



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

**MEETING:  
April 5, 2022**

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**Sussex County Council  
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(302) 855-7743**

**COUNTY COUNCIL**

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



**Sussex County**

DELAWARE  
sussexcountyde.gov  
(302) 855-7743

**SUSSEX COUNTY COUNCIL**

**A G E N D A**

**APRIL 5, 2022**

**10:00 A.M.**

**Call to Order**

**Approval of Agenda**

**Approval of Minutes – March 29, 2022**

**Reading of Correspondence**

**Public Comments**

**Consent Agenda**

1. **Use of Existing Wastewater Infrastructure Agreement, IUA-1150  
Tupelo Sands, Millville Area**

**Todd Lawson, County Administrator**

1. **Proclamation - Fair Housing Month**
2. **Administrator's Report**

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

1. **Discussion and Possible Introduction of a Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 52, § 52-1 OF THE CODE OF SUSSEX COUNTY TO ADOPT THE BUILDING CONSTRUCTION STANDARDS IN THE INTERNATIONAL BUILDING CODE 2021 EDITION AND THE INTERNATIONAL RESIDENTIAL CODE 2021 EDITION"**



**Hans Medlarz, County Engineer**

1. Environmental Services - Vacuum Truck Award

**Jamie Whitehouse, Planning and Zoning Director**

1. Demonstration of New Planning and Zoning Notice Signs

**Grant Requests**

1. Delaware Community Foundation for Flags for Heroes
2. Developing Artist Collaboration for West Rehoboth Legacy Project

**Introduction of Proposed Zoning Ordinances**

**Council Members' Comments**

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

**Possible action on Executive Session items**

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

**Conditional Use No. 2287 filed on behalf of Danielle Roach**

**“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A CRAFT BUSINESS WITH OUTDOOR STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.34 ACRES, MORE OR LESS” (property lying on the northwest side of Pine Road) (911 Address: 22928 Pine Road) (Tax Parcel: 234-12.18-41.00)**

**Change of Zone No. 1950 filed on behalf of Roxana Volunteer Fire Company**

**“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN I-1 INSTITUTIONAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.5 ACRES, MORE OR LESS” (property lying on the northeast side of Lighthouse Road [Rt. 54] approximately 0.53 mile northwest of Bayville Road [S.C.R. 58B]) (911 Address: 36843, 36855, & 36873 Lighthouse Road) (Tax Parcels: 533-12.00-93.00, 93.01, & 93.02)**

**Change of Zone No. 1951 filed on behalf of Shiloh Investments, LLC**

**“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 4.17 ACRES, MORE OR LESS” (property lying on the south side of Lewes Georgetown Highway [Rt. 9] approximately 0.15 mile east of the intersection of Hudson Road [S.C.R. 258] and Fisher Road [S.C.R. 262]) (911 Address: N/A) (Tax Parcel: 235-30.00-50.01)**

**Change of Zone No. 1952 filed on behalf of Samantha Broadhurst**

**“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 22.60 ACRES, MORE OR LESS” (property lying on the west side of Dupont Blvd. [Rt. 113] approximately 0.33 mile north of Wilson Hill Road [S.C.R. 244]) (911 Address: N/A) (Tax Parcel: 135-9.00-26.00)**

**Adjourn**

**-MEETING DETAILS-**

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on March 29, 2022 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, MARCH 29, 2022**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, March 29, 2022, at 10:30 a.m., in Council Chambers, with the following present:

<b>Michael H. Vincent</b>	<b>President</b>
<b>Douglas B. Hudson</b>	<b>Vice President</b>
<b>Cynthia C. Green</b>	<b>Councilwoman</b>
<b>John L. Rieley</b>	<b>Councilman</b>
<b>Mark G. Schaeffer</b>	<b>Councilman</b>
<b>Todd F. Lawson</b>	<b>County Administrator</b>
<b>Gina A. 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>

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

**Call to  
Order**

Mr. Vincent called the meeting to order.

**M 134 22  
Approve  
Agenda**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, 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 of the March 22, 2022 meeting were approved by consensus.

**Corres-  
pondence**

There was no correspondence.

Public comments were heard.

**Public  
Comment**

Dr. Mahammad Actor discussed concerns about waterways in the State of Delaware.

Mr. Leonard Sears spoke about septic systems being installed in Briarwood Manor.

**Adminis-  
trator's  
Report**

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

**1. Council Development Finance Approves Site Readiness Fund Project**

The Council on Development Finance awarded \$1 million to Sussex County to create new shovel-ready sites at the Delaware Coastal

**Business Park. Funding will be used for road improvements, utilities, and supporting infrastructure.**

**Proposed Ordinance/  
Rental Unit (SCR)  
Program**

**Mr. Vince Robertson, Assistant County Attorney presented for consideration a Proposed Ordinance to amend the Code of Sussex County regarding affordably priced rental units and the Sussex County Rental Unit (SCR) program.**

**Mr. Robertson explained that this information was dealt with significantly in the 2018 Comprehensive Development Plan particularly in the housing element of the plan.**

**Mr. Robertson reviewed the goals, strategies and objectives that were included in that plan and included in the Proposed Ordinance.**

**In 2019, a consultant, LSA looked at housing in Sussex County. They also met with stakeholders including County staff, developers, housing advocates, and landowners to look at what the current situation was in Sussex County and how the situation could be improved in regard to workforce housing.**

**Mr. Robertson discussed the strategy recommendations that included modifying the zoning code to promote housing affordability in the growth areas identified in the Comprehensive Plan. This includes the allowance for a maximum density of 12 units per acre by right where affordable housing units are provided.**

**Mr. Robertson explained that the Proposed Ordinance will put more on the developer to engage with the potential renters to confirm that they still qualify and certify that information back to the County on an annual basis. In addition, there is a new penalty aspect that did not exist prior. The Proposed Ordinance also states that affordable housing projects with 30% of the units in those projects will be permitted use. As an incentive to do this, the permitted use includes up to 12 units an acre by right.**

**Mr. Robertson reviewed the criteria included in the Proposed Ordinance.**

**Mr. Whitehouse explained that a ten-acre and thirty-acre site plan analysis was used to see if this was achievable. The consultant was in agreement that it was workable and achievable, although each plan would have to go through site plan review.**

**Mr. Rieley introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 72, ARTICLE II, SECTIONS 72-16 THROUGH 72-28 AND CHAPTER 115, ARTICLE IV, V, VI, VII AND VIII SECTIONS 115-20, 115-25, 115-29, 115-34, 115-37, 115-42, 115-45, 115-50, 115-53 AND 115-58 REGARDING AFFORDABLY PRICED RENTAL UNITS AND THE SUSSEX COUNTY RENTAL UNIT (SCR) PROGRAM”.**

**SCWRF & RBWTP/  
Project C19-11/CO  
No. 21**      **Mr. Hans Medlarz, County Engineer presented Change Order No. 21 for Project C19-11, General Construction at South Coastal WRF Treatment Upgrade No. 3 & Rehoboth Beach WTP Capital Improvement Program, Phase 2 for Council’s consideration. The Change Order includes alkalinity adjustments that are needed in the South Coastal facility.**

**M 135 22  
SCWRF & RBWTP/  
Project C19-11/CO  
No. 21  
Approval**      **A Motion was made by Mr. Hudson, seconded by Mr. Rieley, be it moved, based upon the recommendation of the Sussex County Engineering and Finance Department, that Change Order No. 21 for Contract C19-11, South Coastal WRF Treatment Process Upgrade No. 3 & Rehoboth Beach WTP Capital Improvement Program, Phase 2 – General Construction, be approved, increasing the contract by \$45,989.72.**

**Motion Adopted:      5 Yeas.**

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

**SCWRF & RBWTP/  
Project C19-17/CO  
No. 16**      **Mr. Hans Medlarz, County Engineer presented Change Order No. 16 for Project C19-11, General Construction at South Coastal WRF Treatment Upgrade No. 3 & Rehoboth Beach WTP Capital Improvement Program, Phase 2 for Council’s consideration. The Change Order is for DP&L metering modifications and for ventilation for the City’s dedicated VFD cabinet.**

**M 136 22  
SCWRF & RBWTP/  
Project C19-17/CO  
No. 16  
Approval**      **A Motion was made by Mr. Rieley, seconded by Mr. Hudson, be it moved, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 16 for Contract C19-17, SCWRF Treatment Process Upgrade No. 3 & RBWTP Capital Improvements Program, Phase 2 – Electrical Construction, be approved, for an increase of \$52,003.13.**

**Motion Adopted:      5 Yeas.**

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

**Herring Creek/  
Project S20-09/Recommendation to Award**      **Mr. Hans Medlarz, County Engineer presented an award recommendation for the Herring Creek Sanitary Sewer District East Gravity Sewer and Force Main, Project S20-09 for Council’s consideration. There were six bids received with George & Lynch, Inc. submitting the lowest responsive base bid.**

**M 137 22  
Herring Creek/  
Project S20-09/Award**      **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, be it moved based upon the recommendation of the Sussex County Engineering Department, that contract S20-09, Herring Creek Sanitary Sewer District: East Gravity Sewer and Force Main, be awarded to George & Lynch, Inc.**



**Approval for their total bid of \$6,095,549.00 contingent upon USDA concurrence.**

**Motion Adopted: 5 Yeas.**

**Project 22-01/George & Lynch/Bid Package A/Change Order No. 1**

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

**M 138 22 Project 22-01/George & Lynch/Bid Package A/Change Order No. 1 Approval**

**Mr. Hans Medlarz, County Engineer presented Change Order No. 1 for FY22 General Labor & Equipment Contract, Project 22-01 for George & Lynch – Bid Package A for Council’s consideration. There has been a number of emergencies with Pump Station No. 4 in Dewey Beach that has results in significant equipment failures that has resulted in additional costs.**

**A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, that be it moved, based upon the recommendation of the Sussex County Engineering Department that Change Order No. 1 for George & Lynch Inc.’s Contract 22-01, FY22 General Labor and Equipment – Bid Package A, be approved, increasing the contract amount by \$1,750,000.00 for a full reconstruction of pump station 4, Dewey Beach.**

**Motion Adopted: 5 Yeas.**

**Project 22-01/JJID, Inc./Bid Package A/Change Order No. 1**

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

**M 139 22 Project 22-01/JJID, Inc./Bid Package A/Change Order No. 1 Approval**

**Mr. Hans Medlarz, County Engineer presented Change Order No. 1 for FY22 General Labor & Equipment Contract, Project 22-01 for JJID, Inc. – Bid Package A for Council’s consideration. Currently, the focus is on spreading and leveling where it appears several additional equipment pieces would better support the effort.**

**A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson that be it moved, based upon the recommendation of the Sussex County Engineering Department that Change Order No. 1 for JJID, Inc.’s Contract 22-01, FY22 General Labor & Equipment – Bid Package A, be approved, increasing the contract amount by \$500,000.00 for completion of the Inland Bays Southern Field Grading and associated additional equipment unit pricing.**

**Motion Adopted: 5 Yeas.**

**Sussex Pain Relief Center/Engineer of Record**

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

**Mr. Hans Medlarz, County Engineer presented an Engineer of Record for the Sussex Pain Relief Center request for Council’s consideration. Mr. Medlarz**

explained that the Engineering Department would like to use the same engineer, Beacon Engineering due to their existing knowledge of the on-site system and parcel owners.

**M 140 22  
Sussex Pain  
Relief  
Center/Eng-  
ineer of  
Record  
Approval**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, be it moved, based upon the recommendation of the Sussex County Engineering Department, that Council approve the affirmation of Beacon Engineering of Georgetown, Delaware as “Engineer of Record” for the North Georgetown Area of the SCUSSD based on their knowledge of the on-site system and their status as the current engineer of record for the Pain Relief Center.

**Motion Adopted: 5 Years.**

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

**Old  
Business/  
Proposed  
Ordinance/  
Land Use  
Map  
Amendment  
(Delmar  
Area)**

Mr. Robertson clarified that being discussed is the Comprehensive Plan and the Future Land Use Map within that plan along with the areas that are identified on that map. He further explained that does not equate to a zoning change; it just equates to possibilities of how that land can be used. He added that any future land use including zoning, conditional use, RPC or change of zone has to go through additional public hearings before the Planning and Zoning Commission and County Council.

Mr. Whitehouse reviewed the timeline of the Proposed Ordinance.

Mr. Whitehouse provided a summary of the Comprehensive Plan timeline pointing out key dates.

Mr. Whitehouse shared and discussed the Future Land Use Map from 2008 and the 2018 Zoning Map as it existed when the Comprehensive Plan went through. He further explained the zonings for each of the parcels included in this Proposed Ordinance. Mr. Whitehouse noted that parcel 532-12.00-27.00 had spilt zoning; GR in the northeast corner and AR-1 in the southwest. Mr. Whitehouse explained that a computer system that identified what parcels were being designated as existing development areas. It was further explained the County was too large to go parcel by parcel, so computer software was used.

The applicant is requesting to take the five parcels from either the low-density area or the existing development area and put them into the developing area.

Mr. Robertson explained that the mapping has to match the underlying zoning. The existing development area only permits two zoning classifications. These include Medium Density Residential District (MR) and General Residential District (GR). The developing area unlike the existing development area permits the underlying zoning to be AR-1 zoning.

**Old Business/ Proposed Ordinance/ Land Use Map Amendment (Delmar Area) (continued)**

Mr. Robertson explained that parcels 532-12.00-1.00 and 532-19.00-1 went back to low density due to the underlying zoning was AR-1. He further explained that was a substantial change because low density is a lot different than a growth area. Mr. Robertson noted that there was never a decision made by the Planning and Zoning Commission or the County Council to take it from a growth area down to a low-density area in the map.

In 2018, half parcel 532-12.00-27.00 was in the mixed residential area; at one point in time, it was all colored existing development area. However, when it was adapted, it went back to being half in and half out of the existing developing area.

Mr. Vincent commented that he believes that it should look how it looked in 2008. Mr. Robertson explained how that could be achieved as close as it can be completed under the 2018 standards.

The gavel was given over to Vice-President Hudson.

**M 141 22 Approve Amendment of Future Land Use Map/Regarding Parcels 42.00 & 44.00 (Delmar Area)**

A Motion was made by Mr. Vincent, seconded by Mr. Schaeffer, that be it moved Sussex County Council amend the Ordinance to amend the Future Land Use Map of the Comprehensive Plan to delete Tax Parcel No. 532-18.00-42.00 and 532-18.00-44.00 from the Short Title of the Ordinance and for the following reasons:

1. After considering all of the information in the record and the information reviewed and presented by staff, this is certainly a unique situation that relates back to the technical work that occurred as our current Comprehensive Plan was being finalized.
2. In the 2008 Future Land Use Map, the properties that are the subject of this Ordinance were identified as being part of either the "Mixed Residential Area" or the "Developing Area". Both of these categories were considered "Growth Areas" according to the 2008 Comprehensive Plan. Parcels 42.00 and 44.00 were specifically identified as being within the "Mixed Residential Area" category.
3. In the case of Parcels 532-12.00-1.00 and 532-19.00-1.00, the Map was incorrectly revised to a "Low Density Area" designation because the proposed "Existing Development Area" designation did not match the underlying AR-1 zoning. A last-minute technical correction occurred to delete the draft "Existing Development Area" designation because the underlying AR-1 Zoning is not permitted within the "Existing Development Area". Staff has determined that these were not the result of a specific authorization to do so by the Planning & Zoning Commission or County Council.
4. However, in the case of Parcels 532-18.00-42.00 and 44.00, the "Existing Development Area" identified on the Future Land Use Map is a "Growth Area" designation, and it does match the underlying GR zoning. They were identified as being within the

**M 141 22  
Approve  
Amendment  
of Future  
Land Use  
Map/Regar-  
ding Parcels  
42.00 &  
44.00  
(Delmar  
Area)  
(continued)**

**“Existing Development Area” throughout the County’s consideration of the draft Future Land Use Map. These properties were identified as a “Growth Area” in 2008, and they are currently identified as a “Growth Area” on the 2018 Map. As a result, there is no need to change this Category to a “Developing Area” designation as requested.**

- 5. These two properties are currently zoned GR, which is a permitted zoning classification in the “Existing Development Area” that was given to these two properties in the 2018 Future Land Use Map.**
- 6. It is appropriate for these two properties remain a “Growth Area” with the current “Existing Development Area” designation that is shown on the County’s Future Land Use Map.**
- 7. This Ordinance should be amended to delete the requested change in Future Land Use Category from “Existing Development Area” to “Developing Areas” for Tax Map and Parcel # 532-18.00-42.00 and 532-18.00-44.00 by deleting these two parcels from the Short Title of the Ordinance and from Section 1 of the Ordinance.**
- 8. As a result of this Amendment, the Short Title of this Ordinance shall now state as follows:**

***AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 532-12.00-1.00, 532-12.00-27.00 AND 532-19.00-1.00***

- 9. As a result of this Amendment, Section 1 of this Ordinance shall now state as follows:**

***Section 1. The Future Land Use Map identified as Figure 4.5-1 of the Sussex County Comprehensive Plan is hereby amended to change the Area designation for Sussex County Parcel Nos. 532-12.00-1.00, 532-19.00-1.00 and 532-12.00-27.00 from the Low Density Area and/or Existing Development Area to the Developing Area. The parcels so changed are identified in Exhibit A, attached hereto and incorporated herein.***

**Motion Adopted: 5 Yeas.**

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

**M 142 22  
Approve  
Amendment  
of Future  
Land Use  
Map/Regar-  
ding Parcel  
532-12.00-  
27.00**

**A Motion was made by Mr. Vincent, seconded by Mrs. Green, be it moved that the Sussex County Council amend the Ordinance to amend the Future Land Use Map of the Comprehensive Plan to delete Tax Map & Parcel Number 532-12.00-27.00 from the Short Title of the Ordinance for the following reasons:**

- 1. After considering the information in the record, the 2008 Comprehensive Plan, and the 2018 Comprehensive Plan, it is**

(Delmar Area)

**DENIED**

apparent that Tax Map & Parcel Number 532-12.00-27.00 was partially in the “Mixed Residential Area”.

- 2. The “Mixed Residential Area” designation matched the underlying GR Zoning of Parcel 27.00.
- 3. There is no basis in the record to support the change of all of Parcel # 27.00 to the “Developing Area” designation since the 2018 Map matched the designation of the “Growth Area” in 2008.
- 4. As a result of this Amendment, the Short Title of this Ordinance shall now state as follows:

*AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO THE PARCEL NUMBERS 532-12.00-1.00 AND 532-19.00-1.00.*

- 5. As a result of this Amendment, Section I of this Ordinance shall now state as follows:

*Section I. The Future Land Use Map identified as Figure 4.5-1 of the Sussex County Comprehensive Plan is hereby amended to change the Area designation for Sussex County Parcel Numbers 532-12.00-1.00 and 532-19.00-1.00 from the Low-Density Area and/or Existing Developing Area to the Developing Area. The parcels so changed are identified in Exhibit A, attached hereto and incorporated herein.*

**Motion Denied: 2 Yeas, 3 Nays**

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

**M 143 22  
Amendment  
of Future  
Land Use  
Map/Effect-  
ive Date/  
(Delmar  
Area)**

A Motion was made by Mr. Rieley, seconded by Mr. Vincent, that be it moved that the Sussex County Council clarify the effective date of this Ordinance to the date upon which it receives an affirmative vote of all members of Sussex County Council.

As a result of this Amendment, Section 2 of this Ordinance shall now state as follows:

*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.*

**Motion Adopted: 5 Yeas.**

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

**Ordinance takes effect  
Mr. Rieley motion, Vincent 2<sup>nd</sup>**

**Motion Adopted: 5 Yeas.**

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

**M 144 22  
Adopt  
Ordinance  
No. 2844/  
Future Land  
Use Map  
(Delmar  
Area)**

**A Motion was made by Mr. Vincent, seconded by Mr. Schaeffer, be it moved that Sussex County Council adopt the Ordinance to Amend the Future Land Use Map of the Comprehensive Plan in Relation to Tax Parcel # 532-12.00-1.00, 532-12.00-27.00 and 532-19.00-1.00 AS AMENDED based on the reasons given in the prior motions to amend the Ordinance and for the following reasons:**

- 1. The Sussex County Planning & Zoning Commission recommended approval of all of the Map revisions.**
- 2. Following the hearing here at Council, staff performed an extensive review of the record and what occurred in the final drafting and adoption of the Future Land Use Map that appears in our Comprehensive Land Use Plan. This includes the record from the Planning & Zoning Commission and County Council workshops, hearings, and decisions.**
- 3. As a result of that review, the land use categories of several of the subject properties were reduced from having a “Growth Area” designation to a “Low Density Area” designation. That was inconsistent with what appeared in the 2008 Future Land Use Map and there was no directive given from the Planning & Zoning Commission or County Council to return these land areas to a “Low Density Area” designation or eliminate the “Growth Area” designation given to them in 2008. Instead, it appears to have been primarily a last-minute technical change because the draft land use category did not match the underlying AR-1 zoning. The designation was changed to “Low Density Area” without any instruction from County Council to do so.**
- 4. Because there was never a decision to designate Parcels 532-21.00-1.00 and 532-19.00-1.00 as “Low Density Areas” instead of a “Growth Area” on the mapping, they should have been identified as being within the “Developing Area” which is a “Growth Area” that is consistent with the 2008 Future Land Use Map and also matches their underlying AR-1 Zoning.**
- 5. In the 2008 Future Land Use Map, Parcel 532-12.00-27.00 was identified as partially within the “Mixed Residential Area”, which was also a “Growth Area” designation. Throughout the workshops, hearings and deliberations on the 2018 Future Land Use Map, this property was identified as being entirely within the “Existing Development Area”, which is a “Growth Area”. As part of the technical revision that occurred in the**

**M 144 22  
Adopt  
Ordinance  
No. 2844/  
Future Land  
Use Map  
(Delmar  
Area)  
(continued)**

final stages of the mapping process, this property was also reduced in part to the “Low Density Area” category. Like Parcels 532-21.00-1.00 and 532-19.00-1.00, there was never an official recommendation from the Planning & Zoning Commission or decision by County Council to make this change. Parcel 532-12.00-27.00 should revert back to a “Growth Area” designation and matching its boundaries, but with the “Developing Area” future land use designation to match its underlying AR-1 zoning.

6. In the case of Parcels 532-18.00-42.00 and 44.00, the current “Existing Development Area” is a “Growth Area” designation, and it does match the underlying GR zoning. These properties were identified as a “Growth Area” in 2008, and they are currently identified as a “Growth Area” on the 2018 Map. As a result, there is no need to correctively change this category to a “Developing Area” designation as requested.

7. Planning & Zoning Staff have reviewed the Future Land Use Map, and it appears that this is a unique situation.

8. With this Map amendment, the underlying zoning of each property will match the land use category shown on the current Future Land Use Map and these categories will match parcel boundary lines.

9. This corrective revision to the Future Land Use Map will not adversely affect neighboring properties, area roadways or future land-use planning in the area.

10. This corrective revision does not affect the underlying zoning of any of these properties. In each case, low-density AR-1 Zoning is permitted and just as appropriate as a higher density residential or commercial zoning. Regardless of this Map correction, any requested Change in Zone will have to go through separate public hearings before the Planning & Zoning Commission and County Council and a decision will be made based upon whether the requested change is appropriate under the circumstances. This will enable the County, with ample public participation, to determine whether a different zoning classification or any specific use or type of development is appropriate here.

11. This limited revision of the Future Land Use Map is appropriate given the particular and unique circumstances involved at this location.

12. For all of these reasons, including the reasons given for amending the Ordinance as introduced, the Ordinance should be adopted to Amend the Future Land Use Map of the Comprehensive Plan, AS AMENDED in Relation to Tax Parcel # 532-12.00-1.00, 532-12.00-27.00 and 532-19.00-1.00 to change those properties from the “Low Density Area” future land use category to the “Developing Area” future land use category.

**Motion Adopted: 5 Yeas.**

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

**The gavel was given back to President Vincent.**

**Introduction  
of Proposed  
Ordinances**

**Mr. Vincent introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR INDOOR AND OUTDOOR STORAGE OF HEATING AND COOLING EQUIPMENT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 4.03 ACRES, MORE OR LESS”**

**Mrs. Green introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A GUNSMITHING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 5.12 ACRES, MORE OR LESS”**

**Mr. Schaeffer introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM RESIDENTIAL DISTRICT TO AMEND THE CONDITIONS OF APPROVAL OF CONDITIONAL USE NO. 1845 (ORDINANCE NO. 2106) TO INCREASE THE NUMBER OF PERMITTED MULTIFAMILY UNITS FROM 168 TO 198 FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 18.08 ACRES, MORE OR LESS”**

**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 (2 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.84 ACRES, MORE OR LESS”**

**Council  
Members’  
Comments**

**The Proposed Ordinances will be advertised for Public Hearing.**

**There were no Council Member comments.**

**M 145 22  
Go Into  
Executive  
Session**

**At 11:52 a.m., A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to recess the Regular Session and go into Executive Session for the purpose of discussing matters relating to pending/potential litigation, and land acquisition.**

**Motion Adopted: 5 Yeas.**

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

**Executive  
Session**

**At 11:59 a.m., an Executive session of the Sussex County Council was held in the Basement Caucus Room to discuss matters relating to potential/pending litigation, and land acquisition. The Executive Session concluded at 12:40 p.m.**



**M 146 22**      **At 12:47 p.m., a Motion was made by Mr. Hudson seconded by Mr. Rieley**  
**Reconvene**      **to come out of Executive Session and into regular session.**

**Motion Adopted:      5 Yeas.**

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

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

**M 147 22**      **A Motion was made by Mr. Schaeffer, seconded by Mrs. Green to adjourn**  
**Adjourn**      **at 12:48 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.}*

## ENGINEERING DEPARTMENT

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



# Sussex County


DELAWARE  
sussexcountyde.gov

HANS M. MEDLARZ, P.E.  
COUNTY ENGINEER

JOHN J. ASHMAN  
DIRECTOR OF UTILITY PLANNING

## Memorandum

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

FROM: John J. Ashman   
Director of Utility Planning & Design Review

RE: ***Existing Wastewater Infrastructure Use Agreement  
Tupelo Sands IUA-1150  
File: OM 9.01***

DATE: April 5, 2022

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

The Engineering Department requests approval of an agreement for the existing wastewater infrastructure use with **DHIC, LLC** for the **Tupelo Sands** project in the Millville Area. Such an arrangement does not modify the underlying land use decision in any form. However, it allows the wastewater originating from the approved project to be conveyed through the existing transmission system previously constructed by the County.

Under the proposed arrangement, the **Tupelo Sands** project will connect to the existing County owned wastewater infrastructure. In return for utilization of said infrastructure **DHIC, LLC** will contribute **\$290,418.00** for the financial catch-up contribution of the existing infrastructure to serve **201.42** Equivalent Dwelling Units. Payment will be required prior to receiving beneficial acceptance of the on-site pumpstation. System Connection Charges in place at the time of building permit request will still apply.



## EXISTING WASTEWATER INFRASTRUCTURE USE AGREEMENT

### TUPELO SANDS – IUA1150

THIS AGREEMENT (“Agreement”), made this 5<sup>TH</sup> day of APRIL 2022, by and between:

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

**DHIC, LLC** a Delaware Limited Liability Company and developer of a project known as Tupelo Sands, hereinafter called the “Developer.”

### WITNESSETH:

**WHEREAS**, Developer is developing a tract of land identified as Tax Map parcels 134-15.00-93.01 to be known as Tupelo Sands (“Project”) and;

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

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

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

- (1) Developer is proposing to utilize County’s existing collection and transmission capacity by connecting to existing regional infrastructure used by multiple pump stations.
- (2) In exchange for permission to connect up to **201.42** additional equivalent dwelling units to County’s existing system and to utilize the existing capacity in said system, Developer agrees to financial catch-up contribution in the amount of **\$290,418.00** for said existing facilities.
- (3) The contribution amount in the case of multiple pump stations using an existing collection and transmission system is based on the ratio of average flow capacity utilization of said transmission facilities.
- (4) **Payment of the contribution must be submitted prior to substantial completion of the on-site collection system.**
- (5) If the Project (as currently submitted) is amended and County determines in its sole discretion that such amendments materially affect this Agreement, this Agreement may be declared by County to be null and void, and any unused payments made

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

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

- (13) All the terms, covenants, and conditions of this Agreement shall in all respects be governed and construed under and pursuant to the Laws of the State of Delaware without respect to its conflict of law provisions. This Agreement may only be amended, supplemented or modified by a subsequent written agreement executed by all the parties hereto.
- (14) This Agreement and exhibits constitute the final, entire and exclusive agreement between the parties with respect to the subject matter of all matters discussed in it and supersedes all prior or contemporaneous discussions, statements, representations, warranties or agreements, whether written or oral, made in connection with the Agreement described herein.
- (15) It is mutually agreed between the parties that no review, approval, acceptance, and/or payment made under this Agreement shall be conclusive evidence of the performance of the Agreement, either wholly or in part, and that no review, approval, acceptance, and/or payment shall be construed as acceptance of defective work by County, nor in any way relieve Developer of its responsibility for the adequacy of its work.
- (16) The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach. Neither party shall be deemed to have waived any rights under this Agreement unless such waiver is expressly given in writing and signed by the waiving party. No delay or omission on the part of either party in exercising any right shall operate as a waiver of such right or any other right.
- (17) This Agreement shall be executed in duplicate, any copy of which shall be considered and construed as and for the original.
- (18) If any provision of this Agreement shall be deemed invalid or unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not render invalid or unenforceable any of the other provisions of this Agreement which may be given effect without such invalid or unenforceable provision, and to this end, the provisions of this Agreement are hereby deemed to be severable.
- (19) Any notice required to be delivered to or by either party under this Agreement shall be sent by U.S. first class mail. For purposes of this provision, the address of the County is 2 The Circle, P.O. Box 589, Georgetown, Delaware, 19947, and the address of the Developer is **DR Horton, Attn: John Dameron – 181 Harry S. Truman Pkwy, Suite 250 Annapolis, MD 21401**

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

**FOR THE COUNTY:**

{Seal}

By: \_\_\_\_\_  
(President - Sussex County Council)  
\_\_\_\_\_  
(DATE)

ATTEST:

\_\_\_\_\_  
Tracy Torbert  
Clerk of the County Council

**FOR DHIC, LLC**

By: R. Elam Hall (Seal)  
R. Elam Hall - Authorized Signatory

March 21, 2022 (DATE)

WITNESS:

J. D. Dameron  
John D. Dameron

1 **AN ORDINANCE TO AMEND CHAPTER 52, § 52-1 OF THE**  
2 **CODE OF SUSSEX COUNTY TO ADOPT THE BUILDING**  
3 **CONSTRUCTION STANDARDS IN THE INTERNATIONAL**  
4 **BUILDING CODE 2021 EDITION AND THE INTERNATIONAL**  
5 **RESIDENTIAL CODE 2021 EDITION.**

6  
7 WHEREAS, with certain exemptions, Sussex County previously adopted  
8 the International Building Code 2012 Edition, Chapters 1-26 and 35,  
9 which governs the construction of commercial buildings; and

10  
11 WHEREAS, International Building Code 2012 Edition has been updated,  
12 most recently by the International Building Code 2021 Edition; and

13  
14 WHEREAS, with certain exemptions, Sussex County previously adopted  
15 the International Residential Code 2012 Edition, Chapters 1-10, which  
16 governs the construction of residential buildings; and

17  
18 WHEREAS, International Residential Code 2012 Edition has been  
19 updated, most recently by the International Residential Code 2021  
20 Edition; and

21  
22 WHEREAS, Sussex County desires to update the building standards for  
23 both commercial and residential construction by adopting the  
24 International Building Code 2021 Edition, Chapters 1-26, and the  
25 International Residential Code 2021 Edition, Chapters 1-10, subject to  
26 certain exemptions.

27  
28 **NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY**  
29 **ORDAINS:**

30 **Section 1. The Code of Sussex County, Chapter 52, Article I, § 52-1,**  
31 **Adoption of standards; exemptions, is hereby amended by deleting**  
32 **the language in brackets and inserting the italicized and underlined**  
33 **language as follows:**

34

35 **§ 52-1, Adoption of standards; exemptions.**

36

37 **A.** The International Building Code (hereinafter “IBC”), Chapters 1  
38 through 26,[ and Chapter 35, 2012] 2021 Edition[ and future  
39 editions], as promulgated, after 60 days subsequent to the  
40 nonchallenged publication of the edition, is hereby adopted as the  
41 building standard for construction in Sussex County as it relates to  
42 the following structures: multifamily residential dwellings,  
43 assembly occupancy, business occupancy, educational occupancy,  
44 hazardous occupancy, factory industrial occupancy, institutional  
45 occupancy, mercantile occupancy and storage occupancy.

46

47 **B. IBC Exemptions.**

48 (1) "Farm buildings," defined as any nonresidential structures, that  
49 are located on a farm and are used in the farming operation  
50 (barns, sheds, poultry houses, swine houses, etc.), are exempt  
51 from the provisions of the IBC as regards construction,  
52 alteration or repair. Any reference to "farm buildings" in any  
53 chapter, section, paragraph, appendix or table in the IBC shall  
54 not be applicable.

55 (2) Land used for agricultural purposes shall be exempt from the  
56 provisions of the IBC as regards construction, alteration or  
57 repair. Land shall be deemed to be in agricultural use when  
58 devoted to the production for sale of plants and animals useful  
59 to man, including but not limited to forages and sod crops;



60 grains and feed crops; dairy animals and dairy products; poultry  
61 and poultry products; livestock, including beef cattle, sheep,  
62 swine, horses, ponies, mules or goats, including the breeding  
63 and grazing of any or all of such animals; bees and apiary  
64 products; fur animals; trees and forest products; or, when  
65 devoted to and meeting the requirements and qualifications for  
66 payments or other compensation pursuant to a soil-  
67 conservation program under an agreement with an agency of  
68 the federal government

69 (3) The obtaining of building permits for assessment purposes  
70 continues to remain in effect.

71 (4) Where the provisions of the IBC and the provisions of the  
72 Sussex County Code conflict, the provisions contained in the  
73 Sussex County Code shall control.

74

75 **C.** The provisions and regulations of the International Residential  
76 Code, Chapters 1 through 10, [2012]2021 Edition[ and future  
77 editions], (hereinafter “IRC”), as promulgated after 60 days  
78 subsequent to the nonchallenged publication of the edition, as they  
79 relate to one- and two-family dwellings, are hereby adopted as the  
80 building standards for construction in Sussex County.

81

## 82 **D. IRC Exemptions**

83 (1) Carports. Carports less than 400 square feet in size are  
84 excluded from inspections.

85 (2) [Landings. A landing is not required on the exterior of a  
86 sliding door.

87 (3) Riser height.

88 (a) Maximum riser height is 8 ¼ inches.

89 (b) The greatest riser height within any flight of stairs  
90 shall not exceed the smallest by more than 3/8  
91 inches, excluding the first and last step of interior  
92 stairs, which may have a difference of 5/8 inches.

93 (4) Tread depth. Minimum tread depth shall be nine inches,  
94 including winders.

95 (5) Foundation anchorage. No anchor bolts will be required at the  
96 end of each plate section, excluding corners.

97 (6) ]Automatic fire sprinkler systems, IRC § R313. Automatic fire  
98 sprinkler systems shall be exempted from one- and two-  
99 family dwellings and townhouses.

100 ([7]3) Where the provisions of IRC and the provisions of the  
101 Sussex County Code conflict, the provisions contained in the  
102 Sussex County Code shall control.

103

104 **Section 4. Effective Date. This Ordinance shall become effective on**  
105 **\_\_\_\_\_ , 2022.**

106

107 **Synopsis**

108

109 **This Ordinance amends Chapter 52, § 52-1 by adopting the**  
110 **International Building Code (“IBC”) 2021 Edition, Chapters 1-26,**  
111 **and the International Residential Code (“IRC”) 2021 Edition,**  
112 **Chapters 1-10, subject to the exemptions set forth in Chapter 52, §**  
113 **52-1B. and §52-1D., respectively.**

114

115 **Deleted text is in brackets. Additional text is italicized and**  
116 **underlined.**

## ENGINEERING DEPARTMENT

HANS M. MEDLARZ  
COUNTY ENGINEER

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

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



# Sussex County

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

## Memorandum

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

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

RE: *FY 2022 Environmental Services - Vacuum Truck Award*

DATE: April 5, 2022

The Environmental Services Division divides its system maintenance in three areas. Each one of these areas is supported by a vacuum truck. With the addition of the Western Sussex sewer service area, the Division requested, and Council approved in the FY 2022 Budget, the addition of a fourth truck to be housed in the Western Sussex maintenance facility.

An open-source bid based on specific criteria would exclude certain, if not all but one manufacturer. Therefore, the Department solicited a price quotation based on “similar but not equal” criteria based on the individual manufacturer’s option. An identical request was sent to all five (5) leading manufacturers of this type of equipment. Four of these manufacturers offer a combination vacuum/jetting unit. One manufacturer (TRUEVAC) offers two individual units. The latter approach has some benefits but is cost prohibitive based on the bids received.

In addition to the cost, we requested a delivery schedule and a summary of available maintenance options. One of the manufacturers (VACTOR) cannot deliver the unit before the 3<sup>rd</sup> quarter of 2023, eliminating their bid from consideration. The remaining three were evaluated based on 70 points for lowest cost and 15 points each on shortest schedule and best maintenance availability respectively. VACALL has the best maintenance package with a mobile service and 24-hour emergency response team. The results are as follows:

1. Super Products Camel Max with Total Points = 95 (70+15+10)
2. VACALL with Total Points = 96.25 (68.75+12.5+15)
3. VAC-CON with Total Points = 84.9 (62.4+12.5+10)

The Department recommends award to VACALL in the amount of \$453,408.84.



## Combination – Jet-Vac Truck

- **\$445,392.00**

- Super Products Camel Max – Model 1200 – 2023 Freightliner
  - H.A. DeHart & Son Transportation Equipment Specialists
    - Joe Tompkins (President)
      - 311 Crown Point Rd, Thorofare N.J. 08086
      - 856-845-2800 x20 (office) 856-981-5668 (cell)
      - [jt@hadehart.com](mailto:jt@hadehart.com)
- Proximity of Service Provider
  - Fleet Maintenance
    - 130 W. Boxhorn Drive, Mukwonago, WI 53149
  - Satellite Location
    - T.K. Chesapeake – 36550 Sussex Highway Delmar, DE 19940
    - Service – Mike Parker – 302-907-0345
    - Mobile Service Technician and Trainer for on-site minor repairs
- Delivery Schedule
  - 120 to 150 Days

- **\$453,408.84**

- VACALL – AJV1215 – 2022 Freightliner 114SD Chassis
  - Mid-Atlantic Waste Systems – Division of THC Enterprises, INC
    - Colin Kraus (Sales Representative)
      - 10641 Cordova Rd Easton, MD 21601
      - 800-338-7274 (office) 410-725-6121 (cell)
      - [ckraus@mawaste.com](mailto:ckraus@mawaste.com)
- Proximity of Service Provider
  - Fleet Maintenance Service
    - 10641 Cordova Rd Easton, Maryland
    - Mobile Service – Preventative Maintenance and Service
    - 24-Hour Emergency Response
    - Preventative Maintenance Program available
- Delivery Schedule
  - 180 Days (September 2022)

- **\$490,886.00**

- VACTOR – 2100i Series - 2023 International
  - MD Industrial Trucks
    - Mike Moylan (Sales Representative)
      - 1330 W Nursery Rd, Linthicum Heights, MD 21090
      - 410-636-1255 (office) 443-386-2219 (cell)
      - [mmoylan@mdindustrialtrucks.com](mailto:mmoylan@mdindustrialtrucks.com)
- Proximity of Service Provider
  - Fleet Maintenance Service
    - 1330 W Nursery Rd, Linthicum Heights, MD 21090
  - Satellite Location
    - 31057 Frankford School Rd, Frankford, DE 19945
    - Mobile Service – Minor Repairs
- Delivery Schedule
  - 3<sup>rd</sup> Quarter of 2023

- **\$499,957.00**

- VAC-CON – 2022 Freightliner 114SD Chassis
  - Atlantic Machinery, Inc.
    - Trevor “T” Gardner (Sales Representative)
      - 2628 Garfield Avenue, Silver Spring, MD 20910
      - 301-585-0800 (cell)
      - [Tgardner@atlanticmachineryinc.com](mailto:Tgardner@atlanticmachineryinc.com)
- Proximity of Service Provider
  - Fleet Maintenance Service
    - 2628 Garfield Avenue, Silver Spring, MD 20910
    - Mobile Service – Minor Repairs
- Delivery Schedule
  - 120 to 180 Days

## Vac Truck

- **\$417,758.00**
  - TRUVAC Hydro Excavation – 2023 Freightliner HV607 – Tandem Axle
    - Vactor Manufacturing 1621 S. Illinois Streator, IL 61364
      - Mike Moylan (Sales Representative)
        - 410-636-1255 (office) 443-386-2219 (cell)
        - [mmoylan@mdindustrialtrucks.com](mailto:mmoylan@mdindustrialtrucks.com)

## Jet Truck

- **\$278,070.00**
  - VACTOR – Ram Jet - Jetter - 2023 International HV607
    - Vactor Manufacturing 1621 S. Illinois Streator, IL 61364
      - Mike Moylan (Sales Representative)
        - 410-636-1255 (office) 443-386-2219 (cell)
        - [mmoylan@mdindustrialtrucks.com](mailto:mmoylan@mdindustrialtrucks.com)

## Mid-Range Jetter – Trailer Mounted

- **\$70,000.00**
  - Extreme Flow III -Hot Jet USA
    - Power Line USA, 14773 Heritage Crest Way Riverton, UT 84065
      - 1-800-624-8186
      - [www.HotJetUSA.com](http://www.HotJetUSA.com)

### Council Grant Form

**Legal Name of Agency/Organization** ~~Georgetown Millsboro Rotary Club~~  
Delaware Community Foundation

**Project Name** Flags for Heroes 2022

**Federal Tax ID** 22-2804785 OK

**Non-Profit** Yes

**Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)**

No

**Organization's Mission** The Rotary motto is "Service Above Self". We provide a variety of programs, projects and services of benefit to the people of the Georgetown and Millsboro areas.

**Address** Post Office Box 164

**Address 2**

**City** Georgetown

**State** Delaware

**Zip Code** 19947

**Contact Person** Marlene Elliott Brown OK

**Contact Title** Member

**Contact Phone Number** 3022701078

**Contact Email Address** [marleneelliottbrown07@gmail.com](mailto:marleneelliottbrown07@gmail.com)

**Total Funding Request** \$1,000

**Has your organization received other grant funds from Sussex County Government in the last year?** Yes

**If YES, how much was received in the last 12 months?** 1000

**Are you seeking other sources of funding other than Sussex County Council?** Yes

**If YES, approximately what percentage of the project's funding does the Council grant represent?** 4

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

**Program Category Other** Patriotic/Community Service



**Primary Beneficiary Category** Other

**Beneficiary Category Other** Veterans/Community Needs

**Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program** 500

**Scope**

For the 9th year, the Georgetown-Millsboro Rotary Club is preparing to display over 500 American flags in honor of military members, first responders, and frontline workers. The flags will be displayed in 6 locations in Georgetown and Millsboro. The entire display is featured for Memorial Day week and a smaller display for Independence Day and Veterans Day.

Over the last 9 years, the Rotary Club has raised over \$120,000 in honor of these heroes who give so selflessly to our community, our county and our country. Last year's proceeds allowed the Rotary Club to give over \$20,000 to support the work of community organizations. Beneficiaries of the 2021 program included the Boys and Girls Club, Christian Storehouse, the Georgetown Historical Society, Everlasting Hope, Kody's Kids, La Esperanza, Love Drives Foundation, Philadelphia Arms Townhomes, Primeros Pasos, and the Sussex County Habitat for Humanity.

The donations for this project are handled by the Delaware Community Foundation. Therefore, checks are payable to the Foundation and noted for the Georgetown-Millsboro Rotary Club Flags for Heroes project and their Tax ID

number is the one listed on this application. Donors and sponsors are recognized in an insert that is published by the Delaware State News, on banners at the flag displays, in all media releases and at a Sponsors luncheon that is held at a later date.

After the devotion of these heroes especially over the last 2 years, it is our privilege to pause and honor those who have done so much for all of us, both near and far. The Rotary Club wants to express our sincere appreciation for the County's support of this project that receives such a wonderful response from the community as flags are unfurled across Georgetown and Millsboro and that serves so many worthy organizations in the work they are doing to serve our communities. We would respectfully ask for your continued support.

**Religious  
Components**

**Please enter the  
current support your  
organization receives  
for this project (not  
entire organization  
revenue if not  
applicable to request)** 25,000.00

**Description** Newspaper Insert

**Amount** 3,500.00

**Description** Banners for Display

**Amount** 500.00

**Description** Community Grants

**Amount** 22,000.00

**Description** Appreciation Event

**Amount** 500.00

**Description** Flag Replacement

**Amount** 750.00

**Description**

**Amount**

**Description**

**Amount**

**Description**

**Amount**

**TOTAL EXPENDITURES** 27,250.00

**TOTAL DEFICIT FOR  
PROJECT OR  
ORGANIZATION** -2,250.00

**Name of Organization** Georgetown-Millsboro Rotary Club

**Applicant/Authorized  
Official** Marlene Elliott Brown

**Date** 03/23/2022

**Affidavit**

Yes

**Acknowledgement**

Mark as Spam in D3 Forms. Please do not mark as spam in your email client, as it will result in you no longer receiving D3 Forms notifications. Feel free to email [info@d3forms.com](mailto:info@d3forms.com) with any questions.

Schaeffer.  
3.29.22 (OK)

### Council Grant Form

**Legal Name of Agency/Organization** Developing Artist Collaboration ~~Incorporated~~

**Project Name** West Rehoboth Legacy Project

**Federal Tax ID** 821214176 (OK)

**Non-Profit** Yes

**Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)**

No

**Organization's Mission**

The Developing Artist Collaboration (DAC) is dedicated to the expansion of careers in the Arts. We offer professional engagement opportunities and connection to a thriving community, a combination designed to support Artists at any stage of their journey. Our programming includes expert led workshops, educational resources, communal creation space, peer collaboration, dedicated mentorship and innovative presentation opportunities. We encourage artists to reciprocally invest in the community through workforce development and volunteer opportunities. Our dynamic model for an Arts nonprofit provides income sustainability to our organization, community development, and cultural enrichment throughout Sussex County.

**Address** 37401 Malloy St

**Address 2**

**City** Rehoboth Beach

<b>State</b>	DE
<b>Zip Code</b>	19971-1237
<b>Contact Person</b>	Leah Beach
<b>Contact Title</b>	Founder of DAC
<b>Contact Phone Number</b>	3022129798
<b>Contact Email Address</b>	<a href="mailto:leah@developingarts.org">leah@developingarts.org</a>
<b>Total Funding Request</b>	\$20,000.00
<b>Has your organization received other grant funds from Sussex County Government in the last year?</b>	Yes
<b>If YES, how much was received in the last 12 months?</b>	5000
<b>Are you seeking other sources of funding other than Sussex County Council?</b>	Yes
<b>If YES, approximately what percentage of the project's funding does the Council grant represent?</b>	23.52

**Program Category (choose all that apply)** Cultural, Educational, Infrastructure

**Program Category Other**

**Primary Beneficiary Category** Minority

**Beneficiary Category Other**

**Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program** 250000

**Scope**

The Developing Artist Collaboration (DAC) is dedicated to the expansion of careers in the Arts. We offer professional engagement opportunities and connection to a thriving community, a combination designed to support Artists at any stage of their journey. Our programming includes expert led workshops, educational resources, communal creation space, peer collaboration, dedicated mentorship and innovative presentation opportunities. We encourage artists to reciprocally invest in the community through workforce development and volunteer opportunities. Our dynamic model for an Arts nonprofit provides income sustainability to our organization, community development, and cultural enrichment throughout Sussex County.

West Rehoboth has a rich cultural history that is overshadowed by the harmful stigma created by the struggles of its community members. There are few historical markers to the public to help remove this stigma

and create a better understanding of the importance of West Rehoboth to the greater Rehoboth area. Because our facilities are located within West Rehoboth, we have developed a close connection with the community and feel it is our duty to help correct this. We aim to do so by creating an educational mural experience to help illustrate its history and uplift the voices of the original community members. We intend to build a modern website to accompany this mural as a digital reference as well as invest in signage to display throughout the community.

The mural will have a historical timeline about the rich history of West Rehoboth also incorporating relevant Black History from the Downtown Rehoboth region. This timeline will have relevant family history as well as iconic black owned businesses and important stories to tell the full story about this community. These will be accompanied by mounted QR codes that will allow the viewer to access videos describing the scene the viewer is experiencing, told by community members and descendants of native families. Mural artist Terrance Vann, whose family is from West Rehoboth, will create the mural. 100% of the content of this mural and historical information is dictated by the community led by our community partners through a community outreach non-profit based here, West Side New Beginnings.

Our timeline will be March 2022 a collection of historical data and content selection with community partners. This effort will be led by a committee of community leaders who will select the content featured on the mural. April 2022 will begin the collection of the history on the individual families featured on the wall and general historical narrative. Our website will be built to accompany the launch of the mural. Memorial Day Weekend 2022 will be the completion of the mural, accompanied by a public unveiling and the launch of the basic website.

Beyond May will be continuous data collection and



professional video of oral histories with a further update to historical content on the website. A professional video of an oral history of the content featured on the wall will be added to the site and will populate QR codes that will be featured on the wall as a virtual narrative to the project. Updates about the community will also appear on the website and the website will be maintained continuously. We will also be investing in signage to be displayed throughout the community honoring its legacy displayed prominently in areas most accessed by the popular Breakwater Trail Bike Trail.

This mural will cultivate a connection of the general public to the current largely unknown history of West Rehoboth. The primary outcome we anticipate is to eliminate the current harmful stigma about West Rehoboth and provide a valuable educational resource for tourists, schools, and the general community which currently does not exist.

Our organization has achieved a fundraising goal of \$20,000 to this project through our own allocation of funding to the project. In addition, we have just received a \$20,000 grant from the Delaware Community Fund towards to project. While we work on developing and implementing this project we also have our organizational programming running at full capacity. January through April we have a significant decrease in program revenue.

We are seeking financial support from Sussex County Council to allocate funding to this important project so that the full financial responsibility does not fall directly on us. The request of \$20,000 will make a great difference in the project and we currently have a sign describing the project that gives thanks to the Sussex County Council for previous financial support towards the project. We intend to include a plaque to honor the support of the Sussex County Council once the mural is finished, in particular for Councilman Mark Schaeffer for his individual support so far.

**Religious  
Components**

**Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)** 50,000.00

**Description** Personelle

**Amount** 61,000.00

**Description** Project Supplies

**Amount** 14,000.00

**Description**

**Amount**

**Description**

**Amount**

**Description**

**Amount**

**Description**

**Amount**

**Description**

**Amount**

**Description**

**Amount**

**TOTAL EXPENDITURES** 75,000.00

**TOTAL DEFICIT FOR  
PROJECT OR  
ORGANIZATION** -25,000.00

**Name of Organization** Developing Artist Collaboratio

**Applicant/Authorized  
Official** Leah Beach

**Date** 03/25/2022

**Affidavit** Yes

**Acknowledgement**

Mark as Spam in D3 Forms. Please do not mark as spam in your email client, as it will result in you no longer receiving D3 Forms notifications. Feel free to email [info@d3forms.com](mailto:info@d3forms.com) with any questions.

To Be Introduced: 04/05/22

Council District 2: Mrs. Green  
Tax I.D. No. 130-6.00-22.00  
911 Address: N/A

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FARM TRACTOR AND TRUCK REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 20 ACRES, MORE OR LESS**

WHEREAS, on the 13<sup>th</sup> day of January 2022, a conditional use application, denominated Conditional Use No. 2341 was filed on behalf of Caden Oplinger; 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. 2341 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. 2341 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Cedar Creek Hundred, Sussex County, Delaware, and lying on the southeast side of Shawnee Road (Route 36), approximately 0.23 mile south of Abbotts Pond Road (S.C.R. 620), and being more particularly described in the attached legal description prepared by Moore & Rutt, P.A., said parcel containing 20 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: 04/05/2022

Council District 4: Mr. Hudson  
Tax I.D. No. 134-11.00-191.00  
911 Address: 34464 Atlantic Ave, Ocean View

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 3.91 ACRES, MORE OR LESS**

WHEREAS, on the 22<sup>nd</sup> day of February 2022, a zoning application, denominated Change of Zone No. 1980 was filed on behalf of MARS-RE, LLC.; 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. 1980 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 south side of Atlantic Ave (Rt. 26) approximately 475 ft. east of Powel Farm Road (S.C.R 365) and being more particularly described in the attached legal description prepared by Bonnie M. Benson, P.A, said parcel containing 3.91 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 Re-Introduced: 04/05/22**  
**Council District 5: Mr. Rieley**

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

**AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 235-30.00-94.00.**

WHEREAS, on May 21<sup>st</sup>, 2021, the Sussex County Planning and Zoning Office received an application for a Comprehensive Plan Amendment Request to amend the Future Land Use Map element of the Comprehensive Plan to change the Area designation of a portion of Sussex County Parcel No. 235-30.00-94.00 from a Low Density Area to an Existing Development Area.

WHEREAS, the Parcel comprises 4.54 acres of land, lying and being within Broadkill Hundred, and located on the west side of Harbeson road (Route 5) approximately 475 feet south of Lewes Georgetown Highway (Route 9). 911 Address: 18672 Harbeson Road, Harbeson. (“The Property”)

WHEREAS, The Property is designated as being within both the Low-Density Area and Existing Development 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 a portion of the parcel currently classified as Low-Density Area designation of Sussex County Parcel No. 235-30.00-94.00 from the Low-Density Area to the Existing Development Area. The portion of Sussex County Parcel No. 235-30.00-94.00 so changed is identified in Exhibit A, attached hereto and incorporated herein.

**Section 2.** This Ordinance shall also take effect following its adoption by majority vote of all members of the County Council of Sussex County, Delaware, and upon certification by the State of Delaware.

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



**Sussex County**

DELAWARE  
sussexcountyde.gov

## Memorandum

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

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

CC: Everett Moore, County Attorney

Date: April 1, 2022

RE: County Council Report for C/U 2287 filed on behalf of Danielle Roach

---

The Planning and Zoning Department received an application (C/U 2287 filed on behalf of Danielle Roach) for a Conditional Use for parcel 234-12.18-41.00 for a craft business with outdoor storage. The property is located within the General Residential (GR) Zoning District and is located at 22928 Pine Road. The parcel size is 0.34 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on February 17, 2022. At the meeting of March 24, 2022, the Planning & Zoning Commission recommended approval of the application subject to 5 reasons stated and subject to 7 recommended conditions as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meetings of February 17, 2022 and March 24, 2022.

Minutes of the February 17, 2022 Planning & Zoning Commission Meeting

### **C/U 2287 Danielle Roach**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A CRAFT BUSINESS WITH OUTDOOR STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.34 ACRES, MORE OR LESS.**

The property is lying on the northwest side of Pine Road. 911 Address: 22928 Pine Road. Tax Parcel: 234-12.18-41.00.

Mr. Whitehouse advised the Commission that submitted into the record is the staff analysis, a letter from Sussex County Engineering Department Utility Planning Division, the property deed, the



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

Applicant's survey, the DelDOT Service Level Evaluation Response, zero comments, and zero mail returns.

The Commission found Ms. Danielle Roach spoke on behalf of her Application; that she and her husband started a business a year ago called Crafty Couple; that they purchase empty wine and bourbon barrels; that they sell the barrels as is, and at times have made custom orders, such as making the barrels into furniture or engraving.

Mr. Mears questioned the traffic to the property, the number of employees, the use and storage of hazardous chemicals, and the hours of operation.

Ms. Wingate questioned the number of barrels and the location of the barrels stored outside of the garage.

Ms. Stevenson questioned where the location of the work to the barrels is performed and requested the barrels and property be maintained cleanly and neatly.

Mr. Robertson questioned the characteristics of the neighboring properties, if the property was in a subdivision and if there were any restrictive covenants that would restrict any type of business from operating on the property.

Chairman Wheatley questioned if there was a Homeowners Association and he questioned who maintains the roads of the development.

Ms. Roach stated there is often not much traffic; that her husband frequently picks up the barrels, which he loads on his trailer; that she receives the barrels from Dogfish Head Brewery and The Painted Stave; that her husband also drives to Pennsylvania to pick up barrels; that if her husband cannot pick up the barrels himself, there are times trucks will deliver the barrels to the property; that the only employees are herself and her husband; that they have no desire for more employees at this time; that they occasionally use stains for custom orders; that all chemicals are stored inside; that the business is her husband's full-time employment; that hours are whenever her husband is able to do the work; that currently the barrels are mainly stored in the driveway and inside their garage; that they store about 30-50 barrels outside of their garage; that occasionally there are more barrels depending on the size of the load; that the work done to the barrels is performed inside the garage; that they do have adjacent neighbors to the right and left of the property and three neighbors across from the property; that she is not aware of any current restrictive covenants of the property; that the property is part of the previous subdivision called, Angola Neck Park; that when they first moved to the property there was no sign for the development; that recently a small sign has been placed stating the development name; that the barrels are wooden barrels; that there is no current Homeowners Association; that no dues are collected; that there is no common ownership areas; that they are on County sewer; that no one currently maintains the road and the road is gravel and unpaved.

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.



Chairman Wheatley stated typically the Planning & Zoning Commission does not allow Conditional Uses, within a subdivision, with private streets and he is concerned as the subject property is located within a platted subdivision.

Mr. Whitehouse stated the subject Application came forward as a result of an issued violation from the Constables office due to a submitted complaint for the outside storage of the barrels and if it were not for the outside barrel storage, the request potentially could be considered a Home Occupation.

In relation to Application C/U 2287 Danielle Roach. Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to defer action for further consideration. Motion carried 5-0.

Draft Minutes of the March 24, 2022 Planning & Zoning Commission Meeting

The Commission discussed the Application which has been deferred since February 17, 2022.

Mr. Mears moved that the Commission recommend approval of C/U 2287 Danielle Roach for a condition use to allow a small craft business, but without outdoor storage, based on the record made during the public hearing and for the following reasons:

1. The Applicant seeks this Conditional Use so that she and her husband can continue to operate their small home-based business converting used wooden barrels into furniture and other household-type uses.
2. Based on the testimony given during the hearing, this use is very nearly a home occupation. It could possibly be considered a home occupation under the Sussex County Zoning Code if not for the outside storage of barrels that is proposed.
3. The location is within an existing, but older, subdivision. It does not appear that there are any restrictive covenants that would prohibit this small business use in this location. However, the Commission is reluctant to establish conditional uses to operate a business in an otherwise residential subdivision. As a result, it is appropriate to include limitations on this recommendation.
4. The use, with the conditions and limitations placed upon it, will not adversely affect neighboring properties or roadways.
5. No parties appeared in opposition to this Application.
6. This recommendation is subject to the following conditions:
  - A. The use shall be limited to Applicant's intended use of converting used wooden barrels into household furnishings and other similar items. No other types of manufacturing shall occur on the site.
  - B. No retail sales shall occur from the site.
  - C. The barrels and other materials used in this business shall only be stored inside of a structure on the site. Any new structures must comply with all setbacks and their location must be shown on the Final Site Plan.
  - D. All work associated with this use shall occur indoors.
  - E. Because this use is located in a residential subdivision and because no retail sales are permitted from the site, there shall not be any signage advertising the business on the site.

- E. The failure to comply with any of these conditions may result in a termination of this Conditional Use.
- F. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Committee.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of C/U 2287 Danielle Roach for the reasons and conditions stated in the motion. Motion carried 5-0.

**PLANNING & ZONING COMMISSION**

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



**Sussex County**

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

**PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET**  
Planning Commission Public Hearing Date: February 17<sup>th</sup>, 2022

Application: CU 2287 Danielle Roach

Applicant: Danielle Roach  
22928 Pine Road  
Lewes, DE 19958

Owner: Danielle Roach  
22928 Pine Road  
Lewes, DE 19958

Site Location: Lying on the southeast side of Pine Road approximately 0.21 miles northwest of Camp Arrowhead Road (S.C.R. 279).

Current Zoning: General Residential (GR) Zoning District

Proposed Zoning: General Residential (GR) Zoning District

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Hudson

School District: Cape Henlopen School District

Fire District: Rehoboth Beach Fire Department

Sewer: Sussex County

Water: Well

Site Area: 0.338 acres +/-

Tax Map ID.: 234-12.18-41.00



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: February 9, 2022  
RE: Staff Analysis for CU 2287 Danielle Roach

---

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2287 Danielle Roach to be reviewed during the February 17, 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 Conditional Use for Tax Parcel: 234-12.18-41.00 for a craft business with outdoor storage. The parcel is lying on the southwest side of Pine Road, approximately .20-miles northwest of Camp Arrowhead Road (S.C.R. 279). The parcel consists of 0.34 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 surrounding and adjacent properties located to the north, south, east and west of the subject property also lie within the "Coastal Area" Future Land Use Map designation.

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

The subject property is zoned General Residential (GR). The adjacent properties to the north, south, east, and west of the subject sites are also zoned General Residential (GR).

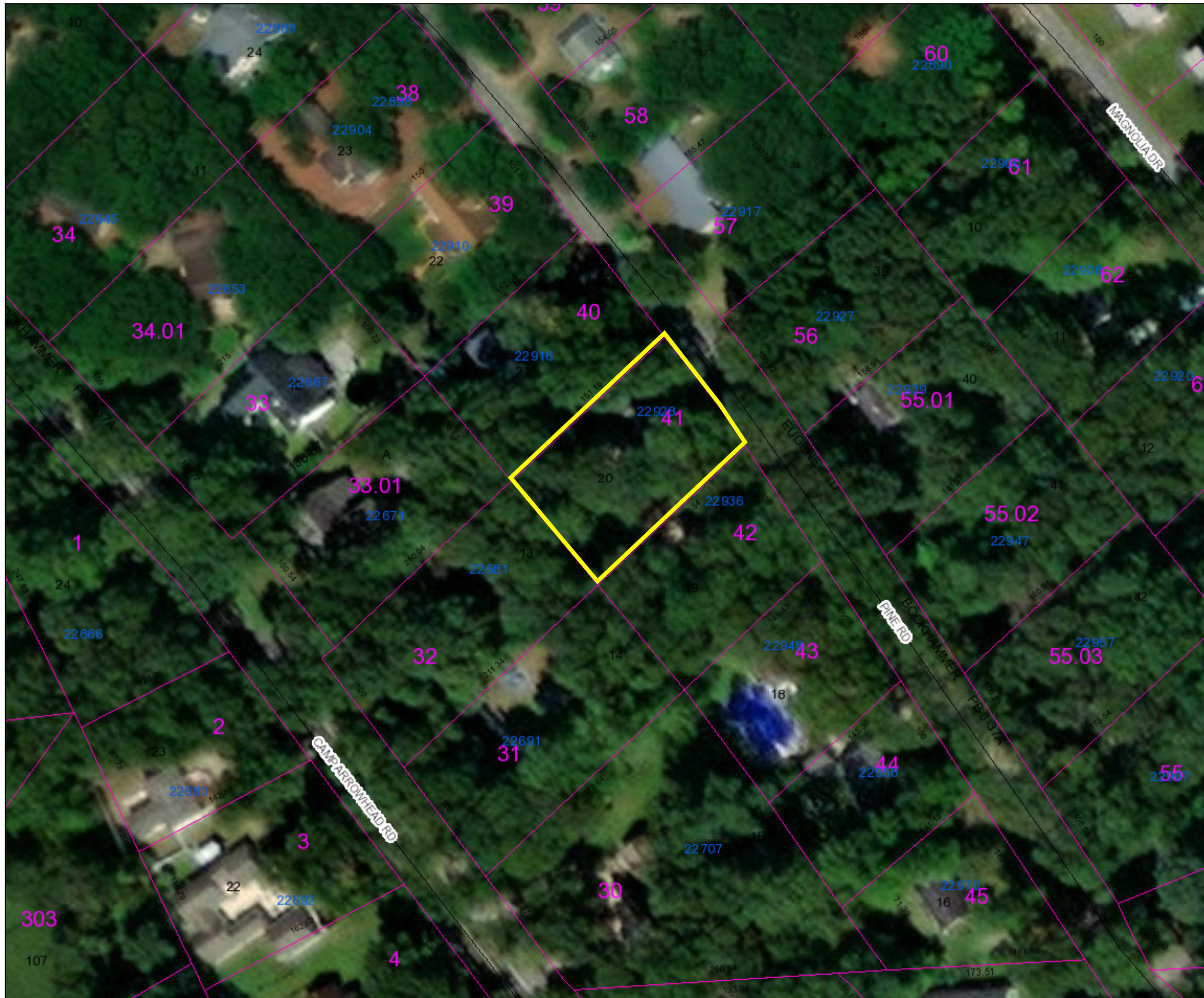
Since 1971, there have been 9 Conditional Use applications within a half-mile radius of the application site. Of the 9 Conditional Use applications within a half-mile radius, 7 have been approved, 1 has been denied, and 1 was withdrawn.

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





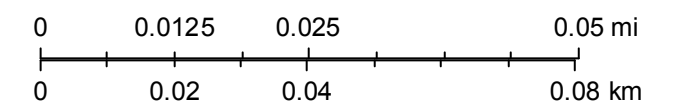
# Sussex County



<b>PIN:</b>	234-12.18-41.00
<b>Owner Name</b>	ROACH DANIELLE
<b>Book</b>	5582
<b>Mailing Address</b>	22928 PINE RD
<b>City</b>	LEWES
<b>State</b>	DE
<b>Description</b>	ANGOLA NECK PARK
<b>Description 2</b>	LOT 20
<b>Description 3</b>	N/A
<b>Land Code</b>	

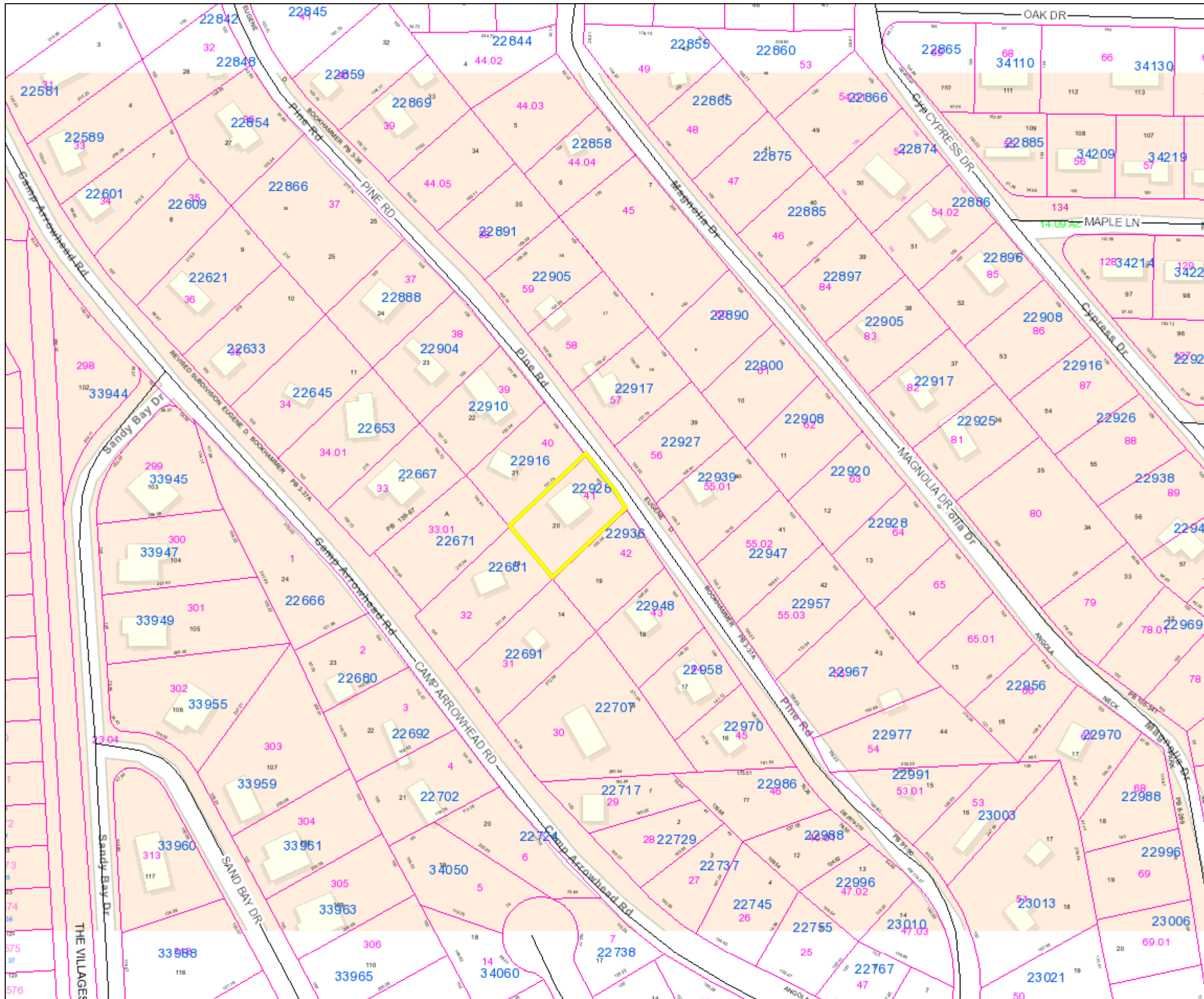
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- Override 1
- Tax Parcels
- 911 Address
- Streets
- County Boundaries

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# Sussex County



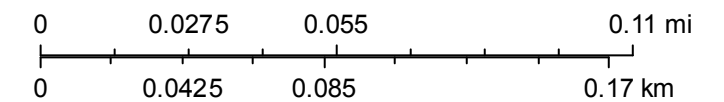
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<b>Owner Name</b>	ROACH DANIELLE
<b>Book</b>	5582
<b>Mailing Address</b>	22928 PINE RD
<b>City</b>	LEWES
<b>State</b>	DE
<b>Description</b>	ANGOLA NECK PARK
<b>Description 2</b>	LOT 20
<b>Description 3</b>	N/A
<b>Land Code</b>	

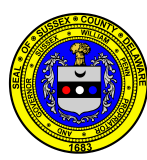
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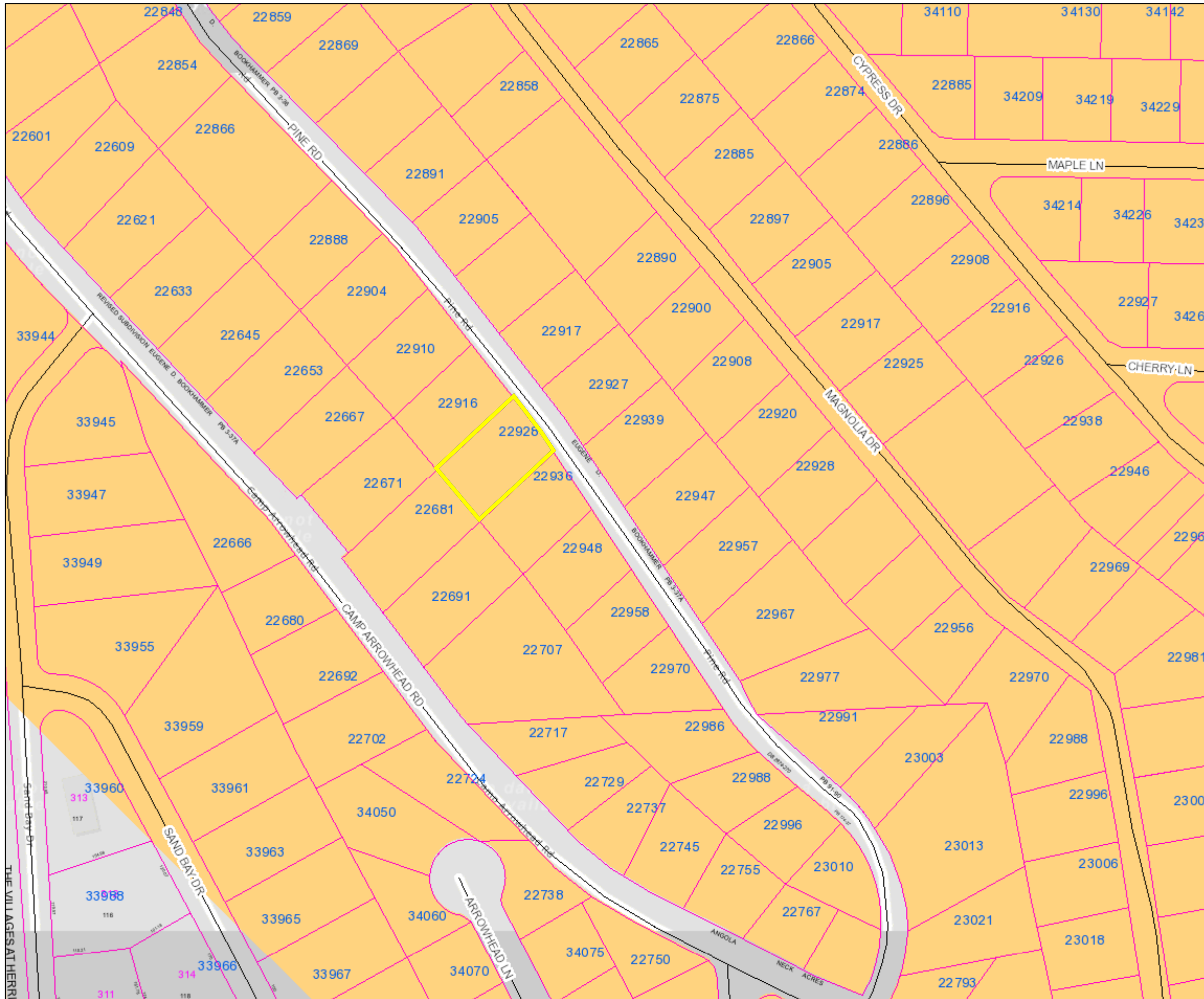
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  - 911 Address
  - Streets
  - County Boundaries

1:2,257





# Sussex County



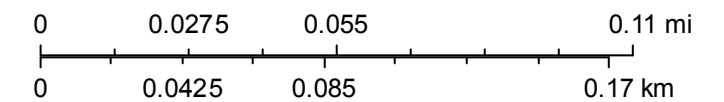
<b>PIN:</b>	234-12.18-41.00
<b>Owner Name</b>	ROACH DANIELLE
<b>Book</b>	5582
<b>Mailing Address</b>	22928 PINE RD
<b>City</b>	LEWES
<b>State</b>	DE
<b>Description</b>	ANGOLA NECK PARK
<b>Description 2</b>	LOT 20
<b>Description 3</b>	N/A
<b>Land Code</b>	

- polygonLayer**

  - Override 1
- polygonLayer**

  - Override 1
- Tax Parcels
- 911 Address
- Streets

1:2,257



**Introduced 06/22/21**

**Council District 4 - Hudson  
Tax I.D. No. 234-12.18-41.00  
911 Addresses: 22928 Pine Road, Lewes**

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A CRAFT BUSINESS WITH OUTDOOR STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.34 ACRES, MORE OR LESS**

**WHEREAS, on the 20th day of May 2021, a conditional use application, denominated Conditional Use No. 2287 was filed on behalf of Danielle Roach; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2021, 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. 2287 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2021, 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 115, Subsection 115-39, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2287 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 northwest side of Pine Road approximately 0.20 mile south of Oak Drive within the Angola Neck Park Subdivision, and more particularly described in the attached legal document prepared by Berl & Feinberg, LLP, containing 0.34 acres, more or less.**

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



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**Sussex County**

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## Memorandum

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

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

CC: Everett Moore, County Attorney

Date: April 1, 2022

RE: County Council Report for C/Z 1950 filed on behalf of Roxana Volunteer Fire Company

---

The Planning and Zoning Department received an application (C/Z 1950 filed on behalf of Roxana Volunteer Fire Company) to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to an I-1 Institutional District. The property is located at 36843, 36855 & 36873 Lighthouse Rd. The change of zone is for 1.5 acres, more or less.

The Planning and Zoning Commission held a public hearing on February 17, 2022. At the meeting of February 17, 2022, the Commission recommended approval of the application for the 7 reasons as outlined within the motion (included below).

Below are the minutes from the Planning & Zoning Commission meeting of February 17, 2022.

Minutes of the February 17, 2022 Planning & Zoning Commission Meeting

### **C/Z 1950 Roxana Volunteer Fire Company**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN I-1 INSTITUTIONAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.5 ACRES, MORE OR LESS.** The property is lying on the northeast side of Lighthouse Road (Rt. 54) approximately 0.53-mile northwest of Bayville Road (S.C.R. 58B). 911 Address: 36843, 36855, & 36873 Lighthouse Road. Tax Parcels: 533-12.00-93.00, 93.01, & 93.02.

Mr. Whitehouse advised the Commission that submitted into the record is the Applicant's boundary survey, the staff analysis, a letter from Sussex County Engineering Department Utility Planning Division,



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GEORGETOWN, DELAWARE

the Applicant's deed, the DelDOT Service Level Evaluation Response, zero comments, and nine mail returns.

The Commission found that Mr. Russell Hooper, Jr. spoke on behalf of the Application C/Z 1950 Roxanna Volunteer Fire Company; that he is the current President of Roxanna Volunteer Fire Company; that the Roxanna Volunteer Fire Company requests to change the subject parcels from AR-1 Agricultural Residential Zoning District to I-1 Institutional District; that they currently operate their substation on the middle parcel; that the substation covers the Rt. 54 corridor; that the substation has been operating under a previously approved Conditional Use permit since inception in 1989; that over the past year the Roxanna Volunteer Fire Company purchased the other three parcels to provide a block of property on the Rt. 54 corridor, where they feel a new fire station could be constructed; that the Rt. 54 corridor is experiencing massive growth; that the current substation cannot house career staff, volunteer duty crews and does not provide the opportunity to establish a live-in program; that all these issues could be resolved with the construction of a new fire station; that the Roxanna Fire Company ran roughly 1,700 combined EMS and fire calls in 2021; that of those calls 80% are located within the main response district of the substation; that having their career staff and the ability to house volunteer duty crews at the proposed station would cut their response time by more than 50% for more than 80% of service calls; that to build a proper fire station, they request to rezone the properties to I-1 Institutional Zoning District; that this will allow for better outline standards and guidelines for the design and engineering phase of the project; that public safety facilities, including ambulance, fire, police, rescue and national security are permitted uses within Section 24 of the I-1 Zoning in the County Code; that for the reasons stated and in the interest of public safety the Roxanna Volunteer Fire Company requests a favorable recommendation from the Planning & Zoning Commission for the Change in Zone.

Ms. Wingate thanked Mr. Hooper for his service; that she believes this is a great service for the community; that the proposed site is a good location to expand on what is already existing and she feels the services are much needed.

Mr. Mears stated he agreed with Ms. Wingate's comments.

The Commission found that 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.

Ms. Wingate moved the Commission recommend approval of C/Z 1950 for a Change in Zone to I-1 Institutional Zoning for the Roxanna Volunteer Fire Company based on the record and for the following reasons:

1. This is a change of zone for the new I-1 Zoning District to allow the fire company to expand its existing site. The I-1 Zoning District has permitted uses that focus on healthcare and institutional used, and this use for a fire company is a permitted use.

2. The rezoning is consistent with the stated purpose of the I-1 District, which is to allow public, quasi-public, and institutional uses to occur on the properties that are compatible with surrounding districts and uses.
3. The rezoning will not adversely affect neighboring properties, public facilities, traffic, or area roadways.
4. The site is located along Route 54, which will provide convenient access to the public uses permitted under the I-1 Zone. This is an appropriate location for an expansion of the fire company's existing station adjacent to this site.
5. The use as a fire station is of a public nature, and it will promote the health, safety, and welfare of the residents of Sussex County.
6. No parties appeared in opposition to this application.
7. Any further development of the site shall be subject to the site plan review and approval of the Planning and Zoning Commission.

In relation to Application C/Z 1950 Roxana Volunteer Fire Company. Motion by Ms. Wingate, seconded by Ms. Stevenson and carried unanimously to recommend approval for the reasons and conditions stated in the motion. Motion carried 5-0.

**PLANNING & ZONING COMMISSION**

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



**Sussex County**

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JAMIE WHITEHOUSE, AICP, MRTPI  
DIRECTOR OF PLANNING & ZONING

**PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET**  
Planning Commission Public Hearing Date: February 17<sup>th</sup>, 2022

Application: CZ 1950 Roxana Volunteer Fire Company

Applicant: Roxana Volunteer Fire Company  
35943 Zion Church Road  
Frankford, DE 19945

Owner: Roxana Volunteer Fire Company  
35943 Zion Church Road  
Frankford, DE 19945

Site Location: 36843, 36855, & 36873 Lighthouse Road, Selbyville. Lying on the northeast side of Lighthouse Road (Rt. 54) approximately 0.53-mile northwest of Bayville Road (S.C.R. 58B)

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

Proposed Zoning: Institutional (I-1) Zoning District

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Rieley

School District: Indian River School District

Fire District: Roxana Fire Department

Sewer: Sussex County

Water: Artesian

Site Area: 1.50 acres +/-

Tax Map IDs.: 533-12.00-93.00, 93.01, & 93.02



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## Memorandum

To: Sussex County Planning Commission Members  
From: Christin Scott, Planner I  
CC: Vince Robertson, Assistant County Attorney, and applicant  
Date: February 9, 2022  
RE: Staff Analysis for CZ 1950 Roxana Fire Company

---

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1950 Roxana Fire Company to be reviewed during the February 17, 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 Parcels 533-12.00-93.00, 93.01, & 93.02 to allow for a change of zone from an Agricultural Residential (AR-1) Zoning District to an Institutional (I-1) Zoning District. The properties are lying on the northeast side of Lighthouse Road (Route 54), approximately 0.53-mile northwest of Bayville Road (S.C.R. 58B). The parcels to be rezoned consist of 1.5 acres +/-.

Staff notes, a response from the Office of State Planning was obtained confirming the request is not required to go through the PLUS process.

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map in the plan indicates that the subject property has a land use designation of "Coastal Area." The properties to the north, south, east and west of the subject property also contain the Future Land Use 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 are also zoned Agricultural Residential (AR-1) Zoning District. The properties to the south on the opposite side of Lighthouse Road (Route 54) are zone Neighborhood Business (B-1), Agricultural Residential (AR-1 & AR-2) and Medium Residential (MR) and the adjacent properties to the west are zoned General Commercial (C-1) District. The property to the east is zoned Agricultural Residential (AR-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 Institutional (I-1) Zoning District is listed as an applicable zoning district in the Coastal Area.

Since 2011, there have been sixteen (16) Change of Zone applications within a 1-mile radius of the application site. The Change of Zone applications approved include Medium Residential (MR), High Density Residential (HR-1), Commercial Residential (CR-1), Neighborhood Business (B-1), and Medium Commercial (C-2) Zoning Districts.

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 an Institutional Zoning District (I-1) could be considered as being consistent with the land use, based on the size, scale, zoning and surrounding uses.



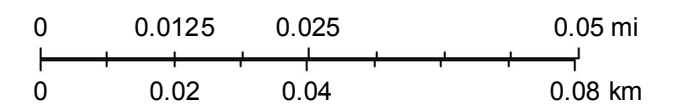
# Sussex County

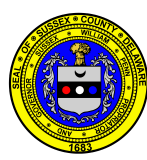


<b>PIN:</b>	533-12.00-93.00
<b>Owner Name</b>	ROXANA VOLUNTEER FIRE CO
<b>Book</b>	2516
<b>Mailing Address</b>	35943 ZION CHURCH RD
<b>City</b>	FRANKFORD
<b>State</b>	DE
<b>Description</b>	NE/RT 54
<b>Description 2</b>	716'NW/ENTR SWANN
<b>Description 3</b>	KEYS
<b>Land Code</b>	

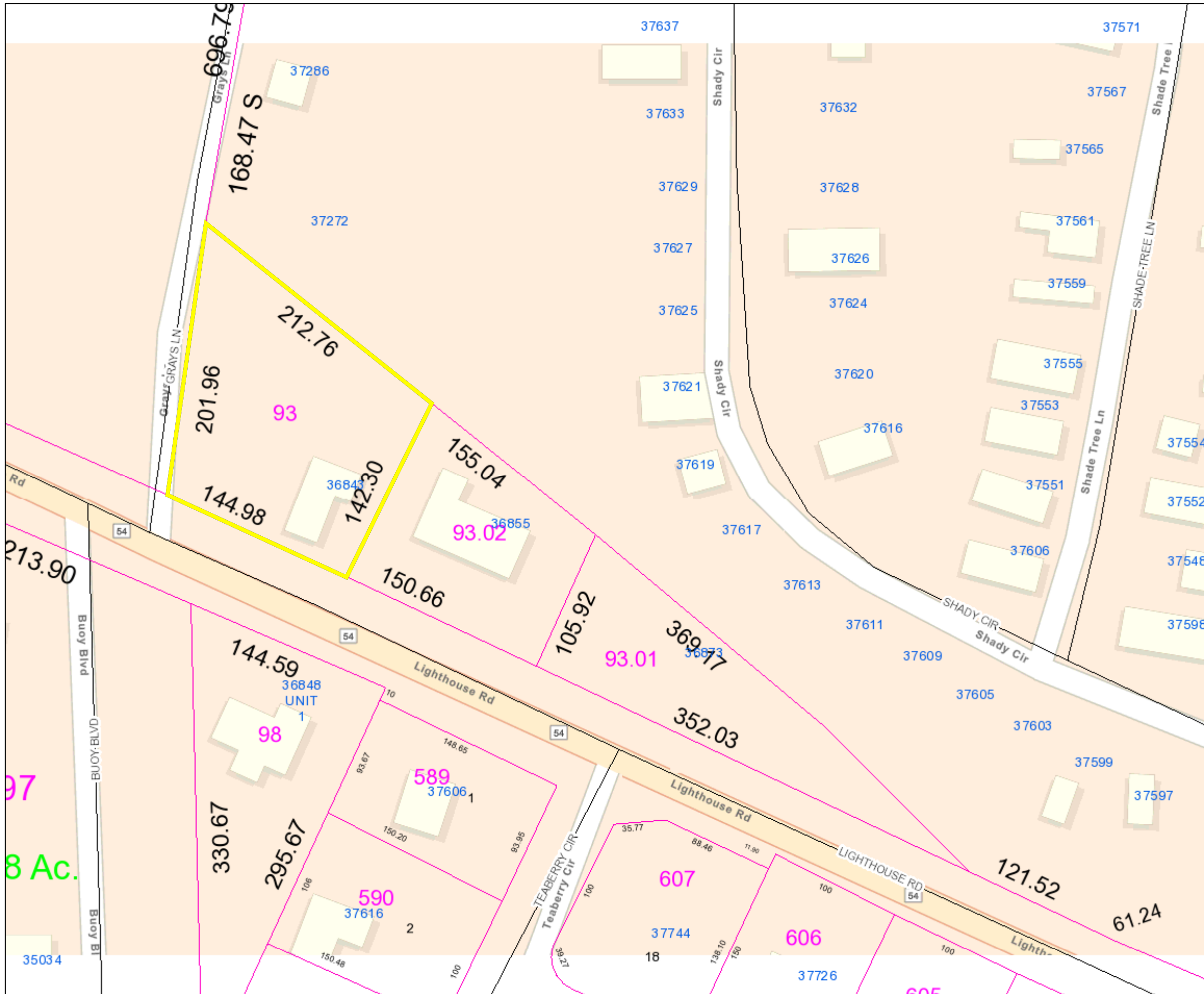
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- Streets
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- Tax Ditch Segments**
- Tax Ditch Channel
- Pond Feature
- Special Access ROW
- Extent of Right-of-Way
- Municipal Boundaries
- TID

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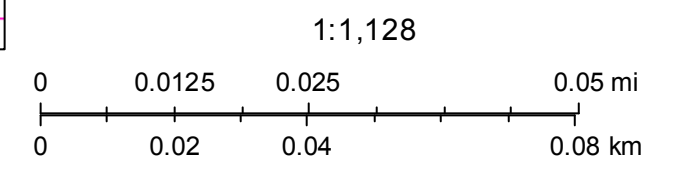


# Sussex County



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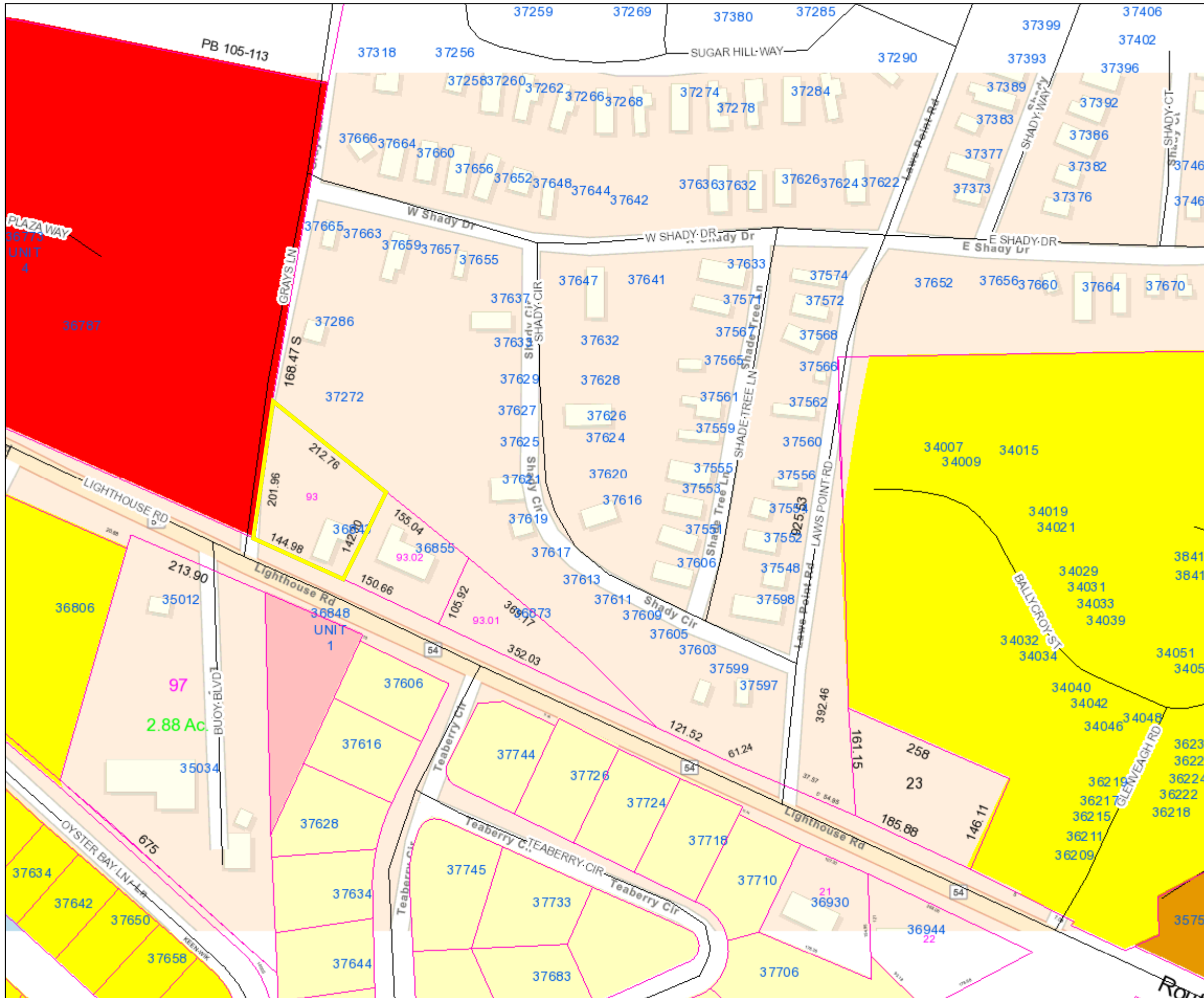
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  - 911 Address
  - Streets
  - County Boundaries
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  - Tax Ditch Channel
  - Pond Feature
  - Special Access ROW
  - Extent of Right-of-Way
  - Municipal Boundaries
  - TID







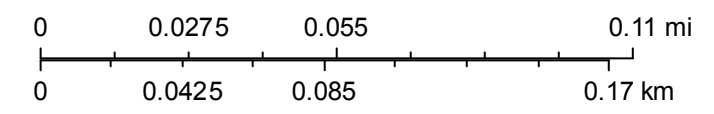
# Sussex County



<b>PIN:</b>	533-12.00-93.00
<b>Owner Name</b>	ROXANA VOLUNTEER FIRE CO
<b>Book</b>	2516
<b>Mailing Address</b>	35943 ZION CHURCH RD
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<b>Description 2</b>	716'NW/ENTR SWANN
<b>Description 3</b>	KEYS
<b>Land Code</b>	

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- Override 1
- Tax Parcels
- 911 Address
- Streets

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**Introduced 10/26/21**

**Council District 5 - Rieley  
Tax I.D. Nos. 533-12.00-93.00, 93.01, 93.02  
911 Address: 36843, 36855, and 36873 Lighthouse Road, Selbyville**

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

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN I-1 INSTITUTIONAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.5 ACRES, MORE OR LESS**

**WHEREAS, on the 18th day of August 2021, a zoning application, denominated Change of Zone No. 1950 was filed on behalf of Roxana Volunteer Fire Company; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2021, 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. 1950 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2021, 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 I-1 Institutional 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 Lighthouse Road (Route 54) approximately 0.53 mile northwest of Bayville Road (S.C.R 58B) and being more particularly described in the attached legal descriptions prepared by Parkowski, Guerke & Swayze, P.A., said parcel containing 1.5 acres, more or less.**

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

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## 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: April 1, 2022

RE: County Council Report for C/Z 1951 filed on behalf of Shiloh Investments, LLC

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The Planning and Zoning Department received an application (C/Z 1951 filed on behalf of Shiloh Investments, LLC) to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a C-2 Medium Commercial District. The property is located on the south side of Lewes Georgetown Highway (Rt. 9) approximately 0.15 miles east of the intersection of Hudson Road (SCR 258) and Fisher Road (SCR 262). The change of zone is for 4.17 acres, more or less.

The Planning and Zoning Commission held a public hearing on February 17, 2022. At the meeting of March 24, 2022, the Commission recommended approval of the application for the 9 reasons as outlined within the motion (included below).

Below are the minutes from the Planning & Zoning Commission meeting of February 17, 2022 and the minutes of the Planning & Zoning Commission meeting of March 24, 2022.

Minutes of the February 17, 2022 Planning & Zoning Commission Meeting

### C/Z 1951 Shiloh Investments, LLC

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 4.17 ACRES, MORE OR LESS.** The property is lying on the south side of Lewes Georgetown Highway (Rt. 9) approximately 0.15-miles east of the intersection of Hudson Road (S.C.R. 258.) and Fisher Road (S.C.R. 262). 911 Address: N/A. Tax Parcel: 235-30.00-50.01



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Mr. Whitehouse advised the Commission that submitted into the record is the Applicant's exhibit booklet, the Applicant's boundary survey, the staff analysis, a letter from Sussex County Engineering Department Utility Planning Division, the DeDOT Service Level Evaluation Response, and zero comments.

The Commission found that Mr. Pret Dyer spoke on behalf of the Application; that also present were Mr. Mason Dyer, and Mr. Mark Davidson; that the Application is a request for a Change of Zone of 4.17-acres from AR-1 Agricultural Residential to C-2 Medium Commercial District and the Application is an infill of existing commercial zoning in the area.

The Commission found that Mr. Mark Davidson, Principal Land Planner with Pennoni Associates spoke on behalf of the Application; that the property is located on Rt. 9, also known as Lewes-Georgetown Hwy.; that Rt. 9 is on the northside of the subject property; that the property is approximately 4.17-acre in size; that the property is currently zoned AR-1; that they are requesting the C-2 Medium Commercial Zoning designation; that Rt. 9 is a principal arterial roadway with a future right-of-way of 100-ft.; that dedication of land across the frontage of the property will be needed at 50-ft. from the centerline of the road; that located on southside of the property is Delaware's new Rails to Trails Path; that the path is currently being constructed by the State of Delaware; that the path will lead from Lewes to Georgetown; that on the west side of the property is an existing commercial property, known as the Dollar General; that to the east of the property is a vacant property which is currently zoned C-1; that in Ordinance 2550 the Sussex County Council desired to create a more specific C-2 Medium Commercial Zoning District with smaller, more related uses within the district to promote better planning and predictability within Sussex County; that the purpose of the C-2 Medium Commercial District is to support uses that include retail sales and performance of consumer sales; that the zoning permits a variety of retail professional service businesses; that the Ordinance states the C-2 District should be primarily located near arterial roadways and collector streets; that the zoning accommodates community commercial uses which do not have outside storage or sales; that the proposed C-2 zoning for the property would be in the vicinity of other commercially-zoned properties and commercial uses; that the proposed Change of Zone will not diminish or impair property values within the neighborhood; that the Change of Zone will not create a public nuisance, or result in any increase to public expenditures; that there were maps submitted into the record which show all the commercial properties and uses within the area; that across the street from the subject site is zoned Institutional for the new Bayhealth facility which is currently under construction; that there is a variety of commercial uses to the east and west of the property; that the request is for an infill of the existing commercial area; that the property site is wedged between the proposed Rails to Trails Path and Rt. 9; that the 2019 Comprehensive Plan identifies the subject site in the low density area; that the majority of area surrounding the property is located within the existing development area; that the Comprehensive Plan suggested each Application should be reviewed on its own merit; that the request will not have a negative impact on surrounding area, as the property is adjacent to multiple existing commercial areas; that the Comprehensive Plans mentions goals toward promoted growth and development in capital facilities and infrastructure are already available and adequate to support the growth; that Artesian has the CPCN for both the water and sanitary sewer for the subject property; that Artesian already had infrastructure in the area, which currently serves the Dollar General and the future Bayhealth Facility; that Shiloh Investments, LLC desires to provide a commercial development, which is part of the community, providing goods and services as part of the community

in scale; that nearby residential developments will benefit, in the fact the subject property is not adjacent to their development, but close enough to serve nearby residences with future services without requiring further distances to travel; that the property is located on Rt. 9 where there is current water and sewer services available; that they will work with DelDOT regarding the access to the property; that the property is located on a principal arterial; that there are dedication involved with the property to secure the 100-ft. right-of-way which is required along a principal arterial; that additional easements are usually granted through the entrance plan process for utilities; that those permanent easements are typically granted to DelDOT for their future use for utility and drainage upgrades; that the project did not require a Traffic Impact Study (TIS); that the focus of retail and office use within a low density area, is to provide for convenience, goods and services; that the request is appropriate, based off the surrounding commercial uses; that the request is consistent with the Future Land Use Plan, Sussex County has considered the development along Rt. 9 as a business corridor, with a mix of residential and commercial uses which provide local residences with access to services they need; that supplying local services will reduce traffic to SR-1 for basic needs; that the plan promotes the Rt-9 vision to be tied to efforts to make the corridor multimodal; that Delaware's Rails and Trails path is currently under construction; that they plan to begin construction of the path in March or April 2022; that the path currently ends in the Cool Spring area; that the path will be extended down the northside of Rt. 9 to Fisher Rd., crossing and continuing down Fisher Rd. behind the subject property; that the path will end in the area of Hudson Park, which is owned by Sussex County Land Trust; that Table 4.5-2 shows C-2 Commercial Zoning is an applicable zoning district in a low density area; that the property is located within the Level 4 Investment Area according to the 2020 Strategies for State Policies and Spending; that there are currently four non-tidal wetlands located on the property; that the current wetlands serve as a stormwater management system for the Dollar General; that the property is located with Flood Zone X unshaded; that there are no known natural historical features on the site; that stormwater will be onsite and will use best management practices for handling stormwater and runoff, with an approved outfall by Sussex Conservation District and DelDOT; that the approved outfall can be located within Tab 2 of the exhibit booklet; that the property is not located within any groundwater protection zones; that Delmarva Power Light Company will provide sufficient energy to the property; that Eastern Shore Natural Gas has a current gas line available for the property; that Verizon and Comcast are the main telecommunication providers for the area; that all of these utilities ensure quality growth and development, by development of infrastructure and services in Sussex County to compliment State and local planning efforts; that they feel the requested Change of Zone meets the general purpose of the Zoning Ordinance as it is located within an appropriate location; that the request meets the purpose of the C-2 District in the Future Land Use Plan; that the request promotes the growth and development through community design, mobility, utilities, transportation and economic development in an area with a general mixture of commercial and service activities currently exist and this is essential and desirable for the general convenience, orderly growth, prosperity and welfare of Sussex County.

Mr. Hopkins questioned if the subject property bordered the commercial property with the liquor store, or if there was a vacant property between them and suggested interconnectivity be added to both sides of the property.

Mr. Davidson stated there is a vacant property between the subject property and the commercial property being used for a liquor store; that the current wetlands do not allow potential

interconnectivity to Dollar General, and they could provide potential future interconnectivity on the other side of 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 Application C/Z 1951 Shiloh Investments, LLC. Motion by Ms. Stevenson, to defer action for further consideration, seconded by Mr. Hopkins and carried unanimously. Motion carried 5-0.

#### Minutes of the March 24, 2022 Planning & Zoning Commission Meeting

The Commission discussed the Application which has been deferred since February 17, 2022.

Ms. Stevenson moved that the Commission recommend approval of C/Z 1951 for Shiloh Investments, LLC for a Change in Zone from AR-1 Agricultural-Residential zoning to C-2 “Medium Commercial” zoning based on 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, but it is in the Cool Spring area along Route 9 where other commercial zonings and commercial uses exist. It is surrounded on both sides by commercially zoned property, and it is next to the future extension of the Lewes-to-Georgetown rail path. This is an appropriate location for the C-2 zoning.
3. C-2 Zoning at this location along Route 9 will benefit nearby residents of Sussex County by providing a commercial location for local shopping and similar uses without having to travel to Lewes, Milton, Long Neck, or Georgetown.
4. There is no evidence that this rezoning will have an adverse impact on neighboring properties or area roadways.
5. The Sussex County Land Use Plan and Future Land Use Map supports this location for C-2 Zoning.
6. It is anticipated that the site will have central water and sewer service.
7. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity and welfare of the County.
8. No parties appeared in opposition to the rezoning application.
9. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously to recommend approval of C/Z 1951 Shiloh Investments, LLC for the reasons and conditions stated in the motion. Motion carried 5-0.

**PLANNING & ZONING COMMISSION**

ROBERT C. WHEATLEY, CHAIRMAN  
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JAMIE WHITEHOUSE, AICP, MRTPI  
DIRECTOR OF PLANNING & ZONING

**PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET**  
Planning Commission Public Hearing Date: February 17<sup>th</sup>, 2022

Application: CZ 1951 Shiloh Investments

Applicant: Shiloh Investments, LLC  
33712 Wescoats road, suite 5  
Lewes, DE 19958

Owner: Shiloh Investments, LLC  
33712 Wescoats road, suite 5  
Lewes, DE 19958

Site Location: Lying on the south side of Lewes Georgetown Highway (Rt. 9) approximately 0.15-miles northeast of the intersection of Hudson Road (S.C.R. 258) and Fisher Road (S.C.R. 262).

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

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

Comprehensive Land Use Plan Reference: Low Density

Councilmanic District: Mr. Schaeffer

School District: Cape Henlopen School District

Fire District: Milton Fire Department

Sewer: Septic

Water: Well

Site Area: 4.17 acres +/-

Tax Map IDs.: 235-30.00-50.01



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## Memorandum

To: Sussex County Planning Commission Members  
From: Elliott Young, Planner I  
CC: Vince Robertson, Assistant County Attorney and Applicant  
Date: February 9, 2022  
RE: Staff Analysis for CZ 1951 Shiloh Investments, LLC

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This memo provides background and an analysis for the Planning Commission to consider as part of application CZ 1951 to be reviewed during the February 17, 2022 Planning Commission Meeting. This analysis should be included in the record for this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Change of Zone for parcel 235-30.00-50.01 from an Agricultural Residential District (AR-1) to a Medium Commercial District (C-2). The parcel is located on the south side of Lewes Georgetown Highway (Route 9), approximately 0.15-miles northeast of the intersection of Hudson Road (S.C.R. 258) and Fisher Road (S.C.R. 262). The size of the property is 4.17 acres +/-.

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

The adjacent parcels to the south, east and west are designated "Existing Development Area". The uses that the Low-Density Area land use designation recognizes are primarily agricultural activities and homes. Business development should be largely confined those that address the needs of these two uses. Industrial and agribusiness uses that support or depend on agriculture should be permitted. The focus of retail and office uses in Low Density should be for providing convenience goods and services to nearby residents. Commercial uses in these residential areas should be limited in their location, size and hours of operation. More intense commercial uses should generally be avoided in these areas.

As outlined in the 2018 Sussex County Comprehensive Plan, Existing Development Areas primarily consist of existing residential development under the current General Residential and Medium Density Residential zoning districts, as well as some commercial uses. These areas are found throughout the County. The full range of housing types allowed in the existing underlying zoning districts are appropriate in these residential areas, including single-family homes, townhouses, and multi-family units.

The Medium Commercial (C-2) Zoning District is listed as an applicable zoning district for the Low Density Area under Table 4.5-2 "Zoning Districts Applicable to Future Land Use Categories" of the 2018 Sussex County Comprehensive Plan.



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The property is currently within an Agricultural Residential (AR-1) Zoning District. The adjacent properties that lie on the east and west sides of the subject site are zoned CR-1 and C-1. The parcel to the north across Lewes Georgetown Highway is zoned Agricultural Residential (AR-1). Parcels to the south which exist on north side of Fisher Road, are zoned General Residential (GR).

Since 2011, there has been one Change of Zone application within a one-mile radius of the subject site, CZ 1866 was approved by the County Council on February 5, 2019.

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



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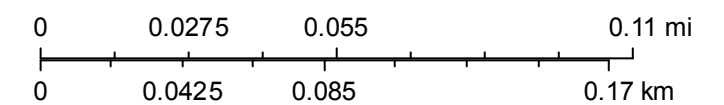
# Sussex County



<b>PIN:</b>	235-30.00-50.01
<b>Owner Name</b>	SHILOH INVESTMENTS LLC
<b>Book</b>	5511
<b>Mailing Address</b>	33712 WESCOATS RD STE
<b>City</b>	LEWES
<b>State</b>	DE
<b>Description</b>	SE OF RT 404/9 APPR
<b>Description 2</b>	361 NE OF RD 262
<b>Description 3</b>	TRACT 2
<b>Land Code</b>	

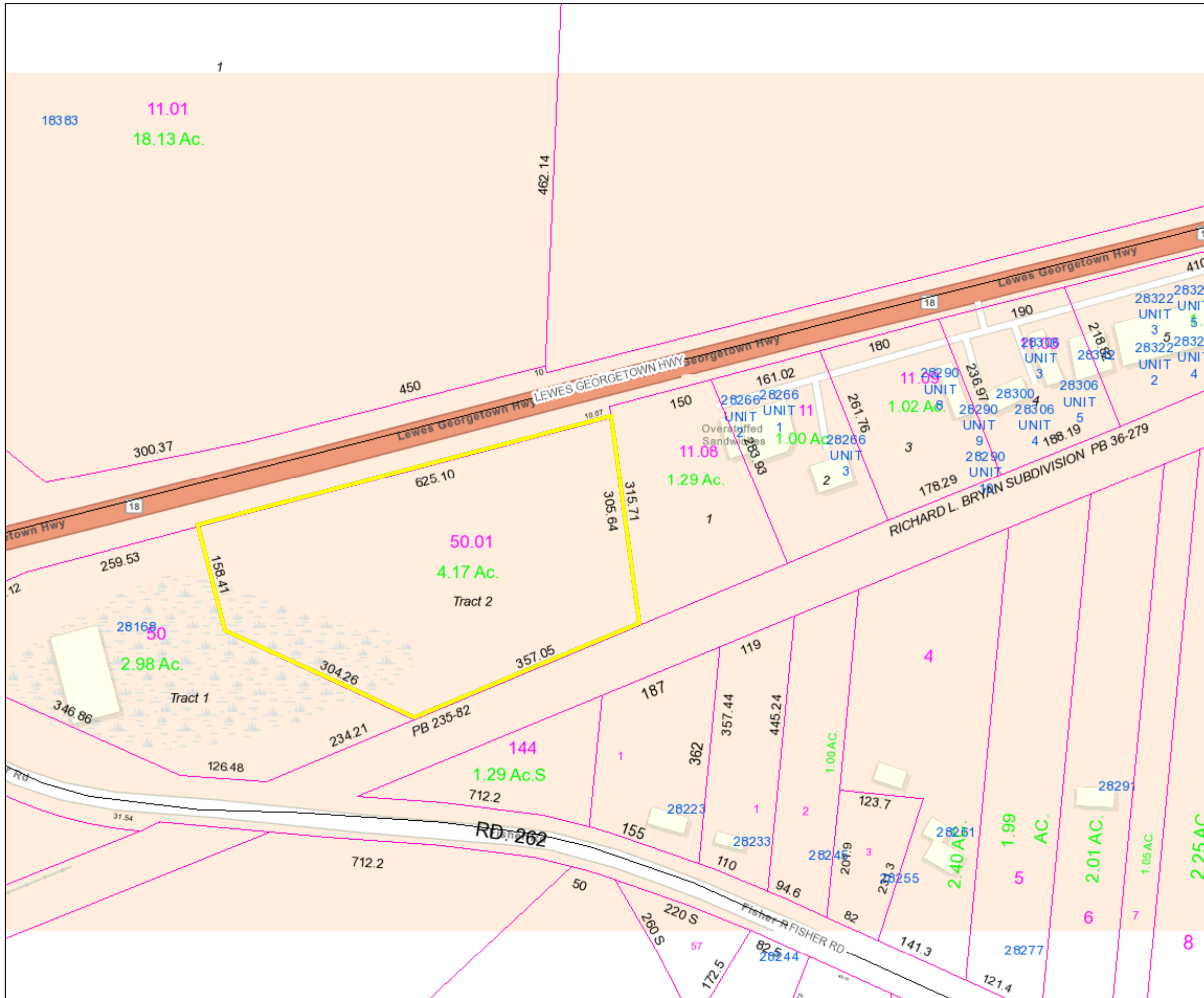
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- 911 Address
- Streets
- County Boundaries

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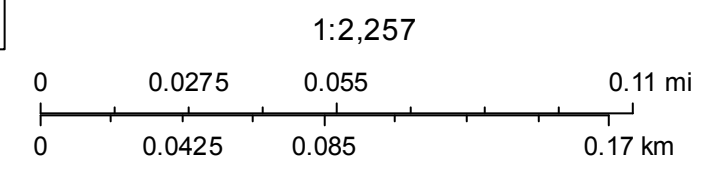


# Sussex County



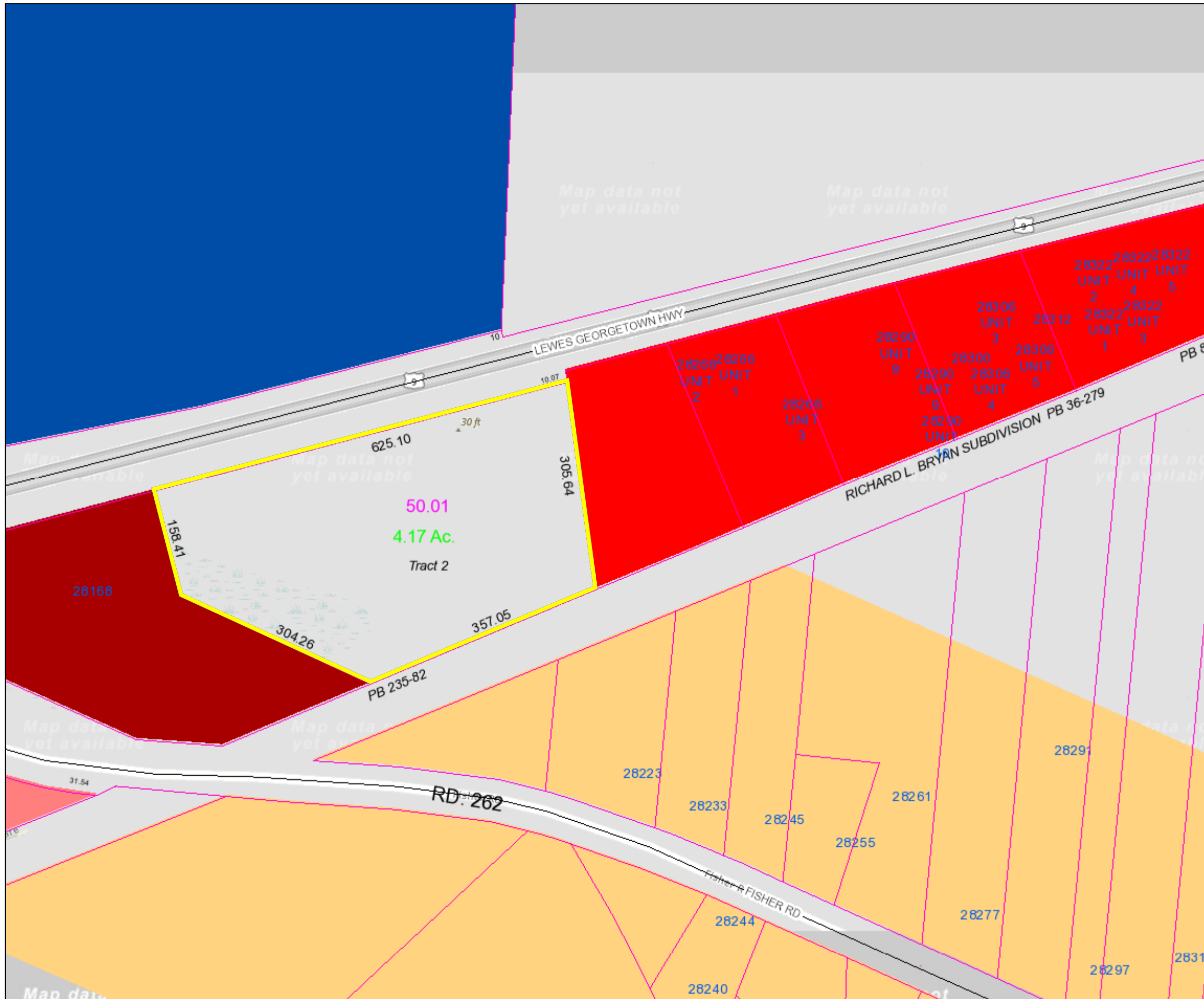
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<b>Owner Name</b>	SHILOH INVESTMENTS LLC
<b>Book</b>	5511
<b>Mailing Address</b>	33712 WESCOATS RD STE
<b>City</b>	LEWES
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- Tax Parcels
- 911 Address
- Streets
- County Boundaries





# Sussex County



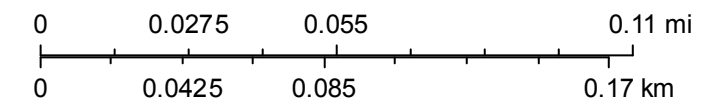
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<b>Owner Name</b>	SHILOH INVESTMENTS LLC
<b>Book</b>	5511
<b>Mailing Address</b>	33712 WESCOATS RD STE
<b>City</b>	LEWES
<b>State</b>	DE
<b>Description</b>	SE OF RT 404/9 APPR
<b>Description 2</b>	361 NE OF RD 262
<b>Description 3</b>	TRACT 2
<b>Land Code</b>	

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  - Override 1
- polygonLayer**

  - Override 1
  - Tax Parcels
  - 911 Address
  - Streets

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**Introduced 11/30/21**

**Council District 3 – Schaeffer  
Tax I.D. No. 235-30.00-50.01  
911 Address: None Available**

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

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A PORTION OF CERTAIN PARCELS OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 4.17 ACRES, MORE OR LESS**

**WHEREAS, on the 23<sup>rd</sup> day of August 2021, a zoning application, denominated Change of Zone No. 1951 was filed on behalf of Shiloh Investments, LLC; 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. 1951 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 of C-2 Medium Commercial District as it applies to the property hereinafter described.**

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

**ALL that certain tract, piece or parcel of land lying and being situate in Broadkill Hundred, Sussex County, Delaware, and lying on the south side of Lewes Georgetown Highway (Route 9), approximately 150' northeast of the intersection of Fisher Road (S.C.R. 262) and Hudson Road (Route 258), being Tract 2 on a Boundary Plan titled, "Lands N/F of Dry Acres, LLC" prepared by Pennoni Associates Inc. and being more particularly described in the attached legal description prepared by Baird Mandalas Brockstedt LLC, said parcel containing 4.17 acres, more or less.**

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

JAMIE WHITEHOUSE, AICP  
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## Memorandum

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

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

CC: Everett Moore, County Attorney

Date: April 1, 2022

RE: County Council Report for C/Z 1952 filed on behalf of Samantha Broadhurst

---

The Planning and Zoning Department received an application (C/Z 1952 filed on behalf of Samantha Broadhurst to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a C-2 Medium Commercial District. The property is located on the west side of Dupont Blvd (Rt. 113) approximately 0.33 mile north of Wilson Hill Rd (SCR 244). The change of zone is for 22.6 acres, more or less.

The Planning and Zoning Commission held a public hearing on February 17, 2022. At the meeting of March 24, 2022, the Commission recommended denial of the application for the 7 reasons as outlined within the motion (included below).

Below are the minutes from the Planning & Zoning Commission meeting of February 17, 2022 and the minutes of the Planning & Zoning Commission meeting of March 24, 2022.

Minutes of the February 17, 2022 Planning & Zoning Commission Meeting

### **C/Z 1952 Samantha Broadhurst**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 22.60 ACRES, MORE OR LESS.** The property is lying on the west side of Dupont Blvd. (Rt. 113) approximately 0.33 mile north of Wilson Hill Rd. (S.C.R. 244). 911 Address: N/A. Tax Parcel: 135-9.00-26.00



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Mr. Whitehouse advised the Commission that submitted into the record is the staff analysis, a letter from the Sussex County Engineering Department Utility Planning Division, the property deed, the Applicant's site plan, the DelDOT Service Level Evaluation Response, no comments, and no mail returns.

The Commission found Ms. Samantha Broadhurst spoke on behalf of her Application; that she is the owner of the property; that she desires a Change in Zone of the property to C-2 Medium Commercial; that the overall plan is to place two billboards on the property, hold on to the rest of the property and she desires to do something similar to what was done on the corner of Wilson Rd. and Rt. 113.

Mr. Hopkins questioned if Ms. Broadhurst is looking to gain access to Rt. 113 at this time.

Mr. Robertson stated to the Commission, the question before them is does the Application request make sense from a land-use plan prospective and he stated the Commission must consider all the possible uses of the C-2 Zoning District for the parcel.

Chairman Wheatley stated once the zoning is changed any permitted use in C-2 could be placed on the property and he questioned what options the County Code allowed to place billboards on an AR-1 parcel.

Ms. Stevenson questioned if most surrounding areas are zoned AR-1, other than the two commercial properties mentioned and she questioned why a Conditional Use could not be granted for only billboards in AR-1 zoning.

Mr. Whitehouse stated electronic messenger signs (EMS) are permitted on-premises in the C-2 Zoning District, however, it is not permitted as an off-premises sign; that currently in AR-1 an on-premise sign, not exceeding 32 sq. ft., is permitted; that an off-premise sign is not permitted without a Conditional Use (Special Use Exception as required), even if the property is zoned to C-2.

Mr. Robertson stated an on-premises sign means there is a business on the property; that the sign would promote the current business and an off-premises sign is advertising for a business at a different location.

Ms. Broadhurst stated at this time she is not interested in gaining an entrance onto Rt. 113; that she currently has a construction entrance on the property; that the State of Delaware owns the property to the north, which is surrounded by Redden State Forest; that Mr. Richard Hart owns the southern parcel; that her intention is to hold onto the parcel until central water and sewer are available; that the northern corner, near East Redden was rezoned for commercial and the 24-acre Wilson property, located to the south, was also zoned commercial; that she was originally told the process for her request would be to rezone the parcel to C-2 and then return with a request for a Conditional Use (Special Use Exception as required); that she is not proposing an electronic messenger billboard; that the commercial property to the north of her currently has a billboard; that other than the residential property, in which the subject property surrounds, there is no other residential land in the area; that all other land is owned by the State of Delaware and she questioned if only the front portion of the property could be rezoned for commercial, allowing her to keep the back portion agricultural.

Chairman Wheatley questioned if a standard billboard could be placed in AR-1 Zoning with a Conditional Use.

Mr. Whitehouse stated for the use of an off-premises billboard, AR-1 Zoning must be changed to commercial zoning and would require a Conditional Use (Special Use Exception as required) to be permitted.

Mr. Robertson stated there may be current legal non-conforming billboards in the area; that the Commission's decision is not for the use of billboards, but if commercial zoning is appropriate for the subject property and he stated Ms. Broadhurst would be required to reapply requesting only the front portion of the property be rezoned.

Chairman Wheatley stated it is not permitted to amend an Application at the last minute; that there are options to withdraw the Application before the final decision is made by County Council and the option to reapply after a year.

Mr. Robertson stated an Applicant can re-apply immediately if the Application request is substantially different and an Applicant would be required to wait a year if applying with the original request.

The Commission found Ms. Kimley Hines had questions regarding the Application; that she owns the residential property surrounded by the subject property; that she questioned with the approval of rezoning to C-2, what could be permitted for the property in the future; that she purchased her property 20 years ago; that about 15 years ago she was told her property was mostly wetlands by the septic company who installed her mound septic system; that in the past two years she has developed severe drainage issues; that she has spent thousands of dollars attempting to solve her drainage issues; that her concern is she may get flooded off of her property with any future commercial development and she is not opposed to the use of billboards, but she fears for all the potential uses of C-2 zoning in the future.

Chairman Wheatley stated the law states any future development of the property would not be permitted to make the current drainage issue any worse than it is currently and if the Change of Zone is approved, any permitted use within the C-2 Zoning District would be permitted for the subject property.

The Commission found Mr. Bayard Armond spoke in opposition to the Application; that the rear of his property is reasonably close to the rear of the subject property; that he believes the Applicant should reapply after water and sewer services are available for the property; that the Applicant is requesting the rezoning of a 22-acre property, but only proposing to use a small portion of the property; that he does not feel the request makes sense; that he feels a smaller portion of the property should be requested for rezoning if the only intended use is for billboards; that he did review the staff analysis of the surrounding area; that he feels the facts prove the property is not appropriate for commercial zoning; that the property to the north and west are owned by the State of Delaware; that being part of the Jester Tract of Redden Forest it is protected land; that there are very little commercial properties in the area; that most surrounding properties are residential or agricultural; that the approval of the Application would drop 22-acres of commercial land into a sea of existing AR-1 land; that he feels the Application is a foot-in-the-door with a requested use for billboards, but will allow free reign to permitted C-2 commercial uses after the fact and he feels the Application should be denied.

The Commission found there was no one present 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 Application C/Z 1952 Samantha Broadhurst. Motion by Mr. Hopkins, to defer action for further consideration, seconded by Ms. Stevenson and carried unanimously. Motion carried 5-0.

Minutes of the March 24, 2022 Planning & Zoning Commission Meeting

The Commission discussed the Application which has been deferred since February 17, 2022.

Ms. Wingate moved that the Commission recommend denial of C/Z 1952 Samantha Broadhurst for a Change in Zone from AR-1 Agricultural Zoning to C-2 Medium Commercial Zoning based on 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. While this property is located along Route 113, the Applicant has stated that the only intended use of the property at this time is to construct an off-premises billboard-style sign. This is not an appropriate reason to rezone this property to C-2 zoning.
2. The Applicant has sought to rezone the entire 22.60-acre property to C-2, even though the intended use for off-premises billboard-style signs would only be needed along the immediate frontage along Route 113. There is no basis for rezoning the entire 22.60-acre parcel to C-2 Zoning.
3. The property is surrounded by properties that are zoned AR-1 and much of this adjacent land is protected under the ownership of the State of Delaware. This is not an appropriate location for C-2 Zoning.
4. Although the Applicant has stated that the intended use is to allow billboards to be constructed on the site, any of the permitted uses allowed in the C-2 Zone could occur on this large parcel of property. These potential uses are not compatible with the undeveloped and protected lands that surround this 22.60-acre property.
5. It does not appear in the record that the property will be served by central water and sewer to support the potential uses allowed under the C-2 Zoning that is being sought by this Applicant.
6. The proposed rezoning for the sole purpose of constructing a billboard does not promote the health, safety, welfare, and orderly growth of Sussex County.
7. For all these reasons, it is my recommendation that this rezoning should be denied.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to recommend denial of C/Z 1952 Samantha Broadhurst for the reasons stated in the motion. Motion carried 4-1.

Mr. Hopkins – Nay, Ms. Stevenson – Yea, Chairman Wheatley – Yea, Ms. Wingate – Yea, Mr. Mears - Yea

**PLANNING & ZONING COMMISSION**

ROBERT C. WHEATLEY, CHAIRMAN  
KIM HOEY STEVENSON, VICE-CHAIRMAN  
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DIRECTOR OF PLANNING & ZONING

**PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET**  
Planning Commission Public Hearing Date: February 17<sup>th</sup>, 2022

Application: CZ 1952 Samantha Broadhurst

Applicant: Samantha Broadhurst  
8 Meadowridge Ln.  
Milton, DE 19968

Owner: Samantha Broadhurst  
8 Meadowridge Ln.  
Milton, DE 19968

Site Location: Lying on the west side of Dupont Boulevard (Rt. 113), approximately 0.33 miles north of Wilson Hill Rd. (S.C.R. 244).

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

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

Comprehensive Land Use Plan Reference: Low Density

Councilmanic District: Ms. Green

School District: Sussex Central School District

Fire District: Georgetown Fire Department

Sewer: N/A

Water: N/A

Site Area: 22.3 acres +/-

Tax Map IDs.: 135-9.00-26.00



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**Sussex County**

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## Memorandum

To: Sussex County Planning Commission Members  
From: Jesse Lindenberg, Planner I  
CC: Vince Robertson, Assistant County Attorney  
Date: February 9, 2022  
RE: Staff Analysis for CZ 1952 Samantha Broadhurst

---

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1952 Samantha Broadhurst to be reviewed during the February 17, 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 135-9.00-26.00 to allow for a change of zone from an Agricultural Residential Zoning (AR-1) District to a General Commercial (C-2) Zoning District. The property is lying on the west side of Dupont Boulevard (Rt. 113), 0.58 miles north of Wilson Road (S.C.R. 244). The parcel to be rezoned contains 22.60 acres +/-.

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

The property is zoned Agricultural Residential (AR-1) Zoning District. The adjacent parcels to the north, west and south are all zoned Agricultural Residential (AR-1) Zoning District. Across Dupont Boulevard (Rt. 13) the property is zoned Agricultural Residential (AR-1) Zoning District. Properties further north are zoned General Commercial (C-1) Zoning District and 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 General Commercial (C-2) Zoning District is listed as an applicable zoning district in the "Low Density" areas.



Since 2011, there have been two (2) Change of Zone applications within a 1-mile radius of the application site. Change of Zone 1848 for a change of zone from an Agricultural Residential Zoning District (AR-1) to a Commercial Residential Zoning District (CR-1) was approved by the Sussex County Council on Tuesday, May 15, 2018 through Ordinance No. 2576. Change of Zone 1879 for a change of zone from an Agricultural Residential Zoning District (AR-1) to a Neighborhood Business Zoning District (B-1) was approved by the Sussex County Council on Tuesday, June 25, 2019 through Ordinance No. 2666.

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 General 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.



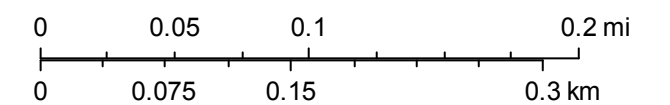
# Sussex County



<b>PIN:</b>	135-9.00-26.00
<b>Owner Name</b>	MALAKIS NORENE
<b>Book</b>	5341
<b>Mailing Address</b>	8 MEADOWRIDGE LN
<b>City</b>	MILTON
<b>State</b>	DE
<b>Description</b>	W/RT 113
<b>Description 2</b>	2300' N/RT 244
<b>Description 3</b>	N/A
<b>Land Code</b>	

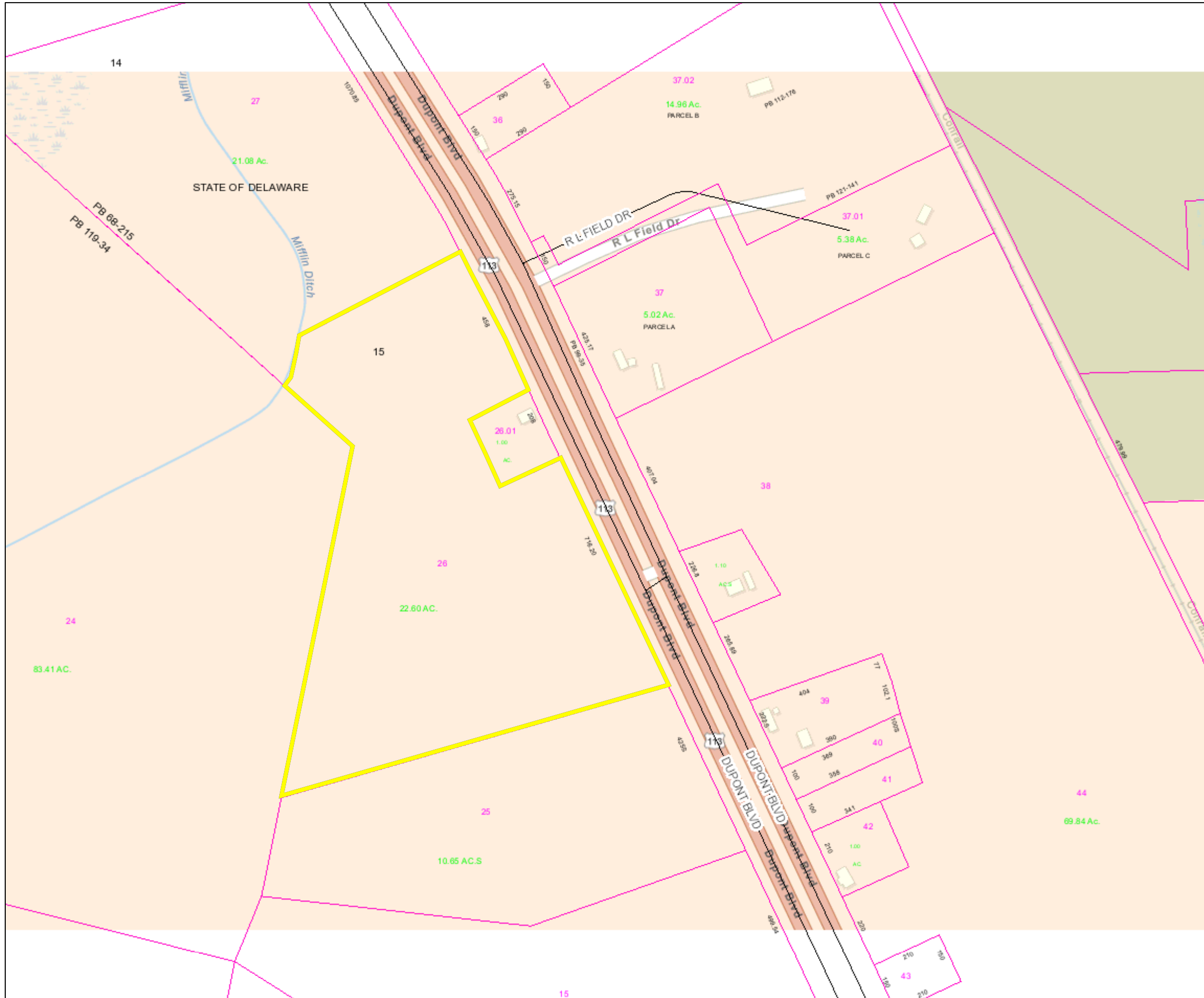
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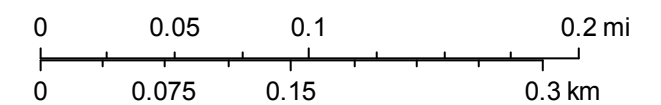
# Sussex County



<b>PIN:</b>	135-9.00-26.00
<b>Owner Name</b>	MALAKIS NORENE
<b>Book</b>	5341
<b>Mailing Address</b>	8 MEADOWRIDGE LN
<b>City</b>	MILTON
<b>State</b>	DE
<b>Description</b>	W/RT 113
<b>Description 2</b>	2300' N/RT 244
<b>Description 3</b>	N/A
<b>Land Code</b>	

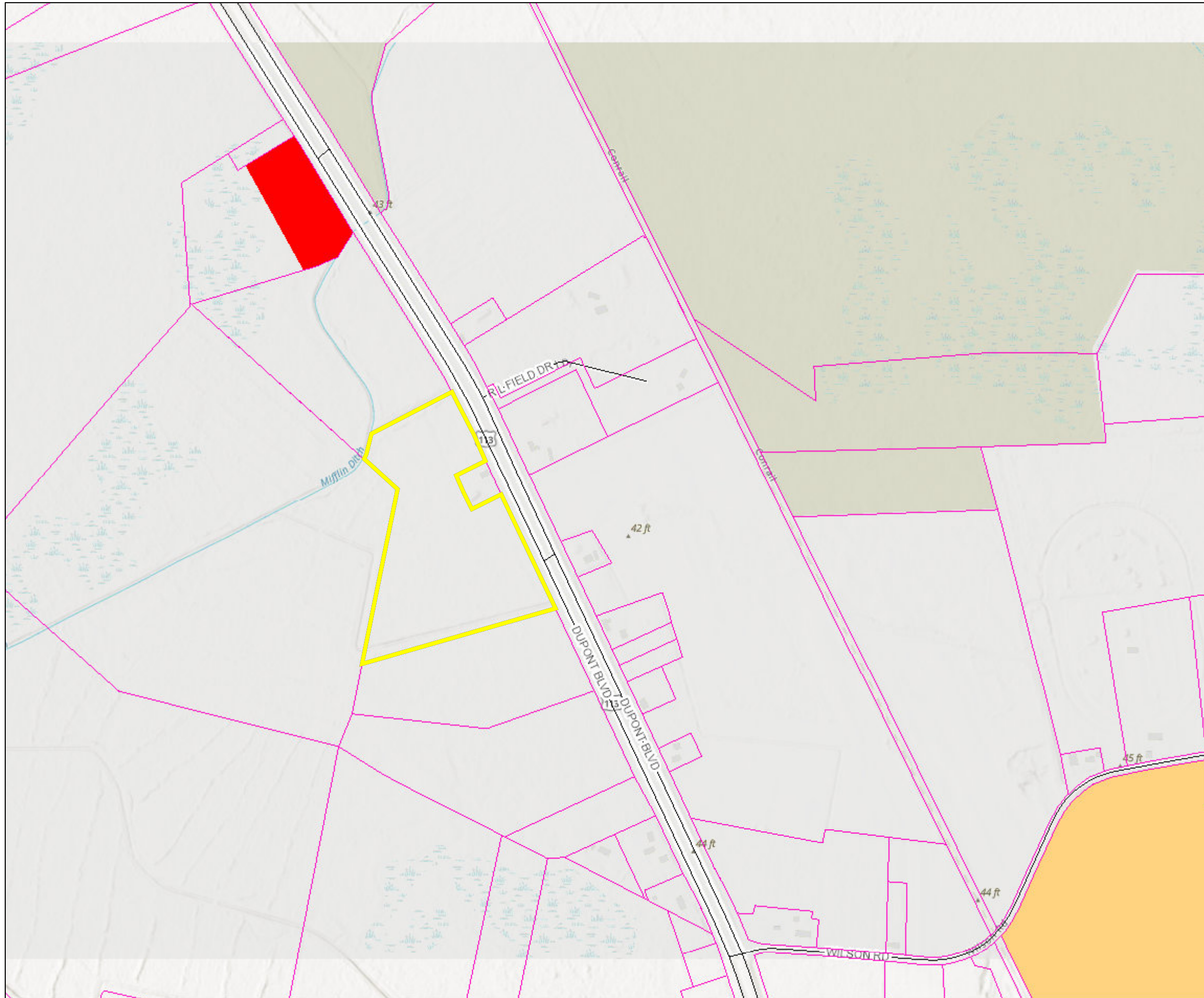
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- Tax Parcels
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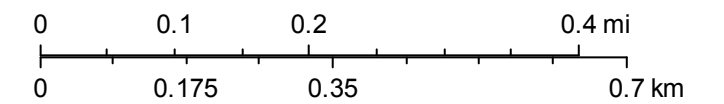
# Sussex County



<b>PIN:</b>	135-9.00-26.00
<b>Owner Name</b>	MALAKIS NORENE
<b>Book</b>	5341
<b>Mailing Address</b>	8 MEADOWRIDGE LN
<b>City</b>	MILTON
<b>State</b>	DE
<b>Description</b>	W/RT 113
<b>Description 2</b>	2300' N/RT 244
<b>Description 3</b>	N/A
<b>Land Code</b>	

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

1:9,028



Introduced 09/14/21

Council District: Mrs. Green  
Tax I.D. No.: 135-9.00-26.00  
911 Address: N/A

ORDINANCE NO. \_\_\_\_

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 22.60 ACRES, MORE OR LESS

WHEREAS, on the 17<sup>th</sup> day of June 2021, a zoning application, denominated Change of Zone No. 1952 was filed on behalf of Samantha Broadhurst; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2021, 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. 1952 be \_\_\_\_\_; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2021, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County,

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

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

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Georgetown Hundred, Sussex County, Delaware, and lying on the west side of DuPont Boulevard (Route 113), approximately 0.33 mile north of Wilson Hill Road (S.C.R. 244) and being more particularly described in the attached legal description prepared by Hudson, Jones, Jaywork & Fisher, said parcel containing 22.60 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.