the track from Georgetown to Cool Springs which remains open and operating, that the Delmarva Central Railroad is called a short line but it interchanges with the Norfolk Southern Railway and the Maryland Delaware railway for more extensive service if needed, that products carried by the rails include grain, propane, building materials, and occasionally coal to the Indian River Power Plant, that the rail service is part of this zoning Application which plans for the future by creating a 15-acre site zoned HI-1 with transportation options of using Route 9 for truck traffic and Delmarva Central Railway for rail service.

Mr. Fuqua outlined that it is planned to subdivide the parcel into three parcels containing 3.5 acres each, that discussions have taken place between the Applicant and Delmarva Central Railroad to create a 50' wide railway access easement across the rear of the property, location of a spur track from the main track to serve the three parcels; that Artesian Water has a water line on Route 9 which will be extended to the site to provide central water for domestic use and fire protection; that Artesian resources will provide central sewer to the site; that DelDOT indicated in their letter dated July 29, 2019 that the rezoning application be considered without a Traffic Impact Study at this time and they reserve the right to determine if a need for a TIS be required and they would evaluate that when more specific land development is proposed; that the Applicant does anticipate that the entrance approvals for this site will require intersection improvements on Route 9 and Steiner Rd. and some roadway improvements on Steiner Rd; that stormwater management facilities will be designed and constructed in accordance with DNREC regulations; that there was an Environmental Assessment Report that was prepared by Pennoni Associates; that among the findings in the report were that the side soils were suited for the uses being considered; that there are no wetlands located on the site and the site is located in Zone X of the FEMA Flood Maps and is located outside of the designated flood plans; that the only question before the Commission is the rezoning of the property to HI-1; that if approved, the plans for any future development of these parcels would back before the Commission for preliminary and final site plan review.

Mr. Fuqua stated that the Delmarva Central Railroad running from Georgetown to Cool Springs is the last remaining rail line extending into Eastern Sussex County; that the future of that rail line depends on users because without customers the rail operations will not be economically suitable or sustainable; that the Applicant has committed to development of this site and the utilizing of the rail line; that in the Comprehensive Plan the County also recognizes the need for rail service in the Mobility Section of the 2019 Comprehensive Plan, at Pages 13-10, that the Plan states that there is a need to consider how to mitigate the impact of truck traffic on other road users and communities that the trucks travel through and the Plan states that one means of reducing truck impact is to shift more freight to rail, that the Plan acknowledges that the opportunities to do that may be limited, that this happens to be one location that is the exception to the rule and that this location is adjacent to rail and takes advantage of what the intent is of that section; that the Applicant believes that HI-1 zoning is appropriate to service the types of businesses that would utilize rail transportation which are normally large bulk type deliveries; that the Commission knows from various Land Use Applications over the past few years and months that the Route 9 corridor between Georgetown and 5 Points is quickly developing; that if this parcel is to be rezoned, the time to do it is now.

Mr. Fuqua cited a letter in the Exhibit Book dated December 10, 2019 from Delmarva Central Railroad stating the railroad's support of this Application and the economic opportunities that the rezoning would create; that the proposed findings in support of the Application that were submitted for the Commission's consideration that for the reasons stated, the Applicant believes that the location of this parcel is appropriate for the requested rezoning and therefore requests a favorable recommendation from the Commission.

Chairman Wheatley asked whether there was anyone present wishing to speak in favor or opposition to CZ 1902.

The Commission found that Mr. Johnson spoke in favor of the Application; that he is co-owner of property on Shingle Point Rd. and Route 9; that the area that they will be developing is back away from Route 9 and still leaves the potential for the owner to do developing and more commercial on the front side which will allow for safer entering and existing; that one concern is the run-off of the water; that on page 11 of the Environmental Assessment, it shows the flow of the water from their property to Route 9 and across; that he has not been able to find out who built the ditch on his property; that it is an issue because of the way the water backs up on the southside of Route 9.

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

At the conclusion of the public hearings the Commission discussed Application CZ 1902.

Motion by Mr. Hopkins and seconded by Mr. Mears to defer consideration of application CZ 1902 John C. Stamato c/o Ribera Development, LLC. Motion carried 5-0.

Draft Planning & Zoning Commission Meeting Minutes of January 23, 2020

Mr. Hopkins moved that the Commission recommend approval of C/Z #1902 for John C. Stamato for a Change in Zone from CR-1 to HI-1 based upon the record made during the public hearing and for the following reasons, but contingent upon an amendment to the Sussex County Future Land Use Map. The reasons for this recommendation are as follows:

1. This site is in on a property that has frontage along Route 9, although the area to be rezoned to HI-1 is set back from Route 9 approximately 1,000 feet. Route 9 is classified as a major arterial roadway. While the proposed HI-1 area does not have direct frontage on Route 9, Route 9 is an appropriate entrance location for vehicular access to the site.
2. The entire site is currently zoned as C-1 and CR-1. Properties on either side of the entire site are zoned C-1. The proposed HI-1 area is compatible with the surrounding zoning and uses.
3. The site is bounded on the south by an active railroad. The railroad separates the property and any potential uses on it from properties south of the railroad.
4. The adjacent railroad is operated by the Delmarva Central Railroad Company, which connects to other rail service providers. Delmarva Central has submitted a letter in support of the application and indicates that the rezoning to HI-1 will promote further economic opportunities for rail service in Sussex County.
5. This rezoning to HI-1 promotes transportation goals in the Sussex County Land Use Plan, which states in Section 13.2.2 that “The County’s goods movement (freight) network is an integral component of the transportation network as well as the economy.” However, “the main element of the freight network is the roadway system, which carries trucks (motor freight).” One means of reducing truck impacts is to shift more freight to rail, although opportunities to do that are limited. This site presents an opportunity to achieve this goal.

6. The rezoning will not have an adverse impact on the area. And, if anyone seeks to start a “potentially hazardous use” on the property, the Sussex County Zoning Code provides an additional layer of protection by requiring a public hearing and approval of the use by the Board of Adjustment.
7. No parties appeared in direct opposition to the rezoning.
8. The rezoning promotes the health, safety, morale, welfare, convenience, order and prosperity of present and future residents of Sussex County by establishing an HI-1 zoned property at an appropriate location with access to a major arterial road and rail service.
9. This recommendation is contingent on an amendment to the Future Land Use Map as currently shown in the Comprehensive Plan. According to the Future Land Use Map, the site is within a “Commercial Area”, which does not permit HI-1 Zoning. However, this site should be amended to a “Developing Area” which does permit HI-1 Zoning. Because of the active rail line, the Map should not have precluded HI-1 zoning from being one of the possible zoning districts for this area.

Motion by Mr. Hopkins, seconded by Ms. Stevenson, and carried unanimously to grant approval for the reason and conditions stated in the Motion. Motion carried 5-0.



Sussex County

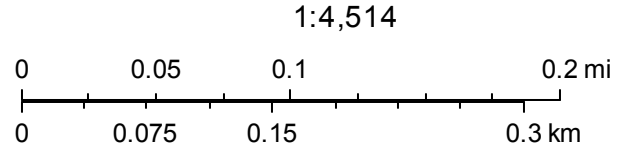


PIN:	135-16.00-23.00	
Owner Name	PARSONS	HARRY
	DALE TRUSTEE &	
Book	2236	
Mailing Address	7 VERMONT AVE	
City	LEWES	
State	DE	
Description	SE/COR RD 320	
Description 2	RT 9	
Description 3	RESIDUAL LANDS	
Land Code		

- polygonLayer

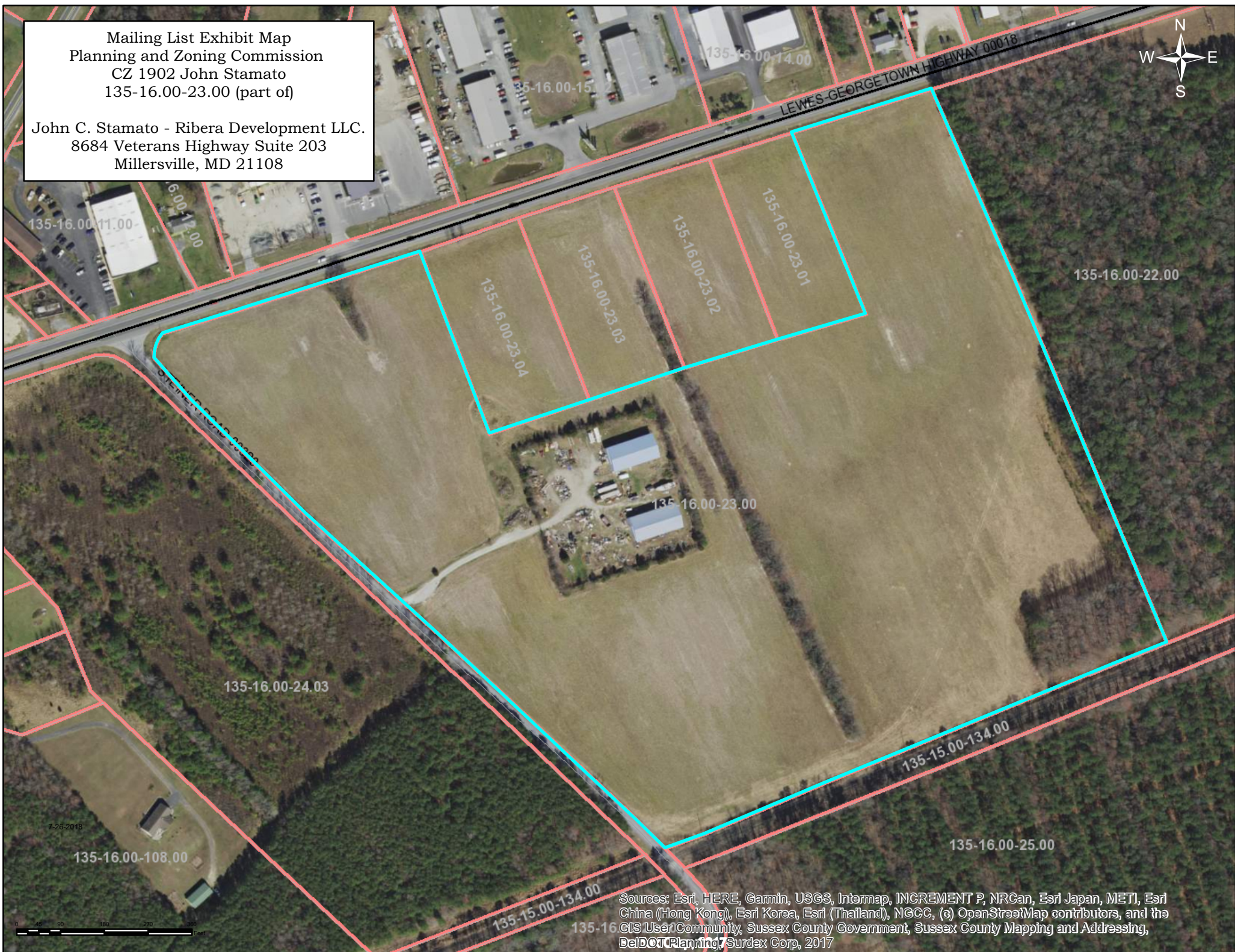
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- polygonLayer

Override 1
- Tax Parcels
- Streets



Mailing List Exhibit Map
Planning and Zoning Commission
CZ 1902 John Stamato
135-16.00-23.00 (part of)

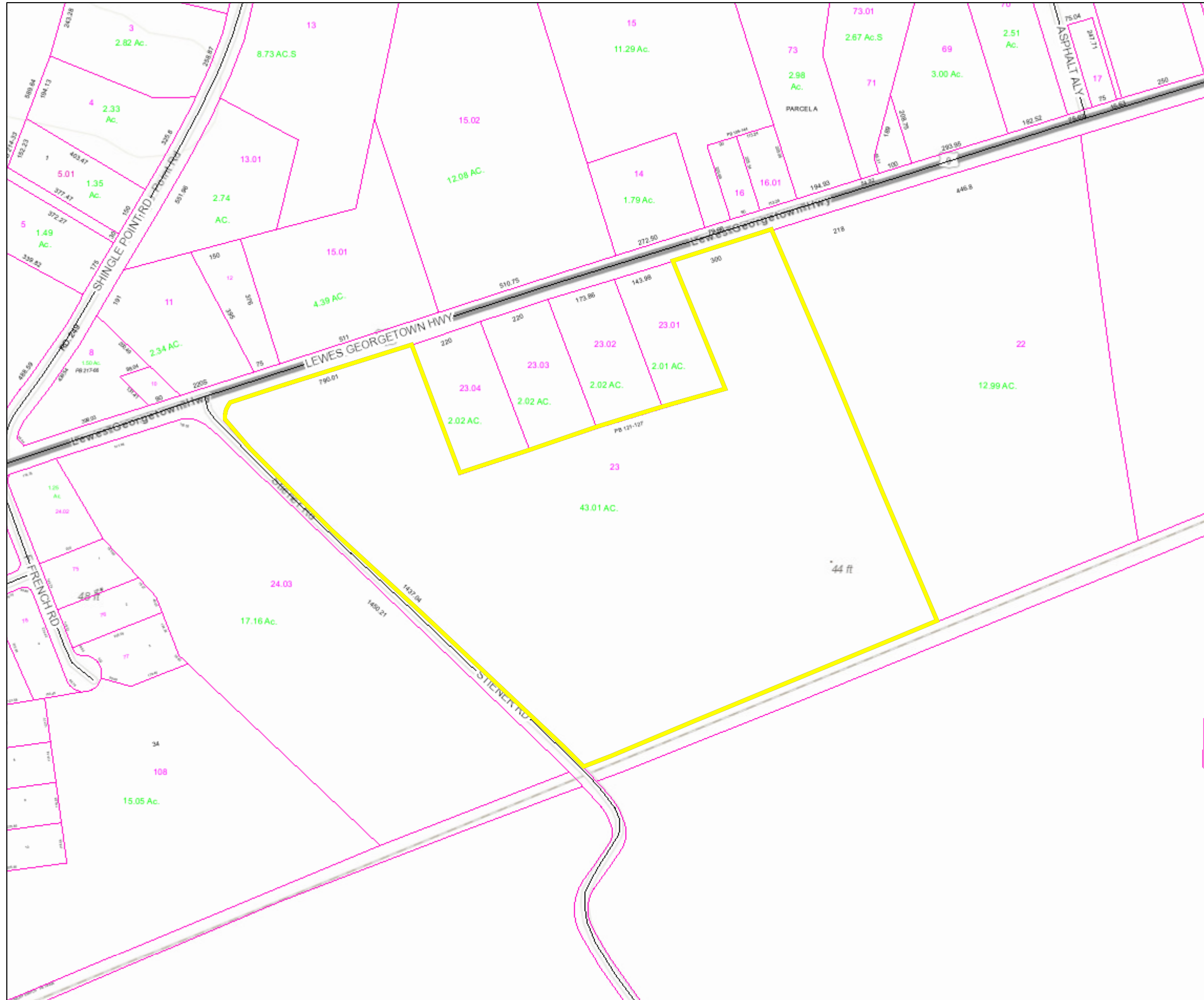
John C. Stamato - Ribera Development LLC.
8684 Veterans Highway Suite 203
Millersville, MD 21108



Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community, Sussex County Government, Sussex County Mapping and Addressing, DelDOT Planning, Surdex Corp, 2017



Sussex County



PIN:	135-16.00-23.00	
Owner Name	PARSONS	HARRY
	DALE TRUSTEE &	
Book	2236	
Mailing Address	7 VERMONT AVE	
City	LEWES	
State	DE	
Description	SE/COR RD 320	
Description 2	RT 9	
Description 3	RESIDUAL LANDS	
Land Code		

polygonLayer

Override 1

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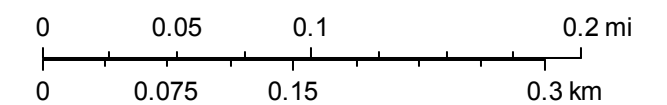
Override 1

Tax Parcels

Streets

County Boundaries

1:4,514





Memorandum

To: Sussex County Planning Commission Members
From: Lauren DeVore, Planner III
CC: Vince Robertson, Assistant County Attorney and applicant
Date: January 2, 2020
RE: Staff Analysis for CZ 1902 John C. Stamato

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1902 John C. Stamato to be reviewed during the January 9, 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 a portion of parcel 135-16.00-23.00 to facilitate a change from the Commercial Residential (CR-1) Zoning District to a Heavy Industrial (HI-1) Zoning District and is located on the southeast corner of Lewes-Georgetown Highway (Route 9) and Steiner Road (S.C.R. 320). The size of the property is 15.00 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 areas to the north, east and west are also 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. There is a single parcel to the southwest designated as a "Developing Area." Additionally, there is one parcel to the north on the other side of Lewes-Georgetown Highway (Route 9) designated as an "Industrial Area." "Industrial Areas" are lands devoted to concentrations of larger industrial uses including heavier industry, light industry, warehousing, and flex spaces.

The Heavy Industrial Zoning District is not specifically listed as an applicable Zoning District in the Commercial Area under Table 4.5-2 "Zoning Districts Applicable to Future Land Use Categories" of the 2018 Sussex County Comprehensive Plan.

The property is split-zoned General Commercial (C-1) and Commercial Residential (CR-1). The property directly to the north of the application site is zoned Light Industrial (LI-2) Zoning District. Properties to the north, east and west are zoned General Commercial (C-1). The parcels to the southeast and southwest are zoned Agricultural Residential (AR-1).

Since 2011, there have been two Change of Zone applications within the vicinity of the application site: To the east is CZ 1838 to facilitate a change of zone from an Agricultural Residential (AR-1) Zoning District to a Neighborhood Business (B-1) Zoning District, which was approved by County Council on January 9th, 2018. The second application, to the west is CZ 1836 to facilitate a change of zone from an Agricultural residential (AR-1) Zoning District to a Commercial Residential (CR-1) Zoning District, which was approved by County Council on March 13th, 2018.

Based on the analysis of the land use, surrounding zoning and uses, a change of zone to allow for a property zoned Heavy Industrial (HI-1) subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.

From: webmaster@sussexcountyde.gov <webmaster@sussexcountyde.gov>

Sent: Thursday, February 13, 2020 4:04 PM

To: Chip Guy <cguy@sussexcountyde.gov>

Subject: Contact Form: CZ 1902 Stamato Public Hearing 02/18/2020

RECIPIENTS: Chip Guy, Robin Griffith, Susan Webb

Submitted on Thursday, February 13, 2020 - 4:03pm

Name: Michael Johnson

Email address: mjohnson.pz@comcast.net

Phone number: 3028569778

Subject: CZ 1902 Stamato Public Hearing 02/18/2020

Message:

I am in support of the requested change of zone to Heavy Industrial. I am 1 of the owners of Rt Nine Enterprises which owns the corner property of Rt 9 & Shingle Point RD.

However I am concerned about their proposed storm water management. Rather than handling all their SWM for the property that is the subject of this CZ, it appears that they are planning to drain this property plus some of the remaining property that is not to be rezoned via property that is privately owned & not part of a tax ditch. Please refer to Appendix L in their packet.

You will notice that they are proposing to use existing swale in the middle of the larger parcel to drain near the border of the parcels that are being stripped off along Rt 9, across the front, then to go under Steiner Rd & then cross under Rt9 emptying into a private ditch, crossing My private property, crossing Shingle Point Rd to more private property where the water eventually empties on someone else's private property. They are not using a tax ditch. According to Soil Conservation the ditch on my property (stretching from RT9 to Shingle Point Rd) is private & not a tax ditch & Soil Conservation does not claim any responsibility for it.

The subject property is poorly drained & far more water than any outfall from the SWM detention pond will be directed to the corner of Steiners Rd & Rt 9 which is already a problem area. Their proposed SWM outfall & drainage of additional land will have a negative impact on my property & other property owners.

The developer should design a SWM system to contain ALL their water. The owners of the remaining property should handle their own water as well. It is my understanding that in years past the water from this property used to drain towards Gravel Hill but sadly the ditch fronting Rt 9 has not been properly maintained so that the water does not drain properly & instead pools at the corner of Rt 9 & Steiner Rd. I object to their propose SWM that is not contained on site. In addition there should be a thorough evaluation of the soils on this property which I differ with Penoni in that this is poorly drained soils not "have a moderate infiltration rate". They have a problem with the drainage of this entire parcel- Do Not let them make this a problem for other property owners.

For full disclosure, I am a former Sussex County Planning & Zoning Commissioner, have owned the corner property for 5 years, & have spent thousands of dollars having the property cleared of numerous buildings that were falling down & were not salvageable including 3 houses, a second hand store, couple storage buildings & a former Church that was collapsing at the corner of RT 9 & Shingle Point Rd.

Please make this email part of the public record for the Council's public hearing on 02/18/2020

Introduced 09/17/19

**Council District No. 2 – Wilson
Tax I.D. No. 135-16.00-23.00 (portion of)
911 Address: Not Available**

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A CR-1 COMMERCIAL RESIDENTIAL DISTRICT TO A HI-1 HEAVY INDUSTRIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 15 ACRES, MORE OR LESS

WHEREAS, on the 4th day of September 2019, a zoning application, denominated Change of Zone No. 1902, was filed on behalf of John C. Stamato c/o Ribera Development, 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. 1902 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 [CR-1 Commercial Residential District] and adding in lieu thereof the designation of HI-1 Heavy Industrial 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 Georgetown Hundred, Sussex County, Delaware, and lying on the southeast corner of Lewes-Georgetown Highway (Route 9) and Steiner Road, and being more particularly described in the attached legal description prepared by Pennoni Associates, Inc., said parcel containing 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.

PROPOSED