



Sussex County Council Public/Media Packet

**MEETING:
February 19, 2019**

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**Sussex County Council
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COUNTY COUNCIL

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



Sussex County

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SUSSEX COUNTY COUNCIL

AGENDA

FEBRUARY 19, 2019

10:00 A.M.

**AMENDED on February 15, 2019 at 10:30 A.M.!

Call to Order

Approval of Agenda

Approval of Minutes

Reading of Correspondence

Public Comments

Presentation on Milford Shipyard - Sher Valenzuela, Vice President, First State Manufacturing

Todd Lawson, County Administrator

1. Tribute – National FFA Week
2. Board of Adjustment Appointment
3. Administrator's Report

Bill Pfaff, Economic Development Director

1. Foreign Trade Zone

Hans Medlarz, County Engineer

1. Fencing Services RFP, Project #17-14
 - A. Change Order No. 3



John Ashman, Director of Utility Planning

1. Use of Existing Infrastructure Agreement - Hyatt Hotel, Lewes Hotel LLC

Janelle Cornwell, Planning and Zoning Director

1. Discussion and Possible Introduction of Proposed Ordinances

- A. "AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES III AND XXVII, SECTIONS 115-15 AND 115-210 REGARDING A DETERMINATION BY THE SUSSEX COUNTY PLANNING & ZONING COMMISSION AS TO PERMITTED USES"
- B. "AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES IV, V, VI, VIII, IX, X, XI, XIA, AND XII, SECTIONS 115-22, 115-23, 115-31, 115-32, 115-39, 115-40, 115-55, 115-56, 115-63, 115-64, 115-71, 115-72, 115-77, 115-80, 115-83.2, 115-83.6, 115-87 AND 115-88" (ASSISTED LIVING ORDINANCE)
- C. "AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 62, ARTICLE III, SECTION 62-7, CHAPTER 72, ARTICLE I, SECTIONS 72-4 AND 72-5, CHAPTER 115, ARTICLES IV, XXV AND TABLE 1 BY AMENDING SECTIONS 115-22, 115-25, 115-182, 115-183 AND 115-194.3 TO REPLACE ALL REFERENCES TO THE "ENVIRONMENTALLY SENSITIVE DEVELOPMENT DISTRICT" WITH "COASTAL AREA"
- D. "AN ORDINANCE TO AMEND ORDINANCE #2620 ADOPTING THE COMPREHENSIVE PLAN FOR SUSSEX COUNTY TO ADDRESS CHANGES TO THE COMPREHENSIVE PLAN RAISED BY THE STATE OF DELAWARE EXECUTIVE DEPARTMENT, OFFICE OF STATE PLANNING COORDINATION, IN A LETTER DATED JANUARY 18, 2019"

Vince Robertson, Assistant County Attorney

1. Subdivision Appeal – Streams Edge Subdivision #2018-8

Grant Requests

1. Woodland School House Association for renovations
2. Laurel Elementary School for 5K run/wellness walk fundraiser
3. Cape Henlopen Senior Center for Rehoboth Concert Band fundraiser

Introduction of Proposed Zoning Ordinances

Council Members' Comments

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

Possible Action on Executive Session Items

1:30 p.m. Public Hearings

Conditional Use No. 2155 filed on behalf of Stockley Materials, LLC

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BORROW PIT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 158.75 ACRES, MORE OR LESS” (lying on the southwest side of Seashore Highway (Route 18) approximately 0.72 mile southeast of Gravely Branch Road) (Tax I.D. No. 231-6.00-21.00 and 22.01) (911 Address: None Available)

Change of Zone No. 1870 filed on behalf of Coroc/Rehoboth III, LLC

“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 10.001 ACRES, MORE OR LESS” (land lying on the north side of Holland Glade Road, approximately 575 east of Coastal Highway (Route 1) (Tax I.D. No. 334-13.00-325.36) (911 Address: None Available).

Conditional Use No. 2157 filed on behalf of Country Lawn Care & Maintenance, LLC (c/o Gerald and Stephania Dougherty

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 4.26 ACRES, MORE OR LESS” (lying on the north side of Hollymount Road, approximately 0.42 mile east of Beaver Dam Road) (Tax I.D. No. 234-11.00-78.07) (911 Address: 30435 Hollymount Road, Harbeson)

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 12, 2019 at 5:00 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.

####

¹ Per 29 Del. C. § 10004 (e) (5) and Attorney General Opinion No. 13-IB02, this agenda was amended to include Pending Litigation under Executive Session. The agenda amendment was required to discuss a matter which arose after the initial posting of the agenda but before the start of the Council meeting.

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, FEBRUARY 5, 2019

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, February 5, 2019, 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
David N. Rutt	Assistant County Attorney (A.M. Session)
Vincent Robertson	Assistant County Attorney (P.M. Session)

Call to Order

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

Mr. Vincent called the meeting to order.

**M 060 19
Amend
and
Approve
Agenda**

A Motion was made by Mr. Wilson, seconded by Mr. Burton, to amend the Agenda by deleting “Executive Session – Land Acquisition pursuant to 29 Del.C. §10004(b)” and “Possible Action on Executive Items” and to approve the Agenda, as amended.

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 29, 2019 were approved by consent.

**Public
Comments**

Public Comments

Paul Reiger commented on ordinances, specifically relating to public and private stables and feed lots. Mr. Reiger also commented on the Board of Adjustment and variances considered by that Board.

Dan Kramer commented on the lack of action on previous public comments relating to the Board of Adjustment and Code fixes

**Delaware
Electric
Cooperative
Check**

Bill Andrew, President and Chief Executive Officer of the Delaware Electric Cooperative (DEC), presented a check to the Sussex County Council representing a capital credit allocation.

**Caroling
on The
Circle
Food
Drive**

Mr. Lawson announced that 31,473 food items were collected during the Caroling on The Circle Food Drive held in December 2018. The Council recognized participants who helped in this effort. Mr. Lawson reported that the food items were distributed to various food pantries throughout Sussex County.

Rules

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

**Public
Hearing/
CDBG**

A Public Hearing was held on the development of a Community Development Block Grant application, which is to be submitted to the Delaware State Housing Authority. The Community Development Block 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 \$7.7 million in Community Development Block Grant and HOME funding and have been able to assist 734 households and over 1,581 residents (including 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 FY2017: approximately \$1.5 million was received in CDBG and HOME funding and 127 low-to-moderate income households received assistance. Mr. Whaley noted that more than 70% of these projects were completed by companies that qualify under Section 3 and/or WBE/MBE/VBE designations.

Mr. Whaley presented a program status update for 2018.

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

Mr. Whaley reported on a plan implemented last year – a prioritization plan in rural communities.

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

**Public
Hearing/
CDBG
(continued)**

Mr. Whaley presented a list of the projects to be submitted to the Delaware State Housing Authority for CDBG funding, as follows:

Municipality Applications:

Blades (Rehabs)	\$ 80,000
Bridgeville (Rehabs)	\$ 80,000
Ellendale (Rehabs)	\$ 80,000
Frankford (Rehabs)	\$ 80,000
Georgetown (Rehabs)	\$105,000
Laurel (Rehabs)	\$140,000
Millsboro (Infrastructure)	\$ 99,913
Milford (Rehabs)	\$105,000
Milton (Rehabs)	\$105,000
Seaford (Rehabs)	\$140,000
Selbyville (Rehabs)	\$140,000

County Application:

Scattered Rehab	\$300,000
Scattered Demo	\$ 40,000
Scattered Emergency Rehab	\$ 78,000
Scattered Hookups	\$ 40,000
Handicapped Accessibility (Rehabs)	\$ 48,000
Scattered Roofing (Rehabs)	\$182,000
Cedar Creek (Rehabs)	\$ 44,000
Cool Springs (Rehabs)	\$ 58,000
Coverdale Crossroads (Rehabs)	\$ 64,000
Rural Ellendale/Old State Road	\$ 74,000

TOTAL REQUESTED **\$2,047,913**

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.

Mr. Whaley stated that, over the years, the County Council has provided funding for emergency projects: FY2013 - \$220,000; FY2014 - \$250,000; FY2015 - \$300,000; FY2016 - \$100,000; FY2017 - \$150,000; FY2018 - \$175,000 and FY2019 - \$250,000 (64% complete). 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 to assist with the presentation and presented two proposed Resolutions for the Council's consideration.

There were no public comments.

The Public Hearing and public record were closed.

M 061 19 **A Motion was made by Mr. Burton, seconded by Mr. Hudson, to Adopt**
Adopt **Resolution No. R 007 19 entitled “RECOGNIZING THE**
R 007 19 **IMPORTANCE OF FAIR HOUSING”.**

Motion Adopted: 5 Yeas.

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

M 062 19 **A Motion was made by Mr. Burton, seconded by Mr. Rieley, to Adopt**
Adopt **Resolution No. R 008 19 entitled “AUTHORIZATION TO SUBMIT**
R 008 19 **APPLICATIONS” (COMMUNITY DEVELOPMENT BLOCK**
 GRANT)”.

Motion Adopted: 5 Yeas.

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

Public **A Public Hearing was held on the Proposed Ordinance entitled “AN**
Hearing/ **ORDINANCE TO AMEND CHAPTER 99, ARTICLES I, III AND VI,**
Proposed **§§99-5, 99-18 AND 99-31, OF THE CODE OF SUSSEX COUNTY**
Ordinance/ **REGARDING STREETS, STREET DESIGN STANDARDS AND**
Chapter 99/ **INSPECTIONS AND CLOSEOUT PROCEDURES”.**
Street

Design **Chapter 99 of the Sussex County Code contains certain technical**
Standards **requirements for the design, submission, and subsequent approval of Final**
 Site Plans for subdivisions, including the provision for the approval of the
 Sussex Conservation District. The street design requirements contained in
 Chapter 99 of the Code were revised and improved through the adoption of
 Ordinance No. 2489 on March 28, 2017. After the implementation of
 Ordinance No. 2489, the Engineering Department recognized that further,
 minor modifications and corrections were necessary with regard to street
 design standards and inspection and closeout procedures. Mr. Medlarz
 highlighted the proposed changes.

Mr. Medlarz reported that the Planning and Zoning Commission
recommended approval of the Proposed Ordinance.

There were no public comments.

The Public Hearing and public record were closed.

M 063 19 **A Motion was made by Mr. Burton, seconded by Mr. Wilson, to Adopt**
Adopt **Ordinance No. 2629 entitled “AN ORDINANCE TO AMEND CHAPTER**
No. 2629 **99, ARTICLES I, III AND VI, §§99-5, 99-18 AND 99-31, OF THE CODE**
 OF SUSSEX COUNTY REGARDING STREETS, STREET DESIGN

M 063 19 **STANDARDS AND INSPECTIONS AND CLOSEOUT PROCEDURES”.**
(continued)

Motion Adopted: 5 Yeas.

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

**Appoint-
ment to
Board of
Adjustments
& Appeals**

Mr. Lawson presented a recommended appointment to the Board of Adjustments and Appeals (aka Building Code Appeal Board and Housing Code Appeal Board) for District 4 due to a vacancy created with Bruce Mears’ appointment to the Planning and Zoning Commission.

M 064 19
**Approve
Appointment
to
Board of
Adjustments
& Appeals**

A Motion was made by Mr. Hudson, seconded by Mr. Wilson, that the Sussex County Council appoints Mr. Scott Edmonston to the Sussex County Building Code Board of Adjustments and 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

**Appoint-
ment to
Board of
Assessment
Review**

Mr. Lawson presented a recommended reappointment of Lester Beachy to the Board of Assessment Review for District 2.

M 065 19
**Reappoint-
ment to
Board of
Assessment
Review**

A Motion was made by Mr. Wilson, seconded by Mr. Hudson, that the Sussex County Council appoints Mr. Lester Beachy to the Board of Assessment Review, effective immediately, for a term of five years or until February 2024.

Motion Adopted: 5 Yeas.

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

**Wetlands
and Buffers/
Working
Group
Discussion**

Mr. Lawson presented on update on the Buffers & Wetlands Working Group. In December 2018, the Council requested that the Group be organized to review the Sussex County Code and develop recommendations on the topic of wetlands and buffers regulations for the Council to consider. Mr. Lawson reported on the group which consists of thirteen members (stakeholders and people with expertise) and the County’s consultant, Jim Eisenhardt with RK&K, Mr. Lawson reviewed the Working Group’s timeline: Phase I – definitions – Spring 2019 and Phase II – regulations – Summer 2019. The kick-off meeting will be held on February 13, 2019 at 2:00 p.m. at the West Complex.

**Adminis-
trator's
Report**

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

1. Council Meeting Schedule

A reminder that Council will not meet on February 12th. The next regularly scheduled Council meeting will be held on Tuesday, February 19th, at 10:00 a.m.

**Draft
Ordinance/
Pension
Ordinance**

Mrs. Jennings presented a Draft Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 26 OF THE CODE OF SUSSEX COUNTY RELATING TO PENSION BENEFITS FOR SUSSEX COUNTY EMPLOYEES TO BRING THE CODE INTO COMPLIANCE WITH THE UNITED STATES INTERNAL REVENUE CODE".

Mrs. Jennings explained that the County Code should be amended to make sure the County Pension Plan continues to be considered as a qualified Pension Plan under the Internal Revenue Code. None of the revisions contained in the Draft Ordinance change the benefits that the County's employees are receiving today. The revisions simply make sure that the pension stays in a favorable tax status with the IRS so County employees do not get taxed on the contributions the County makes annually to the Pension Fund. Mrs. Jennings reviewed the proposed Code changes.

**Introduction
of Proposed
Ordinance**

Mr. Wilson introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 26 OF THE CODE OF SUSSEX COUNTY RELATING TO PENSION BENEFITS FOR SUSSEX COUNTY EMPLOYEES TO BRING THE CODE INTO COMPLIANCE WITH THE UNITED STATES INTERNAL REVENUE CODE".

The Proposed Ordinance will be advertised for Public Hearing.

**Affordable
Housing
RFP**

Brandy Nauman, Housing Coordinator & Fair Housing Compliance Officer, referenced the Council's approval of the issuance of the Affordable Housing Analysis RFP on October 23, 2018. She reported that the RFP was released on October 24, 2018. Seven (7) proposals were received; the RFP Review Panel reviewed the seven proposals and selected two firms to interview. The RFP Review Panel has recommended that the RFP be awarded to Lisa Sturtevant & Associates (LSA) at a cost of \$65,160.00 and with a timeline not to exceed six months. Mrs. Nauman outlined the reasons for the Panel's recommendation of LSA.

**M 066 19
Enter Into
Contract
with LSA**

A Motion was made by Mr. Burton, seconded by Mr. Rieley, that the Sussex County Council authorizes the Community Development & Housing Department to enter into a contract with Lisa Sturtevant & Associates to provide affordable housing analysis services for an amount not to exceed \$65,160.00.

Motion Adopted: 5 Yeas.

**M 068 19
(continued)**

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

**God's
People for
Purpose
Ministries/
Infra-
structure
Agreement**

John Ashman, Director of Utility Planning, requested approval of an Agreement for the Use of Existing Infrastructure with God's People for Purpose Ministries, Inc. for the God's People for Purpose Ministries Church project in the Sussex County Unified Sanitary Sewer District, Oak Orchard Area. The Agreement 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, God's People for Purpose Ministries Church project will connect to the existing County owned infrastructure. In return for utilization of said infrastructure, God's People for Purpose Ministries, Inc. will contribute \$4,591.00 for the financial catch-up contribution of the existing infrastructure to serve an additional 4.50 EDUs. This arrangement does not modify the underlying land use decision in any form.

**M 069 19
Approve
Infra-
structure
Agreement/
God's
People for
Purpose
Ministries**

A Motion was made by Mr. Wilson, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves the Use of Existing Infrastructure Agreement between Sussex County and God's People for Purpose Ministries for a capacity allocation in the regional transmission system, 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
Requests**

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

**M 070 19
Council-
manic
Grant**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, to give \$700.00 from Mr. Burton's Councilmanic Grant Account to the Greater Lewes Foundation for the Lewes In Bloom Children's Learning Garden.

Motion Adopted: 5 Yeas.

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

**M 071 19
Council-
manic
Grant**

A Motion was made by Mr. Rieley, seconded by Mr. Burton, to give \$1,500.00 (\$300.00 from each Councilmanic Grant Account) to the American Cancer Society for the Relay for Life of Sussex County.

Motion Adopted: 5 Yeas.

**M 071 19
(continued)**

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

**M 072 19
Council-
manic
Grant**

A Motion was made by Mr. Wilson, seconded by Mr. Hudson, to give \$300.00 from Mr. Wilson's Councilmanic Grant Account to the Friends of the Georgetown Public Library for library programming costs.

Motion Adopted: 5 Yeas.

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

**M 073 19
Council-
manic
Grant**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to give \$1,000.00 (\$500.00 each from Mr. Rieley's and Mr. Hudson's Councilmanic Grant Accounts) to Selbyville Middle School for National Blue Ribbon tile flooring.

Motion Adopted: 5 Yeas.

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

**M 074 19
County-
wide
Youth
Grant**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, to give \$1,000.00 from Countywide Youth Grants to Delaware Technical Community College for the Sussex County Science Fair.

Motion Adopted: 5 Yeas.

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

**Intro-
ductions**

There were no introductions of proposed zoning ordinances.

Comments

There were no Council Members' comments.

**M 075 19
Recess**

At 11:42 a.m., a Motion was made by Mr. Hudson, seconded by Mr. Burton, to recess until 1:30 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**

M 076 19 **At 1:34 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Hudson,**
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. Robertson read the rules of procedure for public 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 2153 **AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A REAL**
 ESTATE AND INVESTING OFFICE TO BE LOCATED ON A CERTAIN
 PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH
 HUNDRED, SUSSEX COUNTY, CONTAINING 0.5005 ACRE, MORE
 OR LESS” (Conditional Use No. 2153) filed on behalf of Cassandra
 Toroian (Tax I.D. No. 334-13.00-181.00) (911 Address: 35568 Airport
 Road, Rehoboth Beach).

The Planning and Zoning Commission held a Public Hearing on this
application on January 10, 2019 at which time the Commission
recommended approval with conditions.

(See the minutes of the Planning and Zoning Commission dated January 10,
2019.)

Janelle Cornwell, Planning and Zoning Director, presented the application.

Ms, Cornwell reported that four letters of support were received.

The Council found that Taylor Trapp, Attorney, was present on behalf of
the Applicant, Cassandra Toroian, and her company, Belrock Capital. She
reported on the company’s current location, number of employees,
proposed relocation to the recently purchased property on Airport Road,
the character of the neighborhood and other businesses on or near Airport
Road, the proposed use as a small office which will serve only one client at a
time or serve clients via the phone, computer, etc., the use of the existing
parking area, compliance of the application with the Comprehensive Plan,
and the fact that DelDOT did not require a Traffic Impact Study.

There were no public comments.

The Public Hearing and public record were closed.

M 077 19 **A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to Adopt**
Adopt **Ordinance No. 2630 entitled “AN ORDINANCE TO GRANT A**
Ordinance **CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL**
No. 2630

**M 077 19
Adopt
Ordinance
No. 2630/
CU 2153
(continued)**

RESIDENTIAL DISTRICT FOR A REAL ESTATE AND INVESTING OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.5005 ACRE, MORE OR LESS” (Conditional Use No. 2153) filed on behalf of Cassandra Toroian, with the following conditions:

- A. The use shall be limited to a real estate and investing office.**
- B. One lighted sign shall be permitted. It shall not exceed 32 square feet per side.**
- C. Any pole-mounted lights shall be downward screened so that the lights do not shine on neighboring properties or roadways.**
- D. The hours of operation shall be weekdays only, from 8:00 a.m. until 6:00 p.m. There shall not be any weekend hours.**
- E. The Applicant shall comply with all DelDOT entrance and roadway improvement requirements.**
- F. Any dumpsters shall be screened from view of neighboring properties and roadways.**
- G. Parking in the front yard setback shall be permitted. This is consistent with other properties in the area. No parking spaces shall have direct access to Airport Road and no vehicles shall be permitted to back out of a parking space directly onto Airport Road.**
- 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.

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

**Public
Hearing/
CU 2154**

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 CONCRETE CONSTRUCTION BUSINESS WITH EQUIPMENT STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 4.51 ACRES, MORE OR LESS” (Conditional Use No. 2154) filed on behalf of Arturo Granados-Gonzalez (Tax I.D. No. 134-14.00-20.00, 20.03 & 20.04) (911 Address: None Available).

The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on January 10, 2019 at which time action was deferred. On January 24, 2019, the Commission recommended approval with conditions.

(See the minutes of the Planning and Zoning Commission dated January 10 and 24, 2019.)

**Public
Hearing/
CU 2154
(continued)**

Janelle Cornwell, Planning and Zoning Director, presented the application.

An Exhibit Booklet was previously provided by the Applicant.

David Hutt, Attorney, was present on behalf of the owner of the property and the Applicant. He stated that the Applicant wishes to operate a concrete business with equipment storage on the site; that the rear half of the corner lot and the adjacent lot will be used for the business; that the Applicant had a previous Conditional Use denied and thereafter, sought a different site to relocate his business; that a relative lives on one of the parcels; that the barn on the one property will be used for storage; that the site would be a staging area for the business; that no business would be conducted on the site; that he has 10-15 employees; that employees come to the site to pick up company vehicles and equipment and travel to work sites; that there will be fencing and screening; that the business will operate from approximately two of the parcels only (on Parcel 20.03 and a portion of Parcel 20.00); that Parcel 20.04 would not be used; and that DelDOT did not require a Traffic Impact Study. Mr. Hutt referenced the application's compliance with the Comprehensive Plan.

There were no public comments.

The Public Hearing and public record were closed.

In response to Council's questions, Mr. Robertson reported that the Applicant does not propose to use Tax Parcel No. 134-14.00-20.04, leaving only 20.00 & 20.03 for a total acreage of 2.36 acres. Mr. Robertson stated that the title of the Ordinance can be amended to reflect this change.

**M 078 19
Adopt
Ordinance
No. 2631/
CU 2154**

A Motion was made by Mr. Hudson, seconded by Mr. Wilson, to Adopt Ordinance No. 2631 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONCRETE CONSTRUCTION BUSINESS WITH EQUIPMENT STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.36 ACRES, MORE OR LESS" (Conditional Use No. 2154) filed on behalf of Arturo Granados-Gonzalez (Tax Parcel Nos. 134-14.00-20.00 & 20.03) (Tax Parcel No. 134-14.00-20.04 having been withdrawn from this application by the Applicant), as amended, with the following conditions:

- A. This use shall be limited to the Applicant's concrete form business with equipment storage. No retail sales or other business shall be conducted from the site.**
- B. No manufacturing or concrete mixing shall occur on the site. This prohibition includes the shredding or grinding of any materials.**
- C. One lighted sign, not to exceed 32 square feet per side, shall be permitted.**
- D. The hours of operation shall be limited to 7:00 a.m. through 6:00 p.m.,**

**M 078 19
Adopt
Ordinance
No. 2631/
CU 2154
(continued)**

Monday through Saturday only.

- E. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.**
- F. A fence with landscaping shall be constructed along the perimeter of the site. The fencing and landscaping shall be shown on the Final Site Plan.**
- G. The Applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.**
- H. All stormwater management facilities shall be subject to the review and approval of the Sussex Conservation District.**
- I. As stated by the Applicant, there shall be no dumping or storage of concrete or similar materials on the site. Also, all trucks and equipment shall be cleaned off-site.**
- J. All maintenance of vehicles and equipment shall be performed indoors.**
- K. The Final Site Plan shall clearly show all areas for vehicle equipment storage and parking, and those areas shall be clearly marked on the site itself. There shall not be any parking or storage within the property's setbacks.**
- L. All concrete forms shall be stored in a location that is screened from view from neighboring properties and roadways. These storage areas shall be shown on the final Site Plan.**
- M. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.**
- N. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
CU 2162**

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 AND C-1 GENERAL COMMERCIAL DISTRICT FOR A PAVING CONSTRUCTION BUSINESS WITH AN OFFICE AND EQUIPMENT STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 39.630 ACRES, MORE OR LESS" (Conditional Use No. 2162) filed on behalf of Yellow Metal, LLC (Tax I.D. No. 135-11.00-31.00) (911 Address: 20288 Broadogs Place, Georgetown).

The Planning and Zoning Commission held a Public Hearing on this application on January 10, 2019 at which time action was deferred. The Commission deferred action again on January 24, 2019. As of this date, February 5, 2019, the Commission has not yet acted on the application and in accordance with new Council Rules of Procedure, the record will be left open for five days after the Commission issues its recommendation (for

**Public
Hearing/
CU 2162
(continued)**

receipt of written public comments only).

(See the minutes of the Planning and Zoning Commission dated January 10 and 24, 2019.)

Janelle Cornwell, Planning and Zoning Director, presented the application.

The Council found that Blake Carey, Attorney, was present on behalf of the Applicant. Mr. Carey reported that the Applicant is under contract to purchase the property; that the Applicant proposes a paving and construction business; that there will be storage of paving equipment on the site; that Applicant employs fifteen to twenty employees depending on the season; that employees arrive at the site around 5:45 a.m. to load equipment, etc. and then leave the site to go to jobs offsite; that all jobs are off site; that employees return to the site around 6:00 p.m. to unload equipment, etc. and then leave; that approximately two to four employees remain on the site; that there are two buildings on the property and the one in the C-1 area will be used as an office; that the Applicant intends to use all the existing structures on the property; that there will be no retail sales or manufacturing on the property; that the paving equipment is proposed to be stored in the AR-1 portion; that the barn in the AR-1 portion will be used for the storage of equipment; that parking for employees will be around that barn; that there will be an office on the front portion of the site; that there is a large buffer of trees between the AR-1 portion of the property and Seashore Highway (Route 9); and that a Traffic Impact Study was not required. Mr. Carey referenced the application's compatibility with the area and compliance with the Comprehensive Plan.

There were no public comments.

The Public Hearing was closed. The public record will remain open for five days following the issuance of the Planning and Zoning Commission's recommendation (for written public comments only).

**M 079 19
Defer
Action on
CU 2162**

A Motion was made by Mr. Wilson, seconded by Mr. Burton, to defer action on Conditional Use No. 2162 filed on behalf of Yellow Metal, LLC.

Motion Adopted: 5 Yeas.

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

Mr. Burton recused himself from the next Public Hearing (Change of Zone No. 1866) and left the meeting.

**Public
Hearing**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL

**Public
Hearing/
CZ 1866
(continued)**

DISTRICT TO AN I-1 INSTITUTIONAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 18.3155 ACRES, MORE OR LESS” (Change of Zone No. 1866) filed on behalf of Triple B Farms, LLC (Tax I.D. No. 235-27.00-11.00 (portion of) (911 Address: None Available).

The Planning and Zoning Commission held a Public Hearing on this application on January 10, 2019 at which time action was deferred. On January 24, 2019, the Commission recommended approval.

(See the minutes of the Planning and Zoning Commission dated January 10 and 24, 2019.)

Janelle Cornwell, Planning and Zoning Director, presented the application.

The Council found that Gene Bayard, Attorney; and Steve Fortunato of Becker Morgan Group; and Terry Murphy, President and CEO of Bayhealth were present on behalf of the application. They reviewed the property location; the variety of retail, commercial, medical and agricultural activities in the area including a Dollar General store and a mini-storage facility that is being constructed; the number of zoning changes in the area over the years; the significant residential development in the area, the area’s growing business corridor; the woods on the property and the existing stormwater pond; proposed access from Hudson Road; sewer and water service; the application’s compliance with the Comprehensive Plan; the use of the facility for outpatient services which will improve access and convenience to patients and provide a choice to a growing and aging population; the creation of approximately 45 new jobs; the facility will provide diagnostic services, walk-in care and primary care physician office spaces, etc., and that no Traffic Impact Study was required but that a traffic study is to be done as part of the site plan approval process. Mr. Fortunato presented the preliminary concept plan.

Public comments were heard.

Peter Roomet expressed concern about lighting and asked that any lighting be downward illuminated.

Paul Reiger commented on the Institutional zoning classification. He questioned height limitations in that zoning district and also, any variances that may come to Board of Adjustment for increased height.

William Miller expressed opposition to the application due to traffic concerns.

There were no additional public comments and the Public Hearing was closed.

The Public Hearing and public record were closed.

**M 080 19
Adopt
Ordinance
No. 2632/
CZ 1866**

A Motion was made by Mr. Hudson, seconded by Mr. Wilson, to Adopt Ordinance No. 2632 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN I-1 INSTITUTIONAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 18.3155 ACRES, MORE OR LESS” (Change of Zone No. 1866) filed on behalf of Triple B Farms, LLC

Motion Adopted: 4 Yeas, 1 Absent.

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

**M 081 19
Adjourn**

At 2:40 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Rieley to adjourn.

Motion Adopted: 4 Yeas, 1 Absent.

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

Respectfully submitted,

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

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

SUSSEX COUNTY COUNCIL



TRIBUTE

*Be it hereby known to all that the
Sussex County Council
joins in the celebration of*

NATIONAL FFA WEEK

The Sussex County Council recognizes the Sussex Central High School FFA for its work to cultivate interest among students in agriculture and in becoming the leaders of tomorrow, and directs this Tribute to be presented to the FFA program's students and faculty advisors on this 19th day of February 2019.



*Samuel R. Wilson, Jr.
Councilman*

ENGINEERING DEPARTMENT

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



Sussex County

DELAWARE
sussexcountye.gov

HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

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 John L. Rieley
The Honorable Douglas B. Hudson

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

RE: **Sussex County Fencing Services, Project 17-14
Change Order No. 3**

DATE: February 19, 2019

On March 7, 2017, Council awarded a one (1) year fencing services agreement to Seagull Fence and Concrete, LLC, with a possible annual renewal for up to five (5) years based on performance at the Engineering Departments' discretion. After a number of successful Seagull projects, the Engineering Department recently approved the second annual renewal of the agreement effective through December 31, 2019.

The intent for establishing the unit price fencing contract was to progressively replace and repair fencing at various County owned sewer facilities, landfill properties and the Airport, as some fencing was originally installed in the 70s.

The Engineering Department now requests approval of Seagull Fence and Concrete, LLC's attached Change Order No. 3, in the amount of \$20,000.00, to install a new gate at the Piney Neck Facility prohibiting public access to the property, as well as installing replacement fencing at three (3) pump stations. The change order is based on the as bid unit prices for fencing and gates.





**SUSSEX COUNTY
CHANGE ORDER REQUEST**

A. ADMINISTRATIVE:

1. Project Name: **Fencing Services RFP**
2. Sussex County Project No. 17-14
3. Change Order No. 3
4. Date Change Order Initiated - 2/12/19
5.
 - a. Original Contract Sum \$51,391.80
 - b. Net Change by Previous Change Orders \$19,375.50
 - c. Contract Sum Prior to Change Order \$70,767.30
 - d. Requested Change \$20,000.00
 - e. Net Change (No. of days) -0-
 - f. New Contract Amount \$90,767.30
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

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

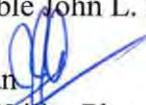
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sussexcountyde.gov

HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING

Memorandum

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

FROM: John Ashman 
Director of Utility Planning

RE: *Use of Existing Infrastructure Agreement
Lewes Hotel, LLC
File: OM 9.01*

DATE: February 14, 2019

On July 19, 2016, the Engineering Department gave a presentation on Sussex County's proactive wastewater infrastructure planning in the North Coastal Planning Area. The planning effort identified infrastructure needs and matched them to transmission and treatment capacity upgrades respectively. This arrangement 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 Department requests approval of an agreement for the Use of Existing Infrastructure with **Lewes Hotel, LLC** for the **Hyatt Hotel** 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, **Hyatt Hotel** project will connect to the existing County owned infrastructure. In return for utilization of said infrastructure **Lewes Hotel, LLC** will contribute **\$37,713.00** for the financial catch-up contribution of the existing infrastructure to serve an additional **57.83** Equivalent Dwelling Units. Payment will be required prior to receiving a connection permit for the facility.

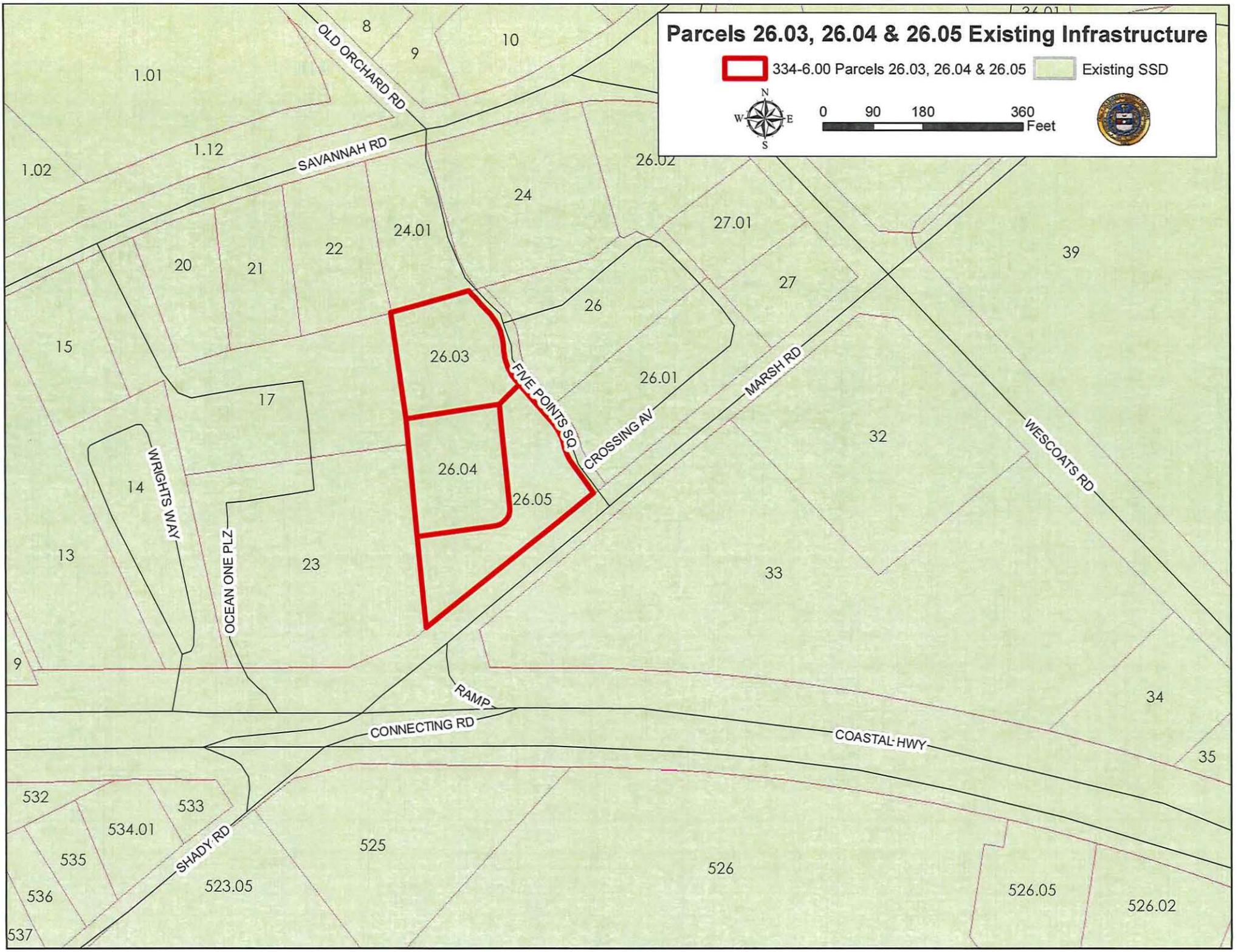


Parcels 26.03, 26.04 & 26.05 Existing Infrastructure

 334-6.00 Parcels 26.03, 26.04 & 26.05  Existing SSD



0 90 180 360 Feet



USE OF EXISTING INFRASTRUCTURE AGREEMENT

HYATT HOTEL

THIS AGREEMENT ("Agreement"), made this 19TH day of February 2019, by and between:

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

LEWES HOTEL, LLC, a Delaware Limited Liability Corporation and developer of a project known as Hyatt Hotel, hereinafter called the "Developer."

WITNESSETH:

WHEREAS, Developer is developing several tracts of land identified as Tax Map parcels 334-6.00-26.03, 26.04 & 26.05 to be known as Hyatt Hotel ("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 **57.83** 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 **\$37,713.00** 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 prior to receiving a connection permit for the facility.**
- (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.
- (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 **405 East Marsh Lane, Suite 1, Newport DE 19804.**

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:

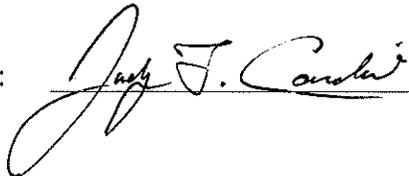
Robin A. Griffith
Clerk of the County Council

FOR LEWES HOTEL, LLC

By:  Member (Seal)
Scott Bailey - Authorized Signatory

2/6/19 _____ (DATE)

WITNESS:

 _____

AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES III AND XXVII, SECTIONS 115-15 AND 115-210 REGARDING A DETERMINATION BY THE SUSSEX COUNTY PLANNING & ZONING COMMISSION AS TO PERMITTED USES.

WHEREAS, from time to time a use is proposed that is not listed as a “Permitted Use”, but is similar or nearly identical to a use that is specifically identified as a “Permitted Use” in a given zoning district; and

WHEREAS, due to a change in terminology describing the use, or the evolution of the type of use since “Permitted Uses” were first identified in the Zoning Code of Sussex County, or due to other factors a determination is necessary as to whether the proposed use should be considered a “Permitted Use” in a given Zoning District; and

WHEREAS, the Zoning Code of Sussex County needs to be consistent as to the method of determining whether a proposed use shall be in keeping with uses specifically identified as “permitted” in a given Zoning District; and

WHEREAS, by way of example, the Planning & Zoning Commission is charged with making this determination in the LI-2 Zoning District, but the Board of Adjustment is also given this authority elsewhere in the Zoning Code of Sussex County; and

WHEREAS, Because the Planning & Zoning Commission is charged with reviewing all changes in zone, conditional uses and commercial site plans, it is appropriate to provide that the Planning & Zoning Commission shall have the authority to make this determination.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. The Code of Sussex County, Chapter 115, Article III, §115-15 “Prohibited Uses” is hereby amended by adding the italicized and underlined language:

§115-15. Prohibited Uses.

For the purpose of this Chapter, permitted uses are listed for the various districts. Unless the contrary is clear from the context of the lists or other regulations of this chapter, uses not specifically listed are prohibited. *The Commission shall have the*

33 authority to determine whether a use shall be permitted because it is clear from the
34 context of the lists or other regulations that it should be permitted due to its similarity
35 to those uses that are listed as permitted.

36

37 **Section 2.** The Code of Sussex County, Chapter 115, Article XXVII, §115-210
38 “Special Exceptions” is hereby amended by deleting the language in brackets and
39 re-lettering the subsections that follow:

40 **§115-210. Special Exceptions.**

41 In order to provide for adjustments in the relative location of uses and buildings, to
42 promote the usefulness of these regulations and to supply the necessary elasticity to
43 their efficient operation, special use exceptions, limited as to locations described in
44 this Article, and special yard and height, exceptions are permitted by the terms of
45 these regulations. The following buildings and uses are permitted as special
46 exceptions if the Board finds that, in its opinion, as a matter of fact, such exceptions
47 will not substantially affect adversely the uses of adjacent and neighboring property.

48 A. Special Use Exceptions.

49 . . .

50 (3) Other special use exceptions as follows, which are specified in each district:

51 (a) Private garages for more than four automobiles and with floor area of
52 more than 900 square feet in a residential district.

53

54 (b) Cemeteries for pets.

55

56 (c) Commercial greenhouses, wholesale or retail.

57

58 (d) Convalescent homes, nursing homes or homes for the aged.

59

60 (e) Day nurseries or child-care centers.

61

62 (f) (Reserved)

63

64 (g) Nurseries for growing of plants, trees and shrubs, including a building
65 for sale of products produced on the premises.

66

67 (h) In any HI-1 Heavy Industrial District, those heavy industrial uses upon
68 which the Board is required to pass under Article XV.

69
70 [(i) A determination, in cases of uncertainty, of the district classification of
71 any use not specifically named in these regulations; provided, however, that
72 such use shall be in keeping with uses specifically permitted in the districts in
73 which such use is to be classified.]

74
75 [(j)](i) Telephone central offices, in any AR, MR, GR, HR, UR, RPC
76 and VRP Districts, provided that all storage of materials, all repair facilities
77 and all housing of repair crews are within a completely enclosed building.

78
79 [(k)](j) Structures of mixed use, commercial and residential, in B-1 and
80 UB Districts, subject to the provisions of Articles IV through XX and § 115-
81 219.

82
83 [(l)](k) (Reserved)

84
85 [(m)](l) The alteration, extension or replacement of a nonconforming
86 manufactured home, subject to the provisions of § 115-196.

87
88 [(n)](m) More than one manufactured home may be permitted on a farm
89 of 10 acres or more pursuant to § 115-21A(5), provided that all manufactured
90 homes or dwellings on the property are the primary place of residence for
91 persons employed on the premises or immediate members of the family
92 owning or operating the farm, and provided that the granting of this exception
93 will not adversely affect the values or uses of adjacent properties.

94
95 [(o)](n) Tourist home (also referred to as "bed-and-breakfast inns") in
96 any AR, MR, GR, UR and B-1 Districts.

97
98 [(p)](o) In any C-1 General Commercial District, off-premises signs, not
99 exceeding 600 square feet total, subject to the provisions of § 115-81A(2).

100
101 [(q)](p) A manufactured home, used as a single-family dwelling, and
102 originally placed and permitted on a property of five acres or more prior to
103 March 25, 1997, may be permitted on a property of less than five acres
104 pursuant to Article IV, § 115-23C.
105

106 [(r)(q)] A multisectional manufactured home as a detached single-family
107 dwelling on individual lots of not less than 1/2 nor more than 3/4 acre, existing
108 on the effective date of this ordinance and subject to the provisions of § 115-
109 20A(1)(a) through (g) inclusive.

110

111 **Section 3.** Effective Date.

112 This ordinance shall take effect upon the date of adoption by Sussex County Council.

PROPOSED

1 **AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY,**
2 **CHAPTER 115, ARTICLES IV, V, VI, VIII, IX, X, XI, XIA, AND XII,**
3 **SECTIONS 115-22, 115-23, 115-31, 115-32, 115-39, 115-40, 115-55, 115-56, 115-**
4 **63, 115-64, 115-71, 115-72, 115-77, 115-80, 115-83.2, 115-83.6, 115-87 AND 115-**
5 **88.**

6
7 WHEREAS, the Zoning Code of Sussex County currently identifies “Convalescent
8 homes, nursing homes or homes for the aged” as requiring a Special Use Exception
9 approval from the Sussex County Board of Adjustment in several zoning districts;
10 and

11 WHEREAS, “Convalescent homes, nursing homes or homes for the aged” are not
12 defined terms in the Zoning Code of Sussex County; and

13 WHEREAS, the Zoning Code of Sussex County was recently amended to create and
14 define more specific examples of these types of uses, including “Nursing and Similar
15 Care Facilities”, which incorporates “Assisted Living Facilities”, “Extended Care
16 Facilities”, “Graduate Care Facilities”, “Independent Care Facilities”, “Intermediate
17 Care Facilities”, “Long Term Care Facilities” and other similar types of facilities
18 within that definition; and

19 WHEREAS, Sussex County Council desires all such uses to be allowed either as a
20 permitted use in a zoning district or as a conditional use following a hearing before
21 both the Sussex County Planning and Zoning Commission and Sussex County
22 Council; and

23 WHEREAS, these amendments affect the AR-1, MR, GR, UR, UB, B-1, C-1, CR-1
24 and M Districts where “Convalescent homes, nursing homes or homes for the aged”
25 were previously listed as requiring a Special Use Exception.

26 **NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:**

27
28 **Section 1.** The Code of Sussex County, Chapter 115, Article IV, §115-22
29 “Conditional Uses” is hereby amended by inserting the following italicized and
30 underlined language after “Manufactured home parks” and before “Parks or
31 campgrounds for mobile campers, tents, camp trailers, touring vans and the like”:

32 **§115-22. Conditional Uses.**

33 The following uses may be permitted as conditional uses when approved in
34 accordance with the provisions of Article XXIV of this chapter:

35 . . .

36 Nursing and similar care facilities

37 . . .

38

39

40 **Section 2.** The Code of Sussex County, Chapter 115, Article IV, §115-23 “Special
41 Use Exceptions” is hereby amended by deleting the language in brackets and
42 renumbering the subsequent items:

43 **§115-23. Special Use Exceptions.**

44 Special use exceptions may be permitted by the Board of Adjustment in accordance
45 with the provisions of Article XXVII of this chapter and may include:

46 . . .

47 C. Other special use exceptions as follows:

48 (1) Private garages for more than four automobiles and with floor area of more
49 than 900 square feet in a residential district.

50 (2) Cemeteries for pets.

51 (3) Commercial greenhouses, wholesale or retail.

52 [(4) Convalescent homes, nursing homes or homes for the aged.]

53 ~~(4)~~ [(5)] Day nurseries or child-care centers.

54 ~~(5)~~ [(6)] Garage/studio apartments, provided that at least one parking space for
55 the exclusive use of the tenant is included on the premises.

56

57 ~~(6)~~ [(7)] Nurseries for growing of plants, trees and shrubs, including a building
58 for sale of products produced on the premises.

59 ~~(7)~~ [(8)] Public telephone booths in residential areas.

60 (8)[(9)] Telephone central offices, provided that all storage of materials, all
61 repair facilities and all housing of repair crews are within a completely enclosed
62 building.

63

64

65 **Section 3.** The Code of Sussex County, Chapter 115, Article V, §115-31
66 “Conditional Uses” is hereby amended by inserting the following italicized and
67 underlined language after “Multifamily dwelling structures, subject to the provisions
68 of Articles IV through XX...” and before “Private clubs”:

69 **§115-31. Conditional Uses.**

70 The following uses may be permitted as conditional uses when approved in
71 accordance with the provisions of Article XXIV of this chapter:

72 . . .

73 *Nursing and similar care facilities*

74 . . .

75

76

77 **Section 4.** The Code of Sussex County, Chapter 115, Article V, §115-32 “Special
78 Use Exceptions” is hereby amended by deleting the language in brackets:

79 **§115-32. Special Use Exceptions.**

80 Special use exceptions may be permitted by the Board of Adjustment in accordance
81 with the provisions of Article XXVII of this chapter and may include:

82 . . .

83 C. Other special use exceptions as follows:

84 . . .

85 [Convalescent homes, nursing homes or homes for the aged.]

86 . . .

87

88

89 **Section 5.** The Code of Sussex County, Chapter 115, Article VI, §115-39
90 “Conditional Uses” is hereby amended by inserting the following italicized and
91 underlined language after “Multifamily dwelling structures, subject to the provisions
92 of Articles IV through XX...” and before “Private clubs”:

93 **§115-39. Conditional Uses.**

94 The following uses may be permitted as conditional uses when approved in
95 accordance with the provisions of Article XXIV of this chapter:

96 . . .

97 *Nursing and similar care facilities*

98 . . .

99

100

101 **Section 6.** The Code of Sussex County, Chapter 115, Article VI, §115-40 “Special
102 Use Exceptions” is hereby amended by deleting the language in brackets:

103 **§115-40. Special Use Exceptions.**

104 Special use exceptions may be permitted by the Board of Adjustment in accordance
105 with the provisions of Article XXVII of this chapter and may include:

106 . . .

107 C. Other special use exceptions as follows:

108 . . .

109 [Convalescent homes, nursing homes or homes for the aged.]

110 . . .

111

112

113 **Section 7.** The Code of Sussex County, Chapter 115, Article VIII, §115-55
114 “Conditional Uses” is hereby amended by inserting the following italicized and

115 underlined language after “Multifamily dwelling structures, subject to the provisions
116 of §115-219” and before “Private clubs”:

117 **§115-55. Conditional Uses.**

118 The following uses may be permitted as conditional uses when approved in
119 accordance with the provisions of Article XXIV of this chapter:

120 . . .

121 Nursing and similar care facilities

122 . . .

123

124

125 **Section 8.** The Code of Sussex County, Chapter 115, Article VIII, §115-56 “Special
126 Use Exceptions” is hereby amended by deleting the language in brackets:

127 **§115-56. Special Use Exceptions.**

128 Special use exceptions may be permitted by the Board of Adjustment in accordance
129 with the provisions of Article XXVII of this chapter and may include:

130 . . .

131 C. Other special use exceptions as follows:

132 . . .

133 [Convalescent homes, nursing homes or homes for the aged.]

134 . . .

135

136

137 **Section 9.** The Code of Sussex County, Chapter 115, Article IX, §115-63
138 “Conditional Uses” is hereby amended by inserting a new subsection F. therein:

139 **§115-63. Conditional Uses.**

140 The following uses may be permitted as conditional uses when approved in
141 accordance with the provisions of Article XXIV of this chapter:

142 . . .

143 F. Nursing and similar care facilities.

144

145

146 **Section 10.** The Code of Sussex County, Chapter 115, Article IX, §115-64 “Special
147 Use Exceptions” is hereby amended by deleting the language in brackets:

148 **§115-64. Special Use Exceptions.**

149 Special use exceptions may be permitted by the Board of Adjustment in accordance
150 with the provisions of Article XXVII of this chapter and may include:

151 . . .

152 C. Other special use exceptions as follows:

153 . . .

154 [Convalescent homes, nursing homes or homes for the aged.]

155 . . .

156

157

158 **Section 11.** The Code of Sussex County, Chapter 115, Article X, §115-71
159 “Conditional Uses” is hereby amended by inserting the following italicized and
160 underlined language after “Multifamily dwelling structures, subject to the provisions
161 of Articles IV through XX...” and before “Public or governmental buildings and
162 uses, including parks, parkways playgrounds and public boat landings”:

163 **§115-71. Conditional Uses.**

164 The following uses may be permitted as conditional uses when approved in
165 accordance with the provisions of Article XXIV of this chapter:

166 . . .

167 Nursing and similar care facilities

168 . . .

169

170

171 **Section 12.** The Code of Sussex County, Chapter 115, Article X, §115-72 “Special
172 Use Exceptions” is hereby amended by deleting the language in brackets:

173 **§115-72. Special Use Exceptions.**

174 Special use exceptions may be permitted by the Board of Adjustment in accordance
175 with the provisions of Article XXVII of this chapter and may include:

176 . . .

177 C. Other special use exceptions as follows:

178 . . .

179 [Convalescent homes, nursing homes or homes for the aged.]

180 . . .

181

182

183 **Section 13.** The Code of Sussex County, Chapter 115, Article XI, §115-77
184 “Permitted Uses” is hereby amended by inserting the following italicized and
185 underlined language after “Multifamily dwelling dwellings and structures of mixed
186 commercial and residential use, subject to the mixed use provisions of Articles XXII,
187 XXIII ” and before “Printing, publishing and engraving establishments”:

188 **§115-77. Permitted Uses.**

189 A. A building or land shall be used only for the following purposes:

190 . . .

191 *Nursing and similar care facilities*

192 . . .

193

194

195 **Section 14.** The Code of Sussex County, Chapter 115, Article XI, §115-80 “Special
196 Use Exceptions” is hereby amended by deleting the language in brackets:

197 **§115-80. Special Use Exceptions.**

198 Special use exceptions may be permitted by the Board of Adjustment in accordance
199 with the provisions of Article XXVII of this chapter and may include:

200 . . .

201 C. Other special use exceptions as follows:

202 . . .

203 [Convalescent homes, nursing homes or homes for the aged.]

204 . . .

205

206

207 **Section 15.** The Code of Sussex County, Chapter 115, Article XIA, §115-83.2
208 “Permitted Uses” is hereby amended by inserting the following italicized and
209 underlined language after “Monument sales establishments with incidental
210 processing to order, but not including the shaping of headstones” and before
211 “Printing, publishing and engraving establishments”:

212 **§115-83.2. Permitted Uses.**

213 A. A building or land shall be used only for the following purposes:

214 . . .

215 *Nursing and similar care facilities*

216 . . .

217

218

219 **Section 16.** The Code of Sussex County, Chapter 115, Article XIA, §115-83.6
220 “Special Use Exceptions” is hereby amended by deleting the language in brackets:

221 **§115-83.6. Special Use Exceptions.**

222 Special use exceptions may be permitted by the Board of Adjustment in accordance
223 with the provisions of Article XXVII of this chapter and may include:

224 . . .

225 C. Other special use exceptions as follows:

226 . . .

227 [Convalescent homes, nursing homes or homes for the aged.]

228 . . .

229

230

231 **Section 17.** The Code of Sussex County, Chapter 115, Article XII, §115-87
232 “Conditional Uses” is hereby amended by inserting the following italicized and
233 underlined language after “Marine or oceanographic laboratories or experimental
234 stations” and before “Parks or campgrounds for mobile campers, tents, camp trailers,
235 touring vans and the like”:

236 **§115-87. Conditional Uses.**

237 The following uses may be permitted as conditional uses when approved in
238 accordance with the provisions of Article XXIV of this chapter:

239 . . .

240 *Nursing and similar care facilities*

241 . . .

242

243

244 **Section 18.** The Code of Sussex County, Chapter 115, Article XII, §115-88 “Special
245 Use Exceptions” is hereby amended by deleting the language in brackets:

246 **§115-88. Special Use Exceptions.**

247 Special use exceptions may be permitted by the Board of Adjustment in accordance
248 with the provisions of Article XXVII of this chapter and may include:

249 . . .

250 C. Other special use exceptions as follows:

251 . . .

252 [Convalescent homes, nursing homes or homes for the aged.]

253 . . .

254

255

256 **Section 19.** Effective Date.

257 This ordinance shall take effect upon the date of adoption by Sussex County Council,
258 but shall not apply to any completed applications previously made to the Sussex
259 County Board of Adjustment for a Special Use Exception for “Convalescent homes,
260 nursing homes or homes for the aged” as of the date of adoption.

261

262

263

PROPOSED

1 **AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY,**
2 **CHAPTER 62, ARTICLE III, SECTION 62-7, CHAPTER 72, ARTICLE I,**
3 **SECTIONS 72-4 AND 72-5, CHAPTER 115, ARTICLES IV, XXV AND**
4 **TABLE 1 BY AMENDING SECTIONS 115-22, 115-25, 115-182, 115-183**
5 **AND 115-194.3 TO REPLACE ALL REFERENCES TO THE**
6 **“ENVIRONMENTALLY SENSITIVE DEVELOPMENT DISTRICT”**
7 **WITH “COASTAL AREA”.**

8
9 WHEREAS, Sussex County Council has adopted the **2018** Comprehensive Plan
10 (the “Plan”); and

11
12 WHEREAS, The Future Land Use Element of the Plan creates a new “Coastal
13 Area” and eliminates the Environmentally Sensitive Developing Area as a land
14 use area on the Future Land Use Map contained in the Plan; and

15
16 WHEREAS, the Zoning Code must be updated to eliminate all references to the
17 Environmentally Sensitive Developing Area since that Area no longer exists in
18 the Plan; and

19
20 WHEREAS, the Zoning Code must be amended to insert “Coastal Area” where
21 the “Environmentally Sensitive Developing Area” was previously referenced.

22
23 **NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY**
24 **ORDNAINS:**

25
26
27 **Section 1. The Code of Sussex County, Chapter 62, Article III, §62-7**
28 **“Building Fees” is hereby amended by deleting the language in brackets and**
29 **inserting the italicized and underlined language:**

30
31 **§62-7. Building Fees.**

32
33 The schedule of fees for permits and applications for buildings and the like shall
34 be as hereinafter indicated:

35
36 . . .

37
38 I. Cluster fee [as required by § **115-25B(3)** and **F(3)**]. The Council will review
39 the fees for a density bonus under the terms of this act on an annual basis and
40 revise such fees as it deems necessary.

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- (1) For the town centers and developing areas around Greenwood, ridgeville, Seaford, Blades, Laurel, and Delmar, \$15,000 per unit in excess of two dwelling units per acre.
- (2) For the town centers and developing areas around Milford, Milton, Ellendale, Georgetown, Millsboro, Dagsboro, Frankford and Selbyville, \$15,000 per unit in excess of two dwelling units per acre.
- (3) For the [environmentally sensitive developing area] Coastal Area, \$20,000 per unit in excess of two dwelling units per acre.

...

Section 2. The Code of Sussex County, Chapter 72, Article I, §72-4 “Declaration of Public Policy” is hereby amended by deleting the language in brackets and inserting the italicized and underlined language:

§72-4. Declaration of Public Policy.

The Sussex County Council hereby declares it to be the public policy of the County to:

...

E. Encourage developments in town centers, developing areas and [environmentally sensitive developing areas] coastal areas with 35 or more total dwelling units to include a minimum number of moderately priced units of varying sizes on public water and sewer systems.

...

Section 3. The Code of Sussex County, Chapter 72, Article I, §72-5 “Definitions” is hereby amended by deleting the language in brackets and inserting the italicized and underlined language in the definition of “Qualifying Land”:

§72-5 Definitions

The following words and phrases have the following meanings:

...

QUALIFYING LAND

81 All land:

82

83 . . .

84

85 B. In a Town Center, Developing Area or [Environmentally Sensitive
86 Developing Area] Coastal Area and zoned for any type of residential
87 development to which a density provision applies or land that is designated on
88 town’s comprehensive plan as lying within the town’s growth and future
89 annexation area; and that . . .

90

91 . . .

92

93 **Section 4. The Code of Sussex County, Chapter 115, Article IV, §115-22**
94 **“Conditional Uses” is hereby amended by deleting the language in brackets**
95 **and inserting the italicized and underlined language:**

96

97 **§115-22. Conditional Uses.**

98

99 The Following uses may be permitted as conditional uses when approved in
100 accordance with the provisions of Article XXIV of this Chapter:

101

102 . . .

103

104 Multifamily dwelling structures and/or town homes, subject to the provisions of
105 this chapter, when:

106

107 A. Said multifamily dwelling structures and/or town homes, the owners
108 of which would share and own in common the surrounding grounds (which may
109 also be referred to herein collectively as “units”) lie within a Town Center, a
110 Developing Area, or an [Environmentally Sensitive Developing Area] Coastal
111 Area as described within the Land Use Element and as shown on the Future
112 Land Use Plan of the adopted Sussex County Comprehensive Plan; and

113

114 . . .

115

116

117 **Section 5. The Code of Sussex County, Chapter 115, Article IV, §115-25**
118 **“Height, Area and Bulk Requirements”, Note “**” under subsection B.**
119 **thereof, is hereby amended by deleting the language in brackets and**
120 **inserting the italicized and underlined language:**

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§115-25. Height, Area and Bulk Requirements.

B. Minimum lot sizes, dimensions and open space for lots using a central sewer system as defined by §115-194A:

...

**For lots located located in the [Environmentally Sensitive Development District] *Coastal Area*, the Development Districts or the Town Center Districts, the overlay ordinance for that district shall determine the minimum lot size.

Section 6. The Code of Sussex County, Chapter 115, Article XXV, §115-182 “Front Yards” is hereby amended by deleting the language in brackets and inserting the italicized and underlined language:

§ 115-182. Front yards.

- A. On through lots, the required front yard shall be provided on each street.
- B. There shall be a front yard of at least 15 feet on the side street of a corner lot in any district.
- C. On a street or road with existing buildings having a front yard setback that is less than that required in the district, any building may have a front yard setback that is equal to the average setback of those existing buildings located on the same side of the street or road and being with 300 feet of the building. Any vacant lot shall be calculated as having the required setback for the district. No front yard setback reduced pursuant to this subsection shall be reduced to less than five feet. The provision of this subsection shall not apply to any lot in a cluster subdivision, [ESDDOZ] *Coastal Area* cluster subdivision or residential planned community.
- D. Open unenclosed decks, porches, platforms or steps not covered by a roof or canopy and which do not extend above the level of the first floor of the building may extend or project into the front yard not more than five feet. This provision does not apply to manufactured home parks or campgrounds.

158 **Section 7. The Code of Sussex County, Chapter 115, Article XXV, §115-183**
159 **“Side and Rear Yards” is hereby amended by deleting the language in**
160 **brackets and inserting the italicized and underlined language:**

162 **§ 115-183. Side and rear yards.**

163 A. Where a building in a commercial district is subject to the height,
164 area and bulk requirements applicable to residential development under §
165 115-178 of this article, the side yard requirements for residential
166 development shall be applied only to the lowest floor (and all floors above
167 it) which contains more than 25% of its area used for dwelling. All floors
168 shall be subject to side yards required by these regulations for commercial
169 buildings adjacent to residential districts.

170 B. For the purpose of the side yard regulations, a group of business or
171 industrial buildings separated by common or party walls shall be
172 considered as one building occupying one lot.

173
174 C. Open unenclosed decks, porches, platforms or steps not covered by
175 a roof or canopy and which do not extend above the first floor of the
176 building may be constructed in a side or rear yard no closer than five feet
177 from a side lot line and five feet from a rear lot line. This provision does
178 not apply to manufactured home parks or campgrounds.

179
180 D. For any existing approved lot that is less than 10,000 square feet in
181 size, the side yard setbacks shall be reduced to five feet and the rear yard
182 setback shall be reduced by five feet. For any lot with side or rear setbacks
183 reduced by operation of this § 115-183D, no structures shall extend or
184 project closer than five feet from the lot line. The provision of this
185 subsection shall not apply to any lot in a cluster subdivision, [ESDDOZ]
186 Coastal Area cluster subdivision or residential planned community.

187
188 **Section 8. The Code of Sussex County, Chapter 115, Article XXV, §115-**
189 **194.3 “Environmentally Sensitive Development District Overlay Zone**
190 **(ESDDOZ)” is hereby amended by deleting the language in brackets and**
191 **inserting the italicized and underlined language:**

192
193 **§ 115-194.3. ES-1 [Environmentally Sensitive Development**
194 **District Overlay Zone (ESDDOZ)] Coastal Area.**

195 A. Delineation of the zoning district.

196 (1) The [Environmentally Sensitive Development District] Coastal
197 Area shall include all lands designated as the "[Environmentally
198 Sensitive Developing] Coastal Area" in the adopted Sussex County
199 Comprehensive Plan dated [January 1, 2003] _____, or
200 as subsequently amended.

201 (2) Where the boundary of the [ESDDOZ] Coastal Area is formed by a
202 roadway, the overlay zone shall be deemed to include the contiguous
203 property on the far side of the roadway, provided that depth of the
204 [ESDDOZ] Coastal Area on contiguous property shall not exceed
205 six hundred feet.

206 B. Application process.

207 (1) All rezoning, subdivision, business and industrial site plans and
208 conditional use applications involving one or a combination of the
209 following shall be subject to the process and performance
210 requirements as described hereinafter:

- 211 (a) Any residential planned community application.
- 212 (b) Any development containing 50 or more dwelling units.
- 213 (c) Any development containing 75,000 square feet or more of
214 floor area used for commercial or industrial uses.
- 215 (d) Any use or activity that requires a permit in the Coastal Zone.

216 (2) The applicant shall submit an environmental assessment and public
217 facility evaluation report and sketch plan (report) to the Director of
218 Planning and Zoning, a copy of which will be forwarded to the
219 Office of State Planning Coordination and members of the Technical
220 Advisory Committee for review and comment. The sketch plan shall
221 address the following issues for the property to be developed and,
222 where appropriate to the context, for the contiguous property.
223 Information submitted by the applicant shall at a minimum contain
224 the following:

- 225 (a) Proposed drainage design and the effect on stormwater quality
226 and quantity leaving the site, including methods for reducing
227 the amount of phosphorous and nitrogen in the stormwater
228 runoff and the control of any other pollutants such as petroleum
229 hydrocarbons or metals.
- 230 (b) Proposed method of providing potable and, where appropriate,
231 irrigation water and the effect on public or private water

- 232 systems and groundwater, including an estimate of average and
233 peak demands.
- 234 (c) Proposed means of wastewater treatment and disposal with an
235 analysis of the effect on the quality of groundwater and surface
236 waters, including alternative locations for on-site septic
237 systems.
- 238 (d) Analysis of the increase in traffic and the effect on the
239 surrounding roadway system.
- 240 (e) The presence of any endangered or threatened species listed on
241 federal or state registers and proposed habitat protection areas.
- 242 (f) The preservation and protection from loss of any tidal or
243 nontidal wetlands on the site.
- 244 (g) Provisions for open space as defined in § 115-4.
- 245 (h) A description of provisions for public and private
246 infrastructure.
- 247 (i) Economic, recreational or other benefits.
- 248 (j) The presence of any historic or cultural resources that are listed
249 on the National Register of Historic Places.
- 250 (k) An affirmation that the proposed application and
251 proposed mitigation measures are in conformance with the
252 current Sussex County Comprehensive Plan.
- 253 (l) Actions to be taken by the applicant to mitigate the detrimental
254 impacts identified relevant to Subsection B(2)(a) through (k)
255 above and the manner by which they are consistent with the
256 Comprehensive Plan.
- 257 (3) The Director of Planning and Zoning shall prepare (with input
258 from the County Administrator) guidelines describing the
259 application process and the form and content of information to
260 be submitted by the applicant and shall review all applications,
261 plans, assessments and other information submitted and prepare
262 a written report summarizing his findings and the comments of
263 state agencies and other County offices. The Planning and
264 Zoning Commission shall make a determination as to whether
265 adequate information has been presented for the project to
266 proceed. A completed report shall be required prior to any

267 preliminary plan approval for a development subject to this
268 section. Approval of the report does not constitute final approval
269 of the commenting agencies.

270 c. Permitted uses and densities.

271 (1) Uses permitted in the [Environmentally Sensitive Development
272 District Overlay Zone] *Coastal Area* will be those uses permitted in
273 the underlying zoning category as established by the Sussex County
274 Zoning Ordinance.

275 (2) Uses prohibited in the underlying zone are also prohibited in the
276 overlay zone.

277 (3) The maximum density shall be the allowable density of the
278 underlying zoning district for developments using a central water
279 and wastewater collection and treatment system. "Central sewer
280 system" means centralized treatment and disposal facilities as
281 defined in § 115-194A. Within this Overlay District, clustering of
282 single-family detached lots to a minimum lot size of 7,500 square
283 feet is permitted in all residential zoning districts using a central
284 water and sewer system. For dwelling units using on-site individual
285 wastewater disposal systems, the allowable density shall be based
286 on a minimum lot size of 3/4 of an acre. The applicant has the option
287 of clustering the lots to a minimum lot size of 1/2 acre where soil
288 conditions are suitable as determined by DNREC, provided,
289 however, that the number of lots or dwelling units permitted shall
290 not exceed the number permitted in the underlying district.

291 (4) For areas within the Conservation Zone, as currently defined in the
292 Sussex County Zoning Ordinance, the minimum lot size and
293 dimension requirements in the Conservation Zone shall apply.

294 d. Exemptions from the [Environmentally Sensitive Development
295 District] *Coastal Area*. The following are exempted from the
296 requirement of this section:

297 (1) Single-family residential lots of record as of the date of this section.

298 (2) Existing developments and developments which have filed for
299 approval as of the date of this section.

300 e. Design consideration should be given by the applicant toward the
301 establishment of a greenways system which utilizes schools, parks,

302 wildlife habitat areas, river and stream corridors, wetlands,
303 floodplains, historic sites, business parks, urban sidewalks,
304 abandoned rail lines, roads, beach areas and vacant land.
305 Greenways should provide benefits like safe pedestrian, bicycling
306 and equestrian routes for recreationists and commuters; and natural
307 wildlife corridors and biological reserves.
308

309 **Section 9. The Code of Sussex County, Chapter 115, Table 1 “General Table**
310 **of Height, Area and Bulk Requirements”, Note 16 thereof, is hereby**
311 **amended by deleting the language in brackets and inserting the italicized**
312 **and underlined language:**

313
314 (16) For any existing approved lot which is not located in a cluster subdivision,
315 [ESDDOZ] Coastal Area or residential planned community, and consists of less
316 than 10,000 square feet, the following setbacks shall apply: the side yard setback
317 shall be reduced to five feet and the rear yard setback shall be reduced by five
318 feet. For any lot with side or rear yard setbacks reduced by operation of §115-
319 183D, no structures shall extend or project closer than five feet from the lot line.
320 The front yard setback may be reduced to the average front yard setback of the
321 existing buildings located on the same side of the street or road and being within
322 300 feet of the structure; provided, however, the front yard setback is not less
323 than five feet. Any vacant lot within 300 feet of the structure shall be calculated
324 as having the required setback for the district.
325

326
327 **Section 10. Effective Date.**

328
329 This ordinance shall take effect upon adoption by Sussex County Council. Any
330 pending land use applications submitted prior to the date of adoption of this
331 Ordinance shall be reviewed as though all references to the ESDDOZ,
332 Environmentally Sensitive Developing District Overlay Zone, or
333 Environmentally Sensitive Developing Area are to the “Coastal Area” as set
334 forth in this Ordinance.
335

ORDINANCE NO. _____

AN ORDINANCE TO AMEND ORDINANCE #2620 ADOPTING THE COMPREHENSIVE PLAN FOR SUSSEX COUNTY TO ADDRESS CHANGES TO THE COMPREHENSIVE PLAN RAISED BY THE STATE OF DELAWARE EXECUTIVE DEPARTMENT, OFFICE OF STATE PLANNING COORDINATION, IN A LETTER DATED JANUARY 18, 2019.

WHEREAS, on December 4, 2018, the Sussex County Council adopted Ordinance # 2620, which in turn adopted the Comprehensive Plan (the “Plan”) subject to the certification of the Governor of the State of Delaware; and

WHEREAS, following the adoption of Ordinance #2620, the State of Delaware and certain agencies thereof provided additional minor comments and amendments to Plan as part of the State certification process in a letter from the Office of State Planning Coordination dated January 18, 2019; and

WHEREAS, Sussex County Council has considered the comments and amendments requested by the State and has made minor amendments to the Plan in response thereto: and

WHEREAS, because these minor amendments came after the adoption of Ordinance #2620, Sussex County Council desires to adopt this ordinance affirming the Plan with the minor amendments; and

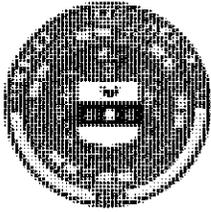
WHEREAS, in accordance with the required process for public hearings on ordinances such as this one, both Sussex County Council and the Sussex County Planning & Zoning Commission will hold public hearings on this Ordinance, but limited in scope to the minor amendments that have been made to the Plan that are the subject of this Ordinance, and not the Plan in its entirety which was previously approved by Ordinance # 2620.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. The amendments made to the Sussex County Comprehensive Plan in response to the comments made by the State of Delaware are hereby adopted and incorporated into the Sussex County Comprehensive Plan as adopted by Sussex County Council by Ordinance #2620.

Section 2. Consistent with the terms of Ordinance #2620, this Ordinance shall also take effect following its adoption by majority vote of all members of the County Council of Sussex County, Delaware, and upon certification by the Governor of the State of Delaware.

PROPOSED



SUSSEX COUNTY GOVERNMENT
GRANT APPLICATION

SECTION 1 APPLICANT INFORMATION

ORGANIZATION NAME: **Woodland School House Assoc.**
 PROJECT NAME: **Woodland School House**
 FEDERAL TAX ID: **81-4674916** NON-PROFIT: YES NO

DOES YOUR ORGANIZATION OR ITS PARENT ORGANIZATION HAVE A RELIGIOUS AFFILIATION?
 YES NO *IF YES, FILL OUT SECTION 3B.

ORGANIZATION'S MISSION: The mission of this organization is to provide understanding and opportunities to inspire children/adults to protect this historical site through hands on artifacts and investigation of the lands and water in the environment of the community, Woodland.

ADDRESS: **27866 Woodland Ferry Road**
Seaford DE 19973
(CITY) (STATE) (ZIP)

CONTACT PERSON: **Karl Steinbiss**
 TITLE: **President, WSHA**
 PHONE: **302-629-8528** EMAIL: **karl.steinbiss@comcast.net**

TOTAL FUNDING REQUEST: \$5,000.00

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

If YES, how much was received in the last 12 months? **10,6000**

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? **1/3**

SECTION 2: PROGRAM DESCRIPTION

PROGRAM CATEGORY (choose all that apply)

Fair Housing

Infrastructure¹

Health and Human Services

Other

Cultural

Educational

BENEFICIARY CATEGORY

Disability & Special Needs

Elderly Persons

Minority

Victims of Domestic Violence

Low to Moderate Income²

Other Public

Homeless

Youth

BENEFICIARY NUMBER

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

300 students/2000 public

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.

Through the efforts of Mrs. Teresa Allen, the Country Western groups of Sussex (and other areas), gave a concert on November 3, 2018 and raised \$5,546.00 for the restoration of the school house. It also raised \$1,000 for the FFA program of Seaford who we are partnered with at the site.

We are asking for a match of \$5000 to complete the addition of the portico (which was original to the structure) and to complete the outside of the building as it was in the early 1900's.

The school will be used as a stop on the Heritage BiWays Trail in Sussex County to address the historical impact of the area of Woodland.

Even though it is not complete, we will be entertaining fourth graders in May (September program will continue with our other elementary school) as part of their history and science standards. All of the artifacts will be under canopies so that the idea of investigating through hands on will make the most impact to the students.

When the school house is finished, these programs will be moved to represent education and family lifestyle of this period.

We can foresee with a homeschool program, public schools, tourists, FFA activities, and our festival, over 2000 can be accommodated in a year.

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	6,500.00
EXPENDITURES	
Please enter the total projected budget for the project (not entire organization expense if not applicable to request). Example of expenditure items: PERSONNEL-one lump sum that would include benefits, OPERATING COSTS-supplies, equipment, rent/lease, insurance, printing telephone, CONSTRUCTION/ACQUISITION-acquisition, development, rehab hard cost, physical inspections, architectural engineering, permits and fees, insurance, appraisal. (Put amounts in as a negative)	
Completion of the portico and outside of existing building	\$ 5,000.00
This would include Frame new front entrance per drawing with 2x4 walls and 2x6 rafters with roof pitch as existing, install new brick front steps (48"), pour footer for new front entrance and install 4 courses of block	
TOTAL EXPENDITURES	\$ 5,000.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	\$ 11,500.00

SECTION 5: STATEMENT OF ASSURANCES

If this grant application is awarded funding, the Woodland School House Assoc. agrees that:
(Name of Organization)

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

SECTION 5: STATEMENT OF ASSURANCES (continued)

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



Applicant/Authorized Official

2-1-19

Date



Witness

2-1-19

Date

Completed application can be submitted by:

Email: gjennings@sussexcountyde.gov

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

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

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

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

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

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

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

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

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

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

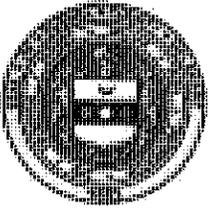
Karl J. Stein
Applicant/Authorized Official

2-1-19
Title

Donna J. Stein
Witness

2-1-19
Date

Vincent
2/01/19
Rev. 08/2018



**SUSSEX COUNTY GOVERNMENT
GRANT APPLICATION**

SECTION 1 APPLICANT INFORMATION

ORGANIZATION NAME: **Laurel Elementary 5K Committee**

PROJECT NAME: **Laurel Elementary Dog DayZ 5k run/wellness walk**

FEDERAL TAX ID: **51-6000-279** 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 the opportunity for students to participate in a school/community event focused on wellness, fitness, and healthy living*

ADDRESS: **Laurel Elementary School**
815 S. Central Avenue
Laurel DE 19956
(CITY) (STATE) (ZIP)

CONTACT PERSON: **Donna Sava**

TITLE: **Committee Chairperson**

PHONE: **302/875-614** EMAIL: **donna.sava@laurel.k12.de.u**

TOTAL FUNDING REQUEST:

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? *your past support has helped to make our event a huge success* **500.00**

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? **+50%**

SECTION 2: PROGRAM DESCRIPTION

PROGRAM CATEGORY (choose all that apply)

Fair Housing
Infrastructure¹

Health and Human Services
 Other health/wellness

Cultural
Educational

BENEFICIARY CATEGORY

Disability & Special Needs
Elderly Persons
Minority

Victims of Domestic Violence
Low to Moderate Income²
Other

Homeless
 Youth

BENEFICIARY NUMBER

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

+~150

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.

This is a continual family/community/Laurel student event. It is a 5K run/wellness walk throughout the town. 100% of all the proceeds support our new school. We are a low income school district and with the proceeds, we will be able to provide Positive Behavior incentives to our students. Including positive supports, programs, and activities.

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	all based on contributions
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	
TOTAL REVENUES	0
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)	
supplies - snacks, water	300.
t-shirts	600
trophies/awards	250
printings/mailings	200
Personnel-police officers	200
custodians	200
TOTAL EXPENDITURES	1750 ⁰⁰ \$ 0/00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	\$ 0.00

SECTION 5: STATEMENT OF ASSURANCES

If this grant application is awarded funding, the **Laurel Elementary** 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.**

Donc Saw
Applicant/Authorized Official

Feb. 1, 2019

Date

Jamie Smith
Witness

Feb. 1, 2019

Date

Completed application can be submitted by:

Email: gjennings@sussexcountyde.gov

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

Sent
2/4/19
[Signature]

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.

Donna Sava *[Signature]*

Applicant/Authorized Official

Jamie Smith *[Signature]*

Witness

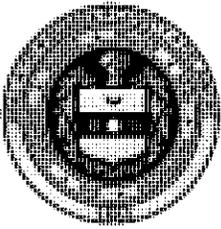
Committee chair

Title

Feb. 1, 2019

Date

Vincent
2/05/19



SUSSEX COUNTY GOVERNMENT

GRANT APPLICATION

SECTION 1 APPLICANT INFORMATION

ORGANIZATION NAME: Cape Henlopen Senior Center

PROJECT NAME: Rehoboth Concert Band "Tapestry" Fundraiser

FEDERAL TAX ID: 51-0105667 NON-PROFIT: YES NO

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

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

ORGANIZATION'S MISSION: The mission of the Cape Henlopen Senior Center, Inc. is to enhance the quality of life of our senior citizens by adding life to years and years to life

ADDRESS: 11 Christian Street

Rehoboth DE 19971
(CITY) (STATE) (ZIP)

CONTACT PERSON: Linda Bonville

TITLE: Administrator

PHONE: 302-227-2055 EMAIL: Lindachsc@aol.com

TOTAL FUNDING REQUEST: \$1550.00

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

If YES, how much was received in the last 12 months? \$5500.00

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? 75%

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 Fundraiser | <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 checked="" type="checkbox"/> Elderly Persons | <input type="checkbox"/> Low to Moderate Income ² | <input type="checkbox"/> Youth |
| <input type="checkbox"/> Minority | <input type="checkbox"/> Other _____ | |

BENEFICIARY NUMBER

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

1186

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.

Over 52 Years of actively serving Seniors in Rehoboth Beach and surrounding communities, the Cape Henlopen Senior Center is seeking financial support from Sussex County Council to offset expenses for our Rehoboth Concert Band Fundraiser. Being partially funded by State Grant in Aid, we must seek support from civic and community organizations and plan fundraisers to meet our fiscal operating budget. Last year's fundraiser was well attended and very profitable. We are looking forward to this year which will be held in March.

Your support will enable us to continue to provide the high quality of services that benefits our members and community. We hope that we can count on you to help us support our senior community.

Expenses includes, design and printing of ads, posters, tickets, programs and rental of facility.

We are asking the county if they could help us offset some of these expenses.

We greatly appreciate Sussex County Council for your support of the Cape Henlopen Senior Center in the past. This fundrasier will help ensure that we can continue to provide the social activities, programs, trips and services that our members depend on and enjoy.

With your continued support we will successfully meet the challenges we are face in meeting our operating budget.

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	
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)	
Concert expenses - Design and printing of ads, posters tickets, program printing, advertisement	\$ 700.00
Church rental, security, sound technician and custodial fees	\$ 850.00
TOTAL EXPENDITURES	\$ 1,550.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	\$ 1,550.00

SECTION 5: STATEMENT OF ASSURANCES

If this grant application is awarded funding, the Cape Henlopen Senior Center 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.**

Linda Bonville

Applicant/Authorized Official

2/4/2019

Date

Bernita Hackney

Witness

2/4/2019

Date

Completed application can be submitted by:

Email: gjennings@sussexcountyde.gov

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

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

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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.

Linda Bonville
Applicant/Authorized Official

Administrator
Title

Bernita Hartney
Witness

2/4/2019
Date

Hudson
2-07-19

To Be Introduced 02/19/19

Council District No. 3 – Burton

Tax I.D. No. 234-9.00-6.02

911 Address: 21170 Doddtown Road, Harbeson

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CATERING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.08 ACRES, MORE OR LESS

WHEREAS, on the 1st day of February 2019, a conditional use application, denominated Conditional Use No. 2173, was filed on behalf of Roy Richardson; 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. 2173 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, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2173 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Indian River Hundred, Sussex County, Delaware, and lying on the west side of Doddtown Road, approximately 511 feet north of Anderson Corner Road, and being more particularly described in the attached legal description prepared by Sergovic, Carmean & Weidman, P.A., said parcel containing 1.08 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 02/19/19

Council District No. 5 – Rieley

Tax I.D. No. 134-21.00-20.02

911 Address: 37428 Dirickson Creek Road, Frankford

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EVENT VENUE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.38 ACRES, MORE OR LESS

WHEREAS, on the 5th day of February 2019, a conditional use application, denominated Conditional Use No. 2174, was filed on behalf of Madeline Troescher; 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. 2174 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, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2174 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 southwest side of Dirickson Creek Road, approximately 0.57 mile south of Millers Neck Road, and being more particularly described in the attached legal description prepared by D. Stephen Parsons, P.A., said parcel containing 3.38 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 02/19/19

**Council District No. 3 – Burton
Tax I.D. No. 234-16.00-27.03
911 Address: 28858 Harmons Hill Road**

ORDINANCE NO. ____

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

WHEREAS, on the 6th day of February 2019, a conditional use application, denominated Conditional Use No. 2175, was filed on behalf of All Automotive, LLC; 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. 2175 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, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2175 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Indian River Hundred, Sussex County, Delaware, and lying on the south side of Harmons Hill Road, approximately 0.6 mile east of Hollyville Road, and being more particularly described in the attached legal description prepared by Larry W. Fifer, Attorney at Law, said parcel containing 0.75 acre, more or less.

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

To Be Introduced 02/19/19

**Council District No. 2 - Wilson
Tax I.D. No. 135-14.00-12.01
911 Address: N/A**

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-2 BUSINESS COMMUNITY DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 0.827 ACRE, MORE OR LESS

WHEREAS, on the 7th day of February 2019, a zoning application, denominated Change of Zone No. 1879, was filed on behalf of William (Ulbio) Parraga; 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 Change of Zone No. 1879 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 has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article II, Subsection 115-7, Code of Sussex County, be amended by deleting from the Comprehensive Zoning Map of Sussex County the zoning classification of [AR-1 Agricultural Residential District] and adding in lieu thereof the designation of B-2 Business Community District as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Georgetown Hundred, Sussex County, Delaware, and lying on the west side of DuPont Boulevard (Route 113), approximately 406 feet south of Wilson Hill Road, and being more particularly described in the attached legal description prepared by Tunnell & Raysor, P.A., said parcel containing 0.827 acre, more or less.

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

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Sussex County

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Memorandum

To: Sussex County Council Members

From: Janelle Cornwell, AICP, Planning & Zoning Director

CC: Everett Moore, County Attorney

Date: February 14, 2019

RE: County Council Report for CU 2155 Stockley Materials, LLC

The Planning and Zoning Department received an application (CU 2155 Stockley Materials, LLC) to allow for a Conditional Use to allow for a borrow pit for parcels 231-6.00-21.00 & 22.01 to be located on Seashore Hwy. (Rt. 16). The Planning and Zoning Commission held a public hearing on January 24, 2019. The following are the draft minutes for the Conditional Use from the Planning and Zoning Commission meeting.

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, exhibit booklet, Site Plan, results from the DelDOT Service Level Evaluation response indicating that a Traffic Impact Study ("TIS") was not required, comments from the Sussex Conservation District, Sussex County Engineering Department of Utility Planning Division.

The Commission found that Mr. David Hutt, Attorney with Morris, James, Wilson, Halbrook and Bayard, LLP, Mr. Ken Adams, Principal of Stockley Materials, LLC, Mr. Mark Davidson with Pennoni Associates and Mr. Alan Decktor, with Pennoni Associates were present on behalf of the application; Mr. Hutt stated the property is comprised of two tax parcels; that one of the parcels is a 50-foot wide strip of land and the other parcel is a 158 acre parcel; that the land is zoned AR-1; that the parcel is identified as a low-density area in both Comprehensive Plans; that the parcel is located in the State Spending Strategies Level 4; that Mr. Davidson stated that the property is bordered on the north side with eight poultry houses and some residential lots; that to the west of the property are wooded lands owned by the State of Delaware; that to the south of the property are heavily wooded lands and agricultural lands that are within farmland protection; that on the east of the property is woodlands and farmlands that also comprise protected farmland; that the property is approximately 158.7 acres, that the site contains 28 acres of woods; that the site contains approximately 6.7 acres of wetlands; that the site is currently being used for agricultural purposes; that the proposed application is for a borrow pit for the processes of removal of sand, gravel and stone to be used in construction for private and public work projects; that the proposed use would comply with the Sussex County Ordinance 115-172B which outlines the special requirements for a borrow bit; that there would be no off-site material brought to the site; that the proposed access road would be on parcel 22.01 which has a width of 50'; that the access road is approximately 1,450 linear feet back to the proposed pit and it is proposed to be paved to help with dust and air pollution; that the internal roads within the site would also be paved; that a small weighing scale and scale house would be provided; that there would



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

be no fuel tanks stored on the site; that there would be fuel trucks that would come to the site and provide fuel to the equipment used as part of the excavation process; that there would be additional fencing, berms and entrance gates that would be installed; that there would be a gate off of the public road and it would be positioned far back enough so that the trucks would not have to park on the public road or in the Right-of-Way in order to open the gate; that the applicant does have the necessary equipment and experience to provide for dust control/suppression, that water trucks would provide for dust control and sweepers would be used to keep sediment off the roads for the trucks leaving the site; that the site would be equipped with 'white sound' alarms within the danger zone that would adjust to the ambient sound level with a real-speech warning system to workers which would eliminate potential noise and nuisance issues; that the applicant's equipment is already equipped with these types of warning devices; that the property is not in a floodplain area; that the site is more than 50-feet from any property lines; that a 4-foot high berm would be placed around the entire perimeter of the proposed borrow pit; that the proposed pit would have three-to-one side slopes down to a 10' level bench; that below the water surface the proposed side slopes are two-to-one going down to a depth of 65-feet; that the water table is at approximately 5-feet; that soil data has been provided in the Exhibit Book, that the types of materials available within the site meet several of the types of materials required by DelDOT and the Maryland State Highway departments construction requirements; that 14 to 15 acres of trees are to remain outside of the pit area; that the proposed pit is 112 acres in size after full excavations; that there are wetlands on the site and they would not be disturbed; that there would be a 50-foot buffer around the wetlands; that there are no endangered species located on the site; that the applicant is proposing a 100-foot buffer behind the four residential lots to the north of the site; that the closet house to the proposed pit is 700-feet away and the proposed design would exceed the 700-foot requirement; that, following full excavation and subsequent remediation, the pit would remain as a pond/ environmental site for fish and other wildlife with 46 acres of open space with existing woods; all other areas would likely fill in with vegetation; that all entrances and intersections to the proposed site would be in accordance with all of DelDOT requirements; that the stormwater management system would exceed DNREC requirements and would use Best Management Practices; that the proposed Conditional Use would not have an impact of streets and that DelDOT did not require a TIS to be undertaken by the Applicant; that the site is served by a Principal Arterial road; that Route 18 is an easy access to travel to Maryland and elsewhere Delaware; that the proposed pit would use the existing irrigation well that is on-site; that there would be no on-site wastewater use and they would use porta-potties; that the borrow pit is essentially needed to keep up with the energy and construction material demand of the community; that the Applicant would install a dry hydrant for fire protection; that Mr. Hutt stated that aggregates such as crushed stone and gravel are minerals that make up the building blocks that are used for construction which is a fundamental need of industry; that the United State Geological Group states that 90% of aggregates are used within 30 to 50 miles of their place of extraction due to expense of transporting them; that Sussex County has a lot of development being undertaken and therefore there is a need of more aggregates; that this is not just for private development but also for road improvements; that all of this is public and semi-public in the nature of use; that there are proposed conditions submitted in the exhibit booklet; that the proposed hours of operation would occur from 6:00 am to 6:00 pm, Monday through Friday and 6:00 am to 2:00 pm on Saturday with no Sunday activities; that there would be an unlit safety sign to identify the site; that the site is located on a principal arterial road;

Mr. Hopkins asked whether any water would leave the site and where the gate would be. Mr. Davidson stated that no water would leave the site and that the gate would be approximately 60-feet to 70-feet (two trucks) back from the main road; that a dredge operation would take place with an electric dredge; that the electric dredge makes very little noise and the staging area would be located behind the poultry

facilities, away from dwellings; that Mr. Adams stated the electric dredge is no different than a diesel powered equipment; that is zero nuisance with little noise; and that when the proposed project is in full effect there would be an average of 100 trips per day associated with vehicles and equipment.

The Commission found that no one spoke in favor of or in opposition to the application.

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

Motion by Mr. Hopkins, seconded by Ms. Wingate and carried unanimously to defer action for further consideration. Motion carried 3-0. Ms. Stevenson was absent.

At their meeting of February 14, 2019, the Planning Commission discussed the application which has been deferred since January 24, 2019. Ms. Stevenson indicated that she had listened to the record and was prepared to vote on the application.

Mr. Hopkins moved that the Commission recommend approval of C/U 2155 for **STOCKLEY MATERIALS, LLC** for a borrow pit based upon the record made at the public hearing and for the following reasons:

1. This application is for a 158.74 acre borrow pit. The area of the pit itself will not exceed 112 acres.
2. A need exists in the area for dirt, sand and gravel, and existing borrow pit sources are becoming depleted. The material removed from this site will be used throughout the County for a variety of residential and commercial uses and road construction.
3. The site is surrounded by a large poultry operation, lands of the State of Delaware and wooded land in Agricultural Preservation. This is an appropriate location for this use.
4. The Applicant has the skills, experience and equipment to provide dust control through the use of its water trucks and to keep the area roadways free of dirt and dust from trucks leaving the site.
5. The project, with the conditions and stipulations placed upon it, will not have an adverse impact on traffic or the neighboring properties or community.
6. As a source of fill dirt available to the entire County, the project is essential and desirable for the general convenience, safety and welfare of the current and future residents of the County.
7. The pit area is at the end of a paved and gated roadway and is more than 1,200 feet from Route 18. The site is not visible from Route 18.
8. Vegetated Buffers will be established along the boundaries of this land and lands of other ownership.
9. The use is subject to approvals from State Agencies including DelDOT and DNREC.
10. No parties appeared in opposition to this application.
11. A "dry hydrant" will provide a suction supply of water from the site for local fire departments.
12. This recommendation for approval is subject to the following conditions and stipulations:
 - A. No materials shall be brought from off the site for processing, mixing or similar purposes.
 - B. The excavated area shall not exceed 112 acres.
 - C. Water or a water truck shall be available to control dust from road traffic when conditions require.
 - D. The only entrance to the pit shall be a paved road from Seashore Highway (Route 18). The entrance shall be fenced or gated to prevent access.
 - E. Any roadway and entrance improvements required by DelDOT shall be completed by the Applicant. All entrances shall be secured when the borrow pit is not in operation.

- F. The project shall meet or exceed stormwater management system regulations set forth by the Sussex Conservation District and DNREC through a combination of Best Management Practices and Best Available Technologies. The Final Site Plan shall contain the approval of the Sussex County Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
- G. The hours of operation shall be between the hours of 6:00 a.m. to 6:00 p.m. Monday through Friday and 6:00 a.m. until 2:00 p.m. on Saturdays. No Sunday hours shall be permitted.
- H. No materials shall be stored on any access roads or within any buffer area.
- I. No fuel shall be stored on-site.
- J. No stumps, branches, debris or similar items shall be buried or placed in the site of the borrow pit.
- K. The proposed pit will have a 3:1 side slope down to a 10 foot level bench that will be approximately near or 1 foot below the static water surface. Below the water level the borrow pit shall have 2:1 slopes. The depth of the proposed borrow pit will not exceed 65 feet.
- L. A final site plan, including all pit slopes, excavation phasing, and reclamation plans shall be reviewed and approved by the Planning and Zoning Commission prior to the commencement of operations. Reclamation plans shall indicate finished grading, seeding and planting schedules designed to create a pleasing appearance and protect existing and future developments.
- M. The Applicant shall comply with all State and County erosion and sediment control regulations.
- N. Permanent concrete markers and signs shall be placed at appropriate locations to designate the boundaries of the subject property and pit areas. The boundary markers shall be raised and marked to that they are clearly visible to anyone nearing the site.
- O. The Applicant shall comply with all of the requirements set forth in Section 115-172B of the Sussex County Zoning Ordinance.
- P. The borrow pit shall be surrounded by a buffer strip a minimum distance of 100 feet from any street lines, 200 feet from any dwelling of other ownership, and 50 feet from all other property lines of other ownership. The buffer area shall be a vegetated buffer of existing vegetation or native species vegetation.
- Q. No wetlands on the site shall be disturbed.
- R. This approval shall terminate upon the expiration of fifty (50) years from the date of adoption.
- S. Equipment within the borrow pit area shall be equipped with bbs-tek white sound alarms or a similar system that adjusts to the ambient noise that provides a warning of imminent danger.
- T. 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 forward this application to the Sussex County Council with a recommendation that the application be approved for the reasons stated. Motion carried 4-0.

PLANNING & ZONING

JANELLE M. CORNWELL, AICP
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Sussex County

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Memorandum

To: Sussex County Planning Commission Members
From: Janelle Cornwell, AICP, Planning & Zoning Director
CC: Vince Robertson, Assistant County Attorney and applicant
Date: January 17, 2019
RE: Staff Analysis for CU 2155 Stockley Materials, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2155 Stockley Materials, LLC to be reviewed during the January 24, 2019 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for parcels 231-6.00-21.00 & 22.01 to allow for a borrow pit to be located on Seashore Hwy. (Rt. 18). The size of the properties is 158.74 ac. +/-.

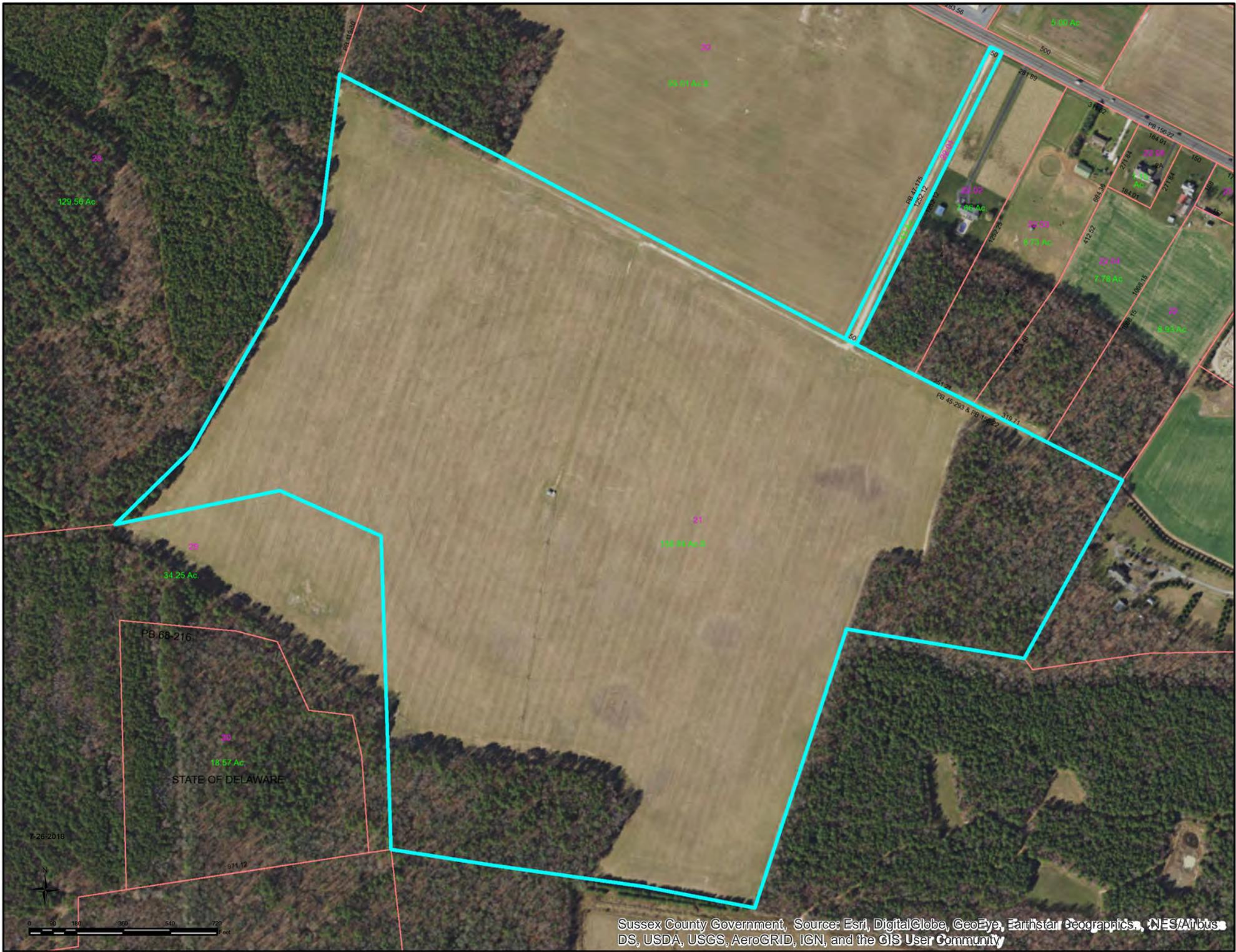
The 2008 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map indicates that the properties have the land use designations of Low Density Areas with a small portion along Seashore Hwy. designated as Highway Commercial.

The surrounding land use to the north is Highway Commercial and Low Density Areas. The land uses to the south, east and west are Low Density. The Low Density Areas land use designation recognizes that the primary uses are agriculture and single family detached homes and that a business development should be largely confined to businesses that address the needs of single family residences and agriculture. It should also permit industrial uses that support or depend on agricultural uses. The focus of retail and office should provide convenience goods and services to nearby residents and should be limited in their location, size and hours of operation. The use as auto repair and gasoline sales, should be avoided in these areas. The Highway Commercial Areas recognizes that these areas include concentrations of retail and services uses near highways and that the commercial uses should be geared towards vehicular traffic.

The property is zoned AR-1 (Agricultural Residential District). The properties to the north, south, east and west are zoned AR-1 (Agricultural Residential District). There are a few parcels across Seashore Hwy. zoned C-1 (General Commercial District). There is a Conditional Uses in the area (CU 1094 warehousing, storage, and fertilizer sales).

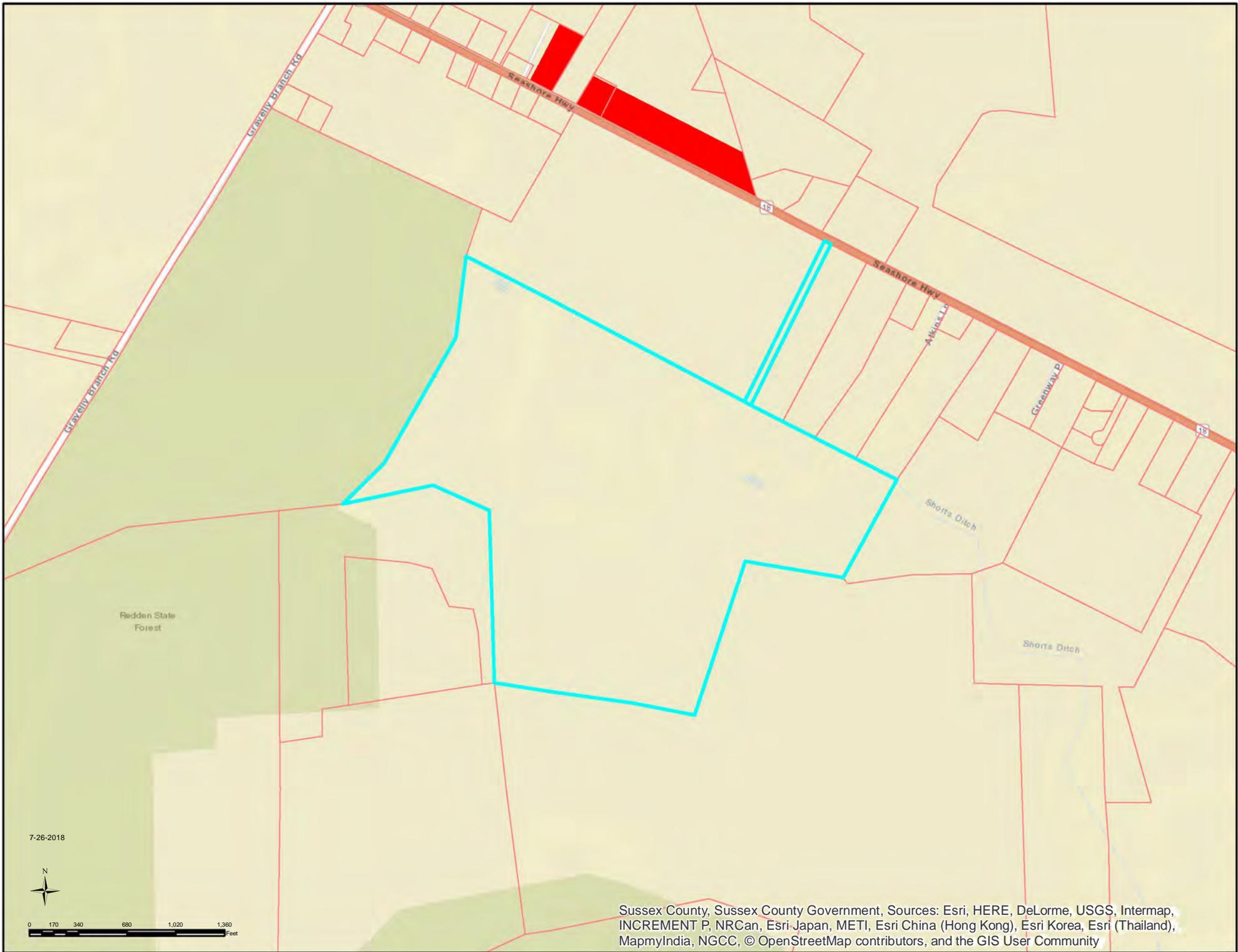
Based on the analysis of the land use, surrounding zoning and uses, the Conditional Use for a borrow pit could be considered consistent with the land use, area zoning and uses.





7-26-2018





Sussex County, Sussex County Government, Sources: Esri, HERE, DeLorme, USGS, Intermap, INCREMENT P, NRCan, Esri-Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), MapmyIndia, NGCC, © OpenStreetMap contributors, and the GIS User Community

Introduced 09/18/18

**Council District No. 2 – Wilson
Tax I.D. No. 231-6.00-21.00 and 22.01
911 Address: N/A**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BORROW PIT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 158.75 ACRES, MORE OR LESS

WHEREAS, on the 5th day of September 2018, a conditional use application, denominated Conditional Use No. 2155, was filed on behalf of Stockley Materials, LLC; and

WHEREAS, on the ____ day of _____ 2018, 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. 2155 be _____; and

WHEREAS, on the ____ day of _____ 2018, 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. 2155 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Nanticoke Hundred, Sussex County, Delaware, and lying on the southwest side of Seashore Highway (Route 18), approximately 0.72 mile southeast of Gravelly Branch Road, and being more particularly described in the attached legal description prepared by Pennoni Associates, Inc., said parcel containing 158.75 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.

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Sussex County
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Memorandum

To: Sussex County Council Members

From: Janelle Cornwell, AICP, Planning & Zoning Director

CC: Everett Moore, County Attorney

Date: February 14, 2019

RE: County Council Report for CZ 1870 Coroc/Rehoboth III, LLC

The Planning and Zoning Department received an application (CZ 1870 Coroc/Rehoboth III, LLC) to allow for a Change of Zone from AR-1 (Agricultural Residential District) to C-3 (Heavy Commercial District) for parcel 334-13.00-325.36 located on Holland Glade Rd. The Planning and Zoning Commission held a public hearing on January 24, 2019. The following are the draft minutes for the Change of Zone from the Planning and Zoning Commission meeting.

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis and an exhibit booklet, Site Plan, comments from Sussex Conservation District, result from the DelDOT Service Level Evaluation Request, and Sussex County Engineering Department of Utility Planning Division.

The Commission found that Mr. Jim Fuqua, Attorney Fuqua, Willard, Stevens and Schab, Mr. Charles Worsham, and Mr. Ring Lardner, with Davis, Bowen and Friedel were present on behalf of the application; Mr. Fuqua stated this is an application to rezone a 10 acre parcel from AR-1 to C-3; that the parcel is located on the northwest side of Holland Glade Road and north of Route 1; that the parcel is adjacent to the rear of commercially zoned parcels and it is the Tanger Seaside Outlets Center; that the land is in front of an existing 25 acre parcel which is zoned C-1 and the outlet center has been in operation since the 1990's; that all the adjacent land is zoned C-1; that the rear of the C-1 uses is an area of CR-1 zoning that was rezoned in 2009; that this parcel is under construction; that there is a strip of land to the rear of the CR-1 parcel that is owned by the State of Delaware, and the next parcel contains a church; that the land to the rear of this parcel is also lands owned by the State of Delaware with a trail; that the parcel does contain three stormwater ponds and some over flow parking for connection to the Breakwater Trail and that the applicant will continue to permit access to the trail; that the parcel would be served by central water proved by Tidewater Utilities and central sewer would be provided by Sussex County; that the parcel would have a new access off of Holland Glade Road; that the entrance would be designed and constructed in accordance with DelDOT requirements and that they would determine whether a TIS or Traffic Operational Analysis ("TOA") would be required when they review the site plan showing the entrance; that DelDOT may potentially require a full signalized intersection at the intersection of Holland Glade Road and US Route 1; that this site would also have access by way of the Seaside Outlets which is the main US Route 1 entrance to the existing outlet center; that DelDOT would require the normal Right-of-Way dedications; that the existing



outlet center has inter-connectivity with the property to the north which contains a K-Mart shopping center and that motorists can continue from that shopping center to the nearby 'Giant' Store; that the stormwater management system would be designed to use Best Management Practices; that there are three existing stormwater ponds on the site and they would most likely be expanded to accommodate any potential increases in stormwater; that there are no Federal or State wetlands on the site; that the site is located in the zone X floodplain; that there are no threatened or endangered species located on the site; that the State Spending Strategies identifies this property as being within a Level 2 area; that the Land Use Classification per the Comprehensive Plan is in the Environmentally Sensitive Developing Area which is a growth area and that the site is located within the highway commercial growth area; that the outlet center does have access to a principal arterial highway and is near existing shopping centers; that this is consistent with the 2008 Comprehensive Plan and is also consistent with the proposed 2018 Comprehensive Plan; that this consistent with the purpose of the C-3 district; that the following is permitted in the C-3 district is for retail, hotels, offices and etc.; that the site could be a potential hotel; that there are no nearby residential uses; and that residential uses are not appropriate for this area.

The Commission found that no one wished to speak in favor of or in opposition to the application.

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

Motion by Mr. Hopkins, seconded by Ms. Wingate and carried unanimously to defer action for further consideration. Motion carried 3-0. Ms. Stevenson was absent.

At their meeting of February 14, 2019, the Planning Commission discussed the application which has been deferred since January 24, 2019. Ms. Stevenson indicated that she had listened to the record and was prepared to vote on the application.

Mr. Hopkins move that the Commission recommend approval of Change in Zone # 1870 for **COROC/REHOBOTH III, LLC** for a change in zone from AR-1 to C-3 "Heavy Commercial" based upon the record made during the public hearing and for the following reasons:

1. C-3 Heavy Commercial Zoning is designed to allow auto-oriented retail and service businesses that serve local and regional residents. Permitted Uses include retail uses, restaurants, offices and vehicle service stations.
2. The site is at the rear of the C-1 properties fronting along Route One that are currently used for retail purposes. This location is appropriate for this type of zoning.
3. This location is currently used for overflow parking and stormwater management from the adjacent C-1 Zoning. This application is a reasonable extension of the existing C-1 district and the applicant has stated that there will be interconnectivity with its existing C-1 property.
4. As stated by the Applicant, there will be interconnectivity between this site and the existing C-1 retail area that is adjacent to it.
5. The site will be served by central water and Sussex County sewer.
6. The site is in the Environmentally Sensitive Developing Area and Highway Commercial Area according to the current Sussex County Land Use Plan. This type of commercial use is appropriate in these Areas according to the Plan.
7. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity and welfare of the County.
8. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.

Motion by Mr. Hopkins, seconded by Ms. Stevenson and carried unanimously to forward this application to the Sussex County Council with a recommendation that the application be approved for the reasons stated. Motion carried 4-0.

PLANNING & ZONING

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Sussex County

DELAWARE
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Memorandum

To: Sussex County Planning Commission Members
From: Janelle Cornwell, AICP, Planning & Zoning Director
CC: Vince Robertson, Assistant County Attorney and applicant
Date: January 17, 2019
RE: Staff Analysis for CZ 1870 Coroc/Rehoboth III, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1870 Coroc/Rehoboth III, LLC to be reviewed during the January 24, 2019 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Change of Zone for parcel 334-13.00-325.36 to allow for a change from AR-1 (Agricultural Residential District) to C-3 (Heavy Commercial District) to be located off Holland Glade Rd. The size of the properties is 10.0 ac. +/-.

The 2008 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map indicates that the properties have the land use designations of Highway Commercial Areas and Environmentally Sensitive Developing Areas.

The surrounding land uses to the north, south and west are Highway Commercial Areas and Environmentally Sensitive Developing Areas. The land uses to the east are Environmentally Sensitive Developing Areas. The Environmentally Sensitive Developing Areas land use designation recognizes that a range of housing types should be permitted including single-family, townhouses and multi-family and that variety of office and retail uses would be appropriate in many areas and that business and industrial parks with good road access would be appropriate. It also recognizes that mixture of homes with light commercial and institutional uses could be appropriate to provide for convenient services and let people work close to home. The Highway Commercial Areas recognizes that these areas include concentrations of retail and services uses near highways and that the commercial uses should be geared towards vehicular traffic.

The property is zoned AR-1 (Agricultural Residential District). The properties to the north are AR-1 (Agricultural Residential District) and C-1 (General Commercial District). The properties to the south and west are zoned C-1 (General Commercial District). The properties to the east are zoned AR-1 (Agricultural Residential District). There are no known Conditional Uses in the area.

Based on the analysis of the land use, surrounding zoning and uses, the Change of Zone from AR-1 (Agricultural Residential District) to C-3 (Heavy Commercial District) could be considered consistent with the land use, area zoning and uses.



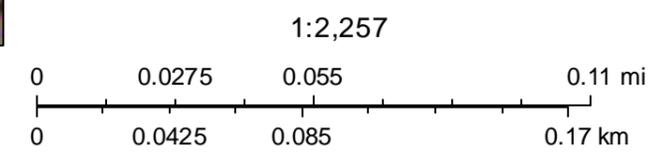


Sussex County



PIN:	334-13.00-325.36
Owner Name	COROC/REHOBOTH III LLC
Book	2931
Mailing Address	3200 NORTHLINE AVE #3600
City	GREENSBORO
State	NC
Description	W/S RD 271
Description 2	568' N RT 1
Description 3	N/A
Land Code	

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



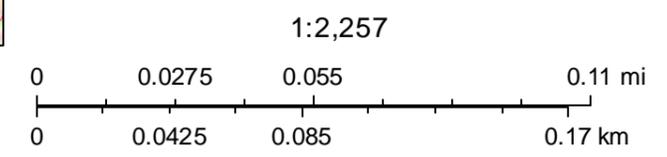


Sussex County



PIN:	334-13.00-325.36
Owner Name	COROC/REHOBOTH III LLC
Book	2931
Mailing Address	3200 NORTHLINE AVE #360
City	GREENSBORO
State	NC
Description	W/S RD 271
Description 2	568' N RT 1
Description 3	N/A
Land Code	

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



Introduced 09/18/18

**Council District No. 4 - Cole
Tax I.D. No. 334-13.00-325.36
911 Address: N/A**

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 10.001 ACRES, MORE OR LESS

WHEREAS, on the 31st day of August 2018, a zoning application, denominated Change of Zone No. 1870, was filed on behalf of Coroc/Rehoboth III, LLC; and

WHEREAS, on the ____ day of _____ 2018, 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. 1870 be _____; and

WHEREAS, on the ____ day of _____ 2018, 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-3 Heavy 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 Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying on the north side of Holland Glade Road, approximately 575 feet east of Coastal Highway (Route 1), and being more particularly described in the attached legal description prepared by Davis, Bowen & Friedel, Inc., said parcel containing 10.001 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.

JANELLE M. CORNWELL, AICP
PLANNING & ZONING DIRECTOR
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Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Council Members

From: Janelle Cornwell, AICP, Planning & Zoning Director

CC: Everett Moore, County Attorney

Date: February 14, 2019

RE: County Council Report for CU 2157 Country Lawn Care & Maintenance, LLC

The Planning and Zoning Department received an application (CU 2157 Country Lawn Care & Maintenance, LLC) to allow for a Conditional Use to allow for a Landscaping Business for parcel 234-11.00-78.07 to be located on Hollymount Rd. The Planning and Zoning Commission held a public hearing on January 24, 2019. The following are the draft minutes for the Conditional Use from the Planning and Zoning Commission meeting.

Ms. Cornwell advised the Commission that submitted into the record is a staff analysis, exhibit booklet, Site Plan, comments from the DelDOT Service Level Evaluation request confirming that a Traffic Impact Study ("TIS") was not required, comments from the Sussex Conservation District and comments from the Sussex County Engineering Department of Utility Planning Division.

The Commission found that Ms. Shannon Carmean Burton, Attorney with Sergovic, Carmean, Weidman, McCartney and Owens, Gerald Dougherty and Stephania Dougherty, owners of Country Lawn Care & Maintenance, LLC and Alan Decktor, Pennoni Associates were present on behalf the application; Ms. Burton stated the exhibit booklet includes a copy of the application, Conditional Use Site Plan, DelDOT response letter, letters in support of the application, and photos of the site; that the application is in compliance with the Zoning Code and the Comprehensive Plan; that the Applicants have owned their lawn and landscape business for nine years and had purchased the property with the intent to reside at the property but also to operate their landscaping business from the property which they have done for the past 2 ½ years; that the previous owners of the property had operated a landscaping business from the property during their ownership; that the applicants were unaware that the activities required a Conditional Use permit until a violation notice was received from Sussex County, that the proposed use of the property is consistent with the purposes and goals of the Sussex County Comprehensive Plan; that the property contains approximately 4.26 acres of land; that the property is zoned AR-1; that this proposed use is similar to other Conditional Uses within the AR-1 Zoning District; that the property is located in the low-density area; that the property is located in an area of agricultural uses and single-family residents which would allow the applicants to provide their services to nearby residents; that the applicants currently have 10 employees; that hours of operation occur from 7:00 am to 7:00 pm, Monday through Friday and that these hours may be extended for snow removal or responding to other emergency purposes; that there would only be one person on the site all day during business hours; that the office is not open to the public; that all



the equipment repairs would be undertaken off-site; that there are no mechanics based on the site; that the only routine maintenance would be undertaken on-site such as the changing of the blades; that the applicant does not stock bulk materials and they use bag materials only and any waste is disposed of in a dumpster located behind the dwelling; that there is a natural forested buffer that surrounds the property and also a privacy fence around the side and rear of the property; that Mr. Dougherty stated that the job is important for his family; that the Applicant's future plan is to buy commercial parcel; that Mr. Decktor stated the site is adjacent to residential properties that are zoned AR-1; that the lot to the west of this site is a vacant wooded lot and to the east is a single-family dwelling; that to the east of that property is the new entrance to Spring Breeze Subdivision and it extends behind this site; that the property is served by existing well and septic; that the employees would be able to use a porta-potty; that the property does drop down in the rear where the woods are located; that the house is located 260-feet from the road; that there is a detached garage on the site; that the trucks and trailers are stored in the rear of the property with a lot of smaller sheds; that the sheds would eventually be removed and the applicants would like to expand the detached garage for storage; that the property is outside of the floodplain; that Ms. Burton stated that the Applicant has received letters in support of the application; that the proposed Conditional Use would not have any adverse impact on traffic; that DelDOT did not recommend that a TIS be performed; that proposed use would meet the landscaping needs of Sussex County.

Mr. Hopkins asked about the type of landscaping activities undertaken, and the history of the site.

Mr. Dougherty stated he does not undertake any tree services for trees over 6-feet in height; that there would not be a need to bring any stumps back to the site and that he would not be grinding any stumps at all; that the previous owner of the property had a lawn mowing business; that the Applicant has been in business for seven years and his number of employees/contractors has reduced from 21 to 10 people; that the Applicant is okay with the size of employees that he currently has now; that the Applicant is not looking to increase the size of the site he currently has now; that the neighbor to the right of the site is okay with the Conditional Use; that they have 13 construction vehicles; that Mr. Decktor stated the construction vehicles are standard pick-up trucks with trailers; that Mr. Dougherty stated a few of the employees do take the pick-up trucks home; that the Applicant stated you cannot see the site from the road; that when there buffer grows, it would provide a buffer between his own home and the business; that the hours of operation are 7:00 am to 7:00 pm; that there would be no weekend hours; that the Applicant would be careful about the back-up alarms used in the construction equipment; that the Applicant does not want a sign; that they do provide hardscape services; that there would be no materials stored on the site; that the employees arrive in the morning to pick up the trucks and return in the afternoon; and that the previous owner owned the house for 10 years and the applicant was not sure how long the previous business was there.

The Commission found that Mr. Steve Castiglione, Mr. Christopher Warren, and Mr. Corey Henry spoke in favor of the application; that Mr. Castiglione stated he works for Country Lawn Care and his job depends on the Conditional Use approval; that they provide high-end landscaping and hardscaping services; that Mr. Warren stated he is an employee with Country Lawn Care; that there is a set of core values at the business; that he enjoys his job; Mr. Henry stated he is an employee for Country Lawn Care; and that it is nice that the house is right there where the business located if help is needed loading equipment.

The Commission found that Mr. James Spellman, Mr. Albert Stanley and Mr. John Furbush spoke in opposition of the application; that Mr. Spellman owns the vacant lot that is adjacent to the site; that

the business has been operating for three years; that the Conditional Use application has been submitted due to the Applicant having been in violation of the restrictions of AR-1 Zoning Code; that the Conditional Use request was submitted after his complaint; that the owner of Country Lawn Care should not be granted the Conditional Use sought; that the owners should have known that they needed a Conditional Use Permit beforehand; that the applicant is now seeking to obtain a Conditional Use for the site after the commencement of the use; that this is not consistent with the purpose of the AR-1 zoning; that the AR-1 zoning is to provide for a full range of agricultural activities, protect agricultural lands and that, in Mr. Spellman's view, the proposed use is not consistent with the definition of agriculture as per Delaware State law, as the use does not involve activities relating to the production or sale of food useful to humans; that the proposed Conditional Use would have a depreciating value of his land; that this use is not safe for the environment, health impact of people and for the land; that the applicant should find a commercial zoned tract of land for his business; that there are private covenants on the lot relating to commercial activities; that this business results in Mr. Spellman's inability to sell his vacant lot; that there was a business operating on the parcel prior to the current owners; that Mr. Spellman is concerned with potential contaminants, including sprays weed-killers, and pesticides being used, and the potential for harm to human health, and potential harm to the aquifer; that the siting of commercial uses adjacent to residential uses upsets the current balance; that Mr. Stanley stated he owns property two lots away from this site; that he built his home four years ago in a wooded lot; that there are deed restrictions applying to his property and to the adjoining parcels; that he has concerns with noise and traffic including potential back-up alarms; that he can see the house and the mechanical repairs through his woods; that he believes that there was no evidence of a prior business being undertaken on the site.

Ms. Burton stated that there are no restrictions in the applicant's deeds and the restricted covenants were not provided to the applicant at the time of closing; that the prior deed does have covenants; that the enforceability of the covenants would depend on the chain of title; that the covenants have not been enforced and there are other lot owners in the vicinity that have items (walls, fences, etc.) that are not in compliance with the covenants; that there is no mechanism to amend the covenants; that the applicant has taken measures to amend the covenants; that the applicant has reached out to adjoining landowners in relation to this.

Ms. Wingate asked the applicant about whether dump trucks have been accessing the site. Mr. Dougherty stated that he does not have any dump trucks and that the dump trucks observed/heard by neighbors are associated the Spring Breeze development behind his lot and the associated tree removal; that none of his trucks have tail gates.

Mr. Furbush stated the 21 lots were originally developed by a single developer and that all the lots are restricted to residential use; that if the Conditional Use is approved the deed restrictions would be ignored and this would be detrimental to the other 20 owners within the development; that there is no active Home Owners Association ("HOA"); that they have never needed a HOA; that the previous owner of the applicant's lot owned one riding mower, and that this should not be considered as a commercial use; and that there is no commercial use elsewhere on the road and that he believes that this is the wrong location for a commercial use; that the proposed conditional use does not provide a benefit to other lot owners.

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

Motion by Ms. Wingate, seconded by Mr. Hopkins and carried unanimously to defer action for further consideration and to leave the record open to allow the applicant to submit the requested information in relation to the deed restrictions for the property. Motion carried 3-0. Ms. Stevenson was absent.

At their meeting of February 14, 2019, the Planning Commission discussed the application which has been deferred since January 24, 2019. Ms. Stevenson indicated that she had listened to the record and was prepared to vote on the application.

Mr. Robertson provided an overview of the chain of title and the deed restrictions that affect lots 9A, 10A, 11A and 12A; that the Commission does not enforce deed restrictions; that the determination of abandonment of the restrictions would be considered by the courts; and that the chain of title goes back to Springbreeze.

Motion by Ms. Wingate, seconded by Mr. Hopkins and carried unanimously to close the record and defer action for further consideration. Motion carried 4-0.

PLANNING & ZONING

JANELLE M. CORNWELL, AICP
DIRECTOR

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Sussex County

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Memorandum

To: Sussex County Planning Commission Members
From: Janelle Cornwell, AICP, Planning & Zoning Director
CC: Vince Robertson, Assistant County Attorney and applicant
Date: January 17, 2019
RE: Staff Analysis for CU 2157 Country Lawn Care & Maintenance, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2157 Country Lawn Care & Maintenance, LLC to be reviewed during the January 24, 2019 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for parcel 234-11.00-78.07 to allow for a landscaping business to be located at 30435 Hollymount Rd. The size of the properties is 4.26 ac. +/-.

The 2008 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map indicates that the properties have the land use designation of Low Density Areas.

The surrounding land uses to the north, south, east and west are Low Density Areas. The Low Density Areas land use designation recognizes that the primary uses are agriculture and single family detached homes and that a business development should be largely confined to businesses that address the needs of single family residences and agriculture. It should also permit industrial uses that support or depend on agricultural uses. The focus of retail and office should provide convenience goods and services to nearby residents and should be limited in their location, size and hours of operation. The use as auto repair and gasoline sales, should be avoided in these areas.

The property is zoned AR-1 (Agricultural Residential District). The properties to the north, south, east and west are zoned AR-1 (Agricultural Residential District). There are no known Conditional Uses in the area.

Based on the analysis of the land use, surrounding zoning and uses, the Conditional Use for a landscaping business could be considered consistent with the land use, area zoning and uses.



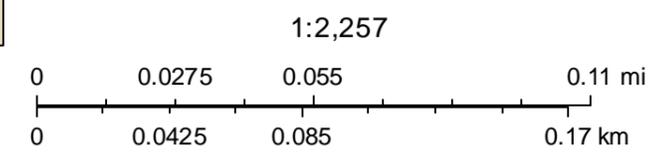


Sussex County



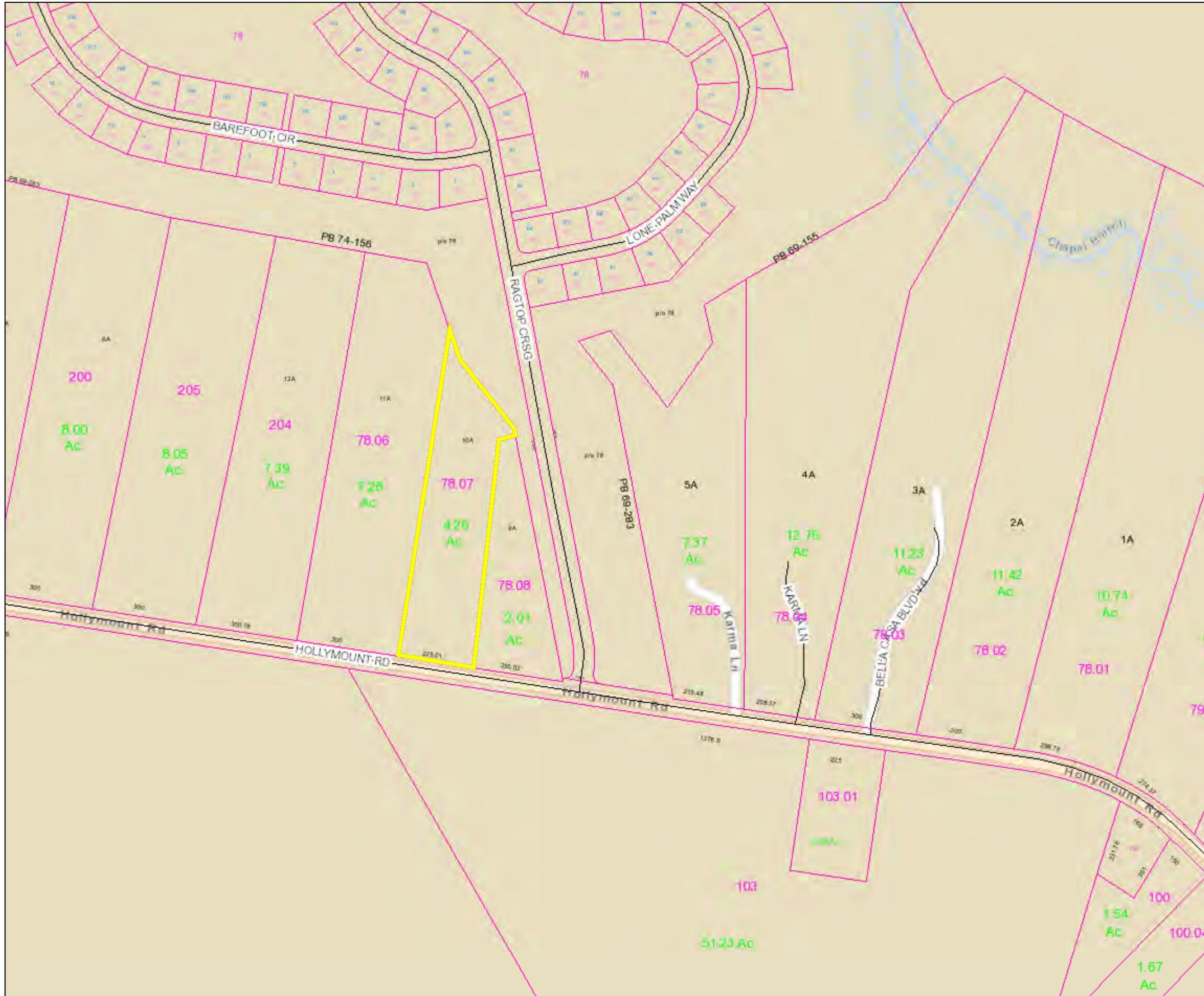
PIN:	234-11.00-78.07
Owner Name	DOUGHERTY GERALD J III
Book	4557
Mailing Address	30435 HOLLYMOUNT RD
City	HARBESON
State	DE
Description	N/RT 48
Description 2	TRACT 10A
Description 3	N/A
Land Code	

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





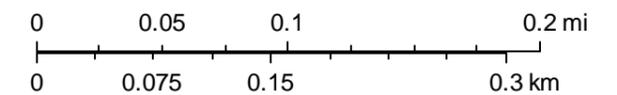
Sussex County



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- polygonLayer**
Override 1
- polygonLayer**
Override 1
- Tax Parcels
 - Streets
- Zoning**
- Agricultural Residential - AR-1
 - Agricultural Residential - AR-2
 - Medium Residential - MR
 - General Residential - GR
 - High Density Residential - HR-1
 - High Density Residential - HR-2
 - Vacation, Retire, Resident - VRP
 - Neighborhood Business - B-1
 - General Commercial - C-1
 - Commercial Residential - CR-1
 - Marine - M
 - Limited Industrial - LI-1
 - Limited Industrial - LI-2
 - Heavy Industrial - HI-1

1:4,514



Introduced 10/02/18

Council District No. 3 – Burton

Tax I.D. No. 234-11.00-78.07

911 Address: 30435 Hollymount Road, Harbeson

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 4.26 ACRES, MORE OR LESS

WHEREAS, on the 18th day of September 2018, a conditional use application, denominated Conditional Use No. 2157, was filed on behalf of Country Lawn Care & Maintenance, LLC (c/o Gerald and Stephania Dougherty); and

WHEREAS, on the ____ day of _____ 2018, 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. 2157 be _____; and

WHEREAS, on the ____ day of _____ 2018, 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. 2157 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Indian River Hundred, Sussex County, Delaware, and lying on the north side of Hollymount Road, approximately 0.42 mile east of Beaver Dam Road, and being more particularly described in the attached deed prepared by Schab & Barnett, P.A., said parcel containing 4.26 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.