



# **Sussex County Council Public/Media Packet**

**MEETING:  
March 7, 2023**

**\*\*DISCLAIMER\*\***

**This product is provided by Sussex County government as a courtesy to the general public. Items contained within are for background purposes only, and are presented 'as is'. Materials included are subject to additions, deletion or other changes prior to the County Council meeting for which the package is prepared.**

**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 7, 2023

12:30 P.M.

#### Call to Order

#### Approval of Agenda

#### Approval of Minutes – February 28, 2023

#### Reading of Correspondence

#### Public Comments

#### J. Everett Moore, Jr., County Attorney

1. Discussion & possible introduction of an Ordinance related to the Removal Procedures for Members of Appointed Boards, Commissions, & Advisory Committees

#### Todd Lawson, County Administrator

1. Review of the County Council's priority initiatives
2. Presentation & discussion related to updates to County Code regarding development
3. Administrator's Report



**Hans Medlarz, County Engineer**

1. **IB Irrigation Pump Replacement, Project M23-07**
  - A. **Recommendation to Award**
2. **2019 Sussex County Delaware Coastal Airport/Business Park & Miscellaneous Property Maintenance**
  - A. **Contract Extension & Cost Adjustment**

**Grant Request**

1. **American Legion Post 8, Inc. for Placement of Flags for Veterans**

**Introduction of Proposed Zoning Ordinances**

**Council Members' Comments**

**1:30 p.m. Public Hearings**

**Conditional Use No. 2370 filed on behalf of William D. & Carol Emmert**

**“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AMENDMENTS TO CONDITIONAL USE NO. 1334 (ORDINANCE NO. 1383) TO ALLOW FOR AN ADDITIONAL COMMERCIAL BUILDING FOR STORAGE AND OPERATIONS OF A CONSTRUCTION BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 3.93 ACRES, MORE OR LESS” (property lying on the north side of Four of Us Road, approximately 234 feet west of Hollyville Road [S.C.R. 48]) (911 Address: 28816 Four of Us Road, Harbeson) (Tax Parcel: 234-10.00-12.09)**

**Change of Zone No. 1974 filed on behalf of Gregory T. White and Patricia P. White**

**“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 BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.83 ACRES, MORE OR LESS” (property lying on the northeast side of Vines Creek Road [Rt. 26], approximately 425 feet northwest of Powell Farm Road [S.C.R. 365]) (911 Address: 34371 Vines Creek Road, Dagsboro) (Tax Parcel: 134-11.00-152.00)**

**Change of Zone No. 1975 filed on behalf of Gregory T. White and Patricia P. White**

**“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN MR MEDIUM RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.64 ACRES, MORE OR LESS” (properties lying on the southwest side of Vines Creek Road [Rt. 26] approximately 450 feet northwest of Powell Farm Road [S.C.R. 365]) (911 Address: 34360 & 34376 Vines Creek Road, Dagsboro) (Tax Parcels: 134-11.00-107.00 and 108.00)**

**Change of Zone No. 1995 filed on behalf of Janice CRP3, LLC**

**“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND C-1 GENERAL COMMERCIAL DISTRICT TO AN MR-RPC MEDIUM-DENSITY RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 61.39 ACRES, MORE OR LESS” (property lying on the west side of Janice Road, approximately 0.10 mile west of Nassau Commons Boulevard) (911 Address: 32172 Janice Road, Lewes) (Tax Parcel: 334-5.00-153.02)**

**Ordinance No. 23-02**

**“AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NOS. 334-5.00-153.00 & 334-5.00-153.02” (properties lying on the west side of Janice Road, approximately 0.10 mile west of Nassau Commons Boulevard) (911 Address: 32172 Janice Road, Lewes) (Tax Parcels: 334-5.00-153.00 & 334-5.00-153.02)**

**Adjourn**

**-MEETING DETAILS-**

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on February 28, 2023 at 4:15 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.

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

The County provides a dial-in 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://sussexcountyde.gov/agendas-minutes/county-council>.

## ##

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, FEBRUARY 28, 2023**

**A regularly scheduled meeting of the Sussex County Council was held on Tuesday, February 28, 2023, at 10:00 a.m., in Council Chambers, with the following present:**

<b>Michael H. Vincent</b>	<b>President</b>
<b>John L. Rieley</b>	<b>Vice President</b>
<b>Cynthia C. Green</b>	<b>Councilwoman</b>
<b>Douglas B. Hudson</b>	<b>Councilman</b>
<b>Mark G. Schaeffer</b>	<b>Councilman</b>
<b>Todd F. Lawson</b>	<b>County Administrator</b>
<b>Gina Jennings</b>	<b>Finance Director</b>
<b>J. Everett Moore, Jr.</b>	<b>County Attorney</b>
<b>Vince Robertson</b>	<b>Assistant County Attorney</b>

**Call to Order**

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

**Mr. Vincent called the meeting to order.**

**M 096 23  
Approve  
Agenda**

**A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to approve the Agenda, as presented.**

**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 from February 21, 2023, were approved by consensus.**

**Corre-  
spondence**

**Mr. Moore read correspondence received from The Greater Lewes Foundation thanking Council for their support.**

**Public  
Comments**

**There were no public comments.**

**M 097 23  
Approve  
Consent  
Agenda**

**A Motion was made by Mr. Hudson, seconded by Mr. Rieley to approve the following items under the Consent Agenda:**

**Use of Existing Wastewater Infrastructure Agreement – IUA 407-1 Revised Plover Point, Oak Orchard Area**

**Use of Existing Wastewater Infrastructure Agreement – IUA 113 Estuary Phase 5 (Zinszer), Miller Creek Area**

**Use of Existing Wastewater Infrastructure Agreement – IUA 1109  
Patriot’s Glen (Phase 1), Oak Orchard Area**

**Code of Conduct Rules Ethics Training Review & Discussion** of **Mr. Lawson reviewed the Code of Conduct Rules and Ethics Training. Mr. Lawson reported that on December 13, 2022, a presentation was made relating to ethics and code of conduct. During that presentation, it was indicated that the County falls under State Law, the Public Integrity Commission and specifically, Title 29, Chapter 58, Subchapter I. Mr. Lawson explained that since the County does not have its own ethics commission, the County falls under State Code. The current County requirements and practices were discussed. These requirements and practices included Sussex County following Title 29, Chapter 58, Subchapter I, internal fraud and abuse reporting tool and disclosure forms. Based on the previous discussion, staff recommendations were made. These recommendations included additional PIC training, disclosure forms to be expanded to the Planning & Zoning Commission and Board of Adjustment, all newly elected and appointed officials participate in PIC training, develop a brochure for easy reference and develop an external fraud and abuse reporting tool.**

**Mrs. Jennings reviewed the items that have been completed since the presentation. Mrs. Jennings reported that since December 13, 2022, a Code of Conduct page has been added to the County’s website. That website includes the following:**

- **Link to the State Code where the Code of Conduct is located**
- **Link to the Public Integrity Commission**
- **A form to report any violations of the Code of Conduct**
- **Brochure that summarizes the Code of Conduct**
- **PIC training with associated PowerPoint**

**In addition, the annual disclosure forms were distributed in January to County Council, Planning & Zoning Commission and Board of Adjustment. On February 2, 2023, Deborah Moreau, PIC’s attorney, held a training on the Code of Conduct for elected officials, planning & zoning commission, board of adjustment and select employees. The County had 100% participation, either in person or by watching the video subsequently.**

**Mrs. Jennings showed where the new page has been added to the County’s website and reviewed the information located on the page.**

**Mr. Vincent asked if there was 100% compliance on the signing of the forms that were distributed. Mrs. Jennings replied that she has collected everyone’s form except for Mr. Warfel; he signed the bottom of the form, but he did not answer yes or no on any of the questions. He signed the form and commented that it does not pertain to him. In addition, he submitted a letter that he would like to see an Ordinance passed governing the form to preserve the Board of Adjustment independence. Mrs. Jennings added that**

**Code of Conduct Rules Ethics Training Review & Discussion (continued)**      **of Mrs. Green has not signed the form.**

**& Mr. Vincent questioned what the consequences would be if a Council member does not sign the form. Mr. Moore replied that under Delaware Code, Mrs. Jennings does have the right to have any type of form submitted and obtained signatures if it is helpful for purposes of carrying out her position. Mr. Moore added that it becomes a large accounting issue because the County is subject to audits for both state and federal funds. Therefore, that is the reason that the State Code gives Mrs. Jennings's the authority to get any type of affidavits and the code states from any officer or employee of the County. Mr. Moore added that a compliance issue then occurs with the auditors when they are doing their reviews. In regard to federal guidelines, there are very specific requirements that the County have in place and have policies so that it is known that there are no conflicts of interest in granting those funds. Mr. Moore added that a significant portion of money comes from federal funds.**

**Mr. Vincent questioned the options if a member chooses not to sign. Mr. Moore replied that for certain funding sources such as state and dealing with different vendors, the Director of Finance can go to our vendors (around 2,000 +) and get them to sign something. Mr. Moore noted that is a work around for the state funding but not for the federal funding. When looking at the federal code, the option would be for anyone to recuse themselves on any federal funding vote if they have not signed so that the County would not be in violation of any of the requirements.**

**Mr. Vincent asked the amount of money that could be an issue. Mrs. Jennings replied that looking at our financial statements, the County has spent \$14M of federal funds last year which includes water, sewer, airport funding and CDBG. She added that any of the passthrough grants that are received from DEMA are funded through FEMA. She noted that does not include the \$45M that has not been spent yet for ARPA. Mrs. Jennings reported that she did reach out to the auditors; they suggested that we could reach out to each vendor and ask them for their conflict of interest. However, each time that Council changes, the vendors would need to be contacted again. This form was to help meet those guidelines for the auditors.**

**Mr. Rieley questioned if this could impact the County's Triple A credit rating. Mrs. Jennings stated that we could have a federal finding.**

**Mrs. Green stated that her position is that this needs to be an Ordinance that the Council needs to put in place, have a discussion and vote on. She believes that it is well worth making this an Ordinance. Mr. Vincent commented that he would disagree with that; the document has been signed by Council for three years now. He added that it did not start with an Ordinance. Mrs. Green commented that it may now be the time to do that with the amount of money and exposure that is there. Mrs. Green questioned if the paper was valid and if there was teeth in it. She added that**



**Code of Conduct Rules & Ethics** of it is a good document, however, she does have questions such as who her family is. She would support it being an Ordinance that comes from the Council.

**Training Review & Discussion** Mr. Rieley pointed out that the authority for this document already exists through the Finance Director. Therefore, he questioned the reason for an Ordinance.

(continued)

Mr. Hudson stated that he does not believe that an Ordinance is needed to establish that we are being transparent.

Mr. Hudson requested that Mr. Moore draft an Ordinance that outlines steps for the Council to be able to remove someone from the appointed Boards or Commissions if they do not want to sign these forms. He added that they set an example for transparency.

Mrs. Green requested an Ordinance be written that explains why this needs to be completed and explains how funding is done.

**Administrator's Report**

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

1. Project Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, Friendship Creek – Phase 2 (Construction Record) received Substantial Completion effective February 17<sup>th</sup>.

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

**Pension & OPEB Fund Update & Recommendation**

Gina Jennings, Finance Director presented the pension and OPEB fund update. Mrs. Jennings provided an update on the performance of the County's pension funds and discussed the annual actuary report.

Mrs. Jennings reported that a quarterly meeting was held based on December 31<sup>st</sup> numbers. Mrs. Jennings reviewed the performance for the pension fund and the OPEB fund. Mrs. Jennings then reviewed the actuary report that shows the County is currently 99.8% funded as well as the contributions and expenses. Mrs. Jennings shared a chart showing the historical trends of assets and liabilities.

Mrs. Jennings then discussed the OPEB that is 86.8% funded and she reviewed the contributions and expenses. She explained that currently, assets in the OPEB fund are valued differently than the pension fund. The pension fund takes in account fluctuations in investment returns (5-year smoothing). She is recommending the OPEB funding policy be changed to match the pension funding to avoid large fluctuations due to the market (budget stability).

**M 098 23**  
**Approve**  
**Revision of**  
**OPEB**  
**Funding**  
**Policy**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer that he moved that the Sussex County Council, based on the recommendation from the Pension Committee, revise the OPEB Funding Policy to use a 5-year smoothing for the actuarial valuation of assets. The determination of the unfunded liability will be based on the difference of the entry age actuarial liability and the actuarial value of assets.

**Motion Adopted: 5 Years**

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

**Proposed**  
**Ordinance/**  
**Kitchen**  
**Incubator**  
**Project**

Bill Pfaff, Economic Development Director presented a Proposed Ordinance entitled “AN ORDINANCE AMENDING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2023 TO INCORPORATE NEW FEES AND EXPENSES FOR THE KITCHEN INCUBATOR PROJECT” for Council’s consideration.

Mr. Pfaff explained that a kitchen incubator is a state licensed and certified kitchen that is rented by the day, week, or month. He added that chefs, caterers, food trucks, farmer-value added producers all use this service. In addition, the provider provides the following services: business planning, marketing, training, legal, distribution and job training to help current and potential employers.

Mr. Pfaff reported that a kitchen incubator helps remove restrictive barriers of high-cost capital investment associated with leasing or purchasing a commercial kitchen and kitchen equipment. In addition, it allows specialty food businesses like processors, farmers, caterers, food cart vendors, and food trucks the opportunity to start from nothing and grow. It reduces the risk of failure by removing additional start-up barriers associated with no, or low skills in the areas of managing and maintaining a commercial kitchen. Mr. Pfaff reported that the following are provided: technical assistance, training, value-added resources related to distribution, branding, marketing, pricing, food cost, insurance, legal services, and financing opportunities.

Mr. Pfaff introduced Mr. Jim Richards, kitchen manager.

Mr. Pfaff reviewed the pricing structure for the kitchen incubator. A \$100.00 non-fundable application fee is being proposed. This will allow you to become a member of the kitchen. The membership includes the following:

- “How to Start a business” workshop
- “Food Costing and Pricing” workshop
- Equipment repairs

**Proposed Ordinance/  
Kitchen Incubator Project  
(continued)**

- **Pest control**
- **Trash removal**
- **Janitorial service and deep cleaning**
- **Utilities**
- **Basic equipment – soap, sanitizer, buckets, some pots, and pans**

**In addition, the proposed kitchen fees are as follows:**

- **Security Deposit: \$300 (refundable)**
- **Monthly: \$300 (includes 15 hours kitchen time and is required for all food trucks and anyone who wishes to take this option)**
- **Additional time \$24 hourly rate**
- **No monthly fee: \$35 per hour (minimum 3 hours)**
- **Dry storage (cage) \$75 per month**
- **Refrigeration \$45 (small), \$75 (large) month per shelf**

**Mr. Rieley questioned how many members can be handled? Mr. Pfaff replied that 3 to 4 people can work in the kitchen at the same time in different workstations depending on their size. As far as total memberships, it is estimated having 20 to 30 depending on their usage.**

**Mr. Rieley asked if there was any cost projections. Mr. Pfaff stated that it is estimated that about \$100,000 a year will be spent to operate the kitchen. It was added that a grant is secured even with these fees in place.**

**Mrs. Green asked if the suppliers could deliver products directly to the kitchen. It was confirmed that can be accommodated and logistics are being worked out to offer that.**

**Introduction of Proposed Ordinance**

**Mr. Rieley introduced a Proposed Ordinance entitled “AN ORDINANCE AMENDING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2023 TO INCORPORATE NEW FEES AND EXPENSES FOR THE KITCHEN INCUBATOR PROJECT”.**

**Insurance Broker Recommendation**

**Andrea Wall, Manager of Accounting presented insurance broker recommendation for Council’s consideration. Mrs. Wall reported that in November, the County advertised a Request for Proposal for an insurance broker to start the insurance renewal process. Three qualified firms submitted proposals and all three firms were interviewed.**

**Alliant is being recommended for the following reasons:**

- They have national resources and handle over 1,000 county clients.**
- Incumbent broker who did not increase fee for their five years serving as County broker.**
- Incumbent broker already familiar with County insurance program**

**Insurance  
Broker  
Recommendation  
(continued)**

**and seamless continuation of broker services.**

- Lowest broker fee, reduced to show commitment to working with the County.**
- Tailored process and forum that deepens underwriter/client/broker relationships.**
- Dedicated claims, placement and risk control staff embedded in our service team.**
- Enhanced customer service features**

**Mrs. Wall explained that the selection of our broker is the first step in the insurance renewal process. Once our broker is selected, they will continue the renewal process by approaching alternative markets on our behalf, and the results will be presented in June to place coverages.**

**M 099 23  
Approve  
Insurance  
Broker  
Recommendation**

**A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, that be it moved based on the recommendation of insurance buyer council and Sussex County Finance Department that Sussex County Council award the insurance broker RFP to Alliant Insurance Services for a period of three years with the option to renew for two additional one-year periods.**

**Motion Adopted: 5 Yeas**

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

**EMS Public  
Safety Bldg./  
CO No. 22**

**Hans Medlarz, County Engineer presented Change Order No. 22 for the EMS Public Safety Building – Project C19-04 for Council’s consideration. Mr. Medlarz reported that the change order includes additional material/labor for the new Delaware Coastal Airport sign and lettering for the sign. In addition, additional landscaping work including several arborvitaes to help conceal the generator and landscaping boulders along Airport Road are included.**

**M 100 23  
Approve CO  
No. 22/EMS  
Public  
Safety Bldg.**

**A Motion was made by Mr. Hudson, seconded by Mr. Rieley, be it moved based upon the recommendation of the Sussex County Engineering Department, that change order no. 22 for contract C19-04, Sussex County Public Safety Building, be approved, for an increase of \$104,368.86.**

**Motion Adopted: 5 Yeas**

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

**Long Neck Communities/Bid Award** Hans Medlarz, County Engineer presented construction bid award for the Long Neck Communities Sewer Expansion project for Council's consideration. Mr. Medlarz reported that it is being recommended to award the project to A-Del Construction.

**M 101 23 Approve Bid Award/Long Neck Communities** A Motion was made by Mr. Hudson, seconded by Mr. Rieley, that be it moved based upon the recommendation of the Sussex County Engineering Department that contract S21-10, Long Neck Communities Sewer Extension, be awarded to A-Del Construction, for their total bid amount of \$7,658,870.00, contingent upon SRF concurrence and receipt of supplemental funding as submitted to the CWSRF.

**Motion Adopted: 5 Yeas**

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

**SCRWF Ocean Outfall Inspection** Mark Parker, Assistant County Engineer presented SCRWF ocean outfall inspection repair and inspection follow up. Mr. Parker reviewed the report and video documentation that was completed by SUS. It was found that there is a need for more repairs to be completed. It is being recommended that a request for proposal be developed to address the additional repairs.

**M 102 23 Approve Ocean Outfall Repairs/RFP** A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley, be it moved based upon the recommendation of the Sussex County Engineering Department, that the additional costs incurred by Specialty Underwater Services for inspection and repair services in the amount of Eighteen Thousand Two Hundred Twenty-Five (\$18,225.00) dollars be approved. Additionally, based upon the recommendation of the Sussex County Engineering Department, a request for proposal be developed for public advertisement to address the remaining recommended system repairs.

**Motion Adopted: 5 Yeas**

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

**Permission to Prepare & Post Notices/American Storage of DE** John Ashman, Director of Utility Planning and Review presented permission to prepare and post notices for American Storage (Long Neck of the SCUSSD) for Council's consideration. The Engineering Department has received a request from Pennoni Associates, Inc. on behalf of their client American Storage of Delaware, LLC, the owners/developers of parcels 234-29.00-49.02, 49.03 & 50.00 on Route 24 near Autumn Road. The project has P&Z conditional use approval. The project will be responsible for System Connection Charges of \$6,600 per EDU based on current rates.

**M 103 23** A Motion was made by Mr. Rieley, seconded by Mr. Hudson, be it moved

**Approve  
Prepare &  
Post Notices/  
American  
Storage**

by the Sussex County Council that the Sussex County Engineering Department is authorized to prepare and post notices for the American Storage expansion of the Sussex County Unified Sanitary Sewer District to include parcels 234-29.00-49.02, 49.03 & 50.00 as presented.

**Motion Adopted: 5 Yeas**

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

**Permission  
to Prepare  
& Post  
Notices/  
Mulberry  
Knoll Store**

John Ashman, Director of Utility Planning and Review presented permission to prepare and post notices for Mulberry Knoll Store (West Rehoboth Area of the SCUSSD) for Council's consideration. The Engineering Department received a request from Davis, Bowen & Friedel, Inc. on behalf of their client V & M, LLC for the owners/developers of parcels 334-12.00-108.00, 108.01, 109.00, 109.01, 110.00, 111.00, 111.01 & 112.00 at Route 224 and Mulberry Knoll Road. The project has P&Z preliminary approval. The project will be responsible for System Connection Charges of \$6,600 per EDU based on current rates.

**M 104 23  
Approve  
Prepare &  
Post Notices/  
Mulberry  
Knoll Store**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, be it moved by the Sussex County Council that the Sussex County Engineering Department is authorized to prepare and post notices for the Mulberry Knoll Store expansion of the Sussex County Unified Sanitary Sewer District to include parcels 334-12.00-108.00, 108.01, 109.00, 109.01, 110.00, 111.00, 111.01 & 112.00 as presented.

**Motion Adopted: 5 Yeas**

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

**Grant  
Request**

Mrs. Jennings presented a grant request for Council's consideration.

**M 105 23  
Paul Kares  
Inc.**

A Motion was made by Mr. Schaeffer, seconded by Mrs. Green to give \$2,500 (\$500 from each Councilmanic Grant Account) to Paul Kares Inc. for their concert for kids program.

**Motion Adopted: 5 Yeas**

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

**Introduction  
of Proposed  
Ordinances**

Mr. Schaeffer introduced a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY

**Introduction of Proposed Ordinances (continued)**

**(2 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.144 ACRES, MORE OR LESS” filed on behalf of Beaver Dam Enterprises, LLC.**

**Mr. Hudson introduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE SUSSEX COUNTY SEWER TIER MAP OF THE COMPREHENSIVE PLAN FROM THE TIER 4 AREA (SYSTEM OPTIONAL AREAS) TO THE TIER 2 (SUSSEX COUNTY PLANNING AREA) IN RELATION TO TAX PARCELS 533-11.00-23.00, 23.03 & 23.04”.**

**The Proposed Ordinance will be advertised for Public Hearings.**

**Council Member Comments**

**There were no Council member comments.**

**M 106 23 Recess**

**A Motion was made by Mr. Rieley, seconded by Mr. Hudson to recess until 1:30 p.m. Public Hearings.**

**Motion Adopted: 5 Yeas**

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

**M 107 23 Reconvene**

**At 1:30 p.m., a Motion was made by Mr. Schaffer, seconded by Mr. Hudson to reconvene.**

**Motion Adopted: 5 Yeas**

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

**Rules**

**Mr. Robertson read the rules and procedures for public hearings.**

**Public Hearing/ CU2337**

**A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A C-1 GENERAL COMMERCIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 25.327 ACRES, MORE OR LESS” (property lying on the north side of Beach Highway [Route 16], approximately 0.20 mile east of Dupont Boulevard [Route 113]) (911 Address: 18019 Beach Highway, Ellendale) (Tax Parcel: 230-26.00-39.00 [p/o]) filed on behalf of Community Power Group, LLC.**

**The Planning & Zoning Commission held a Public Hearing on the**

Public  
Hearing/  
CU2337  
(continued)

application on January 12, 2023. At the meeting of January 26, 2023, the Planning & Zoning Commission recommended approval of the application for the 8 reasons stated and subject to the 10 recommended conditions as outlined.

(See the minutes of the Planning & Zoning Commission dated January 12, and January 26, 2023.)

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

The Council found that Ms. Whitney Hughes, Project Manager with Community Power Group, spoke on behalf of the Application; that CPG has been developing solar farms over the last 12 years; that CPG has solar farms across the United States; that CPG emphasizes using local labor on all projects; that CPG uses domestic equipment, pollinator friendly ground cover and game fencing whenever possible; that the subject site is located along Beach Highway in Ellendale; that the property consists of 52.23 acres; that approximately 26 acres is proposed for solar use; that the system size is four megawatts AC community solar garden; that the property is split zoned with AR-1 (Agricultural Residential) and C-1 (General Commercial); that the property is undergoing an annexation petition as part of the Town of Ellendale Comprehensive Plan; that CPG has communicated with Town Council President, Mr. Aaron Moore; that CPG has received confirmation that the proposed zoning will be Residential Business, which will still allow for commercial land use; that the proposed zoning will not impact the Conditional Use application; that a DeIDOT review has been completed for the property; that the surrounding area is mostly comprised of general commercial and agricultural residential parcels; that commercial is located adjacent to the west of the site; that agricultural residential uses are located adjacent to the eastern portion of the site; that the property meets all minimum lot width, area and depth requirements of AR-1 and C-1 Zoning; that the proposed project has a front setback of 55-ft. from the front property line to the fence; that there is a minimum of 20-ft setback from the side and rear property lines; that a buffer is proposed along portions of the site; that the buffer will consist of deciduous and evergreen trees along the southern half of the array; that existing vegetation is to remain along the northern and western property lines; that CPG uses Crystalline Solar PV panels, which are made of glass, with antireflection; that CPG does not use the thin-film; that CPG will use Single Axis Tracking (SAT) racking system, which will track the sun's path to obtain the most productivity; that CPG conducted a FAA approved noise and glare analysis; that there will be little to no noise generated from the proposed use; that no glare was produced along the nearby routes and home; that CPG proposes pollinator friendly ground cover and game fencing for the property; that CPG prepared a decommissioning plan, which requires there to be financial security to ensure funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the project; that additional surety comes from the fact that the salvage value of the equipment is beyond the



Public  
Hearing/  
CU2337  
(continued)

cost to dismantle the solar farm; that the solar farm will be insured for any natural disaster damage; that in the event of a company bankruptcy, the most valuable asset of the bankruptcy proceedings is the solar farm, which only requires sun to generate revenue; that Community Solar gardens are required to be located on approximately 20+acres; that CPG receives a “credit” for the amount of energy it places back to the grid; that the “credits” are sold back to the community at a discount; that the “credit” and/or discount is reflected on a separate line on subscriber’s electric bill and the subscriber receives discounts to their electric bill; that a tax change will occur to the landowner.

There were no public comments.

The Public Hearing and public record were closed.

M 108 23  
Adopt  
Ordinance  
No. 2907/  
CU2337

A Motion was made by Mrs. Green, seconded by Mr. Hudson to Adopt Ordinance No. 2907 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A C-1 GENERAL COMMERCIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 25.327 ACRES, MORE OR LESS” filed on behalf of Community Power Group, LLC for the reasons and conditions as provided by the Planning and Zoning Commission as follows:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
2. This is an adaptive use of farmland that will preserve it from more intensive development. The solar farm will be located on approximately 26 acres of a larger 52.23-acre farm.
3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar farms. There was testimony that this solar farm will benefit residential, business, and municipal subscribers with lower power costs.
4. With the conditions imposed in this recommendation, the proposed use will not have any adverse impact on the neighboring or adjacent properties and there is information and data in the record that the use will not generate any excessive noise or glare.
5. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
6. The Applicant has included a Decommissioning Phase in the record for when this solar farm is no longer in use.
7. There will be a buffer of existing vegetation along the north and a

**M 108 23  
Adopt  
Ordinance  
No. 2907/  
CU2337  
(continued)**

portion of the west sides of this site to screen the view of the solar farm from the nearby residential properties while allowing the solar arrays to function properly. In addition, vegetated buffers will be planted along the remainder of the western portion of the solar array and along the southern boundary of it.

8. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
9. This recommendation is subject to the following conditions:
  - a. The use shall be for a ground-mounted solar farm. No other types of electric generation shall be permitted at the site.
  - b. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. All lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
  - c. One unlighted sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information and instructions in case of emergency.
  - d. The site shall be secured by fencing with a gate with a “Knox Box” or similar device to accommodate emergency access by the local fire company or other emergency responders. The fence line shall be shown on the Final Site Plan.
  - e. The location of any transformers or similar equipment, or structures, shall be shown on the Final Site Plan.
  - f. The entire site, including the area outside the fence, shall be maintained so that it does not become overgrown.
  - g. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
  - h. There shall be a vegetated buffer of existing vegetation along the northern and a portion of the western sides of the solar area. In addition, vegetated buffers shall be planted along the remainder of the western boundary and the southern boundary of the solar array area. These buffer areas shall be clearly shown on the Final Site Plan. These buffers shall screen solar arrays while allowing the solar arrays to function properly.
  - i. The Final Site Plan shall identify a Decommissioning Plan that includes financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.
  - j. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

**Motion Adopted: 5 Yeas**

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

**Mr. Vincent, Yea**

**Public  
Hearing/  
CU2375**

**A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MARINE SERVICE BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.70 ACRES, MORE OR LESS” (property lying on the east side of Cool Spring Road [S.C.R. 290] approximately 0.28 mile north of Stockley Road [S.C.R. 280]) (911 Address: 20635 Cool Spring Road, Milton) (Tax Parcel: 234-5.00-40.04) filed on behalf of Shane & Laura Karlik.**

**The Planning & Zoning Commission held a Public Hearing on the application on January 12, 2023. At the meeting of January 26, 2023, the Planning & Zoning Commission recommended approval of the application for the 7 reasons stated and subject to the 6 recommended conditions as outlined.**

**(See the minutes of the Planning & Zoning Commission dated January 12, and January 26, 2023.)**

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

**The Council found that Mr. Shane Karlik spoke on behalf of his Application; that he is requesting a conditional use to move his business; that majority of his work is service calls; that he has a garage located on the backside of the property; that he has been running this business at a different location; that he lost his lease at the other location; that there are mostly houses on the street; that majority of his work consisting of service calls will be off site; that he would not have any more than 5 customer boats on the property; that the engines are much quieter than they used to be.**

**There were no public comments.**

**The Public Hearing and public record were closed.**

**M 109 23  
Adopt  
Ordinance  
No. 2908/  
CU2375**

**A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, to Adopt Ordinance No. 2908 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MARINE SERVICE BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.70 ACRES, MORE OR LESS” filed on behalf of Shane & Laura Karlik for the reasons and conditions given by the Planning and Zoning Commission as follows:**

- 1. The use is for a Mercury Marine service business located on the**

**M 109 23  
Adopt  
Ordinance  
No. 2908/  
CU2375  
(continued)**

- property where the Applicants reside.
2. The use will allow the Applicants to do repair and maintenance work on marine motors as overflow from offsite work they primarily do as part of this business at marinas, boatyards, boat storage facilities, or other similar locations.
  3. The use is small in nature and is very nearly a home occupation which would be a permitted use on this property.
  4. The Applicants have stated that there will be very little traffic or interaction with the public except for limited deliveries for repairs.
  5. The use will not adversely affect neighboring properties or roadways.
  6. The use provides a needed service for residents of Sussex County who own or operate boats and it promotes boating which is an important part of Sussex County tourism. As a result, the use has a public or semi-public character.
  7. No parties appeared in opposition to the application.
  8. This recommendation is subject to the following conditions:
    - a. The use shall be limited to the repair and maintenance of marine motors. No fiberglass repairs or grinding of materials unrelated to boat motor repairs shall be permitted.
    - b. There shall not be any boat storage on the property, and no more than five boats shall be on the property at any one time for repairs. No junked or permanently inoperable boats, trailers, or boat motors shall be located on the site.
    - c. All chemicals, oils, or other liquids associated with the use shall be stored and disposed of as required by law.
    - d. One unlighted sign, no larger than 4 feet by 4 feet in size, shall be permitted.
    - e. The hours of operation shall be limited to the hours between 7:00 a.m. and 5:00 p.m. daily.
    - f. The Final Site Plan shall show the areas where repairs and maintenance will occur and where boats and trailers will be located. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

**Motion Adopted: 5 Yeas**

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

**Public  
Hearing/  
Ord. No. 22-  
07 &  
CU2369**

**A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCELS 135-15.00-98.00 & 98.01” (properties are located on the south side of Lewes Georgetown Highway [Route 9], approximately 0.4-mile each of the intersection of Sand Hill Road [S.C.R. 319] and Lewes Georgetown Highway) (911 Address: 22242 Lewes Georgetown Highway) (Tax Parcels:**

**Public  
Hearing/  
Ord. No. 22-  
07 &  
CU2369  
(continued)**

**135-15.00-98.00 & 98.01)**

**The Planning & Zoning Commission held a Public Hearing on the application on January 26, 2023. At the meeting of February 23, 2023, the Planning & Zoning Commission recommended approval of the Ordinance for 8 reasons as outlined.**

**A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (106 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 50.80 ACRES, MORE OR LESS” filed on behalf of Leeward Chase DE, LLC (properties are located on the south side of Lewes Georgetown Highway [Route 9], approximately 0.4-mile east of the intersection of Sand Hill Road [S.C.R. 319] and Lewes Georgetown Highway) (911 Address: 22242 Lewes Georgetown Highway, Georgetown) (Tax Parcels: 135-15.00-98.00 & 98.01)**

**The Planning & Zoning Commission held a Public Hearing on the application on January 26, 2023. At the meeting of February 23, 2023, the Planning & Zoning Commission recommended approval of the application for the 10 reasons stated and subject to the 19 recommended conditions as outlined.**

**(See the minutes of the Planning & Zoning Commission dated January 26, 2023, and February 23, 2023.)**

**Mr. Jamie Whitehouse, Planning and Zoning Director, presented the applications.**

**The Council found that Mr. James Fuqua, Esq., with Fuqua, Willard & Schab, P.A., spoke on behalf of the Applications Ord. 22-07 and C/U 2369 Leeward Chase DE, LLC in a combined presentation; that also present was Mr. Jack Hayes and Mr. Jason Palkewicz; that the Conditional Use Application requested the proposed use of multi-family dwellings, consisting of 106 residential units, within 53 duplex buildings; that the development is proposed to be called Leeward Chase; that the second Application is a request to amend the County’s Future Land Use designation per the Comprehensive Plan from the Commercial Area designation to a Developing Area designation; that the parcel contains 50.79 acres; that the property is located on the southside of Rt. 9, being just east of the Town of Georgetown municipal boundary; that the site contains a wide variety of existing uses; that residential uses and woodlands are located to the west of the site; that residential homes are located to the north of the site; that a strip of C-1 (General Commercial) zoned land is located to the north, containing various businesses, which include Servpro, Dixie Construction Co. Inc., Delaware Home Health Care, Inc., and Techgas Inc.; that there are various other businesses within the surrounding area which were**

**Public  
Hearing/  
Ord. No. 22-  
07 &  
CU2369  
(continued)**

**granted Conditional Uses; that to the east of the site is the location of the Route 9 Liquors; that the remaining eastern boundary of the site is adjacent to Sports at the Beach facility; that Sports at the Beach was previously approved as a Conditional Use as a baseball facility, geared toward youth baseball tournaments; that Sports at the Beach is approximately 100 acres, containing 16 baseball fields, welcome center, concession stands, an academy building and onsite accommodations for players and their families; that these accommodations include playgrounds, basketball courts and a swimming pool; that the southern boundary of the site will be adjacent to the future Lewes Georgetown Bike Trail; that the trail currently exists from Lewes to Fisher Rd.; that the first section of the trail, heading east from Georgetown, has been constructed; that once the trail is fully completed, pedestrians will have the ability to ride from Georgetown to Lewes via the bike trail; that the bike trail is located adjacent, on the northernly side of the railroad right of way track; that the railroad right of way goes from Georgetown to Gravel Hill; that the railroad track has been decommissioned from Lewes to Gravel Hill; that there will be a security chain link fence placed between the bike trail and the rail line for security purposes; that on the other side of the railroad line is the location of the Delaware Coastal Airport, which is zoned Industrial; that the airport is owned and operated by Sussex County; that the Leeward Chase project was reviewed through the PLUS process in March 2022; that a PLUS comment letter was issued by the Office of State Planning Coordination in April 2022; that the PLUS letter stated the property is located within Investment Levels 2 & 3 under the State Strategies Plan; that Investment Levels 2 & 3 are areas where growth is anticipated; that the PLUS comments state the property is located within a Growth Area under the Comprehensive Plan; that most, if not all, of the proposed site development will be located within Investment Level 2, which is an area where the State does support, encouraging a wide variety of uses, including departure from typical single-family developments in order to promote a broader mix of housing types with open space a recreational activities; that the Investment Level 3 areas contain wetlands, which will remain undisturbed; that the Application proposes 53 duplex buildings, which will contain 106 residential units; that the property is zoned AR-1 (Agricultural Residential); that multi-family dwellings, such as duplexes, are permitted within the AR-1 district as a Conditional Use in accordance with the provisions of the Zoning Ordinance; that the site of a Conditional Use for multi-family units with AR-1 Zoning must be located within certain growth areas as designated by the Comprehensive Plan, being Town Center, Coastal and Developing Growth Areas; that the site is located within the Commercial Growth Area; that due to this, the Applicant additionally filed an application for a Future Land Use Designation Amendment, requesting the designation be changed from the Commercial Growth Area to the Developing Growth Area; that the majority of the land adjacent to and surrounding the site is currently located within the Developing Growth Area; that the requested change would be consistent and in character with the designations of the surrounding properties; that the Developing Area designation is a less intense classification than the existing Commercial Growth Area**

Public  
Hearing/  
Ord. No. 22-  
07 &  
CU2369  
(continued)

designation; that the Comprehensive Plan states, within Commercial Growth Areas can included concentrations of retail and service uses, which include shopping centers and other medium and large commercial uses, such as hotels, motels, car washes and auto dealerships; that the Developing Area designation would not permit the majority of the uses permitted in the Commercial Area; that the Developing designation offers a range of housing types, some office use and limited commercial uses within selected locations; that the Developing Area designation would result in a residential community, which would have much less potential for adverse impacts related to noise, lights, hours of operations and traffic; that the Zoning Ordinance states the developer of multi-family units, within an AR-1 zone, is permitted to pay a development fee for each unit requested in excess of two units per gross acre; that the site contains 50.797 acres; that the site, at two units to the acre, would support 101.594 units; that the Applicant is proposing 106 units, which is 4.406 units in excess of the permitted two units to the acre; that the Ordinance provides the required development fee within the Georgetown Developing Area is \$15,000.00; that if the Application were approved for the request 106 units, the Applicant would be responsible for paying the County a development fee of approximately \$66,090.00; that the required development fee is noted within the Applicant's proposed Conditions of Approval; that the units are not proposed to be sold; that the development is planned to be a residential rental community; that the developer will own the land and all of the units; that the developer will be responsible for the maintenance, repairs and management; that the development would be a market rate rental community; that the residents would enter into a lease agreement with the owner; that provides more affordable housing that is becoming a trend around the Country; that central sewer will be provided by Sussex County; that the development will have gravity sewer lines, which will connect to an onsite pump station; that Sussex County Engineering Department indicated that wastewater capacity is available for the project; that central water service will be provided by Tidewater Utilities, Inc.; that an Ability to Serve Letter was provided by from Tidewater Utilities, Inc.; that service will require an expansion of Tidewater's franchise area to include the site; that stormwater management facilities will be designed and constructed in accordance with the DNREC Sediment and Erosion Control Regulations and will be reviewed and approved by the Sussex Conservation District; that a detailed wetland delineation was performed on the site by Mr. Edward Launay of Environmental Resources, Inc.; that the delineation determined that the site contained 17.55 acres of Federal Jurisdictional Non-Tidal wetlands; that the wetlands are located on three site areas; that the wetland areas are located along the western boundary, the center of the site and a larger area along the east; that U.S. Army Corp of Engineers did provide approved Jurisdictional Determination; that the non-tidal wetland areas are forested and will remain undisturbed, except for a road crossing and a pedestrian trail crossing, proposed over a small area; that the road crossing is located along the line of trees located to the east of the property; that the proposed crossing would be constructed in accordance with the U.S. Army Corp regulations; that the Application was filed before the

Public  
Hearing/  
Ord. No. 22-  
07 &  
CU2369  
(continued)

adoption of the newly adopted Buffer Resource Ordinance; that the Application would not be subject to the new Buffer Ordinance; that the Applicant is proposing a voluntary 30-ft. buffer to all of the non-tidal wetlands areas, except for the locations for the road and trail crossings; that the proposed 30-ft. buffer complies with the new Buffer Ordinance; that the property is located within Flood Zone X; that the Coastal Airport Area is located to the rear of the property; that the airport runway path goes over the Sports at the Beach property; that the subject site is not impacted by the airport runway path; that the Applicant did contact the Federal Aviation Administration (FAA), who conducted an Aeronautical Study; that the FAA did issue a Determination to No Hazard to Air Navigation Letter dated April 3, 2022; that the U.S. Fish & Wildlife Service indicated there were no federally listed species or critical habitats found on the site; that DelDOT indicated that based on traffic generation, the Application could pay an Area Wide Study Fee in lieu of a Traffic Impact Study (TIS); that Rt. 9 physically meets the DelDOT road standards, with 12-ft travel lanes and 10-ft. shoulders; that no additional road improvements are required on Rt. 9; that the Applicant will dedicate a 50-ft right-of-way from the centerline of Rt. 9, along the site frontage, if the right of way does not currently exist; that the Applicant will dedicate a 15-ft. wide easement along the frontage right of way to DelDOT; that the Applicant will construct a shared use path along the frontage of Rt. 9; that the site is located within the Sussex Central School District; that the Georgetown Volunteer Fire Company will provide fire protection to the site; that the proposed density would be 2.08 units per acre, which is consistent with the density permitted within the AR-1 Zoning District; that 60% of the units would be two-bedroom units, with a one vehicle garage; that 40% of the units would be three-bedroom units, with a two vehicle garage; that the entrance to the development is proposed from Rt. 9, from approximately the center of the site; that the entrance location will be reviewed and approved by DelDOT, being designed and constructed in conformity with DelDOT requirements; that the buildings, internal streets, and the stormwater facilities locations are reflected on the Preliminary Site Plan; that sidewalks are proposed on both sides of the development streets; that non-intrusive street lighting will be provided to the development; that the cul-de-sac roads offer turn around areas in appropriate locations; that additional off-road parking is provided for the development; that a 10-ft. public shared use path is proposed along Rt. 9; that reinforced emergency-only access is proposed for the development; that a school bus stop is proposed along Rt. 9; that the location of the bus stop would be coordinated with the school district; that a centrally located recreational amenities area is proposed, which would contain an outdoor pool, bathhouse, meeting room building, and storage area; that the recreational amenities are proposed to be completed prior to the issuance of the 60<sup>th</sup> residential unit building permit, which would equal the 30<sup>th</sup> duplex building permit; that a trail will connect the units located to the rear of the site to the recreation area in the center of the site; that if permitted by DelDOT, an internal trail is proposed to connect the streets to the bike trail; that a 20-ft wide landscape buffer is proposed at appropriate locations along the perimeter of the property; that a 75-ft vegetated buffer



**Public  
Hearing/  
Ord. No. 22-  
07 &  
CU2369  
(continued)**

is proposed along the site frontage along Rt. 9; that there will be a voluntary 30-ft buffer provided from the non-tidal wetlands; that after the Planning and Zoning meeting, Mr. Hayes had some discussions with Mr. and Mrs. Larson; that they own two properties to the west of the site; that it was agreed to install a six-foot vinyl fence constructed along their property line; that the applicants agree to build the fence as requested by the Larson's; that the fence will be shown and noted on the final site plan; that the open space, which includes wetland areas, buffers and recreational areas, totals 35.9 acres of the site, being approximately 70% of the site; that the 70% is in excess of the 40% open space requirement per the Ordinance for a multi-family Conditional Use; that the project does provide for a use which is public or semi-public in character; that the project is essential and desirable to the general convenience and welfare of Sussex County residents; that the units are not proposed to be sold; that the development is planned to be a Residential Rental Community, which is also known as Build to Rent; that the proposed rentals should benefit the Affordable Housing issue; that the development will be a Market Rate Rental Community; that residents will enter into a Residential Lease Agreement; that the developers business plan is based on the existing need for more affordable housing in the Georgetown area and the needs for employees working in the Lewes and Rehoboth Beach areas; that the Georgetown 2021 Comprehensive Plan stated that Georgetown recognized the importance of affordable housing and supported a balance of housing for all ages and incomes, including Workforce Housing; that Chapter 8 of the Sussex County 2019 Comprehensive Plan states a shortage of affordable housing is a problem for low and medium income households in Sussex County, including many families with full-time, year-round employment; that the County Comprehensive Plan states there is a particular shortage of affordable housing in eastern Sussex County and that a lot of the workforce have long commutes from eastern Sussex County; that additionally, the PLUS letter stated reviewed comments from the Delaware State Housing Authority indicated the need for additional housing, affordable to a broader spectrum of County residents is well documented and that additional market-rate, multi-family, rental units will provide a more affordable housing option to help mitigate the current housing insecurity; that the Delaware State Housing Authority is in support of the Application; that the Applicant believes the Conditional Use is appropriate as it is essential and desirable for the general convenience and welfare, providing an affordable housing option for Sussex County residents; that the proposed use is consistent with and responsive to the State and the County and Town of Georgetown Comprehensive Plans by addressing the current need for more affordable housing; that the location is surrounded by a wide range of existing uses, including residential, retail service businesses, sports complex, bike trail and airport; that the location is an appropriate place for the proposed use; that the proposed Future Land Use Map designation from Commercial Area to Developing Area would provide less intensive uses to the area; that the Commission recommended approval for the eight reasons for the Future Land Use Map Amendment; that the Commission recommended approval of the Conditional Use Application subject to conditions A-S and

**Public  
Hearing/  
Ord. No. 22-  
07 &  
CU2369  
(continued)**

**the Applicant requested the Council recommend approval for the requested Applications; that Condition C references a Condominium Association; that in this case, there will not be a Condominium Association since the units will not be sold; that it would be appropriate to add to that Condition that the Condominium Association would take responsibility or the owner will be responsible for all maintenance, upkeep and management.**

**Mr. Rieley discussed the need for affordable/workforce housing. He added that based on the County's workforce housing Ordinance, units would rent in the \$600-\$900 range which is significantly lower than what is being proposed. He questioned why the applicant would not have gone that route; you are able to have up to 12 units per the acre. This particular location hits all of the marks for the County's workforce housing Ordinance.**

**Mr. Fuqua commented that this application was filed over a year ago which means the work started on this two years ago. Therefore, a lot of work was done on this project prior to the County adopting the workforce housing Ordinance. In addition, the site has some constraints on it due to wetlands.**

**Mr. Fuqua added that there are very few rentals; that you are able to have a three-month rental period to make your money rather than doing year-round rentals. He believes that this is another way to help resolve the problem.**

**Mr. Rieley pointed out that the monthly rental amount does not fit the criteria of workforce housing as defined by the County. Mr. Fuqua stated that this project is not under the Ordinance.**

**Mr. Jack Hayes explained that when this property was looked at, the desire was to try to find properties that build to rent type properties could be constructed. There were two different market studies completed to take in all of the available apartment and rental properties including single family from the side of Milford to Route 54 from Dupont Highway to Route 1. A study was completed in 2001 and 2002. Both of those studies stated that all of the apartment units previous to those two studies were full. In addition, the rent has increased since that time and the apartments have remained full. The current zoning of the property except for one common wall would be a single-family and in compliance with the zoning. In the second study, it showed that duplexes were needed.**

**Mr. Vincent questioned where the open space was located and how it was accessed.**

**Mr. Fuqua commented that the state law is clear in regard to Future Land Use Map Amendments. It states that the County Council has the final say.**

**Public comments were heard.**

**Mr. John Randolph spoke in opposition of the application; that his wife's**

**Public Hearing/  
Ord. No. 22-07 &  
CU2369  
(continued)**

**family owns property near the site; that affordable housing is a political issue; that sprawl and overdevelopment are at the top of the list for complaints in this area from people; that overdevelopment and sprawl makes our lives worse; that he works down in Rehoboth Beach; that during rush hour, traffic backs up for 3.5 miles; that he believes this would bring a lot of young people that would bring many more cars; that on the backside of this property, there are a number of species; that a waterway is going to be paved over; that he discussed the different species that are in the area; that he questioned what gives them the right to destroy what cannot be created.**

**Ms. Eul Lee spoke about the applications; that she believes that we should conserve energy; that sharing a wall can help save energy; that she appreciated the comments relating to the species in the area; that the environment needs to be protected; that the County has created the Workforce Housing Ordinance hoping that developers would build multi-family homes which is not happening; that the economy is part of the problem.**

**Mr. Harry Larson spoke about the applications; that his property is located adjacent to the subject site; that he is not in support or in opposition to the applications; that he wants to ensure that the application is development in the right way to protect himself and his neighbors; that after the Planning and Zoning meeting, he met with the developer and attorney; that he has reviewed the plans; that they are addressing his concern; that they have agreed to the privacy fence and the 20-foot buffer; that the developer and attorney have been good to work with.**

**The Public Hearing was closed for both applications.**

**M 110 23  
Leave  
Record  
Open/Ord.  
No. 22-07**

**A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to leave the record open for the receipt of written PLUS comments on Ordinance No. 22-07 and then leave the record open for a period of ten business days following the public announcement at a County Council of receipt of those PLUS comments for an Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCELS 135-15.00-98.00 & 98.01”.**

**Motion Adopted: 5 Yeas**

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

**M 111 23  
Defer  
Action/  
CU2369**

**A Motion was made by Mr. Rieley, seconded by Mr. Hudson defer action on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (106**

**UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 50.80 ACRES, MORE OR LESS”**

**Motion Adopted: 5 Yeas**

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

**M 112 23  
Adjourn**

**A Motion was made by Mr. Rieley, seconded by Mr. Hudson to adjourn at 3:04 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,**

**Tracy N. Torbert  
Clerk of the Council**

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

AN ORDINANCE TO ADD A NEW CHAPTER (CHAPTER 30) TO THE COUNTY CODE TITLED "REMOVAL PROCEDURES FOR MEMBERS OF APPOINTED BOARDS, COMMISSIONS, AND ADVISORY COMMITTEES".

§ 30-1. Statutory Authority.

This ordinance is adopted pursuant to the State's general grant of power to Sussex County under 9 Del. C. § 7001 and the vesting of that power in Sussex County's County Council under 9 Del. C. §§ 7002. The title of this chapter will be "Removal Procedures for Members of Appointed Boards, Commissions, Advisory Committees."

§ 30-2. Purpose.

This ordinance is adopted for the purposes for establishing removal procedures for members of appointed boards, commissions and advisory committees as those individuals are presently exempted from the County's personnel rules under Sussex County Code § 29-3(A)(1)(b).

§ 30-3. Service at the Pleasure of Council.

- A. Notwithstanding any other provision of this Code, all members of appointed boards, commissions and advisory committees serve at the pleasure of County Council and may be removed prior to the expiration of their terms upon a hearing and an affirmative majority vote by County Council. The hearing may be private or, at the member's request, open to the public.
- B. If a board, commission, or advisory-committee member is removed pursuant to § 30-3(A), they will be ineligible for renomination to the same board, commission, or advisory committee for the duration of the then-existing term.
- C. If a board, commission, or advisory-committee member is removed pursuant to § 30-3(A), a successor will be chosen to serve the remainder of the removed member's term. The successor will be chosen according to the existing selection procedures for the relevant board, commission, or advisory committee.

TODD F. LAWSON  
COUNTY ADMINISTRATOR  
(302) 855-7742 T  
(302) 855-7749 F  
tlawson@sussexcountycle.gov



**Sussex County**  
DELAWARE  
sussexcountycle.gov

**Memorandum**

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

FROM: Todd F. Lawson  
County Administrator

RE: **REVIEW OF COUNTY COUNCIL INITIATIVES**

DATE: March 3, 2023

---

During Tuesday's meeting, Council is scheduled to review the list of initiatives Council members have created for the near future and on-going efforts. This list was developed based on your submittals earlier this year. A copy of the list is attached.

As you will see, the initiative list is broken down into two sections – the priority list and the on-going list. The priority list is best described as the initiatives staff is currently working on or will pursue soon based on Council's feedback and direction. The on-going list consists of projects staff continue to advance over time. I will review these projects during Tuesday's meeting.

In addition, Council asked for an update on the list of projects developed two years ago. Staff has updated that list and a copy is attached.

In the meantime, please let me know if you have any questions.



TODD F. LAWSON  
COUNTY ADMINISTRATOR

(302) 855-7742 T  
(302) 855-7749 F  
tlawson@sussexcountyde.gov



**Sussex County**

DELAWARE  
sussexcountyde.gov

SUSSEX COUNTY – MAJOR ACTIVITIES  
JANUARY 2021

**-FEBRUARY 2023 UPDATE-**

INDEX	
COLOR	STATUS
	Successfully meeting expectations
	Work on-going
	Encountered hurdles

INITIATIVE	2021 STATUS	2023 UPDATE
Airport – DE Coastal	<ul style="list-style-type: none"> <li>• General aviation apron expansion – at 60% design. Will add thirteen (13) new “tie-down” parking spaces for light aircraft and will overlay the same area with an option for three (3) new parking spaces for light to medium aircraft. Construction by mid-summer 2021; estimates are targeted at \$1.6M (FAA grant eligible).</li> <li>• Airport Master Plan Update underway. Working Paper #1 was recently completed, in draft format, and is currently being reviewed by airport management, members of the Airport Advisory Committee, Delaware Department of Transportation and the Federal Aviation Administration (FAA).</li> <li>• Airport management has begun developing a Strategic Plan for the marketing and user and economic growth at the Delaware Coastal Airport. With input from local and state government officials, economic development agencies and airport</li> </ul>	<ul style="list-style-type: none"> <li>• Completed</li> <li>• 80% completed. Due June 2023</li> <li>• On-going.</li> </ul>



INITIATIVE	2021 STATUS	2023 UPDATE
	users, the airport strategic plan will help in identifying our strengths and weaknesses, opportunities and risks.	
Broadband	County owned monopoles being installed to test wireless technology. County partners (independent ISPs) have signed up nearly 200 broadband customers thus far.	<ul style="list-style-type: none"> <li>• County monopoles installed and tested received limited participation.</li> <li>• The State has dedicated 100s of millions to expand broadband.</li> <li>• The State is rolling out the next phase of funding under the BEAD program, of which, Delaware is scheduled to receive another \$100M.</li> </ul>
Business Park – DE Coastal	First tenant (Atlantis) looking to expand footprint. Second tenant (Creative Flooring) under construction. Third tenant (Jaykal Lighting) construction complete. Two other perspective tenants under lease negotiations. Phase 2 construction under design.	<ul style="list-style-type: none"> <li>• Atlantis has not expanded</li> <li>• Creative Flooring is completed</li> <li>• Outdoor Cottages is completed and operating</li> <li>• Phase 2 is shovel ready</li> </ul>
DeIDOT TID #2	DeIDOT reports it can not turn its attention to a second TID until Summer 2021	DeIDOT update on TID #2 has been scheduled in February.
Economic Development	Meeting with individual towns to showcase businesses in each town.	<ul style="list-style-type: none"> <li>• Created showcase videos for Greenwood, Bridgeville, and Seaford</li> <li>• Filming completed for Laurel</li> <li>• Scheduled to film Delmar in February</li> <li>• Next town up – Selbyville</li> <li>• Kitchen incubator getting ramped up with equipment purchases.</li> </ul>
Economic Development Loan	Four loans completed totaling \$4.0M for 130+ jobs created/retained. Fund needs replenished.	<ul style="list-style-type: none"> <li>• Fund replenished to \$16M</li> <li>• Seven loans completed totaling \$6,080,000 and 214 jobs created/retained.</li> </ul>
EMS Seaford Station	Construction scheduled to be completed in April with move in by June 2021.	<ul style="list-style-type: none"> <li>• Seaford station completed</li> <li>• Millsboro station scheduled to begin construction late 2023</li> </ul>



INITIATIVE	2021 STATUS	2023 UPDATE
		<ul style="list-style-type: none"> <li>• Dewey Beach station (in town hall) under discussions</li> <li>• Ellendale and Milton land for future stations acquired</li> </ul>
Engineering - Sewer	<ul style="list-style-type: none"> <li>• Inland Bays bio-solid treatment facility fully constructed. Start date scheduled for March 2021, beginning with equipment and systems testing. Inland Bays loop system &amp; plant upgrades designed. Permits pending with DNREC and DelDOT. Desired start date in the fall of 2021.</li> <li>• Inland Bays constructed wetlands under redesign after receipt of DNREC comments, expected start date fall of 2021.</li> <li>• South Coastal &amp; Rehoboth Beach plants expansion under construction, expected completion dates May 2023 &amp; May 2022 respectively.</li> <li>• Piney Neck decommission design has started and right-of-way acquisition to begin. Facility must be abandoned no later the 2025.</li> <li>• Wolfe Neck conversion to fixed head spray units on-going. Design Development Report complete but not the design. Construction expected to start after completion of the Inland Bays improvements. DNREC trail design completed but construction cannot start until facility is upgraded.</li> </ul>	<ul style="list-style-type: none"> <li>• Inland Bays upgrades pending DNREC approval</li> <li>• Inland Bays constructed wetlands and drainage improvements approved and construction scheduled for February 2023 with completion August 2024.</li> <li>• Inland Bays loop conduit with DelDOT permitting with construction to start in summer of 2023</li> <li>• South Coastal expansion is in its final stages with completion by the end of 2023</li> <li>• Rehoboth upgrades are completed</li> <li>• Piney Neck diversion transmission design has started and right-of-way acquisition on-going</li> <li>• Wolfe Neck conversion to fixed head spray units on hold until discussion with Lewes BPW for future partnership conclude in spring of 2023.</li> </ul>
EOC Expansion	Design of the new EOC Expansion for the paramedics is nearly completed. RFP this Spring. Construction Summer 2021.	Construction on-going with 2023 completion date.
Foreign Trade Zone	An existing building in the Business Park has been identified for an FTZ warehouse. US Customs certification anticipated Summer 2021.	FTZ expired in September 2022. Can request reinstatement if business desires.
James Farm Master Plan – Phase 2	County contributed \$100,000 to date for Phase 2. Design work underway. Bathrooms installed Spring 2021.	CIB finalizing design for Phase 2.

INITIATIVE	2021 STATUS	2023 UPDATE
P&Z Code Updates	<ul style="list-style-type: none"> <li>• Coastal Area cluster ordinance pending</li> <li>• Commercial Use–Zone C-4 correction (area limits)</li> <li>• Comp Plan Future Land Use Map amendments (requests by applicants)</li> <li>• Highway Corridor Overlay Zone (small lot exemptions)</li> <li>• Master Plan discussion on-going, future Council presentation planned</li> <li>• Pool regulations updated</li> </ul>	<ul style="list-style-type: none"> <li>• Coastal cluster completed</li> <li>• C-4 completed</li> <li>• FLUM requests on-going</li> <li>• Highway corridor has been re-prioritized</li> <li>• MPZ introduced in February 2023</li> <li>• Pool regulations to be considered in the future.</li> </ul>
P&Z Document Management System	Exploring database platforms.	Database established and working. Introduced in February 2023.
Reassessment Lawsuit	RFP issued January 19; proposals required March 19.	Reassessment on-going; will be delayed 1 year (to 2025).
SC Land Trust	Absher property pending. SCLT focused on improved funding commitments. Replacing existing signs with new signs, per County request.	SCLT partnership growing and acquisitions on-going.
Workforce Housing Study	Study complete. Refresher and Council direction on recommendations needed.	<ul style="list-style-type: none"> <li>• Study recommendations implemented</li> <li>• New SCRIP ordinance enacted</li> <li>• Housing rehabilitation on-going with additional funding</li> <li>• Housing trust fund established</li> <li>• Housing ownership Code changes pending</li> </ul>

# # # #

TODD F. LAWSON  
COUNTY ADMINISTRATOR

(302) 855-7742 T  
(302) 855-7749 F  
tlawson@sussexcountyde.gov



**Sussex County**

DELAWARE  
sussexcountyde.gov

SUSSEX COUNTY COUNCIL  
PRIORITY LISTS  
FEBRUARY 2023

THE FOLLOWING TABLE LISTS THE COUNTY COUNCIL’S PRIORITY INITIATIVES.

INITIATIVE	DETAILS
County Code Updates	<ul style="list-style-type: none"> <li>• Subdivision Appeal timing – introduced</li> <li>• Solar Farms – introduced in February</li> <li>• Master Plan Zoning – introduced in February</li> <li>• Amenities Standards – to be introduced February/March</li> </ul> <p><u>Under consideration:</u></p> <ul style="list-style-type: none"> <li>• Quality stormwater management</li> <li>• Accessory dwelling unit (garage studios) update</li> <li>• Tiny homes zoning</li> <li>• Through lot and corner lot nuances update</li> <li>• Pools</li> </ul> <p><u>Longer-term:</u></p> <ul style="list-style-type: none"> <li>• Side yard setbacks</li> </ul>
Delaware Code Updates	<ul style="list-style-type: none"> <li>• Code updates required to address issues related to the reassessment process</li> </ul>
DelDOT Initiatives	<ul style="list-style-type: none"> <li>• County Council update on projects in March</li> <li>• CTP list developed this year</li> <li>• FAST Intersection – ROW spring 2023; Construction fall 2024</li> <li>• MOU review – discussions on-going with leadership</li> <li>• Long term discussion on development funding</li> </ul>
P&Z Initiatives	<ul style="list-style-type: none"> <li>• Transfer of Development Rights – consultant needed</li> <li>• Discuss changes to development design, including forest preservation, buffer preservation, and cluster subdivision requirements, etc.</li> <li>• Joint workshop with P&amp;Z Commission to discuss trends, observations, &amp; needs</li> </ul>



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

THE FOLLOWING TABLE LISTS THE COUNTY COUNCIL’S ON-GOING INITIATIVES THAT STAFF  
CONTINUE TO IMPLEMENT.

INITIATIVE	DETAILS
Airport construction & expansion	<ul style="list-style-type: none"> <li>• Parallel taxiway B – phase I design on-going</li> <li>• 4/22 runway extension – environmental potential 2023 start</li> <li>• 4/22 runway extension – preliminary engineering potential 2023 start</li> <li>• Terminal apron rehab – design starts 2024</li> <li>• Parallel taxiway B – phase II construction in 2024</li> </ul>
Broadband	Given the amount of Federal and State funding dedicated to broadband expansion, it is appropriate to allow the State to lead this initiative
Business Park expansion	Phase 2 of the DE Coastal Business Park is shovel ready and we are actively reviewing potential new tenants with a focus on bringing jobs to the Park
Delaware State Police support	Annual budget consideration for trooper allocation in Sussex
EMS support	<ul style="list-style-type: none"> <li>• Budget considerations on-going related to staffing, stations, and equipment</li> <li>• Mental health initiative in progress</li> </ul>
Fire & BLS support	<ul style="list-style-type: none"> <li>• Continue to work with local fire &amp; BLS companies to seek financial agreement compliance</li> <li>• On-going discussions with SC Volunteer Firefighters Assoc. to determine needs</li> </ul>
SC Land Trust & Open Space Funding	<ul style="list-style-type: none"> <li>• Several parcels under consideration for acquisition</li> <li>• Working with SCLT to establish MOU for roles &amp; responsibilities</li> </ul>

# # # #

## ENGINEERING DEPARTMENT

HANS M. MEDLARZ  
COUNTY ENGINEER

(302) 855-7370 T  
(302) 854-5391 F

[hans.medlarz@sussexcountyde.gov](mailto:hans.medlarz@sussexcountyde.gov)



# Sussex County

DELAWARE  
[sussexcountyde.gov](http://sussexcountyde.gov)

## Memorandum

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

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

RE: ***Irrigation Pump Replacement, Project M23-07***  
***A. Bid Award***

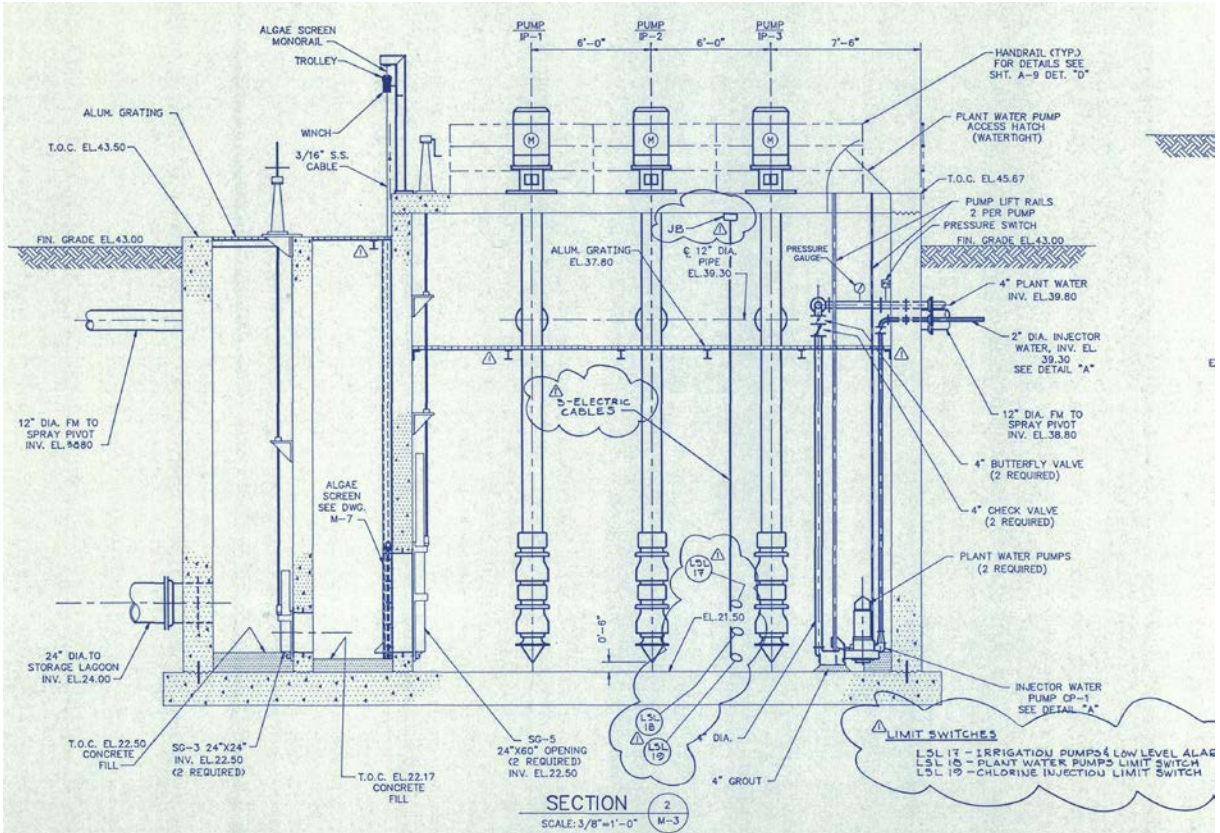
DATE: March 7, 2023

The original Inland Bays Regional Treatment Facility was built in the early 1990s. The design included three vertical turbine irrigation pumps. Two of these pumps are still in service but way beyond their service life and leaking profusely. Therefore, Environmental Services pursued a full replacement of two units. The replacement pumps are selected so that they will work under the future spray field and ag partner hydraulic conditions with minor modifications.

The project generally consists of all labor, materials, equipment, and services required for removal of the old pumps, delivering, and installing two complete irrigation pump systems. Invitations to bid were advertised in the newspaper, viewable on the Sussex County website, and directly sent to vendors on our supplier list. On February 22, 2023, one bid was received from A.C. Schultes. The pumps meet the required specifications, and the installation is reasonably priced.

Therefore, the Engineering Department recommends award of the project to A.C. Schultes for their bid of \$98,941.00.





M&E  
3901 NATIONAL DRIVE  
SUITE 200  
BURTONSVILLE, MARYLAND 20866

	DATE	BY
DESIGNED		
DRAWN		
CHECKED		

SUSSEX COUNTY COUNCIL

12.22.89  
DATE

Robert Wilson  
SIGNATURE

LONG NECK SANITARY SEWER DISTRICT  
LONG NECK WASTEWATER TREATMENT  
AND DISPOSAL FACILITIES

## ENGINEERING DEPARTMENT

HANS M. MEDLARZ  
COUNTY ENGINEER

(302) 855-7370 T  
(302) 854-5391 F

[hans.medlarz@sussexcountyde.gov](mailto:hans.medlarz@sussexcountyde.gov)



**Sussex County**  
DELAWARE  
[sussexcountyde.gov](http://sussexcountyde.gov)

## Memorandum

**TO:** Sussex County Council  
The Honorable Michael H. Vincent, President  
The Honorable John L. Rieley, Vice President  
The Honorable Cynthia C. Green  
The Honorable Douglas B. Hudson  
The Honorable Mark G. Schaeffer

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

**RE:** ***2019 Sussex County Delaware Coastal Airport/Business Park  
& Miscellaneous Property Maintenance  
A. Contract Extension & Cost Adjustment***

**DATE:** March 7, 2023

In February of 2018, the Sussex County Engineering Department requested proposals for a one (1) year site maintenance agreement, with the option to renew annually based on satisfactory performance, for up to five (5) years for the Delaware Coastal Airport/Business Park and one lot within the Herring Creek Sanitary Sewer District. Bidders could submit their bid for any or all of the bid items. Bid items 1-3 involved Delaware Coastal Airport/Business Park mowing activities. Bid item 4 involved the lot clearing at the Business Park expansion while alternate bid item 1 involved sediment removal from the drainage ditches in the Business Park.

Jakor Enterprises, LLC was awarded the contract for the sediment removal from the drainage ditches at the Business Park in the amount of \$36,000.00. Bid Items 1-3 were approved to be re-advertised on March 20, 2018, due to insufficient competition.

In February of 2019, an updated RFP including minimum equipment requirements necessary to properly maintain the Delaware Coastal Airport and Business Park properties was advertised. On March 26, 2019, Council successfully awarded a contract to Jakor Enterprises, LLC for fine and bulk mowing at the Delaware Coastal Airport in the amount of \$55,035.00, with a renewal option based on satisfactory performance.

At the August 10, 2021 meeting, the Department detailed a history of property site maintenance contracts and the challenges experienced in securing services. The Department recommended Council authorize the contracts be modified to performance-based, year over year, continual contracts with consumer price index (CPI) adjustments starting in 2022.



On February 22, 2022, Council approved a clarifying motion for the value of Jakor Enterprise's Maintenance Contract in the overall amount of \$57,660.00 with the inclusion Downs Property maintenance. The 6.6% CPI adjustment per the U.S. Bureau of Labor Statistics, resulted in an annual cost of \$61,465.56 for 2022.

The five-year term of the 2018 contract for the sediment removal from the drainage ditches at the Business Park concluded at the end of the 2022. The Engineering Department now requests (i) inclusion of the ditch maintenance services into the 2019 Delaware Coastal Airport/Business Park & Property Site Maintenance year after year, continual CPI adjusted contract and (ii) a 2023 CPI adjustment of 6.4% for an overall contract value of \$103,703.36.



Rieley  
Yes. via TL. 2/23

### Council Grant Form

<b>Legal Name of Agency/Organization</b>	American Legion <del>Sussex</del> Post 8 <b>INC</b>
<b>Project Name</b>	Placement of Flages for Veterans
<b>Federal Tax ID</b>	51-6018018 ✓
<b>Non-Profit</b>	Yes
<b>Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)</b>	No
<b>Organization's Mission</b>	To place flags on veterans graves in Georgetown and the surrounding cemeteries in the Georgetown area: Harbeson, St. Johns, Prospect AME Church, Pepper Cemetery, Providence Church, to mention a few.
<b>Address</b>	12 Swaine Ave.
<b>Address 2</b>	
<b>City</b>	Georgetown
<b>State</b>	De.
<b>Zip Code</b>	199947
<b>Contact Person</b>	William Lawson
<b>Contact Title</b>	American Legion Commander

**Contact Phone Number** 302-359-3355

**Contact Email Address** [racerchaser42@gmail.com](mailto:racerchaser42@gmail.com)

**Total Funding Request** \$375.00

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

**If YES, how much was received in the last 12 months?** N/A

**Are you seeking other sources of funding other than Sussex County Council?** No

**If YES, approximately what percentage of the project's funding does the Council grant represent?** N/A

**Program Category (choose all that apply)** Other

**Program Category Other** to honor deceased veterans

**Primary Beneficiary Category** Other

**Beneficiary Category Other** Honoring deceased veterans

**Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program** 820

**Scope** To place flags on deceased veterans graves for Memorial Day in the Georgetown area and surrounding cemeteries of Harbeson, St. Johns, Prospect AME Church, Pepper Cemetery, Providence Church, to mention a few.

**Religious Components** N/A

**Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)** 0.00

**Description** 8x12 American Flags

**Amount** 375.00

**Description**

**Amount**

**Description**

**Amount**

**Description**

**Amount**

**Description**

**Amount**

**Description**

**Amount**

**Description**

**Amount**

**Description**

**Amount**

**TOTAL EXPENDITURES** 375.00

**TOTAL DEFICIT FOR  
PROJECT OR  
ORGANIZATION** -375.00

**Name of Organization** American Legion Sussex Post 8

**Applicant/Authorized  
Official** William H Lawson

**Date** 02/23/2023

**Affidavit**

Yes

**Acknowledgement**

If you feel this is not a valid submission please log into D3Forms to update this submissions status.  
Please feel free to email [clientservices@d3corp.com](mailto:clientservices@d3corp.com) with any questions.

To Be Introduced: 03/07/23

Council District 4: Mr. Hudson  
Tax I.D. No.: 234-29.00-248.04  
911 Address: N/A

ORDINANCE NO. \_\_\_\_

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN MR-RPC MEDIUM DENSITY RESIDENTIAL – RESIDENTIAL PLANNED COMMUNITY DISTRICT TO AN MR-RPC MEDIUM DENSITY RESIDENTIAL – RESIDENTIAL PLANNED COMMUNITY DISTRICT TO AMEND THE CONDITIONS OF APPROVAL OF CHANGE OF ZONE NO. 1474 (ORDINANCE NO. 1572) RELATING TO THE REQUIREMENT TO PROVIDE A PARK AND RIDE FACILITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 303.00 ACRES, MORE OR LESS

WHEREAS, on the 12<sup>th</sup> day of April 2022, a Zoning Application, denominated Change of Zone No. 1982 was filed on behalf of Peninsula Lakes, LLC; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2023, 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. 1982 be \_\_\_\_\_; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2023, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County,

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

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

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Indian River Hundred, Sussex County, Delaware, and lying on the west side of Bay Farm Road (S.C.R. 299) and the east side of Starling Lane approximately 0.56 mile southeast of John J. Williams Highway (Route 24) (and being more particularly described in the attached legal description prepared by Becker Morgan Group, Inc. said parcel containing 3.01 acres, more or less, being part of the Peninsula Lakes Residential Planned Community (RPC) containing 303.00 acres more or less.

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

To Be Introduced: 03/07/23

Council District 5: Mr. Rieley

Tax I.D. No.: 235-30.00-61.00, 58.06, & 58.07 (p/o)

911 Address: 26628 and 26772 Lewes Georgetown Highway, Harbeson and N/A

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A PORTION OF CERTAIN PARCELS OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 43.27 ACRES, MORE OR LESS**

WHEREAS, on the 29<sup>th</sup> day of June 2022, a conditional use application, denominated Conditional Use No. 2381 was filed on behalf of Consolidated Edison Development, Inc.; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2023, 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. 2381 be \_\_\_\_\_; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2023, 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. 2381 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 south side of Lewes Georgetown Highway (Rt. 9) approximately 0.40 mile east of Harbeson Road (Rt. 5) and being more particularly described in the attached legal description prepared by Langan Engineering and Environmental Services, Inc., said parcels (portion of) containing 25.83 acres, more or less.

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

To Be Introduced: 03/07/23

Council District 4: Mr. Hudson  
Tax I.D. No.: 533-6.00-115.08  
911 Address: 34615 Wilgus Cemetery Road, Frankford

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PERSONAL TRAINING & MARTIAL ARTS SCHOOL TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.23 ACRES, MORE OR LESS**

WHEREAS, on the 22<sup>nd</sup> day of September 2022, a conditional use application, denominated Conditional Use No. 2396 was filed on behalf of Noel Bowman; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2023, 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. 2396 be \_\_\_\_\_; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2023, 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. 2396 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Georgetown Hundred, Sussex County, Delaware, and lying on northeast side of Wilgus Cemetery Road (S.C.R. 381A) approximately 0.42 mile west of Bayard Road (S.C.R. 384) and being more particularly described in the attached legal description prepared by Parsons & Robinson, P.A., said parcel containing 1.23 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.





## 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: March 3, 2023

RE: County Council Report for C/U 2370 filed on behalf of William D. & Carol Emmert

---

The Planning and Zoning Department received an application (C/U 2370 filed on behalf of William D. & Carol Emmert) for a Conditional Use for parcel 234-10.00-12.09 for amendments to Conditional Use No. 1334 (Ordinance No. 1383) to allow for an additional commercial building for storage and operations of a construction business. The property is located at 28816 Four of Use Road, Harbeson. The parcel size is 3.93 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on January 26, 2023. At the meeting of February 9, 2023, the Planning & Zoning Commission recommended approval of the application for the 7 reasons stated and subject to the 10 recommended conditions as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meetings of January 26, 2023, and February 9, 2023.

### Minutes of the January 26, 2023, Planning & Zoning Commission Meeting

#### C/U 2370 William D. & Carol Emmert

**An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for amendments to Conditional Use No. 1334 (Ordinance No. 1383) to allow for an additional commercial building for storage and operations of a construction business to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 3.93 acres, more or less.** The property is lying on the north side of Four of Us Road, approximately 234 feet west of Hollyville Road (S.C.R. 48). 911 Address: 28816 Four of Us Road, Harbeson. Tax Parcel: 234-10.00-12.09.



Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Conceptual Site Plan, the Staff Analysis, a letter from Sussex County Engineering Department Utility Planning Division, and the DelDOT Service Level Evaluation Response. Mr. Whitehouse advised the Commission zero comments had been received for the Application.

The Commission found Mr. Blake Carey, with the Smith Firm, LLC, spoke on behalf of the Application; that also present was Mr. William D. Emmert; that the property is located on the northerly side of Four of Us Road, being west of Hollyville Rd. in Harbeson; that the Applicants acquired the property in approximately 2000; that the property is roughly 3.93 acres; that around the time of acquisition, the Applicants did seek a Conditional Use; that Conditional Use was granted for C/U 1334, which became Sussex County Ordinance No. 1383; that Ordinance 1383 allowed for two buildings to be located on the property; that one building was permitted for storage related to the Applicant's auction business, known as Emmert Action Associates; that the other building was permitted for a landscaping business; that thereafter the approval, the first building was constructed on the western side of the property; that building was utilized and continues to be utilized by the Applicant for the auction business; that approximately 2020 or 2021, the Applicant sought a permit for the construction of the second building; that the second building is existing and currently constructed; that the second building was utilized by a business that performs residential hardscaping and patio work; that Sussex County informed the Applicant the use for residential hardscaping and patio work was not permitted; that this initiated the currently Conditional Use request; that the previous Conditional Use was permitted for a landscape business, office and equipment; that no retail sales were approved for the property; that currently there is no retail sales on the property for either building; that the current Conditional Use request is related only to the proposed use for the second building on the property; that no retail sales are proposed at the building; that manufacturing would not take place at either building on the property; that the Applicant does propose hardscaping and residential hardscaping materials and equipment, along with portable dumpsters for rent; that some dumpsters would be stored within the second building, with other dumpsters around or about the second building; that the amount of construction equipment and portable dumpsters for rent would vary; that typically, customers will rent a dumpster; that the dumpster is delivered to the home construction site; that the dumpsters are utilized; that the dumpsters are then dumped and returned to the site to be stored until a customer rents the dumpster again; that he stated from personal experience, the rental dumpsters are hard to find; that he currently has a similar dumpster at his property; that he stated the rental dumpsters are expensive; that the more businesses who can serve the need the better; that employee parking is located around the second building; that employee parking is noted on the Site Plan; that the second building and employee parking are both well within the required setbacks; that the other properties located along Four of Us Road, consist of additional buildings used for the storage of vehicles and vehicle mechanical work; that Parcel 12.11, located to the west, is utilized for a large scale landscaping business; that water for the property is served by a private well; that waste water is served by private septic; that the property is located in the AR-1 (Agricultural Residential) Zoning District; that the Conditional Use request is to allow the second building to be located on the property, and for the second building and the area surrounding it to be utilized for a residential construction business; that the residential construction business would include an office to be located within the second building, employee parking to be located around the second building, the storage of equipment and materials to be located within and outside of the second

building; that the request would also include the storage of the portable rental dumpsters to be located on the property; that the proposed Conditional Use is similar in character of the surrounding area and properties along Four of Us Road; that nearby properties of the site, include several storage buildings and businesses, which include other construction related businesses; that located within a one mile radius, are other professional services with contractor storage have been permitted via Conditional Uses for AR-1 zoned properties; that the proposed use would have no adverse impact on the character or property values of the surrounding area; that DelDOT confirmed a Traffic Impact Study (TIS) was not required; that the AR-1 property is located within a Low Density area, per the Comprehensive Plan; that the proposed use is not an intense commercial use and is not large in scale; that due to this, the proposed use is permissible according the Comprehensive Plan; that the Staff Analysis concluded that subject to considerations of scale and impact, a Conditional Use to allow for an amendment of Ordinance 1383, could be considered consistent with land use area zoning and surrounding uses; that the proposed use is for residential construction, not commercial construction, therefore not involving large-scale operations; that the proposed use will benefit the health, safety and welfare of existing and future Sussex County residents; that the proposed use will benefit and address the needs of residential and agricultural owners, by providing convenient services to neighboring properties and residents of Sussex County; that permitting the use will increase competition within the residential construction setting, which is beneficial to County residents, healthy for the environment and a benefit to the public itself; that similar properties are hard to come by, or too expensive, along commercial areas; that this creates stifling of small businesses to survive in the area; that the use will not impact nearby properties or roadways; that the second building and its uses will be generally shielded from Hollyville Rd. by existing tree lines; that there is existing fencing around the property; that the second building is located 463.7-ft. from the nearest adjacent residential property off Hollyville Rd.; that the second building is 99.9-ft from the property located to the north, which is an existing open field; that the proposed use would not generate any significant noise or construction equipment; that equipment would only be utilized when mobilizing to sites to perform hardscaping installs; that the Application is consistent with Code requirements for a Conditional Use; that proposed Conditions of Approval were submitted; that proposed conditions stated that the property would be limited to operations and storage for a residential construction business, including an office and outside storage of materials, equipment and portable rental dumpsters; that hours of operation are proposed to be 7:00 am until 5:00 pm; that no retail would be conducted at the site; that all exterior lighting shall be downward screened so it does not shine on neighboring properties and one lighted sign is requested as permissible by County Code.

Ms. Wingate questioned if the Applicant owned all the properties along Four of Us Road, if Four of Us Road was a private road, who maintains Four of Us Road, and if a maintenance agreement is in place for the road.

Mr. Mears questioned if there would be any grinding of mulch or materials on site.

Ms. Stevenson mentioned concern about noise and questioned how close a dumpster would be placed on the site from the residential homes along Hollyville Rd.

Chairman Wheatley questioned if the Applicant would be agreeable to the placement of screening.

Mr. Hopkins questioned if there was a home located on Parcel 12.05.

Mr. Carey stated the Applicant does not own all the properties along Four of Us Road; that Four of Us Road is a private road; that no grinding of mulch or materials is proposed at the site; that the dumpsters are delivered to a residential construction site; that at the site, the dumpsters are filled; that once filled, the dumpsters are taken to Delaware Solid Waste Authority (DSWA) to be dumped; that DSWA is located up the road from the site; that the dumpsters are brought back to the site to be stored until the next rental; that the second building is located approximately 400-ft. from the closest residential home; that they propose to keep the rental dumpsters as close to the second building as possible; that the dumpsters would be unloaded only during the proposed hours of operation; that on the eastern portion of the property, Mr. Emmert plants grass, which is utilized for duck blinds; that the grass grows very tall; that in the summer the grass does provide a good deal of screening to the property; that the grass is harvested in the winter; that there is not a home located on Parcel 12.05; that there are no homes located along Four of Us Road; that all the buildings along Four of Us Road are for storage or business uses and the closest residential property's ingress/egress is from Hollyville Rd.

Mr. Emmert stated Four of Us Road is owned and maintained by himself and his neighbor, Shore Property Maintenance, who is located behind him; that there is a shared maintenance agreement in place for Four of Us Road; that he believed there are six portable rental dumpsters proposed for the site and that he was agreeable to the placement of screening on the property.

The Commission found there was no one present in the room or by teleconference who wished to speak in support or opposition to the Application.

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

At the conclusion of the public hearing, the Commission discussed the Application.

In relation to C/U 2370 William D. & Carol Emmert. Motion by Ms. Wingate to defer action for further consideration, seconded by Ms. Stevenson and carried unanimously. Motion carried 5-0.

#### Minutes of the February 9, 2023, Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since January 26, 2023.

Ms. Wingate moved that the Commission recommend approval of C/U 2370 William D. and Carol Emmert to amend the Conditions of Approval to C/U 1334, codified as Ordinance No. 1383 based upon the record made during the public hearing and for the following reasons:

1. Ordinance No. 1383 approved C/U 1334 as “a storage building for an auction company (no retail) and a storage building for a landscaping business (no retail)”. This approval was granted by Sussex County Council on June 27, 2000.

2. The existing Conditions of Approval limited the use of the building that was included on the Site Plan at the time.
3. The Applicant has operated its business, along with a landscaping company, for many years without issue. The Applicant now seeks to expand the use to allow another building on the site along with outside storage. The Applicant testified that there is a need for this additional space to support these types of uses in this part of Sussex County.
4. This site is located on a private road known as “Four of Us Road” where other similar business and commercial uses and buildings exist. The additional uses, buildings, and storage will be consistent with this small business neighborhood.
5. The additional storage building will be located more than 400 feet from Hollyville Road and the nearest dwelling.
6. This proposed amendment will not adversely affect the neighborhood or area roadways.
7. No parties appeared in opposition to this application.
8. This recommendation is subject to the following amended conditions to C/U 1334, codified as Ordinance No. 1383:
  - a. Two buildings shall be permitted on this site, including the one approved in 2000 and the additional one that is the subject of this application.
  - b. The use of the buildings shall be limited to storage and offices for an auction company, landscaping company, or construction company.
  - c. Outside storage shall be permitted in conjunction with the permitted uses for an auction company, landscaping company, or construction company.
  - d. No retail sales shall be permitted on the site.
  - e. Any security lighting shall be directed downward so that it does not shine on neighboring properties or roadways.
  - f. All dumpsters shall be screened from the view of neighboring residential properties. The locations of the dumpsters shall be shown on the Final Site Plan.
  - g. The areas set aside for parking and outside storage shall be shown on the Final Site Plan and clearly marked on the site itself.
  - h. The use shall be screened from view of the nearest residential dwelling and Hollyville Road. The location and type of screening shall be shown on the Final Site Plan.
  - i. One lighted sign shall be permitted along Four of Us Road. It shall not exceed 32 square feet in size on each side.
  - j. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to recommend approval of C/U 2370 William D. & Carol Emmert for the reasons and conditions stated in the motion. Motion carried 5-0.

Vote by roll call: Mr. Hopkins – yea, Ms. Stevenson – yea, Ms. Wingate – yea, Mr. Mears – yea, Chairman Wheatley - yea

**PLANNING & ZONING COMMISSION**

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



**Sussex County**

DELAWARE  
sussexcountyde.gov  
302-855-7878 T  
JAMIE WHITEHOUSE, MRTPI, AICP  
DIRECTOR OF PLANNING & ZONING

**PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET**  
Planning Commission Public Hearing Date: January 26<sup>th</sup>, 2023

Application: CU 2370 William & Carol Emmert

Applicant: William D. & Carol Emmert  
P.O. Box 650  
Rehoboth Beach, DE 19971

Owner: William D. & Carol Emmert  
P.O. Box 650  
Rehoboth Beach, DE 19971

Site Location: Located on the north side of Four of Us Road, approximately 0.03 mile west of Hollyville Road (S.C.R. 48).

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

Proposed Use: Residential construction and improvement business

Comprehensive Land Use Plan Reference: Low Density

Councilmanic District: Mr. Rieley

School District: Cape Henlopen School District

Fire District: Millsboro Fire Department

Sewer: Private Septic

Water: Private Well

Site Area: 3.933 ac. +/-

Tax Map ID.: 234-10.00-12.09



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



**Sussex County**

DELAWARE  
sussexcountyde.gov

## Memorandum

To: Sussex County Planning Commission Members  
From: Mx. Jesse Lindenberg, Planner I  
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant  
Date: January 19, 2023  
RE: Staff Analysis for C/U 2370 William & Carol Emmert

---

This memo is to provide background and analysis for the Planning Commission to consider as a part of application C/U 2370 William & Carol Emmert to be reviewed during the January 26, 2023, 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: 234-10.00-12.09 to allow for amendments to the Conditions of Approval in Ordinance No. 1383 (Conditional Use No. 1334) to allow for an additional commercial building for storage and operations of a construction business. The property is located on the north side of Four of Us Road, approximately 0.11 mile west of Hollyville Road (S.C.R. 48). The parcel consists of 3.93 acres +/-.

### Comprehensive Plan Analysis

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 parcel has a designation of “Low Density.” The adjacent parcels to the north, east, west, and south (across Four of Us Road) also have a designation of “Low Density.”

As outlined in the 2018 Sussex County Comprehensive Plan, Low Density Areas are intended to support agricultural uses and low-density single-family housing. Specifically, the Comprehensive Plan states that single family homes have a density of up to two dwelling units to the acre. It is envisioned that the Low-Density Areas allow for businesses that support nearby residents and the agricultural economy. More intense commercial uses could be limited in scale and impact. While residential growth is expected, the Comprehensive Plan intends for the rural landscape to be maintained and for farmland to be preserved in select locations.

### Zoning Information

The subject property is zoned Agricultural Residential (AR-1) Zoning District. The adjacent properties to the north, east, west, and south (across Four of Us Road) are also zoned Agricultural Residential (AR-1) Zoning District.



Existing Conditional Uses within the Vicinity of the Subject Site

Since 2011, there have been six (6) Conditional Use applications within a one (1) mile radius of the application site.

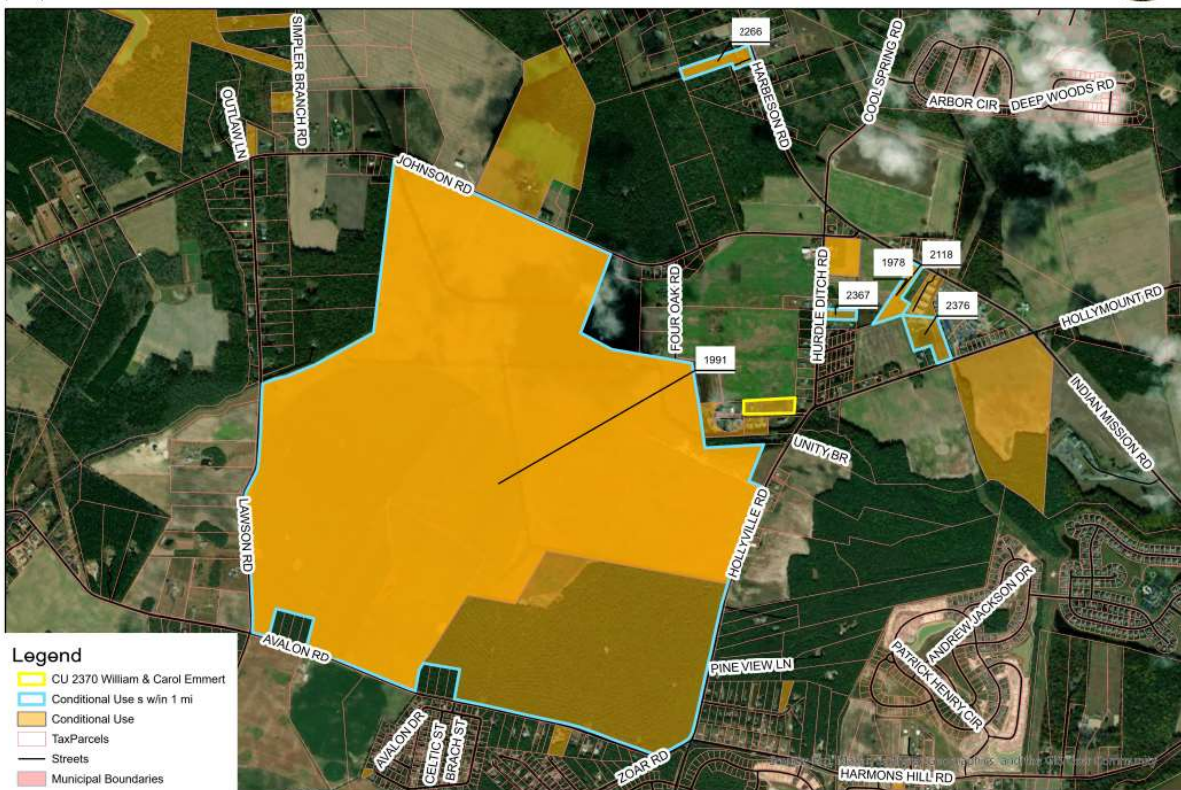
**Conditional Use Applications  
 w/in a 1 Mile Radius of Application Site**

Conditional Use Number	Applicant Name	Zoning District	Proposed Use	CC Decision	CC Decision Date	Ordinance Number
1978	John W. Davidson	AR-1	Professional Office w/Contractor Storage	Approved	3/18/2014	2340
1991	Cool Springs LLC/ Highway One	AR-1	Outdoor Entertainment Events w/ Temporary Camping Facilities During Events Only	Withdrawn	N/A	N/A
2118	John W. Davidson	AR-1	professional office with contractor storage	Approved	3/20/2018	2570
2266	MDO Dreamlands, LLC	AR-1	Hardscaping, decking company, w/ offering small dumpster rentals	Withdrawn	11/3/2021	N/A
2367	atTAcK Addiction Foundation	AR-1	Group Home for more than 10 People	TBD	TBD	TBD
2376	Jose Hernandez	AR-1	Pool Business	TBD	TBD	TBD

Based on the analysis provided and subject to considerations of scale and impact, a conditional use to allow for an amendment to the Conditions of Approval in Ordinance No. 1383 (Conditional Use No. 1334) could be considered as being consistent with the land use, area zoning and surrounding uses.



### CU 2370 William & Carol Emmert Conditional Use Applications w/in 1 Mile



- Legend**
- CU 2370 William & Carol Emmert
  - Conditional Use s w/in 1 mi
  - Conditional Use
  - TaxParcels
  - Streets
  - Municipal Boundaries

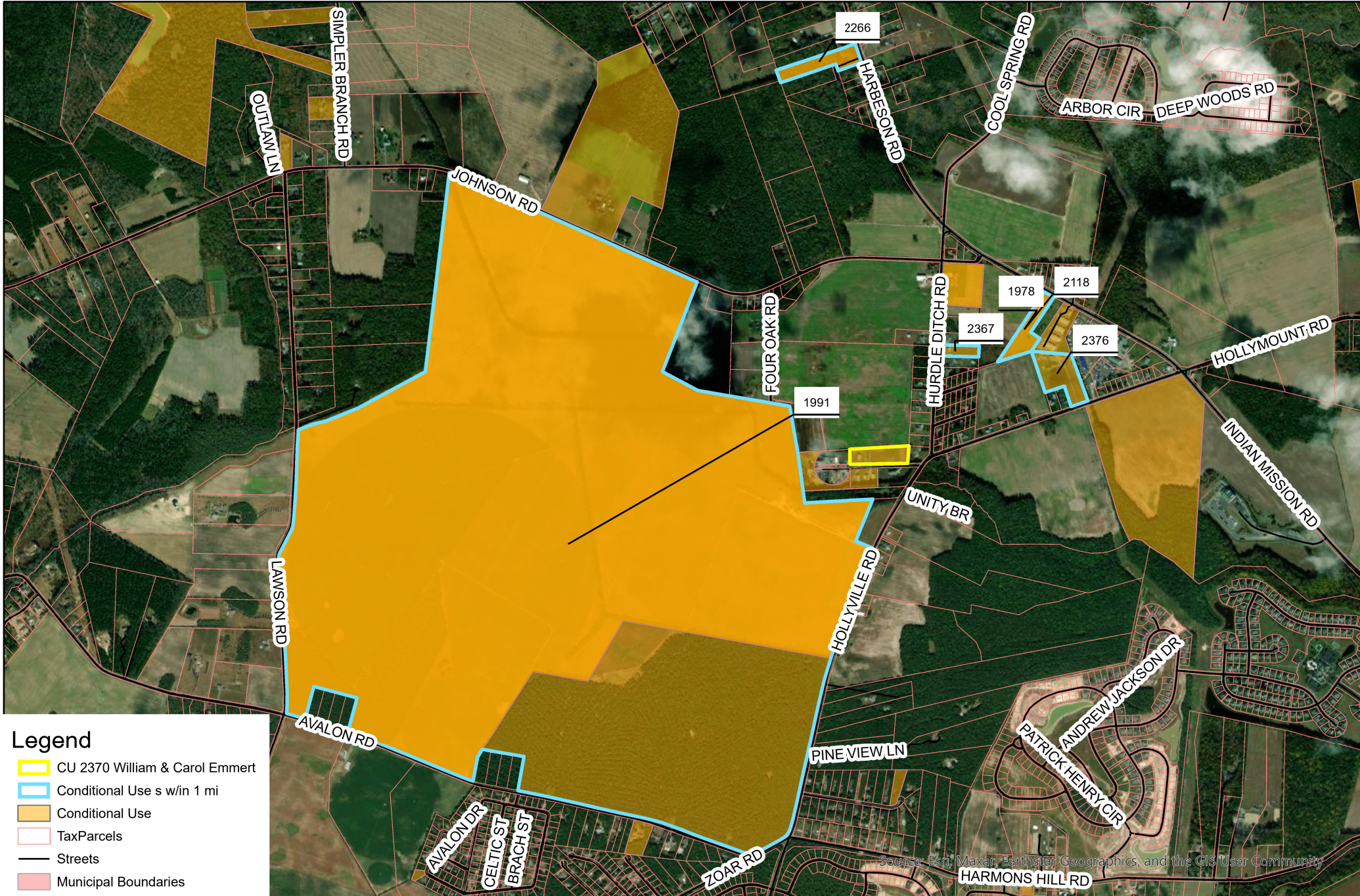
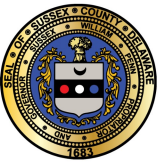


Created January 19, 2023

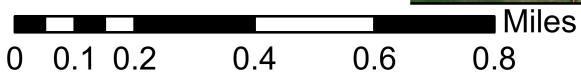


# CU 2370 William & Carol Emmert

## Conditional Use Applications w/in 1 Mile



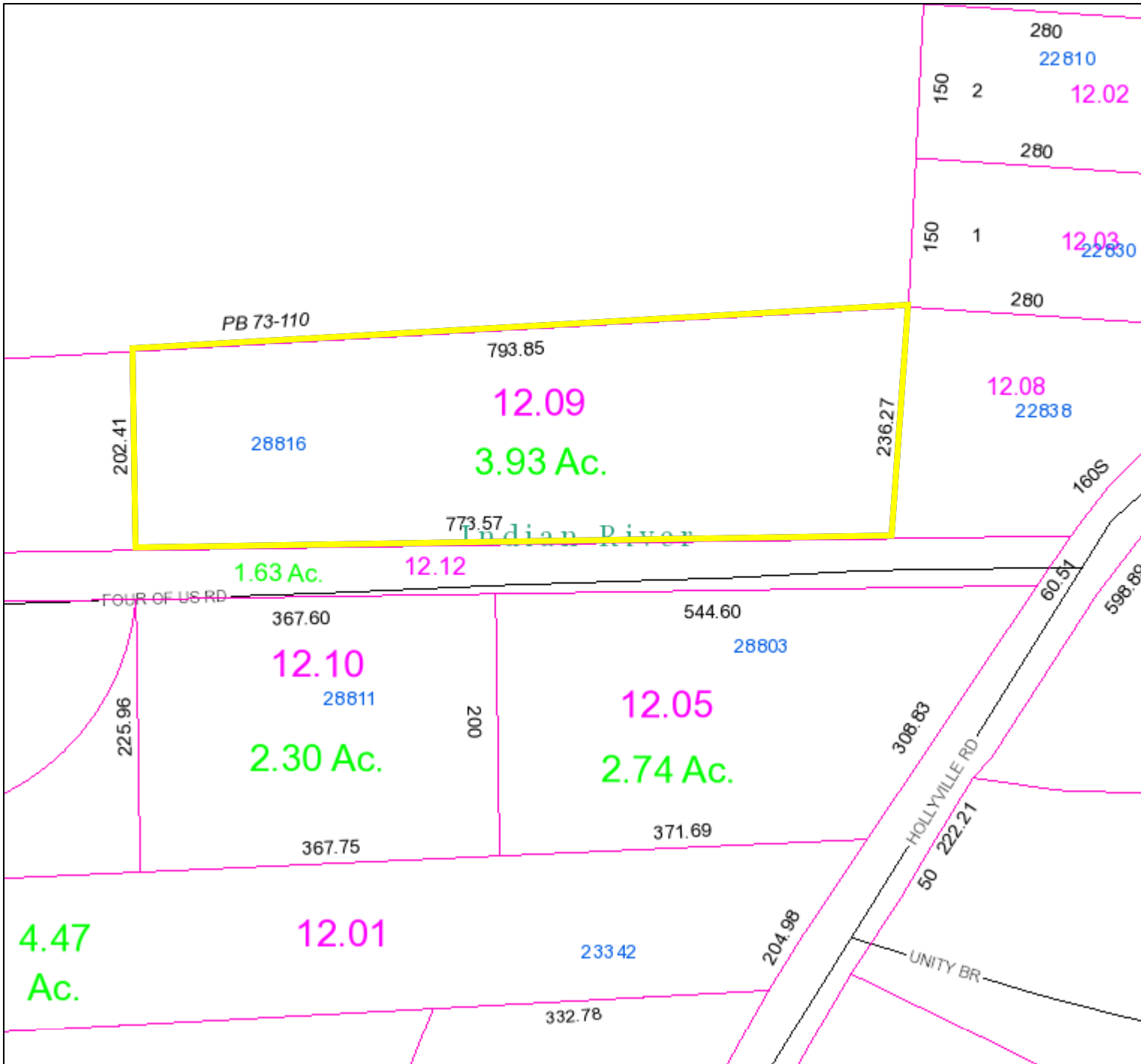
- Legend**
- CU 2370 William & Carol Emmert
  - Conditional Use s w/in 1 mi
  - Conditional Use
  - Tax Parcels
  - Streets
  - Municipal Boundaries



Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

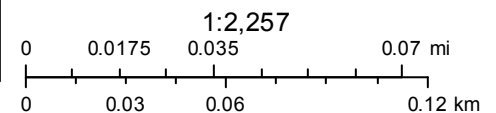


# Sussex County



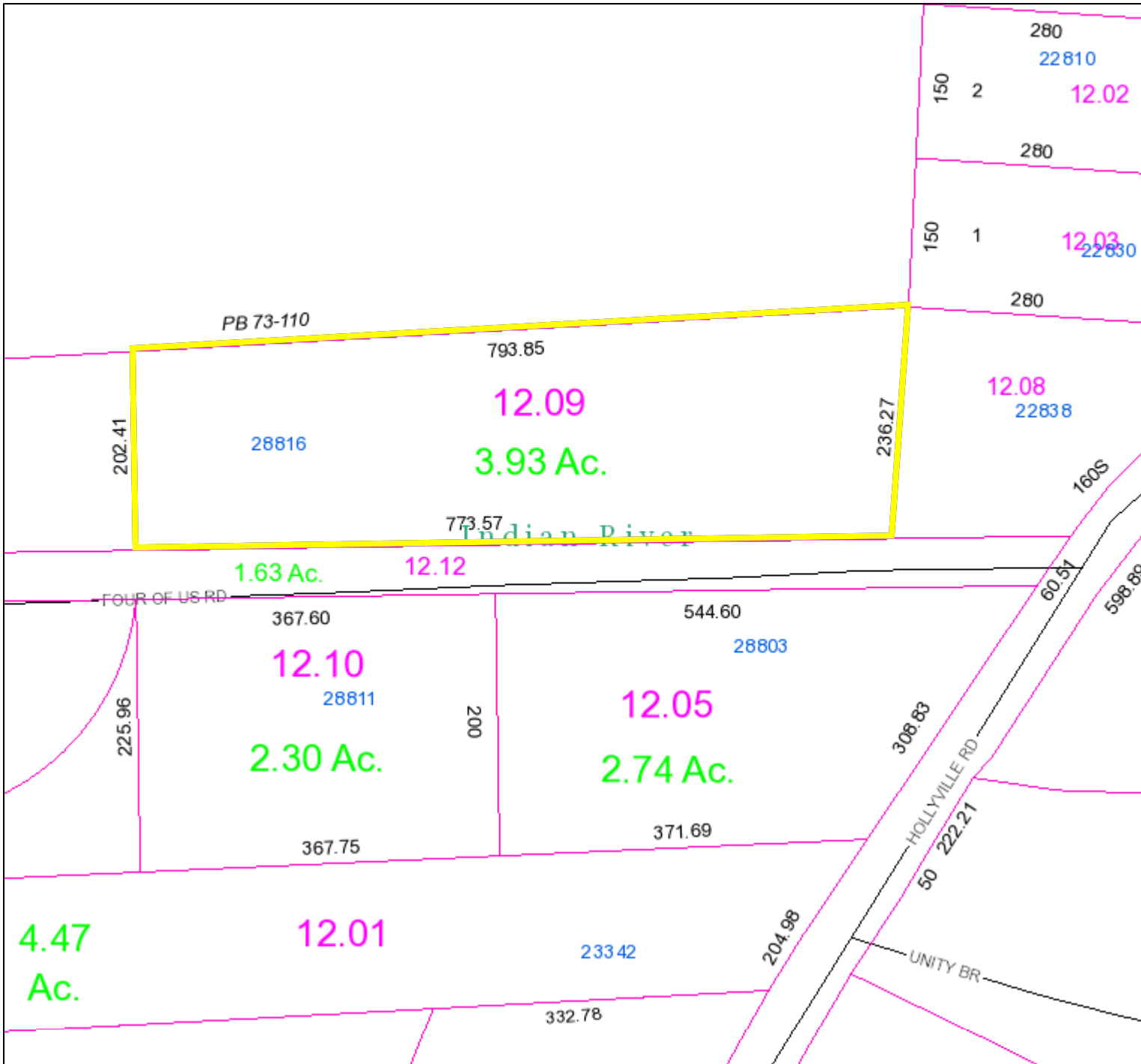
<b>PIN:</b>	234-10.00-12.09
<b>Owner Name</b>	EMMERT WILLIAM D & CAROL
<b>Book</b>	2671
<b>Mailing Address</b>	PO BOX 650
<b>City</b>	REHOBOTH BEACH
<b>State</b>	DE
<b>Description</b>	NW/OF RD 48 APPROX
<b>Description 2</b>	160'SW OF RD 290
<b>Description 3</b>	LOT 2
<b>Land Code</b>	

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



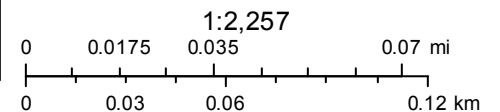


# Sussex County



<b>PIN:</b>	234-10.00-12.09
<b>Owner Name</b>	EMMERT WILLIAM D & CAROL
<b>Book</b>	2671
<b>Mailing Address</b>	PO BOX 650
<b>City</b>	REHOBOTH BEACH
<b>State</b>	DE
<b>Description</b>	NW/OF RD 48 APPROX
<b>Description 2</b>	160'SW OF RD 290
<b>Description 3</b>	LOT 2
<b>Land Code</b>	

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



Introduced: 07/12/2022

Council District 5: Mr. Rieley  
Tax I.D. No.: 234-10.00-12.09  
911 Address: 28816 Four of Us Road, Harbeson

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AMENDMENTS TO CONDITIONAL USE NO. 1334 (ORDINANCE NO. 1383) TO ALLOW FOR AN ADDITIONAL COMMERCIAL BUILDING FOR STORAGE AND OPERATIONS OF A CONSTRUCTION BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 3.93 ACRES, MORE OR LESS**

WHEREAS, on the 28<sup>th</sup> day of April 2022, a conditional use application, denominated Conditional Use No. 2370 was filed on behalf of William D. & Carol Emmert; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2022, 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. 2370 be \_\_\_\_\_; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2022, 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. 2370 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 north side of Four of Us Road approximately 234 ft. west of Hollyville Road (Rt. 48) and being more particularly described in the attached legal description prepared by Hudson, Jones, Jaywork & Fisher, said parcel containing 3.93 acres, more or less.

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



## 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: March 3, 2023

RE: County Council Report for C/Z 1974 filed on behalf of Gregory T. White and Patricia P. White

---

The Planning and Zoning Department received an application (C/Z 1974 filed on behalf of Gregory T. White and Patricia P. White) for a Change of Zone of parcel 134-11.00-152.00 from an AR-1 Agricultural Residential Zoning District to a C-3 Heavy Commercial Zoning District. The property is located at 34371 Vines Creek Road, Dagsboro. The parcel size is 2.83 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on January 26, 2023. At the meeting of February 9, 2023, the Planning & Zoning Commission recommended approval of the application for the 7 reasons as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meetings of January 26, 2023, and February 9, 2023.

### Minutes of the January 26, 2023, Planning & Zoning Commission Meeting

#### **C/Z 1974 Gregory T. White and Patricia P. White**

**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 Baltimore Hundred, Sussex County, containing 2.83 acres, more or less.** The property is lying on the northeast side of Vines Creek Road (Rt. 26), approximately 425 feet northwest of Powell Farm Road (S.C.R. 365). 911 Address: 34371 Vines Creek Road, Dagsboro. Tax Parcel: 134-11.00-152.00.

Mr. Whitehouse advised the Commission that submitted into the record were the Property Survey, the Applicant's Conceptual Site Plan, the Staff Analysis, the DelDOT Service Level Evaluation



Response, the Applicant's Exhibits, the PLUS comments, and the Applicant's response to the PLUS comments. Mr. Whitehouse advised the Commission zero comments had been received for the Application.

The Commission found that Ms. Mackenzie Peet, with Baird Mandalas Brockstedt Federico & Cardea, spoke on behalf of the Application; that also present was Mr. Gregory T. White; that the Applicant was seeking a request for a Change of Zone from AR-1 (Agricultural Residential) to C-3 (Heavy Commercial); that the property is located off Vines Creek Rd., being along the northeast side of Rt. 26; that the property is 2.83 acres; that the property is approximately 425-ft. from the intersection of Rt. 26, Omar Rd. and Powell Farm Rd.; that along this intersection and adjacent to the site is Car Quest Auto Parts, on property zoned as CR-1 (Commercial Residential); that the property adjacent to the auto part store is a marine store; that east along Atlantic Ave. are multiple properties zoned for commercial; that Good Earth Market is zoned CR-1; that Creative Concepts, Liberty Gas Station, Hockers and Walgreens are all zoned for commercial; that last year, a nearby property was re-zoned to C-3 (Heavy Commercial) for the proposal of mixed-use, with commercial on the bottom and residential located on top; that also St. George's Church and cemetery are also located nearby the property; that the Applicant is seeking to rezone the property for future development of a self-storage facility, to include the storage of vehicles, which is permitted with C-3 Zoning; that the storage of vehicles is not permitted within C-2 (Medium Commercial) Zoning; that a tax ditch runs through the site; that the tax ditch is noted on the Site Plan; that a Tax Ditch Right of Way Modification will be required, as stated within the Applicant's response to the PLUS comments; that the tax ditch is required to be surveyed and analyzed for effective function; that along the rear portion of the property, DNREC had noted the potential presence of wetlands; that the Applicant does understand the wetlands would require delineation for any future development of the site; that these issues would be addressed at Site Plan approval for the property; that the property is located within the Tier I of the Sussex County Unified Sanitary Sewer District; that the proposed increase in traffic and impact to surrounding roadways will be analyzed, reviewed and approved by DelDOT; that the PLUS comments indicated that frontage and entrance related improvements are anticipated at this time; that the property is located within three different Investment Levels, being Investment Levels 2, 3 and 4; that the front portion of the property is located within Investment Level 2; that the middle of the property is located within Investment Level 3; that the rear portion of the property is located within Investment Level 4; that the intention is to only develop within Investment Levels 2 & 3; that the Level 4 area, being the location of the tax ditch, would not be developed; that the future use of the property is intended for a storage facility, for the storage of parked vehicles; that the Applicant intends for the subject property to be considered Phase 2 of the overall project; that the proposed storage facilities would be under the same business; that Parcels 107 and 108, located across the street, would be developed first; that the subject parcel, Parcel 152, would be developed thereafter; that the proposed rezoning is consistent with the Comprehensive Plan and Future Land Use Area; that the property, and entire surrounding area, is designated as the Coastal Area; that within the surrounding area of the site, there have been five Change of Zone applications filed; that C/Z 1738 for a Change of Zone from AR-1 to B-1 (Neighborhood Business) for the existing thrift store; that C/Z 1789 from AR-1 to CR-1 (Commercial Residential), which is the location of Good Earth Market; that C/Z 1798 from AR-1 and CR-1 (Commercial Residential) zoning to C-1 (General Commercial), which is the location of the auto center; that C/Z 1840 from AR-1 to CR-1 (Commercial Residential), which is adjacent to Bob's

Marine; that C/Z 1980 for MARS-RE, LLC was recently approved to change the zoning from AR-1 to C-3 (Heavy Commercial); that Table 4.5-2 for Zoning Districts Applicable to Future Land Use Categories confirms that C-3 (Heavy Commercial) is an applicable zoning district in the Coastal Area; that for all the reasons stated the proposed rezoning of the property meets the general purpose of the Zoning Ordinance, promotes the orderly growth, prosperity and welfare of Sussex County and the proposed use will provide storage services, being a great need in the area, where there is a huge demand and there is a lot of residential growth.

Mr. Mears stated he believed the proposed use is needed for the area.

Ms. Wingate questioned if the subject property would be only for the storage of vehicles.

Ms. Stevenson questioned the amount of paving proposed for the property, as the property is located within an Excellent Groundwater Recharge Area.

Ms. Peet stated the subject property is intended for the storage of vehicles; that vehicle and camper storage is not permitted within the C-2 (Medium Commercial) Zoning District; that there is a footnote on the Permitted Use table which states outside storage is not permitted with C-2; that outside storage is permitted with C-3 (Heavy Commercial); that the intention is to have self-storage located on one side of the road, on Parcels 107 and 108, located with C-2 Zoning; that if the demand is there, the opportunity for self-storage and the outside storage of vehicles located on the other side road within C-3 Zoning; that the Excellent Groundwater Recharge concern was mentioned within the PLUS comments; that it is the Applicant's intention to have a more pervious surface, such as crush and run or something similar; that the Applicant has not gotten to the point in the process to make those types of considerations, but the topic has been discussed; that the Applicant does understand there are environmentally sensitive portions located to the rear of the property and the properties location within the Excellent Groundwater Recharge Area.

The Commission found there was no one present in the room who wished to speak in support or opposition to the Application.

The Commission found Mr. Dennis White spoke by teleconference in support of the Application.

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

At the conclusion of the public hearing, the Commission discussed the Application.

In relation to C/Z 1974 Gregory T. White and Patricia P. White. Motion by Mr. Mears to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 5-0.

#### Minutes of the February 9, 2023, Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since January 26, 2023.



Mr. Mears moved that the Commission recommend approval of C/Z 1974 Gregory T. White & Patricia P. White for a Change in Zone from AR-1 to C-3 “Heavy Commercial” based upon the record made during the public hearing and for the following reasons:

1. C-3 Heavy Commercial Zoning is designed to allow auto-oriented retail and service businesses that serve local and regional residents. Permitted Uses include retail uses, restaurants, offices, and vehicle service stations. Although a number of uses are permitted, this Applicant intends to construct a storage facility on this site.
2. This property has frontage along Route 26. Route 26 is considered to be a Major Collector roadway according to DelDOT’s roadway classification. Major Collector roads are appropriate locations for C-3 Zoning.
3. The parcel is in an area of Route 26 where there are commercial districts and business and commercial uses that have developed. This location along this part of Route 26 is appropriate for this type of zoning.
4. This property is located in the Coastal Area according to the current Sussex County Land Use Plan. This proposed commercial zoning is appropriate in this Area according to the Plan.
5. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity, and welfare of the County.
6. No parties appeared in opposition to this rezoning application.
7. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of C/Z 1974 Gregory T. White and Patricia P. White for the reasons stated in the motion. Motion carried 5-0.

Vote by roll call: Mr. Hopkins – yea, Ms. Stevenson – yea, Ms. Wingate – yea, Mr. Mears – yea, Chairman Wheatley - yea

**PLANNING & ZONING COMMISSION**

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



**Sussex County**

DELAWARE  
sussexcountyde.gov  
302-855-7878 T  
302-854-5079 F  
JAMIE WHITEHOUSE, AICP, MRTPI  
DIRECTOR OF PLANNING & ZONING

**PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET**  
Planning Commission Public Hearing Date: January 26<sup>th</sup>, 2023

Application: C/Z 1974 – Gregory & Patricia White

Applicant: Gregory and Patricia White  
955 Beacon Lane  
Vero Beach, FL 32963

Owner: Gregory and Patricia White  
955 Beacon Lane  
Vero Beach, FL 32963

Site Location: Lying on the northeast side of Vine Creek Road (Rt. 26) approximately 425-feet northwest of the intersection of Vines Creek Road, Atlantic Avenue (Rt. 26), Assurance Avenue and Powell Farm Road (S.C.R. 365).

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

Proposed Zoning: Heavy Commercial (C-3) Zoning District

Proposed Use: Mini-Storage

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Hudson

School District: Indian River School District

Fire District: Millville Fire Department

Sewer: N/A (Sewer Tier 1)

Water: N/A

Site Area: 2.83 acres +/-

Tax Map ID: 134-11.00-152.00



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



**Sussex County**

DELAWARE  
sussexcountyde.gov

## Memorandum

To: Sussex County Planning Commission Members  
From: Elliott Young, Planner I  
CC: Vince Robertson, Assistant County Attorney, and applicant  
Date: January 5, 2023  
RE: Staff Analysis for CZ 1974 Gregory & Patricia White

---

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1974 Gregory & Patricia White to be reviewed during the January 26, 2023, 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 134-11.00-152.00 to allow for a change of zone from an Agricultural Residential (AR-1) District to a Heavy Commercial (C-3) District. The property is lying on the northeast side of Vines Creek Road (Rt. 26) approximately 425-feet northwest of the intersection of Atlantic Avenue (Rt. 26), Assurance Avenue and Powell Farm Road (S.C.R. 365). The parcel to be rezoned contains 2.83 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 parcel has a designation of "Coastal Area." The adjoining parcels to the north, west, east, and south also have a Future Land Use Map designation of "Coastal Area".

As outlined within the 2018 Sussex County Comprehensive Plan, Coastal Areas are areas that can accommodate development provided special environmental concerns are addressed. A range of housing types should be permitted in Coastal Areas, including single-family homes, townhouses, 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. In doing so, careful mixtures of homes with light commercial, office and institutional uses can be appropriate to provide for convenient services and to allow people to work close to home. Major new industrial uses are not proposed in these areas.

The property is zoned Agricultural Residential (AR-1) Zoning District. Adjacent parcels to the north, and northwest are zoned Agricultural Residential (AR-1) Zoning District. The properties to the south across Vines Creek Road are zoned Medium Density Residential (MR) Zoning District and the parcels to the east are zoned Commercial Residential (CR-1) Zoning District.

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



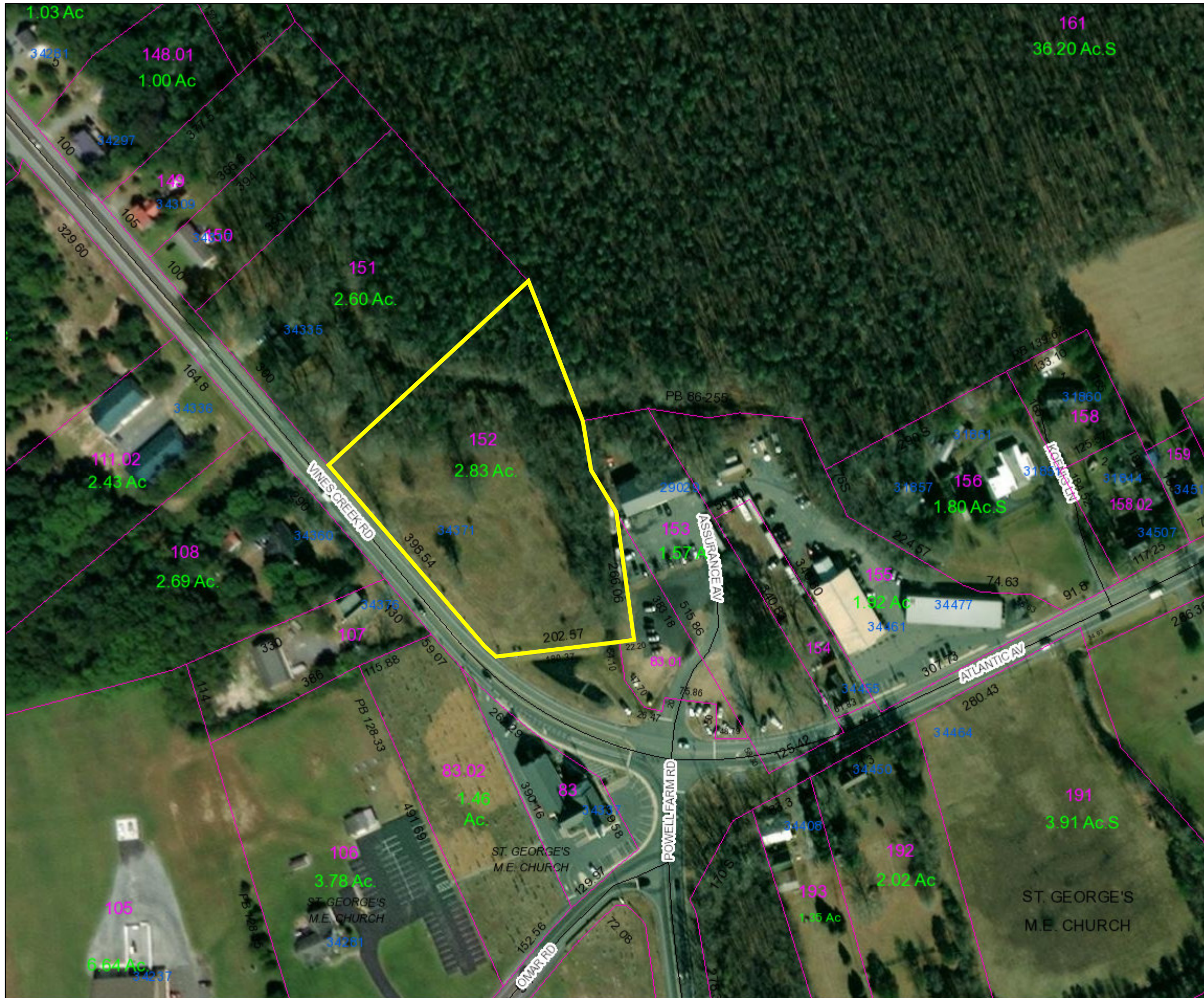
Use Categories,” the Heavy Commercial Zoning District (C-3) is listed as an applicable zoning district in the “Coastal Area.”

Since 2011, there has been five (5) Change of Zone applications within a 1-mile radius of the application site. The First application being, Change of Zone No. 1738 for a change of zone from AR-1 (Agricultural Residential) to B-1 (Neighborhood Business). This application was approved by the County Council at their meeting of December 3<sup>rd</sup>, 2013 and was adopted through Ordinance No. 2331. The Second Application was Change of Zone No. 1789 for a change of zone from AR-1 (Agricultural Residential) to CR-1 (Commercial Residential). This application was approved by the County Council at their meeting of April 5<sup>th</sup>, 2016 and was adopted through Ordinance No. 2439. The third application was Change of Zone No. 1798 for a change of zone from AR-1 (Agricultural Residential) and CR-1 (Commercial Residential) to C-1 (General Commercial). This application was approved by the County Council at their meeting of June 21<sup>st</sup>, 2016 and was adopted through Ordinance No. 2457. The fourth application was Change of Zone No. 1840 for a change of zone from AR-1 (Agricultural Residential) to CR-1 (Commercial Residential). This application was approved by the Sussex County Council at their meeting of January 30<sup>th</sup>, 2018 and was adopted through Ordinance No. 2544. The fifth and last application was for Change of Zone No. 1980 for a change of zone from AR-1 (Agricultural Residential) to C-3 (Heavy Commercial). This application was approved by the County Council at their meeting of June 7<sup>th</sup>, 2022 and was adopted through Ordinance No. 2857.

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



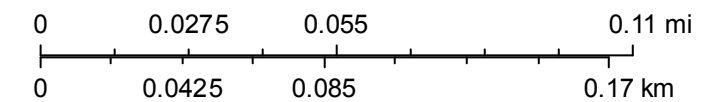
# Sussex County



<b>PIN:</b>	134-11.00-152.00
<b>Owner Name</b>	WHITE GREGORY T
<b>Book</b>	3018
<b>Mailing Address</b>	955 BEACON LN
<b>City</b>	VERO BEACH
<b>State</b>	FL
<b>Description</b>	N/E HWY 26
<b>Description 2</b>	DAGS TO CLARKSVILLE
<b>Description 3</b>	
<b>Land Code</b>	

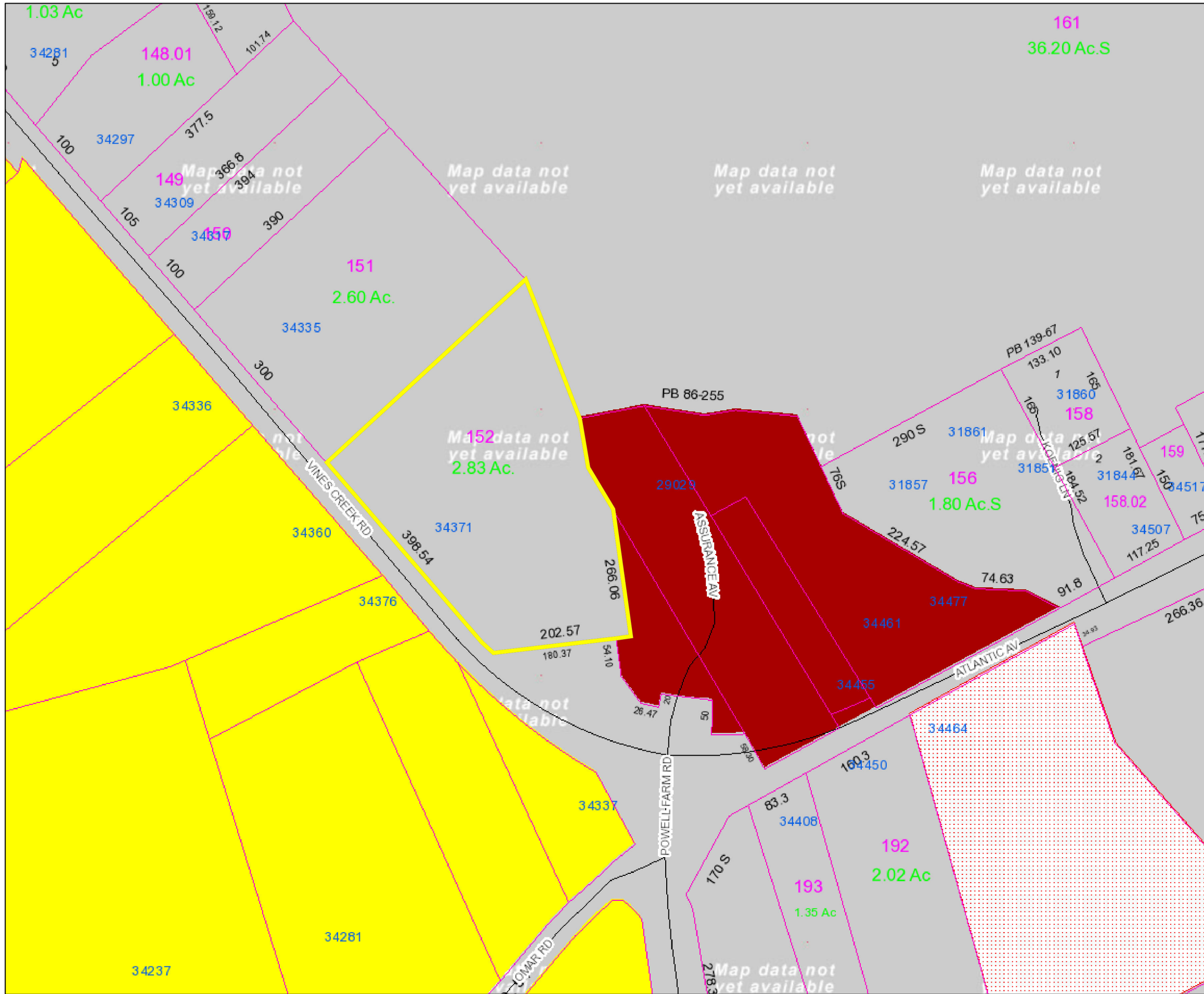
- polygonLayer**
- Override 1
- polygonLayer**
- Override 1
- Tax Parcels
- 911 Address
- Streets
- County Boundaries

1:2,257





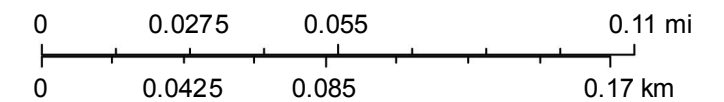
# Sussex County

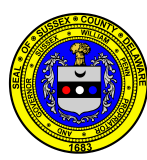


<b>PIN:</b>	134-11.00-152.00
<b>Owner Name</b>	WHITE GREGORY T
<b>Book</b>	3018
<b>Mailing Address</b>	955 BEACON LN
<b>City</b>	VERO BEACH
<b>State</b>	FL
<b>Description</b>	N/E HWY 26
<b>Description 2</b>	DAGS TO CLARKSVILLE
<b>Description 3</b>	
<b>Land Code</b>	

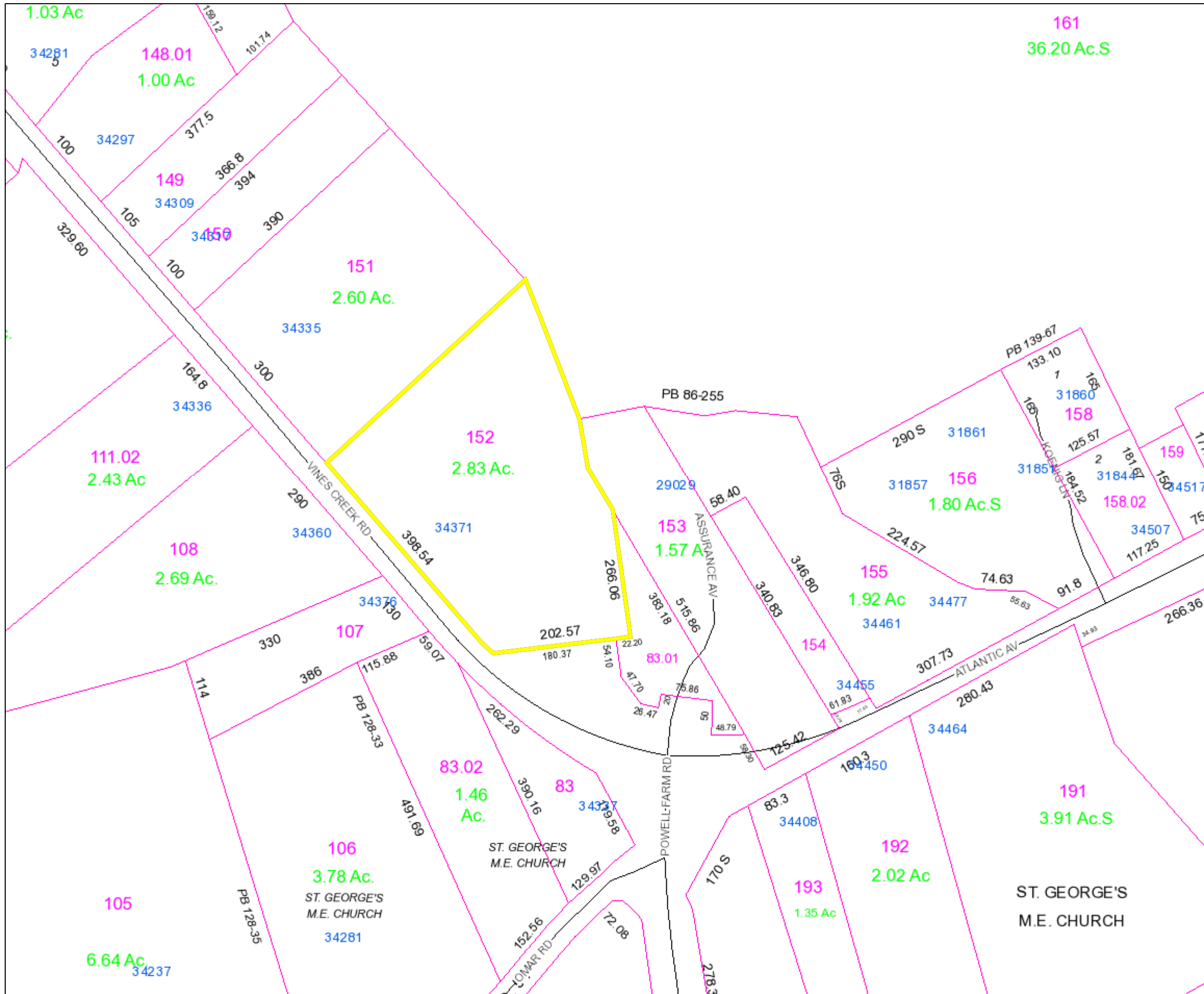
- polygonLayer  
Override 1
- polygonLayer  
Override 1
- ⋯ Tax Parcels
- 911 Address
- Streets

1:2,257



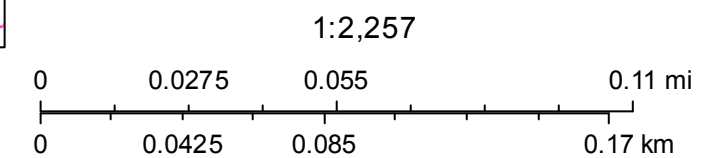


# Sussex County



<b>PIN:</b>	134-11.00-152.00
<b>Owner Name</b>	WHITE GREGORY T
<b>Book</b>	3018
<b>Mailing Address</b>	955 BEACON LN
<b>City</b>	VERO BEACH
<b>State</b>	FL
<b>Description</b>	N/E HWY 26
<b>Description 2</b>	DAGS TO CLARKSVILLE
<b>Description 3</b>	
<b>Land Code</b>	

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



Introduced: 6/7/22

Council District 4: Mr. Hudson  
Tax I.D. No.: 134-11.00-152.00  
911 Address: 34371 Vines Creek Road, Dagsboro

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 BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.83 ACRES, MORE OR LESS**

WHEREAS, on the 21<sup>st</sup> day of February 2022, a zoning application, denominated Change of Zone No. 1974 was filed on behalf of Gregory T. White and Patricia P. White; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2022, 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. 1974 be \_\_\_\_\_; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2022, 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 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 Baltimore Hundred, Sussex County, Delaware, and lying on the northeast side of Vines Creek Road (Rt. 26) approximately 278 ft. northwest of Powell Farm Road (S.C.R. 365) and being more particularly described in the attached legal description prepared by Raymond E. Tomasetti, Jr., said parcel containing 2.83 ac., 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.





## 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: March 3, 2023

RE: County Council Report for C/Z 1975 filed on behalf of Gregory T. White and Patricia P. White

---

The Planning and Zoning Department received an application (C/Z 1975 filed on behalf of Gregory T. White and Patricia P. White) for a Change of Zone of parcels 134-11.00-107.00 and 108.00 from a MR Medium Density Residential Zoning District to a C-2 Medium Commercial Zoning District. The property is located at 34360 & 34376 Vines Creek Road, Dagsboro. The parcel size is 3.64 acres +/-

The Planning & Zoning Commission held a Public Hearing on the application on January 26, 2023. At the meeting of February 9, 2023, the Planning & Zoning Commission recommended approval of the application for the 8 reasons as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meetings of January 26, 2023, and February 9, 2023.

Minutes of the January 26, 2023, Planning & Zoning Commission Meeting

### **C/Z 1975 Gregory T. White and Patricia P. White**

**An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an MR Medium Residential District to a C-2 Medium Commercial District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 3.64 acres, more or less.** The properties are lying on the southwest side of Vines Creek Road (Rt. 26) approximately 450 feet northwest of Powell Farm Road (S.C.R. 365). 911 Address: 34360 & 34376 Vines Creek Road, Dagsboro. Tax ID: 134-11.00-107.00 and 108.00.

Mr. Whitehouse advised the Commission that submitted into the record were the Property Survey, the Applicant's Conceptual Site Plan, the Staff Analysis, the DelDOT Service Level Evaluation



Response, the Applicant's Exhibits, a letter from the Sussex County Engineering Department Utility Planning Division, the PLUS comments, and the Applicant's response to the PLUS comments. Mr. Whitehouse advised the Commission zero comments had been received for the Application.

The Commission found that Ms. Mackenzie Peet, with Baird Mandalas Brockstedt Federico & Cardea, spoke on behalf of the Application; that also present was Mr. Gregory T. White; that the Change of Zone request is for two parcels being Parcel 107 and Parcel 108; that the intension is to rezone the properties from MR (Medium-Density Residential) to C-2 (Medium Commercial) for a self-storage facility; that the subject properties are located across from the property of the previous Change of Zone application; that east along Atlantic Ave. are multiple properties zoned for commercial; that Good Earth Market is zoned CR-1; that Creative Concepts, Liberty Gas Station, Hockers and Walgreens are all zoned for commercial; that last year, a nearby property was re-zoned to C-3 (Heavy Commercial) for the proposal of mixed-use, with commercial on the bottom and residential located on top; that also St. George's Church and cemetery are also located nearby the property; that Parcel 107 is located within the Tier 1 Sussex County Sanitary Sewer District; that there is an existing well on the site, which is noted on the Concept Plan; that the proposed increase in traffic and impact to surrounding roadways will be analyzed, reviewed and approved by DelDOT; that the PLUS comments indicated that frontage and entrance related improvements are anticipated at this time; that the subject site is located within Investment Level 2; that Investment Level 2 are areas where growth is anticipated in the near future; that the PLUS comments reference some discussion concerning the downzoning of the property to AR-1 (Agricultural Residential) in addition to seeking a Conditional Use; that there is an existing dwelling located on Parcel 108; that when the Application was initially submitted, they had not had an updated survey of the property; that once an update survey was performed, it reflected the existing structure being within the required setbacks; that due to this, there was some consideration given to changing the initial Application; that the existing structure is considered legal non-conforming, as it has existed since 1935; that the dwelling will be incorporated into the proposed use; that there is an existing tenant, who will help run and manage the self-storage facilities; that the PLUS comments also make reference to the existence of a cemetery; that the cemetery referenced, is the location of the St. Georges cemetery; that the Applicant did contact Dr. Edward Otter regarding the cemetery issue; that Dr. Otter suggested there was most likely an error with the map noting a cemetery located on the project; that the cemetery is located on the adjacent property, where the St. Georges Cemetery is located; that this issue led to title research being performed for the property, which confirmed that neither of the subject properties were ever owned by the church or cemetery; that Mr. Whitehouse has spoken with Mr. Wayne Bowden, President of St. George's Cemetery Association, Inc., who also provided an email confirming the St. George's Cemetery dates back to the 1800s; that there have never been any grave sites located on the subject property and there is an existing wall that separates the properties from one another; that he had never seen a gravesite and does not believe there are any current grave sites located on the property; that the proposed use is for a self-storage facility, which is a permitted use within the C-2 Zoning District; that the intention is to develop both the subject properties and the property across the street; that the subject properties are to be developed first and the parcel across the street being developed thereafter; that C-2 District is purposed for supporting uses that include retail sales and performance of consumer services, permitting a variety of retail, professional and service businesses; that C-2 Districts are also located near arterial and collector streets, like Rt. 26; that the proposed use is permitted and will support the demanded for

needed storage; that the property and surrounding area is located within the Coastal Area; that the Coastal Area is a Growth Area; that the proposed commercial use is completely in character with the surrounding area; that within the surrounding area of the site, there have been five Change of Zone applications filed; that C/Z 1738 for a Change of Zone from AR-1 to B-1 (Neighborhood Business) for the existing thrift store; that C/Z 1789 from AR-1 to CR-1 (Commercial Residential), which is the location of Good Earth Market; that C/Z 1798 from AR-1 and CR-1 (Commercial Residential) zoning to C-1 (General Commercial), which is the location of the auto center; that C/Z 1840 from AR-1 to CR-1 (Commercial Residential), which is adjacent to Bob's Marine; that C/Z 1980 for MARS-RE, LLC was recently approved to change the zoning from AR-1 to C-3 (Heavy Commercial); that Table 4.5-2 for Zoning Districts Applicable to Future Land Use Categories confirms that C-2 (Medium Commercial) is an applicable zoning district in the Coastal Area and for all the reasons stated the proposed rezoning of the property meets the general purpose of the Zoning Ordinance, promotes the orderly growth, prosperity and welfare of Sussex County.

The Commission found there was no one present in the room or by teleconference who wished to speak in support or opposition to the Application.

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

At the conclusion of the public hearing, the Commission discussed the Application.

In relation to C/Z 1975 Gregory T. White and Patricia P. White. Motion by Mr. Mears to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 5-0.

#### Minutes of the February 9, 2023, Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since January 26, 2023.

Mr. Mears moved that the Commission recommend approval of C/Z 1975 Gregory T. White & Patricia P. White for a Change in Zone from AR-1 Agricultural-Residential zoning to C-2 "Medium Commercial" zoning based upon the record made during the public hearing and for the following reasons:

1. C-2 Medium Commercial Zoning is designed to support retail sales and the performance of consumer services. It is intended to be located near arterial and collector roads.
2. The Applicant's property is currently zoned AR-1 along Route 26. There are other commercially-zoned properties in the area and a number of business and commercial uses are nearby. This is an appropriate location for C-2 zoning.
3. C-2 Zoning at this location along Route 26 will benefit nearby residents of Sussex County by providing a convenient location for retail uses or consumer services.
4. There is no evidence that this rezoning will have an adverse impact on neighboring properties or area roadways.
5. The site is in the "Coastal Area" according to the Sussex County Land Use Plan and Future Land Use Map. This is an appropriate location for C-2 Zoning according to the Plan.

6. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity, and welfare of the County.
7. No parties appeared in opposition to the rezoning application.
8. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of C/Z 1975 Gregory T. White and Patricia P. White for the reasons stated in the motion. Motion carried 5-0.

Vote by roll call: Mr. Hopkins – yea, Ms. Stevenson – yea, Ms. Wingate – yea, Mr. Mears – yea, Chairman Wheatley - yea

**PLANNING & ZONING COMMISSION**

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



**Sussex County**

DELAWARE  
sussexcountyde.gov  
302-855-7878 T  
302-854-5079 F  
JAMIE WHITEHOUSE, AICP, MRTPI  
DIRECTOR OF PLANNING & ZONING

**PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET**  
Planning Commission Public Hearing Date: January 26<sup>th</sup>, 2023

Application: C/Z 1975 – Gregory & Patricia White

Applicant: Gregory and Patricia White  
955 Beacon Lane  
Vero Beach, FL 32963

Owner: Gregory and Patricia White  
955 Beacon Lane  
Vero Beach, FL 32963

Site Location: Lying on the southwest side of Vine Creek Road (Rt. 26) approximately 450-feet northwest of the intersection of Vines Creek Road, Atlantic Avenue (Rt. 26), Assurance Avenue and Powell Farm Road (S.C.R. 365).

Current Zoning: Medium Density Residential (MR) Zoning District

Proposed Zoning: Medium Commercial (C-2) Zoning District

Proposed Use: N/A

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Hudson

School District: Indian River School District

Fire District: Millville Fire Department

Sewer: Private Septic (parcel 107.00 located within Sewer Tier 1)

Water: Private Well

Site Area: 3.64 acres +/-

Tax Map ID: 134-11.00-107.00 & 108.00



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



**Sussex County**

DELAWARE  
sussexcountyde.gov

## Memorandum

To: Sussex County Planning Commission Members  
From: Elliott Young, Planner I  
CC: Vince Robertson, Assistant County Attorney, and applicant  
Date: January 10, 2023  
RE: Staff Analysis for CZ 1975 Gregory & Patricia White

---

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1975 Gregory & Patricia White to be reviewed during the January 26, 2023, 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 134-11.00-107.00 & 108.00 to allow for a change of zone from a Medium Density Residential (MR) District to a Medium Commercial (C-2) District. The property is lying on the southwest side of Vines Creek Road (Rt. 26) approximately 450-foot northwest of the intersection of Atlantic Avenue (Rt. 26), Assurance Avenue and Powell Farm Road (S.C.R. 365). The parcels to be rezoned contains 3.64-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 parcel has a designation of "Coastal Area." The adjoining parcels to the north, west, east, and south also have a Future Land Use Map designation of "Coastal Area".

As outlined within the 2018 Sussex County Comprehensive Plan, Coastal Areas are areas that can accommodate development provided special environmental concerns are addressed. A range of housing types should be permitted in Coastal Areas, including single-family homes, townhouses, 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. In doing so, careful mixtures of homes with light commercial, office and institutional uses can be appropriate to provide for convenient services and to allow people to work close to home. Major new industrial uses are not proposed in these areas.

The property is zoned Medium Density Residential (MR) Zoning District. Adjacent parcels to the north, south and west are also zoned Medium Density Residential (MR) Zoning District. The properties to the east across Vines Creek Road are zoned Agricultural Residential (AR-1) Zoning District and the parcels further to the east are zoned Commercial Residential (CR-1) Zoning District.

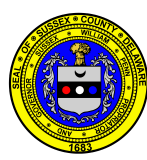
The 2018 Sussex County Comprehensive Plan Outlines Zoning Districts by their applicability to each Future Land Use category. Under Table 4.5-2 "Zoning Districts Applicable to Future Land



Use Categories,” the Medium Commercial Zoning District (C-2) is listed as an applicable zoning district in the “Coastal Area.”

Since 2011, there has been five (5) Change of Zone applications within a 1-mile radius of the application site. The First application being, Change of Zone No. 1738 for a change of zone from AR-1 (Agricultural Residential) to B-1 (Neighborhood Business). This application was approved by the County Council at their meeting of December 3<sup>rd</sup>, 2013 and was adopted through Ordinance No. 2331. The Second Application was Change of Zone No. 1789 for a change of zone from AR-1 (Agricultural Residential) to CR-1 (Commercial Residential). This application was approved by the County Council at their meeting of April 5<sup>th</sup>, 2016 and was adopted through Ordinance No. 2439. The third application was Change of Zone No. 1798 for a change of zone from AR-1 (Agricultural Residential) and CR-1 (Commercial Residential) to C-1 (General Commercial). This application was approved by the County Council at their meeting of June 21<sup>st</sup>, 2016 and was adopted through Ordinance No. 2457. The fourth application was Change of Zone No. 1840 for a change of zone from AR-1 (Agricultural Residential) to CR-1 (Commercial Residential). This application was approved by the Sussex County Council at their meeting of January 30<sup>th</sup>, 2018 and was adopted through Ordinance No. 2544. The fifth and last application was for Change of Zone No. 1980 for a change of zone from AR-1 (Agricultural Residential) to C-3 (Heavy Commercial). This application was approved by the County Council at their meeting of June 7<sup>th</sup>, 2022 and was adopted through Ordinance No. 2857.

Based on the analysis of the land use, surrounding zoning and uses, a Change of Zone from an Medium Density Zoning District (MR) to a Medium Commercial (C-2) Zoning District could be considered as being consistent with the land use, based on size and scale, with area zoning and surrounding uses.

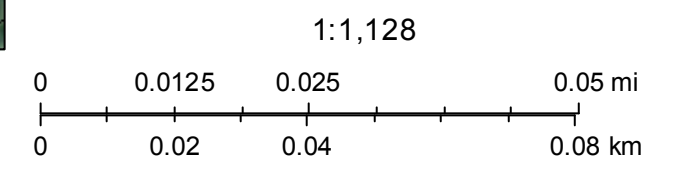


# Sussex County



<b>PIN:</b>	134-11.00-107.00
<b>Owner Name</b>	WHITE GREGORY T PATRICIA P
<b>Book</b>	2940
<b>Mailing Address</b>	55 BEACON LN
<b>City</b>	VERO BEACH
<b>State</b>	FL
<b>Description</b>	S/W RT 26
<b>Description 2</b>	DAGSBORO TO CLARKS
<b>Description 3</b>	LOT
<b>Land Code</b>	

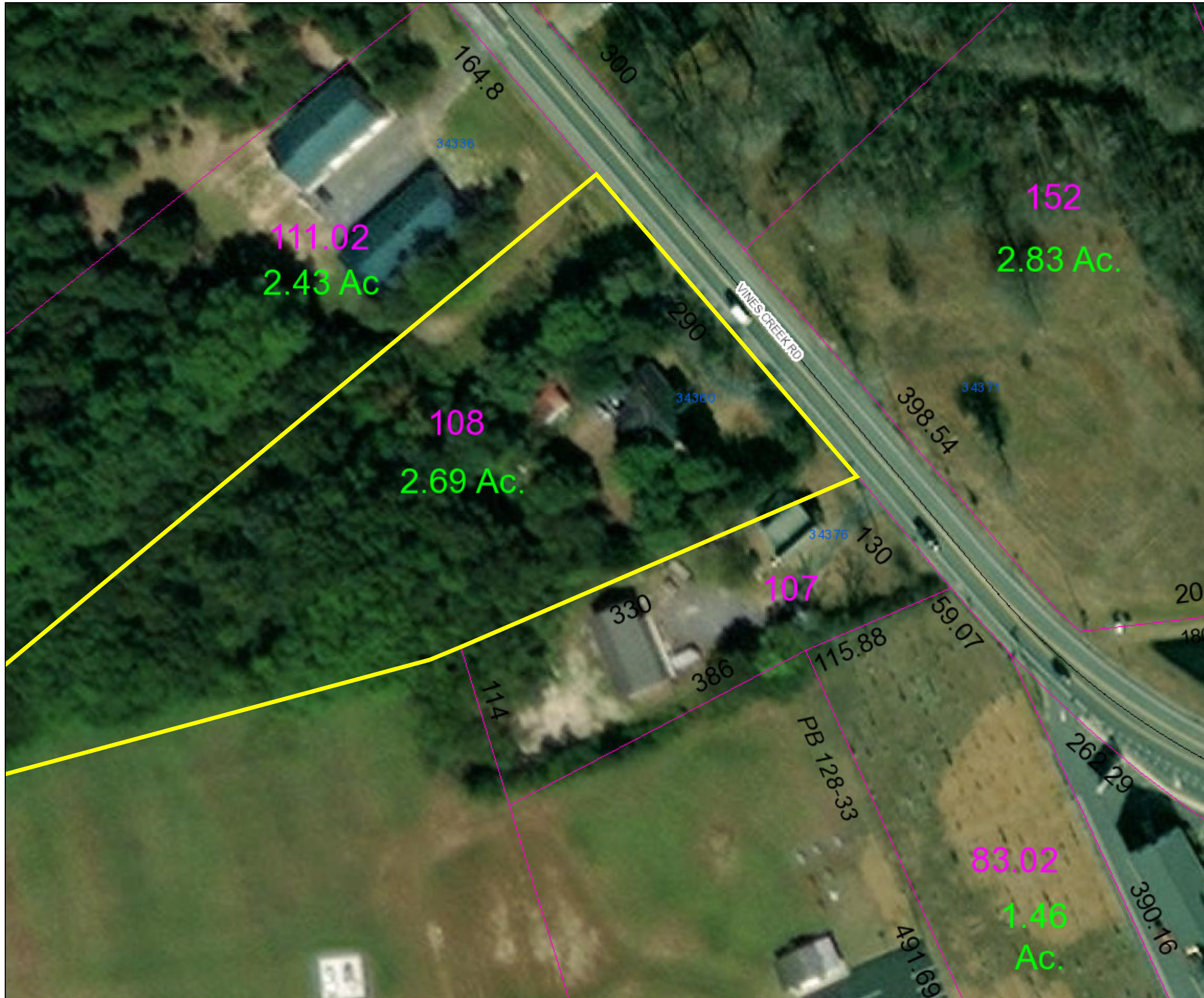
- polygonLayer**
- Override 1
- polygonLayer**
- Override 1
- ⋮ Tax Parcels
- 911 Address
- Streets
- County Boundaries





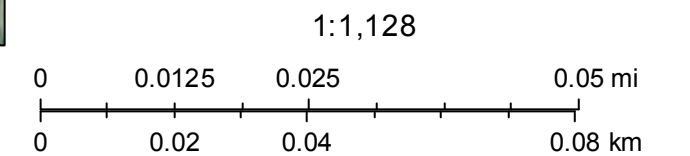


# Sussex County



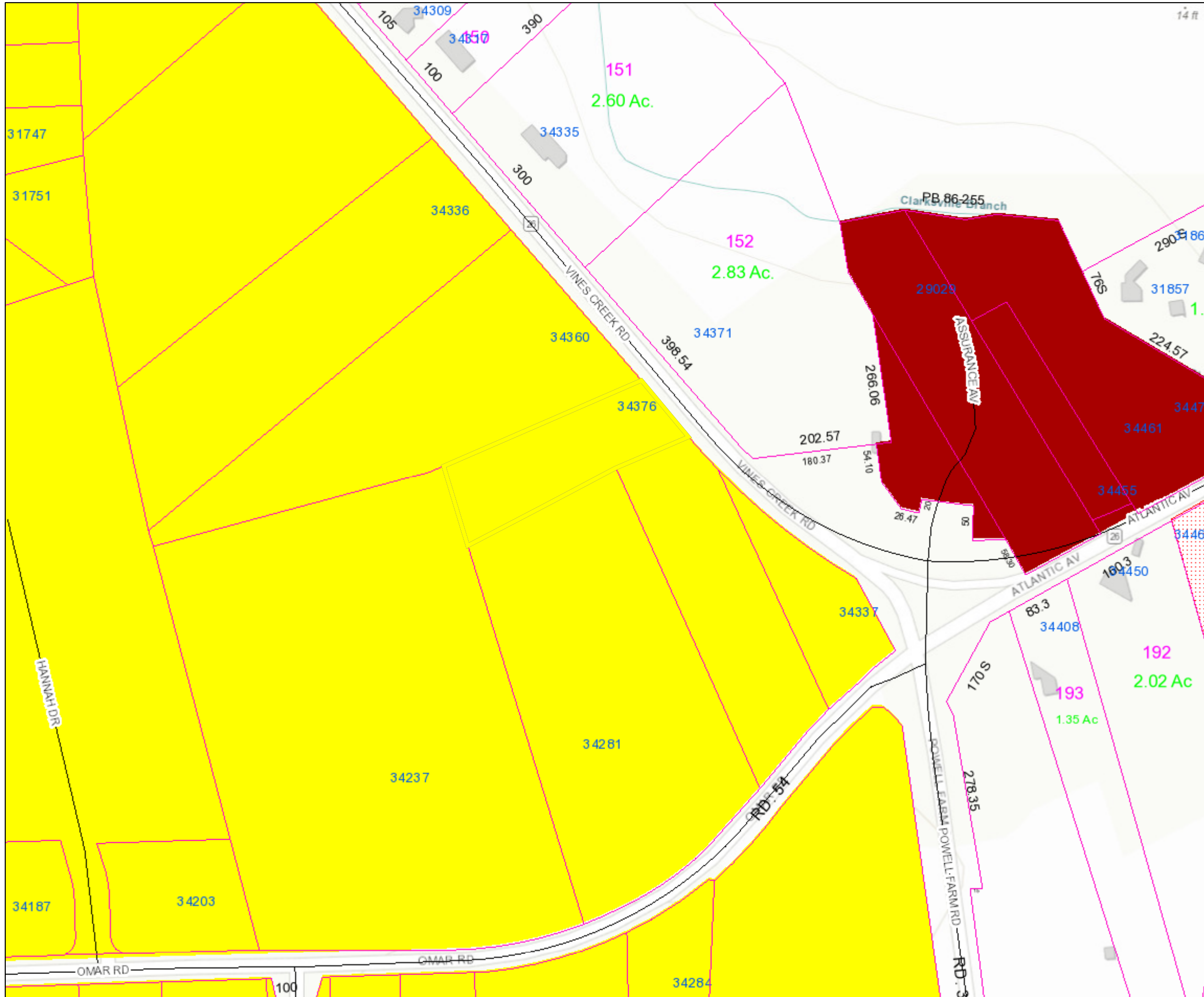
<b>PIN:</b>	134-11.00-108.00
<b>Owner Name</b>	WHITE GREGORY T
<b>Book</b>	5092
<b>Mailing Address</b>	955 BEACON LN
<b>City</b>	VERO BEACH
<b>State</b>	FL
<b>Description</b>	HWY.#26 DAGSBORO
<b>Description 2</b>	TO CLARKSVILLE
<b>Description 3</b>	2.69 AC
<b>Land Code</b>	

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



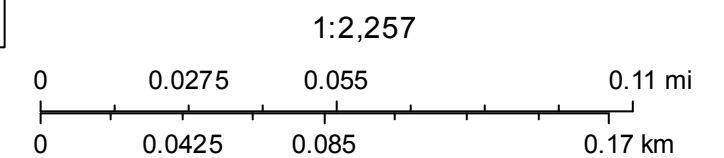


# Sussex County



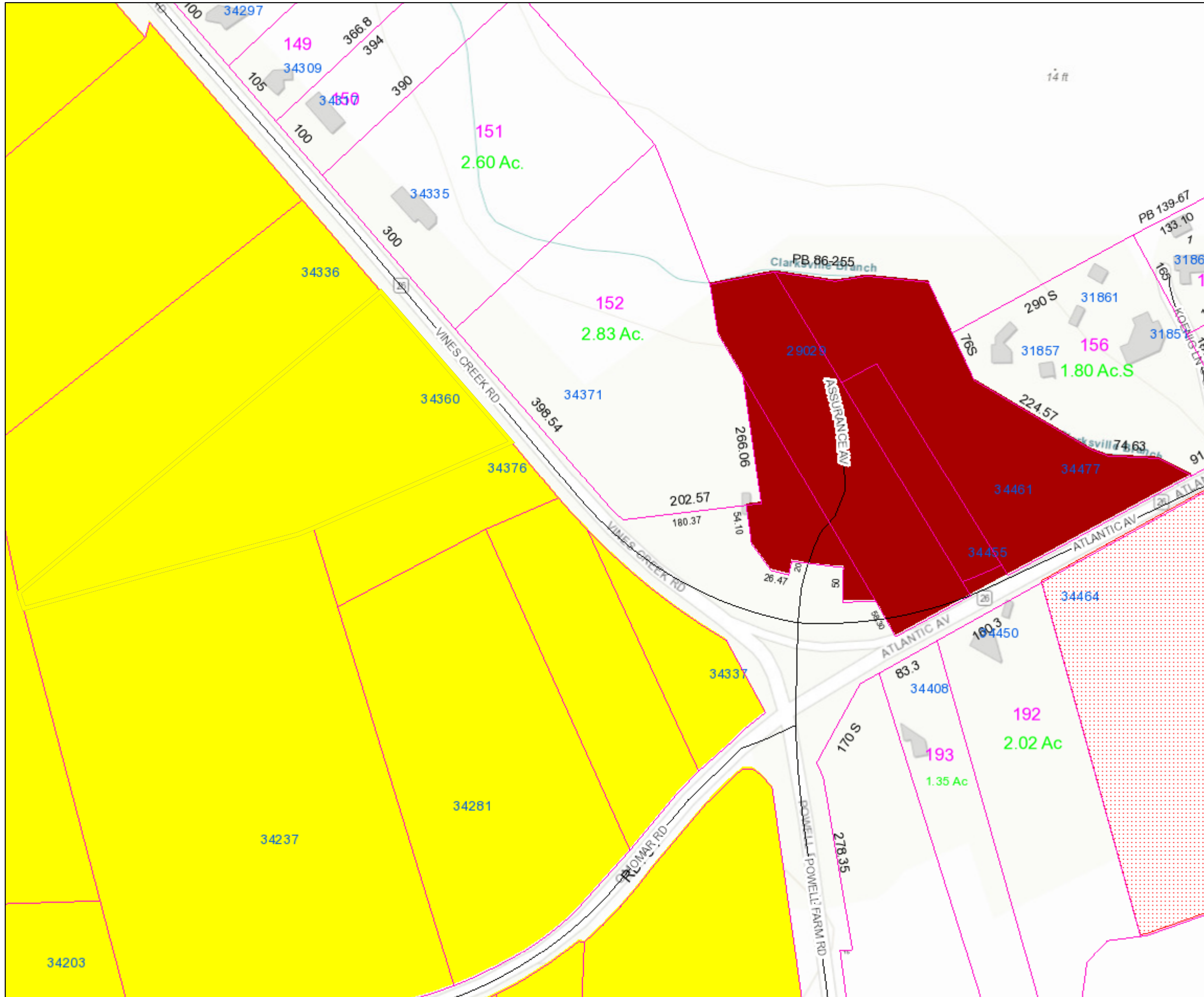
<b>PIN:</b>	134-11.00-107.00
<b>Owner Name</b>	WHITE GREGORY T PATRICIA P
<b>Book</b>	2940
<b>Mailing Address</b>	55 BEACON LN
<b>City</b>	VERO BEACH
<b>State</b>	FL
<b>Description</b>	S/W RT 26
<b>Description 2</b>	DAGSBORO TO CLARKS
<b>Description 3</b>	LOT
<b>Land Code</b>	

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





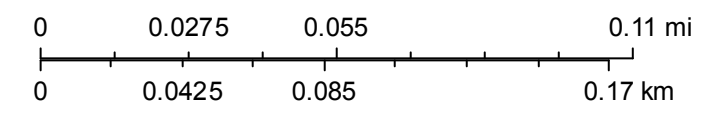
# Sussex County



<b>PIN:</b>	134-11.00-108.00
<b>Owner Name</b>	WHITE GREGORY T
<b>Book</b>	5092
<b>Mailing Address</b>	955 BEACON LN
<b>City</b>	VERO BEACH
<b>State</b>	FL
<b>Description</b>	HWY.#26 DAGSBORO
<b>Description 2</b>	TO CLARKSVILLE
<b>Description 3</b>	2.69 AC
<b>Land Code</b>	

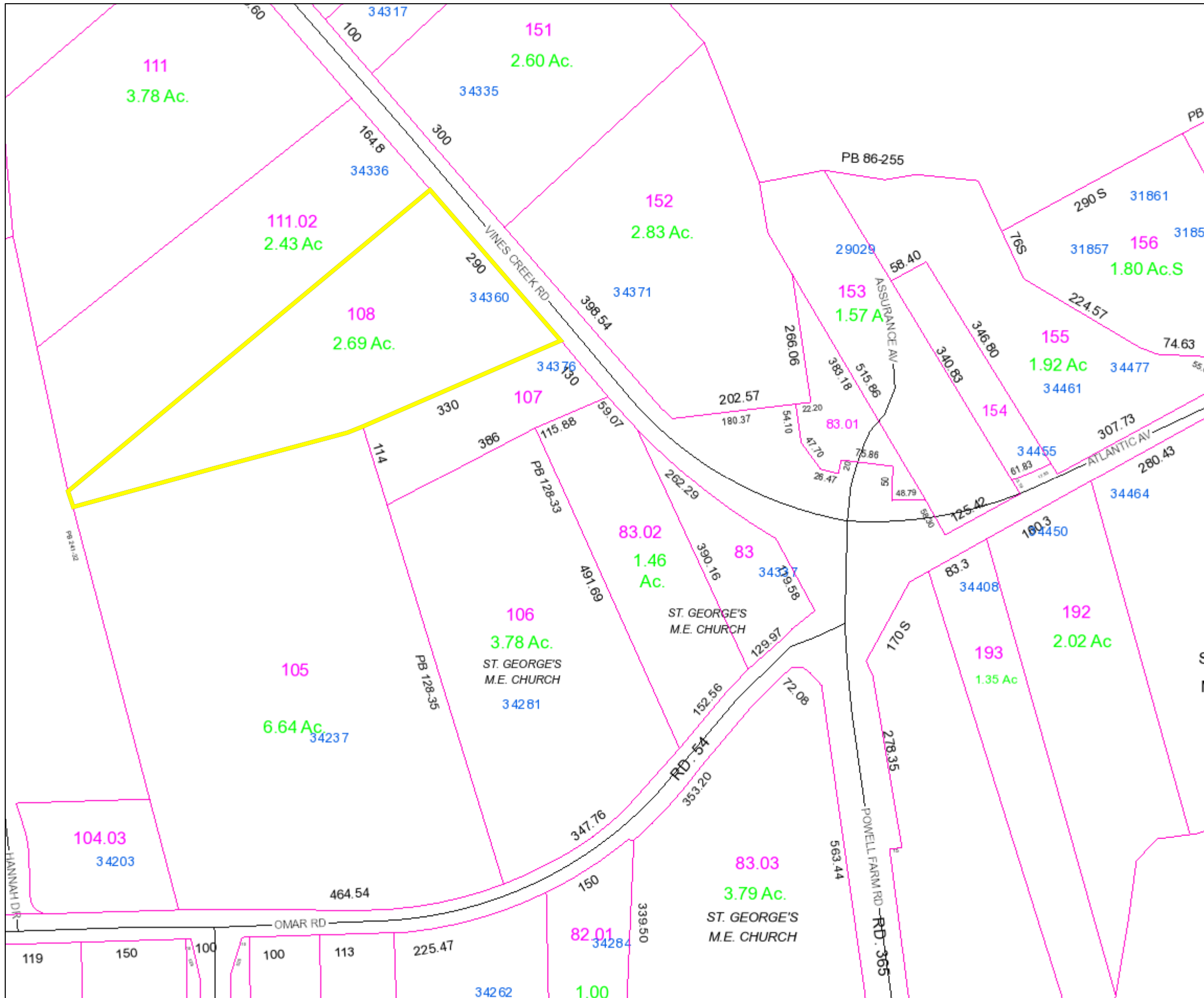
- polygonLayer  
   Override 1
- polygonLayer  
   Override 1
- Tax Parcels
- 911 Address
- Streets

1:2,257





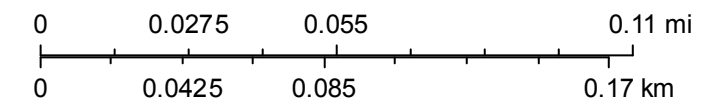
# Sussex County



<b>PIN:</b>	134-11.00-108.00
<b>Owner Name</b>	WHITE GREGORY T
<b>Book</b>	5092
<b>Mailing Address</b>	955 BEACON LN
<b>City</b>	VERO BEACH
<b>State</b>	FL
<b>Description</b>	HWY.#26 DAGSBORO
<b>Description 2</b>	TO CLARKSVILLE
<b>Description 3</b>	2.69 AC
<b>Land Code</b>	

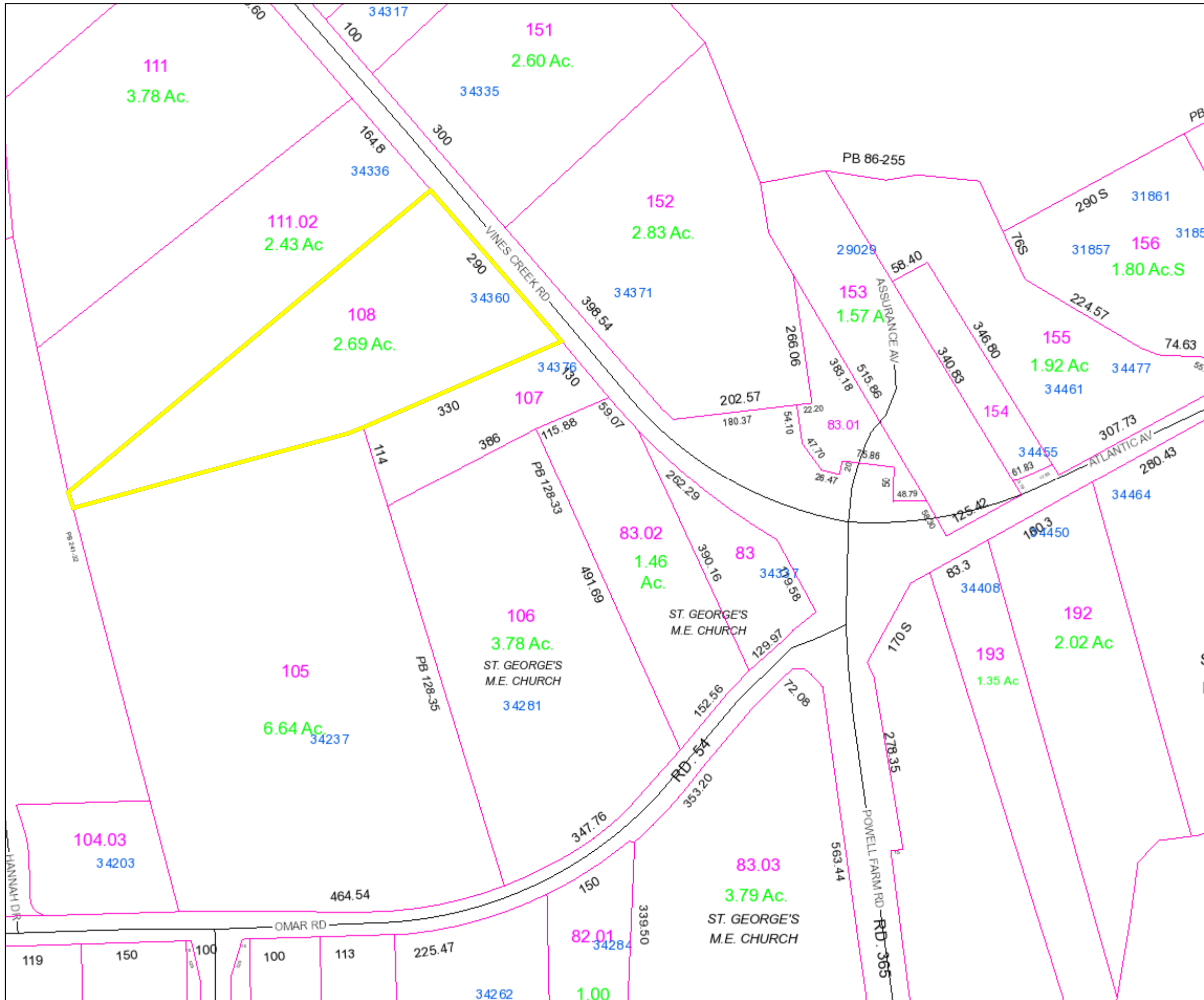
- |                      |                   |
|----------------------|-------------------|
| polygonLayer         | Override 1        |
| polygonLayer         | Override 1        |
| [Dashed Line]        | Tax Parcels       |
| [Dotted Line]        | 911 Address       |
| [Solid Line]         | Streets           |
| [Yellow Dashed Line] | County Boundaries |

1:2,257





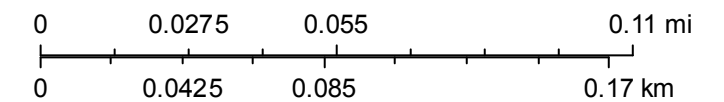
# Sussex County



<b>PIN:</b>	134-11.00-108.00
<b>Owner Name</b>	WHITE GREGORY T
<b>Book</b>	5092
<b>Mailing Address</b>	955 BEACON LN
<b>City</b>	VERO BEACH
<b>State</b>	FL
<b>Description</b>	HWY.#26 DAGSBORO
<b>Description 2</b>	TO CLARKSVILLE
<b>Description 3</b>	2.69 AC
<b>Land Code</b>	

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

1:2,257



Introduced: 6/7/22

Council District 4: Mr. Hudson  
Tax I.D. Nos.: 134-11.00-107.00 and 108.00  
911 Addresses: 34360 & 34376 Vines Creek Road, Dagsboro

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN MR MEDIUM RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.64 ACRES, MORE OR LESS**

WHEREAS, on the 21<sup>st</sup> day of February 2022, a zoning application, denominated Change of Zone No. 1975 was filed on behalf of Gregory T. White and Patricia P. White; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2022, 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. 1975 be \_\_\_\_\_; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2022, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County,

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

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

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on the southwest side of Vines Creek Road (Rt. 26) approximately 379 ft. northwest of Powell Farm Road (S.C.R. 365) and being more particularly described in the attached legal description prepared by Raymond E. Tomasetti, Jr., said parcel containing 3.64 ac., 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.



## 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: March 3, 2023

RE: County Council Report for C/Z 1995 filed on behalf of Janice CRP3, LLC

---

The Planning and Zoning Department received an application (C/Z 1995 filed on behalf of Janice CRP3, LLC) for a Change of Zone of parcel 334-5.00-153.02 from an AR-1 Agricultural Residential Zoning District and C-1 General Commercial Zoning District to an MR-RPC Medium-Density Residential District – Residential Planned Community. The property is located at 32171 Janice Road, Lewes. The parcel size is 61.39 acres +/-

The Planning & Zoning Commission held a Public Hearing on the application on January 12, 2023. At the meeting of February 9, 2023, the Planning & Zoning Commission recommended approval of the application for the 9 reasons and 16 recommended conditions as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meetings of January 12, 2023, and February 9, 2023.

Minutes of the January 12, 2023, Planning & Zoning Commission Meeting

### C/Z 1995 Janice CRP3, LLC

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND C-1 GENERAL COMMERCIAL DISTRICT TO AN MR-RPC MEDIUM-DENSITY RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 61.39 ACRES, MORE OR LESS.** The



property is lying on the west side of Janice Road, approximately 0.10 mile west of Nassau Commons Boulevard. 911 Address: 32172 Janice Road, Lewes. Tax Parcel: 334-5.00-153.02.

Chairman Wheatley granted the Applicant's request to combine the presentations for the next two Applications, ORD. 23-02, and C/Z 1995 Janice CRP3, LLC, as they were related.

Mr. Whitehouse advised the Commission that submitted into the record were the Staff Analysis, the DelDOT Service Level Evaluation Response, a copy of the PLUS response, the Preliminary Subdivision Plat, a copy of the Applicant's Exhibit Booklet which included the Chapter 99-9C Response, the Applicant's Environmental Assessment and Public Facility Evaluation Report, a copy of a Jurisdictional Determination Letter, Groundwater Recharge Letter and drafted deed restrictions, submitted by the Applicant. Mr. Whitehouse advised the Commission that no comments were received for the Application.

The Commission found that Mr. David Hutt, Esq., with Morris James, LLP, spoke on behalf of the Applications; that also present were Mr. Ring Lardner with Davis, Bowen & Friedel, Inc., and Mr. Jon Hoffman, representative of the owner and developer; that in May 2021, an amendment to the Future Land Use Map was filed via a letter submitted to Mr. Whitehouse; that in June 2021, the request went to the Office of State Planning Coordination; that three zoning applications were submitted in addition to the Future Land Use Map request; that a Change of Zone application, which sought to change the zoning designation of a portion of the property from AR-1 (Agricultural Residential) to MR (Medium-Density Residential); that another Change of Zone application was submitted, which sought to change the C-1 (General Commercial) zoning to MR zoning; that a Conditional Use application was submitted for townhomes; that a minor subdivision of the property did occur; that a storage facility, previously known as AAA Storage, located at the right corner of the property, was subdivided off of the main property; that after discussions and review with staff it was determined the multiple application requests could be simplified into one application in addition to the Future Land Use Map amendment, that are the subject applications; that the current Application is seeking to change the combination of AR-1 and C-1 zoned land to an MR-RPC (Medium-Density Residential – Residential Planned Community); that the initial name was changed; that the project was originally known as Ritter Farm; that the current project name is Vintners Reserve; that Vintners Reserve reflects the sites proximity to the Nassau Valley; that the property is located immediately west of the Nassau Overpass; that immediately to the north and west of the property is the Whispering Pines Manufactured Home Community; that to the southeast of the property is The Vineyards at Nassau Valley with the vineyard and winery; that the Lewes Volunteer Fire Department is located adjacent to the property; that the Whispering Pines Community was approved in 1971, as C/U 25; that the majority of the property is located within Investment Level 2; that a small portion of the property, at the location of the storage facility, is located within Investment Level I; that the 2045 Future Land Use Map, within the Comprehensive Plan, designates the property within the Coastal Area and Commercial Area; that the Application request is to have one consistent designation, for the Coastal Area; that Table 4.5-2 within the Comprehensive Plan identifies applicable zoning districts for each of the Future Land Use Map categories; that the only applicable zoning districts within the Commercial Area are the business and commercial districts; that to allow for any other use aside from business or commercial would require a Future Land Use Map Amendment; that the Coastal Area includes all the business and commercial zoning districts, as well as MR (Medium-Density Residential), GR (General Residential) and HR (High



Density Residential) Zoning Districts; that at one time, Commercial Zoning did permit for residential use; that due to this, there are residential properties located within the Commercial zoning near the site; that C-1 (General Commercial) and CR-1 (Commercial Residential) did permit for residential uses; that the property consists of 61.7 acres with the split zoning of AR-1 and C-1 Zoning; that the request is to change to zoning entirely to MR Zoning with an RPC (Residential Planned Community) overlay; that the Applicant is seeking approval of 316 townhomes; that the C-1 portion of the property consists of 4.2 acres; that the AR-1 portion of the property consists of 57.5 acres; that the State describes Level 2 areas are similar to Level 1 areas, being locations where State investments should support a wide range of uses and densities; that State investments should encourage departure from the typical single-family dwelling developments to promote a broader mix of housing types and commercial sites, encouraging compact mixed-use development where applicable; that Chapter 8 of the Comprehensive Plan echoes the concerns expressed by the State; that 90% of all building permits were issued for single-family homes, with 10% of permits being for multi-family homes in 2016; that the gap between single-family and multi-family issued permits increased in 2017 and 2018, leaving only five percent of the issued building permits for multi-family homes; that the Coastal Area is described as being some of the County's most desirable, designated in locations that can accommodate development, providing a special environment where environmental concerns are addressed; that there are no wetlands located on the property; that the Coastal Area permits for a range of housing types, including single-family homes, townhomes and multi-family homes; that medium and higher densities, being four to 12 units per acre), can be appropriate in certain locations; that medium and higher densities can be supported in areas where central water and sewer are provided, where sufficient commercial uses and employment centers, where the density would keep in character of the area, where located along a main road, or located at or near a major intersection, where there is adequate levels of service or where other considerations exist that are relevant to the requested project and density; that the 316 townhomes requested, which results in a density of 5.12 units per acre; that the densities of the most immediate neighbors to the project are 6.10 units/acre for Whispering Pines, 11.94 units/acre for The Vineyards at Nassau Valley and 12.00 units/acre for Sandbar Village; that Lewes Crest, located across the street from the project, has a density of 10.00 units/acre; that the projects meet all the factors of when medium to higher densities are appropriate; that Tidewater Utilities will provide water service to the site; that the site is located with Tier I of the Sussex County Unified Sanitary Sewer District; that there are plenty of commercial uses and employment centers in any direction; that the site is situated along a main road; that DelDOT classifies Rt. 1 as an other principal arterial road; that the County Code classifies Rt. 1 as one of the seven major arterial roadways within Sussex County; that to the north of the project, DelDOT has a Grade Separated Interchange planned at the intersection of Rt. 1 and Minos Conaway Rd. in the near future; that when this takes place, Janice Rd. will become more a service road; that the project will contribute to the Henlopen Transportation Improvement District (TID); that the proposed project does keep in character to the surrounding areas of Whispering Pines, Sandbar Village and Lewes Crest; that the MR Zoning District is the County's medium-density district; that MR Zoning Code purpose is described as areas which are expected to become generally urban in character, where sanitary sewer and public water supplies may or may not be available at the time of construction; that areas nearby the property are currently considered urban in character; that the purpose of an RPC is to encourage large scale developments as a means to create a superior living environment, through unified developments to provide of the application of designed ingenuity while protecting existing and future developments and achieving the goals of the Comprehensive Plan; that the RPC overlay was chosen, as it would allow for several sizes

of townhomes to be offered; that the RPC overlay offered multiple open spaces areas and central amenities; that the open spaces areas make up over 45% of the total site; that there is a request to reduce the average lot size, which allow for the greater amount of open space; that by using the proposed design of the site, the RPC overlay and proposed screening, the project protects the existing residence and businesses located along Rt. 1; that all of the same characteristics which make the property appropriate for MR Zoning, also apply for the Coastal Area designation; that the project complies with all the considerations for Growth Areas listed in §4.4.2.1; that Chapter 4 describes Commercial Growth Areas, being for large scale retail ; that the proposed use is a far less intense use than large scale commercial; that a less intensive use makes far more sense given the existing residential uses surrounding the property; that Chapter 4 and Chapter 8 of the Sussex County Comprehensive Plan indicate that the proposed Coastal Area designation for the site, allowing for residential uses, is appropriate for this property within Sussex County; that in relation to the requested Future Land Use Amendment, the PLUS comments stated *this parcel is surrounded by Coastal Area, and is currently slated for a higher area use, being commercial; that it is also located within Investment Level Areas 1 and 2 according to the Strategies for State Policies and Spending; that the State has no objection to the amendment as written;* that upon review of the actual project, the State noted the property was located in Investment Level 2 and stated *in Investment Level 2 reflects areas where growth is anticipated by local, County and State plans in the near term future;* that *State investments will support growth in these areas;* that one provision mentioned was that Sussex County makes the amendment to the Future Land Use Map, otherwise the project would be deemed inappropriate, creating a conflict between the Comprehensive Plan and Zoning Code; that the Applicant would request the Commission recommend approval for the amendment to the Future Land Use Map, as well as changing the properties designation to an MR-RPC (Medium-Density Residential – Residential Planned Community) for 316 townhomes; that he did request to submit Findings of Fact and proposed Conditions of Approval for the applications; that proposed Condition B, for C/Z 1995, propose the front yard be a minimum of 20-ft. and a rear yard minimum of 10-ft.; that the data column on the site plan reflected a front yard of 25-ft. and a rear yard of 15-ft.; that the reason for the change, is it would be desirable for all the townhomes to not have the same setback; that Condition B(4) proposes the combined front and rear yard are required to be 40-ft.; that the 40-ft requirement does match the requirement by County Code; that with the proposed condition, it will allow some townhomes to be located at 20-ft., with some being located at 25-ft.; that proposed Condition B(5) states side yard be 10-ft and 10-ft, with the average lot area of 3,000 sq. ft.; that the Code requires every lot size be a minimum of 1,600 sq. ft.; that the proposed Conditions proffer that lot size be a minimum of 2,000 sq. ft.; that proposed Condition J identifies the areas where a perimeter buffer is not proposed, being along Road A, the entrance road and located behind the Lewes Fire Station; that proposed Condition L describe the recreational amenities and the requirement of when amenities are to be completed; that Condition L proposes a minimum square footage of water surface for the pool area; that the condition will allow Planning & Zoning staff to objectively determine compliance in the future and a minimum square footage approach was taken for the proposed bathhouse as well.

The Commission found that Mr. Ring Lardner, with Davis, Bowen & Friedel, Inc. spoke on behalf of the Applications; that the property is located along Janice Rd., which is classified as a local road per the DelDOT Functional Classification Map; that Janice Rd. is parallel with Rt. 1; that Janice Rd. shares the right of way with Rt. 1; that the property is not located within the 100-Year Flood Plain; that Mr. Edward Launay with Environmental Resources, Inc. did perform a Wetland Delineation; that the

delineation was submitted to the U.S. Army Corp of Engineers; that the U.S. Army Corp of Engineers did determine that there were no Waters of the U.S. and no wetlands located on the property; that based on historical photographs, the wetland area is the location of a previous borrow pit which helped construct Rt. 1; that there is a small Excellent Water Recharge Area, consisting of 1.324 acres, being less than 2.2% of the total site, located to the southwest corner of the site; that there are no special requirements per Chapter 89 for the project; that the impervious area, within the 1.3 acres, will be less than one half or 1% of the total site, being well below the 35% threshold which requires additional mitigation within the recharge area; that the soils located on the site are conducive for development of the property; that the DelDOT Minos Conaway Grade Separate Interchange Project will improve Janice Rd. to the local road standards; that proposed are 11-ft. travel lanes, five foot shoulders with a five foot sidewalk that will connect to the Trailhead Parking Lot, which will provide connectivity to the Georgetown trails; that the project is located within the Henlopen Transportation Improvement District (TID); that conversations were had with Ms. Sarah Coakley, DelDOT Principal Planner with the Henlopen TID; that Ms. Coakley did confirm the project is eligible to be located within the TID; that DelDOT assigned only 81 single-family homes as the proposed trip generation for the site; that they were able to demonstrate the traffic projection is in compliance with the trip generation from the 81 homes plus an allowable percentage, therefore they are eligible to remain within the TID; that a 50-ft access easement is proposed, which will be jointly shared with the storage facility; that the entrance will consist of left-turn and right-turn lanes; that the turn lanes are still being determined through the design process; that the internal roads will be designed to exceed Sussex County standards; that the pavement width for the roads will be 32-ft. in width, which exceeds the 24-ft. width requirement; that the small loop roads within the development will be 24-ft. in width; that each lot will have a minimum of two parking spaces; that additional overflow parking is provided throughout the site; that the total overflow parking includes 147 parking spaces, which are in addition to the two provided parking spots per lot; that the project will include a 20-ft. forested buffer along the northern, southern and eastern edge of the site; that they are requesting a waiver to the required forested buffer along the rear of the Lewes Fire Station and along the portion of the storage area, due to the tight access for the placement of the road; that with the provided open space, there will be plenty of screening from the Lewes Fire Station; that the project does propose a forested road interconnection for emergency personnel from the Vineyard parcel; that a pedestrian connection is proposed to allow pedestrian movement to the Vineyards and winery or for pedestrians wishing to access the Georgetown Trail; that Nassau Commons does have a project forthcoming in the future; that at a minimum, activities are to include a dog park, an unorganized play area and a pocket park with playground equipment; that the location of the playground areas will be shown on the Final Site Plan; that within the open space, located within the middle of the site, will be the location of the central amenities; that these amenities will include 42 parking spaces, 3,500 sq. ft. pool house, 2,000 sq. ft. pool and a pickleball court; that the project proposes 29 acres of total open space, which is about 47% of the project area; that stormwater management will be designed to meet or exceed DNREC standards; that they will be utilizing the area of the previous borrow pit for stormwater management; that the project is proposed a RPC (Residential Planned Community); that due to this, they are requesting two deviations from the standards of the Code; that they are requesting the average lot area be reduced from 3,630 sq. ft. per lot, to 3,000 sq. ft.; that they are requesting the side yards be reduced from 20-ft. to 10-ft.; that as presented the project complies with the Code; that the project was reviewed by PLUS; that the current plan is slightly different than the plan reviewed by PLUS; that PLUS provided a letter confirming a second PLUS review was not required; that DBF, Inc. prepared

an Public Facilities Investment and Environmental Assessment Report; that with the mitigation measures implemented, the project is consistent with the Comprehensive Plan; that the Technical Advisory Committee (TAC) reviewed the plan; that the project will be served by Sussex County Sewer; that Tidewater Utilities will provide water to the site; that Delmarva Power will provide electric; that Chesapeake Utilities will provide gas; that Comcast and Verizon are available for phone and cable; that Chapter 99 responses were submitted into the record; that the project is integrated into existing terrain; that the site does not contain wetlands or flood plains; that the plan provides buffer to screen from objectionable features; that the plan prevents pollution of surface and groundwater; that the plan provides for safe vehicular and pedestrian movement; that the plan mitigates the impacted area roadways and transportation and the plan is compatible with other land uses.

Mr. Hopkins stated we felt the proposal was beneficial, as the proposed use could remove the need for 500 homes between Gravel Hill and Georgetown, off Rt. 9.

Ms. Stevenson stated she did not agree with Mr. Hopkins; that she felt the people will live along Gravel Hill to Georgetown, regardless of whether the project is approved; that she felt the proposed homes will be second homes for many residents and she questioned the size of the smaller areas of provided open space.

Ms. Wingate questioned if there was an estimated time when DelDOT will be performing the DelDOT improvements to Janice Rd.

Mr. Lardner stated within Exhibit F; that the data sheet located on the Preliminary Site Plan list the open space areas; that the smallest area of open space is .15 acre; that the largest is just over an acre; that the open spaces range in size throughout the site and he believed the DelDOT improvements could begin as early as June 2023 according to the Capital Transportation Program.

The Commission found that no one was present in the room or by teleconference who wished to speak in support or opposition to the Applications.

Ms. Eul Lee spoke by teleconference regarding this Application. Ms. Lee stated that she does not oppose the multi-family development but had safety concerns and if there is sufficient access for emergency vehicles if vehicles are parked on the streets within the development. Ms. Lee asked if there is a possibility for interconnectivity to provide an additional ingress/egress to the development.

Upon there being no further questions, Chairman Wheatley closed the public hearing for both Applications.

At the conclusion of the public hearings, the Commission discussed the Applications.

In relation to C/Z 1995 Janice CRP3, LLC Motion by Ms. Stevenson to defer for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 4-0.

Minutes of the February 9, 2023, Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since January 12, 2023.

Mr. Hopkins advised the Commission he had prepared a motion, which he requested Mr. Robertson read into the record.

Mr. Robertson read Mr. Hopkins' prepared motion, per Mr. Hopkins' request.

Mr. Hopkins moved that the Commission recommend approval of C/Z 1995 Janice CRP3, LLC for a change in zoning from AR-1 and C-1 to an MR-RPC, based upon the record and for the following reasons:

1. The property is currently zoned AR-1 Agricultural Residential and C-1 General Commercial. The property is adjacent to other land zoned C-1 General Commercial that is being developed as a high-density mixed-use development, a manufactured home park, and other MR-zoned land nearby. This is an appropriate location for MR zoning.
2. The Applicant seeks approval of townhomes and multi-family structures. The Comprehensive Plan states that this type of development is appropriate in areas near main roadways, near commercial areas and employment centers, and with central water and sewer. All of the considerations are satisfied here.
3. The proposed development will have no more than 316 homes on 66.73 acres. The net density is 5.12 units per acre which is similar to other nearby developments including Whispering Pines, The Vineyards, Sandbar Village, and Lewes Crest.
4. The County Engineering Department has indicated that adequate wastewater capacity is available for this site. Central water will also be provided.
5. DelDOT has determined that the project will have a minor impact on area roadways. In addition, this site is within the Henlopen T.I.D. and therefore the developer will be required to enter into an infrastructure agreement and pay the T.I.D. unit fee prior to the issuance of any building permits.
6. With the conditions and stipulations placed upon it, the RPC designation is appropriate, since it allows the creation of a superior environment through design ingenuity while protecting existing and future uses. Approximately 45% of the site will also be open space.
7. The project will not adversely affect the neighborhood or surrounding community. There are existing developments in the immediate area with similar characteristics, and this is the last parcel to be developed residentially among other existing residential properties.
8. The Commission has recommended that the Future Land Use Map for this property be changed from a split Coastal/Commercial area designation to being entirely Coastal Area. Development such as this MR-RPC is appropriate in the Coastal Area according to the Plan.
9. The Applicant has favorably addressed the items set forth in Section 99-9C of the Subdivision Code.
10. This recommendation is subject to the following conditions:

- A. There shall be no more than 316 dwelling units within this project.
- B. Chapter 115, Article 16, allows the modification of bulk area standards. Here, it is appropriate to allow flexibility in these bulk requirements to permit a better design of the townhouse and multi-family buildings, as follows:
  - i. Front Yard = minimum of 20 feet
  - ii. Front Corner Yard = minimum of 15 feet
  - iii. Rear Yard = minimum of 10 feet
  - iv. Combined Front & Rear Yard = minimum of 40 feet
  - v. Side Yard = minimum of 10 feet
  - vi. Minimum Lot Width = 20 feet
  - vii. Minimum Lot Length = 100 feet
  - viii. Minimum Lot Area = 2,000 square feet
  - ix. Average Lot Area = must be 3,000 square feet, provided that no lot is less than 2,000 square feet in size
- C. A condominium association shall be formed to provide for the perpetual maintenance, repair, and replacement of buffers, stormwater management facilities, streets, amenities, and other common areas.
- D. All entrances, intersections, roadways, and multi-modal improvements required by DelDOT shall be completed in accordance with DelDOT's requirements, and that developer shall comply with the requirements of the Henlopen T.I.D.
- E. The RPC shall be served by Sussex County sewer. The Developer shall comply with all requirements and specifications of the County Engineering Department.
- F. The RPC shall be served by central water for drinking water and fire protection.
- G. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated in a manner that is consistent with Best Management Practices.
- H. The development shall be served by its own on-site amenities including a clubhouse, pool, dog park, playground, and pickleball courts. The pool house shall have a minimum square footage of 3,500 feet, and the pool shall have a water surface area of at least 2,000 square feet. The pool and pool house shall be completed and open for use prior to the issuance of the 175<sup>th</sup> building permit. The rest of the active amenities shall be completed prior to the issuance of the 250<sup>th</sup> building permit.
- I. A 20-foot wide vegetated or forested buffer shall be established along the perimeter of the site, with the exception of the boundary with the fire station and the roadway next to the adjacent self-storage facility. This buffer shall utilize existing forest or similar vegetation if it is currently present in the buffer area. Where trees currently exist in the buffer area, stump removal or construction activities that disturb the existing grade of the area within the buffer shall be prohibited. All silt fencing shall be located along the interior edge of the buffer area (the edge of the buffer nearest the interior development) and the Final Site Plan shall identify the "Limit of Disturbance" to prevent disturbance of the buffer area.

- J. If requested by the local school district, a school bus stop shall be provided by the entrance to the development, with the location and any related parking to be approved by the school district’s transportation supervisor. The location of the bus stop area shall be shown on the Final Site Plan.
- K. Road naming and addressing shall be subject to the review and approval of the Sussex County Geographic Information Office (GIO).
- L. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
- M. The Final Site Plan shall include a landscape plan confirming all landscaping to be provided, the preservation of all buffer areas, and the forested areas that will be preserved. The landscape plan shall also identify all “Limits of Disturbance” within the site.
- N. The Final Site Plan shall include a grading plan that shall be submitted to County Staff for review and approval.
- O. Construction, site work, grading, and deliveries of construction materials shall only occur from Monday through Saturday and only between the hours of 7:00 a.m. and 6:00 p.m. A 24-inch by 36-inch “NOTICE” sign in English and Spanish confirming these hours shall be prominently displayed at all entrances to the site during construction.
- P. The Final Site Plan shall be subject to the review & approval of the Sussex County Planning & Zoning Commission.

Motion by Ms. Stevenson, seconded by Mr. Mears to recommend approval of C/Z 1995 Janice CRP3, LLC for the reasons and conditions stated in the motion. Motion carried 4-1.

Vote by roll call: Mr. Hopkins – yea, Ms. Stevenson – nay, Ms. Wingate – yea, Mr. Mears – yea, Chairman Wheatley – yea

Ms. Stevenson voted nay as she believed commercial uses should be mixed in with the plan and she felt the parking situation was not tenable.

**PLANNING & ZONING COMMISSION**

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



**Sussex County**

DELAWARE  
sussexcountyde.gov  
302-855-7878 T  
302-854-5079 F  
JAMIE WHITEHOUSE, AICP, MRTPI  
DIRECTOR OF PLANNING & ZONING

**PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET**  
Planning Commission Public Hearing Date: January 12<sup>th</sup>, 2023

Application: C/Z 1995 – Janice CRP3, LLC (A.K.A. Ritter Farm)

Applicant: Janice CRP3, LLC  
4750 Owings Mill Blvd.  
Owings Mill, MD 21117

Owner: AAA Storage Limited Partnership  
22114 Ritter Lane  
Harbeson, DE 19951

Site Location: Lying on the south side of Janice Road approximately 520 feet west of the intersection of Coastal Highway (Route 1) and Nassau Road (S.C.R. 266B).

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

Proposed Zoning: Medium-Density Residential (AR-1) Zoning District  
Residential Planned Community (MR-RPC)

Proposed Use: A residential community comprised of 316 townhouses.

Comprehensive Land Use Plan Reference: Commercial Area and Coastal Area

Councilmanic District: Ms. Schaeffer

School District: Cape Henlopen School District

Fire District: Lewes Fire Department

Sewer: Sussex

Water: Tidewater

Site Area: 61.73 acres +/-

Tax Map ID: 334-5.00-153.00





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



**Sussex County**

DELAWARE  
sussexcountyde.gov

## Memorandum

To: Sussex County Planning Commission Members  
From: Mr. Michael Lowrey, Planner III  
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant  
Date: November 28, 2022  
RE: Staff Analysis for C/Z 1995 Janice CRP3, LLC

---

This memo is to provide background and analysis for the Planning Commission to consider as a part of application C/Z 1995 Janice CRP3, LLC to be reviewed during the January 12<sup>th</sup>, 2022, 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: 334-5.00-153.02 from Agricultural Residential (AR-1) and General Commercial (C-1) to Medium-Density Residential Planned Community (MR-RPC) to allow for 316 multifamily dwelling units (Townhouses) on the parcel. The property is located on the south side of Janice Road approximately 520 feet west of the intersection of Coastal Highway (Route 1) and Nassau Road (S.C.R. 266B). The parcel is comprised of a total area of 61.73 acres +/-.

### Comprehensive Plan Analysis

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 parcel has a Growth Area designation of "Commercial Area" and "Coastal Area", with the isolated "Coastal Area" designation on the site corresponding with an existing pond. The adjacent parcels to the north and west surrounding the subject property have the Future Land Use Map designation of "Coastal Area." The properties adjacent to the south and to the east on the opposite side of Coastal Highway (Route 1) are designated as "Commercial Areas." The (MR) Zoning District is not listed as an Applicable Zoning District under Table 4.5-2 in the Plan. Therefore, to remedy this discrepancy, the Applicant has submitted a corollary application to amend the Future Land Use Map element of the Comprehensive Plan to change the Area designation of the subject parcel from the "Commercial Area" to the "Coastal Area" in order to facilitate this change of zone application.

Coastal Areas are growth areas that the County encourages only the appropriate forms of concentrated new development, especially when environmental features are in play (2018 Sussex County Comprehensive Plan, 4-9). The Coastal Area designation is intended to recognize the characteristics of both anticipated growth and ecologically important and sensitive characteristics (2018 Sussex County Comprehensive Plan, 4-15). The Plan also notes guidelines for density in areas classified Coastal Area, noting that a "density (4-12 units per acre) can be appropriate" where development can be supported by central water/sewer, a proximity to commercial and employment centers, or location along a main road or intersection (2018 Sussex County Comprehensive Plan,



4-16). Finally, the Plan notes that “a range of housing types should be permitted in Coastal Areas, including single-family homes, townhouses, and multi-family units.” (2018 Sussex County Comprehensive Plan, 4-15). Under the guidelines in the Plan, if the Applicant’s FLUM amendment were to be approved by County Council, the proposed change of zone to (MR-RPC) could be seen as appropriate as (MR) is listed as an applicable zoning district in the Coastal Areas per Table 4.5.2 in the Plan.

Zoning Information

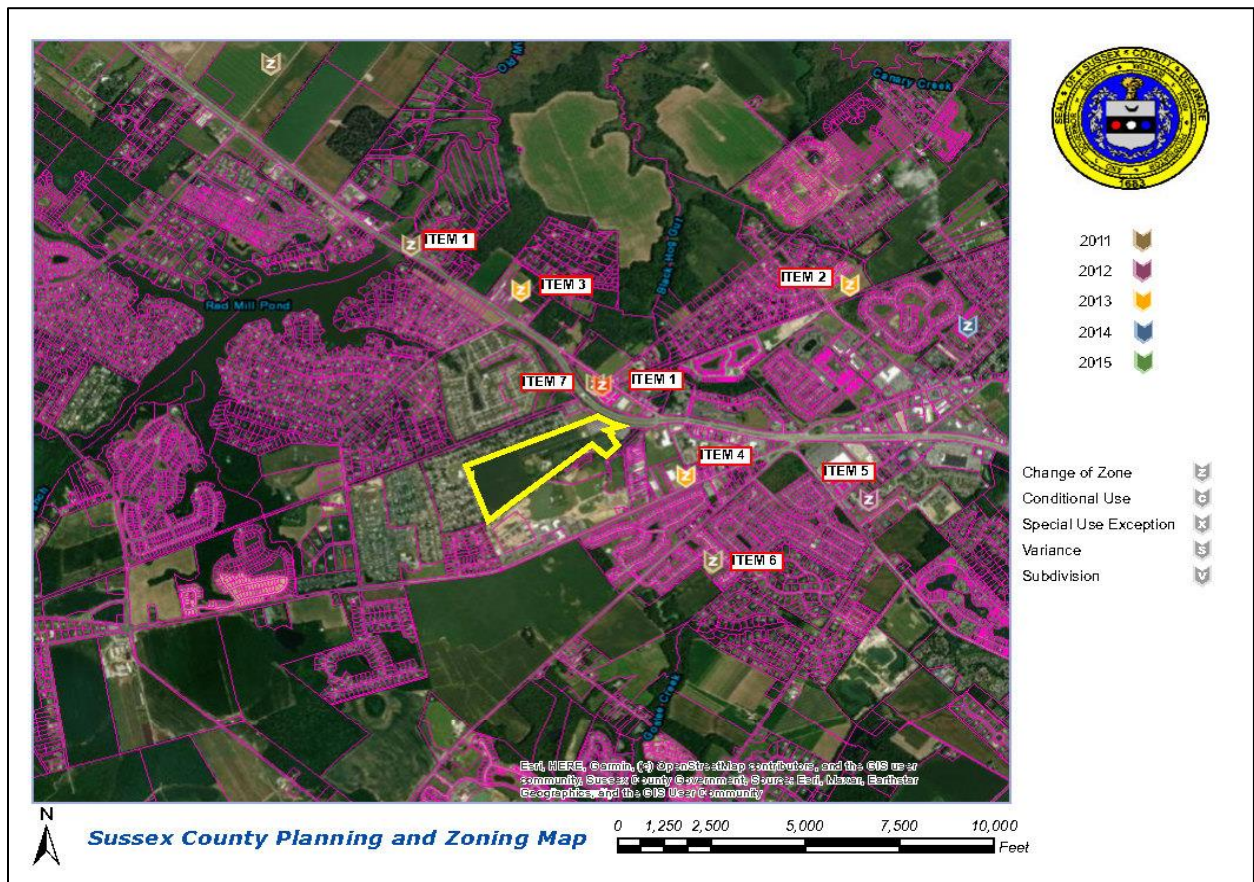
The subject parcel is split-zoned Agricultural Residential (AR-1) and General Commercial (C-1) Districts. The adjacent properties to the north and west are zoned Agricultural Residential (AR-1) District. The parcels adjacent to the south and east of the subject property are zoned General Commercial (C-1) District.

Existing Changes of Zone within the Vicinity of the Subject Site

<b>Change of Zone Applications</b> (Within a 1.0-mile radius of the subject site)							
Item # on Attached Map	Application Number	Application Name	Zoning District	Proposed Zoning	CC Decision	CC Decision Date	Ordinance Number
1	<u><b>CZ 1867</b></u>	Four C's Property, LLC	CR-1 & AR-1	C-2	<b>Withdrawn</b>	N/A	<b>N/A</b>
2	<u><b>CZ 1862</b></u>	Old Orchard Ventures, LLC c/o Barry J. Baker	C-1 & AR-1	C-2	<b>Denied</b>	1/15/2019	<b>N/A</b>
3	<u><b>CZ 1861</b></u>	Nassau DE Acquisition Co., LLC	AR-1	C-2	<b>Approved</b>	12/11/2018	<b>Ord. No. 2622</b>
4	<u><b>CZ 1854</b></u>	Ferguson Enterprises, Inc	AR-1	C-5	<b>Approved</b>	9/11/2018	<b>Ord. No. 2598</b>
5	<u><b>CZ 1832</b></u>	MDI Investment Group, LLC	AR-1	MR	<b>Approved</b>	03/20/2018	<b>Ord. No. 2565</b>

6	<u>CZ 1787</u>	BDRP, LLC	AR-1	MR	<b>Denied</b>	P&Z 12/10/2015	N/A
7	<u>CZ 1749</u>	Bruce and Cathy King	AR-1	CR-1	<b>Approved</b>	07/15/2014	<b>Ord. No. 2356</b>
8	<u>CZ 1765</u>	Red Mill Pointe, LLC	AR-1	CR-1	<b>Approved</b>	02/02/2016	<b>Ord. No. 2435</b>

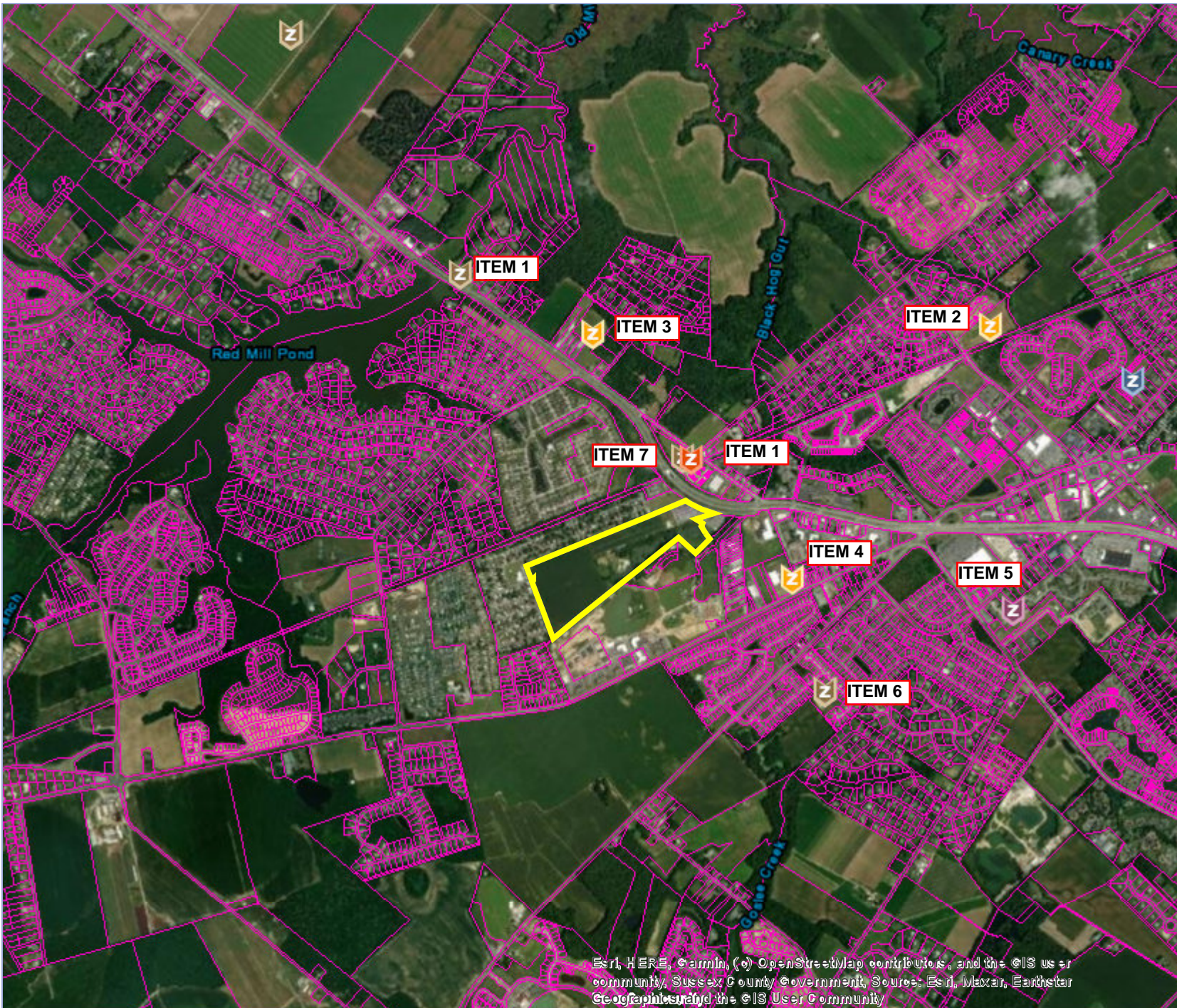
Based on the analysis of the land use, surrounding zoning and uses, a Change of Zone to allow for the construction of 316 townhouses at this site, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.





- 2011
- 2012
- 2013
- 2014
- 2015

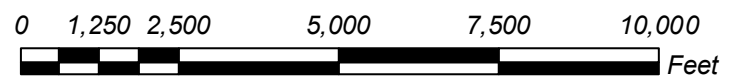
- Change of Zone
- Conditional Use
- Special Use Exception
- Variance
- Subdivision



Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community, Sussex County Government, Source: Esri, Maxar, Earthstar Geographics and the GIS User Community



# Sussex County Planning and Zoning Map





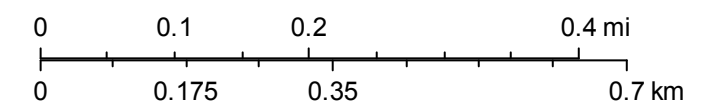
# Sussex County



<b>PIN:</b>	334-5.00-153.02
<b>Owner Name</b>	AAA STORAGE LIMITED PARTNERSHIP
<b>Book</b>	Text
<b>Mailing Address</b>	22114 RITTER LN
<b>City</b>	HARBESON
<b>State</b>	DE
<b>Description</b>	RITTER FARM
<b>Description 2</b>	LOT 2
<b>Description 3</b>	RESIDUAL LANDS
<b>Land Code</b>	

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

1:9,028

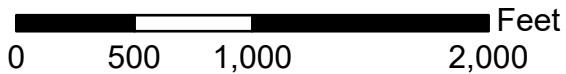




**TM# 334-5.00-153.02**

Map data © OpenStreetMap contributors, Microsoft, Facebook, Inc. and its affiliates, Esri Community Maps contributors, Map layer by Esri

Street Map  
 CZ 1995 - Janice CRP3, LLC (Ritter Farm)  
 AR-1 to MR\_RPC  
 P&Z Meeting - 01/12/2023



Reintroduced: 1/3/23

Council District 3: Mr. Schaeffer  
Tax I.D. No.: 334-5.00-153.02  
911 Address: N/A

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND C-1 GENERAL COMMERCIAL DISTRICT TO AN MR-RPC MEDIUM-DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 61.39 ACRES, MORE OR LESS**

WHEREAS, on the 13<sup>th</sup> day of October, 2022, a zoning application, denominated Change of Zone No. 1995 was filed on behalf of Janice CRP3, LLC; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2023, 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. 1995 be \_\_\_\_\_; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2023, 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 and C-1 General Commercial] and adding in lieu thereof the designation and MR-RPC Medium-Density Residential – Residential Planned Community District as it applies to the property hereinafter described.

**Section 2.** The subject property is described as follows:

**ALL** that certain tract, piece or parcels of land lying and being situate in Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying on the west side of Janice Road approximately 0.10 mile west of Nassau Commons Boulevard and being more particularly described in the attached legal description prepared by Davis, Bowen, and Friedel, Inc. said parcels containing 61.39 ac., 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.



## 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: March 3, 2023

RE: County Council Report for Ordinance 23-02 relating to the Future Land Use Map Element of the Comprehensive Plan

---

The Planning and Zoning Department received an application to request consideration of a potential amendment of the Future Land Use Map element of the Comprehensive Plan (Ord. 23-02 filed on behalf of Janice CRP3, LLC) for Tax Parcels 334-5.00-153.00 and 153.02. The property is located at 32171 Janice Road, Lewes. The parcel size is 65.169 acres +/- . The requested change is to change the Commercial Area designation to the Coastal Area designation.

The Planning & Zoning Commission held a Public Hearing on the Ordinance on January 12, 2023. At the meeting of February 9, 2023, the Planning & Zoning Commission recommended approval of the Ordinance for the 8 reasons as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meetings of January 12, 2023, and February 9, 2023.

### Minutes of the January 12, 2023, Planning & Zoning Commission Meeting

#### **Ord. 23-02**

**AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NOS. 334-5.00-153.00 & 334-5.00-153.02.** The properties are lying on the west side of Janice Road, approximately 0.10 mile west of Nassau Commons Boulevard. 911 Address: 32172 Janice Road, Lewes. Tax Parcels: 334-5.00-153.00 & 334-5.00-153.02.





Chairman Wheatley granted the Applicant's request to combine the presentations for the next two Applications, ORD. 23-02, and C/Z 1995 Janice CRP3, LLC, as they were related.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Boundary Plans, the property's legal description, and a letter received on behalf of the property owner.

Mr. Whitehouse advised the Commission that no comments were received for the Application; that the request is to change the Commercial designation to the Coastal designation on the Future Land Use Map and that due to having written responses from PLUS on both the Future Land Use Map Amendment and the Change of Zone request, this will not be required to return to PLUS to proceed through the new PLUS process.

The Commission found that Mr. David Hutt, Esq., with Morris James, LLP, spoke on behalf of the Applications; that also present were Mr. Ring Lardner with Davis, Bowen & Friedel, Inc., and Mr. Jon Hoffman, representative of the owner and developer; that in May 2021, an amendment to the Future Land Use Map was filed via a letter submitted to Mr. Whitehouse; that in June 2021, the request went to the Office of State Planning Coordination; that three zoning applications were submitted in addition to the Future Land Use Map request; that a Change of Zone application, which sought to change the zoning designation of a portion of the property from AR-1 (Agricultural Residential) to MR (Medium-Density Residential); that another Change of Zone application was submitted, which sought to change the C-1 (General Commercial) zoning to MR zoning; that a Conditional Use application was submitted for townhomes; that a minor subdivision of the property did occur; that a storage facility, previously known as AAA Storage, located at the right corner of the property, was subdivided off of the main property; that after discussions and review with staff it was determined the multiple application requests could be simplified into one application in addition to the Future Land Use Map amendment, that are the subject applications; that the current Application is seeking to change the combination of AR-1 and C-1 zoned land to an MR-RPC (Medium-Density Residential – Residential Planned Community); that the initial name was changed; that the project was originally known as Ritter Farm; that the current project name is Vintners Reserve; that Vintners Reserve reflects the sites proximity to the Nassau Valley; that the property is located immediately west of the Nassau Overpass; that immediately to the north and west of the property is the Whispering Pines Manufactured Home Community; that to the southeast of the property is The Vineyards at Nassau Valley with the vineyard and winery; that the Lewes Volunteer Fire Department is located adjacent to the property; that the Whispering Pines Community was approved in 1971, as C/U 25; that the majority of the property is located within Investment Level 2; that a small portion of the property, at the location of the storage facility, is located within Investment Level I; that the 2045 Future Land Use Map, within the Comprehensive Plan, designates the property within the Coastal Area and Commercial Area; that the Application request is to have one consistent designation, for the Coastal Area; that Table 4.5-2 within the Comprehensive Plan identifies applicable zoning districts for each of the Future Land Use Map categories; that the only applicable zoning districts within the Commercial Area are the business and commercial districts; that to allow for any other use aside from business or commercial would require a Future Land Use Map Amendment; that the Coastal Area includes all the business and commercial zoning districts, as well as MR (Medium-Density Residential), GR (General Residential) and HR (High Density Residential) Zoning Districts; that at one time, Commercial Zoning did permit for residential use; that due to this, there are residential properties located within the Commercial zoning near the site; that C-1 (General Commercial) and CR-1 (Commercial Residential) did permit for residential

uses; that the property consists of 61.7 acres with the split zoning of AR-1 and C-1 Zoning; that the request is to change to zoning entirely to MR Zoning with an RPC (Residential Planned Community) overlay; that the Applicant is seeking approval of 316 townhomes; that the C-1 portion of the property consists of 4.2 acres; that the AR-1 portion of the property consists of 57.5 acres; that the State describes Level 2 areas are similar to Level 1 areas, being locations where State investments should support a wide range of uses and densities; that State investments should encourage departure from the typical single-family dwelling developments to promote a broader mix of housing types and commercial sites, encouraging compact mixed-use development where applicable; that Chapter 8 of the Comprehensive Plan echoes the concerns expressed by the State; that 90% of all building permits were issued for single-family homes, with 10% of permits being for multi-family homes in 2016; that the gap between single-family and multi-family issued permits increased in 2017 and 2018, leaving only five percent of the issued building permits for multi-family homes; that the Coastal Area is described as being some of the County's most desirable, designated in locations that can accommodate development, providing a special environment where environmental concerns are addressed; that there are no wetlands located on the property; that the Coastal Area permits for a range of housing types, including single-family homes, townhomes and multi-family homes; that medium and higher densities, being four to 12 units per acre), can be appropriate in certain locations; that medium and higher densities can be supported in areas where central water and sewer are provided, where sufficient commercial uses and employment centers, where the density would keep in character of the area, where located along a main road, or located at or near a major intersection, where there is adequate levels of service or where other considerations exist that are relevant to the requested project and density; that the 316 townhomes requested, which results in a density of 5.12 units per acre; that the densities of the most immediate neighbors to the project are 6.10 units/acre for Whispering Pines, 11.94 units/acre for The Vineyards at Nassau Valley and 12.00 units/acre for Sandbar Village; that Lewes Crest, located across the street from the project, has a density of 10.00 units/acre; that the projects meet all the factors of when medium to higher densities are appropriate; that Tidewater Utilities will provide water service to the site; that the site is located with Tier I of the Sussex County Unified Sanitary Sewer District; that there are plenty of commercial uses and employment centers in any direction; that the site is situated along a main road; that DelDOT classifies Rt. 1 as an other principal arterial road; that the County Code classifies Rt. 1 as one of the seven major arterial roadways within Sussex County; that to the north of the project, DelDOT has a Grade Separated Interchange planned at the intersection of Rt. 1 and Minos Conaway Rd. in the near future; that when this takes place, Janice Rd. will become more a service road; that the project will contribute to the Henlopen Transportation Improvement District (TID); that the proposed project does keep in character to the surrounding areas of Whispering Pines, Sandbar Village and Lewes Crest; that the MR Zoning District is the County's medium-density district; that MR Zoning Code purpose is described as areas which are expected to become generally urban in character, where sanitary sewer and public water supplies may or may not be available at the time of construction; that areas nearby the property are currently considered urban in character; that the purpose of an RPC is to encourage large scale developments as a means to create a superior living environment, through unified developments to provide of the application of designed ingenuity while protecting existing and future developments and achieving the goals of the Comprehensive Plan; that the RPC overlay was chosen, as it would allow for several sizes of townhomes to be offered; that the RPC overlay offered multiple open spaces areas and central amenities; that the open spaces areas make up over 45% of the total site; that there is a request to reduce the average lot size, which allow for the greater amount of open space; that by using the

proposed design of the site, the RPC overlay and proposed screening, the project protects the existing residence and businesses located along Rt. 1; that all of the same characteristics which make the property appropriate for MR Zoning, also apply for the Coastal Area designation; that the project complies with all the considerations for Growth Areas listed in §4.4.2.1; that Chapter 4 describes Commercial Growth Areas, being for large scale retail ; that the proposed use is a far less intense use than large scale commercial; that a less intensive use makes far more sense given the existing residential uses surrounding the property; that Chapter 4 and Chapter 8 of the Sussex County Comprehensive Plan indicate that the proposed Coastal Area designation for the site, allowing for residential uses, is appropriate for this property within Sussex County; that in relation to the requested Future Land Use Amendment, the PLUS comments stated *this parcel is surrounded by Coastal Area, and is currently slated for a higher area use, being commercial; that it is also located within Investment Level Areas 1 and 2 according to the Strategies for State Policies and Spending; that the State has no objection to the amendment as written;* that upon review of the actual project, the State noted the property was located in Investment Level 2 and stated *in Investment Level 2 reflects areas where growth is anticipated by local, County and State plans in the near term future; that State investments will support growth in these areas;* that one provision mentioned was that Sussex County makes the amendment to the Future Land Use Map, otherwise the project would be deemed inappropriate, creating a conflict between the Comprehensive Plan and Zoning Code; that the Applicant would request the Commission recommend approval for the amendment to the Future Land Use Map, as well as changing the properties designation to an MR-RPC (Medium-Density Residential – Residential Planned Community) for 316 townhomes; that he did request to submit Findings of Fact and proposed Conditions of Approval for the applications; that proposed Condition B, for C/Z 1995, propose the front yard be a minimum of 20-ft. and a rear yard minimum of 10-ft.; that the data column on the site plan reflected a front yard of 25-ft. and a rear yard of 15-ft.; that the reason for the change, is it would be desirable for all the townhomes to not have the same setback; that Condition B(4) proposes the combined front and rear yard are required to be 40-ft.; that the 40-ft requirement does match the requirement by County Code; that with the proposed condition, it will allow some townhomes to be located at 20-ft., with some being located at 25-ft.; that proposed Condition B(5) states side yard be 10-ft and 10-ft, with the average lot area of 3,000 sq. ft.; that the Code requires every lot size be a minimum of 1,600 sq. ft.; that the proposed Conditions proffer that lot size be a minimum of 2,000 sq. ft.; that proposed Condition J identifies the areas where a perimeter buffer is not proposed, being along Road A, the entrance road and located behind the Lewes Fire Station; that proposed Condition L describe the recreational amenities and the requirement of when amenities are to be completed; that Condition L proposes a minimum square footage of water surface for the pool area; that the condition will allow Planning & Zoning staff to objectively determine compliance in the future and a minimum square footage approach was taken for the proposed bathhouse as well.

The Commission found that Mr. Ring Lardner, with Davis, Bowen & Friedel, Inc. spoke on behalf of the Applications; that the property is located along Janice Rd., which is classified as a local road per the DelDOT Functional Classification Map; that Janice Rd. is parallel with Rt. 1; that Janice Rd. shares the right of way with Rt. 1; that the property is not located within the 100-Year Flood Plain; that Mr. Edward Launay with Environmental Resources, Inc. did perform a Wetland Delineation; that the delineation was submitted to the U.S. Army Corp of Engineers; that the U.S. Army Corp of Engineers did determine that there were no Waters of the U.S. and no wetlands located on the property; that based on historical photographs, the wetland area is the location of a previous borrow pit which helped

construct Rt. 1; that there is a small Excellent Water Recharge Area, consisting of 1.324 acres, being less than 2.2% of the total site, located to the southwest corner of the site; that there are no special requirements per Chapter 89 for the project; that the impervious area, within the 1.3 acres, will be less than one half or 1% of the total site, being well below the 35% threshold which requires additional mitigation within the recharge area; that the soils located on the site are conducive for development of the property; that the DelDOT Minos Conaway Grade Separate Interchange Project will improve Janice Rd. to the local road standards; that proposed are 11-ft. travel lanes, five foot shoulders with a five foot sidewalk that will connect to the Trailhead Parking Lot, which will provide connectivity to the Georgetown trails; that the project is located within the Henlopen Transportation Improvement District (TID); that conversations were had with Ms. Sarah Coakley, DelDOT Principal Planner with the Henlopen TID; that Ms. Coakley did confirm the project is eligible to be located within the TID; that DelDOT assigned only 81 single-family homes as the proposed trip generation for the site; that they were able to demonstrate the traffic projection is in compliance with the trip generation from the 81 homes plus an allowable percentage, therefore they are eligible to remain within the TID; that a 50-ft access easement is proposed, which will be jointly shared with the storage facility; that the entrance will consist of left-turn and right-turn lanes; that the turn lanes are still being determined through the design process; that the internal roads will be designed to exceed Sussex County standards; that the pavement width for the roads will be 32-ft. in width, which exceeds the 24-ft. width requirement; that the small loop roads within the development will be 24-ft. in width; that each lot will have a minimum of two parking spaces; that additional overflow parking is provided throughout the site; that the total overflow parking includes 147 parking spaces, which are in addition to the two provided parking spots per lot; that the project will include a 20-ft. forested buffer along the northern, southern and eastern edge of the site; that they are requesting a waiver to the required forested buffer along the rear of the Lewes Fire Station and along the portion of the storage area, due to the tight access for the placement of the road; that with the provided open space, there will be plenty of screening from the Lewes Fire Station; that the project does propose a forested road interconnection for emergency personnel from the Vineyard parcel; that a pedestrian connection is proposed to allow pedestrian movement to the Vineyards and winery or for pedestrians wishing to access the Georgetown Trail; that Nassau Commons does have a project forthcoming in the future; that at a minimum, activities are to include a dog park, an unorganized play area and a pocket park with playground equipment; that the location of the playground areas will be shown on the Final Site Plan; that within the open space, located within the middle of the site, will be the location of the central amenities; that these amenities will include 42 parking spaces, 3,500 sq. ft. pool house, 2,000 sq. ft. pool and a pickleball court; that the project proposes 29 acres of total open space, which is about 47% of the project area; that stormwater management will be designed to meet or exceed DNREC standards; that they will be utilizing the area of the previous borrow pit for stormwater management; that the project is proposed a RPC (Residential Planned Community); that due to this, they are requesting two deviations from the standards of the Code; that they are requesting the average lot area be reduced from 3,630 sq. ft. per lot, to 3,000 sq. ft.; that they are requesting the side yards be reduced from 20-ft. to 10-ft.; that as presented the project complies with the Code; that the project was reviewed by PLUS; that the current plan is slightly different than the plan reviewed by PLUS; that PLUS provided a letter confirming a second PLUS review was not required; that DBF, Inc. prepared an Public Facilities Investment and Environmental Assessment Report; that with the mitigation measures implemented, the project is consistent with the Comprehensive Plan; that the Technical Advisory Committee (TAC) reviewed the plan; that the project will be served by Sussex County Sewer;

that Tidewater Utilities will provide water to the site; that Delmarva Power will provide electric; that Chesapeake Utilities will provide gas; that Comcast and Verizon are available for phone and cable; that Chapter 99 responses were submitted into the record; that the project is integrated into existing terrain; that the site does not contain wetlands or flood plains; that the plan provides buffer to screen from objectionable features; that the plan prevents pollution of surface and groundwater; that the plan provides for safe vehicular and pedestrian movement; that the plan mitigates the impacted area roadways and transportation and the plan is compatible with other land uses.

Mr. Hopkins stated we felt the proposal was beneficial, as the proposed use could remove the need for 500 homes between Gravel Hill and Georgetown, off Rt. 9.

Ms. Stevenson stated she did not agree with Mr. Hopkins; that she felt the people will live along Gravel Hill to Georgetown, regardless of whether the project is approved; that she felt the proposed homes will be second homes for many residents and she questioned the size of the smaller areas of provided open space.

Ms. Wingate questioned if there was an estimated time when DelDOT will be performing the DelDOT improvements to Janice Rd.

Mr. Lardner stated within Exhibit F; that the data sheet located on the Preliminary Site Plan list the open space areas; that the smallest area of open space is .15 acre; that the largest is just over an acre; that the open spaces range in size throughout the site and he believed the DelDOT improvements could begin as early as June 2023 according to the Capital Transportation Program.

The Commission found that no one was present in the room or by teleconference who wished to speak in support or opposition to the Applications.

Ms. Eul Lee spoke by teleconference regarding this Application. Ms. Lee stated that she does not oppose the multi-family development but had safety concerns and if there is sufficient access for emergency vehicles if vehicles are parked on the streets within the development. Ms. Lee asked if there is a possibility for interconnectivity to provide an additional ingress/egress to the development.

Upon there being no further questions, Chairman Wheatley closed the public hearing for both Applications.

At the conclusion of the public hearings, the Commission discussed the Applications.

In relation to ORD. 23-02 relating to Tax Parcel Nos. 334-5.00-153.00 & 334-5.00-153.02. Motion by Ms. Stevenson to defer for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 4-0.

#### Minutes of the February 9, 2023, Planning & Zoning Commission Meeting

The Commission discussed the Ordinance which had been deferred since January 12, 2023.

Ms. Stevenson moved that the Commission recommend denial of Ordinance 23-02 to amend the Future Land Use Map in the current Sussex County Comprehensive Plan for Parcels 334-5.00-153.00 and 153.02, based on the record made during the public hearing and for the following reasons:

1. The property that is the subject of this Application is almost entirely designated as a “Commercial Area” according to the Future Land Use Map in the Sussex County Comprehensive Plan. There is only a small area designated as “Coastal Area” within the parcel boundaries.
2. According to the Comprehensive Plan, the “Commercial Area” designation is designed to “include concentrations of retail and service uses that are mainly located along arterials and highways.”
3. When the current Future Land Use Map was approved, considerable thought was given to the location of the “Commercial Area” designation, particularly along the Route One Corridor.
4. It is important to maintain areas set aside in appropriate locations for future commercial use and development to support all of the residential growth that is occurring in Sussex County, particularly on the eastern side of the County. This proposed amendment and the subsequent development as a residential project would further reduce the land available for commercial development in eastern Sussex County.
5. The “Commercial Area” designation is appropriate for this site given its location along the Route One corridor where DelDOT is getting ready to do substantial roadway improvements. It is also immediately next to a fire station, mini storage facility and a large parcel that contains office and warehouse uses along with a large grocery store. The Vineyards property immediately to the south of this property also has a “Commercial Area” designation. All of these reasons support the continued designation of this property as being within the “Commercial Area” within the Future Land Use Map of the County Comprehensive Plan.
6. I am not satisfied that there are sufficient reasons to convert this property from its “Commercial Area” designation to a “Coastal Area” designation.
7. For all of these reasons, it is my motion that the Commission recommend denial of this amendment to the Future Land Use Map.

Ms. Stevenson’s motion to deny failed to advance for a vote due to lack of a second motion.

Mr. Hopkins advised the Commission that he had prepared a motion and requested that his motion be read into the record by Mr. Robertson.

Mr. Robertson read Mr. Hopkins’ motion into the record, per Mr. Hopkins’ request.

Mr. Hopkins moved that the Commission recommend approval of Ordinance 23-02 to amend the Future Land Use Map in the current Sussex County Comprehensive Plan for Parcels 3-34-5.00-153.00 and 153.02, based on the record made during the public hearing and for the following reasons:

1. The parcel currently has two Area designations under the Future Land Use Map in the Sussex County Comprehensive Plan. Most of the parcel is designated as the Commercial Area while a small portion of the property is designated as the Coastal Area according to the Future Land

- Use Map. This application seeks to convert the entire property to one uniform “Coastal Area” designation.
2. The Coastal Area and Commercial Area are both “Growth Areas” according to the Comprehensive Plan, so this revision does not result in a substantial change to the Future Land Use Map.
  3. The parcel has frontage on Janice Road, which is essentially a service road for Route One and within the Route One Right-of-Way. The property is also near the planned grade-separated intersection at Route One and Minos Conaway Road which includes service roads such as Janice Road. This is an appropriate location for a Map Amendment designating the entire parcel as Coastal Area.
  4. This revision to the Future Land Use Map will not adversely affect neighboring properties, area roadways, or future land-use planning in the area.
  5. There is central sewer and water available to the property.
  6. This proposed amendment to the Future Land Use Map satisfies the criteria set forth in Section 4.4.2.1 of the Comprehensive Plan for a Growth area, since:
    - a. the Property is near the presence of existing public sewer and public water service;
    - b. the Property is within the County’s Tier 1 area for sewer planning;
    - c. the Property is situated along the Route 1 corridor;
    - d. the Property is near the planned grade-separated intersection (overpass) for the Minos Conaway Road/Route 1 intersection;
    - e. the Future Land Use Map change will enable development that is in character with what exists or may occur in the area;
    - f. the Property does not contain any wetlands;
    - g. the Future Land Use Map change will not adversely impact any major preserved lands, water bodies, or lands with agricultural and other protected easements.
  7. The property is predominantly surrounded by other residential properties. This Map Amendment will permit residential development, which is more consistent with these surrounding uses than commercial development under the Commercial Area designation.
  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 Mr. Hopkins, seconded by Mr. Mears to recommend approval of ORD. 23-02 in relation to Tax Map Parcel No. 334-5.00-153.00 and 334-5.00-153.02, for the reasons stated in the motion. Motion carried 4-1.

Vote by roll call: Mr. Hopkins – yea, Ms. Stevenson – nay, Ms. Wingate – yea, Mr. Mears – yea, Chairman Wheatley – yea

Ms. Stevenson voted nay for the reasons stated in her motion to deny.

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NOS. 334-5.00-153.00 & 334-5.00-153.02.**

WHEREAS, on May 21<sup>st</sup>, 2021, the Sussex County Planning and Zoning Office received an application for a requested Comprehensive Plan Amendment to amend the Future Land Use Map element of the Comprehensive Plan to change the Area designation of Sussex County Parcel Nos. 334-5.00-153.00 & 334-5.00-153.02 from the Commercial Area to the Coastal Area; and

WHEREAS, the Parcels comprise 65.169 acres of land, lying and being within Lewes & Rehoboth Hundred, and are located on the west side of Janice Road (S.C.R. 14B) approximately 520 feet west of the intersection of Coastal Highway (Route 1) and Nassau Road (S.C.R. 266B).

WHEREAS, The Properties are designated as being within the Commercial Area and Coastal Area as set forth in the Future Land Use Map identified as Figure 4.5-1 in the 2018 Comprehensive Plan for Sussex County.

WHEREAS, Sussex County Council desires to adopt this Ordinance amending the Future Land Use Map of the Plan with minor amendments; and

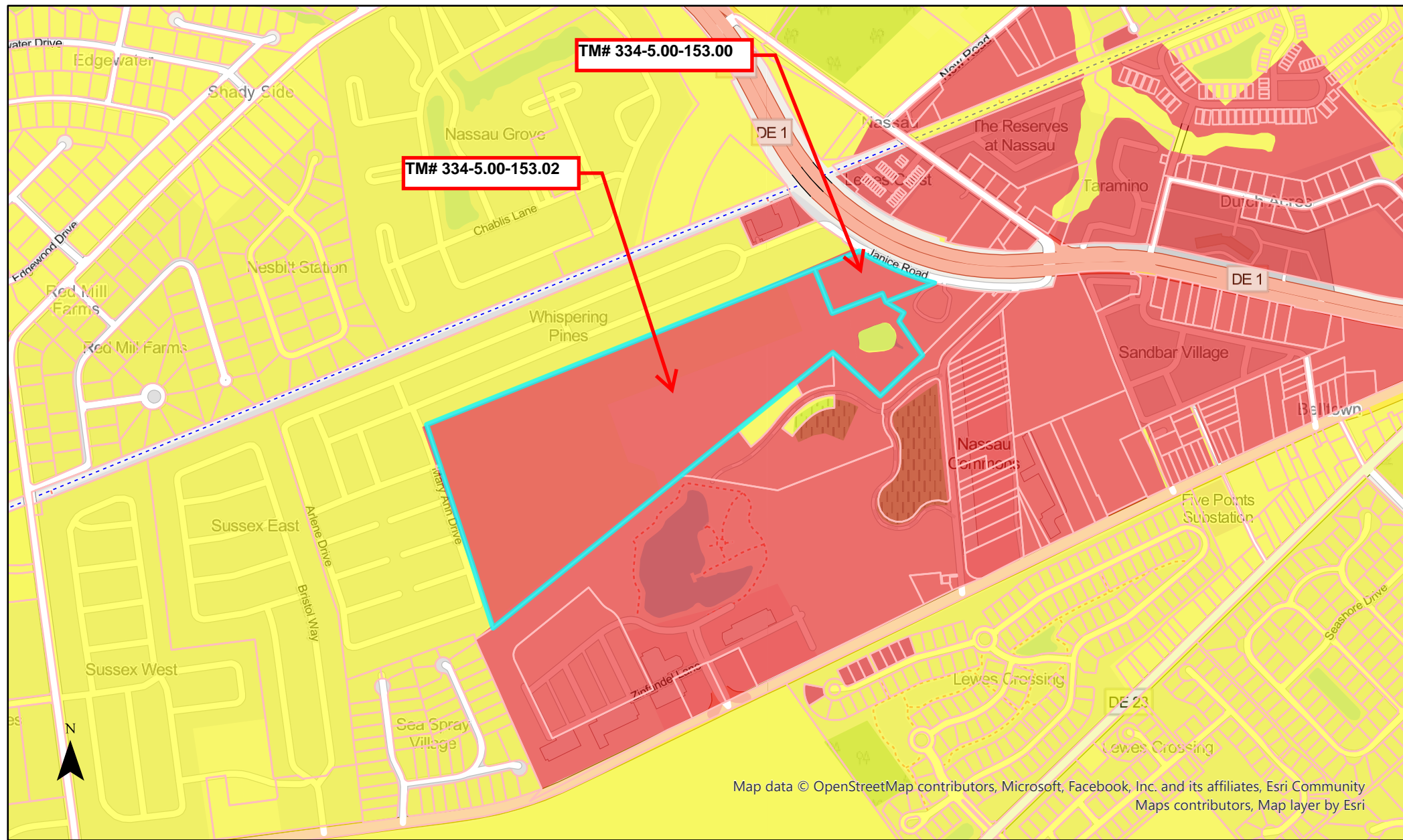
WHEREAS, in accordance with the required process for public hearings on ordinances such as this one, both Sussex County Council and the Sussex County Planning & Zoning Commission will hold public hearings on this Ordinance, but limited in scope to this specific proposed amendment to the Future Land Use 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 parcels currently classified as the Commercial Area and Coastal Area designation of Sussex County Parcel Nos. 334-5.00-153.00 & 334-5.00-153.02 to the Coastal Area. Sussex County Parcel Nos. 334-5.00-153.00 & 334-5.00-153.02 so changed as 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.

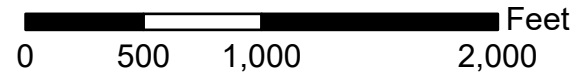




Current FLUM Classification Map  
 Ord. No. 23-02 - Janice CRP3, LLC (Ritter Farm)  
 Proposed FLUM Map Amendment  
 Proposed: Commercial Area to Coastal Area  
 P&Z Meeting - 01/12/2023

### 2019 Future Land Use

- Low Density
- Coastal Area
- Commercial
- Developing Area
- Existing Development Area
- Industrial
- Municipalities
- Town Center



**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NOS. 334-5.00-153.00 & 334-5.00-153.02.**

WHEREAS, on May 21<sup>st</sup>, 2021, the Sussex County Planning and Zoning Office received an application for a requested Comprehensive Plan Amendment to amend the Future Land Use Map element of the Comprehensive Plan to change the Area designation of Sussex County Parcel Nos. 334-5.00-153.00 & 334-5.00-153.02 from the Commercial Area to the Coastal Area; and

WHEREAS, the Parcels comprise 65.169 acres of land, lying and being within Lewes & Rehoboth Hundred, and are located on the west side of Janice Road (S.C.R. 14B) approximately 520 feet west of the intersection of Coastal Highway (Route 1) and Nassau Road (S.C.R. 266B).

WHEREAS, The Properties are designated as being within the Commercial Area and Coastal Area as set forth in the Future Land Use Map identified as Figure 4.5-1 in the 2018 Comprehensive Plan for Sussex County.

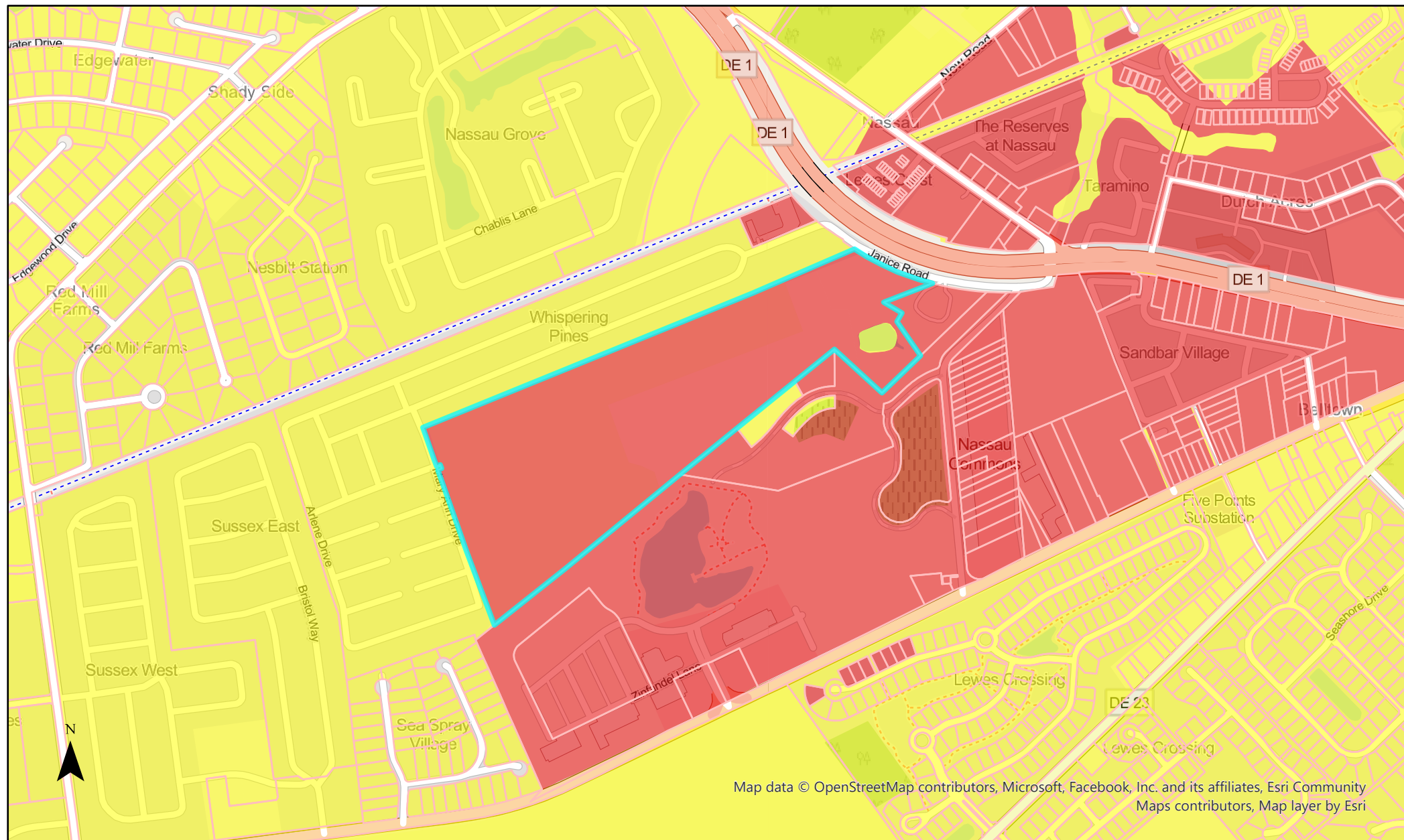
WHEREAS, Sussex County Council desires to adopt this Ordinance amending the Future Land Use Map of the Plan with minor amendments; and

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 & 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 parcels currently classified as the Commercial Area and Coastal Area designation of Sussex County Parcel Nos. 334-5.00-153.00 & 334-5.00-153.02 to the Coastal Area. Sussex County Parcel Nos. 334-5.00-153.00 & 334-5.00-153.02 so changed as 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.



Map data © OpenStreetMap contributors, Microsoft, Facebook, Inc. and its affiliates, Esri Community Maps contributors, Map layer by Esri

Current FLUM Classification Map  
 Ord. No. 23-02 - Janice CRP3, LLC (Ritter Farm)  
 Proposed FLUM Map Amendment  
 Proposed: Commercial Area to Coastal Area  
 P&Z Meeting - 01/12/2023

### 2019 Future Land Use

- Low Density
- Coastal Area
- Commercial
- Developing Area
- Existing Development Area
- Industrial
- Municipalities
- Town Center

