

Sussex County Council Public/Media Packet

**MEETING:
February 25, 2020**

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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

A G E N D A

FEBRUARY 25, 2020

9:00 A.M.

Call to Order

Approval of Agenda

Approval of Minutes

Reading of Correspondence

Public Comments

Presentation by the Office of State Planning on State Strategies Map

Todd Lawson, County Administrator

1. Recognition of Retiree – Richard Johnson
2. Administrator's Report

Executive Session – Job Applicants' Qualifications pursuant to 29 Del.C.§10004(b)

Possible Action on Executive Session Items

Introduction of Proposed Zoning Ordinances

Council Members' Comments

12:00 Noon Sussex County Profile Luncheon

Location: Sussex County Association of Realtors, Park Avenue, Georgetown



1:30 p.m. Public Hearing

1. Change of Zone No. 1903 filed on behalf of W. Wayne Baker

“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 17.25 ACRES, MORE OR LESS” (lying on the southwest corner of DuPont Boulevard (Route 113) and Governor Stockley Road) (Tax I.D. No. 133-6.00-43.00) (911 Address: Not Available)

Adjourn

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

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on February 18, 2020 at 4:30 p.m., and at least seven (7) days in advance of the meeting.

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

Agenda items may be considered out of sequence.

###

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, FEBRUARY 18, 2020

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, February 18, 2020, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

**Call to
Order**

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

Mr. Vincent called the meeting to order.

**M 073 20
Approve
Agenda**

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

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

Minutes

The minutes of February 4, 2020, were approved by consent.

**Public
Comments**

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

**Retiree
Donna
Stevenson**

The Council recognized Donna Stevenson, Senior Exemption Coordinator, Finance – Billing Services, who is retiring after 30 years and 7 months of service to Sussex County.

**Adminis-
trator's
Report**

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

1. Project Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, Peninsula Lakes – Phase 7B (PS#2&FM) received Substantial Completion effective February 7th.

**Administrator's
Report
(continued)**

2. Common Interest Community Ombudsman – Workshop

On Wednesday, February 26, 2020, the Common Interest Community Ombudsman will host a Community Association Governance Workshop from 5:00 PM to 8:00 PM. The workshop will take place at the Sussex County Association of Realtors, located at 23407 Park Avenue in Georgetown. The workshop is focused on governance issues experienced by Homeowners and/or Community Associations. The workshop is free and the public is welcome but seating is limited. Please register via email at DOJ.Ombudsman@delaware.gov. More information regarding the workshop is attached.

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

**First
Quarter
Employee
Recognition
Awards**

Mrs. Jennings reported on the County's Shining Star Program which recognizes and celebrates employees who demonstrate exceptional performance, service, and/or accomplishments. Employees who have gone above and beyond receive recognition through electronic badges from coworkers, supervisors, and external customers. Each quarter a committee made up of employees selects Honorable Mention winners. Mrs. Jennings announced and Council recognized the four Shining Star Honorable Mention winners for the First Quarter 2020: Sabrina Fite (Mapping and Addressing Department), Sarah Hastings (Assessment Division), Carrie Patterson (Assessment Division), and Christen Headley (Planning and Zoning Department).

**Pension
Committee
Appoint-
ments**

Mrs. Jennings requested Council approval to appoint three members to the Pension Committee; one is a new appointment and two are reappointments. Mrs. Jennings stated that the Pension Committee is made up of seven members, including County employees currently serving in the positions of Finance Director, County Administrator, and County Human Resources Director, two Sussex County community members, a current Sussex County employee, and a retired Sussex County employee. Mrs. Jennings is recommending the reappointment of David Baker (County pensioner) and Kathy Roth (current employee), and one new appointment, Mitchell Rogers, Financial Advisor with Edward Jones Investments. Mrs. Jennings stated that Mr. Rogers has 20 years of investment advisor experience that includes portfolio analysis and retirement planning.

**M 074 20
Approve
Appoint-
ments/
Pension
Committee**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, that the Sussex County Council appoint David Baker (current County pensioner), Kathy Roth (current County employee), and Mitchell Rogers as a community member to serve on the Sussex County Pension Committee for a term of four years, until February 2024.

**M 074 20
(continued)**

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**

**Public
Hearing/
Cherry
Creek
Valley
Expansion**

A Public Hearing was held on the Cherry Creek Valley Expansion of the Sussex County Unified Sanitary Sewer District (Angola Neck Area). John Ashman, Director of Utility Planning, reported that the expansion includes parcels along Camp Arrowhead Road, north of Waterview Road. The Engineering Department received requests from several property owners interested in having the County extend the sewer district boundary. A polling letter which was created and distributed to the area received mixed results. The current boundary has been prepared based on those requests for service and the requirement to maintain a contiguous boundary. Mr. Ashman reported that the Engineering Department received permission to prepare and post notices for a public hearing on the annexation of the area on January 14, 2020, and to date no responses have been received either in support or opposition to the proposed boundary.

Hans Medlarz, County Engineer, stated that the County is currently in the design stage for the Joy Beach area project, which means that all the terms for Joy Beach would apply to the Cherry Creek Valley Expansion, including the rate cap and sewer connection charge.

Public comments were heard from Mary Lou Joseph, Neil Frock, Jason Batt, Paul Reiger, Keith Steck, Lou Octavio, Dan Kramer, and Eul Lee concerning the necessity for the sewer system to address environmental issues, clarification of the parcels included in the annexation, timeframe of the project, associated costs, road restoration as a result of the project, the federal loan/grant component, and response/receipt of the polling letter which was mailed out previously.

To ensure that all property owners have been contacted and given the opportunity to participate in the Cherry Creek Valley Expansion, it was the consensus of Council that the County Engineering Department re-poll property owners who have not responded previously and/or are contiguous to the proposed annexation to determine their interest, and that those properties with a favorable response be included in a supplemental annexation at a future date.

The Public Hearing and public record were closed.

**M 075 20
Adopt
R 003 20**

A Motion was made by Mr. Hudson, seconded by Mr. Wilson, to Adopt Resolution No. R 003 20 entitled "A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) ANGOLA NECK AREA, TO INCLUDE THE CHERRY CREEK VALLEY AREA AND SEVERAL PARCELS OF

M 075 20
(continued) **LAND ALONG THE EAST SIDE OF CAMP ARROWHEAD ROAD LOCATED IN THE INDIAN RIVER HUNDRED, SUSSEX COUNTY, DELAWARE, AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE”, as amended to include one additional parcel.**

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**

Delaware Coastal Business Park Lease Addendum **William Pfaff, Economic Development Director, presented a Lease Addendum for Jaykal LED Solutions, Inc., at the Delaware Coastal Business Park. The purpose of the Addendum is to allow Jaykal LED Solutions, Inc. (Lessee), the right, without the County’s consent, to collaterally assign, pledge, and/or mortgage all the Lessee’s rights and interests in the improvements only constructed or to be constructed on the Leased Premises under the Lease (and not to the real estate upon which improvements are situated).**

M 076 20
Approve Addendum/ Commercial Lease Agreement/ Jaykal LED Solutions, Inc. **A Motion was made by Mr. Hudson, seconded by Mr. Rieley, that the Sussex County Council approves the Addendum to the Commercial Lease Agreement dated August 1, 2019, between Sussex County and Jaykal LED Solutions, Inc., located at the Delaware Coastal Business Park, Lot 3, 21499 Baltimore Avenue, Georgetown, Delaware, as presented.**

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**

Mr. Burton joined the meeting.

Old Business/ CZ 1901/ Mary and Victor Rico **Under Old Business, the Council considered Change of Zone No. 1901 filed on behalf of Mary and Victor Rico.**

The Planning and Zoning Commission held a Public Hearing on this application on December 12, 2019, at which time action was deferred; on January 9, 2020, the Commission recommended denial of the Change of Zone.

Council held a Public Hearing on this application on January 28, 2020, at which time action was deferred.

**M 077 20
Adopt
Proposed
Ordinance/
CZ 1901
(Denied)**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, to Adopt the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED AND LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.927 ACRES, MORE OR LESS" (Change of Zone No. 1901) filed on behalf of Mary and Victor Rico.

Motion Denied: 5 Nays.

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

**Old
Business/
CU 2200/
Mary and
Victor
Rico**

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

The Planning and Zoning Commission held a Public Hearing on this application on December 12, 2019, at which time action was deferred; on January 9, 2020, the Commission recommended denial of the Conditional Use.

Council held a Public Hearing on this application on January 28, 2020, at which time action was deferred.

**M 078 20
Adopt
Proposed
Ordinance/
CU 2200
(Denied)**

A Motion was made by Mr. Burton, seconded by Mr. Rieley, to Adopt the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY (7 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED AND LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.927 ACRES, MORE OR LESS" (Conditional Use No. 2200) filed on behalf of Mary and Victor Rico.

Motion Denied: 5 Nays.

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

As per the Planning and Zoning Commission's recommendation, Council concurred that the County is not to take any enforcement action to remove the illegal units until July 1, 2020, to allow the people occupying the units plenty of time to find other housing and not disrupt families with school-age children during the school year.

**Old
Business/
CU 2186/
Mountaire
Farms of
Delaware,
Inc.**

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

The Planning and Zoning Commission held a Public Hearing on this application on October 10, 2019, at which time action was deferred; on October 24, 2019, the Commission recommended approval of the Conditional Use with conditions.

The Council held a Public Hearing on this application on November 5, 2019, at which time action was deferred and the record left open for Council to ask questions of staff and agencies. Council gave agencies until the close of business on December 9, 2019, to provide responses to the questions. The responses were reported to Council at their meeting on December 10, 2019. The public had five days to provide written comments to the responses from the agencies. During the December 10, 2019, Council meeting, an enclosure to the December 4, 2019, DNREC letter was inadvertently not distributed to the public. As a result, at the December 17, 2019, Council meeting, the time period for comments was extended until the close of business on December 26, 2019. On January 7, 2020, the record was officially closed.

**M 079 20
Adopt
Ordinance
No. 2706/
CU 2186**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, to Adopt Ordinance No. 2706 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND GR GENERAL RESIDENTIAL DISTRICT FOR SLUDGE AND WASTEWATER SPRAY IRRIGATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 351.86 ACRES, MORE OR LESS" (Conditional Use No. 2186) filed on behalf of Mountaire Farms of Delaware, Inc., with the following conditions:

- 1. The application of sludge and wastewater spray irrigation shall be subject to DNREC and other state and federal regulatory approvals.**
- 2. The application of sludge and wastewater shall be limited to sludge and wastewater from Mountaire Farms.**
- 3. There shall not be any stockpiling of sludge materials or wastewater on-site.**
- 4. The maximum number of sludge and wastewater applications on the property shall be subject to the approval of DNREC and other regulatory agencies with jurisdiction over this use.**
- 5. This Conditional Use shall be valid concurrent with DNREC's permits for this use. If the DNREC permits shall be terminated or expire, this Conditional Use shall also terminate and expire.**
- 6. All stormwater management facilities shall be subject to the review and approval of the Sussex Conservation District. The Final Site Plan shall include the approval of the Sussex Conservation District for the design and location of the stormwater management areas.**

**M 079 20
(continued)**

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

Motion Adopted: 5 Yeas.

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

**EMS 200/
Medic 110
Station**

Hans Medlarz, County Engineer, presented Amendment No. 2 to EMS 200/Medic 110 Station, Project C19-08. Amendment No. 2 covers the cost for a traffic analysis on Swain Road as well as site entrance redesign in an amount not to exceed \$15,000.00. It was noted that the County Information Technology Department has also proposed an idea to co-locate a County data center on the site, which is being evaluated by County Administration. If implemented, it would trigger additional site design modifications. Therefore, the Engineering Department recommends approval of Amendment No. 2 in an increased amount not to exceed \$25,000.00, which would allow for possible design modifications.

Mr. Wilson commented on the potential increase in impervious area, if additional site design modifications are necessary.

**M 080 20
Approve
Amendment
No. 2/
EMS
Architect-
tural
Services
Contract**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves Amendment No. 2 to the EMS Architectural Services Contract with George, Miles & Buhr in the amount not to exceed \$25,000.00 for traffic analysis and resultant site design modifications for EMS 200/Medic 110 Station, Project C19-08, as presented.

Motion Adopted: 4 Yeas, 1 Nay.

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

**Love Creek
Woods/
Plumber
Services**

Hans Medlarz, County Engineer, presented a Balancing Change Order and request to grant Substantial Completion for Love Creek Woods, Master Plumber Services. On April 17, 2018, Council awarded a Sewer Participation Agreement for the Love Creek Woods – Master Plumber

Love Creek Woods/Plumber Services (continued)	Services contract to WM Water & Sewer, LLC, in the amount of \$101,180.00, covering the base bid and two bid alternates as needed. The Engineering Department recommends approval of the balancing Change Order No. 1, reducing the contract value by \$6,452.99, and granting Substantial Completion for Project No. 14-10.
M 081 20 Approve Change Order No. 1/ Love Creek Woods – Master Plumber Services Contract	<p>A Motion was made by Mr. Burton, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 1 for the Love Creek Woods – Master Plumber Services Contract, be approved, decreasing the contract amount by \$6,452.99, for a new contract total of \$94,727.01, and that Substantial Completion be granted effective October 11, 2019, and any held retainage be released in accordance with the contract documents, as well as the release of all third party funds to the Love Creek Woods Homeowners Association.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Wilson, Yea; Mr. Burton, Yea; Mr. Vincent, Yea</p>
Use of Existing Infrastructure Agreement/ Walden Project	<p>John Ashman, Director of Utility Planning, presented a Use of Existing Infrastructure Agreement between Sussex County and Burton's Pond, LLC, for the Walden project in the Herring Creek Area. Under the proposed arrangement, the Walden project will connect to the existing County owned infrastructure. In return for utilization of said infrastructure, Burton's Pond, LLC, will contribute \$74,524.00 for the financial catch-up contribution of the existing infrastructure to serve 270 additional Equivalent Dwelling Units.</p>
M 082 20 Approve Use of Existing Infrastructure Agreement/ Walden Project	<p>A Motion was made by Mr. Burton, 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 Burton's Pond, LLC, for a Capacity Allocation in the Regional Transmission System for the Walden project, as presented.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Wilson, Yea; Mr. Burton, Yea; Mr. Vincent, Yea</p>
Infra-structure Agreement/ Villas at Walden	<p>John Ashman, Director of Utility Planning, presented a Use of Existing Infrastructure Agreement between Sussex County and Burton's Pond, LLC, for the Villas at Walden project in the Herring Creek Area. Under the proposed arrangement, the Villas at Walden project will connect to the</p>

Infra-structure Agreement (continued)	existing County owned infrastructure. In return for utilization of said infrastructure, Burton's Pond, LLC, will contribute \$28,429.00 for the financial catch-up contribution of the existing infrastructure to serve 103 additional Equivalent Dwelling Units.
M 083 20 Approve Use of Existing Infra-structure Agreement/ Villas at Walden Project	<p>A Motion was made by Mr. Burton, seconded by Mr. Rieley, 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 Burton's Pond, LLC, for a Capacity Allocation in the Regional Transmission System for the Villas at Walden project, as presented.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Wilson, Yea; Mr. Burton, Yea; Mr. Vincent, Yea</p>
Use of Existing Infra-structure Agreement/ Robert & Deborah Reed	<p>John Ashman, Director of Utility Planning, presented a Use of Existing Infrastructure Agreement between Sussex County and Robert M. and Deborah A. Reed for the Lands of Robert M. and Deborah A. Reed project in the West Rehoboth Area. Under the proposed arrangement, the Lands of Robert M. and Deborah A. Reed project will connect to the existing County owned infrastructure. In return for utilization of said infrastructure, Robert M. and Deborah A. Reed will contribute \$17,206.00 for the financial catch-up contribution of the existing infrastructure to serve 24 additional Equivalent Dwelling Units.</p>
M 084 20 Approve Use of Existing Infra-structure Agreement/ Robert & Deborah Reed	<p>A Motion was made by Mr. Burton, seconded by Mr. Rieley, 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 Robert M. and Deborah A. Reed for a Capacity Allocation in the Regional Transmission System, as presented.</p> <p>Motion Adopted: 4 Yeas, 1 Nay.</p> <p>Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Wilson, Nay; Mr. Burton, Yea; Mr. Vincent, Yea</p>
Grant Requests	<p>Mrs. Jennings presented grant requests for the Council's consideration.</p>
M 085 20 Council-manic Grant	<p>A Motion was made by Mr. Hudson, seconded by Mr. Burton, to give \$500.00 from Mr. Hudson's Councilmanic Grant Account to Stronger After Cancer for free physical therapy for cancer survivors.</p> <p>Motion Adopted: 5 Yeas.</p>

**M 085 20
(continued)**

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

**M 086 20
Council-
manic
Grant**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to give \$1,500.00 (\$1,000.00 from Mr. Hudson's Councilmanic Grant Account and \$500.00 from Mr. Rieley's Councilmanic Grant Account) to the Ocean View Historical Society for the Hall's Store Visitors and Education Center.

Motion Adopted: 5 Yeas.

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

**Introduction
of Proposed
Zoning
Ordinances**

Mr. Rieley introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SMALL AUTO REPAIR BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 0.75 ACRES, MORE OR LESS"(Conditional Use No. 2221) filed on behalf of Dominic Lombardi (Tax I.D. No. 133-16.00-73.04) (911 Address: 24169 Godwin School Road, Millsboro).

Mr. Hudson introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR AN OUTDOOR MINIATURE GOLF COURSE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.46 ACRES, MORE OR LESS" (Conditional Use No. 2222) filed on behalf of Jessica Peake (Tax I.D. No. 134-17.11-40.00) (911 Address: 32967 Coastal Highway, Bethany Beach).

Mr. Hudson introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR BOAT & RV STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.93 ACRES, MORE OR LESS" (Conditional Use No. 2223) filed on behalf of A&W Burbage, LLC (Tax I.D. No. 134-14.00-36.00 (part of) (911 Address: 32855 Jones Road, Frankford).

Mr. Rieley introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A REAL ESTATE OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.75 ACRES, MORE OR LESS" (Conditional Use No.

Introduction of Proposed Zoning Ordinances (continued)	<p>2224) filed on behalf of Pamela Price (Tax I.D. No. 332-7.00-22.00) (911 Address: 34590 Sussex Highway, Laurel).</p> <p>Mr. Vincent introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT TO A LI-2 LIGHT INDUSTRIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 23.7021 ACRES, MORE OR LESS” (Change of Zone No. 1919) filed on behalf of Newton Farms, LLC (Tax I.D. No. 131-6.00-8.00) (911 Address: None Available).</p> <p>Mr. Burton introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 10.88 ACRES, MORE OR LESS” (Change of Zone No. 1904) filed on behalf of Dry Acres, LLC (Jill Cicierski) (Tax I.D. No. 235-30.00-51.00) (911 Address: None Available).</p> <p>The Proposed Ordinances will be advertised for Public Hearing.</p>
Council Member Comments	<p>Mr. Rieley commented on the Quarterly Financial Updates provided by Gina Jennings, Finance Director.</p> <p>Mr. Wilson commented on stormwater management and the jurisdiction of land use in Sussex County.</p>
M 087 20 Go Into Executive Session	<p>At 11:47 a.m., a Motion was made by Mr. Rieley, seconded by Mr. Hudson, to recess and go into Executive Session for the purpose of discussing matters relating to personnel and land acquisition.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Wilson, Yea; Mr. Burton, Yea; Mr. Vincent, Yea</p>
Executive Session	<p>At 11:57 a.m., an Executive Session of the Sussex County Council was held for the purpose of discussing matters relating to personnel and land acquisition. The Executive Session concluded at 12:11 p.m.</p>
M 088 20 Reconvene Regular Session	<p>At 12:14 p.m., a Motion was made by Mr. Rieley, seconded by Mr. Hudson, to come out of Executive Session and reconvene the Regular Session.</p> <p>Motion Adopted: 3 Yeas, 2 Absent.</p>

- M 088 20**
(continued)
- Vote by Roll Call:** Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Absent; Mr. Burton, Absent;
Mr. Vincent, Yea
- E/S Action** There was no action on Executive Session items.
- M 089 20**
Recess
- A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to recess until 1:30 p.m.
- Motion Adopted:** 3 Yeas, 2 Absent.
- Vote by Roll Call:** Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Absent; Mr. Burton, Absent;
Mr. Vincent, Yea
- M 090 20**
Reconvene
- At 1:34 p.m., a Motion was made by Mr. Burton, seconded by Mr. Rieley, to reconvene.
- Motion Adopted:** 4 Yeas, 1 Absent.
- Vote by Roll Call:** Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Absent; Mr. Burton, Yea;
Mr. Vincent, Yea
- Rules** Mr. Moore read the rules of procedure for zoning hearings.
- Public Hearing/
CU 2205**
- 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 AUTO-MOTORCYCLE REPAIR TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.8711 ACRES, MORE OR LESS" (Conditional Use No. 2205) filed on behalf of Frank Passwaters.
- The Planning and Zoning Commission held a Public Hearing on this application on January 9, 2020, at which time action was deferred. On January 23, 2020, the Commission recommended approval of the Conditional Use with conditions.
- (See the minutes of the Planning and Zoning Commission dated January 9 and January 23, 2020.)
- Jamie Whitehouse, Acting Director of Planning and Zoning, presented the application.
- Mr. Whitehouse noted that one letter has been received in opposition to the application.

**Public
Hearing/
CU 2205
(continued)**

The Council found that Frank Passwaters was present on behalf of the application. Mr. Passwaters stated that he has been in business for over 30 years, but not at that location; that his shop was located on Calhoun Road for 14 years and is now in another facility in Milford; that he purchased five acres of land two years ago which has one deed showing two different parcels, but they are together as one unit; that there is a roadway on the property that divides the parcels; that he would like to have his business on his property; that the Conditional Use is needed to allow his business to operate on the 1.87-acre parcel; that he has renovated the house and erected a pole barn; that parking is available and there is access to the property; that he would like to bring in two employees at some point in the future; and that he would like to erect a sign at the driveway entrance.

There were no public comments.

The public record and Public Hearing were closed.

**M 091 20
Adopt
Ordinance
No. 2707/
CU 2205**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, to Adopt Ordinance No. 2707 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AUTO-MOTORCYCLE REPAIR TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.8711 ACRES, MORE OR LESS" (Conditional Use No. 2205) filed on behalf of Frank Passwaters with the following conditions:

1. One lighted sign, not to exceed 32 square feet per side, shall be permitted.
2. Security lighting shall be downward screened and shall be directed away from the neighboring properties and roadways.
3. Any dumpsters shall be screened from view of the neighbors and roadway. The dumpster locations shall be shown on the Final Site Plan.
4. All repairs shall be performed indoors. No automobile parts shall be stored outside.
5. No junked, unregistered or permanently inoperable vehicles, motorcycles or trailers shall be stored on the site.
6. There shall not be any parking in the front yard setback.
7. All parking areas shall be shown on the Final Site Plan and clearly marked on the site itself. Vehicles shall only be parked within these designated areas.
8. As stated by the Applicant, any tow trucks associated with the business shall be stored indoors when not in use.
9. All oils and other fluids shall be properly stored indoors in appropriate containers. The Applicant shall also comply with the state and federal requirements for the disposal of these fluids.

**M 091 20
(continued)**

- 10. The site shall be subject to all DelDOT entrance and roadway requirements.**
- 11. The hours of operation shall be 7:00 a.m. through 5:00 p.m., Monday through Friday, and 8:00 a.m. until 5:00 p.m. on Saturdays. There shall not be any Sunday hours.**
- 12. Any violation of these conditions may be grounds for termination of this Conditional Use.**
- 13. The Final Site Plan shall be subject to the review and approval of the 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/
CZ 1902**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A CR-1 COMMERCIAL RESIDENTIAL DISTRICT TO A HI-1 HEAVY INDUSTRIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 15 ACRES, MORE OR LESS” (Change of Zone No. 1902) filed on behalf of John C. Stamato c/o Ribera Development, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on January 9, 2020, at which time action was deferred. On January 23, 2020, the Commission recommended approval of the Change of Zone, contingent upon an amendment to the Sussex County Future Land Use Map, for the following reasons:

- 1. This site is on a property that has frontage along Route 9, although the area to be rezoned to HI-1 is set back from Route 9 approximately 1,000 feet. Route 9 is classified as a major arterial roadway. While the proposed HI-1 area does not have direct frontage on Route 9, Route 9 is an appropriate entrance location for vehicular access to the site.**
- 2. The entire site is currently zoned as C-1 and CR-1. Properties on either side of the entire site are zoned C-1. The proposed HI-1 area is compatible with the surrounding zoning and uses.**
- 3. The site is bounded on the south by an active railroad. The railroad separates the property and any potential uses on it from properties south of the railroad.**
- 4. The adjacent railroad is operated by the Delmarva Central Railroad Company, which connects to other rail service providers. Delmarva Central has submitted a letter in support of the application and indicates that the rezoning to HI-1 will promote further economic opportunities for rail service in Sussex County.**

**Public
Hearing
CZ 1902
(continued)**

5. This rezoning to HI-1 promotes transportation goals in the Sussex County Land Use Plan, which states in Section 13.2.2 that “The County’s goods movement (freight) network is an integral component of the transportation network as well as the economy.” However, “the main element of the freight network is the roadway system, which carries trucks (motor freight).” One means of reducing truck impacts is to shift more freight to rail, although opportunities to do that are limited. This site presents an opportunity to achieve this goal.
6. The rezoning will not have an adverse impact on the area. And, if anyone seeks to start a “potentially hazardous use” on the property, the Sussex County Zoning Code provides an additional layer of protection by requiring a public hearing and approval of the use by the Board of Adjustment.
7. No parties appeared in direct opposition to the rezoning.
8. The rezoning promotes the health, safety, morale, welfare, convenience, order and prosperity of present and future residents of Sussex County by establishing an HI-1 zoned property at an appropriate location with access to a major arterial road and rail service.
9. This recommendation is contingent on an amendment to the Future Land Use Map as currently shown in the Comprehensive Plan. According to the Future Land Use Map, the site is within a “Commercial Area” which does not permit HI- 1 zoning. However, this site should be amended to a “Developing Area” which does permit HI-1 zoning. Because of the active rail line, the Map should not have precluded HI-1 zoning from being one of the possible zoning districts for this area.

(See the minutes of the Planning and Zoning Commission dated January 9 and January 23, 2020.)

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

Mr. Whitehouse noted that an Exhibit Booklet was previously submitted by the Applicant, and that one letter in support and one letter in opposition of the application have been received.

The Council found that James Fuqua, Attorney, was present on behalf of the application along with the Applicant, John C. Stamato, and Mark Davidson with Pennoni Associates, Inc. They discussed (1) the rezoning request from CR-1 Commercial Residential to HI-1 Heavy Industrial for an undeveloped 15-acre parcel of land; (2) the location of the land being two miles east of the Town of Georgetown near the intersection of Route 9 and Steiner Road; (3) HI-1 zoning as contained in Section 115-109 of the Zoning Code and its purpose and use; (4) the convenience and benefits of the proposed rezoning and economic opportunities it would create; (5) zoning

**Public
Hearing/
CZ 1902
(continued)**

classifications in the surrounding area where retail, storage, and commercial uses are already permitted; (6) history of the Delmarva Central Railroad adjacent to the 15-acre parcel and the Applicant's commitment to utilization of the rail line; (7) plans to subdivide the parcel into three parcels and locate a spur track from the main track to serve the three parcels; (8) sewer and water; (9) DelDOT's response that a Traffic Impact Study is not required at this time; (10) intersection improvements which may be needed at Route 9 and Steiner Road; (11) stormwater management; (12) Environmental Assessment report prepared by Pennoni Associates; and (13) location of the parcel as appropriate for HI-1 zoning to service the types of businesses that would utilize rail transportation.

Public comments were heard.

Michael Johnson stated that he is in favor of the application, but has some concerns regarding the stormwater management of the parcel; that he is co-owner of the property on Shingle Point Road and Route 9; that the Environmental Assessment shows the flow of water from their property to Route 9 and across; that there is currently an issue with water collection at Steiner Road and Route 9; and that there is further concern with the runoff of water due to water backing up on the south side of Route 9.

Keith Steck, Vice President, Delaware Coalition for Open Government, spoke in opposition to the application stating that the zoning change from CR-1 Commercial Residential to HI-1 Heavy Industrial is substantial; that it is inconsistent with the Comprehensive Plan; that the project will be in competition with the Delaware Coastal Airport and Industrial Park, and the rail line there; that it is not compatible and may set a precedent for other changes in use of land along the railroad; and that there is basically no information available to substantiate the use, condition, or capacity of the railroad, or any long-term plan.

Council expressed concerns regarding the amount of activity of the rail line, interaction of the rail spur with the Georgetown-Lewes Rails to Trails bike trail, changing the recently adopted Comprehensive Land Use Plan, road improvements, stormwater management, and that a precedent could be set for future applications. Clarification of the process to amend the Land Use Map was requested and provided by Mr. Whitehouse.

Mr. Moore reminded Council that the Land Use Map is a tool and that zoning decisions are to be made based on the record and merit of the application, along with the appropriateness of the location.

There were no additional public comments.

The public record and Public Hearing were closed.

**M 092 20
Amend
No. 9/
Planning
and Zoning
Commission
Reasons for
Approval/
CZ 1902**

A Motion was made by Mr. Wilson, seconded by Mr. Rieley, to amend the first sentence of number 9 of the Planning and Zoning Commission's reasons to recommend approval of Change of Zone No. 1902 to read as follows: "9. This approval is contingent on an amendment to the Future Land Use Map as currently shown in the Comprehensive Plan"; and that the remainder of the verbiage in number 9 remain the same.

Motion Adopted: 3 Yeas, 2 Nays.

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

**M 093 20
Adopt
Ordinance
No. 2708/
CZ 1902**

A Motion was made by Mr. Wilson, seconded by Mr. Rieley, to Adopt Ordinance No. 2708 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A CR-1 COMMERCIAL RESIDENTIAL DISTRICT TO A HI-1 HEAVY INDUSTRIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 15 ACRES, MORE OR LESS" (Change of Zone No. 1902) filed on behalf of John C. Stamato c/o Ribera Development, for the reasons given by the Planning and Zoning Commission numbered 1 through 8, and number 9 as amended.

Motion Adopted: 4 Yeas, 1 Nay.

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

**M 094 20
Adjourn**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, to adjourn at 2:58 p.m.

Motion Adopted: 5 Yeas.

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

Respectfully submitted,

Susan W. Webb
Administrative Secretary

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

JAMIE WHITEHOUSE, AICP
ACTING DIRECTOR OF PLANNING &
ZONING
(302) 855-7878 T
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Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

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

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

CC: Everett Moore, County Attorney

Date: February 21, 2020

RE: County Council Report for CZ 1903 W. Wayne Baker

The Planning and Zoning Department received an application (CZ 1903 W. Wayne Baker) for a Change of Zone of parcel 133-6.00-43.00 from Agricultural Residential (AR-1) Zoning District to Medium Commercial District (C-2) Zoning District to be located southwest of the intersection of U.S Route 113 and Governor Stockley Road (S.C.R 432). The size of the property is 17.25 acres +/-.

The Planning and Zoning Commission held a public hearing on January 23, 2020. At the meeting of February 13, 2020, the Commission recommended approval of the application for the 7 reasons included in the motion (copy below).

Below are the draft minutes from the Planning & Zoning Commission meetings of January 23, 2020 and February 13, 2020.

C/Z 1903 – W. Wayne Baker

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a C-2 Medium Commercial District for a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 17.25 acres, more or less. The property is lying on the southwest corner of DuPont Boulevard (Route 113) and Governor Stockley Road. 911 Address: N/A. Tax Parcel: 133-6.00-43.00

Ms. Cornwell advised the Commission that submitted into the record were an exhibit booklet, a staff analysis of the plan, a boundary survey of the property, and the DelDOT service level evaluation confirming that a TIS is not currently required but a TIS may be required depending on what the site plan determines.



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

Mark Davidson, Pennoni & Associates, spoke on behalf of the Applicant, Mr. Wayne Baker. This is an Application to grant a rezoning of a portion of lands AR-1 residential district located on 17.25 acres more or less in the Dagsboro Hundred, southwest corner of DuPont Highway which is also US Route 113 and Gov. Stockley Rd. The subject property has been in the Baker family since January 1964. Mr. Baker is the owner of Baker Petroleum, a family owned and operated business, since 1952. Baker Petroleum has spent more than half a century as one of Southern Delaware's leading energy companies. They employ about 150 people. They serve all of Sussex and part of Kent Counties with delivery of propane and heating oils, diesel fuel and gasoline. They operate a number of convenience stores that provide goods and services to local communities in Delaware. The property is bordered on the north and west by US Route 113 and Gov. Stockley Road. On the south AR-1 lands that are in Ag preservation as well as C-1 Commercial lands that run along Gov. Stockley Rd. and bordered on the east by more AR-1 lands.

Mr. Davidson outlined that the commercial zoning is in the vicinity of other commercial zoned properties and uses and will not diminish property values within the neighborhood, will not create a public nuisance, or result in an increased in public expenditures; that in the booklet, Tab 3, there is an area use map of some of the commercial uses that are in the area; such as, Melvin Joseph Construction Company, Iron Source Equipment Rentals, David A. Banks, M&L Joseph Sand and Gravel Company, burrow pit big body of water in the center of the map, a warehouse storage facility, Stockley Tavern, and other various types of commercial uses in the area.

Mr. Davidson stated that the current Comprehensive Plan suggests that each Application should be reviewed on its own merit and does not have a negative impact on the surrounding area or the community or the County in general; that in the 2019 Sussex County Comprehensive Plan the property proposed for rezoning to commercial is identified as being in a low-density area and business development should largely be confined to businesses addressing the needs of nearby homes and agricultural activities; that since the Comprehensive Plan is the guide for the future use of the land, the County's official zoning map must be consistent with the uses and intensities of uses provided for in the Future Land Use Plan; that table 4.5-2 provides a tool for assisting with determining which zoning districts are operable to each Future Land Use category; that in the Comprehensive Plan, one of the stated goals is to promote commercial development and offices in industrial areas and there are several commercial and some industrial type uses in the area but there are a lot of commercial uses in the area where the Applicant is proposing zoning for this property; that in Ordinance No. 2550, Sussex County Council desired to create a more specific C-2 Medium Commercial Zoning District with small related uses to the district to promote better planning and predictability within Sussex County; that the purpose of the C-2 Medium Commercial District is to support uses that include retail sales and performance of consumer services; that it permits a variety of retail professional and service businesses; that this district shall primarily be located near arterial collector streets; that Route 113 is a principle arterial and it accommodates community commercial uses.

One of the exhibits submitted is a rezoning map or bubble sketch that outlines how the Baker family would like to see the property developed sometime in the future; that along the front Route 113, the Applicant is looking to do support services, flex based and as stated previously, they own a number of convenience stores and service stations throughout Sussex County; that this is an ideal place for

them to future plan the growth of their business within this area; that access would be taken off Gov. Stockley Rd. US Route 113 is part of the core capacity program within DelDOT so access has to be taken off the secondary road; that there are commercial uses are using Gov. Stockley Rd. as their access to their facilities as well; that in the back could be flexible, such as warehouse and storage area and there is sufficient amount of areas on the property that could handle an on-site wastewater treatment system and handle any type of stormwater plant for the property.

Mr. Davidson stated that the granting of this application for the commercial rezoning would allow the Baker family to plan for the future, to continue to promote their convenience store with gas pumps that would provide for the sale of convenience goods and personal services for the day-to-day living needs of the nearby existing and future communities; that the 2015 Strategies for State Policies and Spending identifies the area as an investment Level 4. Developers and property owners make local roadway improvements as development occurs; that infrastructure needs will be funded by the developer; that additional public infrastructure that will benefit the community such as, road improvements, access improvements, will also be paid for by the developer. There are no wetlands on this particular property; that the property is located in a Food Zone X, unshaded; that there are no historical or natural features on the property; that the soils on this site are deep, well-drained soils; that there is a soil map in the exhibits that shows the type of soils. The soils are well-drained, very deep, sandy soils good for onsite septic systems and good for stormwater Best Management Practices; that the properties are not in any ground water protection zone areas; that the property will be served by commercial on-site wastewater disposal system; that there are no existing wooded areas on the site that will need to be disturbed; that the site is in a Tier III County Sewer area so at some point sewer will be in the area or the Applicant can seek other means; that the Applicant is looking at on-site wastewater treatment system for this property; that one of the things in the Future Land Use Plan directing development to areas that have existing infrastructure and were it can be secured cost effectively; that the road infrastructure is there because it is on US Route 113 which is the principle arterial and any road improvements taking access off Gov. Stockley Rd. will be borne by the Applicant; that the other thing it talks about encouraging tourism and other responsible commercial and industrial job providers to locate and invest in the County; that Mr. Baker has a proven track record of investing in the County; that he employees about 150 right now and they are looking to expand their facility.

Mr. Davidson stated that he feels that the proposed rezoning meets the general purpose of the zoning laws being located in an appropriate location, meeting the purpose of this district and Future Land Use Plan strategies and objectives of the Comprehensive Plan that promotes growth and development through community design, utilities, transportation and economic development in an area where there is a general mixture of commercial and service activity which is essential and desirable for the welfare of the County.

Mr. Hopkins asked if it is possible to get an entrance from Route 113 to the primary parcel. Mr. Davidson replied that the primary entrance cannot be off Route 113; that it must be accessed off a secondary road; that it will depend on how the traffic impact study determines site circulation and how it will be safer at the intersection. Mr. Hopkins stated that there is a need for a gas station there, but it might be easier if there is a way in and way out. Mr. Davidson commented that DelDOT would have to do a traffic analysis for whatever is proposed for the property. Sometimes you relieve the

traffic at the intersection by allowing right in and right out. They will just not allow you full access. Mr. Hopkins agreed that it makes good sense.

The Commission found that no one spoke in favor of or in opposition to the Application. Chairman Wheatley announced that the Public hearing for the Application was now closed.

At the conclusion of the Public Hearings, the Commission discussed this application. Mr. Hopkins agreed with Mr. Robertson that he would prefer to defer consideration of the application to allow time for a motion to be prepared.

Motion by Mr. Hopkins, seconded by Ms. Stevenson to defer application CZ 1903 for Wayne Baker for further consideration. Motion carried unanimously 5-0.

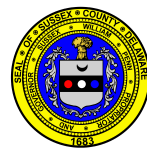
Draft Minutes of the Planning & Zoning Commission Meeting of February 13, 2020

The Commission discussed this application which has been deferred since January 23, 2020.

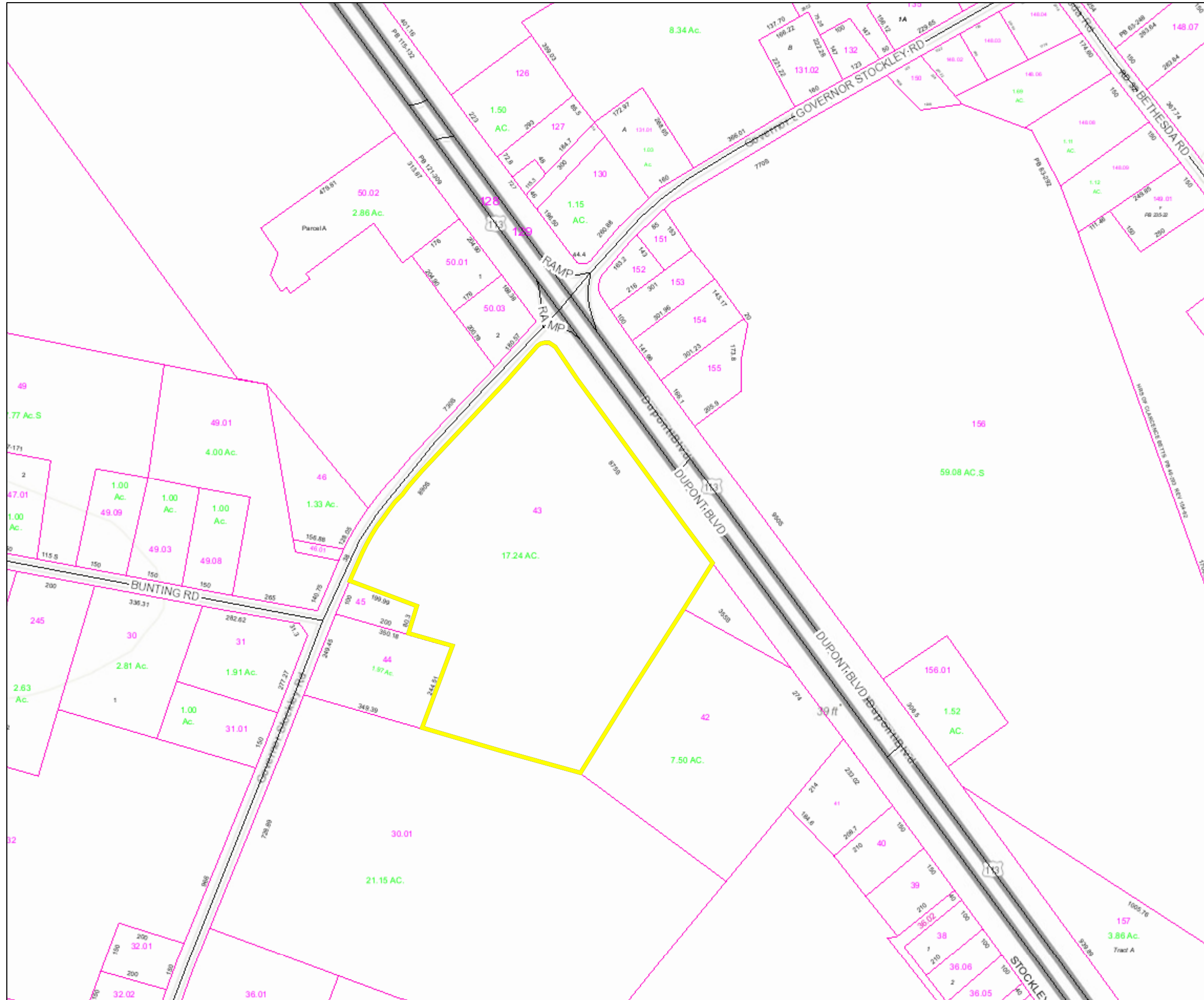
Mr. Hopkins moved that the Commission recommend approval of application CZ 1903 for W. Wayne Baker for a change in zone from AR-1 to C-2 Medium Commercial based upon the record from the public hearing and for the following reasons:

1. The applicant is seeking a change in zone to C-2 Medium Commercial. The purpose of this district is to allow retail sales and consumer services. It is intended to be located near arterial and collector streets.
2. This property is located along Route 113 at the intersection with Governor Stockley Road. This is an appropriate location for the uses that are permitted in the C-2 District.
3. This property is at a major intersection where there are properties at two other corners that are currently zoned C-1 General Commercial. This rezoning is consistent with the zoning and uses of this intersection.
4. The rezoning will not have a significant impact upon neighboring properties or roadways.
5. Any development that occurs on the property will require site plan review by the Sussex County Planning & Zoning Commission after taking into account all required agency reviews, including DelDOT, State Fire Marshall and the Sussex Conservation District.
6. No parties appeared in opposition to this application.
7. For all of these reasons it is appropriate to rezone this property from AR-1 to C-2 Medium Commercial.

Motion by Mr. Hopkins, seconded by Ms. Stevenson, and carried unanimously to recommend approval of application C/Z 1903 – W. Wayne Baker for the reasons and the conditions stated in the motion. Motion carried 5-0.



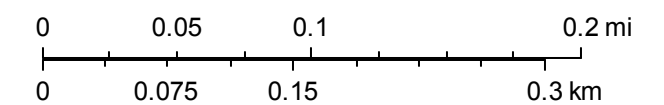
Sussex County

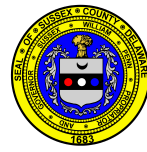


PIN:	133-6.00-43.00
Owner Name	BAKER W WAYNE
Book	0
Mailing Address	17420 MINOS CONAWAY RD
City	LEWES
State	DE
Description	RD GUMBORO GEO #432
Description 2	17.24 ACRES W/IMP
Description 3	POSS REV
Land Code	

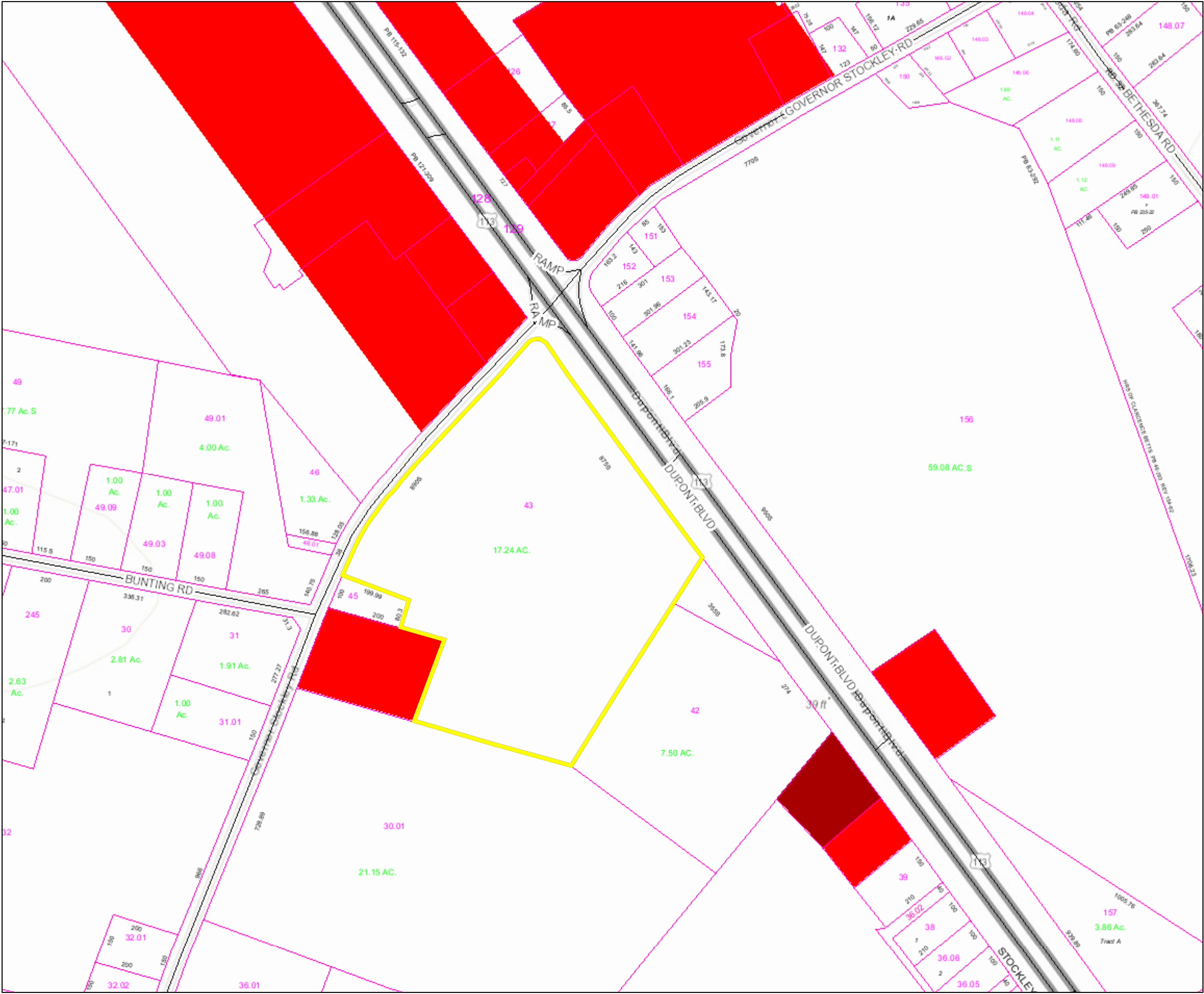
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Override 1
- polygonLayer**
Override 1
- Tax Parcels
 - Streets
 - County Boundaries

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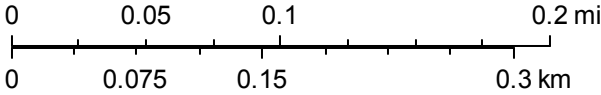
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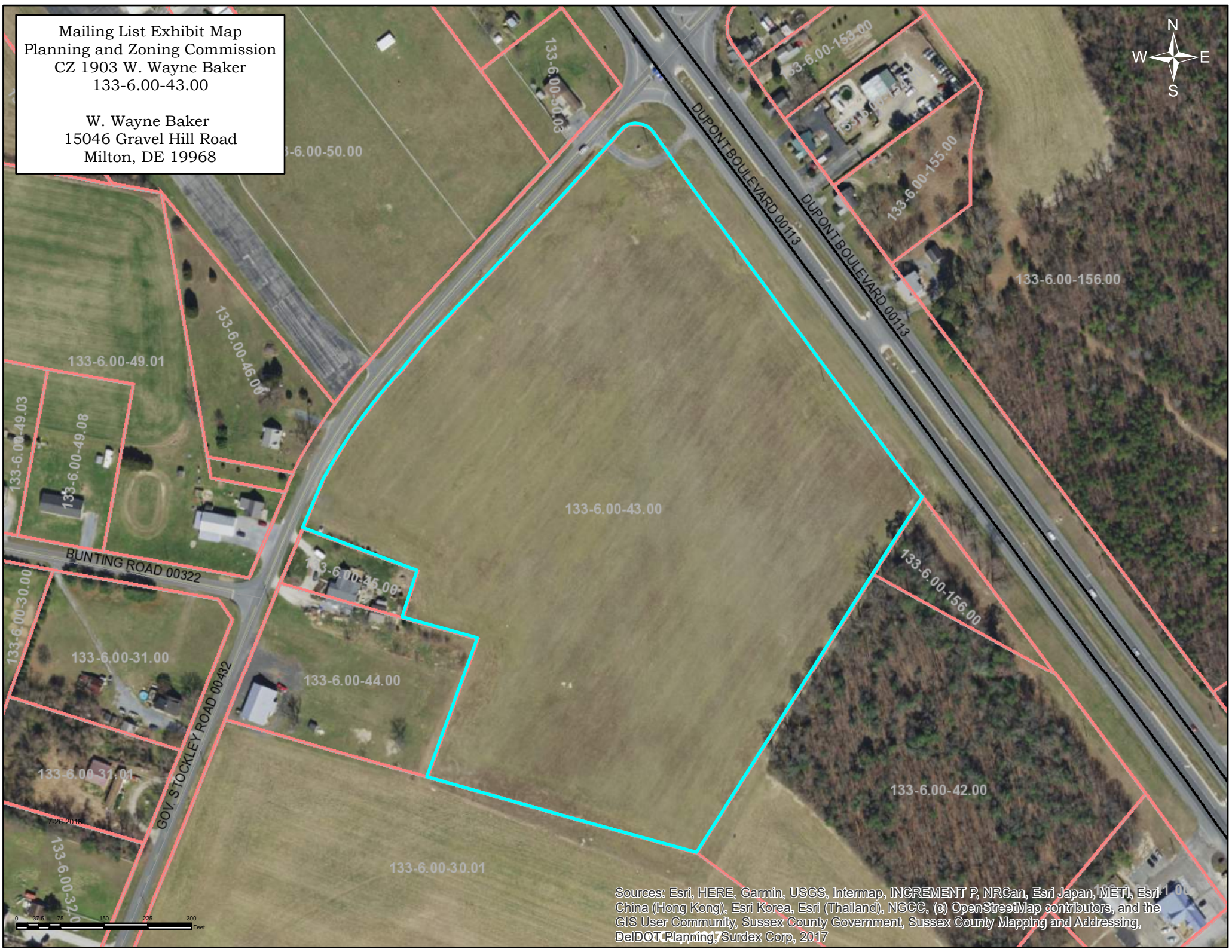
- polygonLayer**
Override 1
- polygonLayer**
Override 1
- Tax Parcels
- Streets

1:4,514



Mailing List Exhibit Map
Planning and Zoning Commission
CZ 1903 W. Wayne Baker
133-6.00-43.00

W. Wayne Baker
15046 Gravel Hill Road
Milton, DE 19968



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



Memorandum

To: Sussex County Planning Commission Members
From: Jennifer Norwood, Planner I
CC: Vince Robertson, Assistant County Attorney and applicant
Date: January 15, 2020
RE: Staff Analysis for CZ 1903 W. Wayne Baker

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1903 W. Wayne Baker to be reviewed during the January 23, 2020 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Change of Zone for parcel 133-6.00-43.00 to facilitate a change from the Agricultural Residential (AR-1) Zoning District to a Medium Commercial (C-2) Zoning District and is located on the southwest corner of DuPont Blvd. (Route 113) and Governor Stockley Rd.. The size of the property is 17.25 acres +/-.

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map in the plan indicates that the property has the land use designation of "Low Density."

The surrounding land use to the north, south, east, and west is designated on the Future Land Use Map as "Low Density Areas" (except for a parcel to the south designated "Commercial Area" and multiple parcels to the northwest of the property along both sides of DuPont Hwy are designated "Commercial Areas". Low Density Areas primarily recognize businesses that support agricultural activities and the development of single-family homes. The focus of retail and office uses in Low Density Areas should be for providing convenience goods and services to nearby residents.

Commercial Areas include concentrations of retail and service uses, commercial corridors, shopping centers, hotels, motels, car washes and auto dealers. This includes other medium and larger scale commercial uses as well as mixed-use buildings.

Table 4.5-2 "Zoning Districts Applicable to Future Land Use Categories" of the 2018 Sussex County Comprehensive Plan states that the Medium Commercial (C-2) Zoning District may be appropriate in "Low Density" Areas. Additionally, the Medium Commercial District (C-2) Zoning is appropriate in Commercial Areas.

The property is zoned AR-1 (Agricultural Residential District). The surrounding parcels are zoned both AR-1 (Agricultural Residential District) and C-1 (General Commercial District).



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

Since 2011, there has been a Conditional Use No. 2113 which was approved for a electrical generation and nutrient recovery facility by Sussex County Council on July 31, 2018.

Based on the analysis of the land use, surrounding zoning and uses, a change of zone to allow for a property zoned Medium Commercial (C-2), could be considered as being consistent with the land use, area zoning and surrounding uses.

Introduced 10-29-19 (Reintroduction)

**Council District No. 2 - Wilson
Tax I.D. No. 133-6.00-43.00
911 Address: Not Available**

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 17.25 ACRES, MORE OR LESS

WHEREAS, on the 4th day of September 2019, a zoning application, denominated Change of Zone No. 1903, was filed on behalf of W. Wayne Baker; and

WHEREAS, on the ____ day of _____ 2020, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1903 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

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

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Dagsboro Hundred, Sussex County, Delaware, and lying on the southwest corner of DuPont Boulevard (Route 113) and Governor Stockley Road, and being more particularly described in the attached legal description prepared by Pennoni Associates, Inc., said parcel containing 17.25 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.