

Sussex County Council Public/Media Packet

MEETING:

March 2, 2021

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

COUNTY COUNCIL

MICHAEL H. VINCENT, PRESIDENT
JOHN L. RIELEY, VICE PRESIDENT
CYNTHIA C. GREEN
DOUGLAS B. HUDSON
MARK G. SCHAEFFER



Sussex County

DELAWARE
sussexcountyde.gov
(302) 855-7743

SUSSEX COUNTY COUNCIL

A G E N D A

MARCH 2, 2021

1:30 P.M.

PLEASE NOTE THAT THE MEETING WILL BE HELD AT THE FOLLOWING LOCATION: ROOM 540, CARTER PARTNERSHIP CENTER AT DELAWARE TECHNICAL COMMUNITY COLLEGE, 21179 COLLEGE DRIVE, GEORGETOWN

PLEASE REVIEW MEETING INSTRUCTIONS AND PARTICIPATION INSTRUCTIONS AT THE BOTTOM OF THE AGENDA

Call to Order

Approval of Agenda

Approval of Minutes – February 16, 2021

Reading of Correspondence

Public Comments

Todd Lawson, County Administrator

1. Administrator’s Report

Public Hearings

“AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 235-13.00-29.00, 235-13.00-29.01 & 235-14.00-570.00”



Change of Zone No. 1923 filed on behalf of Reed Farms, LLC

“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A HI-1 HEAVY INDUSTRIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 67.31 ACRES, MORE OR LESS” (property lying on the west side of Gravel Hill Road (Route 30) approximately 309 feet south of Milton-Ellendale Highway (Route 16) (Tax I.D. No. 235-13.00-29.00, 29.01 and 235-14.00-570.00) (911 Address: 14888, 14866 & 14742 Gravel Hill Road, Milton)

Conditional Use No. 2201 filed on behalf of Pine Acres, Inc.

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CAMPGROUND TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 8.0 ACRES, MORE OR LESS” (property lying on the south side of Dogwood Lane approximately 305 feet south of Radie Kay Lane, approximately 0.29 mile northeast of Long Neck Road (Tax I.D. No. 234-24.00-39.02 and 39.06) (911 Address: 25491 Dogwood Lane, Millsboro)

Recess

Change of Zone No. 1891 filed on behalf of Chappell Farm, LLC

“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 BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 6.4 ACRES, MORE OR LESS” (property lying on the northwest corner of Coastal Highway (Route 1) and Cave Neck Road) (Tax I.D. No. 235-23.00-1.02 (portion of) (911 Address: 30511 Cave Neck Road, Milton)

Change of Zone No. 1892 filed on behalf of Chappell Farm, 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 BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 8.53 ACRES, MORE OR LESS” (property lying on the northwest corner of Coastal Highway (Route 1) and Cave Neck Road) (Tax I.D. No. 235-23.00-1.02 (portion of) (911 Address: 30511 Cave Neck Road, Milton)

Conditional Use No. 2193 filed on behalf of Chappell Farm, LLC

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY (128 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 6.4 ACRES, MORE OR LESS” (property lying on the northwest corner of Coastal Highway (Route 1) and Cave Neck Road) (Tax I.D. No. 235-23.00-1.02 (portion of) (911 Address: 30511 Cave Neck Road, Milton)

Council Members' Comments

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

Possible action on Executive Session items

Adjourn

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on February 23, 2021 at 4:00 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.

Further meeting access instructions are listed below.

-MEETING INSTRUCTIONS-

The Sussex County Council is holding this meeting under the authority issued by Governor John C. Carney through Proclamation No. 17-3292.

PLEASE NOTE: The meeting is to be held at the following location: **Room 540, Carter Partnership Center at Delaware Technical Community College, 21179 College Drive, Georgetown.**

The public is encouraged to view the meeting on-line. Any person attending in-person will be required to go through a wellness and security screening, including a no-touch temperature check. The public will be required to wear a facial mask.

Seating capacity is limited and seating assignments will be enforced.

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

The County is required to provide a dial-in telephone number for the public to comment during the appropriate time of the meeting. **Note, the on-line stream experiences a 30-second delay.** Any person who dials in should listen to the teleconference audio to avoid the on-line stream delay.

To join the meeting via telephone, please dial:

Conference Number: 1-302-394-5036

Conference Code: 570176

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

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

If any member of the public would like to submit comments electronically, please feel free to send them to rgriffith@sussexcountycle.gov. All comments shall be submitted by 4:30 P.M. on Monday, March 1, 2021.

#

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, FEBRUARY 16, 2021

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, February 16, 2021, at 10:00 a.m., in Council Chambers, with the following present:

Michael H. Vincent	President
John L. Rieley	Vice President
Cynthia C. Green	Councilwoman
Douglas B. Hudson	Councilman
Mark G. Schaeffer	Councilman
Todd F. Lawson	County Administrator
J. Everett Moore, Jr.	County Attorney

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 061 21
Approve
Agenda**

A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley, to approve the Agenda, as posted.

Motion Adopted: 5 Yeas.

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

Minutes

The minutes of February 9, 2021 were approved by consent.

**Public
Comments**

Public comments were heard and the following spoke: Paul Reiger (regarding drainage standards for minor subdivisions).

**Sussex
Con-
serva-
tion
District
Presen-
tation**

David Baird, District Coordinator, Sussex Conservation District, provided an update on the work that the District has been doing, including agriculture conservation, sediment and stormwater, heavy equipment, conservation cost share program, cover crop program, tax ditch cost share program, drainage cost share program, and Resource Conservation & Development projects in partnership with RC&D (DNREC). Mr. Baird also discussed initiatives moving forward, i.e. the MS4 Program (municipal separate storm sewer systems) and the Watershed and Flood Prevention Operations Program. Mr. Baird presented the District's FY 2022 funding requests: Conservation Cost Share - increase current funding level from \$50,000 to \$100,000; Tax Ditch Cost Share – maintain or increase current funding level of \$125,000; County Drainage Cost Share – maintain or increase current funding level of \$125,000; Contracted Services – continue and expand utilization of SCD's Equipment Program as an extension of Sussex County's Engineering and Public Works Operations.

Administrator's Report

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

1. Council Meeting Schedule

A reminder that Council will not meet on Tuesday, February 23rd. The next regularly scheduled Council meeting will be held on March 2nd at 1:30 p.m. in Room 540, at the Carter Partnership Center at Delaware Technical Community College, 21179 College Drive, Georgetown.

**Proclamation/
Libraries
Random
Acts of
Kindness
Week**

Kathy Graybeal, Sussex County Librarian, reported on the Libraries' Random Acts of Kindness Week noting that it is just one event in their year-long kindness projects.

Council presented a Proclamation entitled "PROCLAIMING FEBRUARY 14 THROUGH 20, 2021 AS "SUSSEX COUNTY LIBRARIES RANDOM ACTS OF KINDNESS WEEK".

Mrs. Graybeal responded to questions raised by Council regarding the opening of Sussex County's libraries.

**Shining
Star
Employee
Recognition
Awards**

Karen Brewington, Human Resources Director, announced that the following employees were the County's First Quarter Shining Star winners: Patricia Allegra Smith (Sheriff Department), recipient of the *Above and Beyond* badge; Amanda Hollis (Information Technology), recipient of the *Above and Beyond* badge, and Tyler Short (Milton Library and Information Technology), recipient of the *Together We Can Together We Will* badge.

**Herring
Creek SSD/
Contract
Amend-
ment/
WR&A**

Hans Medlarz, County Engineer, presented for Council's consideration Whitman, Requardt & Associates' Amendment No. 3 to the EJCDC Base Agreement (Herring Creek Sanitary Sewer District) in the not to exceed amount of \$448,676.00 for Construction Administration and Inspection Services associated with all three gravity sewer construction contracts contingent upon USDA concurrence (Contracts 2, 3 and 4). Mr. Medlarz noted that this is the WRA amendment for all three remaining contracts for Construction Administration and Construction.

**M 062 21
Approve
Contract
Amend-
ment/
WR&A/
Herring
Creek SSD**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that Amendment No. 3 to the EJCDC Base Engineering Contract for the Herring Creek Sanitary Sewer District with Whitman, Requardt & Associates be approved in the amount not to exceed \$448,676.00 for Construction Administration and Inspection Services for Herring Creek Gravity Sewer Construction Contracts 2, 3 and 4, contingent upon USDA concurrence.

Motion Adopted: 5 Yeas.

**M 062 21
(continued)**

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

**Weston
Solutions/
Landfill
Professional
Services/
Landfill
RFR/
Increase
Scope and
Fee of
Task Order**

Hans Medlarz, County Engineer, presented an updated Scope of Work and cost estimate for completion of the Remedy Evaluation Report (RER) for the five Sussex County landfills (excludes Laurel Landfill). Weston Solutions, Inc. has negotiated regulatory matters on behalf of the County throughout the years, reducing landfill monitoring needs and assisting the County in maintain regulatory compliance. Each year, Weston provides a Scope of Work with cost estimates, which is included in the Engineering Department's annual budget. Consistency in reporting requirements changed, however, as DNREC provided a condition when approving the recent landfill Annual Report; DNREC requested a Remedy Evaluation Report (RER) be developed and submitted, noting the RER is a mandatory report which should be provided every 5 years. It was recognized that a RER had never been developed and submitted to DNREC. After discussion with the Engineering Department, Weston provided a task to complete the RER in the FY 2021 Scope of Work. Weston provided a scope and fee estimate to complete this initial RER report. An additional \$23,000.00 is requested for the RER task order under the FY 2021 Budget, resulting in a new not-to-exceed total task order value of \$48,000.00. The Engineering Department recommends Council increase the FY 2021 scope and fee for Weston's Task Order LF-2021-3 as requested and authorizes the County Engineer to execute the task order amendment.

**M 063 21
Approve
Task
Order
Increase/
Landfill
RFR**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that Council approves the \$23,000.00 increase to Weston Solutions, Inc. Fiscal Year 2021 Task Order (LF-2021-3) for additional services related to completing the Sussex County Landfill Remedy Evaluation Report (RER).

Motion Adopted: 5 Yeas.

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

**Geo-
technical
Engineering
On-Call
Services
Contract
Amendment**

Mark Parker, Assistant County Engineer, presented Amendment No. 1 to the Geotechnical Engineering Services Contract. In 2019, the Council authorized an open-ended Geotechnical Services Contract, which was designed to assist with soil sampling and analysis in various Engineering Department projects. The Contract was initially executed with Hillis-Carnes Engineering (HCA) in the Not-to-Exceed (NTE) cost of \$50,000.00. The County is currently in the second year of the Contract and, at this point, with over four (4) months left in this Fiscal Year, it is anticipated that additional geotechnical services will be needed to support

(continued) miscellaneous department initiatives and activities. As a result, the Engineering Department is requesting that the NTE cost for the current fiscal year be increased by \$20,000.00 for a total annual NTE amount of \$70,000.00.

M 064 21 A Motion was made by Mr. Hudson, seconded by Mr. Rieley, based on the recommendation of Sussex County Engineering Department, that the Not-to-Exceed cost associated with the Geotechnical Engineering Services Contract with Hillis-Carnes Associates be increased for Fiscal Year 2021 by \$20,000.00 for a total annual Not-To-Exceed amount of \$70,000.00.

Approve Contract Amendment for Geotechnical Engineering On-Call Services Contract Motion Adopted: 5 Yeas.

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

Master Planning/ Land Use Mr. Lawson provided introductory statements regarding the next agenda item – Land Use Master Planning. He stated that this is an ongoing initiative outlined in the Comprehensive Plan, previously discussed with Council in 2020.

Jamie Whitehouse, Planning and Zoning Director, and Vince Robertson, Assistant County Attorney, gave a presentation on Master Planning (the Master Planning Zoning District (MPZ)) a presentation given previously in 2020). Mr. Whitehouse stated that the Master Plan is contained in the Community Design section of the Comprehensive Plan, as a way to foster improved community design within larger scale developments; it is like a Residential Planned Community (RPC), but with more diverse development types and design flexibility. It is not intended to replace RPCs, subdivisions or more typical types of commercial development; it is designed to supplement the existing range of development types. Also, it is intended to promote unified, integrated large-scale developments. where appropriate, rather than multiple, unrelated subdivisions and commercial developments and the separate approval processes associated with each of these. It is intended to incorporate the following areas as part of a single unified development plan: residential areas, neighborhood commercial areas, professional and medical and financial office areas, and civic areas. Additionally, it is intended to promote interconnectivity throughout the development and with existing DelDOT roadways, with primary interconnecting roads dedicated to DelDOT.

Mr. Robertson reviewed the next steps in the process: continue working on the draft of the Ordinance, consult with DelDOT on road coordination within a Master Planned Community, receive the approval of the Office of State Planning Coordination, introduction of the Proposed Ordinance, and public hearings on the Proposed Ordinance.

Introduction of Proposed Ordinance Mr. Rieley introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR HARDSCAPING, OUTDOOR LIVING CONSTRUCTION AND A COMMERCIAL BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 6.65 ACRES, MORE OR LESS” (Conditional Use No. 2256) filed on behalf of Jerry Meiklejohn LLC (Tax I.D. No. 533-5.00-86.00) (911 Address: 32252 Frankford School Road, Frankford).

The Proposed Ordinance will be advertised for public hearing.

M 065 21 Go Into Executive Session At 11:42 a.m., a Motion was made by Mr. Rieley, seconded by Mr. Hudson, to recess the Regular Session and go into Executive Session to discuss matters relating to land acquisition.

Motion Adopted: 5 Yeas.

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

Executive Session At 11:45 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the purpose of discussing matters relating to land acquisition. The Executive Session concluded at 12:50 p.m.

M 066 21 Reconvene Regular Session At 12:54 p.m., a Motion was made by Mr. Rieley, seconded by Mr. Hudson, to come out of Executive Session and reconvene the Regular Session.

Motion Adopted: 5 Yeas.

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

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

M 067 21 Adjourn A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to adjourn at 12:55 p.m.

Motion Adopted: 5 Yeas.

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

Respectfully submitted,

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

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

DRAFT

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DIRECTOR OF PLANNING & ZONING
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Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Council
The Honorable Michael H. Vincent
The Honorable Cynthia C. Green
The Honorable Douglas B. Hudson
The Honorable John L. Rieley
The Honorable Mark G. Schaeffer

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

CC: Everett Moore, County Attorney

Date: February 26, 2021

RE: County Council Report for Ord 20-07 Relating to the Future Land Use Map

The Planning and Zoning Department received an application (CZ 1923 on behalf of Reed Farms, LLC) for a Change of Zone of Tax Parcels: 235-13.00-29.00, 235-13.00-29.01, & 235-14.00-570.00 from Agricultural Residential Zoning District (AR-1) to Heavy Industrial Zoning District (HI-1). The area of the parcels is 67.31 acres +/-.

As the Future Land Use Map within the adopted 2019 Comprehensive Plan designates the parcels as being within the Low Density Area, which does not permit such HI-1 zoning, an Ordinance was introduced to enable County Council to consider the potential revision of the Future Land Use Map to change the designation of the parcels to the Developing Area.

The potential revision was submitted to the Office of State Planning Coordination for PLUS review at the meeting of December 16, 2020. The written comments of that meeting are included in the paperless packet.

The Planning and Zoning Commission held a public hearing on December 17, 2020. At the meeting of February 25, 2021, the Commission recommended that County Council adopt the Ordinance for the 8 reasons outlined within the motion (included below).

Below are the draft minutes from the Planning & Zoning Commission meetings of December 17, 2020 and February 25, 2021.

Draft Minutes of the December 17, 2020 Planning & Zoning Commission Meeting

Ord. 20-07 - Future Land Use Map

AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE



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

COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 235-13.00-29.00, 29.01 & 235-14.00-570.00

Mr. Whitehouse advised the Commission that submitted into the record for Ord. 20-07 is a copy of the submission to the State's PLUS review service, a copy of the ordinance and a copy of the exhibit map; that the written response has not yet been received from PLUS review but the State did not raise any objection to the Ordinance and noted that it is contained within Level 4 in terms of the States Spending Strategies; that written comments will be available over the next few weeks; and that in relation to C/Z 1923 submitted into the record is a copy of the Applicant's site plan, a copy of the Applicant's exhibit book, comments from the Sussex County Engineering Department Utility Planning Division, a letter from Delmarva Central Railroad, a copy of the Applicant's DelDOT Service Level Evaluation response. Mr. Whitehouse noted that the Office of Planning and Zoning received three comments in opposition to the Application.

Mr. Robertson asked for clarification regarding the PLUS response. Mr. Whitehouse stated that the PLUS response is only for the Ordinance because it is a Comprehensive Plan Amendment.

The Commission found that Mr. David Hutt was present on behalf of the Applicant, Reed Farms, LLC, that also present are Mr. Richard Reed, Mr. Jim Reed, and Ms. Beverly White, principals in the ownership of the subject properties, Mr. Mark Davidson, principal land planner with Pennoni Group; that many of the factors that apply to the change in the land use map also apply to the change of zone application; that an exhibit notebook was submitted as part of the record; that the properties are located between the Milton Ellendale Highway (Rt. 16) and Gravel Hill Road (Rt. 30); that the presentation is divided into two parts; that the first part will focus on the amendment to the Future Land Use Map and the second part on the rezoning request; that section 4.4 of the 2019 Comprehensive Plan states that Future Land Use Plan is the most influential part of this Comprehensive and goes on to describe the basis for the Future Land Use Plan with seven bullet points; that the fourth bullet point states "to encourage tourism and other responsible commercial and industrial job providers to locate and invest in the County."; that as the Future Land Use Plan seeks to encourage commercial and industrial jobs, it is important to look at other sections of the Plan that also speak to those aspects in Sussex County; that Chapter 9 speaks to the four industrial parks and states "while there are some vacancies in some of these business and industrial parks that should be markets to new employers, the County should also continue to look for new business and industrial sites attractive to businesses looking to locate to the County. Sites that will be most attractive to new businesses are those that have access to utilities (natural gas, fiber optic, etc.) as well as low electric rates."; that the subject property has access to utilities including natural gas which is to the south; that this site is in close proximity to the waste water treatment operated by Artesian; that Chapter 13 is the mobility element in the Comprehensive Plan and section 13.2 describes the County's freight network as being an important part of the County's transportation network as well as the County's economy; that the subject properties have extensive frontage onto roadways which are designated by DelDOT as major collectors; that there is room for an entrance on Route 16 and possibly two entrances on Route 30 in the future; that in addition to having frontage on two collector roads, the southern boundary of the property is adjacent to the Delmarva Central Railroad line; that is mentioned in section 13.2 of the Comprehensive Plan about reducing truck impacts by shifting freight to rail; that Delmarva Central Railroad has submitted a letter of support for the Application; that Ord.20-07 seeks to change the designation of these three properties on the Future Land Use Map from Low-Density to a Developing Area, which is one of the County's seven Growth Areas; that there are ten factors to consider when deciding if a property should be in a Growth Area; that these factors apply equally to

Ord. 20-07 and to the Change of Zone application; that the first factor is proximity to an incorporated municipality; that these three properties are located within one mile of the Town of Milton; that this property is across the street from a Growth Area within the Town of Milton boundary; that properties to the north and to the south are currently designated as being in the growth area on the existing Future Land Use Map of Sussex County; that these properties are also located approximately one half mile from the Town Center Area on the Future Land Use Map and is consistent with properties set forth in the Comprehensive Plan for Developing Areas; that developing areas in the Plan are described as being adjacent to municipal areas; that in the developing area of the Comprehensive Plan it states that portions of the developing area with good road access and few nearby homes should allow for business and industrial parks; that the nearby homes are mostly located on the eastern side of

Gravel Hill Road (Rt. 30); that the second factor to consider to designate a property as being in a Growth Area is the presence of public water and public sewer nearby, that the subject properties are in close proximity to the regional sewer treatment plant; that Artesian has an easement across the subject property so connection would be a simple process; that the third factor for consideration is that public sewer will be available within five years, and this is not applicable as Artesian is already providing public sewer in the area; that the fourth factor is location near a major road or intersection which has been previously addressed; that the fifth factor is the character and intensity of surrounding development including proposed development; that there are a number of commercial businesses in the area; that the sixth factor is location relative to major preserved lands; that adjacent to the north of these properties is a tract of land of more than 500 acres which is in an agricultural easement and serves as part of the waste water disposal for Artesian and homes will not be built on this site in the future; that the seventh factor for consideration for a growth area is the location of water bodies and these properties are not adjacent to water bodies; that the eighth factor for consideration is the location of Agricultural and other protected easements which is similar to the sixth factor which has been addressed; that the ninth factor is the area's environmental character and on these properties there are no wetlands, it is not in an excellent recharge area and it is not in a flood plain; that the tenth factor is how the area ranks according to the Delaware's Strategies for State Policies and Spending Document, Level I, II, III, or IV; that the property is identified as being in Investment IV and the Applicant would submit that because the County designated it as being a Low-Density Area; that adjacent to these properties are areas designated as being in Investment Level II and III; that the consideration of these ten factors supports the placement of these properties in a Growth Area; that it also makes sense because immediately to the south is an Industrial Area and to the north and east is also in a Growth Area as is proposed for this property; that the characteristics that apply to the properties in the Growth Area also apply to the subject properties; that many of the same characteristics will apply to the requested change in zone for the property; that the parcels comprise of 67.31 acres and are currently zoned AR-1 and that the application seeks to change the zone to HI-1; that two of the parcels are unimproved and currently used for agricultural purposes and the third parcel is improved with a residence which would be repurposed or removed from the site depending on the future uses; that these properties can comply with the County Code requirements for the HI-1 zoning district; that the property to the south is zoned LI-2 and to the north properties are zoned C-1; that the properties are surrounded by various zoning categories; that close to these properties the Town of Milton has designated some areas as being in the light industrial area which further demonstrates the nature of this area; that another element for consideration for any change of zone is traffic and when a Service Level Evaluation request is sent to DelDOT for a rezoning, DelDOT will often indicate that a Traffic Impact Study (TIS) is not required until a subdivision or land development plan is proposed; that many of the letters in opposition stated traffic concerns and Mr. Mark Davidson, Principal Land

Planner will address those issues.

Mr. Davidson stated DelDOT will require a TIS when the site plan is submitted for the uses within the property; that DelDOT will require additional right-of-way dedication, 15-foot permanent easement and shared use path on both road frontages; that because these roads are major collector roads, the Applicant will have to bring the roads up to major collector standards; that additional expansion of the roads to include right turn lanes and left turn lanes would be required; that some of the letters of opposition had concerns about the entrance being directly opposite to the entrance to the Pemberton Development: that Section 5.2.2 (D) of the DelDOT Coordination Manual it states that all entrances should be located directly across from an entrance on the opposite side of the roadways; that it goes on to mention sight distances and that entrances are at the discretion of DelDOT and distance from adjacent streets; that there were some concerns about the curve in the road which is close to the proposed entrance; and that DelDOT will require that sight distance is maintained so the shrubbery will have to be cleared and possible some additional right-of-way dedication.

Mr. Hutt stated that there is the opportunity for interconnectivity with other properties; that the purpose statement for HI-1 in the Sussex County Code states that the “purpose of this district is to provide for a variety of industrial operations but to restrict or prohibit those industries which have characteristics likely to produce serious adverse effects within or beyond the limits of the district”; that this is significant because a concern raised was about the nature of commercial and industrial uses but the purpose specifically states to restrict or prohibit those industries likely to produce serious adverse effects and provides a list of approximately 45 uses or categories of uses that are potentially hazardous and these would require a public hearing before the Board of Adjustment prior to a person getting a site plan approved by the Commission; that one of the benefits of changes to the Future Land Use Map and the change of zone is job creation and specifically jobs beyond the tourism that Sussex County is renowned for located along the Eastern Side of the County; that the tourism jobs are seasonal in nature; that the nature of jobs related to industry are full-time year round jobs; that it is expected that the use created on these properties will require a workforce; that the proximity to the Town of Milton should supply the workforce and create a short commute for workers on this site in the future; that the County has a continual demand to build more homes and workspaces and as development occurs there is less vacant land and less industrial area for that land; that development needs to occur in a way that the County grows in a sustainable manner which is the purpose of the Comprehensive Land Use Plan; that often the word industrial makes people think of a low value area, dirty area, noisy area or some other nuisance type factor, however, there are many new innovations that have created industry that can help grow an area in an economical and green manner; that one example would be distribution warehousing which can be done in green and clean environments; that based upon the Application’s consistency with the properties proximity to industrial and commercial areas both existing and proposed, along with the location along two major roadways and adjacent to a rail line and the other features and characteristics set forth in the presentation, the Applicants asks that the Commission recommend approval of the amendment to the Future Land Use Map as well as the change of zone designation from AR-1 to HI-1; and that the Applicant has proposed Findings of Fact which will be submitted to Staff.

Ms. Stevenson asked if there was a letter from Artesian confirming that they will supply water and sewer to the site.

Mr. Hutt stated that there is not a letter from Artesian.

Mr. Hopkins stated that he thinks it is an ideal location for an industrial site.

Ms. Wingate stated that one of the opposition letters asked about landscaping on Route 30 to eliminate some of the noise and lighting and asked if that is something the Applicant would be willing to accommodate.

Mr. Hutt that there would be room at accommodate screening and other types of landscaping devices to assist in that process and that the HI-1 zoning district has a large front yard setback.

Mr. Mears agreed with Mr. Hopkins that the subject properties is an ideal location for this type of use.

Ms. Stevenson asked if this could be done as a conditional use instead of change of zone.

Mr. Robertson stated that it is difficult to say that because it would depend on what the individual uses would be but it would not be the best way to go as you would have a number of conditional uses that are not related to each other on the property.

Chairman Wheatley stated that there are not many applications for HI-1 zoning; that the most hazardous use on the list is probably the asphalt plant; that it is on the list of things that could go there; that it is also on the list of things that would require Board of Adjustment approval; that HI-1 zoning is being requested for the entire parcel but portions of the site are being designated for light industrial and questioned why HI-1 is being selected for the entire parcel.

Mr. Hutt stated that HI-1 was being requested because of the features on the property and the proximity to the rail access; that the heavier uses would remain close to the rail line and as you get closer to Route 30 there would be the lighter uses.

Chairman Wheatly asked if the Applicant has had conversations with Artesian about the plans for the site.

Mr. Davidson stated that there are easements on the subject properties and the existing force main is already on the property; that access to that line is granted by Artesian and they will allow the future sewer to be connected to the force main.

Chairman Wheatley asked if LI-1 and LI-2 are permitted in the HI-1 district.

Mr. Robertson stated that both categories are permitted in the HI-1 district.

The Commission found that Mr. Keith Steck spoke in opposition to the Application. Mr. Steck stated that he is not opposed to the Applicant using the land; that heavy industry is not appropriate from a safety perspective or from a development perspective; that they should consider a medical facility, grocery store or other services; that jobs are needed in the area which would come with a medical facility; that an industrial operation is a particular concern due to the proximity to Bakers; that putting an industrial site is not consistent with the preserved lands in the area; and that it is not consistent with the long-term growth according to the Comprehensive Plan.

The Commission found that Helen Ralston spoke by teleconference in opposition to the Application. Ms. Ralston stated that it was not known about the change to the Future Land Use Map.

Chairman Wheatley explained that it was correctly advertised and that it is procedural that if the zone is changed it is necessary to also change the map as the two things work together.

Ms. Ralston stated that changing this parcel of land to Heavy Industrial would create a substantial change to the rural, agricultural and residential character of this area; that changes to the roadway would require major construction; that it would be extremely disruptive; that it may be a number of years before sewer service will be available; that she objects to the Railroad Spur unloading from Railroad lines as it is a noisy and messy process as it requires heavy equipment and more trucks; and ask the Commission to consider if this operation were to be placed across the street from their property.

The Commission found that Bob Valihura, Esq. spoke by teleconference in opposition to the Application. Mr. Valihura stated that he represents the Pemberton Property Owners Association; that he was prepared to present an argument for his client; that his client has not had the time to go back and speak with the homeowners to decide how they want to proceed; that the Department of Planning and Zoning recommendation changed on December 8 and did not allow him the time to prepare for tonight; that he opposes the Application because he does not know what the position of the Community is; and that a letter was submitted outlining how the change impacts his clients. Chairman Wheatley asked Mr. Valihura to detail the change that he is referencing.

Mr. Valihura stated that the original staff analysis stated that “it could be considered to be consistent with the land use area, zoning and surrounding uses” to “it could be considered to having a degree of consistency with the land use area, zoning and surrounding uses”.

Chairman Wheatley asked the Director of Planning and Zoning to respond to Mr. Vilihura’s statement.

Mr. Whitehouse responded that Staff do not make a recommendation but do include a helpful analysis; that different staff members use slightly different wording to convey the same meaning; that there was no intent to change any meaning or analysis to the Application.

Mr. Valihura stated that the language that was chosen alerted him and his clients that there was a change; that he will accept the representation of Mr. Whitehouse as he is the author of the staff analysis; that this does not change the fact that the clients believed that there was a change; and that he would request that the record be held open so he can present his clients position now that he understands that there is not a change in the Department’s position on this Application and would ask for 30 days.

Mr. Robertson stated that the underlying application has not changed; that it has always been HI-1; that it was introduced as an ordinance to HI-1; that it went through PLUS for the rezoning as HI-1; that it was advertised as HI-1; that the notices were mailed out as HI-1; that it was placed on the agenda as HI-1; that there was no fundamental change in circumstances; that just like Mr. Hutt has to

make a case that HI-1 is appropriate anyone who has concerns about this must make their best case as to why HI-1 is inappropriate if they are in opposition; that a turn of phrase in a staff report does not affect the fundamental issue at hand; that the record will have to be kept open for the PLUS report for the Future Land Use Map; and that it will be up to the Commission if it is limited to just that or to the rezoning also.

Mr. Robertson reminded those present and those listening online that there will be another public hearing in front of County Council so there will be another opportunity for the public to speak regarding this Application.

Mr. Valihura stated that his client thought there was a change in the Application; that now he understands there was no change; and that he would like the opportunity to be able to submit their position in writing as they are a neighboring community.

The Commission found that Anthony Scarpa spoke by teleconference in opposition to the Application. Mr. Scarpa addressed the comment from Mr. Hutt regarding the utilities on the property; that neither well or sewer is available for this property at this time; that the Artesian wastewater system is not yet constructed; that there are a number of water contamination issues with wells in the area; that if the Applicant plans to use a well and septic system to service this property, that will increase the negative impact existing in the area; that he understands the need for jobs in Sussex County and supports agriculture but the health and well-being of the Pemberton residents should take precedence over industrial development where it can impact the neighborhood; that there was a proposed high density development in the area but it was abandoned when the developer could not get a public water and sewer connection to the site; that he has concerns about the safety of children getting off the bus in proximity to the subject property; that this may cause a precedent and there may be others who will also ask for heavy industry; and that for all these reasons he opposes the rezoning.

The Commission found that Larry DiSabatino spoke by teleconference in support to the Application. Mr. DiSabatino stated that he owns the property zoned high-density that the previous caller referenced; that his development has languished; that jobs are very important to the community and believes that if this Application is approved it will bring jobs to the area; and that there will be restrictions on what can be placed at this site; and that it will bring opportunity to the area and mixed uses to the area.

Upon there being no further questions, Chairman Wheatley closed the public hearing for this application.

At the conclusion of the Public Hearings, the Commission discussed Ord. 20-07. Motion by Mr. Hopkins, second by Ms. Stevenson, to leave the record open to receive PLUS comments and to allow 15 days for the receipt of public comments relating to the PLUS comments following the announcement of receipt (Receipt of comments will be announced at a future meeting). Motion carried 5-0.

The Commission discussed C/Z 1923. Motion by Ms. Stevenson, seconded by Mr. Hopkins, to defer action for further consideration. Motion carried 5-0.

Mr. Robertson stated that C/Z 1923 will not appear on a future agenda until the record is completely closed for Ord. 20-07.

Draft Minutes of the February 25, 2021 Planning & Zoning Commission Meeting

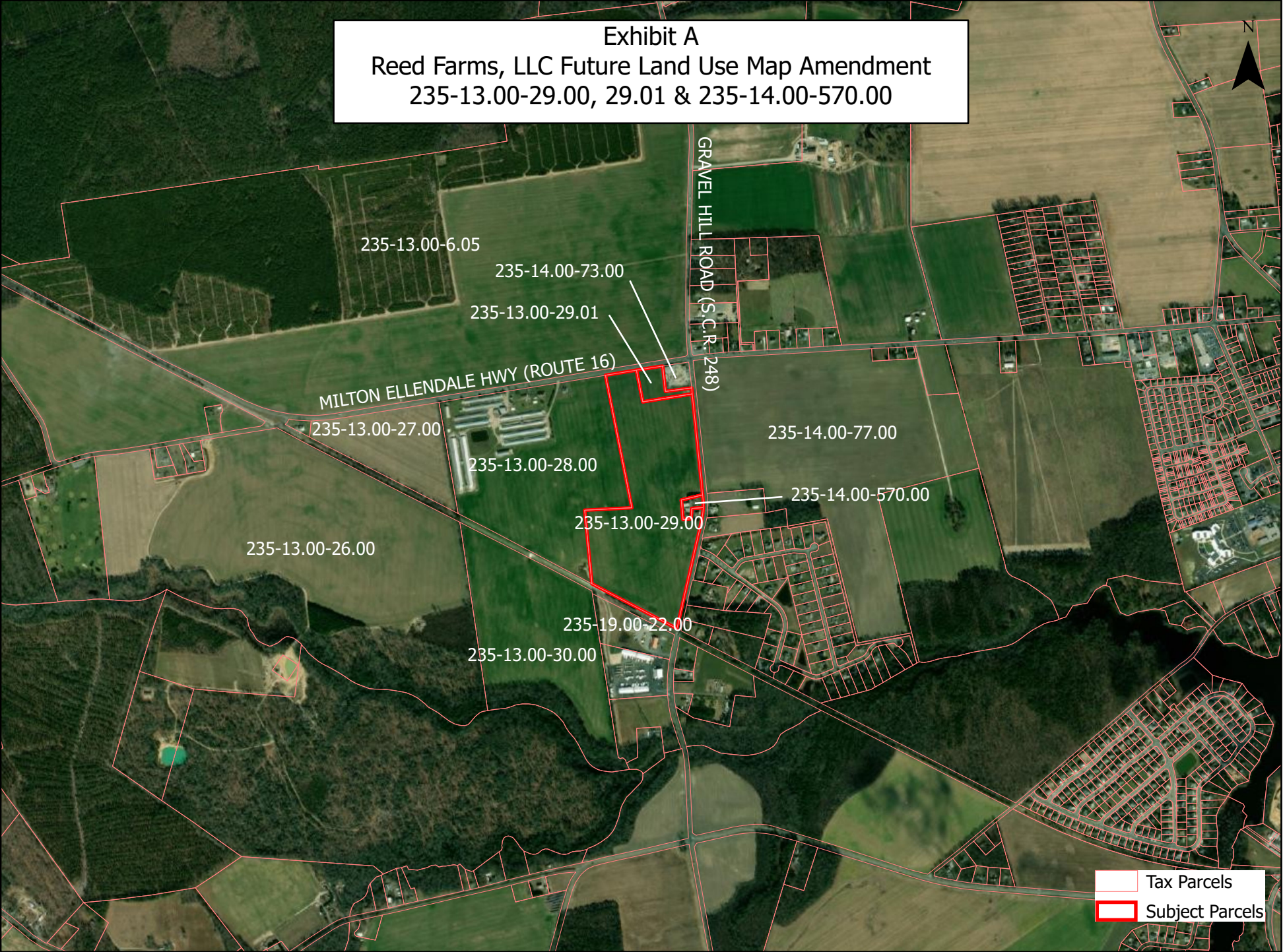
The Commission discussed this application which has been deferred since January 21, 2021.

Ms. Stevenson moved that the Commission recommend approval of Ordinance # 20-07 to amend the Future Land Use Map in the current Sussex County Comprehensive Plan for Parcels 235-13.00-29.00 and 29.01 and 235-14.00-570.00 from a Low Density Area to a Developing Area based on the record made during the public hearing and for the following reasons:

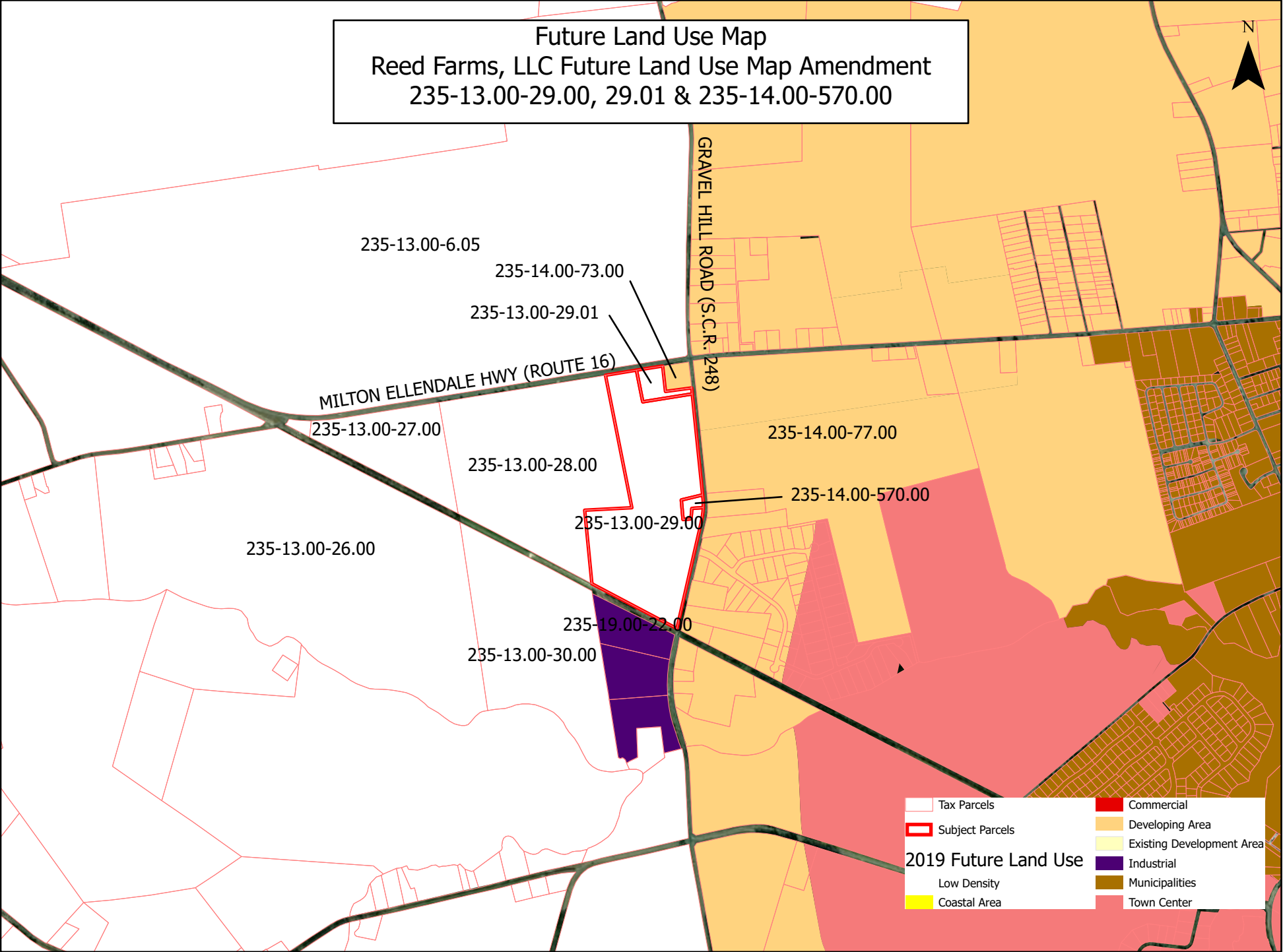
1. The parcel is 67.31 acres of land. The property is currently zoned AR-1.
2. The parcel is designated as being in the Low-Density Area according to the Future Land Use Map.
3. Properties to the east of this Parcel are entirely within the Developing Area. Properties to the south of this Parcel are designated as “Industrial”. This revision to a Developing Area on the Future Land Use Map is consistent with the surrounding Map designations.
4. The property has extensive frontage on Route 30, which is designated as a truck route by the State.
5. This revision to the Future Land Use Map will not adversely affect neighboring properties, area roadways or future land-use planning in the area.
6. The Parcel is in close proximity to the intersection of Routes 30 and 16. Given its proximity to this intersection and other properties that have the Developing Area or Industrial classification already, this Map amendment is appropriate.
7. This property has railroad service available to it. This Map amendment promotes the 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. The main element of the freight network is the roadway system, which carries trucks (motor freight).” The Plan also states that one way of reducing truck impacts on area roadways is to shift more freight to rail, although opportunities to do that are limited. This site presents an opportunity to achieve this goal. This is also supported in the Comprehensive Plan by Goal 13.5, Objective 13.5.1 and the Strategies attached to this Goal and Objective.
8. This revision of the Future Land Use Map is appropriate given the particular circumstances involved at this location. When several factors like these exist, the consideration and approval of an amendment to the Future Land Use Map is appropriate.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously to recommend approval of Ord. 20-07 Future Land Use Map Amendment for the reasons and conditions stated in the motion. Motion carried 4 – 0.

Exhibit A
Reed Farms, LLC Future Land Use Map Amendment
235-13.00-29.00, 29.01 & 235-14.00-570.00



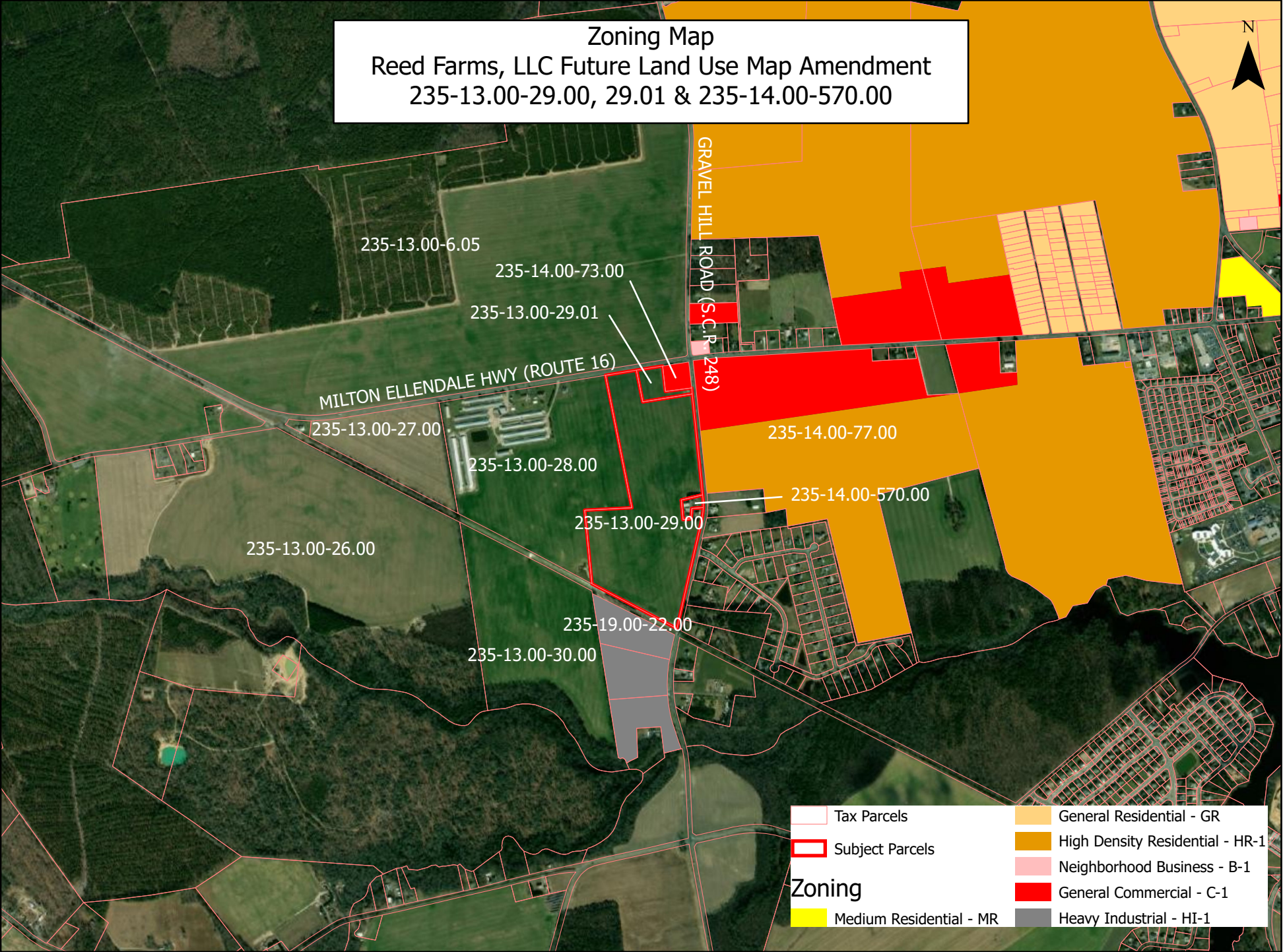
Future Land Use Map
Reed Farms, LLC Future Land Use Map Amendment
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	Tax Parcels		Commercial
	Subject Parcels		Developing Area
			Existing Development Area
			Industrial
			Municipalities
			Town Center
			Coastal Area

2019 Future Land Use

Zoning Map
Reed Farms, LLC Future Land Use Map Amendment
235-13.00-29.00, 29.01 & 235-14.00-570.00



Introduced 11/17/20

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 235-13.00-29.00, 235-13.00-29.01 & 235-14.00-570.00

WHEREAS, on March 16th, 2020, the Sussex County Planning and Zoning Office received an application for Change of Zone No. 1923; and

WHEREAS, the Sussex County Council will consider Change of Zone No. 1923 from an AR-1 Agricultural Residential District to a HI-1 Heavy Industrial District for certain parcels of land lying and being in Broadkill Hundred, Sussex County, containing 67.31 acres, more or less (the entirety of Tax Parcel No. 235-13.00-29.00, 235-13.00-29.01 & 235-14.00-570.00) (the “Property”); and

WHEREAS, the Property is designated as being within the Low Density Area as set forth in the Future Land Use Map identified as Figure 4.5-1 in the Plan, and the Low Density does not permit such HI-1 Zoning; and

WHEREAS, Sussex County Council desires to adopt this Ordinance amending the Future Land Use Map of the Plan with 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 and Zoning Commission will hold public hearings on this Ordinance, but limited in scope to this specific proposed amendment to the Future Land Use Map contained in the Plan.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. The Future Land Use Map identified as Figure 4.5-1 of the Sussex County Comprehensive Plan is hereby amended to change the Area designation of Sussex County Parcel Nos. 235-13.00-29.00, 235-13.00-29.01 & 235-14.00-570.00 from the Low Density Area to the Developing Area. The Sussex County Parcel Nos. 235-13.00-29.00, 235-13.00-29.01 & 235-14.00-570.00 so changed is identified in Exhibit A, attached hereto and incorporated herein.

Section 2. 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 State of Delaware.

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



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Council
The Honorable Michael H. Vincent
The Honorable Cynthia C. Green
The Honorable Douglas B. Hudson
The Honorable John L. Rieley
The Honorable Mark G. Schaeffer

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

CC: Everett Moore, County Attorney

Date: February 26, 2021

RE: County Council Report for CZ 1923 filed on behalf of Reed Farms, LLC

The Planning and Zoning Department received an application (CZ 1923 filed on behalf of Reed Farms, LLC) for a Change of Zone of parcels 235-13.00-29.00, 29.01 & 235-14.00-570.00 from Agricultural Residential Zoning District (AR-1) to Heavy Industrial Zoning District (HI-1). The parcel is located at 14888, 14866 & 14742 Gravel Hill Rd, Milton. The change of zone is for 67.31 acres, more or less.

There is a separate Ordinance for a potential change of the Future Land Use Map of the Comprehensive Plan.

The Planning and Zoning Commission held a public hearing on December 17, 2020. At the meeting of February 25, 2021, the Commission recommended approval of the application for the 10 reasons within the motion (included below).

Below are the approved minutes from the Planning & Zoning Commission meeting of December 17, 2020 and the draft minutes of the Planning & Zoning Commission meeting of February 25, 2021.

[Approved Minutes of the December 17, 2020 Planning & Zoning Commission Meeting](#)

C/Z 1923 Reed Farms, LLC

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a HI-1 Heavy Industrial District for a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 67.31 acres, more or less. The property is lying on the west side of Gravel Hill Rd. (Rt. 30) approximately 309 feet south of Milton-Ellendale Hwy. (Rt. 16). 911 Address: 14888, 14866 & 14742 Gravel Hill Rd., Milton. Tax Parcels: 235-13.00-29.00, 29.01 & 235-14.00-570.00



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

Mr. Whitehouse advised the Commission that submitted into the record for Ord. 20-07 is a copy of the submission to the State's PLUS review service, a copy of the ordinance and a copy of the exhibit map; that the written response has not yet been received from PLUS review but the State did not raise any objection to the Ordinance and noted that it is contained within Level 4 in terms of the States Spending Strategies; that written comments will be available over the next few weeks; and that in relation to C/Z 1923 submitted into the record is a copy of the Applicant's site plan, a copy of the Applicant's exhibit book, comments from the Sussex County Engineering Department Utility Planning Division, a letter from Delmarva Central Railroad, a copy of the Applicant's DelDOT Service Level Evaluation response. Mr. Whitehouse noted that the Office of Planning and Zoning received three comments in opposition to the Application.

Mr. Robertson asked for clarification regarding the PLUS response. Mr. Whitehouse stated that the PLUS response is only for the Ordinance because it is a Comprehensive Plan Amendment.

The Commission found that Mr. David Hutt was present on behalf of the Applicant, Reed Farms, LLC, that also present are Mr. Richard Reed, Mr. Jim Reed, and Ms. Beverly White, principals in the ownership of the subject properties, Mr. Mark Davidson, principal land planner with Pennoni Group; that many of the factors that apply to the change in the land use map also apply to the change of zone application; that and exhibit notebook was submitted as part of the record; that the properties are located between the Milton Ellendale Highway (Rt. 16) and Gravel Hill Road (Rt. 30); that the presentation is divided into two parts; that the first part will focus on the amendment to the Future Land Use Map and the second part on the rezoning request; that section 4.4 of the 2019 Comprehensive Plan states that Future Land Use Plan is the most influential part of this Comprehensive and goes on to describe the basis for the Future Land Use Plan with seven bullet points; that the fourth bullet point states "to encourage tourism and other responsible commercial and industrial job providers to locate and invest in the County."; that as the Future Land Use Plan seeks to encourage commercial and industrial jobs, it is important to look at other sections of the Plan that also speak to those aspects in Sussex County; that Chapter 9 speaks to the four industrial parks and states "while there are some vacancies in some of these business and industrial parks that should be markets to new employers, the County should also continue to look for new business and industrial sites attractive to businesses looking to locate to the County. Sites that will be most attractive to new businesses are those that have access to utilities (natural gas, fiber optic, etc.) as well as low electric rates."; that the subject property has access to utilities including natural gas which is to the south; that this site sites in close proximity to the waste water treatment operated by Artesian; that Chapter 13 is the mobility element in the Comprehensive Plan and section 13.2 describes the County's freight network as being an important part of the County's transportation network as well as the County's economy; that the subject properties have extensive frontage onto roadways which are designated by DelDOT as major collectors; that there is room for an entrance on Route 16 and possibly two entrances on Route 30 in the future; that in addition to having frontage on two collector roads, the southern boundary of the property is adjacent to the Delmarva Central Railroad line; that is mentioned in section 13.2 of the Comprehensive Plan about reducing truck impacts by shifting freight to rail; that Delmarva Central Railroad has submitted a letter of support for the Application; that Ord.20-07 seeks to change the designation of these three properties on the Future Land Use Map from Low-Density to a Developing Area, which is one of the County's seven Growth Areas; that there are ten factors to consider when deciding if a property should be in a Growth Area; that these factors apply equally to Ord. 20-07 and to the Change of Zone application; that the first factor is proximity to an incorporated municipality; that these three properties are located within one mile of the Town of Milton; that this property is across the street from a Growth Area within the Town of Milton boundary; that properties

to the north and to the south are currently designated as being in the growth area on the existing Future Land Use Map of Sussex County; that these properties are also located approximately one half mile from the Town Center Area on the Future Land Use Map and is consistent with properties set forth in the Comprehensive Plan for Developing Areas; that developing areas in the Plan are described as being adjacent to municipal areas; that in the developing area of the Comprehensive Plan it states that portions of the developing area with good road access and few nearby homes should allow for business and industrial parks; that the nearby homes are mostly located on the eastern side of Gravel Hill Road (Rt. 30); that the second factor to consider to designate a property as being in a Growth Area is the presence of public water and public sewer nearby, that the subject properties are in close proximity to the regional sewer treatment plant; that Artesian has an easement across the subject property so connection would be a simple process; that the third factor for consideration is that public sewer will be available within five years, and this is not applicable as Artesian is already providing public sewer in the area; that the fourth factor is location near a major road or intersection which has been previously addressed; that the fifth factor is the character and intensity of surrounding development including proposed development; that there are a number of commercial businesses in the area; that the sixth factor is location relative to major preserved lands; that adjacent to the north of these properties is a tract of land of more than 500 acres which is in an agricultural easement and serves as part of the waste water disposal for Artesian and homes will not be built on this site in the future; that the seventh factor for consideration for a growth area is the location of water bodies and these properties are not adjacent to water bodies; that the eighth factor for consideration is the location of Agricultural and other protected easements which is similar to the sixth factor which has been addressed; that the ninth factor is the area's environmental character and on these properties there are no wetlands, it is not in an excellent recharge area and it is not in a flood plain; that the tenth factor is how the area ranks according to the Delaware's Strategies for State Policies and Spending Document, Level I, II, III, or IV; that the property is identified as being in Investment IV and the Applicant would submit that because the County designated it as being a Low-Density Area; that adjacent to these properties are areas designated as being in Investment Level II and III; that the consideration of these ten factors supports the placement of these properties in a Growth Area; that it also makes sense because immediately to the south is an Industrial Area and to the north and east is also in a Growth Area as is proposed for this property; that the characteristics that apply to the properties in the Growth Area also apply to the subject properties; that many of the same characteristics will apply to the requested change in zone for the property; that the parcels comprise of 67.31 acres and are currently zoned AR-1 and that the application seeks to change the zone to HI-1; that two of the parcels are unimproved and currently used for agricultural purposes and the third parcel is improved with a residence which would be repurposed or removed from the site depending on the future uses; that these properties can comply with the County Code requirements for the HI-1 zoning district; that the property to the south is zoned LI-2 and to the north properties are zoned C-1; that the properties are surrounded by various zoning categories; that close to these properties the Town of Milton has designated some areas as being in the light industrial area which further demonstrates the nature of this area; that another element for consideration for any change of zone is traffic and when a Service Level Evaluation request is sent to DelDOT for a rezoning, DelDOT will often indicate that a Traffic Impact Study (TIS) is not required until a subdivision or land development plan is proposed; that many of the letters in opposition stated traffic concerns and Mr. Mark Davidson, Principal Land Planner will address those issues.

Mr. Davidson stated DelDOT will require a TIS when the site plan is submitted for the uses within the property; that DelDOT will require additional right-of-way dedication, 15-foot permanent easement and shared use path on both road frontages; that because these roads are major collector roads, the Applicant will have to bring the roads up to major collector standards; that additional

expansion of the roads to include right turn lanes and left turn lanes would be required; that some of the letters of opposition had concerns about the entrance being directly opposite to the entrance to the Pemberton Development: that Section 5.2.2 (D) of the DelDOT Coordination Manual it states that all entrances should be located directly across from an entrance on the opposite side of the roadways; that it goes on to mention sight distances and that entrances are at the discretion of DelDOT and distance from adjacent streets; that there were some concerns about the curve in the road which is close to the proposed entrance; and that DelDOT will require that sight distance is maintained so the shrubbery will have to be cleared and possible some additional right-of-way dedication.

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The Commission found that Mr. Keith Steck spoke in opposition to the Application. Mr. Steck stated that he is not opposed to the Applicant using the land; that heavy industry is not appropriate from a safety perspective or from a development perspective; that they should consider a medical facility, grocery store or other services; that jobs are needed in the area which would come with a medical facility; that an industrial operation is a particular concern due to the proximity to Bakers; that putting an industrial site is not consistent with the preserved lands in the area; and that it is not consistent with the long-term growth according to the Comprehensive Plan.

The Commission found that Helen Ralston spoke by teleconference in opposition to the Application. Ms. Ralston stated that it was not known about the change to the Future Land Use Map.

Chairman Wheatley explained that it was correctly advertised and that it is procedural that if the zone is changed it is necessary to also change the map as the two things work together.

Ms. Ralston stated that changing this parcel of land to Heavy Industrial would create a substantial change to the rural, agricultural and residential character of this area; that changes to the roadway would require major construction; that it would be extremely disruptive; that it may be a number of years before sewer service will be available; that she objects to the Railroad Spur unloading from Railroad lines as it is a noisy and messy process as it requires heavy equipment and more trucks; and ask the Commission to consider if this operation were to be placed across the street from their property.

The Commission found that Bob Valihura, Esq. spoke by teleconference in opposition to the Application. Mr. Valihura stated that he represents the Pemberton Property Owners Association; that he was prepared to present an argument for his client; that his client has not had the time to go back and speak with the homeowners to decide how they want to proceed; that the Department of Planning and Zoning recommendation changed on December 8 and did not allow him the time to prepare for tonight; that he opposes the Application because he does not know what the position of the Community is; and that a letter was submitted outlining how the change impacts his clients. Chairman Wheatley asked Mr. Valihura to detail the change that he is referencing.

Mr. Valihura stated that the original staff analysis stated that “it could be considered to be consistent with the land use area, zoning and surrounding uses” to “it could be considered to having a degree of consistency with the land use area, zoning and surrounding uses”.

Chairman Wheatley asked the Director of Planning and Zoning to respond to Mr. Valihura’s statement.

Mr. Whitehouse responded that Staff do not make a recommendation but do include a helpful analysis; that different staff members use slightly different wording to convey the same meaning; that there was no intent to change any meaning or analysis to the Application.

Mr. Valihura stated that the language that was chosen alerted him and his clients that there was a change; that he will accept the representation of Mr. Whitehouse as he is the author of the staff analysis; that this does not change the fact that the clients believed that there was a change; and that he would request that the record be held open so he can present his clients position now that he understands that there is not a change in the Department’s position on this Application and would ask for 30 days.

Mr. Robertson stated that the underlying application has not changed; that it has always been HI-1; that it was introduced as an ordinance to HI-1; that it went through PLUS for the rezoning as HI-1; that it was advertised as HI-1; that the notices were mailed out as HI-1; that it was placed on the agenda as HI-1; that there was no fundamental change in circumstances; that just like Mr. Hutt has to make a case that HI-1 is appropriate anyone who has concerns about this must make their best case as to why HI-1 is inappropriate if they are in opposition; that a turn of phrase in a staff report does not affect the fundamental issue at hand; that the record will have to be kept open for the PLUS report for the Future Land Use Map; and that it will be up to the Commission if it is limited to just that or to the rezoning also.

Mr. Robertson reminded those present and those listening online that there will be another public hearing in front of County Council so there will be another opportunity for the public to speak regarding this Application.

Mr. Valihura stated that his client thought there was a change in the Application; that now he understands there was no change; and that he would like the opportunity to be able to submit their position in writing as they are a neighboring community.

The Commission found that Anthony Scarpa spoke by teleconference in opposition to the Application. Mr. Scarpa addressed the comment from Mr. Hutt regarding the utilities on the property; that neither well or sewer is available for this property at this time; that the Artesian wastewater system is not yet constructed; that there are a number of water contamination issues with wells in the area; that if the Applicant plans to use a well and septic system to service this property, that will increase the negative impact existing in the area; that he understands the need for jobs in Sussex County and supports agriculture but the health and well-being of the Pemberton residents should take precedence over industrial development where it can impact the neighborhood; that there was a proposed high density development in the area but it was abandoned when the developer could not get a public water and sewer connection to the site; that he has concerns about the safety of children getting off the bus in proximity to the subject property; that this may cause a precedent and there may be others who will also ask for heavy industry; and that for all these reasons he opposes the rezoning.

The Commission found that Larry DiSabatino spoke by teleconference in support to the Application. Mr. DiSabatino stated that he owns the property zoned high-density that the previous caller referenced; that his development has languished; that jobs are very important to the community and believes that if this Application is approved it will bring jobs to the area; and that there will be restrictions on what can be placed at this site; and that it will bring opportunity to the area and mixed uses to the area.

Upon there being no further questions, Chairman Wheatley closed the public hearing for this application.

At the conclusion of the Public Hearings, the Commission discussed Ord. 20-07. Motion by Mr. Hopkins, second by Ms. Stevenson, to leave the record open to receive PLUS comments and to allow 15 days for the receipt of public comments relating to the PLUS comments following the announcement of receipt (Receipt of comments will be announced at a future meeting). Motion carried 5-0.

The Commission discussed C/Z 1923. Motion by Ms. Stevenson, seconded by Mr. Hopkins, to defer action for further consideration. Motion carried 5-0.

Mr. Robertson stated that C/Z 1923 will not appear on a future agenda until the record is completely closed for Ord. 20-07.

Draft Minutes of the February 25, 2021 Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since December 17, 2020.

Ms. Stevenson moved that the Commission recommend approval of C/Z 1923 for Reed Farms, LLC for a change in zone from AR-1 Agricultural Residential District to a HI-1 Heavy Industrial District based upon the record made during the public hearing and for the following reasons:

1. The location is appropriate for HI zoning. With the amendment to the Future Land Use Map in the Comprehensive Plan, the property is in a Developing Area and it is adjacent to an Industrial Area according to the Map.
2. The properties to the north and east of the site are currently zoned C-1 and HR and the property to the south is zoned LI-2.
3. This site is near the intersection of Routes 30 and 16. Route 30 is designated as a Truck Route and Route 16 is a major collector. This is an appropriate location for HI zoning.
4. The site is adjacent to an existing rail line accessing the property. This makes this location appropriate for industrial zoning. The rezoning also promotes the transportation goals in the Sussex County Land Use Plan. The Plan states that truck traffic on area roads can be reduced by shifting more freight to rail, although opportunities to do that are limited. This use of rail service for the movement of freight is supported and encouraged by the Goals, Objectives and Strategies of The Mobility Element of the Comprehensive Plan.
5. HI zoning is appropriate, since the Zoning Code states that the purpose of the district is “to provide for a variety of industrial operations, but to restrict or prohibit those industries which have characteristics likely to produce serious adverse effects within or beyond the limits of the district.”
6. The rezoning will promote the local economy and will create jobs in the area for Sussex County residents.
7. While a HI zone has many possible uses, there are only a limited number of uses that are permissible without a further hearing in front of the County Board of Adjustment.
8. Under the HI zoning, if a possible use is “potentially hazardous” or if there is any doubt as to whether it is potentially hazardous, there will be another public hearing on the particular use before the Board of Adjustment. The Board of Adjustment cannot approve the particular use unless it finds that the public’s health and welfare will be protected and that there are safeguards to protect area waters, property and people.
9. The HI zoning, with the safeguard of having further hearings limiting potential uses, will not adversely affect the neighboring or adjacent properties.
10. Any future use and development of the property will be subject to site plan review by the Sussex County Planning and Zoning Commission.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously to recommend approval of C/Z 1923 Reed Farms, LLC for the reasons and conditions stated in the motion. Motion carried 5 – 0.

PLANNING & ZONING COMMISSION

ROBERT C. WHEATLEY, CHAIRMAN
KIM HOEY STEVENSON, VICE-CHAIRMAN
R. KELLER HOPKINS
J. BRUCE MEARS
HOLLY J. WINGATE



Sussex County

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JAMIE WHITEHOUSE, MRTPI, AICP
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: December 17, 2020

Application: CZ 1923 Reed Farms, LLC

Applicant: Reed Farms, LLC
12270 Rock Switch Road
Milton, DE 19968

Owner: Reed Farms, LLC
12270 Rock Switch Road
Milton, DE 19968

Site Location: The west side of Gravel Hill Rd. (Rt. 30) approximately 309 ft. south of Milton Ellendale Hwy. (Rt. 16), on the south side of Milton Ellendale Hwy. (Rt. 16) approximately 313 ft. west of Gravel Hill Rd. (Rt. 30), and on the west side of Gravel Hill Rd. (Rt. 30) approximately 1,596 ft. south of Milton Ellendale Hwy. (Rt. 16)

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

Proposed Zoning: HI-1 (Heavy Industrial Zoning District)

Comprehensive Land Use Plan Reference: Low Density

Councilmanic District: Mr. Burton

School District: Cape Henlopen School District

Fire District: Milton Fire Department

Sewer: Private

Water: Private

Site Area: 67.31 acres +/-

Tax Map ID.: 235-13.00-29.00, 235-13.00-29.01, & 235-14.00-570.00



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Sussex County

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Memorandum

To: Sussex County Planning Commission Members
From: Jamie Whitehouse, AICP, Planning & Zoning Director
CC: Vince Robertson, Assistant County Attorney and applicant
Date: December 8, 2020
RE: Staff Analysis for CZ 1923 Reed Farms, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1923 Reed Farms, LLC to be reviewed during the December 17, 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 Tax Parcels 235-13.00-29.00, 235-13.00-29.01 and 235-14.00-570.00 to allow for a change of zone from an Agricultural Residential (AR-1) Zoning District to a Heavy Industrial (HI-1) District. The properties are lying on the west side of Gravel Hill Rd. (Rt. 30) and south side of Milton-Ellendale Hwy. (Rt. 16) in Milton DE. The size of the properties are approximately 63.25 acres +/-, 2.99 acres +/- and 1.06 acres +/- respectively.

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map in the plan indicates that the subject properties 235-13.00-29.00, 235-13.00-29.01 & 235-14.00-570.00 have the land use designation of "Low Density." Each property to the north and west also has the "Low Density" designation. Properties to the east are designated "Developing Area". Properties to the south are designated "Industrial". The uses that the Low-Density Area land use designation recognizes are primarily agricultural activities and homes. Business development should be largely confined to businesses addressing the needs of these two uses. Industrial and agribusiness uses that support or depend on agriculture should be permitted. The focus of retail and office uses in Low Density should be providing convenience goods and services to nearby residents. Commercial uses in these residential areas should be limited in their location, size and hours of operation. More intense commercial uses should be avoided in these areas.

The 2018 Sussex County Comprehensive Plan outlines Zoning Districts by their applicability to each Future Land Use category. Under Table 4.5-2 "Zoning Districts Applicable to Future Land Use Categories", the Heavy Industrial (HI-1) Zoning District is not listed as an applicable zoning district the "Low Density" area.

Additionally, the subject property is currently within an Agricultural Residential (AR-1) Zoning District. Parcels to the north and west are also located within an Agricultural Residential (AR-1) Zoning District. Parcels to the north and east are located in a Commercial (C-1) Zoning District and High Density (HR-1) Residential Zoning District. Properties to the south are located in a Light Industrial (LI-2) Zoning District.



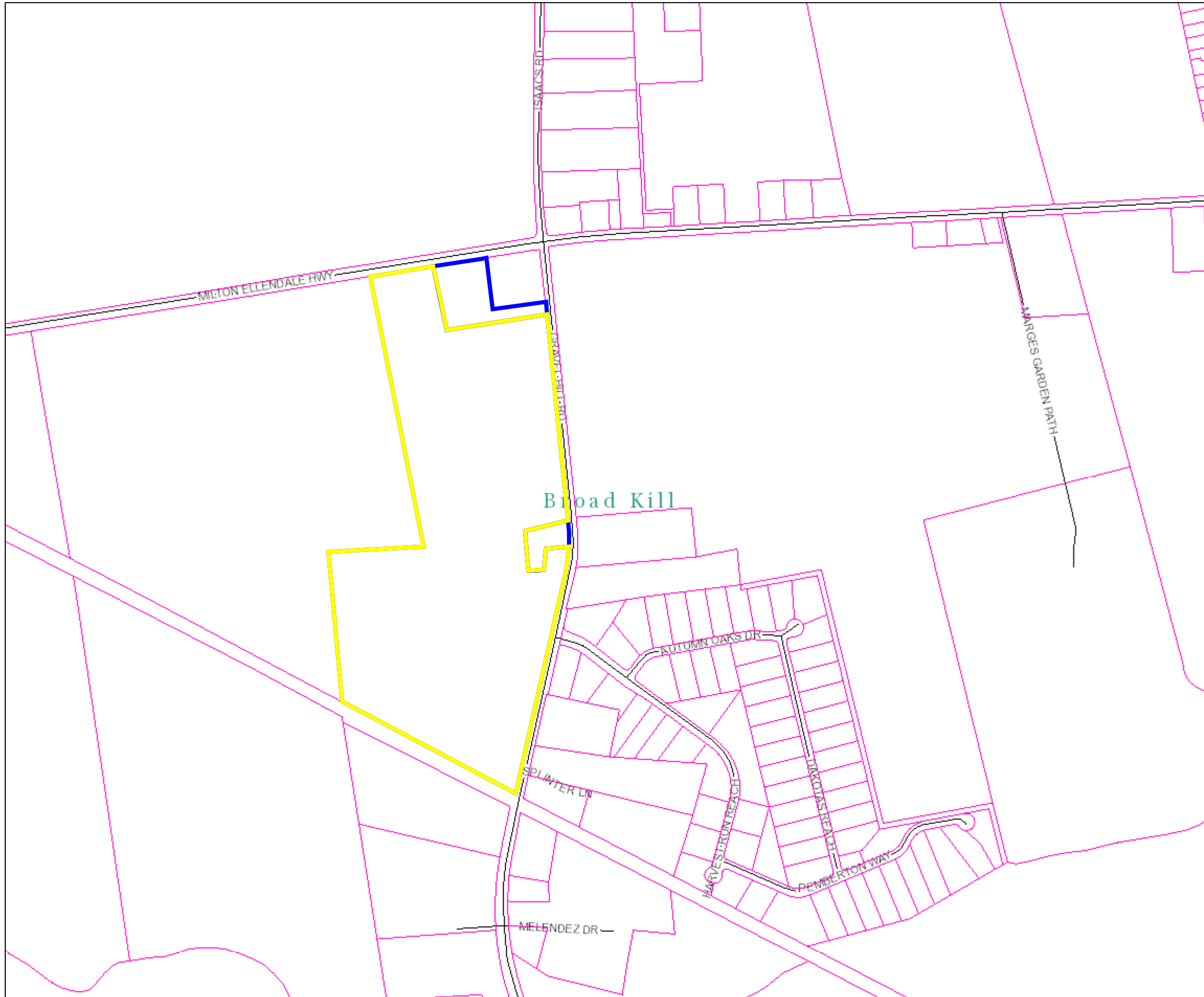
Since 2011, there have been no Change of Zone applications within a one-mile radius of the application site.

Based on the analysis of the surrounding zoning and uses, a Change of Zone to a Heavy Industrial (HI-1) Zoning District could be considered as having a degree of consistency with the land use, area zoning and surrounding uses.

However, as the Heavy Industrial Zoning District was not envisaged within areas designated as Low-Density on the Future Land Use Map of Sussex County, the Change of Zone application is accompanied by a separate request to amend the Future Land Use Map designation from Low-Density to the Developing Area.



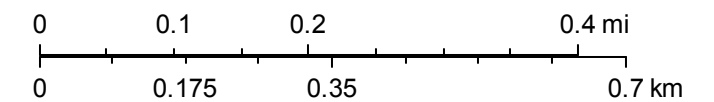
Sussex County



PIN:	235-13.00-29.00
Owner Name	REED FARMS LLC
Book	3754
Mailing Address	12270 ROCK SWITCH ST
City	MILTON
State	DE
Description	S/RT 16
Description 2	W/RT 30
Description 3	FX
Land Code	

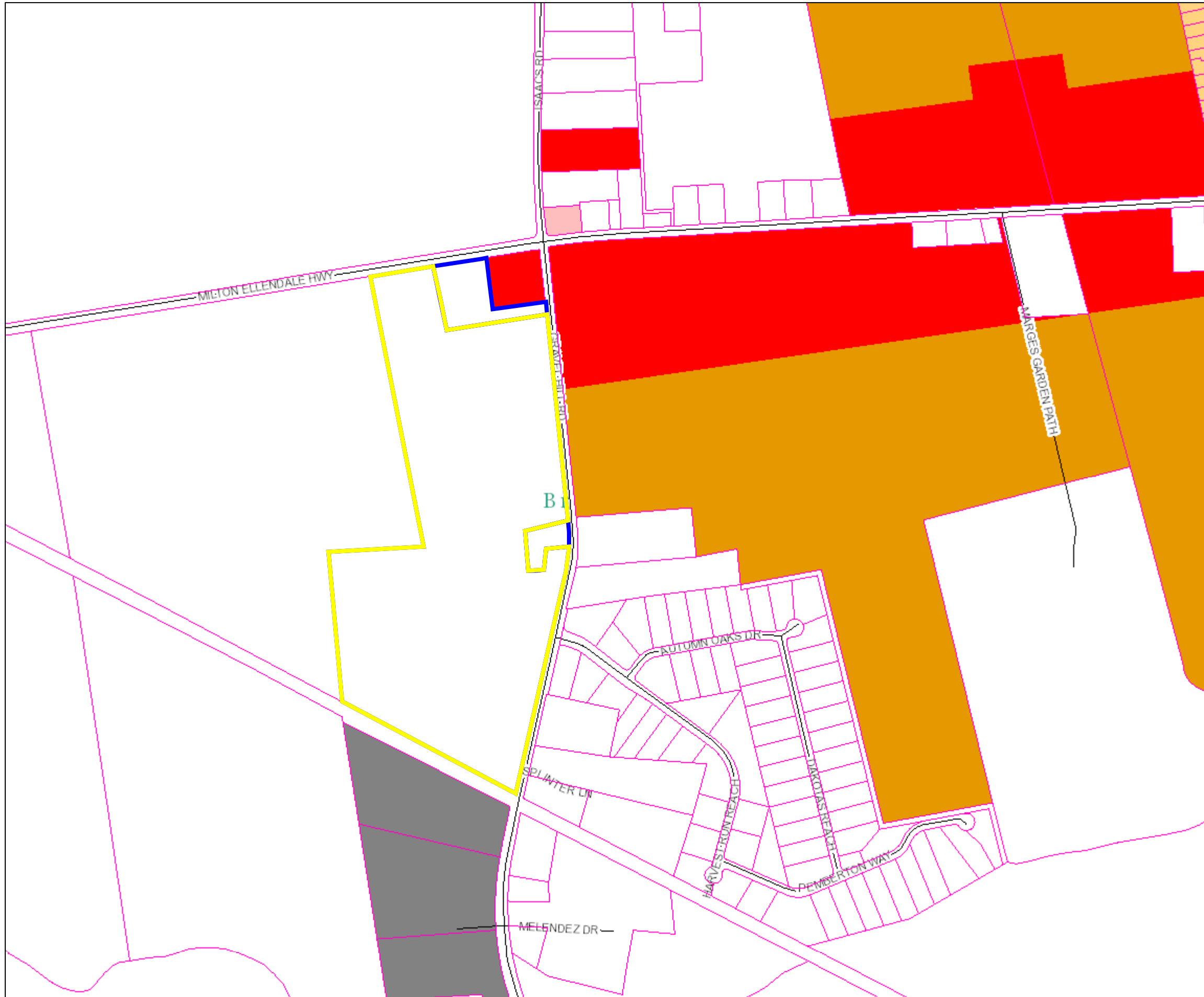
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Override 1
- Tax Parcels
- Streets
- Hundred Boundaries
- County Boundaries
- Tax Ditch Segments**
- Tax Ditch Channel
- Pond Feature
- Special Access ROW
- Extent of Right-of-Way
- Municipal Boundaries

1:9,028





Sussex County



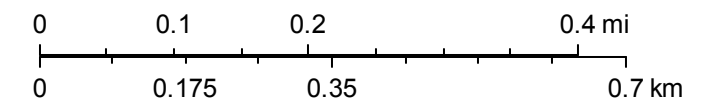
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- polygonLayer**

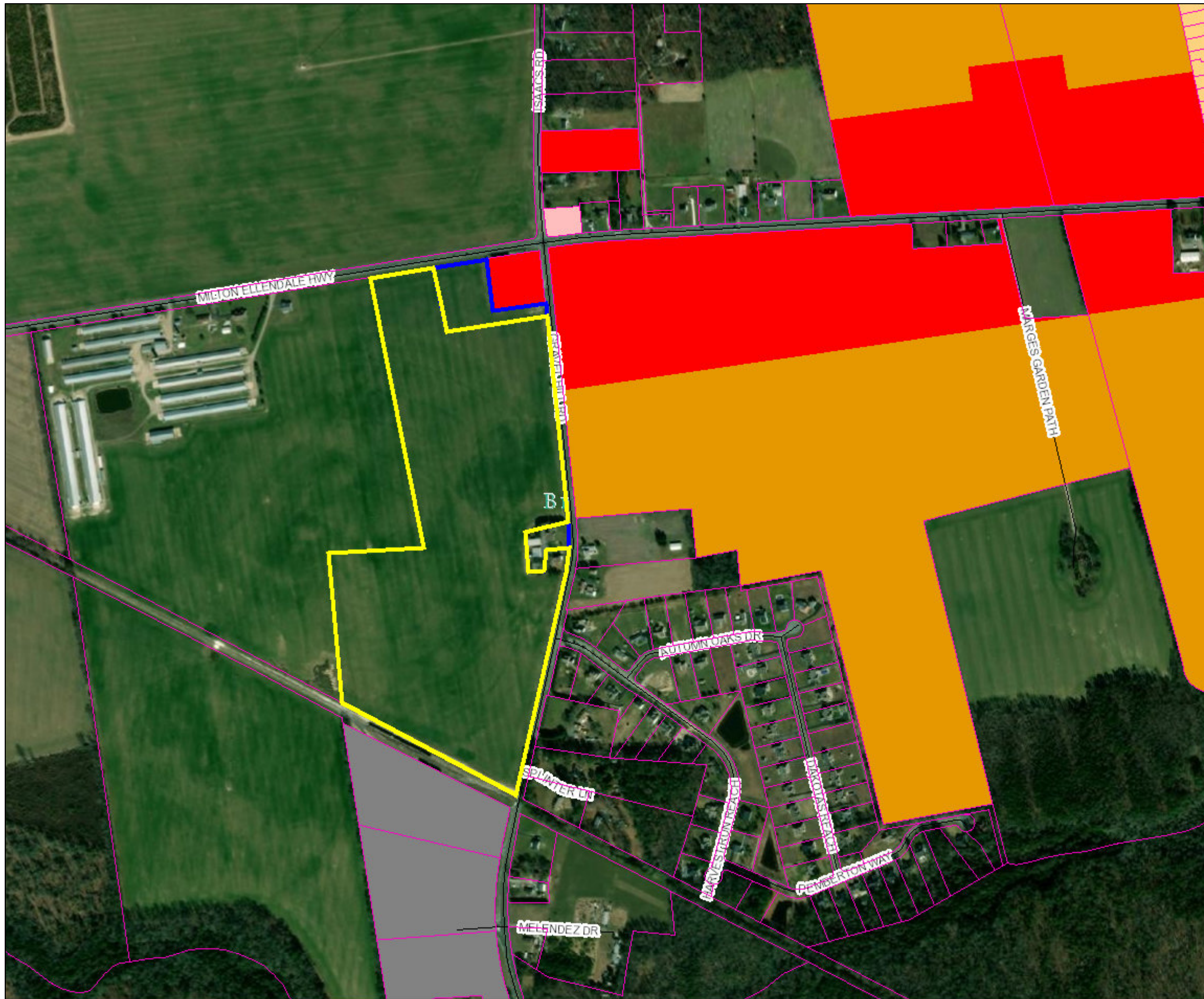
 - Override 1
- Tax Parcels
- Streets

1:9,028





Sussex County



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polygonLayer

Override 1

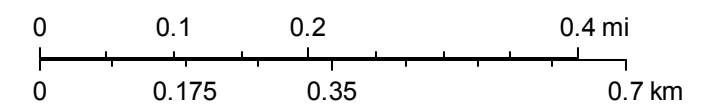
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Override 1

Tax Parcels

Streets

1:9,028



Introduced 07/14/20

Council District No. 3 – Burton

Tax I.D. No. 235-13.00-29.00, 29.01 and 235-14.00-570.00

911 Address: 14888, 14866 & 14742 Gravel Hill Road, Milton

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A HI-1 HEAVY INDUSTRIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 67.31 ACRES, MORE OR LESS

WHEREAS, on the 16th day of March 2020, a zoning application, denominated Change of Zone No. 1923, was filed on behalf of Reed Farms, LLC; and

WHEREAS, on the ____ day of _____ 2020, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1923 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 HI-1 Heavy Industrial District as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Broadkill Hundred, Sussex County, Delaware, and lying on the west side of Gravel Hill Road (Route 30) approximately 309 feet south of Milton Ellendale Highway (Route 16), on the south side of Milton Ellendale Highway (Route 16) approximately 313 feet west of Gravel Hill Road (Route 30), and on the west side of Gravel Hill Road (Route 30) approximately 1,596 feet south of Milton Ellendale Highway (Route 16) and being more

particularly described in the attached legal description prepared by Pennoni Associates, Inc., said parcel containing 67.31 acres, more or less.

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

JAMIE WHITEHOUSE, AICP
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Memorandum

To: Sussex County Council
The Honorable Michael H. Vincent
The Honorable Cynthia C. Green
The Honorable Douglas B. Hudson
The Honorable John L. Rieley
The Honorable Mark G. Schaeffer

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

CC: Everett Moore, County Attorney

Date: February 24, 2021

RE: County Council Report for CU 2201 filed on behalf of Pine Acres, Inc (Sun Leisure Point Resort, LLC)

The Planning and Zoning Department received an application (CU 2201 filed on behalf of Pine Acres, Inc (Sun Leisure Point Resort, LLC)) for a Conditional Use for parcels 234-24.00-39.02 and 39.06 to allow for a campground at 25491 Dogwood Lane. The property is within the Agricultural Residential (AR-1) Zoning District. The parcel size is 8.0 acres +/-.

After the application was submitted, the owner of the site changed to Sun Leisure Point Resort, LLC.

The Planning and Zoning Commission held a public hearing on January 21, 2021. At the meeting of February 11, 2021, the Commission recommended approval of the application for the 13 reasons and 18 recommended conditions outlined within the motion (included below).

Below are the draft minutes from the Planning & Zoning Commission meetings of January 21, 2021 and February 11, 2021.

Draft Minutes of the January 21, 2021 Planning & Zoning Commission Meeting

C/U 2201 - Sun Leisure Point Resort, LLC (Pine Acres, Inc.)

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for a campground to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 8.0 acres, more or less. The property is lying on the south side of Dogwood Lane approximately 305 feet south of Radie Kay Lane, approximately 0.29 mile northeast of Long Neck Road. 911 Address: 25491 Dogwood Lane, Millsboro. Tax Parcels: 234-24.00-39.02 and 39.06.



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

Mr. Whitehouse advised the Commission that submitted into the record is a copy of the Applicant's indicative site plan, a copy of the Applicant's exhibit book, a copy of the DelDOT service level evaluation response, a staff analysis, and a copy of comments received from the Sussex County Engineering Department Utilities Planning Division, Mr. Whitehouse noted that Staff have received one letter regarding the Application.

The Commission found that Mr. David Hutt, Esq. was present on behalf of the Applicant, Sun Leisure Point Resort, LLC; that also present are Mr. Mark Davidson, Principal Land Planner and Alan Decktor, Professional Engineer with Pennoni Group, and Jackie Maguire representing Sun Leisure and appearing by teleconference is Brian Styck, Engineer with the Atwell Group; that exhibit notebooks were submitted as part of the record; that Sun Leisure Point Resort community is a community of manufactured homes, recreational vehicles (RVs), and a marina located just off Long Neck Road; that the property under consideration is made up of two tax parcels; that each parcel is made up of four acres for a total of eight acres; that the proposed Conditional Use is for 58 RV sites on these eight acres; that Leisure Point has been in existence since the 1960s; that Leisure Point was developed by George Harrison, Sr., prior to the enactment of the Sussex County Zoning Code; that Leisure Point is considered a pre-existing legally non-conforming manufactured home and RV resort community; that Leisure Point was originally developed for transient campers but, over time, it became a mixture of permanent manufactured home lots as well as RV sites; that, currently, the community consists of 211 manufactured home sites, 317 RV sites, and 305 boat slips in the marina; that Mr. Dick Harrison worked in Leisure Point for many years until it was sold in 2019 to Sun Leisure Point Resort, LLC; that there is a Conditional Use Application before the Planning and Zoning Commission for 58 RV sites on these eight acres which is adjacent to the existing community; that, after the Conditional Use application was filed, the Applicant was informed that a variance from the separation distance requirement would also be necessary for this property; that the variance request was heard by the Board of Adjustment on June 1, 2020; that the variance was granted on July 6, 2020, and a copy of the Findings of Fact have been included in the exhibit booklet; that the property is zoned AR-1 and a Conditional Use is required for a campground in addition to the special requirements of Sussex County Code 115-172(H); that the surrounding area is primarily residential and consists of manufactured home / RV parks, single-family residential homes and farmland; that there are 17 manufactured home parks and three RV parks off Long Neck Road not counting Sun Leisure Point; that immediately to the south of the subject property are three single-family residences, to the north is the remainder of Sun Leisure Point community, to the east are manufactured home parks and to the west is an agricultural used area; that Long Neck Road is known as a major collector road; that the entrance will be off Radie Kay Lane which already exists so additional road improvements will not be needed at this time; that the subject property lies in the Coastal Area according to the Comprehensive Plan and the majority of the parcel in the Level Two Area according to the Strategies for State Policies and Spending Map with a small portion in the Level Three Area; that Level Two is an area where growth is anticipated by local, county and state plans in the near-term future; that public utilities are available for this site; that there are no known archeological sites or national registered historical sites on the property; that there are no wetlands on the property and is outside of a floodplain area; that because this property is located in the Coastal Area an environmental assessment report was prepared and is part of the exhibit book; that the property is located in a well-head protection area; that the development must be at least 100 ft. away from the wells and this proposal will greatly exceed the requirements; that the impervious cover must be 35% or less and this proposal will comply with those requirements; that there are nine requirements for an RV park; that the first requirement is that the access to the site must be from a public highway or an easement having a width of at least 50 ft. and this property has access from a public road – Long Neck Road to Radie Kay Lane which is a 50 ft. right of way which leads back to Leisure Point; that the second requirement is that there is

adequate drainage on the site and the entire site is in a Fair Water Recharge Area, that drainage will be to Guinea Creek and those waters eventually end up in the Bay; that the third requirement is that the campsites be at least 400 ft. from any existing dwelling on property of other ownership and shall be at least 100 free from any public road and this site is over 100 ft. from a public road and a variance was granted by the Board of Adjustment with regard to the 400 ft. separation distance; that as part of that approval, the Applicant has offered to install a privacy fence around the entire perimeter of the campground; that the fourth requirement is that each campsite shall have an area of 2000 sf and a width of not less than 40 ft. and that the park have a landscaped buffer of 50 ft. wide and the Applicant will meet the campsite dimensions and the 50 ft buffer requirements and will include a privacy fence; that the fifth requirement is that proper provisions be made for public water supply, toilets and bathing facilities and electric connections and as described earlier these services will be provided and there a bathing facility for guests is shown on the site plan; that the guests in this part of Leisure Point will also have access to the amenities in the existing Leisure Point; that the sixth requirement is that small retail businesses intended primarily for occupants of the park area shall be permitted within the park area and there is no plan to add to this section as there is a camp store in the original section of Leisure Point; that the seventh requirement is that proper provision shall be made for refuse storage and collection, and as it does now there will be refuse collections sites and all refuse will be removed from the site by a commercial refuse hauler; that the eight requirement deals with accessory structures and should there be any accessory structures on the site they will be shown on the site plan and be uniform appearance in design and size; that the ninth requirement is that other than the allowed accessory structure the only other structures on site would be the RVs that would rent space there; that there was an email from Ms. Debbie Fields that asked six questions; that she asked if all the RV park guests would have to go through a criminal and credit background check, this would not be proposed as the guests would be vacationing and when vacationing that is not generally a requirement; that there may be some confusion because in the manufactured home section of the park, credit checks and criminal background checks would be required as that is a more permanent contract; that anyone who brings in a golf cart must show proof of insurance; that there will be an 11:00 pm curfew; that animals must be leashed; that there will be speed limits within the park; that the Applicant has submitted some conditions for the Commission members to review; that all conditions placed by the Board of Adjustment be part of the site plan; that there is a condition that campsites be available year round; that conditional uses are of a public or semipublic character and require the exercise of planning judgment on location and site plan, that a conditional use should be found to be desirable for the general convenience and welfare of the County; that this Application meets those objectives as the nature of this area is exactly what Leisure Point is a microcosm of and that is Manufactured Home Parks and RV Parks; that this is in the Coastal Area, no additional infrastructure is necessary; that tourism is the second highest economic generator in Sussex County, trailing only to agriculture and forestry and this proposed RV resort extension would contribute to the prosperity and welfare of the County by providing another option for visitors to the County; that the RV industry thrived during the pandemic as people could vacation and still maintain social distancing; and that this use is desirable for the convenience, orderly growth, prosperity and welfare of the County.

Mr. Mears asked if there are plans for a pavilion to allow for entertainment on the site.

Mr. Hutt said that any entertainment such as live music will take place on the existing Leisure Point property.

Mr. Mears asked if there would be a sewer dump station on site or would it be self-contained.

Mr. Jackie Maguire stated that all sites would have a full hook up so they will not need to go to a dump station at the end of the stay and the Applicant will be able to meet any design standards that are set forth today.

Ms. Wingate asked if there would be an on-site manager to maintain the rules that will be set in place.

Ms. Maguire stated that there is an on-site manager and rangers at the guard shack during the evening hours; that during the day, the gate may remain up to help the flow of traffic; that during the evening the gate would be down and a key card would be required for entrance to the site; that the gate is manned 24 hours, someone is always on-site to address any issues or concerns that arise.

Ms. Stevenson asked if there are any limits on how long a person can stay at the site.

Mr. Hutt stated that currently there are no limits on how long someone can stay; that in the existing RV section which closes during the winter, no one can declare that to be their residence; and that the Applicant has procedures to make sure that the RV sites do not become residences.

Mr. Hopkins asked about past issues regarding RV parks.

Mr. Robertson stated that in some RV parks, additions such as decks were added to the RVs making them more permanent structures; that there were concerns about building permits, were the structures safe; that previously Council wanted to make sure that RV parks did not become permanent residences; that the more recent Council did not seem concerned with that and wanted to allow the RV Park be year round if the Applicant requested it; that typically there were dates where the RV park closed, usually during winter months, so that the RVs did not become permanent homes; and that there are concerns that RVs that become permanent are assessed as permanent dwellings.

The Commission found that no one spoke in favor of the Application.

The Commission found that Mr. Anthony DiGirolamo spoke in opposition to the Application; that he opposes the 11:00 pm curfew; and that there is a very sharp turn on Radie Kay and to get a 30 ft. trailer around that turn means encroaching onto his family's property.

The Commission found that Ms. Marilyn Wilson spoke in opposition to the Application; that this Application is impacting 70 plus acres of family land with five homes; that initially this Application was for a seasonal RV park and now the request is for a year round park; that there are flooding concerns; that the road is narrow; that having a campground will devalue properties in the area; and that there are concerns about how many people will be staying at this campground.

The Commission found the Mr. James DiGirolamo spoke by teleconference in opposition to the Application as this does not fit with the character of the neighborhood.

The Commission found the Mr. Joseph DiGirolamo spoke by teleconference in opposition to the Application; that he has concerns about the security system in place; that should the golf carts remain in the community or are they allowed to be on Radie Kay Lane and Diplomat Street; that he has concerns about the installation of sewer and water and if it will affect his property; that there was a letter from Mr. Michael McGoerty submitted during the variance hearing and that this letter should

also be entered into the record for this Application and that it will create more traffic and Long Neck Road and Radie Kay Lane.

Chairman Wheatley stated that the Applicant has indicated that there will be security on-site 24 hours a day.

Mr. Robertson stated that it is incumbent on witnesses to bring forth evidence regarding the impact on property values.

Mr. Whitehouse stated that letters from the Variance case were not made part of this record, but should the Commission request it, a copy of the letter from Mr. McGoerty could be added to the file.

The Commission found the Mr. James Russum spoke by teleconference in opposition to the Application; that he is concerned about the right-of-way; that it is difficult to enter his property currently and that there will be additional traffic with the park expansion; that the park is a golf cart community which results in an enormous amount of traffic; and that his entrance is blocked by trees that need to be removed.

Mr. Hutt stated that there is a 50 ft. easement parallel to Dogwood Lane and the caller could put a road in that easement if they wish to; that the development of the RV park would not interfere with access to this adjacent property; that Radie Kay Lane is used by Leisure Point, the farmland property and Long Neck Village; and that there is a letter in the exhibit book from a Realtor stating that this development would have a positive impact on property values in the area.

The Commission found the Ms. Debbie Fields spoke by teleconference in opposition to the Application; that there should be background checks for the users of the RV park; that it is not clear if this will be a seasonal or year-round campground; and that security is lax and that is a concern.

Mr. Hutt responded that there may be a combination of seasonal sites and transient sites.

Mr. Mears asked how many people per lot would be allowed per campsite.

Ms. Maguire stated that there would be a maximum of six guests per site.

Mr. Mears asked about the water run-off on the property.

Mr. Mark Davidson stated that there are two stormwater management ponds on site.

Ms. Stevenson referred to one of the caller's comments where he stated that the campers entering the property encroach on his property.

Mr. Davidson stated the caller may have be talking about the intersection at Radie Kay Lane and Dogwood and that the roads are well established there.

Mr. Bill Brockenbrough, DelDOT stated that he had no prepared remarks and that there is a letter from DelDOT in the file.

Upon there being no further questions, Chairman Wheatley closed the public hearing for this application.

Prior to the recess, the Commission discussed Application C/U 2201 – Sun Leisure Point Resort, LLC. Motion by Mr. Mears to defer action for further consideration but to leave the record open for submission of Mr. McGoerty’s letter, seconded by Ms. Wingate, and carried unanimously. Motion carried 5-0.

Draft Minutes of the February 11, 2021 Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since January 21, 2021.

Ms. Wingate moved that the Commission recommend approval of C/U 2201 for Sun Leisure Point Resort, LLC for a Conditional Use of land in an AR-1 Agricultural Residential District for a campground based upon the record made during the public hearing and for the following reasons:

1. This application seeks to add 58 additional campsites to the existing legally non-conforming Leisure Point campground. These additional 58 units will be situated on 8 acres.
2. This conditional use is for the expansion to the existing Leisure Point campground/resort to provide additional lodging opportunities for RV and camping visitors to Sussex County and its beach and bay areas, which is a vital part of Sussex County’s tourism industry.
3. The use is consistent with other existing uses in the area, including the existing Leisure Point camping facility. There are a number of similar manufactured home or RV communities, including 4 with campgrounds. There are also nearby C-1 properties.
4. The Comprehensive Plan identifies this site as part of the Coastal Area, which is recognized as a development or growth area on the Future Land Use Map.
5. The development is consistent with the purposes and goals of the Sussex County Comprehensive Plan Update since it (1) promotes economic development; (2) promotes tourism; and (3) is consistent with the character of the zoning and development in the area.
6. This expanded camping and RV area will be accessed through the existing gated entrance to Leisure Point via Radie Kay Lane.
7. The proposed conditional use will not adversely affect the congestion of roads or streets as confirmed by DelDOT. In accordance with the MOU between Sussex County and DelDOT, the campground would only have a “negligible” impact on area roadways and a TIS is not required. Access will be via Radie Kay Lane from Long Neck Road, which DelDOT has designated as a “Major Collector”.
8. There will be no negative impact on schools or other similar public facilities since the expanded camping and RV area will only be used for transient visitors.
9. The Long Neck Water Company will provide water service to the expansion area.
10. Sussex County will provide central sewer service to the expansion area.

11. By written decision of the Board of Adjustment dated August 17, 2020 in Case Number 12428, the Sussex County Board of Adjustment granted a 266-foot variance from the 400-foot separation distance required for the manufactured homes on Sussex County Tax Parcels 234-24.00 39.07 and 39.08.
12. With the variance, the expansion area complies with the requirements of Section 115-172.H of the Sussex County Zoning Code for the approval, design and operation of campgrounds.
13. The proposed use is beneficial and desirable for the general convenience and welfare of Sussex County and its residents and visitors since it will provide tourism and related services, economic growth in a designated development area, full and part-time employment opportunities, and significant economic benefits to area businesses.
14. This recommendation is subject to the following conditions:
 - A. There shall be no more than 58 camping or RV sites within this conditional use area. No more than 6 guests shall be permitted per site.
 - B. All entrance and roadway improvements and any other DelDOT requirements shall be completed as required by DelDOT.
 - C. The campground shall be connected to Sussex County's central sewer system.
 - D. The campground shall be connected to a central water system for domestic use and fire protection.
 - E. Stormwater Management and sediment and erosion control facilities shall be constructed in accordance with applicable State and County requirements and maintained using best management practices. The Final Site Plan shall contain the approval of the Sussex Conservation District.
 - F. This expansion area shall be surrounded by a 50-foot-wide landscaped buffer.
 - G. Each campsite shall be permitted to have one accessory building of no more than 64 square feet with a maximum height of 10 feet. The accessory buildings shall be of uniform design and size.
 - H. Campground restrictions shall be submitted as part of the site plan review. These shall include "Quiet Hours" between 11:00 pm and 7:00 am each day.
 - I. All units to be used for the purpose of human habitation on campsites shall be tents, travel trailers, recreational vehicles and equipment manufactured specifically for camping purposes.
 - J. All lighting shall be downward screened so that it does not shine on neighboring communities or roadways.
 - K. The Applicant shall identify all "dwellings" in the vicinity of the property that require a 400-foot buffer pursuant to Section 115-172.H(3) of the Sussex County Code. Except for the dwellings that are the subject of the approved variance in Board of Adjustment Case Number 12428, all campsites and cabins shall be a minimum of 400 feet from any dwelling that exists at the time of Final Site Plan approval.
 - L. All campsites must be 2000 square feet in size and at least 40 feet wide.
 - M. No cabin or campsite shall have direct access to any road outside of the boundaries of the campground. Access to the campground shall be gated and restricted so that the only access shall be from Radie Kay Lane.
 - N. There shall be no sales of campsites or camping units, including park models, RVs, travel trailers or cabins.

- O. This expanded camping area shall comply with all of the requirements of Section 115-172.H, with the exception of the variance approved in Board of Adjustment Case Number 12428.
- P. No entertainment or similar organized activities shall be permitted in this expansion area of the campground.
- Q. The Final Site Plan shall include the conditions established by this Condition Use # 2208 and by Board of Adjustment Case Number 12428.
- R. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Ms. Wingate, seconded by Ms. Stevenson and carried unanimously to recommend approval of C/U 2201 Sun Leisure Point Resort, LLC for the reasons and conditions stated in the motion. Motion carried 4 – 0.

PLANNING & ZONING COMMISSION

ROBERT C. WHEATLEY, CHAIRMAN
KIM HOEY STEVENSON, VICE-CHAIRMAN
R. KELLER HOPKINS
J. BRUCE MEARS
HOLLY J. WINGATE



Sussex County

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JAMIE WHITEHOUSE, MRTPI, AICP
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: January 21st, 2021

Application: CU 2201 Sun Leisure Point Resort, LLC (Pine Acres, Inc.)

Applicant: Pine Acres, Inc.
25491 Dogwood Lane
Millsboro, DE 19966

Owner: Sun Leisure Point Resort, LLC (Pine Acres, Inc.)
27777 Franklin Road
Suite 200
Southfield, MI 48034

Site Location: 25491 Dogwood Lane, Millsboro, DE. The property is on the south side of Dogwood Lane, approximately 305 feet south of Radie Kay Lane.

Current Zoning: AR-1 - Agricultural Residential Zoning District

Proposed Use: Conditional Use for expansion of existing Leisure Point Campground.

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Hudson

School District: Indian River School District

Fire District: Indian River Fire Department

Sewer: Sussex County Sewer

Water: Long Neck Water Company

Site Area: 8.0 acres +/- (two parcels, 4.0 acres each)

Tax Map IDs: 234-24.00-39.02 & 234-24.00-39.06



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Sussex County

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Memorandum

To: Sussex County Planning Commission Members
From: Lauren DeVore, Planner III
CC: Vince Robertson, Assistant County Attorney and applicant
Date: January 13, 2021
RE: Staff Analysis for CU 2201 Sun Leisure Point Resort, LLC (Pine Acres, Inc.)

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2201 Sun Leisure Point Resort, LLC (Pine Acres, Inc.) to be reviewed during the January 21, 2021 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcels 234-24.00-39.02 and 234-24.00-39.06 to allow for the expansion of the existing, non-conforming Leisure Point campground to be located at 25491 Dogwood Lane in Millsboro, Delaware. The expansion includes adding 58 campsites to the community. The Sun Leisure Point Resort community is a community consisting of manufactured homes, recreational vehicles (RVs), and a marina located off Long Neck Road. The parcels are located on the south side of Dogwood Lane, approximately 350 feet south of Radie Kay Lane and approximately 0.29-mile northeast of Long Neck Road. Each parcel is comprised of 4.0 acres, for a combined total acreage of 8.0 acres +/-.

There was a related Board of Adjustment Application for the parcels, BOA Case No. 12428. The application was for a variance from the separation distance requirement that campers be at least 400 feet from existing dwellings on properties of other ownership, which was granted by the Board and of which, the Findings of Fact were approved on August 17, 2020. The variance only applies in relation to the Niblett Property (which consists of Tax Parcels 234-24.00-39.08 & 39.07.)

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 parcels have a designation of "Coastal Area." The surrounding and adjacent properties located to the north, south, east and west of the subject properties also lie within the "Coastal Area" Future Land Use Map designation.

As outlined within the 2018 Sussex County Comprehensive Plan, Coastal Areas are areas that can accommodate development provided that special environmental concerns are addressed. A range of housing types should be permitted in Coastal Areas, including single-family homes, townhomes, and multi-family units. Retail and office uses are appropriate, but larger shopping centers and office parks should be confined to selected locations with access along arterial roads. Appropriate mixed-use development should also be allowed.



The subject properties are zoned Agricultural Residential (AR-1). The adjoining parcels to the north, south, east and west are all zoned Agricultural Residential (AR-1). The properties to the southeast along Long Neck Road (Route 23) are zoned General Commercial (C-1).

Since 2011, there have been two Conditional Use applications within a 2-mile radius of the application site. The first application was Conditional Use No. 1984 to allow for a landscaping business and supply area in a Neighborhood Business (B-1) Zoning District. This application was subsequently withdrawn on March 27, 2014. The second application was Conditional Use No. 2167 to allow for open outdoor sales (yard sale) to be located in an Agricultural Residential (AR-1) Zoning District. This application was denied by the Planning and Zoning Commission on April 25, 2019 and was denied by the Sussex County Council on May 14, 2019.

Based on the analysis of the land use, surrounding zoning and uses, the Conditional use to allow for an 8.0 acre expansion of the existing, non-conforming Leisure Point campground, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.



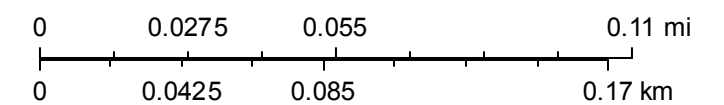
Sussex County



PIN:	234-24.00-39.02
Owner Name	SUN LEISURE POINT RESORT LLC
Book	5116
Mailing Address	27777 FRANKLIN RD STE 2
City	SOUTHFIELD
State	MI
Description	RT 22
Description 2	4 ACRES
Description 3	
Land Code	

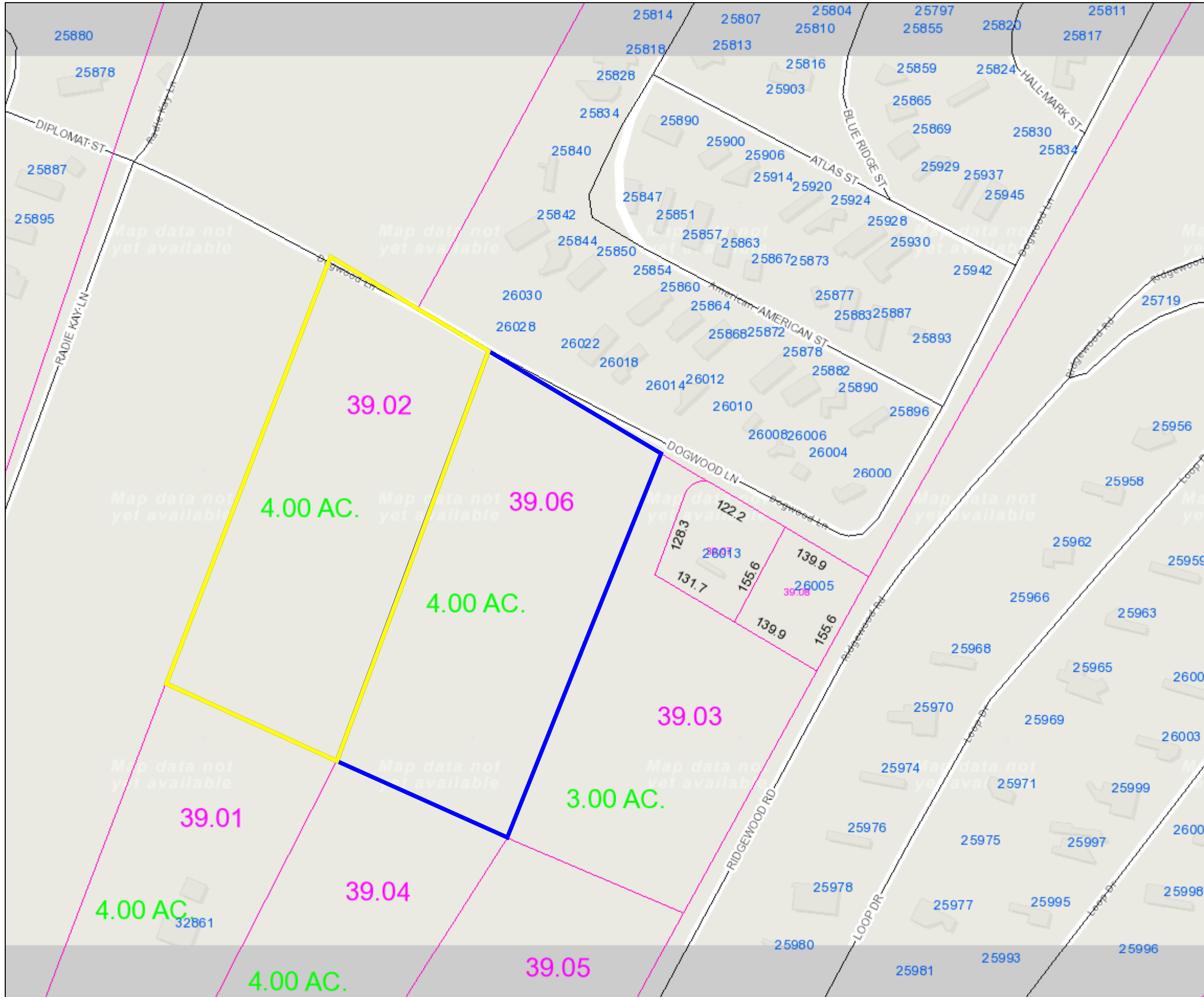
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- Tax Parcels
- 911 Address
- Streets
- County Boundaries

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Sussex County

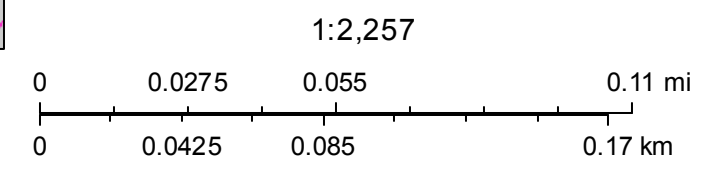


PIN:	234-24.00-39.02
Owner Name	SUN LEISURE POINT RESORT LLC
Book	5116
Mailing Address	27777 FRANKLIN RD STE 2
City	SOUTHFIELD
State	MI
Description	RT 22
Description 2	4 ACRES
Description 3	
Land Code	

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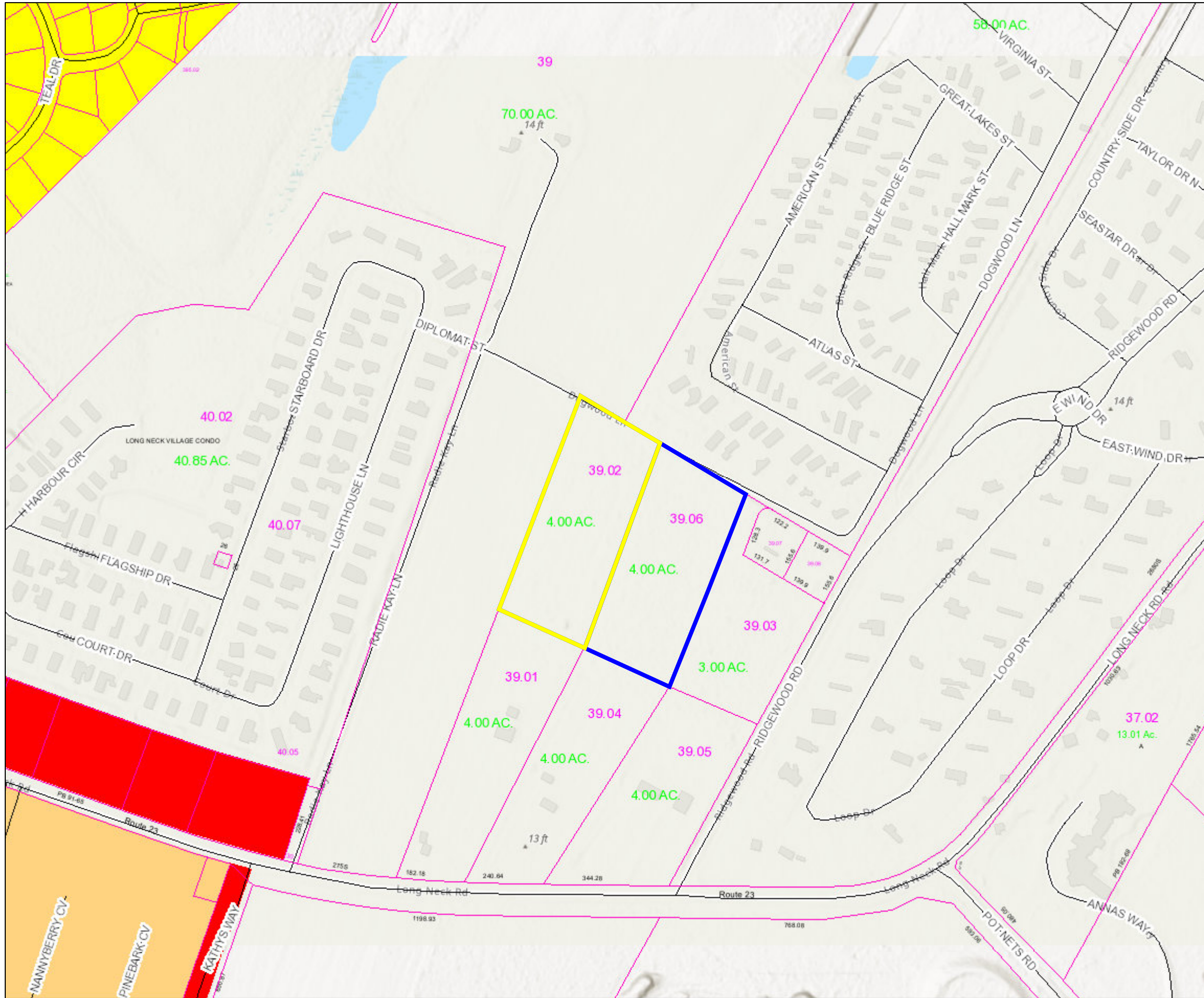
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Override 1
- Tax Parcels
- 911 Address
- Streets
- County Boundaries





Sussex County



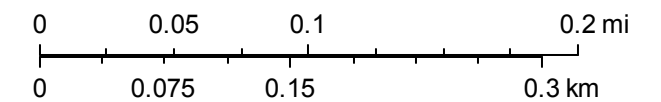
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Description 2	4 ACRES
Description 3	
Land Code	

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- polygonLayer

 - Override 1
- Tax Parcels
- Streets

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Introduced 09/10/19

**Council District No. 4 – Hudson
Tax I.D. No. 234-24.00-39.02 and 39.06
911 Address: 25491 Dogwood Lane, Millsboro**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CAMPGROUND TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 8.0 ACRES, MORE OR LESS

WHEREAS, on the 26th day of August 2019, a conditional use application, denominated Conditional Use No. 2201, was filed on behalf of Pine Acres, Inc.; and

WHEREAS, on the ____ day of _____ 2020, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2201 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2201 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 Dogwood Lane approximately 305 feet south of Radie Kay Lane, approximately 0.29 mile northeast of Long Neck Road and being more particularly described in the attached legal description prepared by Morris James Wilson Halbrook & Bayard, LLC and D. Stephen Parsons, P.A., said parcel containing 8.0 acres, more or less.

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

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Sussex County

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Memorandum

To: Sussex County Council
The Honorable Michael H. Vincent
The Honorable Cynthia C. Green
The Honorable Douglas B. Hudson
The Honorable John L. Rieley
The Honorable Mark G. Schaeffer

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

CC: Everett Moore, County Attorney

Date: February 26, 2021

RE: County Council Report for CZ 1891 filed on behalf of Chappell Farm, LLC

The Planning and Zoning Department received an application (CZ 1891 filed on behalf of Chappell Farm, LLC) for a Change of Zone of a portion of parcel 235-23.00-1.02 from Agricultural Residential Zoning District (AR-1) to Medium Density Residential District (MR). The parcel is located at 30511 Cave Neck Road, Milton. The change of zone is for a 6.4 acre portion of the parcel, more or less. This application was submitted alongside a separate application to re-zone part of the parcel to Heavy Commercial Zoning District, and a Conditional Use application for 128 multi-family units.

The Planning and Zoning Commission held a public hearing on January 21, 2021. At the meeting of February 11, 2021, the Commission recommended approval of the application for the 6 reasons within the motion (included below).

Below are the approved minutes from the Planning & Zoning Commission meeting of January 21, 2021 and the draft minutes of the Planning & Zoning Commission meeting of February 11, 2021.

Approved Minutes of the January 21, 2021 Planning & Zoning Commission Meeting

Chairman Wheatley announced that the Applicant has requested that Commission hear a combined public hearing for applications C/Z 1891, C/Z 1892 and C/U 2193. Whilst the hearings would be combined, the Commission would ultimately vote on each application separately.

C/Z 1891 - Chappell Farm, LLC

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 Broadkill Hundred, Sussex County, containing 6.4 acres, more or less. The property is lying on the northwest corner of Coastal Highway (Route 1) and Cave



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Neck Road. 911 Address: 30511 Cave Neck Road, Milton. Tax Parcel: 235-23.00-1.02 (portion of).

Mr. Whitehouse advised the Commission that submitted into the record is a copy of the Applicant's indicative site plan, a staff analysis, a copy of the Applicant's exhibit book, a copy of the Applicant's traffic impact study and DelDOT's response, a copy of the PLUS response and a copy of the DelDOT service level evaluation response, Mr. Whitehouse noted that Staff have received one letter regarding the Applications.

The Commission found that Mr. John Paradee, Esq. was present on behalf of the Applicant, Chappell Farm, LLC; that also present are Mike Riemann, Chris Duke from Becker Morgan Group, Christian and Jamin Hudson, Principals of Chappell Farm, LLC.; that a brief video was shown which captures the vision of the proposed development; and that Mr. Paradee introduced Mr. Mike Riemann to present the technical merits.

Mr. Mike Riemann stated that the property is approximately 15 acres located at the intersection of Cave Neck Road and Route 1; that to the north is the Red Fox Run subdivision and to the south across Cave Neck Road is Paynter's Mill; that the property currently has a conditional use for shed sales, outdoor furniture sales; BBQ stand and a farmer's market; that there is public water and sewer on and adjacent to the subject property; that the Applicant has held a number of outreach meetings and has changed the plan with input from the community; that at the same time that this plan has been in the works, DelDOT are also working on an interchange for this location; that there was Community input about buffers between the Red Fox Community and this Development, the location of the pool and outdoor amenities, the mixed use located at the front of the development, light glare, the access to the Red Fox Run, sidewalks and pedestrian connectivity, timing of commercial pads in relation to the interchange schedule, fences, berms and landscaping, and that it be an apartment regime instead of a condominium regime with single ownership; that with the apartment regime, it will be one owner for the adjacent communities to communicate with regarding any issues that may arise; that current plan shows 156 apartments and a little over 40,000 sf of commercial; that there will be four four-story buildings with 32 units each; that there will be a mixed use building with boutique stores on the first floor with apartments above; that there will be a fitness center, a playground and a swimming pool; that there will be a convenience with fuel and a pharmacy/retail store towards the front of the property; that there will be interconnection to the Red Fox Run subdivision; that there will be right in access to the development from Route 1 and full access from Cave Neck Road; that per Sussex County Code 497 parking spaces are required and 555 parking spaces are being provided; that there is about one mile of pedestrian pathways within the development; that a 40 ft. buffer will be provided between this property and the Red Fox Run subdivision; that interconnectivity will be provided to the west for future development; that gated access into Red Fox Run has been proposed; that Paynter's Mill expressed concern about residents of this community crossing Cave Neck Road to use their facilities so funding for fencing will be provided to Paynter's Mill; that DelDOT plans an interchange for this portion of Route 1; that there will be a roundabout at the entrance to the new development; that DelDOT expects the project to be completed by 2026; that a service road is being proposed to provide access to the commercial properties on Route 1 to the south of Cave Neck Road; that the residents of Red Fox Run will no longer have direct access to Route 1 but would have access through this proposed development; that the current road from Red Fox Run to Route 1 would become a cul-de-sac; that this is also a rezoning application that the property to the west is zoned AR-1, the properties to the north and south are mainly zoned MR with some commercially zoned properties along route 1; that the request it to infill this area with a portion of the project as C-3 and a portion as MR; that is fitting for the existing zoning in the area; that the subject property is in the

Coastal Area which is a developing area in the County; that the Coastal Area according to the Comprehensive Plan allows for Medium Density (MR) and Heavy Commercial (C-3); that a Traffic Impact Study (TIS) was completed and 12 intersections were studied; that this development will have to provide for improvements at a number of these intersections; that the Community requested that the fuel convenience and the pharmacy not be open for business until the interchange has been completed and the Applicant has agreed to this.

Mr. Paradee stated that this Application has complete the PLUS process; that they have completed the Coastal Area report; that this Development is consistent with the 2018 Comprehensive Plan; it is consistent with the character of the area; that it will support local area residents with commercial options; that water and sewer infrastructure is available; that the TIS has been reviewed by DelDOT; that the Applicant will contribute to numerous planned DelDOT projects; that they have worked closely with the neighbors to obtain feedback and implement design enhancements based on the feedback; and that it meets the general purpose of the zoning ordinance.

Mr. Jamin Hudson stated that he has grown up in this area and lives just one-half mile from this project and understands this area; that the people in this area are his neighbors and that is why they have reached out to neighbors to find a plan at is amenable to all.

Mr. Christian Hudson stated although he does not live here, he did grow up in this area; that reaching out to neighbors before beginning the Application is how development should work; that the Application before the Commission is about three years of meeting with neighbors to find out what they want to see in the area and making changes to the design based on input and feedback; and that they want to build a development that they can be proud of.

Mr. Bill Brockenbrough, DelDOT stated that he had no prepared remarks but is available to take questions and that Director, Marc Cote is available by teleconference to answer questions.

Chairman Wheatley asked Mr. Brockenbrough if he concurred with what the Applicant has entered into the record.

Mr. Brockenbrough agreed that the details entered into the record are correct.

Mr. Mears asked how the roundabouts perform during heavy traffic.

Mr. Brockenbrough stated that roundabouts perform better than stop control and can be better than a signal.

Mr. Robertson asked Mr. Brockenbrough if the typographical error in the TIS mentioning 94 units as opposed to the actual 156 units would make a difference in the TIS.

Mr. Brockenbrough stated that it may change some numbers but would not change the recommendations.

Mr. Mears stated that the presentation was impressive and that he was pleased that the Applicant took time to meet with neighbors and use their feedback in the design.

Mr. Robertson stated that Sussex County has agreed to provide funding to DelDOT to make improvements to some intersections in the area ahead of when they were scheduled for funding by

DelDOT and DeIDOT will reimburse the County at a future date; that although not specific to this application, the information may be helpful to the Commission to know that the County is working with DelDOT to improve some problem intersections and one in in this area.

The Commission found that there was no one present who spoke in favor of the Application.

The Commission found that Mr. Rich Barasso spoke in opposition to the Application and gave a handout to members of the Commission; that the biggest concern is the proposed density for this area; that the zoning of 10.5 units is not consistent with the area; that Red Fox Run subdivision to the north has a density of one dwelling per acre; that Paynter's Mill to the south has a density of three dwellings per acre; the proposed Overbrook Meadow subdivisions have proposed densities of 2.1 dwellings; that the proposed density for this Application is 5 to 10 times the density of the surrounding area; that there is almost no open space; that the TIS did not list the crash data for this very busy section of Route 1; and that phasing should be considered should this development be approved so that the future retail building not be constructed until the interchange is complete and operational.

The Commission found that Mr. David Thompson, Overbrook Association spoke in opposition to the Application; that this project is not in character with the area; that there is a density issue; that the additional traffic will cause back-ups; that construction should not begin until DelDOT's improvements are complete; and that allowing C-3 zoning would not be in character with the neighborhood.

Chairman Wheatley explained that the Commercial Zoning designations were recently changed by the County and that C-1 zoning is the most intense and the other designations are less intense.

The Commission found that Mr. John Saul spoke in opposition to the Application; that he lives immediately across from the proposed development in Paynter's Mill; that Paynter's Mill is a 298 units in over 100 acres of property; that one-third of the community is open space with walking trails and amenities; that there is currently an abundance of traffic in this area but the proposed development will exacerbate the traffic problem; and that there is no guarantee that the improvements by DelDOT will improve the traffic situation.

The Commission found that Ms. Rita Dumain spoke in opposition to the Application; that four-story buildings are not in character with the single-family homes in the area; that there will be traffic back-ups; that there are safety issues for cyclists.

The Commission found that Ms. Holly Donovan spoke by teleconference in support to the Application; that this is a good design, and that the applicant has met with neighbors and incorporated the feedback received into the design.

The Commission found that Ms. Donna Sher spoke by teleconference in opposition to the Application; that she has concerns about hazardous materials particularly with the gas station on the proposed site; that this proposal is out of character with the surrounding neighborhood; that it will affect property values; and that even with the proposed traffic improvements there will be increased traffic.

The Commission found that Mr. Jeff Stone, Sussex Alliance for Responsible Growth (SARG) spoke

by teleconference in opposition to the Application; that a 5-page analysis was submitted to the Commission; that SARG agrees that the rezoning of this property is inevitable and may be desirable; that the fact that it will be a local developer who would manage the property long-term is a plus; that the fact that the developer has taken the concerns of neighbors and made changes to the design is commendable; that the concerns of SARG are mainly traffic and the timing of the convenience store which were addressed in the presentation this evening; that the concerns now are regarding the TIS and the fact that the study is based on 94 residential units and not the 156 units that are being proposed; that a new TIS with the correct calculations are shown so that the Commission has all the facts prior to making a recommendation; that a phasing plan be put in place for the residential aspect of the development and not just the commercial component; and that the density and lack of open space is not in character with the surrounding communities.

The Commission found that Mr. Terry August spoke by teleconference in opposition to the Application; that his property is adjacent to and is 20 ft. from the proposed development; that the proposed development does not have adequate open space; and that the proposed right in access to the new development does not follow the Route 1 Corridor Preservation guidelines to reduce access to Route 1.

The Commission found that Ms. Eul Lee spoke by teleconference in opposition to the Application; that the advertisement stated of 128 apartments, but the Applicant mentioned 158 units and that is way more than 20 units per acre; that there is not enough open space for residents particularly those with children; and questions that the additional Hudson properties would be developed like this one.

Ms. Stevenson asked Mr. Brockenbrough if he knew what the density would have to be to get bus service to this area.

Mr. Brockenbrough stated that he did not know what that would be and to get an answer to this question the Commission should ask Delaware Transit Corporation.

Ms. Stevenson asked if Mr. Brockenbrough saw any concerns with the proposed entrance on the west side of the development.

Mr. Brockenbrough stated he did not have concerns with the design as proposed.

Ms. Wingate asked the members of the Commission if they felt a new TIS should be undertaken based on the correct number of residential units.

Mr. Hopkins stated that he thinks the plan is a good one because residents can use the interchange to enter and exit onto and off Route one and that density like this on Route 1 makes sense.

Mr. Mears agreed with Mr. Hopkins and stated that Mr. Brockenbrough stated that the change in numbers will affect the delay in the turn lanes and the fees to be paid by the Applicant.

Chairman Wheatley stated that is why he asked the question earlier to Mr. Brockenbrough if the impact would be great enough to make it necessary to redo the entire TIS.

Mr. Paradee stated that the Commission could defer and ask DelDOT to answer those two specific questions.

Mr. Brockenbrough reiterated that the change in numbers would require larger fees to be paid by the applicant and longer time in turn lanes.

Chairman Wheatley stated that this will not change the design or the number of off-site improvements and asked if the incremental change would change the decision of Commission members then a TIS would be warranted.

Ms. Wingate said she was comfortable after Mr. Brockenbrough reiterated what the change in numbers would create.

Mr. Robertson stated that if the development is approved the Applicant will still have to work with DelDOT on the design based on the correct numbers.

Ms. Stevenson asked about the lighting for the development.

Mr. Riemann stated that the lighting will be cut-off style lighting and downward facing.

At the conclusion of the Public Hearings, the Commission discussed the Applications.

In relation to Application C/Z 1891 Chappell Farm, LLC., motion by Ms. Stevenson to defer action for further consideration, seconded by Ms. Wingate, and carried unanimously. Motion carried 5-0.

In relation to Application C/Z 1892 Chappell Farm, LLC., motion by Ms. Stevenson to defer action for further consideration, seconded by Ms. Wingate, and carried unanimously. Motion carried 5-0.

In relation to Application C/U 2193 Chappell Farm, LLC., motion by Ms. Stevenson to defer action for further consideration, seconded by Ms. Wingate, and carried unanimously. Motion carried 5-0.

Draft Minutes of the February 11, 2021 Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since January 21, 2021.

Ms. Stevenson moved that the Commission recommend approval of C/Z 1891 for Chappell Farm, LLC for a change in zone from AR-1 Agricultural Residential District to a MR Medium Density Residential District based upon the record made during the public hearing and for the following reasons:

1. This application seeks a change in zone from AR-1 to MR. The purpose of the MR zone is to provide housing in an area which is expected to become urban in character and where central water and sewer is available.
2. The stated purpose of the MR District is satisfied for this site. Both central water and central sewer will be available. Also, this site is the location of a grade separated intersection, (or overpass) that is being constructed by DelDOT with on-ramps and off-ramps. This will be one of the first grade-separated intersections in Sussex County. This grade separated

intersection gives this location an urban character. Given its location adjacent to this interchange, MR zoning is appropriate for this property.

3. The proposed MR Zoning meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County in an appropriate location.
4. The property is adjacent to a property that has C-1 zoning and there are other commercially zoned properties across Cave Neck Road from this site. In the case of the C-1 zoning a wide variety of commercial uses are permitted and that District also allows residential development of up to 12 units an acre. There is also extensive MR next to this property and across Cave Neck Road from this property. This rezoning is consistent with other zoning and land uses in the area.
5. The site is located within the Coastal Area according to the Sussex County Comprehensive Plan. MR Zoning is appropriate in this Area according to the Plan.
6. For all of these reasons, MR zoning is appropriate for this site.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously to recommend approval of C/Z 1891 Chappell Farm, LLC for the reasons and conditions stated in the motion. Motion carried 4 – 0.

PLANNING & ZONING COMMISSION

ROBERT C. WHEATLEY, CHAIRMAN
KIM HOEY STEVENSON, VICE-CHAIRMAN
R. KELLER HOPKINS
J. BRUCE MEARS
HOLLY J. WINGATE



Sussex County

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JAMIE WHITEHOUSE, MRTPI, AICP
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: January 21st, 2021

Application: CZ 1891 Chappell Farm, LLC

Applicant: Becker Morgan Group, Inc.
309 South Governors Ave
Dove, DE 19904

Owner: Chappell Farm, LLC
30045 Eagles Crest Road Unit 2
Milton, DE 19968

Site Location: 30511 Cave Neck Road, Milton. The property is on the southwest corner of Cave Neck Road (S.C.R 88) and Coastal Hwy (Route 1)

Current Zoning: AR-1 - Agricultural Residential Zoning District

Proposed Zoning: MR – Medium Density Residential Zoning District

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Schaeffer

School District: Cape Henlopen School District

Fire District: Lewes Fire Department

Sewer: Septic

Water: Private

Site Area: 6.4 acres +/-

Tax Map ID.: 235-23.00-1.02



JAMIE WHITEHOUSE, AICP MRTPI
PLANNING & ZONING DIRECTOR
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(302) 854-5079 F
jamie.whitehouse@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Planning Commission Members
From: Christin Scott, Planner I
CC: Vince Robertson, Assistant County Attorney and applicant
Date: January 4, 2021
RE: Staff Analysis for CZ 1891 Chappell Farm, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1891 Chappell Farm, LLC to be reviewed during the January 21, 2021 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Change of Zone for Tax Parcel 235-23.00-1.02 (portion of) to allow for a change of zone from an Agricultural Residential (AR-1) Zoning District to a Heavy Commercial (C-3) Zoning District and Medium Residential (MR) Zoning District. The parcel is located on the northwest corner of Coastal Highway (Route 1) and Cave Neck Road (Route 88). The portion of the parcel to be rezoned contains 6.4 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 subject property has a land use designation of "Coastal Area". The properties to the north have the land use designation of "Existing Development Area", the properties to the south have the land use designation of "Coastal Area" and the properties to the east and west have the land use designation of "Low Density Area".

The Coastal Area is designated to encourage growth and development provided that environmental concerns are addressed. The Coastal Area may include various types of housing, small-scale retail and office, light commercial, and institutional land uses. Sussex County's base density of two (2) units per acre is standard. Medium and higher densities (4-12 units per acre) may be appropriate in select locations.

The 2018 Sussex County Comprehensive Plan outlines Zoning Districts by their applicability to each Future Land Use category. Under Table 4.5-2 "Zoning Districts Applicable to Future Land Use Categories", the Heavy Commercial (C-3) Zoning District is listed as an applicable zoning district in the "Coastal Area."

Additionally, the subject property is zoned Agricultural Residential (AR-1). The properties to the west as well as the properties on the opposite (western) side of Coastal Highway (Route 1) are zoned Agricultural Residential (AR-1). The properties to the north are zoned General Commercial (C-1) and Medium Residential (MR). The properties to the south are zoned Medium Residential (MR), Neighborhood Business (B-1) and General Commercial (C-2).



Since 2011, there has been two (2) Change of Zone applications within a 1-mile radius of the application site. Change of Zone No. 1770 to allow for a change of zone from AR-1 to CR-1. The application was denied by the Sussex County Council on April 12, 2016. Change of Zone No. 1916 for a change of zone from AR-1 to C-2. The application was approved by the Sussex County Council on July 28, 2020 and adopted through Ordinance No. 2727.



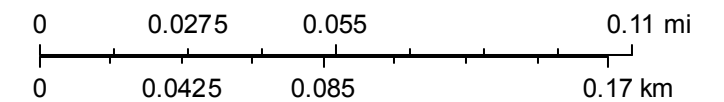
Sussex County



PIN:	235-23.00-1.02
Owner Name	CHAPPELL FARM LLC
Book	3971
Mailing Address	30045 EAGLES CREST RD
City	MILTON
State	DE
Description	SW/INTER COASTAL HWY
Description 2	CAVE NECK RD
Description 3	N/A
Land Code	

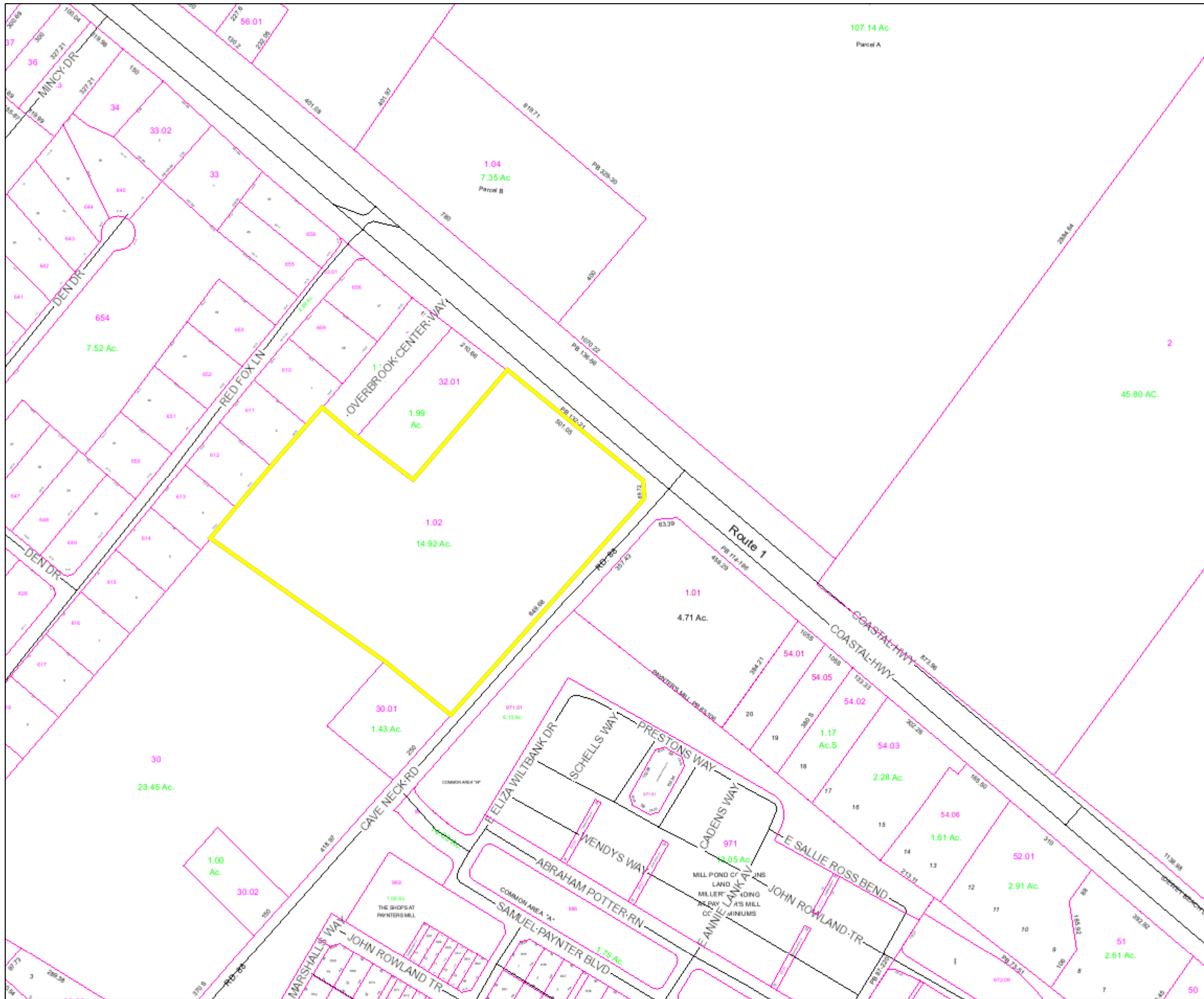
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- Streets
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- Municipal Boundaries
- TID

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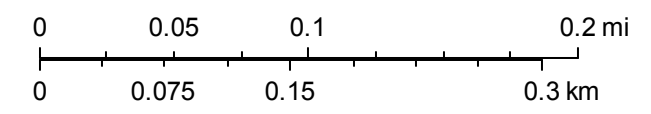
Sussex County



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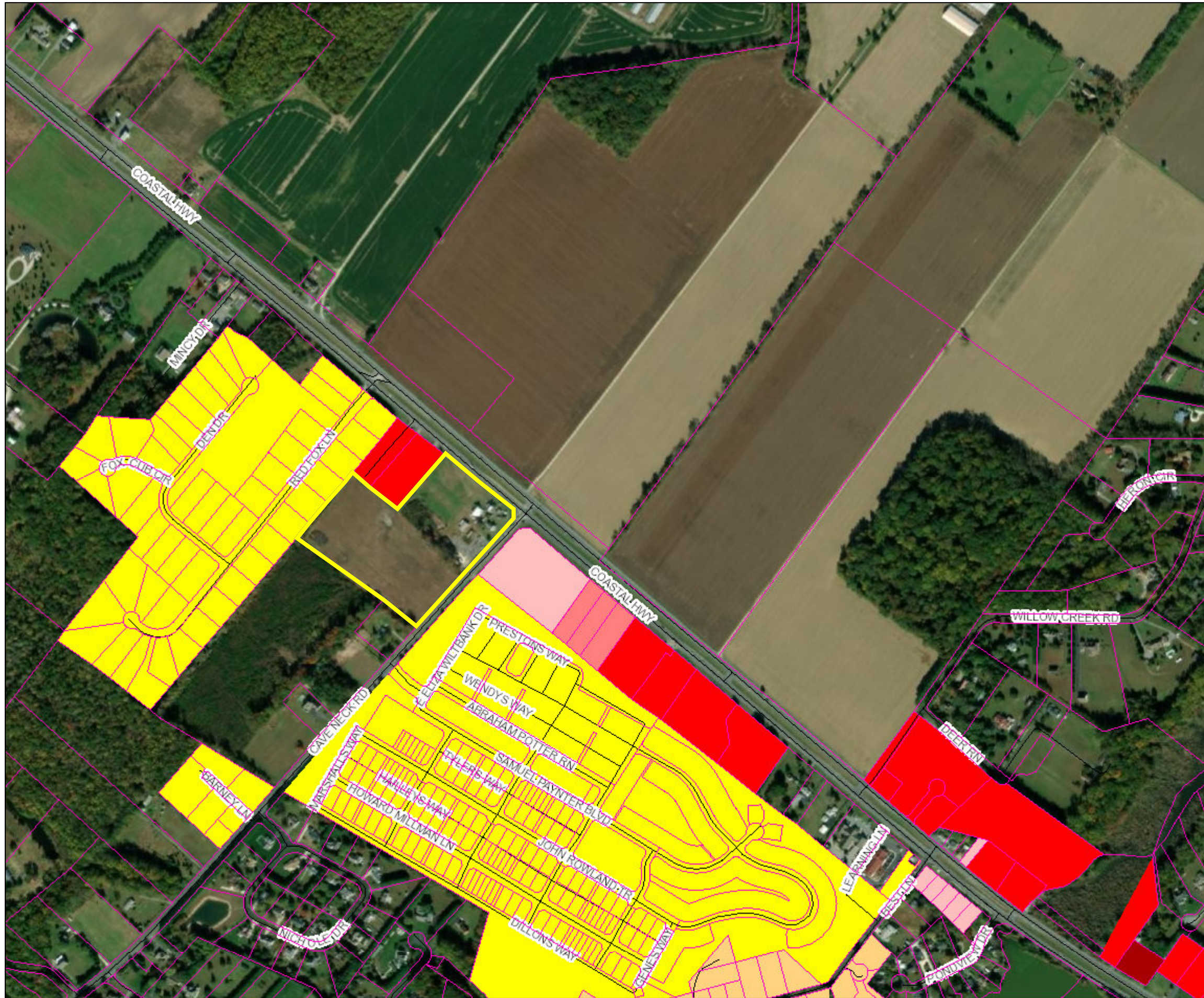
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- Tax Parcels
- Streets
- County Boundaries
- Municipal Boundaries
- TID

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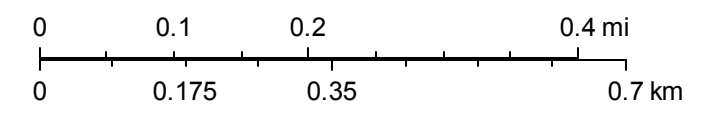
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Land Code	

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

1:9,028



Introduced 07/16/19

**Council District No. 3 - Burton
Tax I.D. No. 235-23.00-1.02 (portion of)
911 Address: 30511 Cave Neck Road, Milton**

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 6.4 ACRES, MORE OR LESS

WHEREAS, on the 18th day of June 2019, a zoning application, denominated Change of Zone No. 1891, was filed on behalf of Chappell Farm, 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 Change of Zone No. 1891 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 MR Medium Density Residential District as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Broadkill Hundred, Sussex County, Delaware, and lying on the northwest corner of Coastal Highway (Route 1) and Cave Neck Road, and being more particularly described in the attached legal description prepared by Becker Morgan Group, Inc., said parcel containing 6.4 acres, more or less.

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

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



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Council
The Honorable Michael H. Vincent
The Honorable Cynthia C. Green
The Honorable Douglas B. Hudson
The Honorable John L. Rieley
The Honorable Mark G. Schaeffer

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

CC: Everett Moore, County Attorney

Date: February 26, 2021

RE: County Council Report for CZ 1892 filed on behalf of Chappell Farm, LLC

The Planning and Zoning Department received an application (CZ 1892 filed on behalf of Chappell Farm, LLC) for a Change of Zone of a portion of parcel 235-23.00-1.02 from Agricultural Residential Zoning District (AR-1) to Heavy Commercial Zoning District (C-3). The parcel is located at 30511 Cave Neck Road, Milton. The change of zone is for an 8.53 acre portion of the parcel, more or less.

The Planning and Zoning Commission held a public hearing on January 21, 2021. At the meeting of February 11, 2021, the Commission recommended approval of the application for the 10 reasons within the motion (included below).

Below are the approved minutes from the Planning & Zoning Commission meeting of January 21, 2021 and the draft minutes of the Planning & Zoning Commission meeting of February 11, 2021.

Approved Minutes of the January 21, 2021 Planning & Zoning Commission Meeting

Chairman Wheatley announced that the Applicant has requested that Commission hear a combined public hearing for applications C/Z 1891, C/Z 1892 and C/U 2193. Whilst the hearings would be combined, the Commission would ultimately vote on each application separately.

C/Z 1892 - Chappell Farm, 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 Broadkill Hundred, Sussex County, containing 8.53 acres, more or less. The property is lying on the northwest corner of Coastal Highway (Route 1) and Cave Neck Road. 911 Address: 30511 Cave Neck Road, Milton. Tax Parcel: 235-23.00-1.02 (portion of).



Mr. Whitehouse advised the Commission that submitted into the record is a copy of the Applicant's indicative site plan, a staff analysis, a copy of the Applicant's exhibit book, a copy of the Applicant's traffic impact study and DelDOT's response, a copy of the PLUS response and a copy of the DelDOT service level evaluation response, Mr. Whitehouse noted that Staff have received one letter regarding the Applications.

The Commission found that Mr. John Paradee, Esq. was present on behalf of the Applicant, Chappell Farm, LLC; that also present are Mike Riemann, Chris Duke from Becker Morgan Group, Christian and Jamin Hudson, Principals of Chappell Farm, LLC.; that a brief video was shown which captures the vision of the proposed development; and that Mr. Paradee introduced Mr. Mike Riemann to present the technical merits.

Mr. Mike Riemann stated that the property is approximately 15 acres located at the intersection of Cave Neck Road and Route 1; that to the north is the Red Fox Run subdivision and to the south across Cave Neck Road is Paynter's Mill; that the property currently has a conditional use for shed sales, outdoor furniture sales; BBQ stand and a farmer's market; that there is public water and sewer on and adjacent to the subject property; that the Applicant has held a number of outreach meetings and has changed the plan with input from the community; that at the same time that this plan has been in the works, DelDOT are also working on an interchange for this location; that there was Community input about buffers between the Red Fox Community and this Development, the location of the pool and outdoor amenities, the mixed use located at the front of the development, light glare, the access to the Red Fox Run, sidewalks and pedestrian connectivity, timing of commercial pads in relation to the interchange schedule, fences, berms and landscaping, and that it be an apartment regime instead of a condominium regime with single ownership; that with the apartment regime, it will be one owner for the adjacent communities to communicate with regarding any issues that may arise; that current plan shows 156 apartments and a little over 40,000 sf of commercial; that there will be four four-story buildings with 32 units each; that there will be a mixed use building with boutique stores on the first floor with apartments above; that there will be a fitness center, a playground and a swimming pool; that there will be a convenience with fuel and a pharmacy/retail store towards the front of the property; that there will be interconnection to the Red Fox Run subdivision; that there will be right in access to the development from Route 1 and full access from Cave Neck Road; that per Sussex County Code 497 parking spaces are required and 555 parking spaces are being provided; that there is about one mile of pedestrian pathways within the development; that a 40 ft. buffer will be provided between this property and the Red Fox Run subdivision; that interconnectivity will be provided to the west for future development; that gated access into Red Fox Run has been proposed; that Paynter's Mill expressed concern about residents of this community crossing Cave Neck Road to use their facilities so funding for fencing will be provided to Paynter's Mill; that DelDOT plans an interchange for this portion of Route 1; that there will be a roundabout at the entrance to the new development; that DelDOT expects the project to be completed by 2026; that a service road is being proposed to provide access to the commercial properties on Route 1 to the south of Cave Neck Road; that the residents of Red Fox Run will no longer have direct access to Route 1 but would have access through this proposed development; that the current road from Red Fox Run to Route 1 would become a cul-de-sac; that this is also a rezoning application that the property to the west is zoned AR-1, the properties to the north and south are mainly zoned MR with some commercially zoned properties along route 1; that the request is to infill this area with a portion of the project as C-3 and a portion as MR; that is fitting for the existing zoning in the area; that the subject property is in the Coastal Area which is a developing area in the County; that the Coastal Area according to the Comprehensive Plan allows for Medium Density (MR) and Heavy Commercial (C-3); that a Traffic

Impact Study (TIS) was completed and 12 intersections were studied; that this development will have to provide for improvements at a number of these intersections; that the Community requested that the fuel convenience and the pharmacy not be open for business until the interchange has been completed and the Applicant has agreed to this.

Mr. Paradee stated that this Application has complete the PLUS process; that they have completed the Coastal Area report; that this Development is consistent with the 2018 Comprehensive Plan; it is consistent with the character of the area; that it will support local area residents with commercial options; that water and sewer infrastructure is available; that the TIS has been reviewed by DelDOT; that the Applicant will contribute to numerous planned DelDOT projects; that they have worked closely with the neighbors to obtain feedback and implement design enhancements based on the feedback; and that it meets the general purpose of the zoning ordinance.

Mr. Jamin Hudson stated that he has grown up in this area and lives just one-half mile from this project and understands this area; that the people in this area are his neighbors and that is why they have reached out to neighbors to find a plan at is amenable to all.

Mr. Christian Hudson stated although he does not live here, he did grow up in this area; that reaching out to neighbors before beginning the Application is how development should work; that the Application before the Commission is about three years of meeting with neighbors to find out what they want to see in the area and making changes to the design based on input and feedback; and that they want to build a development that they can be proud of.

Mr. Bill Brockenbrough, DelDOT stated that he had no prepared remarks but is available to take questions and that Director, Marc Cote is available by teleconference to answer questions.

Chairman Wheatley asked Mr. Brockenbrough if he concurred with what the Applicant has entered into the record.

Mr. Brockenbrough agreed that the details entered into the record are correct.

Mr. Mears asked how the roundabouts perform during heavy traffic.

Mr. Brockenbrough stated that roundabouts perform better than stop control and can be better than a signal.

Mr. Robertson asked Mr. Brockenbrough if the typographical error in the TIS mentioning 94 units as opposed to the actual 156 units would make a difference in the TIS.

Mr. Brockenbrough stated that it may change some numbers but would not change the recommendations.

Mr. Mears stated that the presentation was impressive and that he was pleased that the Applicant took time to meet with neighbors and use their feedback in the design.

Mr. Robertson stated that Sussex County has agreed to provide funding to DelDOT to make improvements to some intersections in the area ahead of when they were scheduled for funding by DelDOT and DelDOT will reimburse the County at a future date; that although not specific to this application, the information may be helpful to the Commission to know that the County is working

with DelDOT to improve some problem intersections and one in in this area.

The Commission found that there was no one present who spoke in favor of the Application.

The Commission found that Mr. Rich Barasso spoke in opposition to the Application and gave a handout to members of the Commission; that the biggest concern is the proposed density for this area; that the zoning of 10.5 units is not consistent with the area; that Red Fox Run subdivision to the north has a density of one dwelling per acre; that Paynter's Mill to the south has a density of three dwellings per acre; the proposed Overbrook Meadow subdivisions have proposed densities of 2.1 dwellings; that the proposed density for this Application is 5 to 10 times the density of the surrounding area; that there is almost no open space; that the TIS did not list the crash data for this very busy section of Route 1; and that phasing should be considered should this development be approved so that the future retail building not be constructed until the interchange is complete and operational.

The Commission found that Mr. David Thompson, Overbrook Association spoke in opposition to the Application; that this project is not in character with the area; that there is a density issue; that the additional traffic will cause back-ups; that construction should not begin until DelDOT's improvements are complete; and that allowing C-3 zoning would not be in character with the neighborhood.

Chairman Wheatley explained that the Commercial Zoning designations were recently changed by the County and that C-1 zoning is the most intense and the other designations are less intense.

The Commission found that Mr. John Saul spoke in opposition to the Application; that he lives immediately across from the proposed development in Paynter's Mill; that Paynter's Mill is a 298 units in over 100 acres of property; that one-third of the community is open space with walking trails and amenities; that there is currently an abundance of traffic in this area but the proposed development will exacerbate the traffic problem; and that there is no guarantee that the improvements by DelDOT will improve the traffic situation.

The Commission found that Ms. Rita Dumain spoke in opposition to the Application; that four-story buildings are not in character with the single-family homes in the area; that there will be traffic back-ups; that there are safety issues for cyclists.

The Commission found that Ms. Holly Donovan spoke by teleconference in support to the Application; that this is a good design, and that the applicant has met with neighbors and incorporated the feedback received into the design.

The Commission found that Ms. Donna Sher spoke by teleconference in opposition to the Application; that she has concerns about hazardous materials particularly with the gas station on the proposed site; that this proposal is out of character with the surrounding neighborhood; that it will affect property values; and that even with the proposed traffic improvements there will be increased traffic.

The Commission found that Mr. Jeff Stone, Sussex Alliance for Responsible Growth (SARG) spoke by teleconference in opposition to the Application; that a 5-page analysis was submitted to the Commission; that SARG agrees that the rezoning of this property is inevitable and may be desirable;

that the fact that it will be a local developer who would manage the property long-term is a plus; that the fact that the developer has taken the concerns of neighbors and made changes to the design is commendable; that the concerns of SARG are mainly traffic and the timing of the convenience store which were addressed in the presentation this evening; that the concerns now are regarding the TIS and the fact that the study is based on 94 residential units and not the 156 units that are being proposed; that a new TIS with the correct calculations are shown so that the Commission has all the facts prior to making a recommendation; that a phasing plan be put in place for the residential aspect of the development and not just the commercial component; and that the density and lack of open space is not in character with the surrounding communities.

The Commission found that Mr. Terry August spoke by teleconference in opposition to the Application; that his property is adjacent to and is 20 ft. from the proposed development; that the proposed development does not have adequate open space; and that the proposed right in access to the new development does not follow the Route 1 Corridor Preservation guidelines to reduce access to Route 1.

The Commission found that Ms. Eul Lee spoke by teleconference in opposition to the Application; that the advertisement stated of 128 apartments, but the Applicant mentioned 158 units and that is way more than 20 units per acre; that there is not enough open space for residents particularly those with children; and questions that the additional Hudson properties would be developed like this one.

Ms. Stevenson asked Mr. Brockenbrough if he knew what the density would have to be to get bus service to this area.

Mr. Brockenbrough stated that he did not know what that would be and to get an answer to this question the Commission should ask Delaware Transit Corporation.

Ms. Stevenson asked if Mr. Brockenbrough saw any concerns with the proposed entrance on the west side of the development.

Mr. Brockenbrough stated he did not have concerns with the design as proposed.

Ms. Wingate asked the members of the Commission if they felt a new TIS should be undertaken based on the correct number of residential units.

Mr. Hopkins stated that he thinks the plan is a good one because residents can use the interchange to enter and exit onto and off Route one and that density like this on Route 1 makes sense.

Mr. Mears agreed with Mr. Hopkins and stated that Mr. Brockenbrough stated that the change in numbers will affect the delay in the turn lanes and the fees to be paid by the Applicant.

Chairman Wheatley stated that is why he asked the question earlier to Mr. Brockenbrough if the impact would be great enough to make it necessary to redo the entire TIS.

Mr. Paradee stated that the Commission could defer and ask DelDOT to answer those two specific questions.

Mr. Brockenbrough reiterated that the change in numbers would require larger fees to be paid by the

applicant and longer time in turn lanes.

Chairman Wheatley stated that this will not change the design or the number of off-site improvements and asked if the incremental change would change the decision of Commission members then a TIS would be warranted.

Ms. Wingate said she was comfortable after Mr. Brockenbrough reiterated what the change in numbers would create.

Mr. Robertson stated that if the development is approved the Applicant will still have to work with DeIDOT on the design based on the correct numbers.

Ms. Stevenson asked about the lighting for the development.

Mr. Riemann stated that the lighting will be cut-off style lighting and downward facing.

At the conclusion of the Public Hearings, the Commission discussed the Applications.

In relation to Application C/Z 1891 Chappell Farm, LLC., motion by Ms. Stevenson to defer action for further consideration, seconded by Ms. Wingate, and carried unanimously. Motion carried 5-0.

In relation to Application C/Z 1892 Chappell Farm, LLC., motion by Ms. Stevenson to defer action for further consideration, seconded by Ms. Wingate, and carried unanimously. Motion carried 5-0.

In relation to Application C/U 2193 Chappell Farm, LLC., motion by Ms. Stevenson to defer action for further consideration, seconded by Ms. Wingate, and carried unanimously. Motion carried 5-0.

Draft Minutes of the February 11, 2021 Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since January 21, 2021.

Ms. Stevenson moved that the Commission recommend approval of C/Z 1892 for Chappell Farm, LLC for a change in zone from AR-1 Agricultural Residential District to a C-3 Heavy Commercial District 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 has frontage along Route 1 at a location that is next to existing C-1 property with various commercial uses. It is also across Cave Neck Road from other commercially zoned properties. This location is appropriate for this type of zoning.
3. This site has a history of commercial uses. Ordinance #2158 approved a conditional use for a country market at this location.

4. This site is the location of a grade separated intersection (or overpass) that is being constructed by DelDOT with on-ramps and off-ramps. Given its location adjacent to this interchange, commercial zoning, including C-3 Zoning, is appropriate for this property.
5. This C-3 district is intended to be integrated into a mixed-use community that will include Multi-family residential units. The C-3 zoning will permit uses that are beneficial to the residential units that are part of this development as well as traffic from Route 1.
6. There has been significant residential development in this area of Cave Neck Road. Adding nearby convenient uses permitted in the C-3 zone will eliminate trips from these residential developments to either Lewes or Milton for shopping needs.
7. The site will be served by central water and Sussex County sewer.
8. The site is in the Coastal Area according to the Sussex County Comprehensive Plan. C-3 zoning is appropriate in these Areas according to the Plan.
9. The proposed rezoning meets the general purposes of the Zoning Code by promoting the orderly growth, convenience, order prosperity and welfare of the County.
10. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.

Motion by Ms. Stevenson, seconded by Mr. Hopkins, and carried unanimously to recommend approval of C/Z 1892 Chappell Farm, LLC for the reasons and conditions stated in the motion.
Motion carried 4 – 0.

PLANNING & ZONING COMMISSION

ROBERT C. WHEATLEY, CHAIRMAN
KIM HOEY STEVENSON, VICE-CHAIRMAN
R. KELLER HOPKINS
J. BRUCE MEARS
HOLLY J. WINGATE



Sussex County

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JAMIE WHITEHOUSE, MRTPI, AICP
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: January 21st, 2021

Application: CZ 1892 Chappell Farm, LLC

Applicant: Becker Morgan Group, Inc.
309 South Governors Ave
Dove, DE 19904

Owner: Chappell Farm, LLC
30045 Eagles Crest Road Unit 2
Milton, DE 19968

Site Location: 30511 Cave Neck Road, Milton. The property is on the southwest corner of Cave Neck Road (S.C.R 88) and Coastal Hwy (Route 1)

Current Zoning: AR-1 - Agricultural Residential Zoning District

Proposed Zoning: C-3 – Heavy Commercial Zoning District

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Schaeffer

School District: Cape Henlopen School District

Fire District: Lewes Fire Department

Sewer: Septic

Water: Private

Site Area: 8.53 acres +/-

Tax Map ID.: 235-23.00-1.02



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Sussex County

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Memorandum

To: Sussex County Planning Commission Members
From: Christin Scott, Planner I
CC: Vince Robertson, Assistant County Attorney and applicant
Date: January 4, 2021
RE: Staff Analysis for CZ 1892 Chappell Farm, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1892 Chappell Farm, LLC to be reviewed during the January 21, 2021 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Change of Zone for Tax Parcel 235-23.00-1.02 (portion of) to allow for a change of zone from an Agricultural Residential (AR-1) Zoning District to a Heavy Commercial (C-3) Zoning District. The parcel is located on the northwest corner of Coastal Highway (Route 1) and Cave Neck Road (Route 88). The portion of the parcel to be rezoned contains 8.53 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 subject property has a land use designation of "Coastal Area". The properties to the north have the land use designation of "Existing Development Area", the properties to the south have the land use designation of "Coastal Area" and the properties to the east and west have the land use designation of "Low Density Area".

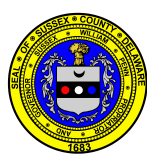
The Coastal Area is designated to encourage growth and development provided that environmental concerns are addressed. The Coastal Area may include various types of housing, small-scale retail and office, light commercial, and institutional land uses. Sussex County's base density of two (2) units per acre is standard. Medium and higher densities (4-12 units per acre) may be appropriate in select locations.

The 2018 Sussex County Comprehensive Plan outlines Zoning Districts by their applicability to each Future Land Use category. Under Table 4.5-2 "Zoning Districts Applicable to Future Land Use Categories", the Heavy Commercial (C-3) Zoning District is listed as an applicable zoning district in the "Coastal Area."

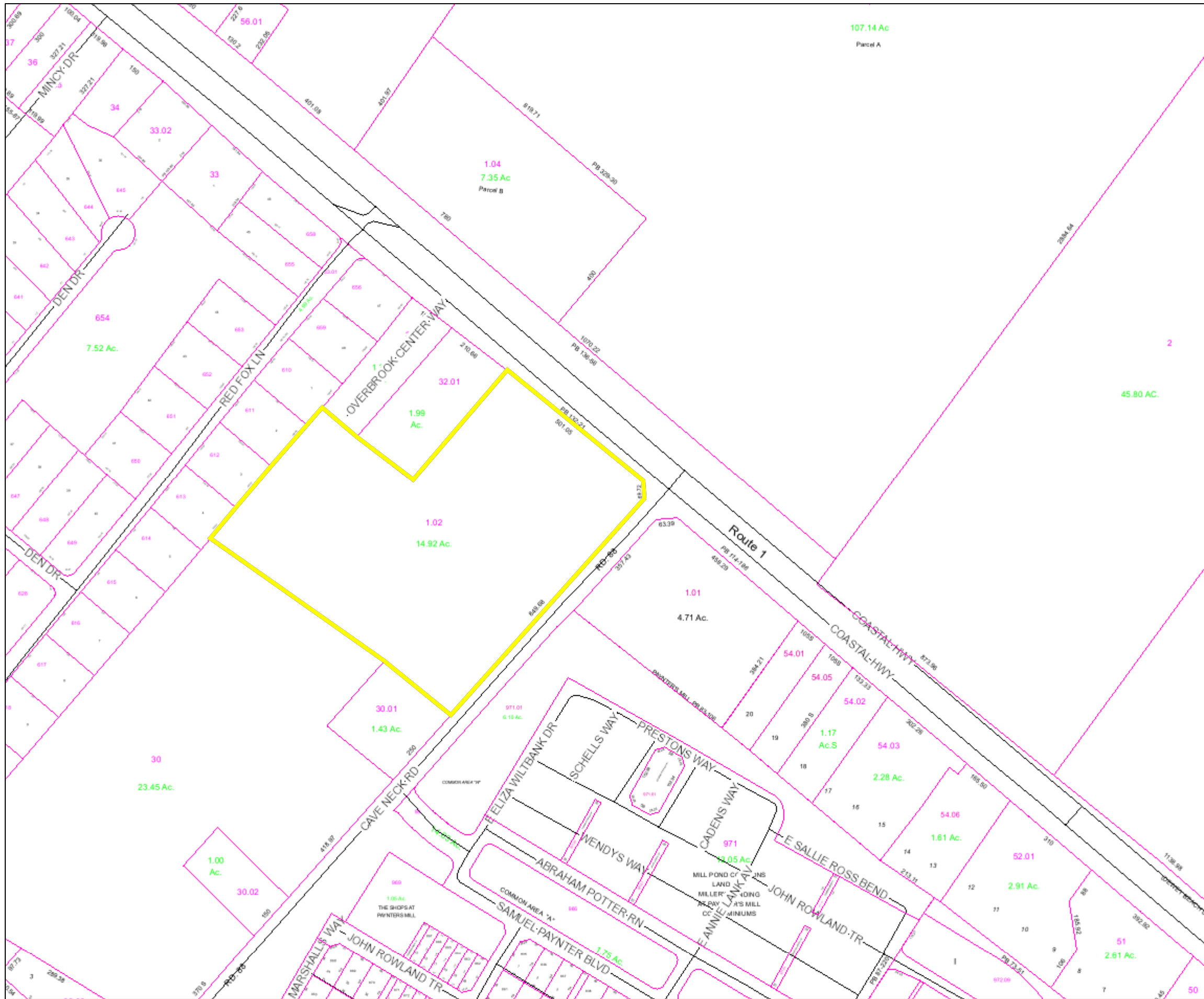
Additionally, the subject property is zoned Agricultural Residential (AR-1). The properties to the west as well as the properties on the opposite (western) side of Coastal Highway (Route 1) are zoned Agricultural Residential (AR-1). The properties to the north are zoned General Commercial (C-1) and Medium Residential (MR). The properties to the south are zoned Medium Residential (MR), Neighborhood Business (B-1) and General Commercial (C-2).



Since 2011, there has been two (2) Change of Zone applications within a 1-mile radius of the application site. Change of Zone No. 1770 to allow for a change of zone from AR-1 to CR-1. The application was denied by the Sussex County Council on April 12, 2016. Change of Zone No. 1916 for a change of zone from AR-1 to C-2. The application was approved by the Sussex County Council on July 28, 2020 and adopted through Ordinance No. 2727.



Sussex County



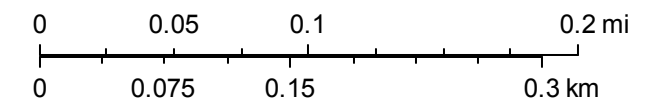
PIN:	235-23.00-1.02
Owner Name	CHAPPELL FARM LLC
Book	3971
Mailing Address	30045 EAGLES CREST RD
City	MILTON
State	DE
Description	SW/INTER COASTAL HWY
Description 2	CAVE NECK RD
Description 3	N/A
Land Code	

- polygonLayer**

 - Override 1
- polygonLayer**

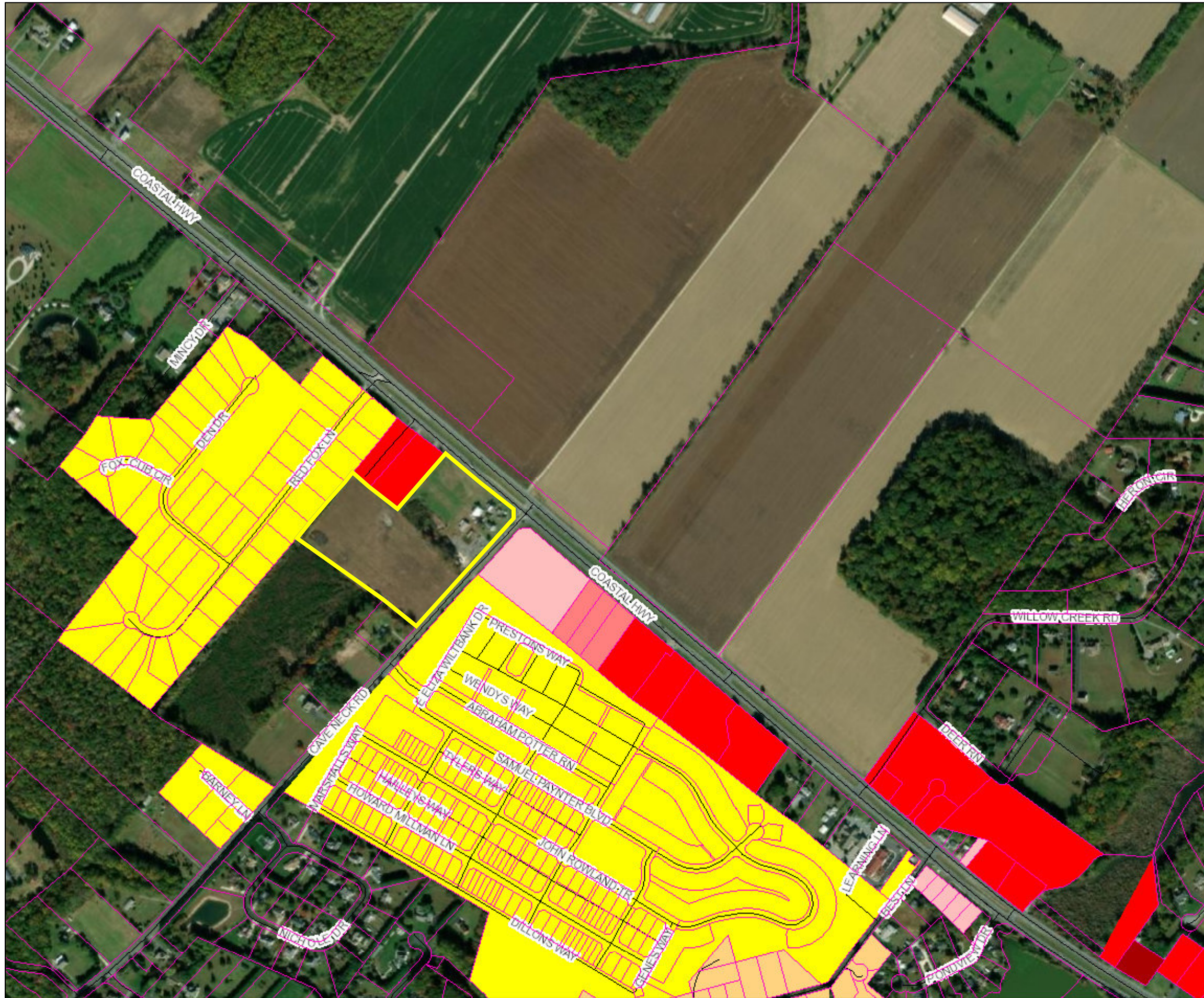
 - Override 1
- Tax Parcels
- Streets
- County Boundaries
- Municipal Boundaries
- TID

1:4,514





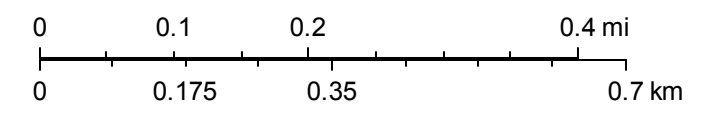
Sussex County



PIN:	235-23.00-1.02
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State	DE
Description	SW/INTER COASTAL HWY
Description 2	CAVE NECK RD
Description 3	N/A
Land Code	

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

1:9,028



Introduced 07/16/19

**Council District No. 3 - Burton
Tax I.D. No. 235-23.00-1.02 (portion of)
911 Address: 30511 Cave Neck Road, Milton**

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 BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 8.53 ACRES, MORE OR LESS

WHEREAS, on the 21st day of June 2019, a zoning application, denominated Change of Zone No. 1892, was filed on behalf of Chappell Farm, 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 Change of Zone No. 1892 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 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 Broadkill Hundred, Sussex County, Delaware, and lying on the northwest corner of Coastal Highway (Route 1) and Cave Neck Road, and being more particularly described in the attached legal description prepared by Becker Morgan Group, Inc., said parcel containing 8.53 acres, more or less.

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

JAMIE WHITEHOUSE, AICP
DIRECTOR OF PLANNING & ZONING
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Sussex County

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Memorandum

To: Sussex County Council
The Honorable Michael H. Vincent
The Honorable Cynthia C. Green
The Honorable Douglas B. Hudson
The Honorable John L. Rieley
The Honorable Mark G. Schaeffer

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

CC: Everett Moore, County Attorney

Date: February 26, 2021

RE: County Council Report for CU 2193 filed on behalf of Chappell Farm, LLC

The Planning and Zoning Department received an application (CU 2193 filed on behalf of Chappell Farm, LLC) for a Conditional Use for parcel 235-23.00-1.02 to allow for multi-family (128 apartments) at 30511 Cave Neck Rd, Milton. The property is currently within the Agricultural Residential (AR-1) Zoning District, but there is a separate application to re-zone the parcel to Medium Density (MR) Zoning District. The parcel size is 6.4 acres. This application has been submitted along with two other change of zone applications with Reference C/Z 1891 and C/Z 1892.

The Planning and Zoning Commission held a public hearing on January 21, 2021. At the meeting of February 11, 2021, the Commission recommended approval of the application for the 7 reasons and 14 recommended conditions outlined within the motion (included below).

Below are the approved minutes from the Planning & Zoning Commission meeting of January 21, 2021 and the draft minutes of the meeting of February 11, 2021

[Approved Minutes of the January 21, 2021 Planning & Zoning Commission Meeting](#)

C/U 2193 Chappell Farm, LLC

An Ordinance to grant a Conditional Use of land in a MR Medium Density Residential District for multi-family (128 units) to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 6.4 acres, more or less. The property is lying on the northwest corner of Coastal Highway (Route 1) and Cave Neck Road. 911 Address: 30511 Cave Neck Road, Milton. Tax Parcel: 235-23.00-1.02 (portion of).

Mr. Whitehouse advised the Commission that submitted into the record is a copy of the Applicant's indicative site plan, a staff analysis, a copy of the Applicant's exhibit book, a copy of the Applicant's



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traffic impact study and DelDOT's response, a copy of the PLUS response and a copy of the DelDOT service level evaluation response, Mr. Whitehouse noted that Staff have received one letter regarding the Applications.

The Commission found that Mr. John Paradee, Esq. was present on behalf of the Applicant, Chappell Farm, LLC; that also present are Mike Riemann, Chris Duke from Becker Morgan Group, Christian and Jamin Hudson, Principals of Chappell Farm, LLC.; that a brief video was shown which captures the vision of the proposed development; and that Mr. Paradee introduced Mr. Mike Riemann to present the technical merits.

Mr. Mike Riemann stated that the property is approximately 15 acres located at the intersection of Cave Neck Road and Route 1; that to the north is the Red Fox Run subdivision and to the south across Cave Neck Road is Paynter's Mill; that the property currently has a conditional use for shed sales, outdoor furniture sales; BBQ stand and a farmer's market; that there is public water and sewer on and adjacent to the subject property; that the Applicant has held a number of outreach meetings and has changed the plan with input from the community; that at the same time that this plan has been in the works, DelDOT are also working on an interchange for this location; that there was Community input about buffers between the Red Fox Community and this Development, the location of the pool and outdoor amenities, the mixed use located at the front of the development, light glare, the access to the Red Fox Run, sidewalks and pedestrian connectivity, timing of commercial pads in relation to the interchange schedule, fences, berms and landscaping, and that it be an apartment regime instead of a condominium regime with single ownership; that with the apartment regime, it will be one owner for the adjacent communities to communicate with regarding any issues that may arise; that current plan shows 156 apartments and a little over 40,000 sf of commercial; that there will be four four-story buildings with 32 units each; that there will be a mixed use building with boutique stores on the first floor with apartments above; that there will be a fitness center, a playground and a swimming pool; that there will be a convenience with fuel and a pharmacy/retail store towards the front of the property; that there will be interconnection to the Red Fox Run subdivision; that there will be right in access to the development from Route 1 and full access from Cave Neck Road; that per Sussex County Code 497 parking spaces are required and 555 parking spaces are being provided; that there is about one mile of pedestrian pathways within the development; that a 40 ft. buffer will be provided between this property and the Red Fox Run subdivision; that interconnectivity will be provided to the west for future development; that gated access into Red Fox Run has been proposed; that Paynter's Mill expressed concern about residents of this community crossing Cave Neck Road to use their facilities so funding for fencing will be provided to Paynter's Mill; that DelDOT plans an interchange for this portion of Route 1; that there will be a roundabout at the entrance to the new development; that DelDOT expects the project to be completed by 2026; that a service road is being proposed to provide access to the commercial properties on Route 1 to the south of Cave Neck Road; that the residents of Red Fox Run will no longer have direct access to Route 1 but would have access through this proposed development; that the current road from Red Fox Run to Route 1 would become a cul-de-sac; that this is also a rezoning application that the property to the west is zoned AR-1, the properties to the north and south are mainly zoned MR with some commercially zoned properties along route 1; that the request it to infill this area with a portion of the project as C-3 and a portion as MR; that is fitting for the existing zoning in the area; that the subject property is in the Coastal Area which is a developing area in the County; that the Coastal Area according to the Comprehensive Plan allows for Medium Density (MR) and Heavy Commercial (C-3); that a Traffic Impact Study (TIS) was completed and 12 intersections were studied; that this development will have to provide for improvements at a number of these intersections; that the Community requested that

the fuel convenience and the pharmacy not be open for business until the interchange has been completed and the Applicant has agreed to this.

Mr. Paradee stated that this Application has complete the PLUS process; that they have completed the Coastal Area report; that this Development is consistent with the 2018 Comprehensive Plan; it is consistent with the character of the area; that it will support local area residents with commercial options; that water and sewer infrastructure is available; that the TIS has been reviewed by DelDOT; that the Applicant will contribute to numerous planned DelDOT projects; that they have worked closely with the neighbors to obtain feedback and implement design enhancements based on the feedback; and that it meets the general purpose of the zoning ordinance.

Mr. Jamin Hudson stated that he has grown up in this area and lives just one-half mile from this project and understands this area; that the people in this area are his neighbors and that is why they have reached out to neighbors to find a plan at is amenable to all.

Mr. Christian Hudson stated although he does not live here, he did grow up in this area; that reaching out to neighbors before beginning the Application is how development should work; that the Application before the Commission is about three years of meeting with neighbors to find out what they want to see in the area and making changes to the design based on input and feedback; and that they want to build a development that they can be proud of.

Mr. Bill Brockenbrough, DelDOT stated that he had no prepared remarks but is available to take questions and that Director, Marc Cote is available by teleconference to answer questions.

Chairman Wheatley asked Mr. Brockenbrough if he concurred with what the Applicant has entered into the record.

Mr. Brockenbrough agreed that the details entered into the record are correct.

Mr. Mears asked how the roundabouts perform during heavy traffic.

Mr. Brockenbrough stated that roundabouts perform better than stop control and can be better than a signal.

Mr. Robertson asked Mr. Brockenbrough if the typographical error in the TIS mentioning 94 units as opposed to the actual 156 units would make a difference in the TIS.

Mr. Brockenbrough stated that it may change some numbers but would not change the recommendations.

Mr. Mears stated that the presentation was impressive and that he was pleased that the Applicant took time to meet with neighbors and use their feedback in the design.

Mr. Robertson stated that Sussex County has agreed to provide funding to DelDOT to make improvements to some intersections in the area ahead of when they were scheduled for funding by DelDOT and DelDOT will reimburse the County at a future date; that although not specific to this application, the information may be helpful to the Commission to know that the County is working with DelDOT to improve some problem intersections and one in in this area.

The Commission found that there was no one present who spoke in favor of the Application.

The Commission found that Mr. Rich Barasso spoke in opposition to the Application and gave a handout to members of the Commission; that the biggest concern is the proposed density for this area; that the zoning of 10.5 units is not consistent with the area; that Red Fox Run subdivision to the north has a density of one dwelling per acre; that Paynter's Mill to the south has a density of three dwellings per acre; the proposed Overbrook Meadow subdivisions have proposed densities of 2.1 dwellings; that the proposed density for this Application is 5 to 10 times the density of the surrounding area; that there is almost no open space; that the TIS did not list the crash data for this very busy section of Route 1; and that phasing should be considered should this development be approved so that the future retail building not be constructed until the interchange is complete and operational.

The Commission found that Mr. David Thompson, Overbrook Association spoke in opposition to the Application; that this project is not in character with the area; that there is a density issue; that the additional traffic will cause back-ups; that construction should not begin until DelDOT's improvements are complete; and that allowing C-3 zoning would not be in character with the neighborhood.

Chairman Wheatley explained that the Commercial Zoning designations were recently changed by the County and that C-1 zoning is the most intense and the other designations are less intense.

The Commission found that Mr. John Saul spoke in opposition to the Application; that he lives immediately across from the proposed development in Paynter's Mill; that Paynter's Mill is a 298 units in over 100 acres of property; that one-third of the community is open space with walking trails and amenities; that there is currently an abundance of traffic in this area but the proposed development will exacerbate the traffic problem; and that there is no guarantee that the improvements by DelDOT will improve the traffic situation.

The Commission found that Ms. Rita Dumain spoke in opposition to the Application; that four-story buildings are not in character with the single-family homes in the area; that there will be traffic back-ups; that there are safety issues for cyclists.

The Commission found that Ms. Holly Donovan spoke by teleconference in support to the Application; that this is a good design, and that the applicant has met with neighbors and incorporated the feedback received into the design.

The Commission found that Ms. Donna Sher spoke by teleconference in opposition to the Application; that she has concerns about hazardous materials particularly with the gas station on the proposed site; that this proposal is out of character with the surrounding neighborhood; that it will affect property values; and that even with the proposed traffic improvements there will be increased traffic.

The Commission found that Mr. Jeff Stone, Sussex Alliance for Responsible Growth (SARG) spoke by teleconference in opposition to the Application; that a 5-page analysis was submitted to the Commission; that SARG agrees that the rezoning of this property is inevitable and may be desirable; that the fact that it will be a local developer who would manage the property long-term is a plus; that the fact that the developer has taken the concerns of neighbors and made changes to the design is

commendable; that the concerns of SARG are mainly traffic and the timing of the convenience store which were addressed in the presentation this evening; that the concerns now are regarding the TIS and the fact that the study is based on 94 residential units and not the 156 units that are being proposed; that a new TIS with the correct calculations are shown so that the Commission has all the facts prior to making a recommendation; that a phasing plan be put in place for the residential aspect of the development and not just the commercial component; and that the density and lack of open space is not in character with the surrounding communities.

The Commission found that Mr. Terry August spoke by teleconference in opposition to the Application; that his property is adjacent to and is 20 ft. from the proposed development; that the proposed development does not have adequate open space; and that the proposed right in access to the new development does not follow the Route 1 Corridor Preservation guidelines to reduce access to Route 1.

The Commission found that Ms. Eul Lee spoke by teleconference in opposition to the Application; that the advertisement stated of 128 apartments, but the Applicant mentioned 158 units and that is way more than 20 units per acre; that there is not enough open space for residents particularly those with children; and questions that the additional Hudson properties would be developed like this one.

Ms. Stevenson asked Mr. Brockenbrough if he knew what the density would have to be to get bus service to this area.

Mr. Brockenbrough stated that he did not know what that would be and to get an answer to this question the Commission should ask Delaware Transit Corporation.

Ms. Stevenson asked if Mr. Brockenbrough saw any concerns with the proposed entrance on the west side of the development.

Mr. Brockenbrough stated he did not have concerns with the design as proposed.

Ms. Wingate asked the members of the Commission if they felt a new TIS should be undertaken based on the correct number of residential units.

Mr. Hopkins stated that he thinks the plan is a good one because residents can use the interchange to enter and exit onto and off Route one and that density like this on Route 1 makes sense.

Mr. Mears agreed with Mr. Hopkins and stated that Mr. Brockenbrough stated that the change in numbers will affect the delay in the turn lanes and the fees to be paid by the Applicant.

Chairman Wheatley stated that is why he asked the question earlier to Mr. Brockenbrough if the impact would be great enough to make it necessary to redo the entire TIS.

Mr. Paradee stated that the Commission could defer and ask DelDOT to answer those two specific questions.

Mr. Brockenbrough reiterated that the change in numbers would require larger fees to be paid by the applicant and longer time in turn lanes.

Chairman Wheatley stated that this will not change the design or the number of off-site improvements and asked if the incremental change would change the decision of Commission members then a TIS would be warranted.

Ms. Wingate said she was comfortable after Mr. Brockenbrough reiterated what the change in numbers would create.

Mr. Robertson stated that if the development is approved the Applicant will still have to work with DelDOT on the design based on the correct numbers.

Ms. Stevenson asked about the lighting for the development.

Mr. Riemann stated that the lighting will be cut-off style lighting and downward facing.

At the conclusion of the Public Hearings, the Commission discussed the Applications.

In relation to Application C/Z 1891 Chappell Farm, LLC., motion by Ms. Stevenson to defer action for further consideration, seconded by Ms. Wingate, and carried unanimously. Motion carried 5-0.

In relation to Application C/Z 1892 Chappell Farm, LLC., motion by Ms. Stevenson to defer action for further consideration, seconded by Ms. Wingate, and carried unanimously. Motion carried 5-0.

In relation to Application C/U 2193 Chappell Farm, LLC., motion by Ms. Stevenson to defer action for further consideration, seconded by Ms. Wingate, and carried unanimously. Motion carried 5-0.

Draft Minutes of the February 11, 2021 Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since January 21, 2021.

Ms. Stevenson moved that the Commission recommend approval of C/U 2193 for Chappell Farm, LLC for a Conditional Use of land in a MR Medium Density Residential District for multi-family apartment units (128 units) based upon the record made during the public hearing and for the following reasons:

1. This application seeks the approval of 128 multi-family apartments.
2. The property is in an area where a variety of development has occurred. There is a nearby MR-RPC with multi-family residential development. There is adjacent C-1 property that permits 12 dwelling units per acre. There are other nearby commercial zonings and uses in the area. This project is consistent with these nearby uses.
3. This multi-family development will be part of a mixed-use project on this site that will include commercial uses that will benefit the residents on the site as well as others in the nearby Cave Neck Road area.
4. The site is the location of a grade separated intersection, (or overpass) that is being constructed by DelDOT with on-ramps and off-ramps. This will be one of only a few grade-separated intersections in Sussex County which gives this location an urban character. Given the location adjacent to this interchange, multi-family dwellings as part of a mixed-use development are appropriate.

5. There is a need for apartment units for the workforce in eastern Sussex County. This multi-family apartment development will be in a convenient location for the nearby employment centers in Lewes, Rehoboth, Milton and even the Bayhealth center south of Milford.
6. The site is in the Coastal Area according to the Sussex County Comprehensive Plan. This type of development is appropriate in this Area according to the Plan, which states that “a range of housing types” and medium and higher densities are acceptable when a site is near commercial uses, is “along a main road or at/near a commercial intersection”, is served by central water and sewer, where the use is in keeping with the character of the area and other similar factors. These types of considerations exist with regard to this site.
7. The proposed development will not have an adverse impact on the neighboring properties or community.
8. The site plan proposed gated interconnectivity with the adjacent residential development, which will eliminate an entrance directly from Route 1 and divert that traffic to the new Route One interchange.
9. The project will not have an adverse impact upon traffic or roadways. The developer will be required to contribute to area road improvements, including the Route 1 interchange and other road improvements in the area.
10. There was a question raised about the number of units referenced in the TIS, which was less than the number of units in this application. A representative of DelDOT confirmed that this difference does not create a significant difference in DelDOT’s analysis of the project. However, it may impact the road improvements or financial contributions that the developer will be required to make as this project is developed- the type of adjustments that occur in any type of development as the development plans are finalized.
11. The Level of Service of nearby roadways and intersections will not be significantly adversely affected by this development. The current at-grade intersection of Cave Neck Road and Route One is on track to be substantially improved by creating an overpass with on- and off- ramps. The Red Fox Run intersection with Route 1 will be eliminated and replaced with much safer interconnectivity through this development to Cave Neck Road. This developer will also be required to make substantial contribution to other nearby roadway improvements to offset any impacts of this development.
12. The development will be served by central sewer.
13. The development will be served by central water.
14. This recommendation is subject to the following conditions:
 - a. The maximum number of residential units shall be 128.
 - b. The Applicant or its successor, as Landlord shall be responsible for the perpetual maintenance of the development’s roadway, buffers, stormwater management facilities, erosion and sedimentation control facilities and other common areas.
 - c. All entrance, intersection, roadway and multi-modal improvements shall be completed by the developer in accordance with all DelDOT requirements.
 - d. The project shall be served by Sussex County sewer. The developer shall comply with all Sussex County Engineering Department requirements including any offsite upgrades necessary to provide service to the project.
 - e. The project shall be served by central water to provide drinking water and fire protection.
 - f. There shall be a vegetated or forested buffer of at least 40 feet in depth. This shall include existing vegetation that shall be expanded to include varying landscape stock, including trees that are at least 1.5-inch caliper at 5 feet of height and shrubs of 5-gallon minimum size. As proposed by the developer, there shall also be a privacy fence along the common

- property line with Red Fox Run. All of this shall be shown within a landscape plan included as part of the Final Site Plan for the project.
- g. Construction activities, including site work and deliveries, shall only occur between 7:30 am and 7:00 pm Monday through Friday, and between 8:00 am and 2:00 pm on Saturdays. There shall be no construction activities at the site on Sundays.
 - h. Street naming and addressing shall be subject to the review and approval of the County Mapping and Addressing Departments.
 - i. The Final Site Plan shall contain the approval of the Sussex County Conversation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
 - j. All streetlights shall be shielded and downward screened so that they do not shine on neighboring properties or roadways.
 - k. The interior street design shall meet or exceed Sussex County's street design requirements.
 - l. If requested by the local school district, a school bus stop shall be provided. The location of the bus stop shall be shown on the Final Site Plan.
 - m. Recreational amenities shall be completed simultaneously with the issuance of the Certificate of Occupancy for the first multi-family building.
 - n. A Certificate of Occupancy will not be issued for Commercial Use Buildings until the completion of the Overpass.
 - o. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Ms. Stevenson, seconded by Mr. Hopkins, and carried unanimously to recommend approval of C/U 2193 Chappell Farm, LLC for the reasons and conditions stated in the motion. Motion carried 4 – 0.

PLANNING & ZONING COMMISSION

ROBERT C. WHEATLEY, CHAIRMAN
KIM HOEY STEVENSON, VICE-CHAIRMAN
R. KELLER HOPKINS
J. BRUCE MEARS
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Sussex County

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JAMIE WHITEHOUSE, MRTPI, AICP
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: January 21st, 2021

Application: CU 2193 Chappell Farm, LLC

Applicant: Becker Morgan Group, Inc.
309 South Governors Ave
Dove, DE 19904

Owner: Chappell Farm, LLC
30045 Eagles Crest Road Unit 2
Milton, DE 19968

Site Location: 30511 Cave Neck Road, Milton. The property is on the southwest corner of Cave Neck Road (S.C.R 88) and Coastal Hwy (Route 1)

Current Zoning: AR-1 - Agricultural Residential Zoning District (Change of Zone 1891 & 1892 are currently being sought for MR and C-3)

Proposed Use: 128 Apartments (Multi-family units)

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Schaeffer

School District: Cape Henlopen School District

Fire District: Lewes Fire Department

Sewer: Septic

Water: Private

Site Area: 14.9269 acres +/-

Tax Map ID.: 235-23.00-1.02



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Memorandum

To: Sussex County Planning Commission Members
From: Christin Scott, Planner I
CC: Vince Robertson, Assistant County Attorney and applicant
Date: January 14, 2021
RE: Staff Analysis for CU 2193 Chappell Farm, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2193 Chappell Farm, LLC to be reviewed during the January 21, 2021 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcel 235-23.00-1.02 to allow for multifamily (128 apartments). The parcel is located on the northwest corner of Coastal Highway (Route 1) and Cave Neck Road (Route 88). The portion of the parcel to be rezoned contains 6.4 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 subject property has a land use designation of "Coastal Area". The properties to the north have the land use designation of "Existing Development Area", the properties to the south have the land use designation of "Coastal Area" and the properties to the east and west have the land use designation of "Low Density Area".

The Coastal Area is designated to encourage growth and development provided that environmental concerns are addressed. The Coastal Area may include various types of housing, small-scale retail and office, light commercial, and institutional land uses. Sussex County's base density of two (2) units per acre is standard. Medium and higher densities (4-12 units per acre) may be appropriate in select locations.

The subject property is zoned Agricultural Residential (AR-1). The properties to the west as well as the properties on the opposite (western) side of Coastal Highway (Route 1) are zoned Agricultural Residential (AR-1). The properties to the north are zoned General Commercial (C-1) and Medium Residential (MR). The properties to the south are zoned Medium Residential (MR), Neighborhood Business (B-1) and General Commercial (C-2).

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

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





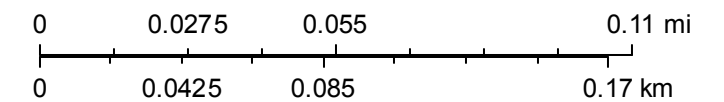
Sussex County

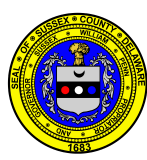


PIN:	235-23.00-1.02
Owner Name	CHAPPELL FARM LLC
Book	3971
Mailing Address	30045 EAGLES CREST RD
City	MILTON
State	DE
Description	SW/INTER COASTAL HWY
Description 2	CAVE NECK RD
Description 3	N/A
Land Code	

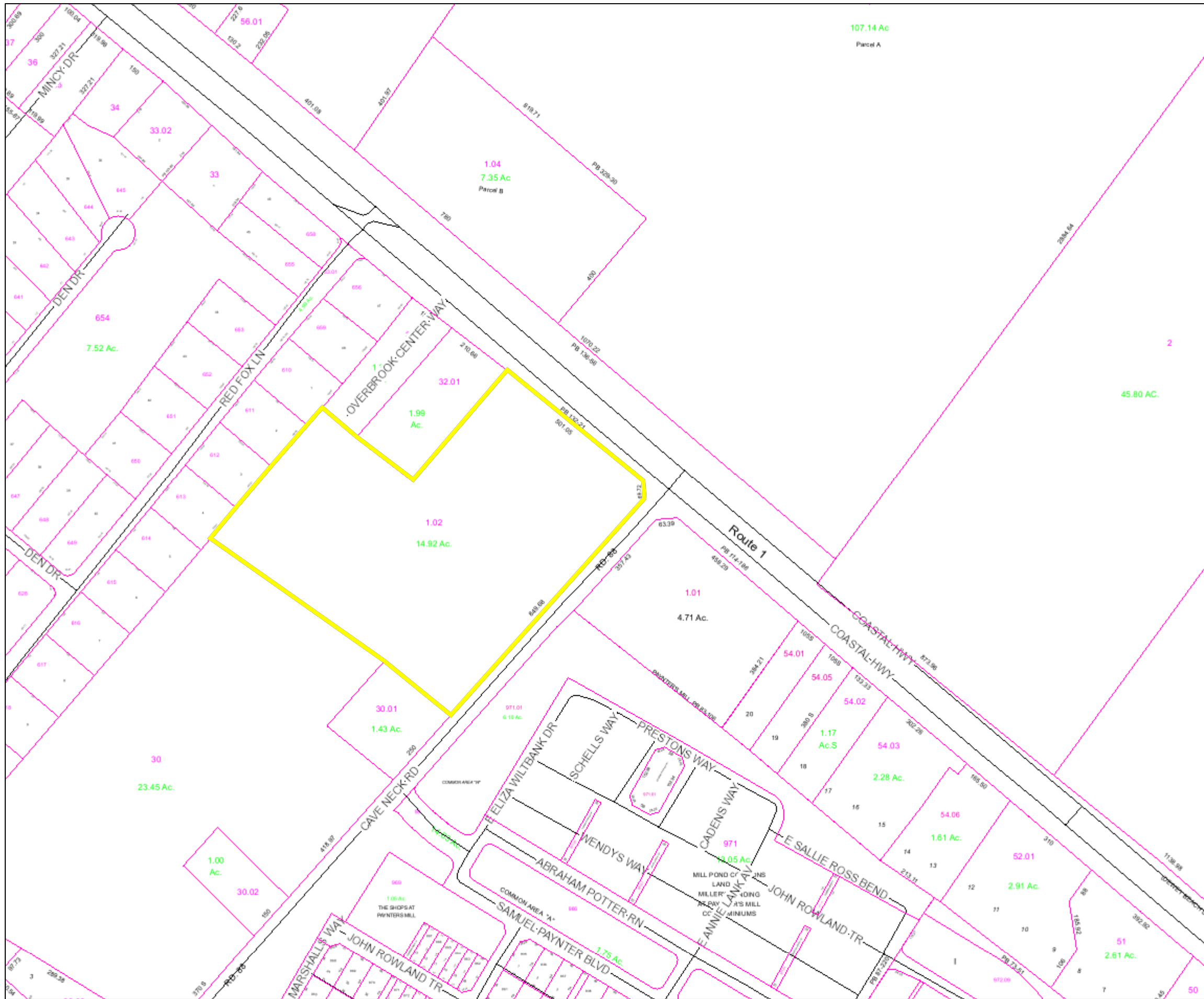
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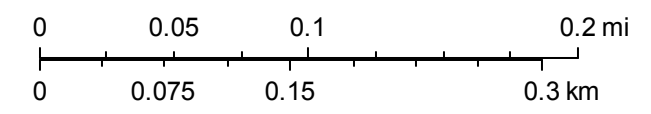
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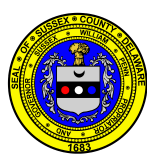


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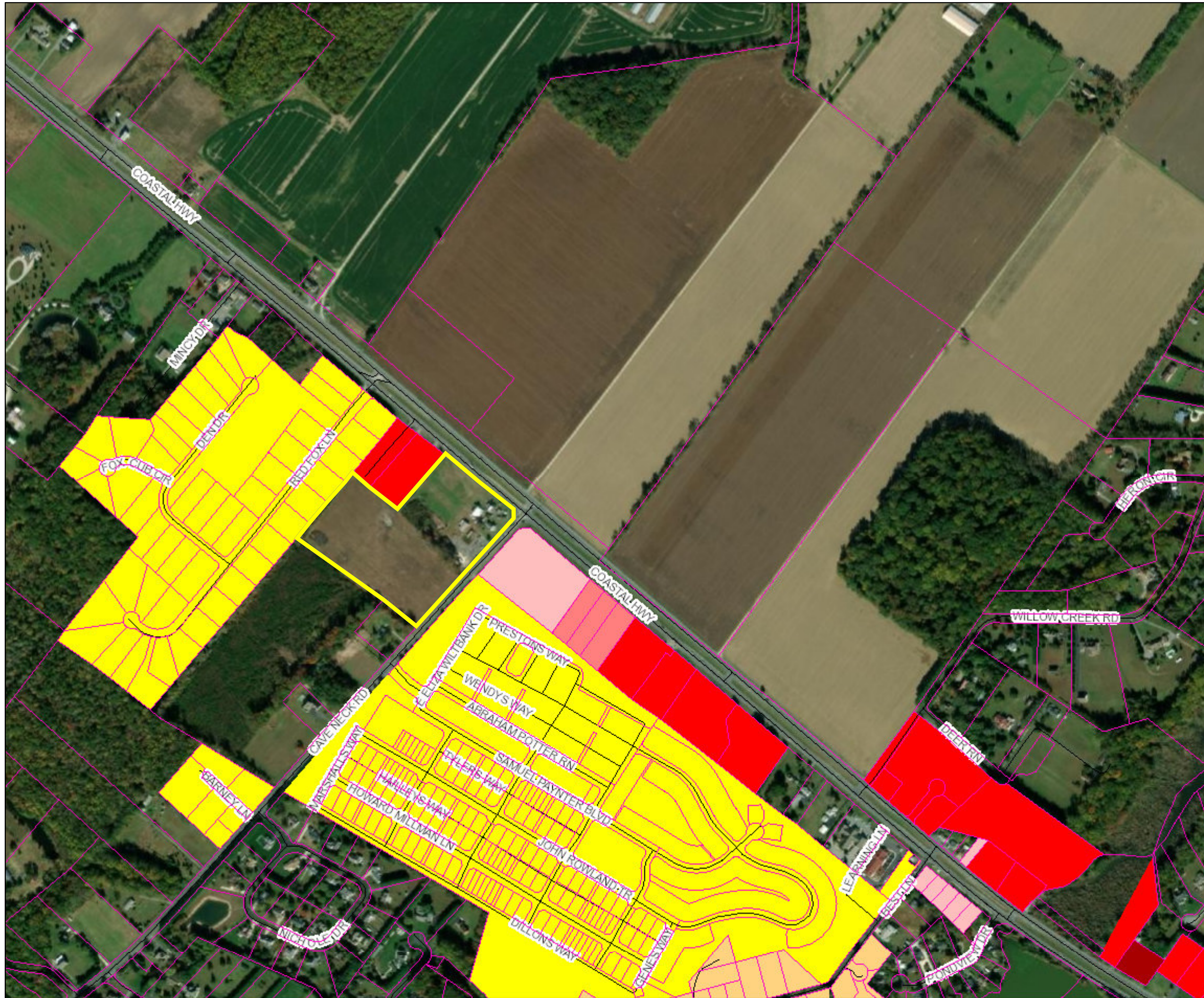
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- Municipal Boundaries
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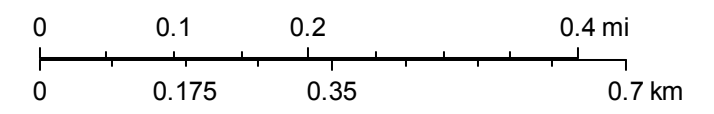
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- polygonLayer**
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Override 1
- Tax Parcels
- Streets

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Introduced 07/16/19

**Council District No. 3 – Burton
Tax I.D. No. 235-23.00-1.02 (portion of)
911 Address: 30511 Cave Neck Road, Milton**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY (128 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 6.4 ACRES, MORE OR LESS

WHEREAS, on the 18th day of June 2019, a conditional use application, denominated Conditional Use No. 2193, was filed on behalf of Chappell Farm, 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. 2193 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 V, Subsection 115-31, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2193 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Broadkill Hundred, Sussex County, Delaware, and lying on the northwest corner of Coastal Highway (Route 1) and Cave Neck Road, and being more particularly described in the attached legal description prepared by Becker Morgan Group, Inc., said parcel containing 6.4 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.